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ОКРЕМІ ПИТАННЯ ЗАСТОСУВАННЯ ЦИВІЛЬНО-ПРАВОВОЇ ВІДПОВІДАЛЬНОСТІ У СФЕРІ ПРОФЕСІЙНОГО ФУТБОЛУ

Анотація. Стаття присвячена особливостям застосування санкцій в професійному футболі та їх правовій природі. Ефективний захист прав та інтересів учасників спортивних змагань з футболу неможливий без застосування видів юридичної відповідальності. У спортивній сфері до них відносяться: загальну (цивільно-правова, адміністративна, кримінальна та дисциплінарна) і спеціальну спортивну відповідальність. Кожна з них має свої певні особливості, пов'язані зі специфікою спортивної сфери. Автором вивчені питання цивільно-правової природи окремих видів санкцій, передбачених регламентними і дисциплінарними документами відповідних футбольних організацій. У професійному футболі переважну роль відіграють заходи цивільно-правової відповідальності, до яких відносяться, передбачені дисциплінарними актами, санкції. Наприклад, обов'язковий грошовий внесок у національній грошовій одиниці. Автор вважає, що невірно ототожнювати зазначену санкцію зі штрафом в традиційно розумінні цивільно-правового законодавства. Крім того, суспільні відносини, що виникають у сфері професійного футболу з приводу застосування відповідальності, засновані на добровільному виконанні порушниками покладених на них санкцій. На думку автора, така риса притаманна цивільно-правової відповідальності.

Ключові слова: цивільно-правова відповідальність, спортивні правовідносини, об'єктивна відповідальність, відповідальність у професійному футболі.

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SOME ISSUES RELATED TO THE APPLICABILITY THE CIVIL LIABILITY IN THE ARENA OF PROFESSIONAL FOOTBALL

Abstract. This article is devoted to the features of using the types of sanctions in professional football and their legal nature. Effective protection the rights and interests of participants in footballs sports competitions is impossible without the application of legal liability. In the sports field, these include: general (civil, administrative, criminal and disciplinary) and special sports

liability. Each of them has its own specific features related to the specifics of the sports field. The author has studied the issues of the civil legal nature of certain types of sanctions provided for by the regulatory and disciplinary documents of the respective football organizations. In professional football, civil liability measures play the predominant role, which include sanctions provided for by disciplinary acts. For example, the mandatory cash contribution in the national currency. The author believes that it is wrong to identify the said sanction with a fine in the traditional sense of civil law legislation. In addition, public relations arising in the field of professional football about the use of responsibility, based on the voluntary execution of the sanctions taken against them by offenders. According to the author, this feature is inherent in civil liability.

Keywords: civil liability, sports legal relations, objective responsibility, responsibility in professional football.

INTRODUCTION

Resolving sports disputes in the professional football requires special attention, as on the legislative level regulation of methods and forms of protection of rights of participants of such disputes is quite weak. Moreover, the absence of a single regulatory act, which would contain procedural requirements regarding specific features of consideration of sports disputes in the individual and team sports, does not give the opportunity to participants of sports contests exercise their rights effectively and in full scope.

Rules of the game, which provide for conditions of holding football matches, exist to unify requirements to participants of such matches and impel them to behave in accordance with law. Imposing sanctions is one of the tools aimed at creating conditions of efficient adherence to rules of the football game. The procedure of imposing sanctions aimed at punishment of those participants of matches, who break the rule, has its specifics related to peculiar features of social relations arising in the field of professional football.

The sports field provides for general types of legal liability (civil and legal, administrative, criminal and disciplinary) and special sports liability. Each of them has its specific features related to the specifics of the sports field. The efficient development of the professional sports is not possible without adequate mechanisms of compensation for damages and receiving compensations by participants of sports competitions. The sports results shall not depend on unlawful conduct of their participants, and interests of the organizers of such competitions shall be under higher protection.

Civil and legal liability plays an important role in team sports, particularly, in the professional football. It seems that application is excluded when participants adhere to the rules of football matches as ensuing of adverse consequences is related to non-meeting requirements of regulatory and statutory documents of the respective football organizations.

