

Child Abuse Protection in Sports and Competitions

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Abstract

The relevance of the article is determined by the transnational nature of sports as a factor influencing interstate relations, but also by the objective need for the complex legal regulation of children's involvement in sports, taking into account national and international legal doctrine and practice. In addition to the need to integrate international legal norms and rules into the national legal system of states, the need to draw up an international human rights act containing provisions on sports activities or children's access to sport and competitions. However, sport can be considered an essential component of the right to education and the right to culture. The authors investigate the rights of children to sports development, games and leisure as systems of norms that form the modern sports relations and offer the concept of an international treaty in the field of sports law based on a new theoretical-conceptual framework on the human right to harmonious development.

Keywords: abuse, victim, children's rights, physical culture, sports

Introduction

"Every child we educate is a person we win," said (Hugo V., 1881) an idea we can easily adhere to, regardless of geographical, cultural or temporary space.¹

In modern times, the state should provide for assuring favorable conditions to the development of physical culture and sports, as well as for arising people's awareness regarding the implications of sports and leisure for their wellbeing, as long as it contributes to the formation of a healthy lifestyle, and, consequently, to the formation of an enlightened nation, with an active lifestyle.

According to Iglin A. V., sport must be viewed in two ways: professional and mass sports. Professional sports for children involve a lot of specific aspects. Sports activity starts very early, in some sports, the age of sportsmen does not even reach 14 years. The first steps in "big sports" are taken in childhood. Victory, big money and responsibility often come when a young sportsman is not ready to behave like an adult from a psychological point of view, a situation in which we cannot neglect the legal aspect either. Gymnastics, figure skating, synchronized swimming, athletics, tennis, martial arts are just some of the sports in which the participation of underage athletes is the most requested. This is a separate topic for legal research².

¹ Hugo, V. (1881). Les Quatre Vents de l'esprit, https://www.viatasiopera.ro/opere/hugo-victor/citate/victor_hugo.html

² Iglin, A. (2012). Sport and Law (International Aspect)]. Moscow, Yurlitinform Publ., 296 p.

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Mass sports (physical education as a leisure activity) is a more widespread phenomenon, with a large number of problematic aspects. No international human rights act contains a provision stating the human right to practice sport or have access to sport. However, sport can be approached as an essential component of the right to education and culture. The right to education is granted in Article 26 of the 1948 Universal Declaration of Human Rights and Article 13 of the 1966 International Covenant on Economic, Social and Cultural Rights. The pact states that "education must be directed towards the full development of the human person and the conscience of his dignity and should strengthen respect for human rights and fundamental freedoms"³. At the same time, due to sports people are trained, and evolve both physically and mentally. Sports activities increase self-esteem, provide opportunities for self-expression and respect for others. This is also true for people with disabilities who take part in sporting events such as the Paralympic Games, thus proving their will to live and make their efforts count⁴.

As far as children are concerned, while childhood is recognized worldwide as an important stage of human life, their healthy growth is based on the prioritizing principles of preparing the individual for a long, active implication in society, and developing their civic sense and involvement, thus promoting high morality standards. Each state cares for the welfare of children, and tries to protect children rights as much as possible and while instilling them a sense of patriotism and citizenship. Physical culture and sport, as a whole, are social phenomena, the essence of which is to satisfy the natural needs with the preservation of life, rest, exercise, physical development, etc. In Moldova, particularly, the right to practice physical culture and sports is granted in Article 2 of the Law on Physical Culture and Sports of the Republic of Moldova⁵.

Materials and Methods

A dialectical approach to the knowledge of social and legal phenomena, allowing their analysis in the development and theoretical and practical functioning in the context of a set of objective, is a subjective factor. The pedagogical, legal and socio-analytical comparative specificity of our debate helps us diversify our specific research methods, i.e. sociological, analytical, comparative and synergistic.

Purpose of the study

The aim of our research is identifying gaps in national legislation on the protection of children's rights, preventing and combating child abuse in sports, and monitoring the current situation in the Republic of Moldova with regard to the victimization of children.

