

2027 Code & International Standard Update Process: Third Consultation Phase - International Standard for Therapeutic Use Exemptions (ISTUE)

Showing: All (146 Comments)

Article 4 (5)

Sport Integrity Commission Te Kahu Raunui

SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

Article 4.0 Criteria for obtaining a TUE

We support the reintroduction of the requirement that no reasonable permitted therapeutic alternative exists. However, we seek clarification on how 'physician experience' is evaluated and by whom, to ensure consistency and trust in the TUE process.

We have consulted with the Commission’s Athletes Commission who are supportive of this 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, support our NADO's submission on Article 4.0 Criteria for Obtaining a TUE

Sport Integrity Australia

SUBMITTED

Cameron Boland, Assistant Director Anti-Doping Policy (Australia)
NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

SIA suggests Article 4.5 be redrafted to clearly explain the process, interactions and responsibility for decision making between the NADO and TUEC (see SIA comments re Articles 4.2 and 4.3). Where an ADO elects to consult with an appropriate medical or scientific expert when assessing the criteria in Articles 4.2 or 4.3, SIA proposes that the preference should be for an ADO to consult with a member of a TUEC over a member of staff, for instance.

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

ASDMAC suggests Article 4.5 be redrafted to clearly explain the process, interactions and responsibility for decision making between the NADO and TUEC (see ASDMAC's comments re Articles 4.2 and 4.3). Where an ADO elects to consult with an appropriate medical or scientific expert when assessing the criteria in Articles 4.2 or 4.3, ASDMAC proposes that the preference should be for an ADO to consult with a member of a TUEC over a member of staff, for instance.

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

General Comments

UKAD has no objections with the reordering of former Article 4.1 (exceptions permitting a retroactive TUE) which is now Article 4.3 and positioned after Article 4.2 (criteria for granting a TUE).

Article 4.1 (5)

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

General Comments

We support this revision.

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

SSI notes that the new comment and additions might be misleading in various ways. On the one hand, it could discourage conscientious athletes from commencing urgent treatment and on the other hand athletes could assume they can apply for a retroactive TUE in a situation that does not apply to any of the retroactive exceptions. Besides that, it could lead to athletes, who are not at national or international level, demanding prospective TUEs.

Suggested changes to the wording of the Article

Delete new wording

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

General Comments

No comment

Suggested changes to the wording of the Article

No comment

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD supports the inclusion of the proposed text that refers to Code Article 2.6 within this article. However, the second sentence could be simplified to improve its readability.

Recommendation:

- Remove the phrase ‘in both cases’ from Article 4.1 to improve its readability.

Comment to 4.1 - UKAD agrees with our colleagues from Anti-Doping Norway, the Council of Europe, and Swiss Sport Integrity that the new text within this comment is unnecessary as Article 4.1 already expresses the overarching ‘obtain a TUE first’ principle of the ISTUE. We also agree with USADA that the proposed text may discourage conscientious athletes from commencing urgent treatment. Finally, this text may unintentionally lead to athletes demanding prospective TUEs who are not at a national or international level, nor are within a NADO’s prioritisation list.

Recommendation:

- Delete the new wording within this comment in its entirety.

Suggested changes to the wording of the Article

4.1 - "...Whether applying in advance or retroactively under Article 4.3, in both cases, the Article 4.2 criteria must be satisfied."

~~Comment to 4.1 - "Athletes who Use or Possess a Prohibited Substance or Prohibited Method before obtaining a TUE do so at their own risk. A retroactive TUE or other acceptable justification for Possession would be required."~~

Article 4.2 (7)

Japan Anti-Doping Agency

SUBMITTED

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

General Comments

We welcome the revised draft of ISTUE 4.2(b). We expect that these amendments will establish clearer and stricter TUE criteria that appropriately balance medical necessity and anti-doping principles.

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

SSI welcomes the re-introduction of the concept of permitted alternatives.

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Sport Integrity Australia

SUBMITTED

Cameron Boland, Assistant Director Anti-Doping Policy (Australia)
NADO - NADO

General Comments

SIA supports the many changes made by the drafting team to clarify, streamline, and strengthen the ISTUE and in particular the work undertaken to reposition the order of Article 4 so that Article 4.2 precedes what is now 4.3 (which was previously 4.1). This structure helps to highlight the importance of establishing the eligibility criteria for a TUE (assessed by the TUEC) before considering the criteria for assessing a retroactive TUE under Article 4.3

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

ASDMAC supports the many changes made by the drafting team to clarify, streamline, and strengthen the ISTUE and in particular the work undertaken to reposition the order of Article 4 so that Article 4.2 precedes what is now 4.3 (which was previously 4.1). This structure helps to highlight the importance of establishing the eligibility criteria for a TUE (assessed by the TUEC) before considering the criteria for assessing a retroactive TUE under Article 4.3

UK Anti-Doping

SUBMITTED

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

General Comments

4.2 (b) - UKAD welcomes the reintroduction of this criterion to Article 4.2(b). Our reasons for supporting its reintroduction can be found within our ISTUE Draft Review Phase One submission.

Comment to 4.2 (b) - UKAD agrees with the proposed revisions to this comment to clarify that treatments need to be evidence-based and that it may not be necessary for athletes to try and fail alternatives before using a prohibited substance or method.

USADA

SUBMITTED

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

General Comments

Article 4.2: USADA agrees with adding the language back in regarding there being no reasonable permitted Therapeutic alternative.

Article 4.2b: Thank you for the additional clarifications added in Comment to Article 4.2b which add important clarity. In the US, an important consideration is also medication costs, and which medications qualify for insurance coverage. As a practical example, an athlete may be denied coverage for a permitted alternative and the coverage may qualify only for a prohibited alternative (e.g. inhaled beta-2 agonists or ADHD stimulant medication).

Consider replacing “indicated treatment” with “treatment within the standard of care”. Standard of care as defined by the US National Institutes of Health is treatment that is accepted by medical experts as a proper treatment for a certain type of disease and that is widely used by health care professionals.

Article 4.2 General Comment:

USADA submits that lower-level athletes should not always be subject to the same high criteria to obtain TUEs as international- or national-level athletes. In addition to the lack of anti-doping education and the protection of limited ADO and TUEC resources, USADA also notes that lower-level athletes and their competitors generally do not have as much at stake in their competitions as elite-level athletes (as competition is not professional career choice).