1. LITERATURE REVIEW

At present in the legal literature, there are no scientific developments and complex approach to issues of imposing legal liability when resolving sports disputes. Certain scholars consider issues of legal nature of liability in sports, specific features of certain types of such liability, imposing sanctions and compensation for damages depending on the form of guilt of participants of sports competitions. Specifically, in opinion of A. M. Aparov, civil and legal liability in the field of sports has corporate nature [1, p. 346]. He sees sports sanctions as those of civil and legal nature and relating to the clearly defined circle of persons, who are members of the corporation (sports organization). A. M. Aparov emphasizes that the person (the participant of sports relations) joining the corporation performs the act of accession actually concluding an accession contract and assuming rights and obligations provided for a member of a certain corporation (sports organization). For instance, an accession contract is obtaining the respective license by a football club, which grants the right to take part in football matches [1, p. 346–347].

G. Yu. Bordyugova considers specific features of the objective liability in sport (*verbatium* – “strict liability”), where guilt is not the grounds of its arising and there is no need in it [2, p. 28]. In her opinion, the objective sports liability includes elements of disciplinary liability and civil liability. As an example she refers to the norm that exists in the professional football, according to which if fans of the team violate regulations of disciplinary acts of the Federation of Football of Ukraine (hereinafter – the FFU), then disciplinary sanctions shall be imposed on the club [2, p. 28]. G. Yu. Bordyugova states that such imposing of sanctions has the preventive effect and aims not to punish the football club, which did not make any illegal actions, but impose on the club liability for actions of its fans, who committed violation during a sport competition.

M. A. Tikhonova, considering the issue of exercising the right to judicial protection of participants of sports competitions, points that certain regulatory requirements of sport organizations infringe rights of sportsmen and other people entering into relationships in the field of sports. Particularly, this is about prohibition to participants of professional football competitions to refer to courts of general jurisdiction to resolve disputes arising among them. In opinion of M. A. Tikhonova, such norm limits the right of Ukrainian sports organizations and their members (participants) to judicial protection [3, c. 79].

M. O. Tkalic and G. O. Bondar study the problem of compensation for damages in sport and suggest that damage caused during any sports competitions shall be subject to compensation depending on the form of guilt. Particularly, “if damage was caused purposefully, then compensation for damages shall be paid on general grounds. If damage was caused accidentally, then the sportsman and his club shall be exempted from the obligation of compensating for damages taking into account the higher level of non-safety of sports activity as such” [4, p. 106].

2. MATERIALS AND METHODS

2.1 Definition of legal nature of certain sanctions in professional football

In the course of carrying out the study the formal logical method was applied, which allowed analyzing specific features of regulation of general and sports sanctions in football norms of the current laws of Ukraine and corporate norms of the respective sports organizations in the field of professional football. By means of the above-mentioned method analysis of provisions of civil law of Ukraine in respect to legal regulation of social relations in the field of professional football was carried out, particularly, application of civil and legal liability to relations, which are established during holding professional football competitions in Ukraine.

Application of the principle of compliance and determinism allowed analyzing the existing court practice regarding defining the legal nature of sports sanctions. It allowed to consider in the course of the study conclusions of courts in certain types of civil cases, and study judgments of courts of administrative jurisdiction and analyze them from the point of view of restoration of rights and interests of participants of professional football matches. The experience of application of legal norms in judicial practice allowed filling certain “gaps in law” at resolving issues of application of sanctions in the field of sports from the point of view of civil and legal regulation. The dialectical method allowed considering how resolving the problem of satisfying requirements of participants of sports competitions by means of lodging regress suits against fans has been formed in judicial practice.

2.2 Defining the role of civil and legal liability when imposing certain types of sanctions in the field of professional football

Along with application of the formal logical method, the author used a number of general scientific and special methods. Particularly, the systemic approach was applied for analysis of sources of civil law and sources of sports regulation of football. To this end, corporate acts of respective football organizations, which contain specific features of imposing liability in football for certain types of violations, were also analyzed.

The method of comparative and legal study of permits helped to establish the civil and legal nature of certain forms of liability in professional football and define a special role of civil and legal liability among other general types of liability. This approach allowed to articulate the compensatory functions of imposing certain types of sports and general sanctions in the field of professional football and gain the insight of specific features of imposing this type of civil and legal liability as compensation for damages. The latter type is aimed at restoration of the status of participants of professional football matches, and at compensations for damages borne by the organizers of respective competitions.

