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Spectators` “Blacklists” and Recovery of Damages by Football Clubs from Spectators for the Violation of Rules of Conduct: A Russian Experience

Introduction

Is the refusal to sell a football ticket to a certain person lawful? Is it possible to use the so-called “black lists” that are conducted by football clubs in relation to offenders at a sporting competition, regardless of whether the supporter was brought to administrative responsibility under Art. 20.31 of the Code of the Russian Federation on Administrative Offenses (hereinafter referred to as the Code of Administrative Offenses) or not? The urgency of this issue is caused, among other things, by the latest initiatives of Russian football clubs. There was news that FC Krasnodar had limited access to home games for six supporters due to a fight.¹ However, the unified and legalised way of regulating this issue at the level of the Russian Football Union (hereinafter referred to as RFU) or the Russian Premier League (hereinafter referred to as RPL) is not currently represented. Therefore, we are analysing the possibility of applying these measures to persons who violate the Rules of Conduct for spectators during football matches² (hereinafter referred to as the Rules of Conduct) by a football club, given that there are a number of problems with the identification of supporters, as well as with access to spectators` personal data. In addition, an important aspect when considering this issue is the legitimacy of establishing the proposed restrictions with respect to civil law, since the sale of football tickets services contract Art. 779 Civil Code of the Russian Federation (hereinafter referred to as the Civil Code), which has a public nature (Art. 426 Civil Code).

Thus, according to Art. 779 Civil Code, the contractor undertakes to provide the service, and the customer , to pay for it. The subject matter of the contract when buying football tickets is a direct opportunity to watch a football match from the places specified

1 Krasnodar FC supporters were banned for a year to attend home games after a fight with the supporters Anzhi FC, <<https://www.sports.ru/football/1050866272.html>>.

2 The Act of the Russian Government on 16.12.2013 No. 1156 “Rules of conduct for supporters at official sports competitions”.

in the ticket. Then, it is necessary to define the concept of “ticket sales”, which is contained in the Russian Statute, “On The Preparation for and Observance in the Russian Federation, the FIFA World Cup 2018 Year FIFA Confederations Cup 2017 Year and Amendments to Certain Statutes of the Russian Federation”: “The realization means sale, resale, distribution, dissemination, exchange, and use of associated or not associated with profit-making”. Thus, by declaring the refusal to sell a football ticket, as well as the ban on visiting matches, the football club refuses to conclude a public contract. The issue of rejection of a public contract is quite an important aspect in civil law since the very construction of a public contract implies the fulfillment of obligations in respect of everyone who applies for the service. It should be noted that the lawful rejection of a public contract is provided by Art. 426 (3) Civil Code and implies the actual impossibility of execution of such a contract. The rejection may also be due to circumstances beyond the control of the parties that led to this result. That, is evidenced by the case of the Izmailovo regional court³, in which the claimant was unable to get to the football match due to the fact that he had been denied in obtaining a visa. Referring to circumstances beyond the control of the parties, as well as Art. 781 (3) Civil Code, the court did not satisfy the claim, since there were no sufficient grounds for imposing liability on the defendant due to the absence of guilt. On the other hand, in the case related to the refusal to execute a public contract, considered by the Regional Court Primorsky (Saint Petersburg)⁴, the plaintiff’s claims were satisfied, since there was evidence of deliberate non-provision of tourist services.

As a general rule and in accordance with Art. 426 (2) Civil Code, the preference to any person, as well as unjustified refusal is not allowed. However, one should not forget about local acts of sports organisations, which can regulate the order of sports activities and internal relations in such organisations. So, at the sports stadium, there are rules of conduct governing security, ticket sales and passes to sports facilities. According to para. 17 of the Rules of Conduct⁵, organisers of official sports competitions are entitled to set additional requirements regarding the spectators’ conduct during official sports competitions. However, as we see it, this is an opportunity to directly complement only the rules of the supporters’ conduct, but not to individualise ticket sales and the provision of related services. These issues are in the sphere of civil law regulation; the establishment of such prohibitions may lead to the conflict-of-law *situation*.

³ The Decision of Izmailovo Regional Court.