Recommended Change:

For athletes who are not International or National-Level athletes (e.g. Recreational Athletes), please provide ADOs the flexibility to apply different rules (not the TUE rules) to a designated class of lower-level athletes to permit these designated athletes to use otherwise prohibited substances for diagnosed and valid therapeutic purposes, without applying for a TUE. This can be accomplished by adding the following comment to ISTUE Article 4.2: *[Comment to Article 4.2: Separate from a TUE, ADOs may develop and implement less stringent (more flexible) standards and processes for authorizing the appropriate therapeutic use of prohibited substances by Athletes who are not International or National-Level Athletes but over whom the International Federation or National Anti-Doping Organization has chosen to exercise authority, recognizing that they have lower responsibilities under the Code.]*

Reasons for suggested changes

Reason for Change:

1. Many national sport federations and/or governments desire to stop doping at all levels of competition and some even outside of competitions (i.e., fitness centers). National Federations and/or governments require all members of national sport federations to be bound by the Code. These federations/governments also want to deter doping at all levels of competitions through testing, but bringing the full weight of the ISTUE on lower-level athletes, including masters' athletes, is not necessary to protect this level of competition and is not fair/feasible given the number of athletes who compete at these lower levels.
2. Several ADOs, including USADA, have already implemented, without objection from WADA, different rules for a designated class of lower-level athletes. The way these rules have been employed is tailored to the needs within the country. ADOs create a more efficient review process but nevertheless maintain sufficiently robust safeguards to ensure doping is not permitted.

USADA is happy to share and discuss its program for lower-level athletes and the fairly extensive experiences we have had over 20 years (including threats of litigation) that have led us to this conclusion and solution.

Article 4.3 (6)

Anti-Doping Sweden

SUBMITTED

Jessica Wissman, Head of legal department (Sverige)

NADO - NADO

General Comments

The review process of retroactive TUE's based on ISTUE article 4.3 should be specified with regards to time limit for WADA to give its reasoned decision (approval/denial) after ADO's conditional approval.

Furthermore, ADSE finds that ADO's are differently inclined to apply this article and that more examples of how and when article 4.3 can be applied would be helpful in the ISTUE guidelines.

Reasons for suggested changes

The anti-doping system is based on time frames that needs to be met. With respect to the athletes who are waiting for a decisive decision a time limit for this process is needed.

For equality and fairness for the athletes more guidance is needed when the article should be applied.

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

4.3 b: SSI proposes a specification of "exceptional circumstances", in a comment to Article 4.3 b in order to prevent an excessive interpretation of this article. In addition, there need to be strong guidance in which case to apply article 4.3 b, in which case to apply article 4.4, and in which case to apply Code article 10.2.4. Otherwise, by keeping article 4.4 open for cases where not all elements of ISTUE articles 4.2 and/or 4.3 are met, and a new sanctioning option (Code article 10.2.4) will lead to disharmonized case management.

Examples:

An athlete with diabetes since childhood becoming a national-level athlete at age 20 only applies for a TUE one year after becoming a national-level athlete; ISTUE article 4.2 criteria are fulfilled. Should this TUE be approved as a retroactive TUE application in accordance with ISTUE article 4.3.b (exceptional circumstances/insufficient time/opportunity) OR fairness article 4.4 ISTUE with WADA confirmation OR lead to a 2-month sanction based on Code article 10.2.4 because none of the retroactive reasons (article 4.3 and 4.4 ISTUE) are fulfilled? And would this allocation eventually look different if the application was submitted 3 months or 6 months after becoming a national-level athlete?

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Sport Integrity Australia

SUBMITTED

Cameron Boland, Assistant Director Anti-Doping Policy (Australia)

NADO - NADO

General Comments

If the requirements of Article 4.2 are satisfied, Article 4.3 prescribes that if any one of a number of criteria are met, an Athlete may apply for a retroactive TUE. As these criteria deal with both medical and non-medical circumstances, SIA is seeking clarity on the division of responsibility for assessing the criteria between the ADO and the TUEC.

4.3d)

As currently drafted, the inclusion of Article 4.3d) could confuse the application of Article 4.3c). SIA's interpretation of Article 4.3d) is that under the national prioritisation of sports and disciplines under Article 4.3c), non-International or National Level Athletes must be permitted to apply for a retroactive TUE

Suggested changes to the wording of the Article

4.3 SIA suggests that criteria a), and e) MUST be decided by a TUEC, whereas b), c), and d) MAY be decided by an ADO. This clarification could be captured in a comment to this provision, or it could be clearly articulated as part of the assessment process described in Article 4.5

4.3d) In light of our comment above, SIA suggests that Article 4.3d) be included as a comment to Article 4.3c) to avoid any misinterpretation and to provide clarity to ADOs when determining the rules for requiring advance TUEs.

Reasons for suggested changes

To avoid confusion with the application of Article 4.3c)

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

General Comments

If the requirements of Article 4.2 are satisfied, Article 4.3 prescribes that if any one of a number of criteria are met, an Athlete may apply for a retroactive TUE. As these criteria deal with both medical and non-medical circumstances, ASDMAC is seeking clarity on the division of responsibility for assessing the criteria between the ADO and the TUEC.

4.3d)

As currently drafted, the inclusion of Article 4.3d) could confuse the application of Article 4.3c). ASDMAC's interpretation of Article 4.3d) is that under the national prioritisation of sports and disciplines under Article 4.3c), non-International or National Level Athletes must be permitted to apply for a retroactive TUE

Suggested changes to the wording of the Article

4.3 ASDMAC suggests that criteria a), and e) MUST be decided by a TUEC, whereas b), c), and d) MAY be decided by an ADO. This clarification could be captured in a comment to this provision, or it could be clearly articulated as part of the assessment process described in Article 4.5

4.3d) In light of our comment above, ASDMAC suggests that Article 4.3d) be included as a comment to Article 4.3c) to avoid any misinterpretation and to provide clarity to ADOs when determining the rules for requiring advance TUEs.

Reasons for suggested changes

To avoid confusion with the application of Article 4.3c)

USADA

SUBMITTED

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

NADO - NADO

General Comments

Article 4.3 – Second paragraph: Add the word “all” to “(but must still meet *all* the conditions in Article 4.2).

Article 4.3a – Add “diagnosed” to “emergency or urgent treatment of a *diagnosed* medical condition was necessary.”

Article 4.3b – While the amendments are welcome, USADA recommends clear guidance around scenarios this clause is intended to address. And perhaps more importantly, those scenarios under which this clause should not be applied as it has the potential to be applied incorrectly as a universal get-out-of-jail free card due to the wide interpretation of “exceptional circumstances.”

