

## ERRATUM

**(2026) 38 SAclJ 81:**

In paragraph 88, the third sentence, “However, ultimately for this case, in light of the fact that Toh was of unsound mind when he committed the offence, the prosecution applied for a discharge not amounting to an acquittal and issued a conditional warning to Toh.” should read “However, ultimately for this case, the prosecution applied for a discharge not amounting to an acquittal, with the prosecutor reportedly stating that Toh might have been of unsound mind at the material time. Toh was issued a conditional warning.”.

This PDF incorporates the above amendment.

## ATHLETES AT MAJOR GAMES AND SPORTS COMPETITIONS

### Eligibility and Codes of Conduct

Athletes pursue victory and excellence, yet elite sporting competition demands more than performance: they require navigating rules that safeguard fair competition and sporting integrity. This article maps eligibility requirements and selection issues, participation agreements and codes of conduct, media and image-rights controls, and doping-related obligations. The regulation of equipment used in competition, participation of transgender and para-athletes, and the impact of technological advancements in sports are also discussed in the context of fair competition and sporting integrity. Given that athletes and officials primarily focus on performance rather than legal compliance, the article hopes to – drawing on recent international legal and policy developments as well as anecdotal case studies – equip key stakeholders in sports with the awareness necessary to navigate the legal minefields that lie in wait in the elite sports landscape.

**LAU Kok Keng**

*LLB (Hons) (National University of Singapore);  
Advocate and Solicitor (Singapore); Head, Intellectual Property,  
Sports & Gaming, Rajah & Tann Singapore LLP.*

**YONG Yi Xiang**

*LLB (Hons) (National University of Singapore);  
Advocate and Solicitor (Singapore); Senior Associate, Intellectual Property,  
Sports & Gaming, Rajah & Tann Singapore LLP.*

**Claire MAK**

*Juris Doctor (Singapore Management University),  
Bachelor of Engineering (Hons) (National University of Singapore);  
Advocate and Solicitor (Singapore); Associate, Intellectual Property,  
Sports & Gaming, Rajah & Tann Singapore LLP.*

## I. Introduction

1 The 2024 Paris Olympic Games saw the participation of over 10,000 athletes,<sup>1</sup> while more than 12,000 athletes competed at the Hangzhou Asian Games in 2023. These numbers were closely matched by the albeit smaller-scale 2023 Southeast Asian Games in Cambodia, reflecting the growing scale of these prestigious multi-sport events. Athletes at such major games generally compete not as individuals or representatives of their countries, but as representatives of their respective National Olympic Committees (“NOCs”).<sup>2</sup> It is the respective NOCs which select the athletes to participate at the major games, based on nominations put forward by the respective national sports federations of that nation.

2 To many athletes, competing at major games like the Olympics and the Commonwealth Games represents the pinnacle of their sporting careers, while participation in smaller, regional events like the Southeast Asian Games often serves as crucial stepping stones towards more significant achievements and higher ultimate objectives at larger-scale international games. Regardless of the level of competition, the quest for victory and the drive to excel remain the most powerful motivators for those who dedicate themselves to sports.

3 However, the path to the podium is fraught with challenges that extend far beyond physical training and competition. Athletes must navigate a myriad of rules and obligations, from eligibility and selection criteria to codes of conduct, contractual rights and obligations to sponsors, and compliance with technical and administrative regulations. These requirements are designed to ensure fair play, uphold the integrity of competition, and protect the interests of all stakeholders involved. Given that a significant proportion of athletes who participate in major games and sports competitions are below 21 years of age, with some in their early teenage years, it is not uncommon for a young athlete to feel overwhelmed by the demands of legal and compliance requirements, all

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1 Russia and Belarus were banned from the 2024 Paris Olympics as a result of the war in Ukraine, but athletes from these countries were allowed to compete as Individual Neutral Athletes. See International Olympic Committee, “Strict Eligibility Conditions in Place As IOC EB Approves Individual Neutral Athletes (AINs) for the Olympic Games Paris 2024”, *Olympics.com* (8 December 2023) <<https://www.olympics.com/ioc/news/strict-eligibility-conditions-in-place-as-ioc-eb-approves-individual-neutral-athletes-ains-for-the-olympic-games-paris-2024>> (accessed 11 October 2025).

2 This explains why athletes from Hong Kong SAR do not participate at major games under the flag of the People’s Republic of China.

while under pressure to achieve peak and winning performances in their competition events.

4 The importance of understanding the aforesaid legal challenges cannot be understated. A lack of awareness or understanding of these obligations can result in unintentional violations, which could lead to sanctions, such as being stripped of medals, losing commercial opportunities, being barred from further participation, and suffering reputational damage. Conversely, a well-informed athlete is better equipped to advocate for fair treatment, protect their rights, and manage disputes that may arise in the course of participation in the major games.

5 This article explores, principally (but not exclusively) from a Singapore perspective, the multifaceted legal, ethical, and disciplinary frameworks that shape participation in major games and sports competitions. It examines the intricacies of eligibility and selection processes, the application and enforcement of codes of conduct, the rights and obligations arising from team membership agreements, and the regulation of competition rules and equipment. The discussion further addresses the impact of technological advancements, the evolving standards for the inclusion of transgender and para-athletes, the management of athlete image rights, and the mechanisms for addressing misconduct, disputes and abuse. Drawing on recent cases and international developments, this article aims to equip athletes, officials, legal advisors and other stakeholders with the knowledge necessary to uphold the integrity of competition and foster a culture of fair play, respect, and compliance within the high-pressure environment of major sporting events.

## **II. Eligibility, selection, and qualification**

### **A. Introduction**

6 One of the most contentious issues in the lead-up to major sporting events is the selection of athletes. This is largely due to the significant public interest surrounding the chosen participants, making the determination of eligibility a critical concern. Ensuring that eligibility criteria are defined and implemented clearly and fairly is essential, as the stakes are incredibly high for both the athletes and the reputations of their national sporting bodies.

## B. Eligibility

### (1) *Determination of eligibility based on nationality and citizenship requirements*

7 Eligibility is often based on nationality and citizenship requirements, which can vary significantly depending on the event and the country in question.

(a) *National Sports Associations* (“NSAs”): In Singapore, most NSAs stipulate that athletes must be Singaporean citizens. Athletes over 21 years of age must not hold dual citizenship, reflecting Singapore’s national policy on single citizenship.

(b) *Southeast Asian Games* (“SEA Games”): The SEA Games Federation Charter mandates that only nationals of Southeast Asian countries who are holding current valid national passports of that country shall be qualified and eligible to represent the NOC of that country. All disputes relating to the determination of the country which an athlete may represent in the SEA Games shall be decided by the SEA Games Arbitration Panel.<sup>3</sup>

(c) *Olympic Games*: Rule 41 of the Olympic Charter establishes that athletes must be nationals of the country they represent. In cases of multiple citizenships, an athlete may choose which nationality to represent, but after representing one country, they must wait three years before switching, unless both countries agree to waive this requirement.<sup>4</sup> The objective of this rule is to prevent nations from exploiting athletes from less-developed countries for an inequitable advantage.

(d) *Singapore National Olympic Council* (“SNOC”): The nomination criteria for major games generally require that athletes must be Singapore citizens, and that they should not be holding dual citizenship if they are above 22 years old at the time of nomination.<sup>5</sup>

8 The multifaceted and nuanced nature of nationality laws and citizenship rules often makes this a highly debated issue. Some sports and international federations enforce even stricter guidelines than those

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3 SEA Games Federation Charter and Rules (as of 4 May 2023) Art 31.

4 International Olympic Charter, *Olympic Charter* (IOC, 2025) Rule 41, Bye-law 2.

5 Singapore National Olympic Council, “Paris 2024 Olympic Games – Selection Criteria” <<https://www.singaporeolympics.com/paris-2024-olympic-games-selection-criteria/>> (16 February 2024) (accessed 11 October 2025).

provided by the Olympic Charter, leading to potential conflicts over athlete eligibility.

(2) *Age eligibility*

9 There are generally no specific age limits for taking part in major games, and any age restrictions are instead dependent on each international sports governing body and the rules it sets for its sport.<sup>6</sup> Age eligibility can become contentious, particularly when athletes are found or suspected to have falsified their ages in order to meet age eligibility requirements.<sup>7</sup>

10 In 1989, the *Fédération Internationale de Football Association* (“FIFA”) banned the Nigerian national team from all international play for two years after discovering that several players in its 1989 Olympic squad had lied about their ages. Since 1992, male football players at the Olympics are required to be under 23 years of age, with three permitted exceptions. A considerable number of similar accusations have cropped up in the years since then, with some players allegedly shaving almost ten years off their actual ages.<sup>8</sup> But they are not alone. Chinese athletes have also been accused of falsifying their ages for years.<sup>9</sup> In 2009, a Chinese sports ministry found that among a group of 15,000 young athletes, a fifth of them had been misrepresenting their ages. Specifically, upon conducting X-ray bone analysis tests, the ministry found that 3,000 athletes were older than they had claimed. As funding is predicated upon success in China’s state-run sports system, officials at the city and provincial level have long been suspected of relying on over-aged players to help them win tournaments. Conversely, China has artificially increased the age of gymnasts to meet the eligibility requirements for Olympic competition.<sup>10</sup>

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6 International Olympic Committee, “Frequently Asked Questions – Competing and Being Part of the Games” <<https://olympics.com/ioc/faq/competing-and-being-part-of-the-games/what-is-the-age-limit-for-taking-part-in-the-olympic-games>> (accessed 11 October 2025).

7 Jon Terbush, “9 Famous Athletes Who Lied About Their Ages”, *The Week* (9 January 2015) <<https://theweek.com/articles/466308/9-famous-athletes-who-lied-about-ages>> (accessed 11 October 2025).

8 Observer Staff, “Forever young: Nigerian Football’s Age-Old Problem”, *The Guardian* (21 February 2010) <<https://www.theguardian.com/football/2010/feb/21/nigerian-football-age-old-problem>> (accessed 11 October 2025).

9 Associated Press, “China Eyed Over Eight Athletes’ Ages”, *ESPN* (14 February 2025) <<https://www.espn.com/olympics/figureskating/news/story?id=6120559>> (accessed 11 October 2025).

10 “3,000 Young Chinese Athletes Found to Be Older Than They Claim”, *The Guardian* (11 March 2009) <<https://www.theguardian.com/sport/2009/mar/11/china-athletes-age-fakes-sport>> (accessed 11 October 2025).

11 More recently, Dominican sprinter Luguélin Santos who won a silver medal in the 400m at the 2012 London Olympics<sup>11</sup> was banned by the Athletics Integrity Unit (“AIU”) for three years (from 11 March 2023 to 10 March 2026) for lying about his age at the World Junior Championships in 2012. He admitted to listing his date of birth as 12 November 1993, when he was actually born on 12 November 1992. That made him ineligible to compete at the World Junior Championships in 2012, which required athletes to be 18 or 19 years old on 31 December of the competition year.<sup>12</sup>

### C. Selection criteria and processes

#### (1) Objective criteria

12 The selection process for major games is often less than straightforward, as it seeks to balance objective performance standards with more subjective considerations. NSAs are required to establish clear and comprehensive qualifying standards, tailored to the demands of their respective sports, to ensure that all athletes have an equal opportunity to compete for nomination. These standards must also align with the qualification principles set by the respective international sports federations, especially for international major games like the Olympics.<sup>13</sup>

13 Administrative law principles play a significant role in the governance and review of sporting decisions, including in the selection of athletes for major games and other international competitions. These principles ensure that decisions made by sports governing bodies and selection panels are fair, transparent, made impartially without bias or conflict of interest, and subject to appropriate oversight and challenge by way of appeal or review.

14 Applied to the athlete selection process, administrative law principles require that selection policies and criteria be made publicly available and not changed arbitrarily or retrospectively, that the same selection criteria be applied consistently to all athletes, and that any subjective elements of the selection criteria be articulated, explained

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11 International Olympic Committee, “London 2012: Athletics – Men’s 400m Results”, *Olympics.com* <<https://olympics.com/en/olympic-games/london-2012/results/athletics/400m-men>> (accessed 11 October 2025).

12 Athletics Integrity Unit, “AIU Bans Santos and Disqualifies His ‘World Junior’ Title”, press release (1 December 2023) <<https://www.athleticsintegrity.org/knowledge-centre/news-archive>> (accessed 11 October 2025).

13 Singapore National Olympic Council, “Paris 2024 Olympic Games – Selection Criteria” <<https://www.singaporeolympics.com/paris-2024-olympic-games-selection-criteria/>> (16 February 2024) (accessed 11 October 2025).

and justified. Selection decisions must also be based on relevant considerations and not be arbitrary. All relevant factors (such as performance, potential for development and relevant conduct) must be taken into account, and irrelevant factors must be excluded. A cornerstone of administrative law is the right to appeal or challenge decisions, either by way of internal appeal mechanisms, or appeals to independent external bodies like the Court of Arbitration for Sport (“CAS”).

15 Under administrative law, public authorities are entitled to develop and adopt guidelines or policies to guide the exercise of their discretion in their decision-making processes, provided that they do not apply such policies so rigidly that they fail to consider the merits of individual cases or exceptional circumstances. The policies must not be so outrageous in defying logic or accepted moral standards that no sensible person would arrive at or adopt them.<sup>14</sup> Such guidelines or policies must also fall within the ambit of the public authority’s statutory powers and be made known to those affected.<sup>15</sup>

16 Whether administrative law principles govern the athlete selection process of the SNOC and NSAs depends on whether these bodies qualify as “public authorities”. A “public authority” is generally understood to refer to any person or administrative body which is entrusted with functions or duties to be performed for the benefit of the public or for a public purpose generally, rather than for private profit.<sup>16</sup> Statutory boards such as Sport Singapore clearly fall within this definition: they are established by statute,<sup>17</sup> funded by public moneys, subject to government oversight, and must comply with public law obligations.

17 In contrast, SNOC and NSAs occupy a more complex position. The SNOC, *eg*, is a non-profit organisation<sup>18</sup> registered as a society

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14 *Lines International Holding (S) Pte Ltd v Singapore Tourist Promotion Board* [1997] 1 SLR(R) 52 at [78]. This was a case in which the plaintiff, a cruise operator, had sought to challenge the Port of Singapore Authority’s and the Singapore Tourist Promotion Board’s adoption of non-statutory guidelines restricting the number of “cruises-to-nowhere” which were conducted mainly for gambling purposes.

15 *Lines International Holding (S) Pte Ltd v Singapore Tourist Promotion Board* [1997] 1 SLR(R) 52 at [92] and [95].

16 See *Halsbury’s Laws of Singapore* vol 1 (LexisNexis Singapore, 2012 Reissue) at para 10.005, although this paragraph on the definition of “public authority” has been removed in the latest version of the book published in 2023.

17 Sport Singapore (formerly the Singapore Sports Council) is listed in Part 1 of the First Schedule under the Public Sector (Governance) Act 2018 (2020 Rev Ed), as a “Group 1A public body”.

18 Singapore National Olympic Council, “About SNOC” <<https://www.singaporeolympics.com/about-snoc/>> (accessed 11 October 2025).

under the Societies Act 1966,<sup>19</sup> rather than a creature of statute. While it performs important public functions – such as selecting athletes for international competitions and collaboration with government agencies like Sport Singapore – its authority derives from its own constitution and by-laws, not from legislation. As such, SNOC is not automatically subject to public law obligations in the same way that statutory boards like Sport Singapore are. However, administrative law principles may still apply to SNOC when it exercises powers or performs functions that are, in substance, public in nature. For instance, when SNOC acts as the sole gatekeeper for the selection of athletes for national representation at major games – a role that directly affects the rights and opportunities of national athletes and serves a clear public interest – it may be regarded as exercising a public function. Similarly, NSAs, typically registered as societies and charities,<sup>20</sup> govern and promote their respective sports and select national athletes for their sport, but their powers also stem from their constitutions and recognition by Sport Singapore as the governing body for their sport in Singapore. While NSAs must comply with governance standards set by Sport Singapore and SNOC (as an affiliate member in the case of SNOC), they are not generally subject to the same public law obligations as statutory boards and other public agencies. Nonetheless, where an NSA is entrusted with responsibilities that have a significant public impact, or where their decisions are closely regulated or overseen by statutory bodies, there may be a stronger argument for treating the NSA as a public authority for the purposes of the applicability of administrative law principles. In this context, the principles outlined above, such as fairness, transparency and the right to appeal, become particularly relevant and may be invoked to ensure accountability in the decision-making process.

18 In Singapore, NSAs are expected to submit justifications for their nominations of athletes and teams to the SNOC. The final selection of athletes and teams lies with the SNOC, which applies its own criteria in determining which athletes may represent Singapore at the major games under consideration. For example, to compete in the Asian Games, athletes must have achieved a result which would have placed them at least sixth in the relevant event during the previous edition of the Asian Games. For team sports, the national teams must be ranked within the top six among competing Asian nations. Athletes or

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19 2020 Rev Ed. SGP Business, “Singapore National Olympic Council” <<https://www.sgpbusiness.com/societies/Singapore-National-Olympic-Council>> (accessed 11 October 2025).

20 Ministry of Culture, Community and Youth, “Utilisation of Funds By National Sports Associations”, MCCY (8 May 2017) <<https://www.mccy.gov.sg/about-us/news-and-resources/utilisation-of-funds-by-national-sports-associations>> (accessed 11 October 2025).

teams who narrowly miss these qualifying standards may still be selected if they show the potential to surpass them by the time of the event. A Major Games Selection Committee of the SNOC will be convened to go through the list of athletes who have been nominated by their respective NSAs and supported by the Singapore Sports Institute, and athletes who have not been selected will have the opportunity to submit appeals to the SNOC Appeals Committee based on new information which had not been previously submitted to the Selection Committee, such as improved timings or results achieved since the initial rejection.

