BULL'S EYE THE ISSF IPOD ON DOPING

THE ANSWERS TO YOUR QUESTIONS

LIKE OUR LAST EDITION, THIS IPOD SHALL PROVIDE ANSWERS TO SOME QUESTIONS THAT HAVE BEEN RAISED BY ATHLETES OR MEMBER FEDERATIONS. THESE QUESTIONS AND ANSWERS ARE QUITE RELEVANT TO ALL OUR READERS. THE ISSF HOPES THAT ALL READERS MAY BENEFIT FROM THE VALUABLE INFORMATION THEY PROVIDE. PLEASE DO NOT HESITATE TO DIRECT ANY INQUIRIES YOU MAY HAVE ON ANTI-DOPING ISSUES TO THE ISSF. THE ISSF WILL GLADLY ASSIST YOU OR GUIDE YOU IN FINDING THE ANSWERS.

1.
WHAT DOES IT MEAN IF WADA HAS REVOKED THE ACCREDITATION OF ONE OF ITS ACCREDITED LABORATORIES? DOES THIS HAPPEN OFTEN?

Assuming that this question relates to WADA's recent revocation of the accreditation of the laboratory the LAB DOP – LADETEC / IQ – UFRJ Doping Control Laboratory (LADETEC) in Rio de Janeiro, Brazil, the simple answer is that the accreditation was revoked due to the laboratory's non-compliance with the International Standard for Laboratories (ISL) and the related Technical Documents.

The revocation of the Brazil laboratory entered into force September 25, 2013. This means that the laboratory – which is currently suspended – is no longer authorized to carry out the testing of doping control samples on behalf of WADA or any other testing authority until its status is reinstated. In the meantime, the suspension remains applicable and LADETEC is currently ineligible to perform analysis of doping control samples for any doping control testing authority.

Pursuant to the International Standard for Laboratories, WADA is responsible for accrediting and re-accrediting anti-doping laboratories, thereby ensuring that they maintain the highest quality standards. This monitoring role is conducted in conjunction with ISO assessment by independent national accreditation bodies that are full members of the International Laboratory Accreditation Cooperation (ILAC).
Whenever a laboratory does not meet ISL requirements, WADA may suspend the laboratory's accreditation. WADA may also revoke a laboratory's accreditation for repeated failures to comply with the ISL and related Technical Documents.

WADA's Executive Committee's decision to revoke the Rio de Janeiro laboratory's accreditation marks the second time the Rio de Janeiro laboratory has fallen below the required standards set by WADA. The laboratory was also suspended for nine months in January 2012 before being reinstated following a WADA site visit that ensured the proper corrective actions had been implemented.

Still, although other laboratories have had their accreditation, or parts of their accreditation (like for example the right to perform IRMS analysis) revoked in the past, this is not a regular occurrence.

That said, the sporting community should not be alarmed when such drastic measures are taken by WADA. To the contrary, this should reinforce the sporting community's confidence in accredited laboratories. WADA's proactive actions leave little doubt that all accredited laboratories are closely monitored to ensure that each of these laboratories successfully meets the rigorous ISL criteria to the utmost standard.

Accordingly, the LADETEC laboratory in Rio will now ensure that it vigilantly undertakes all the necessary corrective measures required for its accreditation to be reinstated in accordance with the ISL. Only once WADA officially reinstates the laboratory's accreditation will it be able to resume analyzing doping control samples.

2.
WHAT IS THE INTERNATIONAL STANDARD FOR THE PROTECTION OF PRIVACY AND PERSONAL INFORMATION? IS THIS A NEW INTERNATIONAL STANDARD? (ISPPPI)

Most of you are well aware of the existence of these following four well-established International Standards.

- *Prohibited List (This is the only International Standard that is reviewed and updated every year)*
- *International Standard for Testing*
- *International Standard for Therapeutic Use Exemptions*
- *International Standard for Laboratories*

These four International Standards were drafted along side the World Anti-Doping Code (Code) and adopted in 2003 for implementation in 2004. And just like the Code, the Standards are subject to review as necessary, subject to approval by WADA's Executive Committee.

In 2008, at the request of its stakeholders, WADA developed an additional Standard: the International Standard for the Protection of Privacy and Personal Information (ISPPPI). Essentially, it is a Data Protection Standard.

