



# **EAA Court Procedural Rules**

**April 2017**

**Except where inappropriate to the context, the masculine gender used in this Rules shall include the feminine.**

## **1. Application of these Procedural Rules**

- 1.1 These Procedural Rules apply to all cases where the EAA Court is called to decide any issues as set out in Article 32 of the EAA Constitution or when the EAA Court is acting as Ethics Commission under Article 34 of the EAA Constitution. Where there is no specific exception, the Rules apply to both proceedings.
- 1.2 These Rules also cover the investigation proceeding managed by the Case Manager.

## **2. Jurisdiction of the EAA Court (Art. 32 EAA Constitution)**

- 2.1 The following persons and entities shall be subject to the jurisdiction of the EAA Court:
  - a) The EAA;
  - b) The Members and their Officials;
  - c) Any EAA officials such as the EAA Council Members and Members of EAA Commissions;
  - d) Officials at a European Athletics Competition;
  - e) Licensed Athletes;
  - f) Coaches;
  - g) Employees of the EAA, the Members and the organisers of athletics events.
- 2.2 According to Art. 32 of the EAA Constitution, the EAA Court shall decide the following issues:
  - a) Violations of the Constitution or other regulations of the EAA, including disciplinary disputes;
  - b) Violations of principle of fair play or the applicable competition rules of the EAA or the IAAF;
  - c) Disputes concerning the admission of athletes to EAA Competitions;
  - d) Disputes among members or between members and the EAA, including disputes about the member's financial obligations towards the EAA;

- e) Disputes involving athletes support personnel and other persons according to Article 60.3 of the IAAF Competition Rules;
  - f) Any other dispute for which no other dispute resolution body has been provided by the EAA Constitution or the IAAF Constitution.
- 2.3 The EAA Court shall also act as Ethics Commission for the assessment of alleged breaches of the EAA Code of Ethics by any person and entities to which that Code applies.
- 2.4 The EAA Court shall not decide on any matters or disputes subject to the IAAF Anti-Doping Rules.

### **3. Seat**

The seat of the EAA Court shall be Lausanne/Switzerland. Hearings or deliberations may be held at any other place.

### **4. Composition of the Panel**

- 4.1 In case of a dispute which falls within the jurisdiction of the EAA Court, the Chairperson shall appoint a Panel of three persons, consisting of the Chairperson of the EAA Court and two members appointed by the Chairperson.
- 4.2 The EAA Court may proceed with the Chairperson as a single judge if the parties agree.
- 4.3 The members of the Panel shall act independently and shall have no personal involvement in the matter in dispute. In case of a conflict of interests the Chairperson shall be substituted by the Vice-Chairperson.

### **5. Language**

- 5.1 The working language of the EAA Court shall be English. The EAA Court may decide to proceed in another language deemed appropriate.
- 5.2 The Chairperson may decide that documents provided to the EAA Court in another language than English must be accompanied by a certified translation into English. In the case of divergence, the English version shall prevail.

### **6. Due Process and other procedural issues**

- 6.1 Throughout the proceedings before the EAA Court, the due process rights and the right of equal treatment of the parties shall be respected.

- 6.2 To the extent not provided otherwise herein, the Chairperson shall determine in his own discretion any procedural issues that arise before the EAA Court.

## **7. Initiating a proceeding**

### 7.1 Initiating a proceeding before the EAA Court

- 7.1.1 Any person and entity subject may submit a claim in writing to the EAA Head Office immediately (but no later than 30 days) after he has obtained knowledge of the fact or decision which gives rise to the claim. The claim shall be reasoned, accompanied by all available evidence and a list of all witnesses which shall be heard.
- 7.1.2 The claimant shall pay a non-reimbursable registration fee of CHF 1'500 into the EAA bank account within the same deadline as mentioned in Art. 7.1. The proceeding shall not advance unless the registration fee has been received in due time.
- 7.1.3 The Head Office shall notify the Chairperson of the receipt of the claim and the registration fee and forward the claim without delay to the Chairperson of the EAA Court.
- 7.1.4 Upon receipt of the claim, the Chairperson shall
- a) determine on a prima facie basis whether the EAA Court appears to have jurisdiction to hear the case;
  - b) appoint on a rotation base two additional members to the Panel;
  - c) forward the claim to the respondent named in the claim and inviting it to provide a written answer within 14 days.

