

2013 February 20

## INADO Update #19.1

Dear Colleagues:

### Membership

Our membership has increased to 30 Founding Members with the addition of the Cyprus Anti-Doping Agency. Welcome to Michael and his team. Our membership covers all five Olympic Regions:

- Dopingautoriteit (Netherlands)
- UKAD (United Kingdom)
- ASADA (Australia)
- JADA (Japan)
- USADA (United States)
- DFSNZ (New Zealand)
- SAIDS (South Africa)
- CCES (Canada)
- ADN (Norway)
- ADD (Denmark)
- NADA Germany
- Antidoping Switzerland
- Singapore AD
- AFLD (France)
- NADA Austria
- NADA Romania
- NADC Barbados
- FINADA (Finland)
- Irish Sports Council
- PRADO (Puerto Rico)
- QADC (Qatar)
- BSADA (Bermuda)
- AEA (Spain)
- NOC of Slovenia
- San Marino CPA
- KADC (Kuwait)
- JADO (Jordan)
- BADC (Bahamas)
- Indian NADA
- CyADA (Cyprus)

### WADC 2015 Draft Version 2.0 – Significant Changes from Version 1.0 (or not)

Here is WADA's final reminder for Comment on 2015 World Anti-Doping Code Version 2.0, and on Version 1.0 of the International Standards: [http://playtrue.wada-ama.org/news/code-review-final-reminder-for-wada-stakeholders/?utm\\_source=rss&utm\\_medium=rss&utm\\_campaign=code-review-final-reminder-for-wada-stakeholders](http://playtrue.wada-ama.org/news/code-review-final-reminder-for-wada-stakeholders/?utm_source=rss&utm_medium=rss&utm_campaign=code-review-final-reminder-for-wada-stakeholders)

To assist you in finalising your Comments, here is a list of the key proposals carried forward from 2015 Code Version 1.0 to Version 2.0, and of the key changes:

### **Carried Forward from 2015 Code Version 1.0 to Version 2.0**

1. Article 2.4 maintains the 12 month period for accumulating 3 whereabouts filing failures or missed tests.

2. Article 3.2.1 maintains the limited presumption for laboratory work to sample analysis and custodial procedures.
3. Article 4.3 maintains performance enhancement as the essential criteria for a substance or method to be put on the prohibited list.
4. Article 4.4 (Therapeutic Exemptions) is rewritten but maintains the proposal that if a NADO TUE in IF refuses to recognise a NADO TUE, that TUE is “reversed” and has no status except for national purposes.
5. Article 20 (Additional Roles and Responsibilities of Signatories) proposes no significant change except that IF now have the same proposed responsibilities to investigate as NADOs. (But see point 28 in the section below concerning WADA.)
6. Article 22 (Involvement of Governments) maintains the new expectations on governments proposed in Version 1.0. (See also point 31 in the section below describing an additional expectation.)

#### **New Proposals in 2015 Code Version 2.0**

1. New references to “the principles of proportionality and human rights in the “Purpose, Scope and Organizations of the World Anti-Doping Program and the Code” and “Part One – Doping Control – Introduction” to emphasise that those principles are presumed in the Code’s drafting.
2. The B sample returns to the Code in Article 2, etc., having been proposed for elimination in Version 1.0.
3. Article 2.3 now describes the ADRV of “evading or refusing” doping control.
4. Article 2.4 enhances cooperation between ADOs concerning whereabouts filing failures and missed tests.
5. The term “Registered Testing Pool” returns to the Code in place of the earlier proposal “High Priority Athlete Testing Pool.”
6. Article 2.5 (“Tampering or Attempted Tampering with any part of Doping Control”) now includes as an ADRV “interfering with a Doping Control official.”
7. The new ADRV “Prohibited Association” (Article 2.10) now requires prior notice in writing of an individual’s disqualified status before it can be asserted that an athlete has associated with that individual.
8. Article 4.4 (Therapeutic Exemptions) is rewritten but maintains the proposal that a NADO TUE is no longer effective when an athlete becomes an “international-level athlete” unless recognised by the IF). But it goes further: if an IF refuses to recognise a NADO TUE, that TUE is “reversed” and has no status except for national purposes. Moreover, mutual recognition now requires the athlete with a NADO TUE to “apply for” an IF TUE. This would require a full application and all supporting studies, and in the IF’s working language. For major event organisers, the athlete

with a NADO TUE “may be required to apply” for a TUE from the major event organiser.

Related proposed changes to the appeal provisions (Article 13.4) distinguish between appeals from nation-level decisions, international-level decisions and WADA decisions. Part of the proposal is that when and IF refusal to grant mutual recognition “reverses” a NADO TUE, the recourse is an appeal to CAS. However, while Article 4.4 proposes that the athlete may seek a WADA review of such a decision, Article 13.4.1 suggests that only an appeal to CAS is available to the athlete.

