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## ПРАВОВЕ РЕГУЛЮВАННЯ МАЙНОВИХ ВІДНОСИН У СФЕРІ БУДІВНИЦТВА ТА ЕКСПЛУАТАЦІЇ СПОРТИВНИХ ОБ'ЄКТІВ

**Анотація.** Актуальність дослідження обумовлена поширенням випадків переходу в приватну власність спортивних об'єктів, що потребує визначення особливостей правового статусу власників або користувачів у відносинах з експлуатації спортивних об'єктів. Правове регулювання будівництва спортивних об'єктів також має свою специфіку, обумовлену особливостями використання таких об'єктів, зокрема, забезпечення спеціальних правил безпеки ще на етапі будування. З урахуванням вказаного, за мету цієї статті було поставлено дослідження особливостей правового регулювання майнових відносин, що виникають під час будівництва та комерційної експлуатації спортивних об'єктів. З використанням переважно догматичного методу, у статті проведено аналіз положень нормативних актів, які регулюють відносини у сфері будівництва та експлуатації спортивних об'єктів. За результатами проведеного аналізу виявлено особливості правового статусу власників та користувачів спортивних споруд, випадки обмеження прав власності та користування в інтересах суспільства, а також специфіку будівельних норм стосовно спортивних об'єктів, які спрямовані на забезпечення їх безпеки.

**Ключові слова:** будівництво спортивних споруд, комерційні спортивні заходи, право власності, право користування, майнові права.

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## LEGAL REGULATION OF PROPERTY RELATIONS IN THE SPERE OF CONSTRUCTION AND EXPLOITATION OF SPORTS FACILITIES

**Abstract.** The relevance of the note is caused by increasing range of cases when private persons become owners of sports facilities. This fact causes the need to determine the legal status of sports facilities owners and users in the relations on exploitation of sports facilities. Legal regulation of sports facilities construction also has its specifics caused by some special aspects of use of such objects, particularly, providing special safety rules at a construction stage. Taking into account above mentioned, the investigation of legal regulation of the property relations,

*which arise during construction, and commercial exploitation of sports facilities was set as the purpose of this note. Using mainly dogmatic method, the analysis of legal provisions concerning the regulation of the relations in the sphere of construction and exploitation of sports facilities is carried out. As a result of the carried-out analysis, some features of legal status of sports facilities owners and users, cases of restriction of the property rights on sports facilities for the benefit of society and also specific provisions of sports facilities construction, aimed to provide their safety, are revealed.*

**Keywords:** construction of sports facilities, commercial sporting events, property right, right of use.

## INTRODUCTION

In case in the days of the Soviet Union revenue generation in sports field has been deemed as illegal business activities and has been subject to legal prosecution, nowadays practically the whole professional sports is commercialized and it is considered as variety of business. Sport industry has been formed, containing the following commercial directions: 1) transferring the exclusive rights to use the name of sports event and its symbol, transferring the rights to cover sports event; 2) advertising; 3) sports event admission tickets sale; 4) sports stuff and goods production and sale; 5) transferring the rights to intellectual activity results or to personalization means; 6) professional sports clubs share sale; 7) athlete transfers; 8) sports buildings and structures, sport appliances rent out/ lease out; 9) lottery arrangement and conducting; 10) professional sports clubs participation in international sports competitions [1].

Sports facilities commercial operation can be done through advertizing of sports events, etc., however major earner of revenue is sports buildings or sports facilities (appliances) rent out or lease out. According to statistics, 40-60% of stadium revenue is a rental fee received from football clubs that run training sessions and play matches on these sites. Sports facilities can also be used for other activities both sports ones, in particular, football, as well entertaining ones, for example, large-scale concerts. Stadiums operation revenue can also be obtained from business events conducted in the conference halls provided by infrastructure, or even in the field itself, due to office facilities, cafes, restaurants, fitness centers, etc. at sports facilities. Global statistics shows that profit-oriented stadiums can be used for more than 180 events per year, including weddings [2].

