

RESTORATIVE MEASURES IN THE REGULATIONS OF INTERNATIONAL SPORTS FEDERATIONS

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Abstract

In this article, the author investigated the sanctions of some international sports federations. These sports organizations do not consistently classify coercive measures. All measures are called sanctions, but they are not always so. The criterion is the negative consequences for the subjects of sports: their content, orientation, the degree of influence on the rights of a particular subject. Allocation of restorative measures will allow revising the approaches of federations to their disciplinary policy. Legal restorative measures should differ from sanctions in their goal – not to be a punishment for the subject of sports, but to restore the rights and legitimate interests of other subjects of sports at the expense of restrictions for the offender. The classification of coercive measures in sport will allow international sports federations to use a more flexible approach to take into account the values of sport and the interests of all actors involved.

Keywords: restorative measures, sports sanctions, sports regulations, international sports federations

At first glance, the content of restorative measures in sport seems to be more obvious than preventive measures. In reality, this is not entirely true. Restoration of the law is not limited only to the recognition of a certain right, as it might seem etymological. In the competition, the interests of many participants are intertwined and the committed misconduct inevitably affects the final result. Negative consequences for violating sports subjects may negatively affect other participants in the pyramid with whom they are affiliated and entail a forced redistribution of quotas for participation in international competitions. Finally, the restoration of the right may also consist of compensation for the damage caused by the misconduct. Certain doubts may arise about the law-restorative function of compensating for the costs of investigating violations, but thereby restoring the budget of the sports federation in the interests of holding competitions and implementing forms of support for athletes. The identification of remedial measures in regulation is possible with the help of a combination of analysis of legal techniques and a forecast of target-setting of measures, most of which are called sanctions by sports federations.

Restorative measures can be classified by us, depending on the objective pursued:

- (1) Recognition of a certain right for its subsequent implementation.
- (2) Changes in competition results due to a violation.
- (3) Compensation by the sports subject for the damage caused by his violation.
- (4) Reimbursement of Anti-Doping Regulatory Violation Investigation Costs.
- (5) Balanced representation of national federations at the Olympic Games and international competitions.

Let us dwell on the types of remedial measures in more details.

1) Recognition of a certain right for its subsequent implementation.

As an example from the field of football, we can cite the recognition of the status of a professional or amateur player in the jurisdiction of a national federation as the restoration of the violated rights of sports subjects¹. The recognition by the jurisdiction of the national football federation of the professional status of a football player is a prerequisite for the restoration of clubs' rights to compensation for the training and education of this player², payment by the solidarity mechanism³. At the same time, the considered measure is aimed at maintaining the integrity of the sport and against masking the actual status of a football player to the detriment of the

¹ RFU regulations on the status and transfers (transfers) of football players. Article 3. Amateur and professional footballers, legionnaires. 1. A footballer participating in competitions held under the auspices of the RFU may have the status of an amateur or a professional. 2. In professional competitions, a player can be entered into the application in the status of a legionnaire or in the status of a football player who does not have the status of a legionnaire, in accordance with the rules of the competition. It is not allowed to establish restrictions for participation (for Submission to the application) of football players in amateur competitions, depending on their status as a legionnaire or lack of legionnaire status. 3. Disputes over the determination of the player's status shall be resolved by the Players Status Committee.

² RFU regulations on the status and transfers (transfers) of football players . Article 21. General provisions on training compensation. 1. Compensation for the training of a football player is paid to clubs that have trained a football player in the event that a football player, before the end of the sports season, in which he reaches the age of 23 (twenty three) years, for the first time signs an employment contract with a professional football club, which is an RFPL club, an FNL club, a professional AMFR club or a women's professional football club of the top division (hereinafter referred to as the “first compensation club”) , as well as in the transition (transfer) of a professional football player from one professional football club to another professional football club in the cases provided for by these Regulations.

