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Normativity of combat sports codes
SUMMARY
(Normatywność kodeksów sportów walki)

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The main research task undertaken in this work is an attempt to capture the issue of normativity on the example of regulations concerning combat sports, focusing on WKF karate and fencing in particular. The assumption adopted in the work is a modern approach to normativity, that does not fit into the classical understanding characteristic of legal positivism, and an attempt to confront the legal approach with a broader aspect of understanding these regulations, including custom, tradition and etiquette as institutions or conventions. Without it, adequate understanding of the rules of selected combat sports seems not possible. The aim of the work is to compare the culturally distant sports rules, and to find their common denominator. The dissertation has an interdisciplinary character, covering the scope of its considerations issues, originally belonging to the theory and philosophy of law, philosophy and cultural anthropology. The following methods were used in the research: analytical, empirical, comparative and statistical. The work consists of an introduction followed by four, thematically divided chapters and a conclusion.

The main thesis of the dissertation is the multithreaded influence of tradition on the combat sports codes. The author indicates that due to the specification of the code as a word, the analysis will include all the behaviors governing sports competition. Moreover, it submits that there is a significant difference between the concept of sports and martial arts, particularly in terms of their purposefulness. An inseparable characteristic of combat sports is competition and holding competitions while protecting the dignity of the participants, which meant that the rules governing them were included in the form of regulations. Martial arts, on the other hand, focus mainly on self-development, hence their normativity is limited, and possible competition plays a secondary role. Thesis raises the cultural difference of both disciplines. Karate originates from Japan and is based on moral systems grown on Far Eastern beliefs, such as Buddhism or Shintoism. Fencing, on the other hand, is inextricably linked to the Western culture and the anti-Christian tradition. The dissertation will prove that despite cultural differences, the normativity of both codes is similar. In order to better examine the normative power of combat sports codes, community interviews were conducted in the Polish Karate Union and the Polish Fencing Association.

The first chapter of the thesis attempts to explain normativity in the context of various legal and philosophical theories. The author chose Christine Korsgaard and Bartosz Brożek as the main guides. Through four normative questions proposed by Brożek: ontological, epistemological, normativity in the strict sense and psychological, different concepts of normativity are analyzed from the natural law, such as those of Aristotle or St. Thomas Aquinas to the modern ones, such as Immanuel Kant. Most attention is paid to Hans Kelsen, Herbert

L.A. Hart and Ronald Dworkin as leading representatives of twentieth-century legal philosophy. When analyzing their concepts, the author points out that it is their legacy that will be used when analyzing this particular research field. This chapter ends with the presentation of Bartosz Brożek's original concept, presented in the book *Normativity of Law*. The Polish researcher goes beyond philosophy and turns to neuroscience in order to answer bothering questions.

The second chapter concerns the normativity of combat sports codes on the example of WKF karate. The author first presents the history of this discipline and its evolution from a primitive form of a combat to a form of sport that made its debut at the Olympic Games in 2021. The presentation is preceded with a broader analysis of the *Bushido* code, i.e., the code of the Japanese samurai. This discussion presents the code in the perspective of the virtues that governed samurai life. The most important are honor, loyalty and the desire to die in a just cause. In addition, karate grew out of the *budo* philosophy, which is an educational system that focuses on self-development and upbringing the young people to become good citizens. *Budo* in karate manifests itself in 20 principles of *Niju kun* and 5 *Dojo kun*, which are the implementation of specific postulates for this martial art. The author emphasizes that the above could be called karate tradition and will find an analogy between the principles of *Bushido* and *budo* in the judging rules and their application in WKF karate. After analyzing the tradition, the author proceeds with a detailed analysis of two competitions: karate kata (show form) and kumite (fight). During this research, references to non-regulatory principles, are found i.e. the *Bushido* Code and *budo* philosophy. The regulations that constitute the research field entered into force on January 1, 2023. The author shows the shortcomings and imperfections in individual provisions and solutions regarding their application and interpretation. Due to the main topic of the thesis, the author decided to conduct an environmental interview in the Polish Karate Union. The questions concerned, mainly the functioning of regulations, their inaccuracies, the role of rules in sports competition, as well as the attitude of the respondents towards rules and regulations. The results of the research showed that tradition has a large impact on the functioning of the rules, and judges are their guardians. Nevertheless, it also causes some uncertainty of interpretation and lack of rules transparency.

