
Proposals for Modifications to the FEI Equine Anti-Doping and Controlled Medication Regulations

6 July 2017

Dear Member Federations,

On behalf of the FEI Bureau, please find below a summary of the proposed changes to the FEI Equine Anti-Doping and Controlled Medication Regulations together with the corresponding explanations.

We would appreciate any comments you may have on these proposed rule changes by **Monday, 18 September 2017**. Thank you for sending your comments to mikael.rentsch@fei.org directly.

Sincerely,



Mikael Rentsch
Legal Director

PROPOSED EADCMR CHANGES

(A) Minor Athletes (i.e. under 18 years old)

I – EAD Rules (i.e. Banned Substances) – New Special Procedure for Minors

The current EAD Rules give the FEI Tribunal very little flexibility when sanctioning minor athletes and can result in the imposition of very harsh sanctions, for example a 1 or 2 years' suspension for athletes as young as 12/13, even though they usually have very little control over how the Horse is cared for/treated.

To address this issue, it is proposed to introduce a **new "Special Procedure for Minors"** for **Banned Substances** cases involving **Minors**. This would operate in a similar way to how the current Administrative/FastTrack Procedure operates for Controlled Medication cases.

The Special Procedure for Minors would only be available:

- to Minor Athletes (i.e. those under 18 at the time of the alleged violation);
- if the Minor is a first time offender (no prior EAD/ECM violation in the last four (4) years):

- if there is one (1) or more Banned Substance detected in the Sample; and
- if the alleged violation did not occur at the Olympic Games, Paralympic Games of FEI World Equestrian Games™.

The main features of the Special Procedure for Minors are:

- no automatic provisional suspension for Minor Athletes at the time of the notification of the violation;
- the two (2) month provisional suspension of the Minor's Horse would remain;
- if the Minor chooses to accept the Special Procedure for Minors, the consequences are:
 - o Two (2) month suspension; and
 - o Fine of CHF1'500; and
 - o Costs of CHF1'000.

These consequences are imposed as soon as the Minor accepts the Special Procedure for Minors.

If the Minor chooses not to have their case processed under the Special Procedure for Minors, the case will be dealt with under the regular EAD Rules (i.e. potential for a 2 year suspension if found guilty or the possibility to eliminate the sanctions entirely if the FEI Tribunal finds No Fault or Negligence).

Regardless of whether the Minor chooses to have their case processed under the Special Procedure for Minors or not, the Minor's results at the Event at which Event where the Sample was taken will still be disqualified.

Proposed Wording:

8.3 Special Procedure for Minors

8.3.1 *For Adverse Analytical Findings involving one or more Banned Substances, where the Person Responsible is a Minor, the Minor may elect to have their case processed under the "Special Procedure for Minors" provided that:*

a. The Minor and the Horse are first-time offenders (namely, no record of any EAD or ECM Rule violations, or violations of any predecessor rules) without any pending or concluded cases within the last four (4) years preceding the Sample which caused the Adverse Analytical Finding; and

b. The Event during which the Sample was taken from the Horse is not part of the Olympic Games, Paralympic Games or World Equestrian Games.

8.3.2 *If the Minor requests a hearing before the FEI Tribunal, Article 10 below shall apply at the discretion of the Hearing Panel.*

8.3.3 *Where the Special Procedure for Minors is applied by the FEI, the following consequences shall be imposed and no other consequences, including those set forth in Article 10 below or elsewhere in these EAD Rules, shall be applicable to any Minor who has elected to avail of this Special Procedure for Minors:*

- a. Disqualification of the Minor and the Horse from the whole Event and forfeiture of all prizes and prize money won at the Event;
- b. Two month period of Ineligibility for the Minor, such period of Ineligibility to commence on the date that the Acceptance Form referred to in Article 8.3.5 below is received by the FEI;
- c. Two month period of suspension for the Horse, such period of suspension to commence as of the date of Notification (i.e. the date the provisional suspension of the Horse commenced);
- d. A Fine of CHF 1,500; and
- e. Costs of CHF 1,000. However, if a B Sample analysis is requested and the Special Procedure for Minors is accepted after the B Sample Analysis, the costs payable shall be increased to CHF 2,000.

