

INTERNATIONAL STANDARD FOR THE PROTECTION OF PRIVACY AND PERSONAL INFORMATION (ISPPPI) Consultation - First consultation phase

Showing: All (28 Comments)

Preamble (2)

ISU

SUBMITTED

Christine Cardis, Anti-Doping Administrator (Switzerland)
Sport - IF – Winter Olympic

No comments, but needs for IFs internal implementation following in particular from arts 4.3 ff new: IFs must provide for internal implementation of Standard and set-up record on Data Protection and designate Person Accountable.

Request to WADA: Given that the implementation will be an important and time-consuming task for all WADC stake-holders a Template Document for internal implementation by the stake-holders shall be provided by WADA.

EU and its Member States

SUBMITTED

Barbara Spindler-Oswald on behalf of the EU and its Member States, Chair of the Working Party on Sport (Austria)
Public Authorities

Data protection

The EU and its Member States recall that in its opinion from 2009^[1], the Data Protection Working Party 29 (WP29)

raised several concerns relating to the International Standard for the Protection of Privacy and Personal Information on related provisions of the WADA Code and on other privacy issues in the context of the fight against doping in sport by WADA and (national) anti-doping organizations. The EU and its Member States welcome the efforts made by WADA in the International Standard, but draw WADA's attention to the recommendations included in that opinion, and invite WADA to consider the recommendations which have not yet been addressed.

[1] The Data Protection Directive 95/46 EC has been repealed by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, a.k.a. GDPR - OJ L 119, 4.5.2016, p. 1–88) as from 25 May 2018.

The EU and its Member States wish to go from the general to the specific, translating the general objective of anti-

doping into a more specific framework for the processing of personal data. To this end, a more precise definition of the different purposes for concrete processing operations specified in the Code would be more appropriate.

In order to comply with EU law, EU NADOs must ascertain, when transferring personal data to third countries, that such transfers are compliant with the requirements of Chapter V of the General Data Protection Regulation. Notably, they must ascertain that any onward transfer from such third countries to another non-EU country shall comply with these requirements. In this regard, WP29 stressed that such transfers *"will have to meet the requirement of an adequate level of protection in the destination country". If this level cannot be considered adequate, transfers can only take place on the basis of certain exceptions mentioned in article 26 of the Data*

Protection Directive, provided that they are not regular or massive"^[2]. In order to ensure smooth transfers of

personal data from EU Member States, WADA may consider addressing those issues in its revised Code.

[2] The Data Protection Directive 95/46 EC has been repealed by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, a.k.a. GDPR - OJ L 119, 4.5.2016, p. 1–88) as from 25 May 2018.

PART ONE: INTRODUCTION, CODE PROVISIONS AND DEFINITIONS (3)

Commonwealth Games Federation Medical Commission

Michele Verroken, Anti-Doping Administrator (UK)
Sport - Other

SUBMITTED

Do Athlete Support Personnel furnish a significant amount of Personal Information? Athletes do, but ASP provide a minimum of information, usually the athlete provides this on their behalf and possibly without their knowledge. Protection of personal information processed by ADOs is to meet legal obligations not 'standards'. the Scope of the standard should cover the collection of information from athletes not only on a Doping Control Form, but through whereabouts and TUEs. Also data collected through drug information databases and intelligence reports.

14.5 Doping Control Information Clearing House include a clear definition of Doping Control Testing data. Is this medications and supplements declared at time of testing? Is it proportionate to collect information about all medications and supplements? Should the focus be on those medications that require a TUE? 14.6 Data Privacy review the minimum information required from athletes as presently there does not appear to be a minimum as required by data assessment review.

Antidoping Switzerland

Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

General comment: Antidoping Switzerland does not see any major issues with the current ISPPPI. However, we would like to point out that in Switzerland we are currently in a revision process of the Federal Act on Data Protection of 19 June 1992 (FADP; SR235.1). It is currently in Parliament and it is not clear yet when the Federal Act will be finalised. Although this Act will or must show many similarities with the European GDPR, it should be monitored if some discrepancies arise. As a Swiss Foundation, Antidoping Switzerland must also comply with

Swiss Law and it may well have wider implications than just on the ISPPPI, for example it may also impact ISTI or others.

