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

Showing: **All (582 Comments)**

Article 2.2.2 (6)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the clarification in Article 2.2.2 that an athlete cannot be charged with the use of a prohibited substance that occurred before they became subject to anti-doping rules. However, we are concerned about how this provision may be applied in practice, particularly for Deaf athletes or those from underserved communities who may not clearly understand when they formally become subject to anti-doping obligations

Suggested changes to the wording of the Article

We recommend including a clarification in the Code Commentary or WADA guidance to emphasize the importance of **accessible and proactive communication** regarding when an athlete enters the anti-doping system — particularly for athletes with communication barriers

Reasons for suggested changes

As a small ADO with dual responsibilities — functioning as the **International Federation for the World Deaf Championships** and the **Major Event Organizer (MEO) for the Deaflympics** — ICSD works with many athletes who use **sign language as their first and primary language**, and who may have **limited written literacy**. Without communication in an accessible format — such as through **sign language or visual materials** — athletes may not fully understand their anti-doping obligations. Clarifying the importance of ensuring athletes understand when they become subject to anti-doping rules would promote fairness, compliance, and inclusion.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

The clarification in the comments is supported.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Othilia Christensen, Legal Advisor (Danmark)

NADO - NADO

General Comments

Changes between First and Second Draft

The Danish NOC (DIF) would like to express our appreciation for the opportunity to comment on the second draft of the 2027 Code, and for including the International Standard for Code Compliance by Signatures in this round of consultation.

Furthermore, DIF would like to express our acknowledgement of the proposed changes regarding Minors. DIF appreciates the increased focus on ensuring fair treatment for Minors and the introduction of provisions that extend special considerations to this group. Additionally, DIF recognizes the changes that increases the responsibility of athlete support personnel, emphasizing the role they play in preventing anti-doping rule violations among young athletes. These measures collectively contribute to a more reasonable sanctioning scheme for young athletes in the realm of competitive sports.

It should be noted that DIF still maintains the positions it has expressed during previous consultation phases. DIF continues to advocate for clear and consistent criteria in anti-doping regulations, emphasizing the importance of fairness and equal treatment for all athletes.

DIF supports the majority of the proposed changes; however, DIF has significant concerns regarding the proposed new definition of "*National Anti-Doping Organization Operational Independence*".

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI would recommend amended language to the Comment to Article 2.2 so that athletes using prohibited substances in preparation for a sanctioned competition, even if not subject to the rules at the time of use, can be held accountable for such use.

In Swiss jurisprudence it has already been established that an athlete is bound by the rules of a sanctioned competition at the latest after the moment of his or her application (or selection) for a sanctioned competition. This is the Swiss example and any other country should also have rules that subject athletes to the rules some specific time before competing at a sanctioned competition.

When the athlete is at the competition and declares having taken a prohibited substance some days prior to that competition this must not only be a legitimate basis for denying the athlete membership in a sports organization (which would make no sense as the athlete already has competed) but also for sanctioning him or her. For example, an athlete should not be permitted to take EPO in preparation for an event and yet obtain a sport membership the day before the event at which they will test negative and escape consequence because they test negative in-competition. SSI strongly believes clean athletes would object to rules that allow for this, yet in the proposed changes of the comment to Article 2.2.2, this would be explicitly permitted. Any doping done in preparation for a sanctioned event should fall within the scope of the anti-doping rules de jure. This extension is analogous to the edit to Article 5.2.3 that states athletes can be "made subject to the Testing authority of a Major Event Organization for a future Event."

USADA SUBMITTED

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

NADO - NADO

General Comments

Comment to Article 2.1.1 – USADA would support a version of WADA's proposed edit that confirms a presence violation without the further requirement that the ADO establish the use occurred while subject to the rules provided the athlete has the ability to defeat the ADRV charge by establishing that the use resulting in their presence violation occurred while the athlete was not subject to the rules *and* was not used within three months of or otherwise in preparation for a sanctioned competition at which the athlete competed. (USADA also recommends amended language to the

Comment to Code Article 2.2 so that athletes using prohibited substances in preparation for a sanctioned competition, even if not subject to the rules at the time of use, can be held accountable for such use.)

Any doping done in preparation for a sanctioned event should fall within the scope of the anti-doping rules de jure. This extension to activity in preparation for a competition comports with human rights and the principle of proportionality, which is in stark contrast to the currently proposed comment. USADA's proposed revision is also analogous to the edit to Article 5.2.3 that states athletes can be "*made subject* to the Testing authority of a Major Event Organization for a *future* Event." (emphasis added).

Without the pragmatic approach proposed by USADA for Article 2.1 violations, the outcomes will be arbitrary because scientific studies and abundant anecdotal evidence confirm that certain substances can be excreted at low levels for extended periods, long after any performance-enhancing benefit. Specifically, publications and our own experience have demonstrated that some substances and/or their metabolites can persist for many months and in some cases for more than a year due to various known and unknown biological mechanisms (e.g., DHCMT M3 long-term metabolite, dorzolamide, meldonium, clomiphene, roxadustat) as explained in more detail in USADA's response to the Comments to Articles 2.2.2 and 7.7.

USADA considers that it would be unfair and counter to the fundamental principle of non-retroactivity for an ADRV to result from the residual presence of a Prohibited Substance that the athlete used for reasons other than competitive sport well before becoming subject to the Code. USADA cannot see a U.S. Court or the European Court of Human Rights upholding such a provision that effectively makes athletes arbitrarily liable for non-sport related conduct prior to becoming bound by the Code.

Comment to Article 2.2.2 –

USADA recommends amended language to this comment so that athletes using prohibited substances in preparation for a sanctioned competition over which the ADO has jurisdiction, even if not subject to the rules at the time of use, can be held accountable for such use. For example, an athlete should not be permitted to take EPO in preparation for an event and yet obtain a sport membership the day before the event at which they will test negative and escape consequence because they test negative in-competition. USADA strongly believes clean athletes would object to rules that allow for this, yet in WADA's proposed changes, this would be explicitly permitted. Any doping done in preparation for a sanctioned event should fall within the scope of the anti-doping rules de jure. This extension is analogous to the edit to Article 5.2.3 that states athletes can be "*made subject* to the Testing authority of a Major Event Organization for a *future* Event." (emphasis added). And even if WADA can come up with a reason not to make this sensible change, WADA should still make the change because it is okay to be "caught" fighting to protect clean athletes and the integrity of sport.

International Testing Agency SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

Article 2.2 Footnote 9

With reference to the section "from the analysis of a B sample alone", we would suggest to add "from the analysis of a **[A]** or B sample alone" to include the scenario where an A-sample is split and only the A-sample result is reliable.

Article 3.2.3 (5)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD recognizes the importance of maintaining the integrity of the sample collection and analysis process, and the role of the burden of proof in ensuring fair adjudication. However, we are concerned that the current wording of Article 3.2.3 may disadvantage athletes who are unable to detect or effectively challenge procedural departures or other relevant factors due to communication barriers — particularly Deaf athletes

Suggested changes to the wording of the Article

We recommend adding a clarification in the Code Commentary or guidance that **communication accessibility** must be ensured throughout the anti-doping process, so that all athletes — including Deaf athletes — are able to understand their rights and meaningfully challenge evidence when appropriate.

Reasons for suggested changes

If an athlete is not provided with communication support — for example, during sample collection, results management, or hearings — they may be unaware of their rights or unable to identify and challenge procedural issues or factual errors, even when they have grounds to do so. For Deaf athletes who rely on sign language and may have limited written literacy, accessible communication is essential to preserve fairness under the burden of proof.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

The clarification in the comments is supported.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

The clarification in the comments is supported.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We particularly welcome this additional comment with regards to an alleged “fundamental” breach of an International Standard or other anti-doping rule or policy. We would welcome any further emphasis that could be placed on “could have reasonably caused”, so that it is absolutely unambiguous that a causal nexus is required (to invalidate analytical results or other evidence of an Anti-Doping Rule Violation).

International Testing Agency SUBMITTED

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

General Comments

Article 3.2.3 Footnote 22

The reference to Article 20.7.7. seems inaccurate as it does not exist in the current draft.

Article 3.2.3. iv.

We have recently faced challenges where the notification process was not fully in line with the requirements of the ISTI (failure to present DCO credentials, failure to have the athlete sign a notification form) have been held against the ADO’s prosecution and made it very difficult to successfully bring a case forward, despite the fact that the conduct of the Athlete clearly amounted to a 2.3 ADRV

Especially considering that 3.2.3 applies only to AAF cases and whereabouts failures, it would be useful to clarify that a breach from the IST with regards to the notification process related to an ADRV (failure to show credentials, to inform the athlete of the consequences for a failure to comply, to obtain a signed notification form, etc.) based on a (Failure to comply - 2.3 or 2.5) shall not constitute a defence to an ADRV and provide for the same burdens of proof as in 3.2.3.

We would suggest the following:

v. a departure from the International Standard for Testing related to the notification process which could reasonably have caused the Failure to Comply, in which case the ADO shall have the burden to establish that such departure did not cause the ADRV.

Article 3.2.6 (9)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD acknowledges the need to maintain confidence in scientifically valid analytical methods and procedures. However, the strong presumption in Article 3.2.6 that all methods and criteria used in sample evaluation are correctly applied may create an unfair evidentiary imbalance — particularly for athletes who face barriers in accessing expert legal or scientific support

Suggested changes to the wording of the Article

We recommend including a clarification in the Commentary or guidance that adjudicating bodies should consider whether the athlete had **meaningful access to expert support** and whether **accessible explanations** of the scientific evidence were provided, particularly for athletes with disabilities

Reasons for suggested changes

This concern is especially relevant for Deaf athletes, who may struggle to understand or challenge complex technical evidence without accessible explanation or communication accommodations (e.g., sign language interpretation, plain-language summaries). Without such support, the presumption of correctness may effectively deny athletes the ability to exercise their rights under the burden of proof.

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

Comment 25 to article 3.2.6: We would suggest that the narrow applicability of hair testing should be further emphasised by changing this wording to *"Hair tests are **extremely** unlikely to serve as reliable evidence to disprove intentional doping".*

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA remains concerned that analytical evidence alone cannot be relied upon to determine intent. However, SIA notes that it is a valuable tool when used as part of a broader suite of evidence. As such, SIA does not support the inclusion of this Article as currently drafted. Please see further comments in relation to Article 10.2.1.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Further clarification on what could constitute “reliable analytical evidence” would be helpful. Also, more guidance may be needed to the athletes on how to receive this evidence.

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

see comment on Article 10.2.1.3

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Further clarification on what could constitute “reliable analytical evidence” would be helpful. Also, more guidance may be needed to the athletes on how to receive this evidence.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

Further clarification on what could constitute “reliable analytical evidence” would be helpful. Also, more guidance may be needed to the athletes on how to receive this evidence.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

As SSI previously commented, it is difficult to understand many circumstances under which an athlete could establish the lack of intent and even more so indirect intent by means of scientific/analytical evidence. SSI appreciates the additional detail added to the comment, but the open-ended nature of the potential analytical evidence remains a concern. SSI’s concerns have been confirmed by the Cottier report that undercuts the open-ended nature of the Comment to Article 3.2.6.

See also comment to Article 10.2.1.3.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 3.2.6 Comment – As USADA previously commented, it is difficult to understand many circumstances under which an athlete could establish the lack of intent (*mens rea*) (and even more so indirect intent) by means of scientific/analytical evidence. USADA appreciates the additional detail added to the comment, but the open-ended nature of the potential analytical evidence remains a concern. USADA’s concerns have been confirmed by the Cottier report that undercuts the open-ended nature of the Comment to Article 3.2.6.

With respect to low concentrations, the Cottier report found “on the basis of these pharmacokinetic data alone, it is not possible to rule out intentional (or unintentional) intake of TMZ for doping or therapeutic purposes in the weeks leading up to the competition. Environmental contamination with low doses of TMZ during the hotel stay is also possible and can neither be ruled

out nor affirmed with certainty on the basis of scientific data, but I see no scientific argument of a pharmacokinetic nature in favor of one hypothesis over another."

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

Based on legitimate contamination issues, USADA recommends that WADA implement substance and/or category-specific minimum reporting levels more quickly or empower labs to report results as atypical. (See feedback on 10.6.1.2)

Suggested changes to the wording of the Article

Recommended Change (in bold):

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

Reasons for suggested changes

Reasons for changes:

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

Article 4.3.1 (13)

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

See below.

Suggested changes to the wording of the Article

SIA does not support the change in wording under Articles 4.3.1.1 and 4.3.2.2 from "Scientific evidence" to "WADA's determination". We request that the change to "WADA's determination" be reverted to "scientific evidence". If this is not accepted, then in the alternative, we suggest the wording be amended to '"WADA's determination based on Medical or Scientific evidence or experience".

Reasons for suggested changes

In SIA's view, Article 4.3.1, as currently written, already gives WADA sole discretion in placing substances on the Prohibited List. This is reinforced by Article 3.3.3 whereby WADA's determination is final. In SIA's view, the proposed changes to Articles 4.3.1.1 and 4.3.1.2 (i.e. to replace '"Scientific evidence" with "WADA's determination") will undermine the understanding of the

Prohibited List by Athletes, Athlete Support Personnel, and other stakeholders. In an environment where Athletes, and other stakeholders, are seeking greater transparency in decision making and an improved understanding of the applicable rules, SIA is of the view that this proposed change is a backwards step.

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)

Public Authorities - Government

General Comments

The decision to include substances on the list should not be left to the sole discretion of WADA, but should be based on scientific and/or medical justifications. Therefore, WADA's determination should be based on scientific and medical evidence, and this article should reflect that. Moreover, Article 4.3.2 maintains this scientific evidence.

In particular, in Article 4.3.1.2, WADA should not be able to determine on its own, without objective scientific evidence, that the use of a substance poses a health risk.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

N/A

Suggested changes to the wording of the Article

Add “supported by medical or other scientific evidence, pharmacological effect or experiences” after WADA’s determination …: WADA’s determination, supported by scientific evidence…, ….

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

WORDING: Add “*supported by medical or other scientific evidence, pharmacological effect or experiences*”:

“WADA’s determination, supported by medical or other scientific evidence, *pharmacological effect or experiences*…,”

Reasons for suggested changes

This addition is very important, otherwise this can be seen as “Deus ex machina” without any science or rationale.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

We don’t have any comments on this proposal, as long as it is still transparent how WADA determines if the criteria are met.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Add “supported by medical or other scientific evidence, pharmacological effect or experiences” after WADA’s determination …: WADA’s determination, supported by scientific evidence…, ….

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Add “supported by medical or other scientific evidence, pharmacological effect or experiences”

after WADA’s determination□ …: WADA’s determination, supported by scientific evidence…, ….

NADA India SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 4.3.1.1 and 4.3.1.2

The CCES feels the scientific criteria outlined in the 2021 Code should be maintained. The use of WADA's determination is already covered at the outset by WADA's sole discretion. The inclusion of "Medical or other scientific evidence, pharmacological effect or experience" is beneficial for transparency.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

The rationale for this change is unclear. At the outset it is clear that WADA shall consider and decide whether a substance or method is to be included on the Prohibited List. It is unclear what the inclusion of "WADA's determination" add is lieu of the existing text.

USADA SUBMITTED

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

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Articles 4.3.1.1 and 4.3.1.2 – USADA recommends that the change from "scientific evidence" to "WADA's determination" revert to "scientific evidence." At a minimum, it should say WADA's determination based on medical or scientific evidence or experience."

Reasons for suggested changes

Rationale: Article 4.3.1 already gives WADA sole discretion in placing substances on the Prohibited List. This is reinforced by Article 3.3.3 indicating WADA's determination is final. The proposed changes to Articles 4.3.1.1 and 4.3.1.2 are significant to how athletes, support staff, and other stakeholders perceived the Prohibited List. In an environment where athletes and other stakeholders are seeking greater transparency in decision making, this is a step backwards.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Re. 4.3.1.1.:

~~WADA's determination~~ Scientific evidence that the substance or method, alone or in combination with other substances or methods, has the potential to enhance or enhances sport performance;

Re. 4.3.1.2.:

~~WADA's determination~~ Scientific evidence that the Use of the substance or method represents an actual or potential health risk to the Athlete;

Reasons for suggested changes

The term "WADA's determination that…" is too broad, which sends the signal that it does not need to be scientifically based. Any determination should be based on scientific evidence.

On the other hand, we do recognize that the list of "Medical or other scientific evidence, pharmacological effect or experience" as used in the 2021 Code can be understood to be covered by the Scientific Evidence, we therefore suggest reverting to the v.1 2027 Code draft wording, which is also better in line with the wording pertaining to the determination that a substance or method has the potential to mask (cf. art. 4.3.2)

USADA

SUBMITTED

Tammy Hanson, Elite Education Director (USA)
NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

From PEERS

- Edit from "Scientific evidence" to "WADA's determination".
  - Suggestion request that the change to "WADA's determination" be reverted to "scientific evidence".
  - If this is not possible, then we request a change to "WADA's determination based on Medical or Scientific evidence or experience".

Reasons for suggested changes

From PEERS

- Rationale: 4.3.1 as currently written, already gives WADA sole discretion in placing substances on the Prohibited List. This is reinforced by Article 3.3.3 whereby WADA's determination is final. The proposed changes to 4.3.1.1 and 4.3.1.2 (i.e. "WADA's determination") are significant to the understanding of the Prohibited List by athletes, support staff, and other stakeholders. In an environment where athletes and other stakeholders are seeking greater transparency in decision making, this is a backward step.

Article 4.4.7 (8)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Related to 4.4.5: Team USA AC believes that WADA should grant retroactive Therapeutic Use Exemptions (TUEs) when an athlete's use of a prohibited substance or method complies with the conditions for a prospective TUE. Allowing all prospective TUEs to apply retroactively would simplify the process for both athletes and anti-doping organizations without negatively impacting clean sport. Currently, the process for applying a retroactive TUE is narrow and difficult for athletes to navigate, which often leads to unjust outcomes for athletes. For example, an athlete may receive a prospective TUE for a life-saving medication like insulin or an ADHD medication, but if they fail to meet the restrictive criteria for a retroactive TUE, the athlete can face a minimum one-year period of ineligibility. Such a system is unfair and must be revised immediately.

> We know one rationale for the strict nature of retroactive TUEs is the concern that hearing panels would face pressure to grant prospective TUEs if the retroactive TUE regime were eliminated. However, the reality is that hearing panels already face similar pressures when athletes argue that a certain sanction will end their careers. In these cases, when a panel makes an incorrect decision, it can be appealed, ultimately to the Court of Arbitration for Sport (CAS). A similar process has already been established for TUE cases, and while some adjustments may be needed, this system could be streamlined to ensure fairness and clarity. There is no apparent adverse impact on clean sport in allowing such a resolution for retroactive TUEs, particularly when an athlete has a legitimate medical need for a substance that does not enhance performance beyond restoring normal health.

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD acknowledges and appreciates the introduction of Article 4.4.7, which offers a standardized sanction for athletes who met the criteria for a Therapeutic Use Exemption (TUE) but failed to apply in advance. This flexibility is a positive development. However, we are concerned that athletes with disabilities—particularly Deaf athletes—may still be unfairly sanctioned due to barriers in accessing or understanding the TUE process. These barriers include communication gaps with medical professionals, lack of access to sign language interpretation, or unawareness of procedural requirements due to inaccessible education materials. As such, we urge WADA to recognize and explicitly account for these barriers in the application of this article

Suggested changes to the wording of the Article

No change to the core wording of Article 4.4.7 is required, but we recommend adding the following to the Comment section:When applying this Article, ADOs and hearing panels should take into account whether the athlete faced disability-related barriers—such as communication limitations, lack of accessible TUE guidance, or limited medical support—particularly in the case of Deaf athletes. In such cases, the degree of fault may be reduced, or the standard sanction under Article 10.2.4 may warrant further consideration.

Reasons for suggested changes

Deaf athletes may meet the medical criteria for a TUE but fail to apply in advance due to barriers that are not a result of negligence, but of systemic or communication challenges. These include difficulties in communicating with medical

professionals or anti-doping authorities, lack of access to information in sign language or other accessible formats, and limited awareness of procedural requirements due to inadequate or inaccessible education. In such cases, applying a flat sanction without considering the root cause may result in unfair outcomes. By including guidance in the comment section, ADOs and hearing panels would be encouraged to evaluate the athlete's situation more equitably. This aligns with the Code's emphasis on human rights and ensures that procedural fairness is extended to all athletes, including those with disabilities

International Cricket Council SUBMITTED

Vanessa Hobkirk, Anti-Doping Manager (United Arab Emirates)

Sport - IF – IOC-Recognized

General Comments

The ICC supports the recommendation to implement a flat two-month period of ineligibility in cases where the athlete can demonstrate that the substance or method use would have met the TUE criteria under the ISTUE. This approach strikes an appropriate balance between preserving the integrity of retroactive TUEs and encouraging athletes to continue applying for TUEs in advance.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

We support the proposed flat two-month period of Ineligibility. We think it is a good solution to the problem with athletes that meet the TUE criteria but have not obtained a TUE and has not met the criteria for a retroactive TUE.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

The clarification in the article is supported.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)

NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support our NADO's submission on Article 4.4 Therapeutic Use Exemptions.

Sport Ireland SUBMITTED

Cólleen Devine, Director of Anti-Doping & Ethics (Ireland)
NADO - NADO

General Comments

Article 4.4. - Sport Ireland understands the desire to create greater sanctioning flexibility for TUE related ADRVs where Athlete meets the criteria for a TUE, but does not meet the criteria for a retroactive TUE. However, the proposal may have unintended consequences:

a. A flat 2 month ban if Athlete can establish they meet the TUE criteria offers less incentive to apply for a TUE in advance.

b. Athletes may seek to initially apply for a retroactive TUE. Sport Ireland's experience of cases involving Athlete applying for a retroactive TUE is that, unfortunately, such matters can take a significant amount of time to conclude. This will also be the case in respect of cases where the Athlete meets the criteria for a TUE but not a retroactive TUE. Often, Athletes struggle to get an appointment with their doctor or the doctor does not provide all of the necessary information / documentation and so there is a significant amount of back and forth with the TUE Committee. Most cases will take far in excess of the 2 month ban proposed.

USADA SUBMITTED

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

General Comments

Article 4.4.5 –

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

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

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

If the retroactive TUE bureaucracy is too entrenched to be dismantled, USADA supports the proposed sanctioning regime of a fixed two-month sanction—and urges additional flexibility down to a public warning—if an athlete obtains a prospective TUE. There would be no apparent adverse impact on clean sport to allow for such a simplistic resolution when an athlete has a demonstrated medical need for a substance that does not enhance the athlete's performance beyond the return to a normal state of health.

Article 5.2.3 (2)

USOPC Athlete Advisory Council

SUBMITTED

Meryl Fishler, Coordinator (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA AC does not support the recent change eliminating tolling of sanctions during an athlete's retirement. This revision allows athletes to serve their period of ineligibility while not being subject to testing, which undermines the fundamental principle that sanctions should be meaningful and enforceable. Furthermore, this change introduces unnecessary complexity. It now requires ADOs to retroactively calculate sanction periods when athletes return from retirement.

Team USA AC believes a more effective and straightforward approach is to maintain the requirement that an athlete must be subject to testing during their period of ineligibility. If an athlete retires and thereby removes themselves from the testing pool, the sanction period should be tolled until they return and fulfill their responsibilities under the anti-doping system. Without this, the system risks rewarding athletes for stepping away during a sanction, diminishing both the deterrent effect and fairness of anti-doping rules.

International Testing Agency

SUBMITTED

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

General Comments

As discussed with the Code Drafting Team, many MEOs currently establish pre-event OOC testing periods through their own ADR. This approach enables MEOs to test athletes expected to compete in their Events in advance and has proven to be a valuable tool in anti-doping strategies, both from a deterrence and enforcement perspective. This is particularly important given that the pre-event period is often identified – through risk assessments – as a period at high risk of doping.

For this reason, and considering that the principle of pre-event testing authority is already reflected in the Code, we recommend clarifying the current language to reduce the risk of jurisdictional challenges. Such challenges may arise from the fact that in principle athletes are, in some cases, formally bound by the MEO ADR only upon registration for the event – which often occur after the pre-event testing period has begun, due to qualification timelines or other factors.

We therefore propose the following revision to make even clearer that the MEO's testing authority stems directly by the Code, and by extension, by NADO and IF ADR. Proposed wording:

> Each *Major Event Organization*, including the International Olympic Committee and the International Paralympic Committee, shall have *In-Competition Testing* authority for its *Events*, and shall have *Out-of-Competition Testing* authority over all *Athletes* who are subject to or taking part in a qualification system for one of its *Events*, regardless of whether the *Athlete* has formally registered in the *Event* organized by that *Major Event Organization*.

A *Major Event Organization* may formalize the start and duration of such *Out-of-Competition Testing* authority in its own rules by specifying the applicable dates.

Article 5.5 (4)

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

The ITIA understands and supports the premise behind out-of-competition testing and why whereabouts is necessary in some sports to enable this to be conducted.

However, as currently drafted the IST makes no distinction between sports (other than acknowledging there is a difference between team sports and all other sports) and the specificities within these that might make providing whereabouts challenging.

The starting point for whereabouts is that it is effectively a system that is designed to enable ADOs to locate athletes for testing throughout the year when they are not competing. There should be agreement that it is not a system for catching athletes out, for punishing them for being forgetful or a system that is so onerous that the concerns, should an athlete fall foul of the whereabouts requirements, create anxiety and frustration. Added to this that the large majority of athlete providing whereabouts are required to do so via ADAMS. This system continues to be a source of frustration and discontent, it is not intuitive, user friendly and is prone to crash on a regular basis.

We understand and acknowledge the efforts WADA is taking to bring the system up to current operating standards.

The ITIA do not support a requirement for more athletes to be added to a system that is not user friendly and doesn't appear to be able to accommodate the numbers that use it currently. The more athletes using it the greater the demand on its functionality and performance.

Finally, athletes placed on a pool lower than those in a RTP are likely to only be of interest to the ADO who placed them there and the ITIA would question what benefit is to be derived from this if those using the whereabouts information is likely to be restricted only to the ADO who put them in their pool.

The ITIA prides itself on the support it gives those that are on the RTP, both in terms of an induction to ADAMS and whereabouts but also ongoing support should the system go down, have questions about an entry etc. By expanding ADAMS to other testing pools, this places an additional administrative burden on the ADO. This seems counter intuitive at a time when ADOs are being encouraged to do more in the area of intelligence and investigations and research. ADOs are already spread to thinly.

The ITIA are not convinced of the benefits of this and ask that this amendment is removed.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

We fully understand and agree that whereabouts are an important tool for anti-doping work. However, the whole concept needs a reconsideration. Although this is more specified in the IST, Whereabouts are also mentioned in the WADC and therefore it is worth to mention it here as well. The current rules show a couple of areas for improvement:

a) There should be more flexibility for hearing panels regarding sanctions regarding WADC 2.4. The minimum consequence of one year even though the athlete might have committed three MT /FF by "bad luck" or the lowest degree of negligence is way too much compared to other ADRVs and available reductions for specific circumstances.

We suggest setting the period of ineligibility for two years if ADOs can establish intent and potential reductions down to a minimum of a reprimand and no period of ineligibility, depending on the athlete´s degree of fault.

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

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

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

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

c) The removal of the mandatory whereabouts requirement for Registered Testing Pool (RTP) Athletes to file daily a training location and general timeframes is strongly rejected. This will lead to an even worse quality of whereabouts and less chances for intelligent testing. The idea that athletes voluntarily submit their training and/or any other alternative location/s contradicts the current reality. Even with a mandatory requirement, many athletes do not file their training or alternative locations, why should they share this information of there is no need and no consequence? We agree that there needs to be a change with the current regulation regarding training, but this is not a suitable way.

Furthermore, with the trend in doping moving toward microdosing, alternative concepts should be considered, such as a second timeslot at least a few hours before or after the other timeslot or an incentive system for athletes who provide more comprehensive entries for testing opportunities in ADAMS.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI recommends that the term Whereabouts Pool be used instead of Testing Pool. Testing Pool is confusing because anti-doping organizations have jurisdiction to test many more athletes than the ones who file whereabouts. But the term Testing Pool suggests to athletes and the public that they can only be tested if they are in a Testing Pool, even though that is not the definition. The term Whereabouts Pool is clear, and if individuals want to refer to Whereabouts Pools other than the RTP, they can simply say as much.

USADA SUBMITTED

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

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

USADA recommends that the term Whereabouts Pool be used instead of Testing Pool.

Reasons for suggested changes

Testing Pool is confusing because anti-doping organizations almost always have jurisdiction to test many more athletes than the subset of athletes who file whereabouts. But the term Testing Pool suggests to athletes and the public that they can only be tested if they are in a Testing Pool, even though that is not the definition. The term Whereabouts Pool is clear, and if individuals want to refer to Whereabouts Pools other than the RTP, they can simply say as much.

Article 5.6.2 (8)

ICSD

SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD supports the principle that athletes returning from retirement should be subject to fair testing requirements before resuming competition. However, we are concerned that the current implementation of the 6-month rule under Article 5.6.2 may not sufficiently account for the realities faced by Deaf athletes or athletes from underrepresented sport communities. Deaf athletes may temporarily step away from sport due to limited access, systemic barriers, or lack of communication accommodations—rather than through a formal retirement process. When opportunities arise again (e.g., a Deaflympics year), they may wish to return but find themselves disadvantaged by procedural timelines they were not adequately informed of.

Suggested changes to the wording of the Article

No changes to the main provision are necessary, but ICSD suggests adding a clarification in the associated comment (as below): In applying this Article, ADOs should consider whether the Athlete faced accessibility, educational, or systemic barriers (such as those affecting athletes with disabilities) in understanding or complying with the notice requirement. Exceptional cases may warrant flexibility under Article 5.6.1 or guidance from WADA.

Reasons for suggested changes

Deaf athletes may temporarily step away from sport not due to formal retirement, but because of structural or accessibility barriers, such as lack of funding, inadequate support in their national federations, or limited access to communication and information. When these athletes later seek to return to competition—particularly for major events like the Deaflympics—they may be unaware of the six-month reinstatement notice requirement or unable to comply in time due to communication gaps. Without flexibility or guidance that acknowledges these realities, the rule may inadvertently exclude athletes who were not deliberately avoiding testing but simply did not have equitable access to the same level of procedural clarity. Adding a clarification in the comment would help ensure that athletes with disabilities, including Deaf athletes, are not unfairly penalized due to circumstances beyond their control, and would uphold the Code's principle of fairness and inclusion.

Council of Europe (CoE)

SUBMITTED

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

General Comments

Article 5.6.1.1.

Considering the amendment made in article 13.2 it should be stated in the article (5.6.1.1) that a decision to disqualify or not to disqualify results may be appealed under Article 13.2. The process for these cases should be clarified in the ISRM or in the guideline.

NADA Austria

SUBMITTED

Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

According to the new wording if the Athlete then wishes to return to active competition in sport, the Athlete shall not compete in International Events or National Events until the Athlete has made himself or herself available for Testing "for a period of time equal to the greater of (i) one half of the period of Ineligibility not yet served as of the date of retirement and (ii) six (6) months."

We appreciate the new approach to change the wording, however the problem is not solved, if we consider the following scenarios:

1st scenario:

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

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

In our scenario the notice would be equivalent to 1 year and 363 days, starting on 16 September 2027.

The athlete would therefore be banned from competing not only for only four years, but almost for 6 years which seems too strict.

2nd scenario:

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

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

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

Japan Anti-Doping Agency

SUBMITTED

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

General Comments

5.6 Retired Athletes Returning to Competition
-Although we commented on this point in the first draft, it has not been reflected in the second draft.
As we believe this is an important issue, we respectfully request that you review and reconsider it.

"In the event of a violation of Article 5.6, regulations should be introduced to allow for the option of requesting a hearing."

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

For context, Article 10.14.1 has always required that athletes subject to a period of ineligibility must be subject to testing. The edit to that article to omit retired athletes coupled with the addition to this Article of “for a period of time equal to the greater of (i) one half of the period of ineligibility not yet served as of the date of retirement (...)” indicates that a period of ineligibility is not tolled if an athlete retires. This has not been the practice for the last decades because it is important that an athlete be subject to testing during their period of ineligibility. It should not be allowed to athletes to avoid that requirement by simply retiring. Additionally, by creating a new calculation (0.5 * the sanction left at the time of retirement), WADA is unnecessarily complicating the return from retirement process. The rules do not need further complication, and there is no advantage—in fact there is a disadvantage—to inserting this new calculation and exception into the rules.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 5.6.2 – For context, Article 10.14.1 has sensibly required that athletes subject to a period of ineligibility must be subject to testing. The edit to that article to omit retired athletes coupled with the addition to this Article of “for a period of time equal to the greater of (i) one half of the period of ineligibility not yet served as of the date of retirement . . . .” indicates that WADA’s believes a period of ineligibility is *not* tolled if an athlete retires. This has not been the practice for the last 20-plus years because it is important that an athlete be subject to testing during their period of ineligibility. WADA should not allow athletes to avoid that requirement by simply retiring. Additionally, by creating a new calculation (.5 * the sanction left at time of retirement), WADA is unnecessarily complicating the return from retirement process. The rules do not need further complication, and there is no perceptible advantage—in fact there is a disadvantage—to inserting this new calculation and exception into the rules.

International Testing Agency SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

It would be useful to clarify how the principles of 5.6.2 apply to an Athlete where he retired before being subject to a period of Ineligibility (in case of re-analysis for example) and also if the return to competition only applies when the individual is acting as an athlete or does it also extend to individuals wishing to participate as ASP.

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)

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

General Comments

Re-submitted from Draft 1 comments: The AIU generally agrees with the changes to Article 5.6.1 but would make the same point it did in response to the first draft, namely, that athletes may retire from one sport and want to return to competition in another. It needs to be clearly understood that the reference in Article 5.6.1 to "their International Federation" is to the International Federation of the sport in which they wish to compete on their return.

Article 5.7 (2)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the importance of a Registered Testing Pool (RTP) as a tool for effective out-of-competition testing. However, we wish to raise serious concerns about the practical challenges this article presents for smaller International Federations like ICSD, which do not have direct oversight of national-level RTPs and do not have full access to athlete whereabouts through ADAMS. Many Deaf athletes are not included in national RTPs, and some NADOs do not fully engage with their national Deaf sports federations. As a result, there is a risk of under-inclusion, inconsistent testing, or unintended non-compliance for athletes who are not integrated into existing anti-doping structures

Suggested changes to the wording of the Article

No changes to the main article are proposed, but we suggest the following addition to the Comment section:

In the case of small or non-event-organizing International Federations that do not operate their own RTP or do not have direct access to athlete whereabouts (e.g., via ADAMS), WADA is encouraged to provide guidance and coordination support to ensure appropriate inclusion of eligible athletes in national or regional RTPs, particularly for athletes from underrepresented or marginalized communities, such as Deaf athletes.

Reasons for suggested changes

ICSD does not currently manage a global RTP and must rely on NADOs and local organizations to include Deaf athletes in their national testing programs. However, in many countries, Deaf sport is not systematically integrated into national anti-doping frameworks. As a result, Deaf athletes may not be included in RTPs or educated on whereabouts obligations, despite competing at the international level. ICSD is also constrained by limited financial and administrative resources to oversee a centralized system. Without coordination support or specific guidance from WADA, the current structure risks creating inequality in testing access and inconsistent application of the Code. Acknowledging these structural limitations in the Code comments would help ensure that all athletes, regardless of disability or affiliation, are treated fairly and consistently

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)

Public Authorities - Government

General Comments

Neither the Code nor WADA should allow ADOs to exercise powers that exceed the objectives of the Code and its associated standards. Therefore, the phrase 'not limited to' should be deleted.

Suggested changes to the wording of the Article

Anti-Doping Organizations shall have the capability to conduct, and shall conduct, investigations and gather intelligence for any anti-doping purpose described in the Code and the International Standard for Intelligence and

Investigations.

Article 6.2 (4)

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

Whilst this Article and the Comment pertaining to it, is silent on the matter the ITIA would continue to request that the list includes analysing samples for non-prohibited substances or methods (including substances prohibited In-Competition only) because they were collected Out-of-Competition for the purposes of verifying whether an athlete is taking their otherwise prohibited medication/treatment in accordance with the terms of a granted TUE e.g. amphetamine for ADHD being taken out-of-competition as well as in-competition.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 6.2

The CCES reiterates that to address apparent inconsistencies between the Code and data protection laws, the 2027 Code should prohibit the use of Samples and Doping Control information for purposes unrelated to anti-doping activities (i.e., for purposes unrelated to Doping Control, WADA's Monitoring Program, quality assurance, and research), similar to the restrictions placed on the use of athlete whereabouts information in Article 5.5. This comment also applies to Article 23.2.2.

International Testing Agency SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

We fully support the clarification in art. 23.2.2 affirming that samples and Doping Control data may be used for non–anti-doping purposes, provided the athlete gives consent. However, for consistency across the Code, we recommend removing the term "anti-doping" from the final sentence of art. 6.2, which currently states: "or to assist an Anti-Doping Organization in profiling relevant parameters in an Athlete's urine, blood or other matrix, including for DNA or genomic profiling, or for any other legitimate **anti-doping** purpose."

This phrasing is inconsistent with art. 23.2.2 – and to some extent also the Comment to art. 5.1 – as it draws a distinction between the use of sample data and the samples themselves, despite the two being intrinsically linked. It makes little sense to allow flexibility in how sample data can be used while limiting the potential use of the actual samples.

To ensure coherence, we recommend removing "anti-doping" from this sentence, thereby allowing athletes and ADOs the flexibility and freedom of choice to agree on additional, non–anti-doping uses of samples. This would align also with data protection principles such as consent, data portability, and the minimization of redundant PII collection.

For instance, future developments may allow for additional medical analyses – unrelated to anti-doping – to be offered to the athletes as an optional added value stemming from the doping control process.

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)

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

General Comments

The AIU strongly supports the principle of collecting samples and being able to store them for future analysis without initial testing.

Re-submitted from Draft 1 comments: Anti-Doping Organisations should be able to make use of data from Sample analysis that is routinely analysed by WADA Laboratories but not always reported in accordance with the ISL in the ordinary course, provided always that the data is used for a "legitimate anti-doping purpose". The AIU proposes a comment to that effect either in 6.2 or in the ISL.

Suggested changes to the wording of the Article

Given that the Comment to Article 6.2 makes it clear that Doping Control-related data may be used to 'direct Target Testing' and that 'anti-doping intelligence' constitutes a legitimate anti-doping purpose, the AIU proposes adding to the list of non-exhaustive examples in the Comment to 6.2 '*the analysis of non-Prohibited Substances for intelligence purposes*'.

Reasons for suggested changes

This would be a useful means of identifying trends in the use of specific non-prohibited substances and understanding their correlation if any to doping practices.

Article 6.3 (4)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the inclusion of athlete consent as a requirement for the use of samples in research, even when anonymized. However, we emphasize the need for the consent process to be fully **accessible and understandable** for all athletes, particularly those with disabilities. Deaf athletes may face communication barriers during the explanation of research purposes or their rights regarding sample use. Consent cannot be considered valid unless it is truly informed, and that requires appropriate accommodations

Suggested changes to the wording of the Article

No change to the article text itself is required, but we recommend adding this to the Comment section:

Athlete consent should be obtained in a manner that is accessible and appropriate to the athlete's communication needs. In the case of athletes with disabilities, including Deaf athletes, this may require the use of sign language, plain language documents, or visual formats to ensure truly informed consent.

Reasons for suggested changes

Deaf athletes may not be able to access or understand consent forms or verbal explanations of sample use unless proper accommodations are provided. If athletes are not given information in their preferred language or communication format, they may unknowingly agree to research participation without fully understanding the implications. Including a reminder that consent must be accessible helps uphold athletes' autonomy and privacy rights, ensures ethical standards are met, and reinforces WADA's commitment to inclusion and human rights across all levels of the anti-doping system

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)

Public Authorities - Government

General Comments

The use of a sample for research purposes (i.e. purposes other than those for which it was collected) may be exempt from the express consent of the person concerned, provided they have been informed of the possibility of secondary use and have not objected to it. Consequently, we do not support this amendment as it stands. In cases where consent does not have to be obtained, it should be stipulated that the athlete must be informed that the samples collected may be used for the research purposes mentioned in the commentary, and that they may object to such use.

A comment should also be added specifying that, in the case of research aimed at detecting new biomarkers or new substances, their possible detection during the research cannot give rise to a results management procedure.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

The clarification in the article is supported.

NADA India SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Article 7.1.6 (10)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA AC believes the procedures contemplated in the amendments to 7.1.6 adds unnecessary complexity and risks undermining the clarity and efficiency of anti-doping enforcement. This revision that bifurcates the management of whereabouts failures based on whether the failure is a filing failure or a missed test, lacks a clear rationale and introduces confusion into an already nuanced process. Filing failures and missed tests are often rooted in the same core issue: an unsuccessful attempt to locate and test the athlete. Splitting the responsibility for these failures between different organizations adds complexity for anti-doping bodies and confusion for athletes, increasing the risk of procedural inconsistencies and undermining the system's perceived fairness. We believe the organization that ordered the test should manage any resulting failure, and all other failures should be managed by the organization with which the athlete files.

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the clarification in Article 7.1.6 regarding which Anti-Doping Organization is responsible for managing whereabouts failures. However, we request further guidance for International Federations like ICSD that do not maintain their own Registered Testing Pool and whose athletes are often not included in ADAMS or national RTPs. In many cases, Deaf athletes compete internationally without being subject to regular out-of-competition testing or formal whereabouts education

Suggested changes to the wording of the Article

No change to the article text itself, but we suggest adding the following to the Comment section:

In cases where an athlete is not included in an RTP or ADAMS, and their whereabouts obligations are unclear, guidance should be provided to ensure consistent application of responsibilities between NADOs, International Federations, and event-based organizers, especially for smaller or non-testing IFs.

Reasons for suggested changes

There is a risk of inconsistent or unclear results management for athletes not integrated into national testing systems, particularly in Deaf sport. ICSD does not operate its own RTP, and many national Deaf sport organizations lack resources or cooperation from their NADOs. This can result in confusion over who is responsible for enforcing whereabouts requirements and managing potential violations. Adding clarification in the comment section would help ensure that athletes are treated fairly and that IFs like ICSD are supported in applying the Code effectively

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

The ITIA is concerned that placing the results management in relation to an individual Missed test with the Testing Authority for that Missed Test will lead to a lack of consistency amongst the administration of Missed Tests. Specifically, the communication of and throughout the process of the apparent Missed Tests. The ITIA are also

concerned that communication between ADOs could be ineffective, which may lead Whereabouts Failures being missed between ADOs.

The ITIA is supportive of filing failures being administered by the ADO with whom the athlete files their whereabouts. It is similarly supportive of the position that where an individual Filing Failure causes a potential anti-doping rule violation under Article 2.4, that the Results Management for the anti-doping rule violation be administered by the ADO with whom the athlete files their whereabouts at the time of the failure.

Suggested changes to the wording of the Article

The ITIA requests a change that reflects the same scenario as that applied to Filing Failures – ie all Missed tests are determined by the ADO with whom the athlete files their whereabouts and thus the communication on all whereabouts failures is kept to that one ADO

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

RM for an individual filing failure should be administered by the ADO which discovered the filing failure.

Results management for Art. 2.4 ADRVs should be shifted in general to the ADO which had the most connection to the three whereabouts failures (e.g. to the ADO which was the Testing Authority in at least two of the three Whereabouts failures).

In general, the delegation of potential Whereabouts Failures to different ADO´s should be eliminated due to the fact that argumentation in a hearing is very difficult for the ADO which has not initiated testing (testing usually was performed in a different country, different testing procedures / rules are applicable, etc.)

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 7.1.6

The CCES finds this change overly complicated. The organization that initiated the test should be responsible for the pursuit of an individual whereabouts failure. For a violation, the organization to which the athlete files their whereabouts should be responsible for pursuing the violation.

Dopingautoriteit SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)

NADO - NADO

General Comments

The regime to determine who is the RMA for whereabouts violations in the current Code is simple and straightforward. It is unclear why the second draft Code proposes to change the current regime with a much more complicated concept. In the past, the Code Drafting Team has maintained the point of view that if something has been proven to work (in the Code or the Standards) there is no reason to make changes. In this case, why tinker with a rule that is clear and works?

Suggested changes to the wording of the Article

To consider leaving Article 7.1.6 as is (i.e. as in the 2021 Code).

USADA SUBMITTED

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

General Comments

Article 7.1.6 –

USADA strongly disagrees with the changes to this article from the previous version. The previous version was far easier to understand and created efficiencies in the process. In the previous version, the results management of an apparent whereabouts failure is managed by the ADO that discovered the apparent failure. In stark contrast, the current version creates unnecessary complexity by bifurcating which organization has results management authority with no clear rationale.

To begin, there is no apparent rationale for separating the results management of missed tests and filing failures unless WADA is under the mistaken impression that tests are only conducted during 60-minute timeslots. For Anti-Doping Organizations that aim to be unpredictable in their testing and test outside the 60-minute timeslot (a significant percentage of USADA tests), filing failures occur as the result of unsuccessful tests based on insufficient or incomplete information. Therefore, just as with a missed test, evidence from the DCO will be critical in declaring the failure and having the failure upheld at a hearing.

And for both types of failures there will be helpful, if not necessary, evidence regarding what information was filed and when. Thus, bifurcating results management depending on whether it is a filing failure or a missed test inserts complication where complication is not needed and is not helpful. It also arguably incentivizes even more testing during a 60-minute timeslot (or at least declaring more missed tests) because of the familiarization the ADO will have in obtaining information from its own DCOs.

Because unsuccessful test attempts result in filing failures for insufficient or inaccurate whereabouts in the same way insufficient or inaccurate information results in missed tests, there is no basis to complicate the processing of these attempts on the back end by bifurcating which Anti-Doping Organization manages them.

To be clear, the Anti-Doping Organization that ordered the test that resulted in a filing failure or missed test is in a better position to resolve that potential failure than the Anti-Doping Organization that had no involvement with the test that led to the failure. There is a clear rationale for this: the Anti-Doping Organization already has an open communication channel (and likely work history) with the DCO that conducted the test and has their own instructions and policies related to training that DCO and potentially specific instruction pertaining to the test mission in question.

The distinction between a filing failure and a missed test for results management purposes is entirely artificial given both occur primarily as a result of unsuccessful test attempts. The only exception would be if the filing failure is for failing to file the quarterly whereabouts in their entirety, but that is a tiny minority of the filing failures declared by USADA. It can also be easily accounted for in the rule itself.

Therefore, USADA requests that the rule return to being simple and easy to follow with a clear rationale.

Suggested changes to the wording of the Article

“Results Management in relation to a potential whereabouts failure shall be administered by the Anti-Doping Organization that ordered the test that led to the discovery of the potential whereabouts failure and in all other instances Results Management remains with the Anti-Doping Organization with which the Athlete in question files whereabouts information at the time of the potential whereabouts failure.”

Anti-Doping Norway

SUBMITTED

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

General Comments

While we understand that the RM of an individual whereabouts failure may best be handled by the ADO discovering the individual whereabouts failure, we are concerned that the ADO(s) issuing the individual whereabouts failures are not the one(s) who will have to lift the burden of proof in a subsequent RM-process related to the ADRV. This has become even more problematic in light of the proposal to remove administrative review of the individual whereabouts failures as suggested in the 2027-ISRM v.2

Furthermore, the current RMA for individual WA-failures, which lies with the ADO to whom the athlete reports their whereabouts decreases the risk of two ADOs independently from each other allege a WA-Failure with one having to retract due to the athlete not yet having been notified of the WA-failure from the other ADO.

International Testing Agency

SUBMITTED

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

General Comments

The current proposed allocation of the RMA for Missed Tests is likely to cause issue of jurisdiction since an unsuccessful attempt qualified as a Missed Test when the Athlete is first notified may turn out to be qualified as Filing Failure at a later stage in the proceedings based on the circumstances. In such scenario the Testing Authority for the unsuccessful attempt would not systematically be the same ADO and the Testing Authority, who initiated the Results Management, may no longer have jurisdiction. Moreover, if the ADO who orders the test finds that an unsuccessful attempt should be qualified as a Filing Failure from the get-go (and is not the one with whom the Athlete files his Whereabouts information), this will require the transfer of the case file to the ADO who receives the Whereabouts information and potentially trigger the same issues as faced under the 2021 Code (delays in transferring files, translation issues with the paperwork, different practice between DCO/ADO).

We would also suggest introducing a definition for “Whereabouts Custodian” since this term is used in the IST but not defined.

We would also strongly suggest maintaining the same approach for MEOs as under the 2021 Code, i.e. that any potential Whereabouts Failures detected or triggered by MEOs are referred to the ADO with whom the Athlete files Whereabouts information.

We suggest the following approach:

> RMA for any unsuccessful attempt, be it a Filing Failure or Missed Test, is the ADO who ordered the test.
>
> RMA for other Filing Failures (not based on an unsuccessful attempt) is the ADO with whom the Athlete files whereabouts information at the time of the failure.

When the unsuccessful attempt is from a test ordered by a Major Event Organization, the RMA is the ADO with whom the Athlete files whereabouts information at the time of the failure.

The rest of the new provision with regards to the RMA for 2.4 ADRV stands.

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)

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

General Comments

It is not always appropriate for a Filing Failure to be pursued by the ADO with which the athlete files their whereabouts. A Filing Failure might arise from an attempt to Test an athlete (for example, where it becomes clear from the attempt that the whereabouts on file for the athlete is manifestly inadequate) and it makes more sense in those circumstances for the ADO who made the attempt to pursue the Filing Failure. Equally, when pursuing a Whereabouts Failure, an ADO may plead a Missed Test and/or a Filing Failure in the alternative (an approach that has been endorsed by the CAS jurisprudence). It makes no sense in such circumstances for one ADO (the one that conducted the attempt) to pursue a Missed Test and for another ADO to pursue a Filing Failure arising out of the same test attempt.

Article 7.4.1 (19)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA AC supports the change from the previous draft, specifically the shift from the language "if the Athlete demonstrates" to "if it is demonstrated." We believe this change was made with the intention of allowing another entity, such as a NADO or a government, to demonstrate on behalf of an athlete. This adjustment aligns with past actions that occurred during some high-profile cases where such entities have represented the athlete in demonstrating certain elements of the case.

World Aquatics SUBMITTED

Justin Lessard, Senior Manager - Aquatics Integrity Unit (World)

Sport - IF – Summer Olympic

General Comments

World Aquatics fully supports the new wording of Article 7.4.1, especially as it concerns the requirement for ADOs to impose the mandatory provisional suspension at the time they notify the Adverse Analytical Finding, and the fact that the provisional suspension can be lifted if it is established that the Adverse Analytical Finding came from a contaminated source.

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)

Sport - IF – Summer Olympic

General Comments

The FEI agrees with WADA's proposal to exclude the Substances of Abuse from the mandatory Provisional Suspension.

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

The ITIA support this amendment

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA notes that a mandatory Provisional Suspension may be lifted if it is demonstrated that the violation is likely to have involved a Contaminated Source.

SIA has concerns over the introduction of a new standard of proof into the Code in terms of its capacity to cause confusion.

SIA would like to better understand how the change of burden for the lifting of a mandatory Provisional Suspension interacts with the final determination of the substantive matter, when it is demonstrated that the violation is likely to have involved a Contaminated Source. That is, if the RMA is satisfied that the Athlete has demonstrated that the violation is likely to have involved a Contaminated Source, how does that influence the decision as to sanction, e.g. Is the Athlete required to provide additional information or is it taken that the Athlete has not committed the ADRV intentionally because of the determination relevant to the lifting of their mandatory Provisional Suspension? Is it open to the Athlete to change their version of events (i.e. if they allege that the violation is likely to have involved a Contaminated Source but then do not pursue this version of events for their substantive matter)? Can the RMA reinstate the mandatory Provisional Suspension?

Moreover, although a decision to lift a mandatory Provisional Suspension by the RMA is an appealable decision, given the seriousness of the lifting of a mandatory Provisional Suspension and the potential implications, SIA's view is that the decision should remain with a hearing tribunal only. Article 7.4.1, as it is currently drafted, could allow for an inconsistent approach across ADOs and RMAs regarding the lifting of a mandatory Provisional Suspension when it is demonstrated that the violation is likely to have involved a Contaminated Source.

In addition, noting the guidance provided by way of the comment to Article 7.4.1, the standard of proof of 'likely' may be one that is too low for these purposes in SIA's view (particularly given the seriousness of the lifting of a mandatory Provisional Suspension and the potential implications).

Sport NZ SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)

Public Authorities - Government

General Comments

We are concerned about the new definition of “likely” reducing the standard of proof for lifting a provisional suspension from the balance of probabilities (and ordinary meaning of the word “likely”) to a lower standard. Our concerns are twofold:

We do not consider it is appropriate to lift a provisional suspension when the evidence of contamination is lower than on the balance of probabilities. At the provisional suspension stage of the process there has not been a full testing of the evidence or assessment of the athlete’s degree of culpability for the AAF. Lifting the provisional suspension allows an athlete to compete against other athletes despite having an AAF. Given this, a robust standard of proof is required which should, in our view, reach at least the balance of probabilities in order to provide sufficient confidence that the final outcome of the case will be consistent with the lifting of the provisional suspension. Having the standard at the balance of probabilities level also provides a safeguard which is particularly important in light of the proposed amendment to enable a Results Management Authority to lift a provision suspension rather than requiring the decision to be made by a hearing panel in all cases.

The proposed definition of “likely” is a new and different standard of proof, adding yet another standard of proof applicable under the Code. The Code already applies the “balance of probabilities” and “comfortable satisfaction” standards depending on the provision involved. Introducing a further standard, which is not commonly used in the general law, is, in our view unnecessary and likely to cause confusion and inconsistency. This proposed standard is also at odds with the usual meaning of the word likely which is commonly understood to mean “more likely than not”.

Suggested changes to the wording of the Article

The definition of likely in the comment to Article 7.4.1 is amended to mean a standard of proof on the balance of probability.

Reasons for suggested changes

As above.

Council of Europe (CoE) SUBMITTED

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

General Comments

Mandatory Provisional Suspension after an AAF or a APF :

More guidance on how and when the ADO should impose an optional Provisional suspension is needed for equality in these decisions. What is the impact on the rules of the signatories and also on the principle of the separation of powers?

See also the comment in connection with the protection of minors.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)
NADO - NADO

General Comments

There needs to be a clarification (preferable here or in the ISRM) that there shall be no mandatory suspension as long as there is an existing TUE application or entitlement to a TUE. Depending on the Athlete's level (International/National/other), there may be restrictions on granting a retroactive TUE. However, whenever this is possible, the Athlete should be offered the possibility to establish that the AAF resulted from a legitimate Therapeutic Use of the Prohibited Substance and to apply for a retroactive TUE. If there is a mandatory suspension without finishing the TUE process numerous legal and ethical challenges are eminent. We suggest that the RMA should be able to set a deadline for the TUE application and if the deadline was not meet or the RMA has reason to believe that the retroactive TUE will not be granted, the notification and mandatory suspension is necessary.

Anti-Doping Sweden SUBMITTED

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

General Comments

The clarification in the article is supported.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)
NADO - NADO

General Comments

Article 7.4.1 - Mandatory Provisional Suspension after an AAF or a APF :

> The draft now provides that a mandatory provisional suspension, if applicable, must be imposed by the signatory upon first notification.
>
> While we understand the rationale behind this proposal—to move quickly and prevent an athlete who tests positive for a non-specified substance from participating in a major competition—it should be noted that this would have an impact on certain ADOs that currently lack the power to impose a suspension or provisional suspension. In any case, this would have an impact on the rules of the signatories and also on the very important principle of the separation of powers.

We however note that the athlete would retain his rights, including his right to a preliminary hearing before an independent hearing panel, which is a very important element to us.

NADA SUBMITTED

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

General Comments

> More guidance on how and when the ADO should impose an optional Provisional suspension is needed for equality in these decisions. What is the impact on the rules of the signatories and also on the principle of the separation of powers?

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

It is not possible for an ADO to allow for a hearing prior to imposition of the provisional suspension given the provisional suspension must be imposed at the time of notification. Therefore SSI proposes to ajust the first sentence of the Comment to account for the fact that mandatory provisional suspensions must be imposed at the time of notification.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

== START

The proposed changes to article 7.4.1 seem to proceed on the basis that the RMA must impose the provisional suspension and it must do so at the point of first notification of the potential ADRV. The current approach in New Zealand is that our hearing body, the Sports Tribunal, imposes the provisional suspension. It does so following the application of the Commission at the same point the athlete is notified of the ADRV. A hearing is then convened at short notice which allows the Sports Tribunal to hear from the athlete (which meets natural justice requirements) and also provides an important separation between the Commission (which is effectively the prosecutor) and the decision-making body. There have never been any issues around delay in following this process and in practice it is most common for the imposition of a provisional suspension to be an agreed position between the parties that the Sports Tribunal can implement without the need for an actual hearing.Our concern is that by requiring the Commission as the RMA to impose a provisional suspension immediately on giving notification of ADRV, this removes the ability of the athlete to be heard and means that the Commission is effectively acting as both the prosecutor and the decision- making body for his part of the process. We would strongly support a clarification of the provision to ensure the hearing bodies such as New Zealand's Sports Tribunal can continue to perform their current role in the provisional suspension process.

Our concern is that by requiring the Commission as the RMA to impose a provisional suspension immediately on giving notification of ADRV, this removes the ability of the athlete to be heard and means that the Commission is effectively acting as both the prosecutor and the decision- making body for his part of the process. We would strongly support a clarification of the provision to ensure the hearing bodies such as New Zealand's Sports Tribunal can continue to perform their current role in the provisional suspension process.

== END

== START

We do not consider that the process for lifting a provisional suspension in the case of apparent contamination is appropriate. This is because:

- The existing wording requires an athlete to demonstrate to the RMA that imposed the provisional suspension that contamination is “likely” before the provisional suspension can be lifted. The natural and ordinary meaning of this wording is “more likely than not” which is equivalent to “balance of probability”. To the extent that the concept of “likely” has been interpreted as lower than that in the past (as may have been the case in the Chinese swimmer case), then this is simply an incorrect application. It doesn’t require a new standard of proof.

- The introduction of a new concept of “well-founded assertion” for lifting a provisional suspension appears on its face to be lowering of the bar. We consider it should be set at balance of probabilities because (1) this is a well-understood concept and avoids the confusion of introducing yet another standard of proof and (2) getting a provisional suspension lifted should require a reasonable amount of evidence and balance of probabilities (more than a possibility, but less than comfortable satisfaction) is appropriate. Making it too straightforward to have a provisional suspension lifted undermines confidence in the system.

- Alongside this, at 5.1.2 of ISRM, there is now an obligation for an RMA to advise an athlete if they have “good reason to believe there may been contamination”. This is a further new and untested standard of proof with little prospect of scrutiny as to how this finding might be made. It is significant because if an athlete gets this notification then it is very likely to support a well-founded assertion of contamination, so could effectively achieve the lifting of a provisional suspension through this lower and unscrutinised standard.

- As a more general proposition, we support reducing the relevant tests under the Code to: (1) balance of probabilities for preliminary/interim decisions and (2) comfortable satisfaction for final decisions on the basis of ease of understanding, consistency and appropriateness.

We have consulted extensively with the Commission’s Athlete Commission on this matter, who have differing views that will be presented in their own submission.

== END

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)

NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support our NADO's call for clarity, and agree that minimising complexity in the system should remain a priority wherever possible. However, we believe there are scenarios where added complexity — such as introducing a new standard of proof — is justified if it ensures fairness and access for all athletes.

We support this change if it results in a threshold low enough to make a fair challenge feasible under all possible constraints, but not so low as to allow abuse of the process. That is, athletes in the most challenging circumstances, such as limited time, support, or resources, can reasonably challenge a provisional suspension in legitimate contamination scenarios.

Clarity on all legal standards used is essential to ensure understanding and consistent application.

Dopingautoriteit SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)

NADO - NADO

General Comments

1. The proposed change to the definition of Provisional Hearing specifies who conducts the provisional hearing, which is helpful. Setting up a disciplinary panel, informing all parties, exchanging submissions and finding a hearing date on short notice will present a challenge (NB: It already is for regular hearings). Regarding the timing of the provisional hearing Comment 48 to Article 7.4 states that the hearing shall be held ‘promptly’ after the ‘imposition of a provisional suspension. However, Article 7.4.3 refers to this hearing being held ‘on a timely basis’ after the (re)imposition of a provisional suspension.

Suggested changes to the wording of the Article

-Consider changing the word ‘promptly’ for ‘timely’ in Comment 48 to Article 7.4.

-Add re-imposition to the first sentence of Comment 48 to Article 7.4. This sentence would then read: "(…) either before or on a timely basis after the imposition or re-imposition of the Provisional Suspension, (…)".

2. Under the proposed changes regarding provisional suspensions, the provisional suspension shall be imposed at the time of (first) notification of the AAF. This change means that the Code cannot contain the option anymore of holding a hearing prior to imposition of the provisional suspension.

To where necessary amend the provisions and comments in Article 7.4 to reflect that provisional hearings shall be held after the imposition of the provisional suspension.

USADA SUBMITTED

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

General Comments

Article 7.4 Comment

It is unclear how an ADO would allow for a hearing prior to imposition of the provisional suspension given the provisional suspension must be imposed at the time of notification. Therefore, the first sentence of the Comment should be adjusted to account for the fact that mandatory provisional suspensions must be imposed at the time of notification.

Anti-Doping Norway SUBMITTED

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

General Comments

We suggest that Provisional Suspension should not be mandatory for cases involving Protected Persons, in light of the potentially shorter period of ineligibility for those athletes in accordance with article 10.6.1.3

Sports Tribunal New Zealand SUBMITTED

Luke Macris, Registrar (New Zealand)
Other - Other (ex. Media, University, etc.)

General Comments

This Article 7.4.1 now appears to provide NADOs the power to unilaterally and immediately impose a provisional suspension upon an athlete for an AAF "upon sending the notification required by Article 7.2" or for an APF "upon sending the notification of charge".

This new wording appears to rule out the possibility of an athlete being heard before the imposition of the provisional suspension – as contemplated in comment 48: "The Signatory imposing a Provisional Suspension shall ensure that the Athlete is given an opportunity for a Provisional Hearing either before or promptly after the imposition of the Provisional Suspension". This is because the provisional suspension is imposed immediately upon sending the notification to the athlete.

In our view, the proposed drafting raises two primary concerns: (1) it denies the athlete access to natural justice, specifically the ability to be heard on an allegation, prior to the imposition of a provisional suspension; and (2) it may blur the powers/responsibilities for NADOs as they will hold both "prosecutorial" and "judicial" roles.

We believe these changes are unnecessary. The Sports Tribunal of New Zealand (as an independent hearing body) has not had any issues concerning whether to impose a provisional suspension urgently in accordance with the provisions of this Article 7.4.1. (and the corresponding Rule 7.4 of the Sports Anti Doping Rules in New Zealand). It has been able to provide the parties (especially the athlete) with sufficient time to obtain legal representation and be heard on provisional suspension issues within prompt timeframes.

The former 2021 Code wording “shall be imposed promptly” provided greater flexibility of process between jurisdictions with respect to mandatory provisional suspensions and ensured natural justice and clarity of roles as we have outlined above. We therefore support the retention of the current wording of the rule under the 2021 Code.

Accordingly, we oppose the immediate imposition of a provisional suspension by way of notification by the NADO (i.e., by the prosecuting agency), who are then also then granted the ability to lift the provisional suspension order. In jurisdictions with separate and independent hearing bodies, the power to impose and lift suspensions should only sit with the independent hearing body (i.e., the judicial body) – to ensure the right to be heard required under principles of natural justice and for clarity of roles/powers between NADOs and hearing bodies.

Furthermore, the definition of “likely” (comment 51) is also problematic as it adds yet another standard of proof that departs from well-established legal standards. Ordinarily, “likely” means: “more probable than not” or “a greater chance than not”. The Code already utilises a diverse range standards of proof across its Articles. Using yet another standard of proof that departs from its ordinary meaning and will only serve to increase complexity and confusion within the Code.

Suggested changes to the wording of the Article

Retain the wording in the 2021 Code for this Article 7.4.1.

If a standard of proof in this article is to be used, the Code should use the standard of “balance of probabilities” (as it is defined at other parts of the Code). “Likely” should be changed to “on the balance of probabilities”.

Reasons for suggested changes

As set out above at General Comments.

