

The Effect of Legislation on Sports Management in Romania

Daniel BRĂȚIANU¹

Abstract

As in any other organization, a sport organization needs management in order to coordinate all its activities. However, sport is a multi-dimensional domain, it has also a social and cultural dimension, not only an economic one. In the last decades, because of globalization and technological development, the sport industry has extended, and legislation has become more complex and needs to cover more legal aspects. Managers must consider the impact of legislation on sports organizations and their activities in order to achieve success and in order to be able to manage risks.

In Romania, there are legislation gaps which deeply impact the management of sports organizations caused by taxation and legislation. Operations can be disrupted because of issues in the acquisition of equipment, issues regarding infrastructure or funding.

Keywords: *legislation and management, romanian sport management, romanian legislation*

JEL classification: Z20, Z20, Z28

DOI: 10.24818/RMCI.2020.5.692

1. Introduction

In sport management it is important to know how to deal with operations, governance, marketing and human resources. Having legal knowledge can be an advantage in this challenging, competitive field. Sports legislation derived from Romanian legislation and the European sports law represented in all international treaties in which Romania is also part of, can shape management in such a way that would increase participation at international competition, would make sport in general aim at a higher economic, social and cultural gain, addressing its three dimensions. In order to achieve the best outcome for the future of sports, there should be a harmonized interaction between sports legislation and management.

The legislation affects the way in which an organization is designed to conduct its activities. Changes in legislation can directly affect operations. Also, gaps in legislation can open a sports organization up to liability.

Managers can identify legal challenges in the field, such as legal issues with regards the employment contract, corruption, sponsorship and others. Once identified, proposals can be drafted for the legislation to be amended so that it can better fit the needs of the sports field and support its development.

¹ Daniel Bratianu, 1 National University of Physical Education and Sports, Faculty of Physical Education and Sport, Bucharest, Romania, E-mail: danbrati@gmail.com

2. Literature review

Due to globalization and the development of technology and media, the field of sports has become an industry. Like any other business, it needs good management in order to be efficient. However, sport is not quite like other businesses or industries, it is multi-dimensional, having a cultural dimension, a social and an economic one (Beech & Chadwick, 2004).

The expansion of the sport industry, especially professional sport, meant that there are more people who work in this domain and they do so across many countries. Players can transfer from one team to another, from one country to another. Therefore, law has a very important role to play.

According to Nastase and Munteanu (2012:66) management in sports can be considered a key element in terms of streamlining both sports structures and their specific activities. It requires adapting all sport-specific structures to the environment in which these structures operate and at the same time it also requires using all available resources in order to achieve the targeted objectives.

For many sports organizations, the application of specific sports legislation and international law can present many challenges (Healey, 2009). It is important for sports managers to take into consideration all factors which can affect their organizations. These factors can be internal and external. The external factors include world economy, local economy, development of technology (Nastase and Munteanu, 2012) changes in legislation at local level and international level. By integrating the legal information in sports management functions, the activities of the organizations can be adequately managed, and the risks of liability can be reduced. It also goes the other way around, if managers know the legal aspects of the sports domain, they can better identify irregularities or legislation gaps which have impact on their activities.

According to Hoye et al (2015), most national governments view sports as a force that drives economic and social development, which is why they consider it is their responsibility to enact legislation which supports and regulates the activities of sport entities. Governments also tend to show their support by facilitating professional training and providing funding for various activities in the field of sports: making sure that the infrastructure is up to date with the current needs by building stadiums or fixing them, or funding training programs for professional players. In return, the interest in sports increases and also health is better promoted. Hoye et al (2015:13-14) states that the government policies, funding and regulation can have a big impact on the way sport is not only managed, but also consumed and produced.

The importance of sport is recognized in the Treaty on the Functioning of the European Union, namely Article 6 and Article 165. The promotion of sport is also included as an institutional objective: the promotion of sports activities, considering the specific nature, structures based on voluntary activity, as well as the social and educational function of sport (Parrish, 2012).

