

Organization and participation in amateur cycling races – administrative, legal and penal aspects

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Abstract:

Problem Statement: The organization of amateur cycling races involves a number of administrative, legal and penal aspects that must be provided for by the organizer of such an event. The participant should possess the basic legal knowledge as well as it determines its' legal position in the event of an accident during such race. **Purpose:** This article has been drawn up to make potential organizers of amateur cycling races aware of a number of legal conditions that must be met while organizing such events. This phenomenon remains relevant because of the significant popularization of such events, and therefore it remains necessary to prepare an article that would define the legal requirements that are associated with the organization of such events. **Approach:** The main approach, which was used by both authors, is a formal and dogmatic analysis of generally applicable law provisions, which apply to the organization of amateur cycling races. The works of the doctrine were also analyzed, the authors also used their own experience of organizing and participating in amateur cycling races and indicated examples of famous amateur cycling races which take place in Poland. **Results:** Amateur cycling races are becoming increasingly popular. Organisers need to be aware of a number of legal and administrative obligations that must be fulfilled in order to organise such events. In the case of organizing another event (e.g. artistic one) next to the race, there is also a possibility that it will be necessary to apply the regulations of the act on safety of mass events. In addition, there is a chance that an accident could occur during a cycling race, which could result in criminal liability for a race participant who fails to observe certain precautionary rules. **Conclusion:** The organizer of amateur cycling races is an entity responsible for meeting a number of obligations set out in the generally applicable law. It is not bound by the provisions of the non-state sports law – which comes from national and international sports organizations. In the course of the race, events may also take place in which an injury or death of one of the participants may occur, which will be viewed from the point of view of penal law – from the perspective of the analysis of the sports risk justification (counter-type). What is more, the problem of doping remains a burning issue for all of cycling, both professional and even amateur.

Key Words: sports, amateur cycling, race organization, administrative and legal aspects, penal aspects, anti-doping aspects

Introduction

In recent years, a significant increase in the popularity of amateur sport in Poland should be noted - road cycling in particular is becoming more and more popular (Ministry of Sport and Tourism of the Republic of Poland 2015). The 'Programme for the Development of Sport until 2020' prepared by the Ministry of Sport and Tourism of the Republic of Poland in 2015 forecasted an upcoming increase in the popularity of mass sports events in this sport discipline (Ministry of Sport and Tourism of the Republic of Poland 2015). In turn, as indicated in the publication of the Department of Social Research and Living Conditions of the Central Statistical Office 'Participation in Sport and Physical Recreation in 2016' both women and men in each age group most often declared participation in sports and recreational activities in the form of cycling (Statistics Poland 2017). The growing popularity of cycling is also not hampered by the fact that in order to practice this sport, appropriate financial resources remain necessary, which must be allocated to the purchase of specialised equipment in the form of a bicycle, helmet, shoes and other necessary cycling accessories.

For the purposes of this article, amateur cycling is considered as any non-professional sport competition (i.e. not in connection with a person's earning purpose professional activity) in the field of that sport undertaken in road races in which it is not necessary to hold a Union Cycliste Internationale (the International Cycling Union, which is the world governing body of cycling and gathers national cycling federations, hereinafter the 'UCI') licence in any of the categories provided for in the UCI rules and to belong to a group registered within the UCI. What remains important - many times it is forbidden for professional cyclists within the UCI to take part in amateur competitions. The issues which are the subject of this article remain important insofar as more

and more amateur cycling races are organised in Poland, while the polish cycling legend Czesław Lang indicates, that in Poland a 'cycling community' has been created (Bieńkowski 2017). It should also be stressed that the organisation of amateur sport competitions constitutes an important branch of business activity, not only at the level of strict organisers, but also providers of timing services, organisers of fairs accompanying the competitions or producers of medals. The importance of amateur sport should be emphasised above all because it remains the foundation of the organisational pyramid and the source of competitive sport itself (Radke 2018). For polish sports associations, on the other hand, the development of mass amateur sport may be perceived as a 'threat in the fight for public funds', which is to manifest itself in particular in the fact that the organisers of amateur sporting competitions - *de facto* - step into the role of a competition organizer in a particular sport discipline governed by a given sports association (in the case of cycling, such an association would be the Polish Cycling Association) (Polish Athletics Association 2013). However, it should be borne in mind that the provisions of chapter 6 of the polish sports act of 2010 relating to the support of sport by public authorities do not specify whether such support may be provided exclusively to professional (vocational) sport, hence all entities connected with sport - including organisers of amateur cycling races - are entitled to receive such support. At this point it is also important to point out that within the framework of the above-mentioned chief legal act regulating social relations in the field of sport, the legislator has not made any division of sport into professional (professional) and other (amateur) sport (Badura & Basiński & Kałużny & Wojcieszak, 2011). The freedom to practice sport and to organise any kind of sports competition has been left, which is only limited with respect to the organisation by the polish sports associations of sports competition for the title of the Champion of Poland and the Polish Cup in a given sport [Article 13 (1.1) of the polish sports act].

