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The legal regulation of professional sports: current state and challenges – a comparative legal analysis

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Abstract: This article discusses the concept of professional sports, its emergence, various and distinctive features of sports. At the same time, the opinions of foreign scientists and domestic scientists who have conducted scientific research in this area, as well as the experience of foreign countries, are analyzed. In addition, the history of legal regulation of professional sports, as well as the evolution of legal regulation, is explored. The formation of legal documents regulating professional sports in national legislation and existing problems in legislation were also studied. Although the legal regulation of professional sports by sports organizations has been developing for a long time, how government regulation of this area occurs is being discussed.

Keywords: Professional sports, legal regulation, International Olympic Committee, National Olympic Committee of Uzbekistan, sports agents.

Introduction: In the Republic of Uzbekistan, it is difficult to say that professional sports are sufficiently regulated by the legal documents governing physical education and sports relations. Although the concept of professional sports is mentioned in the legislation, it is described as a part of sports related to the organization and conduct of sports competitions, where athletes participate as their main activity and receive rewards and/or salaries for their preparation and participation [1].

The origin and development of the concept of professional sports has been the subject of numerous scientific studies conducted by researchers. Certain

issues related to the legal regulation of professional relations in the field of sports have been explored in the Commonwealth of Independent States (CIS) by scholars such as S.V. Alekseev, K.N. Gusov, O.A. Shevchenko, A.A. Solovyov, V.N. Platonov, S.I. Guskov, V.E. Gorshkov, and others [2], Similarly, in other foreign countries, scholars such as M. Beloff, T. Kerr, A. Johnson, J. Frey, J. Nafziger, and others have studied this issue in their scientific research [3].

In addition, scholars have conducted scientific research on the concept of professional sport, its origins, its distinctions from other types of sports, and its unique characteristics, presenting their views to the scientific community.

M.G. Vulakh emphasizes that the formation of the concept of professional sport emerged as a result of the differences between Olympic sports and amateur sports, as well as the distinctive diversity between them. N.A. Ovchinnikova, commenting on the historical background of the concept of professional sport, stated that it initially emerged as the opposite of the concept of amateur sport.

At the end of the 19th century, criteria defining the status of professional athletes began to be published in the official documents of the International Olympic Committee (IOC). Moreover, the first set of rules containing several clauses revealed the distinguishing features of amateurs compared to professional athletes. It is noted that individuals who had not previously participated in open competitions, who had not competed elsewhere for monetary rewards, who had not competed against professional athletes, and who had not received payment for working as a physical education instructor or teacher could be considered amateur athletes.

Later, the concept of amateurism evolved and started to be interpreted as one of the conditions for athletes' participation in the Olympic Games.

According to the Law of the Republic of Uzbekistan "On Physical Culture and Sports" dated September 4, 2015, the part of sport aimed at strengthening people's health by voluntarily involving the population in mass sports is referred to as amateur sport.

According to Rule 45 of the Olympic Charter of the International Olympic Committee (IOC), and its official interpretation, the minimum requirements for participation in the Olympic Games are established, particularly with regard to the athlete's financial interests. Specifically:

- First, an athlete's participation in the Games must not be determined by any financial factors;
- Second, athletes must not use their name,

image, or sports achievements for advertising purposes during the Olympic Games.

In this regard, despite the tendency toward convergence in the legal status of professional and amateur athletes, we can conclude that the distinction between professional and amateur sports remains significant. At the same time, it can be said that professional sports and Olympic sports represent two separate poles with distinct focuses and high-performance expectations.

Professional sport primarily belongs to the domain of economic relations. At its core, it is designed to create opportunities for spectators to provide rewards to professional athletes and competition organizers. Olympic sport, on the other hand, focuses mainly on preparation for and participation in the Olympic Games, with its effectiveness measured by outcomes in the Games — such as the number of medals won and the unofficial team rankings of national squads.

During the analysis of scientific research, several unique features have been identified that help distinguish professional sports from other types of sports. In particular:

1. For a professional athlete, professional sport constitutes their main occupation and primary source of income, including systematic remuneration for labor within a set timeframe, as well as various types of pensions, bonuses, and rewards [8].
2. While the entertainment value of sports is generally a characteristic of sport as a whole, it holds the greatest importance in professional sports. Therefore, professional sport is represented as an activity aimed at producing and selling a product that must attract the attention of spectators, sponsors, and television broadcasters [9].
3. A distinguishing feature of professional sport is the occurrence of unexpected twists and captivating events, which often culminate in emotionally charged moments for the audience [10].
4. In professional sports, the business aspect is closely linked to the survival of competitors. Teams in a league are not interested in the financial collapse of their rivals, as such an event could negatively impact the overall economic environment of all participants. As a result, businesspeople in the sports sector often operate more as business partners rather than direct competitors [11].
5. In competitions organized by professional sports organizations, failure to create and maintain a competitive environment may lead to a loss of public interest and the attention of the media and sponsors [12].

6. In every branch of professional sport, forming a sports elite—so-called "monimen" (recognizable athletes who capture public attention and have gained popularity)—is of significant importance. To further promote such athletes, not only their achievements but also details about their personal lives, interests, income, and similar aspects are often used [13].

7. The existence of an effective and continuously improving system of social protection for athletes can also be regarded as an important characteristic of professional sport. The interests of professional athletes are protected by respective athlete (e.g., footballer) unions. In defending their interests, intermediary agencies (sports agents) play a crucial role by concluding commercial contracts on their behalf and managing investments [14].

