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REGULATORY AND INSTITUTIONAL SUPPORT OF PUBLIC ADMINISTRATION IN THE FIELD OF PHYSICAL CULTURE AND SPORT IN UKRAINE

Key words: regulation, standardization, health, Olympic sports, state policy.

ABSTRACT. The author notes the importance of planning, policy measures and development strategies for the development of physical culture and sports. A large number of current regulatory documents, which reflect the attentive attitude of public authorities to the development and improvement of this area, is indicated. The structural components of the legal administration system in the field of physical culture and sports are characterized. The interpretation of sports legal relations is presented. Specific features of sports legal relations are noted. The main forms of state support for physical culture and sports are also identified. The contribution of local authorities of Ukraine in the implementation of state policy in the field of physical culture and sports is considered. The ambiguity of the legal regulation of the development of physical culture and sports is noted. The need to understand and distinguish between the field of physical culture and professional sports is emphasized. The state regulation of standardization in the researched sphere is considered. The absence of the term “standard” in relation to service quality management in organizations is indicated. The normative-legal acts, which partially determine the evaluation criteria in the field of physical culture and sports, are distinguished. The advantages of implementing a quality management system are indicated. The adopted Standards, the effect of which extends to the field of physical culture and sports, are considered. The principles of quality management system activity are presented and characterized: customer orientation, leadership, employee involvement, process approach, system approach to management, continuous improvement, decision-making based on facts, mutually beneficial relations with

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suppliers. The main problems and risks in the process of system implementation are noted. Emphasis is placed on the peculiarities of the implementation of the quality management system at the level of local self-government. The requirements for the preparation of mandatory documentation are listed and described. The content of the implementation plan is noted. Emphasis is placed on the expediency of determining senior management and officials on specific examples. The need for local government administration to systematically confirm its compliance with the quality management system has been identified. Requirements to representatives of higher governing bodies are defined. The impossibility of the self-government body to satisfy the requirements of all clients within the framework of the legislation and the approved budget is emphasized. The key task of senior management is described. The components of an important triple task of senior management in the context of implementation, operation and continuous improvement of the quality management system are listed. The importance of emphasizing the consolidation at the state level of tests and standards for assessing the physical fitness of the people of Ukraine was emphasized.

INTRODUCTION

The adoption of state policy in the field of physical culture and sports involves setting national goals, guided by the global level of aspirations, but taking into account national conditions. The sovereign must address the implementation of the recommended global objectives in the state policy of Ukraine through national planning processes, policies and strategies for the development of various spheres of public life, including physical culture and sports.

Today in Ukraine, there are about 200 regulations in the field of physical culture and sports, which indicates the importance of legal, organizational, medical and other types of functioning of physical culture and sports for Ukraine. The process of decentralization and development of local self-government involves the expansion of powers in the field of physical culture and sports. Accordingly, the state must create conditions for the effective implementation of this function at the local level.

STRUCTURAL COMPONENTS OF THE LEGAL ADMINISTRATION SYSTEM IN THE FIELD OF PHYSICAL CULTURE AND SPORTS

The process of legal administration in the field of physical culture and sports is manifested in certain forms, which are due to unique tasks and regulatory functions and has a unique content. Assuming that if the functions of public administration in the field of physical culture and sports are analyzed as the basic directions of purposeful administrative influence on the objects of administration, the forms of public administration are the directions of certain influence. Thus, the forms of state regulation determine the direction of administration. The choice of effective forms of public administration should contribute to the effective implementation of administrative functions, and achieve the desired goal at minimal cost. First of all, the creation of a successful administrative system of physical culture and sports is hindered by an imperfect system of legal regulation – in particular, ignoring legal regulations and insufficient information support for the functioning of this area.

