



The World Anti-Doping Code

# **INTERNATIONAL STANDARD FOR THE PROTECTION OF PRIVACY AND PERSONAL INFORMATION**

**Draft Version 2.0**

May 2019

## **International Standard for the Protection of Privacy and Personal Information**

The World Anti-Doping Code International Standard for the Protection of Privacy and Personal Information (ISPPPI) is a mandatory *International Standard* developed as part of the World Anti-Doping Program.

The International Standard for Protection of Privacy and Personal Information was first adopted 9 May 2009 and came into effect 1 June 2009. The enclosed ISPPPI incorporates revisions to the ISPPPI and was approved by the WADA Executive Committee on XXXX. It will come into effect on 1 January 2021.

The official text of the International Standard for the Protection of Privacy and Personal Information shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

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## PREAMBLE

The World Anti-Doping International Standard for the Protection of Privacy and Personal Information is a mandatory *International Standard* developed as part of the World Anti-Doping Program.

*WADA* and *Anti-Doping Organizations* share responsibility for ensuring that Personal Information Processed in connection with Anti-Doping Activities is protected as required by data protection and privacy laws, principles and standards. The main purpose of this *International Standard* is to ensure that organizations and *Persons* involved in anti-doping in sport apply appropriate, sufficient and effective privacy protections to Personal Information that they Process, regardless of whether this is also required by applicable laws.

A *WADA* expert reference group reviewed, discussed and prepared this document, and specifically took into account the Organization for Economic Cooperation and Development's (OECD) 1980 Guidelines on the Protection of Privacy and Transborder Flows of Personal Data; the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS. No. 108); the APEC Privacy Framework; the Charter of Fundamental Rights of the European Union, EU Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data (General Data Protection Regulation), and other international and regional data privacy rules, standards and case law, such as the judgement of the European Court of Human Rights of 18 January 2018 (FNASS and others vs. France).

The official text of the International Standard for the Protection of Privacy and Personal Information shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

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## **PART ONE: INTRODUCTION, CODE PROVISIONS AND DEFINITIONS**

### **1.0 Introduction and Scope**

The purpose of the International Standard for the Protection of Privacy and Personal Information is to ensure that *Anti-Doping Organizations* and WADA apply appropriate, sufficient and effective privacy protections to the Personal Information they Process when conducting anti-doping programs, in recognition of the fact that Personal Information gathered in the anti-doping context can impinge upon and implicate the privacy rights of *Persons* involved in and associated with organized sport.

The *Code*, in particular, requires *Athletes* and *Athlete Support Personnel* to furnish a significant amount of Personal Information to *Anti-Doping Organizations* and WADA. As a result, it is essential that *Anti-Doping Organizations* and WADA appropriately protect the Personal Information that they Process both to meet legal standards and to ensure the continued confidence and trust of those involved in organized sport.

The *Code* recognizes and affirms the importance of ensuring that the privacy rights of *Persons* subject to anti-doping programs based on the *Code* are fully respected. In support of this commitment, this *International Standard* provides mandatory rules and standards relating to the protection of Personal Information by *Anti-Doping Organizations* and WADA.

Consistent with other *International Standards* that have been developed and implemented to date, this *International Standard* sets forth a minimum, common set of rules to which *Anti-Doping Organizations* and WADA must conform when Processing Personal Information pursuant to the *Code*. In some cases, *Anti-Doping Organizations* and WADA may be required by applicable laws to apply rules or standards that exceed those set forth in this Standard. For purposes of this *International Standard*, definitions appearing in the *Code* or other *International Standards* shall be italicized, and additional definitions created for purposes of this *International Standard* shall be underlined.

### **2.0 Code Provisions**

The following articles of the *Code* are directly relevant to this International Standard for the Protection of Privacy and Personal Information:

- **Code Article 14 Confidentiality and Reporting**

### **3.0 Terms and Definitions**

#### **3.1 Selected Defined Terms from the Code**

***Anti-Doping Organization:*** A Signatory *that* is responsible for adopting rules for initiating, implementing or enforcing any part of the *Doping Control* process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other *Major Event Organizations* that conduct Testing at their Events, WADA, International Federations, and *National Anti-Doping Organizations*.

***Athlete:*** Any *Person* who competes in sport at the international level (as defined by each International Federation) or the national level (as defined by each *National Anti-Doping Organization*). An *Anti-Doping Organization* has discretion to apply anti-doping rules to an *Athlete* who is neither an *International-Level Athlete* nor a *National-Level Athlete*, and thus to bring them within the definition of “Athlete.” In relation to *Athletes* who are neither *International-Level* nor *National-Level Athletes*, an *Anti-Doping Organization* may elect to: conduct limited *Testing* or no *Testing* at all; analyze *Samples* for less than the full menu of *Prohibited Substances*; require limited or no whereabouts information; or not require advance *TUEs*.

However, if an Article 2.1, 2.3 or 2.5 anti-doping rule violation is committed by any *Athlete* over whom an *Anti-Doping Organization* has authority who competes below the international or national level, then the *Consequences* set forth in the Code (except Article 14.3.2) must be applied. For purposes of Article 2.8 and Article 2.9 and for purposes of anti-doping information and education, any *Person* who participates in sport under the authority of any *Signatory*, government, or other sports organization accepting the Code is an *Athlete*.

