

YOUTH AND DOPING IN SPORTS – A CASE STUDY ON FAIRNESS AND ACCOUNTABILITY

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Abstract: The importance of safeguarding young athletes' well-being lies in anti-doping policies that carefully balance the enforcement of accountability with the need to offer effective protections for minors in this domain. This case serves as a critical reflection point for the sports world, highlighting the complexities of enforcing anti-doping regulations and the need for systematic reforms to ensure fairness, transparency, and athlete welfare. Despite being a minor, the Court of Arbitration for Sport ruled that the same standards of proof applied to both minors and adults, rejecting age as a mitigating factor and sparking intense debate about the responsibility of the coaches, guardians, and sports organizations in safeguarding young athletes.

This case also exposed systematic issues in applying the anti-doping rules, such as delays in testing and reporting, while emphasizing the psychological toll on young athletes subjected to public scrutiny. Additionally, the involvement of adults in the athlete's entourage raised important questions about accountability and their role in her doping violation. While the World Anti-Doping Agency has made significant steps to protect minors from abuse within the doping framework, its inconsistent and limited application of the 'Protected Person' concept fails to adequately protect minors from the agency's punitive measures, revealing a critical gap in the Anti-Doping Code.

The controversy underscores the urgency for stricter oversight of sports organizations, enhanced protections for underage athletes, and the importance of balancing justice and compassion within the framework of good governance in sports.

Keywords: sports law; sports arbitration; anti-doping rules; minor athletes.

Introduction

Young athletes with high aspirations constantly seek to improve their performance, and as they grow older, more individuals become part of their journey, guiding and supporting their development. Within this context, doping control plays an important role in ensuring fair competition, protecting athletes' health, and upholding the integrity of elite sports. However, for young athletes, the pressures of high-stakes competition can create vulnerabilities that demand careful consideration.

As Shinohara (2020) noted, "mega sports events (ex. The Olympic Games and FIFA World Cup) bring about a specific problem where athletes must play their sports under high pressure to triumph in sports competitions". As a consequence, this pressure often leads young athletes to resort to the use of illegal substances listed on the 'World Anti-Doping Code' (WADC), thus resulting in serious physical and mental consequences. In this sense, "they should be protected from the infringements of their rights under any forms of abuse and exploitation" [Shinohara (2020), citing David].

The Code applies uniformly to all athletes, regardless of their age or capacity to provide informed consent. According to the current WADC (2021), a minor is "a natural person who

has not reached the age of eighteen (18) years", so their vulnerability might not be entirely considered. However, the strict liability principle, which holds athletes accountable for anti-doping violations, applies equally to minors and adults. This raises critical questions about whether young athletes can meaningfully understand and consent to the responsibilities and consequences outlined in anti-doping policies, and whether these policies adequately account for their vulnerability.

This delicate balance between encouraging young athletes' aspirations and ensuring their health and integrity is exemplified by the case of Kamila Valieva. In 2022, the 15-year-old Russian figure skater and a rising star in the world of competitive sports became the centre of a global controversy when she tested positive for a banned substance. Her case, brought before the 'Court of Arbitration for Sport' (CAS), raised questions about doping policies, the responsibilities of sporting authorities, and the treatment of underage athletes. While the 'World Anti-Doping Agency' (WADA) takes significant steps to protect minors from abuse within the doping framework, its inconsistent and limited application of the 'Protected Person' concept fails to protect minors adequately from the agency's punitive measures, exposing a critical gap in the 'Anti-Doping Code'. In this situation, as mentioned by Campos et al.

(2022), Valieva's case clearly highlights the limitations associated with her status as a 'Protected Person' regarding provisional suspension. While the concept was introduced for the purpose of "mitigat[ing] potential sanctions and to protect minors from WADA's punishments, one can see how the concept is not consistently accommodated throughout all of the Code's articles" (Campos et al., 2022).

Consequently, this paper examines the details of Valieva's case, its legal aspects, and the broader challenges it poses for anti-doping enforcement, particularly regarding the treatment of young athletes.

Arbitral Awards on Kamila Valieva's Case

This paper examines the details of the following rulings: 'Arbitration CAS Ad Hoc Division (OG Beijing) 22/008 & 22/009 & 22/010' and 'Arbitral Award (appeal) – CAS 2023/A/9451, CAS 2023/A/9455, CAS 2023/A/9456'.

Kamila Valieva gained attention for her historic performance during the 'Beijing Winter Olympics', where she became the first woman to land a quadruple jump in an Olympic competition. However, her triumph was overshadowed by the announcement that a sample taken in December 2021 had tested positive for a prohibited substance (trimetazidine), a medication forbidden by WADA due to its potential performance-enhancing effects. The delay in reporting the test results until after the Olympic team event prompted suspicion and criticism.

