

THE SPIRIT OF SPORTSMANSHIP - ETHICAL AND DEONTOLOGY CODE

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Summary: *“The Spirit of Sportsmanship” and the Committee of Spirit of Sportsmanship, Ethics and Deontology (henceforward “E.F.I.P.H.D.”). In the presented study, the author deals with all the fundamental principles and the spirit of sportsmanship that all those involved in sports should have. Analyzing from the preface, the fundamental principles that must govern the participation in sports activities, the author defines the term “sports fan” and the imperatives that arise from the respect and observance of the “Spirit of Sportsmanship”, as it is included, now, in the Code of E.F.I.P.H.D. This research study analyzes the substantive and procedural conditions for the examination of cases of infringement of the “spirit of sportsmanship” by the E.F.I.P.H.D and proceeds to a critical evaluation of the wider legal framework for the moral code that should prevail in sports, highlighting their importance. The author analyzes the crucial provisions of the Code of E.F.I.P.H.D, in particular the procedure before the Committee of Spirit of Sportsmanship, Ethics and Deontology.*

Keyword: *Sports Ethics, Sporting spirit, sporting attribute, Sportsmanship, Deontology, Sports Jurisdiction.*

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I. On Sports Ethics and Spirit of Sportsmanship

The content of sports and sports competition institution is surrounded by the ethic, namely the special feature and the special texture, the ethos, the habit, regarding the practice of sports action and competition. This action is presented as

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a separate and special “physiognomy”¹ that requires special deontology, which condenses sports and competitive ethics, “fair play”², which is ensured by the rules of law³. Sports ethics are composed of terms such as “sportsmanship”, “sports fan” and by extension sports and sports fan status. The meaning of these terms is given by the terms “friend of sports”, “love for sports”, “fair play”, or, according to Greek sports, “αγαθή ἐρίς» (agathi eris, fight with goodwill), and they are defined in the horizon of friendship and common sports fan action⁴.

The aggregate of principles and traditions of sports and the sporting and Olympic ideal define the spirit of sportsmanship, which must govern every activity (act or omission) related to sports, sporting events and sporting competition, of every associated person with sports and sports events, in any capacity⁵.

A sports fan, therefore, is considered anyone who is concerned with the principles of the sports fan spirit, loves sports and seeks its promotion in any capacity and in any legal way, regardless of whether he/she actively participates as an athlete, trainee or in another capacity in sports⁶.

1.1. Fundamental principles

Sports and sports activities are defined by the fundamental principles of the edifice of sports. The fundamental principles are given as a basis in the code of the spirit of sportsmanship as well and must be observed always, by each person associated with sports, in any capacity. These can be roughly summarized in the following categories:

1. See D. Panagiotopoulos (1998), The Legal Aspects of sports Ethics and the Protection of Fair Play, *International Journal of Physical Education*, Vol. XXXV, 3:3, pp. 99-107. This research study is also published in the minutes of the 3rd International Conference of the International Olympic Academy for educational officers and directors of Universities, Olympia June 6-10, 1997, International Olympic Academy (1998), Athens, pp. 318-332.

2. Regarding the spirit of sportsmanship generally and regarding the sports fans status see Dimitrios P. Panagiotopoulos (2005), *Sports Law I*, Nomiki Vivliothiki, Athens, pp. 218-242.

3. Articles 16, 9 and 28 of the Constitution, see. D. Panagiotopoulos (2005) *ibid*, pp. 16-165, cf. the same author (1990), *Theory of Sports Law*, Ant. Sakkoulas, Athens, pp.21-50, E. Venizelos (1993), “Constitution and Sports” in: *Minutes of the International Conference: The Institution of the Olympic Games*, Olympia September 3-7, 1991, EKEAD, Athens, p. 269. Also by the same author (2021), *Sports Code*, Nomiki Vivliothiki, Athens.

4. D. Panagiotopoulos (1990), *Sports fan status*, Ant. Sakkoulas, Athens, pp. 11-15.

5. See Article 130 of Law 2725/1999, as in force, and Article 22 par. 4 and 5 of the articles of association of the Hellenic Olympic Committee (H.O.C.) published in Law 4639/2019, as in force, after its amendment by Law 4726/2020.

6. See D. Panagiotopoulos (2005), *ibid*, pp. 221-225.

1.2. General Principles

According to the General Principles, sports condense and promote values such as decorum, honesty, love for purity and fair judgment. Values related to those of the Greek classical values of beauty and high, the good and the pulchritude, must be observed by anyone involved in sports.

Every event in the field of sports must be based on “shame”, the consciousness of law, which promotes rebellion, resistance against every form of infringement, every unjust judgment, insolence, violence, “hubris”, with the aim of the creation of an atmosphere and environment of friendship, cooperation, and reciprocity.

Sports as an individual right is, among others, a right of individual exploitation as well⁷. Every person must have the opportunity to engage in sports without discrimination of any kind.

1.3. Sportsmanship and sporting conduct

The principles of “good sportsmanship” and “equal competition” aim at the edification of youth, mutual understanding with respect for each other and the manifestation of friendship for a better world.

Fair competition alone is associated with sports. Only fair play satisfies the moral goals of sport. Any means, outside the natural powers of the athlete, apart from those permitted by law, make the competition unequal and the victory fraudulent.

Every event in the field of sports must ensure the implementation of the sports rules and the rules of law on equal terms and in an honest way.

