Contemporary Readings in Law and Social Justice ISSN:
1948-9137, e-ISSN: 2162-2752
Vol 17 (1),2025
pp.148- 158

Legal Defences Against the Athlete's Tort Liability

Zoulikha Gaidi

Laboratory of the Legal Tools of the Estate Policies, Faculty of Law and Political Sciences, University of Mascara, (Algeria). E-mail: z.gaidi@univ-mascara.dz

Abstract:

An athlete may find themselves exposed to legal liability as a result of their conduct during the practice of sports, whether the liability arises from their own actions or from those of another party presumed to be under their custody, such as an animal or an inanimate object. In such cases, the athlete may be held civilly liable for any resulting damage, based either on presumed or proven fault. The legal mechanisms vary between conventional civil law methods-requiring the plaintiff to prove fault or the defendant to disprove it-and specific tools tailored to the nature of sports activity, such as proving an external cause that beaks the causal link between fault and damage, or demonstrating contributory negligence on the part of the victim. However, within the realm of sports, the athlete may reduce or even eliminate their liability through specific legal means, most notably the theory of risk acceptance, which serves as a distinguishing feature of sports activity compared to other civil obligations.

Keywords: Sporting activity, Assumption of risk, Tort liability, Foreign cause, Disproval of the athlete's fault.

Received:05 January 2025 **Accepted:** 11 April 2025 **Published:** 05 May 2025

Introduction:

The law and customs allow exercising sport activities despite there are sports that imply violence, where the athlete subjects himself to danger with full awareness of the threats and potential damages. The athlete who takes part in a fencing match, the knight who show jumps with his horse, and the boxer do not ignore the risks of these sports. Thus, the athlete deliberately subjects himself to actions that may harm him or the others. In addition, some sport activities do not imply violence, such as football and handball; however, they may harm the athlete or the others using the game tools. Thus, the athlete may find himself defendant for tort liability. In this context, he has methods to disclaim this liability to acquit himself or reduce the liability.

We must point that there are special causes for exemption from the civil liability of the athlete, including the tort liability, in sport, namely the risk acceptance (chapter one) or the conventional methods (chapter two). In order to analyze and discuss the methods of disclaiming the tort liability, we raise the following problematic, "how can the athlete disclaim the liability resulting from his personal action or from the tools he uses in his sport activity?". From this question, sub-questions arise, as follows:

- Can the athlete disclaim his tort liability?
- Does he rely on the general rules of the civil law?
- Are there distinctions between the sport activity and the other activities regarding the civil liability, including the tort?

To answer these questions, we used the analytical method through analyzing the tools available for the athlete to disclaim his tort reliability that results from his personal act or from the living or non-living things under his control. As for the importance of this question, the works that investigated it are few and did not focus on it as needed, either from the legal, judicial, or jurisprudential perspectives. We divided the study into two chapters, the 1st is about the special causes of disclaiming the athlete's tort liability while the 2nd is about the general limits of the athlete's tort liability.

Section I:The special causes of disclaiming the athlete's tort liability:

There are special causes gathered under the "theory of risk acceptance" and exempt the athlete from the tort liability. This theory is one of the common theories in the civil liability; however, its content and basic features manifest in the sport liability.

A) Definition of the risk acceptance theory:

The definitions have similar contents. In this context, Mr. Nadeau sees that the theory is implemented if the harmed accepts a given risk with full awareness and will, and can estimate the nature and extent of the risk; thus, he accepts the results beforehand[1]. In addition, Mr. Savignac applies his definition directly on sport and states that risk acceptance means that the party that accepts exercising a given sport and, even with reservation, the parties that watch the activity without participation accept with free will the risks related to such sport activity and cannot claim the liability of the harm commissioner in case the harm happens[2]. Besides, Mr. Mazou defines it as the victim's prior acceptance of a potential harm[3]. The notion of risk acceptance is raised when the harmed puts himself under a condition that causes harm with full awareness of the potential harm that results from the behavior[4].

These definitions show that the risk acceptance is the existence of a person in a situation where he accepts harm with his will and satisfaction without confirming its occurrence or management.

B) the conditions of the risk acceptance theory:

The theory requires some personal conditions in the party that shows satisfaction, and objective conditions regarding the nature of the risk.

