



MENS SANA IN CORPORE SANO IN MODERN SPORT

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Abstract Modern sport is a civilizational achievement based and designed upon Juvenal's motto, *A healthy mind in a healthy body*. International relations characterized by global processes of cultural unification are also reflected in modern sport, which is evident in the legislation adopted by international organizations of global and regional importance, state authorities, and national and international non-governmental sports organizations and associations. Modern sport, practiced recreationally or in schools or even at professional elite levels, was conceived, promoted and realized upon the original principles of improving physical and mental health of the participants. However, in practice, elite sport has relied on highly sophisticated information technology to become a professional activity that operates on the profit-based principles of neoliberal economy. Like the profit-oriented sports industry, elite sport also often ignores ethical, medical and humane principles in its pursuit of top results. Following the motto of *Faster, higher, stronger*, athletes use stimulants and banned substances to achieve global popularity and financial gains, compromising their health along the way. International governmental and non-governmental sports organizations and associations, as well as state authorities and national sports federations are more or less united in the fight against doping, thus confirming the premise that the original principles of sports should rest on *Mens sana in corpore sano*.

Key words: Modern sport, sport benefits, health, doping

INTRODUCTION

As the dominant species on earth, human beings possess, at an individual level, a genetically determined need for physical activity, including sports and play. Psychomotor activities are the result of the evolution of the human predator and a *conditio sine qua non* for the survival of the species in the evolutionary process. It seems that this evolutionary heritage has been accompanied by the simultaneous development of play, an inherent element of human personality dating back to the primitive society, when it was sacred in character. The need for play, also found in the animal world, has become an essential characteristic of life in humans as natural and subsequently social beings. Institutionalization of play and sport have resulted from mental and physical maturity of humans, becoming less of an expression of exclusively natural necessity, and more a reflection of the needs of the community. Thus, the human need for play is biologically determined by internal urges, but it is also motivated by the desire to satisfy the demands of the society and to express the cultural component of the personality. This has been confirmed by numerous sociological definitions of physical culture and sports founded on play, [3] which premise that sport is institutionalized play, a segment of culture and therefore also a segment of social organizational structure.

Sport has performed various social functions in history, depending on the circumstances and community needs, customs and traditions, while participation in sports has resulted in achieving a variety of goals both for the individual and for the society, the state authorities included. Undoubtedly, a general, common purpose of taking part in sports has been to produce beneficial effects on health. This purpose has been promoted through centuries by using a quotation from Juvenal,¹ *Mens sana in corpore sano* ("a healthy mind in a healthy body").² Today, multiple benefits of playing sports are indisputable, while sport and physical education have been aligned with strategies that promote good nutrition, reduced use of

¹ Decimus Iunius Iuvenalis (Juvenal in English), a Roman poet, born c. 60 in Aquinum.

² The motto *Mens sana in corpore sano*, used for centuries to emphasize the beneficial effects of physical activity, has been extracted from context; the full citation of Juvenal's advice on what is desirable in life was, *Orandum est ut sit mens sana in corpore sano* ("One should pray for a healthy mind in a healthy body").

tobacco, alcohol and drugs, and discourage violent behavior. Playing sports has proven efficacious in combating modern diseases, especially through prevention; besides, it is undoubtedly important for the proper development of children and their health. However, in contrast to the many benefits that participation in sporting activities provides, modern sport exerts considerable negative effects on the human body, which are particularly pronounced in the area of professional endeavor. One of the means of abusing the basic function of sport is the increased use of doping substances. Unlike in the manufacturing industry, in which intellectualization contributes to mitigation or complete relief from physical work, in sport it leads to intensification of physical load [8]. In order to avoid that high-end sport produce effects completely opposite to those for which it was created and deemed useful, physical activity undertaken by elite athletes as well as their recovery must be based on scientific grounds.

