SPORTS LAW

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SPORTS LAW CATEGORIES FIELDS OF RESEARCH AND IMPLEMENTATION OF SPORTS LAW

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Abstract

This paper examines the relationship of international law to sports law and the particular nature of so called Lex Sportiva[2]. The paper also researches whether Lex Sportiva (sometimes also called Lex Olympica) may be a subcategory of international law, or on the other hand whether it creates a different and independent type of rules of law in the sphere of the international practice of sports, with its sources being private international sports institutions. It has been said that the theory of international law maintains that "*The law is a mandatory class. It establishes socially organised penalties and it is clearly distinguished both from the religious*

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[2] Claim had been supported by Dimitrios P. Panagiotopoulos (1999) Sports Law, a special branch of Sports Science [in Gr. Αθλητικό Δίκαιο ειδικός κλάδος της επιστήμης in : Professional Sports Activities, 1st Sports Law Congress EKEAD Ellin: Athens, pp. 38–52, see also Dimitrios P. Panagiotopoulos (2002), Sports Legal Order in National and International Sport Life, 8th IASL Congress Uruguay, Modevideo Nov. 28–30, 2001, in: Revista Brasileira De Direito Sportivo (Instituto Brasileiro De Direito Desportivo), no: 2, Pp. 7–17 and in: International Sports Law Review Pandektis, Vol. 4:3, pp. 227–242.See also Dimitrios P. Panagiotopoulos (2003) Sports Law A European Dimension, Ant. N. Sakkoulas: Athens, pp. 16–27, and Ibid (2004), Sports Law (Lex Sportiva) in the world, Regulations and implementation, Sakkoulas: Athens, pp. 22–32.

classes and the moral ones..."[3] On the basis of this theory the paper examines whether the international sports institutions, notably the International Sports Federations and the International Olympic Committee are according to international law, international entities, i.e. bodies whose rules can be considered as international sports law.

Keywords

Sports, Sports Law, Lex Sportiva, Lex Olympica, International Law, Enforcement, Court of Arbitration for Sport, Lausanne

CONTENTS

1. SUBJECTS OF INTERNATIONAL LAW

What is the meaning of, and understanding of, international law? It is a body of rules and principles contained in the legal instruments of the agreements between states, in international customs deemed binding for the subjects of international law, namely. the states, international organisations, and, notably, individuals. States are the primary subjects of such international law.[4]

[3] Kelsen in the same book affirms that international law is true law. Kelsen, the Principles of International Law, Rinehart 1952, σελ. 45–50.

[4] Part of this section formed considerations in the 11th IASL Congress in Johannesburg 28–30 Nov. 2005, South Africa. See D. Panagiotopoulos, Tina Xristofilli (2006) International Law and Lex Sportiva, In: International Sports Law Review/ Pandektis (ISLR/Pand), Vol. 6:1/2, pp. 11–13.

Despite the fact that another category of subjects of international law has been emerging, namely international organisations, individuals, groups of people and liberation movements, the states themselves remain the traditional category of international legal subjects holding the authority in the sphere of the international legal community.[5]

When states are interested in realising and carrying out tasks of mutual interest, they establish specific international machinery. The International Court of Justice in its advisory opinion on the Legality on the Use by a State of Nuclear Weapons in Armed Conflict,[6] stated that the object of the Charter of the international organisations "is to create new subjects of law endowed with a certain autonomy, to which the parties entrust the task of realizing common goals."

In the famous Reparation case,[7] the ICJ observed that the performance by the organisation of the tasks entrusted to it would be impossible, if the organisation did not possess international personality. The judges took great care to link the attribution of such a personality to the will of the member states, which is necessarily implied in the case. The court acknowledged in its 1949 advisory opinion that the concept of legal personality has no uniform content in international law.[8]

International organisations[9] are governed by the principle of specialty. A twofold test verifies the possession of legal personality by the international organisations.[10] First, it must be shown that the member states intended to confer upon the international organisations the competence required to enable them to discharge effectively these

[5] A. Cassese (2001), International Law, Oxford University Press, pp. 7–27, J. Dugard, International Law, A South African perspective, 2000, pp. 5–10, 26, 133–145. 376, Ian Brownlie, Principles of Public International Law, 1998, Oxford University Press, pp. 31–45.

