

Introduction to the law of sport at school age at national and European level.

Introducción a la legislación del deporte en edad escolar a nivel nacional y europeo.

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Abstract

The sport at school age plays a key role in our society, thanks to him the children can be introduced to the field of regulated sport and competition. Because of this is important that all people, especially those whose professions are related to sports, know what the legislative situation that currently has. Through this literature review we want to analyze the main legislative aspects of sport at school age at national and European level. All this by reviewing and analyzing books and articles from various legal writers in the field of sports, and more specifically in the field of sport at school age. The result of all the work is a thorough analysis of the issue, which will provide readers the necessary basic knowledge about this subject matter, so that later, if they wanted, they can go deeper into it conducting a more detailed study. The main conclusion from the study is that the presence of sport at school age, at legislative level is too low, insufficient and little concrete, both nationally and European level.

Key Words: Sport at school age; legislation; laws; Spain; European Union.

Resumen

El deporte en edad escolar tiene una función primordial en nuestra sociedad, gracias a él los niños y las niñas pueden introducirse en el ámbito de la práctica deportiva reglada y de competición. Por ello es importante que todas las personas, especialmente aquellas cuyas profesiones estén relacionadas con él, conozcan cual es la situación legislativa de la que goza actualmente. A través de la presente revisión bibliográfica se analizan los principales aspectos legislativos del deporte en edad escolar a nivel nacional y europeo. Todo ello mediante la revisión y el análisis de libros y artículos de diferentes autores jurídicos del ámbito deportivo, y más en concreto del ámbito del deporte en edad escolar. El resultado de todo el trabajo es un amplio análisis del tema, que proporcionará a los lectores los conocimientos básicos necesarios sobre esta materia en cuestión, para que luego, si lo desean, puedan profundizar más en ella llevando a cabo un estudio más detallado. La principal conclusión que se extrae del trabajo es que la presencia del deporte en edad escolar, a nivel legislativo, todavía es

demasiado escasa, insuficiente y poco concreta, tanto en el ámbito nacional cómo en el europeo.

Palabras clave: Deporte en edad escolar; legislación; leyes; España; Unión Europea.

Introduction

It is undeniable that the remarkable transformation of Spanish society and the change of their exercise habits has led to multiple agents are organized and structured sports. These include, for example, schools or educational institutions, public and private universities, municipalities, private companies (Paloma 2007, quoted in Espartero et al. 2009), councils, sports associations, non-profit institutions, AMPAS, associations cultural (Arufe et al., in press), sports associations, municipal sports foundations (Rodríguez Allen 2000), etc. Because of this proliferation of factors, legislation is needed to coordinate and regulate the sport for it to be healthy and safe. This paper will conduct a brief introduction on the legislative aspects that directly affect the sports field in the sport in school manner. First note that it is not the aim of this research a thorough analysis of the sports legislation in the field of sport in school, and it does our point to show general and salient features of the legislation to national and European level.

Material and method

The selection of the analyzed documentation was performed using a subject search in the library collections of the libraries of the faculties of law of the University of Santiago de Compostela and A Coruña. This inquiry process was completed with the consultation on the basis of data Scopus and CSIC. The writings were selected based on two criteria: that its subject was directly related to the legislation on school sport and what they were current as possible. To do so only documents were chosen whose age is not less than 25 years. The keywords used in the literature search were: school sports, law, laws, Spain and European Union.

Result

The national history of competitive sport at school age can be placed in the School Championships of Spain created in 1949. These championships were organized by different

Sports Federations and the former National Sports Delegation. In its first year, only they had a provincial character, whereas a year later they were already national, but only in junior category (Rodríguez Allen, 2000). Dr. White (cited in Espartero et al. 2009, p. 483) notes that "this model does not guarantee that participation in school competitions were preceded by a systematic training school competition becoming mere window dressing propaganda ". It was not until the early 80s of the twentieth century, when the Sports Council designed a program with the aim of promoting the sport of school age will be the prelude to the rules of transfer of responsibility for sport in school the different autonomous communities. This program will consolidate the various activities for the sport of school age (Alamo 2004, cited in Espartero et al. 2009). With the arrival of democracy the Spanish Constitution (1977) is approved. The article 43 determines that "public authorities shall foster health education, physical education and sport. They also encourage the proper use of leisure "(Millan 2012, p. 167). This fact creates controversy among authors, some how Cazorla (1992), included in the "innovative contemporary constitutionalism [...] line by drawing the outlines why the regulation and targets it has to pass through the future "while Real (1991) the catalog of" ambiguous, haphazard, unpredictable and simple "(both cited in Rodríguez Allen 2000, p. 32).