3. RESULTS AND DISCUSSION

On the legislative level there are no any special norms regulating the procedure of compensation for damages when holding professional football matches. According to Art. 54 of Law of Ukraine On physical culture and sport, civil and legal, disciplinary, administrative and criminal liability can be imposed on the persons found guilty of violating laws in the field of physical culture and sport [5]. Basically, the majority of relations established in the field of professional football falls under contractual regulation. Social relationships established in this field are based on principles of voluntary membership in national and international football organizations. Interaction between members and football organizations is exercised on the grounds of contractual and corporate regulation.

Imposing of liability in the field of professional football is effected on the basis of regulatory and statutory documents of the respective international and national sports organizations. Particularly, the basic international document, which regulates imposing of sanctions and legal liabilities in football is the Disciplinary Code of the International Federation of Football (hereinafter – the DCF). According to the content of its provisions, one can define that the Code regulates imposing of sanctions on participants of professional sports relations in the field of football. The DCF contains the list of basic sanctions, which are imposed, and conditions of imposing them.

Having analyzed provisions of the DCF concerning types of sanctions applicable in professional football, one can distinguish the following groups depending on the subject they are to be imposed on:

- general sanctions for individuals and legal entities. They include: warning; reprimand; penalty; returning awards won (Art. 11 of the DCF);
- special sanctions imposed on individuals only. They include: warning; expelling; match ban; prohibition on entering a changing room and / or sit out; prohibition on entering the stadium; prohibition to participate in any activity related to football (Art. 12 of the DCF);
- special sanctions imposed on legal entities only. They include: prohibition on transfers; playing a match without spectators; playing a match on neutral ground; prohibition on playing in the specific stadium; cancelling the result of a match; disqualification; awarding forfeit of a match; deduction of points; transferring to the lower division (Art. 13 of the DCF) [6].

The grounds and forms of liability in professional football in Ukraine are regulated by Disciplinary rules of the FFU, the basic regulatory document, which contains the list and specific features of imposing general and sports sanctions on participants of football matches, as well as certain types of legal liability. Civil and legal grounds take a special place as by its legal nature the majority of sports sanctions in the above-mentioned documents are of private legal nature.

Disciplinary rules of the FFU include:

- material and legal and formal regulations, which pre-condition imposing disciplinary sanctions for violation of norms of statutory and regulatory documents of the FFU No
- defining and description of violations in the field of professional football;
- conditions of imposing sanctions;
- regulations on the structure and actions of disciplinary authorities;
- regulation of procedures which shall be completed by disciplinary authorities [7].

Groups of sanctions imposed on participants of football matches in Ukraine somewhat differ from the above-listed and envisaged norms of the DCF.

In accordance with regulations of Disciplinary rules of the FFU, sanctions can be divided to:

- disciplinary sanctions common for legal and other entities working in or involved in football. They include: warning; reprimand; mandatory monetary contribution in the national currency; deprive of the title and/or award;
- disciplinary sanctions imposed on individuals only. They include: warning; warning prior to, during and after a match, which is accompanied by brandishing the yellow card by the referee to the offender; forfeiture; excluding from participation in matches (competitions); prohibition on entering the dressing room and/or sit out; prohibition on entering the stadium when the team of the offender plays; prohibition on carrying out any activity related to football (administrative, sports and other);
- disciplinary sanctions imposed on legal entities only. They include: deprivation the club of the right to register with the FFU any new football players within the set period; playing a match without spectators; holding a match with partly closed sectors (tribunes); prohibition on using the stadium; cancelling the result of a match with further awarding forfeit of a match; expelling from participants of competitions; awarding forfeit of a match; reducing scores won; transferring to a lower league; deprivation of the status of a professional club; withdrawal of the certificate to the right to participate in competitions among teams from professional clubs [7].

Disciplinary sanctions in professional football constitute measures of disciplinary influence in the form of respective fines and penalties [7].

Imposing the above-mentioned sanctions shall occur within the framework of contractual relations arising between the above – mentioned participants of professional football matches. Individuals and legal entities, which aim to participate in football competitions in the specific season, shall enter into a civil and legal agreement with the organizer of competitions – the FFU. For instance, professional football clubs shall get re-qualified annually to be admitted to participation in competitions. They undertake to meet requirements of regulatory and statutory documents of the FFU, on the other hand. They get certain rights. Moreover, professional football clubs enter

a league (association) and/or another union of football clubs, who are collective members of the FFU.