[6] Βλ. advisory opinion on Legality on the Use by a State of Nuclear Weapons in Armed Conflict,Legality of the Threat or Use of Nuclear Weapons Case I. C. J. Rep. 1966.

[7] Reparation for Injuries Suffered in the Service of the United Nations Case, I. C. J. Rep. 1949.

[8] advisory opinion of The Court from 1949, Ph. Sands, P. Klein, Bowett´s Law of International Institutions, 2001, London, Sweet and Maxwell, pp. 285, 292, 472, 474.

[9] Sands, Klein, 508,509.

[10] Cassese, pp. 71–72.

functions.[11] Second, it is necessary for the organisation to enjoy real autonomy from member states and the effective capacity necessary for it to act as an international subject.

In the words of the ICJ it is necessary to show that the organisation "*is in fact exercising and enjoying functions and rights which can only be explained on the basis of the possession of a large measure of international personality and the capacity to operate upon an international plan*."[12]

What are the international rights and duties conferred upon international organisations? We mention the most important ones:

1. The right to enter into international agreements with non-member states.[13]

2. The right to immunity from jurisdiction of state courts for acts[14] and activities performed by the organisation.[15]

3. The right to protection for all of the organisation's agents.[16]

4. The right to bring an international claim with a view to obtaining reparation for any damage caused by a member States or by third states to the assets of the organisation or to its officials acting on behalf of the organisation.[17]

[11] Ibid, 78.

[12] Expression of the International Court

[13] Ibid, 78.

[14] Due to the judicial activity within the limits of the mandate received from the Member States and which are specified in their charter,. Cassese, Op. cit., pp. 80–81.

[15] In 1931 the Italian Court of Cassation delivered a seminal decision in Istituto Internazionale di Agricoltura v. Profili. Mr. Profili, an employee of the International Institute for Agriculture, the organisation that was the predecessor of the FAO and headquartered in Rome, was dismissed by the organisation. He sued the IIA before a court of Rome. The IIA challenged the jurisdiction of the Italian courts, and the case was brought before the Court of Cassation. The Court held that the Organisation had international legal personality, as the states establishing the organisation had intended to be ¨absolutely autonomous vis-à-vis each and every member state." Consequently it was empowered to organize its own structure and legal order autonomously and without any interference from sovereign states. Therefore the Italian courts lacked jurisdiction over employment relations with the organisation.

[16] Ibid 81.

[17] The ICJ upheld this right in the Advisory Opinion on Reparation for Injuries, On September 1948, the UN mediator, Count Folke Bernadotte, and the UN observer, Colonel André Serot, were assassinated while on official mission in Israel. Israel declared itself to be ready to make reparation for its failure to protect the two UN agents and to punish their killers.

Another emerging topic in international law emerges timidly yet decisively, namely the individuals. An increasing number of treaties confer rights directly on individuals and impose obligations on them, especially in the area of International Criminal Law.[18] The right of an individual to petition to the ICC and other judicial organs are indications of the slow but marked trend of making individuals subjects of international law. The right of individuals to petition international or quasi international judicial bodies is considered exceptional since it lacks any substantive right, or the power to enforce a possible decision of the international body that might be favorable to the individual. Rather, it is the states that are in a position to advance such a claim and pursue enforcement bringing a claim before a national or international court those allegedly responsible for breaches of their international obligations.[19]

2. INTERNATIONAL LAW VS. DOMESTIC-NATIONAL LAW

The status of international law as opposed to the national law creates three separate distinctions

1) The monistic doctrine,[20] according to which international law is not a separate legal order but a set of provisional guidelines to be advanced to the status of law, but only if this is in the interest of the sovereign state and according to its unchecked will.

2) The dualistic doctrine, according to which the international legal order and the domestic national orders are two different sets of legal orders quite distinct from each other. Their differences may be characterised thus:

a) Their subjects (namely individuals and groups of individuals for the domestic legal orders, states and international organisations in the case of international law),

[18] Sh. Bassiouni, International Criminal Law, 1999, New York, Transnational Publishers pp. 456, 678.

[19] Cassese, pp. 90–93.

