

Analytical approach of some legislative texts related to the establishment of professional football in Algeria

مقاربة تحليلية لبعض النصوص التشريعية المتعلقة بتأسيس كرة القدم المحترفة في الجزائر

الدكتور: لعبار رياض

Dr.LABAR Riad

أستاذ محاضر قسم "ب"، جامعة محمد الشريف مساعدي سوق أهراس

Lecturer class « B » University Mohamed-Cherif Messaadia Souk-Ahras

Email: labar.riad@yahoo.fr

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Abstract:

The purpose of this study is to analyze legislative texts governing professional football based on the content analysis method. Despite the legal reforms that followed the post-independence period, the practice of sport has been assimilated to an activity that consumes more resources than it can produce. An attempt to professionalize football was initiated as early as 1999, but this operation did not have the expected effects.

In a first step, professionalism in Algeria appeared for the first time with the advent of performance sports associations, which led at some moment the development of Algerian sport. In the second step, a new attempt to apply professionalism has been relaunched to respond to the claims of international sporting institutions, In practice, this process was launched by the Algerian Football Federation in 2010, but up to now there have been several difficulties in its application.

Keywords:

Professionalism; Football; Legislative texts; Sport movement.

ملخص:

إن الهدف من هذه الدراسة يتمثل في تحليل النصوص التشريعية المرتبطة بتأسيس كرة القدم المحترفة اعتمادا على طريقة تحليل المحتوى. بالرغم من الإصلاحات القانونية التي توالىتها الفترة ما بعد الاستقلال ، فقد تم استيعاب ممارسة الرياضة كنشاط يستهلك موارد أكثر مما يمكن أن ينتج. و لقد بدأت محاولة إضفاء الطابع الاحترافي على كرة القدم منذ عام 1999، ولكن هذه العملية لم تكن لها التأثيرات المتوقعة.

في المرحلة الأولى، بدأ الاحتراف في الجزائر بالظهور مع بروز الجمعيات الرياضية للأداء العالي ، والتي أدت في وقت ما إلى تطور الرياضة الجزائرية. في مرحلة ثانية، أعيد إطلاق محاولة جديدة لتطبيق الاحتراف للاستجابة لمتطلبات الهيئات الرياضية الدولية، من الناحية التطبيقية أطلقت هذه العملية من طرف الاتحادية الجزائرية لكرة القدم في 2010، ولكن حتى الآن ما زالت هذه المرحلة تعرف العديد من الصعوبات في تطبيقها

كلمات مفتاحية: الاحتراف، كرة القدم، النصوص التشريعية، الحركة الرياضية.

Introduction and problematic :

Professional football today is the subject of a vast field of study in both the academic and political worlds. From a methodological point of view, professional soccer is understood by training specialists as a vast learning process for the development of certain athletic, technical and tactical skills. Professionalism means that the player is professional in the game and considers it his main job¹. Alternatively certain sociologists have argued the fact that an athlete is no longer an amateur in the sense that his payments are larger and more open does not make him a professional in the limited sense the term implies here². It is an advanced sports technology, which mobilizes enormous human, material and financial resources. Regarded as the most complete sport of modernity by many researchers from different backgrounds, it is the object in every society of a patient and laborious policy of training young talents in club training centers, using meticulously elaborated teaching methods. In order to develop and adapt to changes in the socio-economic context of developing countries, professional football needs a specific "development strategy" to avoid all kinds of overflows and drifts, which it is sometimes involved in origin.