1- the personal conditions to apply the notion of sport risk acceptance

The risk acceptance theory presupposes the harmed knowledge and acceptance of the risk. In this regard, we can state the personal conditions as follows:

- **Knowing and accepting the risk[5]:**

This is a logical condition because we cannot imagine that the harmed has accepted the game risk without knowing its nature. In this context, there is a difference between knowing the risk, accepting the risk, and its occurrence. The risk acceptance is a situation between knowing the risk and its occurrence. The knowledge about the risk implies the harmed knowledge about the potential of risk occurrence. On the other hand, the risk acceptance means the satisfaction with the potential harm. As for the occurrence of the harm, it means that the harmed wants the risk to occur and makes behaviors to make it happen. In this regard, the rally watchers priorly know that cars may deviate from their track. However, this knowledge does not disclaim the liability of the defendant because we speak about knowledge about the risk, not its acceptance[6].

- **The satisfaction integrity:**

The legally recognized will that raises effects must be based on a full knowledge about the conditions. The risk acceptance is not valid unless acceptance takes place after the full awareness about the potential risks. Thus, the will must not be misled or affected by illegal pressure[7].

- **The capacity of the harmed:**

To apply the risk acceptance theory, the harmed must have capacity and know about the risks. Such knowledge must be by discerning people who know the nature of the potential risk, not children or mentally troubled people. This is important in the sport risks acceptance because many young athletes are under the legal age, such as the 05 to 10 years athletes[8]. In this context, can we say that athletes of this age are aware about the potential risks of the game? If the harmed is minor, the acceptance is null, as the acceptance of the mentor is necessary and must be strictly required[9]. The French cassation Court had insisted on the need for discerning to approve the athletes risk acceptance. Thus, it refuses the application of the theory when evoked by the defendant to disclaim the liability provided for in paragraph 01 of Article

1384 on the parents' responsibility for the actions of the children.

In another decision, this Court used the discerning age criterion to accept the risks relevant to sport practice and considered that the child must be discerning to understand the risks that may occur during a given sport activity, as ruled in the 2nd Chamber of the Court in the case of the child who fell during skiing[10]. We notice that the French justice maintained some legal tools to overcome the possibility of applying the risk acceptance theory in case the subject is a minor athlete. As for the explicit or implicit acceptance, the violent risky sports such as boxing, rally, and skiing require an explicit satisfaction[11]. As for the other games, such as the Olympics, tennis, and football, the satisfaction can be implicit. Therefore, the acceptance of the child who subjects himself to risks without his parents' approval is not valid, as ruled in a case where an eight-year old child without full capacity participated in a rally and was injured. In this context, the court decided that the child is not illegible to participate in the race without his mentor's approval, and that facing risks during participation without approval raises the liability of the car pilot without possibility of evoking the risk acceptance theory[12].

2- The objective conditions to apply the sport risk acceptance theory:

The acceptance of the theory requires the risk to meet three conditions, namely:

- **The risk must be the outcome of a real participation in a sport activity:**

We cannot evoke the sport risk acceptance unless against a party that deliberately puts itself in a game as a player or adversary, not as an organizer or controller. In addition, we cannot raise it against the watchers or the parties that help facilitate the game, such as the coach. However, we cannot suppose the acceptance of the sport risk against the harmed athlete in case the risk is related to the exercise of the sport activity because the athlete satisfaction is limited to the risks related to the game only[13]. The game related risks include those resulting from the mutual movements of the players or the use of the game tools. However, the risks due to a foreign cause are not part of the game related risks.

In football, for instance, friction, collision, kicks, and other movements are risks of the game. On the other hand, the collapse of the stadium or fights between athletes are not game risks. In boxing, the boxer accepts the risks of the adversary fists while the risks of the ring collapse or fires that result from the audience actions are not accepted. In addition, the participant in the motorcycles races accepts the risks of bumping into another motorcycle, but not of bumping into a car or a bicycle that accompanies the participants. Based on what was said, the sport risk acceptance is not evoked unless the risk results from a real participation from the athlete in a sport activity, which is related to its nature. In addition, this condition requires the athlete who causes the harm to respect the game rules, as Garraud states that the boxer, footballer, and archery players do not accept being hit, but accept a set of hits from the adversary under the game rules[14].