[*Comment: This definition makes it clear that all International- and National- Level Athletes are subject to the anti-doping rules of the Code, with the precise definitions of international- and national-level sport to be set forth in the anti-doping rules of the International Federations and National Anti-Doping Organizations, respectively. The definition also allows each National Anti-Doping Organization, if it chooses to do so, to expand its anti-doping program beyond International- or National-Level Athletes to competitors at lower levels of Competition or to individuals who engage in fitness activities but do not compete at all. Thus, a National Anti-Doping Organization could, for example, elect to test recreational-level competitors but not require advance TUEs. But an anti-doping rule violation involving an Adverse Analytical Finding or Tampering results in all the Consequences provided for in the Code (with the exception of Article 14.3.2). The decision on whether Consequences apply to recreational-level Athletes who engage in fitness activities but never compete is left to the National Anti-Doping Organization. In the same manner, a Major Event Organization holding an Event only for masters-level competitors could elect to test the competitors but not analyze Samples for the full menu of Prohibited Substances. Competitors at all levels of Competition should receive the benefit of anti-doping information and education.*]

**Athlete Support Personnel:** Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other *Person* working with, treating or assisting an *Athlete* participating in or preparing for sports *Competition*.

**Participant:** Any *Athlete* or *Athlete Support Person*.

### 3.2 Defined Terms from the International Standard on Privacy and Personal Information

Anti-Doping Activities: Activities specified by the Code and the *International Standards* to be carried out by *Anti-Doping Organizations* and WADA, and their Third-Party Agents, including, but not limited to, establishing whether anti-doping rule violations took place, collecting whereabouts information; conducting *Testing* (including *Target Testing*); conducting *Sample* analysis; performing results management; determining whether an *Athlete's Use of a Prohibited Substance or Prohibited Method* is strictly limited to legitimate and documented therapeutic purposes; establishing and managing an *Athlete Biological Passport* program, educating *Participants* on their rights and responsibilities; conducting investigations into anti-doping rule violations; improving *Doping Control* and *Testing* methods and planning; coordinating anti-doping activities among *Anti-Doping Organizations*, laboratories, and other stakeholders; and initiating legal proceedings against those who are alleged to have committed such a violation.

Personal Information: Information, including without limitation Sensitive Personal Information, relating to an identified or identifiable *Participant* or relating to other *Persons* whose information is Processed solely in the context of an *Anti-Doping Organization's* or WADA's Anti-Doping Activities.

[3.2 *Comment: It is understood that Personal Information includes, but is not limited to, information relating to an Athlete's name, date of birth, contact details and sporting affiliations, whereabouts, designated therapeutic use exemptions (if any), anti-doping test results, and results management (including disciplinary hearings, appeals and sanctions). Personal Information also includes personal details and contact information relating to other Persons, such as medical professionals and other Persons working with, treating or assisting an Athlete in the context of Anti-Doping Activities. Such information remains Personal Information and is regulated by this Standard for the entire duration of its Processing, irrespective of whether the relevant individual remains involved in organized sport.*]

Processing (and its cognates, Process and Processed): Collecting, accessing, retaining, storing, disclosing, transferring, transmitting, amending, deleting or otherwise making use of Personal Information.

Security Breach: A breach of security resulting in the loss, theft, damage or unauthorized and/or unlawful Processing of Personal Information whether in electronic or hard-copy or other form, or interference with an information system, that compromises the privacy, security, confidentiality, availability or integrity of Personal Information.

Sensitive Personal Information: Personal Information relating to a *Participant's* racial or ethnic origin, commission of offences (criminal or otherwise), health (including information derived from analyzing an *Athlete's Samples or Specimens*) and biometric and genetic information.

Third Party: Any *Person* other than the *Person* to whom the relevant Personal Information relates, and *Anti-Doping Organizations*, WADA, and Third-Party Agents.

Third-Party Agent: Any *Person*, including without limitation subcontractors and their subcontractors, that Processes Personal Information on behalf of, as delegated by, or as otherwise engaged by an *Anti-Doping Organization* or WADA in the context of the *Anti-Doping Organization's* or WADA's own Anti-Doping Activities, as the case may be.

## **PART TWO: STANDARDS FOR HANDLING PERSONAL INFORMATION**

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

4.1 This *International Standard* sets forth a minimum set of requirements applicable to the Processing of Personal Information by *Anti-Doping Organizations*, WADA and their respective Third-Party Agents in the context of their Anti-Doping Activities. All *Anti-Doping Organizations/WADA* must comply with this Standard, even when its requirements exceed those arising under the *Anti-Doping Organization/WADA's* applicable data protection and/or privacy laws, reflecting the vital need to protect the privacy of *Participants* and other *Persons involved* in and associated with anti-doping in sport.

[4.1 Comment: *Anti-Doping Organizations*, WADA, along with any Third-Party Agents, minimally must comply with the requirements set forth in this *International Standard*, as applicable, provided that such compliance does not breach other applicable laws. In cases where compliance with the requirements of this *International Standard* may cause an *Anti-Doping Organization/WADA* to breach other applicable laws, those laws shall prevail. This result will not lead to a determination of non-compliance with the *World Anti-Doping Code*.]

4.2 *Anti-Doping Organizations/WADA* may be subject to data protection and privacy laws and regulations that impose requirements that exceed those arising under this *International Standard*. In such circumstances, *Anti-Doping Organizations/WADA* must ensure that their Processing of Personal Information complies with all such data protection and privacy laws and regulations.

[4.2 Comment: *Anti-Doping Organizations/WADA* in certain countries may be subject to laws and regulations that govern their Processing of Personal Information relating to natural *Persons* in addition to *Participants*, such as their own employees or staff employed by other *Anti-Doping Organizations*, or impose additional restrictions going beyond this *International Standard*. In all such cases, *Anti-Doping Organizations/WADA* are expected to comply with applicable data protection laws and regulations.]