The Presidential Decree of the Republic of Uzbekistan No. PQ-336 dated July 29, 2022, "On measures for the further development of Olympic sports wrestling disciplines", includes definitions for "professional athlete" and "professional coach."

However, although the Law of the Republic of Uzbekistan "On Physical Culture and Sports" (dated September 4, 2015) contains the concept of "professional sport," it does not define the terms "professional athlete" or "professional coach."

Moreover, Article 3 of the Law mentions the concept of professional sport, and Article 15 includes provisions related to engaging in and organizing professional sports. Yet, in the remaining 47 articles of the Law, there are no additional provisions specifically addressing professional sport, professional athletes, or professional coaches.

Naturally, unless these legislative gaps are filled, unresolved issues that fall outside the legal framework will arise in relationships governed by law.

As noted in one analysis, "Professional sport exists regardless of whether it is legally recognized, but the lack of regulation of the specific features of this field hinders the creation of civilized conditions for its development and operation" [15].

According to a number of legal experts [16], the current legislative policy aimed at removing norms regulating relationships in the field of professional sports should be evaluated negatively.

To ensure proper legal regulation of professional sports in Uzbekistan, a separate law dedicated to this field must be developed. Although the current legal framework indicates that the organization and functioning of professional sport should be defined by legislation, finding a specific normative legal act governing this area remains a challenge.

Before developing and adopting norms to regulate relations in professional sport, it is necessary to examine the current state of the legal regulation system in this area.

Legal regulation refers to the activity and behavior of the legislator in creating legal norms. According to many legal scholars, legal regulation is the process of organizing social relations through a set of specific legal instruments. However, the question of which entities implement legal regulation and what constitutes legal instruments remains a matter of debate [17].

Currently, there exists a dual-subject system for the legal regulation of professional sports: on one hand, there is the historically developed self-regulation system implemented through public organizations (international and national sports federations and professional sports leagues), and on the other hand, an increasing level of state regulation.

Historically, relations in the field of sports—including professional sports—have been subject to self-regulation. This system developed and improved over time. In the late 19th century, international sports associations were established to allow athletes from different countries to compete. These associations later evolved into national sports federations, leagues, and international federations. The International Olympic Committee (IOC) was established as the governing body of these organizations.

As social relations in the field of sports evolved and became more complex, the legal documents regulating them—developed by sports organizations—also improved. Currently, the regulations approved by sports organizations govern matters such as:

- the legal status of participants in sporting events;
- the criteria for participation in competitions;
- redistribution of revenue from sports events;
- transfer of athletes between sports clubs;
- disciplinary actions for violations, among others.

These regulatory norms play a key role in the development of legislation in the field of professional sports. While the legal regulation of professional sports by sports organizations has developed over a long period, state regulation in this area is still at an early stage. The role of the state in the legal regulation of professional sports remains undefined, and attempts to legislate certain aspects have led to legal disputes and unresolved issues [18].

For instance, according to the Law of the Republic of Uzbekistan "On Physical Culture and Sports",

“professional sport” is defined as the part of sport related to organizing and conducting sports competitions in which athletes participate as their primary activity and for which they receive a reward and/or salary for training and participation” [19].

However, this definition does not fully reflect the essential features of professional sport for the following reasons:

- Firstly, the characteristics mentioned in the definition relate more to the professional athlete than to professional sport as a whole.
- Secondly, the definition does not provide a clear distinction between professional, mass, and amateur sports. Athletes who receive payment may still participate in amateur competitions. Therefore, currently, participation eligibility is determined not by an athlete’s status but by whether they meet the admission criteria set by the respective sport federations [20].

As stated in the literature, “Today, professional sport is a paid sports service that ensures economic and socio-political efficiency for the stakeholders in the sector and offers high-level informational and entertainment value to spectators.” In contrast to mass sport, which is primarily non-commercial and focused on social goals, professional sport includes a commercial component and is characterized by economic performance [21].

In France, relations in the field of professional sport are extensively regulated by state legal norms. The state regulates areas such as:

- structuring the management of professional sports at national and local levels;
- taxation, labor, and social security;
- the system of state subsidies;
- the rules and procedures for granting broadcasting rights for sports events;
- regulation of agency activity, and more [22].

French legislation also specifically regulates how subsidies are allocated to sports organizations. For example, the French Sports Code stipulates:

- that public funds must be spent in the public interest;
- and that subsidies for a single sports season may not exceed €2.3 million [23].

Uzbekistan could benefit from adopting aspects of France’s experience in the regulation of public funding for professional sport, which ensures more effective and socially beneficial allocation of budget resources.

A law on professional sport in Uzbekistan could include

provisions related to:

- defining the legal status of governance participants in professional sport;
- state support and social protection for professional athletes;
- registration and accreditation of sports federations;
- the legality of financing;
- governance relations between professional clubs, leagues (associations), national sports federations, and the National Olympic Committee of Uzbekistan;
- organizational principles for conducting sports lotteries and betting;
- compensation for preparing athletes and handling appeals or complaints;
- training of referees;
- issuing and revoking licenses;
- regulation of relations between clubs, leagues, federations, sponsors, and the media.

Uzbekistan’s current model for managing and legally regulating public relations in professional sport involves two subjects: sports organizations and the state. While sports organizations continue to play a major role in regulating professional sport, state intervention is increasing. However, the present state regulation of professional sport cannot yet be considered effective.

Therefore, the following challenges must be addressed:

1. Finding an optimal balance between self-regulation and state regulation in the field of professional sport;
2. Clearly defining the boundaries of state intervention in regulating relations within professional sport.

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