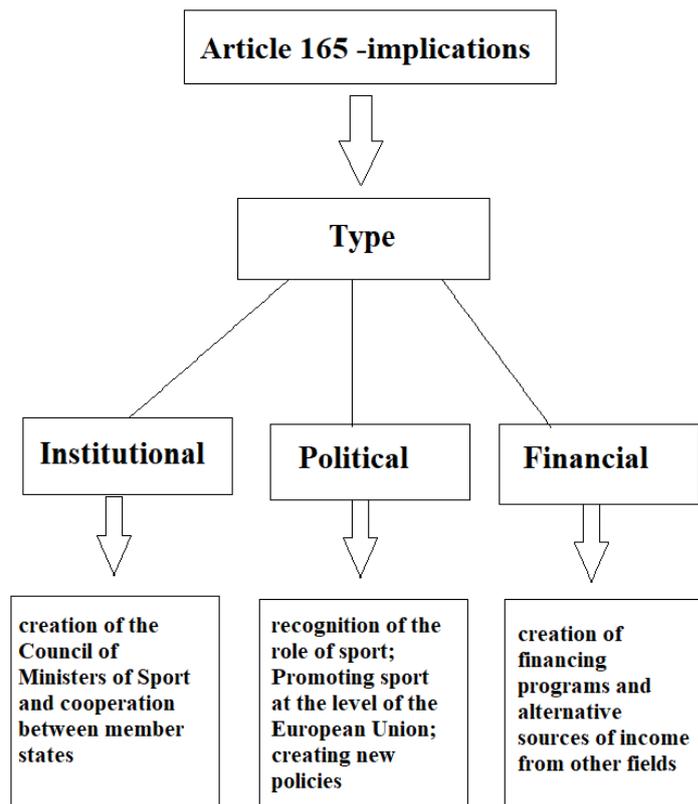


Figure 1. Implications of Article 165

Source: author

Funding is a major component in the good functioning of sports organizations. In some states, sport is funded in part by taxes from gambling or lottery services (Nastase and Munteanu, 2012:71). There are three ways in which lotteries and betting operators can fund sport (in the European Union): by making payments to sporting bodies, by making payments to third parties in sports through advertising, or by paying corporate /local taxes to national or local governments, in which case the money would go to the overall budget allocated to sports (Waelbroeck-Rocha et al, 2011:62).

Compared to other EU countries, Romania has one of the lowest financial allocations for sport. The financing of sport is deducted and allocated in relation to gross domestic product (GDP).

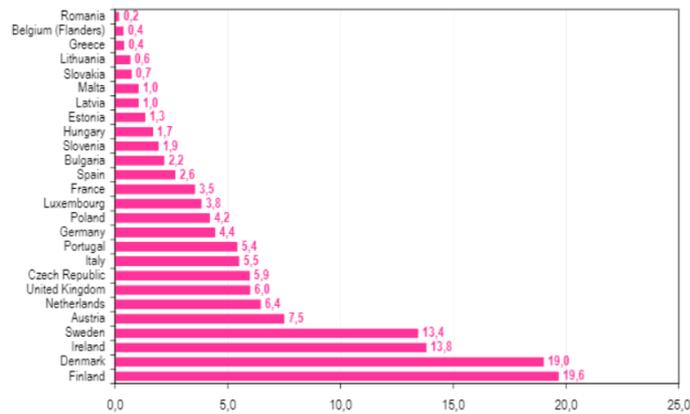


Figure 1. Average of funding allocated to sport by the lotteries and gambling operators (2008)

Source: Eurostrategies's consortium, based on data from the National Ministries in charge of Sport from the gaming operators; in (Waelbroeck-Rocha et al, 2011)

As the graphic shows, Finland, Denmark, Ireland and Sweden are the countries who received the highest amount from lotteries. Romania only received an average of 0.2. For each country the revenue is presented on per capita basis and represents the sum of compulsory levy attributed to sports, as it was reported by the European State Lotteries and Toto Association, divided by population (Waelbroeck-Rocha et al, 2011). The same study presented a chart of funding at the national level per capita for all Member states, in 2008.

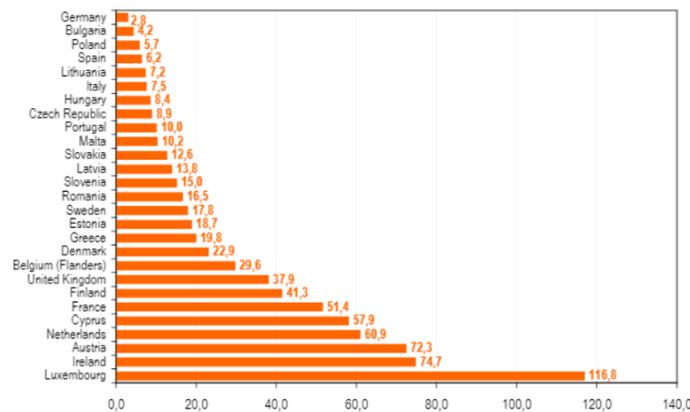


Figure 2. Average of annual revenue for sport from government's budgets, in euro per capita

Source: Eurostrategies, CDES, Deutsche Sporthokhschule Koln in (Waelbroeck-Rocha et al, 2011)

According to data from Ministry of Youth and Sport from Romania (MTS), which is the main body responsible for sports in Romania, there is an

upward dynamic in the financing of sports, during 1999-2016. The table below refers to the amount of financing obtained from both the state budget and the MTS's own. This steady growth is not reflected in the funds allocated to sport.

