

## ABOUT THE DIPLOMACY OF SPORTS LAW INSTITUTIONS IN THE EUROPEAN UNION

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**Abstract:** *If we undertake an incursion into the cultural-juridical problems of the European Union, we will have to consider the ideologies of those who thought them. Thus, in order to distinguish the "cultural perspectives" of the members of some institutions, in our case those of sports law, national or international, we will have to take into account "the priority of European Union law". In this way we will contribute to a more correct understanding of the legal-political culture - indispensable for social, legal, operative and responsible communication; we will contribute to a new approach and understanding of individual, collective and institutional rights and obligations. In the same way, we will be able to develop a visible and accepted diplomacy of sports life.*

*The promoters of sports law, lawyers or not, will also assume the quality of sports diplomats, representing the citizenship of the state they come from and of the European Union. In this way they will improve, or they will correct (as the case may be) the legislation in the states that continue to distinguish between one citizen and another on the basis of national, ethno-national, linguistic, cultural and religious affiliation. This presentation is part of my article entitled "On the profession of EU sports diplomat" which aims to research and contribute to a better understanding of the EU institutional system, the role and the place of sports diplomacy as part of the EU diplomacy.*

*The actors of the EU sports diplomacy can thus agree on common values, facilitated by the knowledge and understanding of geopolitics. According to the Charter of Fundamental Rights of the EU, the representatives of the member states decided to share a peaceful future based on common values, putting human being on the center of its action and „establishing Union citizenship as an area of freedom, security and justice".*

**Key words:** *EU diplomacy, sports diplomacy, sports law institutions, kin, people, nation, legality of sports, world order*

### Introduction

Dealing with such a topic as the diplomacy of sports law institutions in the cultural and political space of the European Union could not be sufficiently covered by the content of a single paper - but at least, it can give us a measure of its complexity. Our considerations will also highlight the fact that we are in the

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presence of a new branch of law - imposed by the reality of contemporary socio-economic life - namely „sports law”, part of the sciences of law and sport.

The importance given to sports law, in the legal system of many states, has favored the establishment of organizations with the main „legalization” of sports activities. This „judicialization” is only possible if we address, equally, the science of law and the science of sport. It is also known that some sports courts, in their composition, include, along with lawyers, also specialists in the field of sports, biologists, biochemists, doctors.

In this context, the International Association of Sports Law (IASL) was established. IASL is an international scientific association founded during the 1st International Congress on Sports Law, December 11-13, 1992, in Athens and seated in Olympia, Greece. Since then, IASL is activated as far as administrative matters are concerned in Athens.

The provisions of the IASL Statute have been approved by the competent common law court of Greece, a member state of the European Union. Thus, IASL obtained legal personality.

### **The hypothesis of the work**

I begin to develop the hypothesis of this work from the standpoint of a „worker” with practical and theoretical experience in the field of sports. My experience in the field of law has been favored since 1990, the year Romania embarked on a new geopolitical path. My considerations, which I consider objective with the necessary percentage of subjectivity (based on my professional experiences prior to 1990), are probably also the fruit of an experience accumulated through the study necessary to develop a Diplomatic and Consular Law course.

Thus:

- if the resolution of sports disputes that refer to the violation of some technical regulations, of the rules of the game, are judged by the sanctioning procedure of these sources of law, namely the sports regulations,

- and if sports disputes stemming from the invocation of violations of the rights of athletes, considered related to fundamental rights, cause „convulsions” on an international level,

then, probably, the diplomacy of sports law institutions can smooth out, on a political level, the differences arising from this second category of litigation.

And we can argue by the following:

### **The concept of diplomacy and its role**

The definition<sup>2</sup> is accepted according to which diplomacy is „the political-legal institution whose object is to manage the relations that a state has with

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2. Regarding the concept of diplomacy in general, see DP Heatley, *Diplomacy and the study*

another state or with other states, as well as the existing relations between a certain number of states within the international community”<sup>3</sup> - starting with the relations established between the states that are part of the United Nations Organization and its specialized institutions, which fall under the rules of international law. Currently, there is a proliferation of international technical, scientific, economic, cultural agreements - which also include sports events. From a „political” and geopolitically restricted, summary diplomacy, we moved to a much more evolved and elaborated universal and global diplomacy.

