

Code Amendments & International Standard for Code Compliance by Signatories – Stakeholder comments received during consultation Phase II (1 September – 14 October 2017)

• **WORLD ANTI-DOPING CODE (General Comments to Proposed Amendments) (12)**

FIBA, [Gabriel Zangenfeind](#), Anti-Doping & Sport Senior Associate (Switzerland)
Sport - IF – Summer Olympic

Generally, we believe that there is a need to incorporate some of the provisions from the Standard into the Code.
Especially, the provisions linked to sanctioning.

Canadian Olympic Committee, [Robert McCormack](#), CMO (Canada)
Sport - National Olympic Committee

Thank you for the opportunity to comment to WADA on the development of this important standard. We agree that recent crises have eroded the trust athletes and the public have in the global anti-doping system, reinforcing the need for such a standard.

While this new standard is an important step in the right direction, after consultation with our medical team and after a review of the timelines, the Canadian Olympic Committee has the following suggestions and comments on timelines for the process and protection against 'Conflict of Interest'.

We thank you again for the opportunity to consult on this important document.

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

GENERAL REMARK:

Although commending the valuable efforts of establishing the International Standard and the changes of the WADC thus needed, we find it necessary to reiterate our concern that the WADC and the International Standards are increasingly becoming more extended and complex with detailed wording. Hence we believe that WADA should strive to keep the wording as short, simple, precise and straight forward as possible, and avoid excessive parenthesis, and wording that is superfluous, as for example Article 23.5.7 where the wording within the parenthesis "*(but not any obligation)*" is unnecessary.

Ministry of Youth, Sport and Child Development, [Raphael Mulenga](#), Chief Sport Development Officer (Zambia)
Public Authorities - Government

Compliance of State Parties to the Code must be categorized according to State Parties abilities to fulfill stipulated obligations. To substantiate this point I want to give a practical example. Some State parties are privileged and they have all the needed qualified human, material and financial resources while others, especially developing countries in Sub-Saharan Africa may not be that privileged. This difference can mean a lot in terms of level of compliance to the Code. You may wish note for example that most State Parties from Sub-Saharan Africa where Zambia belong are still struggling even to establish NADOs due to resource constraints. Such State Parties have limited resources and mainly depend on WADA grants through RADOs to, for instance, undertake small numbers of in and out of competition tests. Thanks to UNESCO Fund for Eliminating Doping in Sport which has greatly enhanced sensitization and education in many developing countries including my country Zambia in issues of anti-doping in sport.

I therefore, recommend that as WADA revises the Code, components of compliance should not be measured or monitored on the same levels of privileged and underprivileged State Parties. Tougher sanctions for non compliance must be imposed on State Parties with all the needed resources exhibiting a possibility of negligence. However, that does not leave underprivileged State Parties to chance of complaisance.

Ministry of Culture, [Martin Holmlund Lauesen](#), Special Adviser (Denmark)
Public Authorities - Government

The Danish Government, the Danish Sports Confederation and National Olympic Committee as well as the Danish National Anti-Doping Organisation (Anti Doping Denmark) would like to thank WADA for the 2nd draft of the proposed Code Amendments and the International Standard for Code Compliance.

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Denmark supports the proposed changes to the Code and the proposed Draft International Standard for Code Compliance.

In particular, Denmark is supportive of the leaner process proposed in the latest draft, where disputes over WADA's decisions are referred straight to CAS (rather than first to another independent tribunal with appeal to CAS).

Denmark also welcomes the stronger distinction between non-compliant signatories acting in good faith from non-compliant signatories acting in bad faith. The distinction will serve as a basis for prioritizing actions and ensure stronger commitment to address the non-compliance issues.

Against this background, we strongly support the overall objective and the proposed compliance framework from WADA.

National Integrity of Sport Unit (Anti-Doping), [Glenn Barry](#), Director (Australia)
Public Authorities - Government

1. We suggest the title of the Standard be changed' to 'International Standard for Code Compliance'. The extra words are superfluous.
2. The Standard has references to reviews of *Signatories' rules, and regulations (and/or legislation, if that is how the Code has been implemented in a particular country)*'. We note WADA's role is to independently and dispassionately monitor, and undertake measures to harmonise and promote Code Compliance. However, it remains the case that WADA has no authority over Governments which have specific responsibility for the drafting, consideration and implementation of any specific legislation that gives effect to the requirements of the Code. The distinction between these responsibilities should be respected through the development and content of the International Standard'.

The problem may arise because Code Article 23.2.2, says the Code is to be implemented by Signatories without substantive change to the language. It is our earnest view this requirement does not extend to Governments.

3. In terms of the compliance framework, WADA has selected specific activities within the Code and then classified them as critical, high priority and other. It may be preferable to have a compliance framework where all mandatory elements of the Code are equally important and a consequence is determined by the unique circumstances of the non-compliance that would class it as critical, high priority or other. The practical effect of this is probably not significant given the penalties for critical and high priority levels non-compliance are similar.
4. The inclusion of the reference to approved third parties raises several issues:
 - (a) We agree in principle with the third party concept. However, If WADA is able to 'select' the approved third party, there is a risk WADA could potentially select an IF/ITA to take over the anti-doping activities of a NADO. We expect this would not be acceptable to Governments.
 - (b) You may wish to consider adding a provision in the Standard that indemnifies the approved third party from any liability or action should an errant signatory not return to compliance.
 - (c) If the non-compliant entity undertakes to pay the third party but fails to do so, is there recourse for the third party to seek those funds from WADA? (A third party may see they are entering into an agreement with WADA not the errant signatory).

Coldeportes - Colombian NADO, [Orlando Reyes](#), Manager, Antidoping Group (Colombia)
NADO - NADO

Comments on changes to the Code in relation to compliance:

1. We observe that The Article 13 (Appeals) appear revoked but in the previous revision the selection the strikethrough text correspond only to articles 13.6 and following. Just to clarify, do the articles 13.1 to 13.5 remain in force?
2. In the article 20.3.2 and 20.4.2 we suggest to eliminate: "where necessary", because we think it leaves a possibility of ambiguity.
3. In the article 23.5.6 (If the Signatory wishes to "dispute" WADA's assertion of....), we think that it should be considered not as a dispute but as an "appeal".

Anti-Doping Norway, [Anne Cappelen](#), Director Systems and Results Management (Norway)
NADO - NADO

Additional alterations to the Code

With reference to Part 3 – Roles and Responsibilities, ADNO strongly believe that the Code should identify the need for independent anti-doping structures with personnel with no conflict of interest and adequate competence, allowing for developing anti-doping programs compliant with the Code and the Standards.

There should also be a requirement of independence between sport and doping control/investigation. Sports Organisations should not be in a position to investigate its own sports personnel and activities.

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES commends WADA on the development of this second draft and the overall consultation process that has been put in place with respect to this important new standard. CCES believes this second draft is significantly improved from the first draft.

CCES recommends that a new violation be set out in the Code applicable to individuals who directly cause or facilitate non-compliance with the Code and breaches of ISCCS (e.g. misconduct by a lab director or other senior official at a NADO) should be subject to discipline in addition to the discipline facing Signatories.

CCES supports an implementation date of April 1, 2018 at the earliest for the Code revisions and the ISCCS. This timeframe provides sufficient time to work through ongoing concerns and 'gaps' in the current versions of these documents while ensuring that adequate time is provided for all Signatories, including Major Games, to properly implement the changes to their programs.

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

L'ONAD de la Communauté française remercie l'AMA et salue le travail effectué, suite aux remarques émises lors du premier tour de consultation.

De manière générale, l'ONAD accueille positivement les modifications apportées, qui répondent à de nombreuses remarques et qui améliorent, bien souvent la prévisibilité et donc la sécurité juridique du processus mis en place.

De manière un peu plus particulière, l'ONAD salue notamment l'allongement du délai pour contester une assertion de non conformité, la simplification du processus d'appel (avec l'identification directe du TAS comme instance d'appel) ainsi que la possibilité - cruciale pour nous - pour toute personne ayant un intérêt légitime - comme un sportif dans certains cas- de demander à se joindre à une procédure d'appel concernant une procédure de conformité pouvant avoir un impact éventuel ou direct sur sa participation à une compétition internationale.

Finalement et bien que tous ces éléments soient indiscutablement positifs et que nous soutenons les fondements, les objectifs et les principes de cette réforme, nous aurions juste souhaite attiré l'attention sur deux éléments, à lire en combinaison l'un avec l'autre, qui doivent, à notre avis, à tout moment, rester au centre des préoccupations, que ce soit pour cette réforme-ci, ou pour celles, plus diverses quant à leur champ d'action, à venir dans les mois et les années à venir. Ces deux éléments sont la proportionnalité et l'objectif premier qui doit être et rester de lutter contre le dopage, au niveau mondial, de la manière la plus efficace et la plus juste possible.

Aussi, la conformité est indisuctablement un moyen permettant de tendre vers une application, la plus uniforme possible, de la loi mondiale antidopage et, en ce sens elle est un facteur de justice et d'égalité que nous ne pouvons que soutenir de toute force. De même, la conformité permettra aussi de donner ou de redonner confiance aux sportifs et au public en général dans le système en général, ce dont la Communauté a besoin, en ces temps agités.

En revanche, ce sur quoi nous voulons attirer l'attention est qu'il convient absolument d'éviter une application disproportionnée des procédures en non conformité car ce faisant, cela pourrait finalement mener à une réduction des capacités du programme (dont celles de contrôle) mondial antidopage, ce qui reviendrait à atteindre un résultat exactement inverse du but original et premier recherché. En d'autres termes, il s'agit d'éviter, nonobstant cette réforme nécessaire, de se tromper de finalité ou de se détourner de la finalité première du programme.

Ce sera, pour nous, l'enjeu majeur de la bonne application de ces nouvelles dispositions.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

General Comment: the draft does not explain the governance and oversight of the CRC, nor how WADA itself is to be regulated.

It may be that these matters will be addressed as part of the broader WADA Governance Review.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

Subject to its comments on particular Code and proposed ISCCS Articles, iNADO supports the ISCCS being adopted by the WADA FB in November 2017, to go into force in April 2018.

iNADO supports CAS to be the "independent tribunal" for resolving compliance challenges / disputes (Code Articles 23.5.6 to 23.5.10 and ISCCS Article 10.4).

iNADO supports replacing the Draft 1 obligation to do everything possible not to award event hosting rights to a non-compliant country with the obligation not to accept bids for event hosting rights from a non-compliant country. (Code Articles 20.3.11 and 20.6.6; ISCCS Article 10.1.1.5).

The compliance monitoring role and authority of the CRC, including the authority to make determinations of non-compliance (and not the WADA ExCo or FB) should be embedded into the Code.

Individuals who are responsible for/centrally complicit in non-compliance by a Signatory should be subject to sanction under the Code Article 2 (and Code Article 2.10 should be extended to prohibit association by Athletes/Athlete Support Personnel with such individuals). This should be incorporated into the Code at this time.

At this time Non-Signatories which act as "Anti-Doping Organisations" such as private service providers (PWC, ITDM, etc.), RADOs, and independent AD/integrity units (CADF, AIU, ITA, etc.) must be more directly subject to Code compliance. Otherwise there is a huge gap in WADA's direct oversight and Code-compliance is effectively downloaded to the Code "Signatories" (using such service providers) which lack the compliance-monitoring expertise and capacity of the CRC.

- All non-Signatories providing anti-doping services covered by the Code to Signatories must be "recognised" by WADA (like blood laboratories) and,
- Through a user-pay system, be subject to direct WADA oversight the same as Signatories.
- The concept would be similar to that which will apply to an "Approved Third Party" in Draft 2 of the proposed ISCCS.
- WADA should also provide a model language (including an indemnity clause) for all Signatories to include in their contracts with non-Signatory service providers that addresses Code compliance.

• **12.1 (1)**

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

The consequences for Signatory non-compliance be incorporated into the Code at this time (e.g., as part of Code Article 12).

• **12.2 (2)**

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Pour illustrer à nouveau le dernier exemple, donné, dans nos commentaires généraux, à propos de la bonne foi et de la proportionnalité, nonobstant l'article 12.1 et 12.2, en vertu de la séparation des pouvoirs, principe général fondamental dans les sociétés démocratiques, nous estimons qu'il serait disproportionné et contraire à cette même séparation des pouvoirs, de déclarer, par exemple, une ONAD non conforme parce que le tribunal compétent en vertu de sa législation, composé de juges indépendants, aurait pris une décision, que l'AMA n'estimerait pas tout à fait conforme au Code. Dans un tel cas, nous semble-t-il, un premier dialogue pourrait intervenir entre l'AMA et l'OAD, quant aux possibilités éventuelles de faire appel et, le cas échéant, quant aux moyens à soulever en appel. Ensuite, si l'ONAD interjette appel, en se fondant notamment sur les moyens partagés avec l'AMA, l'ONAD aura, selon nous, épuisé sa compétence et son pouvoir pour s'assurer de l'application correcte du Code et ne devrait plus, dès lors, pouvoir être tenue responsable d'une décision finale - à

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supposer certes partiellement non conforme - mais rendue par un tribunal composé de juges disciplinaires indépendants. Appliquer autrement cette règle reviendrait, selon nous, à pousser les ONADs à enfreindre le principe essentiel de la séparation des pouvoirs, ce que nous ne souhaitons absolument pas et ce qui, d'ailleurs, s'inscrirait de plein fouet à contre-courant des autres réformes de l'AMA, notamment à propos de la gouvernance, qui prônent justement une plus grande séparation des pouvoirs et une plus grande indépendance des différents acteurs du système.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Signatories and Governments could be encouraged to adopt the 'non-WADA' sanctions referred to in the draft in their own rules, funding instruments and/or eligibility criteria. (These sanctions being listed at 11.1.1.5-12 of the draft).

Any legal vulnerabilities as far sanctions in the draft ISCCS are concerned might be ameliorated if they are mirrored in an MEO/IF statutes.

- **20.1 (1)**

Secretaria de Estado da Juventude e Desporto, [Paulo Fontes](#), Advisor (Portugal)
Public Authorities - Government

20.1.2 To require as a condition of obtaining and upholding recognition (suggestion from the Portuguese NOC)20.1.9 To actively promote anti-doping education, prevention and awareness raising. (suggestion from the Portuguese NOC). Use the same formulation suggested for 20.1.2 and 20.1.9 in all other signatories in article 20.

- **20.3 (5)**

International Cricket Council, [Peter Harcourt](#), Anti-Doping Consultant (Australia)
Sport - IF – IOC-Recognized

Article 20.3.4 - As an International Federation, we do not always have authority over all athletes from professional leagues. (See Article 23.1.2)

FIE, [Clare Halsted](#), Anti-Doping Chair (UK)
Sport - IF – Summer Olympic

20.3.2 To require as a condition of membership that the policies, rules and programs of their National Federations and other members are in compliance with the Code, and to take appropriate action to enforce that condition where necessary.

So this will be an obligation for IFs but without any consequences if appropriate action is not taken - until the 2018-19 review - is this correct?

Same applies to 20.4.2

World Rugby, [David Ho](#), Anti-Doping Manager - Compliance and Results (Ireland)
Sport - IF – Summer Olympic

With reference to article 20.3.11, will the term 'World Championships' be defined by WADA, or will it be left to IFs to interpret.

FEI, [Catherine Bollon](#), Coordinator Athlete Legal Services and Human Anti-Doping (Switzerland)
Sport - IF – Summer Olympic

Article 20.3.11 Code and article 20.3.11 ISCCS: Is this realistic? Let's take the example of Spain when the NADO was suspended... That would mean that IFs cannot accept bids for events in Spain?

Secretaria de Estado da Juventude e Desporto, [Paulo Fontes](#), Advisor (Portugal)
Public Authorities - Government

20.3.3 and 20.3.4 All athletes and each athlete support person, should be bound by the same anti-doping rules, This should include Athletes that are not regular members of IFs.

- **20.4 (2)**

International Cricket Council, [Peter Harcourt](#), Anti-Doping Consultant (Australia)
Sport - IF – IOC-Recognized

Article 20.5.1 - Why are NADO's the only ADOs required to be independent in their operational decisions and activities?

Secretaria de Estado da Juventude e Desporto, [Paulo Fontes](#), Advisor (Portugal)
Public Authorities - Government

20.4.2 To require as a condition of obtaining or holding membership or recognition that National Federations' anti-doping policies and rules are in compliance with the applicable provisions of the Code, and to take appropriate action to enforce that condition where necessary. (suggestion from the Portuguese NOC).

- **20.6 (1)**

FEI, [Catherine Bollon](#), Coordinator Athlete Legal Services and Human Anti-Doping (Switzerland)
Sport - IF – Summer Olympic

Article 20.6.6 Code and article 20.6.6 ISCCS:

Is this realistic? Let's take the example of Spain when the NADO was suspended... That would mean that IFs cannot accept bids for events in Spain?

- **23.5 (11)**

International Cricket Council, [Peter Harcourt](#), Anti-Doping Consultant (Australia)
Sport - IF – IOC-Recognized

Article 23.5.6 - We suggest allowing 28 instead of 21 days for a signatory to file a formal dispute with CAS.

FIBA, [Gabriel Zangenfeind](#), Anti-Doping & Sport Senior Associate (Switzerland)
Sport - IF – Summer Olympic

23.5.5 - Similar to cases of Acceptance of Sanction by Athletes, there should be a right to appeal to CAS for directly affected ADOs.

23.5.6 - The burden of bringing the dispute to CAS should be on the Signatory only if the CAS proceeding is free of charge.

Furthermore, a clause should be inserted that the burden of proof shall be on WADA and the standard of proof shall be to the comfortable satisfaction of the CAS panel, considering the seriousness of the non-compliance allegations.

23.5.7 (b) Besides "World Championships" it should refer to "International Events", for reasons of consistency with other provisions of the Standard.

FIE, [Clare Halsted](#), Anti-Doping Chair (UK)
Sport - IF – Summer Olympic

Just the wording

23.5.4

In cases of non-conformity (whether with reporting obligations or otherwise), WADA shall follow the corrective procedures set out in the International Standard for Code Compliance by Signatories. If the Signatory fails to correct the nonconformity within the specified Timeframe, then (following approval of such course by WADA 's Executive Committee)

- WADA shall send a formal notice to the Signatory , alleging ~~that the Signatory is asserting~~ that the Signatory is noncompliant , specifying the consequences that WADA considers should apply for such non-compliance, and specifying the conditions that WADA considers the Signatory should have to satisfy in order to be reinstated to the list of Code compliant Signatories

23.5.9 typo

The following decisions are

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FEI, [Catherine Bollon](#), Coordinator Athlete Legal Services and Human Anti-Doping (Switzerland)
Sport - IF – Summer Olympic

Article 23.5.4 Code: the word “WADA” is missing after “[...] then (following approval of such course by WADA’s Executive Committee)[...]” (in the ISCCS it correctly reads “then (following approval of such course by WADA’s Executive Committee) WADA shall send a formal notice to the Signatory [...]”).

Article 23.5.8 Code and article 23.5.8 ISCCS: Why do we need this? The CAS Rules should apply anyway where it states what are the grounds for appealing to the Swiss Federal Tribunal

Article 25.3.9 Code: a “T” is missing at the beginning of the sentence

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Please also confer our general comment.

Article 23.5.4:

According to this Article, WADA shall send a formal notice to the Signatory “asserting that the Signatory is non-compliant”, however we cannot see that there are any burden of proof or other legal requirements linked to this “assertion”.

Article 23.5.6:

Following the last version, if a Signatory disputed WADA’s allegation of non-compliance, WADA was required to submit the case to CAS. In the 2.0 version, it is the Signatory in question that needs to file a formal notice of dispute with the CAS, whereas in the fast track-cases, it is still WADA that must bring the case before CAS, cf. ISCCS Article 9.4.4.3. Firstly, we cannot see why the fast track-proceedings should differ from the ordinary proceedings in this respect. Secondly, WADA serves as the prosecuting body in cases of non-compliance and should for this reason be responsible for submitting the case to CAS.

We are pleased that the Independent Tribunal is replaced by CAS, however we recommend that WADA sets up a first and second instance tribunal within the CAS-system; A permanent CAS Anti-Doping Division as first instance, and the CAS Appeal Division as second instance.

Article 23.5.7:

According to this Article several signatories can take part in the proceedings as party. The Norwegian NOC has experienced being a party on the same side as the athlete as well as a counterpart to the same athlete in the same case before CAS. In ordinary proceedings where one party is acting as a prosecution body, as would be the case here, there should be clear rules regarding the right to intervene and the consequences thereof, i.a. responsibility to bear costs.

Article 23.5.8:

The Code should not refer to specific sections in national legislation that are not under the jurisdiction of the WADA, as any amendment to the Act in question would make the specific Article inaccurate and outdated. It should be sufficient to refer to the Swiss national legislation as such.

Ministry of Culture, [Martin Holmlund Lauesen](#), Special Adviser (Denmark)
Public Authorities - Government

In particular, Denmark is supportive of the leaner process proposed in the latest draft, where disputes over WADA’s decisions are referred straight to CAS (rather than first to another independent tribunal with appeal to CAS).

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES agrees with the proposed revision that appeals should go through a one-step process directly to CAS.

