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**PECULIARITIES OF THE FUNCTIONING OF THE ORGANIZATIONAL
AND LEGAL MECHANISM OF PHYSICAL CULTURE AND SPORTS
ACTIVITIES ABROAD**

Foreign models of the functioning of the organizational mechanism of the state regulation of physical culture and sports activities have been identified. The first model involves the application of a liberal approach to the regulation of physical culture and sports activities in some countries of the world. It has been found that today there is an increase in the role of state influence in this sphere of relations. This is intended to provide conditions for the sustainable functioning of national and international systems of sports relations, protection of public and private legitimate interests of participants in sports relations, as well as generally recognized moral values. The complication of the interaction of public and private systems of regulation of physical culture and sports activities occurs within the second model of the functioning of the organizational mechanism of the state regulation of physical culture and sports activities abroad - the interventionist model. In Ukraine, a more liberal model is being implemented in the researched sphere of state regulation. This happens in view of the integration aspirations of Ukraine. In this context, the importance of implementing Recommendations of the Committee of Ministers of the Council of Europe No. CM/Rec (2011) "On the principle of the autonomy of sports in Europe" is recognized in the domestic territory. It is emphasized that all this determines the need for further scientific and practical research

in order to find effective mechanisms of their interaction and criteria for their optimal combination.

Keywords: *state regulation, physical culture and sport, model, development, abroad.*

Problem setting. The sphere of physical culture and sports is an important component of social and cultural activity of a person and determines the necessary quality of a healthy and complete personality. Due to the large and complex nature of this sphere of life activity of individuals, we can point out that it is urgent to create an effective system of state regulation in the state, which includes scientifically based strategic planning, regulatory and legal regulation, as well as the creation of management infrastructure, financing, information support and proper protection of the rights and legitimate interests of all participants in physical culture and sports relations.

As noted in the scientific literature, state regulation in the field of sports is a systemically integrated and functionally hierarchically organized activity of planning, implementation, provision and self-control of the state-authority regulatory influence on social relations in the field of sports and relations directly related to them, which are regulated by state authorities through normative and legal (primarily, administrative and legal) regulation, organizational and coordination, financial (budgetary, tax, etc.), infrastructural and other resource administration and through the exercise of control and supervisory powers. State bodies and organizations have also been formed abroad, which perform the functions of state regulation (management) in the field of physical culture and sports. Taking into account the integration aspirations of Ukraine, it is important to study promising models of the implementation of state regulation of physical culture and sports activities.

Analysis of recent research and publications. The scientific works of such foreign and domestic scientists as S. Vavreniuk, N. Datsii, S. Diker, Yu. Dovgenko, S. Dombrovska, V. Kononovicha, V. Kudelko, N. Pavlii are devoted to the study of the process of implementation of state policy in the field of physical culture and sports [1-4;

6]. It is worth noting that the problematic issues in the field of physical culture and sports in Ukraine are growing like a snowball, and in some places they are even more crystallized due to the incompleteness of the reform in this field, which requires updating approaches to improving state policy in this field.

Paper objective. The purpose of the article is to study foreign practices of implementation of organizational and legal mechanisms of state regulation of physical culture and sports activities.

Paper main body. The analysis of scientific developments in the field of physical culture and sports activities made it possible to state that abroad ministries are the most common organizational form of state institutions that carry out state regulation in the field of sports. As you know, the Ministry of Sports of Brazil operates in Brazil, and the Ministry of Sports, Youth and Public Education of France operates in France.

In other countries (Spain, Switzerland, Argentina, etc.), powers in the field of sports have been transferred to other executive bodies or special coordinating bodies. For example, in the USA there are sports committees and commissions at the state level, which are state executive bodies (California State Sports Commission, Delaware State Sports Advisory Council, etc.) [2; 6].

In a number of states, a system of regional state administration bodies accountable to national state administration bodies in the field of sports has been created. Thus, in Switzerland, there are state councils or commissions at the cantonal level, which are executive bodies of the cantons (for example, the Commission for physical culture and sports of the canton of St. Gallen, etc.). In addition, there are various departments, administrations and other bodies accountable to the regional executive bodies of Switzerland in the field of sports [ibid.].