In February 2022, at the 'Beijing Olympics', Valieva competed in the team event and won a gold medal (CAS, 2023, point 22 of the Arbitral Award). However, the next day, "RUSADA notified the athlete of the presumptive AAF [Adverse Analytical Finding] in respect of the doping control that had been conducted on 25 December 2021 and that she was provisionally suspended as from the date of the notice" (CAS, 2023, point 23). According to point 24 of the Arbitral Award, "the athlete invoked her right to request a preliminary hearing before the DADC [Disciplinary Anti-Doping Committee of RUSADA] on the question of the provisional suspension" (CAS, 2023). However, after the hearing, "*the DADC decided that on application of a standard of proof that there was a 'reasonable possibility' that the athlete consumed a contaminated product, the athlete had established the circumstances in which she had consumed the prohibited substance and determined that, accordingly, she bore no fault and no consequences should therefore be imposed*

(the DADC Decision on Provisional Suspension)'' (CAS, 2023, point 26).

Ultimately, the IOC ('International Olympic Committee'), WADA, and the ISU ('International Skating Union') appealed the 'DADC Decision on Provisional Suspension' to the 'CAS Ad Hoc Division – XXIV Winter Games in Beijing'.

The Court faced the challenging task of balancing competing interests: Valieva's right to participate, the rights of other athletes, and the integrity of the competition. As a 'Protected Person' under WADA's Code due to her age, Valieva was subject to different standards and potential penalties. The CAS (during the proceedings before the 'CAS Ad Hoc Division') ultimately allowed her to compete in the women's single event but did not resolve her case substantively. As stated in point 32 of the case, "it followed that the Athlete was free to continue to compete at the Beijing Olympics (and generally) pending the formal determination (or other resolution) of the ADRV [anti-doping rule violation]". Critics argued that this decision undermined the credibility of anti-doping measures.

Later on, in 2023, in 'CAS 2023/A/9451', RUSADA filed its 'Statement of Appeal' against the athlete with respect to the 'Challenged Decision'; in 'CAS/A/9455', the ISU filed its 'Statement of Appeal' against the athlete, RUSADA and the 'Figure Skating Federation of Russia' (FSFR) with respect to the 'Challenged Decision'; and in 'CAS 2023/A/9456', WADA filed its 'Statement of Appeal' against the athlete and RUSADA with respect to the 'Challenged Decision' (CAS, 2023, points 61-63 of the Arbitral Award).

During the proceedings, the athlete could not prove on the 'balance of probabilities' that her ADRV was not intentional (*burden of proof*), as required by the 'Russian Anti-Doping Rules' (Russian ADR). However, the Panel emphasized that this did not mean that the athlete was a cheat or "that she cheated on 25 December 2021 at the Russian National Championships or that she cheated when she won gold at the Beijing Olympics (or at any other time)" (CAS, 2023, point 422 of the Arbitral Award).

While the athlete could not demonstrate the lack of intent (*no proof of intent*), the appellants who challenged her failed to establish that she intentionally committed the violation. Investigations by RUSADA and WADA found no evidence of intent, as stated in point 423.

Also, the Panel acknowledged that a four-year ban on a 15-year-old might seem harsh and disproportionate, especially when the intent was

not proven. However, the punishment aligned with the rules set by the 'Russian ADR' and the WADC (2021 version), since the Panel "[could not] be tempted to breach the boundaries of the WADC because their application in a particular case may bear harshly on a particular individual" (point 424 of the Award, citing 'CAS 2018/A/5546'); by this, the Panel emphasized the strict adherence to the Code to maintain legal certainty and fairness in sports (*proportionality and legal boundaries*). The Panel considered reducing the penalty based on proportionality principles but eventually decided against it. Finally, the Panel stated that any change to protect young athletes better or adjust sanctions would require *legislative amendments* to the WADC and that is "a matter for a legislative body in the iterative process of consultation and review of the WADC and not for this adjudicative body" (CAS, 2023, point 425).