19 In various sports like swimming and sailing, where qualification for the Olympic Games is attained by meeting qualification standards set by the international federation for the sport concerned, the team that achieves qualification merely secures a place in the Olympic Games for its NOC, as opposed to individual members of the successful team. For example, when a relay team of swimmers secures an automatic place in the Olympic Games by being among the fastest 16 relay teams based on the results of the two editions of the World Aquatics Championships in the two years immediately preceding the Olympic Games,<sup>21</sup> it is the NOC (and not the individual swimmers who comprised the successful team that achieved qualification) that secures a place in the relay event at the Olympic Games.<sup>22</sup> The relevant NSA then has the right to nominate the swimmers to comprise the relay team to be selected for the Olympics, and the swimmers nominated need not be the same swimmers who had achieved qualification for the relay team.

(2) *Subjective and other criteria*

20 It is important to note that meeting the objective criteria for selection does not automatically guarantee an athlete selection for the major games. Subjective factors such as attitude, behaviour, and overall conduct are also considered in the selection process. This approach aligns with the Olympic Charter, which emphasises that the selection of athletes should not only be based on their athletic performance, but also on their ability to serve as role models for the sporting youth of

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21 Sean McAlister, “How to Qualify for Swimming at Paris 2024. The Olympics Qualification System Explained”, *Olympics.com* (1 October 2022) <<https://olympics.com/en/news/how-to-qualify-for-swimming-at-paris-2024>> (accessed 16 October 2025).

22 Joscelin Yeo, “Commentary: Singapore’s Olympics Selection Saga – How Did We End Up Here Again?”, *Channel News Asia* (13 July 2024) <<https://www.channelnewsasia.com/commentary/paris-olympics-singapore-swimmers-quah-ting-wen-gan-ching-hwee-selection-4475231>> (accessed 11 October 2025).

their country.<sup>23</sup> As such, the selection process is designed to ensure that only the best athletes, both in terms of ability and conduct, are chosen to represent their respective NOCs. This aspect of selection, though crucial in maintaining the integrity of the team and upholding sporting values, often generates controversy due to its less quantifiable nature.

21 One example of subjective selection criteria can be found in the SNOC's selection criterion for major games.<sup>24</sup> In addition to the athlete's sporting achievements and results, the SNOC is entitled to take into account other considerations, including the athlete's attitude and behaviour towards coaches, teammates, fellow athletes, officials and sports administrators, whether in relation to sporting matters or otherwise. Some other factors include the athletes' general conduct and character, as well as their past disciplinary conduct.<sup>25</sup> These subjective criteria play a significant role in determining whether an athlete can be considered a true ambassador for their sport and their nation.

22 One of the most widely-publicised examples of a Singaporean athlete's conduct being applied as a criterion in determining selection for major games is the case of long-distance runner Soh Rui Yong ("Soh"). Despite setting a national record and winning a silver medal in the 10,000m race at the 2023 Southeast Asian Games in Cambodia, Soh was excluded from the Hangzhou Asian Games selection. The SNOC cited his failure to honour commitments to the SNOC and his continued disparaging and derisive remarks about others on social media as grounds for his exclusion. The SNOC also said that Soh's behaviour did not match his earlier apology and assurance to conduct himself in a more constructive, mature and professional manner.<sup>26</sup> This was not the first time Soh's nomination for major games selection had been rejected – the SNOC had previously declined to select Soh for the 2019 SEA Games in the Philippines as well as the 2021 SEA Games in Vietnam as the SNOC had found that: "Soh's conduct fell short of the standards of attitude and

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23 International Olympic Charter, *Olympic Charter* (IOC, 2025) Rules 27 and 28, Bye-law 2.1.

24 See, eg, Singapore National Olympic Council, "Paris 2024 Olympic Games – Selection Criteria" (16 February 2024) <<https://www.singaporeolympics.com/paris-2024-olympic-games-selection-criteria/>> (accessed 16 October 2025) and Singapore National Olympic Council, "Selection Criteria for Hangzhou 2022 Asian Games" (15 September 2021) <<https://www.singaporeolympics.com/selection-criteria-for-hangzhou-2022-asian-games/>> (accessed 16 October 2025).

25 Singapore National Olympic Council, "Paris 2024 Olympic Games – Selection Criteria" (16 February 2024) <<https://www.singaporeolympics.com/paris-2024-olympic-games-selection-criteria/>> (accessed 16 October 2025).

26 Deepanraj Ganesan, "Why SNOC Has Not Selected Soh Rui Yong for Asian Games", *The Straits Times* (10 June 2023) <<https://www.straitstimes.com/sport/why-snoc-has-not-selected-soh-rui-yong-for-asian-games>> (accessed 11 October 2025).

behaviour the SNOC expects of and holds its athletes to.”<sup>27</sup> The decisions of the SNOC, though controversial, highlighted the importance placed on an athlete’s conduct as a key factor in selection for major games.

23 An athlete’s personal conduct off the field of play and unrelated to sporting matters would also be relevant to the SNOC’s subjective criteria in athlete selection for major games. For example, the conviction of Pencak Silat exponent Sheik Ferdous Sheik Alau’ddin for drink- driving in May 2023 which resulted in a fine of \$8000 and disqualification from driving for 48 months, was viewed by Sport Singapore as serious enough to warrant an internal review to determine the appropriate actions to be taken against the athlete, considering his obligations as a Team Singapore athlete and Spex Scholar. On the other hand, the Singapore Silat Federation took the view that this had to do with his personal life, and that “... the federation ... will continue to support his career and journey ... [as] we believe he will continue to bring glory to the nation, like how he achieved a silver medal at the 32nd SEA Games”.<sup>28</sup>

24 Drink-driving convictions of athletes certainly do not serve as a good example to the sporting youth of the country, especially since alcohol consumption adversely affects sporting performance and the recovery process in many ways, regardless of whether drinking takes place during or outside of competition periods. It remains to be seen if Sheik Ferdous Sheik Alau’ddin’s drink-driving conviction will affect his selection prospects for future major games for which he is nominated for selection.

### (3) Selection process

25 The selection criteria for each major games are published by the SNOC on its website and notified to NSAs a few months before the commencement of the selection process for the relevant games. These criteria are then applied by the SNOC Selection Committee when it meets to consider the nominations of athletes from the various NSAs. These nominations will have to be supported by results achieved by the athletes during the qualification window period set by the SNOC. Nominations and supporting results are submitted *via* the SportSync

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27 Natasha Ganesan, “Top Marathoner Soh Rui Yong Excluded From SEA Games As Conduct ‘Continued to Fall Short’: SNOC”, *Channel News Asia* (17 February 2022) <<https://www.channelnewsasia.com/sport/soh-rui-yong-top-marathoner-excluded-sea-games-hanoi-snoc-2504066>> (accessed 11 October 2025).

28 Nadine Chua, “Ex-Silat World Champion Sheik Ferdous Fined \$8k for Drink Driving”, *The Straits Times* (15 May 2023) <<https://www.straitstimes.com/singapore/ex-silat-world-champion-sheik-ferdous-fined-8k-for-drink-driving>> (accessed 11 October 2025).

system at least six months before the commencement of the respective major games. For athletes who are not selected by the Selection Committee, the affected NSAs can submit appeals to the SNOC Appeals Committee. Each appeal must be supported by new information and results which meet the selection criteria, which had not been previously available or submitted to the Selection Committee.

26 SportSync is a system used by the Singapore Sports Institute (“SSI”) for, *inter alia*, major games nominations. It has been used for all major games selections since the 2019 SEA Games. NSAs have access to SportSync for the purpose of submitting athlete nominations for major games. The nominations and supporting results submitted by the respective NSAs are then reviewed by the SSI, which then assesses if the results meet the benchmark set for the relevant sport and event. The SSI will then make its recommendations in respect of the athletes and events to the SNOC Selection Committee accordingly.

27 In January 2023, during the appeal window for athlete selection for the 2023 SEA Games in Cambodia, the Singapore Underwater Federation (“SUF”) submitted new results allegedly achieved by the women’s 4 x 200m relay surface team at the 1st Malaysia Finswimming Championship 2023. The team which comprised Jamie Ang Hui Hsien, Jovita Ho Zi En, Vanessa Ong and Bernice Ting Hui Ying, had allegedly achieved a time of 6:55:41 in their relay event. This result was then entered into the SportSync system by an SUF official in support of an appeal by the SUF for the selection of the women’s 4 x 200m relay surface team for the 2023 SEA Games, as the said result indicated a medal winning potential for the team. In the event, the appeal was successful, and the team was sent to the 2023 SEA Games, where the quartet finished last in their event with a time of 7:10:29.

28 It subsequently surfaced that the women swimmers never even competed at the 1st Malaysia Finswimming Championship 2023, let alone achieved a timing of 6:55:41 in their relay event. Instead, the results submitted by the SUF official in the SportSync system had been fabricated. A committee of inquiry (“COI”) was then convened by the SNOC and Sport Singapore on 1 July 2024 to investigate the SUF’s submission of falsified results for the women’s relay team. The COI concluded its investigations in February 2025, and a police report was lodged on 18 March 2025 against the individuals involved.<sup>29</sup> Police investigations are currently ongoing.

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29 Melvyn Teoh, “Police Report Lodged Over Fin Swimmers’ Falsified Results for 2023 SEA Games Selection”, *The Straits Times* (19 March 2025) <<https://www.straitstimes.com/sport/police-report-lodged-over-fin-swimmers-falsified-results>>  
(*cont’d on the next page*)

29 In a similar incident, two Uzbek officials Javodilla Khasanov and Sherzod Inogamov were found guilty by the FINA Ethics Panel in January 2022 of falsifying the results of Uzbekistan swimmers to help them qualify for the 2021 Tokyo Olympics.<sup>30</sup> The FINA Ethics Panel had launched investigations after receiving a whistleblower report and video evidence from an Indian swimmer who took part in a swimming meet in Uzbekistan in 2021, which suggested that the results submitted by the Uzbekistan Swimming Federation were falsified. The meet had served as a qualifying competition for the swimmers for the 2021 Tokyo Olympic Games. The two Uzbek officials had allowed Uzbek swimmers to qualify with times that did not match what was observable in the videos, and which were vastly different from their previous performances. There was also a suspicious lack of transparency, as the scoreboard was blank during the events.

30 The Ethics Panel concluded that both Khasanov and Inogamov had breached the FINA Code of Ethics, specifically articles prohibiting corrupt practices and requiring due care and diligence. A five-year suspension was imposed on both individuals from all aquatics-related activities effective from 14 January 2022.<sup>31</sup>

#### D. *Post-selection qualification issues*

31 Even after an athlete is selected to represent his or her country in a sport at major games, the athlete may not make it to the major games due to factors outside the athlete's, the NSA's or the SNOC's control. This issue arose recently in the context of two Singapore swimmers who were seeking to qualify for the 2020 Tokyo Olympics and the 2024 Paris Olympics, and was the result of a maximum quota for athletes competing in the swimming competition of the respective games.

32 Quota spots allowed by World Aquatics for the swimming competition at the 2020 Tokyo Olympics was set at 878. This number

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for-2023-sea-games-selection> (accessed 11 October 2025); Justin Ong Guang-Xi & Abigail Ng, "Truth Will Prevail: Finswimmers, Coaches Cooperating With Police Probe After Result Falsification Issue", *Channel News Asia* (20 March 2025) <<https://www.channelnewsasia.com/singapore/finswimming-sea-games-falsification-results-police-investigation-5012611>> (accessed 11 October 2025).

30 Riley Overend, "Uzbek Administrators Suspended 5 Years for Falsifying Olympic Qualifying Times", *SwimSwam* (3 August 2023) <<https://swimswam.com/uzbek-administrators-suspended-5-years-for-falsifying-olympic-qualifying-times/>> (accessed 11 October 2025).

31 FINA Ethics Panel, "Ethics Panel Decision: Final" (August 2023) <<https://swimswam.com/wp-content/uploads/2023/08/Ethics-Panel-Decision-Final-.pdf>> (accessed 11 October 2025).

was reduced to 852 for the 2024 Paris Olympics,<sup>32</sup> with a maximum of 26 spots for men and 26 for women available to each NOC. For both the men's and women's competitions, each NOC was eligible for a maximum quota of two athletes per individual event and one relay team per relay event. Quota places are allocated by name to athletes for individual events, and to NOCs for relay events.<sup>33</sup>

33 In certain cases, swimmers who fail to meet the stringent qualifying standards may still secure a place through alternative routes such as the "B" cut invite or universality invite. Those who meet the Olympic Qualifying Time for the relevant event ("OQT" or "A' cut") automatically qualify, provided the maximum quota for their NOC has not been exceeded.<sup>34</sup> However, athletes with Olympic Consideration Times ("OCT" or "B' cut") may also receive invitations from World Aquatics to participate at the Olympics if the quota for their event remains unmet (usually the case for less popular long-distance events). While an athlete may not have been selected because he or she had failed to meet the NOC's selection criteria, he or she may be offered a "B" cut invite by World Aquatics.

34 In addition, swimmers who fail to meet their NOC's selection criteria may also be offered universality invites. These are given to swimmers who come from under-represented NOCs to enhance the gender diversity of participating nations in the Olympics. Under the universality scheme, NOCs without any qualified swimmers or relay teams may enter a maximum of two swimmers – one male and one female – in a single individual event each. In addition, NOCs without swimmers who have achieved an OQT or 'A' cut, or without swimmers who have been invited by World Aquatics through OCT or 'B' cut, may enter a maximum of one male and one female swimmer, provided the swimmers have competed in one or more of the two preceding World Aquatics Championships. National Olympic Committees with a qualified swimmer of one gender (through OQT or OCT) may enter one universality swimmer of the other gender. Additionally, athletes

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32 Anya Pelshaw, "World Aquatics Says 2024 Paris Olympic 'B' Cut Swimmers "May Not" Qualify Due to Athlete Quota", *SwimSwam* (8 May 2024) <<https://swimswam.com/world-aquatics-says-2024-paris-olympic-b-cut-swimmers-may-not-qualify-due-to-athlete-quota/>> (accessed 11 October 2025).

33 Sean McAlister, "How to Qualify for Swimming at Paris 2024. The Olympics Qualification System Explained", *Olympics.com* (1 October 2022) <<https://olympics.com/en/news/how-to-qualify-for-swimming-at-paris-2024>> (accessed 11 October 2025).

34 Sean McAlister, "How to Qualify for Swimming at Paris 2024. The Olympics Qualification System Explained", *Olympics.com* (1 October 2022) <<https://olympics.com/en/news/how-to-qualify-for-swimming-at-paris-2024>> (accessed 11 October 2025).

with an OCT achieved who have not been invited *via* the OCT due to the maximum quota being reached may be invited through universality places.<sup>35</sup>

35 As though the aforesaid rules and requirements were not complex enough, for the 2024 Paris Olympics, World Aquatics further modified its rules governing eligibility for universality spots. In particular, universality athletes can only compete in up to two Olympic Games in their career and must not be older than the age of 30 as of 31 December 2024. This enables the scheme to accomplish its objectives of nurturing young, domestic swimmers who have the potential to achieve OQTs.

36 Singapore swimmer Gan Ching Hwee (“Gan”) did not achieve any OQT for the 2024 Paris Olympics. However, she received an OCT invite for the 1500m women’s freestyle event as she had met the ‘B’ cut time which she gladly accepted. Meanwhile, Singapore received a universality invite for the 100m men’s event in athletics, since Singapore did not have any male athlete who qualified for the Paris Olympics’ athletics competition. This universality invite was given to national record holder Marc Louis, whose best time of 10.27 seconds was just 7.5% off the OQT of 10 seconds.<sup>36</sup>

37 While the OCT and universality invite systems are intended to provide opportunities for a broader range of athletes to participate in the Olympic Games, they can also create conflicts on how the invites are to be allocated, which (as between OCT and universality) should take precedence in the event that there is only a single spot that is available and a choice needs to be made between the beneficiaries of the OCT and universality invites.

38 Such a conflict was encountered by the Singapore Swimming Association (now known as Singapore Aquatics) in 2021 in relation to its nomination of swimmers for the 2020 Tokyo Olympics. At that time, the *Fédération Internationale de Natation* (“FINA”) (now known as World Aquatics) had informed all national swimming federations that OQT and OCT invitations for the Tokyo Olympics would be sent out on the same day. When that deadline passed, the Singapore Swimming Association had received only two OQT invitations, and

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35 Sean McAlister, “How to Qualify for Swimming at Paris 2024. The Olympics Qualification System Explained”, *Olympics.com* (1 October 2022) <<https://olympics.com/en/news/how-to-qualify-for-swimming-at-paris-2024>> (accessed 11 October 2025).

36 David Lee, “Shanti Pereira Adds 100m to Her Paris 2024 Programme”, *The New Paper* (13 July 2024) <<https://tnp.straitstimes.com/sports/team-singapore/shanti-pereira-adds-100m-her-paris-2024-programme>> (accessed 11 October 2025).

no OCT invitations. Enquiries sent to FINA about whether any of the Singapore swimmers would be invited based on their OCT were met with no response. As no Singaporean women swimmers had met the OQT, a universality spot was available to Singapore, and Quah Ting Wen (“Quah”) was offered the universality spot by the Singapore Swimming Association on the basis that she had achieved the highest ranking in the points table of FINA then.<sup>37</sup>

39 However, a day after Quah was offered the universality spot, and one day before the deadline for submission of final entries for swimmers for the Tokyo Olympics, FINA sent an OCT invite to Gan to swim in the women’s 1,500m freestyle event. This meant that if Gan were to accept the OCT invite, then Singapore would have a woman swimmer at the Tokyo Olympics, and as such, no universality spot would be offered. FINA then informed the Singapore Swimming Association that it would have to choose between sending a woman swimmer based on universality, or Gan based on her OCT invite.<sup>38</sup>

40 The Singapore Swimming Association’s selection committee determined that based on its selection policy for the Tokyo Olympics, Gan should be selected, as it provided that FINA’s universality spot would only be applicable if there were no swimmers who achieved the ‘A’ cut, and no other swimmers were invited by OCT. Undaunted, Quah appealed to the appeals committee of the Association, arguing that the universality spot took precedence over the OCT.<sup>39</sup> The appeals committee agreed, and overturned the selection committee’s decision. As such, Quah went to Tokyo instead of Gan. The Secretary-General of the Singapore Swimming Association, Bervyn Lee, clarified that Quah’s appeal had been successful because the committee took into consideration FINA’s priority order, which was that universality places took precedence over reallocated OCT invites.<sup>40</sup>

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37 Joscelin Yeo, “Commentary: Singapore’s Olympics Selection Saga – How Did We End Up Here Again?”, *Channel News Asia* (13 July 2024) <<https://www.channelnewsasia.com/commentary/paris-olympics-singapore-swimmers-quah-ting-wen-gan-ching-hwee-selection-4475231>> (accessed 11 October 2025).