In other countries (Portugal, Venezuela, Costa Rica, Cuba, Peru, Chile) powers related to state administration in the field of sports are performed by specially created state institutions - universities. In Argentina, Brazil, Ecuador and Austria, there are non-governmental organizations, which are also entrusted with the authority of state regulation in the field of sports (for example, the National Authority for Sports of the

Highest Achievements of Argentina, the National Sports Federation of Ecuador, etc.) [1; 2].

Thus, it can be seen that in general, in foreign countries, a multi-level and complex system of state regulation and management in the field of physical culture and sports has been formed. This system is aimed at ensuring sustainable functioning and development of social relations in the field of physical culture and sports.

Today, the effectiveness of state regulation in this area is determined by the following:

- 1) social requirements for improving the quality of life and ensuring public health protection;
- 2) economic requirements for the development of sports infrastructure;
- 3) moral requirements taking into account the moral and educational potential of sports (fair play rules) and the need for special regulation of gambling and related sports;
- 4) requirements for the protection and protection of the rights and legitimate interests of all participants in various fields of physical culture and sports relations.

Ukraine traditionally has a powerful state system of state regulation, including in the field of physical education and sports. The state actively exercises its administrative and power powers, exerting a purposeful influence on this sphere of social relations, which is due to the presence of certain public interests: economic, social, image, etc. Such a regulatory procedure is characteristic of the interventionist model, which involves the active intervention of the state in the affairs of sports, in the activities of sports organizations. In addition to this model, there is another model of state regulation and management in the world - the liberal (or model of non-interference), which involves the state providing maximum freedom of self-regulation and self-governance to sports organizations and minimizing interference in sports affairs [ibid.].

It is possible to single out a number of features characteristic of state regulation (management) in the field of physical education and sports:

- consideration of public interests;

- planning, stimulation and development of physical culture and sports at the national level;
- provision of equal opportunities for the development of all types and areas of sports and physical culture;
- formation of the necessary legal support for physical culture and sports relations, taking into account the norms of international law;
- implementation of control and supervisory powers;
- establishment of guarantees of protection of the rights and legitimate interests of all participants in sports relations;
- limiting the limits of state intervention by the system of non-state regulation in the field of sports;
- interaction and cooperation with various subjects of sports law at the international, regional and national levels.

At the same time, in Ukraine, as in other countries of the world, despite the predominance of public mechanisms used for regulation in the field of physical culture and sports, other mechanisms are also used. They include the following types of non-state self-government: social management, corporate management and contractual management. Today, the ratio of state regulation and non-state management (self-government) in the field of physical culture and sports activities is of greatest interest.

In view of the peculiarity of relations arising in the sphere of physical culture and sports, the participants of these relations formed a whole system of non-state management, aimed at adequate and purposeful regulation of relations in this sphere, taking into account its specific nature. In this context, the formation and functioning of complexes of extralegal normative regulation (*lex sportiva*) is an integral part of any physical culture and sports activity. The autonomy of sport can be defined as an organizational and normative characteristic of the field of sports (and at the same time as a principle of organization and functioning of subjects of physical culture and sports activities), which reflects the decentralization of the organization of social relations in this field, relative (that is, within certain limits) norm-making and norm-applicable,

institutional -structural and organizational-activity, financial-economic, political and ideological independence and independence of the sphere of sports from the system of state power, as well as from political organizations, religious associations and organizations of the business sphere, independence from sanctioning, interference and pressure from their side [2].

The term "autonomy" in relation to physical culture and sports activities was first enshrined in 1949 in the Olympic Charter and referred to national Olympic committees. According to the Recommendations of the Committee of Ministers of the Council of Europe No. CM/Rec (2011) "On the principle of the autonomy of sports in Europe", the following signs of the autonomy of sports can be defined, which represent certain opportunities for non-governmental and non-commercial sports organizations:

1) freely create, change and interpret rules for certain sports without undue political or economic influence;

2) receive funding from state or other sources without incurring inappropriate obligations in this regard;

3) to implement one's goals and chosen activities at the expense of one's own funds without strong external restrictions;

4) cooperate with the public authorities in order to improve the legislative framework in order to avoid legal uncertainty, to contribute to the development of regulatory support in the field of sports (norms on competition or norms applicable to non-governmental non-commercial organizations) for the legal and proportionate achievement of these goals." (item 1) [5].

