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THEORETICAL OVERVIEW OF SPORTS LAW WITH EMPHASIS ON SPECIFIC ROMAN LAW PROVISIONS

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Abstract

This work aims to elaborate on examples of legal provisions regarding sport activities in ancient Rome, due to the scarcity of literature in this domain. The analysis is focused on various institutes related to sports activities, liability, gambling, and privileges of athletes (*reparatio damni, culpa, pecunium ludere, excusationes voluntariae*) found in Justinian's Digest and the Codex. Provisions from Byzantine legal sources, including the Codex Theodosianus, are also examined. A comparison between the *quod bonum et aequum* principle and the contemporary fair play is included. The applied methods include normative, comparative, and historical. Several conclusions are articulated concerning the importance of the Roman law framework for modern sports law challenges within the European legal context.

Keywords: *Roman law, History of Sports Law, Justinian's Legislation, Lex Sportiva.*

1. INTRODUCTION

Sport is a profoundly important compensatory phenomenon that is crucial to contemporary culture and has infiltrated numerous sectors. Huizinga formulated the concept of *"homo ludens"* (man, the player), which pertains to sport in a more expansive philosophical context. Every culture values competition in endurance, strength, and talent.

To initiate a discussion on the functions and significance of sport within the legal framework, it is essential to first examine the origin and definition of the term. Current discourse frequently utilizes the term "sport" for its numerous modern practical applications. The Latin origins (disportō, āre[1], or deportō, āre,[2] meaning "to carry away") highlight recreation and leisure. The archaic Italian term "disportare," derived from medieval Latin, signifies "to have fun" or "to

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1 Du Cange, Charles Du Fresne, *Glossarium mediae et infimae latinitatis, éd. augm.* (Niort: L. Favre, 1883–1887), t. 3, col. 141.

2 Egidio Forcellini, *Totius Latinitatis Lexicon* (Padova, 1771), 73.

entertain." Additionally, the Old French terms *deporter* and *desporter* (to amuse, to delight),[3] along with the Middle English word *sporten* (to divert)[4], are considered foundational to the contemporary term "sport." The word "sport" remains prevalent and widely utilized today.

Sport is a multidisciplinary endeavor that captivates numerous scientific fields, including biology, psychology, sociology, law, medicine, and other natural and social sciences. Although defining sport can be challenging, Coakley provides a comprehensive definition, describing it as competitive activities that require vigorous physical exertion or the application of relatively complex physical skills by individuals whose engagement is driven by a blend of intrinsic and extrinsic motivations.[5]

Sport is furthermore defined as "free physical human activity oriented towards the development of psychophysical abilities."[6] Consequently, in most cases of theoretical discourse, sport is categorized into (1) elite sport (focused on achieving superior competitive results), (2) school sport (integrated into physical education curricula in schools, aimed at the development of children and youth), and (3) inclusive sport (recreation, characterized as an area involving participation in sports activities aimed at relaxation and recreation, health enhancement, or improvement of personal outcomes across all demographic segments)[7]. Recognizing the significance of sport for human health underpins the formulation and execution of health promotion initiatives that emphasize sport's vital role in maintaining human health globally.[8]

Since antiquity, individuals have engaged in diverse sports, with victors emerging as heroes. Influenced by stringent religious beliefs and the perception of earthly existence as transient, physical death, sport was frequently viewed as a brutal form of exercise during the Middle Ages. In contemporary society, the traditional conception of sport as an educational social phenomenon has evolved to include games that foster character development both physically and spiritually.

The notion of contemporary sport is ambiguous, emphasizing the athlete rather than the activity itself. From a coach's viewpoint, sport represents a lifestyle, while for athletes, it embodies a rigorous pursuit of victory or records. Unlike sociologists and social psychologists, who perceive sport as a means to fulfill desires during competitive encounters, sports enthusiasts are attracted to events due to the unpredictability of the competing teams' outcomes. Additional challenges confronting modern sport include match-fixing, substance abuse, and athletes exploiting their positions for personal gain. To restore the positive attributes of sport as a structured endeavor, contemporary society must strive to prevent and combat negative behaviors. The standards of sports legislation serve as a crucial instrument in achieving this objective.

3 Frederic Godefroy, *Dictionnaire de l'ancienne langue française et de tous ses dialectes du IXe au XVe siècle, Tome deuxième* (Paris: Casteillon-Dyvis, F. Vieweg, 1883), 517, 634.