- **The risk must be big to an extent:**

The harmed does not accept the risk because it is merely related to the sport; rather, the risk must be big, but not exceptional. In this regard, it must affect the life of a careful discerning person. This condition is met is the sports with high degree risks, where force and dangerous tools are used, such as in boxing, wrestling, rally, football, show jump, etc; where the risk acceptance theory is accepted[15]. As for the games with little risks, we find debates because the risk acceptance theory is highly flexible. Some may believe that the theory is accepted in case the harmed is aware about the implied risks. However, the theory is applied when the risk is somehow big, not a little one. Thus, the athlete does not accept the little or exceptional mistakes.

- **The risk must be natural and legal:**

The risks must result from the correct practice of the game because the athlete does not accept the risks that happen without mistake, or those resulting from the disrespect of the game rules[16]. In this context, some games require violence, such as boxing and wrestling, while others do not, like football. The application of the risk acceptance theory on the sports requires the athlete who causes harm to abide by the game rules.

Section II: The general limits of the athlete tort liability:

This is about the conventional methods in denying the athlete's liability or proving the foreign cause, which may result from a force majeure, abrupt accident, the behavior of the harmed, or the action of a third party.

A) force majeure or abrupt incident:

As the Egyptian and French legislators, the Algerian did not define the force majeure in the civil law and, just, pointed to it as a foreign cause to disclaim the liability, as provided in Article 127, which states that if the person proves that the harm results from an external incident, force majeure, mistake of the harmed, or mistake of a third party, he is not obliged to compensate for the harm, as long as there is no legal text or convention that provides for the opposite. In addition, paragraph 02 of Article 138 exempts from this liability the party that guards the thing if the harm is due to an unexpected event, such as the behavior of the victim or a third party, urgent situations, and force majeure. Moreover, Article 139 on guarding the animal may cover the force majeure and the abrupt incident. Based on what was said, we shall define the force majeure and identify its conditions.

1- definition of force majeure and abrupt incident:

We must point that the force majeure and the abrupt incident have different definitions. Dr. Atef al Naqib defines the force majeure as the incident that is not usually expected, controlled, or deterred, and that happens without intervention of the guard; thus, its source is foreign[17]. In addition, it is the act that man cannot usually expect, prevent, or deter[18]. Furthermore, Mr. Mohamed Labib Chanab sees the abrupt incident or force majeure as an external incident that cannot be expected or prevented, and that directly leads to harm[19]. Additionally, Mr. Suleiman Merqas believes that the abrupt incident and force majeure are two different expressions that refer to one concept that denotes an unexpected event that cannot be prevented, and that obliges the person to violate the commitment[20].

Moreover, Article 283 of the Tunisian journal of contracts and commitments states that force majeure prevents keeping the contracts and cannot be prevented by man, such as the floods, low rainfalls, storms, fires, external attack, etc. The cause that can be avoided is not a force majeure unless the defendant proves he had used all methods to stop it. However, the incident caused by the defendant mistake is not a force majeure[21]. The French justice gave a similar definition and said that force majeure or the abrupt accident that disclaims the liability is the unexpected one that makes it possible to keep the pledge[22]. In addition, the French cassation court defined the abrupt incident or force majeure as an external incident that happens suddenly without possibility of prediction or prevention[23]. The jurisprudents almost agree that there is no difference between the force majeure and the abrupt incident, as they refer to the same concept, i.e., that the incident is unexpected and cannot be prevented[24].

The attitude of the Algerian legislator was the same, as paragraph 02 of Article 138 and Article 127 of the Algerian civil law states that the force majeure and the abrupt incident are the first aspects of the foreign cause that disclaims the defendant's liability. Based on what was said, the athlete can deny the liability if he proves that the harm against the plaintiff is due to unexpected incident that cannot be prevented, and that he, or the things under his supervision, did not take any part in the incident. Examples of force majeure in sport include a decision that an athlete in equestrian race was not liable when a horse broke a stake, which flew in air and fell on audience[25]. Some jurisprudents[26] saw this decision as an acquittal for the force majeure.

2- The conditions of force majeure and abrupt incident:

We can say that the conditions of the force majeure are three.

