

CONSIDERATIONS REGARDING ETHICS AND INTEGRITY IN THE PREVENTION AND FIGHT AGAINST DOPING IN ROMANIAN SPORT

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The reason that led to this paper to be written is to explain the new meanings of the notions of ethics, integrity, responsibility and accountability - in order to hold accountable those involved, directly or indirectly, in sports. Ethics management, “as one of the disciplines of management”, deals with the development of those leadership tools that contribute to the ethical development of an organization, as well as the methods that can be used to determine in which direction organizations should develop. Sport, already considered a notable social phenomenon, requires a real “legalization” able to frame it harmoniously and consciously in the context and rigors of a civilized conduct, of the highest morality, but also of strict legality and responsibility. The author argues that ethical management seeks to improve decision-making processes, procedures and organizational structures, so that the activities of the organization are as closely related to ethical principles.

Keywords: ethics, legal ethics, legal responsibility, professional responsibility, integrity, doping in sports, sports business.

CONSIDERAȚII PRIVIND ETICA ȘI INTEGRITATEA ÎN PREVENIREA ȘI COMBATerea DOPAJULUI ÎN SPORTUL ROMÂNESC

Motivul care m-a determinat ca să elaborez această lucrare este acela de a explicita noile accepțiuni ale noțiunilor de etică, integritate, răspundere și responsabilitate – în vederea responsabilizării a celor implicați direct, sau indirect, în activitatea sportivă. Managementul eticii, „ca una dintre disciplinele managementului”, se ocupă de elaborarea acelor instrumente de conducere care contribuie la dezvoltarea etică a unei organizații precum și a acelor metode care pot fi utilizate spre a determina în ce direcție ar trebui să se dezvolte organizațiile. Sportul, considerat deja un fenomen social notabil, necesită o reală „juridicizare” capabilă de al încadra armonios și conștient în contextul și în rigorile unei conduite civilizate, de cea mai înaltă moralitate, dar și de strictă legalitate și responsabilitate. Autorul susține opinia că managementul etic urmărește îmbunătățirea proceselor decizionale, a procedurilor și structurilor organizaționale, în așa fel încât, activitățile organizației să fie cât mai mult legate de principiile etice.

Cuvinte-cheie: etică, etică juridică, răspundere juridică, răspundere profesională, integritate, dopaj în sport, afacere sportivă.

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CONSIDÉRATIONS SUR L'ÉTHIQUE ET L'INTÉGRITÉ DANS LA PRÉVENTION ET LA LUTTE CONTRE LE DOPAGE DANS LE SPORT ROUMAIN

La raison qui m'a amené à élaborer ce travail est d'expliquer les nouvelles significations des notions d'éthique, d'intégrité, de responsabilité et de responsabilité – afin de responsabiliser les personnes impliquées, directement ou indirectement, dans l'activité sportive. La gestion de l'éthique, "comme l'une des disciplines de la gestion", traite du développement des outils de leadership qui contribuent au développement éthique d'une organisation, ainsi que des méthodes pouvant être utilisées pour déterminer dans quelle direction les organisations devraient se développer. Le sport, déjà considéré comme un phénomène social notable, nécessite une véritable "juridicisation" capable de l'encadrer harmonieusement et consciemment dans le contexte et les rigueurs d'une conduite civilisée, de la plus haute moralité, mais aussi de la légalité et de la responsabilité strictes. L'auteur soutient l'opinion selon laquelle la gestion éthique cherche à améliorer les processus de prise de décision, les procédures et les structures organisationnelles, de manière à ce que les activités de l'organisation soient autant que possible liées aux principes éthiques.

Mots-clés: éthique, éthique juridique, responsabilité juridique, responsabilité professionnelle, intégrité, dopage dans le sport, sport business.

РАЗМЫШЛЕНИЯ ОБ ЭТИКЕ И ЧЕСТНОСТИ В ОБЛАСТИ ПОЛИТИКИ ПРЕДОТВРАЩЕНИЯ И БОРЬБЫ С ДОПИНГОМ В РУМЫНСКОМ СПОРТЕ

Причина, по которой я написал данную статью, заключается в том, чтобы объяснить новое значение понятий этики, честности, ответственности и подотчетности - для привлечения к ответственности тех, кто прямо или косвенно занимается спортом. Управление этикой, «как одна из дисциплин менеджмента», занимается разработкой тех инструментов лидерства, которые способствуют этическому развитию организации, а также тех методов, которые можно использовать для определения того, в каком направлении организации должны развиваться. Спорт, который уже считается заметным социальным явлением, требует настоящей «легализации», способной гармонично и сознательно оформить его в контексте и строгости цивилизованного поведения, высочайшей морали, но также строгой законности и ответственности. Автор утверждает, что этическое управление направлено на улучшение процессов принятия решений, процедур и организационных структур с тем, чтобы деятельность организации максимально была бы тесно связана с этическими принципами.

Ключевые слова: этика, юридическая этика, юридическая ответственность, профессиональная ответственность, честность, допинг в спорте, спортивный бизнес.

Introduction

We can say that "ethics and moral responsibility were not very much of interest in Romanian society..."², although the intentions and efforts of many of us, somewhat dispersed, also focused on the field of sports ethics. This condition can be remedied by a clear, not at all abstract and, as all studies show, effective solution - called "ethics management"³, which consists of the application of the laws,

concepts, methods and techniques provided by management science in social practice"⁴.

Ethics management, "as one of the disciplines of management", deals with the development of those leadership tools that contribute to the ethical development of an organization as well as those methods that can be used to determine in which direction organizations should develop. "Ethical management involves the description and analysis of the current ethical situation, the determination of the desirable situation and the decision on the

² Prof. Valentin MUREȘAN, director al Centrului de Cercetare în Etică Aplicată: „Dacă le vorbești oamenilor despre coduri etice, își fac cruce” | adevarul.ro“ - Articol-interviu de Laurențiu Ungureanu din 18 octombrie 2013

³ Idem

⁴ BURDUȘ, E. „Tratat de management”, Ediția a III-a, Editura Pro Universitaria, București, 2017, p. 44.

measures to be taken to achieve it, in perfect agreement with other forms of management.⁵ “Ethical management is the result of the increasingly visible impregnation of responsible organizations, but seen not as an element of decoration, but as an “indispensable condition of their existence.” An organization, in whose category we also include sports structures, demonstrates moral responsibility when it subordinates its interests to the interest of society⁶. Ethical management aims to improve decision-making processes, procedures and organizational structures, so that the activities of the organization are as close as possible to ethical principles. The tools used are codes of ethics, ethical auditing and other “strategies” to lead the organization on the path of respect for morality.⁷ An express commitment to ethical values is also needed in sports organizations. This can be achieved by building an infrastructure and implementing its own self-regulatory systems. Under the normative pressure of international and national institutions and organizations, but also as a result of their own interests, “businesses”, including sports, have developed or adapted different types of codes: codes of ethics, codes of conduct, good practices.

“The duty of the management team, in order to avoid failures, to lose the credibility of the codes and the reason for which they were developed, to strengthen the solidarity and trust between the members within the organization and between the organization and its environment, is, on the one hand, to prevent and maintain the strategies and actions of the codes through permanent reinforcement actions (education, training, recognition, disclosure,

transparency and any other forms that help for this purpose). On the other hand, to accept the reality that there are always differences between the rules, provisions and the real capabilities of the organization and its members. The feeling of community and moral reciprocity implies and comes from a commitment sustained by mutually guaranteed commitments and obligations, which has its origin in a common business horizon with other social actors, the sustainability of the world”⁸.

“Ethical management does not consist in controlling and penalizing staff behavior or in reflecting on work ethic. Rather, it is the set of actions taken by managers to stimulate an ethical awareness and sensitivity that permeates all aspects of the organization’s work.”⁹ Ethical management can promote and maintain an ethical culture within organizations engaged in physical education and sports, both public and private law.