Table 1. Financing of the national sports federations

Year	Funding from state budget	Self-finance (MTS)
1999	10.856.040	3.682.199
2000	19.077.794	4.465.645
2001	18.190.896	5.913.122
2002	19.140.987	1.360.854
2003	29.789.001	1.146.504
2004	50.926.034	1.622.000
2005	50.557.589	2.917.533
2006	53.310.436	4.621.110
2007	65.101.660	6.383.935
2008	70.316.492	6.580.975
2009	95.532.286	6.282.703
2010	73.914.333	8.834.469
2011	72.462.377	8.683.954
2012	68.424.822	8.683.048
2013	63.981.793	18.589.763
2014	76.346.319	26.205.067
2015	77.377.462	30.307.113
2016	80.000.000	28.400.000

Source: MTS <http://mts.ro>

In the study conducted by Waelbroeck-Rocha et al (2011), the legal and fiscal framework that impacts sports financing has been analysed based on data from European countries. The results showed that the fiscal framework directly impacts the funding of sport in the EU, legislative measures impact funding as well- legislative measures that encourage individuals through fiscal incentives to directly donate to sport organisations could support sport funding. Regulations that apply to companies also impact sport funding – companies can help funding through sponsorship. Other types of regulation which impact sport funding are the regime for lotteries, betting and gambling, media rights and regulation that applies to local authorities. Romania is part of a small group of countries in which VAT exemption only applies to some sources of revenue (Romania, Estonia, Lithuania, France). The VAT exemption applies only to sport clubs in the public sector, commercial sport clubs are usually exempt from VAT up to 35 000 eur (Waelbroeck-Rocha et al, 2011:98-104).

In a SWOT and PEST analysis conducted by Popescu (2017), results showed that the sport management in Romania needs improvement, mainly because of the political system which had a negative impact on the field, by politicizing occupation of public posts, the legislation needs to be amended due to the fact that it does not have proper laws that would promote and attract sponsors. The analysis also revealed that the private sector is not encouraged the development of sports clubs. The same study found that the budget allocated by the Ministry of Youth and Sports from Romania is very small. Also, despite the fact that it has elite coaches and teachers whose works are recognised internationally, they are not stimulated to remain in the country, most of them have immigrated to other countries (Popescu, 2017).

3. Findings based on interviews

In order to determine the need for legislative changes in the field of sport, several interviews were administered as a method of data collection. 13 questions were designed in order to highlight the needs of sports organizations.

We interviewed 20 subjects who work / collaborate with such institutions (coaches, teachers, directors of sports organizations / associations) in Bucharest, Galati, Iasi. The questions also address issues identified through various bills: sponsorship, life annuity, sports activity contract, allocation of funds for the promotion of sports, infrastructure, potential revenues from the Romanian Lottery, the relationship between sports and media. The questions concern different areas, such as infrastructure, economic, social and given that aspects of the laws are discussed, they all concern the legislative field. Given the complexity of legislative regulations by formulating questions we aimed to cover relevant issues such as: economic, social, infrastructure, management, marketing.

1. What do you think about the regulations in the sponsorship law, what do you think would be appropriate to add / modify? (economic)

Findings:

Based on the majority of the answers, in most of the discussions, I noticed a general dissatisfaction with regard to regulations in the sponsorship law. Although the changes brought in 2019 by completing Law no. 32/1994 on sponsorship are welcomed, they do not fully satisfy the needs in sports, considering the allocated percentages that are non-incentive. Certain articles of the law (ex.art.8) still need to be amended. A percentage of the profit should be set and not the profit tax. Example: up to 20%. Those who sponsor should be supported in their work and encouraged to sponsor permanently.

The training factors within the School Clubs and High Schools with sports profile have the same problem regarding the financing of pre-university school sports. sponsorship law regulations should include measures to fund school and

university sports. Thus, a tax of 5% of the turnover of supermarkets, of companies whose object of activity is fast food to be directed to programs for the promotion of sports in schools. The respondents considered the attempt to bring together representatives of state and private sports structures, representatives of the business environment and other structures with representation in the field of sports as an urgent need, in order to find a formula that stimulates the private sector to sponsor sports.

