

S E M I N A R P A P E R

FROM COLLECTIVE PUNISHMENT TO INDIVIDUAL ACCOUNTABILITY

*Strict Liability in Football Governance, the Technological
Imperative,
and the Case for a Due Diligence Framework*

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Abstract

The doctrine of strict liability—which holds football clubs responsible for the misconduct of their supporters regardless of fault—rests on a foundational premise that technology has now rendered obsolete. When FIFA and UEFA codified strict liability in their disciplinary frameworks, individual identification of perpetrators within crowds of tens of thousands was practically impossible. That is no longer the case. Biometric identification, identity-linked digital ticketing, AI-powered CCTV analytics, and government-backed digital identity systems have been deployed at scale across multiple continents, enabling clubs and authorities to identify individual wrongdoers with documented accuracy rates exceeding 99.8 per cent.

The question confronting football’s governing bodies is no longer whether individual accountability is technologically feasible, but whether the continued collective punishment of clubs and innocent supporters can be justified when a less restrictive, more proportionate alternative exists. This paper traces the origins, evolution, and present codification of strict liability in football governance; examines the evidence for its effectiveness and the weight of criticism against it; surveys the technological capabilities that have transformed the identification landscape; compares national enforcement models that prioritise individual accountability; and proposes a “due diligence framework” under which clubs demonstrating comprehensive security and identification infrastructure would receive substantial mitigation from strict liability sanctions.

Keywords: *strict liability; football governance; FIFA Disciplinary Code; UEFA Disciplinary Regulations; biometric identification; Football Banning Orders; DASPO; proportionality; due diligence; stadium safety; fan violence; collective punishment; individual accountability*

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I. Introduction

Football's relationship with spectator violence has shaped the regulatory architecture of the modern game more profoundly than any tactical innovation, commercial development, or broadcasting revolution. The doctrine of strict liability—the principle that a football club bears disciplinary responsibility for the conduct of its supporters regardless of whether the club itself was at fault—is the central pillar of that architecture. Codified in Article 17 of the FIFA Disciplinary Code and Article 16 of the UEFA Disciplinary Regulations, strict liability enables governing bodies to impose fines, stadium closures, points deductions, and even exclusion from competition upon clubs whose supporters engage in violence, racism, pyrotechnics, pitch invasions, or other forms of disorder.¹

The doctrine was born of necessity. In the 1970s and 1980s, when organised hooliganism made English football stadiums among the most dangerous public venues in Europe, and when the Heysel Stadium disaster of 29 May 1985 killed thirty-nine spectators during a European Cup Final, the identification of individual perpetrators within crowds of tens of thousands was practically impossible.² Criminal prosecution was slow, cross-border enforcement unreliable, and voluntary self-regulation by clubs demonstrably inadequate. Under these conditions, holding clubs collectively responsible for the behaviour of their supporters—regardless of the clubs' own efforts—was a defensible regulatory choice. It was, in the language of administrative law, the only available lever.

The premise of this paper is that the factual foundation upon which strict liability was constructed has been fundamentally altered by technology. Biometric identification systems, identity-linked digital ticketing, AI-powered CCTV analytics, payment-linked fan identity platforms, and government-backed digital verification have been deployed at scale across Brazil, Greece, Argentina, Denmark, the United Kingdom, and elsewhere—enabling clubs and authorities to identify individual perpetrators of disorder with documented accuracy rates exceeding 99.8 per cent.³ The question for football's governing bodies is no longer whether individual accountability is technologically feasible. It is whether the continued collective punishment of clubs and innocent supporters

can be justified under the principle of proportionality when a less restrictive, more effective alternative now exists.

This paper proceeds in ten parts. Parts II and III trace the etymology and current codification of strict liability. Part IV examines the problems it was designed to address. Part V surveys the evidence—empirical and doctrinal—that it does not achieve its objectives. Part VI presents the technological capabilities that have eliminated its foundational justification. Part VII compares national enforcement models. Part VIII addresses human rights, proportionality, and data protection constraints. Part IX surveys reform signals from governing bodies and civil society. Part X proposes a “due diligence framework” for consideration by FIFA, UEFA, and national Football Associations.

II. The Origins of Strict Liability in Football Governance

A. The Common Law Roots

The concept of strict liability—responsibility without fault—has deep roots in English common law, most notably established in *Rylands v Fletcher* (1868), where the House of Lords held that a person who brings onto their land something “likely to do mischief if it escapes” bears liability for resulting damage regardless of negligence.⁴ Football governance adapted this principle through a functional analogy: just as a landowner bears responsibility for dangerous things on their property, clubs bear responsibility for the conduct of their supporters—their “human risk”—regardless of whether the club itself was at fault.