4.3 *Anti-Doping Organizations/WADA* shall be able to demonstrate that their Processing of Personal Information takes place in accordance with this *International Standard*, in particular through the adoption of appropriate internal policies and procedures reflecting their adherence to this *International Standard*.

[4.3 Comment: Anti-Doping Organizations/WADA can only effectively adhere to the requirements of this International Standard by having in place documented internal policies, procedures and information governance standards relating to Personal Information.]

4.4 Anti-Doping Organizations/WADA shall maintain a record of the Processing of Personal Information for which they are responsible, which shall describe the general purposes of the Processing, a description of the types of Personal Information, the categories of potential recipients of the Personal Information, the safeguards used where Personal Information are disclosed to other Anti-Doping Organizations, WADA, Third Parties, or Third-Party Agents, the period for which the Personal Information will be stored or the criteria used to determine this period, and a general description of the technical and organizational security measures applied to the Personal Information.

[4.4 Comment: Anti-Doping Organizations/WADA must maintain a record of their Processing activities, to better ensure their effective oversight of these activities and to facilitate compliance with this International Standard. With respect to the ADAMS database administered by WADA, WADA shall be solely responsible for maintaining a record reflecting the Processing of Personal Information in the database.]

4.5 Anti-Doping Organizations/WADA shall designate a Person who is accountable for compliance with this International Standard and all locally applicable privacy and data protection laws. They shall take reasonable measures to ensure that the name and contact information of the Person so designated is made readily available to Participants should they request it.

## 5.0 **Processing Relevant and Proportionate Personal Information**

5.1 Anti-Doping Organizations/WADA shall only Process Personal Information where relevant and proportionate in order to conduct Anti-Doping Activities under the Code and International Standards, provided such Processing does not conflict with applicable privacy and data protection laws, or where otherwise required by applicable law, regulation or compulsory legal process.

5.2 Anti-Doping Organizations/WADA shall not Process Personal Information that is irrelevant or unnecessary in the context of their Anti-Doping Activities as identified in Article 5.1.

[5.2 Comment: Anti-Doping Organizations/WADA shall examine the different contexts in which they Process Personal Information to ensure that the Processing of the Personal Information in any given case is required in order to satisfy one of the purposes identified in Article 5.1. Where Anti-Doping Organizations/WADA cannot satisfy themselves that the Processing is necessary, they shall refrain from Processing the Personal Information.]

5.3 In particular, except as otherwise permitted or required by the Code, the International Standards, or expressly required by law:

a. Anti-Doping Organizations/WADA Processing Personal Information (which may involve Processing Sensitive Personal Information relating to Athletes and Processing non-Sensitive Personal Information relating to Participants and potentially other Persons) in order to determine whether an Athlete's Use of a Prohibited Substance or Prohibited Method is strictly limited to legitimate and documented therapeutic purposes, shall Process only the Personal Information proportionate and relevant for making this determination in accordance with the Code and/or the International Standard for Therapeutic Use Exemptions.

b. Anti-Doping Organizations/WADA Processing Personal Information relating to Participants and other Persons in order to perform Testing, shall Process only the Personal Information (including whereabouts information and Therapeutic Use Exemptions) proportionate and relevant for conducting Testing (e.g.,

test distribution planning, *Sample* collection, *Sample* handling, *Sample* transport to the laboratory or associated matters) in accordance with the *Code* and/or the International Standard for Testing and Investigations.

c. *Anti-Doping Organizations/WADA* Processing Personal Information relating to *Participants* and other *Persons* in order to engage in investigation and results management (including associated disciplinary hearings, appeals and adjudications) shall Process only the Personal Information, including but not limited to whereabouts information, *Therapeutic Use Exemptions*, test results, and non-analytical intelligence or information, proportionate and relevant for investigating and establishing one or more anti-doping rule violations in accordance with the *Code* and/or the International Standard for Results Management and the International Standard for Testing and Investigations.

d. *Anti-Doping Organizations/WADA* may Process Personal Information relating to *Participants* and other *Persons* for other specified purposes, provided that those purposes relate exclusively to the fight against doping and are found to be relevant to that fight following an appropriately documented assessment performed by the *Anti-Doping Organization/WADA*.

*[5.3.d. Comment: In certain contexts, it may be appropriate or necessary for Anti-Doping Organizations/WADA to Process Personal Information for additional purposes, besides those identified in Articles 5.3.a.-c. or besides those already permitted or required by the Code, the International Standards or expressly required by law, in order to engage effectively in the fight against doping. Such Processing must be exclusively linked to the fight against doping and may only occur where the Anti-Doping Organization/WADA has documented the need to perform such Processing.]*

**5.4** Personal Information Processed by *Anti-Doping Organizations/WADA* shall be Processed fairly and shall be accurate, complete and kept up-to-date. *Anti-Doping Organizations* shall correct or amend as soon as possible any Personal Information that they know to be incorrect or inaccurate, taking into account the responsibilities of *Participants* to provide accurate and up-to-date information regarding themselves to *Anti-Doping Organizations/WADA*, including in the context of the provision of whereabouts information.

*[5.4 Comment: Where Participants are responsible for providing Personal Information about themselves directly to Anti-Doping Organizations/WADA and for keeping it accurate, complete and up-to-date, they should be informed of this obligation and, whenever practicable, offered reasonable means to fulfill it. For instance, this could involve furnishing individuals with access to their Personal Information via the Internet through online tools and resources.]*

## **6.0 Processing Personal Information in Accordance with Law**

**6.1** *Anti-Doping Organizations/WADA* shall

**6.2** only Process Personal Information:

- on valid legal grounds, which can include compliance with legal obligations, performance of a public interest task, where necessary for reasons of substantial public interest, public health, or fulfillment of a contract, or to protect the vital interests of the Participant and other Persons; or
- where permitted, with a Participant's or other Person's consent, which shall be informed, freely given, specific and unambiguous, subject to the exceptions in Article 6.2.b, 6.3 and 6.4 of this International Standard.

