

2027 Code & International Standard Update Process : Stakeholder Engagement Phase - International Standard for Results Management (ISRM)

Showing: All (161 Comments)

Concept #1 – Notification Process (27)

World Rugby

SUBMITTED

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

We would support the proposal for 10.8.1 to allow more flexibility in the application/availability of this provision, particularly with regards to the duration of its applicability during the RM process. We would propose the inclusion of specific conditions for reasonable extension of the 20 day deadline at the discretion of the ADO with results management responsibility. We feel this would be of more use than allowing the athlete to avail of 10.8.1 at an earlier stage of the process (though we would not object to this).

UEFA

SUBMITTED

Rebecca Lee, Anti-Doping Team Leader (Switzerland)
Sport - Other

UEFA supports the development of this concept

With respect to this point, UEFA finds that to ensure fast-track case resolution, incentive to admit the anti-doping rule violation shall be given from the very preliminary stages.

Sport NZ

SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)
Public Authorities - Government

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 considers that caution needs to be applied when considering whether athletes should be able to formally admit a doping violation on notification of an alleged violation (to take the benefit of the one-year reduction in ineligibility) given that at this stage athletes may not in some jurisdictions have access to full disclosure of relevant information nor legal advice on the merits of that course. Legal advice (and disclosure of further information in response to requests made by those equipped to understand the Code) may not be available until formal charge.

Council of Europe

SUBMITTED

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

Supported (partly)

In order to respect the Athletes' right to a fair trial, they must be given sufficient time to defend themselves. Need more flexibility in the organisation of results management, but do not want to make Article 10.8.1 mandatory at the stage of initial notification under ISRM Article 5. This could therefore become an optional but not mandatory element of the notification (during the initial notification).

Organizacion Nacional Antidopaje de Uruguay

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)
NADO - NADO

SUBMITTED

No comments at all. Satisfied

Anti-Doping Sweden

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

SUBMITTED

ADSE don't support the suggestion to only make Code Article 10.8.1 available at the pre-charge stage (initial notification). This contradicts the investigation and intelligence work and is, in most cases, not in the best interest for the athlete; they must be given sufficient time to be able to defend themselves in a fair way. If the Results Management Agreement is included the pre-charge stage it should not be mandatory.

ADSE support providing further guidance relating to the acceptance of consequences. Templates would be helpful.

NADO Flanders

Jurgen Secember, Legal Adviser (België)
NADO - NADO

SUBMITTED

NADOF is not in favor of having 10.8.1 applicable in the early notification stage.

If and ADO wants to incorporate 10.8.1 in the notification stage, this should be general information provided to the athlete. But from the perspective of an athlete, admitting and accepting consequences that are yet to be determined in the charge stage, might be odd. Again, if it involves specified substances for example, an athlete can be tempted to admit use of off label medication, and will be prone to a 4 year ineligibility period, whereas without admission the ADO would have to prove intent and can be limited to 2 years. This is not a concept that is illegal, but it should be applied with caution in order to have an informed admission by the athlete based on asserted consequences rather than a range of possible consequences, which is a moving target from the point of view of the athlete.

NADA

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

SUBMITTED

Fully agree, in particular, more guidance relating to consequences to be proposed under ISRM Article 7

NADA Austria

Alexander Sammer, Head of Legal (Austria)
NADO - NADO

SUBMITTED

According to the **Concept #1** we see this as a good approach to move forward the possibility of Article 10.8.1. Since cases then could be solved faster / at an earlier stage, but this approach might also have impacts on potential substantial assistance as athletes will not think about this option, rather they will use 10.8.1 to get rid of the case as soon as possible.

Sport Integrity Australia

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

SUBMITTED

- We agree with the proposal to review the notification process, in particular in the context of major

events/competitions.

- We agree with the proposal to consider the interplay between ISRM Articles 5 and 7 and Code Article 10.8.1. See our comments in relation to the Code concept for Results Management Agreements under Article 10.8.1.

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

SUBMITTED

International Standard for Results Management

As explained in the concepts document for this Standard, it came into force in January 2021.

This standard is therefore recent. An evaluation of the application of ISRM 2021 would have been and still would be interesting and desirable.

Likewise, and as the Agency committed to it at the start of the process, a prior impact assessment of the proposed concepts, with regard to the resources of the signatories, the rights of athletes and in relation to applicable rules and legislation, is expected and is necessary.

An explanation as to the need for the proposed changes would also be necessary.

Concretely, if new requirements were to be proposed, they must be accompanied by an assessment of the impact on the financial and human resources of the signatories.

Without prejudice to the preceding principles:

1) Notification process :

The ISRM Drafting team intends to review the notification process under the current ISRM, in particular in the context of major events or other major competitions. The interplay between ISRM article 5 and 7 in the context of Code Article 10.8.1 (One year reduction for certain ADRV based on Early admission and acceptance of sanction) will also be considered. The ISRM Drafting team intends to consider whether the regime of Code article 10.8.1 should be available to an athlete already at the stage of the initial notification under ISRM Article 5 as currently, Code Article 10.8.1 is only available at the charge stage. The IRM Drafting team will consider providing further guidance to ADOs.

-> We refer to our comment relating to concept 5 proposed for the Code (Results Management agreements).

-> In relation with Code Articles 10.8.1 and 10.8.2, these provisions must remain flexible. In particular, the comment on article 10.8.2 which also covers Code article 10.8.1 must remain unchanged, providing the possibility for ADO's to entrust the imposition of any sanction to a hearing body independent of the ADO. This is indeed perfectly in line with the principle of the separation of powers, with Article 6 of the European Convention on Human Rights and the right to a fair trial, as well as with the recommendation of the Council of Europe of 2022 on general principles of fair procedure applicable to anti-doping proceedings in sport.

-> Maintaining this flexibility should be the starting point for any possible revision of Code article 10.8.1 or 10.8.2.

-> Consistent with our preliminary remark relating to the need to preserve the possibility for ADOs to maintain a clear separation between the control and investigation body, on the one hand, and that in charge of disciplinary follow up and sanctions, on the other hand, in a perspective of an effective right to a fair trial and in compliance with the principle of separation of powers, we are clearly not in favor of the possibility to extend the possible application of Code articles 10.8.1 and 10.8.2 at the pre-charge stage (from the assertion letter). Indeed, this would de facto lead to removing the current possibility provided for by the Code and described above of clearly separating the control and investigation body, on the one hand, from that in charge of sanctions on the other hand.

-> For the same reasons and by analogy, we are therefore not in favor of allowing a possible application of article 10.8.1 of the Code, in the context of the first notification (of article 5 ISRM);

-> In all cases, it is therefore appropriate to maintain flexibility in relation to the application of articles 10.8.1 and 10.8.2 of the Code and therefore, consistently, not to make the possibility of applying these articles mandatory when of the first notification (art 5 ISRM).

-> In a flexible approach this could but should not be done on first notification.

Drug Free Sport New Zealand

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

SUBMITTED

We support the concept of a review of the notification process in the ISRM.

Consideration needs to be given to the notification process and the point where an athlete has access to legal advice.

Finnish Center for Integrity in Sports (FINCIS)

Petteri Lindblom, Legal Director (Finland)
NADO - NADO

SUBMITTED

In order to respect the Athletes' right to a fair trial, they must be given sufficient time to defend themselves. Need more flexibility in the organisation of results management, but do not want to make Article 10.8.1 mandatory at the stage of initial notification under ISRM Article 5. This could therefore become an optional but not mandatory element of the notification (during the initial notification).

Sport Ireland

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

WADA has proposed reviewing the notification process under the current ISRM, which would be welcome. The ISRM Drafting Team should be urged to undertake this review in the context of all cases and not such in the context of major events or other major competitions. One particular concern is that the notification process is overly complicated and is designed for elite athletes, which creates an undue burden on non-elite Athletes. From an ADO perspective, the notification process takes up an excessive amount of time and resources and in our view lengthens rather than shortens the process. Further consideration should be given to how the process can be simplified and suitable for the majority of athletes.

Anti-Doping Norway

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

SUBMITTED

Strongly supported. The later in the process an admission is presented, the less value it has, therefore including access to reduction earlier in the process is welcomed. The prerequisite for a one-year (or 25%) reduction should be that the admission comes at an early stage.

UK Anti-Doping

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

SUBMITTED

We have been able to utilise Article 10.8.1 without needing any further guidance as to the acceptance of Consequences. Any additional clarity is welcomed so long as it does not interfere with an ADO's ability to readily apply Article 10.8.1 in cases as they are currently able to do so with an admission of the ADRV and acceptance of the period of Ineligibility.

The current provision works well. Providing Athletes with the opportunity to receive a one (1) year reduction post charge (as opposed to post-Notification) means that they have sufficient time to understand the process, what is alleged against them, what the Consequences will be, and the opportunity to seek legal representation and advice.

Bringing the availability of this provision forward, to post-Notification only would have a detrimental effect on Athletes and ADOs alike. Fewer Athletes will have sufficient time to avail themselves of the one (1) year reduction and ADOs will end up expending more resources on cases going to hearings, because that will be the only remaining, realistic option for Athletes to reduce their sanction.

Bringing the availability of the provision forward may also put pressure on Athletes to do without representation and/or legal advice in order to secure the reduction in sanction within the prescribed time limit. This would be detrimental to the fairness of anti-doping proceedings.

USADA

SUBMITTED

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

Articles 5.1.2.1(g), 5.1.2.6, 5.3.2.1(e), and 7.1(g): Notifications regarding 10.8.1 Reductions

Issue: Code Article 10.8.1 states that “an *Athlete* or other *Person* may receive a one-year reduction” suggesting an ADO has the option of whether to apply the rule to a given situation. The ISRM confirms this by referring to an individual “potentially” receiving a reduced period of ineligibility. Yet the comment to Article 10.8.1 in the Code indicates that an athlete has the sole ability to control whether the reduction applies.

Recommendation: If it is up to the ADO to determine whether to grant an Article 10.8.1 reduction, then the ISRM should not require ADOs to reference the provision in notice and charging letters. If Article 10.8.1 must be offered/granted to athletes (but up to ADO if an athlete meets the criteria, which will hopefully include an interview), then it should remain a requirement to include in notice and charging letters, but the Code should be more clear about this.

Issue: “The ISRM Drafting Team intends to consider whether the regime of Code Article 10.8.1 should be available to an athlete already at the stage of the initial notification under ISRM Article 5 as currently, Code Article 10.8.1 is only available at the charging stage.”

Recommendation: USADA disagrees with this interpretation of the Code. Specifically, Code Article 10.8.1 states that an athlete can receive a reduced sanction “after being notified by an Anti-Doping Organization of a potential anti-doping rule violation” (i.e., ISRM Art. 5 notification, as opposed to a notice of charge in ISRM Art. 7), and ISRM Article 5 requires that athlete to be notified in the initial notice that they can receive a reduction under Code Article 10.8.1. The only timing restriction to the acceptance of the reduced sanction after the initial notification is that it must be done “no later than twenty (20) days after receiving notice of an anti-doping rule violation charge.” Notably, it says “no later than” not “only after” receiving a notice of charge. Accordingly, there is no reason to change the language.

