

Review Article

CRIMINAL LIABILITY FOR THE USE OF PERFORMANCE-ENHANCING DRUGS IN SPORTS: A COMPARATIVE AND ANALYTICAL STUDY UNDER INTERNATIONAL AND MIDDLE EASTERN CRIMINAL LAW

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ABSTRACT

Background: This research aims to examine the phenomenon of widespread use of performance-enhancing drugs (PEDs) in sports and the methods for combating it on both international and national levels. Internationally, this entails the efforts of organisations and agencies dedicated to sports, while at the national level, it involves the implementation of legislation, enforcement of penalties, and the translation of international recommendations, warnings, and jurisdictional matters to resolve disputes effectively. The study addresses the adequacy of traditional criminal provisions to curb the misuse of PEDs in sports competitions and the legal characterisations of such activities.

Methods: The research employs several scientific methodologies: the descriptive method to define the phenomenon, its nature, and various aspects, highlighting its adverse dimensions and health risks to athletes; the analytical method to review legal opinions and international and national laws criminalising the use of PEDs, including judicial rulings; and the comparative method to analyse the approaches of Arab and foreign laws in addressing this issue and their alignment with international recommendations and general legal frameworks.

Results and Conclusions: The research concludes with findings and recommendations emphasising the need to combat this phenomenon and limit its effects. It found that the lack of specific laws addressing doping, especially among minor athletes, contributes to its proliferation and blurs the lines between doping and the use of narcotic substances. The research further recommends enhancing penalties for those involved in the production, administration, and prescription of doping substances, alongside establishing clear legal provisions to ensure accountability and effective deterrence.

1 INTRODUCTION

Sports are significant on psychological, mental, and physical levels. Since ancient times, they have been integral to human societies, serving as a means to maintain health and enhance the efficiency of the human body's systems. Recognised as vital contributors to society, sports also play a crucial role in fostering peace among nations across continents. The significance of this topic stems from the central role sports play in human society, functioning both as a material and moral pillar of the social system. In today's world, it is nearly impossible to envision a human society without a sports entity representing it in various athletic activities. Sports also bolster the political system, acting as a soft power to strengthen relationships between countries. They support intellectual and cultural exchange by serving as a tool for communication and acquaintance among nations. Additionally, they play a crucial role in promoting cultural awareness by enabling exposure to different cultures through tournaments held across the globe. Furthermore, sports are a cornerstone of the economic system, as they have become a source of income for both nations and individuals.

Performance-enhancing drugs (PEDs) differ from recreational drugs and alcohol in their specific psychological, mental, and physical effects; though they share some chemical and addictive properties.¹ Performance-enhancing drugs are divided into pharmaceutical stimulants and synthetic stimulants.

Stimulants, such as amphetamines, enhance physical and mental performance by targeting the central nervous system. However, their use is associated with severe side effects such as fatigue and cardiovascular damage. Sedatives and narcotics, such as morphine and oxycodone, reduce pain and induce relaxation, making them popular in combat sports, but they pose significant risks, such as respiratory depression and addiction. Synthetic stimulants like blood and diuretics offer alternative approaches to improve athletic performance. Blood stimulants raise the body's oxygen capacity by re-pumping stored blood. At the same time, diuretics are used for fast weight loss or to mitigate the effects of banned substances in drug tests. While these stimulants may offer short-term performance benefits, their widespread use undermines fair competition and poses significant health risks.

With the advent of professional sports² and intensified competition, the use of performance-enhancing drugs has become prevalent. While this phenomenon has historical roots,³ it has evolved with the internet serving as a platform for distributing these substances. This issue

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- 1 Abdullah Dhiyan Al-Anzi, *Sports Doping: Between Permissibility and Criminalization* (Dar Al-Jami'a Al-Jadida 2014) 99.
 - 2 Mohammed Labban, 'Combating Sports Doping in Algerian Law' (2024) 9(1) Algerian Journal of Law and Political Science 110.
 - 3 Nidal Yassin Al-Abadi, *Sports Doping: From the Criminal Permissibility Rule to the Law of Sports Crimes: An Analytical Study* (Dar Al-Kutub Al-Qanuniyya 2012) 45.

is not limited to developed nations but also affects developing countries due to the severe health and life risks⁴ associated with performance-enhancing drugs (PEDs).

The widespread prevalence of this phenomenon can be attributed to several factors, primarily the belief held by many athletes in various sports that the use of performance-enhancing drugs rapidly and effectively improves their athletic performance and secures victory in sports competitions. This, in turn, provides them with substantial financial returns and numerous temptations that may be difficult to resist.

It is incontestable that this has driven many athletes worldwide, across all sports disciplines, to pursue their desire for immense financial gains by achieving victories in competitions or championships. To that end, they resort to performance-enhancing drugs to increase their physical and psychological strength and fitness. However, this behaviour deviates from the ultimate purpose of engaging in sports and the honour of fair competition.

The research problem lies in the efforts to curb the use of PEDs in sports through a multi-level approach and diverse legal instruments. Many countries have implemented punitive legislation to address this issue at local, regional, and international levels, aiming to determine criminal responsibility for PED use among athletes. Therefore, the study seeks to answer the following questions: Are existing legal provisions sufficient to criminalise and penalise PED users in sports? What preventive measures are necessary to limit their spread?

This paper aims to evaluate the adequacy of comparative criminal laws in addressing PED-related activities in sports and the mechanisms of sports arbitration in these cases. It also aims to clarify the differences in national legal frameworks regarding their alignment with international recommendations.

To achieve this, the research employs the descriptive method to explore the phenomenon and its legal nature, the analytical method to examine its negative impacts and the international efforts to combat it, and the comparative method to study legal models from Egypt, the UAE, Kuwait, Algeria, and European countries such as France and Belgium that have tackled this issue through diverse approaches.

Based on the adopted methodology, the research is divided into several sections, each dedicated to a specific aspect of the study:

- i. Defines performance-enhancing drugs (PEDs)
- ii. Explores the International legal mechanisms dedicated to combating doping
- iii. Examines the Criminalization of Doping and Athletes' Responsibility
- iv. Discusses the scope of criminal liability and dispute resolution mechanisms.

4 Ahmad Saad Ahmad (Al-Dafraw), *Criminal Liability for the Use of Performance-Enhancing Drugs in Sports and Their Impacts in Jordanian and Iraqi Law: A Comparative Study* (Dar Amman 2015) 51.

2 METHODOLOGIES

This paper employs multiple methodologies to examine the use of performance-enhancing drugs (PEDs) in sports, their legal implications, and national and international efforts to combat their use.

The descriptive method involves defining the phenomenon of PED use in sports, outlining its nature and various aspects, describing the negative dimensions and health risks associated with PEDs, providing a comprehensive overview of the phenomenon, and shedding light on its complexity.

The analytical method includes analysing various judicial rulings and the effectiveness of existing legal frameworks in preventing the misuse of PEDs. It also involves evaluating the consistency of these frameworks with international standards and identifying any gaps or inconsistencies. To review legal opinions and international and national laws criminalising the use of PEDs, the study examines the historical evolution of these laws and their practical application in different jurisdictions.