According to the new Romanian Civil Code, all those who operate an enterprise, i.e., the systematic exercise by one or more persons of an organized activity consisting of the following activities: the production, administration or disposal of goods or in the provision of services *whether or not the (undertaking) is of a profit-making nature [article3, paragraph (3) Civil Code]*. Thus, we can say that the new paradigm of sport in Romania must emphasize that sport is not only non-profit, but also the economic one, that has long been present in sport. Sport can no longer be defended by financial interference. Sport must be understood as belonging to a market economy society. Sport is being sold; sport is becoming a commodity. Sport, according to the European Commission’s White Paper on Sport, “is

⁵ SANDU, Antonio, „Etică și deontologie profesională”, Editura Lumen, Iași, 2012, p. 125.

⁶ Idem, cu trimitere la Kaptein, M., (1998) Ethics Management, Auditing and Developing the Ethical content of Organizations, *Issues in Business Ethics*, vol. 10, pp: 31-45.

⁷ Idem, cu trimitere la Jeurissen, R., (2005) Moral complexity in organizations, in Korthals, M., Rogers, R., (eds.), *Ethics for Life Scientist*, vol. 5, pp:11-20

⁸ BRIȘCARIU, Aurica, „GLOBALIZARE ETICĂ. Responsabilitate socială corporativă”, Institutul European, Iași, 2012, p. 84.

⁹ SANDU, Antonio, op. cit., p. 126, cu trimitere la MENZEL, D., (2007), *Ethics Management for Public Administrators: Building Organizations for Integrity*, New York.

a growing social and economic phenomenon, which makes an important contribution to the European Union's strategic objectives of solidarity and prosperity... The Commission recognizes the key role of sport in European society, especially at the moment, when it is necessary to get closer to citizens and to deal with issues that they are directly interested in. However, sport faces new dangers and challenges in European society, such as commercial pressure, the exploitation of young sportsmen, doping, racism, violence, corruption and money laundering" (White Paper on Sport, introduction, paragraphs 1 to 3).

Sports professionals, faced directly with countless problems in terms of moral judgment, responsibility and irresponsibility of sports bodies and their members and those carrying out related activities, seem increasingly interested in forming a concrete and coherent vision in this area. It is stated that sports have become over-professionalized and over-traded - in this sense we can answer that professional sports activities understood in terms of the New Civil Code must be subject to legal regulations. Perhaps, if the scope of this paper allows us, it would be necessary to develop the issue of morality in general, and morality in sport in particular - and to refer to the hypostases of its manifestation of: morality, immorality and amorality - the last two equally dangerous, given that legal norms are based on moral ones. And where morality decays - as a natural consequence - the power of law also decays. Only in this way will we probably be able to understand the need to direct sport to the values of pure sport. Thus, we will be able to combat the possible effects of *a spiral of induced silence* in order to achieve a certain perspective in relation to the valorization of sports activities.

Sports activities and sports business

In the spirit of the above, we can conclude that "*sports affairs*" can be regulated, as

the case may be, by both *the rules of sports law* and *the rules of business law* - defined as *interdisciplinary (multidisciplinary) matter comprising the set of legal rules governing the social relations of the enterprise for profit, or without profit, from the moment of its establishment until the moment of its dissolution (liquidation), respectively the relations that are established between the state on the one hand and professional, on the other hand (administrative, fiscal, criminal law), but also the relations of private law, which means the application of provisions of civil law, labor law and, last but not least, commercial law*. This proposed definition is the result of characterizing as a "business" the object of activity of sports structures - public and private law organizations, specialized public administration structures, as well as the Romanian Olympic and Sports Committee.

The relationship between organizational culture and ethics

Of course, sport, as a notable social phenomenon, both belonging to the cultural and economic areas, is also subject to globalization. But in order to understand what is happening now with the various subsystems of globalization and their consequences in terms of sports ethics, we must admit that: "One of the main features of the current process of globalization is that the traditional boundaries between politics, culture, technology, finance, ecology disappears and none of these dimensions can be approached and explained without the others. So is the phenomenon of globalization as a whole. Each aspect must be addressed separately. Cultural globalization (which also refers to sports activity – author's note Voicu A. V.), the oldest form of global dissemination of information, knowledge and paradigms of explicit world, is less attractive and less analyzed by theorists. The phenomenon is perceived more as a substitute for economic globalizati-

on. This type of ideologization of globalization, economic monocausal, projects cultural or civil-social globalization subordinated to the world market¹⁰ “... since the early decades of the twentieth century, the world has begun to look for common moral values for common problems of the globe. International institutions and organizations, commissions, universities, churches and individuals or associates have realized that ethics, philosophical discipline, is too universal and, as a result, should, on the one hand, be customized to the action of the human being in the form of *applied ethics*, and on the other hand, to meta-synthesize ideas and values, so that they are acceptable to all societies and cultures and become genuinely relevant for the survival and development of the human being. The first goal seems to have been achieved. There are so many ethics that one can philosophize today in the polyphonic register of *financial ethics, human resources ethics, marketing ethics, production ethics, intellectual property ethics, economic system ethics, legislative system ethics, business and international business ethics, bioethics*, etc. The overabundance of ethics is explicable: there is no field or human activity that can be independent of ethics and its caudal forks. Without downplaying postmodernist doctrines and theorists, the second goal, however, of building an *integrative ethic*, has remained at the forefront (although a good reason for the rhetoric of many international gatherings and the establishment of new institutions)”¹¹. Thus, we will refer, with special regard, **to sports ethics** - in direct connection with cultural ethics and business ethics. “*As an applied form of ethics, business ethics is the set of requirements, attitudes, moral habits, rules that guide human behavior in work processes in organizations*”¹² - “*Business (sports) ethics is*

a syncretism between the ethics of individuals who make up the organization and cultural values and economic in which it operates”¹³. Business ethics encompasses the set of rules, rules of conduct, and judgments of moral value regarding the organizations and individuals that make up these entities. As an applied form of ethics, sports ethics is the set of requirements, attitudes, moral habits, rules that guide human behavior in work processes in organizations. For these reasons, sports ethics, like business ethics, has a normative content but at the same time, as an academic discipline or philosophical theory, it also has a descriptive content. Business ethics is dependent on organizational culture.

Organizational culture represents the totality of symbols, beliefs, attitudes and patterns of learned, produced and recreated behavior by organizational members and which are objectively reflected in the goods and in the relationship with the outside. The organizational culture has some fundamental characteristics, including: philosophy/vision of the organization, rules of behavior, norms and values. These attributes could mean that sports ethics and organizational culture are one and the same thing. “In reality, not only do they differ in the sphere of attributes, but there is a gap between them as from abstract to concrete. In the sense that sports ethics, like business ethics, is a body of moral principles that can only be operationalized through organizational culture. It brings the attitudes and values of society within the consumer purchasing field and faster and unrestricted access to resources. Of course, these goals have not only proved to be competitive between companies, but have often exceeded the permissible moral limits by their very serious side effects. The weakening of state power and the lack of a non-negotiable system of legal constraints reminded society that the issue of the moral traits of commercial as well as

¹⁰ BRIȘCARIU, Aurica. Op. cit., p. 57 și urm.

¹¹ Ibidem, p. 63 și urm.

¹² Ibidem, p. 65.

¹³ Ibidem, p. 67.

sporting activities concerned everyone. Thus, the theory of ethical business has become the philosophical paradigm of the reflective world society “, as our time is called¹⁴. In society and in the work process, it is people who create moral frameworks and landmarks. It is not the organization itself that has ethical principles, but the people who activate this virtuality. Business ethics is a syncretism between the ethics of the individuals who make up the organization and the cultural and economic values in which it operates. For individuals, business ethics is not a summation of their moral principles. Moreover, individual principles, beliefs, and moral values do not have the same weight in formulating organizational ethical values, reflected - formally and informally - in organizational culture. Shareholders, managers and leaders have more power to influence the regulation and regulation of organizational behavior. For this reason, the group that holds the authority in the organization has already been assigned a special status in the field of ethics: “*managerial ethics*”.

