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منظمة الأمم المتحدة  
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# Conference of Parties to the International Convention against Doping in Sport

# 2CP

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## International Standard for the Protection of Privacy and Personal Information

### Summary

**Documents:** International Convention against Doping in Sport and the International Standard for the Protection of Privacy and Personal Information (herewith attached as Annex).

**Background:** This document presents the International Standard for the Protection of Privacy and Personal Information which was developed by the World Anti-Doping Agency in 2008. Currently, there is no legal relationship between this new standard and the International Convention against Doping in Sport. Accordingly, this report outlines the process required, including amendment of the Convention and the subsequent ratification, acceptance, approval or accession by States Parties, if this standard is to be incorporated into the Convention as either an Annex or an Appendix.

**Decision Required:** Paragraph 10

## INTRODUCTION

1. In 2008, the World Anti-Doping Agency (hereinafter referred to as “WADA”) developed the International Standard for the Protection of Privacy and Personal Information (hereinafter referred to as “the Standard”). The Standard, which seeks to ensure that any personal information processed in connection with anti-doping activities is protected and that the privacy of the persons supplying this information is preserved, was adopted on 24 November 2008, following a majority decision of the WADA Foundation Board. The Standard came into force on 1 January 2009. However, an amended version of the Standard was subsequently adopted by the WADA Foundation Board on 10 May 2009, in response to concerns raised by some governments over its compatibility with existing legal provisions on privacy and data protection. The Standard, as amended, entered into force on 1 June 2009.

2. The Standard sets forth certain requirements governing the collection, processing, storage and sharing of personal information. The following is a summary of the main provisions contained in the Standard; however, the complete document is presented in the Annex to this report:

- Article 4 seeks to reconcile the relationship between the Standard and existing privacy and data protection legislation.
- Article 5 emphasizes the importance of only collecting information necessary and appropriate for anti-doping activities, in particular doping controls as defined in Article 2.8 of the Convention.<sup>1</sup> Thus any information collected should be relevant and proportionate as well as accurate, complete and up to date.
- Article 6 states that personal information shall only be collected or processed subject to the consent of the person concerned or on the basis of a legal authority to do so.
- Article 7 requires that persons from whom information is collected are informed about how their personal information will be managed. This includes informing them of the organizations which may collect information and organizations to which this information may be transmitted. They should also be informed as to how long the information will be retained and the circumstances in which it might be publicly disclosed.
- Article 8 sets forth requirements of anti-doping organizations regarding the sharing or disclosure of personal information.
- Article 9 sets forth requirements of anti-doping organizations to maintain the security of personal information.
- Article 10 discusses the retention of personal information and the need for this information to be destroyed or permanently anonymized when it is no longer required.
- Article 11 outlines the rights of the persons from whom personal information is collected, processed and held. These rights include the ability to confirm that personal information pertaining to them is being processed, the right to obtain information about how their personal information is being managed, as well as the right to obtain copies of the information held. A complaints procedure is also set forth.

3. The Standard is the latest developed by WADA. It is an important part of the World Anti-Doping Programme alongside the Prohibited List – International Standard, Standards for Granting Therapeutic Use Exemptions, International Standard for Laboratories and International Standard

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<sup>1</sup> “Doping control” means the process including test distribution planning, sample collection and handling, laboratory analysis, results management, hearings and appeals.

for Testing. Accordingly, all signatories of the World Anti-Doping Code (hereinafter referred to as “the Code”), including anti-doping organizations, are expected to conform to the Standard. Adherence to WADA’s International Standards is mandatory for compliance with the Code.

## **RELATIONSHIP TO THE CONVENTION**

4. The Standard is presented for information purposes only at this stage. The Standard does not have any place in the International Convention against Doping in Sport (“hereinafter referred to as “the Convention”) and it does not have any impact on the obligations of States Parties. However, States Parties may wish to consider what place, if any, the Standard should have in the Convention in the future bearing in mind that all the other international standards have been incorporated either as Annexes or Appendices. In order to make a decision on this matter it is important to understand the legal status of Annexes and Appendices under the Convention, as well as the process required to amend the Convention to incorporate this document.

### *The Status of Annexes and Appendices*

5. During the development of the Convention a significant part of the negotiation was spent on devising its overall structure. It was important to determine which aspects of the World Anti-Doping Programme should form integral parts of the Convention and which documents did not have a direct impact on the role played by governments in the fight against doping in sport. Those documents which set forth binding obligations for all States Parties were included in the Annexes to the Convention. Accordingly, the Prohibited List and the Standards for Granting Therapeutic Use Exemptions are integral parts of the Convention because they are fundamental to international harmonization in the fight against doping in sport. It is essential that both governments and the sports movement apply the same list of prohibited substances and methods and that there is a clear process for athletes to access medicines on the Prohibited List for legitimate medical purposes. Conversely, the International Standards for Laboratories and Testing, which prescribe technical and operational requirements for anti-doping organizations, were included in the Convention for information purposes only. They are not integral parts of the Convention. Moreover, as stated in Article 4.2 of the Convention, the Appendices as such do not create any binding obligations under international law for States Parties. The Code is also an Appendix to the Convention. The incorporation of the Code in this regard recognizes the important place that this document has at the heart of international anti-doping efforts, without compelling governments to directly ensure its implementation.