Issue: “The ISRM Drafting Team will consider providing further guidance to ADOs as it relates to the acceptance of consequences, and more particularly in which circumstances and how the consequences should be proposed under ISRM Article 7.”

Recommendation: If the ISRM Drafting Team wishes to provide guidance, the appropriate place to do so is in a guidance document as opposed to an international standard that imposes requirements on all ADOs. It is unclear from the concept paper what changes are being contemplated or why, and USADA welcomes the opportunity to

comment on changes once more clearly set forth. It is already the case an athlete can accept consequences via a settlement agreement with an ADO at any time during the results management process.

Canadian Centre for Ethics in Sport

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

SUBMITTED

The CCES suggests having the option of a reduction for admission starting from the point of Notification, and for a specified number of days following a Notice of Charge. The option should not only be limited to the Notification phase.

Japan Anti Doping Agency

YUICHI NONOMURA, Result Management (??)
NADO - NADO

SUBMITTED

We agree with the suggestion. The case will be closed quickly by giving the athlete an opportunity to admit the commission of an anti-doping rule violation after receiving AAF notification.

CHINADA

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

SUBMITTED

We support the proposals by the ISRM Drafting Team to extend the scope of Code Article 10.8.1 to sanctions carrying less than a four-year ban and to reduce the period of ineligibility to some extent if the athlete or other person admits violation at the pre-charge stage and enters into a result management agreement. However, it is important to note that the reduced period of ineligibility shall not be less than half of the otherwise applicable period of ineligibility.

RUSADA

Kristina Coburn, Compliance Manager (Russia)
NADO - NADO

SUBMITTED

RUSADA supports this concept.

Swiss Sport Integrity

Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

Issue: "The ISRM Drafting Team intends to consider whether the regime of Code Article 10.8.1 should be available to an athlete already at the stage of the initial notification under ISRM Article 5 as currently, Code Article 10.8.1 is only available at the charging stage."

Swiss Sport Integrity disagrees with this interpretation of the Code. Specifically, Code Article 10.8.1 states that an athlete can receive a reduced sanction "after being notified by an Anti-Doping Organization of a potential anti-doping rule violation" (i.e., ISRM Art. 5 notification, as opposed to a notice of charge in ISRM Art. 7), and ISRM Article 5 requires that athlete to be notified in the initial notice that they can receive a reduction under Code Article 10.8.1. The only timing restriction to the acceptance of the reduced sanction after the initial notification is that it must be done "no later than twenty (20) days after receiving notice of an anti-doping rule violation charge." Notably, it says "no later than" not "only after" receiving a notice of charge.

Swiss Sport Integrity is already handling it in such a way that we set out Art. 10.8.1 with the (PADRV-)notification, enclose an agreement with the notification and give the notified persons the possibility of accepting a reduced sanction within 20 days of reception of the notification. This practice is according to the wording of the Code and has been accepted by WADA. Accordingly, there is no reason to change the language.

Issue: "The ISRM Drafting Team will consider providing further guidance to ADOs as it relates to the acceptance of consequences, and more particularly in which circumstances and how the consequences should be proposed

under ISRM Article 7.”

Swiss Sport Integrity would like to point out that if the ISRM Drafting Team wishes to provide guidance, the appropriate place to do so is in a guidance document as opposed to an International Standard that imposes requirements on all ADOs. In our opinion, the appropriate place to give guidance would be Guidelines as they are made specifically for this purpose. For the moment, it is not clear what WADA intends but Swiss Sport Integrity would like to remind that its process on how to implement the acceptance of consequences works perfectly fine and allows the completion of some cases at very short notice. The aim of Art. 10.8.1 must continue to be that the ADO is given as little effort as possible, otherwise a one-year reduction makes no sense.

Anti Doping Danmark

Silje Rubæk, Legal Manager (Denmark)
NADO - NADO

SUBMITTED

As addressed in the code under Concept #5 – Result Management Agreements, Denmark don't use Result Management Agreements, and don't have much feedback on this concept.

Dopingautoriteit

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Doping Authority Netherlands endorses the consideration whether the regime of Code Article 10.8.1 should be available to an athlete at the stage of the initial notification. Recommendation: Doping Authority Netherlands recommends to limit the 21-day period to the stage of initial notification under ISRM Article 5. Otherwise, athletes will have the opportunity to wait weeks or months before admitting the commission of an anti-doping rule violation, and this will, obviously, interfere with the process. WADA's proposal is thus very logical, but our recommendation is to make it even stricter: Article 10.8.1 Code should only be available at the stage of the initial notification under ISRM Article 5.

Agence française de lutte contre le dopage

Adeline Molina, General Secretary Deputy (France)
NADO - NADO

SUBMITTED

Il est contre-productif de permettre l'application de l'article 10.8.1 dès la notification initiale prévue à l'article 5 de l'ISRM :

- d'une part, il est nécessaire de maintenir la phase contradictoire qui précède l'accusation et permet à la personne mise en cause de bénéficier des garanties propres au procès équitable ;
- d'autre part, cette phase contradictoire permet de recueillir la défense du sportif et donc des explications sur son dopage, son entourage etc., ce qui est souhaitable au plan des investigations et permet d'alimenter les départements I&I ;
- enfin, cela participe à l'efficacité du dispositif : le sportif est d'autant plus enclin à admettre la violation et la sanction que ses premiers arguments ont échoué.

Si cette solution devait être adoptée, un dispositif de réduction dégressif selon le moment de l'admission (après la notification prévue à l'article 5 ou celle prévue à l'article 7) pourrait être envisagé.

Sports Tribunal New Zealand

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

SUBMITTED

We support the extension of Rule 10.8.1 to the notification stage.

International Testing Agency

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

SUBMITTED

- We believe that it is already allowed for athletes to accept 10.8.1 from the get-go (initial notification of potential ADRV). However clarification would be useful. We are however of the view that the strict 20-day deadline should start from the charge (article 7 ISRM) and not article 5. The reasoning for this has been filed under the Code Concept on 10.8.1.

- We support a review of the notification phase, especially with regards to the interplay between the MEO and IF when applicable.

Concept #2 – Provisional Suspension (25)

UEFA

Rebecca Lee, Anti-Doping Team Leader (Switzerland)
Sport - Other

SUBMITTED

UEFA supports the development of this concept

UEFA has no particular comment on it, however, a clarification for ABP cases may be beneficial.

Sport NZ

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)
Public Authorities - Government

SUBMITTED

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 does not fully understand the first proposal and requires more detail.

Sport NZ suggests that careful exploration be made into the feasibility and desirability of lifting a provisional suspension on the ground of a likely finding of no fault or negligence. There are likely to be legal issues involved in the making of interim findings on limited evidence.

Council of Europe

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

SUBMITTED

Supported

Clarifications are necessary regarding provisional suspension notably on ABP cases or on the lifting of the measure. Some flexibility should be retained as to how and when a provisional suspension can be imposed as well as in cases of no fault or negligence (contamination cases not involving a contaminated product; exceptional circumstances; delays in the procedure, etc.). Specific rules should also clarify when during the procedure a provisional suspension could be lifted.

Organizacion Nacional Antidopaje de Uruguay

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)
NADO - NADO

SUBMITTED

No comments at all. Satisfied

Anti-Doping Sweden

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

SUBMITTED

ADSE support review of provisional suspensions in the context of athlete biological passport. It should be clarified when a provisional suspension could be lifted during the process.

In general, the rationale for imposing/not lifting a provisional suspension could be explained (in a comment to the article), not only in the ISRM Guideline.

NADA

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

SUBMITTED

Agree on need for more clarification for grounds on which a provisional suspension may be lifted. However, such clarification should contain specific rules regarding the time in RM proceedings at which a provisional suspension could be lifted (already before Charge Letter?).

NADA Austria

Alexander Sammer, Head of Legal (Austria)
NADO - NADO

SUBMITTED

We support the suggestions in **Concept #2** and recommend that Provisional Suspension in cases of APF's should be further clarified in Annex C ISRM 2023. We also strongly support to extend the grounds for lifting provisional suspensions in cases where there is no fault or negligence (although this is very difficult for athletes to prove).

Sport Integrity Australia

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

SUBMITTED

We agree that reviewing the provisional suspension regime, in the context of the ABP, will be a valuable exercise.

We also agree it is worthwhile exploring additional grounds for the lifting of provisional suspensions including cases of no fault or negligence.

ONAD Communauté française

Julien Magotteaux, juriste (Belgique)
NADO - NADO

SUBMITTED

We first refer to our preliminary remarks on this Standard made in introduction to our comment on concept 1 and in the item "other comments/suggestions".
Without prejudice of these remarks :

2) Provisional Suspension :

The ISRM Drafting Team intends to review the provisional suspension regime in the context of athlete biological passport (ABP) cases as these principles could benefit from further clarification, in particular as it concerns the moment when a provisional suspension is imposed. Similarly, the grounds on which a provisional suspension may be lifted deserve further consideration, for instance whether they should be expanded to include likely cases of no fault or negligence or potentially others. The ISRM Drafting Team intends to liaise with the Code Drafting team in respect of these matters.

-> We refer to our previous comments regarding articles 10.8.1 and 10.8.2 of the Code as well as that on article 5 of the ISRM.

-> It is necessary to maintain the current flexibility and therefore not provide new mandatory requirements in relation to these provisions.

-> This therefore also applies to the question of provisional suspensions. The approach must remain flexible and not provide for any new mandatory requirements in this area, particularly with regard to the question of timing.

-> In this same flexible approach, why not allow - without imposing - a possible provisional suspension in cases other than those currently provided for.

Drug Free Sport New Zealand

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

SUBMITTED

We support the concept of a review of provisional suspension provisions, including where one might be lifted and will consider this further when additional information is available.

Finnish Center for Integrity in Sports (FINCIS)

Petteri Lindblom, Legal Director (Finland)
NADO - NADO

SUBMITTED

Clarifications are necessary regarding provisional suspension notably on ABP cases or on the lifting of the measure. Some flexibility should be retained as to how and when a provisional suspension can be imposed as well as in cases of no fault or negligence (contamination cases not involving a contaminated product; exceptional circumstances; delays in the procedure, etc.). Specific rules should also clarify when during the procedure a provisional suspension could be lifted.

Sport Ireland

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

Sport Ireland will await more detailed proposals and drafting before reaching a view in this regard.

Anti-Doping Norway

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

SUBMITTED

Norway has no experience with ABP cases.

While we understand the intention, we believe that the question of no fault / negligence will not be established at an early stage, but rather when an investigation is terminated. We support the possibility of a suspension being lifted

when extraordinary circumstances apply. We expect that the number of days the subject has already been suspended will continue to be deducted from the final (potential) period of ineligibility.

UK Anti-Doping

SUBMITTED

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

Further clarification with regards to Provisional Suspensions in ABP cases is welcomed.

However, any revision to the grounds to lift Provisional Suspensions need careful consideration. The criteria are already quite strict and at the very early stages of a case (when such applications tend to be made by Athletes) there is an inherent lack of evidence available, for example, in cases where an Athlete needs to show that an AAF was caused by a Contaminated Product.

Widening the scope of the grounds to lift, means potentially more applications from Athletes and for ADOs to respond to. It will also mean that panels will have more bases upon which to lift Provisional Suspensions. If this happens at an early stage in proceedings, when there is generally an insufficiency of evidence, this increases the likelihood of Athletes participating in sport whilst their case is pending and this will impact upon the integrity of sport more broadly.

