



FÉDÉRATION
INTERNATIONALE
DE NATATION

FINA RULES ON THE PROTECTION FROM HARASSMENT AND ABUSE

Implementing provisions of Article V.B.2 of the FINA Code of Ethics

Approved by the FINA Bureau on 4 June 2021



INTRODUCTION

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INTRODUCTION

The Fédération Internationale de Natation (FINA) is committed to creating and preserving a sport setting that ensures positive, healthy, and fulfilling experiences for all individuals. In doing so, FINA prioritizes the welfare, safety, and rights of every participant at all times.

In furtherance of that objective, FINA has adopted the present Rules which are in harmony with the 2016 International Olympic Committee Consensus Statement on “Harassment and Abuse in Sport”.

These Rules are the foundation for athlete safety, well-being and the prevention of harassment and abuse. The Rules define misconduct; create standards that set boundaries between professional and athlete members; mandatory reporting; establish a structure for investigation of complaints and their underlying circumstances; and promote greater accountability and compliance.

FINA is committed to promoting a non-violent, supporting and safe sport environment for all its members related to the prevention of harassment and abuse in sport, by raising awareness, improving access to reporting, providing education / prevention, decreasing stigma and supporting research to determine the breadth and depth of the problem in the aquatic sports to inform our prevention interventions.

All Covered Persons are responsible for knowing the information set out herein and, by virtue of being a Covered Person, expressly agree to the jurisdiction of FINA and the applicability of these Rules, including those governing arbitration. FINA reserves the right to make changes to these Rules as necessary. Once such Rules become public, notice is deemed to have been provided and changes are effective immediately unless otherwise noted.

These Rules supplement Art. V.B.2 of the FINA Code of Ethics, entitled “Dignity”.

As it is essential to implement rules on abuse in sport immediately, these Rules need to be decided on at the start of the Presidency of Husain al Musallam on June 5 2021 and will be implemented from that day on. In the next 6 months the Rules will be evaluated under supervision of the Athletes Safeguarding Counsel, advising the FINA Bureau and Executive.

1. APPLICATION AND SCOPE

- 1.1 These Rules apply to all Covered Persons.
- 1.2 Each Covered Person shall be automatically bound by, and be required to comply with, these Rules by virtue of such participation, assistance, involvement, or preparation in any Covered Events.
- 1.3 It shall be the personal responsibility of every Covered Person to make himself or herself aware of these Rules including, without limitation, what conduct constitutes Forbidden Conduct and to comply with the requirements set out in these Rules. Covered Persons should also be aware that Forbidden Conduct may also constitute a criminal offence and/or a breach of other applicable laws and

regulations. Covered Persons must comply with all applicable laws and regulations at all times.

2. JURISDICTION

2.1 Covered Persons submit to the exclusive jurisdiction of FINA and the FINA Ethics Panel to investigate and adjudicate allegations that a Covered Person engaged in one or more acts of Forbidden Conduct during a Covered Event.

2.1.2 If the Forbidden Conduct is alleged to occur in or between both Covered and Non-Covered Events, jurisdiction under these Rules only applies if the predominant nature and duration of the Forbidden Conduct occurred during Covered Events.

2.1.3 If the Forbidden Conduct is alleged to occur at a Non-Covered Event or does not involve a Covered Person, FINA does not have jurisdiction. In such situation, the aggrieved party should contact his/her national federation and/or competent legal authorities.

2.2 Final decisions and decisions on provisional suspensions rendered by the FINA Ethics Panel are appealable exclusively to the Appeals Arbitration Division of the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland in accordance with the CAS Code of Sports-related Arbitration. The CAS shall also have exclusive jurisdiction over interlocutory orders and no other court or tribunal shall have authority to issue interlocutory orders relating to matters before the CAS or the FINA Ethics Panel.

2.3 If a Major Event Organisation has its own rules on the protection from harassment and abuse (or similar), and either (a) an allegation asserting Forbidden Conduct against a Covered Person is first filed with the Major Event Organisation; or (b) it is determined by an Independent Protection Officer that the predominant nature of the alleged Forbidden Conduct took place during an event organized by a Major Event Organisation, FINA may defer jurisdiction to the Major Event Organisation.

3. DEFINITIONS

3.1 “**Claimant**” means the Covered Person(s) (or legal guardian in the event the Claimant(s) is a minor or incapacitated) who is alleged to have experienced conduct that constitutes a violation of these Rules.

3.2 “**Covered Event**” means a FINA World Championships, FINA Competition, Competition of a Major Event Organisation or any FINA-sanctioned or organized meeting (i.e. FINA Convention, FINA Congress, FINA Development activities, etc.).

3.3 “**Covered Person**” means any natural person(s) who participates in, assists in, is involved in, or prepares an Athlete(s) to participate in a Covered Event, which includes any natural person(s) belonging to one of the following categories:

3.3.1 “**Athlete**” means any person or group of persons, participating or qualified to participate in, a Covered Event.

- 3.3.2** “**Athlete Entourage Member**” means any coach, trainer, manager, agent, team staff, team official, medical or paramedical personnel working with or treating Athletes, and all other persons working with Athletes.
- 3.3.3** “**Official**” means all FINA members, FINA staff, persons elected or appointed to any position within FINA or the Continental Organizations, Technical Committee Members, FINA Bureau, Judges, Jury Members, Referees and other individuals engaged in FINA activities, including organisers, consultants and any other accredited or engaged persons in contact with Athletes.
- 3.4** “**Forbidden Conduct**” means any conduct set out in Section 4.
- 3.5** “**Athletes Safeguarding Counsel**” means a group of (former) athletes and experts (medical, legal) supervising the processes as described in these Rules. The responsibility implies among others supervising the work of the Event Safeguarding Officer, supervising correct implementation of the Rules, confidentially advising athletes on the procedures, raising awareness and advising FINA Bureau and FINA Executive.
- 3.6** “**Event Safeguarding Officer**” means a person responsible for ensuring these Rules are enforced and maintained within FINA. They are the first point-of-contact for anyone in need and serve as a source of support and advice for any matter related to these Rules. The FINA Executive, advised by the Athletes Safeguarding Counsel, will select and identify an Event Safeguarding Officer in all Covered Events who will be the initial point of contact for any Covered Person to disclose allegations. The role for the Event Safeguarding Officer is to hear, listen, and then encourage the victim to submit a detailed report/official statement and refer to the Independent Protection Officer for investigation. The Event Safeguarding Officer may also provide support for the victim (psychological or physical), and other potentially affected individuals (team mates, support personnel) who may have been indirectly impacted by the Forbidden Conduct.
- 3.7** “**Independent Investigation Officer**” means a person operationally independent from the FINA Office whose role is to assist the Independent Protection Officer in the investigation of alleged Forbidden Conduct. He/She shall possess the necessary experience and skills to investigate matters related to the alleged Forbidden Conduct.
- 3.8** “**Independent Protection Officer**” means the officer(s) operating independently from the FINA Office (comprised of an athlete(s), medical and legal professional(s) who are appointed by the FINA Bureau at the proposal of the President) whose role (collectively or individually) is to receive from any Covered Person reports for any allegation of abuse and to investigate the alleged Forbidden Conduct and to implement these Rules in an effort to safeguard Covered Persons from Forbidden Conduct. They each shall possess the necessary experience and skills to investigate and resolve matters related to the alleged Forbidden Conduct. The identification and contact details of all Independent Protection Officers may be found on the FINA website. While

reference to an Independent Protection Officer in these Rules is used in the singular, the appointed officers work collectively. Information and evidence may be shared between them subject to the confidentiality provisions set out in Section 5.12.

