

# INJURIES AND VIOLENCE IN SPORTS: “WHAT HAPPENS ON THE COURT STAYS ON THE COURT?”

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*The article analyzes the problem of violence used during sports and the legal and medical assessment of such actions in society. First of all, the aim is to describe and find out the specifics of injuries that occur during sports, what are the most common possible characteristics and types of these injuries, and what are their possible consequences. It is analyzed to what extent the problem of the public good is caused by the injuries suffered in sports and at what level of numbers this is manifested in the entire European Union. The article aims to clearly define the legal boundaries of what is considered to be violent*

actions in the field of sports and what exact responsibility for such actions may arise for entities. After analyzing the legal regulation and its application, this work aims to provide an answer as to whether physical violence committed during sports should be (or is) legally assessed, and the athletes who caused the damage should be held legally responsible and what criteria should be (or are) for the application of such responsibility.

**Keywords:** sport, violence, health impairment, sports competitions, medicine, damage, criminal liability, sports law.

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## TRAUMOS IR SMURTAS SPORTE: „KAS VYKSTA AIKŠTĖJE, LIEKA AIKŠTĖJE?“

**Straipsnyje analizuojama** sporto metu panaudojamo smurto problematika ir tokių veiksmų vykstančių visuomenėje teisinis bei medicininis vertinimas. Pirmiausia, siekiama apibūdinti bei išsiaiškinti sporto metu įvykstančių traumų specifiką sporte, kokios dažniausios galimos šių traumų charakteristikos, tipai bei kokios galimos pasekmės. Analizuojama, kokio masto visuomenės gėrio problematiką iššaukia sporte patiriamos traumos bei kokio lygmenio skaičiais tai pasireiškia visoje Europos Sąjungoje. Straipsnyje siekiama aiškiai apibrėžti teisinės ribas, kas laikoma smurtiniais veiksmais sporto srityje bei tai, kokia tiksli atsakomybė už tokius veiksmus gali kilti subjektams. Atlikus teisinio reguliavimo ir jo taikymo analizę šiuo darbu siekiama pateikti atsakymą, ar sporto metu atliktas fizinis smurtas turi būti (ar yra) teisiškai įvertintas, o žalą sukėlusiams sportininkams būtų taikoma teisinė atsakomybė bei kokie kriterijai turėtų būti (ar yra) tokios atsakomybės taikymui.

**Pagrindiniai žodžiai:** sportas, smurtas, sveikatos sutrikdymas, medicina, sporto varžybos, žala, baudžiamoji atsakomybė, sporto teisė.

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*“Sports have nothing to do with fair play. They are bound up with hatred, jealousy, boastfulness, disregard of all rules and sadistic pleasure in witnessing violence“*

*-George Orwell*

Sport is a very important part of many people's social life. The most common form of expression of sports is certain exercises, and games performed according to specific rules. Sporting activities, which are systematically practiced according to certain rules, are characterized by competition and a tendency to achieve better and better results. Both at a high level and during leisure time, when practicing sports, it is not only important to take care of your general health and maintain proper form, but there is always the risk of causing damage or experiencing negative effects on your health. The number of sports injuries is currently increasing due to the growing

popularity of sports events and the emergence of new sports, improving sports technology and equipment, which allow people to perform better in their sports field.

During competition or training, athletes experience various sports injuries, most of which are even difficult to predict. Many of them are due to the behavior of another participant. This is especially noticeable in contact sports (combat sports, football, basketball, rugby). For example, during football matches, fouls are quite common and it is a completely normal practice in this field of the sport because it is part of the essence of this sport, but it often causes damage to the health of the sport's participants. Some injuries caused by the fault of another person are so serious that they not only force you to spend a certain period of time without sports but even end your career (Wadzinski, et al., 2020, p. 12). For example, in 2021 in America alone, some of the most popular sports (basketball, football, ice hockey, and boxing) sustain nearly half a million injuries (530,406) in just one year (Insurance Information Institute, 2022).

Sports law researcher J. Nafzinger explains the three actions that cause the most problems in sports - fraud, corruption and violence (Zaksaitė, 2010, p. 139). Nowadays, we are increasingly faced with one of the actions - manifestations of violence in the field of sports - in many cases it can not even be noticed, but there are also cases where it is clear that the actions of athletes were carried out intentionally, with the aim of causing one or another damage to the opponent (or even to a member of the same team). The positions of researchers examining the topic of violence in sports are quite different - some say that violence in sports is inseparable from the game, while others claim that it destroys the entire dynamics of the game (Gardiner S., et al., 2006, p. 599).