The concept of a diplomat is, after all, a symbiosis between the national and the universal. The premise from which we start consists in the fact that every diplomat belongs to a specific society, the one that produced him and that he represents to the other states; he is not a person without a homeland and national identity; essentially, his role is to connect his country with other countries; therefore, he becomes - from this position, a character of humanity. By definition, and it is not conceivable to be otherwise, a diplomat is and remains a citizen of the state that sends him, or that he represents; therefore, honors him, instructing him to represent him and to defend and promote his rights and interests... the issue of the trust that is granted to him remains essential, and the responsibility commensurate<sup>4</sup>.

### **The legislative consecration of the cultural character of sport and the institutionalization of sports diplomacy in the E.U.**

Among the different types of diplomacy, he also identifies cultural diplomacy. The fact of the legislative consecration of the cultural character of sport should not be ignored. The legislative consecration of the cultural character of sport took place on December 19, 1954, when the Council of Europe adopted the European Cultural Convention „to promote collaboration between its members and between the European states that adhere to the convention, the study of European language, history and civilization”. Within the General Secretariat of the Council of Europe, a Sports Division was created as a component of the

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of international relations, Oxford, 1919; DC Poole, Conduct of foreign relations under modern conditions, Université de Yale, 1924; R. Rodriguez Araya, La diplomacy, evolucion, profesionalidad reglementacion, Rosario, 1932; H. Nicolson, Diplomacy, Neuchâtel, 1948; Franklin Roudybush, Twentieth Century Diplomacy, Strasbourg, 1967; Franco Florio, Nozioni di diplomacy e diritto diplomatico, 2nd ed., Milan, 1978.

3. Ion M. Anghel, Grigore Silași, Adrian Dumitru Crăciunescu, Diplomacy of the European Union (and its rules), Publishing Universul Juridic, Bucharest, 2015, p. 27, with reference to: M.A. Fitzsimons, S.D. Kertesz, Diplomacy in a Changing World, University of Notre Dame Press, Indiana, 1959, p. 3.

4. Ibid., p. 58.

Directorate of Education, Culture and Sports. Thus, by law, the institutionalization of sports diplomacy, part of Europe's cultural diplomacy, happened on December 19, 1954.

Today, any country project or major public policies with a chance of success of a country in the EU area, such as the inclusion of sports diplomacy in the means of influencing diplomatic, intercultural, social, economic and political relations - must consider the respect of geopolitical euro-atlantic values.

„Sports diplomacy can be understood as the use of sports as a means of influencing diplomatic, intercultural, social, economic and political relations. This is an integral part of public diplomacy, which is a long-term process of communication with the public and organizations in order to increase the attractiveness and improve the image of a country, a region or a city and to influence the decision-making process in the political fields. This contributes to the achievement of foreign policy objectives in a way that is visible and accessible to the general public; sports diplomacy at the EU level includes all the relevant instruments in the field of sports that are used by the EU and its member states to cooperate with countries outside the EU and with international governmental organizations. These instruments should focus on policy cooperation and support for policies, programs and projects. Emphasis should be placed on the role of sport in the Union's external relations, including the promotion of European values; It is recognized that sports diplomacy can be conducted in close cooperation with the sports movement, while respecting its autonomy. This includes areas such as the promotion of positive sports values and contributes to the development of political, social and economic cooperation and relations; it is recognized that the values that sport can promote, such as fair play, equality, respect for diversity, integrity, discipline, excellence, friendship, tolerance and mutual understanding, can unite different people and different countries. Sports diplomacy uses the universality of sport as a way to overcome linguistic, socio-cultural and religious differences and, therefore, has an important potential to promote multicultural dialogue and contribute to development and peace; it is emphasized that people from the world of sports and sports events can significantly contribute to the development of sports diplomacy. They can project a positive image among public opinion and foreign organizations and can influence perceptions to facilitate the fulfilment of broader foreign policy objectives. In this context, sport can contribute to the consolidation and completion of diplomacy at national and EU level; it is appreciated that sport can be a platform for the development of interpersonal relationships, for example by supporting the exchange programs of athletes, young people, coaches and experts or by organizing international sports competitions, both at the professional level and at the level of mass...”<sup>5</sup>

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5. Council conclusions regarding sports diplomacy, (2016/C 467/04), COUNCIL OF THE EUROPEAN UNION, in the Official Journal of the European Union of 15.12.2016.

