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Law and Culture: the Syndicate Agreement and Sport¹

There are many different meanings attached to culture but none of them are generally accepted as the concrete definition. In the Hungarian language defining dictionary (in Hungarian: *Magyar Nyelv Értelmező Szótára*)² of The Research Institute for Linguistics of the Hungarian Academy of Sciences, “culture” has three divergent meanings. Firstly, culture is used as a process of individual enrichment, as when we say that someone is “cultured”. Culture is also a practice of tilling or cultivating the soil. Culture may also mean the sum of material and intellectual values which has created by the society in the whole of its history. This latter historical sense of culture is the basis of the present study and gives meaning to the examined subject matter. The law and sport take part of culture pursuant to their value. The legal culture has a very diverse and different meaning.

In Islamic states, the guiding principle is the religion, whereas in Africa there is a specific tribal law. It is also important to mention the developed Western and European legal culture, or the Asian legal culture which have a very diverse religious and philosophical basis.³ The sport – an activity involving physical exertion and skill and often of a competitive nature⁴ – means the health of the human body and its preservation, development of physical skills, the necessary tools to carry out these activities, and its intellectual reflection in certain disciplines or in the independent physical education and sport sciences. The three issues of body culture are health, physical education. These individual activities ensure health, condition, hygiene and comfort of body. While physical education means an organized and conscious instruction in the development of the physical skills and sport implies an increase in

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² <http://mek.oszk.hu/adatbazis/magyar-nyelv-ertelmezo-szotara/kereses.php?kereses=kult%C3%BAra&csakcimben=on> (16. 02. 2018.)

³ Find out more about the world's legal cultures: BADÓ Attila – BENCZE Mátyás (szerk.): *Betekintés a jogrendszerek világába*. StudioBatiq, Szeged, 2007.

⁴ HARGITAI József (szerk.): *Jogi Fogalomtár*. Magyar Hivatalos Közlönykiadó, Budapest, 2005. 1329.

power, all of them taking place in an organized framework.⁵ Moreover, body culture is part of universal culture, and the State is responsible for supporting sport activities and ensuring the respect of related rights.⁶ The present study is intended to examine the relationship between law and sport from the point of view of the syndicate agreement. In this context, sport law and its constitutional fundamentals will be presented, followed by the segment of sport law, where the syndicate agreement appears in practice. Finally, I intend to outline the system of syndicate agreement, to present sports agreement and its position in the system of syndicate agreement.

Constitutional law aspects

The Hungarian Constitution does not expressly recognize a right to sport, nor does the new Fundamental Law of Hungary. Nevertheless, every human being has a right to sport which is a constitutional right stemming from human nature, meaning that the state shall assure the access to sport activities for every human being. Therefore, sport has become a natural law of humanity,⁷ which is recognized as a right to physical and mental health belonging to the economic, social or cultural rights, which is the second generation⁸ of the right of every citizen.⁹ The Hungarian Constitution only declares a right to physical and mental health. However, the recognition of a right to sport is assured by other legislation, for example by the Hungarian Sport Act.¹⁰ The right to health is extended not only to health care but also to the healthy lifestyle and State aid for sport.¹¹

The Hungarian Constitution affects public functions inasmuch as that can be linked to the sport in the context of the right to health.¹² The Hungarian Constitution recognizes the importance of individual sport activities which serves the preservation of health, fitness and comfort of human being, and the development of other related skills and their upgrading. According to this, everyone has the right to the enjoyment of the highest attainable standard of physical and mental health. In the Hungarian Constitution, the right to health is a broad concept that can be broken down into more specific entitlements. These include the rights to: a safe workplace, protection in built and natural environment (including access to physical activity), health care, and medical treatment.¹³

⁵ TAKÁCS Ferenc: *Sportpolitika*. Magyar Testnevelési Főiskola Továbbképző Intézet, Budapest, 1984. 7-8.; PUSZTAI Ferenc (szerk.): *Magyar Értelmező Kézisgótár*. Akadémiai Kiadó, Budapest, 2008. 1338.

⁶ JUHÁSZ Máté: A testi és lelki egészséghez való alapjogról. *Acta Humana* 3 (2007) 76.

⁷ SÁRKÖZY Tamás: *Sportjog, a 2004-es sporttörvény magyarázata*. HVG-Orac, Budapest, 2010. 22.

