2027 Code & International Standard Update Process: Stakeholder Consultation Phase - World Anti-Doping Code

Showing: **All (578 Comments)**

Article 4.2.2 (17)

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Amendment makes sense.

The example allows for further understanding of the notion.

US Olympic & Paralympic Committee SUBMITTED
chris mccleary, GC, COO (US)
Sport - National Olympic Committee

General Comments

- GENERAL COMMENT: Apologies for being late with this. In Section 2, could we look at further and more explicit duties for Athlete Support Personnel? E.g., could such people share liability for an Athlete's positive test when the athlete is a minor, or has other characteristics that make them especially dependent upon the Athlete Support Personnel? The Valieva case appeared to be one such, and it is distressing to see how hard it can be to reach powerful entourage members in a doping case.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED
Mikkel Bendix Bergmann, Legal Advisor (Denmark)
Sport - National Olympic Committee

General Comments

General suggestions and comments

The Danish National Olympic Committee has taken note of the contamination case that arose in international swimming prior to the Tokyo Olympics, as well as the subsequent discussions and processes that followed.

We believe it is essential that the rules and their interpretations are meticulously developed to prevent the recurrence of similar incidents.

Thus, we emphasize the importance of reviewing the Code and its standards during this process. Clarity in rules and practices for addressing such cases in the future is crucial.

Additionally, we see a need to revisit the International Standard for Code Compliance. Although this standard came into effect in April 2024, we believe it is vital to include it in the current code review process, especially since the previous review had a limited scope. It is particularly important that this standard adequately addresses participation in competitions following the completion of a Court of Arbitration for Sport (CAS) sanction, especially in cases of continued non-compliance.

Therefore, we encourage WADA to initiate a third consultation phase for the World Anti Doping Code as well as the International Standard for Code Compliance. This will ensure that these critical issues are thoroughly examined before the new Code is implemented.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

To reduce the common public misunderstanding that the athlete didn’t use the prohibited substance to enhance his/her performance effect this article could possibly be reformulated. Consider use the same wording as for the substance of abuse article in 10.2.4.1, unrelated to sport performance.

Ministry of Culture Denmark
SUBMITTED
Maria Pedersen, Head of Section (Denmark)
Public Authorities - Government

General Comments

General suggestions and comments

Denmark takes note of the contamination case in international swimming prior to the Olympics in Tokyo and the following process and related debate. We believe it is important to thoroughly examine the rules and the interpretation of the rules in this regard, and if necessary clarify the rules to prevent similar cases in the future. We believe it is important that the code and standards are reviewed in this process. We also see the need for a review of the International Standard for Code Compliance. Even though this standard came into force in April 2024, we believe it is important that it is included in the full code-review process, as the previous review of the standard had a limited scope. This to make sure that the standard addresses the issue of participation in competitions after a CAS sanction has run out but non-compliance still is an issue. We support the need for a third consultation phase of the code and standards in order for these important matters to be thoroughly examined and handled before the new code is implemented.

Ministry of Health, Welfare and Sport
SUBMITTED
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

General Comments

At the start of the Code-update process it was explained by WADA that stakeholders are welcome to comment and offer suggestions on any part of the Code or Standards, as they saw fit.

The Netherlands' Government has a number of comments on the text of the Code and of the International Standard for Code Compliance by Signatories. However, it is only possible to offer comments or suggestions to those sections and articles of the Code and Standards where WADA proposes changes. This means, in WADA Connect, we cannot offer all our suggestions under the right article of the Code or on the ISCCS. Instead we offer them here, in full, as well as sending them to your Government Relations officers, trusting you will take them all into consideration. We thank you for your flexibility.

Reasons for suggested changes

Code
NB. Page numbers reference the redline document provided by WADA on WADAConnect

Article 5.1 (p.27): this article states that “Testing and investigations may be undertaken for any anti-doping purposes”. What ‘anti-doping purposes’ are, is not defined or specified, which effectively provides a blanket purpose for testing. Subarticle 5.1.1, on the other hand, is quite specific, and workable. Given that samples taken from athletes contain health information, and as such require a high degree of data protection measures, this specification of purpose in the initial sentence of article 5.1 is too broad and we propose to delete this sentence from the article.

Article 5.6.1 (p.30): with regard to retired athletes returning to competition, the proposed addition allows WADA and the ADO to impose *a minimum number of tests at their discretion and without limitation*.
Whilst we agree with the general principle of this addition, this formulation would allow the imposition of *any* number of tests, to an unreasonable extent. We believe that the number of tests imposed should be reasonable and predictable. We therefore propose this be reformulated to *a reasonable number of tests, at their discretion [full stop]*.

Article 6.2 (p.31): the proposed additions to this article would allow for samples to be tested on other substances or methods than those on the Prohibited List, without consent. We consider this to be insufficiently in line with the purpose for testing specified in article 5.1.1. The samples contain health information of athletes, which as such require a high degree of data protection measures. We consider the additions under i) and ii) in line with the purpose specified in article 5.1.1, but the additions under iii) through v) not to be, and this additional analysis could therefore only take place after the explicit and voluntary consent given by the athlete. Not giving consent should be without consequences. The article should include text to this effect, or the additions should be deleted as we feel they are not in line with applicable law on data protection.

Article 10.14.1 sub iii (p.53): whether a training activity or event is government-funded or not is irrelevant. The reference to government should therefore be deleted in this Code-article, as well as in Note 79 (new).

Article 10.14.4: this articles prescribes the withholding of financial support during ineligibility of athletes, to “Signatories, Signatory members and for governments”. Governments are not subject to the Code, and are not accountable to WADA. Any reference to governments should be deleted from this article.

Article 13.2.5 (p.63): this new article prescribes that all WADA’s decisions can be appealed exclusively to CAS. We believe this is reasonable for the decisions listed in article 13.2 of the Code. However, this formulation may inadvertently limit possible legal recourse athletes, stakeholders or employees may have in a court of law. It should therefore be made explicit in this article 13.2.5 that it concerns the decisions listed in article 13.2.

Article 14.3.2 (p.65): any disclosure of personal data is subject to applicable law; any expectation for a stakeholder to operate otherwise is untenable. This article should therefore read:
“the Anti-Doping Organization responsible for Results Management **may, subject to applicable law,** publicly disclose the disposition of the anti-doping matter…”.

Article 14.3.4 (p.66): the proposed addition to this article would allow an anti-doping organization to disclose personal information if that information is already public or if consequences have already been imposed. Any disclosure of personal data is subject to applicable law. This exception,

therefore, has no legal basis, and should not be included in this article.

Article 14.3.7 (p.66): this article mentions *mandatory* public disclosure. In light of the fact that any disclosure of personal data is subject to applicable law, such disclosure cannot be mandatory. In line with our comment to article 14.3.2, the word *mandatory* in this article should be deleted.

Note 96 (new) (p.66): any determination of non-compliance is initially made by WADA. This should be specified in this footnote by changing the text to "will not result in a determination of non-compliance with the Code **by WADA**, as set forth [etc.]".

Article 14.6 (p.68): for the possibilities of processing and disclosure of personal data, applicable law is the main limiting factor. The text of this article should reflect that. We propose the text should read: "Anti-Doping Organizations may**, in compliance with applicable law,** collect, store, process or disclose [etc.]". The same phrase *in compliance with applicable law* could then be deleted from the last part of that sentence.

Note 98 (new) (p.68): this footnote should be deleted, as it prescribes what governments should do. Governments are not subject to the Code, and are not accountable to WADA, therefore this footnote should be deleted as there is no legal basis and as such gives rise to expectations that will not be met.

Article 18.2.3 (p.73): In the second paragraph, we propose to change this text to "Education programs **may** be coordinated by the National Anti-Doping Organization" in the first sentence, and "…coordination **can** maximise the reach […]" in the second sentence. We believe this is necessary, as the current formulation risks making the national anti-doping organisation responsible for the education programs of other national sports federations, which puts the nado in an impossible position.

Articles 20.1.2, 20.2.11, 20.3.15, 20.4.14, 20.5.3, and 20.6.10 (pp.78-86): in each of these articles, an addition is proposed to "report to WADA the failure of any such organization to cooperate with it". The existing article references 'relevant national organisations and agencies and Anti-Doping Organizations'. We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. We therefore propose the addition to each of these articles to read "report to WADA the failure of any such organizations **that are Signatories** to cooperate with it." The same reasoning applies to articles 20.1.2, 20.2.11, 20.3.15, 20.4.14, 20.5.3, and 20.6.10.

Article 20.3.6 (p.80): this article, with the current formulation, extends the reach of the Code-provisions to athletes that are not members of international federations, and are therefore not bound by the Code. This is without legal basis, and we therefore propose to delete this article. Such a provision could only be made with regard to the participation in events organized by the International Federation, as part of the requirements for participation, but not in the current formulation. Concomitantly, note 110 (new) should also be deleted.

Article 20.5.9 (p.84): we propose to delete this article. While we understand the underlying thought of this article, whether a national anti-doping organization is able to live up to it depends not only on its own activities, but to a large extent also on factors that are outside their control. If the article were to be limited to the nado's actions, it could say that each nado should strive to be the authority. But an article with such a formulation would be very imprecise as to what actions are expected from a nado, and would be impossible to monitor. Therefore, despite the fact that we underline this ambition, we think this article should be deleted.

Article 20.7 (p.86-88): we believe in this article, like in the other articles outlining the responsibilities of stakeholders, a provision should be made that WADA, too, shall make timely decisions.

Note 116 (p.86): this note raises the question who monitors WADA's activities. There should be a governance mechanism that monitors WADA's activities and, when necessary, can hold the Agency to account.

Article 22 (p.90-91): reformulation of this article is in order. As is, it outlines expectations only of stakeholders that are not signatories. As such, implementation of the article cannot be monitored, and the subject is therefore ill-equipped to be part of the Code. Moreover, the subarticles go beyond the extent of what governments have committed to do by ratifying the Convention, which should be addressed. And there is a degree of duplication in the text of the article and in the footnote 123 (new).

We propose to shorten this article by deleting the subarticles, reformulate the remainder of the article and integrate part of the text of footnote 123 (new), which should be deleted. The article would then read:
"Governments cannot be parties to, or be bound by, private non-governmental instruments such as the Code. For that reason, governments are not asked to be Signatories to the Code. Each government's commitment to **fighting doping in sport** will be evidence by its signing the Copenhagen Declaration on Anti-Doping in Sport of 3 March 2003, and by ratifying, accepting, approving or acceding to the UNESCO Convention.

The Signatories are aware that any action taken by a government in the fight against doping in sport is a matter for that government and subject to the obligations under international law as well as to its own laws and regulations.

Governments are bound only by the requirements of the relevant international intergovernmental treaties, most notably the UNESCO Convention. Each government should take all actions and measures it deems appropriate and necessary to implement and comply with the UNESCO Convention."

Article 23.2.1 (p.93): we propose the latter part of the article reads:
"[…] according to their authority, within their relevant spheres of responsibility **and within applicable law**."

Article 24.1.12.4 sub a (p.99): the reference to legislation in the initial part of this article should be removed. Legislation is not subject to the provisions of the Code, as governments are not subject to the Code and not accountable to WADA. The article should commence "If the non-compliance involves non-compliant rules and/or regulations, then…".

Article 24.2 (p.101): this article does not properly reflect the procedures of the Convention to monitor implementation the Convention's provisions: States Parties and WADA are not consulted with regard to compliance. In any case, the part of the first sentence after the comma should be struck. But given that the subject of this article is also not something that Signatories can give effect to, it would be better to delete this article 24.2 altogether.

Article 26.3 (p.103): reference to existing legislation and governments should be deleted. We recognise the Code should not be read in conjunction with a specific national set of legislation. However, any regulatory text can never be seen fully independently, since all regulations are ultimately subject to applicable law. To avoid this complicated explanation, reference to legislation and governments might be deleted.

Annex 1; definition of NADO Operational Independence (p.112): there are some issues with the current text of this definition, and it should therefore be deleted.
For a nado not to be able to delegate any part of results management to sport organisations is problematic, since in many countries sport organisations have an important role in disciplinary proceedings. This would be impossible with this definition, and therefore this part should be

removed from the definition.
In the second sentence, it states no one involved in the operations of a government shall have any operational role or decision-making authority that affects how a nado's funding is budgeted and spent. This is impossible to implement for those nado's who are also a government entity: their funding is provided by government, which has the discretionary power to, at least at an abstract level, direct funding toward certain priorities if necessary. Maintaining this provision will make it impossible for governments to continue to fund nado's (since funding without government oversight, at least on an operational level, is politically untenable). Therefore, this provision needs to be removed as well.
After these two deletions, what remains of this definition has very little added value, which is why we propose to delete this definition of nado's operational independence in its entirety.

International Standard for Code Compliance by Signatories ISCCS

Article 3.7 (p.14): under the definition of *Event of Force Majeure* this refers to a situation where a Signatory cannot achieve full Code compliance attributable to facts beyond the reasonable control of the Signatory. The article continues by stating that in no circumstances does this include any act or omission to act by any governmental or public authority. In doing so, this article puts any action by government under the responsibility of the signatory. Even though, in case of for example legislation, these are processes and facts *beyond the reasonable control of a signatory*. Having the support of a government does not mean a national anti-doping organisation has a role in the legislative process. The current reasoning to this point in this article cannot hold, and puts national anti-doping organisations in the difficult position where they are held accountable by WADA for the legislative actions or inactions of their government, even though they bear no responsibility whatsoever. We believe this is wrong, and propose to delete sub 1) under the definition of *Event of Force Majeure*.

Article 7.1 (p.23): delete the two references to legislation in this article. Legislation is not subject to the provisions of the Code, as governments are not subject to the Code and not accountable to WADA.

Articles 10.2.1 and 10.2.4 (p.44): article 10.2.1 outlines that any consequences should be proportionate to the nature of the non-compliance, whereas article 10.2.4 outlines that any consequences imposed could also have a deterrent/stimulating effect. WADA has tried to show that proportionality is the most important principle, given the opening words of article 10.2.4 ("In accordance with the principle of proportionality referenced in article 10.2.1, …), which clearly indicates that in all circumstances, consequences should remain proportionate. In practice, however, the two do not go well together. There are several examples in compliance cases under the 2021 Code and this standard where consequences have been imposed for their effect of swiftly motivating a signatory to action, which could no longer be seen as proportionate. To address this problem, and to indicate clearly the hierarchy between these two articles that was initially intended, we propose to add the following phrase at the end of article 10.2.4, so it reads:
"… and maintain full and timely Code Compliance**, while at all times any consequences imposed remain proportionate to the nature and seriousness of the non-compliance** in that case."

Annex A3.a (p.52): this article concerns the Signatory's sphere of responsibility, as is indicated in the text. In that case, the reference to legislation should be deleted, since that is not in any Signatory's sphere of responsibility, but in a government's.

AnnexB: we propose to delete the sanctions and sanctioning possibilities anchored in the following articles in Annex B: B2.1.e, B2.2.c, B2.3.a, B3.1.e 1 through 3 and B3.2.b 1 and 2. These are all sanctions and sanctioning possibilities in cases of non-compliance by national anti-doping organisations or national Olympic committees acting as national anti-doping organisations. However, the sanctions are directed not at those actors, but instead seriously affect athletes, sport organisations and countries. In no circumstance can these sanctions, directed at other parties than the responsible signatory, be considered "proportionate to the nature and seriousness of the non-compliance in that case". Which puts these provisions fundamentally at odds with the provision in article 10.2.1 Code. Given that, in the hierarchy of instruments in the World Anti-Doping Program, the Code precedes International Standards, we believe it is crucial the ISCCS be brought in line with the Code on this point, by deleting the sanctions and sanctioning possibilities in ISCCS Annex B2.1.e, B2.2.c, B2.3.a, B3.1.e 1 through 3 and B3.2.b 1 and 2.

Council of Europe SUBMITTED
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

General Remark

The Council of Europe and its relevant committees - T-DO and CAHAMA - welcome the first drafts of the revised Code and Standards. In particular, the fact that it is an update rather than a complete revision. On the other hand, it is regrettable that no impact assessment has been carried out, neither on the applicable laws and regulations nor on the human and financial resources of the signatories.

NADA SUBMITTED
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

This addition does not express any legal consequence or legal effect.

Suggested changes to the wording of the Article

The addition should be moved to a commentary section to Art. 4.2.2.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

To reduce the common public misunderstanding that the athlete didn't use the prohibited substance to enhance his/her performance effect this article could possibly be reformulated. Consider use the same wording as for the substance of abuse article in 10.2.4.1, *unrelated to sport performance.*

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

We have taken note, that marijuana and cocaine are used as examples of specified substances.

While cocaine is a substance of abuse, it is however not a specified substance on neither the 2024 nor the 2025 List.

We would suggest that a different example is used.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

General suggestions and comments for the whole code and process. (no place to supmit generel comments)

ADD takes notes of the contamination case in international swimming prior to the Tokyo Olympics and the following process and related debate.

We believe that it is important that the rules and interpretation of these, are thoroughly worked out, so that similar cases are not repeated.

Therefore, we find it of highest importance that the code and standards are reviewed in this process, so that rules and practices are clear for the handling of similar cases in the future.

We also see the need for a review of the International Standard for Code Compliance, and even though this came in to force in April 2024, we believe it is important that this is included in the full code-review process, as the previous review of this standard had a limited scope. This is especially to make sure that the standard addresses the issue of participation in competitions after the completion of a CAS sanction, but when there is continued non-compliance.

We therefore also support the need for a third consultation phase of the code and standards, so that these important matters are thoroughly worked out, before the new code are implemented.

Sport Integrity Australia SUBMITTED

Andrew McCowan, Assistant Director Project Management Office (Australia)

NADO - NADO

General Comments

Article 4.2.3 – Substances of Abuse

The current definition of substance of abuse “frequently abused in society outside of the context of sport” encompasses significantly more substances than the 4 currently included on the Prohibited List. The Prohibited List EAG has advised there is limited appetite/scope to include additional substances. The current definition gives no criteria for the selection of these 4 substances and not others.

SIA suggests consideration be given to expand the definition to include commentary or further clarification to explain the inclusion/exclusion of substances and/ or there be a transparent process in place to allow for the consideration of other substances that fall within the definition to be included in this category.

By way of example, SIA continues to request Methamphetamine be included as a Substance of Abuse due to its prevalence as a frequently used recreational drug in Australia.

Suggested changes to the wording of the Article

SIA suggests WADA considers adding an additional provision to the Article 4.3 – Criteria for Including Substances and Methods on the Prohibited List that further outlines any additional considerations for determining the substances that are considered to be Substances of Abuse.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

De manière générale, par rapport à l'ensemble du processus de mise à jour du Code et des Standards, nous saluons cette première version du Code et des Standards révisés.

En particulier, nous saluons le fait qu'il s'agisse davantage d'une mise à jour plutôt que d'une révision profonde (le Code et les Standards étant arrivés à un bon niveau de maturité et aussi pour des raisons de sécurité juridique).

En revanche, nous regrettons le fait qu'aucune évaluation d'impact n'ait été réalisée, que ce soit par rapport aux règles et législations applicables ou par rapport aux ressources humaines et financières des signataires.

Aussi et comme l'AMA s'y était engagée au début du processus, nous lui redemandons à nouveau que cette évaluation d'impact soit réalisée et ce, le plus rapidement possible, afin que les différentes propositions de modifications (du Code et des Standards) puissent être examinées et évaluées de manière complète et sous tous leurs aspects.

Sans préjudice de ces remarques générales, nous avons apporté des commentaires spécifiques par rapport à certains articles (du Code et de certains Standards) proposés à modification.

Canadian Centre for Ethics in Sport SUBMITTED
Bradlee Nemeth, Manager, Sport Engagement (Canada)
NADO - NADO

General Comments

Article 4.2.2

With respect to comments 26, cocaine and marijuana are currently included as examples of Specified Substances. Given that both cocaine and marijuana are substances of abuse, and that cocaine is not a specified substance, consider including other examples of Specified Substances such as medications that include substances that are Specified Substances.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

The description in this article is clear and concise.

Suggested changes to the wording of the Article

No major changes are needed.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We have no specific comments on the changes made to the wording of the Article. However, we do find the reference to cocaine within Comment 26 to be peculiar when the Article itself focuses on Specified Substances and Methods.

Suggested changes to the wording of the Article

Consider removing the reference to cocaine at Comment 26:

26 [Comment to Article 4.2.2: Prohibited Substances which are more likely to have been consumed or used by an Athlete for a purpose other than the enhancement of sport performance would include, for example, marijuana ~~and cocaine~~.]

USADA SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)

NADO - NADO

General Comments

General Comment to the Code and Standard Submissions

The Code and accompanying international standards, which grow in number and size with each iteration have created an over-regulated system of mind-boggling complexity. It goes without saying that if such a system is difficult to comprehend from professionals operating within the system, athletes have little hope of grasping the intricacies and nuances of that system that may ultimately dictate the course of their career and reputation.

The costs of complying with such an over-regulated system are also enormous and divert resources from services and education that could be provided to athletes. USADA recommends that WADA conduct a cost assessment of itself and Anti-Doping Organizations that determines the amount of money WADA has spent creating and monitoring such a complex system and the amount of money Anti-Doping Organizations spend simply trying to meet the requirements of this over-regulated system. Importantly, when a change is made, a cost analysis must take place to understand the impact of a change. These studies should then be published.

As just one example of WADA's voracious appetite for regulation, WADA created its own detailed and nuanced data privacy regulation, when it could have simply espouse principles each Anti-Doping Organization must follow and then required that each comply with its local data and privacy law obligations.

Article 4.3.1 (3)

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

Recommend that "scientific evidence' be defined and listed under definitions. Scientific evidence generally means peer reviewed/published evidence in scientific journals.

Myanmar Anti-doping Organization SUBMITTED

Htet Wai, Secretary (Myanmar)

NADO - NADO

General Comments

The criteria listed are comprehensive and well-defined.

Suggested changes to the wording of the Article

No major changes are needed.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA expects that the reference to 'Scientific Evidence' is to be interpreted broadly to include medical or pharmacological effect or experience (being the terms that have been replaced). If this interpretation is correct, SIA has no concerns with the proposed amendment to this Article.

Article 4.3.2 (1)

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Description in this article is clear and appropiate.

Suggested changes to the wording of the Article

No Major changes are needed.

Article 4.4.3 (10)

National Olympic Committee and Sports Confederation of Denmark SUBMITTED
Mikkel Bendix Bergmann, Legal Advisor (Denmark)
Sport - National Olympic Committee

General Comments

Article 4.4.: Therapeutic Use Exemptions

We do not support the inclusion of at least one physician on the appeal board. Since appellate bodies primarily address legal disputes, we believe it is more effective for their members to have legal expertise. In our experience there are few cases, where a physician in the appellate body would be beneficial to the case.

While we endorse the idea of more flexible sanctions, we are concerned that excessive flexibility may lead to attempts to circumvent the system. Therefore, we believe that the standard sanctions are adequate.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports primarily supports option 3 (fixed 3-month sanction), secondarily option 2 (specific, standalone sanctioning regime), as described in the Summary of Key Proposed Changes to the Code.

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

Comment to 4.4. to which no space for comments have been provided:

We would support the option of a fixed 3 months sanction, which would be easy to apply and which seems to be reasonable and proportional in light of the athlete being eligible for a TUE in these cases.

However, it should be considered if the sanction for a first offence should be a reprimand!

We take it that this will be placed under article 10.

Anti Doping Danmark SUBMITTED
Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

General Comments

Article 4.4.: Therapeutic use exemptions

We would hesitate to support that the appeal board should include at least one physician. When it comes to appeals, the appeal boards only handle the legal disputes, and therefore it in our view would be more meaningful with members with legal backgrounds.

We support more flexible sanctions, but we predict that if the sanctions get too flexible, it will be used to circumvent the system. We think that the normal sanctions are sufficient.

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

General Comment to WADC with reference to Art. 4.4.3

Right now, it is hard or sometimes impossible to find out, which athletes are International Level Athletes (ILA). ITA offers a good tool where you can find out the specific regulations of an IF (https://ita.sport/tue-assistant). WADA should provide a database where every ADO can easily check the current regulations for ILA (important for TUEs, Testing, Education, RM, etc.).

Swiss Sport Integrity SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

Therapeutic use exemptions - feedback to sanctioning regime for a missing TUE

SSI supports addition of a new Code Article with possibility of reduced sanction in case Article 4.2 ISTUE criteria are fulfilled but the application does not meet the criteria for a retroactive TUE (Article 4.1 ISTUE).

To allow for a streamlined process which can be managed in applicable (short) time, we'd recommend a flatrate period of ineligibility, for example 3 months.

SSI is strongly against the last proposal in the summary document (no sanction at all and removal of the need to apply for a TUE in advance - the later would leave athletes in uncertainty).

When implementing this new Code Article SSI recommends further points for consideration:

- Harmonized standard for athlete name publicaiton together with sanction. Affected atheltes would usually be national- or international-level athletes.
- A guideline to distinguish between cases falling under the new Article of the Code, vs. retoractive TUE applications according to Article 4.1b (and 4.3) ISTUE must be established to avoid disharmonization.
- When to apply a provisional suspension? Non-specified substances or methods (most likely insuline) could be involved in a case where the new Article of the Code would be applicable.
- It must be clarified that the new Article of the Code cannot be applied in case of selfmedication (without diagonsis/prescription PRIOR to use/posession of therapy in question).

- In case the concept of international recognition of a NADO TUE remains, violations related to omission of such internaional recognition should allow for reduced sanction too since this is just an administrative error too.
- The current ISTUE does not cover denial of a TUE due to Article 4.1 ISTUE criteria not beeing met (non-acceptance of a TUE application since non of the Article 4.1 criteria are met). This new concept should be introduced since it is likely the starting point of cases leading to a sanction under the new Code Article. In addition, appeal modalities of such non-acceptance would need to be established.

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Appeals Relating to TUEs

We do not support the proposal mentioned in the Summary of Major Changes to the 2027 Code that "for national-level TUE appeals the appellate body includes at least one physician with experience in the care and treatment of Athletes and a sound knowledge of clinical, sports and exercise". We believe that the appellate body should be independent of the national anti-doping organization and that we cannot interfere in its composition. In addition, the members of the appellate body typically have legal backgrounds. To our knowledge, many Signatories' appellate bodies do not meet this requirement. More importantly, we believe that relevant personnel including physicians should participate in cases as expert witnesses rather than as arbitrators.

Suggested changes to the wording of the Article

We do not support the proposal mentioned in the Summary of Major Changes to the 2027 Code that "for national-level TUE appeals the appellate body includes at least one physician with experience in the care and treatment of Athletes and a sound knowledge of clinical, sports and exercise".

Reasons for suggested changes

We believe that the appellate body should be independent of the national anti-doping organization and that we cannot interfere in its composition. In addition, the members of the appellate body typically have legal backgrounds. To our knowledge, many Signatories' appellate bodies do not meet this requirement. More importantly, we believe that relevant personnel including physicians should participate in cases as expert witnesses rather than as arbitrators.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Feedback relating to Article 4.4 TUE (page 6 in the Summary of major changes).

ADSE strongly support this proposal, it is very good and necessary! ADSE supports proposal number 3, to have a fixed sanction but assess that this should be the same as for substance of abuse-cases, i.e. 2 months sanction.

Myanmar Anti-doping Organization SUBMITTED

Htet Wai, Secretary (Myanmar)

NADO - NADO

General Comments

The process for International-Level Athletes to apply for TUEs is well-explained.

Suggested changes to the wording of the Article

Please consider adding a sentence at the end of the first paragraph to clarify the recognition of TUEs:

"Where the Athlete already has a TUE granted by their National Anti-Doping Organization, the International Federation must recognize it if it meets the criteria set out in the International Standard for Therapeutic Use Exemptions."

Reasons for suggested changes

To clear clarify the recoginition of TUEs.

Dopingautoriteit SUBMITTED
Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

General Comments

Regarding the call for feedback for a sanction regime related to TUEs: we support a fixed three month sanction in cases where the athlete has or is able to establish that he met the ISTUE criteria (Acticle 4.2 ISTUE) for the granting of an TUE. The reason for such a fixed sanction is that in those circumstances the ADRV is strictly speaking and administrative oversight of the athlete. A question that needs to be addressed is who desides whether the criteria in Artciel 4.2 ISTUE have been met. We purpose that it is the relevant TUEC at the request of the applicable disciplinary panel.

Article 4.4.3.2 (2)

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Clarification make sense and allow for a better understanding of the IF role.

World Rugby SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby would have concerns about the consequences of completely removing the requirement for TUEs to be submitted "as soon as the need arises" for all athletes (though we support retroactive TUEs for certain levels of athlete). This is on the basis of two main factors: (i) this could discourage athletes from obtaining the requisite medical evidence at the time of commencing treatment and it may then be too late to obtain this evidence at a later date (we acknowledge that athletes will be educated to do this but with the mandatory requirement removed we fear that this may lead to this being overlooked, particularly where an athlete may not have regular and direct access to a qualified physician); and (ii) as it removes the requirement for physicians to ensure their athletes secure the necessary medical evidence at the time of commencing treatment, this could lead to less oversight from physicians both over what their athletes are taking and the medical need for the treatment - in other words it could inadvertently foster a culture of less diligence at the time of treatment, and this could disproportionately affect less well resourced athletes. [Dave to review]

Article 4.4.4 (5)

Tug of War International Federation SUBMITTED
Peter Dyer, Senior Vice President (England)
Sport - IF – IOC-Recognized

General Comments

I would like to address the question raised in the summary of major changes against Article 4.4, however, there doesn't appear to be a comment box that covers this. The question raised was

"Based on the stakeholder feedback received, the Code Drafting Team is continuing to consider appropriate sanctioning flexibility in anti□doping rule violation cases where the criteria for obtaining a TUE in Article 4.2 of the International Standard for Therapeutic Use Exemptions are met (but the athlete has not met the criteria for a retroactive TUE)."

I would support option 3 for a fixed 3 month sanction.

I would also like to comment on what I consider is a discrepancy between the wording in the Code and the wording in the ISTUE in regard recognition of TUEs granted by other ADOs. In the Code, both in 4.4.3.1 and 4.4.4.1 it states, for example; "if that TUE meets the criteria set out in the International Standard for Therapeutic Use Exemptions, then the International Federation must recognize it". However, in the ISTUE it states in the comment to Article 7.1(a)

"Nevertheless, International Federations and Major Event Organizations should carefully select the Anti-Doping Organizations and/or substances for which they will automatically recognize."

If we consider the statement in the Code "if that TUE meets the criteria set out in the International Standard for Therapeutic Use Exemptions, then the International Federation must recognize it" then why is it necessary for such a note in the ISTUE if the ADO is a Code signatory and appropriate governance and oversight is in place by WADA? In my opinion, with the current rules (i.e. evidence not risk based), this will lead to inconsistences in the recognition of TUEs.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC strongly support this proposal, it is very good and necessary! SSC supports proposal number 3, to have a fixed sanction but assess that this should be the same as for substance of abuse-cases, i.e. 2 months sanction.

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

General Comment on Art. 4.4

The whole article on Recognition can be deleted. TUEs are in ADAMS. IFs and WADA have the right to appeal the TUE. What is really needed is the right for NADOs to appeal TUEs issued by International Federations.

Currently there is a disbalance between the rights and responsibilities of NADOs and IFs. For example, NADOs are not allowed to appeal TUEs that were issued by the IF – only the other way round (WADC 4.4). All ADOs are working on the same ISTUE so they should have equal rights and act on eye level. Currently there is no corrective monitoring aside from WADA.

TUEs issued by a NADO can be appealed by the International Federation so there is no need to have a recognition process, it only adds another burden for the athlete.

MEOs should not be involved in the TUE process at all, NADOs and International Federations with the monitoring of WADA are enough to guarantee a solid process. The involvement of MEOs in TUEs is also a matter of Data Protection (need-to-know basis). There is no need for MEOs to know about TUEs of athletes (unless there is an ADRV and the MEO has the results management – but even in this case it is only on-demand for this specific case and not a general all-in information.)

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

The description regarding Major Event Organizations and TUEs is clear.

Suggested changes to the wording of the Article

No changes needed.

Canadian Centre for Ethics in Sport SUBMITTED
Bradlee Nemeth, Manager, Sport Engagement (Canada)
NADO - NADO

General Comments

Summary Document (Article 4.4)

CCES supports the option of a short fixed sanction in cases where the criteria for obtaining a TUE are met but the athlete has not applied in advance and has not met the criteria for a retroactive TUE. While the summary document suggests a 3-month period of ineligibility, we would suggest the default sanction be shortened to 1-month (rather than three).

Alternatively, the CCES would also support, in such situations, the finding of a violation, with no associated period of ineligibility. If it is accepted that the athlete was properly using the prohibited substance for medical reasons, and a full TUE is subsequently granted going forward (meaning the athlete's error was purely administrative in not filing for a TUE in advance), the fact that a violation has been determined seems a sufficient punishment (given the heightened consequences that would come from any additional violation) and should disincentivize athletes from deliberately delaying the filing of an application.

Article 4.4.5 (6)

Union Cycliste Internationale SUBMITTED

Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

General Comments

Clarification and direct reference to the ISTUE make it easier to understand.

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

Time consuming for ADO's & Hearing Panels assessing fault. The athlete in these circumstances are not to blame for incorrect diagnosis or when the treating physician has not followed WADA TUE guidelines. In the real world no treating physician follows this for recreational level athletes & protected persons.

Suggested changes to the wording of the Article

There needs to be more flexibility on sanctioning for denied retroactive TUE applications

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Retroactive TUEs

We do not support the removal of retroactive TUE from Article 4.4.5 mentioned in the Summary of Major Changes to the 2027 Code. It may lead the Athlete to use a Prohibited Substance or Prohibited Method for therapeutic purposes without regard to an Adverse Analytical Finding (AAF) and to attempt to obtain a retroactive TUE after an AAF has occurred. This would significantly increase the risk of the Athlete committing an anti-doping rule violation (ADRV) and would severely impact the existing TUE rules, thereby causing confusion within the TUE system.

Suggested changes to the wording of the Article

We do not support the removal of retroactive TUE from Article 4.4.5 mentioned in the Summary of Major Changes to the 2027 Code.

Reasons for suggested changes

It may lead the Athlete to use a Prohibited Substance or Prohibited Method for therapeutic purposes without regard to an Adverse Analytical Finding (AAF) and to attempt to obtain a retroactive TUE after an AAF has occurred. This would significantly increase the risk of the Athlete committing an anti-doping rule violation (ADRV) and would severely impact the existing TUE rules, thereby causing confusion within the TUE system.

Myanmar Anti-doping Organization SUBMITTED

Htet Wai, Secretary (Myanmar)

NADO - NADO

General Comments

The descripton is appropriate.

Suggested changes to the wording of the Article

No changes needed.

LTUNADO SUBMITTED
Erika Petrutyte, Lawyer (Lithuania)
NADO - NADO

General Comments

If the *Athlete* can establish that the presence, *Use* or *Attempted Use* or *Possession* met the criteria in Article 4.2 of the *International Standard* for *Therapeutic Use Exemptions*, "then to simply have a **fixed 1-month (or no period of ineligebilyty)** sanction in such cases (which also has the benefit of simplicity and not requiring an ADO/hearing panel to have to spend time trying to assess fault.) "

Reasons for suggested changes

It would be unfair if a substance used for medical reasons results in a harsher sanction than a substance of abuse, given the differences in their nature and context.

USADA SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 4.4.5 – USADA recommends that all prospective TUEs apply retroactively, if necessary. Athletes would bear the risk of not obtaining a TUE ahead of time. But if the athlete is able to obtain a prospective TUE, concerns regarding a competitive advantage and legitimate need are allayed. Currently, the process of applying a TUE retroactively is narrow and cumbersome.

Indeed, the retroactive TUE bureaucracy has proved to be confusing, difficult to apply, and virtually impenetrable by athletes. Moreover, it can lead to extremely unjust results for athletes who, for example, receive a prospective TUE for a life-saving medication like insulin or an ADHD medication like Adderall but fail to meet the restrictive retroactive TUE criteria and, therefore, face a minimum one-year period of ineligibility. Such a system is manifestly unfair to athletes and must change immediately.

With respect to the only stated concern for leaving the retroactive TUE regime in place, i.e., the pressure hearing panels would face to grant a prospective TUE, USADA counters that hearing panels face that same pressure in almost every case when athletes argue that x sanction will end their careers. And when a panel makes an incorrect decision, it can be appealed, ultimately to the CAS. A similar process has been established for TUE cases, although some adjustment may need to be made. Allowing all prospective TUEs to apply retroactively simplifies the process for athletes and anti-doping organizations without a negative impact on clean sport.

If the retroactive TUE bureaucracy is too entrenched to be dismantled, USADA would support as an alternative a simplistic sanctioning regime of a fixed three month sanction (or less) if an athlete has obtained a prospective TUE. There would be no apparent adverse impact on clean sport to allow for such a simplistic resolution when an athlete has a demonstrated medical need for a substance that does not enhance the athlete's performance beyond the return to a normal state of health.

Article 4.4.7 (1)

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

Article 5.6.1 (12)

Union Cycliste Internationale SUBMITTED

Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Clarification is interesting and may allow for further flexibility in the exemption regime (in view of the possibility to apply specific conditions).

Footnote 35: Guidance will be useful

Japan Sports Agency SUBMITTED

Japan Sports Agency Anti-Doping Unit, Anti-doping Unit Chief (Japan)
Public Authorities - Government

General Comments

In the event of a violation of Article 5.6, regulations should be introduced to allow for the option of requesting a hearing, considering the athlete's human rights.

Ministry of Health, Welfare and Sport SUBMITTED

Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

General Comments

with regard to retired athletes returning to competition, the proposed addition allows WADA and the ADO to impose *a minimum number of tests at their discretion and without limitation*. Whilst we agree with the general principle of this addition, this formulation would allow the imposition of *any* number of tests, to an unreasonable extent. We believe that the number of tests imposed should be reasonable and predictable.

Suggested changes to the wording of the Article

We propose this be reformulated to "*a reasonable number of tests, at their discretion [full stop]*."

Reasons for suggested changes

Whilst we agree with the general principle of this addition, this formulation would allow the imposition of *any* number of tests, to an unreasonable extent. We believe that the number of tests imposed should be reasonable and predictable.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art 5.2

Ordered doping controls

It should be mentioned in the WADC / Standards that in the case that one ADO appoints another to test athletes in the country of the latter the legislation and rules of the latter should apply regarding doping controls (territoriality principle).

Art. 5.6.2

According to WADC 5.6.2 if the Athlete then wishes to return to active competition 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-month prior written notice (or notice equivalent to the

period of Ineligibility remaining as of the date the Athlete retired, if that period was longer than six (6) months) to the Athlete's International Federation and National Anti-Doping Organization.

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

Il serait utile de clarifier, peut-être par des exemples, les conditions supplémentaires qui peuvent être déterminées par WADA et l'OAD.

Il serait également utile de préciser la procédure applicable à la demande de dispense de préavis et l'articulation entre l'AMA et l'OAD pour déterminer les conditions supplémentaires.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

General Comment to Art. 5

It should be mentioned in the WADC (& Standards) that in the case that ADO A appoints ADO B to test athletes in the country of ADO B the legislation and rules of the latter should apply regarding doping controls (territorial principle).

It might be that ADOs have different legislation when it comes to doping controls, for example that always two SCP have to accompany the sample collection process or that blood may only be withdrawn by physicians.

Therefore, it should be made clear that always the legislation of the country where testing takes place is applied.

Comment to Art. 5.6.1

It would be appreciated to have strict criteria for returning back to active participation in sport regarding the following scenario:

A high - level athlete in skiing retires and then wishes to return to active competition as a golf player. According to current WADC he would have to make himself available for testing six months in advance of his return.

Given the circumstances and the fact that the athlete wishes to come back in a sport that from its physiological demands is different from the one he was doing initially it would be manifestly unfair to uphold the six months period. Therefore, we would appreciate more clarification regarding this point.

Comment to Art. 5.6.2

According to WADC 5.6.2 if the Athlete then wishes to return to active competition 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-month prior written notice (or notice equivalent to the period of Ineligibility remaining as of the date the Athlete retired, if that period was longer than six (6) months) to the Athlete's International Federation and National Anti-Doping Organization.

In general, this provision seems very strict, if we consider the following scenarios:

1st scenario:

Let´s assume an athlete gets a sanction of 4 years starting on 19 September 2023 and lasting until 18 September 2027, 12 p.m. He then retires on 21 September 2023, so two days after the sanction started. Afterwards he informs his relevant ADO on 16 September 2027 that he would like to compete again.

Current WADC:

Since the Athlete gave notice of his retirement with more than six months remaining to his period of ineligibility (POI), he would need to make himself available for testing for the equivalent of the remainder of the POI at the time of his retirement prior to returning to competition, starting as of the date on which he gave notice of his intention to compete again.

In our scenario the notice would be equivalent to 3 years and 363 days, starting on 16 September 2027.

The athlete would therefore in total not be banned from competing for only four years, but almost for 8 years which seems to strict.

2nd scenario:

3 months POI. Athlete retires two days after the beginning of the sanction. After one week he wants to compete again.

In this case, since the Athlete retired when less than six months remained to his POI, he would have to make himself available for testing for six months (as of the date of his notice that he wants to compete again).

As stated before this seems very strict as the sanction is in fact doubled.

Japan Anti-Doping Agency SUBMITTED
Chika HIRAI, Director of International Relations (Japan)
NADO - NADO

General Comments

5.6
In the event of a violation of Article 5.6, regulations should be introduced to allow for the option of requesting a hearing, considering the athlete's human rights.

Canadian Centre for Ethics in Sport SUBMITTED
Bradlee Nemeth, Manager, Sport Engagement (Canada)
NADO - NADO

General Comments

CCES welcomes the examples provided with regards to the conditions that WADA and ADOs may impose as a condition of an exemption to the six-month written notice rule.

WADA could consider clarifying whether the conditions for granting the exemption, if applied, have to be agreed to between WADA and the relevant ADOs or if WADA has the ultimate decision.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA Comment to 5.6.1 and 5.6.2

Regarding Article 5.6.1 and 5.6.2: SIA has previously held suspicions that some athletes have used the retirement clause as an opportunity to gain a competitive advantage by doping in a period where they know they will not be tested.

For Athletes returning to sport having retired from the RTP or in SIA's case, testing pools, or whilst subject to a period of Ineligibility, SIA anticipates that the increased burden of that Athlete being placed on a Registered Testing Pool for 6-months and be a member of a sport prior to being eligible to compete should decrease the likelihood of that Athlete committing an ADRV during their period of Ineligibility.

Reasons for suggested changes

SIA supports the principle that an ADO should be able to take action to address the circumstance where an Athlete who has retired is known to have doped and then is seeking reinstatement to return to competition. For example, an Athlete who competes in a form of 'Enhanced Games'. There should be a mechanism available to increase the period such an Athlete is subject to testing before being eligible to compete or to prevent the Athlete's return to sport in the most serious of circumstances.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and comprehensive.

Suggested changes to the wording of the Article

No changes needed.

NADO Flanders
SUBMITTED
Jurgen Secember, Legal Adviser (België)
NADO - NADO

General Comments

The added text in this article 5.6 adds that an exemption from the 6 months, can be subject to one or more conditions. With the wording of the amendment, this is very open and leaves it to the full discretion of either WADA or the ADO. Only a certain number of tests can be required.