As an example, we can consider provisions envisaged by the Rules of All-Ukrainian Football Competitions from among teams from clubs of the Association of Professional Football Clubs of Ukraine “Premier League” (hereinafter – the APFCU “Premier League”) of 2018/2019 season (hereinafter – the Rules), according to which organization and holding competitions among teams of clubs of the APFCU “Premier League” is imposed on the APFCU “Premier League” according to the Agreement for organization and holding All-Ukrainian competitions among teams of clubs of the APFCU “Premier League” in the respective sports season, which shall be concluded between and by the Federation of Football of Ukraine (hereinafter – the FFU) and the APFCU “Premier League” (hereinafter – the Agreement) [8].

Considering civil and legal liability as a type of sanctions, one can divide civil and legal sanctions to measures of liability (compensation for damages, compensation for moral harm) and other sanctions, which cannot be considered as measures of civil liability (for instance, returning the property, which was purchased unlawfully) [9, p. 259]. Within this context we shall consider legal nature of such type of sanctions as “mandatory monetary contribution in the national currency” taking into account definition of such payments envisaged by the FIFA as “penalty” only. The possibility of imposing penalties in professional football is encouraged by international football organizations as one of the most effective means of influence in the present-day football context [10, p. 59–60].

According to provisions of the DCF, penalties are the type of sanctions: with that, national associations bear joint liability for penalties imposed on football players and official representatives of national teams. The same refers to clubs, more specifically – to their players and official representatives. When /if an individual leaves the club or association, it doesn’t exempts them from their joint liability [6].

In disciplinary rules of the FFU instead of the word “penalty” the construction “mandatory monetary contribution in the national currency” is used. Using this construction is related to specifics of relations between participants of football matches, whom this type of sanctions can be imposed upon.

The construction “mandatory monetary contribution in the national currency” is applied to individuals and legal entities, which work or are involved in professional football.

Legal entities do include the following: association, league, institution, PCSS, regional federation – the collective member of the FFU, who organizes and holds football competitions or participates in them; professional football clubs; associations of professional football clubs [6].

According to provisions of the Statute of the All – Ukrainian Sports Social Organization “Federation of Football of Ukraine”, leagues (associations) and/or other

unions of football clubs, having an intent to participate in competitions under the auspices of the FFU, UEFA or the FIFA can be collective members of the FFU [10].

Individuals do include: official persons (it means representatives, who perform official functions on behalf of legal entities, the FFU, FIFA and UEFA at the time of football events), fans, football players, trainers and other persons working or involved in football [6].

The sanction “mandatory monetary contribution in the national currency” is applied by the FFU bodies according to provisions of Disciplinary rules. The FFU, by its legal nature, is a non – commercial organization, which doesn’t aim at obtaining profits . By its organizational and legal form the FFU is a public union [11].

The sanction “mandatory monetary contribution in the national currency” has certain specific features:

- it is applied to professional football clubs, whose teams show improper behavior in cases envisaged by Disciplinary rules of the FFU;
- it is applied to professional football clubs for coarse, inappropriate or groundless words of officials of the club towards referees and/or observers of the arbitration, director of the match, or the security officer of the FFU in respect to the match held or towards other officials of the FFU;
- it is applied to professional football clubs for non-meeting requirements of regulatory and statutory documents of the FFU, FIFA and UEFA;
- it is applied to individuals as an additional sanction. For instance, if an official of the professional club falsified documents with the purpose of using them in the activity related to football, he/she shall be subject to disciplinary sanction in the form of prohibition on carrying out any activity related to football for the period of at least 12 (twelve) months, and payment of mandatory monetary contribution in the amount starting from 50, 000 Hryvnias;
- it constitutes property liability (along with forfeit and fine) for breaking (non-fulfillment, delay in fulfillment, improper fulfillment) of a settlement agreement in cases considered by the FFU, if the parties have entered into such settlement agreement;
- it shall be paid jointly by legal entities and clubs for individuals, whom they have established relationships with. The fact of an individual leaving the organization shall not exempt the legal entity, club from their liability [6].

In our opinion it is not right to identify “mandatory monetary contribution in the national currency” with penalty as a type of civil and legal liability. Payments shall be made in fixed amounts to be defined depending on the type of the offense committed (for instance, failing to make a payment envisaged by rules of the competition, or perform settlements with officials of the match shall entail a fine in the amount of 2, 000 UAH for clubs of major leagues).