4 Simon Gardiner, John O'Leary, Roger Welch, Simon Boyes, and Urvasi Naidoo, *Sports Law* (London: Routledge, 2012), 13, https://doi.org/10.4324/9780203180884.

5 Jay Coakley, *Sport in Society*: *Issues and Controversies,* (New York: McGraw-Hill, 2021), 4-13.

6 Branislav Nešić, *Sportsko pravo* (Beograd: Sportska Akademija, 2020), 70.

7 Ibid, 71–72.

8 Bojan Jorgić. Marko Aleksandrović, Filip Mirić, Hristina Čolović and Lidija Dimitrijević, *Holistički pristup adaptiranoj fitičkoj aktivnosti* (Niš: Fakultet sporta i fizičkog vaspitanja Univerziteta u Nišu, 2020), 8.

2. SPORTS LAW AS A LEGAL FIELD AND ACADEMIC DISCIPLINE

Given the aforementioned characteristics, the legal regulation of sports has prompted the establishment of a specialized field known as sports law.[9] This discipline is increasingly attracting interest from scholars in general and specifically within the field of legal theory, especially regarding the role of sports law in the legal system and its practical applications.

In this context, sports law has specific connections with the following legal domains: civil law (issues pertaining to sports property in general, specifically sports field ownership); commercial and corporate law (management of sports clubs); intellectual property law (industrial property and copyright, particularly concerning broadcasting rights); labor law (transfer and movement of athletes); criminal law (notably related to doping and offenses occurring at sporting events); public international law; private international law; and others.

The central inquiry facing legal scholars due to the aforementioned circumstances is whether sports law belongs to the private or public domain. Specifically, considering the extensive societal influence and public function of sport, does sports law pertain to public law,[10] or is it categorized under private law due to the prominence of regulations arising from individual interests? [11]According to a third interpretation, sports law is a legal discipline sui generis, emphasizing its independent nature. This perspective underscores the field's multidisciplinary character and illustrates how both public and private law have shaped the development of sports law. This notion advocates for sports law as a distinct legal area that equally encompasses both public and private law. Legal scholarship further corroborates this assertion.

3. THE CONCEPT OF LEX SPORTIVA

Lex sportiva encompasses various definitions within contemporary sports legal science. The majority of sports law scholarship outlines that lex sportiva is a set of rules created by international organizations through contracts, meaning it gets its authority from national federations agreeing to follow it.[12]

The essence of this system, having a "judge-made sports law" dominant feature, is condensed in the decisions delivered by the Court of Arbitration for Sport (CAS), which have proliferated to the extent that a distinct set of principles and regulations has been established to govern sports.[13]

9 In contemporary science, there is a dilemma which of the two terms Sports law or Law in sports is more appropriate. The first term is generally used by legal science, while the second is present in sports sciences.

10 Goce Naumovski, "The Importance of Certain Roman Law Solutions for Contemporary Sports Law", *2nd FIEP Congress, Proceedings* (2004): 482.

11 It seems that the assertions deriving from the individual interest criterion given the private law definition has a theoretical foundation in the public and private law distinction provided in legal theory: Publicum ius est quod ad statum rei Romanae spectat, privatum quod ad singulorum utilitatem pertinet (Inst, 1.1.1, 2)

12 Nenad Djurdjevic, Miodrag Micovic, and Zoran Vukovic, *Ugovori u Sportu*, (Kragujevac: Pravni fakultet, 2014), 1-10.

13 Lorenzo Casini, "The Making of a Lex Sportiva by the Court of Arbitration for Sport*", German Law Journal* 12, no.5 (2011): 1317-1318, https://doi.org/10.1017/S2071832200017326.