First observation: when implementing this, there is no certainty of what an athlete can expect. At least the possibilities should be described, not leaving it entirely to the discretion of the ADO. When putting this into the internal judicial order, it can be expected that the possibilities and the criteria for applying extra measures should be made clearer in the framework itself. This can either be filing whereabouts or reactivating the ABP.

Second observation: imposing a certain number of tests before participation is contrary to the normal rate of testing and the operational independence of the NADO. If the NADO fails to put sufficient resources in place to test the athlete, and the number of tests is a condition, it is unclear if the athlete will still be able to benefit from the exemption in a timely manner.

Third: it is logical that there is no appeal against a decision to grant the exemption, but the athlete can appeal a decision not to grant the exemption. But if the conditions set in the exemption are manifestly disproportionate, the athlete has no right to appeal. This can make the exemption rule (and the exemption granted) useless if the conditions which are set in full discretion by the ADO and WADA are too strict.

WADA NADO Expert Advisory Group
SUBMITTED
Martin Holmlund Lauesen, member (Norge)
Other - Other (ex. Media, University, etc.)

General Comments

General comment to art. 5:

It should be mentioned in the WADC (& Standards) that in the case that ADO A appoints ADO B to test athletes in the country of ADO B the legislation and rules of the latter should apply regarding doping controls (territorial principle).

It might be that ADOs have different legislation when it comes to doping controls, for example that always two SCP have to accompany the sample collection process or that blood may only be withdrawn by physicians. Therefore it should be made clear that the TA should ensure that any requirements from legislation of the country where testing takes place is adhered to.

Article 6.2 (11)

International Olympic Committee
SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

This amendment offers more possibilities in terms of sample analysis and should obviously be supported.

Hannah Grossenbacher says :

The Sports Movement supports this amendment

Norwegian Olympic and Paralympic Committee and Confederation of Sports
SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

International Tennis Integrity Agency SUBMITTED
Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

General Comments

ITIA requests that the list includes analysing samples for non-prohibited substances or methods (including substances prohibited In-Competition only) because they were collected Out-of-Competition) for the purposes of verifying whether an athlete is taking their otherwise prohibited medication/treatment in accordance with the terms of a granted TUE e.g. amphetamine for ADHD being taken out-of-competition as well as in-competition.

Ministry of Health, Welfare and Sport SUBMITTED
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

General Comments

The proposed additions to this article would allow for samples to be tested on other substances or methods than those on the Prohibited List, without consent. We consider this to be insufficiently in line with the purpose for testing specified in article 5.1.1. The samples contain health information of athletes, which as such require a high degree of data protection measures.

Suggested changes to the wording of the Article

We consider the additions under i) and ii) in line with the purpose specified in article 5.1.1, but the additions under iii) through v) not to be, and this additional analysis could therefore only take place after the explicit and voluntary consent given by the athlete. Not giving consent should be without consequences. The article should include text to this effect, or the additions should be deleted as we feel they are not in line with applicable law on data protection.

Reasons for suggested changes

Without suggested changes (either include explicit consent for additions iii) through v), or delete them), it is our opinion that this processing of personal (health) data is not in line with applicable law and can therefore not legally take place.

NADA SUBMITTED
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

(i) Is there a valid legal basis for handling the samples in this way regarding data protection requirements?

(v) What concrete assistance and guidelines does WADA provide in this regard?

In general, it must be transparent which organization is conducting the *Further Analysis* of the *Samples* and to what extent.

NADO Flanders SUBMITTED
Jurgen Secember, Legal Adviser (België)
NADO - NADO

General Comments

In general, it can be helpful to have the possibility of additional testing on the sample, but under strict conditions.

If the testing is not to be performed anonymously, the Athlete should have the right to consent or decline, if the testing falls outside the actual scope of analysis or have clear purpose in testing. For the monitoring program and cofounding factors, this is seen as logic within the ABP program and the monitoring program. But for other purposes, such additional analysis is more individual and case or sports specific.

For (iii): if testing an Out of competition sample for substances only prohibited in competition, in order to facilitate the proof in a results management procedure, the athlete should have the right to know, and to refuse. If the athlete refuses consent, there can be an adverse inference from the

refusal.

The previous remark is to some extent also valid for (ii), where the specific testing for non-prohibited substances that share metabolites with other products, should be considered carefully. An athlete declares all medications in the sample collection process. If an athlete fails to provide this, it should be a matter for the results management.

For (iv): there should be consent, and it should be in the specific rules of the safety code. But to generalize this without having clear consent from the athlete, would be beyond the scope of the code.

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Analysis of B Sample

Considering that there have been many cases in recent years where Laboratories have reported inconsistent A and B Sample results, we recommend that the Code or the International Standards for Results Management should clearly specify how anti-doping organizations (ADOs) should handle the cases where the result of the B Sample cannot confirm that of the A Sample. We recommend that the Code or the International Standards for Results Management should clearly specify how anti-doping organizations (ADOs) should handle the cases where the result of the B Sample cannot confirm that of the A Sample.

Suggested changes to the wording of the Article

We recommend that the Code or the International Standards for Results Management should clearly specify how anti-doping organizations (ADOs) should handle the cases where the result of the B Sample cannot confirm that of the A Sample.

Reasons for suggested changes

Considering that there have been many cases in recent years where Laboratories have reported inconsistent A and B Sample results, we recommend that the Code or the International Standards for Results Management should clearly specify how anti-doping organizations (ADOs) should handle the cases where the result of the B Sample cannot confirm that of the A Sample.

Sport Integrity Australia SUBMITTED

Andrew McCowan, Assistant Director Project Management Office (Australia)

NADO - NADO

General Comments

SIA agrees with the proposed amendments to this provision. However, SIA notes the preliminary findings under the WADA Human Rights Assessment Framework which suggests that Athletes should be more fully informed of the outcomes and actions taken in relation to their samples. The impact of this finding is that it may be appropriate from a human rights perspective to advise an Athlete about the nature and any future timing of the sample analysis.

SIA suggests WADA should provide guidance in relation to this issue to ensure a consistent and coordinated global approach.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Use of sample data for other purposes: To address apparent inconsistencies between the Code and data protection laws, the 2027 Code should prohibit the use of Samples and Doping Control information for purposes unrelated to anti-doping activities (i.e., for purposes unrelated to Doping Control, WADA's Monitoring Program, Quality Assurance, and Research), similar to the restrictions placed on the use of athlete whereabouts information in Article 5.5. This comment also applies to Article 23.2.2.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

The list of purposes for analyzing Samples is well-defined.

Suggested changes to the wording of the Article

Please consider adding a sentence at the end:

"In principle, all Samples collected shall be promptly analyzed for the purposes listed above, with the primary purpose being the detection of Prohibited Substances and Prohibited Methods."

Reasons for suggested changes

To clarify the priority of these purposes:

Caribbean Regional Anti-Doping Organization SUBMITTED
Marsha Boyce, Communications & Projects Coordinator (Barbados)
NADO - RADO

General Comments

No objections to the additions in this section on Analysis of Samples.

Article 6.5 (10)

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Clarification make sense with regard to the "timeline" and the rules applicable to further analysis.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC support the clarification in this article.

Anti Doping Danmark SUBMITTED
Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

General Comments

Article 6.5: Further analysis

We have reservations about this proposal in its current form. We don't think that the athlete or hearing panel, in principle, should have any influence on whether extra analyzes may be carried out on already collected samples.

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Retroactivity of the Prohibited List

We recommend that the retroactivity of the Prohibited List be clearly limited in Article 6.5 or in another appropriate section to avoid using the current List to evaluate past cases.

Suggested changes to the wording of the Article

We recommend that the retroactivity of the Prohibited List be clearly limited in Article 6.5 or in another appropriate section.

Reasons for suggested changes

It can help to avoid using the current List to evaluate past cases.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropriate. No changes needed

Suggested changes to the wording of the Article

No changes needed

UK Anti-Doping SUBMITTED
UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

There is a lack of clarity here as to whether the consent of the Athlete or approval from a hearing body would be required if further analysis were to be conducted 'after a case has been finally resolved' or whether that it is a matter to be determined by the Anti-Doping Organisation alone.

Suggested changes to the wording of the Article

Amend the proposed wording to clarify that any further analysis taking place after a case has finally been resolved will be carried out at as requested by the Anti-Doping Organisation.

Agence Nationale Antidopage SUBMITTED
Agence Nationale Antidopage Tunisie, Direction Générale (Tunisie)
NADO - NADO

General Comments

Sur la version proposée à cet article, nous exprimons notre accord sous réserve de coordination obligatoire avec l'OAD dont l'autorisation serait obligatoire et au préalable sur rapport raisonné et détaillé de la part du laboratoire, qui doit prouver que l'action analytique à reconduire ou à entreprendre en plus n'est pas due à une faute ni négligence ni omission de sa part.

EGY-NADO SUBMITTED
Iman Gomaa, CEO (EGYPT)
NADO - NADO

General Comments

It would be helpful to clarify if the athlete consent is required after the initial notification of a possible anti-doping rule violation (just after lab report)"notification letter" or after the notice of charge of an anti-doping rule violation.

USADA SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 6.5 – USADA supports this change and clarification. As the article was worded previously, an ADO would have to go back to an arbitration panel after the case was closed to perform additional analysis.

Article 7.1.6 (8)

Team USA Athletes' Commision SUBMITTED
Meryl Fishler, Manger (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

The Anti-doping dispute resolution system under the Code has significant problems that negatively impact athletes. It often can take years to resolve disputes, it can require significant resources and time for athletes to build a legal and/or scientific defense, without access to effective legal aid. There is also a lack of legal certainty in the system with no uniformity of decisions at first instance, and many anti-doping organizations impose unduly harsh sanctions on athletes for fear of WADA appealing.

To resolve the aforementioned issues, Team USA AC supports WADA imposing a clearly defined case management timetables. For example, under the Major League Baseball-Major League Baseball Players Associations Joint Drug Agreement (JDA), there are clear timeframes to expedite dispute resolution. We believe these types of systems that exist in many collective bargaining programs would vastly improve the WADA dispute resolution system in terms of efficiency and effectiveness.

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Wouldn't it be more appropriate for WADA to clarify who has jurisdiction in cases where an ADO tests an athlete who does not submit their information to them? Either always the ADO that decides to conduct the test, or always the ADO to whom the athlete submits their information.

The 'upon agreement' option risks leading to overly disparate situations between the different ADOs.

US Olympic & Paralympic Committee SUBMITTED
chris mccleary, GC, COO (US)
Sport - National Olympic Committee

General Comments

- GENERALLY: WADA's heavy reliance on NADOs under the Code is a feature but it can also be a bug. WADA needs broader right and responsibility to call out NADOs who appear not to comply with any of these requirements, over and above those in place during the recently-reported CHINDA 23 swimmers case in China. WADA seemed to find that a CAS appeal of CHINADA's handling was WADA's only recourse, and owing to a low perceived chance of success at CAS, WADA chose to do nothing. If the system must rely so heavily on the varied NADOs around the world, WADA needs very strict and strong abilities to review, comment, expose, and question NADO practices in each case.

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

If an ADO performs testing on an athlete it shall be the one doing results management for a resulting (potential) MT / FF, regardless of whether it is the ADO with whom the athlete files his:her whereabouts. The delegation of potential Whereabouts Failures to different ADO´s should be eliminated due to the fact that argumentation in a hearing is very difficult for the ADO which has not initiated testing (testing usually was performed in a different country, different testing procedures / rules are applicable, etc.)

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

While we are preliminary positive towards having the ADO discovering the apparent whereabouts failure also doing Results Management on the failure in question, it does pose a possible challenge that a different ADO in certain instances will have to bear the burden of proof to the comfortable satisfaction of the hearing panel, when charging the athlete with an art. 2.4. ADRV – this is further accentuated by the ADOs and athletes not being able to appeal a decision to record a whereabouts failure (cf. ISRM B.3.2. e), and B.3.2. e) ii).

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

The process is well-explained.

Suggested changes to the wording of the Article

No changes needed.

USADA SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 7.1.6 – USADA supports the amendment that results in apparent whereabouts failures being managed by the ADO that discovered the apparent failure through a test attempt. This will create efficiencies in the results management process for whereabouts failures.

WADA NADO Expert Advisory Group SUBMITTED
Martin Holmlund Lauesen, member (Norge)
Other - Other (ex. Media, University, etc.)

General Comments

If an ADO performs testing on an athlete it shall be the one doing results management for a resulting (potential) MT / FF, regardless of whether it is the ADO with whom the athlete files his:her whereabouts. The delegation of potential Whereabouts Failures to different ADO´s should be eliminated due to the fact that argumentation in a hearing is very difficult for the ADO which has not initiated testing (testing usually was performed in a different country, different testing procedures / rules are applicable, etc.)

Article 7.4.1 (23)

Team USA Athletes' Commision SUBMITTED
Meryl Fishler, Manger (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA AC has questions around what adequately constitutes demonstrating a source of contamination for a positive test. The code states a suspension may be eliminated if *"the Athlete demonstrates to the Results Management authority or a hearing panel that the violation is likely to have involved a Contaminated Source."* But it remains unclear as to whether another entity, like a NADO or government, can demonstrate on behalf of an athlete, which has occurred in previous high-profile cases. Team USA AC believes more clarity is needed in this section.

World Aquatics SUBMITTED
Justin Lessard, Aquatics integrity unit Manager (Switzerland)
Sport - IF – Summer Olympic

General Comments

There should be a fixed time limit for Signatories to impose a provisional suspension. If the mandatory provisional suspension is not imposed within the deadline, the Code should affirmatively state that this will be deemed a decision not to impose a provisional suspension and thereby will be appealable. It should not prevent any other Signatory to impose a Provisional Suspension.

Suggested changes to the wording of the Article

The Signatories described below in this paragraph shall adopt rules providing that when an Adverse Analytical Finding or Adverse Passport Finding (upon completion of the Adverse Passport Finding review process) is received for a Prohibited Substance or a Prohibited Method, other than a Specified Substance or Specified Method, a Provisional Suspension shall be imposed promptly upon or after the review and notification required by Article 7.2 and in any event, within 45 days of receipt of the Adverse Analytical Finding from the Laboratory, unless WADA agrees to extend this deadline: where the Signatory is the ruling body of an Event (for application to that Event); where the Signatory is responsible for team selection (for application to that team selection); where the Signatory is the applicable International Federation; or where the Signatory is another Anti-Doping Organization which has Results Management authority over the alleged anti-doping rule violation. If the mandatory provisional suspension is not imposed within this deadline, this will be deemed a decision not to impose a provisional suspension and thereby will be appealable under Article 13. A mandatory Provisional Suspension may be eliminated if: (i) the Athlete demonstrates to the hearing panel that the violation is likely to have involved a Contaminated Product, or (ii) the violation involves a Substance of Abuse and the Athlete establishes entitlement to a reduced period of Ineligibility under Article 10.2.4.1. A hearing body's decision not to eliminate a mandatory Provisional Suspension on account of the Athlete's assertion regarding a Contaminated Product shall not be appealable.

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

This welcome amendment gives the Results Management authority the ability to eliminate a mandatory provisional suspension in the event of contamination.

Hannah Grossenbacher says :

We are waiting for an analysis from ITA on contaminations. It will be interesting to see what is their feedback on this. I note as well that reference is now to a source which and no longer a product which reflect latest jurisprudence and recognises athletes concerns in relation to contamination.

Pierre Ketterer says :

Referring to 'source' rather than 'product' is indeed positive.

Brazilian Olympic Committee SUBMITTED

André Rodrigues, Technical Scientific Coordinator (Brazil)

Sport - National Olympic Committee

General Comments

Substances of Abuse are Specified Substances. The text, as it is, could cause confusion and misunderstanding. So, just remove the "Substance of Abuse".

Suggested changes to the wording of the Article

7.4.1 Mandatory Provisional Suspension after an Adverse Analytical Finding or Adverse Passport Finding The Signatories described below in this paragraph shall adopt rules providing that when an Adverse Analytical Finding or Adverse Passport Finding (upon completion of the Adverse Passport Finding review process) is received for a Prohibited Substance or a Prohibited Method, other than a Specified Substance or, Specified Method ~~or Substance of Abuse~~, a Provisional Suspension...

Reasons for suggested changes

Avoid future misunderstandings.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED

Ida Nilsson, Legal advisor (Sverige)

Sport - National Olympic Committee

General Comments

SSC support the proposal. Although, regarding voluntary provisional suspensions SSC assess that more guidance is needed when to impose this. It is clear that ADO’s have different approaches for this.

International Tennis Integrity Agency SUBMITTED

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)

Sport - Other

General Comments

As regards the lifting of a Provisional Suspension, the ITIA questions whether regard should be given to whether the eventual sanction likely to be imposed is likely to be longer than the period it is likely to take to decide the case, otherwise a contaminated source case (e.g. a supplement case), where a lengthy ban may still be imposed is a candidate for the Provisional Suspension to be lifted.

Comment to Article 7.4 -The ITIA notes that the removal of the need for an internal review prior to the imposing of a Provisional Suspension. The ITIA is surprised at this removal and kindly requests some background to the proposed change. Given the significance of a Provisional Suspension on an athlete (particularly one that is then announced) it seems odd that an ADO would not wish to ensure that an internal review is conducted to ensure that prima facie there is a case to answer having reviewed all the relevant test documentation, lab data etc before provisionally suspending an athlete.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 7.4

Provisional Suspension

Guidance needed regarding when optional Provisional suspension is recommended (or not) to be imposed.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

Clear WADA Guidelines are needed regarding the implementation and administration of mandatory provisional suspensions, in particular regarding to contamination cases.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

Comment to 7.4.2

Guidelines regarding the application / imposition of Optional Provisional Suspensions would be appreciated.

General Comment to 8.3

A waiver of the hearing is very rare in practice.

The WADC should therefore provide the possibility of a “preliminary decision”. Where the case seems clear a decision including sanction and all consequences should be rendered by the hearing panel. The athlete then could accept the decision and consequences or could ask for a hearing.

This would also resolve a majority of cases.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

Comment for 7.4.2, to which there is no available space for comment:

We would suggest that further guidance is provided on the application of article 7.4.2 (optional provisional suspension), either in comments or in the ISRM guidelines.

Finnish Center for Integrity in Sports (FINCIS)
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

SUBMITTED

General Comments

Provisional Suspension

Guidance needed regarding when optional Provisional suspension is recommended (or not) to be imposed.

Agence française de lutte contre le dopage
Adeline Molina, General Secretary Deputy (France)
NADO - NADO

SUBMITTED

General Comments

Alors que la réduction de la durée de suspension applicable aux substance d'abus est très conséquente, la suppression de la suspension provisoire obligatoire n'est pas appropriée, notamment pour la cocaïne dont l'usage est répandu dans certaines disciplines sportives qui ne sont pas exemptes d'incidents.

De plus, la cocaïne demeure une substance non-spécifiée et la réduction de sanction ne doit être consentie que lorsque le sportif établit qu'il y est éligible.

Par soucis de cohérence et de protection du public, il serait pertinent de maintenir la suspension provisoire obligatoire qui peut être levée lorsque le sportif établi son droit à bénéficier de la réduction.

CHINADA
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

SUBMITTED

General Comments

Provisional Suspension

We support this change, which allows for the elimination of mandatory Provisional Suspension in cases involving contaminated sources, even if non-specified substances and non-specified methods are involved. The Results Management Authority will also have the right to make this decision. As we know, the issue of contaminated sources causing positive results is common across different countries and regions, with different substances and methods of contamination. This change will help the Results Management Authority to respond more effectively to cases involving contaminated sources and better protect the rights and interests of affected athletes.

LTUNADO
Erika Petrutyte, Lawyer (Lithuania)
NADO - NADO

SUBMITTED

General Comments

1. According 2027 ISRM Decision of RMA or Hearing body shall not be appealable.

But in 2027 Code Article 7.4.1 is left: (only) A hearing body's decision not to eliminate a mandatory *Provisional*

2. It should be some exceptions for at least minors regarding mandatory provisional suspension, because even few months of mandatory provisional suspension can have damage for minor when final sanction will be reprimand.

Sport Integrity Commission Te Kahu Raunui SUBMITTED
Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

- We support the change of no provisional suspensions for AAFs relating to Substances of Abuse.
- We seek further clarity on how a provisional suspension can be imposed knowing that it would not extend beyond the completion of the event.

"This feedback was endorsed by the Athlete Commission of the Sport Integrity Commission Te Kahu Raunui."

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA agrees with the proposed changes.

SIA is fully supportive of the proposed amendment to exclude the requirement to impose a mandatory provisional suspension in relation to a Substance of Abuse. This will remove any potential negative consequences arising when the period of a provisional suspension exceeds the period of Ineligibility (for example when additional time is required to determine if the possible ADRV has resulted from the OOC use of a substance for a purpose unrelated to sport performance and is in fact a Substance of Abuse).

UK Anti-Doping SUBMITTED
UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

Please see our separate remarks with regards to the definition of 'Contaminated Source'.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

The language regarding mandatory Provisional Suspensions is clear.

Suggested changes to the wording of the Article

Consider adding a sentence at the end of the first paragraph

"ADO should have the burden of establishing that the violation is not likely to have involved a Contaminated Source."

Reasons for suggested changes

to clarify the burden of proof.

Anti-doping Bureau of Latvia

SUBMITTED

Mārtiņš Dimants, Director (Latvia)
NADO - NADO

General Comments

Article 7.4.2. - it is not completely clear in what circumstances we should use optional provisional suspension. It is well known that NADOs can adopt rules in which it is stipulated but some examples from WADA of situations in which it would be wise to use optional provisional suspension would be well received.

NADO Flanders

SUBMITTED

Jurgen Secember, Legal Adviser (België)
NADO - NADO

General Comments

7.4.2. (7.4)

The mandatory provisional suspension is no longer applicable for non-specified substances of abuse. In some cases however, if there is enough indication that the substance of abuse was taken in a sports related context or in competition, this might have truly affected performance and a provisional suspension can still be deemed necessary.

But the wording of 7.4.2 does not replicate that for substances of abuse, an optional provisional suspension can be imposed. This can be further elaborated that a voluntary provisional suspension for substances of abuse can only be imposed by the RMA if it is established by comfortable satisfaction that the use occurred within the timeframe affecting performance or the in competition period.

Chair

SUBMITTED

Athlete Council, WADA (Canada)
Other

General Comments

Imposing a Provisional Suspension

We suggest that the drafting team consider defining “promptly” more specifically in the context of, “a Provisional Suspension shall be imposed promptly.” For example, "at latest within x [period of time].” The word “promptly” is used frequently in the Code so the drafting team may want to consider this question more broadly.

Lifting a Provisional Suspension

A Mandatory Provisional Suspension can be lifted if, “the Athlete demonstrates to the Results Management Authority or a hearing panel that the violation is likely to have involved a Contaminated Source.” We suggest the drafting team consider additional commentary on what constitutes acceptable “demonstration,” and on when/whether a third party may act on behalf of the Athlete.

International Testing Agency

SUBMITTED

International Testing Agency, - (Switzerland)
Other - Other (ex. Media, University, etc.)

General Comments

The Athlete’s burden of proof in the context of a Provisional Hearing should be better defined. Whilst we understand that the ground of “Contaminated Product” allows to narrow down the evidence on analytical data, this ground does not necessarily cover the situation where a “No Fault” would apply or a short period of Ineligibility will be issued, which is the ratio for lifting a provisional suspension, i.e. that the athlete will ultimately not serve a period of Ineligibility or the equivalent time of the RM/Hearing process. “Promptly upon or after” could be better defined to harmonize the process.

Comment to Art. 7.4.2.

Whilst the discretion for imposing a Provisional Suspension for Specified Substances, Specified Methods or other ADRVs should remain with the Results Management Authority, to harmonize the process we suggest that the same ground(s) for lifting the mandatory Provisional Suspension should be set in the Code for optional Provisional Suspensions. If "Contaminated Sources" remains the ground for art. 7.4.1, an additional ground for non-analytical cases should be added, such as "likely of No Fault".

Opportunity to appeal such decision(s) should be better clarified.

Article 9 (5)

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

Footnote 54 → this footnote needs more clarification as it is not clear how to deal with disqualification of team results / team valuation.

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

Comment to art. 8, to which no space for comments have been provided:

We suggest that WADC art. 8 incorporates The general principles of fair procedure applicable to anti-doping proceedings in sport, cf. Recommendation CM/Rec(2022)14, Adopted by the Committee of Minister of the Council of Europe, 20. April 2022

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

clear and appropriate.

Suggested changes to the wording of the Article

No changes needed.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA agrees with the proposed changes. However, suggests the wording could be redrafted to provide greater clarity and aid in the interpretation of this comment.

Anti-doping Bureau of Latvia SUBMITTED
Mārtiņš Dimants, Director (Latvia)
NADO - NADO

General Comments

Protected Persons and the Burden of Proof - LAT-NADO believes it is necessary to address the issue of protected persons and the requirement to establish how a prohibited substance entered their system in order to demonstrate the absence of intent. The determination of "how the Prohibited Substance entered the Athlete's system" is a crucial factor in assessing whether an Anti-Doping Rule Violation (ADRV) was committed with or without intent. Currently, the Code definitions (e.g., "no fault or negligence" and "no significant fault or negligence") indicate that protected persons are not required to prove how the prohibited substance entered

their system. This should be amended to reflect that establishing how the substance entered the system is a critical step prior to the examination of "no fault or negligence" or "no significant fault or negligence." Thus, the provision should be revised to require that protected persons should not prove how the substance entered their system during the evaluation of intent.

As noted in a CAS decision, "*A majority of the Panel agrees that, in this case, it is better, indeed necessary, for the Panel to adhere to the Russian ADR (and the underlying WADC) and that, if change is required with respect to the protections afforded to young athletes, then any such change is a matter for a legislative body in the iterative process of consultation and review of the WADC and not for this adjudicative body.*" Therefore, LAT-NADO believes that amendments concerning protected persons should be incorporated into the current consultation process prior to the 2027 Code revision.

Article 10 (14)

Team USA Athletes' Commision SUBMITTED
Meryl Fishler, Manger (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA Athletes' Commission believes the sanctioning system defined in the Code should be a product of negotiations between WADA and independent athlete representative elected by their athlete peers to ensure proportionate and tough sanctions that take into account the realities of the workplace environment of each individual sport. We believe the athlete voice should be directly and jointly negotiating the anti-doping system athletes are required to follow.

10.2.4.1:

Team USA AC does not support the proposed changes in Article 10.2. We believe the proposed language creates more confusion than clarity. First, we believe the proposed sanction scheme laid out in section 10.2.1, which may have been intended to give hearing panels an increase from two-year to three-year option, but we believe it will actuality lead to reductions from four years to three in cases that should be held to the strictest sanctioning. We do not believe "intentional or reckless Use of a Prohibited Substance" should warrant a reduction and should be held to a four-year sanction.

Furthermore, the defenses available to athletes under the Code for a reduction to a sanction, such as "no fault or negligence" or "no significant fault or negligence" can be significantly difficult to establish. Athletes often have to provide evidence of the source of contamination, which can be extremely difficult to do. Especially considering the10-year statute of limitation period. Other anti-doping programs have adopted more effective ways to ensure access to effective defenses. One example of this is the UFC Anti-Doping Policy where sanctions may be reduced to a reprimand based on the athlete's degree of fault. The MLB-MLBPA has a tiered approach where the "no significant fault or negligence" defense offers far greater certainty than under the WADA Code.

Furthermore, we do support the new language around substance of abuse treatment programs. The shortened period of ineligibility is helpful when no treatment program is recommended for athletes serious about addressing their violation and any potential abuse problems. The shortened period of ineligibility can be applied to athletes who, after receiving a full assessment, no treatment is recommended, and if treatment is recommended, it should be conditioned on enrollment as opposed to completion. We believe that the treatment programs should be kept in place regardless of addiction professional's requirements because it allows for the system to grant leniency to athletes who used a substance of abuse without intent to enhance performance.

However, we do think more reforms could be used as the Code retains a punitive, rather than health and wellbeing-based approach. For example, athletes who have challenges with substances of abuse may still be sanctioned for up to four years if they test positive for marijuana or cocaine 'in competition'. In these circumstances, we believe access to support and rehabilitation should be prioritized. We believe it is in the best interest of athletes to have a separate regime for substances of abuse that incorporates athlete engagement and negotiation, athlete education, preserves athlete confidentiality and provides access to athlete treatment and support services

We do not support the concept that progressive weight should be used for whereabouts violations. In evaluating fault, we do think an athlete should be on heightened alert after a first or second whereabouts failure, but that fault should be assessed collectively across all three whereabouts failures. Often athletes only challenge one of their whereabouts failures, as such a hearing panel may only focus on that particular failure. In comment 60 we think more clarification could be provided

International Tennis Integrity Agency SUBMITTED
Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

General Comments

Comment regarding the proposed sanction for athletes who fulfil the ISTUE Art 4.2 criteria but do not meet the criteria for a retroactive TUE. The ITIA agree that a standalone sanctioning regime in such cases is needed. The ITIA supports a period of ineligibility between three (3) and six (6)

months however to ensure that unnecessary time and resources are not spent debating where on this spectrum this should sit the ITIA would propose that the sanction is either three (3) OR six (6) months, ie one or the other, depending on the Athlete's degree of Fault.

That said there are two areas upon which the ITIA seeks clarification. 1) what would the sanction be if the Athlete committed the same offence again, particularly in the instance where the first offence of this nature incurred a 6-month sanction? The Athlete must surely be on notice following the first offence and therefore the ITIA does not believe this sanction applies beyond a first offence. 2) It is hoped that in creating a range between 3 and 6 months that this will ensure Athletes still apply for a TUE in advance. Wording should be included in the Code and or ISTUE that encourages International Level Athletes or those indicated by their applicable ADO to apply for a TUE in advance. Those that fall outside of this group should not necessarily be discouraged from applying in advance for a TUE. It can be made clear that whilst that second group can just wait to be tested before applying for a TUE and they would qualify as such for a retroactive consideration of a TUE that a clear warning needs to be conveyed that this does not provide a guarantee that the TUE will be granted. There are risks associated with taking a prohibited substance and assuming that such treatment will be approved.

Sport NZ SUBMITTED
Katy Cook, Group Policy Manager (New Zealand)
Public Authorities - Government

General Comments

"*This submission is made on behalf of Sport New Zealand, which is the Crown agency responsible for advising the New Zealand government on anti-doping policy and ensuring New Zealand's compliance with the International Convention against Doping in Sport 2005.*

Sport NZ understands that the Article 10 proposals may be affected by further work on the issue of contamination by the Code Revision Team and the Contaminants Working Group as well as the recommendations of the ExCo subcommittee established further to the report of Eric Cottier into the Chinese swimmers contamination case. We strongly support work to address the issue of contamination so that anti-doping authorities can better distinguish between genuine contamination and cases of intentional doping. We look forward to seeing proposals for change (including those relevant to this provision) as this work progresses."

ONAU SUBMITTED
JOSE VELOSO, Antidoping Medical Director (Uruguay)
NADO - NADO

General Comments

Non-specific substances and methods:

4-year ineligibility period unless the athlete can prove that the use was not intentional.

2-year ineligibility period if the athlete can prove that the use was not intentional.

Specific substances or methods:

4 years if the Results Management Authority can prove that the use was intentional.

2 years if the Results Management Authority cannot prove that the use was intentional.

Suggested changes to the wording of the Article

New distinctions introduced:

If the infringement was reckless rather than intentional.

If the athlete can establish how the prohibited substance entered his or her body

Autoridade Brasileira de Controle de Dopagem SUBMITTED
Luciana Corrêa de Oliveira, Resulta Management General Coordinator (Brazil)
NADO - NADO

General Comments

Article 10.14.3 Violation of the Prohibition of Participation during *Ineligibility* or *Provisional Suspension*

Make it clearer that the consequence of adding a period of ineligibility equal in length to the original period applies only to an athlete who violates the period of ineligibility.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

Concepts #1 & 4

ADD agrees with the idea of more flexibility in sanctions and especially when an athlete can establish no significant fault or negligence, but we find that this mainly applies with TUE cases and with substances of abuse.

However, we think that the introduction of the four new categories, seems to create a more complicated system

It will be difficult to see the difference between recklessness and negligence, and when the sanctions respectively should be 4, 3, 2 and down to 0 year. This makes the cases very difficult to figure out, both for the NADO's and the Hearing Body, but mostly for the athletes.

Especially art. 10.2.1.1 and 10.2.1.2 are very similar. And in the end the 3-year sanction for recklessness, will be the same as a 4-year sanction for intentional and then one year reduction for prompt admission. In practice it won't change much.

It will also increase the need for legal assistance for the athlete, and therefore it can create uneven situations and cases based on the financial resources of the athletes.

Moreover, it can give different case law in different countries

So in stead of introducing the new four categories, we instead think that we should keep the current two categories, and focus on the flexibility with TUE and substances of abuse cases.

Article 10.6.1.2

We have no objections against this proposal, although we think it should be considered, if it will lead to more cases where an athlete can "excuse" them self with contamination from different sources. Therefore, we think that it is necessary to think this through even more and work on the article, to make sure that this isn't used in the wrong way,

Article 10.14.1. Status during ineligibility

We support this because we find it very relevant that the athlete gets the right guidance, and that it is clear to ADO's as well.

Though we would suggest even more clarity about the participation in private events and training camps.

LTUNADO SUBMITTED

Erika Petrutyte, Lawyer (Lithuania)

NADO - NADO

General Comments

10.4 Guidance to apply Aggravating Circumstances. Now different organizations it apply very different. Some of them do not apply it at all. So, for athletes from different countries *Aggravating Circumstances are applied differently.*

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

Feedback on the 'Code - Summary of Major Changes' document - Article 4.4: Therapeutic Use Exemptions:

We are in favour of implementing a fixed three (3) month sanction in cases whereby the criteria for obtaining a TUE (Article 4.2) are met but the exceptions for a retroactive TUE (Article 4.1) are not satisfied. We prefer this option for the following reasons:

- It is helpful for Anti-Doping Organisations (ADOs) when communicating the Consequences with Athletes to have a prescribed period of Ineligibility to assert. Not having to dispute the period of Ineligibility also reduces the likelihood of a hearing making the results management process more streamlined.
- The option of imposing no sanction is not a workable solution since it would undermine the TUE process, and in particular the TUE fairness process (Article 4.3). This option would also provide no deterrent or incentive for Athletes to uphold their anti-doping obligations.
- A reprimand of up to two (2) years doesn't work because in most cases the Athletes are well educated, therefore resulting in a sanction at the higher end of the spectrum, which can appear disproportionate given that in these cases the Athlete has a legitimate therapeutic need to use the prohibited medication, but has fallen short of complying with their anti-doping responsibilities (by not obtaining a TUE in advance of use).
- The three (3) to six (6) month flexible sanction length option doesn't work for the following reasons:

  i. It is still a range like the current reprimand to two (2) years scale. If there is acknowledgement that an Athlete's Fault tends to be higher in these cases, then the same will be true even if the window is narrower (that is, most cases are likely to conclude with a 5/6 month ban from sport).

  ii. Having the Fault assessment does not assist more broadly in dealing with these cases in a proportionate manner because: (a) ADOs still need to make a Fault assessment; (b) ADOs still need to liaise with Athletes and their representatives to justify that Fault assessment; and (c) if agreement cannot be reached, these cases will inevitably end up before a hearing panel (doing nothing to reduce the strain on the limited resources of ADOs, and the wellbeing and financial resources of Athletes).

Should the three month fixed suspension regime be adopted, all parties will need to be cognisant of the practicalities of processing the retroactive TUE application within this timeframe – especially considering the time it takes for an application to be reviewed in accordance with Article 4.3 and allowing for any subsequent appeal.

Suggested changes to the wording of the Article

Please consider implementing a fixed three (3) month sanction in cases whereby the criteria for obtaining a TUE in Article 4.2 of the ISTUE are met but the Article 4.1 exceptions for a retroactive TUE have not been satisfied.

Finnish Center for Integrity in Sports (FINCIS)

SUBMITTED

Petteri Lindblom, Legal Director (Finland)

NADO - NADO

General Comments

Code Article XX: Sanctions for athletes who fulfill the ISTUE Article 4.2 criteria but do not meet the criteria for a retroactive TUE.

If the Athlete can establish that the presence, Use or Attempted Use or Possession met the criteria in Article 4.2 of the International Standard for Therapeutic Use Exemptions, then the period of Ineligibility shall be Reprimand for the first time.

For any subsequent violation in this regard, the period of eligibility could be 2 months.

Reasons for suggested changes

This would be more in line with the spirit of the anti-doping code, because in these cases the athlete has used, for medical reason, a medication for which the criteria for obtaining a TUE in Article 4.2 of the ISTUE are met (but the criteria for a retroactive TUE are not met). The only fault is that the athlete failed to apply for a TUE in advance. Because of this, the sanction should be lighter than the sanction for Substance of Abuse.

Myanmar Anti-doping Organization

SUBMITTED

Htet Wai, Secretary (Myanmar)

NADO - NADO

General Comments

The sanctions and consequences are well-defined.

Suggested changes to the wording of the Article

No major changes needed.

Sport Integrity Australia

SUBMITTED

Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

Multiple Violations – 10.9.3.2

SIA seeks amendment/clarification to Article 10.9.3.2 of the Code, as it is currently drafted, requires consideration of ADRVs that occurred more than 12 months apart to be treated as separate ADRVs, despite if they relate to the same course of conduct. This means that a sanction for an Athlete will be increased (by an additional four years for example) notwithstanding that they are being notified of all of the ADRVs together (i.e. if after an investigation, an ADRV has been committed by an Athlete in 2020 and then again in 2022, but the ADRVs relate to the same course of conduct and the Athlete is being notified of those ADRVs together, than out of fairness to the Athlete they should be treated as a first ADRV collectively for the purpose of the multiple violations provision and not as 'stand alone' ADRVs).

Agence Nationale Antidopage

SUBMITTED

Agence Nationale Antidopage Tunisie, Direction Générale (Tunisie)
NADO - NADO

General Comments

Nous supportons les changements proposés à l'article 10 du Code centrés sur une meilleure distinction des cas selon l'intention de l'athlète et le degré de faute et de négligence...

Malgré qu'il s'agit de prouver un fait dont les moyens de preuve seraient libres mais afin de rationaliser l'application et la preuve, il est souhaitable que soit élaboré un manuel de procédure de preuves ou au moins être plus explicite des moyens de preuve au niveau des Standards.

A titre d'exemple, la non consultation d'un médecin lors de l'utilisation d'une substance interdite par l'athlète serait considéré comme preuve d'usage intentionnel.

USADA

SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 10.9 – The current calculation for a second violation requires fault to be assessed twice to reach the appropriate sanction length. This is ripe for confusion and disparate results.

Suggested changes to the wording of the Article

10.9, Recommended Change:

Remove the range and second fault assessment by indicating that the sanction for a second violation is the greater of six months or "the sum of the period of Ineligibility imposed for the first anti-doping rule violation plus the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation."

Reasons for suggested changes

10.9, Reasons for Change:

This change simplifies the process while also (a) increasing the sanction length for a second violation and (b) takes into account the severity of the first and the second violations.

Whereas the current sanctioning regime requires fault for the second violation to be assessed twice, in effect double counting it. Fault first has to be assessed to determine both the lower and upper limits of a sanction range: "the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation" (Art. 10.9.1.1(b)(i)). And then it is assessed again to determine where the Athlete falls within the sanction range: "[t]he period of Ineligibility within this range shall be determined based on the entirety of the circumstances and the Athlete or other

Person's degree of Fault with respect to the second violation." This embedded fault analysis is quite complex and ripe for mistakes and disparate outcomes.

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Second or Third Violations (10.9.1)

There appears to be a conflict between 10.9.1.1, which says the minimum sanction for a second offense is six months, and 10.2.4.1, which says the sanction for the second violation for a substance of abuse is four months.

In any case, we disagree with the scheme of sanctions for multiple violations that is set out in Article 10.9.1. We think a second violation should result in a lifetime ban, taking into account Article 10.9.2 as currently written, which says that for the purposes of 10.9, cases of No Fault or Negligence, and cases for substances of abuse unrelated to sports performance (10.2.4.1) do not count as violations.

For Athlete Support Personnel found to have committed violations of Article 2.7 or 2.8 (trafficking or administration) the sanction for the first offense should be lifetime ineligibility. See also our comment on 10.3.3.

Article 10.2 (25)

Tug of War International Federation SUBMITTED
Peter Dyer, Senior Vice President (England)
Sport - IF – IOC-Recognized

General Comments

I always considered the 2 year and 4 year sanctions to be too rigid. So I welcome these proposed changes. However, I do not believe they have gone far enough. There should be even greater flexibility which should be risk assessed and be proportionate to the severity of the Offence and what advantage, if any, was gained by the athlete. Or what health risk was there to the athlete.

Simply; consider two factors,

a) Enhanced performance

b) Risk to health.

Then rank the risk to both of these as Low, Medium, High, and Very High, this would then align to 1, 2, 3 and 4 year suspensions (or 6, 12, 18, 24 months for unintentional specified substances or methods) respectively. This should only be applied on the first offence, thereafter you revert to the sanctions currently being proposed.

Consideration should also be taken to the sport they are in, are they professional or amateur. Is it an individual sport or a team sport. If a team sport what impact does that individual have should be considered. The reason for this is the huge difference between minority amateur sports and major professional sports, the difference in gaining the advantage as well as the resource behind the organisations and athletes.

The Code and the supporting international standards do not recognise the significant difference between minority amateur sports and major professional sports, and while the same principles should apply, the level of sanctions, evidence (e.g. for ADRVs and TUEs respectively) etc, etc should be based on a risk assessment and not a one size fits all strategy.

The 'one size fits all. is not appropriate, the criminal justice system takes many factors into consideration before sentencing with the flexibility of a range of sanctions. I don't see why a similar system should not be applied to Anti-Doping, as currently the Code is neither targeted or proportionate and discriminates against minority amateur sports.

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Footnote 57: make sense, was already part of UCI process.

National Olympic Committee and Sports Confederation of Denmark

SUBMITTED

Mikkel Bendix Bergmann, Legal Advisor (Denmark)

Sport - National Olympic Committee

General Comments

Concepts #1 & #4 – Sanctioning Scheme

The Danish NOC generally supports the notion that the criteria for determining a lack of intent should be clearer and more defined to ensure equal treatment of cases and athletes.

The Danish NOC supports the initiative to clarify the criteria for determining the lack of intent in anti-doping violations, as this promotes greater consistency and fairness across cases and for all athletes.

However, we have concerns about the introduction of four new categories, which seem to add unnecessary complexity to the system.

For instance, differentiating between recklessness and negligence is likely to be challenging, not only for NADOs and Hearing Bodies but, most importantly, for the athletes themselves. This complexity may disproportionately affect athletes who lack the resources for adequate legal representation, creating inequalities in the resolution of cases based on financial capacity.

Additionally, this could lead to divergent interpretations and inconsistent case law across different jurisdictions.

Rather than introducing these four new categories, we believe it would be more effective to retain the current two categories and focus on allowing greater flexibility in Therapeutic Use Exemptions (TUE) and cases involving substances of abuse.

