

## PROCEDURAL RULES OF THE INTERNATIONAL HEARING PANEL

### 1. PREAMBLE

These procedural rules (the "Rules") apply to any *Hearing Process* where the *Anti-Doping Organisation* has appointed the International Hearing Panel ("Hearing Panel") to adjudicate matters pursuant to the *Anti-Doping Organisation's* anti-doping rules.

### 2. DEFINITIONS

For the purpose of these Rules:

2.1 Italicized terms have the meaning ascribed in the applicable *Anti-Doping Organisation's* Anti-Doping Rules, the *World Anti-Doping Code*, the *International Standards* and in particular the *International Standard for Results Management*.

2.2 The Secretariat is Sport Resolutions.

2.3 Terms referring to natural persons encompass all genders.

### 3. JURISDICTION

3.1. The Hearing Panel shall have jurisdiction over all matters as set forth in the *Anti-Doping Organisation's* anti-doping rules, including:

3.1.1. Any anti-doping rule violation asserted by the *Anti-Doping Organisation* pursuant to its anti-doping rules;

3.1.2. Any anti-doping rule violation initially processed by another *Anti-Doping Organisation* as per its anti-doping rules, such as a *National Anti-Doping Organisation*, and where the latter does not have authority to handle the disciplinary process or declines to exercise such authority and the *Anti-Doping Organisation* has accepted to take over the case;

3.1.3. Any anti-doping rule violation initially processed by another *Anti-Doping Organisation* as per its anti-doping rules and where the *World Anti-Doping Agency* directs the *Anti-Doping Organisation* to take over the case and the *Anti-Doping Organisation* accepts the delegation;

3.1.4. Any request for a *Provisional Hearing*, either before the imposition of the *Provisional Suspension* or on a timely basis after the imposition of the *Provisional Suspension* pursuant to the *Anti-Doping Organisation's* anti-doping rules;

3.1.5. Any request to hear a request to lift the imposition of a *Provisional Suspension* imposed pursuant to the *Anti-Doping Organisation* anti-doping rules;

3.1.6. Any anti-doping rule violation asserted on the basis on the further analysis of a sample by the *Anti-Doping Organisation* pursuant to its anti-doping rules;

3.1.7. Any other matter reserved to the jurisdiction of the Hearing Panel as provided for in the *Anti-Doping Organisation's* anti-doping rules.

3.2. The Hearing Panel shall rule on its own jurisdiction in the decision.

#### **4. COMPOSITION OF THE HEARING PANEL**

- 4.1. The Hearing Panel shall be composed of a wide pool of Members and the Members shall be selected based on anti-doping experience, including legal, sports, medical and/or scientific expertise. The Secretariat shall be in charge of the appointment of the Members.
- 4.2. All Members shall ensure that the *Hearing Process* is conducted in a fair, impartial and timely manner.

#### **5. LANGUAGE**

- 5.1. The Hearing Panel shall conduct the *Hearing Process* in English.
- 5.2. The Hearing Panel may allow a Party (and his witnesses) to be heard in his language of preference in the scope of a hearing, provided that the latter makes available an independent translator and bears the related costs.
- 5.3. The Hearing Panel may accept or disregard any document not provided in the language of the proceedings.

#### **6. REPRESENTATION**

- 6.1. The Parties have the right to be represented or assisted by the person(s) of their choice, including *Delegated Third Parties*. The Parties shall inform the Hearing Panel of their respective representation and provide the Hearing Panel with the complete contact details (name, capacity, post address and email address).
- 6.2. The Parties shall also inform the Hearing Panel of the location (especially time zone) from which they will be deemed to be located for the purpose of communication, notices and time limits.
- 6.3. The Hearing Panel may ask the Parties to provide a power of attorney.

#### **7. COMMUNICATION & NOTICES**

- 7.1. Any communication intended for the Hearing Panel shall be filed through the Secretariat via email, and on notice to the other Party(ies), unless otherwise authorized by the *Anti-Doping Organisation's* anti-doping rules or instructed by the Hearing Panel.
- 7.2. The Parties shall provide the email addresses for notification purposes as well as the email addresses of their representative, where one is appointed.
- 7.3. Notice shall be deemed to have occurred when sent by email to the address communicated by the Parties.
- 7.4. The Party claiming that he did not receive the notice, within the set time limit or at all, has the burden of establishing that he was not properly notified or that the notification was tardy.