In modern Ukraine, the structure of the system of legal administration in the field of physical culture and sports includes:

- documents of international law, in particular, conventions, common principles and norms of international law, documents of international, intergovernmental organizations. Special rules of international sports law are also presented in the agreements that regulate only the implementation of sports activities. Among them are bilateral agreements, such as: Agreement on cooperation between the Ministry of Defense of Ukraine and the Federal Department of Defense, Population Protection and Sports of the Swiss Confederation (2003) and others; and Multilateral Agreements (or Conventions) such as: Agreement on Cooperation in Physical Culture and Sport of the Commonwealth of Independent States (2008), International Convention for the Suppression of Doping in Sport (2007), International Convention against Apartheid in Sport (1987), European Convention on Violence and Mis-

conduct by Spectators during Sports Events, in particular Football Matches (2000), and others;

- national legal documents within the Ukrainian legislation. The sources of sports law in Ukrainian legislation are the Constitution of Ukraine, the Laws of Ukraine “On Physical Culture and Sports” (2007), “On Anti-Doping Control in Sports” (2021), “On Support of the Olympic, Paralympic Movement and Sports of Excellence in Ukraine” (2019) and other. Sports law standards also regulate the list of bylaws, international legal acts, decrees of the President of Ukraine, resolutions of the Cabinet of Ministers of Ukraine, etc.;
- regulations of international non-governmental sports organizations, their agreements with intergovernmental organizations, states and with one another, political and recommendation documents of global or regional international sports conferences;
- system of documentary and corporate standards of public and other organizations in the field of physical culture and sports and their associations, in particular, codes, regulations, statutes, rules;
- norms of morality (for example, the Code of Honor of the Olympian, etc.) (Akhmad, 2019).

Based on the analysis, it is proposed to define sports legal relations as volitional public relations, regulated by various branches of law, which arise between different subjects of this law in the process of organization and direct implementation of physical culture and improvement of public administration in the field of physical culture and sports, health and sports activities, and which are competitive in nature and are protected both by the state and specialized non-governmental sports organizations. It is worth noting the specific features of sports relations, namely: a special subject composition, which includes athletes; coaches; sports associations, including societies, federations, clubs, and sports schools.

Particular attention is paid to regional international legal standards for public administration in the field of physical culture and sports and the role of the Council of Europe and the European Union in the formation and development of the foundations of this industry. Some programs and projects in the field of sport are implemented by the Council of Europe together with the European Union. Targeted safety, health and sports

programs have been developed and are functioning. In 2018, an updated program was launched to address cross-border threats to sport, such as violence and wrongdoing by individuals or groups of individuals, as well as other forms of intolerance or discrimination. The implementation of the programs is the response of the Council of Europe to the complex current trends in the field of security and services, which contribute to an integrated approach to this issue.

Principles of state policy in the field of physical culture and sports, which also include the rights to health care, medical care and health insurance, are described in detail in a large number of sectoral laws and regulations of Ukraine: Civil Code of Ukraine, Criminal Code of Ukraine, laws of Ukraine “On physical culture and sports”, “On state financial guarantees of medical care”, “On ensuring the rights and freedoms of internally displaced persons”, “On the basics of social protection of disabled people in Ukraine”, “On childhood protection”, “On social and legal protection of servicemen and members of their families”, etc. Most of these acts mention the healthy lifestyle of a person or a nation, as well as the appropriate guarantees for its provision. It is noted that organizational guarantees are a prerequisite for creating conditions for physical culture and sports, the development of various forms of physical education for different categories of residents, ensuring their healthy lifestyle.

The following main forms of state support of physical culture and sports are identified: organizational and functional (coordination, personnel, economic, etc.); legal (regulatory, law enforcement, control, etc.); material and financial. At the same time, in order to develop appropriate public relations, increase the effectiveness of state regulation of physical culture and sports, it is advisable to update the existing legal framework, avoid duplication of powers of different government agencies in this area, delimitation of public authorities and local governments, create effective control mechanisms for the public part.

REGIONAL FEATURES OF STATE POLICY IMPLEMENTATION IN THE FIELD OF PHYSICAL CULTURE AND SPORTS

To solve the problems of legal regulation of sports in Ukraine, its types, sports activities, protection of sports rights, special importance is given to sports entities at both national and regional levels.

Local bodies of state power of Ukraine in the process of implementing state policy in the field of physical culture and sports, in contrast to the highest bodies of state power and central executive bodies, operate within the administrative-territorial unit. The bodies that implement the state policy in the field of physical culture and sports on the regions are local governments and local state administrations. At the same time, the goals are common to all subjects, taking into account the common goal – the development of physical culture and sports in Ukraine. Non-governmental organizations play an important role among the subjects of legal relations in the field of physical culture and sports, as they effectively and efficiently ensure the development of this field.