USADA

SUBMITTED

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

Article 6: Provisional Suspensions

Issue: "The grounds on which a provisional suspension may be lifted deserve further consideration, for instance whether they should be expanded to include likely cases of no fault or negligence or potentially others."

Recommendation: USADA agrees with the proposal that athletes should be able to have a provisional suspension lifted if they have sufficient evidence of no fault or negligence. The categories for lifting a provisional suspension are set forth in the Code and care should be given to expanding the categories beyond no fault, contamination, substances of abuse, and meeting ISTUE 4.2 criteria for a prospective TUE.

Canadian Centre for Ethics in Sport

SUBMITTED

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

The CCES welcomes clarification around the imposition of a provisional suspension in ABP cases.

Consider tightening up these rules based on the low threshold an athlete needs to achieve in arguing a contaminated product in order to have provisional suspension lifted.

Japan Anti Doping Agency

SUBMITTED

YUICHI NONOMURA, Result Management (??)
NADO - NADO

We support your suggestion.

CHINADA

SUBMITTED

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

As set out in ISRM Article 6.3.1, athletes on their own initiative may voluntarily accept a provisional suspension if done so prior to the later of: (i) the expiration of ten (10) days from the report of the B sample (or waiver of the B sample) or ten (10) days from the notice of any other ADRV, or (ii) the date on which the athlete first competes after such report or notice. Option (ii) here differs significantly from the calculation of option (i) in that it does not specify who determines “the date on which the athlete first competes”, by the athlete, the event organization or the ADO. In this sense, it lacks temporal clarity and predictability, and it actually means that the athlete can voluntarily accept a provisional suspension at any time. If so, this option is meaningless and undermines the certainty of the results management process.

RUSADA

Kristina Coburn, Compliance Manager (Russia)
NADO - NADO

SUBMITTED

RUSADA supports this concept.

Dopingautoriteit

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Recommendation: Doping Authority Netherlands welcomes this clarification.

Swiss Sport Integrity

Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

Issue: “The grounds on which a provisional suspension may be lifted deserve further consideration, for instance whether they should be expanded to include likely cases of no fault or negligence or potentially others.” In principles, Swiss Sport Integrity agrees, especially when there is a medical use and criteria for a prospective TUE are met (e.g. Insuline). Although, Swiss Sport Integrity would like to point out that from a procedural view the system in Switzerland is working. Swiss Sport Integrity has not yet lifted any provisional suspension. There is the possibility to challenge any provisional suspension from Swiss Sport Integrity at the next instance, the Disciplinary Chamber of Swiss Sport (independent instance), and we do not intend to change this fair procedure.

Anti Doping Danmark

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

SUBMITTED

Supported

Agence française de lutte contre le dopage

Adeline Molina, General Secretary Deputy (France)
NADO - NADO

SUBMITTED

The ISRM Drafting Team intends to review the provisional suspensions regime in the context of athlete biological passport (ABP) cases as these principles could benefit from further clarification, in particular as it concerns the moment when a provisional suspension is imposed.

Oui, cela devrait être clarifié. Sur la base de l'expérience et compte tenu de l'impact sur la réputation et la carrière d'un sportif, il serait raisonnable d'imposer la suspension provisoire seulement après le deuxième avis conjoint des experts.

Similarly, the grounds on which a provisional suspension may be lifted deserve further consideration, for instance whether they should be expanded to include likely cases of no fault or negligence or potentially others.

Oui. L'expérience a montré qu'une plus grande flexibilité est effectivement nécessaire, et pas seulement pour les cas d'absence de faute ou de négligence (cas de contamination n'impliquant pas de produit contaminé ; circonstances exceptionnelles ; retards dans les procédures, etc.).

Sports Tribunal New Zealand

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

SUBMITTED

More information as to how lifting a provisional suspension would work should be provided.

International Testing Agency

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

SUBMITTED

- We support this review.

- We believe that the regime of "optional provisional suspension" and especially the grounds to have it lifted should also be reviewed. It has been our experience that athletes attempt to argue that the grounds for provisional measures apply to the optional provisional suspension. In the scope of such litigations, panels have been unclear about the applicable burdens and standards of proof.

Concept #3 – Hearing Process (26)

UEFA

Rebecca Lee, Anti-Doping Team Leader (Switzerland)
Sport - Other

SUBMITTED

UEFA supports the development of this concept

UEFA has no particular comment on the first point.

Regarding the second point, would a particular deadline be imposed for decisions to be rendered following a hearing in the ISRM?

Sport NZ

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)
Public Authorities - Government

SUBMITTED

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.

It is not apparent what changes are contemplated in relation to the timeliness of decision-making. We suggest that any deadlines take into account the time needed for panels to reach a decision and to express that decision in a clear way (both of which depend on the complexity of the case). Therefore, a fair balance needs to be struck between incentivising expeditious determination and supporting quality decision-making.

Council of Europe

Council of Europe, Sport Convention Division (France)

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

SUBMITTED

Supported

Clarification should be provided regarding the role and responsibilities of each entity during the process. There should be a separation between the pre-trial phase (by the ADO) and the trial phase (including appeals) before an independent disciplinary body, as the latter is not under the control of the ADO. NADOs should not be held responsible for a decision made by an independent hearing body. It is unfair for an ADO to be faced with non-compliance as a result of decisions made by a body over which it has no control.

Mandatory requirements regarding operational independence should be transferred to the NFs or third parties involved in the RM process.

Supported that the timeliness of CAS decisions is a serious concern. One of the suggested ways of restoring the athlete's rights would be to clearly state in the rules that the start of the period of ineligibility can/should be backdated in the decision if it is not communicated promptly.

General principles of fair procedure – adopted by the Council of Europe - (https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a63e66) should be taken into account notably as regards the right to be heard (principle e), the public nature of the hearings (principle f), third-party intervention (principle g), right to an effective defence (principle h), access to documents and evidence (principle i).

Organizacion Nacional Antidopaje de Uruguay

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)

NADO - NADO

SUBMITTED

No comments at all. Satisfied

Anti-Doping Sweden

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

SUBMITTED

ADSE fully support the review of “Operational Independence” when it comes to the involvement of National Federations & International Federation results management process, likewise, include this Article to the organizations where the results management has been delegated to a third party.

ADSE agrees that the provisions of timeliness of decisions need to be reviewed. In ADSE’s opinion this especially includes rendering decisions in CAS, which is unacceptable long and is not fair for the athletes.

NADO’s should not be held responsible for a decision made by an independent hearing body. It is unfair for a NADO to be faced with non-compliance as a result of decisions made by a body which it has no control over.

NADA

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

SUBMITTED

Fully agree to review the provisions relating to the timeliness of decisions following a hearing process (including on appeal): one should disconnect the time for pre-adjudication by the ADO and the time prior to adjudication before an independent disciplinary body (including appeals) as the latter is not under control of the ADO.

NADA Austria

Alexander Sammer, Head of Legal (Austria)

NADO - NADO

SUBMITTED

We support the **Concepts #3, #4 and #6**.

Sport Integrity Australia

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

SUBMITTED

Review of timeliness of decisions.

- We support decisions being made in a timely manner, and in particular, the principle that an arbitration should be completed as soon as possible, and a determination issued as soon as practicable after final submissions and evidence have been lodged by the parties.

ONAD Communauté française

Julien Magotteaux, juriste (Belgique)
NADO - NADO

SUBMITTED

We first refer to our preliminary remarks on this Standard made in introduction to our comment on concept 1 and in the item "other comments/suggestions".

Without prejudice of these remarks :

3) Hearing process :

The ISRM Drafting Team intends to review the Code defined term of "Operational Independence" specifically as this term relates to an ADO's results management process. Without limitation, the involvement of National Federations in an International Federation (IF) results management process or, where results management is delegated to a third party or persons affiliated to that third party, is currently not covered by the Code definition of "Operational Independence". Given this fundamental concept is enshrined in the Code, the ISRM Drafting team liaise with the Code Drafting team in this respect. Moreover, the ISRM Drafting team intends to review the provisions relating to the timeliness of decisions following a hearing process (including on appeal).

-> As explained in the opening remarks, issues related to athletes' rights and fundamental principles of fair trial rights are essential. These principles and rights must in no way be diminished during the process of updating the Code and Standards.

-> In this sense, and as also indicated in the preliminary remarks, the principle of the separation of powers constitutes a guarantee of the right of each athlete to a fair procedure.

-> This principle should be taken into account in the entire process and in any proposals.

-> One possibility would be to clarify the role of hearing bodies in the Code. A NADO should not be held responsible for a decision rendered by an independent hearing body. The definition and delimitation of results management could also be reviewed in order to avoid this pitfall.

-> Regarding the question of the timeliness of decisions after the hearing, we agree that this is an important element in relation to the rights of athletes but we believe that a certain flexibility must be maintained given the complexity and variety of different cases. In this sense, the current provisions on this subject seem adequate to us.

Drug Free Sport New Zealand

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

SUBMITTED

Operational independence in ADOs result management process

We support the concept of a review of operational independence in result management decisions.

Timeliness of decisions

We support the concept of a review but have not experienced timeliness issues with result management decisions from the New Zealand Sports Tribunal. We support the review of timeliness of appeal decisions.

Finnish Center for Integrity in Sports (FINCIS)

Petteri Lindblom, Legal Director (Finland)
NADO - NADO

SUBMITTED

Clarification should be provided regarding the role and responsibilities of each entity during the process. There should be a separation between the pre-trial phase (by the ADO) and the trial phase (including appeals) before an independent disciplinary body, as the latter is not under the control of the ADO. NADOs should not be held responsible for a decision made by an independent hearing body. It is unfair for an ADO to be faced with non-compliance as a result of decisions made by a body over which it has no control. Mandatory requirements regarding operational independence should be transferred to the NFs or third parties involved in the RM process.

Sport Ireland

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

Sport Ireland will await more detailed proposals and drafting before reaching a view in this regard.

Anti-Doping Norway

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

SUBMITTED

We support this.

It may be beneficial to consider further distinguishing the hearing and appeal process from other parts of the Results Management process, with a view to flesh out, that on the one hand, operational decisions of the ADO should be (operationally) independent from the government and sport, including in relation to results management, while the hearing and appeal process should be independent from the prosecution and “policing” from the ADO on the other hand.

The compliance responsibilities and accountabilities of ADOs for elements covered by a Code required independence (operational and/or institutional) should be further refined and developed. From a governance perspective, it seems problematic, that ADOs are held accountable for actions, falling outside their Code-defined sphere of influence. This would not apply to actions covered by actions of a third-party provider acting under the instruction of an ADO.

UK Anti-Doping

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

SUBMITTED

Clarity with regards to the operational independence of delegated third parties and in particular, the involvement of National Federations in the specific context of a NADO's or IF's proceedings is welcomed.

Provisions concerning the timeliness of appeal decisions are welcome, particularly with regards to the CAS.

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

Article 8.8: Operational Independence

Issue: Whether “the involvement of National Federations in an IF’s results management process or, where results management is delegated to a third party or persons affiliated to that third party, is currently not covered by the Code definition of ‘Operational Independence.’”