38 Joscelin Yeo, “Commentary: Singapore’s Olympics Selection Saga – How Did We End Up Here Again?”, *Channel News Asia* (13 July 2024) <<https://www.channelnewsasia.com/commentary/paris-olympics-singapore-swimmers-quah-ting-wen-gan-ching-hwee-selection-4475231>> (accessed 11 October 2025).

39 Joscelin Yeo, “Commentary: Singapore’s Olympics Selection Saga – How Did We End Up Here Again?”, *Channel News Asia* (13 July 2024) <<https://www.channelnewsasia.com/commentary/paris-olympics-singapore-swimmers-quah-ting-wen-gan-ching-hwee-selection-4475231>> (accessed 11 October 2025).

40 Sazali Abdul Aziz & David Lee, “Swimming: Quah Ting Wen Gets Olympic Spot Amid Dispute Over Selection”, *The Straits Times* (8 July 2021) <<https://www.>  
(cont’d on the next page)

41 The same controversy that pitted Gan against Quah for a single spot at the Olympic Games' swimming competition would resurface three years later when the selection of swimmers for the 2024 Paris Olympics took place. This time round, swimmers Jonathan Tan and Letitia Sim, together with the women's 4 x 100m medley relay team, had all earned OQT slots. The relay team that achieved qualification comprised Quah, her sister Jing Wen, and the Sim sisters Letitia and Levenia. However, notwithstanding the achievement of such qualification, World Aquatics' rules require at least two of the four relay swimmers to have achieved OQT for individual events. Of the quartet, only Letitia Sim had done so. World Aquatics then granted Singapore an exemption on an exceptional basis to allow for an additional relay-only swimmer (*ie*, three instead of two) to compete in Paris, in order that the Singapore women's 4 x 100m relay team could take part in the event.

42 After Singapore Aquatics announced the swimmers that had been selected for the Paris Olympics, World Aquatics reprised its Tokyo Olympics performance. On 5 July 2024, it extended an OCT invite to Gan to compete in the women's 1500m freestyle event – yet again.

43 Based on Singapore Aquatics' selection criteria for the Paris Olympics, priority is given to swimmers who have made the OQT, followed by relay-only swimmers (*ie*, swimmers who had otherwise not qualified individually by OQT or OCT invite), those who had received an OCT invite from World Aquatics, and universality places.<sup>41</sup> Universality places will only be taken up should no swimmers of the relevant gender qualify by OQT, OCT invitation or relay selection. In its OCT invitation letter to Gan, World Aquatics had stated that should Gan accept the invitation, its offer of an extra relay-only slot accorded to Singapore on 3 July 2024 on an exceptional basis would no longer be valid, and that Gan should then form one of the four swimmers in the Singapore women's 4 x 100m relay team. Unsurprisingly, Gan accepted the invitation, leaving only two spots in the relay team to be filled by three swimmers – Levenia Sim, Quah and her sister Jing Wen. After considering all combinations of swimmers for the best possible outcome for the relay team, Singapore Aquatics' selection committee decided on Levenia Sim and Quah Jing Wen to complete the team. Quah was thus omitted. Her appeal to the Singapore Aquatics' Appeals Committee was unsuccessful, as was

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straitstimes.com/sport/swimming-quah-ting-wen-gets-olympic-spot-amid-dispute-over-selection> (accessed 11 October 2025).

41 Singapore Aquatics, "Selection Criteria: 2024 Paris Olympics" (8 March 2024) <<https://www.sgaquatics.org.sg/app/uploads/2024/03/Selection-Criteria-Paris-Olympics-v11-Landscape.pdf>> (accessed 11 October 2025).

Singapore Aquatics' appeal to World Aquatics to reinstate the additional relay-only slot for the Singapore women's 4 x 100m team.<sup>42</sup>

44 Singapore was not alone in having to field a different (and likely weakened) relay combination in swimming at the Paris Olympics due to World Aquatics' quota restrictions. The Lithuanian men's 4 x 200m free relay suffered the same plight. It had earned the right to compete in Paris after placing 7th in the world with a time of 7:11:57, and had claimed the men's 4 x 200m freestyle relay gold with a new national record of 7:08:04 at the 2024 European Championships in Belgrade.<sup>43</sup> That quartet comprised Tomas Navikonis, Tomas Lukminas, Kristupas Trepočka and Danas Rapsys. As was the case with the Singapore women's relay team, the Lithuanian men's team was initially granted a third relay-only spot as they only had two swimmers who had qualified for the Paris Olympics individually (Aleksas Savickas and Danas Rapsys).

45 However, after another of its male swimmers Andrius Šidlauskas qualified for Paris in the men's 100m breaststroke at the European Championships, Lithuania lost the third discretionary relay-only swimmer spot, and Andrius Šidlauskas, a breaststroke specialist, was required to swim freestyle in the 4 x 200m relay at the Paris Games.<sup>44</sup> This also meant that Kristupas Trepočka had to be sacrificed, while the rest of the relay team was forced to swim in the Olympic competition with a swimmer who was not part of their record-breaking team.

46 The above examples show that in certain sports, even after an athlete has been selected by his or her NOC for major games, it is by no means a certainty that he or she will get to compete at the games, especially when there is a process and quota at the international federation level for allocating a limited number of spots for the competition at the games, and that process has not been completed. The selection policies of the relevant NSA should therefore make this very clear in order to prepare its athletes mentally for any potential disappointments, and to set the right expectations on their part.

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42 Deepanraj Ganesan, "Singapore Swimmer Quah Ting Wen Fails in Appeal for Paris Olympics", *The Straits Times* (8 July 2024) <<https://www.straitstimes.com/sport/singaporean-swimmer-quah-ting-wen-fails-in-appeal-for-paris-olympics>> (accessed 11 October 2025).

43 Retta Race, "Lithuania Loses Relay-Only Swimmer, Will Need to Use Breastroker in Men's 4x200 Free", *SwimSwam* (10 July 2024) <<https://swimswam.com/world-aquatics-drops-lithuanianmens-4x200freerelay-due-to-olympic-quota/>> (accessed 11 October 2025).

44 Retta Race, "Lithuania Loses Relay-Only Swimmer, Will Need to Use Breastroker in Men's 4x200 Free", *SwimSwam* (10 July 2024) <<https://swimswam.com/world-aquatics-drops-lithuanianmens-4x200freerelay-due-to-olympic-quota/>> (accessed 11 October 2025).

### III. Conditions of participation and code of conduct

47 Upon selection by the SNOC as a member of Team Singapore for major games, athletes and officials are required to sign a Team Membership Agreement for the major games in question, and be subject to various obligations and responsibilities as outlined in such agreement. This section examines the key aspects of the Team Membership Agreement and the Code of Conduct contained therein, and how enforcement of the provisions therein has been carried out in the past.

#### A. *Key features of the Team Membership Agreement*

48 The Team Membership Agreement is specific to each major game which the athlete and official is selected to participate in. It outlines the obligations and responsibilities of the selected participants, and covers various aspects such as:

- (a) the SNOC Code of Conduct;
- (b) doping regulations;
- (c) medical requirements;
- (d) media interview and social media communication guidelines;
- (e) attire regulations;
- (f) protection of SNOC's intellectual property rights and SNOC sponsors' commercial rights;
- (g) advertising during the games period by the athlete's personal sponsors; and
- (h) disciplinary procedures in case of breaches of the agreement.

The agreement emphasises the importance of upholding the good name of Team Singapore when competing in major games, of abiding by the provisions of the Olympic Charter and fair play principles, and of complying with all rules and conditions of participation set by the organising committee of the host country for the major games.

49 The Team Membership Agreement takes effect upon the athlete's selection as a member of Team Singapore to participate in the applicable major games, until the return of the athlete to Singapore after the completion of the athlete's competition schedule. Some of the provisions of the agreement are expressed to continue to bind the athlete

even after the expiration or termination of the agreement – these relate to compliance with the SNOC Code of Conduct, use of the athlete’s image rights for promotional purposes, use of the official team apparel, disclosure and use of the athlete’s data, disciplinary proceedings against the athlete, and protection of intellectual property rights.

50 After the 2019 SEA Games in the Philippines, nine players from the Singapore football team breached curfew hours by sneaking out of the team hotel after the lights-out period had commenced to visit a casino (for some) and a restaurant (for others) without the knowledge of the team manager or any other official from the Football Association of Singapore (“FAS”).<sup>45</sup> After this incident, the Team Membership Agreement was amended to include an additional schedule containing specific requirements and responsibilities for team managers to ensure the welfare, safety, and discipline of the athletes under their charge during the period of the major games.

### **B. Code of Conduct**

51 Athletes representing the country at major games are expected to conduct themselves in a manner befitting sporting ambassadors of the country. The SNOC Team Membership Agreement requires athletes to comply with a comprehensive Code of Conduct, breach of which can result in sanctions such as expulsion from the contingent and a termination of the athlete’s membership of Team Singapore, a cancellation of the athlete’s games accreditation, financial penalties and debarment from being selected for future major games.

52 Some of the key obligations imposed on the athlete/official under the SNOC Code of Conduct are as follows:

- (a) The athlete/official shall uphold the good name of the Republic of Singapore and the SNOC, and display exemplary behaviour at all times.
- (b) The athlete/official shall not at any time engage in conduct that will bring or have the tendency to bring themselves, the sport, the team, any other member of the team, or SNOC into disrepute or censure, or which is or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, image or values of the SNOC or its sponsors.

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45 David Lee, “SEA Games: 3 More Footballers Caught Breaking Curfew, FAS Says They Will Join Earlier 6 in Facing the Music”, *Asia One* (10 December 2019) <<https://www.asiaone.com/singapore/sea-games-3-more-footballers-caught-breaking-curfew-fas-says-they-will-join-earlier-6>> (accessed 11 October 2025).

(c) The athlete/official shall not at any time be charged with or convicted of any serious offence involving violence, fraud, dishonesty, alcohol, drugs, sexual misconduct, betting on sport, or any offence which carries a mandatory jail sentence upon conviction.

(d) Subject to the minimum age and other restrictions relating to the legal consumption of alcohol in the country or jurisdiction in which the major games are held (including in the Games Village or any games venue), the athlete/official may only consume alcohol after they have completed all their respective competitions in the major games, and shall always exercise reasonable restraint to avoid situations where their behaviour or conduct will bring or have a tendency to bring themselves, the team, SNOC or Singapore into disrepute.

(e) The athlete/official is not allowed to pursue his or her own activities without the prior approval of his or her team manager, coach and the Chef de Mission.

(f) The athlete/official must obtain the prior written approval of the Chef de Mission should he or she wish to leave the Games Village for any reason other than training or competition, and shall keep his or her team manager fully informed of his or her whereabouts at all such times. This is an important requirement as anti-doping tests can be conducted randomly at any time and any place on any athlete without any advance notice, and any athlete who misses a doping test because he or she cannot be located by anti-doping officials may be sanctioned on a strict liability basis.<sup>46</sup>

(g) The athlete/official must respect the spirit of fair play and non-violence, and behave accordingly.

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46 A missed drugs test by former England and Manchester United footballer Rio Ferdinand saw the player receive an eight-month ban in 2003. UK sport representatives had turned up unannounced at Manchester United's Carrington training ground on 23 September 2003 and selected four players, including Ferdinand, to provide a urine sample after they had showered. Ferdinand left Carrington without providing his urine sample and went shopping in the city centre in Manchester instead. See Press Association, "Ferdinand Banned for Eight Months", *The Guardian* (19 December 2003) <<https://www.theguardian.com/football/2003/dec/19/newsstory.sport8>> (accessed 11 October 2025); and Tom Burrows, "Rio Ferdinand, a Missed Drugs Test and Bitterness That Still Lingers 20 Years On", *The Athletic* (19 December 2023) <<https://www.nytimes.com/athletic/5128150/2023/12/19/rio-ferdinand-drugs-test-20-years/>> (accessed 11 October 2025).

(h) The athlete must always consider and respect the interests of other Team Singapore members, and must not at any time comment, act or behave in a way which, in SNOC's opinion, may be damaging, humiliating or defamatory to Team Singapore, a member thereof, SNOC, or any other team or athlete.

53 In the event of any allegations of breach of the SNOC Team Membership Agreement or Code of Conduct, the SNOC Disciplinary Committee may be convened to investigate such allegations. Fundamental principles of fairness and impartiality underpin these proceedings, ensuring that the rights of all parties are protected. In particular, the rules of natural justice – universal principles implied in the contractual agreements<sup>47</sup> between athletes and sporting organisations – require that any party liable to be directly affected, such as an athlete, be given a fair opportunity to be heard.<sup>48</sup> Accordingly, the SNOC Team Membership Agreement expressly provides athletes with the opportunity to meet with the SNOC Disciplinary Committee to explain any alleged breaches, thereby upholding due process and adherence to the rules of natural justice. Furthermore, the rule against bias mandates that members comprising the Disciplinary Panel must be unbiased and independent.<sup>49</sup> The wider and more extensive the disciplinary powers of a decision-making body are, the more rigorously the rules of natural justice must be applied.<sup>50</sup> Once the investigation is complete and if a breach is proven, the SNOC Disciplinary Committee has the sole authority to sanction the athlete/official found guilty of the breach. The affected athlete/official then has the right to appeal the Committee's decision to the SNOC Appeals Committee within seven days of the date of the decision, with the Appeals Committee's decision being final and binding on all parties.

54 In recent years, the SNOC Disciplinary Committee has been called upon to investigate breaches of the SNOC Code of Conduct by athletes who had participated in various major games. As mentioned earlier, nine footballers broke curfew during the 2019 SEA Games in the Philippines, whilst the football competition was in progress.<sup>51</sup> This happened on the night of 1 December 2019, after the Singapore team had suffered a 3-0 defeat to Thailand in a group match in Manila. At the time,

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47 *Khong Kin Hoong Lawrence v Singapore Polo Club* [2014] 3 SLR 241 at [23].

48 *Kay Swee Pin v Singapore Island Country Club* [2008] 2 SLR(R) 802 at [7].

49 *Khong Kin Hoong Lawrence v Singapore Polo Club* [2014] 3 SLR 241 at [26].

50 *Kay Swee Pin v Singapore Island Country Club* [2008] 2 SLR(R) 802 at [10].

51 David Lee, "SEA Games: 3 More Footballers Caught Breaking Curfew, FAS Says They Will Join Earlier 6 in Facing the Music", *The Straits Times* (9 December 2019) <<https://www.straitstimes.com/sport/football/sea-games-three-more-footballers-caught-breaking-curfew-fas-says-they-will-join>> (accessed 11 October 2025).

the SEA Games' football competition was by no means completed – with the Singapore team due to play two more group matches.

55 The nine players had sneaked out of the team hotel shortly after the lights-out period had begun at 11.00pm, without the authorisation or knowledge of the Chef de Mission, their team manager or coaches. Six of the players proceeded to the Solaire Resort & Casino, while three of them went for a meal at a restaurant. The players who visited the casino were, unfortunately for them, spotted by an individual who promptly took a photograph of the players and sent it to officials of the FAS. The three players who had visited the restaurant later confessed to their breach a week after the team returned to Singapore, having crashed out of the competition with only one win in five matches.

56 News of the players' breaches soon reached the media. On 6 December 2019, FAS President Lim Kia Tong was quoted by the media to have said that the six players “will be dealt with by the FAS” and that “[w]ithout any question, they will face the FAS disciplinary committee which will be convened without delay after their return”.<sup>52</sup> These statements invited a swift response from SNOC Secretary-General Chris Chan, who pointed out that what happened at a major game like the SEA Games fell within the sole jurisdiction of the SNOC Disciplinary Committee, and questioned the jurisdictional basis of FAS's purported exercise of disciplinary jurisdiction over the errant footballers.<sup>53</sup> The SNOC's position was based on cl 6, 6.1 and 7.2 of the Team Membership Agreement for the 2019 SEA Games, which stated as follows:

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52 Justin Ong, “FAS Names 6 Footballers Who Broke Curfew, Says They Let Nation Down”, *Today* (6 December 2019) <<https://www.todayonline.com/singapore/fas-names-six-footballers-who-broke-curfew-says-they-let-down-nation>> (accessed 11 October 2025). See also, “Six S'pore U-22 Footballers Who Broke Curfew to Face Disciplinary Hearing”, *The New Paper* (6 December 2019) <<https://www.np.sg/sports/singapore-football/six-spore-u-22-footballers-who-broke-curfew-face-disciplinary-hearing>> (accessed 11 October 2025).

53 “SNOC Chief Says Curfew-Breaking Incident Comes Under Its Jurisdiction, ‘Surprised’ at FAS’ Move to Name Players”, *Today* (11 December 2019) <<https://www.todayonline.com/world/fas-action-will-not-affect-snoc-disciplinary-proceedings-against-singapore-footballers-who>> (accessed 11 October 2025).

