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The Fight against Corruption in Sport: International and National Experience

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Abstract

Corruption is a particularly dangerous scourge, which encompasses the whole of society, all spheres of human activity, and by virtue of this, it also encompasses education, whether we want to recognize it or not.
Corruption flourishes in times of great social unrest, in times of crisis that societies are going through, especially in the period of transition from a totalitarian regime to a democratic society.
The factor generating corruption is the socio-economic crisis, having as causes: weakening of state authority, degradation of living standards, altered moral judgment, lack of effective control levers, diminished public confidence in institutions and social values, non-adaptation of legislation to economic and social conditions and so on
Sport is one of the largest businesses in the world, being influenced and influencing in turn both financial and political interests. Every year, millions of dollars and Euros circulate in this area, most of the transactions and agreements taking place behind closed doors, in order to keep any possible advantage over the competition. This fierce competitiveness, together with the lack of transparency, makes the sports field extremely vulnerable to corruption acts.
Summarizing the results of our study, we can conclude: the fight against corruption is an opportunity for beneficiary institutions, which can strengthen and improve their systems for preventing and combating corruption and money laundering and asset recovery, by reference to worldwide first-class practices and standards. Following intense consultations with all beneficiaries in the Republic of Moldova: Minister of Education, Culture and Research, National Olympic and Sports Committee, Paralympics' Committee, Sports Federations and other structures in the country, in order to ensure effective support in the field of physical culture and sports. The direct relations with the interested actors contribute to the creation of a positive framework, which will favour the general success of the future activities that will take place in obtaining the expected results.

Keywords: *Corruption, legislation, world community, social issue, national sport, Olympic sport.*

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1. Introduction

A very important and current problem for the national sport in our country, as well as in the world arena, is the fight against corruption.

The classic definition of corruption (lat. Corruption-bribe-taking, corruption) is associated with the public authority abuse. This abuse is most often associated with official position or authority or illegal enrichment (bribe-taking). In its most general form, it can be argued that illegal use of a person by his power is implicated in the interests of society and state, allowing such person to obtain (for them and for third parties) certain benefits - money, valuables , other properties or services, as well as political advantages.

The fight against corruption is a problem of global importance, therefore (Legvold, 2009), speaking of the international law aimed at combating corruption in sport, first of all, we should resort to general acts of international law. The most important of these is the United Nations Convention Against Corruption (adopted in New York on October 31, 2003 by Resolution 58/4 at the 51st Plenary Session of the 58th Session of the UN General Assembly) . The Convention (Parliament of Romania, 2004) notes the link between corruption and other forms of crime, in particular organized crime and economic crime, including money laundering, indicating that large volumes of assets have now emerged in the sphere of corruption, which may constitute a significant share of state resources which, as a result, it threatens and endangers their political stability and sustainable development. Corruption has long ceased to be a local, internal problem, it is a transnational phenomenon that affects the entire world community, the economy of all countries and that is why it is extremely important to organize international cooperation in the field of corruption prevention and fight.

In its publications, the Department of Public Information of the UN Secretary defines a nongovernmental organization as follows: "A nongovernmental organization is any voluntary union of citizens' non-profit organizations organized at local, state or international level." („United Nations Handbook on Practical Anti-Corruption Measures For Prosecutors and Investigators".United Nations Office on Drugs and Crime (UNODC). „United Nations Handbook on Practical Anti-Corruption Measures For Prosecutors and Investigators".United Nations Office on Drugs and Crime (UNODC).

Historically, the objectives of creating international sports organizations were either tasks related to the establishment and development of a certain kind of sport, in particular the introduction of uniform rules for organizing competitions, arbitration seminars, etc. (this is how the international sports federations formed), or the tasks of organizing a sporting event; the most obvious example is the International Olympic Committee (IOC), whose purpose is to organize the Olympic Games. („United Nations Handbook on Practical Anti-Corruption Measures For Prosecutors and Investigators".United Nations Office on Drugs and Crime (UNODC) (National Olympic and Sports Committee of the Republic of Moldova, 2021).

These two fields of international sports organizations formation

predetermined the dual structure of the modern sports movement. On the one hand, it has a common system linking (in simplified form) the IOC and the national Olympic committees (International Olympic Comitee, 2020), and on the other hand, in every sport, there is an international sports federation (IFS), which administers the national sports federations in this sport. This relationship is, in fact, imperative (subordinate) in nature, since it is based, first of all, on the institution of recognition by the IOC of the NOC or in another case the recognition by the International Sports Federation (ISF) of the National Sports Federation (NSF) .