In Algeria, the legal framework of sports practices integrated into the competitive system has evolved according to periods when the public authorities, have drawn up, as an option and/or by necessity, legislative and regulatory texts able of regulating and controlling financial flows and their origins. It is therefore in relation to these texts that an enlightening analysis should be made in order to gain a better knowledge and understanding of some legal aspects of the evolution of the legislative texts governing the sports movement in general and professional football in particular. Today, we are wondering about the situation of professional football in our clubs, because 10 years after the establishment of professionalism, we have not yet acquired the culture of professional football. Indeed, when we talk about professionalism, we must necessarily refer to the economy and corporate law. Today, the most of football clubs are sinking into near-bankruptcy and are much more dependent on state subsidies than on their shareholders and market mechanisms. This today raises great concern about the future of professional football in Algeria

Indeed, professional football clubs as an objective representation of a joint stock society operating in the strangest and most complacent anarchy are experiencing today successive failures and a real crisis of economic viability, and even more their share capital is being absorbed because of accumulated operating losses, due to

incoherent management and governance where the role of shareholding boards of directors has remained very limited³. within the concept of the market economy as long as they continue to benefit from the leniency of public authorities through subsidies and consequent aid, which in no way contributes to the development of economic or commercial activities in order to ensure stable and sustainable income against of ever-increasing expenditure, since no gains in productivity or economic value have been achieved, while the salaries of players and coaches have skyrocketed.

Also it was to this problem that we obviously trying to shed some light, In particular, we want to highlight this ever-present problem, a serious flaw in the clubs' lack of financial autonomy and in the management of joint stock sports companies, in order to find lasting solutions to manage an economic and financial recovery that seems to be painful and complicated. We believe that this recovery is dependent on a new policy of governance and management of professional sports clubs.

Objective:

The purpose of this study is to carry out an analysis of the legislative texts related to the establishment of professional football in Algeria, in order to highlight their adaptation to the requirements of professionalism in a sometimes unstable socio-economic environment.

Hypothesis:

In order to find sustainable solutions to manage an economic and financial recovery, it is important to upgrade to a new policy for the governance and management of professional sports clubs.

Design:

The methodology used in his study, consists of a reading and analysis of the texts and laws that govern the Algerian sports movement in general and professional football in particular through a descriptive analytical study.

Methods:

In order to meet the aims of the study we used the method of content analysis, which consists firstly in listing the legislative texts related to the Algerian sport movement and professionalism in its various forms (laws, ordinances, decrees, orders, statutes, and reports), then examining and classifying these texts according to key periods, then making analyses and criticisms by taking into consideration the various factors influencing the expected results.

Exposure and result analysis:

The period: 1963 to 1970:

At the beginning of this period, the legal aspects related to the financing of sport changed little, sport being somewhat marginalized despite the highly political role given to it during the revolution. After independence, the Algerian legislator showed little interest in this aspect because of the post-independence deficiencies (chronic lack of supervision, economy and disarticulated institutions) and the multiple priorities of the moment (The establishment of state institutions, rehabilitation of the economy and public administrations, resolution of social

problems).. The public authorities were therefore content to renew or draw up in another form the provisions of French legislation (in particular those of the 1901 law relating to the contract of association⁴ and Ordinance No. 45-1922 of 28 August 1945)⁵ This legacy is consecrated, in legal terms, by law 62-157 of 31 December 1962 renewing until further notice the legislation in effect on 31 December 1962, except for provisions contrary to national sovereignty⁶, which was repealed by order 73-29 of 5 July 1973⁷.

The first Algerian text relating to sports practices integrated into the competitive system dates back to decree No. 63-254 regulating sport and sports associations adopted on 10 July 1963. A striking illustration of the State's will to introduce more rigor in the management of sport, this text commonly called "sports charter" served as a legal framework for the creation, organization, functioning and, incidentally, financing of sports associations integrated into the competitive system⁸. On analysis, it is possible to note that this decree makes the constitution of sports structures subject to the provisions of French texts, respectively the law of 1 July 1901 relating to the contract of association and the ordinance of 28 August 1945. Thus, throughout the period 1963-1970, these texts constitute the only legal framework for the existence, expression and financing of sports associations integrated into the competitive system. The financing aspect is essentially based on the provisions of decree No. 63-254. Thus, towards the end of this period, more precisely from July 1969, the public authorities began a selective "sports reform" somewhat inspired by the model in use in the Eastern countries where competitive sport was integrated into State institutions. A small number of sports clubs were integrated into the public sector, in other words, state economic and administrative units (UEA) such as: SONATRACH, BNA, ONACO, SONACOME, SNS. This approach is the first form of "state sponsorship" of sports society through public societies. Through this initiative, the State expressed its willingness to allow sports clubs to benefit from substantial and regular financial resources, to have a stable organizational framework and also to exercise control over their leaders.