The prospect of commercial exploitation of sports facilities shows Both expansion of sports facilities and increase in the number of studies of specific features of legal regulation of relations in sports filed, including international level one are indicative of the prospects of sports facilities' commercial operation. Well, property rights issues, in particular property rights for sports facilities, are examined in the papers introduced by B. Hoffmeaister [3], L. Underkuffler-Freund [4], N. Blomley [5], W. Lucy & F. Barker [6], M. Aboud [7], A. Marmor [8], J. Nedelsky [9], K. Mackin-

non [10], L. Amsi [11], J. Kane [12], L. Brilmayer and G. Chepiga [13], R. De Mendonca and P. Henrique [14], E.J. Stroz [15], . A. Flanagan [16], J. Gross [17], K. P. Braig [18] et al.

## **1. SPORTS FACILITIES AND STRUCTURE CHARACTERISTIC IN THE CONTEXT OF PROPRIETARY RIGHTS**

Let's fix upon definition of the types of sports facilities and sports structures that are assets in use and which can be subject to the property rights. A wide range of athletic disciplines facilitates construction of the variety of sports facilities, being one of the types of material support for physical culture and sports.

The first definition is given by the Law of Ukraine "On Physical Culture and Sports", which defines a sports facility as immobility intended for physical education and sports activity.

Pursuant to the general rule, sports facilities can be owned by the state, local government authorities, and individuals. However, according to the Law, it is impossible to change the intended use of privatized sports facilities and the existing network of state and municipal institutions of physical culture and sports may not be reduced without the consent of the central executive body, which ensures state policy formation in physical culture and sports area. The law states that sports facilities shall be located on land plot having recreation purposes intended use.

Construction, sanitary and other norms and rules in health protection field and sports facilities attendants' safety observation shall be established in accordance with the law.

Concerning building codes in force as of 2018, DBN, V.2.2-13-2003 "Sports and physical culture and recreation facilities".

In accordance with DBN, sports and fitness buildings and structures are classified according to the nature of their use into:

- training – intended for beginners' training and unskilled athletes training;
- sports-demonstrational – intended for high qualification athletes training and holding competitions with at least 600-5000 spectators (depending on the kind of sport);
- sports and leisure – intended for sports events demonstration along with cultural- entertainment and public events.
- physical culture and recreational – intended for general physical training and outdoor activities of various age groups' population.

Training and physical culture and recreational facilities can cooperate with sports and leisure and educational institutions.

Sports and fitness and recreational facilities by their functional profile are distributed into complexes and groups:

- major – directly intended for sports and fitness activities;

- accessory – intended for persons who train, coaches and judges, along with medical, administrative staff, storage rooms, etc.;
- complexes for viewers.

In particular, the following facilities can be distinguished:

- sports building is the building containing one or several sports halls with auxiliary premises. Sports buildings containing two or more halls, one of them may also be a room with a bath, or a synthetic ice rink, or the indoor pool premises;
- sports complex is a group of sports buildings (possibly together with outdoor structures), united by common territory;
- stadium is a complex of buildings intended for educational, training work and sports competitions demonstration in single or several kinds of sports. It may include: sports core or an arena with viewers' seats, various premises for viewers, training field and grounds, along with other outdoor and indoor sports facilities with auxiliary premises and territories.

According to the list of sports facilities and fitness and recreational buildings and structures listed in Annex A of DBN V.2.2.-13-2003, the following are distinguished:

- summer and winter outdoor sports facilities (including volleyball, football, basketball courts and sites, race tracks and lines, swimming pools);
- roofed sports facilities (also allocated by kind of sports);
- stadiums (universal or specialized by kind of sports);
- facilities for training the kinds of sports that depend on natural-landscape conditions (water sports clubs, yacht clubs, beach volleyball courts);
- winter sports facilities (skiing, skating, etc.).

## **2. ANALYSIS OF THE REGULATIONS ON THE UNIFIED ELECTRONIC ALL-UKRAINIAN REGISTRY OF SPORTS FACILITIES**

“Sports facilities” concept is extensively explained in the Regulations on the Unified Electronic All-Ukrainian Registry of Sports Facilities, approved by the Order of the Ministry of Ukraine for Family, Youth and Sports. In accordance with this order, sports facility is specially designed and equipped building, sports and fitness complex, a swimming pool, other facility dedicated for physical culture, recreation and / or sports activities.