[20] Fitzmaurice, The general principles of International Law Considered from the standpoint of the Rule of Law in Hague Recueil 5, 1957, pp. 70–80, J. G. Starke, Monism and Dualism in the Theory of International Law In: British Year Book (1936), p. 74.

b) Their sources (for example parliamentary statutes or judge made law in the national law systems, treaties and customs in the international law), and

c) the contents of the rules (including national law regulating the internal functioning of the state and the relation between the State and the individual, while international law regulates the relations between states).[21]

This second position allows for an equal, but entirely different status of international law. However, it is obvious that it discretionary on the states as to whether to enforce it by implementation in their legal systems or to disregard it.[22]

3) A third view, formulated by Kelsen,[23] argues for the supremacy of international law vis-à-vis the domestic legal systems. It appears to have gained ground more in theoretical debates than in reality.

To establish which of the above positions is taken by any given state, it is necessary to examine the stipulations which the state sets for the implementation of international law in its domestic law.[24]

3. ENFORCEMENT OF INTERNATIONAL LAW

In international law, neither any central executive authority, nor effective mechanisms of enforcement exist. One is quite justified in the opinion that the United Nations has fallen short of its role to be

[21] As a counterbalance to these two contrasting opinions, there has been also the opinion put forward, that international law can additionally derive from various other sources; according to these theories even private bodies can set binding rules which extend to the international field of their activities. Typical example of that theory is the lex mercatoria as a foundation of international commercial practice. For the special nature of this autonomous legal order see also Ch. Pampoukis (1996), Lex mercatoria (in Greek), Ant. N. Sakkoulas, p. 17 ff.

[22] Cassese, pp. 162–165.

[23] Kelsen, The Principles of International Law, Rinehart 1952, pp. 45–50.

[24] States like Greece, the Netherlands, and Spain adopt an automatic incorporation system. In addition, in Greece, according to the Hellenic Constitution, customary international rules and treaties override national law. In Spain provision is made not only for the supremacy of the international treaties but also for the obligation of the national authorities to construe national legislation on human rights in the light of international instruments.

the executive power of international order. The lack of any effective enforcement mechanism is linked to a lack of a system of compulsory international adjudication. The International Court of Justice and other international courts such as the European Court of Human Rights only have jurisdiction when the parties to the dispute have consented to the Court's jurisdiction. On the whole, the history of the ICJ has been, with a few notable exceptions, one of an embarrassing succession of failures to establish its authority over the subjects of international law. It appears then that international law is still in a primitive state evident. Current political developments sadly confirm this. International law has not been much different from the contractual mercantile spirit that gave birth to it. It remains highly fragmented, contractual, and, as a result, basically ineffective in its enforcement.[25]

4. INTERNATIONAL SPORTS LAW, OR "UNETHNIC" SPORTS LAW? LEX SPORTIVA-OLYMPICA?

4.1. Features

The term international sports law appears to be a subcategory of international law. Basically most of the international Sports organisations were the product of private initiative belonging to the category of private international organisations**.** However, it is commonplace that the most important ones, like the International Olympic Committee and the international sport federations, have acquired an international legal personality through customary practice.[26]

The compliance by the states and individuals with the rules created by these organisations leaves no other logical alternative — compliance is mandatory.[27] The fact that these organisations are subject to the law of the country in which they are based, does not contradict with their international nature or personality. It appears that the originally private

[25] Brierly, p. 167, Dugard, 175, 178, Cassese, pp. 223–224.

[26] D. J Harris, Cases and Materials on International Law, 2000, London, Sweet & Maxwell, pp. 24–43, 143–144; Asylum Case, Columbia v. Peru, I. C. J. Rep. 1950, p. 226. See also Dimitrios Panagiotopoulos (1991), Olympic Games Law, [in Gr. Δίκαιο Ολυμπιακών Αγώνων, (Αρχαία και Σύγχρονη Εποχή), Ant. Sakoulas: Athens, pp. 249 next.

[27] See Dimitrios Panagiotopoulos (1991), Olympic Games Law, supra note, and see also L. Silance (1977), Sports Law, IOA. 16th Congress, Athens, p. 76.

international sports organisations by the implied will of states and individuals and also as a result of custom have acquired an international legal personality and effective capacity in order to attain the specific goal of creating and organising the performance of international sports and international sporting events.

