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Ethics Panel

The Ethics panel as a part of the Arbitration Tribunal is an independent judicial body formed to adjudicate upon violations of the Code of Ethics, to impose sanctions for violations of the Code of Ethics.

The Ethics Panel consists of three (3) persons: two (2) members of the Arbitration Tribunal and one (1) Honorary member of the ITU. The Ethics Panel elects one of its members to be chair of the Panel.

Procedures and rules of the Ethics Panel

A Creation, Composition and Organisation

1. The ITU Ethics Panel is a panel within the Arbitration Tribunal.
2. The Ethics Panel shall be composed of two (2) members of the Arbitration Tribunal appointed by the Chair of the Arbitration Tribunal and one (1) ITU Honorary member appointed by the ITU Executive Board. The members of the Panel shall preferably have a good command of the language of English.
4. No member of the Ethics Panel may belong to any other ITU body.
5. Panel Hearings:

The Ethics Panel shall conduct hearings to adjudicate on proceedings before it. Ethics Panel hearings shall be confidential, with only the decision of the panel being made public.
6. The Ethics Panel shall be assisted for administrative purposes by the secretary of the Arbitration Tribunal.

B Powers

8. The Ethics Panel within the Arbitration Tribunal shall have the following powers under the Code:
 - (i) to appoint an independent and appropriately qualified investigator in each case to investigate alleged violations of the Code;
 - (ii) to adjudicate whether violations of the Code have been committed, (other than violations of the Anti-Doping Rules);
 - (iii) to determine for each proceeding:
 - (a) its procedure is in accordance with the Procedural Rules and
 - (b) any other procedural matters that are not set out in the Procedural Rules, in accordance with the rules of natural justice;



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(iv) to provisionally withdraw from any concerned person or organisation all or part of the rights, prerogatives and functions deriving from such person's or organisation's membership or status, throughout any inquiry.

(v) to adjudicate whether violations of any code of ethics of a Member Federation or Continental Confederation have been committed where the alleged violation has serious and important implications for the ITU;

(vi) to adjudicate on any appeals against any decision by a Member Federation's Ethics Panel (or body delegated by the Member Federation or Continental Confederation) with authority to determine violations of a Member Federation's or Continental Confederation code of Ethics;

(vii) to impose sanctions for violations of the Code;

(viii) to provide advisory opinions on any potential issue related to the Code;

(ix) to recommend amendments to the Code (and/or the Rules thereunder);

(x) to perform any other task related to the Code and the development and respect of ethical principles in the sport of Triathlon that might be referred to it by the Executive Board and/or the President of the World Triathlon.

C Sanctions

8. The Ethics Panel shall have the following powers:

(i) to caution or censure;

(ii) to issue fines;

(iii) to suspend a person (with or without conditions) or expel the person from office;

(iv) to suspend or ban the person from taking part in any Triathlon-related activity, including Events and Competitions;

(v) to remove any award or other honour bestowed on the person by the ITU;

(vi) to impose any sanctions as may be set out in specific Rules; and

(vii) to impose any other sanction that it may deem to be appropriate, including community service within Triathlon and/or restitution;

(viii) for any appeals under C16(v) above, to uphold, dismiss or refer back to the Member Federation or Continental Confederation for further consideration and to do so without procedural costs.

D Withdrawal of a Member



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9. An Ethics Panel member shall decline to participate in a matter or withdraw from any matter to which he has been appointed in any of the following circumstances:

- (i) if he is of the same nationality as a party involved in the matter (unless his appointment is agreed by the parties);
- (ii) if he has a direct or indirect interest in the matter;
- (iii) if he has already dealt with the case in a different function or capacity;
- (iv) if he has previously expressed an opinion about the matter or its outcome;
- (v) if there are any other serious grounds for questioning his independence or impartiality in the matter.

10. Members of the Ethics Panel who decline to participate in or who are required to withdraw from a matter shall notify the Chair of the Arbitration Tribunal immediately.

E Challenge to a Member

11. An Ethics Panel member may be challenged in any matter if the circumstances give rise to legitimate doubts over his independence or impartiality.

