



## Foundation and legalization of sports clubs in Portugal

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### Abstract

In Portugal, as elsewhere in Europe, the start of sport clubs is centered in the upper classes. In the late nineteenth century, sport clubs devoted mainly to water sports, shooting and cycling, all sports that just a few part of the general population known. Although the first sport club founded in Portugal has occurred in April 30 of 1856 and its statutes were approved by decree of King Pedro V, only in February 23 of 1883 were approved and registered by the Civil Government in Lisbon. Therefore, it is natural that most clubs have not done so either by bureaucratic difficulties, either do not take advantage of this gesture. Thus it is difficult to judge the amount of legalized clubs from the date on which made the “Real Associação Naval” until the year 1942.

**Key-words:** Physical Education; Club; Sport; Association; History.

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## **Introduction**

The first club established in Portugal, the “Real Associação Naval” in 1865, devoted itself to the water sports, rowing and sailing. Crespo (1978), has five distinct phases in the founding of clubs in Portugal. They are: 1) Until 1933 - the clubs are founded in a spontaneous manner, without state intervention, representing the volume of a slow awakening of associations; 2) 1933-1945 - corresponds to the start of the fundamental economic, social and political state of the government know as “Estado Novo” where we must analyze in light of Decree No. 32241 of September 5, 1942 and No. 32946 of August 3, 1943, which requires clubs to submit to minister authorization. This fact causes that many clubs just are recognize later; 3) 1945 to 1968 - is a period of rapid economic growth, capital accumulation, industrialization and the expansion of capitalist relations. In the meantime, with the exception of year 1950 where there is a stronger movement of associative activity, we are also faced a negligible number of clubs in the foundation (Sousa, 1986). The fact that there are several barriers to association, among other things that passed through the analysis of political trends of the management bodies for further authorization for the foundation of clubs, largely inhibited the willingness of association; 4) from 1968 to 1974 - the turn of the ideological system, which however has no influence on the founding of sporting associations, having even the year 1972 as a reference for not having no club officially founded; 5) 1974 to 1978 - is the period of democratization of Portuguese society, with the revolution of 25<sup>th</sup> April 1974. During this period, there has been an unparalleled increase in the founding of new clubs (Crespo, 1978).

In order to make a serious study about this issue of sport clubs foundation, it should be noted four aspects: 1) Name of the clubs; 2) Date of foundation; 3) Nature of the foundation; 4) Associated members. About the first part, chooses eleven indicators on which it focuses and clears the percentage referred to: city (37.94%); sports (18.36%); modality (17.02%); another

club (4%); another community (3%); fusion or continuation (2.01%); recreation (6.57%); cultural (4.16%); foreign (4%); triumphalism (1.74%); and group specific (1.74%).

As we can see, there are only three significant predictors: city (37.94%), sports (18.36%) and modality (17.02%). The fact that the indicator sports is able to join the indicator modality, since these two are closely related, which would give a score of 35.38%. In the second part of the founding date, shows the flows of the foundation, for decades, where we can check that: Very few clubs with origin before the year 1900; there is a steady rise until 1939; 1900 to 1909 (0.63%); 1910 to 1919 (3.45%); 1920 to 1929 (7.21%); 1930 to 1939 (12.54%); reduction in the interval from 1940 to 1949 (9.72%); increase the range 1950 to 1959 (15.05%); decreased in the range from 1960 to 1969 (13.48%); and large increase in the range from 1970 to 1979 (33,23%).

In the third part, nature foundation, found the following result: original initiative (86.14%) and merger or continuation (13.86%).

In the fourth part, founders, the study seeks to verify the relationship that exists between the founding members of clubs, verifies the following: friends (48.08%); practitioner in a certain modality (20.91%); neighborhood (13.7%); workplace (8.65%); school (4.33%); and other (4.33%). It also seeks to know the size of the group of founders and reaches the following conclusion: From 7 to 12 elements is the largest group (39.24%); 25 to 30 and more than 30 elements are the smallest groups, with (6.33% and 11.81%) respectively, while the remaining groups balanced between the preceding paragraphs.

It was also referred to the sex of the founders, concluding that while the man is present in every club in the act of foundation, the woman is a very small number.