The development of physical culture and sports is not always directly regulated by the Constitution, sometimes it is enshrined in the context of the right to health care, medical care, i.e. social rights, and in some cases in the context of the right to education, including the right to physical education and physical culture, that is, cultural human rights. The powers of the relevant state bodies in this area also differ, including those enshrined in the Constitution or other regulations. This emphasizes the uniqueness of the legal regulation of physical culture and sports, its specifics and the need for further in-depth study, in particular on special sectoral or departmental regulation, guarantees of implementation and protection of human and civil rights and freedoms.

An important factor in studying the mechanism of implementation of the legal framework of state policy in the field of physical culture and sports in Ukraine is the need to understand and distinguish between the field of physical culture and professional sports. In Ukraine, there is inconsistency and incoherence in the process of the implementation of the legal status of the subjects of state and legal regulation of physical culture and sports, sometimes illogical or duplication of provisions of some regula-

tions in this area, and so on. One of the ways out of this situation is the introduction of international legal standards, updating, making appropriate changes and additions to the current legislation of Ukraine, its systematization in order to improve the legal status of the subjects of state regulation of physical culture and sports.

THE ROLE OF STANDARDIZATION IN THE DEVELOPMENT OF PHYSICAL CULTURE AND SPORTS

Despite the positive international practice of developing and using standards to improve the management of organizations, including physical culture and sports, as well as decisions of public authorities of Ukraine, in the “Strategy for Physical Culture and Sports until 2028”, involving civil society institutions, including youth and children non-governmental organizations, there are no specific measures for the preparation of service-quality management standards for physical education and sports services, there are only some references to relevant international standards (2020).

The same applies to the Law of Ukraine “On Physical Culture and Sports” (2007) with recent changes in the thesaurus of concepts used. There is no term “standard” for quality management of physical culture and sports services by state and public organizations of physical culture and sports.

A number of orders issued by the Ministry actually initiate important standards of organizations in any form. Thus, a joint Order of the Ministry of Youth and Sports of Ukraine and the Ministry of Health of Ukraine approved the Regulations on medical support of physical culture and health and sports activities in institutions of physical culture and sports (2017). This is also the Order of the Ministry of Youth and Sports of Ukraine “On approval of the Procedure for certification of coaches (trainers-teachers)” (2014). In addition, a number of regulations of the Ministry of Youth and Sports initiated the introduction of standards as such. For example, the Order of the Ministry of Youth and Sports of Ukraine “On approval of the State social standard in the field of physical culture and sports”.

Meanwhile, the advantages of implementing a quality management system are:

- streamlining and regulation (execution of the sequence of actions in accordance with the approved procedures) of activities, processes and their management;
- improving the quality of service to citizens, awareness and consideration of their needs and expectations;
- rational and efficient use of resources, especially human ones;
- increasing prospects for contacts with potential grant givers and investors (State administration, p. 11–12).

Standard ISO 9001: 2008, adopted in Ukraine as DSTU ISO 9001: 2009 “Quality Management Systems. Requirements (ISO 9001: 2008, IDT)” defines the requirements for a quality management system that can be used for internal use by organizations, certification or for contractual purposes. This focuses the organization on achieving the effectiveness of the quality management system to meet customer requirements. This standard specifies the requirements for a quality management system when an organization:

- needs to demonstrate its ability to continuously provide services in accordance with customer requirements and current legal requirements;
- seeks to increase customer satisfaction through the effective application of the system, including processes of continuous improvement and compliance with customer requirements, as well as relevant regulations and legislation.

It is important for all requirements of this standard to be general and be applied to all organizations – regardless of type, size and provision of services. If any requirements of the standard cannot be applied based on the nature of the organization and its services, they can be considered an exception.

Reasonable exceptions may be applied only to the requirements of section 7 of ISO 9001, provided that these exceptions do not affect the organization’s capabilities and do not release it from liability for the provision of services in accordance with the customer’s requirements. This standard does not require a single structure of the quality management system or a single documentation (Pidhaiets, Bryhilevych, p. 23).