Study tasks

- Analysis of the normative framework regarding the object of the research;

³ Universal Declaration No. 12 from 10-12-1948 of Human Rights
https://www.legis.md/cautare/getResults?doc_id=115540&lang=ro

⁴ International Covenant on Economic, Social and Cultural Rights
<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁵ Law on physical culture and sports, no. 330-XIV of 25.03.1999
https://www.legis.md/cautare/getResults?doc_id=129800&lang=ro#

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- Determination of the degree of adjustment for the legal framework in the Republic of Moldova to the requirements of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse;
- Analysis of the existing gaps at the normative and institutional level of the Republic of Moldova that prevent the protection of victims of abuse;
- Elaboration of a set of recommendations regarding the improvement of the normative and institutional framework of the Republic of Moldova in order to adjust it to the European Convention.

Results

With regard to the subject-matter of the investigation under this Article, it is necessary to set out correctly the question:

1. Ambitious parents can exploit their children, namely those children who have shown aptitude for sports too early, intense training and the compulsion to participate in training, training camps, competitions can generate trauma that is associated with a risk to the child's psyche.
2. Raising awareness among sports representatives of international and Council of Europe standards on the prevention and identification of child abuse, with a specific focus on sports, as well as the national legal context for reporting such cases.

The right and duty of parents to ensure the upbringing, education and training of children has the value of a constitutional principle. The legislative transposition of this principle has determined the fact that The Family Code of the Republic of Moldova provides that parents are held responsible for their children's health and physical development, as well as for their education and professional training.

Based on the analysis of normative acts containing children's right to have access to sport, as well as the mechanisms of interaction, the mode of action of states in the field of ensuring the prosperity of nations in the spirit of a healthy lifestyle, complex issues of sport and international law, identified during a study The UN and UNESCO, and a number of specialized sports organizations, are considering and proposing theoretical and practical ways to address child abuse. It is possible (according to the tradition of international treaties) to strengthen the scientific basis of the indicated issues of international sports legal relations, in the end, at the intergovernmental level, by creating the International Convention on Sport. This document should include (based on human rights conventions) the international legal status of the sportsman, as well as the balance of interests of the state (including national sports federations) and the sportsman, and also the coordination of law enforcement institutions for the safety of competitions.

With regard to mass sports at international level, some facts need to be highlighted. The Convention on the Rights of the Child is based on four requirements that ensure the rights of the child: survival, development, protection and active participation in society. It provides that the education of the child should be aimed at developing the child's personality, talents and mental and physical abilities to the fullest extent in addition to Article 31 of this document sets out the child's right to play and leisure⁶.

⁶ Convention on the Rights of the Child Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

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We mention the final document of the twenty-seventh special session of the UN General Assembly - "A world suitable for children"⁷, which focuses on promoting physical, mental and emotional health through games and sports. For the purposes of this document, a world suitable for children is a world in which all children receive the best possible conditions at the beginning of life and have access to quality basic education, including primary education, which is compulsory and free for all, and in which all children, including adolescents, have ample opportunities to develop their individual skills in a safe and supportive environment. The international community must ensure the development and implementation of national strategies and programs for the development of children at an early age, to ensure their active physical, social, emotional, spiritual and intellectual development.

At the same time, states will promote physical, mental, spiritual, social, emotional, cognitive and cultural development as priority areas for national and global action. States are already paying particular attention to the implementation of the provisions of this Act⁸.

UN General Assembly Resolution 65/4 *Sport as a means to promote education, health, development and peace*⁹ is the document to proclaim 2005 as the International Year of Sport and Physical Education in order to strengthen the role of sport as a means of promoting education, health, development and peace, and to recognize the fundamental contribution of sport to the achievement of the Millennium Development Goals. This resolution also recognizes the significant role of the Special Adviser on Sport for Development and Peace named by UN Secretary-General. This document approves the UN action plan on sport, postulating the following:

- a) a global framework for the use of sport for development and peace: further development of a framework that will enhance the community of views, will set priorities for the promotion and universal implementation of a policy for the use of sport for development and peace, easy to adopt;
- b) Policy formulation: encouraging and supporting the inclusion of sport as a means of promoting development and peace in all development programs and policies;
- c) Resource mobilization: encouraging the development of innovative funding mechanisms and multi-stakeholder agreements at all levels, including the involvement of sports organizations, civil society, sportsmen and the private sector;
- d) Visible results: encourage and facilitate the use of common tools, indicators and benchmarks for the evaluation of the observation, based on the agreed standards. Finally, the resolution refers to the use of sport as a means of promoting the development and improvement of the education of children and young people, disease prevention and health promotion, including the prevention of drug abuse; unlocking the potential of girls and women; involving people with disabilities and ensuring their well-being; and promoting social inclusion, conflict prevention and peace building.