- 3.9 “Major Event Organisation”** means any international, multi-sport organization that acts as the ruling body for any continental, regional or other international Competition.
- 3.10 “Member Federation”** means the national federations affiliated to FINA in a country or a sport country recognised by FINA.
- 3.11 “Minor”** means a person under the age of 18 years or, where applicable, a person who is under the age of majority and meets the definition of a child for the purposes of protection in the country where the predominant nature of the alleged misconduct occurred.
- 3.12 “Non-Covered Event”** means any event that is not a Covered Event.
- 3.13 “Rules”** means the present rules on the protection from harassment and abuse.

4. FORBIDDEN CONDUCT

4.1 The following Forbidden Conduct shall constitute a violation of these Rules:

4.1.1 Harassment

Any acts of hazing, neglect, psychological abuse, physical abuse, and sexual harassment. These forms of harassment and abuse may occur in combination or in isolation.

4.1.2 Hazing

Any intentional action taken or any situation created that causes embarrassment, harassment or ridicule, and risks emotional, physical or sexual harm to a Covered Person, regardless of the individual’s willingness to participate.

4.1.3 Neglect

The failure of a Covered Person with a duty of care towards another Covered Person to provide a minimum level of care to that Covered Person which is causing harm, encouraging harm, allowing harm to be caused, or creating imminent danger of harm.

For example, forced training in unsafe training venues/equipment; failure to provide adequate nutrition/ fluids while training; or failure to protect the athlete from environmental risks (heat/cold/dangerous open water swimming environments).

4.1.4 Psychological Abuse

A pattern of deliberate, prolonged, repeated non-contact behaviours within a power differentiated relationship. This form of abuse is at the core of all other forms.

4.1.5 Physical Abuse

Any deliberate and unwelcome act – such as, for example, punching, beating, kicking, biting and burning – that causes physical trauma or injury. Such act can also consist of forced or inappropriate physical activity (e.g., inappropriate age or physique training loads; when injured or in pain), forced alcohol consumption, or forced doping practices.

4.1.6 Sexual Harassment

Any verbal or physical conduct of a sexual nature which is unwelcome. Sexual Harassment includes sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when such conduct is made either explicitly or implicitly. Sexual Harassment may take the form of Sexual Abuse.

4.1.7 Sexual Abuse

Any conduct of sexual nature, whether non-contact, contact or penetrative, where consent is coerced/manipulated or is not or cannot be given. The activities may include, but are not limited to assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. Sexual Abuse may also include non-contact activities, such as involving individuals in looking at, or in the production of, sexual images, watching sexual activities, encouraging to behave in sexually inappropriate ways, or grooming a person in preparation for abuse (including through the internet).

- 4.2** The following are not considered Forbidden Conduct and shall not be reported under these Rules: pool or equipment issues; financial disputes; scores; competitive progression concerns; and/or employment disputes. Moreover, Forbidden Conduct does not include professionally accepted coaching methods within Aquatics for skill enhancement, physical conditioning, team building, appropriate discipline, or techniques used to improve Athlete performance.

5. PROCEDURE

5.1 Reporting Requirements

Any Covered Person may report an incident under these Rules. The reports of harassment and abuse may be made in writing or verbally first to the Event Safeguarding Officer. The Event Safeguarding Officer shall ensure that such reports are documented to an Independent Protection Officer so long as the allegations concern Forbidden Conduct against a Covered Person during a Covered Event. The Event Safeguarding Officer should encourage and support the victim to submit a report that shall be made in writing (by email) and addressed to an Independent Protection Officer. All reports shall include the following information:

- The name, title, address, contact information and signature of the Claimant (or legal guardian in the event of a minor), subject to Article 5.2;
- The name and surname of the Covered Person alleged to have committed Forbidden Conduct;
- A complete factual description of the alleged Forbidden Conduct, including date(s) and location(s) of the Forbidden Conduct;
- Any evidence in the Claimant's possession supporting the allegation that Forbidden Conduct occurred; and
- Provision(s) of these Rules that are alleged to have been breached.

5.2 Anonymous Reporting

Reporting under these Rules may be made anonymously. Anonymity means that FINA will not know the personally identifying information of the reporter. However, an anonymous report may limit FINA's ability to investigate and respond to a report. Consequently, FINA encourages Claimants to provide their name and contact information when reporting.

The identity of any Claimant may only be disclosed if such disclosure is both necessary for the purposes of any investigation into an alleged violation of these Rules and the consent in writing of the person to the disclosure of his or her identity has been obtained.

5.3 Initiation of Complaint

When an Independent Protection Officer receives a complaint of Forbidden Conduct that falls within the exclusive jurisdiction of FINA, he/she will notify the relevant Member Federation (if appropriate), conduct a preliminary inquiry with the Claimant and/or Covered Person, and (if appropriate) undertake an investigation into the alleged violation of these Rules.

Notice under these Rules to a Covered Person who is under the jurisdiction of a Member Federation may be accomplished by delivery of the notice to the Member Federation. The Member Federation shall be responsible for making immediate contact with the Covered Person to whom the notice is applicable.

5.4 Parties

The parties to a complaint are the Claimant and the accused Covered Person.

Neither the Claimant nor accused Covered Person are required to participate in the investigation or any form of resolution under these Rules. Cooperation and participation in the resolution process, however, is important to ensure that all relevant information and evidence are adequately presented to determine whether a violation occurred. If a Claimant or accused Covered Person declines to cooperate or participate in an investigation, the Independent Protection Officer

and/or the FINA Ethics Panel will make their decision based on the available evidence. Alternatively, an Independent Protection Officer may, in his/her discretion, choose not to proceed.

Where a Claimant declines or is otherwise unable to participate in an investigation, procedure or hearing, the ability to resolve the allegations may be limited. An Independent Protection Officer may, nevertheless, pursue the allegation in his/her sole discretion if it is possible to do so without the Claimant's participation (e.g., where there is other relevant evidence of the Forbidden Conduct, such as recordings, corroborating reports from other witnesses, or physical evidence).

An Independent Protection Officer reserves the right to notify the guardians of any Claimant and/or any Covered Person regarding any perceived health or safety risk as a result of any alleged Forbidden Conduct.

5.5 Investigation

Following the initiation of a complaint, the Claimant and accused Covered Person will have an opportunity to submit information and relevant evidence, identify witnesses who may have relevant information, and to submit questions that they believe should be directed by an Independent Protection Officer to each other or to any witness.

If during the investigative process (i.e., prior to the issuance of any report prepared by an Independent Protection Officer), information or evidence that was available to the Claimant and/or accused Covered Person, including testimonial evidence, is not provided or disclosed to an Independent Protection Officer, such information or evidence may not be considered in determining whether a violation of the Rules occurred. If such information or evidence is provided after the investigative process, absent good cause, it may be afforded less weight during any subsequent hearing by the FINA Ethics Panel.

5.6 Independent Investigation

An Independent Protection Officer may appoint an Independent Investigation Officer to investigate the alleged Forbidden Conduct.

Upon the conclusion of the Independent Investigation Officer's investigation, a report shall be prepared setting out his/her findings, conclusions, and recommendations. Such report will be addressed to an Independent Protection Officer, with copies provided to the Claimant and accused Covered Person.

5.7 Methods of Resolution

5.7.1 Administrative Closure

An Independent Protection Officer, in his/her discretion, may administratively close a matter. This may be done as a result of lack of jurisdiction, insufficient evidence, a Claimant who elects not to participate in the resolution process, or other factors as determined by an Independent Protection Officer. An Independent Protection

Officer may, upon receipt of new information or evidence, or a change in circumstances, reopen the matter for further investigation.

