



FÉDÉRATION  
INTERNATIONALE  
DE NATATION

# FINA DOPING CONTROL RULES

*Approved by FINA on 23 November 2020*

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## INTRODUCTION

### Preface

These Anti-Doping Rules are adopted and implemented in accordance with FINA's responsibilities under the *Code*, and in furtherance of FINA's continuing efforts to eradicate doping in the aquatic sports.

These Anti-Doping Rules are sport rules governing the conditions under which sport is played. Aimed at enforcing anti-doping rules in a global and harmonized manner, they are distinct in nature from criminal and civil laws. They are not intended to be subject to or limited by any national requirements and legal standards applicable to criminal or civil proceedings, although they are intended to be applied in a manner which respects the principles of proportionality and human rights. When reviewing the facts and the law of a given case, all courts, arbitral tribunals and other adjudicating bodies should be aware of and respect the distinct nature of these Anti-Doping Rules, which implement the *Code*, and the fact that these rules represent the consensus of a broad spectrum of stakeholders around the world as to what is necessary to protect and ensure fair sport.

As provided in the *Code*, FINA shall be responsible for conducting all aspects of *Doping Control*. Any aspect of *Doping Control* or anti-doping *Education* may be delegated by FINA to a *Delegated Third Party*, however, FINA shall require the *Delegated Third Party* to perform such aspects in compliance with the *Code*, *International Standards*, and these Anti-Doping Rules. FINA shall always remain fully responsible for ensuring that any delegated aspects are performed in compliance with the *Code*.

Terms used in these Anti-Doping Rules that are defined terms from the *Code* are italicized.

Unless otherwise specified, references to Articles are references to Articles of these Anti-Doping Rules.

### Fundamental Rationale for the *Code* and FINA's Anti-Doping Rules

Anti-doping programs are founded on the intrinsic value of sport. This intrinsic value is often referred to as "the spirit of sport": the ethical pursuit of human excellence through the dedicated perfection of each *Athlete's* natural talents.

Anti-doping programs seek to protect the health of *Athletes* and to provide the opportunity for *Athletes* to pursue human excellence without the *Use of Prohibited Substances and Methods*.

Anti-doping programs seek to maintain the integrity of sport in terms of respect for rules, other competitors, fair competition, a level playing field, and the value of clean sport to the world.

The spirit of sport is the celebration of the human spirit, body and mind. It is the essence of Olympism and is reflected in the values we find in and through sport, including:

- Health
- Ethics, fair play and honesty
- *Athletes'* rights as set forth in the *Code*
- Excellence in performance
- Character and *Education*
- Fun and joy
- Teamwork

- Dedication and commitment
- Respect for rules and laws
- Respect for self and other *Participants*
- Courage
- Community and solidarity

The spirit of sport is expressed in how we play true.

Doping is fundamentally contrary to the spirit of sport.

### **Scope of these Anti-Doping Rules**

These Anti-Doping Rules shall apply to:

- (a) FINA, including its board members, directors, officers, specified employees and any *Delegated Third Party* and their employees, who are involved in any aspect of *Doping Control*;
- (b) each of FINA's *Member Federations*, Continental Organisations, regional and other sport organisations consisting of the *Member Federations* including their board members, directors, officers and specified employees, and any *Delegated Third Party* and their employees, who are involved in any aspect of *Doping Control*;
- (c) the following *Athletes*, *Athlete Support Personnel* and other *Persons*:
  - (i) all *Athletes* and *Athlete Support Personnel* who are members of or affiliated to FINA, or any *Member Federation*, or any member or affiliate organisation of any *Member Federation* (including any clubs, teams, associations, or leagues);
  - (ii) all *Athletes* and *Athlete Support Personnel* who participate in such capacity in *Events*, *Competitions* and other activities organized, convened, authorized or recognized by FINA, or any *Member Federation*, or by any member or affiliate organisation of any *Member Federation* (including any clubs, teams, associations, or leagues), wherever held;
  - (iii) all other *Athlete* or *Athlete Support Personnel* or other *Person* who, by virtue of an accreditation, a license or other contractual arrangement, or otherwise, is subject to the authority of FINA, or of any *Member Federation*, or of any member or affiliate organisation of any *Member Federation* (including any clubs, teams, associations, or leagues), for purposes of anti-doping; and
  - (iv) all *Athletes* or other *Persons* who are not regular members of FINA or of one of its *Member Federations* but who want to be eligible to compete in an *International Competition* or who are serving a period of *Ineligibility* as a result of an anti-doping rule violation imposed by a *Signatory*.

Each of the abovementioned *Persons* is deemed, as a condition of his or her participation or involvement in the sport, to have agreed to and be bound by these Anti-Doping Rules, and to have submitted to the authority of FINA to enforce these Anti-Doping Rules, including any *Consequences* for the breach thereof, and to the jurisdiction of the hearing panels specified in DC 8 and DC 13 to hear and determine cases and appeals brought under these Anti-Doping Rules.

Within the overall pool of *Athletes* set out above who are bound by and required to comply with these Anti-Doping Rules, the following *Athletes* shall be considered to be *International-Level*

*Athletes* for purposes of these Anti-Doping Rules, and therefore the specific provisions in these Anti-Doping Rules applicable to *International-Level Athletes* (e.g. *Testing*, *TUEs*, whereabouts information, *Results Management*, and appeals) shall apply to such *Athletes*:

- a) *Athletes* included in the FINA *Registered Testing Pool (RTP)* or in the *FINA Testing Pool (TP)* (if any); or
- b) *Athletes* during their participation in the following *Competitions*; or
  - FINA Swimming World Cups
  - FINA World Championships
  - FINA World Swimming Championships (25m)
  - FINA World Junior Swimming Championships
  - FINA Champions Swim Series
  - FINA Swimming World Cups
  - FINA Diving Grand Prix
  - FINA Diving World Series
  - FINA Diving World Cups
  - FINA World Junior Diving Championships
  - FINA High Diving World Cups
  - FINA Artistic Swimming World Series
  - FINA World Youth Artistic Swimming Championships
  - FINA Artistic Swimming Olympic Games Qualification Tournament
  - FINA World Junior Artistic Swimming Championships
  - FINA Marathon Swim World Series
  - FINA UltraMarathon Swim Series
  - FINA Olympic Marathon Swim Qualifier
  - FINA World Junior Open Water Swimming Championships
  - FINA World Under 16 Water Polo Cups
  - FINA Water Polo World Cups
  - FINA Water Polo World League
  - FINA Water Polo Olympic Games Qualification Tournament
  - FINA Water Polo World Youth Championships
  - FINA Water Polo Challengers Cups
  - FINA Water Polo World Junior Championships
  - FINA World Masters Championships
- c) *Athletes* during their participation in any other *Competition* from the FINA Calendar, excluding the Olympic Games, the Youth Olympic Games and the *Competitions* from the Non-FINA Calendar. The FINA Calendar is available on the FINA website (<http://www.fina.org/calendar>).

All *Member Federations* shall comply with these Anti-Doping Rules. The regulations of *Member Federations* shall indicate that all FINA Rules including these Anti-Doping Rules shall be deemed as incorporated into and shall be directly applicable to and shall be agreed to and followed by *Athletes*, *Athlete Support Personnel*, team leaders, and club and Federation representatives under the jurisdiction of the respective *Member Federations*.

## DC 1 DEFINITION OF DOPING

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in DC 2.1 through DC 2.11 of these Anti-Doping Rules.

## DC 2 ANTI-DOPING RULE VIOLATIONS

The purpose of DC 2 is to specify the circumstances and conduct which constitute anti-doping rule violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules has been violated.

*Athletes* or other *Persons* shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the *Prohibited List*.

The following constitute anti-doping rule violations:

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

**DC 2.1.1** It is the *Athletes'* personal duty to ensure that no *Prohibited Substance* enters their bodies. *Athletes* are responsible for any *Prohibited Substance* or its *Metabolites* or *Markers* found to be present in their *Samples*. Accordingly, it is not necessary that intent, *Fault*, *Negligence* or knowing *Use* on the *Athlete's* part be demonstrated in order to establish an anti-doping rule violation under DC 2.1.

*[Comment to DC 2.1.1: An anti-doping rule violation is committed under this Article without regard to an Athlete's Fault. This rule has been referred to in various CAS decisions as "Strict Liability". An Athlete's Fault is taken into consideration in determining the Consequences of this anti-doping rule violation under DC 10. This principle has consistently been upheld by CAS.]*

**DC 2.1.2** Sufficient proof of an anti-doping rule violation under DC 2.1 is established by any of the following: presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in the *Athlete's A Sample* where the *Athlete* waives analysis of the *B Sample* and the *B Sample* is not analyzed; or, where the *Athlete's B Sample* is analyzed and the analysis of the *Athlete's B Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the *Athlete's A Sample*; or, where the *Athlete's A or B Sample* is split into two (2) parts and the analysis of the confirmation part of the split *Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the first part of the split *Sample* or the *Athlete* waives analysis of the confirmation part of the split *Sample*.

*[Comment to DC 2.1.2: The Anti-Doping Organisation with Results Management responsibility may, at its discretion, choose to have the B Sample analyzed even if the Athlete does not request the analysis of the B Sample.]*

**DC 2.1.3** Excepting those substances for which a *Decision Limit* is specifically identified in the *Prohibited List* or a *Technical Document*, the presence of any reported quantity of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample* shall constitute an anti-doping rule violation.

**DC 2.1.4** As an exception to the general rule of DC 2.1, the *Prohibited List* or *International Standards* or *Technical Documents* may establish special criteria for reporting or the evaluation of certain *Prohibited Substances*.



## **DC 2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method**

*[Comment to DC 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to DC 3.2, unlike the proof required to establish an anti-doping rule violation under DC 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Athlete Biological Passport, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under DC 2.1.]*

*For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organisation provides a satisfactory explanation for the lack of confirmation in the other Sample.]*

**DC 2.2.1** It is the Athletes' personal duty to ensure that no Prohibited Substance enters their bodies and that no Prohibited Method is Used. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.

**DC 2.2.2** The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.

*[Comment to DC 2.2.2: Demonstrating the "Attempted Use" of a Prohibited Substance or a Prohibited Method requires proof of intent on the Athlete's part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the Strict Liability principle established for violations of DC 2.1 and violations of DC 2.2 in respect of Use of a Prohibited Substance or Prohibited Method.]*

*An Athlete's "Use" of a Prohibited Substance constitutes an anti-doping rule violation unless such Substance is not prohibited Out-of-Competition and the Athlete's Use takes place Out-of-Competition. However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of DC 2.1 regardless of when that Substance might have been administered.]*

## **DC 2.3 Evading, Refusing or Failing to Submit to Sample Collection by an Athlete**

Evading Sample collection, or refusing or failing to submit to Sample collection without compelling justification after notification by a duly authorized Person.

*[Comment to DC 2.3: For example, it would be an anti-doping rule violation of "evading Sample collection" if it were established that an Athlete was deliberately avoiding a Doping Control official to evade notification or Testing. A violation of "failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Athlete, while "evading" or "refusing" Sample collection contemplates intentional conduct by the Athlete.]*

## **DC 2.4 Whereabouts Failures by an Athlete**

Any combination of three (3) missed tests and/or filing failures, as defined in the *International Standard for Results Management*, within a twelve (12) month period by an *Athlete* in a *Registered Testing Pool*.

**DC 2.5 *Tampering or Attempted Tampering with any part of Doping Control by an Athlete or Other Person***

**DC 2.6 *Possession of a Prohibited Substance or a Prohibited Method by an Athlete or Athlete Support Person***

**DC 2.6.1** *Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a Therapeutic Use Exemption ("TUE") granted in accordance with DC 4.4 or other acceptable justification.*

**DC 2.6.2** *Possession by an Athlete Support Person In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Support Person Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition in connection with an Athlete, Competition or training, unless the Athlete Support Person establishes that the Possession is consistent with a TUE granted to an Athlete in accordance with DC 4.4 or other acceptable justification.*

*[Comment to DC 2.6.1 and 2.6.2: Acceptable justification would not include, for example, buying or Possessing a Prohibited Substance for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that Person had a physician's prescription, e.g., buying Insulin for a diabetic child.]*

*[Comment to DC 2.6.1 and DC 2.6.2: Acceptable justification may include, for example, (a) an Athlete or a team doctor carrying Prohibited Substances or Prohibited Methods for dealing with acute and emergency situations (e.g., an epinephrine auto-injector), or (b) an Athlete Possessing a Prohibited Substance or Prohibited Method for therapeutic reasons shortly prior to applying for and receiving a determination on a TUE.]*

**DC 2.7 *Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method by an Athlete or Other Person***

**DC 2.8 *Administration or Attempted Administration by an Athlete or Other Person to any Athlete In-Competition of any Prohibited Substance or Prohibited Method, or Administration or Attempted Administration to any Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method that is prohibited Out-of-Competition.***

**DC 2.9 *Complicity or Attempted Complicity by an Athlete or Other Person***

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity or *Attempted* complicity involving an anti-doping rule violation, *Attempted* anti-doping rule violation or violation of DC 10.14.1 by another *Person*.



## **DC 2.10 Prohibited Association by an *Athlete* or Other *Person***

**DC 2.10.1** Association by an *Athlete* or other *Person* subject to the authority of an *Anti-Doping Organisation* in a professional or sport-related capacity with any *Athlete Support Person* who:

**DC 2.10.1.1** If subject to the authority of an *Anti-Doping Organisation*, is serving a period of *Ineligibility*; or

**DC 2.10.1.2** If not subject to the authority of an *Anti-Doping Organisation* and where *Ineligibility* has not been addressed in a *Results Management* process pursuant to the *Code*, has been convicted or found in a criminal, disciplinary or professional proceeding to have engaged in conduct which would have constituted a violation of anti-doping rules if *Code*-compliant rules had been applicable to such *Person*. The disqualifying status of such *Person* shall be in force for the longer of six (6) years from the criminal, professional or disciplinary decision or the duration of the criminal, disciplinary or professional sanction imposed; or

**DC 2.10.1.3** Is serving as a front or intermediary for an individual described in DC 2.10.1.1 or 2.10.1.2.

### **DC 2.10.2**

To establish a violation of DC 2.10, an *Anti-Doping Organisation* must establish that the *Athlete* or other *Person* knew of the *Athlete Support Person*'s disqualifying status.

The burden shall be on the *Athlete* or other *Person* to establish that any association with an *Athlete Support Person* described in DC 2.10.1.1 or 2.10.1.2 is not in a professional or sport-related capacity and/or that such association could not have been reasonably avoided.

*Anti-Doping Organisations* that are aware of *Athlete Support Person* who meet the criteria described in DC 2.10.1.1, 2.10.1.2, or 2.10.1.3 shall submit that information to WADA.

*[Comment to DC 2.10: Athletes and other Persons must not work with coaches, trainers, physicians or other Athlete Support Personnel who are Ineligible on account of an anti-doping rule violation or who have been criminally convicted or professionally disciplined in relation to doping. This also prohibits association with any other Athlete who is acting as a coach or Athlete Support Person while serving a period of Ineligibility. Some examples of the types of association which are prohibited include: obtaining training, strategy, technique, nutrition or medical advice; obtaining therapy, treatment or prescriptions; providing any bodily products for analysis; or allowing the Athlete Support Person to serve as an agent or representative. Prohibited association need not involve any form of compensation.]*

*While DC 2.10 does not require the Anti-Doping Organisation to notify the Athlete or other Person about the Athlete Support Person's disqualifying status, such notice, if provided, would be important evidence to establish that the Athlete or other Person knew about the disqualifying status of the Athlete Support Person.]*

## **DC 2.11 Acts by an *Athlete* or Other *Person* to Discourage or Retaliate Against Reporting to Authorities**

Where such conduct does not otherwise constitute a violation of DC 2.5:

**DC 2.11.1** Any act which threatens or seeks to intimidate another *Person* with the intent of discouraging the *Person* from the good-faith reporting of information that relates to an alleged anti-doping rule violation or alleged non-compliance with the *Code to WADA*, an *Anti-Doping Organisation*, law enforcement, regulatory or professional disciplinary body, hearing body or *Person* conducting an investigation for *WADA* or an *Anti-Doping Organisation*.

**DC 2.11.2** Retaliation against a *Person* who, in good faith, has provided evidence or information that relates to an alleged anti-doping rule violation or alleged non-compliance with the *Code to WADA*, an *Anti-Doping Organisation*, law enforcement, regulatory or professional disciplinary body, hearing body or *Person* conducting an investigation for *WADA* or an *Anti-Doping Organisation*.

For purposes of DC 2.11, retaliation, threatening and intimidation include an act taken against such *Person* either because the act lacks a good faith basis or is a disproportionate response.

*[Comment to DC 2.11.2: This Article is intended to protect Persons who make good faith reports, and does not protect Persons who knowingly make false reports. Retaliation would include, for example, actions that threaten the physical or mental well-being or economic interests of the reporting Persons, their families or associates. Retaliation would not include an Anti-Doping Organisation asserting in good faith an anti-doping rule violation against the reporting Person. For purposes of DC 2.11, a report is not made in good faith where the Person making the report knows the report to be false.]*

## **DC 3 PROOF OF DOPING**

### **DC 3.1 Burdens and Standards of Proof**

FINA shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether FINA has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the *Athlete* or other *Person* alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, except as provided in DC 3.2.2 and DC 3.2.3, the standard of proof shall be by a balance of probability.

*[Comment to DC 3.1: This standard of proof required to be met by FINA is comparable to the standard which is applied in most countries to cases involving professional misconduct.]*

### **DC 3.2 Methods of Establishing Facts and Presumptions**

Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:

*[Comment to DC 3.2: For example, FINA may establish an anti-doping rule violation under DC 2.2 based on the Athlete's admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to DC 2.2, or conclusions drawn from the profile of a series of the Athlete's blood or urine Samples such as data from the Athlete Biological Passport.]*

**DC 3.2.1** Analytical methods or *Decision Limits* approved by WADA after consultation within the relevant scientific community or which have been the subject of peer review are presumed to be scientifically valid. Any *Athlete* or other *Person* seeking to challenge whether the conditions for such presumption have been met or to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge. The initial hearing body, appellate body or CAS on its own initiative may also inform WADA of any such challenge. Within ten (10) days of WADA's receipt of such notice and the case file related to such challenge, WADA shall also have the right to intervene as a party, appear *amicus curiae*, or otherwise provide evidence in such proceeding. In cases before CAS, at WADA's request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge.

*[Comment to DC 3.2.1: For certain Prohibited Substances, WADA may instruct WADA-accredited Laboratories not to report Samples as an Adverse Analytical Finding if the estimated concentration of the Prohibited Substance or its Metabolites or Markers is below a Minimum Reporting Level. WADA's decision in determining that Minimum Reporting Level or in determining which Prohibited Substances should be subject to Minimum Reporting Levels shall not be subject to challenge. Further, the Laboratory's estimated concentration of such Prohibited Substance in a Sample may only be an estimate. In no event shall the possibility that the exact concentration of the Prohibited Substance in the Sample may be below the Minimum Reporting Level constitute a defense to an anti-doping rule violation based on the presence of that Prohibited Substance in the Sample.]*

**DC 3.2.2** WADA-accredited Laboratories, and other Laboratories approved by WADA, are presumed to have conducted *Sample* analysis and custodial procedures in accordance with the *International Standard for Laboratories*. The *Athlete* or other *Person* may rebut this presumption by establishing that a departure from the *International Standard for Laboratories* occurred which could reasonably have caused the *Adverse Analytical Finding*.

If the *Athlete* or other *Person* rebuts the preceding presumption by showing that a departure from the *International Standard for Laboratories* occurred which could reasonably have caused the *Adverse Analytical Finding*, then FINA shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*.

*[Comment to DC 3.2.2: The burden is on the Athlete or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. Thus, once the Athlete or other Person establishes the departure by a balance of probability, the*

*Athlete or other Person's burden on causation is the somewhat lower standard of proof – "could reasonably have caused." If the Athlete or other Person satisfies these standards, the burden shifts to FINA to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]*

**DC 3.2.3** Departures from any other *International Standard* or other anti-doping rule or policy set forth in the Code or these Anti-Doping Rules shall not invalidate analytical results or other evidence of an anti-doping rule violation, and shall not constitute a defense to an anti-doping rule violation provided, however, if the *Athlete* or other *Person* establishes that a departure from one of the specific *International Standard* provisions listed below could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding* or whereabouts failure, then FINA shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding* or the whereabouts failure:

*[Comment to DC 3.2.3: Departures from an International Standard or other rule unrelated to Sample collection or handling, Adverse Passport Finding, or Athlete notification relating to whereabouts failure or B Sample opening – e.g., the International Standard for Education, International Standard for the Protection of Privacy and Personal Information or International Standard for Therapeutic Use Exemptions – may result in compliance proceedings by WADA but are not a defense in an anti-doping rule violation proceeding and are not relevant on the issue of whether the Athlete committed an anti-doping rule violation. Similarly, FINA's violation of the Athletes' Anti-Doping Rights Act shall not constitute a defense to an anti-doping rule violation.]*

(i) a departure from the *International Standard* for Testing and Investigations related to *Sample* collection or *Sample* handling which could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding*, in which case FINA shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*;

(ii) a departure from the *International Standard* for Results Management or *International Standard* for Testing and Investigations related to an *Adverse Passport Finding* which could reasonably have caused an anti-doping rule violation, in which case FINA shall have the burden to establish that such departure did not cause the anti-doping rule violation;

(iii) a departure from the *International Standard* for Results Management related to the requirement to provide notice to the *Athlete* of the B *Sample* opening which could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding*, in which case FINA shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*;

*[Comment to DC 3.2.3.3: FINA would meet its burden to establish that such departure did not cause the Adverse Analytical Finding by showing that, for example, the B Sample opening and analysis were observed by an independent witness and no irregularities were observed.]*

(iv) a departure from the *International Standard* for Results Management related to *Athlete* notification which could reasonably have caused an anti-doping rule

violation based on a whereabouts failure, in which case FINA shall have the burden to establish that such departure did not cause the whereabouts failure.

**DC 3.2.4** The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the *Athlete* or other *Person* to whom the decision pertained of those facts unless the *Athlete* or other *Person* establishes that the decision violated principles of natural justice.

**DC 3.2.5** The hearing panel in a hearing on an anti-doping rule violation may draw an inference adverse to the *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation based on the *Athlete's* or other *Person's* refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as directed by the hearing panel) and to answer questions from the hearing panel or from FINA.

## **DC 4 THE PROHIBITED LIST**

### **DC 4.1 Incorporation of the *Prohibited List***

These Anti-Doping Rules incorporate the *Prohibited List* which is published and revised by WADA as described in Article 4.1 of the *Code*.

Unless provided otherwise in the *Prohibited List* or a revision, the *Prohibited List* and revisions shall go into effect under these Anti-Doping Rules three (3) months after publication by WADA, without requiring any further action by FINA. All *Athletes* and other *Persons* shall be bound by the *Prohibited List*, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all *Athletes* and other *Persons* to familiarize themselves with the most up-to-date version of the *Prohibited List* and all revisions thereto.

FINA shall provide its *Member Federations* with the most recent version of the *Prohibited List*. Each *Member Federation* shall in turn ensure that its members, and the constituents of its members, are also provided with the most recent version of the *Prohibited List*.

*[Comment to DC 4.1: The current Prohibited List is available on WADA's website at <https://www.wada-ama.org>. The Prohibited List will be revised and published on an expedited basis whenever the need arises. However, for the sake of predictability, a new Prohibited List will be published every year whether or not changes have been made.]*

### **DC 4.2 Prohibited Substances and Prohibited Methods Identified on the *Prohibited List***

#### **DC 4.2.1 Prohibited Substances and Prohibited Methods**

The *Prohibited List* shall identify those *Prohibited Substances* and *Prohibited Methods* which are prohibited as doping at all times (both *In-Competition* and *Out-of-Competition*) because of their potential to enhance performance in future *Competitions* or their masking potential, and those substances and methods which are prohibited *In-Competition* only. The *Prohibited List* may be expanded by WADA for a particular sport. *Prohibited Substances* and *Prohibited Methods* may be included in the *Prohibited List*



by general category (e.g., anabolic agents) or by specific reference to a particular substance or method.

*[Comment to DC 4.2.1: Out-of-Competition Use of a Substance which is only prohibited In-Competition is not an anti-doping rule violation unless an Adverse Analytical Finding for the Substance or its Metabolites or Markers is reported for a Sample collected In-Competition.]*

#### **DC 4.2.2 Specified Substances or Specified Methods**

For purposes of the application of DC 10, all *Prohibited Substances* shall be *Specified Substances* except as identified on the *Prohibited List*. No *Prohibited Method* shall be a *Specified Method* unless it is specifically identified as a *Specified Method* on the *Prohibited List*.

