

(PP) STRICT LIABILITY SHOULD BE ADOPTED IN THE WORLD ANTI_DOPING ACTIVITY

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Introduction

There are two principles of the punishment for using dopes in the world. One is strict liability: once there is any kind of dope in the body of the athlete, whether the athlete has subjective fault, it can be cognized that the athlete has used the dope and should be given punishment. The other is faulty liability: it can be brought in a verdict of "Guilty" if evidences can be found that there is subjective fault of the athlete, otherwise there won't be any punishment. Therefore, to the same doping-user, the arbitration results from different courts may be different.

Methods

This research is based on the general social investigation methods and strategies, including literature review, comparative study and case study.

Conclusions

The act of using dope is contrary to the spirit of fair play, and spurns the code of the athletics sports established by IOC,IF and NOC. The highest benefit of sport fair play can be defended only if the strict liability principle is putted in practice.

The author hold that it should guarantee all the sport guilds, single item sports federations and the CAS adopt the strict liability principle as the same standard of the adoption of the principles, in order to enhance the athletes' subjective defense consciousness to reduce the unnecessary sport disputes, simultaneously to maintain the rights and interests of all the athletes, and further more, to maintain the fair and justice of sport.

Discussion

In the 10th National Games, the famous track and field athlete Sun Yinjie's second place in the competition of women's 10000m race was cancelled by the committee of the National Games, for the result of after-competition urine text proved to be positive, and resulted in 2-year's prohibition of the participation by Chinese Athletic Association (CAA). The affair illuminated that the punishment given to the athlete who uses dopes in China adopts strict liability, which is accordant to standard of the Court of Arbitration for Sport (CAS).

A German court ordered the International Amateur Athletic Federation (IAAF) to pay disgraced former German sprint queen Katrin Krabbe around \$663,000 compensation for increasing her drug ban. Katrin Krabbe sued on the grounds that the IAAF and the German Athletics Federation (DLV) were unable to impose the mandatory four-year ban because the German federation's rule-book did not list the drug as banned. From this case we can see faulty liability principle is adopted in the German courts.

On 26 September 2000, Andreea Raducan filed an application with CAS to set aside the decision made the IOC Executive Board to disqualify her from the women's (artistic) individual all-around event and to withdraw her gold medal arising from her positive doping test to pseudoephedrine. The CAS Panel confirmed that Andreea Raducan tested positive for pseudoephedrine and therefore committed a doping offense pursuant to the Anti-Doping Code of the Olympic Movement. They provides that any case of doping during the competition automatically leads to invalidation of the result obtained (with the consequences including forfeit of any medals and prizes) irrespective of any other sanction that may be applied. So CAS adopts strict liability principle on the arbitration of using dopes.

Because of the differences now in the adoption of principles by national sport guilds, single item sports federations and CAS, the cases of dope, which have been arbitrated by sport guilds, are often resubmitted to other arbitration associations, arbitration institutes or courts of arbitration for sport. It's a serious waste of judicial resources, and also a great waste of life, especially to the athletes with short sport span. Accordingly, the author holds that all the sport guilds, single item sports federations and CAS should adopt strict liability as the same arbitration principle, in order to enhance the athletes' subjective defense consciousness to reduce the unnecessary sport disputes, simultaneously to maintain the rights and interests of all athletes, and further more, to maintain the fair and justice of sport.

References

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