The essence and significance of amateur cycling have been recognized in Poland already in 2010, when the first edition of the Amateur Tour de Pologne took place - in the first edition 700 participants took part, while in the current editions of this race there are already a couple times as many (Bieńkowski 2017). The calendar of amateur cycling events includes more and more events every year, which are a response to the growing interest in participation of amateur cyclists in such happenings.

Among the distinguished amateur cycling competitions (in addition to the above-mentioned Amateur Tour de Pologne), one should also note the ŠKODA Poznań Bike Challenge organised in Poznań in previous years - the largest amateur cycling race in Central and Eastern Europe, in which about five thousand riders registered to start in 2018, while the race (having its' amateur part) itself co-created the UCI Gran Fondo World Series, within which competitions are organised worldwide under the UCI aegis. It is also impossible to forget about many local - smaller in scale - cycling races, which also significantly activate the local community and motivate participation in organised amateur competition - such as the multi-stage cycle organised by the Tri-city Cycling Association or Kaszëbë Runda - a road cycling marathon, within which an amateur cyclist has a choice of 3 routes differing in length, while the 2018 edition attracted two and a half thousand participants. Cycling races often remain an attraction of a given region, which contributes to the development of local tourism (Górka&Palus 2014).

Amateur cycling has also become more and more popular during the COVID-19 pandemic as many people – in order to stay in shape – decided to practice this sports discipline. For instance, the cycling business started booming in India as lots of people bought bicycles and started practising this discipline as a measure to battle claustrophobia which was caused because of the lockdown (Misra 2020). The same situation happened in the United Kingdom where people also fell into the 'cycling boom' as more and more people started practising this safe discipline in terms of extremely low risk possible infection while practising (Connor 2020). What was also important was the fact, that the riders were able to easily maintain social distance and didn't have to deal with the suffocating restriction of wearing a face mask (Misra 2020).

Material & methods

The main idea of this article is to indicate a number of requirements that must be met each time by the organisers of amateur cycling races resulting from the provisions of the generally applicable law. In regard of the amateur cycling events, a further increase in the popularity of these sports events could be observed, despite a number of administrative and legal restrictions as well as penal (including anti-doping) aspects that will accompany the organisation of such sports events. To this end, this publication uses predominantly a formal and dogmatic method of analysing the above-mentioned legal provisions, as well as any generally available information about amateur cycling races. The work includes the views of representatives of the doctrine of sports law, traffic law, mass event law, penal law, and ultimately anti-doping law - as the organisation of an amateur cycling race requires knowledge of all these fields of law. Comparisons of different races are also used, and the authors' personal experience of participating in amateur cycling races is also analysed (one of them is an amateur rider himself, the other one advised during an organization of such a race by the Association of Professional Riders in Poland, which is the polish union of riders which takes care of their interests). The work may constitute a good comparative stage for systems of law other than the Polish one, due to the difference in the legal tools used by the Polish legislator.

Results

Amateur cycling races are growing in popularity. Their organisation, however, despite the amateur status of the event, requires considerable legal knowledge of its organisers. These entities become responsible for the life and health of participants when organising such an event. To that end, legal awareness is required on the part of the organiser, which may be any person (natural or legal) who has the organisational and financial resources to organise such an event.

The organiser of an amateur cycling race will be obliged to obey the generally applicable law in the country of its organisation - such an entity must demonstrate knowledge of the provisions of many fields of law due to the many elements that make up such an event as a whole. In the case of organizing an amateur race (i.e. a non-professional one), they are not bound by the regulations of the non-state sports law (i.e. legal regulations coming from international and national sports organizations) - the result of such a race remains indifferent for these entities, and is not taken into consideration by these organizations for any players' and teams' rankings.