GM Arthur
Graham Arthur, Independent Policy Expert (UK)
Other - Other (ex. Media, University, etc.)

SUBMITTED

General Comments

There is a long-standing inconsistency in this provision in that it provides for the lifting of a provisional suspension if it is ‘likely’ that an Adverse Analytical Finding is related to a Contaminated Source (which could still result in a ban being imposed), but not in circumstances where an Athlete can show that it is ‘likely’ that the Adverse Analytical Finding arose in circumstances where the Athlete was at No Fault, or very little Fault (which would not result in a ban being imposed).
The involvement of a Contaminated Source is relevant because in such cases it is likely that an athlete will have acted without fault, or be at a very low level of fault, meaning that a suspension may be disproportionate. But cases involving Contaminated Sources are not the only circumstances in which an athlete may be at a very low level of fault.
The additional wording in Article 7.4.1 (at the end of the provision) suggests that a Provisional Suspension can be lifted on any grounds based on ‘new information’, rather than being specific to ‘Contaminated Source’. This may be the intended policy of the additional wording - or weak drafting - but either way some confirmation would be helpful that the ‘new information’ must relate to a ‘Contaminated Source’, or can be wider than that.

Suggested changes to the wording of the Article

Article 7.4.1 could helpfully be amended as follows -
A mandatory Provisional Suspension may be lifted if it is demonstrated to the Results Management authority or a hearing body/panel that the violation is likely to have involved a Contaminated Source or has

arisen in circumstances in which it is likely that the Athlete has acted with either No Fault, or a very low level of Fault.

Reasons for suggested changes

See General Comments above.

Article 7.4.2 (11)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD supports the right of athletes to request a hearing to challenge a provisional suspension under Article 7.4.2. However, we recommend that WADA include a reference to **accessibility and accommodations** in the Comment section of this article to ensure that all athletes—particularly those with disabilities such as Deaf athletes—can fully participate in the hearing process

Suggested changes to the wording of the Article

No change to the article text itself is needed, but we suggest adding the following to the Comment section:

In order to ensure fairness, athletes with disabilities should be provided with appropriate accommodations during hearings, including accessible formats, sign language interpretation, or other communication support where needed.

Reasons for suggested changes

While ICSD has integrated accessibility into its own results management practices, we recognize that not all Anti-Doping Organizations or hearing panels may consistently provide communication support for athletes with disabilities. Including this note in the Comment section of Article 7.4.2 would help reinforce the importance of **equal access to procedural rights**, particularly for Deaf athletes and others who may require accommodations to effectively understand and participate in hearings

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)
Sport - IF – Summer Olympic

General Comments

The FEI proposes that the Substances of Abuse are mentioned in article 7.4.2 WADC (the Optional Provisional Suspension) as otherwise (and following their removal from article 7.4.1) the imposition of provisional suspension in cases involving Substances of Abuse is entirely excluded. We disagree with such an approach as we believe the option of provisional suspension should be available in such cases. An Optional Provisional Suspension may be warranted for example in cases of returned offenders with the same Substance of Abuse ahead of major sport events.

Council of Europe (CoE) SUBMITTED

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

General Comments

Protected persons, minors, recreational athletes

In principle, the increased protection of protected persons, minors and recreational athletes is welcomed. The same goes for the extension of the protection afforded to protected persons to minors in some places. These groups are vulnerable, have less education opportunities and should be treated as such. However, there should not be a mandatory provisional suspension of protected persons, minors and recreational athletes. Their provisional suspension should be optional (Art. 7.4.2), similar to public disclosure of their anti-doping rule violations (Art. 14.3.7).

SA Institute for Drug-Free Sport SUBMITTED
khalid galant, CEO (Souoth Africa)
NADO - NADO

General Comments

Article 7.4.2 of the Code excludes *Mandatory Provisional* suspension for a Substance of Abuse. This means that *Substance of Abuse* should be inserted in Article 7.4.2 of the Code relating to Optional Provisional Suspension

Suggested changes to the wording of the Article

Optional *Provisional Suspension* Based on an *Adverse Analytical Finding* for Specified Substances, Specified Methods, Contaminated Sources***, Substance of Abuse*** or Other Anti-Doping Rule Violations or Violations of Article 10.14.1

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

General Comments

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

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

General Comments

N/A

Suggested changes to the wording of the Article

« Substances of abuse » shall be added in the list of optional provisional suspension, to allow for such suspension to be applied in non-specified substances of abuse AAF, such as cocaine.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

More guidance on how and when the ADO should impose an optional Provisional suspension is needed for equality in these decisions.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

Given the reference to Substance(s) of Abuse within Article 7.4.1, we consider that likewise a reference to Substance(s) of Abuse should appear within Article 7.4.2 so that it is clear that Optional Provisional Suspensions apply to all Substance of Abuse matters (irrespective of whether the Substance of Abuse is a Specified or non-Specified Substance).

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 7.4.2 – Make clear that an ADO can have rules that are more restrictive than the timelines set forth herein.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

Both Article 7.4.1 and 7.4.2 refer to the role that a 'hearing body' has in relation to the review of provisional suspensions. The reference to 'hearing body' implies that the same **institution** should resolve a provisional suspension dispute (which will generally always be the case anyway). But it suggests that the same hearing **panel** cannot maintain a consistent presence throughout that dispute.
A hearing panel that has already considered the circumstances and evidence relating to the imposition of a provisional suspension will usually be best placed to examine how its previous determination should or could be amended in relation to the provision of new evidence. At the very least, this would streamline the process and avoid multiple hearings in in front of different hearing panels that centre around the same issue.

There may be circumstances in which having the same hearing panel involved throughout a provisional suspension dispute is not considered to be optimal. But it is as at least just as likely that there is no advantage to any party for that possibility to be excluded.

Suggested changes to the wording of the Article

Comment 53 could therefore include the following words:
The reference to hearing body in Article 7.4.1 and Article 7.4.2 does not preclude the same hearing panel from maintaining a consistent presence throughout a single provisional jurisdiction dispute, which includes resolving different applications made by the same parties.

Reasons for suggested changes

See General Comments

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)
Other - Other (ex. Media, University, etc.)

General Comments

The AIU disagrees with the changes to Article 7.4.3 and to the definition of Provisional Hearing which now provides for the possibility of a preliminary abbreviated hearing after the imposition or re-imposition of a Provisional Suspension before the hearing body that will hear the case on the merits. The AIU proposes that the current position in the Code be maintained, namely, that ADOs should be able to provide the athlete with an opportunity to be heard on the Provisional Suspension in oral or written form before or after its imposition (with a right to appeal against the ADO's decision to CAS). The change to the definition introduced in this draft will only lead to more administration and more cost for ADOs (particularly when an ADO such as the AIU processes 80+ International-Level cases per year). Further, cf. Article 7.5.2 which provides for the 'International Federation or its hearing body' to be able to lift a provisional suspension when it extends beyond a Major Event period.

Suggested changes to the wording of the Article

The AIU proposes that the current position in the Code be maintained, namely, that ADOs should be able to provide the athlete with an opportunity to be heard on the Provisional Suspension in oral or written form before or after its imposition (with a right to appeal against the ADO's decision to CAS).

As an alternative, the definition of Provisional Hearing could provide for a hearing to be "conducted by the ADO or the hearing body that would conduct the final hearing on the merits under Article 8"

Reasons for suggested changes

The change to the definition of Provisional Hearing introduced in this draft will only lead to more administration and more cost for ADOs (particularly when an ADO such as the AIU processes 80+ International-Level cases per year).

Article 7.5.2 (3)

International Cricket Council SUBMITTED

Vanessa Hobkirk, Anti-Doping Manager (United Arab Emirates)
Sport - IF – IOC-Recognized

General Comments

The ICC supports the removal of the mandatory provisional suspension for substances of abuse. This change helps prevent situations—we have recently experienced in cricket—where the athlete has already served their entire sanction via a provisional suspension before a final decision is reached. It also ensures that the relevant ADO's right of appeal can be properly exercised.

Union Cycliste Internationale SUBMITTED

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

Sport - IF – Summer Olympic

General Comments

We support the clarification provided regarding jurisdiction over matters related to the provisional suspension imposed by a MEO

Sport Ireland SUBMITTED

Cólleen Devine, Director of Anti-Doping & Ethics (Ireland)

NADO - NADO

General Comments

Article 7.5 – Sport Ireland fully supports the proposal that mandatory provisional suspension can be lifted when the suspension period would exceed the period of Ineligibility likely to be imposed for the relevant ADRV.

Article 7.8 (33)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Overall, Team USA AC supports changes based on the recommendations of the independent prosecutor, Eric Cottier. While the process outlined in Article 7.8 is primarily aimed at ensuring that valid cases proceed to results management, it also ensures that the athlete is notified. This is critical for maintaining transparency and allowing the athlete to understand when an adverse finding has occurred. This provision helps ensure fairness and objectivity by requiring an independent expert to review the case before any decisions are made that could impact the athlete's career. While the provisions in Article 7.8 introduce additional checks and balances to protect athletes from hasty or unfair decisions, they also introduce complexities and potential delays that could be stressful for athletes. The process might be seen as more focused on procedural fairness than on athlete welfare, especially when considering the time and financial resources required.

Team USA AC also needs to highlight some potential areas of concern with the new section. The involvement of an Independent Review Expert and the subsequent appeal process could significantly delay the resolution of a case, leaving athletes in a prolonged state of uncertainty. This extended timeline can have a detrimental impact on an athlete's career, as it may affect their performance, future opportunities, and mental well-being. The uncertainty surrounding the outcome of the case can be stressful and emotionally taxing for athletes, who for extended periods of time are left with uncertainty. Furthermore, despite provisions for reimbursement, athletes may still encounter substantial financial and emotional costs due to the lengthy nature of these

processes. The cost of legal fees, potential travel expenses, and the emotional toll of prolonged uncertainty can be overwhelming. For athletes without substantial financial resources, these costs can be particularly burdensome, as they may struggle to afford the necessary legal support or cover expenses related to the appeal process.

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the addition of Article 7.8 and the introduction of the Independent Review Expert (IRE) as a safeguard to ensure that Adverse Analytical Findings (AAFs) are not dismissed without proper oversight. As an Anti-Doping Organization (ADO) responsible for results management in Deaf sport, ICSD understands and supports this principle. However, we wish to highlight practical challenges for smaller ADOs like ICSD, particularly those conducting limited, event-based testing and working with modest administrative capacity

Suggested changes to the wording of the Article

No change to the article text itself is necessary, but we recommend adding the following to the Comment section:

For smaller or event-based ADOs, WADA is encouraged to provide guidance and logistical support to assist with fulfilling the Independent Review Expert process efficiently and in compliance with Article 7.8.

Reasons for suggested changes

While the IRE requirement adds important procedural integrity, implementing this process could place a significant administrative and financial burden on small ADOs like ICSD, especially when managing cases outside regular competition periods. Coordinating with an IRE, preparing case files, and ensuring timely compliance may be difficult without dedicated staff or regular legal resources. ICSD requests that WADA recognize this challenge and support smaller ADOs in applying this rule consistently without unintended delays or procedural strain

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)

Sport - IF – Summer Olympic

General Comments

The term *Independent Review Expert* appears throughout the text in capital letters and italic yet it seems to be defined nowhere; there is a need to include a definition of the *Independent Review Expert* in the definition section of the Code. Furthermore, the rules need to specify how and by whom is this person (or a group of persons?) appointed, their qualifications, terms of reference, etc. There needs to be a clear understanding of the processes applicable to the *Independent Review Expert*.

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

More information is needed on the Independent Review Expert role to clarify factors such as the scope of the role, and how they are to be appointed. This role/process does not appear to have been defined as a term and will need to be.

Sport NZ SUBMITTED

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

General Comments

We acknowledge that ExCo has approved the concept of the IRE in principle following the recommendations of the Cottier Working Group. However, having now had time to more thoroughly consider the proposal and review the proposed drafting, we recommend a full analysis be conducted as to whether the introduction of the IRE in the form it has been drafted is the best way of dealing with the issues raised by the Chinese swimmers case.

The existing system already allows for contamination cases to be appropriately dealt with through following the usual result management process – i.e. through the finding of no fault or negligence or no significant fault or negligence where the period of eligibility is eliminated or reduced accordingly. There has been no reasoning provided as to why ADOs should be able to close a case. We suggest that WADA should ensure it is confident there are cases where following the usual results management process would result in an unjust or absurd outcome in order to introduce a pathway allowing for a departure from the usual process (which we note would introduce further complexity to an already complex Code).

As the IRE provisions are currently drafted we are concerned that there is a risk that the option of case closure becomes available as part of a standard suite of pathways available to an ADO in response to an AAF. There is a high risk of inconsistent treatment of athletes depending on the attitude and resources of the ADO with jurisdiction to deal with the results management in their particular case.

Suggested changes to the wording of the Article

Our preference would be that:

- The starting point remains that an ADRV case must not be closed without an RMA process.
- If the RMA process determines no-fault and WADA considers there has been a non-compliant outcome/process, then it can appeal.
- An independent expert may be called upon to provide advice to WADA in instances where a case has been closed in circumstances where it should not have been, but that is as a response to a failure to follow the rules, rather than an accepted route for disposing of a case.

If the Code review team decides to retain the IRE as a route to enable the closing of a case without following the usual result management process, we consider that more clarity is needed in the drafting to ensure that the option is only invoked by an ADO, and certainly only invoked successfully, in truly exceptional cases. While the drafting refers to “rare” cases this is a descriptor only and the provision itself does not contain safeguards to ensure that cases where this option is invoked will in fact be rare. We consider that criteria are required for when the IRE process is available or at least for when an IRE may make a finding that it was appropriate for the ADO not to follow the applicable results management process. We suggest the criteria must ensure this provision’s use is highly restricted, including a requirement that there is compelling evidence of no fault or negligence (ie no significant fault or negligence would not be sufficient).

Reasons for suggested changes

As above.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA refers to our comments at Article 5.5 in the ISRM, and strongly suggest that, with the work of the Contamination Working Group yet to be finalised, all details as to how the process of the IRE should be defined and administered should be included in the ISRM and guidelines rather than in the Code.

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)

Public Authorities - Government

General Comments

The independent expert responsible for the review should be identified, along with details of their appointment, the conditions of their independence, and their relationship with the ADO.

The deadline for submitting their analysis should also be specified.

Regarding article 7.8.4: The appeal procedure should meet the requirements of Article 13.2, but the code should not require that appeals must be submitted directly to the CAS. In particular, for athletes who are not international-level athletes, the possibility of appealing to the competent appeal body in accordance with national legislation should be retained.

Regarding 7.8.5: Linking the ADO non-compliance procedure solely to a finding of a violation of anti-doping rules by the CAS/appeal body could lead ADOs to avoid the independent expert procedure when they are certain that no violation occurred, or to 'bet' on the absence of sanctions on appeal. However, as the use of an independent expert incurs financial costs for the ADOs, some may find it difficult to comply with this requirement. Therefore, clarification should be provided regarding the use of the independent expert and the risk of non-compliance. While this recourse prevents cases from being concealed by the ADO, it places a greater burden on ADOs.

For example, it could be specified that, when it is certain that there has been no violation based on scientific evidence, the ADO may refer the case to WADA for consideration of whether to refer it to an independent expert. The idea is to give the ADO some flexibility while ensuring the security of the procedures and avoiding placing unnecessary pressure on it.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Cases Subject To Review By Independent Review Expert

We agree with the general idea of establishing an Independent Review Expert. However, we would like to share the following remarks/concerns:

- the terms “Independent Review Expert” are in italic, but are not defined in the Code and/or IS. It needs clarification, in particular on the following: will it be a single individual, or a panel? Who will appoint these experts, including if this will be an obligation for each ADO or for WADA? What are the costs for an ADO as RMA? Will there be a policy in case of conflicts of interest?

- Article 5.5.2 of the IRSM: it shall not be mandatory to provide the full case file in English, especially at the cost of the ADO. Plus, it should be allowed to provide the case file in English and/or in French, both being the official languages of WADA. It should also be possible, upon discussions with the Expert, to provide only a summary or the necessary documents in English or French, and not necessarily the full file.

- appeal before CAS: this cannot be made mandatory for non-international level athletes. In some countries, it would not be feasible due to constitutional obstacles (national sovereignty).

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

Independent Review Expert is italicized but not defined anywhere in the ISRM or Code

Suggested changes to the wording of the Article

Insert definition of *Independent Review Expert* under Appendix 1 (Definitions) of the Code.

Reasons for suggested changes

Greater clarification is needed around the criteria/qualifications which make an individual suited to act as an *Independent Review Expert*. Definition should not be limiting but broad enough to give guidance to NADOs as the characteristics which the expert should possess

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

This is also covered in ISRM Article 5.5 – we suggest shortening WADC article 7.8 and referring the details to ISRM article 5.5.

It should be thought about to include a definition of the Independent Review Expert (IRE) – will it be one expert or a pool of experts from which one will be chosen for determining a case or will the case be determined by more than one expert?

It might be difficult for ADOs to assess in which cases such a review should be performed / cases should be transferred to the IRE.

The costs coming up for a NADO seem to be unclear and thus this might impact NADOs with less financial resources. The costs might also lead to ADOs refraining from using this mechanism. Therefore, if ADOs are forced to use the services of the Independent Review Expert when the results management of a case requires it, this service should be provided free of charge (or, at least, there should be transparency on the costs).

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

We support this new article and the fact that an ADO cannot just close a case without consulting others, however perhaps it would be better if it were WADA that should review the case instead of an Independent Review expert, and by extension of this, what are the requirements for this Independent Review Expert?

Japan Anti-Doping Agency SUBMITTED

Chika HIRAI, Director of International Relations (Japan)

NADO - NADO

General Comments

Agree with the proposal

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

The AFLD agrees with the general idea of establishing an Independent Review Expert. However, we would like to share the following remarks/concerns:

- the terms “Independent Review Expert” are in italic, but are not defined in the Code and/or IS. It needs clarification, in particular on the following: will it be a single individual, or a panel? Who will appoint these experts? Will there be a policy in case of conflicts of interest

- Article 5.5.2 of the IRSM: it shall not be mandatory to provide the full case file in English, especially at the cost of the ADO. If ADOs are forced to use the services of the Independent Review Expert when the results management of a case requires it, this service should be provided free of charge (or, at least, there should be transparency on the costs). Plus, it should be allowed to provide the case file in English and/or in French, both being the official languages of WADA. It should also be possible, upon discussions with the Expert, to provide only the necessary documents in English or French, and not necessarily the full file.

- appeal before CAS: this cannot be made mandatory for non-international level athletes. In France for example, it would not be feasible due to constitutional obstacles (national sovereignty).

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Othilia Christensen, Legal Advisor (Danmark)

NADO - NADO

General Comments

Article 7.8.: Cases Subject To Review By Independent Review Expert

We support the new Article 7.8; however, we believe it would be more practical and efficient if WADA were responsible for reviewing the case, rather than an independent review expert.

NADA India SUBMITTED
NADA India, NADO (India)
NADO - NADO

General Comments

NADA recommends that existing adjudication by the Anti-Doping Disciplinary Panel to be continue.

Sport Integrity Commission Te Kahu Raunui SUBMITTED
Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)
NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support our NADO's submission on this Article 7.8 Cases Subject To Review By Independent Review Expert

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

General Comments

Article 7.8

We believe that Article 7.8 may provide guidance for handling certain exceptional cases, but the following issues require further clarification during the implementation phase:

1. Who determines and appoints the Independent Review Expert? Who is eligible to serve this role? How can the impartiality and independence of the Independent Review Expert be guaranteed?

2. The Results Management process has clear time limits for case disposition. Would the introduction of an Independent Review Expert delay case resolution?

3. The Article appears to imply that a departure from the normal Results Management process may be permitted in certain particular circumstances. What are these “particular circumstances”? Can examples be provided in the Comment? According to Article 7.4.1 (Provisional Suspensions) of the second draft, when the Athlete is first notified of a potential anti-doping rule violation, the Results Management Authority shall impose a mandatory Provisional Suspension. In this case, if the Independent Review Expert advises departure from the normal Results Management process, can the Provisional Suspension be lifted? Is there a conflict between these two Articles?

4. If an Anti-Doping Organization’s practice is in contravention of the Independent Reviewing Expert’s opinion and recommendation, the Anti-Doping Organization may be subject to outcomes for non-compliance with the Code. Then, how should the Anti-Doping Organization to rectify the situation? The newly revised 2027 International Standard for Code Compliance by Signatories does not identify a breach of this Article as a non-conformity. Therefore, we recommend that the Code Drafting Team address the alignment between the Code and the International Standards.

Anti-Doping Sweden SUBMITTED
Jessica Wissman, Head of legal department (Sverige)
NADO - NADO

General Comments

The terms “Independent Review Expert” should be defined in the Code and/or the IS. It needs clarification, in particular on the following: will it be a single individual, or a panel? Who will appoint these experts, including if this will be an obligation for each ADO or for WADA? What are the costs for an ADO as RMA? Will there be a conflict of interest-policy?

It shall not be mandatory to provide the full case file in English, especially at the cost of the ADO. It should also be possible, upon discussions with the Expert, to provide **only a summary** or the **necessary documents** in English or French, and not necessarily the full file. Alternatively, an English summary and an index with explanation of the documents provided of the circumstances could be mandatory.

It shouldn't be mandatory for lower-level athletes to appeal directly to CAS.

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

General Comments

1. The terms “Independent Review Expert” are in italic, but are not defined in the Code and/or IS.Will there be a policy in case of conflicts of interest? It needs clarification, in particular on the following:

- will it be a single individual, or a panel?
- Who will appoint these experts, including if this will be an obligation for each ADO or for WADA?
- What are the costs for an ADO as RMA?
- Will there be a policy in case of conflicts of interest?

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

There is generally need for clarification. Important questions are not yet answered: Who would be the Independent Review Expert (IRE). Can SSI chose its own IRE and pay him or will the IRE be chosen and paid by WADA? Will he be operationnally independent?

The new IRE process competes with two tools already in place to address ADOs not moving forward with results management as it only focuses on appeal: Article 7.1.5 that gives WADA the authority to direct an anti-doping organization to conduct results management and the Compliance audit. WADA can immediately begin a compliance audit if an ADO simply ignores mandatory rules.

SSI thinks that this process seems to invite ADOs to violate the Code as it is not set up strictly for very specific (mass contamination) cases but can apply to any case for which an ADO simply decides to ignore the rules based on any rationale it sees fit to do so (and can argue and get accepted by the IRE). Based on the rationales needed for applying to the IRE, there is no clear rationale as to for which cases this provision would apply, especially not that it can not be applied to all No Fault cases.

As proposed and further elucidated in the ISRM, the IRE would have limited I&I capabilities that are restricted further by a 20-day deadline. These restrictions could render any such review ineffective as I&I is critical in cases of alleged contamination and can take some time.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 7.8

In principle, the CCES has no issues with the new article, but additional details must be provided about who is the Independent Review Expert, the process by which they will be identified, if they hold this role for a specified term and/or any term limits. A lack of transparency regarding this individual could create the perception that they are not, in fact, independent. Prior to inclusion in the Code, the CCES would suggest that a limited scope review of this Article takes place once the details are confirmed.

NADO Flanders SUBMITTED

Jurgen September, Legal Adviser (België)

NADO - NADO

General Comments

It is unclear how this procedure is compatible with the results management procedure and the normal appeal procedure in which a decision not to go forward is appealable. It puts the burden again on ADOs in seeking the independent expert opinion. It is also unclear how the independence of the Expert will be guaranteed, and how this procedure will truly add to the system without the risk of making it again overly complex.

As a concept, it will only be applied in rare cases, but adding the procedure for a specific scenario will again add to the complexity and is not beneficial to ADOs.

Suggested changes to the wording of the Article

We are not in favour of the additional procedure.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

We recognise that the introduction of an independent expert review process is the outcome of the Cottier Report Working Group recommendations approved by EXCO. However, we query the controls WADA have in place to ensure this process is limited to 'rare cases'. Our concern is that the expert review process becomes an established way of authorising cases that shouldn't have been closed after the fact. Our preference would be that:

- The starting point remains that an ADRV case must not be closed without an RMA process.
- If the transparent RMA process determines no-fault and WADA considers there has been a non-compliant outcome/process, then it can appeal.
- An independent expert remains a useful- tool in instances where case has been closed in circumstances where it should have been, but that is as a response to a failure to follow the rules, rather than an accepted route for disposing of a case.
- If the independent expert review process is to be retained then as a minimum there need to be strict criteria for when it is used. Labelling something as rare does not make it so. This could include adding restrictive criteria such as a requirement that there is compelling evidence of no fault or negligence (i.e. no significant fault or negligence would not be sufficient).

We have consulted with the Commission's Athletes Commission who are supportive of this submission.

Sport Ireland SUBMITTED

Cólleen Devine, Director of Anti-Doping & Ethics (Ireland)

NADO - NADO

General Comments

rticle 7.8 – it is not clear what type of cases the Independent Expert Review is proposed to deal with. We note the example in the comment to Article 7.8, but the reference to public policy or other compelling reasons is very broad and open to interpretation. The process to be followed has not been set out – while Article 7.8.6 notes that the process to be followed shall be set out in the ISRM, the current draft of the ISRM does not account for the process.

WADA has given no indication of why this is being introduced or why it is necessary. We note that Independent Review Expert is not defined, although it appears to be drafted on the basis of there being a single Independent Review Expert.

Sport Ireland is also of the view that it has the potential to be deeply unfair. For example, Athletes who are found to have No Fault or Negligence in an ADRV, still have their results disqualified if it was an In-Competition test. This might not happen in the case of other Athletes for public policy or other compelling reasons. Public policy reasons might differ from country to country.

Dopingautoriteit SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

General Comments

In this article, the second draft Code essentially proposes codifying ADOs going outside of the Code instead of applying the Code and the ISRM. This would create an anomaly in the framework of the World Ant-Doping Code and is unnecessary as the Code has a proven track-record of dealing with the vast majority of cases. Exceptional cases, like the Clenbuterol cases from before, can be dealt with by WADA through a 'apply or explain' good governance approach.

In its current form, the proposed Article 7.8 raised more questions than it answers. Who will this expert be, who will appoint him/her, who will pay for this expert and his/her activities? Why would an unidentified expert get to decide what these 'rare cases' are where (and this is the most important issue) the World Anti-Doping Code will not be applied? But again, the main issue here is that the ADOs have to apply the Code and the ISRM. There should not be an avenue in the Code regarding for ADOs how to act if they do not want to apply the Code. The CHINADA case is an exception that should not lead to an overreaction.

Suggested changes to the wording of the Article

1. Delete Article 7.8 as exceptions should not lead to fundamental deviations from how the Code been set up and has successfully functioned for over two decades.

2. Consider a different approach along the following lines:

-In rare and exceptional cases, the ADO with Results Management Authority should (a) follow the Code and ISRM, while (b) liaising with WADA as soon as it considers that one or more AAFs are rare and exceptional to the extent that they warrant a different approach than the one required by the Code and the ISRM. WADA should evaluate such cases, report them to the Executive Committee, which may (through written procedure) appoint an independent expert to review the case(s) and provide recommendations to WADA. WADA will then, under the 'apply [the Code] or explain' model of good governance, evaluate the recommendation(s), decide whether to follow this/these recommendation(s) and report its findings to WADA's ExCo. The Execute Committee will then decide whether or not to an exception to the Code is in order and decide on the extent, scope and duration of the exception, and whether follow-up action is required (scientific research, etc.).

3. Consider an additional consultation round for this specific aspect.

USADA SUBMITTED

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

General Comments

Article 7.7 Comment - USADA recommends additional language to this comment so that athletes using prohibited substances in preparation for a sanctioned competition over which the ADO has jurisdiction, even if not subject to the rules at the time of use, can be held accountable for such use. For example, an athlete should not be permitted to take EPO in preparation for an event and yet obtain a sport membership the day before the event at which they will test negative and escape consequence because they test negative in-competition. Any doping done in preparation for a sanctioned event should fall within the scope of the anti-doping rules de jure. This extension is analogous to the edit to Article 5.2.3 that states athletes can be "made subject to the Testing authority of a Major Event Organization

for a future Event." (emphasis added). And even if WADA can come up with a reason not to make this sensible change, WADA should still make the change because it is okay to be "caught" fighting to protect clean athletes and the integrity of sport.

Article 7.8 –

The new IRE process ignores the tools already in place to address ADOs not moving forward with results management as it only focuses on appeal.

- Article 7.1.5 gives WADA the authority to direct an anti-doping organization to conduct results management. If the anti-doping organization fails to proceed with results management, WADA can appoint another anti-doping organization to do so and the original anti-doping organization that failed to do so will be responsible for the expenses.

- Compliance audit – WADA can immediately begin a compliance audit if an ADO simply ignores mandatory rules as CHINADA did with the 23 Chinese swimmers' cases.

- Investigation is often a critical component to contamination cases in particular.

- As proposed and further elucidated in the ISRM, the IRE would have limited I&I capabilities that are restricted further by a 20-day deadline, and these restrictions would render any such review ineffective. I&I is critical in cases of alleged contamination. As an example, would the IRE essentially have to rely on the factual representations made by CHINADA in the Chinese swimmers' cases as WADA accepted without factual investigation?

- This process seems to invite ADOs to violate the Code as it is not set up strictly for mass contamination cases but can apply to any case for which an ADO simply decides to ignore the rules based on any rationale it sees fit to do so (and can argue and get accepted by the IRE).

- Rather than an IRE role leaving open the option (if not inviting it) for WADA to ignore blatant violations of the Code, would it not be better to have an expedited appeal process to ensure technical aspects of the Code are uniformly enforced around the world?

- The goal should be transparency and accountability for all involved, not another closed, opaque process that gives cover to potential bad or negligent actors.

- How can the anti-doping community trust this "independent reviewer"? Will this independent reviewer be chosen and paid by WADA? Will they be operationally independent as defined in the Code? Will they not hold any position in sport? Independent Review Expert is not defined in the Code or the ISRM. A definition should be added to avoid confusion and clearly set forth their independence from WADA and from sport.

- Based on the rationales needed for applying to the IRE, there is no clear rationale as to why this provision would not apply to all No Fault cases. WADA itself acknowledged it had never before appealed a No Fault case that instead was closed out as no violation. And it cannot be that when multiple athletes test positive this provision applies, but when only one does, it does not as that would be profoundly unfair to the singular athlete. Thus, what is stopping ADOs from not moving forward in every No Fault case and relying on all the rationales WADA has set forth in defending itself for not enforcing the rules against the Chinese swimmers? Will WADA now change course and appeal all No Fault cases for which ADOs choose not to move forward and do not invoke this process?

- With this addition, rather than applying the rules equally to all athletes in all countries and having a mechanism for transparency, WADA is enshrining the idea that there are indeed two sets of rules in the Code: one public ruleset and one ruleset applied in secret known only to the ADO, the IRE, and WADA.

Anti-Doping Norway

SUBMITTED

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

NADO - NADO

General Comments

We preliminarily welcome the idea of an independent review expert. However, the proposal needs further clarifications and development, including on:

- Is one single expert sufficient, or would it be more appropriate with a review panel with relevant expertise such as law, pharmacology, medicine and investigations?
- What is the role and responsibilities of WADA and the individual ADO? Will WADA appoint an expert (or a panel of experts) or shall each ADO have such responsibility?
- What is the financial implications for ADOs?
- Is this for cases of contamination only, or is a broader scope foreseen?
- How is transparency in decision-making ensured?
- What kind of independence requirements are foreseen?

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We consider that more clarity is required regarding the practical interpretation of this Article. There is insufficient detail regarding the 'Independent Review Expert'. For example, will there be one Independent Review Expert or several? If there is more than one, how will decision making be monitored and consistency of decision making be achieved? How is the Independent Review Expert to be identified and appointed? What qualifications and experience will they have? What factors will the Independent Review Expert consider when providing a written opinion and recommendation? Neither the Code text, nor the ISRM give sufficient detail as to how this process will be delivered in practice.

iNADO SUBMITTED

Alex Brown, Campaigns and Membership Coordinator (Germany)

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

General Comments

Art. 7.8 / ISRM art. 5.5. iNADO would welcome greater detail on the new provisions of the Independent Review Expert process to be ensured a transparent and independent process is in place, while safeguarding the provisions and overall aspiration of the ISRM to ensure fair result management procedures.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

This article expressly refers to 'rare cases' where it is envisaged that it will be applied. That being so it creates a potentially unwieldy and somewhat unnecessary process for resolving a situation that is already covered for within the current Code. It appears to be somewhat of a solution seeking a problem.
If an anti-doping organisation makes a decision not to proceed with an adverse analytical finding it is required to provide a reasoned justification for that decision to the various parties listed within the Code as having an appeal right in respect of that decision. Those interested parties can consider the grounds provided by the anti-doping organisation and, should they wish, appeal that decision. The new process inserts an intermediate step involving an opinion being provided by an independent expert as to whether in his or her subjective view that the anti-doping organisation was justified in its decision.

If some sort of intermediate step was felt to be of use in these situations it would be simpler and more efficient for the decision simply to be referred to the relevant hearing body set up within the anti-doping organisation's anti-doping rules. This hearing body is required to be operationally independent from the anti-doping organisation and will be staffed by experts. There would be a qualitative difference to an operationally independent hearing panel reviewing the decision as opposed to an independent expert. What constitutes an 'independent expert' is not always clear and experience has shown that different parties can have very different views as to whether or not a particular person is 'independent'.

This can readily be illustrated by analysing what is currently anticipated in these 'rare' cases. This can be summarised as follows –

a. An anti-doping organisation receives an adverse analytical finding;
b. After receiving an explanation and carrying out any necessary investigation the anti-doping organisation decides not to proceed with an anti-doping case – the anti-doping organisation has the discretion to take this step under the Code
c. The basis and rationale for this decision is communicated to the parties that under the Code have an appeal right in relation to that decision
d. The parties may appeal which can result in either the decision being upheld, or set aside with an order that the anti-doping organisation resume the disciplinary process.
e. If the anti-doping organisation declines to continue the disciplinary process, another party may assume the disciplinary responsibility or Article 7.1.5 of the Code may be invoked by WADA.

The 'new' process inserts an Independent Expert between stages c) and d) above. This is unlikely to change anything as the anti-doping organisation will have made its decision and if the parties with a right to appeal do not agree they can appeal. The Independent Expert provides no meaningful value but the involvement of such a person adds complication, cost and delay to the process. As noted, should any oversight or scrutiny be required the simplest measure would be to require the decision made by the anti-doping organisation to be submitted to the relevant hearing panel for review.

The most significant aspect to this situation is, however, what should happen if anti-doping organisation makes a determination that it does not wish to proceed with an adverse analytical finding, and that decision is overturned on appeal. If, for example, an anti-doping organisation makes a decision in good faith that it would not be in the interests of public policy or proportionate for it to take action in relation to a particular adverse analytical finding that is a matter for that anti-doping organisation as an operationally independent body. It is not realistic to expect that anti-doping organisation to 'vigorously pursue' an action it does not believe should be brought. Threating an anti-doping organisation with a non-compliance action for making a good faith, principled decision is not satisfactory.

National Anti-Doping Organisations are, in the main, public bodies that carry out their operational activities according to law and the Code, in that order of precedence. It is problematic to require that such organisations cede their operational independence to an 'expert'.

Suggested changes to the wording of the Article

The solution is to remove Article 7.8 and, it is suggested, for a short guidance note to be prepared that advisees anti-doping organisations as to what they need to do in these situations. This could easily form part of the ISRM Guidance currently available.

Article 7.8.5 is not accurate. An adverse analytical finding is of itself proof that an anti-doping rule violation has occurred.

Reasons for suggested changes

See General Comments.

International Testing Agency

SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

Considering that this new provision allows to avoid Code consequences all together and the application of the strict liability principle, it seems important to assess whether this new measure adequately addresses the concerns recently

voiced by athletes and the anti-doping community for increased consistency when applying the Code and transparency.

Furthermore, greater clarity should be provided with regards to the grounds under which this procedure may be initiated.

In any event, should this new mechanism be accepted by the community, considering the high stakes, the decision-making should not be left in the hands of one individual. A panel of at least three independent experts should assess these types of cases to ensure the legitimacy and credibility of the process. Additionally, clear terms of reference and a transparent appointment process should be made publicly available.

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)

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

General Comments

As drafted, the referral to the IRE is only copied to WADA. The AIU proposes that the referral be copied to any party with a right of appeal against the ADO's eventual decision. This is important for information/transparency purposes, but it may also be that the IF (in the case of a NADO referral) may have intelligence or information that is not known to WADA and could and should be provided to the IRE to assist in their decision making.

Sports Tribunal New Zealand SUBMITTED

Luke Macris, Registrar (New Zealand)

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

General Comments

This Article 7.8 appears to create a new track/pathway for closing ADRVs which does not currently exist within the Code. There has been no reasoning provided as to why NADOs should be able to close a case, when the remainder of the Code is premised on the basis that they are unable to do so.

This new article appears unnecessary as the Sports Tribunal of New Zealand has not experienced any issues dealing with cases on an urgent basis to resolve a case promptly (where appropriate and required). For instance, in a situation where there was compelling evidence of contamination and agreement, or only minor evidential disputes, between the parties (i.e., the NADO and Athlete) then the Tribunal could act quickly to complete the hearing and issue a decision.

The proposed drafting suggests that application of this article would be "rare" but there are no criteria or definitions for what "rare" cases would look like.

Suggested changes to the wording of the Article

Preferred: Article 7.8 is not required and should be deleted.

Fallback: It should be substantially changed such that it has clear criteria for its use and application.

Reasons for suggested changes

As above at General Comments.

Article 9 (2)

SA Institute for Drug-Free Sport SUBMITTED
khalid galant, CEO (Souoth Africa)
NADO - NADO

General Comments

Express language should be inserted to state that Athletes cannot challenge the automatic nature of the Automatic Disqualification

Suggested changes to the wording of the Article

Insert after 1st paragraph. New sentence:
"*An Athlete cannot challenge the automatic nature of the automatic Disqualification under this Article 9*".

Reasons for suggested changes

Matters arise where *Athletes* want to challenge the automatic nature of a disqualification under Article 9. The purpose of this provision (as enunciated by case law) is to put the *Competition* in the position as if the anti-doping rule violation never occurred. Thus, *Athletes* should never be able to challenge this automatic nature

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

General Comments

Footnote 61 → this footnote needs more clarification as it is not clear how to deal with disqualification of team results / team valuation.

Article 10 (14)

USOPC Athlete Advisory Council SUBMITTED
Meryl Fishler, Coordinator (United States)
Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA AC believes that the sanctioning system defined in the Code should be the result of negotiations between WADA and independent athlete representatives elected by their athlete peers. This collaborative approach would ensure sanctions are both proportionate and tough, while also considering the unique realities of the workplace environment within each individual sport. We strongly believe that the athlete's voice should play a direct and integral role in jointly negotiating the anti-doping system that athletes are required to follow.

International Cricket Council SUBMITTED
Vanessa Hobkirk, Anti-Doping Manager (United Arab Emirates)
Sport - IF – IOC-Recognized

General Comments

Article 10.2 - The ICC supports the new sanction framework that incorporates recklessness as a factor in determining the appropriate range sanction period for the player.

ICC comments on Article 10.2.4 - Substances of Abuse -

- Players are role models and held to higher standards so some form of sanction should remain. However, should this be for WADA or the Sport Movement to police?
- An in-competition sanction of up to four years for substances of abuse seems excessive, particularly in sports where the performance-enhancing effect is minimal or non-existent.
- The ICC does not support eliminating the requirement for a rehabilitation program on the basis that ADOs may lack the expertise to determine an appropriate treatment plan. The ICC believes that if WADA is sanctioning athletes for recreational drugs, it should also consider athlete welfare.

ICC comments on Article 10.6.1.2 - Contamination

With the growing number of cases linked to contamination, the credibility of the anti-doping system is being undermined, and the burden placed on athletes has become disproportionately high. WADA need to establish more effective and fair approaches to managing contamination cases.

Comments on Article 10.2.4 from the World Cricket Association who were consulted as part of the ICC's review process.

- WCA has suggested WADA have a separate regime for substance of abuse that includes education. Player engagement, confidentiality, and player treatment.
- WCA has also suggested that WADA remove cannabis and cocaine from prohibited list
- WCA views sanctioning for substance of abuse in-competition is aggravating and inequitable.

Comments on Article 10.6.1.2 from the World Cricket Association

Thresholds should be established for substances commonly found in contaminated supplements or known meat contaminants—such as trenbolone. When an athlete tests below a defined threshold, contamination should be presumed, and the burden of proof should shift to the ADO, with the support of a Reasoned Medical Analysis (RMA), to establish intent.

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

Article 10.3.2

The ITIA continues to call for greater flexibility in the sanctioning for a Article 2.4 ADRV.

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

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

Tennis players are In-Competition a lot more than athletes in other sports both due to the length of the season and because a player is considered to be In Competition from the first day of the tournament to when they are knocked out.

They often compete in back-to-back weeks, and it is not uncommon for players to be in-competition for more than half of the weeks of the season, which runs from January to November (or December below ATP and WTA level). Players may play every day of the week in singles and doubles provided the player continues to win as most events are played on a knockout basis over one or two weeks with matches scheduled every day. The structure of the sport means there are rarely extended periods out-of-competition.

Nevertheless, the Code requires every sport to have a RTP irrespective of the specificities of that sport. The ITIA understands the importance of being able to locate Athletes for testing, however, the requirements of whereabouts and the burden it places on Athletes should not be downplayed particularly when you place it in the context of the competition calendar and extensive travelling tennis players do. Updating whereabouts information can inevitably be forgotten or with the crossing of time zones, mistakes happen with entries. Filing Failures and Missed Tests are not uncommon in tennis. the ITIA invest a great deal of resource in supporting players with whereabouts, reminding them to update, refreshing their understanding and use of ADAMS etc. However, often it seems that the whereabouts system does not foresee sports such as tennis and could be argued by the players and those around them, as setting them up for failure. The aforementioned points are only extenuated when the usability of ADAMS is considered, and the frequent and unannounced crashes of the ADAMS platform, either the website or Athlete Central App.

If ADOs and WADA alike are here to protect clean sport then prosecuting a player for 12 months for simply being forgetful or having good reason for missing a test or not filing whereabouts seems at total odds with an Athlete having a prohibited substance in their system, and then receiving a minimal sanction because they have proved they bear limited fault or negligence. That Athlete still had a prohibited substance in their system, that could have or continues to benefit their performance.

Unless there is clear evidence that an Athlete is missing tests, not providing whereabouts for nefarious reasons, why are whereabouts failures treated more harshly than an inadvertent doping scenario? The ITIA understand this might be an issue for some sports but that in of itself does not mean that all sports should be treated the same way. The Code in no way acknowledges the specificities of sports. An alternative approach would be to allow ADOs to submit a case to WADA for a different approach to whereabouts to be applied in their sport.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Article 10.3.1.

We would like to share a concern regarding this Article. According to (iii), the maximum period of ineligibility for evading or tampering committed by a Protected Person or Recreational Athlete is 2 years. On the other hand, the period of ineligibility is 4 years (or 3 years) in case of AAF if the athlete, who has the burden of proof, cannot establish that the violation was unintentional. This may lead to situations where Protected Persons (or Recreational Athletes) who intentionally dope and therefore intentionally refuse to submit to sample collection are less sanctioned that Protected Persons (or Recreational Athletes) who did not intend to cheat but cannot prove it.

Article 10.3.2 – Sanctions and Results Management for Whereabouts failures:

Support. However, with a view to ensuring flexibility and proportionality in sanctions, which is also sought, the sanctioning regime should be more flexible than currently (two years and a possible reduction with a minimum one-year suspension). One option would be to draw an analogy with substances of abuse and the new provision relating to the criteria for a TUE, and to use two months as the minimum suspension period.

Another option would be to increase this minimum sanction to three months, which is already a deterrent and has a significant impact on high-level athletes.

Add to comment to Article 10.3.2 highlighting the importance of whereabouts both for the effectiveness of the system and for the credibility of clean athletes vis-a-vis the public.

Article 10.6.1.2. Contaminated Source

Support. There should be a reference to relevant CAS-practise in for example the ISRM Guideline, for the athlete to know that concrete evidence is needed and not only to declare the product on the DCF (as stated in the article).

SA Institute for Drug-Free Sport SUBMITTED
khalid galant, CEO (Souoth Africa)
NADO - NADO

General Comments

We are of the view that the new insertions should be removed.

Suggested changes to the wording of the Article

Keep original wording.

Reasons for suggested changes

Any benefits or advantages afforded is too broad. It should be limited to *Consequences* as defined.
It is not within the authority of the *NADO* to get involved in sporting endorsements and other non-monetary benefits which may flow from an *Athlete*'s performance in a specific *Competition*, which the proposed wording may be capable of encompassing.

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

General Comments

Article 10.3.2 – Sanctions and Results Management for Whereabouts failures:

We welcome :

- the clarification that fault should be assessed equally for all 3 failures with the expectation that the athlete should be on heightened alert after their first and second failures ; and

- the addition of the comment to Article 10.3.2 highlighting the importance of whereabouts both for the effectiveness of the system and for the credibility of clean athletes vis-a-vis the public.

However, with a view to ensuring flexibility and proportionality in sanctions, which is also sought, the sanctioning regime should be more flexible than currently (two years and a possible reduction with a minimum one-year suspension).

In certain cases, if the athlete can demonstrate no significant fault or negligence, the sanction should be less than one year.

One option would be to draw an analogy with substances of abuse and the new provision relating to the criteria for a TUE, and to use two months as the minimum suspension period.

Another option would be to increase this minimum sanction to three months, which is already a deterrent and has a significant impact on high-level athletes.

Suggested changes to the wording of the Article

"For violations of Article 2.4, the period of Ineligibility shall be two (2) years, subject to reduction down to a minimum of three (3) months, depending on if the Athlete can establish circumstances mitigating the Athlete's degree of Fault. Fault shall be assessed equally against all three whereabouts failures with the expectation that the Athlete should be on heightened alert after the first and second failures. The flexibility between two (2) years and three (3) months of Ineligibility in this Article is not available to Athletes where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the Athlete was trying to avoid being available for Testing".

Reasons for suggested changes

The reasons are explained above in our general comments.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)
NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support our NADO's submission on Article 10.6.1.2 Contaminated Source.

NADA SUBMITTED

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

General Comments

Comment to Art. 10.3.2

To ensure flexibility and proportionality in sanctions, the sanctioning regime should be more flexible than currently (two years and a possible reduction with a minimum one-year suspension). One option would be to draw an analogy with substances of abuse and to use two months as the minimum suspension period.

Another option would be to increase this minimum sanction to three months, which is already a deterrent and has a significant impact on high-level athletes.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We welcome the efforts made to improve the sanctioning structure applicable to the most common Anti-Doping Rule Violations under Article 10.2. However, we have concerns about Anti-Doping Organisations, Athletes and other Persons, and hearing panels being able to distinguish the sanctioning provisions as presently drafted.

Dopingautoriteit SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)

NADO - NADO

General Comments

Article 10.3.2

***Proposal*:**

To consider adding the term 'respectively' at the end of the proposed sentence "Fault shall be assessed equally against all three whereabouts failures with the expectation that the Athlete should be on heightened alert after the first and second failures". Adding the word 'respectively' further emphasizes that the athlete should be on increased alert with each consecutive step.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 10.3.2

The CCES feels the terms "heightened alert" and "considered equally" are contradictory. Consider whether one of these references should be removed.

Article 10.6.1.2

The CCES welcomes the broadened definition, and would request clarity on the required threshold that must be met for an ADO to agree with an athlete that the prohibited substance came from the contaminated route they identified. Such additional clarity could be outlined in the Guidelines.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

Generally, Anti-Doping Norway support the proposed structure of the sanctioning regime, which seems more flexible and fairer to the athlete. We are however also aware that flexibility and fairness will result in a system which will be more difficult to implement at national level. Therefore, we encourage that WADA follow-up with guidance and training in how the new structure should be applied in practice.

In addition, we welcome the stronger protection of athletes who are minors, but who are not protected persons, by strengthening sanctions for inter alia athlete support personnel, who administer etc. doping for those athletes.

International Testing Agency

SUBMITTED

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

General Comments

Article 10.11

We recommend including a reference to "medals" alongside "prize money" in this provision, to ensure that reallocation of medals can occur wherever practically possible, without requiring separate regulations by each ADO to authorize this principle.

Bird & Bird LLP

SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)
Other - Other (ex. Media, University, etc.)

General Comments

The AIU proposes to increase the applicable sanction for a whereabouts failures violation under Article 2.4 from 2 to 3 years on the basis that:

- A 3-year sanction would serve as a greater deterrent to athletes who (as evidence has shown in previous cases) might otherwise be incentivized to accept a whereabouts failure rather than take a test that risks a longer ban;
- Three years would be the starting sanction for a whereabouts failures violation but subject to a reduction down to a minimum of 12 months if the athlete can establish circumstances mitigating their degree of fault;
- Fault would be assessed equally against all three whereabouts failures (i.e., a potential reduction of 8 months for each whereabouts failure), with an expectation that athletes should be put on heightened alert after the first and second failures.

Suggested changes to the wording of the Article

If an increase to the standard 2-year sanction is not acceptable per the above, the AIU would propose in the alternative that the list of examples of 'Aggravating Circumstances' be expanded to cover an athlete's general conduct in relation to whereabouts obligations (beyond their 3 whereabouts failures) that makes it difficult or impossible to test, or plan the testing of, the athlete out of competition on a no notice basis (for example, last minute updates, insufficient whereabouts, misleading whereabouts, missing whereabouts over multiple days). Another 'Aggravating Circumstance' should be where the athlete has more than 3 Whereabouts Failures in the relevant 12-month period (or would have had more than 3 Whereabouts Failures but for the rule which stipulates that you cannot be notified of a further whereabouts failure if you have not been notified of the previous).

Reasons for suggested changes

These further examples of 'Aggravating Circumstances' would allow ADOs at their discretion to pursue up to 4 years for a whereabouts failures case in appropriate (egregious) circumstances.

Article 10.2 (25)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA AC does not support the proposed changes in Article 10.2. As stated in our previous code review feedback, we believe that the new language introduces more confusion than clarity, particularly in the sanctioning scheme laid out in Section 10.2.1. While the intention may have been to provide hearing panels with an increased sanctioning option from two years to three years, we are extremely concerned that the changes will lead to reductions from four years to three in cases that should be subject to the strictest sanctioning. We strongly believe that "intentional or reckless use of a prohibited substance" should be treated with the highest level of severity, warranting a four-year sanction, and not eligible for reduction.

Additionally, we are concerned about the defenses available to athletes under the Code, such as "no fault or negligence" or "no significant fault or negligence." These defenses can be extremely difficult to establish, often requiring athletes to provide evidence of the source of contamination, which can be nearly impossible to do, particularly when considering the 10-year statute of limitations.

We believe WADA should amend its anti-doping program to mirror that of other systems that have adopted more effective methods for handling such cases. For example, the UFC Anti-Doping Policy offers the possibility of reduced sanctions based on the athlete’s degree of fault. Similarly, MLB-MLBPA has a tiered approach where the “no significant fault or negligence” defense provides greater certainty than under the WADA Code. We believe these approaches offer more practical, transparent, and athlete-friendly solutions, particularly for cases involving contamination.

Team USA AC also has concerns regarding the difficulty in determining circumstances under which an athlete can establish a lack of intent, especially when it comes to indirect intent. The Cottier report further validates these concerns, particularly in the context of low concentrations of prohibited substances. The report highlights that scientific and analytical evidence may not definitively establish intent or unintentional intake, especially in cases of contamination or trace amounts of substances. The Cottier report points out that, for example, when dealing with substances like TMZ (temozolomide), it is scientifically impossible to conclusively rule out intentional or unintentional intake based solely on pharmacokinetic data. The report also discusses the difficulty of distinguishing between contamination and intentional ingestion when the substances are present in very low doses that may be influenced by environmental factors, such as food or drink consumed at a hotel. We believe WADA implements minimum reporting levels more quickly to address legitimate contamination issues. Additionally, we suggest that laboratories be empowered to report results as atypical in cases where low levels of contamination or discrepancies in test results are detected. In light of the challenges identified in the Cottier report and the broader issues related to contamination and intent, Team USA AC supports changes to Article 10.2.2 that would allow for a reduction in the period of ineligibility from four years to three years in cases where an athlete can demonstrate, to the satisfaction of the decision-making body, that the violation was not consistent with the intentional use of a prohibited substance. We recommend implementing a more flexible athlete-centric approach that emphasizes concrete evidence of the source, rather than strict reliance on analytical results, which we believe could lead to a reduction in the sanction in appropriate cases.

While we have concerns about the changes in Article 10.2, we do support the new language around substance abuse treatment programs. The provision for a shortened period of ineligibility is particularly beneficial when no treatment program is recommended for athletes who are serious about addressing their violation and any potential abuse issues. We agree that the shortened period of ineligibility should be applicable to athletes after a full assessment—provided no treatment is recommended. If treatment is recommended, it should be based on enrollment, not completion. However, we believe the treatment programs should remain in place regardless of the addiction professional's specific requirements. This allows for leniency to be granted to athletes who used a substance of abuse without the intention of enhancing performance. We also believe the Code still retains a punitive, rather than a health and wellbeing-focused, approach. For example, athletes who face challenges with substance abuse may still be sanctioned for up to four years if they test positive for substances like marijuana or cocaine in competition. In such cases, we feel that access to support and rehabilitation should be prioritized over punitive measures. We believe it would be in the best interest of athletes to establish a separate regime for substances of abuse that focuses on athlete engagement, negotiation, education, confidentiality, and access to treatment and support services. As such, Team USA AC recommends further revisions so that the proposed sanctioning regime applies for all substances of abuse unless the ADO establishes that the use was intended to enhance performance.

Lastly, Team USA AC does not support the concept of applying progressive weight to whereabouts violations. While we acknowledge that athletes should be on heightened alert following a first or second whereabouts failure, we believe that fault should be assessed collectively across all three whereabouts failures, rather than progressively increasing penalties with each violation. In practice, athletes often challenge only one of their whereabouts failures, which means that a hearing panel may focus solely on that particular instance. This can lead to an incomplete assessment of the athlete's overall situation. Furthermore, Team USA AC believes the Code should allow for more flexibility, responsive to the needs and demands of athletes. For example, the UFC policy provides that the "period of ineligibility shall be between two years and a reprimand, depending on the athlete's degree of fault." This approach takes into account the individual circumstances and degree of fault of the athlete, offering a more balanced and fair evaluation of each case.

Union Cycliste Internationale SUBMITTED

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

General Comments

The clarifications provided bring greater clarity and help better understand the flexible approach proposed by the new framework. The situations covered by each subsection are now more clearly defined

Sport NZ SUBMITTED

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

General Comments

Overall, we are comfortable with the amendments.

We had hoped that the Code review would result in clarification of the evidence needed to establish the source of a prohibited substance to the standard the Code requires (balance of probabilities). However, the second draft of the Code does not contain amendments which could assist in providing this clarity.

A number of recent cases in the public domain highlight that there appears to be a significant lack of clarity and variation from case to case as to what facts should be sufficient. We note that the *Second Draft: Summary of Major Changes* document explicitly identifies this as an outstanding issue stating in the first paragraph of page 5:

> *"A number of questions have been raised since the implementation of the 2021 Code. Should the period of Ineligibility be different when the Athlete is simply reckless as opposed to knowingly committing a violation? Can the Athlete prove that the use was not intentional without establishing the source of the prohibited substance in their system? What facts should be considered in establishing the source of the prohibited substance?..."*

We consider it critical to provide this clarity given the increasing numbers of contamination cases and the need for fairness and consistency in how different cases are treated. We strongly encourage the WADA Code review to refer this issue to the Working Group on Contaminations.

Suggested changes to the wording of the Article

We suggest that words “in exceptional cases” should be deleted from new 10.2.1.3 as unnecessary. It may be that such cases are in practice exceptional but the criteria that must be established as set out subsequently are the operative elements of the provision.

Reasons for suggested changes

As above.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)
Public Authorities - Government

General Comments

SIA acknowledges the steps taken to further clarify the operation of these complex provisions in the second draft of the Code. SIA is supportive of the efforts to improve the application and clarity of this regime.

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)
Public Authorities - Government

General Comments

The new wording of Article 10.2 as a whole appears particularly complex and difficult to understand. This could make case management more challenging for ADOs, consequently making it more difficult to understand and defend the athlete.

Council of Europe (CoE) SUBMITTED

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

General Comments

Sanctioning scheme for Presence, Use or Attempted Use or Possession

The new rules should provide more clarity regarding sanctioning system in general, However, on the first (objective) view, the new rule a more complex and difficult to apply in practice.

We believe and fear that the proposed amendments will significantly complicate the case handling process. The system must remain understandable and transparent for the athletes themselves

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

There is no Appendix 2 of flow chart attached to the Code.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

While the new rules provide more clarity regarding sanctioning, they might also significantly complicate the case handling process. However, the burden of proof now lies with the athlete. This burden will likely be even heavier for lower-level athletes who have fewer resources (financial, legal, etc.).

This article may create unfair situations where high-level/professional athletes may have the financial resources to provide sufficient scientific expertise; while others may not; it may also create unfair situations where athletes positive to non-specified substances might obtain a reduced sanction, while those victims of contamination with specified substances would not be eligible to such a reduction, as it is only linked with intent.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

Article 10.2 - Sanctionning scheme for Presence, Use or Attemped Use or Possession :

We refer to our general comments on the importance of preserving the rights of athletes and the need not to further complicate the rules, especially for athletes at a lower level and/or with more limited resources.

We believe and fear that the proposed amendments will significantly complicate the case handling process.

Knowing that for possible sanction reductions for non-specified substances, the burden of proof rests with the athlete, this burden will be even higher for athletes of lower levels or with fewer resources (and who are not always represented, assisted, or advised).

We note with satisfaction that the derogatory and more flexible regime for recreational athletes and protected persons (Article 10.6.1.3) would remain in force.

However, some athletes who do not meet these definitions and who nevertheless have more limited resources would fall back into the complicated casuistry of the proposed amendment to Article 10.2.

Even for higher-level athletes with more resources, the draft Article 10.2 remains (very/too?) complex.

The system must remain understandable and transparent for the athletes themselves.

This is why we would prefer that the current sanctioning regime, which is quite satisfactory in practice and understood by athletes, be maintained.

Alternatively, any proposed changes should be minor and that athletes with fewer resources should be taken into account, particularly with regard to issues of understanding and readibility of the system and the burden of proof.

With this in mind, and in all cases, it is very important that the derogatory and more flexible regime of Article 10.6.1.3 of the Code be maintained.

Suggested changes to the wording of the Article

Proposal to maintain the current sanctions regime.

Reasons for suggested changes

The reasons are explained in the general comments above and in the general remarks on the process in general, in the "other comments/sugestions" section.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

SSI does not think that such a long intro is necessary as it is basically a repetition of the following provisions.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

General Comments

As stated in our previous answer, we still think that the introduction of the four new categories seems to create a more complicated system

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

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

Moreover, it can give different case laws in different countries

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)
NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support our NADO's submission on this Article 10.2

NADA India SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Japan Anti-Doping Agency SUBMITTED

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

General Comments

These comments are for 10.2.1, 10.2.2 and 10.2.3
We generally agree with your proposal in the 2nd DRAFT. However, we believe that the revised texts in the 2nd DRAFT have not been correctly reflected to the Summary of Major Changes.

Regarding Non-Specified Substances (especially when the athlete can establish how the Prohibited Substance entered their system):
In the revised text (e.g., Article 10.2.1.2), it appears that a three-year period of ineligibility may be imposed even in cases where the athlete fails to prove the use is not intentional. Concerning the cases where a three-year period of ineligibility applies, the revised text (Article 10.2.1.2) provides that it applies if the athlete can establish that “the context of the ingestion or Use was unrelated to sport performance.” However, the Summary of major changes indicates that this applies if the athlete can establish that “the use was reckless but not intentional.” The Summary of major changes should correctly use the expression of the revised text in order to avoid unnecessary confusion.

Regarding Specified Substances:
With respect to cases in which a three-year period of ineligibility applies, the revised text (Article 10.2.2.1) states that this applies if the Results Management Authority can establish intentional use, and the athlete can establish that “the context of ingestion or Use was unrelated to sport performance.” However, the Summary of major changes states that it applies if the Results Management Authority can establish that “the use was reckless.” The Summary of major changes should correctly use the expression of the revised text in order to avoid unnecessary confusion.

ONAD RD SUBMITTED

Milton Pinedo, Director Ejecutivo (Dominican Republic)
NADO - NADO

General Comments

We think that this change and clarifying all the concepts was very important to the RMA, and it will be better to imposing the periods of Ineligibility. Thanks

CHINADA SUBMITTED

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

General Comments

Article 10.2

1. Although the concept of “recklessness” is mentioned in the Second Draft: Summary of Major Changes to the 2027 Code, the draft text does not contain it. Article 10.2.1.2 provides that, where the Athlete cannot establish that the violation was not intentional, but can establish how the Prohibited Substance entered their system and that the context of the ingestion or Use was unrelated to sport performance the period of Ineligibility shall be three (3) years. Article 10.2.1.3 provides that, where the Athlete cannot establish how the Prohibited Substance entered their system, but in exceptional cases can establish to the comfortable satisfaction of the decision making body that, based on reliable analytical evidence, the anti-doping rule violation was not compatible with intentional use of a Prohibited Substance, then the period of Ineligibility may be reduced to three (3) years. Therefore, recklessness may be established by meeting the conditions under Article 10.2.1.2 or Article 10.2.1.3. Consequently, we recommend providing additional examples or Comments to clarify this term.

2. The second draft maintains the special treatment for Protected Persons and Recreational Athletes who are not required to establish the source of the Prohibited Substance in their system. Does this mean that in cases involving Protected Persons or Recreational Athletes, they are automatically deemed to have satisfied the requirement to establish the source of the Prohibited Substance in their system, and may therefore automatically apply Article 10.2.1.2? We recommend that the new Code provide further clarification on this matter.

3. Article 10.2.1.3 provides that, “where the Athlete cannot establish how the Prohibited Substance entered their system, but in exceptional cases can establish to the comfortable satisfaction of the decision making body

that, based on reliable analytical evidence, the anti-doping rule violation was not compatible with intentional use of a Prohibited Substance, then the period of Ineligibility may be reduced to three (3) years". In practice, however, it is very difficult for the Athlete to prove being unintentional without establishing how the Prohibited Substance entered their system. This makes it almost impossible to meet the requirements of Article 10.2.1.3 in practice. For this reason, we recommend more examples or Comments be provided to clarify how this Article applies.

4. Regarding the "reliable analytical evidence" as required in Article 10.2.1.3, we believe that in many cases, it is extremely difficult for the Athlete to provide scientific and analytical evidence. On one hand, this will significantly increase the cost for the Athlete to gather evidence; on the other hand, it is unclear whether analytical organizations, especially WADA-accredited laboratories, may assist Athletes in collecting such evidence or conducting scientific analysis. We recommend that this issue be clarified.

Anti-Doping Sweden SUBMITTED

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

General Comments

ADSE assess that the new rules are more complex and difficult to apply in practice. Further, it may create unfair situations where professional athletes may have the financial resources to provide sufficient scientific expertise, while lower-level athletes may not.

Especially the comment to article 10.2.1.3 needs further clarification or guidance on reliable evidence. Also, consider use the term "exceptional circumstances" in the comment to Article 10.2 instead of "narrowest of corridors" or refer to the comment in article 10.2.1.3.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Othilia Christensen, Legal Advisor (Danmark)
NADO - NADO

General Comments

Article 10.2.: Sanctioning Scheme for Presence, Use or Attempted Use or Possession under Article 10.2

DIF is still concerned about the proposed introduction of four new categories which appear to introduce unnecessary complexity. Distinguishing between concepts such as recklessness and negligence is likely to pose challenges—not only for NADOs and hearing panels, but especially for athletes, many of whom may lack access to adequate legal support. Instead of introducing additional categories, we still believe it would be more effective to retain the existing two and focus on enhancing flexibility in other areas such as Therapeutic Use Exemptions (TUEs) and cases involving substances of abuse.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

This long introduction is not necessary from a legal point of view as it is misleading and basically a repetiion of the following provisions.

Furthemore, the modified rules should provide more clarity regarding the sanctioning system in general. But rather, the modified sanctioning system is more complex and seems to be difficult to apply in practice.

This might significantly complicate the case handling process. The system must remain understandable and applicable.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 10.2

This article references Appendix 2 and a chart illustrating the application of 10.2; however, this chart does not appear to be included in the document. Should this chart not be included in the Code, the CCES would suggest it is included in the ISRM Guidelines.

