

## **SUMMARY OF MOST RELEVANT AND INTERESTING CHANGES**

### **IPF ANTI DOPING RULES**

#### **FOR IMPLEMENTATION JANUARY 1, 2021**

#### **Why Revise the Anti-Doping Rules?**

Because a New World Anti-Doping Code (Code) was accepted and ratified by all Signatories in November 2019 and will come into effect in 2021.

All Code Signatories are required to undertake three steps in order to be fully compliant with the Code: acceptance, implementation, and enforcement.

Code acceptance means that a Signatory agrees to the principles of the Code and agrees to implement and comply with the Code.

Once a Signatory accepts the Code, it must then implement it. The implementation of the Code is the process that an anti-doping organization goes through to amend its rules and policies so that all mandatory articles and principles of the Code are included.

Finally, enforcement refers to the Signatory actually enforcing its amended rules and policies in accordance with the Code.

- ***This is why IPF had to amend its current ADR so that all mandatory articles and principles of the Code are included and can be implemented as of January 1, 2021.***

#### **The IPF Anti-Doping Rules (ADR) reflect the Code and all other International Federations rules.**

As a condition of being a Signatory, the IPF must be fully compliant with the Code. As a condition of compliance, IPF must adopt and implement Code compliant Anti-Doping Rules and must also ensure that all its national federations follow these Anti-Doping Rules.

WADA helps all its Signatories with their drafting exercise by publishing “model rules”.

The new IPF ADR are wholly based on the WADA Model Rules for International Federations.

They were drafted, sent to WADA for Approval and comment and have already been approved by WADA.

Once approved by the IPF Executive Board, they are to come into effect on January 1, 2021 just like the substantially identical Rules of every international federation and every Code Signatory.

#### **The WADA Model Rules**

The Model Rules reflect the Code and its related *International Standards* in force as of 1 January 2021. They have been drafted pursuant to Article 23.2 of the *Code* to help International Federations to implement the *Code* and the *International Standards* in connection with their respective sports, as an essential part of International Federations' mission in the fight against doping.

There are many clauses in these Model Rules which had to, in all circumstances, be reproduced without substantive change in the IPF's Anti-Doping Rules.

The Model Rules also offered certain optional clauses; certain situations where the International Federation can choose between alternative options; paragraphs to be completed by each International Federation etc.

Other clauses in the Model Rules were slightly amended or reworded to best fit the IPF's specific needs and requirements. However, the substance of all clauses needed to be preserved as they have been drafted in the *Code*.

### **What changes were made to address IPF's specificities?**

The most important modifications that were made to the Model Rules based on the specificities of IPF's anti-doping program are highlighted in RED font in the attached document.

As you can see for the most part they deal with:

- IPF's definition of international level Athlete (Scope)
- IPF's TUE Committee's composition and process (Article 4.4.4.3)
- IPF's process with regards to sanctions and fines against national federation for breaches of or failure to comply with the IPF AD Rules (Article 12).
  - Note that fines for anti-doping rule violations have increased to 2500 Euro to reflect increased cost of analysis and disciplinary procedures.

All these modifications were overseen, suggested, and eventually approved by the WADA Compliance Department.

### **Questions? Communications?**

If you have any questions on the changes that have been brought to the Rules, please do not hesitate to direct them to the Anti-Doping Commission who will answer them asap.

The Rules have already been reviewed and approved by WADA. Once they are approved by the Executive, they will be circulated to all IPF's Member Federations later this year with a cover letter summarizing the changes and explaining that the new Rules will be effective January 1, 2021.

### **What are the major changes between these Rules (based on the 2021 Code) and the old rules (based on the 2015 Code)?**

There are too many changes that were made to the Code to include in this document - if you have a keen interest in this, the WADA website offers the redlined version of the Code further to each Code

revision round and various other documents outlining the rationale for these changes and the Code revision process in general.

The following are some of the most important and interesting changes from the IPF Anti-Doping Committee's perspective.

### 1. Emphasis on Health as a Rationale for the Code (Scope)

A recent decision of the European Court of Human Rights relied on public health as a primary basis for upholding the whereabouts requirements of the Code.

As suggested by a number of stakeholders, health has been moved to the top of the list of rationales for the Code and all Anti-Doping Rules (including the IPF's) and is specifically mentioned in the sentence following that list.

### 2. Delegation of Doping Control Functions by Anti-Doping Organizations

Further to confusion in the current Code and IPF AD Rules as to whether an anti-doping organization may delegate aspects of the doping control process and the extent to which it remains responsible following such delegation. The Introduction to Part One of the Code and IPF ADR and Articles 20 which sets forth stakeholder's responsibilities, make clear that anti-doping organisations/international federations are responsible for all aspects of doping control, that they may delegate any of those aspects, but they remain fully responsible for the performance of those aspects in compliance with the Code.