12. Challenges must be made within 7 days of the grounds for challenge becoming known.

The resolution of the challenges is in the exclusive power of the Chair of the Arbitration Tribunal (or the Deputy Chair as applicable). A petition shall be filed by the person making the challenge setting out the facts upon which the challenge is based.

13. The Chair of the Arbitration Tribunal (or the Deputy Chair as applicable) shall rule on the challenge after the challenged member has been invited to submit written comments in response. The Chair of the Arbitration Tribunal (or Deputy Chair) shall motivate his decision.

This decision could be appeal to the Arbitration Tribunal, within two days from the date of its notification to the parties.

F Confidentiality

14. The members of the Ethics Panel shall ensure that everything disclosed to them during the course of their duties remains confidential, including the facts of any case or issue and any deliberations or decisions that are taken.

15. The members of the Ethics Panel shall not disclose the existence of, or make any statements related to:

- (i) any matter that is pending before the Ethics Panel or



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(ii) any matter that has been concluded by the Ethics Panel, except to the extent stated in the final decision of the matter by the Ethics Panel.

G Independence

16. The members of the Ethics Panel shall carry out their functions and render their decisions entirely independently and must avoid any third-party influence. Members of the Ethics Panel shall immediately disclose any circumstances likely to affect their independence with respect to the parties.

I Exemption from Liability

17. Except in the case of bad faith or gross negligence, neither the members, nor the secretary, nor any investigator of the Ethics Panel may be held personally liable for any act or omission relating to any procedure.



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PROCEDURAL RULES OF THE ETHICS PANEL

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 Panel.

CHAPTER I - GENERAL PROVISIONS

Art. 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 ITU Anti-Doping Rules which shall be handled in accordance with Chapter 3 of the ITU Competition Rules.
2. These Procedural Rules also apply for any appeal made to the Arbitration Tribunal against by a Member's Ethics Panel with authority to determine violations of a Member's code of ethics.
3. These Procedural Rules shall also apply, where applicable, when the Ethics Panel 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 the complaint, investigation, notification, hearing and adjudication, unless stated otherwise in these Rules.

Art. 2 Seat

The seat of the Ethics Panel within the Arbitration Tribunal is the City of Lausanne, Switzerland.

However, should circumstances so warrant, and after consultation with all parties, the Chair of the Ethics Panel may decide to hold a hearing in another place.

Art 3. Parties

Only accused persons are considered parties.

Art 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.



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Art 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 Panel may request that the parties' representatives submit a duly signed power of attorney.



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Art 6. Notifications and communications

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

Art 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 Panel 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 Panel and with any order to appear in person before the Investigator or the Ethics Panel.
3. If the parties fail to co-operate, the Investigator or Ethics Panel as the case may be may reach a decision based on the file in possession, taking into account the conduct of the parties.

Art 8. Language used in Proceedings

1. The language used in Proceedings shall be in English.
2. In hearings, the parties are entitled to choose a language that they understand. The parties may choose another language than English 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 a language other than English shall be filed together with a certified translation in the language of the procedure.

Art 9. Notification of decisions

Decisions of the Ethics Panel shall be notified in writing and by any means permitting proof of receipt.

Art 10. Effect of decisions

Decisions of the Ethics Panel shall come into force when they are communicated.

Art 11. Evidence & Proof

Types of evidence



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1. The Ethics Panel 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 to be reliable.

2. Types of proof evidence shall include: the investigator’s report and other form 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.



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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.

Art 12. Time limits

1. Any time limits fixed or notified directly to the parties by the Investigator or Chair of the Arbitration Tribunal or the Ethics Panel shall begin from the day after receipt of the notification. Official holidays and non-business days in Lausanne, Switzerland are not included in the calculation of time limits.
2. Any time limits fixed or notified are respected if the communications by the parties, by the Investigator or the Chair Arbitration Tribunal or the Ethics Panel are sent before midnight on the last day on which such time limits expire; always considering CET as the reference. 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 Chair of the Arbitration Tribunal or Ethics Panel may extend the time limits provided in these Procedural Rules if the circumstances warrant.