Road traffic law is the most important field of law applicable to the organisation of amateur cycling races. The possibility of organising such a race legally depends on meeting a number of requirements of an administrative and legal nature, after all, organising such a race constitutes one of the special ways of using the road. First of all, the organiser is obliged to ensure safety and order during the event. In addition, the organiser is obliged to co-operate with the relevant traffic management authorities and the Police. The permission to hold an amateur cycling race is issued administratively by the relevant authority managing road traffic (as there are different types of roads supervised by different authorities). Organising an amateur cycling race without the relevant permit may result in liability of the organiser for committing an offence. It should also be borne in mind that within the framework of road traffic regulations the legislator warns the organiser of an amateur cycling race of the necessity to comply with the requirements specified in other regulations concerning, among others, the following issues: 1) construction law; 2) sanitary aspects; 3) fire protection aspects; 4) environmental protection aspects.

The next legal issue that arises on the occasion of the organisation of an amateur cycling race is the question of the possibility to apply the regulations concerning mass events in connection with the organisation of such an event. Although the provisions of the road traffic law provide that the provisions of the law on safety of mass events do not apply to the organisation of such events, in practice, the organiser may still be obliged to obtain a permit to organise a mass event in the event that, in addition to the race organised by it, another co-event is scheduled that may be considered a mass event (e.g. an artistic event, award ceremony).

The conditions in which cycling is practised (not only its' amateur part) may cause the occurrence of potentially dangerous situations for the life and health of race participants, which may be assessed from the penal law point of view. In this respect, the application of the non-statutory justification (counter-type) of sporting risk, which is widely recognised by penal law doctrine, remains relevant. If one of the participants in an amateur cycling race leads to injury to health or death of another participant in the race, such behaviour may be considered legal under penal law if the features of the sports risk justification (counter-type) are fulfilled, namely: 1) participation in a "legal" sporting discipline; 2) action taken for a sporting purpose; 3) action in accordance with the rules of the discipline; 4) voluntary participation of the participants.

Another of the penal law issues that must be taken into account in the organization of an amateur cycling race are those related to doping in sport, however, an analysis of the provisions of the polish sports act and polish anti-doping act in force in Poland justifies the thesis that these regulations will not apply within non-professional sport (i.e. amateur), and therefore also within amateur cycling competitions. Regardless of this, organisers of such races, concerned about the purity of competition even at the non-professional level, are working to create common anti-doping practices that will provide for a different liability of amateur competitors for doping during an amateur race than the penal law, which remains the sole domain of the state. In this respect, however, organisers remain empowered to exclude a person who has participated in one amateur cycling race after using doping substances from participating in other events of that kind.

Dicussion

Organisers of amateur cycling races

The organizer of an amateur cycling race can be in fact any entity that has sufficient financial and organizational capacity, thanks to which it is able to fulfil a number of requirements so that a given race could take place in accordance with the generally applicable law. Thus, it can be a natural person, a legal person, as well as an organizational unit to which the relevant regulations grant legal capacity. Practice shows that these are usually sports clubs [which, pursuant to article 3 (2) of the polish sports act, must take the form of a legal person], associations of physical culture, registered and ordinary associations, legal persons connected predominantly with former professional cyclists (e.g. Lang Team LLC), district cycling associations (in the case of organizing a race not entered in the District Calendar) or riders' union (such as the Polish Riders Association). Within the provisions of the polish sports act, the legislator has not provided any special requirements for such entities, not referring to this issue in any way.

The situation is different in terms of international races, which are entered in the UCI World or Continental Calendar or national races, which are entered in the National Calendar, which is established by the

Polish Cycling Association or the District Calendar, which is established by the district cycling associations. In case of the above-mentioned types of races there are a number of requirements they must meet so that they can be held under the aegis of UCI (international races), or Polish Cycling Association (national races), or district cycling associations (district races), which are described in detail in one of the documents forming the sports rules of the Polish Cycling Association: Part I. General Principles of Cycling Sport Organization (Polish Cycling Association 2020) – Chapter II, Section 2 § 1 refers directly to the issue of race organizer's duties. This document however is a direct transposition of the rules established by UCI - supplemented on the ground of internally binding Polish sports law, within the exclusive rights of the Polish Cycling Union to establish and implement sports, organizational and disciplinary rules in sports competition organized by the union, with the exception of disciplinary rules concerning doping in sport pursuant to article 13 (2.2) of the Polish sports act.

