

Legal regulation of labor of specialists in the field of physical education and sports in Ukraine

Marina Sannikova

Kharkiv State Academy of Physical Culture, Kharkiv, Ukraine

Purpose: to identify areas for improving the legal regulation of labor of specialists in the field of physical education and sports in Ukraine.

Material & Methods: in this study, a methodological approach was used, according to which the legal regulation of labor of specialists in the field of physical culture and sports in Ukraine was considered from the point of view of the interaction of systems of different orders. Theoretical analysis and systematization of literary sources on the topic of the study made it possible to find out the problem field of the legal regulation of labor of specialists in the field of physical education and sports in Ukraine. The analysis of documentary materials made it possible to characterize the system of legal regulation of labor of specialists in the field of physical education and sports. The application of the system analysis method made it possible to understand the logic of the deployment of the entire system of labor relations at the national and world levels, to penetrate deeply into the content and industry specifics of labor relations, to analyze in general the general trends. Methods of mathematical statistics allowed us to determine the dynamics of indicators of staffing in the field of physical education and sports in Ukraine over the past 10 years.

Results: the system of legal regulation of labor of specialists in the field of physical culture and sports is described, which includes the norms of domestic labor legislation, international legal acts on the protection of labor rights, as well as industry legislative and regulatory and program documents in the field of physical culture and sports. It was found that the number of full-time employees over the past 10 years has decreased by 8,3%, in particular, due to a decrease in the number of employees of higher educational institutions, sports facilities, sports trainers, trainers, teachers and sports teachers.

Conclusion: the need for improving the legal regulation of labor of specialists in the field of physical culture and sports in Ukraine in the following areas has been clarified: the creation of a unified system of certification of fitness trainers and other fitness personnel, fixed at the state level; determination of common principles for the legal regulation of labor of professional athletes; monitoring the economic feasibility of training specialists of certain specialties in the field of physical education and sports by universities.

Keywords: law, state, labor legislation, specialists, professional athletes, physical education and sports.

Introduction

In Ukraine, there has long been an urgent need for a quality regulation of the activities of specialists in the field of physical education and sports. This is evidenced by existing practice, in particular, the sphere of the fitness industry is developing so rapidly that the state training system does not have time to graduate qualified specialists. This, in turn, leads to the fact that many trainers begin to work without specialized education. In addition, it should be noted and such an important factor that confirms the relevance of the chosen topic – this is the importance of the profession of a trainer, physical education teacher, physical education teacher, etc., because their activities are aimed at maintaining the health of the nation, are the highest social values the state.

The special nature and working conditions of specialists in the field of physical education and sports determined the specifics of its legal regulation. Domestic legislation should ensure the effective observance of their rights and real protection of interests. Given the fact that the sports law industry in Ukraine is at the formation stage, it will be easier to accomplish this task than to change outdated standards.

Domestic scientists such as M. V. Dutchak [3], I. L. Gasyuk [1], A. V. Gorbenko [2], A. A. Polyansky [10], S. Moiseeva [8] in-

vestigated various aspects staffing in the field of physical education and sports. The scientific interest in the literature is also caused by the problems of managing the sphere of physical culture and sports, as well as their legal regulation, are examined in the works of I. E. Rybichich [11], A. Zayarn [6], S. Nikitenko [9], Antonio Di Marco [14]. An analysis of domestic and foreign studies indicates that today the issue of legal regulation of the labor of specialists in the field of physical education and sports in Ukraine remains insufficiently covered.

Purpose of the study: to identify urgent problems of legal regulation of labor of specialists in the field of physical education and sports in Ukraine.

Material and Methods of the research

In this study, a methodological approach was used, according to which the legal regulation of labor of specialists in the field of physical culture and sports in Ukraine was considered from the point of view of the interaction of systems of different orders. The theoretical analysis and systematization of literary sources on the topic of the study made it possible to find out the problematic field of legal regulation of labor of specialists in the field of physical culture and sports in Ukraine. The analysis of documentary materials made it possible to characterize the system of legal regulation of labor of specialists in the

field of physical education and sports. The application of the system analysis method made it possible to understand the logic of the deployment of the entire system of labor relations at the national and world levels, to penetrate deeply into the content and industry specifics of labor relations, to analyze in general the general trends. Methods of mathematical statistics allowed us to determine the dynamics of indicators of staffing in the field of physical education and sports in Ukraine over the past 10 years.