Article 4.4 (7)

International Cricket Council

SUBMITTED

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

General Comments

The ICC supports the TUE Group's recommendation to implement a flat two-month period of ineligibility, provided the athlete can demonstrate that the substance or method used would have met the TUE criteria outlined in the ISTUE. This approach strikes a fair balance between maintaining the integrity of retroactive TUEs and encouraging athletes to submit TUE applications in advance.

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

Retroactive TUEs should be granted provided it complies with the conditions outlined for a prospective TUE.

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

General Comments

See comments for article 4.3 ISTUE as well as article 10.2.4 Code

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD has no objections with the removal of the reporting and evaluation requirements from Article 4.4 as they are already captured within Article 5.8.

USADA

SUBMITTED

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

NADO - NADO

General Comments

General comment: Code Article 4.4.5: Sanctions for athletes who fulfill the ISTUE Article 4.2 criteria but do meet any criteria for a retroactive TUE.

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 a 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.

International Testing Agency

SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

We would suggest to add the example of an athlete recently changing status (i.e. becoming international or national level) as a relevant factor tipping the balance in favour of the issuance of a retroactive TUE.

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

General Comments

No comment

Suggested changes to the wording of the Article

No comment

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD welcomes the addition of this new article which i. clearly sets out who is responsible for assessing each component of the TUE criteria; ii. recognises the role of Anti-Doping Organisation (ADO) staff in the assessment of Article 4.3 cases; and iii. mandates that ADOs must consult with an appropriate medical expert when evaluating TUE requests in accordance with Article 4.4.

USADA

SUBMITTED

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

NADO - NADO

General Comments**Article 4.5:** This article is very helpful to clarify the responsibilities.**Article 5 (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 our NADO's submission on Article 5.0 TUE Responsibilities of Anti-Doping Organisations

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comemnt

UK Anti-Doping

SUBMITTED

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

General Comments

5.4 - UKAD has no objections to the relocation of this article within Article 5. However, introducing text around the recognition of TUEs by Anti-Doping Organisations (ADOs) confuses matters as the article now reads like an ADO (as well as TUEC) can determine whether or not to grant an application. We suggest that a second sentence is introduced to split out the responsibilities of an ADO and TUEC.

5.9 - UKAD has no objections to the relocation of this article within Article 5. However, the revised wording lacks precision.

5.10 - UKAD has no objections to the minor revisions made to this article nor its reordering as Article 5.10.

Suggested changes to the wording of the Article

5.4 - UKAD proposes the following revisions to Article 5.4 to split out the responsibilities of an ADO and TUEC:

"The ~~Anti-Doping Organization~~/TUEC will decide whether or not to grant the application/~~recognize the TUE~~ as soon as possible, and usually within no more than twenty-one (21) days of receipt of a complete application/~~request for recognition~~. Where a TUE application/~~request for recognition~~ is made in a reasonable time prior to an Event, the ~~Anti-Doping Organization~~/TUEC must use its best endeavours to issue its decision before the start of the Event. These requirements also apply to an Anti-Doping Organization when they decide whether or not to recognise a TUE."

5.9 - UKAD proposes the below revision to Article 5.9 to provide extra clarity:

"The Anti-Doping Organization that granted the TUE will be responsible for the ongoing monitoring of any conditions attached to the TUE, ~~unless agreed otherwise by the relevant Anti-Doping Organizations~~. This remains the case

Australian Sports Drug Medical Advisory Committee		SUBMITTED
Kim Reynolds, Senior ASDMAC Officer (Australia)		
NADO - NADO		
General Comments		
No comment		
Suggested changes to the wording of the Article		
No comment		

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD agrees with the revisions made to refine this article and to incorporate elements from the former Article 5.4. However, we suggest making a minor revision to the comment accompanying this article to further improve its readability.

Suggested changes to the wording of the Article

UKAD proposes the below revision to the comment for Article 5.1 to improve its readability:

[Comment to Article 5.1: Annex 1 contains flowcharts summarizing the key TUE procedures for National Anti-Doping Organizations, International Federations and Major Event Organizations, including who has authority to make TUE decisions, recognition of such decisions, and rights of review/appeal (as set out in see Code Article 4.4).]

Article 5.2 (7)

International Cricket Council

SUBMITTED

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

Sport - IF – IOC-Recognized

General Comments

Further clarification is needed regarding the exception to automatic recognition. Does the IF apply for the exception, or does WADA make the decision and inform the ADOs? If WADA is responsible for granting exceptions, what criteria is used to determine whether an exception to automatic recognition is granted?

NADA Austria

SUBMITTED

Dario Campara, Lawyer (Austria)

NADO - NADO

General Comments

Article 5.2.e

Article 5.2.e states that: “Each Anti-Doping Organization must publish the following information in a conspicuous place on its website that is easily accessible to all Athletes and stakeholders: e) For each International Federation, a clear definition of International-Level Athlete and a clear definition/list of International Events, so that Athletes can understand their TUE obligations.”

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.

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

SSI welcomes the specific indication of national level and international level athlete definitions which must be available on NADO respective IF websites. Besides that, it would facilitate the work of all ADOs as well as WADAs compliance and review processes if WADA would publicly provide a central platform referencing all of these definitions.

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

USADA

SUBMITTED

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

NADO - NADO

General Comments

Article 5.2: Agree with new additions to Article 5.2. This is helpful but also must be better monitored in practice for compliance. 5.2e is particularly important because this leads to a lot of confusion.

UK Anti-Doping

SUBMITTED

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

General Comments

UKAD welcomes the addition of this new article which sets out all TUE publishing requirements for Anti-Doping Organisations in one place.

Article 5.8 (3)

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

UK Anti-Doping

SUBMITTED

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

General Comments

UKAD has no objections to the minor revisions made to this article nor its reordering as Article 5.8.

Article 5.3 (5)

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

ASDMAC refers to its previous feedback suggesting the word “should” be changed to “shall” and asks that this comment be re-considered as part of this process:

“A TUEC considering a specific application shall include at least three (3) physicians...”

Reasons for suggested changes

ASDMAC notes that Article 5.3d) requires a majority decision in the absence of a consensus. For this to be possible, a TUEC must have at least three physicians on its panel.

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Sport Integrity Australia

SUBMITTED

Cameron Boland, Assistant Director Anti-Doping Policy (Australia)
NADO - NADO

General Comments

SIA refers to its previous feedback suggesting the word “should” be changed to “shall” and asks that this comment be re-considered as part of this process:

“A TUEC considering a specific application ~~should~~ **shall** include at least three (3) physicians...”