*[Comment to DC 4.2.2: The Specified Substances and Methods identified in DC 4.2.2 should not in any way be considered less important or less dangerous than other doping Substances or Methods. Rather, they are simply substances and methods which are more likely to have been consumed or used by an Athlete for a purpose other than the enhancement of sport performance.]*

#### **DC 4.2.3 Substances of Abuse**

For purposes of applying DC 10, *Substances of Abuse* shall include those *Prohibited Substances* which are specifically identified as *Substances of Abuse* on the *Prohibited List* because they are frequently abused in society outside of the context of sport.

#### **DC 4.3 WADA's Determination of the *Prohibited List***

WADA's determination of the *Prohibited Substances* and *Prohibited Methods* that will be included on the *Prohibited List*, the classification of substances into categories on the *Prohibited List*, the classification of a substance as prohibited at all times or *In-Competition* only, the classification of a substance or method as a *Specified Substance*, *Specified Method* or *Substance of Abuse* is final and shall not be subject to any challenge by an *Athlete* or other *Person* including, but not limited to, any challenge based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.

#### **DC 4.4 Therapeutic Use Exemptions ("TUEs")**

**DC 4.4.1** The presence of a *Prohibited Substance* or its *Metabolites* or *Markers*, and/or the *Use* or *Attempted Use*, *Possession* or *Administration* or *Attempted Administration* of a *Prohibited Substance* or a *Prohibited Method* shall not be considered an anti-doping rule violation if it is consistent with the provisions of a *TUE* granted in accordance with the *International Standard for Therapeutic Use Exemptions*.

#### **DC 4.4.2 TUE Applications**

**DC 4.4.2.1** *Athletes* who are not *International-Level Athletes* should apply to their *National Anti-Doping Organisation* for a *TUE*. If the *National Anti-Doping Organisation* denies the application, the *Athlete* may appeal exclusively to the appellate body described in DC 13.2.2.



**DC 4.4.2.2** *Athletes who are International-Level Athletes shall apply to FINA.*

#### **DC 4.4.3 TUE Recognition**

**DC 4.4.3.1** Where the *Athlete* already has a *TUE* granted by his or her *National Anti-Doping Organisation* for the substance or method in question, then that *TUE* is not automatically valid for international-level *Competition*. However, the *Athlete* may apply to FINA to recognize that *TUE*, in accordance with Article 7 of the *International Standard for Therapeutic Use Exemptions*. If that *TUE* meets the criteria set out in the *International Standard for Therapeutic Use Exemptions*, then FINA shall recognize it for purposes of international-level *Competition* as well. If FINA considers that the *TUE* does not meet those criteria and so refuses to recognize it, FINA shall notify the *Athlete* and his or her *National Anti-Doping Organisation* or *Member Federation* as relevant, promptly, with reasons. The *Athlete* and/or the *National Anti-Doping Organisation* shall have twenty-one (21) days from such notification to refer the matter to WADA for review.

If the matter is referred to WADA for review, the *TUE* granted by the *National Anti-Doping Organisation* remains valid for national-level *Competition* and *Out-of-Competition Testing* (but is not valid for international-level *Competition*) pending WADA's decision. If the matter is not referred to WADA for review within the twenty-one (21) day deadline, the *Athlete's National Anti-Doping Organisation* must determine whether the original *TUE* granted by that *National Anti-Doping Organisation* should nevertheless remain valid for national-level *Competition* and *Out-of-Competition Testing* (provided that the *Athlete* ceases to be an *International-Level Athlete* and does not participate in international-level *Competition*). Pending the *National Anti-Doping Organisation's* decision, the *TUE* remains valid for national-level *Competition* and *Out-of-Competition Testing* (but is not valid for international-level *Competition*).

*[Comment to DC 4.4.3: If FINA refuses to recognize a TUE granted by a National Anti-Doping Organisation only because medical records or other information are missing that are needed to demonstrate satisfaction with the criteria in the International Standard for Therapeutic Use Exemptions, the matter should not be referred to WADA. Instead, the file should be completed and re-submitted to FINA.]*

*[Comment to DC 4.4.3.1: Further to Articles 5.7 and 7.1 of the International Standard for Therapeutic Use Exemptions, FINA must publish and keep updated a notice on its website that sets out clearly (1) which Athletes under its authority are required to apply to it for a TUE, (2) which TUE decisions of other Anti-Doping Organisations it will automatically recognize (if any) in lieu of such application and (3) which TUE decisions of other Anti-Doping Organisations will have to be submitted to it for recognition. If an Athlete's TUE falls into a category of automatically recognized TUEs, then the Athlete does not need to apply to FINA for recognition of that TUE]*

**DC 4.4.3.2** If FINA chooses to test an *Athlete* who is not an *International-Level Athlete*, FINA must recognize a *TUE* granted to that *Athlete* by their *National*

*Anti-Doping Organisation* unless the *Athlete* is required to apply for recognition of the *TUE* pursuant to Articles 5.8 and 7.0 of the *International Standard for Therapeutic Use Exemptions*.

#### **DC 4.4.4 TUE Application Process**

**DC 4.4.4.1** If the *Athlete* does not already have a *TUE* granted by their *National Anti-Doping Organisation* for the substance or method in question, the *Athlete* must apply directly to FINA.

**DC 4.4.4.2** An application to FINA for grant or recognition of a *TUE* must be made as soon as possible, save where Articles 4.1 or 4.3 of the *International Standard for Therapeutic Use Exemptions* apply. The application shall be made in accordance with Article 6 of the *International Standard for Therapeutic Use Exemptions* as posted on FINA's website.

**DC 4.4.4.3** FINA shall establish a *Therapeutic Use Exemption Committee* ("TUEC") to consider applications for the grant or recognition of TUEs in accordance with Article 4.4.4.3(a)-(d) below:

- (a) The TUEC shall consist of a minimum of five (5) members with experience in the care and treatment of *Athletes* and sound knowledge of clinical, sports and exercise medicine, including a Chair. Each appointed member shall serve a term of four (4) years.
- (b) Before serving as a member of the TUEC, each member must sign a conflict of interest and confidentiality declaration. The appointed members shall not be employees of FINA.
- (c) When an application to FINA for the grant or recognition of a *TUE* is made, the Chair of the TUEC shall appoint three (3) members (which may include the Chair) to consider the application.
- (d) Before considering a *TUE* application, each member shall disclose to the Chair any circumstances likely to affect their impartiality with respect to the *Athlete* making the application. If a member appointed by the Chair to consider an application is unwilling or unable to assess the *Athlete's* *TUE* application, for any reason, the Chair may appoint a replacement or appoint a new TUEC (e.g., from the pre-established pool of candidates). The Chair cannot serve as a member of the TUEC if there are any circumstances which are likely to affect the impartiality of the *TUE* decision.]

**DC 4.4.4.4** The TUEC shall promptly evaluate and decide upon the application in accordance with the relevant provisions of the *International Standard for Therapeutic Use Exemptions* and usually (i.e., unless exceptional circumstances apply) within no more than twenty-one (21) days of receipt of a complete application. Where the application is made in a reasonable time prior to a *Competition*, the TUEC must use its best endeavors to issue its decision before the start of the *Competition*.

**DC 4.4.4.5** The TUEC decision shall be the final decision of FINA and may be appealed in accordance with DC 4.4.7. The TUEC decision shall be notified in writing to the *Athlete*, and to WADA and other *Anti-Doping Organisations* in accordance with the *International Standard for Therapeutic Use Exemptions*. It shall also promptly be reported into ADAMS.

**DC 4.4.4.6** If FINA denies the *Athlete's* application, it must notify the *Athlete* promptly, with reasons. If FINA grants the *Athlete's* application, it must notify not only the *Athlete* but also their *National Anti-Doping Organisation*. If the *National Anti-Doping Organisation* considers that the TUE granted by FINA does not meet the criteria set out in the *International Standard for Therapeutic Use Exemptions*, it has twenty-one (21) days from such notification to refer the matter to WADA for review in accordance with DC 4.4.7.

If the *National Anti-Doping Organisation* refers the matter to WADA for review, the TUE granted by FINA remains valid for international-level *Competition* and *Out-of-Competition Testing* (but is not valid for national-level *Competition*) pending WADA's decision. If the *National Anti-Doping Organisation* does not refer the matter to WADA for review, the TUE granted by FINA becomes valid for national-level *Competition* as well when the twenty-one (21) day review deadline expires.

*[Comment to DC 4.4.4: The submission of falsified documents to a TUEC or FINA, offering or accepting a bribe to a Person to perform or fail to perform an act, procuring false testimony from any witness, or committing any other fraudulent act or any other similar intentional interference or Attempted interference with any aspect of the TUE process shall result in a charge of Tampering or Attempted Tampering under DC 2.5.]*

*An Athlete should not assume that their application for the grant or recognition of a TUE (or for renewal of a TUE) will be granted. Any Use or Possession or Administration of a Prohibited Substance or Prohibited Method before an application has been granted is entirely at the Athlete's own risk.]*

#### **DC 4.4.5 Retroactive TUE Applications**

If FINA chooses to collect a *Sample* from an *Athlete* who is not an *International-Level Athlete* or a *National-Level Athlete*, and that *Athlete* is *Using a Prohibited Substance* or *Prohibited Method* for therapeutic reasons, FINA must permit that *Athlete* to apply for a retroactive TUE.

#### **DC 4.4.6 Expiration, Withdrawal or Reversal of a TUE**

**DC 4.4.6.1** A TUE granted pursuant to these Anti-Doping Rules: (a) shall expire automatically at the end of any term for which it was granted, without the need for any further notice or other formality; (b) will be withdrawn if the *Athlete* does not promptly comply with any requirements or conditions imposed by the TUEC upon grant of the TUE; (c) may be withdrawn by the TUEC if it is subsequently determined that the criteria for grant of a TUE are not in fact met; or (d) may be reversed on review by WADA or on appeal.

**DC 4.4.6.2** In such event, the *Athlete* shall not be subject to any *Consequences* based on his or her *Use* or *Possession* or *Administration* of the *Prohibited Substance* or *Prohibited Method* in question in accordance with the *TUE* prior to the effective date of expiry, withdrawal or reversal of the *TUE*. The review pursuant to Article 5.1.1.1 of the *International Standard for Results Management* of an *Adverse Analytical Finding* reported shortly after the *TUE* expiry, withdrawal or reversal, shall include consideration of whether such finding is consistent with *Use* of the *Prohibited Substance* or *Prohibited Method* prior to that date, in which event no anti-doping rule violation shall be asserted.

#### **DC 4.4.7 Reviews and Appeals of *TUE* Decisions**

**DC 4.4.7.1** WADA shall review any decision by FINA not to recognize a *TUE* granted by the *National Anti-Doping Organisation* that is referred to WADA by the *Athlete* or the *Athlete's National Anti-Doping Organisation*. In addition, WADA shall review any decision by FINA to grant a *TUE* that is referred to WADA by the *Athlete's National Anti-Doping Organisation*. WADA may review any other *TUE* decisions at any time, whether upon request by those affected or on its own initiative. If the *TUE* decision being reviewed meets the criteria set out in the *International Standard for Therapeutic Use Exemptions*, WADA will not interfere with it. If the *TUE* decision does not meet those criteria, WADA will reverse it.

**DC 4.4.7.2** Any *TUE* decision by FINA that is not reviewed by WADA, or that is reviewed by WADA but is not reversed upon review, may be appealed by the *Athlete* and/or the *Athlete's National Anti-Doping Organisation* exclusively to CAS, in accordance with DC 13.

*[Comment to DC 4.4.7.2: In such cases, the decision being appealed is the FINA's TUE decision, not WADA's decision not to review the TUE decision or (having reviewed it) not to reverse the TUE decision. However, the deadline to appeal the TUE decision does not begin to run until the date that WADA communicates its decision. In any Event, whether the decision has been reviewed by WADA or not, WADA shall be given notice of the appeal so that it may participate if it sees fit.]*

**DC 4.4.7.3** A decision by WADA to reverse a *TUE* decision may be appealed by the *Athlete*, the *National Anti-Doping Organisation* and/or FINA exclusively to CAS, in accordance with DC 13.

**DC 4.4.7.4** A failure to render a decision within a reasonable time on a properly submitted application for grant/recognition of a *TUE* or for review of a *TUE* decision shall be considered a denial of the application thus triggering the applicable rights of review/appeal.

### **DC 5 TESTING AND INVESTIGATIONS**

#### **DC 5.1 Purpose of *Testing* and Investigation**

**DC 5.1.1** *Testing* and investigations may be undertaken for any anti-doping purpose. They shall be conducted in conformity with the provisions of the *International Standard*

for *Testing* and Investigations and any protocols of FINA supplementing that *International Standard*.

**DC 5.1.2** *Testing* shall be undertaken to obtain analytical evidence as to whether the *Athlete* has violated DC 2.1 (Presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample*) or DC 2.2 (*Use* or *Attempted Use* by an *Athlete* of a *Prohibited Substance* or a *Prohibited Method*).

*[Comment to DC 5.1: Where Testing is conducted for anti-doping purposes, the analytical results and data may be used for other legitimate purposes under the Anti-Doping Organisation's rules. See, e.g., Comment to Article 23.2.2 of the Code.]*

## **DC 5.2 Authority to Test**

**DC 5.2.1** Subject to the limitations for *Competition Testing* set out in Article 5.3 of the *Code*, FINA shall have *In-Competition* and *Out-of-Competition Testing* authority over all *Athletes* specified in the Introduction to these Anti-Doping Rules (under the heading "Scope").

**DC 5.2.2** FINA may require any *Athlete* over whom it has *Testing* authority (including any *Athlete* serving a period of *Ineligibility*) to provide a *Sample* at any time and at any place.

*[Comment to DC 5.2.2: FINA may obtain additional authority to conduct Testing by means of bilateral or multilateral agreements with other Signatories. Unless the Athlete has identified a sixty (60) minute Testing window between the hours of 11:00 p.m. and 6:00 a.m., or has otherwise consented to Testing during that period, FINA will not test an Athlete during that period unless it has a serious and specific suspicion that the Athlete may be engaged in doping. A challenge to whether FINA had sufficient suspicion for Testing during this time period shall not be a defense to an anti-doping rule violation based on such test or Attempted test.]*

**DC 5.2.3** WADA shall have *In-Competition* and *Out-of-Competition Testing* authority as set out in Article 20.7.10 of the *Code*.

**DC 5.2.4** If FINA delegates or contracts any part of *Testing* to a *National Anti-Doping Organisation* directly or through a *Member Federation*, that *National Anti-Doping Organisation* may collect additional *Samples* or direct the *Laboratory* to perform additional types of analysis at the *National Anti-Doping Organisation's* expense. If additional *Samples* are collected or additional types of analysis are performed, FINA shall be notified.

## **DC 5.3 Competition Testing**

**DC 5.3.1** Except as otherwise provided below, only a single organisation shall have authority to conduct *Testing* at *Competition Venues* during a *Competition Period*. At *International Competitions* included on the FINA Calendar, as published on the FINA website, excluding the Non-Fina Calendar, the collection of *Samples* shall be initiated and directed by FINA. Any *Testing* during the FINA *Competition Period* outside of the *Competition Venues* shall be coordinated with FINA.



At other *Competitions*, including *National Competitions* and *Competitions* organized by FINA Continental Organisation or a Regional Organisation consisting of *Member Federations*, the *National Anti-Doping Organisation* of the country where the *Competition* is held shall have authority to conduct *Testing*. Notwithstanding the foregoing, FINA may elect to conduct *Testing* during these *Competitions* on *Athletes* under its *Testing* authority participating in such *Competitions*, including at the *Competition Venues*, with the authorization of the *Anti-Doping Organisation* having *Testing* responsibility for the *Competition*.

**DC 5.3.2** If an *Anti-Doping Organisation* which would otherwise have *Testing* authority but is not responsible for initiating and directing *Testing* at a *Competition* desires to conduct *Testing* of *Athletes* at the *Competition Venues* during the *Competition Period*, the *Anti-Doping Organisation* shall first confer with FINA (or any other ruling body of the *Competition*) to obtain permission to conduct and coordinate such *Testing*. If the *Anti-Doping Organisation* is not satisfied with the response from FINA (or any other ruling body of the *Competition*) the *Anti-Doping Organisation* may, in accordance with procedures described in the *International Standard for Testing and Investigations*, ask WADA for permission to conduct *Testing* and to determine how to coordinate such *Testing*. WADA shall not grant approval for such *Testing* before consulting with and informing FINA (or any other ruling body of the *Competition*). WADA's decision shall be final and not subject to appeal. Unless otherwise provided in the authorization to conduct *Testing*, such tests shall be considered *Out-of-Competition* tests. *Results Management* for any such test shall be the responsibility of the *Anti-Doping Organisation* initiating the test unless provided otherwise in the rules of the ruling body of the *Competition*.

*[Comment to DC 5.3.2: Before giving approval to a National Anti-Doping Organisation to initiate and conduct Testing at an International Competition included on the FINA Calendar, as published on the FINA website, excluding the Non-Fina Calendar, WADA shall consult with the international organisation which is the ruling body for the Competition. Before giving approval to an International Federation to initiate and conduct Testing at a National Competition, WADA shall consult with the National Anti-Doping Organisation of the country where the Competition takes place. The Anti-Doping Organisation "initiating and directing Testing" may, if it chooses, enter into agreements with a Delegated Third Party to which it delegates responsibility for Sample collection or other aspects of the Doping Control process.]*

### **DC 5.3.3 World Records and National Records**

**DC 5.3.3.1** Any *Athlete* equaling or breaking a World Record in Swimming, as defined in the FINA Swimming Rules, shall be tested immediately after the race, or at the latest, 24 hours after the race. No World Record shall be recognized unless such test returns a *Negative Finding* based, at a minimum, on the standard *In-Competition* analytical *Testing* menu. When a relay team breaks or equals a World Record, only the four *Athletes* who swam this specific race must be tested.

**DC 5.3.3.2** Should an *Athlete* equal or break a national record in a FINA *Competition* and not otherwise be selected for *Testing*, and the Rules of the *Member Federation* of the *Athlete* are similar to DC 5.3.3.2, the *Member*



*Federation* may request FINA to conduct *Testing* on such *Athlete* upon payment of a fee reasonably determined by FINA.

#### **DC 5.4 Testing Requirements**

**DC 5.4.1** FINA shall conduct test distribution planning and *Testing* as required by the *International Standard* for *Testing* and Investigations.

**DC 5.4.2** Where reasonably feasible, *Testing* shall be coordinated through ADAMS in order to maximize the effectiveness of the combined *Testing* effort and to avoid unnecessary repetitive *Testing*.

#### **DC 5.5 Athlete Whereabouts Information**

**DC 5.5.1** FINA has established a FINA *Registered Testing Pool* of those *Athletes* who are required to provide whereabouts information in the manner specified in the *International Standard* for *Testing* and Investigations and who shall be subject to *Consequences* for DC 2.4 violations as provided in DC 10.3.2. FINA shall coordinate with *National Anti-Doping Organisations* to identify such *Athletes* and to collect their whereabouts information.

**DC 5.5.2** FINA shall make available through ADAMS a list which identifies those *Athletes* included in FINA's *Registered Testing Pool* by name. FINA shall regularly review and update as necessary its criteria for including *Athletes* in its *Registered Testing Pool* and shall periodically (but not less than quarterly) review the list of *Athletes* in its *Registered Testing Pool* to ensure that each listed *Athlete* continues to meet the relevant criteria. *Athletes* shall be notified before they are included in the *Registered Testing Pool* and when they are removed from that pool. The notification shall contain the information set out in the *International Standard* for *Testing* and Investigations.

**DC 5.5.3** Where an *Athlete* is included in FINA's *Registered Testing Pool* and in a national *Registered Testing Pool* by their *National Anti-Doping Organisation*, the *National Anti-Doping Organisation* and FINA shall agree between themselves which of them shall accept that *Athlete's* whereabouts filings; in no case shall an *Athlete* be required to make whereabouts filings to more than one of them.

**DC 5.5.4** In accordance with the *International Standard* for *Testing* and Investigations, it is the responsibility of each *Athlete* in the FINA *Registered Testing Pool* to:

- (a) advise FINA of his or her whereabouts on a quarterly basis; update that information as necessary so that it remains accurate and complete at all times;
- (b) make himself or herself available for *Testing* at such whereabouts.

**DC 5.5.5** For purposes of DC 2.4, an *Athlete's* failure to comply with the requirements of the *International Standard* for *Testing* and Investigations shall be deemed a filing failure or a missed test as defined in Annex B of the *International Standard* for *Results Management*, where the conditions set forth in Annex B are met. Furthermore, if the *Athlete* cannot be found for unannounced *Testing* due to incorrect or insufficient information provided to FINA, the *Member Federation* to which the *Athlete* is affiliated shall be obliged to reimburse the costs of the unsuccessful attempt of *Testing* in accordance with DC 12.4.

**DC 5.5.6** An *Athlete* in FINA's *Registered Testing Pool* shall continue to be subject to the obligation to comply with the whereabouts requirements set in the *International Standard for Testing and Investigations* unless and until:

- (a) the *Athlete* gives written notice to FINA that he or she has retired or
- (b) FINA has informed him or her that he or she is no longer designated for inclusion in FINA's *Registered Testing Pool*.

**DC 5.5.7** Whereabouts information provided by an *Athlete* while in the *Registered Testing Pool* will be accessible through ADAMS to WADA and to other *Anti-Doping Organisations* having authority to test that *Athlete*. Whereabouts information shall be maintained in strict confidence at all times; it shall be used exclusively for purposes of planning, coordinating or conducting *Doping Control*, providing information relevant to the *Athlete Biological Passport* or other analytical results, to support an investigation into a potential anti-doping rule violation, or to support proceedings alleging an anti-doping rule violation; and shall be destroyed after it is no longer relevant for these purposes in accordance with the *International Standard for the Protection of Privacy and Personal Information*.

**DC 5.5.8** In accordance with the *International Standard for Testing and Investigations*, FINA has established a *Testing Pool*, which includes *Athletes* who are subject to less stringent whereabouts requirements than *Athletes* included in FINA's *Registered Testing Pool*.

**DC 5.5.9** FINA shall notify *Athletes* before they are included in the *Testing Pool* and when they are removed. Such notification shall include the whereabouts requirements and the consequences that apply in case of non-compliance, as indicated in DC 5.5.10 and DC 5.5.11.

**DC 5.5.10** *Athletes* included in the *Testing Pool* shall provide FINA with and update the following whereabouts information for each day so that they may be located and subjected to *Testing*:

- (a) Their overnight accommodation address;
- (b) *Competition* schedule;
- (c) Regular training activities;
- (d) A mailing address;
- (e) An email address;

Such whereabouts information shall be filed in ADAMS to enable better *Testing* coordination with other *Anti-Doping Organisations*.

**DC 5.5.11** An *Athlete's* failure to provide whereabouts information on or before the date required by FINA or the *Athlete's* failure to provide accurate whereabouts information or to update it may result in FINA elevating the *Athlete* to FINA's *Registered Testing Pool*.

**DC 5.5.12** FINA may, in accordance with the *International Standard for Testing and Investigations*, request whereabouts information from *Athletes* who are not included within a *Registered Testing Pool* or *Testing Pool*. If it chooses to do so, an *Athlete's*

failure to provide the requested whereabouts information on or before the date required by FINA or the *Athlete's* failure to provide accurate whereabouts information may result in FINA elevating the *Athlete* to FINA's *Registered Testing Pool*.

## **DC 5.6 Retirement and Return to *Competition***

**DC 5.6.1** If an *International-Level Athlete* or *National-Level Athlete* in FINA's *Registered Testing Pool* retires and then wishes to return to active participation in sport, the *Athlete* shall not compete in *International Competitions* or *National Competitions* until the *Athlete* has made himself or herself available for *Testing*, by giving six (6) months prior written notice to FINA and their *National Anti-Doping Organisation*.

WADA, in consultation with FINA and the *Athlete's National Anti-Doping Organisation*, may grant an exemption to the six (6) month written notice rule where the strict application of that rule would be unfair to the *Athlete*. This decision may be appealed under DC 13.

Any competitive results obtained in violation of this Article 5.6.1 shall be *Disqualified* unless the *Athlete* can establish that he or she could not have reasonably known that this was an *International Competition* or a *National Competition*.

