

НАПРЯМ 2. ОРГАНІЗАЦІЙНІ ТА ПРАВОВІ ЗАСАДИ ОЛІМПІЙСЬКОГО ТА ПРОФЕСІЙНОГО СПОРТУ

OLYMPIC CHARTER AND WADA CODE AS SOURCES OF MEDICALLY-LABOUR RELATIONS LEGAL ADJUSTMENT

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The place and role of international organizations in legal adjustment of both – medical and medically-labour relations was diligently presented in our previous surveys [1, p. 71–80; 2, p. 93–96].

Nevertheless, the impact of International Olympic Committee and World Anti-Doping Agency on medically-labour relations in professional and Olympic sports as types of labour activities has already unsearched.

Paper presented devoted to Olympic Charter and World Anti-Doping Code as Sources of Law consisted medical preconditions, as compulsory, for sport's contract (as type of employment one) assignment, conduction and termination.

Under the supreme authority and leadership of the International Olympic Committee, the Olympic Movement, from the one hand, encompasses organisations, athletes and other persons who agree to be guided by the Olympic Charter. The goal of the Olympic Movement is to contribute to building a peaceful and better world by educating youth through sport practised in accordance with Olympism and its values. ***In the case of any violation*** of the Olympic Charter, ***the World Anti-Doping Code***, the Olympic Movement Code on the Prevention of Manipulation of Competitions or any other decision or applicable regulation issued by the IOC, the measures or sanctions which may be taken by the Session, the IOC Executive Board or the disciplinary commission referred to under 2.4 below (in the context of the Olympic Movement) are: 1) with regard to IOC members, the Honorary President, honorary members and honour members: a) a reprimand, pronounced by the IOC Executive Board; b) suspension, for a specific period, pronounced by the IOC Executive Board. The suspension may be extended to all or part of the rights, prerogatives and functions deriving from the membership of the person concerned. The above-mentioned sanctions may be combined. They may be imposed on IOC members, the Honorary

President, honorary members or honour members who, by their conduct, jeopardise the interests of the IOC, also regardless of any specific violation of the Olympic Charter or any other regulation; 2) with regard to IFs: a) **withdrawal** from the programme of the Olympic Games of: a sport (Session), a discipline (IOC Executive Board), an event (IOC Executive Board); b) **suspension** from the programme of the Olympic Games of: a sport (IOC Executive Board), a discipline (IOC Executive Board), an event (IOC Executive Board); c) withdrawal of provisional recognition (IOC Executive Board); d) withdrawal of full recognition (Session); 3) with regard to associations of IFs: a) withdrawal of provisional recognition (IOC Executive Board); b) withdrawal of full recognition (Session); 4) with regard to NOCs: a) suspension (IOC Executive Board); in such event, the IOC Executive Board determines in each case the consequences for the NOC concerned and its athletes; b) withdrawal of provisional recognition (IOC Executive Board); c) withdrawal of full recognition (Session); in such a case, the NOC forfeits all rights conferred upon it in accordance with the Olympic Charter; d) withdrawal of the right to organise a Session or an Olympic Congress (Session); 5) with regard to associations of NOCs: a) withdrawal of provisional recognition (IOC Executive Board); b) withdrawal of full recognition (Session); 6) with regard to a host, an OCOG and an NOC: withdrawal of the right to organise the Olympic Games (Session); 7) with regard to interested hosts or candidates and an NOC: withdrawal of the right to be an interested host or a candidate to host the Olympic Games (IOC Executive Board); 8) with regard to other recognised associations and organisations: a) withdrawal of provisional recognition (IOC Executive Board); b) withdrawal of full recognition (Session); 9) with regard to individual competitors and teams: temporary or permanent ineligibility or exclusion from the Olympic Games, disqualification or withdrawal of accreditation; in the case of disqualification or exclusion, the medals and diplomas obtained in relation to the relevant infringement of the Olympic Charter shall be returned to the IOC. In addition, at the discretion of the IOC Executive Board, a competitor or a team may lose the benefit of any ranking obtained in relation to other events at the Olympic Games at which he or it was disqualified or excluded; in such case the medals and diplomas won by him or it shall be returned to the IOC (Executive Board); 10) with regard to officials, managers and other members of any delegation as well as referees and members of the jury: temporary or permanent ineligibility or exclusion from the Olympic Games (IOC Executive Board); 11) with regard to all other accredited persons: withdrawal of accreditation (IOC Executive Board). The IOC Executive Board may delegate its power to a disciplinary commission. The sanctions may include fines and/or the suspension or cancellation of any form of financial support by or emanating from the IOC.

