



**Opinion on the Regulation for the treatment of sensitive and judicial data CONI - July 31, 2014**

Record of the action  
n. 390 of 31<sup>st</sup> July 2014

**THE DATA PROTECTION AUTHORITY (DPA)**

At today's meeting, in the presence of Dr. Antonello Soro, President, of Dr. Augusta Iannini, Vice President, of Professor Licia Califano and Dr. Giovanna Bianchi Clerici, Members, and of Mr. Giuseppe Busia, General Secretary;

Having regard to the request for an opinion of the Italian National Olympic Committee (Coni) of 16 June 2014 on amendments and additions to its rules for the treatment of sensitive and judicial data;

Given the Personal Data Protection Code (Legislative Decree no. Jun 30<sup>th</sup>, 2003, n. 196);

Given the records on file;

Given the considerations made by the Secretary-General pursuant to art. 15 of Regulations n. 1/2000;

Speaker: Dr. Antonello Soro;

**GRANTED THAT**

The Italian National Olympic Committee (Coni below) has sought the opinion of the DPA in regards to the amendments and additions made to its rules for the treatment of sensitive and judicial data (Coni resolution adopted at the 953<sup>rd</sup> meeting of the National Council in 2007). In regards to the aforesaid regulation that identifies the types of sensitive and judicial data and that can be performed in the activities of public interest of which Coni is in charge, the Authority had already given a favorable opinion on 19 September 2007 (available on the Authority's website, [www.garanteprivacy.it](http://www.garanteprivacy.it), web doc [1443411](#)).

More precisely, together with the new scheme of regulation, Coni attached the relevant forms in which are specified the types of data and operations executable by Coni for the treatment in relation to the specific objectives pursued in individual cases. In this regard, Coni has shown to have integrated documents n. 4/10 (on the management of documents and information lists relating to declarations of therapeutic use of banned substances by athletes) and n. 5/10 (on the management of the register of athletes with adverse/atypical outcome to anti doping controls), and to have partially changed the documents n. 03/10, 09/10 and 10/10 and have introduced *ex novo* documents n. 10.6 and 10.7.

The revision of the rules for the handling of sensitive and judicial data originated from the need for Coni to effectively pursue the public interest underlying the prevention and repression of doping in sport through the use of the ADAMS system. That, pending the definition of a framework that guarantees consistency at the European level on the compliance of some aspects of anti-doping rules laid down in the World Anti-Doping Code, and standards that complement it with the discipline of data protection provided for by Directive 95/46/EC and the Code as well as the assessments made on several occasions by the authorities for the protection of personal data of the EU gathered in the Group Art. 29 (see DPA measure of 13 October 2008, web doc. n. 1563970, and opinions of the aforementioned Group Art. No. 29. 3/2008 - WP 156, doc. n web. [1619614](#) e n. 4/2009 - WP 162, web doc n. [1620339](#) and the letter to WADA on the occasion of the revision of the Global Code and related standards, doc. web nn. [2983092](#) e [2983102](#)).

As it is known, ADAMS, created by the World Anti-Doping Agency (World Anti-Doping Agency-WADA), consists of a database located in Canada (Quebec), which acts as a center for the collection and exchange for purposes of anti-doping personal information that the athletes are required to communicate, either directly or through competent national anti-doping organizations and sport federations to which they belong on the basis of the rules set out in the global Code and related standards. In this database, which is used, especially, by anti-doping organizations to plan and coordinate the ontrols, identification data are recorded as well as other data related to the athlete (eg, the

sport and the discipline in which they compete, organizations and/or sports associations to which they belong, competitions conducted at national and/or international level), as well as data regarding the places of availability and whereabouts of the athlete, exemptions for therapeutic purposes, the planning and distribution of doping controls and individual checks (including lab results and the possible detection of violations of the law).

In this context, the evidence recently provided by Coni to the Authority, together with the proposed revision of the regulation, are likely to provide an adequate legal framework for the processing of personal data, including sensitive and judicial, carried out by Coni - as institutionally responsible entity for the adoption and implementation of antidoping legislation - via the ADAMS database, through activities designed to plan and coordinate anti-doping controls (art. 2 d.lg. July 23, 1999, n. 242, Arts. 2:03, Statute of Coni adopted by the National Council on 11 June 2014; anti-doping sports rules adopted by the National Board of Coni on 11 June 2013; Articles. 18 ss. of the Code); activities involving cross-border flow of personal data in countries outside the European Union (art. 43 ss. Code).

