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**WADA COMPLIANCE, RULES AND STANDARDS**

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NATIONAL ANTI-DOPING COMMISSION OF ARGENTINA

9 JUNE 2023

MONTREAL (WEBINAR)

**ANTI-DOPING LEGISLATION: KEYS TO SUCCESS**

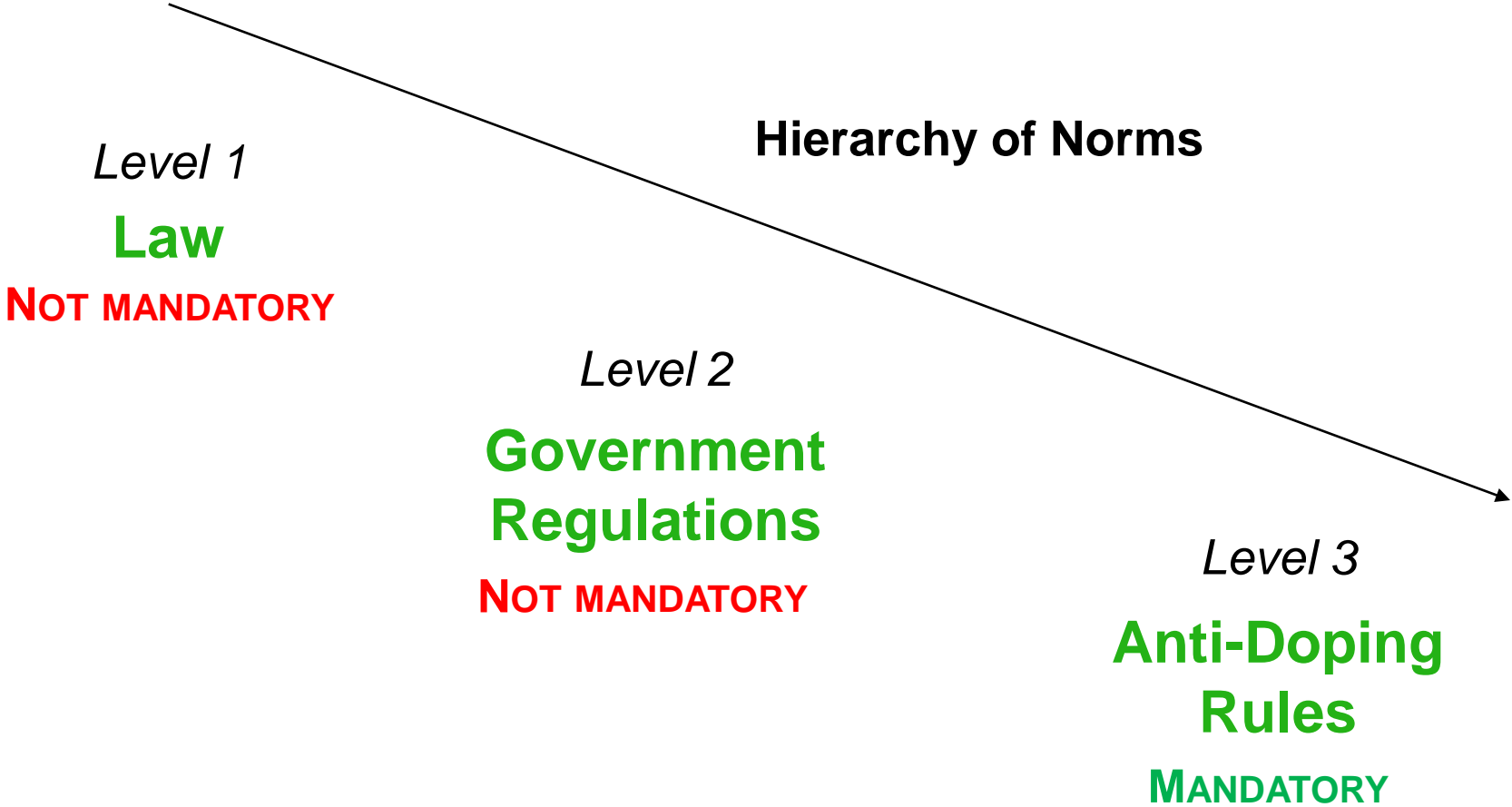
# RATIONALE FOR THIS PRESENTATION

- Increase in the drafting and adoption of anti-doping legislation.
- Maintaining and enhancing dialogue and collaboration with Signatories and stakeholders to ensure compliance of Signatory's legal frameworks with the World Anti-Doping Code (Code).
- Avoiding the adoption of legislation that is not compliant with the Code, which is considered a critical that could ultimately result in a declaration of non-compliant with the Code.
- Emphasizing the operational independence requirements of a National Anti-Doping Organization (NADO).
- Discuss best practices and practices to avoid when drafting anti-doping legislation.