The comparative method compares the legal frameworks of various countries, including Egypt, the UAE, Kuwait, Algeria, and European nations such as France and Belgium, to understand the differences in legal mechanisms and their effectiveness in combating PED use in sports. By selecting countries participating in international anti-doping mechanisms, such as the International Convention against Doping in Sport, the study assesses the extent to which national laws are consistent with global anti-doping standards. In addition, the analysis incorporates early anti-doping laws in France alongside more recent regulatory frameworks in Kuwait and the UAE, providing a comprehensive overview of the progress of anti-doping legislation.

The study comprehensively analyses the subject matter using a range of primary and secondary resources, including legal texts, judicial rulings, international conventions, and academic literature.

3 THE NATURE OF PERFORMANCE-ENHANCING DRUGS IN SPORTS

To understand the concept of performance-enhancing drugs (PED) use, it is necessary to first define PEDs within the context of sports. Historically, the term "Dop" was used in ancient societies to describe a stimulant-containing drink or liquid.⁵ The word "doping" first appeared in the English lexicon in 1889⁶ and gained widespread prominence by 1933, in general and specialised dictionaries, including sports dictionaries like the *Beckmann Sports*

5 Al-Abadi (n 3) 13.

6 Ahmed Abdel-Lah Al-Maraghi, *Sports Criminal Law* (Center for Arab Studies 2020) 89.

Dictionary, which defined it as the use of substances that enhance performance, thereby giving athletes an unfair advantage.⁷

The first official definition of doping emerged in 1963 when the European Committee Council described it as the administration or intake of foreign substances or unnatural quantities of natural substances to unnaturally enhance physical fitness or capacity. This definition also encompassed psychological influences such as hypnosis to control an athlete as if they were a robot.⁸

Institutional definitions of doping have evolved, most notably from the World Anti-Doping Agency (WADA). As a global regulatory authority, WADA coordinates efforts to prevent doping through universal anti-doping regulations. According to Article 1 of its Code, doping involves substances that enhance athletic performance, constituting a violation of its rules.⁹ Article 2 of the Olympic Movement Anti-Doping Code outlines two primary legal definitions of doping:

1. Abstract Definition: Using a means that could harm athletes' health or enhance performance.
2. Pragmatic Definition: The presence of a prohibited substance in an athlete's body or evidence of its use.¹⁰

France was among the first countries to legislate against doping in sports since the issuance of Law No. 17-99-233 on the protection of the health of athletes and the fight against doping, which was repealed by Order No. 2000-548 of 15 June 2000, defining doping as substances used to enhance performance.¹¹ Since the Decree of 2 February 2000, the French legislature regularly updates its list of prohibited substances, aligning with global anti-doping codes.¹² Key legislative milestones include Decree No. 405-2006 and Law No. 650-2008, which established the French Anti-Doping Agency and addressed

7 Khamis Al-Mahiri and Zayed Al-Ghawari, 'The Legality of Using Sports Doping in International and National Arenas' (2023) 20(1) *University of Sharjah Journal for Legal Sciences* 559, doi:10.36394/jls.v20.i1.19.

8 Al-Abadi (n 3) 14; Robert Alexandru Vlad and others, 'Doping in Sports, a Never-Ending Story?' (2018) 8(4) *Advanced Pharmaceutical Bulletin* 529, doi:10.15171/apb.2018.062.

9 *World Anti-Doping Code 2021* (World Anti-Doping Agency, 1 January 2021) <<https://www.wada-ama.org/en/resources/world-anti-doping-code-and-international-standards/world-anti-doping-code>> accessed 28 January 2025.

10 Klaus Vieweg and Christian Paul, 'The Definition of Doping and the Proof of a Doping Offence' (2002) 1 *International Sports Law Journal* 2

11 Loi de la République Française n 99-223 du 23 mars 1999 'Relative à la protection de la santé des sportifs et à la lutte contre le dopage' [1999] JORF 70/4399; Ordonnance du Ministère de l'emploi et de la solidarité n 2000-548 du 15 juin 2000 'Relative à la partie Législative du code de la santé publique' [2000] JORF 143/9340.

12 Arrêté du Ministère de la jeunesse et des sports du 2 février 2000 'Relatif aux substances et aux procédés mentionnés à l'article 17 de la Loi no 99-223 du 23 mars 1999 relative à la protection de la santé des sportifs et à la lutte contre le dopage' [2000] JORF n°56/3561.

doping-related trafficking.¹³ Updates continue, such as Decree No. 1426 of 2012, ensuring current regulations remain robust.¹⁴

In Egypt, the legislature designated the Egyptian Anti-Doping Agency as the entity responsible for combating doping in all sports, in accordance with Article 12 of Decision No. 1125 of 2017 regarding the adoption of the Statute of the Egyptian Anti-Doping Organization.¹⁵ The definition of doping was referred to Article 2 of the World Anti-Doping Code, which includes a list of prohibited substances or methods divided into categories from 1 to 11.¹⁶ This list is updated annually by the World Anti-Doping Agency and the Egyptian Anti-Doping Agency.¹⁷ Similarly, Kuwaiti Law No. 82 of 2018 established its national anti-doping agency, incorporating a list of prohibitions in Article 1.¹⁸

The UAE follows a similar framework to the one outlined in its 2021 National Anti-Doping Regulations. Article 1 defines doping as any violation of anti-doping rules detailed in Articles 2/1–11, while Article 2 specifies the purpose and prohibited list, supplemented with explanatory notes for each prohibited substance.¹⁹

Globally, legislations have converged on adopting the World Anti-Doping Agency's (WADA) definitions. These definitions are intentionally broad, allowing for the inclusion of substances not yet identified but potentially usable as doping agents in the future. This flexibility addresses the rapid evolution of doping techniques and substances. Awareness of the risks of doping emerged in the early 20th century, prompting international sports agencies to establish strict definitions and regulations. These legal and methodological definitions of the importance of prohibition and penalties ensure fair competition and safeguard athletes' health during sports events.

13 Loi de la République Française n 2006-405 du 5 avril 2006 'Relative à la lutte contre le dopage et à la protection de la santé des sportifs' [2006] JORF 82/5193; Loi de la République Française n 2008-650 du 3 juillet 2008 'Relative à la lutte contre le trafic de produits dopants' [2008] JORF 155/10715.

14 Décret du Ministère des affaires étrangères n 2012-1426 du 19 décembre 2012 'Portant publication de l'amendement à l'annexe de la convention contre le dopage, adopté à Paris le 13 novembre 2012, et à l'annexe 1 de la Convention internationale contre le dopage dans le sport, adopté à Paris le 12 novembre 2012' [2012] JORF 297/20177.

15 Decision no 1125 of 23 March 2017 'Adoption of the Statute of the Egyptian Anti-Doping Organization' <<https://manshurat.org/node/28016>> accessed 12 February 2025.

16 World Anti-Doping Code (n 9) art 2.

17 *Egyptian Anti-Doping Organization (EGY-NADO)*, (2025) <<https://egy-nado.com/ar/>> accessed 15 January 2025.

18 *Kuwait Anti-Doping Agency (KADA)*, (2025) <<https://kada.gov.kw/>> accessed 15 January 2025.