Riksidrottsförbundet

SUBMITTED

Ida Nilsson, Legal advisor (Sverige)

Sport - National Olympic Committee

General Comments

SSC like the idea to differ between a violation that was committed with recklessness as opposed to knowingly committing a violation. However, in practice we assess that this will be hard to distinguish and to apply. If the new suggested distinctions will remain, more guidance will be needed especially regarding the reckless use.

In comment to Article 10.2, it states that the athlete should establish that the violation was not intentional. To do that the athlete has to show how the Prohibited Substance entered their system and also that the timing of such ingestion or Use is consistent with the analytical results from their Sample. In SSC's opinion, this comment is a bit unclear. Does it mean that the athletes need an opinion/statement from a WADA accredited laboratory via the ADO?

Another clarification that SSC assess is needed is an athletes request of the estimated concentration in their sample before the first statement is submitted. It should be stated that the RMA is not obliged to grant such a request before the first statement has been submitted. This of course due to the fact that this could affect the athlete's statement and is an important piece of evidence for the RMA.

Norwegian Olympic and Paralympic Committee and Confederation of Sports

SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

International Tennis Integrity Agency

SUBMITTED

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)

Sport - Other

General Comments

Concept #1 - There should remain the possibility of demonstrating a lack of intent without proving source, but that should only be in exceptional circumstances and the bar has to be high. More clarity on the evidence that would clear the bar is needed to assess whether it's a viable option

Concept #4 - It seems reasonable that genuine therapeutic use cases should be treated more leniently than non-therapeutic use cases. The addition of therapeutic use cases to 10.6 could give rise to two risks: (1) the pre-TUE use of supra-therapeutic doses and (2) falsification of

medical information in support of an unmeritorious TUE application. If possible, those risks should be mitigated (e.g. by demonstration that no supra-therapeutic dose was ingested and a written statement from the prescribing physician).

Japan Sports Agency SUBMITTED

Japan Sports Agency Anti-Doping Unit, Anti-doping Unit Chief (Japan)

Public Authorities - Government

General Comments

Clarifications may be necessary regarding the conditions for each ineligibility period, and such clarifications should be drafted in a comprehensible manner so that non-English-native speakers can easily interpret.

In the current 2021 WADC, an athlete who "knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk" is regarded as a target of 4 years suspension since he or she is an “intentional” athlete. In the proposed 2027 WADC DRAFT, however, the same athlete is regarded as a target of 3 years suspension. Is this consequence reasonable enough? This point should be discussed more seriously. In case where the Athlete cannot establish how the prohibited substance entered their system, which results in a 3 years suspension period (2027 DRAFT, Article 10.2.2.2), it should be clarified what the “analytical evidence” exactly means with some examples and/or illustrations.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 10.2 Sanctioning scheme for presence, use or attempted use or possession

Need for more clarity on the difference between recklessness and negligence, and when the sanctions respectively should be 4, 3, 2 and down to 0 year. This makes the cases very difficult to figure out, both for the NADO’s and the Hearing Body, but mostly for the athletes.

Especially “undefined” clauses like “the narrowest of corridors” (comment 57) must be more precise and harmonized for at least the most common scenarios.

The biggest challenge for RMAs is to find harmonized ruling and sanction in cases of contamination from products sources, etc. might be the reason for the AAF. Clear guidance from WADA is needed.

It will also increase the need for legal assistance for the athlete, and therefore it can create uneven situations and cases based on the financial resources of the athletes.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

Especially “undefined” clauses such as “the narrowest of corridors” must be precised and harmonized for at least the most common scenarios (based on case jurisprudence) --> where are the differences between a four year sanction, three years, two years or at least no sanction?!

The biggest challenge for RMAs is to harmonize ruling and sanction in cases where a contamination of products sources etc might be the reason for the AAF. Clear guidance from WADA is needed.

COL-NADO SUBMITTED

Néstor Alejandro Gómez Guerrero, Coordinador (Colombia)

NADO - NADO

General Comments

Comentario 1: Clarificación de la distinción entre intencionalidad y culpa.
Comentario 2: Mayor flexibilidad en sanciones para sustancias no específicas.
Comentario 3: Refuerzo en la interpretación del concepto de "sin culpa o negligencia significativa".
Comentario 4: Criterios de reducción de sanciones para sustancias específicas.

Comentario 5: Prueba sobre la fuente de la sustancia prohibida

Suggested changes to the wording of the Article

Propuesta 1: Sería útil proporcionar definiciones claras de lo que se entiende por "uso intencional" y "uso imprudente". Esto es crucial porque la carga de la prueba y la sanción varían considerablemente dependiendo de estos conceptos. Por ejemplo, se podría incluir un comentario o anexo explicativo o guía práctica para ayudar a los tribunales antidopaje y a los atletas a entender qué conductas podrían ser calificadas como imprudentes.
Propuesta 2: En el caso de sustancias o métodos no específicos, donde el atleta pueda establecer cómo ingresó la sustancia en su cuerpo, se propone añadir mayor flexibilidad en la sanción de tres años (para uso imprudente). Esta podría reducirse a un rango de 2 a 3 años dependiendo de circunstancias atenuantes adicionales, como la cooperación del atleta en la investigación o su historial disciplinario.
Propuesta 3: Se podría clarificar en qué casos específicos se puede reducir la sanción por la falta de "culpa o negligencia significativa" (de 0 a 2 años). Proponer que esta reducción se aplique solo si el atleta coopera activamente en la investigación para determinar cómo la sustancia ingresó en su cuerpo.
Propuesta 4: Para sustancias específicas donde la infracción no fue intencional o imprudente, podría considerarse un rango de sanciones de 1 a 2 años, dependiendo de factores como la gravedad del uso de la sustancia, la prontitud del atleta para admitir la infracción y la cooperación con las autoridades.
Propuesta 5: En los casos donde el atleta no puede establecer cómo ingresó la sustancia prohibida a su cuerpo, pero existen pruebas analíticas que respalden la ausencia de intencionalidad, se debería permitir una revisión de la sanción bajo un criterio de mayor flexibilidad.

Reasons for suggested changes

Justificación 1: Aunque el Código Mundial Antidopaje hace distinciones entre intencionalidad e imprudencia, la línea entre ambos conceptos no siempre es clara. Definirlos con mayor precisión reduciría la ambigüedad en la interpretación de los casos.

Justificación 2: Actualmente, el régimen sancionatorio para uso imprudente impone una sanción de 3 años sin considerar otras posibles circunstancias atenuantes. Introducir más flexibilidad podría hacer que las sanciones sean más justas y proporcionales a la gravedad del caso.
Justificación 3: Es fundamental que los atletas tomen un rol activo en la determinación de los hechos, y al proporcionar incentivos claros (reducción de sanciones), se podría mejorar el sistema, evitando la reducción de sanciones en casos donde el atleta no colabore adecuadamente.
Justificación 4: La introducción de un rango más flexible permitiría una mayor adaptación de las sanciones al contexto específico del caso, garantizando que los atletas no sean sancionados de manera desproporcionada cuando hay evidencia de que su uso de la sustancia no fue intencional ni imprudente.
Justificación 5: Las pruebas analíticas pueden proporcionar información clave que podría moderar una sanción estricta. Actualmente, si el atleta no establece la fuente de la sustancia, no se le permite ninguna reducción en la sanción. Esto puede ser injusto en casos donde la evidencia científica sugiere que no hubo intencionalidad.

Japan Anti-Doping Agency
Chika HIRAI, Director of International Relations (Japan)
NADO - NADO

SUBMITTED

General Comments

10.2.1.3, 10.2.2, 10.2.2.1, 10.2.2.2, 10.2.3, 10.2.3.1, 10.2.3.2
Basically agreed to the proposed change.

It is seriously important to know in advance what type of activities are targeted by each provision (2, 3 or 4 year). Each provision should be clearly drafted in the manner by which non-English-native speakers can easily understand these points.

In the current 2021 WADC, an athlete who "knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk" is regarded as a target of 4 years suspension since he or she is an “intentional” athlete. In the proposed 2027 WADC DRAFT, however, the same athlete is regarded as a target of 3 years suspension. Is this consequence reasonable enough? This point should be discussed more seriously.

In case where the Athlete cannot establish how the prohibited substance entered their system, which results in a 3 years suspension period (2027 DRAFT, Article 10.2.2.2), it should be clarified what the “analytical evidence” exactly means with some examples and/or illustrations.

Agence française de lutte contre le dopage
Adeline Molina, General Secretary Deputy (France)
NADO - NADO

SUBMITTED

General Comments

La rédaction des articles 10.2.1, 10.2.2 et 10.3 est difficilement lisible et intelligible, tant pour les sportif, que pour les OAD et les panels disciplinaires.

Le dispositif actuel, parfaitement intégré et compris, semble plus robuste que celui envisagé. Il y a en effet un risque d'arbitraire dans l'utilisation des différents concepts manipulés et un risque d'affaiblissement du régime de l'intention. En particulier, des difficultés pourraient naître, notamment au sein des instances d'audition, pour apprécier différemment le fait que le sportif savait qu'il commettait une violation, qu'il savait qu'il y avait un risque de la commettre, ou qu'il y avait un risque significatif que sa conduite puisse constituer une violation.

Il est donc proposé de maintenir le dispositif actuel, en intégrant toutefois la possibilité de la réduction de sanction lorsque le sportif qui ne peut pas démontrer l'origine de la substance non-spécifiée présente des preuves scientifiques que son usage n'était pas compatible avec un usage non-intentionnel.

Il est au demeurant regrettable de ne pas prévoir un dispositif similaire pour les substances spécifiées, pour qu'un sportif qui a démontré par des évidences scientifiques qu'il avait été exposé accidentellement à la substance et qui faisait preuve de vigilence, puisse ne pas supporter la même suspension qu'un sportif parfaitement négligent.

LTUNADO SUBMITTED

Erika Petrutyte, Lawyer (Lithuania)

NADO - NADO

General Comments

Need more clearance what is the difference between recklessness vs negligence. Its seem that it can be difficult to see line between recklessness vs negligence for NADOs and Hearing bodies; and for Athletes in defence much more. (this remark applies for all 10.2)

Reasons for suggested changes

Its seem that it can be difficult to see line between recklessness vs negligence for NADOs and Hearing bodies; and for Athletes in defence much more. (this remark applies for all 10.2)

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

Need for more clarity on the difference between recklessness and negligence, and when the sanctions respectively should be 4, 3, 2 and down to 0 years. This makes the system difficult to figure out, mostly for the athletes. Especially “undefined” clauses like “the narrowest of corridors” (comment 57) must be more precise and harmonized for at least the most common scenarios. The biggest challenge for RMAs is to find harmonized ruling and sanction in cases of contamination from products sources, etc. might be the reason for the AAF. Clear guidance from WADA is needed.

Feedback to Art. 10.2 regarding recreational athletes and protected persons

SSI would suggest to provide a sanction regime under which even intentional ADRVs are only sanctioned by a standard period of ineligibility of 2 years for recreational athletes and protected persons that do not compete at the elite level (e.g. in juniors). As a junior athlete, even a 2 year suspension has a heavy impact on development at that level. With recreational athletes, the sports club is often their social environment. Being excluded from their social environment for multiple years is a heavy sanction. Therefore, SSI would welcome a shorter period of ineligibility for recreational athletes, who commit ADRVs intentionnally, or alternatively, the possibility to give a reprimand for the first such intentionnal violation. For example, an 18 year old football player of a very low league who orders RAD 140 from an Instagram add with the intention of "improving his body" acts intentionnally (at least indirectly, recklessly) and thus, under current rules, must be sanctionned with 4 years ineligibility. For SSI, this sanction is too heavy as it has a massive impact on the social environment of that young recreational athlete. It should be more proportional.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED

Petteri Lindblom, Legal Director (Finland)

NADO - NADO

General Comments

Art. 10.2 Sanctioning scheme for presence, use or attempted use or possession

Need for more clarity on the difference between recklessness and negligence, and when the sanctions respectively should be 4, 3, 2 and down to 0 year. This makes the cases very difficult to figure out, both for the NADO’s and the Hearing Body, but mostly for the athletes.

Especially “undefined” clauses like “the narrowest of corridors” (comment 57) must be more precise and harmonized for at least the most common scenarios.

The biggest challenge for RMAs is to find harmonized ruling and sanction in cases of contamination from products sources, etc. might be the reason for the AAF. Clear guidance from WADA is needed.

It will also increase the need for legal assistance for the athlete, and therefore it can create uneven situations and cases based on the financial resources of the athletes.

Art 10.2.1 + 10.2.2

In general it's to good to have more levels for the sanctions because cases are different, but the comments regarding Art. 10.2 must also be taken into account

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

De manière générale, nous nous demandons si les modifications proposées aux articles 10.2.1 à 10.2.3 n'auraient pas pour effet de davantage complexifier un système de sanction qui est plutôt clair et qui fonctionne plutôt bien à l'heure actuelle, en cas de présence ou d'usage d'une substance interdite.

Aussi, nous nous permettons d'attirer l'attention sur le fait que les propositions éventuellement envisagées pour cet article devraient davantage tenir compte de la situation des sportifs disposant de moins de ressources. Cet aspect devrait par exemple et surtout être pris en compte en ce qui concerne la charge de la preuve (notamment et surtout dans les propositions relatives aux articles 10.2.1 et 10.2.2) et ce, précisément afin d'éviter de désavantager des sportifs disposant de moins de ressources. Il convient en effet d'éviter cette situation, qui serait inéquitable.

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

It seems that the system gets now more complicated by establishing the new term “reckless” to the sanctioning system.

It will be difficult for hearing bodies to determine this term and differentiate between “reckless” and “negligent”.

Anti-doping Bureau of Latvia SUBMITTED
Mārtiņš Dimants, Director (Latvia)
NADO - NADO

General Comments

There is a need for clarification as to whether the evaluation criteria used in the *Johaug* and *Cilic* cases for the elimination of sanctions will remain applicable under the new sanctioning regime.

UK Anti-Doping SUBMITTED
UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

We welcome the efforts made to improve the sanctioning structure applicable to the most common Anti-Doping Rule Violations under Article 10.2. However, we have concerns about Anti-Doping Organisations, Athletes and other Persons and hearing panels being able to distinguish the sanctioning provisions contained within Articles 10.2.1.1 and 10.2.1.2, i.e. the distinction between not intentional violations attracting a two (2) year ban and 'reckless' ones attracting a three (3) year ban. We do not consider that the current draft of the Code provides sufficient guidance to provide a clear enough distinction between violations that will attract a three (3) year ban and those that will attract a two (2) year ban. We also consider that in circumstances where hearing panels are persuaded that the case before them is not one of deliberate cheating, i.e., where the Athlete knew their conduct constituted an Anti-Doping Rule Violation, they will inevitably end up imposing a two (2) year period of Ineligibility irrespective of the attempts to draw distinctions in conduct between Articles 10.2.1.1 and 10.2.1.2.

Suggested changes to the wording of the Article

Please consider whether the introduction of a three (3) year sanction in the context of Article 10.2.1.1 will actually make the implementation of sanctions more straightforward (or not) and will actually be utilised in the manner intended.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

As a concept, CCES appreciates the additional flexibility in the sanctioning regime, however thought will have to be given to how to ensure a consistent application of these provisions until adequate jurisprudence has been established.

Updating the Guidelines to provide clarity on the implementation of these rules, with the inclusion of examples, will be helpful. In particular, CCES would welcome examples that would establish the main considerations when determining whether a violation was reckless and/or intentional.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

- We are generally supportive of the proposed changes.
- We recognise why the ability to reduce sanctions where the source cannot be established for a non-specified substance has been tightened. We agree that the bar must be set high for non-specified substances, however we are unsure whether the increase in sanction from 2 to 3 years in this event is reasonable, especially for low threshold cases.
- We understand that Article 10 proposals may be affected by further work on the issue of contamination by the Code Revision Team and the Contaminants Working Group as well as the recommendations of the ExCo subcommittee established further to the report of Eric Cottier into the Chinese swimmers contamination case. We strongly support work to address the issue of contamination so that Anti-Doping authorities can better distinguish between genuine contamination and cases of intentional doping. We look forward to seeing proposals for change (including those relevant to this provision) as this work progresses.

"This feedback was endorsed by the Athlete Commission of the Sport Integrity Commission Te Kahu Raunui."

Sport Integrity Australia SUBMITTED

Andrew McCowan, Assistant Director Project Management Office (Australia)

NADO - NADO

General Comments

SIA reserves the right to make comment on this provision following the resolution of any recommendations arising in relation to the Cottier Final Investigation Report and associated work of WADA working groups tasked with resolving the approach to dealing with contamination cases.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

ADSE like the idea to differ between a violation that was committed with recklessness as opposed to knowingly committing a violation. However, in practice we assess that this will be hard to distinguish and to apply. If the new suggested distinctions will remain, more guidance will be needed especially regarding the reckless use.

In the comment to Article 10.2, it states that the athlete should establish that the violation was not intentional. To do that the athlete has to show how the Prohibited Substance entered their system and also that the timing of such ingestion or Use is consistent with the analytical results from their Sample. In ADSE's opinion, this comment is a bit unclear. Does it mean that the athletes need an opinion/statement from a WADA accredited laboratory via the ADO?

The comment to Article 10.2.2 needs further clarification. It states that the athlete must present reliable analytical evidence. Examples that is given is a need for a metabolic profile. What is a metabolic profile? And how should it be accomplished?

Another clarification that ADSE consider needed is an athletes request of the estimated concentration in their sample before the first statement is submitted. It should be stated that the RMA is not obliged to grant such a request before the first statement has been submitted. This of course due to the fact that this could affect the athlete's statement and is an important piece of evidence for the RMA.

NADO Flanders SUBMITTED

Jurgen Secember, Legal Adviser (België)
NADO - NADO

General Comments

It could be made clearer in the way Code article 10.2 is drafted, which other elements of article 10 still apply.

- It should be considered to clarify per sanction (per paragraph) which routes for reduction or added sanction still apply. This could be done by either specifying in 10.6 (and subs), or in the parts of 10.2 and 10.3.

- Although it is clear that 10.4 (aggravating circumstances) can be applied to the basic sanction of 4 years in 10.2 when there is direct intent, it should be made clear whether 10.4 can (or cannot) be applied to 10.2.1 (indirect intent), or even in the 10.2.2 or 10.2.3, where the 2 year period of ineligibility is similar to the basic sanction for a specified substance. The wording of article 10.4 does refer to "knowingly" commit the ADRV, which would only allow application of the 10.4 in cases of direct intent, leaving it only applicable to the basic sanction of 10.2.

- The same observation applies to 10.2.3. and 10.2.3.1 – again it is unclear if knowingly in article 10.4 refers to both direct (4y) and indirect intent (3y)

- For the sake of clarity, the 4 year ineligibility should be in the general first sentence of 10.2.2. Articles 10.2.2.1 and 10.2.2.2 are reductions, but when only considering 10.2.2, there is no reference to 4 years.

Chair SUBMITTED

Athlete Council, WADA (Canada)
Other

General Comments

Sanctions on Individuals

The changes to Article 10.2 establish a new scheme of sanctions and possible reductions. We do not support the changes for a number of reasons. Above all, we find the new scheme overly complex. We are also concerned that the new categories leave too much room for interpretation and could be misused. While we understand the drafting team's objective was to provide a middle ground between two- and four-year sanctions, we do not agree that "reckless" use, as opposed to intentional use, merits a one-year reduction. Ultimately, we doubt that the changes would satisfy the drafting team's intention to resolve some of the inconsistencies and challenges around sanctions for contamination or alleged contamination cases.

On the topic of contamination cases, we call on the drafting team to work with the other drafting teams, the Medical committee, the Contaminants working group, and whoever else is necessary in order to establish a better system for determining contamination. Athletes are harmed by the current system's limited ability to distinguish between contamination and intentional use and the associated sanctions of guilty and innocent athletes alike.

Article 10.2.1 (12)

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 10.2.1 Non-Specified Substances or Methods & the Athlete can establish how the Prohibited Substances Entered their System

While it's good to have more levels for the sanctions because cases are different, but the comments regarding Art. 10.2 must also be taken into account.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

See Art. 10.2

Anti-Doping Norway

SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

Even if additional flexibility is introduced, the new wording will be difficult to apply in practice.

Many jurisdictions do not distinguish between the types of direct and indirect intent as proposed here, we will therefore request additional guidance for the benefit of ADOs, Lawyers and for athletes to consider which alternative they should pursue.

Suggested changes to the wording of the Article

For anti-doping rule violations that do not involve a *Specified Substance* or a *Specified Method* and, in the case of Articles 2.1 and 2.2 where the Athlete can establish how the Prohibited Substance entered their system, the period of Ineligibility shall, subject to Articles (…) 10.2.4, be four (4) years. The four (4) year period of Ineligibility may be reduced as follows: …

Reasons for suggested changes

(…) denotes deletion.

Given that the situations described in 10.2.2. have been carved out of 10.2.1, it does not make sense to reference 10.2.2. om 10.2.1

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

See comment under Art. 10.2. The proposed system for the standard period of ineligibility in Art. 10.2 (Art. 10.2.1.1 to 10.2.1.3) is on one side more nuanced (which is good) but it is also much more complicated, especially for the athletes to understand. There will be less room for jurisprudence. Art. 10.2.1 distinguishes between absence of intent and eventual fraud ("dol éventuel"). However, in common law, possible fraud is a form of intent. This distinction lacks logic in relation to the classic notion of intent. A simplification such as absence of intent should simply justify a 2-year suspension. In SSI's understanding, Art. 10.2 should determine the standard period of ineligibility which then can be adapted, by applying the other possibilities of reduction (e.g. Art. 10.5 and following). The standard period of 2 (non intentional) and 4 years (intentional) of ineligibility under the Code 2021 is a lot clearer. SSI welcomes a more nuanced approach but questions whether Art. 10.2 is the right place to do so.

Sport Integrity Australia

SUBMITTED

Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

As noted in relation to Article 10.2, SIA reserves the right to make comment on this provision following the resolution of any recommendations arising in relation to the Cottier Final Investigation Report and associated work of WADA working groups tasked with resolving the approach to dealing with contamination cases.

Subject to the above, SIA's preliminary views are that the redrafting of this provision is overly complex and prescriptive. While SIA supports the differentiation between circumstances where an Athlete clearly intended to dope versus an Athlete being 'reckless' as to the significant risk that their actions may lead to doping and manifestly disregarded that risk, SIA notes there is no definition of 'reckless' or guidance on how an Athlete is required to prove 'reckless' conduct. SIA is concerned the provision may result in more litigation and provide a roadmap for Athletes to create a version of events to fit the rules. It may also be a disincentive for athletes from being diligent and checking substances, if they are able to just show recklessness and receive a reduction.

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Sanctioning Scheme for Anti-Doping Rule Violations

We support the change to Article 10.2, which introduces the subjective factor of "recklessness" and the objective factor of whether the Athlete can establish how the Prohibited Substance entered their system, making sanctions fairer and more flexible. However, the Code Draft does not clearly distinguish between recklessness and intent, nor does it provide a clear definition of recklessness. Moreover, it may be very challenging for an Athlete to successfully establish that their behavior was reckless and unintentional without demonstrating the source of the Prohibited Substance. We hope that WADA will provide clear guidance or examples in this regard.

Suggested changes to the wording of the Article

We hope that WADA will provide clear guidance or examples regarding this Article.

Reasons for suggested changes

It may be very challenging for an Athlete to successfully establish that their behavior was reckless and unintentional without demonstrating the source of the Prohibited Substance.

Malaysia Anti Doping Agency (ADAMAS) SUBMITTED
Muhammad Husmar Afdzal Bin Husin, Senior Assistant Director (Malaysia)
NADO - NADO

General Comments

Agree to the proposed change. Suggested for WADA to makes distinction between different kind of conduct by athlete.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

De manière générale, nous nous demandons si les modifications proposées aux articles 10.2.1 à 10.2.3 n'auraient pas pour effet de davantage complexifier un système de sanction qui est plutôt clair et qui fonctionne plutôt bien à l'heure actuelle, en cas de présence ou d'usage d'une substance interdite.

Aussi, nous nous permettons d'attirer l'attention sur le fait que les propositions éventuellement envisagées pour cet article devraient davantage tenir compte de la situation des sportifs disposant de moins de ressources. Cet aspect devrait par exemple et surtout être pris en compte en ce qui concerne la charge de la preuve (notamment et surtout dans les propositions relatives aux articles 10.2.1 et 10.2.2) et ce, précisément afin d'éviter de désavantager des sportifs disposant de moins de ressources. Il convient en effet d'éviter cette situation, qui serait inéquitable.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

Please refer to comment made in relation to Art. 10.2

Moreover, it seems that there is no difference between 10.2.1.1 and 10.2.1.2 and therefore also no distinction between 3 and 2 years sanction.

10.2.1.1 Where the Athlete or other Person can establish that they did not engage in conduct which they knew constituted an anti-doping rule violation, the period of Ineligibility shall be three (3) years.

10.2.1.2 Where the Athlete or other Person can establish that they did not engage in conduct which they knew constituted an anti-doping rule violation ***or****…….. the period of Ineligibility shall be two (2) years.*

So, it is basically the same.

NADO Flanders SUBMITTED

Jurgen September, Legal Adviser (België)

NADO - NADO

General Comments

In general, NADOF supports added flexibility in what can be considered the degree of intent.

However, it becomes very difficult to differentiate between the different paragraphs.

It can be clearer that:

- The ineligibility is 4 years when acting with direct intent to commit an ADRV, which constitutes also an element of willingly and knowingly take the substance with the intent to enhance performance or not to adhere to the rules.

- The ineligibility is 3 years in case of indirect intent, when the athlete can demonstrate that there is no direct intent, but there is behaviour that is manifestly disregarding the risk, thus accepting that an ADRV might result from the behaviour

- The ineligibility is 2 years if there is no direct or indirect intent, but there is a significant fault by the athlete. Only in this case, the significance of the degree of fault can be reduced further.

Although flexibility can add to a more equitable Code, it is unclear how an athlete will be able to satisfy the burden of proof of lack of direct intent. Presumably, a simple declaration of not knowing will not be sufficient. But how can one prove a lack of knowledge, and how to counter such proof by proving he was actually aware. Risky behavior can be made less subjective, but actual knowledge sits only in the head of the athlete. Unless the ADO can produce factual elements of knowledge, but that is not the burden on the ADO.

These remarks also relate to 10.2.3.1 and 10.2.3.2 where the burden of proof is on the ADO. An ADO can produce elements that point to the apparent risk and the disregard of that risk. But proving direct intent will be difficult, or will be prone to lengthy discussions in the RM phase.

Chair SUBMITTED

Athlete Council, WADA (Canada)

Other

General Comments

Establishment of the source of a prohibited substance (10.2.1 and 10.6.1.2)

These two articles, aimed at addressing contamination cases, provide the possibility for a reduction in sanction when “the Athlete" can “establish" the origin of the substance, specifically, how the prohibited substance entered their system (10.2.1), or that the prohibited substance came from a contaminated source (10.6.1.2). We suggest the drafting team consider additional commentary on what constitutes acceptable “establishment,” and on when/whether a third party may act on behalf of the Athlete.

International Testing Agency SUBMITTED

International Testing Agency, - (Switzerland)

Other - Other (ex. Media, University, etc.)

General Comments

We understand the purpose of the changes of rules and the creation of a 3-year middle-ground and support it; however, we believe the current draft is intricate and will be difficult to implement. We would suggest the following approach: reintroduction of the definition of intentional (10.2.3) as per the 2021 Code, but add an additional cumulative ground where the Athlete must also show that they did not use the Prohibited Substance for performance enhancing effect (especially for weight-category sport and diuretics, we have faced the issue where the debate around intentionality turned on knowledge of anti-doping rules and not the crux of the matter, performance enhancing since the definition of intentionality does not pertain to performance enhancement).

Article 10.2.3 (2021 Code): "[…] is meant to identify those Athletes or other Persons who engage in conduct which they knew….and manifestly disregarded that risk "and did NOT use the Prohibited Substance or Method for performance enhancing effect"

Non-specified substances: default is four-year.

If the Athlete shows that the ADRV is non-intentional without proving the source, the period of Ineligibility is 3 years; additional reductions under Article 10.5 or 10.6 are not available.

If the Athlete shows that the ADRV is non-intentional and proves the source, the period of Ineligibility is 2 years, subject to additional reductions under Article 10.5 or 10.6 .

The same framework would apply for Specified Substance when the burden lays on the ADO.

Article 10.2.1.1 (3)

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Article is clear in its content.

However, it's application and the way to establish the fact that an ahtlete "did not engage in conduct which they knew constituted an anti-doping rule violation" seems difficult in practice (especially to distinguish it with the following Article 10.2.1.2.)

Swiss Sport Integrity SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

See comment under Art. 10.2.1. An intentional behaviour and as such also "reckless behaviour" (or "dol éventuel"), as it is commonly referred to as intentional behaviour in Swiss law, should stay a 4 year suspension. At least the standard period of ineligibility should stay at 4 years and a possible reduction in Art. 10.5 or other then be possible between 2 and 4 years when the athlete can prove that it was "reckless behaviour" and in applying the degree of fault. This would be much more nuanced and fair.

Anti-doping Bureau of Latvia SUBMITTED
Mārtiņš Dimants, Director (Latvia)
NADO - NADO

General Comments

The revised version of this article introduces greater flexibility in sanctioning, yet it has become significantly complex, making it difficult for even experts in Results Management (RM) to fully comprehend, let alone athletes. Additionally, the article raises certain concerns:

For an athlete to reduce the sanction from 4 years to 3 years, they must demonstrate that they did not engage in conduct that they knew constituted an anti-doping rule violation (i.e., direct intent). This standard is exceedingly difficult, if not impossible, to meet because proving direct intent requires a deep examination into the athlete's mental state to determine whether they knew or did not know that their actions constituted a violation (as illustrated in CAS 2016/A/4716, paragraph 70).

Article 10.2.1.2 (3)

Union Cycliste Internationale SUBMITTED

Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

General Comments

Beginning of the wording is the same as the previous Article.

The difference in the sanction regime between 10.2.1.1 and 10.2.1.2 is not clear and does not allow us to easily understand when apply one or the other regime.

Both articles needs to be clarified and guidance must be provided.

International Olympic Committee SUBMITTED

Legal Affairs, Project Coordinator (Switzerland)

Sport - IOC

General Comments

Pierre Ketterer says :

The changes to Article 10.2 seem to me to be one of the most significant in this review of the Code.

Although not negative in itself, the effect of this amendment is to introduce consideration of the existence of mitigating or aggravating circumstances into the determination of the standard sanction.

Anti-doping Bureau of Latvia SUBMITTED

Mārtiņš Dimants, Director (Latvia)

NADO - NADO

General Comments

To reduce the sanction from 4 years to 2 years, the athlete must prove that there was neither direct nor indirect intent. This presents two issues: either National Anti-Doping Organizations (NADOs) will assume the absence of direct intent, or they will be unable to establish the absence of direct intent, thereby diminishing the athletes' opportunities to secure a reduction in their sanction.

Article 10.2.1.3 (3)

Union Cycliste Internationale SUBMITTED

Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

General Comments

Interesting, objective, and above all, more in line with practical reality. It allows for further flexibility and takes into consideration the rider's lack of intent without requiring proof of the source

NADO Flanders SUBMITTED

Jurgen December, Legal Adviser (België)

NADO - NADO

General Comments

For the application of this rule, it seems very unlikely that a professional athlete can establish that the substance was used in a context unrelated to sport performance. Apart from substances of abuse, all actions by an athlete out of competition, are in relation to sport

performance. It should be more in the sense of not affecting the performance in competition. The proposed wording will cause discussion on what is to be considered relating to sport performance.

Anti-doping Bureau of Latvia SUBMITTED
Mārtiņš Dimants, Director (Latvia)
NADO - NADO

General Comments

1. For substances prohibited only in-competition, the athlete must demonstrate that the substance was used solely out-of-competition in order to reduce the sanction from 4 to 2 years. This provision appears to contradict Article 10.2.3.1, which stipulates that for specified substances, the ineligibility period is 2 years unless the NADO proves intentional use. When an athlete has a specified substance in their system that is prohibited only in-competition, it becomes unclear which article applies: does the athlete need to prove out-of-competition use, or must the NADO prove intent?

Article 10.2.2 (11)

Council of Europe SUBMITTED
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 10.2.2: Non-Specified Substance or Method and the Athlete CANNOT establish how the Prohibited Substance Entered their System

Need for more clarity on the difference between recklessness and negligence, and when the sanctions respectively should be 4, 3, 2 and down to 0 year. This makes the cases very difficult to figure out, both for the NADO's and the Hearing Body, but mostly for the athletes.

Especially "undefined" clauses like "the narrowest of corridors" (comment 57) must be more precise and harmonized for at least the most common scenarios.

The biggest challenge for RMAs is to find harmonized ruling and sanction in cases of contamination from products sources, etc. might be the reason for the AAF. Clear guidance from WADA is needed.

It will also increase the need for legal assistance for the athlete, and therefore it can create uneven situations and cases based on the financial resources of the athletes.

UAE National Anti-Doping Committee SUBMITTED
Amr Adel, Lead - Testing & Athlete's Services (UAE)
NADO - NADO

General Comments

1. The default sanction (4 years) should be written in this Article rather than mentioning it within the previous Article (10.2.1) "*subject to Articles 10.2.2 and ...*"

2. Comment no. 58 a part need to be rephrased to be more simple.

Suggested changes to the wording of the Article

[Comment to Article 10.2.2: While it is theoretically possible for an Athlete to establish entitlement to a reduction under this Article without showing how the Prohibited Substance entered their system, this has been described in cases as the "narrowest of corridors." In order to access this exceptionally narrow corridor, an Athlete must ***provide strong evidence that shows the violation wasn't intentional or reckless. For instance, this could involve proving that only a minimal, non-therapeutic amount of the substance was found, suggesting recent use, or showing that previous and future tests confirm it wasn't part of a doping regimen***. However, hair tests are unlikely to serve as reliable evidence to disprove intentional doping. See Iannone v. FIM & WADA; CAS 2020/A/6978-7068. Further, evidence in the form of negative Testing history, change, or lack of change, in body mass or competitive results, lack of motivation to dope and testimony of the Athlete and the Athlete supporters, shall not be sufficient to justify a reduction in the period of Ineligibility.]

Reasons for suggested changes

Avoiding confusion and for more clarity.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

10.2.2. has been carved out from the standard of 4 year sanction specified in art. 10.2.1. with the phrase" where the Athlete can establish how the Prohibited Substance entered their system"). We therefore suggest adding the starting point of the sanctioning regime in this case as well, i.e. 4 years.

Suggested changes to the wording of the Article

For anti-doping rule violations that do not involve a *Specified Substance* or a *Specified Method* and, in the case of Articles 2.1 and 2.2 where an *Athlete* cannot establish how the *Prohibited Substance* entered their system, the period of Ineligibility shall be four (4) years. The four (4) year period of Ineligibility may be reduced as follows:

Reasons for suggested changes

The 4 year sanction in art. 10.2.1, only applies to cases where the athlete can establish how the prohibited substance entered their system, and thus not to 10.2.1., where the athlete cannot establish how the prohibited substance entered their system.

Thus, the specific situation of 10.2.2 has been carved out of 10.2.1 (with the phrase" where the Athlete can establish how the Prohibited Substance entered their system"), yet 10.2.2 does not specify the standard sanction. We take it that this is 4 years.

We take it that an athlete would not be able to establish that any ingestion occurred out of competition, so the reference to art. 10.2.4. seems irrelevant.

RUSADA SUBMITTED

Viktoriya Barinova, Deputy director (Russia)

NADO - NADO

General Comments

We suggest adding a list (non-exhaustive)of situations in which the Athlete's conduct should be classified as unintentional, reckless, etc. as it is important for defining the degree of Athlete's fault.

Malaysia Anti Doping Agency (ADAMAS) SUBMITTED

Muhammad Husmar Afdzal Bin Husin, Senior Assistant Director (Malaysia)

NADO - NADO

General Comments

Agree to the proposed change. Suggested for WADA to makes distinction between different kind of conduct by athlete.

LTUNADO SUBMITTED

Erika Petrutyte, Lawyer (Lithuania)

NADO - NADO

General Comments

Its such a big burden and expenses for athlete that in this Article it does not make sense, because for Athlete is better, faster to sign agreement under Art. 10.8.1 (1 y reduction (25proc. From 4 y)

Sport Integrity Australia SUBMITTED

Andrew McCowan, Assistant Director Project Management Office (Australia)

NADO - NADO

General Comments

As noted in relation to Article 10.2, SIA reserves the right to make comment on this provision following the resolution of any recommendations arising in relation to the Cottier Final Investigation Report and associated work of WADA working groups tasked with resolving the approach to dealing with contamination cases.

Firstly, we note new Article 10.2.2 does not specify the starting period of Ineligibility is 4 years. However, we note that this is inferred by reference to a reduction to 3 years under Article 10.2.2.2.

Secondly, we reiterate our concerns about the added level of complexity resulting from adding new provisions to deal with different circumstances. For simplicity, we suggest an alternative approach may be to set 4 years for clear intentional doping cases and at the other end of the spectrum provide for no penalty where there is clearly no fault. All other cases falling within these parameters will be determined on the basis of degree of fault taking into account the circumstances of the case. The proposed provisions as currently drafted could be captured along with case law in guidance to inform the deliberation of degree of fault.

Also, SIA is concerned about the practical application of new Article 10.2.2.2 as it is unclear how the proposed provision would work in practice. Reliable analytical evidence is not always pertinent to proving an athlete was not intentionally doping. For example, SIA has managed a case where contemporaneous text messages supported the athlete's version of events that contamination was likely as opposed to relying only on analytical evidence. Vast majority of athletes don't have resources to engage a scientific expert. We suggest it is an unnecessary change leading to the question, how would an athlete who cannot establish a source then be able to prove non-intentionality with analytical evidence?

Suggested changes to the wording of the Article

If the current provision remains, we suggest that it be recognised that other reliable means (such as text messages) may also be used to establish the ADRV was not compatible with intentional or reckless Use. Guidance on the meaning of 'reckless' would also be welcomed. This could be captured in the Comment to Article 10.2.2.

We also suggest the starting point of 4 years be specified for the avoidance of doubt.

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Comment to Article 10.2.2 Analytical Evidence

We believe that it is very difficult to require an Athlete to provide scientific and analytical evidence. On one hand, this will significantly increase the cost for the Athlete to gather evidence, and on the other, it is also a common concern whether the analytical institutions, especially the WADA-accredited Laboratories, can help the Athlete gather analytical evidence.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

De manière générale, nous nous demandons si les modifications proposées aux articles 10.2.1 à 10.2.3 n'auraient pas pour effet de davantage complexifier un système de sanction qui est plutôt clair et qui fonctionne plutôt bien à l'heure actuelle, en cas de présence ou d'usage d'une substance interdite.

Aussi, nous nous permettons d'attirer l'attention sur le fait que les propositions éventuellement envisagées pour cet article devraient davantage tenir compte de la situation des sportifs disposant de moins de ressources. Cet aspect devrait par exemple et surtout être pris en compte en ce qui concerne la charge de la preuve (notamment et surtout dans les propositions relatives aux articles 10.2.1 et 10.2.2) et ce, précisément afin d'éviter de désavantager des sportifs disposant de moins de ressources. Il convient en effet d'éviter cette situation, qui serait inéquitable.

USADA SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 10.2.2 – As USADA previously commented, it is difficult to understand many circumstances under which an athlete could establish the lack of intent (*mens rea*) (and even more so indirect intent) by means of scientific/analytical evidence. USADA's concerns have been confirmed by the Cottier report that severely undercuts the Comment to Article 10.2.2.

With respect to low concentrations, the Cottier report found "on the basis of these pharmacokinetic data alone, it is not possible to rule out intentional (or unintentional) intake of TMZ for doping or therapeutic purposes in the weeks leading up to the competition. Environmental contamination with low doses of TMZ during the hotel stay is also possible and can neither be ruled out nor affirmed with certainty on the basis of scientific data, but I see no scientific argument of a pharmacokinetic nature in favor of one hypothesis over another."

And with respect to positive tests preceding or subsequent to negative tests, the Cottier report concluded, "In the case of TMZ exposure (environmental contamination), inter-individual variability in TMZ pharmacokinetics may explain the detection or non-detection of TMZ in swimmers' urine, especially as most of the TMZ urinary concentrations observed are close to TMZ's analytical detection limit of .1 ng/mL. . . . The urinary concentrations . . . are therefore strongly influenced by the quantity of beverages ingested in the hours prior to sampling . . . which can concentrate or dilute the urine, thus explaining why a swimmer may be positive or negative depending on the day of sampling and diuresis. . . . The sequence of positivity/negativity of each athlete's samples over the 3 days of competition makes it impossible to distinguish between athletes who may have intentionally taken TMZ in therapeutic doses well before the competition, and those who may have been contaminated in situ in the hotel by food/drink containing low doses of TMZ."

USADA recommends that based on legitimate contamination issues, WADA implement minimum reporting levels more quickly or empower labs to report results as atypical. (See feedback on 10.6.1.2)

Suggested changes to the wording of the Article

Recommended Change (in bold):

In exceptional cases where the Athlete can establish to the comfortable satisfaction of the decision-making body that, **based on concrete evidence of source**, the anti-doping rule violation was not compatible with the intentional use (as described in Articles 10.2.1.1 and 10.2.1.2) of a Prohibited Substance, then the period of *Ineligibility* may be reduced to three (3) years.

Reasons for suggested changes

Reasons for changes:

This change is consistent with CAS cases on this issue and does not fall into the trap of requiring analytical evidence, which as described above, creates many more issues. But concrete evidence of source, which in combination with other evidence, could enable the athlete to establish a lack of intent by a preponderance of the evidence to receive a reduction from four to two years.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

We welcome Comment 58 to Article 10.2.2.2. If there is good jurisprudence that shows how the 'narrowest of corridors' can be established then this should also be cited within Comment 58 (in a similar manner to which the *Iannone* decision has been referenced).

Suggested changes to the wording of the Article

We assume no Fault based reductions will be applicable to the three (3) year period of Ineligibility applicable under Article 10.2.2.2. It would be helpful if this were clear within the Article itself and/or its commentary. Comment 57 to Article 10.2 is not sufficiently clear with regards to Article 10.2.2.2.

Article 10.2.2.2 (3)

Union Cycliste Internationale SUBMITTED

Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Footnote 58: very technical comment.

Example of what may not be taken into account is provided.

A contrario WADA is invited to provide example of what could be taken into account as evidence.

Swiss Sport Integrity SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

See comment under Art. 10.2. Art. 10.2.2.2 seems to severe, because if an athlete can prove how the substance entered his body, he will probably also be able to prove that there was no intention or (significant) fault. However, imposing 4 years despite this absence of intent or fault will seem disproportionate in some cases. In the “exceptional case” in Art. 10.2.2.2 in which the athlete manages to prove that the violation is not compatible with intent, there is therefore an absence of intent which would in principle justify a 2-year suspension (and not 3 years). Possible fraud is not mentioned. A suspension of 3 years for a non intentional use is contradictory to the existing system of 4-year suspension for intent and 2-year suspension for no intent. Therefore, in the exceptional case of art. 10.2.2.2 the period of ineligibility should be 2 years.