Thus, as it was stated in the introduction to this paper - ethical management aims to improve decision-making processes, procedures and organizational structures, so that the activities of the organization are related to ethical principles as much as possible. The tools used are codes of ethics, ethical auditing and other “strategies” to lead the organization on the path of respect for morality.

About the necessary moral diagnosis

The construction of an ethical infrastructure in organizations must be preceded by a moral diagnosis (highlighting typical immoral behaviors, including those related to the practice of doping in sport) and a moral hazard study (highlighting their negative effects). Ethical audit is the process by which we measure the “ethical climate,” in other words, the internal

and external coherence of an organization’s core moral values. Ethical audit establishes the moral profile of an organization, the factors that affect its reputation and image in society - seeks to determine what moral values and standards are in operation, whether they are pursued or not, whether the ethical goals of the organization are achieved (internal control) and, on the other hand, whether the organization behaves responsibly and transparently with its partners, taking into account, where appropriate, cultural and value differences, and why not? - the psychological profile of the people we belong to.

Thus, for a good reception of the message of this paper / presentation we think, we will have to refer to the need to know the current *psychological profile* of our compatriots - which mirrors and generates the civic spirit regarding ethics, morality / integrity of our deeds - and attitudes (ir)responsible individuals and society for non-compliance with social, ethical, moral and deontological behavioral requirements.

We consider it necessary, before building an ethical infrastructure in sports organizations which have as their object sports activities, or their control and guidance, to make a diagnosis of their receptivity to the cultural and legal values of the European Union which, according to some “they are starting to haunt us too” - given that, unfortunately, neither of us have fully joined the current of the 1960s, in which “society, activists from all ideological spheres, non-governmental organizations and associations, especially from economically developed countries, initiated the *Normative Revolution*, as Donaldson calls it. It was the counter-reaction (incipient in fact – author’s note Voicu, A.V.) of the civil society, in the form of all its courts, to the need for ideals and moral values...”¹⁵ - in fact, at that time, Romania was restricted by different geopolitics than

¹⁴ Ibidem, p. 67 și urm.

¹⁵ BRIȘCARIU, Aurica. Op. cit., p. 70.

the one we are in - European and the North Atlantic Alliance.

Thus, I propose to transfer such a diagnosis to specialists in the field. In such a situation I recommend the psychologist Daniel David¹⁶ who set out to develop in a modern paradigm of contemporary psychology the works of “academician, philosopher and psychologist Constantin Radulescu-Motru” dedicated to the psychology of the Romanian people... the purpose of the monograph being constructive and progressive, highlighting the strengths and correcting such a psychological profile, generated from the perspective of intercultural psychology, is very informative if you want to design public policies and country projects¹⁷

“A people who know themselves psychologically is more emancipative and harder to manipulate...such a type of approach such as the *Sapere aude* (Latin phrase means *Daring to know*, sometimes translated and *Dare to think*) can only help us all! ... people are not “obscure”/“retrograded”, but can at most be surprised by the emergence of an ethical, not emical¹⁸ approach, as they were used to, connected to a sensitive theme and/or cultural

voice, beyond the own domain of modern Romanian psychology, especially in an avoiding culture like ours, where change and the new/innovation scare!”¹⁹

Daniel David states that “the paper is addressed not only to psychologists, but also to specialists in other fields of science, people of culture, the general public and those who make national policies ... Daniel David summarized the whole approach, and presented the implications (for example, what we need to do to evolve) and its limits and developments for the future ... so I urge you to hold this book in your hands and read it ...

... the development of this psychological component can be part of a country project, through which Romania is not only a state that has joined the European space, but a perfectly integrated one in this space... Daniel David’s prediction is that, adopting an educational, sociocultural policy and economically wise policy Romania will achieve this integration. What will be left of the current psychocultural profile? We believe that little, because, in essence, Romanians are integrated into European culture, only that they have been blocked in their way by the obstacles of history, the last being the communist period.

Indeed, with certain well-thought-out public policies, the positive psychological potential can be turned into reality ... These programs must, however, be designed by people with a professional profile that is congruent to the target of the programs and also implemented by people of this kind, otherwise some forms remain - imposed by the European institutions - without substance, designed only to consume the money allocated to them. On national cultural programs (as well as those concerning sport author’s note Voicu, A. V.): they must bring a new air, a paradigm shift, along the lines of the ideal psychocultural model, including in the polyphonic component of

¹⁶ Prof. univ. dr. Daniel David, „Psihologia poporului român. Profilul psihologic al românilor într-o monografie cognitiv experimentală”, Editura Polirom, Iași, 2015.

¹⁷ Daniel David, 2015, p. 20-24

¹⁸ More precisely, this monograph approaches in a dominant ethical framework (with emic elements), from a cognitive perspective (with a psychometric and sometimes clinical content), the discrepancy between “how are” and “how are believed” Romanians in terms of psychological attributes, on an experimental / empirical background (with the methodology of intercultural psychology), in a framework of complexity theory and multilevel analysis. This approach is complementary to other previous approaches to Romanian psychology conceived from the perspective of other psychological specialties (for example, ethnopsychology, social psychology, intercultural and cultural psychology), often in a dominant emic approach (with ethical elements). The terms ethical and emic have different nuances in different authors - in the context of this monograph, if the emic approach refers to understanding and studying the phenomenon within the analyzed culture, the ethical approach involves understanding the phenomenon with an international methodology that systematically relates to other countries / cultures.”

¹⁹ Ibidem, p. 24.

Romanian culture and the component of scientifically validated knowledge (*evidence-based knowledge*), i.e., a knowledge-based culture, which is absolutely mandatory in a globalized world driven by knowledge (*knowledge-based society*) ...²⁰

About the legal normative framework of anti-doping policies

Organizational culture internalizes the norms and values of the sports organization - defining its specificity in terms of relations with the internal and external environment. The rules of organizational ethics, which aim at anti-doping regulations, can be imposed on participants in sports activities in the form of codes of ethics, internal regulations, regulations of disciplinary commissions, medical regulations, etc.

The Constitutional Court of Romania, by its Decision, no. 560 of May 29, 2012 regarding the exception of unconstitutionality of the provisions of art. 61 of Law no. 227/2006 on preventing and combating doping in sports, published in the Official Gazette of Romania, Part I, no. 537 of August 1, 2012, found that in the field of doping in sport, the Lausanne Court of Arbitration for Sport functions as a disciplinary court, especially after the adoption of the World Anti-Doping Code, which in this case confers direct jurisdiction on that court. Thus, the Constitutional Court, in the name of the law, decided "Rejects, as unfounded, the exception of unconstitutionality of the provisions of art. 61 of Law no. 227/2006 on the prevention and combating of doping in sports, exception raised, ex officio, by the Cluj Court of Appeal... Definitive and generally mandatory ...

In Part I of the World Anti-Doping Code 2021, under the title of Doping Control, paragraph 2 stipulates: "All provisions of the Code are substantially binding and must be followed

as applicable by each anti-doping organization and by any athlete or other person.