19 *United Arab Emirates Anti-Doping Rules 2021* (UAE NADA 2021) <https://www.uaenada.ae/writable/uploads/code/document/1632721190_143aa5e0a3132b52d5a8.pdf> accessed 15 January 2025.

4 INTERNATIONAL LEGAL MECHANISMS DEDICATED TO COMBATING DOPING

The rise of PEDs in sports has been driven by athletes' desire for glory and wealth, alongside increasing competition among companies producing such substances. Their widespread use has led to severe health consequences, including injuries and deaths among athletes. This section examines international mechanisms to combat doping in sports.

4.1. International Efforts to Combat Doping in Sports

With the widespread use of performance-enhancing drugs (PEDs) in international competitions, it became necessary to establish a global legal framework to address this issue and coordinate efforts among nations and international organisations. Early steps included numerous meetings and conferences to identify the root causes of PED usage and propose practical solutions to preserve the ethical and humanistic goals of sports.

The 20th General Conference of UNESCO, held in Paris on 21 November 1978, marked a pivotal moment. The conference led to the adoption of the International Charter of Physical Education and Sport, which established physical education and sport as a basic right for all individuals. In 2015, UNESCO revised and adopted the International Charter of Physical Education, Physical Activity, and Sport during its 38th General Conference to modernise its principles.²⁰

In 1989, the Council of Europe formulated the Anti-Doping Convention to harmonise anti-doping regulations and promote athletes' ethical and physical development. Article 4(1) of the Convention required member states to implement laws or administrative measures to restrict the availability and usage of prohibited substances and doping methods, particularly anabolic steroids.²¹

While the Convention did not impose specific penalties for PED use in sports, it encouraged member states to enact appropriate laws, including criminal and civil penalties, to achieve effective deterrence. The Convention also established a Monitoring Group to oversee its implementation, consult with stakeholders, and recommend improvements.²²

The doping scandal during the 1998 Olympic Games in France prompted the International Olympic Committee (IOC) to convene a global conference in Lausanne in February 1999. Delegates concluded that an independent body was essential to combat PED use. This led

20 *International Charter of Physical Education, Physical Activity and Sport* (UNESCO 2015) <<https://unesdoc.unesco.org/ark:/48223/pf0000235409>> 15 accessed January 2025.

21 *Anti-Doping Convention of the Council of Europe* (16 November 1989) ETS 135 <<https://rm.coe.int/>> accessed 15 January 2025.

22 'The Monitoring Group of the Anti-Doping Convention (T-DO)' (*Council of Europe: Sport*, 2025) <<https://www.coe.int/en/web/sport/t-do>> accessed 15 January 2025.

to the establishment of the World Anti-Doping Agency (WADA) on 10 November 1999, initially headquartered in Lausanne before relocating to Montreal in 2002. In 2003, WADA introduced the World Anti-Doping Code (WADC), standardising anti-doping regulations across all sports and nations.²³ The code came into effect in 2004.

In 2005, the IOC partnered with UNESCO to draft the International Convention Against Doping in Sport, which came into force in 2007. The Convention included 43 articles addressing the use of PEDs during competitions and training and establishing guidelines for testing protocols to detect doping. It required all national Olympic committees to incorporate its provisions into domestic legislation.²⁴ The Convention has become one of UNESCO's most successful agreements, with 191 signatory states as of 2024.

The Convention provided the necessary legal and regulatory framework to address the spread of doping and performance-enhancing substances in sports, regulate dietary supplements, and develop and coordinate education and scientific research programs. It also clarified that doping is not a phenomenon limited to elite athletes but also occurs within broader sports communities. Given the complexity of combating doping in sports activities, the Convention highlighted that challenges extend beyond distribution, manufacturing, and testing systems, and that no single country can tackle these issues independently. As a result, it emphasised the necessity of unifying international cooperation efforts among all relevant stakeholders and establishing regulatory frameworks under the jurisdiction of governments of the state parties.²⁵

This convention and the principles it reinforced have become a unified global legal framework for states, significantly influencing national laws. This influence is rooted in the commitments outlined in Article 5 of the Convention, which states: "Each State Party undertakes to adopt appropriate measures to fulfil its obligations under this convention. These measures may include legislation, regulations, policies, or administrative practices."²⁶ Furthermore, Article 8 stipulates that state parties must take measures to restrict the availability of prohibited substances and methods in sports unless they are used for approved therapeutic purposes. Such measures include combating the trafficking of these substances and monitoring their production, importation, distribution, and sale while ensuring the availability of substances for legitimate purposes.²⁷

23 World Anti-Doping Code (n 9).

24 *International Convention Against Doping in Sport* (UNESCO, 19 October 2005) <<https://www.unesco.org/en/legal-affairs/>> accessed 28 January 2025; Paul Marriott-Lloyd, 'International Convention Against Doping in Sport' (SHS/2010/PI/H/2, UNESCO 2010).

25 UNESCO, *Evaluation of UNESCO's International Convention against Doping in Sport* (IOS/EVS/PI/161 REV.2, IOS Evaluation Office 2017) 19.

26 International Convention Against Doping in Sport (n 24) art 5.

27 *ibid*, art 8.

Notably, the International Convention against Doping in Sport was incorporated into French law through Law No. 129-2007, dated 31 January 2007.²⁸ Since that date, France has undertaken various measures in the field of anti-doping aimed at preventing doping among athletes and penalising its use, promoting clean sports in line with sporting ethics, and protecting athletes who are victims of doping without ostracising them. Article 3(a) of the Convention obligated states to adopt necessary measures to combat doping.²⁹ Article 5 further stated: “In compliance with the obligations under this Convention, each State Party undertakes to adopt appropriate measures, which may include legislation, regulations, policies, or administrative practices.”³⁰

Accordingly, the Convention urged states to enact laws and necessary measures, including the potential for imposing criminal and civil penalties on those violating these regulations. However, despite urging parties to adopt measures to combat doping, the practical form and mechanism for implementing such measures remain unclear. This has led stakeholders to believe that its implementation by state parties faces challenges, such as difficulty integrating the Convention's objectives into local frameworks, a lack of awareness regarding which entities should be involved in anti-doping efforts, and insufficient resources and capabilities to support these entities.

In a practical example, in December 2019, the Russian Anti-Doping Agency (RUSADA) was declared non-compliant following a visit by the Council of Europe's delegation to the Moscow Anti-Doping Laboratory due to allegations of state-sponsored doping. After it was revealed that the state had manipulated laboratory doping data, the World Anti-Doping Agency (WADA) imposed a four-year set of sanctions on Russia, later reduced to two years following an appeal by RUSADA to the Court of Arbitration for Sport (CAS). Under these sanctions, Russia was prohibited from hosting or being granted the right to organise major events during the suspension period. Eventually, the Council of Europe's monitoring group concluded that Russia had complied with its anti-doping convention but issued several recommendations, including increasing penalties on coaches, doctors, and support staff violating doping rules and restoring the accredited laboratory.³¹

Additionally, the case of *United States Anti-Doping Agency v. Lance Armstrong*—commonly referred to as the Lance Armstrong doping case—served as another high-profile example of doping violations. In August 2012, the United States Anti-Doping Agency (USADA) imposed a lifetime ban on professional cyclist Lance Armstrong, resulting in the annulment of all his competitive results since August 1998 and the stripping of seven consecutive titles and an Olympic medal. USADA then issued its reasoned report on the ban, including

28 Loi de la République Française n 2007-129 du 31 janvier 2007 ‘Autorisant la ratification de la convention internationale contre le dopage dans le sport’ [2007] JORF 27/1943.