In fact, sports diplomacy” also has its antiquity and its past. Let us only remember its incorporation in the diplomacy of ancient Greece considered one of the richest in principles and suggestions for its application - let us remember that at the time of the ancient Olympic games wars stopped...<sup>6</sup>

### **A conclusion, an exhortation with the conclusion included**

This introductory approach in the matter of sports diplomacy of the European Union requires knowledge of the entire contemporary social environment in which we live. The geographical-cultural-economic-political-juridical area generates the factors on which the good management of social communication depends - their knowledge „diplomatically” favouring the establishment and maintenance of interstate relations through its operating mechanisms.

The diplomatic approach, including that specific to sports diplomacy, implies the achievement of interstate political cohabitation thus domesticating intrastate public relations in the sense of smoothing out possible conflicts generated by the existence of ideologies that have nothing in common with the effort to consolidate European Union policies.

For example, one of these ideologies is the ethnocentric one that haunts, in particular, the countries of Eastern Europe, annihilated by solid arguments, both by historians of the time<sup>7</sup> and by politicians. (see: PARLIAMENTARY AS-

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6. Victor Bănciulescu, *Olympic Games throughout the ages*, Publishing House of the Union of Physical Culture and Sport, Bucharest, 1964, p. 15-16. Alexandru Șiperco, *Ancient Greece*, Bucharest, 1958, p.120 – „...’Thus, by sec. IX BC, Iphitos, the king of Elis, was not, in fact, so much afraid of the plague as of... his opponents. The region over which Ifitos ruled, but especially its capital, Elida (today the town of Gastuni), were coveted for their beauty and fertility. In order to protect them from the envy and predatory tendencies of the neighbors, the Iphitos chain concludes with Lycurgus, the king of the powerful Sparta (whose hegemony he still supports), a pact consecrating the neutrality and intangibility of Olympia. The pact declared Olympia sacred and inviolable territory; crossing this territory with weapons in hand was punished with considerable fines. This is how the „sacred peace” (*echecheiria*) was born, this Olympic truce, imposed on all Greek cities participating in the Olympic Games. Once every four years, for a month, during the period called *hieromenia* („sacred month”), that is, starting a few days before and ending a few days after the Olympic Games, no one could approach armed, having to lay down the spear and shield at the border. These provisions primarily benefited Elida, on the territory of which Olympia was located, and which, in the midst of panhellenic infighting, found an excellent source of prosperity in a „gentlemen's agreement” that history records, without can certify it. Although Pausanias states that he saw in Olympia, in the temple of the goddess Hera, the disc on which the sacred peace convention had been engraved, history considers Lycurgus and Iphitos to be legendary characters”.

7. *Nation and People: Notions of Romanian Ethnocentrism* in Victor Neumann's book, „Nation, People or Nation? About European political identities”, 4th edition, Mega Publishing House, Cluj-Napoca, 2021, p. 119-148. English edition, Victor Neumann: *Kin and People: The Characteristics of Romanian Ethnocentrism* in Victor Neumann's book, „Kin, People or Nation? On

SEMBLY, Recommendation 1735 (2006): „The concept of „nation” invites the member states to bring into line their constitutions with the contemporary democratic European standards which call on each state to integrate all its citizens, regardless of their ethno-cultural background, within a civic and multicultural entity and to stop defining and organizing themselves as exclusively ethnic or exclusively civic states”. Author(s): Parliamentary Assembly; Origin - Assembly debate on 26 January 2006 (7th Sitting) (see Doc. 10762, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr. Frunda). Text adopted by the Assembly on 26 January 2006 (7th Sitting).

In this context we can also add the fact that the followers of several types of fundamentalism, although on the one hand, „fruitful in their personal and community life all the benefits brought by postmodern culture, on the other hand they seem exposed to a continuous flow of energy oriented against these cultural and civilizational acquisitions”<sup>8</sup>.