³ RFU regulations on the status and transfers (transfers) of football players . Article 24. Right to solidarity payment, amount of solidarity payment . 1. When a professional football player is transferred to a new professional football club (hereinafter - the “new club”) before the expiration of his employment contract with the former professional football club (including on a “lease” basis), any club participating in the competition The RFU, in which this football player was trained and trained, with the exception of the club from which the professional football player moves to such a new club, has the right to receive a solidarity payment in the amount determined in accordance with paragraph 3 of this article.

interests of a certain club or clubs – depriving them of the right to receive payments.

Another example from the field of football can be cited – having the status of “legionnaire” or “not legionnaire”⁴. Recognition of the latter allows the athlete not to be subject to the rules on the limit on foreign athletes in professional competitions, as well as to play for the national teams of different subspecies of football (beach). The issue of sports citizenship is relevant for all international sports federations, which means that they have established certain grounds for acquiring the status of “non-legionnaire”, which are restrictions on the free migration of players.

Note that sports citizenship is recognized by some sports lawyers as the *lex sportiva* principle, reflecting the specifics of sports-legal relations⁵. It seems to us that the same quality can be attributed to the status of a player as a professional or an amateur, used by some international and national sports federations. In this case, there is no universality that the status of “legionnaire” or “not legionnaire” possesses, nevertheless, the recognition of any of the two statuses given by us is an expression of the legal function in sports and the coercive measure of the same name. For example, by recognizing a football player as a professional in a jurisdiction, we confirm the right of the club or clubs to receive compensation payments for his training and education. Accordingly, the player’s current club is forced to make the appropriate payout or payments. Similarly, the compulsory nature of the recognition of status can be established in the situation of proving “legionnaire” or “not legionnaire”: the second of them deprives its previous national federation of the right to be recruited into national teams by sport, while the first excludes the right of clubs to register an athlete outside the established limit on foreign athletes.

2) Changes in competition results due to a violation.

These measures are applied due to violations of anti-doping regulation and manipulation of the results of games and competitions. For example, the International Equestrian Federation in the provisions of Art. The 10 Anti-Doping Control Rules indicate the right to void the results of the competition during which the violation occurred, in the individual classification of the responsible person paired with any or all horses on which he competed⁶. The preservation of the results of the possibility

⁴ FIFA Statutes. Regulations Governing the Application of the Statutes. III. Eligibility to Play for Representative Teams . 7 Acquisition of a new nationality. 1. Any player who refers to art. 5 par. 1 to assume a new nationality and who has not played international football in accordance with art. 5 par. 3 shall be eligible to play for the representative teams of the new association only if he fulfils one of the following conditions.

⁵ Alfonso Valero. In search of a working notion of *lex sportiva* // International Sports Law Journal (2014). Issue 14: 3. P. 10.

⁶ FEI Rules for Anti-Doping Control and Controlled Medicines in Horses. Article 10. Penalties. 10.1. Disqualification of the results of the competition during which an anti-doping control violation occurred. Violation of these rules, which occurred during or in connection with a competition, may lead to the cancellation of all individual results in this competition by the Responsible Person paired with any or all horses on which the Responsible Person competed in this competition, with all the

of proving by such a person the absence of his fault or negligence in violation of the rules⁷. The doping rules in international second federation and gymnastics⁸ presents an identical rule on the right to annul (“disqualify”) an athlete’s results. At the same time, the regulator provides an open list of circumstances that justify the implementation of such a right by a federation: for example, the severity of the anti-doping regulation violation and negative test results in other competitions.