9. Article 5.3.2 contains a new and detailed provision authorising WADA to sort out issues where an ADO wants to test at another ADO’s event (for example where a NASO wants to test at an IF event where no testing is to take place).
10. There are significant new proposals for test distribution coordination in Article 5.4 and for the collection of whereabouts information in Article 5.6.
11. Article 6.4 (Standards for Sample Analysis and Reporting) is significantly adjusted to permit some flexibility in determining analytical menus depending on the sport. Sport disciplines and other “circumstances.”
12. Article 7.1 (Authority to Conduct results Management) proposes to give WADA the authority to decide on disputes over results management authority. The Comment outlines how to interpret who “discovered” the ADRV if no testing was involved.
13. The “Fair Hearings” provisions in Article 8.1 are changed completely. The current 8 principles to be respected by any hearing are proposed to be replaced by a requirement that hearings respect “Article 6.1 of the European Convention on Human Rights and comparable principles generally accepted in international law.”
14. The main sanctions provisions in Article 10.2 are proposed to establish as a default a 4 year for any ADRV “involving any Prohibited Method or a Prohibited Substance in the classes of Anabolic Agents, Peptide Hormones, Growth Factors and Related Substances, Hormone and Metabolic Modulators, or Diuretics and Other Masking Agents.” Article 10.2.2 proposes a 4 year suspension for an ADRV involving a specified substance where the violation was reckless or intentional. Article 10.2.4 proposes early admission may result in reduction down to a minimum of 2 years but now with WADA’s approval.
15. Article 10.3.1 proposes a 4 year suspension as the default sanction for other ADRVs (such as evading doping control or tampering) unless the athlete can establish he/she was not intentional or reckless. Then, the suspension is proposed to be 2 years.
16. As a result, the current Article 10.6 (Aggravating Circumstances) is proposed to be eliminated.
17. Articles 10.3.4 and 10.3.4 propose the suspension for whereabouts filing failures or missed tests, or for prohibited association, be 2 years subject to reduction to 1 year depending on the athlete’s degree of fault.
18. Article 10.4.1 proposes to simplify the treatment of “specified substances” by mere reference to “no significant fault,” removing the requirements to show how the substance entered the body

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and no intent to enhance performance. Article 10.4.2 proposes a similar treatment for “contaminated products”: except that it is the degree of “fault” not “significant fault” that must be considered for a reduction.

19. But Article 10.4.3 ties the sanction for use of “substances of abuse” to intention to enhance sport performance.
20. The Article 10.7.1 proposal for repayment of forfeited prize money has been softened to permit return to competition without repayment where “fairness requires.”
21. Article 10.15, the “Osaka Rule” provision prohibiting Olympic participation, is proposed to be removed.
22. Article 11.2 (“Consequences for Team Sports”) is made more flexible and permits a wider range of sanctions against a team should more than two members of the team in a team sport commit ADRVs during an event.
23. Article 13.2 would now permit an appeal to CAS of an ADO’s decision not to give mutual recognition to another ADO’s decision.
24. Article 13.2.4 would now explicitly permit cross-appeals by a party whose decision has been appealed.
25. The mutual recognition article (Article 15) is proposed from drastic reduction because of the changes to Articles 4.4 (TUEs) 5 (Testing), 6 (Sample Analysis) and 7 (Results Management).
26. Article 17 (Statute of Limitations) now proposes a 10 year limitations period for “presence” and “use” ADRVs, and 14 years for all others. (See also Article 10.6.5 concerning multiple ADRVs.)
27. Article 18 (Education) proposes to add language connected education and prevention, and that prevention should be “values-based” with a particular focus on young people through school curricula.
28. Article 20.7.9 (Roles and Responsibilities of WADA) proposes to authorise WADA to conduct its own investigations.
29. Article 21.1 (Roles and Responsibilities of Athletes) would require athletes to disclose a decision by a non-Signatory finding that they had committed an ADRV.
30. Article 21.2 proposes a new article outlining the roles and responsibilities of RADOs.
31. Article 22.5 proposes a new expectation on governments that where no NADO exists they will work to create one.
32. The definition of “athlete” recognises the flexibility of NADOs dealing with lower than national-level athletes.
33. The definition of “international-level athlete” proposes a new Comment about the responsibilities of IFs to make known the criteria for such status so that athletes more easily understand when they are or become “international.” It is otherwise unchanged.

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34. The definition of “minor” proposes returning to 18 years old as the cut-off.

35. The definition of “registered testing pool” is more detailed and proposes WADA’s authority to approve systems other than ADAMS for identification of the athletes included in an RTP

### **Concluding Words**

Never hesitate to contact me if you need assistance. Let me know what is happening in your country and in your organisation. Tell me how INADO can help you do a better job.

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**iNADO is the Institute of National Anti-Doping Organisations. It promotes best practices by NADOs and RADOs, and is their collective voice.**