

Disciplinary Rule of the International Triathlon Union (“ITU”)

Based on Section 18.5 of the ITU Constitution

I. INTRODUCTION:

Article 1: Object:

1. This rule sets out the applicable procedure before the ITU, within the limitations of Swiss law.
2. It does not apply to anti-doping procedures, which are governed exclusively by the ITU Anti-Doping Rules and classification rules for Para athletes, which are governed exclusively by the International Paralympic Committee.

II. ARBITRATION TRIBUNAL:

Article 2: Jurisdiction

1. The ITU Arbitration Tribunal recognizes ordinary procedures submitted to it according to article 37, paragraphs 37.1 and 37.2 of the ITU Constitution.
2. It recognizes recourses submitted to it according to article 37 paragraphs 37.3 and 37.4 of the ITU Constitution

Article 3: Special jurisdiction

1. The Arbitration Tribunal also has jurisdiction over the following:
2. Sanctioning serious offences that competition officials did not notice ;
3. Correct manifest errors in the rulings by competition officials ;
4. Levy additional sanctions to the ones contemplated by the ITU Competition Rules or the relevant Continental Confederation such as, for example, a monetary penalty.

Article 4: Composition and organization

1. The Arbitration Tribunal is composed of five (5) independent and qualified members elected by the Executive Board to hear and decide on the application of the Disciplinary Rules. They are elected for a term of 4 years. At least three (3) of the elected members must be lawyers or judges by profession (currently actively practicing or retired).
2. The Chair of the Arbitration Tribunal, whom must be a (retired) judge or lawyer is responsible to assemble the Panels to hear each case. The President of the Panel must be an (retired) judge or lawyer.
3. Within seven (7) days of receiving a validly constituted Complaint, the Arbitration Tribunal assembles a Panel composed of three members who are designated by the Arbitration Tribunal Chair. The Tribunal Chair designates the Panel President from among the three members, and such President must be a lawyer or judge by profession.

4. An ad hoc clerk, who must not be a member of any other ITU body, may be named by the Arbitration Tribunal for the purpose of assisting it for various clerical tasks.

Article 5: Headquarters:

1. The Arbitration Tribunal is headquartered at ITU headquarters in Lausanne, Switzerland.

III. DISCIPLINARY MEASURES AND SANCTIONS:

Article 6: Types and Severity

1. The following disciplinary measures may be levied:
 - a) Warning;
 - b) Suspension;
 - c) Roll down in race ranking;
 - d) Overturning of a result;
 - e) Revocation of a title;
 - f) Revocation of a medal;
 - g) Exclusion from participation in one or multiple national or international competitions.
2. The following sanctions may be levied:
 - a) Monetary penalties to a maximum of USD\$5,000;
 - b) Exclusion from competitions for a maximum period of 48 months for athletes and coaches;
 - c) Exclusion for a determinate or indeterminate period of time from exercising any official functions on behalf of the ITU.
3. The severity of the disciplinary measures and sanctions depends on the nature of the violation.

Article 7: Combination and Restitution

1. Individual disciplinary measures and sanctions may be combined.
2. Athletes against whom disciplinary measures or sanctions are imposed may be required to repay any monetary or in-kind benefits.

IV. PROCEDURAL PROVISIONS

Article 8: Recusal

1. A Panel member must recuse him/herself when he, his club or his National Federation has an interest in the issue under dispute or when he/she believes his independence may be compromised.

2. A party may cause the recusal of a Panel member in the cases contemplated in paragraph 1, if the Panel member has publicly expressed him/herself about the matter in dispute or otherwise possesses a preconceived view of the matter, in the case of any personal enmity on the part of a Panel member against any party, club or National Federation.
3. The recused member may not participate in the selection of his replacement.
4. If a party wishes to contest the refusal of a Panel Member to recuse him/herself, he/she may appeal to the Arbitration Tribunal who shall make a final determination.

Article 9: Confidentiality

1. Panel members must keep confidential any information of which they have knowledge by virtue of their position (particularly facts of the case, content of the deliberations on decisions taken).
2. Only decisions already communicated to the parties may be made public by the Arbitration Tribunal.

Article 10: Parties to the Proceedings

1. The Continental Confederation, National Federation and the Federation member concerned are all party to the proceedings.
2. The body that rendered the original decision in dispute is also a party to the proceedings.
3. The parties are informed of the start of proceedings by the session President within 10 (ten) days of the beginning of such proceedings.