6. If there is a desire to incorporate the Standard into the Convention, careful consideration should be given to where it could be placed. It will be important to determine whether the Standard is directly applicable to governments or if it is more relevant to anti-doping organizations. In this regard, it should be noted that privacy and the protection of personal information are not specifically mentioned at all in the Convention. Another important consideration could be alignment of the Standard with existing data protection or privacy legislation. If domestic laws have been enacted, it might be unnecessary to create binding obligations for States Parties. The answers to these questions should help to determine whether the Standard should be an Annex or an Appendix.

### *Amendment of the Convention*

7. An amendment would be required to incorporate the Standard into the Convention either as an Annex or as an Appendix.<sup>2</sup> The procedure to follow is set forth in Article 33 of the Convention. The process must be initiated by a State Party through written communication to the Director-General of UNESCO. This request for an amendment is then forwarded by the Secretariat to all States Parties to gauge whether there is support for the proposal. States Parties have six months

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<sup>2</sup> Article 2 of the Convention would need to be amended to include a definition of the Standard. Amendments would also be required to Articles 4.2 or 34 depending on whether the Standard was an Annex or an Appendix.

from the date of circulation of the proposed amendment by UNESCO to indicate their consent or otherwise for the proposed change. If one half of all States Parties give their consent, the proposed amendment will be presented by the Director-General to the next session of the Conference of Parties for adoption.<sup>3</sup> A two-thirds majority of all States Parties present and voting is required for any amendment to be adopted.

8. Once adopted, these amendments shall be submitted for ratification, acceptance, approval or accession in accordance with Article 33.3. All existing States Parties would need to initiate their respective constitutional procedures to allow them to adhere to the amendments. Moreover, the amendments would enter into force three months after the deposit of instruments of ratification, acceptance, approval or accession by two-thirds of the States Parties in accordance with Article 33.4. If the speed of adherence to the original Convention is any guide, this process could take between two and three years.

9. On balance, it might be advisable to pursue this course of action only if it was determined that the Standard should be an Annex to the Convention. In other words, the Standard was deemed to be critical to the fight against doping in sport and it sets forth important obligations for States Parties. Given the lengthy process to amend the Convention and to ensure its entry into force, there might be limited value in undertaking these steps if the Standard was incorporated as an Appendix and presented for information purposes only.

#### **DRAFT RESOLUTION 2CP/6**

10. The Conference of Parties may wish to adopt the following resolution:

The Conference of Parties,

1. *Having examined* document ICDS/2CP/Doc.6,
2. *Takes note* of the development of the International Standard for the Protection of Privacy and Personal Information by the World Anti-Doping Agency;
3. *Recognizes* the importance of protecting the privacy and personal information of athletes and athlete support personnel throughout the doping control process while also balancing the need for effective out-of-competition testing;
4. *Takes note* of the process required if the International Standard for the Protection of Privacy and Personal Information is to be incorporated into the Convention.

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<sup>3</sup> The Third Session of the Conference of Parties will take place in 2011, unless an extraordinary session is requested by one third of all States Parties in accordance with Article 28.2 of the Convention.

**ANNEX**



**THE WORLD ANTI-DOPING CODE**

**INTERNATIONAL STANDARD FOR THE PROTECTION OF PRIVACY  
AND PERSONAL INFORMATION**

Montreal, 1 June 2009

## PREAMBLE

The World Anti-Doping *International Standard* for the Protection of Privacy and Personal Information is a level 2 mandatory *International Standard* developed as part of the World Anti-Doping Program.

WADA and *Anti-Doping Organizations* share responsibility for ensuring that Personal Information Processed in connection with Anti-Doping Activities is protected as required by data protection and privacy laws, principles and standards. The main purpose of this *International Standard* is to ensure that organizations and persons involved in anti-doping in sport apply appropriate, sufficient and effective privacy protections to Personal Information that they Process, regardless of whether this is also required by applicable laws.

A WADA expert reference group reviewed, discussed and prepared this document, and specifically took into account the Organization for Economic Cooperation and Development's (OECD) 1980 Guidelines on the Protection of Privacy and Transborder Flows of Personal Data; the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS. No. 108); Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the processing of personal data and on the free movement of such data, and other international and regional data privacy rules and standards.

The official text of the *International Standard* for Privacy and Personal Information shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall be controlling.

The *International Standard* for the Protection of Privacy and Personal Information version 2.0 shall come into effect on 1 June 2009. It shall be updated from time to time, as needed, to reflect developments in applicable laws and anti-doping practices.