Anti-Doping Norway

SUBMITTED

Anne Cappelen, Director Systems and Results Management (Norway)
NADO - NADO

European General Data Protection Regulation (GDPR)

The GDPR comes into effect in 2018 and is relevant for all antidoping organisations in Europe and those organisations entering or transmitting information to third countries and international organisations (re GDPR Article 3 (1)). Anti-Doping Norway suggest that the GDPR be referenced in the Preamble together with the other requirements having been considered.

Anti-Doping Norway suggest that WADA adopt the main principles of this regulation in the ISPPPI allowing for ease of understanding for all parties and a common processing and flow of personal information, irrelevant of the ADOs legal basis and residence.

There are several articles that should be reflected in the ISPP referenced in article 12 of the GDPR concerning the rights of athlete/person to whom the personal information belongs and is processed.

For an ADO established in Europe to be consistent with the requirements of the Code and the international Standards, the ADO would need to have the legal framework in place enabling the ADO to handle this type of information in a manner consistent with the GDPR Art. 6 (1) e), with particular reference to the processing of special categories of personal data (i.e. medical information), re article 9 and processing of personal data related to criminal convictions and offences, re article 10. As ADOs under the GDPR can only communicate personal information with those entitled to do so as per the GDPR, re. article 45 and 46 concerning transfer of personal data to a third country, requirement of a legal framework in the ISSPI like those identified in the GDPR would assist all ADOs.

ADOs can be both data controllers and processors handling personal information including a large amount of medical and legal information. ISPPPI 9.3 identify an agreement with a third party if this party is processing data on behalf of the ADO. Anti-Doping Norway suggest that a template for a data processing agreement in line with the requirements of the GDPR article 28 is annexed in the ISPPPI.

3.0 Terms and Definitions

3.2 Defined Terms from the International Standard on Privacy and Personal Information (1)

NADA

SUBMITTED

Regine Reiser, Result Management (Deutschland)
NADO - NADO

Terms and definitions of the ISPPPI must be in line with the general defitions of similar terms used in the General Data Procetion Regulation (EU Regulation 2016/679)
For example Art. 3.2.: Sensitive Personal Information or Security Breach.

PART TWO: STANDARDS FOR HANDLING PERSONAL INFORMATION (4)

World Skate

SUBMITTED

Patriicia Wallace, Anti-doping Manager (Australia)
Sport - IF – Summer Olympic

Document is clear and has been a helpful guideline for our organisation to implement its own policies

China Anti-Doping Agency

Zhaoqian LUAN, . (China)

Sport - Other

SUBMITTED

Regarding the destruction of documents exceeding the retention time. Some information is kept on paper documents and involves other important people and happenings, which is very complicated and inseparable. These documents are historical archives and important documents of the fight against doping, so the total destruction is not beneficial to experience accumulation and historical inheritance. Therefore, it is recommended to require anti-doping organizations to evaluate the paper documents that are not suitable for destruction and adopt appropriate methods of preservation such as permanent anonymity.

Commonwealth Games Federation Medical Commission

Michele Verroken, Anti-Doping Administrator (UK)

Sport - Other

SUBMITTED

4.0 Processing of Information where this involves third parties, even other ADOs, it should be covered by information sharing agreements which are available to athletes.

5.0 Processing Relevant and Proportionate Personal Information relevant is too vague, this should be proportionate and minimal, justifiable in relation to the athlete's involvement in the antidoping programme-

if there is an intention to collect information about supplement use, there is an implied obligation on the ADO to advise if there is a use of supplements that is risky, even where this does not result in an adverse analytical finding. Is a declaration on a form considered an admission of use? this is treated differently by ADOs.

