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To the question of defining the concept of "sport" under the legislation of Ukraine

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Throughout the development of human civilization, sport has played and continues to play a very important role. The first complexes of physical exercises and simple games have arisen already in the primitive society. In this way, skills of work were transferred, preparation for military confrontations was carried out, religious ceremonies were sent, etc.

Modern sport is a unique phenomenon that performs many different functions, including social, educational, cultural, economic, political, etc.

In particular, the term "sport" (from the English "disport" or French "desport") means "rest from work", "entertainment". Thus, sport has emerged in recent times, primarily as a way of organizing

leisure for the aristocratic circles of European society. This process began around the middle of the eighteenth century. However, soon with the advent of the middle class, formed with the onset of the Industrial Revolution, sports was increasingly used as a way of earning money: athletes receive performance fees and spectators participate in betting money on the outcome of sports events. Over time, both of these areas of sports have evolved into amateur (amateur) and professional sports. Amateur athletes engage in sports activities to meet their social needs, without the purpose of earning money. Instead, sports is a professional business, the purpose of which is first and foremost to obtain economic benefits. According to the terminology of the current Law of Ukraine "On Physical Culture and Sports" of December 24, 1993, the activity of subjects of the field of physical culture and sport is recognized as a sport, aimed at identifying and unifying the achievements of people in physical, intellectual and other fitness through sports competitions, and appropriate training for them.

Forms of sports activities, as such, can be varied: from sports games of "backyard" teams of children to sports competitions organized by the leading world sports leagues and the Olympic Games.

In addition to amateur and professional sports, the current legislation of Ukraine distinguishes children's sports, child-youth sports, reserve sports, sports of high achievements, sports of veterans, Olympic sports, non-Olympic sports, service-applied and military-applied sports, sports of persons with disabilities.

The list of sports directions stipulated by law is not exhaustive. In particular, some researchers also highlight mass, wellness, competitive, entertainment, "sport for all", organized, semi-professional, professional-commercial, folk sports, big sports and more.

До питання про визначення поняття "спорт" за законодавством України

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Ключові слова:

спорт, професійний спорт, спортивне право, любительський спорт, Lex sportiva.

Протягом всього періоду розвитку людської цивілізації спорт відігравав і продовжує відігравати дуже важливу роль. Перші комплекси фізичних вправ та прості ігри виникли вже у первісному суспільстві. Таким чином передавалися навички трудової діяльності, здійснювалася підготовка до військових протистоянь, відправлялися релігійні обряди тощо.

Сучасний спорт є унікальним явищем, яке виконує безліч різноманітних функцій, серед яких варто назвати соціальну, виховну, культурну, економічну, політичну тощо.

Зокрема, сам термін «спорт» (від англ. «disport» або франц. «desport») означає «відпочинок від праці», «розвага». Отже, спорт у новий час виник, передовсім, як спосіб організації дозвілля представників аристократичних кіл європейського суспільства. Цей процес розпочався приблизно у середині

XVIII століття. Проте невдовзі, з появою середнього класу, що формується з початком промислової революції, спорт все більше використовують, як спосіб заробляння коштів: спортсмени отримують гонорари за виступи, а глядачі беруть участь в організації парі – грошових ставок на певний результат спортивних змагань. З плином часу обидва зазначені напрямки спорту сформувалися у спорт аматорський (любительський) і спорт професійний. Спортсмени-аматори займаються спортивною діяльністю для задоволення своїх соціальних потреб, без мети заробляння коштів. Натомість спорт професійний є підприємницькою діяльністю, метою якої є передовсім отримання економічної вигоди.

Відповідно до термінології чинного Закону України «Про фізичну культуру і спорт» від 24.12.1993 р. спортом визнається діяльність суб'єктів сфери фізичної культури і спорту, спрямована на виявлення та уніфіковане порівняння досягнень людей у фізичній, інтелектуальній та іншій підготовленостях шляхом проведення спортивних змагань та відповідної підготовки до них.

Форми здійснення спортивної діяльності, як такої, можуть бути найрізноманітнішими: від спортивних ігор «дворових» команд дітлахів до спортивних змагань, організованих провідними світовими спортивними лігами і Олімпійських ігор.

Крім аматорського і професійного спорту чинне законодавство України виокремлює дитячий спорт, дитячо-юнацький спорт, резервний спорт, спорт вищих досягнень, спорт ветеранів, олімпійський спорт, неолімпійський спорт, службово-прикладний та військово-прикладний спорт, спорт осіб з інвалідністю.

Перелік напрямків спорту, закріплений законом, не є вичерпним. Зокрема, деякі дослідники виділяють також масовий, оздоровчий, змагальний, видовищний спорт, «спорт для всіх», організований, полупрофесійний, професійно-комерційний, народний спорт, великий спорт тощо.

Throughout the development of human civilization, the sport has played and continues to play an important role. The first complexes of physical exercises and simple games have arisen already in the primitive society. In this way skills of work were transferred, preparation for military confrontations was carried out, religious ceremonies were sent, etc.