⁸ PRINCZINGER Péter – MISKOLCZI-STEURER Annamária – RIPPEL-SZABÓ, Péter: *Sportjog*. ELTE Eötvös Kiadó, Budapest, 2010-2011. 20.; BALOGH Zsolt: *Az Alkotmány magyarázata*, KJK Kerszöv, Budapest, 2003. 672.

⁹ TÉGLÁSI András: „Sportoló” Alkotmánybíróság - avagy az Alkotmánybíróság sporttal kapcsolatos határozatairól. In: Nochtá Tibor – Márton Mária – Mátyás Melinda: Ünnepi tanulmánykötet Tamás Lajos tiszteletére. Pécsi Tudományegyetem Állam és Jogtudományi Kar, Pécs, 2011. 224-225.

¹⁰ ÁRVA Zsuzsanna (szerk.): *Kommentár Magyarország Alaptörvényéhez*. Wolters Kluwer Kiadó, Budapest, 2013. 180.; PRINCZINGER – MISKOLCZI-STEURER – RIPPEL-SZABÓ 2010-2011. 20.; GULYÁS Péter: Az egészség alkotmányos védelme. *Magyar Jog* 11 (2004) 662.

¹¹ BALOGH, 2003. 672.

¹² Decision No. 95/B/2001 of the Hungarian Constitutional Court. (hereinafter: HCC)

¹³ HCC Decision No. 946/B/1990.

In regards to the Hungarian Constitutional Court interpretation, it is definitely concluded that the right to health is a constitutional right and requires legislative to enforce it by establishing individual rights to the enjoyment of the mentioned right.¹⁴ The obligation to provide the right to the enjoyment of the highest attainable standard of physical and mental health is a State responsibility. This right does not make sense as individual right, it is only interpreted as State obligation which means the obligation of legislative to establish individual rights in certain fields of physical and mental health.¹⁵

The constitutional requirement of the right to the enjoyment of the highest attainable standard of physical and mental health implies that the constitutional obligation of the State is to create an economic and legal environment that provides the most favorable conditions for citizens' healthy lifestyle within the capacity of the national economy and according to the possibility of the State and the society.¹⁶ This State obligation concretely means that, *inter alia*, the requirement to ensure the opportunity of regular physical activity. This means that the State has the obligation to ensure for its citizens the opportunity for health preservation, physical activity for developing their bodies or upgrading their power. The State shall implement its mentioned constitutional obligation through its central and local or other government entities, but it does not mean that the obligation that the State shall fully finance all necessary prerequisite for securing these rights,¹⁷ therefore this State obligation did not have any constitutional rule.¹⁸

The right to physical and mental health has been declared in the Fundamental Law of Hungary, and shall align with the previous constitutional law practice. The fundamental instrument of health preservation, namely the right to sport, also appears in the current Fundamental Law of Hungary, but this right has not yet been renounced.

¹⁴ HCC Decision No. 194/B/1998.

¹⁵ HCC Decision No. 54/1996 (XI. 30.), the Hungarian Constitutional Court reaffirms its position concerning the right to physical and mental health in the following decisions: HCC Decision No. 1316/B/1995, HCC Decision No. 261/B/1997, HCC Decision No. 677/B/1995, HCC Decision No. 710/B/2000, HCC Decision No. 390/B/1998, HCC Decision No. 684/B/1997, HCC Decision No. 952/B/2001, HCC Decision No. 108/B/2000, HCC Decision No. 674/B/2003, HCC Decision No. 1105/B/2005, HCC Decision No. 591/B/2003, HCC Decision No. 1094/B/2006, HCC Decision No. 430/B/2000, HCC Decision No. 765/B/2004, HCC Decision No. 857/B/2006, HCC Decision No. 990/B/2007, HCC Decision No. 847/B/2000, HCC Decision No. 278/B/2008, HCC Decision No. 208/E/2007, HCC Decision No. 304/B/2007, HCC Decision No. 143/B/2005, HCC Decision No. 87/B/2004, HCC Decision No. 280/B/2007, HCC Decision No. 841/B/2011, HCC Decision No. 37/2000. (X. 31.), HCC Decision No. 38/2000. (X. 31.), HCC Decision No. 16/2003. (IV. 18.), HCC Decision No. 87/2008. (VI. 18.), HCC Decision No. 109/2008. (IX. 26.), HCC Decision No. 44/2009. (IV. 8.), HCC Decision No. 67/2009. (VI. 19.)