6. Upon selection by SNOC as a member of the Team, the Participant shall come under the charge of SNOC, and the Participant hereby unconditionally consents to and agrees to abide by the following:

6.1 Code of Conduct

The Participant shall abide by the SNOC Code of Conduct as set out in Schedule 3 of this Agreement at all times.

...

7.2.1 The SNOC Disciplinary Committee shall have the right to investigate:

- (a) any complaints about the Participant's behaviour; or
- (b) the Chef de Mission's belief on other reasonable grounds that the Participant may have breached this Agreement.

7.2.2 If the Participant is found guilty of a breach of this Agreement, the SNOC Disciplinary Committee shall have the sole authority and discretion to determine the penalty to be imposed on the Participant and each complaint shall be dealt with on a case by case basis.

57 It is clear from the aforesaid provisions that once an athlete/official is selected by SNOC to represent Singapore at the 2019 SEA Games, the athlete/official comes under the jurisdiction of the SNOC for matters pertaining to the 2019 SEA Games, including in particular, the athlete's/official's conduct and behaviour at the games. Should the athlete/official breach the provisions of the Team Membership Agreement, including the SNOC Code of Conduct, the SNOC Disciplinary Committee is the only authority which is in the position to determine and to mete out the penalty to be imposed on the athlete/official in respect of his or her breach(es). The NSA cannot purport to deal with any breaches of the Team Membership Agreement or the SNOC Code of Conduct by its athlete during the SEA Games – that would be a matter that is the exclusive province and prerogative of the SNOC Disciplinary Committee.

58 The reasons for the SNOC Disciplinary Committee having exclusive jurisdiction over the conduct of athletes and officials during the period of major games are as follows. Firstly, these athletes and officials are representatives of Team Singapore under the purview of the SNOC at such multi-sport games, as opposed to being representatives of their respective NSAs. They are selected by the SNOC to represent Team Singapore at the major games, and participate in the major games as such representatives. Secondly, to allow each NSA to decide if it ought to discipline athletes who breach the SNOC Code of Conduct at the major games and if so, what sanctions should be imposed, would likely bring about inconsistent disciplinary practices amongst the various NSAs whose athletes participate in the major games. Thirdly, if an athlete is sanctioned by the SNOC Disciplinary Committee for misconduct at the

major games, any further sanction imposed by the NSA on the athlete may raise issues of double jeopardy. For these reasons, there ought to be only one body vested with disciplinary powers and jurisdiction over the conduct of athletes at each of the major games.

59 In this particular instance, the FAS did not proceed with any disciplinary action against any of the nine players, as the only agreements that they had signed (which could possibly contain a code of conduct) were with their respective professional clubs in respect of their player contracts, and not with the FAS. This left the FAS with no legal basis to assert jurisdiction over the players' conduct during the SEA Games.

60 After considering the evidence presented and the circumstances, the SNOC Disciplinary Committee found the nine players guilty of breaching various provisions of the SNOC Code of Conduct. The obligations breached included: (a) refraining from engaging in conduct which would bring or have the tendency to bring themselves or their sport into disrepute or censure; (b) maintaining the best possible mental and physical fitness and health for themselves and the team; (c) keeping the Chef de Mission informed of their whereabouts if they leave the Games accommodation; (d) abstaining from gambling activities; and (e) strictly observing the lights-out period from 2300 to 0600 hours. The SNOC Disciplinary Committee imposed monetary fines of varying amounts on the nine athletes, and stated that “the fines will also constitute disciplinary records against the athletes, which may be taken into consideration for future major Games selection, together with all other applicable factors and selection criteria.”<sup>54</sup>

61 In 2022, the SNOC Disciplinary Committee was once again called upon to deal with incidents of misconduct by three swimmers – Joseph Schooling (“Schooling”), Amanda Lim (“Lim”) and Teong Tzen Wei (“Teong”), involving the consumption of cannabis. For Lim and Teong, this misconduct constituted a breach of the 2019 SEA Games Team Membership Agreement and SNOC Code of Conduct. In Schooling's case, this incident concerned violations of the 2021 version of the Agreement and Code. Their breaches were discovered after officers from the Immigration and Checkpoints Authority (“ICA”) at Changi airport detected the presence of what they suspected to be a weed grinder in Lim's luggage upon her return to Singapore on 4 August 2022 from the 2022 Commonwealth Games in Birmingham. The ICA officers detained

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54 Sazali Abdul Aziz, “Nine Singapore Footballers Fined By SNOC for Breaking Curfew at 2019 SEA Games”, *The Straits Times* (7 March 2020) <<https://www.straitstimes.com/sport/football/nine-singapore-footballers-fined-by-snoc-for-breaking-curfew-at-2019-sea-games>> (accessed 11 October 2025).

Lim and seized her mobile phone, where they discovered conversations amongst Lim, Teong, and Schooling on the topic of cannabis consumption. Lim and Schooling were arrested at Changi Airport on 13 August 2022 after their return from their vacation in Phuket, while Teong was arrested at the airport on 14 September 2022, after his return from his vacation in Bali. They were put through questioning, where all three swimmers confessed to the consumption of cannabis overseas. In late August 2022, news websites started publicising the arrests of Lim, Schooling and then in late September, that of Teong.<sup>55</sup>

62 As it was clear from media reports that Lim, Schooling, and Teong had *prima facie* been implicated in drug consumption either at or in connection with their participation in major games, the SNOC Disciplinary Committee was tasked to conduct its own investigations into the matter.

63 Lim admitted to having consumed cannabis in 2019 during a trip to the US which took place shortly after the 2019 SEA Games in the Philippines. As there was no evidence that she had consumed cannabis during the 2022 Commonwealth Games, the SNOC Disciplinary Committee found, on the basis of the evidence before it, that she had not breached any rule of the SNOC Code of Conduct for the 2022 Commonwealth Games. However, based on her admission of cannabis consumption in the US shortly after the 2019 SEA Games in the Philippines, she was found to have breached rules in the SNOC Code of Conduct for the 2019 SEA Games. These breaches included:

- (a) failing to uphold the good name of Singapore and the SNOC;
- (b) failing to display exemplary behaviour at all times; and
- (c) engaging in conduct which would bring or have the tendency to bring herself, the sport of swimming, Team Singapore and/or the SNOC into disrepute or censure, or which

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55 “Swimming: Joseph Schooling and Amanda Lim Admit to Drug Use”, *The Business Times* (30 August 2022) <<https://www.businesstimes.com.sg/life-culture/swimming-joseph-schooling-and-amanda-lim-admit-to-drug-use>> (accessed 11 October 2025); Deepanraj Ganesan, “Singapore’s Joseph Schooling Took Cannabis Overseas; Fellow Swimmer Amanda Lim Gets Stern CNB Warning”, *The Straits Times* (30 August 2022) <<https://www.straitstimes.com/singapore/swimming-joseph-schooling-and-amanda-lim-admit-to-drug-use>> (accessed 11 October 2025); Justin Ong, “3rd National Swimmer, Teong Tzen Wei, Took Drugs Overseas; SportSG Suspends Support to Errant Swimmers”, *Today* (28 September 2022) <<https://www.todayonline.com/singapore/third-national-swimmer-used-drugs-abroad-sportsg-2005276>> (accessed 11 October 2025).

was or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, image or values of SNOC.

These provisions of the SNOC Code of Conduct continued to apply after the conclusion of the 2019 SEA Games, as they were expressed to continue to have effect and application even after the games period.

64 The reason for this extended application is that the requirement for national athletes sent by SNOC to represent Singapore at major games to uphold exemplary behaviour and good conduct cannot cease just because the games have concluded. These athletes remain not only public figures, but are also meant to be examples to the sporting youth of the country, who continue to look up to these athletes upon their return from the games and beyond. It would be rather artificial and unrealistic to draw a line based on when the games end, and as to when the athletes ought to behave and when they are free to misbehave. Their responsibility to uphold the good name of Singapore, SNOC, and their sport, and not to engage in conduct which would be contrary to or prejudicial to the best interests, image or values of SNOC, remains beyond their return from the major games.

65 A financial penalty of \$2,800 was imposed on Lim by the SNOC Disciplinary Committee, as under the 2019 SEA Games Team Membership Agreement, the only applicable sanction post-games was to impose financial penalties in respect of SNOC financial or other support that had been provided to the athlete in connection with his or her participation in the games.<sup>56</sup>

66 In Teong's case, he had admitted to consuming cannabis on two separate occasions shortly after the 2019 SEA Games – the first in the US when he was with Lim, and the second in Australia about a month later. His breaches of the SNOC Code of Conduct were similar to Lim, and the SNOC Disciplinary Committee decided to impose a fine of \$3,200 on him.<sup>57</sup>

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56 This limited range of sanctions was subsequently expanded in the Team Membership Agreement for the 2021 SEA Games in Vietnam to include more penalties.

57 Lakeisha Leo, "Joseph Schooling, Amanda Lim, Teong Tzen Wei Fined for Breaching Conduct Rules During SEA Games: SNOC", *Channel News Asia* (31 October 2022) <<https://www.channelnewsasia.com/sport/joseph-schooling-amanda-lim-teong-tzen-wei-fined-breaching-code-conduct-snoc-3034686>> (accessed 24 October 2025); Laura Chia, "Swimmers Joseph Schooling, Amanda Lim, Teong Tzen Wei Fined By SNOC for Breaching Conduct Rules", *The New Paper* (31 October 2022) <<https://www.tnp.sg/sports/team-singapore/swimmers-joseph-schooling-amanda-lim-and-teong-tzen-wei-fined-snoc>> (accessed 24 October 2025).

67 Schooling's breaches of the SNOC Code of Conduct were the most serious and extensive of the three swimmers. His breaches also fell under the 2021 SEA Games Team Membership Agreement, which had by then been revised to provide for a wider range of sanctions against errant athletes compared to the sanctions provided for in the 2019 SEA Games Team Membership Agreement.

68 Whilst competing for Singapore at the 2021 SEA Games in Hanoi, Schooling had left the team hotel to attend a private party without the prior approval of the team manager for swimming or the Chef de Mission for the games. Schooling had failed to keep anyone informed of his whereabouts that night, consumed cannabis at the party he attended, and had gotten himself into a state of intoxication as a result of excessive consumption of alcohol. In doing so, he had breached multiple rules of the SNOC Code of Conduct, including:

- (a) failing to uphold the good name of Singapore and the SNOC;
- (b) failing to display exemplary behaviour at all times;
- (c) engaging in conduct which would bring or have the tendency to bring himself, the sport of swimming, Team Singapore and/or SNOC into disrepute or censure;
- (d) failing to exercise reasonable restraint so as to avoid the excessive consumption of alcohol such that his behaviour and conduct would bring or have a tendency to bring himself, Team Singapore or the SNOC into disrepute;
- (e) failing to inform the Chef de Mission of his whereabouts after he left the team hotel on his night out;
- (f) pursuing his own activity without prior approval of the team manager for swimming and the Chef de Mission;
- (g) failing to be in his hotel room during the lights-out period; and
- (h) smoking cannabis during the games period.

69 In determining the penalties to be imposed on Schooling, the SNOC Disciplinary Committee had considered an antecedent record when Schooling had been issued with a warning letter by the SNOC in 2014 for leaving the Athletes' Village at the Incheon Asian Games without permission, and returning only in the wee hours of the morning.<sup>58</sup> In

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58 Adelene Wong, "Errant Swimmers Let Off with a Warning", *Today* (30 October 2014) <<https://www.todayonline.com/sports/errant-swimmers-let-warning>>  
(cont'd on the next page)

that warning letter, Schooling was cautioned that if he were to breach the Code of Conduct in any future games, he could expect more serious action to be taken against him.

70 The SNOC Disciplinary Committee imposed a fine of \$10,000 on Schooling, and administered a conditional warning. If he were found to have consumed any drugs which are prohibited by Singapore law or to have breached any rule of the SNOC Code of Conduct within the next two years, he would be barred from selection for all future major games.<sup>59</sup> Ultimately, the conditional warning became somewhat unnecessary, as Schooling never participated in another major games after the 2021 SEA Games,<sup>60</sup> and announced his retirement from swimming on 2 April 2024.<sup>61</sup>

71 The SNOC Team Membership Agreement and Code of Conduct requires athletes and officials to abide by the provisions of the Olympic Charter and to respect the spirit of fair play and non-violence. The Olympic Charter outlines the ethical principles and values, such as respect, friendship, and non-discrimination, that athletes and officials are expected to uphold<sup>62</sup> in order to ensure fair play and integrity in sporting competitions.

72 One example of a breach of the spirit of fair play is when an athlete displays petulant behaviour at the podium in protest against an

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- (accessed 24 October 2025); “Swimmers Warned for Leaving Asian Games Athletes’ Village Without Permission”, *Channel News Asia* (29 October 2014) <<https://www.channelnewsasia.com/singapore/swimmers-warned-leaving-asian-games-athletes-village-without-permission-1150391>> (accessed 12 October 2025).
- 59 Asyraf Kamil, “Joseph Schooling Fined S\$10,000 Over Drug Use and Breaking Other Rules; Amanda Lim, Teong Tzen Wei Also Punished: SNOC”, *Today* (31 October 2022) <<https://www.todayonline.com/singapore/joseph-schooling-fined-s10000-over-drug-use-amanda-lim-teong-tzen-wei-punished-snoc-2033051>> (accessed 12 October 2025).
- 60 Charlene Goh, “Swimmer Joseph Schooling Pulls Out of 2023 SEA Games, Says Not Performing At ‘Level I Hold Myself to Perform’”, *Today* (1 March 2023) <<https://www.todayonline.com/singapore/joseph-schooling-pulls-out-sea-games-not-performing-level-2119426>> (accessed 12 October 2025); Kimberly Kwek, “Joseph Schooling out of Hangzhou Asian Games”, *The Straits Times* (5 August 2023) <<https://www.straitstimes.com/sport/swimmer-joseph-schooling-out-of-asian-games-in-hangzhou>> (accessed 12 October 2025).
- 61 Rohit Brijnath, “Olympic Golden Boy Joseph Schooling Retires from Swimming”, *The Straits Times* (2 April 2024) <<https://www.straitstimes.com/sport/olympic-golden-boy-joseph-schooling-retires-from-swimming>> (accessed 12 October 2025).
- 62 International Olympic Committee, “Olympic Values – Excellence, Respect and Friendship” <<https://olympics.com/ioc/olympic-values>> (accessed 12 October 2025).

unfavourable decision. In 2008, Swedish wrestler Ara Abrahamian was disqualified and stripped of his bronze medal at the Beijing Olympics for deliberately dropping his medal as he walked away from the medal ceremony in protest after a disputed loss. Abrahamian became incensed when a disputed penalty call led to his semi-final loss against the eventual gold medalist, Italian Andrea Minguzzi. The International Olympic Committee's ("IOC") executive board ruled that Abrahamian's actions amounted to a political demonstration, was a mark of disrespect to his fellow athletes, and was also contrary to the spirit of fair play.<sup>63</sup>

73 Further to this incident, the *Federation Internationale des Luttes Associees* suspended and fined not only Abrahamian but also his coach Leo Myllari for not intervening to calm his wrestler, but had instead argued with the judges and accused them of corruption.<sup>64</sup>

74 Addressing and penalising unsportsmanlike conduct is crucial to upholding the sporting values. The above examples of enforcement of the SNOC Team Membership Agreement and Code of Conduct emphasise the importance placed by the SNOC on the need for athletes to uphold the SNOC Code of Conduct, and to ensure that Team Singapore athletes' conduct and behaviour during and after each major games are exemplary, in line with the spirit of Olympic values, and consistent with their being role models for young and aspiring athletes.

### C. Use of athlete's image rights

75 The Team Membership Agreement for each major game would typically provide that the athlete must consent to the use of his/her image rights in publications, posters, publicity materials, and any other form of advertising, marketing or promotional activities by the SNOC in connection with the major games. Such use would also extend to use by SNOC's sponsors.

76 Current and past sponsors of the SNOC include the Singapore Totalisator Board, Singapore Airlines, Singapore Telecommunications,

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63 "Swedish Wrestler Stripped of Bronze Medal", *CBS News* (16 August 2008) <<https://www.cbsnews.com/news/swedish-wrestler-stripped-of-bronze-medal/>> (accessed 24 October 2025).

64 Duncan Mackay, "Swedish Wrestler Banned for Two Years Over Beijing Medal Protest", *Inside The Games* (6 November 2008) <<https://www.insidethegames.biz/articles/5039/swedish-wrestler-banned-for-two-years-over-beijing-medal-protest>> (accessed 24 October 2025); FILA, "FILA Sanctions Athlete Abrahamian, Coach Myllari and Swedish Federation for Bad Sportsmanship at Olympic Games", *USA Wrestling* <<https://www.themat.com/news/2008/november/06/fila-sanctions-athlete-abraham-19728>> (accessed 24 October 2025).

Yonex Sunrise, Canon, Fitness First and Toyota. Depending on the terms of sponsorship, some of these sponsors are granted rights of access to Team Singapore athletes who participate in major games, for involvement in the sponsors' promotional activities. As SNOC sponsors, they are also permitted to run promotional campaigns with the SNOC during the period leading up to the major games, advertise their association with the SNOC, as well as publish congratulatory and support messages for Team Singapore athletes during the games period – rights not available to non-SNOC and non-major games sponsors, including personal sponsors of athletes.

77 The collaboration between athletes and the SNOC's sponsors invokes a set of dynamics involving ownership and commercialisation of image rights. While athletes benefit from receiving much-needed funding, in-kind contributions and support from their personal sponsors, they must also navigate potential challenges that arise from endorsement deals with sponsors who are competitors of the partners and sponsors of the SNOC or the owner or organiser of major games such as the IOC, the Olympic Council of Asia and the Commonwealth Games Federation. Athletes need to be vigilant in understanding the scope and limitations of the use of their image rights when competing as a Team Singapore athlete at major games, and must ensure that their promotional activities for personal sponsors do not conflict with their contractual obligations to the SNOC under the Team Membership Agreement.