Irish Sports Council, [Siobhan Leonard](#), Anti-Doping Manager (Ireland)
NADO - NADO

Sport Ireland notes that there is no reference to a National Federation in 23.5.7b) and this is possibly linked to the fact that National Federations are not listed in Article 20 of the World Code. Sport Ireland believes that if a NOC or NPC has the right to intervene and participate as a party to the case the

same should be for a National Federation. This may not be added in the present ISCCS but this may be factored in the future versions of the Code.

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

à nouveau, cette même idée de proportionnalité doit être de mise dans l'application de cette disposition.

Pour prendre un exemple clair, une non-conformité administrative d'une ONAD ne devrait pas pouvoir mener à des conséquences sportives (ex interdiction de participation à une compétition internationale), pour les sportifs ayant la même nationalité que cette ONAD. Ce faisant, il y aurait à la fois une disproportion dans la sanction, et ce pour des faits totalement étrangers aux sportifs concernés.

Par ailleurs, nous nous demandons s'il est vraiment opportun de publier une simple assertion ou allégation de non-conformité. Nous comprenons parfaitement qu'une décision de non-conformité, quand elle est définitive, le soit, par contre, procéder à une publication d'une assertion qui ne sera finalement peut-être pas suivie d'effet, pose, à tout le moins, un certain nombre de questions. Nous n'en comprenons pas bien les avantages.

Pour l'article 23.5.5 en projet, bien que le délai de 21 jours pour contester une allégation de non-conformité, soit un pas en avant par rapport à la première version du texte, vu le caractère potentiellement très lourd d'une décision de non-conformité et vu qu'il convient de permettre à l'OAD en cause de préparer sa défense dans les meilleures conditions, vu aussi le fait qu'une telle allégation de non-conformité pourrait très bien intervenir en période estivale, au moment des congés, ne serait-il pas plus proportionné de porter ce délai à 28 jours?

Par ailleurs, la requête d'appel pourra-t-elle être signée par l'OAD concernée seule ou sera-t-il nécessaire de l'introduire via un avocat ?

L'article 23.5.7 est une avancée majeure. Permettre au CIO, au comité national olympique ou à un sportif de prendre part à un litige à propos d'une possible non-conformité, pouvant avoir un impact direct à propos d'une participation sportive, était quelque chose de fondamental. C'est, selon nous, une des plus grandes avancées par rapport à la première version du texte.

Pour l'article 23.5.10, idem que supra, un délai de 28 jours semblerait davantage proportionné vu l'importance et le caractère potentiellement très contraignant des conséquences en jeu.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Governments invest hundreds of millions of dollars each year in sport as part of an integrated sport and public health strategy.

Governments (and other stakeholders) should have the right to be involved as a party or an intervener as a matter of course in any matter where there is potential for disproportionate harm to be caused to a Government's public health and sports development strategy by the imposition of ISCCS sanctions. There is potential for a dramatic ripple effect to ensue if a domestic Signatory is found to be non-compliant. This is particularly the case where there is any possibility that a class of athletes will be excluded from competition.

Therefore –

23.5.4 – if the proposed consequences for Signatory non-compliance are that a class of athletes is excluded from competition, these consequences should be notified to all relevant governments and stakeholders affected by the imposition of those consequences.

23.5.5 - relevant governments and stakeholders should be afforded a right to be heard if the imposition of exclusion consequences would cause disproportionate harm to public health and sports development strategy.

23.5.6 - relevant governments and stakeholders should have the right to dispute exclusionary consequences and be a party to any CAS proceedings

23.5.7 – add relevant governments and stakeholders as potential parties as of right without any need to apply to CAS

23.5.9 – exempt Signatories from the requirement to comply if to do so would result in a breach of pre-existing commitments made to relevant governments and stakeholders (for example, the funding provided to athletes).

23.5.10 – add relevant governments and stakeholders

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO does not support that the ExCo not FB to act on CRC recommendations (Code Article 23.5.4 and ISCCS Article 10.2): to reduce real and perceived conflicts of interest, determinations of non-compliance should be the role of the independent CRC.

- **INTERNATIONAL STANDARD FOR CODE COMPLIANCE BY SIGNATORIES (General Comments) (15)**

ITTF, [Françoise Dagouret](#), Anti-Doping Manager (Switzerland)
Sport - IF – Summer Olympic

ITTF is pleased to see that its comments to the draft V1 have been directly or indirectly addressed, and thanks WADA for its consideration. It acknowledges the greater flexibility provided globally in V2, driven by the concept of "good/bad faith", hoping that this will not undermine the objective for both fairness and firmness, and not open too many doors to unnecessary, lengthy and costly legal challenges.

International Paralympic Committee, [Vanessa Webb](#), Anti-Doping Manager (Germany)
Sport - IPC

1. The IPC is of the view that draft version 2.0 of the ISCCS is a significant improvement to draft version 1.0.
2. In particular, the IPC welcomes the distinctions made throughout the ISCCS to differentiate between World Anti-Doping Agency Code (Code) signatories acting in good faith from those acting in bad faith, as well as the amendments to distinguish between different types of non-compliance.
3. However, the IPC is concerned that there has been limited engagement from stakeholders to date, especially considering the impact the ISCCS will likely have on the day to day operations of such stakeholders. Only 19 National Anti-doping Organizations, 8 governments and 8 International Federations (IFs) provided feedback on draft version 1.0. As such, the IPC remains of the view that the two-step approach outlined in its original submission should be adopted. This will enable more lengthy consultation and facilitate engagement from all stakeholders regarding the minimum standard of operational conduct for all Code signatories. Greater consultation and engagement in relation to general Code signatory compliance (distinct from gross, intentional breaches of non-compliance) could result in possible remedies for the inevitable capacity challenges for Code signatories and assist to prevent an undesirable shift of resources from testing and education to 'Code compliance'.
4. The IPC supports the amendments to ensure transparency of non-compliance but suggests a provision is also made to ensure discretion in relation to *how* non-compliance is publicly disclosed. Not all non-compliance is equal which means the specific facts and circumstances of each case must always be considered to ensure the appropriate level of detail is communicated.
5. The IPC supports the 'one-stop' appeal right to CAS as the most efficient appeal mechanism. If the IPC intervened in any proceeding it would most likely do so if the non-compliance impacted a significant number of Para athletes. In such cases, a quick resolution (as opposed to a second CAS appeal right) would be in the best interests of all parties concerned.
6. The IPC also supports the amendments made to introduce greater flexibility to the timing requirements throughout draft version 2.0 as well as the removal of fines as a potential sanction for cases not involving a breach of critical requirements and aggravating factors.
7. The IPC supports the amendments, including the new defined terms: 'Approved Third Party' and 'Takeover', to prevent the vacuum that could remain as a result of non-compliance.
8. The IPC takes note of the matters that WADA considers are better considered as part of the broader Code review envisaged to take place in 2018-2019. However, the IPC is of the view that the details of what is expected of Code signatories who are required to monitor and enforce Code compliance by their

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members and/or recognized bodies is required as part of this process. The IPC is of the view that there are very few IFs with the necessary resource(s) to be able to enforce the provisions of the ISCCS on their respective members/recognized bodies. It will be challenging enough for IFs themselves to remain compliant with the provisions of the Code and ISCCS, let alone enforce such provisions on their respective members. In addition to this significant capacity challenge, if Code signatories are required to monitor compliance without support and/or guidance this will likely result in different compliance measures being adopted by different signatories, thus resulting in compliance inconsistencies. Further, requiring Code signatories to monitor compliance of their respective members has the potential to result in such signatories turning a blind eye to knowledge of member non-compliance if that would reflect badly on their sport. It is the IPC's view that a consistent and independent approach to compliance is necessary. Therefore one body should be tasked with monitoring compliance. If such a solution is not deemed practicable (which the IPC recognizes is likely) and Code signatories are still tasked with monitoring member compliance, at the very least WADA needs to provide signatories with a compliance monitoring template or model procedures. Such a template or model procedures should be aligned with the CRC processes (albeit perhaps scaled down). Further, the CRC should have an explicit role in advising, guiding and training Code signatories regarding their monitoring and enforcement responsibilities. In addition, provision needs to be made to ensure there are not overlapping compliance responsibilities. If a Code signatory (e.g. the IPC) and the CRC are both responsible for monitoring compliance of the same entity (e.g. a National Paralympic Committee), the Code signatory should be exempt from such responsibility and the CRC (with greater capacity and expertise) should be the sole entity tasked with this responsibility. A related concern is the effect of non-compliance of a Code signatory on its respective members. If the IPC is deemed non-compliant does that then mean that its members/recognized bodies are also non-compliant and/or vice versa?

9. Finally, while the IPC agrees with the principle outlined in comment to Article 9.3.3.2 in that signatories are fully responsible for complying with the Code and the International Standards, a mechanism must be introduced to effectively oversee third party service providers that are themselves not Code signatories. This is particularly important for independent anti-doping/integrity units and local organizing committees less likely to be 'marketed out' for poor (or non-compliant) services like other professional companies (including testing companies such as Professional Worldwide Controls). The IPC suggests that third party service providers be *required* to be compliant with the International Standards relevant to the services they provide. Alternatively, or additionally, such third party service providers should be required to be recognized by WADA (similarly to blood laboratories) and in this way (via a user-pays system) be subject to WADA oversight in the same way as Code signatories. In addition, WADA should provide model language (including an indemnity clause) that addresses Code compliance for all Code signatories to include in their service agreements with third party service providers

Sport New Zealand, [Sam Anderson](#), Senior Advisor (Legal) (New Zealand)
Public Authorities - Government

Sport New Zealand thanks WADA for the opportunity to submit on Phase 2 of the consultation on the proposed *International Standard for Code Compliance by Signatories (ISCCS)*.

We support the changes made to the ISCCS, in particular:

- Distinguishing Signatories acting in good faith from Signatories acting in bad faith;
- Distinguishing between different types of non-compliance; and
- Prioritising WADA's monitoring and enforcement efforts on the most important types of non-compliance.

We appreciate the large amount of work WADA has undertaken in a relatively short amount of time to make changes to the ISCCS. We thank WADA again for the opportunity to make this submission.

Secretaria de Estado da Juventude e Desporto, [Paulo Fontes](#), Advisor (Portugal)
Public Authorities - Government

The Portuguese State Secretary for Youth and Sports notes the positive evolution made on the proposed documents.

In general terms we would like to emphasize that due attention should be given to the graduation of noncompliance consequences, but that within the same typology of signatories the same set of rules should apply.

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The Portuguese State Secretary for Youth and Sports believes that the Compliance Review Committee should be given the necessary powers to independently start compliance review actions complementary to the issues forwarded by WADA management.

Also when it concerns the assessment of the effectiveness of the signatory efforts to solve non compliance issues within a given deadline should all be referred to the CRC in the cases that WADA management considers that the issues have not been solved. The Portuguese NOC as also shared with us the concern that fast track procedures, while necessary, should not compromise the rigor and quality for antidoping mechanisms.

Ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

La France remercie l'Agence mondiale antidopage pour ce processus de consultation des partenaires avant l'adoption du projet de Standard international pour la conformité au Code des signataires et soutient la création de ce standard, qui permettra de formaliser les procédures et de mettre en place des sanctions claires en cas de non-conformité d'un signataire du Code mondial antidopage.

A titre de préambule, la France souhaite rappeler les principes généraux qui découlent de son adhésion à la Convention européenne de sauvegarde des droits de l'Homme et des libertés fondamentales et aux principes du Code mondial antidopage, à savoir les principes de respect des droits de la défense et du contradictoire, ainsi que d'impartialité et d'indépendance des organes de poursuite et de jugement. A ce titre, la France sera favorable à toute mesure permettant de garantir au mieux le respect de ces principes au cours de la procédure prévue par le Standard, notamment en ce qui concerne l'indépendance et la compétence du CRC.

La France souhaite également rappeler la nécessité de préserver l'équilibre entre le besoin de clarté relatif aux règles applicables, et le besoin de flexibilité dans l'appréciation des circonstances propres à chaque Signataire. Cette flexibilité doit s'illustrer tant dans l'appréciation des hypothèses de non-conformité que dans les conditions imposées pour leur résolution. La décision de déclarer un Signataire non-conforme doit être imposée en dernier ressort, et uniquement lorsque le Signataire n'a pas pris, malgré l'accompagnement et le dialogue avec l'AMA, les mesures correctives requises dans les délais requis. La France propose également que des circonstances atténuantes puissent être retenues dans l'appréciation de la non-conformité constatée, comme il existe des circonstances aggravantes.

La France salue à ce titre les amendements apportés à la version 2.0 du projet de Standard, en ce qu'ils permettent de distinguer clairement les hypothèses de non-conformité résultant de tentatives de corruption ou de mauvaise foi caractérisée d'un Signataire, de celles découlant de faiblesses structurelles ou conjoncturelles du système antidopage d'un Signataire de bonne foi.

Council of Europe, [Council of Europe](#), Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

During the 39th CAHAMA meeting, which was held in Madrid, the Chair of the Compliance Review Committee, Mr Jonathan Taylor, presented the second draft version of the International Standard for Code Compliance by Signatories.

Following the call for comments on the International Standard for Code Compliance by Signatories launched by CAHAMA and due to the fact that no consensus has been reached, the Council of Europe will submit no comments.

Swedish Antidoping, [Matt Richardson](#), Head of NADO (Sweden)
NADO - NADO

The Swedish NADO supports the second draft of an International Standard for Code Compliance by Signatories and further believes that a number of improvements have been made since the first draft. There are, however, a number of specific points that we would like to see addressed before the Standard is composed into a final version.

Again, our overarching comment is that WADA governance structures must undergo reform or adaptation to ensure that oversight of the compliance process and decisions is free from any real or perceived influence by political representation.

We stated in our response to the first draft that we felt that governance reforms at WADA should take precedence over compliance initiatives; this should in turn lead to governance guidelines for NADOs. We maintain this position even now, however we do accept that there is enough consensus among ADOs and other parties to continue with the compliance standard according to the timeline suggested by WADA.

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Nonetheless, we do not believe this should absolve WADA of the responsibility to ensure that the compliance process and decisions are free of political representation - whether that exists in the Foundation Board or in the Executive Committee.

Irish Sports Council, [Siobhan Leonard](#), Anti-Doping Manager (Ireland)
NADO - NADO

Sport Ireland welcomes this opportunity to provide feedback to WADA on the second version of the draft ISCCS.

The development of the International Standard for Code Compliance is an essential element for the fight for clean sport and is a welcome development.

This document must hold Code Signatories to a high and strict standard to ensure that the World Code and International Standards have been implemented by Code Signatories.

Sport Ireland would like to take this opportunity to thank WADA for the work they have completed on both Version 1 and Version 2 of this Standard. The Note to WADA Stakeholders about Draft Version 2.0 of the ISCCS (published on 1 September 2017) was extremely helpful document.

Again Sport Ireland would state this document must also take into account the proportionality of the proposed consequences for the Signatories and look forward the legal opinion from Judge Costa.

AEPSAD, [AGUSTIN GONZALEZ GONZALEZ](#), Manager Legal affairs departament (Spain)
NADO - NADO

WADA is presenting the second draft (Phase II) version of the International Compliance Standard, and first of all we want to congratulate WADA for the work done.

The WADA Foundation Board on his meeting of May 2017, approved the development of a framework outlining a range of graded, proportionate and predictable consequences that could be imposed in situations of Code Non-compliance by a Signatory.

It is clear that the adoption of the Code has been an important tool permitting significant advances in the global fight against doping in sport. For this reason, one of the WADA's core activities has to be the monitoring of the Compliance to the Code by its Signatories.

But from our perspective, as Public Bodies and National Anti-Doping Organizations, we must always keep in mind that our main purpose is the purpose of the International Convention Against Doping in Sport of UNESCO: *"to promote the prevention of and the fight against doping in sport, with a view to its elimination"*.

Equally WADA must not forget its vision: *"a worldwide all athletes can compete in a doping-free sporting environment"*.

Code Compliance should not be the only goal of the organizations that fight against doping. It should not be even the most important goal in that fight.

We received, studied and made comments for the Phase I document. We were very critic with that version, but now we are happy to find a large part of the spirit of our comments on the document. Now WADA's opinion is that there is sufficient consensus to proceed without a further round of formal consultation. We are not sure about this WADA outlook, since we think that much work has still to be done.

Of course, we will send our comments to the generality of the documents before the deadline on 14 October, and also detailed comments to a number of points on these documents.

Our main concerns are:

- First of all and following as a principle, the Code Compliance should not be the most important goal in the Anti-Doping fight, we are very concerned on the lack of protection mechanisms for clean athletes who are in dependence on a Non-Compliant Signatory. An ISCCS priority must be to guarantee the rights of these athletes to continue competing in a sure and clean sport environment.
- Also we think that it is necessary to provide a mechanism to ensure the Full Code-Compliance by WADA. WADA is an important Signatory of the Code and we do not find such a mechanism on the ISCCS draft document.
- This Compliance System must guarantee a way to deal with Non-Signatories entities related to International Federations and in charge of Anti-Doping Management (CADF, AIU), this mechanism shall also ensure the Compliance with the Code by the new IAT.

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- The responsibilities and consequences for NADOs included in a Non-Compliant RADO, must be fully clarified.
- The ISCCS identifies the Compliance Review Committee (CRC) as a cornerstone in the compliance code assessment by the signatories. This is an independent, non-political body that provides advice, guidance and recommendations to WADA's Foundation Board on compliance matters. The CRC is composed of compliance specialists from non-sporting industries, as well as representatives of athletes, governments and sport.

We consider that the ISCCS should define clearly the composition of this Committee, as well as the methodology to be used for the election of its members, and all matters regarding their position (expertise, capacity, duration, responsibilities, incompatibilities, confidentiality, etc.). We also consider that it would be necessary to constitute a proper mechanism for the election of the CRC members in which all the signatories could be entitled to speak and vote. In relation with the composition of the CRC, we believe that it should be entirely made up of experts associated with the sports world and the fight against doping.

- There is still an excess of subjectivity on the definition of the process of Non-Conformity identification and of Non-Compliance declaration. We find too much ambiguous wording (like: "*relevant*", "*credible*", "*exceptional*", "*accurate*", "*reliable*", "*suitably*", "*assert*", "*adequate*", "*reasonable*", "*may*", "*usually*", "*promptly*", "*decides*", "*considers*", etc...), we think this wording can lead to subjective interpretations, altering the possibilities of predictable outcomes to the processes.

It is clear that a balance between flexibility and predictability must be necessary to implement these processes, but we think this balance tilts now clearly too much to WADA's flexibility.

- Also the criteria to prioritize the monitoring of certain Signatories through a Risk Assessment are not clarified enough and a supplementary work must be done.
- We have a very strong concern on the classification of Non-Compliance in this document.

For us the definitions of these degrees of Non-Compliance are not clear at all. We see that on the definitions of High Priority and Critical requirements, the defined term falls into the definition: "*Critical: a requirement that is considered to be critical to fight against of doping on sport*", "*High Priority: a requirement that is considered to be high priority but no Critical to fight against of doping on sport*".

It is not clear at all who "*considers*" these requirements Critical or High Priority (CRC?). In the other hand, all the decision of this body will be totally unilateral and discretionary.

In the document it is possible to find some examples by way of illustration of requirements whose failure to satisfy will fall on Critical or High Priority category. We think these list is a clear sample of the lack of objectivity of these categories: some of these failures could be easily in each category, some are too much general.

- Our concern also lies on the defined Consequences for such Non-Compliances. We find as a consequence the possibility to monitor "*Some or all*" of the Signatory Anti-doping Activities by a third party, at the Signatory expenses.

It can be a great difference from "*Some*" to "*All*", and with this definition, consequences can be decided in a totally subjective way and impose on a Signatory expenses which can be minimal expenses or can be a very strong burden.

- A similar subjective way of decision is also described for countries ruled ineligible to host "*one or more*" Olympic or Paralympic Games.
- We also consider that due to the importance of the Third Parties in the ISCCS, they should be conformed, solely and exclusively, by Anti-doping Code Signatories and not by services providers approved by WADA, as in case of Non-Signatories, any new Non-Compliance by these Non-Signatories would fall again on the side of the intervened Signatory entity. In addition, conditions and requirements to be fulfilled by the Third Party for this role, should be perfectly defined, for example, to have a proven full Code compliance in the Areas in which they could be involved.
- Fines disappeared in a general way, and this is good news, we are happy with that. But fines are still present in case of "*Aggravating Factors*", and in an amount "*sufficient*" to punish the Signatory. These Aggravating Factors need a clarification and the word "*sufficient*" needs a definition with clear bounds.
- We consider that signatories may be seriously affected by the high expenses caused by the dispute or disputes referred to CAS.

With the main purpose of ensuring equal treatment and access to CAS, we propose two alternative ways of reducing or eliminating economic barriers between signatories. As a first option, according to rule 65 of the Code of Sports-related Arbitration, regarding appeals against decisions issued by international federations in disciplinary matters, and more specifically as provided in rules R65.1 (*"This Article R65 applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body. In case of objection by any party concerning the application of the present provision, the CAS Court Office may request that the arbitration costs be paid in advance pursuant to Article R64.2 pending a decision by the Panel on the issue."*) and R65.2 (*"Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of CAS are borne by CAS."*), disputes before CAS should be treated in a similar manner as athletes, since they are considered in second instance, and similarly, signatories should not pay the CAS expenses. Secondly, we propose the option of being WADA the organism that covers the CAS expenses until a final decision is rendered.