5.7.2 Informal Resolution

The accused Covered Person may, at any time before a matter is final, elect to resolve allegations of Forbidden Conduct by accepting responsibility for a violation of these Rules. In doing so, an Independent Protection Officer will determine the appropriate sanction following consultation with the parties and in accordance with Section 6 of these Rules. An informal resolution constitutes a final and binding disposition of the matter. The outcome and sanctions of an informal resolution may be published by FINA.

5.7.3 Formal Resolution

Formal resolution occurs after an Independent Protection Officer completes an investigation, the parties are heard (in writing or otherwise) and the FINA Ethics Panel issues its decision.

If the FINA Ethics Panel determines that the allegations of Forbidden Conduct are false, vexatious, retaliatory or frivolous, they may recommend disciplinary action against the Claimant.

The outcome of a formal resolution may be published by FINA.

5.8 Referral to FINA Ethics Panel

If, following an investigation, the procedure is not administratively closed or informally resolved, the complaint will be forwarded by an Independent Protection Officer to the FINA Ethics Panel for formal resolution.

The FINA Ethics Panel shall have the competence to conduct any further investigation and/or adjudicate the alleged violation of these Rules, as needed. If, after consulting the parties, the FINA Ethics Panel considers itself sufficiently well informed to decide the complaint based on all associated documents and evidence submitted during the investigation, it may decide to issue its decision without an oral hearing.

5.9 Suspension of the Proceedings

An Independent Protection Officer and/or the FINA Ethics Panel shall have the discretion to suspend any investigation pending the outcome of investigations and/or legal procedure conducted by other competent authorities, notably law enforcement authorities or criminal courts.

5.10 Burden of Proof

The Claimant (or an Independent Protection Officer, in the event the Claimant declines or is unable to participate in the procedure) bears the burden of gathering sufficient evidence to reach a determination, based on the preponderance of the

evidence, that a Covered Person violated these Rules. A “preponderance of the evidence” means “more likely than not.”

5.11 Consolidation

Complaints involving more than one Claimant or more than one accused Covered Person may, in the discretion of Chairman of the FINA Ethics Panel, be consolidated into a single matter.

5.12 Confidentiality

Complaints, decisions, investigation and interview reports, audio and/or video recordings, transcripts and other work product produced under the Rules are confidential, except where disclosure by FINA is required by law. Any violation of this provision, including by an advisor and/or associate of a Covered Person, may constitute an abuse of process.

While physical documentation and/or recordings must remain confidential, FINA and/or the relevant FINA Member Federation may disclose the outcome of the matter, including a summary of any decision, to those parties or organizations with a need to know so that the outcome can be properly effectuated or understood.

If any person or entity misrepresents the process by which the outcome was determined, the underlying facts, or the outcome of a matter, FINA reserves the right to publicly correct the record.

5.13 Obligation to Report

All Covered Persons shall have the obligation to report to FINA, in accordance with these Rules, any act or behaviour that may objectively be considered Forbidden Conduct, or retaliation for not reporting Forbidden Conduct, for investigation and possible charge. Failure to report under these Rules may result in consequences under these Rules and/or the FINA Code of Ethics.

6. SANCTIONS

6.1 Range of Sanctions

If the FINA Ethics Panel decides that a Covered Person has committed Forbidden Conduct, the FINA Ethics Panel shall be entitled to impose the following sanctions in accordance with these Rules.

6.1.1 Warning

An official, written notice and formal admonition that a Covered Person has violated these Rules and that a more severe sanction may result should the Covered Person be involved in other violations.

6.1.2 Probation

A specified period of time, during which should any further violations of these Rules occur, additional disciplinary measures, including a period of suspension or permanent ineligibility may apply. This sanction may also include loss of privileges or other conditions, restrictions, or requirements.

6.1.4 Ineligibility

A suspension from the participation, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of FINA or a Member Federation, or at a facility under the jurisdiction of the same, for a period up to the lifetime of the Covered Person.

A Covered Person is eligible to return after the suspension lapses, but reinstatement may be subject to certain restrictions or contingent upon the Covered Person satisfying specific conditions noted at the time of suspension.

6.1.5 Other Discretionary Matters

The FINA Ethics Panel may, in its discretion, impose other sanctions, including, but not limited to, other loss of privileges, no contact directives, requirement to complete educational or other programs, return of FINA awards, or any other restrictions or conditions as deemed necessary or appropriate.

In the discretion of the FINA Ethics Panel, a sanction may include restrictions or prohibitions from some types of participation but allowing participation in other capacities.

6.2 Aggravating and Mitigating Factors

In imposing sanctions in accordance with these Rules, the FINA Ethics Panel shall be entitled to consider the existence of any aggravating and/or mitigating factors.

Aggravating factors may include:

- 6.2.1** Failure to cooperate by the Covered Person with any investigation or requests for information by the Independent Protection Officer, Independent Investigation Officer and/or the FINA Ethics Panel.
- 6.2.2** Forbidden Conduct directed towards a minor(s) or other dependant person(s), notably, but not limited to, conduct arising from positions of power, caregiving, employment or any other form of dependant relationship.
- 6.2.3** The type of and/or repeated nature of the Forbidden Conduct.
- 6.2.4** Any previous violation under these Rules (or other rules of domestic law or related governing Forbidden Conduct) by the Covered Person.
- 6.2.5** Lack of remorse of the Person bound by these Rules.

6.2.6 Any other aggravating factor that the FINA Ethics Panel deems relevant.

Mitigating factors may include:

6.2.7 Cooperation by the Covered Person with any investigation or requests for information.

6.2.8 Timely admission of a violation by the Covered Person.

6.2.9 The Covered Person's clean disciplinary record.

6.2.10 Youth or inexperience of the Covered Person.

6.2.11 The Covered Person's remorse for his/her actions.

6.2.12 Any other mitigating factor that the FINA Ethics Panel deems relevant.

6.3 Educational Measures and Rehabilitation

As part of an informal or formal resolution of any matter, a Covered Person may be required to complete an appropriate education or rehabilitation programme pertaining to the prevention of harassment and abuse as a condition of eligibility or as an independent sanction.

6.4 Provisional and Voluntary Suspension

Upon request from an Independent Protection Officer and/or the Claimant, and after hearing from the accused Covered Person, the FINA Ethics Panel shall have discretion, in circumstances where it considers that the seriousness of the allegations against a Covered Person, the safety or well-being of a Covered Person, or the dignity of the sport of Aquatics could otherwise be seriously undermined, to provisionally suspend a Covered Person pending the investigation and adjudication of the alleged violation.

Alternatively, a Covered Person bound by these Rules may accept a voluntary suspension from the participation in the sport of Aquatics provided that it is confirmed in writing to an Independent Protection Officer. A voluntary suspension shall be effective only from the date of receipt of such written confirmation to an Independent Protection Officer. Where a provisional suspension is imposed upon a Covered Person, consideration of time served shall be credited to the Covered Person in the determination of any further period of suspension or other sanction which may be ultimately imposed on the Covered Person.

6.5 Costs

The FINA Ethics Panel may order a Covered Person who has committed a violation of these Rules, to pay to FINA a contribution towards the costs and expenses of and incidental to any investigation, hearing and adjudication of the matter.

6.6 Publication and Notification

Any determination of a violation made under these Rules, including any associated sanction, may be publicly disclosed by FINA and may be reported to the appropriate FINA Member Federation and law enforcement authorities.