Obligations of organisers of amateur cycling races

As it has been mentioned above, the organisers of amateur cycling races are not limited by a number of requirements provided for under the non-state sports law - i.e. the law that does not come from an authorised legislative body of a country (coming from international sports organisations, such as the UCI, or national organisations such as the Polish Cycling Association) – for example, they do not have to hold a licence of the relevant cycling sports association of the country where the competition takes place. However, this does not exempt them from compliance with the generally applicable law, in particular road traffic safety regulations specified in the Polish road traffic act.

Within the framework of the aforementioned legal act, the legislator included in article 65a (2.1) with regard to the organisers of events that require the use of the road in a special way (thus, also amateur cycling races), the requirement to fulfil other requirements specified in particular in the provisions of: 1) construction law; 2) sanitary law; 3) fire protection law and 4) environmental protection law, while the use of the wording 'in particular' by the legislator within this article means that this catalogue remains open, therefore, when organising an amateur cycling race, all regulations from other fields of law that regulate interpersonal relations should also be taken into account, including the protection of personal data and the personal rights protection of the amateur riders taking part in a given amateur race.

Obligations of the organiser of an amateur cycling race resulting from generally applicable road traffic regulations

From the point of view of organizing an amateur cycling race, the most important issue in organizing such a race is to comply with the traffic protection regulations specified in the Polish road traffic act – after all, the race takes place on public roads on which normal road traffic takes place every day. Organization of an amateur cycling race constitutes one of the special uses of the road pursuant to article 65 of the Polish road traffic act – within the framework of this article, reference is made to organising 'races' and 'sports competitions', with an amateur cycling race being both. On the other hand, as R. Stefański points out, using the road in a particular way means that it is impossible to reconcile it with the traffic rules, e.g. occupying both road lanes (Stefański 2008). What is more, the possibility to organise an event which requires using the road in a special way, e.g. in the form of an amateur cycling race, should be considered, as W. Kotowski indicated, as a manifestation of exercising one of the fundamental rights of an individual guaranteed by the Constitution of the Republic of Poland of 1997 in the form of article 57 on the freedom to organise peaceful assemblies and to participate in such assemblies (Kotowski 2011).

Pursuant to article 65a of the Polish road traffic act – sports competitions, rallies, races, transport of persons by tourist train and other events which cause difficulties in traffic or require special use of the road may be held on condition that safety of order is ensured during the event and that a permit to hold the event is obtained. The obligations of the organiser of an amateur cycling race remain detailed in article 65a of the Polish road traffic act and include not only a very general statement that the organiser of the event is obliged to ensure the safety and security of persons present at the event and order during the event, but also other - more precisely specified obligations, such as for instance: providing medical aid, order and information services, evacuation routes and routes allowing access of rescue services and the Police, technical means necessary to secure the event in the form of signs, warning or information boards, ropes, tapes, barriers, fences and many others. Generally speaking, the organiser is obliged to provide adequate material and technical means for the safety of the race he organises, and in fulfilling this obligation. Wojciech Kotowski distinguishes its following phases: 1) the phase of preparation of the event; 2) the phase of the course of the event; and 3) the phase of completion of the event, until the state before the event is restored (Kotowski 2011).

The organisation of an amateur cycling race from the viewpoint of the provisions of the Polish road traffic act also requires the organiser to cooperate with the relevant authorities: 1) road traffic management authorities - in terms of agreeing the course of the route on which the event is to take place; 2) the Police - in terms of agreeing the course of the route or the place of the event, applying orders concerning the proper security of the event, making a joint diversions of the route or the place of the event. Pursuant to article 65a (4) of the Polish road traffic act, security and order during an amateur cycling race shall be ensured by the Police, with certain exceptions when the event takes place in special locations (such as border zones) – in such a case other

units will ensure the security and order. The provision of security by the Police or other competent entity consists in the development of its own plan for securing the event (the event preparation phase), setting up of posts, directing traffic, piloting if necessary, organising detours resulting from the event being held (the event course phase), restoring traffic flow on the road (the event completion phase).