Note that the Equestrian Federation calls the remedial measure a “penalty”, listing it in the named article. It seems that such a simplified approach, known to us from preventive measures, means that the federation understands cancellation exclusively in a negative plane, unilaterally – the person who committed an anti-doping regulation violation is punished responsibly. At the same time, the nature of remedial measures means coercion for one subject or subjects, together with the recognition of rights for another subject of sports. What prevails like the measure: the “punitive” beginning or the restoration of the right? From our point of view, coercion as such cannot be understood narrowly, restrictively, otherwise, the meaning of identifying coercive measures is lost – everything becomes sanctions. Recognition of the right for one subject always entails certain consequences for another subject of sports law and order. Such consequences can be negative, as in the case of the cancellation of results. Therefore, the enumeration of the remedial measure among the “penalties” reflects the one-sided understanding of it by the sports federation, which, however, does not negate the restoration of the right of other participants to a fair place in the competition.

Similarly, international sports federations restore fair competition results in case of manipulation: the result of a sports subject, the violation of which has been proven, is canceled (including in the absence of fault, such as, for example, football clubs in UEFA or AFC competitions for what their players or officials did). A more complex situation is when the de jure actions of the subject do not violate the rules of the ensuing consequences, including deprivation of the corresponding medals, points, prizes, except for the cases set out in article 10.1.1 below.

⁷ FEI Rules for Anti-Doping Control and Controlled Medicines in Horses. ARTICLE 10. Penalties. 10.1. Disqualification of the results of the competition during which an anti-doping control violation occurred. 10.1.1 If the Responsible Person proves no fault or negligence in violation of these rules, the Responsible Person’s results in the individual classification of other competitions will not be canceled, unless the results of the Responsible Person in any other competition than the one in which occurred violation of these rules, violation of these rules may affect.

⁸ FIG Anti-Doping Rules are based on Wada’s Models of Best Practice for International Federations and the World Anti-Doping Code. 10.1 Disqualification of Results in the Event during which an Anti-Doping Rule Violation Occurs. An anti-doping rule violation occurring during or in connection with an Event may, upon the decision of the ruling body of the Event, lead to Disqualification of all of the Gymnast’s individual results obtained in that Event with all Consequences, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1. Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the seriousness of the Gymnast’s anti-doping rule violation and whether the Gymnast tested negative in the other Competitions.

corresponding federation or professional league on the prohibition of manipulation. An example of a driver in Formula 1, whose team demands to give up a place on the podium to another driver of this team during the race⁹. Today, such a “corporate strategy” (we will choose such a conventional name for it) is not illegal from the point of view of the regulations relevant to the named competition. However, the impact on the result, nevertheless, is present, and therefore, a check from the point of view of compliance with the principle of fairness (fair-play, fairness) with all conclusions regarding the achieved result suggests itself.

3) Compensation by the sports subject for the damage caused by his violation.

The World Athletics uses two remedial measures: compensation payment¹⁰ and redress for any victim or victims of the violation¹¹. It is noteworthy that the union considers measures in the article “Consequences, sanctions and costs”, separating “consequences” (literally – certain negative consequences) and “sanctions” (“the Panel will impose such consequences and sanction (s) as it deems appropriate” – highlighted in bold by us). Therefore, it can be assumed that the federation will distinguish between legal restorative measures and sports sanctions, but while maintaining an identical procedure, there is a difference in the specific form of a coercive measure, but not in the order of its application. The effectiveness of this approach raises two doubts. First, both measures are seen as a result of sporting responsibility. Nevertheless, the use of sanctions as a collective institution, which also includes remedial measures, is a trend for international sports federations. Secondly, the application of the remedial measure takes place based on the procedure used by the jurisdictional body of the federation to bring to justice. Thus, the above regulation of the union indicates the inseparability of remedial measures and measures of sports responsibility. The situation is repeated in the case of international the Union and biathletes, considering compensatory payment¹² in the list of sanctions. This measure is identical to the earlier example of the union of athletics federations, being a legal

⁹ See: Salomeja Zaksaitė, Karolis Radusevičius. Manipulation of competitions in Formula-1: where policy ends and cheating begins // *International Sports Law Journal* (2017) 16: 240–246.

