

**Volodymyr Kyjan**

*PhD, Associate Professor,  
Head Department of Civil Law Disciplines  
Dnipropetrovsk State University of Internal Affairs*

**Iryna Skrypchenko**

*PhD, Associate Professor,  
Head Department of Physical Education  
and Tactical & Special Training  
Dnipropetrovsk State University of Internal Affairs  
(Dnipro, Ukraine)*

**Agron Haxhihyseni,**

*General Secretary of the Albanian Federation  
weightlifting, European Master of Sports,  
two-time winner of the Championship  
of Europe and World Peace Ambassador  
(Albania)*

## **REGARDING THE DEVELOPMENT OF SPORTS LAW IN UKRAINE**

*Киян Володимир, Скрипченко Ірина, Хаджихісені Агрон. Щодо розвитку спортивного законодавства в Україні.*

*Ключові слова: спортивне право,*

In most developed countries of the world, sports law is a complex and self-sufficient branch of law that has existed and developed for many years. However, in Ukraine, this branch of law is one of the newest, which is just beginning to develop. Despite the fact that according to Art. 49 of the Constitution of Ukraine, the state is obliged to take care of the development of physical culture and sports, to ensure sanitary and epidemic well-being for the population [1] there are many gaps in the national legislation in this direction. And today, in the conditions of martial law and imperfect legislation, our athletes achieve unexpected sports achievements, raise the image of Ukraine, show superhuman willpower, and all this in the name of victory over the enemy.

Therefore, taking into account the unshakable path of Ukraine's development towards the Euro-Atlantic and European direction, the issues of legislative improvement of sports legal relations are gaining relevance and require proper regulation regarding the adaptation of domestic norms to uniform international standards.

One cannot but agree with the opinion of Dashkovska et al (2021) and others who claim that the existing national legislative framework is outdated in certain provisions and does not meet the needs of the modern development of domestic physical culture and sports. Improving the legal framework of sports legislation, bringing its norms into line with modern standards of regulation of professional

sports and promotion of physical culture is one of the priority areas of state policy. Experts note that in the field of professional sports it is necessary to adopt a national legislative act that will clearly define the basic principles and norms of legal regulation of sports relations [2].

Dashkovskaya, etc. says that the existing national legislation in certain provisions is outdated and does not meet the needs of the modern development of domestic physical culture and sports. Improving the legislative base of sports law, bringing its norms into compliance with modern standards of regulation of professional sports and promotion of physical culture is one of the priority directions of state policy. Experts note that in the field of professional sports, it is necessary to adopt a separate legislative act at the national level that clearly defines the basic principles and norms of legal regulation of sports relations [2].

In modern society, the importance of sport, the breadth and spectrum of problems of its legal regulation, the complication of its structure, the expansion of functions, have led to the need for the formation of a new independent complex field of law - sports law, which would harmonize the disparate, but huge array of normative legal acts in the field of physical culture and sports. In the countries of Western Europe, since the 1990s, sports law has been singled out as an independent complex branch of law, educational institutions train specialists in this field, and various sports courts have been established. In Ukraine, sports law has been at the stage of formation for a long time.

Today, large sums of money are invested in sports, and the creation of a system of legal norms that will regulate sports legal relations is an important task of legislators. A clear regulatory regulation of the legal status of athletes, their labor and social security, sports arbitration procedures, features of the protection of the rights and interests of the subjects of sports legal relations is necessary.

At one time, granting Ukraine the right to host the European Football Championship in 2012, the presence of great achievements of Ukrainian athletes in the field of boxing, swimming, gymnastics, the Paralympic Games and other sports made it necessary to improve the legislation that currently regulates sports legal relations. However, the need to separate sports law into a separate branch of law, which is expressed by a significant majority of researchers of this problem, remains only in theory until now. And at present, insufficient attention is paid to the legal regulation of sports relations. Among scientists and practitioners, there is no unified view regarding the sectoral appropriateness of the norms included in the legislation on physical culture and sports. The view that sports law is a complex legal institution that combines the norms of constitutional, administrative, labor, civil and other branches of law received the most support. The given opinion is based on the idea of the grounds for the emergence and structure of sports legal relations [3-6].

Today, the sources of sports law in Ukraine are the Constitution of Ukraine, Laws of Ukraine "On Physical Culture and Sports", "On Anti-Doping Control in Sports", "On Support of the Olympic, Paralympic Movement and Sports of Higher

Achievement in Ukraine" and others. Norms of sports law also enshrine a number of subordinate legal acts, international legal acts in the field of sports and physical culture, Decrees of the President of Ukraine ("On state support for the development of physical culture and sports in Ukraine", "On the National Doctrine for the development of physical culture and sports"), Resolutions of the Cabinet of Ministers of Ukraine ("On the establishment of physical health centers of the population "Sports for all"). According to Art. 7 of the Civil Code of Ukraine, an important source of law is also legal custom, in particular, the custom of business turnover, which can be fully applied in sports legal relations. Among them, such customs as fair play, competitiveness, equality of sides, etc. can be distinguished.

Among the peculiarities of the sources of this field, it should also be noted that the procedural norms of sports law are established by self-governing sports organizations, unlike most other branches of the legal system of Ukraine. Legislation in the field of physical culture and sports provides for such sanctions as disqualification of an athlete, restriction of participation in matches, tournaments, exclusion of a sports team (club) from the membership of industry associations, tournaments, competitions or restriction of such participation.