Recommendation: USADA agrees that the definition of “Operational Independence” should cover these examples and that independence provisions should apply equally to WADA and ADOs.

Article 8: Hearing Process

Issue: Athletes who have upcoming significant competitions should have the right to ask that the hearing be expedited, and the ADO should have the right to expedite a hearing if an athlete is not provisionally suspended. This is not only good for the athlete, who can have a pending case resolved prior to a major competition, but it is also good for clean athletes because an ADO can ensure cases are resolved prior to an athlete with a pending case (but no provisional suspension) claiming a podium position that may be disqualified at a later date. The Code and ISRM only address the situation of an athlete having the right to an expedited hearing after the imposition of a provisional suspension.

Recommendation: Expand the language regarding expedited hearings to include ADOs having the right to resolve cases prior to upcoming significant or major competitions at which the athlete intends to compete.

Issue: “The ISRM Drafting Team intends to review the provisions relating to the timeliness of decisions following a hearing process (including on appeal).”

Recommendation: USADA has a requirement that first instance decisions be issued within 30 days of the close of the hearing. There have been virtually no issues with arbitrators being able to meet this deadline, and it has been extended in only the most exceptional of circumstances. Thus, USADA recommends including a requirement that reasoned awards must be issued within 60 days of the close of the hearing (for all hearing levels) absent exceptional circumstances.

Japan Anti Doping Agency

YUICHI NONOMURA, Result Management (??)
NADO - NADO

We agree with the review of the defined term of Operational Independence, which covers the involvement of National Federations in an International Federations results management process, or a third party delegated results management or persons affiliated to that third party. We agree with the review of the provisions relating to the timeliness of decisions following a hearing process.

Canadian Centre for Ethics in Sport

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

The CCES welcomes review of the definition of Operational Independence in order to tighten up the involvement of National Federations in the results management process.

Additional wording should be added to clarify that public disclosure should not take place until the appeal period has passed.

CHINADA

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

SUBMITTED

Comment 1: Operational independence articles in ISRM have been proven to be effective in the implementation

The domestic anti-doping activities conducted by NADOs, including education, Testing, and results management, rely heavily on the support and cooperation of national federations (NFs). The key to ensuring the operational independence of the NADOs lies in its distinct separation from the government and other sports organizations in personnel and decision-making, rather than mere isolation in anti-doping activities. Code Article 20.5.1 explicitly outlines NADO's operational independence, and the International Standard for Results Management further specifies the operational independence of the hearing body and the substantive independence of the appellate body, which has been proven to be effective in implementation.

Comment 2: We think it's better not to restrict the involvement of national federations.

In the process of Code revision, it is crucial to fully consider the unique circumstances of the signatories. This involves respecting their national legal systems, sport management systems, practical implementation and originality. It is also important to understand the complexity of results management, especially in terms of sanctions, hearings and appeals, instead of requiring all signatories to apply exactly the same model for results management. No matter what model is used for results management, the only requirement is that the process, procedures, and decision-making shall be in compliance with the Code and the International Standard for Results Management. Therefore, we do not suggest that the operational independence of NADOs be linked with the involvement of national federations, nor do we suggest that the involvement of national federations be restricted in testing and results management.

RUSADA

Kristina Coburn, Compliance Manager (Russia)
NADO - NADO

SUBMITTED

RUSADA supports this concept.

Swiss Sport Integrity

Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

Issue: "The ISRM Drafting Team intends to review the Code defined term of "Operational Independence" specifically as this term relates to an ADO's results management process."

Swiss Sport Integrity agrees that the definition of "Operational Independence" should cover the mentioned examples and that independence provisions should apply equally to all stakeholders under the Code.

To show you an example: In Swiss Sport Integrity's procedure every person has the possibility to be heard by the Disciplinary Chamber of Swiss Sport, completely operationally and institutionally independent instance from Swiss Sport Integrity.

Issue: "The ISRM Drafting Team intends to review the provisions relating to the timeliness of decisions following a hearing process (including on appeal)."

Swiss Sport Integrity agrees. There should be a requirement that first instance decisions be issued within 30 days of the close of the hearing. For reasoned awards, Swiss Sport Integrity recommends that there should be a requirement that these must be issued within 60 days of the close of the hearing or within 60 days of the issuing of the decision (when there is no hearing) absent exceptional circumstances. Such a deadline exists in Swiss criminal law and it proved practicable.

Anti Doping Danmark

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

SUBMITTED

As addressed in the code under Concept #8 – NADO Operational Independence, ADD don't support that it should be an option for National Federations to be involved in testing or in the result management process under the responsibility of NADO's. There should be no involvement and the NADO's should be fully independent. The National Federations will be too close to the NADO's, and it will challenge the operational Independence.

ADD supports the proposal to review the timeliness of decisions following a hearing process.

Dopingautoriteit

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Recommendation: Where the Code and/or the ISRM impose requirements on NADOs regarding institutional and operational independence in the disciplinary process and a NADO delegates these mandatory requirements to National Federations (NFs) as Delegated Third Parties, then the mandatory requirements should transfer to the NFs.^[1] For example, if the NFs are responsible for the disciplinary proceedings (e.g. hearing panels) on the national level, then the hearing panels on appeal should be institutionally independent from the NF.^[2]

^[1] Although the NADO will remain responsible for Code compliance purposes.

^[2] Just like the hearing panel on appeal must be institutionally independent from the NADO, per the definition of Institutional Independence. Article 13.2.2 Code seems to impose a general institutional independence for appeal panels, but it should be clarified that this institutional independence is not limited to the NADOs.

Agence française de lutte contre le dopage

Adeline Molina, General Secretary Deputy (France)
NADO - NADO

SUBMITTED

The ISRM Drafting Team intends to review the Code defined term of "Operational Independence" specifically as this term relates to an ADO's results management process. Without limitation, the involvement of National Federations in an International Federation (IF) results management process or, where results management is delegated to a third party or persons affiliated to that third party, is currently not covered by the Code definition of "Operational Independence". Given this fundamental concept is enshrined in the Code, the ISRM Drafting Team will liaise with the Code Drafting Team in this respect.

L'indépendance opérationnelle des panels est une exigence légitime. Les OAD responsables de la gestion des résultats, de même que les organisations sportives, ne doivent pas pouvoir interférer dans leurs décisions.

L'accent pourrait toutefois utilement être mis sur la formation des panels, étant rappelé que ce sont les OAD qui supportent les conséquences des décisions prises par ceux-ci en termes de contentieux et de conformité.

Moreover, the ISRM Drafting Team intends to review the provisions relating to the timeliness of decisions following a hearing process (including on appeal).

Cette intention est louable. Il convient toutefois de veiller à ne pas imposer des règles trop strictes et des délais trop contraints à des OAD qui ne disposeraient pas de ressources suffisantes ou dans des affaires particulièrement complexes. Les dispositions relatives à la durée de la procédure doivent se borner à fixer un principe sans entrer dans le détail de délais précis qui seraient opposables et qui risqueraient de hâter les procédures au détriment de leur qualité.

La rapidité des décisions du TAS est une préoccupation sérieuse, qui menace gravement les droits des athlètes (à la fois les droits de l'athlète sanctionné et les droits de ses camarades compétiteurs si l'athlète n'est pas suspendu pendant la procédure d'appel). Une façon de rétablir les droits de l'athlète serait d'indiquer clairement dans les

règles que le début de la période de suspension peut/doit être rétroactif la décision n'est pas rapidement notifiée.

WADA NADO Expert Advisory Group

Martin Holmlund Lauesen, member (Norge)
Other - Other (ex. Media, University, etc.)

SUBMITTED

We encourage the drafting team to consider further elaborating the distinction between of the hearing and appeal process from other parts of the Results Management process. This could be helpful for fleshing out in the Code, that on the one hand, operational decisions of the ADO should be (operationally) independent from the government and sport, including in relation to results management, while the hearing and appeal process should be independent from the prosecution and "policing" from the ADO on the other hand.

The compliance responsibilities and accountabilities of ADOs for elements covered by a Code-required independence (be it operational and/or institutional) should be further refined and developed. From a governance perspective, it seems problematic, that ADOs are held accountable under the Code for actions, falling outside their Code-defined sphere of influence. This would not apply to actions covered by actions of a third-party provider acting under the instruction of an ADO, where the Code does not prevent the ADO from exercising its authority.

International Testing Agency

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

SUBMITTED

We support this review.

Freelance journalist

Karayi Mohan, Freelance journalist (India)
Other - Other (ex. Media, University, etc.)

SUBMITTED

There should be a maximum period of time allocated for a hearing process to be completed in arriving at a first-instance decision unless there are truly exceptional circumstances. Nowadays, even routine cases are taking as much as six months or more. There is little point in telling the ADOs to complete the process "promptly" or "without delay", for, they then take their own time. Even panel chairpersons take months to write an order after completing the hearings.

Concept #4 – Appeals/Revision (26)

UEFA

Rebecca Lee, Anti-Doping Team Leader (Switzerland)
Sport - Other

SUBMITTED

UEFA supports the development of this concept

UEFA has already a provision on this with Article 53 of the UEFA Disciplinary Regulations.

1 On request, the competent disciplinary body may reopen proceedings where a party or UEFA claims to have new and substantial facts or evidence that it was unable to provide before the decision became effective.

2 An application to reopen proceedings must be addressed to the disciplinary body that took the contested decision within 14 days of the grounds for review coming to light, and no more than four years after the decision in question became effective.

3 Cases related to doping, fraud, bribery, corruption or match-fixing offences are not subject to the above limitations and can be reopened at any time.

International Tennis Integrity Agency

SUBMITTED

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

Appeals – ITIA would advocate that appeals should not be de novo. Other than benefiting the lawyers representing either party, the process is lengthy, costly and does little to challenge those who are looking to take a chance another panel will look at the decision rendered at first instance differently. If there are no issues with regards the ability or neutrality of the first instance panel then why are parties permitted a second go at a hearing. The grounds for appeal should be restricted and the appeal confined to those grounds only.

Council of Europe

SUBMITTED

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

Supported

Additional clarity is needed regarding the reopening or revision of final decisions.

However, the possibility of review should only be possible on a very limited basis and in very exceptional cases, assessing the status of the anti-doping case in the light of the European Convention on Human Rights and the case law of the European Court of Justice.

There is an inherent need to maintain the legal certainty of decisions (to ensure that ADOs are not overburdened by endless litigation), as well as a possible "slip rule" [a provision that allows matters not considered or available for consideration the first time around to be used as a basis for reopening].

If the situation of a possible reopening of a case after a decision has been rendered is nevertheless pursued, in very limited and exceptional cases, then this possibility must of course also be open to athletes. This brings us back to the issue of legal certainty and res judicata raised at the outset.

General principles of fair procedure – adopted by the Council of Europe - (https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a63e66) should be taken into account notably as regards the right to appeal (principle I).

COCOM

SUBMITTED

Stephanie Sirjacobs, Legal adviser (Belgium)
NADO - NADO

Attention à bien respecter le droit interne des Etats à cet égard.

Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)
NADO - NADO

No comments at all. Satisfied

Anti-Doping Sweden

SUBMITTED

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

ADSE fully support the review and clarification of which circumstances a final decision can be reopened or subject to revision. It must be clarified that the possibility of review should only be possible on a very limited basis and in exceptional cases.