NADO Flanders SUBMITTED

Jurgen December, Legal Adviser (België)

NADO - NADO

General Comments

(introductory paragraph of 10.2 and added scheme in the Code)

Although the text serves clarity in expressing how the articles are formed, it is not clear why this should be an integral part of the article 10.2. Having this in the text of the article, makes it necessary to implement the provision in full in the internal regulations. If this is set in a legislative framework, these kind of explanatory articles make no sense, since it only summarizes what comes in the following articles, without adding to the content of the articles. This is, in our opinion, more suitable as a comment or as part of explanatory guidelines. Also, the schedule provided as part of the Code, is again a piece of the Code that will be almost impossible to incorporate into a legal framework for NADOs that depend on the Code being put into legislation.

Suggested changes to the wording of the Article

We rather see this in guidelines or additional documents.

Reasons for suggested changes

Difficulty to put this in regulatory / legislative texts, since there is no clear rights or obligations in the first piece of article 10.2

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

In attempting to address different circumstances, we believe the Code has been made too complex. This is illustrated by 10.2.1.3 which refers to "exceptional cases" where athletes can establish "the comfortable satisfaction", aided by a guidance note which refers to the "narrowest of corridors."

Exceptional is a higher bar than comfortable satisfaction and “narrowest corridors” is arguably somewhere in between. We believe different sanctions to meet different situations is fine, but introducing additional standards of proof with inconsistent/contradictory language is unhelpful.

We have consulted with the Commission’s Athletes Commission who are supportive of this submission.

Dopingautoriteit SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)

NADO - NADO

General Comments

1. The second draft explains here that “For illustrative purposes, a chart showing the application of Article 10.2 is included as Appendix 2. To the extent the chart is inconsistent with any provision of the Code, the provision of the Code shall control”.

Suggested changes to the wording of the Article

***Proposal*:** To use the term ‘prevail’ instead of ‘control’. This is also more consistent with other provisions on the Code.

2. The second draft contains the following sentence here: “Article 10.2.**5** provides the definition of “intentional” for purposes of Article 10.2.”

***Proposal*:** Clerical error. The reference should be to Article 10.2.6.

3. The terminology in Article 10.2 regarding ‘use’ and/or ‘ingestion’ is not consistent. It is not clear whether there are reasons for this inconsistent use. The same applies to the references to ‘sport performance’. See:

Article 10.2: “(…) whether the context of the ingestion, Use or Possession was unrelated to sport performance”;

Article 10.2.1.2: “(…) the context of the ingestion or Use was unrelated to sport performance”;

Article 10.2.1.4: “(…) the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance”.

***Proposal*:**

-To align these references to make them more consistent, or to clarify why there are differences.

-To clarify what the reference to sport performance is intended to mean. If an athlete who is addicted to cocaine, use cocaine close to a match or competition then this use may be considered as occurring ‘in a context related to sport performance’ just because of the proximity of the use to the (start of the) match or competition. However, another interpretation of ‘related to sport performance’ could be that the use is related to improving an athlete’s sport performance, which in an addicted athlete’s case will not be the athlete’s intention (it’s the addiction that triggers the use, not the desire to improve the sport performance). Clarification is needed here for the purpose of applying the Substances of Abuse

provisions with the aim of reducing unnecessary Results Management procedures for cannabis and cocaine AAFs. The second draft Code 2027 in its current state has not yet improved sufficiently to achieve the intended objective of reducing the burden of cocaine and cannabis AAFs on Results Management.

UK Anti-Doping SUBMITTED

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

General Comments

We do have concerns about the ever increasing complexity across the provisions of Article 10.2. Whilst it is helpful to clearly identify where Articles 10.5 and 10.6 do not apply, we do not consider that the introduction of ingestion or Use in a context “unrelated to sport performance” to be particularly helpful across the multiple Articles now purportedly adopting this consideration. We consider that the introduction of this element across multiple sanctioning provisions will bring more inconsistency across decisions as decision makers will not be applying a standard definition and will have different interpretations as to what is related to sport performance. We strongly ask that this aspect of Article 10.2 be reconsidered.

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)
Other - Other (ex. Media, University, etc.)

General Comments

The imposition of a fixed period of Ineligibility in Article 10.2.4 cases is agreed. The flat period of ineligibility should be significant enough to serve as a deterrent to potential abuse of the TUE process but at the same time not unfairly punish athletes with genuine medical conditions who have simply been careless in adhering to the TUE process. The AIU would prefer that period to be a flat three months, but two months is acceptable.

Article 10.2.1 (3)

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)
Public Authorities - Government

General Comments

N/A

Suggested changes to the wording of the Article

SIA refers to its comment under Article 3.2.6 in relation to our concerns that reliance on analytical evidence alone cannot determine intent. Intent can only be established using a broader suite of evidence taking into account the circumstances of the case. Moreover, the requirement to adduce reliable analytical evidence will be particularly onerous for those Athletes with limited financial means or resources.

NADA SUBMITTED

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

General Comments

The comment to article 10.2.1.3 needs further clarification or guidance on reliable evidence. Also, consider use the term “exceptional circumstances” in the comment to Article 10.2 instead of “narrowest of corridors” or refer to the comment in article 10.2.1.3.

NADA India SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Article 10.2.1.2 (4)

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

Although, in general, SSI welcomes a more flexible sanctionning regime, this provision seems a bit unnecessary complicated as from our experience it is not immaginable in which circumstance an athlete did an intentional violation, but can establish how the context of the ingestion or use was unrelated to sport performance. It is unclear what is and what is not related to sport performance. For example, is recovering from an injury related to sport performance?

SSI submits adding such unclear provisions will create additional complexity, ambiguity, and litigation.

RUSADA SUBMITTED

Viktoriya Barinova, Deputy director (Russia)
NADO - NADO

General Comments

We would like to support the proposal, that could have been submitted separately by the author.

Suggested changes to the wording of the Article

Where the Athlete cannot establish that the violation was not intentional, but can establish how the Prohibited Substance entered their system, the period of Ineligibility may be reduced to a period between 2 and 4 years, depending on the Athlete’s degree of Fault which shall reflect,

but not be limited to, the context of the ingestion or Use and whether this was unrelated to sport performance. This period of Ineligibility is not subject to elimination or reduction under Article 10.5 or 10.6.

Reasons for suggested changes

"Article 10.2.1.2 says that if an athlete acts intentionally but can show how the relevant system entered his or her system, and that the circumstances were not related to sport performance, then the sanction is a 3 year ban rather than a 4 year ban.

This equates to saying that if an athlete uses a banned substance intentionally but not in a context related to sport performance, then the athlete is not at the same level of fault as an athlete who uses a banned substance intentionally in a context related to sport performance. This makes perfect sense as the latter athlete will be at more fault than the first athlete.

However, this creates avoidable complexity. This qualification echoes the formulation used in Article 10.4 of the 2009 Code, which resulted in a number of inconclusive appeals as to the meaning of similar words. Is the term 'related to sport performance' to be used subjectively or objectively? How broad is it to be interpreted? For a full-time athlete, it can be argued that most elements of an athlete's lifestyle are 'related to sport performance', including all of the elements that would most readily be associated with ingesting a banned substance.

It is not disputed that some intentional violations are more intentional than others. That is another way of saying that intentional violations carry different levels of fault. It would be much simpler for the Code to recognise this and state that an intentional violation carries a 4 year ban, subject to reduction to 2 years based on fault. To ensure consistency WADA could, using the expertise it has accumulated over many years of practice, issue 'sentencing guidelines' to assist panels in the application of such a revised rule."

USADA SUBMITTED

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

General Comments

Article 10.2.1.2 – It is unclear why creating such complexity in the sanctioning regime is necessary. Is it really needed to carve out when an athlete takes a non-specified substance intentionally but the context of the ingestion was unrelated to sport performance? In 10 years of anti-doping cases, the commenter cannot recall any such case. What this provision does, however, is open up avenues of argument for what is and what is not related to sport performance. For example, is getting sufficient sleep related to sport performance? Is recovering from an injury related to sport performance? USADA submits adding unnecessary provisions like this will create additional complexity, ambiguity, and litigation. (This comment also applies to Article 10.2.2.1.)

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)
Other - Other (ex. Media, University, etc.)

General Comments

Article 10.2.1.2 says that if an athlete acts intentionally but can show how the relevant system entered his or her system, and that the circumstances were not related to sport performance, then the sanction is a 3 year ban rather than a 4 year ban.

This equates to saying that if an athlete uses a banned substance intentionally but not in a context related to sport performance, then the athlete is not at the same level of fault as an athlete who uses a banned substance intentionally in a context related to sport performance. This makes perfect sense as the latter athlete will be at more fault than the first athlete.

However, this creates avoidable complexity. This qualification echoes the formulation used in Article 10.4 of the 2009 Code, which resulted in a number of inconclusive appeals as to the meaning of similar words. Is the term 'related to sport performance' to be used subjectively or objectively? How broad is it to be interpreted? For a full-time athlete, it can be argued that most elements of an athlete's lifestyle are 'related to sport performance', including all of the elements that would most readily be associated with ingesting a banned substance.

It is not disputed that some intentional violations are more intentional than others. That is another way of saying that intentional violations carry different levels of fault. It would be much simpler for the Code to recognise this and state that an intentional violation carries a 4 year ban, subject to reduction to 2 years based on fault. To ensure consistency WADA could, using the expertise it has accumulated over many years of practice, issue 'sentencing guidelines' to assist panels in the application of such a revised rule.

Suggested changes to the wording of the Article

The provision could read –

Where the *Athlete* cannot establish that the violation was not intentional, but can establish how the *Proh* be reduced to a period between 2 and 4 years, depending on the *Athlete*'s degree of *Fault* which shall reflect, but not be limited to, the context of the ingestion or *Use* and whether this was unrelated to sport performance. This period of *Ineligibility* is not subject to elimination or reduction under Article10.5 10.6.

Reasons for suggested changes

See General Comments.

Article 10.2.1.3 (11)

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)

Sport - IF – Summer Olympic

General Comments

The FEI finds that the *"reliable analytical evidence"* as further specified in the comment to this article is a too narrow corridor and relevantly interferes with the hearing panel's consideration of the specific circumstances of each case. For example negative tests can be very helpful depending on the dates of such tests, as well as the athlete's lack of motivation to dope and testimonies of the athlete and their support personnel. As already emphasized in published comments, athletes often face challenges in providing analytical evidence; firstly because it may be very costly and available only to athletes with financial means and secondly because access to the appropriate analytical organisation is limited especially in certain geographical regions and in addition as such services are not widely offered.

Council of Europe (CoE)

SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

This article may create unfair situations where high-level/professional athlete may have the financial resources to provide sufficient scientific expertise; while others may not; it may also create unfair situations where athletes positive to non-specified substances might obtain a reduced sanction, while those victims of contamination with specified substances would not be eligible to such a reduction, as it is only linked with intent.

The new regime only focuses on intent, and therefore on non-specified cases. Do we go into the right direction, if we add leniency for the more severe substances, but stick to a strict 2-years when athlete cannot find the source of a specified substance?

Besides that, the burden of proof now lies with the athlete. This burden will likely be even heavier for lower-level athletes who have fewer resources (financial, legal, etc.).

Especially the comment to article 10.2.1.3 needs further clarification or guidance on reliable evidence. Also, consider use the term “exceptional circumstances” in the comment to Article 10.2 instead of “narrowest of corridors” or refer to the comment in article 10.2.1.3.

SA Institute for Drug-Free Sport

SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

Does the decision making body consist of the Independent Doping Hearing Panel or the Results Management Authority or both?
WADA needs to explain why the period of ineligibility is not subject to elimination or reduction under Articles 10.5 or 10.6
The summary page (page 5 of 11) discusses 3 year period of ineligibility where the Athlete can establish that the use was reckless but not intentional. However, the wording of Article 10.2.1.3 (page 41 of 122) does not mention / elaborates on the word reckless. It conflicts with dolus eventualis. In which scenarios would this be effective?
WADA should consider providing case study examples to better understand the purpose of this Article

Agence française de lutte contre le dopage

SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

While the AFLD supports the attempt to add flexibility to manage, mostly here, contamination cases, we would like to express several remarks/concerns:

- this article may create unfair situations where high-level/professional athlete may have the financial resources to provide sufficient scientific expertise; while others may not

- this article may also create unfair situations where athletes positive to non-specified substances might obtain a reduced sanction, while those victims of contamination with specified substances would not be eligible to such a reduction – could we think in that regard, for example, of a flat reduction applicable to all "presence" cases regardless the nature of the substance, when athletes cannot find the source but can prove that it was not intentional?

RUSADA SUBMITTED

Viktoriya Barinova, Deputy director (Russia)
NADO - NADO

General Comments

We woul like to support the porposal which could have been submitted separately by the author.

Suggested changes to the wording of the Article

Where the Athlete cannot establish how the Prohibited Substance entered their system, but can establish that, based on reliable analytical evidence, the anti-doping rule violation was not compatible with the intentional use of a Prohibited Substance, the period of Ineligibility may be reduced to a period between 2 and 4 years, depending on the Athlete's degree of Fault. This period of Ineligibility is not subject to elimination or reduction under Article 10.5 or 10.6.

Reasons for suggested changes

"The policy underpinning this article will need to be explained, not least as a number of nations give effect to the Code through legislation. It is an acknowledged principle in many jurisdictions that as a matter of law disciplinary sanctions must be proportionate.

As to the text -

a) It is not explained why it only applies in 'exceptional cases' – by definition, these cases will be unusual, but if an athlete can show that the 'anti-doping rule violation was not compatible with intentional use of a Prohibited Substance', why does this need to involve some sort 'exceptional' situation?

b) Why is the athlete's burden of proof standard elevated to 'comfortable satisfaction'?

This article provides a fixed term sanction in situations where an athlete commits a Presence violation, is unable to produce evidence that establishes means of ingestion, but nevertheless is able to establish an absence of intent. The basic sanction structure for Presence violations involving non-specified substances is that a 4 year ban is imposed if an athlete has acted intentionally, and a 2 year ban is imposed if that athlete has not acted intentionally. This is because the level of culpability, or fault, is different between the two situations.

Establishing how a banned substance has entered an athlete's system is important because by doing so the level of that athlete's fault can be more easily measured. But if an athlete can establish an absence of intent - and so a lesser degree of fault - then the absence of this evidence is not significant. In simple terms, either it is accepted that it is possible for a banned substance to enter an athlete's system without that athlete knowing or being able to precisely work out how it got there, or it is not. The second proposition is not sustainable which means the first proposition must be. Indeed, the second proposition was accepted in the well-known Shayna Jack case.

Imposing a three year sanction on an athlete who has not acted with intent will need to be justified by reference to that athlete's fault. If an athlete has not acted intentionally why is a 3 year ban appropriate? Where does the extra year of fault come from? Obviously, an athlete cannot be at fault for being unable to fulfil an evidential requirement.

Describing conduct as being ‘not compatible with intentional use’ is the same as saying it was not intentional."

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 10.2.1.3

The CCES feels that this article might disproportionately disadvantage athletes that have fewer financial resources.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

As SSI previously commented under Article 3.2.6, it is difficult to understand many circumstances under which an athlete could establish the lack of intent and even more so indirect intent by means of scientific/analytical evidence. SSI appreciates the additional detail added to the comment, but the open-ended nature of the potential analytical evidence remains a concern. See also comment to Article 3.2.6.

Suggested changes to the wording of the Article

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

Reasons for suggested changes

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

Dopingautoriteit SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)

NADO - NADO

General Comments

The proposed draft Code introduces provisions (in Articles 3.2.6 and 10.2.1.3) that address the issue of rebutting the presumption of intent without the athlete showing how the prohibited substance entered their system. However, to avoid opening another corridor for varying CAS jurisprudence after the 2027 Code

enters into force, it would be helpful to add wording that establishes a mandatory link between the (reliable) analytical evidence and the source of the adverse or atypical finding.

Suggested changes to the wording of the Article

-To consider adding the wording related to the source to Article 3.2.6:

'For purposes of Article 10.2.1.3, only reliable analytical evidence related to the source of the reported analytical finding establishing that the anti-doping rule violation was not compatible with the intentional (as described in Article 10.2) ingestion or use of a Prohibited Substance shall be sufficient to justify a reduction in the period of Ineligibility otherwise applicable.'

-To consider changing the reference to Article 10.2 ("as described in Article 10.2") to Article 10.2.6.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 10.2.1.3 – As USADA previously commented, it is difficult to understand many circumstances under which an athlete could establish the lack of intent (mens rea) (and even more so indirect intent) by means of scientific/analytical evidence. USADA appreciates the additional detail added to the comment, but the open-ended nature of the potential analytical evidence remains a concern. USADA's concerns have been confirmed by the Cottier report that undercuts the open-ended nature of the Comment to Article 10.2.1.3.

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

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

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

Suggested changes to the wording of the Article

Recommended Change (in bold):

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

Reasons for suggested changes

Reasons for changes:

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

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

Whilst we welcome any further clarity on cases that are capable of falling within the “narrowest or corridors”, we do have concerns that Athletes that are tested less frequently, particularly those at National and Recreational Level will be at a disadvantage because of a lack of reliable analytical evidence. Such Athletes are far less likely to have prior or subsequent Samples available that are capable of confirming that the Prohibited Substance detected was not the tail end of the excretion curve from a therapeutic dose or other doping regimen. As a consequence, we have concerns that those Athletes that are tested most often, particularly those at International Level, may disproportionately benefit from the reduction available under this Article.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

The policy underpinning this article will need to be explained, not least as a number of nations give effect to the Code through legislation. It is an acknowledged principle in many jurisdictions that as a matter of law disciplinary sanctions must be proportionate.

As to the text -

a. It is not explained why it only applies in ‘exceptional cases’ – by definition, these cases will be unusual, but if an athlete can show that the ‘anti-doping rule violation was not compatible with intentional use of a Prohibited Substance’, why does this need to involve some sort ‘exceptional’ situation?

b. Why is the athlete’s burden of proof standard elevated to ‘comfortable satisfaction’?

This article provides a fixed term sanction in situations where an athlete commits a Presence violation, is unable to produce evidence that establishes means of ingestion, but nevertheless is able to establish an absence of intent. The basic sanction structure for Presence violations involving non-specified substances is that a 4 year ban is imposed if an athlete has acted intentionally, and a 2 year ban is imposed if that athlete has not acted intentionally. This is because the level of culpability, or fault, is different between the two situations.

Establishing how a banned substance has entered an athlete's system is important because by doing so the level of that athlete's fault can be more easily measured. But if an athlete can establish an absence of intent - and so a lesser degree of fault - then the absence of this evidence is not significant. In simple terms, either it is accepted that it is possible for a banned substance to enter an athlete's system without that athlete knowing or being able to precisely work out how it got there, or it is not. The second proposition is not sustainable which means the first proposition must be. Indeed, the second proposition was accepted in the well-known Shayna Jack case.

Describing conduct as being 'not compatible with intentional use' is the same as saying it was not intentional. Imposing a three year sanction on an athlete who has not acted with intent will need to be justified by reference to that athlete's fault. If an athlete has not acted intentionally why is a 3 year ban appropriate? Where does the extra year of fault come from? Obviously, an athlete cannot be at fault for being unable to fulfil an evidential requirement.

Suggested changes to the wording of the Article

The provision should read –
Where the Athlete cannot establish how the Prohibited Substance entered their system, but can establish that, based on reliable analytical evidence, the anti-doping rule violation was not compatible with the intentional use of a Prohibited Substance, the period of Ineligibility may be reduced to a period between 2 and 4 years, depending on the Athlete's degree of Fault. This period of Ineligibility is not subject to elimination or reduction under Article 10.5 or 10.6.

Article 10.2.2 (3)

Sport Integrity Australia SUBMITTED
Chris Bold, Assistant Director, Anti-Doping Policy (Australia)
Public Authorities - Government

General Comments

N/A

Suggested changes to the wording of the Article

SIA is seeking clarity as to how Article 10.2.2 is proposed to interact with Article 10.2.1.4. SIA notes that the intention of Article 10.2.2.2 appears to be that the period of Ineligibility is "subject to increase" (per the last line of Article 10.2.2). Is it therefore the intention that the 2-year period of Ineligibility would be increased where the Athlete can establish that the Prohibited Substance was used Out-of-Competition (and cannot establish unrelated to sport performance)?

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

General Comments

N/A

Suggested changes to the wording of the Article

The whole structure of Article 10.2.2 is a bit confusing: 10.2.2 states that the period of 2 years "is subject to increase as follows" and Article 10.2.2.2 does not increase this period. For better understanding, it could be clearer to put in article 10.2.2 the provisions that are currently in Article 10.2.2.2 (after "increase as follows", add "Except where an anti-doping rule violation results from an Adverse Analytical Finding for a substance which is only prohibited In-Competition and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition"). Article 10.2.2.1 could be split in two articles (one for three years and one for four years), to align the structure with the specified regime.

NADA India SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Article 10.2.2.1 (2)

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Article 10.2.2.1 could be split in two articles (one for three years and one for four years), to align the structure with the specified regime.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

Although, in general, SSI welcomes a more flexible sanctionning regime, this provision seems a bit unnecessary complicated as from our experience it is not immaginable in which circumstance an athlete did an intentional violation, but can establish how the context ot the ingestion or use was unrelated to sport performance. It is unclear what is and what is not related to sport performance. For example, is recovering from an injury related to sport performance?

SSI submits adding such unclear provisions will create additional complexity, ambiguity, and litigation.

Article 10.2.2.2 (1)

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We do not understand the distinction to be drawn between this Article and Article 10.2.2 itself.

Article 10.2.3 (17)

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

Article 10.2.3.1: Though we generally support the drafting of this article, we do have some concerns with the wording of comment 66 "The Ant [sic]-Doping Organization may also impose a sanction of 2 months if, in its sole discretion, it determines that treatment is not necessary". We fear this places too much discretion on the ADO to evaluate when such an outcome may or may not be appropriate, and given that this may reduce an athlete's sanction, the ADO may be placed under pressure to provide such an approval/reduction so that the athlete can return to competition earlier.

Furthermore, notwithstanding the acknowledgement in the comment, a better solution is still needed (or clearer guidelines) for what constitutes a suitable programme of treatment, as there are stark differences worldwide in the availability and suitability of programmes that makes ADOs no more able to make this discretionary decision than WADA. For IFs this can make it difficult to apply consistency to athletes in different nations. We would encourage WADA to work to add something suitable to ADEL that will fulfil this function, at least as a baseline programme.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Substances of abuse

Support: The flat two-month sanction is a positive development, as it simplifies the process for the NADO, the hearing panel, and the athlete.

However, in the case of a second violation, the criteria for determining whether a treatment program is necessary or not appear unclear and potentially problematic. Rehabilitation programs should be offered as a suggestion to the athlete, but not be linked to a reduction in the sanction.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

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

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

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

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

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

Article 10.2.3.2 – with this wording, it seems that the period of ineligibility should be between 1 and 2 years depending on the circumstances + additionally reduced based on the degree of fault. If the flexibility between 1 and 2 years is based on Article 10.6 and NSFN, it should be clarified.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

Article 10.2.3 – Substances of abuses :

We agree with the amendment provided for in Article 10.2.3.1 proposing a first sanction for a substance of abuse of two months instead of the previous three months.

We can also consider the case in which the person commits a second violation for a substance of abuse and would then receive a four-month suspension.

However, as already indicated, treatment programs rarely fall under the jurisdiction of ADOs. Therefore, any possible reduction due to following an ADO-approved treatment program is complicated or even impossible to implement in practice (because it is outside the jurisdiction of the ADO).

We appreciate the clarification provided with draft Article 10.2.3.2, in the case where the use or ingestion occurred in competition but the athlete can establish that the context of the ingestion or use was unrelated to sporting performance.

For draft Article 10.2.3.3, we refer to our commentary on the draft Article 10.2 (about the sanctionning scheme for Presence, Use or Attemped Use or Possession) and the need to have a relatively simple and transparent system for athletes.

Suggested changes to the wording of the Article

To delete the possibility for any possible reduction due to following an ADO-approved treatment program.

Reasons for suggested changes

The reasons are explained in the general comments. Treatments, for example rehabilitation, rarely fall within the jurisdiction of ADOs.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

The flat two-month sanction is a positive development, as it simplifies the process for the ADO, the hearing panel and the athlete.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)

NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support our NADO's submission on this Article 10.2.3 Substances of Abuse

NADA India SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

The two-month sanction is a positive development, as it simplifies the process for the NADO, the hearing panel, and the athletes.

However, in the case of a second violation, the criteria for determining whether a treatment program is necessary or not appear unclear and potentially problematic. Rehabilitation programs should be offered as a suggestion to the athlete, but not be linked to a reduction in the sanction.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI welcomes changes to the handling of substances of abuse that create a fairer system for athletes and appreciates the reference in the comment to other sources like coca leaves. SSI recommends further revisions so that the proposed sanctioning regime applies for all substances of abuse unless the ADO establishes that the use was intended to enhance performance. Finally, SSI recommends expanding the list of potential substances to include a more complete list of substances that are used in a recreational setting not linked to performance.

Dopingautoriteit

SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

General Comments

Article 10.2.3.1 – Substances of Abuse

1. The revised article on Substances of Abuse, though improved, still does not fully appreciate and take into account that substances of abuse are regularly abused *also by athletes* to the extent that there is an addiction. The current draft provision recognizes this addiction aspect in the sense that it talks about rehabilitation programs, yet does not recognize that this addiction aspect is relevant to when these addicted athletes use and the choices they make. When it comes to addiction, the desire to give in to it is stronger than anything else.

2. An addiction affects a person's (free) will to the extent that many experts state that addiction to things like alcohol and drugs are a disease. Athletes who are involved in substance abuse to the extent that they are addicted, may very well not able to get a grip on or put a stop to their (ab)use simply (a) because the in-competition period starts, or (b) because they may risk testing positive. Yet the in- or out-of-competition factor is the decisive element between ending up with a 2-month sanction or a period of ineligibility of 4 years.

3. The same issue of a drug addiction taking over a person's (in this case an athlete's) free will crucial to the determination of intentional (new Article 10.2.6) as the term "intentional" is meant to identify those athletes who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk.

4. The current Substances of Abuse provision (Article 10.2.3) on the one hand recognizes that athlete who use Substances of Abuse may have an addiction problem by including a reference to rehabilitation programs, but at the same time ignores what the effects of a drug addiction when it relates that an addicted athlete's decision making. This appears to be inconsistent.

5. In many jurisdictions, drug addicts may only be determined to lack legal capacity under applicable legislation when the addiction has reached a critical aspect where the person is a danger to itself. In such situations, a person is usually no longer capable of elite athletic performance and no longer an (elite) athlete who is subject to testing. Therefore, athletes who are drug addicts will not (ever) qualify as Protected Persons although their decision making is very much impaired.

6. The effect of the current Substances of Abuse provision (Article 10.2.4) has been that athletes with addiction problems (cocaine) end up with 4-year bans, a loss of the right to be active in organized sport, with a loss of social activities, social structure, etc. as a result, which may negatively impair their road to recovery and reintroduction in their normal environment.

Article 10.2.3.2 – Substances of Abuse

1. The proposed Article 10.2.3.2 states that if the ingestion, etc. of a Substance of Abuse occurred In-Competition (i.e. the athlete cannot establish that it occurred out-of-competition), but the athlete can establish that the context of the ingestion, etc. was unrelated to sport performance, then the sanction cannot go below the minimum of one year ineligibility, unless Article 10.5, 10.6.1.2 or 10.6.1.3 apply (NB: 10.6.1.1 does not apply, application of Article 10.6.2

would not lead a sanction below 1 year). This means that cannabis cases cannot lead to a period of ineligibility below one year in cases where the athlete cannot establish that ingestion occurred out-of-competition.

2. In-Competition use of **cannabis**, for example because the athlete cannot prove that he used before midnight, leads to a minimum of 1 year suspension also when the athlete can establish that his/her use is not related to sports performance. The ensuing question is why in such a case the sanction in a cannabis would start at one year ineligibility, which can be increased to two years depending on the circumstances of the case?

3. Is a positive result for cannabis (a recognized Substance of Abuse) where the athlete can establish that (s)he is not an intentional doper (i.e. cheater for performance enhancing purposes) such a serious infraction that it justifies a minimum period of ineligibility of one year? Prior to 2021, the penalty for **cannabis** was generally under 1 year. It is unclear why this was changed in the 2021 Code and why it is maintained in the current draft Code 2027. It is clear that it has undesirable effects, for example in cases where the substance is used for non-sports-related purposes, such as pain relief, illness and stress.

4. Another reason why AAFs for cannabis warrant a different approach is that in Belgium and in the Netherlands are consistently confronted with high concentrations of carboxy-THC, because the threshold of 180ng/mL (nor the in-competition threshold in WADA's Substances of Abuse guideline) do not take into account the THC concentrations in Dutch weed and other variants circulating on the Benelux market. Cannabis with 20-25% THC is simply many times stronger (and will show much higher concentrations of metabolite) than the variant with 6% that one will probably use in other countries, with the latter variant being used in the scientific studies that are used to set the 180 ng/mL threshold.

Suggested changes to the wording of the Article

Article 10.2.3.1 – Substances of Abuse

Proposal:

It is not necessarily easy to determine whether an athlete is a drug addict. In the cases where athlete admitted to being addicted (to cocaine), the sanction was a 4-year ban.

(a) Consider whether it is possible to offer admitted drug addicts (where the athlete's admission is supported by analytical or other evidence) considerations that are similar to those included in the Code for Protected Persons;

(b) Consider placing more emphasis on whether such athletes (where the athlete's admission is supported by analytical or other evidence) attempted to cheat by improving their sport performance over their inability to make the right decision (i.e. to not use in-competition, or to not use a Substance of Abuse when they know it's prohibited).

Article 10.2.3.2 – Substances of Abuse

-Proposal:

Consider introducing a different approach for cannabis in this Article 10.2.3, for example by introducing a minimum sanction of six (6) months (or even lower) for cases where the Substances of Abuse in question is only cannabis.

5. Article 10.2.3.2 of the second draft proposes to set the period of ineligibility at between one (1) and two (2) years depending on the circumstances of the case. This is the only provision in the Code where this element of 'depending on the circumstances of the case' is used. In all other Articles the element that is included is always the degree of fault. It is unclear why Article 10.2.3.2 is set apart in this regard, whether this was intentional or not, and if so what the rationale is, and what is meant by 'depending on the circumstances of the case' (as opposed to the degree of fault-factor which is used in just about all other situations where determining the period of ineligibility is concerned).

-Proposal:

Consider either clarifying why this element of 'depending on the circumstances of the case' is introduced here, or replace it with the degree of fault.

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

SUBMITTED

General Comments

Article 10.2.3

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

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

We agree with the proposed changes regarding Substances of Abuse.

We have consulted with the Commission's Athletes Commission who are supportive of this submission.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 10.2.3 – USADA welcomes changes to the handling of substances of abuse that create a fairer system for athletes and appreciates the reference in the comment to other sources like coca leaves. USADA recommends further revisions so that the proposed sanctioning regime applies for all substances of abuse unless the ADO establishes that the use was intended to enhance performance. Finally, USADA recommends expanding the list of potential substances to include a more complete list of substances that are used in a recreational setting not linked to performance.

Suggested changes to the wording of the Article

Recommended Change (in bold):

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

Reasons for suggested changes

Reasons for change:

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

Anti-Doping Norway

SUBMITTED

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

General Comments

In Norway we do not have a rehabilitation program as foreseen in the 2021-Code. In addition, many of our cases are first-time violators who are not sufficiently aware of the risk of AAFs from recreational substance abuse.

We therefore welcome the proposed change where the 1st violation is sanctioned with a flat 2-months ineligibility, and where the subsequent violations will be 4 months which can then be reduced if entering a substance of abuse treatment program.

That said, in our experience, the athletes who are most in need of treatment programs, are the ones that are using substances of abuse frequently. In those cases, the athletes usually will not be able to establish out of competition, ref. WADAs Guidance Note on Substances of abuse.

UK Anti-Doping

SUBMITTED

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

General Comments

We welcome the further the reduction to the period of Ineligibility for Substances of Abuse. As per our comments previously, we find the reference to “enter[ing]” a Substance of Abuse treatment programme to be unhelpful. We consider the 'completion' of a Substance of Abuse treatment programme to be a far clearer basis upon which to reduce the period of Ineligibility down from four (4) months to two (2) months. In our experience, the Athlete does not 'enter' a programme as such, and it would be difficult to identify what constitutes ‘entering’. In the UK, Athletes engage with a specialist practitioner across a series of meetings that collectively constitute a 'programme' for the purposes of this provision of the Code. In these circumstances, would an Athlete 'enter' the programme upon making enquiries with the treating practitioner, or when the first meeting date is confirmed, or once the first meeting has taken place? It is far clearer to state that the reduction should be applied upon completion of the programme (whatever that programme may look like depending on the ADO considering it).

There is a typographical error at Comment 66 (Ant-Doping).

We require clarity as to what is meant by “circumstances of the case” at Article 10.2.3.2. Is this a reference to Fault or to some other considerations? Would it not be appropriate to consider a flat sanction here also, e.g. one (1) year?

International Testing Agency

SUBMITTED

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

General Comments

Article 10.2.3.1

We support this new mechanism.

Article 10.2.4 (21)

Union Cycliste Internationale SUBMITTED

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

Sport - IF – Summer Olympic

General Comments

In favor of a fixed two-month sanction without assessing the degree of fault, as evaluating fault could lead to too many inconsistencies across different cases

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)

Sport - IF – Summer Olympic

General Comments

The FEI agrees with the WADA TUE group's proposal namely a flat two-month period of Ineligibility (not subject to further reduction) where the Athlete can establish that when they used the Prohibited Substance or Method, that use would have met the TUE criteria set forth in the ISTUE (except for the requirement to show that there was no reasonable permitted therapeutic alternative available).

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

The ITIA is supportive of the sanction that it set out at 10.2.4 for athletes who fulfil the ISTUE Art 4.2 criteria but not the criteria for a retroactive TUE.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Therapeutic Use Exemption Criteria

Support. However, we question the practicability and impact of such a provision. Shouldn't this provision be further defined/specified to limit this adverse effect? In terms of practicability, the rules and criteria for TUEs are specific, with scientific and medical knowledge that members of disciplinary hearing bodies may not necessarily have. Some bodies may not have scientific members. How, then, could these bodies assess

whether the scientific and medical criteria were met at the time the presence or ingestion of the prohibited substance occurred?

Guidance of the handling of such a case seems necessary, including if the TUEC is foreseen a role.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

NADA Austria does not agree with the flat sanction of 2 months since there are cases that are exceptional and might require other handling. That said, a reference to ISTUE Article 4.4 (exceptional circumstances) is needed.

Clarification is needed in which cases this applies. What if the conduct of the athlete is intentional, would it fall under this provision.

Japan Anti-Doping Agency SUBMITTED

Chika HIRAI, Director of International Relations (Japan)

NADO - NADO

General Comments

We support with the proposal for a two-month period.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Supported. However, the article could be further defined/specified. A guidance of the handling of such a case seems necessary, including the involvement of the TUEC and their necessary expertise.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

Article 10.2.4 – Therapeutic Use Exemption Criteria:

We welcome the simple and clear sanctioning regime provided for in draft Article 10.2.4.1.

However, we question the practicability and impact of such a provision.

To the extent that the proposed sanction, a two-month suspension, is "interesting" for athletes, aren't they likely to (very/too?) often attempt it, even in cases where it is unlikely to succeed?

Shouldn't this provision be further defined/specified to limit this adverse effect?

In terms of practicability, the rules and criteria for TUEs are specific, with scientific and medical knowledge that members of disciplinary hearing bodies may not necessarily have. Some bodies may not have scientific members. How, then, could these bodies assess whether the scientific and medical criteria were met at the time the presence or ingestion of the prohibited substance occurred? In this case, will the file have to be sent to the TUEC?

We believe the questions should be taken into account.

Suggested changes to the wording of the Article

We would like the issues explained in our general comments to be taken into account in order to avoid the negative effects described and to take into account the practical and scientific issues described.

If these elements are not addressed we will not support this amendment.

Reasons for suggested changes

See ou general comments on this article.

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

General Comments

Guidance of the handling of such a case seems necessary.

NADA India SUBMITTED
NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

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

General Comments

Article 10.2.4

1. We do not support the imposition of a fixed two-month period of Ineligibility for the anti-doping rule violation that meets the Therapeutic Use Exemption (TUE) criteria. The Code should allow for greater flexibility to ensure fair decision-making. Rigid regulations cannot adequately address various complexities in actual case resolution. The fixed period in Article 10.2.4 does not account for certain factors such as the Athlete's level, their anti-doping education, or the due care they should fulfill, which may lead to unfair sanctions.

2. We believe the fixed two-month period of Ineligibility may be too lenient, which may potentially encourage the Athlete to disregard the risk of an Adverse Analytical Finding (AAF) by using a Prohibited Substance or Prohibited Method for therapeutic purposes, and then applying for a retroactive TUE only after a positive finding occurs. We recommend adopting a more flexible range for the ADRVs meeting the TUE criteria, and granting ADOs discretion in determining a proportionate period of Ineligibility. Therefore, we support setting a flexible range of three to six months for such violations as proposed in the first draft of the Summary of Major Changes.

3. According to Article 10.2.4, where an Athlete commits an ADRV but can establish that the presence, Use or Attempted Use or Possession met each of the criteria in Article 4.2 of the International Standard for Therapeutic Use Exemptions (except for the need to show there was no reasonable permitted Therapeutic alternative), the period of Ineligibility shall be two (2) months. However, the ISTUE has reintroduced the requirement that "there is no reasonable permitted Therapeutic alternative", which means the Athlete may never meet the Article 4.2 criteria, creating a contradiction between the Code and the ISTUE.

4. Under Article 10.2.4, an Athlete committing an ADRV is not required to show there was no reasonable permitted Therapeutic alternative, which is a relatively lower burden of proof. However, when applying for a TUE, the Athlete must meet all the criteria outlined in Article 4.2 of the ISTUE, which constitutes a significantly heavier burden of proof. Will this discrepancy give rise to substantive unfairness?

5. We recommend clarifying which authority is responsible for determining whether the criteria of the ISTUE Article 4.2 are met under Article 10.2.4, the TUEC, the NADO, or the hearing panel? In addition, if the

TUEC has already reviewed and rejected the Athlete's TUE application, is it appropriate for the same TUEC to make a determination under Article 10.2.4? We recommend that the new Code provide clear instruction on this matter.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Othilia Christensen, Legal Advisor (Danmark)
NADO - NADO

General Comments

Article 10.2.4 Substances of Abuse

As noted in our feedback during the second consultation phase we support the proposal for increased flexibility in sanctions for substances of abuse which would allow athletes with high concentrations of cannabis to receive a two-month sanction. However, regarding the sanction for a second violation we still find it imperative that the criteria for determining whether a treatment program is necessary or not must be further addressed to prevent inconsistent rulings and disparities across different countries.

UK Anti-Doping SUBMITTED

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

General Comments

It is unclear why a fixed two (2) rather than three (3) month period of ineligibility is now being considered in cases whereby the criteria for obtaining a TUE are met but the exceptions for a retroactive TUE are not satisfied (Article 10.2.4.1). Even so, the proposal is still a reasonable way to deal with such cases for the reasons UKAD set out during earlier consultation (whereby UKAD was in support of a fixed three (3) month sanctioning regime). These reasons still hold true for a two (2) month period of Ineligibility. We therefore support the introduction of this new Article.

NADO Flanders SUBMITTED

Jurgen December, Legal Adviser (België)
NADO - NADO

General Comments

1. Although in principle the measure for putting in a relatively low / flat rate sanction when the fault or negligence only consists of not applying in a timely manner for a TUE, there are some serious objections to the way this is implemented in the Code. It should at least be clarified how to apply this measure in Results Management, either in the Code or the ISRM.

The assessment on the 4.2 ISTUE criteria should in our opinion at the first instance level by all means be reserved for the TUEC. The article 10.2. provision is easy to apply when a retroactive TUE application has been rejected in a reasoned TUEC decision in which it has been set out that the criteria of 4.2 are met, or in cases where a TUE for the same substance has been approved, but not covering an AAF which occurred before the validity of the TUE. But it is unclear what to do if the athlete did not apply for a retroactive TUE, nor

has the intention to apply for a TUE, but brings forward medical information and builds a defense on the therapeutic use of the substances, which, when it would be assessed within the ISTUE 4.2 criteria, would be an exempted therapeutic use.

An observation that relates to the previous paragraph: the decision on the TUE itself is appealable, and should therefore be final before results management can proceed. There should be no risk that the RM decision is based on parts of a TUE decision which is later reversed.

It would in our opinion be advisable that the athlete should apply for a retroactive TUE. But within the timeline, if the defense asserts that all 4.2 ISTUE criteria are met, it is with these wordings of the Code unclear if the TUE route is to be opened and the TUE application should prevail over the pending results management, or if it would fall upon the hearing panel to decide on the use of the substance meeting the TUE criteria. Does it have to be established as fact by a TUEC-decision, or is it a matter that is open for debate before an RM/hearing panel? Having a role for the TUEC in the RM process does not seem within the logic of the system. On the other hand, having a hearing panel deciding on the ISTUE criteria might put the first instance panel in a position where it does not have the expertise to evaluate the criteria.

In short, it should be made clear how the TUE process and the conditions to make use of this provision fit. At least it should be made clear that the ISTUE criteria can not be put forward as an individual defense, without actually having applied (successfully or unsuccessfully) for a TUE. Secondly, it should be made clear that athletes having the right or choosing to apply for a retroactive TUE should do so in a timely manner, and at least before charges have been sent to the athlete.

In general, this provision should be drafted more extensively, covering different situations, but at the same time avoiding that timelines are compromised an discussion on the application of the provision within the RM can be used by an athlete to impact timelines in his favor.

2. If an athlete still has the right to apply for a retroactive TUE or only starts the application for a TUE after a positive test for a non-specified substance, this potentially affects the duration of the provisional suspension. If the TUE application fails, but the TUEC considers the ISTUE 4.2 criteria met, the sanction will be flat rate two months. This is a very short timeline withing an RM process when having to combine with a TUE-procedure. In that case, a valid TUE or at least a TUE that guarantees that the 4.2 criteria have been met, should be a valid reason to lift a mandatory provisional suspension if the period already been served goes beyond the flat rate sanction.

3. If an athlete is sanctioned under this subsection, the only degree of fault of the Athlete is not applying in a timely manner for a TUE. All therapeutic use exemption criteria of 4.2 are met, including the finding that there is no performance enhancing effect other than the return to a normal state of health. This should be considered together with the rule on disqualification of results from sample collection onwards up to the imposition of a period of ineligibility (article 10.10). The results obtained, from the perspective of a fair competition, can be considered as obtained without any illicit advantage from taking a prohibited substances. It can be perceived as manifestly unfair to disqualify results, which is a possibility under article 10.10. In our opinion, the application of article 10.2.4 has the potential to trigger this fairness-rule. Not addressing this issue might lead to very diverse jurisprudence and differences in opinion. We are in favor of adding a reference to article 10.2.4 in article 10.10 or a comment on article 10.10.

Suggested changes to the wording of the Article

It is suggested to extensively redraft, taking into consideration:

- wheterTUE process has been finalised, and a final TUE decision that is no longer appealable has established that the criteria for article 4.2 ISTUE are met.

- or an application for a TUE is still pending and has been brought before the TUEC. In that case, a provisional suspension can be imposed, but the RM proceedings will take into account the TUEC decision and will consider pausing the RM until a TUE decision is rendered and final.

- the fact that the ISTUE criteria are met, can not be brought forward after the athlete has been charged with an ADRV.

- a TUE decision which is sufficient to apply the provision of 10.2.4 can be a basis not to impose or lift a provisional suspension.

- application of article 10.2.4 is a case of fairness, when considering additional disqualification in article 10.10

Reasons for suggested changes

The basic principle is good, but many scenario's are possible:

- expired TUE, and failure to renew;

- rejected TUE on grounds of not meeting retroactivity criteria;

- TUE decision pending, but later rejected;

- not TUE history, but claim of therapeutic use --> in this scenario, the athlete would benefit from applying anyway, because rejecting on grounds that retroactivity criteria are not met, could be a reason to reduce the sanction;

- under the conditions of 10.2.4, disqualification of all results from sample collection onwards seems overly harsh, since the 4.2 ISTUE criteria means there is no performance enhancement beyond the return to normal health.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

We seek clarification on when the two-month ineligibility period is intended to begin in cases where an athlete tests positive but may be eligible for a TUE under Article 4.2 or 4.3.

Specifically:

- Is a provisional suspension expected immediately after the athlete is notified of the positive test and the panel has approved the suspension?
- Or should the athlete be given time to submit medical documentation that may justify a TUE under either Article 4.2 or 4.3?

Our concern relates particularly to Article 4.3 cases, where the process can take weeks or even months. Athletes must gather medical evidence and letters of support, undergo a TUEC assessment, and if they are National Level Athletes or above, await WADA's approval. Provisional suspensions are not typically applied during this period unless there is a compelling reason, such as an upcoming major event.

We recommend WADA define a reasonable timeframe in which athletes can provide supporting documentation before a provisional suspension is enforced. This would allow ADOs to complete due process while ensuring athletes are treated fairly, especially when both 4.2 and 4.3 assessments are running concurrently.

We have consulted with the Commission's Athletes Commission who are supportive of this submission.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI suggests that there should be no Article 10.2.4.1, but only 10.2.4, as there is no 10.2.4.2.

Furthermore, SSI appreciates the steps taken to address athletes who receive a prospective (but not a retroactive) and the flatrate two-month period of ineligibility.

While implementing this new Code Article SSI recommends that WADA publishes a guideline to distinguish between cases falling under the new article of the Code, vs. retroactive TUE applications according to article 4.3 b OR article 4.4 ISTUE must be established to avoid disharmonization. See also comments to articles 4.3b and article 4.4 in ISTUE consultation.

In addition, can WADA confirm that in a case with a valid NADO TUE where all article 4.2 ISTUE criteria are fulfilled, but lacking international recognition (due to lacking automated recognition, timely recognition as well as retroactive recognition) would allow for the flatrate period of ineligibility in accordance with article 10.2.4? This case would just be another type of administrative error while medical conditions to obtain a TUE are met.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 10.2.4

Alternatively, to our comment to 10.2.3, the CCES would also support, in such situations, the finding of a violation, with no associated period of ineligibility. If it is accepted that the athlete was properly using the prohibited substance for medical reasons, and a full TUE is subsequently granted prospectively (meaning the athlete's error was purely administrative in not filing for a TUE in advance), the fact that a violation has been determined seems a sufficient punishment (given the heightened consequences that would come from any additional violation) and should disincentivize athletes from deliberately delaying the filing of an application.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 10.2.4 – USADA appreciates the steps taken to address athletes who receive a prospective (but not a retroactive) TUE after testing positive. USADA submits, as in its previous comments, that a public warning outcome should be available in such situations due to the fact that this violation has zero impact on the field of play. In that sense, it is a technical violation pertaining only to when paperwork was filed.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

We welcome the addition of the proposed sanction of 2 months for athletes who did not have a TUE, but who would be eligible for a TUE and ineligible for applying for it retroactively.

However, the role of the TUEC should be considered for these cases, including if a TUEC or the hearing/appeal panel/RMA can assess the athlete against the ISTUE art. 4.2 criteria without the involvement of a TUEC.

iNADO SUBMITTED

Alex Brown, Campaigns and Membership Coordinator (Germany)

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

General Comments

Art. 10.2.4. Imposing a (2-month) period of ineligiblity for an athlete that forgot to apply for an otherwise granted TUE, implies the connotation for the athlete (in the public domain) as a „doping offender". Whilst iNADO understands that no sanction may disincentivise a TUE application, a warning might eventually be a mid-way solution (over imposing ineligibility)?

International Testing Agency SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

Article 10.2.4.1

We support this new sanctioning regime. However, we believe that safeguards should be added, such as the requirement to have a TUEC review the satisfaction of article 4.2. ISTUE. The difficulty to assess the authenticity of medical files, coupled with the very powerful impact of this new regime on sanctions (4 years period of Ineligibility being knocked down to 2 months), may lead to abuse.

Article 10.2.5 (2)

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Article 10.2.5 – for the sake of clarity regarding the classic scheme (2 years as a principle for specified and 4 years as a principle for non specified), couldn't we keep the following order: for 10.2.5.1, start with intent (4 years), and then 3 years and two years; conversely, for 10.2.5.2, start with the principle that is 2 years, and then increase with 3 and 4 years.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

Please see our previous remarks and concerns regarding the introduction of “unrelated to sport performance” in reference to Article 10.2 above.

Article 10.3.4 (2)

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Article 10.3.1.

We would like to share a concern regarding this Article. According to (iii), the maximum period of ineligibility for evading or tampering committed by a Protected Person or Recreational Athlete is 2 years. On the other hand, the period of ineligibility is 4 years (or 3 years) in case of AAF if the athlete, who has the burden of proof, cannot establish that the violation was unintentional. This may lead to situations where Protected Persons (or Recreational Athletes) who intentionally dope and therefore intentionally refuse to submit to sample collection are less sanctioned that Protected Persons (or Recreational Athletes) who did not intend to cheat but cannot prove it.

Article 10.3.2 – Sanctions and Results Management for Whereabouts failures:

Support. However, with a view to ensuring flexibility and proportionality in sanctions, which is also sought, the sanctioning regime should be more flexible than currently (two years and a possible reduction with a minimum one-year suspension). One option would be to draw an analogy with substances of abuse and the new provision relating to the criteria for a TUE, and to use two months as the minimum suspension period.

Another option would be to increase this minimum sanction to three months, which is already a deterrent and has a significant impact on high-level athletes.

Add to comment to Article 10.3.2 highlighting the importance of whereabouts both for the effectiveness of the system and for the credibility of clean athletes vis-a-vis the public.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 10.3.2 – USADA welcomes the additional clarity provided through the changes to this article and the comment. USADA supports more flexibility in sanctioning to allow for a period of ineligibility below twelve months—down to six months—if the circumstances justify such a shorter period.

Suggested changes to the wording of the Article

Recommended Change to 10.3.2 (in bold):

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

whereabouts changes or other conduct raises a serious suspicion that the *Athlete* was trying to avoid being available for *Testing*."

Additional comment to Article 10.3.2 – Athletes is not capitalized but should be as a defined term.

Reasons for suggested changes

Reasons for Change to 10.3.2:

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

Article 10.2.6 (2)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Article 10.6.1.2- Comment 76- There is no specific section for this feedback so including it here.

Comment 76 stating "athletes take medications at their own risk" is deeply problematic and reflects a rigid, punitive interpretation of strict liability that undermines athlete welfare. By placing the entire burden of risk on athletes—even when medications are prescribed or contamination occurs—WADA promotes a climate of fear rather than one of fairness and safety. Scaring athletes away from necessary medical treatment in the name of deterrence is reckless. It endangers athlete health, discourages transparency, and disproportionately punishes those who act in good faith. The anti-doping system has a responsibility not just to protect the integrity of sport, but also to uphold the health, rights, and dignity of the athletes it governs.

Equally troubling is the claim that sanctions of less than two years are "rarely applied" in such cases. Numerous decisions by anti-doping tribunals and the Court of Arbitration for Sport show that reduced sanctions, including no period of ineligibility, are in fact regularly granted in cases involving contaminated supplements or medications when athletes demonstrate no significant fault. Misrepresenting this reality not only deters athletes from exercising their rights but also fosters mistrust in the anti-doping process.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

Given the significance of the definition of 'intentional' it would be better placed higher up within Article 10.2.

Article 10.7 (11)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Substantial assistance in 10.7.1.1 refers to assistance that has been provided in the past tense as opposed to the definition of substantial assistance, which refers to ongoing and indeed forward-looking assistance, based on the requirements of continued cooperation. It also seems contradictory to say that a suspension of consequences "shall be evaluated in terms of months or years rather than as a percentage" and then reference a percentage as the maximum suspension permitted. Moreover, arbitration panels are not in a good position to assess and make substantial assistance decisions in the first instance.

Furthermore, the recent changes to the substantial assistance provision risk significantly weakening one of the most effective tools available to ADOs: the ability to support and incentivize whistleblowers. By narrowing the scope or application of this provision, ADOs are left with fewer avenues to encourage individuals to come forward with critical information. Curtailing the flexibility of the substantial assistance provision undermines efforts to detect and sanction systemic cheating, and it sends the wrong message to those who might be willing to speak up at great personal risk.

We strongly urge that this provision be expanded—not restricted—to allow ADOs greater discretion in offering meaningful protection and benefits to whistleblowers. This is essential to fostering a culture of accountability and transparency, and to ensuring that the global anti-doping system is equipped to uncover and confront doping threats.

Suggested changes to the wording of the Article

Team USA AC suggests changing to the wording of the Article by adding the words "or is providing" to 10.7.1.1, so it reads "… in an individual case where the Athlete or other Person has provided or is providing Substantial Assistance . . . ." We also suggest removing the reference to substantial assistance being evaluated in terms of months or years.

Union Cycliste Internationale SUBMITTED

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

Sport - IF – Summer Olympic

General Comments

A more objective formulation regarding the wording of the code – an interesting approach.

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

We consider that better wording/clarity is required in the Code as to how reductions in sanction available from 10.7.1 and 10.7.2 may be combined with article 10.8.1. As currently worded it can be difficult to decipher from the wording and comments. For example 10.8.1 states: *"Where the Athlete or other Person receives a reduction in the period of Ineligibility under this Article 10.8.1, no further reduction in the asserted period of Ineligibility shall be allowed under any other Article."*, but comment 83 states: *"For the avoidance of doubt, this Article does not preclude a suspension of the period of Ineligibility under Article 10.7"*. The drafting in this case could be made clearer.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)
Public Authorities - Government

General Comments

SIA would like to restate its previous feedback as to Article 10.7 of the Code to the WADA Code Drafting Team, in that, SIA agrees with the enhancements made to this clause, and we recognise that the provisions are necessarily lengthy and complex to provide the level of clarity required to deal with the wide range of circumstances where the provisions relating to Substantial Assistance may be applied.

Although not directly within the scope of the Substantial Assistance provisions, SIA acknowledges the impact that sanctioned Athlete stories can have on preventing doping. Therefore, in future iterations of the Code, there may be scope to explore how Athletes who agree to actively advocate, be included in, and publicly support, education efforts can be acknowledged under the Code.

Council of Europe (CoE) SUBMITTED

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

General Comments

Article 10.7.1 – Substantial ASSISTANCE:

Support, but there is a concern that this article in practice will be difficult to apply. In cases where substantial assistance is provided, need to be considered option not to disclose personal information (name of the athlete providing substantial assistance) information under Code 14.3

The main obstacle to the success of substantial assistance is essentially the lack of flexibility on public disclosure. In principle, the persons who collaborate expose themselves to all kinds of reprisals and will, at the very least, be reluctant to cooperate, especially since substantial assistance is the only procedure – hence easily identified - allowing for a suspension of execution under the Code. This requirement is even more stringent when the information provided has been forwarded to the judicial authority and gives rise to criminal investigations.

It would therefore be very welcomed to:

- give the opportunity to publicly disclose only the effective period of ineligibility, with no reference to the suspended part (for example, for a period of ineligibility of 4 years with 6 months suspended, disclosing a period of ineligibility of 3 years and 6 months);

- significantly strengthen the framework for public disclosure by authorizing ADOs to enter more easily into confidentiality agreements or to order the anonymous disclosure of the outcomes of the procedure.

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

Articles 10.7.1 and 10.7.2 - The main obstacle to the success of substantial assistance is essentially the lack of flexibility on public disclosure. Only very exceptional circumstances can justify, subject to WADA's agreement, protecting the identity of the person who collaborated. However, in principle, the persons who collaborate expose themselves to all kinds of reprisals and will, at the very least, be reluctant to cooperate, especially since substantial assistance is the only procedure – hence easily identified - allowing for a suspension of execution under the Code.

This requirement is even more stringent when the information provided has been forwarded to the judicial authority and gives rise to criminal investigations.

It would therefore be very welcomed to:

- give the opportunity to publicly disclose only the effective period of ineligibility, with no reference to the suspended part (for example, for a period of ineligibility of 4 years with 6 months suspended, disclosing a period of ineligibility of 3 years and 6 months);

- significantly strengthen the framework for public disclosure by more easily authorizing ADOs to enter into confidentiality agreements or to order the anonymous disclosure of the outcomes of the procedure.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

Article 10.7.1 Substantial Assistance

We support this, however, as we also stated in our previous answers, we still have significant concern regarding the requirement for athletes to have their name and information appearing in the ruling. This creates a substantial hurdle as many athletes are reluctant to come forward with information due to the exposure within their environment. We propose the possibility of allowing athletes or others to withhold their identity from the ruling and public disclosure.

Additionally, we propose that athletes who are subject to a sanction might be afforded the opportunity to train during their sanction if they come forward with information about other athletes/support personal involved in the case. In addition to substantial assistance, maybe it could be possible of an even greater reduction for minor athletes, if they provide information about support personnel involved in their doping case.

NADA India SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

We request that more clarity regarding ways to grade the assistance provided by athlete in connection with the two stages for reduction criteria that NADO will follow to suspend a portion of Ineligibility.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Othilia Christensen, Legal Advisor (Danmark)
NADO - NADO

General Comments

Article 10.7.1.: Substantial Assistance

We refer to our previous submission, in which DIF expressed support for the proposed amendment to Article 10.7.1.

However, we continue to have reservations about the requirement for athletes' names to be disclosed in rulings, as this can discourage individuals from coming forward due to fear of public exposure. We therefore recommend allowing anonymity in such rulings and related public communications.

We also reiterate our suggestion that athletes who provide relevant information about doping violations should be allowed to train during their period of ineligibility. In the case of younger athletes, we advocate for even greater sanction reductions if they contribute to exposing violations involving support personnel.

Lastly, we recommend that Article 10.7 be further revised to allow sanction reductions when substantial assistance results in valuable information, even if it does not directly lead to an anti-doping rule violation.

USADA SUBMITTED

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

General Comments

Article 10.6 – There is no established framework for evaluating Fault when the period of Ineligibility range is 0-2 years (or 1-2 years for non-specified substances). A specific clause, comment, or guideline establishing a framework, like the one described in Cilic (which applied the 2009 Code), would be helpful in harmonizing sanction determinations based on fault around the world. It is unclear why WADA is willing to regulate and complicate areas that do not need such regulation and complication but fail to offer basic guidance beyond the definition of fault in determining a sanction between 0 and 24 months.

Article 10.6.1.3 – USADA submits that all minor athletes who compete at the elite level should be subject to the same rules as non-minor athletes competing at the elite level.

Article 10.7

Substantial assistance in 10.7.1.1 refers to assistance that has been provided in the past tense as opposed to the definition of substantial assistance, which refers to ongoing and indeed forward-looking assistance, based on the requirements of continued cooperation.

It also seems contradictory to say that a suspension of consequences "shall be evaluated in terms of months or years rather than as a percentage" and then reference a percentage as the maximum suspension permitted.

Finally, Arbitration Panels are not in a good position to assess and make substantial assistance decisions in the first instance. This should be made explicit.

Suggested changes to the wording of the Article

Article 10.6.1.2 – Recommended Changes:

Remove the sentences that references NSFN having "rarely been applied . . . ." Remove all references to medications in this comment.

Article 10.7 - Recommended Change:

Add the words "or is providing" to 10.7.1.1, so it reads "… in an individual case where the *Athlete* or other *Person* has provided **or is providing** *Substantial Assistance* . . . ."

Remove the reference to substantial assistance being evaluated in terms of months or years.

Change period of *Ineligibility* back to *Consequences* throughout Article 10.7.

Comment: Although substantial assistance decisions may be appealed under Article 13.2, the substantial assistance in the first instance shall be made by the anti-doping organization that receives the assistance.

Reasons for suggested changes

Reasons for Change (10.6.1.2):

The definition of Contaminated Source describes scenarios that would fall within No Fault or Negligence, but it is referenced here only in the context of No Significant Fault or Negligence, which is confusing. Furthermore, USADA strongly disagrees with the inclusion of "medications" in the comment without explanation. Most athletes use medications to treat medical conditions and have a reasonable expectation that the medication is not contaminated with a prohibited substance. To include the statement that athletes take medications "at their own risk" instills unnecessary fear and trepidation in athletes regarding doing what is best for their health and safety. It also runs counter to the purpose of the Code to "promote health . . . for Athletes worldwide."

The issue of contamination needs to be squarely addressed by WADA by establishing reasonable minimum reporting levels for substances being detected at such low quantities from contaminated medications that are approved by public authority regulatory bodies yet still cause positive tests.

The only fair outcome for athletes if they test positive from a contaminated medication, which they would have no way of knowing is contaminated, is No Fault or Negligence. WADA's suggestion to the contrary in this comment is very concerning and runs counter to promoting athlete health and safety.

Additionally, the Comment stating that No Significant Fault or Negligence "has rarely been applied in nutritional supplement or medication cases . . ." is simply incorrect. No Significant Fault or Negligence been applied in almost every supplement contamination case handled by USADA. And No Fault or Negligence has been applied in every contaminated medication case USADA has had (and it has had several). WADA has not appealed those cases because it is a fair and just outcome. It is unclear what data WADA is using to support these statements in the comment.

Reasons for Change, 10.7:

The Code now specifically contemplates on-going substantial assistance with its reference to a permissible two-stage approach. The minor change proposed by USADA creates consistency within the article (and with the definition of substantial assistance).

Although USADA agrees that suspensions of consequences due to substantial assistance should not be unduly prescribed, it would be helpful for WADA to provide stakeholders, even if on a confidential basis, with additional guidance as to how it assesses credit for substantial assistance.

Substantial assistance may involve confidential law enforcement information, and the value of this information to law enforcement and the ADO is best assessed by the ADO directly evaluating the information.

In that same vein, there could be athletes providing such significant substantial assistance that consequences additional to the period of ineligibility should be available and considered. WADA talks a great deal about the importance of whistleblowers, but when it comes to walking the walk and having tools to effectively manage whistleblowers, WADA's revision will limit those tools and thereby disincentivize whistleblowers.

Bird & Bird LLP
SUBMITTED
Huw Roberts, Of Counsel (United Kingdom)
Other - Other (ex. Media, University, etc.)

General Comments

Re-submitted from Draft 1 comments (Other Valuable Information and Assistance in the effort to eliminate doping in sport): this provision is a welcome addition but the 15% cap seems arbitrary and may prove insufficient in incentivising an athlete to come forward and share information with the ADO. The AIU would propose that the figure be increased to 25% and that it may be increased even further with WADA's prior agreement.

Article 10.7.1.1 (8)

Sport Integrity Australia
SUBMITTED
Chris Bold, Assistant Director, Anti-Doping Policy (Australia)
Public Authorities - Government

General Comments

Further to the above regarding Article 10.7.1, SIA requests the removal of the option for an Athlete to provide information subject to a Without Prejudice Agreement.

SIA's view is that it is difficult for the ADO to effectively assess information or assistance provided against the triggering criteria set out at Article 10.7.1.1 (i)-(iv) when an ADO's ability to utilise and/or refer (to third parties) such information or assistance is limited by the terms of the Without Prejudice Agreement, as the information is unable to be considered on an open basis. SIA considers that this possible limitation on the use of such information or assistance could be detrimental to the Athlete or other Person's case in terms of their ability to obtain a suspension to their otherwise applicable period of Ineligibility under Article 10.7.1.1. It is also administratively burdensome for an ADO to work with the Athlete to waive their Agreement, resulting in their matter being unnecessarily prolonged.

SIA acknowledges, and is supportive of, the emphasis and value that has been placed on information involving the potential doping of Protected Persons or Minors for the purposes of Article 10.7.1.1.

SA Institute for Drug-Free Sport
SUBMITTED
khalid galant, CEO (Souoth Africa)
NADO - NADO

General Comments

How do we deal with a Confidential Human Source in this Article? Clarity needed or an appendix.

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

General Comments

Article 10.7.1

NADA Austria supports the changes, although the suspension of consequences should finally not be decided by the ADO, this should be done by an independent hearing panel.

It would be also useful if there are guidelines on application of Substantial Assistance.

"*In determining the length of the period for which the period of ineligibility is suspended, the value of the Substantial Assistance shall be evaluated in terms of months or years rather than as a percentage of the original period of Ineligibility*."

NADA Austria supports this good idea, but examples should be given on the value of information and therefore how much of consequences could be suspended for the relevant information.