⁷ Resolution adopted by the General Assembly S-27/2. A world fit for children 10 May 2002

https://sites.unicef.org/specialsession/docs_new/documents/a-res-s27-2e.pdf

⁸ Karjakin, V. (2011). Improving legislation in the field of children's and young people's sports development and preparing a sports reserve: problems and solutions, *Journal Sport: economics, law, management*, N 3, p. 9

⁹ Official Documents System of the United Nations <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N10/589/90/PDF/N1058990.pdf?OpenElement>

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Another document of interest is the *The International Charter of Physical Education, Physical Activity and Sport*¹⁰, which involves the establishment and implementation of the following postulates:

- sport is an evolving concept, it is a unique social and cultural phenomenon;
- sports management is based on reasonable autonomy from the state, in particular on the inadmissibility of unjustified and unlawful State interference in the activities of sports organizations;
- sports subjects should strive for constant interaction between themselves and the state in order to develop sport;
- updating sports issues as an integral part of strategies relevant to the sustainable development of human society and improving the quality of life;
- the importance of international cooperation for the development of sport;
- the current and potential valuable contribution of sport to the human, social and economic development of society, to social adjustment, and to the prevention and eradication of negative social phenomena, in particular alcoholism, drug addiction, antisocial behavior and juvenile delinquency; ;
- the need to integrate the gender perspective in all efforts to promote the development of sport;
- there is a need for an environment of peace and security, based on full respect for the purposes and principles set out in the Charter of the United Nations and on compliance with the applicable human rights treaties, which is a sine qua non for the full protection of athletes' rights during international competitions¹¹.

This document, consisting of 39 articles and should be considered the doctrinal basis of the international legal status of sport as a sphere of voluntary socio-cultural activity, a set of public relations to maintain and / or improve physical activity (motor activity) of a person (physical education, fitness activity, physical training), as well as in sports, which have developed in the form of competition systems and special practice of training a person for them.

The draft Charter under consideration enshrines the following principles:

- ensuring the right of every person to free access to sport as a necessary condition for the development of an individual's physical, intellectual and moral abilities;
- ensuring the right of any person to participate in competitions, taking into account their state of health, age, sports results and other conditions legally established by the respective organizers of the competition;
- a combination of state regulation of sports relations with self-regulation of such relations by sports subjects;
- ensuring the coherence with the relevant national legislation of the rules of self-regulation of sport (regulatory sports rules), approved by sports organizations for sports entities that recognize such rules;
- the introduction of a ban on discrimination and violence in sport;
- ensuring the honor and dignity of the individual in the practice of sport;
- ensuring the safety of the life and health of the sportsmen, as well as of the other participants and spectators of the competition;

¹⁰ International Charter of Physical Education, Physical Activity and Sport <https://en.unesco.org/themes/sport-and-anti-doping/sport-charter>

¹¹ Iglin, A. (2014). On the subject of international sports law // Sport: economics, law, management. N 2.S. p. 20-22.

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- special state assistance for the development of sport for sportsmen with disabilities and people with disabilities;
- special state aid for the development of sports with children participation.

A notable moment in strengthening the national normative framework for child protection, with the indication of abused children as direct beneficiaries, is the elaboration and approval of the National Strategy on Child and Family Protection (Government Decision no. 727 of June 16, 2003). Through this act, the state is responsible for adjusting and harmonizing the normative-legislative framework in the field of child protection, emphasizing the multidisciplinary approach to child protection. This direction is also supported by the project of the Ministry of Health, Labor and Social Protection of the Republic of Moldova "Strategy for the protection of children and families: 3 key priorities for the years 2013-2020". Objective 2 of this strategy refers to "Preventing and combating child abuse, violence, neglect and exploitation, and promoting non-violent practices in the upbringing and education of children". The draft strategy stipulates that information measures in this area have been carried out sporadically, with only a few campaigns taking place. In this regard, we can mention that the draft strategy does not explicitly refer to the issue of abuse in sports, but in the context of other forms of abuse.