Lex sportiva is expansively referred by Panagiotopoulos as a legal order that integrates state-adopted law and the regulations established by national and international entities governing organized sport[14]. Thus, it is characterized as non-national law that asserts direct and preferential application alongside national sports legal frameworks, serving as the quintessential law in the realm of sports.[15] This simultaneously embodies lex sporitva regulations with an autonomous and global character.[16]

Because international arbitration is important, many experts believe that lex sportiva is the best way to develop a separate, worldwide sports law that includes rules from federations, traditions, and general principles.[17]

A comprehensive approach developed by Valero [18] suggests that one of the most appropriate definitions of lex sportiva would be "*general principles of the regulations of sport shared by the sports community.*".In this case, the concept of lex sportiva would be easy to comprehend by sport participants appropriate to external entities, and relevant for sports disputes decision makers. With this determinant, lex sportiva principles would serve as a crucial instrument for standardizing sports legislation and safeguarding the essence of self-regulation from other influences.[19] The characteristics of lex sportiva regarding its advantageous application closely resemble the benefits obtained from the implementation of the lex mercatoria idea in emerging legal spheres.[20]

4. ROMAN LAW ORIGINS OF SPORTS LAW

Examining previous legal sources can significantly enhance the validation, evolution, and expansion of sports law as a distinct legal discipline. This stance encompasses various elements. The utilization of the historical method in the analysis of legal phenomena related to sports is particularly crucial, considering the essence of historical legal scholarship.

Investigating various historical legal and socioeconomic contexts is essential for deriving conclusions regarding contemporary sports law, encompassing ancient statutes,[21] medieval jurisprudence, and modern legal history. As previously mentioned, a primary challenge lies

14 Dimtirios Panagiotopoulos, *Sports Law, Lex Sportiva & Lex Olympica* (Athens: Biblioedit, 2017), 105.

15 Loc cit.

16 Miloš Galantić, "Lex sportive —Origin and Meaning of the Term", *Themes,* 39, edition 2 (2015): 559-577.

17 Frédéric Buy, Jean-Michel Marmayou, Didier Poracchia, and Fabrice Rizzo, *Droit du Sport* (Paris: LGDJ, 2015), 38.

18 Alfonso Valero, *In search of a working notion of Lex Sportiva*. Nothingham Trent University Repository (2014), 11-14, https://irep.ntu.ac.uk/id/eprint/21420/1/218313_1342.pdf.

19 Ibid.

20 The comparison between lex sportiva and lex mercatoria, regarding historical background and future challenges is elaborated by Kolev, see: Boris Kolev, "Lex Sportiva And Lex Mercatoria", *The International Sports Law Journal* 1-2, (2008): 57-62.

21 For instance, the 1933 discovery of the Maenad, a diminutive bronze statue representing a dancer-adherent of Dionysus, in the heart of Tetovo exemplifies the importance of sport and dance, along with the governance of these pursuits, for contemporary Macedonian culture, illustrating its continuity from antiquity to the present. Its portrayal in a dancing posture is believed by numerous scholars to resemble the modern folk dance termed "Tresenica" from the Mariovo region, characterized by a 2/4-time signature. See: Katica Dimova, "Za tancot na Tetovskata Menada". Prilozi za istorijata na fizičkata kultura na Makedonija" Komitet za fizička kultura na SRM, 4 (1978):109–112.

in determining the positioning of sports law within the private law framework as an emerging discipline.

Mens sana in corpore sano (a sound mind in a healthy body)[22] is a Roman proverb that best illustrates the importance of physical activity in ancient Roman civilization. Trigon, which resembles baseball or softball; harpastum, which resembles American football; pila (passing a ball to a person in the middle, trying to catch it); and expulsium ludere, which is a variation of modern-day handball, were some of the most significant sports games. Wrestling was the most important individual sport. However, in addition to the gladiator contests, the chariot races, that took place at "Circus Maximus (the Great Circle)" in Rome, were one of the purported expressions of "panem et circenses (bread and games)." Since gladiators were individuals to whom a particular civic penalty—capitis deminutio maxima—was applied, i.e., they were denied their freedom and citizenship, making their position quite distinctive. Due to the lack of a humanistic component to the conflict, as well as the principles of *ius quod ad personas pertinet* (the law that refers to persons), it is hard to identify these individuals with free individuals who engage in sports.[23]

This sufficiently justifies the examination of Roman legal texts governing athletic activities, especially since Roman law plays a crucial role in general sports law, as it constitutes the systematic foundation of contemporary private law in jurisdictions belonging to the Roman-Germanic legal family.[24]

Roman caustics has produced various solutions pertinent to numerous circumstances indirectly associated with sports, rendering its significance noteworthy. Most of these options could be easily implemented by national legislatures without significant obstacles. The limited connection of these solutions to sports offers an opportunity to uphold philosophical principles aimed at preventing any form of abuse within the realm of sports.