Thus, international sports organisations meet the requirements of the twofold test, discussed above, e.g., the International Olympic Committee, which is vested with the authority to organise and supervise the Olympic Games.

We note here a clear departure from the international law reality described above. In Sports Law as Lex Sportiva, obligations of law and rights are imposed directly on the individual athletes**.** The direct effect of international sports law on individuals can be compared only with the vertical effect existing in domestic national law systems and, in the case of regulations, in EU law. In addition, the integration rules of Lex Sportiva in the national jurisdictions are automatically through the National Sports Federations and National Olympic Committees, an issue that does not exist in international law, but only after the accession to it.

In terms of the creation of the rules, the main legislating function is performed by the international organisations of sports law themselves, i.e. the International Olympic Committee and the international sports federations. However, there are many differences between Lex Sportiva and International Law.

In case of non-compliance by the member states with the rules of Sports Law as Lex Sportiva, the exclusion of the disagreeing member, be it a national sports organisation or sports federation or athlete, is immediate and is enforced through the sanction of permanent or temporary banishment from the games.

Failure of the athlete to abide by the rules of Lex Sportiva is different and activates a system of penalties which vary from fines and suspension to partial and life game exclusion. The system of penalties for the athletic existence of the individual athlete is the equivalent of detention, temporary incarceration, and life imprisonment in the "land" of non-athletic competition.

This is a crucial difference between international law and Lex Sportiva: an effective enforcement mechanism[28] is definitely not one

[28] Dimitrios P. Panagiotopoulos (2008), Lex Sportiva and sporting jurisdictional order, in: International Sports law Review Pandektis, Vol. 8:3–4, pp. 335–373.

of the characteristics of international law while the sophistication of sports law international as Lex Sportiva has in terms of enforcement is impressive.[29]

Another very important difference is the exclusive jurisdiction of the judicial organ of international system of sports law, as Lex Sportiva, that is the Court of Arbitration for Sport in Lausanne (CAS).[30]

In the "Bliamou case"[31] the clash between national judicial organs and the CAS proved without doubt the superiority of the CAS jurisdiction in international sports law. In international law there is no system of compulsory international adjudication.

[29] Considering all the above, the notion expressed by J. Nafziger in International Sports Law, 2nd edition, New York 2004, p. 49, that "lex sportiva is the product of only a few hundred arbitral decisions within a limited range of disputes (...) It is still more of a lex ferenda than a mature lex specialis" seems unjustified. As much as we disagree regarding this opinion; Lex Sportiva exists with the already established rules and is not created by court decisions. These decisions only state in the present moment their devotion to the international sports system and less their interest to formulate case law, i.e. to subvert the rules of lex Sportiva, meaning to force the actors to change the rules in accordance with the operative part of the judgment. For the obvious existence of lex sportiva in the international sports domain compare Dimitrios Panagiotopoulos (2002), Sports Legal Order..., op. cit. pp. 7–17 and in: International Sports Law Review Pandektis, Vol. IV:3, Pp. 227–242, Ibid (2003), Sports Law: A European Dimension..., op. cit., pp. 16–27, (2003), Reglements Sportifs — Limites Juridiques et Lex Specialis Derogat Legi Generali, in: Revue Juridique Et Economique Du Sport, Dalloz: Paris, pp. 87–98, (2004), Sports law [Lex Sportiva] op.cit., pp. 39–50, also Ibid (2004), Lex Sportiva: Sport Institutions and Rules of Law, in: International Sports law Review Pandektis (ISLR/Pandektis), Vol. 5:3, p. 40 f., and in: (2005), Sports Law — Implementation and the Olympic Games [ed], Sakkoulas: Athens pp. 40–44. For the Lex Sportiva Theory, generally see Dimitrios P. Panagiotopoulos (2011) Lex Sportiva and Lex Olympica, Theory and Praxis, Ant Sakkoulas: Athrens, pp. 102–209 and for the "Lex Olympica", pp. 375–439.