¹⁰ Disciplinary Tribunal Rules. 11. Consequences, Sanctions and Costs. 11.1 Where it is decided by a Panel that a Non-Doping Violation has been committed, subject to Rule 11.3, below, the Panel will impose such consequences and sanction (s) as it deems appropriate including, without limitation, any one or more of the following (any of which may, where appropriate, be suspended): 11.1.3 a compensation payment.

¹¹ Disciplinary Tribunal Rules. 11. Consequences, Sanctions and Costs. 11.1 Where it is decided by a Panel that a Non-Doping Violation has been committed, subject to Rule 11.3, below, the Panel will impose such consequences and sanction (s) as it deems appropriate including, without limitation, any one or more of the following (any of which may, where appropriate, be suspended): 11.1.4 reparation to any victim or victims of the violation.

¹² International Biathlon Union. Integrity Code. 9. Sanctions. 9.1.3 a compensation payment.

restorative one.

4) Reimbursement of Anti-Doping Regulatory Violation Investigation Costs.

Measures to compensate expenses (costs) associated with violation of anti-doping regulation have acquired the status of a trend in the acts of international sports federations. Such measures can be classified depending on the entity that is charged with the action: (a) recovering costs from the offending sports subject and (b) recovering costs from a member national federation that does not comply with anti-doping regulation.

The International Golf Federation has the right to recover from the athlete or other subject of sport the costs associated with the committed anti-doping regulation violation¹³. At the same time, the federation is considering a measure called financial sanctions (the Financial Sanction), reserving the right, but not the obligation of its application, and calling the principle of proportionality as a criterion for determining its size. Also, the International Federation has the right to collect from the national federation all costs (research in the laboratory, the cost of participation in the process to resolve the dispute, transportation costs, etc.) as a result of the violation of anti-doping regulation of the Athlete or other subject of sports, affiliated with this federation¹⁴. The logical extension of this measure is the right of the international federation to refuse some or all funding or other non-financial support to pleasure the National Federation which does not correspond to the anti-doping policy¹⁵. The last two measures, in contrast to the collection of costs from the offender-subject of sports, in the regulation of the golf federation are not endowed with a uniquely sanctioned nature. The title of the article “sanctions and costs” implies a distinction between the measures of coercion and sports responsibility of national federations (sanctions) and remedial measures in the form of refusal of financial or non-financial support, as well as recovery of costs from federations (costs), considered in its provisions. Despite the absence of a difference in content between the measures to recover from

¹³ Article 10. Sanctions on individuals. 10.10 Financial Consequences. Where a Player or other Person commits an anti-doping rule violation, IGF may, in its discretion and subject to the principle of proportionality, elect to recover from the Player or other Person costs associated with the anti-doping rule violation, regardless of the period of Ineligibility imposed. The imposition of a financial sanction or the IGF’s recovery of costs shall not be considered a basis for reducing the Ineligibility or other sanction which would otherwise be applicable under this Anti-Doping Policy or the Code .

¹⁴ Article 12. Sanctions and costs assessed against sporting bodies. 12.2 The IGF may seek reimbursement from a National Federation Member for all costs (including but not limited to laboratory fees, hearing expenses and travel) related to a violation of this Anti-Doping Policy committed by a Player or other Person affiliated with that National Federation Member, and the National Federation Member shall be obligated to do so.

¹⁵ Article 12. Sanctions and costs assessed against sporting bodies. 12.1 The IGF has the authority to withhold some or all funding or other non-financial support to any National Federation Member that is not in compliance with this Anti-Doping Policy.

the athlete (formally listed among the “sanctions”) and from the national federation (costs not reducible to sanctions), the reason for the different names is seen in the subject against which the measure of coercion is applied. If, in the first case, the athlete or other person is a violator and as a result of this, costs may be recovered from them, then in the second situation the costs are recovered from the federation that did not commit an anti-doping misconduct and are subject to a measure for a third party due to its membership in it. It is appropriate to recall the existing sports institute “strict liability” football clubs and federations when sports liability arises in the absence of fault. Likely, the need to undergo certain negative consequences in the example of recovering costs for violations of third parties should be interpreted as one of the grounds for the use of remedial measures.

