

## LEGAL SPORTS ASPECTS OF THE LAW ON SPORT IN ALBANIA

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### Abstract

The right to sport in Albania is a relatively late developed right for reasons related to the evolution itself and the organization of the state over the years. The reasons for this phenomenon are mostly related to the fact that the state has played a minimal role in undertaking enterprises and initiatives in the context of its promotion or improvement.

Given all the factors that have contributed to the gaps in sports legislation in our country, we note that they have been the determinants of the slow development of all sports activities and consequently of the frequent occurrence of conflicts in most cases from the participants in these activities.

Due to the fact that sport is one of the most important rights for the affirmation of the individual as a human being, it enjoys special protection by the legislator, which is defined in the country's basic act as the Constitution, which stipulates that<sup>1</sup>: *“The state, within its constitutional powers and the means at its disposal, aims to supplement private initiative and responsibility with the development of sport and recreational activities”*. Based on this provision, we can say that the right to sport is developed primarily by the state, which through its mechanisms plays an essential role in defining long-term policies aimed at promoting and protecting effectively all sporting activities. One of the main mechanisms the state uses in promoting sport is through the drafting and improvement of a regulatory legal framework that aims to cover and regulate in a broad field all aspects dealing with sport and its development. Therefore, for the very importance it represents, the treatment and interpretation of the constitutional legal framework of sports legislation in our country will be the focus of this paper. Consequently we will be able to deal with a comprehensive analysis of sports legislation, given that in Albania the new law on sport has just been adopted.

**Keywords: Sport; law on sport; sportspeople; sports disputes, sports arbitration.**

## **Introduction**

If we take a look at the history of the development of sport in the post-1990s democracy in Albania, we can say that the sports field is one of those directions in which state policy has acted less through its regulatory or supportive initiatives. The legislation, which is considered essential for the development of a particular practice, has been poor, where it can be mentioned as the only law no. 9376, dated 21.04.2005 "On Sport", with only 54 provisions in its entirety. Normally this law was not sufficient for the specific regulation of any issue arising from the development of sporting activities and therefore, the legislator has made some changes on it years later.

It was not sufficient to adapt the law to new conditions of development of sport, where most of the sportspeople are often neglected. Here we can reflect by mentioning famous names in the field of football, volleyball, or other sports categories, who have signed contracts abroad, due to the lack of the main conditions of activity of the sports club. Moreover, the conditions for exercising sport and the means necessary for this purpose have often been lacking and have become a major reason for not committing important activities for sportspeople in particular and for entertaining the sport-loving public in general. The lack of necessary infrastructure results from the lack of coordination of government policies and their implementation by sports institutions. To this end, sport in Albania leaves

much to be desired, marking in this form a lack of dignified appearance also in the international arena. While another key point affecting the malfunctioning of the right to sport in the country, it is related to the legislative deficiencies, which are reflected in the sports system by the lack of strategies, both by state institutions and by the federal or club. Their absence has resulted in a slowdown in the legal, institutional and infrastructural framework of sport development in the country.

Institutional disagreement and the lack of long-term policies by the state are factors that have made sports law in the country not at the desired level, in proportion to the professionalism of sportspeople who do not receive the appropriate emotional and financial treatment or support for their further affirmation.

## **The legal regulatory framework of the right of sport in the country.**

The regulatory legal framework and its provisions are crucial for every important area of law, including sports law. For this reason, it serves as a catalyst for regulating an important activity, from which disagreements and facts arise, which are a necessity to address. Due to the fact that a number of professional sportspeople of different categories are involved in the law of sport, and sports activities are varied, it is necessary to specifically regulate the relationships created by their combination. In this

way sports legislation deserves special attention for treatment. In sports law in the country, the law no. 9376, dated 21.04.2005 “On Sport”, as amended by Law no. 9816, dated 22.10.2007 and Law no. 9963, dated 21.7.2008 has acted for a long time. So, as we can see, the specific law on sports law was adopted only in 2005, a fact which testifies once again the legislative gap in Albania, the consequences of which are still present. Subsequently, after a series of efforts and reforms by political factors and not only, Law no. 79/2017 “On Sports” was approved in April of the year 2017, which law in its entirety contains a comprehensive legal framework, where its provisions are improved significantly compared to the previous law and where protection against sportspeople is more effective. This initiative marks an important step for the right to the sport of the country and enables all professionals to defend their rights violated by various clubs, or even by other institutions themselves.

Prior to the entry into force of this law, the organization of sport in our country resembled the mechanisms of the dictatorship political system, which set out their sole policies in the function of sports activity, with the main goals being the benefits, not the professional affirmation of the sportspeople. The new law, which in its content addresses 61 articles, which are drafted and described by European best practices to this end, undoubtedly serving the development of sport at national and international level.

### **Analysis of the constitutional changes of the new law on sport.**

In the context of the improvement of sports law, it was necessary for the country and for sports, the adoption of the law no. 79/2017, as the previous law of 2005 needed further improvement in accordance with the new social, political and sports developments. In recent months, it is evident that the government has been focusing on starting sports development initiatives in our country, both by with the adoption of the legal framework and by significant investments in infrastructure<sup>2</sup>.

The principles<sup>3</sup> underlying sporting activities are totally democratic principles, in full compliance with the constitution, or the best European legislation, providing a better protection to all sportspeople.

Taking into consideration the special provisions of the new law, we can see that the negative phenomena of the use of doping<sup>4</sup> and the unequal treatment in Albanian sport will be minimized. For this, the National Antidoping Organization, which is a non-profit organization founded by no less than three albanian olympic sports federations plays a crucial role.