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## **PART ONE: INTRODUCTION, CODE PROVISIONS AND DEFINITIONS**

### **1.0 Introduction and Scope**

The purpose of the *International Standard* for the Protection of Privacy and Personal Information is to ensure that *Anti-Doping Organizations* apply appropriate, sufficient and effective privacy protections to the Personal Information they Process when conducting anti-doping programs, in recognition of the fact that Personal Information gathered in the anti-doping context can impinge upon and implicate the privacy rights and interests of persons involved in and associated with organized sport.

The *Code*, in particular, requires *Athletes* and *Athlete Support Personnel* to furnish a significant amount of Personal Information to *Anti-Doping Organizations*. As a result, it is essential that *Anti-Doping Organizations* appropriately protect the Personal Information that they collect both to meet legal standards and to ensure the continued confidence and trust of those who participate in organized sport.

The *Code* recognizes and affirms the importance of ensuring that the privacy interests of persons participating in anti-doping programs based on the *Code* are fully respected. In support of this commitment, this *International Standard* provides mandatory rules and standards relating to the protection of Personal Information by *Anti-Doping Organizations*.

Consistent with other *International Standards* that have been developed and implemented to date, this *International Standard* sets forth a minimum, common set of rules to which *Anti-Doping Organizations* must conform when collecting and handling Personal Information pursuant to the *Code*. In some cases, *Anti-Doping Organizations* may be required by applicable laws to apply rules or standards that exceed those set forth in this *Standard*. For purposes of this *International Standard*, definitions appearing in the *Code* shall be *italicized*, and additional definitions created for purposes of this *International Standard* shall be underlined.

### **2.0 Code Provisions**

The following articles of the *Code* are directly relevant to this *International Standard* for the Protection of Privacy and Personal Information:

#### **➤ Code Article 14 Confidentiality and Reporting**

The *Signatories* agree to the principles of coordination of anti-doping results, public transparency and accountability and respect for the privacy interests of individuals alleged to have violated anti-doping rules.

#### **➤ Code Article 14.1.5**

The recipient organizations shall not disclose this information beyond those *Persons* with a need to know (which would include the appropriate personnel at the applicable *National Olympic Committee*, *National Federation*, and team in a *Team Sport*) until the *Anti-Doping Organization* with results management responsibility has made public disclosure or has failed to make public disclosure as required in Article 14.2 below.



➤ **Code Article 14.2 Public Disclosure**

➤ **Code Article 14.2.1**

The identity of any *Athlete* or other *Person* who is asserted by an *Anti-Doping Organization* to have committed an anti-doping rule violation, may be *Publicly Disclosed* by the *Anti-Doping Organization* with results management responsibility only after notice has been provided to the *Athlete* or other *Person* in accordance with Articles 7.2, 7.3 or 7.4, and to the applicable *Anti-Doping Organizations* in accordance with Article 14.1.2.

➤ **Code Article 14.2.3**

In any case where it is determined, after a hearing or appeal, that the *Athlete* or other *Person* did not commit an anti-doping rule violation, the decision may be disclosed publicly only with the consent of the *Athlete* or other *Person* who is the subject of the decision. The *Anti-Doping Organization* with results management responsibility shall use reasonable efforts to obtain such consent, and if consent is obtained, shall publicly disclose the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

➤ **Code Article 14.2.4**

For purposes of Article 14.2, publication shall be accomplished at a minimum by placing the required information on the *Anti-Doping Organization's* Web site and leaving the information up for at least one (1) year.

➤ **Code Article 14.2.5**

No *Anti-Doping Organization* or WADA-accredited laboratory, or official of either, shall publicly comment on the specific facts of a pending case (as opposed to general description of process and science) except in response to public comments attributed to the *Athlete*, other *Person* or their representatives.

➤ **Code Article 14.3 Athlete Whereabouts Information**

As further provided in the *International Standard for Testing*, *Athletes* who have been identified by their International Federation or *National Anti-Doping Organization* for inclusion in a *Registered Testing Pool* shall provide accurate, current location information. The International Federations and *National Anti-Doping Organizations* shall coordinate the identification of *Athletes* and the collecting of current location information and shall submit these to WADA. This information will be accessible, through ADAMS where reasonably feasible, to other *Anti-Doping Organizations* having jurisdiction to test the *Athlete* as provided in Article 15. This information shall be maintained in strict confidence at all times; shall be used exclusively for purposes of planning, coordinating or conducting *Testing*; and shall be destroyed after it is no longer relevant for these purposes.

➤ **Code Article 14.5 *Doping Control Information Clearinghouse***

WADA shall act as a central clearinghouse for *Doping Control Testing* data and results for *International-Level Athletes* and national-level *Athletes* who have been included in their *National Anti-Doping Organization's Registered Testing Pool*. To facilitate coordinated test distribution planning and to avoid unnecessary duplication in *Testing* by the various *Anti-Doping Organizations*, each *Anti-Doping Organization* shall report all *In-Competition* and *Out-of-Competition* tests on such *Athletes* to the WADA clearinghouse as soon as possible after such tests have been conducted. This information will be made accessible to the *Athlete*, the *Athlete's National Federation*, *National Olympic Committee* or *National Paralympic Committee*, *National Anti-Doping Organization*, *International Federation*, and the *International Olympic Committee* or *International Paralympic Committee*.