Results of the research

In our study, it was found that the system of legal regulation of the work of specialists in the field of physical culture and sports includes the rules of domestic labor legislation, international legal acts protecting labor rights, as well as sectoral legislative and regulatory documents of the sphere of physical culture and sports.

It is known that the labor relations of employees, including specialists in the field of physical culture and sports, are governed by the current labor legislation, in particular, the Labor Code of Ukraine [7], the rules of which are supplemented by the rules of international law.

Modern international legal regulation of labor occurs in concert in the complex of other socio-economic rights. International legal acts contain a list of social rights and other human rights – political, civil (personal), economic, social, cultural, among which labor rights have a proper place. For example, the International Covenant on Economic, Social and Cultural Rights, the European Social Charter, the Charter of Fundamental Rights of the European Union, etc. [14].

The main legislative document that regulates relations in the field of physical culture and sports is, of course, the Law of Ukraine "On Physical Culture and Sport" [5], in article 49 of which it is emphasized that the state provides training and re-training of personnel in the field of physical culture and sports, special attention is paid to their preparation for work in rural areas.

To implement this provision of the Law of Ukraine "On Physical Culture and Sport", the government develops and adopts the relevant by-laws and regulations. In the analysis of the last

three state programs for the development of physical culture and sports, which are developed every 5 years by the Ministry of Youth and Sports of Ukraine and approved by the Decree of the Cabinet of Ministers of Ukraine, we must pay attention to the fact that proper training of a personnel reserve is one of the priority strategic directions for the development of physical culture and sports at state and regional, as well as at local levels.

According to statistics, the Ministry of Youth and Sports of Ukraine annually reports that in our country at the end of 2018 there were only 70,135 full-time employees (Table).

As can be seen from the Table, the largest share of the total number of full-time employees is made up of employees of general educational institutions (in 2018 – 23,674 people) and sports trainers, trainers, teachers, and sports teachers (in 2018 – 14691 people). The smallest share of the total number of full-time employees is made up of physical education instructors from rural and village councils and united territorial communities (in 2018 – 810 people).

An analysis of the dynamics of the indicators of staffing in the field of physical education and sports indicates that the number of full-time employees over the past 10 years has decreased by 8,3% and amounted to 76,447 people in 2008. If we analyze the indicators of staffing for various categories of full-time employees, then from 2008 to 2018 there was a noticeable decrease in the number of employees of higher educational institutions (by 30,9%) and sports facilities (by 27,7%), and trainers in sports, trainers, teachers of sports (19,7%). Such a massive reduction in workers is due to changes in the state course on the activities of higher education institutions, which included a reduction in the hours allocated to physical education and sports and fitness work, a decrease in the financing of higher education institutions for physical education and sports, and a significant decrease in the number of sports schools and specialized educational institutions sports profile, as well as the political situation in the country, crisis phenomena in the economy, etc.

However, during the period under study, there was an increase in full-time employees of preschool educational institutions (by 34,8%), physical education and sports societies and departmental physical education and sports organizations at all

Full-time workers in the field of physical education and sports, according to the Ministry of Youth and Sports of Ukraine

No. i/o	Indicator Name	Number of employees (person)		Dynamics of indicators (%)
		2018	2008	
1.	Workers in the field of physical education and sports:	70135	76447	-8,3
1.1.	preschool educational institutions	3432	2236	+34,8
1.2.	general educational institutions	23674	27635	-14,3
1.3.	vocational schools	1648	1778	-7,3
1.4.	institutions of higher education	5539	8027	-30,9
1.5.	sports facilities	1926	2664	-27,7
1.6.	educational institutions, enterprises, institutions, organizations of all types	3098	3787	-18,2
1.7.	structural units for physical culture and sports of executive authorities (local government) at all levels	1867	1550	+16,9
1.8.	physical culture and sports societies and departmental physical culture and sports organizations of all levels	1627	1350	+17,02
1.9.	sports trainers, trainers, teachers from sports	14691	18291	-19,7
1.10.	physical trainers of rural and village councils, united territorial communities	810	787	+2,8

levels (by 17,02%), structural units for physical culture and sports of organs executive power (local government) at all levels (by 16,9%).