[30] For the international sports judicial system and the principle of exclusion of sports federations, βλ. Dimitrios P. Panagiotopoulos (2006), Sports Law II Sports Jurisdiction [in Gr. Αθλητικό Δίκαιο ΙΙ, Αθλητική Δικαιοδοσία] Nom Bibliothiki, Athens, pp. 144–148. For the practice of CAS for the applicable law and the enforceability of its decisions, see Ibid pp. 192–203. For the process of resolving disputes arbitral see also Pantelis Dedes Andreas Zagklis (2006) Court Arbitration for Sport, [in Gr. Το Αθλητικό Διαιτητικό Δικαστήριο της Λωζάνης], Nom. Bibliothiki: Athens, pp. 25–46.

[31] See, Dimitrios P. Panagiotopoulos (2004), International Sports Rules' Implementation — Decisions' Executability, in: Marquette Sports Law Review, Vol. 5:1, pp. 1–12 and Comment in ISLR/Pand., Vol. 5:4, pp. 304–307. For a detailed analysis of this case, see also Dimitrios P. Panagiotopoulos (2011) Lex Sportiva and Lex Olympica... Op. p, Part V, pp. 502–523.

4.2. A New Species of Internationalised Sports Law

We can see differences between Lex Sportiva and the international law on issues fundamental to the nature and the quality of the law itself.

The position that Lex Sportiva[32] is merely a category or subspecies of international law does not bear up upon closer examination. We are faced with a system of law which, although it undoubtedly possesses characteristics from the General Principals of Law, it nonetheless regulates relations in the international domain. The international sports system has succeeded in establishing an impressive system of coercion, through sanctions and binding jurisdiction of the judicial institution, comparable only with national domestic law and Community law, in terms of efficiency and application.

We have before us another species of an international legal system which can not be a simple category or a diversification of international law. Between the system of Lex Sportiva and public international law there is no conflict because there is a law of private nature, internationally, which is the sports "anethnic", that regulates a field of relations that could regulate the public order[33] to apply the provisions of this regulation.

This is another kind of law on the international level, which is parallel with international law, and shares common elements, such as the general principles of law generally, in a new format,[34] typified in the international arena Lex Sportiva/Olympica.

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[32] Analogous to the Lex Mercatoria, see Dimitrios P. Panagiotopoulos (1999) and (2002), Sports Legal Order in National and International Sport Life, 8th IASL Congress Uruguay, Modevideo Nov. 28–30, 2001, in: Revista Brasileira De Direito Sportivo (Instituto Brasileiro De Direito Desportivo), no: 2, Pp. 7–17 and in: International Sports Law Review Pandektis, Vol. 4:3, pp. 227–242.

[33] This outside of nations sporting character of law is not identical with either a national, has a substantial similarity in the Community legal order, which is located midway between the legal systems of the Member States and the international legal order, borrowing elements from all, while remaining independent of them, "Supranationalität" and "supranationalité" German and French literature, respectively. But in this case the term more appropriate is anethnic law, or Lex Sportiva-Olympica.

[34] See Adnan A Wali (2010), The theory of the Sports Law: Towards specific Legislation for sports Transaction, in: International Sports Events and Law [Jacek Foks Ed.], Warsaw, pp. 183–192.

This is not an amalgam of law, but rather an independent system of anethnic sports law. The rules of this new legal order are a new system of rules derived from the composition of rules similar to the Lex Mercatoria,[35] international law and domestic legal systems. When a legal system has such a binding effect and effective enforcement of its rules, then we face the same ideological dilemmas that for centuries we are trying to solve at a domestic jurisdictions level. The theoretical debate continued for years and the results crystallised into principles that are fair, clear and undeniable.

In any organised structure when we have a concentration of power in a few hands the solution is given by the principle of legality and the separation of powers. The essential prerequisite is the complete separation of the institutions that exercise legislative, executive and judicial authority. This entails separation of instruments and separation of powers. The separation of powers and the implementation of democratic processes must be under the guarantee that will ensure the provision of an independent judicial body and the existence of effective judicial protection,[36] an international Court for Sports of special procedural rules of state standing, in a statutory framework of international legitimacy for sport and sports activity.

