

The proceedings in case of violation of antidoping rules

Abstract

This paper deals with the proceedings, which are related to the amendment of the World Anti-Doping Code in 2021 and the related issuance of the updated Directive for the Control and Punishment of Doping in Sport in the Czech Republic (hereinafter referred to as the "Directive"), in the case of anti-doping rule violations. These rules are characterised by the fact that they contain both substantive and procedural provisions. It is these procedural provisions, which are adhered to in the proceedings in case of anti-doping rule violation, that this paper deals with in more detail. It is a *sui generis* procedure in its nature containing elements of both private and public law.

Until the end of 2020, the bodies of first instance of the decision-making system were the national sports federations, respectively their disciplinary bodies. Subsequently, the power in such cases was transferred to the National Court of Arbitration for Sport by the Czech Anti-Doping Committee in 2022 and thus ever since the entire process of adjudicating doping disputes in the Czech Republic is held by this newly created body. It is a hybrid body on the borderline between private and public law, whose legitimacy must be derived from the hierarchical structure of national federations in the form of individual members joining their respective sports clubs and their subsequent membership in sports federations.

One of the objectives of this paper is to suggest a framework for eliminating the disparity of the decisions issued, so that there is no unequal treatment of the disciplinary authorities towards the offending sportsmen. Possible solutions are *inter alia* the inclusion of legal aid in the relevant decision-making bodies; compliance with the principle set out in Section 13 of the Civil Code in the form of predictability of decisions and, last but not least, the provision of a decision-making "unifying body", which, with effect from 1 September 2022, became the National Court of Arbitration for Sport. This decision-making body consists of professional arbitrators with mandatory knowledge of sports law, with an emphasis on anti-doping disputes. The arbitrators are nominated by the respective national sports federations.

This work also provides some guidance – whether for the offending sportsmen, their legal representatives or decision-makers – on how to possibly proceed in anti-doping rule violation proceedings, or how to interpret the procedural provisions of the Directive in particular. All this is then demonstrated in a specific case which takes into account both the procedure under the

Directive in force from 2015 to 2022 and the hypothetical procedure under the Directive in force from 1 September 2022.

Keywords: antidoping rules, proceedings with athlete, Czech Anti-Doping Committee, Czech olympic Committee, Court of Arbitration for Sport (CAS), National Arbitration Court for Sport, national sport federation, Directive for the Control and Punishment of Doping in Sport in the Czech Republic