According to the current legislation, the state provides all specialists in the field of physical education and sports:

- appropriate conditions for work, leisure, medical care;
- advanced training once every five years;
- legal and social protection;
- compensation established by the labor legislation;
- appointment and payment of pensions in accordance with the law;
- the establishment of allowances for sports titles to Masters of Sports of Ukraine, Masters of Sports of International Class Of Ukraine, Honored Masters of Sports of Ukraine in the manner determined by the Cabinet of Ministers of Ukraine [5; 7].

Executive bodies for physical education and sports, for education, healthcare, taking into account the proposals of relevant public organizations, determine the need for specialists in sports and fitness and sports profile. The central executive body in the field of physical culture and sports takes part in licensing and accreditation of higher educational institutions in which specialists in the field of physical culture and sports are trained in the manner determined by the Cabinet of Ministers of Ukraine.

It is especially worth paying attention to the provisions of the Law of Ukraine "On Physical Culture and Sport" that citizens with special education received in accredited educational institutions have the right to conduct pedagogical, educational, training and health-improving work in the field of physical culture and sports. However, in practice, the activities of fitness institutions can be observed as trainers, fitness instructors, etc. They can accept people without education, without transparent certification and experience. Fitness institutions mainly carry out internal work to enhance the competence of their employees, opening a school of fitness trainers, fitness managers. Firstly, the indicated activity, of course, is not regulated by the state, and, secondly, the competence of such "specialists" who receive a certificate of a trainer in a rather short period of time is very doubtful.

Moreover, at the legislative level, fitness facilities, despite a significant increase in their number in recent years, carrying out business activities, are not subject to licensing by the state. Indeed, in the Law of Ukraine "On licensing of types of economic activity" [4], adopted on 03.03.2015, the latest revision of which was July 01, 2019, in article 7 "List of types of economic activity subject to licensing" of such type of economic activity as providing fitness-services to the population, not specified.

Another urgent problem in the context of the legal regulation of labor of specialists in the field of physical culture and sports is the definition of common principles for the legal regulation of labor of professional athletes. This will save the foundations of state regulation of labor relations and at the same time provide broad powers to the parties to the labor relationship with independent determination of the necessary conditions of the labor contract. In the international sports arena, the level of achievements is growing extremely rapidly, so professional sports can be considered one of the most difficult human activities. It follows from this that every professional athlete has

the right to fair remuneration of labor, self-realization, a safe ecological environment, etc. Moreover, the legal consolidation of the rights and interests of professional athletes should be not only in labor contracts, but also at the legislative level. However, in the main legislative document - the Law of Ukraine "On Physical Culture and Sport" only general principles of activity in the field of professional sports are defined. The law does not even contain a definition of such a thing as a contract with an athlete.

Article 38 of the Law of Ukraine "On Physical Culture and Sport" states that "activities in professional sports of athletes, coaches and other specialists, which consists in preparing and participating in sports competitions among professional athletes and are the main source of their income, are carried out in accordance with from this Law, the Code of Labor Laws of Ukraine and other regulatory legal acts, as well as statutory and regulatory documents of the relevant entities of the sphere of physical education and sports and international portable organizations" [5]. However, legal scholars believe that a contract with a professional athlete contains all the signs of a civil law contract, and therefore it should be governed by civil rather than labor law.

In addition, it is necessary to take into account the specific features of each sport. Indeed, for team and individual sports, a different specificity of relations is characteristic. Team sports have an employer-employee relationship, where the club is the employer and the athlete is the employee. In individual sports, the athlete's activities are inherently independent of the club, aimed at making a profit, and contracts are concluded with the aim of providing access to certain competitions.

So, in 2015, the Regulation on working with FIFA intermediaries (agents) was adopted, which confirmed an important change in the approach to managing this category of specialists in the field of physical education and sports. This emergency reform has had a huge and lasting impact on the consolidated national rules for agents [16].

From a legal point of view, the observance of human rights in contracts and agreements to which professional athletes are parties is also an important issue. So, in the work of foreign legal specialist Daniela Heerdt [15], devoted to the study of human rights violations during mega-sports events, we find that in May 2017, UEFA announced its updated requirements for the 2024 tournament, which now directly refer to the protection of rights of man. In addition, the IOC developed host city contracts for the summer Olympic Games 2024 and 2028 for the first time in the history of the Olympic Games, include human rights provisions. Issues of legal protection of the rights to the image of athletes are also interesting for jurisprudence. As Simon Boyes [13] points out in his work, the image provides significant commercial opportunities for well-known athletes, which requires legal protection in order to preserve their exclusivity and, thus, value such rights.