The period: 1971 to 1975:

This is a period which is characterized politically, economically and socially by a strengthening of the State's control over all the country's institutions, and sport does not seem to escape this approach. Indeed, sports associations have to merge into a more constraining mold in favor of the adoption of new texts.

Firstly, Ordinance No. 71-79 of 3-12-1971 relating to the association by which no association can have a legal existence or carry out its activities without the approval of the public authorities (Article 2)⁹. This ordinance repeals the law of 1901 relating to the contract of association, which has become difficult to apply in the new Algerian political environment.

Secondly, it is about decree n° 72-177 of 27-07-1972 taken in application of the ordinance 71-79 which imposes common statutory provisions on associations¹⁰, thus confirming the will of the State to insert the associations in a uniform, unitary and coercive mould able to allow a strict control of the association's activities.

However, the reading of these two texts makes it possible to note that they only take again under other forms the provisions of the law of 1901 (contributions of the members, competition under conditions of the public authorities...). The legal system relating to the origins of the association's resources in general and, by extension, to that of the sports association, has not undergone profound changes. Article 6 of the 1971 Ordinance specifies the origin of these resources. They must primarily come from its members in the form of contributions. If necessary, the association may obtain assistance from the State, the Wilaya, the commune or public institutions in the form of subsidies. Moreover, it may, if necessary, receive assistance from its sympathizers through public collections, made however, with special authorization from the authorities. Beyond the obligation of agreement, the association must manage its resources in accordance with their allocation and under the supervision of the competent authorities (art. 6). Donations and legacies are only admissible by associations recognized as being of public utility by decree (art. 17)¹¹.

Moreover, decree No. 72-177, adopted in application of the 1971 Ordinance, extends, in its Title III, the register of the origins of the association's resources. These resources are specified as follows: first, the associates, in the form of contributions in nature or in cash (articles 10 and 12 of the decree)¹², either at the time of its establishment or during its existence, and second, the income from its assets. On the other hand, it should be noted that this decree does not mention income related to the products of the sports show that can constitute a significant contribution to the association's budget.

Finally, during this period, the legal framework relating to the origins of financing does not change radically compared to the previous period, with the exception of a few punctual and time-limited actions introduced within the framework during the Mediterranean Games. However, during this period, the minimal State gradually gave way to an interventionist State which gradually set about laying the legal foundations for the financing of sport with the promulgation of a new text: Ordinance No. 76.81 of 23 October 1976 on the Code of Physical and Sports Education, in the perspective of sports development¹³. It is also important to note that sports infrastructures (construction, equipment, operation) and the training of sports managers are systematically the responsibility of the State within the framework of the country's economic and social development plans.

The period 1976 to 1988:

This pivotal period in the development of Algerian sport is characterized by an evolution in two steps (1976-1982 and 1983-1988), as each of them was marked by changes on the ideological, political and economic levels which had important impacts on the legal framework for the financing of sports practices integrated into the competitive system. During the first step (1976-1982), the sources of financing radically changed as a benefit to the provisions of Ordinance 76-81 of 23 October 1976 on the Code of Physical Education and Sport, the main objective of which is the building of a socialist sport directly or indirectly through public institutions. Indeed, its article 33 stipulates that "the sports association must absolutely be integrated into

the organization of schools and universities, economic and administrative units, the national army and local communities"¹⁴.