- ✓ IPF is therefore fully and solely responsible for its compliance with the Code even when it may delegate certain tasks
- ✓ Even if IPF has delegated its testing program to the CCES, IPF solely remains responsible for the compliance of its whole anti-doping program.
- ✓ If National Federations also chose to delegate their testing to CCES via IPF, IPF will remain responsible for the compliance of all national level testing.

### 3. Fraudulent Conduct During Results Management and Hearing Process (New Comment to Article 2.5, and New Articles 10.3.1 and 10.4)

A number of anti-doping organizations have experienced problems with athletes engaging in fraudulent conduct during the results management and hearing process, including for example, submitting fraudulent documents or procuring false witness testimony.

Under the current Code, there is no downside in terms of sanctions to an athlete who chooses to engage in this type of behaviour. New subsection to Article 10.3 and the return of Aggravating Circumstances at Article 10.4 provide that an additional sanction of 0-2 years ineligibility may be imposed for this misconduct.

- ✓ Although IPF has very few anti-doping rule violations, this is an interesting article that looks to ensure that all Athletes are honest and truthful when confronted with an anti-doping rule violation.

#### 4. Tampering (Article 2.5) and Definition of Tampering

The definition of Tampering has been expanded to specifically include fraudulent conduct during Results Management. Tampering during Results Management would be treated as a separate first violation with the period of Ineligibility (4 years to 2 years in exceptional circumstances) to be served consecutively with any period of Ineligibility imposed for the underlying violation.

- ✓ The acts of falsifying documents submitted to IPF (or another Anti-Doping Organization) and procuring false testimony from witnesses have been moved up from the comment and specifically included in the definition of Tampering.

#### 5. Increasing the Upper End of the Sanction for Complicity (Article 2.9)

The current sanction for an anti-doping rule violation involving complicity is 2-4 years ineligibility. However, in some circumstances, violations involving complicity can be very similar to violations involving “administration” (Article 2.8) where the current sanction is 4 years to life ineligibility.

To retain some greater flexibility in the sanctioning of certain types of complicity, but to avoid any argument that the most serious types of complicity, which could also be viewed as administration, are subject to a sanction cap of 4 years, the range of ineligibility for complicity has been changed to 2 years – lifetime ineligibility.

#### 6. Modification of Article 2.10 - Prohibited Association

This Article prohibits association in a sport related capacity with an athlete support person who is serving a period of ineligibility. Since this Article was incorporated into the 2015 Code, there have been very few, if any, anti-doping rule violation cases brought under this Article. A number of anti-doping organizations have expressed concern that one reason for this is because the current requirement that an athlete must be notified before an anti-doping rule violation for prohibited association can be asserted, simply drives that prohibited association underground. In response to that concern, this Article has been changed to eliminate the advance notice requirement and instead, places the burden on the anti-doping organization to demonstrate that the Athlete knew, or was reckless in not knowing, that the athlete support person was ineligible.

- ✓ However, when IPF is to rely on article 2.10 of the IPF ADR, it must establish that the Athlete "knew" of the Athlete Support Persons disqualified status. The comment to this Article has been expanded to make clear that the prohibition on association extends to fellow Athletes who are acting as coaches or other Athlete Support Personnel during their period of Ineligibility.

#### 7. WADA’s Right to Require an Anti-Doping Organization to Conduct Results Management – (Article 7.1.1)

It has occasionally been the case that the anti-doping organization with results management authority has refused to conduct results management. That is not only a Code compliance issue, it is necessary that some anti-doping organization conduct results management in the individual case to determine whether or not an anti-doping rule violation was committed. An addition to Article 7.1.1 makes clear that in this unique circumstance, WADA may demand that the anti-doping organization with results management authority conduct results management and, if the organization refuses, WADA may designate another anti-doping organization to conduct the results management with the resulting cost borne by the refusing anti-doping organization.

This Article has been modified to provide that an Anti-Doping Organization's refusal to conduct Results Management shall be considered an act of non-compliance and that Results Management may only be assigned by WADA to another Anti-Doping Organization with authority over the Athlete.

- ✓ This should hopefully never occur within the IPF, but it is good that you are advised of this should WADA decide to require IPF to conduct results management for any national level case that is not being dealt with at the national level.

#### 8. Burden Shifting (Article 3.2)

Modifications to Article 3.2.3 make clear that departures from the International Standard for Testing and Investigations involving Sample collection or Sample handling, or the International Standard for Results Management involving Adverse Passport Findings or Whereabouts failures or notice to the Athlete of the opening of the B Sample, which could reasonably have caused an anti-doping rule violation, shifts the burden to the Anti-Doping Organization to establish that the departure did not cause the anti-doping rule violation.