The permit to hold an amateur cycling race causing traffic holdup is issued in the form of an administrative decision as a result of an application filed by the event organizer, which must be filed at least 30 days before the planned date of commencement of the race – this deadline is justified in particular with regard to the necessary actions that need to be taken to ensure safety of the planned event by the public authority. The decision itself (granting the permit or refusing to grant the permit) must be issued at least 7 days before the planned start date of the race. The authority issuing the permit or refusing to issue such permit shall be the authority supervising the traffic on the road on which the event takes place, however, if the event takes place on roads subordinate to several authorities – the competent authority then shall be: 1) for roads of different categories – the traffic supervision authority of the road of the higher category; 2) for roads of the same category – the authority competent for the place where the event starts. The categories of authorities managing traffic on roads are specified in article 10 (3)-(7) of the Polish Road Traffic Act and thus: 1) The General Director for National Roads and Motorways supervises traffic on national roads, subject to roads managed by the Mayor of the City; 2) The Marshal of the Voivodeship supervises traffic on voivodeship roads, subject to roads supervised by the Mayor of the City; 3) The Starost supervises traffic on county and municipal roads, subject to roads supervised by the Mayor of the City; 4) The Mayor of the City shall supervise traffic on public roads located in towns with county rights, with the exception of motorways and expressways; 5) Traffic supervision on internal roads, including the traffic zone and the zone of residence, shall be performed by the entity managing such roads.

Therefore, the organizer of an amateur cycling race must properly specify the public administration authority to which he will apply for a permit to conduct the race, depending on the type of roads on which the planned race will take place – however, if the application is submitted to the wrong public administration authority, article 65 (1) of the Polish Code of Administrative Procedure shall apply, according to which, if the public administration authority to which the application has been submitted is not competent in the matter, it shall immediately transfer the application to the competent authority, at the same time notifying the applicant thereof.

It is also possible for the public administration authority that issued the permit to organise an amateur cycling race to withdraw it, however, if there is a threat to life or health or to property of great value, this authority is obliged to do so, whereas if the event poses a threat to road safety, withdrawal of the permit is optional, i.e. it remains solely at the discretion of the authorised authority. If, on the other hand, the organiser decided, after all, to organise an amateur cycling race without a permit, in such a case the road traffic control authority will discontinue such a race – in such a situation there is no possibility for the authority to assess on its own whether the race poses a threat to road traffic safety because it must be obligatorily discontinued. On the other hand, as pointed out by M. Malinowski, organising an event without a permit may result in incurring liability by the organiser for committing offences under: 1) article 90 of the Polish Code of Petty Offences, i.e. obstructing or hindering traffic on a public road or 2) article 97 of the same act, i.e. violation of the provisions on road traffic safety or order, which is not directly provided for in chapter XI of the Polish Code of Petty Offences, which includes offences against transport safety and order (Malinowski 2012).

The Polish legislator has also provided in the Polish Traffic Road Act optional premises for the interruption of the event in the situation when: 1) the place, route or duration of the event are inconsistent with the conditions set out in the permit; 2) there is a threat to human life or health or property of great value; 3) its course causes a threat to road safety.

Amateur cycling race as a mass event?

When roads are used in a special way, e.g. by organizing a race pursuant to article 65 of the Polish Road Traffic Act, the question arises whether such an event is also covered by the provisions of the Polish Act on the Safety of Mass Events. As C. Kałol points out, in such a case the application of the provisions of the abovementioned act is excluded (Kałol 2020). Such a statement is a result of direct interpretation of provisions of the Polish Road Traffic Act in the form of article 65h (3), which provides that the provisions of the Polish Act on the Safety of Mass Events, excluding the provisions regulating the organization and powers of security forces, do not apply to the organization of the races, in relation to which the permit for their organization is issued under article 65 of the Polish Road Traffic Act.

The above means that the Polish Act on the Safety of Mass Events may apply to events organised on a public road, however only and exclusively to the extent relating to the organisation and powers of security services (Stefański 2008). As M. Drózdź points out, in practice there are often situations when - apart from organising a race - another co-event meeting the criteria for recognising as a mass event is planned, e.g. an artistic event in the form of a concert, which requires a separate permit from the public administration authority authorised to grant a permit for organising a mass event (Drózdź 2015). Cezary Kałol stresses that in no case does the permit to use the road in a special way, e.g. in the form of a race, replace the permission to conduct a mass event (Kałol 2020). The same author indicates, similarly to M. Drózdź, the possibility of a situation, in

which it is necessary to obtain, at the same time, not only the permit to conduct a mass event, but also the permit to use the road in a special way. Ultimately, however, it should be emphasised that if an amateur cycling race is not combined with another event organised 'on the occasion of', then, in such a case, pursuant to article 65h (3) of the Polish road traffic act, the provisions of the Polish act on the safety of mass events do not apply to its organisation to the extent other than that concerning the organisation and powers of the enforcement services.