NADO Flanders

Jurgen Secember, Legal Adviser (België)
NADO - NADO

SUBMITTED

NADOF thinks the concept is valuable, but there will have to be strict conditions to come to a reopening of the case. In the opinion of NADOF, the right should work not only for the ADO, but certainly also for the athlete. By having strict conditions (such as: discovery of new facts that were impossible to find at the time of the decision, clear and unambiguous scientific evidence, clear error), unnecessary requests for reopening can be avoided. If the revision should be made available to the ADOs, NADOF will have to implement this in the Decree, but it will remain to be seen how to fit this in the internal general judicial constitutional principles that also govern penal procedures. At least an independent body should have to make a decision on the admissibility of such a request, before the case can be reopened.

NADA

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

SUBMITTED

Fully agree on the need to add clarity on re-opening or revision of final decisions: If no specific rules are stipulated, different national law concepts may apply.

Sport Integrity Australia

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

SUBMITTED

This issue has not arisen in the Australian context. We are supportive for the Drafting Team to provide clarity, but caution against the addition of exhaustive lists of circumstances which may limit legitimate needs.

In principle we believe a decision should only be reopened in exceptional circumstances in response to new evidence that was not known to the parties at the time of the proceedings and could not have been identified with reasonable inquiries.

ONAD Communauté française

Julien Magotteaux, juriste (Belgique)
NADO - NADO

SUBMITTED

We first refer to our preliminary remarks on this Standard made in introduction to our comment on concept 1 and in the item "other comments/suggestions".

Without prejudice of these remarks :

4) Appeals/Revision :

The Code and ISRM currently do not define in which circumstances a final decision can be reopened or subject to revision. In conjunction with the Code Drafting team, the ISRM Drafting team will consider the need to add clarity in this respect, in particular in circumstances where new evidence is discovered after a first instance or appeal decision is rendered.

-> For reasons linked to legal certainty, res judicata and, ultimately, the rights of athletes, we believe that we must be careful with this subject.

-> Possible revisions should only be possible on a very limited basis and in very exceptional cases.

-> Unless it is truly justified (because essential evidence was discovered after a decision was rendered and that evidence relates directly and only to the violation for which the decision was issued and not to another violation), it is clearly preferable, as far as possible, not to have to reopen a case for which a decision has been rendered. And therefore, to prefer the path of another decision for another violation, as far as possible.

-> If the path of a possible reopening of a case, after a decision has been rendered, is nevertheless pursued, in very limited and exceptional cases, then this possibility must naturally also be open to athletes. This returns to the question of legal certainty and res judicata raised at the outset.

Drug Free Sport New Zealand

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

SUBMITTED

Further clarity is required regarding what is meant by a revision of a final decision as opposed to an appeal. In New Zealand, we have an appeals process in place.

We consider that careful attention is required as to whether new evidence can be introduced following a substantive decision (i.e., that it was not previously available) and whether a re-hearing is required as opposed to a revision or appeal.

Finnish Center for Integrity in Sports (FINCIS)

Petteri Lindblom, Legal Director (Finland)
NADO - NADO

SUBMITTED

Additional clarity is needed regarding the reopening or revision of final decisions. However, the possibility of review should only be possible on a very limited basis and in very exceptional cases.

Sport Ireland

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

In principle this seems appropriate and Sport Ireland awaits more detailed proposals in this regard.

Anti-Doping Norway

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

SUBMITTED

We support this in principle. However, we wonder how the non bis in idem principle is ensured to avoid double jeopardy? It is important, that the Code and ISRM provides the same safeguards as in society (or similar, where they may not be directly applicable).

UK Anti-Doping

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

SUBMITTED

Consideration of this issue is welcomed. There is however, a careful balance to be struck. There is inherently a need to maintain legal certainty of decisions (to ensure ADOs are not overburdened by never-ending litigation), alongside any potential 'slip rule' [a provision which allows for matters that were not considered or not available for consideration first time round to be a basis for reopening] that will be of material use to parties in anti-doping proceedings.

USADA

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

SUBMITTED

Article 10.3: Reopening/Revisions

Issue: "The Code and ISRM currently do not define in which circumstances a final decision can be reopened or subject to revision. In conjunction with the Code Drafting Team, the ISRM Drafting Team will consider the need to add clarity in this respect, in particular in circumstances where new evidence is discovered after a first instance or appeal decision is rendered."

Recommendation: USADA believes there is inherent authority to correct manifest errors and would caution against a restrictive list of circumstances in which fairness can be achieved. For example, there are legitimate grounds such as ineffective assistance of counsel or new evidence. In such rare circumstances, the question arises as to what entity makes the decision to reopen and is that decision appealable. This is a difficult issue, but it seems well-suited for the ADO with RMA to determine in its sole discretion. Or if there was a hearing, the hearing body that made the initial decision can address requests to reopen. Officially opening a door of this nature may allow for filing deadlines to be circumvented and for endless appeals. Thought should be given as to whether there should be a temporal limitation and a heightened, or at least explicit, materiality requirement.

Canadian Centre for Ethics in Sport

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

SUBMITTED

Further clarity is welcomed.

Japan Anti Doping Agency

YUICHI NONOMURA, Result Management (??)
NADO - NADO

SUBMITTED

We agree with the suggestion.

CHINA

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

SUBMITTED

On the establishment of a mechanism for correction and review

As the fight against doping evolves, the anti-doping community has gained fresh insights into the causes of AAFs, certain testing parameters and technical documents, etc. Moreover, WADA has made adjustments at the rule level. Some individual cases previously treated as ADRVs may not have been reasonable, such as the EPO-positive case caused by a genetic mutation. It is a fundamental principle of the rule of law that mistakes must be corrected, and the fight against doping must also be conducted with respect for science and courage to correct mistakes. In light of the principles of equity, impartiality, and practicality, we propose the establishment of a mechanism for error rectification and review within Code Article 27 or other relevant sections of the Code as well as in the International Standard for Results Management. For instance, it could provide that if new evidence emerges

which sufficiently alters the determination of an ADRV or the imposed sanction after a decision has already been rendered or become effective, upon request from the concerned individual, either the ADO responsible for results management or WADA may issue a revised decision.

RUSADA

Kristina Coburn, Compliance Manager (Russia)
NADO - NADO

SUBMITTED

RUSADA supports this concept.

Dopingautoriteit

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Recommendation: Doping Authority Netherlands welcomes the clarification as suggested by WADA. Doping Authority Netherlands has had rules in place for such situations for a number of years. These rules have been applied in the past, for instance in cases where a non-specified substance changed 'status' and became a specified substance under WADA's Prohibited List.

Anti Doping Danmark

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

SUBMITTED

Supported

Swiss Sport Integrity

Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

Issue: "The Code and ISRM currently do not define in which circumstances a final decision can be reopened or subject to revision. In conjunction with the Code Drafting Team, the ISRM Drafting Team will consider the need to add clarity in this respect, in particular in circumstances where new evidence is discovered after a first instance or appeal decision is rendered."

Swiss Sport Integrity agrees and believes that there is a need to address that issue on an international level. On a national level, that issue is already addressed. In Switzerland, the rules of Art. 328 et seq. CPC (Code de procédure civile) regarding revision are applied analogously in such case. There is an exhaustive list of circumstances in which a revision is possible. We have already gone through this once before CAS in a case and obtained a revision of a CAS sentence. This means, the Swiss system regarding revision works. Swiss Sport Integrity would like to point this out to WADA and strongly recommend that they consider a rule based on Swiss Art. 328 et seq. CPC.

Agence française de lutte contre le dopage

Adeline Molina, General Secretary Deputy (France)
NADO - NADO

SUBMITTED

Cette possibilité assure l'efficacité de la lutte antidopage mais elle doit être examinée avec prudence, dans la mesure où il n'est pas évident que cette solution soit conforme aux droits fondamentaux des personnes poursuivies, notamment les garanties d'un procès équitable, protégée par les règles nationales et la Convention européenne des droits de l'Homme. En effet, lorsqu'elle n'est pas dans l'intérêt de la personne poursuivie, une telle réouverture, ou révision, notamment en dehors des cas dans lesquels une première décision favorable a été obtenue par fraude ou par falsification, peut porter une atteinte excessive à la sécurité juridique si elle est sans limitation de durée et si elle n'est pas suffisamment encadrée par des motifs justifiant cette réouverture.

Sports Tribunal New Zealand

SUBMITTED

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

The particular circumstances under which a final decision can be reopened should be defined.

International Testing Agency

SUBMITTED

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

- We agree with this review and would add that agreements covered by 8.3 Code should also be included. We would suggest clear criteria (e.g. Art. 328 Swiss CPC).

Concept #5 – Specific Results Management Processes (22)**UEFA**

SUBMITTED

Rebecca Lee, Anti-Doping Team Leader (Switzerland)
Sport - Other

UEFA supports the development of this concept

No particular comment from UEFA. UEFA already send reasoned letters when a whereabouts failure is recorded against a player.

Council of Europe

SUBMITTED

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

Supported (partly)

Regarding whereabouts failures:

Some clarifications could be brought on measures to be taken when discovering further whereabouts failures or other potential violation during the RM process.

Guidelines should be established to ensure a right balance between the need for out-of-competition testing and the athletes' right to private life.

To include in the ISRM that NADOs will be notified of a potential whereabouts failure simultaneously with the initial notification of the athlete.

Regarding provisional suspension in ABP cases:

More clarity and legal certainty should be provided for the management of cases linked to ABP, but maintaining flexibility and without impact on the way in which the RM is organized.

COCOM

SUBMITTED

Stephanie Sirjacobs, Legal adviser (Belgium)
NADO - NADO

Motiver on le fait déjà. Du reste, on ne sait pas très bien ce qui est entendu par "further consideration"... assez vague donc avis ne peut être que vague sur cette question ... Pourtant ça me semble être un point important.

Organizacion Nacional Antidopaje de Uruguay

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)
NADO - NADO

SUBMITTED

No comments at all. Satisfied

Anti-Doping Sweden

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

SUBMITTED

ADSE support a review of the notification process for whereabouts failures and support a reasoning in whereabouts decisions. The current regulations open up for different interpretation and application of the regulations between NADO's and ADO's, which leads to different treatment for the athletes within the same sports.

ADSE also support the review of the results management process för ABP cases.

NADA

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

SUBMITTED

Fully agree to improve RM rules for whereabouts failures, because the mentioned issues are big issues in pending cases (including further asserted whereabouts failures during RM-proceedings).

NADA Austria

Alexander Sammer, Head of Legal (Austria)
NADO - NADO

SUBMITTED

With regard to **Concept #5** we support this concept and would like to add that there also might be some clarifications on discovery of further whereabouts failures in the context of the Result Management for a single Missed Test or Filing Failure, which could lead to an extension / amendment to the initial "charge" / notification of the Missed Test or Filing Failure. Therefore, the notification of a Missed Test or Filing Failure should not exclude the possibility to pursue another potential Whereabouts Failure later in the Result Management process. See also the comments of NADA Austria in connection with Concept #3 (World Anti-Doping Code 2027).