7. IMPLEMENTATION BY MEMBER FEDERATIONS AND FINA

- 7.1** Member Federations shall implement similar rules and regulations or incorporate the present Rules into their rules, as modified appropriately for national-level competition, in order to prevent against Forbidden Conduct under their respective jurisdictions.
- 7.2** To the extent allegations of Forbidden Conduct occurring at a Non-Covered Event are filed with a Member Federation, such Member Federation shall immediately inform the Independent Protection Officer. To the extent the Member Federation does not timely investigate and/or resolve the allegations of Forbidden Conduct, an Independent Protection Officer may open a procedure for investigation and resolution under these Rules.
- 7.3** Any violation(s) or sanction(s) determined under these Rules shall be reciprocally recognized and enforced by and between all FINA Member Federations.
- 7.4** Any decision rendered by a Member Federation concerning Forbidden Conduct shall be immediately reported to the Independent Protection Officer, who will initiate the necessary recognition and enforcement procedures, as needed. Any determination by the FINA Ethics Panel recognizing the decision of a Member Federation shall be enforced by all Member Federations.
- 7.5** The failure of a Member Federation to comply with Sections 7.1 - 7.4 may be referred to the FINA Ethics Panel.

8. STATUTE OF LIMITATIONS

8.1 Statute of Limitations

The statute of limitation period for claims filed under these Rules is ten (10) years from last date upon which the Forbidden Conduct is alleged to have occurred.

In the event the Forbidden Conduct is alleged to have occurred while the Claimant was a Minor, the statute of limitation period is ten (10) years from the date upon which the Claimant turns the age of majority in the country where the predominant nature of the alleged Forbidden Conduct occurred.

The foregoing statute of limitations does not apply to claims for Sexual Abuse.

9. AMENDMENTS AND INTERPRETATION

- 9.1** These Rules may be amended from time to time by the FINA Bureau.



- 9.2** Unless stated otherwise, these Rules shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.
- 9.3** The headings and sub-headings in these Rules are for convenience only and shall not be deemed to be part of the substance of these Rules or to affect in any way the language of the provisions to which they refer.
- 9.4** If any subpart(s) of these Rules is held to be invalid, unenforceable or illegal for any reason, it shall be deemed to be deleted and the Rules shall otherwise remain in full force and effect. If a Covered Person retires, ceases to participate in, assist in, or remain involved in the sport of Aquatics while a disciplinary procedure under these Rules is underway, FINA shall retain jurisdiction to complete the relevant procedure and to impose any appropriate sanction. If the Covered Person retires, ceases to participate in, assist in, or remain involved in the sport of Aquatics before any disciplinary procedure has begun, FINA shall nevertheless have jurisdiction to conduct the relevant procedure and impose any appropriate sanction.



VODA JE NAŠ SVET

FÉDÉRATION
INTERNATIONALE
DE NATATION

PRAVILNIK FINA O ZAŠČITI PRED NADLEGOVANJEM IN ZLORABO

Izvedbene določbe člena V.B.2. Etičnega kodeksa FINA

Odobril urad FINA 4. junija 2021

UVOD

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UVOD

Fédération Internationale de Natation (FINA) je zavezana ustvarjanju in ohranjanju športnega okolja, ki zagotavlja pozitivne, zdrave in izpolnjujoče izkušnje za vse posameznike. Pri tem FINA daje prednost blaginji, varnosti in pravicam vsakega udeleženca v vsakem trenutku.

V podporo temu cilju je FINA sprejela ta pravila, ki so v skladu s Konsenzno izjavo Mednarodnega olimpijskega komiteja iz leta 2016 o »nadlegovanju in zlorabi v športu«.

Ta pravila so temelj za varnost, dobro počutje športnikov in preprečevanje nadlegovanja in zlorabe. Pravila opredeljujejo neprimerno ravnanje; ustvarjajo standarde, ki postavljajo meje med poklicnimi in amaterskimi člani; obvezno poročanje; vzpostavitev strukture za preiskavo pritožb in okoliščin; in spodbujajo večjo odgovornost in skladnost.

FINA je zavezana k spodbujanju nenasilnega, podpornega in varnega športnega okolja za vse svoje člane, ki je povezano s preprečevanjem nadlegovanja in zlorab v športu, z ozaveščanjem, izboljšanjem dostopa do poročanja, zagotavljanjem izobraževanja/preprečevanja, zmanjševanjem stigme in podpiranjem raziskav, da se določi širino in globino problematike v vodnih športih za informiranje naših preventivnih intervencij.

Vse zadevne osebe so odgovorne, da poznajo informacije, navedene v tem dokumentu, in se izrecno strinjajo s pristojnostjo FINA in veljavnostjo teh pravil, vključno s tistimi, ki urejajo arbitražo. FINA si pridržuje pravico, da po potrebi spremeni ta pravila. Ko takšna pravila postanejo javna, se šteje, da je bilo obvestilo posredovano in spremembe začnejo veljati takoj, razen če ni navedeno drugače.

Ta pravilnik dopolnjuje čl. V.B.2. Etičnega kodeksa FINA z naslovom »Dostojanstvo«.

Ker je nujno, da se pravila o zlorabah v športu izvajajo takoj, je treba ta pravila sprejeti na začetku predsedovanja Husaina al Musallama 5. junija 2021 in se bodo izvajala od tega dne naprej. V naslednjih 6 mesecih bodo pravila ovrednotena pod nadzorom svetovalca za zaščito športnikov, ki bo svetoval uradu FINA in izvršnemu organu.

1. OPREDELITEV IN PODROČJE UPORABE

- 1.1 Ta pravila veljajo za vse zadevne osebe.
- 1.2 Vsaka zadevna oseba je samodejno zavezana k spoštovanju teh pravil na podlagi takšne udeležbe, pomoči, sodelovanja ali priprave na kakršnih koli zadevnih dogodkih.
- 1.3 Osebna odgovornost vsake zadevne osebe je, da se seznanijo s temi pravili, vključno med drugim, kakšno ravnanje pomeni prepovedano ravnanje, in da izpolni zahteve iz teh pravil. Zadevne osebe se morajo zavedati tudi, da lahko prepovedano ravnanje pomeni tudi kaznivo dejanje in/ali kršitev drugih veljavnih zakonov in

predpisov. Zadevne osebe morajo ves čas upoštevati vse veljavne zakone in predpise.

2. JURISDIKCIJA

2.1 Zadevne osebe so podrejene izključno pristojnosti FINA in odboru za etiko FINA, da razišče in razsodi obtožbe, da je bila zadevna oseba vpletena v eno ali več dejanj prepovedanega ravnanja med zadevnim dogodkom.

2.1.2 Če bi se prepovedano ravnanje pojavilo v času med zadevnimi in nezadevnimi dogodki, se pristojnost po teh pravilih uporablja le, če sta se prevladujoča narava in trajanje prepovedanega ravnanja zgodila med zadevnimi dogodki.

2.1.3 Če naj bi se prepovedano ravnanje zgodilo na nezadevnem dogodku, ali ne vključuje zadevne osebe, FINA ni pristojna. V taki situaciji naj se oškodovanec obrne na svojo nacionalno zvezo in/ali pristojne pravne organe.

2.2 Na dokončne odločitve in sklepe o začasnih izključitvah, ki jih izda odbor za etiko FINA, se je mogoče pritožiti izključno pri Oddelku za pritožbe pri športnem arbitražnem sodišču (CAS) v Lozani v Švici v skladu s kodeksom CAS o športni arbitraži. CAS ima izključno pristojnost tudi začasne odredbe in nobeno drugo sodišče ali razsodišče nima pooblastila za izdajo začasnih odredb v zvezi z zadevami pred CAS ali etičnim odborom FINA.