Therefore, an obvious question arises, what is the situation in Lithuania? Should intentional physical violence be assessed legally, and the athletes who caused the damage must be held accountable for it in criminal proceedings? If not, then can we say that sports is such a specific field where it is possible to legitimately use violence for non-sporting goals (only under the guise of them) and present everything as simple actions performed during training or competition?

**The purpose of this article** is to analyze and evaluate the legal regulation of physical violence in sports established in the Republic of Lithuania and the existing practice and possible cases of application of criminal liability.

**The tasks set to achieve the purpose** - 1) distinguish and define the legal concept of the use of physical force in violence; 2) examine and evaluate the criteria for applying responsibility for the use of violence in sports in Lithuania; 3) disclose the legal assessment of the damage caused to the athlete during sports; 4) assess the specifics and possible consequences of injuries occurring during sports.

**The object of the article:** actions during sports that cause damage to health and the issue and assessment of the application of criminal liability.

**Research methods:** using the **analysis method**, the phenomenon of health impairment during sports is broken down into separate component parts, each of which

is examined separately in order to reveal and discuss the peculiarities of the research object, and an analysis of relevant legal acts and doctrinal statements is carried out. The **linguistic research method** is used to reveal the content of the law, explaining the presented concepts, and applied in analyzing the content of the relevant legal acts. The **systematic method** is used in order to assess and investigate health impairment during sports as a criminal offense and legal assessment based on international and national legal acts, court practice, and doctrine. Based on the **logical method**, problems are revealed, possible ways of solving them are presented, and an appropriate position is formed on the problematic issues raised in the article. Finally, the **method of summarizing** is used to formulate the article's conclusions and propositions.

**Sources:** taking into account the objectives, tasks, object of the article and the fact that this topic is not widely analyzed in Lithuania, the main sources are the Criminal Code of the Republic of Lithuania (hereinafter – CC) and other legal acts regulating sports relations. The legal doctrine formed by foreign scholars such as M. Smith, S. Gardiner was also used in the analysis of violence during sports and in the evaluation of the possibilities of applying criminal law. The position presented in the scientific article of L. Žalnieriūnas and A. Gutauskas was taken into account. Finally, the cases of damage during sports competitions and their legal assessment in the practice of Lithuanian and foreign courts are used to analyze the problem.

**The novelty and originality of the work:** As for the situation in Lithuania, sports law is an extremely complex branch of law that regulates relations related to physical education and sports activities and is intertwined with other branches of law. One of the few currently existing sports law specialists in Lithuania – A. Paliukėnas (2018) notes that sports law is an underdeveloped area of law in Lithuania, there is a lack of legal clarity in this area. The situation is especially complicated due to the use of violence in sports and its legal assessment. Topics related to criminal liability in the field of sports have been examined only in the works of a few Lithuanian scientists – A. Gutauskas and L. Žalnieriūnas (in 2014) and S. Zaksaitė (in 2010). There are no clear legal provisions in the Lithuanian legal system, and even more so, there are no scientific works that would explain what kind of damage in sports is tolerable from the state's point of view, and what kind is not only intolerable but also requires the application of the strictest type of legal responsibility – criminal liability.

## **1. Legal concept of physical violence in sports**

### **1.1. The concept of sport and violence and their determination criteria**

In Article 2, paragraph 1 of the European Charter for Sports, which is also approved by the Committee of Ministers of the Council of Europe, the concept of the

sport is defined as: “all forms of physical activity which, through casual or organized participation, are intended to maintain or improve physical fitness and mental well-being, establish social relationships or to achieve results in competitions of all levels” (Committee of Ministers, 2021). It is also mentioned in the preamble that “sport is a social, educational and cultural activity based on voluntary choice” (ibid). Thus, attention is immediately drawn to the fact that participation in sports activities is based on a person’s personal choice, a person performs such actions without being forced by anyone and only of his own free will. Of course, most of the time, a person choosing such a way of spending his free time, or even more so, playing sports professionally, does not expect that he will be harmed to his health and does not always assess such risks.

It is also interesting that at the level of the European Union, on July 3, 2016, members of the Council of Europe, including Lithuania, signed a convention on an integrated approach to security and services during football matches and other sports events, which entered into force on November 1, 2017. It is extremely interesting that the fact that this convention is basically focused on the safety and protection of the spectators of sports events and specifically on one sport – football, creating the impression that manifestations of violence simply do not exist in other sports. The Department of Physical Culture and Sports under the Government of the Republic of Lithuania (2017) expressed its position and stated that “for a long time, outbreaks of violence, unrest and other inappropriate behavior have been associated with football, the most watched sport in the world.”

When discussing national regulation further, we should first pay attention to the provisions of the Constitution of the Republic of Lithuania (1992). It is Article 53, Part 2 of this legal act that states: “The state promotes public physical culture and supports sports“. Moving on to more specific definitions, the concept of „sport“ in Article 2, Part 20 of the Law of the Republic of Lithuania on Sports (1996) is defined quite broadly: “all forms of physical activity of a person, which aim to develop and improve his physical and mental qualities and skills or strengthen his health“.