Also, in order to consolidate, protect and ensure a harmonious developmental space for the child, the Law on preventing and combating domestic violence no. 45 of 01.03.2007 was adopted. Based on the provisions of this law, the child is approached as a victim of domestic violence, referring to the actions that can be included in the category of sexual violence in the family. It establishes the legal and organizational basis for the activity of preventing and combating domestic violence, the competent authorities and institutions with functions of preventing and combating domestic violence (central and local public administration authorities; sections / directions for social assistance and family protection; general directorates of education, youth and sports; medical institutions; internal affairs bodies), the mechanism for reporting and resolving cases of violence. At the same time, the law refers to the jobs offered to the aggressors, in order to rehabilitate and re-socialize them.

To date, no exclusive studies have been conducted in the Republic of Moldova to investigate the phenomenon of child abuse. This topic is often researched in a more general context, for example in the case of studying violence against children. International bodies, such as UNICEF, the Swiss Development Agency, and others, have a key role to play in this field, and have shown interest in such subjects.

The author conducted the study "Abuse of children who practice performance sports in the Republic of Moldova." The study aimed to provide a detailed picture of the frequency, causes and incidence of child abuse and violence in school, family and sports. The types of abuse and violence included in the study were: neglect in the family, emotional / psychological abuse in the family, physical abuse / domestic violence, forced domestic work, sexual abuse, school violence by teachers and coaches. The study interviewed 429 students in grades V-XII, most of them from sports schools and 143 parents and coaches of children.

In this study, the measurement of abuse included only the aspects related to the involvement of children in abuse in sports schools and / or in families, but related to failures, deficiencies, and violations of the discipline in sports. The results of the research show that over 40% of the children investigated believed that at least a few children were involved in acts of violence by adults. In the same context, 34% of children stated that they knew at least one concrete example. Worse, 1 in 10 children (11%) admitted to having had such an experience. Thus, 32% of children believed that at least a few children suffered from such abuse, while 30% of children stated that they knew at least one such case in their immediate environment. The study also

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shows that 10% of parents believed that the phenomenon of abuse exists in society, and 7% of them knew cases of abuse in sports schools. At the same time, the study found insufficient information for adults to report abuse, even though 70% of them said they were open to reporting cases to the police, 73% of parents indicated that a coach who abuses the child, should be sentenced to prison, 5% - to be offered counseling and treatment, 13% - to be deprived of the right to practice this activity.

The profile of the abused child

The study shows the differences in behavior of children who have suffered from abuse in sports and / or sports competitions.

Differences in behavior in cases of abuse:

- They usually feel helpless;
- Most of the time they are introverted, calm but can be noisy / agitated, demonstrating a self-destructive behavior;
- I am “inside” the system - I go to school, I am in the family;
- They usually keep secret what happened to them from their peers and friends;
- Except for the abuser, all those who constitute the child's environment, consider what happened as something negative;

Differences in behavior in cases of child abuse are not the only particularities, and there are a number of other particularities in terms of self-perception.

However, according to the statistics of the National Center for the Prevention of Child Abuse, we can mention that, among the abused children assisted by the center, girls constituted 70%, and boys - 30%. Most are children aged 11-15, accounting for 45% of the total number of assisted children; 19% are children aged 8-10; 16% - teenagers between 16-18 years old¹².

Abuser profile

The study found that people who committed children abuse could be divided into two groups:

a) “**Situational**” abusers - These people can exploit children because they are in a situation when they are easily accessible or because of disguised circumstances. In this case, child abuse can occur only once (for example, during sports camps or competitions), but sometimes the single manifestation can turn into long-term / multiple abuse.

b) “**Preferential**” abusers - which is a group that consists of different abusers who have a variety of deviant interests, preferences for children, latent abusers with potentially illicit preferences, but who are limited in communication. People in the "preferential" group already have stable preferences for children. The number of these people is lower than in the “situational” group, but they can potentially harm and traumatize many children, as these preferences become desires and intentions.