Looking at the provisions as a whole legislation, for the first time in the history of Albanian sport, an

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<sup>2</sup> Here we can mention the construction of the stadiums of “Elbasan Arena”, “Loro Borici”, or even the stadium “Qemal Stafa”

<sup>3</sup>Law No. 79/2017 “On Sport”, Article 4

<sup>4</sup>Law No. 79/2017 “On Sport”, Article 43

athlete will be qualified with a "status",<sup>5</sup> which in itself contains a set of improvement criteria, financial support and reward for each achievement, giving thus all merit based on his profession.

The new law defines and guarantees the full federative autonomy of the Albanian sport by eliminating any interference in their activities by state bodies. The law has provided for the exercise and strengthening of the activity of bodies such as the National Sports Council, the National Development Fund, as bodies that guarantee decision-making.

It has also set out in detail all the competencies of the Sports Organizations in the Republic of Albania<sup>6</sup> such as: a) the Albanian National Olympic Committee; b) sports federations; c) sports associations; ç) sports companies; d) sports clubs, thus avoiding the conflict of competences between them. This law further increased the autonomy and self-management capacity of sports organizations, national and local ones, with the aim of enhancing and strengthening their internal regulation, disciplining the use of funds from the state budget, as well as respecting the criteria set for sport, thus positively affecting the management of all sportspeople.

This law also defines the legal status of sports clubs<sup>7</sup>, as well as the inclusion of the type of "multi-club", as compared to the previous law. Although a number

of sports clubs operate in our country, there was no special status for them until the entry into force of this law. It also provides the definition of sports associations or companies operating in the territory of the Republic of Albania.

Another important aspect of the law relates to the categorical prevention of violence against persons in the capacity of representatives of federations, arbitrators, judges and observers.<sup>8</sup> Whereas, the National Commission against Violence, as a consultative body, assumes new powers in initiating and developing policies for the prevention of violence.

On the other hand, regulating the activity of the Sports Arbitration Council at the Albanian National Olympic Committee as the main body for resolving disputes among Olympic Committee members is one of the biggest innovations in law. It is an independent institution, from all other sports organizations, which provides services, and exercises its function of resolving sports-related disputes.

The simple majority election of its members and their dismissal by qualified majority, or the provision of internal rules under the provisions of the Code of Civil Procedure<sup>9</sup>, are another innovation of this law. In this way the administration of sports justice is determined by achieving an effective solution for justice. These changes reinforce the role of the sports arbitration tribunal as a factor in ensuring stability

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<sup>5</sup>Law No. 79/2017 "On Sport", Article 27

<sup>6</sup>Law no. 79/2017 "On Sport", article 11

<sup>7</sup>Law no. 79/2017 "On Sport", article 21

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<sup>8</sup>Law no. 79/2017 "On Sport", article 49

<sup>9</sup>Article 427 of Civil Procedure Code of the Republic of Albania.

among sports organizations. "KAS" exercises this function mainly by giving Arbitration decisions, which are recognized by the Albanian legislation in force, and have the same legal force and enforceability as if it were a state court.

Sportspeople, clubs, sports federations, organizers of sports activities, sponsors, television companies, etc. can all address to this body for dispute resolution. The decisions of "KAS" are final and are generally can not be appealed, with the exception of the cases expressly<sup>10</sup> provided by law. Concerning the improvement of sport, its financing also plays a role in this regard, apart from state revenues, and other sources or funds provided by various activities in the country. The law stipulates that half of the state's income from gambling goes to sports. Sponsorship<sup>11</sup> revenues also play an important role in financing sports activities. This article provides that the delegation of budgetary funds is to be carried out by joint instruction of the Ministry responsible for sport and the Ministry of Finance, bringing for the first time a radical change in the financial system in sport, as sports organizations function independently and as such are supported by the grand fund under the calendar program of national and international activities they approve.

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<sup>10</sup>Article 434 of Civil Procedure Code of the Republic of Albania.

<sup>11</sup>Law no. 79/2017 "On Sport", article 38

It is even provided that the Ministry responsible for sports controls the state funds that these organizations receive, as a right of the funding institution to control the use and efficiency of the funds provided. Not only that, but they are also exempt from customs duties on sports materials, while for clubs, or federations, the law provides for the profit from secondary sources, advertising and sponsorship, television rights.

Another improvement of the law on sport is set out in Article 31 "on sports facilities", with the aim of preventing the change of destination of sports facilities and playgrounds from privatization or concession. Even when new ones are built, they must meet international standards and requirements. Meanwhile, health insurance is compulsory for sportspeople participating in sports activities. Not only that, but this is an obligation of sports clubs for their sportspeople and of sports federations for national team sportspeople. It is even provided the responsibility of sports organizations to cover all expenses for the rehabilitation of injured sportspeople during sports activities, in cases when they have not been previously insured.

## **Conclusion**

In conclusion, from this detailed analysis of the Albanian legislation on the right of sport in Albania, we can say that the spirit that describes the provisions of the new law has marked significant improvements in the regulation of this legal

framework. In this way the institutional, legislative and infrastructural restructuring of sport has been achieved and is further intended to be achieved, by practicing the best European models and aiming at having the community as partner for its decentralization and promotion.

Sport is already an important development activity for the country's politics and culture, affecting even the progress of the country. Due to its international importance, sport and all related activities have a significant impact on the accomplishment of sports professionals and the self-realization of anyone who is passionate about it. As a result, the public interest is great and for this reason, the state serves as the biggest regulatory catalyst, between sport and the individual. One of the most important measures in this context is the alignment of the Albanian sports legislation with international standards and norms, as well as the introduction of administrative measures that ensure its thorough implementation.

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