B. The Hooliganism Crisis and Regulatory Response

The transplantation of strict liability into football was not a single legislative act but an organic evolution driven by crisis. The hooliganism epidemic of the 1970s and 1980s created irresistible pressure for accountability mechanisms. English football attendance plummeted to approximately 16 million in 1985–86—a post-war low.⁵ Organised hooligan firms had made match attendance a genuinely dangerous activity. The Heysel Stadium disaster of 1985, in which thirty-nine people

were killed, resulted in English clubs being banned from European competition for five years.⁶

The Council of Europe responded with the European Convention on Spectator Violence (CETS No. 120, 1985), the first supranational instrument addressing football-related violence.⁷ Against this backdrop, FIFA and UEFA incrementally embedded club responsibility for supporter behaviour into their disciplinary codes throughout the 1990s and early 2000s. The 2002 edition of the FIFA Disciplinary Code is identified as a pivotal codification, establishing standardised fines and bans specifically for misconduct including racism and violence.⁸

C. CAS Jurisprudence: The Doctrinal Foundation

Two Court of Arbitration for Sport decisions established the doctrinal architecture. In *CAS 2002/A/423 PSV Eindhoven v. UEFA*, the tribunal upheld a fine imposed on PSV for racist chanting directed at Arsenal's Thierry Henry, confirming the validity of strict liability as a regulatory principle.⁹ In *CAS 2007/A/1217 Feyenoord Rotterdam v. UEFA*, CAS confirmed Feyenoord's exclusion from the UEFA Cup, rejecting the club's argument that rioters in Nancy were not "true" supporters.¹⁰ These decisions established that clubs cannot escape strict liability by disowning problematic fans, and that the principle operates regardless of fault.

III. The Regulatory Architecture: FIFA and UEFA Today

The current FIFA Disciplinary Code (2023 edition) codifies strict liability through Articles 8 and 17. Article 17 explicitly states that clubs "may be subject to disciplinary measures and directives even if they can prove the absence of any negligence."¹¹ The scope encompasses racism, violence, pitch invasions, pyrotechnics, threatening behaviour, and political messaging.

The 2019 amendments to the UEFA Disciplinary Regulations refined Article 16 into a consequential two-tier structure. Paragraph 1 imposes negligence-based liability (with reversed burden of proof) on host clubs for general order and security. Paragraph 2 imposes absolute strict liability—with no defence of non-negligence—for enumerated behaviours

including pitch invasions, throwing objects, lighting fireworks, use of laser pointers, provocative messaging, and stadium damage.¹²

Significantly, the 2019 amendments also introduced Article 23(3), which allows competent disciplinary bodies to recognise the “immediate reaction” of a club as a mitigating circumstance.¹³ This was a meaningful, if insufficient, reform—acknowledging implicitly that the rigidity of absolute liability required tempering.

The scale of enforcement is substantial. FIFA’s Disciplinary Committee received over 700 cases in the 2022/23 period.¹⁴ In a single UEFA decision round, a dozen or more clubs may receive fines and stadium restrictions. Sanctions range from fines of €15,000 to €100,000 plus deferred exclusion, to outright exclusion from competition.¹⁵

IV. What Strict Liability Was Designed to Solve

The policy rationale for strict liability, as articulated in the academic literature, rests on three pillars.¹⁶ First, a **preventive purpose**: incentivising clubs to implement security measures by ensuring they bear consequences for failure. Second, a **deterrent purpose**: discouraging fan misbehaviour by making supporters aware their actions harm their club. Third, a **punitive purpose**: sanctioning wrongdoing even when individual perpetrators cannot be identified.

This third pillar was, historically, the most compelling. Before modern CCTV and facial recognition, identifying a specific individual who threw a flare or made a racist gesture among 50,000 spectators was effectively impossible. Criminal prosecution was too slow, cross-border enforcement too unreliable, and voluntary self-regulation by clubs too weak. The scale of the problem was immense: racism was endemic across European football, with Black players from Samuel Eto’o to Kevin-Prince Boateng facing banana-throwing, monkey chants, and abuse sufficiently severe to cause them to leave the pitch.¹⁷ Pyrotechnics, treated by ultra culture as integral to their identity, caused injuries and match interruptions across Southern and Eastern Europe.

V. The Accumulating Evidence That Strict Liability Does Not Deter

The most damaging critique of strict liability is empirical rather than philosophical: the evidence that it works as a deterrent is strikingly thin, while the evidence of its failures is substantial and growing.