Certain sports law scholars examine Gualazzini's notion of "certaminia" (contest, conflict, rivalry, clash) within the context of Roman law.[25] This idea suggests that Roman law provides rules for competitions in legal documents, and each kind of sport has its own set of rules called *ordo certaminis*. The "ordo certaminis" delineates the obligations and entitlements of both organizers and competitors.[26]

Scholars of Roman law have infrequently examined the legal stipulations concerning athletes' status and other sports-related issues in Ancient Rome throughout the three phases of the development of Roman state and law.[27] Nevertheless, an examination of various Roman legal sources reveals certain facts regarding the status of athletes and the regulations that were

22 Juvenal, 10.356.
23 Naumovski, "The Importance of Certain Roman Law Solutions for Contemporary Sports Law", 482.
24 Goce Naumovski, Mirjana Polenak-Akimovska, and Vasko Naumovski, "Roman Law and The Foundations of Contemporary Sports law: The Approach of Justinian's Legislation", *Research in Kinesiology* 39, no. 2 (2011): 197–200.
25 Andreu Camps Povill, and Joan Charles Buriel-Paloma, *Origin of Sports Law. Fundamental Principles of Sports Law. Tempus JEP Lectures and Summaries of the Intensive Course* (Sofia: National Sports Academy, 1998):1-20.
26 Loc cit.
27 Mario Amelotti, "La posizione degli atleti di fronte al diritto Romano", *Studia et Documenta Historiae et Iuris,* 32 (1955): 123–156.

(or were not) enforced in sporting contexts. The analysis of these historical solutions may enhance contemporary legal frameworks for sports.[28]
An analysis of Justinian's legislation[29] indicates that legal complexities associated with sports were appropriately incorporated into the emperors' legislative initiatives, characteristic of post-classical Roman law. The solutions were primarily categorized into two groups: those concerning the status of athletes within Roman society and those pertaining to the regulation of sports events and their influence on daily life. The sources of Roman law have intricately connected both categories of solutions with remarkable sophistication and finesse.[30]

The primary characteristic of the Digest is its presentation of specific cases as analyzed by classical jurisprudence. Consequently, the Digest aims to effectively implementat and harmonize these institutions, thereby facilitating the successful realization of collective interests. In the realm of sporting events, the *reparatio damni* rule exemplifies this tendency. One provision of the Digest addresses the circumstances under which an athlete, such as a boxer or wrestler, may be absolved of liability for the death of an opponent during a public contest. This scenario pertains to the exemption from the rules governing claims for damages (reparatio damni), as established by Lex Aquilia de damno:[31]

Dig. 9.2.7.4 (Ulpianus 18 ad ed.):

Si quis in colluctatione vel in pancratio, vel pugiles dum inter se exercentur alius alium occiderit, si quidem in publico certamine alius alium occiderit, cessat aquilia, quia gloriae causa et virtutis, non iniuriae gratia videtur damnum datum. hoc autem in servo non procedit, quoniam ingenui solent certare: in filio familias vulnerato procedit. plane si cedentem vulneraverit, erit aquiliae locus, aut si non in certamine servum occidit, nisi si domino committente hoc factum sit: tunc enim aquilia cessat.

Where anyone in a wrestling match or in a wrestling and boxing contest or where two boxers are engaged, kills another; and he does so in a public exhibition, the Lex Aquilia will not apply, because the damage must be considered to have been committed for the sake of renown and courage, and not with the intent to cause injury. This, however, is not applicable to the case of a slave, since

28 In this study, regarding Justinian's legislation sources the redactions of Mommsen, Scott and Parr are used as the basis for the analysis: Theodor, Mommsen, *Iustiniani Digesta Retractavit Paulus Krueger* (Corpus Iuris Civilis: Berlin, 1908); Clyde Pharr, *The Theodosian Code and Novels and The Sirmondian Constitutions A Translation with Commentary, Glossary and Bibliography* (New Jersey: Princeton University Press, 1953); Samuel P. Scott, *The Code of Justinian* (Cincinnati: The Central Trust Company, 1932).

29 Justinian I (482–565), originally named Petrus Sabbatius and born in Tauresium (present-day Taor near Skopje), is a notable figure in the annals of legal and cultural heritage. His legal codification, known as Corpus Iuris Civilis, is esteemed as a significant advancement in the evolution of contemporary legal science, especially in private law.