¹⁶ HCC Decision No. 56/1995. (IX. 15.), the Hungarian Constitutional Court reaffirms its position concerning the right to physical and mental health in the following decisions: HCC Decision No. 390/B/1998, HCC Decision No. 517/B/2003, HCC Decision No. 108/B/2000, HCC Decision No. 674/B/2003, HCC Decision No. 591/B/2003, HCC Decision No. 430/B/2000, HCC Decision No. 278/B/2008, HCC Decision No. 208/E/2007, HCC Decision No. 304/B/2007, HCC Decision No. 1218/E/2007, HCC Decision No. 1217/B/2007, HCC Decision No. 280/B/2007, HCC Decision No. 419/B/2010, HCC Decision No. 841/B/2011, HCC Decision No. 37/2000. (X. 31.), HCC Decision No. 67/2009. (VI. 19.)

¹⁷ HCC Decision No. 1403/B/1991.

¹⁸ See judicial practice in footnote 13.

The right to sport, however, shall be derived from other constitutional law, or existed within another constitutional law, or ensured through another fundamental right.¹⁹

The short presentation of youth training

At this point of the present study, a segment of the sport law will be introduced which may be relevant in the light of the syndicate agreement. The youth training is regulated in Act I of 2004 on Sports (hereinafter: Sport Act). On this basis, the youth training is ensured within the framework of (a) sport organizations, especially within (b) sport associations²⁰ or (c) foundations for youth training development²¹ or (d) in sport schools through a cooperation agreement.²²

– The sports organizations refer to sports associations, sports undertakings, sport schools, and foundations for youth training development.²³

– The sports associations are non-governmental organization operating under Civil Act²⁴ and the rules of the Civil Code,²⁵ the core activity of which is the organization of sports activities and the establishment of conditions for sports activities;²⁶ Sports associations are the traditional core organizational units of Hungarian sports and youth training.²⁷

¹⁹ PRINCZINGER Péter: *Az egészséghez való jog és a sport az új Alaptörvényben*. In: Az új Alaptörvényről - elfogadás előtt. Országgyűlés Alkotmányügyi, Igazságügyi és Ügyrendi bizottság, Budapest, 2011. 167.; KELLNER Szilvia: *Az egészséghez való jog jelentése és átalakulása. Jog-Állam-Politika* 3 (2014) 94.

²⁰ Subsection (2) of section 16 of Sport Act: Sports associations are the traditional core organizational units of Hungarian sports, the workshops for leisure sports, competitive sports, talent nurturing and youth training. Sports associations may receive state (local government) subsidies directly. The minister responsible for sport policy may enter into an agreement with a sports association (including the sports school which functionate in association form) for Olympic, Paralympic and Deaflympics cycles. This contracting association shall meet with all requirement set out in the Government Decree on State Aid for Sport and attend youth and adult training in many branch of sport.

²¹ Point t) of section 77 of Sport Act: foundation for youth training development: the long-term public interest of this foundation is primarily focus on youth training, includes initiation of sport activity, promotion of conditions, organization of training regarding to preparation for competition.

²² Point m) of section 77 of Sport Act:

ma) public sports school: is a public education institution, which provides education and training in a class or age group within the scope of the Act CXC of 2011 on Public Education. This public institution shall prepare its local pedagogical program according to the cooperation agreement concluded between the public sport school and a national sports association, a national sports federation or a national sport association of disabled people and this program is based on this contracting parties' professional proposal. It shall ensure the advanced education of the physical education subject, the compilation of the local pedagogical program, and the athletes' preparation and competition activities. The public sport school shall fulfill its tasks regarding the organization of programs for training and competition according to the cooperation agreement concluded by a non-profit legal entity, sports association, sport undertaking or foundation for youth training development,

mb) sport school operating in the form of association: is a non-profit legal entity, sport association, sport undertaking or foundation for youth training development (youth academy) which ensure sport training in age groups. This association participates in youth education and training, in the high level of preparation and competition of athletes or provides conditions for the fulfilment of youth education and training tasks,

²³ Subsection (1) of section 15 of Sport Act.