ONAD Communauté française

Julien Magotteaux, juriste (Belgique)
NADO - NADO

SUBMITTED

We first refer to our preliminary remarks on this Standard made in introduction to our comment on concept 1 and in the item "other comments/suggestions".

Without prejudice of these remarks :

5) Specific Results Management processes :

The ISRM Drafting team intends to review the notification process for whereabouts failures, which currently involves a notification, an administrative review, and a de novo review in the context of anti-doping rule violation charge under Code Article 2.4. Matters relating to the jurisdiction of ADOs to conduct results management over individual whereabouts failures and/or Code Article 2.4 violations deserve further consideration. Specifically, the discovery of further whereabouts failures in the context of the results management for a Code Article 2.4 ADRV is currently not addressed in the ISRM and requires further clarification. To improve monitoring, whereabouts failure decisions may

also require reasoning in all cases. The ISRM Drafting team also intends to review the results management process for ABP cases under ISRM Annex C, in particular for matters relating to the provisional suspension of athletes (as indicated above).

-> In general, we are satisfied with the current process for notifying whereabouts failures (notification, administrative review and de novo review in the context of an ADRV charge under article 2.4).

-> This system is rather balanced and respectful of the respective rights and interests of the ADO and the athlete.

-> We would therefore be in favor of maintaining this balance.

-> As for the question of the discovery of a new whereabouts failure in the context of results management for a possible violation of article 2.4 of the Code, we refer to our comment on concept 4.

-> Caution must be exercised in terms of legal certainty and respect for the rights of the defense. Clarification could be provided, but while respecting these essential principles.

-> From this same perspective of respect for the rights of the defense and the right to a fair procedure, we naturally completely agree on the fact that all decisions regarding whereabouts failures must be reasoned.

-> Finally, in relation to Annex C, we agree to provide more clarity (and legal certainty) for the management of cases linked to ABP. However, we refer to our comments relating to concepts 1, 2 and 3.

-> It is necessary to maintain the current flexibility, fully respectful of the principle of the separation of powers. In this sense, we refer more particularly to our comment relating to concept 3 on provisional suspensions.

-> Also, no additional mandatory requirements should be added on this topic (provisional suspensions).

-> On the other hand, in this same flexible approach, why not allow - without imposing - other possible cases of provisional suspensions.

Sport Integrity Australia

SUBMITTED

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

The ISRM Drafting Team intends to review the notification process for whereabouts failures.

- We agree with the proposal to review the notification process for whereabouts failures, including the process, jurisdictional issues, and discovery of further failures.
- We also agree that reasoning be provided in all cases.
- WADA should consider establishing a Whereabouts group to ensure consistency and to share learnings.

The ISRM Drafting Team also intends to review the results management process for ABP cases under ISRM Annex C, in particular for matters relating to the provisional suspension of athletes (as indicated above).

- We agree with this proposal.

Drug Free Sport New Zealand

SUBMITTED

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

We support the concept to review whereabouts failure notifications, including jurisdictions of whereabouts failures.

We consider that there should be a focus on clear identification of the issue resulting in a whereabouts failure, specifically against the requirements and guidance. At a minimum such a failure should result in education for the athlete.

In practice we have seen generic legalistic whereabouts failure letters that are confusing for athletes as to what they have failed to do.

Sport Ireland

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

WADA has outlined proposals with respect to reviewing whereabouts failures. In this regard, it is strongly recommended that the de novo review requirement be deleted as it is unnecessary and unduly burdensome. Overall, whereabouts violations generally take 7 to 8 weeks to process, which is an inordinate time frame and an inefficient use of resources, particularly as most whereabouts violations fall away as an Athlete does not commit 3 within 12 months.

Likewise, it would seem that the proposal to require reasoning in all cases involving whereabouts failure decisions would only add to the administrative burden. It is unclear how such a proposal would improve monitoring, as suggested, and it is likely that alternative proposals would be more appropriate in achieving the aim to improve monitoring in such cases.

Clarity is also requested on the following statement: *"Specifically, the discovery of further whereabouts failures in the context of the results management for a Code Article 2.4 anti-doping rule violation is currently not addressed in the ISRM and requires further clarification."*

Anti-Doping Norway

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

SUBMITTED

We support this. It is important from a due-process perspective, that the principle enshrined in ISRM B.2.3 (that a new whereabouts failure cannot be recorded, unless the athlete has been given notice to the original apparent whereabouts failure prior to the new infraction) is kept.

UK Anti-Doping

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

SUBMITTED

We support any further clarification of Results Management processes with regards to whereabouts matters, though the current framework does present good opportunities to ensure each failure is reviewed and confirmed adequately, before forming part of an Article 2.4 allegation.

The need to provide reasoning for Failures is also welcome (though as far as we are aware, this is already being done in practice).

Canadian Centre for Ethics in Sport

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

SUBMITTED

The CCES was unsure what jurisdiction processes need clarification.

Does “To improve monitoring, whereabouts failure decisions may also require reasoning in all cases” mean that a formal decision (similar to a file outcome summary) will need to be created for each whereabouts failure? WADA will need to ensure that this is an efficient process to balance the potential additional administrative burden.

Japan Anti Doping Agency

YUICHI NONOMURA, Result Management (??)
NADO - NADO

SUBMITTED

We agree with the review of the notification process for whereabouts failure to make it further clarification. We also agree with the review of the management process for ABP cases under ISRM Annex C.

USADA

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

SUBMITTED

Annex B.3.2 Results Management for a Potential Whereabouts Failure

Issue: There are limitations for NADOs, National Federations, and International Federations to be able to track whereabouts failure notices and decisions.

Currently, National Federations do not have the ability to know how many whereabouts failures athletes within their sport have because they do not have access to ADAMS. This is not an athlete-friendly approach as National Federations can provide badly needed support to athletes with two whereabouts failures. Additionally, IFs and NADOs have mere passive knowledge of whereabouts failures through ADAMS, which can create issues. Requiring National Federations, NADOs and IFs to be copied on notifications will ensure the relevant organizations are aware of how many whereabouts failures athletes have.

Recommendation: Require whereabouts violations notices and failure determinations to include the relevant NADO, National Federation, and International Federation.

Issue: “Matters relating to the jurisdiction of ADOs to conduct results management over individual whereabouts failures and/or Code 2.4 violations deserve further consideration.”

Recommendation: USADA strongly recommends having the testing authority that led to a potential whereabouts failure handle results management for the individual whereabouts failure. The testing authority has the mission order, testing instructions, relationship with the DCO/sample collection agency that makes investigating and determining whether a failure should be declared much easier and more efficient. As for results management under Article 2.4, it can and should be handled by whichever ADO has two of the three failures. This will result in efficiencies across the board because at most the ADO with RMA will have to manage only one failure that was not of their own creation. USADA has handled first instance hearing and a CAS appeal in a case involving three whereabouts failures originating with another ADO because of the current wording of the rules.

Issue: “The discovery of further whereabouts failures in the context of the results management for a Code 2.4 anti-doping rule violation is currently not addressed in the ISRM and requires further clarification.”

Recommendation: USADA supports clarification regarding handling such a situation as it can certainly be awkward to declare whereabouts failures in the middle of a results management proceeding.

Issue: “To improve monitoring, whereabouts failure decisions may also require reasoning in all cases.”

Recommendation: It is unclear why this additional and substantial administrative burden is necessary given (a) the notice sets out the basis for the whereabouts failure and (b) the athlete can appeal the failures not only to an administrative review panel but also to a hearing panel if three are accrued in a 12-month period. Moreover, if

USADA's suggestion above is accepted and the ADO with two of the three failures is the results management authority for the 2.4 violation, then the ADO will at most need to follow up with another ADO on one failure for more information. This would be much less burdensome than requiring reasoning in every whereabouts failure determination.

Annex C – Athlete Biological Passport

Issue: "The ISRM Drafting Team intends to review the provisional suspensions regime in the context of athlete biological passport (ABP) cases as these principles could benefit from further clarification, in particular as it concerns the moment when a provisional suspension is imposed."

Recommendation: USADA welcomes this clarification and addressed it in submissions regarding the Code. Here is USADA's submission for the relevant Article in the Code:

There is an ambiguity as to the timing of the commencement of a Provisional Suspension in an Adverse Passport Finding case under Article 7.4.1 of the Code. Specifically, the ambiguity is whether a Provisional Suspension should be imposed when ADOs notify the Athlete or when ADOs charge the Athlete.

Article 7.4.1 states 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.**" (emphasis added). Article 7.2 refers to the notification phase, not the charging phase of the results management process, but the earlier reference in APF cases to imposing a Provisional Suspension "upon completion of the Adverse Passport Finding review process" suggests that ADOs should potentially wait until after the expert panel has reviewed the Athlete's explanation and charged the athlete to impose a Provisional Suspension. This interpretation, however, may conflict with the requirement that the Provisional Suspension be imposed "promptly upon or after" notification.

USADA recommends an edit to the parenthetical in Article 7.4.1: change "(upon completion of the *Adverse Passport Finding* review process)" to "(upon completion of reviewing the *Athlete's* explanation, if any)."

Issue: The rules do not require that an ADO establish a plausible doping scenario, but the *lex sportiva* indicates that this is an additional requirement. Requiring a plausible doping scenario, however, is highly problematic because athletes may choose to dope at virtually any time for innumerable reasons. It is, therefore, a moving target to hit and likewise an easy argument for defense counsel to defend when a doping scenario is not specifically tied to a major competition, for example.

Recommendation: Add a Comment to the Code or include language in the ISRM that indicates either a plausible doping scenario is not required given the many varied reasons an athlete may dope and variability in the timing of doping (e.g., off season, training period, before beginning training, prior to competition) or provide an explanation that if a doping scenario is required to keep in mind that there are many varied reasons an athlete may dope and variability in the timing of doping.

RUSADA

Kristina Coburn, Compliance Manager (Russia)
NADO - NADO

SUBMITTED

RUSADA generally supports this concept.

We would like to propose that when the number of failures exceeds three within a 12-month period, whether they should be considered as further failures (fourth, fifth, etc.) and recorded against an athlete or as a new one, whether further failures should be considered as aggravating circumstances/circumstantial evidence establishing fault or be taken into account when evaluating the level of fault. Another issue that we believe should be clarified concerns the second ADRV: when more than three WF are established during a 12-month period, should they be counted as a single ADRV or separated?

Dopingautoriteit

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Recommendation: Doping Authority Netherlands supports this suggestion by WADA, but also recommends to carefully weigh the pros and cons of imposing even more reporting requirements in the ISRM. The process for whereabouts failures is already quite cumbersome as it is (in terms of its claim on a NADO's resources).

Anti Doping Danmark

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

SUBMITTED

We generally support to review the notification process for whereabouts failures. But we believe it to be a too heavy burden for the NADO, if they need to give a reasoning in all cases, so the last part is not supported.

Swiss Sport Integrity

Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

Issue: "Matters relating to the jurisdiction of ADOs to conduct results management over individual whereabouts failures and/or Code 2.4 violations deserve further consideration."

Swiss Sport Integrity recommends that per default, when there is no agreement, the jurisdiction to conduct results management over individual whereabouts failures and/or violations of Art. 2.4 Code should fall to the ADO with Whereabouts custodianship. In all other cases, there should be discussion and coordination by the involved ADOs.