**DC 5.6.2** If an *Athlete* retires from sport while subject to a period of *Ineligibility*, the *Athlete* must notify the *Anti-Doping Organisation* that imposed the period of *Ineligibility* in writing of such retirement. If the *Athlete* then wishes to return to active *Competition* in sport, the *Athlete* shall not compete in *International Competitions* or *National Competitions* until the *Athlete* has made himself or herself available for *Testing* by giving six (6) months prior written notice (or notice equivalent to the period of *Ineligibility* remaining as of the date the *Athlete* retired, if that period was longer than six (6) months) to FINA and to their *National Anti-Doping Organisation*.

## **DC 5.7 Independent Observer Program**

FINA and the organizing committees for FINA's *Competitions*, as well as the *Member Federations* and the organizing committees for *National Competitions*, shall authorize and facilitate the *Independent Observer Program* at such *Competitions*.

## **DC 6 ANALYSIS OF SAMPLES**

*Samples* shall be analysed in accordance with the following principles:

### **DC 6.1 Use of Accredited, Approved *Laboratories* and Other *Laboratories***

**DC 6.1.1** For purposes of directly establishing an *Adverse Analytical Finding* under DC 2.1, *Samples* shall be analysed only in WADA-accredited *Laboratories* or *Laboratories* otherwise approved by WADA. The choice of the WADA-accredited or WADA-approved *Laboratory* used for the *Sample* analysis shall be determined exclusively by FINA for *Testing* conducted by FINA.

**DC 6.1.2** As provided in DC 3.2, facts related to anti-doping rule violations may be established by any reliable means. This would include, for example, reliable *Laboratory* or other forensic testing conducted outside of WADA-accredited or approved *Laboratories*.

*[Comment to DC 6.1: Violations of DC 2.1 may be established only by Sample analysis performed by a WADA-accredited Laboratory or another Laboratory approved by WADA. Violations of other rules may be established using analytical results from other Laboratories so long as the results are reliable.]*

## **DC 6.2 Purpose of Analysis of Samples and Data**

*Samples and related analytical data or Doping Control information shall be analyzed to detect Prohibited Substances and Prohibited Methods identified on the Prohibited List and other substances as may be directed by WADA pursuant to the Monitoring Program described in Article 4.5 of the Code; or to assist FINA in profiling relevant parameters in an Athlete's urine, blood or other matrix, including DNA or genomic profiling; or for any other legitimate anti-doping purpose.*

*[Comment to DC 6.2: For example, relevant Doping Control-related information could be used to direct Target Testing or to support an anti-doping rule violation proceeding under DC 2.2 or both.]*

## **DC 6.3 Research on Samples and Data**

*Samples, related analytical data and Doping Control information may be used for anti-doping research purposes, although no Sample may be used for research without the Athlete's written consent. Samples and related analytical data or Doping Control information used for research purposes shall first be processed in such a manner as to prevent Samples and related analytical data or Doping Control information being traced back to a particular Athlete. Any research involving Samples and related analytical data or Doping Control information shall adhere to the principles set out in Article 19 of the Code.*

*[Comment to DC 6.3: As is the case in most medical or scientific contexts, use of Samples and related information for quality assurance, quality improvement, method improvement and development or to establish reference populations is not considered research. Samples and related information used for such permitted non-research purposes must also first be processed in such a manner as to prevent them from being traced back to the particular Athlete, having due regard to the principles set out in Article 19 of the Code, as well as the requirements of the International Standard for Laboratories and International Standard for the Protection of Privacy and Personal Information.]*

## **DC 6.4 Standards for Sample Analysis and Reporting**

*In accordance with Article 6.4 of the Code, Laboratories shall analyze Samples in conformity with the International Standard for Laboratories and Article 4.7 of the International Standard for Testing and Investigations.*

*Laboratories at their own initiative and expense may analyze Samples for Prohibited Substances or Prohibited Methods not included on the standard Sample analysis menu, or as requested by FINA. Results from any such analysis shall be reported to FINA and have the same validity and Consequences as any other analytical result.*

*[Comment to DC 6.4: The objective of this rule is to extend the principle of "intelligent Testing" to the Sample analysis menu so as to most effectively and efficiently detect doping. It is recognized that the resources available to fight doping are limited and that increasing*

*the Sample analysis menu may, in some sports and countries, reduce the number of Samples which can be analyzed.]*

#### **DC 6.5 Further Analysis of Sample Prior to or During Results Management**

There shall be no limitation on the authority of a *Laboratory* to conduct repeat or additional analysis on a *Sample* prior to the time FINA notifies an *Athlete* that the *Sample* is the basis for a DC 2.1 anti-doping rule violation charge. If after such notification FINA wishes to conduct additional analysis on that *Sample*, it may do so with the consent of the *Athlete* or approval from a hearing body.

#### **DC 6.6 Further Analysis of a Sample After it has been Reported as Negative or has Otherwise not Resulted in an Anti-Doping Rule Violation Charge**

After a *Laboratory* has reported a *Sample* as negative, or the *Sample* has not otherwise resulted in an anti-doping rule violation charge, it may be stored and subjected to further analyses for the purpose of DC 6.2 at any time exclusively at the direction of either the *Anti-Doping Organisation* that initiated and directed *Sample* collection or WADA. Any other *Anti-Doping Organisation* with authority to test the *Athlete* that wishes to conduct further analysis on a stored *Sample* may do so with the permission of the *Anti-Doping Organisation* that initiated and directed *Sample* collection or WADA, and shall be responsible for any follow-up *Results Management*. Any *Sample* storage or further analysis initiated by WADA or another *Anti-Doping Organisation* shall be at WADA's or that organisation's expense. Further analysis of *Samples* shall conform with the requirements of the *International Standard for Laboratories*.

#### **DC 6.7 Split of A or B Sample**

Where WADA, an *Anti-Doping Organisation* with *Results Management* authority, and/or a WADA-accredited *Laboratory* (with approval from WADA or the *Anti-Doping Organisation* with *Results Management* authority) wishes to split an A or B *Sample* for the purpose of using the first part of the split *Sample* for an A *Sample* analysis and the second part of the split *Sample* for confirmation, then the procedures set forth in the *International Standard for Laboratories* shall be followed.

#### **DC 6.8 WADA's Right to Take Possession of Samples and Data**

WADA may, in its sole discretion at any time, with or without prior notice, take physical possession of any *Sample* and related analytical data or information in the possession of a *Laboratory* or *Anti-Doping Organisation*. Upon request by WADA, the *Laboratory* or *Anti-Doping Organisation* in possession of the *Sample* or data shall immediately grant access to and enable WADA to take physical possession of the *Sample* or data. If WADA has not provided prior notice to the *Laboratory* or *Anti-Doping Organisation* before taking possession of a *Sample* or data, it shall provide such notice to the *Laboratory* and each *Anti-Doping Organisation* whose *Samples* or data have been taken by WADA within a reasonable time after taking possession. After analysis and any investigation of a seized *Sample* or data, WADA may direct another *Anti-Doping Organisation* with authority to test the *Athlete* to assume *Results Management* responsibility for the *Sample* or data if a potential anti-doping rule violation is discovered.

*[Comment to DC 6.8: Resistance or refusal to WADA taking physical possession of Samples or data could constitute Tampering, Complicity or an act of non-compliance as*



*provided in the International Standard for Code Compliance by Signatories, and could also constitute a violation of the International Standard for Laboratories. Where necessary, the Laboratory and/or the Anti-Doping Organisation shall assist WADA in ensuring that the seized Sample and related data are not delayed in exiting the applicable country.*

*WADA would not, of course, unilaterally take possession of Samples or analytical data without good cause related to a potential anti-doping rule violation, non-compliance by a Signatory or doping activities by another Person. However, the decision as to whether good cause exists is for WADA to make in its discretion and shall not be subject to challenge. In particular, whether there is good cause or not shall not be a defense against an anti-doping rule violation or its Consequences.]*

## **DC 7 RESULTS MANAGEMENT: RESPONSIBILITY, INITIAL REVIEW, NOTICE AND PROVISIONAL SUSPENSIONS**

*Results Management* under these Anti-Doping Rules establishes a process designed to resolve anti-doping rule violation matters in a fair, expeditious and efficient manner.

### **DC 7.1 Responsibility for Conducting Results Management**

**DC 7.1.1** Except as otherwise provided in DC 6.6, 6.8 and Article 7.1 of the *Code*, *Results Management* shall be the responsibility of, and shall be governed by, the rules of the *Anti-Doping Organisation* that initiated and directed *Sample* collection (or, if no *Sample* collection is involved, the *Anti-Doping Organisation* which first provides notice to an *Athlete* or other *Person* of a potential anti-doping rule violation and then diligently pursues that anti-doping rule violation). *Results Management* for *Adverse Passport Findings* or *Atypical Passport Findings* and related review shall be conducted by FINA if the *Athlete's* Biological Passport is under FINA's custody.

**DC 7.1.2** In circumstances where the rules of a *National Anti-Doping Organisation* do not give the *National Anti-Doping Organisation* authority over an *Athlete* or other *Person* who is not a national, resident, license holder, or member of a sport organisation of that country, or the *National Anti-Doping Organisation* declines to exercise such authority, *Results Management* shall be conducted by FINA or by another *Anti-Doping Organisation* who has authority *Athlete* or other *Person*, as directed by FINA.

**DC 7.1.3** In the event the *Major Event Organisation* assumes only limited *Results Management* responsibility relating to a *Sample* initiated and taken during a *Competition* conducted by a *Major Event Organisation*, or an anti-doping rule violation occurring during such *Competition*, the case shall be referred by the *Major Event Organisation* to FINA for completion of *Results Management*.

**DC 7.1.4** *Results Management* in relation to a potential whereabouts failure (a filing failure or a missed test) shall be administered by FINA or the *National Anti-Doping Organisation* with whom the *Athlete* in question files whereabouts information, as provided in the *International Standard for Results Management*. If FINA determines a filing failure or a missed test, it shall submit that information to WADA through ADAMS, where it will be made available to other relevant *Anti-Doping Organisations*.

**DC 7.1.5** Other circumstances in which FINA shall take responsibility for conducting *Results Management* in respect of anti-doping rule violations involving *Athletes* and



other *Persons* under its authority shall be determined by reference to and in accordance with Article 7 of the *Code*.

**DC 7.1.6** WADA may direct FINA to conduct *Results Management* in particular circumstances. If FINA refuses to conduct *Results Management* within a reasonable deadline set by WADA, such refusal shall be considered an act of non-compliance, and WADA may direct another *Anti-Doping Organisation* with authority over the *Athlete* or other *Person*, that is willing to do so, to take *Results Management* responsibility in place of FINA or, if there is no such *Anti-Doping Organisation*, any other *Anti-Doping Organisation* that is willing to do so. In such case, FINA shall reimburse the costs and attorney's fees of conducting *Results Management* to the other *Anti-Doping Organisation* designated by WADA, and a failure to reimburse costs and attorney's fees shall be considered an act of non-compliance.

**DC 7.1.7** FINA reserves the right to exercise jurisdiction over *Results Management*, hearings and sanctioning with respect to any apparent anti-doping rule violation by any member of a *Member Federation* unless the *Code* specifically gives such jurisdiction to another *Signatory*.

## **DC 7.2 Review and Notification Regarding Potential Anti-Doping Rule Violations**

FINA shall carry out the review and notification with respect to any potential anti-doping rule violation in accordance with the *International Standard for Results Management*. FINA may conduct the Initial Review in coordination with the FINA Doping Control Review Board.

## **DC 7.3 Identification of Prior Anti-Doping Rule Violations**

Before giving an *Athlete* or other *Person* notice of a potential anti-doping rule violation as provided above, FINA shall refer to ADAMS and contact WADA and other relevant *Anti-Doping Organisations* to determine whether any prior anti-doping rule violation exists.

## **DC 7.4 Provisional Suspensions**

### **DC 7.4.1 Mandatory Provisional Suspension after an Adverse Analytical Finding or Adverse Passport Finding**

If FINA receives an *Adverse Analytical Finding* or asserts an anti-doping rule violation based on an *Adverse Passport Finding* or *Atypical Passport Finding* for a *Prohibited Substance* or a *Prohibited Method* that is not a *Specified Substance* or a *Specified Method*, FINA shall impose a *Provisional Suspension* on the *Athlete* promptly upon or after notification to the *Athlete*.

In all such cases, the *Athlete* shall be given an opportunity for a *Provisional Hearing* in front of the FINA Doping Panel as per DC 7.4.3 either (at the election of FINA) before imposition of the *Provisional Suspension* or on a timely basis after imposition of the *Provisional Suspension*.

### **DC 7.4.2 Optional Provisional Suspension based on an Adverse Analytical Finding for Specified Substances, Specified Methods, Contaminated Products, or Other Anti-Doping Rule Violations**

FINA may impose a *Provisional Suspension* for anti-doping rule violations not covered by DC 7.4.1 prior to the analysis of the *Athlete's B Sample* or final hearing as described

in DC 8. Provided, however, that such *Provisional Suspension* may not be imposed unless the *Athlete* or other *Person* is given an opportunity for a *Provisional Hearing* in front of the FINA Doping Panel as per DC 7.4.3 either (at the election of FINA) before imposition of the *Provisional Suspension* or on a timely basis after imposition of the *Provisional Suspension*.

An optional *Provisional Suspension* may be lifted at the discretion of FINA at any time prior to FINA's Doping Panel's decision under DC 8, unless provided otherwise in the *International Standard for Results Management*.

#### **DC 7.4.3 *Provisional Hearing or Appeal***

A mandatory *Provisional Suspension* imposed under DC 7.4.1 may be eliminated if the *Athlete* demonstrates to FINA's Doping Panel that:

- (i) the violation is likely to have involved a *Contaminated Product*; or
- (ii) the violation involves a *Substance of Abuse* and the *Athlete* establishes entitlement to a reduced period of *Ineligibility* under DC 10.2.4.1;

A *Provisional Suspension* imposed under DC 7.4.2 may be eliminated if the *Athlete* demonstrates to FINA's Doping Panel that

- (i) the violation is likely to have involved a *Contaminated Product*; or
- (ii) the violation involves a *Substance of Abuse* and the *Athlete* establishes entitlement to a reduced period of *Ineligibility* under DC 10.2.4.1; or
- (iii) the anti-doping rule violation has no reasonable prospect of being upheld, e.g., due to a serious flaw in the case such as FINA has no jurisdiction over the *Athlete* or other *Person*; or
- (iv) there is a strong arguable case that the circumstances are such that no period of *Ineligibility* is likely to be imposed; or
- (v) other facts exist that make it clearly unfair, in all the circumstances of the case, to impose a *Provisional Suspension* prior to determination of the anti-doping rule violation(s). This ground is to be construed narrowly and applied only in truly exceptional circumstances. For example, the fact that the *Provisional Suspension* would prevent the *Athlete* or other *Person* competing or participating in a particular *Competition* shall not qualify as exceptional circumstances for these purposes.

The *Athlete's* request for lifting of his or her *Provisional Suspension* shall be made in writing and shall be brought to the FINA Doping Panel. For the sake of clarity, such process shall be considered a *Provisional Hearing*.

The request shall be examined and the decision taken by one or more members of the FINA Doping Panel.

Unless the FINA Doping Panel orders otherwise, the decision shall be based on written submissions only. No oral hearing shall be organized but such process.

If the *Athlete's* request for lifting the *Provisional Suspension* is denied and not appealed under Article 13.2, or if the denial is confirmed on appeal, a new request for lifting the *Provisional Suspension* may only be presented based on new facts or circumstances

that were not known and could not reasonably have been known to the *Athlete* or other *Person* at the time of the first request.

The Doping Panel's decision not to eliminate a mandatory *Provisional Suspension* on account of the *Athlete's* assertion regarding a *Contaminated Product* shall not be appealable.

#### **DC 7.4.4 Voluntary Acceptance of *Provisional Suspension***

*Athletes* on their own initiative may voluntarily accept a *Provisional Suspension* if done so prior to the later of: (i) the expiration of ten (10) days from the report of the B *Sample* (or waiver of the B *Sample*) or ten (10) days from the notice of any other asserted anti-doping rule violation, or (ii) the date on which the *Athlete* first competes after such report or notice.

Other *Persons* on their own initiative may voluntarily accept a *Provisional Suspension* if done so within ten (10) days from the notice of the asserted anti-doping rule violation.

Upon such voluntary acceptance, the *Provisional Suspension* shall have the full effect and be treated in the same manner as if the *Provisional Suspension* had been imposed under DC 7.4.1 or 7.4.2; provided, however, at any time after voluntarily accepting a *Provisional Suspension*, the *Athlete* or other *Person* may withdraw such acceptance, in which event the *Athlete* or other *Person* shall not receive any credit for time previously served during the *Provisional Suspension*.

**DC 7.4.5** If a *Provisional Suspension* is imposed based on an A *Sample Adverse Analytical Finding* and a subsequent B *Sample* analysis (if requested by the *Athlete* or FINA) does not confirm the A *Sample* analysis, then the *Athlete* shall not be subject to any further *Provisional Suspension* on account of a violation of DC 2.1. In circumstances where the *Athlete* has been removed from a *Competition* based on a violation of DC 2.1 and the subsequent B *Sample* analysis does not confirm the A *Sample* finding, then, if it is still possible for the *Athlete* to be reinserted, without otherwise affecting the *Competition*, the *Athlete* may continue to take part in the *Competition*.

#### **DC 7.5 Results Management Decisions**

*Results Management* decisions or adjudications by FINA must not purport to be limited to a particular geographic area or the FINA's sports and shall address and determine without limitation the following issues: (i) whether an anti-doping rule violation was committed or a *Provisional Suspension* should be imposed, the factual basis for such determination, and the specific Articles that have been violated, and (ii) all *Consequences* flowing from the anti-doping rule violation(s), including applicable *Disqualifications* under DC 9 and DC 10.10, any forfeiture of medals or prizes, any period of *Ineligibility* (and the date it begins to run) and any *Financial Consequences*.

*[Comment to DC 7.5: Results Management decisions include Provisional Suspensions.]*

*Each decision by FINA should address whether an anti-doping rule violation was committed and all Consequences flowing from the violation, including any Disqualifications other than Disqualification under Article 10.1 (which is left to the ruling body for a Competition). Pursuant to DC 15, such decision and its imposition of Consequences shall have automatic*

*effect in every sport in every country. For example, for a determination that an Athlete committed an anti-doping rule violation based on an Adverse Analytical Finding for a Sample taken In-Competition, the Athlete's results obtained in the Event would be Disqualified under Article 9 and all other competitive results obtained by the Athlete from the date the Sample was collected through the duration of the period of Ineligibility are also Disqualified under Article 10.10; if the Adverse Analytical Finding resulted from Testing at a Competition, it would be the Major Event Organization's responsibility to decide whether the Athlete's other individual results in the Event prior to Sample collection are also Disqualified under Article 10.1.]*

## **DC 7.6 Notification of Results Management Decisions**

FINA shall notify *Athletes*, other *Persons*, *Signatories* and *WADA* of *Results Management* decisions as provided in Article 14.2 and in the *International Standard for Results Management*.

## **DC 7.7 Retirement from sport**

If an *Athlete* or other *Person* retires while the FINA's *Results Management* process is underway, FINA retains authority to complete its *Results Management* process. If an *Athlete* or other *Person* retires before any *Results Management* process has begun, and FINA would have had *Results Management* authority over the *Athlete* or other *Person* at the time the *Athlete* or other *Person* committed an anti-doping rule violation, FINA has authority to conduct *Results Management*.

*[Comment to DC 7.7: Conduct by an Athlete or other Person before the Athlete or other Person was subject to the authority of any Anti-Doping Organization would not constitute an anti-doping rule violation but could be a legitimate basis for denying the Athlete or other Person membership in a sports organization.]*

## **DC 8 HEARING**

When FINA sends a notice to an *Athlete* or other *Person* notifying them of a potential anti-doping rule violation, and the *Athlete* or other *Person* does not waive a hearing in accordance with DC 8.1.1, DC 8.1.2, or DC 10.8, then the case shall be referred to the FINA Doping Panel for hearing and adjudication, which shall be conducted in accordance with the principles described in Articles 8 and 9 of the *International Standard for Results Management* and as per Appendix 2 - FINA Doping Panel Procedural Rules.

### **DC 8.1 Waiver of Hearing**

**DC 8.1.1** An *Athlete* or other *Person* against whom an anti-doping violation is asserted may waive a hearing expressly and agree with the *Consequences* proposed by FINA.

**DC 8.1.2** If the *Athlete* or other *Person* against whom an anti-doping rule violation is asserted fails to dispute that assertion within twenty (20) days or the deadline otherwise specified in the notice sent by FINA asserting the violation, then they shall be deemed to have waived a hearing, to have admitted the violation, and to have accepted the proposed *Consequences*.

**DC 8.1.3** In cases where DC 8.1.1 or DC 8.1.2 applies, a hearing before FINA Doping Panel shall not be required. Instead, the document stating out the accepted

*Consequences* shall be considered a decision by FINA, which, with a summary of the reasons for the *Consequences*, will be communicated to the *Anti-Doping Organisations* having a right to appeal under DC 13.2.3 and which may be appealed to CAS. The *Athlete* or other *Person* that is the subject of the accepted *Consequences* and FINA shall have no right to appeal.

FINA may reopen the case if new facts, or facts that were not known to FINA at the time of the agreement, are subsequently brought to its knowledge, the nature of which would have led FINA not to conclude the agreement or to conclude the agreement with different terms. If an appeal is pending before CAS at this point, FINA shall be entitled to raise these new facts or circumstances in the CAS proceedings.

**DC 8.1.4** FINA shall notify the document stating out the accepted *Consequences* to the *Athlete* or other *Person* and to other *Anti-Doping Organisations* with a right to appeal under DC 13.2.3, and shall promptly report it into ADAMS. FINA shall *Publicly Disclose* that document in accordance with DC 14.3.2.

## 8.2 Single Hearing Before CAS

Anti-doping rule violations asserted against *International-Level Athletes*, *National-Level Athletes* or other *Persons* may, with the consent of the *Athlete* or other *Person*, FINA (where it has *Results Management* responsibility in accordance with DC 7) and WADA, be heard in a single hearing directly at CAS.

## DC 9 AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS

An anti-doping rule violation in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the result obtained in that *Event* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.

*[Comment to DC 9: For Team Sports, any awards received by individual players will be Disqualified. However, Disqualification of the Team will be as provided in DC 11. In sports which are not Team Sports but where awards are given to teams, Disqualification or other disciplinary action against the team when one or more team members have committed an anti-doping rule violation shall also be as provided in DC 11.]*

## DC 10 SANCTIONS ON INDIVIDUALS

### DC 10.1 *Disqualification* of Results in the *Competition* during which an Anti-Doping Rule Violation Occurs

**DC 10.1.1** An anti-doping rule violation occurring during or in connection with a *Competition* may, upon the decision of the ruling body of the *Competition*, lead to *Disqualification* of all of the *Athlete's* individual results obtained in that *Competition* with all *Consequences*, including forfeiture of all medals, points and prizes, except as provided in DC 10.1.2.

Factors to be included in considering whether to *Disqualify* other results in a *Competition* might include, for example, the seriousness of the *Athlete's* anti-doping rule violation and whether the *Athlete* tested negative in the other *Events*.

*[Comment to DC 10.1: Whereas DC 9 disqualifies the result in a single Event in which the Athlete tested positive (e.g., the 100-meter backstroke), this rule may lead to*



*Disqualification of all results in all races during the Competition (e.g., the FINA World Championships).]*

**DC 10.1.2** If the *Athlete* establishes that he or she bears *No Fault* or *Negligence* for the violation, the *Athlete's* individual results in the other *Events* shall not be *Disqualified* unless the *Athlete's* results in *Events* other than the *Event* in which the anti-doping rule violation occurred were likely to have been affected by the *Athlete's* anti-doping rule violation.

**DC 10.2 *Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method***

The period of *Ineligibility* imposed for a violation of DC 2.1, 2.2 or 2.6 shall be as follows, subject to potential elimination, reduction or suspension of sanction pursuant to DC 10.5, 10.6 or 10.7:

**DC 10.2.1** The period of *Ineligibility*, subject to DC 10.2.4, shall be four (4) years where:

**DC 10.2.1.1** The anti-doping rule violation does not involve a *Specified Substance* or a *Specified Method*, unless the *Athlete* or other *Person* can establish that the anti-doping rule violation was not intentional.

*[Comment to DC 10.2.1.1: While it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under DC 2.1 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance.]*

**DC 10.2.1.2** The anti-doping rule violation involves a *Specified Substance* or a *Specified Method* and FINA can establish that the anti-doping rule violation was intentional.