According to fitness and sports services, sports facilities are divided into physical training – educational, fitness and recreational, sports and recreational, sports training, sports-entertainment, rehabilitative physical culture.

The following types of facility are marked separately in the Registry: aero clubs and aviation sports clubs, biathlon shooting facilities, swimming pools, irregular size pools, basketball courts, cycling tracks, water-race canals, rowing-sports facilities, water sports facilities, volleyball courts, gymnastic courts, skiing facilities, trampolines, handball courts, youth athletic centers, wrestling halls, equestrian clubs, equestrian

sports bases, municipal facilities, athletics arenas, mini football fields, playgrounds for sports games (volleyball), playgrounds with non-standard fitness equipment, playgrounds with fitness equipment, irregular size sites for playing mini-football, irregular gyms, irregular sports grounds, sports palaces, golf courses, fitness premises, premises with gym equipment, gyms, sports grounds, sports facilities, sports fields for workout, sports complexes, structures with artificial ice, stadiums, shooting ranges and stands, tennis courts, open air gym facilities, football fields, chess and checkers clubs, other playgrounds.

However, it should be noted that definition of certain items is non-systemic, since we find sites for the same types of sports in the Registry, however indicated with different order of words.

Entries of all sports facilities in the state and municipal ownership shall be mandatory done to the Registry. Privately owned facilities are included to the Registry on voluntary basis.

The Registry is formed by the Ministry of Family and Youth on the basis of administrative information (data) submitted by regional structural divisions of physical culture and sports on territorial principle through information systems combining on unified methodological basis with a view to:

- keeping records of available sports facilities in Ukraine;
- conditions creation to provide for optimization of sports facilities number and use irrespective of the form of ownership;
- monitoring of sports infrastructure facilities' structural and qualitative changes;
- control over efficient use of sports infrastructure facilities;
- prevention of reduction of the network of physical culture and sports institutions, sports facilities, rehabilitation and sports facilities.

Based on application and documents attached to it, entry is formed consisting of an address and reference, and information parts.

Address-reference part contains identification code and the full name of the legal entity, information about its location, form of ownership, organizational and legal form, major type of economic activity, state registration data, territorial and departmental allegiance;

Information part contains:

- concerning legal entity – information on the head, founders, status (if occupies monopoly (dominant) position at commodity markets, is of strategic importance to the economy and security of the state), privatization status (not subject to privatization, not subject to privatization, however can be corporatized, subject to privatization), bankruptcy status, change of status (liquidation, restructuring), separated divisions, indicators of financial and statistical reporting, participatory interest of the state in business partnership;

- concerning immovable property (buildings, structures, land plots, enterprises, their associations, institutions, organizations acting on the state ownership basis in

accordance with the State Registry of Title to Real Property and their Restriction) – data on facility code (cadastral number), facility name, property value, facility location, land plot size, area of development, indication of lease out, rent out, granting for concession, mortgage creation;

– regarding the state property which was not included into the authorized capitals of business companies created in the process of privatization and corporatization – the code, name, location of the item, property value, land plot size, indication of lease out, rent out, granting for concession, mortgage creation.

### **3. SPORTS FACILITIES COMMERCIAL OPERATION FEATURES ANALYSIS**

In accordance with the current statutory enactments, sports facilities, swimming pools, stadiums, sports grounds with gym equipment, recreational and fitness facilities and other sports facilities located in cities, district centers and other settlements of Ukraine are listed in the Registry of sports facilities. Users can find information about the types of fitness and sports services provided by sports facilities, their address, telephone number, etc.

The procedure for mass sports, cultural and entertainment events at sports facilities is regulated by the Decree of the Cabinet of Ministers of Ukraine “On the Procedure for Sports Facilities and Other Specially Designated Places Preparation for Public Sports, Cultural and Entertainment Events” dated December 18, 1998 (hereinafter referred to as “the Decree”). Paragraph 4 of the Decree provides that the events are ranked into international, national, regional and commercial.

Commercial measures include measures taken at the initiative of sports federations, sports and physical culture societies, legal entities and individuals, and which do not require the adoption of appropriate decisions by central executive authorities and / or local state administrations or local self-government bodies. Commercial measures are funded from extra-budgetary resources.