2.3 Če ima organizacija velikega dogodka svoja pravila o zaščiti pred nadlegovanjem in zlorabo (ali podobno) in bodisi (a) se obtožba o prepovedanem ravnanju proti zadevni osebi najprej vloži pri organizaciji velikega dogodka; ali (b) neodvisni uradnik za zaščito ugotovi, da se je prevladujoča narava domnevnega prepovedanega ravnanja zgodila med prireditvijo, ki jo organizira organizacija večjih prireditev, lahko FINA prenese pristojnost na organizacijo večjih prireditev.

3. OPREDELITVE

3.1 "**Tožnik**" pomeni osebo (ali zakonitega zastopnika, v primeru, da je tožeča stranka mladoletna ali nesposobna skrbeti zase), za katero se domneva, da je doživela ravnanje, ki predstavlja kršitev teh pravil.

3.2 "**Zadevni dogodek**" pomeni svetovno prvenstvo FINA, tekmovanje FINA, tekmovanje organizacije velikih prireditev ali katero koli srečanje, ki ga odobri ali organizira FINA (tj. konvencija FINA, kongres FINA, razvojne dejavnosti FINA itd.).

3.3 "**Zadevna oseba**" pomeni vsako fizično osebo, ki sodeluje, pomaga ali pripravlja športnika za udeležbo na zadevnem dogodku, kar vključuje vsako fizično osebo, ki spada v eno od naslednjih kategorij:

3.3.1 "**Športnik**" pomeni vsako osebo ali skupino oseb, ki sodeluje oz. izpolnjuje pogoje za udeležbo na dogodku.

- 3.3.2** "Član spremstva športnikov" pomeni vsakega trenerja, menedžerja, agenta, osebje ekipe, uradnika ekipe, medicinsko ali paramedicinsko osebje, ki dela s športniki ali jih zdravi, in vse druge osebe, ki delajo s športniki.
- 3.3.3** "Uradnik" pomeni vse člane FINA, osebje FINA, osebe, izvoljene ali imenovane na kateri koli položaj znotraj FINA ali celinskih organizacij, člane tehničnega odbora, urad FINA, sodnike, člane žirije in druge posameznike, ki so vključeni v dejavnosti FINA, vključno z organizatorji, svetovalci in drugimi pooblaščenimi ali angažiranimi osebami v stiku s športniki.
- 3.4** "Prepovedano ravnanje" pomeni vsako ravnanje iz oddelka 4.
- 3.5** "Svetovalec za zaščito športnikov" pomeni skupino (nekdanjih) športnikov in strokovnjakov (medicinskih, pravnih), ki nadzorujejo postopke, kot so opisani v tem pravilniku. Odgovornost med drugim vključuje nadzor nad delom pooblaščenca za varovanje prirediteljev, nadzor nad pravilnim izvajanjem Pravil, zaupno svetovanje športnikom o postopkih, ozaveščanje in svetovanje FINA uradu in izvršni direktor FINA.
- 3.6** "Pooblaščenec za varovanje dogodkov" pomeni osebo, ki je odgovorna za zagotavljanje uveljavljanja in vzdrževanja teh pravil znotraj FINA. Je prva kontaktna točka za vse, ki potrebujejo pomoč, in služi kot vir podpore in nasvetov pri vseh zadevah, povezanih s temi pravili. Izvršni direktor FINA, ki mu svetuje svetovalec za zaščito športnikov, bo izbral in določil pooblaščenca za varovanje dogodka na vseh dogodkih, ki bo začetna kontaktna točka za katero koli osebo za razkritje obtožb. Vloga pooblaščenca za varovanje dogodkov je, da sliši, posluša in nato spodbudi žrtev, da predloži podrobno poročilo/uradno izjavo in se obrne na neodvisnega uradnika za zaščito v preiskavo. Pooblaščenec za varovanje dogodkov lahko nudi tudi podporo žrtvi (psihično ali fizično) in drugim potencialno prizadetim posameznikom (soigralci, podporno osebje), na katere bi prepovedano ravnanje morda posredno vplivalo.
- 3.7** "Neodvisni preiskovalni uradnik" pomeni osebo, ki je operativno neodvisna od urada FINA, katerega naloga je pomagati neodvisnemu uradniku za zaščito pri preiskavi domnevnega prepovedanega ravnanja. Imeti mora potrebne izkušnje in spretnosti za preiskovanje zadev v zvezi z domnevnim prepovedanim ravnanjem.
- 3.8** "Neodvisni pooblaščenec za zaščito" pomeni uradnika(-e), ki deluje neodvisno od urada FINA (sestavljajo ga športnik(-i), zdravstveni in pravni strokovnjak(-i), ki jih imenuje Urad FINA na predlog predsednika), katerih vloga (skupaj ali posamezno) je prejemati prijave katere koli osebe za kakršno koli domnevno zlorabo in raziskati domnevno prepovedano ravnanje ter izvajati ta pravila, da bi zaščitili zadevne osebe pred prepovedanim ravnanjem. Vsak od njih mora imeti potrebne izkušnje in spretnosti za preiskovanje in reševanje zadev, povezanih z domnevnim prepovedanim ravnanjem. Identifikacije in kontaktni podatki vseh neodvisnih uradnikov za zaščito so na voljo na spletni strani FINA. Medtem

ko se sklicevanje na neodvisnega pooblaščenca za zaščito v tem pravilniku uporablja v ednini, imenovani uradniki delujejo skupaj. Informacije in dokazi se lahko izmenjujejo med njimi v skladu z določbami o zaupnosti iz oddelka 5.12.

- 3.9 "Organizacija velikega dogodka" pomeni vsako mednarodno, večšportno organizacijo, ki deluje kot vladajoči organ za katero koli celinsko, regionalno ali drugo mednarodno tekmovanje.
- 3.10 "Članica zveze" pomeni nacionalne zveze, pridružene FINA, v državi ali športni državi, ki jo priznava FINA.
- 3.11 "Mladoletnik" pomeni osebo, mlajšo od 18 let, ali, kjer je primerno, osebo, ki ni polnoletna in izpolnjuje definicijo otroka za namene zaščite v državi, kjer je prišlo do prevladujoče narave domnevne kršitve.
- 3.12 "Nezadevni dogodek" pomeni kateri koli dogodek, ki ni zadevni dogodek.
- 3.13 "Pravila" pomeni sedanja pravila o zaščiti pred nadlegovanjem in zlorabami.

4. PREPOVEDANO RAVNANJE

4.1 Naslednja prepovedana ravnanja so kršitev teh pravil:

4.1.1 Nadlegovanje

Kakršna koli dejanja nadlegovanja, zanemarjanja, psihične zlorabe, fizične zlorabe in spolnega nadlegovanja. Te oblike nadlegovanja in zlorabe se lahko pojavijo v kombinaciji ali ločeno.

4.1.2 Šikaniranje

Vsako namerno dejanje ali kakršna koli ustvarjena situacija, ki povzroča zadrego, nadlegovanje ali zasmehovanje in tvega čustveno, fizično ali spolno škodo zadevni osebi, ne glede na posameznikovo pripravljenost sodelovati.

4.1.3 Zanemarjanje

Nedejavnost osebe, ki je dolžna skrbeti za drugo zadevno osebo, da zagotovi minimalno raven oskrbe tej osebi, ki povzroča škodo, spodbuja škodo, omogoča povzročitev škode ali ustvarja neposredno nevarnost škode.

Na primer, prisilno treniranje na nevarnih prizoriščih/opremi za trening; pomanjkanje zadostne prehrane/tekočine med treningom; ali nezaščita športnika pred okoljskimi tveganji (vročina/mraz/nevarna plavalna okolja na odprti vodi).

4.1.4 Psihična zloraba

Vzorec namernega, dolgotrajnega, ponavljajočega se brezkontaktnega vedenja v razmerju z diferenciacijo moči. Ta oblika zlorabe je jedro vseh drugih oblik.