- We are very concerned in relation with the consequences of non-compliance by signatories, since in the case that a signatory wishes to dispute the asserted non-compliance and/or the proposed signatory consequences and/or the proposed reinstatement conditions within the timeline set out in the Compliance Code, it is not established whether the implementation of these consequences is automatic or not. Provision should be made for the possibility of signatories to request before CAS the automatic suspension of these consequences, if it is decided that the implementation should be automatic.

Finally, we want to repeat our congratulations for the documents and we want to encourage WADA to finish the job with the help of all of us.

Anti-Doping Norway, [Anne Cappelen](#), Director Systems and Results Management (Norway)
NADO - NADO

INTERNATIONAL STANDARD FOR CODE COMPLIANCE BY SIGNATORIES (ISCCS) – RESPONSE TO DRAFT VERSION 2.0

The Signatories to the Code

Signatories have been given ample time to address the requirements of the Code. A clear description of the consequences, if necessary steps are not taken to rectify declared non-conformities, has now been formulated with this Standard.

Anti-Doping Norway believe that, at this point, it is important to have in mind the Signatories to whom these requirements will apply. Signatories that already have good structures, mechanisms, funding, resources and processes in place can easily rectify declared non-conformities within a short timeframe.

Other Signatories may have anti-doping structures and programs with diverse types of discrepancies varying from major to minor severities in relation to the requirements of the Code and the Standards. ADNO believe that these should be dealt with in a manner that will realistically allow them to become Code-Compliant.

And then there will be some Signatories that will have nothing, not even have a minimum of anti-doping structures, financing or programs and obviously is non-compliant to the Code. These ADOs will require a longer time span addressing an anti-doping structure and financing before even considering how to develop anti-doping programs. ADNO believe that these Signatories should be declared non-compliant without delay allowing for athletes under the jurisdiction of these ADOs to be subject to anti-doping programs by other means.

And finally, from past years we have experienced that there are ADOs that are capable of corruption and a structure of bad faith. This Standard should also clearly declare that such behaviour will be met with immediate reactions and be stricken with grave consequences and give WADA the authority to initiate no-notice investigation in such cases.

The understanding of terms where discretionary decisions shall be made by WADA

The ISCCS defines terms in several places that require discretionary decisions to be made by WADA. These terms must be clearly defined allowing all to understand the implications of the term.

"Signatories who are seeking in good faith to comply with the Code will be encouraged and supported to achieve and maintain full Code Compliance" (re. Part one Page 2). Identifying who is "in good faith" will be a discretionary decision made by WADA. Criteria for what constitutes "in good faith" should be described allowing for all to understand what constitutes "in good faith".

"Accurate information" (re. 23.5.3, page 15) should be defined allowing for all to understand what this means.

"As it sees fit" (re. 9.3.2, page 47) should be defined clearly, as it is unclear how this is to be understood.

The intention of the ISCCS

The ISCCS declares that *«Having a Signatory declared non-compliant and Signatory Consequences imposed is the last resort, to be pursued only where the Signatory has failed, despite every encouragement, to take the necessary corrective actions within the required time»*. Anti-Doping Norway strongly support this intention.

ADNO believe that to pursue this intention, it is necessary to understand where the Signatory is at, as described above and review the definition of non-conformities and the time-frame given to rectify the defined non-conformities.

The way it reads now is that the majority of the WADC and the International Standards are defined as "Critical" non-conformities with a time-line of 3 month to rectify, or 6 months for "high-priority" non-conformities. An additional loop of 3 months' "last timeline" before presented to the CRS is also provided. We believe that for many of the defined critical elements this probably will cause solutions provided in haste, with an adverse effect as a consequence. ADNO believe a process allowing for a more flexible and tailor-made fit for purpose approach will be more in line with the said intention above.

To prepare, plan and develop good, solid programs - a good will, adequate time and resources is of essence. ADNO believe that this standard should allow for adequate time, depending on the situation and circumstances, to address the non-conformities. ADNO suggest that the wording of the ISCCS *"Most importantly, Signatories who are seeking in good faith to comply with the Code will be encouraged and supported to achieve and maintain full Code Compliance"*, is put in action by allowing these Signatories to make their own plan including reasonable timelines, to be reviewed, potentially altered and approved by WADA. Such a plan must be followed up closely by WADA, or a partner, ensuring that the Signatories activities are in accordance with the plan and the timelines.

Obviously, if the mutually agreed plan and timelines are not met the matter will be presented to the CRC.

Definition of critical non-conformities

The Standard and Annex A is defining a non-exhausting list of what is identified as critical, high priority and important non-conformities.

The critical definitions address anti-doping program requirements, which is important, but there are other critical elements that must be in place for an ADO to be able to address the requirements of the anti-doping programs.

These critical elements include:

- a) Updated rules and regulations available and approved by WADA.
- b) Adequate funding meeting all requirements of the Code and the Standards and that can be documented available.
- c) Organisational structure, adequately independent and with sufficient powers and jurisdiction, allowing for the requirements of the Code and the Standards to be met including impartial hearing panels and that can be documented being available and implemented.
- d) Dedicated management and personnel, adequately competent to carry out the requirements of the Code and the Standards and that can be documented and available.
- e) A website, or similar easily available medium, describing the minimum requirements to be addressed by athletes and their entourage within the ADO jurisdiction and that is available and operating.

If these critical elements are missing, a strict time-frame should be addressed in this standard, with a close follow-up from WADA, or an agreed partner. The non-compliant process should be initiated without delay if these critical elements are not met.

What is identified as "adequate" in this respect must be a proportional review by WADA, documented in a reasoned decision, that can be appealed by the ADO.

Another critical element is corruptive anti-doping structures and personnel undermining the world wide anti-doping efforts and punishing clean athletes.

If WADA can document corruption within the anti-doping structures, activities or related activities or organisations influencing the outcome of the anti-doping activities, this should be documented in a reasoned decision by WADA, that can be appealed by the Stakeholders in question.

These Signatories should be deemed non-compliant as soon as possible.

Definition of high-priority non-conformities

High-priority elements could typically focus on requirements on the ISTI, ISTUE and ISPPPI, related to doping control and related activities.

It is suggested that a more precise list is defined, referencing the necessary requirement in the Code and/or Standards, allowing for all parties to recognise what is needed to avoid a non-conformity.

Definition of Non-Conformity

It is suggested that the time-frame is deleted from the definition. A non-conformity should remain a non-conformity until rectified irrelevant of the time used.

CAS

It is not apparent what will happen if a case is forwarded to CAS and CAS rules in favour of the ADO – re figure 2 under 6.3.

Consequences if non-compliant re. 11.0

Consequences are principally similar as Sanctions. Consequences should thus be considered part of the Code.

Removing funding to a non-compliant ADO appears illogical. A non-compliant ADO will require funding for the purpose of rectifying the non-conformities and apply necessary corrective actions.

Additional alterations to the Code

With reference to Part 3 – Roles and Responsibilities, ADNO strongly believe that the Code should identify the need for independent anti-doping structures with personnel with no conflict of interest and adequate competence, allowing for developing anti-doping programs compliant with the Code and the Standards.

There should also be a requirement of independence between sport and doping control/investigation. Sports Organisations should not be in a position to investigate its own sports personnel and activities.

Understanding the legal implications of the Standard

ADNO support the suggestion from the CoE that a legal opinion is obtained relating to consequences and its effects.

Dopingautoriteit, [Herman Ram](#), CEO (Netherlands)
NADO - NADO

The Dutch stakeholders would like to thank WADA for giving us the opportunity to review the second Draft International Standard for Code Compliance by Signatories. We thank WADA for considering our comments on the first Draft. We appreciate the changes that have been made in the Draft ISCCS, and we think that this second Draft is now considerably improved in comparison with the first one.

Fourfold contribution

In line with previous consultation processes our contribution is composed by the four Dutch stakeholders, being:

- Ministry of Health, Welfare and Sport;
- Netherlands Olympic Committee* Netherlands Sports Confederation (NOC*NSF);
- NOC*NSF Athletes' Commission, and
- Anti-Doping Authority the Netherlands.

On behalf of these four stakeholders we would like to ask you to treat our review as a fourfold contribution to your consultation process.

Contents of our submission

The four Dutch stakeholders have noted several improvements in this second Draft version. Nevertheless, the points we put forward after the first draft version are largely still valid and we would once again like to draw your attention to them. In this second contribution to this consultation we would like to highlight three fundamental points that were addressed to a certain degree in the second Draft, but that we think are most important and for which it is essential that they be addressed further in a final Draft, and some comments on the first Draft, which are not reflected in the second Draft at all. Finally, we have formulated an additional remark.

Comments on the changes in the WAD Code are made together with our comments on the Draft International Standard.

Other suggestions

The following comments on the first Draft are not reflected in this second Draft. We ask you to consider these issues in the adjustments of the next version.

Page 8-9, 20.4.2, 20.4.7, 20.4.8 and page 13, 23.2.1

Sport associations are autonomous in the way they bind clubs and athletes to the rules. It must be noted that membership is not the only (effective) legal form to realize Code compliance in affiliated organizations.

Page 8, article 20.4.5

This article mentions 'regular members' without specifying what this term means. This needs clarification (and possibly a Definition) because it may cause confusion, or worse.

Page 43, article 11.1.1.1

This article refers to *Representatives* and this term is further explained in the Definitions. However, in many cases members of WADA Committees and Working Groups are explicitly *not* appointed on behalf of a Signatory, but only with reference to their individual knowledge and/or experience. So there seems to be a contradiction here, which – in our opinion – needs clarification.

Page 48, article 12.2.1.4

Withdrawing money from an ADO in problems will not be helpful in the fight against doping in sport. Again, this Consequence should only be considered in cases where intentional, fraudulent and/or criminal behavior *within* the ADO is the cause of the non-compliance.

Additional remark

The second Draft uses the terms 'non compliant' and 'non conform'. It is not always clear whether these terms have the same meaning, or that they have different meanings. We suggest that the use of these terms is either harmonized, or – if a difference is intended – that this is clarified in the Definitions.

NADA, [Regine Reiser](#), Result Management (Deutschland)
NADO - NADO

NADA supports the ISCCS being adopted by the WADA FB in November 2017, to go into force in April 2018.

Notably NADA welcomes the distinction between Signatories acting in good faith from Signatories acting in bad faith.

Furthermore, NADA supports the idea of distinguishing between different types of non-compliance.

NADA agrees with the idea of CAS to be the "independent tribunal" for resolving compliance challenges / disputes as set out in Code Articles 23.5.6 to 23.5.10 and ISCCS Article 10.4.

NADA supports the changes to the consequences of non-compliance such as removal of fines except in the most extreme cases involving breach of critical requirements and aggravating factors as well as the emphasising of the the principle of non-discrimination in treatment of different categories of Signatory. Furthermore, NADA consents that a Signatory who is required to pay any costs or expenses as a condition of reinstatement, can receive a possible instalment plan permitting reinstatement even if some monies still to repay.

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NADA agrees with the replacement of the obligation to do everything possible not to award event hosting rights to a non-compliant country with the obligation not to accept bids for event hosting rights from a non-compliant country.

NADA welcomes the Amendments/Definitions which clarify when and how non-compliant Signatory's functions may be supervised or taken over by third party. NADA supports the idea to minimize the risks of creating a gap in the global anti-doping coverage when a NADO or IF cannot conduct all or parts of its anti-doping activities as a result of non-compliance.

NADA agrees with iNADO that the changes made in Code Art. 10.2 (ExCo not FB to act on CRC recommendations) won't be supported. It is of utmost importance to reduce real and perceived conflicts of interest. Therefore, this should be the role of the independent CRC.

NADA supports iNADO's opinion that the following matters need to be addressed now in the proposed ISCCS:

- The compliance monitoring role and authority of the CRC, including the authority to make determinations of non-compliance (and not the WADA ExCo or FB) should be embedded into the Code.
- The consequences for Signatory non-compliance be incorporated into the Code at this time (e.g., as part of Code Article 12).
- Individuals who are responsible for/centrally complicit in non-compliance by a Signatory should be subject to sanction under the Code Article 2 (and Code Article 2.10 should be extended to prohibit association by Athletes/Athlete Support Personnel with such individuals).
- That there be sufficient protection for clean athletes whose eligibility to compete impacted by Signatory non-compliance. There should be provision for untainted athletes to compete as neutrals on the IAAF model.
- Non-Signatories which act as "Anti-Doping Organisations" such as private service providers (PWC, ITDM, etc.) and independent AD/integrity units (CADF, AIU, ITA, etc.) must be more directly subject to Code compliance. Otherwise there is a huge gap in WADA's direct oversight and Code-compliance is effectively downloaded to the Code "Signatories" (using such service providers) which lack the compliance-monitoring expertise and capacity of the CRC.
- All non-Signatories providing anti-doping services covered by the Code to Signatories must be "recognised" by WADA (like blood laboratories) and, through a user-pay system, be subject to direct WADA oversight the same as Signatories.
- The concept would be similar to that which will apply to an "Approved Third Party" in Draft 2 of the proposed ISCCS.
- WADA should also provide a model language (including an indemnity clause) for all Signatories to include in their contracts with non-Signatory service providers that addresses Code compliance.
- Similarly, the ISCCS must set out the expectations for Signatories required to monitor and enforce Code compliance by their members/recognized bodies (for example, IF oversight of NFs, IOC oversight of NOCs, IPC oversight of NPCs). In fact, WADA is already deeming this a mandatory requirement in the Correct Action Reports it has issued to such Signatories.
- WADA should at least propose a template or model procedures for Signatories with monitoring and enforcement responsibility. Perhaps it would be a scaled down version of CRC processes. This would at least focus minds and discussions on what is necessary and what is practical in this regard.
- Under such a template or model the CRC should have an explicit role in advising and guiding ADOs with monitoring and enforcement responsibility. It should also be responsible for training ADOs with monitoring and enforcement responsibility to do the job.
- Such a template or model procedures would have to account for overlapping responsibilities where the ADO with monitoring and enforcement responsibility is nominally responsible for the Code compliance of other "Signatories" which are directly subject to CRC oversight. In such cases, at least, it would be redundant for the ADO with monitoring and enforcement responsibility to do work that the CRC is already doing (and with greater capacity and expertise).
- Clarify the implications of RADO is non-compliant for participating countries and their NOCs/NPCs relying on the RADO.

**AGENDA ITEM # 3.2.3/3.2.4
ATTACHMENT 7**

- Provide a definition for the important term “effectiveness” (ISCCS Articles 6.1.2.4, 7.2.2.4, 7.2.5, 8.1.1, etc.).

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

Overall, Estonian Anti-Doping Agency sees the importance of the overall process. It has been very affirming to see that the whole consultation process has been timely and transparent.

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Comme pour la nouvelle version des modifications proposées du Code, l'ONAD de la Communauté française salue, de manière générale, le travail de l'AMA et les avancées réalisées par rapport à la première version du texte

Notamment, l'ONAD se réjouit de la suppression des amendes, sauf en cas de mauvaise foi du signataire, qui posaient de nombreuses questions, notamment dans le contexte d'enveloppes budgétaires fermées dans lequel de nombreuses ONADs se trouvent.

De même, la distinction entre sinataires de bonne foi ou de mauvaise foi est une autre avancée majeure, qui devrait - nous l'espérons - être la ligne de démarcation claire permettant d'éviter une application disproportionnée - et donc aux effets négatifs pour le système en général - des dispositions de cette réforme.

Deux interrogations majeures subsistent. Lorsqu'une OAD se voit, en cas de non conformité, suspendre de ses activités de contrôle notamment et qu'un tiers doit effectuer ces activités durant cette suspension, n'est-il pas nécessaire, pour ce cas de figure, de modifier les législations nationales?

Dans notre cas, ce le serait. Nous supposons que ce soit le cas ailleurs aussi, sinon partout. Il conviendrait de communiquer clairement sur cet aspect car les modifications législatives prennent nécessairement un certain temps.

La seconde question porte sur les conséquences pratiques d'une décision de non conformité avec une suspension des activités de l'OAD concernée. Dans un tel cas de figure, quid des contrats de travail du personnel concerné ? Y-aura-t-il une possible suspension de ceux-ci ou seront-ils maintenus et le travail consistera à tout faire pour regagner la conformité ? Nous supposons que c'est la seconde hypothèse qui sera d'application mais nous aurions aimé avoir l'avis de l'AMA sur cet élément très important, pour le personnel potentiellement concerné.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

The ISCCS must set out the expectations for Signatories required to monitor and enforce Code compliance by their members/recognized bodies (for example, IF oversight of NFs, IOC oversight of NOCs, IPC oversight of NPCs). In fact, WADA is already deeming this a mandatory requirement in the Correct Action Reports it has issued to such Signatories.

- WADA should at least propose a template or model procedures for Signatories with monitoring and enforcement responsibility. Perhaps it would be a scaled down version of CRC processes. This would at least focus minds and discussions on what is necessary and what is practical in this regard.
- Under such a template or model the CRC should have an explicit role in advising and guiding ADOs with monitoring and enforcement responsibility. It should also be responsible for training ADOs with monitoring and enforcement responsibility to do the job.
- Such a template or model procedures would have to account for overlapping responsibilities where the ADO with monitoring and enforcement responsibility is nominally responsible for the Code compliance of other “Signatories” which are directly subject to CRC oversight. In such cases, at least, it would be redundant for the ADO with monitoring and enforcement responsibility to do work that the CRC is already doing (and with greater capacity and expertise).

The ISCCS should set out sufficient protection for clean athletes whose eligibility to compete impacted by Signatory non-compliance. There should be provision for untainted athletes to compete as neutrals on the IAAF model.

- **Part One: Introduction, Code Provisions, International Standard Provisions, and Definitions (4)**

AEPSAD, AGUSTIN GONZALEZ GONZALEZ, Manager Legal affairs departament (Spain)
NADO - NADO

Art. 23.1.2: Other sport organizations that may not be under the control of a Signatory may, upon WADA's invitation, also become a Signatory by accepting the Code.

- The term 'others' does not define properly which entities are included in the article. It is also necessary to clarify that governments are not signatories of the Code but the anti-doping organizations.

23.5.2: To facilitate such monitoring, each Signatory shall report to WADA on its compliance with the Code and the International Standards as and when required by WADA. As part of that reporting, the Signatory shall provide **accurately rigorously** all of the information, requested by WADA and shall explain the actions it is taking to correct any non-conformities.

- We consider that the term "rigorously" should be used instead of "accurately".

23.5.4: In cases of non-conformity (whether with reporting obligations or otherwise), WADA shall follow the corrective procedures set out in the International Standard for Code Compliance by Signatories. If the Signatory fails to correct the non-conformity within the specified timeframe, then (following approval of such course by the WADA's Executive Committee) WADA shall send a formal notice to the Signatory, asserting that the Signatory is non-compliant, specifying the consequences that **WADA considers** should apply for such non-compliance, and specifying the conditions that **WADA considers** the Signatory should have to satisfy in order to be reinstated to the list of Code -compliant Signatories. That notice will be publicly reported by WADA.

- It is not specifically established which cases of non-conformity with the Code are mentioned in this article. It should be properly clarified which cases apply to it. We also understand that instead of "WADA" it should be specified which authority within WADA should manage those issues.

23.5.6: If the Signatory wishes to dispute WADA's assertion of non-compliance, and/or the consequences and/or the reinstatement conditions proposed by WADA, the Signatory must file a formal notice of dispute with CAS (with a copy to WADA) within twenty-one days of its receipt of the notice, from WADA. The dispute will be resolved by the CAS Ordinary Arbitration Division in accordance with the International Standard for Code Compliance by Signatories

- We consider that signatories may be seriously affected by the high expenses caused by the dispute or disputes referred to CAS.

With the main purpose of ensuring equal treatment and access to CAS, we propose two alternative ways of reducing or eliminating economic barriers between signatories. As a first option, according to rule 65 of the Code of Sports-related Arbitration, regarding appeals against decisions issued by international federations in disciplinary matters, and more specifically as provided in rules R65.1 (*"This Article R65 applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body. In case of objection by any party concerning the application of the present provision, the CAS Court Office may request that the arbitration costs be paid in advance pursuant to Article R64.2 pending a decision by the Panel on the issue."*) and R65.2 (*"Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of CAS are borne by CAS."*), disputes before CAS should be treated in a similar manner as athletes, since they are considered in second instance, and similarly, signatories should not pay the CAS expenses. Secondly, we propose the option of being WADA the organism that covers the CAS expenses until a final decision is rendered.

Art. 23.5.7: WADA will publicly report the fact that the case has been referred to CAS for determination. The following Persons shall have the right (but not any obligation) to intervene and participate as a party in the case, provided they do so within 10 days of such publication by WADA: (a) the International Olympic Committee and/or the International Paralympic Committee (as applicable), and the National Olympic Committee and/or the National Paralympic Committee (as applicable), where the decision may have an effect in relation to the Olympic Games or Paralympic Games (including decisions affecting eligibility to attend/participate in the Olympic Games or Paralympic Games); and (b) an International Federation, where the decision may have an effect on participation in the International Federation's World Championships and/or on a bid that has been submitted for a country to host the International Federation's World Championships. Any other Person wishing to participate as a party in the case must apply to CAS within 10 days of publication by WADA of the fact that the case has been referred to CAS for determination. CAS

shall permit such intervention (i) if all other parties in the case agree; or (ii) if the applying Person demonstrates a sufficient legal interest in the outcome of the case to justify its participation as a party.

- We consider that the established timeline of 10 days it is not enough to intervene and participate as a party in the case, and we suggest to extend that period to at least 21 days.