4.3. Lex Sportiva — Lex Olympica: an Unethnic Law of International Practice

Sports law in the international sporting field, as Lex Sportiva-Lex Olympica, is actually private. This means that it is a law, which is international as anethnic because, it necessarily regulates an area with no geographic boundaries but rather the relationships of persons involved in international and Olympic sports and action. These activities are controlled in their individual states, but are also subject to this international control as well. That is, the Lex Sportiva-Olympica,

[35] Lex Mercatoria: A creation, of a set of customary rules and general principles, which constitute an autonomous legal system capable of governing in a meaningful way the international trade, although not referring to a particular state legal system, previously See Goldman (1987) The applicable law: General Principles of law-lex mercatoria in Contemporary problems in international arbitration, J.M Lew (ed), Martinus Nijhof, 116.

[36] Under the conditions imposed by the Article 6 of the ECHR.

is a really "anethnic" law internationally, to which, however, the theory does not give special power.[37] Nevertheless, it constitutes a sui generis sports law legal order imposed in the sports world heteronomously, through these international sports organisations.[38]

This new kind of law, Lex Sportiva & Lex Olympica as "anethnic" law of international practice, sets necessarily old accepted practices and organisational structures, (established under another perspective) in a way that reveals the insufficiency of practices of international law. Specifically, in a legal order that consists a different kind of law internationally, and which has an impressive feature of coercion similar to the domestic jurisdictions. Many people claim, perhaps based on thoughts of CAS[39] (that is, through the jurisprudence of the abovementioned Court) that what has been formed is a not really Lex Sportiva but rather Lex Ludica.

The Lundica concept comes from the theory of Homo Ludens of Hunginca, the game that finally has no need of rules of law[40] and can not

[37] Dimitrios P. Panagiotopoulos (2011) Sports law: Lex Sportiva and Lex Olympica..., Op. cit., pp. 117–152, Ibid (2004) Sports Law [Lex Sportiva]..., op. cit., pp. 34–49.

[38] Ibid, (1991), Olympic Law [in Gr *Δίκαιο των Ολυμπιακών*...], Op. cit. p. 249, see also D. Panagiotopoulos (1993) The Olympic Games-an institutional dimension-perspective, in: Proceedings of International Congress, (The Institution of the Olympic Games), Hellenic Centre of Research on Sports Law: Athens, pp. 527–528.

[39] Bl. CAS decision no 98/200 according to "[...] Sports law has developed and established through the years, mostly through the arbitration dispute resolution, a set of unwritten legal principles — rather like lex mercatoria for sport, or else a lex ludica — in which national and international federations have to obey. [...]", see also k. Foster (2006) Lex Sportiva — Lex Ludica: The court of Arbitration for sport Jurisprudence, in: Entertainment and Sports Law Journal, pp. 1–14. As well as same opinion by: J. Nafziger (1988) International Sports Law 2nd edition — Transnational Publishers Inc N. York (σελ. 57–61), Reeb Digest of CAS Awards II-1998-2000 Kluwer Law International, p. xxx, McLaren (2001) Introducing the Court of Arbitration for Sport: The Ad Hoc Division at the Olympic Games. 12 Marq. Sports L. Rev. 515 and Different as below, Dimitrios P. Panagiotopoulos (2009), Sports Law Foundation: Lex Sportiva, a Fundamental Institutional Approach, in: Sports Law: an Emerging Legal Order — Human Rights of Athletes, Nomiki Vivliothiki: Athens, pp. 20–22 and in: International Sports law Review Pandektis, Vol. 8, Issues 1–2, pp. 6–14, Ibid see also (2008), Lex Sportiva and sporting jurisdictional order, in: International Sports law Review Pandektis, Vol. 8:3–4, pp. 335–373.

[40] See L. Silance (1977), Interaction des règles de droit du Sport et des lois et traités émanant des pouvoirs pulics in: Revew Olympic 120: Lausanne, I. O. C., p. 622, Dimitrios P. Panagiotopoulos (2003), Règlements Sportifs — Limites Juridiques et

be regulated by the law, while in the sporting action we have absolutely regulating laws — the Lex Sportiva, including technical rules of the particular character of the sport that do not constitute area of law bit they are non law rules.[41] Whilst this distinction may be erroneous, they want to give a sporting dimension to this law, but they forget that if it is Ludica it can not be Lex and vice versa.[42]

As an international sports law, a subcategory of international law, it can really only be described through the rules of international conventions on sports, the international sports conditions, and the international acts for sport governed in their application by the rules and practice of the international law. In addition, by the rules of the Code WADA, (which has been adopted by UNESCO), the United Nations organisation binds the states who signed the agreement to make it a rule of their domestic law, after approval of their parliaments, and these rules are rules of international sports law.[43] International Sports law is therefore absolutely different from the law of rules of Lex Sportiva/ Olympica.