In accordance with paragraph 6 of the Decree, the events are conducted only in sports facilities and in specially designated sites accepted for operation by the commissions to monitor the state of sports facilities and other specially designated sites designed for public sports and cultural events, judicial panels, subject to strict observance by all subjects of the current norms and rules of buildings and places of the participants of the event operation and use, along with public circulations, engineering systems and alarm systems, sanitary and hygienic support of the premises, arenas and territories; the standards for fire-extinguishing equipment readiness and availability, sports equipment and inventory use; rules of sports competitions in various kinds of sports, rules of conduct of participants and viewers, fire safety rules, other regulatory enactments.

Owners of sports facilities with the participation of the National Police and the bodies and departments of the SSNS develop appropriate instructions and rules for

each sports facility, taking into account local conditions and its intended use, based on the standard instructions and rules approved by the Ministry of Youth and Sports, providing the procedure to be followed to arrange and conduct the events, to ensure public order, to provide security of participants and viewers, fire safety, medical assistance in case of accidents and the procedure for evacuation in case of emergency. These instructions and rules are approved by the review board.

The basis for conducting public event is the decision (order) of the appropriate body, on the initiative (or under the patronage) of which it is carried out, an agreement between the organizers and owners of the sports facility on the conditions for conducting the event, indicating funding sources and cost estimate.

The events are normally conducted in off-working (evening) time, weekends and holidays. Event beginning and end shall comply with public traffic schedule. In case necessary under agreement with local state administrations, public transport work hours may be prolonged.

While conducting commercial events of fire safety is done for consideration based on the respective agreement made between the organizers of event and bodies and departments of the State Emergency Service of Ukraine on the terms and in accordance with the procedure provided by law. Agreements provide for: hourly pay for the State Emergency Service of Ukraine units' and bodies' personnel; reimbursement of depreciation costs for the use of motor vehicles and property; compensation payment for loss of property and damages in case suffered by the State Emergency Service of Ukraine units' and bodies' personnel in the course of fire safety provision. Medical support of commercial events is carried out for consideration by making the respective agreements between the organizers of events and health care institutions.

The p. 15 of the Decree provides that events organizers shall provide for:

- coordination of places and terms of the events with appropriate local state administrations, sports facilities owners, National Police authorities and bodies and State Emergency Service of Ukraine units and bodies; conditions for advertising arrangements and sale of tickets for sports events: international – in 3 months; national – in 2 months; regional ones – in 1 month prior to their conducting, and in case of pop performers concerts, theatrical shows and other cultural and entertainment commercial events at sports facilities and in the other specially designated places, location and terms of their conducting coordination, along with number of viewers – in 1 month prior to their conducting;
- information furnishing on the number of tickets sold, issued passes, in particular for motor vehicles;
- access control arrangement, participants and viewers placement in the arenas and stands in accordance with the places indicated in tickets and passes;
- reviewing observance of rules and regulations on prohibition to sell alcoholic beverages, soft drinks in glass containers at sports facilities during the events and passage with such beverages at sports facilities site;

- submission to the authorities of the National Police, units and bodies of the State Emergency Service of Ukraine and owners of sports facilities Regulations on holding public event containing technical specifications, program, regulations, other special information for the development of measures in public order protection, participants' and viewers' safety ensurance: international, national events – in 2 months; regional events – 1 month prior to their conducting;
- familiarization of participants of event, judges and personnel with the requirements of the Regulations on public event carrying out;
- timely arrival of participants of the event, observance of the rules of competitions, norms of behavior in public places and fire safety requirements.

Rather important item of income from sports facilities commercial operation is their use for training camp arrangement. Such use shall be done on the basis of a services provision agreement. The agreement shall mandatory specify the cost of services and, as a rule, payment procedure. Under the agreement contractor undertakes to provide training activities, opportunity to purchase necessary sports equipment, effective use of sports equipment, provision of other material and technical means, and the customer, for its part, undertakes to carefully use provided property, maintain appliances, and other valuables in the proper condition.