Art. 23.5.9. The following decisions are applicable worldwide, and shall be recognized, respected and given full effect by all other Signatories in accordance with their authority and within their respective spheres of responsibility: (a) final decisions issued in accordance with Article 23.5.5 or Article 23.5.8, determining that a Signatory is non-compliant, and/or imposing consequences for such non-compliance, and/or setting conditions that the Signatory has to satisfy in order to be reinstated to the list of Code-compliant Signatories; and (b) final decisions issued in accordance with Article 23.5.10, determining that a Signatory has not yet met all of the reinstatement conditions imposed on it and therefore is not yet entitled to be reinstated to the list of Code-compliant Signatories.

- We do not agree with the terminology “worldwide” since the Code only applies to the signatory organizations and not to the governments worldwide.

23.5.10.: If a Signatory wishes to dispute WADA's assertion that the Signatory has not yet met all of the reinstatement conditions imposed on it and therefore is not yet entitled to be reinstated to the list of Code-compliant Signatories, the Signatory must file a formal notice of dispute with CAS (with a copy to WADA) within twenty-one days of its receipt of the assertion from WADA. The dispute will be resolved by the CAS Ordinary Arbitration Division in accordance with Articles 23.5.6 to 23.5.9. It will be WADA's burden to prove on the balance of probabilities that the Signatory has not yet met all of the reinstatement conditions imposed on it and therefore is not yet entitled to be reinstated.

- We consider that the established timeline of 21 days it is not enough to file a formal notice of dispute with CAS, and we suggest to extend that period to at least 30 days.

3.0. RELEVANT PROVISIONS OF THE INTERNATIONAL STANDARD FOR LABORATORIES

4.4. We consider that since in November 2017, WADA will ask the executive committee to approve the suspension (non-application) of ISL article 4.4 pending full review of the ISL at a later date, it is not necessary to include this provision.

4.0 DEFINITIONS AND INTERPRETATION

Testing Authority: The **signatory** organization that has authorized a particular Sample collection, whether (1) an Anti-Doping Organization (for example, the International Olympic Committee or other Major Event Organization, WADA, an International Federation, or a National Anti-Doping Organization); or (2) another organization conducting Testing pursuant to the authority of and in accordance with the rules of the Anti-Doping Organization (for example, a National Federation that is a member of an International Federation).

- We disagree with the wording of Article **4.2: ‘Testing Authority’** since the Code only applies to the signatory organizations. We propose to include the term signatory before the word ‘organization’.

Aggravating Factors: Applicable only in cases involving non-compliance with one or more Critical requirements, this term encompasses a deliberate attempt to circumvent or undermine the Code or the International Standards and/or to corrupt the anti-doping system, an attempt to cover up non-compliance, or any other form of bad faith on the part of the Signatory in question; a persistent refusal or failure by the Signatory to make any reasonable effort to correct Non-Conformities that are notified to it by WADA; repeat offending; or any other factor that aggravates the Signatory's failure to comply with the Code and/or International Standards.

- We disagree with the wording of article **4.3** regarding the term **‘Aggravating Factors’**. We propose to clarify and give more details exhaustively, for example, by a closed and exhaustive list of aggravating factors that set up in the rule. Otherwise, this term should be removed.

Approved Third Party: One or more Anti-Doping **signatories** Organizations and/or service providers selected or approved by WADA, following consultation with the non-compliant Signatory, to Supervise or Takeover some or all of that Signatory's Anti-Doping Activities. As a last resort, if there is no other suitable body available, then WADA may carry out this function itself.

- We believe that this definition should include the term ‘signatory’. The reason is that only signatory's anti-doping organizations can takeover the signatory's anti-doping activities. Organizations that are not signatories of the Code can't takeover any signatory's anti-doping activities. Similarly servicers providers selected or approved by WADA can't supervise or takeover some or all of that signatory's

anti-doping activities, if they are not signatories of the Code, since in this way if the servicers providers fail to comply with their liabilities, the signatory has to take full responsibility.

According with the different categories of non-compliance set in the ISCCS:

- We consider that these terms should be clearly treated and specified under the ISCCS. The terms 'Critical' or 'high priority' is unclear and we consider that details of these terms to be used should be given to avoid any risk.

Event of force majeure: Event of Force Majeure: An event affecting a Signatory's ability to achieve full Code Compliance that arises from or is attributable to acts, events, omissions or accidents that are beyond the reasonable control of the Signatory. Such events may include any natural physical disaster, war, military operations, riot, crowd disorder, strike, lock-outs or other industrial action, terrorist action, or civil commotion. In accordance with Article 9.3.3, however, such events shall not in any circumstances include lack of resources on the part of the Signatory, changes in elected officials or personnel, or any interference or failure to provide support or other act or omission by any governmental or public agency.

- We consider that the term 'may' should be removed in order to clarify the cases of force majeure. It is also necessary to clearly establish where a signatory could be in such cases.

Representatives: Officials, directors, officers, employees, and committee members and other representatives of the Signatory or other body in question, and also (in the case of a National Anti-Doping Organization or a National Olympic Committee acting as a National Anti-Doping Organization) representatives of the government of the country of that National Anti-Doping Organization or National Olympic Committee.

- We consider that the term 'Representatives' should only include officials, directors and officers and so the liability for any non-compliance should not be extended to rest of the staff. Another option would be to consider to remove the term 'Representatives' and to establish which positions may be liable for any non-compliance.

Signatory Consequences: One or more of the consequences set out in Article 11.1 that may be imposed on a Signatory as a result of its failure to comply with the Code and/or the International Standards.

- We consider that the term "shall" should be used instead of "may", since in the wording given by ISCCS does not make it clear whether or not consequences will take place.

Supervision: Where, as part of the Signatory Consequences imposed on a non-compliant Signatory, an Approved Third Party oversees and supervises the Signatory's Anti-Doping Activities, as directed by WADA, at the Signatory's expense (and Supervise shall be interpreted accordingly).

- We also consider that **maximum rates** should be established and the signatories should know it.

Takeover: Where, as part of the Signatory Consequences imposed on a non-compliant Signatory, an Approved Third Party takes over all or some of the Signatory's Anti-Doping Activities, as directed by WADA, at the Signatory's expense.

- We think that activities that have been withdrawn from the signatory should be set forth in the ISCCS. Such activities should be clearly specified and publicly available and the approved third party that takeover these activities can properly enforce under the maximum rates established.

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES is pleased with the addition of the concept of Signatories seeking to comply in "good faith" or deliberately operating in "bad faith". CCES is supportive of "bad faith" actions triggering greater consequences as this enshrines the concept that not all breaches of the ISCCS are motivated by the same intent. Similarly, we are supportive of the prioritization of WADA's efforts to enforce compliance with those acting in "bad faith". Additional comments provided under section 8.2.

CCES recommends expanding the scope of Aggravating Factors to include the other categories of non-compliance, especially requirements that are High Priority. Version two of the ISCCS only attributes Aggravating Factors to requirements that are Critical. CCES believes that "bad faith" can be demonstrated in association with all levels of Code and ISCCS non-compliance.

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Nous nous posons une question juridique.

Sauf erreur, les révisions du Code et le standard sur la conformité devraient entrer en vigueur vers le premier trimestre 2018.

Or, il a déjà été indiqué que de potentielles non-conformité pourraient être déclarées notamment sur base du questionnaire relatif à la conformité, auquel les OADs ont répondu avant l'entrée en vigueur de la réforme.

La question qui se pose est dès lors la suivante: comment, juridiquement, justifier une possible non conformité sur base d'éléments obtenus à un moment où les dispositions précises relatives à la conformité n'étaient pas encore d'application?

Le prolongement de cette question est le suivant : quid des OADs qui seraient déclarées non conformes, notamment sur base des réponses données au questionnaire, avant l'entrée en vigueur du Code ? Le fait de devoir réformer le Code sur la conformité et adopter un nouveau standard à ce sujet n'est-il pas un élément de réponse à cet égard ? Est-ce que le Code actuel se suffit-il pour prononcer dès maintenant de telles non conformités, sur base des réponses au questionnaire notamment? N'est-ce pas contraire au principe de légalité, principe fondamental de droit, généralement reconnu, dans les domaines où une sanction - ici lourde- peut s'appliquer.

Le standard proposé indique à différents endroits que la surveillance de la conformité est notamment mesurée par l'AMA, sur base du questionnaire. Pour le futur, cette disposition sera claire et ne posera aucune difficulté mais quid dans l'intervalle? Par souci de parfaite clarté, le questionnaire n'aurait-il pas dû être envoyé après l'entrée en vigueur de la réforme ? En d'autres termes n'y-a-t-il pas un risque d'application anticipée de la réforme ? A nouveau, cela rejoint notre commentaire général sur la proportionnalité.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO supports the changes from Draft 1 to Draft 2 that clarify when and how non-compliant Signatory's functions may be supervised or taken over by third party – to minimize the risks of creating a gap in the global anti-doping coverage when a NADO or IF cannot conduct all or parts of its anti-doping activities as a result of non-compliance. (Definition of "Supervision," "Approved Third Party" and "Takeover, ISCCS Article 11.1.1.4).

Provide a definition for the important term "effectiveness" (ISCCS Articles 6.1.2.4, 7.2.2.4, 7.2.5, 8.1.1, etc.).

- **1.0 Introduction and Scope (1)**

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Bien que le texte ait évolué positivement sur ce point aussi par rapport à la première version, ne serait-il pas possible de faire référence aux termes " application proportionnée " dans l'introduction, non loin du passage relatif aux priorités ?

Comme l'objectif général est évoqué au début, cela rejoindrait notre position exprimée dans notre commentaire général et cela donnerait une orientation de lecture générale et proportionnée du standard.

- **3.0 Relevant Provisions of the International Standard for Laboratories (Fixed text; no comments requested) (2)**

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Dans le cas particulier de la Belgique et de ses 4 ONADs, nous nous demandons, à l'aune de la proportionnalité, si la non-conformité de l'une des ONADs (par exemple la plus petite) pourrait engendrer la suspension du laboratoire par ailleurs situé dans une autre région du pays (et donc rattaché géographiquement et territorialement à une autre ONAD) ? Est-ce que la règle des 60 % d'échantillons venant d'autres ONADs s'appliquerait ? Est-ce que c'est la conformité de l'ONAD de la région du laboratoire qui sera seule prise en compte ?

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Definitions amended in this draft will need to be reflected if they are used in the current versions of the other Standards.

- **4.0 Definitions and Interpretation (3)**

UK Anti-Doping, [Pola Murphy](#), Compliance Coordinator (United Kingdom)
NADO - NADO

Definition of non conformity

Despite the 3 levels, it jumps straight to an assertion of non-compliance. There seems no real mention of qualitative recommendations, that technically are not a compliance matter but would certainly improve anti-doping operations. This is not the purpose of the Standard (which is to deal with non-compliance), but there is need to ensure that the tools that is used for determining compliance, provide flexibility between compliance and quality.

A lot of non-conformities will be operational – and whilst WADA have improved their operational expertise, they are still not running programmes on a day to day basis, and therefore when making determinations on non-conformities these may be quite subjective. The CRC is obviously in place, and hopefully there will be the opportunity to ensure that operational experts are involved in the likes of the CRC and any Compliance Audits (which I believe they are for the latter).

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Definitions amended in this draft will need to be reflected if they are used in the current versions of the other Standards.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO supports distinguishing Signatories acting in good faith from Signatories acting in bad faith:

- Specific provisions (including a special fast track process with highest priority) to enable WADA to take urgent action on deliberate/bad faith non-compliance with Critical Code requirements. (ISCCS Article 4.3 (definition of "Aggravating Factors"); Article 8.2.3; Article 9.4).

iNADO supports distinguishing between different types of non-compliance:

- The different requirements of the Code and International Standards are classified as Critical, High Priority, or Other (see ISCCS Article 4.3). Further examples of the first two have been provided and further guidance has been added to Annex A.
- Prioritizing WADA's enforcement efforts to most important types of non-compliance (3x3 approach):
 - 3 tiers of Signatories (ISCCS Article 8.2.2)
 - prioritize the Signatories based on their current level of Code compliance (ICSSC Article 8.2.3)
 - 3 tiers of Corrective Action Report (ISCCS Article 8.2.4)
- first two years following entry into force of the ISCCS WADA would only take further action in respect of Non-Conformities:
 - Tier 1 Signatories, only if Critical requirements were not met within 3 months, or High Priority requirements were not met within 6 months
 - against Tier 2 Signatories, only if Critical requirements were not met within 3 months
 - against Tier 3 Signatories, only by exception if Critical requirements were not met within 3 months

- **4.3 Defined terms specific to the International Standard for Code Compliance by Signatories (6)**

FIBA, [Gabriel Zangenfeind](#), Anti-Doping & Sport Senior Associate (Switzerland)
Sport - IF – Summer Olympic

Wording comment:

"deliberate attempt" – by whom?

For Example: If a low-ranked employee or a volunteer TUEC member deliberately tampers with a TUE application procedure, is the entire sport going to be sanctioned?

Ministry of Culture, [Martin Holmlund Lauesen](#), Special Adviser (Denmark)
Public Authorities - Government

In relation to the definition of Aggravating Factors:

Denmark also welcomes the stronger distinction between non-compliant signatories acting in good faith from non-compliant signatories acting in bad faith. The distinction will serve as a basis for prioritizing actions and ensure stronger commitment to address the non-compliance issues.

Ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

Définition de "Aggravating Factors": L'introduction de cette définition vise à identifier les hypothèses de non-conformités qui résultent d'une mauvaise foi caractérisée d'un signataire du code mondial. En raison des conséquences qui découlent de l'identification de facteurs aggravants de non-conformité, la France estime que la formulation "*any other factor that aggravates the Signatory's failure to comply with the Code and/or International Standards*" est source de trop d'incertitudes. Les hypothèses listées précédemment dans la définition paraissent suffisantes pour couvrir les situations de mauvaise foi caractérisée d'un signataire. Nous proposons donc de supprimer le passage susmentionné de la définition.

Définition de "Critical", "High Priority" and "Other": Il est nécessaire de préciser qui est l'instance qui a le pouvoir de considérer un critère de conformité comme étant critique, hautement prioritaire ou autre.

Proposition d'amendement: "*A requirement that is considered by WADA Management or by the CRC to be critical to the fight against doping in sport. See Annex A for examples.*"

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

The following definitions could be reviewed:

1. Compliance Review Committee - could be specified (not just referring to the article)
2. Other - could be re-phrased into: "other categories of non-compliance"
3. Representatives - could be specified, if the definition apply to all employees etc
4. WADA Auditor - could include both WADA training and background in auditing

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Le cas de force majeure nous semble très restrictivement défini.

Comme nous l'indiquons dans nos commentaires relatifs à l'article 12 du Code, selon nous, pour prendre un exemple, si une ONAD a fait appel d'une décision qu'elle estimait non totalement conforme au Code mais que nonobstant cet appel, l'instance d'appel décide définitivement de confirmer cette décision non complètement conforme, l'ONAD aurait épuisé toute sa compétence et ne devrait pas pouvoir en être tenue responsable. Il s'agirait d'une décision prise par un tribunal indépendant alors même que l'ONAD aurait tout mis en oeuvre pour s'assurer de l'application correcte des conséquences. Il ne s'agirait peut-être pas d'un cas de force majeure mais le point commun est le fait extérieur et l'impossibilité pour le signataire de faire plus que ce qu'il a fait. Dans un tel cas, aucune non conformité ne devrait selon nous être prononcée sinon, le risque est très grand de porter atteinte de plein fouet à la séparation des pouvoirs.

Dans le cas où un signataire voit ses activités suspendues et qu'un tiers les effectue à sa place, aux frais du signataire non conforme, comment celui-ci, suspendu, peut-il prendre en charge financièrement les activités qu'il ne mène pas lui-même ? Cela risque de poser des problèmes pratiques. Juridiquement, cela implique aussi, nous semble-t-il des modifications législatives.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Align Definition of Anti-Doping Activities with that used in the ISPPPI.

- **Part Two: Standards for WADA's Monitoring and Enforcement of Code Compliance by Signatories (3)**

AEPSAD, [AGUSTIN GONZALEZ GONZALEZ](#), Manager Legal affairs departament (Spain)
NADO - NADO

Article 6.1.2.5: where a Signatory fails to correct the Non-Conformities within the required timeframe, and following the recommendation of the Compliance Review Committee, obtaining the approval of WADA's Executive Committee to notify the Signatory formally of the alleged non-compliance, with such notice also specifying the Signatory Consequences that **WADA considers** should apply for such non-compliance, and the conditions that WADA considers the Signatory should have to satisfy in order to be Reinstated (see Articles 10, 11 and 12);

- We understand that instead of "WADA considers", the ISCCS should be specify which authority within WADA should manage those issues.

Article 6.2.1: The Compliance Review Committee is an independent, non-political WADA Standing Committee that oversees WADA's Code Compliance monitoring efforts and enforcement activities, and provides advice and recommendations on such matters to WADA's Executive Committee.

- We consider that the definition of CRC (Compliance Review Committee) set up in the ISCCS is inaccurate. We propose to clarify and give more details exhaustively, for example, by a closed and exhaustive list of membership, their rules, capacity requirements, contract period, etc...

Article 6.2.2: The CRC follows standardized procedures encompassing review, assessment, communication, and the making of recommendations to WADA's Executive Committee on matters relating to Code Compliance and Reinstatement. These procedures (see Articles 9 and 10) are designed to support a transparent, objective, and consistent approach to the assessment and enforcement of Code Compliance.

- We consider that standardized procedures that the CRC follows should be properly clarified, where it is set, scope, form, substance, etc.

Article 6.3.1: In accordance with Code Article 23.5.4, upon the recommendation of the CRC, the WADA's Executive Committee may decide that a Signatory should be formally notified of its alleged non-compliance with the Code and/or the International Standards, with such notice also specifying the Signatory Consequences that **WADA considers** should apply for such non-compliance, and the conditions that **WADA considers** the Signatory should have to satisfy in order to be Reinstated.

- We consider that all references 'WADA considers' shall be removed.

Art. 6.3.2: If the Signatory accepts or does not dispute the contents of that notice within twenty-one days of its receipt, the allegation of non-compliance will be deemed admitted and the consequences and reinstatement conditions will be deemed accepted, and the notice will automatically become a final decision enforceable with immediate effect in accordance with Code Article.23.5.9. If the Signatory disputes any part of the notice, the dispute will be resolved by CAS in accordance with Code Article 23.5.7.

- We consider that the established timeline of 21 days it is not enough to file a formal notice of dispute with CAS, and we suggest to extend that period to at least 30 days.

Art. 6.3.3: Once the notice is accepted as a final decision by the Signatory, or (if disputed) once a final decision is issued by CAS, in accordance with Code Article 23.5.9 that decision shall be applicable worldwide and shall be recognized, respected and given effect by all other Signatories in accordance with their authority and within their respective spheres of responsibility.

- We do not agree with the terminology "worldwide" since the Code only applies to the signatory organizations and not to the governments worldwide.

Art. 8.2.2: Given the large number of Signatories and WADA's limited resources, the CRC may approve proposals by WADA Management to prioritize the monitoring for Code Compliance (a) of certain categories of Signatories, based on the scope of the Anti-Doping Activities required of such categories of Signatories under the Code; and/or (b) of certain specific Signatories, based on an objective risk assessment. The following is a non-exhaustive list of factors that may be considered in such assessment:

- We disagree with the list of factors set in this article and we propose to clarify and give more details exhaustively about it, or to remove it.
- 8.2.2.1 (where the Signatory is an International Federation) the physiological risk of doping in a particular sport/discipline;

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- 8.2.2.2 (where the Signatory is an International Federation) participation of the Signatory in the Olympic and/or Paralympic Games;
- 8.2.2.3 performances by Athletes from a particular country in International Events;
- 8.2.2.4 a history of doping in a particular country or a particular sport/discipline;
- A history of doping in a particular country or a particular sport/discipline is a totally subjective opinion and we consider that the list of factors should always provide an objective approach, so it should be remove.
- 8.2.2.5 a Signatory's response to a Mandatory Information Request or a Code Compliance Questionnaire;
- 8.2.2.6 receipt of credible intelligence or the results of an investigation suggesting there may be significant Non-Conformities in the Signatory's Anti-Doping Program;
- We also consider that the intelligence reports or the results of an investigation suggesting must be always credible, so we propose to remove this term or replace by another different term.
- 8.2.2.7 a Signatory's breach of Critical or High Priority requirements under the Code or an International Standard;
- We consider that the requirements under the Code or International standard should be completely defined.
- 8.2.2.8 a Signatory's failure to implement recommendations following collaboration programs in which WADA acted as a facilitator or a party;
- 8.2.2.9 a Signatory's failure to implement measures (e.g., target testing) following a recommendation made or endorsed by WADA (e.g., in relation to testing in the lead-up to the Olympic Games or Paralympic Games or other Event);
- 8.2.2.10 (where the Signatory is a NADO or a National Olympic Committee acting as a NADO) the fact that the Signatory's country is bidding to host or has won the right to host a WADA-accredited laboratory or a major sporting event;
- 8.2.2.11 where a Signatory that has been found to be non-compliant is seeking to be Reinstated; and/or a request by WADA's Executive Committee and/or the WADA Foundation Board.

