

APPENDIX 7

PROCEDURAL RULES OF THE ETHICS COMMISSION

Introduction

The purpose of these procedural rules is to set out how and by whom allegations of violations of the Code of Ethics are to be reported and handled at all stages, from the receipt of a complaint, to the decision to initiate an investigation, to the conduct of the investigation and finally to the decision-making process and imposition of sanctions by the Ethics Commission.

CHAPTER I - GENERAL PROVISIONS

RULE 1

Scope of application

1. These Procedural Rules shall govern all proceedings relating to alleged violations of the Code of Ethics (the Code) other than alleged violations of the IAAF Anti-Doping Rules which shall be handled in accordance with Chapter 3 of the IAAF Competition Rules.
2. These Procedural Rules also apply for any appeal made to the Ethics Commission against a decision of a Member's Ethics Commission (or other body delegated by the Member Federation) with authority to determine violations of a Member's code of ethics.
3. These Procedural Rules shall also apply, where applicable, when the Ethics Commission (the Commission) is called upon to give an advisory opinion.
4. For the purpose of these Procedural Rules, Proceedings shall mean all the stages in the Procedural Rules, including any complaint, investigation, notification, hearing and adjudication, unless stated otherwise in these Rules.

RULE 2

Seat

The seat of the Ethics Commission and of each Commission Panel is Monaco. However, should circumstances so warrant, and after consultation with all parties where possible, the Chairperson of the Panel may decide to hold a hearing in another place.

RULE 3

Parties

Only accused persons are considered parties.

RULE 4

Right to be heard

Subject to these Rules, the parties shall have the right to be heard within a reasonable time, the right to present evidence, the right to review proposed evidence, the right to access files related to the complaint, the right to have adequate time for the preparation of their defence and the right to a reasoned decision.

RULE 5

Representation and assistance

1. The parties may be represented or assisted by persons of their choice at their own cost and expense.
2. The Ethics Commission (or any Panel established by it) may request that the parties' representatives submit a duly signed power of attorney.

RULE 6

Notifications and communications

1. All notifications and communications that the Ethics Commission (or any Panel established by it) intends for the parties shall be made through a legal secretary of the Ethics Commission. The notifications and communications shall be written in English or French and sent to the address provided by the party.
2. All communications from a party intended for the Ethics Commission (or any Panel established by it) shall be sent by courier, e-mail or facsimile to a legal secretary of the Ethics Commission, failing which they shall be declared inadmissible.

RULE 7

Obligation of the Parties to co-operate

1. The parties shall be obligated to act in good faith during the whole Proceedings.
2. The parties shall be obligated to co-operate with the Investigator and the Ethics Commission (including any Panel established by it) to establish the facts of the case. In particular, they shall comply with any request for information from the Investigator appointed pursuant to Rule 13.5, below, or the Ethics Commission (or any Panel established by it) and with any order to appear in person before the Investigator or the Ethics Commission (or any Panel established by it).
3. If the parties fail to co-operate, the Investigator or Ethics Commission (or any Panel established by the Commission) as the case may be may reach a decision based on the file in possession, taking into account the conduct of the parties. The Ethics Commission may also treat non-cooperation as an independent breach of the Code of Ethics.

RULE 8

Language used in Proceedings

1. The language used in Proceedings shall be one of the two official languages of the IAAF (English or French). The parties may choose either of the two language for their own documents to be submitted and any evidence to be given to the Commission.

2. In hearings, the parties are entitled to choose a language that they understand for their own evidence and submissions to the Panel. The parties may choose another language than English or French provided that the Panel agrees. The parties shall advise the Panel of such choice. In the event of such a choice, the Panel may order that the parties bear all or part of the translation and interpreting costs.
3. The Panel may order that all documents submitted in languages other than the language of the Proceedings shall be filed together with a certified translation in the language of the procedure.

RULE 9
Notification of decisions

Decisions of the Ethics Commission (and any Panel established by it) shall be notified in writing and by any means permitting proof of receipt.

RULE 10
Effect of decisions

Decisions of the Ethics Commission (and any Panel established by it) shall come into force when they are communicated and published.

RULE 11
Evidence & Proof

Types of evidence

1. The Ethics Commission shall not be bound by rules governing the admissibility of evidence. Facts relating to a violation of the Code may be established by any means deemed by the "Panel" hearing the case (the Panel) to be reliable.
2. Types of evidence shall include: the investigator's report and other forms of evidence such as admissions, documents, oral evidence, video or audio evidence, evidence based on electronic media in any form and any such other form of proof as the Panel may deem to be reliable.