5.3d ADOs should publish this assessment.

6.0 Processing Personal Information

consent should be clear and re-addressed at different stages of athlete's involvement in sport and anti-doping. It is not sufficient to obtain consent at the time of testing but to address at a condition of membership of a sports body, then on entry to an competition, at the time of testing, as part of an agreement to participate in a RTP and as a consent to process whereabouts information. It is excessive to expect that an athlete understands the level of data processing involved in all these activities at the point they become a member of a sports federation.

6.2 the applicable law should be clearly stated and referenced. this becomes more important when processing data across different jurisdictions, as the laws would also vary.

8.2 evidence of compliance with legal standard should be obtained as part of information sharing agreements - not assumed. How do athletes give their express consent (8.3b)

9.5 In the event of a security breach, the ADO should meet their legal obligations as a matter of priority over the standard.

9.6 why three years? this should be annual. 9.7 not only staff - all persons, including volunteers.

10.0 Publish retention times. 11.0 Rights ADOs should publish guidelines regarding complaints procedures and how to make a complaint.

Organizacion Nacional Antidopaje de Uruguay

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)

NADO - NADO

SUBMITTED

Extend all possible actions to [protect the integrity of the athlete who denounces, who helps in anti-doping tests. It is very common to allow the rprovacidad mient lasts the process can not villar and after cuiando the case is adverse and the villacion is checked against the anti-doping standard equipment and athletes simulate serious injuries of long recovery period in that irrelevant pursuit of not to say who is subjected to at least anti-doping research without being able to be demonstrated by the Dsisciplinarians many times by the impediments of the secret to arrive verramente to a just conclusion for all.

4.0 Processing Personal Information in Accordance with International Standard and Applicable Law

4.4 (1)

NADA

SUBMITTED

Regine Reiser, Result Management (Deutschland)
NADO - NADO

Art. 4.4:

The documentation requirements should also be mandatory for WADA in relation to the transfer of personal data via ADAMS.

Comment to Art. 4.4.

The "solely responsibility of WADA" is not sufficient in regard to the adequate level of data protection. WADA shall guarantee that applicable retention times and routines to delete data are established (especially in ADAMS).

4.5 (1)**NADA**

SUBMITTED

Regine Reiser, Result Management (Deutschland)
NADO - NADO

Art.4.5

The name and the contact details of the data protection manager (person in charge) could be directly accessible in ADAMS (for example: tab "data protection")

5.0 Processing Relevant and Proportionate Personal Information**5.3 (1)****NADA**

SUBMITTED

Regine Reiser, Result Management (Deutschland)
NADO - NADO

5.3 a) and b)

The major data protection principle of data economy should be maintained.

Sensitive medical data of Athletes shall only be processed and transferred if it is proportionate and urgently required. Medical data like doctor's letter, laboratory findings or diagnostic shall only be transferred via ADAMS on demand.

The written request (by WADA to an ADO) should be well-argued and related to a certain Anti-Doping purpose in each individual case. Statistic reasons are not sufficient.

The transfer of sensible personal data should be technically secured and separated from other data transfer in ADAMS.

6.0 Processing Personal Information in Accordance with Law or with Consent**6.1 (3)****EU and its Member States**

SUBMITTED

Barbara Spindler-Oswald on behalf of the EU and its Member States, Chair of the Working Party on Sport (Austria)
Public Authorities

The EU and its Member States recall that WP29 considered that processing of personal data for anti-doping activities could not be based on consent and that other legal bases had to be explored. WP29 also questioned the compliance with principles relating to the processing of personal data, in particular in view of retention periods for storing different data on athletes and the publication of the names of athletes who have violated anti-doping rules (Article 14.3 of the Code).

