

**WORLD CONFERENCE
ON DOPING IN SPORT**
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SESSION 17

The International Standard for Code Compliance by Signatories (ISCCS)

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Purpose of the ISCCS

- To set out the relevant framework and procedures for ensuring World Anti-Doping Code compliance by Signatories



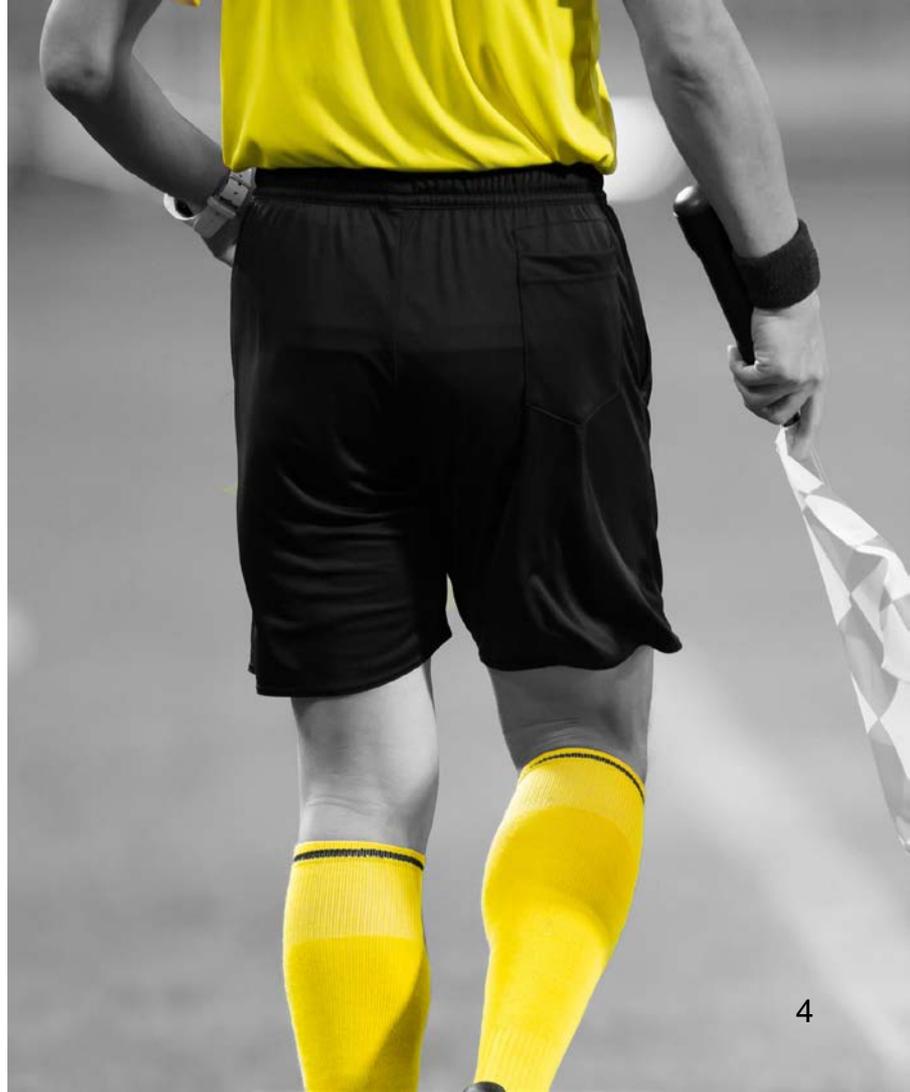
Content of the ISCCS



- Roles, responsibilities and procedures of the different bodies involved in WADA's monitoring of Signatories' Code compliance
- Support and assistance that WADA offers to Signatories in their efforts to comply with the Code and the International Standards
- Means by which WADA monitors compliance
- Opportunities and support that WADA offers to Signatories to correct non-conformities before formal action is taken
- Process to be followed to get to the Court of Arbitration for Sport (CAS) to hear and determine an allegation of non-compliance and determine consequences for the Signatory
- Procedures that WADA follows to reinstate the Signatory

