

APPENDIX 14		Changes incorporating the CAS Anti-Doping Division into the FISA Rules (5 November 2019)
BYE-LAWS TO RULE 100 – ANTI-DOPING		BYE-LAWS TO RULE 100 – ANTI-DOPING
5.2.2.1 Responsibility for FISA Testing		5.2.2.1 Responsibility for FISA Testing
The FISA antidoping department (ADD) will carry out the operational duties of the FISA antidoping programme independently of elected or appointed officials. It reports to the Executive Director with full oversight of the FISA antidoping Committee. It will provide regular updates to the FISA Sports Medicine Commission, is accountable to the Executive Committee and works in accordance with policies in FISA’s Statutes, Rules, Regulations and related Bye-Laws. The ADD shall determine policies in relation to the test distribution plan, the management of the biological passport programme and the registered testing pool. It shall manage the testing programme, TUE applications, the whereabouts programme and results management procedures. Results management procedures will include the management of Adverse Analytical Findings. Communication with the laboratory and the preparation for the hearing will be the responsibility of the ADD and an external legal advisor.		The FISA antidoping department (ADD) will carry out the operational duties of the FISA antidoping programme independently of elected or appointed officials. It reports to the Executive Director with full oversight of the FISA antidoping Committee. It will provide regular updates to the FISA Sports Medicine Commission, is accountable to the Executive Committee and works in accordance with policies in FISA’s Statutes, Rules, Regulations and related Bye-Laws. The ADD shall determine policies in relation to the test distribution plan, the management of the biological passport programme and the registered testing pool. It shall manage the testing programme, TUE applications, the whereabouts programme and results management procedures. Results management procedures will include the management of Adverse Analytical Findings. Communication with the laboratory will be the responsibility of the ADD and an external legal advisor.
Article 7 – Results management		Article 7 – Results management
7.10 Resolution Without a Hearing		7.10 Resolution Without a Hearing
7.10.1 A Rower or other Person against whom an anti-doping rule violation is asserted may admit that violation at any time, waive a hearing, and accept the Consequences that are mandated by these Anti-Doping Bye-Laws or where some discretion as to Consequences exists under these Anti-Doping Bye-Laws as have been offered by the FISA Hearing Panel.		7.10.1 A Rower or other Person against whom an anti-doping rule violation is asserted may admit that violation at any time, waive a hearing, and accept the Consequences that are mandated by these Anti-Doping Bye-Laws or where some discretion as to Consequences exists under these Anti-Doping Bye-Laws as have been offered by the FISA Executive Director.
7.10.2 Alternatively, if the Rower or other Person against whom an anti-doping rule violation is asserted fails to dispute that assertion within the deadline specified in the notice sent by FISA asserting the violation then he shall be deemed to have admitted the violation, to have waived a hearing, and to have accepted the Consequences that are mandated by these Anti-Doping Bye-Laws or where some discretion as to Consequences exists under these Anti-Doping Bye-Laws as have been offered by the FISA Hearing Panel.		7.10.2 Alternatively, if the Rower or other Person against whom an anti-doping rule violation is asserted fails to dispute that assertion within the deadline specified in the notice sent by FISA asserting the violation then he shall be deemed to have admitted the violation, to have waived a hearing, and to have accepted the Consequences that are mandated by these Anti-Doping Bye-Laws or where some discretion as to Consequences exists under these Anti-Doping Bye-Laws as have been offered by the FISA Executive Director.