29 International Convention Against Doping in Sport (n 24) art 3(a).

30 *ibid*, art 5.

31 Geoff Berkeley, ‘Russia Compliant with Council of Europe's Anti-Doping Convention, Report Rules’ (*Inside the Games*, 20 January 2022) <<https://www.insidethegames.biz/articles/1118041/russia-compliant-council-of-europe>> accessed 15 January 2025.

thousands of pages of evidence against Armstrong and his US Postal Service team teammates.³² USADA described these actions as:

“The most sophisticated, professionalised, and successful doping program ... and more extensive than any previously revealed in professional sports history.”³³

On 22 October 2012, the Union Cycliste Internationale (UCI) accepted USADA's findings and officially stripped Lance Armstrong of his seven Tour de France titles.³⁴

In another case, on 2 April 2024, the Court of Arbitration for Sport (CAS) dismissed the appeal filed by the International Boxing Association (IBA) against the decision made by the International Olympic Committee (IOC) on 22 June 2023, to withdraw its recognition of the IBA. In its final ruling, the CAS panel stated that as of the date of the challenged decision, the IBA had not complied with the conditions set by the IOC for recognition. These conditions included increasing financial transparency, amending referee-related procedures to ensure integrity, and implementing the measures proposed by the Governance Reform Group established by the IOC, including cultural changes. The CAS panel concluded that the IOC's decision was based on sufficient and lawful grounds.³⁵

Recently, the Court of Justice of the European Union (CJEU) issued significant rulings regarding the governance of sports at the European level. The court established the criteria and conditions that sports governing bodies (SGBs) must adhere to. It affirmed that these authorities could establish the necessary rules for obtaining competition licenses and impose sanctions in cases of violations to promote competition based on merit and equal opportunities. The court emphasised that these bodies must comply with standards of transparency, objectivity, and non-discrimination to ensure fair and equitable competition.³⁶

As a result, it is imperative for national anti-doping agencies to follow the standards set by the World Anti-Doping Agency (WADA) and coordinate with it to ensure the implementation of both local and international anti-doping policies without interference from states. Governmental manipulation of anti-doping policies contradicts international standards, exposing national agencies to the risk of losing WADA recognition and potentially leading to international sanctions against the state or the national agency.

32 Peter Bell, Charlotte Ten Have and Mark Lauch, 'A Case Study Analysis of a Sophisticated Sports Doping Network: Lance Armstrong and the USPS Team' (2016) 46 International Journal of Law, Crime and Justice 57, doi:10.1016/j.ijlcj.2016.03.001.

33 *Reasoned Decision of the United States Anti-Doping Agency on Disqualification and Ineligibility Claimant v Lance Armstrong* (USADA, 2012) 5 <<https://www.usada.org/pdf>> accessed 15 January 2025.

34 David Mottram, 'The Lance Armstrong Case: The Evidence Behind the Headlines' (2013) 2(1) Aspetar: Sports Medicine Journal 57.

35 CAS 2023/A/9757 *International Boxing Association v International Olympic Committee* (CAS, 2024) para 457 <<https://www.tas-cas.org/pdf>> accessed 15 January 2025.

36 Stephen Weatherill, 'The Impact of the Rulings of 21 December 2023 on the Structure of EU Sports Law' (2023) 23 The International Sports Law Journal 409, doi:10.1007/s40318-024-00265-w.

4.2. Forms of Violations of the Anti-Doping Rules in the World Anti-Doping Code

The World Anti-Doping Code has established specific rules to combat doping, categorising any violation as using performance-enhancing substances. Article 1 of the Code defines doping as “the occurrence of one or more violations of anti-doping rules set forth in Articles 1-2 to 2-11 of the Code.”³⁷ This article clarifies that doping is based on the concept of usage, and such usage constitutes a violation of the Code's rules.

Article 2 of the Code specifies that “the purpose of Article 2 is to define the circumstances and behaviours that constitute violations of the anti-doping rules. Hearings on doping cases are conducted based on establishing that one or more of these specified rules have been breached. Athletes or other persons are responsible for being aware of acts that constitute violations of anti-doping rules, as well as substances and methods included in the list of prohibited substances and methods.”³⁸ Violations can be identified as follows:

- The presence of a prohibited substance, its metabolites, or its markers in an athlete's sample.
- The use or attempted use of a prohibited substance or method by an athlete.
- Evading, refusing, or failing to provide a sample by an athlete.
- Failure to provide whereabouts information.
- Tampering or attempting to tamper with any part of the doping control process.
- Possession of a prohibited substance or method by an athlete or their support personnel.
- Trafficking or attempted trafficking of any prohibited substance or method by an athlete or another person.
- Administering or attempting to administer a prohibited substance or method to an athlete in competition or providing such substances or methods to an athlete outside competition.
- Complicity or attempted complicity by an athlete or another person.
- Prohibited association by an athlete or another person.
- Actions by an athlete or another person aimed at obstructing or retaliating against whistleblowing to the authorities.

37 World Anti-Doping Code (n 9) art 1.

38 *ibid*, art 2.

These violations conflict with the fundamental principles established by international charters governing sports competitions since their inception. These principles include:³⁹

- Ethical Principle: The use of doping in sports contravenes the values and ethics governing sports, involving deceit and manipulation that undermine fairness and integrity in competitions.
- Sporting Principle: Sports competitions aim to create a fair environment where athletes compete to their utmost ability without external interference that grants an unfair advantage. Doping disrupts this balance and compromises fair competition.
- Health Principle: Many doping substances are harmful to athletes' health and can lead to severe health issues. Prohibiting doping protects athletes' health and ensures a fair opportunity to compete without exposure to health risks.

5 CRIMINALIZATION OF DOPING AND ATHLETES' RESPONSIBILITY

There is a global consensus that doping violates principles relevant international agreements uphold. However, countries differ in their approaches to criminalising doping. This section examines the stance of criminal legislation on doping, first discussing laws that explicitly criminalise doping and then those that apply traditional laws.

5.1. Laws Specifically Criminalising Doping

Some legislators have criminalised illegal doping activities by going beyond the administrative penalties imposed by the International Olympic Committees and sports federations—such as disqualification, annulment of results, or temporary suspension. Notably, most European criminal laws have adopted this approach.

In Belgium, doping and its possession were criminalised alongside administrative penalties. However, with the introduction of the Reform Act in August 1980, the Belgian legislature removed the criminal characterisation of these acts.⁴⁰

Similarly, the French legislature criminalised doping in 1965 through the President of Youth and Sports Maurice HERZOG,⁴¹ which was later repealed and replaced by Law No. 432-89 in June 1989. Subsequently, on 23 March 1999, Law No. 223-99 concerning the protection

39 Mohsen Qadeer Al-Muhtaram and Najm Abdel Adhab, 'The Crime of Using Prohibited Doping Substances in International and National Competitions: (excerpt from a PhD thesis "Sports Crimes from the Perspective of International and National Law")' (2023) 64(3) Iraqi University Journal (Faculty of Law) 582.