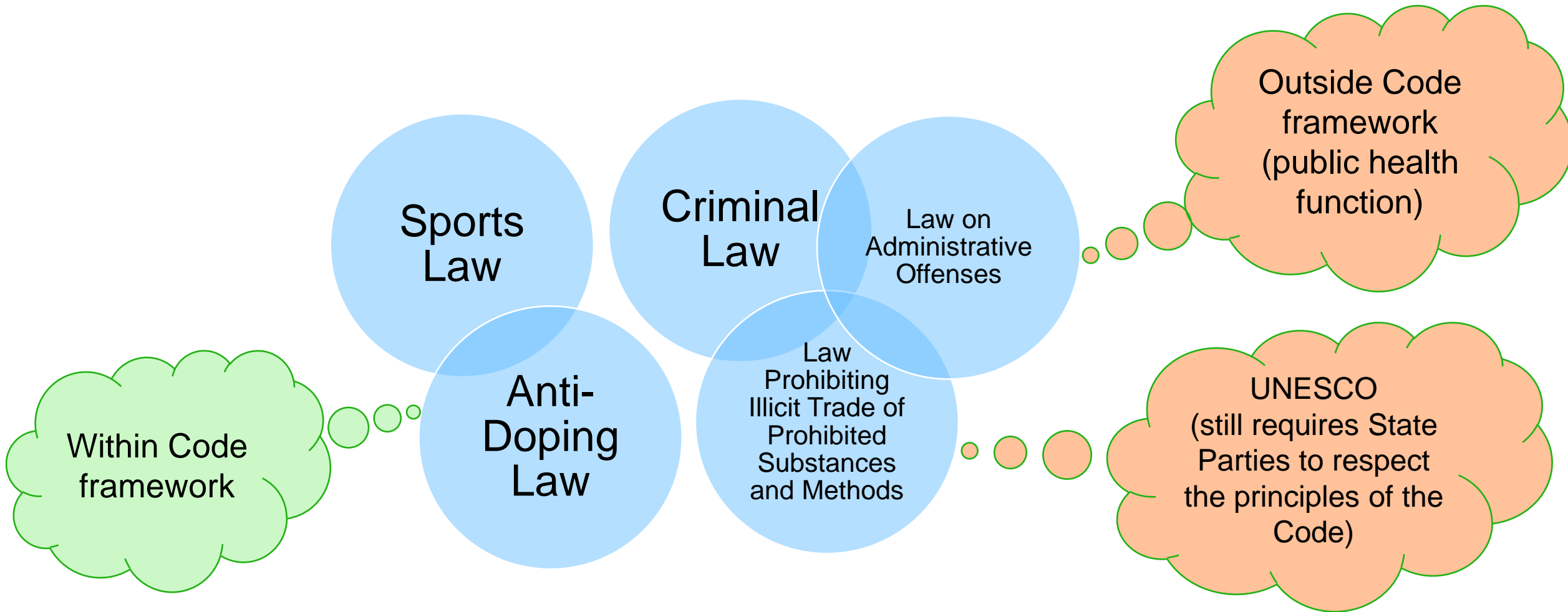


# REGULATORY FRAMEWORKS

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# LAW



## PROS

- Commitment of the Government (political and financial)
- Legal certainty and applicability to all
- Recognition of the NADO as the principal entity enforcing anti-doping in a country

- Lengthy and protracted adoption and amendment process
- Risk when the Code and International Standards change which could require legislative amendments
- Risk for the NADO to become non-compliant with the Code if legislation is not in line with the Code (WADA must review legislation and draft amendments)