To enable it to serve as a clearinghouse for *Doping Control Testing* data, WADA has developed a database management tool, *ADAMS*, that reflects emerging data privacy principles. In particular, WADA has developed *ADAMS* to be consistent with data privacy statutes and norms applicable to WADA and other organizations using *ADAMS*. Private information regarding an *Athlete*, *Athlete Support Personnel*, or others involved in anti-doping activities shall be maintained by WADA, which is supervised by Canadian privacy authorities, in strict confidence and in accordance with the *International Standard* for the protection of privacy. WADA shall, at least annually, publish statistical reports summarizing the information that it receives, ensuring at all times that the privacy of *Athletes* is fully respected and make itself available for discussions with national and regional data privacy authorities.

➤ **Code Article 14.6 *Data Privacy***

When performing obligations under the *Code*, *Anti-Doping Organizations* may collect, store, process or disclose personal information relating to *Athletes* and third parties. Each *Anti-Doping Organization* shall ensure that it complies with applicable data protection and privacy laws with respect to their handling of such information, as well as the *International Standard* for the protection of privacy that WADA shall adopt to ensure *Athletes* and non-athletes are fully informed of and, where necessary, agree to the handling of their personal information in connection with anti-doping activities arising under the *Code*.

### **3.0 Terms and Definitions**

#### **3.1 Selected Defined Terms from the Code**

***Anti-Doping Organization:*** A *Signatory* that is responsible for adopting rules for initiating, implementing or enforcing any part of the *Doping Control* process. This includes, for example, the *International Olympic Committee*, the *International Paralympic Committee*, other *Major Event Organizations* that conduct *Testing* at their *Events*, WADA, *International Federations*, and *National Anti-Doping Organizations*.

***Athlete:*** Any *Person* who participates in sport at the international level (as defined by each *International Federation*), the national level (as defined by each *National Anti-Doping*

*Organization*, including but not limited to those *Persons* in its *Registered Testing Pool*), and any other competitor in sport who is otherwise subject to the jurisdiction of any *Signatory* or other sports organization accepting the *Code*. All provisions of the *Code*, including, for example, *Testing*, and therapeutic use exemptions must be applied to international- and national-level competitors. Some *National Anti-Doping Organizations* may elect to test and apply anti-doping rules to recreational-level or masters competitors who are not current or potential national caliber competitors. *National Anti-Doping Organizations* are not required, however, to apply all aspects of the *Code* to such *Persons*. Specific national rules may be established for *Doping Control* for non-international-level or non-national-level competitors without being in conflict with the *Code*. Thus, a country could elect to test recreational-level competitors but not require therapeutic use exemptions or whereabouts information. In the same manner, a *Major Event Organization* holding an *Event* only for masters-level competitors could elect to test the competitors but not require advance therapeutic use exemptions or whereabouts information. For purposes of Article 2.8 (Administration or *Attempted Administration*) and for purposes of anti-doping information and education, any *Person* who participates in sport under the authority of any *Signatory*, government, or other sports organization accepting the *Code* is an *Athlete*.

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

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

### 3.2 Defined Terms from the *International Standard on Privacy and Personal Information*

**Anti-Doping Activities:** Activities specified by the *Code* and the *International Standards* to be carried out by *Anti-Doping Organizations*, and their Third-Party Agents, for the purpose of establishing whether anti-doping rule violations took place, including collecting whereabouts information, conducting *Testing*, performing results management, determining whether an *Athlete*'s use of a prohibited substance or method is strictly limited to legitimate and documented therapeutic purposes, educating *Participants* on their rights and responsibilities, conducting investigations into anti-doping rule violations and initiating legal proceedings against those who are alleged to have committed such a violation.

**Personal Information:** Information, including without limitation Sensitive Personal Information, relating to an identified or identifiable *Participant* or relating to other persons whose information is Processed solely in the context of an *Anti-Doping Organization*'s Anti-Doping Activities.

[3.2 Comment: It is understood that Personal Information includes, but is not limited to, information relating to an *Athlete*'s contact details and sporting affiliations, *Whereabouts*, designated therapeutic use exemptions (if any), anti-doping test results, and results management (including disciplinary hearings, appeals and sanctions). Personal Information also includes personal details and contact information relating to other persons, such as medical professionals and other persons working with, treating or assisting an *Athlete* in the context of Anti-Doping Activities.]

Processing (and its cognates, Process and Processed): Collecting, retaining, storing, disclosing, transferring, transmitting, amending, deleting or otherwise making use of Personal Information.

Sensitive Personal Information: Personal Information relating to a *Participant's* racial or ethnic origin, commission of offences (criminal or otherwise), health (including information derived from analyzing an *Athlete's Samples* or *Specimens*) and genetic information.

Third Party: Any natural person or legal entity other than the natural person to whom the relevant Personal Information relates, *Anti-Doping Organizations* and Third-Party Agents.