⁴ The Decision of the Regional Court Primorsky of St. Petersburg Saint Petersburg on 4.08.2010 in case No. 2–3012/10.

⁵ Act of the Russian Government on 16.12.2013 No. 1156 “Rules of conduct for supporters at official sports competitions”.

Spectators' "Blacklists"

During the establishment of bans on selling football tickets by a sports organisation (football club), several problems may arise. First, the formation of "blacklists" implies the identification of the spectator purchasing the ticket. However, according to para. 21.9 of the Regulations of the Russian Premier League, season 2018–2019, it is not required to present an identity document when buying a ticket for a football match of the Russian Premier League⁶: "the organizer of the Match at active support sectors (and / or on any other sectors of the Stadium) is obliged to ensure phased input viewer identification on identity documents when selling and/or controlling tickets, passes or invitations using a PL spectator identification system, having held at least three test matches in the 2018–2019 season". Thus, the clubs participating in the Premier League are obliged to identify spectators only in active support sectors during at least three matches. In other matches, the identification of viewers on identity documents, even at active support sectors, is not a compulsory procedure for clubs. Therefore, it is difficult for football clubs to identify supporters who are on the "blacklist", given that they have no right to demand a passport when selling a ticket. For example, according to para. 2.1 and 2.2 of the Rules of Season Ticket and Ticket Sales to the Matches of FC ZENIT⁷, tickets to the club's home matches are sold without an identity card, while tickets to the away matches of the main team are sold only if identity card is presented. However, a necessary ground for the refusal to sell a ticket is the presence of a court decision on an administrative offense case confirming the violation of the Rules of Conduct, as well as the imposition of a sanction in the form of a ban on visiting official sports competitions (Art. 20.31 Code of Administrative Offenses).

Para. 2.1 of the Rules of Season Ticket and Ticket Sales to the Matches of FC ZENIT determines that "tickets for FC ZENIT home matches are sold without presenting an identity card", and para. 2.2 requires the supporter to present an identity document for purchasing tickets to away matches of the main team of FC ZENIT.⁸ The procedure used to purchase tickets for away matches undoubtedly alleviates the problem of identifying viewers when committing offenses, and helps to identify the fan-offenders when they buy a ticket for a football match.

Based on the above, it can be concluded that the use of a ban on visiting matches ("blacklists") as a way of influencing supporters' illegal behaviour has a narrow application, as one of the sanctions imposed by Art. 20.31 Code of Administrative Offenses: "Violation of spectator behaviour rules during official sports competitions". Thus, the

6 The Regulations of Russian Premier League, season 2018–2019, <https://premierliga.ru/net-cat_files/86/58/Reglament_RPL_2018_2019.pdf>.

7 The Rules of Season Ticket and Ticket Sales to the Matches of FC ZENIT, <<http://tickets.fc-zenit.ru/info/tickets/football/rules>>.

8 *Ibidem*.

ban can be implemented only through a court decision on an administrative offense case, limiting the audience's right to attend all official sporting events, not just the matches of a specific football club for a specified period. According to Art. 20.31 Code of Administrative Offenses, the maximum term of the ban is 7 years. However, as can be seen from the overview of law enforcement practice, this sanction is additional to the main punishment and, if not related to gross violation of the rules of spectator behaviour during official sports competitions, on average, is 6 months.⁹ An exception is an offence prescribed in Art. 20.31 (3) Code of Administrative Offenses, the sanctions for which were tightened due to the introduction of the composition of "gross violation of the rules of spectators' conduct during official sports competitions". Thus, judicial practice demonstrates that for a gross violation of the rules of conduct, the period of a ban on visiting official sports competitions is 5 years or more.¹⁰

In addition, para. 16 (c) of the Rules of Ensuring Security during Official Sporting Events¹¹ gives the organisers binding powers, including non-admission offenders to competition venues in respect of whom the court order for administrative prohibition has come into force. Based on this, the organisers have the right to refuse to implement the service, despite the fact that a viewer has a ticket or a pass, referring to a court decision.¹² At the same time, there is also a question of control by the organiser: how to identify the offender when purchasing a ticket to the club's home games if there is no requirement to present an identity document? Moreover, anyone can purchase more than one ticket to home games¹³ and give them away to persons for whom a court order for administrative prohibition has come into force. As for the refusal without such a ground as an administrative prohibition, then the legality of the actions of the football match organiser raises questions. In addition, para. 19 of the Rules of ensuring security during official sporting imposes several responsibilities on the organisers of the competition, including establishing access control and intra-object regimes in the venues during