<p>7.10.3 In cases where Articles 7.10.1 or Article 7.10.2 apply, a hearing before a hearing panel shall not be required. Instead, FISA shall promptly issue a written decision confirming the commission of the anti-doping rule violation and the Consequences imposed as result, and setting out the full reasons for any period of Ineligibility imposed, including (if applicable) a justification for why the maximum potential period of Ineligibility was not imposed. FISA shall send copies of that decision to other Anti-Doping Organisations with a right to appeal under Article 13.2.3 and shall Publicly Disclose that decision in accordance with Article 14.3.2.</p>		<p>7.10.3 In cases where Articles 7.10.1 or Article 7.10.2 apply, a hearing before the CAS ADD shall not be required. Instead, FISA shall promptly issue a written decision confirming the commission of the anti-doping rule violation and the Consequences imposed as result, and setting out the full reasons for any period of Ineligibility imposed, including (if applicable) a justification for why the maximum potential period of Ineligibility was not imposed. FISA shall send copies of that decision to other Anti-Doping Organisations with a right to appeal under Article 13.2.3 and shall Publicly Disclose that decision in accordance with Article 14.3.2.</p>
<p>Article 8 – Right to a fair hearing</p>		<p>Article 8 – Right to a fair hearing</p>
<p>[NOTE: According to Article 8.1 of the Code, each Anti-Doping Organisation with responsibility for results management shall provide a hearing process for any Athlete or other Person who is asserted to have committed an anti-doping rule violation that is consistent with the principles outlined in Article 8 of the Code.]</p>		<p>[NOTE: According to Article 8.1 of the Code, each Anti-Doping Organisation with responsibility for results management shall provide a hearing process for any Athlete or other Person who is asserted to have committed an anti-doping rule violation that is consistent with the principles outlined in Article 8 of the Code.]</p>
<p>8.1 Principles for a Fair Hearing</p>		<p>8.1 Principles for a Fair Hearing</p>
<p>8.1.1 When FISA sends a notice to a Rower or other Person asserting an anti-doping rule violation, and the Rower or other Person does not waive a hearing in accordance with Article 7.10.1 or Article 7.10.2, then the case shall be referred to the FISA Doping Hearing Panel for hearing and adjudication.</p>		<p>8.1.1 When FISA sends a notice to a Rower or other Person asserting an anti-doping rule violation, and the Rower or other Person does not waive a hearing in accordance with Article 7.10.1 or Article 7.10.2, then the case shall be referred to the CAS ADD for hearing and adjudication of any violation and sanction.</p>
<p>8.1.2 Hearings shall be scheduled and completed within a reasonable time. Hearings held in connection with Events may be conducted by an expedited process where permitted by the hearing panel.</p>		<p>8.1.2 Hearings shall be scheduled and completed within a reasonable time. Hearings held in connection with Events may be conducted by an expedited process where permitted by the hearing panel.</p>
<p>[Comment to Article 8.1.2: For example, a hearing could be expedited on the eve of a major Event where the resolution of the anti-doping rule violation is necessary to determine the Athlete’s eligibility to participate in the Event, or during an Event where the resolution of the case will affect the validity of the Athlete’s results or continued participation in the Event.]</p>		<p>[Comment to Article 8.1.2: For example, a hearing could be expedited on the eve of a major Event where the resolution of the anti-doping rule violation is necessary to determine the Athlete’s eligibility to participate in the Event, or during an Event where the resolution of the case will affect the validity of the Athlete’s results or continued participation in the Event.]</p>
<p>8.1.3 The FISA Doping Hearing Panel shall determine the procedure to be followed at the hearing.</p>		<p>8.1.3 CAS ADD shall determine the procedure to be followed at the hearing in accordance with the provisions applicable before CAS.</p>
<p>8.1.4 WADA and the Member Federation of the Rower or other Person may attend the hearing as observers. In any event, FISA shall keep WADA fully apprised as to the status of pending cases and the result of all hearings.</p>		<p>8.1.4 WADA and the Member Federation of the Rower or other Person may attend the hearing as observers. In any event, FISA shall keep WADA fully apprised as to the status of pending cases and the result of all hearings.</p>

<p>8.1.4.1 The FISA Doping Hearing Panel shall consist of three persons appointed by the Executive Director of FISA in each case. It must include at least one lawyer. It must also include an external expert in the field of antidoping. This member must not have or have had any role in the governance of FISA. This external member may be a member of a “pool” of potential hearing panel members from different areas of expertise. The persons chosen by the Executive Director of FISA to be on a Hearing Panel will be selected so that there is no conflict of interest and appropriate expertise given the nature of the case. The FISA Doping Hearing Panel can request the written advice and/or presence of a medical or laboratory expert who is entitled to ask questions.</p>		
<p>8.1.5 The FISA Doping Hearing Panel shall act in a fair and impartial manner towards all parties at all times. All hearings shall respect the following principles:</p>		<p>8.1.5 CAS ADD shall act in a fair and impartial manner towards all parties at all times. All hearings shall respect the following principles:</p>
<ul style="list-style-type: none"> • a timely hearing; 		<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • fair and impartial hearing panel; 		<ul style="list-style-type: none"> • fair and impartial hearing panel;
<ul style="list-style-type: none"> • the right to be represented by counsel at the Rower’s or Person’s own expense; 		<ul style="list-style-type: none"> • the right to be represented by counsel at the Rower’s or Person’s own expense;
<ul style="list-style-type: none"> • the right to be informed in a fair and timely manner of the asserted anti-doping rule violation; 		<ul style="list-style-type: none"> • the right to be informed in a fair and timely manner of the asserted anti-doping rule violation;
<ul style="list-style-type: none"> • the right and a minimum of 10 days following notification to respond to the asserted anti-doping rule violation and resulting Consequences; 		<ul style="list-style-type: none"> • the right to respond to the asserted anti-doping rule violation and resulting Consequences;
<ul style="list-style-type: none"> • the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing 		<ul style="list-style-type: none"> • the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing
<p>panel’s discretion to accept testimony by telephone or written submission);</p>		<p>panel’s discretion to accept testimony by telephone or written submission);</p>
<ul style="list-style-type: none"> • the Rower’s or Person’s right to an interpreter at the hearing, with the hearing panel to determine the identity, and responsibility for the cost of the interpreter; 		<ul style="list-style-type: none"> • the Rower’s or Person’s right to an interpreter ;
<ul style="list-style-type: none"> • if requested, the obligation to appear in person before the panel. The panel can request that the rower testify alone (without a representative but with an interpreter engaged by FISA) before the panel. 		<ul style="list-style-type: none"> •