This study is very important for their quality and confirms the previous study by Crespo (1978), namely the flow of the foundation. The fact that these studies confirm this line of evolution with regard to the founding of the club, can somehow counteract a reading of

official data, which will precisely point the years 40 of the XX century, specifically the first half of this decade, such as greater flow of this phenomenon (Cullen, 2009; Sardinha, 2011). As regards Pires (1987; pp. 12), “all clubs had to make new laws, according to what was determined in the aforementioned decree, since the old statutes were prepared to a new order that would establish. The result was very simple: all the clubs came into existence (for the Directorate General of Physical Education, Sport and School Health) only since 1943. Before 1943 there were no clubs”.

The September 5, 1942, was published in Government Gazette, the Decree-Law No. 32:241 of the Ministry of National Education, in its Article 7 abolishes the Directorate - General of School Health, and creates the General Directorate of Physical Education , Sports and School Health, saying: “It is with this Decree-Law essentially aimed at creating a body of state who is to guide and promote outside of the Portuguese Youth Organization, of the physical education of the Portuguese people and introduce discipline in sports”. Further it adds: “The new Directorate – General has a great mission. Is authorized to take any steps in the chapter on physical education; know intervening, directly or through their delegates, in sports organizations, all that is happening within these”.

Thus, setting tasks for the Directorate - General. In article 7, number 1 provides that: “Caring, outside schools, the national organization “Portuguese Youth” and the “National Endowment for the Joy at Work”, the physical education of the Portuguese people, directly and through public or private institutions set up with this goal as principal or accessory, directing and overseeing their activities”.

Later in number 8, reads: “Intervene in the selection of persons who exercise or sporting competitions, there are to perform management functions or techniques, or have decision making powers.” In 1943, August 3, is Decree-Law No. 32: 946 of the Ministry of Education that regulates and defines the powers of the previous Decree Law and Article 4 in relation to

powers of inspectors of sports. Number 8 provides: “Attend the meetings of the general meetings, congresses, directorates, commissions, technical advice and administrative, sporting bodies or other acts of their life, whenever this is deemed appropriate”.

Claims to be the constitution of any sports organization dependent on authorization from the Ministry of National Education: The requirements that apply if the permit required by this article shall be accompanied by the following documentation: i) Draft Statute; ii) Draft rules of procedure when there; iii) A list of previous affiliations and memberships already obtained and pitches, classrooms and equipment already obtained or in the process of being made.

In number 3 of that article requires that all organisms existing on the date of publication of this decree should submit, within a period of 90 days to the Ministry of National Education the process for approval.

He even, in the chapter of the organization, find out the ability to restrict people from being eligible, provided a minimum age limit up to the full enjoyment of civil and political rights.

How easily can be seen, these barriers are inhibiting the association. This is linked to the launch of the fundamental economic, social and political from the “Estado Novo”.

It is precisely in the forties that reverse the increasing trend in the flow of the foundation of clubs, which had been observed since the beginning.

### **Conclusions**

The April 25, 1974 changed the previous scenario, making life easier for clubs regarding their legalization, seen as early as November 7, to be published Decree-Law 594/74 which regulates the right to free association.

Indeed in the preamble of this Decree-Law says: “In the ongoing democratic process, we must abolish the requirement for administrative permits that shaped the free formation of

associations and their normal development”. The right to set becomes a free and legal personality is acquired by mere act of filing status.

Thus in Article 4, number 1 states: “The associations acquire legal personality by filing, against receipt, a copy of the act of constitution and statutes in the civil government in the area of its address, after previous publication in the government daily and one of the most widely read daily newspapers in the region”.

On the other side ends the permit requirement for citizens to associate. In Article 1, number 1 of the Decree Law states: “To all citizens over 18 years in the enjoyment of their civil rights are guaranteed the free exercise of the right to associate for purposes not contrary to law or morality public without prior authorization”.

Later, on January 13, 1990, is published Law No. 1 / 90, the Law on the Sports System, as it makes life even easier for clubs with regard to its legalization, the force also clubs to comply with the Civil Code as it defines them as legal persons and are thus subject to Articles 157 to 184 of that code.

Says in number 1 of Article 168 of the Civil Code: “The document establishing the association, bylaws and amendments thereto shall be included in the public act”. Having mentioned, in article 158, number 1: “The associations formed by public act... have legal personality”.

The legalization of clubs, as can be seen, only began to be mandatory after 1942, so we only can have entries after this date.

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