Moreover, the State is determined to take charge of all forms of sports. On this last point, an analysis of this code of physical education and sport, qualified as a true "constitution of sport", shows that the public authority devotes three (3) provisions of this code (Articles 80, 81 and 82) to the financing of sports practices integrated into the competitive system which constitutes a very important progress. The ordinance designates, then, the State, local authorities and public companies as the major providers of financing¹⁵. The State becomes the "provident State", since, in parallel to this financing of the association, it takes in charge of all the factors linked to the development of sport.

However, an examination of the texts governing the financing of sports associations shows that the sports authority imposes two kinds of financing, one of which goes against the guidelines of the Physical Education and Sport Code by associating public and private actors (in the form of membership fees, donations and legacies): the first type concerns the sports association integrated into a local authority and the second the sports association assigned to the public economic enterprise. In the second case, sports associations integrated within public companies are subject to special provisions which include other than those of Ordinance 71-79, the share of the company's social fund. This social fund is provided by a obligatory contribution of the enterprise on the payroll, the rate of which is fixed by decree according to the nature of the activity. However, it turns out that it is intended exclusively for welfare, which means that it is devoted to improving the material, cultural and social living conditions of workers. Therefore, the recurring question is: what is the usefulness of this kind of sports association for the workers?

The consequence of this insufficiency was a crisis in the financial management of performance sport in 1979. Against this situation, the sports authority tried to resolve the issue of regulating the large financial flows provided by public enterprises. The sport authority's reply to this situation resulted in a strict re-establishment of order against failing public enterprises and the implementation of a new, more efficient and more transparent management method. However, this approach has proved to be difficult, resulting in delays in the realization of operations.

The second consequence is the retirement of enterprises from sports financing as early as 1982, because of the constraints generated by the policy of restructuring large public enterprises decided by the government (reduction of the financial areas of enterprises, unprofitable newly created economic units) on the one hand.

In other words, public enterprises, most of them loss-making, were required to self-finance their activities by improving their management, maximizing their economic performance and making rational use of their financial and material resources. All these requirements were not very favorable to sports associations which were considered, rightly or wrongly, as a non-productive investment, as soon as they were unable to finance their activities, the salaries of sportsmen and women

and those of their management. That's mean, the practice of sport was treated as an activity that consumed more resources than it could produce and the only solution was to exclude it from the enterprise. To deal with this situation of socio-economic crisis and budgetary rigor, the public authorities then tried to put in place additional mechanisms to public funding, such as creating a national sports development fund and proposing new forms of funding for performance sport. Unfortunately, these additional mechanisms as a solution to the latent crisis of the public financing of sports practices have failed due to the absence of a legal framework, the difficulties of the Ministerial Department of Youth and Sports in elaborating concrete solutions and especially due to the worsening of the Algerian economic crisis under the effects of the oil counter-shock (1985/1986) and the depreciation of the value of the US dollar. However, this period must take into account the promulgation of a new law on associations. This law devotes, then, three (3) provisions (Articles 11, 12 and 13) to the resources of associations instead of two in the former text of the 1971 Ordinance (Articles 6 and 17).

The period 1989-1994:

This period is characterized by the aggravation of the multifaceted crisis (political, economic and social) that is shaking Algeria with the consequence, in terms of sports, the necessary search for diversification of funding sources for sports practices plagued by difficulties of care. The reaction of the public authorities to this critical situation is the creation and adoption of new texts as indispensable accompanying measures to the multiple difficulties identified. Therefore, in sport, new provisions were introduced with the promulgation of law No. 89-03 of 14 February 1989 relating to the organization and development of the national system of physical culture and sport instead of ordinance No. 76-81 on the code of physical education and sport¹⁶, which the new environment, especially economic one, has been out-of-date.