40 Gauthier Eryvn, *Les Fédérations Sportives Face au Dopage (Resolved*, novembre 2005) 3 <<https://resolved.law/wp-content/pdf/>> accessed 28 January 2025.

41 Tristan Chemin, 'La loi antidopage de 1965 dans le milieu du sport: contexte, mise en place, acteurs et réception (1950–1975)' (Mémoire de Master, Université Paris 1 Panthéon-Sorbonne, Ecole d'Histoire de la Sorbonne 2024) dumas-04627017 <<https://dumas.ccsd.cnrs.fr/>> accessed 28 January 2025.

of athletes and combating doping was issued, including doping within crimes enumerated in the 1999 French Sports Law.⁴²

On 5 April 2006, Law No. 405-2006 was enacted to combat doping and protect athletes' health, aligning with UNESCO's Anti-Doping Convention.⁴³ This law included administrative penalties and granted extensive powers to the National Agency, particularly in monitoring, analysis, and imposing administrative sanctions. Finally, on 3 July 2008, Law No. 650-2008 addressing the trade in doping substances was enacted.⁴⁴ A 2012 amendment to the Sports Law ensured its compliance with the principles of the World Anti-Doping Code.

In French law, a chapter titled "Combating Doping" is dedicated to the Sports Code,⁴⁵ with Section 6 specifying criminal provisions in Articles L232-25 through L232-31. According to these articles, an athlete found guilty of prescribing, providing, inciting, or using substances or methods related to doping in connection with competitions or preparation for them or evading testing and sampling faces up to five years of imprisonment and a fine of €75,000. The same penalty applies to the manufacturing, importing, exporting, transporting, storing, or purchasing of prohibited substances (doping substances) by an athlete for non-medical reasons (without a prescription).⁴⁶

It is worth noting that the French legislature increased the penalties for these crimes to up to seven years of imprisonment and fines of up to €150,000 if committed by an organised group, against minors, or by a person in a position of responsibility in the field of sports.⁴⁷ Additionally, in Law No. 432-89 issued in 1989, the French legislature criminalised the use of such substances for animals participating in sports like horse racing, a provision repealed in Law No. 405-2006.⁴⁸ Furthermore, Article 232-9 of the Sports Code places the responsibility on athletes to ensure that no prohibited substances enter their bodies.

In the Arab criminal stance, Algeria is considered one of the pioneering countries in criminalising doping in sports. Several laws governing the sports sector have been

42 Zubaida Jassim Al-Mazmi, 'Criminal Liability for the Use of Performance-Enhancing Drugs in Sports' (2024) 20(2) *The Legal Journal* (Cairo University Khartoum Branch) 705, doi:10.21608/jlaw.2024.354409.

43 Loi de la République Française n 2006-405 (n 13).

44 Loi de la République Française n 2008-650 (n 13).

45 Code du sport (2004) titre 3, ch 2 Lutte contre le dopage (arts L232-1 à L232-31) <https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006071318/2025-02-24/> accessed 16 January 2025; Romain Soiron and Aude Binichou, 'The Sports Law Review – Edition 6 – France' (*Joffe & Associés*, 18 décembre 2020) <<https://www.joffeassociés.com/the-sports-law-review>> accessed 15 January 2025.

46 Code du sport (n 45) titre 3, ch 2, s 6, arts L232-25 à L232-31.

47 *ibid.*

48 Doaa Mohsen Othman, 'The Criminal Protection of Sports Competitions' (2023) 1 *Sports and Law* 288.

established;⁴⁹ however, the criminalisation was explicitly stated in Law No. 13-05 of 2013 concerning regulating physical and sports activities.⁵⁰ It can be said that the Algerian legislature aligned with the French legislature, as Article 225 penalises any athlete participating in an organised or authorised sports competition or event for possessing prohibited substances or methods listed in Article 189 without medical justification, obstructing monitoring measures by agents referred to in Article 221 or failing to respect disciplinary decisions issued by the National Anti-Doping Agency.

Moreover, Article 223 criminalises those who facilitate doping use, imposing imprisonment from six months to two years and fines ranging from 500,000 to 1,000,000 Algerian dinars (€3,546 to €7,093), provided this constitutes a violation of Article 192 or obstruction of monitoring measures by agents mentioned in Article 221.⁵¹

Both French and Algerian legislators have translated the international desire to preserve principles ingrained in the sports doctrine. They have made a clear distinction between doping and the use of narcotic substances, in contrast to the laws discussed in the second section. Furthermore, both legal systems permit the use of these doping substances when prescribed or justified for medical treatment. A question that arises in this context is: What happens if the substances used are listed as narcotics or psychotropic drugs?

The straightforward answer is that using such substances is distinct from doping, primarily due to the differing purposes and the requirement of being an athlete. Therefore, if it is determined that an athlete has used narcotic or psychotropic substances, the applicable laws are Law No. 31 of 1970 on combating narcotics and Law No. 05-23 of 2004 and its amendments.

5.2. Laws Without Specific Criminalization of Doping

It is evident that while Arab legislations, such as those in Egypt, the UAE, Kuwait, and others, have enacted specific laws to combat doping in sports, focusing on the definition of doping substances, the necessity of combating them, and addressing violations under Article 2 of their sports doping provisions—they have not specifically criminalised these acts as French and Algerian legislators have done. This means, in comparative law, that the applicable law for cases involving athletes consuming and criminalising doping substances would be the law governing narcotics and psychotropic substances.

49 Ali Bin Moussa, 'Fighting Against Doping in Algerian Legislation' (2021) 58(4) *Algerian Journal of Legal and Political Sciences* 29; Rashid Al-Balushi, 'Criminal Liability for the Use of Doping in the Sports Field: a Comparative Study' (2019) 16(1) *University of Sharjah Journal of Law Science* 327, doi:10.36394/jls.v16.i1.12.

50 Law of the People's Democratic Republic of Algeria no 13-05 of 23 July 2013 'Relating to the Fight Against Doping in Sport' [2013] *Official Journal of Algeria* 39.

51 Karimash Wahiba, 'The Crime of Doping and Ways to Deter It Nationally and Internationally' (2021) 6(2) *Journal of Excellence in Physical and Sports Activities Sciences and Technologies* 326, doi:10.36394/jls.v16.i1.12.