Inadmissible evidence

3. Evidence that obviously does not serve to establish relevant facts shall be rejected.

Evaluation evidence

4. The Panel shall have the sole discretion regarding evaluation of the evidence.
5. The Panel shall have the sole discretion to accept any facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction, which is not subject of a pending appeal, as irrefutable evidence against the parties to whom the decision pertained of those facts.
6. The Panel may draw an inference adverse to a party if the party, after a reasonable request to attend a hearing, answer specific questions or otherwise provide evidence, refuses to do so.

Standard of proof

7. The standard of proof in all cases shall be determined on a sliding scale from, at minimum, a mere balance of probability (for the least serious violation) up to proof beyond a reasonable doubt (for the most serious violation). The Panel shall determine the applicable standard of proof in each case.

RULE 12 Time limits

1. Any time limits expressed to be a number of days or weeks fixed or notified directly to the parties by the Investigator or Chairperson of the Ethics Commission or any Panel shall begin from the day after sending of the notification. Official holidays and non-business days are not included in the calculation of time limits. Where time limits are specified by date, the relevant action is to be completed by the date specified.
2. Any time limits fixed or notified are respected if the communications by the parties, by the Investigator or the Chairperson of the Ethics Commission or any Panel are sent before midnight on the last day on which such time limits expire. If the last day of the time limit is an official holiday or a non-business day in the country where the notification has been received, the time limit shall expire at the end of the first subsequent business day.
3. The Chairperson of the Ethics Commission (or the Chairperson of any Panel established by the Commission) may extend the time limits provided in these Procedural Rules if the circumstances warrant.

CHAPTER II - SPECIAL PROVISIONS

RULE 13 Rules applicable to the disciplinary proceedings

Initial Consideration

1. Any person subject to the Code may file a complaint regarding potential violations of the Code with a Legal Secretary of the Ethics Commission. Complaints must be submitted in writing, including available evidence.
2. On receipt of a complaint, a Legal Secretary of the Ethics Commission shall submit it to the Chairperson of the Ethics Commission and process the complaint.
3. If the Chairperson of the Ethics Commission considers the complaint to be frivolous or malicious he may close the Proceedings. If the Chairperson or a Legal Secretary considers it appropriate to do so, a Legal Secretary may ask any person filing a complaint to provide further information before a decision is taken under Rule 13(4) whether a prima facie case is made out.
4. If the evidence submitted with or subsequent to any complaint is found by the Chairperson of the Ethics Commission to establish a prima facie case, the Chairperson shall cause an investigation to be commenced and shall appoint an investigator in each case, unless in the view of the Chairperson in consultation with the Commission there is some good reason not to cause an investigation to be commenced or an investigator to be appointed immediately or at all.

5. The Chairperson may initiate investigation proceedings in the absence of a complaint referred to in Rule 13(1) above if he or she considers that other information that has come to his or her attention establishes a prima facie case of a serious infringement of the Code, having consulted with the members of the Commission. Grounds do not need to be given for the initiation of investigation proceedings and the decision may not be contested. If another well-qualified body is already seised of a complaint or investigating a matter, the Chairperson of the Ethics Commission shall have a discretion to delay commencing an investigation, or may stay a current investigation, pending the outcome of the other body's investigation, for example where that other body may have superior powers of coercion or the investigations are likely to be substantially duplicative.
6. The Chairperson of the Commission shall have discretion, to be exercised in appropriate cases, to write to any persons against whom a prima facie case has been found to exist, to ask that person whether or not they wish to admit any violations suggested by the prima facie case. If the person wishes to admit any violations, the Chairperson shall have the power to direct that the matter proceed directly to adjudication on sanction.