A. The Recidivist Club Problem

Vasilyev's comprehensive analysis of several hundred UEFA CEDB and Appeals Body decisions from 2007 to 2021 found fundamental uncertainty about "how a sanction will have the expected effect on the spectators."¹⁸ His 2023 follow-up study observed that UEFA bodies have never established "an understanding of who is the subject of the focus of the sanctions"—a remarkable admission that, after decades of practice, the doctrine's own administrators cannot articulate whether it targets clubs or fans.¹⁹

The pattern of recidivist clubs is perhaps the most straightforward indictment of deterrence. Legia Warsaw was sanctioned with behind-closed-doors matches in 2013, 2014, and 2016, yet fan behaviour problems continued—with supporters displaying provocative banners with pyrotechnics in deliberate provocation after a racism sanction.²⁰ German football provides quantitative evidence: despite €12.5 million in DFB fines across the top three divisions in 2023–24 (and a similar figure in 2024–25), police recorded a 73 per cent increase in pyrotechnics incidents. The fan coalition *Unsere Kurve* observed that these statistics highlight "how ineffective the DFB's punishment model remains."²¹

B. Perverse Incentive Structures

SPFL CEO Neil Doncaster articulated the structural flaw directly: holding home clubs liable for all in-stadium behaviour creates an incentive for away fans to deliberately misbehave, knowing the home club will bear the sanction. Conversely, making clubs strictly liable for away fan behaviour will "simply lead to clubs refusing to sell their fans tickets for other grounds"—destroying the away supporter culture that enriches the sport.²²

When Legia Warsaw was ordered to play behind closed doors against Real Madrid in 2016, the entire home fanbase—including families and children—was locked out of a once-in-a-generation Champions League match, despite the club having banned 25 individuals, cooperated with police, and conducted ongoing investigations into 40 more.²³ The punishment fell on the innocent. The guilty were already banned.

C. Academic Consensus

The broader academic literature reinforces these concerns. Simmler (2020), writing in the *New Criminal Law Review*, concluded that “we lack statistics showing that strict liability crimes have reduced criminality.”²⁴ The Penn Carey Law *Journal of Law and Social Change* (2024) described football anti-racism enforcement as constituting mere “symbolic compliance.”²⁵ FIFPRO General Secretary Jonas Baer-Hoffmann stated in 2020 that existing sanctions were “clearly ineffective.”

VI. The Technological Imperative: Why the Status Quo Is Untenable

The original justification for strict liability—that individual identification in mass crowds was impossible—has been overtaken by a technological revolution that football’s regulatory framework has not yet absorbed.

A. Brazil: Mandatory Biometric Controls

Since 2024, Brazilian law requires biometric controls in all stadiums exceeding 20,000 seats. Palmeiras reports that the club knows “exactly who is in each seat.”²⁶ The São Paulo police integration programme *Muralha Paulista* has led to the arrest of more than 200 individuals identified through facial recognition at stadium entry. When supporter Gabriela Anelli was killed by a thrown bottle in 2023, the perpetrator was arrested within hours through the system.²⁷ Fortaleza’s biometric system blocked approximately 500 ticket purchase attempts by banned Chilean fans ahead of a single Copa Libertadores match in 2025.²⁸

B. Greece: Government-Backed Digital Identity

Following the death of a police officer in football-related riots in December 2023, Greece mandated that all fans verify tickets through the

Gov.gr Wallet app, linking each ticket to government-verified identity. Over 1.01 million tickets have been verified through the system.²⁹

C. Global Deployments

River Plate's *Más Monumental* operates the largest facial access system in a football stadium worldwide, processing 85,000 fans through biometric authentication without physical tickets.³⁰ Danish club Brøndby IF installed facial recognition to screen against a blacklist of registered troublemakers, identifying and blocking a banned individual at the very first match of operation.³¹ At the Arsenal-Tottenham North London Derby in September 2023, live facial recognition enabled three arrests for breaching football banning orders.

D. Accuracy and Cost

The U.S. National Institute of Standards and Technology (NIST) reported in January 2024 that NEC's facial recognition algorithm achieved 99.88 per cent accuracy in one-to-many identification against a database of 12 million faces.³² The cost of stadium-scale deployment—approximately \$120,000 to \$520,000 plus annual licensing—is comparable to or less than the cumulative fines and lost revenue a single season of strict liability sanctions can impose.³³

The logical implications are clear. If the premise was that clubs *cannot* identify perpetrators, and the evidence now demonstrates they *can*, then the impossibility rationale for collective punishment is factually incorrect when applied to clubs that have implemented—or could implement—identification infrastructure. The principle of proportionality demands that where a less restrictive means exists to achieve the same objective, the more restrictive measure cannot be justified.