Otherwise, it is difficult to assess the value of information.

Furthermore, this article will be difficult to apply in practice for the following reasons:

In cases where substantial assistance is provided, there needs to be considered an option not to disclose personal information (name of the athlete providing substantial assistance) / information under Code 14.3

A major obstacle to the success of substantial assistance is essentially the lack of flexibility on public disclosure. In principle, the persons who collaborate expose themselves to all kinds of reprisals and will, at the very least, be reluctant to cooperate, especially since substantial assistance is the only procedure – hence easily identified - allowing for a suspension of execution under the Code. This requirement is even more stringent when the information provided has been forwarded to the judicial authority and gives rise to criminal investigations.

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

SUBMITTED

General Comments

Article 10.7.1 – Substantial Assistance :

We recognize that substantial assistance can be a valuable tool, particularly in combating more complex or organized forms of doping.

On the other hand, the practicability, particularly legal, of this provision is not yet clear and/or easy.

Among other things, the athlete is not in the conditions to be able to possibly benefit from a suspended sentence, he has no clear idea about the suspended sentence he could possibly benefit from or finally, he does not wish to cooperate (for various reasons).

Having said this, we are generally in favor of facilitating the implementation of substantial assistance.

We also support the examples given for information considered important and valuable, concerning minors or protected persons.

However, in the interests of proportionality, predictability, and clarity, we are of the opinion that the criterion of the seriousness of the ADRV committed by another person must be maintained both to :

- objectify the potentially applicable suspended sentence regime ; and

- to continue to give priority, through this tool, to the fight against more serious and organized forms of doping.

The criteria for assessing a possible suspension of the ineligibilty period would therefore be the seriousness of the ADRV committed and the value of the information communicated, along with the examples given for valuable information concerning minors or protected persons.

Finally, we are also in favour of adding the commentary to Article 10.7.1.1, with the aim of clarifying, prioritising and objectifying the value of certain information, including that concerning minors or protected persons.

Suggested changes to the wording of the Article

See our proposal for maintaining the criterion of the seriousness of the ADRV committed in addition to the one linked to the value of the information communicated.

Reasons for suggested changes

The reasons are explained in our general comments.

Anti-Doping Sweden

SUBMITTED

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

General Comments

Support the amendments, but there is still a concern that this article in practice will be difficult to apply. In cases where substantial assistance is provided, there should be an option not to disclose personal information (name of the athlete providing substantial assistance) under Code 14.3. The main obstacle to the success of substantial assistance is essentially the lack of flexibility on public disclosure.

NADA

SUBMITTED

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

General Comments

Substantial assistance in 10.7.1.1 refers to assistance that has been provided in the past tense as opposed to the definition of substantial assistance, which refers to ongoing and indeed forward-looking assistance, based on the requirements of continued cooperation.

Add the words “or is providing” to 10.7.1.1, so it reads “… in an individual case where the Athlete or other Person has provided or is providing Substantial Assistance . . . .”

Remove the reference to substantial assistance being evaluated in terms of months or years.

UK Anti-Doping

SUBMITTED

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

General Comments

This Article could be amended to make clear that the potential doping of Protected Persons or Minors 'by others' shall be considered particularly valuable. This is captured in Comment 79 but not within the Article itself.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

Substantial assistance in 10.7.1.1 refers to assistance that has been provided in the past tense as opposed to the definition of substantial assistance, which refers to ongoing and indeed forward-looking assistance, based on the requirements of continued cooperation.

Suggested changes to the wording of the Article

SSI would therefore recommend to add the words "or is providing" to Article 10.7.1.1, so it reads "(...) in an individual case where the Athlete or other Person has provided or is providing Substantial Assistance (...)". The Code now specifically contemplates on-going substantial assistance with its reference to a permissible two-stage approach. The minor change proposed by SSI creates consistency within the article (and with the definition of substantial assistance).

Reasons for suggested changes

SSI suggests that, although substantial assistance decisions may be appealed under Article 13.2, the substantial assistance in the first instance shall be made by the anti-doping organization that receives the assistance. The reasoning behind is that substantial assistance may involve confidential law enforcement information, and the value of this information to law enforcement and the ADO is best assessed by the ADO directly evaluating the information.

Article 10.7.2 (11)

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)

Sport - IF – Summer Olympic

General Comments

The FEI would appreciate receiving clarifications on how 15% reduction was decided for this article. The FEI believes that 25% reduction would be more easily applied in practice.

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

We consider the addition of this article to be a positive one to help resolve the issues with the very narrow applicability of 10.7.1. We also consider (as per our previous comments) that examples should still be provided to help ADOs understand in what circumstances this article should and should not apply. Otherwise

we are left second-guessing WADA's view and leaving ourselves at risk of the dreaded 'you've not applied this properly' letter from WADA Results Management.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)
Public Authorities - Government

General Comments

SIA acknowledges, and is supportive of, the introduction of Article 10.7.2 into the Code insofar as it is advantageous to an ADO's ability to recognise information and assistance that does not enliven the triggering criteria set out at Article 10.7.1.1 (i)-(iv) but is nonetheless significant in the effort to eliminate doping in sport.

SIA appreciates the distinctions between Articles 10.7.2 and 10.7.1.1, including the clarification provided by way of the Comment to Article 10.7.2 and the absence of the term 'Substantial Assistance' from Article 10.7.2, meaning the requirements set out within the definition of that term appear to not apply (i.e. the requirement for full disclosure in a signed written statement or recorded interview and the requirement for full cooperation with the investigation and adjudication of any case or matter related to the information).

SIA also suggests the inclusion of an option for an ADO to suspend more than 15% of the applicable period of Ineligibility with the approval of WADA. SIA contends that this amendment would encourage Athletes to provide information and assistance relevant to the effort to eliminate doping in sport and would also be advantageous to ADOs, in that, an ADO has a greater ability to recognise information and assistance that is significantly more valuable to the effort to eliminate doping in sport. This is also consistent with the drafting already provided in Article 10.7.1.2 for Substantial Assistance.

SIA acknowledges, and is supportive of, the emphasis and value that has been placed on information involving the potential doping of Protected Persons or Minors for the purposes of Article 10.7.2.

Suggested changes to the wording of the Article

SIA proposes an amendment to Article 10.7.2 as follows: "However, no more than fifteen percent (15%) of the otherwise applicable period of Ineligibility may be suspended, without the approval of *WADA*"

Reasons for suggested changes

See above.

Council of Europe (CoE) SUBMITTED

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

General Comments

Article 10.7.2 – Other Valuable information and assistance in the Effort to Eliminate Doping in Sport:

Support, but it is not currently clear from draft Articles 10.7.1 and 10.7.2 how to differentiate between the two types of regimes, both of which refer to valuable information.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Supported. But it is not clear from Articles 10.7.1 and 10.7.2 how to differentiate between the two types of regimes, both of which refer to valuable information.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

Article 10.7.2 – Other Valuable information and assistance in the Effort to Eliminate Doping in Sport:

We support the intent of this draft new Article 10.7.2.

Referring to our previous comment on substantial assistance, we nevertheless question the clarity and practicability of this proposal.

Valuable information in draft Article 10.7.2 is not defined as such but rather by default, when the criteria and conditions for substantial assistance are not met.

Substantial assistance, for its part, also refers to the value of the information.

Both proposals (draft Articles 10.7.1 and 10.7.2) rightly state that information concerning minors and protected persons should be considered particularly important and valuable.

Therefore, it is not currently clear from draft Articles 10.7.1 and 10.7.2 how to differentiate between the two types of regimes, both of which refer to valuable information. However, one of the objectives is to avoid further complicating the Code and to ensure that athletes can understand and appropriate it.

In this regard, one proposal would be to integrate all or part of the commentary on Article 10.7.2 into the body of the article itself, to clarify its scope and differentiate it from the substantial assistance regime.

Other examples of valuable information could also be provided.

Suggested changes to the wording of the Article

See our proposals in our general comments above.

Reasons for suggested changes

The reasons are explained in our general comments above.

NADA India SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Sport Ireland SUBMITTED

Cólleen Devine, Director of Anti-Doping & Ethics (Ireland)

NADO - NADO

General Comments

Sport Ireland supports to proposed changes to allow other valuable information and assistance.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

As SSI previously commented, if the maximum of the period of ineligibility that can be suspended stays at 15% there is no incentive for an athlete to cooperate with an ADO and disclose any valuable information and assistance in the effort to eliminate doping in sport. He could simply admit and take the 3-year period of ineligibility under Art. 10.8.1 which would be a reduction of 25%. In order to motivate the athletes to share their valuable information, a greater suspension of the otherwise applicable period of ineligibility should be possible, at least in individual, very specific cases, by evaluating the scope and effort involved in cooperating with the ADO. This would be helpful for I&I and there is always the possibility to reinstate a suspended period of ineligibility if the athlete fails to cooperate.

Therefore, SSI suggests that the maximum of the period of ineligibility under this provision should be 30%.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 10.7.2

The CCES would request WADA considers a flat 15% suspension of the period of Ineligibility rather than “no more than 15%.” A flat 15% provides consistent application and in some cases less than 15% is likely to be an immaterial reduction for an athlete and may not incentivize them to provide such information.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

We welcome the proposal to broaden the scope of substantial assistance by including other valuable information and assistance in the effort to eliminate doping in sport, including the addition that information involving potential doping of Protected Persons or Minors, should be considered particularly valuable.

Article 10.8 (11)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

As stated in our previous code review feedback, Team USA AC does not support these proposed changes to the reduction scheme for athletes admitting guilt under the Code. This is particularly true regarding the reduction in the period of ineligibility for athletes who admit to an anti-doping rule violation early in the process. We believe this provision, as currently written, presents more potential harm than benefit for athletes and does not align with the principles of fairness, transparency, and athlete welfare. We have four major concerns with the Proposed Admission of Guilt Reduction Scheme:

- **Unfair Incentives for Innocent Athletes.** We believe the proposed 25% reduction for an admission of guilt inadvertently incentivizes athletes to admit guilt prematurely, even if they are innocent. Athletes may be motivated to take the reduction to resolve the case quickly, despite having not committed a violation. This could lead to false admissions simply to reduce sanctions, undermining the integrity of the anti-doping system.
- **Misaligned with Athlete Interests**. We believe a 15% reduction, as outlined in Article 10.7 for valuable information, is more appropriate and aligned with the goal of ensuring fairness for athletes. This approach is more athlete-centric and does not push athletes to make decisions that could negatively impact their careers and reputations.
- **Pressure to Make Quick Decisions.** Requiring athletes to make such a significant, life-changing decision within 20 days of receiving notice of an anti-doping rule violation charge places undue pressure on them. Many athletes, especially those who are unfamiliar with the anti-doping process, may not have the legal counsel or resources to make an informed decision at this stage. It is unreasonable to expect athletes to navigate such a complex and high-stakes decision at a time when they are still grappling with the impact of the violation notice on their lives and careers.
- **The Decision-Making Burden.** At the time of notice, athletes are often focused on more immediate concerns, such as determining which legal counsel to engage with, finding a place to live, and/or understanding the consequences of the positive test. Forcing them to decide quickly whether to admit guilt to receive a sanction reduction adds significant stress and emotional strain. Given that most of the time and expense in anti-doping violations occur at the hearing phase, we fail to see how forcing a decision at this primary stage is beneficial. The primary benefit is minimal, whereas the burden on the athlete is substantial.

In conclusion, Team USA AC believes that the current provision, which requires athletes to admit guilt within a short timeframe for a significant reduction in sanctions, is not athlete-centric and may lead to false admissions. We support the 15% reduction for valuable information as proposed in Article 10.7 and recommend that the admission of guilt reduction scheme be eliminated in favor of this more balanced approach. Additionally, we advocate for more time for athletes to make such important decisions, as well as clearer education on the ramifications of their choices.

Suggested changes to the wording of the Article

Given the concerns outlined above, Team USA AC does not support the provisions of Article 10.8 as currently proposed. Specifically, we recommend the following changes:

- **Eliminate the 25% Reduction for Early Admission.** We propose that the 25% reduction for early admission of guilt be removed entirely. This provision places undue pressure on athletes to make a quick decision, which can lead to mistakes or false admissions. Instead, we believe that a more balanced and fair system should be

implemented, where reductions for early admission are limited and subject to further review, rather than a blanket reduction.

- **Extend the Timeframe for Decision-Making.** We recommend extending the decision window from 20 days to at least 45 to 60 days, which would provide athletes with adequate time to consult with legal counsel, gather information, and make an informed decision. This extended timeframe would allow athletes to be fully educated on the consequences of their actions and the long-term impact on their careers.
- **Provide Additional Protections for Athletes Without Legal Representation.** We also recommend providing additional safeguards for athletes who may not have access to legal counsel. This could include offering them additional support in understanding the process and the implications of admitting guilt. Ensuring that athletes fully understand what they are admitting to and the potential consequences is essential for maintaining the integrity of the anti-doping system.

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

We consider that better wording/clarity is required in the Code as to how reductions in sanction available from 10.7.1 and 10.7.2 may be combined with article 10.8.1. As currently worded it can be difficult to decipher from the wording and comments. For example 10.8.1 states: *"Where the Athlete or other Person receives a reduction in the period of Ineligibility under this Article 10.8.1, no further reduction in the asserted period of Ineligibility shall be allowed under any other Article."*, but comment 83 states: *"For the avoidance of doubt, this Article does not preclude a suspension of the period of Ineligibility under Article 10.7"*. The drafting in this case could be made clearer.

Sport NZ SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)

Public Authorities - Government

General Comments

We were interested to learn of the use of a case resolution agreement under Article 10.8.2 in the recent Jannik Sinner case and that the provision has been used on multiple occasions, including by WADA following the lodging of an appeal. We had previously understood the provision to be designed to operate at the stage when the athlete is initially confronted with the alleged ADRV, rather than at subsequent stages of the process.

Suggested changes to the wording of the Article

We consider that for the sake of transparency, there needs to be more guidance (either within the provision or issued by WADA) about how the discretion available in this provision should be applied. It is potentially a very wide discretion, arguably even available where an athlete admits fault. There is a potential for inconsistent treatment of cases, which we consider could be mitigated by clearer parameters.

We also consider that further clarity would be beneficial as to how the provision operates where the imposition of a period of eligibility is left to a hearing body (as in New Zealand). If the comment to the Article is intended to provide that the hearing body may exercise the power to agree to a reduced period of ineligibility, then this should be clearly stated.

Finally, it is not clear whether the power is available to the Court of Arbitration for Sport, and if so, whether WADA's agreement would be required. We consider it would be extremely unsatisfactory for an executive body

such as WADA to have powers to agree a reduction in the period of ineligibility over and above an appellate judicial body.

Reasons for suggested changes

As above.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Article 10.8.2

The application of this article must be clearer as it appears that it could only be applied in exceptional circumstances and when for example the sanction wouldn't be proportionate (Jannik Sinner-case).

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

Remove this whole section

Reasons for suggested changes

SAIDS has never been able to get WADA to agree to a CRA. Preparation for this is time consuming, WADA's response times to provide an answer is lengthy which delays the procedure. The details around granting this CRA is vague and serves no purpose.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

Article 10.8.2

The use of this article was the cause of much criticism and needs some boundaries and regulations with respect to the timeframe and the consequences.

Right now, there is no limitation when this agreement can be put in place. Article 10.8.1 states that Results Management Agreements can only be accepted no later than twenty (20) days after receiving notice of an anti-doping rule violation charge. There should also be a time limitation for 10.8.1 eg. 2 months after the notice of charge. Otherwise the athlete could "lose" in the first instance, and maybe also a second national instance and later on, after conceiving that the chances to win the case at CAS are not really good, seek a Case Resolution Agreement a few weeks or even days before a CAS proceeding.

Right now, the otherwise applicable Articles of 10.1.-10.7 are not binding, they are just a criteria, among others, for assessment. This undermines the whole idea of harmonisation of anti-doping proceedings. There should be a clear mechanism regarding the reduction of an otherwise applicable sanction (e.g. max. 25 %).

Also, there should be a deadline for WADA when responding to a request by ADO.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)

NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support our NADO's submission on Article 10.8.2 Case Resolution Agreement

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

Art 10.8.2

The application of this article must be clearer as it appears that it could only be applied in exceptional circumstances and when for example the sanction wouldn’t be proportionate

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

Feedback for 10.8.2:

Using 10.8.2 without any particularly unique or exceptional features being present would appear to undermine the principle that you can't apply discounts on the basis of fairness and proportionality, because that is already built into the Code. We have already had an approach under 10.8.2 in relation to our most recent ADRV with specific reference being made to the Sinner matter. We believe there is a risk that, following the Sinner case and increased awareness of this article, 10.8.2 becomes the automatic first port of call for any athlete and that the purpose of the Code is undermined (both in terms of certainty, predictability and transparency) by settlements being done in this way.

We don’t believe there is sufficient guidance of when and how this should apply and request that this is provided.

We have consulted with the Commission’s Athletes Commission who are supportive of this submission.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

Re. art. 10.8.2:

It should be clarified in the test that it is only possible to enter Case Resolution Agreements in extraordinary cases. From the current wording, this is not very clear for both athletes and RMA. And in particular athletes and their lawyers find this difficult to understand.

We generally support efforts to make available case-law to avoid speculations on unfair and unequal treatments in cases, this includes in relation to Case Resolution Agreements. To protect the privacy of an athlete, this could – and should – be done anonymously.

Sports Tribunal New Zealand SUBMITTED

Luke Macris, Registrar (New Zealand)

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

General Comments

In jurisdictions that have a separate and independent judicial hearing body determining sanctions on ineligibility (such as the Sports Tribunal of New Zealand), comment #84 re Case Resolution Agreement (Article 10.8.2) is somewhat confusing. It is not entirely clear what powers/responsibilities (if any) are able to be exercised by the hearing body and what role a NADO may play in that.

For instance, the commentary states that a NADO is not able to “assert a specific period of Ineligibility for purposes of Article 10.8.1”. Yet, one would have thought that it would be possible for a NADO to present submissions to a hearing body on the factors under consideration under Article 10.8.1 and 10.8.2. We would appreciate further clarity on how WADA sees these provisions operating within jurisdictions with independent hearing bodies.

We consider that perhaps some of this confusion stems from not having separate definitions and clearly articulated roles/responsibilities for NADOs versus hearing bodies throughout the entire Code. To this end, it may be worth considering whether separate definitions for NADOs and hearing bodies might be helpful – see also our comments on the definition of “NADO Operational Independence”.

Suggested changes to the wording of the Article

Clarifying the roles/responsibilities for NADOs and hearing bodies under comment #84, including consideration of whether a definition for “Hearing Body” is needed within the Code.

Reasons for suggested changes

As above as General Comments.

Article 10.8.1 (9)

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

We still consider that article 10.8.1 should be modified to incentivise athletes to disclose details of how or why they doped to avail of this provision. As drafted it remains a useful administrative and cost-saving clause for all parties, but it misses an opportunity to use the Code to garner intelligence that could help inform the design of testing and education programmes. Athletes should be made to do a little more to help the fight against doping in order to benefit from this reduction.

Council of Europe (CoE)

SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Article 10.8.1 Result Management Agreements

Support. Consider change the word “receiving” notice, to the date of the notice (stated in the letter), since the athlete could argue that they haven’t received a notice.

Further, a system for calculating the ineligibility is needed and specifically to give the athlete’s the correct date on when they are able to start training again in accordance with article 10.14.2.

NADO Flanders

SUBMITTED

Jurgen December, Legal Adviser (België)

NADO - NADO

General Comments

We appreciate it being clarified that the notice of charge sets the starting point for the acceptance of consequences and the possible reduction.

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Anti-Doping Sweden

SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Supported. But a system for calculating the ineligibility is needed and specifically to give the athlete's the correct date on when they can start training again in accordance with article 10.14.2. This date should also be mandatory to specify in the decisions.

Suggested changes to the wording of the Article

Consider change the word "receiving" notice, to the date of the notice (stated in the letter), since the athlete could argue that they haven't received a notice.

Sport Ireland SUBMITTED

Cólleen Devine, Director of Anti-Doping & Ethics (Ireland)

NADO - NADO

General Comments

Sport Ireland supports the proposal for a 25% reduction in ban for early admission in cases involving a ban of less than 4 years, as it has the potential to increase early admissions and lower legal and other costs.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI agrees with the change to have the 25% reduction based on the consequences proposed in the charging letter as opposed to the notice letter, as this mirrors its current practice.

SSI would appreciate clarity on how the 25% reduction are to be applied. Are they to be applied on the specific sanction that SSI proposes in its notice of charge or are they be reducted from the basic period of inegibility (2 or 4 years)?

SSI recommends adding a requirement that upon the ADO's request the Athlete shall submit to an interview by the ADO and provide a truthful explanation of circumstances of the Athlete's positive test (but no requirement to implicate others by name as that would fall under substantial assistance) to be eligible for the 25% reduction. It should be in the ADO's discretion whether to accept the statement as true, and it may be cleaner to change the designation from a reduction to a suspension of a period of ineligibility so that if evidence comes to light after the fact that the statements provided by the athlete or other person were not truthful, the original period of ineligibility can be imposed.

Prior versions of the Code allowed anti-doping organizations to start the period of ineligibility on the date of sample collection (or other violation last occurred) when an Athlete timely admitted a violation. The timely admission article was removed in favor of Article 10.8.1 early admission, but the ability to start the period of ineligibility at an early date was left out of the provision. SSI would find it fair to give Athletes the possibility of an earlier start date when they are timely admitting a violation.

USADA SUBMITTED

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

General Comments

Article 10.8.1 – USADA agrees with the change to have the 25% reduction based on the consequences proposed in the charging letter as opposed to the notice letter. Further clarity would be appreciated in Comments 82 and 83 as to what to do if charging an athlete with a 2.4 violation and indicating in the charging letter that the ADO is seeking 18 months. An ADO may interpret this Article to mean that 25% should be taken off of 18 months, but the end of this Article indicates that no reduction under any other Article is appropriate. Similarly, what if an ADO agrees that a violation involving a non-specified substance was not intentional and in the charging letter states it is pursuing only a 2 year period of ineligibility. Is the 25% taken off the 2 years, or would the reduction from 4 to 2 years be considered a prohibited reduction "under any other Article"?

USADA again recommends adding a requirement that upon the ADO's request the Athlete shall submit to an interview by the ADO and provide a truthful explanation of circumstances of the Athlete's positive test (but no requirement to implicate others by name as that would fall under substantial assistance) to be eligible for the 25% reduction. It should be in the ADO's discretion whether to accept the statement as true, and it may be cleaner to change the designation from a reduction to a suspension of a period of ineligibility so that if evidence comes to light after the fact that the statements provided by the athlete or other person were not truthful, the original period of ineligibility can be imposed.

Prior versions of the Code allowed anti-doping organizations to start the period of *Ineligibility* on the date of sample collection (or other violation last occurred) when an *Athlete* timely admitted a violation. The timely admission article was removed in favor of Article 10.8.1 early admission, but strangely the ability to start the period of *Ineligibility* at an early date was left out of the provision. There is no need to deprive *Athletes* of an earlier start date when they are timely admitting a violation whether or not WADA adopts the additional requirement of sitting down for an interview.

The following language incorporates all of USADA's recommendations:

"After being notified by an *Anti-Doping Organization* of a potential anti-doping rule violation, and no later than twenty (20) days after receiving notice of an anti-doping rule violation charge, an *Athlete* or other *Person* may unilaterally admit the violation and accept a twenty-five percent (25%) reduction from the period of *Ineligibility* asserted in the notice of potential anti-doping rule violation charge starting as early as the date of *Sample* collection of the date on which another anti-doping rule violation las occurred, provided the *Athlete*, upon request of the *Anti-Doping Organization*, submits to an interview and truthfully recounts the circumstances of the *Athlete's* potential anti-doping rule violation. Where the asserted period of *Ineligibility* is more than four (4) years, the reduction shall be one (1) year. Where the asserted period of *Ineligibility* is lifetime, there shall be no reduction under this Article 10.8.1."

Comment: The assessment of whether an *Athlete* has truthfully recounted the circumstances of their potential anti-doping rule violation is within the *Anti-Doping Organization's* sole discretion.

UK Anti-Doping SUBMITTED

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

General Comments

For the avoidance of (further) doubt, we would also welcome a reference to acceptance of Public Disclosure as asserted by the Anti-Doping Organisation, alongside the reference to the start date of any period of Ineligibility.

We have had experience of cases where the application of this Article is sought but publication on either a mandatory or discretionary basis is challenged, and a hearing is therefore required. We consider that this (i.e. the need for a hearing) defeats the purpose of the application of this Article and would therefore welcome further clarity that the asserted Public Disclosure position must also be accepted/this Article should not apply in circumstances where outstanding disputes need to be resolved at a hearing.

Article 10.9.3.2 (3)

Sport Integrity Commission Te Kahu Raunui SUBMITTED
Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)
NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support the addition of (New) Article 10.9.3.4 and its intent.

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

General Comments

Article 10.9

We support this revision. Where the second AAF resulted solely from the residual presence of the Prohibited Substance in the Athlete's system from the same ingestion or use that resulted in the Athlete's first AAF, the application of multiple violations rule may lead to unfairness towards the Athlete. We also note that some Prohibited Substances have long metabolic periods (e.g., dorzolamide). Therefore, we would like to know whether the Article of multiple violations would apply if a third or even fourth AAF occurs due to the residual presence of the Prohibited Substance that caused the first AAF. We therefore recommend that the new Code provide clarification on this issue.

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

General Comments

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

Suggested changes to the wording of the Article

Recommended Change 10.9:

Remove the current sanction range for multiple violations and remove second fault assessment. There will still be a fault analysis. This can be easily accomplished by requiring that the sanction for a second violation is the greater of six months or "the sum of the period of Ineligibility imposed for the first anti-doping rule violation plus the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation."

Reasons for suggested changes

Reasons for Change 10.9:

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

The current sanctioning regime requires fault for the second violation to be assessed twice, in effect double counting it. Fault first has to be assessed to determine both the lower and upper limits of a sanction range: "the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation" (Art. 10.9.1.1(b)(i)). And then it is assessed again to determine where the Athlete falls within the sanction range: "[t]he period of Ineligibility within this range shall be determined based on the entirety of the circumstances and the Athlete or other Person's degree of Fault with respect to the second violation." This embedded fault analysis is quite complex, unnecessary, and ripe for mistakes and disparate outcomes.

Article 10.9.3.4 (6)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA AC supports the intent behind the proposed language in this Article, which aims to protect athletes from being unfairly sanctioned for a second anti-doping rule violation if it is proven that the second violation resulted solely from the residual presence of the prohibited substance in their system from the same ingestion or use as the first violation. This provision acknowledges the potential for residual substances to remain in an athlete's system and gives consideration to the possibility of an unintended second violation. However, there are still areas for improvement.

Under the Code, residual positive tests are currently treated as No Fault violations. However, we firmly believe that residual excretion should not constitute a violation at all. Continuing to penalize athletes based solely on the arbitrary length of time a substance remains detectable in their system—sometimes for years—undermines the fairness and integrity of the anti-doping framework.

WADA's current proposal appears to contravene the legal principle of double jeopardy by effectively punishing athletes multiple times for the same conduct. This not only places an undue burden on clean athletes but also erodes confidence in the system's commitment to justice and proportionality.

Furthermore, there needs to be more clarity on the definition of "residual presence" and what constitutes the "same ingestion or use." Without specific guidance, there could be cases where it is unclear whether the substance truly remains in the athlete's system from the original violation or whether another cause has led to the second violation. We recommend more precise language or examples to illustrate situations where this provision should apply.

Furthermore, Team USA AC does not support the idea that athletes should bear the burden of proving that the second violation resulted solely from residual substance. We believe the burden of proof should be shifted to the anti-doping organization as athletes may struggle to provide sufficient scientific or medical evidence to substantiate such a claim. It is significantly more difficult for athletes to gain access to the appropriate resources, such as scientific experts, to support their defense. As such the burden should be shifted.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Support the amendment.

Sport Ireland SUBMITTED

Cólleen Devine, Director of Anti-Doping & Ethics (Ireland)

NADO - NADO

General Comments

Sport Ireland supports the proposal that a second ADRV associated with residual presence of a first ADRV not seen as a second ADRV.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 10.9.3.4

The CCES is uncertain that the scenario described in the article should result in a violation and consequences where it can be proven that presence of the prohibited substance is the residual of the ingestion or use that resulted in the first anti-doping rule violation, as long as there is no continued performance-enhancing effect.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 10.9.3.4 – Athletes should not be penalized for the complexities of human pharmacokinetics and pharmacodynamics as it pertains to the excretion of prohibited substances and their metabolites. WADA's proposal to continue to charge athletes with ADRVs and disqualify their results based on nothing more than the arbitrary nature of whether the substance ingested has remained in their system for months or years after they

finished serving their sanction is profoundly unfair to athletes. It has been conclusively established that certain substances and/or their metabolites can be excreted for over a year due to complex human distribution and metabolism, and for certain para athletes excretion can be extended beyond able-bodied athletes.

Two examples illustrate this. First, carbonic anhydrase inhibitors, such as dorzolamide and brinzolamide bind red blood cells and may be detectable for many months or even over a year because of metabolic recycling mechanisms. Further, an athlete taking clomiphene for fertility purposes may continue to test positive for many months long after the treatment is concluded. In another example, tissue depots of injectable drugs can lead to continued low-level excretion over many months or years. It simply does not make sense to continue to penalize athletes by continuing to disqualify their results for the presence of a prohibited substance or metabolite. If a sanction is served, then athletes should be free to compete, as long as the residual nature of the drug can be confidently attributed to the initial use for which the athlete has been sanctioned.

WADA's proposal in this Article reflects its insistence on separating a presence violation from the conduct that resulted in that presence, but this is not legally justifiable (i.e., what is the actus reus for a presence violation?) and violates principle of double jeopardy.

WADA's proposal of continuing to find violations for residual excretion is deeply troubling because those violations, even if they are No Fault findings, carry with them automatic disqualification of results. And results are extremely important to elite athletes in that their livelihoods depend on them. WADA's proposal to strip athletes of their livelihood for an unknown and arbitrary period of time (i.e., for however many months or potentially years the substance continues to be excreted) for a single violation should be immediately removed. USADA cannot see a U.S. Court or the European Court of Human Rights upholding such an arbitrary provision that violates the core legal principle of double jeopardy.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We do not agree that it is appropriate for the residual presence of a Prohibited Substance to result in a further Anti-Doping Rule Violation even on a No Fault basis. We consider that this effectively amounts to prosecuting (thereby punishing) Athletes twice for effectively the same conduct (i.e. the ongoing presence of a Prohibited Substance that has not yet reached the tail-end of ingestion). We consider the need to results manage subsequent Adverse Analytical Findings on this basis to be disproportionate, unfair to Athletes, and poor use of an Anti-Doping Organisation's limited resources.

Article 10.14 (11)

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

Article 10.14.1 (i): We consider the clarifications/examples in 10.14.1 to be an improvement to this article. However, as per our comments on the previous draft, the wording around education/rehabilitation programmes in article 10.14.1 (i) still remains unsatisfactory in terms of how it is currently drafted as it does not clarify whether it refers to corrective behavioural education given directly to the athlete, or the athlete's involvement in supporting the ADO's education initiatives (such as showing contrition/discussing their 'mistakes' with other athletes as a

form of education for the recipient athlete). This seems an odd omission when so much helpful clarification has been added to this article.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA acknowledges, is supportive of, and appreciates the significant work of the Drafting Team in providing clarification as to the extent of the Prohibition against Participation under Article 10.14.1 by way of the examples set out in the Comment to Article 10.14.1. This clarification is likely to assist SIA and Athletes in interpreting this provision.

Ministry of Culture and Equality SUBMITTED

Robin Mackenzie-Robinson, Senior advisor (Norge)

Public Authorities - Government

General Comments

New proposed Article 10.14.1 (iii)

The Ministry would like to comment on the proposed new Article 10.14.1 (iii) in the first draft of the new World Anti-Doping Code that is also part of the proposed second draft of the new Code.

Proposed wording of Article 10.14.1 (iii)

“compete or participate in any capacity in training activities funded by a governmental agency.”

Current Article 10.12.1

“No Athlete or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Competition or activity (other than authorized anti-doping education or rehabilitation programs) authorized or organized by any Signatory, Signatory’s member organization, or a club or other member organization of a Signatory’s member organization, or in Competitions authorized or organized by any professional league or any international- or national-level Event organization or any elite or national-level sporting activity funded by a governmental agency.”

The Ministry´s comments on the proposed new Article 10.14.1 (iii)

It is essential that an athlete, or other person who has been declared ineligible or is subject to a provisional suspension, is prohibited from participating in sporting competitions and to some extent also training activities. The Ministry fully supports this principle and also welcomes the inclusion of additional examples directly in the wording of Article 10.14.1, clarifying what a person can and cannot do, rather than relying solely on examples in the comments to the article.

The proposed wording of Article 10.14.1 (iii) appears to broaden the scope by potentially including all training activities funded by a governmental agency, as opposed to the current Article 10.12.1, which is more narrowly focused on “elite or national-level sporting activities” funded by the government.

The Article may be interpreted such that training activities funded by the government could include a wide range of activities linked to for example ordinary schools and universities. The wording will also cover all categories of athletes, not only elite or national level athletes, but also recreational athletes and minors. This would potentially put great restrictions on what these types of athletes are able to do under the period they are suspended or are declared ineligible.

If this interpretation is correct, the provision could apply across all athlete categories—not only elite or national-level athletes, but also recreational athletes and minors. This could result in considerably stricter limitations during periods of suspension or ineligibility than those currently in place.

The Ministry believes that the current wording is sufficiently strict and does not find it necessary to broaden the scope of the Article to include all types of training activities funded by the government.

The potential limitation imposed by the proposed new wording particularly on recreational athletes and minors could be so extensive that the Ministry believes it could come in conflict with national legislation, particularly in areas concerning access to education and youth activities.

SA Institute for Drug-Free Sport
SUBMITTED
khalid galant, CEO (Souoth Africa)
NADO - NADO

General Comments

Disqualification of competitive results in *Competitions* subsequent to an anti-doping rule violation will occur unless fairness requires otherwise.

Suggested changes to the wording of the Article

Insert a comment to Article 10.10 outlining from whose viewpoint fairness is to be adjudicated and what factors may need to be considered in determining whether fairness is applicable

Reasons for suggested changes

There is no one-size-fits-all approach fairness, however, greater clarity will help both *Athletes* and *NADO*S in assessing whether subsequent results should be disqualified. For a more expansive discussion and potential factors to include in the comment, please *see*:

- CAS 2021/ADD/23 *World Triathlon v. Elena Danilova* at para. 221
- 2017 *CAS* Bulletin article, Manninen/Nowicki (here)
- CAS 2005/C/976 & 986
- CAS 2019/O/6153 *International Association of Athletics Federations (IAAF) v. Russian Athletics Federation (RUSAF) & Yulia Guschina*
- Arbitration CAS 2015/A/4006 *International Association of Athletics Federations (IAAF) v. All Russia Athletics Federation (ARAF), Yuliya Zaripova & Russian Anti-Doping Agency (RUSADA)*
- CAS 2018/ A/5990 *World Anti-Doping Agency (WADA) v. South African Institute for Drug-Free Sport (SAIDS) & Ruann Visser*
- Arbitration CAS 2019/O/6152 *International Association of Athletics Federations (IAAF) v. Russian Athletics Federation (RUSAF) & Anna Nazarova-Klyashtornaya*
- CAS 2022/ADD/45
- CAS 2018/O/5712 at para. 273; CAS 2016/A/4469 at para. 176
- CAS 2017/O/5039 at para. 127
- CAS 2016/O/4463, CAS 2017/O/5330 and CAS 2017/O/5332
- CAS/2014/3561 & 3565 and CAS 2016/O/4464

CAS 2017/O/5039 at para. 127; CAS 2005/C/976 & 986 at para. 143

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Support the amendments. **But** in article 10.14.2. Consider adding that Recreational level athletes, like Protected persons, can return to training the last one half of the POI.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We have concerns that Article 10.14.1(vii) may be capable of breaching employment law provisions in the UK and elsewhere internationally (in circumstances where employers, such as clubs, may have a legal obligation to pay Athletes wages/salaries despite being suspended). We therefore seek clarity as to what is meant by “compensation” and that this be applied only so far as national laws permit.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI recommends that all athletes subject to a period of Ineligibility shall be subject to Testing and any requirement by an ADO to provide whereabouts information. Other persons are not subject to Testing and whereabouts.

Athletes who retire should have their period of ineligibility tolled while retired or be subject to Testing and any requirement by an ADO to provide whereabouts information. This has been the practice for decades because Article 10.14.1 has rightly required athletes to be subject to testing during their period of ineligibility. Removing this requirement if an athlete retires allows athletes to go on a doping vacation during their period of ineligibility by simply retiring. The best practice in this situation would be to toll the period of ineligibility while the athlete is retired rather than essentially decrease the period of ineligibility by half as is being proposed in Article 5.6.2.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 10.14.1

Specific to the applicability of the rules to employees, the CCES would suggest consideration be given to any employment law ramifications that may result during a period of ineligibility.

The CCES would also suggest removing *other Person* from the final paragraph of this article as they are not subject to testing.

USADA SUBMITTED

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

General Comments

N/A

Suggested changes to the wording of the Article

Article 10.14.1 Recommended Changes:

An *Athlete* subject to a period of *Ineligibility* shall **be** subject to *Testing* and any requirement by an *Anti-Doping Organization* to provide whereabouts information.

Reasons for suggested changes

Article 10.14.1 Reasons for Changes:

Only Athletes are subject to *Testing* to my knowledge, so the changes removed the reference to "or other *Person*." And the phrase "remain subject to *Testing*" is an issue in situations where the athlete retires prior to being subject to a period of *Ineligibility*. So the change simply replaces the word "remain" with "be."

Additionally, athletes who retire should have their period of ineligibility tolled while retired. This has been the practice for decades because Article 10.14.1 has rightly required athletes to be subject to testing during their period of ineligibility. Removing this requirement if an athlete retires allows athletes to go on a doping vacation during their period of ineligibility by simply retiring. The best practice in this situation is to toll the period of ineligibility while the athlete is retired rather than essentially decrease the period of ineligibility by half as is being proposed in Article 5.6.2.

Anti-Doping Norway SUBMITTED

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

General Comments

10.14.1 (iii):

We strongly support the examples, however we would like clarification of whether the list of examples are exhaustive

"(iii) compete or participate in any capacity in training activities funded by a governmental agency;"

This seems very broad given that neither training activity nor governmental agency is further defined. The 2021 Code's reference to "elite or national-level sporting activity funded by a governmental agency" seems more appropriate.

Re. 10.14.2 cf. comment 92 to article 10.14.1.:

Should this be understood that the return to training is limited to train with a team or use facilities of the club, but not to take part in administrative and social functions. And thus, by way of example that the return to training does not allow the ineligible person to attend or participate in the annual meeting, team party or sponsorship event? This seems a bit arbitrary, and we wonder if this should be limited to participating in competitions only.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

The expansion of the restrictions on what a person is able to do while serving a period of Ineligibility creates, at the very least, a number of legal risks and unforeseen consequences. This is particularly so given that it remains the case that the majority of anti-doping rule violations arise in relation to the inadvertent use of a doping substance.

For example, in relation to 10.14.1, sub-paragraph (vi) might require a pre-existing employment contract to be terminated in circumstances where a person has used a supplement or a medication without realising it contained a banned substance. The person's employer may not view this conduct as justifying the termination of that employment contract nor might it be the case that to do so would be compatible with relevant legal standards. In the case of a relatively short period of Ineligibility, a somewhat absurd situation might arise whereby a person has an employment contract terminated but then reinstated on the completion of that period of Ineligibility.

The policy underpinning Article 10.4.1 is that persons who by their doping behaviour pose a risk to sport are removed from sport, and that there is a level of sanction that acts as a deterrent. The risk with Article 10.4.1 is that the expanded listings cut across accepted principles of proportionality and create legal uncertainty. At the very least, sub-paragraph (vi) and (vii) should be prefaced with the words 'save where such restriction would be disproportionate or unlawful'.

Suggested changes to the wording of the Article

Change 10.14.1 (vi) and (vii) to

vi. save where such restriction would be disproportionate or unlawful serve as an employee, officer, director, official or volunteer of
any Signatory,Signatory's member organization, or a club or other memberorganization of a Signatory's member organization; or

vii. save where such restriction would be disproportionate or unlawful receive compensation from
any Signatory, Signatory's member organization, or a club or other member organization of a Signatory's member organization

Reasons for suggested changes

See General Comments

Article 13.1.4 (11)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

One of Team USA AC's primary concerns is the current inability of WADA and ADOs to expedite CAS appeals prior to major events. This lack of ability can lead to delays in resolving cases, potentially impacting on an athlete's participation in these events and inhibiting an athlete's right to compete. To address this issue, we propose that WADA or an ADO be granted the right to expedite CAS appeals to ensure timely resolution before a major event at which the athlete is set to compete. This provision should be added as Article 13.1.3.

Another concern is the unreasonable delays in CAS panels issuing reasoned awards following hearings. To improve this, Team USA AC recommends that CAS panels, in the absence of exceptional circumstances, be required to issue reasoned awards within 60 days of the hearing's conclusion. Any delay beyond this timeline should be documented and there should be an approval process implemented for any deviations. This recommendation aligns with practices in other anti-doping organizations, such as USADA, where arbitrators are required to issue reasoned awards within 30 days of a hearing, except in rare cases with exceptional circumstances.

Additionally, the lack of a centralized and accessible database for published arbitration decisions and awards has been a significant issue. To promote transparency and fairness, we propose that WADA create an open-access, searchable repository for all published arbitration decisions. This would ensure that both athletes and ADOs have equal access to these awards, supporting the broader principles of education, rule of law, and harmonization.

Suggested changes to the wording of the Article

To implement these changes, we suggest the following revisions to the WADA Code: replacing the current Article 13.1.3 with the provision for expedited CAS appeals and moving the existing Article 13.1.3 to Article 13.1.5, which would focus on the timing of reasoned awards. These adjustments aim to create a more efficient, fair, and transparent anti-doping system, ensuring that athletes and ADOs can rely on timely, accessible, and consistent arbitration decisions

Council of Europe (CoE)

SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Articles 13 and 14.2.2 Changes Related to Appeals

General concerns (regarding CAS-proceedings)

For the purposes of legality and equality, it is proposed to reformulate the end of the article 13.1.4, as follows : "Notwithstanding any other provision of Article 13.1, the appellate standard of review for such appealable decisions made by WADA under the Code or International Standards, or made with WADA's approval under Articles 5.3.2, 5.6.1, 7.1.1, 10.7 and 14.1.1, shall be compliance with the rules of the Code and the International Standards and whether WADA's decision was arbitrary.

The costs of CAS proceedings are detrimental to the entire anti-doping community as it may lead to:

- ADOs and WADA not appealing unsatisfactory decisions;

- Athletes being deprived of an effective right to appeal due to cost issues.

The length of the proceedings also induces very difficult situations where athletes and ADOs remain uncertain, for months, about the outcomes of a violation, and have absolutely no power to speed up the process.

Implement a global or WADA fund / legal aid system to independently finance WADAs CAS appeals without any costs / or eat least very few costs for Athletes as well as for ADOs using independent disciplinary tribunals at the first (national) instance.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Article 13.1.4 – Appels from Decisions Made by WADA :

For the purposes of legality and equality, it is proposed to reformulate the end of the article 13.1.4, as follows :

"*Notwithstanding any other provision of Article 13.1, the appellate standard of review for such appealable decisions made by WADA under the Code or International Standards, or made with WADA's approval under Articles 5.3.2, 5.6.1, 7.1.1, 10.7 and 14.1.1, shall be compliance with the rules of the Code and the International Standards and whether WADA's decision was arbitrary. »*

Reasons for suggested changes

The reasons are explained in the proposed amendment above.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

General concerns (regarding CAS-proceedings)

The costs of CAS proceedings are detrimental to the entire anti-doping community as it may lead to that foremost ADOs and WADA not appealing unsatisfactory decisions. Also, the length of the CAS-proceedings induces very difficult situations where athletes and ADOs remain uncertain, for months, about the outcomes of a violation, and have absolutely no power to speed up the process.

13.1.3. WADA does not need to exhaust national remedies and may appeal a decision directly to CAS. Although, with respect to costs for the athlete (and ADO) an exception to this rule could be when the appeal includes Recreational level athletes, Minors, Protected Persons and athletes below the definition of a National level athlete. Then WADA should appeal to the national body (if any).

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Article 13.1.2 Language of Proceedings

We support this revision, which will offer considerable convenience to non-English-speaking countries. With advances in artificial intelligence, accurate translation of readable text is increasingly feasible. In addition, machine-readable formats can fully satisfy WADA's requirements for review and oversight.

NADA SUBMITTED

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

General Comments

13.1.4 Timing of CAS Reasoned Awards

CAS Panels shall absent exceptional circumstances approved and documented to the parties by the CAS President issue reasoned awards within 60 days of the close of the hearing.

CAS-proceedings are expensive and therefore there should not be any unreasonable delay. For example, the 60-day deadline is common practice in Swiss criminal law.

Finnish Center for Integrity in Sports (FINCIS) SUBMITTED

Petteri Lindblom, Legal Director (Finland)
NADO - NADO

General Comments

Article 13.1.3

In our view, Article 13.1.3 is unreasonable with respect to athletes who are not at the international level. We believe that WADA should also be required to use internal appeal mechanisms, since even internally, the appeal body is institutionally and operationally independent. It is unfair to a national-level athlete to have to respond to an appeal before the CAS. This process is expensive and time-consuming. Furthermore, there should be an acceptance that, under national anti-doping rules, the decision of a national appeal body may be final, meaning that no further appeal to the CAS is possible.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

Issue: WADA and ADOs do not have the ability to expedite CAS appeals prior to a major Event. Additionally, there have been unreasonable delays by CAS Panels or CAS issuing written awards.

SSI would suggest to implement a global or WADA fund / legal aid system to independently finance WADAs CAS appeals without any costs / or eat least very few costs for Athletes as well as for ADOs using independent disciplinary tribunals at the first (national) instance.

in addition, there is no easily accessible central database for all published arbitration decisions and awards. SSI would therefore encourage WADA to create an open access, searchable case repository for published arbitration decisions it receives. It would help jurisprudence. Cases from the Swiss Sports Tribunal in Switzerland are publicly disclosed on its website.

Suggested changes to the wording of the Article

SSI would recommend to replace Article 13.1.3 with the following and move the current Article 13.1.3 to Article 13.1.5.

"13.1.3 Expedited CAS Appeals

WADA or an ADO have the right to expedite a CAS appeal to ensure resolution prior to a major Event at which the Athlete is scheduled to compete.

13.1.4 Timing of CAS Reasoned Awards

CAS Panels shall absent exceptional circumstances approved and documented to the parties by the CAS President issue reasoned awards within 60 days of the close of the hearing."

WADA could add a provision named “Decisions subject to WADA publication” in the Code requiring that such decisions be public

Reasons for suggested changes

CAS-proceedings are expensive and therefore there should not be any unreasonable delay. The 60-day deadline is common practice in Swiss criminal law. Also, the Swiss Sports Tribunal (Hearing Panel at First Instance in Swiss doping cases) has a 60-day deadline from a hearing to issue a reasoned decision.

Anti-Doping Norway SUBMITTED

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

General Comments

The references to WADAs decisions in the article, indicates that the scope is broader than RM of ADRVs. (this is also supported by referencing decisions under article 24.1 in art. 13.6)

In light of that, it seems unreasonable to limit the appellate standard of review to whether the decision was arbitrary for all decisions made by WADA, where the Code or IS provide the right of appeal of WADA’s decisions. In particular where WADA conducts results management (cf. WADC art. 20.8.10+20.8.15), in relation to compliance decisions under WADC art. 24.1, and in relation to decision by WADA to suspend or revoke a laboratory’s WADA accreditation (cf. WADC art. 13.7)

We suggest deleting the article, or narrowing the scope of the article, to carve out any decisions where WADA is a “first line” enforcer of the Code.

USADA SUBMITTED

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

General Comments

Article 13.1 – Issue:

WADA and ADOs do not have the ability to expedite CAS appeals prior to a major *Event*. Additionally, there have been unreasonable delays by CAS Panels or CAS issuing written awards.

Article 13.1.3 – There is no easily accessible central database for all published arbitration decisions and awards. WADA should create an open access, searchable case repository for published arbitration decisions it receives. It could add a provision, "Decisions subject to WADA publication" in the Code requiring that such decisions be public. WADA is uniquely situated to do this. And doing so would level-set the anti-doping field ensuring athletes and anti-doping organizations have the same access to anti-doping awards as WADA. This furthers the purposes of WADA and the World Anti-Doping Program at large which values education, rule of law, harmonization and transparency.

Suggested changes to the wording of the Article

Recommended Change, 13.1:

Replace Article 13.1.3 with the following and move the current Article 13.1.3 to Article 13.1.5.

13.1.3 Expedited CAS Appeals

WADA or an ADO have the right to expedite a CAS appeal to ensure resolution prior to a major *Event* at which the *Athlete* is scheduled to compete.

13.1.4 Timing of CAS Reasoned Awards

CAS Panels shall absent exceptional circumstances approved and documented to the parties by the *CAS* President issue reasoned awards within 60 days of the close of the hearing.

Reasons for suggested changes

Reasons for Change 13.1:

Arbitrators hearing USADA's first instance cases are required to issue reasoned awards within 30 days, and there has almost never been an issue with arbitrators being able to comply with this timeline. The extremely few instances where the timeline has not been met have been due to exceptional circumstances such as medical issues or involving extremely complex issues with thousands of pages of submissions.

GM Arthur
Graham Arthur, Independent Policy Expert (UK)
Other - Other (ex. Media, University, etc.)

SUBMITTED

General Comments

The use of the word 'arbitrary' in this context is completely misconceived. Arbitrary in the legal context carries connotations of randomness, a lack of reference to rules or standards, capriciousness or some other act of bad faith, whim or randomness. It is not an appropriate standard to be used when assessing whether or not a decision made by the World Anti-Doping Agency can or should be appealed.

Suggested changes to the wording of the Article

The word 'arbitrary' should be replaced by the words 'as a result of a failure to correctly apply relevant rules or standards or that WADA has otherwise acted in a disproportionate or manifestly unreasonable manner'.

Article 13.2 (16)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

Team USA AC strongly opposes recent revisions to the Code that now require ADOs to issue a formal decision before WADA may exercise its right to appeal. This change represents a significant and dangerous rollback of WADA's oversight authority. Previously, WADA could appeal an ADO's inaction or failure to act—a critical safeguard when organizations choose not to comply with the Code. By limiting appeal rights only to cases where an explicit decision has been rendered, WADA is deliberately narrowing its own accountability tools and weakening the global anti-doping framework. In doing so, WADA dismantling the very checks and balances it was created to uphold.

This change does not appear to be motivated by sound policy rationale but rather by retrospective justification. Specifically, it seems designed to align with WADA's decision not to appeal CHINADA's failure to impose mandatory provisional suspensions—despite CHINADA never issuing a formal decision on the matter. This revision does a grave disservice to clean athletes and undermines trust in the global anti-doping system. The right to appeal inaction must be preserved. Anything less opens the door to selective enforcement, political influence, and a lack of recourse for the athlete community.

Moreover, Team USA AC believes that a decision not to proceed with an anti-doping rule violation (ADRV) after an investigation should be subject to appeal. Currently, if an ADO or WADA determines not to move forward with a case, there is often no recourse for the athlete, other ADOs, or other stakeholders to challenge that decision. Allowing such decisions to be appealed would help ensure greater accountability and transparency within the anti-doping system. This would align with the broader principles of fairness and justice in anti-doping, ensuring that all decisions, whether in favor of or against an athlete, can be scrutinized through an impartial and transparent process.

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the expanded clarity in Article 13.2 regarding appeal rights for athletes, NADOs, and other relevant parties. However, we recommend that WADA include a reference to **accessibility in the appeal process**, particularly for athletes with disabilities. Deaf athletes, in particular, may face communication barriers in understanding their appeal rights, preparing their case, or participating in hearings. Ensuring that all athletes can meaningfully exercise their right to appeal is essential to procedural fairness and the integrity of the Code

Suggested changes to the wording of the Article

No change to the article text itself is necessary, but we suggest adding the following to the Comment section:

Appeal processes should be accessible to all athletes, including those with disabilities. This may include provision of sign language interpreters, plain language explanations of decisions, and other communication supports to ensure that the athlete fully understands and can participate in the appeal process

Reasons for suggested changes

The right to appeal is a fundamental part of ensuring fairness in anti-doping decisions. However, Deaf athletes may be unaware of this right or unable to navigate the process without accommodations. If procedures and decisions are

not presented in an accessible format, these athletes are effectively denied a fair hearing. Including an accessibility note in the Comment section of Article 13.2 would reinforce WADA's commitment to inclusion and ensure that all athletes—regardless of disability—can exercise their rights under the Code

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

Article 13.2.3.1 (d): Given a recent situation we have experienced (which is why we have not commented on this in previous drafts), we consider that this article needs to provide much more clarity in situations where an athlete is a license holder or contracted to a club in one country ('license holder' is not a universally used term, especially in team sport) but is a national of another country. In such cases it is not clear whether one or both NADOs should have appeal rights (or indeed should be a party copied into the initial notification of charge), particularly as 'countries' is plural as drafted in this article, which could become potentially problematic where an athlete may change country of residence during case proceedings. Improved drafting could make the expected management by the RMA in these circumstances much clearer.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

General Comment regarding Art. 13

In case WADA appeals a case to CAS against a decision of a hearing body it is inappropriate that the ADO is also respondent and therefore may be obliged to pay costs of the proceedings.

NADOs should not be held responsible for decisions taken by independent hearing bodies.

This contradicts the sense of independent hearing bodies which adjudicate anti-doping proceedings. Those appeals should be made against the athlete without additionally adding the ADO as respondent.

Article 13.2.3

NADA Austria is in favour of including the Athlete, the Athlete's NADO and any other party to the case in which the decision was rendered directly into Art. 13.2.3.2 (besides WADA, IF, IOC & IPC) and not only as a comment (and not only regarding cross – appeals).

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

Article 13 and 13.2.1 – there is a general concern regarding CAS proceedings, both in terms of length and costs.

The costs of CAS proceedings are detrimental to the entire anti-doping community as it may lead to:

- ADOs and WADA not appealing unsatisfactory decisions;

- Athletes being deprived of an effective right to appeal due to cost issues.

The length of the proceedings also induces very difficult situations where athletes and ADOs remain uncertain, for months, about the outcomes of a violation, and have absolutely no power to speed up the process.

We need to find solutions (global fund to finance CAS appeals? imposition of strict deadlines to CAS arbitrators? transparency of the costs? etc).

Japan Anti-Doping Agency SUBMITTED

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

General Comments

13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Violations of Article 10.14.1 Consequences, Provisional Suspensions, Implementation of Decisions and Authority.
- Although we commented on this point in the first draft, it has not been reflected in the second draft.
As we believe this is an important issue, we respectfully request that WADA review and reconsider it.

"In case WADA appeals to CAS against the national level decision, it is not specified how the NADO should be involved in the CAS arbitration in current WADC at all.
In our view, it is essential that the regulations must clearly state the role and conditions of NADO when WADA files an appeal to CAS.
Additionally, the regulations should clearly specify whether NADO should bear the costs incurred from filing an appeal to CAS by WADA, and if so, what proportion of the costs NADO should be responsible for. "

13.2.3.3 Duty to Notify
- Agree with the proposal

CHINADA SUBMITTED

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

General Comments

Comment to Article 13.2.2 Appeals Involving TUEs

We do not support the proposal in the Comment to Article 13.2.2 that the national-level appellate body include at least one physician with experience of Therapeutic Use Exemptions. The appellate body operates independently of the NADO, which has no authority to determine its composition. Moreover, members of the appellate body typically have legal backgrounds. To our knowledge, many Signatories' appellate bodies do not meet this requirement. More

importantly, relevant personnel with medical expertise should serve as expert witnesses in the proceedings, not as

arbitrators.

Anti-Doping Sweden SUBMITTED

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

General Comments

13.2.1. Consider change the word *may* in this context. If this is the only option for an ILA to appeal the word *should* makes this clearer.

13.2. With respect to the athletes, WADA should request the full case file from the ADO within **15 days** after WADA receives the decision and a summary of the decision in ADAMS (similar to art. 14.2.2).

NADA SUBMITTED

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

General Comments

Introduction of a new provision 13.2.3.7 after Article 13.2.3.6:

NADA recommends that WADA should add a new provision indicating that NADOs shall not be added as Respondents to appeals by WADA or an IF when the NADO took the same substantive position as WADA is taking on appeal. Doing so creates procedural confusion on appeal placing parties arguing the same position on both sides of the case caption and is highly inefficient.

Additionally, given that WADA requires that first instance arbitral decisions be completely independent from the NADO, it is manifestly unfair for WADA to then hold the NADO accountable (through appellate costs) for the decision of this independent arbitration panel.

There was widespread agreement on this point amongst NADOs at the iNADO workshop earlier this year.

Implement a global or WADA fund / legal aid / insurane system to independently finance WADAs CAS appeals without any costs / or at least very few costs for Athletes as well as for ADOs using independent disciplinary tribunals at the first (national) instance.

Canadian Centre for Ethics in Sport SUBMITTED

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

General Comments

Comment to Article 13.2.2

The CCES would suggest that for Therapeutic Use Exemption (TUE) appeals, the recommendation is changed to include a physician as an expert witness and not as part of the appeal panel.

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

SUBMITTED

General Comments

Article 13.2 – USADA remains deeply concerned about the eighth and ninth bullet points.
Before the proposed changes, there were two distinct provisions: (1) allowing WADA to appeal a decision to impose or lift a Provisional Suspension as a result of a Provisional Hearing and (2) allowing WADA to appeal an Anti-Doping Organization's failure to comply with Article 7.4 (now 7.8), which deals with Provisional Suspensions. Under the earlier version, there was no requirement that an Anti-Doping Organization make a decision not to impose a Provisional Suspension for WADA to appeal because the Anti-Doping Organization's failure to impose a provisional suspension provided sufficient grounds for appeal.

By adding "a decision by" to this provision (now the ninth bullet point), WADA has apparently hemmed itself in to not being able to appeal an ADO's failure to impose a mandatory provisional suspension when it has not rendered "a decision." This was the exact situation that occurred in China where WADA rightly received criticism for failing to do anything when CHINADA did not impose mandatory provisional suspensions. Rather than recognizing its own failure and utilizing the power it had to appeal an ADO's failure to enforce the rules under this provision, through this proposal WADA is willingly stripping itself of the power to appeal such a failure. It is difficult to understand how such a change benefits the anti-doping system when WADA's foundational principles are harmonization and transparency.

Article 13.2.2 Comment – It is not practical for a physician to sit as an arbitrator (i.e., legal proceeding) regarding TUEs. Arbitrators, like judges, make decisions in medical disputes every day around the world. They are trained to do so as legal professionals after having heard the expert testimony and evidence submitted by the parties. Additionally, as a practical matter, it does not seem to be common practice to have arbitrator pools with physicians.

Article 13.2.3.5 – WADA's Intelligence and Investigations department needs to be factored into appeal timelines.

Article 13.2.3.7 – After Article 13.2.3.6, WADA should add a new provision indicating that NADOs not be added as Respondents to appeals by WADA or an IF when the NADO took the same substantive position as WADA is taking on appeal. Doing so creates procedural confusion on appeal placing parties arguing the same position on both sides of the case caption and is highly inefficient. Additionally, given that WADA requires that first instance arbitral decisions be completely independent from the NADO, it is manifestly unfair for WADA to then hold the NADO accountable (through appellate costs) for the decision of this independent arbitration panel. There was widespread agreement on this point amongst NADOs at the iNADO workshop earlier this year.

Suggested changes to the wording of the Article

Article 13.2.3.5, Recommended Changes:

a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed;

b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision; or

c) Thirty (30) days after WADA's Intelligence and Investigation department initiated an investigation into the facts of the underlying case, which can be extended for an additional thirty (30) days based on exceptional circumstances, provided such an investigation was initiated within the deadlines described in (a) or (b).

Reasons for suggested changes

Article 13.2.3.5, Reasons for Change:

WADA must have time to investigate cases and develop facts to inform its decision whether to appeal. The failure by WADA to have investigated the facts underlying the decision not to enforce the rules regarding the 23 Chinese swimmers who tested positive for a non-specified substance has shaken the anti-doping system. And WADA should address this crisis by creating common sense procedures that

allow for substantive reviews of decisions by ADOs to ensure and further WADA's foundational principles of harmonization and transparency.

Extending the appeal deadline further for WADA when I&I is needed should not be a concern given the important role I&I plays in uncovering the truth.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

Art 13.3

As mentioned before by SSI, ADOs (especially NADOs) should not be held responsible for decisions taken by independent hearing bodies that are not part of the NADO. No consequence should be given to NADO's for decision taken by independent hearing bodies, e.g. no costs of the appeal at CAS. This should be clarified in the Code and in the ISCCS.

Suggested changes to the wording of the Article

Introduction of a new provision 13.2.3.7 after Article 13.2.3.6:

SSI recommends that WADA should add a new provision indicating that NADOs not be added as Respondents to appeals by WADA or an IF when the NADO took the same substantive position as WADA is taking on appeal.

Reasons for suggested changes

Doing so creates procedural confusion on appeal placing parties arguing the same position on both sides of the case caption and is highly inefficient. Additionally, given that WADA requires that first instance arbitral decisions be completely independent from the NADO, it is manifestly unfair for WADA to then hold the NADO accountable (through appellate costs) for the decision of this independent arbitration panel. There was widespread agreement on this point amongst NADOs at the iNADO workshop earlier this year.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We welcome the revisions Article 13.2.2 (Comment 104), which addresses a recommendation made by UKAD during earlier consultation.

iNADO SUBMITTED

Alex Brown, Campaigns and Membership Coordinator (Germany)

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

General Comments

Art. 13.2. It remains unclear how NADOs should / will be involved when WADA files an appeal to CAS. Special attention should be given to the costs occurring from such appeal.

International Testing Agency SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

Article 13.2.1

As already submitted, the wording of Article 13.2.1 could benefit from greater clarity regarding when an Athlete must hold International-Level Athlete status for the case to be eligible for appeal to CAS. It would be helpful to clarify whether the Athlete's status as an International-Level Athlete is determined as of the date of the ADRV was committed for example.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

The appeal provisions in the Code provide that, in effect, the venue for the resolution of an appeal involving an Athlete is to be determined based on the Athlete's status as either a national or an international level participant. In an anti-doping rule violation matter involving an athlete, if an athlete or an anti-doping organisation wishes to make an appeal in respect of the decision of a first instance body, the relevant appeal forum is determined by that athlete's competition status. If the athlete is classified as a national level athlete, the appeal will be determined by the athlete's national level appeal body. If the athlete is an international level athlete, the appeal will be determined by the Court of Arbitration for Sport.

These provisions work well when there is no dispute as to the athlete's status. However, these provisions do not work as well in situations where there is a dispute as to that status. In these situations, one or other of the parties wishing to make an appeal will need to make a decision as to where they believe that the appeal should be resolved. If the other party disagrees, the issue of jurisdiction must be resolved as a preliminary issue by the relevant appeal body.

This creates a problem in that if the party bringing the appeal is found to have been incorrect in relation to its decision to bring an appeal before that relevant body, then the appeal right is effectively lost. The appealing party will not be in a position to revive its appeal in front of the correct appeal body. For example, if an anti-doping organisation believes that an athlete is an international level athlete, it is required to make an appeal to the Court of Arbitration for Sport. If the athlete believes that he or she does not fulfil the definition of international level athlete, that athlete can contest the jurisdiction of the Court of Arbitration for Sport. If the Court of Arbitration for Sport agrees that the athlete does not fulfil the definition of international level athlete, the appeal will not proceed. However, in this situation, the appealing party may well not be able to revive its appeal in front of the relevant national level body. The appeal right is therefore irrevocably lost.

This is exactly the situation that arose in the case of **CAS 2024/A/10570**. In that appeal, an appeal was brought before the Court of Arbitration of Sport. For specific technical reasons, the Court of Arbitration for Sport determined that the athlete was a national level athlete, rather than an international level athlete. This was the despite both the relevant National Anti-Doping Organisation and the International Federation taking the view in good faith and with evidence that the athlete was indeed an international level athlete. The outcome of that appeal was that the National Anti-Doping Organisation was unable to complete the appeal process in respect of the first instance decision.