1.4. Theory of Olympism

Olympism is a philosophy of life⁸, which harmonizes the qualitative characteristics of the body with those of will and mind.

By combining sports with culture and education, is sought a lifestyle based on the joy of effort, the educational value of the right model and respect for moral principles. The purpose of the above combination is that sports serve the harmo-

7. See Vasileios Oikonomou (2018), *Sports Activity Sports for All: Individual Development - Rights*, Doctoral Dissertation, University of Peloponnese, pp. 112-117.

8. See K. Georgiadis (2010), *The implementation of Olympic education programs at world level*, *Procedia - Social and Behavioral Sciences*, 2(5), pp. 6711-6718. See also Krinanathi E. Gdonteli (2020), *E-Sports in Olympic Games: A Global Trend and Prospects*, *International Sports Law Review Pandektis (IS- LR)*, Vol. 13, issues 1:2, pp. 50-59, cf. I. Mastora (2017) *Biotechnological adaptations and Sports Deontology*, *International Scientific Review of Ancient Greek Philosophy*, *Socrates International Scientific Review on Ancient Greek Philosophy*, Vol. 3, pp. 77-84.

nious development of people and the creation of societies that will seek peaceful coexistence and the protection of human dignity.

1.5 Obligations of those involved in sports

According to the obligations of those involved in sports:

- Everyone, who is involved in any way in sports, must respect “fair play” or, in Greek sports terms, “good fight”.

Everyone, who is involved in any way in sports, must behave “honestly”, “honorably”, and perceive honesty and integrity as a basic rule of conduct both in the field of sports and in their daily life.

Everyone who is in any way involved in sports must accept and promote “mutual respect” as a practice of competition and of sports events, as a goal of the competitive process, as a process of human dialogue and good acquaintance.

Everyone who is involved in any way in sports must participate with the intention of being a sports fan and of love for this activity and not for the purpose of getting rich, except in cases where the law allows the exercise of a related commercial activity.

Everyone who is associated in any way with sports must take into account that their behavior influences and acts as a model for those who watch them, especially children.

1.6. Principles concerning negative effects and deviations

According to the above principles:

Violence⁹ and negative phenomena such as doping¹⁰, bribery, and criminally punishable acts distort the true meaning of sports and harm the spirit of sportsmanship.

Doping distorts the authenticity of the result and the effort of athletes¹¹, de-

9. See Urgent measures in order to deal with violence in sports, Law 4639/2019 (Government Gazette 185/A/22-11-2019), which entails provisions for the legalization of fan clubs, for incentives to Football Association for the recognition of fan clubs and the control of the legitimacy of fan clubs. With the smooth restart of sports activities and the return of people to the stadiums, the control over the legality or non-operation of the more than 150 clubs, offices and meeting places of fans throughout the territory has not continued. Compare Dimitrios P. Panagiotopoulos (2012), Legal treatment of violence in sports places, *PoinDik* 12/2012, pp. 1145-1154, by the same (2008), Athletes - Organized fans and violence in sports events, *Lex Sportiva*, vol. 7/2008, pp. 419-427 as well as D. Panagiotopoulos, (2005), *ibid.*, pp. 464-480.

10. Antonio Ricozzi (2015) An Experiment in World Anti-Doping Law, *Sports Law: 22 Years I.A.S.L* [Proceedings of 20th IASL Congress (Athens 2014), Dimitrios Panagiotopoulos Ed.], Hellenic Center of Research on Sports Law, Athens, pp. 220-229.

11. See Law 4791/2021 (Government Gazette 51/A/3-4-2021) regarding the necessary provisions for the harmonization of Greek legislation with the revised, Anti-Doping Code of the

stroys their health and their athletic career, and creates negative “models” towards society and especially children.

- Deviations from the principles of the spirit of sportsmanship threaten not only ethics but also the substance of sports.

- The rules for sports fan status impose a specific disciplinary penalty of deprivation of sports fan status, the prohibition of engaging in sports in any capacity or the prohibition of attending any sporting event.

2. Discrimination of Sports fans

Sports fans, regarding the way of expressing their interest in sports, can be board members or ordinary members of a sports club, association, federation, department of paid athletes or shareholders of a sports S.A. company or generally associated with sports. Also, amateur and professional athletes of all sports, coaches of amateur and professional teams and coaches of amateur or professional athletes are recognized as sports fans under the following distinction: they are considered sports fans by nature in amateur sports and as fans by legal fiction in the respective professional sport. Other categories of fans are the Rulers, the judges, the referees, the leaders and the doctors of the competitive and sports teams, the friends (spectators) of the participants, in games and sports events, of sports teams¹² and any other person who wants to participate in sports events. What sports law is interested in, as emphasized very early on, is the external behavior of the sports fan based on the rules of law and the principles of the spirit of sportsmanship that are provided in the rules of law. It is the positive law, namely, the good sportsmanship and the sought unsportsmanlike conduct at the base of these rules, that define the character of the sports fan¹³. Any natural person who is

World Anti-Doping Organization, as in force from 1.1.2021, which replaced Law 4373/2016 (Government Gazette 49/A'/1-4 -2016). cf. Panagiotopoulos Dimitrios P., Kallimani Zografenia (2016), Implementation of WADA Code in the Greek Sports Legal Order, *e-Lex Sportiva Journal*, Vol.IV:1-2, pp.135-139. Also see Macias Elena Atienza, Jose Luis Perez-Trivio (2016), The Evolution of Doping: from the 1999 Lausanne Declaration to the 2015 New World Anti-Doping Code, *International Sports Law Review Pandektis (ISLR/Pandektis)*, Vol. 11: 3-4, 2016, pp. 345-367, of the same author (2014), Doping and Health Protection: A Review of the Current Situation In The Spanish Legislation, *International Sports Law Review Pandektis*, Vol. 10:3-4, pp. 519-527 also see. Zalcmane Karina (2020), Criminogenic manifestations of football fans and prevention: Latvian and foreign experience, *International Sports Law Review Pandektis*, Vol. 13, 2020, pp.190-197.