## CONS

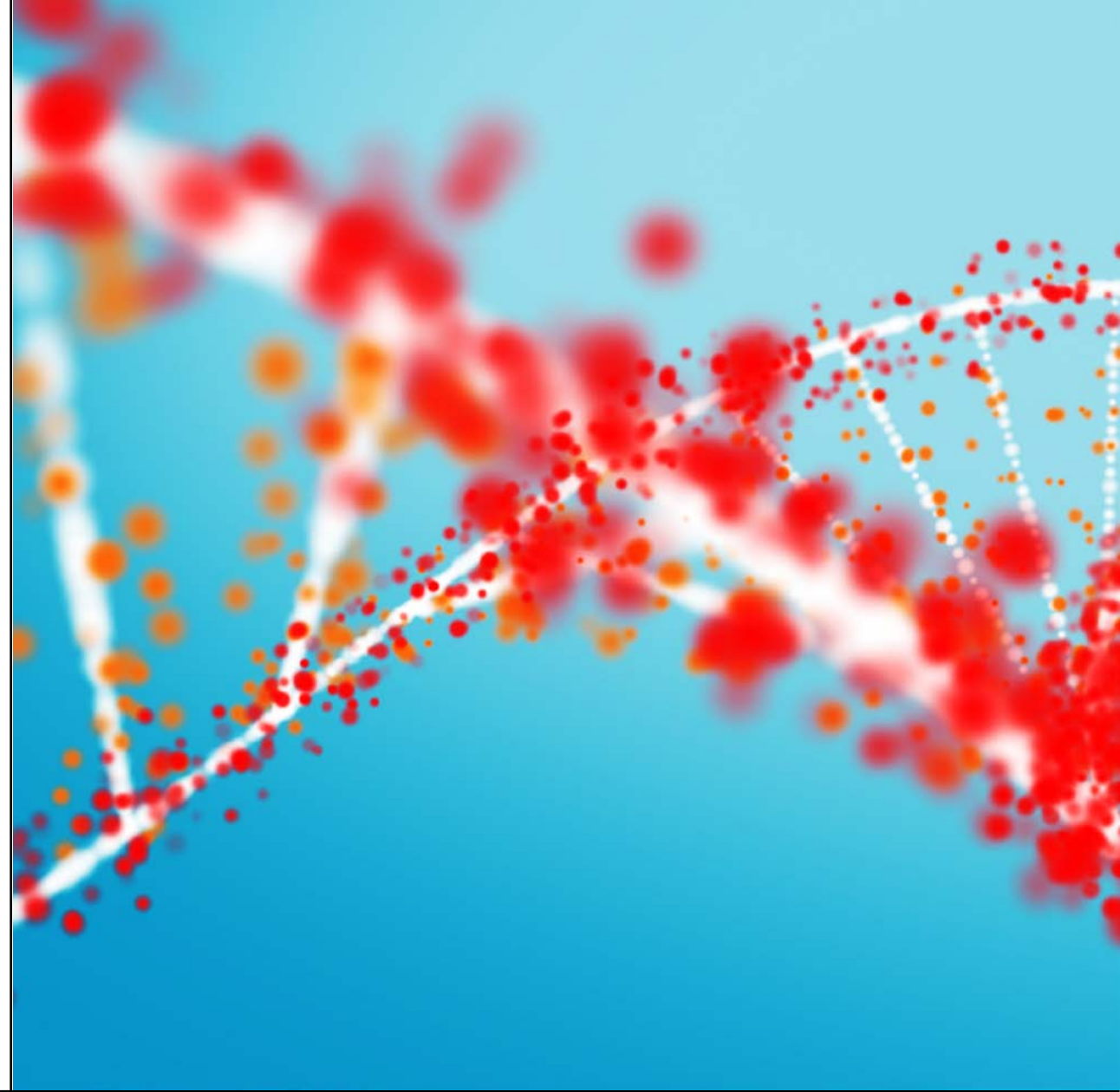
# ANTI-DOPING RULES

- Normally adopted by the **NADO** (shorter decision-making process).
- Covering **full scope of mandatory and optional provisions** required to implement the Code in your country, including:
  - Definition of doping (anti-doping rule violations) and other terms;
  - Burden of proof;
  - Testing and Whereabouts requirements;
  - Consequences;
  - TUEs;
  - Right to hearing and appeal, including related institutional provisions;
  - Statute of limitations, recognition of decisions;
  - Education.
- WADA has issued **Model Rules** to support NADOs and ease the implementation process.