Art. 8.2.4: In addition, again given the large number of Signatories and WADA's limited resources, the CRC may approve proposals by WADA Management to prioritize enforcement of Critical and (in certain circumstances) High Priority requirements of the Code and/or the International Standards (including, where necessary, by asserting non-compliance and proposing imposition of Signatory Consequences), while giving Signatories additional opportunity to take corrective action to ensure compliance with the remaining requirements. The greatest priority will be given to pursuing the imposition of appropriate Signatory Consequences in cases involving non-compliance with Critical requirements with Aggravating Factors.

- This provision gives much consideration to cases involving non-compliance with critical requirements and with aggravating factors, however such cases are not defined in the ISCCS. We consider that it should be clearly defined in the ISCCS.

Art. 8.4.1.4: reviewing the adequacy of Signatories' responses to recommendations made or endorsed by WADA to implement target testing and/or other measures in the lead-up to the Olympic Games or Paralympic Games or other Event.

- We consider that the signatories' responses are always 'adequacy', so we propose to remove this term or to replace it with another, as truthful.

Art. 8.4.1.5. f): any other documents or data requested by the WADA Management from the Signatory;

- We consider that Wada Management can only request documents relating to the compliance case and no 'any other documents or data'.

Comment to Article 8.4.1.6: provided that, save in exceptional cases, WADA will not assert that a Signatory is non-compliant based solely on a single non-compliant results management decision. Instead, WADA will (1) notify the Signatory within a reasonable period following receipt of the decisions of results management decisions that **WADA considers** to be non-compliant; and (2) only take further action

against the Signatory for non-compliance if, notwithstanding such notification, a material number of results management decisions issued by that Signatory continue to be non-compliant.

- We consider that WADA should not consider anything so we understand that instead of “WADA considers” it should be specified which authority within WADA should manage those issues.
- We propose to clarify exceptional cases to not assert a signatory is non-compliant based solely on a single non-compliant results management decision. In addition, we consider that it should be clarify the meaning of ‘reasonable period’ to notify the signatory.

Art. 8.5.2: As and when determined by the WADA's Executive Committee on the recommendation of the CRC (which will not be more than once every three years, unless exceptional circumstances arise), WADA will send Code Compliance Questionnaires to Signatories to enable them to self-assess and self-report on their Code Compliance and any potential Non-Conformities. The Code Compliance Questionnaire may require the Signatory to provide documentation to support and supplement its responses to the questions in the Code Compliance Questionnaire.

- We consider that the decision rendered by WADA's Executive Committee on the recommendation of the CRC should be clearly clarified and procedures and content of this provision should also be explained.
- This provision also establish that WADA will send Code Compliance Questionnaires to signatories, which will not be more than once every three years, unless exceptional circumstances arise. In this sense, we consider that exceptional circumstances should also clarify in the ISCCS.

Art. 8.5.3: WADA will specify a reasonable deadline for return of the completed

Code Compliance Questionnaire, including any accompanying documentation. It will send reminders to Signatories as the deadline approaches.

- We propose that the questionnaire should be fulfilled within a specific period of time provided by WADA.

Art. 8.5.3.1: Where the Signatory is a Major Event Organization, WADA may ask it to complete and submit a Code Compliance Questionnaire in advance of the Event, describing the Anti-Doping Program it proposes to put in place for the Event, so that any Non-Conformities can be identified and corrected in advance.

- We consider that the term “shall” should be used instead of “may”.

Art. 8.5.8: Where WADA identifies Non-Conformities based on the Signatory's **completed** Code Compliance Questionnaire, it will issue a Corrective Action Report in accordance with Article 9.2 that identifies the Non-Conformities and categorizes them as Critical, High Priority or Other. The Signatory must complete the corrective actions within the set timelines specified in the Corrective Action Report.

- We understand under this provision that the non-conformities identified by WADA, are only based on the signatory's **completed** Code Compliance Questionnaire instead of the questionnaire responses. We propose to remove the term ‘completed’ and we also propose to include a list of corrective actions that the signatory might face.

Art. 8.6: Independently of any other monitoring activity, where WADA receives information indicating that a Signatory may not be complying with Critical or High Priority requirements, WADA Management may send the Signatory a Mandatory

Information Request requiring it to provide information that enables WADA to confirm the actual position. WADA shall only request information that is necessary for WADA to assess the Signatory's Code Compliance effectively, and that is not already available to WADA through other sources (such as ADAMS). The request will explain why WADA Management is asking for the information and will specify the deadline for the Signatory to provide it (which deadline shall be fifteen business days for urgent matters, and longer for matters that are less urgent).

- We consider that the ISCCS should set out what is the meaning of ‘a signatory may not be complying with critical or high priority requirements’. We also considerer that the term ‘may’ should be replaced by shall.

Art. 8.7.1: WADA Management will decide (subject to CRC oversight) which Signatories shall undergo a Compliance Audit. Factors that may trigger a Compliance Audit shall include (without limitation) the factors listed at Article 8.2.2. Signatories may also be selected for a Compliance Audit based on any other relevant reason or credible intelligence collected or received by WADA.

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- We consider that the term 'credible' should be removed, under the same explanation given above, in article 8.2.2.6.

Art. 8.7.3: In each case, the Signatory shall cooperate with WADA and the WADA audit team in all aspects of the Compliance Audit. Any lack of cooperation may be referred by WADA Management to the CRC for consideration as a potential Non-Conformity.

- We consider that the term "shall" should be used instead of "may".

Art. 8.7.4.1: WADA will send the Signatory a notice of its selection for a Compliance Audit, the names of the lead auditor and the other members of the audit team, and the dates on which the audit team proposes to visit the Signatory's offices to conduct the audit. Once the dates are confirmed, WADA will send an audit plan providing guidance on the scope of the audit to be conducted and on how to prepare for the audit visit (which is usually 2-3 days in duration)

Consideramos que un mes para la preparación de una auditoria es un plazo breve. The dates identified should give the Signatory at least one month to prepare for the audit visit (which is usually 2-3 days in duration).

- We consider that the established timeline of one month to prepare for the audit visit is not enough, and we suggest to extend that period to at least 45-60 days.

Art. 8.7.4.4: At least ten business days prior to the audit visit, the lead auditor should communicate directly (e.g., by teleconference call or by in-person meeting) with the Signatory's main contact for compliance matters, in order to confirm all necessary arrangements, answer any questions on the audit, and discuss how information should be prepared and presented by the Signatory to the audit team.

- We consider that the established timeline of 10 days it is not enough to the lead auditor communicate directly with the signatory's main contact for compliance matters, and we suggest to extend that period to at least 21 days. We also consider that the lead auditor only should request to signatory the information about your case.

Art. 8.7.5.: In all cases, the Signatory shall facilitate the visit of the WADA audit team, including arranging for appropriate staff to be present during the audit visit, and providing the necessary meeting and related office facilities for the WADA audit team to carry out their audit.

- We consider that the disposition '**within signatories' budget**' should be included.

Art. 8.7.9: WADA will pay the costs of the Compliance Audit in the first instance, subject to potential reimbursement by the Signatory in accordance with Article 12.2.1.4.

- We propose to include the procedure, when, how and the conditions regarding the reimbursement by the signatory. In addition, we consider that the ISCCS should sets a maximum compliance audit rates.

Art. 8.7.10: WADA may publish on its website a list of Signatories that have undergone a Compliance Audit. Once an audit is complete, and the Signatory in question has received the final Corrective Action Report, WADA may publish a summary of the audit outcomes.

- Besides the disclosure on WADA's website a list of signatories that have undergone a compliance audit and the summary of these audit, we propose to include on its website the signatories' disputes regarding such audit.

Art. 9.2.2: Where WADA identifies Non-Conformities in any other aspects of a Signatory's Anti-Doping Program (whether as a result of a Code Compliance Questionnaire, or a Compliance Audit, or as a result of information provided in response to a Mandatory Information Request, or otherwise), WADA Compliance

Management will send the Signatory a Corrective Action Report that:

- We consider that where WADA Management send the signatory a Corrective Action Report within a set time limit.

Art. 9.2.6: If a Signatory does not correct all Non-Conformities satisfactorily by the timeframe set in the Corrective Action Report, or if a Signatory fails to provide the required response to a Code Compliance Questionnaire or a Mandatory Information Request by the specified timeframe, WADA Management will give the Signatory written notice of that failure and a deadline (of up to three months, as WADA sees fit) to correct it. That further three-month deadline will not be extended again, save in exceptional cases, where the Signatory establishes that an Event of Force Majeure will make it impossible to correct the position by that deadline.

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- We propose to remove the term 'satisfactory' since it seems that the final decision regarding the correction of the non-conformities is completely discretionary. As we have said before, we consider that all terms: 'WADA considers' should be removed, and all cases regarding event or force majeure should always be specified.

Art. 9.3.1: If a Signatory (a) disputes that there is any Non-Conformity; or (b) does not correct a Non-Conformity to the satisfaction of WADA Management by the deadline set in accordance with Article 9.2.6, or (c) does not provide the required response to a Mandatory Information Request or Code Compliance Questionnaire by the deadline set in accordance with Article 9.2.6, WADA Management will refer the matter promptly to the CRC for consideration in accordance with this Article 9.3.

- We propose to remove 'to the satisfaction of WADA Management' since this is not a task for this body. We also consider that the term 'immediately' should be used instead of 'promptly'.

Art. 9.3.3: In all cases, the CRC shall review and determine for itself whether the Non-Conformities in question are in respect of requirements that are Critical, High Priority, or Other. It shall also consider fully and fairly any explanations or comments received from the Signatory in respect of those Non-Conformities. In particular, any Event of Force Majeure that may explain the Signatory's Non-Conformities or inability to correct them as required by the Corrective Action Report shall be fully and fairly considered. In extraordinary situations, the CRC may recommend to the WADA's Executive Committee that the Non-Conformities should be provisionally excused while the Event of Force Majeure continues to prevent the Signatory's correction of the Non-Conformities. In no circumstances, however, shall it be an acceptable excuse, or a mitigating factor:

- We consider that the term 'event or force majeure' should be used instead of 'in extraordinary situations', or the term 'extraordinary situations' be clearly specified.

Art. 9.3.4: Where the CRC considers that the Signatory has failed without valid reason to correct the Non-Conformity/ies in question within the specified timeframe, or to respond to a Mandatory Information Request or Code Compliance Questionnaire satisfactorily by the specified deadline, the CRC will recommend to WADA's Executive Committee that the Signatory be sent a formal notice asserting that it is non-compliant with the requirements of the Code and/or the International Standards, categorizing the requirements in question as Critical, High Priority, or Other, identifying any Aggravating Factors asserted by WADA, specifying the Signatory Consequences that WADA considers appropriate for such non-compliance (as recommended by the CRC, in accordance with Article 11), and specifying the conditions that WADA considers the Signatory should have to satisfy in order to be Reinstated (as recommended by the CRC, in accordance with Article 12).

- We consider that it is not clear what is the meaning of 'valid reason', so we propose that this term should be clearly specified.

Art. 9.3.5: alternatively, if the Signatory has provided a Corrective Action Plan that explains to the satisfaction of the CRC how the Signatory will correct the Non Conformities within no more than four months (or such earlier deadline as may be specified by the CRC), then the CRC may recommend to the WADA's Executive Committee that it decide that (a) the formal notice described in Article 9.3.4 will be sent to the Signatory upon expiry of that deadline if the Non-Conformities have not been corrected by then, without the need for further decision by WADA's Executive Committee; and (b) if the CRC considers that the Signatory has corrected the Non-Conformities in full by the specified deadline, the notice will not be sent to the Signatory and no further action will be taken by WADA in respect of such Non-Conformities. In the latter case, the Signatory's Anti-Doping Program may be proactively monitored moving forward to confirm its continuing Code Compliance.

- We consider that 'the satisfaction of the CRC' should be removed and the reason is the same that we have added above relating the CRC role. We also consider the same explanation related with to set 'shall' instead 'may'.

Art. 9.4.1: A case where (a) there is Non-Conformity by a Signatory with one or more Critical requirements of the Code and/or the International Standards; and (b) urgent intervention is required in order to protect the rights of clean athletes and/or to maintain confidence in the integrity of a sport and/or of a particular Event or Events.

- We consider that the fast track procedure should be clearly specified: when, how, conditions, and in which situations they would be involved.

Art. 9.4.2 and 9.4.4.2: If a case arises that falls within Article 9.4.1, WADA Management may refer it to the CRC for urgent consideration without following any or all of the steps set out in the preceding Articles

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of this International Standard for Code Compliance by Signatories//Following such review, if the CRC considers that a fast track procedure is not required, it may recommend

- As we said above, we consider that the term “shall” should be used instead of “may’,

Art. 9.4.4.3. If, however, the CRC considers that a fast track procedure is required, the CRC may recommend to WADA's Executive Committee that the Signatory be sent a formal notice asserting that it is non-compliant with the requirements of the Code and/or the International Standards, categorizing the requirements in question as Critical, High Priority, or Other, identifying any Aggravating Factors asserted by WADA, specifying the Signatory Consequences that WADA considers appropriate for such non-compliance (in accordance with Article 11) (including any such consequences that the CRC considers should be imposed urgently to protect the rights of clean athletes and/or to maintain confidence in the integrity of a sport and/or of a particular Event or Events), and specifying the conditions that WADA considers the Signatory should have to satisfy in order to be Reinstated (in accordance with Article 12). If WADA's Executive Committee accepts that recommendation (by vote taken at an in-person meeting or, if necessary to avoid delay, by circular email communication), that formal notice shall be sent to the Signatory in accordance with Article 10.2.2, and at the same time or at any time thereafter WADA may refer the case to the CAS Ordinary Arbitration Division and may apply to the CAS Ordinary Arbitration Division for appropriate interim relief, in accordance with Article 10.4.3.

- We consider that the term “shall” should be used instead of “may’, and we also consider that sanctions and aggravating factors should be specified. As has been said more than once, the term WADA considers should be removed.

Art. 10.1: Articles 9.3 and 9.4 identify the circumstances in which the CRC may recommend that the Signatory be sent a formal notice asserting that it is not compliant with the requirements of the Code and/or the International Standards, categorizing the requirements in question as Critical, High Priority, or Other, identifying any Aggravating Factors alleged by WADA (in cases involving non-compliance with Critical requirements), specifying the Signatory Consequences that WADA considers appropriate for such non-compliance (in accordance with Article 11), and specifying the conditions that the CRC considers the Signatory should have to satisfy in order to be Reinstated (in accordance with Article 12).

- As we can see from the above, the term ‘shall’ should be used instead of ‘may’, and with the aim of ensuring the Compliance Code, we also propose, as we have said previously, that critical requirements, high or other should be clearly specified.

Art. 10.3.: The Signatory will have twenty-one days from the date of receipt of the formal notice to dispute WADA's assertion of non-compliance and/or the Signatory Consequences and/or the Reinstatement conditions proposed by WADA in the notice. Further to Article 23.5.5 of the Code, if the Signatory does not communicate such dispute in writing to WADA within twenty-one days (or such extended deadline as WADA may in its absolute discretion agree), the assertion will be deemed admitted and, the Signatory Consequences and/or the Reinstatement conditions proposed by WADA in the notice will be deemed accepted, and the notice will automatically become a final decision enforceable with immediate effect in accordance with Article 23.5.7 of the Code. This outcome will be publicly reported by WADA.

- We consider that the established timeline of 21 days it is not enough to accept or dispute the WADA's assertion of non-compliance and/or the signatory consequences and /or the reinstatement conditions proposed by WADA, and we suggest to extend that period to at least 30 days. We also considerer that all reference regarding ‘as WADA may in its absolute discretion agree’ should be removed.

Art. 10.4: If the Signatory wishes to dispute the asserted non-compliance and/or the proposed Signatory Consequences and/or the proposed Reinstatement conditions then (in accordance with Article 23.5.6 of the Code the Signatory must file a formal notice of dispute with CAS (with a copy to WADA) within twenty-one days of its receipt of the notice from WADA. The dispute will be resolved by the CAS Ordinary Arbitration Division in accordance with the CAS Code of Sports-related Arbitration and Mediation Rules and this International Standard for Code Compliance by Signatories (and in the case of conflict between them, the latter shall prevail). Swiss law will govern the proceedings. The seat of the arbitration, and the venue of any hearings, shall be Lausanne, Switzerland. Unless the parties agree otherwise, the proceedings will be conducted in English. WADA and the Signatory shall each nominate an arbitrator to sit on the CAS Panel that hears and determines the dispute, preferably from the list of arbitrators specifically designated by CAS for cases arising under Articles 23.5 of the Code, and those two arbitrators shall together choose the chair of the Panel from that list. Third parties may intervene or apply to intervene (as applicable) as set out in Code Article 23.5.7. Cases shall be completed expeditiously and (save in exceptional circumstances) the reasoned decision shall be issued no later than three months after the date of appointment of the CAS Panel. That decision shall be publicly reported by CAS and the parties.

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- We also consider that the timeline to file a formal notice of dispute with CAS within 21 days of its receipt of the notice from WADA is not enough, so we propose to extend this period to at least 30 days.

Art. 10.5: Once a decision as to a Signatory's non-compliance is final (either because the Signatory did not dispute the contents of WADA's formal notice sent in accordance with Article 10.2, or because the Signatory did dispute it but CAS ruled against the Signatory), in accordance with Code Article 23.5.9 that decision shall be applicable worldwide and shall be recognized, respected and given effect by all other Signatories in accordance with their authority and within their respective spheres of responsibility.

- As we have said previously, we do not agree with the terminology "worldwide" since the Code only applies to the signatory organizations and not to the governments worldwide, so we propose to removed it.

Art. 10.6.: If a Signatory wishes to dispute WADA's assertion that the Signatory has not yet met Reinstatement conditions imposed on it and therefore is not yet entitled to be Reinstated, the Signatory must file a formal notice of dispute with CAS (with a copy to WADA) within twenty-one days of its receipt of the assertion from WADA (see Code Article 23.5.10). The dispute will be resolved by the CAS Ordinary Arbitration Division in accordance with Articles 23.5.6 to 23.5.9 of the Code and this Article 10.

- We consider the same planation given by us for the article 10.4.

Art. 11.1.1. The following is a range of Signatory Consequences that may be imposed, individually or cumulatively, on a Signatory that has failed to comply with the Code and/or the International Standards, based on application of the principles set out in Article 11.2 to the particular facts and circumstances of the case at hand:

- We propose again that the term 'shall' should be used instead of 'may'.

Art. 11.1.1.1. the following consequences (referred to collectively as WADA Privileges):

(a) in accordance with the relevant provisions of WADA's Statutes, the Signatory's Representatives being ruled ineligible for a specified period to hold any WADA office or any position as a member of any WADA board or committee or other body (including but not limited to membership of WADA's Foundation Board, the Executive Committee, any Standing Committee, and any other committee) (although WADA may exceptionally permit Representatives of the Signatory to remain as members of WADA expert groups where there is no effective substitute available);

(b) the Signatory being ruled ineligible to host any event hosted or organized or co-hosted or co-organized by WADA;

(c) the Signatory's Representatives being ruled ineligible to participate in any WADA Independent Observer Program or WADA Outreach program or other WADA activities; and

(d) withdrawal of WADA funding to the Signatory (whether direct or indirect) relating to the development of specific activities or participation in specific programs;

- We also believe that what we said before regarding the term 'Representatives' should take account, so the NADO staff should be excluded.

Art. 11.1.1.2. the Signatory's Representatives being ruled ineligible for a specified period to hold any office of or position as a member of the board or committees or other bodies of any other Signatory (or its members) or association of Signatories.

- It's the same situation described above, relating the term 'Representatives'.

Art. 11.1.1.3. Special Monitoring of some or all of the Signatory's Anti-Doping Activities, until WADA considers that the Signatory is in a position to implement such Anti-Doping Activities itself in a compliant manner without such monitoring.

- We consider that is very important that the different categories of non-compliance should be established. We also believe that the terms 'some or all' should be clearly specified so the ISCCS should also set in which cases will use one or the other term.

- As we said before, the term 'WADA considers' should be remove.

Art. 11.1.1.4: Supervision and/or Takeover of some or all of the Signatory's Anti-Doping Activities by an Approved Third Party, until WADA considers that the Signatory is in a position to implement such Anti-Doping Activities itself in a compliant manner without such measures. If the non-compliance involves non-

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compliant rules, regulations and/or legislation, then the Anti-Doping Activities in issue shall be conducted under other applicable rules (of one or more other Anti-Doping Organizations e.g., International Federations or National Anti-Doping Organizations, or the rules of Regional Anti-Doping Organizations) that are compliant, as directed by WADA. In that case, while the Anti-Doping Activities (including any Testing and results management) will be administered by the Approved Third Party under and in accordance with those other applicable rules at the cost of the non-compliant Signatory, any costs incurred by the Anti-Doping Organizations as a result of the use of their rules in this manner shall be reimbursed by the non-compliant Signatory;

- The same explanation add in the previous article. We would see a need that a maximum rates for signatories should be included.

(a) If it is not possible to fill the gap in Anti-Doping Activities in this way (for example, because national legislation prohibits it, and the National Anti-Doping

Organization has not secured an amendment to that legislation or other solution to permit application of Article 11.1.1.4), then it may be necessary as an alternative measure to exclude Athletes who would have been covered by the Signatory's Anti-Doping Activities from participating in the Olympic Games/Paralympic Games/other Events, in accordance with Article 11.1.1.10, in order to preserve public confidence in the integrity of competition at those events.