GLOBAL CHANGE AND SPORTS PARTICIPATION

In today's global society, the importance of participating in sports and physical activity has increased. In truth, although the achievements of science and information technology in particular have made life easier, more beautiful, comfortable and culturally richer, at the same time they have contributed to greatly reduced mobility and seriously deteriorated physical status. The modern organization of industry and strictly programmed working time have caused reduced body movement, logically resulting in a reduction and even loss in physical working capacity and fitness of employees. At the same time, the humanity is suffering the consequences of mass production and the scientific and technological revolution. The turn of the millennium has been marked by significant climate change caused by growing environmental pollution. Water, air, soil, noise and other forms of pollution have had negative impact on human health and functional capacity by increasing the risk of chronic non-communicable diseases, such as cardiovascular diseases, diabetes, malignancy, and the like.

The positive effects of an engagement in regular physical activity and sports are reflected in good physical and mental health, as well as in the favorable psychosocial development of children and adolescents. Early adoption of healthy sporting habits, proper nutrition and physical education through participation in sports ensure that they are not abandoned in later life, while adults who have been involved in sports will have developed sound work habits, higher levels of responsibility, self-discipline and social skills to help them fit in a new environment more easily. Unsurprisingly, the awareness of the significance of sports and physical activity prompted the World Health Organization to adopt the Global Strategy on Diet, Physical Activity and Health, and the Resolution on health promotion and healthy lifestyles in 2004.

THE EUROPEAN SPORTS CHARTER

Sport and physical activity were asserted as one of the main manifestations of modern civilization in the European Sports Charter, adopted by the Committee of Ministers of the Council of Europe in Recommendation No. R (92) 13. The ensuing Recommendation No. R (95) 17 on the significance of sport for society, adopted in 1995, elaborated the provisions of the Charter and established the principles upon which the governments of member states of the Council of Europe, in conjunction with local and regional public authorities and sports associations, should frame sports policies and strategies which would provide the most effective impact of sport on the health of the European population. These principles are as follows:

- The widest range of health benefits resulting from regular physical activity available to the entire population are achieved by encouraging participation at any age as part of daily activities;
- Moderately intensive exercise for at least half an hour every day seems desirable for everyone;
- The design and concept of physical exercise and activities aiming at health benefits should be based on their efficacy, safety, equality of opportunities for participation and cost-effectiveness;
- Higher priority should be given to developing opportunities to people who are motivated but sedentary or irregularly active. A longer-term goal should be to motivate young people at present lacking the will to exercise, especially among those with limited opportunities or with restricted independence and freedom of choice;
- Special measures should be taken to reduce the risk of injuries including the establishment of rules or practices of individual sports, improvements in the environment facilities, education of all parties involved and better dissemination of information on injury prevention and on measures leading to rapid recovery from injuries [1].

Health effects of sports were also considered by the Committee of Ministers of the Council of Europe on an earlier occasion, when the Resolution no. (70) 7 on the medical aspects of sport was adopted in 1970. The motto *A healthy mind in a healthy body* is incorporated in all the documents. According to the Resolution, physical education is particularly important for the younger generations, so that every school curriculum should contain this course with a minimum of three hours a week, with the recommendation that an hour a

day of physical education be held in primary and secondary schools if conditions allow. The intensity and contents of physical education syllabus should be adapted to the students' mental and physical abilities, and school doctors should be involved in its design.

The turn of the twenty-first century has been marked by the remarkable progress of science and technology and the daily use of highly developed means of communication, resulting in newly created habits characterized by a reduction and even abandonment of physical activity and sport in a number of young people. Reduced physical activity contributes to the rising obesity rates in the young population, and the development of heart disease, high blood pressure and diabetes, which previously have not been as common in adolescents. In turn, the treatment of the growing number of the affected children and young people entails increased health expenditures and an additional burden on the national budget. Given the nature of the health problems, it is important to note that the increase in the afflicted children and adolescents will result in an increased number of adults in need of health care and additional resources for treatment in the future. Adequate programs that promote physical activity and sport serve as effective prevention measures against adverse trends brought about by contemporary lifestyles characterized by insufficient body movement.

