

Lack of liability of Doping control officers

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Lack of liability of DCOs

- Legal liability of Athletes, Coaches and DCOs — problem of inequality;
- Ways of improvement of the DCO's rights and obligations;
- Most notable cases
 - Victor Troicki v. ITF
 - Lizzie Armitstead v. UKAD
 - Russian Coach v. Rusada

Legal liability of Athletes and Coaches



- Liability is provided by WADA Code;
- Sanctions are provided in Articles 10-11 of the WADA Code;
- Sanctions may impose a lifetime ban;
- Coaches and Athletes are presumed guilty until proven otherwise.

Legal liability of Doping control officers

— Potential sources:

- WADA Code
- International Standard for Testing and Investigations (ISTI)
- Competitions' Rules

However no sources actually provide sanctions for DCOs.



Consequences of sanctions' inequality

- Athletes and Coaches are not protected against the faults of the DCOs;
 - Lack of liability for DCOs is not recognized by the court of law — DCOs are not the subjects of the sports' disputes;
 - Emotional damages on the doping matters are not reimbursable.
- Therefore => DCOs can't be held liable for Athletes and Coaches ineligibilities.



Ways of improvement



- basic sources of sport law can be adapted to equalize the sanctions;
- sports' disputes can create the new area for sanctions;
- creation of the supervisory body in WADA, which may protect Athlete's rights;
- provision of the liability for DCOs.

Most notable cases

Victor Troicki v. ITF



- Troicki claimed that a Doping Control Officer indicated to him that he could take the test the next day, a claim she denied;
- CAS did note she could have done a better job explaining to him the consequences of missing the test;
- CAS reduced Troicki's suspension from 18 months to 12 months.

Most notable cases

Lizzie Armitstead v. UKAD



- Drug testers from UK Anti-Doping (UKAD) could not find the world road race champion on three occasions during the year, resulting in an automatic suspension;
- Armitstead said the violation occurred after she had her phone on silent at her team hotel during the competition Sweden, but that testers should easily have been able to find her when they arrived at the location and simply did not look for her properly;
- The Briton faced a possible two-year suspension for missing three drugs tests in a 12-month period, but one of them has been declared void by Ad Hoc Commission in Rio.

Most notable cases

Russian Coach v. Rusada



DECISION RENDERED BY THE SPORTS ARBITRATION COURT AT THE CHAMBER OF COMMERCE AND INDUSTRY OF THE RUSSIAN FEDERATION ON 17 MAY 2016

- Coach was sanctioned with a four-year ineligibility period for the alleged change-up of an Athlete during drug test;
- The sanction was overturned on the basis of the forgery of the Protocol by the DCO and chaperone;
- DCO and chaperone were not sanctioned.

Conclusions

- current system of sanctions in WADA has room for improvement;
- the problem of inequality lies beneath DCO liability;
- the main trigger of change is the improvement of current sources of law;
- cases of DCOs' faults are piling up in CAS, however are not often resolved in Athletes' favour.



Sources

- Anti-doping – the end of sport
Verner Møller & Paul Dimeo
International Journal of Sport Policy and Politics Volume 6, Issue 2, July 2014
Pages: 259-272
- Surveillance and control in sport: a sociologist looks at the WADA whereabouts system
Ivan Waddington
International Journal of Sport Policy and Politics Volume 2, 2010 - Issue 3
Pages 255-274
- ANTI-DOPING AND HUMAN RIGHTS IN SPORT: THE CASE OF THE AFL AND THE WADA CODE
Paul Horvath
Monash University Law Review (Vol 32, No 2 '06)



Thank you for your attention!