2. What do you think about the sports activity contract? What changes would be needed at the legislative level? (social)

Findings:

Some respondents consider that it should be mentioned in the contract that the association / club will take care of the athlete if he/she is injured during training / matches in everything that means surgery and recovery. Most of the time, athletes give up the sports activity because they cannot afford a recovery suitable for their condition. The respondents considered that having a sports contract is mandatory, as it includes a number of legal issues on which the parties must agree during the negotiations. The club should pay a lower amount of contributions to the Romanian state. Clubs must be helped in order to be able to raise the level of sport in Romania. At the same time, they considered it necessary to conclude sports activity contracts for all club employees starting with the club president, video analyst, psychologist and all those who are involved in the sports activity of that club. The vast majority of athletes are not covered by both medical and social insurance. Through the employment contract, the athlete could benefit from medical insurance, unemployment and pension.

3. Is it necessary to develop sports infrastructure, do you consider that sufficient funds are allocated to promote sport? (infrastructure, management)

The respondents considered that there are insufficient funds allocated to sports to ensure optimal conditions for performance. The sports materials outdated, they require modernization and adaptation to European standards, and the lack of investment definitely determines the decrease of the popularity of sport among children. Athletes do not have optimal training conditions and it is difficult to perform in this way. The development of sports infrastructure is an emergency and is a beneficial action for young people in our country. Sports facilities should be made available to children free of charge to practice any form of exercise under the guidance of physical education teachers, coaches and instructors.

4. Do you consider targeting reasonable amounts of money from the Roman Lottery and from sports betting companies is necessary? (economic)

The Romanian Lottery is one of the most profitable state companies and is controlled by the Ministry of Finance, in 2018 it exceeded the threshold of 1 billion lei revenues, registering an increase of 14% compared to 2017, and for 2019 it an increase of up to 1.1 billion lei turnover.

5. What is your opinion on a possible change in legislation / taxation regarding the income tax from betting companies, in the sense of using these amounts for funding sports clubs / organizations with children training programs? (economic) + 6. What legislative gaps have you identified in carrying out your work on Sports Management? (economic, management).

We notice an increased concern in the university environment on sports issues such as the need to harmonize sports legislation in order to give managers, coaches and other participants in the sporting event, the possibility of carrying out the activity in optimal conditions.

The respondents consider that the manager of a team must have a team that can handle all required functions: coaches, a nutritionst, a psychologist, statistician, physiotherapist to perform at the highest level. Most of the respondents suggested imposing by law

7. What do you think about the relationship between sports and the media and about the rights to broadcast sports in Romania, compared to media rights at the global ? (economic, marketing)

The respondents concluded that the media relationship with athletes is a beneficial one, sports performers present a positive image, which motivates children and juniors to make positive behavioral changes in their training, and encourages to maintain exercise or eat healthy foods.

Other respondents considered that unfortunately we don't have Media but sensationalism. The media is looking for sensational news and scandals, and is less focused on performance. The media also does not deal with the promotion of juniors. It is a relationship that should work in favor of sport, there should be an obligation to provide a broadcast space, publication of articles on sports topics to promote sports and sports activities.

The Romanian sports consumer, cannot enjoy a wide range of sports events. Compared to global marketing, unfortunately, for Romania, sport is not a priority.

8. The number of people interested in practicing sports in Romania is decreasing, do you think that there are enough programs to stimulate interest in the organized practice of physical education and sports activities, in order to train performers? (social)

Most people in Romania are only interested in high performance sports, due to a lack of understanding of the fact that sport means health. It is important to distinguish between going to the gym and doing sports in nature. The infrastructure does not support sports for everyone.

9. How is the sport field impacted by the lack of regulations with regard to the public-private partnership? (economic)

The respondents noticed a certain reluctance of the private environment in establishing public-private partnerships, especially in sports because the period of recovery of investment and profit of the private partner is quite long and yet some players in the private sector have concluded such partnerships.

The public-private partnership is a concept that is defined by the Commission. A positive example of a public-private partnership is in Cluj, where the new multipurpose hall was built.

10. Are legislative modifications necessary in order to better support funding in sports?

The respondents considered that there is a massive lack of interest of authorities to fund sports. The disinterest is also due to the lack of coherent programs for the development of sports, infrastructure, sports bases. Without the development and implementation of projects for youth sports that could lead to performance, we will not have stakeholders in the financing of sport.