- **The unexpectedness:**

The force majeure or abrupt incident must be unexpected because the possibility of expecting it puts the defendant in a position of neglecting the necessary measures to avoid the consequences[27]. The unexpected incident is the one whose occurrence is not foreseen and waited[28]. In this regard, the cause of the incident is sudden and did not leave chance to take the necessary measures to stop the incident[29]. Thus, the jurisprudence admits that knowledge about the incident occurrence does not

negate the nature of unexpectedness. In sports, the notion of force majeure or abrupt incident as a cause to disclaim the athlete's liability triggered much debate in the French justice, mainly regarding the reactions about the bullet in hunting. In this regard, the question was whether it was an application of force majeure or abrupt incident or no.

Some provisions recognized the unavailability of the condition of unexpectedness and exempted the athlete from the harm that affected the plaintiff. However, most of the provisions saw the opposite and provided that the reaction of the bullet was expected and that the hunter could not disclaim his liability[30]. In accordance with the condition of unexpectedness, the Algerian justice decided that the guard of the skates is liable for the harm that may affect children due to dizziness because dizziness is expected in such games[31].

- **The impossibility of prevention:**

The force majeure or abrupt incident must not only be unexpected, as it is necessary that they cannot be prevented. This implies that the athlete cannot face the incident or act in a way that stops its occurrence. The impossibility, either moral or material, is absolute. If it is relative, i.e., limited to the defendant, the incident is not force majeure and does not exempt the defendant from the liability. Here, the criterion is objective, not subjective[32].

- **The external nature:**

This means that the cause of the harm must not be from the athlete's action[33] or the action per[34] se, as the incident that causes harm due to force majeure must not be attributed to the athlete, i.e., not the result of his, or his mentees' actions. In this context, if the incident is due to a mistake by the mentees, the force majeure cannot be evoked under the claim that the incident was not the result of his action. In addition, the incident is not considered foreign. Moreover, if the incident is the outcome of the action of the mentees, he is liable because he is a guard[35]. In sports, a decision provided that an athlete is not liable due to force majeure when a boy hit his foot by the ground when he was playing football and, then, some of gravel on the ground hit the eye of his friend and injured it.

B) Section two:

Article 127 and paragraph 02 of Article 138 of the Algerian civil law considered the behaviors of the harmed and of a third party as foreign causes to disclaim the liability.

1- The behavior of the harmed[36]:

When a person is harmed by the action of another, the commissioner of the harmful behavior is not the only responsible because the harmed person, most of the time, takes part in the harm[37]. The action of the harmed, which passively or actively contributed the harm, may be the only cause of the harm, what makes the harmed liable for the harm that affected him[38]. In this context, Article 138 of the Algerian civil law considered the behavior of the harmed as a foreign cause that disclaims the liability of the guard. On the other hand, the Egyptian legislator stated that the harmed must prove the mistake to disclaim the liability. In Article 127 of the civil law, the Algerian legislator used the expression "a mistake by the harmed", not "behavior of the harmed".

As for the attitude of the jurisprudence regarding the behavior of the harmed, some jurisprudents see that the behavior of the harmed is enough to exempt the guard from the liability because it destroys the causal relation between the guard and the action[39]. On the other hand, other jurisprudents see that the action of the harmed cannot destroy the causal relation, unless his behavior is a mistake[40]. If the deliberate mistake is by the harmed, the liability of the athlete is denied due to the absence of a causal relation. For example, if one of the watchers tries to cross the track of the race and gets hit, he is liable for his action and the athlete is not indicted[41]. In addition, in the civil law, the Algerian legislator provided in Article 177 that the judge may reduce the amount of compensation, or not rule compensation if the plaintiff takes part in, or increases, the harm[42]. However, if one of the mistakes does not cover the other, we find a common mistake[43]. Thus, the athlete is sentenced to part of the compensation because the harmed person took part in the harm.

In this regard, a gulf player was sentenced to a slight liability after another player was harmed. The court considered that the plaintiff and defendant are participants in the harm because the harmed mistook by standing directly behind the other player, and the latter had to stand inclined when shooting. Therefore, the judges ruled the liability of both parties and divided the compensation and saw that the athlete who caused the harm deserved a partial exemption from the action of the tool that was under his supervision[44]. In another case, an athlete was hold slightly liable towards one of the watchers after he had gone too close to the watchers, where another player was waiting for his turn and was harmed. The second player was considered wrong because he was aware of the risk of the situation. Thus, the compensation was divided between the two players because the two mistakes have the same nature and degree. In addition, the penal liability of an athlete was raised when the court found out that the athlete who participated in a marathon bumped into one of the passengers and caused harm despite he saw him. However, the proofs showed that the passenger did not pave the way for the runner. Therefore, the court held both the runner and the passenger liable[45].