Genesis

- Pre-2017, WADA compliance efforts focused on rule compliance and helping Signatories to get the basic building blocks in place without monitoring anti-doping programs holistically
- Controversies about Russian participation in 2016 Olympic and Paralympic Games reflected disjointed responses and some uncertainty about the extent of parties' legal rights and responsibilities



Genesis (Cont'd)



- **Additional challenge:** avoid creating gaps in anti-doping coverage when Signatory declared non-compliant and prevented from conducting anti-doping activities
- **November 2016:** WADA Foundation Board endorses a framework for WADA to determine graded and proportionate consequences for non-compliance
- **May 2017:** Board accepts principle of developing a Standard
- **November 2017:** after a six-month stakeholder consultation, Board approves amendments to a number of Code articles related to compliance and Executive Committee (ExCo) approves the ISCCS
- **1 April 2018:** Code amendment and ISCCS take effect



Benefits of the ISCCS

Strengths of the ISCCS



- Has demonstrated willingness and readiness from WADA and the anti-doping community to address loopholes in the global regulations quickly and to respond to the call of numerous athletes for such a Standard
- Athletes: *“It is very important that Signatories are held to the same standards of compliance as athletes within the Code.”*

Strengths of the ISCCS (Cont'd)



- Has consolidated the overall philosophy of WADA's compliance monitoring program:
 - WADA's focus is on supporting Signatories' compliance efforts
 - Emphasis on improved anti-doping programs that contribute to enhanced global harmonization and greater protection of the integrity of sport
 - Close cooperation between WADA and each Signatory to address any shortfall within specified timeframes
 - Seeking sanctions for non-compliance is the last resort

Strengths of the ISCCS (Cont'd)