Modern sport is a unique phenomenon that performs many different functions, including social, educational, cultural, economic, political, etc.

The term "sport" (from the English "disport" or French "desport") [1, 2] means "rest from work", "entertainment". Thus, the sport has emerged in recent times, primarily as a way of organizing leisure for the

aristocratic circles of European society. This process began around the middle of the eighteenth century. However, soon with the advent of the middle class, formed with the onset of the Industrial Revolution, sports are increasingly used as a way of earning money: athletes receive performance fees and spectators participate in the organization of money – betting on the outcome of sports events. Over time, both of these areas of sports have evolved into amateur (amateur) and professional sports. Amateur athletes engage in sports activities to meet their social needs, without the purpose of earning money. Instead, sports is a professional business, the purpose of which is first and foremost to obtain economic benefits.

According to the terminology of the current Law of Ukraine "On Physical Culture and Sport" [3] of December 24, 1993, sport is recognized as an activity of subjects of the field of physical culture and sport, aimed at identifying and unifying the achievements of people in physical, intellectual and other skills through sports competitions and appropriate training for them.

Forms of sports activities can be varied: from sports games of "backyard" teams of children to sports competitions organized by the leading world sports leagues and the Olympic Games.

In addition to amateur and professional sports, the current legislation of Ukraine distinguishes children's sports, child-youth sports, reserve sports, sports of high achievements, sports of veterans, Olympic sports, non-Olympic sports, labor sport and military sports, sports of persons with disabilities.

The list of sports directions stipulated by law is not exhaustive. In particular, some researchers also highlight mass sports, wellness sports, competitive sports, entertainment sports, "sports for all", organized sports, semi-professional sports, professional-commercial sports, folk sports, big sports etc.

So, sports is divided into two main areas: professional and amateur.

According to the Law of Ukraine "On Physical Culture and Sports" (2019) professional sport is a commercial area of activity in sport, connected with the preparation and holding of spectacular sports events at a high organizational level for profit.

The characteristic features of professional sports that distinguish it from amateur and other sports are:

- commercial nature of sports activities;
- special legal and quasi-legal (local) regulation;
- creating a system of competitions aimed at ensuring the entertainment of

sporting events and using the achieved sportsmanship for economic effect;

- stimulating the development of the "sports market" (a branch of the national and international economy, which is the subject of sports goods and services of various entities);

- organizational, logistical, economic, political assistance to the development of the most profitable sports.

Amateur sport is a direction in sport; sports activities aimed at addressing a variety of needs, primarily individuals, and are not associated with economic benefits. The main function of amateur sports is the physical and spiritual development, improvement of physical and mental skills and abilities of athletes, enjoyment of sports activities.

Amateur sports activities, in contrast to professional sports, are funded by the athletes themselves and/or the athletes' public associations.

Unlike professional sports, where associations of private sports organizations play a key role in organizing the sporting process, sports non-governmental organizations carry out this function in amateur sports.

Historically, amateur sports have been associated with the Olympic movement. In particular, at the First Olympic Congress, held in Paris in 1894, it was determined that only amateurs could participate in the Olympic Games. However, already at the 1st Olympic Games of 1896, problems began to arise with determining the status of athletes and their admission to the competition. Further, during the entire existence of the Olympic Movement, disputes arose between the distinction between amateur and professional sports. The confrontation between professional and amateur sports ended in favor of the first in 1995 when the International Olympic Committee (IOC) lifted all restrictions on the participation of professionals in the Olympic Games. Thus, professional sports became part of the international sports and Olympic movement.

Today, the line between professional and amateur sport is conditional, because athletes are free to change their status. At the same time, as mentioned above, professional sportsmen can participate in competitions organized by "amateur" organizations.

According to the criterion of inclusion of sport in the program of the Olympic Games sports are Olympic and non-Olympic.

Olympic sport is a field of sports associated with the organization and conduct of sports competitions in Olympic sports and the preparation of athletes for these competitions.

Non-Olympic sport - is a field of sport, related to the organization and holding of sports competitions in non-Olympic sports and the preparation of athletes for these competitions.

The person who revived the Olympic Games and gave them planetary significance was Pierre de Coubertin. He saw in the Olympic Games not only the revival of ancient ideals but also the form and mode of self-expression of a person for whom the main motive of sports activity should be the joy of the harmony of movements, the festivity of competitions. The Olympic sport was regarded as the best means of promoting such universal values as internationalism, healthy lifestyles, overcoming religious, and racial estrangement.

The revival of the Olympic Games led to the emergence of a new socio-cultural phenomenon - "Olympism". "Olympism" is a philosophy of life that elevates and integrates into a harmonious whole the dignity of the body, will, and mind. Combining sport with culture and education, Olympism seeks to create a lifestyle based on the joy of the effort, the educational value of a good example, and respect for common basic ethical principles" [4].