Identical measures in relation to athletes and national federations for compensation of costs are also presented in the acts of the International Gymnastics Federation¹⁶, Union of Athletics Federations¹⁷, International Biathlon Union¹⁸, International Ski

¹⁶ FIG Anti-Doping Rules. 10.10 Financial Consequences. Where a Gymnast or other Person commits an anti-doping rule violation, FIG may, in its discretion and subject to the principle of proportionality, elect to a) recover from the Gymnast or other Person costs associated with the anti-doping rule violation, regardless of the period of Ineligibility imposed and / or b) fine the Gymnast or other Person in an amount up to \$ 5000 US Dollars, only in cases where the maximum period of Ineligibility otherwise applicable has already been imposed. FIG Anti-Doping Rules. Article 12 Sanctions and costs assessed against sporting bodies. 12.1 FIG has the authority to withhold some or all funding or other non-financial support to National Federations or Continental Unions that are not in compliance with these Anti-Doping Rules. 12.2 National Federations shall be obligated to reimburse FIG for all costs (including but not limited to laboratory fees, hearing expenses and travel) related to a violation of these Anti-Doping Rules committed by a Gymnast or other Person affiliated with that National Federation .

¹⁷ World Athletics Anti-doping rules. Specific Definitions. An Athlete’s or other Person’s violation of an anti-doping rule may result in one or more of the following: (d) Financial Consequences which means a financial sanction imposed for an Anti-Doping Rule Violation or to recover costs associated with an Anti-Doping Rule Violation. World Athletics Anti-doping rules. 10.9 Allocation of CAS Cost Awards and Forfeited Prize Money. The priority for repayment of CAS cost awards and forfeited prize money shall be first, payment of costs awarded by CAS; second, reallocation of forfeited prize money to other Athletes; and, third, reimbursement of the Integrity Unit’s expenses in relation to its results management in the case. For the avoidance of doubt, there shall be no reallocation of forfeited prize money to other Athletes if the forfeited prize money has not been repaid by the forfeiting Athlete.

¹⁸ International Biathlon Union . Integrity Code. 10.10 Financial Consequences and other consequences 10.10.1 Where an Athlete or other Person is found to have committed an antidoping rule violation, the hearing panel (or, in cases where Article 7.11 applies, the BIU), taking into account the proportionality principle, will require the Athlete or other Person to reimburse the BIU for the costs that it has incurred in bringing the case, irrespective of any other Consequences that may or may not be imposed. International Biathlon Union. Integrity Code. 12 . Sanctions and Costs Assessed Against NF Members. 12.1 An NF Member must reimburse the IBU / BIU for all costs (including but not limited to laboratory fees, hearing expenses and travel) related to an anti-doping rule violation committed by an Athlete or other Person affiliated with that NF Member that the BIU does not recover from the Athlete or other Person pursuant to Article 10.10.

Federation¹⁹, International Skating Union²⁰. At the same time, the International Judo Federation does not resort to a measure to recover costs from an athlete or other entity violating anti-doping regulation, limiting itself only to the national federation²¹. Having analyzed the norms for the recovery of costs from the subject of sports, an individual, we can state the existing difference in approaches: from self-binding of the federation bodies on the application of a preventive punishment measure to the discretion of the question of the measure. So, the international federations of golf, gymnastics, skiing, the skating union see this as a right, and not as an obligation of a jurisdictional body²². The Ski Federation allows the application of the fine as a sanction together with the recovery of costs. In his turn, the union of Athletics Federations using the right to choose between a fine and compensation costs. Finally, the International Biathlon Union obliges to recover costs from individuals who violate anti-doping regulations²³.