## **8. PROCEDURE BEFORE THE HEARING PANEL**

- 8.1. The Hearing Panel (Single Judge or Chair of a three-member Panel) shall have the power to determine the entire procedural matters of the proceedings. Therefore, the Hearing Panel may set out directions which differ from the provisions set forth in these Rules. When coming to a determination on any procedural aspect, the Hearing Panel may consult the Parties.

## **9. TIME LIMITS**

- 9.1. Unless otherwise provided for under these Rules, the Hearing Panel fixes the time limits.
- 9.2. Time limits shall be computed based on calendar days (non-business days and holidays are thus included).
- 9.3. Time limits shall be satisfied when the communication is sent before the time limit expires at the time and in the time zone specified by the Hearing Panel.
- 9.4. Time limits begin the next day of receipt of the Hearing Panel's communication. Should this fall on an official holiday or non-business day in the country where the Party receiving the communication is located<sup>1</sup>, then the time limit shall start on the next business.
- 9.5. If the last day of the time limit is an official holiday or a non-business day in the country where the Party sending the communication is located<sup>2</sup>, then the time limit shall expire on the next business day.

## **10. PROCEDURAL RIGHTS**

- 10.1. Over the course of the *Hearing Process*, the Hearing Panel shall respect the following principles: fairness, impartiality, *Operational Independence* and reasonable timeframe.
- 10.2. When provided for in the *Anti-Doping Organisation's* anti-doping rules, such as after the imposition of a *Provisional Suspension* or when the proceedings are in connection with an *Event*, the Hearing Panel shall conduct the proceedings on an expedited basis.
- 10.3. The Parties shall raise any procedural objection without delay and at the latest 7 (seven) days after becoming aware of the issue giving rise to the procedural objection or should reasonably have become known to the challenging Party. Otherwise, the Party shall be deemed to have waived the procedural objection.

## **11. CONFIDENTIALITY**

- 11.1. The Secretariat, the Hearing Panel, *Anti-Doping Organisation*, *Athlete* or other *Person*, *Delegated Third Parties*, other Parties and third party observers must abide with the

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<sup>1</sup> The location shall be the one indicated as per Article 6.2 of these Rules.

<sup>2</sup> Ibid.

confidentiality obligations set forth in the *Anti-Doping Organisation's* anti-doping rules throughout the *Hearing Process* and beyond.

## 12. INITIATION OF PROCEEDINGS

12.1. In the context of the assertion of an anti-doping rule violation, the *Anti-Doping Organisation* shall lodge a Request by filing a written petition to the Secretariat. The Request shall contain:

- name and contact details of the *Athlete* or other *Person* and any other relevant third party, such as the *World Anti-Doping Agency*, the *National Federation*, the *International Federation* and/or the *National Anti-Doping Organisation* of the *Athlete* or other *Person* and the *Delegated Third Parties* who may be allowed to attend the hearing as observers pursuant to the *Anti-Doping Organisation* anti-doping rules.
- copy of the applicable anti-doping rules
- detailed summary of the relevant facts and legal arguments upon which the assertion of the anti-doping rule violation(s) is based, as well as all supporting evidence, including witness statements and expert reports, the *Anti-Doping Organisation* intends on relying to establish its case
- request for relief, including specific consequences being sought

12.2. Upon notice of a request to lift a *Provisional Suspension* and if not handled by the *Anti-Doping Organisation* directly or for a *Provisional Hearing*, the *Anti-Doping Organisation* shall lodge a Request by filing a written petition to the Secretariat at the earliest convenience. The Request shall contain:

- name and contact details of the *Athlete* or other *Person* and any other relevant third party, such as the *World Anti-Doping Agency*, the *National Federation*, the *International Federation* and/or the *National Anti-Doping Organisation* of the *Athlete* or other *Person* and the *Delegated Third Parties* who may be allowed to attend the hearing as observers pursuant to the *Anti-Doping Organisation* anti-doping rules.
- copy of the applicable anti-doping rules.
- detailed summary of the relevant facts and legal arguments upon which the *Provisional Suspension* shall be imposed or has been imposed and should be maintained, as well as all supporting evidence, including witness statements and expert reports, the *Anti-Doping Organisation* intends on relying to establish its case.
- request for relief, including specific consequences being sought.

12.3. Any other types of referrals as provided for under the *Anti-Doping Organisation* anti-doping rules shall be filed in accordance with this Article *mutatis mutandis*.

- 12.4. The Secretariat shall send the Request to the *Athlete* or other *Person* at the earliest convenience. The Secretariat shall also send a copy of the Request to any other third party identified in the Request.