**DC 10.2.2** If DC 10.2.1 does not apply, subject to DC 10.2.4.1, the period of *Ineligibility* shall be two (2) years.

**DC 10.2.3** As used in DC 10.2, the term "intentional" is meant to identify those *Athletes* or other *Persons* who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an *Adverse Analytical Finding* for a substance which is only prohibited *In-Competition* shall be rebuttably presumed to be not "intentional" if the substance is a *Specified Substance* and the *Athlete* can establish that the *Prohibited Substance* was *Used Out-of-Competition*. An anti-doping rule violation resulting from an *Adverse Analytical Finding* for a substance which is only prohibited *In-Competition* shall not be considered "intentional" if the substance is not a *Specified Substance* and the *Athlete* can establish that the *Prohibited Substance* was *Used Out-of-Competition* in a context unrelated to sport performance.

*[Comment to DC 10.2.3: DC 10.2.3 provides a special definition of "intentional" which is to be applied solely for purposes of DC 10.2.]*



**DC 10.2.4** Notwithstanding any other provision in DC 10.2, where the anti-doping rule violation involves a *Substance of Abuse*:

**DC 10.2.4.1** 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*.

In addition, the period of *Ineligibility* calculated under DC 10.2.4.1 may be reduced to one (1) month if the *Athlete* or other *Person* satisfactorily completes a *Substance of Abuse* treatment program approved by FINA. The period of *Ineligibility* established in this DC 10.2.4.1 is not subject to any reduction based on any provision in DC 10.6.

*[Comment to DC 10.2.4.1: The determinations as to whether the treatment program is approved and whether the Athlete or other Person has satisfactorily completed the program shall be made in the sole discretion of FINA. This rule is intended to give FINA the leeway to apply their own judgment to identify and approve legitimate and reputable, as opposed to “sham”, treatment programs. It is anticipated, however, that the characteristics of legitimate treatment programs may vary widely and change over time such that it would not be practical for WADA to develop mandatory criteria for acceptable treatment programs.]*

**DC10.2.4.2** If the ingestion, *Use* or *Possession* occurred *In-Competition*, and the *Athlete* can establish that the context of the ingestion, *Use* or *Possession* was unrelated to sport performance, then the ingestion, *Use* or *Possession* shall not be considered intentional for purposes of DC 10.2.1 and shall not provide a basis for a finding of *Aggravating Circumstances* under DC 10.4.

### **DC 10.3 *Ineligibility* for other Anti-Doping Rule Violations**

The period of *Ineligibility* for anti-doping rule violations other than as provided in DC 10.2 shall be as follows, unless DC 10.6 or DC 10.7 are applicable:

**DC 10.3.1** For violations of DC 2.3 or DC 2.5, the *Ineligibility* period shall be four (4) years except (i) in the case of failing to submit to *Sample* collection, if the *Athlete* can establish that the commission of the anti-doping rule violation was not intentional, the period of *Ineligibility* shall be two (2) years; (ii) in all other cases, if the *Athlete* or other *Person* can establish exceptional circumstances that justify a reduction of the period of *Ineligibility*, the period of *Ineligibility* shall be in a range from two (2) years to four (4) years depending on the *Athlete* or other *Person's* degree of *Fault*; or (iii) in a case involving a *Protected Person* or *Recreational Athlete*, the period of *Ineligibility* shall be in a range between a maximum of two (2) years and, at a minimum, a reprimand and no period of *Ineligibility*, depending on the *Protected Person* or *Recreational Athlete's* degree of *Fault*.

**DC 10.3.2** For violations of DC 2.4, the period of *Ineligibility* shall be two (2) years, subject to reduction down to a minimum of one (1) year, depending on the *Athlete's* degree of *Fault*. The flexibility between two (2) years and one (1) year of *Ineligibility* in this rule is not available to *Athletes* where a pattern of last-minute whereabouts

changes or other conduct raises a serious suspicion that the *Athlete* was trying to avoid being available for *Testing*.

**DC 10.3.3** For violations of DC 2.7 or DC 2.8, the period of *Ineligibility* shall be a minimum of four (4) years up to lifetime *Ineligibility*, depending on the seriousness of the violation. A DC 2.7 or DC 2.8 violation involving a *Protected Person* shall be considered a particularly serious violation and, if committed by *Athlete Support Personnel* for violations other than for *Specified Substances*, shall result in lifetime *Ineligibility* for the *Athlete Support Personnel*. In addition, significant violations of DC 2.7 or 2.8 which may also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.

*[Comment to DC 10.3.3: Those who are involved in doping Athletes or covering up doping should be subject to sanctions which are more severe than the Athletes who test positive. Since the authority of sport organisations is generally limited to Ineligibility for accreditation, membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.]*

**DC 10.3.4** For violations of DC 2.9, the period of *Ineligibility* imposed shall be a minimum of two (2) years, up to lifetime *Ineligibility*, depending on the seriousness of the violation.

**DC 10.3.5** For violations of DC 2.10, the period of *Ineligibility* shall be two (2) years, subject to reduction down to a minimum of one (1) year, depending on the *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case.

*[Comment to DC 10.3.5: Where the "other Person" referenced in DC 2.10 is an entity and not an individual, that entity may be disciplined as provided in DC 12.]*

**DC 10.3.6** For violations of DC 2.11, the period of *Ineligibility* shall be a minimum of two (2) years, up to lifetime *Ineligibility*, depending on the seriousness of the violation by the *Athlete* or other *Person*.

*[Comment to DC 10.3.6: Conduct that is found to violate both DC 2.5 (Tampering) and DC 2.11 (Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting to Authorities) shall be sanctioned based on the violation that carries the more severe sanction.]*

#### **DC 10.4 Aggravating Circumstances which may Increase the Period of *Ineligibility***

If FINA establishes in an individual case involving an anti-doping rule violation other than violations under DC 2.7 (*Trafficking* or *Attempted Trafficking*), DC 2.8 (*Administration* or *Attempted Administration*), DC 2.9 (*Complicity* or *Attempted Complicity*) or DC 2.11 (*Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting*) that *Aggravating Circumstances* are present which justify the imposition of a period of *Ineligibility* greater than the standard sanction, then the period of *Ineligibility* otherwise applicable shall be increased by an additional period of *Ineligibility* of up to two (2) years depending on the seriousness of the violation and the nature of the *Aggravating Circumstances*, unless the *Athlete* or other *Person* can establish that he or she did not knowingly commit the anti-doping rule violation.

*[Comment to DC 10.4: Violations under DC 2.7 (Trafficking or Attempted Trafficking), DC 2.8 (Administration or Attempted Administration), DC 2.9 (Complicity or Attempted Complicity) and DC 2.11 (Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting to Authorities) are not included in the application of DC 10.4 because the sanctions for these violations already build in sufficient discretion up to a lifetime ban to allow consideration of any Aggravating Circumstance.]*

#### **DC 10.5 Elimination of the Period of *Ineligibility* where there is *No Fault or Negligence***

If an *Athlete* or other *Person* establishes in an individual case that he or she bears *No Fault or Negligence*, then the otherwise applicable period of *Ineligibility* shall be eliminated.

*[Comment to DC 10.5: DC 10.5 and DC 10.6.2 apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. They will only apply in exceptional circumstances, for example where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, No Fault or Negligence would not apply in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (DC 2.1) and have been warned against the possibility of supplement contamination); (b) the Administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under DC 10.6 based on No Significant Fault or Negligence.]*

#### **DC 10.6 Reduction of the Period of *Ineligibility* based on *No Significant Fault or Negligence***

**DC 10.6.1** Reduction of Sanctions in Particular Circumstances for Violations of DC 2.1, 2.2 or 2.6.

All reductions under DC 10.6.1 are mutually exclusive and not cumulative.

##### **DC 10.6.1.1 Specified Substances or Specified Methods**

Where the anti-doping rule violation involves a *Specified Substance* (other than a *Substance of Abuse*) or *Specified Method*, and the *Athlete* or other *Person* can establish *No Significant Fault or Negligence*, then the period of *Ineligibility* shall be, at a minimum, a reprimand and no period of *Ineligibility*, and at a maximum, two (2) years of *Ineligibility*, depending on the *Athlete's* or other *Person's* degree of *Fault*.

##### **DC 10.6.1.2 Contaminated Products**

In cases where the *Athlete* or other *Person* can establish both *No Significant Fault or Negligence* and that the detected *Prohibited Substance* (other than a *Substance of Abuse*) came from a *Contaminated Product*, then the period of *Ineligibility* shall be, at a minimum, a reprimand and no period of *Ineligibility*, and

at a maximum, two (2) years *Ineligibility*, depending on the *Athlete's* or other *Person's* degree of *Fault*.

*[Comment to DC 10.6.1.2: In order to receive the benefit of this rule, the Athlete or other Person must establish not only that the detected Prohibited Substance came from a Contaminated Product, but must also separately establish No Significant Fault or Negligence. It should be further noted that Athletes are on notice that they take nutritional supplements at their own risk. The sanction reduction based on No Significant Fault or Negligence has rarely been applied in Contaminated Product cases unless the Athlete has exercised a high level of caution before taking the Contaminated Product. In assessing whether the Athlete can establish the source of the Prohibited Substance, it would, for example, be significant for purposes of establishing whether the Athlete actually Used the Contaminated Product, whether the Athlete had declared the product which was subsequently determined to be contaminated on the Doping Control form.]*

*This rule should not be extended beyond products that have gone through some process of manufacturing. Where an Adverse Analytical Finding results from environment contamination of a "non-product" such as tap water or lake water in circumstances where no reasonable person would expect any risk of an anti-doping rule violation, typically there would be No Fault or Negligence under DC 10.5.]*

#### **DC 10.6.1.3 Protected Persons or Recreational Athletes**

Where the anti-doping rule violation not involving a *Substance of Abuse* is committed by a *Protected Person* or *Recreational Athlete*, and the *Protected Person* or *Recreational Athlete* can establish *No Significant Fault or Negligence*, then the period of *Ineligibility* shall be, 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*.

#### **DC 10.6.2 Application of No Significant Fault or Negligence beyond the Application of DC 10.6.1**

If an *Athlete* or other *Person* establishes in an individual case where DC 10.6.1 is not applicable that he or she bears *No Significant Fault or Negligence*, then, subject to further reduction or elimination as provided in DC 10.7, the otherwise applicable period of *Ineligibility* may be reduced based on the *Athlete* or other *Person's* degree of *Fault*, but the reduced period of *Ineligibility* may not be less than one-half of the period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this rule may be no less than eight (8) years.

*[Comment to DC 10.6.2: DC 10.6.2 may be applied to any anti-doping rule violation except those rules where intent is an element of the anti-doping rule violation (e.g., DC 2.5, 2.7, 2.8, 2.9 or 2.11) or an element of a particular sanction (e.g., DC 10.2.1) or a range of Ineligibility is already provided in a rule based on the Athlete or other Person's degree of Fault.]*



## **DC 10.7 Elimination, Reduction, or Suspension of Period of *Ineligibility* or other *Consequences* for Reasons Other than *Fault***

### **DC 10.7.1 *Substantial Assistance* in Discovering or Establishing *Code* Violations**

*[Comment to DC 10.7.1: The cooperation of Athletes, Athlete Support Personnel and other Persons who acknowledge their mistakes and are willing to bring other anti-doping rule violations to light is important to clean sport.]*

**DC 10.7.1.1** FINA may, prior to an appellate decision under DC 13 or the expiration of the time to appeal, suspend a part of the *Consequences* (other than *Disqualification* and mandatory *Public Disclosure*) imposed in an individual case where the *Athlete* or other *Person* has provided *Substantial Assistance* to an *Anti-Doping Organisation*, a criminal authority or professional disciplinary body which results in:

- (a) the *Anti-Doping Organisation* discovering or bringing forward an anti-doping rule violation by another *Person*, or
- (b) which results in a criminal or disciplinary body discovering or bringing forward a criminal offence or the breach of professional rules committed by another *Person* and the information provided by the *Person* providing *Substantial Assistance* is made available to FINA or other *Anti-Doping Organisation* with *Results Management* responsibility; or
- (c) which results in WADA initiating a proceeding against a *Signatory*, WADA-accredited *Laboratory*, or *Athlete* passport management unit (as defined in the *International Standard for Laboratories*) for non-compliance with the *Code*, *International Standard* or *Technical Document*; or
- (d) with the approval by WADA, which results in a criminal or disciplinary body bringing forward a criminal offense or the breach of professional or sport rules arising out of a sport integrity violation other than doping.

After an appellate decision under DC 13 or the expiration of time to appeal, FINA may only suspend a part of the otherwise applicable *Consequences* with the approval of WADA.

The extent to which the otherwise applicable period of *Ineligibility* may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the *Athlete* or other *Person* and the significance of the *Substantial Assistance* provided by the *Athlete* or other *Person* to the effort to eliminate doping in sport, non-compliance with the *Code* and/or sport integrity violations. No more than three-quarters of the otherwise applicable period of *Ineligibility* may be suspended. If the otherwise applicable period of *Ineligibility* is a lifetime, the non-suspended period under this section must be no less than eight (8) years. For purposes of this paragraph, the otherwise applicable period of *Ineligibility* shall not include any period of *Ineligibility* that could be added under DC 10.9.3.2 of these Anti-Doping Rules.

If so requested by an *Athlete* or other *Person* who seeks to provide *Substantial Assistance*, FINA shall allow the *Athlete* or other *Person* to provide the information to it subject to a *Without Prejudice Agreement*.



If the *Athlete* or other *Person* fails to continue to cooperate and to provide the complete and credible *Substantial Assistance* upon which a suspension of the *Consequences* was based, FINA shall reinstate the original *Consequences*. If FINA decides to reinstate suspended *Consequences* or decides not to reinstate suspended *Consequences*, that decision may be appealed by any *Person* entitled to appeal under DC 13.

**DC 10.7.1.2** To further encourage *Athletes* and other *Persons* to provide *Substantial Assistance* to *Anti-Doping Organisations*, at the request of FINA or at the request of the *Athlete* or other *Person* who has, or has been asserted to have, committed an anti-doping rule violation, or other violation of the *Code*, WADA may agree at any stage of the *Results Management* process, including after a final appellate decision under DC 13, to what it considers to be an appropriate suspension of the otherwise applicable period of *Ineligibility* and other *Consequences*. In exceptional circumstances, WADA may agree to suspensions of the period of *Ineligibility* and other *Consequences* for *Substantial Assistance* greater than those otherwise provided in this rule, or even no period of *Ineligibility*, no mandatory *Public Disclosure* and/or no return of prize money or payment of fines or costs. WADA's approval shall be subject to reinstatement of *Consequences*, as otherwise provided in this rule. Notwithstanding DC 13, WADA's decisions in the context of this rule DC 10.7.1.2 may not be appealed.

**DC 10.7.1.3** If FINA suspends any part of an otherwise applicable sanction because of *Substantial Assistance*, then notice providing justification for the decision shall be provided to the other *Anti-Doping Organisations* with a right to appeal under DC 13.2.3 as provided in DC 14.2. In unique circumstances where WADA determines that it would be in the best interest of anti-doping, WADA may authorize FINA to enter into appropriate confidentiality agreements limiting or delaying the disclosure of the *Substantial Assistance* agreement or the nature of *Substantial Assistance* being provided.

#### **DC 10.7.2 Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence.**

Where an *Athlete* or other *Person* voluntarily admits the commission of an anti-doping rule violation before having received notice of a *Sample* collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than DC 2.1, before receiving first notice of the admitted violation pursuant to DC 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of *Ineligibility* may be reduced, but not below one-half of the period of *Ineligibility* otherwise applicable.

*[Comment to DC 10.7.2: This rule is intended to apply when an Athlete or other Person comes forward and admits to an anti-doping rule violation in circumstances where no Anti-Doping Organisation is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Athlete or other Person believes he or she is about to be caught. The amount by which Ineligibility is reduced should be based on the likelihood that the Athlete or other Person would have been caught had he or she not come forward voluntarily.]*

### **DC 10.7.3 Application of Multiple Grounds for Reduction of a Sanction**

Where an *Athlete* or other *Person* establishes entitlement to reduction in sanction under more than one provision of DC 10.5, 10.6 or 10.7, before applying any reduction or suspension under DC 10.7, the otherwise applicable period of *Ineligibility* shall be determined in accordance with DC 10.2, 10.3, 10.5 and 10.6. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under DC 10.7, then the period of *Ineligibility* may be reduced or suspended, but not below one-fourth of the otherwise applicable period of *Ineligibility*.

### **DC 10.8 Results Management Agreements**

*[Comment to DC 10.8: Any mitigating or aggravating factors set forth in this DC 10 shall be considered in arriving at the Consequences set forth in the case resolution agreement, and shall not be applicable beyond the terms of that agreement.]*

#### **DC 10.8.1 One (1) Year Reduction for Certain Anti-Doping Rule Violations Based on Early Admission and Acceptance of Sanction**

Where an *Athlete* or other *Person*, after being notified by FINA of a potential anti-doping rule violation that carries an asserted period of *Ineligibility* of four (4) or more years (including any period of *Ineligibility* asserted under DC 10.4), admits the violation and accepts the asserted period of *Ineligibility* no later than twenty (20) days after receiving notice of an anti-doping rule violation charge, the *Athlete* or other *Person* may receive a one (1) year reduction in the period of *Ineligibility* asserted by FINA. Where the *Athlete* or other *Person* receives the one (1) year reduction in the asserted period of *Ineligibility* under this DC 10.8.1, no further reduction in the asserted period of *Ineligibility* shall be allowed under any other Article.

*[Comment to DC 10.8.1: For example, if FINA alleges that an Athlete has violated DC 2.1 for Use of an anabolic steroid and asserts the applicable period of Ineligibility is four (4) years, then the Athlete may unilaterally reduce the period of Ineligibility to three (3) years by admitting the violation and accepting the three (3) year period of Ineligibility within the time specified in this Article, with no further reduction allowed. This resolves the case without any need for a hearing.]*

#### **DC 10.8.2 Case Resolution Agreement**

Where the *Athlete* or other *Person* admits an anti-doping rule violation after being confronted with the anti-doping rule violation by FINA and agrees to *Consequences* acceptable to FINA and WADA, at their sole discretion, then: (a) the *Athlete* or other *Person* may receive a reduction in the period of *Ineligibility* based on an assessment by FINA and WADA of the application of rules DC 10.1 through 10.7 to the asserted anti-doping rule violation, the seriousness of the violation, the *Athlete* or other *Person*'s degree of *Fault* and how promptly the *Athlete* or other *Person* admitted the violation; and (b) the period of *Ineligibility* may start as early as the date of *Sample* collection or the date on which another anti-doping rule violation last occurred. In each case, however, where this rule is applied, the *Athlete* or other *Person* shall serve at least one-half of the agreed-upon period of *Ineligibility* going forward from the earlier of the date the *Athlete* or other *Person* accepted the imposition of a sanction or a *Provisional Suspension* which was subsequently respected by the *Athlete* or other *Person*. The decision by WADA and FINA to enter or not enter into a case resolution agreement,

and the amount of the reduction to, and the starting date of, the period of *Ineligibility* are not matters for determination or review by a hearing body and are not subject to appeal under DC 13.

If so requested by an *Athlete* or other *Person* who seeks to enter into a case resolution agreement under this rule, FINA shall allow the *Athlete* or other *Person* to discuss an admission of the anti-doping rule violation with it subject to a *Without Prejudice Agreement*.

## DC 10.9 Multiple Violations

### DC 10.9.1 Second or Third Anti-Doping Rule Violation

**DC 10.9.1.1** For an *Athlete* or other *Person's* second anti-doping rule violation, the period of *Ineligibility* shall be the greater of:

- (a) a six (6) month period of *Ineligibility*; or
- (b) A period of *Ineligibility* in the range between:
  - (i) the sum of the period of *Ineligibility* imposed for the first anti-doping rule violation plus the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, and
  - (ii) twice the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation.

The period of *Ineligibility* within this range shall be determined based on the entirety of the circumstances and the *Athlete* or other *Person's* degree of *Fault* with respect to the second violation.

**DC 10.9.1.2** A third anti-doping rule violation will always result in a lifetime period of *Ineligibility*, except if the third violation fulfills the condition for elimination or reduction of the period of *Ineligibility* under DC 10.5 or DC 10.6 or involves a violation of DC 2.4. In these particular cases, the period of *Ineligibility* shall be from eight (8) years to lifetime *Ineligibility*.

**DC 10.9.1.3** The period of *Ineligibility* established in DC 10.9.1.1 and 10.9.1.2 may then be further reduced by the application of DC 10.7.

**DC 10.9.2** An anti-doping rule violation for which an *Athlete* or other *Person* has established *No Fault or Negligence* shall not be considered a violation for purposes of this Rule DC 10.9. In addition, an anti-doping rule violation sanctioned under DC 10.2.4.1 shall not be considered a violation for purposes of DC 10.9.

### DC 10.9.3 Additional Rules for Certain Potential Multiple Violations.

**DC 10.9.3.1** For purposes of imposing sanctions under DC 10.9, except as provided in DC 10.9.3.2 and DC 10.9.3.3, an anti-doping rule violation will only be considered a second violation if FINA can establish that the *Athlete* or other *Person* committed the additional anti-doping rule violation after the *Athlete* or other *Person* received notice pursuant to DC 7, or after FINA made reasonable efforts to give notice of the first anti-doping rule violation. If FINA cannot

establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction, including the application of *Aggravating Circumstances*. Results in all *Competitions* dating back to the earlier anti-doping rule violation will be *Disqualified* as provided in DC 10.10.

*[Comment to DC 10.9.3.1: The same rule applies where, after the imposition of a sanction, FINA discovers facts involving an anti-doping rule violation that occurred prior to notification for a first anti-doping rule violation – e.g., FINA shall impose a sanction based on the sanction that could have been imposed if the two (2) violations had been adjudicated at the same time, including the application of Aggravating Circumstances.]*

**DC 10.9.3.2** If FINA establishes that an *Athlete* or other *Person* committed an additional anti-doping rule violation prior to notification, and that the additional violation occurred twelve (12) months or more before or after the first-noticed violation, then the period of *Ineligibility* for the additional violation shall be calculated as if the additional violation were a stand-alone first violation and this period of *Ineligibility* is served consecutively, rather than concurrently, with the period of *Ineligibility* imposed for the earlier-noticed violation. Where this DC 10.9.3.2 applies, the violations taken together shall constitute a single violation for purposes of DC 10.9.1.

**DC 10.9.3.3** If FINA establishes that an *Athlete* or other *Person* committed a violation of DC 2.5 in connection with the *Doping Control* process for an underlying asserted anti-doping rule violation, the violation of DC 2.5 shall be treated as a stand-alone first violation and the period of *Ineligibility* for such violation shall be served consecutively, rather than concurrently, with the period of *Ineligibility*, if any, imposed for the underlying anti-doping rule violation. Where this DC 10.9.3.3 is applied, the violations taken together shall constitute a single violation for purposes of DC 10.9.1.

**DC 10.9.3.4** If FINA establishes that an *Athlete* or other *Person* has committed a second or third anti-doping rule violation during a period of *Ineligibility*, the periods of *Ineligibility* for the multiple violations shall run consecutively, rather than concurrently.

#### **DC 10.9.4 Multiple Anti-Doping Rule Violations During Ten (10) Year Period.**

For purposes of DC 10.9, each anti-doping rule violation must take place within the same ten (10) year period in order to be considered multiple violations.

#### **DC 10.10 Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation**

In addition to the automatic *Disqualification* of the results in the *Event* which produced the positive *Sample* under DC 9, all other competitive results of the *Athlete* obtained from the date a positive *Sample* was collected (whether *In-Competition* or *Out-of-Competition*), or other anti-doping rule violation occurred, through the commencement of any *Provisional Suspension* or *Ineligibility* period, shall, unless fairness requires otherwise, be *Disqualified* with all of the resulting *Consequences* including forfeiture of any medals, points and prizes.

*[Comment to DC 10.10: Nothing in these Anti-Doping Rules precludes clean Athletes or other Persons who have been damaged by the actions of a Person who has committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such Person.]*

#### **DC 10.11 Forfeited Prize Money**

If FINA recovers prize money forfeited as a result of an anti-doping rule violation, it shall take reasonable measures to allocate and distribute this prize money to the *Athletes* who would have been entitled to it had the forfeiting *Athlete* not competed.