Olympism is based on certain principles formulated by Pierre de Coubertin in the Olympic Charter:

1. Olympism is a philosophy of life that magnifies and integrates into a harmonious whole the qualities of body, will, and mind. By combining sport with culture and education, it seeks to create a lifestyle based on the joy of effort, the educational value of a good example, and respect for universal fundamental ethical principles.

2. The goal of Olympism is to promote the universal promotion of sport in the service of harmonious human development in order to foster a peaceful society that is interested in maintaining human dignity.

3. The Olympic Movement is a concentrated, organized, universal and continuous activity of all persons and organizations that are inspired by the values of Olympism, led by the IOC. This activity covers five continents. The pinnacle of it is the union of athletes around the world at a major sporting event – the Olympic Games. Its symbol is five intertwined rings.

4. Playing sports is one of the human rights. Everyone should have the opportunity to play sports, without discrimination, in the spirit of Olympism, understanding, friendship, solidarity, and fair play. The organization, management, and management of sports should be controlled by independent sports organizations.

5. Any form of discrimination against a country or a person of a racial, religious, political or gender nature is incompatible with the Olympic Movement.

The Olympic Movement is a movement made up of the International Olympic Committee (IOC), national federations, national Olympic committees, organizing committees of the Olympic Games, national associations, clubs, and their members: primarily athletes, referees, coaches and other affiliated with sports personalities.

In addition to professional, amateur and Olympic sports, we will also briefly describe other areas of sports enshrined in the current national legislation.

Children's sports. Children's sport is an area of sport that provides children with the opportunity to familiarize themselves with sports and to show their abilities for further sports activities.

Public authorities and local self-government bodies create organizational and legal and other conditions for the development of children's sports and provision of primary education for children through sports, by combining the efforts of family, guardians, carers, children's sports schools, and general educational institutions for development mass and high-level sports.

Children's and youth sports. Children's and youth sports are a line of sports that provides for the involvement of children in a particular sport of children's sports to carry out their sports specialization and provide conditions for the transition to reserve sports.

The development of child-youth sports is provided by the subjects of the sphere of physical culture and sports, in particular child-youth sports schools and corresponding sports clubs.

Reserve sports. Reserve sport is a field of sports that provides in the manner established by the central executive body, which provides for the formation of state policy in the field of physical culture and sports, the selection of gifted children and young people for sports, creation of conditions for maximum development of their individual abilities with the aim of achieving high sports results, providing the conditions for the transition to higher sports and replenishing the core of national teams.

The development of reserve sports is provided by the subjects of physical culture and sports, in particular, sports clubs, specialized educational institutions of sports profile, schools of higher sportsmanship, full-time sports teams of reserve sports of the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol, central executive authorities implement state policy in the field of education, physical culture and sports, all-Ukrainian physical-sports associations, sports federations

(hereinafter - full-time reserve sports teams), and other subjects in the field of physical culture and sports.

High-level Sports. The High-level Sports is a field of sports that provides for the involvement of reserve sportsmen through further specialization and individualization of their training process in a particular sport for the preparation, and participation in sporting competitions nationwide and internationally.

The development of High-level Sports is provided by national teams and subjects of the physical culture and sports sphere, including Olympic training centers, schools of higher sportsmanship, sports clubs, as well as sports teams of the Armed Forces of Ukraine and other military formations formed in accordance with the laws of Ukraine, law enforcement agencies bodies, rescue, and other special services, as well as subjects of the field of physical culture and sports, which promote the development of professional sports.

Labor sports and military sports. labor sport and military sport is a field of sport, related to the performance of military personnel and employees of the Armed Forces of Ukraine, other military formations formed under the laws of Ukraine, law enforcement agencies, rescue and other special services of their official duties. Labor sports and military sports are provided by the subjects of physical culture and sports.

Disabled sports – a field of sport, related to the organization and conduct of sports competitions in the sports of persons with disabilities and the preparation of athletes for these competitions.

Thus, modern sport is a unique socio-cultural phenomenon that reveals its essence through a variety of directions, forms and ways of performing sports activities.

Concerning the national sports system, its characteristic feature is the combination of two organizational models: market ("Western") and non-market ("Soviet"). It is said that the main driver of

the development of sports in Western countries is private interest (the sports market), and the main priority of Soviet sports was public interest (mass sports). Accordingly, the main organizational element of the Western (more American and less European) sports system is the private sports club and the association of sports clubs (professional sports leagues). The main actors in domestic sports are state and public (actually quasi-state) organizations. This is primarily about sports federations and sports associations. At the same time, mass sport, like other sports, is now in decline.

However, despite the state's inability to secure normal funding for sport, it

nevertheless holds a dominant position in the institutional system of the national sport. This interventionist approach has been preserved since the Soviet era. It should be emphasized that in the difficult economic situation in which our country is permanently in place, and chronic underfunding of sports, it is extremely important to form such an organizational system of sports, in which the professional sport would have a leading place. It is professional sports as a kind of economic activity that can accumulate the funds needed to build not only professional sports but also the whole system of national sports.

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