Third-Party Agent: The natural or legal person, public authority, agency or body, including without limitation subcontractors and their subcontractors, that Processes Personal Information for or on behalf of an *Anti-Doping Organization*.

## **PART TWO: STANDARDS FOR HANDLING PERSONAL INFORMATION**

### **4.0 Processing Personal Information in Accordance with International Standard and Applicable Law**

4.1 This *International Standard* sets forth a minimum set of requirements for the Processing of Personal Information by *Anti-Doping Organizations* and their Third-Party Agents in the context of their Anti-Doping Activities. All *Anti-Doping Organizations* must comply with this Standard, even when its requirements exceed those arising under the *Anti-Doping Organization's* applicable data protection and privacy laws, reflecting the vital need to protect the privacy of *Participants* and other persons involved in and associated with anti-doping in sport.

*[4.1 Comment: Anti-Doping Organizations, along with any Third-Party Agents that Process Personal Information for or on behalf of *Anti-Doping Organizations*, minimally must comply with the requirements set forth in this *International Standard*, provided that such compliance does not breach other applicable laws. In cases where compliance with this *International Standard* may cause an *Anti-Doping Organization* to breach other applicable laws, those laws shall prevail, which will not lead to a determination of non-compliance with the *World Anti-Doping Code*.]*

4.2 *Anti-Doping Organizations* may be subject to data protection and privacy laws and regulations that impose requirements that exceed those arising under this *International Standard*. In such circumstances, *Anti-Doping Organizations* must ensure that their Processing of Personal Information complies with all such data protection and privacy laws and regulations.

*[4.2 Comment: Anti-Doping Organizations in certain countries may be subject to laws and regulations that govern their Processing of Personal Information relating to natural persons in addition to *Participants*, such as their own employees or staff employed by other *Anti-Doping Organizations*, or impose additional restrictions going beyond this*

*International Standard. In all such cases, Anti-Doping Organizations will be expected to comply with applicable data protection laws and regulations.]*

## **5.0 Processing Relevant and Proportionate Personal Information**

**5.1** *Anti-Doping Organizations shall only Process Personal Information where necessary and appropriate to conduct their Anti-Doping Activities under the *Code* (such as those identified in Articles 2, 4.4, 5-8, 10-16 and 18-20) and International Standards, or where otherwise required by applicable law, regulation or compulsory legal process, provided such Processing does not conflict with applicable privacy and data protection laws.*

**5.2** *Anti-Doping Organizations shall not Process Personal Information that is irrelevant or unnecessary in the context of their Anti-Doping Activities as identified in Article 5.1.*

*[5.2 Comment: Anti-Doping Organizations shall examine the different contexts in which they Process Personal Information to ensure that the Processing of the Personal Information in any given case is required in order to satisfy one of the purposes identified in Article 5.1. Where Anti-Doping Organizations cannot satisfy themselves that the Processing is necessary, they shall refrain from Processing the Personal Information.]*

**5.3** In particular, except as otherwise required by the *Code* or expressly required by law:

- (a) *Anti-Doping Organizations Processing Personal Information (which will involve Processing Sensitive Personal Information related to *Athletes* and Processing non-Sensitive Personal Information related to *Participants* and potentially other persons) to determine whether an *Athlete's Use or Possession* of a prohibited substance or method is strictly limited to legitimate and documented therapeutic purposes shall Process only the Personal Information needed for making this determination as required by the *International Standard* for Therapeutic Use Exemptions.*
- (b) *Anti-Doping Organizations Processing Personal Information related to *Participants* and other persons in order to perform *Testing*, shall Process only the Personal Information (including whereabouts information) needed to conduct *Testing* (e.g., test distribution planning, *Sample* collection, *Sample* handling, and *Sample* transport to the laboratory) in accordance with the *Code* (such as Articles 2, 5 and 15) or the *International Standard* for *Testing*.*
- (c) *Anti-Doping Organizations Processing Personal Information related to *Participants* and other persons in order to engage in investigation and results management, including associated disciplinary hearings, appeals and adjudications, shall Process only the Personal Information needed for investigating and establishing one or more anti-doping rule violations.*

**5.4** *Personal Information Processed by *Anti-Doping Organizations* shall be accurate, complete and kept up-to-date. *Anti-Doping Organizations* shall where possible, and taking into account the responsibilities of *Participants* such as under Article 14.3 of the *Code* and Article 11 of the *International Standard* for *Testing*, correct or amend any Personal Information that they affirmatively know to be incorrect or inaccurate as soon as possible.*

*[5.4 Comment: Where Participants are responsible for providing Personal Information about themselves directly to Anti-Doping Organizations and for keeping it accurate, complete and up-to-date, they should be informed of this obligation and, whenever practicable, offered reasonable means to fulfill it. For instance, this could involve furnishing Individuals with access to their Personal Information via the Internet through online tools and resources.]*

## **6.0 Processing Personal Information in Accordance with Law or with Consent**

### **6.1 Anti-Doping Organizations shall only Process Personal Information:**

- on valid legal grounds which can include compliance with legal obligations, fulfillment of a contract or to protect the vital interests of the *Participant* and other persons; or
- where permitted, with a *Participant*'s or other person's informed consent, subject to the exceptions in Article 6.3.b and 6.4 of this *International Standard*.