Suggested changes to the wording of the Article

SIA notes that Article 5.3d) requires a majority decision in the absence of a consensus. For this to be possible, a TUEC must have at least three physicians on its panel.

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD agrees with consolidating Article 5.3 with all elements that underpin the composition and decision making of a TUEC. However, further text is required to introduce these elements.

Suggested changes to the wording of the Article

UKAD proposes the following revision to Article 5.3 to improve its readability:

"Each National Anti-Doping Organization, International Federation and (where applicable) Major Event Organization must establish a TUEC to consider whether applications for grant or recognition of TUEs meet the criteria set out in Article 4.2. A TUEC should operate in the following ways: a)....."

USADA

SUBMITTED

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

NADO - NADO

General Comments

Article 5.3b: Needs to ensure that if third-party assistance is being sought that the ADO is informed and that medical confidentiality is maintained.

Article 5.3d: This is helpful clarification about the ability to seek advice from other potential TUEC members.

Article 5.5 (8)

UEFA

SUBMITTED

Rebecca Lee, Anti-Doping Team Leader (Switzerland)

Sport - Other

General Comments

If an athlete has already commenced taking a prohibited substance, and therefore, requires a retroactive TUE, but the treatment has not yet finished, it seems unnecessary to enter two TUEs in ADAMS. Could the retroactive TUE not be granted from the start to the end of the treatment?

NADA

SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

Comment to Comment to Art. 5.5

The last sentence "This will be facilitated within ADAMS" seems to be added as an information that ADAMS will be adjusted to help grant prospective TUEs in conjunction with retroactive TUEs and vice versa.

If this adjustment is to be completed before the ISTUE 2027 comes into effect, the sentence should be modified.

Suggested changes to the wording of the Article

"ADAMS offers tools to facilitate this process"

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

This new article needs flexibility to cover an additional scenario: Timely TUE applications for prolongation of an existing TUE. In this scenario the TUEC will reach a decision while the previous TUE is still valid. Therefore, a future date (day after expiry of previous TUE) needs to be the effective date of the new TUE.

Suggested changes to the wording of the Article

The effective date for a prospective TUE will be the date of the TUEC's decision to grant the TUE, unless a TUE application for prolongation is approved during validity of the precedent TUE, in this case the effective date will be the day after the expiry date of the precedent TUE. Retroactive TUEs do not continue into the future and apply retroactively where an Athlete has already Used or Possessed the Prohibited Substance or Prohibited Method in question.

[Comment to Article 5.5: An Anti-Doping Organization may grant a prospective TUE in conjunction with a retroactive TUE, and vice versa. This process will be facilitated within ADAMS.]

Reasons for suggested changes

If the starting date of a subsequent TUE would also be the date of the decision by the TUEC, athletes could speculate and avoid timely submission of TUE applications in order not to "loose" validity time of the following TUE. This would lead to stressful situations for athletes as well as ADOs and their TUECs and in worst case (if approval for prolongation occurs after expiry date of precedent TUE) needing also a retroactive TUE for the time between the precedent and newly approved TUE.

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Sport Integrity Commission Te Kahu Raunui

SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

We recommend that if a retroactive TUE is granted for an ongoing condition and treatment, this should also serve as the basis for a prospective TUE, without requiring a separate application. This would reduce administrative burden and better reflect the athlete's medical needs and treatment continuity.

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

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD has no objections to the relocation of this article within Article 5. However, this new article is too restrictive. That is, it does not address the scenario whereby an athlete submits a renewal application (as advised to do so in Article 6.11) and TUEC decide to grant a further TUE prior to the date of expiry of the existing TUE. Based on the proposed wording, ADOs will not be able to enter this decision in ADAMS until the existing TUE has expired which is burdensome for the ADO and may subsequently cause a delay in the athlete receiving their new TUE certificate. In such cases, we would prefer there to be functionality within ADAMS that allows ADOs to enter a different effective date (that being the day after the existing TUE expires) to the date of the TUEC decision.

Recommendations:

1. Consider adding an exception to Article 5.5 that permits the effective date of a TUE renewal to be different from the date of the TUEC decision when an existing TUE has been successful renewed.
2. Create functionality in ADAMS so that the effective date can differ from the date of TUEC decision when an existing TUE has been successful renewed prior to expiry in accordance with Article 6.11.

Comment to Article 5.5 - UKAD welcomes the expansion of this comment which addresses our concerns raised during ISTUE Draft Review Phase One regarding the functionality of ADAMS in enabling Anti-Doping Organisations to meet this requirement.

Suggested changes to the wording of the Article

UKAD proposes the following revision to Article 5.5:

"The effective date for a prospective TUE will be the date of the TUEC's decision to grant the TUE except for TUE renewals, in which case, the effective date will be the day after the existing TUE expires. Retroactive TUEs do not

continue into the future and apply retroactively where an Athlete has already Used or Possessed the Prohibited Substance or Prohibited Method in question".

USADA

SUBMITTED

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

NADO - NADO

General Comments

Article 5.5 (previous Article 6.12): USADA strongly disagrees with this change. It does not reflect reality and best practice in the eyes of the athlete. Our practice has been to make the approval date the date that a complete application has been provided to USADA. This ensures that the athlete is not disadvantaged by the evaluation period of the TUE by the TUEC. It reduces the need for a retroactive TUE in the case an athlete uses the medication before the TUEC decision is rendered but the medication is needed for the medical condition and shouldn't be delayed by the TUEC evaluation process. In the case of a denial, then the athlete can stop the medication or change to another alternative. In practice, athletes don't have the luxury of delaying treatment, especially for in-competition prohibited substances such as narcotics, glucocorticoids, and diuretics when acute medical treatment is necessary. It's our experience that these TUEs are rarely denied, so it reduces stress on the athlete to not have to delay treatment and reduces the need for the ADO to have to also consider a retroactive TUE. USADA recommends that the TUE effective date can be left up to the ADO to decide whether it is the approval date or the date a complete application was received by the ADO.

Article 5.7 (4)

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD has no objections to the relocation of this article within Article 5. However, it should be made clear that it is the responsibility of the Anti-Doping Organisation rather than its TUEC to communicate decisions in writing to applicants.

Suggested changes to the wording of the Article

UKAD proposes the following revision to Article 5.7:

"The Anti-Doping Organization/~~TUEC~~ must notify the Athlete of ~~its~~ the decision of its TUEC in writing. A decision not to grant or not to recognize a TUE must include a clear explanation of the reason(s) for the decision, and notification of the Athlete's rights of review and appeal (if applicable)".