30 Naumovski, Polenak-Akimovska, and Naumovski, "Roman Law and The Foundations of Contemporary Sports law: The Approach of Justinian's Legislation", 197–200.

31 *Lex Aquilia de damno* is a source of old Roman law (enacted in 287 B.C.) for the purpose of regulation of compensation of damages, i.e., obligations deriving from torts. However, in the specific case, the death or the injury should have been done without intention and only because of "reasons of courage and glory." This provision had exclusive validity for persons that had the right to participate in such contests (persons that had at least status libertatis), but it also used to be applied for an injured son, if he was under *patria potestas*, although he was not a person *sui iuris*. *Lex Aquilia de damno* was applied, which means that the injurer was responsible for the damage, if the injured was wounded during his withdrawal from the fight. Such legal frame would allow the Roman judge to determine the truth and the degree of guilt of one of the fighters and by that to solve the matter.

freeborn persons are accustomed to take part in such contests, but it does apply where the son of a family is wounded. It is evident that if one party inflicts a wound while the other was retiring, the Lex Aquilia will be applicable; or if he kills a slave where there is no contest, unless this is done at the instigation of the master; for then the Lex Aquilia will not apply.

Certain sections of the Digest meticulously examine fatalities and injuries stemming from sporting events. If a ball strikes the hand of a barber shaving a slave during a game, resulting in the razor cutting the slave's throat, the barber is anticipated to be deemed negligent, as he is partially accountable for operating his business in a location where a ball is commonly played. Nevertheless, the individual being shaved also shares some culpability, having consented to be shaved in such a perilous environment.[32]

Dig. 9.2.11pr. (Ulpianus 18 ad ed.):

Item Mela scribit, si, cum pila quidam luderent, vehementius quis pila percussa in tonsoris manus eam deiecerit et sic servi, quem tonsor habebat, gula sit praecisa adiecto cultello: in quocumque eorum culpa sit, eum lege aquilia teneri. proculus in tonsore esse culpam: et sane si ibi tondebat, ubi ex consuetudine ludebatur vel ubi transitus frequens erat, est quod ei imputetur: quamvis nec illud male dicatur, si in loco periculoso sellam habenti tonsori se quis commiserit, ipsum de se queri debere.

Mela also says that if, while several persons are playing ball, the ball having been struck too violently should fall upon the hand of a barber who is shaving a slave at the time, in such a way that the throat of the latter is cut by the razor; the party responsible for negligence is liable under the Lex Aquilia. Proculus thinks that the barber is to blame; and, indeed, if he had the habit of shaving persons in a place where it is customary to play ball, or where there was much travel, he is in a certain degree responsible; although it may not improperly be held that where anyone seats himself in a barber's chair in a dangerous place, he has only himself to blame.

Only certain sports disciplines are involved in the debate over awards related to potential liabilities from sporting events. Awards were anticipated solely when the objective of the game was to exhibit valor. The legal term for these contests was "pecuniary games" (*pecunium ludere*):

Dig. 11.5.2.1 (Paulus 19 ad ed.):

Senatus consultum vetuit in pecuniam ludere, praeterquam si quis certet hasta vel pilo iaciendo vel currendo saliendo luctando pugnando quod virtutis causa fiat:

A Decree of the Senate forbids playing for money, except where the parties contend with spears, or by throwing the javelin, or in running, leaping, wrestling, or boxing, for the purpose of displaying courage and address:

Competing for monetary gain was prohibited in all other contexts. Athletes could obtain loans from the Digest, but repayment (with appropriate interest) was only obligatory upon their success:

32 Naumovski, Polenak-Akimovska, and Naumovski, "Roman Law and The Foundations of Contemporary Sports law: The Approach of Justinian's Legislation", 197-200.

Dig. 22.2.5pr. (Scaevola 6 resp.):

Periculi pretium est et si condicione quamvis poenali non existente recepturus sis quod dederis et insuper aliquid praeter pecuniam, si modo in aleae speciem non cadat: veluti ea, ex quibus condictiones nasci solent, ut " si non manumittas," " si non illud facias," " si non convaluero" et cetera. nec dubitabis, si piscatori erogaturo in apparatum plurimum pecuniae dederim, ut, si cepisset, redderet, et athletae, unde se exhiberet exerceretque, ut, si vicisset, redderet.