A comment to Article 3.2.3 makes clear that an Anti-Doping Organization can satisfy its burden of establishing that the failure to give notice of the B Sample opening did not cause the Adverse Analytical Finding, by having an independent observer witness the B Sample opening.

- ✓ Other violations of anti-doping rules or policies (such as a violation of the International Standard for Education) may raise compliance issues for an Anti-Doping Organization but may not be used as a defence to an anti-doping rule violation.

#### 9. General Changes to Results Management (Article 7)

Much of the detail currently found in Article 7 has been moved into the new International Standard for Results Management and Hearings.

- ✓ IPF's consultant if Code-Compliance is well advised of the contents of the new International Standard and shall ensure that IPF complies with it whenever an anti-doping rule violation occurs.

#### 10. More Rigorous Standards for Fair Hearings under Article 8

The fair hearing requirements in Article 8 have been expanded. Provides for an "operationally independent" Panel to deal with cases and render decisions.

These requirements are also incorporated into a new International Standard for Results Management and Hearings.

- ✓ IPF has an independent Panel that will continue to operate, in a Code Compliant and operationally independent way, as it has in the past.

#### 11. Retired Athletes Returning to Competition (Article 5.6)

Article 5.6 provides that when an International-Level Athlete or National-Level Athlete in a Registered Testing Pool retires and then wishes to return to active participation in sport, the Athlete must not compete in an International Event or a national Event until the Athlete has made himself or herself available for Testing by giving six months prior written notice to the Athlete's International Federation and National Anti-Doping Organization. WADA is then given the opportunity to make exceptions to the six-month rule in exceptional circumstances. New Article 5.6.1.1 makes clear that an Athlete's competitive results are not disqualified if the Athlete can establish that he or she could not reasonably know that the Event was an international or national level Event.

- ✓ If the demand warrants, e.g. for older athletes or those who no longer wish to compete at national or international level WADA will set up an expedited procedure to grant exemptions to the six-month rule for Athletes who are clearly not international or national level competitors in the sport in which they are seeking to compete.

#### 12. The acknowledgement of "substances of abuse" (Article 10.2.4)

Article 10.2.4 now provides greater flexibility to those athletes who use substances of abuse and then get testing in competition with the substance still in their system. These substances include Cannabis, Cocaine etc.

Where the sanction used to be 4 years of 2 years ineligibility depending on the classification, as of Jan 1, 2021, If the Athlete can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, then the period of Ineligibility shall be three (3) months Ineligibility. If the substance was consumed in competition but its consumption was unrelated to sports performance, then the violation shall not be considered intentional (thereby de factor reducing the presumptive sanction for the use of cocaine for example from 4 years to 2 years, with a possibility for a greater reduction based on the Athlete's degree of fault.)

- ✓ This brings an element of fairness back in the rules for violations that are unrelated to sport.

#### 13. Reduced sanctions for *Recreational Athletes* (Article 10.6.1.3)

Article 10.6.1.3 has created additional flexibility for protected persons (minors, etc.) and recreational athletes allowing them to benefit from a reduction in the presumptive period of Ineligibility to, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years Ineligibility, depending on the Protected Person or Recreational Athlete's degree of Fault.

- ✓ This flexibility will have an impact for those athletes who do not compete internationally and are not part of their national team and who get randomly tested at an event.

FYI *Recreational athlete* is a mandatory Code definition and is defined as follows in the IPF ADR:

- ✓ *Recreational Athlete*: A natural Person who is so defined by the relevant National Anti-Doping Organization; provided, however, the term shall not include any Person who, within the five (5) years prior to committing any anti-doping rule violation, has been an International-Level Athlete (as defined by each International Federation consistent with the International Standard for Testing and Investigations) or National-Level Athlete (as defined by each National Anti-Doping Organization consistent with the International Standard for Testing and Investigations), has represented any country in an International Event in an open category or has been included within any Registered Testing Pool or other whereabouts information pool maintained by any International Federation or National Anti-Doping Organization.

#### 14. Added Flexibility for Sanctioning Minors (Article 10)

A minor need not establish how the prohibited substance entered his or her system in order to benefit from a reduced sanction on account of No Significant Fault or Negligence (Definition of No Significant Fault or Negligence). Public Reporting in a case involving a minor is not mandatory and, if reported, must be proportionate to the facts and circumstances of the case (Article 14.3.6).

