

# Selected Issues Related to Anti-Doping

## Working Party Position

The Working Party's opinion on the International Standard for the Protection of Privacy and Personal Information (WP 162) questions a number of longstanding anti-doping practices. In particular, the Working Party questions the:

- **need to retain data collected in the anti-doping context for 8 years.** Whilst the Working Party accepts that samples can be retained for re-testing, it does not support the retention of underlying documentation, such as Therapeutic Use Exemptions (see page 15 of the Working Party opinion);
- **18 month retention period for whereabouts data,** urging WADA to change its retention policy for whereabouts data that are not indicative of a missed test;
- **8 year statute of limitations adopted in the Anti-Doping Code,** calling on WADA to reconsider the statute of limitations for doping violations (see page 15 of the Working Party's opinion); and
- **need to publish anti-doping violations,** as it sees no justification for publishing violations on the Internet (as foreseen by the World Anti-Doping Code).

### Did you know?

- The World Anti-Doping Code was adopted after three years of consultation between hundreds of governments and sports organizations, as well as two Ministerial Conferences.
- The International Olympic Committee preserved 4,000 samples taken during the Beijing Olympic Games for re-testing.
- The effective targeting of anti-doping efforts has always been a cornerstone of WADA's approach.
- Several countries' statutes of limitation are far longer than 8 years.

## WADA's Perspective

- The retention of underlying documentation is vital both to the integrity of doping violation procedures and for the defence of the athlete. WADA does not understand on what basis the Working Party accepts the retention of samples for re-testing, but not the retention of TUEs. When a re-test occurs, it is important to know whether the athlete concerned benefited from a TUE at the time the original sample was taken. Absent this information, there is a risk that the athlete could be accused of a doping violation that has not, in fact, occurred.
- Whereabouts data are also used to detect suspicious trends and act as an important tool in targeting athletes for testing. WADA fully supports the Working Party's calls for doping tests to be targeted. However, the Working Party must also accept that such targeting requires personal data. Instead, the Working Party seems to impose the same demands as for targeted advertising (shorter retention times), in an area where it actually calls for targeted testing.
- WADA believes that the Working Party goes beyond its mandate in questioning the Code's statute of limitations. A statute of limitations exists to ensure the effective and equitable enforcement of laws, rather than to protect personal data. Consequently, data protection law must be applied within the boundaries set by the relevant statute of limitations and not vice-versa. The statute of limitations adopted in the Code was agreed following lengthy negotiations between the various parties (both public and private) responsible for enforcing the Code and, therefore, WADA is not entitled to reconsider the statute of limitations in isolation and on its own initiative.
- The publication of doping violations parallels the public nature of competition in sports and is generally considered to be very important. WADA was given a mandate to monitor and promote the application of the Code by both Governments (including European Governments) and the sporting community. WADA promotes the publication of sanctions pursuant to this mandate, as this is an obligation imposed by the Code.

## Helpful Links

- **World Anti-Doping Code**

[http://www.wada-ama.org/rtecontent/document/code\\_v2009\\_En.pdf](http://www.wada-ama.org/rtecontent/document/code_v2009_En.pdf)