*[6.1 Comment: Principal responsibility for obtaining the consent of an Athlete, and/or his or her associated Athlete Support Personnel, or establishing another valid legal ground, shall rest with the Anti-Doping Organization(s) that has the then-primary relationship with the relevant Participant.]*

**6.3** Where *Anti-Doping Organizations* Process Personal Information on the basis of consent (including sharing Personal Information with WADA), *Anti-Doping Organizations* shall, in order to obtain an informed, specific and unambiguous consent, ensure that adequate information is furnished to the *Participant* or *Person* to whom the Personal Information relates as described more fully in Article 7.

a. *Anti-Doping Organizations* shall inform *Participants* of the negative *Consequences* that could arise from their refusal to participate in *Doping Controls*, including *Testing*, and of the refusal to consent to the Processing of Personal Information as required for this purpose.

*[6.2.a. Comment: For the avoidance of doubt, Participants shall be informed that their refusal to participate in Doping Controls, when requested to do so, could prevent their continued involvement in organized sport and, for Athletes, constitute a violation of the Code and invalidate Competition results, among other things. A Participant who believes that an Anti-Doping Organization does not comply with this International Standard may notify WADA pursuant to Article 11.5, which shall, without prejudice to any other rights the Participant may have under applicable law, consider the grounds for the complaint.]*

b. Where *Anti-Doping Organizations* Process Personal Information on the basis of consent (including sharing Personal Information with WADA), *Anti-Doping Organizations* shall inform *Participants* that regardless of any refusal to grant or subsequent withdrawal of consent, the Processing of their Personal Information by *Anti-Doping Organizations/WADA* still may be required, unless otherwise prohibited by applicable law, where necessary to enable *Anti-Doping Organizations/WADA*:

- to commence or pursue analyses or investigations involving suspected anti-doping rule violations relating to the *Participant*;
- to conduct or participate in proceedings involving suspected anti-doping rule violations relating to the *Participant*; or
- to establish, exercise or defend against legal claims relating to the *Anti-Doping Organization, WADA and/or the Participant*.

*[6.2.b. Comment: In certain limited circumstances, Anti-Doping Organizations/WADA must have the ability to Process Personal Information in the absence of the Participant's consent. These exceptions are necessary to avoid situations where Participants refuse to grant consent or withdraw consent in order to circumvent anti-doping efforts and procedures and evade detection for a doping violation.]*

**6.4** Where *Anti-Doping Organizations* Process Sensitive Personal Information on the basis of consent (including sharing Sensitive Personal Information with WADA), the explicit consent of the *Participant* or *Person* to whom the Personal Information relates shall be obtained. The Processing of Sensitive Personal Information shall occur in accordance with any specific safeguards or procedures established under applicable data protection laws and regulations.

*[6.3 Comment: This International Standard imposes additional restrictions where Anti-Doping Organizations Process Sensitive Personal Information, reflecting the greater sensitivities surrounding the Processing of such information. Specifically, explicit consent requires a positive, explicit action by the Person to whom the Personal Information relates agreeing to the relevant Processing. Although the Standard defines Sensitive Personal Information to expressly include different classes of information, this is not to suggest that such information should be Processed by Anti-Doping Organizations/WADA, as required by Article 5.1.]*

**6.5** In cases where a *Participant* is incapable of furnishing an informed consent by virtue of age, mental capacity or other legitimate reason recognized in law, the *Participant's* legal representative, guardian or other competent representative may furnish consent on the *Participant's* behalf for purposes of this *International Standard*, as well as exercise the *Participant's* rights arising under Article 11 below. *Anti-Doping Organizations*

shall ensure that obtaining consents under such circumstances is permitted by applicable law.

## 7.0 Ensuring Appropriate Information is Furnished to *Participants* and Other *Persons*

7.1 An *Anti-Doping Organization* shall inform *Participants* or *Persons* to whom the Personal Information relates about the Processing of their Personal Information. This information shall include:

- the identity of the *Anti-Doping Organization* collecting the Personal Information and contact details of the person appointed pursuant to Section 4.5;
- types of Personal Information that may be Processed;
- the purposes for which the Personal Information may be used;
- categories of potential recipients of the Personal Information, including *Anti-Doping Organizations* located in other countries where the *Participant* may compete, train or travel, *WADA*, Third Parties and Third-Party Agents;
- the possibility and circumstances under which Personal Information may, where permitted by applicable law, be *Publicly Disclosed* (such as the disclosure of test results and tribunal decisions);
- the *Participant's* rights with respect to the Personal Information under this *International Standard* and the means to exercise those rights;
- the procedure for submitting complaints pursuant to Article 11.5 and the possibility, if any, to submit complaints to competent data protection authorities;
- the period for which the Personal Information will be stored, or the criteria used to determine this period; and
- any other information necessary to ensure that the Processing of the Personal Information remains fair, such as information about regulatory authorities or bodies that oversee the *Anti-Doping Organization's* Processing of Personal Information.