The third chapter takes into consideration the normativity of sports codes on the example of fencing. Similarly, to the second chapter, the history of fencing is discussed and analyzed in first place. This led to the initial conclusion that it seems right to look for the sources of legal regulations in some of the traditional behaviors, specific to fencing, in the code of chivalry. This code similarly, to the *Bushido* code, has been discussed through the prism of virtues that

an ideal knight should possess. It is worth mentioning, that among others: honor, devotion to the master or the desire to gain fame. In addition, the example reference is made to a knights' tournament, which was the origin of the competition for melee weapons in the Middle Ages. The second aspect of the melee tradition is the dueling tradition. First, the court duel is discussed, then the honorable duel as a direct legacy of the knightly ethos. Incidentally, while analysing the Boziewicz Code it was discovered that, the word honor in European culture means love and self-respect. Despite the fact that both Western and Far Eastern cultures highly valued honor, it was perceived differently. In Europe through the prism of the individual, whilst through the community in Asia. After such an in-depth analysis of the tradition, the author proceeds to study the fencing regulations that came into force in November 2022. First, the general rules and penalties are analyzed, then the rules of epee are presented. Similarly, to the study on the normativity of karate, the author decided to interview epee fighters, judges and trainers of the Polish Fencing Association. Due to the lower interest in the survey, these results may be presented as a kind of trend rather than a binding opinion. Characteristically, fencers directly indicate in an interview that some of the rules come from dueling traditions, and they also have less doubts about the wording of the rules.

The fourth chapter outlines a summary of the research conducted above and confronting them with normative questions. At the ontological level, we see that combat sports codes consist of sports rules and traditions. Such an ontology is adequate to the concept of rules and principles in Dworkin's approach. In addition, it was noted that the normative background when it comes to regulations can also be considered in a broader scope, including acts of internal law of sports and international organizations, as well as national and international law, which, however, constitutes the concept of sports law rather than combat sports codes. Organizational acts as well as sports law provisions should therefore be treated as regulations thanks to which the regulations can function, but they do not constitute the essence of the normativity of combat sports codes. This is due to a special influence of tradition both on the creation or content of regulations and their direct application. A specific tradition, custom and cultural context will therefore be a significant interpretative clue.

As for the epistemology of the normativity of combat sports codes, it was found that it is learned primarily through specific practice and language (which is partly a reflection of Hart's theory). In other words, the players first learn the rules in practice, only then they verify them, and the judges first learn the theory while practice makes their decisions more confident. Stating the question of normativity in the strict sense, Brożek's theory is invoked, in which the normativity of abstract rules is reduced to the theory of rationality, in this case instrumental.

The author also refers to Dworkin's policies. Nevertheless, the normative force of sports codes is also the pervasive tradition.

Questions concerning topics of interest should be considered in the group of players and coaches, and among the judges separately. For players and coaches, the main motivation for both complying and breaking/bending the rules is winning. In the case of judges, it will be a desire to implement the postulate of an ideal judge. In the author's opinion, however, this does not fully solve the mystery of the normativity of sports codes. In the last chapter, author also presents the concept of the normative way to better illustrate the multifaceted influence of tradition on normativity. The horizontal aspect represents the individual changes to the regulations. Tradition is presented primarily as the primary source of regulations, but it is indicated that it influences every wording of regulations. Any amendment should also consider reasons for changes, such as acceleration of competitions and rules transparency. The vertical sphere concerns the functioning of the rules, starting from their interpretation, through refereeing decisions, competition results, ending with possible protests and other measures to protect against misjudgment. Functioning, on the other hand, is the reason for amending the regulations and thus returning to the horizontal sphere. In the vertical scope, at every stage of interpretation or protest, the aspect of tradition is taken into account.

The author indicates that in order to fully understand the normativity of combat sports codes, it is worth juxtaposing the role of a sports judge and a judge in law. Five aspects are discussed: the speed of decision-making, the judges' discretion, presence during the competition, the possibility of appeals against decisions and aesthetics. In this context, the basic attention is paid to the intuitive issuing of verdicts by sports referees. Sports referees are constrained by the rules of the sport as competition cannot be "a game of the referee's whim", nevertheless they can refer to the principles of tradition, which is the source of a high degree of discretion in their decisions. The sports referee must always be present during the competition. Protest in sport serves as a means of appeal, but it is rarely used because it rarely results in changing the original decision. Karate and fencing judges are distinguished by uniform attire and issue conventional commands with specific gestures.

The arguments contained in the dissertation led to the conclusion that the sociology of law is the missing element. The author, by citing the history of this discipline and the views represented by Eugen Ehrlich and Leon Petrażycki, indicates that the research results presented in the work coincide with such concepts as: living law, unofficial law and intuitive law. In addition, author also refers to the concept of responsive law as the impact of the functioning of regulations on their creation. Finally, the author compares the normativity of legal codes to the

concept of Leszek Leszczyński, who refers to the distinction between *lex* and *ius*. He indicates that *lex* can be understood as referee regulations issued in an appropriate manner and creating sports competition. *Ius*, on the other hand, is a tradition that affects both the creation and functioning of specific legal solutions, as well as a possible critical attitude towards these regulations, for example because of their artificiality or contradiction with the spirit of a given sport.

The final conclusion is that the normativity of combat sports codes is therefore a hybrid entity, consisting of refereeing regulations and rules of tradition resulting from a specific custom and culture. Furthermore, tradition has a multifaceted influence on the normativity of these codes, manifesting itself both in their creation and application on the mat or board.