ISO 9004: 2009 allows organizations to improve the quality of goods and services for their customers through self-assessment as an important tool that allows organizations to conduct benchmarking (performance testing of maturity, covering leadership, strategies, resource management systems and processes); identify their strengths and weaknesses; find opportunities for improvement, innovation.

The ISO 9000 series standards are designed to help organizations, regardless of their type and number of employees, in implementing and ensuring the functioning of effective quality management systems, contains the basic provisions of quality management systems and defines the terminology for them.

ISO 9001 sets requirements for quality management systems if an organization wants to demonstrate its ability to deliver products (services) that meet customer requirements and current standards, and seeks to satisfy customers properly.

ISO 9004 contains recommendations for the effectiveness of the quality management system. The purpose of this standard is to improve the performance of the organization, as well as the satisfaction of customers and other interested parties. They form an agreed set of standards of the quality management system that promote mutual understanding in national and international cooperation and requirements for products (services).

ISO 9001 sets requirements for quality management systems. They are general and applied to organizations in all industries or economies, regardless of the category of products (services) offered. The standard does not directly set requirements for products (services). Requirements for products (services) can be set by customers, local governments with customer requirements or regulations (Pidhaiets, Bryhilevych, p. 19–20).

The ISO 9000 standard (Basic provisions and glossary) contains a brief description of the principles of quality management, the main provisions of its system, scope, as well as the terms and definitions used in this series of standards.

In ISO 9000, terms and definitions are given for: quality; management; organizations; processes and products (services); characteristics; conformity; documentation; inspections; audit; quality management of measurement processes (Pidhaiets, Bryhilevych, p. 21).

PRINCIPLES OF QUALITY MANAGEMENT SYSTEM

The quality management system defines eight principles of activity, the implementation of which makes it possible to build quality management by some local governments. Senior leadership should use these principles to increase productivity and achieve desired results. If these principles are applied daily by all local government officials, then the quality management system will really work.

Self-assessment can be a key element of strategic planning processes in any organization. The self-assessment tools are given in Appendix A to ISO 9004: 2009. Appendix B of ISO 9004: 2009 contains a detailed description of the eight principles of quality management to use in the work to successfully manage the organization, ensure its functioning in systematic direction, and control over its activities:

Principles 1. Customer focus. Senior executives should understand the current and future needs of citizens, meet their requirements and try to exceed their expectations and encourage all officials to do so. That is, the idea of public works is a priority in the activities of local governments.

Principle 2. Leadership. Senior executives must be leaders in all areas of the formation of public policy, setting goals and ensuring their coherence at all levels, providing support and governance and should be responsible for continuous improvement.

Principle 3. The interests of staff. Staff at all levels form the basis of the city council's executive bodies, so senior executives must create and maintain a team environment and atmosphere so that officials can fully realize their potential to address the challenges.

Principle 4. Process approach. The task of senior executives is to stimulate the formation of an approach to the activity as a process where this activity has its "inputs" and "results" and uses certain resources. This approach makes it possible to streamline activities and achieve the desired results.

Principle 5. System approach to management. Senior executives should know that any activity is considered a process and because the "result" of one process is the "entrance" for one or more other processes, the management of these interdependent processes is carried out as a system. Intro-

duction of such a systematic approach will contribute to the effective achievement of goals.

Principle 6. Continuous improvement. Senior management should develop and encourage continuous improvement of the activities and quality of service provision, which should become a permanent goal of local authorities.

Principle 7. Evidence-based decision making. Senior management consciously and responsibly assumes that all decisions of the local council are made on the basis of data and information analysis, which allows to increase the efficiency and effectiveness of decisions.

Principle 8. Mutually beneficial relationships with suppliers. Recognizing that the executive bodies subordinate to the local council and the suppliers of goods and services are interdependent, the senior executives should provide the policy of mutually beneficial relations with them.

Implementation of the quality management system in local self-government includes the development and approval of certain documents and staff training. It is necessary to form a list of mandatory documents specified by local authorities. This can be done by analyzing the areas of activity required by ISO 9001.

The following requirements are applied to:

- definition, description and management of processes and documents;
- duties of the senior executives,
- resource management and service delivery;
- continuous improvement through the creation of appropriate mechanisms for monitoring, evaluation, analysis of data and information and decision-making.