12. See Dimitrios P. Panagiotopoulos (2005), *Sports Law I*, Nomiki Vivliothiki, Athens, pp. 231-234.

13. See article 130 of Law 2725/1999 as in force, as well as article 22 of the articles of association of the H.O.C. after the amendments of Law 4726/2020 and subsequent articles of the relevant Regulation as the E.F.I.P.H.I.D. Code. Compare Dimitrios P. Panagiotopoulos (2000), *The*

recognized as a sports fan, according to the law and the regulation of E.F.I.P.H.D on the spirit of sportsmanship, is considered to be a sports fan¹⁴. The sports fan, according to the Code of Spirit of Sportsmanship, must observe the principles of the spirit of sportsmanship, be motivated by a sincere love for sports and not aim at, through sports, the acquisition of material benefits or the improvement of his financial position, except in cases where the sports law expressly allows the exercise of a relevant activity. In addition, a sports fan must demonstrate non-blamable conduct in terms of ethics and behavior in society, not act in a way contrary to the principles of the spirit of sportsmanship, appreciate the good sporting effort and refrain from any action that may adversely affect the athletes or hinder the smooth running of the games and sports events.

Also, the board members and ordinary members of sports associations and other legal entities associated with sports, rulers, judges, referees, match doctors and leaders of sports teams, during the exercise of their duties, must demonstrate the appropriate to their position and role conduct, strictly observe the written regulations and carry out the orders of the superior sports authorities, related to the nature of their sports activity, in accordance with the regulations of specific sport and the sports law. Athletes of any sports, during their participation in competitions and sporting events, must demonstrate the appropriate behavior to the athlete, strictly adhere to the written regulations and carry out the orders of the superior sports authorities related to the nature of their sporting activity according to the regulations of the specific sport and the sports law. As stated in the E.F.I.P.H.D. Code, friends (spectators) participating in every match or sporting event must not be carried away by a spirit of hatred and revenge against the opposing team and demonstrate towards the athletes and those exercising their duties within the playing field due respect, without discrimination in terms of nationality, gender, place of origin or association. They must show the same appropriate respect to the supporters (friends) of other athletes or teams both during the match or sports event, as well as in any other aspect of their lives.

2.1. Sports fan Status

According to the provisions of the Greek E.F.I.P.H.D. Code¹⁵, the sports fan status is incompatible:

-In the case of board members and ordinary members of a sports association, union, federation, department of paid athletes, shareholders of a sports S.A. com-

status of a sports fan and the Greek law, *Ethics on Sports*, Athens, pp. 98-102 and by the same author (2005), *ibid*, pp. 231-234.

14. See E.F.I.P.H.D. 2021, *Code of the Spirit of Sportsmanship, Ethics and Deontology*, article 3, https://hoc.gr/sites/default/files/EBOOK-EFIPHD_new_lock.pdf

15. See E.F.I.P.H.D. Code, article 5, *ibid*.

pany and generally members of any legal entity associated with sports, based on its purpose, when exist the obstacles and incompatibilities for their status provided by the sports law¹⁶ (e.g. the coach of each sport).

- With the irrevocable conviction by the competent courts of any person for any action that falls under the category of offences of “violence in the stadiums”¹⁷.

- Actions contrary to the principles of the sportsmanship spirit are not compatible with the sports fan status. Any such culpable and imputable action constitutes an infringement of the principles of the sportsmanship spirit and is punished according to the provisions and penalties of the E.FIP.H.D. Code. These actions are: “i. The non-compliance with “fair play” by those associated with the games and sports events in any way (except from supporters - friends), before the start, during and after the end of these games/sports events.

- ii. The non-showing of the appropriate respect by the friends (spectators) of the participants in games and sporting events and the infringement of the regulations in force on “violence in the stadiums” in the context or on the occasion thereof.

- iii. The distortion or/and the attempt to distort the result of the game in any way, except for the use of prohibited substances and doping methods

- iv. Non-compliance with the provisions of the currently applicable sports law regarding sportsmanship and ethical deontology in Sports.

- v. The use and/or attempted use of prohibited substances and doping methods.

- vi. Racist behavior or behavior tending to discriminate on the basis of gender, religion, political beliefs and sexual orientation and

- vii. Any other action, which is contrary to the principles of the spirit of sportsmanship (even if not mentioned in this Code)”.