First of all, in criminal law, physical violence is understood as an intentional, unlawful impact on the integrity and integrity of another person’s body. Physical violence can manifest itself in various forms – physical blows, deliberate infliction of pain, among other things, and disruption of health (Prapiestis, 2004, p. 172).

There are also various scholars’ descriptions of the definition of violence. For example, C.A. Anderson and B.J. According to Bushman (2001, p. 53), violence is understood as the highest degree of manifestation of aggression, it aims to physically injure another person. Sociologists have always expressed their concern about the phenomenon of aggression and violence and its negative effects, as it is completely against the gentle spirit of sports and recreation. On this topic, Sáenz et al. (2015, p. 212) concluded that aggression and violence spread negative social effects in every-

day life and defined aggression and violence as an unusual and unprovoked act of a person or group by illegal means.

Finally, focusing on cases of health impairment during sports, we should note that the practice of the Supreme Court of Lithuania also states that sports is an extremely important area in society, which is watched by the majority of society. When watching sports competitions, the public expects a beautiful spectacle that will take place according to the rules of the game, supporting their favorite athletes and waiting for their development. Therefore, gross violations of the rules of the game, which have caused health disorders for athletes, cause public dissatisfaction and indignation and violate legitimate interests. Athletes who compete or watch the competitions of other players feel exactly the same.

Thus, there is no doubt that aggressive and gross violations of the rules, which cause health disorders and do not fall within the scope of the player's consent, as in this case, in a non-game situation on the field, an intentional blow to the face of a member of the opposing team in the absence of a game situation, are aggressive, morally unacceptable, and those around them - both players, as well as other members of the team, judges and spectators - a shocking act that disturbs the seriousness of society and public order (Siauliai District Court's criminal case, March 30, 2016).

## 1.2. Types of the use of violence in sports and their appropriate limitation

An individual sport is a sport in which it is rare for an athlete to injure other athletes. This is primarily determined by the very nature of such sports activities when their essence is not direct physical contact with other athletes, but only the performance of certain individual-specific sports activities. Injuries then usually occur as a result of a variety of failures on the part of athletes to intentionally or negligently fail to follow safety rules, the rules of the sport or game, the usual degree of care, general preventive duties, or various other rules. However, usually, such cases are assessed as disciplinary liability, civil liability for damages, while criminal liability can be considered as too strict liability.

The main individual sport in which injuries can occur is skiing (in the broadest sense), in which quite often other people can be injured due to the illegal behavior of athletes. Important in the practice of foreign courts is the decision of the Supreme Court of the Czech Republic no. 8 Tdo68/2010 on the criminal liability of skiers for bodily injury (health impairment) to another person and failure to comply with general skiing prevention duties (Kralik, 2015, p. 1015). In this case, a minor skier was seriously injured due to the carelessness and negligent behavior of another skier. The skier, while going down the track, flew off the slope, collided with another underage skier, and as a result, he suffered serious injuries (mainly in the chest and abdomen).

Specifically, he ruptured his spleen (one of the major human organs), requiring surgery and its removal along with an 8-week post-op period, among other things, he was instructed to exercise extreme caution and care for the rest of his life to protect his body from more serious injury. The perpetrator was prosecuted for bodily harm (health impairment) under the Czech CC. The court motivated this decision by the fact that it is necessary to take into account the general rules for determining the responsibility of skiers, which establish that the skier when engaged in such activities, must in all cases adapt his speed and driving skills and experience and assess the overall situation (especially the terrain, snow and weather conditions, number of other skiers or persons, movement, etc.) so that they can always react to certain changes during skiing in time and at a sufficient distance.

As for team sports, these are sports where a lot of sports injuries are caused by the actions of other athletes and the risk of such injuries is significantly higher. The main reason is especially frequent physical contact between athletes (during competitions, training), although this is not the main goal of the sport (in contrast to the group of combat sports, where physical contact is the essence of combat sports). Because of this, there is a risk of injury that varies depending on the type and nature of the sport. Of course, minor injuries can also occur during team sports, which in most cases are considered part of such a sport and should not be held liable. However, sometimes the injury can be significantly more serious, moreover, it can be suffered by one of the athletes due to the illegal behavior of another athlete. In such cases, the aim is to assess the application of responsibility, and in severe cases, when the basic values and relations of society protected by the criminal law are violated, criminal responsibility may also be applied. Although part of the public is quite skeptical about the application of criminal liability in sports, we must realize that in extreme cases, this sanction is necessary. This is not about criminal liability for any damage, but only about the most difficult cases where the criminal law acts as an “ultima ratio” measure (Coufalova, Pinkava, 2014, p. 60).