When we refer to the issue of practical ethics - we cannot fail to refer to the issues concerning the moral profile of all participants in sports activities, which concern their rights and obligations under the World Anti-Doping Code, hereinafter referred to as the Code, entered into force on January 1, 2021, which also stipulates the sanctions that will be taken in case of violation of its provisions. Apart from the institutional system made up of all the signatories of the Code, we refer to: **Athlete Assistant Staff**, which according to the document prepared by the World Anti-Doping Agency (WADA) entitled "Guide to Athlete Assistant Staff for Significant Amendments to the 2021 Anti-Doping Code" as: "*any coach, trainer, manager, agent, team staff, official, medical or paramedical staff, parent or any other person who works, treats or assists an athlete who participates in, or is preparing for, sports competitions*", It states: "The code applies to both you and your athletes. You have a personal responsibility to always operate in the spirit of sport and anti-doping rules. You also have an influence on the athletes you support. All sports assistants should create a clean sports environment that allows athletes to train and compete in accordance with anti-doping regulations. Education plays a vital role in making sure that both you and the athletes you work with know everything that is important about anti-doping and clean sports"; **Athletes** - the "Athlete's Guide to Significant Amendments to the 2021 Code" states that the World Anti-Doping Code "defines several different levels or types of athletes: *National; International level; Minors; Protected persons; Recreational*. It is important to always know which category you are in. The National Anti-Doping Organization and the International Federation will have specific definitions for each of these groups of athletes."

²⁰ Ibidem, p. 329 și urm.

The goals of the World Anti-Doping Code and the World Anti-Doping Program that support it are: to protect the fundamental right of athletes to compete in a clean, doping-free sport and thus to promote the health, fairness and equality of athletes worldwide, and ensure the implementation of effective, coordinated and harmonized international and national anti-doping programs to prevent doping, including: **Education** - to raise awareness, inform, communicate, instill values, develop skills and decision-making abilities to prevent intentional or unintentional violations of anti-doping regulations; **Discouragement** - to discourage potential users of doping substances by implementing strict and well-known regulations and sanctions by all partners; **Detection** - an effective testing and investigation system not only reinforces a deterrent effect but is also effective in protecting clean athletes and the spirit of sport, by detecting those who violate anti-doping regulations, while contributing to the deterrence of anyone involved in doping behavior; **Enforcement** - to prosecute and punish those found guilty of violating anti-doping rules. **Rule of law** - to ensure that all partners have agreed to abide by the Code and International Standards and that all measures taken to implement their anti-doping programs are in accordance with the Code, International Standards and the principles of proportionality and rights.

Being in full agreement with the “**Fundamental Arguments for the World Anti-Doping Code**” as follows: “**1.** Anti-doping programs are based on what is intrinsically valuable in sports. This intrinsic value is often referred to as the “spirit of sport”; it is the ethical aspiration towards human excellence by dedicating the natural aptitudes of each Athlete; **2.** Anti-doping programs aim to protect the health of sportspeople and provide them with the opportunity to aspire to human excellence without the use of prohibited substances or methods; **3.** Anti-doping programs aim to protect the *inte-*

grity of sport in the sense of respect for the rules, for other competitors, for fair competition, a competitive environment with equal opportunities, and the value of clean sport in relation to the world. **4.** The spirit of sport is a celebration of the human spirit, body and mind. It is the essence of Olympism and is reflected in the values we find in and through sport, including: health, ethics, *fair play* and honesty, the rights of athletes as set out in the Code, excellence in performance, character and education, pleasure and joy, team work, devotion and commitment, respect for rules and laws, respect for self and other participants, courage, community and solidarity”, we cannot fail to refer to some considerations regarding the content and quality of educational work in sports organizations / structures.

However, the Code does not replace or eliminate the need for comprehensive anti-doping regulations adopted by each anti-doping organization. While some provisions of the Code must be included without substantial changes by each anti-doping organization in its own regulations, other provisions of the Code set out binding principles that allow flexibility in the formulation of regulations by each anti-doping organization or set requirements to be met, by each anti-doping organization, without the need to be reiterated in its anti-doping regulations.

Thus, until resolving the issue of law regarding the competent court exclusively with disputes generated by anti-doping rules in sports, discussed even at the level of the International Union of Lawyers, in which we recommended the need to be involved in sports doping disputes (with reference to when using drugs / doping substances) and national courts of common law²¹, developing, following the

²¹ VOICU, A. V., AVORNIC, Gh., *Critical considerations regarding the realization of the law in an anti-doping rules in the sporting activities*, in the organization of the International Union of Lawyers (The International Union of Lawyers - <http://www.unionlawyers.ru/international/eng/tasks.html>) and the University of Krasnoyarsk, Russia, as a guest speaker, May 25, 2018; See also: VOICU, A. V., “Some con-

publication of this paper, the normative framework of anti-doping policies, contained in the new *Law on preventing and combating doping in sports*²², which repealed, for good

considerations on child protection in connection with drug use / doping and doping practices”, NATIONAL ANTI-DRUG CONFERENCE - with international participation, 3rd Edition “The impact of Romania’s integration into the European Union from the perspective of reducing the demand and supply of illicit drugs. Treatment of addictions. Challenges and opportunities” Cluj-Napoca, October 25 - 27, 2007, organized by the National Anti-Drug Agency - Cluj regional service Center for Drug Prevention, Evaluation and Counseling of Cluj County and the University of Medicine and Pharmacy” Iuliu Hatieganu “Cluj-Napoca, in The CD of the conference (made by SC EJUPRESS SRL Cluj-Napoca, str. Campului no. 40/101, Tel.: 264-422002, 0747-221106, e-mail: ejupress@gmail.com);

²² The President of Romania signed on Thursday, December 23, 2021, the Decree for the promulgation of the Law on preventing and combating doping in sports (PL-x 514 / 25.10.2021); Reason - Section 2 Reason for issuing the normative act: Description of the current situation: Given the fundamental right of athletes to practice clean, doping-free sport and thus to protect health and promote fairness and equality for athletes throughout the world It is necessary to implement effective, coordinated and harmonized anti-doping programs at the national level to detect, deter and prevent doping in sport. The National Anti-Doping Agency (ANAD) is a public institution with legal personality and decision-making autonomy in the anti-doping activity and operates under Law no. 227/2006 on preventing and combating doping in sports. The entire activity of ANAD is in line with international regulations in the field, respecting the principles and standards formulated by the World Anti-Doping Agency (WADA), the Council of Europe and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Accession to the International Convention against Doping in Sport, adopted at the General Conference of the United Nations Educational, Scientific and Cultural Organization in Paris on 19 October 2005 by Law No. 367/2006 and ratification of the Anti-Doping Convention by the Council of Europe Law no. 171/1998, as well as by signing the Copenhagen Memorandum in 2003, obliges Romania to comply with and implement at national level the World Anti-Doping Code (Code) developed by WADA. Council of Europe member states have agreed, under the auspices of the Council of Europe Anti-Doping Convention, in the Monitoring Group of the Convention and the Ad Hoc Committee on the World Anti-Doping Agency, to lay the groundwork for uniform legislation on preventing and combating doping. in sports. In order to achieve a high degree of international standardization of legislation on the prevention and combating of doping in sport, a series of legislative changes in the field are required, which should be materialized by drafting a new normative act on preventing and combating doping in sport. This bill is a legislative emergency because the amendments to the Code, following the revision process approved by the WADA Executive Committee in Katowice (Poland) in November 2019 and during 2020, respectively, had as a deadline to be taken over in full in Romanian law. dated 01.01.2021. Non-compliance with national legislation with the provisions of the Code will lead to

reasons²³, Law no. 227 of June 7, 2006, republished, on preventing and combating doping in sport - all these regulations prohibiting do-

the establishment of the National Anti-Doping Agency’s non-compliance measure ordered by WADA, in accordance with the Code and the International Standard for Code Compliance of the Signatories. Specifically, the state of non-compliance translates into a series of possible sanctions that would affect the sports movement as a whole, such as the impossibility for Romania to organize more sporting events and the ban on the participation of Romanian athletes in major international competitions. Olympics, Paralympic Games, World or European Championships, etc.)...

