



Anti-Doping International Rules

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Overview

- The 20th century witnessed the development of sports as cultural, social and economic phenomenon. Sports started as a leisure activity and rapidly transformed into a multimillion industry. The principal actors of this industry, the athletes, are raised to the status of authentic mythological gods, covered by glory because of their achievements in the fields.
- However, to achieve such glory and to maintain a superior sport performance, athletes may be tempted to succumb to doping.
- What is doping, legally speaking? What are the international rules in force preventing doping? What are the relevant international organisations and what is their role? This Practice Note will cover anti-doping international rules.

Definitions

- *Athlete* : For the purposes of doping control, any person who participates in sport at the international or national level as defined by each national anti-doping organisation and any additional person who participates in a sport or event at a lower level.
- *Athlete Support Person* : Any coach, trainer, manager, agent, team staff, official, medical or paramedical personnel working with, treating or assisting an Athlete participating in or preparing for sports competition.
- *Code* : [The World Anti-Doping Code](#)^[1 p.7] adopted by the World Anti-Doping Agency.
- *IOC* : International Olympic Committee.
- *NOC* : National Olympic Committee.
- *Prohibited List* : The list identifying Prohibited Substances and Prohibited Methods ([Appendix 1 of the Code](#)^[1 p.7]).
- *Prohibited Method* : Any method described in the Prohibited List ([Appendix 1 of the Code](#)^[1 p.7]).
- *Prohibited Substance* : Any substance, or class or substances, described on the Prohibited List ([Appendix 1 of the Code](#)^[1 p.7]).
- *UNESCO* : United Nations Educational, Scientific, and Cultural Organization.
- *WADA* : World Anti-Doping Agency.

Practical Guidance

The rise of anti-doping rules

In the middle of the 20th century, the practice of doping was still accepted and there were no controls. The tragic death of Knud Jensen in the Olympic Games of Rome in 1960 put doping under the spotlight. In the early 1960's, the IOC created the first medical committee and the first anti-doping controls. In 1965, France and Belgium issued the first anti-doping laws, followed by many other countries.

World Anti-Doping Agency

Since then, there has been a tremendous evolution in anti-doping rules:

- doping evolved to new and more difficult ways to be traced; and
- authorities responsible for anti-doping control developed new methods to find doped Athletes, and issued worldwide legislation to harmonise behaviour, technical procedures and sanctions related to the violation of anti-doping rules, such as the Code.

The establishment of WADA in 1999, a private foundation established under Swiss law, was a key step in fighting against doping. According to article 4 of WADA Statutes, WADA's main goals are:

- to promote and coordinate at international level the fight against doping in sport in all its forms including through in and out-of-competition;
- to establish, adapt, modify and update for all public and private bodies concerned, the list of substances and methods prohibited in the practice of sport;
- to support, coordinate and, when necessary, undertake, in full cooperation with the public and private bodies concerned, the organisation of unannounced out-of-competition testing;
- to develop, harmonise and unify scientific sampling and technical standards and procedures regarding analyses and equipment, including the homologation of laboratories and creating a reference laboratory;
- to promote and coordinate research in the fight against doping in sport;
- to promote harmonised rules, disciplinary procedures, sanctions and other means of combating doping in sport, and contribute to the unification thereof, considering the rights of the Athletes.

This last goal was embodied in the Code, which is an ensemble of rules with the ambition to “ensure harmonised, coordinated and effective anti-doping” laws. “The purpose of the Code is to advance the anti-doping effort through universal harmonization of core anti-doping elements” (preamble of the Code).

Currently, WADA is the principal organisation in the anti-doping movement. The Code is the first stage to ensure that all the countries have the same standards and good practices, and contains:

- a list of actions that are considered doping;
- a list of prohibited substances and methods;
- sanctions applicable to individuals or teams regarding the use of doping; and
- testing standards and procedures regarding analyses.

The principal and most relevant challenge when establishing WADA was how a private foundation established under Swiss law could enforce an ensemble of anti-doping rules worldwide. In order to overcome this issue, an organised international strategy towards governments and sport associations was created. This strategy had two distinct paths depending on the recipient entities:

Article 4 of the UNESCO Convention

Article 4 of the UNESCO Convention - In October 2005, UNESCO approved the International Convention against Doping in Sport and in the following years, it was ratified by many countries in the world. As of February 2018, this Convention has been ratified by 187 states, and according to UNESCO’s website it’s “the most successful convention in the history of UNESCO in terms of rhythm of ratification after adoption” and “the second most ratified of all UNESCO treaties”. In the Middle East, only Lebanon has not ratified this Convention.