VII. Comparative National Frameworks

A. United Kingdom: Football Banning Orders

The UK's Football Banning Order regime—established under the Football Spectators Act 1989, strengthened by the Football (Disorder) Act 2000—is widely regarded as the gold standard of individual-focused enforcement.³⁴ FBOs are court-imposed civil orders lasting 3 to 10 years,

requiring banned individuals to report to police stations on match days and surrender passports before international fixtures. As of 2024–25, 2,439 FBOs are in force.³⁵ A 2013 Home Office survey found 89 per cent of fans reported a decrease in violent behaviour since the 1980s. The UK’s transformation of football from a byword for violence into a family-friendly entertainment product was achieved through targeted individual enforcement combined with infrastructure reform—not through fining clubs for their supporters’ conduct.

B. Italy: DASPO

Italy’s DASPO system (*Divieto di Accedere alle Manifestazioni Sportive*) was introduced in 1989 and expanded after the Catania riot of 2007 that killed Police Inspector Filippo Raciti.³⁶ DASPO bans are issued by the *Questore* as administrative measures without requiring criminal conviction, lasting 1 to 10 years. By 2022–23, 6,343 individuals were subject to DASPO bans. Italy’s experience also provides a cautionary lesson: the *Tessera del Tifoso* (mandatory fan identity card) devastated attendance without preventing violence—demonstrating that identification infrastructure must target wrongdoers specifically, not subject the entire fanbase to surveillance friction.³⁷

C. The Netherlands: Evidence-Based Enforcement

The Dutch *Voetbalwet* (Football Act, 2015) grants mayors and prosecutors powers for area bans, assembly bans, and mandatory reporting. The KNVB explicitly advocates an “offender-based approach.” Multi-level analysis of 3,431 matches by Schaap et al. (2015) found that mandatory match cards showed no evidence of effectiveness at reducing incidents, while mandatory transport for away supporters was effective.³⁸ This research-driven distinction between what works and what merely feels authoritative is essential for any reform of the international framework.

D. Germany: The Dual-Pillar Paradox

Germany’s approach combines the world-leading *Fanprojekte* system—62 social-pedagogical fan projects, funded €4.2 million annually by the DFL—with DFB disciplinary proceedings.³⁹ The prevention pillar works; the collective punishment pillar demonstrably does not. Germany’s own

evidence—€12 million in annual club fines producing a 73 per cent increase in pyrotechnics—is perhaps the most powerful argument that fining clubs for individual supporter behaviour does not alter the behaviour of supporters.⁴⁰

VIII. Human Rights, Proportionality, and Data Protection

A. ECHR and CAS

The European Court of Human Rights, in *Mutu & Pechstein v. Switzerland* (2018), confirmed that CAS proceedings constitute “forced arbitration” subject to Article 6(1) ECHR fair trial guarantees.⁴¹ The CJEU’s December 2023 trilogy (*European Super League*, *ISU*, *Royal Antwerp*) confirmed that sports governance is subject to EU law, including fundamental rights.⁴² Stephen Weatherill’s concept of “conditional autonomy”—that sport’s self-regulation is recognised only insofar as it meets standards of proportionality and fundamental rights—captures the emerging legal reality.⁴³

In *CAS 2020/A/6920 Al Hilal Club v. CAF*, the tribunal held that “sanctions must comply with the principle of proportionality” and that “autonomy turns into arbitrariness, which is not acceptable.”⁴⁴ The principle of *nulla poena sine culpa*—no punishment without fault—is foundational to criminal law across every European jurisdiction. While sports disciplinary proceedings are formally non-criminal, Simmler (2020) has demonstrated that strict liability offences “substantively deviating from the standard mechanism of placing blame can potentially result in over-punishment.”⁴⁵

B. Data Protection Constraints

Any shift toward technology-driven identification must navigate GDPR Article 9 (biometric data as special category data), the EU AI Act (phased enforcement from 2025, restricting real-time remote biometric identification in public spaces), and the enforcement precedents established by actions against Clearview AI exceeding €100 million in cumulative fines.⁴⁶ Compliant systems must employ privacy-preserving architectures: template-based biometric matching, immediate deletion of

non-matched images, separation of biometric data from personal identifiers, and robust Data Protection Impact Assessments. The distinction between identity-verified ticketing—linking a ticket to a known purchaser through payment and registration data—and real-time facial surveillance is critical. The former raises manageable GDPR concerns analogous to airline boarding; the latter requires careful legal navigation.⁴⁷

IX. The Emerging Consensus: Reform Signals

While neither FIFA nor UEFA has established a formal working group dedicated to reforming strict liability, the trajectory of institutional signals points unmistakably toward recalibration.