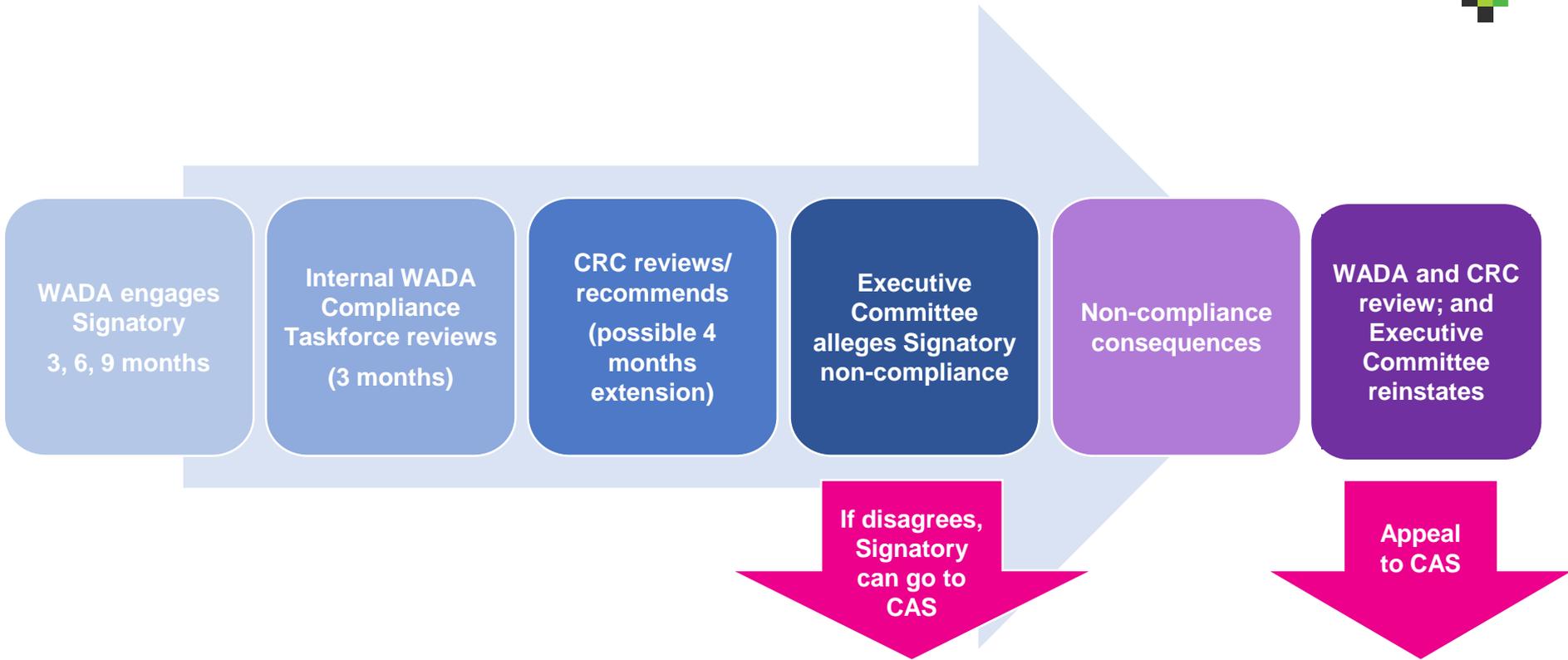


- Has enabled WADA and the global anti-doping community to formalize:
 - The way that WADA supports Signatories in achieving, maintaining or regaining Code compliance
 - A range of graded, predictable and proportionate consequences in case of ultimate non-compliance
 - One single centralized and fair process for determining non-compliance and sanctions, with CAS as the ultimate decision-maker

Strengths of the ISCCS (Cont'd)



- Has created a lot more legal certainty around roles and responsibilities, consequences, and mechanisms:
 - Standardized and transparent procedure for all non-conformities
 - Signatories are fully aware of the various steps, timelines and potential consequences
 - Experience has shown that the overwhelming majority of Signatories are able to address their outstanding issues in the framework of the process without having their case escalated to WADA's ExCo
 - The independent Compliance Review Committee (CRC) has established a series of precedents, in particular in terms of consequences proposed to the ExCo in specific cases, that help ensure harmonization for similar cases



Strengths of the ISCCS (Cont'd)



- Each corrective action implemented by a Signatory contributes to enhance the global level of compliance:
 - Close to 350 Signatories worldwide have been subject to WADA's Code Compliance Questionnaire (CCQ) and/or a WADA Compliance Audit
 - As a result, WADA has identified more than 10,000 corrective actions, and Signatories have completed nearly half of these to date
 - This compliance monitoring work raises the level of anti-doping development worldwide



Challenges with the ISCCS to date

Challenges with the ISCCS



- Generally speaking, the ISCCS has proven to work well. This, coupled with the recency of the Standard, can explain why few fundamental comments were received during the ISCCS revision consultation process
- The ISCCS is a living document; we learn from practice
- The CRC has experienced a certain lack of flexibility in the Standard and recommended the development of further graded consequences to strengthen proportionality in future cases as part of the ISCCS revision

Challenges with the ISCCS (Cont'd)



- Practice has also revealed a number of issues that the ISCCS revision gave the opportunity to fix
 - e.g., complexity of managing new non-conformities identified while a Signatory is already in a compliance procedure