In the author’s opinion, such sanction as mandatory monetary contribution, by its nature, is a forfeit to be defined in the fixed amount [10, p. 59–60].

Especially as the possibility of a public union (which the FFU is) to collect penalties from individuals and legal entities within the framework of contractual relations does not comply with regulations of civil laws. Collecting penalties for breaking an agreement is possible in the judicial procedure should the party to the agreement refuse to fulfill the assumed obligations. But in professional football there is prohibition on referring to courts of general jurisdiction for resolving sports disputes. Particularly, the Statute of the FIFA contains provisions saying that participants of sports relations in professional football shall undertake to refrain from resolving disputes arising among them in courts of general jurisdiction. National football associations include similar regulations to their regulatory and statutory documents and ensure adherence to them [12].

As a result, the FFU cannot apply the construction “penalty” in terms envisaged by the DCF, because it will be almost impossible to ensure imposing this type of sanctions without referring for judicial protection.

As was said above, professional football clubs are subject to sanctions for actions of their employees (particularly, for coarse, inappropriate or groundless words of officials of the club towards referees and/or observers of the arbitration, director of the match, or the security officer of the FFU in respect to the match held or towards other officials of the FFU).

According to provisions of the Civil Code of Ukraine (hereinafter – the CC of Ukraine) a legal entity shall bear liability for the damage caused by its employee during performing his/her duties [13]. To imposed civil and legal liability measures on a legal entity for actions of its employee, the following shall be available:

- general conditions of delict liability: unlawful conduct of an employee, damages caused, causal link and guilt;
- special conditions of the person, who caused the damage being in labor (working) relations with a legal entity, damages caused at the time of performing duties by the respective employee.

Responsibility for payment of the mandatory monetary contribution by football clubs for actions of their employees are regulated by provisions of Disciplinary rules of the FFU and norms of civil laws, as in this case requirements regarding payment of the mandatory contribution the FFU bodies set to the employer, which is the club. But this doesn't deprive professional football clubs of the right, after payment of the amount of the mandatory contribution set by disciplinary authorities in full, to advance to the employee the recourse claim for compensation of the damage caused to the club.

The specifics consists in the fact that at the moment of imposing the above-mentioned sanction on the football club, the employee may not work already in the football club, however, the club still will be liable for actions of such an employee. Bodies of football justice connect liability of the football club with the moment, when an employee club failed to comply with requirements of regulatory and statutory

documents of the FFU [6]. With that, the football club shall be liable for actions of its employee irrespective of whether the latter works under the labor agreement or civil and legal agreement.

Another mandatory condition is failing to comply with requirements of regulatory documents the FFU by an employee during performing his / her duties. One can mention as an example cases, when the head coach of the football club offends the lead referee of the match using swear words.

Provisions on imposing certain types of disciplinary sanctions on football clubs and / or national associations for actions of fans shall be reviewed separately.

According to the general rule, the professional football club shall bear liability for actions of its fans. The scope of liability depends on the capacity in which the club configures itself at the time of holding the football match: the hosting club or the guest club. The hosting club, along with disciplinary liability, shall bear civil and legal, as well as criminal liability. This refers to the obligation of ensuring civil order, safety and complying with generally accepted rules of conduct by fans before, during and after the match in the stadium and the adjacent territory defined in the passport of the stadium [6]. The guest club shall bear liability for improper conduct of its fans; with that, it shall be obvious that misbehaving people are fans of this particular club. If the football match is on the neutral ground, then both professional clubs shall bear full liability for ensuring civil order, safety and complying with generally accepted rules of conduct by fans before, during and after the match in the stadium and the adjacent territory defined in the passport of the stadium [6].

In this case it refers to application of the principle of strict liability – the principle specified in the Principles of European Tort Law (PETL). Generally, it means that strict liability shall be imposed upon for causing damages as a result of carrying out activity that creates major hazard and all special aspects of such liability are envisaged by national laws and international treaties [14]. Actually, as a result of the influence of judicial practice of the Court of Arbitration for Sports (Lausanne), the principle of strict liability transformed in sport, as a result of which appeared the concept of imposing liability on people for actions of other people without existence of any guilt and/or causal link.