As part of the exercise of freedom of association, law n ° 90-31 of 4-12-1990 relating to associations is enacted, thereby repealing law n ° 87-15 of 12-01-1987 relating to associations. Liberal inspiration, this new law stipulate in its article 6 that "the association is freely constituted by the will of its founding members, at the end of a constitutive general assembly gathering at least fifteen (15) founding members who adopt the statutes and designate its management bodies"¹⁷. These liberal-inspired legislative texts will serve as a legal basis for the financing of sports practices. Thus, Law n° 89-03 brings many changes in the financing of sports practices, in particular those relating to the diversification of resources. Concretely, this law devotes fourteen (14) articles to financing, instead of three (3) in the ordinance of 1976¹⁸. The legislative mechanism for the financing of sports practices is enriched while the range of the origin of financial resources is widened, thus opening up many perspectives and opportunities for sports associations.

However, it must be noted that public enterprises, themselves are against financing difficulties and a salary environment hostile to unproductive sporting activity. With rare exceptions, they have unilaterally disengaged themselves from an

activity considered more as a financial charge than a productive investment. On another level, it is interesting to note that law no. 89-03 is the first of its kind to have shown boldness in offering sports associations the possibility of evolving towards structures in a sporting and commercial form. Indeed, article 23 of the law stipulates that «when the nature, density and diversity of the activities require a mode of organization and management other than the association one, commercial enterprises with a sporting vocation may be created after consultation with the National Sports Council and after authorization by the Minister in charge of sports, companies of a commercial nature with a sporting vocation»¹⁹. However, this sporting and commercial form has not been applied due to the absence of application texts on the one hand and, on the other hand, due to an Algerian socio-economic context in crisis.

The period: 1995 to 2003.

The beginning of this period is characterized by the promulgation of a new ordinance: Ordinance No. 95- 09 of 25 February 1995 on the orientation, organization and development of the national system of physical culture and sports, which reorganizes physical and sports practices into four (4) differentiated levels: physical and sports education, recreational physical and sports activity, performance sports and elite and high-level sports²⁰.

It should be noted, however, that this reorganization is much more concerned with form than substance. For example, the title "physical and sports education" (article 5 of Ordinance No. 95- 09) has replaced that of "mass educational practice" (article 5 of law No. 89.03) while that of "competitive sport" (article 9 of Ordinance no. 95-09) has replaced that of "performance practice" (article 5 of Law No. 89-03). According to Triche, (2018) there is a difference with regard to financing of clubs compared to what is stated in the term book and this ordinance, in particular article n°112²¹. The new sports legislation confirms, once again, the willingness of the public authorities to disengage from the process of financing physical and sports practices. Indeed, the State, local authorities, public institutions, companies and organizations "ensure or participate in the financing" of physical and sports practices (Article 99)²².

Concretely, this ordinance devotes sixteen (16) articles to the financing of physical and sports activities instead of fourteen (14) in the previous law n° 89-03. On reading, it emerges that the financing retains its diversified, aleatory and selective nature. Indeed, the ordinance associates public authorities (State, local authorities), persons of private law and sportsmen and -women as supports to the financing of competitive sports practices. Moreover, article 15 of the ordinance devotes the professional sports club beside the non-profit amateur sports club²³. In terms of financial resources, the amateur sports club may receive aid from the State and local authorities provided that it is regularly constituted and approved by the Ministry of Youth and Sport. It may then receive a subsidy from the Wilaya fund on the basis of a program contract pursuant to the provisions of Inter-ministerial Order No. 002-97 of 17 December 1997 establishing the standard program contract for financial support

from the Wilaya fund and local services the administration responsible for youth and sports and the structures of the local youth and sports associations²⁴.

This program contract binding on the one hand, the representative of the ministry (the director of youth and sports of the concerned wilaya) and on the other hand, the president of the sports association; is subject to stringent conditions, in particular: the achievement of well-defined objectives, the recruitment of qualified personnel among the permanent technicians made available by the local offices of the ministry of youth and sports, the submission of periodic balance sheets, the keeping of accounts, the submission to periodic controls of all persons and bodies authorized by the laws and regulations in effect.