As a result, the IOC (in the Olympic movement system) and the ISF in each particular sport (for example, FIFA - in football, FIBA - in basketball, etc.; although there are certain exceptions to this rule) have become essentially monopoly organizations , completely controlling both the Olympic movement and those or other sports. And, as you know, monopoly is one of the most common premises for corruption.

Another premise is resource control. Early, at the time of its establishment, both the IOC and ISF were completely social structures that united amateur sportsmen who, for their pleasure (the term "sport" - Eng. Sport - came from old fashion. Dusport - entertainment, pleasure) organizing competitions in one rule or another. However, after millions of people, both sportsmen and fans, were attracted to this process, after the sport became great and a lot of money came into it, the situation changed in a completely fundamental way. A resource has emerged for the possession of which is fought both by honest and unkind methods. (National Olympic and Sports Committee of the Republic of Moldova. (2021a; National Olympic and Sports Committee of the Republic of Moldova, 2021b; International Olympic Comitee, 2020).

2. The purpose of the research

This research aims to demonstrate the obvious objective of the state's influence on sport in order to create control mechanisms for sports organizations that manage modern sport, as well as mechanisms to combat corruption in sport.

3. Research methods and organization

In the process of combating corruption in the field of sport was used the method of documentary research. This method provided sources of detailed material as well as data published in masmedia sources.

Sport is one of the largest businesses in the world, being influenced and influencing both financial and political interests. Every year, millions of dollars and euros circulate in this area, with most transactions and deals taking place behind closed doors, in order to maintain any possible advantage over the competition. This fierce competitiveness, together with the lack of transparency, makes the sports field extremely vulnerable to acts of corruption.

The most common corruption act is bribery - there have been countless cases where both referees and players have accepted or asked for bribes to arrange

matches or competitions. In addition, there have been situations where the owners of sports clubs have received or requested bribes for transfers of players between teams, as well as for transfers of other athletes (The National Newspaper, 2019).

Another form of corruption commonly encountered in sports is fraud. Sponsorship contracts, construction contracts for new stadiums - all of these transactions involve very large amounts of money, which, on the one hand, makes the temptation to cheat some of this money often irresistible, and on the other hand, that the influence traffic in terms of granting them should flourish. Another common act of corruption is money laundering, favored by insufficiently monitored sponsorship and advertising contracts, and by the acquisition of clubs and players, especially through the use of international transfers, fictitious companies and tax havens.

One form of sport-specific corruption consists of bets arranged, many of the scandals caused by this practice being blamed on organized crime.

A significant reduction of corruption in sport can only occur through a significant increase in the transparency of transactions and through a strict and continuous monitoring by independent auditors. In addition, making purchases and awarding contracts through public tenders would make money laundering much more difficult. (Alcazar, & Andrade, 2001; Alcazar, & Andrade, 2009; Barenboim, 2009; Kruse, 2015).

4. Research results

There are national tasks to develop the sport with the highest achievements, but still, the public interest is the one who comes here, who acts as a group of private interests, which continues to develop in group interests and then in general (universal) interests. This is such an interest that must be realized in order to develop the private interest (group, general), but at the same time be realized so as to maintain the stability of the society (and of the state) as a whole. From a legal point of view, the public interest is an essential element of a democratic state system, including an integral element of the "checks and balances" system: it seems that various public interests (including sports) should be combined and "balanced".

This is confirmed by special acts, such as the Council of Europe Convention against the manipulation of sporting events (concluded in Maglingen on 18 September 2014).

A study of the rules of this Convention shows that, in essence, it is necessary for sports organizations to introduce the principles of good governance into their practice. Of course, it is not about all sports organizations. And it is obvious that the creators of the Convention have encountered a number of difficulties in defining this concept categorically. The solution has been proposed quite simply and efficiently: a special committee is created to implement the Convention, which compiles a list of sports organizations that manage sports or any sport at national level, makes changes to it and ensures its publication in the appropriate form. The main principles of good governance that sports

organizations must implement if they are located on the territory of the States Parties to the Convention are: defining and preventing conflicts of interest, including prohibition of disclosure of inside information; accurate and constant compliance with contracts, in particular the obligations arising there from; disclosure requirement etc. (Alcazar, & Andrade, 2001; Osipian, 2013; National Olympic and Sports Committee of the Republic of Moldova, 2021a; National Olympic and Sports Committee of the Republic of Moldova, 2021b) (Council of Europe, 2017) - Combaterea corupţiei prin aplicarea legii şi prevenire în Republica Moldova (CLEP)).