4.1.5 Fizična zloraba

Vsako namerno in nezaželeno dejanje – kot je na primer udarjanje, pretepanje, brcanje, grizenje in sežiganje – povzroči fizično travmo ali poškodbo. Takšno dejanje je lahko tudi prisiljena ali neprimerna telesna dejavnost (npr. vadbene obremenitve, ki so neprimerne starosti; pri poškodbi ali bolečini), prisilno uživanje alkohola ali prisilna uporaba dopinga.

4.1.6 Spolno nadlegovanje

Vsako verbalno ali fizično vedenje spolne narave, ki je nezaželeno. Spolno nadlegovanje vključuje spolno približevanje, prošnje za spolne usluge in drugo verbalno ali fizično vedenje spolne narave, kadar je takšno ravnanje izrecno ali implicitno. Spolno nadlegovanje je lahko v obliki spolne zlorabe.

4.1.7 Spolna zloraba

Vsako vedenje spolne narave, ne glede na to, ali je brezkontaktno, kontaktno ali penetracija, kjer je privolitev prisiljena/manipulirana ali ni takšna ali je ni mogoče dati. Dejavnosti lahko vključujejo med drugim spolne napade s penetracijo (na primer posilstvo ali oralni seks) ali brez penetracije, kot so samozadovoljevanje, poljubljanje, drgnjenje in dotikanje preko oblačil. Spolna zloraba lahko vključuje tudi nekontaktne dejavnosti, kot je vključevanje posameznikov v gledanje ali ustvarjanje spolnih podob, gledanje spolnih dejavnosti, spodbujanje k spolno neprimernemu obnašanju ali nagovarjanje osebe v pripravi na zlorabo (vključno z internetom).

- 4.2** Naslednje se ne šteje za prepovedano ravnanje in se ne poroča v skladu s temi pravili: težave z bazenom ali opremo; finančni spori; rezultati; pomisleki glede napredovanja konkurence; in/ali delovni spori. Poleg tega prepovedano ravnanje ne vključuje strokovno sprejetih metod treniranja v vodnih športih za izboljšanje spretnosti, fizične kondicije, team buildinga, ustrezne discipline ali tehnik, ki se uporabljajo za izboljšanje športnikovih zmogljivosti.

5. POSTOPEK

5.1 Zahteve za poročanje

Vsaka zadevna oseba lahko prijavi incident v skladu s temi pravili. Prijave nadlegovanja in zlorabe se lahko podajo pisno ali ustno pri pooblaščenцу za varovanje dogodka. Pooblaščenec za varovanje dogodka zagotovi, da se taka poročila dokumentirajo neodvisnemu uradniku za zaščito, dokler se obtožbe nanašajo na prepovedano ravnanje proti zadevni osebi med zadevnim dogodkom. Pooblaščenec za varovanje dogodka bi moral žrtev spodbujati in podpirati pri predložitvi poročila, ki bo sestavljeno v pisni obliki (po elektronski pošti) in naslovljeno na neodvisnega pooblaščenca za zaščito. Vsa poročila vsebujejo naslednje informacije:

- Ime, naziv, naslov, kontaktni podatki in podpis tožeče stranke (ali zakonitega zastopnika v primeru mladoletne osebe), v skladu s členom 5.2;
- Ime in priimek zadevne osebe, ki naj bi storila prepovedano ravnanje;
- Popoln dejanski opis domnevnega prepovedanega ravnanja, vključno z datumom(i) in lokacijo(-i) prepovedanega ravnanja;
- Kakršen koli dokaz, ki ga ima tožnik, ki podpira obtožbe, da je prišlo do prepovedanega ravnanja; in
- Določbe teh pravil, za katere se domneva, da so bile kršene.

5.2 Anonimno poročanje

Poročanje po teh pravilih je lahko anonimno. Anonimnost pomeni, da FINA ne bo identificirala osebnih podatkov prijavitelja. Vendar pa lahko anonimna prijava omeji možnost FINA, da razišče prijavo in se nanjo odzove. Posledično FINA spodbuja tožnike, da ob prijavi navedejo svoje ime in kontaktne podatke.

Identiteta katerega koli tožnika se lahko razkrije le, če je tako razkritje potrebno za namene preiskave domnevne kršitve teh pravil in je pridobljeno pisno soglasje osebe za razkritje njene identitete.

5.3 Začetek pritožbe

Ko neodvisni pooblaščenec za zaščito prejme pritožbo zaradi prepovedanega ravnanja, ki sodi v izključno pristojnost FINA, bo o tem obvestil ustrezno članico zveze (če je primerno), opravil predhodno preiskavo pri tožniku in/ali zadevni osebi in (če ustrezno) opravil preiskavo o domnevni kršitvi tega pravilnika.

Obvestilo v skladu s temi pravili za zadevno osebo, ki je v pristojnosti članice zveze, se lahko opravi z dostavo obvestila članici zvezi. Članica zveze je odgovorna, da stopi v takojšen stik z zadevno osebo, za katero velja obvestilo.

5.4 Stranki

Stranki pritožbe sta tožeča stranka in obtožena zadevna oseba.

Niti tožnik niti obtožena oseba nista dolžna sodelovati v preiskavi ali kakršni koli obliki reševanja po teh pravilih. Sodelovanje v postopku reševanja pa je pomembno, da se zagotovi, da so vse pomembne informacije in dokazi ustrezno predstavljeni, da se ugotovi, ali je prišlo do kršitve. Če tožnik ali obtožena oseba zavrne sodelovanje v preiskavi, neodvisni pooblaščenec za zaščito

in/ali odbor za etiko FINA svojo odločitev sprejme na podlagi razpoložljivih dokazov. Druga možnost je, da se neodvisni pooblaščenec za zaščito po svoji presoji odloči, da postopka ne bo nadaljeval.

Če tožnik zavrne sodelovanje ali drugače ne more sodelovati v preiskavi, postopku ali na zaslišanju, je lahko možnost reševanja obtožbe omejena. Neodvisni pooblaščenec za zaščito lahko kljub temu obravnava obtožbo po lastni presoji, če je to mogoče storiti brez sodelovanja tožnika (npr. če obstajajo drugi ustrezni dokazi o prepovedanem ravnanju, kot so posnetki, poročila drugih prič ali fizični dokazi).

Neodvisni pooblaščenec za zaščito si pridržuje pravico, da obvesti skrbnike katerega koli tožnika in/ali katere koli zadevne osebe o kakršnem koli zaznanem tveganju za zdravje ali varnost zaradi kakršnega koli domnevnega prepovedanega ravnanja.

5.5 Preiskava

Po vložitvi ovadbe bosta tožnik in obtožena oseba imela možnost predložiti informacije in ustrezne dokaze, identificirati priče, ki bi lahko imele ustrezne informacije, in zastaviti vprašanja, za katera menita, da bi jih moral neodvisni pooblaščenec za zaščito postaviti drug drugemu ali katerikoli priči.

Če se med preiskovalnim postopkom (tj. pred izdajo kakršnega koli poročila, ki ga je pripravil neodvisni pooblaščenec za zaščito), informacije ali dokazi, ki so bili na voljo tožniku in/ali obdolženemu, vključno z dokazi iz pričevanja, ne zagotovijo ali razkrijejo neodvisnemu pooblaščenecu za zaščito, se takih informacij ali dokazov ne sme upoštevati pri ugotavljanju, ali je prišlo do kršitve pravil. Če so takšne informacije ali dokazi predloženi po preiskovalnem postopku brez utemeljenega razloga, se jim lahko pripiše manjša teža med vsakim nadaljnjim zaslišanjem s strani odbora za etiko FINA.