In case municipal or state-owned institution is the customer of the services for training sessions and exercises conducting, the agreement is made on the terms of an agreement on services purchase in sports facilities and halls provision. The subject matter of such an agreement is sports facilities and sports halls provision for training camps / training sessions conducting. The agreements shall also specify the cost of services and payment procedure. It is recommended to describe performances of the sports facilities submitted for operation. For example, it may be stated that the sports facilities and halls that are being used shall meet the requirements ( heat, water and electricity availability). It is also important to specify the responsibility of the parties, in particular, to indicate that the customer is liable for the misuse of the sports facility (in this case, services provision may be restricted for the time of existence the circumstances indicating property use in violation of the terms of the agreement), as well as for damage the property of contractor, which occurred due to customer's fault, in accordance with the current civil law of Ukraine.

#### **4. SPORTS FACILITIES' OWNERSHIP FORM PARTICULARITIES**

Sports facilities may be state, municipal, privately (both by legal entities and individuals) or collectively owned. Certain facilities of sports infrastructure, namely those included in the list of the state property right items are not subject to privatization. One can recall the headline-making proposal of the Ministry of Economic Development and Trade of Ukraine on the privatization of sports infrastructure facilities of national importance. In particular, Ministry of Economic Development and Trade put to the list of facilities subject to privatization state enterprise "Directorate

for sports facilities' reconstruction", "Avangard" and "Athlete" sports complexes, "Palace of Sports", "Ice Stadium". The proposal provoked indignation of the Ministry of Youth and Sports of Ukraine, however it has not been taken into account [19]. Let us also recall the provisions of the Art. 48 of the Law of Ukraine "On Physical Culture and Sports", in accordance which it is not allowed to reduce the available network of state and municipal institutions of physical culture and sports without the consent of the central executive body, which provides for state policy formation in the field of physical culture and sports.

According to the same Article, even in the case of privatization, it is prohibited to change the intended use of the privatized sports facilities.

In order to keep records of existing sports facilities in Ukraine; create conditions for optimization of the number of sports facilities and their use irrespective of the form of their ownership; structural and qualitative changes monitoring of sports infrastructure facilities; control over the effective use of sports facilities; preventing the reduction of physical culture and sports facilities network, sports facilities, rehabilitation and fitness institutions Ministry of Youth and Sport of Ukraine maintains electronic Registry of sports facilities. The procedure for keeping the Registry was regulated by the Order of the Ministry of Youth and Sports of Ukraine "On Approval of the Regulations on the Unified Electronic All-Ukrainian Registry of Sports Facilities" dated April 22, 2009. Also in accordance with the Art. 48 of the Law of Ukraine "On Physical Culture and Sports" central executive authority which implements state policy in the field of physical culture and sports, relevant structural divisions of the local state administrations and local self-government bodies within the limits of their power reviews the efficiency of sports facilities use.

Owners of sports facilities, irrespective of ownership form, are first of all governed by the general rules of civil law regarding property owners' liabilities. Thus, in accordance with the Art. 319, 322 of the Civil Code of Ukraine, the owner is obliged to maintain the property belonging to him/ her/ it, unless otherwise specified by the contract or by law; the owner may not use the title for the property to the detriment of the rights, freedoms and dignity of citizens, interests of society, worsen the environmental situation and natural qualities of land.

In addition, special laws and regulations have been set up special requirements for sports facilities' owners and users. In particular, persons who own or possess sports facilities shall provide appropriate technical equipment for physical culture, recreation or sporting events in accordance with the requirements of technical regulations, national standards and fitness events sites in compliance with the requirements of the technical regulations, national standards. norms, rules and requirements established by state control bodies, sanitary rules , and bear responsibility under the law for causing damage to the life or health of persons engaged in physical culture and sports at such facilities.

Thus, in accordance with the Art. 48 of the Law of Ukraine “On Physical Culture and Sports”, organizers of physical culture, fitness and recreational or sports events, sports facilities’, sports equipment’ and alliances’ owners are obliged to provide safe living and health conditions for visitors and users of sports facilities, users of physical culture and sports equipment and appliances, as well treat safely the environment and undertake appropriate measures for protection and safety in compliance with the rules established by the Cabinet of Ministers of Ukraine in accordance with the law.