Lex Specialis Derogat Legi Generali, in: Revue Juridique Et Economique Du Sport, Dalloz: Paris, pp. 87–98.

[41] For this theory, See Max Kummer (1973), Spielregel und Rechtsregel, Stampfli & Cie AG, Berne, contra see Jean Pier Karaquilo (1989), Le Droit du Sport et la Droit selon, 18th Conferesce for the European Community, Counsil of Europe, p. 48, J. P. Karaquilo (ed, 1995), L' Activite Sportive Dans les Balances de la Justice, T. II, Dalloz: Paris. See also, Dimitrios P. Panagiotopoulos (2009), Sports Law Foundation: Lex Sportiva, a Fundamental Institutional Approach, in: Sports Law: an Emerging Legal Order op. cit., p. 19 see also Ibid (2011) Lex Sportiva and Lex Olympica..., op. cit., pp. 107–114.

[42] See Dimitrios P. Panagiotopoulos (2009), Sports Law Foundation: Lex Sportiva, a Fundamental Institutional Approach, in: Sports Law: an Emerging..., op. cit., pp. 20, and in: International Sports law Review Pandektis, Vol. 8, Issues 1–2, p. 12.

[43] See Antonis Bredimas, Multilateral diplomacy for sport: the case of UNESCO, in: Sports Law: Implementation and the Olympic Games, [Dimitrios Panagiotopoulos Ed], Ant Sakkoulas: Athens, pp. 327–334. see also A. Bredimas (2000), The International Constitution of Physical Education and Sports of UNESCO — Legal Political dimension and Prospect, in: Sports Ethic, [D. P. Panagiotopoulos Ed.], Ellin: Athens, pp. 87–97, see also Ibid (2005), Legal Order of CIO and international Sports Federations and relation to International Legal Order [in Gr. Η νομική φύση της ΔΟΕ και των διεθνών αθλητικών ομοσπονδιών και η σχέση τους προς την διεθνή και κρατική έννομη τάξη], in : Olympic Games and Law (N. Klamaris et all Ed..), Ant Sakkoulas: Athens, pp. 80–84.

5. CONCLUSION

The rules of Lex Sportiva and Lex Olympica and the quality of the content of these norms with their particular characteristics in the international context of practice, demonstrate that sports law, is not a subcategory of international law, as International Sports Law, but an entirely different kind of law, Lex Sportiva/Olympica.

Lex Sportiva/Olympica, is another kind of law resulting from the synthesis of characteristics of international law (subject, object and content regulations) and the internal characteristics of domestic legal orders (with effective mechanisms of coercion, automatic incorporation norms in national laws exclusive and binding jurisdiction of judicial bodies).

This new kind of international law places necessarily old accepted practices and established organisational structures under another perspective that exists in parallel with the international law and constitutes a sui generis sports law international legal order, imposed heteronomously on the sporting world from these international organisations.[44]

International Sports Law is comprised of the rules of international acts and conventions of bodies that are governed by rules of international law such as international treaties and acts on Sport, the rules of WADA Code and the International Charter for Sport but not by the rules of a Lex Sportiva/Olympica. The need for fundamental changes in the organisation of the international sport practice under the principle of legality in international sports field becomes imperative, via a constitutional charter for sport and an international jurisdiction.

[44] Dimitrios P. Panagiotopoulos (2011) Lex Sportiva and Lex Olympica…. Op. cit., pp. 392–442, see also Ibid (1991), Olympic Law [in Gr. *Δίκαιο των Ολυμπιακών*…], Op. cit., p. 249 next, see also Ibid (1993) The Olympic Games-an institutional dimension-perspective…, Op. cit., pp. 527–528.

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