CHAPTER II - SPECIAL PROVISIONS

Art 13. Rules applicable to the disciplinary proceedings

Complaint

1. Any person subject to the Code may file a complaint regarding potential violations of the Code with the Chair of the Arbitration Tribunal. Complaints must be submitted in writing, including available evidence.
2. On receipt of a complaint, the secretary of the Arbitration Tribunal shall submit it to the Chair of the Arbitration Tribunal.



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3. If the Chair of the Arbitration Tribunal considers the complaint to be frivolous or vicious he may close the Proceedings.
4. If the evidence submitted with the complaint is found by the Chair of the Arbitration Tribunal to establish a prima facie case, the Chair shall cause an investigation to be commenced.
5. The Chair of the Arbitration Tribunal shall decide on the initiation of investigation proceedings. Grounds do not need to be given for the initiation of investigation proceedings and the decision may not be contested.
6. The Arbitration Tribunal shall appoint an investigator in each case.

Investigation

7. The Chair of the Ethics Panel within the Arbitration Tribunal shall assign the investigation to the appointed Investigator. The Investigator shall direct the investigation proceedings.

The parties shall be notified 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.

8. When the investigation has been concluded, the Investigator shall so inform the Ethics Panel.
9. The Investigator shall provide the Chair of the Arbitration Tribunal 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. The Investigator shall make a recommendation as to whether the matter should proceed to adjudication.

Decision to proceed to adjudication

10. The Chair of the Ethics Panel shall appoint a member of the Ethic Panel to review the Investigator's final report and the investigation files.
11. If the member of the Ethics Panel deems that there is insufficient evidence to proceed, he may make a recommendation to the Chair of the Ethics Panel, who may close the case. If necessary, the member of the Ethics Panel may return the final report to the Investigator for amendment or completion.
12. If the member of the Ethics Panel 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 Chair of the Ethics Panel, who shall direct that adjudicatory proceedings be commenced.
13. The member of the Ethics Panel who reviewed the Investigator's final report and the investigation files shall not take part in any further aspect of the Proceedings.



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Notification of charge

14. If the Chair of the Ethics Panel 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;
- (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.



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Adjudication

Formation of the Panel

15. The Ethics Panel will hear the Panel. The appointed members shall be independent of the parties and shall not be from the same country as the parties, and have had no prior involvement with the Proceedings. The members of the Panel shall have the availability required to expeditiously 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 Proceeding that are not set out in the Rules, in according with the principles of natural justice.

Submissions by the parties

17. The Chair of the Panel shall set time limits for the parties to submit briefs containing a defence of lack of jurisdiction, 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 Chair of the Panel shall have the discretion to determine whether a hearing shall be held. Provided, however, if requested by any of the Parties a hearing shall be held.

19. Hearings shall be confidential and not open to the public.

20. The Chair of the Panel shall preside of the hearing.

21. The procedure followed at the hearing, including the calling of witnesses referred in the Investigator's report, shall be determined by the Chair of the Panel, provided that the hearing is conducted in a manner that offers the parties a fair and reasonable opportunity to present evidence (including the right to call and to cross-examine witnesses, by telephone or video-conference, where necessary), to address the Panel and present their case. It is the responsibility of the parties to ensure the appearance of the witnesses requested by them and to pay all costs and expenses associated with their appearance.

22. The Chair of the Panel shall allow the parties against whom Proceedings are being conducted a final opportunity to speak.

Deliberations and decisions

23. After the hearing, the Panel shall withdraw to deliberate on its decision in private. If there is no hearing, the Chair shall schedule the deliberations. If circumstances permit, the deliberations and



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decision-taking may be conducted via telephone conference, video conference or any other similar method.