In the spirit of sportsmanship, the term “fair play”¹⁸ is defined in substance with the new Code. This content “includes any action that is not consistent with the principle of “fair play” or, in Greek sports, the “good fight”, according to which must act every person (athlete, coach, member of the administration, referee, stadium manager, etc.) associated with the game and the sporting event, except for the supporters (friends) of the teams”. A condition for the application of this article is that the action takes place before the start, during and after the end of the game or sporting event and that it concerns the insult of honor, within the meaning of articles 361 et seq. of the Criminal Code, as they apply from time to time, and the indecent behavior towards any associated person (except for supporters - friends) by any person associated with the game or the sport-

16. See article 3 of law 2725 /1999, as in force, after the amendments of law 4726/2020.

17. See. *D. Panagiotopoulos* (2005), *ibid*.

18. See E.F.I.P.H.D. Code (2021), article 6.

ing event, or the participation in actions that discredit sports. Also, it is against the spirit of sportsmanship, the non-showing of due respect by the supporters (friends), the participation in violence in the stadiums as expressly stated in the E.F.I.P.H.D. Code.¹⁹ and any action with the purpose of distorting the result of the game, which is not consistent with the principle of fair competition and seeks, by illegal means, to distort the result of the match for the benefit of a team or athlete. Actions, with the above content, constitute:

“- The attempt of bribery or bribery of an athlete, referee or other person associated with the game or sporting event.

- The identity fraud of an athlete, referee, or any other person associated with the game or sporting event.

- Obstructing in any way the participation in the game or sports event of an athlete, coach, or any other person of a rival team associated with him.

- The intentional misleading of a referee or judge, during the game or sporting event, by an athlete, coach or other person associated with the match or sporting event, with the aim of making an incorrect decision. Any subsequent, involuntary, admission of it by the athlete or any person who performed the action does not constitute a mitigating circumstance.

- Illegal betting as defined in the law²⁰.

Among the actions which are contrary to the spirit of sportsmanship are also numbered the use of prohibited substances and doping methods²¹ and any action that constitutes an infringement of the provisions, in force, against the use of prohibited substances and doping methods at any given time, regardless of the positive or non-influence of their use on the outcome of the game or sporting event²².

19. See E.F.I.P.H.D. Code. (2021), article 7.

20. See Law 4639/2019 (Government Gazette 185/A /22-1 1 -2019) on the ratification of the Council of Europe Convention signed in Magglingen/Macolin on September 18, 2014, on the manipulation of sports events and on emergency measures to deal with violence in sports, the transformation of the Hellenic Olympic Committee into an Olympic Committee, the ratification of its new articles of association and other provisions. See also Dingli Robert (2018), An Overview of the Macolin Convention, *International Sports Law review Pandektis*, Vol. 12:3/4, pp. 328-338, Anna Kyprianou (2015), *A World Against Corruption; Match Fixing*, *Sports Law: 22 Years I.A.S.L.* [Minutes of 20th IASL Congress (Athens 2014), Dimitrios Panagiotopoulos Ed.], pp 522-526, Hande Ozturk (2015), *Financial Fair Play Regulations and the Future of European Football*, *Sports Law: 22 Years I.A.S.L.* [Minutes of 20th IASL Congress (Athens 2014), Dimitrios Panagiotopoulos Ed.], *Hellenic Center of Research on Sports Law*, pp.584-596.

21. See E.F.I.P.H.D. Code, article 9 and Law 4791/2021 (Government Gazette 51/ A'3-4-2021).

22. See. Anti-Doping Code of the World Anti-Doping Organization (WADA Code) after its incorporation into domestic law with the Law 4373/2016 and its amendment with Law 4791/2021 (Government Gazette 51/A /3-4-2021). cf. Panagiotopoulos Dimitrios P., Kallimani Zografenia (2016), *Implementation of WADA ...*, *ibid.*, pp. 135-139, as well as Konstantinos Konstantinidis,

The execution of these actions by a coach of a minor athlete constitutes an aggravating circumstance²³. Furthermore, any action that is not consistent with the concept of amateur sports, such as the receipt of a fee or other consideration for the offer of sports services, which is not permitted by the sports law, receives special legal treatment. Concealed professional activity, with an employment contract in amateur sports activity, is considered as such²⁴.

Racist behavior constitutes impermissible discrimination based on sex, race, color, age, religious or political beliefs and sexual orientation²⁵, while according to the E.F.I.P.H.D. Code, cases of racist behavior are: the refusal or the prohibition by a third party that an athlete participates in a match due to religious or political beliefs. Defamation and indecent behavior with racist content as well as the presentation and promotion of racist views through the media and social media, as well as the prevention by a third party to an athlete from participating in a match due to racist beliefs.

Finally, any action that contrasts with the principles of the sportsmanship spirit, may not be explicitly mentioned in the E.F.I.P.H.D. Code.²⁶ but may be prohibited by virtue of article 130 of Law 2725/1999 and the provisions of Law 4639/2019 and Law 4726/2020.

3. Jurisdiction over the Spirit of Sportsmanship

According to law²⁷, those involved in any capacity, as managing members, athletes, trainers, gymnasts in all kinds of sports and gymnastics clubs, associations, professional associations or federations, the participants as referees, observers or doctors of games as well as those attending these events must observe the principles of the spirit of sportsmanship and the traditions of sports and the Olympic ideal and must not display unsportsmanlike behavior in general²⁸.

Zografenia Kallimani, Dimitrios P. Panagiotopoulos (2020), The Judgment of Sports Jurisdiction Bodies on Doping Cases, *International Sports Law Review Pandektis (ISLR)*, Vol. 13, issues 1:2, pp. 117-125.