Issue: "To improve monitoring, whereabouts failure decisions may also require reasoning in all cases."

Swiss Sport Integrity would see that as an additional and substantial administrative burden that is not needed as there is the possibility to appeal failures to an administrative review panel. Although, Swiss Sport Integrity could accept the requiring of only a summary of reasons, e.g. explanations of the facts and the violation involved.

Issue: "Athlete Biological Passport: The rules do not require that an ADO establish a plausible doping scenario, but the lex sportiva indicates that this is an additional requirement. Requiring a plausible doping scenario, however, is highly problematic because athletes may choose to dope at virtually any time for innumerable reasons. It is, therefore, a moving target to hit and likewise an easy argument for defense counsel to defend when a doping scenario is not specifically tied to a major competition, for example."

Swiss Sport Integrity agrees that it is highly problematic to require a plausible doping scenario. Therefore, Swiss Sport Integrity would recommend to add a Comment to the Code (or at least include language in the ISRM) that indicates a plausible doping scenario is not required given the many varied reasons an athlete may dope and variability in the timing of doping (e.g., off season, training period, before beginning training, prior to competition).

Agence française de lutte contre le dopage

Adeline Molina, General Secretary Deputy (France)
NADO - NADO

SUBMITTED

Concernant le processus de notification des manquements de localisation, pour garantir l'équilibre de ce dispositif contraignant, il est nécessaire de conserver une phase administrative contradictoire lors de l'examen de chaque manquement ainsi qu'un examen de novo lors de l'accusation d'une violation de l'article 2.4. La révision administrative ultérieure au constat de chaque manquement pourrait être éventuellement supprimée, dans la mesure où les manquements sont ensuite individuellement examinés au stade de l'accusation.

La découverte d'autres manquements de localisation dans le contexte de la gestion des résultats pour une violation de l'article 2.4 mériterait d'être prévue, sous réserve de donner lieu à un examen contradictoire.

Il est nécessaire de clarifier la rédaction de l'article 4.8.8.6 (*"The athlete shall file the update as soon as possible after they become aware of the change in circumstances, and in any event prior to the 60-minute time slot specified in their filing for the relevant day"*) qui est juridiquement trop floue et incertaine pour fonder des sanctions avec la certitude suffisante. La dernière branche de cette phrase mérite d'être précisée pour ne pas laisser entendre que le sportif peut dans tous les cas modifier sa location jusqu'au début du créneau. De plus, des précisions concernant l'appréciation qui doit être portée sur la négligence du sportif selon les circonstances seraient les bienvenues.

Méritent également d'être clarifiées les modalités de cumul de manquement aux obligations de localisation, notamment lorsque les manquements ne sont pas de même nature (non-transmission des informations et contrôle manqué).

Des lignes directrices pour assurer une pratique harmonisée et proportionnée par les OAD, selon les types de manquements constatés, seraient les bienvenues.

The ISRM Drafting Team also intends to review the results management process for ABP cases under ISRM Annex C, in particular for matters relating to the provisional suspension of athletes (as indicated above).

Comme indiqué précédemment, sur la base de l'expérience et compte tenu de l'impact sur la réputation et la carrière d'un athlète, il serait raisonnable d'imposer la suspension provisoire seulement après le deuxième avis conjoint des experts. À cet égard, le processus qui devait être suivi avant le Code 2021 (Premier avis d'expert + observations du sportif + deuxième avis avant notification d'ADRV) était probablement plus sûr.

International Testing Agency

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

SUBMITTED

We support this review and would add that the concept of fault with the context of a 2.4 ADRV should be clarified (to liaise with the Code drafting team).

Concept #6 – New ISRM Annex (22)

World Rugby

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

SUBMITTED

We would support the addition of this annex.

UEFA

Rebecca Lee, Anti-Doping Team Leader (Switzerland)
Sport - Other

SUBMITTED

UEFA supports the development of this concept

UEFA submits that an annex collecting all specific results management procedures that are currently described in WADA Stakeholder Notices and WADA Technical Documents would be welcome to improve transparency and understanding.

Council of Europe

SUBMITTED

Council of Europe, Sport Convention Division (France)

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

Supported

Supports the concept but only if it does not create obligations, burdens on the ADOs in relation to compliance issues, and maintains flexibility in the way the RM is organised.

Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)

NADO - NADO

No comments at all. Satisfied.Good

Anti-Doping Sweden

SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

ADSE support the concept of a new annex, but it should not create more obligations on the ADO's.

NADA

SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

Party agree: More guidance is welcome, but this should not create further binding effects for ADOs; extent of such further annex is completely uncertain.

Sport Integrity Australia

SUBMITTED

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)

NADO - NADO

We agree with the proposal for a new Annex to be added to the ISRM which compiles all specific results management procedures that are currently described in WADA Stakeholder Notices and Technical Documents.

This will provide a single repository for all related rules while ensuring the rules are readily located and recognised and applied accurately and consistently across the board.

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

We first refer to our preliminary remarks on this Standard made in introduction to our comment on concept 1 and in the item "other comments/suggestions".

Without prejudice of these remarks :

6) New ISRM Annex :

The ISRM Drafting team will consider adding a new annex to the ISRM (Annex D), which compiles all specific results management procedures that are currently described in WADA Stakeholder Notices and WADA Technical documents.

-> We are in favor of this proposal, in that it would provide more legal certainty for the management of these more specific cases.

-> We nevertheless refer to our comments relating to concepts 1, 2, 3 and 5 and the need to maintain the current flexibility in the way of organizing the results management process.

Drug Free Sport New Zealand

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

SUBMITTED

We support the concept regarding an additional Annex (D) to compile RM procedures covered in WADA Tech Documents and Stakeholder notices in one place.

Sport Ireland

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

In principle this seems appropriate and worthwhile.

Anti-Doping Norway

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

SUBMITTED

This is highly desired and fully supported. The way things are today is somewhat confusing and chaotic.

USADA

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

SUBMITTED

Annex D: Stakeholder Notices and Technical Documents

Issue: "The ISRM Drafting Team will consider adding a new annex to the ISRM (Annex D), which compiles all specific results management procedures that are currently described in WADA Stakeholder Notices and WADA Technical Documents."

Recommendation: USADA agrees with this approach provided the documents are limited to results management and not technical documents related to laboratories, which are better suited for the ISL. Given technical documents are updated and issued more regularly than international standards, will there be a process to automatically update the annex when revisions or new notices or technical documents are issued?

Canadian Centre for Ethics in Sport

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

SUBMITTED

The CCES agrees with the creation of the described annex. Such an annex should include all described processes, including the processes outlined in the Stakeholder Notice regarding potential contamination cases related to meat and diuretics, as well as the Guidance Note for Substances of abuse cases.

- Stakeholder Notice link: <https://www.wada-ama.org/en/news/wada-publishes-stakeholder-notice-regarding-potential-contamination-cases-related-meat-and>
- Guidance note link: https://www.wada-ama.org/sites/default/files/resources/files/2020-01-11_guidance_note_on_substances_of_abuse_en_0.pdf

Japan Anti Doping Agency

YUICHI NONOMURA, Result Management (??)
NADO - NADO

SUBMITTED

We think it is great idea to add a new annex to the ISRM(Annex D).It would be advantageous to understand the result management process.

RUSADA

Kristina Coburn, Compliance Manager (Russia)
NADO - NADO

SUBMITTED

RUSADA supports this concept.

Dopingautoriteit

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Recommendation: Doping Authority Netherlands welcomes this recommendation, but also would like to express the concern that introduction of more and more mandatory documents leads to an increase in obligations for NADOs, that could lead to Code compliance issues if the impact of introducing an increasing amount of mandatory provisions is not sufficiently assessed.

Swiss Sport Integrity

Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

Issue: "The ISRM Drafting Team will consider adding a new annex to the ISRM (Annex D), which compiles all specific results management procedures that are currently described in WADA Stakeholder Notices and WADA Technical Documents."

With such an adding, the Stakeholder Notices and Technical documents would become mandatory. Swiss Sport Integrity welcomes such clarification, as from our point of view, it is missing as of today and therefore there is uncertainty if a Stakeholder Notice is applicable in any case or if it is sufficient to follow the wording of the ISRM. It is not clear from the ISRM (see one actual case we have) and also the case law is not entirely clear. Clarity in this area would help us all. However, the documents listed should be limited to those arising from results management. In particular, those that are relevant for the laboratory should remain in the ISL and not be included in the ISRM annex. Given technical documents are updated and issued more regularly than International standards, will there be a process to automatically update the annex when revisions or new notices or technical documents are issued?

Anti Doping Danmark

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

SUBMITTED

Supported

UK Anti-Doping

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

SUBMITTED

Consolidation of extracts relevant to Results Management which derive from Stakeholder Notices and Technical Documents would be welcomed as these are difficult to navigate individually. The pitfall associated with this approach is that the ISRM risks being out-of-date quickly in the event a new Stakeholder Notice or Technical Document is introduced once the new version of the ISRM is in effect.

Agence française de lutte contre le dopage

Adeline Molina, General Secretary Deputy (France)
NADO - NADO

SUBMITTED

Une telle annexe serait utile, pour le confort et l'accessibilité des praticiens.

Toutefois, si elle devait être créée, elle ne devrait être conçue que comme une aide à la consultation de documents et non comme une annexe devant obligatoirement être transposée par les OAD dans leurs règles antidopage. La transposition d'un tel outil dans le droit national n'est pas réalistement envisageable et ferait peser une charge trop forte sur les OAD, ce d'autant que, compte tenu du nombre de document qu'elle pourrait recouvrir, elle devra probablement être actualisée régulièrement. En outre, un écart, même léger, entre cette annexe et les dispositions contraignantes issues des autres documents de l'AMA susciterait une fragilité juridique en cas de manque de cohérente complète entre deux textes de même valeur.

Enfin, une version française de l'ISRM et des lignes directrices pour la gestion des résultats seraient les bienvenues. Cette version permettrait aux praticiens et juridictions françaises de se référer plus aisément à ce standard pour éclairer les dispositions nationales antidopage.

Caribbean Regional Anti-Doping Organization

Sasha Sutherland, Executive Director (Barbados)
NADO - RADO

SUBMITTED

This Annex can be beneficial for smaller and less resourced NADOs, whose administrators are often the ones involved in the initial review of potential violations.

International Testing Agency

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

SUBMITTED

We support the suggestion to embed the WADA Stakeholder Notices and WADA TD in the ISRM. We would also welcome clarification on the binding nature of each step described in the WADA Stakeholder Notices (such as completing a follow no advance notice test before contacting the Athlete about an ATF related to meat contamination; obtaining a sample may significantly delay the RM depending on the circumstances).

Other Comments / Suggestions (13)

International Tennis Integrity Agency

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

SUBMITTED

Mandatory appeal to CAS for international level athletes – there should be alternatives available to using CAS, or if CAS is to remain the only option – there should be clear requirements on scheduling of hearings and issuing of decisions (clear timeframes)

Appeals – ITIA would advocate that appeals should not be de novo. Other than benefiting the lawyers representing either party, the process is lengthy, costly and does little to challenge those who are looking to take a chance another panel will look at the decision rendered at first instance differently. If there are no issues with regards the

ability or neutrality of the first instance panel then why are parties permitted a second go at a hearing. The grounds for appeal should be restricted and the appeal confined to those grounds only.