- We believe that this measure is excessive and disproportionate as it affects clean athletes and this goes against the aim of the sport movement, so we consider that this measure is also not in line with the provisions of the ISCCS, in particular with the article 11.1.1.10, 'in order to preserve public confidence in the integrity of competition at those events'.

Art. 11.1.1.5. (where the Signatory is a National Anti-Doping Organization or a National Olympic Committee acting as a National Anti-Doping Organization) the Signatory's country being ruled ineligible to host or co-host one or more Olympic Games and/or Paralympic Games and/or to be awarded the right to host or co-host World Championships and/or other International Events;

- We believe that 'one or more Olympic Games and/or Paralympic Games' should be clearly specified. In which cases, with justified causes, the ineligibility will be regarding Olympic or Paralympic Games and which criterion should be used. We also consider that the ISCCS should provide a full explanation regarding such decisions.

Art. 11.1.1.6. (in cases involving not only non-compliance with Critical requirements but also Aggravating Factors) imposition of a fine in an amount sufficient to punish the Signatory involved and to deter similar conduct in future by any Signatory (with the fine amount once paid to be applied by WADA to finance further Code Compliance monitoring activities);

- We believe that the imposition of a fine in an amount sufficient to punish the signatory involved and to deter similar conduct in future by any signatory should be clearly specified.

Art. 11.1.1.7 and 11.1.1.8. loss of eligibility to receive Olympic and/or Paralympic funding and other benefits from the International Olympic Committee or the International Paralympic Committee or any other Signatory for a specified period (with no right to receive such funding and/or other benefits for that period retrospectively following Reinstatement);// 11.1.1.8 a recommendation to the relevant public authorities to withhold some or all public and/or other funding and/or other benefits from the Signatory for a specified period;

- We also consider that the 'specific period' set in these articles need to be accurately defined.

Art. 11.1.1.10: (where the Signatory is a National Anti-Doping Organization or a National Olympic Committee) or a National Paralympic Committee) the following Persons being excluded from participation in or attendance at the Olympic Games and the Paralympic Games and/or other specified Events for a specified period: the National Olympic Committee and/or National Paralympic Committee of the Signatory's country, and the Representatives of and/or the Athletes and Athlete Support Personnel affiliated to that country and/or National Olympic Committee and/or National Paralympic Committee and/or National Federation of that country

- it will suffice to recall what was said above concerning the term 'Representatives', in particular, not to include the responsibility of the NADO's staff in the definition of Representatives.

Art. 11.1.1.11. (where the Signatory is an International Federation) The following Persons being excluded from participation in or attendance at the Olympic Games and the Paralympic Games and/or other specified Events for a specified period: the Representatives of that International Federation and/or the Athletes and

**AGENDA ITEM # 3.2.3/3.2.4
ATTACHMENT 7**

Athlete Support Personnel participating in the International Federation's sport (or in one or more disciplines of that sport); and

- We apply the same explanation give above.

Art. 11.2.2. (where the Signatory is a Major Event Organization):

(a) Special Monitoring or Supervision of the Major Event Organization's Anti-Doping Program at the next edition(s) of its Event, such as through a mission conducted as part of an Independent Observer Program;

and/or

(b) loss of eligibility to receive funding and other benefits from and/or the patronage of the International Olympic Committee, the Paralympic Committee, the Association of National Olympic Committees, or other patron body; and/or

(c) loss of recognition of its Event as a qualifying event for the Olympic Games or the Paralympic Games.

- We consider again that aggravating factors should be clearly defined.

Art. 11.2.4. The Signatory Consequences imposed in a particular case shall go as far as is necessary to achieve the objectives underlying the Code. In particular, they shall be sufficient to motivate full Code Compliance by the Signatory in question, to punish the Signatory's non-compliance, to deter further non-compliance by the Signatory in question and/or by other Signatories, and to incentivize all Signatories to ensure they achieve and maintain full and timely Code compliance at all times.

- We believe that is not clear that the meaning of employed to achieve these purposes are not in line with the targets, so we propose the signatories consequences impose are related to punitive measures.

Art. 11.2.5: Above all else, the Signatory Consequences imposed should be sufficient to maintain the confidence of all Athletes and other stakeholders, and of the public at large, in the commitment of WADA and its partners from the public authorities and from the sport movement to do whatever is necessary to defend the integrity of sport against the scourge of doping. This is the most important and fundamental objective, and overrides all others.

- We consider that the wording 'public at large' should be remove, and 'stakeholders' should be clearly specified. We also believe that 'whatever is necessary' should be clearly specified.

Art. 11.2.6: The consequences should not go further than is necessary to achieve the objectives underlying the Code. In particular, consideration should be given to whether it is feasible (logistically, practically, and otherwise) for other relevant Signatories to create and implement a mechanism that enables the non-compliant Signatory's Athletes and/or Athlete Support Personnel to demonstrate that they are not tainted in any way by the Signatory's non-compliance. If so, and if it is clear that allowing them to compete in International Events in a neutral capacity (i.e., not as representatives of any country) will not make the Signatory Consequences that have been imposed less effective, or undermine public confidence in the integrity of the International Events (e.g., because the Athletes have been subject to an adequate testing regime for a sufficient period) or in the commitment of WADA and its stakeholders to do what is necessary to defend the integrity of sport against the scourge of doping, then such a mechanism may be permitted, under the control of and/or subject to the approval of WADA (to ensure adequacy and consistency of treatment across different cases).

- We are not agree with the provision regarding the non-compliance consequences set in the ISCCS, since this rule establish that the consequences should not go further than is necessary to achieve the objectives underlying the code. As noted above, in particular in article 11.1.1.4. a) the consequences of non-compliance go further than is necessary to achieve the objectives underlying the Code.

Art. 11.2.7.: The Signatory Consequences applied should include cessation of the Signatory's non-compliant Anti-Doping Activities where necessary to maintain confidence in the integrity of sport, but should be designed to ensure as far as practicable that there is no gap in the protection offered to clean Athletes while the Signatory is working to satisfy the Reinstatement conditions. Depending on the circumstances of the particular case, this may involve imposition of Supervision and/or Takeover of some or all of the Signatory's Anti-Doping Activities. Where the circumstances warrant, however, the Signatory may be permitted to continue to conduct particular Anti-Doping Activities (e.g., education) pending Reinstatement, provided this can be done without endangering clean sport. In such circumstances, Special Monitoring of the activities in question may be warranted.

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- We consider that the term 'where necessary to maintain confidence in the integrity of sport' is undetermined and we would like to have a clarification relating this term. We consider that the term "shall" should be used instead of "may".

Art. 11.2.10: Applying the principles set out above, Annex B identifies the range of graded and proportionate Signatory Consequences that shall prima facie apply in cases involving non-compliance with Critical requirements (see paragraph B.3) or only High Priority requirements (see paragraph B.2) or only Other requirements (see paragraph B.1). The intention behind Annex B is to promote predictability and consistency in the imposition of Signatory Consequences across all cases. However, there shall be flexibility to vary within or even to depart from this range in a particular case, where the application of the principles set out above to the specific facts and circumstances of that case so warrant. In particular, the greater the degree of non-compliance (i.e., the more requirements with which the Signatory has failed to comply, and the more serious those requirements), the greater the Signatory Consequences should be). And if the case includes not only non-compliance with Critical requirements but also Aggravating Factors, that shall warrant a significant increase in the Signatory Consequences imposed (which may include, without limitation, a fine in an amount sufficient to punish such conduct and to deter similar conduct by that Signatory or any other Signatory in the future).

- We consider that this measure is completely discretionary so we propose to establish the maximum limit that it can be set.

Art. 11.2.11. In accordance with Article 12.2.1.3, it shall be a condition of Reinstatement that the Signatory has respected and observed in full all of the Signatory Consequences imposed on it.

- We propose to remove this article.

Art. 11.3.1. Governments and Signatories and associations of Signatories may impose additional consequences within their respective spheres of authority for non-compliance by Signatories, in accordance with Code Article, 12.1, provided that this does not compromise or restrict in any way the ability to apply Signatory Consequences in accordance with this Section 11.

- We propose to remove the term 'Governments' since non signatories governments should not be under WADA's regulations. We are also disagree with the provision: 'may impose additional consequences' since we consider that the additional consequences should be clearly specified in the ISCCS.

Art. 12.2.1. In accordance with Code Article 23.5.4, in the formal notice that it sends to the Signatory, setting out its alleged non-compliance and the proposed Signatory Consequences, WADA shall also specify the conditions that it **considers** the Signatory should have to satisfy in order to be Reinstated, which shall be as follows:

- As we have said before, we consider that all terms relating: 'WADA considers' should be removed.

Art. 12.2.1.2: the Signatory has demonstrated that it is ready, willing and able to comply with all of its obligations under the Code and the International Standards, including (without limitation) carrying out all of its Anti-Doping Activities independently, and without improper outside interference;

- We are not agree with this article, since if the signatory has complied with their compliance requirements regarding the corrective action report, the reinstatement should be enforce, so we propose to remove this provision.

Art. 12.2.1.4. The Signatory has paid in full the following costs and expenses upon demand by WADA:

(a) any specific costs and expenses reasonably incurred by WADA in identifying the Signatory's non-compliance beyond the costs of WADA's routine monitoring activities (e.g the costs of any specific investigation conducted by WADA's Intelligence and Investigations Department that identified such non-compliance)

- We consider that the term 'reasonably' is not defined, so it could be misleading for signatories. We propose to clearly clarify this term and to determine a list with any specific cost and expenses incurred by WADA.

Art. 12.2.1.5. Any other conditions that the WADA's Executive Committee may specify (on the recommendation of the CRC) based on the particular facts and circumstances of the case.

- We consider that this provision should be remove, since according with it besides the measures mentioned under ISCCS, any other conditions should not be established.

Art. 12.2.2: Within twenty-one days of its receipt of the notice referenced in Code Article 23.5.4, in accordance with Code Article 23.5.6 the Signatory may dispute the Reinstatement conditions proposed by WADA, in which case WADA will refer the case to the Independent Tribunal or CAS Ordinary Arbitration Division in accordance with Code Article 23.5.6 and the CAS will determine whether all of the Reinstatement conditions proposed by WADA are necessary and proportionate.

- We also consider that the timeline to file a formal notice of dispute with CAS within 21 days of its receipt of the notice from WADA is not enough, so we propose to extend this period to at least 30 days.

Art. 12.2.3.1: In a particular case, WADA (and/or CAS) may establish an instalment plan for payment of the costs and expenses set out in Article 12.12.1.4. In such a case, provided the Signatory is fully up-to-date with payments under that instalment plan, once the Signatory has complied with all other Reinstatement conditions it may be Reinstated even if further instalments will only become due for payment after the date of Reinstatement. However, the Signatory remains liable to pay all remaining instalments after such Reinstatement. A failure to do so shall be processed as a new Non-Conformity.

- We believe that WADA should propose, in all circumstances, an instalment plan for payment of the cost and expenses. These instalment plan for payment should be always and in all cases proposed by WADA.

Art. 12.3.3. Where a Signatory's right to conduct some or all Anti-Doping Activities has been withdrawn in accordance with Article 11.1.1.4, the CRC may recommend to WADA's Executive Committee that the Signatory be given back the right to conduct certain of those Anti-Doping Activities (under Special Monitoring and/or Supervision by an Approved Third Party in accordance with Article 11.1.1.3) prior to full Reinstatement, where the CRC agrees with WADA Management that the Signatory's corrective efforts to date mean it is in a position to implement such Anti-Doping Activities itself in a compliant manner.

- We are not agree with this provision since we consider that there are not reason to given back the right to conduct certain anti-doping activities prior to full reinstatement, and on the other hand, WADA's Executive committee is the responsible for carrying out this activity instead CRC.

We consider that the following articles should be remove:

12.3.4 Once WADA Management considers that the Signatory has met all of the Reinstatement conditions, it will inform the CRC accordingly.

12.3.5 If the CRC agrees with WADA Management that the Signatory has met all of the Reinstatement conditions, it will recommend that the WADA's Executive Committee confirm the Reinstatement of the Signatory.

Art. 12.3.7. Following the Signatory's Reinstatement, WADA shall monitor the Signatory's Code Compliance closely for such further period as it deems appropriate. When it confirms such Reinstatement, WADA's Executive Committee may impose special conditions recommended by the CRC with which the Signatory must comply post-Reinstatement in order to facilitate such monitoring and to demonstrate the Signatory's continuing Code Compliance. Such conditions may include (without limitation) scheduling a Compliance Audit for the Signatory within a specified period following Reinstatement. Any breach of such conditions shall be processed in the same manner as any other new Non-Conformity.

We are not agree with the following provision 'further period as it deems appropriate', so we propose to establish a time frame, for example, two years. We also are not agree with 'special conditions by the CRC', since this terms are no specified so we propose to remove it and to include, as special conditions, for example, audits for two years, or other similar measures to facilitate the monitoring and to demonstrate the signatory's continuing Code compliance. We also consider that the terms 'without limitation' should be remove, and we propose to fix a deadline, for example, two years

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES is supportive of the improvement made to this section where the WADA Foundation Board has been replaced in the decision making process by the WADA ExCo. That said, it is important that decisions regarding non-compliance be made in an independent and transparent manner. If the WADA ExCo is to make decisions on non-compliance, it is essential that the reforms currently being contemplated with respect to WADA governance (and adding independent members to the WADA ExCo) be realized. Moreover, CCES recommends that processes be developed to concretize and document the independence and transparency of the decision-making process pursuant to the ISCCS, whether it be that decision-making take place within the WADA ExCo or the CRC.

CCES remains concerned that, outside of the fast track process, the entire compliance process, as described, could theoretically take two years to complete from end to end. This lengthy timeframe for compliance resolution allows ample time for transgressions to continue to occur, athletes to continue competing despite potentially compromised procedures thus creating the probable situation of having to manage consequences retroactively.

Independent Consultant, [Luis Horta](#), Consultant (Portugal)
Other - Other (ex. Media, University, etc.)

I want to congratulate the drafting team for the improvements inserted in this version 2.0, mainly in terms of pragmatism and more expedite appealing procedures. Nevertheless, I cannot understand the reasoning that presided to the deletion of article 8.7.4.4.

It seems to me, that in certain and precise circumstances, it is crucial to have a Compliance Audit with non-advance notice to the *Signatory*. I think we must learn with the lessons given by the recent Russian case, where a huge number of records and samples were destroyed.

- **5.0 Objective (1)**

Dopingautoriteit, [Herman Ram](#), CEO (Netherlands)
NADO - NADO

1. Proportionality of consequences

Consequences should be 'graded and proportional' and we appreciate that WADA has taken this principle into consideration while formulating the second Draft of the ISCCS. We support this intention of WADA, as we believe that consequences are applied to bring about a change of behavior of Signatories. Consequences that are proportional are most successful in bringing about this change in behavior. The principles on which consequences should be based, are laid out in Articles 5.2, 11.1, 11.2, 23.5.3 and 23.5.4, among others. Unfortunately, the principles as formulated in these Articles seemingly have not been leading for the contents of Annex B. Contrary to these articles and WADA's intention to facilitate graded and proportional consequences, Annex B shows a rather rigid system in which big differences between Signatories and the situation they are in, only lead to relative small differences in the consequences that will be imposed. We would like to state our support for a sanctioning system in which consequences are graded and proportional, and would like to see this reflected in Annex B as well. Therefore, we strongly urge WADA to bring considerably more differentiation into Annex B.

- **6.0 WADA's Compliance Monitoring Program**

- **6.1 Operational Oversight of Code Compliance (2)**

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 6.1

We notice that WADA Compliance Taskforce has been replaced by WADA Management, however "WADA Management" is neither defined in the ISCCS nor does it have a clear content. We recommend that this task is delegated to a specific position/function holding overall administrative responsibility, i.e. the director general. Hence "WADA Director General" should replace "WADA Management".

Swedish Antidoping, [Matt Richardson](#), Head of NADO (Sweden)
NADO - NADO

In line with our previous comments in the first draft of the ISCCS, and as well with our overarching comments in this draft, governance issues regarding compliance monitoring should be considered. In this regard, we suggest that neither the Foundation Board nor the Executive Committee should be involved in formulating decisions regarding compliance; this responsibility should lie with the CRC. The ExCo should instead focus on operational decisions regarding application of consequences, based on the decisions of the CRC. Naturally, the decisions made by both instances should be made transparent for all interested parties.

- **6.2 Independent Review and Recommendations (5)**

International Paralympic Committee, [Vanessa Webb](#), Anti-Doping Manager (Germany)
Sport - IPC

Article 6.2.1: How can WADA claim that the CRC is an independent body when it is a WADA Standing Committee established by WADA's Foundation Board?

Canadian Olympic Committee, [Robert McCormack](#), CMO (Canada)
Sport - National Olympic Committee

- Reference should be made to the need for Compliance Auditors to be free of any conflicts of interest (COI) with regard to the Signatories they may be auditing. Similarly members of the WADA executive committee that review the CRC recommendation must be free of COI's, or recuse themselves from the proceedings.

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 6.2.1:

In accordance with the overriding principle of separation of powers, any Signatory, and WADA itself, should strive towards not managing multiple roles within the organization that could lead to role conflicts or undermine the trust in the organization and the legitimacy of the proceedings. Hence, we support that the decision of non-compliance is now suggested left to the WADA's Executive Committee (EC) and not to be made by the WADA's Foundation Board.

The Article states that the CRC is an independent WADA Standing Committee. According to the WADA Statutes Article 11: *"The Executive Committee will approve if it deems it necessary, the creation of standing or ad hoc committees. The Executive Committee will appoint the Chair of each standing or ad hoc committee, who shall be a member of the Foundation Board or of the Executive Committee or a former member of the Foundation Board or a former member the Executive Committee of the Agency who has ceased to be a Board Member or an Executive Committee Member within the last three years."* Considering the above, we question how the CRC is defined as independent if the Chair of the CRC is an existing or former EC/FB board member.

Secretaria de Estado da Juventude e Desporto, [Paulo Fontes](#), Advisor (Portugal)
Public Authorities - Government

6.2.2 The CRC follows standardized procedures encompassing review, assessment, communication, and the making of recommendations to WADA's Executive Committee on matters relating to Code Compliance and Reinstatement. If deemed necessary the CRC might decide to give indications to WADA management to start the review of compliance of a given signatory. These procedures (see Articles 9 and 10) are designed to support a transparent, objective, and consistent approach to the assessment and enforcement of Code Compliance.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

The comment refers to 'strict conflict of interest provisions'. These should be explained and set out as an Appendix to the Standard, and details provided as to how and by what body they will be enforced. A number of governmental conflicts provisions exist which could be used as a model.

The procedures in Articles 9 and 10 are expressed to be 'transparent, objective and consistent'. They do not, however, encompass any due process for the CRC.

The CRC needs to be exempt from any criticism that it fulfils an investigation, determination and sanctioning role without any checks and balances.

It will require a clear set of governance and operational rules.

- **6.3 Enforcement Procedures (3)**

Canadian Olympic Committee, [Robert McCormack](#), CMO (Canada)
Sport - National Olympic Committee

- Reference should be made to the need for Compliance Auditors to be free of any conflicts of interest (COI) with regard to the Signatories they may be auditing. Similarly members of the WADA executive committee that review the CRC recommendation must be free of COI's, or recuse themselves from the proceedings.

UK Anti-Doping, [Pola Murphy](#), Compliance Coordinator (United Kingdom)
NADO - NADO

Provide for an appeal process through the CAS. It should be made explicit that appeals under the ISCCS should be excluded from the arrangements where the CAS can make a costs award. Each party should bear its own costs but not have to bear the costs of the other party. This will reduce the likelihood of WADA or a signatory spending so much on legal counsel that it discourages the other party from an appeal because of the risk of a costs award.

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Nous renvoyons à nos remarques relatives aux propositions de modifications du Code, à propos du délai pour contester une possible de non-conformité.

Vu l'importance et la lourdeur potentielle des conséquences d'une non conformité, un délai de 28 jours nous semblerait davantage proportionné.

- **6.4 Reinstatement Procedures (2)**

Secretaria de Estado da Juventude e Desporto, [Paulo Fontes](#), Advisor (Portugal)
Public Authorities - Government

Recommendations from the CRC should have mandatory follow up from the WADA management in order to avoid that a recommendation for reinstatement is not followed accordingly.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

This paves the way for two CAS referrals: one to determine if a Signatory is compliant, another to determine whether it has complied with Reinstatement criteria. If that happens, it makes obvious sense for the same CAS panel to hear both cases.

- **7.0 WADA's Support for Signatories' Efforts to Achieve/Maintain Code Compliance (1)**

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

This is the most practical Article in the Standard: it is going to be relevant year on year.

A non-compliant Signatory that is punished for being so will still at the end of that process be non-compliant, and require assistance in order to become compliant. Supporting compliance, not punishing non-compliance, should be the focus of the Standard.

- **7.1 Objective (2)**

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Nous renvoyons à nos commentaires sur les propositions de modifications du Code et sur la force majeure.

Sauf à compromettre la séparation des pouvoirs, un signataire ne peut être tenu, à partir du moment où il aurait fait appel en vue de la bonne application du Code, d'une décision finale de juges qui ne serait pas parfaitement conforme au Code. C'est à notre avis la limite - à ne pas dépasser - de l'action et du pouvoir des signataires.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Article 7.1.1: it would be an 'excuse' for non-compliance if a Signatory enlisted the assistance of a third party in relation to compliance, only for that third party to perform to a low standard.