78 Additionally, the use of athletes' image rights can also lead to broader implications for their arrangements with personal sponsors. As athletes become more recognised figures, their images and brand associations can significantly impact public perception and consumer behaviour. This raises questions about the extent to which athletes are entitled to control their narrative and the brands they choose to align with. As such, athletes should be encouraged to engage in proactive brand management, ensuring that their choice of personal brand and product endorsements reflect their values as well as the values of the sport they represent. Conversely, brand owners will also want to ensure that the athletes they sponsor possess values which closely align with those of their brands, since athletes who embody the principles and values that the brands stand for will be better able to represent the products and services of the brand owner and resonate with target consumers and audience. Partnering with athletes who can effectively promote their sponsors' brands to their social media following and wider fan base can significantly enhance brand visibility and recognition.

79 While Singapore law does not recognise a stand-alone "image right" or "personality right" for individuals, use of an athlete's photograph in an advertisement without the athlete's explicit consent may give rise

to certain legal avenues for recourse by the athlete. For example, if the athlete's image is used in a way that is defamatory or misleads the public into thinking the athlete is endorsing a product or service when that is not in fact the case, the athlete may have a cause of action for defamation and/or passing off if the athlete's image or reputation is damaged as a result of such misuse.<sup>65</sup> In addition, the Singapore Code of Advertising Practice ("SCAP") states that advertisements should not portray or refer to any person without their prior permission.<sup>66</sup> However, the SCAP is a self-regulatory code and does not create any legal right to sue. Instead, the Advertising Standards Authority of Singapore which administers the SCAP may receive and investigate complaints from the public<sup>67</sup> and request advertisers to amend or withdraw advertisements that breach the Code, and impose sanctions such as withholding advertising space or time, withdrawal of trading privileges, and, in cases of recalcitrant offenders, adverse publicity by publishing details of the breach.<sup>68</sup>

#### D. Media requirements

80 The SNOC Team Membership Agreement for major games typically prohibits athletes from acting as journalists in any news or media capacity. Athletes are also prohibited from providing exclusive interviews or commentaries and from making appearances in any broadcast, print or internet medium during the games period, except as permitted by SNOC. In addition, athletes must not upload or allow any of their images, voices, photographs or video footages to be used for any promotional or advertising purposes (including by personal sponsors) during the games period except as permitted by SNOC.

81 The media can be a boon or bane to athletes. Constant scrutiny and criticism by the media can make it difficult for athletes to be focused on their competition goals and maintain confidence in their ability, thus impacting on their performance on the big stage. Social media, in particular, has provided a platform for tech and app savvy athletes to connect with their fans, post updates on their daily routines, promote their

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65 *Chiam See Tong v Xin Zhang Jiang Restaurant* [1995] 1 SLR(R) 856; *Hanis Saini Hussey v Integrated Information Pte Ltd* [1998] SGHC 219. The English Court of Appeal has also recognised passing off as being the most appropriate cause of action for celebrities wishing to seek a remedy for commercial misappropriation of their fame: *Fenty & Ors v Arcadia Group Brands Ltd* [2015] EWCA Civ 3.

66 Advertising Standards Authority of Singapore, *Singapore Code of Advertising Practice* (3rd Ed, 2008) ch III, cl 13.1 at p18.

67 Advertising Standards Authority of Singapore, *Singapore Code of Advertising Practice* (3rd Ed, 2008) ch I, cl 5 at p 6.

68 Advertising Standards Authority of Singapore, *Singapore Code of Advertising Practice* 3rd Ed, 2008) ch I, cl 4 at p 5.

personal branding and acquire sponsors. The opportunity to monetise their image and branding has helped provide additional revenue streams and funding for athletes. Building a loyal fan base through social media can also translate to greater spectatorship during the athletes' sporting performances and add more commercial value to the sport as a whole. However, negative comments, online abuse, trolling and cyber bullying are also part and parcel of having a social media presence. Apart from creating pressure, stress and anxiety for athletes, social media can also compromise their privacy, security and render them targets for rival competitors' exploitation of sensitive information like training routines and team strategies.

82 Athletes who do well in major games can expect to receive a hero's (or heroine's) welcome and to face a media frenzy when they arrive back home with medals and new records in tow. What they may not be expecting is the level of adulation displayed by their fans – ranging from being mobbed, to being stopped for photo opportunities and autograph signing, and to being stalked – behaviour more commonly reserved for pop stars and movie celebrities. This was the position which Chinese gymnast Zhang Boheng found himself in when he arrived back in Beijing after winning two silver medals at the 2024 Paris Olympics. He had to hide in the toilet at the airport to escape throngs of fans who were waiting for him outside.<sup>69</sup> Three years earlier in 2021, crowds descended on the small Maihe hometown village of 14-year-old Chinese diving sensation Quan Hongchan, after she delivered three perfect-10 dives at the Tokyo Olympics enroute to winning gold in the individual 10m platform event, hoping to take videos and photos with her. On Weibo, the hashtag “how to view Quan Hongchan's home becoming an internet photo hotspot” was viewed more than 25 million times.<sup>70</sup>

83 Conversely, athletes may also face abuse, either in person, in the press, or online. In a somewhat bizarre incident, China's woman table tennis player Chen Meng was roundly booed in the arena and abused on social media by fans of her compatriot and opponent Sun Yingsha after beating the latter in the gold medal singles match at the 2024 Paris Olympics.<sup>71</sup> In June 2021, a Singaporean, Derek Ng De Ren (“Ng”) was

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69 Tan Yew Guan & Louisa Tang, “What Is Driving Fans of China's Elite Athletes Crazier Than Those Who Idolise Entertainment Stars?”, *Channel News Asia* (15 October 2024) <<https://www.channelnewsasia.com/east-asia/china-toxic-fans-elite-athletes-mob-chaotic-crowds-4678651>> (accessed 12 October 2025).

70 Waiyee Yip, “Quan Hongchan: Chinese Teen Diving Star's Village Mobbed By Fans”, *BBC News* (9 August 2021) <<https://www.bbc.com/news/world-asia-china-58141676>> (accessed 12 October 2025).

71 Yang Jian, “Fan-tastic Support for Athletes Shouldn't Spill Over Into Malicious Behavior”, *City News Service* (6 August 2024) <<https://www.shine.cn/> (cont'd on the next page)

convicted by a Singapore court of sending death threats to footballer Neal Maupay after his club Brighton & Hove Albion beat Arsenal in an English Premier League match. Ng was an Arsenal supporter and had sent messages threatening Maupay's family with harm on Instagram after Maupay had scored a goal during injury time in that game.<sup>72</sup>

84 Perhaps the most extreme form of abuse of athletes was directed at Colombian footballer Andrés Escobar Saldarriaga ("Escobar"). Colombia had made it to the 1994 FIFA World Cup tournament in the US as one of the pre-tournament favourites, losing just once in 26 matches leading up to the tournament and having whipped Argentina 5-0 in their final qualifying match in Buenos Aires. On 22 June 1994, Colombia faced the host nation in a group encounter. In the 22nd minute of play, in an effort to intercept a cross by a US player into the Colombian penalty area, Escobar stuck out his foot, made contact with the ball, and sent it into his own goal. Colombia, which had always beaten the US in their previous encounters and were odds-on favourites to win this match, eventually lost 2-1 and were eliminated from the group stage of the tournament.

85 In the aftermath of its shock elimination, most Colombian players refused to return home immediately for fear of reprisals and personal repercussions. Escobar was however defiant. He returned to his country and even wrote an article in the Bogota newspaper, *El Tiempo*, expressing his apologies for his mistake and the team's underperformance.<sup>73</sup> On 2 July 1994, against the advice of family and friends, he went out to "show my face to my people".<sup>74</sup> He soon encountered hostile people at a bar he visited, who hurled abuse at him for his error in the match against the US. Following a tense exchange of words, two men holding guns shot Escobar six times each, shouting "Goal!" after every shot.<sup>75</sup> Shortly thereafter, Escobar was pronounced dead, killed for a mistake made on the pitch.

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opinion/2408064542/> (accessed 12 October 2025).

72 "Neal Maupay: Teen Gets Probation for Sending Death Threats to Footballer", *BBC News* (7 July 2021) <<https://www.bbc.com/news/world-asia-57717249>> (accessed 12 October 2025).

73 Jon Townsend, "How One Error Led to the Death of Colombian Hero Andrés Escobar", *These Football Times* (27 August 2015) <<https://thesefootballtimes.co/2015/08/27/andres-escobar-football-kills/>> (accessed 16 October 2025).

74 Barry Glendenning, "World Cup Stunning Moments: Andrés Escobar's Deadly Own Goal", *The Guardian* (3 April 2018) <<https://www.theguardian.com/football/blog/2014/mar/25/world-cup-moments-andres-escobar-death>> (accessed 12 October 2025).

75 Barry Glendenning, "World Cup Stunning Moments: Andrés Escobar's Deadly Own Goal", *The Guardian* (3 April 2018) <<https://www.theguardian.com/football/blog/2014/mar/25/world-cup-moments-andres-escobar-death>> (accessed 24 October 2025); "World Cup Hall of Fame – Andres Escobar (1967–1994)", *CNN Sports Illustrated* <<https://web.archive.org/web/20131019073426/http://>  
(cont'd on the next page)

86 In Singapore, individuals who experience online abuse or are subjected to stalking-related conduct may seek civil remedies under the Protection from Harassment Act 2014<sup>76</sup> (“POHA”). The courts have clarified that the terms “abusive”, “insulting”, “threatening”, “harassment”, “alarm”, and “distress” in POHA are to be interpreted according to their common sense meaning, and what amounts to reasonable conduct is heavily fact-specific and dependent on the unique circumstances of the case.<sup>77</sup> In *Benber Dayao Yu v Jacter Singh*,<sup>78</sup> the court granted a protection order after finding that a web post constituted a personal attack that went beyond mere criticism, even though there was no proven harm to the victim’s reputation. The court emphasised that protection under POHA is not precluded by the absence of proven harm if the statutory elements are otherwise satisfied, unless the conduct is so minor or trifling as to be *de minimis*.<sup>79</sup>

87 Where the conduct is particularly serious, the perpetrator may also be liable for criminal offences under POHA. The seriousness of stalking offences is underscored in cases such as *Lim Teck Kim v Public Prosecutor*,<sup>80</sup> where the court identified several aggravating factors for unlawful stalking, including the duration and frequency of the conduct, the degree of intrusion into the victim’s life, involvement of vulnerable victims, public dissemination of sensitive information, use of threats, extraordinary harm suffered by the victim, and involvement of third parties.<sup>81</sup> Sentencing guidelines are calibrated according to the number and severity of these factors, with penalties ranging from fines to substantial terms of imprisonment for the most egregious cases.

88 A notable illustration is the case of Toh Wen Jie (“Toh”), who pleaded guilty to stalking a female national athlete over a year and four months, including hiring private investigators, sending explicit messages, and contacting her family. For engaging in a course of conduct involving stalking acts, an offender can be jailed for up to a year and/or fined up to \$5,000.<sup>82</sup> However, ultimately for this case, the prosecution applied for a discharge not amounting to an acquittal, with the prosecutor reportedly stating that Toh might have been of unsound mind at the material time.

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sportsillustrated.cnn.com/soccer/world/2002/world\_cup/hof/escobar/> (accessed 24 October 2025).

76 2020 Rev Ed. Protection from Harassment Act 2014 (2020 Rev Ed) ss 3, 4 and 7.

77 See for example *Benber Dayao Yu v Jacter Singh* [2017] 5 SLR 316 at [31], [33] and [43].

78 [2017] 5 SLR 316.

79 *Benber Dayao Yu v Jacter Singh* [2017] 5 SLR 316 at [51].

80 [2019] 5 SLR 279.

81 *Lim Teck Kim v Public Prosecutor* [2019] 5 SLR 279 at [30].

82 Protection from Harassment Act 2014 (2020 Rev Ed) s 7.

Toh was issued a conditional warning. This meant that while criminal proceedings will be discontinued, Toh's unlawful stalking charge may be revived if he breaches the conditions of the warning during an 18-month period.<sup>83</sup>

89 The case of Ng, referred to earlier at para 83, is another recent example. The Singaporean teenager was sentenced to nine months' probation for sending death threats to English Premier League footballer Neal Maupay. Ng, who was 16 at the time, sent multiple threatening messages to Maupay *via* Instagram, including explicit threats to kill the footballer and his family. The court imposed a probation order on Ng, while his mother was bonded for \$5,000 to ensure his good behaviour.<sup>84</sup> This case demonstrates that online harassment and threats, even against foreign individuals, are prosecutable under POHA. The punishment for using threatening words to cause distress to another person under the POHA is a fine of up to \$5,000, a jail term of up to six months, or both.<sup>85</sup> Overall, the Singapore courts take a robust approach to offences under POHA, with a strong emphasis on the protection of victims from harassment and stalking, whether online or offline.

90 Nonetheless, legal protection alone may not be sufficient to shield athletes from the psychological and emotional toll of public and online abuse. Many athletes, particularly those who are young or inexperienced, are simply not equipped with the skills or support systems necessary to navigate the media, fans and the chaos that surround their public appearances. Their primary focus on training and competing often leaves little room for learning (let alone mastering) how to manage the demands and unpredictability of public exposure. This reality is especially acute for minors and emerging athletes, who may be thrust into the spotlight with minimal preparation. For many athletes, to be summoned for an interview on live television immediately after a race or game with hardly any time to compose themselves is likely to be a daunting task. It is in recognition of these vulnerabilities that the SNOG has instituted policies restricting athletes from engaging in media interviews without the SNOG's permission. Such measures are designed not only to protect

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83 Wong Shiyong "Man Who Pleaded Guilty to Stalking Woman Gets Discharge Not Amounting to Acquittal After Bipolar Diagnosis", *The Straits Times* (24 June 2022) <<https://www.straitstimes.com/singapore/courts-crime/man-who-pleaded-guilty-to-stalking-woman-gets-discharge-not-amounting-to-acquittal-after-bipolar-diagnosis>> (accessed 12 October 2025).

84 Shaffiq Alkhatib, "Singaporean Teenager Who Threatened to Kill EPL Footballer Sentenced to 9 Months' Probation", *The Straits Times* (7 July 2021) <<https://www.straitstimes.com/singapore/courts-crime/singaporean-teenager-who-threatened-to-kill-epl-footballer-sentenced-to-9>> (accessed 12 October 2025).

85 Protection from Harassment Act 2014 (2020 Rev Ed) s 3.

the athletes' well-being, but also to ensure that they are not placed in situations where they may be exposed to undue stress or abuse.

### ***E. Medical and health requirements***

91 Ensuring the well-being and safety of athletes is a top priority of NOCs and hosts of major games. The implementation of medical and health requirements such as pre-departure medical examinations and vaccinations, and the disclosure of any pre-existing medical conditions, are essential to ensure that athletes who have been selected are in fact fit to compete. In this regard, the SNOC Team Membership Agreement for major games would typically provide that the athlete must inform the SNOC of any condition, illness or injury that may affect the athlete's athletic performance, as well as authorise any medical practitioner or sports therapist whom the athlete has consulted during the preceding 12 months to disclose the same. The athlete must also agree to undertake all medical examinations, as well as to withdraw from participation in the major games if the SNOC and/or the athlete's NSA take the view that the athlete's participation could cause an unacceptable risk of causing harm, injury or death to the athlete or other participants in the games, or of aggravating an existing injury or illness or infecting other participants.

92 The case of Singapore high jumper Kampton Kam being barred from participating in the 2021 SEA Games in Vietnam due to medical reasons illustrates how medical and health requirements are enforced. The athlete had suffered a collapsed lung a week before the SEA Games which required surgery. He had himself described the intensity of the pain he was experiencing then as a "8.5 or 9 out of 10" and one that "radiated through my whole chest".<sup>86</sup> However, he was desperate to compete in Vietnam given his good form and the fact that he was a gold medal prospect in an event which no Singapore high jumper had won since 1975. Ultimately, based on medical assessments of his condition, the athlete was required to withdraw from participating in the 2021 SEA Games.<sup>87</sup>

93 For para-athletes, the International Paralympic Committee ("IPC") has established medical classification systems and eligibility

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86 Sazali Abdul Aziz, "SEA Games: High Jumper Kampton Kam's Medal Hopes Dashed By Collapsed Lung", *The Straits Times* (13 May 2022) <<https://www.straitstimes.com/sport/sea-games-high-jumper-kampton-kams-medal-hopes-punctured-by-collapsed-lung>> (accessed 12 October 2025).

87 Matthew Mohan, "Three Singapore Athletes Withdraw From SEA Games: SNOC", *Channel News Asia* (13 May 2022) <<https://www.channelnewsasia.com/sport/three-singapore-athletes-withdraw-sea-games-snoc-2684086>> (accessed 12 October 2025).

criteria to ensure the safety of the para-athletes as well as the integrity of competitions.<sup>88</sup> These systems play a crucial role in levelling the playing field, allowing athletes with varying degrees of impairment to compete against one another fairly. The classification process involves a detailed assessment of each para-athlete's physical, visual, or intellectual impairments, which helps to determine their eligibility to compete in specific sports. This meticulous process is vital not only for maintaining fairness but also for protecting the health and safety of athletes during competitions.

94 The classification systems categorise athletes based on the severity of their impairments, typically dividing them into classes that reflect their functional capabilities. For example, in sports such as athletics, para-athletes may be classified into different categories based on their mobility, while in swimming, classifications may be based on the degree of limb loss or other physical limitations. This grouping allows for competitions that are as equitable as possible, enabling para-athletes to compete with others who have similar levels of impairment. The IPC continually reviews and updates these classification systems to adapt to advancements in medical knowledge and sports science, ensuring that the criteria remain relevant and effective in promoting fair competition.

