99 - SPORTS INCENTIVE FEDERAL LAW: A DOCUMENTARY ANALISIS AND SOME REFLECTIONS

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INTRODUCTION

On December 29th, 2006, the Brazilian population began to rely on the federal law No. 11.438/06 in its legislation, which became known as the Sports Incentive Federal Law (SIF).

In the original text, which over time would have been regulated by ordinances, reports and joint ordinances, the SIF provided that the entities that have developed non professional sport activities and have had their sport program(s) approved by the Sport Ministries would be accredited to engage funds in the form of income tax deduction towards individuals and a portion of the legal entity (LE). However, the enactment of SIF has not pleased everyone, although it was not as much as the dissatisfaction caused in part of the sport class, the SIF also received the reverberations of the artist-cultural sector.

I will explain, since 1991, this sector has relied on the Culture Incentive Federal Law (CIF). With the advent of the SIF, some representatives have shown dissatisfaction with some of the provisions provided by this new law. As already approved by the SIF, to the CIF, it accounted for an "ungrateful relative", since such laws would then compete when it came to possible sources of donation/sponsorship funds for the promotion of culture and sport. Similarly, the SIF was not very well received by all members of sport section.

Some of these members believed that the law would be like “shooting one's self in the foot". They argued, for example, that the advent of the SIF would mean that big investments in the sport would be tied up in the good will of individuals and LE investments. "So how shall we stand in times economic crisis? And what if possible contributors do not welcome this Law?? And what about the incentive for other physical activities that are not framed as a sport? How is it going to be for the entities that are not able to attract financial partnerships? What the sport needs is a solid and stable policy that is not prone to oscillations, but has a representative budget and is pre-established.

Anyway, these were some of the considerations made by critics of the Law 11.438/06. These insurgents called for public policies that would have provided qualified representatives and conditions for the sport development and also the Culture of Daily Exercise. The purpose is state policies rather than federal, that is to be treated seriously and with respect. With this, the other party involved was satisfied with the new situation. Compliments from the government weren't absent either. Comments such as: "That's what we were expecting for decades!" or "Now the sport is moving forward!" were recurrent in this niche that were feeling intrigued by this new legislation.

Today, after seven years of the SIF's enactment, there are still controversial questions on the topic. Given the importance (cultural, physical and leisure...) nature of sports for us Brazilians and the implications that SIF brings to the field, we propose in this text to study the important objective questions related to the classes that are interested in using the benefits offered by the SIF. This objective is the selection process for sport programs (SP) suggested by the Sport Ministries (SM), a topic little worked on in our literature.

Some of the confusion has been created by the procedures used - or not used - by the SM in the selection process of the SP. These procedures aren't very well understood for most part by the sport community. Notably, there are some complicating factors for clear understanding of these processes and procedures, such as the technical language and comprehension difficulty in the informative documents and the enormous bureaucracy involved in the selection process of the SP.

To analyze and explore the standards used by SM for the selection of the SP is the objective of our investigation. Later, we seek to clarify some fundamental concepts for a better understanding of the studied topic, therefore, avoiding doubts and subjectivity related to the theme proposed. With this said, we'll talk about the process that the SP needs to go through when they overcome all of the evaluations and assessments managed by SM. To illustrate the information provided by us, we will analyze some of the possible failures and successes present in the SP's material, with reference to formatting/technical framework (as rules dictated) required by SM. Finally, we'll discuss relevant points related to SIF.

As said before, we propose to analyze a SP that has been submitted to the scrutiny of the SIF. This options seems to us pertinent in that it was from material that is possible to verify and conclude some of the information obtained in the bibliographic review.

To explore the SP we used a documental analysis that, according to Ludke and André (1986, quoted by Abreu, s/d.) "{...} it is an important technique in qualitative research is complementing information obtained by other techniques, is revealing new aspects of a topic or problem. "

The research of primary documents presents itself as an important tool for data collection and information that we can indeed contribute to the satisfaction of pointed questions in a given research. The contributions of document analysis are not restricted to the identification of clear information. Taking into account that documents are productions socio-historical, intentional and localized space and temporally, their investigation may reveal information subliminal and indirect, as in the above authors warn mobilized: "[...] documents are not only a source of contextualized information, but arise in a particular context and provide information about this same context "(Ludke and Andrew, 1986, quoted by Abreu, s / d.).