9 The Decision of the 5th Judicial District of the Novosibirsk Judicial District in case No. 5-410-2015; The decision of the Judicial District of the Kirovsky Judicial District on 15.10.2014 in case No. 5-385/2014; The decision of the Kolpinsky District Court of St. Petersburg on 04.25.2017 in case No. 5-129/2017; The decision of the Petrograd district court of St. Petersburg on 06.21.2017 in case No. 5-363/17.

10 The decision of the Central District Court of the City of Tula on 21.05.2017 in case No. 5-193/2017.

11 Act of the Russian Government on 18.04.2014 No. 353 "On Approval of the Rules for Ensuring Safety during Official Sports Competitions".

12 In addition, this will be consistent with Art. 426 (3) of the Civil Code of the Russian Federation, according to which the refusal to execute a public contract will be legal with a justified evasion of a person to execute it.

13 For example, para. 2.1 of the Rules of Season Ticket and Ticket Sales to the Matches of FC ZENIT: one spectator can purchase up to 5 tickets to home games of the club without identification.

the competitions, as well as controlling the presence of entrance tickets for viewers. A strict reading of this provision stipulates that the only reason for the refusal of a pass to a football match is the lack of an admission ticket. There are no other formal grounds in the process of access control for the denial of admission to a sporting event.

What is the reason for the freedom that determines the decisions of football clubs and football associations to use the "blacklist" of supporters? Often, this is due to the specifics of the formation of football clubs and associations and their activities.¹⁴ For example, in England, clubs operating based on a statute are granted considerable freedom regarding their internal organisation. Such statutes govern those matters that are not covered by legislation and common law. The football club, along with the national association, has a similar structure, but unlike the latter, it is formed as a joint stock company. It should be noted that since England belongs to the common law countries, the powers of sports organisations are quite large, given that they are limited by general principles established by law. For example, the actions of associations are recognised as illegal only in the absence of insignificant circumstances (in fact, when it is impossible to establish the low significance of violation).¹⁵ In addition, the most important principle of common law is the requirement of compliance with the principle of proportionality, which sports organisations, including football clubs and associations, must adhere to.¹⁶ And in general, if one pays attention to FIFA and UEFA as associations created in Swiss jurisdiction, their status reasonably causes a wide discretion both in establishing regulatory standards and holding accountable their members: national associations, clubs, and football players. This position has been formulated and consistently confirmed by the Court of Arbitration for Sport (CAS).¹⁷ National associations, which are members of FIFA and UEFA, but registered as legal entities in other states, have a different status; they are subject to the rules of other legal orders. Therefore, the regulation of FIFA and UEFA that does not interfere with the prosecution of supporters with the use of bans on visiting matches is applied until it is regulated by the national law of a particular state, in whose jurisdiction a club is registered and a specific sporting event is held.

Accordingly, we can make a conclusion about the limits of the use of football clubs' sanctions in relation to their fans: the possibility of applying the ban on visiting matches of a certain club is based on the freedom of activities of such organisations, taking into account the general principles of law, but within the established rules, including national legal order. A certain autonomy of the football club as a legal entity is also present within the framework of the civil law of the Russian Federation, which provides for disposi-

14 R. van Kleef, *The legal status of disciplinary regulations in sport*, "The International Sports Law Journal" 2014, Vol. 14, Issue 1–2, pp. 24–45.

15 *Bradley v Jockey Club* 2004 EWHC Civ 2164 QB, para 43.

16 *Enderby Town Football Club Ltd v The Football Association Ltd* 1971, 1 Ch. 591.

17 CAS 98/208 N, J, Y, W v. FINA; CAS 2005/C/976&986 FIFA & WADA.

tive nature of civil relations. So, according to Art. 1 Civil Code, citizens (individuals) and legal entities acquire and exercise civil rights on their own will and in their interest. They are free to establish their rights and obligations based on a contract and to determine any conditions of the contract that do not contradict the law.