But, as you know, the principles of good governance cover a much wider range of problems and begin with the organization of sports organizations themselves. Based on Recommendation NR (2005) 8 of the Committee of Ministers of the Council of Europe "On the principles of good governance in sport" (adopted on April 20, 2005 at the 924th meeting of the representatives of ministers), it can be concluded that these principles are related to:

- a democratic system of non-governmental sports organizations based on an electoral and transparent process, open to all members;

- professional level of organization and management (Budevivi-Puiu, et al., 2004) with an appropriate code of ethical standards and procedures for resolving conflicts of interests;

-accountability and transparency in decision-making and financial transactions, including open publication of annual financial statements, which should be audited accordingly;

- belonging justice, including gender equality and unity.

Moreover, each State party to the convention assumes direct obligations:

1) observes the evolution of any sports competitions that can be manipulated;

2) immediately involve law enforcement agencies in cases of suspicious activity related to sport manipulation (Triboi, 2016);

3) to ensure the disclosure of any information about possible or occurring cases of sporting events manipulation, including with the proper protection of informants;

4) informing the participants in the competition, including young sportsmen, about the risks associated with handling sports competitions;

5) requires the appointment of officials to sporting events, especially referees, in the latest possible stage. (Council of Europe, 2017)

As you can see, the principle of sports autonomy becomes very conditioned if these obligations are fully and constantly implemented by the states.

Another problem is the financing of sport. The fundamental requirement of the Convention is the opening of relevant information and the transparency of the infusion mechanisms of budgetary resources in sport. In addition, each state must establish (and fund) institutions that counteract the manipulation of sport. Finally, the Convention contains the obligation of each state to consider ceasing the financial support of a sports organization for which sanctions are imposed for the

manipulation of sports competitions for at least the duration of these sanctions. A similar financial sanction should be applied on behalf of the state, even if the relevant sports organizations do not effectively apply the rules for combating sports manipulation.

The most important areas of the fight against corruption in the field of sport are:

- the fight against illegal betting houses;
- organizing the exchange of information regarding the handling of sports competitions;
- establishing criminal liability for handling sporting events;
- combating income laundering from handling sports events.

Another important point - it brings us back to the pan-European acts aimed at preventing corruption - the modern regulation delimits the criminal law and the civil law approach to corruption. In addition to the European Convention on Criminal Law on Corruption discussed above, the Council of Europe also adopted the Convention on Civil Law on Corruption (ETS N 174), concluded in Strasbourg at 4.11.1999. According to this convention, corruption means "requesting, offering, granting or accepting, directly or indirectly, a bribe or any other advantage or improper promise, which distorts the normal fulfillment of any obligation or behavior necessary to the recipient of a bribe, improper their benefits or promises. "As you can see, this definition is much broader than the definition of corruption in the sense of criminal law. The purpose of developing and adopting this convention is to ensure the right of persons who have suffered damages as a result of corruption to file a lawsuit to obtain full compensation for damages (regardless of whether a corrupt person is criminally liable) Moreover, any contract or its provisions, if they have been concluded for corrupt purposes, are not valid and are not legally binding. In addition to the rules of international law of "nature" worldwide, "regional regulation (in the broad sense) plays an important role in establishing an international law and an order to counter corruption. In our region, we speak first about European standards (usually formed in the Council of Europe). In this case, we can talk about a general regulation (from fight against corruption point of view), as well as special (from the point of view of the regulation of sport). The acts of the first group mainly include the Convention on Criminal Law on Corruption (concluded in Strasbourg on January 27, 1999). By studying this Convention, some gaps in the legal regulation of sports corruption can be observed.

In order to combat corruption through law enforcement, the Republic of Moldova (CLEP) has concluded a Partnership for Good Governance between the Council of Europe and the European Union (PGG - 2018).

Corruption remains one of the main impediments to development and investment, affecting all sectors of society, despite the gradual progress of anti-corruption policies. The Republic of Moldova has most of the formal components of a solid anti-corruption architecture, including institutions charged with anti-corruption policies and legislation, as well as institutions responsible for preventing and combating corruption (News, 2015).

In the Report on the implementation of the Association Agreement Moldova-European Union of 2017, the EU stressed that "more reform efforts are needed to improve the rule of law and the business environment, which are still affected by endemic corruption". In the field of money laundering, the report also found that "a new and comprehensive legislative framework and strategy is needed, containing the necessary provisions for effective implementation and control, together with increased resources for the relevant authorities". The joint statement after the third meeting of the Association Council between the European Union and the Republic of Moldova highlighted the need for legislative changes, but also the commitment for more consultations with civil society.