USADA

SUBMITTED

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

NADO - NADO

General Comments

Article 5.7: Agree with changes.

Article 5.6 (5)

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Sport Integrity Commission Te Kahu Raunui

SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

We recommend short term treatments should be allowed to include the washout period in the duration of the TUE to ensure no secondary TUE is required if the athlete is tested within the advised wash out (e.g. oral glucocorticoids)

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

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD has no objections to the proposed revisions to this article or its relocation within Article 5.

USADA

SUBMITTED

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

NADO - NADO

General Comments

Article 5.6: Agree with changes.

Article 6 (8)

International Cricket Council

SUBMITTED

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

Sport - IF – IOC-Recognized

General Comments

Article 6.17 is unclear and confusing, as it makes no mention of automatic recognition. Instead, it discusses the possibility of IFs or MEOs declining to recognize a TUE.

NADA

SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

General Comments

Comment to Art. 6.10

The word 'materially' in Article 6.10 should be removed.

The comment to this article describes clearly that the athlete must contact the relevant ADO with all changes that are not accounted for in the TUE.

The word 'materially' in Article 6.10 leaves room for an individual's own interpretation on how severe these changes are. It could happen that ADOs miss out on TUEs that need to be renewed if athletes decide that those changes are not material enough and do not contact their ADO.

Sport Integrity Commission Te Kahu Raunui

SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)

NADO - NADO

General Comments

We propose the reintroduction of 'at least 30 days' when applying for a TUE. This gives guidance to athletes on long term medications and supports TUECs not receiving applications at the last minute.

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 6.0 TUE Application Process

Sport Integrity Australia

SUBMITTED

Cameron Boland, Assistant Director Anti-Doping Policy (Australia)

NADO - NADO

General Comments

SIA recognises the importance of the additions of Articles 6.16 and 6.17 to the ISTUE. SIA considers that these important provisions should be given more prominence within the document.

Suggested changes to the wording of the Article

SIA suggests that Articles 6.16 and 6.17 should be moved to sit within Article 7.0 TUE Recognition Process given the logical relevance to the other provisions contained within this Article. For instance, these provisions may be inserted before what is currently Article 7.1.

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

ASDMAC recognises the importance of the additions of Articles 6.16 and 6.17 to the ISTUE. ASDMAC considers that these important provisions should be given more prominence within the document.

Suggested changes to the wording of the Article

ASDMAC suggests that Articles 6.16 and 6.17 should be moved to sit within Article 7.0 TUE Recognition Process given the logical relevance to the other provisions contained within this Article. For instance, these provisions may be inserted before what is currently Article 7.1.

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

General Comments

6.1 - UKAD has no objections to the proposed revisions to this article to clearly introduce Article 6.

6.2 - UKAD has no objections to the proposed revisions to this article.

Comment to Article 6.2 - UKAD has no objections to expanding this comment.

6.7 - UKAD has no objections with refining the text within this article. However, the article now lacks precision as the Anti-Doping Organisation (rather than TUEC) is typically responsible for contacting the athlete to request the submission of additional information when an application is incomplete. This is even the case when the request originates from the Anti-Doping Organisation’s TUEC.

6.13 - UKAD has no objections to the proposed revisions to Article 6.13 including adding further clarification to explain that an athlete may hold multiple TUEs for different treatments or medical conditions.

6.16 - UKAD has no objections to the relocation of this Article within Article 6.

6.17 - UKAD has no objections to the minor revisions made to this article nor its relocation within Article 6.

Suggested changes to the wording of the Article

6.7 - UKAD proposes the below revision to Article 6.7 to provide extra clarity that the Anti-Doping Organisation rather than its TUEC is responsible for making the request to the athlete or their physician for additional medical information:

"The Anti-Doping Organization/TUEC, of its own volition or on behalf of its TUEC, may request from the Athlete or their physician any additional information, examinations or imaging studies, or other information that it deems necessary in order to consider the Athlete’s application."

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

General Comments

Article 6.13

ADAMS currently does not allow to "supersede" a previous TUE. Cancelled TUEs are completely erased, which could cause issues in reanalysis situations. We would suggest to ensure that ADAMS is aligned with the ADAMS requirement.

Article 6.3 (5)

NADA India

NADA India, NADO (India)

NADO - NADO

SUBMITTED

General Comments

Agreed

Australian Sports Drug Medical Advisory Committee

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

SUBMITTED

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

USADA

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

NADO - NADO

SUBMITTED

General Comments

Articles 6.3: Agree with new additions.

UK Anti-Doping

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

SUBMITTED

General Comments

UKAD supports the inclusion of this new article which clearly sets out the process for when an athlete, who already possesses a TUE granted by their National Anti-Doping Organisation, reaches international level.

International Testing Agency

SUBMITTED

International Testing Agency, - (Switzerland)

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

General Comments

Articles 6.2 and 6.3

We would suggest to clarify which ADO is responsible for assessing a retroactive TUE request. We have often experienced situation where the IF is the RMA for the AAF which triggers the need to apply for a retroactive TUE and the athlete may not be considered as an international-level athlete. We have also faced the opposite situation: a NADO is RMA for an AAF, but the athlete is deemed international-level and the retroactive TUE application is referred back to the IF, even if the AAF matter stays with the NADO.

The practice between ADOs seems inconsistent. Some ADO RMA will refer back the application for the retroactive TUE to the ADO who is generally responsible under the ISTUE to grant TUE and some ADOs, now acting as RMA, will take the matter in their own hands and assess the retroactive TUE (and take into consideration for example 4.3.c), especially since the facts are usually intertwined with the circumstances of the AAF. We would suggest the second solution.

Article 6.4 (4)

NADA India

SUBMITTED

NADA India, NADO (India)

NADO - NADO

General Comments

Agreed

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)

NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

USADA

SUBMITTED

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

General Comments

Article 6.4: Agree with new additions.

UK Anti-Doping

SUBMITTED

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

General Comments

UKAD supports the inclusion of this new article which clarifies that i. TUEs granted by an MEO will be effective for that event only; and ii. an athlete who already possesses a TUE does not need to re-apply to the MEO but are required instead to seek recognition of their TUE.

Article 6.5 (3)

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

UK Anti-Doping

SUBMITTED

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

General Comments

UKAD has no objections to the proposed revisions to this article.

Article 6.6 (7)

Union Cycliste Internationale

SUBMITTED

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

General Comments

Situation experienced in practice, suggestions welcome.

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Sport Integrity Commission Te Kahu Raunui

SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

We believe WADA should provide a reference for what is a 'reasonable timeframe' so that there is a standard approach globally and something to support an ADO cancelling a TUE application.