However, the improvements in mental and physical abilities and overall health status in the young population are not the only beneficial effects of participating in physical activities and sports. For young people, getting involved in sports is a prerequisite for full participation in the social life, creating feelings of self-worth and an understanding of their role in society. On the other hand, specially talented young people can use sports as an opportunity to express their individual values and develop to their full potential, creating their life through the realization of their wishes. In adolescence, it is particularly important to provide an outlet for the superfluous energy of youth towards socially useful activities and occupations. In this context, sport and physical activities are the factors of positive socialization that deter and discourage young people from socially unacceptable behavior. Participation in sports and exercise is opposed to violence and discrimination of any kind, and serves as the factor of cohesion and tolerance, fostering the values intrinsic to the youthful friendship, fair play, leisure and entertainment.

It is essential to provide the necessary conditions for physical education of physically or mentally handicapped students to facilitate their optimal development through specially adjusted programs. When students are engaged in extracurricular competitive sports, the training process should focus on normal and effective physical development and not achieving competitive excellence at all costs.

Therefore, sports activities should be performed by the proper implementation of scientifically and professionally based programs, in strictly controlled conditions. Only then can their effects contribute to the development and maintenance of physical and mental health of the general population, and enhance the proper psychological, physical and social growth of children and youth. If this is not the case, participation in sport and physical activity can result in a compromised or deteriorated health status in the participants. This is particularly important in professional sport, especially in elite athletes, due to high physical demands and severe exertion involved. Hence, a provision in Article 20 of the Law on Sports of the Republic of Serbia stipulates that, "Exposing an athlete to sporting activities that may jeopardize or aggravate his or her condition is prohibited. Doping in sport is prohibited, in accordance with the law" [7].

To this end, a legislative formulation "in general terms, prohibited all activities undertaken in sports organizations by coaches, physical therapists and managers of sports clubs, issuing instructions on the behavior of athletes with an aim to persuade the athlete to participate in a sports activity or to perform a sports activity in a manner and under conditions that could compromise his or her health, and to thereby achieve a particular gain for the sports organization or the coach themselves" [6].

ELITE SPORT AND HEALTH

While recreational and school sports are designed and realized on the premises based on Juvenal's motto, modern elite sport often succumbs to the enormous demands and deviates from the civilization matrix of *Mens sana in corpore sano*.

Elite professional sport requires early specialization and intensive training practice from an early start. On the other hand, one of the main tasks of physical education, from pre-school to elementary and secondary school to college, is the comprehensive development of physical skills [5]. Young child athletes should not be exposed to competitive efforts that exert heavy loads on the cardiovascular, respiratory and neuromuscular systems, and the intensity of their training practice should be adjusted in accordance with the processes of growth and development of the skeletal-muscular system. Besides the permanent control provided by doctors and health professionals, the expert knowledge of coaches and teachers must be at the highest level. Moreover, in addition to regular health checks, adolescent competitors should be provided with a possibility of extraordinary medical examinations at the request of parents, coaches and doctors, when they find it necessary.

Considering the extreme demands placed upon young competing athletes, and the nature of professional and/or elite sport, which focuses on achieving the highest results, it is clear that young athletes are exposed to additional health risks and perils to their biological status. On the other hand, the achievements by elite athletes at international competitions promote their country and its citizens and act as a motivating factor in mobilizing a wide range of the population to participate in sports. At the same time, such accomplishments bring direct economic benefits to individuals, national associations, as well as states. Top athletes and champions become role models in their community and beyond, and their actions and attitudes provide guidance for future generations; however, doping and other detrimental and unethical procedures and activities remain covert.

DOPING IN MODERN SPORTS

Modern elite sport is characterized by professionalization, having become an occupation bringing potentially high profits to athletes and those directly employed in their function. Moreover, the development trend of professional sport has increasingly been focusing on profit-driven commercialization. Sports clubs transform into business entities, such as joint stock or limited liability companies or other corporate associations. Under constant pressure for top results, professional sport transforms into an inhumane social activity in which the physical, mental and moral integrity of the athlete is subjugated to money and success. In order to achieve top performance, the athlete, at his or her will or supported by mentors and sponsors, is often exposed to excessive training without enough time for rest or other life activities; in extreme cases, he or she reaches for doping substances.³ Doping agents increase the competitive ability of athletes above the level predetermined by the genetic potential or achieved through the training process. Stimulant or doping agents include pharmacological and physiological substances. Competitive sport, especially top class, requires constant high scores and victorious outcomes. Such continuity in athletic performance imposes enormous demands in training and preparation, exerting efforts that surpass the athletes' objective physical strength. There have always been athletes who, for the sake of fame, success, social status, or financial gain, have resorted to using stimulants, thereby jeopardizing their health, life and future only to score and win.