It went into effect on January 1, 2009. So yes, it is relatively new!

http://www.wada-ama.org/Documents/World_Anti-Doping_Program/WADP-IS-PPPI/WADA_IS_PPPI_2009_EN.pdf

The purpose of this ISPPPI is to ensure that all relevant parties involved in anti-doping in sport adhere to a set of minimum privacy protections when collecting and using athlete personal information, such as information relating to whereabouts, doping controls and Therapeutic Use Exemptions. This is particularly important in the vast majority of the world where there is no or very little data protection legislation in place.

When the ISPPPI first went into force, some feared that, in some countries already possessing well-defined privacy laws, the result of the ISPPPI would be to weaken the existing level of privacy protection. But, there has never been anything in the ISPPPI to require any country to lower its level of privacy protection. On the contrary, the ISPPPI provides that organizations based in Europe, for example, must respect their national laws and that those laws prevail over the ISPPPI (as long as they are as rigorous as the Standard). Articles 4.2 and 5.1 of the ISPPI, for instance, make this clear.

Essentially, the ISPPPI has been put in place to protect the privacy and the personal information of every athlete whose urine or blood samples are analysed, who submit information through web-based systems or other means of communications, and who generally entrust relevant anti-doping organisations with private and personal information that should not be made public without consent and approval.

As with all WADA rules and other International Standard, the ISPPPI is a living document that can be changed by WADA's Executive Committee following proper consultation.

All athletes should be made aware that the Data Protection Standard is not related to and does not affect the requirements set forth in the International Standard for Testing in terms of whereabouts requirements for the limited number of top elite athletes included by the ISSF or their respective NADOs' registered testing pools.

3. ATHLETES ARE OFTEN WARNED ABOUT THE PRINCIPLE OF STRICT LIABILITY THAT APPLIES WHEREVER A SAMPLE IS POSITIVE. BUT I DON'T KNOW WHAT IT MEANS.

SO I HAVE TO ASK:

I. WHAT IS STRICT LIABILITY?
II. WHERE DOES THIS PRINCIPLE COME FROM?
III. HOW IS THE PRINCIPLE PUT INTO PRACTICE?

I. WHAT IS STRICT LIABILITY?

The principle of strict liability is applied in situations where urine/blood samples collected from an athlete have produced adverse analytical findings which result in an anti-doping rule violation being asserted against the athlete.

It means that each athlete is strictly liable for the substances found in his or her bodily specimen. So, an anti-doping rule violation occurs whenever a prohibited substance (or its metabolites or markers) is found in bodily specimen - whether or not the athlete intentionally or unintentionally used a prohibited substance or was negligent or otherwise at fault.

In short, if a prohibited substance in found in your system, you cannot point the finger at someone else. It is your body. The substance was found in it. You are responsible.

II. WHERE DOES THIS PRINCIPLE COME FROM?

Prior to the January 1, 2004, implementation of the Code (the core document that provides the framework for harmonized anti-doping policies, rules, and regulations within sports organizations and among public authorities), the principle of strict liability had been applied by the International Olympic Committee in its Anti-Doping Code as well as by the vast majority of pre-Code anti-doping sports rules. In accordance with WADA's stakeholders' wishes, the Code continues to apply the same principle. The strict liability principle set forth in the Code has been consistently upheld in the decisions of the International Court of Arbitration for Sport (CAS) and the Swiss Federal Court.

III. HOW IS THE PRINCIPLE PUT INTO PRACTICE?

If the positive sample came from an in-competition test, then the results of the athlete for that competition are automatically invalidated. This rule helps to establish fairness for the other athletes in the competition.

As it relates to subsequent sanctions that may or may not be imposed eventually by a hearing panel in accordance with Art. 10 of the ISSF Anti-Doping Rules (the Rules), there is some flexibility that exists within the Rules to allow an athlete to provide an explanation for the positive sample.

The athlete has the possibility to avoid or reduce sanctions if he or she can establish and/or demonstrate to the satisfaction of the tribunal:

- *How the substance entered his or her system,*
- *That he or she was not at fault or significant fault or*
- *That he or she did not intend to enhance his or her sport performance.*

This means that the burden of proof is always on the athlete.

As consistently confirmed by the CAS, the strict liability rule for the finding of a prohibited substance in an athlete's specimen, with a possibility that sanctions may be modified based on specified criteria, provides a reasonable balance between effective anti-doping enforcement for the benefit of all clean athletes and fairness in the exceptional circumstance where a prohibited substance entered an athlete's system through no fault or negligence on the athlete's part.

ISSF hopes this has provided satisfactory responses to each of these important questions.

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