Considering, as well, the works of Bardin (1977) and Triviños (1992) , we'll try to appropriate and represent the sport project in a way that its content can be understood by the those whom have no affinity to the organization of this material.

This search has not relied on the participation of subjects. However, it used pertinent documents for the objective.

In general, we will present a full sport project and try to indentify in its structure the presence of adjustment and inadequacies to the guidelines established by the Sport Ministries regards of the SIF demands.

History of the Sport Federal Legislation in Brazil

Since the origin of our country and until today, the sport has been submitted to 5 primary jurisdictions, which are: Decree-LAW No. 3.199/1941; Federal Law No 6.251/1975; Federal Law No. 8.672/1993; Federal Law. No. 9.615/1998 and Federal Law No. 9.981/2000. If we consider the "age" of our county, we can note that our regulation principle relating to sport is

extremely recent, what can be reasonablly justified by the fact that our physical activities/manifestation haven't had, since the beginning, a eminent sport character, prevailing in that time the games, play, etc.

According to the literature, we can identify the beginning of our jurisdiction in the Vargas Years, during which the federal government, to the extent possible and their intentions, sought to organize and regulate the sport nationally.

Comparing the Zico and Pelé Laws, we can see they are very similar. Well, considering that both laws were guided by the same principals, we couldn't have expected anything different. The new Brazilian sport system (BSS), proposed by the Pelé Law, represented for the national sport organization not more than a structural change, since the BSS maintained its objectives, functions and internal dynamics practically unchanged. An innovative point in Pele Law was the creation of INDESP, federal agency with functions such as to develop and promote the practice of national sport.

Ministry changes and also the organization of the entities involved with the professional sport were the primary considerations of the scope of this law. So, once again the resources for the sport weren't the focus of the deliberations.

The legislation relating to the tax incentives for the amateur sport in our country has been provided by "Mendes Thame Law" (Law No. 7.752, April, 14th of 1989) and "Sport Incentive Law" (Law No. 11.438, December 29th of 2006). Besides those, we have had some governmental actions which were objectivities, which weren't nearly comprehensive enough.

Objective of the PIF

The Union believes that the sport is an expensive activity to the population's well-being and also a great avenue for reaching benefits for health, education, culture and politics. Roughly speaking, we can say that the SIF is in the service and has as main objective the development of the sport through national mechanisms for promoting and encouraging sports projects. We can see this information on its menu: "Provides for incentives and benefits to encourage the activities of some sports and other provisions" (Law No. 11,438, 2006). SIF's Objective

DISCUSSION

The public knowledge that FMG has in manager sport programs, we ranked another landmark that the project has indicated: the sensibility and the care shown by the mentor to the students' social dimension who plan to attend. Realized in the text, elements that allow us to say that the potential beneficiaries is directed a refined attention to far surpass the traditional and limited way of seeing athletes in training as mere individuals to attain records, medals and building careers in the sport. Instead, the text contains passages in which the mentor proves sensitive to different conditions in which they are athletes , demonstrating that, contrary to what is considered common sense, the world of high performance is not incompatible with a careful look at history and socio-cultural conditions of the subjects with which they work. Passages that illustrate this interpretation can be found in the objective and justification section of this project. Below two of this excerpts:

> Offering fundamental conditions (as medical assistance, food, transport, training equipment and competition) for the Aerobic Gymnastic training development of benefited athletes from this project, we will be contributing to building champions and also to this sport's progress. (Passage extracted from objective section)
>
> Initially, it is emphasized here that to satisfy the Mineira Federation of Gymnastic Federation, the entity responsible for the diffusion and development of Gymnastics in the state of Minas Gerais, has to defend and progress the gymnastics culture for the townspeople. This kind of perception sits in some passages that include a discursive character, as seen in the justification. When considering the text, we think that this is one of the topics that has left to be desired. We noticed, though, in the text some proposal inadequacies to the rules of the formal Portuguese writing, which should prevail in this kind of context that we are talking about. (Passage extracted from justification section)

Turning to our analysis about the questions related within the text's framework required by the Sport Ministry, we identified points which could have been better exposed, with more clarity and objectivity. We noticed in the methods section some unsuccessful descriptions of the development, execution an procedures used in the project activity. By way of example, we have noticed that some parts of the text were not clear about the location of the competitions and which category was intended. We have thought that part of this work would be interesting for the mentor to organize certain information into tables, using care to make evident the meanings of acronyms and abbreviations used. In the "Qualitative Goals" we observed some confusing information, which could be avoided by writing the topic in short sentences, allowing for better understanding of the context by the evaluators.