Duties are specified in detail, in particular, in the paragraph 8 of the Decree of the Cabinet of Ministers of Ukraine “On the Procedure for Preparation of Sports Facilities and Other Specially Designated Places for Public Sports, Cultural and Entertainment Events Conducting” dated December 18, 1998, are detailed. Sports facilities’ owners each year within the terms agreed with the appropriate local state administrations, carry out technical survey of the sports facilities that are used for events. Surveys are carried out by the review boards under engineering services participation along with engineering and construction organizations, the authorities of the National Police and units and bodies of the State Emergency Service of Ukraine in order to establish the operational reliability of buildings and building structures stability, evacuation routes conformity with approved regulatory requirements, and fire safety measures implementation. In accordance with the paragraph 16 of the said Decree, sports facilities owners provide as follows:

- preparation and proper technical condition of the building, compliance with technical regulations, training of full-time and non-staff personnel. The fulfillment of these requirements shall confirmed by the relevant act, which shall be submitted to the working committee for operational-technical review of the facility (site) in at least 4 hours prior to the commencement of the event. This working committee determines facility readiness for the event;
- together with the organizations selling tickets information submission to the National Police concerning estimated number of viewers in one day prior the event;
- conducting educational and awareness-raising work with visitors, especially with youngsters and teenagers, fire safety rules explanation, safe behavior of participants and audience using billboard campaign, local radio broadcasting network, etc .;
- placing in the sports facilities warning signs, signs, fire safety rules and norms of viewer behavior, evacuation plans and instructions;
- catering, medical care, traffic, parking places, other types of services, as well as work of wardrobes and luggage cameras at sports facility’ territory arrangement;
- appropriate conditions for information centers activities in events’ advertizing, participants and viewers informing about the rules of conduct, sports facilities operation rules and fire safety rules observance.

Physical culture and sports facilities which owns sports buildings or uses them, shall have inter alia, as follows:

- sports building Conformity Certificate issued in accordance with the law following the procedure established by the Cabinet of Ministers of Ukraine;
- log book of sports building use accounting; log book keeping procedure shall be determined by the central executive authority, which provides state policy forming in the field of physical culture and sports.

Owners and users of sports facilities are not allowed:

- to design, construct new and reconstruct existing pre-school, general education, vocational and higher educational establishments without meeting the requirements stipulated by regulatory documents for sports facilities and functional premises;
- to restrict access to sports facilities for individuals with disability.

According to the Art. 13 of the Law of Ukraine “On Physical Culture and Sport”, funds from the state budget and local self-government budgets are allocated to finance physical activity, recreational and sports events for individuals with disabilities, to create and expand their sports base.

Support to owners and users of sports facilities can be also provided in the other cases. According to the Art. 48 of the Law of Ukraine “On Physical Culture and Sports”, local state administrations and local self-government bodies may provide advantageous rate in accordance with law to physical culture and sports institutions, which own or use sports facilities, to pay for utilities and electricity, as well as provide financial support from relevant budgets. Business entities that manufacture sports equipment and appliances may be granted preferential conditions for lending and taxation in accordance with the law.

Local self-governing authorities may regulate the prices for sports events attendance, renting sports facilities being in their ownership, selling season tickets for such facilities, allow to conduct classes for people with disabilities, orphan children, pre-school children, children from the financially disadvantaged families and families with multiple children, as well as provide privileged conditions for retired people and, in case necessary, provide for compensation for expenses incurred by sports facilities at budget expense and from other sources not prohibited by law.

Special rules for registration, accounting, operation and supervision of the use and technical condition of sports facilities, such as floating means, such as sports vessels, sports cars, sports motorcycles, sports aircraft, are established by the Cabinet of Ministers of Ukraine.

Special regime is also established for sports weapons, ammunition to it, etc. In particular, acquisition, storage, transportation, and use of sports weapons, ammunition, open ranges and stands keeping shall be carried out in accordance with the law by entities of physical culture and sports field developing kinds of sports recognized in Ukraine, competitions rules of which involve fire-fighting (except combat) or pneumatic weapons, hand weapons, whittled and cold weapons use by athletes. The accounting and certification of sports weapons is carried out following the procedure established by law.