Thus, despite the predominance of state regulation (management) mechanisms in the field of physical culture and sports, today in Ukraine there is a certain development of "self-governance" in this field under the influence of the above recommendations and rules of international sports organizations. In Ukraine, as in other states, the autonomy of physical culture and sports is recognized and guaranteed by the state. At the same time, the main problem is to find an optimal balance of public and private interests in the

process of implementing in the state one or another model (interventionist or liberal) of state regulation (management) in the field of physical culture and sports.

Currently, it is considered that in the process of organization and implementation of state regulation (management), the significantly increased role of non-state/municipal entities and their increasingly growing participation in the processes of state and social management, in the formation of public policy, should be taken into account. According to this approach, the role of the state changes from the "main supplier" of state policy to the subject that ensures interaction during the implementation of various interests in society, the meaning of which can be reduced to the coordination and management of similar processes. This leads to the fact that the toolkits of public administration are changing.

For the public administration and state management of physical culture and sports at the state level, a three-level system of management bodies has also been changed (Table 1).

Table 1

Functions of state authorities of physical culture and sports management by levels of state administration

№	The level of public administration	Functions of state administration
1	National level	<ul style="list-style-type: none"> - development of strategic goals for the development of physical culture and sports; - ensuring the implementation of the main provisions of the Strategy for the Development of Physical Culture and Sports of Ukraine, state target programs; - implementation by the Ministry of Youth and Sports, etc. Central Committee of control functions and powers in the sphere of its competence, etc.
2	Regional level	<ul style="list-style-type: none"> - determination of the main tasks and directions of development of physical culture and sports in the regions;

№	The level of public administration	Functions of state administration
		<ul style="list-style-type: none"> - adoption and implementation of regional programs for the development of physical culture and sports; - development and implementation of regional programs and projects in the field of physical culture and sports, including the mass involvement of various population groups in systematic physical education and sports; - approval and implementation of calendar plans of official physical culture events and sports events in a separate region; - participation in the formation of the regional budget, taking into account the choice of the priority of physical culture and sports work in the region, etc.
3	Local level	<ul style="list-style-type: none"> - determination of the main tasks and directions of the development of physical culture and sports, taking into account the needs of the local population and opportunities; - adoption and implementation of local programs for the development of physical culture and sports (at the community level); - popularization of physical culture and sports among different population groups at the local level; - approval and implementation of calendar plans for physical culture events and sports events of municipal entities (communities), etc.

Source: compiled taking into account [1; 2; 6]

It would be wrong to unequivocally deny the rationality of the autonomy of the functioning of the field of physical culture and sports, since different types of sports and related relations have their own specifics, therefore a certain freedom, in particular of rule-making, is required within the limits of individual types. In recent years, a significant segment of relations in the field of physical culture and sports has been occupied by the contractual relations of the parties, in particular, regarding the provision of physical

culture and sports services to the population [1], the sale (transfer) of players to foreign sports clubs, relations between various subjects of physical culture and sports relations and others In this area, it is considered necessary to focus on the private legal mechanisms for the regulation of physical culture and sports activities. In the scientific literature, it is emphasized that the further improvement of the physical culture and sports policy of Ukraine should consist in relieving the state of unnecessary functions that delay the process of development of the autonomy of sports and the transition to a contractual regime of management in the territorial and corporate segments [6].

The objectives of the activities of the organizations of the state and public segments are similar in many respects - strengthening the health of the population through activities in the field of physical culture and sports. The fundamental difference is that the activities of the organizations of the state segment are aimed at ensuring the system of state minimum standards of physical activity of the population, first of all - the younger generation. The activities of organizations of the public segment are aimed at the development of certain types of sports and are aimed at all age groups of the population (Fig. 1).

There are direct and inverse relationships between the object and the subject of management. Direct communication is a "command" (management decision) coming from the subject to the object of management. Feedback is information coming from the object to the subject of management, about the execution of "commands" (management decisions) and the state of the object of management.