²³ Reason - Section 2 Reason for issuing the normative act: Description of the current situation: Given the fundamental right of athletes to practice clean, doping-free sport and thus to protect health and promote fairness and equality for athletes throughout the world It is necessary to implement effective, coordinated and harmonized anti-doping programs at the national level to detect, deter and prevent doping in sport. The National Anti-Doping Agency (ANAD) is a public institution with legal personality and decision-making autonomy in the anti-doping activity and operates under Law no. 227/2006 on preventing and combating doping in sports. The entire activity of ANAD is in line with international regulations in the field, respecting the principles and standards formulated by the World Anti-Doping Agency (WADA), the Council of Europe and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Accession to the International Convention against Doping in Sport, adopted at the General Conference of the United Nations Educational, Scientific and Cultural Organization in Paris on 19 October 2005 by Law No. 367/2006 and ratification of the Anti-Doping Convention by the Council of Europe Law no. 171/1998, as well as by signing the Copenhagen Memorandum in 2003, obliges Romania to comply with and implement at national level the World Anti-Doping Code (Code) developed by WADA. Council of Europe member states have agreed, under the auspices of the Council of Europe’s Anti-Doping Convention, in the Monitoring Group of the Convention and the Ad Hoc Committee on the World Anti-Doping Agency, to lay the groundwork for uniform legislation on preventing and combating doping. in sports. In order to achieve a high degree of international standardization of legislation on the prevention and combating of doping in sport, a series of legislative changes in the field are required, which should be materialized by drafting a new normative act on preventing and combating doping in sport. This bill is a legislative emergency because the amendments to the Code, following the revision process approved by the WADA Executive Committee in Katowice (Poland) in November 2019 and during 2020, respectively, had as a deadline to be taken over in full in Romanian law. dated 01.01.2021. Non-compliance of national legislation with the provisions of the Code will entail the establishment of the measure of non-compliance of the National Anti-Doping Agency ordered by WADA, in accordance with the Code and the International Standard for Code Compliance of the Signatories. Specifically, the state of non-compliance translates into a series of possible sanctions that would affect the sports movement as a whole, such as the impossibility for Romania to organize more sporting events and the ban on the participation of Romanian athletes in major international competitions (Games Olympics, Paralympic Games, World or European Championships, etc.) ...

ping in sport for ethical and medical reasons. See also Law no. 104 of May 9, 2008, republished, on preventing and combating the illicit production and trafficking of doping substances, published in Official Gazette of Romania, Part I, no. 451 of June 28, 2011; Law no. 205 of May 26, 2004 on animal protection, republished and updated, with special reference to art. 6 let. g and art. 18; Government Decision no. 806/2021 for the modification of the Methodological Norms for the application of the provisions of Law no. 339/2005 on the legal regime of narcotic and psychotropic plants, substances and preparations, approved by Government Decision no. 1,915 / 2006, published in the Official Gazette, Part I, no. 750 of August 2, 2021. This, among others, according to the new regulation, art. 53 para. (1), refers to the Commission for the Destruction of Narcotic and Psychotropic Plants, Substances and Preparations Used in Human Medicine or Veterinary Medicine, which also has a representative of the Territorial Formation to Combat Illicit Trafficking and Drug Use (let. c)”. All this, of course, excluding the contrary provisions of **the Law on preventing and combating doping in sport**. Of course, we will join these normative acts with the special law on physical education in Romania, Law no. 69/2000, which includes references to doping in sports provided in Art. 18, letter Ț, Art. 20, let. f), Art. 86, Title XIII Prevention and violence in sport and the fight against doping, Title XIV, entitled Sanctions.

About moral education - the foundation of civic education

To understand the acceptance of contemporary behavioral imperatives of *ethics*, *morality* - a concept used more recently under the dome of the notion of *integrity* - due to the fear of the ordinary man of the restrictions and sanctions²⁴ stipulated in violation of ethics, legal

²⁴ Interview article, by Laurențiu Ungureanu from Octo-

norms and other social norms, within the scope of the much broader notion of *deontology*, set out in the ethical or deontological codes of certain professions, it is necessary, at the outset, where appropriate, to supplement the common moral education - that is, the basic moral structures of an individual raised in a particular environment that varies from individual to individual and cannot be a standard²⁵”. “Only in this way will we be able to contribute to the awareness of all active or passive participants in the sports phenomenon, as well as of the political decision-makers in the field, regarding the “acute need to frame this phenomenon in the context of a civilized conduct, of the highest morality, but also of strict legality and responsibility²⁶”. Because in sports structures - and in those of decision makers, a lot of individuals with different moral (integrity) structures work. And because we will develop the legal meaning of the term *integrity*, I will present the two Mottos attached to a valuable work by Professor Mihai Adrian Hotca: “*Motto 1: In serious, long-term business, a component of the strategy must be integrity, ensured by codes of ethics and compliance procedures; otherwise, success is illusory and failure is certainty. Motto 2: Just as the heart is essential for the body to stay alive, so is integrity for business.*”²⁷

About legality - social behavioral imperative

Theoretically, in Romania, there is no question of the existence and importance of legal-legislative factors, environmental factors of the external environment (internal and internatio-

ber 18, 2013, with reference to Prof. Valentin Mureșan, read work

²⁵ Idem.

²⁶ Afterword signed by Prof. univ. dr. Mircea MUREȘAN, at VOICU, A.V., „Delinquent civil liability with special regard to sports activity”, Ed. Lumina Lex, Bucharest, 1999

²⁷ Mihai Adrian HOTCA, *Business Integrity and Law*, Premium Magazine, Universul Juridic, Bucharest, June 8, 2021, article published and taken from Revista Iustitia no. 1-2 (17-18) / 2019 of the Dolj Bar.

nal), of the sports organization and coexisting with economic, technical and technological, socio-cultural, managerial, demographic, ecological, socio-cultural, political (internal state policy, foreign state policy, European Union policy).

At the very least, the group of legal and legislative factors and the group of political factors must (should) include factors that are in line with what the European Commission values in its White Paper on Sport: “it is a constantly evolving social and economic phenomenon, with an important contribution to the European Union’s strategic objectives of solidarity and prosperity. The Olympic ideal for the development of sport in order to promote peace and understanding between nations and cultures, as well as the education of young people, was born in Europe and was supported by the International Olympic Committee and the European Olympic Forum. Sport attracts citizens, most of whom regularly participate in sports activities. It generates important values such as: team spirit, solidarity, tolerance and fair play, contributing to personal development and fulfillment. Sport also promotes and actively supports the active contribution of EU citizens to society. The Commission recognizes the key role of sport in European society, especially at a time when it is necessary to approach citizens and deal with issues of direct concern to them. However, sport faces new dangers and challenges in European society, such as trade pressure, exploitation of young athletes, **doping**, racism, violence, corruption and money laundering” (White Paper on Sport, Introduction, paragraphs 1-3).

Legality must emanate from both the international structures of sport and the positive law of a country. Only in this way will human values, the legitimate interests of the participants in sports activities, be guaranteed by the state’s coercive force. And last but not least, the guarantee that the meaning of

the development of the sport will not deviate from the respect of the principles that enshrined it. Organized sports activity, subordinated to public or private law organizations established for this purpose, is required to comply with both the provisions of internal regulations and international structures of sport, and the state legal order (which includes the provisions of international agreements to which Romania is party or joined). Observance of the legal norms belonging to a certain legal system is an obligation to which all nationals are bound, it is a fact that no longer involves discussions.

The same problem arises, of course, with regard to the legality of sports. It is a recognized fact that legal relations, in the field of sports, always combine within them, both the sports order and the state order, whose balance varies depending on the state and political regimes. The legality of sport is identified within three areas: 1. The area of state order; 2. The area of the sports field; 3. The area of international sports structures (extending to countries whose sports organizations and structures have acceded to international structures and include in their statutes and regulations their express regulations). The extraordinary development of contemporary sports, on large geographical areas, has determined the increase of the number of participants and the establishment of new sports organizations. The establishment of these new sports organizations has had and has as a consequence, the burden of international sports structures. This raises a lot of questions. One of these would be: what place have and can the international structures of sport occupy in the legal and economic organization of the world in which they operate? The answer to this question cannot be given only insofar as the institutional identity of these structures relates to the attributes of *legitimacy and legality* that can generate the *efficient and effective* management framework.