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

UK Anti-Doping

SUBMITTED

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

General Comments

UKAD supports the proposed revisions to Article 6.6 since this how we already operate.

USADA

SUBMITTED

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

General Comments

Article 6.6: Agree with additions on timeframe but there should be a clear requirement by the ADO to specify a timeframe upon which if no response is received, the TUE application can be cancelled.

International Testing Agency

SUBMITTED

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

General Comments

We believe that an “incomplete” application should not be “cancelled”, but rejected. It is unclear what exactly is meant by “cancel the application”. In any event, we find that in such circumstances, the application should be rejected. Otherwise, the athlete would be able to continue delaying the process by applying for a new TUE and this will not resolved the issues faced under the 2021 Code of having incomplete TUE applications stay in limbo.

Article 6.18 (5)

Union Cycliste Internationale

SUBMITTED

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

General Comments

The hybrid status of the TUE makes no sense and only complicates life for athletes and ADOs rather than helping. A uniform system that is easy to apply and understand is needed. Indeed, the TUE system is already complex enough for athletes – and potentially for some ADOs as well.

NADA India NADA India, NADO (India) NADO - NADO	SUBMITTED
<div>General Comments</div> <div>Agreed</div>	
Australian Sports Drug Medical Advisory Committee Kim Reynolds, Senior ASDMAC Officer (Australia) NADO - NADO	SUBMITTED
<div>General Comments</div> <div>No Comment</div> <div>Suggested changes to the wording of the Article</div> <div>No Comment</div>	
USADA Allison Wagner, Director of Athlete and International Relations (USA) NADO - NADO	SUBMITTED
<div>General Comments</div> <div>Article 6.18: Agree with additions to bullets a) and b).</div>	
UK Anti-Doping UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom) NADO - NADO	SUBMITTED
<div>General Comments</div> <div>UKAD supports the addition of this new article which affords National Anti-Doping Organisations with the option to challenge TUE decisions made by International Federations and sets out a clear process for referring such decisions to WADA.</div>	

Article 7 (8)

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

General Comments

Article 7.5: Once again, the system needs to be harmonized and simplified. The hybrid status of the TUE adds unnecessary complexity. A solution must be found to address this

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

General Comments

Even under a situation of automatic recognition, an IF must have the right to refuse to recognise or appeal a NADO TUE that it considers does not meets Article 4.2 ISTUE. If this is what is intended in Article, 7.1, it is extremely unclear.

If the intention is that an IF does not have the right to refuse to recognise a TUE in these circumstances, then the system for IF and NADO appeals should be the same:

- An IF TUE becomes automatically valid at National level, unless the NADO appeals to WADA (Article 6.18).
- A NADO TUE becomes automatically valid at International level unless the IF appeals to WADA.

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 7.0 TUE Recognition Process

Cameron Boland, Assistant Director Anti-Doping Policy (Australia)
NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

7.6 SIA considers it would be beneficial to include guidance on the process that may be followed where a NADO has deemed it unnecessary to provide a TUE to an athlete who is not an International-Level Athlete where that Athlete is eligible for a retroactive TUE. SIA suggests that it be noted in the ISTUE (or guidance material) if an athlete of this level, whom a NADO has decided it is unnecessary for them to have a TUE, is tested at an International Event, that Athlete should apply directly to the IF for a retroactive TUE.

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

N/A

Suggested changes to the wording of the Article

7.6 ASDMAC considers it would be beneficial to include guidance on the process that may be followed where a NADO has deemed it unnecessary to provide a TUE to an athlete who is not an International-Level Athlete where that Athlete is eligible for a retroactive TUE. ASDMAC suggests that it be noted in the ISTUE (or guidance material) if an athlete of this level, whom a NADO has decided it is unnecessary for them to have a TUE, is tested at an International Event, that Athlete should apply directly to the IF for a retroactive TUE.

UK Anti-Doping

SUBMITTED

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

General Comments

7.2 - UKAD has no objections with refining the text within this article. However, the article now lacks precision as the Anti-Doping Organisation (rather than TUEC) is typically responsible for contacting the athlete to request the submission of additional information when an application is incomplete. This is even the case when the request originates from the Anti-Doping Organisation's TUEC.

7.5 - UKAD supports the addition of this new article which clearly outlines the process for National Anti-Doping Organisations to follow when an International Federation refuses to recognize its national-level TUE decision.

Suggested changes to the wording of the Article

7.2 - UKAD proposes the below revision to Article 7.2 to provide extra clarity that the Anti-Doping Organisation rather than its TUEC is responsible for making the request to the athlete or their physician for additional medical information:

"If an exception to automatic recognition is granted by WADA under Article 7.1(b), the Anti-Doping Organization/~~TUEC~~ of its own volition or on behalf of its TUEC may request from the Athlete or their physician any additional information, examinations or imaging studies, or other information that it deems necessary in order to consider the Athlete's request for recognition of the TUE."

iNADO

SUBMITTED

Alex Brown, Campaigns and Membership Coordinator (Germany)
Other - Other (ex. Media, University, etc.)

General Comments

Art. 7. iNADO welcomes the automatic recognition of NADO TUEs by IFs. This will be very well received by athletes and athlete support personnel. On the other hand, WADA grants itself the authority to grant exceptions to IFs/MEOs, and IFs and MEOs retain an „opt-out“ opportunity. Perhaps these should be restricted to very particular cases or scenarios (which eventually can be expanded upon in a comment), in favour of the automatic recognition clause which is universally supported and should universally be applied.

International Testing Agency

SUBMITTED

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

General Comments

We support the changes made to go in the direction of automatic recognition. Nevertheless we reiterate that ADOs should be given the possibility to challenge/review problematic cases as is the case for NADOs in article 6.18. As there will no longer be the possibility for IFs to review national TUEs, it should be clearly spelled out that WADA will monitor the quality of those TUEs.

Article 7.1 a) (5)

Japan Anti-Doping Agency

SUBMITTED

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

General Comments

We welcome the proposed revision to ISTUE 7.1a). We believe that this revision will reduce the burden of procedure's paperwork on National Level Athletes. Also, the number of cases where national-level athletes are unable to participate in international competitions due to TUE procedures is expected to decrease.

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Sport Integrity Commission Te Kahu Raunui

SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

We support this change, however request further clarity is provided by WADA on what grounds must be met to grant an exemption, as there are very few IFs who accept automatic recognition currently.