8.3.5 In order to apply this Special Procedure for Minors, the Minor (and/or his/her legal guardian) must execute an Acceptance Form within fourteen (14) calendar days following the date of the Notice in which the FEI offers this Special Procedure for Minors to the Minor alleged to have committed the EAD Rule violation. The FEI may reasonably extend such deadline provided the file has not yet been circulated to the FEI Tribunal or any of its members.

8.3.6 If the Minor does not elect to avail of the Special Procedure for Minors within the fixed time limit, the Special Procedure for Minors shall be considered declined and the case shall be submitted to the FEI Tribunal for final Decision. The FEI Tribunal may impose Sanctions and costs which may be more or less severe than the ones provided under Article 8.3.3 above.

8.3.7 The principles contained at Article 13.3.5 shall be applied in cases dealt with under the Special Procedure for Minors.

In addition to the introduction of the new Article 8.3 above into the EAD Rules, the proposed introduction of the Special Procedure for Minors requires some knock-on changes to the EAD Rules on Provisional Suspensions to clarify that the mandatory provisional suspension where a Sample contains a Banned Substance does not apply to Minors (proposed new wording in red text below).

Proposed Wording:

7.4 Provisional Suspensions

7.4.1 The FEI shall provisionally suspend a *Person Responsible*, member of the *Support Personnel*, and/or the *Person Responsible's Horse* prior to the opportunity for a full hearing based on: (a) an admission that an *EAD Rule* violation has taken place (for the avoidance of doubt, an admission by any *Person* can only be used to provisionally suspend that *Person*); or (b) all of the following elements: (i) an *Adverse Analytical Finding* for a *Banned Substance* that is not a *Specified Substance* from the *A Sample* or *A and B*

Samples; (ii) the review described in Article 7.1.2 above; and (iii) the Notification described in Article 7.1.4 above. Notwithstanding the foregoing, the FEI shall not provisionally suspend a Person Responsible who is a Minor and to whom Article 8.3 below (Special Procedure for Minors) applies but the FEI shall provisionally suspend the relevant Horse.

7.4.2 The FEI may provisionally suspend a *Person Responsible*, member of the Support Personnel, and/or the *Person Responsible's* Horse prior to the opportunity for a full hearing based on (a) evidence that a violation of these EAD Rules is highly likely to have been committed by the respective Person or (b) all of the following elements (i) an *Adverse Analytical Finding* for a *Banned Substance* that is a *Specified Substance* from the A Sample or A and B Samples; (ii) the review described in Article 7.1.2 above; and (iii) the *Notification* described in Article 7.1.4 above.

In addition, the FEI may provisionally suspend a Person Responsible who is a Minor to whom Article 8.3 below (Special Procedure for Minors) does not apply but the FEI shall provisionally suspend the relevant Horse.

II – ECM Rules (i.e. Controlled Medication Substances)

The Special Procedure for Minors will not apply to Minors where a Sample contains a Controlled Medication because the Minors can already use the existing Administrative/FastTrack Procedure.

However, it is proposed to adjust the ECM Rules on Provisional Suspensions to make the imposition of a Provisional Suspension on a Minor non-mandatory where the Administrative/FastTrack Procedure would not be available. This is in order to have a common approach towards provisional suspensions for Minor Athletes under both the EAD Rules and the ECM Rules.

The general rule under both the EAD and ECM Rules, if the proposed changes are accepted, will be that Minor Athletes will not be provisionally suspended. The situation in relation to the provisional suspension of the Horse will remain unchanged (proposed new wording in red text below).