What else can the Signatory do if it does not have the competence to undertake the relevant task itself?

- **7.2 Operational and Technical Support (3)**

UK Anti-Doping, [Pola Murphy](#), Compliance Coordinator (United Kingdom)
NADO - NADO

It is not acceptable that a NADO or IF have to comply directly with the Code but private sample collection agencies (third parties) do not. They should become signatories. If this isn't addressed in version 2 (which is highly likely) then WADA must address as part of the Code review in 2018/19.

One idea was for WADA to charge fee to private sample collection agencies for a Compliance licence. This would help to generate income for WADA which in turn could support the 4-year planned budget.

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Pour l'article 7.2.5, certaines non conformités décélées peuvent engendrer, si l'on veut les corriger, des modifications législatives, longues par nature.

Dans un souci de proportionnalité et d'efficacité, il conviendra d'en tenir compte. Parfois, même souvent, une modification législative peut prendre plus de neuf mois. Les délais de 3, 6 ou 9 mois semblent particulièrement courts à cet égard.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Article 7.2.4: it is not clear what this means. If a Signatory contracts with another Signatory to undertake Anti-Doping Activities on its behalf, and that contracted Signatory performs these activities to a poor standard, the contracted Signatory and the instructing Signatory cannot both be non-compliant.

Article 7.2.5: Is the CRC consulted by WADA regarding the Corrective Action Report? What does a Signatory do if it disputes the Corrective Action Report?

- **8.0 Monitoring Signatories' Compliance Efforts (2)**

FIBA, [Gabriel Zangenfeind](#), Anti-Doping & Sport Senior Associate (Switzerland)
Sport - IF – Summer Olympic

8.2.2 (b)

The list/ categorization of the "Tiers" should be published.

Also, an equal number of NADOs and IFs should be in the respective group of tiers at least in tier 1 and 2).

8.2.3

Does this fall within the scope of Annexe B "Signatory Consequences"?

If so, the scope of recognized bodies needs to be defined because it cannot include bodies over which the IF has no controlling interest (= a subsidiary) or direct membership links (= a NF or Confederation as the case may be).

Swedish Antidoping, [Matt Richardson](#), Head of NADO (Sweden)
NADO - NADO

The monitoring of Code Compliance must, in our opinion, be extended to directly include non-signatories, including the proposed Independent Testing Authority (ITA), independent integrity units, and service providers, such as doping control collection services. Unlike many sub-contractor or service provider agreements, some of these authorities and units are

by intention independent or arms-length from the main beneficiary or orderer of their services, to ensure impartiality. This means that an ADO cannot with full transparency and reliability be expected to maintain a level of control and revision over these organisations. Thus, the responsibility of monitoring must lie within the realm of WADA's oversight, as should the administration of consequences for failure to live up to compliance standards. Only in cases where it is entirely apparent that the beneficiary or ordering ADO has had clear insight into, or knowledge of, compliance transgressions or failures on the part of the non-signatory that is being directly utilised, should the consequences of non-compliance be applied to the (signatory) ADO.

- **8.2 Prioritization Between Different Signatories (6)**

International Paralympic Committee, [Vanessa Webb](#), Anti-Doping Manager (Germany)
Sport - IPC

Article 8.2.1.6: Organizations for athletes with an impairment are also International Federations (with a few exceptions). As such, we suggest the following amendment to Article 8.2.1.6 (amendments in underline text): ".....organizations for athletes with an impairment that are not International Federations...".

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 8.2.2.10:

We question the use of the words "bidding to host" or "winning the right to host" in relation to WADA-accredited laboratories, as the right to serve as an accredited WADA laboratory cannot be the result of a bidding process.

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES is pleased with the addition of factors being considered when prioritizing the assessment of Signatories. These factors help clarify WADA's focus on enforcing high risk, high competition-level and Critical requirements.

CCES recommends including private companies and International Federation integrity units providing anti-doping services into the scope of the ISCCS as their processes and procedures should be held to the same oversight and discipline as Signatories to the Code. That being said, ADOs that choose to use third party service providers would continue to be held accountable and responsible for the actions of those parties.

UK Anti-Doping, [Pola Murphy](#), Compliance Coordinator (United Kingdom)
NADO - NADO

The embryonic Independent Testing Authority (ITA) will not be a Code signatory even though it will be carrying out functions very similar to code signatories. The IFs and MEOs which will be transferring their anti-doping activities to the ITA are Code signatories. This may lead to a situation where the ITA is not Code-compliant but cannot be subject to the consequences whereas the IFs and MEOs are Code-compliant even though their responsibilities are not being carried out effectively by the ITA. This clause should therefore include the ITA and pressure should be exerted on the IOC to insist that the ITA is Code-compliant from inception.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

8.2.2. Why does the CRC need to approve this? (Cross refer Article 6.1.2)

This appears to be a strategic/policy issue. The CRC is not a strategy or policy making body.

8.2.3 Use of 'intelligence' and 'information' needs to be consistent in the draft. The terms mean different things.

It will rain in London tomorrow is information. It is only intelligence if you are in London and act on the information by wearing a coat.

8.2.4 Same observation as above: the CRC is not a policy or strategy body. This duplicates 8.2.2.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO supports distinguishing Signatories acting in good faith from Signatories acting in bad faith:

- Specific provisions (including a special fast track process with highest priority) to enable WADA to take urgent action on deliberate/bad faith non-compliance with Critical Code requirements. (ISCCS Article 4.3 (definition of "Aggravating Factors"); Article 8.2.3; Article 9.4).

iNADO supports distinguishing between different types of non-compliance:

- The different requirements of the Code and International Standards are classified as Critical, High Priority, or Other (see ISCCS Article 4.3). Further examples of the first two have been provided and further guidance has been added to Annex A.
 - Prioritizing WADA's enforcement efforts to most important types of non-compliance (3x3 approach):
 - 3 tiers of Signatories (ISCCS Article 8.2.2)
 - prioritize the Signatories based on their current level of Code compliance (ISCCS Article 8.2.3)
 - 3 tiers of Corrective Action Report (ISCCS Article 8.2.4)
 - first two years following entry into force of the ISCCS WADA would only take further action in respect of Non-Conformities:
 - Tier 1 Signatories, only if Critical requirements were not met within 3 months, or High Priority requirements were not met within 6 months
 - against Tier 2 Signatories, only if Critical requirements were not met within 3 months
 - against Tier 3 Signatories, only by exception if Critical requirements were not met within 3 months
- **8.3 Cooperation With Other Bodies (1)**

UK Anti-Doping, [Pola Murphy](#), Compliance Coordinator (United Kingdom)
NADO - NADO

There should be concerted efforts by other bodies to coordinate with WADA around their own compliance activities. Providing compliance reports that are similar but slightly different is a time consuming exercise that is not an effective use of time.

- **8.4 WADA's Monitoring Tools (1)**

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

8.4.1.4

This risks the criticism that the status of a 'recommendation' is elevated to that of a directive.

An International Federation will know its own sport. If WADA in good faith makes a recommendation as regards testing, the International Federation can in good faith adapt or amend that recommendation. WADA can make observations as regards a recommendation, but a failure to adopt a recommendation is not the same as non-compliance.

8.4.1.6

Each of these decisions is an appealable decision that will be notified to Interested Parties (including WADA) in the manner set out in the Code. If Article 8.4.1.6 is to be retained then Article 13 could be amended to make clear that in lieu of an appeal WADA may register a concern that a particular decision may be non-compliant (even if WADA chooses not to appeal).

There is no obvious policy reason why a 'single' decision will not render a Signatory non-compliant. Signatories do not get a free hit and a person prejudiced by a decision should have the comfort of knowing that a Signatory is at risk when it comes to all decisions.

Again, if WADA declines to appeal, there is a risk if it seeks to later resurrect an issue with a decision by claiming it was not compliant with the Code.

8.4.1.8

If this is to be retained, the provisions relating to substantial assistance need to be amended to make it clear that 'substantial assistance' includes providing information 'in relation to non-compliance by Signatories'. Article 8.4.1.8 is imprecise and requires amendment to clarify its policy aim and application.

- **8.5 Code Compliance Questionnaires (1)**

UK Anti-Doping, [Pola Murphy](#), Compliance Coordinator (United Kingdom)
NADO - NADO

The clause suggests that the compliance questionnaire cycle will be every three years. That fits poorly with the four year Olympic and Paralympic cycle and at some point, the two cycles will clash with a declaration of non-Compliance at a critical time with too little time left for corrective action ahead of a Games. This may be covered by 8.5.3.1 but the alternative is to move this to a four year or two-year cycle. We should also ask whether a three-year cycle is too long and whether all signatories will be part of the same cycle or whether some are in year one, some in year two and some in year three.

- **8.7 The Compliance Audit Program (3)**

Ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

Article 8.7.1: Le rôle du CRC dans la décision de mettre en place un audit de conformité chez un Signataire, ainsi que la procédure de supervision exercée par ce dernier, devraient être clarifiés.

Article 8.7.9: Cet article indique que l'AMA supporte le coût des audits de conformité qu'elle entreprend chez un signataire, sous réserve d'un remboursement par le signataire conformément aux dispositions de l'Article 12.2.1.4.

La France propose que soit ajoutée une référence à l'article 12.3.2, afin que le remboursement de l'audit de conformité ne puisse être mis à la charge du Signataire que lorsque celui-ci est envisagé dans le cadre du processus de réintégration dudit Signataire, et non lorsque l'audit est réalisé préalablement à toute déclaration de non-conformité du Signataire.

Proposition d'amendement: "*WADA will pay the costs of the Compliance Audit in the first instance, as part of its routine monitoring activities, subject to potential reimbursement by the Signatory in accordance with Articles 12.2.1.4 and 12.3.2.*"

Estonian Anti-Doping Agency, [Elina Kivinuuk](#), Executive Director (Eesti)
NADO - NADO

For the sake of transparency, the publishing of the process should also include the comments or arguments of the Signatory.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

8.7.1 Why is this subject to the CRC?

- **9.0 Giving Signatories the Opportunity to Correct Non-Conformities (1)**

Dopingautoriteit, [Herman Ram](#), CEO (Netherlands)
NADO - NADO

1. Due process/Fair Trial

In our comments on the first Draft, we stated the following:

Page 15, article 23.5.5 and 23.5.6

The Draft of this article contains two serious problems.

2. To expect a Signatory to react within 14 days to WADA's allegation is simply disproportional and (therefore) untenable. We should not forget that ADOs that receive such an allegation, will most probably have huge problems anyway. We suggest that this period should be six weeks.

3. But even with an extended period, it is disproportional and (therefore) untenable to interpret a lack of response as a Waiver of the right to appeal. Even if an ADO (for whatever reason) does not reply and protest in time, that organization should still have the right to appeal WADA's decision.

NB: We also refer to articles 6.3.2, 10.3, 8.7.4.2, 12.2.2, 13.6.1 and 23.5.10 of the ISCCS, where the same problems occur.

WADA has now changed the two week period into a three week period, which is a step forward. Nevertheless, three weeks is an extremely short period in which an ADO is to put together a reaction to the allegations it is facing. Even for ADO's that are well-run this is an enormous challenge. Therefore, the three week reaction period needs to be lengthened to a more reasonable six weeks.

Additionally, in the second Draft, WADA has left intact the premise that 'without a timely reaction, the Non-compliance is deemed to be accepted', as well as the premise that a lack of response is seen as a waiver of the right to appeal. These two points are untenable, as they go directly against the principles of Fair Trial. We suspect that these points, should a Signatory put them before an arbitrator or a civil court, will not be upheld. We therefore reiterate the points in our previous submission, and we urge WADA to bring this article in line with the principles of Fair Trial, by deleting the said points in this article in the Code and the two articles in the ISCCS.

- **9.2 Corrective Action Reports and Corrective Action Plans (2)**

Canadian Olympic Committee, [Robert McCormack](#), CMO (Canada)
Sport - National Olympic Committee

- We have concerns that the timelines to determine non-compliance are too long. Aside from a possibly lengthy WADA investigation, once "non-compliance" is determined there is a three-month period for the signatory to change. If that does not happen it goes to the WADA executive and when they affirm non-compliance there is another four-month delay. Following this, appeals to CAS can be made and when that process is completed the CAS tribunal has 3 months to publish their judgement. The total process could easily take two years to complete. During this time athletes from fully compliant programs are put at significant disadvantage.
- One option would be for the independent body of the CRC to be given the ultimate authority to determine instances of non-compliance. Of course, these determinations would be subject to appeal at CAS.
- Alternatively, similar to a provisional suspension for an athlete with an AAF, a provisional suspension or other consequence for non-code compliance could take effect immediately upon the CRC's determination that the signatory is non-compliant.

Ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

Article 9.2.1 : La déclaration de non-conformité consécutive à une défaillance de la législation devrait être appréciée à la lumière des circonstances propres à chaque Signataire, et les conséquences imposées à la suite d'une telle déclaration devraient être strictement limitées à ce qui est nécessaire à la préservation de l'intégrité du système antidopage.

La notion de "*confirmed calendar*" devrait être précisée. Il est en pratique difficilement possible pour un Signataire d'établir avec un degré de certitude suffisant le calendrier d'un processus législatif.

Article 9.2.2: La France souhaite que soit introduite une possibilité pour le Signataire de demander le reclassement d'une non-conformité dans une autre catégorie (par exemple, passage de critical à high priority). Cette demande de reclassement pourrait être conditionnée à l'approbation du CRC.

- **9.3 Referral to the CRC (1)**

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 9.3.2:

We recommend that any comments and explanations from the Signatory should be addressed directly from the Signatory to the CRC, and not via WADA Management. Also, the use of

parenthesis here, creates problems for the interpretation as it is unclear whether the Signatory is obliged to submit comments via WADA management, or if this is an alternative to submitting comments directly to the CRC.

- **9.4 Fast Track Procedure (3)**

FIBA, [Gabriel Zangenfeind](#), Anti-Doping & Sport Senior Associate (Switzerland)
Sport - IF – Summer Olympic

9.4.1.1.

The conditions are defined very broadly and can apply to virtually all cases of non-compliance prior to an event.

e.g. all anti-doping activities are “in order to protect the rights of clean athletes”.

9.4.2

Instead of “any or all of the steps” a specific expedited procedure should be defined, with shorter procedures, which safeguards the Signatory’s interests.

9.4.4.3

“Interim relief”

It would be preferable to have a CAS expedited proceeding (or ad hoc, if available at the event) so that there is a final decision.

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES is very supportive of the addition of the fast track process to deal with urgent breaches. This is an essential component of the ISCCS and an important improvement from version one given past experience in Rio 2016.

CCES recommends further specification of the ‘triggers’ for non-conformity identified in 9.4.1.1. This article would be best served by including wording that describes the initiation of this process in practical terms. This would include further defining when WADA Management would trigger the fast track process and highlighting how political decisions and implications might come into play.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO supports distinguishing Signatories acting in good faith from Signatories acting in bad faith:

- Specific provisions (including a special fast track process with highest priority) to enable WADA to take urgent action on deliberate/bad faith non-compliance with Critical Code requirements. (ISCCS Article 4.3 (definition of “Aggravating Factors”); Article 8.2.3; Article 9.4).

- **10.0 Confirming Non-Compliance and Imposing Signatory Consequences (3)**

Swedish Antidoping, [Matt Richardson](#), Head of NADO (Sweden)
NADO - NADO

We feel that the current draft lacks consequences for individuals that are shown to be responsible for bad faith. The organisational aspect is much clearer (and appreciated) in the current draft, but we strongly feel that tools must exist to apply discipline at a finer resolution than the organisational level. Our suggestion is therefore to add a specific paragraph or clause that defines the consequences for individuals that intentionally deviate from compliant behaviour and specifies how and when these may be applied.

Dopingautoriteit, [Herman Ram](#), CEO (Netherlands)
NADO - NADO

c. The diversity of Signatories

In our comments on the first Draft, we stated the following:

The ultimate objective of WADA is to ensure that strong, Code compliant anti-doping rules and programs are applied and enforced consistently and effectively across all sports and all countries. And

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the Dutch stakeholders fully agree. However, this goal is to be realized by 300+ ADOs, ranging from extremely small and poor organizations with only voluntary workers, to the largest ADOs with more adequate funding. This reality appears to have an inevitable consequence: that the ISCCS cannot be applied in the same way in all situations. On the contrary: customization will be badly needed.

That is why we want to emphasize that the goal (Code compliance) can be reached in more than one way. Both a centralized approach on the one hand, and 'tailor made solutions' on the other hand are possible solutions for tackling any Non-conformities, with respect of the National legislation.

Unfortunately, we do not see this reflected in the second Draft. This point is closely linked to the first point we raise in this second submission.

Sanctioning is an instrument to stimulate Signatories to behave in a way that is compliant with the Code. In order to be effective, sanctioning needs to be sensitive to the diversity of Signatories and should be used in a graded and proportionate manner. Standard sanctions quickly run the risk of being disproportionate because they might be relatively heavy or weak for the case at hand. In such situations sanctions are not effective, because they will not have the desired effect on the behavior of a Signatory. This needs to be addressed, otherwise WADA will end up with an ineffective sanctioning system, which in turn will undermine the position of WADA itself. The four Dutch stakeholders are strongly in favor of a strong anti-doping system centered on a strong WADA, and therefore once more suggest to rewrite this point.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

As the situation in Spain in 2015 – 2017 illustrates, a WADA determination of non-compliance can have considerable collateral consequences over individuals and organisations relying on an independent Signatory but having no say or role in the decisions or circumstances creating the Signatory's non-compliance.

- Determinations of Code compliance should avoid collateral damage whenever possible. Such damage weakens anti-doping and confidence in anti-doping organisations, including in WADA.
- In a national context, a determination of NADO non-compliance will impact NOCs, NPCs, NFs and athletes and support personnel relying on the NADO anti-doping programme (example, RPC reliance on RUSADA (anti-)doping programme. And also governments which invest in sport including in the NADO. All have a direct if not vital interest in the Code compliance of the NADO.
- The same can be said in the international context. A determination of IF non-compliance will impact NFs, athletes and support personnel, and (for pre-Games qualifications and Games-time competitions) MEOs relying on the IF.
- Therefore, these dependent bodies and individuals have a direct interest in the Code compliance of Signatories.
- The current draft ISCCS does not seem to recognise such direct interests.
- We think that measures are necessary to limit collateral damage and ensure as best as is possible continuity of anti-doping services to "dependent" bodies and organisations, including ensuring that those bodies and individuals are forewarned of compliance issues and can bring influence and resources to bear so that Signatories with problems are able to correct them before they become grounds for a determination of non-compliance.
- From a process view, therefore, we propose that:
 - "Dependent" bodies receive notice of the possible Code non-compliance of their Signatories (it would be the Signatory's responsibility to make the notification)
 - "Dependent" bodies and individuals should have some form of standing in the WADA processes for determining non-compliance. At the very least in writing to state the impact on them of any determination of non-compliance, to suggest or even contribute to corrective measures, and to make proposals for interim or alternative means to providing adequate anti-doping should a Signatory be determined non-compliant.
- In all cases, a determination of non-compliance should not come into effect until there is a "Takeover" arrangement in place by which a "Third Party" fills the shoes of the non-compliant Signatory, thereby mitigating the impacts of non-compliance on "dependent" bodies and individuals

- “Dependent” bodies and individuals have a right of appeal from determinations of non-compliance

- **10.1 CRC Recommendation (3)**

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 10.1.1:

Please confer comments to WADC Article 23.5.4.

ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

Article 10.1.1: La France souhaite que soit également introduite à ce stade une possibilité pour le Signataire de demander le reclassement d'une non-conformité dans une autre catégorie (par exemple, passage de critical à high priority).

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO supports replacing the Draft 1 obligation to do everything possible not to award event hosting rights to a non-compliant country with the obligation not to accept bids for event hosting rights from a non-compliant country. (Code Articles 20.3.11 and 20.6.6; ISCCS Article 10.1.1.5).

- **10.2 Consideration by WADA Executive Committee (5)**

Canadian Olympic Committee, [Robert McCormack](#), CMO (Canada)
Sport - National Olympic Committee

- Reference should be made to the need for Compliance Auditors to be free of any conflicts of interest (COI) with regard to the Signatories they may be auditing. Similarly members of the WADA executive committee that review the CRC recommendation must be free of COI's, or recuse themselves from the proceedings.

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 10.2:

Please confer comments to WADC Article 23.5.4.

Article 10.2.2:

If WADA's EC does not accept the CRC's recommendation, EC shall not provide CRC with a revised recommendation unless the CRC considers it appropriate. We suggest that WADA amends this as the WADA's EC clearly cannot be instructed this way.

Ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

Articles 10.2. et 10.3 : notification et publication des décisions de non-conformité

Commentaire: La France propose que les modalités de transmission d'une décision de non-conformité au Signataire soient précisées.

Proposition d'amendement à l'**article 10.2.3:** "*Where WADA's Executive Committee decides to accept the CRC's recommendation to issue a formal notice of non-compliance to a Signatory [...] WADA shall issue such formal notice to the Signatory, setting out the matters referenced at Article 10.1.1, by any means enabling the Signatory to guarantee its date of receipt.*"

Par ailleurs, la France propose qu'un délai soit accordé au Signataire avant toute publicité, aux fins de lui offrir par exemple la possibilité de corriger toute erreur matérielle, en raison des conséquences potentielles d'une telle publicité.