[1] Second opinion 4/2009 on the World Anti-Doping Agency (WADA) International Standard for the Protection of Privacy and Personal Information, on related provisions of the WADA Code and on other privacy issues in the context of the fight against doping in sport by WADA and (national) anti-doping organizations, adopted on 6 April 2009:

[http://collections.internetmemory.org/haeu/20171122154227/http://ec.europa.eu/justice/data-protection/article-](http://collections.internetmemory.org/haeu/20171122154227/http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2009/wp162_en.pdf)

[29/documentation/opinion-recommendation/files/2009/wp162_en.pdf](http://collections.internetmemory.org/haeu/20171122154227/http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2009/wp162_en.pdf)

NADA

SUBMITTED

Regine Reiser, Result Management (Deutschland)
NADO - NADO

6.1

The extention and specification of "valid legal grounds" in line with the GDPR is highly appreciated. But WADA should concretely support and help ADOs to define the new terms "public interest task", "for reason of substantial public interest" or "legitimate interest" (for clean and doping free sports, see ECHR, 18.1.2018, FNASS and others vs. France)

NADA Austria

SUBMITTED

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

NADA Austria recall that the Data Protection Working Party 29 considered that processing of personal data for anti-doping activities could not be based on consent and that other legal bases had to be explored.

7.0 Ensuring Appropriate Information is Furnished to Participants and Other Persons

7.1 (1)

NADA

SUBMITTED

Regine Reiser, Result Management (Deutschland)
NADO - NADO

Art. 7.1

The mentioned requirements should clearly be published "as model rules" in ADAMS or - where ADAMS is not technically used - published in the same manner on the ADOs (WADAs) website.

7.2 (1)

NADA

Regine Reiser, Result Management (Deutschland)
NADO - NADO

SUBMITTED

Art. 7.2, section two - "transparent"

That means "precise, clear, comprehensible, easily available and in simple language (like in Art 7.3)

7.3 (1)

NADA

Regine Reiser, Result Management (Deutschland)
NADO - NADO

SUBMITTED

Art. 7.3

The Athlete`s right to get the information should depend on the fact, that the ADO could concretly recognise the Athletes identity (by requesting a copy of the Athlete`s passport for example).

8.0 Disclosures of Personal Information to other Anti-Doping Organizations and Third Parties (1)

NADA

Regine Reiser, Result Management (Deutschland)
NADO - NADO

SUBMITTED

Disclosure of personal data should always be guided by the major principles of data economy, necessity and proportionality. The need-to-know principle should be maintained.

9.0 Maintaining the Security of Personal Information

9.3 (1)

NADA

Regine Reiser, Result Management (Deutschland)
NADO - NADO

SUBMITTED

9.3 Contract data processing - service Providers

Roles and responsibilities should be clearly defined and documented.

The (technical) possibility to create access restrictions and rights for service providers and DCOs must be established by WADA (in ADAMS).

Access for DCOs should be timely restricted for certain mission orders and date ranges. The need-to-know principle for DCOs should be implemented.

11.0 Rights of Participants and Other Persons with Respect to Personal Information (1)

Anti-Doping Norway

Anne Cappelen, Director Systems and Results Management (Norway)
NADO - NADO

SUBMITTED

ISPP1 11.0 identify the rights of a participant/person. Anti-Doping Norway suggest that relevant wording similar as per the GDPR chapter III is identified.

Anti-Doping Norway suggest that an athlete or person shall be given access to his/her personal information filed by the ADO if requested by the person itself and copied only upon special request (by the same person) re GDPR article 15 (3), and only if the ADO is the controller.

11.3 (1)

Anti-Doping Norway

Anne Cappelen, Director Systems and Results Management (Norway)
NADO - NADO

SUBMITTED

The ADO should not be able to refuse access to a person's personal information as per the ISPPi 11.3, re. GDPR article 13.

11.4 (1)

NADA

Regine Reiser, Result Management (Deutschland)
NADO - NADO

SUBMITTED

Art. 11.4

"Each Anti-Doping Organization shall have a procedure in place for dealing with such complaints in a fair and impartial manner"

Please concrete this procedure with "module rules and guidelines".