And if we talk about the (sports) diplomacy of the European Union, it is necessary to specify that this is also part of the legal order of the European Union. „Relations between states, be it diplomatic, consular, economic, financial-banking, cultural, military, organizational or other relations - including relatively recently also sports diplomacy, undoubtedly represent a residual factor in international society; and appearing as an effective datum, but inexorable and without alternative..., there is not a single state or any other international structure that does not maintain relations with other states or is placed outside the international arena and without the related relationship that occurs in by default, by itself; the presence that the state has, as well as the legal personality it enjoys - it is precisely in this manifestation that the establishment and maintenance of interstate relations materializes. As a result, there is for each of these categories of interstate relations and the appropriate operating mechanism - the diplomatic mission, the consulate, the representative office, the delegations, the envoy, the proxy, etc. In the framework of the interdependence of states, globalization and globalisation, states need a state of relaxation, as well as the performance of constructive and useful actions for society and they support each other, they depend more and more on each other - the state of a state has effects and on another, and the family of nations, through the relationships they maintain, became even closer in this process of homogenization; coexistence, understanding and cooperation between them is an imperative, indisputable, and collaboration for the correct and fair solution (through the many agreed

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European Political Identity”, with a Foreword by Hans Erich Boedeker, Scala Arts and Heritage Publishers, London, 2021, p. 87-107.

8. Sandu Frunză, Religious fundamentalism and the new conflict of ideologies, Școala Ardeleană Publishing House, Cluj-Napoca, 2015, p. 100 and so on.

strategies) of the big problems they are faced with, remains a command with no alternative.”<sup>9</sup>

And let us not forget that there has never been a truly global „World Order”. But in the modern world a global order is necessary...the quest for world order requires the correlation of the perceptions of societies whose realities have been largely isolated. The mystery to be overcome is one shared by all people. How do we go about shaping divergent historical values and experiences into a common order...?<sup>10</sup> Is it possible for regions with such divergent histories, cultures, and traditional theories of order to support the legitimacy of a common system, whatever it may be...? And finally, I must admit that the reflection on the law is not of a legal nature but of a philosophical nature - but, we conclude, that such a reflection is also necessary, in the context of the topic addressed, because the law must never assume the task of seeking and delivering definitive truths...<sup>11</sup> If we start from the definition given to globalization, i.e. „the name given to the process of increasing connectivity and interdependence of world markets and businesses” and if we apply this approach to the entire cultural phenomenon (of course, including legal culture in this phenomenon), we will come to the conclusion that the phenomenon of globalization is a reality and that, in addition to the sometimes legitimate concerns it generates, it can be a way to strengthen some social values, to import from the positive experiences of other states and achieve effective cohesion in the development of interstate relations.<sup>12</sup>

**Thus, we can conclude** that the members of the IASL must also contribute to the achievement of effective cohesion in the development of interstate relations, considering mainly the protection of all participants in the sports activity, including here the protection of the fundamental rights of athletes.

I propose that we continue to debate topics, such as: Protection and guarantee of the fundamental rights of athletes; International protection of children in sports activity; The need to include general principles of law in the World Anti-Doping Code; The need to be included in the drafting of the New World Anti-Doping Code of legal specialists, well versed in sports activity; dissociat-

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9. Anghel, I. M., Crăciunescu A. D., Silași G., *Diplomacy of the European Union (and its rules)*, Universul Juridic Publishing House, Bucharest, 2015, p. 7 et seq.

10. Henry Kissinger, *World Order. Reflections on the specificity of nations and the course of history*, RAO Publishing House, Bucharest, 2021, p. 6 et seq.

11. Michel Villey, *Formation of modern legal thinking*, Publishing Universul Juridic, Bucharest, 2023, p. 21 et seq.

12. Prof. Dr. Liviu Bogdan Ciucă (President of the Romanian Academy of Legal Sciences), from the work *Legal culture - an essential component of the national culture*, in the volume „Strength and fragility of law in the face of the challenges of the contemporary world”, Publishing House Solomon, Bucharest, 2024, p. 51.

ing the responsibility of sports teams from the actions of third parties, including spectators.

Thus, IASL must become more visible internationally and constitute a valid interlocutor of the competent institutions of the European Union. The conclusions of the works presented in the scientific events of the IASL to be disseminated and subjected to the analysis of the institutions of the European Union. Thus, we will be able to achieve the desired globalization beneficial to the protection of all participants in sports activities.