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

Regards to 10.2.4: For the sake of transparency, the publishing of the process should also include the comments or arguments of the Signatory.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO does not support the change from Draft 1 to Draft 2 that the ExCo not FB to act on CRC recommendations (Code Article 23.5.4 and ISCCS Article 10.2): to reduce real and perceived conflicts of interest, determinations of non-compliance should be the role of the independent CRC.

- **10.3 Acceptance by the Signatory (2)**

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 10.3.1:

Please confer comments to WADC Article 23.5.4.

Ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

Articles 10.2. et 10.3 : notification et publication des décisions de non-conformité

Commentaire: La France propose que les modalités de transmission d'une décision de non-conformité au Signataire soient précisées.

Proposition d'amendement à l'**article 10.2.3**: "*Where WADA's Executive Committee decides to accept the CRC's recommendation to issue a formal notice of non-compliance to a Signatory [...] WADA shall issue such formal notice to the Signatory, setting out the matters referenced at Article 10.1.1, by any means enabling the Signatory to guarantee its date of receipt.*"

Par ailleurs, la France propose qu'un délai soit accordé au Signataire avant toute publicité, aux fins de lui offrir par exemple la possibilité de corriger toute erreur matérielle, en raison des conséquences potentielles d'une telle publicité.

- **10.4 Determination by CAS (3)**

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 10.4:

Please confer comments to WADC Article 23.5.6.

In the last WADC Consultation Process, we urged WADA to give the Signatories to the Code an opportunity to participate in the future review of the CAS Procedural Rules. Hence, we are pleased to notice that WADA has decided to give some procedural rules for the CAS proceedings, i.a. the seat of arbitration, the nomination of arbitrators etc., and we expect that WADA will do the same in the WADC regarding CAS proceedings for individuals.

We notice that the Article mentions a "list of arbitrators specifically designated by CAS for cases arising under Article 23.5 of the Code", however we cannot find any information in the ISCCS on how these arbitrators are chosen etc. This should be transparent. We also question the wording and use of "preferably" in this Article. Finally, the hearings in CAS must be public.

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

Regards to 10.4.4 For the sake of transparency, the publishing of the process should also include the comments or arguments of the Signatory.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO supports that CAS to be the “independent tribunal” for resolving compliance challenges / disputes (Code Articles 23.5.6 to 23.5.10 and ISCCS Article 10.4).

- **10.6 Disputes about Reinstatement (2)**

FIBA, [Gabriel Zangenfeind](#), Anti-Doping & Sport Senior Associate (Switzerland)
Sport - IF – Summer Olympic

10.6.2. “balance of proportionalities” should be replaced by “comfortable satisfaction” due to the seriousness of the non-compliance consequences.

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 10.6.2:

According to this Article, if a case was previously considered by a CAS Panel, the same Panel shall be constituted to hear and determine the new dispute. We recommend that the Article is amended with a safety valve, as arbitrators could be prevented from participating in the Panel due to other work, illness etc.

- **11.0 Determining Signatory Consequences (2)**

ONAD Communauté française, [Julien Magotteaux](#), juriste (Belgique)
NADO - NADO

Pour l'article 11, des conséquences pourrait toucher des membres individuels d'un signataire non conforme.

Il conviendra, à nouveau, de faire une application particulièrement proportionnée de cette possibilité pour ne pas décourager les agents et pour ne pas engendrer des éventuelles concurrences, sans rapport avec la lutte antidopage, au sein des organisations.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

iNADO supports the consequences of non-compliance:

- The principle of non-discrimination in treatment of different categories of Signatory has been expressly emphasised. (ISCCS Article 11.2.3).
- Fines removed as a potential sanction except in the most extreme cases involving breach of Critical requirements and aggravating factors (i.e., deliberate breach, concealment, bad faith, etc). (ISCCS Articles 11.1.1.6, 11.2.2 and 11.2.10).
- If a Signatory is required to pay any costs or expenses as a condition of reinstatement, possible instalment plan permitting reinstatement even if some monies still to repay. (ISCCS Article 11.2.3.1).

- **11.1 Potential Consequences for Non-Compliance with the Code (9)**

International Cricket Council, [Peter Harcourt](#), Anti-Doping Consultant (Australia)
Sport - IF – IOC-Recognized

Article 11.1.1.1 (a) - The term 'Signatory's Representatives' needs to be defined.

FIBA, [Gabriel Zangenfeind](#), Anti-Doping & Sport Senior Associate (Switzerland)
Sport - IF – Summer Olympic

11.1.1.5 (a) “that awarded that right **should use best efforts must to** assess whether...”

11.1.1.5 (b) This puts a disproportionate burden on IFs/ Signatories since it limits the possibilities of finding an organiser/ host.

11.1.1.6

“amount sufficient to punish... and to deter” should be changed to:

“amount appropriate to punish... and to deter” “amount proportionate to punish... and to deter”

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 11.1.1.5:

This new Standard applies to Signatories, and contains Signatory consequences of non-compliance, hence the reference should be to the Signatory itself and not to its country.

National Integrity of Sport Unit (Anti-Doping), [Glenn Barry](#), Director (Australia)
Public Authorities - Government

In general, we welcomed the removal of the provisions relating to the application of fines. However, Clause 11.1.1.6 still provides for the imposition of fines in cases involving non-compliance with Critical requirements but also Aggravating Factors. WADA may need to ensure the Standard has the clauses that facilitate the imposition of those fines.

ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

Article 11.1.1.5 (b): Les Signataires visés par cet alinéa pourraient être précisés, s'agit-il des Etats, des fédérations ou des comités nationaux olympiques?

Articles 11.1.1.4 et 11.1.1.8: La France souhaite souligner les potentielles conséquences financières d'une déclaration de non-conformité et la difficulté d'articulation entre les articles 11.1.1.4 et 11.1.1.8.

L'article 11.1.1.4 prévoit que toute activité antidopage effectuée par une tierce partie durant une période de suspension d'un Signataire peut être mise à la charge dudit Signataire.

En parallèle, l'article 11.1.1.8 prévoit la possibilité de recommander aux autorités publiques de suspendre les financements accordés au Signataire.

Il peut être extrêmement difficile pour un Signataire de faire face aux surcoûts engendrés par la réalisation de ses activités antidopage par une tierce partie tout en étant par ailleurs privé de ses sources de financement.

Les conséquences imposées aux Signataires en cas de non-conformité doivent tenir compte des incidences à moyen et long terme de ces dernières sur la viabilité du système antidopage élaboré par le Signataire. En toute hypothèse, les conséquences imposées doivent tenir compte de l'existence ou non de facteurs aggravants de non-conformité. Hors de toute hypothèse de mauvaise foi de la part du Signataire, les sanctions infligées ne devraient pas avoir pour conséquence de fragiliser à moyen ou long terme le système et les activités antidopage du Signataire.

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES is pleased with the removal of financial consequences in most cases.

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

In regard to 11.1.1.1

It could be examined if the consequence "WADA privileges" might be applied retrospectively. To explain: representative would be ineligible to apply for any WADA's position, if there has been a case of non-compliance in the history of a Signatory for a specific period before applying. The period could be one Olympic cycle, e.g four years. (It would follow similar logic like the principles of determining the prohibited association, where the disqualifying status of a person shall be in force for six years.)

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

11.1.1.4

The Approved Third Party should be designated by CAS, if the Signatory does not accept the WADA nomination. An Approved Third Party must be Code compliant, be of good standing and have good governance structures.

11.1.1.4(a) – this operates as a doping ban for athletes: it duplicates later provisions and is not necessary

11.1.1.5 – it is, at the very least, questionable as to whether this can ever be a proportionate remedy. Using the Commonwealth Games as an example, and assuming that that event takes place in Birmingham (UK) in 2022, why should that event be moved if officers from the UK NADO and/or the UK NOC are corrupt? The Commonwealth Games Federation, the Birmingham Organising Body and the many teams who commit costs and resources to attending the Games have zero control over the UK NADO/UK NOC. Why should they suffer significant losses as a result of the delinquency of bodies over which they have no control or influence?

11.1.1.10

NADOs are required to take a risk based approach to testing. That means in practice that they will not test athletes from some sports, and/or athletes who compete at a sub-elite level.

However, if the NADO is 'critically' non-compliant, those athletes will still suffer. They will be excluded from competition because an organisation that they have no interaction with has been found to be wanting.

A country's sport development, investment and participation strategy should not be undermined by the actions of a small number of individuals within a single organisation. NADOs are required to be operationally independent, but with that independence comes the possibility for their officials to be delinquent. If they are, they should be replaced and the NADO put into 'special measures' to protect, not punish, athletes.

These consequences might ideally be implemented by sport and competition organisers based on their own rules and statutes.

11.1.1.11

International Federations simply govern some competition aspects of a sport. They are not 'the' sport.

Taking track and field as an example, if the IAAF ceased to exist tomorrow, athletes would still run, jump and throw. They would still train, compete and enjoy their sport. Sport belongs to athletes, not institutions, If an institution is flawed, it can be replaced. Athletes cannot be replaced: sport does not exist without them.

The extrapolation of CAS decisions made in the particular circumstances explained in the Pound and McLaren Reports to a broader principle that is reflected in this Standard is something that must be approached with caution. These consequences might ideally be implemented by sport and competition organisers based on their own rules and statutes.

iNADO, [Joseph de Pencier](#), CEO (Germany)
Other - Other (ex. Media, University, etc.)

It should be specified that Signatory non-compliance over the previous four years (at least one Olympic cycle) can lead to the Signatory's representatives being rule ineligible going forward for a specified period.

- **11.2 Principles Relevant to the Determination of the Signatory Consequences to be Applied in a Particular Case (4)**

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Article 11.2.6:

When establishing the compliance standard, WADA should always take into consideration that any sanctions on a Signatory related to participation in International Events automatically involve consequences for the athletes. Without compromising an effective anti-doping enforcement for the benefit of all clean athletes and the integrity of sport, such sanctions on Signatories should be proportionate and fairly applied. The protection of the clean athletes also includes clean athletes in a non-compliant Signatory. Hence, we owe it to them to establish clear and predictable rules within the WADC/ISCCS, describing the circumstances under which they may be eligible to compete should they be directly affected by a Signatory's non-compliance.

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As the comments are as binding as the articles, simply lifting the comment is not sufficient. WADA is still leaving it to each Signatory to put in place a mechanism at its own discretion. However, all athletes should be treated equally, regardless of their respective sport or nationality. Harmonization is one of the core elements behind the creation of WADC. We suggest that the new Standard should include provisions regarding the consequences for the non-compliant Signatory's athletes.

The Article refers to "adequate testing regime for a sufficient period". This is already defined in the WADC as 6 months, please confer the WADC Article regarding retired top-level athletes, hence we propose the following new article;

"Consequences to non-compliant Signatory's Athletes

A non-compliant Signatory's Athlete wishing to compete in National or International Events, shall not compete until the Athlete has made himself or herself available for Testing six months prior to the Event. The tests shall be conducted by an Anti-Doping Organization and/or an independent third party approved by WADA, at the Signatory's expense. WADA, in consultation with the relevant Signatories, may grant an exemption to the six-month rule where the strict application of that rule would be manifestly unfair to an Athlete."

In addition, we suggest that WADA, in the next draft version, includes a similar mechanism allowing National Federations not tainted by an IF's non-compliance, to be able to participate in International Events.

Ministère chargé des sports, direction des sports, [Michel LAFON](#), Chef de bureau (France)
Public Authorities - Government

Article 11.2.9: Il faudrait clarifier la procédure d'aggravation des sanctions lorsque le Signataire ne satisfait pas aux conditions exigées pour sa réintégration. Cette clarification pourrait s'effectuer sous deux formes:

- préciser que les nouvelles conséquences infligées en cas de non-respect des conditions de réintégration seront directement mentionnées dans la notice initiale de non-conformité, ou
- clarifier la procédure de détermination des nouvelles sanctions, le cas échéant (selon la même procédure que pour l'infliction des premières sanctions, à savoir via une recommandation du CRC).

Un renvoi à l'annexe B, à titre d'exemple, pourrait également être introduit.

Article 11.2.10: Le montant de l'amende maximale devrait être défini.

Article 12.2.1.4 : Il faudrait préciser comment est déterminé le caractère raisonnable des frais engagés par l'AMA ou par une tierce partie. La procédure pourrait prévoir qu'un estimatif des dépenses soit préalablement présenté au Signataire, avec une possibilité pour ce dernier de présenter ses observations sur le caractère raisonnable des dépenses prévues.

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES would like to recommend the removal of the provisions within the ISCCS to protect the ongoing participation in sport by 'neutral' athletes. CCES has concerns that creating a single global system for validating the rights of 'neutral' athletes may further complicate an already complex ISCCS document. CCES agrees that while there will be inevitable collateral consequences for athletes when a Signatory is finally determined to be non-compliant, this could effectively be sorted out on a sport by sport basis as the IAAF has done.

Alternatively, should it be determined that these provisions be left in the ISCCS with the intention of suggesting that the IAAF model be adopted for all sports as the way to approve participation by neutral athletes, then the CCES recommends that further details be added to best define this process.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Article 11.2.3: It can be persuasively argued that NADO non-compliance has potentially greater consequences, as they have a broader jurisdiction and fulfil a public function, as well as being (in theory) expert professional anti-doping entities.

Article 11.2.6: A Signatory's misconduct cannot of itself be extrapolated to a conclusion that athletes are 'tainted'. There must be some other evidence. If it turns out that the IWF's officers are corrupt, why does that mean that (say) Irish weightlifters are somehow tainted?

Emotive language should be avoided.

- **12.0 Reinstatement**

- **12.2 Reinstatement Conditions (3)**

UK Anti-Doping, [Pola Murphy](#), Compliance Coordinator (United Kingdom)
NADO - NADO

WADA changes for Signatories. It should be made explicit that appeals under the ISCCS should be excluded from the arrangements where the CAS can make a costs award. Each party should bear its own costs but not have to bear the costs of the other party. This will reduce the likelihood of WADA or a signatory spending so much on legal counsel that it discourages the other party from an appeal because of the risk of a costs award.

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

In regard to 12.2.1.4 The expression "WADA's routine monitoring activities" has been removed from the earlier sections and hence the contents is more clear; the expression here could be specified/re-phrased here as well.

In regard to 12.2.3.1 - Instalment plan for payment The reason, why it is increasingly indented, is not clear.

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

Article 12.2.1.4

WADA recovering reasonable costs from a non-compliant Signatory is reasonable.

Excluding athletes from competition, or excluding a Signatory from fulfilling its proper role, while debts are quibbled over, is not. This is oppressive.

CAS should have unfettered authority to determine what costs are reasonable. Non-compliant Signatories should be protected from oppressive or extortionate costs by having the ability to request CAS review any such costs, and CAS should have the power to order the reimbursement of any unreasonable costs demanded of and paid by the non-compliant Signatory.

Just because a non-compliant Signatory has been put over a barrel and forced to pay certain costs should not preclude that Signatory from being able to challenge them, with a set time frame from Reinstatement.

A failure to pay 'debts' cannot and should not be treated as a matter of Code non-compliance.

Again, the simplest and most pragmatic way to address this issue is for WADA to recover these costs through Signatory dues.

- **Part Three: Annexes (1)**

AEPSAD, [AGUSTIN GONZALEZ GONZALEZ](#), Manager Legal affairs department (Spain)
NADO - NADO

ANNEX A:

In relation with the annex A, we are not agree with the considerations of categories of non-compliance, since they are defined by a non-exhaustive list of examples. We consider that; or the three categories of non-compliance should be clarified, or to recognize only one category of non-compliance.

The first requirement regarding the 'adoption of compliant rules, regulations, and/or (where necessary) legislation relates to the complex anti-doping program.

We consider that the term 'effective' set in the third requirement of Annex A, should be replace by other. In this requirement we also consider that only 'any relevant recommendations' should be include.

In the other hand, we believe that the points d), e), f) and g) are not critical requirements, however we consider that points ,under A.2, g), h), i), j) and k) as critical requirements and they are considered high priority by annex A.

We are not agree with the term 'sufficient' under the paragraph a) of the A.2, so we propose to remove this term or to include a percentage concerned with the resources. We also believe that the paragraph c) should be a critical requirement however under annex A it is as high priority.

We consider that 'other requirements' under A3 annex, should be remove, since there are not any list regarding other requirements and by leaving broad scope for the WADA's Executive Committee' free interpretation and discretion. We believe that in accordance with the second paragraph of A.3, signatories might be confused so we propose to remove it entirely.

- **Annex A: Categories of Non-Compliance (4)**

CCES, [Julie Vallon](#), Sport Services Manager (Canada)
NADO - NADO

CCES is pleased with the addition of specific requirements to the categories of non-compliance in this version.

CCES recommends moving items "j" and "l" from the High Priority category to the Critical category.

Irish Sports Council, [Siobhan Leonard](#), Anti-Doping Manager (Ireland)
NADO - NADO

Annex AA1. a) Should the World Code be include in this criteria? Sport Ireland would recommend that this point should state: "a) Adoption of World Code compliant rules, regulations, and/or (where necessary) legislation."

A1. c) More information should provided to explain how WADA will decide how they determine if a testing programme is "effective"? The effectiveness of a testing programme is open to interpretation by either party and needs to be more definitive.

Overall CommentAn implementation of whereabouts system as required in Annex I – Code Article 2.4 Whereabouts Requirements in the ISTI should be included in the list of requirements. Sport Ireland believes that a whereabouts system is essential to implement an effective testing programme and should be listed as a High Priority requirement.

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

In regards to Annex A.2.b - an anti-doping education program Education program should also be effective (similar to the effective test distribution plan in section A.1.b)

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

(c) a recommendation cannot have the status of a directive.

(d) problematic, not least given the security issues faced by ADAMS.

The requirement to notify athletes as to the conclusion of any investigation as per ISTI should be added.

Why is there no reference to good governance?

Education programs are Critical, not High Priority

- **Annex B: Signatory Consequences (2)**

AEPSAD, [AGUSTIN GONZALEZ GONZALEZ](#), Manager Legal affairs departament (Spain)
NADO - NADO

In the annex B relating signatory consequences, we are not agree with it provision since we have the doubt regarding WADA's compliance categorization. We believe that the draft I annex b) is clearer than this second draft, so we propose that the **signatory consequences should be completely calculated**.

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B.1.1. we consider that the annex B should be clarify **when the signatory will be assisted in its anti-doping activities by WADA and when it will be enforce by an approved third party**. We also consider that **fixes rates** should be included.

B.1.2. we believe that **WADA not should specify other period** if the signatory has not fully satisfied the conditions for reinstatement six months after the consequences have been imposed, so we propose to remove this phrase should be removed (or such other period as WADA-or, if disputed, CAS- may specify).

- A) we propose to remove 'some or all' and to specify it.
- B) we are not agree with the definition of 'Representatives' as we said before, so we hope that the committee members and the employees are not include in it definition.

B.1.3. that it also true concerning the paragraph b) relating the 'Representatives'.

B.2.1. b) we consider that this annex should be **clarify establish the terms: 'some' and 'all'** since is very important for signatory to know if an approved third party will supervision or takeover some or all of its anti-doping activities.

B.2.1. c) we consider the same that in b.1.3.

B.2.1.d) we believe that is necessary to **define if the signatory's country will be ineligible to host one or more Olympic Games**, and we also consider that it also necessary to clearly clarify if it refers to **Olympic Games or Paralympic Games** as well as if it refers to be awarded the right to host World Championships. We propose that it should be clearly clarified.

B.2.1. f) we consider that when the signatory is a Major Event Organization the punishment is less serious than if the signatory is a NADO, we would like to know the real reasons behind this situations.

B.2.2. We consider the same as we described before, paragraph; B.1.2.

B.2.2. a) We consider the same as we described before, regarding the term; 'Representatives', paragraph;

B.2.2. b) We consider the same as we described above regarding the term 'Representative', and we also believe that this paragraph should make clear that clean athletes and athlete support personnel should not affected by this measure.

B.2.2. c) We consider the same as we described before, regarding the term; 'Representatives'.

B.3.1. b) We consider the same as we described before, regarding the terms; 'some or all' in paragraph B.2.1. b).

B.3.1.c) We consider the same as we described before, regarding the term; 'Representatives'.

B.3.1. (1) We consider that the term 'shall' should be used instead of 'may', we also believe that the provision should be clarify if it refers to Olympic or Paralympic Games and the time frame should be also determined.

B.3.1. (2) and (e) We consider the same as we described before, regarding the term; 'Representatives'.

B.3.1. (f) We consider the same as we described before, in the paragraph; B.2.1. b).

B.3.1. (g) We believe that the terms '**Aggravating factors**' and '**amount sufficient** to punish' should be specified.

B.3.2. We are not agree with the provision since it seems a twin punishment to signatories, so we propose to remove the following sentence: 'or such other period as WADA-or, if disputed, CAS-may specify).

B.3.2. (a) We consider the same as we described before, regarding the term; 'Representatives'.

B.3.2. (e) We consider the same as we described before, in paragraph B.3.1. (g).

GM Arthur Sports Representation, [Graham Arthur](#), Independent Expert (UK)
Other - Other (ex. Media, University, etc.)

The 'nuclear' sanctions will not be proportionate if they are 'rolled over'.

Athletes should not face exclusion from competitions because their NADO is bad at being a NADO.