### 7.2 Initiating a procedure under the Code of Ethics

- 7.2.1 The Case Manager shall investigate potential breaches of the Code of Ethics based on a notification or on its own initiative at its full and independent discretion. A notification can be submitted by anyone and may also be made on an anonymous basis.
- 7.2.2 If the Case Manager deems that there is no prima facie case, it may close the case without referring it to the EAA Court acting as Ethics Commission. If a prima facie case is found, the Case Manager shall open investigation proceedings and conduct appropriate inquiries. The Case Manager shall examine aggravating and mitigating circumstances equally.

- 7.2.3 The Case Manager shall inform all persons which are subject to the investigation that investigation proceedings have been opened after a prima facie case has been found.
- 7.2.4 Once the investigation has been completed, the Case Manager shall prepare a final report on the investigation proceedings and – if there is sufficient evidence of a breach of the Code of Ethics - forward it together with the investigation files to the EAA Court acting as Ethics Commission and present the case before the EAA Court acting as Ethics Commission if a hearing is conducted. The Case Manager may also decide to close the case if there is no sufficient evidence of a breach of the Code of Ethics.
- 7.2.5 The Case Manager informs the Chairperson without delay on all cases which he or she has decided to close.
- 7.2.6 If proceedings have been closed, the Case Manager may reopen the investigation if new facts or evidence come to light that suggest a potential breach.
- 7.2.7 A notifier's desire to remain anonymous shall be respected. The notifier is not considered to be a party in the proceedings and has no right to file submissions or appeals against decisions of the Case Manager. The notifier may however accept to be a witness in the proceedings before the EA Court acting as Ethics Commission.

## **8. Written submissions**

- 8.1 All communication to the EAA Court shall be sent to the EAA Head Office which shall also act as court secretariat, except communication in connection with a proceeding concerning a breach of the Code of Ethics which shall be directed to the Case Manager.
- 8.2 The claim and the answer and any further submission or communication by the parties, the Case Manager or the EAA Court may be filed by registered mail, courier, fax or email, sent on the last day of the applicable time limit. The reception of any written submission shall be confirmed by return.
- 8.3 The Chairperson may invite the parties and or the Case Manager to a further exchange of written submissions if deemed necessary or if specific questions shall be answered. Otherwise, further written submissions will not be taken into account.

## **9. Provisional measures**

- 9.1 Upon request of a party or the Case Manager, the EAA Court may issue provisional measures. Such measures may be ordered by the Chairperson.
- 9.2 The provisional measures may be made dependent on the payment of a fee by the applying party.

## **10. Hearing**

- 10.1 The Chairman shall determine in his/her sole discretion, whether a hearing shall be held by telephone, video conference or in person. The EAA Court may make the holding of a hearing dependent on the payment of an additional advance on costs.
- 10.2 All parties shall be heard and they shall be responsible for their availability and the costs of their witnesses.

## **11. Applicable law**

The EAA Court shall decide the dispute based on the Rules and Regulations of the EAA and, if applicable the IAAF. Subsidiarily, the EAA Court shall apply Swiss law.

## **12. Evidence & Proof**

- 12.1 The EAA Court shall not be bound by rules governing the admissibility of evidence. Facts relating to a violation of the Code of Ethics may be established by any means deemed by the Panel hearing the case (the Panel) to be reliable.
- 12.2 Types of evidence shall include: the investigator's report and other forms 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.
- 12.3 Evidence that obviously does not serve to establish relevant facts shall be rejected.
- 12.4 The Panel shall have the sole discretion regarding evaluation of the evidence.
- 12.5 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.

- 12.6 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.
- 12.7 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.

### **13. Award**

- 13.1 The EAA Court shall render a written, dated and signed award with reasons. In urgent matters, it may issue a decision without reasons and provide the reasons at a later date.
- 13.2 The written award shall be issued within 30 days after final written submission or, if a hearing is held, within 30 days upon the hearing date.
- 13.3 Any preliminary and final award of the EAA Court shall be subject to appeal to the Court of Arbitration for Sport (CAS) according to the Code of Sports-related Arbitration in force at the time of appeal.

### **14. Costs**

- 14.1 As a general rule, the proceedings before the EAA Court shall be free with the exception of the non-reimbursable registration fee (Art. 7.1.2). In cases of predominant economic nature, the EAA Court may request the parties to bear the procedural costs and request from the parties the payment of an advance on such costs and make the continuance of the proceedings dependent upon payment of such advance on costs.
- 14.2 Each party shall bear its own costs, including the costs of its counsels, witnesses, experts and interpreters. The EAA Court may however decide that the prevailing party shall be entitled to a contribution to its legal costs and expenses to be paid by the other party.

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