Contextual and Analytical Insights of the Arbitral Awards

The case underscores the complexity of balancing individual rights, regulatory standards, and the integrity of sport, especially in cases involving young athletes. As a minor, Valieva's designation as a 'Protected Person' under WADC afforded her certain legal safeguards. However, the proceedings highlighted significant challenges in the Code's application, particularly its reliance on strict liability standards that do not fully account for the vulnerability of young athletes. As Campos et al. (2022) noted, the case raised several important issues: "*consent and responsibility, the legal, moral and psychological protection of minors, investigation of the athlete's entourage, the nature of some aesthetic sports [...], the coaching practices [...], and the desirability of a revision of the age category in elite competition*". Although CAS allowed Valieva to compete at the Beijing Olympics, the decision did not substantively resolve her anti-doping case. This approach drew criticism for undermining anti-doping credibility and highlighted the systematic tension between protecting young athletes and maintaining competitive integrity. Kleiderman et al. (2019) also mentioned that the WADC applied uniformly to all athletes, including minors, despite their limited capacity to provide informed consent. Under the Code, minors are expected to meet the same anti-doping responsibilities as adults, such as being "knowledgeable of and comply with all applicable anti-doping policies and rules, available for sample collection at all times, and take responsibility, in the context of

anti-doping, for what they ingest and use" (WADC, 2021, art. 21.1).

Moreover, as stated by Kleiderman et al. (2019), citing Teetzel & Mazzucco, "CAS has determined that age is not a mitigating factor in assessing the level of fault [and] age is not considered an 'exceptional circumstance' warranting the reduction of an athlete's responsibility". Eventually, there was no basis for reducing the sanction on this ground. The same researchers also mentioned that "responsibility is qualified in absolute terms – either an athlete is capable of understanding, irrespective of age, or an athlete is not, and should either not compete or have their anti-doping responsibilities exercised by a third party" (citing 'CAS 2005/A/830 G. Squizzato v. FINA', 'CAS 2006/A/1032 Karantancheva v. ITF', De La Rochefoucauld, Teetzel & Mazzucco). It is clear that minors are given considerable responsibilities as stipulated by the Code. However, this perspective differs from the legal and ethical norms that view children as a vulnerable population needing protection.

The designation of minors as 'Protected Persons' under the WADC aimed to address this gap by granting them a higher level of safeguarding (Diaz et al., 2022). The rationale is that "below a certain age or intellectual capacity, an Athlete or other Person may not possess the mental capacity to understand and appreciate the prohibitions against conduct contained in the Code" (WADC, 2021, fn 127). Yet, questions remain about the effectiveness of this policy. As stated by Teetzel & Mazzucco (2014), citing Schneider & Butcher and Buti & Fridman, "the ethical and legal issues associated with drug testing in sport have been well documented in the literature". However, the same authors concluded that there are a few concerns such as "*the appropriateness of holding child athletes responsible for their decisions to break anti-doping rules, applying the same punishments to child athletes as adult athletes for committing doping violations and subjecting child athletes to testing methods for which they are unable to provide informed consent*" (Teetzel & Mazzucco, 2014). The third concern is closely tied to the concept of 'Protected Person'. Even though the WADC includes this term, there is no indication that minors could be treated differently or favourably.

According to Campos et al. (2022), the Valieva case revealed the limitations of WADA's approach, as CAS was left to decide between protecting the athlete's future and adhering to the Code's strict provisions. While CAS justified its decision to allow Valieva to compete as an effort

to prevent irreparable harm, the long-term ramifications of such cases for young athletes remain troubling [Campos et al. (2022), citing Oxley (2022b)]; so is the case regarding the second ruling of the court.

Teetzel & Mazzucco (2014) highlighted the broader implications of sanctioning a child athlete under a strict liability framework, noting that this approach is inconsistent with how vulnerable populations are treated in other legal contexts. It can be emphasized that child athletes face serious, lifelong consequences under the current anti-doping regime, despite their limited capacity for informed decision-making. These tensions underscore the need for a reassessment of anti-doping policies to better align with the unique vulnerabilities and developmental considerations of minors.

Ultimately, the Valieva case serves as a call to action for revising anti-doping frameworks to prioritize the protection of young athletes. As Campos et al. (2022), citing Oxley (2022b), argued, this case “brought into sharp focus the requirement for some hard thinking about the protection offered to ‘Protected Persons’, to ensure that more robust protection of minor athletes’ futures is pursued as an urgent policy goal”. This case is not merely about enforcing anti-doping rules; it reflects broader ethical and legal questions about how the sports world should treat its youngest participants.

As a result of the first CAS decision in Valieva’s case, important sports governing bodies such as the International Skating Union “subsequently raised the minimum age for competitors in senior events from 15 to 17 to protect skaters’ physical and mental health, and emotional well-being” (Michael Short, 2024, in BBC Sport).

Public and Institutional Reactions in the Press

This case has generated widespread media attention, sparking intense debate and reactions from various stakeholders. Press coverage of the case not only shaped public perception, but also played an important role in amplifying the ethical, legal, and emotional dimensions of the situation. This section explores how different media outlets and commentators responded to the controversy, highlighting the diverse perspectives on the responsibilities of athletes, coaches, and sports organizations in safeguarding young talent, as well as the broader implications for anti-doping policies and athlete welfare.

