

Anti-Doping Awareness in Sports

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

Prof. Dobson Dominic

Department of Humanities and Social Sciences

IIT Madras

Lecture -28

Sanctions as per the WADA Code

Good morning, ladies and gentlemen. Welcome back to week 6 of the course on Anti-Doping Awareness for Sports. This is lecture 3 and I am Colonel Dr. Anup Krishnan. Today, we will be discussing sanctions as per the WADA code. I will be covering this topic as per the following outline introduction.

We will talk about something called strict liability. We'll talk about the results management. We'll talk about something called provisional suspicion. We'll talk about something called provisional suspension. We will talk about the sanctions which can be applied by WADA. We will talk about the ineligibility period. We'll talk about rare cases in which sanctions can be reduced. And as always, we'll conclude with a take-home message. There are some sanctions which are there in the code.

And these sanctions may range from a warning to a life ban, depending upon various factors such as the type of the anti-doping rule violation, the circumstances of the individual case, level or absence of fault or negligence, The substance or the quantity of substance in case of the detection of a prohibited substance. Repetition of an anti-doping rule violation and age of the athlete. Age of the athlete becomes very important because if the athlete is a minor and is able to prove that the athlete's support personnel is responsible for this anti-doping rule violation or for administering a particular prohibited substance or method, The athlete support personnel in this case will directly get a life ban. There will be no 2 years or 4 year ban for the first offense. Even if it is the first offense, if the athlete is a minor and the athlete is able to prove that the athlete support personnel is responsible for this, the ban will be immediate and it will be for life.

There is something called the strict liability principle. The strict liability principle is the cornerstone of anti-doping regulations. And this holds athletes personally responsible for any prohibited substance found in their bodies, regardless of intent or knowledge. That means if a prohibited substance or method is found in my body, I am responsible. It does

not matter whether I knew about it, whether I did it knowingly or whether it happened unknowingly. If it is found in my body, I am responsible for it. This means that the athletes can be sanctioned simply for the presence of a banned substance, without needing to prove that they intended to cheat. Basically, the anti-doping organization does not need to prove intent. It only needs to prove that something was found on you or something was found in your sample.

That is it. So what is the rationale for this strict liability? The strict liability approach is essential for ensuring the effectiveness of anti-doping efforts. Why? It holds the athletes accountable for what enters their body and it simplifies the enforcement process and emphasizes the athlete's duty to avoid any prohibited substances. This principle helps to protect the integrity of sport by minimizing loopholes that might allow athletes to evade responsibility. Basically, because of this principle, athletes cannot find loopholes for escaping punishment as per the World Anti-Doping Agency code.

Now, because of this principle, avoidance of loopholes, the process is much more stringent and is more simplified as far as the anti-doping organizations are concerned. How is it applied in anti-doping cases? In cases where a prohibited substance is detected, the athlete must prove how the substance entered the system to potentially reduce their sanctions. However, even if the athlete can demonstrate unintentional injunction, they are still held liable for the violation. For example, athletes cannot fully excuse themselves by blaming others, such as coaches or medical personnel, under the strict liability clause. So what are the athlete's responsibilities under the strict liability clause? The World Anti-Doping Agency Code mandates that athletes are solely responsible for any prohibited substance detected in their body.

They are responsible for checking medications. Athletes must ensure that any medication or supplement they take does not contain bad substances. They are responsible for making informed choices about treatments. Athletes should consider reputable sources and be proactive about understanding the contents of treatment and substances they are prescribed. They are responsible for educating themselves on anti-doping rules.

Athletes are required to stay informed about the latest prohibited list published by WADA, which is updated annually. Sanctions on the individual. Sanctions are usually as per the WADA code under the article 10 of the code. So let's talk about what may be some results which may be published after the testing. You may get a report of an adverse analytical finding.

The report from the WADA accredited lab identifying in the sample the presence of a prohibited substance or evidence of use of a prohibited method. The report will say there

is an adverse analytical finding and the compound detected is so and so. It may say there is an atypical finding which requires further investigation. That means it could possibly be an endogenous substance. The report result may say there is an atypical passport finding.

The result may say there is a whereabouts failure or it may identify and pinpoint other anti-doping rule violations. So let's talk about the result management. Who is responsible for punishment? Basically, under whose jurisdiction is this athlete going to be punished? Number one, it will be the anti-doping organization who initiated the sample collection. If it's a non-analytical anti-doping rule violation, the anti-doping organization who first provided notice of charge will be responsible for punishing the athlete. However, in case of dispute or in case of default jurisdiction, the role of WADA will come in.

Provisional suspension: If the A sample says there is an adverse analytical finding for a prohibited substance other than a specified substance, there is a mandatory provisional suspension. That means, you are prohibited from sport. If it is some other ADRV or some specified substances, then the provisional suspension is optional. The athlete may ask for a voluntary provisional suspension.

Exception, if there is a contaminated product. The athlete may ask for a provisional hearing or an expedited process. But, point to be noted, the provisional suspension will be credited against the period of ineligibility to be served. That means, if the athlete is banned for 4 years and has been under provisional suspension for 9 months, so the nine months will also be included in the four-year period and there will be only a ban of three years and three months.

Disqualification of results: An ADRV occurring during or in connection with an event may, upon the decision of the ruling body of the event, lead to disqualification of all the results. That means if you have competed in a sport, in an event, won a medal, but have been sanctioned for an ADRV, your medal will be forfeited. And if you have broken a record, that record will also be removed. Sanctions. Under Code Article 10, Public 1. Article 2.1, presence. Article 2.2, use or attempted use. Article 2.6, possession. Any of this, the sanction is for four years.

