

ARTICLE 5.6.1 – Exemption Application Guidelines

Pursuant to Article 5.6.1 of the World Anti-Doping Code (the “Code”), “if an International or National-Level Athlete in a Registered Testing Pool retires and then wishes to return to active participation in sport, the Athlete shall not compete in International Events or National Events until the Athlete has made himself or herself available for Testing, by giving six- months prior written notice to their International Federation and National Anti-Doping Organization. WADA, in consultation with the relevant International Federation and National Anti-Doping Organization, may grant an exemption to the six-month written notice rule where the strict application of that rule would be unfair to an Athlete.”

The comment under Code Article 5.6.1 provides that “Guidance for determining whether an exemption is warranted will be provided by WADA.” The following guidelines aim to provide this guidance and to help ADOs with the processing of Exemption Applications.

At the outset, WADA emphasizes the discretionary nature of a decision based on Code Article 5.6.1. The question of whether a strict observance of the six-month written notice would be unfair to the Athlete highly depends on the facts of each application. The following guidelines are therefore indicative only and do not constitute a set of mandatory rules; WADA reserves its right to consider any element not mentioned in the guidelines.

WADA considers that the four following factors may be taken to account in any decision about an Exemption Application: i) the policy objective of Code Article 5.6.1; ii) the unforeseen nature of the circumstances; iii) the adequacy of the Athlete’s response to the unforeseen circumstances; and/or iv) the prejudice caused to the Athlete by a denial of their Exemption Application. This list of factors is not exhaustive, and any other relevant circumstance can contribute to a decision.

i. The Policy Objective of Code Article 5.6.1

The policy objective of Code Article 5.6.1 is to ensure that retired athletes are subject to out-of-competition testing for a minimum duration before they return to competition so that other athletes can be sufficiently confident that the Athlete has not used their retirement period to engage in doping activities.

It is of the utmost importance that the Athlete’s application offers adequate reassurances that they have not engaged in anti-doping activities during their retirement and that it will be possible to submit the Athlete to sufficient testing prior to their return to competition. As such, WADA considers that the following considerations are inter alia relevant:

1. The Athlete's anti-doping record

In WADA's view, the fact that an Athlete has a clean anti-doping record does not make the strict application of the six-month written notice period unfair.

2. The length of the exemption requested

WADA considers that the policy objective of Code Article 5.6.1 requires that retired athletes be tested sufficiently, either by the applicable National Anti-Doping Organization or International Federation, before their return to competition. Accordingly, the longer the exemption period is, the more exceptional the case would have to be.

3. The Athlete's proactive attitude towards being tested prior to the competition

Even if failings from an ADO to test the Athlete promptly¹ cannot be held against the Athlete, their proactive attitude in making themselves available for testing can be taken into account.

For example, the fact that an Athlete submitted their whereabouts immediately could contribute to the granting of the application; a missed test soon after the notice of intent to return to competition may have the opposite effect.

- ii. The unforeseen nature of the circumstances

In WADA's view, retired athletes have a duty to be aware of the requirements they need to fulfill before returning to competition, especially after being notified² of them at the time of their retirement². As such, they should be able to plan their return to competition accordingly and should provide notice and be subject to out-of-competition testing for the requisite period. Other than in the most exceptional of cases, it would only be in unforeseen circumstances that were beyond the Athlete's control that a strict application of Code Article 5.6.1 could be considered unfair.

- iii. The adequacy of the Athlete's response to the unforeseen circumstances

When unforeseen circumstances arise, retired athletes have the obligation to notify of their intention to return to competition as soon as this return is foreseeable in order to maximize the period during which they can be subject to out-of-competition testing by any applicable ADO. Any delay that reduces the amount of time in which the Athlete will be available for testing may impact the chances of an Exemption Application being granted.

Further, WADA considers that retired athletes who wish to return to competition should abide by the rules provided by Code Article 5.6.1 in order for the strict observance of the 6-month period to be considered unfair. As such, an Athlete who started to compete in International or National Events before WADA could render a decision may see their application denied, in addition to having their results disqualified following Code article 5.6.1.1.

¹ See article 4.5.2 of the [International Standard for Testing and Investigations](#).

² See p. 14 of the [Guidelines for the International Standard for Results Management](#).

iv. The prejudice caused to the Athlete by a denial of their Exemption Application

The mere fact that the Athlete would suffer a prejudice (e.g. the inability to participate in one or more Events) is insufficient to justify the granting of an Exemption Application. However, in exceptional cases and where the prejudice was unforeseeable and/or particularly significant, WADA may take this factor into account.