95 Moreover, the IPC places a strong emphasis on the educational aspect of classification. Para-athletes, coaches, and support staff are provided with resources such as online training courses to understand the classification process and its implications.<sup>89</sup> This transparency is essential, as it fosters trust in the system and encourages para-athletes to engage actively in their classification assessments. Additionally, the IPC conducts regular reviews and appeals processes to address any disputes regarding classification decisions, further reinforcing the commitment to fairness and accountability in para-sports. By prioritising safety and fairness through these classification systems, the IPC not only enhances the competitive experience for para-athletes but also champions the spirit of inclusivity and respect that underpins the Paralympic movement.

#### ***F. Team officials' responsibilities and liabilities***

96 The responsibilities of officials who accompany athletes to major games extend far beyond logistical co-ordination. Many of them are tasked with performing roles which are pivotal in shaping the athletes' overall

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88 International Paralympic Committee, "Paralympic Classification" <<https://www.paralympic.org/classification>> (accessed 12 October 2025).

89 International Paralympic Committee, "Classification Education" <<https://www.paralympic.org/classification-education>> (accessed 12 October 2025).

experience and performance at the major games, including ensuring the welfare, safety and discipline of athletes. Officials such as team managers and coaches serve as mentors, guides, guardians, confidantes and even psychologists during critical moments of competition, and help ensure that athletes can focus on achieving their best sporting performances while adhering to the highest standards of conduct.

97 The SNOC's Team Membership Agreement typically sets out the following requirements and responsibilities of team managers:

- (a) They shall be responsible for the welfare, safety, discipline and whereabouts of the athletes at all times during the games period;
- (b) Before the athletes sign the Team Membership Agreement, their team managers are to organise a pre-departure briefing for the athletes to explain to them their obligations in the Team Membership Agreement, including in particular the Code of Conduct, and must allow the athletes to seek clarifications (if any) on the scope of their obligations thereunder;
- (c) They shall provide all athletes with a copy of the Team Membership Agreement that they had signed, and ensure that the athletes bring their own copy of the Agreement with them to the games;
- (d) They must familiarise themselves with the competition programme and be present at the competition venue no later than the time or times stated in the applicable technical regulations or as notified at the respective technical meetings for the purpose of registration and/or competition, as the case may be;
- (e) They shall, in consultation with the SNOC, prepare a security arrangement for their team's stay at the games village or designated hotel. This would include requiring all athletes to have their accreditation passes with them at all times during the games period, and instructing them to sign out whenever they leave the games village or designated hotel, and to sign in whenever they return to the games village or designated hotel. Team managers are also required to check the sign in/sign out book on a daily basis, and to liaise with the security personnel of the games village or designated hotel to alert them of any movements by their athletes out of and into the games village or designated hotel outside of the lights-out period; and
- (f) They shall enforce the lights-out period from 2300 to 0600 hours daily by having pre- lights-out period roll calls and undertaking random spot checks on a daily basis during the

lights-out period to ensure that the athletes are adhering to the curfew hours.

98 These requirements, particularly those pertaining to the safety, discipline and monitoring of athletes' compliance with the lights-out period, are particularly significant in the context of the breaches of the Code of Conduct. A case in point is the nine footballers who left their team hotel during lights-out period during the 2019 SEA Games in the Philippines.<sup>90</sup>

#### IV. Competition rules

99 In the world of competitive sports, athletes are bound by a complex web of rules and regulations that govern their conduct both on and off the field. These rules, established by the respective sports governing bodies as well as the host organisers, are intended to ensure fair play, maintain a level playing field, uphold sporting integrity, and promote the spirit of competition. Legal obligations are imposed on athletes by competition rules. However, these obligations are not always easily or immediately understood. Navigating these rules can be fraught with legal complexities that impact participants, organisers, and stakeholders alike, and can place significant burdens on athletes whose primary focus is sporting performance. From anti-doping policies to competition eligibility criteria and equipment use requirements, the ramifications of non-compliance can be severe, affecting not only an athlete's career, but also their personal reputations and financial well-being.

##### A. *Eligibility of and participation by transgender athletes*

100 Most sports segregate men's and women's competitions to ensure that the sport is competitive and more enjoyable to both participate in and to watch. Given that men are generally bigger, more powerful and faster than women, competing on an equal basis is usually neither fair nor safe, even though various non-contact sports like tennis, badminton and table tennis have long had mixed team events. In addition, many other sports have also recently introduced mixed-gender relay events. For example, the 2020 Tokyo Olympics featured a 4 x 400m mixed athletics relay, a 4 x 100 mixed medley swimming relay, a mixed triathlon relay,

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90 See paras 54 to 60 above.

mixed team air rifle and air pistol shooting events, and a mixed team event in archery, all of which were repeated at the 2024 Paris Olympics.<sup>91</sup>

101 However, it is a different proposition altogether when it comes to having transgender athletes compete in women's events. This controversy brings to the fore complex issues of fairness, inclusion, safety and the integrity of competitive sports. While mixed-gender events promote inclusivity and celebrate diverse forms of participation, the debate over transgender inclusion in women's categories remains contentious, primarily due to concerns about unfair competition and safety.

102 Proponents of allowing transgender women to compete in women's events argue that such participation aligns with principles of equality and respect for gender identity. They contend that sports should be inclusive, providing opportunities for all athletes to compete based on their affirmed gender (*ie*, the gender by which the athlete wishes to be known – which implies that such gender was chosen rather than born with). This perspective emphasises the importance of recognising and supporting the identities of transgender athletes, fostering an environment where all individuals can thrive. On the other hand, opponents have expressed concerns about potential physiological advantages that transgender athletes competing as women may have which may lead to an uneven playing field in competitive women's events. These advantages would therefore justify stricter gender eligibility rules in order to uphold the integrity of the sport.

103 At the heart of this debate lies the fundamental question of how sports governing bodies and federations can ensure that all athletes, regardless of their gender identity, have the opportunity to compete while maintaining fairness in competition. Different sports federations have adopted different approaches, which may be influenced by scientific research, societal norms, and lobbying efforts from various stakeholders. As policies continue to evolve, it is crucial to examine the implications of these approaches, not only for the athletes directly affected but also for the broader values of sportsmanship, equity and respect within the sporting community.

104 A recent case that illustrates the difficulty of such discussions is that of Caster Semenya ("Semenya"), a South African athlete who won the 800m gold medal at the World Championships in 2009, and followed up with the same feat at both the 2012 and 2016 Olympic Games as well

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91 Matt Nelsen, "Which Mixed Team Events Will Take Place at Paris 2024?", *Olympics.com* (19 July 2024) <<https://olympics.com/en/news/mixed-team-events-explained-watch-live>> (accessed 12 October 2025).

as at the 2018 Commonwealth Games. Her 2009 World Championships win saw her being gender tested as suspicions over her gender had arisen as a result of her dramatic improvement in times and muscular build.<sup>92</sup> It turned out that Semenya was born with differences in sexual development (“DSDs”) which caused her to have an elevated level of testosterone – a hormone which helps build muscle and bone mass. She did not have a uterus or fallopian tubes, and had undescended testicles which caused a production of natural testosterone in the male range.

105 Although Semenya was eventually cleared to participate in athletics almost a year later, World Athletics followed up by introducing eligibility regulations in 2011 to limit participation of hyperandrogenic females in elite athletics to those with a testosterone level of no more than 10 nmol/L. Female athletes with testosterone levels exceeding 10 nmol/L must lower their testosterone levels in order to compete in certain events. The regulations were justified by World Athletics on the grounds that high testosterone levels could provide a competitive advantage in women’s competitions. However, these female eligibility regulations were short-lived. In 2015, the validity of these regulations was the subject of a legal challenge by Dutee Chand (“Chand”), an Indian sprinter diagnosed with hyperandrogenism which caused her to have elevated levels of testosterone. The CAS held that there was inadequate evidence to substantiate the regulations that restricted athletes with elevated testosterone levels from competing.<sup>93</sup> It ordered the regulations to be suspended pending the submission of further written evidence and expert reports addressing the actual degree of athletic performance advantage sustained by hyperandrogenic female athletes as compared to non-hyperandrogenic female athletes by reason of their high levels of testosterone within two years of the date of the Interim Award of the CAS, failing which these regulations would be declared invalid.

106 The suspension of these regulations not only opened the door for Chand, Semenya and other athletes with similar DSD conditions to compete, but also sparked a broader debate about fairness, inclusion, and the science of sex and gender in sports. The outcome of the Chand case marked a pivotal moment in the history of athletics, influencing subsequent regulations and the discourse around gender identity in sports.

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92 Caster Semenya, “You Are Not Here for a Doping Test. You Are Here for a Gender Test’: Athlete Caster Semenya on How Her Life Changed for Ever”, *The Guardian* (28 October 2023) <<https://www.theguardian.com/sport/2023/oct/28/athlete-caster-semenya-memoir-race-to-be-myself-extract>> (accessed 12 October 2025).

93 *Dutee Chand v Athletics Federation of India* CAS 2014/A/3759.

107 Following the CAS ruling in *Dutee Chand v Athletics Federation of India*,<sup>94</sup> World Athletics worked to introduce new eligibility regulations in 2018 which specifically targeted female athletes with DSDs and elevated testosterone levels. Under these new regulations, female athletes with DSDs were required to maintain their testosterone levels below a specified threshold of 5 nmol/L in order to compete in certain events, primarily those ranging from 400 metres to 1 mile. These regulations were further updated in March 2023 to lower the limit to 2.5 nmol/L. In addition, athletes were mandated to lower their testosterone levels for at least six months before they could participate in competitions. Athletes competing in events between 400 metres to 1 mile (“Restricted Events”) must keep their levels below 2.5 nmol/L for 24 months.<sup>95</sup> The new regulations applied specifically to middle-distance and long-distance races because these were distances where higher testosterone levels in athletes would provide a significant competitive advantage. At the same time, the new regulations allowed for individual assessments and required athletes to provide medical evidence regarding their testosterone levels to ensure compliance with the regulations.

108 Unsurprisingly, the new regulations were met with significant controversy and debate, as they were perceived to be directly targeting Semenya in particular. At a broader level, they raised questions about the fairness, inclusivity and discrimination against women with natural variations in hormone levels.

109 The new regulations meant that athletes like Semenya would need to take testosterone-reducing medication or undergo surgery in order to compete internationally over distances between 400 metres and 1 mile – something she declined to do for health concerns.<sup>96</sup> Semenya therefore sought to challenge the new regulations on the basis that they were discriminatory and violated her human rights. The CAS however upheld the regulations in 2019, stating they were necessary for fair competition.

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94 CAS 2014/A/3759.

95 World Athletics, “Eligibility Regulations for the Female Classification (Athletes With Differences of Sex Development)” (version 3.0 with effect from 31 March 2023).

96 Bianna Golodryga, Ben Church & Henry Hullah, “Caster Semenya Says She Went Through ‘Hell’ Due to Testosterone Limits Imposed on Female Athletes”, *CNN* (6 November 2023) <<https://edition.cnn.com/2023/11/06/sport/caster-semenya-testosterone-limits-world-athletics-spt-intl/index.html>> (accessed 13 October 2025).

110 Undaunted, Semenya then appealed to the Swiss Federal Tribunal, which upheld the CAS ruling in 2020,<sup>97</sup> further restricting her ability to compete without undergoing hormone treatment. In 2022, Semenya took her fight to the European Court of Human Rights (“ECHR”), seeking to overturn the previous decisions and argue that the regulations infringe upon her rights. On 11 July 2023, the ECHR ruled in Semenya’s favour, and found that the Swiss Government had failed to protect the athlete from being discriminated against when its Federal Tribunal refused to overturn a decision by the CAS which upheld World Athletics’ rules governing the participation of female athletes with DSDs.<sup>98</sup> Nonetheless, World Athletics refused to back down on its new regulations, as it took the position that the ECHR ruling was not against World Athletics or its DSD rules, but specifically against the Swiss Government for not protecting Semenya’s rights. This left Semenya with a pyrrhic victory and in the same position she was in prior to the ECHR ruling.

111 The Swiss Government then requested for the matter to be referred to the ECHR Grand Chamber (which comprises 17 judges) for a final decision.<sup>99</sup> On 15 May 2024, the ECHR Grand Chamber heard the final appeal and reserved its judgment. Meanwhile, Semenya declared that while she would no longer compete in athletics, she would continue to fight against what she considers as discrimination against athletes with hyperandrogenism for the sake of others who may be affected by a similar case in the future. In her memoirs, *The Race to Be Myself*, published in October 2023, Semenya described the damaging impact of having to take testosterone-reducing medication in order to be eligible to compete internationally, and says she wants to use her platform to stop other women having to endure the same thing.

112 On 10 July 2025, the ECHR Grand Chamber delivered its judgment. It examined several key issues, including whether Switzerland had jurisdiction under the ECHR to consider Semenya’s complaints, given that the events and regulations in question originated outside Switzerland, and that the only link was the seat of the CAS and the

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97 “Caster Semenya Loses Appeal Against the Restriction of Testosterone Levels in Female Runners”, *BBC Sport* (8 September 2020) <<https://www.bbc.com/sport/athletics/54079837>> (accessed 13 October 2025).

98 “Caster Semenya Wins Appeal at European Court of Human Rights”, *BBC Sport* (11 July 2023) <<https://www.bbc.com/sport/athletics/66162083>> (accessed 13 October 2025).

99 “Judges to Hear Semenya Case Before Ruling”, *BBC Sport* (13 May 2024) <<https://www.bbc.com/sport/athletics/articles/cd188y15n4eo>> (accessed 13 October 2025); European Court of Human Rights, “Referral to the Grand Chamber” (6 November 2023) <<https://www.echr.coe.int/w/referral-to-the-grand-chamber-1>> (accessed 13 October 2025).

subsequent appeal to the Swiss Federal Supreme Court.<sup>100</sup> The ECHR Grand Chamber concluded that Switzerland did have jurisdiction under Art 6 (right to a fair trial) of the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>101</sup> (“European Convention on Human Rights”) because Semenya’s appeal to the Federal Supreme Court created a jurisdictional link. However, this jurisdiction did not extend to her complaints under Art 8 (right to respect for private life), Art 13 (right to an effective remedy) and Art 14 (prohibition of discrimination), given that Semenya is a South African national and the sports federation in question (World Athletics) has its seat in Monaco. As such, these complaints were inadmissible.<sup>102</sup>

113 The ECHR Grand Chamber then scrutinised the fairness of the proceedings before the CAS and the Swiss Federal Supreme Court, and acknowledged that sports arbitration, particularly in the context of international competitions, is often compulsory for athletes, who have no realistic alternative but to submit to the jurisdiction of the CAS. Given its mandatory and exclusive nature, when such arbitration concerns civil rights corresponding to fundamental rights, the subsequent judicial review by the Swiss Federal Supreme Court ought to be particularly rigorous.<sup>103</sup> Although the CAS and the Swiss Federal Supreme Court had both conducted lengthy and detailed examinations of Semenya’s case, there were nonetheless significant shortcomings in both processes. This is because the CAS had left unresolved critical questions about the proportionality and practical implementation of the DSD Regulations, particularly regarding the potential difficulty for athletes to maintain testosterone levels below the required threshold, even though these issues were decisive for the outcome of the dispute brought by Semenya. The argument on the potential arbitrariness in the selection of Restricted Events was also not dealt with by the CAS.<sup>104</sup> As for the Federal Supreme Court, its review of the CAS award was limited to the question of whether the award was incompatible with Swiss public policy – a standard that is very narrowly defined and rarely met. This review did not allow for a full reassessment of the facts, nor the reasonableness or proportionality,

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100 *Semenya v Switzerland* No 10934/21 (10 July 2025) <<https://hudoc.echr.coe.int/eng?i=001-244348>> (accessed 13 October 2025) at [103].

101 Convention for the Protection of Human Rights and Fundamental Freedoms (4 November 1950), 213 UNTS 221 (entered into force 3 September 1953) (“European Convention on Human Rights”).

102 *Semenya v Switzerland* No 10934/21 (10 July 2025) <<https://hudoc.echr.coe.int/eng?i=001-244348>> (accessed 13 October 2025) at [98]–[154].

103 *Semenya v Switzerland* No 10934/21 (10 July 2025) <<https://hudoc.echr.coe.int/eng?i=001-244348>> (accessed 13 October 2025) at [213], [216] and [218].

104 *Semenya v Switzerland* No 10934/21 (10 July 2025) <<https://hudoc.echr.coe.int/eng?i=001-244348>> (accessed 13 October 2025) at [219]–[225] and [232].

even though the CAS itself had expressed serious concerns and left key questions unresolved, such as the practical ability of athletes to comply with the testosterone regulations and whether the selection of Restricted Events was arbitrary or had targeted Semenya. Instead, the Federal Supreme Court merely stated that it was unable to find that the CAS's conclusions were incompatible with public policy.<sup>105</sup>

114 As a result, the ECHR Grand Chamber held, by a majority, that given the mandatory and exclusive nature of sports arbitration and the seriousness of the rights at stake, the review by the Swiss Federal Supreme Court did not meet the standard of particularly rigorous examination required in this case, and thus there had been a violation of Art 6 § 1 of the European Convention on Human Rights. The ECHR Grand Chamber awarded Semenya €80,000 in costs and expenses.<sup>106</sup> The ECHR Grand Chamber judgment featured both concurring and dissenting opinions – some judges held that the court should have gone further in recognising Switzerland's jurisdiction over the substantive human rights complaints,<sup>107</sup> while other judges criticised the majority for introducing a new requirement of “particularly rigorous examination” or “in-depth judicial review” of arbitral awards under Art 6 § 1 in the context of public policy review, cautioning that despite the majority's attempt to limit this standard to mandatory sports arbitration, it could inadvertently extend to other arbitral appeals involving civil rights, which they viewed as undesirable.<sup>108</sup>

115 The ECHR Grand Chamber judgment thus highlights the challenges of balancing the autonomy of international sports bodies, the need for fair competition, and the protection of fundamental human rights, particularly in cases where athletes are subject to regulations that have profound personal and professional consequences. As Semenya

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105 *Semenya v Switzerland* No 10934/21 (10 July 2025) <<https://hudoc.echr.coe.int/eng?i=001-244348>> (accessed 13 October 2025) at [226]–[227], [231] and [233].