An obstacle in the implementation of the ban for fans to attend matches is, as mentioned earlier, the construction of a public contract. In such a situation, the club clearly goes beyond the limits established by the legislator, which is unacceptable from the perspective of any legal order, regardless of the particular state.

It should be noted that there is a significant difference between the structures of public contracts in the Russian Federation and in foreign countries. Both are aimed directly at protecting a weaker party in legal relations, but in foreign countries there is emphasis on the terms of the contract. In the Russian Federation consumer rights are protected by the Federal Law on Protection of Consumer Rights¹⁸, which stipulates the terms of contracts, rights and obligations of consumers and manufacturers, as well as the procedure for protecting consumers' rights in case of a violation of their duties by the performing party. The construction of the public contract has a clear statement about the provision of services in respect of everyone who applies for the service or goods. In this regard, in foreign countries, the ban on the sale of football tickets to a person who applied for such a service may be considered unfair or not meeting the general principles of consumer protection. However, such a decision will be ambiguous from the perspective of judicial review because of a specified wording of the "compulsory contract" and self-regulation that has become firmly established in the foreign legal order - the breadth of lawmaking of national football associations and clubs.

Recovery of Damages by Football Clubs from Spectators for the Violation of Rules of Conduct

One of the manifestations of the football clubs' self-regulation to counteract supporters' illegal behaviour is the possibility of bringing civil suits against persons who violate the rules of spectator behaviour.

In Russia, football clubs are held accountable under disciplinary rules for the supporter behaviour irrespective of fault.¹⁹ The clubs themselves lack the means to deal with the illegal behaviour of fans. It makes it difficult to increase the efficiency of organizing sporting

18 The Statute of the Russian Federation No. 2300-1 of February 7, 1992 "On Consumer Rights Protection".

19 The Disciplinary Regulations of the Russian Football Union.

events. In addition, property losses of clubs²⁰ arising from spectators' wrongdoings lead to such a method of protecting rights as damages. It should be noted that this civil law institution not only performs the function of restoring the property status of a football club, but also carries out general and private prevention among fans, since the fine amount when attracting a fan under Art. 20.31 of the Code of Administrative Offenses is insignificant in comparison with those established for the clubs by the Disciplinary Regulations of the Russian Football Union (hereinafter – the RFU).²¹

Considering such claims, the courts often refuse to meet the requirements, motivating this refusal not only by the lack of a causal connection, but also by a different legal nature of football clubs' sanctions for the behaviour of fans and damages (direct actual damage), called in the norms of Art. 15 of the Civil Code. As a result, it seems necessary to consider Russian judicial practice examples.

The applicant clubs, first, refer to attracting the spectator of a football match to administrative responsibility under Art. 20.31 of the Code of Administrative Offenses, which confirms the violation of the rules of conduct by the fan. However, the fact of bringing the viewer to responsibility under this article of the code cannot serve as an unconditional, prejudicial basis for satisfying the claim presented to the fan to compensate the club for the fine imposed by the decision of the RFU jurisdiction authority.²² This is explained by the fact that, along with the illegal behaviour of the fan, the reason for the RFU to impose a fine on a football club can be the failure to take the necessary measures when organising and holding a sporting event by the organisers (competition and (or) match) and the illegal behaviour of other people who were at the stadium.

Referring to the Russian law enforcement practice of football clubs bringing civil suits to persons who violated the rules of spectator behaviour, the following trends can be pointed out. In the decision of the Lyubertsy District Court²³, the refusal to meet the requirements of FC Spartak-Moscow was motivated by the fact that the losses did not occur as a result of a violation of the rules of conduct by one fan, but as a result of a set of offenses that occurred during the match. In this case, in addition to the fan running out on the field, the report of the RFU inspector of the match established the use of pyrotechnics, demonstration of improper banners, as well as mass riots occurring at the stadium. Considering the

20 As the inherent consequences of the application of various sports (disciplinary) sanctions, ranging from a fine and ending with a match without spectators.