The professional sports club, for its part, may receive aid and contributions from the State and local authorities, but on the basis of specifications set by the minister responsible for sports in conjunction with the ministers concerned. On this last point, an attempt to professionalize a particular sporting activity, that of football, was initiated in 1999. In this context, specifications were drawn up for implementation during the 1999/2000 sports season. However, this operation did not have the effects expected by the drafters of the project. It ended in failure, as legal support, financial, human and material resources, and finally, the commitment of the sports community were lacking. On another level, the provisions of the law on associations remain relevant and thus continue to serve as a general and common reference for the financing of associations, including those involved in sports.

The period 2004 to the present:

The year 2004 sees the promulgation of a new law: it is the law n° 04-10 of August 14, 2004 relating to physical education and sports. This law, which is being applied gradually, devotes nine (9) articles dealing specifically with financing instead of the sixteen (16) articles contained in the repealed ordinance. This law does not derogate from the previous provisions dealing with the financing of sports practices. Indeed, the public authorities continue to provide or participate in financing as in the past. This law also has the particularity of associating the private sector (Article 72 of Law n°04-10) with the action of the public authorities in the financing of sport. But the most important thing is that this same law innovates in the sense that it multiplies the possibilities of forms of exercise of sports clubs. In this perspective, the legislator has defined three kinds of clubs: the amateur sports club, the semi-professional sports club and the professional sports club (article 42 of law n° 04-10). The amateur sports club and the semi-professional sports club are characterized by their non-profit nature²⁵.

Regarding its financing, the amateur sports club is governed, on the one hand, by the provisions of law No. 90-31 on associations (article 43 of law No. 04-10)²⁶ and, on the other hand, the legislator provides for possible aid and determines the sources of its financing. Thus, in the first case, amateur sports clubs may receive aid from the State and local authorities. However, this aid is subject to conditions: an annual or multiannual program and budget forecasts approved by the competent authorities. In the second case, a number of financing provisions can be used by

amateur sports clubs to increase their revenue within a legal framework. Thus, pursuant to article 74 of this law 04-10, amateur sports clubs benefit from the profits generated by the marketing of advertisements affixed to sportsmen's clothing and the ownership of all other rights to sports shows and competitions (radio, television or film broadcasts)²⁷. The sports club can also benefit, in terms of aid, from the contribution of public or private operators in financial or material form (article 75 of law 04-10), from aid, under conditions, from Wilaya funds taken from the budgets of Wilayas and communes (article 77 of law 04-10) or from a share of the earnings from sponsorship contracts, equipment or marketing of the image of the athlete or the group of athletes (article 76 of law 04-10). Finally, the club can be provided with technical or administrative staff as needed, thus reducing its financial charges²⁸.

The financing of the semi-professional sports club, part of whose activities are of a commercial nature, is subject to special provisions. It benefits from advantageous conditions for the operation of infrastructures built with financial assistance from the State and local authorities, but subject to conditions. Indeed, the operation of sports infrastructures is granted according to a set of specifications. In addition, the semi-professional sports club may, on the basis of a regulated set of specifications, benefit from aid and contributions from the State and local authorities. As for the professional club, in addition to the provisions of the law n° 04-10, in particular its articles 46 and 47, it is subject to the provisions of the decree n° 06-264 of 08-08-2006 determining the provisions applicable to the professional sports club and fixing the standard statutes of the commercial sports societies. Article 46 of the law defines the characteristics of the professional club. This one must organize, paid sports events and competitions, employ coaching and athletes against remuneration as well as all activities related to its purpose²⁹. But the absence of a law that obliges the limiting of salaries of players is one of the most serious legal difficulties³⁰. (Charif, 2017, p. 218)