2- The behavior of a third party

Mr. Yahya Ahmed Mouafi defines it as the action of a third party to intervene in the incident after doubting the intention of the harmed to seek compensation[46]. It is one of the aspects of the foreign cause mentioned by the Algerian legislator in Article 127 of the civil law, which used the expression "mistake of a third party". In addition, paragraph 02 of Article 138 of the Algerian civil law used the expression "action of a third party" to refer to a foreign cause evoked by the guard to disclaim the liability imposed by Article 138 of the civil law. Therefore, the action of a third party is the cause of the harm, either by mistake or in a deliberate way[47].

When speaking about the action of a third party, we must identify the concept of a third party. In this context, it is a person that has no relation with the defendant, and who has committed, alone or in group, an action that caused harm. Mr. Mahmoud Jalal Hamza defined the third party as any person who is not legally or conventionally supervised by the guard. Thus, the third party is any person foreign for the guard[48]. These definitions allow identifying the people who are foreign and those who are not a third party.

- **The people who are not a third party:**

Any party subject to Articles 134 and 136 of the Algerian civil law is not a third party. In this context, we identify two categories:

Category one: It covers the people who must be legally or conventionally controlled by the human because they need this control due to their age or mental and physical state[49].

Category two: The minor and the mentally or physically troubled need supervision. The supervisor is responsible for their harmful actions against the others. Thus, they are not a third party and their mentors cannot disclaim the liability if their actions cause harm to the others[50].

- **The people who are foreign for the guard:**

Aside from the mentees, any person far from the guard's activity is foreign. The third party is the foreign person. If this party partakes in an incident, its contribution may disclaim the guard's liability[51]. In sport, the mistake of the third party affects the athlete's liability when it causes harm. In this context, the degree of the effect of the third party mistake changes with the conditions. For instance, the liability is denied if the harm is caused by the mistake of the third party alone. If we have many third parties, they share the compensation amount. In this context, one of the rally participants killed a police man due to common mistake caused by the race organizers who did not take enough safety measures and the watchers who refused to leave the dangerous space, pushing the police man to intervene. Thus, the court denied the participant's liability and accused the organizers and watchers[52].

If the mistake of the third party contributes, with the mistake of the athlete, to harm, both share the compensation. Therefore, an athlete and a third part were sentenced to a common liability after a female watcher was injured in a race, where a car deviated. Thus, the court considered the incident as the mistake of the participant and the organizers who left the watcher stand in a risky place. In addition, the mistake of

the third party, along with that of the harmed, may cause harm and deny that of the athlete. In this regard, in a motorcycle race, the watchers crossed the track, causing different injuries. Thus, the court held the organizers slightly liable due to the harmed watchers' participation in the harm. Besides, the athlete, the harmed, and the third party may, together, cause the harm. Generally speaking, the third party is the organizer. In such case, the three parties share the liability. For instance, a watcher crossed the safety distance and was injured by a racer who tried to overcome another racer. Consequently, the three were held liable[53].

Conclusion:

The effect that arises from the risk acceptance theory for the two case parties, i.e., the athlete who causes the harm and the harmed party, manifests in disclaiming the liability, as the harmed must prove that the athlete committed a mistake during the game to get compensation. Based on what was said, we can say that the risk acceptance theory denies the ability of the harmed to sue the athlete based on the causes mentioned in Articles 138 and 139 of the Algerian civil law. In order to get compensation, it is necessary to prove the mistake according to Article 124 of the civil law. In this regard, the notion of sport risk acceptance excludes the presupposed liability and keeps the liability resulting from the personal action. This result can be accepted because the sport risk acceptance can be analyzed as an implicit agreement on the non-liability.

In fact, this theory is the limit of the athlete tort liability in sports, and it sheds light on the subjectivity and specificity of the sport law in the light of the civil liability, including the tort liability, which results from the personal action of the athlete, or of the things under his supervision, be them living, such as horses, or non-living, such as balls. In conclusion, despite the specificity of the sport law, we cannot accept the existence of the civil liability far from the general rules of sport, as the latter is subject to the general rules of liability. Therefore, the athlete tort liability is disclaimed using the conventional exemption causes, such as force majeure, abrupt incident, behavior of the victim, and the action of a third party. From these findings, we can say that sport is not marginal for the society and its systems, and that it is a human activity with a big importance for the public opinion and the law, mainly the law of the civil liability. Therefore, we recommend:

Enacting laws that go with the status-quo of the Algerian sport.