21 Disciplinary regulations of the Russian Football Union.

22 The Decision of the Lyubertsy District Court on 17.02.2014, the fan was brought to administrative responsibility under Art. 20.31 of the Administrative Offences Code, and in the case of the Leninsky district court of Vladimir on 06.06.2014 in case No. 2–1362/2014 the fan was not brought to administrative responsibility. However, in both cases, the court did not satisfy the requirements of the football clubs for the lack of a causal connection.

23 The Decision of the Lyubertsy District Court on 17.02.2014.

appeal, the Moscow Regional Court²⁴ agreed with the decision of the first instance and indicated that there was no causal link, because in the resolution part of the decision the Control and Disciplinary Committee of the Russian Football Union (hereinafter referred to as RFU CDC) specifically refers to the offense committed by the defendant (viewer) is not contained. Since the RFU CDC did not associate the imposition of a disciplinary responsibility with a specific offense and personally with the defendant-fan, a causal connection cannot take place in this case. It is interesting to note that FC Spartak-Moscow filed lawsuits against other fans who violated the rules of conduct for this match, but the result of their consideration was similar. Another example is the case considered by the Leninsky District Court of Vladimir²⁵, in which the applicant claimed damages from a fan who displayed a racist banner. However, the requirements of the football club were also not satisfied and motivated by a court in the same way - the lack of a causal link between the illegal behaviour of the fan and the losses incurred by the club.

In addition, the resulting losses may be associated not only with the imposition of a fine by RFU CDC, but also with a number of other reasons, one of which, for example, is the holding of the match without spectators (which is one of the sanctions applied by the RFS CDC in relation to clubs) and, as a consequence, not the sale of tickets. For example, in the decision of the Lyubertsy District Court²⁶, it was noted that the football club was prosecuted in the form of a fine and holding the next two home matches without spectators, but mainly the club's losses were due to matches without spectators, since the sale of tickets became impossible. However, in this case the court did not establish any evidence of a causal link between the losses claimed by the club and the actions of the defendant-fan.

In the decision of the Soviet District Court of Tula²⁷, the law enforcer also did not establish the existence of a causal link between the single offense and the losses incurred by the club, which the court associated with the decision of the RFU CDC. However, such an understanding by the court of a causal relationship does not seem to us true because, firstly, the CDC's sanction was imposed directly on the fans' violation of the rules of conduct and, secondly, such a violation, in this case, was the only basis for bringing the club to responsibility.

Proof of the existence of a causal relationship allows the law enforcement authority to take the opposite position. Thus, considering the appeal, the Tula regional court²⁸ concluded that the losses incurred by the football club as a result of the decision of the RFU CDC were directly due to the unlawful actions of one fan and other violations during the

24 The decision of the Moscow Regional Court in the case No. 33-10571/2014.

25 The Decision of the Leninsky District Court of Vladimir on 06.06.2014 in case No. 2-1362/2014.

26 The Decision of the Lyubertsy City Court of the Moscow Region on 17.02.2014.

27 The Decision of the Soviet District Court of Tula on 01.22.2015 in case No. 2-2656/2014.

28 The Decision of the Tula Regional Court on 04.16.2015 in case No. 33-993.

match, as a result, the judgment at first instance was canceled and the requirements of the football club were partially satisfied. At the same time, the Tula regional court emphasised: the fact that the decision of the RFU CDC on the application of sanctions was not appealed by the club cannot be considered as an admission of guilt of the football club for the offense of the fan.

It is worth noting that in generalised decisions, the courts do not follow a uniform practice with regard to determining the legal nature of damages. Thus, the decision of the Tula Regional Court²⁹ allowed the football club to incur losses for the football club in connection with the illegal behaviour of the fan under a number of conditions: (1) the presentation of evidence of illegal behaviour of the viewer, (2) the presence of a direct causal link between the violation of the fan and the club arising losses from the decision of the RFU CDC, (3) the absence of other offenses at the match (that means that one person committed a single violation). The Leningrad Regional Court³⁰ adheres to a different point of view: considering the appeal of FC Zenit to a fan, the court relied on the impossibility of recovering damages due to the different legal nature of the relationship. The penalty that was paid by the football club does not constitute a composition of damages in the sense of Art. 15 of the Civil Code, and cannot be attributed to the direct actual damage, since it is a measure of liability for legal entities guilty of violating the existing rules. In this case, the fine imposed on the club is a type of responsibility for disciplinary offenses, the subject of which is the club itself. Based on such ideas, any negative consequences arising from decisions of the jurisdictional bodies of sports organisations (for example, the RFU CDC), that is, fines imposed on clubs, cannot be recognised as losses.