This professional sports club can take one of the three forms of the following commercial societies: the single-person sports limited liability societies (EUSRL), the sports limited liability societies (SARL), the sports joint stock societies (SPA). These forms of companies are governed by the provisions of the Commercial Code and the standard articles of association established by regulation. The legislator also offers the possibility (art 47 of the law 04-10) to any sports club and to any individual or legal entity to constitute or be a shareholder of a professional sports club. It is the law which decides, moreover, on the allocation of the profits made, according to the commercial membership form of the professional club. Indeed, in the case of a single-person sports societies (Article 47, paragraph 2), all the profits made by the single-person sports societies (EUSRL) are allocated to the constitution of a reserve fund when the sports club holds the share capital of the said societies. In the case of a limited liability sports societies, the law provides (Article 47, paragraph 3) for the allocation of all the profits made to the constitution of the reserve fund when the sports club holds more than one third (1/3) of the share capital of the said societies³¹.

Before studying the content of Decree 06-264, it is worth mentioning that the proposed forms of sports societies do not seem to have seduced sports leaders since

two years after the publication of this text no sports club has applied it. More precisely, in its first article, the purpose of this decree is "to determine the provisions applicable to the professional sports club and to set the standard articles of association of the single-person sports society with limited liability, the sports society with limited liability and the joint-stock society ". Moreover, in its paragraph 4, this same article specifies that "the forms of commercial sports societies are those provided for by the provisions of the Commercial Code. At first glance, this decree taken in application of the law 04-10 is a confirmation of the will of the State to control not only the legal forms proposed to sports associations wishing to set up as professional sports clubs but also to make a preliminary control on their object, their organization and finally their functioning.

The constitution of a commercial sports society by a sports club is governed by article 5 of Executive Decree No. 06-264, already cited, which provides that "any sports club duly constituted in accordance with the provisions of law No. 90-31 of 4 December 1990 and law No. 04-10 of 14 August 2004, whose income and remuneration reached the amount of fifty (50) million dinars for the last financial year, may constitute a commercial sports society in accordance with the forms provided for by current legislation ". From this point of view, it may be noted that this provision is not binding, since it does not impose a particular form on clubs, but leaves them free to adopt the desired form. With regard to the professional sports club, this decree devotes four (4) articles on the conditions for the constitution of a commercial sports society³².

An analysis of these conditions reveals the following essential points: the incorporation of the company can be done by a natural person or a legal entity. This person must have an Algerian nationality. Moreover, means are required, in particular, sports infrastructures without which there can be no activities. Whether public or private, these infrastructures must comply with standards and be operated in the forms provided for by laws and regulations.

However, commercial companies with a sporting purpose and sports clubs are subject to a set of specifications defining in particular the technical conditions, rights and obligations according to a model fixed by order of the Minister in charge of sports. Moreover, commercial sports societies are subject to management rules common to the rules applicable to commercial companies as governed by the commercial code, which is a sign of the State's desire to regulate and control the operation of these societies in order to avoid any possible abuses. Firstly, in application of the provisions of Article 14 of the Decree, the profits made by the single-person sports limited liability societies (EUSRL) and the sports limited liability societies (SARL) are allocated to a reserve fund. Article 15 of the decree makes it an offence to insert the name of the sports club in any name of a commercial sports society, when it is a shareholder in that society, whereas Article 16 requires the club to comply with the provisions of the employment code and the commercial code (as regards recruitment, social insurance, taxation and tax charges for retirement, insurance subscription, residence and work of foreigners). In addition, for all

provisions not provided for in the standard articles of association set by the Decree, Article 17 stipulates that the Commercial code shall be applied. Finally, these sports societies may benefit from aid and contributions from the State and local authorities (article 18 of the decree) according to the conditions defined by law 04-10 (articles 60 and 61)³³.

