

## SPORTS LAW: CONCEPT, OBJECT, SOURCES, PROBLEMS AND PROSPECTS OF DEVELOPMENT

S. A. Yarushin, A. A. Orekhova

*Chelyabinsk State University, Chelyabinsk, Russia*

This article presents the concept of sports law, identifies the subject, sources and parties and describes the main trends in the development of sports law.

**Keywords:** *sports law, sports legal regulation, sports, sources of law, sports legislation.*

As of late, the sports law has become more and more relevant. This could in large measure be explained by the popularization of top-class sports, the sport of records, which being a social phenomenon cannot exist without a proper legal regulation. In this regard, a set of rules in the sphere of sports legal regulation was created and now continues to develop and be supplemented.

Sports law is a new dimension of Russian legal studies. Legal science cannot so far specifically define sports law. According to S.V. Alekseev, sports law is none other but a comprehensive branch of law [2].

The first point to consider is what is intended by comprehensive branch. This term defines the aggregate of legal norms which regulate matters falling within the framework of different brunches of law. Comprehensive branches need to be distinguished from inter-branch set of legal rules. The latter aims at resolving a more specific sphere of social regulations and is not commonly being singled into a special course [1]. This approach is shared by V. A. Vitushenko, A. N. Egorichev, D. I. Rogachev [6].

There is, however, another approach which states sports law to be different from a branch but legal institute instead. Legal institute is a basic element of system of law represented by the aggregate of legal norms governing the entire group of social regulations [3]. The institute is included into several branches of law being its part. According to N. A. Ovchinnikova, standards regulating the sphere of physical culture and sport are «developing nondifferentiable inter-branch legal body outgrown comprehensive legal institute yet unformed as comprehensive branch», and standards that are the base of top-class sports make up comprehensive (inter-branch) institute included into that nondifferentiable secondary constitution [4].

It is necessary to note, that sports law itself is composed of separate large institutes which cannot be referred to as incorporated subinstitutes. Legal regu-

lation autonomy which is a criterion for legal institute definition is not common for sports law as well. Furthermore, legal institute is a group of social regulations which includes entire regulations, thus the whole sphere of social regulations is being governed. Therefore, sports law can be more likely defined as a brunch. The fact that some legal norms can be related to civil law, others to administrative, financial, international law and so on demonstrates the comprehensive nature of the brunch.

Now it is possible to define the sports law. Sports law is a comprehensive brunch of law representing the aggregate of legal norms that regulates social regulations appearing the sphere of physical education and sport. Therefore, the subject of sports law is so-called sports regulations. Let's consider the subject in more detail.

The subject of legal regulation in sports sphere ought to be physical culture and sport (mass (popular)), sport of records (Olympic and professional). The scope of the study is social regulations in the sphere of physical education and sport.

A.V. Serdukov defines the scope of the sports law as sports regulations — sort of social regulations, characterized by the unique character of the subject, high level of regulation and stability to satisfying the physiological and physiological needs oriented to competitive activities and/or preparation to those [5].

It is necessary to draw a line between physical culture and sport. In plain commonplace matter-of-fact, physical culture is physical activity meant to health improvement. It is a part of a healthy lifestyle. Sport is a part of physical culture, mean and method of physical education based on competitive activities and preparation to those in the process of which one's potential is being compared and measured [8]. It should be mentioned that both phenomena are meant to satisfy the physiological and physiological needs as well as intellectual ones that are added to the list sometimes.

Speaking about professional sport, by it we usually mean a brunch of commercial sport oriented to showmanship, providing audience with leisure activities, intended to provide economical efficiency and money making. There is also sport of records (Olympic). It is sometimes considered to be a part of professional sports. The point is in systematic, long-term professional sports training in order to participate in large scale sport events with the purpose of showing high results and winning. However, nowadays these two terms (professional and Olympic sport) are being merged so some researchers do not differentiate them.

The majority of researchers related to the sphere of physical culture and sport, as well as among lawyers, the sport is considered within physical culture, that is why, both can be defined as subject of the research. Same position is shared by Russian legislature, as shown by № 329-ФЗ Federal law of 04.12.2007 (revised on 03.11.2015) «On physical culture and sport in Russian Federation». Another group of researchers, including V.P. Vaskevich, considers the subject of sports legal regulation to be only professional sports regulations. The first approach, however, is considered to be more common, even generally accepted.

It should be noted that equivalence principle is uncharacteristic of sports law and regulations governed by it in particular.

Now as the components of the subject of sports law have been defined, the characteristic features of the subject can be summarized:

- satisfaction of physiological and psychological needs;
- competitive and sometimes commercial element;
- regulation of performance results and ways to achieve it;
- impossibility or restriction of equivalence principle;
- consistency and stability of regulations.