7.2. *Anti-Doping Organizations* shall communicate the above information to *Participants* or other *Persons* prior to or at the time that they collect Personal Information from *Participants* or other *Persons* in the form and manner specified in Article 7.3; and *Anti-Doping Organizations* shall be responsive to the questions or concerns of *Participants* relating to the Processing of their Personal Information by the *Anti-Doping Organization*. Where *Anti-Doping Organizations* receive Personal Information from Third Parties, and not directly from the *Participant*, they shall communicate the above information as soon as possible and without undue delay, unless it has previously been furnished to the *Participant* or other *Person* by other parties. Exceptionally, notice to the *Participant* or other *Persons* may be delayed or suspended where providing such notice might reasonably be considered to jeopardize an anti-doping investigation or otherwise undermine the integrity of the anti-doping process. In such cases, the justification for the delay must be appropriately documented and the information provided to the *Participant* or other *Persons* as soon as reasonably possible.

*[7.2 Comment: Anti-Doping Organizations should recognize that basic principles of fairness require that where a Participant's Personal Information is Processed in the context of Anti-Doping Activities, he or she should receive or have access to information that explains in simple terms the purpose and procedures for the Processing of their Personal Information. This International Standard aspires to ensure that Participants acquire a basic grasp of the roles and responsibilities performed by the different organizations involved in anti-doping in sport, as those relate to the Processing of Personal Information. Under no circumstances should Anti-Doping Organizations seek to mislead or misinform Participants in order to Process their Personal Information. In addition to furnishing such information directly to Participants or other Persons, Anti-Doping Organizations may*

wish to make such information available on any websites or other online platforms that they operate.

Each Anti-Doping Organization should ensure that its Processing of Personal Information is transparent to Participants, notwithstanding the fact that certain information relating to Anti-Doping Activities, notably information concerning scheduled Testing and investigations and proceedings relating to anti-doping rule violations, may need to be temporarily withheld from Participants in order to maintain the integrity of the anti-doping process. Similarly, notice to Participants also may need to be temporarily withheld if providing the information might reasonably risk jeopardizing an ongoing or reasonably anticipated investigation into doping-related activities conducted by an Anti-Doping Organization or law enforcement agencies. The prompt provision of appropriate information to Participants pursuant to this Article 7 is essential given the serious, adverse consequences that might arise if Participants are found to have committed an anti-doping rule violation.]

**7.3** Anti-Doping Organizations shall provide the above information in a manner and format, whether written, oral or otherwise, that Participants or Persons to whom the Personal Information relates can easily comprehend, using clear and plain language. Anti-Doping Organizations shall take into account the age and mental capacity of the Participant or other Person, as well as local practices, customs and the particular circumstances surrounding the Processing of the Personal Information.

[7.3 Comment: Anti-Doping Organizations need to determine the most effective means of providing information in particular cases, recognizing that furnishing Participants with written notice is to be preferred when practical. This also may include furnishing notices through generally available sources, such as brochures and Internet websites, alone or preferably in combination with more succinct notices on forms and other documentation provided directly to Participants. Anti-Doping Organizations also must take into account the specific circumstances of the Participant or other Person, in particular factors such as their age or mental capacity that impact their ability to understand the information being presented to them by the Anti-Doping Organization.]

## **8.0 Disclosures of Personal Information to other Anti-Doping Organizations/WADA and Third Parties**

**8.1** Anti-Doping Organizations shall not disclose Personal Information to other Anti-Doping Organizations or WADA except where such disclosures are necessary to allow the Anti-Doping Organizations/WADA receiving the Personal Information to fulfill obligations under the Code and the International Standards and in accordance with applicable privacy and data protection laws.

[8.1 Comment: In many instances required by the Code and the International Standards, it is necessary for Anti-Doping Organizations to share certain Personal Information relating to Participants with other Anti-Doping Organizations and WADA so that they may engage in Code-mandated Testing or otherwise fulfill their respective roles under the Code/International Standards. For instance, this may occur in order to subject Athletes to In-Competition and Out-of-Competition Testing. In such cases, Anti-Doping Organizations shall cooperate with one another and with WADA to ensure that the participation by Participants in such Testing remains suitably transparent to Participants and complies with the rules set out in this International Standard and applicable laws.]

**8.2** Anti-Doping Organizations/WADA shall not disclose Personal Information to other Anti-Doping Organizations: (i) where the recipient Anti-Doping Organizations cannot establish a right, authority or need to obtain the Personal Information; (ii) where there is evidence that the recipient Anti-Doping Organizations do not or cannot comply with this International Standard; (iii) where the Anti-Doping Organization/WADA is prohibited from disclosing the Personal Information by applicable law or restrictions imposed by a competent supervisory authority; or (iv) where the disclosure would seriously compromise the status of an ongoing investigation into anti-doping rule violations. Where an Anti-Doping Organization/WADA has concerns that another Anti-Doping Organization is incapable of complying with this International Standard, it shall make its concerns known to the Anti-Doping Organization and WADA as soon as possible.

**8.3** Apart from the disclosures referenced in Sections 8.1 and 8.2 above, Anti-Doping Organizations/WADA

may disclose Personal Information to Third Parties where such disclosures:

- a. are required by law, regulation or compulsory legal process;
- b. take place with the informed, express consent of the relevant *Participant*; or
- c. are necessary to assist law enforcement or governmental or other authorities in the detection, investigation or prosecution of a criminal offence, breach of professional conduct rules, or breach of the *Code*; provided that the Personal Information is reasonably relevant to the offence or breach in question and cannot otherwise reasonably be obtained by the relevant authorities.