As in the case of the victims, we cannot mention that there is a diversity of data, which would allow us to trace the profile of the abuser. However, in this case, compared to victims-children abused in sports, there is an advantage of age, being easier to identify traits. The need for continuous complex studies and analysis of abusers' dossiers are to be noted in this case too.

¹² [Statistics on child abuse in the Republic of Moldova https://www.cnpac.md/ro/statistica/date-ale-mai-privind-cazurile-de-abuz-fata-de-copii/](https://www.cnpac.md/ro/statistica/date-ale-mai-privind-cazurile-de-abuz-fata-de-copii/)

Conclusions

1. Child abuse is a serious deviation, which has negative consequences for child victims throughout their whole life, and which can follow them to adulthood. Abuse can occur anywhere, including in sports, which is usually characterized by unbalanced power relations between coaches and children and authoritarian leadership between the coach and the sportsman.
2. The national legal framework should be revised to prevent child abuse in sport. Sports federations should be assisted in drawing up internal regulations to combat child abuse in sport. Sports institutions / organizations should not hide behind such cases, but prevent and combat them.
3. Lack of national interdisciplinary studies (sociological, psychological, legal) with reference to the particularities and magnitude of the phenomenon, the impact on victims, ways of integration and social reintegration of victims through various services, etc.
4. The analysis and interpretation of relevant international normative acts confirms the relevance of the adoption of an interstate treaty regarding sport and can serve as a basis for its conceptual implementation, as well as the potential of the UN, represented by the aforementioned bodies and officials, whose competence includes the development of both professional and mass sports is undoubtedly the most effective way to implement such an agreement. At the same time, children's rights should be thoroughly strengthened and control of the implementation of legal norms should be ensured for the benefit of future generations.
5. Ensuring a non-violent space in the sports environment and further promoting the rights of the child.
6. Develop in collaboration with national and international experts a set of integrated indicators for the child-victim of abuse and for abuser, which would allow the development of a high-performance database to ensure continuous monitoring of cases.
7. Carrying out social awareness campaigns on child abuse cases and continuing society awareness campaigns on the risks of children being abused.
8. Monitoring children at risk in order to prevent / identify early cases of abuse in sports, competitions and at school.

References

- Iglin, A., (2012). *Sport and Law (International Aspect)*. Moscow, Yurlitinform Publ., pp.296.
- Karjakin, V., (2011). Improving legislation in the field of children's and young people's sports development and preparing a sports reserve: problems and solutions, *Journal Sport: economics, law, management*, N 3, p. 9
- Iglin, A., (2014). On the subject of international sports law // *Journal Sport: economics, law, management*, N 2.S. pp. 20-22.
- Universal Declaration No. 12 from 10-12-1948 of Human Rights [Online]. Available: https://www.legis.md/cautare/getResults?doc_id=115540&lang=ro
- International Covenant on Economic, Social and Cultural Rights [Online]. Available: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

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Law on physical culture and sports, no. 330-XIV of 25.03.1999 [Online]. Available: https://www.legis.md/cautare/getResults?doc_id=129800&lang=ro#

Convention on the Rights of the Child Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 [Online]. Available: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

Resolution adopted by the General Assembly S-27/2. A world fit for children 10 May 2002 [Online]. Available: https://sites.unicef.org/specialsession/docs_new/documents/a-res-s27-2e.pdf

Official Documents System of the United Nations [Online]. Available: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N10/589/90/PDF/N1058990.pdf?OpenElement>

International Charter of Physical Education, Physical Activity and Sport [Online]. Available: <https://en.unesco.org/themes/sport-and-anti-doping/sport-charter>

Statistics on child abuse in the Republic of Moldova [Online]. Available: <https://www.cnpac.md/ro/statistica/date-ale-mai-privind-cazurile-de-abuz-fata-de-copii/>

Hugo, V. (1881). Les Quatre Vents de l'esprit. [Online]. Available: https://www.viatasiopera.ro/opere/hugo-victor/citate/victor_hugo.html