Fig. 1. General and specific goals of activities of institutions of public and state segments

Source: compiled taking into account [1]

Thus, excessive and inadequate state intervention in the activities of sports organizations reduces the effectiveness of their activities, unbalances sports management, and increases the risks of corruption. On the other hand, an excessive increase in the scope of competence of non-state (private) regulators in the field of sports may contradict the public interests of the state. In any model, the autonomy of sport is recognized and guaranteed by the state. The only question is to what extent it is carried out. So, for example, in the latest publications of foreign authors on sports law, the issue of the need to strengthen state regulation in the field of sports is often discussed. In particular, it is noted that after major scandals that tarnished the reputation of professional sports, it became clear that it is necessary to establish rules that ensure proper and ethical management of sports organizations. While the sports movement has been involved in a major reform process, especially at the level of regional and international sports federations, states in Europe consider it necessary to ensure proper state influence on sports organizations. As a result, a new trend is observed among European states — the development of sports management in its macroeconomic sense, which affects the relationship between the state and the self-regulating sports movement. At the same time, states have taken all kinds of measures, which consist of the adoption of mandatory codes of conduct, ethical sports agreements, voluntary codes of good governance and self-assessment tools, as well as mandatory codes of sports governance, designed to encourage good governance of sports relations within the country. Thus, sports organizations applying for state funding must ensure compliance with a certain set of requirements for corporate governance in sports [2].

Another foreign researcher [3] notes that the establishment of the International Partnership Against Corruption in Sports (in 2017) indicates a growing interest and consensus among stakeholders that sports governing bodies have not been able to reorganize after corruption scandals. Therefore, the autonomy of sports should no longer be considered as a justification for the non-interference of state power in the internal management of a sports organization. Against this background, good governance (governance), which is considered much more widely than public administration

(regulation), has become widespread. Social management and general integrity should be based on the law, and not only on ethics [3, p. 136].

Scientific literature [2] rightly emphasizes that today the main function of the state should be to create conditions for every citizen to satisfy their interests in the field of physical education and sports, as well as realize their opportunities. It is the state that should create opportunities to provide everyone with minimal movement modes, promote interaction between the sphere of sports and health care, education, and environmental protection. Provision of physical culture and sports activities can be considered in the context of national security.

The authors note that it is now necessary to find an optimal balance of public and private interests in the field of regulation of physical culture and sports relations and related activities [6]. The role of the state, of course, should remain important, but it should shift from the function of supervision to the expansion of obligations regarding the implementation of the social function of the state. It is in this direction that there is a need to strengthen public foundations at the current stage [3]. Multiple positive examples of state regulation (management) in the field of physical culture and sports from different countries of the world give reason to predict the development of the institute of public-private partnership in this field in the near future. Therefore, the importance of high-quality state (public) and non-state (private) regulation of physical culture and sports is increasing.

Conclusions of the research. Thus, during the research, it was found that, despite the liberal approach to the regulation of physical culture and sports activities in some countries of the world, today there is an increase in the role of state influence in this sphere of relations. This is intended to provide conditions for the sustainable functioning of national and international systems of sports relations, protection of public and private legitimate interests of participants in sports relations, as well as generally recognized moral values. The complication of the interaction of public and private systems of regulation of physical culture and sports activities determines the need for further scientific and practical research with the aim of finding effective mechanisms of their

interaction and criteria for their optimal combination.

It was found that a certain autonomy of the sphere of physical culture and sports is ensured in two well-known models (liberal and interventionist). They differ in direct or indirect methods of influence, which in turn form the basis for state regulation or state management. It is emphasized that the field of physical culture and sports activities primarily involves the use of soft (indirect) methods of state regulation.

Despite the liberal approach used by a number of countries during the regulation of physical culture and sports activities, today there is an increase in the role of state influence in this sphere, which is aimed at ensuring conditions for the stable functioning of national and international systems of sports relations, protection of public and private legitimate interests in this sphere, as well as generally recognized moral values. The complication of the interaction of public and private systems of regulation of physical culture and sports activities and related relations determines the need for further scientific and practical research in order to find effective mechanisms of their interaction and criteria for their optimal combination.

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