In our opinion, this interpretation of the norms of civil law, presented by the Leningrad Regional Court should not serve as the only and determining development of practice in such disputes, since the lack of possibility of collection of damages by football clubs as subjects of civil law relations leads to a narrowing of the methods of combating unlawful the behaviour of fans, and also prevents the clubs from restoring their property status. In this regard, it can be assumed that the use of sports (disciplinary) sanctions against a football club should be considered only as evidence of the occurrence of damages, namely as an integral element of civil wrongdoing.³¹ Thus, if the viewer's guilt and wrongfulness of his behaviour can be proved in the presence of a court decision in the case of an administrative offense (Art. 20.31 of the Code of Administrative Offenses), then in a situation where the fan was not brought to justice under Art. 20.31 of the Code of Administrative Offenses

²⁹ The Decision of the Tula Regional Court on 04.16.2015 in case No. 33–993.

³⁰ The Decision of the Leningrad Regional Court on 18.05.2016 in case No. 33–2582/2016.

³¹ The composition of a civil offense, along with the presence of negative consequences in the property sphere of the creditor, includes: the wrongfulness of the behaviour of the causer of harm, the causal relationship between the unlawful behaviour of the causer of harm and negative property consequences, the guilt of the causer of harm.

and there is only a decision of the RFU CDC on the responsibility of the club for the behaviour of this fan, the chances of receiving a positive decision on the recovery of losses by the club, as we believe, tend to zero. The basis for attracting the club to sports (disciplinary) responsibility is the behaviour of the fan, considered in the provisions of the Disciplinary Regulations of the RFU, which is a local legal act of the sports organisation applied to its members. The context of the regulation indicates only the misconduct of the club, expressed in the actions of the audience, and for obvious reasons does not regulate the responsibility of the fans themselves as persons who are not members of the RFU. The decision of the RFU on bringing the club to responsibility for the behaviour of the fan cannot be regarded as the fulfillment of such an element of a civil offense as proof of the wrongfulness of the behaviour of the injurer, unlike the decision on the case of an administrative offense Art. 20.31 of the Code of Administrative Offenses.

The third element of a civil offense, consisting in negative property consequences, is proved easier, since the imposition of a fine on the club by the decision of the RFU CDC creates these adverse consequences (although the Leningrad Regional Court, as we noted earlier, does not agree with this conclusion).³²

The fourth element (the causal relationship between illegal behaviour and civil damage) seems to us to be real only if there are a combination of the following signs: (1) the only illegal act, made by one spectator, (2) this action and the person who committed it is properly recorded (for example, official RFU report, videotape), (3) a penalty or another sanction was applied to the club by the RFU CDC or another sanction with a civil damage (closure of the sector, sectors stadium or holding a game without spectators), the spectator who committed the act was identified in the decision of the committee, (4) the method of fixing the behaviour and identifying the perpetrator was recognised by the court as evidence when considering the issue of the spectator's liability under Art. 20.31 of the Code of Administrative Offenses. As we can see from the law enforcement practice considered by us, the absence of at least one of the listed signs prevents the court from making a decision on collecting from the viewer the amount of damages caused to the club as a result of a penalty imposed by the RFU CDC.

Concluding Remarks

Having considered the issue of local prohibition (“blacklists”) of football clubs to attend matches and the prospects for collecting damages from the audience, we can draw the following conclusions.

³² The Decision of the Leningrad Regional Court on 18.05.2016 in case No. 33–2582/2016.