5.6 Neodvisna preiskava

Neodvisni pooblaščenec za zaščito lahko imenuje neodvisnega preiskovalnega uradnika, ki preiskuje domnevno prepovedano ravnanje.

Po zaključku preiskave neodvisnega preiskovalca se pripravi poročilo, v katerem so navedene njegove ugotovitve, sklepi in priporočila. Takšno poročilo se naslovi na neodvisnega pooblaščenca za zaščito, kopije pa se zagotovijo tožniku in obdolženemu.

5.7 Metode reševanja

5.7.1 Administrativni zaključek

Neodvisni pooblaščenec za zaščito lahko po lastni presoji zadevo administrativno zaključi. To je lahko posledica pomanjkanja pristojnosti, nezadostnih dokazov, tožnika, ki se odloči, da ne bo sodeloval v postopku reševanja, ali drugih dejavnikov, kot jih določi neodvisni pooblaščenec za zaščito. Neodvisni

pooblaščenec za zaščito lahko po prejemu novih informacij ali dokazov ali spremembi okoliščin zadevo ponovno odpre v nadaljnjo preiskavo.

5.7.2 Neformalna rešitev

Obtožena oseba se lahko kadar koli, preden je zadeva pravnomočna, odloči, da bo obtožbe o prepovedanem ravnanju rešila tako, da prevzame odgovornost za kršitev teh pravil. Pri tem neodvisni pooblaščenec za zaščito določi ustrezno sankcijo po posvetovanju s strankami in v skladu s 6. razdelkom tega pravilnika. Neformalna rešitev je dokončna in zavezujoča rešitev zadeve. FINA lahko objavi izid in sankcije neformalne rešitve.

5.7.3 Formalna rešitev

Formalna rešitev se zgodi po tem, ko neodvisni pooblaščenec za zaščito zaključi preiskavo, so stranke zaslišane (pisno ali kako drugače) in odbor za etiko FINA izda svojo odločitev.

Če odbor za etiko FINA ugotovi, da so obtožbe o prepovedanem ravnanju napačne, povračilne ali neresne, lahko priporoči disciplinski ukrep proti tožniku.

Izid formalne rešitve lahko objavi FINA.

5.8 Napotitev na odbor za etiko FINA

Če po preiskavi postopek ni administrativno zaključen ali neformalno rešen, neodvisni pooblaščenec za zaščito posreduje pritožbo odboru za etiko FINA v formalno reševanje.

Odbor za etiko FINA je po potrebi pristojen za izvedbo kakršne koli nadaljnje preiskave in/ali sojenja o domnevni kršitvi teh pravil. Če odbor za etiko FINA po posvetovanju s strankami meni, da je dovolj dobro obveščen, da odloči o pritožbi na podlagi vseh dokumentov in dokazov, predloženih med preiskavo, se lahko odloči, da izda svojo odločitev brez ustnega zaslišanja.

5.9 Prekinitev postopka

Neodvisni pooblaščenec za zaščito in/ali odbor za etiko FINA ima diskrecijsko pravico, da prekine vsako preiskavo do izida preiskav in/ali pravnih postopkov, ki jih vodijo drugi pristojni organi, zlasti organi pregona ali kazenska sodišča.

5.10 Dokazno breme

Tožnik (ali neodvisni pooblaščenec za zaščito, v primeru, da tožnik zavrne sodelovanje ali ne more sodelovati v postopku) nosi breme zbiranja zadostnih dokazov za odločitev, ki temelji na prevladi

dokazov, da je zadevna oseba kršila ta pravila. »Prevlada dokazov« pomeni »bolj verjetno kot ne«.

5.11 Konsolidacija

Pritožbe, ki vključujejo več kot enega tožnika ali več kot eno obtoženo osebo, se lahko po presoji predsednika odbora za etiko FINA združijo v eno zadevo.

5.12 Zaupnost

Pritožbe, odločitve, poročila o preiskavah in razgovorih, avdio in/ali video posnetki, prepisi in drugi delovni produkti, izdelani v skladu s pravili, so zaupni, razen če je razkritje s strani FINA zahtevano po zakonu. Vsaka kršitev te določbe, vključno s strani svetovalca in/ali sodelavca zadevne osebe, lahko pomeni zlorabo postopka.

Medtem ko morajo fizična dokumentacija in/ali posnetki ostati zaupni, lahko FINA in/ali ustrezna članica zveze FINA razkrije izid zadeve, vključno s povzetkom kakršne koli odločitve, tistim strankam ali organizacijam, ki to morajo vedeti, tako da se lahko rezultat preiskave pravilno izvede ali razume.

Če katera koli oseba ali subjekt napačno predstavi postopek, s katerim je bil ugotovljen izid, osnovna dejstva ali izid zadeve, si FINA pridržuje pravico, da javno popravi zapis.

5.13 Obveznost poročanja

Vse zadevne osebe so v skladu s temi pravili dolžne prijaviti FINA vsako dejanje ali vedenje, ki bi se objektivno lahko štelo za prepovedano ravnanje ali maščevanje zaradi neprijave prepovedanega ravnanja, preiskave in morebitne obtožbe. Neprijave v skladu s temi pravili lahko povzročijo posledice v skladu s temi pravili in/ali etičnim kodeksom FINA.

6. SANKCIJE

6.1 Obseg sankcij

Če odbor za etiko FINA odloči, da je zadevna oseba zagrešila prepovedano ravnanje, ima odbor za etiko FINA pravico naložiti naslednje sankcije v skladu s temi pravili.

6.1.1 Opozorilo

Uradno, pisno obvestilo in uradni opomin, da je zadevna oseba kršila ta pravila in da je lahko v primeru novih kršitev osebi izrečena strožja sankcija.

6.1.2 Poskusna doba

Določeno obdobje, v katerem se lahko v primeru nadaljnjih kršitev teh pravil uporabijo dodatni disciplinski ukrepi, vključno z obdobjem suspenzije ali trajne izločitve. Ta sankcija lahko vključuje tudi izgubo privilegijev ali drugih pogojev, omejitve ali zahteve.

6.1.4 Neupravičenost

Prekinitev sodelovanja v kakršni koli vlogi, programu, dejavnosti, dogodku ali tekmovanju, ki ga sponzorira, organizira ali je pod okriljem FINA ali članice zveze, ali v stavbi pod jurisdikcijo te zveze, za obdobje do življenjske dobe zadevne osebe.

Zadevna oseba je upravičena, da se vrne po poteku začasne prekinitve, vendar za obnovev sodelovanja lahko veljajo določene omejitve ali pa je odvisno od tega, da oseba izpolnjuje posebne pogoje, navedene v času začasne prekinitve.

6.1.5 Druge diskrecijske zadeve

Odbor za etiko FINA lahko po lastni presoji naloži druge sankcije, vključno z, vendar ne omejeno na, drugo izgubo privilegijev, direktivo brez kontakta, zahtevo po dokončanju izobraževalnih ali drugih programov, vračilom nagrad FINA ali kakršnimi koli drugimi omejitvami ali pogoji kot šteje za potrebno ali primerno.

Po presoji odbora za etiko FINA lahko sankcija vključuje omejitve ali prepovedi nekaterih vrst udeležbe, vendar dovoli sodelovanje v drugih.

6.2 Oteževalne in olajševalne okoliščine

Pri izreku sankcij v skladu s temi pravili ima odbor za etiko FINA pravico upoštevati obstoj kakršnega koli oteževalnega in/ali olajševalnega dejavnika.