*[Comment to DC 10.11: This rule is not intended to impose an affirmative duty on FINA to take any action to collect forfeited prize money. If FINA elects not to take any action to collect forfeited prize money, it may assign its right to recover such money to the Athlete(s) who should have otherwise received the money. "Reasonable measures to allocate and distribute this prize money" could include using collected forfeited prize money as agreed upon by FINA and its Athletes.]*

#### **DC 10.12 Financial Consequences**

**DC 10.12.1** Where an *Athlete* or other *Person* commits an anti-doping rule violation, FINA may, in its discretion and subject to the principle of proportionality, elect to (a) impose upon the *Athlete* or other *Person* recovery costs associated with the anti-doping rule violation and which have not been recovered from the *Athlete's Member Federation* as per DC 12.4, regardless of the period of *Ineligibility* imposed and/or (b) fine the *Athlete* or other *Person* in an amount up to ten thousand American dollars (USD 10,000), only in cases where the maximum period of *Ineligibility* otherwise applicable has already been imposed.

For determination of the Fine, the following shall be taken into account:

1. The seriousness of the offence;
2. Nature of anti-doping rule violation and circumstances giving rise to it;
3. Timing of the commission of the anti-doping rule violation;
4. The *Athlete* or other *Person's* financial situation;
5. The *Athlete* or other *Person's* Cooperation during the proceedings and/or *Substantial Assistance* as per DC 10.6.1.

**DC 10.12.2** The imposition of a financial sanction or the FINA's recovery of costs shall not be considered a basis for reducing the *Ineligibility* or other sanction which would otherwise be applicable under these Anti-Doping Rules or the *Code*.

#### **DC 10.13 Commencement of *Ineligibility* Period**

Where an *Athlete* is already serving a period of *Ineligibility* for an anti-doping rule violation, any new period of *Ineligibility* shall commence on the first day after the current period of *Ineligibility* has been served. Otherwise, except as provided below, the period of *Ineligibility* shall start on the date of the final hearing decision providing for *Ineligibility* or, if the hearing is waived or there is no hearing, on the date *Ineligibility* is accepted or otherwise imposed.

**DC 10.13.1** Delays not attributable to the *Athlete* or other *Person*.



Where there have been substantial delays in the hearing process or other aspects of *Doping Control*, and the *Athlete* or other *Person* can establish that such delays are not attributable to the *Athlete* or other *Person*, the body imposing the sanction may start the period of *Ineligibility* at an earlier date commencing as early as the date of *Sample* collection or the date on which another anti-doping rule violation last occurred. All competitive results achieved during the period of *Ineligibility*, including retroactive *Ineligibility*, shall be *Disqualified*.

*[Comment to DC 10.13.1: In cases of anti-doping rule violations other than under DC 2.1, the time required for an Anti-Doping Organisation to discover and develop facts sufficient to establish an anti-doping rule violation may be lengthy, particularly where the Athlete or other Person has taken affirmative action to avoid detection. In these circumstances, the flexibility provided in this rule to start the sanction at an earlier date should not be used.]*

#### **DC 10.13.2 Credit for *Provisional Suspension* or Period of *Ineligibility* Served**

**DC 10.13.2.1** If a *Provisional Suspension* is respected by the *Athlete* or the other *Person*, then the *Athlete* or other *Person* shall receive a credit for such period of *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed. If the *Athlete* or other *Person* does not respect a *Provisional Suspension*, then the *Athlete* or other *Person* shall receive no credit for any period of *Provisional Suspension* served. If a period of *Ineligibility* is served pursuant to a decision that is subsequently appealed, then the *Athlete* or other *Person* shall receive a credit for such period of *Ineligibility* served against any period of *Ineligibility* which may ultimately be imposed on appeal.

**DC 10.13.2.2** If an *Athlete* or other *Person* voluntarily accepts a *Provisional Suspension* in writing from FINA and thereafter respects the *Provisional Suspension*, the *Athlete* or other *Person* shall receive a credit for such period of voluntary *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed. A copy of the *Athlete* or other *Person*'s voluntary acceptance of a *Provisional Suspension* shall be provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation under DC 14.1.

*[Comment to DC 10.13.2.2: An Athlete's voluntary acceptance of a Provisional Suspension is not an admission by the Athlete and shall not be used in any way as to draw an adverse inference against the Athlete.]*

**DC 10.13.2.3** No credit against a period of *Ineligibility* shall be given for any time period before the effective date of the *Provisional Suspension* or voluntary *Provisional Suspension* regardless of whether the *Athlete* elected not to compete or was suspended by his or her team.

**DC 10.13.2.4** In *Team Sports*, where a period of *Ineligibility* is imposed upon a team, unless fairness requires otherwise, the period of *Ineligibility* shall start on the date of the final hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed. Any period of team *Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* to be served.

## **DC 10.14 Status during *Ineligibility* or *Provisional Suspension***

### **DC 10.14.1** Prohibition Against Participation During *Ineligibility* or *Provisional Suspension*

No *Athlete* or other *Person* who has been declared *Ineligible* or is subject to a *Provisional Suspension* may, during the period of *Ineligibility* or *Provisional Suspension*, participate in any capacity in a *Competition* or activity (other than authorized anti-doping *Education* or rehabilitation programs) authorized or organized by FINA, any FINA *Member Federation*, or a club or other member organisation of a FINA *Member Federation*, or any *Signatory*, *Signatory's* member organization, or a club or other member organization of a *Signatory's* member organization or in *Competitions* authorized or organized by any professional league or any international or national-level *Competition* organisation or any elite or national-level sporting activity funded by a governmental agency.

An *Athlete* or other *Person* subject to a period of *Ineligibility* longer than four (4) years may, after completing four (4) years of the period of *Ineligibility*, participate as an *Athlete* in local sport *Competitions* not sanctioned or otherwise under the authority of a *Code Signatory* or member of a *Code Signatory*, but only so long as the local sport *Competition* is not at a level that could otherwise qualify such *Athlete* or other *Person* directly or indirectly to compete in (or accumulate points toward) a national championship or *International Competition*, and does not involve the *Athlete* or other *Person* working in any capacity with *Protected Persons*.

An *Athlete* or other *Person* subject to a period of *Ineligibility* shall remain subject to these anti-doping rules, and in particular to *Testing* and any requirement by FINA to provide whereabouts information.

[Comment to DC 10.14.1: For example, subject to DC 10.14.2 below, an *Ineligible Athlete* cannot participate in a training camp, exhibition or practice organized by his or her *Member Federation* or a club which is a member of that *Member Federation* or which is funded by a governmental agency. Further, an *Ineligible Athlete* may not compete in a non-*Signatory* professional league, *Competitions* organized by a non-*Signatory* *International Competition* organisation or a non-*Signatory* national-level competition organisation without triggering the Consequences set forth in DC 10.14.3. The term “activity” also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organisation described in this rule. *Ineligibility* imposed in one sport shall also be recognized by other sports (see DC 15.1, Automatic Binding Effect of Decisions). An *Athlete* or other *Person* serving a period of *Ineligibility* is prohibited from coaching or serving as an *Athlete Support Person* in any other capacity at any time during the period of *Ineligibility*, and doing so could also result in a violation of DC 2.10 by another *Athlete*. Any performance standard accomplished during a period of *Ineligibility* shall not be recognized by FINA or its *Member Federations* for any purpose.]

### **DC 10.14.2** Return for Training

As an exception to DC 10.14.1, an *Athlete* may return to train with a team or to use the facilities of a club or other member organisation of FINA's *Member Federation* or other *Signatory's* member organisation during the shorter of: (a) the last two months of the

*Athlete's period of Ineligibility, or (b) the last one-quarter of the period of Ineligibility imposed.*

*[Comment to DC 10.14.2: During the training period described in this rule, an Ineligible Athlete may not compete or engage in any activity described in rule DC 10.14.1 other than training.]*

#### **DC 10.14.3** Violation of the Prohibition of Participation During *Ineligibility* or *Provisional Suspension*

Where an *Athlete* or other *Person* who has been declared *Ineligible* violates the prohibition against participation during *Ineligibility* described in DC 10.14.1, the results of such participation shall be *Disqualified* and a new period of *Ineligibility* equal in length to the original period of *Ineligibility* shall be added to the end of the original period of *Ineligibility*. The new period of *Ineligibility*, including a reprimand and no period of *Ineligibility*, may be adjusted based on the *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case. The determination of whether an *Athlete* or other *Person* has violated the prohibition against participation, and whether an adjustment is appropriate, shall be made by the *Anti-Doping Organisation* whose *Results Management* led to the imposition of the initial period of *Ineligibility*. If this determination must be made by FINA, the decision shall be rendered by the FINA Doping Panel. This decision may be appealed under DC 13.

An *Athlete* or other *Person* who violates the prohibition against participation during a *Provisional Suspension* described in DC 10.14.1 shall receive no credit for any period of *Provisional Suspension* served and the results of such participation shall be *Disqualified*.

Where an *Athlete Support Person* or other *Person* assists a *Person* in violating the prohibition against participation during *Ineligibility* or *Provisional Suspension*, it shall constitute a violation of DC 2.9 and FINA shall impose the necessary sanction.

#### **DC 10.14.4** Withholding of Financial Support during *Ineligibility*.

In addition, for any anti-doping rule violation not involving a reduced sanction as described in DC 10.5 or DC 10.6, FINA and its *Member Federations* shall withhold all sport-related financial support or other sport-related benefits received by such *Person* during *Ineligibility*.

#### **DC 10.15** Automatic Publication of Sanction

A mandatory part of each sanction shall include automatic publication, as provided in DC 14.3.

### **DC 11 CONSEQUENCES TO TEAMS**

**DC 11.1** Where more than one (1) member of a team in a *Team Sport* has been notified of an anti-doping rule violation under DC 7 in connection with a *Competition*, the ruling body for the *Competition* shall conduct appropriate *Target Testing* of the team during the *Competition Period*, with the costs for such *Target Testing* to be paid by the team's *Member Federation*.

**DC 11.2** Where any anti-doping rule violation has been committed in relation to an *Event* by a member of a relay in swimming, or team in open water swimming, or a duet or team in

artistic swimming or diving, the relay, duet or team shall be *Disqualified* from the *Event* in connection with the anti-doping rule violation, with all resulting *Consequences* including forfeiture of any medals, points and prizes.

**DC 11.3** A water polo team, in which more than one player has committed an anti-doping rule violation in connection with a *Competition*, shall be *Disqualified* for the match(es) in the *Competition* in which those players took part, and the other team(s) shall be declared winner(s) with the score 5 - 0 unless the actual goal score was greater. Further sanction in regard to the team may be decided by FINA or the ruling body of the *Competition* in question.

## **DC 12 SANCTIONS AGAINST MEMBER FEDERATIONS AND OTHER ORGANISATIONS**

**DC 12.1** When FINA becomes aware that a *Member Federation*, Continental Organisation, regional or any other sporting organisation consisting of FINA's *Member Federations* over which FINA has authority has failed to comply with, implement, uphold, and enforce these Anti-Doping Rules within that organisation's or body's area of competence, the FINA Bureau has the authority and may exclude all, or some group of, members of that organisation or body from specified future *Competitions* or all *Competitions* conducted within a specified period of time.

**DC 12.2.** If that organisation or body has failed to make diligent efforts to keep FINA informed about an *Athlete's* whereabouts after receiving a request for that information from FINA, it may be fined by the FINA Bureau in an amount up to one-thousand American dollars (USD 1,000) per *Athlete*, in addition to reimbursement of all of the FINA costs incurred in *Testing* that *Member Federation's Athlete*.

**DC 12.3** The FINA shall withhold some or all funding or other non-financial support to a *Member Federation* upon a determination from the FINA Bureau that the *Member Federation* is not substantially in compliance with these Anti-Doping Rules.

**DC 12.4** *Member Federations* shall be obliged to reimburse FINA for all costs (including but not limited to *Laboratory* fees, interpretation and hearing expenses and travel) related to an anti-doping rule violation, Missed Test or Filing Failure committed by an *Athlete* or a *Person* affiliated with that *Member Federation*.

## **DC 13 APPEALS**

*[Comment to DC 13: The object of the Code is to have anti-doping matters resolved through fair and transparent internal processes with a final appeal. Anti-doping decisions by Anti-Doping Organisations are made transparent in the Code Article 14 and DC 14. Specified Persons and organisations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested Persons and organisations with a right to appeal under DC 13 does not include Athletes, or their federations, who might benefit from having another competitor Disqualified.]*

### **DC 13.1 Decisions Subject to Appeal**

Decisions made under the *Code* or these Anti-Doping Rules may be appealed as set forth below in DC 13.2 through 13.7 or as otherwise provided in these Anti-Doping Rules, the *Code* or the *International Standards*. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise.

#### **DC 13.1.1 Scope of Review Not Limited**

The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker. Any party to the appeal may submit evidence, legal arguments and claims that were not raised in the first instance hearing so long as they arise from the same cause of action or same general facts or circumstances raised or addressed in the first instance hearing.

*[Comment to DC 13.1.1: The revised language is not intended to make a substantive change to the 2015 Code, but rather for clarification. For example, where an Athlete was charged in the first instance hearing only with Tampering but the same conduct could also constitute Complicity, an appealing party could pursue both Tampering and Complicity charges against the Athlete in the appeal.]*

#### **DC 13.1.2 CAS Shall Not Defer to the Finding Being Appealed**

In making its decision, CAS shall not give deference to the discretion exercised by the body whose decision is being appealed.

*[Comment to DC 13.1.2: CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.]*

#### **DC 13.1.3 WADA Not Required to Exhaust Internal Remedies**

Where WADA has a right to appeal under DC 13 and no other party has appealed a final decision within FINA's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in FINA's process, if any.

#### **DC 13.1.4 FINA not required to exhaust internal remedies**

Where FINA has a right to appeal under DC 13 and no other party has appealed a final decision within the *Anti-Doping Organisation's* process, FINA may appeal such decision directly to CAS without having to exhaust other remedies in the *Anti-Doping Organisation's* process.

### **DC 13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, Provisional Suspensions, Implementation of Decisions and Authority**

A decision that an anti-doping rule violation was committed, a decision imposing *Consequences* or not imposing *Consequences* for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision by WADA not to grant an exception to the six (6) months' notice requirement for a retired *Athlete* to return to competition under DC 5.6.1 ; a decision by WADA assigning *Results Management* under Article 7.1 of the *Code*; a decision by FINA not to bring forward an *Adverse Analytical Finding* or an *Atypical Finding* as an anti-doping rule violation, or a decision not to go forward with an anti-doping rule violation after an investigation in accordance with the *International Standard for Results Management*; a decision to impose, or lift, a *Provisional Suspension* as a result of a *Provisional Hearing*; FINA's failure to comply with DC 7.4 ; a decision that FINA lacks authority to rule on an



alleged anti-doping rule violation or its *Consequences*; a decision to suspend, or not suspend, *Consequences* or to reinstate or not reinstate, *Consequences* under DC10.7.1; failure to comply with Articles 7.1.4 and 7.1.5 of the *Code*; failure to comply with DC 10.8.1; a decision under DC 10.14.3 ; and a decision by FINA not to implement another *Anti-Doping Organisation's* decision under DC 15; and a decision under Article 27.3 of the *Code* may be appealed exclusively as provided in this DC 13.2 .

#### **DC 13.2.1 Appeals Involving *International-Level Athletes* or *International Competitions***

In cases arising from participation in an *International Competition* or in cases involving *International-Level Athletes*, the decision may be appealed exclusively to CAS.

*[Comment to DC 13.2.1: CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.]*

#### **DC 13.2.2 Appeals Involving Other *Athletes* or Other *Persons***

In cases where DC 13.2.1 is not applicable but the decision was rendered by the FINA Doping Panel or the FINA Bureau or the FINA Executive, the decision may be appealed exclusively to CAS.

In all other cases, the decision may be appealed to an appellate body, in accordance with rules adopted by the National Anti-Doping Organization having authority over the *Athlete* or other *Person*.

The rules for such appeal shall respect the following principles: a timely hearing; a fair, impartial, Operationally Independent and Institutionally Independent hearing panel; the right to be represented by counsel at the *Person's* own expense; and a timely, written, reasoned decision.

If no such body as described above is in place and available at the time of the appeal, the decision may be appealed to CAS in accordance with the applicable procedural rules.

#### **DC 13.2.3 Persons Entitled to Appeal**

##### **DC 13.2.3.1 Appeals Involving *International-Level Athletes* or *International Competitions***

In cases under DC 13.2.1, the following parties shall have the right to appeal to CAS: (a) the *Athlete* or other *Person* who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) FINA ; (d) the *National Anti-Doping Organisation* of the *Person's* country of residence or countries where the *Person* is a national or license holder; (e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and (f) WADA.

##### **DC 13.2.3.2 Appeals Involving Other *Athletes* or Other *Persons***

In cases under DC 13.2.2, and without prejudice to WADA's and FINA's right to appeal directly to the CAS in accordance with DC 13.1.3 and DC 13.1.4, the

parties having the right to appeal to the national-level appeal body shall be as provided in the *National Anti-Doping Organisation's* or other national rules but, at a minimum, shall include the following parties: (a) the *Athlete* or other *Person* who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) FINA; (d) the *National Anti-Doping Organisation* of the *Person's* country of residence or countries where the *Person* is a national or license holder; (e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games including decisions affecting eligibility for the Olympic Games or Paralympic Games; and (f) WADA.

For cases under DC 13.2.2, WADA, the International Olympic Committee, the International Paralympic Committee, and FINA shall also have the right to appeal to CAS with respect to the decision of the appellate body.

Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the *Anti-Doping Organisation* whose decision is being appealed and the information shall be provided if CAS so directs.

#### **DC 13.2.3.3 Duty to Notify**

All parties to any CAS appeal must ensure that WADA and all other parties with a right to appeal have been given timely notice of the appeal.

#### **DC 13.2.3.4 Appeal from Imposition of *Provisional Suspension***

Notwithstanding any other provision herein, the only *Person* who may appeal from the imposition of a *Provisional Suspension* is the *Athlete* or other *Person* upon whom the *Provisional Suspension* is imposed.

#### **DC 13.2.3.5 Appeal from Decisions under DC 12**

Decisions by FINA pursuant to DC 12 may be appealed exclusively to CAS by the concerned *Member Federation*, Continental Organisation, or other sporting organisation consisting of FINA's *Member Federations*.

#### **DC 13.2.4 Cross Appeals and other Subsequent Appeals Allowed**

Cross appeals and other subsequent appeals by any respondent named in cases brought to CAS under the *Code* are specifically permitted. Any party with a right to appeal under this DC 13 must file a cross appeal or subsequent appeal at the latest with the party's answer.

*[Comment to DC 13.2.4: This provision is necessary because since 2011, CAS rules no longer permit an Athlete the right to cross appeal when an Anti-Doping Organisation appeals a decision after the Athlete's time for appeal has expired. This provision permits a full hearing for all parties.]*

#### **DC 13.3 Failure to Render a Timely Decision**

Where, in a particular case, FINA fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if FINA had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines that an anti-doping rule violation was committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorney fees in prosecuting the appeal shall be reimbursed to WADA by FINA.

*[Comment to DC 13.3: Given the different circumstances of each anti-doping rule violation investigation and Results Management process, it is not feasible to establish a fixed time period for an Anti-Doping Organisation to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the Anti-Doping Organisation and give the Anti-Doping Organisation an opportunity to explain why it has not yet rendered a decision.]*

#### **DC 13.4 Appeals Relating to TUEs**

TUE decisions may be appealed exclusively as provided in DC 4.4 above.

#### **DC 13.5 Notification of Appeal Decisions**

Any *Anti-Doping Organisation* that is a party to an appeal shall promptly provide the appeal decision to the *Athlete* or other *Person* and to the other *Anti-Doping Organisations* that would have been entitled to appeal under DC 13.2.3 as provided under DC 14.2.

#### **DC 13.6 Time for Filing Appeals**

*[Comment to DC 13.6: Whether governed by CAS rules or these Anti-Doping Rules, a party's deadline to appeal does not begin running until receipt of the decision. For that reason, there can be no expiration of a party's right to appeal if the party has not received the decision.]*

##### **DC 13.6.1 Appeals to CAS**

The deadline to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party. The above notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings that led to a decision being appealed:

- a) Within a deadline of fifteen (15) days from receipt of the decision, the party/ies entitled to appeal can request a copy of the complete case file from the *Anti-Doping Organization* that had *Results Management* authority, including the reasons for the decision and, if the proceedings took place in another language, a translation in one of FINA's official languages (English or French) of the decision and of the motivation, as well as of any document which is necessary to understand the content of the decision.
- b) If such a request is made within the fifteen (15) day period, then the party making such request shall have twenty-one (21) days from the receipt of the full file, including translations, to file an appeal to CAS.

The above notwithstanding, the filing deadline for an appeal by FINA shall be the later of:

- a) Twenty-one (21) days after the last day on which any other party having a right to appeal (except *WADA*) could have appealed before *CAS*; or
- b) Twenty-one (21) days after FINA's receipt of the complete file relating to the decision.

The above notwithstanding, the filing deadline for an appeal filed by *WADA* shall be the later of:

- a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed, or
- b) Twenty-one (21) days after *WADA*'s receipt of the complete file relating to the decision.

#### **DC 13.6.2 Appeals Under DC 13.2.2**

The time to file an appeal to an independent and impartial body in accordance with rules established by the *Anti-Doping Organisation* shall be indicated by the same rules of the *Anti-Doping Organisation*.

The above notwithstanding, the filing deadline for an appeal by FINA shall be the later of:

- a) Twenty-one (21) days after the last day on which any other party having a right to appeal (except *WADA*) could have appealed before a national reviewing body; or
- b) Twenty-one (21) days after FINA's receipt of the complete file relating to the decision.

The above notwithstanding, the filing deadline for an appeal filed by *WADA* shall be the later of:

- a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed, or
- b) Twenty-one (21) days after *WADA*'s receipt of the complete file relating to the decision.

### **DC 14 CONFIDENTIALITY AND REPORTING**

#### **DC 14.1 Information Concerning *Adverse Analytical Findings*, *Atypical Findings*, and Other Asserted Anti-Doping Rule Violations**

##### **DC 14.1.1 Notice of Anti-Doping Rule Violations to *Athletes* and other *Persons***

Notice to *Athletes* or other *Persons* of anti-doping rule violations asserted against them shall occur as provided under DC 7 and DC 14. FINA's notice to an *Athlete* or other *Person* who is a member of a *Member Federation* may be accomplished by delivery of the notice to the *Member Federation*.

If at any point during *Results Management* up until the anti-doping rule violation charge, FINA decides not to move forward with a matter, it must notify the

*Athlete* or other *Person*, (provided that the *Athlete* or other *Person* had been already informed of the ongoing *Results Management*).

**DC 14.1.2** Notice of Anti-Doping Rule Violations to *National Anti-Doping Organisations*, FINA and WADA

Notice of the assertion of an anti-doping rule violation to the *Athlete's* or other *Person's National Anti-Doping Organisation* and WADA shall occur as provided under DC 7 and DC 14, simultaneously with the notice to the *Athlete* or other *Person*.

If at any point during *Results Management* up until the anti-doping rule violation charge, FINA decides not to move forward with a matter, it must give notice (with reasons) to the *Anti-Doping Organisations* with a right of appeal under DC 13.2.3.

**DC 14.1.3** Content of an Anti-Doping Rule Violation Notice

Notification of an anti-doping rule violation by the *Anti-Doping Organisation* with the *Results Management* responsibility shall include: the *Athlete's* or other *Person's* name, country, sport and discipline within the sport, the *Athlete's* competitive level, whether the test was *In-Competition* or *Out-of-Competition*, the date of *Sample* collection, the analytical result reported by the *Laboratory*, and other information as required by the *International Standard for Results Management*.

Notification of anti-doping rule violations other than under DC 2.1 shall also include the rule violated and the basis of the asserted violation.

**DC 14.1.4** Status Reports

Except with respect to investigations which have not resulted in a notice of an anti-doping rule violation pursuant to Article 14.1.1, FINA, the *Athlete's* or other *Person's National Anti-Doping Organization* and WADA shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to Article 7, 8 or 13 and shall be provided with a prompt written reasoned explanation or decision explaining the resolution of the matter.

**DC 14.1.5** Confidentiality

The recipient organizations shall not disclose this information beyond those Persons with a need to know (which would include the appropriate personnel at the applicable *National Olympic Committee* and *Member Federation*) until FINA has made Public Disclosure as permitted by Article 14.3.

**DC 14.1.6** Protection of Confidential Information by an Employee or Agent of FINA or a *Member Federation*

FINA and its *Member Federations* shall ensure that information concerning *Adverse Analytical Findings*, *Atypical Findings*, and other asserted anti-doping rule violations remains confidential until such information is *Publicly Disclosed* in accordance with DC 14.3. FINA and its *Member Federations* shall ensure that its employees (whether permanent or otherwise), contractors, agents,



consultants, and any *Delegated Third Party* are subject to fully enforceable contractual duty of confidentiality and to fully enforceable procedures for the investigation and disciplining of improper and/or unauthorized disclosure of such confidential information.