## 5. LEGAL REGULATION PARTICULARITIES IN SPORTS FACILITIES CONSTRUCTION FILED

Special legal regulation exists also in sports facilities construction. Construction is carried out in accordance with the general norms established for contractor agreements by the Civil Code of Ukraine, the Commercial Code of Ukraine, as well as by special Laws of Ukraine “On the Fundamental principles of Urban Development”, “On Urban Development Regulation”, “On Physical Culture and Sports”, General provisions for contracts making and performance in the fixed assets construction, approved by the Cabinet of Ministers of Ukraine. Special technical specifications for sports facilities construction are provided in the DBN, B.2.2-13-2003 “Sports and fitness and recreation facilities, approved by the Order of the State Building Committee of Ukraine No. 184 of November 10, 2003”. The Law of Ukraine “On Physical Culture and Sports” specifically emphasizes that sports facilities construction, reconstruction and maintenance in rural areas shall be done in accordance with the law. However, unfortunately for the time being there is not separate law adopted to regulate such construction.

Irrespective of sports facility complexity, prior to its construction beginning, land plot is selected taking into account the requirements of the general plan of the settlement and taking into consideration its intended purpose. Sports and recreation centers and sports facilities shall be located on the territory of the village, population leisure areas and on other specially allocated land plots equipped with convenient entrances and approaches from public transport stops, with mandatory observance of noise regime norms for the adjacent territory of residential development and providing sufficient distance to residential and public buildings in accordance with sanitary requirements. In order to provide construction land plot should be owned by the customer of construction or it should be transferred to him/ her/ it for rent providing the right to construct sports facility.

However, sports facilities are not always built as separate buildings. The current law permits the design, construction of new and reconstruction of existing preschool, general education school, vocational and higher educational establishments without requirements to sports facilities and functional premises provided by regulatory enactments.

To provide construction agreement is made for design and prospecting works. To prepare the project, construction project owner submits to design organization the data concerning the intended purpose of the sports facility, premises (grounds) and inventory, number of athletes and spectators, and other necessary information. Buildings profile by the kinds of sports and the number of places for the spectators is established in basis of design depending on local conditions, population size and town-planning significance of the sports facility or complex. The requirements for sports facilities with regards to construction norms and rules, sanitary norms, other norms

in the field of health care and safety of visitors established in accordance with the law are mandatory to be taken into consideration when drafting project.

Legislator has repeatedly emphasized the necessity to ensure access of persons with disabilities to sports facilities and inadmissibility of limiting such access both during the design of facility as well as during its operation.

On the basis of developed design, construction project owner makes general contract for construction works and obtains the permission for their conduct (depending on the complexity category of the sports facility) in architectural and construction control authority.

Under a general contractor agreement for sports facility construction the contractor undertakes to construct and hand over sports facility within the established time limit in accordance with the design specifications and estimates, and the customer undertakes to provide the contractor with the construction site, to submit the approved design specifications and estimates, provided that obligation is not assigned to the contractor, to accept the facility or completed construction works and pay for them. However, the current legislation does not establish any differences for contractor agreement, in case the subject matter of it is sports facility construction, the same requirements are laid down to it.

Based on the results of construction sports facility shall be accepted for operation in accordance with the Procedure for the acceptance into operation of completed construction facilities, approved by the Cabinet of Ministers of Ukraine dated April 13, 2011, No. 461, and depending on complexity class of facility, declarations shall be Registryed or certificate shall be issued to certify sports facility readiness for operation.

Further operation of sports facilities is provided by the owner according to the intended purpose.

Entities operating sports facilities shall have a properly issued Conformity Certificate of the sports facility and shall keep log book accounting sports facility use; the form of which log book is approved by the Order of the Ministry of Youth and Sports of Ukraine “On Approval of the Form of Log Book of Sports Facility Operation and Log Book Keeping Procedure” dated February 13, 2018 No. 663. In accordance with the Order No. 663, log book must contain records of the time of sports facility use, customer of the event, type of sports or other event, the nature of sports facilities use (educational and training camps, international, national, regional, municipal and other events), the number of participants.

