

SA drops the ball on anti-doping

By [Candice Meyer](#), [Lize-Mari Doubell](#) & [Danica Jonker](#)

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The World Anti-Doping Agency has imposed sanctions on South Africa for non-compliance with the 2021 Code, but sanctions are suspended at least until a decision is made by the Court of Arbitration for Sport.

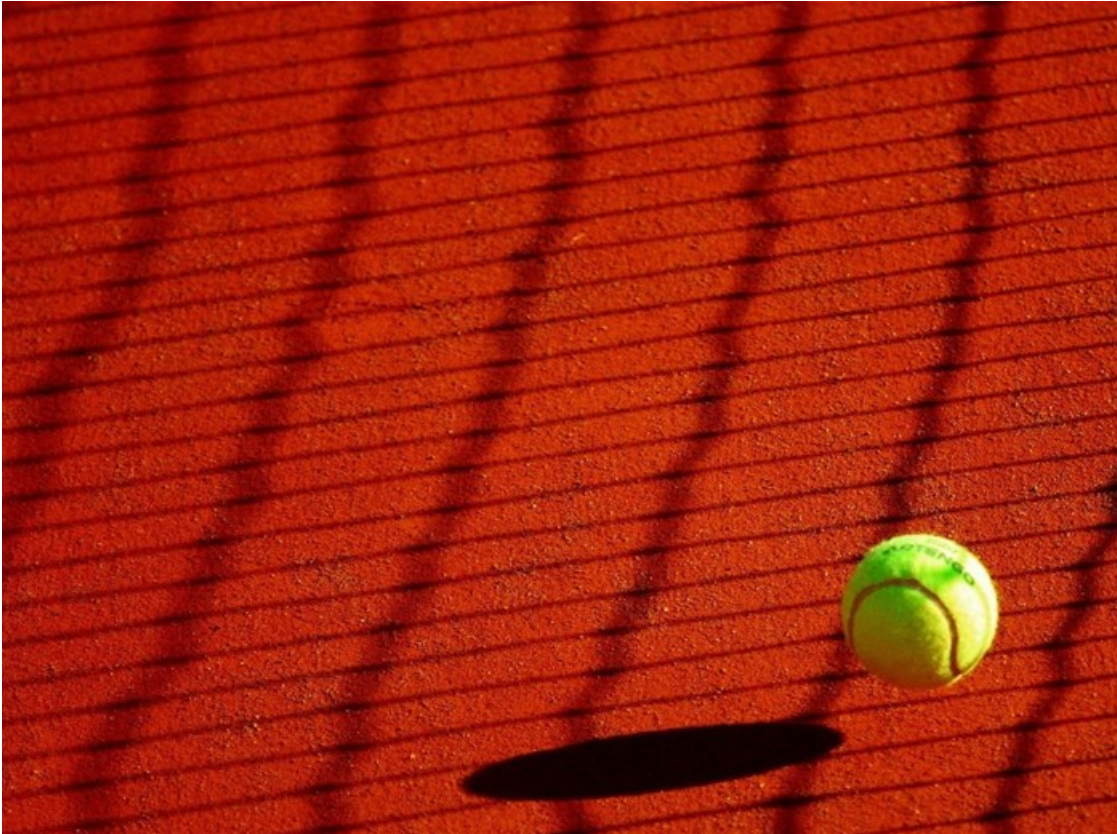


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The World Anti-Doping Agency (WADA) is an international independent agency established to lead a collaborative worldwide movement for doping-free sport. The South African Institute for Drug-free Sport (SAIDS), the South African Sports Confederation and Olympic Committee, and the National Paralympic Committee of South Africa are the signatories through which South Africa acceded to the World Anti-Doping Code of 2021 (the Code), which is monitored and enforced by WADA.

The objective of the Code is global standardisation of anti-doping, to safeguard the fundamental right of athletes to engage in sports that are free from doping, and to promote health, fairness, and equity for athletes worldwide.

All organisations that have endorsed the Code, representing their countries, are obliged to ensure that their countries incorporate the provisions of the Code into their policies, statutes, rules, and regulations. The updated Code became effective in January 2021. Since the Code was updated, South Africa and Bermuda are the only countries that have not updated their regulations. If a signatory is found to be non-compliant with the Code, WADA can impose various sanctions.

Sanctions due to non-compliance

WADA recently found South African legislation to be non-compliant with the Code. It set a deadline of 13 October 2023 by which South Africa must align its legislation with the Code, failing which sanctions will be immediately effective. These sanctions include a prohibition against SAIDS hosting events in collaboration with WADA, SAIDS holding representative positions in WADA, SAIDS participation in some WADA events, and SAIDS holding representative positions on bodies of

other signatories to the Code.

South Africa will not be awarded the right to host regional, continental and world championships, and events organised by major event organisations, until SAIDS is reinstated. Further sanctions will include that South Africa's national anthem may not be sung and its flag may not be flown at regional, continental and world championships and events organised by major event organisations, or at the Olympic Games and Paralympic Games, until SAIDS is reinstated.

In response, on Tuesday, 10 October 2023, SAIDS filed a notice with the Court of Arbitration for Sport (CAS) in Switzerland, to challenge WADA's declaration of non-compliance. WADA has confirmed that this notice stays the allegation of non-compliance. WADA's sanctions will not be imposed at least until CAS makes its ruling. It is unclear when CAS will make a ruling, however, it has been reported that the CAS hearing is likely to be held only in a few months' time.

SA legislation

The South African Institute for Drug-Free Sport Amendment Bill, 2020 (Bill) seeks to address alleged shortcomings in South African legislation on anti-doping, in line with the Code. The process of finalising the enactment of the Bill has been slow. It began with updated draft iterations of the Bill as long ago as 2020. Despite the grave risk of sanctions for South African international sports, there appears to be no firm timeline for the enactment of the Bill.

Pending the outcome of the SAIDS appeal to CAS, which has temporarily stayed the risk of sanctions for alleged non-compliance with the Code, much more work needs to be done. The Bill must be finalised and enacted to ensure that South African legislation is compliant with the Code and WADA's concerns are addressed to avoid the imposition of sanctions.

In the meantime, the Nation can enjoy the reprieve and fly the South African flag at this week's rugby and cricket, when the Springboks take on France, and the Proteas take on Australia.

ABOUT THE AUTHOR

Candice Meyer, Partner, Lize-Mari Doubell, Trainee Attorney & Danica Jonker, Candidate Attorney - Webber Wentzel

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