Conclusions / Discussion

The sphere of physical education and sports in Ukraine is regulated by the state with legislative, sub-legislative and regulatory and program documents that regulate the activities of organizations for the development of physical education, mass sports, professional sports, fitness, physical rehabilitation

and the like. At the same time, the issue of staffing remains a problem in Ukraine [8].

So, I. L. Gasyuk [1] gives the following definition of the term "personnel policy in the field of physical culture and sports" – it is "systematic activity of government bodies aimed at the formation, improvement, implementation of a set of standards, professional requirements for employees, pedagogical and other industry workers, criteria for their selection, training and retraining, advanced training, the rational use of human resources and their preservation based on quantitative and qualitative forecasts and development prospects physical education and sports in Ukraine ...".

Characterizing the peculiarities of the personnel policy in the field of physical culture and sports, A. V. Gorbenko [2] gives his own definition of personnel management – this is "a strategy that combines various forms of personnel work, in particular, personnel planning in various links of the physical culture movement".

We agree with the opinion of these authors and give our own definition of the concept of "legal regulation of labor of specialists in the field of physical education and sports" as a system of standards for the regulation of labor relations in the field of physical education established by legislative, subordinate and local regulatory documents, as well as domestic and international acts and sports.

We also confirmed the opinion of domestic scientists S. Moiseeva [8], M. V. Dutchak [3], I. L. Gasyuk [1], personnel and their level of professional competence is a decisive and main condition for the development of the sphere of physical culture and sports in Ukraine.

We have confirmed the data of the authors S. Nikitenko [9], I. E. Rybichich [11], A. A. Polyansky [10] and the data of our previous studies [12] on the existence of urgent problems in the context of legal regulation of labor by specialists in the field of physical education and sport and the need to improve the system of norms in the field of sports relations at the legislative level, in particular, the creation of a unified system of certification of fitness trainers and other fitness personnel, fixed at the state level, the definition of common principles for legal labor regulation of professional athletes.

We agree with the opinion of foreign authors [15; 17] that the constant disclosures of human rights violations in world sports reduce the level of trust in international sports authori-

ties. An urgent issue, according to Brendan Schwab, is the development of a number of sports laws that would actively protect, respect and support internationally recognized human rights and that would be enforced by a properly designed complaints mechanism [17].

It has been established that the staffing indicators for various categories of full-time employees in the field of physical education and sports over the past 10 years have decreased by 6312 people. An analysis of the dynamics of the indicators of staffing in the field of physical education and sports indicates, firstly, the lack of a coordinated and well-functioning mechanism that would ensure timely monitoring of the economic feasibility of training specialists of certain specialties in the field of physical education and sports, and, secondly, the problematic provision countryside workers in the field of physical education and sports. These conclusions are confirmed by the data of previous studies of the authors A. V. Gorbenko [2] and S. Moiseeva [8].

So, the rapid development of the sphere of physical education and sports, in particular, the fitness industry and professional sports, necessitates improving the legal regulation of labor of specialists in the field of physical education and sports in Ukraine in the following areas:

- firstly, it is necessary to create a unified system of certification of fitness trainers and other fitness personnel, fixed at the state level, with the aim of providing high-quality fitness and fitness services to the population and in the future - strengthening the health of the nation;
- secondly, it is necessary to determine uniform principles for the legal regulation of the work of professional athletes, and will provide the proper conditions for the implementation of their activities;
- thirdly, it is necessary to monitor the economic feasibility of training specialists of certain specialties in the field of physical education and sports by universities, which will ensure the creation of a coordinated and streamlined mechanism of state personnel policy.

These areas are of particular importance, given the fact that Ukraine has announced a European development vector.

Prospects for further research associate with the need for development and validation of specific measures to improve legislation in the sphere of physical culture and sport, taking into account the positive foreign experience of legal regulation of sporting activities.

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Information about the Authors

Marina Sannikova: Candidate of Juridical Sciences (Ph.D), Kharkiv State Academy of Physical Culture: 99 Klochkivska Str., Kharkiv, 61058, Ukraine.

ORCID.ORG/0000-0003-2931-2190

E-mail: svetlanastadnik87@gmail.com