In all cases, the IOC shall be entitled to recover its related expenses and costs. Before applying any measure or sanction, the competent IOC body may issue a warning. All sanctions and measures are taken without prejudice to any other rights of the IOC and of any other body, including but not limited to NOCs and IFs. The decisions of the IOC are final. Any dispute relating to their application or interpretation may be resolved solely by the IOC Executive Board and, in certain cases, by arbitration before the Court of Arbitration for Sport (CAS). Any dispute arising on the occasion of, or in connection with, the Olympic Games shall be submitted exclusively to the Court of Arbitration for Sport, in accordance with the Code of Sports-Related Arbitration [3, p. 12, 104–108].

From the other hand, the purposes of the World Anti-Doping Code and the World Anti-Doping Program which supports it are: to protect the Athletes' fundamental right to participate in doping-free sport and thus promote health, fairness and equality for Athletes worldwide, and to ensure harmonized, coordinated and effective anti-doping programs at the international and national level with regard to the prevention of doping, including: Education, Deterrence, Detection, Enforcement and Rule of law. The Code, which consists of 27 Articles, is the fundamental and universal document upon which the World Anti-Doping Program in sport is based. The purpose of the Code is to advance the anti-doping effort through universal harmonization of core anti-doping elements. It is intended to be specific enough to achieve complete harmonization on issues where uniformity is required, yet general enough in other areas to permit flexibility on how agreed-upon anti-doping principles are implemented. The Code has been drafted giving consideration to the principles of proportionality and human rights. It adjusts: DEFINITION OF DOPING, ANTI-DOPING RULE VIOLATIONS, PROOF OF DOPING, THE PROHIBITED LIST, TESTING AND INVESTIGATIONS, ANALYSIS OF SAMPLES, RESULTS MANAGEMENT: RESPONSIBILITY, INITIAL REVIEW, NOTICE AND PROVISIONAL SUSPENSIONS, RESULTS MANAGEMENT: RIGHT TO A FAIR HEARING AND NOTICE OF HEARING DECISION, AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS, SANCTIONS ON INDIVIDUALS, CONSEQUENCES TO TEAMS, SANCTIONS BY SIGNATORIES AGAINST OTHER SPORTING BODIES, RESULTS MANAGEMENT: APPEALS, CONFIDENTIALITY AND REPORTING, IMPLEMENTATION OF DECISIONS, DOPING CONTROL FOR ANIMALS COMPETING IN SPORT, STATUTE OF LIMITATIONS (Articles 1 – 15). As measures for anti-doping violations or misconduct Code constituted follow consequences: 1) **disqualification**; 2) **ineligibility of possession**; 3) financial consequences; 4) team (collective) measures of responsibility [4, p. 1–10, 63–90].

Assumed these, we have recognize, that Olympic Charter and World Anti-Doping Code effects as disciplinary statutes with own definitions, principles, values, disciplinary procedure, measures of responsibility as individual, as collective embody on withdrawal, suspension, disqualification, ineligibility of possession, team (collective) measures etc., appeals and Court control, decisions execution causes sport's contract suspension of termination from reasons of anti-doping rules violations, negligence or misconduct. Presented undoubtedly seems as labour disciplinary procedure with possible termination of contract as consequence.

Aforesaid attests our previous results that medical legal relations need to be regulated by the norms of labour law [5, p. 98] which especially emphasis in professional sport's relations require not have a good health, but medical (anti-doping) conditions keep as compulsory for sport contract performing.

Taking into account that sport contract is similar to labour one, for problems of role and place of sport and medical law in connection with labour law impact on Olympic and professional sport may be devoted furthermore scientific investigations.

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