*[6.1 Comment: This International Standard envisions that Personal Information will be Processed in cases where the law expressly provides for its Processing or with the consent of Participants, subject to appropriate exceptions to avoid Participants or other persons undermining the Code. Principal responsibility for obtaining the consent of an Athlete, and his or her associated Athlete Support Personnel, shall rest with the Anti-Doping Organization(s) that places the relevant Athlete in its Registered Testing Pool.]*

### **6.2** Where, in accordance with Article 6.1, it is possible for Anti-Doping Organizations to Process Sensitive Personal Information with consent, the express and written consent of the *Participant* or person to whom the Personal Information relates shall be obtained. The Processing of Sensitive Personal Information shall occur in accordance with any specific safeguards or procedures established under locally applicable data protection laws and regulations.

*[6.2 Comment: This International Standard imposes additional restrictions where Anti-Doping Organizations Process Sensitive Personal Information, reflecting the greater sensitivities surrounding the Processing of such information. Although the Standard defines Sensitive Personal Information to expressly include different classes of information, this is not to suggest that such information should be Processed by Anti-Doping Organizations, as required by Article 5.1. ]*

### **6.3** Where, in accordance with Article 6.1, it is possible for Anti-Doping Organizations to Process Personal Information with consent, Anti-Doping Organizations shall, in order to obtain an informed consent, as required by Article 6.2, ensure that adequate information is furnished to the *Participant* or person to whom the Personal Information relates as described more fully in Article 7.

- (a) *Anti-Doping Organizations* shall inform *Participants* of the negative consequences that could arise from their refusal to participate in doping controls, including *Testing*, and of the refusal to consent to the Processing of Personal Information as required for this purpose.

*[6.3.a. Comment: For the avoidance of doubt, Participants shall be informed that their refusal to participate in doping controls, when requested to do so, could prevent their continued involvement in organized sport and, for Athletes, constitute a violation of the Code and invalidate competition results, among other things. A Participant who believes that an Anti-Doping Organization does not comply with this International Standard may notify WADA pursuant to Article 11.5, which shall, without prejudice to any other rights the Participant may have under applicable law, consider the grounds for the complaint.]*

(b) *Anti-Doping Organizations* shall inform *Participants* that regardless of any refusal to grant or subsequent withdrawal of consent, the Processing of their Personal Information by *Anti-Doping Organizations* still may be required, unless otherwise prohibited by applicable law, where necessary to enable *Anti-Doping Organizations*:

- to commence or pursue investigations involving suspected anti-doping rule violations relating to the *Participant*;
- to conduct or participate in proceedings involving suspected anti-doping rule violations relating to the *Participant*; or
- to establish, exercise or defend against legal claims relating to the *Anti-Doping Organization*, the *Participant* or both.

*[6.3.b. Comment: In certain limited circumstances, Anti-Doping Organizations must have the ability to Process Personal Information in the absence of the Participant's consent. These exceptions are necessary to avoid situations where Participants refuse to grant consent or withdraw consent in order to circumvent anti-doping efforts and procedures and evade detection for a doping violation.]*

**6.4** In cases where a *Participant* is incapable of furnishing their informed consent by virtue of their age, mental capacity or other legitimate reason recognized in law, the *Participant's* legal representative, guardian or other competent representative may furnish consent on the *Participant's* behalf for purposes of this *International Standard*, as well as exercise the *Participant's* rights arising under Article 11 below. *Anti-Doping Organizations* shall ensure that obtaining consents under such circumstances is permitted by applicable law.

## **7.0 Ensuring Appropriate Information is Furnished to *Participants* and Other Persons**

**7.1** An *Anti-Doping Organization* shall inform *Participants* or person to whom the Personal Information relates about the Processing of their Personal Information. This information shall include:

- the identity of the *Anti-Doping Organization* collecting the Personal Information;
- types of Personal Information that may be Processed;
- the purposes for which the Personal Information may be used and how long it may be retained;

- other potential recipients of the Personal Information, including *Anti-Doping Organizations* located in other countries where the *Participant* may compete, train or travel;
- the possibility and circumstances under which Personal Information may, where permitted by applicable law, be publicly disclosed (such as the disclosure of test results and tribunal decisions);
- the *Participant's* rights with respect to the Personal Information under this *International Standard* and the means to exercise those rights, including the procedure for submitting complaints pursuant to Article 11.5; and
- any other information necessary to ensure that the handling of the Personal Information remains fair, such as information about regulatory authorities or bodies that oversee the *Anti-Doping Organization's Processing of Personal Information*.