## **DC 14.2 Notice of Anti-Doping Rule Violation Decisions or violations of *Ineligibility* or *Provisional Suspension* Decisions and Request for Files**

**DC 14.2.1** Anti-doping rule violation decisions or decisions related to violations of *Ineligibility* or *Provisional Suspension* rendered pursuant to DC 7.6, DC 8.1, DC 10.5, DC 10.6, DC 10.7, DC 10.14.3 or DC 13.5 shall include the full reasons for the decision, including, if applicable, a justification for why the maximum potential sanction was not imposed. Where the decision is not in English or French, FINA shall provide a short English or French summary of the decision and the supporting reasons.

**DC 14.2.2** An *Anti-Doping Organisation* having a right to appeal a decision received pursuant to DC 14.2.1 or Article 14.2.1 of the *Code* may, within fifteen (15) days of receipt, request a copy of the complete case file pertaining to the decision.

## **DC 14.3 Public Disclosure**

**DC 14.3.1** After notice has been provided to the *Athlete* or other *Person* in accordance with the *International Standard for Results Management*, and to the applicable *Anti-Doping Organisations* in accordance with DC 14.1.2, the identity of any *Athlete* or other *Person* who is notified of a potential anti-doping rule violation, the *Prohibited Substance* or *Prohibited Method* and the nature of the violation involved, and whether the *Athlete* or other *Person* is subject to a *Provisional Suspension* may be *Publicly Disclosed* by FINA. FINA may also comment publicly on the matter at this stage.

**DC 14.3.2** No later than twenty (20) days after it has been determined in an appellate decision under DC 13.2.1 or 13.2.2, or such appeal has been waived, or a hearing in accordance with DC 8 has been waived, or the assertion of an anti-doping rule violation has not otherwise been timely challenged, or the matter has been resolved under DC 10.8, or a new period of *Ineligibility*, or reprimand, has been imposed under DC 10.14.3, FINA must *Publicly Disclose* the disposition of the anti-doping matter including the sport, the anti-doping rule violated, the name of the *Athlete* or other *Person* committing the violation, the *Prohibited Substance* or *Prohibited Method* involved (if any) and the *Consequences* imposed. FINA must also *Publicly Disclose* within twenty (20) days the results of appellate decisions concerning anti-doping rule violations, including the information described above.

*[Comment to DC 14.3.2: Where Public Disclosure as required by DC 14.3.2 would result in a breach of other applicable laws, FINA's failure to make the Public Disclosure will not result in a determination of non-compliance with Code as set forth in Article 4.1 of the International Standard for the Protection of Privacy and Personal Information.]*

**DC 14.3.3** After an anti-doping rule violation has been determined to have been committed in an appellate decision under DC 13.2.1 or DC 13.2.2 or such appeal has been waived, or in a hearing in accordance with DC 8 or where such hearing has been waived, or the assertion of an anti-doping rule violation has not otherwise been timely

challenged, or the matter has been resolved under DC 10.8, FINA may make public such determination or decision and may comment publicly on the matter.

**DC 14.3.4** In any case where it is determined, after a hearing or appeal, that the *Athlete* or other *Person* did not commit an anti-doping rule violation, the fact that the decision has been appealed may be *Publicly Disclosed*. However, the decision itself and the underlying facts may not be *Publicly Disclosed* except with the consent of the *Athlete* or other *Person* who is the subject of the decision. FINA shall use reasonable efforts to obtain such consent, and if consent is obtained, FINA shall *Publicly Disclose* the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

**DC 14.3.5** Publication shall be accomplished at a minimum by placing the required information on FINA's website and leaving the information up for the longer of one (1) month or the duration of any period of *Ineligibility*.

**DC 14.3.6** Except as provided in DC 14.3.1 and DC 14.3.3, no *Anti-Doping Organisation*, *Member Federation*, or *WADA*-accredited *Laboratory*, or any official of any such body, shall publicly comment on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to, or based on information provided by, the *Athlete* or other *Person* or their entourage or other representatives.

**DC 14.3.7** The mandatory *Public Disclosure* required in DC 14.3.2 shall not be required where the *Athlete* or other *Person* who has been found to have committed an anti-doping rule violation is a *Minor*, *Protected Person* or *Recreational Athlete*. Any optional *Public Disclosure* in a case involving a *Minor*, *Protected Person* or *Recreational Athlete* shall be proportionate to the facts and circumstances of the case.

#### **DC 14.4 Statistical reporting**

FINA shall, at least annually, publish publicly a general statistical report of its *Doping Control* activities, with a copy provided to *WADA*. FINA may also publish reports showing the name of each *Athlete* tested and the date of each *Testing*.

#### **DC 14.5 Doping Control Information Database and Monitoring of Compliance**

To enable *WADA* to perform its compliance monitoring role and to ensure the effective use of resources and sharing of applicable *Doping Control* information among *Anti-Doping Organisations*, FINA shall report to *WADA* through *ADAMS Doping Control*-related information, including, in particular:

- (a) *Athlete Biological Passport* data for *International-Level Athletes* and *National-Level Athletes*,
- (b) Whereabouts information for *Athletes* including those in *Registered Testing Pools*,
- (c) *TUE* decisions, and
- (d) *Results Management* decisions,

as required under the applicable *International Standard(s)*.

**DC 14.5.1** To facilitate coordinated test distribution planning, avoid unnecessary duplication in *Testing* by various *Anti-Doping Organisations*, and to ensure that *Athlete Biological Passport* profiles are updated, FINA shall report all *In-Competition* and *Out-of-Competition* tests to *WADA* by entering the *Doping Control* forms into *ADAMS* in accordance with the requirements and timelines contained in the *International Standard* for *Testing* and *Investigations*.

**DC 14.5.2** To facilitate *WADA*'s oversight and appeal rights for *TUEs*, FINA shall report all *TUE* applications, decisions and supporting documentation using *ADAMS* in accordance with the requirements and timelines contained in the *International Standard* for *Therapeutic Use Exemptions*.

**DC 14.5.3** To facilitate *WADA*'s oversight and appeal rights for *Results Management*, FINA shall report the following information into *ADAMS* in accordance with the requirements and timelines outlined in the *International Standard* for *Results Management*: (a) notifications of anti-doping rule violations and related decisions for *Adverse Analytical Findings*; (b) notifications and related decisions for other anti-doping rule violations that are not *Adverse Analytical Findings*; (c) whereabouts failures; and (d) any decision imposing, lifting or reinstating a *Provisional Suspension*.

**DC 14.5.4** The information described in this Article will be made accessible, where appropriate and in accordance with the applicable rules, to the *Athlete*, the *Athlete's National Anti-Doping Organisation*, and any other *Anti-Doping Organisations* with *Testing* authority over the *Athlete*.

## **DC 14.6 Data Privacy**

**DC 14.6.1** FINA and any *Delegated Third Party* may collect, store, process or disclose personal information relating to *Athletes* and other *Persons* where necessary and appropriate to conduct their *Anti-Doping Activities* under the *Code*, the *International Standards* (including specifically the *International Standard* for the Protection of Privacy and Personal Information), these *Anti-Doping Rules* and in compliance with applicable law.

**DC 14.6.2** Any *Participant* who submits information including personal data to any *Person* in accordance with these *Anti-Doping Rules* shall be deemed to have agreed, pursuant to applicable data protection laws and otherwise, that such information may be collected, processed, disclosed and used by such *Person* for the purposes of the implementation of these *Anti-Doping Rules*, in accordance with the *International Standard* for the Protection of Privacy and Personal Information and otherwise as required to implement these *Anti-Doping Rules*.

**DC 14.6.3** Without limiting the foregoing, FINA shall:

- (a) Only process personal information in accordance with a valid legal ground;
- (b) Notify any *Participant* or *Person* subject to these *Anti-Doping Rules*, in a manner and form that complies with applicable laws and the *International Standard* for the Protection of Privacy and Personal Information, that their personal information may be processed by FINA and other *Persons* for the purpose of the implementation of these *Anti-Doping Rules*;

- (c) Ensure that any third-party agents (including any *Delegated Third Party*) with whom FINA shares the personal information of any *Participant* or *Person* is subject to appropriate technical and contractual controls to protect the confidentiality and privacy of such information.

## DC 15 IMPLEMENTATION OF DECISIONS

### DC 15.1 Automatic Binding Effect of Decisions by *Signatory Anti-Doping Organisations*

**DC 15.1.1** A decision of an anti-doping rule violation made by a *Signatory Anti-Doping Organisation*, an appellate body (Article 13.2.2 of the *Code*) or CAS shall, after the parties to the proceeding are notified, automatically be binding beyond the parties to the proceeding upon FINA and its *Member Federations*, as well as every *Signatory* in every sport with the effects described below:

**DC 15.1.1.1** A decision by any of the above-described bodies imposing a *Provisional Suspension* (after a *Provisional Hearing* has occurred or the *Athlete* or other *Person* has either accepted the *Provisional Suspension* or has waived the right to a *Provisional Hearing*, expedited hearing or expedited appeal offered in accordance with DC 7.4.3) automatically prohibits the *Athlete* or other *Person* from participation (as described in DC 10.14.1) in all sports within the authority of any *Signatory* during the *Provisional Suspension*.

**DC 15.1.1.2** A decision by any of the above-described bodies imposing a period of *Ineligibility* (after a hearing has occurred or been waived) automatically prohibits the *Athlete* or other *Person* from participation (as described in DC 10.14.1) in all sports within the authority of any *Signatory* for the period of *Ineligibility*.

**DC 15.1.1.3** A decision by any of the above-described bodies accepting an anti-doping rule violation automatically binds all *Signatories*.

**DC 15.1.1.4** A decision by any of the above-described bodies to *Disqualify* results under DC 10.10 for a specified period automatically *Disqualifies* all results obtained within the authority of any *Signatory* during the specified period.

**15.1.2** FINA and its *Member Federations* shall recognize and implement a decision and its effects as required by DC 15.1.1, without any further action required, on the earlier of the date FINA receives actual notice of the decision or the date the decision is placed into ADAMS.

**15.1.3** A decision by an *Anti-Doping Organisation*, a national appellate body or CAS to suspend, or lift, *Consequences* shall be binding upon FINA

and its *Member Federations* without any further action required, on the earlier of the date FINA receives actual notice of the decision or the date the decision is placed into ADAMS.

- 15.1.4** Notwithstanding any provision in DC 15.1.1, however, a decision of an anti-doping rule violation by a *Major Event Organisation* made in an expedited process during a *Competition* shall not be binding on FINA or its *Member Federations* unless the rules of the *Major Event Organisation* provide the *Athlete* or other *Person* with an opportunity to an appeal under non-expedited procedures.

*[Comment to DC 15.1.4: By way of example, where the rules of the Major Event Organisation give the Athlete or other Person the option of choosing an expedited CAS appeal or a CAS appeal under normal CAS procedure, the final decision or adjudication by the Major Event Organisation is binding on other Signatories regardless of whether the Athlete or other Person chooses the expedited appeal option.]*

## **15.2 Implementation of Other Decisions by Anti-Doping Organisations**

FINA and its *Member Federations* may decide to implement other anti-doping decisions rendered by *Anti-Doping Organisations* not described in DC 15.1.1 above, such as a *Provisional Suspension* prior to a *Provisional Hearing* or acceptance by the *Athlete* or other *Person*.

*[Comment to DC 15.1 and 15.2: Anti-Doping Organisation decisions under DC 15.1 are implemented automatically by other Signatories without the requirement of any decision or further action on the Signatories' part. For example, when a National Anti-Doping Organisation decides to Provisionally Suspend an Athlete, that decision is given automatic effect at the International Federation level. To be clear, the "decision" is the one made by the National Anti-Doping Organisation, there is not a separate decision to be made by the International Federation. Thus, any claim by the Athlete that the Provisional Suspension was improperly imposed can only be asserted against the National Anti-Doping Organisation. Implementation of Anti-Doping Organisations' decisions under DC 15.2 is subject to each Signatory's discretion. A Signatory's implementation of a decision under DC 15.1 or DC 15.2 is not appealable separately from any appeal of the underlying decision. The extent of recognition of TUE decisions of other Anti-Doping Organisations shall be determined by DC 4.4 and the International Standard for Therapeutic Use Exemptions.]*

## **15.3 Implementation of Decisions by Body that is not a Signatory**

An anti-doping decision by a body that is not a *Signatory* to the *Code* shall be implemented by FINA and its *Member Federations*, if FINA finds that the decision purports to be within the authority of that body and the anti-doping rules of that body are otherwise consistent with the *Code*.

*[Comment to DC 15.3: Where the decision of a body that has not accepted the Code is in some respects Code compliant and in other respects not Code compliant, Signatories should attempt to apply the decision in harmony with the principles of the Code. For example, if in a process consistent with the Code a non-Signatory has found*



*an Athlete to have committed an anti-doping rule violation on account of the presence of a Prohibited Substance in the Athlete's body but the period of Ineligibility applied is shorter than the period provided for in the Code, then FINA and all other Signatories should recognize the finding of an anti-doping rule violation and the Athlete's National Anti-Doping Organisation should conduct a hearing consistent with DC 8 to determine whether the longer period of Ineligibility provided in the Code should be imposed. FINA or other Signatory's implementation of a decision, or their decision not to implement a decision under DC 15.3, is appealable under DC 13.]*

## **DC 16 STATUTE OF LIMITATIONS**

No anti-doping rule violation proceeding may be commenced under these Anti-Doping Rules against an *Athlete* or other *Person*, unless he or she has been notified of the anti-doping rule violation as provided in DC 7, or notification has been reasonably attempted within ten years from the date the violation is asserted to have occurred.

## **DC 17 EDUCATION**

**DC17.1** FINA shall plan, implement, evaluate and promote *Education* in line with the requirements of Article 18.2 of the *Code* and the *International Standard for Education*.

### **DC 17.2 Mandatory Anti-Doping Education Course**

All *Athletes* participating in the FINA World Championships or the FINA World Swimming Championships (25m) must, prior to participation, have successfully completed the eLearning Anti-Doping *Education* course ADEL for International-Level athletes and uploaded their certificate of completion on the FINA GMS platform.

The certificate of completion is obtained after achieving a final score of at least 80% at the final exam at the end of the course.

Each *Athlete* is personally responsible for complying with this obligation but may be assisted by their *Member Federation* in order to upload the certificate of completion on the FINA GMS platform.

Any *Athlete* who has not met this requirement shall be ineligible to compete in the FINA World Championships and the FINA World Swimming Championships (25m), until successful completion of the course and its registration.

For the sake of clarity, *Athletes* only need to successfully complete the course once. They do not need to complete the course again before every FINA World Championships and FINA World Swimming Championships (25m). Notwithstanding this, FINA may at its sole discretion, require certain *Athletes* to complete the course again. FINA may also require completion of this course for other FINA *Competitions* at its sole discretion.

*[Comment to DC 17.2: The eLearning Anti-Doping Education course ADEL for International-Level athletes can be completed on the following website:  
<https://adel.wada-ama.org/>.*

*As an alternative to the eLearning Anti-Doping Education course ADEL for International-Level athletes, the Athletes can instead complete the eLearning course developed and approved by their respective National Anti-Doping Organization. The*

*certificate of completion of such course must be uploaded on the FINA GMS platform prior to participation instead of the certification of completion of the ADEL for International-Level athletes course.]*

## **DC 18 ADDITIONAL ROLES AND RESPONSIBILITIES OF *MEMBER FEDERATIONS***

**DC 18.1** All *Member Federations* and their members shall comply with the *Code*, *International Standards*, and these Anti-Doping Rules. All *Member Federations* and other members shall include in their policies, rules and programs the provisions necessary to ensure that FINA may enforce these Anti-Doping Rules (including carrying out *Testing*) directly in respect of *Athletes* (including *National-Level Athletes*) and other *Persons* under their anti-doping authority as specified in the Introduction to these Anti-Doping Rules (Section “Scope of these Anti-Doping Rules”).

**DC 18.2** Each *Member Federation* shall incorporate these Anti-Doping Rules either directly or by reference into its governing documents, constitution and/or rules as part of the rules of sport that bind their members so that the *Member Federation* may enforce them itself directly in respect of *Athletes* (including *National-Level Athletes*) and other *Persons* under its anti-doping authority.

**DC 18.3** By adopting these Anti-Doping Rules, and incorporating them into their governing documents and rules of sport, *Member Federations* shall cooperate with and support FINA in that function. They shall also recognize, abide by and implement the decisions made pursuant to these Anti-Doping Rules, including the decisions imposing sanctions on *Persons* under their authority.

**DC 18.4** All *Member Federations* shall take appropriate action to enforce compliance with the *Code*, *International Standards*, and these Anti-Doping Rules.

**DC 18.5** All *Member Federations* shall establish rules requiring all *Athletes* preparing for or participating in a *Competition* or activity authorized or organized by a *Member Federation* or one of its member organisations, and all *Athlete Support Personnel* associated with such *Athletes*, to agree to be bound by these Anti-Doping Rules and to submit to the *Results Management* authority of *Anti-Doping Organisations* in conformity with the *Code* as a condition of such participation.

**DC 18.6** All *Member Federations* shall report any information suggesting or relating to an anti-doping rule violation to FINA and to their *National Anti-Doping Organisations* and shall cooperate with investigations conducted by any *Anti-Doping Organisation* with authority to conduct the investigation.

**DC 18.7** All *Member Federations* shall have disciplinary rules in place to prevent *Athlete Support Personnel* who are *Using Prohibited Substances* or *Prohibited Methods* without valid justification from providing support to *Athletes* under the authority of FINA or the *Member Federation*.

**DC 18.8** All *Member Federations* shall conduct anti-doping *Education* in coordination with their *National Anti-Doping Organisations*.

## **DC 19 ADDITIONAL ROLES AND RESPONSIBILITIES OF FINA AND WAIVER OF LIABILITY**

**DC 19.1** In addition to the roles and responsibilities described in Article 20.3 of the *Code* for International Federations, FINA shall report to WADA on FINA's compliance with the *Code* and the *International Standards* in accordance with Article 24.1.2 of the *Code*.

**DC 19.2** Subject to applicable law, and in accordance with Article 20.3.4 of the *Code*, all FINA board members, directors, officers, employees and appointed *Delegated Third Parties* who are involved in any aspect of *Doping Control*, must sign a form provided by FINA, agreeing to be bound by these Anti-Doping Rules as *Persons* in conformity with the *Code* for direct and intentional misconduct.

**DC 19.3** Subject to applicable law, and in accordance with Article 20.3.5 of the *Code*, any FINA employee who is involved in *Doping Control* (other than authorized anti-doping *Education* or rehabilitation programs) must sign a statement provided by FINA confirming that they are not *Provisionally Suspended* or serving a period of *Ineligibility* and have not been directly or intentionally engaged in conduct within the previous six (6) years which would have constituted a violation of anti-doping rules if *Code*-compliant rules had been applicable to them.

**DC 19.4** Except for costs and attorney fees which may be awarded by CAS, FINA and its representatives shall not be liable to an *Athlete* or *Member Federation* for any cost, damage or other loss resulting from actions taken by FINA or its *Delegated Third Party* under these Anti-Doping Rules.

## **DC 20 ADDITIONAL ROLES AND RESPONSIBILITIES OF ATHLETES**

**DC 20.1** To be knowledgeable of and comply with these Anti-Doping Rules.

**DC 20.2** To be available for *Sample* collection at all times.

**DC 20.3** To take responsibility, in the context of anti-doping, for what they ingest and *Use*.

**DC 20.4** To inform medical personnel of their obligation not to *Use Prohibited Substances* or *Prohibited Methods* and to take responsibility to make sure that any medical treatment received does not violate these Anti-Doping Rules.

**DC 20.5** To disclose to their *National Anti-Doping Organisation* and to FINA any decision by a non-*Signatory* finding that the *Athlete* committed an anti-doping rule violation within the previous ten (10) years.

**DC 20.6** To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations. Failure by any *Athlete* to cooperate in full with FINA or other *Anti-Doping Organisations* investigating anti-doping rule violations shall be a violation of FINA's *Code* of Conduct and may result in proceedings before the FINA Disciplinary Panel.

**DC 20.7** To disclose the identity of their *Athlete Support Personnel* upon request by FINA or a *Member Federation*, or any other *Anti-Doping Organisation* with authority over the *Athlete*.

**DC 20.8** Offensive conduct towards a *Doping Control* official or other *Person* involved in *Doping Control* by an *Athlete*, which does not otherwise constitute *Tampering*, may result in a charge of misconduct under FINA's *Code* of Conduct.

## **DC 21 ROLES AND RESPONSIBILITIES OF ATHLETE SUPPORT PERSONNEL**

**DC 21.2** To be knowledgeable of and comply with these Anti-Doping Rules.

**DC 21.2** To cooperate with the *Athlete Testing* program.

**DC 21.2** To use their influence on *Athlete* values and behavior to foster anti-doping attitudes.

**DC 21.2** To disclose to their *National Anti-Doping Organisation* and to FINA any decision by a non-*Signatory* finding that they committed an anti-doping rule violation within the previous ten (10) years.

**DC 21.2** To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations. Failure by any *Athlete Support Personnel* to cooperate in full with FINA, its *Delegated Third Party*, *Member Federation* or other *Anti-Doping Organisation* investigating anti-doping rule violations shall be a violation of FINA's *Code of Conduct* and may result in proceedings before the FINA Disciplinary Panel.

**DC 21.6** *Athlete Support Personnel* shall not *Use* or *Possess* any *Prohibited Substance* or *Prohibited Method* without valid justification. Any such *Use* or *Possession* may result in a charge of misconduct under FINA's *Code of Conduct*.

**DC 21.7** Offensive conduct towards a *Doping Control* official or other *Person* involved in *Doping Control* by *Athlete Support Personnel*, which does not otherwise constitute *Tampering*, may result in a charge of misconduct under FINA's *Code of Conduct*.

## **DC 22 ADDITIONAL ROLES AND RESPONSIBILITIES OF OTHER PERSONS SUBJECT TO THESE ANTI-DOPING RULES**

**DC 22.1** To be knowledgeable of and comply with these Anti-Doping Rules. In particular, subject to applicable law and as a condition of their appointment and/or employment all FINA board members, directors, officers, employees and appointed *Delegated Third Parties* who are involved in any aspect of *Doping Control* agree to be bound by these Anti-Doping Rules as *Persons* in conformity with the *Code* for direct and intentional misconduct.

**DC 22.2** To disclose to FINA and their *National Anti-Doping Organisation* any decision by a non-*Signatory* finding that they committed an anti-doping rule violation within the previous ten (10) years.

**DC 22.3** To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations. Failure by any other *Person* subject to these Anti-Doping Rules to cooperate in full with *Anti-Doping Organisations* investigating anti-doping rule violations may result in a charge of misconduct under FINA's *Code of Conduct*.

**DC 22.4** Not to *Use* or *Possess* any *Prohibited Substance* or *Prohibited Method* without valid justification.

**DC 22.5** Offensive conduct towards a *Doping Control* official or other *Person* involved in *Doping Control* by a *Person*, which does not otherwise constitute *Tampering*, may result in a charge of misconduct under FINA's *Code of Conduct*.

## **DC 23 INTERPRETATION OF THE CODE**

**DC 23.1** The official text of the *Code* shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

**DC 23.2** The comments annotating various provisions of the *Code* shall be used to interpret the *Code*.

**DC 23.3** The *Code* shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the *Signatories* or governments.

**DC 23.4** The headings used for the various Parts and Articles of the *Code* are for convenience only and shall not be deemed part of the substance of the *Code* or to affect in any way the language of the provisions to which they refer.

**DC 23.5** Where the term “days” is used in the *Code* or an *International Standard*, it shall mean calendar days unless otherwise specified.

**DC 23.6** The *Code* shall not apply retroactively to matters pending before the date the *Code* is accepted by a *Signatory* and implemented in its rules. However, pre-*Code* anti-doping rule violations would continue to count as “First violations” or “Second violations” for purposes of determining sanctions under Article 10 for subsequent post-*Code* violations.

**DC 23.7** The Purpose, Scope and Organisation of the World Anti-Doping Program and the *Code* and Appendix 1, Definitions, shall be considered integral parts of the *Code*.

## DC 24 FINAL PROVISIONS

**DC 24.1** Where the term “days” is used in these Anti-Doping Rules, it shall mean calendar days unless otherwise specified.