### **13. ASSIGNMENT OF CASE**

- 13.1. Upon receipt of a Request, the Secretariat shall appoint a Single Judge, unless the *Anti-Doping Organisation's* anti-doping rules specifically provides otherwise or the nature of the charge and complexity of the evidence put forward justify the need for a three-Member Panel, in which case the Secretariat shall appoint a three-Member Panel. The appointment of the Hearing Panel shall take into consideration the nationality of the *Athlete* or other *Person*, the sport involved and the Hearing Panel's availability with a view of ensuring that *Operational Independence* and timely treatment of the *Hearing Process* are respected.
- 13.2. In case of a three-Member Panel, the Secretariat shall name a Chair of the Hearing Panel.
- 13.3. Should the Single Judge or a Member become unavailable during the *Hearing Process* (due to a successful challenge, resignation or other causes), the Secretariat shall appoint a new Single Judge or Member pursuant to this Article.

### **14. IMPARTIALITY**

- 14.1. A Single Judge or a Member of the Hearing Panel shall not be appointed to adjudicate a case if circumstances exist that give rise to a legitimate doubt calling into question his aptitude to ensure a timely, fair and impartial process.
- 14.2. Once appointed to a Hearing Panel, each Member or the Single Judge shall sign a conflict of interest declaration confirming that there are no facts or circumstances known to him which might call into question his impartiality in the eyes of any of the Parties, other than any circumstances disclosed in the declaration. Such declaration(s) shall be communicated to the Parties at the earliest convenience.
- 14.3. Should the circumstances which may affect the Hearing Panel's ability to ensure a timely, fair and impartial hearing arise during the *Hearing Process*, the relevant Hearing Panel Member or Single Judge shall disclose the circumstances to the Parties without delay.

### **15. CHALLENGE**

- 15.1. Any challenge against the Single Judge or a Member of the Hearing Panel shall be raised to the Secretariat within 7 (seven) days after the ground for the challenge has become known or should reasonably have become known to the challenging Party. The challenge shall be substantiated and contain the grounds of the challenge and supporting evidence. The Secretariat shall submit a copy to the other Party.
- 15.2. The Secretariat shall invite the Single Judge or challenged Member to submit written comments on the challenge.
- 15.3. Unless the challenged Single Judge or Member withdraws or the other Party agrees to the challenge, the Chairman of the Secretariat's Panel Appointments and Review

Board shall decide on the challenge in accordance with Secretariat's procedures for the appointment and removal of Members. The decision of the Chairman shall contain a short reasoned decision and shall be issued to the Parties. The decision of the challenge is final and is not subject to any appeal.

## **16. ANSWER**

16.1. Within 14 (fourteen) days of receipt of the Request, the *Athlete* or other *Person* shall answer to the Request by filing a written petition to the Secretariat. The Answer shall contain:

- Any objection to the jurisdiction of the Hearing Panel, if any.
- detailed summary of the relevant facts and legal arguments upon which the defence is based, as well as all supporting evidence, including witness statements and expert reports, the *Athlete* or other *Person* intends on relying to establish his case.
- request for relief, including specific consequences being sought.

16.2. The Secretariat shall send the Answer to the *Anti-Doping Organisation* (or *Delegated Third Party*) at the earliest convenience. The Secretariat shall also send a copy of the Answer to any other third party identified in the Request.

## **17. INTERVENTION OF THE WORLD ANTI-DOPING AGENCY**

17.1. Should the *Athlete* or other *Person* challenge the presumption of scientific validity pertaining to analytical methods or decision limits as set forth in the *World Anti-Doping Code* and/or *Anti-Doping Organisation* anti-doping rules, the *Athlete* or *Person* shall notify the *World Anti-Doping Agency* of the challenge and the basis of the challenge by sending a copy of the Answer.

17.2. In any event, the Secretariat shall also notify the *World Anti-Doping Agency* of any such challenge in a timely manner.

17.3. Within ten (10) days of the *World Anti-Doping Agency's* receipt of the Answer and supporting evidence, the *World Anti-Doping Agency* shall have the right to intervene as a Party and appear as *amicus curiae* or otherwise provide evidence in the *Hearing Process*.

## **18. CLOSING OF THE EVIDENTIARY PHASE BASED ON WRITTEN SUBMISSION**

18.1. Unless otherwise ordered by the Hearing Panel due to exceptional circumstances or agreed by the Parties, the Parties shall not be authorized to supplement or amend their submissions, nor to produce new exhibits or additional evidence after the initial filing (Request or Answer).