²⁴ Act CLXXV of 2011 on the Freedom of Association, Non-profit Status and the Operation and Support of Civil Organizations. (Civil Act)

²⁵ Act V of 2013.

²⁶ Subsection (1) of section 16 of Sport Act.

²⁷ Subsection (2) of section 16 of Sport Act.

– The foundation for youth training development is a non-governmental organization, set up to pursue a long-term public interest. This long-term public interest is the promotion of sport activity relating to the competitors attaining the age of youth training, assuring condition for this, and organization of tasks for preparation and competition.²⁸

– The sports school carries out youth training or contributes in the discharge of youth training and operating as public education, or non-governmental organization, sport association, sport undertaking or foundations for youth training development.²⁹

Furthermore, the State, the minister responsible for sport policy, the Hungarian Olympic Committee and Sport Federations have different obligations regarding the youth training and its financing. The National Sport Federations are essentially responsible for identifying the strategic development concept of the branch of sport (including the concept of youth training development) and providing for implementation, as well as ensuring implementation thereof.³⁰ In the course of concept development, the Sport Federations shall consult with the Hungarian Olympic Committee (hereinafter: HOC) and the HOC may take professional suggestions during the concept development of youth training.³¹ The State provide financial support to youth training against State budgetary. This State support is available under normative contribution, contract, and through tendering procedure. The minister responsible for sport policy elaborates programmes to support youth training.³²

The occurrence of syndicate agreement in the field of youth training (football)³³

In this point of the present study, I would like to present the two types of youth training which are relevant for the syndicate agreement. At first, the syndicate programme which is established in football and means the particular cooperation form of sport organizations, then the sport school programme, serve the state's aspirations and apply not only to football but also to all branch of sport.

The syndicate program Based on the system of youth training set out in the Sport Act and described briefly in the previous point of this study, it can be seen that the organizational framework of youth training is subject to private law, while its financing are governed by public law. In the field of Hungarian football, the Hungarian Football Association³⁴ and the Sport Association (operating football department) are responsible

²⁸ Point t) of section 77 of Sport Act.

²⁹ Point m), ma) and mb) of section 77 of Sport Act.

³⁰ Point e) and h) of subsection (1) of section 22 of Sport Act.

³¹ Point a) and b) of subsection (4) of section 38 of Sport Act.

³² Point d) of section 49, i) and ib) point of subsection (1) and (2) of section 51, point c) of subsection (1) of section 56, point f) of section (2) of section 57 of Sport Act.

³³ This point of the study was elaborated by an interview with Mr. Ferenc Gabala football coach, trainer, perpetual member of the Dorogi FC Hungarian football club, professional director of Vasas SC Hungarian football club.

³⁴ National sport federations are sports federations fulfilling the responsibilities identified in the Sport Act and other legislation solely within their respective branch of sport, and exercising special powers resolved in the Sport Act. National sport federations is a legal entity, may solely have sports organizations as their members shall be registered with the Budapest City Court with powers and sole jurisdiction as separate legal entity type. National sport federations, unless otherwise stipulated in the Sport Act, are governed by the rules of the Associations Act on non-governmental organizations and of the Civil Code on associations mutatis

for the determination and ensuring implementation of youth training concept. Both of them are entitled to autonomy according to private law. In the field of youth training, they are entitled to define their concept with the approval of the HOC and ensure the implementation of the approved programme and determine how it is being implemented. The sports associations enjoy this freedom and develop plans for discovering and educating young talents in order to ensure the supply of such a branch of sport. However, there are also financial and professional barriers of this: adequate youth training education systems are not built due to the lack of professional competence, human resources, adequate financial resources or a combination of these.

Nowadays, it is understood that the youth training has a particular objective in the field of football. Everyone recognized the importance of exploiting potential opportunities inherent in talented young people, so a sport organization should invest „a lot of money” into their education, and by the end of the process, the player selling abroad will mean a good business. In addition, this may also have a positive effect on the sport organization further operation and its consideration will increase. However, this profit and business-oriented attitude may cause damage to the concerned young talent and the sport association. Recognizing this situation and compensating for the disadvantages of the system, in order to educate the youth supply, a Hungarian sport organization has been developed as a unique programme in Hungary called the syndicate.