Comparative laws agree on including a table or multiple tables identifying substances prohibited in any activity, whether narcotics or psychotropics, and have defined them as substances banned for use outside of medical treatment. In Egypt, the legislature criminalised narcotic use under Law No. 182 of 1960 and its amendments. Article 39 stipulates imprisonment for one year and a fine ranging from 1,000 to 3,000 (€19 to €57) Egyptian pounds for narcotics consumption. If the offender is apprehended in a location designated for drug use with their knowledge and intent, the penalty doubles to two years if cocaine or heroin is involved. Penalties are determined based on the quantity, type, and nature of the narcotic substance.⁵²

Additionally, Article 37 of the law outlines behaviours intended for consumption, stating: “Temporary hard labour and a fine not less than 10,000 pounds and not more than 50,000 pounds (€190 to €954) shall be imposed on anyone who possesses, acquires, buys, produces, extracts, separates, or manufactures narcotic substances... with the intention of personal use or consumption outside the legally authorised conditions.”⁵³

Similarly, Kuwaiti law subjects the consumption of narcotics and psychotropic substances to Law No. 74 of 1983 on combating drugs, regulating their use, and their trade, as well as its amendments.⁵⁴ Kuwaiti legislators do not differ from the Egyptian and Emirati approaches in criminalising consumption. Article 38 stipulates imprisonment of up to two years and a fine of no more than 2,000 Kuwaiti dinars (€6,215), or one of these penalties, for anyone caught consuming such substances knowingly. Additionally, Article 43 prescribes imprisonment of up to five years and a fine of no more than 5,000 dinars (€15,538) for behaviours including consumption outside the legal authorised conditions.⁵⁵

In the UAE, several forms of narcotics usage are criminalised under Articles 41 to 44 of Federal Decree-Law No. 30 of 2021 on Combating Narcotics and Psychotropic Substances. Article 12 provides an exception for medical treatment, stating: “It is prohibited to consume narcotics or psychotropic substances in any form or use them personally except for treatment and under a prescription from the treating physician issued under Article 40 of this decree-law. This prohibition applies to any substance or plant other than narcotics or psychotropic substances listed in the schedules attached to this decree-law, which causes intoxication or any other adverse mental effect when consumed for the purpose of

52 Decree-Law of the Arab Republic of Egypt no 182 of 1960 ‘On Control of Narcotic Drugs and Regulation of their Utilization and Trade in them’, art 39 <<https://manshurat.org/node/325>> accessed 16 January 2025. <<https://manshurat.org/node/325>> accessed January 16, 2025.

53 *ibid*, art 37.

54 Al-Anzi (n 1) 160.

55 Law of the State of Kuwait no 74/1983 of 18 April 1983 ‘On Combating Drugs and the Regulation of Their Use and Trafficking’ <https://www.lexismiddleeast.com/law/Kuwait/Law_74_1983> accessed 16 January 2025.

intoxication or mental harm.” This broad provision under Article 12 can be applied to anyone who consumes such substances in any form for recreational or other purposes.⁵⁶

The Emirati legislature stands out by criminalising the use of performance-enhancing drugs under Federal Law No. 7 of 2015 on combating prohibited substances in horse racing and equestrian sports. Articles 3 and 7 prohibit and criminalise such behaviours, with penalties stipulated under Article 10.⁵⁷

In light of the above, we find that comparative laws do not distinguish between doping substances and narcotics or psychotropic substances. This could result in individuals evading punishment if they consume substances not listed as narcotics or included in doping lists, even if they intend to intoxicate or affect mental faculties. In other words, these laws can be applied to individuals using narcotics in sports generally and in competitions specifically, provided the substance is listed in the attached schedules.

Anti-doping laws also require the consumption of substances during sports competitions, meaning that consumption outside these times would not fall under the scope of these provisions. Legislators should address this gap to prevent athletes from evading punishment, particularly when the doping substance is not listed in the narcotics and psychotropic substance schedules, potentially allowing misuse for this reason.

Despite the similarities in effects—both types of substances lead to addiction—the differences lie in the consumer's profile and the legislature's intent behind enacting these laws. Applying narcotics laws to doping substances should adhere to the principle of legality. If no provision criminalises a specific substance under anti-doping laws, and the athlete's intent was for performance enhancement, the general provisions may not suffice. Moreover, doping laws impose lighter penalties than those in laws combating narcotics and psychotropic substances.

6 SCOPE OF CRIMINAL LIABILITY AND DISPUTE RESOLUTION MECHANISMS

While the general rule is to attribute criminal responsibility to athletes if they knowingly consume such substances, exceptions exist in specific cases. This section discusses the legal framework of these exceptions, examines the extent of contributors' criminal liability for violating anti-doping regulations, and discusses the jurisdiction of arbitration in these matters.

56 Federal Decree-Law no 30 of 2021 'On Combating Narcotics and Psychotropic Substances' [2021] Official Gazette of UAE 712 <<https://uaelegislation.gov.ae/en/legislations/1540>> accessed 16 January 2025.

57 Federal Law no 7 of 2015 'On Combating Prohibited Substances in Horse Racing and Equestrian Sports' [2015] Official Gazette of UAE 577 <<https://uaelegislation.gov.ae/en/legislations/1217>> accessed 16 January 2025; Othman (n 48) 290.

6.1. Exclusion of Criminal Responsibility for Athletes

Athletes are not criminally liable if they were unaware of the nature of the substance they consumed based on the instructions of their coach or others in the administrative or technical staff, as explained later. The cases in which an athlete's responsibility is excluded can be summarised as follows:

- The athlete adhered to the rules governing their sport.
- The consumption occurred as part of the game and within its legal framework.
- The game is recognised and sanctioned by law.⁵⁸

Criminal responsibility may also be excluded if the athlete consumed performance-enhancing substances for medical treatment of specific conditions, provided these were prescribed by a physician. Comparative legal provisions consider this exception under the principle of exemption. French law addresses this matter in Article L232-2 of the Sports Law, stating that athletes participating in or preparing for the events specified in Paragraph 1 of Article L230-3, whose health conditions necessitate the use of prohibited substances or methods, may apply for therapeutic use exemptions to the French Anti-Doping Agency (AFLD).⁵⁹

Article L.232-2 of the Sports Law clarifies that the presence, use, possession, or attempted use of prohibited substances by athletes does not result in disciplinary or criminal penalties, provided these substances are part of a prescribed treatment authorised by a therapeutic use exemption from the AFLD, a recognised foreign license issued by a national organisation or international federation, or a declaration from the World Anti-Doping Agency (WADA).

The questions that arise in this context are: What if an assault on a competitor occurs due to the use of performance-enhancing drugs? Would this constitute an unintentional crime or a crime of transferred intent?

The use of performance-enhancing drugs by an athlete constitutes an unlawful and unethical method of overcoming opponents, in violation of legal provisions and sports ethics. In this context, the principles of criminal responsibility apply, and the justification for the act is negated. Resorting to doping constitutes fraud, directly undermining the principles of fair competition.⁶⁰

Moreover, the use of performance-enhancing drugs nullifies another condition required for the absence of criminal responsibility: the victim's consent. Such consent must be valid, free of defects, and based on full awareness of all circumstances and risks arising from using

58 Wahab Hamza, 'Criminal Liability for Using Doping Substances in Sports Competitions' (2017) 10(3) *Journal of law and Humanities Sciences* 86.

59 Code du sport (n 45) titre 3: Santé des sportifs et lutte contre le dopage (arts L230-1 à L232-31).

60 Hamza (n 58) 78.

these substances, including potential harm. If the victim had complete knowledge of these consequences, they would not have agreed to participate, rendering their consent flawed.⁶¹

To hold an athlete accountable for crimes such as assault, injury, or homicide, it is necessary to prove their connection to doping and determine criminal responsibility based on intent or negligence in accordance with the Penal Code.