In order for the management of an organization to be considered *efficient*, it is necessary that the legal factors (of the environment of the sports organization) be valued not only in the sense of exploiting the opportunities offered by positive law but also in respect of state order and sports order. Sanctions received as a result of violating legal norms, including those belonging to what we call *lex sportiva*, can create major dysfunctions in the management of sports organizations and activities. Therefore, if in management science the content of the imperative of *legality* is not expressly included in the concepts of *efficiency and effectiveness*, it is our duty to propose it as a concept proper to the science of management.

About value

In social psychology - and even in sociology - the concept of value has been largely diluted in those of *norm* and *attitude*²⁸. Indeed, the latter seem more operational, but in this way a specific and relevant psychosocial content is lost or neglected in the explanation and prediction of individual and group mentalities and behaviors. From the multitude of definitions and interpretations given to value, in socio-human disciplines, we distinguish the following: *general and abstract principles about what is important and valuable in life, about how people should behave and appreciate (in terms of good / bad, right / wrong, ugly / beautiful, etc.) situations, events, people, as well as social and natural objects* - we refer here both to social values (as main elements of the sociocultural context) and to their internalized personality.

The fundamental notes of the concept of value are: generality and centrality in the spiritual-symbolic universe of society and in the structure of human personality, standards

(evaluative criteria) of human actions, motivational vectors that determine and guide action, their accentuated conscious, deliberate character, in the sense of adherence “to what is desirable”.²⁹ Two remarkable analysts of the issue of values, reveal five more important aspects of them:

1) Values are ideas (beliefs), but not cold ones, but infused with feelings;

2) They refer to desirable goals (for example, equality), and to the ways in which those goals are promoted (fairness, help, etc.);

3) Values transcend specific actions and situations (submission, for example, is practiced at school, at work, in the family, with friends or strangers);

4) Values serve as standards for selecting and evaluating people's behaviors and events;

5) They are ordered both at the societal level and individually, according to the importance of each other, forming value systems³⁰. Values are collectively shared principles that guide judgments about what is right and good. Examples of values: fairness, obligation, equidistance, integrity, honesty, impartiality, transparency and openness, efficiency, justice, accountability, etc.- “Values are considered the essence of organizational culture. They come both from the social environment, in the form of attitudes and beliefs promoted by the national culture, and from the own experience of the employees. The value system allows the classification of situations, people, acts and ideas, from those considered moral to those unethical. Based on the system of values promoted at the level of the organization, the culture creates norms considered standards for the values of a group or categories of individuals”.³¹

²⁹ Idem, p. 12

³⁰ Idem, p. 12. Referring to SMITH, P. B., SCHWARTZ, S., (1997), Values, in W. BERRY, M. H., SEGAL and C., KAGITCIBASI (eds.), *Handbook of Cross-Cultural Psychology*, vol. 3. Allyn & Bacon, Boston, p. 80.

³¹ BRIȘCARU, Aurica, read work., p. 68.

²⁸ Petru ILUȚ. *Social values, attitudes and behaviors. Current topics in psychosociology*. Polirom Publishing House, Iași, 2004, p. 11.

Compared to the social norms (religious, ethical, moral) which are also standards of conduct, values are more general prescriptions of the mode of behavior, being, at the same time, goals, ultimate states of attainment of our existence (end States of existence), social norms tell us how to behave in given circumstances, without being the motives of organizing the life with a long-term struggle.

About professional ethics

In some cases, where the professional conscience of the members of the assisting staff of the athletes is not in accordance with the imperatives of professional responsibility - part of the social responsibility, a state of conflict may be reached between the professional performance and the norm of legal conscience. Education is achieved not only in schools and families, but also wherever two or more members of society live, work together or meet - so we also refer to the field of sports activities in which the assistant staff of athletes must, here too, wear the role of a positive behavioral model. In the field of education, the reality proves that it is not enough that the deviations of teachers, or those assimilated to them, be punished only morally and ethically - violation of the subjective rights of participants in sports activities through illegal behavior requires legal liability.

Information is also required (and) on the legal consequences of conduct that is inconsistent with professional ethics. "Educators" must serve the interests of the fortress - they must be good citizens. We believe that the meaning of the phrase "good citizen" includes the quality of a valid interlocutor in the material and spiritual life of the city, of a subject capable of exercising his/her rights, respectively of assuming and respecting his/her obligations, in accordance with the existing social order. Deontology has emerged as a science of the rights and duties that regulate human activity in a given professional field.

The term *deontology* (deontos = duty, obligation, and logos = word, science) was first used by the English jurist and philosopher Jeremy Bentham (1742-1832) in his work *Deontology or the Science of Morality*, published in 1834. "The science of what to do in any circumstance." In the doctrines of English moralists, the term *deontology* is used, which means the principle of action in accordance with duty. The three ways of relating the person to morality are: a. *morality*, the one in which the person knows the moral requirements and respects them; b. *immorality*, in which the person knows the moral requirements, but does not respect them; c. *amorality*, in which the person does not know the requirements of morality and as a result does not respect them.

The issue of this profession, of the educator, is the object of study for pedagogical deontology (Romeo Poenaru calling it *didactic deontology*³² - the name of *pedagogical deontology* is motivated by the fact that the issue of education goes beyond the strictly didactic sphere). The deontology of the didactic (pedagogical) profession, as of any educator, must be based on a system of norms, rules, requirements, professional moral obligations, as well as on legal, administrative and technical-professional regulations that orient their activity towards correctness and efficiency - in fact, *in the current sense*, *deontology* includes, in addition to professional moral duties and various technical norms, basic professional requirements, administrative rules, legal norms, which, in structures specific to each profession will determine *the professional deontological*

³² VOICU, A. V., ROMAN, Gh., "The deontology of the sports profession between coercion and freedom", at the 8th Congress of the Colleges of Sports Science, Institute of Sport Science, University of Salzburg, July 9-12, 2003 - long abstract published in the congress CD and in "ECSS Salzburg 2003, 8th Annual Congress European College of Sport Science, July 9-12, 2003; Abstract Book, p. 284, ISBN 3-901709-11-8 - Institute of Sport Science University of Salzburg, with reference to POENARU, R., "Didactic Deontology", Timișoara, Poli-grafia Universitatii Timișoara, 1989.

conduct (or deontological approach professional) - defined as “a set of attitudes and actions required by the professional and technical-professional norms, without which it is not possible to exercise the profession at the level of society’s requirements”.³³ The deontological norms establish a “minimum of specific morality regarding the exercise of a profession”.³⁴

Components of the deontological approach

In any approach regarding deontology, one operates with the own terms of morality and ethics.³⁵

1. Morality is, on the one hand, a form of social consciousness, and on the other hand, it consists of all the norms, rules, requirements, precepts, duties, ideas, etc. which regulates the relations between people - morality regulates the conduct of people in all social fields - intense interpersonal relations we identify, mainly in the area of professional activities, in work. *Work morality* regulates people’s behavior during work as well as everyone’s behavior in relation to their own professional activity. *The morality of the profession* considers the relations between professionals and between them and the object of the profession;

2. Ethics is the science of morality - it developed within philosophy - later asserted itself as a science in its own right. *Metaethics* has already been outlined and asserted - the science of the science of morality. *Work ethic* deals with the issue of work morality and *work ethics* the issue of profession morality. *The ethics of the profession* deals with the moral relations involved in practicing a profession - along with it, *the deontology of the profession* adds other

imperatives: *legal norms*, *administrative norms*, *technical-professional norms* specific to that profession and whose observance, together with the moral norms of the profession, is strictly necessary for the correct achievement of the objectives of professional work. The scope of the notion of **professional ethics** is included in the scope of the notion of **professional deontology**.