Anti-doping Bureau of Latvia SUBMITTED
Mārtiņš Dimants, Director (Latvia)
NADO - NADO

General Comments

There is a need for further clarification regarding the meaning of "analytical evidence." LAT-NADO has encountered difficulties in obtaining definitive statements from WADA-accredited laboratories concerning the timing of ingestion, potential benefits, therapeutic doses, and other key factors. If WADA laboratories are unable to provide such evidence in certain cases, it will be even more challenging for athletes to obtain the necessary proof.

Article 10.2.3 (5)

NADA SUBMITTED
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

see Art. 10.2

Malaysia Anti Doping Agency (ADAMAS) SUBMITTED
Muhammad Husmar Afdzal Bin Husin, Senior Assistant Director (Malaysia)
NADO - NADO

General Comments

Agree to the proposed change. Suggested for WADA to makes distinction between different kind of conduct by athlete.

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

Please refer to comments made in relation to Art. 10.2

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

As noted in relation to Article 10.2, SIA reserves the right to make comment on this provision following the resolution of any recommendations arising in relation to the Cottier Final Investigation Report and associated work of WADA working groups tasked with resolving the approach to dealing with contamination cases.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

De manière générale, nous nous demandons si les modifications proposées aux articles 10.2.1 à 10.2.3 n'auraient pas pour effet de davantage complexifier un système de sanction qui est plutôt clair et qui fonctionne plutôt bien à l'heure actuelle, en cas de présence ou d'usage d'une substance interdite.

Aussi, nous nous permettons d'attirer l'attention sur le fait que les propositions éventuellement envisagées pour cet article devraient davantage tenir compte de la situation des sportifs disposant de moins de ressources. Cet aspect devrait par exemple et surtout être pris en compte en ce qui concerne la charge de la preuve (notamment et surtout dans les propositions relatives aux articles 10.2.1 et 10.2.2) et ce, précisément afin d'éviter de désavantager des sportifs disposant de moins de ressources. Il convient en effet d'éviter cette situation, qui serait inéquitable.

Article 10.2.3.1 (2)

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

We understand the idea but not easy to put in place in practice.

Guidance from WADA would be more than welcome.

Swiss Sport Integrity SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

See comment to Art. 10.2 and 10.2.1.

Article 10.2.4 (23)

World Rugby SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby supports this change, though we are of the opinion that the current sanctions for INC cannabinoid use are disproportionate given the negligible performance enhancing benefit the substance provides in most sports, and the fact that these substances (at least cocaine and

cannabinoids) are now specifically referenced in comment 26 to be used for 'a purpose other than the enhancement of sport performance'.

Union Cycliste Internationale SUBMITTED

Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

New regime is good and will facilitate the ADO's process in such kind of case.

Clarification with regard to a second violation for substance of abuse is also a good thing.

The felixibility taken for the substance of abuse make sense for us.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Mikkel Bendix Bergmann, Legal Advisor (Denmark)
Sport - National Olympic Committee

General Comments

Concept #2 – Substances of Abuse

The Danish NOC acknowledges the necessity for clarification in addressing substances of abuse.

However, regarding the sanction for a second violation, the criteria for determining whether a treatment program is necessary or not remains unclear. For instance, while treatment may be essential for some cannabis users, it may not be for others. This ambiguity must be addressed to prevent inconsistent rulings and disparities across different countries.

As noted in our feedback during the first consultation phase, The Danish NOC has encountered several cases involving cannabis where chronic users consistently exceed the threshold limits, even when consumption occurs outside of competition. Due to the very high concentrations detected, it becomes impossible to definitively state that the intake happened out of competition, resulting in a two-year sanction instead of the two-month penalty that would apply to out-of-competition use.

We support the proposal for increased flexibility in sanctions for substances of abuse, which would allow athletes with high concentrations of cannabis to receive a two-month sanction.

This can be achieved by revising or eliminating the current "Decision Limits" for cannabis and instead basing the determination of whether an athlete's use was in or out of competition on their statements, testimony, and overall case context.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

International Tennis Integrity Agency SUBMITTED

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

General Comments

Concept # 2 - The administration of the Results Management process relating to a violation involving a substance of abuse is more burdensome than necessary. The ITIA would support a fixed sanction for all such substances, including for multiple violations

Ministry of Sport and Community Development SUBMITTED

Rixon Powder, Technical Administrator (Trinidad and Tobago)
Public Authorities - Government

General Comments

While entering a Substance of Abuse Program may be deemed overkill in cases of inadvertent ingestion, a suitable Education Programme, which covers ways to avoid or prevent inadvertent use, should be mandatory after a First Violation

Reasons for suggested changes

To reduce repeated instances of inadvertent use

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 10.2.4 Substances of Abuse

The flat sanction 2 months is good. It makes it much easier for both the NADO, the hearing panel and the athlete.

However, it should be clarified what determines whether or not the treatment programme is necessary for the second violation.

And it seems that there is no possibility to further reduce this sanction, especially in cases of contamination or slight negligence.

Alternatively, there is a need to establish a specific rule regarding cannabis, which remove cannabis the substances of abuse category and give a flat 2-month sanction for cannabis instead of the need for the guidelines.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

see Art.10.2

ONAU SUBMITTED

JOSE VELOSO, Antidoping Medical Director (Uruguay)

NADO - NADO

General Comments

First Offense

A fixed period of two months of suspension.

There are no rehabilitation requirements or opportunity for reduction.

Second Offense (involving the same substance)

A four-month period of ineligibility.

May be reduced to two months if the Athlete enters a Substance Abuse program.

Suggested changes to the wording of the Article

WE CONSIDER A VERY REDUCED PERIOD FOR A SECOND OFFENSE TO BE REDUCED TO 2 MONTHS IF THE OFFENSE ENTERS A RECOVERY PERIOD AND YOUR SANCTION FOR A 2ND OFFENSE IS THE MINIMUM 6-MONTH REHABILITATION PROGRAM. WITH TWO NEGATIVE TESTS FOR THE SUBSTANCE IN THE PROPOSED PERIOD.

Reasons for suggested changes

A SECOND INFRACTION INSIDE SPORT IS A PROBLEM OF ADICCTION SO A PROBLEM OF HEALTH

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

Concept #2

We support the flat two months period. It makes it much easier for both the NADO, the hearing panel and the athlete.

However, for the second violation, what determines whether the treatment program is necessary or not necessary? For some it can be necessary with a treatment program for cannabis and for others it is not necessary. This must be specified even more, or it can create uneven situations and cases in different countries.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI would suggest to have an even lighter sanctioning regime for some specific use of substances of abuse such as ingesting coca tea. It should not be sanctioned the same way as taking cocaïne as a drug. Further, clear substances of abuse should be added to the prohibited list, such as Crystal Meth, which is clearly highly addictive and might lead to the athlete's destruction rather than enhancement of sport performance.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

We support the proposed amendments. We do note, however, that in our experience, those who use substance of abuse in-competition (e.g. in the night leading up to the competition) where it is not with the intention to enhance performance/not related to sport performance, are often the ones who would benefit most from entering into a treatment program, and they remain carved out of the article, which we regret. We would suggest that an opening for treatment programs for this group of athletes is also introduced.

We suggest that additional guidance is provided on requirements of Substance of Abuse Treatment programs

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED

Petteri Lindblom, Legal Director (Finland)

NADO - NADO

General Comments

The flat sanction 2 months is good, but ADO cannot approve the treatment program. There should not be any reductions for that. This kind of treatment differs from country to country and it's impossible to threat the athletes equally.

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Substance of Abuse

We support the change to Article 10.2.4 regarding the Substance of Abuse. Considering that the Substance of Abuse treatment programs can vary widely and are not applicable to all Signatories, to have the period of Ineligibility reduced from 3 months to 1 month will undermine the equity of sanctions. We believe this change can ensure the harmonization and enforceability of sanctions.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA supports the adoption of a simple, consistent period of Ineligibility of 2 months for a first finding of a Substance of Abuse with or without treatment. This approach promotes both fairness and improves the efficiency of this regime.

SIA also reiterates its previous comments in relation to the Substance of Abuse regime, as follows:

- SIA suggests this regime be dealt with in separate section of the Code (such as an Annex) to make clear it is dealing with substances not related to sporting performance.
- Most importantly, where a Substance of Abuse is determined, any other related ADRVs should be treated in a similar manner unless there is clear evidence that other ADRVs are associated with improperly enhancing performance in sport. For example, if a person gives a Substance of Abuse to a third person this should not amount to a trafficking violation of 4 years.

SIA's previous comments as part of Phase 1 are outlined below:

Review of trafficking definition regarding substances subject of the Substance of Abuse provisions

We would like to suggest that the Drafting Team give consideration to reviewing the definition of Trafficking regarding substances subject of the Substance of Abuse provisions. Guidance around the implementation of the Substances of Abuse provisions indicated that those substances were included "because they are frequently abused in society outside the context of sport".

The current definition of Trafficking includes:

"....and shall not include actions involving Prohibited Substances which are not prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate such Prohibited Substances are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance."

Given many of the Substances of Abuse do not have a legal and therapeutic purpose, despite the actions of the Athlete clearly not being intended to enhance sport performance, this results in a potential unintended consequence of the Athlete potentially being eligible for a reduced sanction under Substance of Abuse provisions but then subject of a Trafficking or Attempted Trafficking ADRV. Substances of Abuse could be excluded from the "…intended for genuine legal and therapeutic purposes…" which would then limit the impact of trafficking on those substances only where it is "…intended to enhance sport performance…" and puts the onus on the ADO to gather evidence of such.

LTUNADO SUBMITTED
Erika Petrutyte, Lawyer (Lithuania)
NADO - NADO

General Comments

It would be helpful recommendations in which cases the RMA may also, at its discretion, impose (or may not) the two-month period of Ineligibility where it determines that a treatment program is not necessary (second violation of substance of abuse). Because in comment is only mentioned importance of ingestion road to apply this provision.

But there could be situation that athlete second time in two years "smoked weed" just in social event. It does not seem that Athlete needs rehabilitation program, but under this new provision its unclear if it the reason to impose 2-month sanction without rehabilitation program.

Agence française de lutte contre le dopage SUBMITTED
Adeline Molina, General Secretary Deputy (France)
NADO - NADO

General Comments

L'AFLD souhaite renouveler ses plus vives réserves sur ce régime des substances d'abus introduit en 2021, lequel s'applique à des drogues donnant lieu à des abus de consommation et dont l'usage est pénalement réprimé en France.

L'application de ce régime continue en effet à soulever de nombreuses incompréhensions, particulièrement pour la cocaïne pour laquelle il permet une réduction drastique de la durée encourue de quatre ans à trois voire un mois. Si la modification proposée permet au moins de rétablir un mécanisme de sanction en cas de récidive faisant cruellement défaut, il accentue la faiblesse du quantum de la sanction en cas de première violation et maintient, tout en en dénonçant la difficile mise en œuvre, l'hypothèse d'une réduction supplémentaire en cas de programme de réhabilitation.

Enfin, il serait souhaitable d'étendre le régime de récidive à toutes les substances d'abus et de ne pas le limiter à la même substance d'abus puisque le comportement est en réalité identique.

Canadian Centre for Ethics in Sport SUBMITTED
Bradlee Nemeth, Manager, Sport Engagement (Canada)
NADO - NADO

General Comments

The CCES would recommend that, for a first violation, the starting sanction be a one-month period of ineligibility. The CCES agrees that the starting sanction for a second violation is a four month period if ineligibility

Sport Integrity Commission Te Kahu Raunui SUBMITTED
Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

- While we support the proposed changes, we propose that the code drafting team review the disproportionate outcomes that exist for athletes related to substance of abuse sanctioning, more specifically for Cannabis.
    - We continue to hold the position that the nature of cannabis, in-particular it's lack of performance enhancing properties in most codes, means that it should be removed from the prohibited list.
    - If it was to remain on the prohibited list, we think those same qualities warrant a reduction in penalty, in comparison to other substances of abuse, which present a more direct threat to the safety of the athlete, fellow participants and the overall integrity of sport.

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

NADA Austria agrees with the proposed amendments regarding the flat two – month sanction for first violation.

The problem seems that there is no possibility to further reduce this sanction, especially in cases of contamination or slight negligence.

For example, the same sanction applies for taking 1 x THC at a party vs. consuming cocaine regularly.

It might be difficult for an ADO in practice to assess / determine if a treatment program is necessary or not.

Caribbean Regional Anti-Doping Organization SUBMITTED
Marsha Boyce, Communications & Projects Coordinator (Barbados)
NADO - RADO

General Comments

The change for substances of abuse to two months ineligibility and the removal of the reduction of time for treatment programme entry is agreeable as it might positively impact the timely resolution of such cases as well as lessen the responsibility on NADO to find/develop treatment programmes.

More clarity might be required for the treatment of a 'second offence' in the event of it being a different substance.

Sports Tribunal New Zealand

SUBMITTED

Helen Gould, Registrar (New Zealand)
Other - Other (ex. Media, University, etc.)

General Comments

This submission is a personal submission of the Sports Tribunal Chair and not of the Sports Tribunal

Article 10.2.4

This rule creates disproportionate outcomes.

The way the rule currently operates, an athlete who admits to smoking cannabis on competition day will receive a two-year period of ineligibility while an athlete who takes cocaine a minute before competition day will receive a period of ineligibility of just two months.

To make a distinction between out-of-competition use and in-competition use may be appropriate for a performance enhancing substance, but for a non-performance enhancing substance such as cannabis the rule presents as being totally arbitrary.

If there is to be a distinction drawn to create different outcomes for athletes using substances of abuse, it should be based on the nature of the substance of abuse that was used, and the level found to be in the athlete's system. Cocaine, for example, is a more serious drug than cannabis (which is legal in many parts of the world) so it seems nonsensical that an athlete using a more serious drug at one minute to midnight the night before competition should be seen to be more in tune with the spirit of sport and to be less likely to cause harm to their health compare to an athlete who smokes cannabis at one minute past midnight on competition day.

Given that there has been much discussion as to whether cannabis should even be on the prohibited substance list (alcohol is not) it seems perverse, especially where there is an acknowledgment that cannabis is a much less serious drug than cocaine, that the rule as it is drafted can create a scenario where there is a severe sanction for taking cannabis and a much more lenient sanction for taking cocaine. It is also difficult to fathom why the timing of smoking a non-performance enhancing substance should be the difference between a potentially career ending sanction and a short period of time to reflect.

The impact a two-year period of ineligibility could have on an athlete's life, compared to a two-month period of ineligibility could be very significant. Two years out of competitive sport could take away an athlete's livelihood and destroy his or her career – an outcome which arguably breaches Article 23 of the Universal Declaration of Human Rights (the right to work, to free choice of employment) - whereas a two-month period will not have the same impact.

Suggested changes to the wording of the Article

The rule would be better to read:

10.2.4 Notwithstanding any other provision in Article 10.2, where the anti-doping rule violation involves a Substance of Abuse:

10.2.4.1 If the substance was cocaine and the Athlete can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, then the period of Ineligibility shall be two (2) months Ineligibility.

For any subsequent violation involving cocaine, the period of Ineligibility calculated under this Article 10.2.4.1 shall be four (4) months which may be reduced to two (2) months if the Athlete or other Person enters a Substance of Abuse treatment program approved by the Anti-Doping Organization with Results Management responsibility. The period of Ineligibility established in this Article 10.2.4.1 is not subject to any reduction based on any provision in Article 10.6.

10.2.4.2 If the ingestion, Use or Possession of cocaine occurred In-Competition, and the Athlete can establish that the context of the ingestion, Use or Possession was unrelated to sport performance, then the ingestion, Use or Possession shall not be considered intentional for purposes of Article 10.2.1 and shall not provide a basis for a finding of Aggravating Circumstances under Article 10.4.

10.2.4.3 If the substance was cannabis, whether Out-of-Competition or In- Competition, the period of ineligibility shall be two (2) months Ineligibility.

For any subsequent violation involving cannabis, the period of Ineligibility calculated under this Article 10.2.4.3 shall be four (4) months which may be reduced to two (2) months if the Athlete or other Person enters a Substance of Abuse treatment program approved by the Anti-Doping Organization with Results Management responsibility. The period of Ineligibility established in this Article 10.2.4.1 is not subject to any reduction based on any provision in Article 10.6.

Reasons for suggested changes

The Tribunal recently had a case where a young Fijian footballer admitted to using cannabis (a non-performance enhancing substance) on the morning of competition. The Code demanded that he should have a two-year period of ineligibility imposed upon him. This seemed to be disproportionate to the seriousness of the breach and would have had a significant impact on the quality of the young man's life. The footballer was naive and faced having his livelihood taken away. Just a few months earlier the Tribunal had a professional athlete being found to have used cocaine on the night before competition. He received a three-month period of ineligibility which could have been reduced to one month had he entered a treatment programme. It is difficult to reconcile that the taking of a more serious and performance enhancing substance should result in a lesser sanction with no obvious detrimental impact on the athlete's life.

International Testing Agency SUBMITTED
International Testing Agency, - (Switzerland)
Other - Other (ex. Media, University, etc.)

General Comments

Based on ITA's experience with results management cases involving Substance of Abuse, the ITA understands the pragmatic approach proposed and believes it will be fitting for most cases. However, from the standpoint of the protection of athletes' health and considering that some of the drugs in question have significant dangerous to health, and have serious risks of addiction, and potentially life-threatening effects, we believe that the incentive to complete a rehabilitation program for a first ADRV may still be worthy for some cases.

Article 10.2.4.1 (6)

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC support the proposal in Article 10.2.4.1

UAE National Anti-Doping Committee SUBMITTED
Amr Adel, Lead - Testing & Athlete's Services (UAE)
NADO - NADO

General Comments

Comment no. 59, typo

Suggested changes to the wording of the Article

The ***Ant-Doping*** Organization may also impose a sanction of 2 months if, in its sole discretion, ...]

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

The flat sanction 2 months is good, but ADO cannot approve the treatment program. There should not be any reductions for that. This kind of treatment differs from country to country and it's impossible to threat the athletes equally.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

De manière générale, nous accueillons plutôt favorablement la proposition consistant à fixer en principe la sanction à deux mois, pour autant que le sportif parvienne à établir que les deux conditions de l'article 10.2.4.1 du Code sont réunies.

En revanche, nous estimons que les dispositions relatives à une réduction supplémentaire, même en cas de récidive, si le sportif suit un traitement, devraient être repensées, voire supprimées. Les OADs n'ont en effet, sauf éventuelle exception, aucune compétence ou autorité pour approuver des programmes de santé, ici en lien avec la consommation de produits stupéfiants.

USADA SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 10.2.4.1 – USADA welcomes changes to the handling of substances of abuse that create a more fair system for athletes and appreciates the reference in the comment to other sources like coca leaves. USADA recommends further revisions so that the proposed sanctioning regime applies for all substances of abuse unless the ADO establishes that the use was intended to enhance performance. Finally, USADA recommends changing the name from Substances of Abuse to Recreational Drugs to better reflect the context in which these drugs are often used.

Suggested changes to the wording of the Article

Recommended Change (in bold):

Delete Substances of Abuse and replace with **Recreational Drugs.**

Add: **Unless the *Anti-Doping Organization* with *Results Management* responsibility establishes that the *Use* occurred in-competition or was to enhance sport performance**, then the period of *Ineligibility* shall be two (2) months.

Reasons for suggested changes

Reasons for change:

Cocaine, in particular, has been found in tea resulting in an AAF, yet it can be difficult to establish source weeks or months later when an athlete is notified of the AAF. The disparity between admitting recreational drug use (2 months) and not being able to locate the source of a contaminated tea (2 years) is unjust given the high likelihood of use of these substances out-of-competition and unrelated to sport performance.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

We find the reference to 'enter[ing]' a Substance of Abuse treatment programme to be unhelpful. We consider the 'completion' of a Substance of Abuse treatment programme to be a far clearer basis upon which to reduce the period of Ineligibility down from four (4) months to two (2) months.

In our experience, the Athlete does not 'enter' a programme - they engage with a specialist practitioner across a series of meetings that constitutes a 'programme' for the purposes of the Code. In these circumstances, would an Athlete 'enter' the programme upon making enquiries with the treating practitioner, or when the first meeting date is confirmed, or once the first meeting has taken place? It is far clear to state that the reduction should be applied upon completion of the programme.

Article 10.2.4.2 (1)

NADO Flanders SUBMITTED

Jurgen Secember, Legal Adviser (België)
NADO - NADO

General Comments

There is only reference made to article 10.2.1, which only covers non-specified substances. With the extensive redraft of article 10.2.1 up to and including 10.2.3, the article 10.2.1 does not cover specified substances.

Also, the wordings "intent" and "intentional" are no longer explicitly defined, so it can cause discussion if article 10.2.4.2 refers to "intentional".

Article 10.3 (6)

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Mikkel Bendix Bergmann, Legal Advisor (Denmark)

Sport - National Olympic Committee

General Comments

Concept #3 – Sanctions for Whereabouts Failures

The Danish NOC fully supports the proposed revision to Article 10.3.2, which stipulates that all three whereabouts failures will be assessed equally. This change promotes fairness and consistency in sanctions, emphasizing the need for athletes to remain vigilant following a first or second warning.

We also endorse the new Comment 60 to Article 10.3.2, highlighting the significance of the whereabouts system. However, we believe it is essential to clarify in a comment or explicit definition that certain factors should be deemed irrelevant when determining whereabouts sanctions. It is our stance that factors such as an athlete's doping history, character, or credibility should not be within the purview of the hearing panel when considering whereabouts cases.

We find the current sanction length of two years, with the possibility of reduction to one year, to be appropriate. A significantly lower sanction could lead athletes to speculate on the potential benefits of doping, opting for warnings instead of testing. Furthermore, a shorter sanction, such as three months, could make it easier for athletes to return to competition, thus diminishing the deterrent effect against doping.

Additionally, it is crucial to acknowledge the foundational purpose of the whereabouts system, which has proven to be one of the most effective tools in the fight against doping in sport.

International Tennis Integrity Agency SUBMITTED

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)

Sport - Other

General Comments

Concept#3

Weight should be given to each whereabouts failure separately when determining fault and sanction. Successive failures should be no more or less ‘important’ than preceding ones, as otherwise the perceived importance of first or second whereabouts failures could be downplayed and athletes would be more likely to commit such failures.

For the purposes of promoting equivalence between whereabouts failures and other ADRVs, it seems only right, fair and consistent that sanctions for the former could be reduced below 12 months, as per other ADRVs. Also, given that whereabouts failures can be equivalent to evading sample collection (for which a four-year sanction applies), circumstances in which the ADO can establish that an athlete intentionally did not make contact with the DCO, a longer sanction could apply.

It is for this reason that the ITIA reiterate its previous submission requesting greater flexibility with regards to sanctioning of a whereabouts violation under Art 2.4. If the ADO and indeed the hearing panel is comfortably satisfied that nothing points to an Athlete doping or seeking to evade testing etc (e.g. there is no pattern in their whereabouts changes or suspicious behaviour) then only allowing a sanction to be reduced to 12 months seems arbitrary and there should be greater flexibility to go as low as 6 months. In the ITIA’s experience all whereabouts violations end up at a hearing and more often than not, panels are awarding sanctions below what is currently proposed by the Code as a minimum sanction for this offence. This highlights that even tribunals are uncomfortable with sanctioning an Athlete for 12 months for what could be for example a) mental health issues or b) extenuating circumstances.

The ITIA understands the importance of being able to locate Athletes for testing however the requirements of whereabouts and the burden it places on Athletes should not be downplayed. If ADOs and WADA alike are here to protect clean sport then prosecuting a player for 12 months for simply being forgetful or having good reason for missing a test or not filing whereabouts seems at total odds with an Athlete having a prohibited substance in their system, and then receiving a minimal sanction because they have proved they bear limited fault or negligence. That Athlete still had a prohibited substance in their system, that could have or continues to benefit their performance.

Unless there is clear evidence that an Athlete is missing tests, not providing whereabouts for nefarious reasons, why are whereabouts failures treated more harshly than an inadvertent doping scenario?

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art 10.4

Guidance needed to apply Aggravating Circumstances.

Azerbaijan National Anti-Doping Agency (AMADA) SUBMITTED
Murad Jafarli, Head of Results Management and Investigation Department (Azerbaijan)
NADO - NADO

General Comments

Article 10.3.1 states: “For violations of Article 2.3 or 2.5, the period of ineligibility shall be four (4) years except… (ii) in all other cases, if the Athlete or other Person can establish exceptional circumstances that justify a reduction of the period of ineligibility, the period of ineligibility shall range from two (2) to four (4) years, depending on the Athlete or other Person’s degree of fault.”

The phrase “exceptional circumstances” is vague and lacks sufficient clarity. While the Code’s purpose is to clarify various provisions, this term leaves room for broad interpretation, which may lead to inconsistent application by Anti-Doping Organizations (ADOs).

Suggested changes to the wording of the Article

Provide a more detailed explanation or definition of what constitutes “exceptional circumstances” in Article 10.3.1. Additionally, guidelines or examples could be included to illustrate how ADOs should evaluate and determine the presence of such circumstances.

Reasons for suggested changes

Defining “exceptional circumstances” more clearly will help ensure consistency in the application of sanctions across ADOs. This would reduce ambiguity and improve the fairness and transparency of the decision-making process regarding sanction reductions under Article 10.3.1.

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

Comment to art. 10.3.1, to which no space for comments have been provided:

We would like to highlight that the exception in iii) for recreational Athletes potentially make the 2 year for evasion more favorable than a potential 4 year sanction for presence or use of a non-specified substance.

Suggested changes to the wording of the Article

Suggested change to art. 10.3.3, to which no space for comments have been provided:
… An Article 2.7 or Article 2.8 violation involving a *Protected Person* or a *Minor* shall be considered a particularly serious violation and, if committed by *Athlete Support Personnel* for violations other than for *Specified Substances*, shall result in lifetime *Ineligibility* for *Athlete Support Personnel*….

Reasons for suggested changes

Comment to suggested change in art. 10.3.3 art. X, to which no space for comments have been provided:
Minors other than protected persons should be offered the same level of protection as protected persons, when it comes to ASPs involvement in trafficking and administration of doping, as we see Minors (who are not covered by the definition of Protected Persons) as a potentially vulnerable group of athletes, where ASP’s incentives to pressure would be even greater.

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Sanctions for trafficking and administration (10.3.3)

Athlete Support Personnel found to have committed violations of articles 2.7 or 2.8 (trafficking or administration) should be sanctioned with lifetime ineligibility regardless of whether the violation involved a protected person.

Article 10.3.2 (18)

Union Cycliste Internationale SUBMITTED

Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Fully agree with the clarifications and the equal weight given to all three WFs.

I'm not sure that the rider's responsibility to be on 'high alert' should be mentioned here. It might be better placed in a comment when assessing the rider's degree of fault.

Footnote 60: I'm not sure it's necessary to include this information in the Code

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendements as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED

Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC support the proposal in Article 10.3.2. Although, as to assess the appropriate sanction for an Anti-Doping Rule Violation SSC consider that there is a need for some guidance on how to evaluate the athlete's degree of fault. For example, what is and what is not a mitigating factors/circumstances.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 10.3.2 Sanctions for Whereabouts Failures

1. While supporting the new comment 60 to article 10.3.2. which states the importance of the whereabouts system, it also should be specified in a comment or explicit definition, that certain elements are irrelevant for determining whereabouts sanctions

2. Sanctions for a 2.4 ADRV should be as flexible as sanctions for specified substances/methods. A general 2 (or 1) year ban appears not to be proportionate

3.

If there are any advice, hints or traces (based on I&I) that Athlete "use" a strike for hiding or "escaping" from testing Art. 2.3 or 2.5 WADC might cover this scenario as "lex specialis". Whereabouts are needed to conduct out-of-competition testing. In this light it is highly questionable if a sanction of two years of ineligibility is proportionate. Suggested solution: If there is a suspicion that an athlete intentionally tried to evade doping controls with incorrect whereabouts, an ADRV for 2.3. should be pursued. All the other cases based on negligence should be sanctioned with a flexible ban between a reprimand and one year (or flat sanction of 3 month), especially where the athlete could prove that his whereabouts failure(s) were committed due to negligence.

Suggested changes to the wording of the Article

If there is a suspicion that an athlete intentionally tried to evade doping controls with incorrect whereabouts, an ADRV for 2.3. should be pursued. All the other cases based on negligence should be sanctioned with a flexible ban between a reprimand and one year (or flat sanction of 3 month), especially where the athlete could prove that his whereabouts failure(s) were committed due to negligence.

NADA

SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

(obiter dictum) – From our point of view, sanctions for a 2.4 ADRV should be as flexible as sanctions for specified substances/methods.

A general 2 (or 1) year ban appears not to be proportionate.

If there are any advice, hints or traces (based on I&I) that an Athlete “use” a strike for hiding or “escaping” from testing, Art. 2.3 or 2.5 WADC might cover this scenario as “lex specialis”.

At least it might be unproportionate to sanction an athlete for at least one year where the athlete could prove that his whereabouts failure(s) were committed e.g. due to negligence.

Azerbaijan National Anti-Doping Agency (AMADA)

SUBMITTED

Murad Jafarli, Head of Results Management and Investigation Department (Azerbaijan)

NADO - NADO

General Comments

Article 10.3.2 states: “The flexibility between two (2) years and one (1) year of ineligibility in this Article is not available to Athletes where a pattern of last-minute whereabouts changes or other conduct raises serious suspicion that the Athlete was trying to avoid being available for testing.”

This wording could lead to unfair consequences for athletes who need to make legitimate last-minute changes to their whereabouts. Not all changes in whereabouts are related to avoiding testing, and this should be recognized to avoid unjust sanctions.

Suggested changes to the wording of the Article

Introduce language allowing the Results Management Authority (RMA) to exercise discretion in evaluating the reasons behind last-minute whereabouts changes. The article should specify that such flexibility applies when there is no clear evidence of abuse or testing avoidance behavior.

Reasons for suggested changes

There may be rare instances where an athlete's last-minute change in whereabouts is unrelated to testing avoidance. Providing flexibility in this article would ensure fair treatment of athletes who genuinely need to make last-minute changes. It would prevent automatic assumptions of wrongdoing, thereby promoting a more balanced and just approach in evaluating athlete conduct regarding whereabouts violations.

Anti-Doping Sweden

SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

ADSE support the proposal in Article 10.3.2. Although, as to assess the appropriate sanction for an Anti-Doping Rule Violation ADSE consider that there is a need for some guidance on how to evaluate the athlete’s degree of fault. For example, what is and what is not a mitigating factors/circumstances.

Anti-Doping Norway

SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

The introduction of new wording regarding whereabouts failures is strongly supported.

Anti Doping Danmark

SUBMITTED

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

General Comments

Concept #3

We support the new proposed sentence in article 10.3.2, which specifies that all three whereabout failures to be assessed equally. This aims to foster fairness and equality in sanctions, and for the athletes to bear higher attention after receiving a first or second warning.

We also support the new comment 60 to article 10.3.2. which states the importance of the whereabouts system. However, we believe it also should be specified in a comment or explicit definition, that certain elements are irrelevant for determining whereabouts sanctions. It should not be up to the hearing panels to use elements like no doping history, good character, credibility in whereabouts cases.

We think that the current sanction length (2 years and down to 1 year) is appropriate. If the sanction is way lower, athletes can speculate in using doping and then get warnings instead of getting tested, and it is relatively easier for an athlete to get back from a for example 3-month sanction, so it risks being worth using doping.

In addition to this, it is important to remember the background for the whereabouts system and that it has been one of the best solutions in the fight against doping.

NADA Austria

SUBMITTED

Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

The whole concept of Whereabouts Failures needs a reconsideration. Although this is more specified in the IST, Whereabouts are also mentioned in the WADC and therefore it is worth to mention it here as well. The current rules show a couple of areas for improvement:

A) Regarding Art. 2.4 there should be more flexibility for hearing panels regarding sanctions. Right now, the minimum consequence is one year even though the athlete might have committed three MT /FF by “bad luck” or the lowest degree of negligence.

Suggested solution: Therefore, we suggest setting the period of ineligibility from two years down to a reprimand and no period of ineligibility, depending on the athlete´s degree of fault.

B) The obligation to provide information for an entire quarter in advance leads to problems in practice. Many athletes don’t know where they will stay overnight or train in two or three months.

When planning doping controls, many signatories only take the next one or two to a maximum of four weeks into account. The remaining information that goes beyond this planning horizon is not relevant in practice but means effort for the athletes and carries the risk of incorrect entries due to a lack of updating.

Suggested solution: It is proposed to switch to a rolling period of 4 weeks instead of the four key dates per year on which whereabouts information must be entered for an entire quarter. This means that whereabouts information must be entered correctly at any given time for the next four weeks.

In practice, this can be ensured, for example, if athletes check on a certain day of the week (e.g. Sunday) for the next four weeks whether their whereabouts information is still correct and make adjustments if necessary.

Canadian Centre for Ethics in Sport

SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)
NADO - NADO

General Comments

The terms heightened alert and considered equally are contradictory. Consider whether one of these references should be removed or alternatively, could WADA provide examples of how this should be practically assessed.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

Sanctions for a 2.4 ADRV should be as flexible as sanctions for specified substances/methods. A general 2 (or 1) year ban appears not to be proportionate.

If there are any advice, hints or traces (based on I&I) that Athlete “use” a strike for hiding or “escaping” from testing Art. 2.3 or 2.5 WADC might cover this scenario as “lex specialis”. Whereabouts are needed to conduct out-of-competition testing. In this light it is highly questionable if a sanction of two years of ineligibility is proportionate. Suggested solution: If there is a suspicion that an athlete intentionally tried to evade doping controls with incorrect whereabouts, an ADRV for 2.3. should be pursued. All the other cases based on negligence should be sanctioned with a flexible ban between a reprimand and one year (or flat sanction of 3 month), especially where the athlete could prove that his whereabouts failure(s) were committed due to negligence.

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Sanctions for Whereabouts Failures

We support the change to Article 10.3.2 regarding Whereabouts Failures. However, it is not easy to assess the weight of each Whereabouts Failure, so we hope that WADA will provide clear guidance or examples in this regard.

Suggested changes to the wording of the Article

We hope that WADA will provide clear guidance or examples for assessing the weight of each Whereabouts Failure.

Reasons for suggested changes

It is not easy to assess the weight of each Whereabouts Failure, so we hope that WADA will provide clear guidance or examples in this regard.

Malaysia Anti Doping Agency (ADAMAS) SUBMITTED
Muhammad Husmar Afdzal Bin Husin, Senior Assistant Director (Malaysia)
NADO - NADO

General Comments

Agree to the proposed change. Suggested for WADA to provide the criteria for the assessment to be more specific and clarified.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Nous accueillons favorablement les propositions de modification pour cet article.

Une réflexion pourrait néanmoins être menée sur la possibilité de prévoir éventuellement plus de flexibilité dans le régime des sanctions que le régime actuel (2 ans ou 1 an).

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

La limite actuelle de réduction à un an place régulièrement les OAD en risque et conduit à des critiques récurrentes sur le manque de modulation /proportionnalité. D'ailleurs, la seule condition légale de réduction actuelle, très proche du concept d'intention, est délicate à mobiliser.

Il est proposé de prévoir une modulation plus importante de la durée de suspension.

USADA SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)

NADO - NADO

General Comments

Article 10.3.2 – USADA welcomes the additional clarity provided through the changes to this article and the comment. USADA understand that while these violations can be paperwork oversights, there needs to be some consequence but supports more flexibility in sanctioning to allow for a period of ineligibility below twelve months if the circumstances justify such a shorter period.

Suggested changes to the wording of the Article

10.3.2 Recommended Change (in bold):

For violations of Article 2.4, the period of *Ineligibility* shall be two (2) years, subject to reduction down to a minimum of **six (6) months**, depending on if the *Athlete* can establish circumstances mitigating the *Athlete's* degree of *Fault*. *Fault* shall be assessed equally against all three whereabouts failures with the expectation that the *Athlete* should be on heightened alert after the first and second failures. The flexibility between two (2) years and **six (6) months** of *Ineligibility* in this Article is not available to *Athletes* where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the *Athlete* was trying to avoid being available for *Testing*.

Reasons for suggested changes

Reasons for Change:

USADA understands that while whereabouts violations can be paperwork oversights, some consequence is necessary. The added clarity regarding assessing fault across all three whereabouts failures should improve the quality of analysis regarding sanction lengths. Still yet, the low degree of fault in certain whereabouts cases appears deserving of a sanction below twelve months. USADA therefore supports greater flexibility, while still requiring a minimum period of ineligibility, in whereabouts violation cases.

WADA NADO Expert Advisory Group SUBMITTED

Martin Holmlund Lauesen, member (Norge)

Other - Other (ex. Media, University, etc.)

General Comments

Athlete Whereabouts information:

The whole concept of Whereabouts Failures needs a reconsideration. Although this is more specified in the IST, Whereabouts are also mentioned in the WADC and therefore it is worth to mention it here as well. The current rules show a couple of areas for improvement, including:

Regarding Art. 2.4 there should be more flexibility for hearing panels regarding sanctions. Right now, the minimum consequence is one year even though the athlete might have committed three MT /FF by "bad luck" or the lowest degree of negligence.

Suggested solution: Therefore, we would suggest setting the period of ineligibility from two years down to a reprimand and no period of ineligibility, depending on the athlete´s degree of fault.

Article 10.6 (9)

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

Comment to Art. 10.5

In light of recent cases the wording in footnote 65 "*by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance*" must be adjusted to include also physiotherapists, masseurs or any other person treating an athlete.

Autoridade Brasileira de Controle de Dopagem SUBMITTED

Luciana Corrêa de Oliveira, Resulta Management General Coordinator (Brazil)

NADO - NADO

General Comments

Article 10.6.1.3 – Protected Persons or Recreational Athletes

The provisions should make clear that even protected persons and recreational athletes must establish that the violation is was not intentional to benefit from a 2-year base sanction for cases involving non specified substances.

We only became aware of this understanding after responding to the query made to the AMA Legal Department.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

In footnote 67, the Article reference is displaying an error.

RUSADA SUBMITTED

Viktoriya Barinova, Deputy director (Russia)

NADO - NADO

General Comments

Further elaboration is needed on the relevant articles of the Code dealing with the commission of an anti-doping rule violation through exposure to a contaminated environment (*Contaminated Source*, contaminated Product, etc.)

Reasons for suggested changes

Contaminated source: Due to the widespread use of drugs on the Prohibited List in veterinary medicine in a number of countries, there is a high risk of ingestion of prohibited substances by athletes through the use of common foods (meat, eggs, milk) essential for athletes without any possibility of preventing such a case, e.g. meldonium. However, it is either practically impossible or time-consuming and costly to gather evidence for an ordinary athlete in such a case. It makes sense to stipulate conditions under which the athlete can count on the non-application of a sanction, e.g. insignificant concentration, the presence of negative doping samples some time before the positive doping sample, which excludes the so-called "tails of intentional ingestion", the use of food products in regions and/or from manufacturers about which there has already been information about cases of contamination (by analogy with clenbuterol), etc. Of course, the athlete has to prove that he/she was in that region and/or bought products from such a manufacturer at the specific time.

NADO Flanders SUBMITTED

Jurgen Secember, Legal Adviser (België)

NADO - NADO

General Comments

In comment (67) under article 10.6 still refers to intent, whereas there is no ‘intent’ or ‘intentional’ in the wording of 10.2.1.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)
NADO - NADO

General Comments

ADSE support the proposal.

In relation to this topic, it should be clear what evidence is needed when the athlete claims that the prohibited substance appears from a contaminated supplement. Does the athlete need to analyze the supplement to be able to establish No Significant Fault or Negligence? If that is the case, is it enough to analyze one opener container? Of course, if other supportive evidence is present, for example a statement from the laboratory.

ADSE also suggest that for these cases there should be a lower burden of proof for other athletes and recreational athletes. There are financial differences for these athletes, and they also lack anti-doping education.

USADA SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 10.6.1 – An athlete who receives a prospective TUE (but not a retroactive TUE) for a non-specified substance should not be subject to the one-year minimum period of ineligibility when WADA does not agree to a retroactive TUE under ISTUE 4.3. Such a result often results in a draconian and unfair sanction for the athlete.

Article 10.6.2 – There is no established framework for evaluating Fault when the period of Ineligibility range is 0-2 years. A specific clause, comment, or guideline establishing a framework, like the one described in Cilic (which applied the 2009 Code), would be helpful in harmonizing sanction determinations based on fault around the world.

Suggested changes to the wording of the Article

Recommended Change:

Add 10.6.1.4 *Prospective TUEs*

Where an *Athlete* receives a prospective *TUE* in accordance with the ISTUE but does not receive a retroactive *TUE*, then the period of *Ineligibility* shall be, at a minimum, a reprimand and no period of *Ineligibility*, and at a maximum, two (2) years of *Ineligibility*, depending on the *Athlete’s* or other *Person’s* degree of *Fault*.

Reasons for suggested changes

10.6.1.4 - Reasons for Change:

Carving out an exception to the restriction of 10.6.2 (as was done with the addition of Article 10.6.1.3) by adding Article 10.6.1.4 allows athletes who have received a prospective TUE to be eligible for at a minimum a reprimand and at a maximum a two-year period of ineligibility, which is a far fairer outcome under the circumstances.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

Matters arising from the publication of the full Cottier Report

We welcome the opportunity to address learnings from the full Cottier Report and for these to be incorporated within the Code and Standards review process. However, we need time to digest the full contents of that Report and would highlight that as part of the anti-doping community at large, we are not well placed to make suggestions on Code and Standard-related improvements, given we are not privy to the specific details and particular evidence in the case concerning the 23 Chinese swimmers. We welcome the opportunity for the WADA Executive Committee's Working Group to address the Cottier Report recommendations and to thereafter consult with us as part of the anti-doping community.

We would welcome future engagement particularly in respect of the following:

Discuss and entrust the 2027 World Anti-Doping Code (Code) Update Drafting Team to propose and draft amendments to the Code and International Standards that could be submitted as part of the current update process, including the possible establishment of a special procedure to deal with cases of group contamination

- We welcome greater clarity on, and respective amendments to the Code, for the management of contamination cases, in the interest of consistency and transparency.

- Whilst the case concerning the 23 Chinese swimmers relates to potential group environmental contamination, we believe it is vital that the focus should not be limited to group contamination but should also take account of individual contamination cases. UKAD's own case management experience indicates contamination to be a problem on a broader scale, affecting individual athletes in the same way as it affects groups.

- We believe that any future Code amendments to improve processes for dealing with contamination cases need to have broad and equal application, ensuring consistency in application.

- We ask that the scope of any Code amendments is not limited to environmental contamination but should include the different forms of contamination (e.g. environmental, medication, supplement, food).

- We would also welcome consideration of the merits of devising mechanisms to alert Anti-Doping Organisations and Athletes in a timely way to new and emerging contamination risks.

Discuss possible improvements to the results management procedures, including communication with the relevant Anti-Doping Organizations and athletes and ask the Code Drafting Team to propose relevant amendments to the applicable Code or Standards

- The full Cottier report showed that the current regulatory framework relies solely on the appeal process as the one regulatory tool at WADA's disposal. We welcome consideration of improvements to the ways in which WADA communicates with Anti-Doping Organisations during the Results Management process. Our own case management experience in the past has shown that early engagement with WADA is welcome and can help to ensure clear and early alignment on the application of the Code and the identification of any exceptional issues.