6.2. Responsibility of Contributors

The violation of doping regulations may not be limited to the athlete alone but can also involve those around them or their collaborators, such as coaches, pharmacists, doctors, and others. For example, a doctor might administer or inject a narcotic substance into the athlete or convince them of its legitimacy under the guise of medical advice. If such actions fall outside the scope of medical treatment intended to cure illnesses, they fail to meet the conditions of medical exemption and constitute an assault on the athlete's bodily integrity.

The International Convention Against Doping in Sport has addressed this issue explicitly in Article 9, stating, "State Parties shall adopt measures or encourage sports organisations and anti-doping organisations to adopt measures that impose penalties or sanctions targeting members of athletes' support personnel who violate any anti-doping rule or commit any doping-related offence in sport."⁶² The question is: To what extent can collaborators be held criminally liable?

Concerning doctors, legal theory and jurisprudence agree that certain conditions must be met for a medical act to be exempt from liability. If any condition is absent, the justification is void. These conditions include the act's medical nature, its treatment purpose, and the patient's consent. Otherwise, the doctor may be held criminally liable for the act.⁶³

Similarly, pharmacists licensed to prepare and dispense narcotic substances may incite or assist athletes in unlawfully consuming such substances, rendering them liable under legal provisions combating the illegal use of narcotics.

In France, Article L232-10-3 of the French Sports Code (2021) prohibits anyone from being an accomplice, instigator, or participant in violating anti-doping regulations.⁶⁴ Article L232-25 stipulates disciplinary penalties, including imprisonment and a fine of €7,500, for individuals convicted of violating anti-doping rules, including accomplices and instigators. Furthermore, Article L232-26/2 defines criminal penalties for individuals who facilitate or encourage doping, explicitly targeting those actively involved in the administration of

61 *ibid.*

62 International Convention Against Doping in Sport (n 24) art 9.

63 M Hollyhock, 'The Application of Drugs to Modify Human Performance' (1969) 4 *British Journal of Sports Medicine* 119.

64 Code du sport (n 45) titre 3, ch 2, s 6, art L232-10-3.

doping substances, such as doctors prescribing prohibited substances without medical justification and coaches or others directly managing doping substances. These penalties include up to five years of imprisonment and a fine of €75,000.

The Egyptian legislature stated in Article 34(b) of the Anti-Narcotics and Regulation of Usage and Trafficking Law No. 122 of 1989 that: “The penalty of death or life imprisonment and a fine of no less than one hundred thousand pounds and not exceeding five hundred thousand pounds shall be imposed on anyone licensed to possess narcotic substances for a specific purpose and disposes of them in any way for purposes other than that specific purpose.”⁶⁵ Based on this provision, it is evident that anyone licensed to possess narcotic drugs, such as doctors, and who permits their use for purposes other than treatment—particularly by athletes—bears criminal responsibility accordingly. Additionally, Article 35(b) prescribes life imprisonment and a fine for anyone who facilitates or provides narcotic drugs without compensation and without legal justification.⁶⁶

Notably, Article 33 of the Egyptian Sports Law No. 71 of 2017 prohibits athletes from consuming performance-enhancing substances. It also prohibits coaches, accredited doctors, and others working in the sports field from administering or encouraging the consumption of such substances in violation of the rules of the International Anti-Doping Organization. Regarding penalties for violators of this provision, the Youth and Sports Committee of the House of Representatives proposed an amendment to the Sports Law that includes adding Article 91 bis 1, which stipulates: “A penalty of imprisonment and a fine of no less than ten thousand pounds and no more than one hundred thousand pounds (€190.87 to €19,087), or either of these penalties, shall be imposed on anyone who traffics, distributes, consumes, or incites the consumption of doping substances and dietary supplements listed in the schedule referred to in Article 33 of this law.”

In Algerian legislation, Article 192 of Law No. 13-05 of 2013 on the regulation of physical and sports activities prohibits prescribing, selling, or administering prohibited drugs to athletes participating in competitions or preparing for participation. Article 223 stipulates a penalty of six months to two years of imprisonment and a fine ranging from 500,000 DZD to 1,000,000 DZD (€3,546 to €7,093), for anyone who violates the provisions of Article 192. The term “anyone” includes doctors, pharmacists, and any assistant who plays a role in facilitating the consumption of prohibited substances by athletes. Notably, Algerian legislation imposes harsher penalties on contributors to doping than on the athletes themselves, as it criminalises the actions of contributors with imprisonment, whereas the primary offender (the athlete) is merely deemed to have committed an infraction under the law.⁶⁷

65 Law of the Arab Republic of Egypt no 122 of 1989 ‘Amending Certain Provisions of Decree-Law no 182 of 1960 concerning the Control of Narcotic Drugs and Regulation of their Utilization and Trade in them’, art 34(b) <<https://sherloc.unodc.org>> accessed 16 January 2025.

66 *ibid*, art 35(b).

67 Hamza (n 58) 87.

The UAE legislature, under Federal Decree-Law No. 30 of 2021 on combating narcotic drugs and psychotropic substances, states in Article 48: "A penalty of imprisonment for no less than five years and a fine of no less than fifty thousand dirhams(€13,040) shall be imposed on anyone who invites or incites another person to commit any of the crimes stipulated in Articles (41), (42), (43), and (44) or facilitates their commission in any way. The penalty shall be more severe if the crime of incitement, facilitation, or encouragement occurs in public gathering places, educational institutions, or their facilities, or cultural or sports institutions."⁶⁸ Article 34 of the same law specifies: "A pharmacy may only dispense narcotic or psychotropic substances based on a prescription from a licensed medical practitioner"⁶⁹ and prohibits dispensing such substances if the prescription exceeds the quantities listed in Schedule No. 9 attached to the decree-law. If a patient's condition necessitates exceeding the specified quantity, administrative approval is required. These provisions allow for the accountability of medical staff and pharmacies that assist athletes in consuming unauthorised narcotic drugs during competitions or preparation periods.

In contrast, Kuwaiti Law No. 122 of 1989 does not include specific provisions regarding the responsibility of contributors, doctors, or pharmacists, referring instead to Penal Code No. 16 of 1960, which regulates criminal participation in Articles 47 through 54.

The above discussion demonstrates the expanded scope of liability to include not only athletes but also their entourage, such as coaches, doctors, and pharmacists, who may facilitate or promote the use of doping substances. The mentioned legislations impose strict penalties on such contributors, reflecting lawmakers' increasing awareness of these individuals' significant role in influencing athletes' behaviours. This expansion of accountability highlights national efforts to ensure a healthy and fair sports environment. The prescribed penalties vary, ranging from disciplinary and criminal penalties for contributors in France to severe sanctions such as lengthy imprisonment or even capital punishment under Egyptian and Algerian laws.

6.3. Jurisdiction to Consider Doping Cases in Sports

It must first be recognised that sports arbitration is one of the legal issues that international sports federations worldwide have agreed upon. As a result, the resolution of disputes in general, and doping cases in particular, follows a distinct and specialised approach, independent of others in the field of arbitration.