Investigation

7. Where an Investigator is to be appointed in accordance with Rule 13(4) above, the Chairperson of the Ethics Commission shall assign the investigation to the appointed Investigator. The Investigator shall direct the investigation proceedings. Any parties against whom a prima facie case has been found at the time of commencement of the investigation shall be notified by a Legal Secretary on behalf of the Chairperson of the Commission of the commencement of the investigation proceedings and of the possible violations of the Code to which the Proceedings relate and shall be afforded the right to make a written submission to the Investigator. Where an Investigator identifies any additional person against whom the Investigator considers a prima facie case of violation of the Code to exist, the Investigator may expand the investigation to deal with that person's involvement in the events in question. In such circumstances, the Investigator shall write to the person notifying him or her advising of the right to make a written submission to the investigator.
8. When the investigation has been concluded, the Investigator shall so inform the Chairperson of the Ethics Commission. Where new evidence comes to light or where otherwise appropriate, the Chairperson of the Ethics Commission may ask the Investigator to reopen a concluded investigation or any part thereof.
9. Upon the conclusion of an investigation, the Investigator shall provide the Chairperson of the Ethics Commission with a final report of the investigation, together with the investigation files. The final report shall contain all relevant facts and evidence, shall identify all individuals who provided such facts and evidence, and shall set out the possible violations of the Code by all relevant persons. The Investigator shall make a recommendation as to whether the matter should proceed to adjudication against any persons.

Decision to proceed to adjudication

10. The Chairperson of the Ethics Commission shall appoint a member of the Ethics Commission to review an Investigator's final report and the investigation files.
11. If the member of the Ethics Commission deems that there is insufficient evidence to proceed, he may make a recommendation to the Chairperson of the Ethics Commission, who may close the case or reconsider the matter and reach a fresh decision. If necessary, the member of the Ethics Commission may in consultation with the Chairperson of the Ethics Commission return the final report to the Investigator for amendment or completion. If the Chairperson of the Commission considers it appropriate, a notice of the closure of the investigation and the case may be published by the Commission.
12. If the member of the Ethics Commission deems that there is sufficient evidence to proceed, he shall send his recommendation, together with the Investigator's final report and the investigation files, to the Chairperson of the Ethics Commission, who shall direct that adjudicatory proceedings be commenced.
13. The member of the Ethics Commission who reviewed the Investigator's final report and the investigation files shall not take part in any further aspect of the Proceedings.

Notification of charge

14. If the Chairperson of the Ethics Commission directs that adjudicatory proceedings are to be commenced, the parties shall be sent written notice of the following:

- (i) that they have a case to answer;
- (ii) the specific violations of the Code that they are alleged to have committed;
- (iii) details of the alleged acts and/or omissions relied upon in support of the charge, either summarized in the notification or by reference to the Investigator's investigation report;
- (iv) the range of sanctions applicable under the Code if it is established that they have committed the violation;
- (v) the timing for the parties to file their written submissions; and
- (vi) that they may be provisionally suspended.

Adjudication

Formation of the Panel

15. The Chairperson of the Ethics Commission shall appoint at least three (3) members from the Ethics Commission to form a Panel to hear each case and shall appoint the Chairperson of each Panel. The appointed members shall be independent of the parties and shall not be from the same country as the parties, and shall have had no prior involvement with the Proceedings or prior involvement with the specific subject matter of the charges in the Proceedings. The acts of the Chairperson or Members of the Ethics Commission pursuant to these Rules prior to the formation of the Panel, shall not be considered to be a prior involvement with the Proceedings. The members of the Panel shall preferably have a good command of the language of the proceedings and, if necessary, translation services may be used. The members of the Panel shall have the availability required expeditiously to complete the Proceedings. The parties shall be informed of the composition of the Panel.
16. The Panel shall in each proceeding (i) determine its procedure in accordance with these Rules and (ii) determine any other procedural matters arising in the course of the Proceedings that are not set out in the Rules, in accordance with the principles of natural justice. In particular, the Panel may in appropriate cases appoint a prosecutor or counsel to the Panel to present the case against the parties, or invite the investigator to present his or her conclusions to the Panel. The Panel may also conduct the Proceedings in an inquisitorial manner.

Submissions by the parties

17. The Chairperson of the Panel shall set time limits for the parties to submit briefs containing a defence of lack of jurisdiction (which the Panel may determine as a preliminary issue), and for the parties to submit a statement of defence on the merits, which statement should include any evidence upon which the parties intend to rely, including a list of all witnesses they will call, together with written statements of evidence.