18.2. The Hearing Panel may at any time order one or both Parties to complete their submission on a specific issue or to produce additional documents or witness statements.

## **19. COOPERATION AND INFORMATION REQUEST**

- 19.1. Upon its own initiative or reasoned request of a Party, the Hearing Panel may order a Party or other third party to produce evidence if such evidence is deemed material for the adjudication of the dispute.
- 19.2. A Party may request the production of evidence and such information request shall contain the following elements:
  - precise description of the evidence requested and explanation with regard to the relevance of the evidence for the dispute;
  - justification as to why the Party does not have access to the evidence and explanation as to why the evidence is in the other Party's or third party's possession.

## **20. PROCEDURAL GOOD FAITH**

- 20.1. Over the course of the *Hearing Process*, the Parties shall act in good faith and comply with any order from the Hearing Panel.

## **21. RULES OF EVIDENCE**

- 21.1. The Hearing Panel shall determine, in its sole discretion, the admissibility, relevance and weight of the evidence adduced.
- 21.2. The burden, standard and methods of proof applicable to the dispute are set forth in the *Anti-Doping Organisation's* anti-doping rules.
- 21.3. The Hearing Panel may draw adverse inferences in case of unjustified refusal to cooperate, such as non-attendance to the hearing, refusal to answer questions from the Hearing Panel, non-production of submissions or evidence and refusal to comply with an information request.

## **22. HEARING**

- 22.1. After consulting with the Parties, the Hearing Panel may decide that a hearing is not necessary if the Hearing Panel finds that the written submissions are sufficient to adjudicate the matter.
- 22.2. In the event that the Parties agree that a hearing is not to take place, the dispute shall be decided based on written submissions exclusively.

## **23. PROCEEDINGS DURING THE HEARING**

- 23.1. The Hearing Panel shall conduct the hearing bearing in mind the principles of fairness, due process and judicial economy.
- 23.2. The Hearing Panel shall issue a hearing timetable prior to the hearing and the Parties shall be invited to comment and agree to the order.

- 23.3. The *Athlete* or other *Person* being charged with the anti-doping rule violation has the right to request a public hearing. The *Anti-Doping Organisation* may also request a public hearing provided that the other Party consents to the same.
- 23.4. The Hearing Panel may deny the request for a public hearing for the following grounds: in the interest of morals, public order, national security, where the interests of minors or the protection of private life of the Parties prevail, where publicity would prejudice the interests of justice or where the proceedings are exclusively related to questions of law. The Hearing Panel's decision in this regard is final and cannot be appealed.
- 23.5. Hearings may take place via tele-conference or video-conference or alternatively one of the Parties, their witnesses and/or experts may be heard remotely. In-person hearing shall only take place when deemed necessary by the Hearing Panel or otherwise agreed by the Parties. In such case, the Hearing Panel shall determine the most suitable venue for the hearing, considering the circumstances of the case and the convenience of the Parties.
- 23.6. Parties may only call the witnesses and experts identified in their written submissions.
- 23.7. After consulting the Parties, the Hearing Panel may decide not to have the witnesses or experts appear during the hearing if the Hearing Panel finds that such oral testimony would not be relevant.
- 23.8. The Hearing Panel shall invite any witness, expert or interpreter to tell the truth and inform the latter of the consequences applicable under the governing legislation and consequences in terms of the *Anti-Doping Organisation's* anti-doping rules.
- 23.9. Hearings shall be audio recorded. A recording of the hearing may be requested by parties to the Secretariat.
- 23.10. The case file, including the hearing recording, shall only be held by the Secretariat for as long as is necessary.

## **24. DEFAULT**

- 24.1. Failure from the *Athlete* or other *Person* to produce an Answer, attend a hearing, and/or otherwise engage in the process shall not preclude the Hearing Panel from adjudicating the dispute and issuing a Decision.

## **25. APPLICABLE LAW**

- 25.1. The Hearing Panel shall hear the dispute in accordance with the *Anti-Doping Organisation's* anti-doping rules and subsidiarily in accordance with the laws of the State where the seat of the *Anti-Doping Organisation* is located.

## **26. DECISION**

- 26.1. The Hearing Panel shall not be bound by the Parties' characterization of the facts, legal issues or prayers for relief.
- 26.2. The Hearing Panel shall issue a Decision comprising the following elements:

- Jurisdictional basis and applicable law;
- Factual background of the dispute;
- Finding regarding the charge (anti-doping rule violation or Provisional Suspension, amongst others) and related legal analysis;
- Applicable *Consequences*
- Appeal routes, when applicable

26.3. Depending on the circumstances or otherwise agreed by the Parties, the Hearing Panel may decide to first issue the operative part of the Decision and then the full reasoned decision at a later stage.