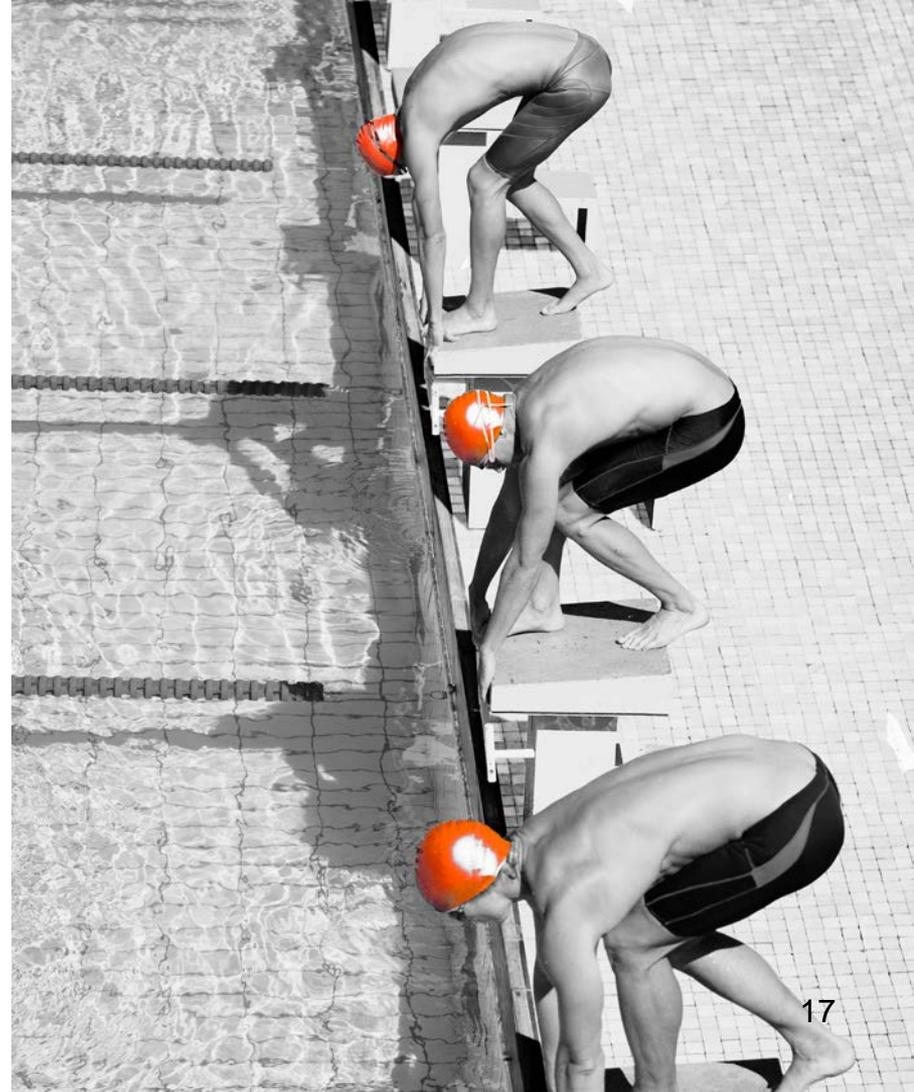
- Need to re-consider the “Policy for the initial application of the ISCCS by WADA” ahead of its expiration on 31 March 2020
 - WADA and the CRC to recommend to the ExCo to extend this prioritization policy until the new Code and Standards come into force on 1 January 2021



Major proposed changes

Consultation process

- Two formal phases of consultation
- Drafting group led by CRC Chair supported by WADA compliance experts
- Oversight of the project by the CRC

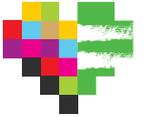


Clarifications of WADA and CAS roles



- Emphasize the fact that it is the Court of Arbitration for Sport (CAS) alone that has the power to impose sanctions on a Signatory for non-compliance with the Code and the Standards
- WADA **alleges** non-compliance and **proposes** sanctions; CAS **determines** non-compliance and consequences if the Signatory does not accept WADA's allegation and proposal

Principle of last resort



- Two new articles (5.4 and 9.4.3) confirm that if a Signatory corrects a non-conformity after a matter has been referred to the CRC, WADA's ExCo or CAS, but not yet determined, that correction will be sufficient to end the proceedings against the Signatory

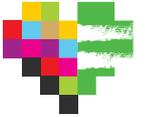
- Exceptions:
 - If WADA has incurred costs in pursuing the case before CAS, the Signatory must cover those costs
 - If the Signatory's failure to correct the non-conformity within the required timeframe has resulted in irreparable prejudice to the fight against doping in sport, CAS can decide to impose consequences to reflect that prejudice