Turning now to the area of school sports, the National Sports Council (CSD) defines it as "any activities that take place in an organized program was the subject of physical education in schools, clubs, associations, etc. . and the athletes participating in school. "(Espartero et al. 2009, p. 481). As can be seen in the definition, it is sporting activities ranging oriented and aimed at students who are in compulsory (primary or secondary) education and are held outside school hours. So you must promote a healthy lifestyle to ensure adequate focus of the practice and sport policies (Lee et al 2006, quoted in Arufe et al, in press). It should highlight its purely voluntary and that can develop in different areas ranging from the school itself to different municipal facilities (Terol 2006). The article 148 of the Spanish Constitution states that the bulk of the sport competitions based on (among others) rests exclusively on the regions. In its statement, Rodríguez Allen (2000, p.32) contains an extract of this article: "The Autonomous Communities may assume competences over the following matters: 19a. Promotion of sports and the proper use of leisure." This fact It reflected in the Statute of Autonomy of each Autonomous Community. According to law 7/1985 of 2 April, regulating the bases of local government, the State must establish the minimum content rightful powers

to municipalities and provinces in sport outside this minimum will be required of the regional legislature, through its legislation sport or local government, define what must be respect these local sports competitions (Millán, 2012).

The laws governing sport different regions make reference to sport in school. Some even change the definition of the CSD on sport in school to suit your interests (Espartero et al. 2009). Church (. 2004, cited in Espartero et al 2009) establishes the following classification on regulations that establish the regional administrations about their skills in the sport in school:

- a) Promotion, promotion, development and dissemination.
- b) Regulation and general planning.
- c) Support for sporting activities in this field whether the public or private entities organized.
- d) To fulfill quality requirements in the construction of sports structures and collaboration in its implementation

Law 10/1990 of October 15 states in the "j" in Article 8, the Higher Sports Council (CSD) has the power to "coordinate with the Autonomous Regions school programming and college sports when you have national projection and international "(Espartero et al. 2009, p. 487). In addition, Article 6.1.i of Royal Decree 286/1999 of February 23 on the organizational structure and functions CSD provides that it is up to the Directorate General of Sports, in collaboration with the Autonomous Communities the programming and coordination of sport in school when you have national and international projection (Espartero et al. 2009). Therefore, the CSD is responsible for convening annually Championships Spain schoolchildren who will target young people aged 12-17 years (school age), encompassed by the infant, cadet and youth categories, and to participate in teams of regional teams in 17 sports categories in male and female categories (Millán, 2012). The Director General of Sports CSD is responsible for approving and validate the General Standards Organization and Development of the competitions scheduled, the Technical Regulations of each sport and the Sports Discipline Regulations (Espartero et al. 2009).

A very important section, when we refer to the sporting arena, especially the sports field of school age, is preventive health medical control of the athlete in order to ensure that the young athlete does not present any health problem that may pose a risk when it comes to physical activity (Millán 2012). This preventive level is specified by a part in the exploration, reconnaissance, medical review or health check carried out before the subject sport in order to assess the physical capacity of the individual and to identify any weaknesses you might have, and, Moreover, continued medical monitoring of sports. The normative basis regulating the behavior discussed above differ on two levels: national regulations and regional regulations (De la Iglesia 2004).