For purposes of the 4 year ban for the presence, use, or possession of a non-specified substance, the burden is no longer on the minor to establish that the anti-doping rule violation was not intentional (Article 10.2.1); when a minor can establish No Significant Fault or Negligence for an anti-doping rule violation involving a non-specified substance, the minimum period of ineligibility imposed is now a reprimand instead of the 1 year minimum applicable to other athletes (Article 10.5.1.3). Finally, based on feedback from athletes who are concerned about giving sanctioning flexibility to 16 and 17 year old athletes who compete at the elite level, the definition of “minor” has been modified to exclude 16 and 17 year old athletes who are in a registered testing pool, or who have competed in an international event in the open category.

- ✓ 17- and 18-year-old elite Athletes are not subject to the mandatory public reporting of Anti-Doping Rule Violation decisions found in Article 14.3.7 of the IPF ADR.

#### 15. New Article Entitled “Prompt Admission of an Anti-Doping Rule Violation After Being Confronted with a Violation and Acceptance of Consequences” – Article 10.6.3

An athlete can now only receive a reduction in the 4-year ban, or a sanction start date going back to sample collection if the athlete and anti-doping organization agree on the applicable consequence and that agreement is approved by WADA.

The new Article, Article 10.8, replacing both “prompt admission” (Article 10.6.3), and “timely admission” (Article 10.11.2) was not well understood by all stakeholders. Changes to the Article and a revised comment have been included for clarification.

- ✓ In Article 10.8.1, the Athlete is now given 20 days after the B Sample result or notice of the Use or Possession charge to admit the Anti-Doping Rule Violation and accept the sanction reduced by 1 year.
- ✓ Article 10.8.2 allows IPF, the Athlete and WADA to reach an agreement on the period of Ineligibility to be served in a particular case.
- ✓ A new comment to this Article in the Code makes clear that whether this Article is used or not is solely at the discretion of the IPF, recognizing that there are some countries where only a hearing panel can decide on a doping sanction.

#### 16. Re-Introduction of the Concept of “Aggravating Circumstances” (Article 10.4)

The Aggravating Circumstances Article has been reinserted into the Code and IPF ADR to deal with special or exceptional circumstances where an additional period of ineligibility from 0-2 years is appropriate. For example, when fraudulent conduct occurs during the results management or hearing process (Articles 10.3.1 and 10.4) or where a provisional suspension is violated (Definition of Aggravating Circumstances).

#### 17. Improvements to the Multiple Violation Rules - (Article 10.8)

If the anti-doping organization can establish that the two violations resulted from separate culpable intents, which is presumed if the two violations are more than 12 months apart, then they can be sanctioned with the longer periods of ineligibility applicable to separate first and second violations (Article 10.8.4.3). Alternatively, the sanction can be increased by an additional 0-2 years on the basis of aggravating circumstances (Article 10.4).

#### 18. Mandatory National Federation compliance with IPF Anti-Doping Rules (Articles 12.1, 12.2 and 20.3.2)

WADA has now made it an explicit mandatory compliance requirement within the Code to ensure that all national federation’s anti-doping activities comply fully with the relevant International Federations’ anti-doping rules, in this case IPF’s. Where national federations do not comply with the IPF Anti-Doping Rules, WADA can take non-compliance actions against the IPF.

Article 20.3.2 of the Code and IPF Anti-Doping Rules now reads:

##### **Roles and Responsibilities of International Federations (IPF)**

*To require, as a condition of membership, that the policies, rules and programs of their National Federations and other members are in compliance with the Code and the International Standards, and to take appropriate action to enforce such compliance; areas of compliance shall include but not be limited to:*

*(i) requiring that their National Federations conduct Testing only under the documented authority of their International Federation and use their National Anti-Doping Organization or other Sample collection authority to collect Samples in compliance with the International Standard for Testing and Investigations;*

*(ii) requiring that their National Federations recognize the authority of the National Anti-Doping Organization in their country in accordance with Article 5.2.1 and assist as appropriate with the National Anti-Doping Organization’s implementation of the national Testing program for their sport;*

*(iii) requiring that their National Federations analyse all Samples collected using a WADA-accredited or WADA-approved laboratory in accordance with Article 6.1; and*



*(iv) requiring that any national level anti-doping rule violation cases discovered by their National Federations are adjudicated by an Operationally Independent hearing panel in accordance with Article 8.1 and the International Standard for Results Management.*

IPF has now also outlined the process by which it will proceed with dealing with cases of non-compliance at article 12.1 and 12.2.

This process was suggested, overseen, and approved by the WADA Compliance Department.

18. Express Authority of a Signatory to Exclude Athletes and Other Persons from its Events as a Sanction Against a Member Federation (Article 12.3)

The language added to Article 12.3 makes clear that discipline by the IOC against a member National Olympic Committee or by the IPF against a member national federation may include exclusion of athletes from that country from its events.