- We believe there needs to be mechanisms to provide greater transparency about how the Code and Standards are being applied by Anti-Doping Organisations and overseen by WADA. It is our view that the regulatory framework would benefit from being strengthened in order to hold Anti-Doping Organisations to account when they do not abide by the rules, while also acknowledging that there may be exceptional circumstances in which the strict application of the rules is neither proportionate nor pragmatic. There may be merit in finding a suitable way to report these cases at an aggregate level with the anti-doping community, in the interest of consistency and transparency.

International Testing Agency SUBMITTED
International Testing Agency, - (Switzerland)
Other - Other (ex. Media, University, etc.)

General Comments

Comment to Article 10.5, footnote 65:

The reference to physician and trainers should be replaced by ASP.

Article 10.6.1.2 (13)

World Rugby SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby recognise the need to review the definition of "Contaminated Source" but we are wary that the word "unforeseeable" as a subjective measure may broaden the scope of the definition too far. The new definition suggests that by merely checking the product label and conducting an internet search, the ingestion of a contaminated supplement would likely be deemed "unforeseeable". Whilst we support any change that increases fairness for athletes in genuine cases (in what we recognise is a complex area), we fear this could risk setting the burden of proof too low, and provide opportunities for a meritless contamination defense. Note this is also repeated in our comments to the definition of Conatiminate Source.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendements as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED

Ida Nilsson, Legal advisor (Sverige)

Sport - National Olympic Committee

General Comments

SSC support the proposal.

In relation to this topic, it should be clear what evidence is needed when the athlete claims that the prohibited substance appears from a contaminated supplement. Does the athlete need to analyze the supplement to be able to establish No Significant Fault or Negligence? If that is the case, is it enough to analyze one opener container? Of course, if other supportive evidence is present, for example a statement from the laboratory.

SSC also suggest that for these cases there should be a lower burden of proof for other athletes and recreational athletes. There are financial differences for these athletes, and they also lack anti-doping education.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 10.6.1.2 Contaminated Source

Individual case-by-case decisions will become the normal rule, and internationally harmonised decisions will be an exception. From a legal perspective, proportionate case-by-case decisions are very good and should be appreciated.

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Contaminated Source

We support changing the term “Contaminated Product” to “Contaminated Source”. The new definition of “Contaminated Source” is broader, encompassing food or beverage contamination, environment contamination etc. We believe that contamination is a widespread issue that can occur in different countries and regions. Changing “Contaminated Product” to “Contaminated Source” can better protect the Athletes who are found to have No Fault and inadvertently ingest Prohibited Substances as a result of contamination. However, it is a very complex issue to distinguish between an Athlete who inadvertently ingests a Prohibited Substance due to food or

environment contamination and an Athlete who intentionally uses a Prohibited Substance. We support the WADA workforce to further address this issue.

Suggested changes to the wording of the Article

It is a very complex issue to distinguish between an Athlete who inadvertently ingests a Prohibited Substance due to food or environment contamination and an Athlete who intentionally uses a Prohibited Substance. We support the WADA workforce to further address this issue.

Canadian Centre for Ethics in Sport SUBMITTED
Bradlee Nemeth, Manager, Sport Engagement (Canada)
NADO - NADO

General Comments

The CCES welcomes the broadened definition, however, would request clarity on the required threshold that must be met for a ADO to agree with an athlete that the prohibited substance came from the contaminated route they have identified. Sucha additional clarity could be outlined within the Guidelines.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

General Comment:

SIA reserves the right to fully comment on this provision once WADA settles on the rules applicable to contamination cases.

In the meantime, SIA offers the following comments on the positions as proposed in this first draft of the Code.

This article has seen a change in definition from Contaminated Product to Contaminated Source. SIA supports this definition in principle. However, SIA remains concerned there is a real risk this change will 'lower the bar" for athletes attempting to explain an AAF.

New definition of 'Contaminated Source'

SIA recognises 'contamination' is no longer limited to contamination through the use of a 'contaminated product' but may include sources of contamination such as food or drink, environmental contamination, or exposure through contact with a third person or object touched by a third person.

As such the definition should be broadened to recognise these other sources of contamination and the range of scenarios that may apply in a contamination case. However, in broadening the definition SIA is concerned the extended scope of this provision may result in more litigation.

The current definition of 'Contaminated products' is much easier to establish objectively. Also, it is common practice of athletes to use batch tested supplements.

SIA is also concerned that having a separate provision dealing with Contaminated Source may provide unnecessary duplication and confusion. Environmental contamination and exposure through contact with a third person for e.g. - the level of recklessness/negligence can already be assessed through the existing provisions in these scenarios. This may create an additional mechanism for sanction reduction in these cases and lower the bar for athletes to be responsible for what is in their systems (i.e. not checking beyond medication labels for prohibited substances). However, SIA does recognise that a contrary argument is that this separate provision may provide more clarity when dealing specifically with these cases (despite the possible duplication).

General Comment to Definition of Contaminated Source:

As noted in relation to Article 10.2, SIA reserves the right to make comment on this definition following the resolution of any recommendations arising in relation to the Cottier Final Investigation Report and associated work of WADA working groups tasked with resolving the approach to dealing with contamination cases.

Agence française de lutte contre le dopage SUBMITTED
Adeline Molina, General Secretary Deputy (France)
NADO - NADO

General Comments

L'extension du produit à la source contaminée est bienvenue et clarfifie les hypothèses dans lesquelles la réduction peut être mobilisée.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

– We support the new definition of "contaminated source", however seek greater clarity on the definition of environmental contamination

"This feedback was endorsed by the Athlete Commission of the Sport Integrity Commission Te Kahu Raunui."

USADA SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 10.6.1.2 Comment – The definition of Contaminated Source describes scenarios that would fall within No Fault or Negligence, but it is referenced here only in the context of No Significant Fault or Negligence, which is confusing. Furthermore, USADA strongly disagrees with the inclusion of "medications" in the comment without explanation. Most athletes use medications to treat medical conditions and have a reasonable expectation that the medication is not contaminated with a prohibited substance. To include that athletes take medications "at their own risk" places unnecessary fear and trepidation on athletes to do what is best for their own health and safety. It also runs counter to the purpose of the Code to "promote health . . . for Athletes worldwide."

Suggested changes to the wording of the Article

Recommended Changes:

Remove the sentences that references NSFN having "rarely been applied . . . ." Remove all references to medications in this comment.

Reasons for suggested changes

Reasons for Change:

The issue of contamination needs to be squarely addressed and dealt with by WADA establishing reasonable minimum reporting levels for substances being detected at such low quantities that the contaminated medications are approved by public authority regulatory bodies yet still causing positive tests.

The only fair outcome for athletes if they test positive from a contaminated medication, which they would have no way of knowing is contaminated, is No Fault or Negligence. WADA's suggestion to the contrary in this comment is very concerning and run counter to promoting athlete health and safety.

The Comment stating that No Significant Fault or Negligence "has rarely been applied in nutritional supplement or medication cases . . ." is simply incorrect. Not only has No Significant Fault or Negligence been applied but No Fault or Negligence has been applied in every contaminated medication case USADA has had (and it has had several). WADA has not appealed those cases because it is a fair and just outcome. Moreover, No Significant Fault or Negligence is regularly applied in nutritional supplement contamination cases. It is unclear what data WADA is using to support this statement in the comment.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

We welcome efforts made within the Code to address the risks of contamination faced by Athletes. However, we do not consider that widening the scope of Article 10.6.1.2 sufficiently addresses the issues at hand.

We are aware of cases where Athletes have been able to establish through the narrowest of corridors that their Adverse Analytical Finding must have been the result of a contamination event because of the available scientific and analytical evidence. However, in such cases the Athlete has not been able to identify the specific 'Contaminated Source' or 'Contaminated Product' responsible for that Finding. How Article 10.6.1.2 is to be applied in such cases is not sufficiently clear - what reductions are to be made available to Athletes where there is no concrete proof of the source of contamination, but contamination is otherwise established through other available scientific evidence?

Caribbean Regional Anti-Doping Organization SUBMITTED

Marsha Boyce, Communications & Projects Coordinator (Barbados)

NADO - RADO

General Comments

The inclusion of "contaminated sources" as opposed to contaminated products is welcomed as it acknowledges other realistic scenarios which may occur.

Chair SUBMITTED

Athlete Council, WADA (Canada)

Other

General Comments

Establishment of the source of a prohibited substance (10.2.1 and 10.6.1.2)

These two articles, aimed at addressing contamination cases, provide the possibility for a reduction in sanction when “the Athlete" can “establish" the origin of the substance, specifically, how the prohibited substance entered their system (10.2.1), or that the prohibited substance came from a contaminated source (10.6.1.2). We suggest the drafting team consider additional commentary on what constitutes acceptable “establishment,” and on when/whether a third party may act on behalf of the Athlete.

Article 10.7 (12)

Union Cycliste Internationale SUBMITTED

Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

General Comments

WADA provides further flexibility for substantial assistance, but I'm not sure it is sufficient to encourage athletes to provide information.

Are the incentives sufficient, or is the approach still too restrictive?

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Mikkel Bendix Bergmann, Legal Advisor (Denmark)

Sport - National Olympic Committee

General Comments

Concept #6 – Substantial Assistance

The Danish NOC supports the proposal to expand Article 10.7.1 by removing the requirement that substantial assistance must result in criminal or disciplinary action. However, we remain concerned about the stipulation that athletes’ names must appear in the ruling, as this deters many from coming forward due to potential exposure. We propose allowing athletes to withhold their identity in rulings and public disclosures.

Additionally, we suggest that athletes facing sanctions should have the opportunity to train during their period of ineligibility if they provide information about other athletes or support personnel involved in doping cases. For young athletes, we propose an even greater reduction in their sanctions if they assist in uncovering violations related to support personnel.

Furthermore, we recommend amending Article 10.7 to permit reductions for substantial assistance that yields valuable information, even if it does not directly lead to an anti-doping rule violation by another party. This change would acknowledge the critical role of athletes in providing valuable insights, while ensuring clear implementation to prevent misuse.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, to Article 10.7.1 as described in the Summary of Key Proposed Changes to the Code.

International Tennis Integrity Agency SUBMITTED

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)

Sport - Other

General Comments

Concept #6 - Any reasonable mechanism that promotes discovery of ADRVs should be considered. Greater reduction in the otherwise applicable sanction is likely to be the most effective approach, but it seems unlikely that the proposals will make any meaningful difference. The ITIA agrees that any reductions should be absolute, not proportional

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Article 10.7.1. ADSE is positive to the suggested amendments in the article. Although there is still a concern that this article in practice will be difficult to apply. The athlete's wants to be anonymous when they leave information regarding other athletes or other persons.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

En ce qui concerne l'aide substantielle, l'article 10.7.1, sa mise en oeuvre en pratique n'est déjà pas évidente juridiquement parlant, à l'heure actuelle.

Nous nous demandons dans quelle mesure les propositions de modifications relatives à l'article 10.7.1 n'auraient pas pour effet de compliquer encore davantage cette mise en oeuvre.

En particulier, le fait qu'il soit proposé de supprimer le critère de la gravité de la violation des règles antidopage commise, ainsi que celui de la valeur significative de l'aide substantielle apportée, rend le concept moins clair (et peut-être moins utile) qu'il ne l'est actuellement. Aussi, cela aurait pour effet de détourner l'aide substantielle de l'une, sinon de son utilité majeure qui consiste à donner un outil supplémentaire en vue de lutter contre des formes de dopage plus organisées (ex. le trafic). Nous ne sommes donc pas favorables à la suppression de ces deux critères.

Par ailleurs, comme indiqué ci-dessus, la phrase suivante, proposée à révision, à l'article 10.7.1.1, alinéa 4

"The Anti-Doping Organization with Results Management authority may suspend a smaller portion of the Consequences in an initial decision and, based on reconsideration of the value of the information received, increase the amount of Consequences suspended."

semble à la fois difficile à mettre en oeuvre en pratique et sur le plan juridique également. Comment apprécier la valeur d'une information transmise et déterminer les conséquences à suspendre sur cette base ?

Par ailleurs, cet ajout proposé ne semble pas non plus tenir compte de la liberté laissée à juste titre aux OADs d'organiser leur gestion de résultats, dans une optique de séparation claire des pouvoirs et des responsabilités (voir nos commentaires relatifs aux articles 10.8.1 et 10.8.2).

Enfin, compte tenu de la suppression proposée des critères de gravité de la VRAD commise et de celui de la valeur significative de l'aide apportée, la différence entre l'aide substantielle (art 10.7.1) et les autres informations précieuses ("other valuable information" : art 10.7.2 proposé à révision) n'est pas évidente, loin s'en faut. Comment évaluerait-on la différence entre les 2 types d'informations (et entre leur valeur respective) et donc entre les deux régimes ?

Pour les raisons qui précèdent, nous ne sommes pas favorables aux propositions de modification prévues à l'article 10.7.1.1 et à l'article 10.7.2.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

Concept #6

We support the proposal to expand the scope of Article 10.7.1. so that the requirement that the substantial assistance had to result in criminal or disciplinary action, has been eliminated.

However, we still have a significant concern with article 10.7.1, regarding the requirement for athletes to have their name and information appearing in the ruling. This creates a substantial hurdle as many athletes are reluctant to come forward with information due to the exposure within their environment. We propose the possibility of allowing athletes or others to withhold their identity from the ruling and public disclosure.

Additionally, we propose that athletes who are subject to a sanction, might be afforded the opportunity to train during their sanction if they come forward with information about other athletes/support personal involved in the case. In addition to substantial assistance, maybe it could be possible of an even greater reduction for minor athletes, if they provide information about support personal involved in their doping case.

NADO Flanders SUBMITTED

Jurgen Secember, Legal Adviser (België)
NADO - NADO

General Comments

10.7.1 and 10.7.2

When applying substantial assistance, it comes from the Code that it is possible during results management, and after a final decision.

The suspension of (enforcing) the consequences is different form a decision declaring the applicable ineligibility.

For the sake of clarity: if the rules of the ADO provide that a sanction can only be imposed after a hearing or upon ratification of proposed consequences after acceptance by an impartial and operationally independent organ, it should also be left to the rules of the ADO to include which organ of the ADO (or the ADO itself) can decide on the suspension of consequences under substantial assistance.

The Code makes it clear that the results management authority may suspend the period of ineligibility, meaning part of it will not be served out by the athlete. This is a matter of sentence implementation rather than sentencing itself.

NADOF is of the opinion that the sanction itself is to be imposed after a results management procedure, imposing full consequences, with the application of possible reductions. This decision stands as a final decision under the Code.

Substantial assistance however, can be granted conditionally, partially, and the decision on the suspension of consequences can change gradually based on the progress made under the substantial assistance. When comparing this to a legal system, this does not affect the actual consequences imposed, but is a decision that part of the sentence (consequences) will not be executed. To compare it to legal systems: a decision to grant parole or early release. It is fitting in a legal framework to delegate this decision to another judicial body, but this means the original sentence is not overturned (can be important for the sake of a second violation).

This is however in the same article as reductions, which are being applied in the sentencing phase, and only affect the imposition of consequences itself.

Making the provisions of substantial assistance more separated from the actual sanctioning provisions, should deliver more clarity.

This comment does not question the necessity or validity of the substantial assistance provisions, but sees it as a separate system, thus suggesting to bring this in a separate subsection of article 10. It is a return from ineligibility under conditions, and is not a part of the sanction itself.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

General comment to Art. 10.7.1

Taking into account that persons offering substantial assistance are human sources, better possibilities of using them as confidential sources should be introduced in the Code. Otherwise, the incentive for their participation/involvement will remain limited.

Agence française de lutte contre le dopage SUBMITTED
Adeline Molina, General Secretary Deputy (France)
NADO - NADO

General Comments

Les modifications proposées ne remédient pas à certains graves inconvénients constatés. En effet, dès lors que, d'une part, le seul bénéfice que le sportif peut tirer de l'aide substantielle apportée est le prononcé d'un sursis partiel ou total sur la durée de la suspension et que, d'autre part, ce sursis ne peut être prononcé dans aucune autre hypothèse, il est évident que le sportif qui en bénéficie est identifié comme un indicateur et s'expose alors à de dangereuses représailles de la part des personnes dénoncées. Cette « tare », inhérente au dispositif, contribue à expliquer que cette modalité de réduction de la sanction ne soit presque jamais appliquée. Si l'on souhaite disposer d'un régime réellement incitatif à la dénonciation d'autres violations des règles antidopage, potentiellement plus graves et structurelles, il serait nécessaire d'offrir des possibilités de suspension des conséquences des violations des règles antidopage diversifiées pour le sportif à l'origine des informations transmises.

En outre, l'ajout d'une procédure permettant, pour un sportif apportant des informations non substantielles mais utiles à la lutte antidopage, d'obtenir une réduction de la durée de suspension, dans la limite de 15 % de la durée prévue, est intéressant mais ouvre de nouvelles interrogations sur l'intérêt du régime de l'aide substantielle et son articulation avec ce nouveau dispositif. Afin de limiter des approches divergentes entre organisations antidopage, au risque de l'inégalité de traitement des sportifs, ce point mériterait d'être précisé par des lignes directrices de l'AMA.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA agrees with the enhancements made to this clause. However, we recognise that to provide the level of clarity required to deal with the wide range of circumstances where provisions relating to substantial assistance may be applied is complex and requires extensive drafting.

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Addition: Protections for athlete informants (10.7.1 and 10.7.2)

Given the risks of becoming an informant, the Code should include explicit protections for any athlete who chooses to provide information under Articles 10.7.1 or 10.7.2.

Article 10.7.1.1 (15)

World Rugby SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby supports this change and the proposed wording.

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Footnote 69: Guidance is appreciated

International Olympic Committee SUBMITTED

Legal Affairs, Project Coordinator (Switzerland)

Sport - IOC

General Comments

Hannah Grossenbacher says :

How does WADA define Sports integrity authority?

Hannah Grossenbacher says :

What is WADA's rational for not granting a full reduction?

Riksidrottsförbundet SUBMITTED

Ida Nilsson, Legal advisor (Sverige)

Sport - National Olympic Committee

General Comments

SSC is positive to the suggested amendments in the article. Although there is still a concern that this article in practice will be difficult to apply. The athlete's wants to be anonymous when they leave information regarding other athletes or other persons.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 10.7.1 Substantial Assistance

1. In cases where substantial assistance is provided, need to be considered option not to disclose personal information (name of the athlete providing substantial assistance) information under Code 14.3.
2. It seems to be complex to implement, so it would be also useful if there would be some guidelines on application of Substantial Assistance.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

We support the proposal to expand the scope of Article 10.7.1 and the elimination of criminal or disciplinary action as the sole requirement for substantial assistance.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

NADA Austria supports the changes, although the suspension of consequences should finally not be decided by the ADO, this should be done by an independent hearing panel.

It would be also useful if there are guidelines on application of Substantial Assistance.

"*In determining the length of the period for which Consequences are suspended, the value of the Substantial Assistance shall be evaluated in terms of months or years rather than as a percentage of the original period of Ineligibility*."

NADA Austria supports this good idea, but examples should be given on the value of information and therefore how much of consequences could be suspended for the relevant information.

Otherwise, it is difficult to assess the value of information.

Swiss Sport Integrity SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

In cases where substantial assistance is provided, need to be considered option not to disclose personal information (name of the athlete providing substantial assistance) under Code 14.3 to protect the athlete providing substantial assistance.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

In cases where substantial assistance is provided, need to be considered option not to disclose personal information (name of the athlete providing substantial assistance) information under Code 14.3.

Also some guidelines are needed.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA suggests it may be useful to provide further guidance and examples to demonstrate the grounds that would give rise to Substantial Assistance under the expanded provision, especially in relation to some of the circumstances that may fall within the 'catch all' provision under Article 10.7.2.

By way of example, information may be considered credible and valuable but is either not relied on to 'discover' or 'bring forward' a case or (as it is not then relied upon under the compliance or enforcement regime of another organisation) but is still 'valuable to the effort to eliminate doping in sport' as it has provided valuable intelligence and has led to enhanced education.

Valuable and credible information may also be passed to and actioned by a regulatory body (such as a goods regulator) leading to better regulation of supplements and medications that then serves to reduce the anti-doping risk to athletes.

Although, not directly applicable to Substantial Assistance, SIA acknowledge the impact that sanctioned athlete stories can have on preventing doping. Therefore, in future iterations, there may be scope to explore how Athletes who agree to actively advocate, be included in, and publicly support education efforts can be acknowledged under the Code, noting the impact that sanctioned athlete stories can have on preventing doping.

Suggested changes to the wording of the Article

SIA suggests adding additional commentary or guidance material including examples to support the expanded application of the rules relating to Substantial Assistance.

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Substantial Assistance

We support the change to Article 10.7.1 regarding Substantial Assistance. This change expands the scope of Substantial Assistance, encourages the initiative in providing Substantial Assistance, and promotes the expedited resolution of cases. However, there are currently no operational standards on how to measure the value of Substantial Assistance. We hope that WADA will provide clearer guidance or examples in this regard.

Suggested changes to the wording of the Article

We hope that WADA will provide clearer guidance or examples to measure the value of Substantial Assistance.

Reasons for suggested changes

There are currently no operational standards on how to measure the value of Substantial Assistance.

Malaysia Anti Doping Agency (ADAMAS) SUBMITTED
Muhammad Husmar Afdzal Bin Husin, Senior Assistant Director (Malaysia)
NADO - NADO

General Comments

Agree to the proposed change but with additional clarification on how to asses the value of information or substantial assistance.

LTUNADO SUBMITTED
Erika Petrutyte, Lawyer (Lithuania)
NADO - NADO

General Comments

In cases where substantial assistance is provided, need to be considered option not to disclose information under Code 14.3. Of course this "non-disclosure" option should be applied in very exceptional circumstances with approval of WADA.

Reasons for suggested changes

Because athletes afraid to provide substantial assistance because they know that if they are found guilty of an anti-doping rule violation, but the sanction will be "reduced" because of substantial assistance and decision will be disclosed under the Code 14.3, persons could know that the athlete provided some information against them.

USADA SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 10.7.1.1 – Substantial assistance in 10.7.1.1 refers to assistance that has been provided in the past tense as opposed to the definition of substantial assistance, which refers to ongoing and indeed forward-looking assistance, based on the requirements of continued cooperation.

It also seems contradictory to say that a suspension of consequences "shall be evaluated in terms of months or years rather than as a percentage" and then reference a percentage as the maximum suspension permitted.

Finally, Arbitration Panels are not in a good position to assess and make substantial assistance decisions in the first instance.

Suggested changes to the wording of the Article

Recommended Change:

Add the words "or is providing" to 10.7.1.1, so it reads "… in an individual case where the *Athlete* or other *Person* has provided **or is providing** *Substantial Assistance* . . . ."

Remove the reference to substantial assistance being evaluated in terms of months or years.

Comment: Although substantial assistance decisions may be appealed under Article 13.2, the substantial assistance in the first instance shall be made by the anti-doping organization that receives the assistance.

Reasons for suggested changes

Reasons for Change:

The Code now specifically contemplates on-going substantial assistance with its reference to a permissible two-stage approach. This minor change creates consistency within the article (and with the definition of substantial assistance).

Although USADA agrees that suspensions of consequences due to substantial assistance should not be unduly prescribed, it would be helpful for WADA to provide stakeholders, even if on a confidential basis, with additional guidance as to how it assesses credit for substantial assistance.

Substantial assistance may involve confidential law enforcement information, and the value of this information to law enforcement and the ADO is best assessed by the ADO directly evaluating the information.

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Substantial Assistance

We support the proposed change to 10.7.1, which eliminates the requirement for information provided by an athlete in an investigation to result in an ADRV charge or a criminal or disciplinary action in order for that athlete to be eligible for a reduction in sanction. This change will incentivize athletes to come forward with information.

Article 10.7.1.2 (1)

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Maximum Reduction for Substantial Assistance

Article 10.7.1 says that no more than 3/4 of the period of ineligibility may be suspended in exchange for Substantial Assistance. However, Article 10.7.1.2 says that WADA can, under exceptional circumstances, eliminate the entire period of ineligibility. In order to explain this conflict, should 10.7.1.2 state, “notwithstanding 10.7.1”?

Article 10.7.2 (17)

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

More flexibility is provided which can maybe encourage athlete to provide information to benefit from this article

World Rugby SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby supports this change provided the threshold is set at a reasonable level and that the process is consistent, clear and simple. To this end it would be helpful for more examples to be provided of what information would and would not allow an athlete to avail of this reduction.

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

The introduction of this article expands the situations in which a person's contribution to the elimination of doping may be taken into account in determining a sanction and provides anti-doping organisations with results management authority with a new tool in the fight against doping.

Hannah Grossenbacher says :

What is WADA's rational for 15%? Welcome WADA I&I's opinion whether it sufficient to create an incentive

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC support the proposal in Article 10.7.2. However, more examples of what could constitute valuable information is needed.

Council of Europe SUBMITTED
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

New Art. 10.7.2 Other Valuable Information and Assistance in the Effort to Eliminate Doping in Sport

The term “valuable information” should be clarified and guided by WADA.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Nous nous permettons de renvoyer à nos remarques relatives à l'article 10.7.

La mise en oeuvre pratique de l'aide substantielle n'est déjà pas évidente, juridiquement parlant, à l'heure actuelle.

Nous nous demandons dans quelle mesure les propositions de modifications relatives à l'article 10.7.2 n'auraient pas pour effet de compliquer encore davantage la mise en oeuvre de l'aide substantielle.

Notamment, la phrase suivante, proposée à révision, à l'article 10.7.2, alinéa 4 :

"*The Anti-Doping Organization with Results Management authority may suspend a smaller portion of the Consequences in an initial decision and, based on reconsideration of the value of the information received, increase the amount of Consequences suspended.*"

semble à la fois difficile à mettre en oeuvre en pratique et sur le plan juridique également. Comment apprécier la valeur d'une information transmise et déterminer les conséquences à suspendre sur cette base ?

Par ailleurs, cet ajout proposé ne semble pas non plus tenir compte de la liberté laissée à juste titre aux OADs d'organiser leur gestion de résultats, dans une optique de séparation claire des pouvoirs et des responsabilités (voir nos commentaires relatifs aux articles 10.8.1 et 10.8.2).

Enfin, compte tenu de la suppression proposée des critères de gravité de la VRAD commise et de celui de la valeur significative de l'aide apportée, la différence entre l'aide substantielle (art 10.7.1) et les autres informations précieuses ("other valuable information" : art 10.7.2 proposé à révision) n'est pas évidente, loin s'en faut. Comment évaluerait-on la différence entre les 2 types d'informations (et entre leur valeur respective) et donc entre les deux régimes ?

Pour les raisons qui précèdent, nous ne sommes pas favorables aux propositions de modification prévues à l'article 10.7.1.1 et à l'article 10.7.2.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

The term “valuable information” should be clarified and guided by WADA.

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

We support the new article on other valuable information and assistance. However, it should be noted that there is a risk of unequal/different application across ADOs, depending on how the value of information is assessed by the ADO.

Swiss Sport Integrity SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

If the maximum of the period of ineligibility that can be suspended stays at 15% there is no incentive for an athlete to cooperate with a NADO and disclose any valuable information and assistance in the effort to eliminate doping in sport. He could simply admit and take the 3-year suspension under Art. 10.8.1 which would be a reduction of 25%. In order to motivate the athletes to share their valuable information, a greater suspension of the otherwise applicable period of ineligibility should be possible, at least in individual cases, by evaluating the scope and effort involved in cooperating with the NADO. This would be helpful for investigations and there is always the possibility to reinstate a suspended period of ineligibility if the athlete fails to cooperate.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

Further to our comments in relation to Article 10.7.1.1, if no further changes are made to Article 10.7.1.1, we expect there will be a number of examples that will fall within the scope of this Article 10.7.1.2. To avoid any confusion, we suggest WADA considers adding further commentary and examples, either in the Code or in guidance material.

For example, if an Athlete provides information that doesn’t ‘discover or bring forward a criminal offence or breach of professional rules’ but is substantial information (valuable and credible) that assists in another process that is relevant to the ‘effort to eliminate doping’ we expect it will be captured under this

Article. For example, in the Australian context, if an Athlete provides information that is relied upon by the Australian regulator of supplements and medicines the Athlete should benefit from the disclosure of this information. We expect this assistance would be recognised under this Article 10.7.2.

Suggested changes to the wording of the Article

SIA suggests adding additional commentary or guidance material including examples to support the expanded application of the rules relating to Substantial Assistance.

Malaysia Anti Doping Agency (ADAMAS) SUBMITTED
Muhammad Husmar Afdzal Bin Husin, Senior Assistant Director (Malaysia)
NADO - NADO

General Comments

Agree to the proposed change. Suggested for WADA to provide with additional clarification on how to asses the value of information.

Anti-Doping Sweden SUBMITTED
Jessica Wissman, Head of legal department (Sverige)
NADO - NADO

General Comments

ADSE support the proposal in Article 10.7.2, but considers that it should be possible to reduce the applicable period of ineligibility to a maximum of 25 %, instead of the suggested 15 %.

Further, more examples of what could constitute *valuable information* is needed.

Canadian Centre for Ethics in Sport SUBMITTED
Bradlee Nemeth, Manager, Sport Engagement (Canada)
NADO - NADO

General Comments

The CCES welcome the addition of a possible sanction reduction for providing valuable information and assistance. The CCES would request clarification on if the 15% off from the otherwise applicable period of ineligibility would be calculated before or after a reduction is applied under 10.8.1. (i.e. for a 4-year period of ineligibility that has been reduced to 3 years under 10.8.1, would the reduction be 15% off of 4 years or 3 years). Additionally, as 15% is already a small percentage, the CCES would request WADA considers a flat 15% rather than “up to” given in some cases less than 15% is likely to an immaterial reduction for an athlete which may deter them from providing such information.

Sport Integrity Commission Te Kahu Raunui SUBMITTED
Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

- We are supportive of the changes; however, we don’t believe that a 15% reduction of the applicable period of ineligibility is enough to encourage the receipt of valuable information that does not otherwise meet the criteria for Substantial Assistance.

“This feedback was endorsed by the Athlete Commission of the Sport Integrity Commission Te Kahu Raunui.”

Caribbean Regional Anti-Doping Organization SUBMITTED
Marsha Boyce, Communications & Projects Coordinator (Barbados)
NADO - RADO

General Comments

It is agreed that the inclusion of provisions for the acknowledgement of valuable information (which might not meet the requirements for substantial assistance) will have a positive impact.

It is hoped that the concept of 'valuable information' is not hampered by subjectivity.

Additionally, is the comment at the bottom of page 49 incomplete? It currently reads "10.7.2 does not. The Athlete or other...".

Chair
Athlete Council, WADA (Canada)
Other

SUBMITTED

General Comments

Valuable Information

While we support the addition of the concept of “Valuable Information” (see our comment on 10.7.1), we think it could be presented in a more streamlined way. The drafting team could add an article, 10.7.1.1 v, “Valuable Assistance to the effort to eliminate doping in sport, even if it does not meet all of the requirements for Substantial Assistance listed in 10.7.1.1 i-iv.” With the associated adjustments to the rest of the text of Article 10.7.1, this would eliminate the need for the full page of text in 10.7.2.

Article 10.8 (6)

International Tennis Integrity Agency
Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

SUBMITTED

General Comments

Concept #5 - Extending the scope of 10.8.1 to all violations (on a 25% reduction basis) is supported. One risk is that athletes with few resources may feel pressured to accept that opportunity, even if they aren’t at fault (and those with fewer resources may only obtain legal advice at the notice of charge stage, by which time the opportunity has expired).

Article 10.8.2 cases should be truly exceptional. 10.8.2 cases should be published (suitably anonymised), to give stakeholders confidence that such cases aren’t being used inappropriately

Japan Sports Agency
Japan Sports Agency Anti-Doping Unit, Anti-doping Unit Chief (Japan)
Public Authorities - Government

SUBMITTED

General Comments

In the 2027 DRAFT, it is stated that if the sanctions presented are accepted within 20 days of receiving the “notice of an anti-doping rule violation charge,” the sanctions will be reduced. However, it is unclear whether this “notice of an anti-doping rule violation charge” refers to the notification under Article 5.1.2 or the notification under Article 7.

Council of Europe
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

SUBMITTED

General Comments

Art. 10.8.1 Results management agreements

This is a useful tool to quickly resolve cases and preserves the freedom of ADOs to organize their RM.

Japan Anti-Doping Agency
Chika HIRAI, Director of International Relations (Japan)
NADO - NADO

SUBMITTED

General Comments

10.8, 10.8.1
Agree to the proposed change

In the 2027 DRAFT, it is stated that if the sanctions presented are accepted within 20 days of receiving the “notice of an anti-doping rule violation charge,” the sanctions will be reduced. However, it is unclear whether this “notice of an anti-doping rule violation charge” refers to the notification under Article 5.1.2 or the notification under Article 7.

Azerbaijan National Anti-Doping Agency (AMADA) SUBMITTED
Murad Jafarli, Head of Results Management and Investigation Department (Azerbaijan)
NADO - NADO

General Comments

According to the new edition the Article 10.8.1, after being notified by an Anti-Doping Organization of a potential anti-doping rule violation, and no later than twenty (20) days after receiving notice of an anti-doping rule violation charge, an Athlete or other Person may unilaterally admit the violation and accept a twenty-five percent (25%) reduction from the period of Ineligibility asserted in the notice of potential anti-doping rule violation. Where the asserted period of Ineligibility is more than four (4) years, the reduction shall be one (1) year. This allows athletes or other persons to receive a reduction in their period of ineligibility by unilaterally admitting to a violation. However, this provision lacks clear criteria for its application, which could lead to reductions being granted even in cases where misleading or false information was provided during earlier stages of the Results Management process.

Suggested changes to the wording of the Article

Introduce specific criteria for athletes or other persons to qualify for the reduction in the period of ineligibility. Require that they fully cooperate with the Anti-Doping Organization (ADO) during the investigation and Results Management process, including providing truthful information throughout the entire procedure.

Reasons for suggested changes

Establishing clear criteria and the requirement for full cooperation will help ensure that the reduction in the period of ineligibility is granted only in appropriate circumstances. This approach promotes integrity in the process and ensures that reductions are not misused, thereby enhancing the overall credibility of anti-doping efforts.

SA Institute for Drug-Free Sport SUBMITTED
khalid galant, CEO (Souoth Africa)
NADO - NADO

General Comments

Heading is confusing. Athletes & lawyers think they can get an RMA & CRA or assume RMA and CRA are the same.

Suggested changes to the wording of the Article

The Results Management Agreement and Acceptance of Consequences

Article 10.8.1 (13)

World Rugby SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby have some concerns with how Case Resolution Agreements under 10.8.2 are presented as an option to athletes alongside early admission under 10.8.1 because in practice CRAs are unobtainable except in very exceptional cases. We feel this can confuse athletes who mistakenly/unrealistically think they can obtain a reduction under 10.8.2 and therefore overlook 10.8.1 until it's too late (and the 20 day deadline has passed).

Furthermore we consider that some flexibility on the 20 day deadline should be permissible in exceptional circumstances and at the discretion of the RMA. To afford such flexibility disadvantages neither the athlete nor the RMA, nor WADA. If an athlete wants to avail of this but cannot for good reason do so in the 20 days (and can demonstrate why) we see no reason why they should not be able to.

Finally we consider that with regards to article 10.8.1 there should be some requirement for the athlete to provide an explanation for the violation in order to avail of this reduction, as currently an athlete can benefit from a one-year reduction without disclosing anything at all about why or how the rule violation occurred, and this potentially loses the opportunity to secure important information/intelligence even at a very basic level. This is particularly relevant for investigations involving a number of related rule violations where any additional intelligence may be critical to a full understanding of the situation.

These comments are repeated in World Rugby's comments to the ISRM Article 7.

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

The expanding of this potential reduction of 25 % is welcome.

To date, this reduction is only apllicable to "intentional" case and it make full sense to expand it to other situations.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC is positive to the suggestion in article 10.8.1. Although, there is a concern that the hearing panels will have even fewer cases to handle, which could be problematic when it comes to the possibility to practically apply the rules. Educational efforts should be considered.

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

Supported

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA notes the ISRM guidelines require the Athlete to take a proactive step in responding to Letter of Charge in order to receive 1 year reduction. However, if no response is received, the Athlete is still taken to have waived their right to a hearing. As such, unless steps have been taken by the Athlete not to accept the reduction in the period of Ineligibly, the 1-year reduction should still apply.

SIA is open to the 20-day time period to respond to a letter of charge being longer (particularly if that response is an admission pursuant to Article 10.8.1), as 20 days is a relatively short period of time for an athlete to obtain legal advice in this regard.

Suggested changes to the wording of the Article

SIA suggests that for the avoidance of doubt it be made clear that the one-year reduction will still apply if the Athlete does not take a proactive step and respond to the Letter of Charge.

Reasons for suggested changes

This is consistent with the approach that the Athlete is taken to have waived their right to a hearing if they do not respond.

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Admission of an Anti-Doping Rule Violation

We support the change to Article 10.8.1 regarding admission of anti-doping rule violations(ADRVs). This change encourages cooperation between the Athlete or other Persons and the ADO to reduce part of the period of Ineligibility by admitting the ADRV. This will lower the cost of anti-doping efforts, prevent cases from being prolonged, and help achieve the objectives of the fight against doping.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

Please amend the revised wording as highlighted below so that it clear that the twenty (20) day period continues to run from the notice of charge (and not notification itself).

Suggested changes to the wording of the Article

10.8.1 Results Management Agreements

10.8.1 Period of Ineligibility Reduction for Anti-Doping Rule Violations Based on Early Admission and Acceptance of Sanction

After being notified by an Anti-Doping Organization of a potential anti-doping rule violation, and no later than twenty (20) days after receiving notice of an anti-doping rule violation charge, an Athlete or other Person may unilaterally admit the violation and accept a twenty-five percent (25%) reduction from the period of Ineligibility asserted in the notice of an ~~potential~~ anti-doping rule violation charge. Where the asserted period of Ineligibility is more than four (4) years, the reduction shall be one (1) year. Where the Athlete or other Person receives a reduction in the period of Ineligibility under this Article 10.8.1, no further reduction in the asserted period of Ineligibility shall be allowed under any other Article.72 If the Athlete or other Person does not accept the reduction in the period of Ineligibility within the time period established in this Article, then this Article, including but not limited to, what the reduction under this Article would or should have been, may not be raised in any hearing or appeal.

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)
NADO - NADO

General Comments

L'élargissement des accords de gestion des résultats pour aveux rapide est bienvenu.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)
NADO - NADO

General Comments

ADSE is positive to the suggestion in article 10.8.1. Although, there is a concern that the hearing panels will have even fewer cases to handle, which could be problematic when it comes to the possibility to practically apply the rules. Educational efforts should be considered.

Also, consider a table in the ISRM guideline indicating the applicable reductions, to reduce the risk of calculation errors. A table could also be helpful relating to athletes returning to training in Article 10.14.2. 92 / 5 000

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

Afin d'assurer la cohérence avec le commentaire de l'article 10.8.2 du Code, selon lequel et à juste titre, dans certains pays, l'imposition d'une période de suspension est entièrement du ressort d'une instance d'audition (indépendante de l'ONAD) et l'ONAD n'a pas le pouvoir d'imposer ni d'accepter une sanction, il convient de supprimer la dernière phrase du projet de l'article 10.8.1 révisé, actuellement rédigée comme suit :

~~*"If the Athlete or other Person does not accept the reduction in the period of Ineligibility within the time period established in this Article, then this Article, including but not limited to, what the reduction under this Article would or should have been, may not be raised in any hearing or appeal."*~~

Afin d'assurer la cohérence avec le commentaire de l'article 10.8.2 précité et de laisser aux OADs la liberté d'organiser leur système de gestion de résultat, notamment dans une optique de séparation des pouvoirs et des responsabilités, l'aveu rapide (après la première notification) doit en effet toujours pouvoir être invoqué devant une instance d'audition, en vue de pouvoir bénéficier d'une réduction de sanction. La dernière phrase de l'article 10.8.1 révisé doit donc être supprimée.

Alternativement, il convient d'ajouter un commentaire à l'article 10.8.1 pour assurer la cohérence avec le commentaire de l'article 10.8.2 et préciser que la dernière phrase précitée de l'article 10.8.1 du Code n'est pas applicable dans les pays dans lesquels l'OAD n'a pas le pouvoir d'imposer ni d'accepter une sanction (et que cette compétence relève donc exclusivement d'une instance d'audition indépendante de l'OAD).

USADA

SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)

NADO - NADO

General Comments

Article 10.8.1 – There are three concerns related to this revised provision that will help it function effectively. The provision should be modified to base the 25% off on the consequences proposed by the anti-doping organization in the letter of charge, not the notice letter. It would also help to add a minimal requirement that athletes sit down for an interview prior to receiving the 25% reduction. Finally, additional incentive of starting the period of *Ineligibility* on the date of sample collection should be afforded for the prompt acceptance.

Suggested changes to the wording of the Article

Recommended Changes (in bold):

After being notified by an *Anti-Doping Organization* of a potential anti-doping rule violation, and no later than twenty (20) days after receiving notice of an anti-doping rule violation charge, an *Athlete* or other *Person* may unilaterally admit the violation and accept a twenty-five percent (25%) reduction from the period of *Ineligibility* asserted in the notice of potential anti-doping rule violation **charge starting as early as the date of *Sample* collection of the date on which another anti-doping rule violation las occurred, provided the *Athlete*, upon request of the *Anti-Doping Organization*, submits to an interview and truthfully recounts the circumstances of the *Athlete's* potential anti-doping rule violation**.[insert comment] Where the asserted period of *Ineligibility* is more than four (4) years, the reduction shall be one (1) year.

Comment: The assessment of whether an *Athlete* has truthfully recounted the circumstances of their potential anti-doping rule violation is within the *Anti-Doping Organization's* sole discretion.

Reasons for suggested changes

Reasons for Changes:

First, basing the 25% reduction off of the period of *Ineligibility* asserted in the "notice of potential anti-doping rule violation" is problematic and makes little sense. The 25% reduction should be based on the period of *Ineligibility* asserted in the anti-doping rule violation charge, not the notice letter because the anti-doping organization does not have a complete picture of the violation to include source and mitigating factors at the time of the notice letter. Although the picture may not be complete at the time of charge, it often will be substantially more complete given the additional interactions between the anti-doping organization and witnesses and the athlete alleged to have committed the violation that may shed light on the source of the positive test, which is often impossible prior to notification. There appears little reason or benefit to deprive an athlete of the benefit of context, facts, notice, and source.

Second, USADA again recommends adding a requirement that upon the ADOs request the Athlete shall submit to an interview by the ADO and provide a truthful explanation of circumstances of the Athlete's positive test (but no requirement to implicate others by name as that would

fall under substantial assistance) to be eligible for the 25% reduction. It should be in the ADO's discretion whether to accept the statement as true, and it may be cleaner to change it from a reduction to a suspension of a period of ineligibility should evidence come to light after the fact that the statements provided by the athlete or other person were not truthful.

Third, prior versions of the Code allowed anti-doping organizations to start the period of *Ineligibility* on the date of sample collection (or other violation last occurred) when an *Athlete* timely admitted a violation. The timely admission article was removed in favor of Article 10.8.1 early admission but strangely the ability to start the period of *Ineligibility* at an early date was left out of the provision. There is no need to deprive *Athletes* of an earlier start date when they are timely admitting a violation whether or not WADA adopts the additional requirement of sitting down for an interview.