For example, soccer is one of the most common team sports where players are most often injured. One such case involving criminal liability for football injuries is described and assessed in *R v Davies* (Gardiner et al., 2006, p. 599). In this soccer match, a conflict arose between two players during a penalty, when one of the players approached the other player, punched him in the face, resulting in a broken cheekbone. In this case, it was intentional behavior that manifested itself in an aggressive act that resulted in the injury of a second soccer player. The accused was not only disciplined and banned from the game, but the conduct led to a criminal trial in which he was sentenced to six months in prison. In this case, the very intention of the person to injure the person, seeking consequences and intentionally performing certain actions (in a specific case, after hitting the face of the opponent) was assessed.

Another team sport in which injuries are extremely common, which can also manifest as health problems, is ice hockey. Most often, such actions are related to the fact that the players have a tool in their hands - a hockey stick, with which most injuries are caused. For example, the case of *R v. Ciccarelli* (Gardiner et al., 2006, p. 610) involved a situation where Ciccarelli was charged with assault after hitting Luke Richardson of the opposing team three times in the head with a hockey stick. As the referees separated the players, Ciccarelli continued to throw punches. The NHL immediately suspended Ciccarelli for ten games, and he was arrested the next day for assault. Another identical case is Boston forward McSorley's attack on Donald Breshfear (this was also a hit with the stick when the opponent did not have the puck and did not even foresee it, as such behavior was treated as assault with a weapon and received a sentence of up to 18 months in prison with probation) (ibid).

One of the most problematic issues from the point of view of criminal liability for injuries in hockey is the issue of so-called "fights" between two players. Hockey is the only professional sport that allows athletes to use physical force during competition, despite being a combat sport (Dennie, 2015, p. 74). What's more, as hockey legend Wayne Gretzky pointed out, hockey actually gets people famous because it allows you to fight during the competition, which becomes like an additional attraction for the spectators gathered to watch the competition. For example, in hockey's earlier years, teams such as the Philadelphia Flyers, who were known as the Broad Street Bullies, often received more attention and cheers "for a punch to the chin than for a puck in the net" (Schiller, 2003, p. 241). Since no other team sport works this way, this is a fairly large legal issue not known to other sports such as football.

So, in light of the above, the highest volume of injuries occurs in team sports. First of all, it should be mentioned that the typology of violence can be and in most cases is divided based on the study conducted by M. D. Smith, which is supported by both foreign legal scholars and Lithuanian specialists (Gardiner et al. 2012, p. 500; p. 41; Žalnierūnas and Gutauskas, 2014, p. 891). Based on this classification, strong physical contact, borderline violence, quasi-criminal violence, and criminal violence are distinguished.

Strong physical contact is considered when certain physical contact is allowed under the existing rules of the game. In this case, this force is directed at the opponent's body in order to "eliminate" the opponent from a certain episode or competition, so that he can no longer continue the fight. The use of such physical force is most commonly encountered in contact sports such as boxing, wrestling, mixed martial arts (MMA), etc.

Boundary violence is usually described as when certain uses of physical force are not formally allowed according to the rules, but the limits are allowed to be decided by the referees of the competition. As for more specific examples, we can see them in more than one sport. In basketball, this can be when an opponent delivers a kick through the leg, body or arm to disrupt or break an attack. In football, we can talk



about a slightly different action – the aim is to push or knock down the opponent, sometimes even with rough “straight leg” actions. For an even broader description, we could use a real situation – when Mike Tyson bit off part of his opponent’s ear during a boxing match. The athlete admitted his guilt, relying on overflowing emotions and adrenaline, and the Nevada State Athletics Commission suspended the boxer and fined him 30 million dollars. With this action, the athlete violated not only the official rules of the sport but also the law of the country by disturbing another person’s health (Guardian News and Media, 2017).

Quasi-criminal violence is considered the athlete’s behavior, which is prohibited in terms of formal rules but has already become an unwritten rule. In such cases, the opponent seeks to disrupt the opponent’s health, but without achieving the goals of the game. An example of violence is ice hockey, because, as mentioned earlier, only this sport allows contact outside of the rules of the game itself. In summary, such violence can be described as violating both formal and, to a certain extent, unwritten rules of the game, but not yet crossing the threshold of criminal violence.