<ul style="list-style-type: none"> the right to appear before a panel or to present an explanation of the circumstances and events associated with the test results either orally or in writing; and 		<ul style="list-style-type: none"> the right to appear before a panel or to present an explanation of the circumstances and events associated with the test results either orally or in writing; and
<ul style="list-style-type: none"> a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any period of Ineligibility. 		<ul style="list-style-type: none"> a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any period of Ineligibility.
8.1.6		8.1.6
The principles contained in Article 14.3.6 shall be applied to all cases involving a Minor. The Mandatory Public Reporting requirement does not apply where the Rower or other Person who has been found to have committed an anti-doping rule violation is a Minor.		The principles contained in Article 14.3.6 shall be applied to all cases involving a Minor. The Mandatory Public Reporting requirement does not apply where the Rower or other Person who has been found to have committed an anti-doping rule violation is a Minor.
8.1.7 The appointed members shall have had no prior involvement with the case and shall not have the same nationality as the Rower or other Person alleged to have violated these Anti- Doping Bye-Laws.		
8.1.8 FISA shall keep WADA fully apprised as to the status of pending cases and the result of all hearings.		8.1.7 FISA shall keep WADA fully apprised as to the status of pending cases and the result of all hearings.
8.1.9 A Rower or other Person may forego attendance at a hearing by acknowledging the Anti-Doping Rule violation and accepting Consequences consistent with Articles 9 and 10 as proposed by FISA. The right to a hearing may be waived either expressly or by the Rower's or other Person's failure to challenge FISA's assertion that an anti-doping rule violation has occurred within 21 days or failure to confirm within 21 days their attendance at the hearing. Where no hearing occurs, FISA shall submit to the persons described in Article 13.2.3 a reasoned decision explaining the action taken.		8.1.89 A Rower or other Person may forego attendance at a hearing by acknowledging the Anti-Doping Rule violation and accepting Consequences consistent with Articles 9 and 10 as proposed by FISA. The right to a hearing may be waived either expressly or by the Rower's or other Person's failure to challenge FISA's assertion that an anti-doping rule violation has occurred within 21 days or failure to confirm within 21 days their attendance at the hearing. Where no hearing occurs, FISA shall submit to the persons described in Article 13.2.3 a reasoned decision explaining the action taken.
8.2 Decisions		8.2 Decisions
8.2.1 At the end of the hearing, or on a timely basis thereafter, the FISA Doping Hearing Panel shall issue a written decision that includes the full reasons for the decision and for any period of Ineligibility imposed, including (if applicable) a justification for why the greatest potential Consequences were not imposed.		8.2.1 At the end of the hearing, or on a timely basis thereafter, the CAS ADD shall issue a written decision that includes the full reasons for the decision and for any period of Ineligibility imposed, including (if applicable) a justification for why the greatest potential Consequences were not imposed.
8.2.2 The decision may be appealed to CAS as provided in Article 13. Copies of the decision shall be provided to the Rower or other Person and to other Anti-Doping Organisations, with a right to appeal under Article 13.2.3.		8.2.2 The decision may be appealed to CAS Appeals Arbitration Division as provided in Article 13. Copies of the decision shall be provided to the Rower or other Person and to other Anti-Doping Organisations, with a right to appeal under Article 13.2.3.