The main problems or risks in the process of implementing the system are the following:

- getting a certificate as an end in itself, rather than improving the management system as a whole;
- lack of interest and personal participation of senior management in the implementation of the quality management system;
- mentality of management and officials who do not make new decisions and are opposed to any new initiatives;

- too detailed regulation of activities and processes that may facilitate the development and implementation of a large number of documents that may create difficulties rather than help;
- lack of a clearly defined purpose for the implementation of the standard ISO 9001;
- insufficient methodological support of the system implementation process (Pidhaiets, Bryhilevych, p. 12).

Finally, in order to train staff, it is necessary to identify the categories of officials who need to be involved in this process at the appropriate stages. This is a working group, representatives of structural units and their heads, internal auditors, senior management.

The implementation plan should include the development and approval of documents and staff training, these processes can take place in parallel. If the implementation is with an external consultant, he / she must submit an implementation plan, discussed with senior management or a management representative. This plan is set out in the annex to the agreement.

In order to have a common understanding of the concepts of governance structure in local self-government, it is advisable to identify senior management and other senior officials. For example: the top management includes the mayor, deputy mayors and the secretary of the council. The department consists of heads of executive bodies of the city council and heads of structural subdivisions, by the decision of the executive committee or session of the city council. Having adopted it, the local government must constantly confirm its compliance with the quality management system, determine the needs and expectations of service customers, monitor the processes of local government, taking into account legal and regulatory requirements.

In accordance with paragraph 5.2 of the ISO 9001 standard, senior management must ensure quality and timely compliance with customer requirements. It is clear that the self-government body cannot satisfy the requirements of all clients within the framework of the legislation and the approved budget, but it is quite realistic to record, evaluate and summarize information on the legitimacy of these requirements and take appropriate measures to address them or apply to the relevant public authorities for

problems and identify ways to address them within the current legislation or amend it.

The main task of senior management is to determine the degree of community trust in self-government, to establish a constant response from the community, to study the most pressing needs of the community and to organize their satisfaction depending on the importance.

An important triple task of senior management for the implementation, operation and continuous improvement of the quality management system is:

- definition of the Quality Policy, bringing it to the notice of officials, persons in power, self-government and confidence that it is clear to all;
- planning of the quality management system, including ensuring the establishment of quality objectives consistent with the policy, in the relevant areas of activity and at the appropriate levels, aimed primarily at improving the quality of services and maximizing customer / citizen requirements for the customer;
- the quality of management to assess its effectiveness and integrity, in particular in planning and implementing change, monitoring policy compliance and achieving goals.

The above-mentioned tasks are impossible without the need for mandatory financial, material, human and other resources, and this issue is also the prerogative and responsibility of the top executives of local governments.

An important issue for the development of state policy in the field of physical culture and sports is the consolidation at the state level of tests and standards for assessing the physical training of the people of Ukraine. The issue of assessing the physical training of Ukrainian citizens needs a comprehensive solution. In a short period in Ukraine, the approved test conditions and standards for assessing physical training, which are now conducted on a voluntary basis, have changed dynamically. The state has in fact withdrawn from this process, as a result – it is not possible to see the real state of physical training of Ukrainian citizens. Along with a number of socio-economic changes taking place in Ukraine, special attention should be paid to regulating certain aspects of the organization, sports

and fitness, as well as physical culture and sports, forming a healthy lifestyle, involving children, youth and other age groups to active physical culture and sports, increasing the level of responsibility of persons engaged in physical culture and sports.

CONCLUSIONS

It is worth emphasizing that there is the need for legislative settlement of sports disputes, taking into account the provisions of international instruments and national and foreign practice. It should be emphasized that public relation services in the field of physical culture and sports are developing rapidly, so there is an objective need to constantly update the means of their regulation. Not only normative-legal regulation is subject to improvement, but also relations of self-regulation, ie creation and application of the system of corporate (contractual) norms by subjects of sports activity. As a result, there is a global trend towards a “soft law” system in sports. These processes lead to the strengthening of the role of the dispositive method of legal regulation in the field of sports and, as a consequence, to the application of private law. It is because of agreements that the relations arising between athletes and other subjects of sports relations and sports organizations are resolved, sports disputes are solved, sports rules are established, etc.

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