Establishing a judicial court that considers the sport conflicts, including those on the sport liability, or, at least, establishing specialized departments or poles in the ordinary and administrative courts.

Supporting and developing the role of justice in settling the sport disputes to achieve balance between justice achievement and the legal guarantees preservation.

Teaching the sport law at the faculties of law and sport institutes to increase awareness about law in sports and give legal information on the sport liability, including the athlete's tort liability and how to disclaim it.

Issuing a special law for the sport liability to regulate the athlete's tort liability and how to disclaim it, taking into account the special nature of the sport activity because the general rules and principles provided for in the civil law are not enough to face the specificities of sport

Bibliography:

Arabic references:

Books:

1. Youcef Ahmed Houcine al Naama, disclaiming the civil liability by the harmed mistake: comparative study, PhD thesis, University of Cairo, publication house printing house, 1991.
2. Said Djaber, the sport liability, Arab renaissance house, Cairo, 1992.
3. Lotfi al Balchi, the sport risk acceptance and its effect on the civil liability, PhD thesis, 1994.
4. Atef al Naqib, the general theory of the liability resulting from making actions under their legal principles and practical frames, Vol. 02, Aouidat house, Algiers, Beirut, Paris, 1981.

5. Suleiman Merqas, the sufficient in explaining the civil law: the harmful act and the civil liability, Vol. 06, legal publications, Beirut, Lebanon, 1998.

6. Mohamed Labib Chanab, the liability for things: a study in the Egyptian civil law compared to the French, PhD thesis, the Egyptian renaissance library, Cairo, 1957.

7. Iyad Abd al Djabar Mellouki, the liability for things and its application on the moral persons in particular: comparative study, Vol. 01, culture house for publication and distribution, Oman, 2009.

8. Fadli Idriss, the liability for the non-living things in the Algerian civil law, Vol. 02, Algeria, 2010.

9. Abderrazzak Ahmed al Sanhouri, the median in explaining the new civil law, Vol. 01, the theory of commitment in general, sources of commitment, Vol. 03, al Halabi legal publications, Beirut, 2009.

10. Houcine Amer, the tort and contractual liability, Vol. 01, Egypt printing house, Cairo, 1956.

11. Anwar Soltane, the brief in the commitment sources, knowledge facility, Alexandria, 1980.

12. Aymen Ibrahim al Achmawi, the behavior of the harmed and the partial exemption from the liability, Arab renaissance house, Cairo, 1999.

13. Yahya Ahmed Mouafi, the liability for things in the light of jurisprudence and justice, knowledge facility, Alexandria, 1992.

14. Amjed Mohamed Mansour, the general theory of commitments, sources of commitments, comparative study (Jordanian, Egyptian, and French), Vol. 01, culture house for publication and distribution, Oman, 2009.

Theses:

15. Ibrahim al Dasuqi Abu Lil, exemption from the civil liability in cars accidents, PhD thesis in laws, Faculty of Ain Shams, Arab renaissance house, Cairo, 1975.

16. Zakaria Jalal Metwalli Nagriche, risk acceptance, PhD thesis in laws, University of Ain Shams, 1994

17. Mezouari Mokhtar, the civil liability in sport, Magister thesis in sport laws, Faculty of Laws and Political Sciences, University of Djilali Lyabes, Sidi Belabbas, 2015/2016. Jurisprudential views:

18. The decision of the supreme court, the civil chamber, 01/07/1981, file No° 21830, published in the judges' bulletin, issue 32, 1992.

19. The decision of the supreme court, the civil chamber, 24/11/1971, file no° 1971032, published in the judges bulletin, issue 07, 1976.

20. The decision of the supreme court, the civil chamber, 02/03/1983, file no° 30064, published in the judges bulletin, issue 01, 1987.

21. The decision of the supreme court, the civil chamber, 25/06/1969, file no° 1969272, unpublished.

Foreign references;

Books:

Nadeau (A), Traité de la responsabilité civile délictuelle, Montréal, Wilson et Lafleur, paris, 1971.