Although constant improvements have been registered in the last ten years, according to Transparency International's Corruption Perception Index (2016: 30, ranked 123 out of 176 states), the World Bank indicator shows stagnation (Corruption Control scored 1.3 in 2015, new data to be published in the fall of 2017). The World Bank's ranking on "favorable business climate" shows an improvement in 2016-2017, with an increase of three positions. However, it should be noted that three points were lost in the "start-up" ranking.

Other international indices record the following status and developments for the Republic of Moldova:

The country risk ranking regarding money laundering of the Basel Governance Institute shows an improvement for the Republic of Moldova in 2012-2016, from 5.93 to 5.24 .

The range for this ranking is from 0 (low risk) to 10 (high risk);

The index on the global risk of bribery in business published by TRACE organization for 2016 kept Moldova in the category of high risk countries; the score was 70 (by comparison, Sweden was in the best position, with the score 10), in particular due to the negative evaluation of "Interaction with the government";

In the Freedom House Report on the countries in transition for 2017, the score of the corruption index remained at 6, as in 2016. The range varies from 1 (best score) to 7 (least good score);

The Economic Foundation's Index of Economic Freedom / Non-corruption Ranking improved by 0.6 points in 2017 compared to 2016, currently at 58.

In the Republic of Moldova, the following legislative acts against corruption and money laundering are in force:

- Law of integrity, no. 82 of 25.05.2017;
- Law on institutional integrity testing, no. 325 of 23.12.2013 (Ministry of Education, 2013);
- Law on the declaration of wealth and personal interests, no. 133 of 17.06.2016;
- Law on the Agency for the Recovery of Criminal Property, no. 48 of 30.03.2017;
- Law on the National Integrity Authority no. 132 of 17.06.2016;
- Law on the National Anticorruption Center, no.1104 of 06.06.2002;
- Law on preventing and combating money laundering and terrorist

financing, no. 190 of 26.07.2007;

- Draft law on preventing and combating money laundering and terrorist financing (in parliamentary debate, second reading);
- Law on specialized prosecutor's offices, no. 159 of 07.07.2016;
- The penal code, the law no. 985 of 18.04.2002;
- Code of criminal procedure, law no. 122 of 14.03.2003;
- National strategy for integrity and anti-corruption for 2017 - 2020;
- National strategy for combating money laundering and terrorist financing for 2013-2017.

For both the field of anti-corruption and, in particular, for the field of prevention and control of money laundering, corresponding to the evaluation stage from the date of writing this report, analyzes and measures will be required regarding the following normative acts:

- Modification and completion the national framework to improve the investigation and fight against financial crimes;
- Drafting new amendments to the Code of Criminal Procedure, in order to strengthen the investigation of corruption, money laundering and terrorist financing;
- Statutes, regulations and guidelines necessary for the proper implementation of the new law for preventing and combating money laundering and terrorist financing and for all integrity legislation, as well as legislation regarding the Agency for the Recovery of Criminal Assets.

The aforementioned normative acts directly contribute to the fight against corruption in the field of physical culture and sport in the Republic of Moldova. (Chisinau Radio, 2019; International Olympic Comitee, 2020; Ministry of Education, 2013; National Olympic and Sports Committee of the Republic of Moldova, 2021a; National Olympic and Sports Committee of the Republic of Moldova, 2021b;)

5. Conclusions

Thus, in the modern world, the interests of the fight against corruption prevail over the autonomy, the self-organization of the sport. In fact, the goal of interstate agreements related to the field of sports management is related to the implementation of the principles of good governance in sports policy and practices. Moreover, based on these principles, the cooperation between governmental bodies and the sports movement is built and developed. Finally, the obvious objective of state influence on sport is to create control mechanisms for sports organizations that manage modern sport, as well as mechanisms to combat "unethical" behavior in sports, including, if necessary, criminal prosecution.

Summarizing the results of our study, we can conclude: the fight against corruption represents an opportunity for the beneficiary institutions, which can strengthen and improve their systems for preventing and combating corruption and money laundering and for the recovery of assets, by referring to worldwide practices

and standards. Following the intense consultations carried out with all the beneficiaries of the Republic of Moldova: the Minister of Education, Culture and Research, the National Olympic and Sports Committee, the Paralympic Committee, the Sports Federations and other structures in the country, in order to guarantee the effective support in the field of physical culture and sport in the country. The direct relations with the interested actors contribute to the creation of a positive framework, which will favor the overall success of the future activities that will be carried out in order to obtain the expected results.

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