Penal law aspects of the organisation of amateur cycling competitions

Cycling, including amateur cycling, is a potentially injury-prone and dangerous sport because of the high speed achieved by the riders, the varied riding conditions and the problems of riding in a peloton. As M. Drózdź accurately points out: 'The evolution of sporting events means that undertaking sport is associated with a high probability of harm to athletes themselves, despite the fact that we are dealing with the professionalization of it' (Drózdź 2020). As a part of the practice of amateur cycling, the problem of non-traumatic injuries is also common – back, hand/wrist and buttock/perineal symptoms remain the most frequent problems (Van der Walt & Janse van Rensburg & Fletcher & Grant & Van der Walt 2014). It should also be stressed that amateur sport often lacks full service support, multifaceted training or physiotherapy. People with different skills, equipment and knowledge take part in amateur competitions. As a rule, there is no gender division. The author of these words was an eyewitness to two spectacular crashes in competitions where, at the time of impact, each of the participants was cycling at over 40 km/h. In both cases, these situations were caused by a minor mistake of the participating cyclists. One of the falls resulted in a serious injury to a hand, which is described in article 156 (1.2) of the Polish penal code as a serious injury to health. It is also certain that the riders did not keep a safe distance (they rode in the peloton at a distance of about 2-3 cm from the preceding rider) and in one case probably exceeded the speed permitted in that place. Certainly, these 'faults' of the cyclists' riding are the essence of an amateur race. That is why it is necessary to consider to what extent the competitors taking part in an amateur cycling race are liable for incidents (accidents) resulting from normal sports competition. Reference should be made here to the sports risk justification (counter-type), which is non-statutory in nature, although its application is common practice. What is it then? Firstly, the justification (counter-type) is a typical circumstance excluding penal unlawfulness of an act. The behaviour which was originally illegal thanks to fulfilling the features (characteristics) of the justification (counter-type) becomes legal again. And so - if in an accident we unintentionally cause results in serious harm to the health of a cyclist [article 156 (2) of the Polish penal code] e.g. in the form of a broken arm and at the same time our behaviour meets the characteristics of a justification (counter-type), it will constitute a legal behaviour. The features of this justification (counter-type) are as follows: 1) Participation in a "legal" sporting discipline; 2) Action taken for a sporting purpose; 3) Action in accordance with the rules of a given discipline; 4) Voluntary participation of participants.

In relation to amateur cycling competitions, the legality of the discipline in question is certainly not in doubt. The second condition must be assessed primarily in relation to the individual conduct. However, establishing that the lack of keeping the appropriate distance, riding fast or entering a bend at a high speed was undertaken within the framework of the competition for a sporting purpose probably does not have to raise any major doubts. The voluntary participation of participants is unlikely to be a problem either.

The main discussion, however, should be focused on the premise of acting in accordance with the rules of the sport in question. It should be emphasised that amateur sports competitions – in terms of analysing the phenomenon of the justification (counter-type) when necessary are also then covered by regulations of sports organisations, which in particular are included in the rules of the competition itself and also set the safety standard. The reference point here is the Polish Cycling Association Sporting Regulations consisting of XVII parts regulating different aspects of professional cycling. These regulations are translated from the original UCI regulations. And so, for example, in part XIII of the Polish Cycling Association Sporting Regulations – Safety and conditions in sport we can read that 'The participants of the competition must respect the traffic regulations in force in all circumstances' (Polish Cycling Association 2005). Generally speaking, cyclists riding on a closed course, due to the content of the above mentioned rule and competition regulations, should respect the traffic regulations and at the same time it is nothing new that in such a situation their chance of achieving a good result decreases to a minimum. Thus - in case of riding in a column, the number of bikes cannot exceed 15 [according to article 32 (1.2.) of the Polish road traffic act], the cyclist should ride on the cycle path [article 33 (1) of the Polish road traffic act], cyclists must also observe general rules such as speed limits (sic!). Of course, these restrictions do not have much in common with real cycling competition - riding in a column (peloton) in its essence involves the violation of the principle of maintaining an appropriate and safe distance, no one respects the limits of 15 riders, during the competition no one cycles on the cycle path, finally, whoever can ride fast enough that speed limits are unfamiliar to him. And of course such actions lead to an increased risk of accidents.