The syndicate programme is a relationship system functioning for common goal which is based on a common thinking and keeps in mind the development of talented young people and the principles, conditions and mutual expectations of cooperation is set out in the syndicate agreement. The syndicate cooperation is an essential basis of the successful education of youth generation. The parties of the syndicate programme are the sport organization (who developed the programme) and the educational association (a sports organization which provides youth training and education for talents) who entered into an agreement for mutual benefit by retaining the legal autonomy of all participants.

On the basis of this cooperation, the programme developer sport organization gives professional knowledge for the contracting sport organization's trainers who are responsible for youth training and the trainers implement this knowledge to its own training and educational programme. Moreover, the sport organization ensures the necessary infrastructural and material conditions for a high level of professional work. The sport organization, which develops the programme, undertakes that the most talented youth of the association can participate in his training, sessions, surveys, international tournaments as a guest player, including friendly matches between them and the participation each other's football tournament. The educational association undertakes to draw the attention of the program developer to the talented footballers discovered by this association and to provide them with a certain age limit the

mutandis. Only one national sport federation may operate within each branch of sport. (section 20-27 of Sport Act)

possibility of transfer to the programme developer sport association.³⁵

The sports school

The Hungarian Olympic Committee shall contribute to the development of State's youth training and operates as a sport public body which has youth training programmes.³⁶ The system of sports schools enables the implementation of youth training.³⁷ This program encompasses sports education and training for elementary and secondary school students. It is essential that, in addition to compulsory schooling and the proper education and training of students, the opportunity is created to build a sports career that is in sync with compulsory education. Under this program, the cooperation is implemented with public sport schools and other sport schools operating as an association, which is subject to the use of sports school curriculum.³⁸ Through this program, the State may provide aid to the public sport school awarded by a result of a tendering procedure. In sport school program, the sport school and the sport federation or the sport association will enter into a cooperation agreement. Under this cooperation, the contracting parties shall jointly ensure the possibility of achievement of the maximum sport success regarding to the talented athletes.

The sport school undertakes implementing a branch sport curriculum into its pedagogical program and legitimizes through the controlling authority of the school according to the applicable law. If the sports school concludes an agreement with the sports federation, the sports school then undertakes the responsibility to enter into a cooperation agreement with an appointed sport association to successfully complete the sports curriculum in such a sport branch. In this agreement, the parties shall notify each other regarding to the student athlete's sport development, achievements and student problems (absence, deterioration of performance, etc.) in order to resolve them. If a

³⁵ In response to the arisen problem of youth training, the National Football Association is decided to prepare a sub-center system in its resolution of ELN-45/2016 regarding the conception of regional youth training and education, and the financing system of this conception. The resolution is published in Official Bulletin No. 13/2016 (07.01.) of the National Football Association. The ideas and aims of the syndicate program continue to be implemented by the elaboration of this sub-center system. With this new conception the syndicate program will be implemented in an organized framework and managed by the National Football Association in the whole country. The implementation is based on the establishment of the appropriate regional youth centers in the whole country, which operate on a nearly identical training system and at the same level. In the developed regions, there will be only one youth center by region which has a close professional relationship with qualified recruitment centers in the same area. With the establishment and operation of this system, the National Football Association aims to educate qualified players for the Hungarian football. In order to assure that a system of incentives has been built up and one part of the State aid is depending on the youth center's productivity. The list of regional youth centers is closed, the sport organization who is elaborated the syndicate program can be also find on this list, which means that the cooperation will continue not under the syndicate program, but within the framework of the sub-center program and its rules.

³⁶ Héraclész Program and Sport XXI Program which support youth training and managed by Hungarian Olympic Committee. http://www.nupi.hu/heraklesz/heraklesz_program, <http://www.nupi.hu/sportxxi> (21. 02. 2018.)

³⁷ The regulation of sports school can be find in point m), ma) and mb) of section 77 of Sport Act.

³⁸ The curriculums of the sports school can be found on the following website: http://www.nupi.hu/sportiskola/sportiskolai_kerettanterv (21. 02. 2018.); Section 177 of Decree No. 20/2012. (VIII. 31.); Point 7.4. of Annex 7 of Decree No. 51/2012. (XII. 21.) EMMI. The list of sports schools (operating in public and association form) can be find on the following website: <http://www.nupi.hu/sportiskola/sportiskolak> (21. 02. 2018.)

significant decline occurs in the student's sport results and performance, the contracting parties shall jointly decide about the resolution by an exceptional consultation. According to the cooperation agreement, the sports school is obliged to ensure that the student athlete is able to participate in sport-based training, training camps, competitions and the school's work schedule shall be established according to thereof. The student athlete is also obliged to participate in trainings. In the absence trainings, they shall attend the lessons and various occupation. For the successful implementation of the sports curriculum, teachers of the sports school should receive professional support, coaching and further training as needed.