First, a local ban on attending football matches can act as a measure to combat illegal spectator behaviour, thereby complementing the administrative responsibility of the viewers. However, the pursuit of the goal of ensuring the safety of the audience present should not be carried out through private legal instruments in the presence of the obligations of the organiser of the match (competition), as well as law enforcement agencies. The implementation of a ban on the sale of tickets for a football match by clubs in Russian law is not possible due to the direct instructions of Art. 426 of the Civil Code and the general principles of civil law. In addition, the ban, using the measures of current legislation, is rather difficult to implement, assuming that the sale of tickets (with the exception of tickets for guest matches and season tickets) is currently being carried out without presenting an identity document. In this regard, the experience of introducing a uniform identification RPL fans system using ticket sales and ticket control on the basis of an identity document is very interesting.

The rules of conduct of spectators during the official sports competitions in the current edition do not provide verification of the identity of fans at the entrance to the stadium, which also complicates the identification of "blacklist" spectators. Implementation of the identification system can meet difficulties from the position of legal assessment of compliance with the regulations on the obligation of clubs to sell tickets and exercise control of tickets on the basis of an identity document. We assume that the integration of the audience identification system is a prerequisite for making changes in the legislative regulation and the legalisation of the institution of "blacklists".

Secondly, the right of football clubs to establish local bans depends on a number of reasons (from the specific features of the internal organisation of football clubs as subjects of civil law, to the national regulation of the latter). Due to some discrepancies in the design of public and "coercive" contracts, the possibilities of Russian football clubs are limited, since the existence of direct prohibitions on the refusal to execute a public contract is reinforced by the established judicial practice. At the same time, the provision of legal instruments to football clubs in matters of influencing their fans may be motivated by the need of such organisations for autonomy and self-regulation, which is typical of civil law entities both in the Russian Federation and in other legal orders. In connection with the latter, we can refer to the example of Swiss law, the scope of which includes the overwhelming number of sports organisations having the organisational and legal form of associations (FIFA, UEFA). However, it must be borne in mind that in such a case, the focus on the experience of Switzerland regulating the rights of associations will require significant changes in the legislation of the Russian Federation.

Thirdly, the practice of presenting civil lawsuits of football clubs to fans, as one of the few legal instruments in the Russian legislation available to clubs for the prevention of unlawful behaviour of spectators, is currently not common. There are no uniform approaches to resolving such disputes and consistently positive practices for clubs: how-

ever, the validity of some decisions, as we pointed out, can be reasonably criticised. At the same time, we believe that the formation of the practice of satisfying club civil suits against fans for recovery from recent losses is a necessary part of the activities of football clubs as manifestations of their field of self-regulation. This practice can lead to an increase in the effectiveness of methods to combat the illegal behaviour of fans, as well as increase the chances of football clubs to restore their property status.

Fourthly, the definition of causation is a key problem in the consideration of disputes on the compensation of losses to the club caused by the decision of the CDC of the RFU on the imposition of a fine. In each decision of the courts of the first instance, the causal link was denied due to the presence of sports (disciplinary) responsibility of football clubs. It should be noted that the guilt of football clubs in the framework of bringing to sports (disciplinary) responsibility was not questioned in the presentation of civil lawsuits against fans. It seems the correct position of the court in the satisfaction of such claims when the football club is charged with sports (disciplinary) responsibility for a specific offense of the fan, confirmed by bringing the offender to administrative responsibility under Art. 20.31 of the Code of Administrative Offenses. In such cases, the composition of the civil offense may be motivated by the following: (1) there is a wrongfulness of behaviour, (2) the fault of the fan, (3) there is a causal relationship, (4) civil damage can be proved by referring to the decisions of the CDC RFU.

Literature

- R. van Kleef, *The legal status of disciplinary regulations in sport*, "The International Sports Law Journal" 2014, Vol. 14, Issue 1–2.
- Krasnodar FC supporters were banned for a year to attend home games after a fight with the supporters Anzhi FC, <<https://www.sports.ru/football/1050866272.html>>.
- The Decision of the Regional Court Primorsky of St. Petersburg Saint Petersburg on 4.08.2010 in case No. 2–3012/10.
- The Regulations of Russian Premier League, season 2018–2019, <https://premierliga.ru/netcat_files/86/58/Reglament_RPL_2018_2019.pdf>.
- The Rules of Season Ticket and Ticket Sales to the Matches of FC ZENIT, <<http://tickets.fc-zenit.ru/info/tickets/football/rules>>.
- The Decision of the 5th Judicial District of the Novosibirsk Judicial District in case No. 5–410–2015; The decision of the Judicial District of the Kirovsky Judicial District on 15.10.2014 in case No. 5–385/2014; The decision of the Kolpinsky District Court of St. Petersburg on 04.25.2017 in case No. 5–129/2017; The decision of the Petrograd district court of St. Petersburg on 06.21.2017 in case No. 5–363/17.