The UNESCO International Convention against Doping in Sport “represents the first time that governments around the world have agreed to apply the force of international law to anti-doping”.

Article 4 of the Convention contains one of the most important obligations for signatory governments:

"In order to coordinate the implementation, at the national and international levels, of the fight against doping in sport, States Parties commit themselves to the principles of the Code as the basis for the measures provided for in article 5 of this Convention."

The Code expressly declares that several articles must be implemented without any substantive changes. Such obligation is the decisive step to guarantee that all the countries have the same standards practices in terms of:

- behaviours that are considered doping;
- list of prohibited substances and methods;
- sanctions applicable to individuals or teams regarding the use of doping; and
- testing standards and procedures regarding analyses.

The relevant articles of the Code stating such requirement are:

- Article 23(2)(1): “The Signatories shall implement applicable Code provisions through policies, statutes, rules or regulations according to their authority and within their relevant spheres of responsibility.”
- Article 23(2)(2): “The following Articles as applicable to the scope of the anti-doping activity which the Anti-Doping Organization performs must be implemented by Signatories without substantive change (allowing for any non-substantive changes to the language in order to refer to the organization’s name, sport, section numbers, etc.): (...).”
- Article 23(3) “Signatories shall devote sufficient resources in order to implement anti-doping programs in all areas that are compliant with the Code and the International Standards.”
- Article 23(4) “Signatories shall not be considered in compliance with the Code until they have accepted and implemented the Code in accordance with Articles 23.1, 23.2, and 23.3. They shall no longer be considered in compliance once acceptance has been withdrawn.”
- Article 22(8) “Failure by a government to ratify, accept, approve or accede to the UNESCO Convention, or to comply with the UNESCO Convention thereafter may result in ineligibility to bid for Events as provided in Articles 20.1.8, 20.3.11, and 20.6.6 and may result in additional consequences, e.g., forfeiture of offices and positions within WADA; ineligibility or non-admission of any candidature to hold any International Event in a country, cancellation of International Events; symbolic consequences and other consequences pursuant to the Olympic Charter.”

The articles of the Code that must be implemented without substantive changes are the following:

- article 1 to 3
- article 4(2)(2)
- article 4(3)(3)
- article 7(11)

- articles 9 to 11
- article 13
- article 15(1)
- article 17
- article 24
- Appendix 1.

IOC

IOC - Sport Bodies and Associations are the second group that have been compelled to accept WADA and the Code. After the Code was issued, the IOC developed efforts to guarantee that NOC, Sports National and International Associations accepted the Code.

To ensure such goal, in the year 2003 the Olympic Charter was amended to state that adoption of the Code by the whole Olympic Movement was mandatory (article 43 of Olympic Charter). This obligation entailed certain heavy penalties in the event of non-compliance:

- Those not accepting the Code could not register athletes to take part in the Olympic Games.
- Only sports adopting and implementing the Code could be included in the program of the Olympic Games.
- NOC not accepting the Code could not apply to organise the Olympic Games.

What is considered doping?

Under article 1 of the Code, “Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.10 of the Code.”

This definition of doping is very comprehensive, and includes behaviour, actions, and mere attempts, as we can observe through the analysis of articles 2(1) to 2(10) of the Code, which identify the following circumstances and conduct as constituting anti-doping rule violations:

- Presence of a Prohibited Substances or its metabolites or markers in an Athlete's sample:
 - Each athlete is responsible for ensuring that no Prohibited Substance enters the Athlete's body.
 - The simple presence of a Prohibited Substance is a violation of anti-doping rules (excepting those substances for which a minimum quantity is required).
 - It is not necessary to prove intent, fault or knowing use or negligence. Even in those cases, the presence of a Prohibited Substance remains punishable.
 - Special criteria apply for the evaluation of substances that can be produced endogenously by the human organism.
- Use or attempted use by an Athlete of a Prohibited Substance or a Prohibited Method:
 - The simple use of any prohibited substance constitutes a violation of anti-doping rules - the success or failure of such action is irrelevant.
 - WADA issues a “Prohibited List” to identify Prohibited Substances and Prohibited Methods, which are considered to be doping. This includes:
 - substances and methods prohibited in both competition and out-of-competition (because of their potential to enhance performance in future competitions or their masking potential), and
 - substances and methods prohibited only in-competition.
 - The Prohibited List may be extended by WADA for a specific sport.
- Evading, refusing or failing to submit to sample collection:
 - Athletes are obliged to do sample collection.
 - If an Athlete engages in conduct to avoid sample collection, it will be presumed that the Athlete is using doping methods.
- Whereabouts failures:
 - Athletes in a Registered Testing Pool must provide accurate and complete information as to their whereabouts during the forthcoming quarter so they can be located for testing.
 - Athletes must specify for each day in the forthcoming quarter one specific 60-minute time slot where they will be available at a specific location for testing.
 - Any combination of three missed tests and/or filing failures (meaning failure to provide accurate information) within a 12-month period, will be considered as a violation of anti-doping rules.
- Tampering or attempted tampering with any part of the doping control:

- Article 2(5) of the Code states that: “Tampering shall include, without limitation, intentionally interfering or attempting to interfere with a Doping Control official, providing fraudulent information to an Anti-Doping Organization or intimidating or attempting to intimidate a potential witness.”
- Possession of a Prohibited Substance or a Prohibited Method:
 - Possession by an Athlete (or an Athlete Support Person) of any Prohibited Substance or any Prohibited Method is prohibited.
 - However, it is allowed if proved that the possession is consistent with a Therapeutic Use Exemption granted in accordance with article 4(4) of the Code or other acceptable justification.
- Trafficking or attempted trafficking in any Prohibited Substance or Prohibited Method:
 - Trafficking means: “Selling, giving, transporting, sending, delivering or distributing (or Possessing for any such purpose) a Prohibited Substance or Prohibited Method (either physically or by any electronic or other means) by an Athlete, Athlete Support Person or any other Person subject to the jurisdiction of an Anti-Doping Organization to any third party; (...)” (Appendix 1 of the Code).
- Administration or attempted administration to (i) any Athlete In-Competition of any Prohibited Substance or Prohibited Method, or administration or attempted administration to (ii) any Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method that is prohibited Out-of-Competition:
 - The Code provides a comprehensive definition of the word “administration”, which in this context includes all the behaviours connected with “providing, supplying, supervising, facilitating, or otherwise participating in the Use or Attempted Use by another Person of a Prohibited Substance or Prohibited Method” (Definition in Appendix 1 of the Code).
- Complicity:
 - Consists of assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation or attempt to do it.
- Prohibited Association:
 - Association by an Athlete or other person subject to the authority of an Anti-Doping Organisation with someone serving a period of ineligibility.
 - Association with a person, subject to the anti-doping rules, who:
 - has been convicted, or
 - found in a criminal, disciplinary or professional proceedingto have engaged in a conduct that constituted or could have constituted a violation of anti-doping rules is a violation of anti-doping rules.

Related Content

Regulations

- [UNESCO International Convention against Doping in Sport](#)^[2 p.7]
- [The Code of World Anti-Doping Agency](#)^[1 p.7]
- [Olympic Charter](#)^[3 p.7]
- [WADA Statutes](#)^[4 p.7]

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- Post-graduate in Sports Law, University of Coimbra, Coimbra, Portugal
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- Admitted as an Attorney-at-Law in Portugal
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Biography

- Ricardo is a Senior Legal Adviser at Essa Al Sulaiti Law Firm. After several years practising as a lawyer in Portugal, where he evolved from junior to partner of his law firm, Ricardo moved to Qatar to embrace the challenge of starting a new project with Essa Al Sulaiti Law Firm and its international clients, focused on his international law expertise and capacity to communicate in numerous languages (Portuguese, English, French and Spanish).

Notes

1. [^] [p.2] [p.2] [p.2] [p.5] www.wada-ama.org/sites/default/files/resources/files/wada-2015-world-anti-doping-code.pdf
2. [^] [p.5] unesdoc.unesco.org/images/0014/001425/142594m.pdf#page=2
3. [^] [p.5] stillmed.olympic.org/Documents/olympic_charter_en.pdf
4. [^] [p.5] www.wada-ama.org/sites/default/files/resources/files/WADA-Revised-Statutes-4-July-2014-EN.pdf