**7.2.** *Anti-Doping Organizations* shall communicate the above information to *Participants* or other persons prior to or at the time that they collect Personal Information from *Participants* or other persons, and *Anti-Doping Organizations* shall be responsive to the questions or concerns of *Participants* relating to the Processing of their Personal Information by the *Anti-Doping Organization*. Where *Anti-Doping Organizations* receive Personal Information from Third Parties, and not directly from the *Participant*, they shall communicate the above information as soon as possible and without unnecessary delay, unless it previously has been furnished to the *Participant* or other person by other parties.

*[7.2 Comment: Anti-Doping Organizations should recognize that basic principles of fairness require that where a Participant's Personal Information is Processed in the context of Anti-Doping Activities, he or she should receive or have reasonable access to information that explains the purpose and procedures for the collection and processing of their Personal Information in simple terms. This International Standard aspires to ensure that Participants acquire a basic grasp of the roles and responsibilities performed by the different organizations involved in anti-doping in sport, as those relate to the Processing of Personal Information. Under no circumstances should Anti-Doping Organizations seek to mislead or misinform Participants in order to collect or use their Personal Information.]*

*Each Anti-Doping Organization should ensure that its Processing of Personal Information is reasonably transparent to Participants, notwithstanding the fact that certain information relating to Anti-Doping Activities, notably information concerning scheduled Testing and investigations and proceedings relating to anti-doping rule violations, may need to be temporarily withheld from Participants in order to maintain the integrity of the anti-doping process. The prompt provision of appropriate information to Participants pursuant to this Article 7 is essential given the serious, adverse consequences that might arise if Participants are found to have committed an anti-doping rule violation.]*

**7.3** *Anti-Doping Organizations* shall provide the above information in a manner and format, whether written, oral or otherwise, that *Participants* or person to whom the Personal



Information relates can easily comprehend, taking into account local practices, customs and the particular circumstances surrounding the Processing of the Personal Information.

*[7.3 Comment: Anti-Doping Organizations need to determine the most effective means of providing information in particular cases, recognizing that furnishing Participants with written notice is to be preferred whenever practicable. This also may include furnishing notices through generally available sources, such as brochures and Internet websites, alone or preferably in combination with more succinct notices on forms and other documentation provided directly to Participants.]*

## **8.0 Disclosures of Personal Information to other Anti-Doping Organizations and Third Parties**

**8.1** *Anti-Doping Organizations shall not disclose Personal Information to other Anti-Doping Organizations except where such disclosures are necessary to allow the Anti-Doping Organizations receiving the Personal Information to fulfill obligations under the *Code* and in accordance with applicable privacy and data protection laws.*

*[8.1 Comment: In many instances required by the Code, it is necessary for Anti-Doping Organizations to share certain Personal Information relating to Participants with other Anti-Doping Organizations so that they may engage in Code-mandated Testing. For instance, this may occur in order to subject Athletes to In-Competition and Out-of-Competition Testing. In such cases, Anti-Doping Organizations shall cooperate with one another to ensure that the participation by Participants in such Testing remains suitably transparent to Participants and complies with the rules set out in this International Standard and applicable laws.]*

**8.2** *Anti-Doping Organizations shall not disclose Personal Information to other Anti-Doping Organizations: (i) where the recipient Anti-Doping Organizations cannot establish a right, authority or need to obtain the Personal Information; (ii) where there is evidence that the recipient Anti-Doping Organizations do not or cannot comply with this *International Standard*; (iii) where the Anti-Doping Organization is prohibited from disclosing the Personal Information by applicable law or restrictions imposed by a competent supervisory authority; or (iv) where the disclosure would seriously compromise the status of an ongoing investigation into anti-doping rule violations. Where an Anti-Doping Organization has concerns that another Anti-Doping Organization is incapable of complying with this *International Standard*, it shall make its concerns known to the Anti-Doping Organization and WADA as soon as possible.*

**8.3** *Anti-Doping Organizations may disclose Personal Information to Third Parties, besides Anti-Doping Organizations, where such disclosures:*

- (a) are required by law;
- (b) take place with the informed, express and written consent of the relevant *Participant*;  
or
- (c) are necessary to assist law enforcement or governmental authorities in the detection, investigation or prosecution of a criminal offence or breach of the *Code*, provided

that the Personal Information requested is directly relevant to the offence in question and otherwise cannot reasonably be obtained by the authorities.

## **9.0 Maintaining the Security of Personal Information**

**9.1** *Anti-Doping Organizations* shall designate a person who is accountable for compliance with this *International Standard* and all locally applicable privacy and data protection laws. They shall take reasonable measures to ensure that the name and contact information of the person so designated is made readily available to *Participants* should they request it.

**9.2** *Anti-Doping Organizations* shall protect Personal Information that they Process by applying all necessary security safeguards, including physical, organizational, technical, environmental and other measures, to prevent the loss, theft, or unauthorized access, destruction, use, modification or disclosure (including disclosures made via electronic networks) of Personal Information.