In a press article, Sean Ingle (2024) in The Guardian wrote that “the verdict was immediately welcomed by the World Anti-Doping Agency,

which condemned Valieva’s doctors and coaches in the strongest possible terms”. Next, the same author, citing WADA, added that “the doping of children is unforgivable [...]. Doctors, coaches or other support personnel who are found to have provided performance-enhancing substances to minors should face the full force of the World Anti-Doping Code” (Sean Ingle, 2024). As mentioned by Michael Short (2024) in BBC Sport, “WADA encourages governments to consider passing legislation – as some have done already – making the doping of minors a criminal offence”. Moreover, Sean Ingle (2024) in The Guardian stated that “the verdict was also welcomed by the US Anti-Doping Agency chief executive, Travis Tygart”. The latter commented that: “It’s imperative that the ISU immediately handles the technical processes needed to reallocate the medals accordingly” (Travis Tygart cited by Sean Ingle, 2024, in The Guardian). In the same article, the reporter mentioned that “the US Olympic Committee hailed the news as a significant win not only for Team USA athletes but also for athletes worldwide who practice fair play and advocate for clean sport” (Sean Ingle, 2024, in The Guardian).

Graham Dunbar (2024) in The Associated Press wrote that “the World Anti-Doping Agency [...] is unhappy that the teenager was the only one punished with a ban while her coaches and entourage have not been sanctioned”. He also mentioned the opinions of several important people, including WADA’s Director General. So, Mr Oliver Niggli, cited by Graham Dunbar (2024), commented that “the taste of this case is very unpleasant when you see that there was a choice made to sacrifice an athlete rather than indicating who actually helped her dope”. Moreover, the same author added that “*she has been the only person punished despite the World Anti-Doping Code mandating that the people working with underage athletes implicated in doping cases should also be investigated. Still, WADA confirmed that it feels the adults responsible for Valieva’s case have eluded the anti-doping system*”. In the same article, WADA President Witold Banka stated that: “We think the athlete didn’t take this substance alone, it was not her initiative [...]. She faced the consequences [...]. Maybe this (Valieva) case shows how important it is that we have to improve in the anti-doping system” (Graham Dunbar, 2024, in The Associated Press). The same author also added that “WADA now wants anti-doping rules to be updated before the 2026 Winter Olympics in Italy

to give more powers to investigate athlete entourages [...].”

Lastly, as stated by David de Ferrars, Tom Charnley and Ben Jones (2024) from the law firm Taylor Wessing, this case serves as “*a reminder that athletes, and their support personnel, must ensure they sufficiently understand the totality of their legal obligations under anti-doping regulations, and the severe repercussions for non-compliance – including the significant and strictly applied sanctions alongside the complex (and at times lengthy) appeal processes which demand meticulous navigation. It also highlights the importance of recognising the typically hierarchical structure that exists in the governance of international sport. While national anti-doping bodies like RUSADA initially make decisions, global governing bodies like WADA and sport-specific authorities like the ISU are likely to ensure that they can appeal those rulings to a final arbiter. Athletes need to be aware that by participating in certain events, they may be subjecting themselves to an entire framework of regulations and legal processes that extend far beyond just their national federation’s rules. Thoroughly understanding this overarching legal structure and who has ultimate authority over sanctions is critical*”.

Conclusions

The case underscores the complexities and ethical challenges of applying anti-doping policies to young athletes. While the ‘World Anti-Doping Code’ seeks to ensure fairness and integrity in sports, its uniform application across all athletes, regardless of age or capacity, raises concerns about consent, accountability, and adequate protection of minors.

The concept of ‘Protected Person’ was introduced to address the unique vulnerabilities of underage athletes, but its inconsistent application highlights significant gaps in the current framework. As illustrated by Valieva’s case, the strict liability principle and punitive measures may conflict with the fundamental rights and developmental needs of young athletes, leaving them exposed to undue harm.

To safeguard the well-being of young athletes, anti-doping policies must strike a delicate balance between enforcing accountability and providing appropriate protection for minors. This calls for a re-evaluation of the current regulations to ensure that they account for the vulnerabilities of underage athletes and promote a supportive environment that prioritizes their physical and

mental health, ethical development, and long-term participation in sports.

Ultimately, addressing these challenges will require collaboration between sporting authorities, policymakers, and stakeholders to create a more equitable and nuanced approach to doping control that respects young athletes’ unique needs while preserving the integrity of competitive sports.

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