

PURPOSE, SCOPE AND ORGANIZATION OF THE WORLD ANTIDOPING PROGRAM AND THE CODE

The Dutch stakeholders (Dutch Government, NOC*NSF, Athletes' Committee and Doping Authority Netherlands) thank WADA for the opportunity to comment on this Draft. Again, the revision of the Code is welcomed because the proposed changes in general are helpful and strengthen the Code, and thereby the World Anti-Doping Program.

Nevertheless, we think that some important changes are needed that are not yet incorporated in the Draft:

- The position of the Service Providers remains a problem. We have noted that changes are proposed in the ISTI that are relevant to this issue. And they are welcomed. Nevertheless, we feel that Service Providers play such an essential role in anti-doping work that their position should be clarified in the Code itself.
- The growing problem that follows from AAFs with very low concentrations is not tackled coherently and fundamentally. We see a number of measures that may be helpful in this respect, including the determination of Detection Limits for an (unknown) number of substances. If this will be done for a large number of relevant substances, that will be very helpful. But still, managing cases with these low concentrations will stay a burden because it will still be very hard to establish the source of the presence, and therefore (the absence of) intent. We would welcome a more comprehensive approach.
- Notwithstanding the definition of a Recreational Athlete, it will remain a fact that the Code will be applied to large numbers of athletes that can hardly be seen as the elite athletes for which the Code has basically been designed. A more fundamental 'two-lane approach' would be welcomed by the Dutch stakeholders.

2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample

We welcome the clarification (through whole article 2) of which persons can actually commit a specific ADRV. This is also helpful for education purposes.

2.10 Prohibited Association by an Athlete or Other Person

We welcome the proposal that makes it possible to establish - in other ways than by sending a letter to an athlete - that an athlete is aware of sanctions imposed on athlete support personnel.

2.11 Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting

We welcome the addition of this ADRV, because it will help ADOs to tackle this kind of behavior.

4.2.2 Specified Substances or Specified Methods

We welcome the introduction of Specified Methods. However, without knowledge of which methods will actually be defined as Specified, the impact of this cannot be established. To make this relevant, a sufficient number of methods should be determined to be Specified.

4.2.3 Substances of Abuse

We welcome and support the approach, which will lead to more proportionate sanctions in cases where Substances of Abuse (SoA) are detected. We note, however, that the impact will be determined by the number and nature of the substances that will be defined as SoA. In order to make this a really relevant article, the number of substances that are defined as SoA should not be too restricted.

5.6 Athlete Whereabouts Information

We CANNOT agree to the proposed changes concerning whereabouts information of athletes who are not a member of a Testing Pool. The proposed text will create confusion and legal uncertainty. These problems could possibly be solved by a more elaborate and precise article. The draft ISTI addresses this topic as well, but more links between the two documents are necessary. For the time being, we propose to delete these proposals altogether.

6.7 Split of A or B Sample for Good Cause

We welcome this addition / clarification which will be helpful in cases where samples have to be split.

6.8 WADA's Right to Take Possession of Samples.

We CANNOT agree to this article in its current wording. There are certainly situations in which WADA must have the authority to take possession of samples (as recent history has shown). However, this authority should be restricted to very specific (and very serious) situations, and WADA must always explain the reasons behind their wish to take possession of samples.

7.1 Responsibility for Conducting Results Management

We CANNOT agree to the proposal to create jurisdiction in cases where there is jurisdiction based on nationality, etc. This approach would lead to a great deal of legal uncertainty and conflict. We strongly suggest to drop this idea.

8 RESULTS MANAGEMENT: RIGHT TO A FAIR HEARING AND NOTICE OF HEARING DECISION

We welcome the development of an International Standard for Result Management, in order to safeguard the fundamental rights of athletes and other persons.

10.8 Results Management Agreements

We welcome wholeheartedly the addition of this article. It confirms and regulates a practice that is already in place, but which will benefit from a sound foundation in the Code.

10.11 Forfeited Prize Money

We agree that it is not a task of NADOs to recover forfeited prize money.

11.3 Event Ruling Body or International Federation may Establish Stricter Consequences for Team Sports

We agree that (stricter) consequences for team sports should best be left to the IFs involved.

14 CONFIDENTIALITY AND REPORTING

We agree to the amendments in 14.3 because they reflect the current reality, and the legislations (especially the GDPR) on which this reality is based.

15.1 Automatic Binding Effect of Decisions by Signatory Anti-Doping Organizations

We fully agree that decisions by Signatory ADOs should be binding to all Signatories

18 EDUCATION

We welcome the development of an International Standard for Education.

18.2.1. "For younger athletes, programs should be values-based, with a focus on instilling the spirit of sport, ideally through school programs."

Not all countries have a school-based athlete development system. We suggest to change the wording "ideally through school programs" to "ideally throughout all stages of athlete development, for example through school or sport club programs."

18.5. "International-Level Athletes should be the priority for International Federations, where event-based education should become a mandatory element of any anti-doping program associated with an International Event."

Some International Federations organize many International Events per year (e.g. tennis). Therefore we feel it is not feasible to state that "...event-based education should become a mandatory element of any anti-doping program associated with an International Event." We suggest to change the wording to "...event-based education should be considered for every International Event".

18.5 "National Anti-Doping Organizations, Regional Anti-Doping Organizations and governments should cooperate to embed values-based education into school programs."

Not all countries have a school-based athlete development system. We suggest to change the wording "into school programs" to "ideally throughout all stages of athlete development, for example through school or sport club programs."

APPENDIX 1 DEFINITIONS

The definition of Protected Athlete makes a distinction between two categories of Minor athletes. We CANNOT agree to this distinction, as in our opinion all athletes below the age of 18 should be treated equally, and considered to be Protected Athletes.

Other Suggestions

In article 5.7.2. it is suggested that sanctioned athletes who wish to end their career should report this to the ADO that has imposed the sanction. We CANNOT agree. This article disregards the fact that in many countries, it is NOT the NADO that imposes sanctions (but an independent disciplinary panel or organization). The idea that NADO impose sanctions can be found throughout the Code, but it is a fiction and that fact should be reflected in the Code.

Article 10.14 adds the status during a provisional suspension, and this is a welcome and clarifying addition.