Finally, the last category is criminal violence. It is perceived as an extremely dangerous act, in which the athlete aims to disrupt the opponent’s health by his intentional actions, directing physical force directly to the opponent’s body and doing everything in violation of the rules. Often, such actions are carried out in an undefined manner - the aim is to cause any considerable harm and can lead to extremely serious consequences. For example, in one such case, the victim was deprived of the opportunity to play his favorite sport at some point in his life. In 2001, Manchester United’s Roy Keane hit Manchester City’s Alf-Håland with a sharp kick to the leg. Roy Keane was sent off for the incident, banned for the next three matches and fined £5,000 (BBC, 2001). Nevertheless, a few years later, reports appeared in the media, in which Roy Keane directly admitted that he did such actions on purpose, did not regret it, and even repeated them. The England Football Association then slightly increased the sanctions against the player, imposing a five-match ban and a £150,000 fine (Reid, 2021).

In summary, we can say that physical strength in the field of sports can be used in a variety of ways – neither the type of sport nor the number of participants is important. What’s more, cases of violence are quite common, especially in sports where competition, the pursuit of victory, and the excitement of athletes prevail. Physical violence and health impairment during sports competitions can be manifested by both legal and illegal actions, so it is very important to distinguish between these actions and their proper assessment.

## **2. Sports injuries and their determinant factors**

In the case of high physical exertion of the athlete, the probability of injuries also increases. The World Health Organization (WHO) (2021) defines trauma as physical

damage caused by an unexpected intense energy impact on the human body, exceeding the threshold of physical endurance/tolerance, or caused by a lack of one or more vital elements (for example, oxygen) (Skirius, 2007, p. 345). According to some authors, trauma is an injury to body organs or tissues caused by an external factor or a strong mental shock [Hoffman et al., 2000, 94p]. In a broad sense, sports injuries occur during training or competition and are related to sports activities. From a medical point of view, sports injuries are the loss of body structure function, diagnosed after clinical observations and examinations. From the athlete's point of view, sports injuries are defined as direct sensations, such as pain, discomfort, and loss of function. They are described and evaluated by the athlete himself. Sports activity is defined as whether the athlete can play sports and participate in sports training or competitions, or is unable to work due to reduced physical energy, which prevents him from performing the planned sports activities. So on average, 6 out of 10 athletes seek medical attention for injuries (Finch & Owen, 2001, p. 78). Injuries are more likely to occur during competition than during training (Söderman et al., 2001, p. 315). The end of a sports competition is the most favorable time to experience an injury. Lack of alertness and fatigue combined with the negative influence of other athletes increase the likelihood of injury (Maffulli & Caine, 2005, p. 2). In team sports where there is direct contact, the chance of injury is greater due to contact and the actions of the opponent.

According to Bauer Robert (2014, p. 674), even 14 percent of all injuries are related to sports activities. In the 27 regions of the European Union (EU) alone, about five million sports injuries are treated in hospitals. Despite these enormous numbers, it is reported that 7,000 deaths per year are due to injuries, 30,000 injuries lead to disability and 600,000 cases require hospitalization (Kisser and Bauer, 2012). Injuries – both unintentional and violence-related – take the lives of 4.4 million people around the world each year and constitute nearly 8% of all deaths (WHO, 2021).

For example, speaking more specifically about the aspects of a certain sport, basketball is an aggressive sport that requires a lot of physical and psychological endurance (Maughan and Shirreffs, 2010, p. 60). During the game, the entire body of the athlete is involved, and coordination is required, because the game is dominated by many sudden movements, for example, turns, jumps, catching the ball, combinations of movements, sudden changes of direction, and fast pace. Technically, basketball is considered a contact sport where there is a lot of physical interaction between the players of the opposing teams, so basketball can develop into a very high contact (Cumpts et al., 2007, p. 205). When playing basketball regularly, specific factors characteristic of this sport appears, which increase the risk of injuries and mainly damage the skeletal and muscular system (Bastos et al., 2014, p. 173). It should be emphasized that basketball is one of the few sports where the conditions and rules of the game for women are the same as for men: the same game time, the same playing field, and so on. Therefore, the methodology of sports training and preparation have a number of things in common, but the physio-

logical, anatomical, and psychological characteristics of the male and female body are different. The technical training of basketball players must also be different, as well as different preventive measures for reducing the risk of injuries. At least 720,000 basketball-related injuries occur in Europe per year. The cost of treating injuries is about 500 million euros, of which 100-200 million euros goes to the treatment of knee injuries. In most cases, injuries are caused by not one, but several risk factors that determine physical damage. Accidents often occur due to intense physical activity and exertion or when athletes fight for the ball during matches (Zede et al., 2014, p. 194). Basketball injuries are the result of specific and technical movements. Although protection or other safety measures are used, it is difficult to avoid injuries in this sport. In summary, it can be said that a sports injury is an injury experienced while engaging in any type of sport. Even with a safe environment and good physical fitness of the athlete, it will not always be possible to avoid injuries. Injury to the human body during sports or physical exercises is a big problem (Wilkins and Park, 2004, p. 45). For an athlete, even a small injury can cause serious consequences (difficulty to maintain body shape or perform well).