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Early Admission of Guilt

We are opposed to Article 10.8.1, which rewards athletes who promptly admit guilt with a 25% reduction in sanction. At a minimum, an athlete seeking a reduction should need to admit the violation and participate in an interview with an anti-doping investigator. There is no incentive for an athlete to provide Valuable Information under Article 10.7.1 in exchange for a 15% maximum reduction, when they can say nothing under 10.8.1 and receive a 25% reduction.

Article 10.8.2 (5)

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

Similar to 10.8.1 also in 10.8.2 there should be clear deadlines for the separate steps (for example in 10.8.1 → 20 days).

Also, there should be a deadline for WADA when responding to a request by ADO.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Voir notre commentaire lié et sur la même thématique, relatif à l'article 10.8.1.

Nous pouvons accepter la proposition de modification de l'article 10.8.2, en ce que celle-ci respecte entièrement et à juste titre la liberté laissée aux OADs d'organiser leur système de gestion de résultat, notamment dans une optique de séparation claire des pouvoirs et des responsabilités (avec par exemple, dans certains pays, le pouvoir d'imposer ou d'accepter une sanction qui relève exclusivement d'une instance d'audition, indépendante de l'OAD).

L'ajout de la dernière phrase du commentaire de l'article 10.8.2, proposé à modification et actuellement rédigé comme suit :

" *Provided, however, that any application of article 10.8.2 must be subject to WADA's approval"*

peut donc également être accepté dans ce contexte. Il clarifie même les choses dans ce contexte là.

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

The current obligation to inform the athlete of the possibility of entering a case resolution agreement in combination with WADA's restrictive approach to accepting them, creates unrealistic expectations from the athletes.

We would therefore suggest that this is made clearer (expectation that it is in exceptional circumstance) in the Code, and that WADA provide much more additional guidance on how to apply this in practice

SA Institute for Drug-Free Sport SUBMITTED
khalid galant, CEO (Souoth Africa)
NADO - NADO

General Comments

The whole section needs to revised where the RMA should be given the space to enter into an agreement with the athlete, without the necessity for agreement with WADA. Although the term 'agreement' is used, WADA applies this article to mean "with WADA approval". The term "sole discretion is dishonest and misleading as WADA does not allow the RMA the "sole discretion".

WADA should have the right to appeal the CRA should they disagree with RMA

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA notes that an Athlete's election to pursue a Case Resolution Agreement at end of matter often leads to a more drawn-out matter with results not dissimilar to that proposed in a Letter of Charge.

SIA is seeking further guidance from WADA to provide some confines as to the type of matters which would be appropriate for consideration in this regard.

Article 10.14 (3)

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

general guidance and examples are more than welcome

NADO Flanders SUBMITTED
Jurgen Secember, Legal Adviser (België)
NADO - NADO

General Comments

(ii) the addition of the examples is not seen as fitting for the Code article itself. If examples are to be given, it should be extended to other professional competitions, which do not only exist in the US. There are several organizations, for example in boxing, MMA, kickboxing and others that can be considered professional leagues. The examples have no place in the article itself, if WADA still insists that the provisions are to be implemented in national regulations without any change (forcing a NADO to copy every word of the article).

(iii) if this means that a suspended athlete or other person can not engage in government events or government funded events which are intended for merely recreational purposes, this is beyond the scope of the ineligibility.

(iv) the wordings “without limitation” can be contrary to the right to free labor. The “sports related services” should not be interpreted in the broadest sense. The wordings (without limitation) give cause to an extensive interpretation, such as not being allowed to function as a PE teacher in a school, when pupils at the school are also members of signatory federations. Extending the scope, would clearly affect the right to exercise the profession. To be clear: coaching and direct sports related services are still to be considered as prohibited, but the adding of “without limitation” is a cause of concern for NADOF.

UK Anti-Doping
SUBMITTED
UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

A breach of the Prohibition against Participation is not an Anti-Doping Rule Violation of itself. However, there are a number of aspects of the Code and Results Management processes that should apply mutatis mutandis to these matters as if they were Anti-Doping Rule Violation matters. For example, public disclosure should follow as a Consequence in similar terms in breaches of Prohibition against Participation matters. We welcome any efforts to close any gaps in the application of the Code to these matters, which may arise as an unintended consequence of them not being classed as 'Anti-Doping Rule Violations' per se.

Article 10.14.1 (18)

International Waterski & Wakeboard Federation (IWWF)
SUBMITTED
Gerhard Propst, Chairman Anti Doping Committee (Austria)
Sport - IF – Non IOC-Recognized SportAccord

General Comments

In addition to professional leagues and international or national event organisations, purely commercial private sporting events such as Red Bull events, show competitions, public cross-country marathons and the like should also be explicitly covered by the participation ban in sub point (ii).

World Rugby
SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby supports WADA's efforts to better clarify the conditions of ineligibility, however we believe the wording needs further review and could actually lead to more confusion in its current state.

More clarification is also needed with regards to 'authorized education or rehabilitation programmes' in order to make clear whether this refers to corrective behavioural education given directly to the athlete, or the athlete's involvement in supporting the ADO's education initiatives (such as showing contrition/discussing their 'mistakes' with other athletes as a form of education for the recipient athlete).

We also request that consideration is given to whether different ineligibility conditions should be applied to sanctions related to substances of abuse (and the proposed new sanctions for failure to obtain a TUE), as the short term nature of these suspensions may not necessitate the same separation of an athlete from the day to day operation of their sport and training.

International Olympic Committee
SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

The increased consequences associated with the status of ineligibility reinforce the deterrent nature of the Code, but could raise problems in terms of the proportionality of the sanction and/or the monitoring of its implementation. It would certainly be appropriate to consult the IFs on this issue.

Hannah Grossenbacher :

This seems to be a clarification - this has always been the understanding from an IOC perspective and would recommend welcoming the modifications

Pierre Ketterer says :

You are right. These changes seem to codify the deleted comments.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendment, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED

Ida Nilsson, Legal advisor (Sverige)

Sport - National Olympic Committee

General Comments

SSC think that this proposal is good and practical examples are appreciated. Although, as an example in the comment it is stated that an ineligible Person could not attend or participate in an organization's annual meeting (…). SSC considers the opposite, i.e., that an ineligible person should be able to attend and participate (vote) on their own clubs annual meeting. If they are still members of the club, this should be a right of a member. It could also be mentioned that an ineligible person could not be in the board or a member of any counsels within the club.

10.14.1 (IV) could also include an example relating to receiving training programs from a coach (from a referenced organization).

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 10.14.1 Status during ineligibility or provisional suspension

More clarity needed about the ineligible or provisionally suspended athlete's and other person's participation in private events and training camps.

New Article 10.14.1 (iv): Athlete Support Personnel Restrictions

May be to add that not only "to any Athlete", but "and any Athlete Support Personnel" who is bound by rules.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

NADA Austria supports this provision, especially clarifications related to Art. 10.14.1 iv – vii

"*compete or participate in Competitions or training activities authorized or organized **by any professional league** (e.g., the National Hockey League, the National Basketball Association, etc.) or any international- or national-level Event organization"*

→ Red Bull events for example, although big and important competitions, seem not to be included by this definition.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

Supported

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI would suggest to add in the last paragraph of Art. 10.14.2 a clarification that any athlet or other person subject to a period of ineligibility remain not only subject to testing and whereabouts requirements but even more subject to the Code and in particular the provisions regarding the violations set out under Art. 2. SSI would suggest an addendum such as: An Athlete or other Person subject to a period of Ineligibility remains subject to the Code and in particular to the provisions regarding the violations set out under Article 2.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED

Petteri Lindblom, Legal Director (Finland)

NADO - NADO

General Comments

More clarity needed about the ineligible or provisionally suspended athlete's and other person's participation in private events and training camps.

For example it would almost impossible to assess whether it's a violation or not regarding comment 79.4

LTUNADO SUBMITTED

Erika Petrutyte, Lawyer (Lithuania)

NADO - NADO

General Comments

1. *(iV)It would be proper to add that not only "to any Athlete", but "**and any Athlete Support Personnel"** who is bound by rules.*

2. in "(v) except as allowed by **Article 14.1.2**, train in any facility owned or controlled by any *Signatory*, *Signatory's* member organization, or a club or other member organization of a *Signatory's* member organization;"

should be provision to Article 10.14.2 not 14.1.2

Suggested changes to the wording of the Article

(iv) provide any sport-related services, including without limitation serving as a coach or other Athlete Support Personnel, to any Athlete ***and any Athlete Support Personnel*** bound by rules adopted pursuant to the Code (and doing so could also result in a violation of Article 2.10 by such Athlete(s));

Reasons for suggested changes

Some times *Person* subject to a period of *Ineligibility is likely to provide support "services" to members of National Federations or Teams*

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We do not consider all of the examples provided within Comment 79 to Article 10.14.1 to be sufficiently clear. In particular we query the permissibility of an ineligible distance runner 'going for a run' with other elite Athletes. Running in this context could be considered 'training' for the ineligible Athlete and/or associating elite Athlete(s). This Comment would undermine an Anti-Doping Organisation's ability to identify a breach of the prohibition against participation provisions and/or investigate any potential allegations of Prohibited Association.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Specific to the applicability of the rules to employees, consideration should be given to any employment law ramifications that may result during a period of ineligibility.

In comment to Article 10.14.1 the CCES would suggest the inclusion of provisional suspensions.

Suggested changes to the wording of the Article

Proposed wording: Any performance standard accomplished during a **Provisional Suspension**, or a period of Ineligibility shall not be recognized by a Signatory or its National Federations for any purpose.

UAE National Anti-Doping Committee SUBMITTED

Amr Adel, Lead - Testing & Athlete's Services (UAE)

NADO - NADO

General Comments

1. Point (4) in Comment No. (79):

(4) An ineligible figure skater could receive coaching or athletic trainer services from Athlete Support Personnel who also work for a referenced organization as long as the services provided to the figure skater are not performed as part of the Athlete Support Personnel's job duties for the referenced organization; and

2. There is a typing error in point (v) of Article 10.14.1

*v) except as allowed by Article **14.1.2**, train in any facility owned or controlled by any Signatory, Signatory's member organization, or a club or other member organization of a Signatory's member organization;*

Suggested changes to the wording of the Article

1. We need to specify that any services provided by Athlete Support Personnel to an ineligible athlete should occur away from the primary sports facility where the entire team trains. Logically, the presence of Athlete Support Personnel at the main training location would mean they are fulfilling their official duties.

Also, the places designated for training within the sports facility may be owned or controlled by any Signatory, Signatory's member organization, or a club or other member organization of a Signatory's member organization. This situation may present a conflict with point (v) of Article 10.14.1.

2. The referred article in point (v) should be **10.14.2** not 14.1.2.

Reasons for suggested changes

For further clarification, to avoid conflict between the articles and to correct a typo.

Anti-doping Bureau of Latvia SUBMITTED

Mārtiņš Dimants, Director (Latvia)

NADO - NADO

General Comments

1. **Article 10.14.1, Commentary** - The example regarding coaches suggests that *an ineligible figure skater could receive coaching or athletic trainer services from Athlete Support Personnel affiliated with a referenced organization, provided these services are not part of the Support Personnel's official duties for that organization*. It is unclear how this provision can be practically enforced. NADOs may find it extremely difficult, if not impossible, to ascertain when the trainer is working with an ineligible athlete as part of their official duties and when they are not. This exception appears impractical and should be removed, as it would allow ineligible athletes to freely train with any personnel during their ineligibility period.

    a. LAT-NADO suggests adding an exemption that allows ineligible athletes to work as physical education teachers in schools as part of an educational program, provided they do not participate in competitions where the school team is involved. This example should be included in the commentary to provide clear guidance.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

ADSE think that this proposal is good and practical examples are appreciated. Although, as an example in the comment it is stated that an ineligible Person could not attend or participate in an organization's annual meeting (…). ADSE considers the opposite, i.e., that an ineligible person should be able to attend and participate (vote) on their own clubs annual meeting. If they are still members of the club, this should be a right of a member. It could also be mentioned that an ineligible person could not be in the board or a member of any counsels within the club.

Further, example 4 in the comment need clarification. Isn't it normally in an ASP's job duties to coach athletes? Further, could an ineligible athlete receive training programs from an ASP, if the ASP does that outside his job duties for a referenced organization?

Receiving training programs (or not) from a coach would preferably be explicitly stated in the comments section.

Caribbean Regional Anti-Doping Organization SUBMITTED

Marsha Boyce, Communications & Projects Coordinator (Barbados)

NADO - RADO

General Comments

Comment #4 in this section which provides an example of allowable activities might introduce confusion/uncertainty/grey areas: 4) an Ineligible figure skater could receive coaching or athletic trainer services from Athlete Support Personnel who also work for a referenced organization as long as the services provided to the figure skater are not performed as part of the Athlete Support Personnel's job duties for the referenced organization.

Taking into account Article 21.2.7 (which bars ASP serving a period of ineligibility from working with athletes), the example outlined here for an ineligible athlete raises questions.

Chair SUBMITTED

Athlete Council, WADA (Canada)

Other

General Comments

Prohibition against Participation During Ineligibility (10.14.1.i)

This article lists the types of activities not allowed during periods of ineligibility or provisional suspension. The latest draft adds seven sub-articles plus a half-page Comment with five sub-comments. Unfortunately this effort to enhance clarity has backfired, in our view. We think this article could benefit from simplification.

Prohibition of Participation in Non-signatory Leagues (10.14.1.ii)

Our understanding of this article is that sanctions under the WADA Code extend to non-signatory leagues. If this interpretation is correct, then we think the clause in blue, below, should be added, in order to be explicit:

"compete or participate in Competitions or training activities authorized or organized by any professional league, including those which are not signatory to the WADA Code, (e.g., the National Hockey League, the National Basketball Association, etc.) or any international- or national-level Event organization...

> As WADA does not have jurisdiction over the activities of non-signatories, we assume that the intention of the article is to give WADA the right to impose an additional sanction on an athlete who returns to play in a non-signatory league while under WADA sanction.

Article 10.14.2 (3)

Brazilian Olympic Committee SUBMITTED

André Rodrigues, Technical Scientific Coordinator (Brazil)

Sport - National Olympic Committee

General Comments

It is not clear.

It says:

"... imposed. These permitted training windows for Protected Persons shall be the last one-half of the period of Ineligibility imposed."

and on Definitions:

Protected Person: An Athlete or other natural Person who at the time of the anti-doping rule violation: (i) has not reached the age of sixteen (16) years; (ii) has not reached the age of eighteen (18) years and is not included in any Registered Testing Pool and has never competed in any International Event in an open category; or (iii) for reasons other than age has been determined to lack legal capacity under applicable national legislation.

Suggested changes to the wording of the Article

"...imposed.These permitted training windows for Protected Persons shall be the last one-half of the period of Ineligibility imposed. These windows should be considered at the same time of the imposed sanction."

or...

"...imposed.These permitted training windows for Protected Persons shall be the last one-half of the period of Ineligibility imposed. These windows should be considered at the same time of the fault that provoked the sanction."

Reasons for suggested changes

If a fault happened when an athlete was 17yrs 11mths. The sanction was imposed when the athlete was 18yrs 06mths. Can he/she have this one-half period or not? It is not clear.

Maybe it should be best described in other terms, maybe on the footnotes (comments). However, as it is could bring doubts for the evaluation and application of the sanction and respective window.

LTUNADO SUBMITTED
Erika Petrutyte, Lawyer (Lithuania)
NADO - NADO

General Comments

There is a need for clear guiding criteria in the guidelines to determine when a 'friendly' game should be considered as a competition or simply training with a team. Factors such as whether there is prize money involved, the presence of a referee, an audience, or other relevant elements should be considered.

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Returning to Training

Our working group has mixed views on this provision, which allows athletes to return to training before the end of their sanction. One viewpoint is that this provision is unnecessary, undermines the sanction, and that athletes should only return once the period of ineligibility has ended. Another viewpoint is that, realistically, enforcement of the prohibition against training in the final months of a sanction is unlikely, and so it is logical that such a return to training is permitted.

Both viewpoints lead to the following questions: why does this allowance exist, and is the prohibition against training enforced?

Article 13.1.2 (7)

International Tennis Integrity Agency SUBMITTED
Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

General Comments

Article 13 - The ITIA remains of the view that the appeal process should not be on a de novo basis – the appeal should be restricted to grounds of new information or a procedural issue. Re-hearing the whole case is costly, time consuming for all parties and can undermine the first instance independent tribunal and the purpose for which it is there.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

In principle, NADA agrees to the procedural language being English. However, the parties shall be allowed to submit any documents in the original language without English translation (especially, expert witness reports). Otherwise, WADA or the IF should bear the costs of translation in this respect, as a one-sided cost or personnel burden would result for NADOs that do not operate in English or French.

COL-NADO SUBMITTED

Néstor Alejandro Gómez Guerrero, Coordinador (Colombia)

NADO - NADO

General Comments

La lista incluyó decisiones técnicas que se toman dentro de la indagación preliminar, esto implica que actores que antes no podían apelar ahora tendrán la oportunidad de cuestionar decisiones técnicas y administrativas de la ONAD, lo cual plantea riesgos y desafíos.

Suggested changes to the wording of the Article

La ampliación de la lista de decisiones apelables incluye lo siguiente:

- Decisiones de no imponer una Suspensión Provisional.
- Decisiones de la Autoridad de Gestión de Resultados de no registrar una falla de paradero.
- Decisiones de no presentar un Resultado Adverso de Pasaporte o un Resultado Atípico de Pasaporte después de la revisión.

Reasons for suggested changes

En su gran mayoría Las ONAD´s, en Latinoamérica tienen la calidad de autoridad gubernamental y regulatoria, por tanto la potestad de tomar decisiones en el marco del control antidopaje. Estas decisiones no son emitidas por un panel independiente o un tribunal de expertos, sino por una entidad que forma parte del Estado, lo cual podría plantear un posible conflicto de competencias y ser vista como una interferencia en el ejercicio soberano de la autoridad regulatoria.

Permitir la apelación de decisiones de una autoridad gubernamental puede generar las siguientes problemáticas:

- Fragmentación de competencias: Si las decisiones de la ONAD son apeladas, esto puede diluir la autoridad de la agencia nacional en la toma de decisiones y crear incertidumbre sobre quién tiene la última palabra en el manejo de casos de dopaje.
- Incertidumbre jurídica: El sistema de apelaciones puede crear incertidumbre respecto al papel de la ONAD frente a los jueces ordinarios nacionales, por cuanto las decisiones de una autoridad de gobierno, podrían tener recursos ante los jueces civiles o administrativos.

Aunque la ampliación de las decisiones apelables dentro del CMA responde a una necesidad de mayor transparencia y supervisión, la implementación debe asegurar que no se debilite la función de la ONAD ni se sobrecargue el sistema con apelaciones innecesarias.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

NADO's should not be held responsible for decisions taken by independent hearing bodies. No consequence should be given to NADO's for decision taken by independent hearing bodies, e.g. no costs of the appeal at CAS. This should be clarified in the Code and in the ISCCS.

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Language of Proceedings

We do not support this change and recommend retaining the provision in the 2021 Code that allows for a summary in English or French. The requirements that the case files be produced in English or French and in a machine-readable format would significantly increase the burden on ADOs and would be unfair to non-English or non-French speaking countries. In complex cases, the volume of the case file could be substantial, and translating them would be time-consuming, which would significantly increase the time required for results management and for WADA and the applicable ADO to decide whether or not to appeal.

Suggested changes to the wording of the Article

We do not support this change and recommend retaining the provision in the 2021 Code that allows for a summary in English or French.

Reasons for suggested changes

The requirements that the case files be produced in English or French and in a machine-readable format would significantly increase the burden on ADOs and would be unfair to non-English or non-French speaking countries. In complex cases, the volume of the case file could be substantial, and translating them would be time-consuming, which would significantly increase the time required for results management and for WADA and the applicable ADO to decide whether or not to appeal.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

clear and comprehensive.

Suggested changes to the wording of the Article

No changes needed.

Anti-Doping Sweden SUBMITTED
Jessica Wissman, Head of legal department (Sverige)
NADO - NADO

General Comments

The proposal that the parties with a right to appeal shall be provided with a case file in French or English is **not** supported by ADSE. This requires too many resources from the ADO.

Other comment on article 13.1.3: The article indicates that WADA has the right to appeal decisions directly to CAS, without exhausting the national remedies first. In ADSE's opinion this option should only be applied in exceptional circumstances. Primarily, the appeal should take place through the national remedies when it includes national-level athletes. This with respect to costs for the athletes (and NADOs), language barriers and with respect to the extended process in CAS, which is not in the best interest for the athletes.

Other relating comment: ADSE have noted that there is no consensus regarding an athlete's possibility to have a final decision reviewed in case there are new circumstances that have not earlier been brought up (which would probably have led to a lover sanction). ADSE think this topic is very important and hope that it will be reopened for discussion within the Code Drafting Team. Guiding case law is not easily accessible for athletes and it is therefore necessary with a process in the Code/the ISRM.

Article 13.2 (10)

Team USA Athletes' Commision SUBMITTED
Meryl Fishler, Manger (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

We believe a decision not to go forward with an anti-doping rule violation after an investigation should be appealable.

International Tennis Integrity Agency SUBMITTED
Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

General Comments

Article 13.2.5 - The ITIA notes but also seeks clarification why appeals from decision made by WADA follow a different approach

NADA SUBMITTED
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

It should be clarified that this article only applies to RTP athletes and the appeal should only be directed against the RMA and not against the athlete (the athlete should not be at risk of a legal costs order, as long as it is not yet an anti-doping rule violation)

Japan Anti-Doping Agency SUBMITTED
Chika HIRAI, Director of International Relations (Japan)
NADO - NADO

General Comments

13.2.3.3
By deleting "CAS", causes change in context and it is unclear what kind of appeals applies to this clause.

It is unclear what scope of appeals is being considered.

It also needs to be clarified the content of the notice and who should be sent it to.

UK Anti-Doping SUBMITTED
UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

Comment 90 to Article 13.2.2 - We support the addition of this new Code comment. However, we also suggest that such physicians should have experience in reviewing TUE applications if they are to be included in a national-level appellate body to consider a TUE appeal from an Athlete.

Suggested changes to the wording of the Article

90 [Comment to Article 13.2.2: For TUE appeals it is recommended that the appellate body include at least one physician with experience in the care and treatment of Athletes, ~~and~~ a sound knowledge of clinical, sport and exercise medicine, and with experience of reviewing TUE applications.]

LTUNADO
Erika Petrutyte, Lawyer (Lithuania)
NADO - NADO

SUBMITTED

General Comments

Provisions regarding the Party of the appeal which is not decision-making body should be changed. For example, if decision is made by HP/commission or other hearing body, but not NADO, the appeal should not be against NADO just because hearing body is in NADOs country. Hearing bodies are independent from NADOs and Hearing body can issue decision which is not supported by NADO (or even in contrast to NADO charges). For example- NADO charged athlete for 4 y, but Hearing body decides- 1y, WADA appeals and asks 4 y (as NADO did before).

Myanmar Anti-doping Organization
Htet Wai, Secretary (Myanmar)
NADO - NADO

SUBMITTED

General Comments

The appeal process is well-defined.

Suggested changes to the wording of the Article

Please consider adding a sentence at the end of Article 13.2.1

"The deadline to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party."

Reasons for suggested changes

to clarify the deadline for appeals.

USADA
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

SUBMITTED

General Comments

Article 13.2 – WADA's change to the seventh bullet points creates confusion and overlap with the eighth bullet point.

Article 13.2.2 Comment – It is not practical for a physician to sit as an arbitrator (i.e., legal proceeding) regarding TUEs, and arbitrators, like judges, make decisions every day around the world in medical disputes. They are trained to do so as legal professionals after having hear the expert testimony and evidence submitted by the parties. Additionally, as a practical matter, it does not seem to be common practice to have arbitrator pools with physicians in them.

Article 13.2.3.5 – WADA's Intelligence and Investigations department needs to be factored into appeal timelines.

Suggested changes to the wording of the Article

13.2, Recommended Change:

Go back to the original wording for the seventh bullet point.

13.2.2.5, Recommended Changes:

a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed;

b) Twenty-one (21) days after WADA receipt of the complete file relating to the decision; or

c) Thirty (30) days after WADA's Intelligence and Investigation department initiated an investigation into the facts of the underlying case, which can be extended for an additional thirty (30) days based on exceptional circumstances, provided such an investigation was initiated within the deadlines described in (a) or (b).

Reasons for suggested changes

13.2, Reasons for the Change:

The changes to the seventh bullet point under this article are curious because they seek to conflate what were previously two distinct provisions (the seventh and eighth bullet points).

Before the proposed changes there were two distinct provisions: (1) allowing WADA to appeal a decision to impose or lift a Provisional Suspension as a result of a Provisional Hearing (seventh bullet point) and (2) allowing WADA to appeal an Anti-Doping Organization's failure to comply with Article 7.4, which deals with Provisional Suspensions (eighth bullet point).

Under the latter provision, there was no requirement that an Anti-Doping Organization make a decision not to impose a Provisional Suspension for WADA to appeal because the Anti-Doping Organization's failure to impose a provisional suspension would provide sufficient grounds.

Through these proposed changes, however, WADA has removed the previously existing distinction between the two provisions. Specifically, WADA has removed the reference to a decision made by a Provisional Hearing and added "not impose," suggesting that an Anti-Doping Organization would, under this revised provision, be required to issue a decision it was not imposing a provisional suspension.

But such a decision is not required under the eighth bullet point, so this proposed change has confused and conflated the two provisions. Stated differently, this proposed change has created overlapping provisions: one requiring a decision and the other not requiring a decision.

13.2.2.5, Reasons for Change:

WADA must have time to investigate cases and develop facts to inform its decision whether to appeal.

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Appealable Decisions

In general, we propose language to clarify that a signatory's failure to act in accordance with the Code is appealable regardless of whether an official decision not to act was taken. With the addition of the ISII, we suggest that the list of appealable decisions in article 13 should include an ADO's decision not to investigate a matter (or its failure to investigate, without an official decision, as per the suggestion above).

WADA NADO Expert Advisory Group SUBMITTED
Martin Holmlund Lauesen, member (Norge)
Other - Other (ex. Media, University, etc.)

General Comments

In case WADA appeals a case to CAS against a decision of a hearing body it is inappropriate that ADO is also respondent and therefore may be obliged to pay costs of the proceedings.

NADOs should not be held responsible for decisions taken by independent hearing bodies

This contradicts the sense of independent hearing bodies which adjudicate anti-doping proceedings. Those appeals should be made against the athlete without additionally adding the ADO as respondent.

Article 13.2.3.2 (4)

Council of Europe SUBMITTED
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 13.2.3

Appellant rights (of WADA) must be cleared and fixed (only towards the decision / athlete). NADOs and IFs acting as claimant at first instance as well as independent arbitration bodies ruling in the first instance MUST NOT be Respondent at the appeal level.

NADA Austria
SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

It is not clear why after a decision of a national appeal body only WADA, IF, IPC & IOC may appeal to CAS. This first of all undermines fundamental appeal rights of the athlete and also takes the chance for ADOs to appeal such decisions.

Swiss Sport Integrity
SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

NADOs and IFs acting as claimant at first instance as well as independent arbitration bodies ruling in the first instance should not be Respondent at the appeal level.

Finnish Center for Integrity in Sports (FINCIS)
SUBMITTED
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

Appellant rights (of WADA) must be cleared and fixed (only towards the decision / athlete). NADOs and IFs acting as claimant at first instance as well as independent arbitration bodies ruling in the first instance MUST NOT be Respondent at the appeal level.

Article 13.2.5 (9)

World Rugby
SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby support the the addition of Article 13.2.5.

International Olympic Committee
SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

The reasons for this change in the scope of the review that the CAS can conduct would be interesting to know.

Ministry of Health, Welfare and Sport
SUBMITTED
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

General Comments

This new article prescribes that all WADA's decisions can be appealed exclusively to CAS. We believe this is reasonable for the decisions listed in article 13.2 of the Code. However, this formulation may inadvertently limit possible legal recourse athletes, stakeholders or employees may have in a court of law. It should therefore be made explicit in this article 13.2.5 that it concerns the decisions listed in article 13.2.

Suggested changes to the wording of the Article

The first sentence of this new article 13.2.5 should read:

"All appeals to the decisions made by WADA, as listed in article 13.2, shall be made exclusively to CAS

Reasons for suggested changes

The formulation proposed by WADA may inadvertently limit possible legal recourse athletes, stakeholders or employees may have in a court of law. It should therefore be made explicit in this article 13.2.5 that it concerns the decisions listed in article 13.2.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

New Art. 13.2.5

In this case, the exhaustion of the appeal process of the respective national law must be respected, which may have to be considered before the CAS appeal.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

Could more information be provided about the phrase "shall be whether the decision was arbitrary"?

NADO Flanders SUBMITTED

Jurgen Secember, Legal Adviser (België)

NADO - NADO

General Comments

The wording is too general, not specifying which decisions these are. It should be limited to decisions within the scope of the Code itself, not limiting the right of judicial recourse.

For the second paragraph, although it is acceptable that an appeal is limited to examining the arbitrary nature, it can create an imbalance between the ADO and WADA. This is especially the case for article 10.7, where an ADO can put forward a reduction under substantial assistance, but WADA can decide to reject this. The limited scope of appeal sets the ADO in the position where the balance of the decision fully shifts to WADA, which is probably not intended by this article and certainly not preferable from the ADO point of view.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED

Petteri Lindblom, Legal Director (Finland)

NADO - NADO

General Comments

In this case, the exhaustion of the appeal process of the respective national law and national anti-doping rules must be respected, which may have to be considered before the CAS appeal.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Nous nous permettons de renvoyer à notre commentaire général et au besoin légitime de pouvoir disposer, le plus rapidement possible, de la part de l'AMA, d'une évaluation d'impact des différentes propositions, sur les règles et législations applicables mais aussi sur les ressources humaines et financières des signataires.

Cette demande d'évaluation d'impact s'applique également concrètement pour cette proposition de modification. Est-ce que le nouvel article 13.2.5, alinéa 2, tel que proposé :

"*All appeals against decisions made by WADA shall be made exclusively to CAS.*"

aurait un impact sur les ressources humaines et/ou financières des signataires ?

Par ailleurs, nous sommes un peu étonnés du libellé l'article 13.2.5, alinéa 3, tel que proposé :

"*Notwithstanding Article 13.1, the appellate standard of review for decisions made by WADA, or made with WADA's approval under Articles 5.6.1, 10.7 and 14.1.2 shall be whether the decision was arbitrary.*"

Nous proposons de reformuler cet alinéa de la manière suivante :

"*Notwithstanding Article 13.1, the appellate standard of review for decisions made by WADA, or made with WADA's approval under Articles 5.6.1, 10.7 and 14.1.2 shall be whether the rules were correctly applied.*" "

UK Anti-Doping SUBMITTED
UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

We disagree that all appeals against decisions made by WADA should be made exclusively to the CAS and query the justification for this. CAS proceedings are costly for the parties concerned and we have concerns regarding the timeliness with which CAS decisions are rendered (notwithstanding any proposed amendments to the Code to address this issue). Where there is an appropriate body to hear an appeal at national level, it should be permissible for that body to consider appeals against WADA decisions.

No guidance is provided as to what constitutes an 'arbitrary' decision and there is no Code comment to accompany this Article. We seek clarity as to what is meant by 'arbitrary' in this context. If there is any relevant jurisprudence to support this standard of review, it should be highlighted in accompanying commentary.

Article 13.3 (5)

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

Should this be limited to "appealable decisions under its authority"? See Article 13.3

NADA SUBMITTED
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

Why was the passage deleted? Does this not open up a framework that is too broad and legally uncertain for the purpose of determining who bears the costs? What are the arguments for the deletion?

Swiss Sport Integrity SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

CAS should also render timely decisions. See also comment in "Other issue - Timely CAS decisions".

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

clear and appropriate.

Reasons for suggested changes

No changes needed.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Nous nous permettons de renvoyer à notre commentaire général et au besoin de pouvoir disposer, le plus rapidement possible, de la part de l'AMA, d'une évaluation d'impact des différentes propositions, sur les règles et législations applicables mais aussi sur les ressources humaines et financières des signataires.

Cette demande d'évaluation d'impact s'applique également concrètement pour cette proposition de modification. Est-ce que le nouvel article 13.3, tel que proposé :

"*Where, in a particular case, an Anti-Doping Organization fails to render aan appealable decision under its authority with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS (subject to the CAS Appeal Division Rules by analogy) as if the Anti-Doping Organization had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines ~~that an anti-doping rule violation was committed and~~ that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorney fees in prosecuting the appeal shall be reimbursed to WADA by the Anti-Doping Organization."*

aurait un impact sur les ressources humaines et/ou financières des signataires ? Si oui et il nous semble que ce soit le cas, car une condition légitime (le fait de constater qu'une violation des règles antidopage a été commise) serait supprimée, alors nous ne serions pas favorables à cette proposition.

Article 13.4 (2)

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

- We support the proposed changes.
- If the athlete wants to appeal, then there has to be a medical practitioner on that body in order to address 4.2 criteria. It would be difficult for the Sports Tribunal to apply the ISTUE with no medical knowledge. As it stands, New Zealand athletes must appeal the Commission's decision to the Sports Tribunal however we wish to explore other options such as contracting Sport Integrity Australia's TUEC Committee members. This relates to our TUE Committee not being large enough to redistribute the case to a different 3 doctors than those who originally reviewed it; this is how larger TUE Committee's operate when an athlete appeals.

"This feedback was endorsed by the Athlete Commission of the Sport Integrity Commission Te Kahu Raunui."

Myanmar Anti-doping Organization SUBMITTED

Htet Wai, Secretary (Myanmar)

NADO - NADO

General Comments

The process is well-explained.

Suggested changes to the wording of the Article

No changes needed.

Article 13 (13)

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED

Ida Nilsson, Legal advisor (Sverige)

Sport - National Olympic Committee

General Comments

SSC support the proposals in article 13.2, 13.2.5 and 13.1.2. However, the proposal that the parties with a right to appeal shall be provided with a case file in French or English is not supported by SSC. This requires too many resources from the ADO.

Other comments-Code Article 13.1.3

Code Article 13.1.3 indicates that WADA has the right to appeal decisions directly to CAS, without exhausting the national remedies first. In SSC's opinion this option should only be applied in exceptional circumstances. Primarily, the appeal should take place through the national remedies when it includes national-level athletes. This with respect to costs for the athletes (and NADOs), language barriers and with respect to the extended process in CAS, which is not in the best interest for the athletes.

Japan Sports Agency SUBMITTED

Japan Sports Agency Anti-Doping Unit, Anti-doping Unit Chief (Japan)

Public Authorities - Government

General Comments

In case of WADA appeals to CAS against the decision at the national level, it is not specified how the NADO should be involved in the CAS arbitration in current WADC at all.

It is required that the regulations must clearly state the role and conditions of NADOs when WADA files an appeal to CAS. Additionally, the regulations should clearly specifyas to whether NADOs should bear the costs incurred from filing an appeal to CAS by WADA, and if so, what proportion of the costs NADOs should be responsible for.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

1. Art 13

NADO's should not be held responsible for decisions taken by independent hearing bodies. No consequence should be given to NADO's for decision taken by independent hearing bodies. This should be clarified in the Code and in the ISCCS.

2. Art. 13

Changes Related to Appeals

Strongly disagree with the requirement for non-French/English speaking NADOs to translate all case files all the time. It's a big burden - financial, administrative, time consuming. Sometimes case files, for example medical documents, can be hundreds of pages long. It can also be a problem to give interpreters access to sensitive medical data. It should be sufficient to provide summaries in EN or FR.

3. Art 13.1.1

Timelines

WADA should also have time limits for the decisions it makes, when ADO, for example, has to request WADA's approval in some cases. Athlete is waiting for a decision about his/her future and cannot, for example, sign a new contract with a club. Nowadays it can take 6 months to get a decision from WADA.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

In case WADA appeals a case to CAS against a decision of a hearing body it is inappropriate that the ADO is also respondent and therefore may be obliged to pay costs of the proceedings.

NADOs should not be held responsible for decisions taken by independent hearing bodies.

This contradicts the sense of independent hearing bodies which adjudicate anti-doping proceedings. Those appeals should be made against the athlete without additionally adding the ADO as respondent.

Japan Anti-Doping Agency SUBMITTED

Chika HIRAI, Director of International Relations (Japan)

NADO - NADO

General Comments

In case WADA appeals to CAS against the national level decision, it is not specified how the NADO should be involved in the CAS arbitration in current WADC at all.

In our view, it is required that the regulations must clearly state the role and conditions of NADO when WADA files an appeal to CAS.

Additionally, the regulations should clearly specify whether NADO should bear the costs incurred from filing an appeal to CAS by WADA, and if so, what proportion of the costs NADO should be responsible for.

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

De manière générale, par rapport à l'article 13 et aux appels, une ONAD ne devrait plus être tenue responsable d'une décision prise par une instance d'audition tout à fait indépendante de l'ONAD. Cela s'oppose en effet à l'autonomie opérationnelle et structurelle de l'instance d'audition et au principe essentiel de la séparation des pouvoirs. En conséquence, une ONAD ne devrait recevoir ou risquer aucune conséquence pour une décision prise par une instance d'audition indépendante de l'ONAD. Ceci devrait être précisé dans le Code et dans le Standard international pour le conformité au Code des signataires.

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

In cases where WADA appeals a decision of a hearing body to CAS it is inappropriate that ADO is also respondent and therefore may be obliged to pay costs of the proceedings.

I.e. NADOs should not be held responsible for decisions taken by operationally (and in some instances institutionally) independent hearing bodies.

This contradicts the sense of independent hearing bodies which adjudicate anti-doping proceedings. Those appeals should be made against the athlete without additionally adding the ADO as respondent.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

NADO's should not be held responsible for decisions taken by independent hearing bodies. No consequence should be given to NADO's for decision taken by independent hearing bodies. This should be clarified in the Code and in the ISCCS.

Strongly disagree with the requirement for non-French/English speaking NADOs to translate all case files all the time. It's a big burden - financial, administrative, time consuming. Sometimes case files, for example medical documents, can be hundreds of pages long. It can also be a problem to give interpreters access to sensitive medical data. It should be sufficient to provide summaries in EN or FR.

Agence française de lutte contre le dopage SUBMITTED
Adeline Molina, General Secretary Deputy (France)
NADO - NADO

General Comments

Les ONAD ne devraient pas être tenues pour responsables, au titre de la conformité, des décisions rendues par les panels indépendants alors que le code mondial antidopage impose l'indépendance de panels.

De plus, la compétence du TAS (lorsque les faits concernent un sportif de niveau international ou ont été commis lors d'une manifestation internationale) est dépendante des définitions de ces concepts qui sont à la main des fédérations internationales. Or, les fédérations internationales tendent à étendre ces définitions à des compétitions de niveau national. Il en résulte un risque de multiplication des recours devant le TAS impliquant des ONAD pour des affaires qui devraient relever de la FI. Ce phénomène n'est pas non plus dénué d'impact concernant d'autres domaines du programme antidopage, tels que les AUT par exemple. Le code devrait utilement évoluer pour mieux assurer la cohérence et la répartition des publics des ONAD et des FI.

Enfin, dans la mesure où ces décisions sont rendues par les ONAD à l'égard de sportifs relevant du niveau international, il serait légitime et pertinent d'envisager toute mesure permettant que leur appel devant le TAS

bénéficie de la gratuité prévue à l'article 65 du Code de l'arbitrage en matière de sport.

Myanmar Anti-doping Organization
SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

well-explained.

Suggested changes to the wording of the Article

No changes needed.

USADA
SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 13.1 – WADA and ADOs do not have the ability to expedite CAS appeals prior to a major *Event*. Additionally, there have been unreasonable delays by CAS Panels or CAS issuing written awards.

Article 13.1.3 – There is no easily accessible central database for all published arbitration decisions and awards. WADA should create an open access, searchable case repository for published arbitration decisions it receives. It could add a provision, “Decisions subject to WADA publication” in the Code requiring such a database. This would level-set the anti-doping field ensuring athletes and anti-doping organizations have the same access to anti-doping awards as WADA. This furthers the purposes of WADA and the World Anti-Doping Program of education, rule of law, harmonization and transparency. WADA’s foundational principles of harmonization and transparency.

Suggested changes to the wording of the Article

Recommended Changes:

Replace Article 13.1.3 with the following and move the current Article 13.1.3 to Article 13.1.5.

13.1.3 Expedited CAS Appeals

WADA or an ADO have the right to expedite a CAS appeal to ensure resolution prior to a major *Event* at which the *Athlete* is scheduled to compete.

13.1.4 Timing of CAS Reasoned Awards

CAS Panels shall absent exceptional circumstances approved and documented to the parties by the *CAS* President issue reasoned awards within 60 days of the close of the hearing.

Reasons for suggested changes

Reasons for Change:

Arbitrators hearing USADA’s first instance cases are required to issue reasoned awards within 30 days, and there has almost never been an issue with arbitrators being able to comply with this timeline and the extremely few instances where the timeline has not been met have been due to exceptional circumstances such as medical issues or it being an extremely complicated matter.

International Testing Agency
SUBMITTED
International Testing Agency, - (Switzerland)
Other - Other (ex. Media, University, etc.)

General Comments

The wording of Article 13.2.1 could benefit from greater clarity regarding when an Athlete must hold International-Level Athlete status for the case to be eligible for appeal to CAS. It would be helpful to clarify whether the Athlete's status as an International-Level Athlete is determined as of the date of the ADRV was committed for example.

Article 14.2.2 (14)

US Olympic & Paralympic Committee SUBMITTED

chris mccleary, GC, COO (US)

Sport - National Olympic Committee

General Comments

- The CHINADA case also taught us that discretion over reporting and public disclosure on athletes who test positive creates difficult decisions and potentially a loss of transparency and trust in the system. All positives should be reported and publicly disclosed and help provided to athletes who feel (and possibly later show) that the positive was inadvertent, no fault, or even incorrect. The idea of stigma is something we can work on as a community - a clean athlete who falsely tests positive has nothing to hide and should have a chance to avoid rumors and distrust that come from appearances that a test result is being "swept under the carpet." In an environment where more contamination cases and false positives are possible, the reputation damage of a publicly reported positive can be managed down. But as noted above, in a system that relies so heavily on individual NADOs and their work, people globally must have faith that consistent standards and rules are applied globally. Show Your Work needs to be the watchword for WADA and NADOs.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 14.2.2

Changes Related to Appeals

Strongly do not support the requirement for non-Fr/En speaking NADOs to translate all case file all the time. It's a big burden – financial, administrative, time consuming. Sometimes case file, for example medical documents can be over hundreds of pages. An issue could also be giving access to sensitive medical data to interpreters. It should be sufficient to provide summaries in EN or FR.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

No support for 2027 Code 14.2.2 and 2027 ISRM 9.2.4 and the mandatory translation of case files into EN/FR. It's a big burden for non-english/french speaking NADOs in a financial, administrative and time consuming way.

Case files might easily be over hundreds of pages if - for example - medical documents are included.