*[8.3.c. Comment: The ability of an Anti-Doping Organization/WADA to cooperate and exchange Personal Information with law enforcement agencies and other authorities and the manner by which this is to occur may depend upon applicable national laws and regulations. Such rules may sometimes require or encourage Anti-Doping Organizations/WADA to disclose Personal Information to law enforcement and other authorities when they are aware that this information may be relevant to an investigation. Anti-Doping Organizations/WADA must comply with such national obligations where they exist.]*

## **9.0 Maintaining the Security of Personal Information**

**9.1** *Anti-Doping Organizations/WADA shall protect Personal Information that they Process by applying all necessary security safeguards, including physical, organizational, technical, environmental and other measures, to prevent a Security Breach.*

*[9.1 Comment: Anti-Doping Organizations/WADA shall ensure that any access to Personal Information by their own personnel shall take place on a need-to-know basis only and where consistent with assigned roles and responsibilities. Personnel accessing Personal Information should be informed of the need to hold Personal Information in confidence.]*

**9.2** *Anti-Doping Organizations/WADA shall apply security measures that take into account the sensitivity of the Personal Information being Processed. *Anti-Doping Organizations/WADA shall apply a higher level of security to the Sensitive Personal Information that they Process, reflecting the correspondingly greater risk that a Security Breach involving such information presents to the *Participant* or *Person* to whom the Personal Information relates.**

**9.3** *Anti-Doping Organizations/WADA sharing Personal Information with Third-Party Agents in connection with their Anti-Doping Activities shall ensure that such Third-Party Agents are subject to appropriate controls, including contractual and technical controls, in order to protect the confidentiality and privacy of the Personal Information and to ensure that the Personal Information is only Processed on behalf of the *Anti-Doping Organization* or *WADA* or within the scope of the delegation or engagement of such Third-Party Agent, as the case may be.*

*[9.3 Comment: Anti-Doping Organizations/WADA have an ongoing responsibility to protect any Personal Information under their effective control or in their possession, including Personal Information Processed by their Third-Party Agents, such as IT-service providers, laboratories, *Doping Control Coordinators*, and external *Doping Control Officers*. Anti-Doping Organizations/WADA shall apply contractual controls that can include, as appropriate, provisions to ensure Third-Party Agents only Process Personal Information on the documented instructions of the *Anti-Doping Organization/WADA*, subject any staff handling Personal Information to a duty of confidentiality, apply appropriate technical security measures and organizational measures to the Personal Information, refrain from engaging other parties to Process the Personal Information without prior authorization and appropriate contractual controls being in place, require assistance where *Participants* or other *Persons* assert rights under this *International Standard* or applicable law, delete or return all Personal Information at the conclusion of the service or upon request, and make information available to the *Anti-Doping Organization/WADA* to demonstrate compliance with such controls. Anti-Doping Organizations/WADA shall*

consider technical controls where Third-Party Agents are granted access to their systems that include, inter alia, access restrictions and authentication requirements.]

**9.4** *Anti-Doping Organizations/WADA* are required to choose Third-Party Agents that provide sufficient guarantees, in accordance with applicable law and this Standard, in respect of the technical security measures and organizational measures governing the Processing to be carried out.

**9.5** In the event of a Security Breach, the responsible *Anti-Doping Organization/WADA* shall inform affected *Participants* or other natural *Persons* of the breach, where this breach is likely to affect in a significant way the rights and interests of those *Persons* concerned. The information must be provided as soon as reasonably possible once the *Anti-Doping Organization or WADA* becomes aware of the details of the Security Breach and should describe the nature of the breach, the possible negative consequences for those *Persons* concerned and the remediation measures taken or to be taken by the *Anti-Doping Organization/WADA*. Additionally, the *Anti-Doping Organization/WADA* shall ensure that the *Person* appointed pursuant to Section 4.5 is also informed about the Security Breach. The *Anti-Doping Organization/WADA* shall keep a record of Security Breaches, including the facts relating to the breach, its effects and remedial actions taken.

*[9.5 Comment: Security Breach notification obligations are becoming increasingly common throughout the world. Pursuant to Article 4 of this Standard, *Anti-Doping Organizations/WADA* must comply with national obligations that go beyond the Standard (i.e., some national regimes may require additional notification to a competent authority or other organizations or impose specific timeframes for notification). A breach does not significantly affect an individual when the Personal Information in question is subject to suitable technological protection measures (e.g., encryption) and there is no indication that the protection has been compromised. Notice shall be given by any appropriate means, whether written, verbally or otherwise, taking into account the particular circumstances of the Security Breach, including the prejudice that the relevant *Persons* may suffer as a result of the Security Breach.]*

**9.6** *Anti-Doping Organizations/WADA* shall regularly assess their Processing of Sensitive Personal Information and whereabouts information to determine the proportionality and risks of their Processing and to assess any measures, including privacy by design measures, that could be taken to reduce the risks for the *Participants* concerned.

*[9.6 Comment: The requirement to conduct assessments of the Processing of Sensitive Personal Information and whereabouts information on a regular basis is intended to provide *Anti-Doping Organizations/WADA* flexibility to conduct such assessments at an appropriate frequency reflecting applicable local data protection laws, and any changes to such Processing. For instance, *Anti-Doping Organizations* have the discretion under the *International Standard for Testing and Investigations* to collect varying types and amounts of whereabouts information from different tiers of *Athletes*. The establishment of appropriate types and amounts of whereabouts information, as well as any changes to such requirements may require an assessment].*

**9.7** *Anti-Doping Organizations/WADA* shall ensure that staff Processing Personal Information of *Participants* is subject to a fully enforceable contractual and/or statutory duty of confidentiality.

## **10.0 Retaining Personal Information Where Relevant and Ensuring Its Destruction**

**10.1** *Anti-Doping Organizations/WADA* shall adhere to those retention times set forth in the latest version of Annex A (Retention Times) attached hereto. *Anti-Doping Organizations/WADA* shall retain any Personal Information for which no retention time has been set in Annex A in accordance with the following principles, and where possible, shall establish clear retention times to govern their Processing of Personal Information consistent with such principles.