Hearings

18. The Chairperson of the Panel shall have the discretion to determine whether a hearing shall be held, provided, however, that if requested by any of the Parties a hearing shall be held. If a party fails to appear without compelling explanation, the Panel may nevertheless proceed with the hearing.
19. Hearings shall take place in private, unless the parties request the hearings be held in public in which case the Chairperson of the Panel shall have discretion to allow public access to the hearing, including full discretion as to the terms and limits of any such access.
20. The Chairperson of the Panel shall preside at the hearing.
21. The procedure followed at the hearing, including the calling of any witnesses referred in the Investigator's report, shall be determined by the Chairperson of the Panel, provided that the hearing is conducted in a manner that offers the parties a fair and reasonable opportunity to present their own evidence (as well as the right to call their own and to cross-examine other witnesses, by telephone or video-conference, where necessary), to address the Panel and to present their case. It is the responsibility of the parties to ensure the appearance of their witnesses requested by them and to pay all costs and expenses associated with their appearance.

22. The parties shall be entitled to make final submissions to the Panel before any hearing is concluded.

Deliberations and decisions

23. After the hearing, the Panel shall deliberate on its decision in private. If there is no hearing, the Chairperson shall schedule the deliberations. The deliberations and decision-taking may be conducted via telephone conference, video conference or any other feasible method.
24. If not unanimous, the Panel shall render a majority decision.
25. The Panel shall announce its decision in writing, with reasons, as soon as possible after the conclusion of the hearing or, if there is no hearing, as soon as possible after the Panel has considered the evidence and submissions. The written decision shall contain the composition of the Panel, the names of the parties, the date of the decision, a summary of the facts, the terms of the decision, the provisions on which the decision was based and notice of the provisions for appeal, namely an appeal to CAS as set out in at paragraph A4 of the Statutes of the Ethics Commission. The decision shall be signed by the Chairperson of the Panel and notified to the parties, with a copy to the IAAF and, if applicable to the relevant Member Federation and/or Area Association concerned. The decision shall be made public. Otherwise, the record of the proceedings shall remain confidential, unless there are exceptional reasons to disclose some part of the record at this or a subsequent point in time.

Recognition of decisions

26. All Member Federations shall recognise and take all necessary and reasonable steps within their powers to enforce and give effect to the Code and to all decisions taken and sanctions imposed thereunder.

Provisional Suspension

27. The Chairperson of the Commission and the Chairperson of any Panel shall each have the discretion, after consulting with the members of the Commission, in circumstances where he or she considers that the integrity of the sport could otherwise be seriously undermined, provisionally to suspend a person from any IAAF office or position or any office or position within a member federation or area organisation, at any time pending the conclusion of an investigation or any ensuing Panel's final decision. A copy of any written notice to provisionally suspend a person will, at the same time, be sent by the Commission to the IAAF and, if applicable, to the relevant Member and/or Area Association concerned.
28. If any such person seeks to challenge the suspension of him or her, the Chairperson of the Commission or of a Panel may summon a suspended person(s) to a hearing, which may be held by videoconference or teleconference, on short notice or set a short time limit in which to submit written statements. The Chairperson shall have the discretion to determine the appropriate procedure to be followed at any such hearing, provided that the suspended person is afforded a fair and reasonable opportunity to present evidence, and to present his or her case.
29. A provisional suspension shall be valid for a maximum of 180 days. The provisional suspension may be extended by the Chairperson of the Ethics Commission or the Chairperson of a Panel for additional periods not to exceed a further 180 days in the case of each extension.
30. The duration of provisional suspensions shall be taken into account in the final decision.

Review

31. The Ethics Commission may reopen a case that has been closed following a final binding decision if significant new facts or evidence are discovered that could not have been produced sooner and would if produced likely have resulted in a more favourable decision. A request for review must be made in writing by anyone concerned within twenty days of discovering the new facts or evidence. The limitation period for submitting a request for review is one year after the date of the decision.

RULE 14

Rules applicable appeals against decisions of Members

1. Except as specified, these Procedural Rules shall apply to all appeals against decisions of a Member's Ethics Commission (or the body delegated by the Member Federation) with authority to determine violations of a Member's code of ethics.

Statement of Appeal

2. The Appellant shall submit to the Ethics Commission a statement of appeal containing:
 - the name and full address of the Respondent;
 - a copy of the decision appealed against;
 - the Appellant's request for relief;
 - if applicable, an application to stay the execution of the decision appealed against, together with reasons;
 - a copy of the provisions of the statutes providing for appeal to the Ethics Commission.

Upon filing the statement, the Appellant shall pay the fee of USD 200.00. ||

Time Limit

3. The time limit for an appeal shall be 14 days from the receipt of the decision appealed against.

Appeal Panel

4. On receipt of the Statement of Appeal, the Chairperson of the Ethics Commission shall form a Panel in accordance with Rule 13.15 of these Procedural Rule to hear and determine the appeal.

