

Anti-Doping Awareness in Sports

Prof. Ankush Gupta, Prof. Jay Singh, Prof. Anup Krishnan (Retd),

Prof. Dobson Dominic

Department of Humanities and Social Sciences

IIT Madras

Lecture -30

The Appeal Process

Good morning, ladies and gentlemen. Welcome to week 6, lecture 5 of this course on Anti-Doping Awareness for Sports. I am Colonel Dr. Anup Krishnan and today we will be discussing the appeal process as per the WADA code. I will be covering this lecture as per the following outline. Fair hearings, provisional suspensions, charge process, the hearing process, decisions and appeals, costs and we will conclude with a take home message.

Fair hearings: For any person who is asserted to have committed an anti-doping rule violation, the anti-doping organization responsible for results management shall provide a fair hearing within a reasonable time by a fair, impartial and operationally independent hearing panel in compliance with the WADA international standards for results management. A timely reasoned decision, specifically including an explanation of the reasons for any period of ineligibility and disqualification of results under Article 10.10 shall be publicly disclosed as provided in Article 14.3. What it means is, till the hearing, all the steps of result management are confidential. At the hearing, the identity of the athlete and the anti doping rule violation committed will become public knowledge. Provisional suspensions. Generally, when an anti doping rule violation is reported, It includes a provisional suspension which starts from the day the letter is signed by the National Anti-Doping Organization.

Why is this? What is this? We'll talk about this. Provisional suspensions may be mandatory or optional depending upon the substance. Mandatory suspensions apply to certain substances and methods. Optional suspensions may be imposed pending further investigations. Athletes may voluntarily accept a provisional suspension to expedite the process.

What it means is, suppose on 1st of January, I have been placed under provisional suspension for an adverse analytical finding in my urine. The hearing panel happens in April and the decision of the hearing panel is given in May. And I'm placed under a two year ban from May. If I opt for a provisional suspension, the period of ban will start from 1st of January from the date the provisional suspension is made applicable. So that now if I know I am going to get a ban, I can reduce the period of the ban by opting for a provisional suspension.

This is how you can shorten the process. Suspensions begin upon notification and last until the final hearing. However, if I ask for a B sample testing and the B sample proves negative, the suspension will be lifted and all the results and medals will be sent back to me.

Charge process: If the violation is confirmed, the athlete is charged formally. The charge letter outlines the rule violations and the consequences sought. The athlete is given 20 days to respond and accept or challenge the charges. If no response is given, the athlete is deemed to have accepted the violation. Failure to respond leads to automatic acceptance of the consequences. Appeals may be lodged against the charge or suspension.

The hearing process: Athletes are entitled to a fair hearing before an independent panel. This hearing determines whether an anti-doping rule violation occurred. Evidence from both the athlete and the National Anti-Doping Organization is presented. The hearing must comply with principles of transparency and fairness.

A decision is made based upon the facts and evidence. This decision includes the sanctions or exoneration. Decisions and Appeals The final decisions of the hearing are issued in writing and include reasons for the ruling. The sanctions may involve disqualification of results, suspensions or fines. The athlete may appeal the decisions up to the court of arbitration for sport.

The appeals must follow the rules of the World Anti-Doping Court. The appeal process ensures that the athletes can challenge rulings based upon fairness. Appeals are typically limited to errors in process or evidence handling. The Anti-Doping Disciplinary Panel The anti-doping disciplinary panel is an independent committee, consists of a legal expert as chairman and two members, one being a sports person and the other a sports medicine doctor or an allied medicine specialist. The hearing should be timely, should be fair and impartial.

The athlete has a right to bring their lawyer to the hearing. The athlete has the right to respond to the asserted anti-doping rule violation. The athlete and the National Anti-Doping Organization has the right to present evidence. The athlete has the right to

an interpreter. Athletes need to submit their reply within 20 days of notification.