The status of the syndicate agreement in sport law

The systematization of the syndicate agreement

The syndicate agreement does not have a general conceptual definition, it is a casual or long-term cooperation between two or more legal entity to pursue or promote a shared interest. The syndicate agreement is a cooperative contract, therefore the cooperation of two or more legal entities that the syndicate agreement belongs to this "type". The syndicate agreement can be qualified as an atypical contract which only means that the given agreement does not belong to a type of contract regulated by the law.

The Hungarian Civil Code, however, does not impose a limitation as to possible types of contract and recognizes the freedom of contract³⁹ of the parties that have an aim to regulate their cooperation in an agreement. Regarding contractual freedom and the special nature of this agreement, this cooperative contract has many kinds of varieties, types and their classification is possible on several aspects. It can be classified by the concerned field and branch of law (1), in terms of its mixed character (2), or in the category of current interrelated contracts as defined in modern contract law (3).

– Regarding the classification of the concerned field and branch of law, the syndicate agreement is qualified as a civil law agreement under which a consortium and a civil law partnership can be founded. Then, this has related contracts in the field of company law, family law, inheritance law, etc., staying within the field of private law. However, this civil law syndicate agreement may contain public law provisions, from the field of competition law, public procurement law, labor law, etc.

– A distinction shall be made between mixed agreements which are a mixed contract or contract type for the purpose of the legal system or branch of law. The mixed contracts for the purpose of legal system contain private and public law provisions. In the light of the syndicate agreement, this means that the given civil law agreement is linked to the field of public law, especially to competition law, public procurement law, labor law. The mixed syndicate agreement for the purpose of the branch of law is typically the syndicate agreement which had been created by using the

³⁹ The institution of freedom of contracts is not mentioned in the old Constitution or in the new Basic Law, but is integrated into the content of the Constitution and then the Basic Law, by virtue of the Constitutional Court's law-making activity. Contractual freedom, as a general constitutional law, becomes concrete in the current Civil Code, its validity is guaranteed by the private law and can be limited by its provisions, but these constraints can not be unconstitutional. According to the practice of the Constitutional Court, freedom of contract can be traced back to the general freedom of action which constitutes an essential aspect of human dignity, which is the freedom to create legal transactions and the freedom of that freedom to confer autonomous freedom of choice in all those legal transactions, namely the conclusion of a contract or not, in relation to the choice of the contractor, the choice of contract type and the content of the contract.

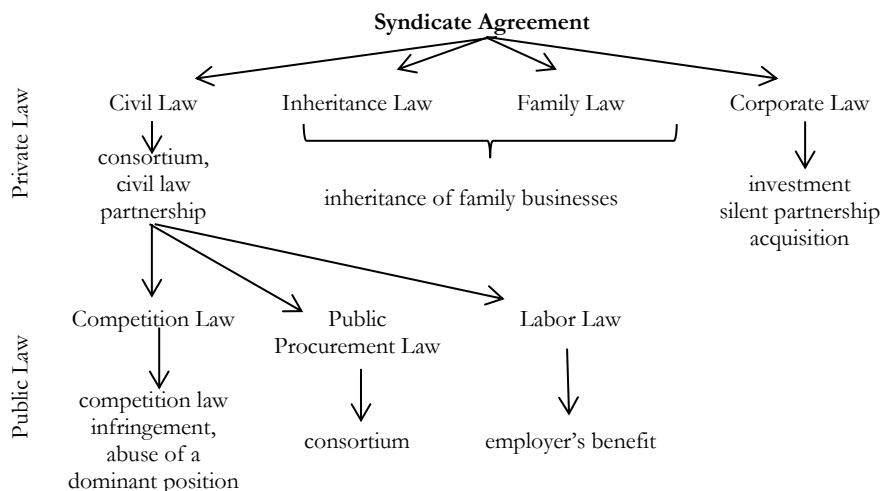
characteristics of several types of contract. This cooperative civil law syndicate agreement is linked to family law, inheritance law, company law, competition law, public procurement law, labor law etc. If the linking branch of law has a public law characteristic, therefore this is a mixed contract on the border of public and private law. However, if a contract mix services of several contract type, it is a mixed type contract. One such example would be a syndicate agreement which is concluded for the establishment of a silent partnership.