In addition to formatting text and know-how of the applicant behooves us to say that the content of the Project was consistent with the sporting event which it intended, "nodal point" that constrains most entrepreneurs the SIF. In its favor was also the efficient formulation of the costs of actions, characterized by long-range rather than "lean" spending.

Some positive and negative points are observed in the text. We could see the proponent's difficulty was to transpose to the paper the project's logistic design, which is a complex task, especially to those who are newcomers to the SIF and do not have the conditions to hire a consultant for the task.

With that said, the project was denied by the Sport Ministry for not properly filing the necessary documents with the agency. It was a mistake to believe that this was a simple task. In fact, it is not. The screener is responsible for preventing the succession of numerous sport projects to further consideration.

We have seen that for a project to be approved its proponent must coordinate and possess many skills, such as technical and operational, financial (or preferably, hire a good financial assistant for the development of the project) and maybe some other considerations that we could not identify.

Thus, we believe that the discussion we utilized involved various assumptions. We opted to discuss some of them in this brief reflection, but we believe that it is important to expand the debate on sports funding, as well as its legislation, amongst other topics of research in the area of sport.

FINAL CONSIDERATIONS

The object of our study, the Sports Incentive Federal Law, presents itself as an auxiliary mechanism in the public policy of Brazilian sports. A foundation of of our work, the study of this law, was accompanied by a historical approach concerning the main legal instruments of sporting at the federal level, and also a case study as project materials submitted to SIF.

The case study allowed us to observe what constitutes a sports project, and what are its steps and components. We concluded that to pursue this material is no easy task, especially when under the shadow of its construction, there are numerous restrictions and requirements determining its shape, and indirectly, its success.

Our recent findings indicate opposite trajectories. Since, as previously stated, we have observed that the sport - whether in its offerings, or development - has been presented on an upward curve. However, we believe that more could have been done. As we can see, in relation to the Sports Incentive Law, despite having allowed time and the voice of countless anonymous individuals, corrections are needed in order to circumvent distortions in its text.

We quoted some of these: perverse allocation of funds, favoring sports projects located in southern and southeastern Brazil; difficulties for new proponents not assessed by consultancies having their sports projects approved; difficulties in raising funds for projects that do not arouse the interest of the private sector. These being just some of the many points that deserve to be raised and discussed by the government and civil society.[5]

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LEI FEDERAL DE INCENTIVO AO ESPORTE: DOCUMENTARY ANALYSIS AND SOME THOUGHTS

ABSTRACT

Using document analysis (DA), the study focused on the investigation of a Sports Project (EP) submitted to the Ministry of Sport, the body responsible for evaluating projects seeking financial support through the Federal Law for the Encouragement of Sports (LIE). Initially it was made a rescue of sports law and federal tax incentive mechanisms for amateur sport. Then we tried to portray the construction of the phenomenon, the concept of Sport, the dictates of the LIE and the current understanding of the federal government that concept forward. Concerning the analysis of the Draft Sports undergoing LIE, its central features were identified and compared to the requirements established by the Ministry of Sports for the reason LIE. We can learn that the process by which they must submit the PE that seek funding for LIE is too hard. It was noted that the difficulties begin in the joint document, permeates the preparation of PE, approval and raising funds. Directing the gaze to the preparation of PE were focused features like organization and clarity, technical and operational capacity of the applicant and the relevance of the theme, once again being able to identify obstacles to "hurt", excessively, players / tenderers who do not have professional assistance for development of PE

KEYWORDS: Law, sport.