The hearing is generally done in a single opportunity. And the hearing should be completed within three months of referral of the ADRV case. It is open to the public and the issue of the written reasoned decision is given within 90 days of the panel formation. Once the hearing panel gives their decision and the athlete is not satisfied by the decision, he has the option to appeal to the independent appeals panel. The National Anti-Doping Organization establishes an independent appeals panel.

It has got one legal expert as the chairman and two members, one sportsperson and one medical doctor. The decisions according to the ADR can be appealed. The decision remains in force until the appeal concludes. And the time limit to file an appeal is 21 days from the decision. The principles, a timely hearing, a fair, impartial and independent hearing panel.

The athlete has the right to be represented by a lawyer. The lawyer has to be paid by the athlete. No other agency will pay for the lawyer. The timely written and reasoned decision will have to be provided by the independence appeal panel. If the Athlete is not satisfied by the decision given by the independence appeals panel also.

They have a right to appeal to the WADA or they have a right to appeal to the court of arbitration for sport. The proceedings before the ADAP, the athletes need to supply The athletes need to submit reply within 20 days of notification. It is a single hearing opportunity. The hearing should be completed within three months of decision of the anti-doping disciplinary panel. The hearing is open to the public and a written reasoned decision is to be issued on an expedited basis.

Now the athlete is not satisfied He or she has the right to appeal to the Court of Arbitration in Sports. The Court of Arbitration for Sport, CAS, is based in Lausanne, Switzerland and is an independent institution established in 1984 to resolve legal disputes in the field of sports. Often referred to as the Supreme Court of Sports, CAS is recognized by International Sports Federations and the International Olympic Committee as the primary forum for sports-related arbitration, including anti-doping cases. It operates through a network of arbitrators who are experts in sports law, anti-doping and arbitration. CAS has a permanent list of arbitrators from around the world, selected for their expertise and impartiality.

Cases are typically heard by a panel of three arbitrators, though single arbitrator panels can be used for simple cases. CAS has jurisdiction over most international anti-doping disputes. These include cases involving athletes, sports organizations, and anti-doping

agencies. CAS hears cases on first instance or on appeal from decisions made by the NADOs and International Sports Federation. It is offered the final level of appeal, making its decisions binding and enforceable.

The CAS arbitration process is designed to be efficient and fair and proceeds as follows. Filing a claim. The party appealing a decision submits a statement of appeal to CAS. Panel formation by CAS. Arbitrators are selected to form a panel based on their expertise and impartiality.

Hearing. The panel conducts a hearing where both parties present evidence, witness testimonies and arguments. Decision. The panel deliberates and issues a written decision, which includes a detailed rationale and any sanctions, if applicable. Case load and appeal options. CAS handles hundreds of cases every year, with anti-doping cases constituting a significant portion.

CAS decisions are generally final, but in rare cases, they may be appealed to the Swiss Federal Tribunal on very limited grounds such as lack of jurisdiction or a violation of the due process. Importance of CAS in anti-doping governance. The CAS's role in anti-doping ensures that disputes are resolved with expertise and impartiality. This contributes to the credibility and effectiveness of the global anti-doping system, reinforcing trust among athletes, sports organizations, and the public. The take home message, anti-doping process is a medical legal process.

Athletes and athlete support personnel should be aware of the anti-doping program and the WADA regulations. In case of sanctions, there is a robust system of hearing and appeal at the National Anti-Doping Organization level. If not satisfied, the athletes can file appeals to CAS. They can rarely appeal against CAS decisions in the Swiss Federal Tribunal. However, it may be noted that all costs for the appeal and the lawyers and the other costs have to be borne by the athlete.

These are the references I've used for making my lecture and for preparing this lecture. Ladies and gentlemen, I strongly urge you to go through them. We seem to have finished this lecture and this week, ladies and gentlemen. So there will be an assignment which you will have to submit within the stipulated period.

So kindly do so. Thank you for listening and thank you for participating up to week 6 of this course. Thank you, ladies and gentlemen and Jai Hind.