## **27. WITHDRAWAL OF A REQUEST**

27.1. The Parties may agree to resolve a dispute via an agreement on *Consequences* or a different mean as provided for in the *Anti-Doping Organisation's* anti-doping rules at any point in time in the course of the *Hearing Process*.

27.2. In such event, the *Anti-Doping Organisation* shall inform the Secretariat that the dispute has been resolved. The dispute shall thus be deemed as withdrawn from the Hearing Panel, if already appointed. The Hearing Panel and/or Secretariat shall issue a short notice according to which the *Hearing Process* is moot and thus closed in light of the agreement between the Parties. The Hearing Panel shall not review the content of the agreement or otherwise issue a consent award.

27.3. The costs incurred by the Secretariat and/or Hearing Panel shall however be charged in accordance with the Article 28 on a pro rata basis, taking into consideration the progress of the *Hearing Process* at the time the dispute was withdrawn.

## **28. COST OF PROCEEDINGS**

28.1. As a matter of principle, the *Athlete* or other *Person* shall not be asked to advance the fees of the Secretariat and the Hearing Panel. The *Anti-Doping Organisation* shall pay the Secretariat and Hearing Panel's fees.

28.2. In any event, the Parties shall bear their own costs incurred in the scope of the *Hearing Process*, including the fees of the legal representative, experts, witness and/or interpreters.

28.3. The *Anti-Doping Organisation* may however ask the *Athlete* or other *Person*, National Federation or other party as provided for in its anti-doping rules to pay the fees incurred by the *Anti-Doping Organisation* in the scope of the Hearing Process (including the Secretariat and Hearing Panel fees) or *Results Management*.

## **29. CONTRIBUTION TO COSTS**

29.1. Upon a Party's justified request, the Hearing Panel may order a Party to contribute to the other Party's costs in the event, amongst others, of vexatious proceedings or due to the conduct of the Party during the *Hearing Process*.

## **30. NOTIFICATION OF THE DECISION**

- 30.1. The Secretariat shall notify the Decision of the Hearing Panel to the Parties and other named third parties.
- 30.2. Unless exceptional circumstances, the Hearing Panel shall issue the Decision no later than three (3) weeks after the hearing or the closing of the evidentiary phase when the dispute is decided based on written submission.
- 30.3. The Secretariat shall also notify the Decision of the Hearing Panel to the parties with a right of appeal as per the *Anti-Doping Organisation's* anti-doping rules.

### **31. PUBLICATION OF THE DECISION**

- 31.1. The *Anti-Doping Organisation* shall be responsible for *Public Disclosure* of the Decision, or at least the operative provisions in accordance with its anti-doping rules.
- 31.2. In the event that the *Anti-Doping Organisation* intends on publicly disclosing the full Decision, the *Anti-Doping Organisation* must first inform the *Athlete* or other *Person* or other Party, if any. Once informed of the *Anti-Doping Organisation's* intent to publish the full Decision, the Parties shall have seven (7) day to ask the Hearing Panel to redact certain parts of the Decision. Such request must include the grounds for redacting the information. After consultation with the Parties, the Hearing Panel shall decide whether the Decision should be redacted or if so, what specific parts.

### **32. ENFORCEABILITY**

- 32.1. The Decision of the Hearing Panel, once notified to the Parties, shall automatically be binding on the Parties and upon every *Signatory* in every sport as provided for in Article 15.1 of the *World Anti-Doping Code*.

### **33. LIABILITY**

- 33.1. Neither the Members or Single Judge of the Hearing Panel, the Secretariat or the *Anti-Doping Organisation* shall be liable for any action or omission in connection with *Hearing Process* conducted under these Rules, unless the actions or omissions are proven to constitute intentional wrongdoings or gross negligence.

### **34. ENTRY INTO FORCE**

- 34.1. These Rules shall apply to all *Hearing Process* initiated before the Hearing Panel as of 1 January 2021.

### **35. INTERPRETATION**

- 35.1. The Hearing Panel shall rule on any procedural matter not provided for in these Rules in a manner that is consistent with these Rules and with the principles set forth in the anti-doping rules of the relevant *Anti-Doping Organization*, the *World Anti-Doping Code* and the *International Standard for Results Management*.