76 - SUSPENSION CAUTELAR OF THE PROFESSIONAL EXERCISE IN PHYSICAL EDUCATION: UNILATERAL MEASURE OF PROTECTION TO THE SOCIETY AND CONCEPT OF THE PROFESSION.

JORGE LUIZ DE ARAÚJO
NADJA REGUEIRA HARROP
CLAUDIO AUGUSTO BOSCHI
ÂNGELO LUÍS DE SOUZA VARGAS
VALÉRIA SALLES DOS SANTOS E SILVA
Regional Council of Physical Education of the 12th Region Recife/PE-Brasil
presidência@cref12.org.br

doi:10.16887/88.a1.76

1 INTRODUCTION

Our Magna Carta, promulgated by the National Constituent Assembly on October 3, 1988, brought in its wake the constitutional provision in which every individual, subject to an Administrative or Judicial Process, guaranteed to him, is the institute of ample defense and contradictory:

Ample defense is understood as the assurance given to the defendant of conditions that enable him to bring to the proceedings all the elements tending to clarify the truth or even omit or shut himself off, if necessary, while the contradictory is the actual exteriorization of the ample defense, imposing the dialectical conduct of the process (for conditio), because to any act produced by the prosecution, it will have equal right of defense to oppose him or to give him the version that best suits him or, to provide a legal interpretation different from that made by the author. (MORAES, 2011, p.113)

In a sealed summary of the above quotation, we find that the Constituent Legislator sought, with the inclusion of the text, to remove Injustice, well persecuted by the Law and by the men who have the competence to conduct the process, and its term to whom , that is, the Sentence, issued by competent persons, under the title in question, the Process Ethics Commission[1], obeying the Principle of the Natural Judge, according to the guidance of subsections LIII of art. (MORAES, 2011, p. 93), which states that "no one shall be prosecuted or sentenced except by the competent authority." (MORAES, 2011, p. 93)

It should be noted that in the face of constitutional forecasts in order to guarantee the ample defense and the contradictory, different situations of this context are foreseen in the Procedural Codes of Ethics. Based on this document, the company, through its class organs, applies to the Professional of the regulated category, the precautionary suspension of the professional exercise, without there being the final assessment by the Process Commission, without it characterizing defense restraint, the aim of safeguarding the collective interest. An example of this recent application was that of former Federal Prosecutor Marcelo Miller, who was part of the Lava Jato Investigation team, had his OAB Portfolio suspended for ninety (90) days, and may be subject to a cassation. (CONJUR, 2017)

In the same situation, then-physician Roger Abelmassih, who gained fame by making artificial inseminations, was also cautioned by his class organ because the time of the commencement of the police investigations to his disfavor was suspected of committing fifty-two and fifty rapes during their professional interventions. (O GLOBO, 2017).

1 It is the responsibility of the Professional Ethics Committee of the Regional Councils of Physical Education to establish and carry out the acts related to the Disciplinary Ethical Processes to which the Destinat

Common to both, weigh heavy accusations that put at risk to the society by its conducts that hurt the ethical precepts, and for that reason, they compromise the premises that sustain the professional exercise, bringing to discredit a whole category, needing the immediate intervention of their respective Advice for Restoring Social Peace

In the light of the initial and retroactive considerations in the examples of other professions, we examine the existence of this Institute in the Procedural Code of Ethics of the Federal Council and the Regional Councils of Physical Education and their respective applicability in the CONFEF / CREFs System , 2017), in cash, in CREF12, while its jurisdiction covered the states of Pernambuco and Alagoas (2016 fiscal year), seeking to identify the existence of the use of this Cautelar Institute by the System and if its application in teleological constitutional premises.

Therefore, it is possible to observe that this is a research that intends to carry out a search in the various Procedures Initiated, of an exploratory, argumentative character, using the homeland bibliography, to be able to prove the final application, of such an extreme measure.

2 PREVIOUS SUSPENSION OF PROFESSIONAL EXERCISE IN PHYSICAL EDUCATION

Considering the limitations made in the methodology, we look at the procedures established by CREF12/PE in the year 2016 and we find the following scenario regarding the establishment of Procedures:

Important is the registration that the Procedures of Sindicância instituting, the values call attention, but the justification is due to the existence of Courses considered inidôneos, offered in disagreement with the native legislation.

Regarding only the Disciplinary Ethical Procedures (PEDs), of the 133 (one hundred and thirty-three) established in 2016, only 03 (three), in their bulge, had the request for Suspension of Care for the Professional Exercise requested by the Professional Ethics Committee (CEP/ CREF12/PE), presented and approved by the Plenary of the respective Regional Council of Physical Education, satisfying the provisions of Resolution 264/2017:

Art. 81 - After establishing the PED, the CEP may suggest to the Plenary of the CREF the precautionary suspension of