106 *Semenya v Switzerland* No 10934/21 (10 July 2025) <<https://hudoc.echr.coe.int/eng?i=001-244348>> (accessed 13 October 2025) at [230]–[239] and [244].

107 See *Semenya v Switzerland* No 10934/21 (10 July 2025) <<https://hudoc.echr.coe.int/eng?i=001-244348>> (accessed 13 October 2025) at [14] of the “Partly Dissenting Joint Opinion of Judges Bošnjak, Zünd, Šimáčková and Derenčinovič” where the judges stated: “The Court's role is to protect fundamental rights. In choosing not to examine on the merits the questions of [Semenya]'s rights as guaranteed by Articles 8 and 14 of the Convention, the Court has failed to fulfil its role in the present case.”

108 *Semenya v Switzerland* No 10934/21 (10 July 2025) <<https://hudoc.echr.coe.int/eng?i=001-244348>> (accessed 13 October 2025) at [6] and [17] of the “Partly Dissenting Joint Opinion of Judges Eicke and Kucsko-Stadlmayer”.

stated after the release of the judgement, “The battle will never end while injustice remains. As long as we have injustice, we fight till the court.”<sup>109</sup>

116 Meanwhile, in November 2021, the IOC made a highly anticipated announcement regarding updated policy recommendations relating to transgender and intersex athlete participation. This announcement introduced a new *IOC Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations*.<sup>110</sup> This framework allows individual international federations to formulate their own eligibility criteria, rather than adhering to a universal policy. The framework focuses on ten principles:

- (a) inclusion;
- (b) prevention of harm;
- (c) non-discrimination;
- (d) fairness;
- (e) no presumption of advantage;
- (f) evidence-based approach;
- (g) primacy of health and bodily autonomy;
- (h) stakeholder-centred approach;
- (i) right to privacy; and
- (j) periodic reviews.

International federations developing their eligibility criteria are instructed to consider all ten principles holistically, rather than picking and choosing some over others.<sup>111</sup>

117 The IOC’s framework followed a two-year consultation process with more than 250 athletes and stakeholders which included sports

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109 Raúl Daffunchio Picazo, “Europe Rebukes Switzerland in Semenya Case”, *Inside The Games* (10 July 2025) <<https://www.insidethegames.biz/articles/1154167/europe-rebukes-switzerland-semenya-case>> (accessed 13 October 2025).

110 International Olympic Committee, *IOC Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations* (2021) <<https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Human-Rights/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf>> (accessed 13 October 2025).

111 Katie Barnes, “IOC Provides Framework for International Federations to Develop Their Own Eligibility Criteria for Transgender, Intersex Athletes”, *ESPN* (17 November 2021) <[https://www.espn.com.sg/olympics/story/\\_/id/32645620/ioc-provides-framework-international-federations-develop-their-own-eligibility-criteria-transgender-intersex-athletes](https://www.espn.com.sg/olympics/story/_/id/32645620/ioc-provides-framework-international-federations-develop-their-own-eligibility-criteria-transgender-intersex-athletes)> (accessed 13 October 2025).

organisations and experts in the fields of human rights, law and medicine. This consultation took place in light of growing concerns about how best to support transgender athletes and athletes with sex variations to compete in ways that affirm their identity and well-being, while also ensuring fair competition.<sup>112</sup> This framework encourages sports governing bodies to avoid using unnecessary medical testing or procedures as part of determining eligibility of athletes, and highlights that there is no medical consensus that testosterone levels alone confer an unfair advantage to transgender athletes or athletes with DSDs. Decisions to be made on eligibility ought to be based on evidence of an individual's advantage rather than judging based on an athlete's appearance or identity. The IOC added that it would no longer require athletes to undergo hormone level modifications to compete.

118 At the recently concluded 2024 Paris Olympics, Algerian boxer Imane Khelif ("Khelif") emerged as welterweight champion after enduring intense scrutiny and online abuse over perceptions about her womanhood. The International Boxing Association ("IBA") had a year earlier, disqualified Khelif and fellow two-time Olympian featherweight boxer Li Yu-Ting ("Li") of Taiwan from the 2023 World Boxing Championships, having determined that both did not meet the eligibility criteria for the women's competition as they had been subject to tests which showed that they had competitive advantages over other female competitors.<sup>113</sup> The boxing competition at the 2024 Paris Olympics was however conducted under IOC rules as the IBA had been stripped of its status as the sport's world governing body over governance and finance concerns.<sup>114</sup> As such, both Khelif and Li were allowed to compete in Paris, despite both seemingly having DSDs and elevated levels of testosterone.<sup>115</sup> However, with the most recent developments, it would appear that Khelif will no longer be eligible to compete in any future World Boxing events in the women's category unless she can provide proof of being biologically

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112 International Olympic Committee, "Fairness, Inclusion and Non-Discrimination in Olympic Sport" <<https://olympics.com/ioc/human-rights/fairness-inclusion-nondiscrimination>> (accessed 13 October 2025).

113 International Boxing Association, "Statement Made By the International Boxing Association Regarding Athletes Disqualifications in World Boxing Championships 2023" (31 July 2024) <<https://www.iba.sport/news/statement-made-by-the-international-boxing-association-regarding-athletes-disqualifications-in-world-boxing-championships-2023/>> (accessed 13 October 2025).

114 Aadi Nair & Layli Foroudi, "Barred Boxing Federation says Khelif Failed Chromosome Test", *Reuters* (6 August 2024) <<https://www.reuters.com/sports/olympics/gender-row-boxers-were-disqualified-world-championships-after-chromosome-test-2024-08-05/>> (accessed 13 October 2025).

115 "Boxing's Gender Row – What's Going On and Are Russia Involved?", *BBC Sport* (4 August 2024) <<https://www.bbc.com/sport/olympics/articles/cnk4427vvd2o>> (accessed 13 October 2025).

female.<sup>116</sup> This is because World Boxing – which has received provisional approval to run the next Olympic boxing event – has now implemented a policy mandating that all athletes aged 18 and above who wish to participate in any World Boxing-owned or sanctioned competition undergo a polymerase chain reaction genetic test. This test is designed to determine the athlete’s sex at birth and confirm their eligibility to compete in the appropriate category.<sup>117</sup> Under this policy, athletes must submit official certification verifying their chromosomal sex. Failure to provide such certification, or the submission of false documentation, will result in the athlete being declared ineligible to compete. Additionally, such actions may lead to sanctions against the athlete and/or his/her National Federation.<sup>118</sup> As a result of these new regulations, Khelif is effectively barred from participating in all future World Boxing events, including the 2028 Summer Olympics unless she successfully passes the mandatory health screening.<sup>119</sup>

119 Similar significant developments have also occurred in recent years that have increasingly restricted the participation of transgender athletes, particularly transgender women, in female sports categories. On 23 March 2023, the World Athletics Council announced a policy barring transgender women who had experienced any part of male puberty from competing in female world ranking competitions, effective from 31 March 2023.<sup>120</sup> This decision was justified on the grounds of protecting the integrity of the female category in track and field, with the Council citing scientific evidence that certain physical advantages – such as bone structure, heart size, and lung capacity – persist even after testosterone suppression.<sup>121</sup>

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116 Oliver Brown, “Imane Khelif Banned From Competing in Women’s World Boxing Events”, *Yahoo Sports* (31 May 2025) <<https://sports.yahoo.com/article/imane-khelif-banned-competing-women-195248044.html>> (accessed 13 October 2025).

117 World Boxing, “World Boxing to Introduce Mandatory Sex Testing for All Boxers That Want to Participate in Its Competitions”, press release (30 May 2025) <<https://worldboxing.org/world-boxing-to-introduce-mandatory-sex-testing-for-all-boxers/>> (accessed 13 October 2025).

118 World Boxing, “World Boxing to Introduce Mandatory Sex Testing for All Boxers That Want to Participate in Its Competitions”, press release (30 May 2025) <<https://worldboxing.org/world-boxing-to-introduce-mandatory-sex-testing-for-all-boxers/>> (accessed 13 October 2025).

119 Oliver Brown, “Imane Khelif Banned From Competing in Women’s World Boxing Events”, *Yahoo Sports* (31 May 2025) <<https://sports.yahoo.com/article/imane-khelif-banned-competing-women-195248044.html>> (accessed 13 October 2025).

120 Katie Falkingham, “World Athletics Bans Transgender Women From Competing in Female World Ranking Events”, *BBC Sport* <<https://www.bbc.com/sport/athletics/65051900>> (accessed 13 October 2025).

121 Dennis L Weisman, “Transgender Athletes, Fair Competition, and Public Policy” (2022) 45(3) *Regulation* 18 <<https://www.cato.org/regulation/fall-2022/transgender-athletes-fair-competition-public-policy>> (accessed 13 October 2025).

120 On 4 December 2024, the Ladies Professional Golf Association (“LPGA”), the world’s top women’s professional golf organisation which manages the LGPA Tour, announced that it will prohibit transgender women (*ie*, formerly male) players from competing in women’s LGPA events. Beginning 2025, only players who were assigned female at birth or those who underwent gender reassignment before experiencing male puberty will be eligible to compete in LPGA tournaments or the United States Golf Association female championships.<sup>122</sup> This decision has sparked significant debate and controversy within the golf community, and intensified the debate over the participation of transgender athletes in women’s sports.<sup>123</sup>

121 In the US, there has been a recent flurry of legislative, executive and judicial activity on this issue. In January 2025, the United States House of Representatives passed the Protection of Women and Girls in Sports Act of 2025,<sup>124</sup> which sought to amend Title IX<sup>125</sup> by defining “sex” strictly according to reproductive biology and genetics at birth.<sup>126</sup> Title IX is a 1972 federal law that prohibits sex-based discrimination in any education programme or activity from receiving federal funding.<sup>127</sup> The objective of the Act was to bar transgender girls and women from participating in women’s sports at federally funded schools. However, after passing the House, the measure failed to advance in the Senate on 3 March 2025, where it was blocked by a party-line vote of 51-45, falling short of the 60 votes needed to progress into law.<sup>128</sup> Shortly thereafter, on 5 February 2025, President Donald Trump signed an executive order titled “Keeping

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122 Tribune News Service, “LPGA, USGA Make Gender Policy Changes to Ban Hailey Davidson, Other Transgender Golfers”, *South China Morning Post* (5 December 2024) <<https://www.scmp.com/sport/golf/article/3289435/lpga-usga-make-gender-policy-changes-ban-hailey-davidson-other-transgender-golfers>> (accessed 13 October 2025).

123 “Female Athletes Celebrate LPGA’s Rule Change on Transgender Players”, *The Dallas Express* (7 December 2024) <<https://dallasexpress.com/sports/female-athletes-celebrate-lpgas-rule-change-on-transgender-players/>> (accessed 13 October 2025).

124 (HR 28, 119th Congress (2025–2026)).

125 Education Amendments of 1972, 20 USC (US) §§ 1681 (2018).

126 Bianca Quilantan, “House Passes Bill Restricting Transgender Athletes From Women’s Sports”, *Politico* (14 January 2025) <<https://www.politico.com/news/2025/01/14/house-passes-bill-restricting-transgender-athletes-from-womens-sports-00198171>> (accessed 13 October 2025).

127 US Department of Education, “Title IX and Sex Discrimination” <<https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination>> (accessed 13 October 2025).

128 Frank Thorp V & Sahil Kapur, “Senate Democrats Block GOP-Led Bill to Ban Transgender Athletes From Women’s Sports”, *NBC News* (4 March 2025) <<https://www.nbcnews.com/politics/congress/senate-democrats-block-bill-ban-transgender-athletes-womens-sports-rcna194623>> (accessed 13 October 2025).

Men Out of Women's Sports" ("Trump's Executive Order"),<sup>129</sup> which directed the Department of Justice to enforce a ban on transgender girls and women from participating in female-designated school sports and from using female locker rooms, and called for federal agencies to review grants for non-compliant educational programmes. Trump's Executive Order also instructed the State Department to advocate internationally for sex-based eligibility in women's sports, including at the Olympic-level, and announced that transgender athletes would be denied visas to compete in the 2028 Los Angeles Olympics.<sup>130</sup> The day following this announcement, the National Collegiate Athletics Association mandated that with immediate effect, only women assigned as female at birth could compete in women college sports.<sup>131</sup>

122 States in America that have inclusive policies which allow students to participate in sex-segregated school programs and activities consistent with their gender identity and regardless of the gender listed on their birth records have faced enforcement action by the Trump administration. For example, on 9 July 2025, the United States Department of Justice filed a lawsuit against the State of California in the United States District Court for the Central District of California<sup>132</sup> over the State's policy of allowing transgender athletes to compete in women's sports, arguing that this violates Title IX and subjects female student athletes in this part of the country to "unfair competition and reckless endangerment by male participation on female high-school sports teams".<sup>133</sup> The lawsuit was initially prompted by a 16-year-old transgender girl AB Hernandez from Jurupa Valley High School winning multiple medals at the California state high school track and field championships, a feat which drew national attention and direct criticism from President Trump, who threatened to withdraw US\$44.3bn in federal education funding from California for the 2025 fiscal year. Similar federal actions

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129 The White House, "Keeping Men Out of Women's Sports" (Presidential Action, 5 February 2025) <<https://www.whitehouse.gov/presidential-actions/2025/02/keeping-men-out-of-womens-sports/>> (accessed 13 October 2025).

130 Bernd Debusmann Jr, "Trump Signs Order Banning Transgender Women From Female Sports", *BBC News* (6 February 2025) <<https://www.bbc.com/news/articles/c20g85k3z35o>> (accessed 13 October 2025).

131 Media Centre, "NCAA Announces Transgender Student-Athlete Participation Policy Change", *NCAA.org* (2 June 2025) <<https://www.ncaa.org/news/2025/2/6/media-center-ncaa-announces-transgender-student-athlete-participation-policy-change.aspx>> (accessed 14 October 2025).

132 Trudy Ring, "Trump Admin Lawsuit Against California Seeks End to Trans-Inclusive Sports Policy", *Advocate* (9 July 2025) <<https://www.advocate.com/news/trump-administration-sues-california-transgender>> (accessed 14 October 2025).

133 Javier Carro, "Trump Sues California Over Transgender Athletes", *Inside The Games* (10 July 2025) <<https://www.insidethegames.biz/articles/1154161/trump-sues-california-transgender>> (accessed 14 October 2025).

have targeted other states and educational institutions, such as Maine and the University of Pennsylvania, for permitting transgender athletes in women's sports. California State officials have defended their policy as consistent with a 2013 state law guaranteeing transgender students the right to participate in school activities according to their gender identity, while LGBTQ advocates have criticised the lawsuit as "baseless" and "politically motivated". This legal battle is part of a wider national conflict, with over two dozen States enacting laws to bar transgender athletes assigned the male gender at birth from girls' and women's sports.

123 In addition, the United States Supreme Court is currently due to hear appeals to decide on whether state laws from Idaho and West Virginia that prevent transgender girls and women from competing in female athletics violate the Constitution's Equal Protection Clause<sup>134</sup> and Title IX, which prohibits sex-based discrimination in education.<sup>135</sup> Idaho's Fairness in Women's Sports Act<sup>136</sup> requires sports teams to be designated by biological sex, and was challenged by Lindsay Hecox, a transgender woman who had received treatment for gender dysphoria since 2019, including testosterone suppression and estrogen. Hecox had wanted to try out for the State's women's track and cross-country teams, but could not do so because of this law. She argued that such a law violated her rights under Title IX and the Constitution's promise of equal protection under the law. Both the District Court for Idaho and the Court of Appeals for the Ninth Circuit found that the law discriminated against transgender women and imposed invasive requirements for verifying gender. Similarly, West Virginia's Save Women's Sports Act<sup>137</sup> restricted participation in girls' sports to those who were assigned the female gender at birth. This legislation was challenged by Becky Pepper-Jackson, a transgender girl who was born male but began identifying as female at "an early age", and who had received puberty-delaying treatment and estrogen hormone therapy. Pepper-Jackson sued the West Virginia State Board of Education after being barred from her school's girls' teams. The District Court for the Southern District of West Virginia allowed her to

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134 US Constitution Amend XIV § 1.

135 Amy Howe, "Supreme Court Agrees to Hear Cases on Transgender Athletes", *SCOTUSblog* (3 July 2025) <<https://www.scotusblog.com/2025/07/supreme-court-agrees-to-hear-cases-on-transgender-athletes/>> (accessed 14 October 2025); Andrew Chung, "US Supreme Court to Decide Legality of Transgender School Sports Bans", *Reuters* (3 July 2025) <<https://www.reuters.com/legal/litigation/us-supreme-court-decide-legality-transgender-school-sports-bans-2025-07-03/>> (accessed 14 October 2025).

136 Idaho Code § 33-6201 (2020).

137 West Virginia's Save Women's Sports Act, West Virginia Code § 18-2-25d (2021).

compete,<sup>138</sup> while the Court of Appeals for the Fourth Circuit ruled that the law violated Title IX by discriminating against her based on gender.<sup>139</sup>

124 The outcomes of the United States Supreme Court cases on the appeals from the States of Idaho and West Virginia, and the Trump administration's lawsuit against the State of California, are expected to have significant implications for Title IX, transgender rights and the future of school and competitive sports in the US.