23. E.F.I.P.H.D. Code, as above, article 9.

24. See Dimitrios P. Panagiotopoulos (2006), Sports services of amateur athletes - Sports status and hidden employment contract, *D.E.N.* 2006, pp. 1638-1647.

25. E.F.I.P.H.D. Code, article 11

26. *Ibid*, article 13.

27. See article 130 par. 1 of the Law 2725/1999, as in force, see more D.P. Panagiotopoulos, *Review of Sports Law Lex Sportiva*, vol. 6, pp. 316-323.

28. See Article 130 of Law 2725/1999, as in force after the issuance of Law 4639/2019 (A' 185), Article 22 of Law 4726/2020, by the provisions of which article 4, par. 1 of Law 3148/ 1955 as been amended by article 45 par. 6 of Law 75/75, Royal Decree 26.9.1955, *Official Gazette* 273,

The breach of the above principles will result in the permanent or temporary banning of the offenders from participating in playing fields and sports activities. This penalty is imposed under the exclusive authority of the Committee of Spirit of Sportsmanship, Ethics and Deontology (E.FI.P.H.D.)²⁹ as it has now been renamed the Sportsmanship Spirit Committee (E.FI.P.)³⁰. The content of the sportsmanship spirit was not precisely defined in the law until now and this was a problem for the proper functioning of the E.FI.P. until the explicit mention of article 22 of the articles of association of the Hellenic Olympic Committee (H.O.E.). This was one of the reasons why, especially for the sportsmanship spirit, due to the influence of the great Greek tradition, the pinnacle of which is the Olympic Games, it was established and operated within the framework of the former Olympic Games Committee (E.O.A), the Sports Fan Committee (EFI)³¹, which acted as a guardian mainly of the Olympic values and by extension also of the so-called sports fan spirit.

Today, E.FI.P.I.D. is a first-degree disciplinary body whose activities are limited to cases that offend the spirit of sportsmanship, the principles and traditions of sports in the practice of sports activity³². E.FI.P.H.D. is defined now in sports law and in the E.FI.P.H.D. Code, which was approved by the Plenary Session of the Hellenic Olympic Committee (H.O.C). according to its articles of association³³, and is recognized as a special purpose private law legal entity.

The H.O.C. consists of representatives of the members of the sports federations, who, within the H.O.C., represent the relevant sports federation in the sports scene. E.FI.P.H.D. is composed of H.O.C. (in accordance with the provi-

articles 3 and 4 and Minister of Development. 15752/23.8.1975, Official Gazette 913/30.8.1975, vol. B'. eg. Dimitrios P. Panagiotopoulos (2000), Proof of Sports Fan, Sports fan in the 21st Century (Proceedings of the Scientific Conference of Municipality and Athletic Association of Chaidari, December 17, 1999), Ion: Athens, pp. 23-38. Also by the same author (2000), The status of a sports fan and the Greek law, Ethics on Sports, Athens, pp. 98-102.

29. See Article 22 of the articles of association of the H.O.C. 2019., after the amendment of the thirteenth article of Law 4639/2019 (A' 185) by the Article 22 of Law 4726/2020.

30. The Sports Fan Committee was established by the provisions of article 4 of Law 3148/1955 (Government Gazette 54 A').

31. The work of this Committee was supported by the provisions of the Royal Decrees in 1955 on sportsmanship (the content of these provisions is from another time but still valid and defines the spirit of sportsmanship today) and provisions of Law 3148/1955 which were repealed by the Law 3649 /2019 and 4726/2020, as above.

32. See: Dimitrios Panagiotopoulos (2005), Sports Law I, Nomiki Vivliothiki, Athens, pp. 58-60 and related decisions, also earlier see D. Leontidis (1977), Findings and Objectives of E.FI.P.H.D., H.O.C.. Newsletter Apr. - Jun. 1977, p. 26.

33. See Article 22 of the articles of association of the E.O.E., after the amendment of the thirteenth article of Law 4639/2019 (A' 185) by Article 22 of Law 4726/2020.

sions of its articles of association as in force after its publication according to law). It consists “of five (5) members of which three (3) members, including the President, are members of the H.O.C. with the right to vote or representatives of sports federations - members of the H.O.C. with the right to vote and two (2) members are persons of recognized prestige, preferable graduates of law schools of higher education or graduates of another university of higher education, with specialization in sports law”³⁴. Furthermore, the president of E.FI.P.H.D. is elected by the Electoral Plenary Session of the H.O.C., the remaining members are elected during the second meeting of the Plenary Session, while the persons of recognized prestige are proposed by the President of the E.FI.P.H.D.³⁵.

3.1 Competencies of E.FI.P.H.D.

With the article 22 of the articles of association of the H.O.C. as published with the thirteenth article of Law 4639/2019³⁶, the competence of the E.FI.P.H.D. extended to every violation of ethics, deontology, the Olympic Charter and the IOC Regulations, and the Regulations of the H.O.C. Also, the regulatory determination of the violations of its competence took place. Among these violations are included:

- the use of prohibited substances and doping methods, confirmed by a finding -decision of the competent state authority
- the irrevocable prosecution, by arraignment or indictment and conviction, to any penalty, for the possession or trade of prohibited substances and methods or other violation of the existing legislation on doping, violation of the legislation on addictive substances, sexual abuse, offense of sports violence, manipulation or distorting the result of a match, bribery
- the accepting bribery of sports agents
- forgery with the aim of misleading the sports authorities
- the violation of the Code of the I.O.C. to prevent match manipulation
- the violation of the right to free participation in sporting activity
- the verbal or practical demonstration of lack of respect for diversity (race, colour, language, sex, religious, political or other beliefs, etc.)
- the violation of the provisions of the articles of association of the H.O.C. and its internal regulations, with the aim of obtaining a personal benefit or preventing

34. See article 22 par. 4 of the articles of association after the amendment of the thirteenth article of Law 4639/2019 (A' 185) by the article 22 of Law 4726/2020.