24. Decisions shall be taken by a majority of the Panel.

25. The Panel shall announce its decision in writing, with reasons, as soon as possible after the conclusion of the hearing. 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 grounds of the decision, the provisions on which the decision was based, the terms of the decision and notice of the provisions for appeal. The decision shall be signed by the Chair of the Panel and notified to the parties, with a copy to the ITU and, if applicable to the relevant Member Federation and/or Continental Confederation concerned. The decision shall be made public.

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 Chair of the Panel shall have the discretion, in circumstances where he considers that the integrity of the sport could otherwise be seriously undermined, to provisionally suspend a party at any time following the formation of the Panel pending the Panel's final decision. A copy of any written notice to provisionally suspend a party will, at the same time, be sent by the Arbitration Tribunal to the ITU and, if applicable, to the relevant Member and/or Continental Confederation concerned.

28. The Chair of the Panel may summon the parties to a hearing on short notice or set a short time limit in which to submit written statements. The Chair shall have the discretion to determine the appropriate procedure to be followed at any such hearing, provided that the parties are afforded a fair and reasonable opportunity to present evidence, and to present their case.

29. A provisional suspension shall be valid for a maximum of 90 days. In exceptional circumstances, the provisional suspension may be extended by the Chair of the Panel for an additional period not to exceed a further 90 days.

30. The duration of provisional suspensions shall be taken into account in the final decision.

Review

31. The Arbitration Tribunal may reopen a case that has been closed following a final binding decision if significant new facts or evidence are discovered that, despite the investigation, could not have been produced sooner and would 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



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proof. The limitation period for submitting a request for review is one year after the date of the decision.

Art 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 Panel with authority to determine violations of a Member's code of ethics.

Statement of Appeal

2. The Appellant shall submit to the Arbitration Tribunal a statement of appeal containing:

- (i) the name and full address of the Respondent;
- (ii) a copy of the decision appealed against;
- (iii) the Appellant's request for relief;
- (iv) if applicable, an application to stay the execution of the decision appealed against, together with reasons;
- (v) a copy of the provisions of the statutes providing for appeal to the Ethics Panel.
- (vi) Upon filing the statement, the Appellant shall pay the fee of USD 500

Time Limit

3. The time limit for an appeal shall be 15 days from the receipt of the decision appealed against.

Appeal Panel

4. On receipt of the Statement of Appeal, the Chair of the Arbitration Tribunal 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 Arbitration Tribunal a brief stating the facts and legal arguments giving rise to an appeal, together with all exhibits and specifications of other evidence upon which he 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 Chair 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 Panel an answer containing:

- (i) a statement of defence;



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- (ii) any defence of lack of jurisdiction;
- (iii) any counterclaim;
- (iv) 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 Chair of the Panel decides otherwise.

Appeal and answer complete

7. Unless the parties agree otherwise of the Chair 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.



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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 Chair 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, the Panel may nevertheless proceed with the hearing.

Art 15. Rules applicable to the advisory opinions

1. Any member of the ITU Family may ask the Arbitration Tribunal for an advisory opinion about any potential issue related to the Code. The request for an opinion shall be addressed to the Arbitration Tribunal and accompanied by any document or other evidence likely to assist the Arbitration Tribunal in giving the opinion.

2. When a request is filed, the Chair of the Arbitration Tribunal shall review whether it may be the subject of an opinion. If in the affirmative, he shall proceed and the Ethics Panel shall render its opinion.

3. The advisory opinion may be published with the consent of the person who requested it.

An advisory opinion does not constitute a binding decision.

Art 16. Procedural costs

1. In general, the procedural costs are made up of the costs and expenses of the investigation and adjudicatory proceedings, excluding 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 15.2 above, the procedural costs shall be borne by the ITU.

4. In the event of closure of proceedings or acquittal, the procedural costs shall be borne by the ITU. 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 or on account of the conduct of the complainant in the course of the Proceeding.



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5. If sanctions are imposed, the procedural costs shall be borne by the party that has been sanctioned. The procedural costs may be reduced or waived in exceptional circumstances, in particular taking into account the party's financial circumstances.

Art 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 English.

3. The Procedural Rules may be amended from time to time in accordance with the ITU Constitution.

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 Swiss 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