– A contractual chain is current in the modern contractual law can be concerned between interrelated contracts. This contracts are linked to each other by the same direct and indirect object. The network contracts means interrelated legal relationships and their legal entities keep their legal and economic separateness. The “umbrella” or framework agreement are contracts that provide a formal framework for contractual decisions that are subordinated to a common purpose and for the development of common contract terms. The category of linked contract is spread under the European private law unification processes.⁴⁰ The syndicate agreement can be classified in the latter category in the case of investment type. The fact of the venture capital investment and all other conditions and securities are regulated and specified in the syndicate agreement. In order to validate and implement the provisions of the syndicate agreement, further contracts will be concluded between parties. Such as license agreement regarding the use of intellectual property, shareholders’ loan agreement (in order to provide supplementary payment for consolidating company’s losses), or the parties may stipulate that the investor shall enter into a share purchase agreement in order to sell its shares existing in the company by the expiry of the investment. In this regard, syndicate agreement and the other contracts can be determined as linking contracts, because the contracts are interrelated by the fact that the contracting parties are partially identical and the content of the contracts is mutually exclusive. In the border sense, the syndicate and related contracts form a group of contracts where the contracts in the group are independent, without a hierarchy between each other.⁴¹

⁴⁰ PAPP Tekla: *Atipikus szerződések*. Opten Kiadó, Budapest, 2015.

⁴¹ PAPP Tekla: Komplex szerződések és a biztosítási kontraktus. *Biztosítás és Kockázat* V. évf., 1 (2018) 6-13.; PAPP Tekla: *Atipikus szerződések*. Lectum Kiadó, Szeged, 2015. 20., 22-23.

Figure 1: The system of syndicate agreement



Source: the figure is edited by the author

The sport law related syndicate agreement

The sport law contains public and private law legal norms, “*however, neither the object, the content nor the method of regulation possess specific and characteristic features as to enable it to be a sui generis branch of sport.*”⁴² Sports law is governed by the self-autonomy right of self-regulation, since the sport is essentially an activity of a person dependent on one’s own, which is also true for professional or amateur sports.

Because the sports organizations, sports undertakings found, operate and create rights under the rights of non-governmental organizations.⁴³ According to this, an autonomy and self-regulation⁴⁴ exists in the field of sport, “*the law is created by non-governmental organizations*”, because the national or international organization of the branches of sport determine the rules which shall be applied in such branch of sport. In case of breach of this rules, the concerned person shall be responsible before a special judicial forum, the Sport Court of Arbitration. The deed of foundation, the organizational and operational rules has been made by the national sport organizations which is the principle source, regarding the rules of conduct to be followed. The acceptance of these rules is obligatory for an athlete in order to become the member of such sport organization in a branch of sport.

Furthermore, the supranational self-regulation norms of the sports federations and the international organizations shall also apply.⁴⁵ This particular prerogative of non-

⁴² BELOFF, Michael: *sports law* szócikk. In: Cane, Peter – Conaghan, Joanne (eds.): *The New Oxford Companion to Law*. Oxford University Press, Oxford, 2008. 1113., 1114.; SÁRKÖZY Tamás – BÉRCES László: *A magyar sportjog alapjai*. HVG-Orac, Budapest, 2000. 32.

⁴³ PRINCZINGER – MISKOLCZI-STEURER – RIPPEL-SZABÓ, 2010-2011. 25.

⁴⁴ BÉRCES Viktor: Sportjogi alapvetések. *Iustum, Aequum, Salutare* 3 (2013) 112-113.; SÁRKÖZY, 2010. 23.

⁴⁵ SÁRKÖZY, 2010. 23.