The next important element of any legal relations is the subject. Concerning sports law, the subjects are:

- 1) sportsman — a person doing sports and participating in sports competitions;
- 2) coach — a person that received professional education, trains a sportsman and governs his sporting activities;
- 3) referee (head judge, umpire) — a person who supervises the sporting event and decides the results (usually proficient and qualified);
- 4) sporting event organizer — initiator of a sporting event, provides event management, running and finance.

Let us further consider the sources of sports law in Russian Federation. These include laws and regulations, Constitution of the RF among those, № 329-ФЗ Federal law of 04.12.2007 (revised on 03.11.2015) «On physical culture and sport in Russian Federation», № 240-ФЗ Federal law of 07.12.2006 «On ratification of the International Convention on anti-doping sports». Therefore such as following should also be mentioned: № 273-ФКЗ Federal Constitutional law of 29.12.2012 (revised on 02.03.2016) «On education in Russian Federation», which to some extent affects sports regulations (e. g. article 84 of the Federal law «On education in Russian Federation» on peculiarities of realization of educational programs in the sphere of physical education and sport). Among codifying statutes, those related to sports legal regulation are № 63-ФЗ «The Criminal Code of the Russian Federation» of 13.06.1996, establishing criminal responsibility for sports crimes, № 197-ФЗ «The Labor Code of the Russian Federation» of 30.12.2001, establishing regulatory aspects of sportsmen and coaches' labour.

Among regulations thereunder, the following should be mentioned: № 748 Decree of the Russian Federation President of 22.05.1996 «On further assurance for sportsmen, physical culture, sports and tourism workers», Government decree № 1101-P of 07.08.2009 «On approval of Physical culture and sport development strategy in Russian Federation for the period until 2020». There are also a number of constituents of the Russian Federation regulations (№ 78-30 Law on Chelyabinsk region of 05.07.1999 «On physical culture and sport»).

Some scientists suppose collective arrangement to be the source of sports legislation. Collective arrangement regulates labour relationship with the involvement of sportsmen. Moreover, agreements for national sports federations delegation of organization and delivery of championships, competitions and cups of Russia are believed to be the source of sports legislation [7].

We have briefly discussed definition and basic aspects of sports legislation; let us dwell to its future development. Sports legislation grows in popularity all over the world. Russia is a permanent active partner of different international scarce sports events, at the same time there are a lot of championships, competitions, cups, etc. within country.

As for today, Russian Federation sports legislation is at its beginning level of development. An important act governing the matters of sports law regulations was adopted (Federal law 2 On physical culture and sport in Russian Federation), there is a number

of acts considering particular matters in the sphere of sport, however, these cannot solve all the sports law problems, not all matters are regulated. There is a need in a whole system of legal acts, which would regulate sports matters, its institutions, including a particular attention towards processual regulation as well as sportive training. In this respect, it would be relevant to create a separate codified act — Sports legal code, because a huge number of sports regulations are allocated in regulations thereunder, whereas a code is being an act of federal significance. There are a number of variants of its development and adoption, but none of the have been put into effect by Russian legislature.

Many researchers underline the need in legal monitoring that would ensure the control upon sports regulation, its analysis at all levels, including local level, creation of awareness among social authorities concerning the sports law condition, its problems and the ways of solving those problems.

But, most likely, the primarily task that lay before all the sports and legal science should be theoretical, because as it has been mentioned before there are constant debates concerning sports law terminology, definition of «sports law». Without a well-designed theory it is hard to go on to practice, that is the reason why legal theory and, of course, its application are not examined in detail and contain a lot of problems and contradiction.

Thus, the future development of sports law could be stated as following:

- in the sphere of legal and sports theoretical science, development of scientific theories and concepts, creation of new approaches to the phenomenon of sports law;

- in creation and development of regulatory system governing sports regulations;

- in the sphere of practical application of sports legislation.

Finally, sports law is popular and relevant not only

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### Сведения об авторах

**Ярушин Сергей Алексеевич** — кандидат педагогических наук, доцент, заведующий кафедрой физического воспитания и спорта, Челябинский государственный университет. Челябинск, Россия. [yarushinsa@gmail.com](mailto:yarushinsa@gmail.com)

**Орехова Анастасия Александровна** — студентка Института права, Челябинский государственный университет. Челябинск, Россия. [yarushinsa@gmail.com](mailto:yarushinsa@gmail.com)

in Russia but all over the world. There are a number of approaches to the matter and peculiarities of sports law, which cannot find the agreement up till now. The absence of well-designed theory is a reason for the lack of practical application. Laws and regulation do only start to develop and require an undiverted attention to its improvement. All in all there are significant opportunities for further development and improvement of sports law in Russian Federation.

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