At the same time, the analysis of the legislation in the relevant field indicates the presence of a fairly wide group of norms, internal rules, provisions that do not belong to any of the mechanisms of legal regulation from the listed branches of law. This should include the rules of admission to sports clubs and federations, regulations of sports competitions, rules of player transfer, anti-doping legislation, legislation on sports arbitration courts, etc. The peculiarity of such norms lies not only in the establishment of special requirements for sports clubs and professional athletes, but also in their diversity, the presence of a peculiar norm-making entity [7, 8].

Another problem that is relevant today is the legal regulation of legal relations in the field of sports law aimed at protecting women and men from discrimination [9]. A number of scientific studies have already been devoted to the protection of individuals from discrimination in sports, but this is not enough for a comprehensive study of the legal regulation of civil relations in the field of sports law.

The mechanisms for organizing and forming sports teams, establishing requirements for professional athletes, and monitoring compliance with special rules and regulations also require proper regulatory improvement.

The field of sports law covers a fairly wide range of legal relations, which should be defined as a complex and targeted phenomenon, namely:

- physical culture and sports in Ukraine as an object of legal regulation;
- organizational and legal foundations of state management of physical culture and sports;
- legal regulation of professional sports in Ukraine;
- legal regulation of the sphere of student sports in Ukraine;
- legal regulation of children's and youth sports;

- legal provision of social physical culture and sports associations;
- legal status of athletes, coaches and other participants in sports activities;
- legal aspects of organizing and holding sports competitions;
- regulation of tax relations in the field of sports;
- intellectual property rights in the field of sports activities.

All this requires a detailed analysis, legislative substantiation and systematization of individual institutes with the aim of unifying them into an independent branch of sports law.

Some law firms in Ukraine today already offer the following range of solutions:

- National and international legal principles underlying sports
- Law of clubs/associations
- Law of clubs/associations and statutory law of sports organizations
- Particularities of corporate law, anti-trust law and tax law
- Legal relations between athletes and associations
- Employment and labor law in sport
- Liability law and insurance law in sport
- Sponsorship and commercialization relating to sport
- Doping and sanctions in sport
- Criminal law in sport
- Sports and the media
- National and international sports jurisdiction and arbitration
- Right of sportperson to their image
- Conflicts between sportpersons and their agents
- Sponsorship contracts with businesses
- Purchase or provision of sport equipment
- Acquisition or transfer of broadcasting rights
- Exploitation of sport brands
- Disputes concerning disciplinary sanctions.

Today, the European Community takes the international sports movement seriously, takes care of the issue of rule-making in this field and ensuring the implementation of the specified normative acts on the territory of the entire united Europe [10]. Taking into account the vector policy of Ukraine regarding the accession to the EU, sports law as a part of the legal system of Ukraine should also acquire the characteristics of an independent field of law, within which such legal institutions as sports refereeing, sports arbitration, sports liability, etc. are united.

The issue of the allocation of sports law to a separate branch is also closely related to the level of development of the sports movement in Ukraine, which under normal conditions can ensure economic (especially in the field of investment, tourism), social and cultural (growth of national self-identification) and other development of the state. At the same time, the development of sports in Ukraine is significantly complicated by the fact that the Verkhovna Rada of

Ukraine has not ratified a number of international legal treaties in the field of sports law (for example, the Code of Sports Ethics, the Code of Sports Arbitration). This makes it impossible for the subjects of sports legal relations in Ukraine to apply to the Sports Arbitration Court, since there is no such instance in our country.

Taking into account the above, we believe that certain legal conflicts arise due to the inconsistency between the normative acts adopted by certain sports associations for a more detailed settlement of urgent issues and Ukrainian legislation. In some sports, this problem is regulated by the internal rules of national federations and international rules, but in others, the problem is much more acute. Therefore, the separation of sports law into an independent branch will significantly contribute to the development of legal relations specific in nature and content.

#### **References:**

1. Law of Ukraine of December 24, 1993 No. 3808-XII “On physical culture and sport” (as amended on 02-06-2021) URL: <https://zakon.rada.gov.ua/laws>
2. Dashkovska, O. R., Yavor, O. A., Brovchenko, T. I., Huz, Y. V., & Barabash, O. O. (2021). The features of the implementation of the sports law. *Retos: nuevas tendencias en educación física, deporte y recreación*, (39), 100.
3. Sannikova, M. (2018). Legal regulation of physical culture and sports activities in Ukraine. *Slobozhanskyi herald of science and sport*, 5 (67), 28-32.
4. Tkachuk, K. R. (2018). Features of Development of Sport Law in Ukraine: Activity on the International Sport Area. *JE Eur. L.*, 312.
5. Tkalych, M. O., Davydova, I. V., & Tolmachevska, Y. O. (2020). Current State and Prospects of Development of the Sports System of Ukraine: *Legal Aspects*.
6. Morhunov, O. A. (2011). The Place of Sports Law in the System of Public Law of Ukraine. *Bull. Kharkiv Nat'l. Univ. Internal Aff.*, 33.
7. Anikanov I. Legal Regulation Of The Development Of The System Of Sports Clubs In Ukraine. *OLYMPICUS*, 2023, 2, C.3-8 <https://doi.org/10.24195/olympicus/2023-2-1>
8. Dotsenko R., Aveskulov V. Specific Features and Legal Nature of Contracts of Football Players in Ukraine
9. Сафончик О.І. (2022). Особливі аспекти гендерної рівності у сфері спортивного права. *Lex Sportiva*. 1, 25–33. <https://doi.org/10.32782/lexsportiva/2021.1.5>.
10. Cattaneo A., Parrish R. (2020). Sports law in the European Union. Kluwer Law International BV.