The liability of professional football clubs for actions of their fans by its legal nature is similar to the construction of civil legal liability without actual guilt. Issues of the possibility of existence of such liability are debatable in legal literature. Grounds for arising civil and legal liability shall be evidences of elements of an offence in actions of the respective persons, that is, the aggregate of the following elements: actual damages, unlawfulness, guilt and causal link between unlawful actions and adverse consequences. With that, for instance, special delicts may not contain all the components of the general one, however, the person who caused damages, or another person established by law, shall anyway bear liability. In opinion of certain scholars, cases of liability without guilt are varieties of special delicts [15, p. 9].

Imposition of the mandatory monetary contribution on clubs for actions of their fans is directed, first of all, at compensation for damages borne by the organizers of competitions. A vivid example of that burning fusees during the football match with further throwing them on the lawn of the stadium, which not only creates danger for participants of the sports competition, but also damages the football pitch.

The mechanism of bringing professional football clubs to liability in this case is envisaged by Disciplinary rules of the FFU. At present these issues are resolved by the disciplinary committee of the respective league, the member of which the football club is. After the respective resolution came into effect, the professional football club gets the right to refer to a court of general jurisdiction with a regress suit. Prohibition on referring to judicial authorities does not extend to these cases as spectators are not recognized as persons carrying out activity in the field of football or related to it. Moreover, analyzing the court practice one can come to the conclusion that professional football clubs in the majority of cases exercise their right to judicial protection. The chosen method of protection shall be compensation for material damages caused to the club by a fan.

Particularly, the resolution of the disciplinary committee ПІІ No 2 of 26.06.2012 (Cl.13.2) in the order of Clauses 3.1, 3.3 Art.11, Clauses 4, 6 ART.21 of the Rules of the All-Ukrainian Football Competitions among teams of clubs of the APFCU “Premier League” for 2012/2013 season imposed payment of the monetary contribution in the amount of 1,500 Hryvnias on the professional football club PJSC Football Club “Chornomorets” for the unauthorized appearance of the intruder in the play field of the stadium during the football match of 2012/2013 season “Chornomorets” (Odessa) – “Goverla” (Uzhgorod) [16].

PJSC Football Club “Chornomorets” fulfilled the above-mentioned resolution in full, after what it referred to the Primorskyi District Court of Odessa. By the resolution of 08.04.2013 claims of the club were satisfied. During consideration of the case, the court established the following grounds for applying the norms concerning collection of material damages:

- the guilt of the fan, who, disregarding the safety means available at the stadium, broke through the circle of stewards and security service overleaping the fence outlining the football pitch and ran to it, thus, having violated public order and rules of conduct in the stadium;
- the availability of the right of the plaintiff to refer to court, particularly, imposition on the football club by disciplinary authorities of sanctions consisting in payment of the monetary contribution in the amount of 1,500 UAH and the fact of payment of this amount in full by the club;
- causal link between actions of the fan and the fact of causing material damages to the club [17].

Substantiating reasons for the statement of claim to be satisfied, the court referred to the following norms:

– Art. 19 of Law of Ukraine “On specific features of ensuring civil order and public safety in view of preparation and holding football matches”, according to which persons not meeting requirements of laws on ensuring civil order and public safety in view of preparation and holding football matches, shall bear civil and legal liability;

– Art. 192 of the CC of Ukraine, as monetary funds, which were paid to the football club, are classified as property;

– Art. 139 of the EC of Ukraine, according to which a company carrying out commercial activity uses the property, one of components of which is money;

– Art. 1191 of the CC of Ukraine, according to which the person, who compensated for damage caused by another person, shall have the right of recourse (regress) against the guilty person in the amount of the paid compensation, unless another amount has been established by law [17].

So, the Primorskyi District Court of Odessa has clearly defined that the fan caused the football club property damage, and in view of that the football club got the right to file the statement of claim as a recourse after fulfillment of the resolution of the disciplinary body.

With that, at the time of consideration, the fan gave reasons for the need to refuse in satisfaction of the statement of claim saying that bodies of delivery of football justice, according to Disciplinary rules of the FFU, should have imposed the penalty on him directly. The court had a deep insight into the nature of legal relations between participants of the football match in this case.