The price is for the risk incurred, and resembles the case where you are entitled to receive what you paid and something besides, under a condition (even though it be a penal one) which was not fulfilled, provided it does not depend upon chance; for instance, one from which personal actions are accustomed to arise, as, "If you manumit a slave, if you do not perform a certain act, if I do not recover my health," etc. There will be no doubt that if, in order to equip a fisherman, I give him a certain sum of money on condition that he will repay me if he makes a good catch; or if I furnish money to an athlete in order that he may exhibit himself and practice his profession; on condition that, if he is successful, he will repay it.

In other words, the inclusion of such a clause in contracts underscores the exceptional caliber of Roman athletes.[33] The existence of financial assistance mechanisms illustrates the origins of contemporary sponsorship agreements.[34]

Roman society granted athletes exceptional privileges and esteemed status. Various stipulations in Roman statutory law substantiate this assertion. Athletes who received a crown in the so-called sacred games were exempt from the guardianship obligation:

Dig. 27.1.6.13 (Modestinus 2 excus.):

Ulpianus libro singulari de officio praetoris tutelaris ita scribit: athletae habent a tutela excusationem, sed qui sacris certaminibus coronati sunt.

Ulpianus, in his Book on the Duties of the Praetor having Jurisdiction of Guardianship, writes as follows: "Athletes are entitled to exemption from guardianship, but only such as have been crowned in the Sacred Games."

Practically, this constituted a form of *excusatio voluntariae*, permitting qualified individuals capable of providing tutelage (guardianship) and engaged in "free professions" to evade the duty upon their request.

The Justinian's Code (Codex) explains the specific and unambiguous stance of state restrictions on sports activities and related issues while also restating the core remedies put forth in the Digest. An extension of the Digest's rule regarding guardianship, the fourth book of the Codex contains a separate titulus (fifty-fourth) dedicated to athletes, also known as "De Athletis (On Athletes)":

33 Henry, W. Pleket, "Greek sport and Greek athletes", *The International Sports Law Journal* 5/6, (2001): 4–5.

34 Naumovski, Polenak-Akimovska, and Naumovski, "Roman Law and The Foundations of Contemporary Sports law: The Approach of Justinian's Legislation", 197–200.

CJ.10.54.1: *Imperatores Diocletianus, Maximianus*

> Athletis ita demum, si per omnem aetatem certasse, coronis quoque non minus tribus certaminis sacri, in quibus vel semel romae seu antiquae graetiae, merito coronati non aemulis corruptis ac redemptis probentur, civilium munerum tribui solet vacatio. DIOCL. ET MAXIM. AA. ET CC. HERMOGENI. *<A XXX >
>
> It is the custom to exempt from civil duties those athletes who are proved to have won not less than three crowns in formal contests during their entire lives (one of which must have been obtained in Rome, or ancient Greece), and who have not been defeated, and deprived of their crowns by their competitors.

This provision contains the rule exempting athletes from all civic duties. However, the primary need for the rule's implementation was for the athletes to have won (bested) at least three official competitions in their lifetime. Rome or ancient Greece should have been the site of at least one of the crowns won. The systematization of conflicts in ancient Rome was the source of this explicit need. Pleket discusses this rule, similar to the one in the Digest, which ranks games into four types of "sacred, crown" games: the Olympic, Nemean, Pythian, and Isthmian Games, which were recognized and noted in Justinian's legislation.[35]

Byzantine law, as a continuation of Roman law, has maintained the previously mentioned regulations. The rivalry between the "Blues" and the "Greens," the two principal factions in the quadrigae, alongside the Reds and Whites, underscores the profound importance of sports in the Byzantine Empire. Schrodt asserts that in the realm of sports, particularly chariot racing and other competitions, "Byzantine circus factions were more than mere sporting associations" and "they embodied the political, religious, economic, and social divisions of the populace of Constantinople, forming an urban militia that significantly influenced the city's history."[36] This phenomenon has been widely recognized throughout the empire due to its institutionalization within the state administration, which was predominantly controlled by the Blues and Greens, resulting in the obsolescence of the Reds and Whites. [37]While venationes continued, new sports emerged, including the tyzkanion, a Persian tschougan, which is the precursor to modern polo.[38]

In this context, of particular importance is the decree issued by Theodosius I (Theodosius the Great) in 399:

CTh.16.10.17:

> *De paganis, sacrificiis et templis: Ut profanos ritus iam salubri lege submovimus, ita festos conventus civium et communem omnium laetitiam non patimur submoveri. Unde absque ullo sacrificio atque ulla superstitione damnabili exhiberi populo voluptates secundum veterem consuetudinem, iniri etiam festa convivia, si quando exigunt publica vota, decernimus.*
>
> *Just as We have already abolished profane rites by a salutary law, so We do not allow the festal*

35 Henry, W. Pleket,"Greek sport and Greek athletes", 4–5.
36 Barbara Schrodt, "Sports of the Byzantine Empire", *Journal of Sport History*8, no. 3 (1981): 41.
37 Ibid., 48–49
38 Ibid., 52–55.

> *assemblies of citizens and the common pleasure of all to be abolished. Hence, We decree that, according to ancient custom, amusements shall be furnished to the people, but without any sacrifice or any accursed superstition, and they shall be allowed to attend festal banquets, whenever public desires so demand.*

Another interesting point to consider is the (non)confirmed existence of a decree that forbids the Olympic Games, which remains a challenge for contemporary historians, particularly in light of the Theodosian Code (438), enacted under Theodosius II, which prohibitedthe prohibition of pagan activities, and the fact that the last Olympic Games occurred in 405 or 433.[39]

5. CONCLUSION

The examination of concepts and issues regarding social phenomena in both ancient and contemporary contexts reveals philosophical parallels between the legal and athletic domains. A principal focus within Roman law is the evolution of legal principles in the period of *ius honorarium*, which contrasted with the earlier *ius civile antiquum* (strict and formal law). This period saw the reaffirmation of legal philosophy through the elevation of Greek thought, asserting that morality, law, and equity stem from human nature. The prevailing tenet of classical Roman law was *quod bonum et aequum est* (good and equitable). Consequently, law was defined as the "art of good and equal" (*ars boni et aequi*).

Therefore, the field of sports law has codified several principles that have been significant for both sports and legal (Roman) history. A. C. Povil and J. C. B. Paloma outline the following principles: (1) fair play, which includes athletes' loyalty and honesty; (2) equality of contestants and conditions (prohibition of using illegal methods and substances); (3) prevention of discrimination based on gender, race, and other factors; (4) organizational autonomy of sports structures in relation to the state; and (5) unique sport federations, in which the one state-one federation principle is adopted.[40] The first three principles, with their profound philosophical undertones, undoubtedly align with the Roman legal tenet of "*quod bonum et aequum*."

The historical provisions of sports activities examined above further demonstrate the universality of Roman law, especially regarding European legal unity. The trend of the "re-europeanization of European legal science" is likely to continue to manifest in European sports law due to the nature of the European *ius commune* and the adaptability of Roman law.[41]

In this context, the above analysis above has shown that for the societal goal of sport activities to be realized, it is essential that athletes, coaches, sports clubs managers, and other participants all possess the qualities of good faith, honesty, and equity. Ulpian's maxim, "*Iuris praecepta sunt haec: honeste vivere, alteram non laedere, suum cuique tribuere*" (the precepts of the law are these: to live honestly, not to injure another, and to give to each one that which is his), is perhaps the best evidence for the eternal validity of equity in sports law theory and practice.

39 *Loc cit.*

40 Povil, and Paloma, "*Origin of Sports Law. Fundamental Principles of Sports Law*", 1-20.

41 Reinhard Zimmerman, "*Roman Law and Harmonization of Private Law in Europe*", Towards a European Civil Code (Nijmegen: Kluwer Law International, 2004), 21-23.

Subsequent research utilizing qualitative methods and analyzing additional historical sources, particularly from the medieval period, would enhance the theoretical framework. This, in conjunction with quantitative methods and empirical jurisprudence concerning contemporary legislation, would contribute to implementation of impartial and reliable scientific results in addressing the modern challenges of sports law.