The solution to this is for the Code to make provision that in the event of a jurisdiction dispute, the timeframes for appealing to the correct appeal body are, in effect, put on hold while a jurisdictional dispute is completed.

Suggested changes to the wording of the Article

The precise text of such a provision would be as follows:
'*In the event that an appeal is brought before either a national appeal body or CAS, and it is determined by either a national appeal body or CAS that it does not have jurisdiction to resolve the appeal for reasons arising from the application of either Article 13.2.1 or Article 13.2.2, the national appeal body or CAS may order that the appeal may be brought before the correct body within the timeframes specified in Article 13.2.3.4 starting with the date of the decision of that national appeal body or CAS*.'

Reasons for suggested changes

See General Comment

Article 13.2.3.2 (4)

ICSD SUBMITTED
Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD supports the expanded appeal rights outlined in Article 13.2.3.2, which now include athletes, their NADOs, and any other party to the case. However, we request that WADA clarify and emphasize the importance of **accessibility and inclusive communication** in the appeal process, especially for athletes with disabilities. We also recommend that International Federations such as ICSD be **explicitly informed and included** in national-level decisions when they involve Deaf athletes competing under ICSD's jurisdiction

Suggested changes to the wording of the Article

No change to the main article text is proposed, but we suggest adding the following to the Comment section:

In cases involving athletes with disabilities, particularly Deaf athletes, national-level hearing bodies and appeal procedures should ensure that communication is accessible and accommodations are provided. Where the athlete competes under an International Federation, such as ICSD, the IF should be informed and given the opportunity to be heard or join the case, especially if the outcome may affect international eligibility or event participation

Reasons for suggested changes

Deaf athletes may not fully understand their appeal rights due to communication barriers or lack of access to legal support. Moreover, national-level decisions involving Deaf athletes may directly impact their eligibility to participate in ICSD-sanctioned events, yet ICSD may not be informed or included in those proceedings. Ensuring accessibility in appeal procedures and requiring notification to relevant International Federations would promote procedural fairness and coordination across anti-doping levels. This would also help prevent gaps between national and international jurisdiction in athlete management.

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

General Comments

Article 13.2.3.2

NADA Austria is in favour of including the Athlete, the Athlete's NADO and any other party to the case in which the decision was rendered directly into Art. 13.2.3.2 (besides WADA, IF, IOC & IPC) and not only as a comment (and

not only regarding cross – appeals).

Sport Integrity Commission Te Kahu Raunui SUBMITTED
Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)
NADO - NADO

General Comments

Our understanding is proposed appeal model creates an imbalance whereby anti-doping organisations can appeal decisions to CAS, while Athletes are limited to one appeal at national level. This undermines the principle of fairness and equal access to justice. We, the Athlete Commission to New Zealand's NADO, believe the right to appeal should be consistent and reciprocal for all parties, including Athletes.

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

General Comments

Article 13.2.3.2

1. According to the Summary of Major Changes, Article 13.2.3.2 has expanded “the right to appeal from national level hearing body decisions”, but we note that there is no significant change compared to the 2021 Code.

2. The Summary of Major Changes uses the wording “the parties having the right to appeal from national level hearing body decisions,” while the draft text uses “the parties having the right to appeal to the appellate body.” Do these two expressions carry the same meaning? If not, which phrasing should prevail?

Article 13.2.3.4 (2)

ICSD SUBMITTED
Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD supports the introduction of a uniform appeal deadline for all parties other than WADA as outlined in Article 13.2.3.4. This change promotes clarity and consistency in appeal timelines. However, we respectfully request that WADA consider incorporating a reminder in the Comment section that **reasonable accommodations may be necessary** for athletes with disabilities, including Deaf athletes, to ensure they have equitable access to appeal rights

Suggested changes to the wording of the Article

No changes to the article text itself are necessary, but we propose adding the following to the Comment section:

In cases involving athletes with disabilities, the responsible Anti-Doping Organization or appeal body should ensure that the athlete receives the decision and full case file in a format accessible to them. Where necessary, the appeal deadline should be interpreted with flexibility to allow for reasonable accommodations, such as sign language interpretation, plain language summaries, or additional time to review complex documentation.

Reasons for suggested changes

Deaf athletes may require additional time or support to access and understand case decisions and full files, particularly when technical or legal documents are involved. Without appropriate accommodations, the 21-day appeal period may begin before the athlete has a meaningful opportunity to review the material or seek advice. Clarifying in the Comment section that accessibility should be considered when applying the deadline would help ensure that procedural fairness and equal access are upheld for all athletes, in line with the Code's human rights principles

UK Anti-Doping SUBMITTED

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

General Comments

We think the changes make appeal deadlines less clear for all parties. For example, could an Athlete as an "appealing party" make a request for the complete file and therefore afford themselves additional time to file an appeal? We consider this to be an unhelpful change and the original text was sufficiently clear that the applicable anti-doping rules will set out the deadlines for all parties (other than WADA) to appeal. We do not understand what perceived issue this change is attempting to fix.

Article 13.2.5 (1)

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)
Public Authorities - Government

General Comments

As a third party to the case, whether in support or opposition, WADA should not be allowed to question witnesses.

Article 14.2 (6)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD supports the requirement under Article 14.2 for case files to be shared in machine-readable formats and indexed when documents are in other languages. However, we respectfully request that WADA expand the comment section to include a reminder that **machine-readable does not always mean accessible**, particularly for athletes with disabilities, such as Deaf athletes. For true accessibility, case documents may need to be presented in plain language or explained with the support of sign language interpretation or other communication tools

Suggested changes to the wording of the Article

No change to the article text itself is required, but we suggest adding the following to the Comment section:

In addition to machine-readable formats, case materials should be made accessible to athletes with disabilities where needed. This may include plain language summaries, visual explanations, or access to sign language interpreters to ensure the athlete fully understands the content and their rights.

Reasons for suggested changes

Deaf athletes may struggle to understand complex legal and procedural documents if they are only provided in written text, even if technically machine-readable. Accessibility involves not just format, but clarity and communication support. Adding this note would encourage Anti-Doping Organizations and appeal bodies to take reasonable steps to ensure fairness for all athletes, including those with disabilities, and reinforce WADA's commitment to inclusion and human rights in all aspects of the anti-doping process.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Articles 13 and 14.2.2 Changes Related to Appeals

General concerns (regarding CAS-proceedings)

For the purposes of legality and equality, it is proposed to reformulate the end of the article 13.1.4, as follows : "Notwithstanding any other provision of Article 13.1, the appellate standard of review for such appealable decisions made by WADA under the Code or International Standards, or made with WADA's approval under Articles 5.3.2, 5.6.1, 7.1.1, 10.7 and 14.1.1, shall be compliance with the rules of the Code and the International Standards and whether WADA's decision was arbitrary.

The costs of CAS proceedings are detrimental to the entire anti-doping community as it may lead to:

- ADOs and WADA not appealing unsatisfactory decisions;
- Athletes being deprived of an effective right to appeal due to cost issues.

The length of the proceedings also induces very difficult situations where athletes and ADOs remain uncertain, for months, about the outcomes of a violation, and have absolutely no power to speed up the process.

Implement a global or WADA fund / legal aid system to independently finance WADAs CAS appeals without any costs / or eat least very few costs for Athletes as well as for ADOs using independent disciplinary tribunals at the first (national) instance.

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

Remove the words “word searchable”

Suggested changes to the wording of the Article

the case file shall be produced in machine readable French or English and to the greatest extent practicable in electronic digital format (remove word searchable)

Reasons for suggested changes

People need to read their documents thoroughly. Yes word searchable documents make research easier, however, not all ADOs have the resources to submit documents in a format that is word searchable. For example, some documents need to be printed, then scanned so this hinders the document word searchable. Not everyone has access to the same or best technology

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

We are pleased to read that the proposal about the case files must be produced in machine readable French or English, have been rejected. However, we still think that it will be a big burden for the ADO that they need to produce a case file index in French or English with a short description of each document.

NADA India SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed with article 14.2.2

International Testing Agency SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

Article 14.2.3

We believe that this clause should apply to all parties with a right of appeal (not previously a party in the first instance hearing process) and not just WADA.

Article 14.3 (35)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

As mentioned in our previous code review feedback, Team USA AC is steadfast in our belief that an athlete's right to privacy must be upheld and protected within the Anti-Doping Code. The impact of being wrongly labeled as a doped athlete can be devastating, affecting an athlete's career, reputation, and well-being for the rest of their life. We propose that the approach used under collectively bargained programs, such as the National Basketball Association-National Basketball Players Association Collective Bargaining Agreement, be incorporated into the Code. In this model, an athlete's identity is only revealed if: (1) it is uncontested by the athlete, (2) it is upheld as part of the dispute resolution process, or (3) it is made public by another source. This approach better protects athletes' reputations until the outcome of their case is clear.

Team USA AC supports the principle that a decision and the underlying facts should not be publicly disclosed in cases where there is no fault or negligence on the part of the athlete. However, we also recognize the importance of public disclosure in cases where a decision may have been made incorrectly or unjustly. Therefore, there should be mechanisms in place for ensuring that any wrongful or inappropriate decisions are eventually made public, ensuring accountability and transparency while still protecting the athlete's privacy until a final resolution is reached. Furthermore, in light of recent events involving the 23 elite Chinese swimmers who tested positive for TMZ in the lead-up to the Tokyo Olympic Games, and whose cases were closed without violations and without publication, contrary to applicable anti-doping rules, Team USA AC amends and expands its previous recommendation regarding the non-publication of cases resolved with no fault or negligence findings, or no violation.

These recent events highlight the need for further conditions to ensure transparency and accountability. Specifically, Team USA AC recommends the establishment of an independent committee comprised of representatives from the WADA Athletes' Council, NADO, IF, and government sectors. We recommend that this committee must unanimously approve any findings of no fault or negligence, as well as any no violation resolution resulting from an Adverse Analytical Finding (AAF), other than those covered by an approved Therapeutic Use Exemption (TUE) or a permitted route, before WADA is allowed to close the matter without appeal. This recommendation aims to ensure that no case involving significant allegations of doping, especially those related to elite athletes, is resolved without appropriate scrutiny and oversight. It seeks to prevent instances where cases are closed prematurely or without sufficient public accountability, thus upholding the integrity of the anti-doping system and maintaining trust in the fairness of its processes.

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the emphasis on confidentiality of anti-doping information as outlined in Article 14.3. However, we request that WADA clarify how confidentiality rules apply in cases involving athletes with disabilities, particularly Deaf athletes, who may require **communication support services** (such as interpreters or support persons) in order to fully understand their rights and the outcome of their case

Suggested changes to the wording of the Article

No change to the article text is required, but we propose adding the following to the Comment section:

In cases involving athletes with disabilities, including Deaf athletes, ADOs may share relevant information with communication support professionals (e.g., sign language interpreters or legal support persons) solely for the purpose of ensuring the athlete understands the process and decisions, provided that appropriate confidentiality agreements are in place

Reasons for suggested changes

Strict confidentiality rules are necessary to protect privacy, but they can unintentionally prevent full and fair participation by Deaf athletes if communication support is not permitted. Interpreters and advisors are often essential for ensuring that the athlete understands key documents, sanctions, and procedural rights. ICSD requests clarification that confidentiality rules do not prevent such support when safeguards are used. This would uphold both the spirit of confidentiality and the principle of accessibility and inclusion

International Cricket Council SUBMITTED

Vanessa Hobkirk, Anti-Doping Manager (United Arab Emirates)

Sport - IF – IOC-Recognized

General Comments

Article 14.3.2 & 14.3.4 Mandatory Public Disclosure of the final decision

Mandatory public disclosure of the final decision—in a substance of abuse case where the athlete's use was out-of-competition (which is permitted) can be unnecessarily damaging.

The question remains, should recreational drug use be a matter for WADA or for the Sport Movement to manage?

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)

Sport - IF – Summer Olympic

General Comments

The FEI is of the opinion that No Fault or Negligence decisions should be publicly available and should not be listed in this article. Such decisions constitute important case law and, for the sake of transparency and good governance, should be available to the public. At the very least, the decision whether to publish or not the No Fault or Negligence decisions should be left with each IF/RMA and should not depend on the consent of the Athlete or other Person who is the subject of the decision.

World Aquatics SUBMITTED

Justin Lessard, Senior Manager - Aquatics Integrity Unit (World)

Sport - IF – Summer Olympic

General Comments

14.3.1: World Aquatics considers that it should be mandatory to publicly disclose provisional suspensions imposed to ensure transparency and avoid speculations as to why an athlete is no longer competing/training. The fact that not

all ADOs have the same approach as it relates to publishing provisional suspensions leads to confusion from the general public and athletes.

14.3.3: World Aquatics considers that all anti-doping decisions should be made public. The decisions for which the athletes were found not to have committed any anti-doping rule violations or to have established No Fault or Negligence should be anonymized. Publishing those decisions would increase transparency and would ensure that all decisions are subject to public scrutiny. It would avoid any claim that an ADO was trying to sweep a case under the carpet.

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

Article 14.3.3: We agree with article 14.3.3 as drafted. It is our view that it is reasonable not to disclose in cases where the athlete is found to have established No Fault or Negligence.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

Articles 14.3.2 & 14.3.4 Mandatory Public Disclosure After the Final Decision in a Case

As stated in Article 14.6, any disclosure must comply with the International Standard for Data Protection and applicable laws. Articles 14.3.2 and 14.3.4 should therefore include a reference to Article 14.6.

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

WADA has specifically asked for further comments on Article 14.3.4
The ITIA would simply repeat its comments from the previous phase on the Code consultation, however it wishes to make clear that whilst this view is held by the majority of the tennis bodies, it is not a position that is supported by the Women's tennis Association who do not supprt publication of No Fault or Negligence decisions.
Whilst the ITIA understands that a Person who has been determined to bear No Fault or Negligence (NFN) in relation to an anti-doping rule violation has been exonerated of having any Fault or Negligence, they usually will still have had a prohibited substance in their sample and Consequences accordingly would still attach (e.g. in tennis removal of any ranking points acquired from the event where the sample was provided In-Competition, removal of

medals/titles and repayment of any prize/participation money received (and other subsequent events unless a tribunal determines that fairness dictates otherwise).
A player who has ranking points and/or prize money (and certainly titles/medals) removed will more often than not be identifiable (and will often alter the rankings of other players in the tennis context).
Without publication of the decision it would not be possible for a sport like tennis to provide an explanation for these flow-on consequences.
Clearly where an ADO announces provisional suspensions, a written decision would be expected by all parties at the conclusion of a case, even if such an outcome was a No Fault or Negligence one as the matter is already in the public domain – creating an unfair distinction between players who have successfully challenged the imposition of provisional suspensions before they are announced and those who have not.
More broadly, we are mindful of the importance of transparency in relation to anti-doping decisions. Anti-Doping Organisations could well be accused of cover ups or a lack of transparency regarding their testing programme, if NFN decisions were not initially disclosed (but subsequently came into the public domain). It is better to be proactive rather than have to respond to accusations down the line that such matters were hidden.
Further, the publication of such decisions helps other Anti-Doping Organisations to navigate similar cases, by offering case precedents.
If there is concern around support for a Person who receives a finding of No Fault or Negligence, the decision could be redacted to remove medical or other information (as ITIA does where requested by a player) and/or indeed requiring an ADO to seek to agree with the Person the precise timing of communications which will accompany such publication (within a reasonable time) so the Person can be prepared.

Ministry of Health, Welfare and Sport SUBMITTED

Bram van Houten, Policy adviser (Netherlands)

Public Authorities - Government

General Comments

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

Article 14.3.3 Code: the proposed addition to this article would allow an anti-doping organization to disclose personal information if that information is already public or if consequences have already been imposed. Any use of personal data needs a legal basis under applicable national and EU law. This exception, therefore, has no legal basis in the EU, and should not be included in this article.

Article 14.3.6 Code: this article mentions *mandatory* public disclosure. In light of the fact that any disclosure of personal data is subject to applicable law, such disclosure cannot be mandatory. In line with our comment to article 14.3.2, the word *mandatory* in this article should be deleted.

Note 111 (new): any determination of non-compliance is initially made by WADA. This should be specified in this footnote by changing the text to “will not result in a determination of non-compliance with the Code **by WADA**, as set forth [etc.]”.

These points are also reflected in the analysis of the European Data Protection Board, and their recommendations to bring the Code in line with EU law, on this point specifically the General Data Protection Regulation. The analysis and recommendations of the European Data Protection Board was sent to WADA by the Polish Presidency of the Council of the European Union, calling on WADA to bring the Code in line with EU law. We urge you to follow-up on this call.

Suggested changes to the wording of the Article

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

Article 14.3.3 Code: the proposed addition to this article would allow an anti-doping organization to disclose personal information if that information is already public or if consequences have already been imposed. Any use of personal

data needs a legal basis under applicable national and EU law. This exception, therefore, has no legal basis in the EU, and should not be included in this article.

Article 14.3.6 Code: this article mentions *mandatory* public disclosure. In light of the fact that any disclosure of personal data is subject to applicable law, such disclosure cannot be mandatory. In line with our comment to article 14.3.2, the word *mandatory* in this article should be deleted.

Note 111 (new): any determination of non-compliance is initially made by WADA. This should be specified in this footnote by changing the text to “will not result in a determination of non-compliance with the Code **by WADA**, as set forth [etc.]”.

Reasons for suggested changes

These points are also reflected in the analysis of the European Data Protection Board, and their recommendations to bring the Code in line with EU law, on this point specifically the General Data Protection Regulation. The analysis and recommendations of the European Data Protection Board was sent to WADA by the Polish Presidency of the Council of the European Union, calling on WADA to bring the Code in line with EU law. We urge you to follow-up on this call.

Generally, it should be clear that any processing or disclosure of personal data can only be done subject to applicable law.

Sport NZ SUBMITTED

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

General Comments

We agree that the question of whether to publish no fault or negligence cases is a finely balanced issue. However, we are concerned about the impact of complete non-publication on the transparency of decision-making and overall confidence in the anti-doping system. Stakeholders and the public at large must be afforded the opportunity to scrutinise decisions in order to assess whether the decision-making is fair and reasonable and consistent with what has been decided in other cases. Athletes in particular need this ability in order to adequately defend themselves if they find themselves subject to an AAF which was not intentional.

We acknowledge the harm to an athlete’s reputation that can arise for an association with a positive doping result of any kind, even where the athlete is able to show contamination. We note that much of the potential reputational harm that may arise from publication in a no fault or negligence case often derives from a lack of understanding of that result on behalf of the media and the public. With contamination becoming more and more of an issue, we think it is incumbent upon anti-doping agencies to seek to educate the public about the constant risk of contamination faced by athletes and the potential for AAFs to arise in cases completely unrelated to intentional doping.

Suggested changes to the wording of the Article

We believe a compromise option is required to appropriately balance the various interests at play and enable a level of transparency and public scrutiny. Our preferred option is for a level of anonymous publication of sufficient facts of each case to enable stakeholders to effectively scrutinise the decision-making. Most importantly it enables other athletes to refer to past decisions if they find themselves facing ADRV proceedings in a potential contamination scenario.

Reasons for suggested changes

As above.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA acknowledges the new exception to mandatory publication under Article 14.3.3 where the Athlete has been found to bear No Fault or Negligence for the ADRV. While recognising the need to balance transparency against the need to protect the Athlete's reputation, SIA suggests that WADA considers introducing the requirement of de-identified, or at a minimum, statistical reporting of No Fault or Negligence cases, to ensure that the integrity and accountability of the anti-doping system is maintained.

Ministry of Culture and Equality SUBMITTED

Robin Mackenzie-Robinson, Senior advisor (Norge)

Public Authorities - Government

General Comments

Proposed article 14.3 "Public Disclosure

The Ministry would like to comment on the proposed Article 14.3, introduced in the first draft of the World Anti-Doping Code, and further revised in the second draft of the Code.

The Ministry´s comments on Article 14.3

The Ministry emphasizes the importance of transparency and legal certainty in anti-doping proceedings. In this context, the Ministry believes it is more important to publish the reasoned decision behind a anti-doping sanction rather than to disclose the name of the athlete involved.

The Ministry believes that the core objective of public disclosure should be to promote understanding of the decision-making process and ensure trust in the anti-doping system, and not to expose the individual. It is essential that anti-doping decisions are published in a manner that allows them to be used as relevant legal sources. Access to the legal reasoning behind anti-doping decisions contributes to consistent practice, promotes fair treatment, and provides important legal guidance for athletes, support personnel, and sports organisations.

This position aligns with the Council of Europe's recommendations, which advocate for a balanced approach. While decisions should be made publicly available to uphold transparency, the privacy of individuals must also be protected, especially in cases where naming the athlete is not strictly necessary for the public's understanding of the case (Council of Europe, Recommendation CM/Rec(2022)14).

The need for transparency and access to reasoned decisions is further reinforced by the proposed revisions to Article 10.2, which introduce a more flexible sanctioning framework. If the Code moves away from fixed sanction lengths and towards a model based more heavily on case-by-case assessment, it will become increasingly difficult to infer sanctioning standards directly from the Code text alone.

As a result, case law, and particularly the reasoning in individual decisions, will play an even more significant role in interpreting and applying the Code. In this context, access to reasoned decisions will be essential for maintaining consistency, predictability, and legal certainty.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Article 14.3.3

The WADC (and ISDP) must consider the current GDPR compliance debate in Europe and the expecting decisions form the Court of Justice of the EU.

See for example:

- C-115/22 NADA and Others (especially the opinion of the Advocate General)
- C-474/24 NADA Austria and Others (oral hearing on 13 May 2025, judgment expected in the autumn of 2025)

EDPB's recommendations (especially paras. 33-36): https://www.edpb.europa.eu/our-work-tools/our-documents/recommendations/recommendations-12025-2027-wada-world-anti-doping-code_en

Any disclosure of personal data is subject to applicable law; any expectation for a stakeholder to operate otherwise is untenable. This article should therefore read: "the Anti-Doping Organization responsible for Results Management may, subject to applicable law, publicly disclose the disposition of the anti-doping matter…".

Articles 14.3.2 & 14.3.4 Mandatory Public Disclosure After the Final Decision in a Case

See point 18: There must be a legal balance of interest guaranteed between the human rights perspective and transparency of disciplinary Anti Doping decisions, to achieve a proportionate and flexible handling, which a mandatory provision doesn't allow.

Japan Anti-Doping Agency SUBMITTED

Chika HIRAI, Director of International Relations (Japan)

NADO - NADO

General Comments

14.3.2
- Agree with the proposal

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

Article 14.3.3

WADA should consider cases of the Court of Justice of the EU:

C-115/22 NADA and Others (especially the opinion of the Advocate General)

- C-474/24 NADA Austria and Others (oral hearing on 13 May 2025, judgment expected in the autumn of 2025 / beginning 2026)

WADA should follow the EDPB's recommendations (especially paras. 33-36): https://www.edpb.europa.eu/our-work-tools/our-documents/recommendations/recommendations-12025-2027-wada-world-anti-doping-code_en

Article 14.3.6

There should be no mandatory publication of athletes / any person who provides substantial assistance.

The publication in this case puts the people who provided substantial assistance at risk, as it can be seen from the publication, among other things, that they provided substantial assistance and therefore disclosed information

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

ADSE support the amendment. There are very few No Fault- cases that are affected. In those cases, it is not proportionate to have a mandatory publication with the disclosure of the athlete's name.

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

Article 14.3.3 – the AFLD is in favor of the proposed non-disclosure (except with the consent of the athlete) of No Fault cases. Indeed, as we know, anti-doping rules are very complex and difficult to explain to the general public. A disclosure of an ADRV, even with a finding of No Fault, may have severe consequences on an athlete's reputation and career, that would be very disproportionate in such cases. Letting the athletes decide whether or not they want to disclose the case appears as a good solution.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

Articles 14.3.2 & 14.3.4 Mandatory Public Disclosure After the Final Decision in a Case

We reiterate our opinion in our previous answer, that we support athlete consent with cases regarding No fault, however regarding cases where there is negligence, we still think it is crucial that these decisions should be publicly disclosed due to the preventive work.

We think that when a sanction has been given, it is important that it is made public to prevent others from doing the same and to secure clarity in the anti-doping system.

NADA India SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

ONAD RD SUBMITTED

Milton Pinedo, Director Ejecutivo (Dominican Republic)
NADO - NADO

General Comments

We consider that it would be important that in those cases the ADO publicly disclose some information as sport/discipline and the ADVR, but then to clarify that it thinks that it has no fault or negligence. Because in this case, it would seem like that ADO is respecting the privacy of the athlete but is not uncovering or erasing the case.

CHINADA SUBMITTED

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

General Comments

Article 14.3.4

We support including an exception for “mandatory public disclosure after the final decision in a case”. In the anti-doping work, it’s essential to effectively distinguish between the No-Fault Athletes who inadvertently ingested prohibited substances and those who deliberately used them, and fairly treat the former, thereby safeguarding the legitimate rights and interests of Athletes and fair competition in sports. In cases when an Athlete is found to have No Fault or No Negligence, they are more likely victims of positive results rather than beneficiaries of doping. No mandatory public disclosure of case decisions can prevent greater harm to their reputation and career.

Sport Ireland SUBMITTED

Cólleen Devine, Director of Anti-Doping & Ethics (Ireland)

NADO - NADO

General Comments

Sport Ireland's preference would be for transparency in this regard if permissible from a GDPR perspective. In other words, our preference is that No Fault or Negligence cases would be made public without the consent of the Athlete if permitted by the GDPR.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Othilia Christensen, Legal Advisor (Danmark)

NADO - NADO

General Comments

Articles 14.3.2 & 14.3.4.: Mandatory Public Disclosure After the Final Decision in a Case

DIF refers to our previous consultation response and reiterate our support for requiring athlete consent in cases categorized as "no fault." However, in cases involving negligence, we believe it is essential that such decisions be made public to support prevention efforts. Public disclosure of sanctions helps deter similar behavior and reinforces transparency and trust in the anti-doping system.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

Comment to Article 14.3.3

The WADC (and ISDP) must consider the current GDPR compliance debate in Europe and the expecting decisions form the Court of Justice of the EU.

See for example:

- C-115/22 NADA and Others (especially the opinion of the Advocate General)
- C-474/24 NADA Austria and Others (oral hearing on 13 May 2025, judgment expected in the autumn of 2025)

EDPB's recommendations (especially paras. 33-36): https://www.edpb.europa.eu/our-work-tools/our-documents/recommendations/recommendations-12025-2027-wada-world-anti-doping-code_en

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

We consider that the starting point should be transparency. If an athlete has taken a prohibited substance that could benefit them in that sport (whether it was without fault or otherwise) then that should be made public out of fairness to other competing athletes and to preserve the trust and confidence of the public in the existence of a level playing field.

Noting it would require improved levels of communication, the naming of an athlete where there is no fault or negligence can make those circumstances clear and provided the approach is consistent and well-understood the impact should be limited and would be outweighed by the benefits of transparency.

That said, we accept that (as with name suppression in other jurisdictions) there can be exceptions to this starting point and it would be open to the athlete to submit that non-publication is appropriate with regard to an established set of criteria (in addition to age and status of athlete) including:

- Likelihood of an actual advantage.
- Degree of harm to reputation.
- Mental health concern.
- Likelihood of extreme hardship to the athlete or another person.

To the extent that non-publication is preferred by WADA for all cases of no fault or negligence it is vital that there remains a level of transparency and public scrutiny. In that case, we would support anonymous publication of sufficient facts of each case to enable stakeholders to effectively scrutinise the decision-making. This would also enable other athletes to refer to past decisions if they find themselves facing ADRV proceedings in a potential contamination scenario.

We have consulted extensively with the Commission's Athlete Commission on this matter, who have differing views that will be presented in their own submission.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)
NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, acknowledge and appreciate the principle of transparency as fundamental to public trust in the anti-doping system. However, there were mixed views among our AC whether mandatory publication in No Fault or Negligence cases is appropriate.

Some of us support public disclosure in the interest of fairness to other athletes and preserving the integrity of the system — provided the communication is clear, consistent, and explains the nature of the no-fault finding to avoid unjust reputational harm.

Others believe that even with improved communication, public understanding may still be limited, and the risk of stigma or misinterpretation outweighs the benefit of publication.

If non-publication is preferred, we support our NADO's suggestion of anonymous publication of sufficient facts to maintain scrutiny and aid precedent for future athletes — a practical compromise that balances transparency with fairness.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

Art 14.3.2

Delaying publication of an anti-doping rule violation until after an appeal has concluded is unnecessary, runs counter to the principle of transparency, and undermines the credibility of the entire anti-doping system. First, there is potential for extreme delay between violation and announcement that reduces confidence in the system. Second, a person may have served much of their sanction by the time an announcement is made, reducing the relevance of any announcement and creating situations where athletes and other persons are serving secret sanctions. This will have a very negative impact on the credibility of the anti-doping system that is exacerbated by the fact that the most important and high profile decisions are the ones that are often appealed. Third, it appears that this rule could permit the first instance decision, even if rendered by an arbitrator, to remain confidential.

Suggested changes to the wording of the Article

Art 14.3.6

SSI suggests that in addition to "and shall take into consideration the best interests of the individual," WADA should include a reference to the deterrent effect of publication. Suggested edit: “and shall take into consideration the deterrent effect of publication and the best interests of the individual.” Both are important factors in considering publication because in almost every case an athlete will not want their case published.

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

Once again, we reiterate our remarks from earlier phases of consultation; we do not agree with the proposed changes with regards to the non-mandatory publication of No Fault outcomes. In our experience, it is very rare for Athletes or other Persons to consent to publication in circumstances where no Anti-Doping Rule Violation has been found under the current Code. We therefore consider that extending non-mandatory publication to No Fault outcomes (and only permitting publication in circumstances where the Athlete or other Person consents) will likewise also be rare. We consider this to be a detrimental to the collective efforts to tackle doping in sport and achieving worldwide harmonisation of results. The publication of No Fault outcomes (as with the concept of publishing decisions more generally) is invaluable to the wider anti-doping community in terms of sharing information, learning, and harmonisation of anti-doping determinations worldwide. If publication does not follow as an automatic consequence in these cases then there will be potentially crucial information about Anti-Doping Rule Violations that will be kept from the anti-doping community and, in particular Athletes who will be less informed about the risks they may be exposed to. Publication of No Fault cases critically help to highlight the risks that Athletes inadvertently expose themselves to that are then capable of resulting in Anti-Doping Rule Violations. We do the Athlete community a disservice if we do not share these decisions and highlight such risks.

We fully understand why this change has been proposed – there have been longstanding calls for Athletes and other Persons in receipt of No Fault outcomes to not be ‘named and shamed’ and face the public ignominy of having committed an Anti-Doping Rule Violation. We fully agree with those concerns but consider that they can be addressed by amending the Code to ensure that mandatory publication continues to take place in these cases but on an entirely anonymous basis, i.e. the Athlete or other Person subject to the decision is not named or otherwise identifiable. This will then ensure that important anti-doping jurisprudence and awareness of anti-doping risks continues to be shared, whilst Athletes who find themselves on the receiving end of Anti-Doping Rule Violation decisions when at No Fault, do not face the disproportionate scrutiny that publication of such decisions can bring.

If Article 14.3.3 is adopted as currently drafted we have real concerns about the impact non-publication will have on harmonisation of decision making. For example, strikingly similar cases could unwittingly be sanctioned in very different ways: one case may be rendered No Fault, whilst a similar case may be considered No Significant Fault and a period of Ineligibility of several months may be imposed.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Articles 14.3.2 & 14.3.4

The CCES maintains its position that public disclosure is viewed as a punishment, and the identity of an athlete found to have No Fault or Negligence should remain confidential. The CCES acknowledges that this poses a challenge to a fair, consistent application of the Code, as jurisprudence of similar cases would not be available. The CCES would support consideration for the disclosure of thoroughly redacted file outcome summaries to create meaningful jurisprudence. Similar redacted file outcome summaries could also be considered for minors and protected persons to ensure consistent application of the Code. Another potential consideration could be the use of ADAMS as a repository for ADOs to access decisions and case summaries.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 14.3.1 – USADA supports changes to this provision so that an Athlete's confidentiality is maintained until an anti-doping rule violation has been found by a first instance hearing panel or through another resolution in the first instance. Disclosures before all the facts are known often have a disproportionate negative effect on athletes.

Article 14.3.2 – Delaying publication of an anti-doping rule violation until after an appeal has concluded is unnecessary, runs counter to the principle of transparency, and undermines the credibility of the entire anti-doping system. First, there is potential for extreme delay between violation and announcement that reduces confidence in the system. Second, a person may have served much of their sanction by the time an announcement is made, reducing the relevance of any announcement and creating situations where athletes and other persons are serving secret sanctions. This will have a very negative impact on the credibility of the anti-doping system that is exacerbated by the fact that the most important and high profile decisions are the ones that are often appealed. Third, it appears that this rule permits the first instance decision, even if rendered by an arbitrator, to remain confidential. Often there is different evidence presented and different degrees of detail in each award, and if only the appeal decision is made public, key details and context may be hidden entirely. Again, these proposed changes run counter to the principle of transparency and undermine the credibility of the anti-doping system.

Watering down public disclosure diminishes the deterrent effect of the public disclosure. As stated in USADA's comments from the previous round of submission, this proposed change must not be maintained.

If WADA wished to further its foundational principles of harmonization and transparency, rather than make this change, WADA would not only require publication of violations in the first instance but also require publication of reasoned decisions by first instance arbitrators. The value of these decisions to the anti-doping community for harmonization, transparency, and deterrence far outweighs any concerns to the contrary.

Article 14.3.4 – Based on recent events involving the 23 elite Chinese swimmers who tested positive for TMZ in the lead up to the Tokyo Olympic Games and had their cases closed without violations and without publication in contravention of the applicable anti-doping rules, USADA amends and expands its previous recommendation regarding the non-publication of cases resolved with no fault or negligence findings or no violation. USADA's original recommendation already provided the caveat of non-publication being contingent on "no effect on performance." Recent events necessitate further conditions. With no fault or negligence resolutions not otherwise being publicized, USADA recommends the establishment of an independent committee with representatives from the Athlete, NADO, IF, and Government sectors who must unanimously approve the no fault or negligence finding as well as any no violation resolution resulting from an AAF, other than an approved Therapeutic Use Exemption or permitted route, before WADA closes the matter without appeal.

Article 14.3.5 – Representatives is not capitalized but should be because it is a defined term.

Article 14.3.6 – In addition to "and shall take into consideration the best interests of the individual," WADA should include a reference to the deterrent effect of publication. Suggested edit: "and shall take into consideration **the deterrent effect of publication** and the best interests of the individual." Both are important factors in considering publication because in almost every case an athlete will not want their case published.

Anti-Doping Norway SUBMITTED

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

General Comments

We generally welcome the amendments which bring the rules in the right direction. We would emphasize the comment to art. 14.3.2, which will be vital for our ability to comply with national law.

Generally, we support the comments made by the European Data Protection Board on Public Disclosure, and we share their concerns.

For reasons of providing better access to case-law, we would generally prefer that 14.3.2 (i) was optional, and 14.3.2.(ii) mandatory, albeit for the latter in an anonymous format, as this would provide access to case-law while respecting the privacy of athlete.

iNADO SUBMITTED

Alex Brown, Campaigns and Membership Coordinator (Germany)
Other - Other (ex. Media, University, etc.)

General Comments

Art. 14.3. WADA is reminded the current GDPR compliance debate in Europe, with some decisions from the Court of Justice of the EU due in the comping period. These may impact the extend to which (European) NADOs will be entitled to release data on sanctioned athletes. Time permitting, these should be taken into account (or wording be provided to allow for the integration of such Court decisions). Further detail is available from https://www.edpb.europa.eu/our-work-tools/our-documents/recommendations/recommendations-12025-2027-wada-world-anti-doping-code_en

International Testing Agency SUBMITTED

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

General Comments

Article 14.3.1

For the sake of transparency and consistency, we would suggest to make the public disclosure of mandatory provisional suspension compulsory and from the moment of the imposition of the provisional suspension.

Article 14.3.3.

We would suggest removing the section "after a hearing or appeal" since a case may be resolved before that.

Sports Tribunal New Zealand SUBMITTED

Luke Macris, Registrar (New Zealand)

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

General Comments

We support the suggested amendments in article 14.3.2 for athletes who have been found not to have committed an anti-doping rule violation or been found to have no fault/negligence should retain their anonymity unless they agree otherwise.

However, we would also support a middle ground option where a hearing body decision must be published but where athlete information (or identifying information) can be anonymised within the decision prior to public release.

Suggested changes to the wording of the Article

Proposed wording acceptable; but consider requiring publication of decisions with anonymised athlete information where there is a finding of no ADRV or no fault/negligence.

Reasons for suggested changes

As above at General Comments.

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)

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

General Comments

There is no detailed commentary or stated rationale as to why the change to 14.3.3 has been introduced, but the AIU disagrees with the proposal as it concerns No Fault or No Negligence case outcomes and considers it to be intrinsically unworkable. It is unworkable because the automatic disqualification of results will apply so there will always be a question over why a result was publicly disqualified without explanation (which will lead to speculation and undermine the credibility of the system). In the AIU's view, No Fault and No Negligence cases must continue to be publicly disclosed as they are at present; if there are issues of confidentiality or sensitivity that need to be protected, the decision can always be rendered in redacted form. More rather than less transparency is crucial for the credibility of the system at the current time.

Article 15.2 (1)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the principles of collaboration and coordination among Anti-Doping Organizations (ADOs) as outlined in Article 15.2. As a small ADO representing athletes with disabilities, ICSD relies on cooperation with NADOs, IFs, and other bodies for test planning, athlete monitoring, and sharing of responsibilities. However, coordination challenges persist, especially due to **limited access to information in ADAMS**, a lack of communication from

NADOs regarding Deaf athletes in Registered Testing Pools (RTPs), and an overall absence of formalized engagement with specialized ADOs such as ICSD

Suggested changes to the wording of the Article

No change to the article text is needed, but we recommend adding the following to the Comment section:

WADA encourages ADOs to ensure that coordination efforts include effective communication and data sharing with small or event-based ADOs, including those representing athletes with disabilities, to support inclusive and efficient implementation of the Code

Reasons for suggested changes

ICSD often lacks visibility on which Deaf athletes are included in national testing pools or have been tested out-of-competition. This makes it difficult to plan testing, monitor athlete eligibility, or verify compliance with anti-doping obligations. Clearer guidance from WADA encouraging NADOs and other ADOs to actively include smaller, disability-focused federations in coordination processes would support better Code compliance and uphold the principles of equity and inclusion

Part 2 Introduction (5)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the principles outlined in the introduction to Part 2 of the Code, including fairness, independence, timeliness, and respect for the rights of all individuals involved in results management. However, we respectfully request that WADA include a reference to **accessibility and inclusion**, particularly for athletes and participants with disabilities, such as Deaf athletes. Ensuring that individuals can effectively understand and participate in the results management process is essential to procedural fairness

Suggested changes to the wording of the Article

Results management processes should be accessible to all individuals, including those with disabilities. This includes ensuring communication is provided in appropriate formats, such as sign language interpretation, plain language summaries, or other necessary accommodations

Reasons for suggested changes

Deaf athletes and other participants with disabilities may face significant barriers in understanding and participating in anti-doping procedures if communication is not adapted to their needs. By referencing accessibility in the foundational introduction to Part 2, WADA would help reinforce that fairness and inclusion are inseparable. This simple clarification would support more equitable outcomes and align with international standards on the rights of persons with disabilities

Japan Anti-Doping Agency SUBMITTED

Chika HIRAI, Director of International Relations (Japan)

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

The ~~assumption is that~~ Athletes start in sport with no intention to dope. Education is an effective way to support that intention.

Reasons for suggested changes

Part two general introduction says the “assumption is” but in the ISE article 2.2 says “ athletes start in sport clean” for consistency in language we suggestion using the ISE language and remove the word assumption.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

a) Language

The purpose and scope of the World Anti-Doping Program is to “protect the Athletes’ fundamental right to participate in doping-free sport and thus promote health, fairness and equality for Athletes worldwide, and to ensure harmonized, coordinated and effective anti-doping programs at the international and national level with regard to the prevention of doping”.

We DO NOT fight or combat doping. Fighting and combating sadly is a reality in countries in Europa and elsewhere. For English speakers this might mean defend, but this word does not translate as well for non-English speakers as it is negative in tone, and more neutral or position language is suggested.

Additionally, omitting this kind of language from the WADC, Standards, Guidelines, etc. helps to harmonize the wording across the regulations since only the WADC, the ISDP and the ISCCS use words like fight, combat or the scourge of doping.

Thus, the word “fight” should be removed from Introduction to “Part Two Education and Research”.

In addition, the word “fight” should be removed from Footnotes 1 and 42, on the cover page PART THREE ROLES AND RESPONSIBILITIES, in the Articles 22.6 and 24.1.5, Definitions of “Critical”, “General” and “High Priority”.

Similarly, the word “combat” should be removed in the Footnotes 70 and 137).

b) Assumption

Maybe that’s just something that is unclear to non-native speakers but the sentences “The assumption is that Athletes start in sport with no intention to dope. Education is an effective way to support that intention.” might spark some confusion. The use of “assumption” is maybe too weak to express what is meant. Also there is no alignment with the ISE that states in Article 2.2 as Key Principle “Athletes start in sport clean, and the first priority should be to keep them that way.” This is written as a matter of fact, not an assumption.

In addition, the phrase “to support that intention” can be read as to support the intention to dope.

Please Note: These comments are also agreed upon the CEADO Education Managers and the PEERS group.

USADA SUBMITTED

Tammy Hanson, Elite Education Director (USA)

NADO - NADO

General Comments

From PEERS

- Says the “assumption is” but in the ISE article 2.2 says “athletes start in sport clean”. For consistency in language, we suggest using the ISE language, therefore removing the word ‘assumption’.

USADA SUBMITTED

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

General Comments

Introduction – ISE Article 2.2 says “athletes start in sport clean” and here the wording is “the assumption is that Athletes start in sport with no intention to dope.” USADA recommends using the Code language in the ISE as it is more precise.

The word “unintentional” should be replaced with “not intentional” to maintain consistency and clarity throughout the Code.

Article 18 (8)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD strongly supports the role of anti-doping education outlined in Article 18 and acknowledges WADA’s ongoing efforts to promote values-based learning. However, we respectfully request that WADA include a **clear reference to accessibility and inclusion** in this article to ensure that education programs are available and understandable for all athletes, including Deaf athletes and others with disabilities. Education is only effective when the intended audience can access, comprehend, and apply the information

Suggested changes to the wording of the Article

We propose adding the following to the Comment section:

Anti-doping education programs should be accessible to all athletes and support personnel, including those with disabilities. ADOs are encouraged to provide content in accessible formats such as sign language, captions, plain language, and visual materials to ensure inclusive and equitable delivery of education

Reasons for suggested changes

Deaf athletes often do not benefit from standard anti-doping education programs because materials are not available in accessible formats or appropriate languages. ICSD has observed that without adapted education, many athletes remain unaware of their rights, responsibilities, and risks under the Code. Including accessibility guidance in Article 18 would support fairer outcomes, improve compliance, and align with broader human rights and inclusion goals under the UN Convention on the Rights of Persons with Disabilities (CRPD)

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

SUBMITTED

General Comments

Article 18.2

a) Education is not (only) about preventing ADRVs or compliance with the Code. This would solely be “anti-doping education” (= one of four components of Education, see ISE Article 9.2.1), but we have committed ourselves to do more than just that (see Introduction and Scope of the ISE).

Thus, the sentence “Education programs shall raise awareness, provide accurate information, enhance decision-making capability and develop clean sport behaviors to prevent anti-doping rule violations and to be in compliance with the Code.” should be changed to fit the new Introduction and Scope of the ISE better: “Education programs shall raise awareness, provide accurate information, enhance decision-making capability and develop clean sport behaviors in line with the spirit of sport and to help prevent Athletes and other Persons from doping.”

b) Footnote 117 refers to a “sport system assessment”, whereas the ISE calls this a “sport system analysis”. We prefer “analysis” over “assessment” but in any case the WADC and ISE should use the same words.

c) Clean Sport behaviors are mentioned in the WADC and in the ISE but there is no real definition or examples, what this term means. There is a reference to the ISE Guideline, but that is not mandatory. We suggest adding “Clean Sport behaviors” to the Definitions or elaborate in them in the Introduction to the WADC or the Introduction to Part Two or define them in the ISE.

d) The footnote referring to the curriculum has no number (should be 118). It should read "Education programs shall be progressive and in line with the main stages of the Athlete pathway, underpinned by a clear curriculum that includes (at a minimum) all topics as listed in the International Standard for Education.118" And then footnote "118 WADA will develop and publish model curricula that..."

Article 18.4

The first sentence (A Signatory’s Education program shall include the following components: values-based Education; awareness raising; information provision; and anti-doping Education.) is already used in other form in Article 18.2. We suggest deleting it here (or in 18.2.) to avoid duplication.

Article 18.5

a) Event Specific Education is just one focus of an education program. Is “Event Specific Education” really that important to deserve an own article compared to the importance of the other articles in Article 18 (Principles, Education Program, Education Pool, Education Program Implementation, Monitoring and Evaluation, Coordination and Cooperation)?

We suggest deleting Article 18.5. and shift part of the wording to Art. 18.7 “Coordination and Cooperation”.

b) If Education for national teams for Olympic and Paralympic Games is mentioned (here or elsewhere), Youth Olympic Games should be mentioned as well since an important focus in on minors and the wording should be in line with the corresponding wording in the ISE where Youth Olympic Games are mentioned.

c) The delivery of “Education at Events where Testing takes place” is not in line with the ISE where there is a clear distinction between event specific education, pre-event education and event based education. Event based education may be too late for some and not often feasible / effective, pre-event education is key.

d) Although this is only a “should”, ADOs or different departments of an ADO cannot always know where testing takes place (e.g. target testing due to intelligence, short term decisions to conduct testing to keep the number of involved persons as low as possible – no advance notice, short term requests from an ADO to test at an international event, doping controls because of a national / international record).

Due to that reason it is not always possible to deliver “Education at Events where Testing takes place” so this needs reconsideration / rewording. As mentioned under a), maybe this should not be included in the WADC, but rather in the ISE.

Please Note: These comments are also agreed upon the CEADO Education Managers and the PEERS group.

NADA SUBMITTED

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

General Comments

WADC Art.18.4. here: Congruency:

"Natural person" should be replaced by the official term according to the ISE "Educator". WADC and ISE should be clearly aligned here.

Japan Anti-Doping Agency SUBMITTED

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

General Comments

18.2 Education Program by Signatories
18.2 “to prevent ADRV’s and compliance with code” is too narrow and the ISE says “in line with the spirit of the sport and to prevent athletes and other persons from doping” in the intro and scope. Align language and we support the language in the ISE.

18.5 Event-Specific Education
18.5 The Code does not give YOG as an example, but the ISE does. Keep this consistent and keep in both or remove in both. Also, different language in the ISE from the Code regarding “education at events where testing takes place” verses pre-event education etc. this language needs to align. We support “pre-event education”

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

Art 18.1

Why specifically mention "unintentional doping and intentional doping"? The overall aim should be more positive and serve to "protect clean athletes and the health of all athletes".

Art 18.4

SSI recommends to replace the term "natural person" with "educator", as the ISE clearly stated and defined in the ISE, who this is.

Sport Ireland SUBMITTED

Cólleen Devine, Director of Anti-Doping & Ethics (Ireland)
NADO - NADO

General Comments

This article of the code should be reviewed to ensure greater consistency with the ISE, particularly in terms of terminology and phrasing, to maintain alignment across the two documents. eg the word protected person is used in article 18, yet it's not mentioned at all in the ISE

Suggested changes to the wording of the Article

Education plays a fundamental role ~~in the prevention of unintentional and intentional Doping.~~ to promote behaviors in line with the spirit of sport and to help prevent Athletes and other Persons from doping.

For this reason, the main focus of Education is Athletes, ~~in particular Protected Persons and Minors. In addition, given their roles and responsibilities as well as their influence on Athletes, Athletes Support Personnel are also a priority for Education.~~ and Athlete Support Personnel.

~~The assumption is that~~ Athletes start in sport with no intention to dope. Education is an effective way to support that intention.

The overall aim of any Education program shall be to support the ~~prevention of unintentional and intentional doping by Athletes and Athlete Support Personnel.~~ preservation of the spirit of sport and to help foster a clean sport environment

Reasons for suggested changes

In line with the ISE

USADA SUBMITTED

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

General Comments

Article 18.1 – As in the introduction to this section, the word “unintentional” should be replaced with “not intentional” to maintain consistency and clarity throughout the Code.

Article 18.2 – USADA submits that the language in this Article, “to prevent anti-doping rule violations and to be in compliance with the Code” is too narrow and should more closely align/mirror the language in the ISE, which says “in line with the spirit of sport and to prevent athletes and other persons from doping.”

Additionally, "clean sport behaviors" is referenced but not defined. USADA recommends that this term be defined. The definition can incorporate phrases used elsewhere in the Code like "to foster anti-doping attitudes" and "to foster and promote the spirit of sport," and "behaviors they need to train and compete clean." Once defined these various, similar phrases can be consolidated by the phrase "clean sport behaviors."

Article 18.4 – The first sentence of this Article is already covered in Article 18.2 which has a remarkably similar heading. Also, “natural person” should be replaced with “educator.”

Article 18.5 – This Article is one component of many within the ISE. It is unnecessary to reproduce it in the Code. Consider deleting it.

As further support for deleting it from the Code, language in the Code deviates from language in the ISE. The Code does not reference Youth Olympic Games whereas the ISE does, and the Code references “education at events where testing takes place” whereas the ISE references pre-event education. The Code also has a typo referring to “each” rather than “reach” in the last sentence.

The ISE is more informed in this area, and the Code should follow its lead. Again, this Article can simply be deleted from the Code.

The Code does not give YOG as an example, but the ISE does. Keep this consistent and keep in both or remove in both.

There is different language in the ISE from the Code regarding "education at events where testing takes place" versus pre-event education etc. This language needs to align. We support "pre-event education."

USADA SUBMITTED

Tammy Hanson, Elite Education Director (USA)
NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

From PEERS

18.2

- “…to prevent anti-doping rule violations and to be in compliance with the Code” is too narrow and the ISE says “in line with the spirit of the sport and to prevent athletes and other persons from doping” in the intro and scope. We support the alignment of language with Code and ISE.
- ‘clean sport behaviors’ are mentioned, but not defined. Please define ‘clean sport behaviors’

18.4

- Replace ‘natural person’ with ‘educator’
- Repetition in content “*Education* Program by *Signatories”* already stated in 18.2, clarify or consolidate.

18.5

- 18.5 is one component of many within the ISE (18.1 is key principles, 18.2 is education programs, 18.3 is education is pool, and 18.4 is implementation). It is unnecessary to have this in the Code. Either delete it, or include it in 18.7
- The Code does not give YOG as an example, but the ISE does. Keep this consistent and keep in both or remove it in both.
- Different language in the ISE from the Code regarding “education at events where testing takes place” verses pre-event education etc. This language needs to align. We support “pre-event education”.

Article 19 (2)

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

Article 19.3

SIA suggests the following additional requirement be added to this provision as outlined below:

> Coordination of anti-doping research through WADA is essential. Subject to any limitations arising from intellectual property rights, the results of such anti-doping research shall be provided to WADA and, where appropriate, shared with relevant Signatories and Athletes and other stakeholders. WADA shall also, subject to any limitations arising from intellectual property, share its research with Code Signatories, Athletes, and other stakeholders.

As the coordination of anti-doping research is critical, SIA feels it is incumbent upon WADA to also share with the global Anti-Doping Community any research WADA is aware of and/or has funded/completed to achieve this aim.

NADO Flanders SUBMITTED

Jurgen December, Legal Adviser (België)

NADO - NADO

General Comments

This article is very vague, and is unclear which obligations (if any) will be drawn from this article. It is therefore unclear how it is fitting within the Code. This is by any means too vague to be seen as an element of compliance.

Suggested changes to the wording of the Article

We suggest not to have this in the Code, or make sure it is non mandatory and does not have to be repeated in internal regulations.

Article 20 (11)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

WADA should require every Anti-Doping Organization that conducts testing to publish, by athlete, testing numbers updated at least on a monthly basis. Such a requirement serves the purposes of transparency, which builds confidence and trust in the anti-doping system, and accountability, which will motivate anti-doping organizations that do insufficient testing to increase their testing resources and planning.

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the clear delineation of responsibilities among Anti-Doping Organizations (ADOs) in Article 20. As a small, disability-specific ADO with limited resources, ICSD would like to highlight the challenges faced by organizations like ours in meeting all Code obligations — particularly around testing, education, and results management. We request that WADA acknowledge these structural realities in the Comment section and encourage support mechanisms or flexibility for smaller or event-based ADOs

Suggested changes to the wording of the Article

No change to the main article text is required, but we recommend adding the following to the Comment section:

WADA recognizes that ADOs vary significantly in size, mandate, and resources. In particular, event-based or disability-specific ADOs may face unique challenges in meeting all operational responsibilities. WADA encourages cooperative support, targeted capacity building, and flexibility in implementation where needed to ensure compliance is feasible and inclusive.

Reasons for suggested changes

ICSD, like other small ADOs, often lacks the financial and staffing capacity to independently manage comprehensive anti-doping programs. ICSD does **not conduct its own testing operations**; instead, it takes a **practical and cooperative approach** by requesting **Local Organizing Committees (LOCs)** to arrange testing at events and **contracting with National Anti-Doping Organizations (NADOs)** for sample collection. Many Deaf athletes are also not part of NADO RTPs. Acknowledging these operational realities would support more inclusive and feasible Code compliance for organizations serving athletes with disabilities

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

Whilst accepting that CAS is not a signatory of the Code, the roles and responsibilities imposed on everyone else as far as the requirement ‘to render timely decisions in the Results Management process’ is concerned, seems at odds with how the process actually works in practice. There are numerous examples of organisations waiting many months for decisions to be rendered by the CAS. As an entity on which ADOs and athletes have no other choice but to use, it would not seem unreasonable to expect terms regarding the delivery of such a service to be imposed and clearly set out by WADA and CAS for all to see.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Article 20.5.7 Independence of hearing panels principle of separation of powers

The panel and appeal bodies should be impartial and enjoy independence from public authorities, national or regional anti-doping organizations and national and international sports organizations, it is proposed to amend Article 20.5.7 as follows:

« To vigorously pursue all potential anti-doping rule violations within their authority including investigation into whether Athlete Support Personnel or other Persons may have been involved in each case of doping and to make every effort and take all necessary steps, within the limits of its powers and responsibilities, to ensure proper enforcement of Consequences. »

The proposed new definition of National Anti-Doping Organization Operational Independence should not restrict the opportunity to establish by law the panel and appeal bodies, in accordance with the Recommendation and the principle of “separation of powers”. Where independent bodies are required by the Code, they should be held directly responsible by WADA for their code compliance.

Suggested changes to the wording of the Article

Amend Article 20.5.7 as follows:

« To vigorously pursue all potential anti-doping rule violations within their authority including investigation into whether Athlete Support Personnel or other Persons may have been involved in each case of doping and to make every effort and take all necessary steps, within the limits of its powers and responsibilities, to ensure proper enforcement of Consequences. »

Reasons for suggested changes

See above

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

The ITA as well as Sample Collection Providers are currently conducting much anti-doping work (Testing, RM, Education) but are not (or only indirectly) regulated under the WADC or regulations of the International Federations. The burden is on the ADO to require Delegated Third Parties to work in line with the respective anti-doping regulations. However, ADOs can´t monitor the practical delivery of the services of the Delegated Third Parties so they need to be bound to the regulations as well. In addition, there should also be Audits, Quality Assurance Programs, etc.

CHINADA SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Article 20

1. We support conducting automatic investigation of Athlete Support Personnel in the case of an anti-doping rule violation involving a Protected Person or Minor who they support. However, the Athlete Support Personnel is a

broad category that also includes the parents of the Minor. Does this Article require that all Athlete Support Personnel of the Athlete, including parents, are subject to automatic investigation? What should be done if they refuse to cooperate with the investigation? We recommend that this issue be clarified in the Code or the International Standard for Intelligence and Investigations.

2. Article 20 further provides that disciplinary action shall be imposed against any Athlete Support Personnel who violate their obligations under Article 21.2 (to attend anti-doping education and provide accurate information to Athletes who they support). However, the roles and responsibilities of Athlete Support Personnel under Article 21.2 go beyond these two duties to include cooperating with the Athlete Testing program, cooperating with Anti-Doping Organizations investigating anti-doping rule violations, and no Use or Possession of any Prohibited Substance or Prohibited Method without valid justification. Accordingly, we consider that the current scope of disciplinary action imposed against Athlete Support Personnel is too narrow. We recommend that this Article align with Article 21.2 to expand the scope of circumstances under which disciplinary action shall be imposed on Athlete Support Personnel, providing support for holding Athlete Support Personnel accountable for their inaction.

3. In practice, many anti-doping rule violations by Athletes are caused by the negligence or lack of due diligence by Athlete Support Personnel, but such violation would not otherwise constitute an anti-doping rule violation on the part of Athlete Support Personnel themselves. For example, medical personnel may mistakenly prescribe medications containing a Prohibited Substance to the Athlete, or nutritionists may inadvertently provide the Athlete with nutritional supplements containing a Prohibited Substance. We believe that such conduct should also be grounds for imposing disciplinary action against Athlete Support Personnel.

Spanish Commission for the Fight Against Doping in Sport (Comisión Española para la Lucha Contra el Dopaje en el Deporte - CELAD)
Carlos Gea, Head of International Relations and Coopetarion Area (España)
NADO - NADO

SUBMITTED

General Comments

The 2027 World Anti-Doping Code recognizes that Anti-Doping Organizations (ADOs) may delegate certain aspects of doping control and anti-doping education to Delegated Third Parties (DTPs). While these entities, often non-Signatories such as regional anti-doping organizations, national federations, or private service providers, may perform vital anti-doping functions, they remain external to the formal accountability structure of the Code. The responsibility for compliance with the Code and International Standards remains solely with the delegating ADO.

However, this framework presents structural vulnerabilities. The Code treats these delegation arrangements largely as private contractual matters, despite the fact that violations by a DTP, such as breaches of testing protocols or data protection rules, can result in serious consequences not for the DTP, but for the delegating Signatory, including threats to the country's participation in international sport under the International Standard for Code Compliance by Signatories (ISCCS). This creates an accountability gap that is both legally and ethically problematic.

Moreover, the Code is silent on whether DTPs can subdelegate tasks to other actors, leaving a regulatory void that could lead to unmonitored chains of responsibility. In an increasingly global and outsourced anti-doping landscape, this omission exposes the system to legal inconsistency, compliance failures, and potential abuse.

We believe the Code should include stronger and more explicit provisions to:

1. Clearly attribute responsibility for misconduct to the actual responsible party,
2. Regulate subdelegation by DTPs, and
3. Protect Signatories and nations from disproportionate consequences when the fault lies with a third or subdelegated party.

Suggested changes to the wording of the Article

Revised Article 20 – Additional Roles and Responsibilities of Signatories and WADA

Subject to Article 20.5.1 (requiring National Anti-Doping Organization Operational Independence), each Anti-Doping Organization may delegate aspects of Doping Control or anti-doping Education for which it is responsible. The Anti-Doping Organization remains responsible for exercising appropriate oversight and due diligence in the delegation and monitoring of such activities to ensure compliance with the Code and International Standards.

To the extent such delegation is made to a Delegated Third Party that is not a Signatory, the agreement with the Delegated Third Party shall:

a Explicitly require the Delegated Third Party's full compliance with the Code and all applicable International Standards, including the International Standard for the Protection of Privacy and Personal Information;

b Require that the Delegated Third Party promptly report to the delegating Anti-Doping Organization any actual or suspected non-compliance with the Code or International Standards;

c Specify that the Delegated Third Party shall be directly accountable under the Code for any breach of its obligations that is deliberate or results from gross negligence;

d Prohibit subdelegation by the Delegated Third Party unless expressly authorized in writing by the delegating Anti-Doping Organization, and only under conditions that guarantee transparency, accountability, and Code compliance;

e Require that the Delegated Third Party assume joint liability for any breach of the Code or International Standards by an authorized subdelegate, and ensure that any such subdelegate is subject to equivalent contractual obligations and monitoring mechanisms.

New Article 20.10 – Responsibility of Delegated Third Parties

Any Delegated Third Party must comply with the Code and all applicable International Standards in the performance of its functions. It shall be directly responsible for any breach of the Code or International Standards that is intentional

or arises from gross negligence, without prejudice to the responsibility of the delegating Anti-Doping Organization to exercise appropriate oversight.

New Article 20.11 – Subdelegation by Delegated Third Parties

A Delegated Third Party may not subdelegate its functions without the express written approval of the delegating Anti-Doping Organization. Where subdelegation is approved, the Delegated Third Party shall be jointly liable for the conduct of the subdelegated entity, and the Anti-Doping Organization shall ensure that effective contractual safeguards, compliance mechanisms, and reporting structures are in place to monitor and control such subdelegation.

Amended Comment to Article 20

Delegated Third Parties and any authorized subdelegates must assume direct accountability for their conduct under the Code. The International Standard for Code Compliance by Signatories (ISCCS) shall not apply sanctions to a Signatory for misconduct exclusively attributable to a Delegated Third Party or subdelegate, provided that the Signatory has met its oversight obligations, including through the establishment of binding contractual terms, monitoring frameworks, and a documented history of due diligence.

Reasons for suggested changes

The current wording of Article 20 of the World Anti-Doping Code places full responsibility on Anti-Doping Organizations (ADOs) for ensuring that all delegated functions are performed in compliance with the Code and International Standards. While this approach reinforces the ADO's role as the primary accountable body, it creates a disproportionate burden in cases where the actual breach stems from the intentional or grossly negligent misconduct of a Delegated Third Party (DTP), over whom the ADO may have limited practical control.

1. Need for Clear Attribution of Responsibility

The proposed changes clarify that DTPs are not merely service providers under private contract, but active participants in anti-doping operations whose deliberate or grossly negligent misconduct must trigger direct consequences under the Code. Without this distinction, ADOs may face sanctions under the International Standard for Code Compliance by Signatories (ISCCS) for violations they neither committed nor could have reasonably prevented, even if they exercised appropriate due diligence and oversight. This undermines legal fairness and creates unacceptable risk exposure for ADOs and the nations they represent.

2. Preservation of Signatory Integrity under the ISCCS

The ISCCS currently allows for the imposition of serious consequences, including limitations on event hosting or Olympic participation, on Signatories found to be non-compliant. By explicitly excluding ISCCS sanctions in cases where the breach is exclusively attributable to a third or subdelegated party, and where the Signatory has fulfilled its oversight obligations, the proposed changes ensure proportionality and prevent unjust collective penalties.

3. Legal Coherence and Consistency

The previous formulation of Article 20, stating that the ADO remains "fully responsible," while also requiring DTPs to comply with the Code, created ambiguity regarding ultimate liability. The revised language harmonizes this by clearly distinguishing between:

1. The ongoing duty of oversight borne by the ADO; and
2. The direct accountability of the DTP (or subdelegate) for its own misconduct.

This alignment enhances legal clarity for all stakeholders, including Signatories, DTPs, and regulators.

4. Regulation of Subdelegation

The absence of any reference to subdelegation in the current Code creates a regulatory vacuum. In today's complex anti-doping landscape, DTPs often subcontract functions to additional providers, raising concerns about transparency, data security, traceability, and compliance. The proposed changes either prohibit subdelegation entirely or strictly condition it upon prior written approval by the ADO and the imposition of equivalent compliance obligations. This protects the integrity of the anti-doping chain of custody and ensures that accountability remains traceable and enforceable.

5. Protection of Athletes and Systemic Credibility

By ensuring that all actors involved in the anti-doping process, whether Signatories, DTPs, or subdelegates, are clearly bound to the Code and subject to enforceable obligations, these changes enhance the overall credibility, fairness, and resilience of the anti-doping system. They also help ensure that athletes can trust the institutions responsible for clean sport and that violations are addressed at their true source.

ONAD RD SUBMITTED

Milton Pinedo, Director Ejecutivo (Dominican Republic)
NADO - NADO

General Comments

In the 121 comment, it refers in the example to FINA and FIBA, but FINA is now World Aquatics, and it is important to note.

Article 20.5.6: The way this article is written, it seems that the NADO is the responsible to make the payment to the athlete or the ASP, and because of that, it can withold the funds.