Seen from this perspective, infringement of road traffic rules cannot be regarded as a premise for excluding the justification (counter-type). A different approach would abstract from the essence of sport, which is the desire to compete fairly but also to overcome limitations. Road traffic rules are introduced for the purposes of normal rules of road use and do not correspond at all to the essence of sporting competitions. Hence, in relation to the sports risk justification (counter-type), they must be treated 'appropriately' taking into account the specific nature of cycling competitions. Intentional actions, such as deliberately pushing a competitor near the

finish line, are of course a different matter. Regardless of whether we are dealing with amateur or professional sports, such acts do not fall within the limits of the justification (counter-type) and may constitute the basis for 'normal' criminal liability. Therefore, depending on possible damage to health, such an act will be qualified as damage to health – light, medium or heavy.

Anti-doping matters

A different legal issue is the problem of doping in sport, including, amateur sport, which remains the subject of doctrinal considerations (Potulski 2019). It should be noted that even at the amateur level, participants in such competitions decide to use doping substances (such cases have been discovered in Australia and Spain) (Henning 2019). The main reasons for the use of doping by cycling amateurs are (except from directly enhancing their performance): health improvement, overcoming training fatigue or injury, controlling weight, body image reasons or simply for recreation and relaxation (Henning 2019). Doping among the amateur cyclists is considered as an endemic issue and is 'caused by ease of access to drugs via gyms and the internet, the reduction in costs for substances, a spread of knowledge in means and methods of administration, and a lack of funding for regular testing at the amateur level' (Fortheringham 2015). The use of doping within the amateur sport is highly denounced as some authors ask the question: 'what's the point of using it if you are not racing for money?' (Usborne 2016). It is highly inappropriate since the essence of amateur sport is its' purity and fair play. Especially in terms of amateur cycling where most of its passionate persons consider amateur competitions simply as a social event (Czerner 2013).

The rules of criminal liability for illegal doping in Polish sport are described in the act on combating doping in sport of 2017. When discussing individual types of criminal acts, it should be emphasized that they penalize only a part of the doping reality. In particular – in principle it is not a crime to possess a prohibited substance for personal use and to use it. From a penal law perspective, evading doping controls or illegally influencing the results of doping controls (e.g. by changing samples) is not a crime either. Importantly, the act on combating doping in sport does not penalize the use of prohibited methods (the International Convention against Doping in Sport, drawn up in Paris in 2005, indicates as the prohibited methods: manipulation of blood and blood components, chemical and physical manipulation, and gene and cell doping).

The aforementioned act contains penal provisions which refer directly to the International Convention against Doping in Sport and its' appendix – article 48 of the Polish act on combating doping in sport states: '1. Whoever administers to a minor athlete a prohibited substance specified in group S1, S2 or S4 of appendix 1 to the International Convention against Doping in Sport shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 3 years. 2. The same penalty shall be imposed on anyone who administers to an athlete, without that athlete's knowledge, a prohibited substance specified in Group S1, S2 or S4 of appendix 1 to the International Convention against Doping in Sport'. Article 48(1) refers to administering a prohibited substance to a minor (a person under 18 years of age) or to an athlete. The concept of an athlete is not defined in either the Polish sports act or the Polish act on combating doping in sports. However, a broad definition of the concept can be found in the World Anti-Doping Code (appendix 2 to the International Convention against Doping in Sport). It is provided there that an athlete is 'any person who participates in sport at the international level (as defined by the international federation concerned) or the national level (as defined by the national anti-doping organization). An anti-doping organization has the right to apply anti-doping rules to athletes who are not international level athletes or national level athletes, and thus include them within the definition of an athlete.'. From the Polish sports act it can be concluded that this refers to competition within a sports club (article 3 of the Polish sports act), however it is a crime for athletes to use doping (unless these are measures described in the Polish act on counteracting drug addiction of 2005). From this perspective, it can be seen that the aforementioned regulations, as a rule, do not apply to amateur sports, including amateur cycling competitions.