Thus, it can be noticed that the types of injuries and their annual numbers are enormous only in sports according to the rules of sports and in accordance with the internal regulations of sports federations. In this case, another person's intervention and action in sports to stop an opponent can seriously affect the health of another person, which can lead to not only simple injuries but also disability or even death.

### **3. The concept of damage due to sports competitions and training and responsibility for it**

One of the criminal law scholars, C. Lassiter, has expressed the following idea: "One of the most significant moments when one wants to achieve success in competing in sports is precisely breaking the opponent's will. Meanwhile, one of the best ways to do this is through strong physical contact. A hard hit can break an opponent's quest for victory at that moment, a harder hit can stop him for an even longer period of time, and the hardest hit can eliminate him from the competition circle for an entire season, and even end his career. So, at what point should the criminal law become interested in physical violence used in sport?" (Lassiter, 2007, p. 39).

First of all, it should be started from the fact that the activities of athletes are regulated not only by general legal norms, in practice, there are special entities, such as sports tribunals, whose sanctions are applied as a measure to athletes who break the rules (Mountier, 2012, p. 44). Such a special entity is considered extremely important in the world of sports, because even in the practice of foreign courts we can find statements that the internal rules operating in sports cannot always impose appropriate sanctions on an athlete who has committed violations of certain rules and, even more, caused serious health injuries to his opponent (Kralik, 2015, p. 7).

Also, the prevailing rules in sports are in most cases determined not even at the national, but at the international level. Thus, taking this into account, Lithuanian sports federations, becoming part of international federations – its members, undertake to follow the legal acts approved by the international federation and the rules of a certain sport. So, for example, the Lithuanian Basketball Federation belongs to the International Basketball Federation FIBA (Federation Internationale de Basketball Amateur), therefore follows the rules provided by this federation and is under the “flag” of this federation.

Then, when moving to the national level, athletes face not only the supervision of their activities, but also a certain individualized responsibility and its application – the responsibility applied by sports organizations. It is the sports federation, for example, the Lithuanian Basketball Federation (LKF), the Lithuanian Football Federation (LFF), etc., that establishes certain rules and requirements that apply to the sport, and also controls and supervises the observance of such rules. Such a provision is not only guided by existing practice but it is also provided for in the law – specifically, Article 2, Part 29 of the Law on Sports (1996)<sup>1</sup>.

Regarding the damage caused, we should mention that, above all, in certain cases, civil liability may also apply. It can be applied in the cases and procedure provided by the Civil Code of the Republic of Lithuania (2000) (hereinafter – **Civil Code**), it is characterized by the specifics of a property obligation and is distinguished by two types – as a contractual liability or as a delictual liability (Article 6.245, paragraphs 2-4 of the Civil Code).

Contractual liability in the context of sports can be applied when certain contracts are concluded, for example, regarding the organization of competitions, membership of a certain sports club, etc. In such cases, non-compliance with their provisions may be understood as a violation of civil law. In another, more common case, another type of civil liability occurs in the field of sports – delictual liability, which is a property liability arising from damage caused and not related to contractual relations, except when the damage arises from contractual relations (Article 6.245, paragraph 4 of the Civil Code). Then it is extremely important to assess and reveal several elements: the negligence of the sports participant, the criterion of care and to prove its violation, the duty of care of the sports participant, the presence of risk, and the fact that the athlete should have been aware of it and assumed such consequences, the anticipation of damage, the specific rules of the sport taking place, so including whether they were violated or not, safety rules, and significant circumstances of the event itself, which

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<sup>1</sup> A sports federation is a non-governmental organization established on the basis of membership, which is responsible for a certain sport in a certain territory (the entire territory of the state or its administrative unit): develops that sport, represents the interests of its representatives, establishes its specific requirements and/or ensures their compliance, prepares and implements various means of popularizing that sport.

could have influenced the occurrence of the damage. However, it is also important to note that each sport is distinguished by its own rules and requirements, so in all cases, the rise of civil liability must be assessed individually - but usually, it is related to the violation of the duty to act with care (Bukartaitė, 2019, p. 41).

However, the most widely and commonly encountered type of legal liability in sports is a disciplinary liability. As already mentioned earlier, each sport is based not only on national but also on international legislation, belongs to certain associations, federations and operates under the supervision of sports tribunals. So this means that every sport is regulated by certain rules. At the international level, we have several documents that provide for such rules and the consequences of their violation – the Council of Europe has approved the Sports Code of Ethics (1992), and sports considered Olympic are under another legal regulation – the Code of Ethics approved by the International Olympic Committee (2016). Furthermore, each international sports organization has its own set of rules, such as the FIFA (Fédération Internationale de Football Association) Code of Ethics (2019). On the basis of these documents, the aim is to provide certain general sports rules that should be followed by both international and national sports entities, and which aim to promote respectable, equal and accessible sports at the international level.