At the international level, the International Court of Arbitration for Sports (CAS) has exclusive jurisdiction in considering doping cases during sports. Athletes can appeal CAS decisions to an appeals court for further review. However, its jurisdiction does not extend

68 Federal Decree-Law no 30 of 2021 (n 56) art 48.

69 *ibid*, art 34.

to criminal cases; in such cases, CAS either proceeds without considering the criminal aspect or halts proceedings until a final judgment is issued.⁷⁰

At the national level and in alignment with international standards, doping cases are handled by national authorities. These laws designate these bodies as the competent authorities responsible for establishing disciplinary committees to adjudicate doping cases in sports and address violations of anti-doping regulations. The decisions of these committees may be appealed before a specialised appeals committee unless the case was referred to the International Court of Arbitration for Sport (CAS), as it is the competent international tribunal for such matters. This mechanism is taken without reaching the criminal courts unless sports doping is classified as involving drugs or psychotropic substances, which is what led to the recommendation in the study to distinguish between the aforementioned concepts.

In France, however, legal action can be taken in criminal courts, as certain sports violations are recognised criminal offences. Among the laws compared, most allow appeal decisions to be brought before national courts, except in the UAE, where rulings by the Disciplinary Committee of the Emirates Arbitration Centre are deemed final and not subject to appeal—a procedure that some argue may be unconstitutional. Other jurisdictions, however, permit appeals before a competent appeals committee.

A ruling issued by the Administrative Court in Egypt reveals the special nature of decisions issued by sport-related bodies. In a lawsuit demanding the suspension and cancellation of the decision of the Egyptian Appeals Committee for Doping Cases in the Egyptian Organization, the court ruled that it lacked jurisdiction, reasoning that such decisions issued by these bodies are not considered administrative decisions.⁷¹

Finally, the use of artificial intelligence in automated arbitration for sport doping cases could enhance the efficiency of dispute resolution on an international scale. Nevertheless, it is essential to address challenges related to neutrality and equality between the parties to ensure a fair and transparent process.⁷²

70 *Court of Arbitration for Sport (TAS / CAS, 2025)* <<https://www.tas-cas.org/en/general-information/index/>> accessed 28 January 2025.

71 Ahmed Abdel Hady, 'The Administrative Court Rules That It Has No Jurisdiction Over Sports Doping Cases' *Youm7* (Giza, Egypt, 26 November 2017) <<https://www.youm7.com/>> accessed 12 February 2025.

72 Abdelrahman Gehad Shalaby, Gehad Mohamed Abdelaziz and Moustafa Elmetwaly Kandeel, 'Using Artificial Intelligence to Resolve Disputes through Online Arbitration' (2022 Ninth International Conference on Social Networks Analysis, Management and Security (SNAMS), 29 November - 1 December 2022) doi:10.1109/snams58071.2022.10062524.

7 CONCLUSIONS

The widespread use of doping among athletes internationally has attracted significant attention from the global community, prompting countermeasures through international mechanisms such as conferences, international conventions, and the establishment of specialised global anti-doping agencies, alongside national mechanisms such as sports-specific laws and the creation of national anti-doping organisations.

This study revealed that the national legislators of Algeria and France, unlike their counterparts in Kuwait, Egypt, and the UAE, have responded to international recommendations by incorporating criminal and civil penalties to sanction violations of international anti-doping regulations.

It has become evident that doping constitutes a form of sports fraud or cheating, as it involves engaging in unethical practices to gain an unfair and illegal competitive advantage. It was also found that the absence of specific laws to combat sports doping leads to its proliferation. Additionally, the lack of designated offenses and penalties in laws addressing sports doping can blur the distinction between doping and the use of narcotic or psychotropic substances. Furthermore, while the international convention on combating sports doping does not address its use by minor athletes, the French legislature regulated this issue under Article 232. Doping substances may be permitted in exceptional circumstances under conditions defined by national laws in alignment with international conventions, particularly when doping is for competitive purposes rather than other reasons. It has also become evident that special disciplinary committees, except for the UAE, have jurisdiction over doping issues. Their decisions may be appealed before dedicated appeals committees.

The study concluded with several key recommendations. There is a need for international and national efforts to coordinate and align actions between countries and organisations to achieve optimal compliance with legal standards for combating sports doping. Monitoring and follow-up mechanisms should be developed through mutual cooperation and the transparent dissemination of all information related to doping in sports. The study also recommends intensifying penalties for violators of sports laws, especially those responsible for producing, administering, and prescribing doping substances, such as doctors and pharmacists, to achieve effective prevention and necessary deterrence. Finally, it calls for the inclusion of specific provisions in sports laws addressing contributors, doctors, and pharmacists, as reliance on general legal principles alone is insufficient. Appropriate penalties must be established to prevent escape from liability.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Оглядова стаття

КРИМІНАЛЬНА ВІДПОВІДАЛЬНІСТЬ ЗА ВЖИВАННЯ ДОПІНГОВИХ ЗАСОБІВ У СПОРТІ: ПОРІВНЯЛЬНО-АНАЛІТИЧНЕ ДОСЛІДЖЕННЯ МІЖНАРОДНОГО ТА БЛИЗЬКОСХІДНОГО КРИМІНАЛЬНОГО ПРАВА

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АНОТАЦІЯ

Вступ. Це дослідження спрямоване на вивчення явища широкого використання допінгових засобів (PEDs) у спорті та методів боротьби з ними як на міжнародному, так і на національному рівнях. На міжнародному рівні це вимагає зусиль організацій і агенцій, які займаються спортом, тоді як на національному рівні це передбачає імплементацію законодавства, застосування покарань і переклад міжнародних рекомендацій, попереджень і питань, що забезпечать юрисдикцію для ефективного вирішення спорів. У дослідженні розглядається відповідність традиційних кримінальних положень для обмеження неправомірного використання PED під час спортивних змагань та юридична характеристика такої діяльності.

Методи. У статті було використано декілька наукових методів: описовий метод для визначення явища, його природи та різних аспектів, підкреслюючи його несприятливі характеристики та ризики для здоров'я спортсменів; аналітичний метод для перегляду юридичних висновків міжнародних і національних законів, що криміналізують використання PED, зокрема судових рішень; і порівняльний метод для аналізу підходів арабського та іноземного законодавства до вирішення цього питання та їх узгодження з міжнародними рекомендаціями та загальною правовою базою.

Результати та висновки. Дослідження завершується висновками та рекомендаціями, які підкреслюють необхідність боротьби з цим явищем та обмеження його наслідків. Було виявлено, що відсутність спеціальних законів щодо допінгу, особливо серед неповнолітніх спортсменів, сприяє його поширенню та стирає межі між допінгом і вживанням наркотичних речовин. У статті також було рекомендовано посилити покарання для тих, хто бере участь у виробництві, застосуванні та призначенні допінгових речовин, разом із встановленням чітких правових положень для забезпечення відповідальності та ефективного стримування.

Ключові слова: допінгові препарати, спортивна злочинність, кримінальна відповідальність, змагання, правові положення, спортивний арбітраж, ВАДА, CAS.