Article 11: Language of the Proceedings

1. The language of the proceedings will be English.
2. All parties must translate all documents produced in another language into English.
3. Each party pays its own translation and interpretation costs.

Article 12: Right to be Heard

1. The right to be heard is guaranteed during all Arbitration Tribunal proceedings, subject to section 36, paragraph 2. The right to be heard is exercised in principle by the most appropriate means of telecommunication (telephone, internet, videoconference, etc.) and if such is not technologically feasible, by written communication. An in-person hearing is possible according to the conditions of the Disciplinary Rule.
2. All parties have the right to consult the file of the proceedings. Panel members' notes do not form part of the file unless they are expressly submitted.

Article 13: Evidence

1. Any piece of evidence lawfully submitted may be used by the Panel.

2. The Panel freely administers and evaluates all the evidence submitted.
3. In particular, the evidence may consist of :
 - a) the arbitrator's report;
 - b) statements by the parties;
 - c) witness depositions;
 - d) audio and video recordings;
 - e) expert reports/testimonies.

Article 14: Representation

1. Parties may be represented.
2. Panel members may not represent any party, even in proceedings from which they are recused.
3. Any representative whose power does not flow from the statutes of the club, National Federation or Continental Confederation, must present a written mandate.
4. Minors must have a legal representative.

Article 15: Witnesses and individuals called on to provide information

1. Only those with personal knowledge of the facts which form the subject of the proceedings may act as witness or be called on to provide information.
2. Witnesses and those called on to provide information appear at the hearing or respond in writing or by the most appropriate means of communication to the questions of the Panel.

Article 16: Administration of Evidence

1. The Panel freely administers the evidence submitted to it.
2. At the receipt of a report according to section 18 or a response factum according to section 24, and following consultation with the parties, the session President may order a hearing. Such decision is not subject to appeal.
3. The session President may demand that all parties pay in advance any fees, particularly those of experts.

Article 17: Hearing

1. The Panel may decide to hold a hearing after consultation with other Panel members. If such a case exists, the President summons all concerned persons to the hearing by telecommunication. Best effort is made to accommodate all schedules. Once a meeting time is agreed upon, if any party is absent, after having been duly invited, the hearing takes place without the presence of such party.

Article 18: Incident(s) during the proceedings

1. The parties are invited to present the facts of any incident at the start of the hearing.

Article 19: Testimonies

1. The Panel thereafter hears, in the order it deems appropriate, the parties and if necessary the witnesses, persons called on to furnish information and experts.

Article 20: Hearing suspension and supplemental investigation

1. If the circumstances so require, particularly in order to obtain additional clarification, the session President may suspend the hearing which may be held at a later date.
2. Additional investigation may be ordered by the session President. Such investigation may take place in writing or with an additional hearing.

Article 21: Closing of the investigation

1. Upon completion of the investigation, the parties are invited to express themselves orally. The Petitioner proceeds first and thereafter the Respondents respond.
2. In complex matters, the session President of the hearing may fix a delay within which parties must express themselves in writing.

Article 22: Investigation without hearing

1. If the Panel President decides to not hold a hearing, the investigation shall take place in writing.
2. The Panel may communicate in writing or by the most appropriate means of communication, with all witnesses, persons called on to furnish information, or experts. The responses given are communicated to all parties.
3. The Panel President fixes a timeframe within which the parties must submit their comments.

Article 23: Decisions

1. The Panel cannot make a finding that goes beyond the request of the Parties.
2. The Panel's decisions are issued in writing and contains:
 - a) the names of the members who sat on the panel;
 - b) identity of the parties;
 - c) the conclusions of the parties or the question at issue;
 - d) the questions of fact, law and, if applicable, equity, unless the parties have explicitly renounced any of same;
 - e) decision as to the main issue;
 - f) decision as to the amount and payment of costs, if any.
3. The Panel renders its decisions by majority vote. All members must sign the decision.

Article 24: Deadline to render the decision

1. Decisions must be rendered within (3) three months of the start of the proceedings, except in exceptional circumstances, as determined by the Chair of the Arbitration Tribunal.
2. Decisions that may impact the holding of a championship or a competition must be rendered as quickly as possible.

Article 25: Notice and Communication:

1. Arbitration Tribunal decisions are notified to parties by registered mail or by email. The Arbitration Tribunal Chair is responsible to see that ITU receives a copy of all final decisions.

Article 26: Procedural Costs

1. There is a flat fee of USD\$500 for all procedural costs for the appellant.
2. Costs are may be awarded by the Panel to one of the Parties, considering the legitimacy of the arguments, as well as the conduct of the Parties.