In Algeria, the first texts relating to professionalism in football appeared in 2006 in the form of a decree implementing the provisions of law 04-10 of 14 August 2004, which was repealed and replaced in 2013 by the new Law 13-05 of 23 July 2013³⁴. After several years of studies and research, the International Federation of Association Football (FIFA) set rules for professional clubs by promulgating the Professional Club Licensing Regulations in 2006, these regulations stipulate that a club is a professional club only if it holds a professional club license and set the conditions for obtaining it, there is therefore no reason to consider the relations between the clubs and FIFA as being of a contractual kind but to conclude that football clubs are purely and simply subject to the authority of the rule imposed by FIFA³⁵

Professionalism actually has two bases. On the one hand the Algerian legislation (law, decree and especially the specifications must be subscribed by the professional club) and on the other hand the FIFA regulation which fixed that in 2012 no club not holding a professional club license couldn't be admitted to international competition (African Cup). This date was delayed for 3 years and took effect during the 2015 season. This FIFA regulation adopted by the African Football Confederation (CAF) congress and then by the Algerian Football Federation (FAF) since 2014, as well as the main chapters allowing the qualification of professional club includes generally the following criteria:

- Sporting criteria
- Infrastructure criteria
- Administrative and Personnel Criteria
- Legal Criteria
- Financial Criteria

In practice it was only in 2010 that the FAF launched the professionalization operation. At the same period, the Ministry of Youth and Sports published a decree of July 1, 2010 setting the specifications to be subscribed by professional sports clubs and societies³⁶. This decree contains the main provisions set by FIFA to obtain the status of professional club.

Conclusion

The evolution of legislative texts in Algeria had an important role in the development of sport, but the arrival of professionalism did not match the will and ambitions of the legislators. The professionalization of football sport, launched in the 2010, has not transformed Algerian football into a real sports entertainment industry, built on the basis of solidly structured high-level national club competitions. It should be noted that the payroll is the first charge of sports societies which represents up to 80% of the operating budget, a charge that is too high compared to professional

European clubs, which operate with a payroll (salaries, fiscal and parafiscal charges) on average between 45 and 64% of the budget, of which between 40 and 45% represents salaries³⁷. A situation in which sport money and assets are not yet oriented or used in an entrepreneurial spirit, particularly in the process of economic diversification into extra-sport activities to create and develop a sport economy. According to McDaniel and Gates, (2015) marketing is an organizational function and a set of processes for creating, communicating, and delivering value to customers and for managing customer relationships in ways that benefit the organization and its stockholders³⁸.

Through analyzing the complete development histories of football professionalism in China and Japan, Lin Xiaofei and Yin Guochan & Xiaofei (2017, pp.41-42) found that Japan had implemented adequate research on the development of football professionalism. Under the legal framework, the Japanese football federation implemented football professionalism reforms in an orderly manner. The legal entity nature is explicitly defined Japan has developed immensely prefect football policies, regulations and professional league system. China's football professionalism reform had a relatively short preparatory phase, as a result, the depth of scientific research, forecasts and decision was far from enough. In addition to the insufficiencies in studying and referring to the world advanced experiences, China do not have perfect football laws and regulations; professional clubs are short in standardization and normalization; rash advance in league operation mechanism, shortage in financial, material and human resources led to a huge number of inevitable issues and contradictions³⁹. However, we can see from the analysis of these authors that the difficulties linked to the establishment of professionalism in China are almost similar to those observed in Algeria and it is not enough just to inject colossal subsidies each year by the state and its branches into clubs to succeed in their professionalization.

Indeed, professional clubs are considered as joint stock companies and enjoy legal corporate personality and financial and accounting autonomy to operate in compliance with the provisions of the Commercial Code and the Civil Code, in accordance with universal corporate management norms through their management organs provided for this purpose. In particular, there is the council of administration, which has the widest powers to administer the club's capital and act in all circumstances on behalf of the sports company, the general meeting of shareholders, which has sovereign power in all strategic decisions to adopt corporate policies and strategies by improving managerial capacities to take up the challenge of professionalism and, consequently, the policy of sport in Algeria. This brings us to the conclusion that the improvement of human resource management in sport clubs contributes to the development of the sport financing system because money without knowledge and in the absence of a healthy managerial organization, including structures and people of value (energy, intelligence, managerial competence, integrity and strong personality) professionalism leads nowhere.

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