About legal liability and liability

Liability is perceived as a reprehensible social fact, which is summarized in the reaction aroused by an action that the company at the place and time of its commission considers reprehensible. For the consequences that the individual suffers as a result of a conduct, valued (evaluated) as not in accordance with the social norms, two terms are used in particular: the one of *liability* and the one of *responsibility*. Dictionaries and literature do not always distinguish between these terms - they are usually given the meaning of obligation of an individual or community, arising from the rules established in society at a given time, or in a certain community, to perform certain actions or to refrain from committing others, as well as their obligation to repair the damage caused by his/her (their) conduct. In this way, the terms *responsibility and liability* refer to actions or inactions that are imposed on the individual or the community through coercion, from the outside and do not concern their own attitudes.

The main element that distinguishes between the terms *legal liability and responsibility* is their social function - while liability is primarily about preserving a social system, responsibility is about improving the social system and developing it. Responsibility within the law is manifested only in the form of acceptance of a social relationship and not in the form of effective implementation of an action. Responsibility does not exclude liability,

³³ Idem, with reference to LĂSCUȘ, V. *Deontology of the social pedagogue*. Gewalt Publishing House, Cluj-Napoca, 2002, and at DUȚESCU, B. *Ethics of the medical profession*. Didactic and Pedagogical Publishing House, Bucharest, 1980.

³⁴ CRAIOVAN, I. *Treatise on the General Theory of Law*. Second edition. revised and added, Ed. S.C. Universul Juridic S.R.L., Bucharest, 2009, p. 189.

³⁵ Ibidem, p. 6-8.

but it is not limited to it, just as liability does not exclude responsibility, nor does it necessarily imply liability³⁶. The society tends for its members to exceed the condition of liability and to reach the more mature and efficient condition of responsibility.³⁷

Legal liability is “the complex of related rights and obligations, which - according to the law - is born as a result of committing an illegal act and which constitutes the framework for carrying out the state coercion by applying legal sanctions in order to ensure the stability of social relations and guidance of society in the spirit of respecting the rule of law”.³⁸ The source of the rule of law is in authority - it is the only one that can achieve a scale of legal values, even if the legal value is not identical to the legal reality.³⁹ Petre Andrei, evoking Kant, notices that law wants to establish a moral principle, wants to be an ethical minimum and, for this reason, legal value tends towards moral value.⁴⁰ Giorgio Del Vecchio stated that where there is no coercion, there is no law - “the two concepts, coercibility and law, are, in real and logical terms, inseparable.”⁴¹ For a long time, from archaic to modern communities, the distinction between morality and law became difficult - differentiation is beginning to be more of a concern in modern times - now, when we talk about the values of law, it is about coercion by sanction - rules and laws which obligato-

rily provide for the sanction in case they are violated.⁴²

The application of legal sanctions is only the final consequence of incurring legal liability - for the existence of liability, it is only required that there be some mandatory rules that have been violated by the perpetrator. The sanction will intervene only when a well-defined and determined obligation towards a person or other persons is violated, or when there is a precise damage or a risk of causing damage to another individual or to the collective⁴³. Legal coercion is the “idea that generates the notion of justice.”⁴⁴ The value of justice cannot become operational if the authority issuing the rule does not have the possibility to punish the one who violates the law - a balance must be struck between the declaration (materialized by the existence of the law) and the effectiveness of the legal system.

In the conditions of globalization, “lawyers can no longer afford the luxury of approaches made only from strictly local perspectives”.⁴⁵

About integrity

Integrity (probity, conformity, fairness, honesty) is an important social value, on the axiological podium, because it is among the first positions in most social spheres (art, economics, politics, etc.)⁴⁶. Thus, in terms of social

³⁶ BOBOȘ, Gh., VLĂDICA RAȚIU, G. *Responsibility, responsibility and coercion in the field of law*. Argonaut Publishing House, Cluj-Napoca, 1996, pp. 6-15 - with reference to: FLOREA, M., *Responsabilitatea acțiunii sociale*, Editura Științifică și Enciclopedică, București, 1976.

³⁷ FLOREA, M. *Determining and motivating social action*. Bucharest, Academy Publishing House, 1981.

³⁸ COSTIN, N. M. *Legal liability in the law of the Republic of Romania*. Dacia Publishing House, Cluj-Napoca, 1974, p. 20.

³⁹ ANDREI, Petre. *Filosofia valorii*. Editura Polirom, Iași, 1997, p. 131.

⁴⁰ CIUCĂ, M. V. *Lecții de sociologia dreptului*. Editura Polirom, Iași, 1998, p. 295

⁴¹ GEORGIO DEL VECCHIO. *Lecții de filosofie juridică*. După ediția a IV-a a textului italian, Editura Europa Nova, 1997, p. 224.

⁴² BIRIȘ, I., op. cit., p. 118 și urm.

⁴³ MILL, John Stuart. *Despre libertate*. Editura Humanitas, București, 1994, p. 102-103.

⁴⁴ BIRIS, I., op. cit. p. 149 with reference to John Stuart Mill, *Utilitarianism*, Alternative Publishing House, Bucharest, 1995.

⁴⁵ POPA, N. *The general theory of law*. 3rd edition. CH-Beck Publishing House, Bucharest, 2008, p. 11, with reference to Twining, W., “Globalization and Comparative Law” (quoted after MF Popa, *The English Legal System*. Current Evolution Trends, Doctoral Thesis, 2008, p. 60).

⁴⁶ HOTCA, Mihai Adrian. *Business Integrity and Law*, Premium Magazine (online), Universul Juridic, Bucharest, June 8, 2021, article published and taken from Revista Iustitia no. 1-2 (17-18) / 2019 of the Dolj Bar. For developments regarding the protection of integrity in the private environment, see, the same author M. A. Hotca, *Protection of integrity in the private environment by means of criminal and extra-criminal law*, RRDPA no. 2/2019, p. 11 et seq.

relations, we now speak, or at least are, beautiful desideratum: the integrity of civil servants, the integrity of politicians, the integrity of scientists, the integrity of artists, the integrity of athletes,⁴⁷ etc. “The question of integrity” makes important positions in areas where it was a *rara avis*⁴⁸ and is now, or rather, relatively recently, trying to enter the “privacy of sport.” And when it comes to business integrity, most organizations “adopt clear ethical principles in their mission statements, and some become even more explicit, for example: the *General Motors* logo is “*Victory with integrity. (Winning with Integrity)*. *Integrity always means respecting the letter and spirit of the law. But it's not just about laws, it's about the foundation of every relationship we have.*”⁴⁹

We have already stated that point 3 of *the Fundamental Rights of the World Anti-Doping Code* states: “*Anti-doping programs aim to protect the integrity of the sport in terms*

of respect for the rules, for other competitors, for an honest race, a competitive environment with equal opportunities, and the value of clean sport in relation to the world.”. But what can we mean by *integrity in sport*? It is not difficult to explain, especially in situations where colleagues with special interests in the field, such as Professor Hotca, have addressed this issue. – Thus, to the question: “what is meant by business integrity?” – let us ask ourselves another question, sufficiently justified, namely: “what is meant by the integrity of sports activities?”. From an institutional perspective, integrity in sports (business) activities is the set of rules that ensure the fairness of those who participate in sports (economic) activities. From the point of view of the participants in sports (economic) relations, integrity in activities (business) represents the observance (compliance) by sports (economic) actors of the legal rules and those that ensure their professional probity. In another formulation, integrity in sports (business) consists in the obedient behavior of participants in the economic (sports) field towards the rules of fairness in intra- and extra-corporal relations.⁵⁰ The formal existence of an integrity system with fair rules, which does not apply, has a negative rather than a positive impact. Therefore, based on the premises set out above, we can conclude that integrity in sports (business) is an indispensable element of economic and *sports* success.