**DC 24.2** These Anti-Doping Rules shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.

**DC 24.3** The headings used for the various parts and articles of these Anti-Doping Rules are for convenience only and shall not be deemed part of the substance of these Anti-Doping Rules or to affect in any way the language of the provisions to which they refer.

**DC 24.4** The *Code* and the *International Standards* shall be considered integral parts of these Anti-Doping Rules and shall prevail in case of conflict.

**DC 24.5** These Anti-Doping Rules have been adopted pursuant to the applicable provisions of the *Code* and the *International Standards*. These Anti-Doping Rules shall be interpreted in a manner that is consistent with applicable provisions of the *Code* and the *International Standards*. The Introduction, Appendix 1 and Appendix 2 shall be considered an integral part of these Anti-Doping Rules.

**DC 24.6** The comments annotating various provisions of the *Code* and these Anti-Doping Rules shall be used to interpret these Anti-Doping Rules.

**DC 24.7** These Anti-Doping Rules have come into full force and effect on January 1, 2021 (the “Effective Date”). They repeal previous versions of FINA *Doping Control Rules*. They shall not apply retroactively to matters pending before the Effective Date; provided, however, that:



**DC 24.7.1** Anti-doping rule violations taking place prior to the Effective Date count as “first violations” or “second violations” for purposes of determining sanctions under DC 10 for violations taking place after the Effective Date.

**DC 24.7.2** Any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date, shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, and not by the substantive anti-doping rules set out in these Anti-Doping Rules, unless the panel hearing the case determines the principle of “lex mitior” appropriately applies under the circumstances of the case. For these purposes, the retrospective periods in which prior violations can be considered for purposes of multiple violations under DC 10.9.4 and the statute of limitations set forth in DC 16 are procedural rules, not substantive rules, and should be applied retroactively along with all of the other procedural rules in these Anti-Doping Rules (provided, however, that DC 16 shall only be applied retroactively if the statute of limitation period has not already expired by the Effective Date).

**DC 24.7.3** Any DC 2.4 whereabouts failure (whether a filing failure or a missed test, as those terms are defined in the *International Standard for Results Management* ) prior to the Effective Date shall be carried forward and may be relied upon, prior to expiry, in accordance with the *International Standard for Results Management* , but it shall be deemed to have expired twelve (12) months after it occurred.

**DC 24.7.4** With respect to cases where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date, but the *Athlete* or other *Person* is still serving the period of *Ineligibility* as of the Effective Date, the *Athlete* or other *Person* may apply to FINA to consider a reduction in the period of *Ineligibility* in light of these Anti-Doping Rules. The decision in this case must be rendered by the FINA Doping Panel. Such application must be made before the period of *Ineligibility* has expired. The decision rendered by FINA may be appealed pursuant to DC 13. These Anti-Doping Rules shall have no application to any case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.

**DC 24.7.5** For purposes of assessing the period of *Ineligibility* for a second violation under DC 10.9.1, where the sanction for the first violation was determined based on rules in force prior to the Effective Date, the period of *Ineligibility* which would have been assessed for that first violation had these Anti-Doping Rules been applicable, shall be applied.

*[Comment to DC 24.7.5: Other than the situation described in DC 24.7.5, where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date and the period of Ineligibility imposed has been completely served, these Anti-Doping Rules may not be used to re-characterize the prior violation.]*

**DC 24.7.6** Changes to the *Prohibited List* and *Technical Documents* relating to substances or methods on the *Prohibited List* shall not, unless they specifically provide otherwise, be applied retroactively. As an exception, however, when a *Prohibited Substance* or a *Prohibited Method* has been removed from the *Prohibited List*, an

*Athlete* or other *Person* currently serving a period of *Ineligibility* on account of the formerly *Prohibited Substance* or *Prohibited Method* may apply to FINA or other *Anti-Doping Organisation* which had *Results Management* responsibility for the anti-doping rule violation to consider a reduction in the period of *Ineligibility* in light of the removal of the substance or method from the *Prohibited List*. For requests made to FINA, the FINA Doping Panel shall render the decision.

## APPENDIX 1 DEFINITIONS APPLICABLE TO DOPING CONTROL RULES

*[Comment to Definitions: Defined terms shall include their plural and possessive forms, as well as those terms used as other parts of speech.]*

**ADAMS:** The Anti-Doping Administration and Management System is a Web-based database management tool for data entry, storage, sharing, and reporting designed to assist stakeholders and WADA in their anti-doping operations in conjunction with data protection legislation.

**Administration:** Providing, supplying, supervising, facilitating, or otherwise participating in the *Use* or *Attempted Use* by another *Person* of a *Prohibited Substance* or *Prohibited Method*. However, this definition shall not include the actions of bona fide medical personnel involving a *Prohibited Substance* or *Prohibited Method* *Used* for genuine and legal therapeutic purposes or other acceptable justification and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate that such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**Adverse Analytical Finding:** A report from a WADA-accredited *Laboratory* or other WADA-approved *Laboratory* that, consistent with the *International Standard* for *Laboratories* establishes in a *Sample* the presence of a *Prohibited Substance* or its *Metabolites* or *Markers* or evidence of the *Use* of a *Prohibited Method*.

**Adverse Passport Finding:** A report identified as an *Adverse Passport Finding* as described in the applicable *International Standards*.

**Aggravating Circumstances:** Circumstances involving, or actions by, an *Athlete* or other *Person* which may justify the imposition of a period of *Ineligibility* greater than the standard sanction. Such circumstances and actions shall include, but are not limited to: the *Athlete* or other *Person* *Used* or *Possessed* multiple *Prohibited Substances* or *Prohibited Methods*, *Used* or *Possessed* a *Prohibited Substance* or *Prohibited Method* on multiple occasions or committed multiple other anti-doping rule violations; a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of *Ineligibility*; the *Athlete* or *Person* engaged in deceptive or obstructive conduct to avoid the detection or adjudication of an anti-doping rule violation; or the *Athlete* or other *Person* engaged in *Tampering* during *Results Management*. For the avoidance of doubt, the examples of circumstances and conduct described herein are not exclusive and other similar circumstances or conduct may also justify the imposition of a longer period of *Ineligibility*.

**Anti-Doping Activities:** Anti-doping *Education* and information, test distribution planning, maintenance of a *Registered Testing Pool*, managing *Athlete Biological Passports*, conducting *Testing*, organizing analysis of *Samples*, gathering of intelligence and conduct of investigations, processing of *TUE* applications, *Results Management*, monitoring and enforcing compliance with any *Consequences* imposed, and all other activities related to anti-doping to be carried out by or on behalf of an *Anti-Doping Organisation*, as set out in the *Code* and/or the *International Standards*.

**Anti-Doping Organisation:** WADA or a *Signatory* to the *Code* that is responsible for adopting rules for initiating, implementing or enforcing any part of the *Doping Control* process. This

includes, for example, the International Olympic Committee, the International Paralympic Committee, other *Major Event Organisations* that conduct *Testing* at their *Events/Competitions*, International Federations, and *National Anti-Doping Organisations*.

**Athlete:** Any *Person* who competes in sport at the international level (as defined by each International Federation), or the national level (as defined by each *National Anti-Doping Organisation*). An *Anti-Doping Organisation* has discretion to apply anti-doping rules to an *Athlete* who is neither an *International-Level Athlete* nor a *National-Level Athlete*, and thus to bring them within the definition of “*Athlete*.” In relation to *Athletes* who are neither *International-Level* nor *National-Level Athletes*, an *Anti-Doping Organisation* may elect to: conduct limited *Testing* or no *Testing* at all; analyze *Samples* for less than the full menu of *Prohibited Substances*; require limited or no whereabouts information; or not require advance *TUEs*. However, if DC 2.1, 2.3 or DC 2.5 anti-doping rule violation is committed by any *Athlete* over whom an *Anti-Doping Organisation* has elected to exercise its authority to test and who competes below the international or national level, then the *Consequences* set forth in the *Code* must be applied. For purposes of DC 2.8 and DC 2.9 and for purposes of anti-doping information and *Education*, any *Person* who competes in sport under the authority of any *Signatory*, government, or other sports organisation accepting the *Code* is an *Athlete*.

[*Comment to Athlete: Individuals who participate in sport may fall in one of five categories: 1) International-Level Athlete, 2) National-Level Athlete, 3) individuals who are not International- or National-Level Athletes but over whom the International Federation or National Anti-Doping Organisation has chosen to exercise authority, 4) Recreational Athlete, and 5) individuals over whom no International Federation or National Anti-Doping Organisation has, or has chosen to, exercise authority. All International- and National-Level Athletes are subject to the anti-doping rules of the Code, with the precise definitions of international and national level sport to be set forth in the anti-doping rules of the International Federations and National Anti-Doping Organisations.*]

**Athlete Biological Passport:** The program and methods of gathering and collating data as described in the *International Standard for Testing and Investigations* and *International Standard for Laboratories*.

**Athlete Support Personnel:** Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other *Person* working with, treating or assisting an *Athlete* participating in or preparing for sports *Competition*.

**Attempt:** Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an anti-doping rule violation. Provided, however, there shall be no anti-doping rule violation based solely on an *Attempt* to commit a violation if the *Person* renounces the *Attempt* prior to it being discovered by a third party not involved in the *Attempt*.

**Atypical Finding:** A report from a WADA-accredited *Laboratory* or other WADA-approved *Laboratory* which requires further investigation as provided by the *International Standard for Laboratories* or related *Technical Documents* prior to the determination of an *Adverse Analytical Finding*.

**Atypical Passport Finding:** A report described as an *Atypical Passport Finding* as described in the applicable *International Standards*.

**CAS:** The Court of Arbitration for Sport.

**Code:** The World Anti-Doping Code.

**Competition:** A series of individual *Events* conducted together under one ruling body (e.g. FINA World Championships). Also, the act of participating in an *Event*.<sup>1</sup>

**Competition Period:** The period commencing at 11:59 p.m. on the day before a *Competition* is scheduled to start through the end of such *Competition* and the *Sample* collection process related to such *Competition*.

**Competition Venues / Event Venues:** Those venues so designated by the ruling body for the *Competition* / *Event*.

**Consequences of Anti-Doping Rules Violations (“Consequences”):** An *Athlete’s* or other *Person’s* violation of an anti-doping rule may result in one or more of the following: (a) Disqualification means the *Athlete’s* results in a particular *Competition* or *Event* are invalidated, with all resulting *Consequences* including forfeiture of any medals, points and prizes; (b) Ineligibility means the *Athlete* or other *Person* is barred on account of anti-doping rule violation for a specified period of time from participating in any *Event*, *Competition* or other activity or funding as provided in DC 10.14 ; and (c) Provisional Suspension means the *Athlete* or other *Person* is barred temporarily from participating in any *Event*, *Competition* or activity prior to the final decision at a hearing conducted under DC 8; (d) Financial Consequences means a financial sanction imposed for an anti-doping rule violation or to recover costs associated with an anti-doping rule violation; and (e) Public Disclosure means the dissemination or distribution of information to the general public or Persons beyond those Persons entitled to earlier notification in accordance with DC 14 . *Teams* in *Team Sports* may also be subject to *Consequences* as provided in DC 11.

**Contaminated Product:** A product that contains a *Prohibited Substance* that is not disclosed on the product label or in information available in a reasonable Internet search.

**Decision Limit:** The value of the result for a threshold substance in a *Sample*, above which an *Adverse Analytical Finding* shall be reported, as defined in the *International Standard for Laboratories*.

**Delegated Third Party:** Any *Person* to which FINA delegates any aspect of *Doping Control* or anti-doping *Education* programs including, but not limited to, third parties or other *Anti-Doping Organisations* that conduct *Sample* collection or other *Doping Control* services or anti-doping *Educational* programs for FINA, or individuals serving as independent contractors who perform *Doping Control* services for FINA (e.g., non-employee *Doping Control* officers or chaperones). This definition does not include CAS.

**Disqualification:** See *Consequences of Anti-Doping Rules Violations* above.

**Doping Control:** All steps and processes from test distribution planning through to ultimate disposition of any appeal and the enforcement of *Consequences*, including all steps and processes in between, including but not limited to *Testing*, investigations, whereabouts, *TUEs*, *Sample* collection and handling, *Laboratory* analysis, *Results Management*, and investigations

<sup>1</sup> This definition has been changed from the *Code* definition in order to be consistent with other FINA Rules. Under FINA Rules, a “Competition” is the same as an “Event” under the *Code*.



or proceedings relating to violations of DC 10.14 (Status During *Ineligibility* or *Provisional Suspension*).

**Education:** The process of learning to instill values and develop behaviors that foster and protect the spirit of sport, and to prevent intentional and unintentional doping.

**Event:** A single race, match, game or singular sport contest.<sup>2</sup>

**Fault:** *Fault* is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an *Athlete* or other *Person's* degree of *Fault* include, for example, the *Athlete's* or other *Person's* experience, whether the *Athlete* or other *Person* is a *Protected Person*, special considerations such as impairment, the degree of risk that should have been perceived by the *Athlete* and the level of care and investigation exercised by the *Athlete* in relation to what should have been the perceived level of risk. In assessing the *Athlete's* or other *Person's* degree of *Fault*, the circumstances considered must be specific and relevant to explain the *Athlete's* or other *Person's* departure from the expected standard of behavior. Thus, for example, the fact that an *Athlete* would lose the opportunity to earn large sums of money during a period of *Ineligibility*, or the fact that the *Athlete* only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of *Ineligibility* under DC 10.6.1 or 10.6.2.

*[Comment: The criteria for assessing an Athlete's degree of Fault is the same under all Articles where Fault is to be considered. However, under DC 10.6.2, no reduction of sanction is appropriate unless, when the degree of Fault is assessed, the conclusion is that No Significant Fault or Negligence on the part of the Athlete or other Person was involved.]*

**Financial Consequences:** See *Consequences of Anti-Doping Rule Violations* above.

**In-Competition:** The period commencing at 11:59 p.m. on the day before an *Event* in which the *Athlete* is scheduled to participate through the end of such *Event* and the *Sample* collection process related to such *Event*.

*[Comment to In-Competition: Having a universally accepted definition for In-Competition provides greater harmonization among Athletes across all sports, eliminates or reduces confusion among Athletes about the relevant timeframe for In-Competition Testing, avoids inadvertent Adverse Analytical Findings in between Events during a Competition and assists in preventing any potential performance enhancement benefits from Substances prohibited Out-of-Competition being carried over to the In-Competition Period.]*

**Independent Observer Program:** A team of observers and/or auditors, under the supervision of WADA, who observe and provide guidance on the *Doping Control* process prior to or during certain *Competitions* and report on their observations as part of WADA's compliance monitoring program.

**Individual Sport:** Any sport that is not a *Team Sport*.

**Ineligibility:** See *Consequences of Anti-Doping Rules Violations* above.

**Institutional Independence:** Hearing panels on appeal shall be fully independent institutionally from the *Anti-Doping Organisation* responsible for *Results Management*. They

<sup>2</sup> This definition has been changed from the *Code* definition in order to be consistent with other FINA Rules. Under FINA Rules, an "Event" is the same as a "Competition" under the *Code*.

must therefore not in any way be administered by, connected or subject to the *Anti-Doping Organisation* responsible for *Results Management*.

**International Competition:** A *Competition* where the International Olympic Committee, the International Paralympic Committee, FINA, a *Major Event Organisation*, or another international sport organisation is the ruling body for the *Competition* or appoints the technical officials for the *Competition*.

**International-Level Athlete:** *Athletes* who compete in sport at the international level, as defined by each International Federation, consistent with the *International Standard* for Testing and Investigations. For the sport of Aquatics, *International-Level Athletes* are defined as set out in the Scope section of the Introduction to these Anti-Doping Rules

**International Standard:** A standard adopted by WADA in support of the *Code*. Compliance with an *International Standard* (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the *International Standard* were performed properly. *International Standards* shall include any Technical Documents issued pursuant to the *International Standard*.

**Laboratory (ies):** (A) WADA-accredited *Laboratory(-ies)* applying Test Methods and processes to provide evidentiary data for the detection and/or identification of *Prohibited Substances* or *Prohibited Methods* on the *Prohibited List* and, if applicable, quantification of a Threshold Substance in *Samples* of urine and other biological matrices in the context of *Doping Control* activities.

**Major Event Organisations:** The continental associations of *National Olympic Committees* and other international multi-sport organisations that function as the ruling body for any continental, regional or other *International Competition*.

**Marker:** A compound, group of compounds or biological variable(s) that indicates the *Use* of a *Prohibited Substance* or *Prohibited Method*.

**Member Federation:** Means the national federations affiliated to FINA in a country or a sport country recognized by FINA in accordance with the FINA Constitution.

**Metabolite:** Any substance produced by a biotransformation process.

**Minimum Reporting Level:** The estimated concentration of a *Prohibited Substance* or its *Metabolite(s)* or *Marker(s)* in a *Sample* below which WADA-accredited *Laboratories* should not report that *Sample* as an *Adverse Analytical Finding*.

**Minor:** A natural *Person* who has not reached the age of eighteen years.

**National Anti-Doping Organisation:** The entity(ies) designated by each country as possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of *Samples*, manage test results, and conduct *Results Management* at the national level. If this designation has not been made by the competent public authority(ies), the entity shall be the country's *National Olympic Committee* or its designee.

**National Competition:** A sport *Competition* involving *International-* or *National-Level Athletes* that is not an *International Competition*.

**National-Level Athlete:** *Athletes* who compete in sport at the national level, as defined by each *National Anti-Doping Organisation*, consistent with the *International Standard for Testing and Investigations*.

**National Olympic Committee:** The organisation recognized by the International Olympic Committee. The term *National Olympic Committee* shall also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical *National Olympic Committee* responsibilities in the anti-doping area.

**Negative Finding:** A test result from a *Laboratory* which, in accordance with the effective *International Standard for Laboratories* and/or relevant *Technical Document(s)* and/or *Technical Letter(s)*, concludes that no *Prohibited Substance(s)* or its *Metabolite(s)* or *Marker(s)* or evidence of the *Use of a Prohibited Method(s)*, included in the requested *Analytical Testing* menu, were found in a *Sample* based on the applied *Initial Testing Procedure(s)* or *Confirmation Procedure(s)*

**No Fault or Negligence:** The *Athlete* or other *Person's* establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had *Used* or been administered the *Prohibited Substance* or *Prohibited Method* or otherwise violated an anti-doping rule. Except in the case of a *Protected Person* or *Recreational Athlete*, for any violation of DC 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered the *Athlete's* system.

**No Significant Fault or Negligence:** The *Athlete* or other *Person's* establishing that his or her *Fault or Negligence*, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the anti-doping rule violation. Except in the case of a *Protected Person* or *Recreational Athlete*, for any violation of DC 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered the *Athlete's* system.

**Operational Independence:** This means that (1) board members, staff members, commission members, consultants and officials of the *Anti-Doping Organisation* with responsibility for *Results Management* or its affiliates (e.g., *Member Federation* or confederation), as well as any *Person* involved in the investigation and pre-adjudication of the matter cannot be appointed as members and/or clerks (to the extent that such clerk is involved in the deliberation process and/or drafting of any decision) of hearing panels of that *Anti-Doping Organisation* with responsibility for *Results Management* and (2) hearing panels shall be in a position to conduct the hearing and decision-making process without interference from the *Anti-Doping Organisation* or any third party. The objective is to ensure that members of the hearing panel or individuals otherwise involved in the decision of the hearing panel, are not involved in the investigation of, or decisions to proceed with, the case.

**Out-of-Competition:** Any period which is not *In-Competition*.

**Participant:** Any *Athlete* or *Athlete Support Person*.

**Person:** A natural *Person* or an organisation or other entity.

**Possession:** The actual, physical *Possession*, or the constructive *Possession* (which shall be found only if the *Person* has exclusive control or intends to exercise control over the *Prohibited Substance/Method* or the premises in which a *Prohibited Substance/Method* exists); provided, however, that if the *Person* does not have exclusive control over the *Prohibited*

*Substance/Method* or the premises in which a *Prohibited Substance/Method* exists, constructive *Possession* shall only be found if the *Person* knew about the presence of the *Prohibited Substance/Method* and intended to exercise control over it. Provided, however, there shall be no anti-doping rule violation based solely on *Possession* if, prior to receiving notification of any kind that the *Person* has committed an anti-doping rule violation, the *Person* has taken concrete action demonstrating that the *Person* never intended to have *Possession* and has renounced *Possession* by explicitly declaring it to an *Anti-Doping Organisation*. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a *Prohibited Substance* or *Prohibited Method* constitutes *Possession* by the *Person* who makes the purchase.

*[Comment to Possession: Under this definition, anabolic steroids found in an Athlete's car would constitute a violation unless the Athlete establishes that someone else used the car; in that Event, the Anti-Doping Organisation must establish that, even though the Athlete did not have exclusive control over the car, the Athlete knew about the steroids and intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of an Athlete and spouse, FINA must establish that the Athlete knew the anabolic steroids were in the cabinet and that the Athlete intended to exercise control over them. The act of purchasing a Prohibited Substance alone constitutes Possession, even where, for example, the product does not arrive, is received by someone else, or is sent to a third party address.]*

**Prohibited List:** The list identifying the *Prohibited Substances* and *Prohibited Methods*.

**Prohibited Method:** Any method so described on the *Prohibited List*.

**Prohibited Substance:** Any substance, or class of substances, so described on the *Prohibited List*.

**Protected Person:** An *Athlete* or other natural *Person* who at the time of the anti-doping rule violation: (i) has not reached the age of sixteen (16) years; (ii) has not reached the age of eighteen (18) years and is not included in any *Registered Testing Pool* and has never competed in any *International Competition* in an open category; or (iii) for reasons other than age has been determined to lack legal capacity under applicable national legislation.

*[Comment to Protected Person: The Code treats Protected Persons differently than other Athletes or Persons in certain circumstances based on the understanding that, below a certain age or intellectual capacity, an Athlete or other Person may not possess the mental capacity to understand and appreciate the prohibitions against conduct contained in the Code. This would include, for example, a Paralympic Athlete with a documented lack of legal capacity due to an intellectual impairment. The term "open category" is meant to exclude competition that is limited to junior or age group categories.]*

**Provisional Hearing:** For purposes of DC 7.4.3, an expedited abbreviated hearing occurring prior to a hearing under DC 8 that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form.

*[Comment to Provisional Hearing: A Provisional Hearing is only a preliminary proceeding which may not involve a full review of the facts of the case. Following a Provisional Hearing, the Athlete remains entitled to a subsequent full hearing on the merits of the case. By contrast,*



an “expedited hearing,” as that term is used in DC 7.4.3, is a full hearing on the merits conducted on an expedited time schedule.]

**Provisional Suspension:** See *Consequences of Anti-Doping Rules Violations* above.

**Publicly Disclose:** See *Consequences of Anti-Doping Rule Violations* above.

**Recreational Athlete:** A natural Person who is so defined by the relevant *National Anti-Doping Organisation*; 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 FINA consistent with the *International Standard for Testing and Investigations*) or *National-Level Athlete* (as defined by each *National Anti-Doping Organisation* consistent with the *International Standard for Testing and Investigations*), has represented any country in an *International Competition* 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 Organisation*.

[Comment to Recreational Athlete: The term “open category” is meant to exclude competition that is limited to junior or age group categories.]

**Regional Anti-Doping Organisation:** A regional entity designated by member countries to coordinate and manage delegated areas of their national anti-doping programs, which may include the adoption and implementation of anti-doping rules, the planning and collection of Samples, the management of results, the review of TUEs, the conduct of hearings, and the conduct of *Educational* programs at a regional level.

**Registered Testing Pool:** The pool of highest-priority Athletes established separately at the international level by International Federations and at the national level by *National Anti-Doping Organisations*, who are subject to focused *In-Competition* and *Out-of-Competition Testing* as part of that International Federation's or *National Anti-Doping Organisation's* Test Distribution Plan and therefore are required to provide whereabouts information as provided in Article 5.5 of the Code and the *International Standard for Testing and Investigations*.

**Results Management:** The process encompassing the timeframe between notification as per Article 5 of the *International Standard for Results Management*, or in certain cases (e.g., *Atypical Finding*, *Athlete Biological Passport*, whereabouts failure), such pre-notification steps expressly provided for in Article 5 of the *International Standard for Results Management*, through the charge until the final resolution of the matter, including the end of the hearing process at first instance or on appeal (if an appeal was lodged).

**Results Management Authority:** The *Anti-Doping Organisation* responsible for conducting Results Management in a given case.

**Sample/Specimen:** Any biological material collected for the purposes of *Doping Control*.

[Comment: It has sometimes been claimed that the collection of blood Samples violates the tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim.]