Maybe two years if the athlete tests positive for or uses, possesses non-specified substances, but shows that the anti-doping rule violation was not intentional. Or if the athlete tests positive for or uses, possesses specified substances, but the NADO cannot show that the use was intentional. Here we need some more explanation about specified and non-specified substances. The prohibited list has got two components. One, list of substances which are specified.

That means those substances which can be used inadvertently used for doping and non-specified substances which cannot be inadvertently used for doping. So, depending on the ADRV has been sanctioned for a specified substance or for a non-specified substance, the punishment may vary as is shown on the slide. 2.3, evading, refusing or failing to submit to sample collection. 2.5, tampering with dope control. Ban is four years. Two years if the athlete is able to show that the ADRV was not intentional. 2.4, whereabouts failure. 2.7, trafficking. 2.8, administration. In whereabouts failure, the ban is usually one to two years. Trafficking or administration, it is four years to life 4 years if the athlete is not a minor and the offence is the first offence. Life if the athlete is a minor and is able to prove that the athlete support personnel is responsible. 2.9 complicity, 2.10 prohibited association. For complicity the ban is 2 to 4 years and for prohibited association it is 1 to 2 years.

Under Article 10/5, there may be elimination of the sanction if no fault or negligence can be proved. There may be a reduction of sanction if no significant fault or negligence can be proved. If it is specified substances, if the athlete is able to prove contaminated products were used. If the athlete gets into something called substantial assistance and admission of guilt. We will talk about this a bit more later.

So ineligibility for presence, use or attempted use or possession of a prohibited substance or a prohibited method. The standard period of ineligibility is 4 years under certain conditions. A four-year period applies if the violation does not involve a specified substance or method unless the athlete proves it was unintentional. Four-year period also applies if the violation involves a specified substance or method and is deemed intentional. If the condition of 4 years does not apply, the period of ineligibility is 2 years.

Intentional conduct is identified by knowing the actions could lead to a doping violation and by disregarding that risk that the athlete knew. If I take this drug or medicine, there will be an anti-doping rule violation and I choose to disregard this risk. Ineligibility for an anti-doping violation from a substance prohibited only in competition is presumed non-intentional if it is a specified substance used out of competition. Violations involving substances prohibited only in competition was not intentional if they are not specified substances used out of competition unrelated to performance. Ineligibility for violations involving a substance of abuse is 3 months if the use occurred out of competition and is unrelated to sports or farms.

This pre-month period may be reduced to 1 month if the athlete completes an approved treatment program. Injection of use of a substance of abuse in competition is not considered intentional if proven unrelated to sports performance. Ineligibility for other anti-doping rule violation.

For articles 2.3 or 2.5, ineligibility period is four years, may be reduced to two years if unintentional or range from two to four years if exceptional circumstances can be proved. For protected persons or recreational athletes, Ineligibility period ranges from a maximum of two years to a reprimand, depending on the degree of fault. Protected persons are minors. Violations of Article 2.4 incur a two-year ineligibility, reducible to a minimum of one year, based on the athlete's degree of fault, unless there is a pattern of evasive behavior.

Violations of Article 2.7 or 2.8 result in a minimum of four years or a lifetime ineligibility with serious violations by athlete support personnel leading to lifetime bans. We have discussed this. This is in case of minors. For Article 2.9 violations, ineligibility period ranges from a minimum of two years to lifetime ineligibility depending on severity.

Violations of Article 2.10 carry a two-year ineligibility which may be reduced to one year based upon the individual's degree of fault and case circumstances. Aggravating Circumstances If an ADRV is established, aggravating circumstances may warrant a longer ineligibility period. This applies to violations other than those specified in Articles 2.7, 2.8, 2.9 and 2.11. Aggravating circumstances, the standard ineligibility period may be increased by up to two additional years. The increase depends upon the seriousness of the violation and the nature of the aggravating circumstances. Athletes or others may avoid the increase penalty if they can prove they did not knowingly commit the violation. If the athlete can prove no fault or no negligence, then the period of ineligibility can be eliminated. If an athlete or other person establishes in an individual case that he or she bears no fault or negligence, then the otherwise applicable period of ineligibility shall be eliminated.

Reduction of the period of ineligibility based on no significant fault or negligence. Reductions for violations of Article 2.1, 2.2 or 2.6 are mutually exclusive and not cumulative. If a violation involves a specified substance or a method and the athlete shows no significant fault or negligence, the ineligibility period can range from a reprimand to a maximum of two years. Reduction of the period of ineligibility based on no significant fault or negligence. For violations from contaminated products, demonstrating no significant fault or negligence also results in a potential range from a reprimand to 2 years of ineligibility. If the athlete shows no significant fault or negligence in cases not covered in Article 10. 6.1, the ineligibility period may be reduced, but cannot be less than half of the original period or a minimum of 8 years for lifetime ban. Let's now discuss the take-home message. The WADA Code has provisions for sanctions. These sanctions may range from zero to a lifetime ban. There is something called a strict

liability principle which applies to all athletes who are competing under the WADA code.

Disqualification of results in competitions is automatic if ADRV is proven during competition. Ineligibility periods range from a few months to life. The common sanction is four years for the first anti-doping rule violation and life ban for the second anti-doping rule violation. Ineligibility periods can be reduced in rare cases only. These are the references which I have used for preparing this lecture.

I strongly urge you to go through them, ladies and gentlemen. I finished with this lecture, ladies and gentlemen. Thank you for your participation and your patient listening. Thank you and Jai Hind.