*[9.2 Comment: Anti-Doping Organizations shall ensure that any access to Personal Information by their own personnel shall take place on a need-to-know basis only and where consistent with assigned roles and responsibilities. Personnel accessing Personal Information should be informed of the need to hold Personal Information in confidence.]*

**9.3** *Anti-Doping Organizations* shall apply security measures that take into account the sensitivity of the Personal Information being Processed. *Anti-Doping Organizations* shall apply a higher level of security to the Sensitive Personal Information that they Process, reflecting the correspondingly greater risk that the unlawful or unauthorized disclosure of such information presents to the *Participant* or person to whom the Personal Information relates.

**9.4** *Anti-Doping Organizations* disclosing Personal Information to Third-Party Agents in connection with their Anti-Doping Activities shall ensure that such Third-Party Agents are subject to appropriate controls, including contractual controls, in order to protect the confidentiality and privacy of the Personal Information and to ensure that the Personal Information is only Processed for and on behalf of the *Anti-Doping Organization*.

*[9.4 Comment: Anti-Doping Organizations have an ongoing responsibility to protect any Personal Information under their effective control or in their possession, including Personal Information Processed by their Third-Party Agents, such as IT-service providers, laboratories and external *Doping Control Officers*.]*

**9.5** *Anti-Doping Organizations* are required to choose Third-Party Agents that provide sufficient guarantees, in accordance with applicable law and this *Standard*, in respect of the technical security measures and organizational measures governing the Processing to be carried out.

## **10.0 Retaining Personal Information Only as Necessary and Ensuring Its Destruction**

**10.1** As a general rule, retaining Sensitive Personal Information requires stronger or more compelling reasons and justifications than retaining non-Sensitive Personal Information.

- 10.2** *Anti-Doping Organizations* shall ensure that Personal Information is only retained for as long as necessary to fulfill their obligations under the *Code* or where otherwise required by applicable law, regulation or compulsory legal process. Once Personal Information no longer serves the above purposes, it shall be deleted, destroyed or permanently anonymized.
- 10.3** In order to ensure the effective application of Article 10.1, *Anti-Doping Organizations* shall establish clear retention times to govern their Processing of Personal Information consistent with the above-described limitations. *Anti-Doping Organizations* shall develop specific plans and procedures to ensure the secure retention and eventual destruction of Personal Information.
- 10.4** Different retention times shall apply to different types of Personal Information and take into account the purposes for which the Personal Information is Processed in the context of Anti-Doping Activities, including the granting of *Therapeutic Use Exemptions*, *Testing*, the investigation of doping violations, and the sanctioning of such violations.

[10.4 Comment: WADA shall undertake to develop guidelines setting forth more specific retention times for the different types of Personal Information Processed in the anti-doping context.]

## **11.0 Rights of *Participants* and Other Persons with Respect to Personal Information**

- 11.1** *Participants* or person to whom the Personal Information relates shall have the right to obtain from *Anti-Doping Organizations*: (a) confirmation of whether or not *Anti-Doping Organizations* Process Personal Information relating to them, (b) the information as per Article 7.1, and (c) a copy of the relevant Personal Information within a reasonable timeframe, in a readily intelligible format, and without excessive cost, unless to do so in a particular case plainly conflicts with the *Anti-Doping Organization's* ability to plan or conduct *No Advance Notice Testing* or to investigate and establish anti-doping rule violations.
- 11.2** *Anti-Doping Organizations* have to respond to requests from *Participants* or person to whom the Personal Information relates seeking access to their Personal Information, except if doing so imposes a disproportionate burden on the *Anti-Doping Organizations* in terms of cost or effort given the nature of the Personal Information in question.
- 11.3** In the event an *Anti-Doping Organization* refuses to allow a *Participant* access to his or her Personal Information, it shall inform the *Participant* and explain in writing the grounds for refusing the request as soon as practicable. *Anti-Doping Organizations* shall ensure that *Participants* only obtain Personal Information relating to themselves, and not relating to other *Participants* or third persons, where they seek to obtain access to Personal Information pursuant to this Article 11.
- 11.4** Where an *Anti-Doping Organization's* Processing of Personal Information is shown to be inaccurate, incomplete, or excessive, it shall, as appropriate, rectify, amend or delete the relevant Personal Information as soon as possible. If the *Anti-Doping Organization* has disclosed the Personal Information in question to another *Anti-Doping Organization* that to its knowledge or belief continues to Process the Personal Information, it shall inform that

*Anti-Doping Organization* of the change as soon as possible, unless this proves impossible or involves a disproportionate effort.

- 11.5** Without prejudice to any other rights a *Participant* may have under applicable laws, a *Participant* shall be entitled to initiate a complaint with an *Anti-Doping Organization* where he or she has a reasonable, good-faith belief that an *Anti-Doping Organization* is not complying with this *International Standard* and each *Anti-Doping Organization* shall have a procedure in place for dealing with such complaints in a fair and impartial manner. In the event that the complaint cannot be satisfactorily resolved, the *Participant* may notify WADA and/or submit a complaint to CAS, which will determine whether a violation occurred. Where the *International Standard* is not being adhered to, the relevant *Anti-Doping Organization* will be required to rectify the breach.