Particularly, the court established as follows:

– bodies of delivering football justice have the right to impose sanctions only on the persons involved or working in football. Fans do not fall under this category, that is why regulatory and disciplinary documents of the FFU and the Premier League of Ukraine state that it is the football club, who bears liability for conduct of its fans during matches in the stadium irrespective of guilt/ absence of guilt of the football club [17];

– regulatory and disciplinary norms of the FFU, UEFA and FIFA for subjects of football establish respective rules regarding protection of their rights and lawful interests in disputes arising between subjects of football, which fans do not belong to. That is why neither the fan as the person, who is not the subject of football, can file the statement of claim to the authorities of delivering football justice, nor the authorities of delivering football justice can bring the fan to any liability for his/her unlawful actions as the authorities of delivering football justice do not have respective powers, nor the football club refer to the authorities of delivering football justice with any claims towards the fan, particularly, regarding compensation for damages caused by unlawful actions of the fan [17].

Imposing sanctions on the football club for actions of its fans, in our opinion, has stimulating purpose, and exercising the right to file the regress suit is aimed at obtaining compensation as club incurred respective damages.

Social relations arising in the field of professional football in respect to imposing liability mainly are based on voluntary assuming the imposed sanctions by offenders.

This is related to the threat of expelling an offender from among participants of football matches for like. This is characteristic of civil and legal liability. Particularly, O. S. Ioffe noted that the specifics of civil and legal liability is conditioned, among other things, by the possibility of voluntary compensation for damages by the offender herself/himself, without intrusion of judicial and other state authorities [18, c. 121–125].

Expelling from among participants of football competitions means not just deprivation of the right to attend football matches held in the territory of Ukraine, but also all international and European competitions held under the auspices of the FIFA and UEFA.

CONCLUSIONS

In the field of professional football both general types of liability (civil and legal, criminal, administrative and disciplinary), and special sports sanctions (particularly, forfeit defeat) are imposed. Relationships arising between participants of football matches, for the most part, are regulated by contractual and corporate norms. In view of that, norms of civil law are of great importance for the efficient protection of rights and interests of participants of such relations.

Having analyzed groups of sanctions imposed in professional football of Ukraine, we can make conclusion about their legal nature. The major role play measures of civil and legal liability, which includes sanctions provided for by disciplinary acts.

Particularly, such sanction as the “mandatory monetary contribution in the national currency”, by its legal nature, is equal to a forfeit in fixed amount. Payments shall be made in fixed amounts to be defined depending on the type of an offense (for instance, failing to make a payment envisaged by rules of the competition, or perform settlements with officials of the match shall entail a fine in the amount of 2, 000 UAH for clubs of major leagues). The author believes that it is not right to identify the above-mentioned sanction with penalties in their traditional interpretation by civil and legal laws.

According to requirements of disciplinary acts, football clubs shall bear liability for actions of their employees (football players, trainers, officials and the like) during performing duties by them. In such cases clubs shall pay the mandatory monetary contribution as regulated by general norms of civil and legal laws in the part of compensation by legal entities for damages caused by their employees. A professional football club, after payment of the mandatory contribution specified by disciplinary authorities in full, gets the right to file a regress suit against the employee regarding compensation for damages. One of the principles applied in team sports is the principle of strict liability, which means imposing on sports organizations liability for actions made by other persons.

Liability of professional football clubs for actions of their fans, by its legal nature, is similar to the construction of civil and legal liability without guilt. Imposition of the mandatory monetary contribution on clubs for actions of their fans is directed, first of all, at compensation for damages borne by the organizers of competitions.

The mechanism of bringing professional football clubs to liability in this case is envisaged by Disciplinary rules of the FFU. At present these issues are resolved by the disciplinary committee of the respective league, the member of which the football club is. After the resolution came into effect, the professional football club gets the right to file a regress suit to a court of general jurisdiction. Prohibition on referring to judicial authorities does not extend to these cases as spectators are not recognized as persons carrying out activity in the field of football or related to it. Moreover, analyzing the court practice one can come to a conclusion that professional football clubs, in the majority of cases, enjoy their right of judicial protection. The chosen method of protection is compensation for material damages caused by the fan to the club.

Social relations arising in the field of professional football in respect to imposing liability mainly are based on voluntary assuming the imposed sanctions by offenders. This is related to the threat of expelling an offender from among participants of football matches for like. This is characteristic of civil and legal liability.

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