Autonomously of the status of the competition (professional or amateur), dealing prohibited substances is penalized. Article 49 of the Polish act on combating doping in sport states provides that whoever makes available to third parties, whether in return for payment or free of charge, a prohibited substance, as defined in group S1, S2 or S4 of appendix 1 to the International Convention against Doping in Sport, or stores it for the purpose of making it available to third parties, whether in return for payment or free of charge, without having a marketing authorization issued pursuant to the provisions of the Polish pharmaceutical law of 2001, shall be subject to a fine, penalty of restriction of liberty or penalty of deprivation of liberty for up to 3 years. The same penalty shall be imposed on anyone who, without the authorizations referred in the Polish pharmaceutical law, contrary to article 68 (which refers to rule of retail drug trading) imports or imports a prohibited substance listed in Group S1, S2 or S4 of Appendix 1 to the International Convention against Doping in Sport. It should be emphasized, however, that the acts described in article 49 of the Polish act on combating doping in sport do not have to be associated with any specific professions.

At the level of amateur sport, grassroots work is being done to create anti-doping practices - outside the realm of criminal liability. This initiative has had a great response in the cycling community. Organizers of amateur bicycle races Bike Marathon, Eurobike Kaczmarek, Electric MTB, Via Dolny Śląsk, Energa CykloCup have organized the project 'Race without doping'. These competitions include an anti-doping control in 2019,

the consequences of which are exclusion from races or loss of prizes. However, these are only consequences of a civil law nature at most, and the most painful for an amateur athlete is a ban on participation in the vast majority of cycling events in Poland.

Conclusions

The organizer of an amateur cycling race remains the entity responsible for the overall conduct of the event – legal awareness is necessary to meet all the requirements associated with this event. Not only is the organizer obliged to comply with certain administrative and legal aspects without which it is not possible to use public roads for the race but also it needs to cooperate with other authorities (the Police etc.) in order to ensure the safety and security of the race for its' participants. Should the organizer fail to obey certain provisions of the Polish generally applicable law, it could find himself penalized for committing an offence. It seems however that the current regulations for organizing an amateur cycling race (which is one of the forms of special road use) remain sufficient from the point of view of ensuring the safety of such an event, defining the principles of the organizer's liability and the actions of public administration bodies and public services when organizing such an event.

Apart from the administrative and legal aspects, the organizer could also be found liable with a form of a civil lawsuit when a participant of the amateur race would prove the occurrence of damage on its' side, fault on the side of the organizer and relation between the event (conduct) determined as the cause and the consequence causing damage to the injured party's property according to the Polish civil code.

What is worth emphasizing is that the organization of amateur cycling races remains indifferent from the point of view of the non-state sports law (coming from national and international sports organizations). Amateur sport remains the domain of civil liberties and in this respect there is freedom/liberty to organize it and participate in such events (while, of course, complying with generally applicable law).

The participant of an amateur cycling race, on the other hand, should be aware that usually each such race will have a set of regulations specifying how the race is to be conducted, coming from the organizer (usually in the form of regulations). Such rules - coming from a private entity - should be compatible with the generally applicable law. If they were to conflict with it, then the participant would not be able to suffer any negative consequences as far as the rules conflict with the generally applicable law.

The amateur race itself can be considered from the point of view of penal law. After all, dangerous situations often occur during such competitions, which may cause one of the participants to suffer injury or even death. Such situations, in turn, require an analysis of the institution of sports risk justification (counter-type), which makes it possible for a given sporting behavior to be defined as legal when certain conditions are met.

Moreover, in cycling itself, doping has remained the biggest issue for years. As the reader can see, this does not only apply to the professional dimension of the sport, but it has also become commonplace in amateur competitions. Such behaviours - highly reprehensible - not concerning professional riders (so those who do not have licenses issued by UCI or the Polish Cycling Association) may be punished by the organizers of such races themselves, who may exclude such dishonest riders from all competitions organized in Poland. Although the national anti-doping rules apply to professional athletes, an increasing number of organizers of amateur cycling races are in a way incorporating these rules as their own and providing for a complete ban on the use of doping substances by participants.

In the opinion of the authors this study is a practical presentation of the organizational problems of amateur cycling races, which in recent years are taking place more and more - not only in Poland. The analysis of the Polish way of organizing amateur cycling races can be a good source of comparison for other legal systems. The event, which at first glance does not seem to have very formalized premises of its organizing, turns out to be largely encumbered by legal regulations – this results from the fact that nowadays it is very difficult to find any sphere of public life, which would not be subject to legal regulations – which applies also to the scope of amateur sports.

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