22. Albiges (CH), Darmaisin (S), Sautel (O), Responsabilité et sport, lexis Nexis S.A, Paris, 2007.

23. Marty (G) et Raynaud (P), les obligations, tome 01, les sources, 2ème éd, Sirey, paris, 1988.

24. Frédéric (B), Jean-Michel (M), Didier (P), Fabric (R), droit du sport, 3ème éd, L.G.D.J, paris, 2012.

Theses:

25. **Savignac (J)**, La responsabilité contractuelle en matière de spectacles sportifs, thèse, paris, 1943.

26. Dupont (G), de la responsabilité civile en matière d'accidents d'automobiles, thèse pour le doctorat en droit, présentée et soutenue à l'université de Caen, en 1910, p426

Papers:

27. Manuel Gros et Pierre-Yves Verkindt, L'autonomie du droit du sport « fiction ou réalité ? », URL : http:// blog avocat .FR /Sites/Default/files/fichiers /109-autonomie-du-droit-du Sport .pdfGarraud (p), « les sport et le droit pénal », Rev. Int. Dr. Pen, paris, 1924

Citations:

[1]- Nadeau (A), Traité de la responsabilité civile délictuelle, Montréal, Wilson et Lafleur, paris, 1971, p226.
[2]- Savignac (J), La responsabilité contractuelle en matière de spectacles sportifs, thèse, paris, 1943, p80.
[3]- Zakaria Jalal Metwalli Nagriche, risk acceptance, PhD thesis in laws, University of Ain Shams, 1994, p. 77.
[4]- Youcef Ahmed Houcine al Naama, disclaiming the civil liability by the harmed mistake : comparative study, PhD thesis, University of Cairo, publication house printing house, 1991, p. 13.
[5]- Manuel Gros et Pierre-Yves Verkindt, L'autonomie du droit du sport « fiction ou réalité ? ». p19. Published on : http:// blog avocat .FR /Sites/Default/files/fichiers /109-autonomie-du-droit-du Sport .pdf
[6]- Said Djaber, the sport liability, Arab renaissance house, Cairo, 1992, p. 116.
[7]- Zakaria Jalal Metwalli Nagriche, op. cit., p. 96.
[8]- Lotfi al Balchi, the sport risk acceptance and its effect on the civil liability, PhD thesis, 1994, p. 157.
[9]- Zakaria Jalal Metwalli Nagriche, op. cit., p. 94.
[10]- Albiges (CH), Darmaisin (S), Sautel (O), Responsabilité et sport, lexis Nexis S.A, Paris, 2007, p49.
[11]- Lotofi al Balchi, op. cit., p. 160.
[12]- Said Djaber, op. cit., p. 127.
[13]- Lotofi al Balchi, op. cit., p. 164.
[14]- Garraud (p), « les sport et le droit pénal », Rev. Int. Dr. Pen, paris, 1924, p.232.
[15]- Lotfi al Balchi, op. cit., p. 167.
[16]- Lotfi al Balchi, op. cit., p. 169.
[17]- Atef al Naqib, the general theory of the liability resulting from making actions under their legal principles and practical frames, Vol. 02, Aouidat house, Algiers, Beirut, Paris, 1981, p. 303.
[18]- Suleiman Merqas, the sufficient in explaining the civil law: the harmful act and the civil liability, Vol. 06, legal publications, Beirut, Lebanon, 1998, p. 113.
[19]- Mohamed Labib Chanab, the liability for things: a study in the Egyptian civil law compared to the French, PhD thesis, the Egyptian renaissance library, Cairo, 1957, p. 233.
[20]- Iyad Abd al Djabar Mellouki, the liability for things and its application on the moral persons in particular: comparative study, Vol. 01, culture house for publication and distribution, Oman, 2009, p. 217.
[21]- Fadli Idriss, the liability for the non-living things in the Algerian civil law, Vol. 02, Algeria, 2010, p. 167.
[22]- Iyad Abd al Djabar Mellouki, op. Cit., p. 216.
[23]- Fadli Idriss, op. Cit., p. 167.
[24]- Abderrazzak Ahmed al Sanhouri, the median in explaining the new civil law, Vol. 01, the theory of commitment in general, sources of commitment, Vol. 03, al Halabi legal publications, Beirut, 2009, p. 995.
[25]- Said Djaber, op. cit., p. 100.
[26]- Such as Veaux (D).
[27]- Houcine Amer, the tort and contractual liability, Vol. 01, Egypt printing house, Cairo, 1956, p. 259.