Since the ancient times, the use of performance-enhancing drugs has been known as a way to accomplish the desired goal in an athletic competition. The ancient Greeks used wine and hallucinogenic substances as stimulants to improve sports performance. Roman gladiators used hallucinogens and strychnine to eliminate fatigue and increase strength. With the introduction of modern sport in the social life at the end of the nineteenth century, there began a new era of the use of doping to enhance sporting performance. Those times were marked by the popularity of Mariani's wine, advertised as "Wine for athletes", which was a mixture of wine and coca leaf extract. During World War II, American, German, British and Japanese soldiers were given amphetamines to raise stamina and morale.

However, it was not until the last half-century that the use of doping in sport became a scourge to be combated. The first recorded use of doping in modern sport is attributed to Kurt Enemark Jensen, a Danish cyclist who died while racing at the 1960 Rome Olympic Games, which was confirmed in the official report of the International Olympic Committee.⁴

The increasing use of performance-enhancing drugs in modern sport has followed its wide professionalization and commercialization. The inclusion of science, especially pharmacology, in the training process has led to its abuse. At the 1964 Tokyo Olympic Games, the first list of banned substances was adopted to mark the beginning of the international campaign against doping in sports. Since then, the anti-doping action has been undertaken by both national and international sports organizations. Given the seriousness of the effects that doping may have on life and health, it has been banned by both national legislations and agreements concluded within the framework of international organizations.

INTERNATIONAL ANTI-DOPING LEGISLATION

There is a wide circle of international legal sources aimed to combat doping. In addition to the bilateral reciprocal American-Soviet agreement of 1988, concluded by the world's leading sporting powers of the time, most agreements have resulted from the approval of three or more states so that the most important sources of international anti-doping legislation can be found in multilateral treaties. The first such agreement was the Nordic Anti-Doping Convention signed in 1985 and later ratified by Denmark, Finland, Iceland, Norway and Sweden. The aim of the agreement was cooperation and harmonization of the rules for anti-doping controls during competitions and training sessions in the five Nordic countries.

³ The term *doping* was first recorded in an English dictionary in 1869. It denoted a mixture of opium and narcotic drugs given to racehorses to affect their performance. According to the World Anti-Doping Agency, the word is probably derived from the Dutch *dop*, the name of an alcoholic beverage made of grape skins used by Zulu warriors in order to enhance their prowess in battle.

⁴ IOC's Medical Commission, which made the report on the death of the Danish cyclist, stated that it was caused by excessive intake of amphetamine and Ronicol; this was the first reported case of doping in modern sports.

In 1989, the Council of Europe adopted the Anti-Doping Convention, a treaty with great importance for the fight against doping, especially for the European countries. Under the motto "*For a clean and healthy sport*", the convention aimed at harmonization of measures to be taken against doping in sport at national and international level. Although the conventions issued by the Council of Europe generally do not have a binding force, the European Anti-Doping Convention established certain legal rules and norms in order to oblige the signatory states to take legislative, financial, technical and other measures for the prevention of doping in sport. Under Article 4 of the Convention, the signatory parties undertook to adopt legislation, regulations or administrative measures to restrict and control movement, possession, importation, distribution and sale of doping substances. The Convention was ratified by the former Socialist Federal Republic of Yugoslavia, while the specific steps in its implementation were made by the Republic of Serbia, as a legal successor of former Yugoslavia.

The most important international anti-doping treaty, with the widest scope of implementation and obligatory effect, is the International Convention against Doping in Sport, adopted by the General Conference of the UNESCO in Paris in 2005.⁵ All former international anti-doping agreements were regional or continental in character, as it was the Anti-Doping Convention of the Council of Europe. In contrast, the International Convention against Doping in Sport was a global treaty binding on all United Nations member states that ratified it.