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

Art. 7.1

SSI welcomes the introduction of general automatic recognition of NADO TUEs. This validates the work of NADOs and is an athlete centered approach - as long as there will not be numerous exceptions approved by WADA.

Art 7.2

In case an exception to automated recognition is approved by WADA, it should not only be publicly disclosed by the relevant IF but also WADA should provide such reference on their website (similar to the exceptions to WADAs "in competition" definition which need to be approved by WADA).

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)

NADO - NADO

General Comments

UKAD welcomes the addition of this new article as we believe that automatic recognition (unless an exception is granted by WADA) will not only decrease the administrative burden placed on athletes but also alleviate the anxiety they experience when attempting to obtain recognition close to an International competition or Major Event.

Article 7.1 b) (5)

International Cricket Council

SUBMITTED

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

Sport - IF – IOC-Recognized

General Comments

Where will information be published regarding which TUE decisions are automatically recognized by an ADO and which TUE applications need to be submitted for evaluation? Would ADAMS be used and if so can this be included in this article?

Union Cycliste Internationale

SUBMITTED

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

General Comments

What is the status when a TUE requires athlete submission? Is it considered valid during the period before it is officially recognized? The status of a TUE pending recognition following the athlete's submission needs to be clarified

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Sport Integrity Commission Te Kahu Raunui

SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

We request that WADA also publishes a centralised list of IF/MEO exemptions.

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

UK Anti-Doping

SUBMITTED

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

General Comments

UKAD supports the revision of this article which mandates that in instances whereby an International Federation (IF) or Major Event Organisation (MEO) is granted an exception, they must clearly publish which TUE decisions it will and will not automatically recognise. Nevertheless, we also suggest that WADA publish the list of IFs and MEOs that it grants exceptions to for ease of reference and transparency. In addition, the final sentence of Article 7.1 (b) is already expressed in Article 7.1 (a) so it should be removed for succinctness.

Suggested changes to the wording of the Article

UKAD proposes the following revision:

"7.1 (b) WADA may, in its discretion, grant an International Federation or Major Event Organization an exception to the default position of automatic recognition. If an exception is granted, the International Federation or Major Event Organization must publish the following information in accordance with Article 5.2(f): (1) which TUE decisions it will automatically recognize (if any); and (2) which TUE decisions will have to be submitted to it by the Athlete for evaluation. WADA will also publish the list of International Federations or Major Event Organizations that it grants exceptions to on its website. ~~For TUE decisions that are automatically recognized at the time the TUE is granted, the Athlete does not need to take any further action and the TUE cannot then be subject to further review by the International Federation or Major Event Organization."~~

Article 7.3 (6)

CHINADA

SUBMITTED

MUQING LIU, Coordinator of Legal Affair Department (CHINA)

NADO - NADO

General Comments

Article 7.3

Article 7.3 of the second draft of the ISTUE addresses the retroactive recognition of a TUE. However, the preceding Article 7.1 mentions that unless WADA has granted an exception, the IF or MEO will automatically recognize the TUE decisions. Therefore, the retrospective recognition here in Article 7.3 appears to contradict automatic recognition set in Article 7.1. Is this retrospective recognition intended for exceptional circumstances? We recommend that clarification or further explanation be provided in the CommentWe recommend that clarification or further explanation be provided in the Comment.

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)

NADO - NADO

General Comments

It is athlete centered to even allow for retroactive recognition. However, the athlete's risk in this situation (being an exception of an exception, e.g. only applicable in absence of automatic recognition) needs to be clearly indicated.

In addition, as mentioned in SSI's feedback for the new Code article 10.2.4 (TUE criteria), we strongly suggest that administrative failures to get international recognition should only lead to minor sanction as indicated in Code article 10.2.4 too.

It would be hard to understand that an athlete with valid NADO TUE but failed to get timely international recognition in a case the IF generally refuses automated recognition as well as the retroactive recognition in this particular case gets a sanction for several months or years whereas an athlete who failed to apply for the TUE at all gets a 2-month sanction.

Suggested changes to the wording of the Article

An International Federation/Major Event Organization may recognize a TUE retroactively (provided the Athlete has demonstrated on the balance of probabilities that each of the criteria set out in Article 4.2 is met).

[Comment to Article 7.3: Retroactive recognition is at the Athlete's own risk as the International Federation/Major Event Organization may decide not to recognize the TUE, particularly since the International Federation/Major Event Organization was granted an exception to automatic recognition and is evaluating the recognition. In that case the TUE will not be valid for those purposes and may not be relied on to excuse the presence, Use, Possession or Administration of the Prohibited Substance or Prohibited Method mentioned in the TUE vis-à-vis the International Federation or Major Event Organization.]

Reasons for suggested changes

Athletes need to be aware that retroactive recognition would only apply in absence of automatic recognition where there is a reasoning at the International Federation/Major Event Organization for generally reviewing such NADO TUEs and thus potentially a greater risk of non-recognition.

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Sport Integrity Commission Te Kahu Raunui

SUBMITTED

Jono McGlashan, GM Athlete Services (New Zealand)
NADO - NADO

General Comments

We support this change, however we are concerned that IF/MEOs do not always comply with the 21-day rule to review a TUE prospectively and that athletes may face the risk of their TUE being declined due to this Article.

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

UK Anti-Doping

SUBMITTED

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

General Comments

UKAD welcomes the addition of this article which addresses two recommendations made by UKAD in relation to the Article 7 concept discussion during the Stakeholder Consultation Phase.

USADA Allison Wagner, Director of Athlete and International Relations (USA) NADO - NADO	SUBMITTED
General Comments Article 7.3: Thank you for making this change that allows for more flexibility for the retroactive TUE process.	

Article 8 (7)

UEFA Rebecca Lee, Anti-Doping Team Leader (Switzerland) Sport - Other	SUBMITTED
General Comments Similar to our comments in Article 7, even if an IF does not have an exception under 7.1b, there must be a mechanism for IFs to refuse to recognise a NADO TUE or appeal to WADA if it believes a NADO TUE, (that would otherwise be automatically recognised at International Level), does not meet Article 4.2 ISTUE.	