35. See Articles 12 and 13 of the H.O.C. articles of association, as expressly defined in article 22 par. 5 of the H.O.C. articles of association, as above.

36. As the articles of association of the H.O.C. applies, after the amendment of the thirteenth article of the Law 4639/2019 (A' 185) by article 22 of Law 4726/2020.

participation in the administrative bodies of a sports organization or preventing participation in sports games.

- any other violation of sportsmanship spirit, competitive and sports ethics and sports deontology.

E.F.I.P.H.D. holds a meeting “with three members at the stage of the preliminary investigation and with five members at the stage of examining the case in its substance and making a decision, in accordance with the special provisions of the law and its regulations approved by the Plenary”³⁷.

3.2. Code of the spirit of sportsmanship, ethics and deontology

Unethical and unsportsmanlike conduct in sports is not only related only to the participants but also to the administrators - administrative agents, coaches, sponsors, referees and spectators. After the maximization of unethical behavior in sports, as we have emphasized oftentimes in the past³⁸, the time has come for the existence of a uniform regulation of deontology in sports practice as it exists in other areas of social life. A code of sportsmanship, namely, with specialization of the elements that determine the special nature of sports ethics, beyond the confirmed incidents of infringement of personality, infringement of moral rights and unsportsmanlike behavior in general.

A big issue apart from the above is that of the training process and the body burden of athletes and the creation of a state of slavery in young athletes by reason of coaching and competition factors, and even by the parents. For this reason, we have oftentimes highlighted that it is important to further research the sources of sports deontology and the role that can play the special body responsible for inspection behavior in sports, such as the E.F.I.P.H.D., and the possibility to adopt a Code of Sports Ethics and Deontology with various aspects and similar structure³⁹. We highlighted that this Code could work in conjunction with the establishment of an independent sports authority that could, among others,

37. As referred to in article 22 par. 6 of the H.O.C. articles of association, as above.

38. See D. Panagiotopoulos, *ibid*, on the spirit of sportsmanship and sports fan status from 1990 until recently. cf. Mc-Laren Richard H. (2013), *Governance in Sports Governing Bodies*, Sports Law, Structures, Practice, Justice- Sports Science and Studies [Dimitrios Panagiotopoulos, Wang Xioping Eds], Hellenic Center of Research on Sports Law, Athens, pp. 311-317.

39. See D. Panagiotopoulos (2005), *Sports Law I*, Nomiki Vivliothiki, Athens, pp.218-242, the same author for this problem (1998 Ed.), *The Athlete at the Threshold of the 21st Century: Athens 2004*, Proceedings of the 2nd Symposium EKEAD, Lamia 98, NaOL: Athens, (2003), *Sports Legal Order - Negative Phenomena in Sports and Sports Ethics*, Ant. N Sakkoulas, Athens-Komotini, pages 470, of the same author (2005), *Doping and Nutritional Supplements Parallel Lives*, Proceedings of the 15th Panhellenic Seminar of the Gynecological Endocrinological Society, January 29-30, 2005, pp. 68-79.

apply the principles of such a Code of Sports Deontology⁴⁰. After the conversion by law of the H.O.C. to a legal entity of private law, as analyzed above, and the provision on the operation of E.F.I.P.H.D., it is expressly stated that: «Within three (3) months after its establishment according to the provisions of the articles of association, E.F.I.P.H.D. draws up and submits for approval to the Plenary Session, a special Regulation»⁴¹. It is also expressly stated that the same Regulation must also include regulations by which the terms of “sports fan”, “sports fan status”, “sportsmanship spirit”, “sporting and competitive ethics” and any other term related to the project of the E.F.I.P.H.D will be defined, as well as that “procedural rules should be established, in particular regarding the conduct of a preliminary investigation - interrogation, its special powers, the hearing of the interested party etc., which will ensure on the one hand the protection of fundamental rights and on the other hand the existence of a correct and fair judgment, which will satisfy the public’s sense of justice in the sporting events”⁴².

The above Regulation was approved by the plenary session of the H.O.C., as the Code of Sportsmanship Spirit, Ethics and Deontology of E.F.I.P.H.D., in accordance with the provisions of its articles of association and law and is valid from its approval⁴³. This Regulation, among others, includes provisions on the payment of an administrative fee, the amount of which is determined by a decision of the plenary session of the H.O.C., in order that an individual can apply to the E.F.I.P.H.D. to submit a complaint for infringements of the sportsmanship spirit or for behavior related to it, in accordance with the provisions of the law and the articles of association of the H.O.C. The Plenary of the H.O.C. set the amount of this fee (to be eligible), under the penalty of non-acceptance of the complaint of the natural persons, at the amount of 1,000 euros, under the condition of its return if the complaint is well-founded and is accepted⁴⁴. This fee can

40. Dimitrios P. Panagiotopoulos (2007), *Spirit of Sportsmanship, EFIP and fair trial in sports*, Lex Sportiva, vol. 6, pp. 316-323, as by the same author (2005), *Sports Law I*, *ibid*.