125 In yet another blow to transgender athletes, on 21 July 2025, the United States Olympic and Paralympic Committee ("USOPC") changed its eligibility rules to bar transgender women from competing in Olympic women's sports, in order to comply with Trump's Executive Order.<sup>140</sup> However, it remains unclear as to how the USOPC's new policy will be implemented in states which are defying Trump's Executive Order, or how it will work in sports which currently have or may introduce open or mixed-gender categories in response to the change in policy.<sup>141</sup>

126 Parallel to these developments in the US, the UK Supreme Court issued a significant ruling on 16 April 2025 in *For Women Scotland v The Scottish Ministers*,<sup>142</sup> a Scottish case concerning how the terms "man", "woman" and "sex" should be interpreted in the Equality Act 2010<sup>143</sup> ("EA 2010") in light of the Gender Recognition Act 2004<sup>144</sup> ("GRA").<sup>145</sup> The UK Supreme Court clarified that, for the purposes of the EA 2010, the terms "man", "woman", and "sex" refer to biological sex at birth. The possession of a Gender Recognition Certificate, which changes a person's

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138 *BPJ v West Virginia State Board of Education* Civil Action No 2:21-cv-00316 (5 January 2023) <<https://storage.courtlistener.com/recap/gov.uscourts.wvwd.231947/gov.uscourts.wvwd.231947.512.0.pdf>> (accessed 20 October 2025).

139 *BPK v West Virginia State Board of Education* No 23-1078 (16 April 2024) <<https://lambdalegal.org/wp-content/uploads/2024/04/BPJ-CA4-Decision.pdf>> (accessed 20 October 2025).

140 Reuters, "US Olympic & Paralympic Committee Bars Transgender Women From Competing in Women's Sports", *The Straits Times* (23 July 2025) <<https://www.straitstimes.com/sport/us-olympic-paralympic-committee-bars-transgender-women-from-competing-in-womens-sports>> (accessed 14 October 2025).

141 Juliet Macur, "U.S. Olympic Officials Bar Transgender Women From Women's Competitions", *The New York Times* (22 July 2025) <<https://www.nytimes.com/2025/07/22/us/politics/us-olympics-trans-women-athletes-ban-trump.html>> (accessed 14 October 2025).

142 [2025] 2 WLR 879.

143 (c 15) (UK).

144 (c 7) (UK).

145 United Kingdom, House of Commons, *Supreme Court Judgment on the Meaning of "Sex" in the Equality Act 2010: For Women Scotland* (Briefing Paper No CBP-10259, 31 July 2024) <<https://commonslibrary.parliament.uk/research-briefings/cbp-10259/>> (accessed 14 October 2025).

legal sex for most purposes under the GRA, does not alter a person's sex for the purposes of the EA 2010. The court reasoned that interpreting "sex" as anything other than biological sex would undermine the coherence and practicability of the EA 2010. However, the Court also emphasised that transsexuals would remain protected under the separate characteristic of gender reassignment and from discrimination based on being perceived as or associated with a different sex. This decision has significant implications for the application of anti-discrimination law and the participation of transgender people in single-sex spaces, including sports, in the UK.

127 Meanwhile, the IOC announced on its part a major policy review on 26 June 2025. Newly elected IOC President Kirsty Coventry stated that the IOC would establish a working group of experts and international federations to review eligibility criteria for women's sports.<sup>146</sup> Coventry emphasised that while eligibility rules may need to differ by sport, the IOC's priority is to protect the female category, while ensuring that the process is consensus-driven among all stakeholders.<sup>147</sup> This marks a shift from the IOC's 2021 position, which had left the responsibility for transgender athlete eligibility to the international sports federations.<sup>148</sup> The move comes amid intensifying global debate over transgender participation in women's sports, a topic that featured prominently in the 2024 United States Presidential Election and has been the subject of legislative and policy changes.<sup>149</sup> As legal challenges proceed and international sports governing bodies continue to review and refine their policies, further developments are expected in this contentious and rapidly changing area in the near future.

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146 Reuters, "IOC to Take Lead in Gender Eligibility Criteria, Says New Chief Kirsty Coventry", *The Straits Times* (26 June 2025) <<https://www.straitstimes.com/sport/ioc-to-take-lead-in-gender-eligibility-criteria-says-kirsty-coventry>> (accessed 14 October 2025).

147 Reuters, "IOC to Take Lead in Gender Eligibility Criteria, Says New Chief Kirsty Coventry", *The Straits Times* (26 June 2025) <<https://www.straitstimes.com/sport/ioc-to-take-lead-in-gender-eligibility-criteria-says-kirsty-coventry>> (accessed 14 October 2025).

148 Lisa Riley Roche, "Will the IOC's Policy on Transgender Athlete Participation Change?", *Deseret News* (27 June 2025) <<https://www.deseret.com/utah/2025/06/27/will-ioc-policy-on-transgender-athlete-participation-at-the-olympics-change/>> (accessed 14 October 2025).

149 Paula Lavigne, "What to Know About Trump's Ban of Transgender Women From Sports", *ESPN* (7 February 2025) <[https://www.espn.com.sg/college-sports/story/\\_/id/43719883/what-know-trump-ban-transgender-women-sports](https://www.espn.com.sg/college-sports/story/_/id/43719883/what-know-trump-ban-transgender-women-sports)> (accessed 14 October 2025); Deirdre Cohen, "Diving Into the Debate Over Trans Athletes", *CBS News* (27 March 2022) <<https://www.cbsnews.com/news/diving-into-the-debate-over-trans-athletes/>> (accessed 14 October 2025).

## **B. Eligibility of and participation by para-athletes**

128 In recent years, advancements in technology have profoundly influenced the landscape of competitive sports, particularly for athletes with disabilities. The participation of technology-assisted para-athletes in major games and competitions alongside able-bodied athletes has sparked a contentious debate, particularly as technological advancements continue to blur the lines between ability and performance. Advancements in prosthetics technology have opened doors for athletes previously excluded from competitive sports due to their disabilities. Prosthetics, which were once heavy and uncomfortable, have evolved into lighter, stronger, and more flexible devices. Sophisticated engineering has led to the development of prosthetics that offer improved movement, comfort, and durability. The rapid pace of innovation also suggests that bionic limbs may soon transition from fiction to reality.

129 These innovations have not only made competitive sports more accessible but have also significantly enhanced the performance levels of disabled athletes, enabling them to achieve remarkable feats once deemed impossible. A prominent beneficiary of such advancements is Oscar Pistorius, a South African double-amputee sprinter who was born with a congenital condition that left him without the fibula in either of his legs. Pistorius used carbon fiber blades which were cut into a “C” shape to take full advantage of the strength and flexibility of carbon fiber. These blades simulated the spring action of a normal foot and allowed the user to run and jump. Using these blades, Pistorius won the 200m gold in the 2004 Athens Paralympics, as well as gold in the 100m, 200m and 400m events at the 2008 Beijing Paralympics.<sup>150</sup>

130 Pistorius’s remarkable blades-assisted performances raised important questions about the fairness of the use of assistive technology by disabled athletes (given the potential advantages that such technology can confer), particularly as he had sought to compete in races against non-disabled athletes without reliance on such technology. Such technology had enabled Pistorius to achieve greater heights in athletics and, all other things being equal, to gain an edge over non-users and outperform the competition using the same or even less effort.

131 After winning gold at the 2004 Paralympics, Pistorius’s subsequent attempts to race in non-disabled international competitions were met with persistent objections by the International Association of

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150 Lau Kok Keng, “The Impact of Technology on Sports (Part 2)”, *Bits & Bytes* (August 2023) <<https://law.nus.edu.sg/trail/theimpactoftechnologysportsp2/>> (accessed 14 October 2025).

Athletics Federations, which viewed his artificial limbs as giving him an unfair advantage over able-bodied athletes. Pistorius successfully appealed to the CAS, clearing the way for him to be eligible to compete in the 2008 Beijing Olympics. However, he failed to qualify for the South African team that year. Four years later however, Pistorius became the first amputee athlete to compete at the Olympics in London, where he reached the semi-finals of the men's 400m race.<sup>151</sup>

### C. *Competition equipment requirements*

132 In competitive sports, the use by athletes of sporting equipment featuring the latest technological innovation is often governed by stringent requirements and limitations to ensure fairness, safety and uniformity among participants, as the use of such equipment may make a difference between winning and losing, and athletes may not have equal access to such equipment. The regulation of the use of specialised equipment and technology in sports reflects ongoing efforts to balance innovation with fairness. As technology continues to advance, regulatory bodies will need to adapt to address these challenges, ensuring that competitive integrity is maintained. This section discusses the regulation of the use of equipment and technology in sports, and how such regulation has affected athletes participating in these sports.

133 One example of equipment used by athletes that is regulated in a sports event featured in major games is the table tennis racket. The world governing body for the sport, the International Federation for Table Tennis ("ITTF"), enforces specific regulations regarding the types of rubbers that are allowed to be put on rackets, mandating that players use rubber sheets that are free from any unauthorised treatments or modifications, and that the rubber sheets are attached to the racket blade with adhesives that do not contain harmful or volatile solvents. Further, the rubber sheets must not be attached to the blade using any chemicals or treatments that might change the rubbers' properties or enhance the performance characteristics of the rubbers. Additionally, players must use rackets that comply with specific technical requirements – the blade must be made of at least 85% natural wood, and the adhesive layer within the blade can be reinforced with fibrous material like carbon fiber, glass fiber, or compressed paper, provided that it does not constitute more than 7.5% of the blade's total thickness or 0.35mm, whichever is smaller. Rackets

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151 "Oscar Pistorius Makes Olympic History in 400m At London 2012", *BBC News* (4 August 2012) <<https://www.bbc.com/sport/olympics/18911479>> (accessed 14 October 2025).

are subjected to inspection before each match to verify compliance with these regulations.<sup>152</sup>

134 Such measures are designed to promote a level playing field, as they prevent players from gaining an unfair advantage through the use of non-standard or modified equipment. In this regard, a racket control centre is established at various competitions, including all ITTF World Title, Olympic and Paralympic competitions to conduct the testing of the rackets. The checks ensure that rackets abide by all ITTF regulations, and that all players adhere to the same equipment regulations. Rackets that do not pass the racket control test before the match cannot be used but may be replaced by a second racket which may be tested immediately if time permits, but otherwise, will be tested after the match.<sup>153</sup>

135 At the 2024 ITTF World Team Championships held in Busan, Team USA's men's player, Jishan Liang, was disqualified because one side of his racket was 0.19mm over the thickness limit. This was notwithstanding Liang having competed with the same racket for three days of competition prior to the disqualification call on day five. Prior to the equipment testing in question, his racket had passed all visual inspections. USA Table Tennis challenged the disqualification, but the ITTF Jury Committee rejected the appeal.<sup>154</sup>

136 Another example of equipment control measures in sport is in athletics. World Athletics imposes various restrictions on the types of footwear that can be worn during competitions, including specifications about the height of the sole and the presence of spikes. The regulations on shoe thickness are in place to ensure fairness and to prevent athletes from using technology that could provide an unfair advantage, such as excessive cushioning or propulsion features. The use of shoes that do not comply with these restrictions is a ground for disqualification. The thickness of the shoe soles provides clear advantages to the wearer. This is evident in Nike's Vaporfly series, which revolutionised athletic footwear through several key innovations, including a carbon fiber plate that runs the length of the midsole, a polyether block amide foam characterised by its exceptional lightness, softness and responsiveness, and an extremely thick midsole that effectively elongates a runner's leg, thereby enabling

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152 *ITTF Statutes 2024* (International Table Tennis Federation, 2024) Rule 2.4 at p 38.

153 *ITTF Statutes 2024* (International Table Tennis Federation, 2024) Rule 3.2.4 at p 48.

154 Barbara Wei, "Recap: USA Athletes at the 2024 ITTF World Team Table Tennis Championships", *USA Table Tennis* (29 February 2024) <<https://www.usatt.org/news/2024/february/29/recap-usa-athletes-at-the-2024-ittf-world-team-table-tennis-championships>> (accessed 14 October 2025).

the carbon fiber plate to function at its optimal angle.<sup>155</sup> In October 2019, Kenyan long-distance runner Eliud Kipchoge wore a variation of the shoe, the Alphafly, when running a historic 1:59:40 marathon in Vienna. That same month, fellow Kenyan Brigid Kosgei wore the Nike Vaporfly Next% (another shoe in Nike's Vaporfly series) and took a staggering 81 seconds off the women's marathon world record in Chicago. A month earlier, compatriot Geoffrey Kamworor set the half marathon world record of 58:01 in Copenhagen while wearing the Next% shoes.<sup>156</sup> A study revealed that the median finishing time of marathoners wearing the Next% was 8.7% faster than runners wearing the next fastest shoes.<sup>157</sup> As a consequence, World Athletics imposed an immediate ban on any shoe with a sole thicker than 4cm or shoes that contain more than one plate.<sup>158</sup> Additionally, any shoe used in competition must have been available for purchase on the retail market for a period of four months, effectively banning the use of prototypes in competition.<sup>159</sup>

137 At the 2021 SEA Games in Vietnam, the host country's Lo Thi Thanh had initially won the silver medal in the women's 10,000m race. However, an eagle-eyed Singaporean runner who had competed in the same race had spotted the Vietnamese runner's footwear and lodged a protest on the grounds that the shoes the Vietnamese runner was wearing appeared to exceed permitted specifications. Upon examination of her footwear, the protest was upheld and the Vietnamese runner was disqualified for the use of unapproved footwear.<sup>160</sup> Similarly, in 2021, Ethiopia's Derara Hurisa had won the Vienna city marathon, but was

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155 Cathal Dennehy, "Nike Vaporfly Shoes Avoid Complete Ban By World Athletics", *Runner's World* (31 January 2020) <<https://www.runnersworld.com/news/a30721631/nike-vaporfly-ban/>> (accessed 14 October 2025).

156 Cathal Dennehy, "Nike Vaporfly Shoes Avoid Complete Ban By World Athletics", *Runner's World* (31 January 2020) <<https://www.runnersworld.com/news/a30721631/nike-vaporfly-ban/>> (accessed 14 October 2025).

157 Cathal Dennehy, "Nike Vaporfly Shoes Avoid Complete Ban By World Athletics", *Runner's World* (31 January 2020) <<https://www.runnersworld.com/news/a30721631/nike-vaporfly-ban/>> (accessed 14 October 2025).

158 "Nike Vaporfly Shoes Are Not Banned But Eliud Kipchoge's Are", *BBC News* (31 January 2020) <<https://www.bbc.com/sport/athletics/51324991>> (accessed 14 October 2025).

159 "Nike Vaporfly Shoes Are Not Banned But Eliud Kipchoge's Are", *BBC News* (31 January 2020) <<https://www.bbc.com/sport/athletics/51324991>> (accessed 14 October 2025).

160 Gene Leck, "31st SEA Games [Athletics]: Shanti Pereira, Marc Brian Louis, Goh Chui Ling and Men's 4x400m Win Big", *SportPlus.sg* (19 May 2022) <<https://www.sportplus.sg/post/31st-sea-games-athletics-shanti-pereira-marc-brian-louis-goh-chui-ling-and-mens-4x400m-win-big>> (accessed 15 October 2025); Sazali Abdul Aziz, "SEA Games: Silver for Shanti Pereira in Women's 100m", *The Straits Times* (18 May 2022) <<https://www.straitstimes.com/sport/sea-games-silver-for-shanti-pereira-in-womens-100m>> (accessed 15 October 2025).

disqualified soon after when the soles of his shoes were found to be 5cm thick, 1cm more than what the regulations allowed, and were in fact different from the set of shoes he had declared he would be wearing in his participant's form.<sup>161</sup>

138 The disqualification of the aforesaid runners highlights the importance of adhering to equipment standards in competitive sports. Equipment regulations are enforced by the international federations and major games organisers to ensure fair competition, and to maintain the integrity of the sport. The disqualification incidents should serve as a reminder for athletes to be vigilant about the equipment they use, as even minor infractions can lead to significant consequences, including the loss of medals, accolades and even sponsors, not to mention public embarrassment and humiliation.

## V. Conclusion

139 Participation in major games and sports competitions is governed by a whole gamut of legal considerations that extend far beyond the athletic performance itself. Athletes and officials must navigate a complex landscape of eligibility criteria, selection processes, and compliance with various conditions of participation, codes of conduct and competition rules. The importance of understanding these legal obligations cannot be understated, as unintentional violations can lead to severe consequences, including disqualification and bans from competing, loss of sponsorships and endorsement deals, as well as reputational damage. Conversely, athletes and officials who are well-informed about their rights and responsibilities are better positioned to advocate for fair treatment and effectively manage disputes that may arise.

140 The regulation of competition equipment is part of the stringent measures implemented by regulatory bodies and sports organisations to uphold the principles of fair play and equality. The participation of transgender athletes in major games also raises complex issues of fairness, inclusion, safety, and the integrity of competitive sports. Different sports federations have adopted various approaches to ensure that all athletes, regardless of their gender identity, have the opportunity to compete while maintaining fairness in competition. The ongoing debate and evolving policies reflect the need to balance scientific research, societal norms, and the principles of sportsmanship and equity.

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161 Rohith Nair, "Vienna Marathon Winner Disqualified After Shoe Soles Break Rules", *Reuters* (13 September 2021) <<https://www.reuters.com/lifestyle/sports/vienna-marathon-winner-disqualified-after-shoes-soles-violate-rules-2021-09-12/>> (accessed 15 October 2025).

141 In a subsequent article, we will look at the complex and often contentious interplay between the interests of athletes and the legal frameworks designed to protect the commercial viability of major games and sports competitions. This includes issues such as ambush marketing, advertising restrictions, the prohibition against results manipulation, the enforcement of anti-doping rules, and safe sport initiatives.

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