Article 27: Procedural fines

1. The Arbitration Tribunal is authorized to set procedural penalties up to a maximum of USD\$5,000.
2. The launching of a manifestly abusive proceeding or a breach of the rules of propriety both constitute a procedural violation.

V. Ordinary proceedings

Article 28: Introduction of the claim and admissibility

1. An ordinary proceeding begins by the submission of a detailed written report accompanied by a statement of facts filed with the Arbitration Tribunal. The following persons are authorized to submit such a report: representatives (referees, technical delegates, directors, members) of the ITU, representatives of the Continental Confederations where the statutes contemplate the ordinary or appellate jurisdiction of the ITU Arbitration Tribunal.
2. The report must be submitted to the headquarters of the Arbitration Tribunal no more than (5) five days following the occurrence of the event in dispute.
3. The Arbitration Tribunal Chair determines whether the procedure is receivable under the Rules. If they are deemed non-receivable, a written and reasoned communication is made to the ITU bodies and individuals concerned. This decision cannot be appealed.

VI. Appeal Proceedings

Article 29: Start of the Proceedings and Fee

1. The Appellant files an appeal with the Arbitration Tribunal in two (2) copies by mail or by email at the ITU headquarters.

2. The appeal must be submitted no more than 10 (ten) days following the communication of the contested decision to the appellant.
3. The appellant pays the fee concurrently with the filing of the statement of facts. If the payment is not made, the appeal is deemed inadmissible.
4. The amount may be reimbursed to an appellant at the discretion of the Panel

Article 30: Suspensive effect of an appeal

1. The beginning of an appeal has a suspension effect, unless otherwise decided by the Chair Arbitration Tribunal.

Article 31: Content of the appellant 's factum

1. The appellant's factum must include, at a minimum:
 - a) conclusions of the appellant;
 - b) identification of the contested decision, which shall be appended to the factum;
 - c) recitation of the facts and a brief legal justification;
 - d) evidence that will be submitted, particularly witnesses with names and addresses.
2. Eventual exhibits are to be appended to the appeal.

Article 32: Preliminary examination

1. The Arbitration Tribunal examines the admissibility of the appeal and rules on the following in particular:
 - a) the appeal is signed;
 - b) the appeal is submitted within the required delay; and
 - c) the payment of costs was done within the required delay; and
 - d) the appeal is receivable under the Rules.
2. In the case of an error described in paragraph 1, the Arbitration Tribunal shall consider the appeal inadmissible. If the appellant asserts extenuating circumstances in his factum which is deemed to justify a violation of any delay, the Arbitration Tribunal may deem the appeal admissible.
3. In the case of a reparable error, the Panel Chair may impose an additional delay on the appellant during which he/she must remedy said error. If the appellant fails to remedy such error, the Arbitration Tribunal shall deem the appeal inadmissible.

Article 33: Respondent's factum

1. The Arbitration Tribunal shall send a copy of the respondent's factum to the Panel of first instance and to any other respondent party.

Article 34: Withdrawal of appeal

1. The appellant may at any time withdraw his appeal. He/she may be responsible for any procedural costs.
2. In the case of a transaction, the Arbitration Tribunal may apportion the procedural costs among the parties.

VII. Provisional Measures

Article 35:

1. When it is likely that a violation was committed and a decision on the merits will not be rendered within a desirable period of time, the Chair of the Arbitration Tribunal may, in urgent cases, issue, modify or provisionally withdraw a sanction.
2. In these circumstances, he/she may take other provisional measures exercising care, in particular to ensure the adherence to a sanction already in force.

Article 36: Procedure

1. The Panel rules on the basis of the available evidence.
2. They are not required to hear the parties.

Article 37: Decision

1. The Panel shall render its decision within five (5) working days (Switzerland).

Article 38: Art. Duration

1. Provisional measures remain in effect until a final decision on the matter is rendered.
2. If a provisional sanction is issued, its duration will be calculated against the final sanction.

VIII. Final Provisions

Article 39: Coming to force

1. This rule shall take immediate effect.
2. It does not apply to any proceeding taking place when it shall come into force.

Article 40: Appeal to CAS

1. The request for arbitration must be filed with CAS no later than (21) twenty-one days following the receipt of the decision that is the subject of the arbitration procedure. In the case of recourses against provisional measures, requests for arbitration must be submitted within no more than (3) three days of receipt of the contested decision.

Adopted by the ITU Executive Board ITU November 28, 2015