Anti-Doping Norway SUBMITTED

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

General Comments

We generally welcome the direction the article is going. In particular, we welcome:

- The addition of the obligations related to conduct mandatory investigation of Athlete Support Personnel (ASP) in the case of any ADRV involving a protected person or Minor or where the ASP has provided support for more than one athlete found to have committed and ADRV.
- The addition of the obligation by ADOs that are not NADOs to respect the autonomy and independence of National Anti-Doping Organizations as well as the requirements of National Anti-Doping Organization Operational Independence

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 20 – One of WADA's foundational principles is transparency. USADA urges WADA to require transparency on the most basic and fundamental elements of the anti-doping system. This can be achieved by requiring every Anti-Doping Organization that conducts testing to publish, by athlete, testing numbers updated at least on a monthly basis. Such a requirement serves the purposes of transparency, which builds confidence and trust in the anti-doping system, and accountability, which motivates anti-doping organizations that do insufficient testing to increase their testing resources and planning. If the rules require this, and athletes have agreed to the rules, the data can be published.

Romanian Doping Control Laboratory SUBMITTED

Stan Cristina, Director (Romania)

Other - WADA-accredited Laboratories

General Comments

We would particularly appreciate the recognition of the importance and involvement of Doping Control Laboratories in the fight against doping in sport by including the definition of WADA-accredited Laboratory and their Role and Responsibilities in the Code, given the major importance of Laboratories in proving and deterring doping. Moreover, the scientific foundation of doping control is established, supported and developed by WADA-accredited doping control Laboratories. In the Code, an entire article is dedicated to the activity of Laboratories - article 6 - Analysis of samples.

It would be right that within the definition of the Laboratory its responsibilities should also be included, as established in the definitions for ADO, DTP, NADO, NOC, etc.

The only 30 WADA-accredited Doping Control Laboratories need support and appreciation from WADA and the sports and anti-doping community, given that they are responsible for analyzing all doping control samples collected as part of the anti-doping programs of the over 150 testing authorities worldwide. In practice, the Laboratories ensure the implementation of anti-doping testing programs.

From sample reception, handling, processing, instrumental laboratory analyses to reporting results and compliance with international standards, Laboratories work involves a high level of professionalism and accuracy.

In addition, laboratory personnel must be constantly up-to-date with new, rapidly evolving doping methods and laboratory standards. This constant updating of knowledge requires not only considerable intellectual effort, but also a deep personal involvement in maintaining the highest professional standards. This professional dedication should be appreciated and publicly recognized.

By recognizing their work, not only will the Laboratories' effort and dedication be validated, but the fundamental values of sport will also be supported: fairness, integrity, and respect for human health.

Article 20.1.10 (2)

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

Support the article in general. Although an athlete may have many persons in their entourage that defines as an Athlete support personnel (ASP). As the investigation in mandatory the role of the ASP could be clearer (in a comment or guideline)-

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

Support the article in general. Although, an athlete may have many persons in their entourage that defines as an Athlete support personnel (ASP). As the investigation in mandatory the role of the ASP could be clearer (in a comment or guideline).

Article 20.1.17 (1)

International Testing Agency SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

We support the underlying principle of this new provision, however this new positive obligation may be very burdensome for ADOs (and NFs) to implement and monitor.

Article 20.3.2 (1)

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

To require, as a condition of membership, that the *National Federations* have ensured that the *National Anti-Doping Organisation* possess complete authority to implement their *Anti-Doping Activities* over all Athletes and Other Persons under the jurisdiction of the National Federations, and that the policies, rules and programs of their *National Federations* and other

members are in compliance with the *Code* and the *International Standards*, and to take appropriate action to enforce such compliance; areas of compliance shall include but not be limited to: [etc.…]

Reasons for suggested changes

Furthermore, it should be made clear that the IFs should play a role in ensuring that the NFs have ensured that the NADO possesses complete authority to implement their activities over all athletes under their jurisdiction.

Ref. the IST major modifications document, it could be considered adding a comment that this includes ensuring, where this is necessary, obtaining consent from parents/guardians of those athletes who do not have the legal capacity to consent on their own.

Article 20.3.13 (1)

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

Articles 20.3.12 and 20.3.13 Though we support the intention of this article, we are not sure it has been fully thought through, especially in the case of team sports, where it does not seem to be workable in practice. Team sport ASP will have responsibility for considerably more elite athletes during their career than those working in an individual sport, and this therefore increases their chances of triggering this clause over a long career (especially if the sanction is not time-limited, which it must be).

Similarly, in team sports (though perhaps not exclusively), teams may have numbers of ASP in double-figures and these can change regularly as the head coach/manager changes in any given season. Would the intention be that ADOs investigate all ASP who have *ever* worked with the athlete? This would require an extensive range of investigative resources and is not practical. It is also not the case that every ASP will have a direct and equal relationship with every athlete. We would suggest that more thought is invested in how this will work in practice (and we're not entirely sure it can work at all), and the drafting be amended accordingly. We would be happy to assist further with this should it be of use to WADA.

Furthermore, expecting (via **article 20.3.22**) National Federations to implement Codes of Conduct and related disciplinary action against ASP seems to be something of an overreach for the Code and will require significant resources for ADOs to monitor and implement. It should absolutely be an aspiration, but we do not consider it to be realistic as a requirement.

Article 20.3.22 (1)

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)

Sport - IF – Summer Olympic

General Comments

This is a very ambitious provision and although the IFs should strive towards this goal, it may be hard to implement it depending on the level of development of each National Federation.

Article 20.4.14 (1)

NOC*NSF

SUBMITTED

Team Integrity, Advisor (Netherlands)

Sport - National Olympic Committee

General Comments

In its current form, the article may lead to simultaneous investigations by different parties (i.e. the NOC as well as the NADO), which undermines the authority of the NADO. It would create a parallel system of investigation and enforcement alongside the globally harmonised disciplinary framework (one NADO per country, one IF per sport, etc.). Therefore, to avoid confusion about their respective roles and responsibilities under the Code, article 20.4 should clarify that the NOC should (a) report possible breaches of the Code to the NADO, (b) defer investigation of such possible breaches to the NADO, and (c) support the NADO in their investigation of possible breaches of the Code.

NOC*NSF believes that the NADO holds primary responsibility for investigating potential breaches of the Code. The NADO has the necessary investigative powers and subject-matter expertise. According to Article 20.4.7, Athlete Support Personnel are bound by the Code.

Under Article 20.4.13, the NOC is required to take appropriate action when a potential breach of the Code by Athlete Support Personnel is suspected. In such cases, NOC*NSF aims to avoid a situation where its own investigation might interfere with—or even compromise—an investigation conducted by the NADO.

The proposed amendment to Article 20.4.14 clarifies that the NOC is obligated to cooperate with any such investigation.

Secondly, from a GDPR perspective, reporting personal information from the NOC to WADA is likely not feasible. This issue may also arise in other areas related to the Code. NOC*NSF therefore requests that the Code Drafting Team avoid including obligations that conflict with the GDPR or other European legislation. It would be helpful if the Code would explicitly state that EU legislation takes precedence over the Code, in order to prevent compliance issues for EU countries.

Suggested changes to the wording of the Article

To cooperate with any investigation of Anti-Doping Organizations of ~~conduct an automatic investigation~~ of Athlete Support Personnel within their authority in the case of any anti-doping rule violation involving a Protected Person or Minor and to cooperate with Anti-Doping Organizations with any ~~conduct an automatic~~ investigation of any Athlete Support Personnel who has provided support to more than one Athlete found to have committed an anti-doping rule violation. ~~The results of such investigations shall be reported promptly to WADA.~~

Reasons for suggested changes

See general comments

Article 20.4.20 (2)

NOC*NSF

SUBMITTED

Team Integrity, Advisor (Netherlands)

Sport - National Olympic Committee

General Comments

In its current form, this article places an unnecessary administrative burden on National Federations. According to Article 20.4.7, Athlete Support Personnel are already required to be bound by the Code, so there is no need to duplicate this requirement in a separate Code of Conduct.

More importantly, NOC*NSF believes that the NADO holds primary responsibility for investigating potential breaches of the Code. The NADO has the necessary investigative powers and subject-matter expertise. However, as currently written, the article could result in parallel systems for investigating and sanctioning doping violations.

Suggested changes to the wording of the Article

To encourage ~~adopt and implement, and require~~ each member or recognized National Federation, to adopt and implement Code of Conduct provisions allowing the imposition of disciplinary action against Athlete Support Personnel under its authority and not otherwise bound to the Code who violate their obligations under Article 21.2 where such violation would not otherwise constitute an anti-doping rule violation or violation of Article 10.14.1.

Reasons for suggested changes

The proposed changes to the article reinforce the NADO's role as the primary authority. They also clarify that a National Federation is only responsible for investigating potential issues when it is clear that the NADO has no jurisdiction over the individual in question. Without these changes, the article could still lead to parallel investigations: one by the NADO into breaches of the Code, and another by National Federations into breaches of the Code of Conduct that fall outside the Code's scope. In practice, this could hinder—and potentially harm—NADO investigations.

As a core principle, NOC*NSF encourages its National Federations to allow the NADO to lead any investigation first, as it is highly likely that such doping-related matters involve individuals who are also bound by the Code.

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)

Public Authorities - Government

General Comments

Allowing federations to impose disciplinary sanctions on management personnel for acts that do not directly constitute anti-doping rule violations could create confusion and complicate the system, as only ADOs are competent to impose sanctions related to anti-doping – in order to ensure that decisions are made independently. Therefore, it would be more appropriate for these sanctions to fall within the jurisdiction of the NADO rather than the national federations.

Article 20.4.21 (1)

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Re art. 20.4.2.:

To require, as a condition of membership, that the *National Federations* have ensured that the *National Anti-Doping Organisation* possess complete authority to implement their *Anti-Doping Activities* over all Athletes and Other Persons under the jurisdiction of the National Federations, and that the policies, rules and programs of their *National Federations* and other members are in compliance with the *Code* and the *International Standards*, and to take appropriate action to enforce such compliance

Re. art. 20.4.3:

To respect the autonomy and independence of the National Anti-Doping Organizations as well as the requirements of National Anti-Doping Organization Operational Independence. ~~in their country and not to interfere in its operational decisions and activities~~

Re. art. 20.4.21

~~To respect the autonomy and independence of National Anti-Doping Organizations as well as the requirements of National Anti-Doping Organization Operational Independence~~

To ensure that the *National Anti-Doping Organization* possess complete authority to implement their *Anti-Doping Activities* over all *Athletes* and other *Persons* under the jurisdiction of the National Olympic Committee and National Paralympic Committee.

Reasons for suggested changes

We have take nthe liberty to comment on art. 20.4.2, 20.4.3 and 20.4.21 together as they are inter connected.

There is an overlap between 20.4.3. and 20.4.21, which could benefit from being merged into one!

Furthermore, it should be made clear that the NOC and NPC should play a role in ensuring that the NADO possesses complete authority to implement their activities over all athletes under the NOC, NPC and the national federations.

Ref. the IST major modifications document, it could be considered adding a comment that this includes ensuring, where this is necessary, obtaining consent from parents/guardians of those athletes who do not have the legal capacity to consent on their own.

Article 20.5.1 (4)

Danish Ministry of Culture
Anne Sofie Minor Büchler, Head of section (Danmark)
Public Authorities - Government

SUBMITTED

General Comments

The Danish Ministry of Culture would like to ask for a specification as to what implications the new definition of NADO operational independence might have. Specifically, what WADA means by the sentence *"A National Anti-Doping Organization shall neither delegate any Doping Control responsibility to a sport organization or government entity nor permit a sport organization or government entity to conduct any Doping Control responsibility"*.

In Denmark, the Danish National Sports Confederation and the Danish National Olympic Committee are under one organization, Danmarks Idrætsforbund (DIF). Among other things, DIF serves as a secretariat for the "Hearing Panel" and "Appellate Bodies". The new definition of a NADO's operational independence and the prohibition of delegating any doping control responsibility to a sport organisation thus might challenge the sports governance structure in Denmark.

Please be aware, that the comments from the Dansih Minsitry of Culture might undergo slight changes after the deadline, due to a missing final approval from the minister.

Ministry of Culture and Equality SUBMITTED

Robin Mackenzie-Robinson, Senior advisor (Norge)

Public Authorities - Government

General Comments

New definition: "National Anti-Doping Organization Operational Independence"

The Ministry would like to comment on the proposed new definition of National Anti-Doping Organization Operational Independence.

The Ministry's comments to the proposed new definition

Operational independence is a fundamental principle for a well-functioning anti-doping system, ensuring that decisions and priorities related to doping control are free from undue influence or interference. The Ministry fully supports the principle of operational independence, but believes it should apply equally to all doping control activities. To single out *National Anti-Doping Organization Operational Independence* does not seem justified, given that operational independence should be a governing principle for all doping control activities, both nationally and internationally.

The Ministry therefore recommends replacing the definition of *National Anti-Doping Organization Operational Independence* with a definition of operational independence of all organizations conducting doping control responsibilities.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

The principle of operational independence is important, and should apply not only to National Anti-Doping Organisations, but to all Anti-Doping Organisations. To ensure the proper and consistent application of the Code and ensure that all anti-doping processes are subject to good governance and protected from undue influence, the principle of independence should apply equally to all organisations, including International Federations. Maintaining a transparent, consistent and effective anti-doping program is a collective responsibility that must be shared by all Anti-Doping Organisations.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

There is a basic drafting error in relation to this provision, in that the definition of **national anti-doping organisation operational independence** contains substantive provisions that apply to national anti-doping organisations. Substantive provisions should not be included within definitions but within the text

of the rules themselves. This provides legal certainty in respect of the commitments that are entered into by code signatories.

Article 20.5.2 (7)

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

ARTICLE 20.5.2 : RESPONSIBILTES OF NADOS :

NADOs are responsible for implementing compliant rules.

However, NADOs are not responsible for adopting legislation (which is the responsibility of the competent Parliament) or government regulations (which is the responsibility of the competent Government).

To reflect this reality and avoid potential compliance consequences related to a prerogative that does not fall within the jurisdiction of NADOs, it is proposed to delete the reference to adopting compliant rules

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

Article 20.5.2 : Responsabiltes of NADOs :

NADOs are responsible for implementing compliant rules.

However, NADOs are not responsible for adopting legislation (which is the responsibility of the competent Parliament) or government regulations (which is the responsibility of the competent Government).

To reflect this reality and avoid potential compliance consequences related to a prerogative that does not fall within the jurisdiction of NADOs, it is proposed to delete the reference to adopting compliant rules.

Along the same lines of fair accountability, NADOs must also work within certain limits, particularly legal limits or limits related to their jurisdiction.

NADOs cannot therefore commit to matters over which they are not competent.

In this regard, the proposed addition at the end of Article 20.5.2 should also be deleted.

Suggested changes to the wording of the Article

In view of the above and in order to limit the liability of ONADs to what falls within their competence, Article 20.5.2 must be adapted and worded as follows:

"To implement anti-doping rules and policies which conform with the Code and the International Standards."

Reasons for suggested changes

The reasons are explained above in the general comments and in the suggested changes to the wording of the Article.

NADA SUBMITTED

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

General Comments

NADOs are responsible for implementing compliant rules as far as they are competent to do so in the respective country's sport system.

However, NADOs are not responsible for adopting legislation (which is the responsibility of the competent Parliament) or government regulations (which is the responsibility of the competent Government).

To reflect this reality and avoid potential compliance consequences related to a prerogative that does not fall within the jurisdiction of NADOs, it is also proposed to delete the reference to adopting compliant rules.

Furthermore, NADA recommends removing the word "complete" from the proposed addition. WADA's addition requiring NADOs to have "complete authority" to implement their anti-doping rules raises questions as to the difference between authority and "complete" authority. For example, one could argue that complete authority means that no one can take away that authority. But, of course, such authority often originates in government laws the NADO has no authority to change.

NADOs are responsible for implementing compliant rules as far as they are competent to do so in the respective country's sport system.

However, NADOs are not responsible for adopting legislation (which is the responsibility of the competent Parliament) or government regulations (which is the responsibility of the competent Government).

To reflect this reality and avoid potential compliance consequences related to a prerogative that does not fall within the jurisdiction of NADOs, it is also proposed to delete the reference to adopting compliant rules.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

NADOs are responsible for implementing compliant rules as far as they are competent to do so in the respective country's sport system.

However, NADOs are not responsible for adopting legislation (which is the responsibility of the competent Parliament) or government regulations (which is the responsibility of the competent Government).

Suggested changes to the wording of the Article

To reflect this reality and avoid potential compliance consequences related to a prerogative that does not fall within the jurisdiction of NADOs, it is also proposed to delete the reference to adopting compliant rules.

Furthermore, SSI recommends removing the word "complete" from the proposed addition. WADA's addition requiring NADOs to have "complete authority" to implement their anti-doping rules raises questions as to the difference between authority and "complete" authority. For example, one could argue that complete authority means that no one can take away that authority. But, of course, such authority often originates in government laws the NADO has no authority to change. Additionally, in Switzerland the implementation of the Code is the

Doping-Statute which is issued by Swiss Olympic Association (also a Code signatory) and not SSI. This system cannot be changed, and, foremost, it is not necessary to change as it works.

RUSADA SUBMITTED

Viktoriya Barinova, Deputy director (Russia)

NADO - NADO

General Comments

The comment is related to Roles and Responsibilities of National Anti-Doping Organizations and mostly to article 20.5.2:

The provisions of the Code and Standards should be amended to maintain the boundaries of NADO's responsibility for compliance of the documents governing anti-doping in sport with the Code. National Anti-Doping Organizations should be responsible only for the rules and policies under its authority and where these documents are compliant to the Code and ensure NADO's complete authority to implement Anti-Doping Activities over all Athletes in its jurisdiction, NADO should not be recognized as “non-compliant with the Code” in case WADA or other organizations have questions regarding other documents, the development and approval of which are beyond the authority, competence and jurisdiction of NADOs.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 20.5.2 – WADA’s addition requiring NADOs to have “complete authority” to implement their anti-doping rules raises questions as to the difference between authority and “complete” authority. For example, one could argue that complete authority means that no one can take away that authority. But, of course, such authority often originates in government laws the NADO has no authority to change. USADA recommends removing the word “complete” from the proposed addition.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

This is a poorly considered provision. The wording ‘*ensure that they possess complete authority to implement their Anti-Doping Activities over all Athletes and other Persons under their jurisdiction*’ is tautologous in that if a national anti-doping organisation does not have this power, then it will be because its anti-doping rules do not conform with the Code. If the anti-doping rules conform to the code, national anti-doping organisation will have this power. If they do not, it will not. The words therefore add very little.
As to the remainder of Article 20.5.2:
1. The text of the Code has undergone three revisions during its life-cycle, which is evidence that its text is neither static nor incapable of improvement and development. The Code text is one formulation of a key set of operational provisions that require harmonised adoption across all sports. It is desirable that sports use, as far as possible, this formulation because that will aid harmonisation. But using the same

formulation is not necessary to achieve harmonisation as long as an alternative approach achieves the same effect. Few, if any, destinations have only one pathway.
2. A simple example can be developed from Code Article 2.4, which provides -

Whereabouts Failures by an Athlete

> *Any combination of three missed tests and/or filing failures, as defined in the International Standard for Results Management, within a twelve-month period by an Athlete in a Registered Testing Pool.*

3. This provision explains that if an Athlete commits three Missed Tests/Filing Failures in a 12 month period that will constitute a doping violation. It could just as easily be worded as follows –

Whereabouts Violation

> *Any Athlete in a Registered Testing Pool who commits one of three Missed Tests; three Filing Failures; two Missed Tests and one Filing Failure; or two Filing Failures and one Missed Test within a twelve month period will commit an Anti-Doping Rule Violation.*

4. The second wording is somewhat different to Code Article 2.4. But it nevertheless complies with the Code because as per Article 23.2 there is no 'substantive change' made by this second wording to Article 2.4. The second wording makes exactly the same provision: it might be considered to be a less efficient form of words, or it might be considered an improvement - but the intention and effect of the Code wording is completely preserved.

5. In turn, if this second wording was used by a nation in a piece of legislation, which was in turn to be implemented by the relevant NADO, the NADO should be compliant with the Code because the intention and effect of Article 2.4 is preserved. The fact that the original Code text is not transposed into the legislation is of no intrinsic significance and does not cause the NADO to fall short of its obligation under Code Article 20.5.2 to implement anti-doping rules that conform with the Code.

6. This is compatible with both Article 4.1 and 7.1 of the ISCCS, which respectively provide –

The objective of Part Two of the International Standard for Code Compliance by Signatories is to ensure that Signatories deliver Anti-Doping Programs within their respective spheres of responsibility that meet the requirements of the Code and the International Standards, so that there is a level playing field wherever sport is played.

WADA reviews Signatories' rules and regulations (and/or legislation, if that is how the Code has been implemented in a particular country) to ensure that they are compliant with the Code and the International Standards.

7. At present, a National Anti-doping Organisation risks committing a Non-Conformity if it implements anti-doping rules put in place by way of legislation, regulation, policies or administrative practices that do not **transpose** the Code. The term 'Non-Conformity' is defined as -

> *Non-Conformity: Where a Signatory is not complying with the Code and/or one or more International Standards and/or any requirements imposed by the WADA Executive Committee, but the opportunities provided in the International Standard for Code Compliance by Signatories to correct the Non-Conformity/Non-Conformities have not yet expired and so WADA has not yet formally alleged that the Signatory is non-compliant.*

Suggested changes to the wording of the Article

In this regard, the following additions to the Code and ISCCS would be helpful:

Code Article 20.5.2 should be amended as below (the underlined text is added to the existing text):

> 20.5.2 To adopt and implement anti-doping rules and policies which conform with the Code and the International Standards. **If the anti-doping rules and policies implemented by the National Anti-Doping Organisation take the form of nationally applicable legislation, regulation, policies or administrative practices these must be consistent with the Code and the International Standards.**
>
> *[Comment to Article 20.5.2:whilst it is desirable and recommended that any such legislation, regulation, policies or administrative practices transpose the relevant provisions of the Code and the International Standards (including as required by Code Article 23.2) the implementation by the National Anti-Doping Organisation of national legislation, regulation, policies or administrative practices which are consistent with the Code and the International Standards but do not transpose these provisions shall not of itself be a breach of Code Article 20.5.2]*

This would ensure that a National Anti-Doping Organisation is not at risk of committing a Non-Conformity based on the implementation of Code-compliant, but not 'Code-copy', legislation. In this regard, the ISCCS contains a number of specific provisions that deal with Non-Conformities. These could usefully be added to as follows.

New Article 7.10

Special Provisions Applicable to National Anti-Doping Organisations

7.10.1 This Article applies where a National Anti-Doping Organisation gives effect to its obligations under Article 20.5.2 of the Code (to adopt and implement anti-doping rules and policies which conform with the Code and the International Standards) by implementing legislation, regulation, policies or administrative practices within its territory of application.

7.10.2 It shall not be a Non-Conformity and shall not contravene Code Article 23.2 for the National Anti-Doping Organisation to implement such legislation, regulation, policies or administrative practices notwithstanding that such legislation, regulation, policies or administrative practices do not directly transpose the relevant wording of the Code and/or the International Standards if the CRC considers that such legislation, regulation, policies or administrative practices substantially implement are not contrary to or in any way dilute or reduce the effect of the Code and/or the International Standards.

This provision would dovetail with the Code amendment referred to above.

Reasons for suggested changes

See above

Article 20.6.15 (1)

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)

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

General Comments

There needs to be some indication of what is meant by ‘timely’ in the new 20.6.14, alternatively cross-refer to the ISRM where the meaning of ‘timely’ is set out, i.e., “To render timely decisions in their Results Management process in accordance with the ISRM”.

Suggested changes to the wording of the Article

In 20.6.14:

“To render timely decisions in their Results Management process in accordance with the ISRM”.

Article 20.8.8 (2)

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

To support the reasoning of the additions to articles 20.1 (20.1.18), 20.2 (20.2.16), 20.3 (20.3.23), 20.4 (20.4.21) and 20.6 (20.6.15), a similar addition should be made to article 20.8 concerning WADA's Roles and Responsabilities, namely "to respect the autonomy and independence of National-Anti-Doping Organizations as well as the requirements of National Anti-Doping Organization Operational Independence". WADA's influence on a NADOs (and any ADO for that matter) should not exceed its task to enforce compliance with the applicable rules.

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 20.8

WADA should add to its roles and responsibilities the following:

a. That it submit to an outside and independent compliance audit with respect to its compliance with the Code.

b. That it maintain a website for the publication of all anti-doping rule violations.

c. That it maintain a searchable database of CAS reasoned awards given the number of awards missing from the CAS website.

Article 21.2.2 (7)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

*WE HAVE A COMMENT TO **21.1.6** but not included specially so going to include it here]*

Article 21.1.6 of the Code states that athletes have a responsibility "*to cooperate with Anti-Doping Organizations investigating anti-doping rule violations,*" and the accompanying comment further elaborates that "f*ailure to cooperate is not an anti-doping rule violation under the Code, but it may be the basis for disciplinary action under a Signatory's rules*." As mentioned in our previous Code Review Feedback, we strongly believe that athletes have a fundamental right to remain silent and a privilege against self-incrimination. As such, we do not agree with the notion that failure to cooperate should be used as a basis for disciplinary action. Athletes should not be compelled to provide self-incriminating evidence or testimony that could be used against them.

Team USA AC recommends that the WADA Code explicitly codifies the right to remain silent and the privilege against self-incrimination. These rights are essential to protecting athletes from being forced into situations where they might unknowingly or unintentionally implicate themselves, and they reflect the principles of justice and fairness that should govern the anti-doping process. Any requirement for athlete cooperation must be balanced with these fundamental legal rights, and the Code should reflect this balance to ensure that the anti-doping system is fair and respects the legal rights of all athletes.

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the requirement for athletes in the Registered Testing Pool (RTP) to provide accurate and up-to-date whereabouts information. However, we respectfully request that WADA acknowledge the **practical and communication barriers** that may affect compliance for athletes with disabilities, particularly Deaf athletes. In some cases, ICSD must assist in communicating or updating this information on the athlete's behalf due to gaps in direct system access or understanding of requirements

Suggested changes to the wording of the Article

For athletes with disabilities, including Deaf athletes, Anti-Doping Organizations may need to provide additional communication support, plain language explanations, or system navigation assistance to ensure athletes are able to meet their whereabouts obligations. ADOs are encouraged to work with the athlete's federation or representative body to facilitate accurate and timely compliance

Reasons for suggested changes

Many Deaf athletes are not fully integrated into NADO testing systems and may not receive training on ADAMS or whereabouts responsibilities in accessible formats. Some lack the technical or linguistic support to update their whereabouts independently. ICSD often acts as an intermediary to assist with communication and compliance. Recognizing this reality in the Code's comment would promote a fairer and more inclusive approach to whereabouts requirements and help prevent unintended rule violations.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)
Public Authorities - Government

General Comments

With respect to Article 21.2, SIA notes the additional role and responsibility of Athlete Support Personnel to attend third party Education presentations (Article 21.2.2).

SIA further notes that this additional role and responsibility of Athlete Support Personnel has not been replicated as an additional role and responsibility of Athletes within Article 21.1 nor as an additional role and responsibility of Persons Bound by Rules Adopted Pursuant to the Code within Article 21.3. In SIA's view, the role and responsibility to attend, and engage with, Anti-Doping Education programs should extend to Athletes, Athlete Support Personnel and Persons Bound by Rules Adopted Pursuant to the Code.

Suggested changes to the wording of the Article

SIA suggests adding a new Article to Article 21.1 and Article 21.3 that mirrors our suggested change to 21.2.2 listed below.

SIA proposes amending Article 21.2.2 as follows:

"To ~~attend third-party anti-doping Education presentations~~ engage with Anti-Doping Education program(s) and to provide accurate anti-doping Education information to the Athletes who they support, particularly in the case of Protected Persons and Minors"

Reasons for suggested changes

Articles 21.1 and 21.3: See above.

Article 21.2.2: SIA's view is that the wording of "attend third-party education presentations" has the capacity to be unnecessarily prescriptive and may not align with terminology used in the draft ISE.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

The sentence “To attend third-party anti-doping Education presentations and to provide accurate anti-doping Education information to the Athletes who they support, particularly in the case of Protected Persons and Minors.” seems odd. We suggest to chance the sentence: “To participate in third-party anti-doping Education Activities and to provide accurate anti-doping Education information to the Athletes who they support, particularly in the case of Protected Persons and Minors.”

ONAD RD SUBMITTED

Milton Pinedo, Director Ejecutivo (Dominican Republic)

NADO - NADO

General Comments

It says "To attend third-party anti-doping Education presentations" but is seems something ambiguous, it can be any antidoping presentation. We think it should be specified that a presentation that cover all the requirements established by the ISE.

USADA SUBMITTED

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

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Article 21.2.2 – USADA recommends replacing “To attend third-party anti-doping Education presentations” with “Engage with anti-doping education programs.” This allows for more flexibility with how ADOs provide education and how ASP can receive/obtain that education.

USADA SUBMITTED

Tammy Hanson, Elite Education Director (USA)

NADO - NADO

General Comments

From PEERS

- add a new point: “ 21.2.2 To attend third-party anti-doping Education presentations and to provide accurate anti-doping Education information to the Athletes who they support, particularly in the case of Protected Persons

and Minors." Replacing "attend in third-party anti-doping Education presentations" with "engage with Anti-Doping Education program(s).

Article 21.4.4 (1)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the requirement that Athlete Support Personnel (ASP) must use their influence responsibly and act in a manner that supports anti-doping compliance. In the context of Deaf sport, ASP often includes individuals such as **sign language interpreters, communication aides, or guides** who play a critical role in helping athletes understand procedures and interact with officials. However, these individuals may not have prior experience in sport or anti-doping environments and may unintentionally misinterpret or miscommunicate key information

Suggested changes to the wording of the Article

No change to the article text is proposed, but we recommend adding the following to the Comment section:

In disability sport contexts, Athlete Support Personnel may include interpreters or communication aides who assist athletes with disabilities in understanding and complying with anti-doping procedures. ADOs should ensure that these individuals receive appropriate education or guidance on their role to avoid misunderstandings that could unintentionally compromise the athlete's compliance or case

Reasons for suggested changes

Deaf athletes may rely heavily on their interpreters or other support personnel during testing, hearings, and education sessions. If ASP are unaware of their responsibilities or unintentionally give incorrect information, this could result in procedural errors or unfair consequences for the athlete. ICSD recommends that the Code explicitly acknowledge the need for tailored anti-doping education for ASP in disability sport, especially those not traditionally involved in sport governance, to promote informed and ethical support across all roles

Article 21.2.9 (2)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the obligation for athletes to fully cooperate with Anti-Doping Organizations (ADOs) during investigations and proceedings. However, for athletes who are Deaf, this cooperation depends heavily on whether communications are provided in an accessible manner. If procedures are carried out without interpretation, plain language support, or other accessible formats, Deaf athletes may be unintentionally non-compliant due to lack of understanding — not intent

Suggested changes to the wording of the Article

No change to the article text is proposed, but we recommend adding the following to the Comment section:

In order to ensure meaningful cooperation, ADOs should provide communications and procedural information in accessible formats for athletes with disabilities. For Deaf athletes, this may include sign language interpretation, captioning, or written plain language explanations, depending on the athlete's communication needs.

Reasons for suggested changes

Deaf athletes may struggle to respond appropriately to ADO requests or proceedings if the information is not presented in a way they can fully understand. Miscommunication or lack of access should not be mistaken for refusal to cooperate. ICSD emphasizes that the responsibility to provide accessible communication lies with the ADO managing the process — not with ICSD or the athlete. Including this guidance will support fairness and reduce the risk of unjust outcomes based on communication barriers rather than actual misconduct

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)

NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, believe the duty of care expected of ASP should be more clearly articulated. Clearer framing of complicity helps reinforce the expectation that support personnel must actively uphold clean sport principles, and ensures accountability where they knowingly enable or conceal doping violations.

Article 22.2 (8)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the encouragement for governments and public authorities to actively promote compliance with the World Anti-Doping Code through education and advocacy. However, we respectfully request that WADA include a reference to the importance of ensuring **accessibility and inclusion** in such efforts, particularly for athletes with disabilities such as Deaf athletes. Government-led programs may unintentionally exclude or overlook these groups if materials are not adapted to their communication needs

Suggested changes to the wording of the Article

No change to the article text is proposed, but we recommend adding the following to the Comment section:

WADA encourages governments and public institutions to ensure that anti-doping education and outreach activities are inclusive of persons with disabilities, including Deaf athletes, by providing materials in accessible formats such as sign language, captions, and plain language

Reasons for suggested changes

Deaf athletes are often excluded from national-level anti-doping outreach or awareness programs due to the absence of adapted communication materials. This creates an unequal playing field in terms of access to information and understanding of Code responsibilities. By including a reference to accessibility in the Comment section, WADA would help promote fairer and more consistent anti-doping education worldwide, in alignment with the UN Convention on the Rights of Persons with Disabilities (CRPD)

Ministry of Health, Welfare and Sport SUBMITTED

Bram van Houten, Policy adviser (Netherlands)

Public Authorities - Government

General Comments

Article 22 Code: we oppose the insertion of a new subarticle 22.2. In this article, the concept of 'the principles of the Code' is interpreted. This concept is part of the UNESCO Convention, and it is therefore to the Conference of Parties of the UNESCO Convention to interpret the meaning of this concept, since it is States Parties who are committed to and bound to this text. This unilateral interpretation can therefore not be accepted. Even if the principles would be laid down in the code the current formulation would basically entail that the principles encompass the entire Code. This is in contradiction to the UNESCO convention. The signatories expressly did not bind themselves to the entire Code but merely its principles.

More generally, reformulation of this article is in order. As is, it outlines expectations only of stakeholders that are not signatories. As such, implementation of the article cannot be monitored, and the subject is therefore ill-equipped to be part of the Code. Moreover, the subarticles go beyond the extent of what governments have committed to do by ratifying the Convention, which should be addressed. And there is a degree of duplication in the text of the article and in the footnote 137 (new).

We propose to shorten this article by deleting the subarticles, reformulate the remainder of the article and integrate part of the text of footnote 137 (new), which should be deleted. The article would then read:
"Governments cannot be parties to, or be bound by, private non-governmental instruments such as the Code. For that reason, governments are not asked to be Signatories to the Code. Each government's commitment to **fighting doping in sport** will be evidenced by its signing the Copenhagen Declaration on Anti-Doping in Sport of 3 March 2003, and by ratifying, accepting, approving or acceding to the UNESCO Convention.

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

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

Suggested changes to the wording of the Article

We propose to shorten this article by deleting the subarticles, reformulate the remainder of the article and integrate part of the text of footnote 137 (new), which should be deleted. The article would then read:
"Governments cannot be parties to, or be bound by, private non-governmental instruments such as the Code. For that reason, governments are not asked to be Signatories to the Code. Each government's commitment to **fighting doping in sport** will be evidenced by its signing the Copenhagen Declaration on Anti-Doping in Sport of 3 March 2003, and by ratifying, accepting, approving or acceding to the UNESCO Convention.

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

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

The new insertion under 22.2 can not be accepted.

Reasons for suggested changes

In this article, the concept of 'the principles of the Code' is interpreted. This concept is part of the UNESCO Convention, and it is therefore to the Conference of Parties of the UNESCO Convention to interpret the meaning of this concept, since it is States Parties who are committed to and bound to this text. This unilateral interpretation can therefore not be accepted. Even if the principles would be laid down in the code the current formulation would basically entail that the principles encompass the entire Code. This is in contradiction to the UNESCO convention. The signatories expressly did not bind themselves to the entire Code but merely its principles.

More generally, reformulation of this article is in order. As is, it outlines expectations only of stakeholders that are not signatories. As such, implementation of the article cannot be monitored, and the subject is therefore ill-equipped to be part of the Code. Moreover, the subarticles go beyond the extent of what governments have committed to do by

ratifying the Convention, which should be addressed. And there is a degree of duplication in the text of the article and in the footnote 137 (new).

Sport NZ SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)

Public Authorities - Government

General Comments

We understand the desire to clarify expectations on governments with respect to their support for the Code. However, proposed new 22.2 and 22.11 go further than what is in the text of the Convention.

In relation to new 22.2, the Convention refers to the commitment of states parties to the principles of the Code. However, article 22.2 goes on to state several specific matters within the Code which it states are included in the "principles". This goes further than both text of the Convention, or the Code itself, which does not contain explicit principles.

The summary document does not explain why article 22.2 has been drafted in this way, and we would be interested to know the reasoning behind this.

We are concerned about the potential for confusion as to the parameters of the obligations on governments.

Suggested changes to the wording of the Article

Our preference is that the Code text be confined to setting out the obligations in the Convention and no more. If WADA wishes to signal its expectations beyond this, this should be done using an alternative mechanism.

Reasons for suggested changes

As above.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

ARTICLE 22 INVOLVEMENT OF GOVERNMENTS

Support, but it must be taken into account that NADOs are not responsible for the adoption of legislation or government regulations. Governments, however, are the stakeholders directly involved and bear full or partial responsibility—along with parliaments—for these processes.

Separation of powers is a key principle in the rule of law. It promotes accountability, protects individual rights, and helps maintain a crucial balance.

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

A NADO should not be held responsible for the actions of its government that contributes or leads to the country's non-compliance with the Code & ISCCS.

Reasons for suggested changes

Comments about government, as a signatory, comments in ISCCS

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

General Comments

Article 22.2 : Involvement of Governments :

We support draft Article 22.2, which confirms our comment and proposal regarding Article 20.5.2.

NADOs are not responsible for the adoption of legislation or government regulations.

Governments, however, are the stakeholders directly involved and bear full or partial responsibility—along with parliaments—for these processes.

This article reflects this reality and is therefore supported.

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

General Comments

Article 22 Involvement of Governments
This comment is not for 22.2 but general comments for Article 22.

- Although we commented on this point in the first draft, it has not been reflected in the second draft.

As we believe this is an important issue, we respectfully request that you review and reconsider it.

"If there is a discrepancy between domestic law and the WADC/IS, the NADO of the respective country is sanctioned under current code.

NADO, NOC, and NPC are all signatories in the country. In light of this, if any sanctions are imposed due to discrepancies between the national laws and the WADC, similar sanctions should be imposed on NOC and NPC as well as NADO."

GM Arthur SUBMITTED
Graham Arthur, Independent Policy Expert (UK)
Other - Other (ex. Media, University, etc.)

General Comments

Governments already commit themselves to the principles of the Code by way of Article 4 of the UNESCO Convention.
The proposed text of Article 22.2 does not list ‘principles’ and as such will not be binding on Governments.

Suggested changes to the wording of the Article

Article 22.2 should read -

> 22.1 Each government should commit itself to the principles of the Code, which include ithe purpose, scope and organization of the World Anti-Doping Program and the Code. ~~,~~
> ~~the definition of doping, the provisions on Doping Control, implementation ofdecisions, education, re~~
> ~~monitoring and enforcing compliance with the Code and modification of the Code.~~

Reasons for suggested changes

See above.

Article 22.11 (2)

ICSD SUBMITTED
Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD fully supports the encouragement for governments and public authorities to promptly share information that may help prevent serious harm to athletes or the integrity of sport. However, we emphasize that such communications must be **accessible to all athletes**, including those who are Deaf, to be effective. In emergency situations, inaccessible communication can delay action or leave some athletes uninformed of critical risks. Deaf athletes are often **the last to know** because information is not provided in formats they can access immediately

Suggested changes to the wording of the Article

No change to the article text is proposed, but we recommend adding the following to the Comment section:

In sharing information related to health, safety, or integrity, governments and public bodies should ensure accessibility for athletes with disabilities. This includes providing urgent communications in formats such as sign language, captions, or easy-to-understand visual materials where appropriate.

Reasons for suggested changes

Deaf athletes are often **the last to know** in emergency situations due to inaccessible delivery of public alerts, medical warnings, or other critical updates. These delays can lead to serious health risks or even unintentional anti-doping rule violations. By promoting accessible communication in Article 22.11, WADA can help ensure that all athletes—regardless of hearing ability—receive timely and life-protecting information on equal terms

GM Arthur SUBMITTED
Graham Arthur, Independent Policy Expert (UK)
Other - Other (ex. Media, University, etc.)

General Comments

Regarding Article 22.9

Governments have entered into a number of commitments via the UNESCO Convention and are empowered by the UNESCO Convention to delegate the operational delivery of those commitments to a national anti-doping organisation. A national anti-doping organisation exists to fulfil the commitments of its parent government and has the powers delegated to it by that government. The effect of this provision is to provide a standard to the government in respect of the powers that it must provide to its national anti-doping organisation. Given that governments are not signatories to the Code, this provision is otiose.

Suggested changes to the wording of the Article

Each government should respect the autonomy and independence of a National Anti-Doping Organization in its country or a Regional Anti-Doping Organization to which its country belongs and~~, as well as the requirements of National Anti-Doping Organization Operational Independence, and~~ the operational independence of any WADA-accredited or approved laboratory in its country and not interfere in their operational decisions and activities.

Reasons for suggested changes

See above.

Article 24 (5)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports WADA's role in ensuring global compliance with the World Anti-Doping Code through structured monitoring, audits, and corrective actions as outlined in Article 24. However, we respectfully request that WADA formally acknowledge the operational limitations faced by smaller and disability-specific ADOs such as ICSD, and reflect this in the compliance framework and implementation guidelines. While ICSD is committed to meeting its obligations, many of the compliance requirements assume a level of capacity, staffing, and infrastructure that may not be feasible for all ADOs

Suggested changes to the wording of the Article

No changes to the core legal text are proposed, but we suggest the following addition to the Comment section of Article 24:

In the application of this Article, WADA recognizes that ADOs differ in size, scope, and resources. Smaller ADOs and those representing athletes with disabilities may face distinct challenges in meeting certain compliance obligations. WADA encourages the application of flexibility, tailored capacity-building support, and realistic timelines to ensure compliance efforts are inclusive, feasible, and proportionate to the ADO's structure and mandate

Reasons for suggested changes

ICSD does not have full-time anti-doping staff or in-house testing operations. It relies on Local Organizing Committees (LOCs) and National Anti-Doping Organizations (NADOs) for testing logistics and external support for results management. The current audit and reporting model does not account for these practical arrangements and may place undue pressure on small ADOs to demonstrate compliance using mechanisms designed for larger federations. Without appropriate adjustments, small or event-based ADOs risk being deemed non-compliant for reasons unrelated to commitment or intent, but rather due to systemic limitations. Recognizing proportionality and providing guidance that accommodates varying ADO capacities will strengthen global Code implementation in a fair and inclusive way.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

ARTICLE 24 MONITORING AND EVALUATING COMPLIANCE WITH THE CODE AND UNESCO CONVENTION

Article 24.1.3 The 5,000 CHF non-refundable fee for disputing an alleged non-compliance is very high, especially for smaller or less resourced ADOs.

Where possible, this fee, which discourages appeals, should be reduced or even eliminated. Where CAS agrees with the dispute, the fee should be refunded.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

Article 24.3.1

The non-refundable administration fee of CHF 5.000,- can be seen as unfair obstacle to legal disputes.

Anti Doping Danmark SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

General Comments

Article 24 Monitoring and Evaluating Compliance with the Code and UNESCO Convention

We don’t have any comments on this proposal; however, we expect that any changes to the International Standard for Code Compliance will be reflected in the code.

NADA India SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Article 24.1.2 (1)

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

(a) As the sole exception to Article 24.1.2 and in order to permit a transitional period for *Signatories* to institute the necessary frameworks and processes, if a *Signatory* fails to comply with the new requirements related to ensuring the independence of hearing and appeal panels from sport organizations and government departments responsible for sport (as described in the definition of National Anti-Doping Organizational Operational Independence), *WADA* will not assert that failure as a *Non-Conformity* and the matter will not result in the initiation of a corrective procedure as set out in the *International Standard* for *Code Compliance* by *Signatories* until (at earliest) 1 January 2029.

Reasons for suggested changes

Given that we – and many others – may need to establish separate new first instance hearing and appeal hearing institutions in order to comply with point (3) of the NADO Operational Independence definition, which may well be a complicated, time-consuming, and multi-stage and multi-stakeholder process, we suggest that an ADO's failure to comply with these new requirements should not result in the initiation of a corrective procedure as set out in the ISCCS before 1 January 2029. In light of that suggestion, we propose creating a new sub-article (a) to Article 24.12. to accommodate a longer transitional period

Article 24.1.3 (9)

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

We consider that the administration fee should be refundable in cases where the ADO is successful in challenging a non-compliance and/or the proposed consequences and reinstatement conditions.

Ministry of Culture and Equality SUBMITTED

Robin Mackenzie-Robinson, Senior advisor (Norge)

Public Authorities - Government

General Comments

New proposed article 24.1.3

The Ministry would like to comment on the new proposed Article 24.1.3, introduced in the first draft of the World Anti-Doping Code.

The Ministry´s comments on the proposed new Article 24.1.3

The Ministry has some concerns regarding the proposed

CHF 5,000 administration fee for Signatories wishing to dispute non-compliance decisions, as outlined in Article 24.1.3 in the revision of the WADA Code.

While this fee may be intended to cover administrative costs, it could create barriers for smaller organisations that may not have the financial resources to challenge WADA's decisions. This could affect those without significant funding, potentially creating an imbalance in the possibility to contest allegations of non-compliance.

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)

Public Authorities - Government

General Comments

The amount of the fees should be decided, rather than being set automatically and mandatory. In any case, CHF 5,000 may be too high a cost for very small ADOs, which could undermine their right to a fair trial if they do not have the resources to challenge an allegation of non-compliance.

If advance payment were to be made mandatory, which we oppose, it should necessarily be refundable, particularly if the OAD's challenge is successful.

Anti-Doping Sweden SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

The non-refundable fee of 5,000 CHF for disputing an alleged non-compliance is very high, especially for smaller ADOs. If possible, the fee should be reduced and if CAS agrees with the dispute, the fee should be refunded.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

Article 24.1.3 – Monitorinf and Enforcing Compliance with the Code and UNESCO Convention

The 5,000 CHF fee for disputing an alleged non-compliance is very high, especially for smaller or less resourced ADOs.

Where possible, this fee, which discourages appeals, should be reduced or even eliminated.

Suggested changes to the wording of the Article

Our proposal is included in our general comments.

Where possible, the 5,000 CHF fee for disputing an alleged non-compliance should be significally reduced or even eliminated.

Reasons for suggested changes

The reasons are explained in the general comments above.

In summary, ADOs should not be discouraged, for financial reasons, from challenging potential non-compliance.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

The 5,000 CHF non-refundable fee for disputing an alleged non-compliance is very high, especially for smaller or less resourced ADOs.

Where possible, this fee, which discourages appeals, should be reduced or even eliminated. Where CAS agrees with the dispute, the fee should be refunded.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

We do not understand the rationale for WADA requiring payment of CHF 5,000 by way of a non-refundable administration fee whereby a Signatory exercises the right to dispute alleged non-compliance, particularly in light of the obvious costs consequences that will arise for both WADA and the Signatory by virtue of the dispute being filed at the CAS.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

It is important that those entities responsible for any non-compliance are the ones being held accountable for their non-compliance and subject to consequences for non-compliance.

Suggested changes to the wording of the Article

If the Signatory wishes to dispute the alleged non-compliance and/or the proposed consequences and Reinstatement conditions set out in WADA's Article 24.1.2 notice, within twenty-one (21) days of receipt of that notice the Signatory (i) must advise WADA of the nature and scope of that dispute in writing; and (ii) must pay WADA ~~a non-refundable~~ an administration fee of CHF 5,000, which shall be refunded if CAS sides with the Signatory or the case is resolved before the CAS hearing.

Reasons for suggested changes

We cannot support the introduction of a new non-refundable administrative fee for CHF 5000, which could make smaller or less resourceful Signatories less prone to pursue a potentially legitimate right.

If an administrative fee is introduced, it should be refundable in so far that CAS sides with the Signatory disputing the allegation of non-compliance.

ONAD RD SUBMITTED

Milton Pinedo, Director Ejecutivo (Dominican Republic)
NADO - NADO

General Comments

In this article is written that: the Signatory must pay WADA a non-refundable administration fee of CHF 5,000.

a) Why does it has to be paid TO WADA?

b) Has it been taken in consideration, that is has to be paid a CAS quote also, and that if a Signatory, as a NADO, has not access to that amount of money because their budget is allocated throughout the year, and has no direct or fluid communication with the government, it might have not the possibility to make the dispute, and they might feel that they don't even have the possibility to be heard?

c) It doesn't have been specified that if in this case the payment of the CHF 5000 o WADA must be effective in the 21 days. It must be considered that in banking, the money transfer, and specifically if is international, it might take take, and also, the time they take is usually in working days not calendar days.

Article 24.1.4 (1)

NOC*NSF SUBMITTED

Team Integrity, Advisor (Netherlands)
Sport - National Olympic Committee

General Comments

Comments on article 24.1.4.8, 24.1.4.9 and 24.1.4.10:

In its current form, these articles result in athletes and sports organizations facing the consequences of non-compliance by the NADO in their country.

However, in practice, such non-compliance is almost never caused by sports organizations. In our view, it is inconsistent and unfair to impose consequences on sports organizations—and, most importantly, on athletes—when they are neither responsible for the issue nor in a position to resolve it.

Suggested changes to the wording of the Article

Suggested changes to 24.1.4.8:
Where the Signatory is ~~a National Anti-Doping Organization or~~ a National Olympic Committee or a National Paralympic Committee ~~acting as a National Anti-Doping Organization~~: non-display and (…)

Suggested changes to 24.1.4.9:
Where the Signatory is ~~a National Anti-Doping Organization or~~ a National Olympic Committee or a National Paralympic Committee ~~acting as a National Anti-Doping Organization~~: the Signatory's country (…)

Suggested changes to 24.1.10:
Where the Signatory is ~~a National Anti-Doping Organization or~~ a National Olympic Committee or a National Paralympic Committee: exclusion of some or all of the following Persons from participation in or attendance at an International Event (e.g., the Olympic Games, the Paralympic Games, any other Major Event Organization's Event, World Championships, regional or continental championships and/or any other International Events) for a specified period:
~~a) the Representatives of the National Anti-Doping Organization;~~
b) the National Olympic Committee and/or the National Paralympic Committee of the Signatory's country;
c) the Representatives of that country and/or of the National Olympic Committee and/or the National Paralympic Committee of that country; and/or
d) the Athletes and Athlete Support Personnel affiliated to that country and/or to the National Olympic Committee and/or to the National Paralympic Committee and/or to the National Federation of that country.

And a separate new article following after 24.1.10:
Where the Signatory is a National Anti-Doping Organization: exclusion of some or all of the following Persons from participation in or attendance at an International Event (e.g., the Olympic Games, the Paralympic Games, any other Major Event Organization's Event, World Championships, regional or continental championships and/or any other International Events) for a specified period: the Representatives of the National Anti-Doping Organization.

Reasons for suggested changes

NOC*NSF proposes that article 24.1.4.10 be split into two separate ones. We also recommend that the Drafting Team further reflect this division in the corresponding articles of the ISCCS, following the central principle that when a NADO is non-compliant, sanctions should be directed at the NADO. Conversely, when a NOC or NPC is non-compliant, sanctions should apply to the sport.

Article 23.2.2 (9)

ICSD SUBMITTED
Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD supports the requirement for all Signatories to implement the Code and International Standards by their effective date. However, we respectfully request that WADA acknowledge the unique constraints faced by smaller or disability-specific ADOs, such as ICSD, in meeting these deadlines. While we are fully committed to compliance, the practical realities of limited staff, funding, and technical resources make immediate implementation of certain standards challenging without additional time or support

Suggested changes to the wording of the Article

We propose no change to the article text itself, but suggest adding the following to the Comment section:

WADA recognizes that some Signatories, particularly small or event-based ADOs and those representing athletes with disabilities, may require additional time or tailored support to fully implement new or revised International Standards. In such cases, WADA encourages proactive communication and will work collaboratively to support timely and practical implementation.

Reasons for suggested changes

ICSD operates with a limited administrative structure and no permanent in-house testing capacity. Implementation of certain standards—such as those related to testing, education, and results management—may require coordination with external partners or capacity-building initiatives. By acknowledging this in the Comment section, WADA would

support inclusive and equitable Code compliance and reduce the risk of penalizing organizations that are committed but under-resourced

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)
Public Authorities - Government

General Comments

If Signatories elect to use Anti-Doping samples or results for additional purposes, then, in SIA's view, Athletes must be made aware of this. SIA considers that all Athletes have a right to know how their samples and results will be used. The default position is that anti-doping samples will be solely used for Anti-Doping purposes, and therefore any variation from this must be explicit and clear.

Suggested changes to the wording of the Article

SIA suggests adding the following to Article 23.2.2:

"Where a Signatory intends to use Samples or Doping Control information for these purposes, it should ensure that Athletes are fully informed of all intended purposes, either prior to the collection of the sample if that is reasonably practicable, or prior to the further analysis of the sample if it is not"

Reasons for suggested changes

In SIA's view, Athletes should be fully informed of the purposes for which their samples will be used, preferably prior to providing the sample.

NADA India SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Spanish Commission for the Fight Against Doping in Sport (Comisión Española para la Lucha Contra el Dopaje en el Deporte - CELAD) SUBMITTED

Carlos Gea, Head of International Relations and Coopetarion Area (España)
NADO - NADO

General Comments

Article 23.2.2 of the World Anti-Doping Code plays a crucial role in ensuring the harmonized application of core anti-doping principles across all Signatories. However, the implementation of this provision within national legal systems has presented practical and structural challenges that merit further reflection.

While the Code refers to the “implementation” of specific provisions without substantive change, current expectations often require that these articles be transposed verbatim into domestic legal instruments. This approach may not always align with the legislative realities of Signatories, particularly public authorities, whose legal systems differ in form and hierarchy. National parliaments and legal bodies often require contextual adaptation of international norms to maintain internal legal coherence and constitutional consistency.

Suggested changes to the wording of the Article

Article 23.2.2

The following Articles, as applicable to the scope of Anti-Doping Activities undertaken by a Signatory, must be implemented in a manner that ensures their substantive objectives and intended effects are fully preserved within the legal and institutional framework of the Signatory.

Adjustments in wording are permitted when necessary to align with national legislative drafting styles, legal terminology, or structural requirements, provided the implementation remains functionally consistent with the principles and outcomes established by the Code.

WADA shall work collaboratively with Signatories, particularly national public authorities and National Anti-Doping Organizations, to support the effective implementation of these provisions and to assist in resolving any legal or institutional challenges that may arise.

The Articles to be implemented under this provision are:

- Article 1 (Definition of Doping)
- Article 2 (Anti-Doping Rule Violations)
- Article 3 (Proof of Doping)
- Article 4.2.2 (Specified Substances or Specified Methods)
- Article 4.2.3 (Substances of Abuse)
- Article 4.3.3 (WADA’s Determination of the Prohibited List)
- Article 7.7 (Retirement from Sport)
- Article 7.8 (Cases Subject to Review by Independent Review Expert)
- Article 9 (Automatic Disqualification of Individual Results)
- Article 10 (Sanctions on Individuals)
- Article 11 (Consequences to Teams)
- Article 13 (Appeals) with the exception of 13.2.2, 13.6, and 13.7
- Article 15.1 (Automatic Binding Effect of Decisions)
- Article 17 (Statute of Limitations)
- Article 26 (Interpretation of the Code)

- Appendix 1 – Definitions

Reasons for suggested changes

These suggested adjustments aim to preserve the integrity and uniform application of the Code while improving its practical integration into national frameworks. The current interpretation of Article 23.2.2, emphasizing literal implementation, has at times posed unintended barriers for countries whose legal or constitutional systems require a more flexible, contextualized legislative approach.

Experience from past Code implementations has shown that public authorities often must balance international obligations with domestic legal requirements. In some cases, literal transcription is not legally or politically feasible, particularly in higher-order legislation subject to rigorous parliamentary procedures.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)

NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support the Right Not to Self-Incriminate (Right to Silence) be explicitly included in the Code (Currently Articles 21.1.6 & 23.2.2?) and in the Athletes' Anti-Doping Rights Act (AADRA). While this right exists under general legal principles, its absence from the Code has led to inconsistent application — including athletes being sanctioned under Codes of Conduct for non-cooperation.

Codifying this right would help safeguard athletes, promote consistency across stakeholders, and ensure alignment with broader legal and human rights frameworks.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 23.2.2

The CCES reiterates that to address apparent inconsistencies between the Code and data protection laws, the 2027 Code should prohibit the use of Samples and Doping Control information for purposes unrelated to anti-doping activities (i.e., for purposes unrelated to Doping Control, WADA's Monitoring Program, Quality Assurance, and Research), similar to the restrictions placed on the use of athlete whereabouts information in Article 5.5. This comment also applies to Article 6.2

USADA SUBMITTED

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

NADO - NADO

General Comments

Article 27.6 – There is considerable ambiguity as to whether to count a violation as a first violation for purposes of Article 10.9 if the substance or method has been removed from the list or a decision limit has been put into place such that the first violation would not be a violation if it occurred today.

Suggested changes to the wording of the Article

Recommended Change 27.6:

Add a comment to Article 27.6 that clarifies that it does not implicate multiple violation determinations.

Reasons for suggested changes

Reasons for Change 27.6:

Article 27.6, which discusses changes to the prohibited list, appears to be designed to prevent someone from escaping liability based on a change to the prohibited list. For example, Article 27.6 makes clear that if an athlete's use in a prior year had been caught in a subsequent year after the prohibited list changed to make it no longer a violation, that athlete would still face a violation. But Article 27.6 does not appear designed to impact multiple violation calculations as that is squarely addressed by Code Article 27.4.

Because Code Article 27.4 is specific to multiple violations and because the "Code rules" as referenced in Article 27.4 necessarily include the prohibited list (Art. 4), USADA interprets this to mean that a violation that is no longer a violation due to changes to the prohibited list should not be counted as a first violation for purposes of calculating a sanction under Article 10.9.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

The style and form of the text in art. 7.8. seems to be an anomaly to the other provisions which the ADOs must implement without substantive change. We therefore wonder if 7.8 should be re-written and the reference narrowed in, in order to ensure a better alignment, and to ensure that ADO obligations are more clearly distinguished from the procedural rules.

University of Toronto SUBMITTED

Marcus Mazzucco, Lawyer and Adjunct Lecturer (Canada)

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

General Comments

For the reasons set out below, it is strongly recommended that the World Anti-Doping Agency (WADA) revise the proposed 2027 version of the World Anti-Doping Code (the "WADC 2027") to prohibit a signatory from processing (i.e., collecting, using or disclosing) samples and doping control information for sex testing purposes. "Sex testing" refers to the processing of an athlete's sensitive personal data (e.g., sex chromosomes, blood testosterone levels, secondary sex characteristics) to determine their eligibility to participate in the male or female competition category. This recommended revision to the 2027 WADC is necessary in order for WADA to comply with Canada's Personal Information Protection and Electronic Documents Act (PIPEDA), and for international federations (IFs) to comply with the European Union (EU)'s General Data Protection Regulation (GDPR).

Article 23.2.2 of the 2027 WADC, and its annotated comment, provide that samples and doping control information may be used by a signatory (such as an IF) for the purpose of regulating aspects of their sport or activities unrelated to doping (e.g., safety, medical, eligibility, or code of conduct policies). Although the annotated comment no longer specifically mentions eligibility rules regarding transgender athletes, the wording in article 23.2.2 is sufficiently broad enough to permit the processing of samples and doping control information for sex testing purposes. Article 23.2.2 further states that, where a signatory uses samples and doping control information for non-doping purposes, it would be acting outside its capacity as a signatory and would be solely responsible for ensuring that its processing of samples and doping control information complies with applicable law. However, this disclaimer ignores the fact that the signatory has access to samples and doping control information by virtue of its status as a signatory and its participation in the World Anti-Doping Program. It also ignores the fact that WADA facilitates the processing of doping control information for sex testing purposes through its Anti-Doping Administration and Management System (ADAMS), which contains doping control information that signatories can access for non-doping purposes.

The processing of samples and doping control information for sex testing purposes under article 23.2.2 of the 2027 WADC would violate PIPEDA and the GDPR, and therefore cannot be allowed under the 2027 WADC.

With respect to PIPEDA, WADA is subject to this statute in respect of the personal information that it processes in the course of its interprovincial or international activities. When an IF accesses doping control information in ADAMS for

any purpose, then (according to PIPEDA) there is a disclosure of that information by WADA to the IF. WADA is the disclosing entity because it is the data custodian that manages ADAMS.

WADA's disclosure of doping control information in ADAMS to an IF for sex testing purposes violates two key requirements in PIPEDA. The first requirement is that an organization may disclose personal information only for purposes that a reasonable person would consider are appropriate in the circumstances (see subsection 5(3) of PIPEDA). The second requirement is that, where an organization requires an individual's consent to disclose their personal information, the consent must be voluntary, knowledgeable, and (in this context) explicit (see subsection 5(1), section 6.1, and clause 4.3 of Schedule 1 of PIPEDA).

WADA's non-compliance with these two key requirements in PIPEDA is the subject of a complaint that is being investigated by the Office of the Privacy Commissioner of Canada. WADA has received a copy of this complaint.

With respect to the GDPR, IFs are subject to this legislation if they are located in the EU or if they process the personal data of athletes who are living or competing in the EU. Article 9 of the GDPR sets out the legal grounds upon which organizations can process sensitive personal data, such as a doping control sample or the analytical data obtained from a sample (e.g., sex chromosomes, testosterone levels). Only two of the legal grounds set out in article 9 of the GDPR are theoretically applicable to an IF that processes a sample or doping control information for sex testing purposes: (1) where the IF has the explicit consent of the athlete, or (2) where the data processing is necessary for reasons of a substantial public interest laid down in EU or EU member state law, which shall be proportionate to the aim pursued, respect the essence of the right to data protection, and provide for suitable and specific measures to safeguard the fundamental rights and interests of athletes.

Currently, IFs are not able to comply with the conditions underlying these two legal grounds set out in article 9 of the GDPR, which means that their processing of a sample or doping control information for sex testing purposes would be unlawful. With respect to the first legal ground (i.e., data processing based on explicit consent), IFs are not obtaining the voluntary, knowledgeable and explicit consent of athletes to process their samples or doping control information for sex testing purposes:

- The consent provided by athletes is coerced, and not voluntary, because athletes cannot refuse to give consent without being sanctioned for not complying with the doping control process.
- The consent provided by athletes is not knowledgeable as they are not fully informed about the significant harms that might result from the processing of their samples or doping control information for sex testing purposes.
- The consent provided by athletes is not explicit as the doping control form does not clearly ask athletes whether they agree to have their sample or doping control information processed for sex testing purposes (e.g., through "yes" or "no" checkboxes). Instead, participation in the doping control process is presumed to represent the athlete's consent to have their sample and doping control information processed for sex testing purposes.

With respect to the second legal ground (i.e., data processing necessary for a substantial public interest laid down in EU or EU member state law), there is no EU or EU member state law that describes the processing of an athlete's sample or doping control information for sex testing purposes as a substantial public interest.

In order for WADA to comply with PIPEDA and for IFs to comply with the GDPR, WADA must revise the 2027 WADC to prohibit signatories from processing samples and doping control information for sex testing purposes. There is already a precedent for such a prohibition with respect to an athlete's whereabouts information, which can only be used for anti-doping purposes, as per article 5.5 of the WADC.

A failure to adopt this recommended revision to the 2027 WADC could lead to additional privacy complaints against WADA and IFs under data protection laws.

Thank you for considering these comments.

Suggested changes to the wording of the Article

Where a Signatory intends to use Samples or Doping Control information for the purpose of regulating aspects of their sport or activities unrelated to doping (e.g., safety, medical, eligibility or Code of Conduct policies) such organizations would be acting outside its capacity as a Signatory and would be solely responsible for ensuring any of its collection, use, disclosure or other processing of such Sample or Doping Control information is permitted by and in compliance with its own rules and applicable law. Despite the foregoing, no Signatory shall collect, use, disclose, or engage in other processing of a Sample or Doping Control information for the purpose of determining whether an Athlete is eligible to participate in a competition category based on their sex or gender characteristics.

Reasons for suggested changes

See general comments.

Appendix 1: Definitions (10)

ICSD

SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

ICSD welcomes the clarity provided in the definitions set out in Appendix 1. However, we respectfully request that WADA consider adding a **definition or reference to "accessibility"** in the context of athlete education, communication, and compliance. Terms such as **"Athlete," "Athlete Support Personnel," "Education," and "Whereabouts"** all rely on the assumption that information and obligations are understood — which is not always the case for Deaf athletes due to language and communication barriers.