- **At the state level:** the protection of the athlete medical care is one of the "most serious shortcomings of vitiating the sports rules" (Church 2004 636 p.), Because the existing legislation is limited only to legislate on the use of doping substances or to provide the CSD from the power to require the various sports federations that the athlete has passed a medical examination for him to issue the sports license. This situation began to change with the approval of Royal Decree 112/2000 of 28 January by creating the National Commission for the protection of the health of athletes, which is how main objective is to create a secure framework for the sport and build a suitable model for the best protection of the health of athletes, by proposing preventive actions in the evaluation and information on health and sport and through the information campaigns about the risks of the practice can become unhealthy physical activity.
- **At the regional level:** the rules is a direct way the issue both sporting generally as referring to school sports in particular. Analyzing the many regional laws we find many references to the importance of conducting a health medical supervision for athletes, such as: requiring health guarantees medical practice sport (Law 4/1993 of 20 November Sport Valencia), promotion, impulse control and management of a system of preventive medical care (Law 1/1995 of March 24 Sport of Castilla la Mancha, Law 14/1998 of June 11 Sport in the Basque Country, Law 6/1998 of 14 December Andalusian Sport) of a priority for athletes of school age (Law 8/1995 of May 2, Sport La Rioja), etc. The legislature at regional level sport requires a direct or implied that a preliminary health control prescriptive ensure athletes as a prerequisite for them to be processed the federal license without which you can not participate in official

competitions. In this analysis we can see that there is no uniformity in the regional plans of school sports in Spain, (Arufe et al., In press).

To conclude this section briefly discuss European legislation in the field of sport. Since Spain is a member country of the European Union must adapt to the Community legislation governing all member countries, and these regulations also affect the field of sport in general, making no direct reference to sport in school. In the book written by Garcia and Signes (2011, p. 21), we read the following statement ". it is a fact that the founders of the European Communities obviated any reference in the constituent related to any sports competition with treaties" The main reason for this situation was the lack of inclusive concept which currently enjoys sport (Palomar, 2002). The judgment of the Court of 15 December 1995 in Bosman, better known popularly known as Bosman, he meant an evolution in the way of understanding the sport law by the courts of the European Union, as it marked a "before and an after in addressing the relationship between sporting rules and the law of States "(Garcia & Signes, 2011 p. 23). For a complete information on the legal process and the sentence, see Garcia and Signes 2011, p. 48 - 167. This process of changing awareness of the importance of sport in the European Union was completed with the signing of the Treaty of Lisbon (2007) by the heads of state and government of different countries of the Union. This firm allowed the creation of the Treaty on the Functioning of the European Union (TFEU) with effect from 1 December 2009. With regard to sport this treaty is a major formal step at the legislative level in the European Union, as it recognizes for the first time issues that were claimed from (Garcia & Signes 2011) Olympic and federal positions. Because of its importance, and García Signes (2011) mentioned in his book Article 165 TFEU, which relates to the treatment of sport becomes part of the European Union, which highlights the following points:

- The EU will promote the specific aspects of sport, considering its social and educational function.
- The European dimension of sport, which will be responsible for promoting equity and equality in various sporting competitions will be held. And cooperation between sporting bodies. You will also have the mission of protecting the physical and moral integrity of sportspeople, especially the younger ones.

- The European Union will cooperate with third countries and international organizations competent in the field of sports and education. In the previous paragraph you can see clearly the official position that the EU adopts with respect to sport, and where are the lines of action aimed to be undertaken in the future.

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Conclusions

The presence of sport in school age in the national legislation is very weak, focusing almost exclusively on mandatory medical examination for young athletes, very important factor without a doubt. Highlights the fact that there is no common regulation at national level because the fall legislative powers at regional level. This factor means that each region has a different rules, resulting in legal chaos - administrative. Leaving it up to each autonomous community development and application of these laws, causing there are communities where the sport in school enjoy a good legal protection, while in others legislation is scarce. At European level the situation is not much better, although now they are beginning to take steps in the development of Community legislation on the matter, its current status is precarious and almost nonexistent. Under the current legislation priority it is given to everything concerning the professional sport. This paper aims to shed light on the current situation in the legislative field, the sport in school, at national and European level, underway a brief introduction on the subject. Its implementation gives anyone interested the basic knowledge on the subject, so that you can understand and know the way in which the sport in school is legally ordained.

The sport in school plays a key role in our society, thanks to him the children are introduced to the field of sports and competition regulated. For this reason it should have broad legislative support, in order to ensure the safety and wellbeing of young athletes.

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