Appeal Brief

5. Within 10 days following the expiry of the time limit for the appeal, the Appellant shall file with the Ethics Commission a brief stating the facts and legal arguments giving rise to an appeal, together with all exhibits and specifications of other evidence upon which the Appellant intends to rely, failing which the appeal shall be deemed withdrawn.

In his written submissions, the Appellant shall specify any witnesses and experts whom he intends to call and state any other evidentiary measure which he requests. The witness statements, if any, shall be filed together with the appeal brief, unless the Chairperson of the Panel decides otherwise.

Answer of Respondent

6. Within 20 days for the receipt of the grounds for the appeal, the Respondent shall submit to the Ethics Commission an answer containing:
 - any defence of lack of jurisdiction;
 - a statement of defence on the merits;
 - any counterclaim;
 - any exhibits or specifications of other evidence upon which the Respondent intends to rely, including the names of the witnesses and experts whom he intends to call.

The witness statements, if any, shall be filed together with the answer, unless the Chairperson of the Panel decides otherwise.

Appeal and answer complete

7. Unless the parties agree otherwise or the Chairperson of the Panel orders otherwise on the basis of exceptional circumstances, the parties shall not be authorised to supplement their arguments, nor to produce new exhibits, nor to specify further evidence on which they intend to rely after the submission of the grounds for appeal and the answer.

Scope of Panel's review, hearing

8. The Panel shall have full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance.

Upon transfer of the file, the Chairperson of the Panel shall issue directions in connection with the hearing of the examination of the parties, the witnesses and the experts, as well as for the oral arguments. He may also request communication of the file of the Member whose decision is subject of the appeal. After consulting the parties, the Panel may, if it deems itself to be sufficiently well informed, decide not to hold a hearing. If any of the parties is duly summoned yet fails to appear without compelling explanation, the Panel may nevertheless proceed with the hearing.

RULE 15

Rules applicable to the advisory opinions

1. Any member of the IAAF Family may ask the Ethics Commission for an advisory opinion about any potential issue related to the Code. The request for an opinion shall be addressed to the Ethics Commission and accompanied by any document or other evidence likely to assist the Ethics Commission in giving the opinion.
2. When a request is filed, the Chairperson of the Ethics Commission shall review whether it may properly be the subject of an opinion and if so whether it would be appropriate to provide an advisory opinion. If in the affirmative, he shall determine the procedure for the rendering of such an opinion and the Ethics Commission shall render its opinion.
3. The advisory opinion may be published with the consent of the person who requested it or if the Ethics Commission otherwise considers it appropriate to publish it. An advisory opinion does not constitute a binding decision.

RULE 16
Procedural costs

1. In general, the procedural costs are made up of the costs and expenses of the investigation and adjudicatory proceedings, excluding the parties' legal costs.
2. If the Panel has determined that there has been violation of the Code of Ethics, the procedural costs shall be borne by the party that has been sanctioned. The procedural costs imposed on the sanctioned party may be reduced or waived in exceptional circumstances in particular taking into account the parties financial circumstances.
3. Except as provided in Rule 16.2 above, the procedural costs shall be borne by the IAAF.
4. In the event of closure of proceedings or acquittal, the procedural costs shall be borne by the IAAF. The Panel may however order the complainant to pay the procedural costs, in whole or in part, if it considers the complaint to have been frivolous or vexatious, having given the complainant the opportunity to have made representations..

RULE 17
Miscellaneous provisions

1. The headings used for the various Rules of the Procedural Rules are for the purpose of guidance only and shall not be deemed to be part of the substance of the Procedural Rules or to inform or affect in any way the language of the provisions to which they refer.
2. The Procedural Rules exist in the two official languages of the IAAF (English and French). In all cases of a difference of interpretation of any text, the English version shall govern.
3. The Procedural Rules may be amended by the IAAF from time to time in accordance with the IAAF Constitution and the Commission may make recommendations for amendment to the IAAF.
4. If any Rule or provision of the Procedural Rules is held invalid, unenforceable or illegal for any reason, it shall be deemed deleted, and the Procedural Rules shall remain otherwise in full force and effect.
5. The Procedural Rules are governed by and shall be construed in accordance with Monegasque law.
6. As used in the Procedural Rules:
 - (i) References to the masculine gender shall include the feminine gender, where appropriate.
 - (ii) References to the singular include the plural and vice versa where appropriate.