It is proposed to provide a summary in EN or FR as well as additional explanations (if needed). In problematic cases or occurring questions WADA may ask of a further translation of the document(s) concerned. A general translation of a complete case file is not supported however.

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Par rapport à l'article 14.1.2 tel que proposé à révision, nous souhaiterions avoir davantage de précisions sur la proposition. Dans quels cas par exemples une ONAD pourrait-elle dispensée de son obligation de notification ?

NADA Austria

SUBMITTED

Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

NADA Austria disagrees with the idea that translation of documents in FR / EN should be performed. This would mean a massive financial and administrative burden for ADO(e.g. ABP cases where athlete claims a medical condition and therefore several comprehensive expert opinions are brought into the case). Translating will cost time and financial resources which can´t be shifted on ADO´s.

Finnish Center for Integrity in Sports (FINCIS)

SUBMITTED

Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

Strongly do not support the requirement for non-Fr/En speaking NADOs to translate all case file all the time. It's a big burden – financial, administrative, time consuming. Sometimes case file, for example medical documents can be over hundreds of pages. An issue could also be giving access to sensitive medical data to interpreters. It should be sufficient to provide summaries in EN or FR.

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

SSI strongly disagrees with the proposed changes and do not support the requirement that the case file shall be produced in machine readable French or English. SSI strongly disagrees with this new requirement as it has German and Italian cases. To translate all the case files would be a too big burden, financially, administrative and very time consuming. Simply put: SSI would not be able to provide that. Sometimes case files, for example medical documents, can be hundreds of pages long. It can also be a problem to give interpreters access to sensitive medical data. It should be sufficient to provide summaries of the reasoned decision in EN or FR, as it is the case for now.

Anti Doping Danmark

SUBMITTED

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

General Comments

Article 13 and 14.2.2.2. Changes related to appeals

We have reservations about the proposal that the NADOs is also a part of the case, if WADA appeals it.

Because the NADO and the Hearing Body don't always agree. The Hearing Body is independent and makes their decisions independently of the NADO. And therefore, the NADO shouldn't be subject to consequences of The Hearing Body's decisions.

For example. The NADO charge the athlete with a 4. year sanction, but the Hearing Body decides on a 2. year sanction. The NADO therefore don't agree whit the hearing body, and if it is appealed by WADA who asks for 4 years, which is the same as the NADO.

We are also very much against the proposal in 14.2.2. where parties with a right to appeal a decision shall be provided with a machine-readable case file in English or French. This will be a big burden for the ADO, both time consuming and a financial burden.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

We are not in favor of the proposed amendment, which we find would create an additional burden on ADOs from non-French or non-English speaking countries.

Any additional information requested by WADA should be transferred through ADAMS both for reasons of data protection and to avoid unnecessary additional work on the side of the ADOs

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

The CCES request WADA defines what is meant by machine readable. WADA needs to ensure this terminology is used consistently between Code Article 14.2.2 and ISRM Article 9.2.4.

LTUNADO SUBMITTED

Erika Petrutyte, Lawyer (Lithuania)

NADO - NADO

General Comments

No support for 2027 Code 14.2.2 and 2027 ISRM 9.2.4 to translate non Fr/En speaking NADOs all case file all the time. It's a big burden – financial, administrative, Sometimes case file, for example medical documents can be over hundreds of pages.

Maybe it could be enough summary in EN or FR, additional explanations and maybe if there is problems/question with some documents translation or understanding- in these cases WADA may ask translation of the current document. But not all case file.time consuming.

Any way not all the time organizations with appeal right will appeal. So there is no sense to provide translation in FR/EN in all cases.

Myanmar Anti-doping Organization SUBMITTED

Htet Wai, Secretary (Myanmar)

NADO - NADO

General Comments

clear and appropriate.

Suggested changes to the wording of the Article

No changes needed.

WADA NADO Expert Advisory Group
SUBMITTED
Martin Holmlund Lauesen, member (Norge)
Other - Other (ex. Media, University, etc.)

General Comments

We are concerned about the potential additional burden on ADOs from non-French or non-English speaking countries.

We have taken note, that WADA uses a translation tool, which we assume ensures adequate data protection. We would recommend that this tool will also be used in the future, to limit the number of people involved in the data processing.

Article 14.3.2 (13)

World Aquatics
SUBMITTED
Justin Lessard, Aquatics integrity unit Manager (Switzerland)
Sport - IF – Summer Olympic

General Comments

World Aquatics is of the view that it could be preferable to amend the World Anti-Doping Code to ensure that all anti-doping decisions are made public, even those for which the athletes were found not to have committed any anti-doping rule violations, with the exception of cases where a TUE was the reason why no ADRV was committed. Publishing those decisions would increase transparency and would ensure that all decisions are subject to public scrutiny. For cases where no ADRV was found, the information publicly disclosed shall not allow the public to identify the Athlete or other Person.

Suggested changes to the wording of the Article

No later than twenty (20) days after it has been determined in an appellate decision under Article 13.2.1 or 13.2.2, or such appeal has been waived, or a hearing in accordance with Article 8 has been waived, or the assertion of an anti-doping rule violation has not otherwise been timely challenged, or the matter has been resolved under Article 10.8, or a new period of Ineligibility, or reprimand, has been imposed under Article 10.14.3, the Anti-Doping Organization responsible for Results Management must Publicly Disclose the disposition of the anti-doping matter including the sport, the anti-doping rule violated (if any), the name of the Athlete or other Person ~~committing the violation~~, the Prohibited Substance or Prohibited Method involved (if any) and the Consequences imposed (if any). The same Anti-Doping Organization must also Publicly Disclose within twenty (20) days the results of appellate decisions concerning anti-doping rule violations, including the information described above. In any case where the Anti-Doping Organization responsible for Results Management determines that the Athlete or other Person did not commit an anti-doping rule violation, the disposition of the anti-doping matter including the Prohibited Substance or Prohibited Method involved (if any) and the reason why no ADRV was found to have been committed must be publicly disclosed, unless the justification is that there was an applicable TUE. In this case, any information which could potentially identify the Athlete or other Person involved shall not be publicly disclosed.

World Aquatics
SUBMITTED
World Aquatics Athlete Committee, Athlete Committee (World)
Sport - IF – Summer Olympic

General Comments

The Athletes Committee of World Aquatics considers it is essential to amend the World Anti-Doping Code to ensure that all anti-doping decisions are made public, even those where no violation was committed. Although publishing those decisions in its entirety would possibly increase transparency and would ensure that all decisions are subject to public scrutiny; the name of the athlete involved should not be disclosed. We should not create an atmosphere where innocent athletes can be scrutinized by the public, sponsors, and/or fellow aquatic community after they are cleared. For this reason, if an athlete is cleared of all charges, then their names and/or any identity that links the case to the athlete should not be publicly disclosed.

National Olympic Committee and Sports Confederation of Denmark
SUBMITTED
Mikkel Bendix Bergmann, Legal Advisor (Denmark)
Sport - National Olympic Committee

General Comments

Article 14.3.2 & 14.3.3. Mandatory public disclosure

We support athlete consent for cases involving "no fault." However, in instances of negligence, we believe it is essential to publicly disclose these decisions for the sake of prevention.

When a sanction is imposed, it is important to make this information public to deter similar behavior and ensure clarity within the anti-doping system.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC support the proposal.

Ministry of Health, Welfare and Sport SUBMITTED
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

General Comments

Any disclosure of personal data is subject to applicable law; any expectation for a stakeholder to operate otherwise is untenable. This article should therefore read:
"the Anti-Doping Organization responsible for Results Management **may, subject to applicable law,** publicly disclose the disposition of the anti-doping matter…".

Footnote 96 (new) to this article goes into the determination of non-compliance. Any determination of non-compliance is initially made by WADA. This should be specified in this footnote by changing the text to "will not result in a determination of non-compliance with the Code **by WADA**, as set forth [etc.]".

Suggested changes to the wording of the Article

This article should therefore read:
"...the Anti-Doping Organization responsible for Results Management **may, subject to applicable law,** publicly disclose the disposition of the anti-doping matter…".

The text of footnote 96 (new) should read:

"...will not result in a determination of non-compliance with the Code **by WADA**, as set forth [etc.]".

Reasons for suggested changes

The wording proposed by WADA may lead to situations where signatories have to choose whether to follow the Code, or follow the law. This is no choice, since any requirement or expectation for a stakeholder to operate outside the law is untenable. The Code should reflect as much, and help signatories avoid these situations.

The footnote should fully reflect the process for non-compliance based on this article.

Council of Europe SUBMITTED
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 14.3.2 & 14.3.4

Mandatory Public Disclosure after the Final Decision in a case

The respective national law must be respected. The publication of sanctions should be done in accordance with the GDPR and applicable national laws. The current situation, where NADOs may be forced to violate national laws in order to comply with WADA's interpretation of Article 14.3.2, is untenable.

Recommendation that the comment to Article 14.3.2 be amended to clarify that NADOs are not required to publish sanctions if doing so violates national law. This amendment would ensure that NADOs are able to comply with their obligations under both the Code and national data protection laws.

LTUNADO
SUBMITTED
Erika Petrutyte, Lawyer (Lithuania)
NADO - NADO

General Comments

In cases where substantial assistance is provided, need to be considered option not to disclose information under Code 14.3.

Of course this “non-disclosure” option should be applied in very exceptional circumstances with approval of WADA.

Reasons for suggested changes

Because athletes afraid to provide substantial assistance because they know that if they are found guilty of an anti-doping rule violation, but the sanction will be “reduced” because of substantial assistance and decision will be disclosed under the Code 14.3, persons could know that the athlete provided some information against them.

Anti Doping Danmark
SUBMITTED
Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

General Comments

Concept #7

We don’t have any comments to the changes of article 19.

However, we still find it necessary, as proposed in the concept paper in the first consultation phase, to adjust article 14.3, to reflect the important public interest purposes.

We believe that it is very important for the openness and transparency, that all anti doping rulings and sanctions should be published. This is also stated in the present code and is also what we do in Denmark, in line with the national data protection legislation.

Article 14.3.2 & 14.3.3. Mandatory public disclosure

We support athlete consent with cases regarding No fault, however regarding cases where there is negligence, we still think it is crucial that these decisions should be publicly disclosed due to the preventive work.

We think that when a sanction has been given, it is important that it is made public to prevent others from doing the same and to secure clarity in the anti-doping system.

Finnish Center for Integrity in Sports (FINCIS)
SUBMITTED
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

The respective national law must be respected. The publication of sanctions should be done in accordance with the GDPR and applicable national laws. The current situation, where NADOs may be forced to violate national laws in order to comply with WADA's interpretation of Article 14.3.2, is untenable.

Recommendation that the comment to Article 14.3.2 be amended to clarify that NADOs are not required to publish sanctions if doing so violates national law. This amendment would ensure that NADOs are able to comply with their obligations under both the Code and national data protection laws

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Mandatory Public Disclosure After the Final Decision in a Case

We support this change. Mandatory Public Disclosure would inevitably affect the reputation and career of athletes. Where an Athlete is found to have had No Fault or Negligence, the case decision should not be mandatorily published to better protect this Athlete's legitimate rights and interests.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

clear and appropriate.

Suggested changes to the wording of the Article

No changes needed.

USADA SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 14.3.2 – Delaying publication of an anti-doping rule violation until after an appeal has concluded is unnecessary, runs counter to the principle of transparency, and undermines the credibility of the entire system. First, there is potential for extreme delay between violation and announcement that reduces confidence in the system. Second, a person may have served much of their sanction by the time an announcement is made, reducing the relevance of any announcement and creating situations where athletes and other persons are serving secret sanctions. This will have a very negative impact on the credibility of the anti-doping system. Third, it appears that this rule permits the first instance to remain confidential. Often there is different evidence presented and different degrees of detail in each award, and if only the appeal decision is made public, key details and context may be hidden entirely. Again, these proposed changes run counter to the principle of transparency and undermine the credibility of the anti-doping system.

Watering down public disclosure diminishes the deterrent effect of the public disclosure. The proposed change should not be adopted.

Article 14.3.4 (12)

Team USA Athletes' Commision SUBMITTED
Meryl Fishler, Manger (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

We believe an athlete's right to privacy needs to be maintained and protected in the anti-doping code. The impacts on athletes when wrongly labeled as a doper can be devastating and affect an athlete's career and well-being for the rest of their life. The Code enables this through disclosure provisions where an anti-doping organization can publicly reveal a positive test as soon as notice of an ADRV has been provided to an athlete. We believe the approach used under collectively bargained programs should be incorporated into the Code. For example, under the National Basketball Assocation-National Basketball Players Association Collective Bargain Agreement, an athlete's identity is only revealed where (a) it is uncontested by the athlete, (b) it is upheld as part of the dispute resolution process, and (c) in response to allegations being made public by another source.

Team USA AC supports that decision itself and that underlying facts should not be Publicly Disclosed for cases of no fault or negligence. But we have concerns when cases may be wrongfully or inappropriately decided and then there is no public disclosure.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Mikkel Bendix Bergmann, Legal Advisor (Denmark)

Sport - National Olympic Committee

General Comments

In Denmark, we uphold a commitment to openness and transparency by publicly disclosing all rulings and sanctions in the anti-doping field. Consequently, The Danish NOC endorses the suggested modifications to Article 14.3, aiming to align with essential public interest objectives.

While we appreciate the consideration of athlete consent, we advocate for the optionality of athlete consent in the publication process. We believe that the decision to publish should not be solely contingent on athlete consent but should instead be made optional for the Decision Body, always respecting the individual country's data protection legislation.

Furthermore, we believe that in cases where athlete consent cannot be given with regards to publication of the decision, the Decision Body should have the option to publish the decision in redacted form regardless of whether consent is given.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

International Tennis Integrity Agency SUBMITTED

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)

Sport - Other

General Comments

The ITIA does not support the proposed amendment to the Code at Article 14.3.4.

Whilst the ITIA understands that a Person who has been determined to bear No Fault or Negligence (NFN) in relation to an anti-doping rule violation has been exonerated of having any Fault or Negligence, they usually will still have had a prohibited substance in their sample and Consequences accordingly would still attach (e.g. in tennis removal of any ranking points acquired from the event where the sample was provided In-competition, removal of medals/titles and repayment of any prize/participation money received (and other subsequent events unless a tribunal determines that fairness dictates otherwise). A player who has ranking points and/or prize money (and certainly titles/medals) removed will more often than not be identifiable (and will often alter the rankings of other players in the tennis context). Without publication of the decision it would not be possible for a sport like tennis to provide an explanation for these flow-on consequences.

Clearly where an ADO announces provisional suspensions, a written decision would be expected by all parties at the conclusion of a case, even if such an outcome was a No Fault or Negligence one as the matter is already in the public domain – creating an unfair distinction between players who have successfully challenged the imposition of provisional suspensions and those who have not.
More broadly, we are mindful of the importance of transparency in relation to anti-doping decisions. Anti-Doping Organisations could well be accused of cover ups or a lack of transparency regarding their testing programme, if NFN decisions were not initially disclosed (but subsequently came into the public domain). It is better to be proactive rather than have to respond to accusations down the line that such matters were hidden. Further, the publication of such decisions helps other Anti-Doping Organisations to navigate similar cases, by offering case precedents.
If there is concern around support for a Person who receives a finding of No Fault or Negligence, the decision could be redacted to remove medical or other information (as ITIA does where requested by a player) and/or indeed requiring an ADO to seek to agree with the Person the precise timing of communications which will accompany such publication (within a reasonable time) so the Person can be prepared

Ministry of Health, Welfare and Sport SUBMITTED

Bram van Houten, Policy adviser (Netherlands)

Public Authorities - Government

General Comments

The proposed addition to this article would allow an anti-doping organization to disclose personal information if that information is already public or if consequences have already been imposed. Any disclosure of personal data is subject to applicable law. This exception, therefore, has no legal basis, and should not be included in this article.

Suggested changes to the wording of the Article

Delete the addition proposed by WADA to this article.

Reasons for suggested changes

The proposed addition to this article would allow an anti-doping organization to disclose personal information if that information is already public or if consequences have already been imposed. Any disclosure of personal data is subject to applicable law, and whether or not information is already in the public domain is no legal grounds for (further) disclosure. This exception, therefore, has no legal basis, and should not be included in this article.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art. 14.3.2 & 14.3.4

Mandatory Public Disclosure after the Final Decision in a case

The respective national law must be respected. The publication of sanctions should be done in accordance with the GDPR and applicable national laws. The current situation, where NADOs may be forced to violate national laws in order to comply with WADA's interpretation of Article 14.3.2, is untenable.

Recommendation that the comment to Article 14.3.2 be amended to clarify that NADOs are not required to publish sanctions if doing so violates national law. This amendment would ensure that NADOs are able to comply with their obligations under both the Code and national data protection laws.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

La proposition suivante, à l'article 14.3.4 :

"*As an exception, if the identity of the Athlete or the other Person is already public or Consequences have already been imposed, then the Anti-Doping Organization with Results Management authority may, without consent, Publicly Disclose the matter to the extent necessary to explain its outcome of the case.*"

est à la fois une exception et repose sur l'hypothèse d'une fuite alors que le principe de la confidentialité est essentiel. Par ailleurs, il est relativement logique et implicite que si malheureusement une telle fuite a eu lieu, l'OAD puisse se défendre, publiquement le cas échéant. Aussi et pour ces raisons, nous ne sommes pas convaincus par la nécessité de cette proposition.

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Public Disclosure Without Hearing or Appeal

If no hearing or appeal is conducted and the Athlete or other Person is found to bear No Fault or Negligence based on their explanation and the investigation results during the results management process and the case is then closed without a hearing or appeal, is it still necessary to publicly disclose the case? The Article is not quite clear and the practices of ADOs are inconsistent, therefore further clarification concerning this matter would be appreciated.

Suggested changes to the wording of the Article

The Article is not quite clear and the practices of ADOs are inconsistent, therefore further clarification concerning this matter would be appreciated.

Reasons for suggested changes

If no hearing or appeal is conducted and the Athlete or other Person is found to bear No Fault or Negligence based on their explanation and the investigation results during the results management process and the case is then closed without a hearing or appeal, is it still necessary to publicly disclose the case?

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

UK Anti-Doping SUBMITTED
UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

We do not agree with the proposed changes with regards to the non-mandatory publication of No Fault outcomes.

In our experience, it is very rare for Athletes or other Persons to consent to publication in circumstances where no Anti-Doping Rule Violation has been found under the current Code. We therefore consider that extending non-mandatory publication to No Fault outcomes (and only permitting publication in circumstances where the Athlete or other Person consents) will likewise also be rare. We consider this to be a detrimental to the collective efforts to tackle doping in sport and achieving worldwide harmonisation of results. The publication of No Fault outcomes (as with the concept of publishing decisions more generally) is invaluable to the wider anti-doping community in terms of sharing information, learning and harmonisation of anti-doping determinations worldwide. If publication does not follow as an automatic consequence in these cases then there will be potentially crucial information about Anti-Doping Rule Violations that will be kept from the anti-doping community and Athletes. No Fault cases help to highlight the risks that Athletes inadvertently expose themselves to that are then capable of resulting in Anti-Doping Rule Violations. We do the Athlete community a disservice if we do not share these decisions and highlight the risks that they could be exposed to.

We fully understand why this change has been proposed – there have been longstanding calls for Athletes and other Persons in receipt of No Fault outcomes to not be ‘named and shamed’ and face the public ignominy of having committed an Anti-Doping Rule Violation. We consider that these concerns can be addressed by amending the Code to ensure that mandatory publication continues to take place in these cases but on an entirely anonymous basis, i.e. the Athlete or other Person subject to the decision is not named or otherwise identifiable. This will then ensure that important anti-doping jurisprudence and awareness of anti-doping risks continues to be shared, whilst Athletes and other Persons who find themselves on the receiving end of Anti-Doping Rule Violation decisions when at No Fault, do not face the disproportionate scrutiny that publication of such decisions can bring.

USADA SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 14.3.4 – Based on recent events involving the 23 elite Chinese swimmers who tested positive for TMZ in the lead up to the Tokyo Olympic Games and had their cases closed without violations and without publication in contravention of the applicable anti-doping rules, USADA amends and expands its previous recommendation regarding the non-publication of cases resolved with no fault or negligence findings or no violation. USADA's original recommendation already provided the caveat of non-publication being contingent on "no effect on performance." Recent events necessitate further conditions. With no fault or negligence resolutions not otherwise being publicized, USADA recommends the establishment of an independent committee with representatives from the Athlete, NADO, IF, and Government sectors who must unanimously approve the no fault or negligence finding as well as any no violation resolution resulting from an AAF, other than an approved Therapeutic Use Exemption or permitted route, before WADA closes the matter without appeal.

Chair SUBMITTED
Athlete Council, WADA (Canada)
Other

General Comments

Public Disclosure

We support the proposal to repeal the requirement of mandatory public disclosure for cases of No Fault or Negligence, only under the following condition: all cases of No Fault or Negligence and No Violation must be reviewed before being decided. The review could be carried out by WADA or by the bodies with the right of appeal.

This is important to prevent a RMA from deciding cases inappropriately in order to avoid the scrutiny of mandatory public disclosure. Although an RMA is currently required to give notice of its decision to the ADOs with a right of appeal, the appeal process is so burdensome that it might pose a barrier to the process of checks and balances.

See also: our comments on ISRM Article 5.4 Decision Not to Move Forward with a Matter.

Article 14.5 (1)

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

clear and comprehensive.

Suggested changes to the wording of the Article

No changes needed.

Article 15.2 (2)

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Delegation by Body that is not a Signatory

Article 15.3 specifies the implementation of decisions by a body that is not a Signatory, but it does not address whether an Anti-Doping Organization can be delegated by a non-Signatory to conduct Doping Control on Athletes or other Persons under its jurisdiction. If so, must it comply with the Code and International Standards or with the Anti-Doping Organization's own anti-doping rules? It would be appreciated if this could be clarified in Article 15.3 or another appropriate part.

Suggested changes to the wording of the Article

We will appreciate that this Article addresses whether an Anti-Doping Organization can be delegated by a non-Signatory to conduct Doping Control on Athletes or other Persons under its jurisdiction.

Reasons for suggested changes

Article 15.3 specifies the implementation of decisions by a body that is not a Signatory, but it does not address whether an Anti-Doping Organization can be delegated by a non-Signatory to conduct Doping Control on Athletes or other Persons under its jurisdiction.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

Article 19.2 (3)

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

clear and appropriate.

Suggested changes to the wording of the Article

No changes needed.

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Use of Data

We support the expansion of the scope of Article 19, "Research". Without the authorization under the Code, some Laboratories have concerns about the requests from some Anti-Doping Organizations for such research, which should

be encouraged and supported by changes to Article 19 of the Code.

Article 19.4 (2)

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

clear and appropriate.

Suggested changes to the wording of the Article

No changes needed.

Article 19.6 (3)

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

The second sentence could be misinterpreted in a way that some might argue that ADOs are not using every source and type of information to keep sport clean. A comment or further introduction as to what is the intention of this sentence would help to clarify.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

Article 20.1.2 (7)

International Tennis Integrity Agency SUBMITTED
Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

General Comments

Article 20 - Whilst accepting that CAS is not a signatory of the Code the roles and responsibilities as far as the requirement 'to render timely decisions in the Results Management process' imposes on everyone else seems at odds with what this requirements seeks to do. There are numerous examples of organisations waiting many months for decisions to be rendered by the CAS. As an entity on which ADO and athletes have no other choice but to use it would not seem unreasonable to expect similar terms regarding the delivery of such a service to be imposed

Ministry of Health, Welfare and Sport SUBMITTED
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

General Comments

An addition is proposed to "report to WADA the failure of any such organization to cooperate with it". The existing article references 'relevant national organisations and agencies and Anti-Doping Organizations'. We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. The same reasoning applies to articles 20.2.11, 20.3.15, 20.4.14, 20.5.3, and 20.6.10.

Suggested changes to the wording of the Article

We therefore propose the addition to each of these articles to read "report to WADA the failure of any such organizations **that are Signatories** to cooperate with it."

Reasons for suggested changes

We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. The same reasoning applies to articles 20.2.11, 20.3.15, 20.4.14, 20.5.3, and 20.6.10.

Council of Europe SUBMITTED
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art 20.7 Roles and Responsibilities of WADA

Timelines

WADA should also have time limits for the decisions it makes, when ADO, for example, has to request WADA's approval in some cases. Athlete is waiting for a decision about his/her future and cannot, for example, sign a new contract with a club. Nowadays it can take 6 months to get a decision from WADA.

NADA Austria SUBMITTED
Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

General Comment to Art. 20

The ITA as well as Sample Collection Providers are currently conducting much anti-doping work (Testing, RM, Education) but are not or only indirectly regulated under the WADC or regulations of the International Federations. The burden is on the ADO to require Delegated Third Parties to work in line with the respective anti-doping regulations. However, ADOs can´t monitor the practical delivery of the services of the Delegated Third Parties so they need to be bound to the regulations as well and even also audited.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

General feedback to Article 20 Additional Roles and Responsibilities of Signatories and WADA. SIA understands that as part of the process for amending the Code, the 2027 Code and International Standards will be reviewed to ensure compatibility with human rights. SIA expects this process also encompasses a cultural impact assessment, which amongst other things, considers any adverse impact the changes may have from a culture, safety and diversity perspective.

Reasons for suggested changes

This suggestion is to promote and ensure the 2027 Code and International Standards are assessed, through a cultural safety lens, to determine if any proposed amendments are biased or unsafe in relation to certain athletes of diverse backgrounds.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

USADA SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 20 – WADA should require every Anti-Doping Organization that conducts testing to publish, by athlete, testing numbers updated at least on a monthly basis. Such a requirement serves the purposes of transparency, which builds confidence and trust in the anti-doping system, and accountability, which will motivate anti-doping organizations that do insufficient testing to increase their testing resources and planning.

Article 20.7 – WADA should add to its roles and responsibilities the following:

a. That it submit to an outside and independent compliance audit.

b. That it maintain a website for the publication of all anti-doping rule violations.

c. That it maintain a searchable database of CAS reasoned awards.

Article 20.1.5 (2)

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

20.1.15

Pierre Ketterer says :

Should this be limited to "appealable decisions under its authority"? See Article 13.3

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

no comment.

Article 20.2.11 (2)

Ministry of Health, Welfare and Sport SUBMITTED
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

General Comments

An addition is proposed to "report to WADA the failure of any such organization to cooperate with it". The existing article references 'relevant national organisations and agencies and Anti-Doping Organizations'. We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. The same reasoning applies to articles 20.1.2, 20.3.15, 20.4.14, 20.5.3, and 20.6.10.

Suggested changes to the wording of the Article

We therefore propose the addition to each of these articles to read "report to WADA the failure of any such organizations **that are Signatories** to cooperate with it."

Reasons for suggested changes

The existing article references 'relevant national organisations and agencies and Anti-Doping Organizations'. We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. The same reasoning applies to articles 20.1.2, 20.3.15, 20.4.14, 20.5.3, and 20.6.10.

NADO Flanders SUBMITTED
Jurgen Secember, Legal Adviser (België)
NADO - NADO

General Comments

20.1.12 (and other similar added in several articles, 20.2.11, 20.3.15, 20.4.14, 20.5.3, and 20.6.10)

The scope of this amendment should be limited to signatories and members of signatories, but cannot apply to governmental agencies or other parties outside of the Code. A signatory or its member seeking cooperation with other government agencies, is cooperating strictly on a voluntary basis or within a restricted legal framework. Having to WADA if cooperation cannot be established, is beyond the scope of the Code.

Article 20.2.13 (2)

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

Should this be limited to "appealable decisions under its authority"? See Article 13.3

Myanmar Anti-doping Organization
Htet Wai, Secretary (Myanmar)
NADO - NADO

SUBMITTED

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

Article 20.3.15 (4)

Ministry of Health, Welfare and Sport
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

SUBMITTED

General Comments

An addition is proposed to "report to WADA the failure of any such organization to cooperate with it". The existing article references 'relevant national organisations and agencies and Anti-Doping Organizations'. We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. The same reasoning applies to articles 20.1.2, 20.2.11, 20.4.14, 20.5.3, and 20.6.10.

Suggested changes to the wording of the Article

We therefore propose the addition to each of these articles to read "report to WADA the failure of any such organizations **that are Signatories** to cooperate with it."

Reasons for suggested changes

An addition is proposed to "report to WADA the failure of any such organization to cooperate with it". The existing article references 'relevant national organisations and agencies and Anti-Doping Organizations'. We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. We therefore propose the addition to each of these articles to read "report to WADA the failure of any such organizations **that are Signatories** to cooperate with it." The same reasoning applies to articles 20.1.2, 20.2.11, 20.4.14, 20.5.3, and 20.6.10.

Anti-Doping Norway
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

SUBMITTED

General Comments

General comment to art. 20.3.12, 20.5.12, for which no spaces for comments have been provided.

We suggest offering Minors the same protection from pressure to dope as Protected Persons, as the incentive to pressure could be even bigger at that level – the minors would thus also be vulnerable to doping. Cf. our comment to WADC art. 10.3.3.3.

Suggested changes to the wording of the Article

Suggested changes to art. 20.3.12, for which no space for comments have been provided.

…and to conduct an automatic investigation of *Athlete Support Personnel* in the case of any anti-doping rule violation involving a *Protected Person* or *Minor,* or *Athlete Support Person* who has provided support to more than one *Athlete* found to have committed an anti-doping rule violation.

Suggested changes to art. 20.5.12, for which no space for comments have been provided.

To conduct an automatic investigation of *Athlete Support Personnel* within their authority in the case of any anti-doping rule violation by a *Protected Person* or *Minor,* and to conduct an automatic investigation of any *Athlete Support Person* who has provided support to more than one *Athlete* found to have committed an anti-doping rule violation.

Reasons for suggested changes

Reason for suggested changes to art. 20.3.12, 20.5.12, for which no spaces for comments have been provided.

These proposals should be seen in connection with our comment to WADC art. 10.3.3 and are intended to offer the same level of protection for Minors, who also at the higher level could be considered more vulnerable to doping (and possible pressure from Athlete Support Personnel).

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed

WADA NADO Expert Advisory Group SUBMITTED
Martin Holmlund Lauesen, member (Norge)
Other - Other (ex. Media, University, etc.)

General Comments

General comment to art. 20.3

We support that the requirement of parental consent is ensured by relevant sports organizations (where this is necessary), in order to ensure that their athletes are properly under the ADO's jurisdiction, including for testing and Results Management of minors.

However to better reflect the adjustment of IST annex B, modifications for athletes who are minors, this should be reflected in the Roles and responsibilities of the IFs, ie. that they and their members ensures – where necessary – that parental consent is retrieved for testing of Minors and other Protected Persons. This to avoid the ADOs unintentionally testing without proper parental consent.

Article 20.3.20 (3)

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

Should this be limited to "appealable decisions under its authority"? See Article 13.3

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

General Comment to art. 20.3., and 20.4, for which no spaces for comments have been provided!

If the parental consent is ensured by relevant sports organizations (where this is necessary), in order to ensure that their athletes are properly under the ADO's jurisdiction, including for testing and Results Management of minors, this should be reflected in their roles and responsibilities.

However, to better reflect the adjustment of IST annex B, modifications for athletes who are minors, this should be reflected in the Roles and responsibilities of the IFs and the NOCs/NPCs, i.e. that they and their members ensure – where necessary – that parental consent is retrieved for testing of Minors and other Protected Persons. This to avoid the ADOs unintentionally testing without proper parental consent.

Myanmar Anti-doping Organization
SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

No changes needed.

Article 20.4.14 (6)

National Olympic Committee and Sports Confederation of Denmark
SUBMITTED
Mikkel Bendix Bergmann, Legal Advisor (Denmark)
Sport - National Olympic Committee

General Comments

General suggestions and comments

The Danish National Olympic Committee has taken note of the contamination case that arose in international swimming prior to the Tokyo Olympics, as well as the subsequent discussions and processes that followed.

We believe it is essential that the rules and their interpretations are meticulously developed to prevent the recurrence of similar incidents.

Thus, we emphasize the importance of reviewing the Code and its standards during this process. Clarity in rules and practices for addressing such cases in the future is crucial.

Additionally, we see a need to revisit the International Standard for Code Compliance. Although this standard came into effect in April 2024, we believe it is vital to include it in the current code review process, especially since the previous review had a limited scope. It is particularly important that this standard adequately addresses participation in competitions following the completion of a Court of Arbitration for Sport (CAS) sanction, especially in cases of continued non-compliance.

Therefore, we encourage WADA to initiate a third consultation phase for the World Anti Doping Code as well as the International Standard for Code Compliance. This will ensure that these critical issues are thoroughly examined before the new Code is implemented.

Japan Sports Agency
SUBMITTED
Japan Sports Agency Anti-Doping Unit, Anti-doping Unit Chief (Japan)
Public Authorities - Government

General Comments

Article 22

If there is a discrepancy between domestic law and the WADC/IS, the NADO of the respective country is sanctioned under current code. NADO, NOC, and NPC are all signatories in the country. In light of this, if any sanctions are imposed due to discrepancies between the national laws and the WADC, similar sanctions should be imposed on NOC and NPC as well as NADO.

Ministry of Health, Welfare and Sport
SUBMITTED
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

General Comments

An addition is proposed to "report to WADA the failure of any such organization to cooperate with it". The existing article references 'relevant national organisations and agencies and Anti-Doping Organizations'. We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. The same reasoning applies to articles 20.1.2, 20.2.11, 20.3.15, 20.5.3, and 20.6.10.

Suggested changes to the wording of the Article

We therefore propose the addition to each of these articles to read "report to WADA the failure of any such organizations **that are Signatories** to cooperate with it."

Reasons for suggested changes

We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. The same reasoning applies to articles 20.1.2, 20.2.11, 20.3.15, 20.5.3, and 20.6.10.

Japan Anti-Doping Agency SUBMITTED
Chika HIRAI, Director of International Relations (Japan)
NADO - NADO

General Comments

We would like to make comment on Article 22 and/or 20.4
If there is a discrepancy between domestic law and the WADC/IS, the NADO of the respective country is sanctioned under current code.

NADO, NOC, and NPC are all signatories in the country. In light of this, if any sanctions are imposed due to discrepancies between the national laws and the WADC, similar sanctions should be imposed on NOC and NPC as well as NADO.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

WADA NADO Expert Advisory Group SUBMITTED
Martin Holmlund Lauesen, member (Norge)
Other - Other (ex. Media, University, etc.)

General Comments

Note this is aeneral comment to art. 20.4.

We support that the requirement of parental consent is ensured by relevant sports organizations (where this is necessary), in order to ensure that their athletes are properly under the ADO's jurisdiction, including for testing and Results Management of minors.

However to better reflect the adjustment of IST annex B, modifications for athletes who are minors, this should be reflected in the Roles and responsibilities of NOCs/NPCs, i.e., that they and their member-federations ensures – where necessary – that parental consent is retrieved for testing of Minors and other Protected Persons. This to avoid the ADOs unintentionally testing without proper parental consent.

Article 20.5.3 (8)

National Olympic Committee and Sports Confederation of Denmark SUBMITTED
Mikkel Bendix Bergmann, Legal Advisor (Denmark)
Sport - National Olympic Committee

General Comments

Concept #8 – NADO Operational Intelligence

We advocate for consistent criteria across all Anti-Doping Organizations (ADOs), extending the same standards applied to NADOs to other entities such as the International Testing Agency (ITA) and International Federations. Presently, there exists a disparity in the independence criteria demanded for NADOs compared to other ADOs. Harmonizing these criteria is crucial to ensuring a uniform standard of operational independence.

It is imperative to underscore that these recommendations should be implemented with due regard for individual countries' legislation. We recognize that some countries afford greater regulatory powers to national federations, and any adjustments should respect the legal frameworks in place.

Ministry of Sport and Community Development
Rixon Powder, Technical Administrator (Trinidad and Tobago)
Public Authorities - Government

SUBMITTED

General Comments

Consider including "while respecting reporting and accountability requirements" at the end of this sentence.

Suggested changes to the wording of the Article

NADOs must be independent in their operational decisions and activities from sport organizations and government**, while respecting reporting and accountability requirements**

Reasons for suggested changes

To ensure the NADOs comply with accountability mechanisms in place to report on spending of public funds

Ministry of Health, Welfare and Sport
Bram van Houten, Policy adviser (Netherlands)
Public Authorities - Government

SUBMITTED

General Comments

An addition is proposed to "report to WADA the failure of any such organization to cooperate with it". The existing article references 'relevant national organisations and agencies and Anti-Doping Organizations'. We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. The same reasoning applies to articles 20.1.2, 20.2.11, 20.3.15, 20.4.14, 20.5.3, and 20.6.10.

Suggested changes to the wording of the Article

We therefore propose the addition to each of these articles to read "report to WADA the failure of any such organizations **that are Signatories** to cooperate with it."

Reasons for suggested changes

We believe this reporting is only relevant if the organisation that fails to cooperate is a Signatory to the Code. Otherwise this reporting has no purpose as the organisation it concerns is under no obligation to cooperate under the Code and not accountable to WADA. We therefore propose the addition to each of these articles to read "report to WADA the failure of any such organizations **that are Signatories** to cooperate with it." The same reasoning applies to articles 20.1.2, 20.2.11, 20.3.15, 20.4.14, and 20.6.10.

Myanmar Anti-doping Organization
Htet Wai, Secretary (Myanmar)
NADO - NADO

SUBMITTED

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

National Anti-Doping Commission of Barbados
Adrian Lorde, Chairman (Barbados)
NADO - NADO

SUBMITTED

General Comments

Article 20.5.1. has a minor adjustment at the end. However, despite previous interventions, the NADC Barbados, like smaller NADOs cannot operate as indicated prohibiting persons who are not affiliated in some way to a NOC, NPC, government or IF from being associated with our NADO. In

these countries, we have limited huma resources with which to volunteer (we cannot pay for) their services to sport and anti-doping. Where there is a conflict of interest, that person (s) will recuse themselves from decision making. Operationally, independent decisions are always made.

Suggested changes to the wording of the Article

No suggestions made.

Reasons for suggested changes

Article 20.5.3 we have no problem with

ONAD Communauté française SUBMITTED
Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Par rapport à l'article 20.5.2 du Code (non repris dans les propositions de modifications), les ONADs n'ont (très généralement) pas la compétence d'adopter des règles, surtout quand celles-ci sont réglementaires ou législatives.

Par conséquent, les ONADs ne devraient pas être tenues responsables de l'adoption de règles, qui relèvent très souvent du Gouvernement ou du Parlement compétent.

Ceci devrait être pris en compte dans le Code et dans le Standard international pour la conformité au Code des signataires.

RUSADA SUBMITTED
Viktoriya Barinova, Deputy director (Russia)
NADO - NADO

General Comments

The comment is related to Roles and Responsibilities of National Anti-Doping Organizations and mostly to article 20.5.2:

The provisions of the Code and Standards should be amended to define the boundaries of National Anti-Doping Organizations' responsibility for compliance of the documents governing anti-doping in sport with the Code. National Anti-Doping Organizations should be responsible solely for ensuring that the provisions of the anti-doping rules they adopt and implement (under which NADOs operate) are consistent with the Code. At the same time, NADOs should not be recognized as "non-compliant with the Code" in case WADA or other organizations have questions regarding regulations, the development and approval of which are beyond the authority, competence and jurisdiction of NADOs.

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

General Comment to art. 20.5.1. 20.1.13., 20.2.12, 20.3.18., 20.6.11.

We suggest that other signatories are obliged to respect NADOs Operational Independence, and that this is reflected in appropriate sections of the Code

Suggested changes to the wording of the Article

Suggested changes to art. 20.1.13., 20.2.12, 20.3.18., 20.6.11.

To respect the operational independence of laboratories as provided in the *International Standard for Laboratories*, as well as *National Anti-Doping Organisation Operational Independence*.

Suggested changes to art. 20.4.3.

To respect the autonomy of the *National Anti-Doping Organization* in their country and (…) respect the *National Anti-Doping Organization Operational Independence.*

Suggested changes to art. 20.3.2.

…(ii) requiring that their National Federations respect the *National Anti-Doping Organisation Operational Independence* and recognize the authority of the National Anti-Doping Organization in their country in accordance with Article 5.2.1 and assist as appropriate with the National Anti-Doping Organization's implementation of the national Testing program for their sport;…

Reasons for suggested changes

Reason for suggested changes to art. 20.1.13., 20.2.12, 20.3.18., 20.6.11.

Seems that the obligation to respect NADO Operational Independence should not be limited to NADOs respecting their own operational independence, but should also be broadened to include other Signatories respecting the NADO Operational Independence.

Reason for suggested changes to art. 20.4.3.

(…) denotes deletion.

We suggest using the terminology developed regarding NADO Operational Independence in 20.5.1. + definitions.

Reason for suggested changes to art. 20.3.2.

Given the requirement to NADOs to respect their Operational Independence also in light of involvement from national sport federations, it seems relevant to ensure that International Federations ensures, that their members similarly respect the NADO Operational Independence

Article 20.5.17 (5)

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

Should this be limited to "appealable decisions under its authority"? See Article 13.3

Bhutan NADO SUBMITTED
Nima Gyeltshen, Director (Bhutan)
NADO - NADO

General Comments

Need to have additional artical in 20.5

Suggested changes to the wording of the Article

- Ensure that the Doping Control and Result Management are protected from undue harassment or retaliatio by athlete or athlete related personnel or organization.

Reasons for suggested changes

This is to safeguard the Doping Control and Result Management personnel for effective delivery of service.

NADA SUBMITTED
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

This presupposes that the NADO can actively shape the results management process. However, this is not possible when conducting proceedings before an independent arbitration tribunal or disciplinary body. The timing of the proceedings is also the responsibility of the independent disciplinary body and not of the NADO.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED
Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

WADA should also have time limits for the decisions it makes, when ADO, for example, has to request WADA's approval in some cases. Athlete is waiting for a decision about his/her future and cannot, for example, sign a new contract with a club. Nowadays it can take 6 months to get a decision from WADA.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

Article 20.6.12 (1)

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropiate.

Suggested changes to the wording of the Article

No changes needed.

Article 20.6.13 (4)

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

Should this be limited to "appealable decisions under its authority"? See Article 13.3

Council of Europe SUBMITTED
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

Art 20.7 Roles and Responsibilities of WADA

Timelines

WADA should also have time limits for the decisions it makes, when ADO, for example, has to request WADA's approval in some cases. Athlete is waiting for a decision about his/her future and cannot, for example, sign a new contract with a club. Nowadays it can take 6 months to get a decision from WADA.

Bhutan NADO SUBMITTED
Nima Gyeltshen, Director (Bhutan)
NADO - NADO

General Comments

22.2 Each government should put in place **legislation, regulation, policies or administrative practices for**: cooperation and sharing of information with Anti-Doping Organizations; sharing of data among Anti-Doping Organizations as provided in the Code; unrestricted transport of urine and blood Samples in a manner that maintains their security and integrity; and unrestricted entry and exit of Doping Control officials and unrestricted access for Doping Control officials to all areas where International-Level Athletes or National-Level Athletes live or train to conduct no advance notice Testing

Suggested changes to the wording of the Article

Each government should put in place **policies or administrative practices for not controdcating the WADC**: cooperation and sharing of information with Anti-Doping Organizations; sharing of data among Anti-Doping Organizations as provided in the Code; unrestricted transport of urine and blood Samples in a manner that maintains their security and integrity; and unrestricted entry and exit of Doping Control officials and unrestricted access for Doping Control officials to all areas where International-Level Athletes or National-Level Athletes live or train to conduct no advance notice Testing

Reasons for suggested changes

I guess there were difficulties and challenges when government legislate its own anti doping act.