Oteževalni dejavniki lahko vključujejo:

- 6.2.1 Nesodelovanje osebe pri preiskavi ali zahtevah po informacijah neodvisnega pooblaščenca za zaščito, neodvisnega preiskovalnega uradnika in/ali odbora za etiko FINA.
- 6.2.2 Prepovedano ravnanje, usmerjeno proti mladoletnikom ali drugi odvisni osebi, zlasti, vendar ne omejeno na ravnanje, ki izhaja iz položaja moči, skrbi, zaposlitve ali katere koli druge oblike odvisnega razmerja.
- 6.2.3 Vrsta in/ali ponavljajoča se narava prepovedanega ravnanja.
- 6.2.4 Vsaka predhodna kršitev teh pravil (ali drugih pravil domače zakonodaje ali s tem povezanih prepovedanih ravnanj) s strani zadevne osebe.
- 6.2.5 Neobžalovanje s strani osebe, ki jo ta pravila zavezujejo.

6.2.6 Vsaka druga obteževalna okoliščina, za katero odbor za etiko FINA meni, da je pomemben.

Olajševalni dejavniki lahko vključujejo:

6.2.7 Sodelovanje zadevne osebe pri preiskavi ali zahtevah po informacijah.

6.2.8 Pravočasno priznanje kršitve s strani zadevne osebe.

6.2.9 Prazna disciplinska evidenca zadevne osebe.

6.2.10 Mladost ali neizkušenost osebe.

6.2.11 Obžalovanje osebe za svoja dejanja.

6.2.12 Vsaka druga olajševalna okoliščina, za katero odbor za etiko FINA meni, da je pomembna.

6.3 Vzgojni ukrepi in rehabilitacija

Kot del neformalnega ali formalnega reševanja katere koli zadeve se lahko od zadevne osebe zahteva, da opravi ustrezen program izobraževanja ali rehabilitacije, ki se nanaša na preprečevanje nadlegovanja in zlorabe kot pogoj za upravičenost ali kot samostojna sankcija.

6.4 Začasna in prostovoljna izključitev

Na zahtevo neodvisnega pooblaščenca za zaščito in/ali tožnika in po zaslišanju obtožene osebe ima odbor za etiko FINA diskrecijsko pravico, da začasno izključi zadevno osebo do rezultata preiskave in razsodbe o domnevni kršitvi v okoliščinah, v katerih meni, da so obtožbe proti zadevni osebi resne, da je ogrožena varnost dobrega počutja zadevne osebe ali dostojanstvo vodnega športa.

Druga možnost je, da zadevna oseba, ki jo zavezujejo ta pravila, sprejme prostovoljno izključitev iz udeležbe v vodnem športu, če je to pisno potrjeno neodvisnemu pooblaščenca za zaščito. Prostovoljna izključitev začne veljati šele od dneva prejema takšne pisne potrditve neodvisnemu pooblaščenca za zaščito. Kadar je zadevni osebi izrečena začasna izključitev, se zadevni osebi ta čas prišteje pri določitvi kakršnega koli nadaljnjega obdobja izključitve ali druge sankcije, ki se lahko na koncu izreče zadevni osebi.

6.5 Stroški

Odbor za etiko FINA lahko naloži zadevni osebi, ki je kršila ta pravila, da zvezi FINA plača prispevek za stroške in izdatke ter za morebitno preiskavo, zaslihanje in sojenje zadeve.

6.6 Objava in obveščanje

FINA lahko vsako ugotovitev kršitve, storjeno v skladu s temi pravili, vključno s kakršnimi koli povezanimi sankcijami, javno razkrije in jo prijavi ustrezni članici zveze FINA in organom pregona.

7. IZVAJANJE S STRANI ČLANIC ZVEZE IN FINA

- 7.1 Članice zveze morajo izvajati podobna pravila in predpise ali vključiti ta pravila v svoja pravila, kot so ustrezno spremenjena za tekmovanje na nacionalni ravni, da bi preprečili prepovedano ravnanje pod njihovimi pristojnostmi.
- 7.2 V kolikor so obtožbe o prepovedanem ravnanju na nezadevnem dogodku, vložene pri članici zveze, taka članica zveze nemudoma obvesti neodvisnega uradnika za zaščito. V kolikor članica zveze pravočasno ne razišče in/ali razreši očitkov o prepovedanem ravnanju, lahko neodvisni pooblaščenec za zaščito sproži postopek za preiskavo in reševanje po tem pravilniku.
- 7.3 Vsaka kršitev ali sankcija, določena v skladu s temi pravili, se vzajemno priznava in izvaja s strani in med vsemi članicami zveze FINA.
- 7.4 Vsako odločitev, ki jo sprejme članica zveze v zvezi s prepovedanim ravnanjem, je treba nemudoma sporočiti neodvisnemu uradniku za zaščito, ki bo po potrebi sprožil potrebne postopke priznanja in izvrševanja. Vse odločitve odbora za etiko FINA, ki priznava odločitev članice zveze, uveljavijo vse članice zveze.
- 7.5 Če članica zveze ne spoštuje razdelkov 7.1 - 7.4, se lahko predloži odboru za etiko FINA.

8. ZASTARANJE

8.1 Zastaranje

Zastaralni rok za pritožbe, vložene po tem pravilniku, je deset (10) let od zadnjega dne, ko naj bi prišlo do prepovedanega ravnanja.

V primeru domneve, da se je prepovedano ravnanje zgodilo, ko je bil tožnik mladoleten, je zastaralni rok deset (10) let od dneva, ko je tožeča stranka polnoletna v državi, kjer je prišlo do domnevnega prepovedanega ravnanja.

Zgornji zastaralni rok ne velja za pritožbe za spolno zlorabo.

9. SPREMEMBE IN INTERPRETACIJA

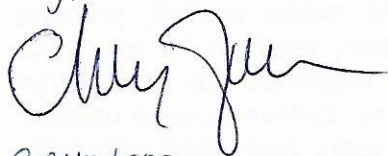
- 9.1 Urad FINA lahko občasno spremeni ta pravilnik.

- 9.2 Če ni drugače navedeno, se ta pravilnik razlaga kot samostojno besedilo in ne s sklicevanjem na obstoječe zakone ali statute.
- 9.3 Naslovi in podnaslovi v teh pravilih so zgolj za lažjo uporabo in se ne štejejo za del vsebine teh pravil ali kakor koli vplivajo na jezik določb, na katere se nanašajo.
- 9.4 Če se kateri koli pododdelek teh pravil iz kakršnega koli razloga ugotovi kot neveljaven, neizvršljiv ali nezakonit, se šteje, da je izbrisan, v nasprotnem primeru pa pravila ostanejo v polni veljavi. Če se zadevna oseba upokoji, preneha sodelovati, pomagati ali ostati vključena v vodni šport, medtem ko je v teku disciplinski postopek po teh pravilih, FINA obdrži pristojnost za dokončanje ustreznega postopka in izrek ustrezne sankcije. Če se zadevna oseba upokoji, preneha sodelovati, pomagati ali ostati vključena v vodni šport pred začetkom kakršnega koli disciplinskega postopka, je FINA kljub temu pristojna za izvedbo ustreznega postopka in izrek ustrezne sankcije.

Podpisana Milena Žuran, z odločbo Ministrstva za pravosodje Republike Slovenije z dne 5. julija 2000, RS 165-03-93/00, imenovana sodna tolmačka za angleški jezik, potrjujem, da se ta prevod popolnoma ujema z izvirnikom, ki je sestavljen v ANGLESKEM jeziku.

I, the undersigned Milena Žuran, appointed by Decree of Ministry of Justice of the Republic of Slovenia of 5 July 2000, No. RS 165-03-93/00, as a court interpreter for English language, certify that this translation fully corresponds the original text in the ENGLISH language.

Prij, 10.12.2021



2021HL/583