The Convention was designed as a powerful international legal instrument that should enable all athletes in the world to be subjected to identical regulations, appropriate anti-doping tests, and standardized legal procedures, so that in the event that they were proved to have used a prohibited substance, the sanctions imposed for the violations committed would be unified and harmonized [6].

By its binding effect, the International Convention against Doping in Sport aimed to ensure consistent implementation of the international treaty by the signatory states, and the simultaneous synchronization with the work and programs of the World Anti-Doping Agency,⁶ and the consistent implementation of the World Anti-Doping Code.⁷ In this way, there is globally synchronized action to create international anti-doping sports legislation. The binding effect of the provisions of the International Convention against Doping in Sport on the UN member states in the implementation of such action was transferred to the states through the provision stipulating that, "In abiding by the obligations contained in this Convention, each State Party undertakes to adopt appropriate measures. Such measures may include legislation, regulation, policies or administrative practices".⁸

In an attempt to realize and implement the International Convention against Doping in Sport, the legislative activity of the states is facilitated through the imposition of obligations to sports organizations in their jurisdiction to sanction behavior connected with doping in sport. Through such transfer of responsibilities, the universal legal rule stipulated by the Convention has effectively become an integral part of the rules and regulations of sports organizations in which sports activity occurs. Normatively, the legal fight against doping in sport conceived at the global level has been transferred to the legal jurisdiction of the states, which implement the penal provisions through the enforcement instruments at their disposal. In addition, violations of anti-doping legislation are stipulated by the rules and regulations of sports organizations as disciplinary offences and as such, are subject to the imposition of sanctions, thus providing a unified legal basis for keeping athletes healthy.

ACTIVITIES OF THE NON-GOVERNMENTAL SECTOR

Although it is the key document of public international law in the fight against doping, with Juvenal's motto underlying its basis, the International Convention against Doping in Sport is not the only international legal source in this area. Namely, modern sport today is distinguished by the work of numerous non-governmental sports organizations operating globally, such as the International Federation of Association Football (FIFA), the International Basketball Federation (FIBA), the International Handball Federation (IHF) and many others. Within their respective fields, each of them sets up rules, regulations and other general procedures that, among other issues, provide for sanctions for violations of anti-doping regulations. Since these regulations are adopted by international non-governmental organizations, they do not have binding effect on states, nor is their compliance mandatory. However, the general provisions established by

⁵ The International Convention against Doping in Sport entered into force on February 1, 2007. The Republic of Serbia ratified the text of the Convention in 2009.

⁶ The World Anti-Doping Agency (WADA) was created in Lausanne in 1999, through the initiative of the International Olympic Committee, as a foundation with the aim to promote, coordinate, and monitor the implementation of measures of the fight against doping in sport.

⁷ The World Anti-Doping Code was set up by the World Anti-Doping Agency, registered as a legal entity according to Foundation Law in Switzerland and not as an international organization, which raises issues as to its binding effect. From a formal legal perspective, this is not an internationally binding legal treaty. Besides, although it may appear accurate linguistically, the term "Code" does not seem as appropriate as "Rules and Regulations".

⁸ Article 5. International conventions against doping in sport, *Official Gazette of the SFRY—International Treaties*, No. 4/91.

international non-governmental sports organizations within a particular sports branch bind the national sports associations in the branch, sport or discipline to adhere to the prescribed behavior, and at the same time empower them to pass respective regulations with national territorial applicability.

The regulations provided by international non-governmental sports organizations undertake twofold action, by establishing a mechanism of legal protection of sport at the international level, especially with reference to international sports competitions, and also by enforcing harmonization between the regulations of the national and international sports organizations [2]. The most effective results in the operation of the national and international sports sectors and best practices thereof have been achieved by the International Federation of Association Football (FIFA) on the global level, and the Union of European Football Associations (UEFA), a non-governmental association football organization, on the continental level. Thus, the most important general legislative act of the FIFA - its Statute - is directly enforced at all football competitions organized under its auspices. The FIFA Statute provisions apply directly in matters that are not adequately addressed by the national regulations of any of its members. Expectedly, the FIFA's structure and hierarchy allow its regulations to prevail over the national regulations of its member states.