11. Do you think that annuity should also be offered to performance athletes who, through a constant effort, obtain the ranking on the fourth, fifth and sixth places at the Olympics or the World or European Championships? (economic, social)

All respondents agreed that annuity should also be offered to those who on the fourth, fifth and sixth places because they consider that a performance athlete is subjected to various risks, and there are situations in which some of them have to retire early because of accidents or injuries sustained during practice or during competitions. In such contexts, it is important to provide an annuity to the athletes because it would be their main and probably only income source.

12. What do you think are the difficulties that young athletes encounter? (social)

The respondents considered that the athletes who perform in our country is often faced with a harsh reality, between opting for the pursuit of a sports career or

studies. Unfortunately, students with sports performance do not benefit from facilities in other countries such as the USA or England to continue their studies in parallel with school. The athlete's team must have a correct position in guiding the athlete to combine sport with education. The psychologist has an extraordinary role in sports performance. He is the only one able to advise an athlete who has to combine training with school most of the time. The lack of time is also a cause of insufficient sports infrastructure of financial support, so the athlete loses significant time from the training base at school and at home

13. Do you think that the presence of a psychologist in your organization is beneficial, can it help to develop the potential of athletes? (Management)

Most of the respondents agreed that more emphasis is placed on the psychological training of the athlete, prejudices are set aside, because an athlete who does not have a well-developed psychological training can always crack. The concept that the mind dictates the body and not the other way around is becoming more and more understood. Currently, the psychologist is a mandatory member of the staff of any sports organization.

The presence of a psychologist must be mandatory in any respected club. The psychologist as well as the doctor, the physiotherapist are necessary for the development of the athletes' potential. In sports, we all believe that we are in control of the situation and that we do not need someone from outside. Along with the coach, sports doctor, masseur, physiotherapist, the psychologist must be part of the staff of a club. The psychologist is the balancing factor, an important member of any sports team, sports organizations, an entity that trains athletes.

Conclusions

From the content of the interviews it results that there are problems in the management of sports organizations caused by taxation and legislation in the acquisition of material resources necessary for organizations to achieve objectives. There are mobility problems, transport is not facilitated for team members, salaries are not sufficiently motivating for human resources in sports organizations. Funds obtained from sponsorships are accepted up to a certain limit imposed by law, the allocation of the budget for sports is done through regional institutions.

In the proposal for amending the Law on physical education and sports no. 69/2000 it is mentioned that at present, there are 73 national sports federations in Romania. These include Olympic sports, well-known and well-known, but also non-Olympic sports, less known and developed. According to the current legal provisions, from a theoretical point of view, all 73 national sports federations, having the same legal status, should have the same rights and obligations.

The same proposal also discusses annuities which must be recalculated in accordance with the provisions of Article 64. Normally, the resulting life annuity

should not be less than the amount paid on the date of entry into force of this amending law.

The provisions regarding the granting of the life annuity after reaching the age of 30 do not apply to the performance athletes who, rightly, made a request for the granting of the life annuity prior to the entry into force of this law amending and supplementing the Law on Physical Education and Sports no. 69/2000, with subsequent amendments and completions, even if its payment did not take place or was suspended due to the return of the holder in the sports activity.

References

1. Chadwick, Simon, and John Beech, eds. (2004). *The Business of Sports Management*. Pearson Education
2. Nastase, Marian, and Sebastian Madalin Munteanu, (2012), Applying Professional Management Tools In Sport: An European Priority. *Marathon* 4.2 pp 61-67.
3. Healey, Deborah (2009). "How the Law Comes into Sport." Chapter in Deborah Healey, *Sport and the Law*, UNSW Press.
4. Hoye, Russel., Smith, Aaron C., Nicholson, Matthew, & Stewart, Bob, (2015). *Sport management: principles and applications*. Routledge, pp.3-12
5. Parrish, Richard, (2012). *Lex sportiva and EU sports law*. *European Law Review* 37.6 716-733.
6. Waelbroeck-Rocha, E., Avic, E., Nguyen, T. A., Mirgon, C., Lourimi, S., Mialet, G., & Montel, J. (2011). *Study on the funding of grassroots sports in the EU*. With a focus on the internal market aspects concerning legislative frameworks and systems of financing.
7. Popescu, Ciprian Gheorghe. "Comparative Analysis between the Sports Management Systems in Romania and Norway." *Valahian Journal of Economic Studies* 8.2 (2017): 91-102.