



INTRODUCTION TO SPORTS LAW

28 June 2021

14:00-16:00

General notes:

- Please check at receipt of the exam the number of questions. The examination contains 6 (six) questions.
- Write your answers directly into the document "Answer_Module_xxxxxxxxxxx" and save it locally on your computer with your Student ID number.
- Write your Student ID number and your Examination serial number in the header on page 2.
- Pay attention to possible word limitation in the task. Exceeding the word limit will not be counted.
- For submission/upload, save the document with your Student ID number as a PDF file according to the example and upload it. Example: Answer_criminology_17301002.pdf
- You are responsible for uploading the exam in time. You will not be made aware of this.

Notes on marking

When marking the exam each question is weighted separately. Points are distributed to the individual questions as follows:

| | |
|----------------------------|---------------------|
| Questions 1 & 2 (together) | 35% of total points |
| Question 3 | 15% of total points |
| Questions 4 & 5 (together) | 35% of total points |
| Question 6 | 15% of total points |
| Total | 100% |

We wish you a lot of success!

Part I (35% / max. 1500 words)

Mr. B. (the "Athlete") is a famous swimming athlete from Austria.

On 15 April 2021, a Doping Control Team – responsible for the doping sample collection process – wants to carry out an unannounced doping test at the home of the Athlete. The members of the Doping Control Team are known to the Athlete, as they had already previously been involved in the taking of blood and urine samples from the Athlete.

Upon arrival at the house of the Athlete, all members of the Doping Control Team identify themselves again with formal ID cards. They present documentation, demonstrating that they have been properly instructed to carry out a doping test. The Athlete does not raise any question and the taking of blood and urine samples begins.

Shortly afterwards, one member of the Doping Control Team, Y., accidentally breaks a trophy of the Athlete. The Athlete is angered and asks Y to be more careful with his belongings. A heated discussion follows. Ultimately, the members of the Doping Control Team show no understanding for the Athlete's reaction and tell him to be quiet.

At that point, the Athlete starts to question the documentation presented by the Doping Control Team, including the formal ID cards. He raises doubts about their identity, their accreditation and their authority to carry out a doping control. The Athlete tries to take away the doping samples earlier taken from him and threatens to destroy them.

The Doping Control Team warns the Athlete that if he takes the samples, this could be considered as an anti-doping rule violation. The Athlete nevertheless ignores these warnings, opens the sample containers and throws all samples away.

The Athlete then asks the Doping Control Team to leave his house immediately. The Doping Control Team leaves without any samples.

Question 1: Please assess whether the Athlete committed an anti-doping rule violation.

Question 2: Assuming that the Athlete committed an anti-doping rule violation, what is the applicable sanction?

Annex: FINA Doping Control Rules

Part II (15% / max. 750 words)

The competent instance of the International Swimming Federation imposes a suspension against the Athlete for having committed an anti-doping rule violation. The Athlete challenges this sanction before the Court of Arbitration for Sport (CAS).

The International Swimming Federation is of the view that the power of the CAS panel to review the sanction is limited and that the sanction can only be challenged if it is arbitrary.

Question 3: What are your views on this assumption of the International Swimming Federation?

Part III (35% / max. 1500 words)

During the proceedings before CAS, the International Swimming Federation nominates an arbitrator (K.) who recently made very negative public remarks about athletes from Austria. In recent Facebook posts, K. stated that all Athletes from Austria are "*probably cheaters*" and that "*it is known that in Austria, every athlete takes doping*".

Question 4: The Athlete wishes to prevent that K. is involved in this case before CAS. What steps can he take under the CAS-Code and how will the issue regarding involvement of K. be decided?

The Athlete is not successful, Mr. K. remains as arbitrator in this case. The CAS panel is formally constituted, the CAS proceedings continue, and a CAS Award is ultimately rendered, confirming the sanction against the Athlete.

Question 5: Does the Athlete have further legal remedies to challenge the involvement of the arbitrator and/or the CAS Award, and how would you assess his chances of success?

Part IV (15% / max. 750 words)

The Athlete only finds out about the mentioned Facebook posts 4 months after CAS already rendered its Award, which confirmed the sanction against the Athlete. The Athlete is surprised, but he realizes that a simple google search at the time of the CAS proceedings would have already revealed this information, because the attitude of the arbitrator concerned was widely known at the time and even reported in the press.

Question 6: Does the Athlete have a possibility to challenge the CAS Award and if so, on what grounds? How would you assess his chances of success?