The decision of the Central District Court of the City of Tula on 21.05.2017 in case No. 5–193/2017.

In addition, this will be consistent with Art. 426 (3) of the Civil Code of the Russian Federation, according to which the refusal to execute a public contract will be legal with a justified evasion of a person to execute it.

Bradley v Jockey Club 2004 EWHC Civ 2164 QB, para 43.

Enderby Town Football Club Ltd v The Football Association Ltd 1971, 1 Ch. 591.

CAS 98/208 N, J, Y, W v. FINA; CAS 2005/C/976&986 FIFA & WADA.

The Disciplinary Regulations of the Russian Football Union.

As the inherent consequences of the application of various sports (disciplinary) sanctions, ranging from a fine and ending with a match without spectators.

Disciplinary regulations of the Russian Football Union.

The decision of the Moscow Regional Court in the case No. 33–10571/2014.

The Decision of the Lyubertsy City Court of the Moscow Region on 17.02.2014.

The composition of a civil offense, along with the presence of negative consequences in the property sphere of the creditor, includes: the wrongfulness of the behaviour of the causer of harm, the causal relationship between the unlawful behaviour of the causer of harm and negative property consequences, the guilt of the causer of harm.

The Statute of the Russian Federation No. 2300–1 of February 7, 1992 “On Consumer Rights Protection”.

The Act of the Russian Government on 16.12.2013 No. 1156 “Rules of conduct for supporters at official sports competitions”.

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The Decision of the Lyubertsy District Court on 17.02.2014, the fan was brought to administrative responsibility under Art. 20.31 of the Administrative Offences Code, and in the case of the Leninsky district court of Vladimir on 06.06.2014 in case No. 2–1362/2014 the fan was not brought to administrative responsibility. However, in both cases, the court did not satisfy the requirements of the football clubs for the lack of a causal connection.

The Decision of the Lyubertsy District Court on 17.02.2014.

Act of the Russian Government on 18.04.2014 No. 353 “On Approval of the Rules for Ensuring Safety during Official Sports Competitions”.

The Decision of the Soviet District Court of Tula on 01.22.2015 in case No. 2–2656/2014.

The Decision of the Tula Regional Court on 04.16.2015 in case No. 33–993.

The Decision of the Tula Regional Court on 04.16.2015 in case No. 33–993.

The Decision of the Leningrad Regional Court on 18.05.2016 in case No. 33–2582/2016.

The Decision of the Leningrad Regional Court on 18.05.2016 in case No. 33–2582/2016.

For example, para. 2.1 of the Rules of Season Ticket and Ticket Sales to the Matches of FC ZENIT: one spectator can purchase up to 5 tickets to home games of the club without identification.

The Decision of the Leninsky District Court of Vladimir on 06.06.2014 in case No. 2–1362/2014.

SUMMARY

Spectators' "BlackLists" and Recovery of Damages by Football Clubs from Spectators for the Violation of the Rules of Conduct: A Russian Experience

The right of football clubs to establish local bans (the so-called "blacklists") depends on a number of reasons. A local ban on visiting football matches can act as a measure to combat the unlawful behaviour of viewers, thus complementing the administrative responsibility of the spectators. In Russian law it is not possible to impose a ban on the sale of tickets to football matches by football clubs. The current wording of the rules of spectators' behaviour during official sporting events does not, by default, allow supporter identity checks when entering the stadium. That also complicates the identification of spectators for being on the "blacklist". The practice of civil suits brought by football clubs against supporters, as one of the few legal tools to influence supporters, is currently not widespread. As a result, there are no uniform approaches to resolve these disputes: the courts motivate refusals by various arguments, the validity of which can be reasonably criticised.

Keywords: football matches; illegal behaviour of supporters; responsibility of clubs for the supporters' behaviour; blacklists; recovery of damages from supporters.

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