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

no comment.

Article 21.2.7 (15)

Team USA Athletes' Commision SUBMITTED
Meryl Fishler, Manger (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Comment for 21.1.6:

This section states athletes have a responsibility *"To cooperate with Anti-Doping Organizations investigating anti-doping rule violations"* and the comment further elaborates that *"Failure to cooperate is not an anti-doping rule violation under the Code, but it may be the basis for disciplinary action under a Signatory's rules."* We vehemently believe athletes have a right to remain silent and privilege against self-incrimination. As such, we do not believe failure to cooperate should be a basis for disciplinary action. We believe the right to remain silent and the right against self-incrimination should be explicitly codified in the WADA code.

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

21.2.3

Hannah Grossenbacher says :

Should anything specific clarified in relation to minors? ASP hold in particular a duty of care vis-à-vis protected persons.

US Olympic & Paralympic Committee SUBMITTED
chris mccleary, GC, COO (US)
Sport - National Olympic Committee

General Comments

- As noted above, can we institute greater duties for Athlete Support Personnel as to Athletes who have characteristics that make them more reliant on the support personnel (e.g., minor status)? Heightened duties to report concerns about Code compliance by athletes and other support personnel? completion of extra WADA educational components? Registration with WADA and certification of compliance with all of this?

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendment, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC support the clarifications in the articles.

Council of Europe SUBMITTED
Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

New Article 21.2.7

Maybe add that not only “any Athlete”, but also “Athlete Support Personnel” are bound by rules.

Swiss Sport Integrity SUBMITTED
Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

SSI would suggest to add that not only "any Athlete", but also "Athlete Support Personnel" are bound by rules and can therefore not be recipient of services provided by a person subject to a period of ineligibility. For example, a suspended athlete should not be able to be a consultant to a coach or a board of directors.

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Athlete Support Personnel Restrictions

We support this change as we believe that it will strengthen the restrictions on Athlete Support Personnel and more effectively combat the administration of doping to Athletes.

LTUNADO SUBMITTED
Erika Petrutyte, Lawyer (Lithuania)
NADO - NADO

General Comments

*It would be proper to add that not only "to any Athlete", but "**and any Athlete Support Personnel"** who is bound by rules.*

Suggested changes to the wording of the Article

21.2.7 No Person subject to a period of Ineligibility shall provide Athlete Support Personnel services to any Athlete ***and any Athlete Support Personnel*** who is bound by rules adopted pursuant to the Code.

Reasons for suggested changes

Some times *Person* subject to a period of *Ineligibility is likely to provide support "services" to members of National Federations or Teams*

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropriate.

Suggested changes to the wording of the Article

No major changes needed.

UK Anti-Doping SUBMITTED
UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

General Comments

We query whether the addition of this Article should also include reference Provisional Suspensions given the scope of Article 10.14.

Suggested changes to the wording of the Article

No Person subject to a period of Ineligibility or Provisional Suspension shall provide Athlete Support Personnel services to any Athlete who is bound by rules adopted pursuant to the Code.

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

General feedback to Article 21 Additional Roles and Responsibilities of Athletes and Other Person. SIA recommends that WADA improve measures to protect the personal information and gender identity from transgender and gender diverse backgrounds to ensure their privacy and to meet applicable local laws. This comment is included in SIA feedback to Annex L of the IST.

Reasons for suggested changes

To improve and safeguard the rights and privacy of athletes, preventing misuse of information that could lead to use outside anti-doping purposes including discrimination or stigmatism

Anti-Doping Norway SUBMITTED
Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

General comment to art. 21.1, 21.2., and 21.3, to which no spaces has been provied for comments.

We suggest to add in the article 21, the right not to be compelled to testify against oneself and closest relatives (i.e. spouse/partner, parents, children or siblings). I.e. that principles similar to the protection of the privacy within the family and the right to avoid self-incrimination.

We suggest that this be added to Roles and Responsibilities of Athletes (21.1.), of Athlete Support Personnel (21.2.), and of other Persons Subject to the Code (21.3.).

Caribbean Regional Anti-Doping Organization SUBMITTED
Marsha Boyce, Communications & Projects Coordinator (Barbados)
NADO - RADO

General Comments

This is a good inclusion.

WADA NADO Expert Advisory Group SUBMITTED
Martin Holmlund Lauesen, member (Norge)
Other - Other (ex. Media, University, etc.)

General Comments

General comment to art. 21.

The ITA as well as other Sample Collection Providers are currently conducting much anti-doping work (Testing, RM, Education) but are not or only indirectly regulated under the WADC or regulations of the International Federations. The burden is on the ADO to require Delegated Third Parties to work in line with the respective anti-doping regulations. However, ADOs can´t monitor the practical delivery of the services of the Delegated Third Parties so they need to be bound to the regulations as well and even also audited, possibly through a WADA run accreditation of delegated third parties.

Article 23.2.2 (7)

International Cricket Council SUBMITTED
Vanessa Hobkirk, Anti-Doping Manager (United Arab Emirates)
Sport - IF – IOC-Recognized

General Comments

In the 2027 review of the Code and International Standards, there is a distinct increase in support and clarity provided to ADOs to assist with implementation. While this is appreciated, it has become evident that the burden on ADOs in achieving compliance does not factor in the limited

capacity (human and financial) of most ADOs and the practicality of implementation.

The danger in this approach for ADOs is the shift of focus from operating a proportionate and effective anti-doping programme to merely fulfilling regulatory requirements.

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Hannah Grossenbacher says :

@Magali MARTOWICZ Should an element be added to protect DSD be added in particular when discovered through a positive sample?

Magali Martowicz says :

for me the wording and modifications proposed here reflects our internal discussions. Please let us know should there be any remaining concerns from your end.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC support the proposal.

NADA SUBMITTED
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

Art. 7.4 (Mandatory Provisional Suspension) should be included in the mandatory list of Art. 23.2.2

Myanmar Anti-doping Organization SUBMITTED
Htet Wai, Secretary (Myanmar)
NADO - NADO

General Comments

Clear and appropriate.

Suggested changes to the wording of the Article

No changes needed.

USADA SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Article 27.6 – There is considerable ambiguity as to whether to count a violation as a first violation for purposes of Article 10.9 if the substance or method has been removed from the list or a decision limit has been put into place such that the first violation would not be a violation if it occurred today.

Suggested changes to the wording of the Article

27.6, Recommended Change:

Add a comment to Article 27.6 that clarifies that it does not implicate multiple violation determinations.

Reasons for suggested changes

27.6, Reasons for Change:

Article 27.6, which discusses changes to the prohibited list, appears to be designed to prevent someone from escaping liability based on a change to the prohibited list. For example, Article 27.6 makes clear that if an athlete's use in a prior year had been caught in a subsequent year after the prohibited list changed to make it no longer a violation, that athlete would still face a violation. But Article 27.6 does not appear designed to impact multiple violation calculations as that is squarely addressed by Code Article 27.4.

Because Code Article 27.4 is specific to multiple violations and because the "Code rules" as referenced in Article 27.4 necessarily include the prohibited list (Art. 4), USADA interprets this to mean that a violation, that is no longer a violation due to changes to the prohibited list, should not be counted as a first violation for purposes of calculating a sanction under Article 10.9.

Appendix 1: Definitions (16)

Team USA Athletes' Commision SUBMITTED

Meryl Fishler, Manger (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Contaminated Sources: We support the expansion of the definition of contaminated product to contaminated source.

National Anti-Doping Organization Operational Independence: We do not believe this definition is clear. Under this definition can a government act on behalf of an athlete to investigate? What is the distinction between delegate and cooperate? Is it enough for a NADO to avoid government involvement? Furthermore, the regulation of NADO operational independence remains unclear. Lastly, would there be an exception to this? We believe there could be certain cases where it is helpful for a NADO to delegate to its government.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed comment, as described in the Summary of Key Proposed Changes to the Code regarding protected persons and recreational athletes.

Riksidrottsförbundet SUBMITTED

Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

Other proposals for consideration of The Code

SSC notes that there is no consensus regarding an athlete's possibility to have a final decision reopened, if there are new circumstances that have not earlier been brought up. SSC think this topic is very important and hope that this will be discussed again within the Code Drafting Team. Guiding case law is not accessible for athletes and it is therefore necessary with a process in the Code/the ISRM.

Article 7 Results Management responsibilities

SSC assess that it should be explicit stated that Results Management responsibilities may be transferred to another NADO upon agreement when the Person in question has citizenship in another NADO-country. This could be applied to athletes that temporary practicing sports in another country and then move back home.

CAS practice

SSC propose that in the preface of the Code and/or the ISRM the importance of global harmonization when it comes to sanctioning athletes should be more explicit pointed out. Nowhere in the Code or International standards it is stated how leading CAS practices is expected to be integrated in the national punishment systems and when. The ISRM guideline should be updated with relevant CAS case law that is expected to be followed by the Anti-Doping organizations.

Definitions of provisional hearing, expediated hearing & final decision

SSC propose that the mentioned concepts could be clarified through a definition in the Code.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

1. Definition: NADO Operational Independence

This definition should establish the relationship with the separate definition of operational independence, e.g. by referring that "in addition to the general Operational Independence requirements defined in the Code, the NADO must be…"

2. New definition: Other ADOs Operational Independence

It should also be extended to all ADO's (for example ITA and International Federations) and it should of course be under the respect of the individual country's legislation, which in some countries give the national federations more regulatory powers.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

Minimum Reporting Level: the MRPL must be **homogenous** for ALL WADA-accredited laboratories as dissenting MRPLs led to problematic Results Management Cases in the past.

Suggested changes to the wording of the Article

National Anti-Doping Organizsation: with regard to the ISE and ISII the current defintion should be revised and extended

"..primary authority and responsibility to adopt and implement anti-doping rules, produce intelligence and conduct investigations, provide education in the field of anti-doping, direct the collection of Samples, manage test results and ~~conduct~~ handle Results Management at the national level."

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Definitions of provisional hearing, expediated hearing & final decision

ADSE propose that the mentioned concepts could be clarified through a definition in the Code.

RUSADA SUBMITTED

Viktoriya Barinova, Deputy director (Russia)

NADO - NADO

General Comments

Protected Person

1) As practice has shown, the provision that the Protected Person may not explain the source of ingestion to reduce the term of sanction does not work in a number of cases. Thus, in this part of the article does not differ in practice from the usual order of reduction of the sanction term: 4 years - proof of inadvertence (indication of the source of the ingestion of EW, although the Code does not explicitly require it, but the established practice says so directly) - 2 years - further reduction depending on the degree of guilt.

Due to the fact that the very term Protected Person unites people who do not have sufficient (full) legal capacity, it is necessary to provide for unconditional reduction of the sanction term only on the basis of Protected Person status up to 2 years (with the possibility of further reduction). In addition, the scope of application of mitigation should be extended to temporary suspension as well (no mandatory temporary suspension - only voluntary/mitigation of conditions for lifting the temporary suspension)

2) Also, the last criterion of the concept of Protected Person should be clarified and it should be specified that a protected person will be a person who is incapacitated or has limited capacity under applicable national law, as well as a person who has supporting documentation from which it can be concluded that he or she has limited intellectual capacity and is unable to assess the relevant risks.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

Other issues (not related to annex 1):

Timely CAS decisions: CAS-proceedings are expensive and therefore there should not be any unreasonable delay. SSI proposes to include in the rules a requirement that reasoned awards must be issued by CAS Panels or Sole Arbitrators within 60 days of the close of the hearing or the written statement (if there is no hearing) absent exceptional circumstances. This is common practice in Swiss criminal law.

Case database: SSI would encourage WADA to create an open access, searchable case repository for published arbitration decisions it receives, or to share its decisions with the already existing website www.doping.nl (The Anti-Doping Knowledge Centre), operated by iNADO and Doping Autoriteit. It would help jurisprudence.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Definitions - International-Level Athlete

The CCES suggests WADA requires IFs to outline their definition for International-Level Athletes in ADAMS to centralize this information and assist ADOs.

Myanmar Anti-doping Organization SUBMITTED

Htet Wai, Secretary (Myanmar)

NADO - NADO

General Comments

Clear and comprehensive.

Suggested changes to the wording of the Article

No changes needed.

Sport Integrity Australia SUBMITTED

Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA OTHER FEEEDBACK on TRAFFICKING:

Definition of Trafficking

SIA seeks consideration for amendment to the Trafficking definition. The definition of Trafficking, as drafted, means that an Athlete can be found to have committed the ADRV of Trafficking if they use a Prohibited Substance that is prohibited in-competition only and was not intended for genuine and legal therapeutic use or to enhance sport performance. This means that where an Athlete trafficks an illicit substance, there is no requirement that there be a connection to sport performance – an Athlete can be sanctioned for an ADRV of trafficking even if the illicit substance was intended for social use and separate to any connection with sports training or competition. SIA considers that there should be discretion (at a minimum) to pursue a Trafficking ADRV in the circumstances, particularly where the Code recognises that illicit substances are frequently abused in society outside of the context of sport, relevant to the Substance of Abuse provisions.

National Anti-doping Agency of the Republic of Belarus SUBMITTED

Vladimir Soroka, Lead Specialist of Result Management and Investigation Department (Belarus)
NADO - NADO

General Comments

Dear Colleagues,

Many articles of the Code specify the application of «no significant fault or negligence» to an athlete or other person. However, the concept of «negligence» and «no significant fault» are not disclosed in the Code. There is a definition of «Fault», which reflects certain provisions that we must take into account when assigning a sports disqualification to an athlete or other person, however, in our opinion, it is necessary to specify the same criteria (examples) in the definition of «no significant fault or negligence».

We believe that it is necessary to disclose the above definition in more detail. For example, «negligence» according to the general theory of law in the Republic of Belarus is the failure or improper performance by a person of his duties due to unfair or negligent attitude to his work or activity. According to this definition, logically, all athletes who violate anti-doping rules are automatically negligent in their activities and prove «no significant fault or negligence». Nevertheless, we understand that «no significant fault or negligence» in the Code implies a different norm and a different meaning.

Thus, we assume that many stakeholders have their own concepts and criteria of «no significant fault or negligence», therefore it is necessary to generalize this definition in order to create a uniform and fair approach to imposing sanctions on persons who violate anti-doping rules.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

General Comments

General comment to definition of Results Management

We strongly support the comments and proposals made by WADAs NADO EAG.

General comment to definition of Recreational Athlete

We strongly support the comments and proposals made by WADAs NADO EAG.

Suggested changes to the wording of the Article

Suggested changes for International-Level Athlete

We strongly support the comments and proposals made by WADAs NADO EAG.

Suggested changes for National-Level Athlete

We strongly support the comments and proposals made by WADAs NADO EAG.

Suggested changes for Recreational Athlete

We strongly support the comments and proposals made by WADAs NADO EAG.

EGY-NADO SUBMITTED

Iman Gomaa, CEO (EGYPT)
NADO - NADO

General Comments

I would like to propose an amendment to the definition of "Tampering"

Suggested changes to the wording of the Article

Proposed Amendment:

Tampering: "Intentional conduct that undermines or disrupts the integrity of the Doping Control process, including actions not explicitly classified under Prohibited Methods. This includes, but is not limited to, offering or accepting bribes, obstructing or preventing sample collection, compromising sample analysis, falsifying documents submitted to an Anti-Doping Organization, Therapeutic Use Exemption (TUE) committee, or hearing panel, procuring false testimony, or engaging in any other fraudulent actions aimed at influencing Results Management or the imposition of Consequences. Furthermore, it includes any form of intentional interference or attempted interference with any aspect of Doping Control, regardless of whether such actions fall within the scope of Prohibited Methods."

Proof of Tampering:

In situations where tampering is alleged, and the athlete denies involvement, the burden of proof shall rest on the Anti-Doping Organization (ADO) to provide clear and convincing evidence. This evidence may include, but is not limited to:

Detailed reports from the Doping Control Officer (DCO), including any observed irregularities or misconduct during sample collection or handling.

Photographic or video evidence, where applicable, documenting the Doping Control process.

Testimonies from the DCO, any witnesses, or other relevant individuals who were present during the Doping Control process.

Analysis of documents, forms, and digital logs, which may reveal discrepancies or signs of intentional interference.

The DCO shall be required to document all irregularities immediately and provide a thorough, step-by-step account of the Doping Control process. In cases of tampering, a comprehensive record of actions and evidence will strengthen the integrity of the case and ensure a fair process for both the athlete and the ADO.

This addition provides clearer guidelines for proving tampering, strengthens the role of the DCO, and ensures the accuracy of the Doping Control process while offering safeguards against wrongful accusations.

Reasons for suggested changes

During a recent case, we encountered some challenges interpreting the definition of tampering and the burden of proof .

Kingston University SUBMITTED

Andrea Petroczi, Professor (United Kingdom)
Other - Other (ex. Media, University, etc.)

General Comments

I am submitting this comment here because there is no option to comment on the "Fundamental Rationale for the World Anti-Doping Code" found on page 10.

1. The current list of values under the 'spirit of sport' includes three elements that are not true values: "Athletes' rights as set forth in the Code," "The spirit of sport is expressed in how we play true," and "Doping is fundamentally contrary to the spirit of sport." For conceptual clarity, these items should not be classified as values.

2. The 'spirit of sport' values, as outlined in the Code, are historically rooted in Western ideals, particularly those of the 19th-century English upper class. In the context of decolonisation, it is crucial to critically examine the global relevance of these values in anti-doping efforts. Since these Eurocentric values may not universally resonate or hold the same meaning across different cultural contexts, especially in influencing personal decision-making, I suggest removing the specific examples of the 'spirit of sport' from the introduction. If needed, these examples can be addressed elsewhere, for example here in the Appendix or in a technical document for the International Standard for Education and/or Prohibited List if the 'spirit of sport' criterion remains in the Code. This should be done following a global consultation to ensure consensus on the core values and their meaning across diverse cultural contexts.

Suggested changes to the wording of the Article

1. At a minimum, remove "Athletes' rights as set forth in the Code," "The spirit of sport is expressed in how we play true," and "Doping is fundamentally contrary to the spirit of sport." from the list of values on p10.

2. Remove the specific examples of the 'spirit of sport' from the introduction altogether.

Reasons for suggested changes

The rationale for these changes is to improve conceptual clarity and relevance in the 21st century and support the decolonisation of the values underlying the 'spirit of sport'.

WADA NADO Expert Advisory Group

SUBMITTED

Martin Holmlund Lauesen, member (Norge)

Other - Other (ex. Media, University, etc.)

General Comments

General comment to definition of Results Management

For clarity of the role of ADOs, it should be considered distinguishing between Results Management up to the charge from, the hearing and appeal, given the requirement of operational (and institutional) independence from the ADO in those processes. This would also better reflect a desire to ensure separation of powers as good rule of law principle.

General comment to definition of Recreational Athlete

The Definition of Recreational Athlete seems to be an anomaly insofar, as it is the only athlete level/category, which is linked to the timing of an ADRV. In light of the reference used in International Standard for Education, which seems to address the level not linked to an ADRV. We suggest amending the definition of Recreational Athlete to reflect that an athlete may be recreational, without having committed an ADRV.

Suggested changes to the wording of the Article

Suggested changes for International-Level Athlete

[Comment to International-Level Athlete: For the avoidance of doubt, given that National-Level Athlete is defined by each National Anti-Doping Organization, an athlete may at the same time be both National-Level Athlete and International-Level Athlete]

Suggested changes for National-Level Athlete

[Comment to National-Level Athlete: For the avoidance of doubt, given that the International-Level Athlete is defined by each International Federation, an athlete may at the same time be both National-Level Athlete and International-Level Athlete]

Suggested changes for Recreational Athlete

Recreational Athlete: *A natural Person who is so defined by the relevant National Anti-Doping Organization; provided, however, the term shall not include any Person who, within the previous five (5) years (...), has been an International-Level Athlete (as defined by each International Federation consistent with the International Standard for Testing) or National-Level Athlete (as defined by each National Anti-Doping Organization consistent with the International Standard for Testing), has represented any country in an International Event in an open category or has been included within any Registered Testing Pool or other whereabouts information pool maintained by any International Federation or National Anti-Doping Organization.*

Reasons for suggested changes

Reason for suggested changes for International-Level Athlete

For the avoidance of doubt, we propose clarifying in comments, that an athlete can at the same time be both international-level athlete and national-level athlete.

Reason for suggested changes for National-Level Athlete

For the avoidance of doubt, we propose clarifying in comments, that an athlete can at the same time be both international-level athlete and national-level athlete.

Reason for suggested changes for Recreational Athlete

We suggest amending the definition of Recreational Athlete to reflect that an athlete may be recreational, without having committed an ADRV.

Atypical Finding (2)

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

According to the definition of International Standard, Technical Letters are not included in International Standards. The definition of International Standard should therefore be adapted.

International Standard: A standard adopted by WADA in support of the Code. Compliance with an International Standard (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the International Standard were performed properly. International Standards shall include any Technical Documents issued pursuant to the International Standard.[emphasis added]

Sport Integrity Australia SUBMITTED
Andrew McCowan, Assistant Director Project Management Office (Australia)
NADO - NADO

General Comments

SIA suggest the following revisions to Article 3.1 Defined terms from the 2027 Code that are used in the International Standard for Laboratories.

Suggested changes to the wording of the Article

…prior to the final determination of about the finding (i.e., the establishing, or not, of an AAF and/or anti-doping rule violation)" Allows for change of ATF to AAF by Lab as well as Violation determination by ADO.

Contaminated Source (8)

Union Cycliste Internationale SUBMITTED
Union Cycliste Internationale Union Cycliste Internationale, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General Comments

Consistent with previous comments. Make sense and guidance is welcome.

World Rugby SUBMITTED
David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

General Comments

World Rugby recognise the need to review the definition of “Contaminated Source” but we are wary that the word “unforeseeable” as a subjective measure may broaden the scope of the definition too far. The new definition suggests that by merely checking the product label and conducting an internet search, the ingestion of a contaminated supplement would likely be deemed "unforeseeable". Whilst we support any change that increases fairness for athletes in genuine cases (in what we recognise is a complex area), we fear this could risk setting the burden of proof too low, and provide opportunities for a meritless contamination defense.

International Olympic Committee SUBMITTED
Legal Affairs, Project Coordinator (Switzerland)
Sport - IOC

General Comments

Pierre Ketterer says :

I have no particular comment to make on these changes, but I wanted to draw your attention to them in the current context.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Mikkel Bendix Bergmann, Legal Advisor (Denmark)

Sport - National Olympic Committee

General Comments

General suggestions and comments

The Danish National Olympic Committee has taken note of the contamination case that arose in international swimming prior to the Tokyo Olympics, as well as the subsequent discussions and processes that followed.

We believe it is essential that the rules and their interpretations are meticulously developed to prevent the recurrence of similar incidents.

Thus, we emphasize the importance of reviewing the Code and its standards during this process. Clarity in rules and practices for addressing such cases in the future is crucial.

Additionally, we see a need to revisit the International Standard for Code Compliance. Although this standard came into effect in April 2024, we believe it is vital to include it in the current code review process, especially since the previous review had a limited scope. It is particularly important that this standard adequately addresses participation in competitions following the completion of a Court of Arbitration for Sport (CAS) sanction, especially in cases of continued non-compliance.

Therefore, we encourage WADA to initiate a third consultation phase for the World Anti Doping Code as well as the International Standard for Code Compliance. This will ensure that these critical issues are thoroughly examined before the new Code is implemented.

Japan Anti-Doping Agency SUBMITTED

Chika HIRAI, Director of International Relations (Japan)

NADO - NADO

General Comments

proposed new terminorogy specifically refering to "such as ingestion of a medication that contains a Prohibited Substances".

It needs to be clarified whether supplements are included in this proposed terminorogy same as "Contaminated product" in the 2021 WADC .

If the proposed "Contamninated Source" does include supplements, it should be cleary mentiond so.

Sport Integrity Australia SUBMITTED

Andrew McCowan, Assistant Director Project Management Office (Australia)

NADO - NADO

General Comments

As noted in relation to Article 10.2, SIA reserves the right to make comment on this definition following the resolution of any recommendations arising in relation to the Cottier Final Investigation Report and associated work of WADA working groups tasked with resolving the approach to dealing with contamination cases.

Also see SIA comments in relation to Contaminated Source under Article 10.6.1.2.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

Please see our comments in respect of Article 10.6.1.2. Please consider how 'Contaminated Source[s]' are to be established, when jurisprudence already exists demonstrating that Athletes can establish their Adverse Analytical Finding was the result of contamination through establishing the 'narrow corridor' based on the available scientific evidence, but do not in fact have concrete proof of the 'Contaminated Source' itself.

Caribbean Regional Anti-Doping Organization SUBMITTED
Marsha Boyce, Communications & Projects Coordinator (Barbados)
NADO - RADO

General Comments

This is a good inclusion with respect to clarity on what could constitute a contaminated source.

Minimum Reporting Level (1)

CHINADA SUBMITTED
MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

Minimum Reporting Level

Despite advances in laboratory testing technology, due to differences in test methods and instrument sensitivity among laboratories, it is possible for some laboratories to report a positive result while others report a negative result for the same sample. Therefore, we suggest setting minimum reporting levels for more substances in order to standardize reporting criteria for laboratories.

Suggested changes to the wording of the Article

We suggest setting minimum reporting levels for more substances to standardize reporting criteria for laboratories.

Reasons for suggested changes

Despite advances in laboratory testing technology, due to differences in test methods and instrument sensitivity among laboratories, it is possible for some laboratories to report a positive result while others report a negative result for the same sample.

NADO Operational Independence (18)

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED
Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendment, as described in the Summary of Key Proposed Changes to the Code.

Riksidrottsförbundet SUBMITTED
Ida Nilsson, Legal advisor (Sverige)
Sport - National Olympic Committee

General Comments

SSC support the further clarification of the definition.

Ministry of Health, Welfare and Sport SUBMITTED

Bram van Houten, Policy adviser (Netherlands)

Public Authorities - Government

General Comments

there are some issues with the current text of this definition, and it should therefore be deleted.

Suggested changes to the wording of the Article

This definition should be deleted.

Reasons for suggested changes

For a nado not to be able to delegate any part of results management to sport organisations is problematic, since in many countries sport organisations have an important role in disciplinary proceedings. This would be impossible with this definition, and therefore this part should be removed from the definition.
In the second sentence, it states no one involved in the operations of a government shall have any operational role or decision-making authority that affects how a nado's funding is budgeted and spent. This is impossible to implement for those nado's who are also a government entity: their funding is provided by government, which has the discretionary power to, at least at an abstract level, direct funding toward certain priorities if necessary. Maintaining this provision will make it impossible for governments to continue to fund nado's (since funding without government oversight, at least on an operational level, is politically untenable). Therefore, this provision needs to be removed as well.
After these two deletions, what remains of this definition has very little added value, which is why we propose to delete this definition of nado's operational independence in its entirety.

Council of Europe SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

General Comments

1. Definition: NADO Operational Independence

This definition should establish the relationship with the separate definition of operational independence, e.g. by referring that "in addition to the general Operational Independence requirements defined in the Code, the NADO must be…"

2. New definition: Other ADOs Operational Independence

It should also be extended to all ADO's (for example ITA and International Federations) and it should of course be under the respect of the individual country's legislation, which in some countries give the national federations more regulatory powers.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

In principle, NADA Germany considers this definition to be good for strengthening the NADOs and their tasks, but sees a need for further explanation and adaptation due to the different national (constitutional) jurisdictions with regard to the responsibilities of the NADOs. Therefore, the following will briefly outline the main problems and ideas for clarification in relation to the new definition.

- The definition (erroneously) assumes that testing and Results Management are originally the responsibility of the NADOs. However, this is generally not the case for all NADOs. In Germany, Sports Federations implement, and conduct sports specified rules and regulations based on the basis of their constitutional autonomy. According to Article 9 abstract one of the German Constitution (Grundgesetz), the national Sports Federations have the right to self-legislation and self-administration. They are allowed (but no obligated!) to delegate individual rights and duties to third parties. This is done on a contractual basis.
- Anti-doping responsibility also falls under their own remit. NADA can only act where there is an effective delegation in relation to anti-doping matters (e.g. via testing and results management agreements). Nevertheless, NADA acts in accordance with the requirements wherever it has been designated as responsible.
- Accordingly, there is a need for adaptation of the new definition, so that some NADOs can only comply with the requirements within the meaning of Article 20.5.1 - after delegation – to them.

- Either this systematic delegation component would have to be taken into account, or a general commentary should be added.
- It is therefore recommended that a commentary on Article 20.5.1 WADC27 be prepared that takes this systematic constitutional basis into account. Example:

  "In cases where the requirements of Art. 20.5.1 could not be met by an NADO because of a breach of applicable (constitutional) rules or law this will not result in non-compliance for these NADOs regarding to ISCCS."
- Moreover, the criteria for NADOs should generally apply to all ADOs (e.g. ITA or International Federations), so that *Operational Independence* and autonomy from state decision-makers are elementary components here as well.
- Furthermore, due to these constitutional premises, which fundamentally maintains anti-doping within the national Sports Federations, it should also be taken into account that some NADOs therefore systematically have no direct access to the affiliation/WADC compliance within the framework of professional leagues of these federations. In this respect, too, an individual contractual delegation to the NADO would have to be insured in order to fulfil the WADC requirements.
- It remains to be resolved how NADOS acting as state agencies and part of the ministry (Spain/AEA) are to be treated within the scope of the definition.

Azerbaijan National Anti-Doping Agency (AMADA) SUBMITTED

Murad Jafarli, Head of Results Management and Investigation Department (Azerbaijan)

NADO - NADO

General Comments

According to the Code draft, NADOs must be independent in their operational decisions and activities from sport organizations and government. Specifically, a NADO shall not delegate any part of its Doping Control responsibilities to a sport organization or government including, but not limited to, Test distribution planning, Testing, Investigation, or Results Management. Further, no Person who at the same time is involved in the management or operations of any sport organization or any government department shall have any operational role in, or decision-making authority that may affect a NADO's sole discretion to determine how that funding is budgeted and spent. A NADO may cooperate and seek information from a sport organization or government which is useful in fulfilling the NADO's responsibilities in the fight against doping so long as it remains independent in its operational decisions and activities. While independence is crucial for maintaining the integrity of anti-doping efforts, it is essential to recognize the unique circumstances under which some NADOs, like AMADA, operate as public legal entities.

Suggested changes to the wording of the Article

Clarify that the requirements for operational independence do not preclude NADOs from fulfilling their obligations to report budget allocations and expenditures to state authorities. This clarification should emphasize that such reporting, as long as confidentiality in the results management process is maintained, does not undermine a NADO's operational independence.

Reasons for suggested changes

By allowing NADOs to report on expenditures and budgets to state authorities while protecting the confidentiality of the results management process, we can ensure that operational independence is preserved. This approach acknowledges the practical realities of public entities while maintaining the integrity and autonomy necessary for effective anti-doping measures.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

New definition: NADO Operational Independence

We support the proposed new definition in article 20.5.1.

However, we still find that it is crucial that the same criteria for NADO's should also be extended to all ADO's like for example ITA and International Federations. Presently, the criteria that is demanded for the NADO is not the same for other ADO's.

The above mentioned should of course be under the respect of the individual country's legislation, which in some countries gives the national federations more regulatory powers.

NADO Flanders

SUBMITTED

Jurgen December, Legal Adviser (België)
NADO - NADO

General Comments

National Anti-Doping Organization Operational Independence, as in the definition, restricts the involvement of government in budgeting, as well as spending. This does not take into account that many NADOs are set up by the government and are part of the public authorities. This implicates that the budget often comes from public funding, within the constitutional framework.

Although operational independence is guaranteed, this does not exempt the NADO from having to report on the spending and be held accountable for the spending of public funds. This does not involve operational issues, such as the frequency, volume of doping tests or other related matters or results management decisions, but on the general spending.

The definition is too restrictive in that respect.

NADA Austria

SUBMITTED

Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

General Comment to WADC with reference to this definition

Probably it could be thought of changing the wording in the Code (& Standards), since in anti-doping we do **not** fight or combat, we promote clean sport by working collaboratively to develop and deliver the World Anti-Doping Program which protects the right of all athletes and their support personnel to participate in a doping-free environment.

Fighting and combating sadly is a reality in countries in Europa and elsewhere. Militaristic language should not be used in the clean sport community.

Thus, the words “fight” shall be removed from the WADC (namely in the Footnotes 1 and 39, on the cover page PART THREE ROLES AND RESPONSIBILITIES, in the Articles 22.5 and 24.1.11, Definitions of “National Anti-Doping Organization Operational Independence”, “Critical”, “General” and “High Priority”.

Similarly, the word “combat” must be removed from the WADC (namely in the Footnotes 60 and 123).

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Sur le fond, nous sommes naturellement entièrement convaincus de l'importance cruciale de l'autonomie opérationnelle des ONADs, pour l'ensemble de l'écosystème antidopage.

En revanche, nous renvoyons à notre commentaire général et au besoin légitime de pouvoir disposer, le plus rapidement possible, de la part de l'AMA, d'une évaluation d'impact des différentes propositions, sur les règles et législations applicables mais aussi sur les ressources humaines et financières des signataires.

Cette demande d'évaluation d'impact s'applique de manière très concrète pour cette proposition de modification. Est-ce que la modification proposée de la définition de l'autonomie opérationnelle des ONADs aurait un impact sur les ressources humaines et/ou financières des signataires ?

Si oui et sachant que l'autonomie opérationnelle est déjà bien définie et respectée en pratique, alors nous ne serions pas favorables à cette proposition de modification.

CHINADA

SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

General Comments

NADO Operational Independence

We do not support the change. We believe that the revision of the Code should fully consider the specific circumstances of the Signatories and respect their national legal systems and operational realities, rather than requiring all Signatories to adopt exactly the same model for results management. Furthermore, Code Article 20.5.1 explicitly requires NADO Operational Independence, and the International Standard for Results Management explicitly requires the Operational Independence of hearing panels and the substantive independence of appellate bodies, which have proven to be effective in practice. We do not support linking the NADO Operational Independence to the involvement of National Federations, nor do we support restricting the involvement of National Federations in Testing and Results Management.

Suggested changes to the wording of the Article

We do not support linking the NADO Operational Independence to the involvement of National Federations, nor do we support restricting the involvement of National Federations in Testing and Results Management.

Reasons for suggested changes

We believe that the revision of the Code should fully consider the specific circumstances of the Signatories and respect their national legal systems and operational realities, rather than requiring all Signatories to adopt exactly the same model for results management. Furthermore, Code Article 20.5.1 explicitly requires NADO Operational Independence, and the International Standard for Results Management explicitly requires the Operational Independence of hearing panels and the substantive independence of appellate bodies, which have proven to be effective in practice.

Sport Integrity Commission Te Kahu Raunui SUBMITTED
Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

- We seek further clarity regarding the application of *'no person involved in the management or operations of any sport organisation shall have any operational role, or decision-making authority that may affect a NADO's sole discretion to determine how funding is budgeted and spent.'* and the impact this may have on board appointments.
- As the board approves the Commission's budget, they have discretion to determine how the Commission's funding is budgeted and spent. Depending on the Code drafting team's intention of 'discretion to determine how funding is budgeted and spent', this may have unreasonable, unintended and significant implications in the Commission's governance structure.
- The Commission's remit extends beyond Anti-Doping and across all areas of integrity in sport and active recreation in New Zealand. Because of this connection to sport, it is unreasonable to expect and require that no board member have a decision-making role in another sports organisation.

"This feedback was endorsed by the Athlete Commission of the Sport Integrity Commission Te Kahu Raunui."

Agence Nationale Antidopage SUBMITTED
Agence Nationale Antidopage Tunisie, Direction Générale (Tunisie)
NADO - NADO

General Comments

Même si l'ANAD est un établissement public, ces établissements publics jouissent de l'indépendance totale. Le contrôle exercé sur ce type d'établissement est un contrôle de légalité et pas d'opportunité. et de ce fait ce statut ne se contredit pas avec l'indépendance opérationnelle des ONAD de ce type.

Anti-Doping Norway SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

General Comments

We support the views expressed by WADA's NADO EAG

USADA SUBMITTED

Allison Wagner, Director of Athlete and International Relations (USA)

NADO - NADO

General Comments

National Anti-Doping Organization Operational Independence – USADA submits that it is important for WADA and all ADOs to have operational independence. Any further clarity in principles and requirements regarding operational independence should first and foremost apply to WADA and then apply to other ADOs, including IFs and NADOs.

Caribbean Regional Anti-Doping Organization SUBMITTED

Marsha Boyce, Communications & Projects Coordinator (Barbados)

NADO - RADO

General Comments

There are continued concerns over the outlined definition of NADO Operational Independence and the negative impact that a strict application of this definition might have on NADOs operating in countries with small populations and limited human resources.

It has been shown that persons can operate independently despite having a dual role. This is particularly important in countries where the management and operations of the NADO are carried out almost exclusively by volunteers.

For countries where the NOC is the de facto NADO a strict interpretation of the definition as presented could create uncertainty/confusion.

Additionally, would conditions of operational independence apply to, for example, RADO staff as responsibilities/operations of NADOs might be delegated?

Suggested changes to the wording of the Article

Any application of the definition / Article 20.5.1 should allow for an acceptable level of safeguarding of the independence of anti-doping operations and processes.

Organizations which are effectively functioning should not penalized for perceived conflicts.

Chair SUBMITTED

Athlete Council, WADA (Canada)

Other

General Comments

The newly proposed definition of NADO Operational Independence makes explicit that a NADO may not delegate any of its anti-doping activities to a government, but that it may cooperate and seek information from one. We have a few comments and questions for the drafting team:

- May a government act on behalf of an athlete or athletes (for example, to investigate the source of contamination)? Is this regulated

anywhere in the Code?

- We are concerned that the distinction between “delegate” and “cooperate” may not be clear enough to prevent government interference. Perhaps NADOs should apply to WADA, under exceptional circumstances, before cooperating with a government.
- In line with WADA’s interest in expanding cooperation with law enforcement, are there any exceptional situations under which it would be appropriate for a NADO to delegate any of its anti-doping activities to a government?

WADA NADO Expert Advisory Group SUBMITTED

Martin Holmlund Lauesen, member (Norge)

Other - Other (ex. Media, University, etc.)

General Comments

Comments to definition of *National Anti-Doping Organization Operational Independence*:

We welcome that National Anti-Doping Organization Operational Independence is suggested fleshed out compared with the 2021 Code, however, the current wording still leave some unanswered questions

- Should a distinction between national and international stakeholders? E.g. while it seems relevant to ensure that NADOs cannot delegate (all or parts of) their anti-doping program to the government and/or the national sports organizations, it could be relevant to consider which part could be delegated to other ADOs incl. IFs, such as Sample Collection.
- While we agree that the Test Distribution Planning should not be delegated to stakeholders with potential conflicting interests, it seems redundant to mention it in light of the definition of Testing. If the reference to testing is kept, the TDP could be deleted. However, it should be consider keeping Testing for national stakeholders, but use Test Distribution Planning for international stakeholders
- Some NADOs use the hearing and appeal panels provided by the NOCs, National Sports Confederations, or National Federations (which ensures operational and institutional independence of the Hearing and Appeal Panels from the NADOs). Given that the definition of Results Management includes Hearing and Appeal, it should be clarified if this will no longer be possible in the future.
- Should a limitation to providing information which could undermine the integrity of the antidoping work to national stakeholders be included?
- While the definition seems appropriate for NADOs who have the authority to ensure the entire National Anti-Doping Program, it does not take into account situations, where the NADO has not been delegated such authority in its entirety (e.g. where national federations have the constitutional right to self-legislation and self-administration, and they have not transferred the authority to the NADO). It should be considered, how to address such situations.
- The scope of government should be further clarified, including what the position of a NADO which is a governmental agency or part of a ministry, will be.
- We take it, that with this definition, the scope of the NADOs obligation to ensure a national anti-doping program remain limited to those national organizations that are bound by the Code (i.e. as signatories in their own right or through their affiliation / membership of Signatories).

We refer to the model presented in the comment from NADO EAG on NADO Operational Independence provided in the Stakeholder Engagement phase for further inspiration.

Finally, we would like to reiterate our recommendation, that operational independence of anti-doping activities is sought achieved in all ADOs, and thus not limited to NADO.

General Comment to art. 20.5.1. 20.1.13., 20.2.12, 20.3.18., 20.6.11. regarding NADO Operational Independence

We suggest that other signatories are obliged to respect NADOs Operational Independence, and that this is reflected in appropriate sections of the Code

Suggested changes to the wording of the Article

Suggested changes to art. 20.1.13., 20.2.12, 20.3.18., 20.6.11.

To respect the operational independence of laboratories as provided in the *International Standard for Laboratories*, as well as *National Anti-Doping Organisation Operational Independence*.

Suggested changes to art. 20.4.3.

To respect the autonomy of the *National Anti-Doping Organization* in their country and (…) respect the *National Anti-Doping Organization Operational Independence.*

Suggested changes to art. 20.3.2.

…(ii) requiring that their National Federations respect the *National Anti-Doping Organisation Operational Independence* and recognize the authority of the National Anti-Doping Organization in their country in accordance with Article 5.2.1 and assist as appropriate with the National Anti-Doping Organization’s implementation of the national Testing program for their sport;…

Reasons for suggested changes

eason for suggested changes to art. 20.1.13., 20.2.12, 20.3.18., 20.6.11.

Seems that the obligation to respect NADO Operational Independence should not be limited to NADOs respecting their own operational independence, but should also be broadened to include other Signatories respecting the NADO Operational Independence.

Reason for suggested changes to art. 20.4.3.

(...) denotes deletion.

We suggest using the terminology developed regarding NADO Operational Independence in 20.5.1. + definitions.

Reason for suggested changes to art. 20.3.2.

Given the requirement to NADOs to respect their Operational Independence also in light of involvement from national sport federations, it seems relevant to ensure that International Federations ensures, that their members similarly respect the NADO Operational Independence

Quality Assurance (1)

Caribbean Regional Anti-Doping Organization SUBMITTED
Marsha Boyce, Communications & Projects Coordinator (Barbados)
NADO - RADO

General Comments

This inclusion is welcomed.

Technical Letter (1)

NADA SUBMITTED
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

General Comments

It is legally questionable to include a further legally binding level in the code. The principle of certainty may be affected if "from time to time (ad hoc) ... particular issues on the analysis, interpretation and reporting of Prohibited Substances" can be "addressed" by WADA without further elaboration.

Testing Pool (1)

USADA SUBMITTED
Allison Wagner, Director of Athlete and International Relations (USA)
NADO - NADO

General Comments

Testing Pool – This definition is confusing, and there is too much overlap between this definition and the definition of Whereabouts Pool (in the IST). USADA recommends that the term Whereabouts Pool be used instead of Testing Pool. Testing Pool is confusing because, for example, anti-doping organizations often have jurisdiction to test many more athletes than the athletes who file whereabouts. But the term Testing Pool suggests to athletes that they can only be tested if they are in a Testing Pool, even though that is not the definition. The term Whereabouts Pool is clear, and if individuals want to refer to Whereabouts Pools other than the RTP, they can simply say as much.