

The Strict Liability of Athletes for Doping; with Special Emphasis on the Jurisprudence of the Court of Arbitration for Sport (Original Research)

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Extended Abstract

The issue of doping in sports continues to provoke debate and significantly influences the spirit of fair play and equity in athletic competitions. While remarkable advancements have been made in the anti-doping framework through the establishment of the World Anti-Doping Agency, and the implementation of the World Anti-Doping Code, the principle of strict liability stands as a key legal foundation of the anti-doping system.

The relentless pursuit of victory among professional athletes often drives some to breach anti-doping regulations. The utilization of performance-enhancing substances and methods has stirred controversy throughout the history of sports, with its origins tracing back to ancient times. Modern advancements have only intensified the complexity of doping practices, as exemplified by the emergence of blood and gene doping techniques. In response to these growing concerns, the international sports law community has collaborated to create a comprehensive global system to address the issue.

Athletes who resort to these prohibited substances and methods not only jeopardize their physical and mental well-being, but also gain an unfair edge over their competitors. This, in turn, threatens the integrity of sports and the core values they represent, including ethical conduct, fair play, honesty, well-being, excellence, education, camaraderie, and teamwork.

Given these concerns, it is crucial for anti-doping organizations, sports governing bodies, and national and international federations to enforce stringent

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regulations aimed at deterring the use of such substances and methods by athletes. Adopting a stance of strict liability in doping cases is vital for ensuring that anti-doping agencies and arbitration institutions can maintain order, uphold justice, and preserve the spirit of fair competition. The realm of doping in sports encompasses two main categories of athletes who test positive for banned substances: those who intentionally use performance-enhancing drugs to gain a competitive edge, and those who inadvertently ingest such substances due to negligence or carelessness. Despite these distinctions, the principle of strict liability within anti-doping regulations treats both categories equally in establishing a violation, leading to a polarized debate among experts and stakeholders.

Proponents of strict liability argue that its implementation is essential to maintain order and efficacy within the anti-doping system. In contrast, opponents contend that athletes who are not at fault should not face punishment, as strict liability inherently conflicts with the tenets of natural justice. Notably, athletes who can demonstrate a lack of fault or negligence in their doping violation may be eligible for a reduced suspension period, theoretically addressing some criticisms of the principle.

Despite its imperfections, the legal framework of the anti-doping system must, much like other legal systems, contend with inherent challenges. The value of strict liability lies not in its implementation alone, but in its capacity to fill a void that would otherwise exist, given the near impossibility of proving an athlete's intentional doping in its absence. Consequently, the principle of strict liability remains a necessary and inevitable component of the anti-doping system.

An analysis of the Court of Arbitration for Sport's jurisprudence and relevant case studies indicates that the principle of strict liability has become firmly established in disciplinary cases, particularly those concerning anti-doping violations. This article employs the descriptive-analytical method to explore the concept of doping, general notion of strict liability, and the Court of Arbitration for Sport in its preliminary discussions. The Article delves into strict liability's application to athletes, the intricacies of establishing violations, and the potential for reduced sanctions under exceptional circumstances. Notably, this research addresses a gap in Persian-language literature, as no prior source has specifically examined strict liability concerning doping by athletes.

Keywords

Strict Liability, Doping, the Jurisprudence of the Court of Arbitration for Sport, World Anti-Doping Code

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