Suggested changes to the wording of the Article

We propose adding a new definition to Appendix 1:

Accessible Communication: Communication that is delivered in a format that is understandable and usable by the intended recipient, taking into account their disability. For Deaf athletes, this may include sign language interpretation, captions, plain language materials, or visual formats to ensure equal access to information and processes.

Optionally, WADA could also update the "Education" definition to include:

Education programs should be inclusive and accessible to all participants, including athletes with disabilities

Reasons for suggested changes

Without a clear definition or acknowledgment of accessible communication, athletes who are Deaf or hard of hearing may face unintended barriers to compliance, understanding, or procedural fairness. ICSD has found that Deaf athletes are often the last to receive information due to a lack of accessible materials. Adding a basic definition of accessibility would support the consistent and fair application of the Code across all ADOs, reinforce the rights of athletes with disabilities, and align with international human rights standards such as the UN Convention on the Rights of Persons with Disabilities (CRPD)

Union Cycliste Internationale

SUBMITTED

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

General Comments

Regarding minors and protected persons: clarification on the special treatment applicable is welcome and allows for better understanding.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA notes that there appears to be an inconsistency in the definitions for the term 'Atypical Finding (ATF)' between the Code and the ISL. SIA notes the definition was updated as part of the changes to the first draft of the Code and that the same change needs to be transferred to the ISL. SIA acknowledges this will be corrected as part of the finalisation process.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

The definition of International Event (and National Event) could be clearer. For example, retired athletes need more guidance on what they can and cannot participate in, without giving the '6-months' notice'.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

Definition In-Competition:

The definition of the In-Competition period should be non-negotiable, and namely should IFs not be able to implement a different definition. Diverging definitions of that very relevant period will not only cause confusion amongst athletes (and hinder an understanding of it), but will inevitably lead to errors given that organizations other than the IF itself will not know that definition, e.g., when it comes to education or testing.

RUSADA SUBMITTED

Viktoriya Barinova, Deputy director (Russia)

NADO - NADO

General Comments

Comment to National Anti-Doping Organization Operational Independence:

We suggest provisage and fix conditions for collaboration of ADOs with sports organizations and government bodies in the field of anti-doping education, both the individuals and the organization involvement in develpment and realization of education programs, Ambassador or other projecs.

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

General Comments

Education – The word “unintentional” should be replaced with “not intentional” to maintain consistency and clarity throughout the Code.

Recreational Athlete – Person should not be capitalized and italicized here because the definition of Person includes an organization or entity, and here the word person is meant only to relate to an individual.

Capitalize defined terms (e.g., Athlete, Athlete Support Personnel, Education Activity, Representatives, Person, Signatory, Code, Event, Etc.) consistently, throughout, as per WADA conventions

- Examples: 'Athlete' : Footnote 70; 'Representatives': 14.3.5; 'Person': 18.4 (if keeping this term 'natural person,' capitalize Natural Person and define. Worth noting that 'Person' is defined as a 'natural Person'); and above Footnote 77.

"Clean sport behaviors" is referenced but not defined. Recommends that this term be defined and harmonized where it is used throughout the Code. The definition can incorporate phrases used elsewhere in the Code like “to foster anti-doping attitudes” and “to foster and promote the spirit of the sport,” and “behaviors they need to train and compete clean.” Once defined, these various, similar phrases can be consolidated by the phrase “clean sport behaviors.”

- The concept of clean sport is evolving from simply "drug-free" to a broader "cheating-free" and integrity-based perspective. “clean sport“ should address all forms of cheating, not just substance use.

Suggested changes to the wording of the Article

Competition, Recommended Change (in bold): “A single race, match, game, singular sport contest, **friendlies that are listed on a team’s competition schedule, or *Code Signatory* sanctioned event.**”

Reasons for suggested changes

Reason for Change, Competition: Friendlies and scrimmages can be defined differently and need specific language to determine if they are to be considered as IC *Events* subject to in-competition only analysis menus and so ADOs can know whether an Athlete has to return from retirement to participate. Specific examples USADA has come across include:

1) A water polo athlete who wanted to return from retirement to compete in the Olympics had to compete in friendlies so coaches could evaluate them. We consulted WADA and were made aware that this level of event is considered a *Competition*; therefore, the athlete had to submit an Article 5.6.1 exemption application. Friendlies are not clearly defined as a *Competition*, and the level of impact on a team or individual can vary greatly from sport to sport. The athlete would have met the 6-month requirements for the Olympics, but did not have the opportunity to make the team because the exemption to the 6-month rule was declined. This level of friendlies is different than soccer friendlies where the friendly is listed on a website and is a calendar event that counts towards the team’s overall rankings. USADA’s submission is that the soccer friendly should be considered a competition, but the water polo friendly should not. This would be clear if the proposed edit above is adopted.

2) USADA began an attempt to test an athlete who was competing later that afternoon in an event that was sanctioned by a non-*Code Signatory*. It was unclear whether the test should be considered IC or OOC based on the definition of competition. USADA’s proposed edit would clarify that non-*Code Signatory* competitions fall outside this definition.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Definitions - International-Level Athlete

While the CCES appreciates that TUE recognition could reduce the burden caused by international federations (IF) having differing definitions, the CCES reiterates that ADAMS is uniquely positioned to centralize this information and assist ADOs. Particularly for IFs that are granted an exemption from TUE recognition, the requirement to publish their definition in ADAMS would be helpful.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

Re. Institutional Independence:

Institutional Independence: Hearing panels and hearing panels on appeal shall be fully independent institutionally from the *Anti-Doping Organization* responsible for *Results Management*. They must therefore not in any way be administered by, connected or subject to the *Anti-Doping Organization* responsible for *Results Management*.

Reasons for suggested changes

Re. Institutional Independence:

Institutional Independence should also be a requirement for first instance Hearing Panels.

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)

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

General Comments

The AIU disagrees with the changes to Article 7.4.3 and to the definition of Provisional Hearing which now provides for the possibility of a preliminary abbreviated hearing after the imposition or re-imposition of a Provisional Suspension before the hearing body that will hear the case on the merits. The AIU proposes that the position in the current Code be maintained, namely, that ADOs should be able to provide the athlete with an opportunity to be heard on the Provisional Suspension in oral or written form before or after its imposition (with a right to appeal against the ADO's decision to CAS). The change to the definition introduced in this draft will only lead to more administration and more cost for ADOs (particularly when an ADO such as the AIU processes 80+ International-Level cases per year). Further, cf. Article 7.5.2 which provides for the 'International Federation or its hearing body' to be able to lift a provisional suspension when it extends beyond a Major Event period.

Suggested changes to the wording of the Article

The definition of Provisional Hearing should provide for a hearing to be “conducted by the ADO or the hearing body that would conduct the final hearing on the merits under Article 8”.

Reasons for suggested changes

The change to the definition of Provisional Hearing in this draft will only lead to more administration and more cost for ADOs (particularly when an ADO such as the AIU processes 80+ International-Level cases per year).

Contaminated Source (9)

USOPC Athlete Advisory Council

SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

We do not support the narrowing of the definition of a Contaminated Source such that it no longer applies to cases of touch exposure if the athlete had reason to suspect the other person may have used or possessed a prohibited substance. This imposes an unreasonably high burden on athletes—to avoid not only physical contact with individuals they suspect may have used or possessed banned substances, but also to avoid touching objects those individuals may have handled. This standard is both vague and impractical, placing athletes in an untenable position and increasing the risk of unintentional violations through no fault of their own. We urge WADA to reconsider this restrictive interpretation in favor of a more realistic and athlete-centered approach.

Sport Integrity Australia

SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA acknowledges, and is supportive of, the proposed changes and the important and ongoing work in this space (through the Contamination Working Group, for instance). SIA will closely monitor such ongoing work and will continue to engage in discussions relevant to it.

Japan Anti-Doping Agency

SUBMITTED

Chika HIRAI, Director of International Relations (Japan)

NADO - NADO

General Comments

In our comments on the First Draft, we noted that it should be explicitly stated that the term "Contaminated Source" is understood to inherently include supplements. While this clarification was incorporated into the definition section of the ISRM Second Draft, it has not been reflected in the corresponding section of the WADC Second Draft.

We respectfully request that the WADC be revised to ensure consistency with the definition provided in the ISRM.

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

General Comments

Contaminated Source

We appreciate the efforts made by the Code Drafting Team to address the issue of contamination, which is a widespread global concern with similar cases occurring in many countries and regions. Therefore, we support further clarification of the definition of “contaminated source.” This revision would enable Results Management Authorities to handle cases involving contaminated sources more effectively. Moreover, key challenges are still present, such as how to distinguish whether an Athlete’s ADRV was intentional or unintentional, how to fairly handle the AAFs resulting from contamination, and how to reconcile the conflicts between the increasing frequency of testing and the continually improving accuracy of detection, which are all pressing issues currently in current anti-doping efforts. We support WADA’s continued work to address these issues.

Anti-Doping Sweden SUBMITTED
Jessica Wissman, Head of legal department (Sverige)
NADO - NADO

General Comments

ADSE assess that the definition is too complicated and detailed. The examples mentioned suggest that the requirements for when something should be considered unpredictable are completely different depending on the source. In some cases, the focus is on the product information and in other cases something broader like "advance warning". If the definition remains, including environmental contamination and physical contact, you need to reconsider the writing in article 10.6.1.2 regarding “ingestion or use”, which is not relevant for these types of contamination. Further, consider adding AI-powered search along with “reasonable Internet search”, i.e reasonable Internet and/or AI-powered search.

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

General Comments

In addition to having widened the definition of Contaminated Product to Contaminated Source, we ask WADA to strongly consider establishing minimum reporting levels across a wider range of Prohibited Substances that are capable of being detected at extremely low concentrations, or alternatively consider whether such results should be reported as Atypical Findings.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

In relation to 10.6.1.2 - we support the intent of this article, however we recommend that further clarity is provided either through drafting or accompanying guidance about what constitutes environmental contamination. We believe the current text leaves the scope of this as overly broad and could be subject to inconsistent interpretation. This may undermine the provision's effectiveness and transparency for athletes.

We have consulted with the Commission's Athletes Commission who are supportive of this submission.

USADA SUBMITTED

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

NADO - NADO

General Comments

Contaminated Source – WADA's new addition regarding transdermal exposure places an extremely high burden on athletes not to touch a person using a prohibited substance or touch objects that person has touched. This is not practical. WADA should discuss with independent athletes whether they think WADA should hold athletes accountable for touching a person who may be using prohibited substances or be held accountable for touching object that person touched. USADA believes the answer will be resoundingly clear that WADA has missed the mark with this change.

Anti-Doping Norway SUBMITTED

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

NADO - NADO

General Comments

It seems that comment to 10.6.1.2 (comment 76) requirements for the athlete to establish their use or ingestion of the contaminated source, undermines the definition "exposure to a Prohibited Substance through the Athlete's direct physical contact with a third person or physical contact with objects touched or handled by the third person where there is no basis for the Athlete to suspect that the third person may have Used or possessed or been exposed to a Prohibited Substance" is included.

Minor (2)

Spanish Commission for the Fight Against Doping in Sport (Comisión Española para la Lucha Contra el Dopaje en el Deporte - CELAD)
Carlos Gea, Head of International Relations and Coopetarion Area (España)
NADO - NADO

SUBMITTED

General Comments

The current definition of "Protected Person" in the 2027 World Anti-Doping Code introduces a distinction between minors based on their age and level of sport participation, such as inclusion in a Registered Testing Pool or participation in open-category international competitions. While the Code justifies this by emphasizing a presumed increase in maturity and exposure to anti-doping education, this approach appears to prioritize the protection of “clean sport” over the fundamental developmental and legal protections owed to children and adolescents.

The ethical foundation of anti-doping is the defense of fair play; however, when fair play is pursued by categorizing some minors as less deserving of protection, it risks placing competitive integrity above the rights and best interests of the child. We question whether this is the fairest or most human-rights-aligned approach to the treatment of minors in sport. Age alone does not reliably indicate cognitive or moral maturity, and sporting achievement should never justify the removal of protections that exist precisely because children and adolescents are still developing.

Therefore, we propose that all individuals under the age of 18 be granted the same Protected Person status under the Code.

Suggested changes to the wording of the Article

Definition of Protected Person (Appendix 1 – Definitions)

Protected Person: An Athlete or other natural Person who, at the time of the anti-doping rule violation: (i) has not reached the age of eighteen (18) years; or (ii) for reasons other than age has been determined to lack legal capacity under applicable national legislation.

New Comment to the Definition of Protected Person:

[Comment to Protected Person: All Minors are Protected Persons. The Code does not distinguish based on age sub-groups, testing pool membership, or competition category. This uniform approach recognizes that all minors require developmentally appropriate protections. Persons of any age who lack legal capacity under national law are equally entitled to such protections.]

Edits to Other Articles for Consistency

Replace all references in the Code to “Protected Person or Minor” with simply “Protected Person”.

This ensures that all minors benefit from the same sanction reductions and procedural considerations and that “Protected Person” encompasses all minors by definition.

Article 14.3.6

Replace current provision with: “The mandatory Public Disclosure required in Article 14.3.2 shall not be required where the Athlete or other Person who has been found to have committed an antidoping rule violation or violation of Article 10.14.1 is Recreational Athlete. Any optional Public Disclosure in a case involving a Recreational Athlete shall be proportionate to the facts and circumstances of the case and shall take into consideration the best interests of the individual.”

New article 14.3.7

Public Disclosure of anti-doping rule violations or sanctions involving Protected Persons is strictly prohibited. This prohibition applies without exception to all individuals who, at the time of the violation, are under the age of eighteen and all individuals who have been determined to lack legal capacity under applicable national law.

This full protection recognizes the particular vulnerability of minors and persons lacking legal capacity, and the serious risk of long-term psychological, reputational, and social harm that public exposure may cause. Anti-Doping Organizations shall not publish, disclose, or otherwise make publicly available any identifying information or details concerning anti-doping violations or sanctions involving a Protected Person, regardless of the nature or gravity of the violation.

New Comment to article 14.3.7

[Comment to Article 14.3.7: This Article reflects the Code’s recognition of the need for absolute privacy in cases involving minors and individuals lacking legal capacity. These groups are particularly susceptible to stigmatization and irreversible harm from public exposure. Unlike Recreational Athletes, whose cases may be disclosed under limited conditions, the protection for Protected Persons is absolute and non-discretionary. No balancing test or exception applies.]

New Comment to the Definition of Minor:

[Comment to Minor: All Minors are Protected Persons. No minor shall be treated differently based on age, sport category, or testing pool inclusion. The Code shall not presume maturity based on competitive status.]

Reasons for suggested changes

Our proposed changes are driven by a fundamental principle: that no minor should be less protected than a recreational athlete, and that children and adolescents, regardless of their level of sporting achievement, are inherently vulnerable due to their stage of development.

The distinction currently drawn in the Code between minors under 16 and those aged 16 or 17 who participate in high-level sport or belong to testing pools is rooted in the belief that fairness in sport justifies differentiated treatment. The Code implies that such minors are more likely to understand anti-doping obligations and therefore warrant fewer protections. We challenge this assumption.

This approach, placing fair play above age and developmental capacity, is not, in our view, the most just or appropriate framework for addressing violations by minors. Biological and psychological maturity are not

determined by sport participation. Moreover, applying adult-like standards to young athletes based on their competition level may lead to disproportionately severe consequences and long-term harm, especially when reputational damage or exclusion from sport are involved.

Furthermore, the current model leads to inconsistencies where certain minors are less protected than recreational athletes. This undermines the stated intent of the Protected Person category, which is to account for diminished capacity and need for special treatment when evaluating Fault.

Finally, we believe the Code must prohibit the public disclosure of any anti-doping violations involving minors. The long-term psychological and social consequences of such disclosures are well-documented, and the potential harm far outweighs any deterrent or public interest benefit. Instead of assuming that clean sport demands exposure, we should design anti-doping systems that prioritize the holistic protection of the young individual, especially when the misconduct may stem from adult influence or lack of informed consent.

These changes align the Code with human rights standards, the best interests of the child, and a developmentally appropriate concept of justice. We also believe a dedicated article, created with multidisciplinary expert input, should consolidate all protections and procedures concerning minors and persons lacking legal capacity.

USADA SUBMITTED

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

NADO - NADO

General Comments

Minor – Person should not be capitalized and italicized here because the definition of Person includes an organization or entity, and here the word person is meant *only* to relate to an individual.

NADO Operational Independence (27)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

The expanded definition of NADO Operational Independence is welcome in its effort to clarify governance expectations but falls short of ensuring a balanced and effective anti-doping framework. First, if operational independence is to be meaningful, it must extend beyond internal structures to include the Board of Directors. Governance cannot be considered independent if leadership bodies are subject to influence or conflicts of interest from sport or government stakeholders. Additionally, the definition should not restrict NADO personnel from volunteering with Major Event Organizers, such as during the Olympic or Paralympic Games or an International Federation World Championship, to assist with anti-doping implementation. We believe such collaboration is vital for knowledge-sharing, quality assurance, and maintaining global consistency. Interpreting the definition to block this involvement would not only isolate NADOs but would also erode the shared responsibility that underpins the anti-doping community.

Most critically, this definition of operational independence is being selectively applied only to NADOs, while International Federations and WADA itself are excluded—despite their equally

significant roles in the anti-doping ecosystem. If operational independence is essential for NADOs to function impartially, it is equally vital that IFs and WADA meet the same standard. Anything less reveals a troubling double standard that undermines both credibility and fairness in global anti-doping governance.

Team USA AC is steadfast in our belief that true independence must be systemic, not selective. A consistent, global and Movement-wide application of operational independence is the only path toward transparency, accountability, and trust in the anti-doping system.

International Paralympic Committee SUBMITTED

Jude Ellis, Head of Anti-Doping (Germany)

Sport - IPC

General Comments

The IPC seeks to clarify the intent behind this revised definition, in particular 2) which states that “no person who is involved in the management or operations of a sport organisation or government entity shall be simultaneously involved in or interfere with the operational activities of a NADO”.

The IPC, in its capacity as both an IF and MEO, involves NADO staff in its anti-doping operations connected to Paralympic Games (MEO) and World Championships events (IF). This includes, for example, inviting selected personnel to join the IPC’s anti-doping team on the ground at Games and/or World Championship events to assist with the delivery of our testing programme. We also invite anti-doping experts from NADOs (and IFs) to participate on our Anti-Doping Taskforce in the lead up to major Games. All of this involvement is in a volunteer capacity. The IPC has processes in place to manage any potential conflicts of interest in these activities, such as where an athlete from the NADO (or IF) is involved at an event.

We believe the cross-pollination of ideas that occurs when IFs, MEOs and NADOs work together is of great benefit to the broader anti-doping movement. Certainly, we have observed this in Para sport. Furthermore, the IPC takes a strategic approach to selecting which NADOs and individuals it involves, with a view to building relationships, raising awareness and educating on anti-doping in Para sport and creating Para sport advocates across various regions and sports.

We are concerned about the potential for these types of activities to be prohibited under this revised definition, where an individual cannot be simultaneously involved in both the work of a NADO and a sport organisation. If this is the intent of the revised definition, the IPC’s view is that this would negatively impact on our anti-doping capacity at major events, as well as undermining the broader benefits of collaboration mentioned above, to both Para sport and the anti-doping sector.

We would appreciate it if WADA could confirm whether such activities would be covered by the above definition, and whether there are any circumstances/conditions under which such activities would be able to continue.

If such activities would not be prohibited, or if they may go ahead under certain conditions, we would recommend re-wording of the definition or adding a comment to clarify this.

NOC*NSF SUBMITTED

Team Integrity, Advisor (Netherlands)

Sport - National Olympic Committee

General Comments

NOC*NSF strongly supports the principle of operational independence for NADOs. However, we recommend removing the third point in the current article concerning the delegation of responsibilities by the NADO to other entities.

Suggested changes to the wording of the Article

(…) activities of a National Anti-Doping Organization; (3) ~~a National Anti-Doping Organization shall neither delegate any Doping Control responsibility to a sport organization or government entity nor permit a sport organization or government entity to conduct any Doping Control responsibility; and (4)~~ a National (…)

Reasons for suggested changes

Firstly, NOC*NSF believes that this provision is not necessary to safeguard the operational independence of the NADO. As the primary authority at the national level, the NADO retains oversight and can ensure that any delegated third party operates in accordance with the standards of the Code. This is in line with the Introduction to Part One of the Code, which acknowledges the practical need for NADOs and other ADOs to delegate specific tasks while maintaining overall responsibility and oversight.

Secondly, NOC*NSF considers the third provision too prescriptive in defining how the core principles of NADO operational independence should be implemented in practice. Prohibiting any form of delegation contradicts the broader governance model that enables NADOs to function effectively within diverse national systems. We believe this could lead to implementation challenges in several countries, particularly those where the anti-doping system is closely linked to, or embedded within, association law frameworks.

Lastly, to effectively safeguard the principles of operational independence for NADOs while allowing flexibility in how these principles are implemented, a broader and more in-depth discussion is required—one that goes beyond the scope of the current stakeholder consultation phase. We therefore suggest that the Drafting Team organize an ad hoc consultation round in September to facilitate this important conversation.

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

SUBMITTED

General Comments

The Government of the Netherlands supports the principle of operational independence of stakeholders, but wishes to offer several considerations regarding the definition of *Operational Independence* for National Anti-Doping Organizations (NADOs).

At a more detailed level, we propose the removal of point 3 from the current definition. More broadly, we recommend that the definition not be limited solely to NADOs, but rather be revised to accurately reflect the fundamental principles underlying operational independence.

Suggested changes to the wording of the Article

Point 3 of the definition

We support strengthening the principle of operational independence, and respectfully submit that point 3 of the proposed definition—which states that *"a National Anti-Doping Organization shall neither delegate any Doping Control responsibility to a sport organization or government entity nor permit a sport organization or government entity to conduct any Doping Control responsibility"*—should be deleted from the Code for the following reasons:

1. Contradictory with the Code
Point 3 conflicts with the fundamental principles and structure of the World Anti-Doping Code. As per the current definition of a NADO, a NADO must retain *primary authority and responsibility* for adopting and implementing anti-doping rules, conducting testing, and managing results at the national level. This framework allows for the delegation of certain operational tasks, provided the NADO remains fully responsible for ensuring compliance with the Code.

This understanding is also aligned with the Introduction to Part One of the Code, which acknowledges the practical need for NADOs and other ADOs to delegate specific tasks while maintaining overall responsibility and oversight. Prohibiting any form of delegation outright, as point 3 suggests, is not only inconsistent with this principle, but also contradicts the broader governance model that enables NADOs to function effectively within diverse national systems.

2. Practical implementation in national structures
The proposed prohibition in point 3 is impractical and inapplicable in many national anti-doping frameworks. In numerous jurisdictions, logistical or administrative components of doping control may be conducted by agencies or external service providers—under contract and oversight by the NADO—without compromising the NADO's operational independence. Imposing a blanket ban on any delegation to a sport organization or other entity fails to reflect these legal and organizational realities, and would render compliance with the Code unachievable for many NADOs operating in such environments.

3. Misalignment with the principle of Operational Independence
The underlying rationale for requiring operational independence is to safeguard anti-doping activities from *undue external influence*, particularly from sport organizations or governments. However, point 3's broad prohibition on delegating any responsibility to these entities does not necessarily serve that goal. Delegation, when accompanied by appropriate oversight and accountability mechanisms, does not inherently compromise independence. Rather, operational independence is best preserved through safeguards that ensure *non-interference in decision-making*, not by imposing rigid structural prohibitions that do not accommodate legitimate, controlled cooperation.

In conclusion, while we support strengthening the principle of operational independence, point 3 as currently drafted is inconsistent with the Code, impossible to implement across varied national contexts, and not aligned with the actual purpose of ensuring operational independence. We therefore recommend that point 3 be deleted from the proposed definition.

Reasons for suggested changes

Point 3 of the proposed definition—which states that *"a National Anti-Doping Organization shall neither delegate any Doping Control responsibility to a sport organization or government entity nor permit a sport organization or government entity to conduct any Doping Control responsibility"*—should be deleted from the Code for the following reasons:

1. Contradictory with the Code
Point 3 conflicts with the fundamental principles and structure of the World Anti-Doping Code. As per the current definition of a NADO, a NADO must retain *primary authority and responsibility* for adopting and implementing anti-doping rules, conducting testing, and managing results at the national level. This framework allows for the delegation of certain operational tasks, provided the NADO remains fully responsible for ensuring compliance with the Code.

This understanding is also aligned with the Introduction to Part One of the Code, which acknowledges the practical need for NADOs and other ADOs to delegate specific tasks while maintaining overall responsibility and oversight. Prohibiting any form of delegation outright, as point 3 suggests, is not only inconsistent with this principle, but also contradicts the broader governance model that enables NADOs to function effectively within diverse national systems.

2. Practical implementation in national structures
The proposed prohibition in point 3 is impractical and inapplicable in many national anti-doping frameworks. In numerous jurisdictions, logistical or administrative components of doping control may be conducted by agencies or external service providers—under contract and oversight by the NADO—without compromising the NADO's operational independence. Imposing a blanket ban on any delegation to a sport organization or other entity fails to reflect these legal and organizational realities, and would render compliance with the Code unachievable for many NADOs operating in such environments.

3. Misalignment with the principle of Operational Independence
The underlying rationale for requiring operational independence is to safeguard anti-doping activities from *undue external influence*, particularly from sport organizations or governments. However, point 3's broad prohibition on delegating any responsibility to these entities does not necessarily serve that goal. Delegation, when accompanied by appropriate oversight and accountability mechanisms, does not inherently compromise independence. Rather, operational independence is best preserved through safeguards that ensure *non-interference in decision-making*, not by imposing rigid structural prohibitions that do not accommodate legitimate, controlled cooperation.

In conclusion, while we support strengthening the principle of operational independence, point 3 as currently drafted is inconsistent with the Code, impossible to implement across varied national contexts, and not aligned with the actual purpose of ensuring operational independence. We therefore recommend that point 3 be deleted from the proposed definition.

In line with the recommendation of the Council of Europe's Monitoring Group, the definition should properly reflect the principles behind operational independence. We therefore suggest the definition as it stands in the second draft texts be changed. In addition we believe that the principle of operational independence should not be limited to NADOs alone, but should extend to all entities responsible for conducting doping control activities.

To effectively safeguard the principles of operational independence for (N)ADOs while allowing flexibility in how these principles are implemented, a broader and more in-depth discussion is required—one that goes beyond the scope of the current stakeholder consultation phase. We therefore suggest that the Drafting Team organize an ad hoc consultation round in September to facilitate this important conversation."

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA acknowledges, and is supportive of, the extensive changes to this definition and the important and ongoing work in this space (through the Working Group on the Operational Independence of NADOs, for instance). SIA will closely monitor such ongoing work and will continue to engage in discussions relevant to it.

SIA acknowledges the definition now includes activities which may have not previously been prohibited or which were overlooked, including, for example, prohibiting the delegation of any Doping Control responsibility. Notwithstanding this, SIA strongly recommends that the requirement of Operational Independence should be further expanded to include all entities that are involved in Doping Control (e.g. IFs, MEOs).

Moreover, SIA suggests the Drafting Team should consider redrafting this provision to only capture the high-level principle, with the detail (and particularly much of the extensive detail that has been included within the lengthy and complex comment to this definition) to be included in subordinate documentation such as the IS, or guidance material. This would allow for any amendments over time, or for further refinement of this critical principle, following the work of the Working Group or otherwise. It would also aid in simplifying the Code.

Sport NZ SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)

Public Authorities - Government

General Comments

It is our understanding that the new operational independence requirements are not intended to apply to independent hearing bodies, such as New Zealand's Sports Tribunal that adjudicate on anti-doping matters including determining the imposition of provisional suspensions and sanctions. If our understanding is correct, we suggest that it would be helpful to clarify that the definition of National Anti-Doping Organisation excludes such hearing bodies. As currently worded, we consider that the definition of National Anti-Doping Organisation could be interpreted as including such hearing bodies.

Suggested changes to the wording of the Article

Clarify that the definition of National Anti-Doping Organisation excludes hearing bodies, and have a separate definition for hearing body.

Reasons for suggested changes

As above.

Ministry of Culture and Equality

SUBMITTED

Robin Mackenzie-Robinson, Senior advisor (Norge)
Public Authorities - Government

General Comments

New definition: “National Anti-Doping Organization Operational Independence”

The Ministry would like to comment on the proposed new definition of National Anti-Doping Organization Operational Independence.

The Ministry’s comments to the proposed new definition

Operational independence is a fundamental principle for a well-functioning anti-doping system, ensuring that decisions and priorities related to doping control are free from undue influence or interference. The Ministry fully supports the principle of operational independence, but believes it should apply equally to all doping control activities. To single out *National Anti-Doping Organization Operational Independence* does not seem justified, given that operational independence should be a governing principle for all doping control activities, both nationally and internationally.

The Ministry therefore recommends replacing the definition of *National Anti-Doping Organization Operational Independence* with a definition of operational independence of all organizations conducting doping control responsibilities.

The Ministry also raises concerns regarding the proposed definition’s use of the broad term “government entity”. Given that the NADO itself could be a government entity, we fail to see the logic in not permitting an independent government entity to conduct any doping control responsibility. This could potentially put unnecessary restrictions on the operation of a well-functioning anti-doping work.

What truly matters is that sufficient legal and organizational safeguards are in place to prevent undue influence and ensure operational independence, regardless of the entity’s formal status. This approach aligns with WADA Comment 155 to National Anti-Doping Organization Operational Independence, and international best practices.

Finally, the Ministry calls for a stronger focus on the principle of separation of powers, which complements operational independence by ensuring accountability and fairness, particularly in adjudicatory processes. It is crucial that bodies responsible for investigations, hearings, and appeals remain impartial and independent, in line with the Council of Europe’s Recommendation CM/Rec(2022)14 and other human rights standards. The proposed definition should not restrict the opportunity to establish by law the panel and appeal bodies, in accordance with the Recommendation and the principle of “separation of powers”.

Japan Sports Agency

SUBMITTED

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

General Comments

While recognizing that NADO Operational Independence will be discussed and examined holistically by the recently established working group, the Japan Sports Agency (JSA) respectfully offers two points for consideration

and thoughtful review.

In JSA's view, it would be beneficial to further examine and verify whether the concept of independence applies to the NADO as an organization or to the doping control process itself, with the broader goal of ensuring procedural impartiality. It is essential that every aspect of the doping control process be conducted with neutrality and integrity, regardless of the nature of organization. It seems prudent to consider whether placing excessive emphasis on formal organizational independence might potentially detract from the overarching aim of maintaining procedural impartiality.

The proposed definition could potentially impact countries where partial delegation of doping control responsibilities is part of their national anti-doping systems, as it would prevent NADOs from delegating any doping control responsibilities to sports organizations or government entities.In light of the currently proposed footnote comment 155 on a case where NADO is established under a government entity, JSA considers the principle could also be applicable in cases where a NADO delegates part of its doping control responsibilities to a public entity or a sports organization as long as appropriate safeguards are implemented to ensure the independence of the delegated functions.Therefore, JSA suggests that the definition and accompanying commentary be revised to reflect this broader applicability, ensuring that the requirement for operational independence extends to all entities involved in the doping control process regardless of whether they are part of or external to NADOs.

Council of Europe (CoE) SUBMITTED

Council of Europe, Sport Convention Division (France)

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

General Comments

New Definition : NADO OPERATIONAL INDEPENDENCE

Operational independence is a fundamental principle in a well-functioning anti-doping system, but it would be helpful to start from the question of what I the risk which needs to be addressed and define which principles will mitigate said risk: The overall challenge is an inherent risk for antidoping control activities, that ulterior motives and interests in conflict with the principle of clean sport takes precedence over and/or influence operational decisions and dispositions which could undermine the integrity and the credibility of the doping control process.

To address this risk:

i. ADOs must avoid involvement of people who by virtue of other engagements and affiliations have conflicting interests to anti-doping (e.g. working with elite sport in either sport organizations or government entities).

ii. ADOs must put in place safeguards to avoid that they or their employees in their ADO-capacity are under undue influence (incl. by receiving instructions or otherwise) (e.g. a DCO may work as a police officer but may not receive instruction from the police hierarchy in their performance as DCO)

iii. ADO must have in place structures which ensure separation of powers throughout the doping control process, and which ensure accountability of the relevant entities directly vis-à-vis WADA (i.e. distinguishing hearing and appeal (judiciary) from the rest of the doping control (cf. the definition of doping control) (executive), and WADA should thus ensure that the hearing and appeal panels are directly accountable vis-à-vis WADA).

The principle of operational independence should, however, apply equally to all doping control activities and replace the definition of National Anti-Doping Organization Operational Independence with a definition of operational independence of all organizations conducting doping control responsibilities.

WADA Comment 155 to National Anti-Doping Organization Operational Independence, which includes the following wording:

“Where a National Anti-Doping Organization has been established under a government entity or has otherwise been constituted as a public entity, it shall ensure that its operational, activities are implemented without any

undue influence, interference, or involvement from any other government entity and that sufficient legal and organizational safeguards are in place to ensure the operational independence of its staff from any government or public

entity." This is a very useful clarification. The crucial point when it comes to ensuring operational independence, and avoiding undue influence, interference or involvement, is to have in place sufficient legal and organizational safeguards.

The comment then continues: "Where the National Anti-Doping Organization is staffed with personnel from the civil service, either in a full-time, part-time, contracted, transferred, or seconded capacity, this personnel shall autonomously and independently perform their duties, responsibilities, and tasks without the direction, interference, or influence from any other entity or Person outside of the operational structure of the National Anti-Doping Organization, including but not limited to individuals involved in or working for another government entity". It should be clarified if this is applicable to all NADOs or only those established as Government entities. Given the potentially broad definition of "government entity", if this is not applicable to all NADOs, it should be clarified if this include staff serving the home guard or military reserves, TUEC-members or blood-collection officers working in state hospitals or regional or local government's health services, hearing and appeal panel members serving as judges or DCOs serving as police officers.

Should the proposed definition be kept, it should be noted that for some NADOs, the requirement in point (4) — that a National Anti-Doping Organization shall independently determine the allocation of its budget and activities — may be problematic, as they are public entities and are accountable to national authorities for their budgets. Under national law, those authorities may retain the right to make decisions regarding budget approval and allocation.

If the new requirement will include the obligation of creating new hearing and appeal panels without affiliation to sport or government, a longer period may be needed for the implementation of said requirement for a number of countries given the need for establishing new independent structures.

NADA Austria SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

We suggest finding another place for this very important topic (eg. Part 3 Roles and Responsibilities), not "hiding" it in the definitions. This could be achieved together with the two definitions that cover hearing panels "Operational Independence" and "Institutional Independence".

On a different note: While we understand that the Operational Independence of NADOs is really important, the definition begs the question if a similar approach should be implemented for the operational independence of Anti-Doping units of IFs or third parties like sample collection providers or the ITA.

A Definition should be clear and concise, reflect the terms meaning, avoid circular definitions and be self-contained. It seems that the new text is not a definition but describes a process that should be described elsewhere, not in the definition itself. In addition, this is by far the longest definition of all and includes several comments.

ONAD Communauté française SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

General Comments

New Definition : NADO OPERATIONAL INDEPENDENCE :

We are naturally convinced of the essential importance of the operational independence of NADOs, which is a sine qua non condition for the effectiveness and integrity of the fight against doping.

However, and in connection with one of our general remarks, does this new definition have an impact (particularly in terms of financial and human resources) on certain NADOs and especially on smaller NADOs? The question arises in particular for point 4 of the draft definition and a possible impact for certain NADOs also seems to emerge from the commentary of the definition.

In any case, it is important to know this and to take into account the differences in resources and sizes between NADOs.

Suggested changes to the wording of the Article

See the questions above in our general comments.

The new definition should not impact the financial and human resources of NADOs.

In particular, the differences in size and resources between NADOs should be taken into account.

Reasons for suggested changes

The reasons are explained in the general comments and suggestions.

NADA SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

Operational independence is a fundamental principle in a well-functioning anti-doping system, but it is ne3cessary to address "who" and "whast" will be covered by the defintion.

A few examples where NADA sees a need for additional clarity:

Re: potential staff working in various government entities, where the role of the government entity is not related to sport:

- DCOs normally working in the police or customs,
- BCOs normally working in state hospitals or military hospitals
- BCOs normally working in the health department in local governments
- TUE-Committee members working in state hospitals or military hospitals
- Staff members serving the home guard / military reserves
- Hearing and appeal panel members serving as judges
- Hearing and appeal panel members who work in the state prosecutors' office
- Clerks for the hearing and appeal panel working in ministry of foreign affairs/ministry of justice/interior
- Lawyers to prosecute cases working in ministry of justice/interior or in the state prosecutor's office.

Part of the challenge is, that "Government entity" is not defined, and could be interpreted very broad (any entity, including various agencies, under the control of or referring to any part of government be it federal, national, provincial, regional or local) or very narrow (ministerial departments led by a minister who is part of the cabinet at the national level only).

Re: Sport organizations.:

- DCOs who are board members of local clubs (but not involved in doping control in their own sports club or in the sport federation under which the sport club is organized).
- Sports physicians active in the TUE-Committee, who (as prerequisites of their status as sports physician, which is the preferred member according to the ISTUE) are also affiliated with a sports club/federation, but not assessing TUEs from members of the entity of which they are affiliated
- Administrators in the NADO who are part of the doping control process and at the same time play old boys' football, are in the board of the local sports club, are recreational level athletes?
- Athletes involved in the administrative review of whereabouts failures (but not in their own sport)
- DCOs who support MEOs such as the LOCOGs with doping controls during the Olympic Games? (mind you we cannot claim that they are unaffiliated with the NADOs insofar that there are expectations that the NADO might finance part of their travel costs.
- Test planners who are temporarily supporting the doping control planning during the execution of the doping control at the Olympic Games.
- NADO officials supporting the IF's doping commissions, medical committees or in the hearing panels of the IFs?
- Could NADO employees sit on the Foundation Board of ITA? Or in ITAs Expert Groups say for iDCO development or Pre-Games Expert Groups? What if it was that of IOC or IPC?
- Can a TUEC member of a NADO be member of an IF TUEC? Or a WADA TUEC?

Note that there is no distinction between national and international level (nor local level) in the current definition.

In addition to that we refer to our previous commment as follows:

In principle, NADA Germany considers this definition to be good for strengthening the NADOs and their tasks, but sees a need for further explanation and adaptation due to the different national (constitutional) jurisdictions with regard to the responsibilities of the NADOs. Therefore, the following will briefly outline the main problems and ideas for clarification in relation to the new definition.

· The definition (erroneously) assumes that testing and Results Management are originally the responsibility of the NADOs. However, this is generally not the case for all NADOs. In Germany, Sports Federations implement, and conduct sports specified rules and regulations based on the basis of their constitutional autonomy. According to Article 9 abstract one of the German Constitution (Grundgesetz), the national Sports Federations have the right to self-legislation and self-administration. They are allowed (but no obligated!) to delegate individual rights and duties to third parties. This is done on a contractual basis.

· Anti-doping responsibility also falls under their own remit. NADA can only act where there is an effective delegation in relation to anti-doping matters (e.g. via testing and results management agreements). Nevertheless, NADA acts in accordance with the requirements wherever it has been designated as responsible.

· Accordingly, there is a need for adaptation of the new definition, so that some NADOs can only comply with the requirements within the meaning of Article 20.5.1 - after delegation – to them.

· Either this systematic delegation component would have to be taken into account, or a general commentary should be added.

· It is therefore recommended that a commentary on Article 20.5.1 WADC27 be prepared that takes this systematic constitutional basis into account. Example:

"In cases where the requirements of Art. 20.5.1 could not be met by an NADO because of a breach of applicable (constitutional) rules or law this will not result in non-compliance for these NADOs regarding to ISCCS."

· Moreover, the criteria for NADOs should generally apply to all ADOs (e.g. ITA or International Federations), so that Operational Independence and autonomy from state decision-makers are elementary components here as well.

· Furthermore, due to these constitutional premises, which fundamentally maintains anti-doping within the national Sports Federations, it should also be taken into account that some NADOs therefore systematically have no direct access to the affiliation/WADC compliance within the framework of professional leagues of these federations. In

this respect, too, an individual contractual delegation to the NADO would have to be insured in order to fulfil the WADC requirements.

· It remains to be resolved how NADOS acting as state agencies and part of the ministry (Spain/AEA) are to be treated within the scope of the definition.

NADA India SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Japan Anti-Doping Agency SUBMITTED

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

General Comments

In the current draft of the 2027 World Anti-Doping Code (WADC), the focus is placed exclusively on the operational independence of National Anti-Doping Organizations (NADOs).

However, we believe that the principle of independence should be applied equally to all entities involved in anti-doping, including International Federations (IFs) and their respective anti-doping units, as well as NADOs, in order to safeguard all anti-doping processes from undue influence.

Therefore, a provision imposing equivalent requirements for operational independence on International Federations and their respective anti-doping units should be included in the Code.

On the other hand, in order for MEO to operate and manage effective anti-doping programs, utilizing the expertise of NADO would be important. Therefore, for MEO, it is necessary to establish flexible regulations to allow the effective use of personnel from NADO and other organizations.

Suggested changes to the wording of the Article

Based on the reason in the box below, we would like to propose the following amendment.

Where a National Anti-Doping Organization **and/or disciplinary/judicial committee/agency** has been established under a government entity or has otherwise been constituted as a public entity, it shall ensure that its operational activities are implemented without any undue influence, interference, or involvement from any other government entity and that sufficient legal **and/or** organizational safeguards are in place to ensure the operational independence of its staff from any government or public entity.

Reasons for suggested changes

Regarding this provision, in Japan, the first-instance hearing panel are established by the Japan Sport Council (JSC), an incorporated administrative agency. While incorporated administrative agencies are, under Japan's administrative system, legally independent from the government, they may be broadly regarded as "governmental bodies" in some contexts.

Therefore, we have concerns regarding the consistency of this structure with the requirement for "Operational Independence" as set forth in the 2nd DRAFT.

While article 8.1 of the WADC stipulates "the Anti-Doping Organization with responsibility for results Management shall provide, at a minimum, a fair hearing within a reasonable time by a fair, impartial and Operationally Independent hearing panel in compliance with the WADA International Standard for Results Management. "

We think that it is highly desirable for athletes to have hearings conducted by a public body that is independent from the anti-doping organization because it ensures fairness, transparency and independency.

However, the 2nd DRAFT states that " National Anti-Doping Organization shall neither delegate any Doping Control responsibility to a sport organization or government entity nor permit a sport organization or government entity to conduct any Doping Control responsibility"
So, we concern that there is a possibility that the current operational structure in Japan could potentially breaching the provision set forth in 2nd DRAFT.

We believe that a system in which hearings are conducted by a public body can enhance credibility, provided that sufficient organizational safeguards are in place.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)
NADO - NADO

General Comments

We, the Athlete Commission to New Zealand's NADO, support our NADO's submission on this New Definition of NADO Operational Independence.

CHINADA SUBMITTED

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

General Comments

Definition of National Anti-Doping Organization Operational Independence

We believe that some issues regarding the National Anti-Doping Organization Operational Independence have not yet been adequately addressed in the draft. First, Operational Independence is not only an issue for NADOs, but may also exist for other relevant parties involved in doping control. In this regard, we recommend that similar standards for Operational Independence be established for IFs and any Delegated Third Parties acting on their behalf.

Second, in some countries, hearing and appeal panels are established within the National Olympic Committee, National Federation or National Association, to ensure their operational and institutional independence from the NADOs. Given that the definition of Results Management includes both hearing and

appeal, would this existing model mentioned above be considered non-compliant with the requirement of Operational Independence?

Third, we believe that revisions to the Code should fully take into account the specific circumstances of the Signatories, respecting their domestic legal systems and practical realities rather than requiring all Signatories to adopt exactly the same model for Results Management.

Anti-Doping Sweden SUBMITTED

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

General Comments

ADSE supports the more detailed definition of NADO Operational Independence in the 2nd draft of the Code. Additionally, in ADSE's opinion these requirements of operational independence should be applied equally to all Anti-Doping Organizations to ensure the absence of any conflict of interest in anti-doping operations.

Although ADSE supports the definition of NADO Operational Independence, there is a need for further clarification of the requirement in the writing of (*3) a National Anti-Doping Organization shall neither delegate any Doping Control responsibility to a sport organization or government entity nor permit a sport organization or government entity to conduct any Doping Control responsibility.*

In Sweden, as in many other countries, the sports organisations are the ones deciding the rules of sports and the ones making decisions when the rules are not followed. In Sweden the hearing panel (first instance) and the appeal panel are acting operationally independent from any sports organisation, but the members of both panels are elected by the General Assembly of the umbrella/overall Swedish sports organization which constitutes the member National Federations. If the requirement in 3)* is to be interpreted that a NADO cannot delegate the responsibility of decisions to hearing and appeal panels affiliated with sports organisations, the current structure of the hearing and appeal panels in Sweden will no longer be compliant.

If this requirement is to be interpreted as described, we suggest a detailed guidance on how the election of such members of hearing panels is to be appointed independently of sport and government. Also, if the requirement will include the obligation of creating new hearing and appeal panels without affiliation to sport, a longer period for the implementation of said requirement for Sweden is needed, given the need for establishing new independent structures.

Furthermore, there is a need for further clarification of NADO Staff involvement in Activities of IFs or MEOs under the current definition of NADO Operational Independence. ADSE request further clarity on whether NADO staff are permitted to work as DCOs for MEOs and as test coordinators/planners for IFs at International Events. Such collaboration between NADO and MEOs/IFs is of great benefit to both the professional development of NADO staff while ensuring the quality of the Doping Control activities carried out by MEOs/IFs at International Events which in turn benefits the athletes.

* According to the definition of *Doping Control: All steps and processes from test distribution planning through to ultimate disposition of any appeal and the enforcement of Consequences, including all steps and processes in between, including but not limited to, Testing, investigations, whereabouts, Therapeutic Use Exemptions, Sample collection and handling, laboratory analysis, Results Management and investigations or proceedings relating to violations of Article 10.14;* and to the definition of *Results Management: The process encompassing the timeframe between notification as per Article 5 of the International Standard for Results Management, or in certain cases (e.g., Atypical Finding, Athlete Biological Passport, whereabouts failure), such pre-notification steps expressly provided for in Article 5 of the International Standard for Results Management, through the charge until the final resolution of the matter, including the end of the hearing process at first instance or on appeal*.

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Othilia Christensen, Legal Advisor (Danmark)
NADO - NADO

General Comments

NADO Operational Independence

The Danish NOC (DIF) has along with the Norwegian NOC and the Dutch NOC identified a major concern with the proposed new definition of "*National Anti-Doping Organization Operational Independence*".

The Danish sports organizations are structured in such a way that the Danish National Sports Confederation and the Danish National Olympic Committee are merged into a single organization—namely DIF. DIF serves as an umbrella organization under which all national sports federations are organized. Anti Doping Denmark is a separate organization responsible for doping control in Denmark.

DIF's concern regarding the new definition of NADO's operational independence is that the secretarial services for the "Hearing Panel" and "Appellate Bodies," as described in the Code, is organized within DIF, even though the individual members of both the "Hearing Panel" and the "Appellate Body" are organizationally and institutionally independent of DIF.

DIF believes that the new definition of NADO's operational independence is extremely far-reaching, as it explicitly states: "(3) a National Anti-Doping Organization shall neither delegate any Doping Control responsibility to a sport organization or government entity nor permit a sport organization or government entity to conduct any Doping Control responsibility." Since DIF, as an organization, functions both as an umbrella organization for all Danish national sports federations and as the National Olympic Committee (NOC), it must be assumed that DIF falls under the definition of a "sport organization."

In DIF's assessment, this means that DIF will no longer be allowed to provide secretarial support for the "Hearing Panel" and "Appellate Bodies" described in article 8 and 13 in the Code. This is due to DIF's interpretation that "Results Management" is considered a part of "Doping Control" as defined in Appendix 1 Definitions under the Code, and that "Results Management Authorities," including the "Hearing Panel" and "Appellate Bodies," fall within the scope of "Results Management" and, consequently, within the definition of "Doping Control" under the Code.

The fact that the new definition of NADO's operational independence prevents NADOs from delegating any Doping Control responsibility to a "sport organization," including DIF, poses a significant challenge to and jeopardizes the sports governance structure in Denmark and other Northern European countries. Furthermore, from a legal certainty perspective, it may be problematic if the secretarial support for the independent bodies handling doping cases cannot be delegated by NADOs.

It is imperative to underscore that any provisions regarding "*National Anti-Doping Organization Operational Independence*" should be implemented with due regard for individual countries' legislation. We recognize that some countries afford greater regulatory powers to national sports federations, and any adjustments should respect the legal frameworks in place.

Dopingautoriteit SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

General Comments

1. General

1.1. It is imperative to maintain and protect the operational independence of all Anti-Doping Organizations. Operational independence is a crucial part of the credibility of the system and the trust that athletes may place in the system. Therefore we consider it important that sufficient safeguards are included in the code to ensure this that operational independence is

maintained and protected. The crucial aspect when it comes to ensuring operational independence, and avoiding undue influence, interference or involvement from government, the NOC and national federations, is to introduce sufficient legal and organisational safeguards. The second draft proposes several useful and important elements in this regard. However, at the same time, the proposal in its current form is unpractical and difficult it implement. As such the proposed text may in practice not yield the results it aims to achieve.

1.2. For the sake of completeness, we include here the comments provided by the Council of Europe:

1.2.1. Operational independence is a fundamental principle in a well-functioning anti-doping system, but it would be helpful to start from the question of what's the risk which needs to be addressed and define which principles will mitigate said risk: The overall challenge is an inherent risk for antidoping control activities, that ulterior motives and interests in conflict with the principle of clean sport takes precedence over and/or influence operational decisions and dispositions which could undermine the integrity and the credibility of the doping control process.

1.2.2. To address this risk:

i. ADOs must avoid involvement of people who by virtue of other engagements and affiliations have conflicting interests to anti-doping (e.g. working with elite sport in either sport organizations or government entities).

ii. ADOs must put in place safeguards to avoid that they or their employees in their ADO-capacity are under undue influence (incl. by receiving instructions or otherwise) (e.g. a DCO may work as a police officer but may not receive instruction from the police hierarchy in their performance as DCO)

iii. ADOs must have in place structures which ensure separation of powers throughout the doping control process, and which ensure accountability of the relevant entities directly vis-à-vis WADA (i.e. distinguishing hearing and appeal (judiciary) from the rest of the doping control (cf. the definition of doping control) (executive), and WADA should thus ensure that the hearing and appeal panels are directly accountable vis-à-vis WADA).

1.2.3. The principle of operational independence should, however, apply equally to all doping control activities and replace the definition of National Anti-Doping Organization Operational Independence with a definition of operational independence of all organizations conducting doping control responsibilities.

Suggested changes to the wording of the Article

Taking into account its importance to safeguard the system, but also the need to have a definition on place that is practical enough for it to be applied by and adhered to by all ADO's, to consider an additional consultation round for this topic of operational independence of (N)ADOs.

2. Specific

2.1. Point 3 of the proposed definition states that "a National Anti-Doping Organization shall neither delegate any Doping Control responsibility to a sport organization or government entity nor permit a sport organization or government entity to conduct any Doping Control responsibility".

This third aspect of the proposed definition is inconsistent with the introduction to Part One of the Code, which acknowledges the practical need for NADOs and other ADOs to delegate specific tasks while maintaining overall responsibility and oversight. Prohibiting any form of delegation outright, as point 3 proposes, is not only inconsistent with this principle, but also inconsistent with the broader structure of the Code since 2003 that has achieved the objective of global harmonisation, while at the same time enabling NADOs to function effectively within diverse national systems. In addition to the introduction to Part One, the definition of NADO in the Code also reflects this diversity of national structures in which the Code is implemented and the NADO needs to function.

2.2. Under these national structures, it has been a long standing practice, dating all the way back to the 2003 Code, that national federations and/or the NOC may have certain responsibilities and may delegate these responsibilities to the NADO. When these kinds of delegations are sufficiently and robustly embedded in the relevant legal structures on the national level, there is no - and there never has been - concern with a NADO's operational independence. The Code 2027 could further strengthen this (long) existing practice by introducing an obligation for NOC in Article 20.4 to require their members, as a condition of membership, to delegate to the NADO all authority that the Code assigns to the NADO.

3. Operational independence in the context of the Code serves the need to safeguard anti-doping activities from undue external influence, particularly from sport organizations or governments. Point 3 of the proposed definition, however, is by no means the only way to achieve that that goal. Delegation, when accompanied by appropriate oversight and accountability mechanisms, does not inherently compromise independence. Operational independence is best preserved

through safeguards that ensure non-interference in decision-making, not by imposing prohibitions on legitimate, controlled cooperation.

Proposal:

-To continue the standing practice wherein national federations and/or the NOC may delegate certain responsibilities to the NADO;

-To introduce an additional obligation for NOC in Article 20.4 to require their members, as a condition of membership, to delegate to the NADO all authority that the Code assigns to the NADO;

-To remove point 3 from the proposed definition of NADO operational independence.

NADO Flanders

SUBMITTED

Jurgen December, Legal Adviser (België)
NADO - NADO

General Comments

The definition of operational independence of NADOs raises questions if the definition if compatible with the current situations where NADOs are instated as public institutions and to be considered as parts of active government.

If sufficient mechanisms ensure that the NADO can operate in full independence, there should not be any rule preventing that the NADO is a public institution. A public institution however will always have to follow certain rules and regulations, and some form of oversight by the government, especially when operating with public funds. With the current definition, there is a contradiction in terms if the NADO is a government institution: the head of the NADO is involved in a government entity, but is at the same time operationally independent.

Suggested changes to the wording of the Article

(1) the adjective undue should be put before each word (undue influence, undue interference or undue involvement), otherwise there is a risk of interpretation that any involvement in the form of cooperation would be prohibited.

(2) add "government entity, other than the NADO itself if the NADO is a government entity."

Reasons for suggested changes

(1) Does undue correlates to the three conceptual terms (undue influence, undue interference, undue involvement)? Or does it prevent any involvement? If no government entity can have an involvement, this should in theory even prevent having NADO within the public administration, or at least prevent a government entity NADO from benefiting from horizontal services, such as central postal services or central accountancy, since this can be ‘involvement’.

(2) This should be rephrased to “government entity other than the NADO itself”

(3) in the current and proposed system, NADOF intends to have a single disciplinary body in place for first instance decisions. This instance is founded and largely funded by the sporting movement, and the board has representation of members of sporting organisations. This is the only option, and is in the current wording problematic if this is seen as a delegation to sporting organisations. Again, it should be clarified that operationally independent bodies are still allowed to provide certain services. It remains clear however that the responsibility remains with the antidopingorganisation. If the drafted definition only clarifies that the final responsibility (and accountability) will rest upon the NADO, this would be acceptable.

Secondly, we reiterate that it should be clarified that in case the NADO is a government entity, the involvement of the operationally independent NADO in the doping control process as a government entity is still allowed.

(4) it needs to be ascertained that this only affects the distribution / allocation, and does not encompass that a NADO under public funding cannot have a separate budget for operational activities and for personnel, in which it has been determined that the personnel budget can only be spent on the personnel costs. In the budget laws in Belgium, the operational budget provided by the public funding, and the staff and overhead budget are within different programs.

Anti-Doping Norway SUBMITTED

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

General Comments

The definition would benefit from a clearer objective, outlining what needs to be achieved by NADO Operational Independence. We furthermore agreed that we could provide you with such an objective. We suggest the following text:

> "The objective of *National Anti-Doping Organization Operational Independence* is to ensure that no *Person* may be involved in or interfere with any part of the *Doping Control* process that they have any interest in or might receive any benefit from".

For the sake of clarity, we would furthermore like to suggest the following:

First, to define the phrase "government entity", which is used in the NADO Operational Independence definition. We suggest "any member of government or staff of the government department(s) with responsibility in theory or in practice for sport and/or anti-doping". This is in order to ensure clarity that persons who are involved in any of those government departments with interest in a sporting result and thus the outcome of the doping control, should not be able to take part in the work of the NADO.

Second, to define the phrase "sport organization", which is also used in the NADO Operational Independence definition. We suggest "International Federation, National Federation, Major Event Organization, National Olympic Committee, or National Paralympic Committee." Without definition or clarification, the phrase 'sports organization' is very broad and could include local or regional sports clubs. In countries where age group football teams are members of the same federation as the national-level football players, it opens the question of whether a player / coach / captain of an 'old boys' team, or the coach of the local little league team, would be prevented from participating in any part of the Doping Control process under the current definition.

Third, while we support the concept that no part of the Doping Control process should be delegated to a sport organization or government entity (as defined above), we would recommend that the requirement of Institutional Independence, which is currently only applicable to appeal panels, should also be fully applicable to first instance hearing panels. Furthermore, given that we – and many others – may need to establish separate new first instance hearing and appeal hearing institutions in order to comply with point (3) of the NADO Operational Independence definition, which may well be a complicated, time-consuming, and multi-stage and multi-stakeholder process, we suggest that an ADO's failure to comply with these new requirements should not result in the initiation of a corrective procedure as set out in the ISCCS before 1 January 2029. In light of that suggestion, we propose creating a new sub-article (a) to Article 24.12. to accommodate a longer transitional period:

a) As the sole exception to Article 24.1.2 and in order to permit a transitional period for *Signatories* to institute the necessary frameworks and processes, if a *Signatory* fails to comply with the new requirements related to ensuring the independence of hearing and appeal panels from sport organizations and government departments responsible for sport (as described in the definition of National Anti-Doping Organizational Operational Independence), *WADA* will not assert that failure as a *Non-Conformity* and the matter will not result in the initiation of a corrective procedure as set out in the *International Standard* for *Code Compliance* by *Signatories* until (at earliest) 1 January 2029.

Fourth, while we strongly support the need to ensure Operational Independence of Doping Control and we understand that this is a complex area, we think that a definition of National Anti-Doping Organization Operational Independence that is less prescriptive and instead based on principles would (a) leave fewer gaps, (b) lessen the risk of unforeseen scenarios arising, and (c) lessen the risk of having too broad a regulatory reach (e.g. by disallowing NADO DCOs from supporting MEOs, or by disallowing NADO staff from supporting an IF's anti-doping commission or temporarily supporting test planning during e.g. an Olympic Games). That would be contrary to the collaboration and

harmonization that all anti-doping stakeholders aim to achieve. For us, the key to ensuring operational independence at the national level is:

1) Avoiding delegation of any part of the Doping Control process to national sports organizations (e.g. NOC, NPC and national federations) or to a government department responsible for or involved in sport.

2) Ensuring that sufficient safeguards (e.g. contractual safeguards and conflict of interest policies) are in place to prevent the direct or indirect direction, interference, or influence in any part of the Doping Control process from any other entity or natural person outside of the operational structure of the National Anti-Doping Organization.

3) Ensuring Institutional Independence of the hearing and appeal panels from those involved with other parts of the Doping Control process (i.e. the NADO) as well as from national sports organizations and government departments responsible for sport.

Fifth, for the avoidance of doubt, while we strongly support the principle that the Doping Control process is carried out by entities that are independent of those who could have an interest in the outcome of the Doping Control process, this is equally important at the international level as it is at the national level. Accordingly, we reiterate our suggestion to delete the "N" in NADO Operational Independence, to ensure that the Doping Control processes carried out by any ADO satisfy the same operational independence criteria.

Finally, we are concerned to learn that the involvement of sports organizations in e.g. the educational activities would not be compatible with the proposed definition. If this is indeed the case, this would hamper comprehensive antidoping education programs which would risk being significantly reduced.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

We accept that the extension of operational independence will remove the ability of sports to (amongst other things) operate their own judicial panels to hear ADRVs and determine sanctions. However, we would want it clarified that independent hearing bodies such as New Zealand's Sports Tribunal are not impacted by these amendments and that they can continue to operate as they are currently. We understand the Sports Tribunal of New Zealand will be making its own submission on this issue.

We have consulted with the Commission's Athletes Commission who are supportive of this submission.

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

Definition National Anti-Doping Organization Operational Independence:

These principles are important, but should not only apply to NADOs but also to all ADOs. To future proof the Code and ensure that all anti-doping processes are subject to good governance and protected from undue influence, the principle of independence should therefore apply equally to all entities, including the IFs and their respective anti-doping units, as well as the NADOs. Maintaining a transparent and consistent anti-doping program is a collective responsibility that must be shared by all ADOs.

USADA SUBMITTED

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

NADO - NADO

General Comments

National Anti-Doping Organization Operational Independence – USADA submits that operational independence should include independence of the Board of Directors. Equally, if not more importantly, operational independence should first and foremost apply to WADA and then apply to other ADOs, including IFs' anti-doping programs in addition to NADOs.

Additionally, the greatly expanded definition of NADO Operational Independence should clarify that NADO personnel can assist and collaborate with IFs and MEOs on anti-doping efforts, including implementation of anti-doping programs in the lead up to and at major events. The current definition (specifically subsection 2) arguably prevents such assistance, even if done on a volunteer basis. Surely WADA does not want to exclude expertise from NADOs in the implementation of anti-doping programs at the most high profile sporting events in the world.

UK Anti-Doping SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

The principle of operational independence is important, and should apply not only to National Anti-Doping Organisations, but to all Anti-Doping Organisations. To ensure the proper and consistent application of the Code and ensure that all anti-doping processes are subject to good governance and protected from undue influence, the principle of independence should apply equally to all organisations, including International Federations. Maintaining a transparent, consistent and effective anti-doping program is a collective responsibility that must be shared by all Anti-Doping Organisations.

iNADO SUBMITTED

Alex Brown, Campaigns and Membership Coordinator (Germany)

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

General Comments

The definition of NADO Operational Independence has been expanded from five words in the 2015 Code (art. 20.5.1) to a new definition of 125 words and an additional comment of 562 words in the current draft. Notwithstanding, several points raised in previous consultations remain outstanding. These include:

- Why does the definition only apply to NADOs? iNADO refers to its public statement of 16 May to advocate for operational independence across all Anti-Doping Organisations.
- The lengthy comment does not necessarily provide additional clarification given the diversity of (legal) structures of NADOs worldwide.
- In cases where discrepancies remain between the Code / IS and domestic law, these likely impact all ADOs within that same jurisdiction. Subsequently, eventual consequences should be imposed on all ADOs impacted, and not be on a single entity as the outcome of an (individual) compliance audit (also applicable to Code art. 22).

- What is the impact of this definition on e.g. NADO personnel to volunteer for IFs (e.g. being a member of an IF tribunal or Anti-Doping Committee) or MEOs (e.g. providing expert advise on test planning); and on the capacity for government personnel to act in a volunteer capacity to the NADO (e.g. DCO, BCO, chaperone, educator)?
- Does this definition allow for shared resources between NADOs and IFs/NFs (e.g. result management, hearing panels), or will this require a-priori approval by WADA?
- There is value of further reflection to which extend the detailed provisions of the definition apply to NADOs that also act as sports integrity units for the country.

iNADO recommends:

a. Operational Independence is a concept that is of significant value / benefit to all ADOs (see iNADO Statement The Benefit of Expanding Operational Independence for Doping Control Activities Beyond Only National Anti-Doping Organisations (NADOs)). iNADO recommends that the principle of Operational Independence are expanded upon in Code articles, with a reference in the "Roles and Responsibilities" for different ADOs to implement these.

b. In the alternative, it is proposed to keep the definition generic and short, and transfer any further detail to a separate document rather than addressing parts of it in a lengthy comment. This will allow for a more differentiated explanation on the different (important) sub-themes of the definition.

Sports Tribunal New Zealand SUBMITTED

Luke Macris, Registrar (New Zealand)

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

General Comments

We understand that these definitions are not intended to impact or change the operations of independent hearing bodies, such our own organisation (Sports Tribunal of New Zealand).

At various places throughout, the Code differentiates between the roles, powers, and responsibilities of NADOs and hearing bodies. However, based on the definitions of "*National Anti-Doping Organization*", "*Doping Control*" and "*Results Management*", there is also an argument that independent hearing bodies fall within the definition of a NADO.

Accordingly, it would be helpful to separately define "*Hearing Body*" and to, where possible, better articulate and differentiate between the powers, roles, and responsibilities of a Hearing Body from a NADO throughout the Code.