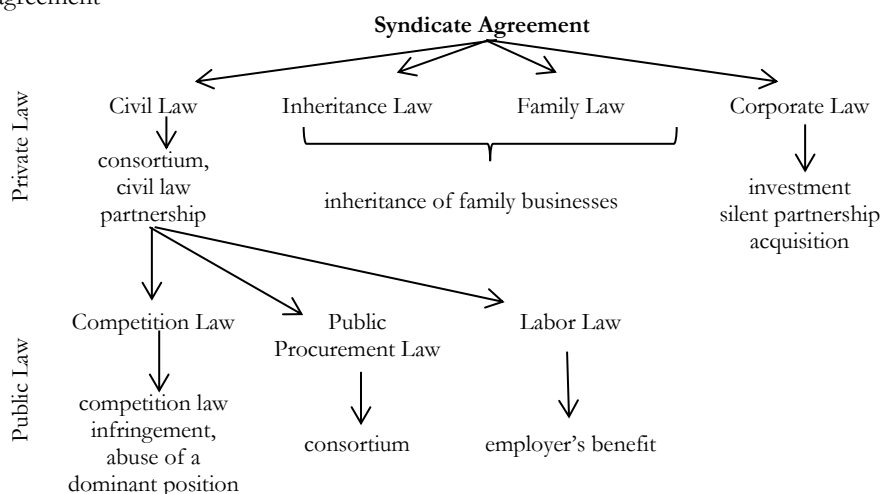
binding rule and self-autonomy is the fact that the state as a legislator only represents by a single frame of law in sports law, the Sport Act, which is only complemented by government decrees. “(...) *In the field of sport law, the principle of subsidiarity shall be primarily applied. The State shall determine the framework of the legal solutions for the subject of the sport life only if it is necessary for the preservation of constitutional rights, the maintenance of a given sporting activity and its proper financing or correct organization.*”⁴⁶ Such a high degree of self-autonomy can be a good basis for a syndicate-based cooperation as presented under the syndicate program or the sports school program.

Within the framework of the syndicate program, the sport organization is in contact with many sport association which deal with youth training through system development. The sport organization shall enter separately into a contract with this sport associations regarding the cooperation and youth training but all these entity keep their legal autonomy. This type of syndicate cooperation is a civil law agreement which is closely linked to sport law, thus it is on the border of private and public law. By mixing fields and branches of law, these contracts are mixed contracts. Furthermore, it can be classified as network-type interrelated contract, because in the syndicate program, all the participating sport organization has the same purpose regarding the youth training. Beside that they can keep their legal autonomy as well. They are interested in the same goals through mutual cooperation.

The cooperation agreement to be concluded within the sports school program is not a syndicate agreement in name. After the examination of the purpose and the content of the contract, however, such a contract is similar to the syndicate-type cooperation. The public institution enters into a contract with a sport federation or sport association and undertake the responsibility to inform each other about the student athlete’s performance and any other circumstances defined in the contract. Then, the further process of cooperation will be determined by considering the provided information and joint decision following the consultation. On this basis, this syndicate agreement can be integrated as an umbrella agreement because it is on the border of public and private law and belongs to mixed branch of law.

⁴⁶ BÉRCES, 2013. 112.

Figure 2: The place of sport law syndicate agreement in the system of syndicate agreement



Source: the figure is edited by the author

KRISZTINA NAGY BARNA

Law and Culture: the Syndicate Agreement and Sport

(Summary)

The aim of this study is to demonstrate the relationship between sport law and syndicate agreement. Sports law is characterized by a very specific regulatory technique: its regulation is based on the Fundamental Law of Hungary, the Constitutional Court practice, and the Sport Act, which is complemented by a numerous other lower-level source of law. The sport law has a public and private law characteristic and appears in non-governmental organization forms at national and international level as well. This sport non-governmental organizations may create legal norms which means that the sport law can be characterized by the private law and self-autonomy. It is a good basis for the legal entities to achieve their aims in a contractual form in accordance with the rules and principles established in their agreement. The syndicate program and the syndicate agreement (presented in this study, within the youth training) is a good example for this. For the achievement of the common interest – finding talented youth and providing appropriate education for their development – set out in the syndicate agreement, the contracting parties seek to invite for cooperation, thereby forming a networking. Similarly to the sports school program, the sports association or sports federation forms a unit with the sports schools and this unit ensures the youth training of the athletes by their cooperation and specified principles. The syndicate agreement is not enough regulated by law. Due to that lack of legal regulation, the syndicate agreement is the most appropriate contract form to regulate cooperation in the field of sport law.