# ANTI-DOPING LEGISLATION

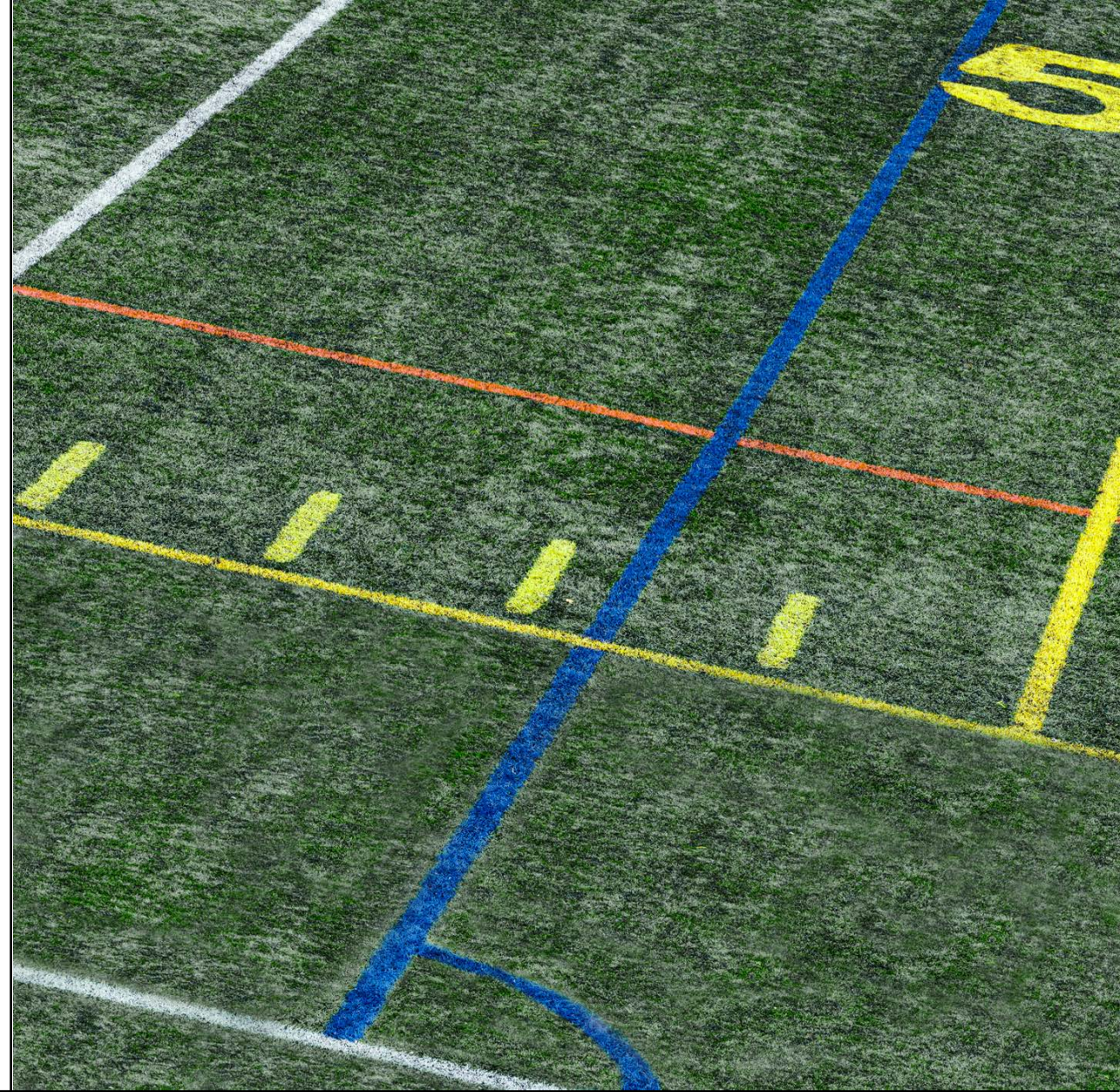
NO “ONE SIZE FITS ALL”



# BEST PRACTICES : GENERAL

Use anti-doping legislation to establish or reinforce your NADO's:

- **Authority** to implement the national anti-doping program in your country;
- **Automatic jurisdiction** over national federations, athletes, athlete support personnel, etc.;
- Authority to **adopt anti-doping rules** which are **automatically binding** on national federations, athletes, athlete support personnel, etc.;
- **Operational independence** in its anti-doping activities from sport and government;
- Sources of **funding** (particularly from the State/Government);
- Legal ground(s)/authority for the **processing of personal information** for anti-doping purposes.





# OPERATIONAL INDEPENDENCE

- Code Article 20.5.1
- The requirement of operational independence **concerns the administration of day-to-day activities and decision-making.**
- **Legislative provisions** relating to a NADO's scope of activities and operations **must respect the requirements concerning operational independence.**
- Refer to the **WADA Guide on Operational Independence of NADOs** for further best practice recommendations and information.