**10.2** As a general rule, retaining Sensitive Personal Information requires stronger or more compelling reasons and justifications than retaining non-Sensitive Personal Information.

**10.3** *Anti-Doping Organizations/WADA* shall ensure that Personal Information is only retained where it remains relevant to fulfilling their obligations under the *Code* or under the *International Standards* or where otherwise required by applicable law, regulation or compulsory legal process. Once Personal Information no longer serves the above purposes, it shall be deleted, destroyed or permanently anonymized.

**10.4** *Anti-Doping Organizations* shall develop specific plans and procedures to ensure the secure retention and eventual destruction of Personal Information.

**10.5** Different retention times may be applied to different types of Personal Information and shall take into account the purposes for which the Personal Information is Processed in the context of Anti-Doping Activities, including the granting of *Therapeutic Use Exemptions*, *Testing*, the investigation of anti-doping rule violations, and the sanctioning of such violations.

## **11.0 Rights of *Participants* and Other *Persons* with Respect to Personal Information**

**11.1** *Participants* or *Persons* to whom the Personal Information relates shall have the right to obtain from *Anti-Doping Organizations/WADA*: (a) confirmation of whether or not *Anti-Doping Organizations/WADA* Process Personal Information relating to them, (b) the information as per Article 7.1, and (c) a copy of the relevant Personal Information within one month, where practicable, or as soon as possible thereafter, in a readily intelligible format, and without excessive cost, subject to limited exceptions prescribed by law or unless to do so in a particular case plainly conflicts with the integrity of the anti-doping system or *Anti-Doping Organization/WADA*'s ability to plan or conduct *No Advance Notice Testing* or to investigate and establish anti-doping rule violations or other legal claims.

*[11.1 Comment: Participants or other Persons may also have additional rights under applicable data protection laws, and Anti-Doping Organizations/WADA shall follow the process set out herein when responding to requests in respect of such additional rights, as applicable. Principal responsibility for receiving and responding to requests from Participants or other Persons shall rest with the Anti-Doping Organization(s) that has the then-primary relationship with the relevant Participant/Person. To the extent it receives any such requests, WADA will respond in coordination with the relevant Anti-Doping Organization. Save in exceptional circumstances, (which may include situations where the amount of Personal Information at issue is significant and involves a disproportionate effort to assemble), an Anti-Doping Organization/WADA ordinarily is expected to respond no later than 4 weeks from the date a properly formulated request is received. Anti-Doping Organizations/WADA shall be entitled to request additional information and clarifications from Participants or Persons in order to be able to respond to their request, including where appropriate additional information to confirm the identity of the Participant or Persons making the request.]*

**11.2** *Anti-Doping Organizations/WADA* have to respond to requests from *Participants* or *Persons* to whom the Personal Information relates seeking access to their Personal Information, except if doing so imposes a disproportionate burden on the *Anti-Doping Organizations/WADA* in terms of cost or effort given the nature of the Personal Information in question.

**11.3** In the event an *Anti-Doping Organization/WADA* refuses to allow a *Participant* or *Person* access to his or her Personal Information, it shall inform the *Participant* and set out in writing the reasons for refusing the request as soon as practicable. *Anti-Doping Organizations* shall ensure that *Participants* only obtain Personal Information relating to themselves, and not relating to other *Participants* or third *Persons*, where they seek to obtain access to Personal Information pursuant to this Article 11.

**11.4** Where an *Anti-Doping Organization/WADA*'s Processing of Personal Information is shown to be inaccurate, incomplete, or excessive, it shall, as appropriate, rectify, amend, block or delete the relevant Personal Information as soon as possible. If the *Anti-Doping Organization/WADA* has disclosed the Personal Information in question to another *Anti-Doping Organization* that to its knowledge or belief continues to Process

the Personal Information, it shall inform that *Anti-Doping Organization* of the change as soon as possible, unless this proves impossible or involves a disproportionate effort. The *Anti-Doping Organization/WADA* shall inform the *Participant* or *Person* about these *Anti-Doping Organizations* where they request the information.

**11.5** Without prejudice to any other rights a *Participant* or *Person* may have under applicable laws, a *Participant* or *Person* shall be entitled to initiate a complaint with an *Anti-Doping Organization/WADA* where he or she has a reasonable, good-faith belief that an *Anti-Doping Organization/WADA* is not complying with this *International Standard* and each *Anti-Doping Organization/WADA* shall have a documented procedure in place for dealing with such complaints in a fair and impartial manner. In the event that the complaint cannot be satisfactorily resolved, the *Participant* or *Person* may notify *WADA* and/or submit a complaint to *CAS*, as applicable, which will determine whether a violation occurred. Where the *International Standard* is not being adhered to, the relevant *Anti-Doping Organization/WADA* will be required to rectify the breach. Nothing in the standard prevents a *Participant* or *Person* from lodging a complaint with any competent authority responsible for the protection of privacy and personal data, and *Anti-Doping Organizations/WADA* shall cooperate with such authorities when investigating the complaint.

## ANNEX A to the INTERNATIONAL STANDARD ON PROTECTION OF PRIVACY AND PERSONAL INFORMATION: RETENTION TIMES

ADRV: *Anti-doping rule violation*

AAF: *Adverse analytical finding*

ATF: *Atypical finding*

APF: *Adverse passport finding*

ATPF: *Atypical passport finding*

**I.** Referenced data will be deleted no later than the end of the calendar quarter following the expiry of the stated retention period.