Serious illicit acts can be found in both public and private organizations, such as corruption, harassment, blackmail, threats, breaches of trust by disregarding trust, computer fraud or fraudulent transactions with electronic payment instruments, and fraud. tax fraud, money laundering, acts against consumers or unfair competition, facts against the integrity and confidentiality of computer systems or data, counterfeits, facts concerning employment re-

⁴⁷ LAWAL, Yazid Ibrahim, in IOSR Journal of Sports and Physical Education (IOSR-JSPE) e-ISSN: 2347-6737, p-ISSN: 2347-6745, Volume 3, Issue 4 (Jul. - Aug. 2016), PP 00-00, www.iosrjournals.org - „Sport is increasingly big business and, crucially, associated with big business, thus providing opportunity and motivation for corrupt practices. Integrity is a complex term that takes on different meanings in different sporting environments: amateur, elite or professional sport, sporting levels, age groups: and according to different (Sipes, 1976). Integrity is generally viewed as critical area in today's world, and the sport environment is really no different and reasons for integrity behavior in sport and its allied support mechanisms are attributed to many factors, some of these factors are match fixing, corruption and doping, others reasons are overemphasis on winning, seeking prestige or financial rewards, bending the rules, cheating, coach aggression, disrespect, and player aggression; Lack of practical understanding of sportsmanship and difference between gamesmanship and sportsmanship, Winning at all costs; verbal abuse, negative coaching behaviors and practices, athletes being pushed too hard by coaches or parents, negative administrative behaviors and practices and negative officiating behaviors and practices; Negative coaching behaviors and practices are perhaps some main reasons for many instances of misconduct by individuals (Howman, 2013). Integrity in sport is largely addressed in research through concepts of fair play, respect for the game, sportsmanship, positive personal values of responsibility, compassion for the other, and honesty in adhering to rules (Lumpkin, Stoll, & Beller, 2003; Keating 2007 ; Gould and Carson 2008; Bolter 2010; Festini 2011;) ”.

⁴⁸ HOTCA, M. A. *Integritatea afacerilor și dreptul*, op. cit.

⁴⁹ BRIȘCARU, Aurica, op. cit., p. 68.

⁵⁰ HOTCA, M. A. *Integritatea afacerilor și dreptul*, op. cit.

relationships, security and protection in the field of employment, facts against the legal regime concerning companies, facts concerning the customs regime, fraud against the financial interests of the EU, etc. to which we add those specified in the White Paper on Sport, "such as trade pressure, exploitation of young athletes, **doping**, racism, violence, corruption and money laundering."

The means of criminal and extra-criminal law, sanctioning means other than those specified by the World Anti-Doping Code 2001, operational against doping in sport, are at the disposal of the factors involved in the prevention, detection and sanctioning of persons who commit acts affecting the integrity of sports activities. criminal law (Criminal Code, Code of Criminal Procedure, etc.). Instruments of a criminal and extra-criminal nature, although having a substantial contribution, must be complemented by other means mainly related to the policy of all organizations interested in knowing, preventing, investigating and combating the illicit phenomenon (criminal, civil, misdemeanor, etc.) in the field of sports activities.

Integrity and Compliance Officer

There are economic areas, and we are talking about banking and insurance where there are regulations designed to oblige organizations to adopt internal policies on the integrity of employees and members of management or supervisory bodies. Who stops us from adopting such measures in sports organizations? An essential condition for the implementation and, implicitly, for the effectiveness of the integrity and compliance system of an organization is *the integrity or compliance* department (office, service, etc.) in which it is necessary for the integrity and compliance officer (official, person in charge, etc.), also known as the ethics officer, to work.

"The integrity and compliance officer is the person designated within the organization - its own employee or professional third party - for the purpose of investigating, ascertaining and drawing up proposals for measures relating to breaches of the rules of conduct. The integrity or compliance officer is, in many cases, a person with legal training (lawyer or legal adviser) either an employee of the organization or an outsider. In order to ensure the independence of the integrity officer, it is recommended that he be part of a department of the organization chart that ensures his autonomy from the members of the management or supervisory bodies, or that they are outside the company's staff."⁵¹

In the public system (public institutions, public authorities or national companies, autonomous utilities of national and local interest, as well as national companies with state capital), Law no. 571/2004 on the protection of personnel from public authorities, public institutions and other units that report violations of the law. According to art. 1 of Law no. 571/2004, this normative act regulates some measures regarding the protection of persons who have complained or reported violations of the law within public authorities, public institutions and other units, committed by persons with management or executive functions in public authorities, institutions and from the other budgetary units provided in art. 2... According to art. 3 of Law no. 571/2004 the following terms and expressions have the following meanings:

a) warning in the public interest means the notification in good faith of any act involving a breach of the law, of professional ethics or of the principles of good administration, efficiency, effectiveness, economy and transparency;

b) warning means the person who makes a notification according to letter a) and which is included in one of the public authorities, public

⁵¹ Idem.

institutions or in the other units provided in art. 2;

c) *disciplinary commission* means any body in charge of disciplinary research duties, provided by law or by the regulations of organization and functioning of public authorities, public institutions or other units provided in art. 2”.

In the private sector, the institution of the whistleblower is not regulated at the legislative level, but is found, as we have seen, in certain areas (banking, for example), as well as in codes of conduct or other internal regulations of private companies. The integrity and compliance systems encountered in the private sector were inspired by the regulation contained in Law no. 571/2004 or the integrity and compliance policies adopted by multinational companies or by other private organizations⁵², facts that urge us to set up our integrity compartments in sports organizations under private law, especially those that are of public utility. In integrity systems encountered in the private sector, the whistleblower is the person who reports a breach of the law or internal integrity regulations (whistleblowers) and is protected. Thus, the provisions of art. 5 of Law no. 571/2004 can be a source of inspiration for those who adopt internal regulations regarding the institution of the integrity warning, in terms of the scope of the facts concerned.⁵³

The institution of whistleblowers had and has as its model the operational activity of those “*ethics officers*” or “*compliance officers*” or “*business conduct officers*”, and more recently, “*risk assessment officers*” included in the organization charts of large companies. They have a responsibility to ensure that the ethical values of the organization are *de jure* and *de facto* maintained in all its processes. The scope of their tasks is very diverse, from seeking to avoid corruption and discrimination, to monitoring the impact of company deci-

sion makers on shareholder investments, abuse of any kind, and so on. Although organized, at least in the United States and the United Kingdom, in professional associations (*Ethics & Compliance Officer Association*), although they have stipulated regulated models and standards (*Defense Industry Initiatives*), the efficiency of their activity, at least at the moment, is not yet confirmed.

This is not necessarily due to a lack of professionalism, but to the multiple variables that influence their work results. There are countless examples: the competitive market environment, cultural values and different policies from one organization to another, the cultural values of the company in which the company or its subsidiary operates, insufficient support from those who run the company, etc. However, the reduction of companies’ anti-immoral acts cannot be solved by an officer, regardless of the name given to an employee, but it is a combined and permanent effort, in which the business partners must be the government and civil society.⁵⁴

About the protection of integrity warnings

As of December 2019, the Member States of the European Union are in the midst of significant legislative changes on the protection of whistleblowers, with the adoption of Directive (EU) 2019/1937. The new legislation places more importance on whistleblower status and the role they play in highlighting unethical behavior and criminal activity, both in the private and public spheres. It is up to the EU Member States, by 17 December 2021, to transpose the Directive on the protection of whistleblowers into their own legislation, from which date the requirements become mandatory for companies with more than 250 employees. In other words, people who expose legislative violations will be protected by law and will not have to fear “consequences”.

⁵² Idem.

⁵³ Idem.

⁵⁴ BRIȘCARU, Aurica, op. cit., p. 82 și urm