**Signatories:** Those entities signing the Code and agreeing to comply with the Code as provided in Article 23 of the Code.

**Specified Method:** See DC 4.2.2.



**Specified Substance:** See DC 4.2.2.

**Strict Liability:** The rule which provides that under DC 2.1 and DC 2.2, it is not necessary that intent, *Fault*, *Negligence*, or knowing *Use* on the *Athlete's* part be demonstrated by the *Anti-Doping Organisation* in order to establish an anti-doping rule violation.

**Substance of Abuse:** See DC 4.2.3.

**Substantial Assistance:** For purposes of DC 10.7.1, a *Person* providing *Substantial Assistance* must: (1) fully disclose in a signed written statement or recorded interview all information he or she possesses in relation to anti-doping rule violations or other proceeding described in DC 10.7.1.1, and (2) fully cooperate with the investigation and adjudication of any case or matter related to that information, including, for example, presenting testimony at a hearing if requested to do so by an *Anti-Doping Organisation* or hearing panel. Further, the information provided must be credible and must comprise an important part of any case or proceeding which is initiated or, if no case or proceeding is initiated, must have provided a sufficient basis on which a case could have been brought.

**Tampering:** Intentional conduct which subverts the *Doping Control* process but which would not otherwise be included in the definition of *Prohibited Methods*. *Tampering* shall include, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a *Sample*, affecting or making impossible the analysis of a *Sample*, falsifying documents submitted to an *Anti-Doping Organisation* or *TUE* committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the *Anti-Doping Organisation* or hearing body to affect *Results Management* or the imposition of *Consequences*, and any other similar intentional interference or *Attempted* interference with any aspect of *Doping Control*.

*[Comment to Tampering: For example, this Article would prohibit altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis, altering a Sample by the addition of a foreign substance, or intimidating or attempting to intimidate a potential witness or a witness who has provided testimony or information in the Doping Control process. Tampering includes misconduct which occurs during the Results Management process. See DC 10.9.3.3. However, actions taken as part of a Person's legitimate defense to an anti-doping rule violation charge shall not be considered Tampering. Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering shall be addressed in the disciplinary rules of sport organisations.]*

**Target Testing:** Selection of specific *Athletes* for *Testing* based on criteria set forth in the *International Standard for Testing and Investigations*.

**Team Sport:** A sport in which the substitution of *Athletes* is permitted during an *Event*.

**Technical Document:** A document adopted and published by *WADA* from time to time containing mandatory technical requirements on specific anti-doping topics as set forth in an *International Standard*.

**Testing:** The parts of the *Doping Control* process involving Test Distribution Planning, *Sample* collection, *Sample* handling, and *Sample* transport to the *Laboratory*.

**Testing Pool:** The tier below the *Registered Testing Pool* which includes *Athletes* from whom some whereabouts information is required in order to locate and *Test the Athlete Out-of-Competition*.

**Therapeutic Use Exemption (TUE):** A *Therapeutic Use Exemption* allows an *Athlete* with a medical condition to *Use a Prohibited Substance or Prohibited Method*, but only if the conditions set out in DC 4.4 and the *International Standard for Therapeutic Use Exemptions* are met.

**Trafficking:** 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 authority of an *Anti-Doping Organisation* to any third party; provided, however, this definition shall not include the actions of “bona fide” medical personnel involving a *Prohibited Substance Used* for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**UNESCO Convention:** The International Convention against Doping in Sport adopted by the 33rd session of the UNESCO General Conference on 19 October 2005 including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport.

**Use:** The utilisation, application, ingestion, injection or consumption by any means whatsoever of any *Prohibited Substance or Prohibited Method*.

**WADA:** The World Anti-Doping Agency.

**Without Prejudice Agreement:** For purposes of DC 10.7.1.1 and 10.8.2, a written agreement between an *Anti-Doping Organisation* and an *Athlete* or other *Person* that allows the *Athlete* or other *Person* to provide information to the *Anti-Doping Organisation* in a defined time-limited setting with the understanding that, if an agreement for *Substantial Assistance* or a case resolution agreement is not finalized, the information provided by the *Athlete* or other *Person* in this particular setting may not be used by the *Anti-Doping Organisation* against the *Athlete* or other *Person* in any *Results Management* proceeding under the *Code*, and that the information provided by the *Anti-Doping Organisation* in this particular setting may not be used by the *Athlete* or other *Person* against the *Anti-Doping Organisation* in any *Results Management* proceeding under the *Code*. Such an agreement shall not preclude the *Anti-Doping Organisation*, *Athlete* or other *Person* from using any information or evidence gathered from any source other than during the specific time-limited setting described in the agreement.

## APPENDIX 2 FINA DOPING PANEL PROCEDURAL RULES

### TITLE I – INTRODUCTORY PROVISIONS

#### Preamble

FINA established the FINA Doping Panel which has jurisdiction to hear and determine whether an *Athlete* or other *Person*, subject to these Anti-Doping Rules, has committed an anti-doping rule violation or, has violated their period of *Ineligibility* and, to impose relevant *Consequences*. The FINA Doping Panel also has jurisdiction to render decisions on request for lifting of *Provisional Suspensions* as per DC 7.4 and on requests for reduction of period of *Ineligibility* pursuant to DC 24.7.4 and 24.7.6.

#### Article 1 Definitions

1. For the purposes of these Rules:
  - a) “DC Rules”: The FINA *Doping Control* Rules.
  - b) “Defendant”: Any *Athlete* or *Person* as specified by the Introduction and Scope of the DC Rules, against whom an anti-doping rule violation has been asserted.
  - c) “Decision”: Final decision rendered by the Doping Panel.
  - d) “Parties”: FINA on one side and the Defendant on the other side.
  - e) “Rules”: The Doping Panel Procedural Rules.
  - f) “Doping Panel”: The Anti-Doping Panel established in accordance with DC 8.1 and the FINA Constitution.
2. Terms referring to natural persons are applicable to both genders.
3. Terms not defined under these Rules shall be given the meaning provided by the DC Rules.

#### Article 2 Jurisdiction of the Doping Panel

1. The FINA Doping Panel shall have jurisdiction over all matters in which:
  - a) An anti-doping rule violation is asserted by FINA based on a *Results Management* or investigation process under DC 7; or
  - b) An anti-doping rule violation is asserted by another *Anti-Doping Organisation* under its rules, but all parties (in particular the *Anti-Doping Organisation* and the *Athlete* or other *Person* concerned) agree to submit the matter to the Doping Panel, with the agreement of FINA; or
  - c) FINA decides to assert an anti-doping rule violation against an *Athlete* or other *Person* subject to these Anti-Doping Rules, based on a failure by another

organisation to initiate or diligently pursue a hearing process or where FINA otherwise finds it appropriate for a fair hearing process to be granted; or

- d) FINA asserts that an *Athlete* or other *Person* has violated their period of *Ineligibility*; or
- e) An *Athlete* requests a *Provisional Hearing* in order to have *their Provisional Suspension* lifted; or
- f) An *Athlete* or other *Person* requests a reduction of period of *Ineligibility* pursuant to DC 24.7.4 and 24.7.6.

2. Any objection to the jurisdiction of the Doping Panel shall be brought to the Doping Panel's attention within 7 days upon notification of the initiation of the proceedings. If no objection is filed within this time limit, the Parties are deemed to have accepted the Doping Panel's jurisdiction.

3. The Doping Panel shall rule on its own jurisdiction in its Decision.

## TITLE II – ORGANISATION OF THE DOPING PANEL

### Article 4 Composition of the Doping Panel

- 1. As per C22, the Doping Panel shall consist of an independent Chair and five (5) other independent members. No two members of the Doping Panel shall be from the same country or sport country. Members of the Doping Panel shall serve for a period of four (4) years, or until their successors are appointed.
- 2. Each member shall be appointed as described in C22. Each member is appointed for a period of four (4) years.

### Article 5 Independence and impartiality

- 1. The Doping Panel shall conduct the hearing and decision-making process without interference from FINA or any third party. The Doping Panel shall be *Operationally Independent*.

### Article 6 Contact Details of the Doping Panel

- 1. The contact details of the Doping Panel can be found on the FINA website.
- 2. All notifications and communications from the Doping Panel shall be sent to the email address indicated by the Parties.

### Article 7 Confidentiality

- 1. The Doping Panel shall ensure that any information disclosed to it in connection with the proceedings and not otherwise in the public domain shall be kept confidential and shall be used only in connection with the disciplinary proceedings at hand.

2. Likewise, all Parties as well as witnesses, experts, interpreters or any other individual involved in proceedings shall keep confidential any information disclosed in connection with the proceedings.

3. Para. 2 above does not restrict FINA's right to make public announcements regarding the existence and status of any pending matter.

### **Article 8 Language of the proceedings**

1. The language used in the proceedings shall be one of the two official languages of FINA, i.e. English and French.

2. Upon receipt of a petition, the Doping Panel will determine the language of the proceedings. Thereafter, the proceedings are conducted exclusively in the language determined by the Doping Panel, i.e. the Language of the proceedings.

3. Any document in a language other than the Language of the proceedings shall be accompanied by a translation in the Language of the proceedings. The Doping Panel may request a certified translation of any document to be provided.

4. Any and all costs related to the translation of a document shall be borne by the Party that submitted the document in question.

5. The Doping Panel may accept or disregard any document not provided in the Language of the proceedings.

### **Article 9 Time limits**

1. The Doping Panel fixes the time limits, unless otherwise provided under these Rules.

2. Time limits fixed under these Rules are deemed to be met if the communications by the Parties are sent by email before midnight (time of the location from which such communication has been sent) on the last day on which the relevant time limit expires.

3. 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 domiciled, then the time limit shall expire on the next business day.

4. Notice shall be deemed to have occurred when sent by email to the addressee. The burden of proof that the addressee was, without his fault, not in a position to have knowledge of such notice shall be on the addressee.

5. Notice to the Defendant may be accomplished by delivery of the notice to the email address of the Defendant's *Member Federation*.

6. Upon application on justified grounds, the Doping Panel may extend the time limits, provided that the request is made before the expiry of the original time limit fixed by the Doping Panel or by these Rules.

## **TITLE III – RIGHTS AND OBLIGATIONS OF THE PARTIES**

### **Article 10 Procedural Rights of the Parties**



1. The Doping Panel shall conduct the proceeding in a way which ensures due process, in particular with respect to the Parties' right to be heard.
2. Any procedural objection shall be raised without delay or shall be deemed to be waived.

#### **Article 11 Representation and assistance**

1. The Parties may be represented or assisted by the representative(s) of their choice at their own cost and expense.
2. The names, postal and email addresses, and telephone numbers of the *Person(s)* representing or assisting the Parties shall be communicated to the Doping Panel.
3. The Doping Panel may request the production of a power of attorney.

#### **Article 12 Cooperation by the Parties**

1. The Parties shall cooperate in good faith throughout the proceedings. In particular, they shall comply with requests for information from the Doping Panel.
2. The Doping Panel is entitled to draw adverse inferences in case of unjustified refusal to cooperate, in particular in case of non-attendance to the hearing as well as refusal to produce documents or to provide evidence.

### **TITLE IV – CONDUCT OF PROCEEDINGS**

#### **Article 13 Initiation of proceedings**

1. Proceedings are initiated by the FINA through the filing of a written petition to the Doping Panel.
2. The petition shall be in one of the two official FINA languages and contain the following:
  - a) Name and address of the Defendant;
  - b) A summary of FINA's position;
  - c) All documentation on which FINA intends to rely, including witness statements and/or expert reports if applicable; and
  - d) The relief, including sanctions and *Consequences*, sought by the FINA.
3. In the situations provided at Article 2.1 (e) and 2.1 (f) of these Rules, FINA shall not be obliged to file a petition and can simply forward the Defendant's request to the Doping Panel.

#### **Article 14 Assignment of cases**

1. Upon receipt of the written petition by the FINA, the Chair of the Doping Panel shall assign the case to a member appointed from amongst the members of the Doping Panel to adjudicate the case. If the Chair deems it necessary in view of the circumstances of the case, it can assign the case to three members of the Doping Panel.

2. When assigning the case, the Chair of the Doping Panel shall take into account all the circumstances of the case, including the nationality and availability of the members. Such assignment shall ensure a timely, fair and impartial hearing.
3. Should the Chair of the Doping Panel be in a conflict of interest, the assignment of the case must be made by the most senior Doping Panel member with no conflict of interest.
4. Once the case has been referred to the Doping Panel, the proceedings are conducted by the member(s) who has/have been assigned the case. The appointed member(s) shall be referred to as the Judge(s).
5. The Defendant shall be informed of the opening of the proceedings and shall be provided with the petition from FINA, including all documentation submitted by FINA.

### **Article 15 Impartiality and Challenge**

1. A member of the Doping Panel shall not be appointed to adjudicate a case if circumstances exist that give rise to justifiable doubts as to his aptitude to ensure a timely, fair and impartial hearing. In particular, no member of the Doping Panel shall be appointed to hear a specific case when he or she is a citizen of the country of the Defendant. The Chair of the Doping Panel may also determine situations in which a member should not be appointed due to other potential conflicts.
2. The Judge shall immediately disclose any circumstance which may affect his aptitude to ensure a timely, fair and impartial hearing. Upon appointment by the Chair of the Doping Panel, the Judge must sign a declaration that there are no facts or circumstances known to him or her which might call into question his/her impartiality in the eyes of any of the parties, other than those circumstances disclosed in the declaration.
3. Any challenge of the Judge shall be sent to the Doping Panel within 7 days after the ground for challenge has become known or should reasonably have become known to the challenging party. Any such challenge shall indicate the grounds of the challenge and include all relevant facts and supporting evidence.
4. Any application to challenge the Judge shall be decided by the other members of the Doping Panel, after the challenged Judge has been invited to submit written comments. A majority of members of the Doping Panel is required to reject a challenge. The decision on the challenge is final and is not subject to any appeal.

### **Article 16 Answer (Statement of defence)**

1. The Judge shall set a time limit of at least 15 days for the Defendant to submit an answer containing:
  - a) a statement of defence;
  - b) any exhibits or specification of other evidence upon which the Defendant intends to rely, including witness statements and/or expert reports;
  - c) the relief or remedy sought by the Defendant.
2. If the Defendant fails to submit its answer within the set deadline, the Judge may nevertheless proceed with the case and render a Decision.

3. In the situations provided at Article 2.1 (e) and 2.1 (f) of these Rules, the Doping Panel may forego this step and rule on the Defendant's initial request.

#### **Article 17 Further submissions and additional evidence**

1. Unless otherwise agreed by the parties or ordered by the Judge, FINA and the Defendant shall not be authorised to supplement or amend their submissions, nor to produce new exhibits or further evidence after the submission of the petition and the answer, respectively.
2. The Judge may at any time order one or both Parties to supplement their submission on a specific issue or to produce additional documents or witness statements.

#### **Article 18 Common provisions applicable to all written submissions**

1. Written submissions shall be filed in electronic form by email with the Doping Panel.
2. The Parties should set out the facts on which they rely as comprehensively as possible. Each factual allegation should be numbered and refer to the relevant evidence (exhibit, witness statement, expert report).
3. Legal arguments should be developed in a substantiated way.
4. Written submissions shall be accompanied by all relevant evidence, including witness statements and expert reports.
5. Written submissions must be signed by the concerned Party or its representative(s), if any.

#### **Article 19 Evidence**

1. Burdens and standards of proof are as set out under the DC Rules.
2. Facts shall be established by any reliable means in accordance with these Anti-Doping Rules.
3. Documents do not need to be produced in originals, unless the Judge orders otherwise.
4. If a Party intends to rely on witness and/or expert evidence, it shall provide a witness statement and/or an expert report together with its written submission.
5. At any time before the proceedings are concluded, the Judge may:
  - a. request any party to produce evidence;
  - b. take, or request any party to use its best efforts to take, any step that he/she considers appropriate to obtain evidence from any *Person* or organisation.
6. Production of documents can be ordered by the Judge either on his/her own initiative or upon a request by a party, provided that such party:
  - a. provides (i) a description of each requested document sufficient to identify it; or (ii) a description in sufficient detail (including subject matter) of a narrow and specific requested category of documents that are reasonably believed to exist;
  - b. shows that (i) it is not in a position to obtain the document(s) on its own; and (ii) the document(s) are in the possession, custody or control of another party;

c. shows that the document(s) requested are relevant to the case and material to its outcome.

7. The Judge shall at his/her discretion determine the admissibility, relevance, materiality and weight of the evidence offered.

#### **Article 20 Expert Reports**

1. The Judge may order that an expert report on which a Party intends to rely be produced.
2. It is the responsibility of the Parties to ensure the appearance at the hearing of the experts requested by them and to pay all costs and expenses associated with their appearance.
3. The Judge may, after consulting with the parties, appoint an expert of their choice, if he/she deems it appropriate. Once the expert has produced his report, the Judge may order that he/she be examined at the hearing.

#### **Article 21 Witnesses**

It is the responsibility of the Parties to ensure the appearance at the hearing of the witnesses requested by them and to pay all costs and expenses associated with their appearance.

#### **Article 22 Hearing**

1. The Judge may, on his/her own initiative or at the request of one of the Parties, summon the parties to attend a hearing.
2. The dates times, and venue (if any) of the hearing shall be fixed by the Judge, who shall give appropriate advance notice to the parties, the *National Anti-Doping Organisation* of the Defendant and to *WADA*.
3. Unless otherwise decided by the Judge, hearings take place via videoconference.
4. If the hearing is held in persona, the Judges shall decide the place of the hearing after consultation with the Parties.
5. Hearings shall be held in camera i.e. may be attended only by the Parties, as well as their representative(s). *WADA* and the *National Anti-Doping Organisation* of the Defendant can attend as an observer and shall not be allowed to make any submission unless the parties and the Judges agree otherwise. However, the Defendant has the right to request that the hearing be held in public. FINA may also request a public hearing provided that the Defendant has provided his/her written consent to the same. However, the request may be denied by the Judge in the interest of morals, public order, national security, where the interests of *Minors* or the protection of the private life of the parties so require, where publicity would prejudice the interests of justice or where the proceedings are exclusively related to questions of law.
6. Hearing shall be held in the language of the proceedings.
7. Each Party may be assisted by an independent interpreter at its own cost. The identity of interpreters shall be disclosed to the Judge at least 5 days prior to the date of the hearing together with a statement of the interpreter's independence.

8. It is the responsibility of the Parties to ensure the appearance at the hearing of the interpreters for the witnesses and experts requested by them and to pay all costs and expenses associated with their appearance.
9. The Judge is responsible for the proper conduct of the hearing and shall issue procedural directives before the hearing and/or hold a preparatory telephone conference with the parties.
10. As a general rule, FINA shall be heard first, followed by the Defendant.
11. The Judge will hear the witnesses and experts specified in the parties' written submissions.
12. The Judge may limit or disallow the appearance of any witness or expert, or any part of their testimony, on the ground of irrelevance.
13. Before hearing any witness, expert or interpreter, the Judge shall invite such *Person* to tell the absolute and whole truth.
14. Irrespective of whether the hearing is held in persona or via video-conference, experts and witnesses may also be heard via telephone or video-conference, as deemed appropriate by the Judge.
15. The Judge may put questions at any time to any *Person* appearing at the hearing.
16. The oral submissions made by the Parties shall be as succinct as possible within the limits of what is required for the adequate presentation of the Parties' contentions. Accordingly, they shall not go over the whole ground covered by the written submissions, or merely repeat the facts and arguments these contain.
17. The Judge may at any time prior to or during the hearing indicate any points or issues which he would like the Parties to specifically address or on which he considers that there has been sufficient argument.
18. After the Judge has given the Defendant a final opportunity to speak, the Judge shall declare the hearing closed.
19. Once the hearing is closed, the parties shall not be authorised to produce further evidence or written pleadings, unless ordered otherwise by the Judge.
20. If a Party, a witness, an expert or an interpreter fails to appear at the hearing, the Judge may nevertheless proceed with the hearing and render his/her Decision.
21. The hearing may be reopened on the Judge's initiative at any time before the Decision is rendered.

### **Article 23 Scope of review**

1. The Doping Panel shall have full power to review the facts and the law.

### **Article 24 Expedited procedure**

1. Upon a reasoned request of a Party, the Doping Panel may decide to proceed in an expedited manner if the circumstances so require. In such case, the Judge shall issue appropriate directives accordingly.



## TITLE V – THE DECISION

### Article 25 Applicable rules

1. In rendering his/her Decision, the Judge shall apply the DC Rules, the *International Standards* as well as the FINA Constitution, the FINA Rules and, subsidiarily, Swiss law.

### Article 26 Sanctions and consequences

1. The Judge shall determine the type and extent of the sanction(s) and *Consequences* to be imposed according to the circumstances of the case, in accordance with the DC Rules.
2. The Judge is not bound by the Parties' prayers for relief.

### Article 27 Form and content of the Decision

1. At the end of the hearing, or promptly thereafter, the FINA Doping Panel shall issue a written decision that conforms with Article 9 of the *International Standard for Results Management* and which includes:

- a) the date and place of the Decision;
- b) the name of the Judge(s) who decided the case;
- c) the name of the Parties;
- d) a summary of the relevant facts;
- e) an account of the procedure followed;
- f) the decision on jurisdiction;
- g) the provisions or a reference to the provisions on which the Decision is based;
- h) the reasons of the Decision, including the anti-doping rule committed and the applicable *Consequences*;
- i) the operative part of the Decision;
- j) the decision, if any, in regard to costs;
- k) a notice indicating the possibility to file an appeal in CAS and the relevant time limit;
- l) if a period of *Ineligibility* is imposed on the Defendant, a notice that he/she remains subject to *Testing* during the period of *Ineligibility*;
- m) if a period of *Ineligibility* is imposed on the Defendant, a notice reminding the Defendant of his/her status during *Ineligibility*, including the *Consequences* of a violation of the prohibition of participation during *Ineligibility*, pursuant to DC 10.14. The *Athlete* or other *Person* should also be made aware that they may still provide *Substantial Assistance*.

3. The Decision shall be signed by the Judge(s).

4. The Judge may decide to communicate the operative part of the Decision prior to the delivery of the full Decision including the reasons.

5. Only the notification by email of the full Decision is relevant for the purposes of calculating the time limit to appeal in CAS.

#### **Article 28 Costs of proceedings**

1. The Judge shall determine in its Decision the costs of the proceedings.

2. As a matter of principle the Decision is rendered without costs.

3. Notwithstanding the above, the Judge may order the Defendant to pay a contribution toward the costs of the Doping Panel.

4. The Judge may also order the unsuccessful Party to pay a contribution toward the prevailing Party's costs and expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and experts. If the prevailing Party was represented by a legal representative the contribution shall also cover legal costs.

#### **Article 29 Notification and publication of the Decision**

1. The Decision shall be notified by email to the parties and to any other *Anti-Doping Organisation* with a right to appeal and will be published by FINA on its website and reported on ADAMS.

2. On its own initiative or upon receipt of a reasoned request from the Defendant within 7 days after notification of the Decision, FINA may decide to redact specific parts of the Decision before its publication.

3. If the Decision rules that no anti-doping violation was committed and no appeal has been brought against such Decision, the Decision will only be published with the consent of the Defendant.

#### **Article 30 Enforceability**

1. Decisions are enforceable as soon as the operative part is communicated to the parties by email.

2. Decisions are subject to appeals lodged with the Court of Arbitration for Sport, in accordance with DC 13.

#### **Article 31 Correction**

1. Within 7 days from the notification of the Decision, a party, with notice to the Doping Panel, may request the Doping Panel to rectify any error in computation, any clerical or typographical error, or any error or omission of a similar nature contained in a Decision.

2. The Doping Panel will give the other Party an opportunity to comment on the request for correction.

3. The Doping Panel may make such a correction also on its own initiative.

## **TITLE VI – FINAL PROVISIONS**

### **Article 32 Unforeseen procedural matters**

1. Any procedural matter that is not addressed under these Rules, the DC Rules, or the FINA Rules shall be decided by the Doping Panel in such manner as it considers appropriate.

### **Article 33 Authoritative text**

1. In the event of a discrepancy between the English and French versions of these Procedural Rules, the English version prevails.

### **Article 34 Liability**

1. Neither the members of the Doping Panel, the Doping Panel nor the FINA shall be liable for any action or omission in connection with proceedings conducted under these Rules, unless the actions or omissions are proven to constitute intentional wrongdoings or gross negligence.

### **Article 35 Entry into force**

1. These Procedural Rules come into force on 1 January 2021 and apply to all procedures initiated by the Doping Panel on or after such date.

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