**II.** For practical reasons, retention times are limited to two categories: 12 months and 10 years.

**III.** Retention times can be extended in case of pending or reasonably anticipated anti-doping rule violations, investigations, or other legal proceedings.

Module	Data	Retention periods	Remarks	Criteria
<b>1 – Athlete</b>  <i>Athlete</i> (general)	Name Date of birth Sport discipline Gender  Phone number(s) Email address Mailing address	as of time when <i>Athlete</i> is excluded from ADO's <i>Testing</i> program:  Indefinitely Indefinitely Indefinitely Indefinitely  10 yrs 10 yrs 10yrs	<p><b><i>Athlete</i> data relevant for practical purposes and for notification purposes in the event of a violation. These data are not particularly sensitive.</b></p> <p>This data can be retained indefinitely. ADOs should be allowed to keep a record of <i>Athletes</i> that have been part of their <i>Testing</i> program. For elite <i>Athletes</i>, this information is public information anyway.</p> <p>10 years because of possible ADRV            10 years because of possible ADRV            10 years because of possible ADRV</p>	Necessity Necessity Necessity
<b>2 – Whereabouts*</b> *(except for city, country, and <i>In-Competition</i> whereabouts data, which are needed for the <i>Athlete</i> Passport program - see section 8)	Whereabouts (other than city, country and <i>In-Competition</i> whereabouts)  Whereabouts failures (filing failures and missed tests)	12 months as of end of the whereabouts quarter for which the data was submitted:  10 years as of date of whereabouts failure.	Relevant to count three whereabouts failures in 12 months' time  Relevant to count three whereabouts failures in 12 months' time and to other possible ADRVs. If ADRV, will also be kept as part of disciplinary file indefinitely (see section 7).	Necessity  Necessity

Module	Data	Retention periods	Remarks	Criteria
<b>3 – TUE</b>  <i>TUE</i>	<p><i>TUE</i> certificates and rejected <i>TUE</i> decision forms</p> <p><i>TUE</i> application forms and supp. med information and any other <i>TUE</i> info not otherwise expressly mentioned herein.</p> <p>Incomplete <i>TUE</i>s</p>	<p>10 yrs as of certificate date/date of rejection decision</p> <p>12 months from end of validity of <i>TUE</i></p> <p>12 months from date of creation</p>	<p><b>Destroying medical information makes it impossible for WADA/ADOs to review <i>TUE</i>s retrospectively after <i>TUE</i> has lost its validity. <i>TUE</i> information is largely medical and therefore sensitive.</b></p> <p>Can be relevant in case of re-<i>Testing</i> or other investigations.</p> <p>Loses relevance after expiration of <i>TUE</i> except in case of re-application.</p> <p>Can be relevant in case of re-application.</p>	<p>Proportionality / Necessity</p> <p>Proportionality</p> <p>Proportionality</p>
<b>4 – Testing</b>  <i>Testing</i>	<p><i>Doping Control Forms</i> (DCFs)</p> <p>Mission/testing orders</p> <p>Chain of Custody</p> <p>Incomplete <i>Testing</i> documentation or documentation not matched to a <i>Sample</i></p>	<p>10 yrs as of <i>Sample</i> collection date</p> <p>Retained until all associated DCFs have been deleted.</p> <p>10 yrs as of document creation date</p> <p>12 months as of document creation date.</p>	<p>DCFs, associated Mission/testing orders, and Chain of Custody documents are relevant for passport program and in case of re-<i>Testing</i> of <i>Samples</i>.</p> <p>Documentation that is incomplete or not matched to a <i>Sample</i> typically results from a data entry error and is discarded after a short delay for data integrity purposes.</p>	<p>Proportionality/ Necessity</p> <p>Proportionality</p>

Module	Data	Retention periods	Remarks	Criteria
<b>5 – Samples (lab)</b>  Samples	A Sample  B Sample	Indefinitely / 10 yrs  Indefinitely / 10 yrs	<b>Managed by Laboratory</b>  Samples that are anonymous may be retained indefinitely for scientific purposes, subject to the criteria and requirements of the Code/Intl. Standards. In case of an AAF or other ADRV, and if the Sample is identifiable, 10 yrs should be the maximum retention time.	Proportionality
<b>6 – Test results/Results management (forms/documentation)</b>	AAF ATF	as of creation of relevant documents:  10 yrs 10 yrs	<b>Relevant because of multiple violations and retrospective analysis.</b>  Necessary because of multiple violations. Necessary because of multiple violations.	Necessity Necessity
<b>7 – Disciplinary Proceedings and decisions (ADRV)</b>  Disciplinary decisions and proceedings	Sanctions under the Code  Decisions  Relevant proceedings documentation/files (incl. case files, laboratory and ABP documentation packages, etc.)	Indefinitely  Indefinitely  Indefinitely	<b>Relevant because of multiple violations. Managed by disciplinary body / sports federation / ADO.</b>  Should be kept indefinitely for legal and precedential value.	Necessity/ Proportionality
<b>8 – Athlete Biological Passport</b>  Results  Whereabouts	Biological variables, ATPF, APF, APMU reports, expert reviews and other supporting documentation.  Whereabouts (only city, country and In-Competition whereabouts)	10 yrs as of date of match between results and Doping Control Form.  10 yrs as of end of the whereabouts quarter for which the data was submitted	Necessary because of multiple violations and to analyze or review biological variables, APMU reports and expert reviews over time.  Needed to support atypical/abnormal results, or to refute Athletes' claims.	Necessity/ Proportionality  Necessity/ Proportionality