Australian Sports Drug Medical Advisory Committee Kim Reynolds, Senior ASDMAC Officer (Australia) NADO - NADO	SUBMITTED
General Comments No Comment	
Suggested changes to the wording of the Article No Comment	

CHINADA MUQING LIU, Coordinator of Legal Affair Department (CHINA) NADO - NADO	SUBMITTED
General Comments Article 8.0 We recommend adding provisions under Article 8.0 regarding WADA's review of TUE decisions. We have noted significant disparities among the ADOs across different countries and regions regarding the number of TUE	

applications considered and granted. Some ADOs consider a large number of applications with a high granting rate, while others show the opposite trend. Although Code Article 4.4.6 provides that WADA may review any TUE decisions at any time, and will reverse the TUE if its decision does not meet the criteria as provided by the ISTUE, WADA has not yet published any data on the number of reviewed and reversed TUEs. To ensure consistency in the application of rules, uphold the fairness of the TUE mechanism, and maintain its original intent and purpose, we recommend that WADA strengthen its oversight and review of the TUE applications granted or reversed by ADOs. For example, an independent expert panel could be established to conduct random reviews and assessments based on the number of TUE applications considered and granted by ADOs, review the TUE applications processed by different Signatories and regularly publish the results of these reviews. In addition, WADA may, based on the reviews, publish anonymized case examples to serve as guidelines while protecting Athletes’ personal information.

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

UK Anti-Doping

SUBMITTED

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

General Comments

8.1 - UKAD has no objections to the addition of this new article which clearly describes WADA’s authority and responsibilities in reviewing TUE decisions.

8.2 - 8.11 - UKAD has no objections to the minor revisions made to these articles.

USADA

SUBMITTED

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

General Comments

Article 8.6: If WADA requests additional information from an athlete’s physician or medical care provider, this should be done with the athlete’s expressed written consent. This should be clarified.

Articles 8.9 and 8.10: Is collecting these fees practically feasible and shouldn't there be some maximum as it's very open-ended now for WADA to charge any amount?

Bird & Bird LLP

SUBMITTED

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

General Comments

8.1

If WADA insists on moving to a system of automatic recognition of TUEs, it is even more important that it is rigorous in exercising its right of review over national TUEs ‘at any time’, as provided in Article 8.1(c). In the AIU’s experience, there are still far too many TUEs that are granted at national level where there is insufficient supporting documentation to confirm the underlying diagnosis/treatment.

Suggested changes to the wording of the Article

8.5

The AIU suggests removing the word ‘only’ in the sentence in parentheses “(for example, if the TUE was **only** denied because medical tests or other information required to demonstrate satisfaction of the Article 4.2 criteria were missing)”.

Article 9 (3)

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

General Comments

Agreed

Australian Sports Drug Medical Advisory Committee

SUBMITTED

Kim Reynolds, Senior ASDMAC Officer (Australia)
NADO - NADO

General Comments

No Comment

Suggested changes to the wording of the Article

No Comment

UK Anti-Doping

SUBMITTED

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

General Comments

9.1 - UKAD has no objections to the proposed revisions to this article. However, we do oppose the short data retention periods for holding TUE data that is set out in the Annex to the Draft 2027 International Standard for Data Protection (ISDP). We address our position within our review of the 2027 ISDP second draft.

Other Comments / Suggestions (7)

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 Comment to ISTUE – Figure in ADAMS

The chart in ADAMS showing the TUE form seems unclear (please see picture below).

From the picture above it could be argued that 400 mg could be used three times in any number of weeks.

Anti-Doping Sweden

SUBMITTED

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

General Comments

Anti-Doping Sweden agrees with all the proposed modifications of the ISTUE 2027.

We appreciate that ISTUE has been restructured for more clarity and readability. Especially Article 4.0 has a more logical order with the proposed changes.

ADSE is also pleased that many of our comments have been taken into consideration.

The updates of Article 5.0 with the new addition of Article 5.2 will make it easier for all ADO's and athletes to navigate the TUE process.

The proposed changes of Article 7.0 for the TUE recognition process are much more athlete-centered and will hopefully result in less stress for both athletes and NADO's.

Canadian Centre for Ethics in Sport

SUBMITTED

Bradlee Nemeth, Manager, Sport Engagement (Canada)

NADO - NADO

General Comments

The CCES would reiterate that consideration should be given to permit nurse practitioners to fulfil the same role as physicians, in countries/jurisdictions where they are certified to do so. In Canada, the general population has easier access to a nurse practitioner than a physician. It is becoming increasingly difficult for the general population, which includes athletes, to access a physician.

The CCES would appreciate the opportunity to provide feedback through a consultation process when the guidelines for the ISTUE are updated.

Sport Integrity Australia

SUBMITTED

Cameron Boland, Assistant Director Anti-Doping Policy (Australia)

NADO - NADO

General Comments

As currently drafted, the ISTUE makes no mention of the review process for a TUE application that is rejected by a NADO. SIA notes the process defined within Article 4.4.2 of the Code and suggests that Article 5.11 be added to the ISTUE to outline how this process should operate.

USADA

SUBMITTED

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

NADO - NADO

General Comments

Definition: Therapeutic – USADA agrees that the addition of “diagnosed” is a helpful addition. However, USADA is concerned about the lack of rigor in with some diagnoses made with athletes therefore suggests that more qualification is needed around a “diagnosed medical condition”. One solution to this would be to qualify this by stating “and agreed by the TUEC after evaluation of the TUE application” to ensure that high medical standards are upheld. We instruct athletes that the TUEC must be able to come to the same medical diagnoses based on the complete TUE application without ever seeing the athlete. A comment may be equally useful here.

General comment: Code Article 4.4.5: Sanctions for athletes who fulfill the ISTUE Article 4.2 criteria but do meet any criteria for a retroactive TUE.

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.

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. 5.3.c)

The size and composition of a TUEC considering a specific application may vary depending on the nature and complexity of the application and should for complex cases include at least three (3) physicians with experience in the care and treatment of Athletes and a sound knowledge of clinical, sports and exercise medicine. In cases where specific expertise is required (for example, for Athletes with impairments where the substance or method pertains to the Athlete’s impairment), at least one (1) TUEC member or expert should possess such expertise. One (1) physician member should act as chair of the TUEC.

Reasons for suggested changes

Re. Art. 5.3.c)

We are concerned about the imbalance across the antidoping system: In accordance with the ISRM, the anti-doping system has sufficient trust in the legal profession to allow hearing and/or appeal panel consisting of only one member. However, the ISTUE indicates a lack of trust in the medical profession to be capable of a similar responsibility for TUEs.

We fail to understand why a TUEC should consist of three physicians to make a decision to grant/not grant a TUE, while their decision to not grant a TUE can be overthrown by an appeal panel consisting of one single member with a legal background. Ref. ISTUE art. 5.3 c) cf. ISRM art. 10.2 b) in combination with the comment to ISRM art. 8.3). (ref. WADC art. 4.4. and 13.2.2)