## 20.5 Roles and Responsibilities of *National Anti-Doping Organizations*<sup>104</sup>

- 20.5.1 To be independent in their operational decisions and activities from sport and government, including without limitation by prohibiting any involvement in their operational decisions or activities by any *Person* who is at the same time involved in the management or operations of any International Federation, National Federation, *Major Event Organization*, *National Olympic Committee*, *National Paralympic Committee*, or government department with responsibility for sport or anti-doping.<sup>105</sup>

# LEGISLATION : WORTHWHILE (OPTIONAL) PROVISIONS TO CONSIDER

- The setup of the **NADO's governing structure** to ensure effective governance.
- The details of the NADO's **roles and responsibilities** (remember that these must be **operationally independent** from sport and government!)
- The **accountability** of the NADO to the government and oversight body/ies, e.g., presentation of periodic reports on NADO's operational activities, presentation of (multi) annual strategic plans, etc.
- The **cooperation and sharing of information** with public authorities (e.g. law enforcement, customs, etc.).



# LEGISLATION: PRACTICES TO AVOID

- **AVOID DUPLICATION OF NADO'S ANTI-DOPING RULES**

- **Avoid detailed anti-doping provisions** (definition of anti-doping rule violations; burden of proof; detailed consequences for violations, RTPs, consequences etc.) – these must be aligned with the Code, and amended every time the Code is amended.
- **Avoid detailed procedural provisions normally found in either the anti-doping rules or other NADO specific internal regulations** (best to be set out exclusively in such rules).



# LEGISLATION: PRACTICES TO AVOID

- **Avoid references to Criminal Law :**
  - Provisions relating to criminal law should be included in the relevant criminal legislation and not in anti-doping specific legislation.
- **Avoid the use of several legal instruments** of different legal value adopted by a number of different entities to cover the full range of provisions:
  - This will only add further complexity to the process, especially when any provisions need to be amended;
  - This will also unnecessarily complicate the legal framework relating to anti-doping in your country.
- **Avoid expanding the NADO's scope of activities** outside its regular functions stipulated in the Code and International Standards.



# WADA'S COMPLIANCE ROLE

- Responsible for monitoring and enforcing compliance with the Code and International Standards :
  - Starts with the review of the key documents including a Signatory's rules and regulations or legislation;
- Process, time limits and consequences are defined in the Code and International Standard for Code Compliance by Signatories:
  - Adoption of rules, regulations, and/or legislation is a critical requirement in the fight against doping in sport.
  - if the respective rules, regulations, and/or legislation are not in line with the Code, a Corrective Action Report will be issued, and, if not addressed, a compliance procedure will be initiated which **MAY LEAD TO A DECLARATION OF NON-COMPLIANCE**;
  - A declaration of non-compliance can entail **serious consequences for sport in your country**, for example : the inability to host major events; exclusion of athletes representing the country from major events such as the Olympic Games; inability to fly the country's flag or for individuals to sit on governing boards of other Signatories etc.



## WADA's ROLE : COLLABORATION & ASSISTANCE

- Adoption of the rules, regulations, and/or legislation that are non-compliant with the Code **MAY LEAD TO DECLARATION OF NON-COMPLIANCE**.
- The commencement of a compliance procedure is a **last resort measure**.
- WADA's **primary focus is to actively collaborate** with Signatories and stakeholders by ensuring that legislation is Code-compliant before formal adoption.
- WADA must be consulted on the **draft** rules, regulations and/or legislation, allowing sufficient time to provide comments and suggestions.
- WADA's confirmation that legislation is line with the Code shall be received **before proceeding with the adoption process**.
- If amendments are made to the final draft during the adoption process, WADA must be **reconsulted** to ensure conformity with the Code.



# THINKING OF ADOPTING LEGISLATION?

- **Contact** the Regional Office.
- Provide a **table of contents, structure or envisaged macro regulatory framework** to WADA before drafting.
- Provide draft legislation for review in either **English or French**.
- Reminder: WADA has a **three-week deadline** to respond to Signatories and stakeholders' requests or draft documents as identified in the **applicable ISO Rules**.
- **Keep WADA informed** as to the legislative process and steps.
- Share **key information** and insights from this presentation with government stakeholders and colleagues.



## FURTHER RESOURCES

- The Compliance section on WADA's website
- Guide for the Operational Independence of NADOs.
- Educational resources available on WADA's website and ADeL platform.
- The Code and International Standards.
- Guidelines to International Standards.
- NADO Model Rules.





# CASE STUDY : ARGENTINA

## *Law for the prevention and control of doping in Sport*

- Main challenges faced when adopting anti-doping legislation.
- Key successes.
- Lessons learned and advice.



**QUESTIONS?**



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