Proposed Wording:

7.4 Provisional Suspensions

7.4.1 The FEI shall provisionally suspend a *Person Responsible*, member of the Support Personnel, and/or the *Person Responsible's* Horse prior to the opportunity for a full hearing based on: (a) an admission that an *ECM Rule* violation has taken place (for the avoidance of doubt, an admission by any *Person* can only be used to provisionally suspend that *Person*); or (b) all of the following elements: (i) an *Adverse Analytical Finding* for two *Controlled Medication Substances* from the A Sample or A and B Samples provided that neither of the *Controlled Medication Substances* is a *Specified Substance*; (ii) the review described in Article 7.1.2; and (iii) the *Notification* described in Article 7.1.4 above. If a *Provisional Suspension* is imposed, either the hearing in accordance with Article 8 shall be advanced

to a date which avoids substantial prejudice to the *Person Responsible* alleged to have committed the *ECM Rule* violation, or such *Person Responsible* shall be given an opportunity for a *Preliminary Hearing* either on a timely basis after imposition of the *Provisional Suspension* or before imposition of the *Provisional Suspension* in order to show cause why the *Provisional Suspension* should not be imposed (or should be lifted). Where a *Horse* is provisionally suspended, the *Owner* shall also have the right to request a *Preliminary Hearing*. Notwithstanding the foregoing, the FEI may provisionally suspend a *Person Responsible* pursuant to this Article 7.4.1 if that *Person Responsible* is a *Minor* but the FEI shall provisionally suspend the relevant *Horse*.

(B) Other Amendments to EADCMRs (changes in red text)

1. Equine Prohibited Substances List

In 2016, the concept of “Specified Substances” was introduced into the EADCMRs to recognize that it is possible for a substance to enter a Horse’s system inadvertently, and therefore allow the FEI and/or the FEI Tribunal more flexibility when prosecuting a case or when making a sanctioning decision.

It is proposed to update the wording of Articles 4.3 of both the EAD and ECM Rules to clarify that the discretion to determine what Prohibited Substances are categorized as Specified Substances rests solely with the FEI and the classification is final and cannot be challenged. This reflects the WADA approach.

Proposed Wording

4.3 Substances and Methods included on the List

The FEI’s categorization of a substance or method on the *List* as a *Banned Substance* or *Banned Method* (in particular, as opposed to a *Controlled Medication Substance* or *Method*) including any establishment of a threshold for a *Banned Substance* and/or the quantitative amount of such threshold and the classification of certain Prohibited Substances as Specified Substances shall be final and binding on all parties and shall not be subject to challenge by a *Person Responsible*, member of the *Support Personnel* or any other *Person* on any basis.

2. Retesting Samples

Under the current rules, only Samples taken at the Olympic Games, Paralympic Games and FEI World Equestrian Games™ can be retested. It is proposed to expand this to allow flexibility to retest any Sample, regardless of the Event at which the Sample was taken.

Proposed Wording:

6.5 A *Sample* may be reanalyzed for the purpose of Article 6.2 above at any time exclusively at the direction of the FEI. The circumstances and conditions for retesting *Samples* shall conform with the requirements of the *FEI Standard for Laboratories*. The retesting of *Samples* may lead to an *EAD Rule* violation ~~only if the Sample was taken at the Olympic, Paralympic or World Equestrian Games~~

~~and~~ only if the *Banned Substance* or *Banned Method* was prohibited at the time the *Sample* was taken, all subject to Article 14.

3. Waiver of Hearing

A small change is needed to Articles 7.6.3 of the EAD and ECM Rules because, as Article 7.6.1 already deals with the situation where the FEI and the PR have reached an agreement as to the sanctions applicable and that agreement is approved by the FEI Tribunal, there is no need to include a reference to Article 7.6.1 in Article 7.6.3.

Proposed Wording:

7.6.3 In cases where ~~Article 7.6.1 or~~ Article 7.6.2 applies, a hearing before a hearing panel shall not be required. Instead the *FEI Tribunal* shall promptly issue a written decision confirming the commission of the EAD Rule violation and the *Consequences* imposed as a 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. The *FEI* shall send copies of that decision to other *Anti-Doping Organizations* with a right to appeal under Article 12.2.2, and shall *Publicly Disclose* that decision in accordance with Article 13.3.