¹⁹ FIS Anti-Doping Rules. Article 10 Sanctions on individuals. 10.10 Financial Consequences Where an Athlete or other Person commits an anti-doping rule violation, FIS may, in its discretion and subject to the principle of proportionality, elect to a) recover from the Athlete or other Person costs associated with the anti-doping rule violation including FIS legal fees, regardless of the period of Ineligibility imposed and / or b) fine the Athlete or other Person in an amount up to \$ 100,000 US Dollars, only in cases where the maximum period of Ineligibility otherwise applicable has already been imposed. FIS Anti-Doping Rules. Article 12 Sanctions and costs assessed against sporting bodies. 12.2. National Ski Associations shall be obligated to reimburse FIS for all costs (including but not limited to laboratory fees, hearing expenses and travel) related to a violation of these Anti-Doping Rules committed by an Athlete or other Person affiliated with that National Ski Association.

²⁰ ISU Anti-Doping Rules. 10.12 Financial Consequences. 10.12.1 Where a Skater or other Person commits an anti-doping rule violation, the ISU Disciplinary Commission may, in its discretion and subject to the principle of proportionality, elect to (a) recover from the Skater or other Person costs associated with the anti-doping rule violation, regardless of the period of Ineligibility imposed and / or (b) fine the Skater or other Person in an amount up to 50'000 Swiss Francs, only in cases where the maximum period of Ineligibility otherwise applicable has already been imposed. ISU Anti-Doping Rules. Article 12 Sanctions by the ISU against other sporting bodies. 12.4 Oblige that Member or body to reimburse the ISU for all costs (including but not limited to laboratory fees, hearing expenses and travel) related to a violation of these Anti-Doping Rules committed by a Skater or other Person affiliated with that Member or body...

²¹ IJF Anti Doping Rules. Article 12 Sanctions and costs assessed against national federations. 12.1 The IJF Executive Committee has the authority to withhold some or all funding or other non financial support to National Federations that are not in compliance with these Anti-Doping Rules. 12.2 National Federations shall be obligated to reimburse the IJF for all costs (including but not limited to laboratory fees, hearing expenses and travel) related to a violation of these Anti-Doping Rules committed by an Athlete or other Person affiliated with that National Federation.

²² Confirmed by the use of the word “may”, that is, can choose, but not obliged.

²³ The act uses the phrase “will require”, meaning that the union will require.

5) Balanced representation of national federations at the Olympic Games and international competitions.

Violation of anti-doping regulation by athletes and other sports subjects, identified by international anti-doping organizations (international federation or WADA) and acquiring a certain scale, is used in the regulation of individual international federations to reduce the quotas of an affiliated national federation to participate in the Olympic Games and competitions under the auspices of the corresponding federation. Examples include the International Ski Federation²⁴ and the International Biathlon Union²⁵. In the regulation of the first of the federations, the reduction of quotas proportionally depends on the scale of the violation: from 4 to 6 and from 7 to 11 within twelve months. The enumeration of the consequences for the national federation is presented in the article “sanctions and costs” and in this case, of course, we cannot talk about understanding the reduction of quotas as costs. The International Ski Federation considers this measure as a sporting sanction, even though the national federation does not suffer adverse consequences for its actions and regardless of the presence of a fault in the anti-doping regulation violation. In turn, the International Biathlon Union extends the reduction of quotas only to situations of intentional violation during a certain period. Does the difference in the approaches of the two international federations regarding guilt as a prerequisite matter for the legal nature of the measure? It seems that yes. Pay attention to the purpose and meaning of the quota reduction: the leveling capacity of members, the observance of the principle of equal playing conditions (level playing field), when competition is involved fewer athletes representing the federation, does not demonstrate compliance with the anti-doping policy. Likewise, the legal objective of a level playing field for the rest of the National Federations fulfilling their anti-doping responsibilities is fulfilled. Along with this, there is also a “penitentiary” content of the measure – bringing the relevant federation in line with its anti-doping obligations. Although the measure applies to federations for the behavior of third parties, to the integrity of sport willful and negligent violations are not identical challenges. The response of the regulator-international federation, whose interests are trampled by the fact of misconduct, should also be built correspondingly: it is necessary to find a balance between the use of remedial measures and sporting responsibility.