ANNEX A - RETENTION TIMES (4)

China Anti-Doping Agency

Zhaoqian LUAN, . (China)
Sport - Other

SUBMITTED

In addition, it is recommended that WADA give some clarifications as to how to destroy the information stored on the ADAMS, such as whereabouts information.

Commonwealth Games Federation Medical Commission

Michele Verroken, Anti-Doping Administrator (UK)
Sport - Other

SUBMITTED

There should be a clear retention policy for Doping Control Officers and Chaperones. Surely the 18 months/10 years is not applicable to DCOs?

NADA

Regine Reiser, Result Management (Deutschland)
NADO - NADO

SUBMITTED

Annex "Retention Times"

Retention times should be proportionate and appropriate. Only two categories of retention times - 18 months and 10 years for "practical reasons" is not sufficient and adequate.

At least categories "between" 18 months and 10 years should be implemented.

For example 24 months for any "negative test result" in general, justified exceptions in individual cases are accepted (for example for I&I reasons).

TUEs / medical data should be stored not more than one year after the TUE expired.

A clear and transparent procedure for ABP data must be implemented. ABP data in general should be stored no longer than five years if a passport is "quite unremarkable" for more than one year.

UK Anti-Doping

Pola Murphy, Compliance Coordinator (United Kingdom)
NADO - NADO

SUBMITTED

Module 2 - Whereabouts, and 8 – Athlete Biological Passport

Section 2 states a retention time for whereabouts of 18 months, whereas section 8 states 10 years if they are part of an Athlete Biological Passport. However, since 2014 all collected urine samples are part of the Steroidal profile and can therefore be considered ABP. If this is correct, this should be clarified in the ISPPPI, as the 18-month period would only be applicable to standard blood samples. With a potential blood endocrine module on the way, it may make sense to have a standard retention period for all sample types (e.g. 10 years).

Module 2 – Whereabouts

Currently, information relating to Whereabouts Failures (Missed Tests or Filing Failures) is to be retained for 18 months. However, UKAD has found that this information can be relevant for a whereabouts ADRV even after the Missed Test or Filing Failure has expired – so whilst a previous Whereabouts Failure that occurred more than 18 months ago may not count as one of the three for an ADRV under Code Article 2.4, it could be relevant when determining fault (e.g. the athlete received several reminders or failures in the past about an aspect of updating their whereabouts). We would suggest a more helpful retention period would be four years, as this seems a reasonable period for previous failures to be considered as part of an assessment of an athlete's level of fault.

Module 4 - Testing

The retention period for test documentation is listed as 18 months, unless there is an indication of a possible ADRV, the Sample is stored for possible re-testing or if it is part of a passport program. As above, since 2014 all collected urine samples are part of the Steroidal profile and can therefore be considered as part of a passport program. It should therefore be clarified if documentation from urine samples should also be retained for 10 years. As above, if so, it may make sense to have a standard retention period for all sample types (e.g. 10 years). In practice, it is logistically challenging to have different retention periods for different sample types, particularly as several tests involve the collection of multiple sample types.

Module 3 - TUE

It is our recommendation that the retention time for the supporting medical information towards a TUE application be extended beyond 18 months from the expiry date of the TUE. An ADO may be required to defend a historical decision to approve a TUE application beyond this timeframe. It is therefore important that the ADO can access the supporting documents to be able to evidence how the medical information presented sufficiently fulfilled the ISTUE criteria.

Furthermore, this supporting medical evidence may prove to be a useful resource to the Legal Team of the ADO, if the athlete testifies that an AAF is related to a medical condition for which they had previously been granted with a TUE. We would propose a retention period of five years.

General Comment

Whilst this is not specifically relating to the ISPPPI, it has been noted that the retention times built into the ADAMS database do not currently match those set out in the ISPPPI (e.g. athlete whereabouts are still visible for longer than the retention times set out in Annex A - 2 – Whereabouts). The new ADAMS system should reflect the retention times that appear in the updated version of the ISPPPI, with data automatically deleted / archived as appropriate.