Continuous compliance monitoring



- A new article (7.8) formalizes WADA's continuous monitoring work of certain requirements in-between Code Compliance Questionnaires (CCQs) or Compliance Audits
- This work is to ensure that non-conformities have been sustainably corrected by Signatories and that no new non-conformities have appeared
- Examples of specific areas subject to continuous WADA compliance monitoring include conduct of in- and out-of-competition testing, uploading of Doping Control Forms and Therapeutic Use Exemptions into ADAMS, and proper results management

Major Event Organizations' monitoring



- The various provisions relating to MEOs have been moved to a new standalone subsection (Art. 7.9)
- This article details how, starting in 2019, WADA monitors MEOs
- This work includes in particular:
 - a tailored CCQ sent ahead of a major event;
 - shortened timelines for completion of corrective actions from the CCQ; and
 - enhanced synergies between MEO monitoring and WADA's Independent Observer (IO) Program, with WADA auditors embedded in the IO Team sent to a particular event to ensure corrective actions have been implemented

New non-conformities identified



- Two new articles (8.2.7 and 8.3.2) have been added to deal with situations where WADA identifies a new non-conformity after compliance proceedings have been commenced against a Signatory in respect of other non-conformities
- These articles enable WADA to add the new non-conformity to the proceedings and to adapt the timeframe for correction accordingly

Changes to the Annexes

- A number of changes have been made to the three annexes of the 2018 version of the ISCCS
- These changes are summarized in the next few slides



Non-compliance consequences moved to Code



- Following calls from several stakeholders, the list of potential consequences has moved from the ISCCS to the Code so that the Code includes all consequences (against athletes and other individuals as well as against anti-doping organizations)

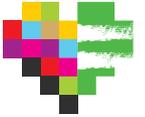
- Remaining in the ISCCS are two annexes that include the provisions relating to:
 - whether a particular compliance requirement of a Signatory is to be considered Critical, High Priority or Other (renamed as “General”); and
 - the consequences that should *prima facie* apply, at least as a starting point for analysis, in the three different cases.

Appendix A – categories of non-compliance



- A few requirements have been added or re-classified within the three categories of compliance requirements
- To add further certainty for Signatories, it is now specified that the list of Critical requirements is exhaustive
- To retain the sort of flexibility that proved very useful in the RUSADA case, however, the list of Critical requirements includes “any requirement that is not already set out in the Code or the International Standards that WADA’s ExCo exceptionally sees fit to impose as a Critical requirement”

Appendix B – Signatory consequences

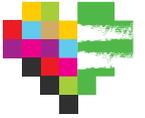


- A potential consequence has been added for non-compliance by Signatories outside of the Olympic Movement:
 - termination of their status as a Signatory

- Other new potential non-conformities have been added:
 - e.g., ability to suspend funding until the non-conformity is fixed, at which time funding can be paid

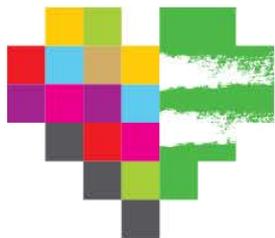
- Fines will now be available in cases of non-compliance with High Priority requirements in addition to cases involving Critical requirements. In addition, the maximum amount allowed for fines has been removed in cases of non-compliance with Critical requirements

Appendix B – Signatory consequences (cont'd)



- Enhanced staggering of consequences:
 - e.g., denial of the right for a country to host or to participate in events to apply first to regional, continental or world championships and only to Olympic and Paralympic Games in the most serious cases; consequences to apply first to representatives of the non-compliance Signatory before athletes are impacted.

- These changes will provide the CRC with a greater choice of options when it alleges a Signatory's non-compliance and proposed related consequences to the ExCo, and will further enhance the fairness and proportionality of the ISCCS.



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