As for disciplinary liability, it is provided for in the documents of sports associations – usually, they are formed as codes of ethics. Such examples could be the Code of Ethics and Discipline of the Lithuanian Basketball Federation (LKF) (2016), the Code of Ethics of the Lithuanian Football Federation (LFF) (2019), the Code of Ethics and Discipline of the Lithuanian Handball Federation (LRF) (2018). The fact that these codes contain actions that can be recognized as unsportsmanlike and inappropriate behavior that violates formed values is relevant to the problem of health impairment in sports<sup>2</sup>. Interestingly, these codes do not only apply during the competition, but they also specify the scope of application as “pre-competition” and “post-competition”<sup>3</sup>. The codes also specify the sanctions that can be applied to both legal entities and natural persons who have committed disciplinary violations. When assessing the sanctions, it can be said that they are exclusively related to either a monetary penalty or a penalty related to a certain sporting activity: warning, fine, disqualification, deprivation of awards (prizes, titles, bonuses, etc.), ban from participation in that in actual or any activity related to the sport being

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<sup>2</sup> Incitement and use of hatred or violence (psychological and/or physical), hooligan or aggressive actions, use of obscene, insulting or threatening words and/or gestures and/or actions, any use of physical coercion (force), except in cases where such actions aim to prevent illegal actions, protect oneself or other persons (for example, Article 4 of the Code of Ethics and Discipline of the Lithuanian Basketball Federation (LKF) (2016)).

<sup>3</sup> Before the competition - the period from arrival at the competition venue until the official start of the competition (Article 2, paragraph 1, point 8); After the competition - the period from the official end of the competition to the departure from the territory of the competition (Article 2, Part 1, Point 20).

performed. However, it should also be mentioned that violations committed both in accordance with the regulations and in accordance with the existing codes of ethics and discipline may be subject to not only the sanctions specified in them, but also additional penalties, for example, Clause 56.12 of the Regulations of the Lithuanian Basketball League (2022) states that fines may be imposed for violations of FIBA official rules. This once again reflects that, however, certain sports are not only governed by internal, and national legislation but disciplinary liability and corresponding penalties may also be imposed for non-compliance with international rules.

Finally, starting to talk about criminal liability, we should note that the values protected by disciplinary liability are more concentrated in the game itself, a certain sport, and its rules, while the goods protected by criminal law are broader – such as personal honor, dignity, privacy and one of the most important values – health. However, as mentioned earlier, the presence of violence in sports and the application of criminal liability for such actions is a highly controversial topic. For example, while some researchers (Standen, 2009, p. 641-642) argue that such behavior, which exceeds all permissible rules of the game, can be the basis for applying criminal liability, even in the presence of the athletes' consent to the possible risks in sports, other persons, such as 2007 FIFA President S. Blatter unequivocally states that criminal liability is definitely not possible for football players who cause damage by making dangerous ball interceptions during the competition (Blackshaw, 2008, p. 106). It is understood that such arguments often arise from the fact that competitiveness can be reduced, and formal rules and the ever-present fear of violating them can demotivate players or even discourage them from playing sports. However, this does not mean that we can forget the values protected by the law and “turn a blind eye” to the actions of the players. Of course, it is always necessary to assess what actions were taken, what damage they caused, and other particularly important factors that depend on each situation individually. The essence of criminal law is to punish on behalf of the state persons who have violated one or other state-protected goods. Moreover, criminal liability can only be applied to a person who is found guilty of committing a criminal act. Therefore, we cannot claim that the application of civil or disciplinary liability can eliminate the application of criminal liability if it is proven that an act corresponding to the characteristics of a criminal offense was committed. This position is supported by the Supreme Court of Lithuania, which explained that: “The regulations of the basketball league provide for disciplinary penalties for players who have violated the rules of international basketball competitions during the competition; according to these provisions, L.S., as a player, was punished, i.e. he, as a participant (player) and team member, was fined 100 LT and disqualified for two matches by the decision of the basketball league management. The application of such a disciplinary penalty to the specified entity does not mean that criminal liability for the committed crime based on an act prohibited by criminal law is not possible. In this case, imposing disciplinary liability on the player cannot and does not remove the criterion

of criminal responsibility when a crime is committed, and in the situation that has arisen there is no basis for the conclusion that the principle of the impossibility of double punishment (in dubio pro reo) has been violated“ (ruling of the Lithuanian Supreme Court of December 20, 2016, in criminal case No. 2K-454-222/2016).