Bibliography

1. Amelotti, Mario. "La posizione degli atleti di fronte al diritto Romano". *Studia et Documenta Historiae et Iuris,* 32 (1955): 123–156.
2. Begović, Marko. "Sports Law in Montenegro: Origins and Contemporary Development." *Entertainment and Sports Law Journal*, 19 (2021): 1–8.doi: https://doi.org/10.16997/eslj.912.
3. Buy, Frédéric, Marmayou, Jean-Michel, Poracchia, Didier and Fabrice Rizzo. *Droit du Sport*.Paris: LGDJ, 2015.
4. Casini, Lorenzo. "The Making of a Lex Sportiva by the Court of Arbitration for Sport." *German Law Journal* 12, no. 5 (2011): 1317–1340. https://doi.org/10.1017/S2071832200017326.
5. Coakley Jay. *Sport in Society*: *Issues and Controversies.* New York: McGraw-Hill, 2021.
6. Dimova, Katica. "Za tancot na Tetovskata Menada". Prilozi za istorijata na fizičkata kultura na Makedonija, Komitet za fizička kultura na SRM, 4 (1978):109–112.
7. Du Cange, Charles Du Fresne. *Glossarium mediae et infimae latinitatis.* Niort: L. Favre, 1883–1887.
8. Forcellini, Egidio. *Totius Latinitatis Lexicon.* Padova, 1771.
9. Galantić, Miloš. "Lex sportiva—Origin and Meaning of the Term". *Themes* 39, no. 2 (2015): 559-577.
10. Gardiner, Simon, O'Leary, John, Welch, Roger, Boyes Simon, and Naidoo Urvasi. *Sports Law.* London: Routledge, 2012. https://doi.org/10.4324/9780203180884.
11. Godefroy, Frederic. Dictionnaire de l'ancienne langue française et de tous ses dialectes du IXe au XVe siècle, Tome deuxième. Paris: Casteillon-Dyvis, F. Vieweg, 1883.
12. Huizinga, Johan. *Homo Ludens: A Study of the Play-Eleent in Culture*. New York: Angelico Press, 2016.
13. Jorgić, Bojan, Aleksandrović, Marko, Mirić, Filip, Čolović, Hristina and Lidija Dimitrijević."Holistički pristup adaptiranoj fitičkoj aktivnosti". NiŠ: Fakultet sporta i fizičkog vaspitanja Univerziteta u Nišu, 2020.
14. Kolev, Boris. "Lex Sportiva And Lex Mercatoria." *The International Sports Law Journal* 1-2 (2008): 57-62.
15. Mommsen, Theodor. *Iustiniani Digesta Retractavit Paulus Krueger, Corpus Iuris Civilis*. Berlin, 1908.
16. Naumovski Goce. "The Importance of Certain Roman Law Solutions for Contemporary Sports Law". *2nd FIEP Congress, Proceedings* (2004): 482.
17. Naumovski, Goce, Polenak-Akimovska, Mirjana and Vasko Naumovski. "Roman Law and The Foundations of Contemporary Sports law: The Approach of Justinian's Legislation," *Research in Kinesiology* 39, no. 2 (2011): 197–200.
18. Nešić, Branislav. *Sportsko pravo.* Beograd: Sportska Akademija, 2020.
19. Panagiotopoulos, Dimtirios. *Sports Law, Lex Sportiva & Lex Olympica.* Athens: Biblioedit, 2017.
20. Pharr, Clyde. *The Theodosian Code and Novels And The Sirmondian Constitutions A Translation with Commentary, Glossary and Bibliography*. New Jersey*:* Princeton University Press, 1953.
21. Pleket, Henry, W. "Greek sport and Greek athletes". *The International Sports Law Journal* 5/6 (2011): 4–5.
22. Povill Andreu Camps, and Joan Charles Buriel-Paloma. *Origin of Sports Law. Fundamental Principles of Sports Law. Tempus JEP Lectures and Summaries of the Intensive Course*. Sofia: National Sports Academy, 1998.
23. Scott, Samuel P. *The Code of Justinian,* Cincinnati: The Central Trust Company, 1932.
24. Schrodt, Barbara. "Sports of the Byzantine Empire". *Journal of Sport History* 8, no. 3 (1981): 40-59.

25. Valero, Antonio. "*In search of a working notion of Lex Sportiva*." Nothingham Trent University Repository (2014): 11-14. https://irep.ntu.ac.uk/id/eprint/21420/1/218313_1342.pdf.

26. Zimmerman, Reinhard. "*Roman Law and Harmonization of Private Law in Europe*". Towards a European Civil Code.Nijmegen. Alphen Aan den Rijn: Kluwer Law International, 2004.