41. See article 22 par. 3 of the articles of association of H.O.C. after the amendment of the thirteenth article of Law 4639/2019 (A’ 185) by the Article 22 of Law 4726/2020.

42. See cases a) and b) of article 22 par. 3 of the H.O.C. articles of association, as above.

43. This regulation, before 2010, was a proposal of the then President of EFIP, Georgios Lenou, who in collaboration with us, proposed the EFIP Code and then the EFIPID Code. In this code, we formed the texts and undertook the scientific editing of them until their final version. After the entry into force of the H.O.C. article of association by the Law 4639/2019 and the Law 4726/2020, this Code was approved by the Plenary Session of the H.O.C. on 13-10-2020 and entered into force with the amendments of the relevant committee of 10-12-2020. It has been published by H.O.C., and edited by Giorgios Lenos, member of the H.O.C. and President of E.F.I.P.H.D.

44. The Plenary of the H.O.C. by its decision, on 15-12-2020, set the amount of the fee at 1,000 euros for the complainants, under the condition of its return if the complaint is well-founded.

be considered excessive and not absolutely necessary, as it has been held by the Council of State on similar cases⁴⁵. The aim of the decision of H.O.C. is to protect the credibility of the complaint so that complaints regarding an infringement of the sportsmanship spirit do not end up intentionally before the E.F.I.P.H.D. However, the amount of the required administrative fee goes beyond this logic and acts as a deterrent, essentially removing the possibility of a natural person to commence the legal proceeding before E.F.I.P.H.D. and to submit a complaint regarding a behavior regarding the sports fan spirit, because the excessive amount of the required administrative fee prevents him from this action. Apart from this, the complainant does not have any other special legal interest, other than his participation in the sporting event with the sense of damage to the sportsmanship spirit, if similar behaviors of participants exist. For this reason no one as an individual is going to file a complaint paying an exorbitant amount for this reason.

It should be noted that according to the Constitution, sports serve the public interest through participation in sports as defined by law, on the condition of satisfying the competitive feelings of law and sports ethics in the horizon of the principles of the sportsmanship spirit and the observance of the fan spirit, ethics and deontology and sports sentiments, in accordance with the provisions of the law. Thus, E.F.I.P.H.D. should operate on this horizon, in favor of the protection of the sportsmanship spirit, and the operation of sports with the aim to serve the public interest by ensuring the sportsmanship spirit in sports activities. The decision, therefore, of a legal person under private law, such as the H.O.C., to impose an administrative fee of an exorbitant amount so that someone can file a complaint before the E.F.I.P.H.D., is *contra legem* and goes against the provisions of the sports law, which is generally concerned with the protection of the sportsmanship spirit, but by extension, it is also unconstitutional because it does not only restricts the right of an individual to commence proceedings before the E.F.I.P.H.D. for serious complaints, in order to protect the operation of sports as serving a public purpose, but, on the contrary, it reaches the limits of the abolition of this right, namely of participation in sports activities, as defined in law and under the special spirit of this.

This decision of the Plenary Session of H.O.C., under the authorization of the Regulation (E.F.I.P.H.D. Code) which derives from the provisions of the articles

45. See, among other things, it goes beyond the principle of proportionality and is considered to be unconstitutional and reaches the limits of abolishing the right that gives relevant law. See Council of State 1724/1965, Council of State 2944/1980, Council of State (Department D') 227/1991 with this decision, the provision that unduly restricts the free development of the personality is deemed unconstitutional. The decision of the Court of First Instance of Ioannina 215/1986 is also relevant, by which it was judged that the provisions of article 36 of Law 75/75 were unconstitutional, while with its decision of the Supreme Court 926/1979, the Supreme Court held that the prohibition that this article provided was unconstitutional as contrary to the Article 14 of the Constitution.

of association of the legal entity under private law, even if its approval is subject to the provisions of the articles of association of H.O.C., it cannot be applied because it is contrary to the provisions of the sports law, which sets a different horizon for the protection and the function of protecting the sportsmanship spirit before the E.F.I.P. H.D., which is annulled with this decision, and therefore the Code itself is annulled. In sports law, it is defined that: “those involved in all kinds of sports and in general sporting, competitive or gymnastic events, as well as those attending these events must observe the principles of the spirit of sportsmanship and the traditions of sports and of the Olympic ideal”⁴⁶.

According to the provisions of the same law, “infringement of the above principles imposes to the offenders the penalty of a final or temporary ban from attending any sporting event, their participation in any capacity, as managers, members, sports coaches, gymnasts in all kinds of sports, gymnastics and competition clubs, associations, professional associations or federations, as well as their participation as referees, observers or match doctors”⁴⁷. These sanctions are imposed by the Committee of Spirit of Sportsmanship, Ethics and Deontology (E.F.I.P.H.D.), except for the offenses concerning football⁴⁸ for which takes action after “an in-person complaint or after a decision of the Plenary Session of the H.O.C. or ex officio, and issues its decision at the latest within two (2) months from the end of the hearing process in accordance with the specific provisions of the articles of association of the H.O.C. and in its regulations”⁴⁹.