Article 5.3.2.1 ISRM - The ITIA would request that clarification is provided on when this article 'kicks in'. The view of the ITIA is that in non-analytical cases, at the investigation stage, the ISRM is not relevant (as the RMA is still considering/gathering evidence as to whether the player may have committed an ADRV) and so there is no obligation on the RMA to disclose all evidence it has in relation to the potential ADRV. That evidence should only be disclosable at the time the ITIA sends a pre-charge notice to the player rather than at interview stage.

Council of Europe

SUBMITTED

Council of Europe, Sport Convention Division (France)

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

Comment #1

While reviewing the ISRM, implement the Council of Europe Recommendation Rec(2022)14 on general principles of fair procedure applicable to anti-doping proceedings in sport (https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a63e66)

Comment #2

As previously expressed by the European representatives, support WADA approach to limit the review and update of the Code and International Standards rather than a full review.

Comment #3

Recall that the adoption of laws or by-laws is not the responsibility of NADOs and review the compliance process accordingly.

Comment #4

Provide guidance to ADOs on how to implement substantial assistance and envisage the possibility of free legal aid.

Comment #5

Review the requirement to upload all case documents in ADAMS (ISRM ANNEX b). These possible unnecessary requirements not only add to the ADO workload but also create a compliance risk.

Comment #6

Include the procedure for decision-making by ADOs, requirements for the agreement on recognition of consequences, and the agreement on substantial assistance.

Comment #7

Clarify the procedure regarding ATF cases.

Agence française de lutte contre le dopage

SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)

NADO - NADO

None

Anti-Doping Sweden

SUBMITTED

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

WADA, as a regulator and monitoring organization, should take the lead on Anti-Doping education for the members in the hearing panel's as it is crucial for harmonized decisions.

NADA Austria

SUBMITTED

Alexander Sammer, Head of Legal (Austria)
NADO - NADO

According to **Article 4.2 ISRM** the first provision needs a precise definition as the text passage "*and save for cases involving complex issues*" is not clear enough and could be clarified for example with an additional comment. Having those two scenarios (ABP-case and appealed cases) as examples for a complex issue would also lead to the benefit that cases, that were appealed by the parties, which at least last longer than 6 months would be excepted from the 6-month period frame, which is unrealistic in such cases (the same with ABP cases).

The term "complex matters" in **Article 8.8 lit.c ISRM** should be clarified.

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)
NADO - NADO

International Standard for Results Management

As explained in the concepts document for this Standard, it came into force in January 2021.

This standard is therefore recent. An evaluation of the application of ISRM 2021 would have been and still would be interesting and desirable.

Likewise, and as the Agency committed to it at the start of the process, a prior impact assessment of the proposed concepts, with regard to the resources of the signatories, the rights of athletes and in relation to applicable rules and legislation, is expected and is necessary.

An explanation as to the need for the proposed changes would also be necessary.

Concretely, if new requirements were to be proposed, they must be accompanied by an assessment of the impact on the financial and human resources of the signatories.

Drug Free Sport New Zealand

SUBMITTED

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

Guidance and clear provisions on what is deemed effective service should be provided for in the ISRM

CHINA

SUBMITTED

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

Comment 1: on Article 9

Applicable consequences mentioned in Article 9 include financial consequences. We suggest incorporating a dedicated policy for protected persons, given their lack of sufficient personal assets to assume this responsibility, which results in the tendency that excessive financial consequences are often shifted to their parents or other guardians. It is suggested that the principle of prudent application of financial consequences to protected persons be introduced. This could involve, for example, providing that financial consequences for protected persons be reduced or eliminated, as appropriate, depending on the financial situation of the family and the degree of fault of the other persons concerned.

Comment 2: More explicit guidance is needed to give weights to whereabouts failures

We support the results management procedures for cases of whereabouts failures, as specified in the International Standard for Results Management. However, legal causation is an intricate issue, so it is not easy to give weight to each whereabouts failure. Therefore, we anticipate that WADA will offer explicit guidance or examples on this matter.

Comment 3: On B sample Analysis

An ADRV under Code Article 2.1.2 can be established by any of the following: the presence of a prohibited substance or its metabolites or markers in the athlete's A sample where the athlete waives analysis of the B sample and the B sample is not analyzed; or, where the athlete's B sample is analyzed and the analysis of the athlete's B sample confirms the presence of the prohibited substance or its metabolites or markers found in the athlete's A sample. The question is, if the results of the A sample and the B sample do not match, does it prove that the athlete did not commit an ADRV?

According to Code Article 7.4.5, if a provisional suspension is imposed based on an A sample AAF and a subsequent B sample analysis does not confirm the A sample analysis, then the athlete shall not be subject to any further provisional suspension on account of a violation of Code Article 2.1. We have noted, however, that some athletes have been asserted for ADRVs and imposed periods of ineligibility for cases where the A and B samples do not test the same, such as CAS 2018/A/6069 (André Cardoso v. Union Cycliste Internationale), and the Czech triathlete Vojtech Sommer's positive case for EPO. Considering that there have been a number of cases with inconsistent findings between A and B samples, which have happened to several laboratories in recent years, we suggest that the comment to Code Article 2.1.2 or the International Standard for Results Management clarify how to address these cases.

Comment 4: On Doping control delegated by non-signatories

As set out in Code Article 15.3, an anti-doping decision by a body that is not a signatory to the Code shall be implemented by each signatory if the signatory finds that the decision purports to be within the authority of that body and the anti-doping rules of that body are otherwise consistent with the Code. However, neither the Code nor the international standards specify whether an ADO can be delegated by a non-signatory to conduct doping control over athletes or other persons under its jurisdiction. If so, is it required to comply with the Code and international standards, or is it allowed to follow the anti-doping rules adopted by the ADOs themselves?

It is known that many ADOs are delegated by non-signatories to conduct doping control, but the specific practices vary. The International Standard for Laboratories requires that sample analysis from non-signatories to the Code (organization or sport) shall not negatively affect the allocation of resources of the ADOs. As a result, many laboratories are cautious about whether to accept samples from non-signatories. It is recommended that the Code clearly define doping control delegated by non-signatories and that relevant guidelines be developed by WADA.

Dopingautoriteit

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

General comments and observations

1. Under ISRM Annex B the Results Management Authority (RMA) is required to upload documents in ADAMS at multiple times in the process. However, when reviewing the outcome of a cases (i.e. decision), it appears that WADA is looking primarily, if not exclusively, at the Reasoned Decision and decides on that basis whether or not to request the complete case file, despite the fact that parts of the case file have already been made available through ADAMS. Therefore, Doping Authority Netherlands propose to review the necessity of the requirements regarding the uploading of *all* case documents in ADAMS. These possible unnecessary requirements not only lead to additional work, but also create a Code compliance risk.

2. Neither the Code nor the ISRM contain a right of appeal against registered Whereabouts failures. There is only an appeal right against a decision to void an initially registered Whereabouts failure (see Art. B.3.2 ISRM). Doping Authority does not necessarily wish to introduce such a right of appeal. However, there have been situations where whereabouts failures seemed to have been recorded in contravention of the ISTI and/or the ISRM. In such cases there is nothing that can be done. Doping Authority Netherlands therefore recommends to include in the ISRM that NADOs will be notified of a potential whereabouts failure simultaneously with the initial notification of the athlete. It that way, possible mistakes in recording a final Whereabouts failure may be avoided.

3. Doping Authority Netherlands experiences that NADOs and IFs often do not have the same interpretation when it comes to the review of filing failures and whereabouts requirements. This leads to uncertainty for athletes. Doping Authority will address this issue through it comments to the IST.

UK Anti-Doping

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

SUBMITTED

ISRM Article B.2.1.c)

B.2.1 of the ISRM states that:

An Athlete may only be declared to have committed a Filing Failure where the Results Management Authority establishes each of the following:

a)...

b)...

c) In the case of a second or third Filing Failure, that they were given notice, in accordance with Article B.3.2(d), of the previous Filing Failure, and (if that Filing Failure revealed deficiencies in the Whereabouts Filing that would lead to further Filing Failures if not rectified) was advised in the notice that in order to avoid a further Filing Failure they must file the required Whereabouts Filing (or update) by the deadline specified in the notice (which must be within 48 hours after receipt of the notice) and yet failed to rectify that Filing Failure by the deadline specified in the notice; and

d)...

In practical terms, it is often unrealistic for an Athlete to rectify whereabouts information within 48 hours after receipt of notice – especially where such corrections depend on the provision of support, etc. from a NADO/International Federation or National Federation, or where there are technological challenges (e.g. the Athlete needs to buy a new device). We would suggest an extension to the 48-hour timeframe (or some degree of flexibility). In circumstances where notice is sent via post and/or email, it is also difficult for an ADO to establish when precisely the *48 hours* deadline ceases.

ADAMS Notifications

We understand that when an AAF is created in ADAMS by the Laboratory, the International Federation is

automatically notified when the Testing Authority/Results Management Authority is a NADO/RADO. However, a NADO/RADO is not automatically informed via ADAMS of an AAF resulting from a test conducted by an International Federation. We propose that the ISRM is updated (as well as ADAMS processes) so that all parties with jurisdiction over an Athlete are notified equally in the event of an AAF.

Freelance journalist

SUBMITTED

Karayi Mohan, Freelance journalist (India)
Other - Other (ex. Media, University, etc.)

What happens when there is no provisional suspension (as it could be for a specified substance) and the panel takes nine months or one year to arrive at a decision and orders the suspension of say two years from decision date? Normally, all the results achieved from sample collection date are disqualified. Some may find this unfair, as it happened in a recent case in India. An appeal panel was asked to review its order of two-year sanction in the light of the disqualification of results going back and eventually the panel found enough merit in the argument that there had been "substantial delays not attributable to the athlete" which really was not the case. NADOs have to be careful in getting a case completed within the shortest possible time so that such decisions could be avoided. While all other instances even after this decision was handled with the routine "order effective from decision date" and "all results from sample collection to be disqualified", most athletes must be feeling disappointed that the case in question did not set a precedent.

National Anti-Doping Laboratory, Beijing Sport University

SUBMITTED

Lisi (Leo) Zhang, Lab Manager (China)
Other - WADA-accredited Laboratories

From a WADA accredited laboratories' perspective, the timing of "B" Confirmation Procedure is essential especially for those substances known to be unstable. I have also submitted a comment for ISL to recommend setting up a deadline of B confirmation (e.g. 3 months after A sample results is reported which was originally commented in ISRM 2021).

2027 Code & International Standard Update Process : Stakeholder Engagement Phase - International Standard for Results Management (ISRM)

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

SUBMITTED

Concept #1 – Notification Process

On the thought of making reduction of sanctions based on early admission available at the stage of initial notification, we wonder whether this does not inadvertently undermine due process in disciplinary proceedings, by preventing proceedings from happening in the first place.

Concept #6 – New ISRM Annex

We wonder whether the inclusion of the content of Stakeholder Notices and Technical Documents into a new Annex to the Standard would change the status of the content of the former notices and documents. It is our position that through creating this new annex, nothing should become mandatory that are not mandatory right now.