In terms of the definition for "NADO Operational Independence", we are inclined to the view that this definition is overly complex and, rather than provide clarity, may only serve to muddy the issue by create challenging "edge cases" with some structural arrangements that are not intended to be caught. We suggest paring the definition back to higher-lever key criteria e.g., independence and no undue influence/interference. That will ensure greater clarity and focus on the rule/message that NADOs need to be sufficiently independent and free from influence/coercion from independent hearing bodies, government agencies, and sport organisations.

Suggested changes to the wording of the Article

Insert a separate definition for "hearing body" or "independent hearing body"; and clarify the definition of National Anti-Doping Organization to exclude this new definition for hearing body.

Reasons for suggested changes

As above at General Comments – to create greater clarity of definitions and roles, powers, and responsibilities of NADOs versus independent hearing bodies.

Protected Person (3)

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

General Comments

Definition of Protected Person

We support expanding special treatment for Protected Persons and Recreational Athletes, which will help safeguard the legitimate rights and interests of Minors. Additionally, we recommend adding new provisions regarding Financial Consequences to these provision of special treatment for Protected Persons and Recreational Athletes. Protected Persons often lack the personal financial capacity to bear liability, and overly severe Financial Consequences often shift the burden to parents or other guardians. We recommend including a principled limitation on the imposition of Financial Consequences on Protected Persons. For instance, Financial Consequences for Protected Persons may be reduced or eliminated as appropriate, taking into account the economic situation of the family and the degree of fault of Other Persons involved.

Spanish Commission for the Fight Against Doping in Sport (Comisión Española para la Lucha Contra el Dopaje en el Deporte - CELAD)
SUBMITTED
Carlos Gea, Head of International Relations and Coopetarion Area (España)
NADO - NADO

General Comments

The current definition of "Protected Person" in the 2027 World Anti-Doping Code introduces a distinction between minors based on their age and level of sport participation, such as inclusion in a Registered Testing Pool or participation in open-category international competitions. While the Code justifies this by emphasizing a presumed increase in maturity and exposure to anti-doping education, this approach appears to prioritize the protection of “clean sport” over the fundamental developmental and legal protections owed to children and adolescents.

The ethical foundation of anti-doping is the defense of fair play; however, when fair play is pursued by categorizing some minors as less deserving of protection, it risks placing competitive integrity above the rights and best interests of the child. We question whether this is the fairest or most human-rights-aligned approach to the treatment of minors in sport. Age alone does not reliably indicate cognitive or moral maturity, and sporting achievement should never justify the removal of protections that exist precisely because children and adolescents are still developing.

Therefore, we propose that all individuals under the age of 18 be granted the same Protected Person status under the Code.

Suggested changes to the wording of the Article

Definition of Protected Person (Appendix 1 – Definitions)

Protected Person: An Athlete or other natural Person who, at the time of the anti-doping rule violation: (i) has not reached the age of eighteen (18) years; or (ii) for reasons other than age has been determined to lack legal capacity under applicable national legislation.

New Comment to the Definition of Protected Person:

[Comment to Protected Person: All Minors are Protected Persons. The Code does not distinguish based on age sub-groups, testing pool membership, or competition category. This uniform approach recognizes that all minors require developmentally appropriate protections. Persons of any age who lack legal capacity under national law are equally entitled to such protections.]

Edits to Other Articles for Consistency

Replace all references in the Code to “Protected Person or Minor” with simply “Protected Person”.

This ensures that all minors benefit from the same sanction reductions and procedural considerations and that “Protected Person” encompasses all minors by definition.

Article 14.3.6

Replace current provision with: “The mandatory Public Disclosure required in Article 14.3.2 shall not be required where the Athlete or other Person who has been found to have committed an antidoping rule violation or violation of Article 10.14.1 is Recreational Athlete. Any optional Public Disclosure in a case involving a Recreational Athlete shall be proportionate to the facts and circumstances of the case and shall take into consideration the best interests of the individual.”

New article 14.3.7

Public Disclosure of anti-doping rule violations or sanctions involving Protected Persons is strictly prohibited. This prohibition applies without exception to all individuals who, at the time of the violation, are under the age of eighteen and all individuals who have been determined to lack legal capacity under applicable national law.

This full protection recognizes the particular vulnerability of minors and persons lacking legal capacity, and the serious risk of long-term psychological, reputational, and social harm that public exposure may cause. Anti-Doping Organizations shall not publish, disclose, or otherwise make publicly available any identifying information or details concerning anti-doping violations or sanctions involving a Protected Person, regardless of the nature or gravity of the violation.

New Comment to article 14.3.7

[Comment to Article 14.3.7: This Article reflects the Code's recognition of the need for absolute privacy in cases involving minors and individuals lacking legal capacity. These groups are particularly susceptible to stigmatization and irreversible harm from public exposure. Unlike Recreational Athletes, whose cases may be disclosed under limited conditions, the protection for Protected Persons is absolute and non-discretionary. No balancing test or exception applies.]

New Comment to the Definition of Minor:

[Comment to Minor: All Minors are Protected Persons. No minor shall be treated differently based on age, sport category, or testing pool inclusion. The Code shall not presume maturity based on competitive status.]

Reasons for suggested changes

Our proposed changes are driven by a fundamental principle: that no minor should be less protected than a recreational athlete, and that children and adolescents, regardless of their level of sporting achievement, are inherently vulnerable due to their stage of development.

The distinction currently drawn in the Code between minors under 16 and those aged 16 or 17 who participate in high-level sport or belong to testing pools is rooted in the belief that fairness in sport justifies differentiated treatment. The Code implies that such minors are more likely to understand anti-doping obligations and therefore warrant fewer protections. We challenge this assumption.

This approach, placing fair play above age and developmental capacity, is not, in our view, the most just or appropriate framework for addressing violations by minors. Biological and psychological maturity are not determined by sport participation. Moreover, applying adult-like standards to young athletes based on their competition level may lead to disproportionately severe consequences and long-term harm, especially when reputational damage or exclusion from sport are involved.

Furthermore, the current model leads to inconsistencies where certain minors are less protected than recreational athletes. This undermines the stated intent of the Protected Person category, which is to account for diminished capacity and need for special treatment when evaluating Fault.

Finally, we believe the Code must prohibit the public disclosure of any anti-doping violations involving minors. The long-term psychological and social consequences of such disclosures are well-documented, and the potential harm far outweighs any deterrent or public interest benefit. Instead of assuming that clean sport demands exposure, we should design anti-doping systems that prioritize the holistic protection of the young individual, especially when the misconduct may stem from adult influence or lack of informed consent.

These changes align the Code with human rights standards, the best interests of the child, and a developmentally appropriate concept of justice. We also believe a dedicated article, created with multidisciplinary expert input, should consolidate all protections and procedures concerning minors and persons lacking legal capacity.

USADA SUBMITTED

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

NADO - NADO

General Comments

Protected Person – Person should not be capitalized and italicized here because the definition of Person includes an organization or entity, and here the word person is meant *only* to relate to an individual.

Testing Pool (1)

USADA SUBMITTED

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

NADO - NADO

General Comments

Testing Pool – This definition is confusing, and there is too much overlap between this definition and the definition of Whereabouts Pool (in the IST). USADA recommends that the term Whereabouts Pool be used instead of Testing Pool. Testing Pool is confusing because, for example, anti-doping organizations almost always have jurisdiction to test many more athletes than the subset of athletes who file whereabouts. But the term Testing Pool suggests to athletes and the public that they can only be tested if they are in a Testing Pool, even though that is not the definition. The term Whereabouts Pool is clear, and if individuals want to refer to Whereabouts Pools other than the RTP, they can simply say as much.

Additionally, the definition should refer to "planned Out-of-Competition Testing" rather than simply "Out-of-Competition Testing." Consistency in language is important; refer to IST Article 4.10.12.1.

Definitions to Article 24 (2)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD recommends that WADA clarify how the term **"compliance"** is to be interpreted in the context of Code Article 24, particularly as it applies to small or disability-specific Anti-Doping Organizations (ADOs). While ICSD is fully committed to meeting its Code obligations, the operational model and available resources of smaller ADOs differ significantly from those of large, fully staffed NADOs or IFs

Suggested changes to the wording of the Article

Add a note to the definition of "compliance" (or to the Comment on Article 24):

Compliance should be assessed with consideration for the size, mandate, and operational structure of the Signatory. In particular, WADA recognizes that small or event-based ADOs, or those serving athletes with disabilities, may require adapted support, extended timelines, or alternative mechanisms to demonstrate effective implementation of the Code

Reasons for suggested changes

Without an inclusive interpretation, ICSD and other similar ADOs risk being evaluated against benchmarks designed for larger institutions. This may unintentionally penalize committed organizations that lack the same infrastructure. By clarifying the definition or application of “compliance,” WADA can promote fairness, sustainability, and inclusion in its monitoring approach — while still upholding the integrity of the anti-doping system.

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

Disqualification is interpreted with reference to section (a) of the meaning of *Consequences*. However, the word “disqualification” has a specific meaning in combat sports such as boxing and mixed martial arts.

Suggested changes to the wording of the Article

Insert a comment explaining how the word is to be applied in the context of combat sports.

Reasons for suggested changes

The SAIDS in its written decisions has to detail that an *Athlete*’s results have to be disqualified. However, the implementation of this is challenging in sports such as boxing and mixed martial arts where “disqualification” is not equivalent to the invalidation of a result. Comment to this definition dealing with how this should be applied in those contexts will helps NFs better understand how to implement the appropriate *Consequence* in their sports

Representatives (2)

ICSD SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)

Sport - IF – IOC-Recognized

General Comments

ICSD supports the existing definition of “Representatives” as individuals authorized to act on behalf of an Athlete or other Person, such as legal counsel or support personnel. However, we respectfully request that WADA clarify that **sign language interpreters or other communication facilitators are not considered representatives**, but play a **neutral and essential role** in ensuring **effective communication access** for Deaf athletes during all stages of the anti-doping process

Suggested changes to the wording of the Article

For clarity, communication support personnel such as sign language interpreters are not considered Representatives, as they do not act on behalf of the athlete or influence proceedings. However, they may be required to ensure full and equitable communication access for athletes with disabilities, particularly Deaf athletes, and their presence should be facilitated during any procedure or hearing

Reasons for suggested changes

Deaf athletes require sign language interpreters to participate meaningfully in testing, education, results management, and hearings. These interpreters are neutral professionals who enable understanding, not decision-makers or advocates. Clarifying this distinction helps protect both athlete rights and procedural integrity, while ensuring accessibility obligations are met.

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies (FRANCE)

Public Authorities - Government

General Comments

Government officials cannot be sanctioned by a private entity for non-compliance by a fully independent national anti-doping organisation. Furthermore, government officials should not be held personally liable for the non-compliance of a NADO due to the absence of anti-doping regulations or discrepancies between legislation and the Code. Therefore, the reference to government officials should be removed from Annex B of the International Standard for Signatories' Compliance.

Other Comments / Suggestions (35)

USOPC Athlete Advisory Council SUBMITTED

Meryl Fishler, Coordinator (United States)

Sport - Athlete Representative (State the name of the athlete body in Organization name)

General Comments

FEEDBACK INTERNATIONAL TESTING STANDARDS – 5.3.2: Team USA AC believes WADA's restriction on phone calls to access gated residences undermines sample collection and athlete safety. The amendments that prohibit doping control officers (DCOs) from calling athletes to gain access to gated or restricted residences are counterproductive and undermine both athlete safety and the effectiveness of the testing process.

This rigid adherence to "no advance notice" testing fails to reflect the practical realities of many athletes' residential homes. In many cases, a brief phone call, often just minutes in advance, would be the only way for DCOs to enter secured buildings like an apartment or a gated community. Prohibiting such communication does not enhance the integrity of testing, it simply increases missed test rates due to logistical barriers. The case of Blessing Okagbare clearly demonstrates that athletes attempting to evade detection will simply not answer the door or the phone.

WADA should prioritize the collection of clean samples and the protection of athletes rather than enforcing rigid technicalities that produce no meaningful anti-doping benefit. Flexibility in situations involving restricted access is a common-sense measure that supports both the purpose and integrity of the anti-doping system.

Feedback In competition Versus Out of Competition Testing: Team USA AC representatives believe it would be helpful to receive further clarification on the definition of "in-competition" as outlined in the WADA Code. Specifically, there is ongoing uncertainty about whether "in-competition" refers solely to IPC/IOC- or NGB-sanctioned events, or if it also includes any instance in which an athlete is representing their country—such as anytime they wear the national team jersey.

Greater clarity on this issue is essential to ensure that athletes fully understand their responsibilities and the scope of anti-doping regulations. We respectfully encourage WADA to consider providing more precise guidance or illustrative examples to help athletes and support personnel interpret and apply this standard consistently across all sports and contexts. Additional targeted education could also be helpful.

ICSD

SUBMITTED

Mark Kusiak, ICSD Anti-Doping (Canada)
Sport - IF – IOC-Recognized

General Comments

1.

Accessibility and Inclusion

ICSD strongly recommends that WADA explicitly integrate accessibility and inclusion throughout the Code and International Standards. Deaf athletes continue to face systemic communication barriers in anti-doping education, testing, whereabouts compliance, results management, and hearings.

WADA should adopt a general principle that all procedures, education programs, and communications must be accessible to persons with disabilities — in formats such as sign language interpretation, captioning, plain language, and visual tools.

This aligns with the UN Convention on the Rights of Persons with Disabilities (CRPD) and would reinforce WADA's commitment to athlete rights, fairness, and equal treatment.

2.

Proportionality for Small, Event-Based ADOs

As a small, event-based ADO representing a specialized group of athletes, ICSD recommends that compliance expectations be applied proportionally. ICSD functions as the International Federation for World Deaf Championships and the Major Event Organizer (MEO) for the Deaflympics. It is responsible for testing planning and results management but must rely on external partners — such as NADOs and LOCs — for sample collection, and may require external assistance in results management due to limited staff and financial resources.

Many obligations in the Code are designed for NADOs or large International Federations with full-time anti-doping departments and the financial capacity to maintain dedicated staff and extensive partnerships. In contrast, ICSD operates with very limited financial resources and volunteer-based or part-time structures.

Additionally, ICSD does not maintain a full athlete database in ADAMS and lacks an established education pool in ADAMS. Many Deaf athletes are not included in national ADAMS pools and do not have consistent national anti-doping education pathways. This makes systematic tracking and delivery of education especially challenging for ICSD. WADA should acknowledge that smaller or event-based ADOs like ICSD may require tailored timelines, technical assistance, or alternative pathways to meet compliance obligations — without compromising the integrity of the system.

3.

Recognition of Unique Athlete Contexts

Deaf athletes may not be fully integrated into national anti-doping programs, Registered Testing Pools (RTPs), or the ADAMS system. Many rely on ICSD to access anti-doping education and testing during major events. The Code and its commentary should recognize these unique realities and encourage cooperation between WADA, NADOs, and disability-specific ADOs to ensure that no athlete population is left behind in the anti-doping system.

4.

Harmonization with Human Rights Principles

WADA is encouraged to include a general statement in the Code that reinforces the importance of non-discrimination, accessibility, and respect for athlete rights — consistent with international human rights instruments

such as the CRPD. This would send a strong signal to all stakeholders that anti-doping rules must be applied in a manner that respects the dignity, inclusion, and equal participation of all athletes — including those with disabilities.

International Cricket Council SUBMITTED

Vanessa Hobkirk, Anti-Doping Manager (United Arab Emirates)

Sport - IF – IOC-Recognized

General Comments

Burden on ADOs

While the ICC is supportive of many of the proposed changes to the Code and International Standards, it urges WADA to carefully consider the growing number of mandatory ('must') provisions in relation to the capacity of the average anti-doping organization. There is a risk that an excessive compliance burden may shift ADOs' focus away from delivering effective and meaningful anti-doping programs toward simply meeting administrative and compliance requirements.

Fédération Equestre Internationale, FEI SUBMITTED

Katarzyna Jozwik, Legal Counsel (Switzerland)

Sport - IF – Summer Olympic

General Comments

Comment to Article 10.6.1.2 WADC - the last paragraph of the comment to Article 10.6.1.2 regarding the contaminated water should be made under the *No Fault* Provision, Article 10.5. In fact, Article 10.6.1.2 (*Contaminated Source*) could be either a standalone provision (and not under *No Significant Fault or Negligence*) or should be added under *No Fault or Negligence* as well since depending on the circumstances of the particular case it can entail *No Fault or Negligence* or *No Significant Fault or Negligence.*

World Rugby SUBMITTED

Ross Blake, Anti-Doping Education Manager (Ireland)

Sport - IF – Summer Olympic

General Comments

Article 4.4 – With regards to the options proposed by WADA in the Second Draft Summary of Major Changes regarding anti-doping rule violation cases where the criteria for obtaining a TUE in Article 4.2 of the International Standard for Therapeutic Use Exemptions are met (but the athlete has not met the criteria for a retroactive TUE), we support the imposition of a fixed 2 month sanction.

Article 13 - As per our previous comments we remain of the opinion that WADA should convene a working group to look at the matter of whether CAS cases should or should not be heard De Novo to help with costs savings for parties and to make appeals more accessible to less well-funded athletes. Consideration should also be given as to whether limitations may also need to be imposed on De Novo hearings.

Norwegian Olympic and Paralympic Committee and Confederation of Sports SUBMITTED

Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

General Comments

The Norwegian Olympic and Paralympic Committee and Confederation of Sports supports the proposed amendments in WADA's *Second Draft: Summary of Major Changes*.

Regarding Articles 14.3.2 and 14.3.4, please confer the comment to Article 14.3.

International Tennis Integrity Agency SUBMITTED

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

Sport - Other

General Comments

Article 13

The ITIA would continue to urge WADA to reconsider the grounds on which an appeal can be brought and heard. The appeal process should not be on a de novo basis – the appeal should be restricted to grounds of new information or a procedural issue. Re-hearing the whole case is costly, time consuming for all parties and can undermine the first instance independent tribunal and the purpose for which it is there.

Sport Integrity Australia SUBMITTED

Chris Bold, Assistant Director, Anti-Doping Policy (Australia)

Public Authorities - Government

General Comments

SIA general comment regarding the Enhanced Games

SIA notes the recent and ongoing commentary around the Enhanced Games, including recent suggestions that “clean” Athletes, who are currently subject to Code compliant anti-doping rules, are to be invited to compete. SIA's interpretation of the Code and International Standards, as currently drafted, is that there is nothing preventing “clean” Athletes from competing at the Enhanced Games. As such, WADA may wish to consider if any (practical and enforceable) changes could be made to the Code and/or International Standards which would prevent the participation of “clean” Athletes in, and/or the association of “clean” Athletes with, events or other activities where there is a clear and publicly stated expression of support, or encouragement for, the use of Prohibited Substances and/or Methods (if consideration has not already been given to this). Similarly, WADA may also wish to consider if Athletes (and other Participants, such as coaches and medical personnel) competing in events or other activities where there is a clear and publicly stated expression of support, or encouragement for, the use of Prohibited Substances and/or Methods, are at all restricted in their ability to participate in Code compliant sports, after such participation. Moving forward, SIA would welcome, and would seek to engage in, further discussion on this point.

Article 4.2.3

SIA reiterates its initial feedback and again suggests WADA considers adding an additional provision to the Article 4.3 – Criteria for Including Substances and Methods on the Prohibited List that further outlines any additional considerations for determining the substances that are Substances of Abuse. By way of example, SIA continues to request Methamphetamine be included as a Substance of Abuse due to its prevalence as a frequently used recreational drug in Australia.

Articles 4.4.2/12.2.2

SIA suggests that for clarity and consistency, the review process contemplated by these Articles should be further explained in the ISTUE.

Article 5.6.1

SIA remains concerned that there is no requirement for a retired Athlete returning to Competition to be bound by an anti-doping policy during the six-month period (or other) under this Article.

SIA encourages the Code Drafting Team to consider including this requirement within Article 5.6.1 or otherwise to ensure that an ADO has the authority to act in relation to the Athlete during this prescribed period.

Danish Ministry of Culture SUBMITTED

Anne Sofie Minor Büchler, Head of section (Danmark)

Public Authorities - Government

General Comments

Please note that the comments from the Danish Ministry of Culture might undergo slight changes after the deadline, due to a missing final approval from the minister.

Ministry of Culture and Equality SUBMITTED

Robin Mackenzie-Robinson, Senior advisor (Norge)

Public Authorities - Government

General Comments

For further elaboration of the Ministry's comments to the Code revsion, we refer to the document, T-DO(2025)16, submitted by the Council of Europe, which provides valuable perspectives that are broadly consistent with the Ministry's views on the matter.

Ministry of Health, Welfare and Sport SUBMITTED

Bram van Houten, Policy adviser (Netherlands)

Public Authorities - Government

General Comments

Article 26.3 Code: reference to existing legislation and governments should be deleted. Any regulatory text can never be seen fully independently, since all regulations are ultimately subject to applicable law. In the Netherlands, for example, it is obligatory for a government entity such as our nado, to include existing legislation in its decision-making. If it does not, its decisions run the risk of being declared null and void by the courts based on the nado not following this legal requirement. Decisions by the Dutch nado are often decisions on the basis of civil association law. According to the Dutch Civil Code these decisions need to conform to applicable national and EU legislation. A Dutch court must annul (as if it never existed) or destroy a decision that is in violation with the applicable treaties, national or EU legislation. For the Dutch nado this would mean that if the code conflicts with EU or national law it either violates the law or the code. If they opt for a violation of the law the legal basis of the decision might be challenged before a Dutch court. If they opt for a violation of the code this might be challenged before the CAS. Either way it would result in a never ending cycle of possible challenges to the decision which would greatly damage the legal certainty of decisions of the Dutch nado.

This point is also made by the indicative analyses done by the European Commission. The Commission notes that art. 26.3 would imply that EU law should be disregarded in the interpretation and application of the Code in the EU, whereas in EU-territory the principle of primacy of EU law applies. The same argument holds true on a national level with national law. With the European Commission, it is our opinion the law cannot be disregarded, and the Code should reflect this. The analyses of the European Commission, together with an analysis and recommendations of the European Data Protection Board, were sent to WADA by the Polish Presidency of the Council of the European Union, calling on WADA to bring the Code in line with EU law. We urge you to follow-up on this call.

To avoid this complicated explanation, reference to legislation and governments should be deleted. The new text should read:
“The *Code* shall be interpreted as an independent and autonomous text and not by reference to existing Statutes of the *Signatories*.”

Suggested changes to the wording of the Article

To avoid this complicated explanation, reference to legislation and governments should be deleted in article 26.3 of the Code. The new text should read:
“The *Code* shall be interpreted as an independent and autonomous text and not by reference to existing Statutes of the *Signatories*.”

Reasons for suggested changes

Any regulatory text can never be seen fully independently, since all regulations are ultimately subject to applicable law. In the Netherlands, for example, it is obligatory for a government entity such as our nado, to include existing legislation in its decision-making. If it does not, its decisions run the risk of being declared null and void by the courts based on the nado not following this legal requirement. Decisions by the Dutch nado are often decisions on the basis of civil association law. According to the Dutch Civil Code these decisions need to conform to applicable national and EU legislation. A Dutch court must annul (as if it never existed) or destroy a decision that is in violation with the applicable treaties, national or EU legislation. For the Dutch nado this would mean that if the code conflicts with EU or national law it either violates the law or the code. If they opt for a violation of the law the legal basis of the decision might be challenged before a Dutch court. If they opt for a violation of the code this might be challenged before the CAS. Either way it would result in a never ending cycle of possible challenges to the decision which would greatly damage the legal certainty of decisions of the Dutch nado.

This point is also made by the indicative analyses done by the European Commission. The Commission notes that art. 26.3 would imply that EU law should be disregarded in the interpretation and application of the Code in the EU, whereas in EU-territory the principle of primacy of EU law applies. The same argument holds true on a national level with national law. With the European Commission, it is our opinion the law cannot be disregarded, and the Code should reflect this. The analyses of the European Commission, together with an analysis and recommendations of the European Data Protection Board, were sent to WADA by the Polish Presidency of the Council of the European Union, calling on WADA to bring the Code in line with EU law. We urge you to follow-up on this call.

Ministry of sports SUBMITTED

Amandine Carton, Deputy head of department of ethics, integrity and prevention policies
(FRANCE)
Public Authorities - Government

General Comments

In article 6.5, we do not understand why a laboratory would be permitted to conduct additional analysis after a case has been resolved. This creates uncertainty for athletes whose cases have been concluded. If this were to remain an option, the laboratory's ability to conduct such analyses would need to be regulated (e.g. upon the ADO's request and with WADA's approval).

Council of Europe (CoE) SUBMITTED

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

General Comments

- **General**

We welcome that the WADC highlights the role of human rights in the fight against doping.

- **Article 26. Interpretation of the Code / 26.3**

The European Commission notes that Article 26.3 would imply that EU law should be disregarded in the interpretation and application of the Code in the EU, whereas in EU-territory the principle of primacy of EU law applies. The same argument holds true on a national level with national law. With the European Commission, it is our opinion the law cannot be disregarded, and the Code should reflect this. The analyses of the European Commission, together with an analysis and recommendations of the European Data Protection Board, were sent to WADA by the Polish Presidency of the Council of the European Union, calling on WADA to bring the Code in line with EU law. We urge you to follow-up on this call.

To avoid this complicated explanation, reference to legislation and governments should be deleted. The new text should read:

“The Code shall be interpreted as an independent and autonomous text and not by reference to existing Statutes of the Signatories.”

VASANOC SUBMITTED
Dave Lolo, CEO (Vanuatu)
NADO - NADO

General Comments

No comments/ suggestions.

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

General Comments

General comments to WADC

The purpose and scope of the World Anti-Doping Program is to “protect the Athletes’ fundamental right to participate in doping-free sport and thus promote health, fairness and equality for Athletes worldwide, and to ensure harmonized, coordinated and effective anti-doping programs at the international and national level with regard to the prevention of doping”.

We DO NOT fight or combat doping. Fighting and combating sadly is a reality in countries in Europa and elsewhere. For English speakers this might mean defend, but this word does not translate as well for non-English speakers as it is negative in tone, and more neutral or position language is suggested.

Additionally, omitting this kind of language from the WADC, Standards, Guidelines, etc. helps to harmonize the wording across the regulations since only the WADC, the ISDP and the ISCCS use words like fight, combat or the scourge of doping.

Thus, the word “fight” should be removed from Introduction to “Part Two Education and Research”.

In addition, the word “fight” should be removed from Footnotes 1 and 42, on the cover page PART THREE ROLES AND RESPONSIBILITIES, in the Articles 22.6 and 24.1.5, Definitions of “Critical”, “General” and “High Priority”.

Similarly, the word “combat” should be removed in the Footnotes 70 and 137).

Please Note: This comment is also agreed upon the CEADO Education Managers and the PEERS group.

Thresholds for more prohibited Substances

Based on recent cases, NADA Austria strongly suggests introducing thresholds for more prohibited substances, especially those where an evident risk exists, that there might be a contamination scenario related to that prohibited substance. Analytical findings below these thresholds should only be considered as ATF with the potential to lead to an ADRV if there is more evidence. This mechanism is already in place for some substances in the prohibited list (e.g. some beta-2-agonists or specified stimulants) or substances listed in the “Stakeholder Notice regarding potential meat contamination cases” (clenbuterol, ractopamine, zeranol, or zilpaterol).

NADA Austria also strongly suggests to extend the list for ATFs / create one uniform list where all potential ATFs are stated instead of having different Technical Documents or Stakeholder Notices.

In addition, there are minimum required performance levels (MRPL) and decision limits in place for laboratories. Since there is no threshold right now, there is also no harmonization among the laboratories worldwide. One laboratory might detect quantities that others don’t. This needs to be harmonized as best as possible with the introduction of thresholds regarding those substances, where a realistic scenario of contamination exists. Of course, the key to the success of this approach is the individual definition of these thresholds which must be set sensibly for each substance so that they are below the amount that could cause performance enhancement.

Purposes, Scope and Organization of the World Anti-Doping Program

We acknowledge the idea to define the spirit of sport in a way that not only focusses on the “essence of Olympism”, but on a wider understanding of sport. However, the new wording raises some issues.

The health of the athletes and the risk of doping has always been one of the cornerstones of the rationale for the World Anti-Doping Program. With the new version, Health is not the first value of the spirit of sport but is mentioned further down the line. For sure, health is not the only value that is important and modern Education programs don´t only focus on the side effects of doping but have a much broader scope. However, the new wording runs the risk that one of the main narratives, the protection of athletes` health, is undermined.

This also does not fit with the new wording of the Introduction and Scope of the ISE where “Protecting Athlete wellbeing and health” is one of the main pillars of Education and states: “Protecting Athlete wellbeing and health. Adhering to anti-doping rules protects Athletes’ health, the fundamental rationale for the Code.”

Please Note: This comment is also agreed upon the CEADO Education Managers.

Athlete Support Personnel´s Anti-Doping Rights Act

We really appreciate all the additional wording regarding ASP in the new draft and think that this will help to raise awareness regarding the education of ASP.

We know that this may be not the right place and we already gave this input but we are strongly recommending to develop an Athlete Support Personnel´s Anti-Doping Rights Act.

Out of the 11 Anti-Doping Rule Violations, 7 also apply to ASP. ASP have roles and responsibilities in the WADC and IS and so they should also have rights. One could also argue that ASP want to work in a professional environment and have a right to participate in doping-free sport not only because they are affected by ADRVs, but also because they suffer from doping directly (e.g. because one of their athletes used doping and they did not know) or indirectly (e.g. because their athletes were not as successful as they competed against athletes who used doping).

A first step to acknowledge the importance of the role and influence of ASP would be an ASP Anti-Doping Rights Act like the Athletes’ Anti-Doping Rights Act.

This idea is already reflected in the current draft of the key purpose of Anti-Doping which was developed during the GLDF4CleanSport-project: “Promote clean sport by working collaboratively to develop and deliver a world programme which protects the right of all athletes and their support personnel to participate in a doping-free environment.”

Please Note: This comment is also agreed upon the CEADO Education Managers.

ARTICLE 4.4: THERAPEUTIC USE EXEMPTIONS

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

ARTICLE 5: Testing

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

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

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

5.6.1

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

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

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

Even with then new wording, his case is not solved and WADA needs to be involved for every exemption, even if this is only on a recreational / masters level.

ARTICLE 8.3

A waiver of the hearing is very rare in practice.

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

This would also resolve a majority of cases.

ARTICLE 10.3.2

We fully understand and agree that whereabouts are an important tool for anti-doping work. However, the whole concept needs a reconsideration. Although this is more specified in the IST, Whereabouts are also mentioned in the WADC and therefore it is worth to mention it here as well. The current rules show a couple of areas for improvement:

a) There should be more flexibility for hearing panels regarding sanctions regarding WADC 2.4. The minimum consequence of one year even though the athlete might have committed three MT /FF by “bad luck” or the lowest degree of negligence is way too much compared to other ADRVs and available reductions for specific circumstances.

We suggest setting the period of ineligibility for two years if ADOs can establish intent and potential reductions down to a minimum of a reprimand and no period of ineligibility, depending on the athlete´s degree of fault.

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

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

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

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

c) The removal of the mandatory whereabouts requirement for Registered Testing Pool (RTP) Athletes to file daily a training location and general timeframes is strongly rejected. This will lead to an even worse quality of whereabouts and less chances for intelligent testing. The idea that athletes voluntarily submit their training and/or any other alternative location/s contradicts the current reality. Even with a mandatory requirement, many athletes do not file their training or alternative locations, why should they share this information of there is no need and no consequence? We agree that there needs to be a change with the current regulation regarding training, but this is not a suitable way.

Furthermore, with the trend in doping moving toward microdosing, alternative concepts should be considered, such as a second timeslot at least a few hours before or after the other timeslot or an incentive system for athletes who provide more comprehensive entries for testing opportunities in ADAMS.

ARTICLE 10.5

In light of recent cases the wording in footnote 75 "*by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance*" must be adjusted to include also physiotherapists, masseurs or any other person treating an athlete.

General concerns (regarding CAS-proceedings)

The costs of CAS proceedings are detrimental to the entire Anti-Doping community as it may lead to:

- ADOs and WADA not appealing unsatisfactory decisions;

- Athletes being deprived of an effective right to appeal due to cost issues.

The length of the proceedings also induces very difficult situations where athletes and ADOs remain uncertain, for months / years, about the outcomes of a violation, and have absolutely no power to speed up the process.

Article 21.1

As ASP have a responsibility to participate in Education Acttivities, Athletes should have the responsibility to participate in Education Activities too.

Please Note: This comment is also agreed upon the CEADO Education Managers and the PEERS group.

Definitions – International Level Athlete

Footnote 152 states that an International Federation "must publish those criteria in clear and concise form, so that Athletes are able to ascertain quickly and easily when they will become classified as International-Level Athletes. For example, if the criteria include participation in certain International Events, then the International Federation must publish a list of those International Events."

Right now, it is hard or sometimes impossible to find out which athletes are International Level Athletes (ILA). Some federations publish it on the website in a designated anti-doping section, some in general rules, some in specific anti-doping rules, some don´t publish this information at all.

Since the status as ILA has a couple of implications (TUE, Testing, Education, RM, etc.) there should be a central database that has all the information easily accessible.

It would be helpful if WADA provided an accessible overview – either on its website or within ADAMS – how every IF defines the term “International-Level Athlete” and “International Event” along with the respective inclusion criteria.

A practical solution could be to require each IF to maintain a profile within ADAMS where this information is published in a dedicated section. This section should be visible to all other ADOs.

Please Note: This comment is also agreed upon the CEADO Education Managers and the PEERS group.

Agence française de lutte contre le dopage SUBMITTED

Adeline Molina, General Secretary Deputy (France)

NADO - NADO

General Comments

Article 10.3.1 – we would like to share a concern regarding this Article. According to (iii), the maximum period of ineligibility for evading or tampering committed by a Protected Person or Recreational Athlete is 2 years. On the other hand, the period of ineligibility is 4 years (or 3 years) in case of AAF if the athlete, who has the burden of proof, cannot establish that the violation was unintentional. This may lead to situations where Protected Persons (or Recreational Athletes) who intentionally dope and therefore intentionally refuse to submit to sample collection are less sanctioned that Protected Persons (or Recreational Athletes) who did not intend to cheat but cannot prove it.

Couldn’t we envisage a system where Protected Persons and Recreational Athletes could be given a 4 years ban for Evading or Tampering (either as a principle, subject to greater flexibility for reduction than other athletes, or by putting the burden of proof of intent on the ADO)?

Suggested changes to the wording of the Article

Article 5.3.1 – the word “international” before the added words “Anti-Doping Organization” should probably be deleted.

Article 7.4.3 – the word “or” should be deleted before “on a timely basis after…” in the (a) hypothesis.

SA Institute for Drug-Free Sport SUBMITTED

khalid galant, CEO (Souoth Africa)

NADO - NADO

General Comments

1, “International Federation” is used throughout the Code specifically in capitals, but it is not italicized. Was it the original Code drafters’ intention for this to be a definition

2. Is there going to be any interplay between the Code and the role of the Athletes' Anti-Doping Ombuds?

Suggested changes to the wording of the Article

Include a definition of “International Federation” in the Definitions.

Reasons for suggested changes

The SAIDS in various written decisions where the meaning of this phrase has been considered tends to import a definition from the text and sub-text of Article 3 of the Olympic Charter. A specific definition would help to streamline meaning and clear up any ambiguity around the phrase

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

SUBMITTED

General Comments

WADP Revision – 3rd phase of consultation

Belgium’s general position, comments and proposals :

General Position – General comments :

Generally, Belgium, including ONAD Communauté française :

- thanks WADA for providing the revised documents ;
- notes, however, and regrets that no impact assessment of the proposals has been provided, either in relation to the legislation and rules of the signatories or in terms of their financial and human resources;
- requests WADA to provide this impact assessment, even if general and simplified, so that signatories and Governments are well informed of the scope and impact of the proposed changes;
- also notes that the proposed changes are now deeper than the limited update that was initially supported;
- on the substance, issues the following general comments, which will be supplemented by more specific proposals in relation to the Code and certain International Standards :

  ✓ In line with the pillars of the Council of Europe and with the recommendation of the Council of Europe of 2022 on general principles of fair procedure applicable to anti-doping proceedings in sport, requests that the proposed amendments do not have the direct or indirect effect of reducing the rights of athletes, including the right to a fair trial ;

  ✓ also in connection with the right to a fair trial and with the general principle of the separation of powers and in line with, NADOs should not be held responsible, in particular in terms of compliance, for decision taken by an independent hearing body. This issue should be taken into account by WADA, in the Code, via a clarification of the roles and responsabilities of the stakeholders, but also in the International Standard for Code Compliance by Signatories (ISCCS) ;

  ✓ in the same vein, it is not the responsibility of NADOs to adopt legislation or Government regulations; article 20.5.2 of the Code and the ISCCS must be amended in this regard ; proposed amendments to the Code and Standard are provided below ;

  ✓ last general comment, which was highlighted at the Riga Conference on October 3, 2023 on the Right to a Fair procedure in anti-doping proceedings and which was re-emphasized by the Athletes' Commission at the last WADA symposium in March of this year, is that, as far as possible and in order to protect the rights of athletes, regardless of their level or financial resources, the rules should tend to be simplified or at least not made more complex. This is particularly the case for the classic sanction regime applicable in the event of the presence or use of a prohibited substance for an athlete.

Suggested changes to the wording of the Article

Article 20.5.2 : Responsabiltes of NADOs :

NADOs are responsible for implementing compliant rules.

However, NADOs are not responsible for adopting legislation (which is the responsibility of the competent Parliament) or government regulations (which is the responsibility of the competent Government).

To reflect this reality and avoid potential compliance consequences related to a prerogative that does not fall within the jurisdiction of NADOs, it is proposed to delete the reference to adopting compliant rules.

Along the same lines of fair accountability, NADOs must also work within certain limits, particularly legal limits or limits related to their jurisdiction.

NADOs cannot therefore commit to matters over which they are not competent.

In this regard, the proposed addition at the end of Article 20.5.2 should also be deleted.

In view of the above and in order to limit the liability of ONADs to what falls within their competence, Article 20.5.2 must be adapted and worded as follows:

« *To implement anti-doping rules and policies which conform with the Code and the International Standards.*

Article 20.5.7 – Independence of hearings panels :

In accordance with the operational and structural autonomy of hearing panels and the general principle of separation of powers, NADOs should not be held responsible for decisions made by independent hearing panels, especially when the NADO has made every effort, beforehand or upon appeal, to ensure that the decision taken by the independent panel complies with the consequences provided for by the Code.

For these reasons, it is proposed to amend Article 20.5.7 as follows:

« To vigorously pursue all potential anti-doping rule violations within their authority including investigation into whether Athlete Support Personnel or other Persons may have been involved in each case of doping and to make every effort and take all necessary steps, within the limits of its powers and responsibilities, to ensure proper enforcement of Consequences. »

Reasons for suggested changes

The reasons for amending Articles 20.5.2 and 20.5.7 are set out above, along with the corresponding proposed amendments.

In summary, NADOs should not be held responsible for decisions taken by independent bodies, nor for the adoption of legislation or government regulations, which are outside their competence.

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

SUBMITTED

General Comments

- Given that education is emphasised as a prevention strategy in the Code, the key words of the `Clean Sport Behaviors` should be included and referred to in the Code as well as in the ISE.
And harmonize where it is used throughout the Code. "to foster anti-doping attitudes", "to foster and promote the spirit of the sport", "behaviors they need to train and compete clean" etc. all should be harmonized.

- The World Anti-Doping Code, together with its expanding set of International Standards, has resulted in an excessively complex and burdensome system. If professionals working within the system find it difficult to navigate, it is highly unrealistic to expect athletes to fully understand the rules that may ultimately shape their careers and reputations.

The cost of compliance with such a system is becoming increasingly unsustainable. This not only exacerbates disparities between well-resourced and under-resourced stakeholders but also diverts critical resources away from core anti-doping activities such as testing, analysis, and education—thereby weakening both detection and deterrence. Furthermore, the heavy administrative and financial burden raises serious concerns regarding the long-term sustainability of the system.

We respectfully request that WADA undertake comprehensive cost assessments - both of its own expenditures related to the operation and oversight of this system, and of the financial burden borne by Anti-Doping Organizations, including National Anti-Doping Organizations (NADOs), International Federations (IFs), accredited laboratories, and related stakeholders.

Based on the findings of these assessments, we strongly encourage WADA to initiate a structured review aimed at reforming the current framework to ensure that the level of burden on all stakeholders remains sustainable. It is imperative that concrete measures be taken to address this critical issue in a transparent and collaborative manner.

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

SUBMITTED

General Comments

Article 6.5 Further Analysis of Samples Prior to or During Result Management

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

Article 10.6.1.2 Contaminated Source

We still have no objections against this proposal, and we are glad that is have been even more specified, however we still think it should be considered, if it will lead to more cases where an athlete can "excuse" them self with contamination from different sources.

We also think that it will be important to take into account the considerations of the WADA contamination working group in the code review.

Article 13 and 14.2.2 Changes Related to Appeals

We are pleased to read that the proposal about the case files must be produced in machine readable French or English, have been rejected. However, we still think that it will be a big burden for the ADO that they need to produce a case file index in French or English with a short description of each document.

New Definition. NADO Operational Independence

We agree with the proposal; however, we see a need to specify what is fully the intention with the change.

The wording states that the NADO operational activities include for example Testing and Result Management, and in the Code, Result Management involves the whole process including the hearings and the handling of doping cases in the hearing panels.

Therefore, it should be clarified which implications the new operational independence definition has for hearing processes and panels in relation to operational and institutional independence.

We also think that it will be important to take into account the considerations of the WADA working group on the Operational Independence of National Anti-Doping Organizations, if this working group is set up.

Part Two: Education and Research

We don't have any comments on this proposal; however, we expect that any changes to the International Standard for Education will be reflected in the code.

Protected Persons, Minors and Recreational Athletes

We welcome the suggestions that minors are now included here and can be given special treatment.

Other comments

We find it crucial that ADO's like for example ITA and International Federations should live up to the same criteria for operational Independence as NADO's. As it is now, the riteria that is demanded for the NADO is not the same for the ADO's.

Anti-Doping Sweden SUBMITTED

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

General Comments

It is positive that the WADC highlights the role of human rights in the fight against doping. However, an explanation which individual rights that are addressed and what type of impact they are expected to have, would improve the importance of human rights in connection with anti-doping.

Article 10.3.1. According to (iii), the maximum period of ineligibility for evading or tampering committed by a Protected Person or Recreational Athlete is 2 years. On the other hand, the period of ineligibility is 4 years (or 3 years) in case of AAF if the athlete, who has the burden of proof, cannot establish that the violation was unintentional. This may lead to situations where Protected Persons (or Recreational Athletes) who intentionally dope and therefore intentionally refuse to submit to sample collection are less sanctioned that Protected Persons (or Recreational Athletes) who did not intend to cheat but cannot prove it.

Article 10.6.2. Support the amendments, except for the inclusion in the comment regarding that athlete's take medications on their own risk. This should not be applied in the same way as nutritional supplements as athletes are prescribed medicines because they need to take them. Further, there should be a reference to relevant CAS-practise in for example the ISRM Guideline, for the athlete to know that concrete evidence is needed and not only to declare the product on the DCF (as stated in the article).

The definition of International Event (and National Event) could be clearer. For example, retired athletes need more guidance on what they can and cannot participate in, without giving the '6-months' notice'.

Article 5.6.1.1. Considering the amendment made in article 13.2 it should be stated in the article (5.6.1.1) that a decision to disqualify or not to disqualify results may be appealed under Article 13.2. The process for these cases should be clarified in the ISRM or in the guideline.

Article 10.8.2. The application of this article must be clearer as it appears that it could only be applied in exceptional circumstances and when for example the sanction wouldn't be proportionate (Jannik Sinner-case).

The Code should clarify that it is case law from CAS that is precedent. The position of the national case law and CAS case law needs to be clarified!

National Olympic Committee and Sports Confederation of Denmark SUBMITTED

Othilia Christensen, Legal Advisor (Danmark)
NADO - NADO

General Comments

Article 4.4.: Therapeutic Use Exemptions

DIF maintains its previous position that the requirement to include at least one physician on the appeal board is not the right approach. In our experience, cases that would benefit from the involvement of a physician on the appeal board are rare since appellate bodies primarily address legal disputes. However, we have noted that it is only a recommendation, and therefore we do not object.

We support the newly proposed flat two-month period of Ineligibility.

Article 10.3.2.: Sanctions and Results Management for Whereabouts Failures

The Danish NOC continues to fully support the proposed revision to Article 10.3.2. However, we maintain that it is important to include a comment or clear definition stating that certain factors—such as an athlete's doping history, character, or credibility—should be deemed irrelevant when determining sanctions in whereabouts cases.

National Anti-Doping Organization Operational Independence

As a final remark, DIF once again would like to emphasize our significant concerns regarding the proposed new definition of "*National Anti-Doping Organization Operational Independence*".

Swiss Sport Integrity SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

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

The costs of complying with such a system are also enormous, growing to the point of being unsustainable and creating further lack of harmonization among stakeholders who simply cannot afford to put in mechanisms to maintain compliance. This burdensome system also diverts resources from sample testing, analyses, and other services including education that could be provided to athletes. Simply stated, it has the potential to reduce detection and deterrence in sport.

SSI would recommend that WADA conduct a cost assessment that determines the amount of money Anti-Doping Organizations spend trying to meet the requirements of this system. Importantly, when a change is proposed, a cost analysis must take place to understand the financial impact of a change. These analyses should then be published.

Comment to Art. 5.4

SSI disagrees with the idea that the use of ADAMS will be mandatory to coordinate Testing as there are other reasonably feasible methods to coordinate.

Canadian Centre for Ethics in Sport SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

Article 5.6.1

The CCES would reiterate our previous comment that WADA could consider clarifying whether the conditions for granting the exemption have to be agreed to between WADA and the relevant anti-doping organization (ADO)s or if WADA will make the ultimate decision.

NADA

SUBMITTED

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

General Comments

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

The costs of complying with such an (over-regulated) system are also enormous, growing to the point of being unsustainable and creating further lack of harmonization among stakeholders who simply cannot afford to put in mechanisms to maintain compliance. This burdensome system also diverts resources from sample testing, analyses, and other services including education that could be provided to athletes.

Simply stated, it has the potential to reduce detection and deterrence in sport.

Anti-Doping Norway

SUBMITTED

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

General Comments

Re. Rationale:

We welcome the suggested changes, however, we recommend moving the reference to “athletes’ rights and responsibilities as set forth in the Code” to the preamble of the section

Re. 5.6.1: Retired Athletes Returning to Competition:

In light of the very broad definition of National Events (including any event or competition involving national-level athletes), we would request clarification of how long the rule applies after retirement, and if the rule is applicable across all sports and disciplines. Should e.g. a cross country skier retired 6 years ago be subject to testing 6 months before being able to participate (as recreational runner) in Oslo City Marathon which is open for the public and traditionally has participation from national-level athletes?

Re. Art. 8: Results Management: Right to a Fair Hearing and Notice of Hearing Decision:

We encourage embedding into the Code and the ISRM, the Recommendation CM/Rec(2022)14 of the Committee of Ministers to the member States on general principles of fair procedure applicable to anti-doping proceedings in sport, which was adopted on 20 April 2022.

In we specifically encourage separation of powers (in particular the executive power of the doping control up until and including pre-adjudication of the RM-process, from the adjudication (in the hearing and appeal).

Given that the recommendation from the Committee of Ministers of the Council of Europe CM/Rec(2022)14 on general principles of fair procedure applicable to anti-doping proceedings are recommendations in line with the Convention for the Protection of Human Rights and Fundamental freedoms highlighted in the comment to 8.1, it should be noted e.g. in a comment that following said recommendation would be compatible with adhering to the requirements of the Code and the ISRM.

Re art. 10.3.1 (iii):

According to the current rules, Recreational Athlete (and protected person) violating WADC art. 2.3 or 2.5, the period of Ineligibility shall be in a range between a maximum of two (2) years and, at a minimum, a reprimand and no period of Ineligibility, depending on the degree of Fault.

In our experience, this can lead to Recreational Athletes refusing to provide a sample instead of running the risk of testing positive for a non-Specified substance/method, (i.e. giving 2 years Ineligibility instead of 4 years). We would suggest removing Recreational Athletes from 10.3.1. (iii)

Re: Comment to art. 10.6.1.2

If the athlete must establish that they ingested or used the contaminated source, does that de facto exclude cases of contamination where the contaminated source is direct physical contact with a third person, as that normally would neither constitute use or ingestion?

Suggested changes to the wording of the Article

Re. Rationale:

Anti-doping is primarily an ethical position based on a vision of the spirit of sport, in a human rights and rule of law-based framework encompassing the Athletes' rights and responsibilities as set forth in the Code.

Re: Art. 7.4.3:

Notwithstanding Articles 7.4.1 and 7.4.2, a Provisional Suspension may not be imposed unless the rules of the Anti-Doping Organization provide the Athlete or other Person with: (a) an opportunity for a Provisional Hearing ~~or~~ on a timely basis after the imposition or re-imposition of the Provisional Suspension;

Reasons for suggested changes

Re. Rationale:

"Athletes' rights and responsibilities as set forth in the Code" is not a value. It is however important and should therefore be elevated to be included in the introduction to the section. As we see it, the athletes' rights and responsibilities should be linked up with the Rule of Law and Human Rights.

Re: Art. 7.4.3:

We understand the changes to mean that the mandatory provisional suspensions must be issued with the notification and not pending a provisional hearing. The proposed deletion is proposed in that light. Alternatively something seems to be missing from the sentence.

Sport Integrity Commission Te Kahu Raunui SUBMITTED

Toby Cunliffe-Steel, Athlete Commission Chairperson (New Zealand)

NADO - NADO

General Comments

Consideration of a Centralised Sanctioning Mechanism:
We, the Athlete Commission to New Zealand's NADO, recommend that WADA explore the feasibility of a centralised, independent global sanctioning body for anti-doping violations, with the aim of improving consistency, impartiality, and fairness in sanctioning decisions. With anticipated increases in the flexibility of sanctioning, there is a heightened risk of further inconsistency and perceived bias between organisations or jurisdictions.

We acknowledge there would be legal and structural complexities involved in establishing such a body. However, we believe it is worth exploring — even if initially in principle — as a long-term governance improvement to safeguard athlete trust in the system and potentially futureproof the integrity of the sanctioning process and reduce inequalities.

We recommend WADA consider initiating a working group or consultation process to assess:

- Feasibility (including legal and operational models),
- Stakeholder appetite across governments and sports bodies,
- Potential pilot approaches, and
- Mechanisms to ensure contextual understanding in decision-making (e.g., representation or review panels with relevant expertise or geographic insight).

Strengthened Accountability for NADOs:
It is essential WADA strengthen accountability mechanisms for NADOs that fail to comply with the Code or established anti-doping procedures. Athletes are rightly held accountable when they breach anti-doping rules, and similar standards of accountability should apply to organisations entrusted with upholding those rules.

Recent cases have highlighted concern within the athlete community where NADOs have not followed the required procedures, yet no clear consequences or corrective actions have been communicated. This undermines confidence in the global anti-doping system and risks eroding trust in the principle of fairness.

To ensure consistency, transparency, and athlete trust, we, the Athlete Commission to New Zealand's NADO, implore WADA to explore clearer enforcement measures and communication practices when procedural non-compliance occurs — regardless of the organisation or jurisdiction involved.

Improving Understanding of Proposed Changes:
A practical way to improve understanding — for both athletes and non-athlete stakeholders — is for Drafting Teams to provide brief, illustrative examples of how proposed changes would apply in real-world scenarios. This would help clarify the intent and practical effect of revisions, and promote more informed and meaningful feedback from all contributors.

Supporting and Strengthening Athlete Engagement in Future Reviews:
We, the Athlete Commission to New Zealand's NADO, strongly support WADA’s efforts to involve athletes in this review — done in this consultation round via the Athlete-Centred Consultation. While the impact of this initiative remains to be seen, we believe it represents a significant and important step forward in empowering athlete voices and demonstrating WADA’s commitment to accessible and inclusive policy development. We urge WADA to continue and build on this approach in the next Code and IS review cycle.

RUSADA SUBMITTED

Viktoriya Barinova, Deputy director (Russia)

NADO - NADO

General Comments

Art 27.3

We believe that in some exceptional cases it will be useful to apply this article even if the athlete has already served his period of ineligibility by the time the new Code comes into force, but the future potential period of ineligibility can be reduced based on the application of Article 27.3.

For example, a specified substance was found in an athlete's sample, and the athlete admitted the violation and was sanctioned with a 2-year period of ineligibility in 2024. In 2027, he repeatedly violated the anti-doping rules, but the Commission assessed the degree of fault as insignificant with an applicable sanction of 1 year of ineligibility. The sanction for a repeated violation should be calculated based on Article 10.9.1.1 and in this particular case it will be 3 years of ineligibility, but given that in 2024 the athlete admitted the violation, it would be reasonable in these circumstances to apply the updated version of Article 10.8.1 and reduce the ineligibility period by 25%, thus, for a repeated violation, the athlete will be sanctioned with 2.5 years instead of 3 years.

Suggested changes to the wording of the Article

With respect to cases where a final decision finding an anti-doping rule violation or violation of Article 10.14.1 has been rendered prior to the Effective Date, but the *Athlete* or other *Person* is still serving the period of *Ineligibility* as of the Effective Date, the *Athlete* or other *Person* may apply to the *Anti-Doping Organization* which had *Results Management* responsibility for the anti-doping rule violation or violation of Article 10.14.1 to consider a reduction in the period of *Ineligibility* in light of the 2027 *Code*. Such application must be made before the period of *Ineligibility* has expired. The decision rendered by the *Anti-Doping Organization* may be appealed pursuant to Article 13.2. The 2027 *Code* shall have no application to any anti-doping rule violation or violation of Article 10.14.1 case where a final decision finding an anti-doping rule violation or violation of Article 10.14.1 has been rendered and the period of *Ineligibility* has expired.

In case of the second anti-doping rule violation where the *Athlete* or other *Person* admitted the first anti-doping rule violation and accepted all asserted *Consequences* and has already served the period of *Ineligibility* applied before the 2027 Code was effective the period of *Ineligibility* for the second anti-doping rule violation can be reduced in light of the 2027 *Code*.

USADA

SUBMITTED

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

General Comments

General Comment

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

The costs of complying with such an over-regulated system are also enormous, growing to the point of being unsustainable and creating further lack of harmonization and engagement among stakeholders who simply cannot afford to put in mechanisms to maintain compliance. This burdensome system also diverts resources from sample testing, analyses, and other services including education that could be provided to athletes. Simply stated, it has the potential to reduce detection and deterrence in sport.

WADA needs to shift its focus to raising the bar in anti-doping by ensuring all NADOs are meeting minimal substantive standards with respect to I&I and testing.

USADA further recommends that WADA conduct a cost assessment of itself and Anti-Doping Organizations that determines the amount of money WADA has spent creating and monitoring such a complex system and the amount of money Anti-Doping Organizations spend simply trying to meet the requirements of this over-regulated system. Importantly, when a change is proposed, a cost analysis must take place to understand the impact of a change. These analyses should then be published.

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

Equally if not more importantly, WADA should listen to athletes' voices via operationally independent (from WADA and from sport) representation. WADA's current structure provides PR points but is tantamount to an echo chamber that does not truly address athlete concerns.

Purpose and Scope – The word "unintentional" should be replaced with "not intentional" to maintain consistency and clarity throughout the Code.

USADA SUBMITTED

Tammy Hanson, Elite Education Director (USA)

NADO - NADO

General Comments

From PEERS

General comments

- Capitalize defined terms (e.g., Athlete, Athlete Support Personnel, Education Activity, Representatives, Person, Signatory, Code, Event, etc.) consistently throughout, as per WADA conventions.
    - Examples: 'Athlete': Footnote 70; 'Representatives': 14.3.5; 'Person': 18.4 (if keeping this term 'natural person', capitalize Natural Person and define. Worth noting that 'Person' is defined as a 'natural Person'); and above footnote 77.

Definitions:

- "unintentional doping" recommend changing to 'not intentional doping' throughout to be clear and consistent with Article 10.2 of the Code.
- Recommend that the Code reference "not intentional" (vs. unintentional and intentional) throughout.
- "Clean sport behaviors" is referenced but not defined. Recommends that this term be defined and harmonized where it is used throughout the Code. The definition can incorporate phrases used elsewhere in the Code like "to foster anti-doping attitudes" and "to foster and promote the spirit of the sport," and "behaviors they need to train and compete clean." Once defined, these various, similar phrases can be consolidated by the phrase "clean sport behaviors.".
    - The concept of clean sport is evolving from simply "drug-free" to a broader "cheating-free" and integrity-based perspective. "clean sport" should address all forms of cheating, not just substance use.

UK Anti-Doping

SUBMITTED

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

General Comments

We welcome the creation of both the Working Group on the Operational Independence of National Anti-Doping Organizations and Working Group on Contaminations. However, it is vitally important that an opportunity is provided to Anti-Doping Organisations to review and provide feedback on the proposals emanating from these working groups before any consequential changes are adopted into the Code. As practitioners responsible for adopting and implementing the Code, and for Athletes and other persons most impacted by its terms, it is vitally important that adequate consultation takes place before the final 2027 Code is approved. Alternatively, if changes are proposed by WADA outside of the current timetable (i.e. at a later stage) that adequate consultation time is provided.

International Testing Agency

SUBMITTED

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

General Comments

Definitions from the Code:

The definition of Contaminated Source currently reproduced in the ISRM draft refers to "nutritional supplement or medication that contains…". The current version of the Code only refers to "a medication that contains a Prohibited Substance".

We support the inclusion of nutritional supplement in the definition of contaminated source for the sake of clarity.

Article 3.2.4

We have recently faced issues of Athletes producing as a defence national court decisions where the procedure, evidentiary thresholds and so forth are murky (and outcomes go in the Athlete's favor to prove sabotage for example) to argue that anti-doping hearing panels and CAS are bound by such national decisions. We would suggest to buff out Article 3.2.4 to exclude the above scenario.

Article 4.4.6

We would suggest to clarify whether Major Event Organization are included in the reference to "those affected" to clarify whether a Major Event Organization can ask WADA to review a TUE application.

Article 5.3.1

We would suggest to review and adapt the reference to "international Anti-Doping Organisation" since this is not a defined term and not usually used in the Code.

Article 7.1.3.

There are some instances where a NADO who tested an athlete (and returned an AAF) may not have jurisdiction on an athlete, but that this athlete is attached to another NADO and this second NADO is better placed to act as RMA than the International Federation. We would suggest adding a NADO as a possible RMA when the NADO who conducted the test is not competent directly in the Code and not necessarily via the IF ADR.

Article 7.7

We would suggest to clarify that individuals remain bound by the rules even if they retire when it comes to the offence of tampering in the scope of the results management for an underlying ADRV they committed when they were subject to the rules. Otherwise, this may create the risk of individuals tampering with their defense and such behavior being unpunished.

Article 14.1.1

The use of the term "assertion" seems inaccurate since at the stage of the notification, we usually refer to potential ADRV.

Moreover, since National Federations are often copied to such notices, it could be useful to add those.

iNADO SUBMITTED

Alex Brown, Campaigns and Membership Coordinator (Germany)
Other - Other (ex. Media, University, etc.)

General Comments

iNADO wishes to thank WADA and the members of all drafting teams for the additional opportunity to provide feedback to the draft Code and International Standards (IS), and congratulate them for taking on board a significant part of the feedback received from previous consultation rounds.

This submission complements individual submissions from iNADO members, and supports feedback that is relevant and applicable across NADOs.

iNADO remains committed to facilitate any further dialogue between the drafting teams and the NADO membership.

- While iNADO fully understands the need for more differentiated approaches when it comes to e.g. education, testing and result management, it is equally mindful that a lot of (N)ADOs may struggle with these increased demands and responsibilities. This particularly applies to small NADOs.

- On several occasion, the word „should" has been replaced by „shall". While iNADO understands the broader objective of harmonization through alignment, this requires operational provisions in support to a mandatory application of rules, which may on occasion be challenging. As an example, the „shall use ADAMS" provisions under the IST (4.10.2; 4.10.12.6) require ADAMS operational readiness by WADA on 1 January 2027, and/or ADAMS to facilitate compatibility other systems. Equally, the "shall use" may put additional burden on smaller NADOs to ensure compliance across the spectrum.

- WADA recently has created a number of Working Groups (e.g. WG on NADO Operational Independence), and indicated that the recommendations of these WGs will be considered by the respective drafting teams „time permitting". Will there be a notice / opportunity to provide feedback to WADC Stakeholders for any WG recommendation that will be integrated in the Code / IS?

- Art. 5.3 / IST art. 4. IFs tend to expand the number of events they will recognize as „International Level Event“. This may be over and beyond their capacity to provide doping control activities, which is unfair towards the respective NADO. This section could benefit from greater detail to coordinate planning between IFs and NADOs, e.g. timely (deadline?) and mandatory notice to NADOs, so that they can either be commissioned the doping control activities for the event (and plan accordingly), or plan for testing under their own jurisdiction.

- Art. 8/ISRM art. 8. The right to a fair hearing is an intrinsic right for any individual asserted to have committed an ADRV. Reality is that the threshold for a fair hearing can be high, e.g. for financial reasons. The Code and ISRM are silent on this topic.

GM Arthur SUBMITTED

Graham Arthur, Independent Policy Expert (UK)

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

General Comments

Regarding Article 13.3

The policy underpinning this Article is well founded. It obviously makes sense for the World Anti-Doping Agency to be able to intervene in cases where anti-doping rule violation proceedings are subject to unacceptable delays. These delays can have a profound effect on the integrity of sport as well as a particular athlete's future.

However, characterising this intervention as being an appeal is misconceived and unhelpful. It would be simpler and more rational for this provision to simply provide that, in the circumstances envisaged, the World Anti-Doping Agency can in effect assume the guise of the results management authority in place of the offending anti-doping organisation. That would safeguard all parties' rights, particularly those of the athlete who would thereby retain his or her appeal right in respect of the outcome of the proceedings. As it stands, it is far from clear as to whether an appeal made by the World Anti-Doping Organisation to the Court of Arbitration for Sport would of itself be appealable by the relevant athlete. This together with a number of other problematic features of this provision make it far more preferable that it be revised along the lines suggested and that the World Anti-Doping Agency (with the appropriate safeguards as to recovery of costs) stands as the results management authority.

Suggested changes to the wording of the Article

Article 13.3 should read -

Where, in a particular case, an Anti-Doping Organization fails to pursue proceedings involving an anti-doping rule violation in a timely manner, the Anti-Doping Organization may be issued with a reasonable deadline set by WADA within which to complete those proceedings. In default of completion within that deadline (which may with reasonable cause be extended by WADA), WADA may elect to assume Results Management responsibility and bring the proceedings to a conclusion before the Court of Arbitration for Sport Anti-Doping Division. If the relevant hearing panel determines that WADA acted reasonably, then WADA's costs and attorney fees in prosecuting the appeal shall be reimbursed to WADA by the Anti-Doping Organization.

The same measures shall apply in relation to an Anti-Doping Organisation's failure to pursue any action arising from a breach of Article 10.14.1.

Upon assumption of the Anti-Doping Organisation's responsibilities WADA may delegate some or all of those responsibilities.

Bird & Bird LLP SUBMITTED

Huw Roberts, Of Counsel (United Kingdom)

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

General Comments

Re-submitted from Draft 1 comments: There has been no increase to 4-year sanctions, nor any change to the definition of 'Aggravating Circumstances' in Second draft of the Code.

As indicated in the AIU's earlier submissions in the Code review process, the preferred position of the AIU, supported by the Athlete's Commission, is to increase sanctions for serious anti-doping rule violations from 4 to 6 years.

Recognising that such a proposal is unlikely to receive universal support, the AIU proposes in the alternative that the definition of 'Aggravating Circumstances' be amended in the Code so that sports such as Athletics may pursue sanctions of up to 6 years if they wish to do so in appropriate circumstances (per the wording below).

Suggested changes to the wording of the Article

The AIU considers that the current list of examples of Aggravating Circumstances should be expanded to include the following additional examples:

- *The Athlete committed the anti-doping rule violation as part of a doping scheme or plan, either individually or with others*;
- *The Athlete used substances or methods that are difficult to detect (for example, EPO, Growth Hormone, gene doping).*
- *The Athlete used sophisticated or deceptive methods to dope and/or avoid detection.*
- *The Athlete's doping targeted their preparation for and/or participation in major International Events or the Olympic Games*
- *The Athlete engaged in a deliberate or pre-meditated act of doping*