These activities are, in fact, necessary for the protection of the public interest relevant to healthcare protection of sporting activities identified by the national anti-doping legislation, as well as limited to the data needed for that purpose and carried through processing operations that are not massive or repeated (Articles 1 and 6, l. Dec. 14, 2000, n. 376, art. 43, paragraph 1, lett. c) of the Code; see also Group Art. 29, the common interpretation of Article 26, par. 1 of dir. 95/46/EC - WP114 of November 25<sup>th</sup>, 2005). More precisely, the transfer of sensitive or judicial data are essential for the proper prosecution of the campaign against doping, as they are related to the purpose of relevant public interest, as defined by the Code, of the application of health and safety legislation of the population and promotion of sports (arts. 20, 21, 22, 73, paragraph 2, letter. c) and 85, paragraph 1, lett. e); v. nn cards. 4 and 5 of this Regulation).

In particular, based on the information provided by Coni, the processing of personal data carried out through the ADAMS database for anti-doping purposes, apply only to a select group of athletes: those included in the Registered Testing Pool (RTP below) on the basis of national selective inclusion criteria publicly made available by the Olympic Committee and based essentially on a preliminary assessment of the risks of doping and anti-doping policy needs of the country. It is, in fact, in regards to those athletes that the needs to plan and coordinate anti-doping controls at the international level becomes particularly important, as the inclusion in the National RTP entails for the athlete the obligation to submit to doping control, of which several organizations may be in charge (such as, for example, WADA, international sports federations, the International Olympic Committee and other organizations who carry out major doping controls during their events), as well as procedures on the exemption for therapeutic purposes and the obligations relating to the places of availability and whereabouts. This, notwithstanding the right of Coni to carry out controls on other athletes (Controls Policy annexed to the above sport anti-doping Rules).

On the basis of the evidence provided by the Olympic Committee, the Committee can carry out, where necessary and only with reference to the same athletes, overseas transfer operations of personal data, including sensitive and judicial, to the ADAMS database (eg. for the creation of unique profile of athletes as a result of their inclusion in the national RTP, or for the recording of data on exemptions given for therapeutic purposes or the results of doping tests carried out and the possible detection of anti-doping rules violated) and towards anti-doping organizations located in countries outside the European Union from that are competent from time to time to test athletes on the basis of the global code regulations and field standards.

Also, on the basis of the information provided by the Olympic Committee, the rules of operation of the ADAMS database foresee, in fact, that the anti-doping organization that has entered the unique profile of the athlete into ADAMS is entitled to issue the necessary authorization profiles to access to the data stored in the database concerned. In this context, therefore, the opinion is rendered on an updated version of the scheme of regulation that takes into account the comments made, in a collaborative way, by the DPA Office, in regards to the outcome of several meetings and informal contacts with the competent Coni offices.

These indications, which have been properly transposed by Coni in the scheme of regulation, focused, in particular, on precautions required to protect the rights of those concerned in the processing of judicial data contained in sentences and other measures adopted by Coni sport regulation departments for the violation of the rules in the field of sport doping and performed for the purposes of institutional and legal information through the publication of such acts, even extracts of said acts, on the website of the same Committee (nn cards. 6:07).

In regards to the legal relationships between Coni and Coni S.p.a services, a company wholly owned by the Ministry of Economy and Finance, which performs instrumental activities for the implementation of the institutional responsibilities of Coni pursuant to art. 8, paragraph 1, of d.l. July 8<sup>th</sup>, 2002, n. 138 (converted with amendments by L. August 8<sup>th</sup>, 2002, n. 178) according to an annual service contract referred to in paragraph 8 of the same article, Coni has stated that it reserves to complete an in-depth analysis in order to properly frame the respective roles and responsibilities with regard to the processing of personal data in place by Coni S.p.a services in the performance of such activities, in the light of provisions of the Code on the "owner" and "responsible" of the treatment (articles. 28

and 29).

**GRANTED THE ABOVE, THE DPA**

pursuant to Articles 20, paragraph 2, and 154, paragraph 1, lett. g) of the Code, expresses a favorable opinion on the amendments and additions made by Coni in its rules for the treatment of sensitive and judicial data in terms of the reasons given, pending the definition of a framework that guarantees the consistency at European level aimed at ensuring the conformity with the regulations of data protection of the anti-doping rules laid down in the World Anti-Doping code and standards that complement it.

*Rome, 31st July 2014*

The President  
Soro

The Speaker  
Soro

The Secretary General  
Busia

## **NOW, THEREFORE, THE DPA**

pursuant to Articles 20, paragraph 2, and 154, paragraph 1, lett. g) of the Code, expresses a favorable opinion on the amendments and additions made by the Coni in its rules for the treatment of sensitive and judicial data in terms of the reasons given, pending the definition of a framework that guarantees the unit at the European level aimed at ensuring the accordance with the regulations of data protection of the anti-doping rules laid down in the world Anti-Doping code and standards that complement it.

*Rome, 31 July 2014*

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Soro

The Speaker  
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The Secretary General  
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