Taking into account what was discussed above, we can say that sport, although it can be considered a rather narrow field, is regulated both at the international and national levels. Not only players but also other subjects – spectators of competitions, organizers, etc. – can be punished for various violations (including violent ones, using physical force). We can also state that the responsibilities that can be applied are differentiated very widely – from civil liability for the damage caused to criminal liability if the act can be seen and has signs of a criminal act.

## Conclusions

1. First of all, physical violence and health impairment during sports competitions can be manifested by both legal and illegal actions, so it is very important to distinguish between these actions and their proper assessment. The following types of physical violence used during the competition are distinguished: a) strong physical contact, b) borderline violence, c) quasi-criminal violence, d) criminal violence.
2. Necessary conditions for criminal responsibility for the use of physical violence during competitions are directly intentionally violating the rules of the game and disrupting the opponent's health, therefore, in order to apply criminal responsibility, it is necessary to evaluate this condition and distinguish between game and non-game situations, which currently causes a great problem in practice.
3. Fourteen percent of all injuries experienced in society are related to sports activities. These injuries can often be divided into consequences caused by the person's own actions, but in the presence of the intervention of another person and the action performed on another person legally or illegally, it can affect the possibility and severity of the injury even several times.
4. For violations of the rules of the sport, competition safety rules or ethical norms, subjects of sports competitions and practices are subject to inter alia disciplinary liability, but this should in no way eliminate the application of criminal liability when actions are taken that grossly violate the rules and (or) traditions of the sport or intentionally causing harm to other persons.
5. Thus, although the institute of criminal law in the context of sports does not pose a problem and does not contradict the principle of ultima ratio, it is difficult to determine the exact prevalence of violent crimes in sports, as it is characterized by latency. This situation possibly stems from the problem of public perception, since manifestations of aggression or physical violence in sports are visible in Lithuanian sports, but these cases rarely turn into real criminal cases.

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## **INJURIES AND VIOLENCE IN SPORTS: “WHAT HAPPENS ON THE COURT STAYS ON THE COURT?”**

### Summary

The article analyzes the problem of violence used during sports and the legal and medical assessment of such actions in society. For this purpose, the legal doctrine in the context of health impairment during sports is examined, the criminal law and other legal acts regulating sports relations are evaluated. Also analyzed is the extremely scarce case law, which assesses the damage caused to athletes during sports and the responsibility for it. Finally, medical criteria are also evaluated - the specifics of the injuries that usually occur during sports and competitions, their features and possible consequences, which, in most cases, lead to the end of an athlete's career.

One cannot disagree that sport is an extremely useful activity for individuals whose participants often lack legal clarity regarding the legal responsibility for their actions. Meanwhile, health impairment caused by violation of sports rules is undesired result, especially if done on purpose. Taking this into account, the article raises fundamental questions – is damage in sports tolerable from the state's point of view, and which is not only intolerable, but for which it is perhaps necessary to apply the strictest type of legal responsibility – criminal responsibility?

## **TRAUMOS IR SMURTAS SPORTE: KAS VYKSTA AIKŠTĖJE, LIEKA AIKŠTĖJE?**

### Santrauka

Straipsnyje analizuojama sporto metu panaudojamo smurto problematika ir tokių veiksmų vykstančių visuomenėje teisinis bei medicininis vertinimas. Šiam tikslui nagrinėjama teisės doktrina sveikatos sutrikdymo sporto metu kontekste, atliekamas baudžiamojo įstatymo ir kitų teisės aktų, reguliuojančių sporto santykius, vertinimas. Taip pat analizuojama ir itin negausi teismų praktika, kurioje vertinama sporto metu sportininkams padaryta žala bei atsakomybė už ją. Galiausiai, įvertinami ir medicininiai kriterijai – sporto ir varžybų metu dažniausiai įvykstančių traumų specifika, jų bruožai bei galimos pasekmės, kurios, dažnu atveju, priveda ir prie sportininko karjeros pabaigos.

Negalima nesutikti, jog sportas yra visuomeniškai itin naudinga asmenų veikla, kurios dalyviams dažnu atveju pritrūksta teisinio aiškumo dėl teisinės atsakomybės už jų atliekamus veiksmus. Tuo tarpu sveikatos sutrikdymas ir apskritai, smurtas, padarytas pažeidžiant sportines taisykles, yra nepageidaujamas rezultatas, ypač jei tai daroma tikslingai. Atsižvelgiant į tai, šiame straipsnyje išskeliami esminiai klausimai – ar žala sporte yra toleruotina valstybės požiūriu, ir kokia – ne tik netoleruotina, bet už ją galbūt reikalinga taikyti ir griežčiausią teisinės atsakomybės rūšį – baudžiamąją atsakomybę?