General legislative acts of international non-governmental sports organizations, including the FIFA and the UEFA, have envisaged and sanctioned behaviors that compromise the regularity of the competition by the use of doping substances, along with other behaviors such as manifestations of racism and all forms of discrimination, infliction of intentional harm on the competitors, use of insults and disrespect for the audience and other players, or disregard of judicial decisions. The regulations that sanction the use of doping in sport adopted by the international non-governmental sports organizations comply with the World Anti-Doping Code (Regulations) and the practices of the World Anti-Doping Agency.

Another very important legal document set up by an international non-governmental sports organization in the fight against doping is the Olympic Movement Anti-Doping Code.⁹ The significance of the Code is emphasized by the fact that its provisions must be complied with by all the athletes and National Olympic Committees wishing to participate at the Summer and Winter Olympics. Although these regulations also have no binding effect on states, all the listed entities, i.e., athletes and the National Olympic Committees, are committed to comply with the provisions.

CONCLUSION AND PRACTICAL APPLICATION

The importance of sport to people is enormous at all levels: that of the individual, the society and the state. Its positive achievements in many areas are indisputable, as physical exercise brings benefits to physical and mental health, fosters child development and provides proper guidance. However, as the participation in sports reaches elite levels, there are increasingly more frequent abuses of its main goals. Naturally, the stakes are higher as the gains earned at top tiers outweigh the interest of the individual. The motto of *Mens sana in corpore sano* has multiple meanings; although it primarily relates to the average person who uses it for guidance, it should not be devoid of sense in elite sport. Yet the situation is different in reality.

The use of doping is contrary to the basic values of modern sport and represents its flagrant abuse. International organizations, state authorities and all national and international sports federations include anti-doping in their core tasks [1]. Undoubtedly, the broad international and sports communities are unison in the fight against the use of stimulants in order to enhance athletic performance. The protection of ethical and moral values contained in physical education and sports must be the subject of constant concern to all stakeholders in the society, while elite and recreational sport should be protected from all forms of abuse [4].

Internationally and nationally, there are two parallel and synchronized courses of action in the fight against doping at sport competitions. First, both at global and regional levels, international governmental organizations, whose founders and members are states, adopt international agreements aimed to combat doping and protect the health of athletes and the principles of fair play. Once ratified, such agreements become binding on the member states, which are obliged to enact laws and other regulations accordingly in order to achieve the objectives and international standards on the protection against the use of doping. In this way, national legislations of the member states within the international organizations are harmonized, along with the penalties and sanctions imposed for violations related to doping in sport.

The second course of anti-doping action is also conducted at the international level, only by non-governmental sports organizations. Their members are not states but national sports associations and federations of a particular sports branch or discipline. Therefore, it is not the state that is bound by the general legislative acts adopted by the international non-governmental sports organizations, but its sports federations and organizations, at all echelons and with respect to all activities and operations, including the fight against doping. Such general provisions oblige the national sports federations and associations to adopt regulations that will, among other issues, provide for the disciplinary sanctions relevant to the fight

⁹ The Olympic Movement is an international organization established by the International Olympic Committee (IOC), encompassing the National Olympic Committees, the International Federation of Olympic Sports, the Organising Committees for the Olympic Games, other federations and associations of athletes, judges/referees, and other organizations recognised by the IOC.

against the use of performance-enhancing drugs in their respective sports branch or discipline. Regarding legal acts set up by non-governmental organizations, it is also necessary to respect the hierarchy of rules. Thus, the regulations provided by national non-governmental organizations must also be harmonized with international legal acts, which have a higher legal force. In this way, the non-state actors undertake to facilitate the harmonization of legislation of national associations and coordinate the application of legal provisions at the international level.

It should be noted that in the fight against doping, both the legislative activity of the state and international organizations in the government sector, and the regulatory provisions of the national and international non-governmental sports organizations are driven by a single motto-doping is prohibited. The common elements in their action include the lists of prohibited substances, the methods and procedures of providing evidence of doping, and the general and individual prevention. Therefore, all is done in the spirit of the motto *Mens sana in corpore sano*.

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