The 2019 UEFA amendments—introducing the prompt-reaction mitigating factor—represent an acknowledgement that absolute liability benefits from nuance.⁴⁸ The 2016 Saint-Denis Convention (Council of Europe, CETS No. 218) replaced the 1985 Convention’s violence-focused approach with an integrated safety-security-service model emphasising multi-stakeholder cooperation.⁴⁹

The most significant development is recent. In October 2025, the Saint-Denis Convention Standing Committee adopted, on the initiative of Football Supporters Europe, a formal recommendation on collective bans against away football supporters. The recommendation’s core principle is unequivocal: “collective punishment has no place in modern football governance.”⁵⁰ FIFA’s own survey data indicates that 80 per cent of football unions believe identification of individuals responsible for abuses should be the priority, and 78 per cent support personalised tickets for targeted action.⁵¹

X. Toward a Due Diligence Framework: The Proposal

The evidence assembled in this paper supports a structured paradigm shift from strict club-level liability to what I term a “due diligence model”—retaining regulatory expectations of clubs while recognising that compliance with identification and security obligations should

fundamentally alter the liability calculus. The architecture rests on four principles.

Principle 1: Infrastructure Recognition

Clubs that demonstrate comprehensive identification infrastructure—biometric entry, identity-verified ticketing, adequate CCTV with analytical capability, and protocols for cooperation with law enforcement—should receive substantial mitigation or exemption from strict liability sanctions for supporter misconduct. The logic follows from the doctrine’s own rationale: if the purpose is to incentivise security investment, clubs that have invested should not face the same consequences as those that have not.

Principle 2: Individual Accountability

The burden of accountability should shift to individual perpetrators through the adoption of Football Banning Order-style mechanisms at the international level. The UK model demonstrates that court-backed individual bans with passport surrender—extended to international tournaments via UEFA coordination—are operationally effective. Italy’s DASPO model shows that administrative banning orders can be deployed rapidly without awaiting criminal conviction.

Principle 3: Governing Body Support

FIFA and UEFA should actively incentivise and support adoption of identification technology by clubs, rather than merely requiring compliance with safety regulations. This could take the form of licensing incentives, cost-sharing programmes (following Germany’s three-way Fanprojekte financing model), or phased implementation requirements linked to competition access. Technology mandates should be accompanied by clear data protection guidance offering clubs legal certainty regarding GDPR-compliant implementation pathways.

Principle 4: State Partnership

National governments should provide legal frameworks enabling prosecution of identified perpetrators, building on the UK’s Football Banning Orders Authority, the Netherlands’ Voetbalwet powers, and

Italy's DASPO infrastructure. Cross-border enforcement mechanisms—particularly passport surrender requirements coordinated through UEFA for international matches—would address the persistent challenge of travelling supporter disorder.

XI. Conclusion

The strict liability doctrine was a reasonable response to an unreasonable situation. When football stadiums were sites of mass violence and individual perpetrators vanished into anonymous crowds, holding clubs collectively responsible was the only available lever. That historical context deserves acknowledgement.

But policy must evolve with capability. The evidence assembled here demonstrates three things with sufficient clarity to warrant reform. First, strict liability's deterrent effect is, at best, unproven and, at worst, contradicted by decades of recidivist sanctioning data. Second, modern identification technology has been deployed at scale—from São Paulo to Athens, from Copenhagen to Buenos Aires—with documented effectiveness. Third, the comparative national evidence consistently shows that individual-focused enforcement models produce better outcomes than collective punishment.

The October 2025 Council of Europe recommendation that “collective punishment has no place in modern football governance” is not an activist position; it is a recognition of technological, legal, and empirical reality. The reform path does not require abandoning club obligations—it requires reconceiving them. Clubs should be expected to invest in identification infrastructure and cooperate with enforcement authorities. Those that do should be relieved of vicarious liability for the acts of individuals they have done everything possible to identify. Those that do not should continue to bear consequences proportionate to their failure.

This graduated, technology-enabled, individual-accountability framework would better serve the objectives that strict liability was always meant to achieve: safer stadiums, accountable wrongdoers, and a sport that treats its supporters as citizens rather than collective risks.

The technology exists. The legal frameworks exist. The political will is forming. What remains is for the governing bodies of world football to act.

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