Organizers of fitness, recreational or sports events, owners of sports facilities, sports equipment and appliances shall provide safe living and health conditions for attendants and users of sports facilities, users of physical culture and sports equipment and appliances, as well as avoid negative impact on environment and take appropriate measures for protection and safety meeting the rules established by the Cabinet of Ministers of Ukraine in accordance with the law.

Special legal regime has the bases of Olympic, Paralympic and Deaflympic training – institutions of physical culture and sports, which own or use sports facilities and are designed to provide conditions for living, meals, conducting training sessions of the athletes of national teams and equipped with sports equipment, inventory for athletes preparation to national and international competitions, the Olympic, Paralympic and Deaflympic Games, Global Games of athletes with intellectual disabilities. The bases of the Olympic, Paralympic and Deaflympic training are entered to the list subject to approval by the Cabinet of Ministers of Ukraine following the procedure established by it.

The central executive authority, implementing the state policy in the field of physical culture and sports, the relevant structural divisions of local state administrations and local self-governing authorities, within the limits of their powers monitor technical condition and effective use of sports facilities of the Olympic and Paralympics centers (bases), environmental requirements observation during their use, along with safety norms and rules satisfaction at the enterprises, institutions and organizations governed by the Ministry.

Legislator makes special emphasis on sports facilities procurement. Fitness and sports equipment and appliances include sports uniform (special clothing and footwear), sports equipment (apparatuses), inventory and equipment for sports facilities and sports events support shall be manufactured in compliance with the standards (rules and norms) approved in accordance with the law.

The Cabinet of Ministers of Ukraine establishes the rules for registration, accounting, operation and supervision of the use and technical condition of the sports vessels, sports cars, sports motorcycles, and sports aircrafts.

## CONCLUSIONS

Sports facilities are featured with special legal regime related to their assignment and intended use. The issue arises of reconciling private and public interests in the course of sports facilities' operation. For this reason, the specificity of the legal status of owners and users of sports facilities is manifested in the fact that the owners of sports facilities, irrespectively of the form of ownership, are subject both to the general norms of civil law concerning obligations of property owners, and the requirements of special legislation. In particular, the persons who possess or own sports facilities shall provide appropriate technical equipment for the sites of physical culture, sports, recreation or sporting events in accordance with the requirements of technical regulations, national standards, norms, rules and requirements established by the state control authorities, sanitary rules, and such entities/ persons are bears responsibility in accordance with the law for causing damage to life or health of individuals engaged in physical training and sports activities at such facilities.

Legal regime of sports facilities specificity is also manifested in the fact that certain items of sports infrastructure, namely those included in the list of state property right items, are not subject to privatization (in particular, these are national im-

portance sports infrastructure facilities). In addition, the available network of state and municipal establishments of physical culture and sports may not be reduced without the consent of the central executive body, which provides state policy formation in the field of physical culture and sports. Even in cases when such establishments privatization takes place, it is not allowed to change the intended use of the privatized sports facilities.

An important item of revenue from commercial operation of sports facilities is their use for training sessions conducting, however in practice rather often problems occur while determining what kind of agreement should be made in such a case and what should be the terms of such an agreement. In such a case pursuant to general rule services agreement shall be made, which mandatory indicates the cost of services and, as a rule, settlement procedure. In case the customer of the services for training sessions and exercises is municipal or state institution, the agreement is made based on the contract to purchase services in sports facilities and sports halls provision. It is advised to mention in such contracts characteristics of the sports facilities granted for operation (heat, water and electricity availability), parties' liability issues, in particular, responsibility for sports facility misuse, as well as liability for pecuniary damage to the property of contractor, which occurred through the fault of the customer.

Legal regulation of sports facilities construction also has its own specificity, due to such facilities use issues. In particular, the fact that public events are taking place on such sites requires compliance with the special safety rules that must be ensured in the course of construction. Pending issue of sports facilities construction regulation is the fact that, despite the statutory requirement to carry out sports facilities construction, reconstruction and maintenance in rural areas in accordance with the law, unfortunately, special law to regulate such construction has not been adopted for the time being.

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