8.3 Single Hearing Before CAS		
Cases asserting anti-doping rule violations may be heard directly at CAS, with no requirement for a prior hearing, with the consent of the Rower, FISA, WADA and any other Anti-Doping Organisation that would have had a right to appeal a first instance hearing decision to CAS.		
[Comment to Article 8.3: Where all of the parties identified in this Article are satisfied that their interests will be adequately protected in a single hearing, there is no need to incur the extra expense of two hearings. An Anti-Doping Organisation that wants to participate in the CAS hearing as a party or as an observer may condition its approval of a single hearing on being granted that right.]		
Article 10 – Sanctions on individuals		Article 10 – Sanctions on individuals
10.9 Allocation of CAS Cost Awards and Forfeited Prize Money		10.9 Allocation of CAS Cost Awards and Forfeited Prize Money
The priority for payment of CAS cost awards and forfeited prize money shall be: first, payment of costs awarded by CAS; second, reallocation of forfeited prize money to other Rowers; and third, reimbursement of the expenses of FISA.		The priority for payment of CAS cost awards and forfeited prize money shall be: first, payment of costs awarded by CAS; second, reallocation of forfeited prize money to other Rowers; and third, reimbursement of the expenses of FISA.
Article 13 – Appeals		Article 13 – Appeals
13.1.2 CAS Shall Not Defer to the Findings Being Appealed		13.1.2 CAS Shall Not Defer to the Findings Being Appealed
In making its decision, CAS need not give deference to the discretion exercised by the body whose decision is being appealed.		In making its decision, CAS need not give deference to the discretion exercised by the body whose decision is being appealed.
[Comment to Article 13.1.2: CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.]		[Comment to Article 13.1.2: CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.]
13.1.3 WADA Not Required to Exhaust Internal Remedies		13.1.3 WADA Not Required to Exhaust Internal Remedies
Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within FISA's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the FISA process.		Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within FISA's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the FISA process.
13.2.1 Appeals Involving International-Level Rowers or International Events		13.2.1 Appeals Involving International-Level Rowers or International Events
In cases arising from competition in an International Event or in cases involving International-Level Rowers, the decision may be appealed exclusively to CAS.		In cases arising from competition in an International Event or in cases involving International-Level Rowers, the decision may be appealed exclusively to CAS.

[Comment to Article 13.2.1: CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.]	[Comment to Article 13.2.1: CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.]
13.2.2 Appeals Involving Other Rowers or Other Persons	13.2.2 Appeals Involving Other Rowers or Other Persons
In cases where Article 13.2.1 is not applicable, the decision may be appealed to a national-level appeal body, being an independent and impartial body established in accordance with rules adopted by the NADO having jurisdiction over the Rower or other Person. The rules for such appeal shall respect the following principles:	In cases where Article 13.2.1 is not applicable, the decision may be appealed to a national-level appeal body, being an independent and impartial body established in accordance with rules adopted by the NADO having jurisdiction over the Rower or other Person. The rules for such appeal shall respect the following principles:
<ul style="list-style-type: none"> • a timely hearing; 	<ul style="list-style-type: none"> • a timely hearing;
<ul style="list-style-type: none"> • a fair and impartial hearing panel; 	<ul style="list-style-type: none"> • a fair and impartial hearing panel;
<ul style="list-style-type: none"> • the right to be represented by counsel at the Person’s own expense; and 	<ul style="list-style-type: none"> • the right to be represented by counsel at the Person’s own expense; and
<ul style="list-style-type: none"> • a timely, written, reasoned decision. 	<ul style="list-style-type: none"> • a timely, written, reasoned decision.
If the NADO has not established such a body, the decision may be appealed to CAS in accordance with the CAS Code.	If the NADO has not established such a body, the decision may be appealed to CAS in accordance with the CAS Code.
I. WADA.	I. WADA.
For cases under Article 13.2.2: WADA, the IOC, the IPC and FISA shall also have the right to appeal to CAS with respect to the	For cases under Article 13.2.2: WADA, the IOC, the IPC and FISA shall also have the right to appeal to CAS with respect to the
decision of the national-level appeal body. Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the Anti-Doping Organisation whose decision is being appealed and the information shall be provided if CAS so directs.	decision of the national-level appeal body. Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the Anti-Doping Organisation whose decision is being appealed and the information shall be provided if CAS so directs.
Notwithstanding any other provision herein, the only Person who may appeal from a Provisional Suspension is the Rower or other Person upon whom the Provisional Suspension is imposed.	Notwithstanding any other provision herein, the only Person who may appeal from a Provisional Suspension is the Rower or other Person upon whom the Provisional Suspension is imposed.
13.3 Failure to Render a Timely Decision by FISA	13.3 Failure to Render a Timely Decision by FISA
Where, in a particular case, FISA fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if FISA had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines that an anti-doping rule violation was committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA’s costs and attorney fees in prosecuting the appeal shall be reimbursed to WADA by FISA.	Where, in a particular case, FISA fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if FISA had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines that an anti-doping rule violation was committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA’s costs and attorney fees in prosecuting the appeal shall be reimbursed to WADA by FISA.

Definitions		Definitions
CAS: The Court of Arbitration for Sport.		CAS: The Court of Arbitration for Sport.
		CAS ADD : Anti-Doping Division of the Court of Arbitration for Sport