The precise definition of the area and the nature of the law that governs the sports action leads with legal certainty to the right path and the right way to judge cases and resolve sports disputes. The power of international sports bodies and the global power of *Lex Sportiva* has a direct impact on its application in the field of sports within the states. For everyone who seeks justice, the law as Aristotle emphasizes, seeks “impartiality, the mean: the law is the impartial”⁵⁰ as an impartial and objectively attributed judgement, since the law knows neither preferences nor personal interests, it is “a cogitative reason, mind, without desire, without appetite”⁵¹. Bringing any legal proceedings before a judge means

46. See article 130 par 1 of Law 2725/1999 as in force after the issuance of Law 4639/2019 and Law 4726/2020.

47. See article 130 par. 2 of the Law 2725/1999, as above, as in force.

48. The EFIP deals with offenses concerning the sport of football, “after a reference from the relevant judicial bodies, according to the provisions of the regulation of football matches”, in accordance with article 130 paragraph 3, as above.

49. See article 130 par. 2, as above

50. See Aristotle, *Politics* III, 1287d4.

51. *Ibid*, 1287a, 88-33, “the distribution of the mind naming law”, Plato, *Laws*, IV, 714a, as well as XII, 957c, *Philibos*, 28c and 30d, cv. Heraclitus, B114 Diel-Granz.

taking legal action in search of justice, before the body which, as an “animate” justice, acts only with the will to be an incarnate justice, “justice with soul”⁵². The provisions of the Code of E.F.I.P.H.D. will create a strong field of judgment on infringements that arise in sporting events⁵³ regarding the spirit of sportsmanship, athletic, competitive and sports fan ethics by determining both the essence of this right and the way of regulating the procedure for the correct and fair judgment⁵⁴ before the judicial body of E.F.I.P.H.D. and with all the procedural guarantees required⁵⁵, also due to the nature of the sports institution. There is an expectation for the body that the law defines as the “juge naturel” in the field of Lex Sportiva, to grant justice to the applicant - involved in the sports life⁵⁶. This is exactly what the Code of the E.F.I.P.H.D. comes to satisfy, so that with special regulatory provisions, in a simple and effective way, to ensure objectivity and fairness in today’s sporting life before the special body⁵⁷ designated by law for this purpose, for the judgment of cases of infringement of the sportsmanship spirit, as it is now defined in law.

After the issuance of the Regulation, the decisions of the E.F.I.P.H.D., as a jurisdictional sports body within the H.O.C., will enter into a proper adjudication procedure for a fair judgment, constituting decisions that satisfy competitive feelings and sports fan feelings as well as sports ethics⁵⁸.

In conclusion, the Greek legislator ensures, as he must do, in accordance with

52. Aristotle, *Ethica Nicomachea*, V4, 7, 1132a21.

53. See D. Panagiotopoulos (1997), *The judicial institutions in Sports Law Disputes: An Investigation of the juge naturel*, Justice and Sports, Proceedings of the 2nd Legal Congress, P.N. Sakkoulas, Athens, pp. 253-265.

54. See Dimitrios Panagiotopoulos (2006), *Sports Law Jurisdiction* (Sports Law II. new ed.), Nomiki Vivliothiki, Athens, pp. 50-58, cv. Nafziger J. (1998), *Resolving Disputes or Financial Management of Athletes and American Experiences*, Villanova Sports & Ent. Law Journal, Vol. III, pp. 412-422.

55. This position has been stated for the first time in the fourth Conference of Administrative Judges, Chalkidiki 1994 from the author, see intimately published Minutes, p. 323, cf. G. Dionysatos, *The principle of publicity of the sports trial court*, op.cit., pp. 427-435 as well as D. Panagiotopoulos (1997), *Sports Law*, p. 208.

56. In China, (e.g.) there is no provision for the obligation to provide compensation in case the principles of justice are been violated, see and S. Huang, *The Practice of China’s Sports Law*, Sports Law [Lex Sportiva], 116, cf. J.A.R. Nafziger/W. Lee, *China’s Sports Law*, 46 A.J.C.L. 453-454 (1998).

57. See P. Jack (1993), *L’ intervention du juge dans le règlement des Conflits Sportifs dans les États Membres de la Communauté Européenne*, Proceedings of the 1st International Congress on Sports Law, Ant. Sakoulas, Athens, pp. 403-417.

58. See Proceedings of the Scientific Conference “The Sports Justice Today”, organized by the Sports Club of Chaidari, the Municipality of Chaidari in collaboration with the Hellenic Sports

the Constitution and the international rules⁵⁹, the right of the legal protection of social goods such as sports under the conditions of the spirit of sportsmanship on the horizon of sports and sportsmanship ethics. With the establishment of a special judicial body, that will have a legally correct jurisdictional structure and special regulation, the E.F.I.P.H.D. Code⁶⁰, takes place the substantive judicial judgment for the infringements that arise in sports activities and in the special field of sports fan law.

Law Research Center (EKEAD), on February 25 February 1998 at the Cultural Center Palataki in Chaidari, see the Archive of the Hellenic Sports Research Center, Athens.

59. See D. Panagiotopoulos, P. Perrakis (1993), *Physical Education and Sports*, *ibid*, pp. 15-120.

60. See Hellenic Olympic Committee (, ed. 2021), *Code of Spirit of Sportsmanship, Ethics & Deontology*, (Dimitrios. P. Panagiotopoulos ,Scientific editor), Atreidon Kiklos: Athens.