[28]- Dupont (G), de la responsabilité civile en matière d'accidents d'automobiles, thèse pour le doctorat en droit, présentée et soutenue à l'université de Caen, en 1910, p426.
[29]- Fadli Idriss, op. Cit., p. 176.
[30]- Said Djaber, op. cit., p. 101.
[31]- See: the decision of the supreme court, the civil chamber, 01/07/1981, file No° 21830, published in the judges' bulletin, issue 32, 1992, p. 125.
[32]- Marty (G) & Raynaud (P), les obligations, tome 01, les sources, 2ème éd, Sirey, paris, 1988, p791.
[33]- Anwar Soltane, the brief in the commitment sources, knowledge facility, Alexandria, 1980, p. 358.
[34]- Fadli Idriss, op. cit., p. 172; Ibrahim al Dasuqi Abu Lil, exemption from the civil liability in cars accidents, PhD thesis in laws, Faculty of Ain Shams, Arab renaissance house, Cairo, 1975, p. 270.
[35]- Mahmoud Jalal Hamza, op. cit., p. 504.
[36]- The expression "behavior of the harmed" is more inclusive than the "mistake of the harmed" because the 1st may cover the 2nd. See: Hamech Amjed Mohamed Mansour, the general theory of commitments, sources of commitments, comparative study (Jordanian, Egyptian, and French), Vol. 01, culture house for publication and distribution, Oman, 2009, p. 301.
[37]- Atef al Naqib, op. cit., p. 326.
[38]- Aymen Ibrahim al Achmawi, the behavior of the harmed and the partial exemption from the liability, Arab renaissance house, Cairo, 1999, p. 11.
[39]- The supporters of this view include Labib Chanab, Suleiman Marqas, and Anwar Soltane.
[40]- The supporters of this view include Starck, Tonk, Kassavia, qtd. In Fadli Idris, op. cit., p. 179.
[41]- Frédéric (B), Jean-Michel (M), Didier (P), Fabric (R), droit du sport, 3ème éd, L.G.D.J, paris, 2012, p560
[42]- It corresponds to Article 216 of the Egyptian civil law.
[43]- This means that the mistake of the defendant and plaintiff contributed to the harm.
[44]- Albiges (Ch), Darmaisin (S), Sautel **(O),** op.cit, p55.
[45]- Said Djaber, op. cit., p. 104.
[46]- Yahya Ahmed Mouafi, the liability for things in the light of jurisprudence and justice, knowledge facility, Alexandria, 1992, p. 207.
[47]- Fadli idris, op. cit., p. 183.
[48]- Mahmoud Jalal Hamza, op. cit., p. 528.
[49]- Paragraph 01 of Article 134 of the Algerian civil law provides that any person who must, legally or conventionally, guard another person due to his age or mental or physical state must compensate for the harm caused to the others. In this regard, we find a decision about not considering the action of the minor child as harmful to the others. The decision was issued by the Civil Chamber in the Algerian Supreme Court on 24/11/1971, file no° 1971032, published in the judges bulletin, issue 07, 1976, p. 32. Besides, another decision provides that the minor children are others for their parents. The decision was issued by the Civil Chamber in the Algerian Supreme Court on 02/03/1983, file no° 30064, published in the judges bulletin, issue 01, 1987, p. 27.
[50]- Paragraph 01 of Article 136 of the Algerian civil law provides that the mentor is responsible for the harm caused by his mentee during the exercise of his job, or because of his job. In this regard, a decision provided for not considering the action of the mentee as an action of a third party. The decision was issued by the Civil Chamber in the Algerian Supreme Court on 25/06/1969, file no° 1969272, unpublished.
[51]- Mahmoud Jalel Hamza, op. cit. p. 531.
[52]- Said Djaber, op. cit., p. 108.
[53]- Mezouari Mokhtar, the civil liability in sport, Magister thesis in sport laws, Faculty of Laws and Political Sciences, University of Djilali Lyabes, Sidi Belabbas, 2015/2016, p. 112.