²⁴ FIS Anti-Doping Rules 12.3.1 Four or more violations of these Anti-Doping Rules (other than violations involving Article 2.4) are committed by Athletes or other Persons affiliated with a National Ski Association within a 12-month period in testing conducted by FIS or Anti-Doping Organizations other than the National Ski Association or its National Anti-Doping Organization . In such event FIS may in its discretion elect to: (f) reduction of quotas places at the Olympic Winter Games, FIS World Championships and FIS World Cup in accordance with 12.3.1.2.

²⁵ International Biathlon Union Integrity Code. 12.3.1 Subject to Articles 12.3.1.4 and 12.3.1.5, the IBU will reduce the applicable start quota (including wild cards) of that NF Member by the number of such offending Athletes, as follows: 12.3.1.1 One start quota will be removed for each offending Athlete for a period of 12 months, starting from the date of the final decision (ie, following the expiry or exhaustion of any appeal rights) finding that the Athlete committed an intentional anti-doping rule violation, or else starting from such other date as the BIU deems appropriate in order for the reduction to be effective.

The presented reflections seem to us relevant for the measures of the International Ski Federation to change the starting order of athletes²⁶ as well as measures to invalidate athlete points²⁷, presented in the act of the International Biathlon Union. Both measures can be applied not only due to violations of anti-doping regulation, but also other misconduct related to the integrity of sport: manipulation of the results of competitions, ethical misconduct (any form of corruption). The restorative goal is balanced representation in the competition, when the rest of the participants are given, based on legal fiction, a hypothetical, not guaranteed advantage over the federation whose quota is reduced.

Conclusion

The actual use by international sports federations in their regulation of individual remedial measures is not accompanied by a delineation of the procedure for their application with sports responsibility. As a result, without formally calling the measures sanctions, their use is subject to the same requirements. From the point of view of compliance with the guarantees of sports entities, this situation does not raise questions. Earlier, we pointed out the need to extend the principles used in sports law to all measures of coercion, not limited to sports responsibility.

The confusion by international federations of compensation and sporting sanctions is one of the most controversial examples of an unjustified rejection of the normative delineation of coercive measures. This embodiment of restorative measures constitutes a recognition of the broken right and determination process satisfy the interests having materially the value, and enabling the subject to receive the sports compensation level commensurate broken right.

As far as it is debatable the sporting responsibility for the actions of third parties without establishing guilt, it is just as controversial to consolidate legal measures in the absence of guilt of the sports subject. The issue of extending the “strict liability” model to remedial measures is seen as unjustified regulation that violates the fundamental right of the subject to due process. The lower, in comparison with sanctions, the level of negative consequences does not mean deviation from the requirements of the study of the grounds for the use of coercion. The existence in the sports law and order of responsibility without fault can only be recognized as a means of countering serious misconduct in the conventional hierarchy of public danger when the actual violator is not under the jurisdiction of the regulator of the pyramid of governance in sports.

²⁶ FIS Statutes. 55. Types of Sanctions. 55.1 The following sanctions can be imposed: change to the starting order.

²⁷ International Biathlon Union Integrity Code 9. Sanctions. 9.1 Subject to any specific sanctioning provisions set out in the relevant Rules, where the Disciplinary Tribunal decides that a violation of this Integrity Code has been established, it may impose such sanctions as it deems appropriate, including: 9.1.6 forfeiture of points and / or of quota places and / or of hosting rights.

The reduction of quotas for a federation whose affiliates have committed a willful anti-doping violation is a remedial measure. However, the measure to reduce quotas due to a violation with a negligent form of guilt seems to us to be purely punitive and therefore has the nature of sports responsibility.

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