LEI FEDERAL DE INCENTIVO AO ESPORTE: ANALYSE DES DOCUMENTS ET QUELQUES REFLEXIONS

RÉSUMÉ

En utilisant l'analyse de documents (DA) , l'étude a porté sur l'étude d'un projet sportif (EP)soumis au ministère des Sports, l'organisme responsable de l'évaluation des projets qui demandent un soutien financier par le biais de la loi fédérale sur l'encouragement du sport(LIE). Initialement, il a été fait un sauvetage de droit du sport et de mécanismes fédéraux d'incitation fiscale pour le sport amateur. Ensuite, nous avons essayé de dépeindre la construction de ce phénomène, le concept du sport , les diktats du mensonge et de la compréhension actuelle du gouvernement fédéral que du concept de l'avant. Concernant l'analyse du projet Sport et subissant mensonge, ses caractéristiques principales ont été identifiées et comparées aux exigences établies par le ministère des Sports pour le mensonge de la raison. Nous pouvons apprendre que le processus par lequel ils doivent soumettre le PE qui cherchent um financement pour LEL est trop dur . Il a été noté que les difficultés commencent dans le document joint , imprègne la préparation du PE , l'approbation et la collecte de fonds . Diriger le regard vers la préparation du PE ont des fonctionnalités telles que l'organisation et la clarté, la capacité technique et opérationnelle du demandeur et de la pertinence du thème ciblé, une fois de plus être en mesure d' identifier les obstacles au " mal " , trop , joueurs / soumissionnaires qui n'ont pas une assistance professionnelle pour le développement de PE .

MOTS-CLÉS: Droit, Sports

LEI FEDERAL DE INCENTIVO AO ESPORTE: EL ANÁLISIS DE DOCUMENTOS Y ALGUNAS REFLEXIONES
RESUMEN

Utilizando el análisis de documentos (AD), el estudio se centró en la investigación de un proyecto deportivo (PE), presentado al Ministerio de Deporte, el organismo encargado de la evaluación de proyectos que buscan apoyo financiero a través de la Ley Federal para el Fomento del Deporte (LIE) . Inicialmente se hizo un rescate de derecho deportivo y mecanismos de incentivos fiscales federales para el deporte amateur. Luego intentamos retratar la construcción del fenómeno , el concepto de deporte , los dictados de la mentira y de la comprensión actual del gobierno federal de ese concepto hacia adelante. En cuanto al análisis del Proyecto de Deportes sufrir LIE , se identificaron sus características centrales y se compararon con los requisitos establecidos por el Ministerio de Deportes por la razón LIE . Podemos aprender que el proceso por el cual deberán presentar el PE que buscan financiación para LEL es demasiado duro. Se observó que las dificultades comienzan en el documento conjunto , impregna la preparación del PE , la aprobación y la recaudación de fondos . Dirigir la mirada a la preparación de PE se centró características como la organización y la claridad, la capacidad técnica y operativa del solicitante y de la relevancia del tema, una vez más, ser capaz de identificar los obstáculos al " daño " , en exceso, jugadores / licitadores que no cuentan con asistencia profesional para el desarrollo de la educación física.

PALABRAS CLAVE: Derecho, Deporte.

LEI FEDERAL DE INCENTIVO AO ESPORTE: ANÁLISE DOCUMENTAL E ALGUMAS REFLEXÕES
RESUMO

Utilizando de análise documental (AD), o estudo centrou-se na investigação de um Projeto Esportivo (PE) submetido ao Ministério do Esporte, órgão responsável por avaliar projetos que buscam aporte financeiro através da Lei Federal de Incentivo ao Esporte (LIE). Inicialmente foi feito um resgate da legislação desportiva federal e dos mecanismos de incentivo fiscal destinados ao desporto amador. Depois, buscou-se retratar a construção do fenômeno, o conceito de Esporte, os ditames da LIE e o atual entendimento do governo federal frente àquele conceito. Em se tratando da análise do Projeto Esportivo submetido à LIE, seus aspectos centrais foram identificados e confrontados às exigências estabelecidas pelo Ministério do Esporte para motivo da LIE. Pode-se apreender que o processo pelo qual devem se submeter os PE que pleiteiam recursos financeiros pela LIE é por demais árduo. Notou-se que as dificuldades se iniciam na junta dos documentos, perpassa a elaboração do PE, a aprovação e a captação de verbas. Direcionando o olhar à elaboração do PE, foram focadas características como organização e clareza do texto, capacidade técnico-operativa do proponente e pertinência do tema, mais uma vez sendo possível identificar obstáculos que “ferem”, sobremaneira, jogadores/proponentes que não dispõem de auxílio profissional para elaboração de PE.

PALAVRAS-CHAVE: Lei, Esporte