



CMAS

CONFÉDÉRATION MONDIALE
DES ACTIVITÉS SUBAQUATIQUES

WORLD UNDERWATER FEDERATION

RULES OF DISCIPLINE

ART. 1 Preamble

The World Underwater Federation - C.M.A.S. gathers National Underwater Federations and Associations, State Organizations in charge of supervising and monitoring underwater activities in some countries, regional organizations or similar international bodies, sharing common purposes. C.M.A.S. also maintains control over its covenanted bodies (C.P.C.C.)

C.M.A.S. and its members have as purpose to develop and further, through all necessary means, the knowledge of the underwater world as well as the practicing of underwater sports in its technical, scientific and sports aspects.

With a view of achieving the aforementioned purposes, and in the respect of the values they embody, it is for the C.M.A.S. to enforce any technical, moral and ethical criteria as well as the principles laid down in the C.M.A.S. Statutes and Articles of Association - forming the Law of C.M.A.S. as a whole.

The present Code draws up the provisions governing the collective discipline, to be applied to any relations between C.M.A.S. on one side, and its affiliated organizations on the other, as well as between its members for any occurrence affecting the common interest.

TITLE 1

Bodies of jurisdiction

Panel – Competence

ART. 2 Bodies of jurisdiction

There are three degrees of jurisdiction:

- The first instance discipline Commission, ruling through decisions,
- The Commission of Appeal, ruling through judgments,
- The Executive Board, as a Body of Appeal

Both the First instance Commission and the Commission of Appeal act on behalf of the Executive Board, which permanently delegates its authority to these bodies and reserves to supervise their proceeding.

The Managing Board of the Executive Board takes note of facts, complaints, and events needing a judicial action, it informs the discipline commission, appoints the reporters, and decides to continue or not an action, as mentioned below, according to the Art. 6 § 3 – 1.

ART. 3 First instance commission panel

The Discipline Commission of first instance is composed of three members:

- A regular Judge, member of the Executive Board, appointed by the E.B. every two years.
- Two regular Judges, appointed by the Executive Board every second year outside the E.B. among the accredited representatives of the C.M.A.S. member organizations and which have the right of vote.

On their appointment, the panel should elect their President by a simple majority.

Should any of the regular Judges be prevented from sitting a hearing, the President of the Legal Commission shall appoint one of the members to replace him/her. Should the President of the first instance commission fail to attend the hearing, the panel shall appoint a President for the duration of the hearing.

For any of the hearings, the President of the first instance commission shall appoint a clerk among C.M.A.S. administrative assistants.

ART. 4 Commission of appeal panel

The Commission of Appeal is composed of three members:

- A regular Judge, member of the Executive Board and appointed by the E.B. every second year.
- Two regular Judges, appointed by the Executive Board every second year outside the E.B. among the accredited representatives of the Federations having the right to vote..

On their appointment, the panel should elect their President by a simple majority.

Should any of the regular Judges be prevented from sitting a hearing, the President of the Legal Commission shall appoint one of the members to replace him/her. Should the President of the first instance commission fail to attend the hearing, the panel shall appoint a President for the hearing.

For any of the hearings, the President of the first instance commission shall appoint a clerk among C.M.A.S. administrative officers; the clerk of the Commission of Appeal shall be different from the clerk of the first instance Commission.

ART. 5 Competence

The Executive Board has competence of the disciplinary subject; they delegate their legal functions to the two above Commissions.

It is for the Executive Board to decide, either ex officio or on motion, on the regularity of the proceedings of both Discipline Commission and Commission of Appeal.

1°/ - **The Commission of first instance** is delegated any disciplinary authority upon C.M.A.S. members, be they legal entities, or persons, or corporate societies, as well as upon C.M.A.S. officers, OCC's managers and administrators and upon athletes competing in C.M.A.S. events; and, in general for any breach or infringement to sports rules during C.M.A.S. events, competitions and/or meetings.

The Commission of first instance rules anywhere upon any offence or disturbance to C.M.A.S. regular business, violation of C.M.A.S. technical criteria and/or Code of Ethics, unpaid work principles, and in general, any breach or infringement to CMAS Statutes and Rules.

It pronounces verdicts.

2°/ - **The Commission of Appeal** is referred to as a second resort; it judges, when required, on the substance of the verdicts pronounced by the First instance Commission.

It has the authority to annul or confirm the above verdicts, stating the reasons for its judgment.

It modifies, accepts or dismisses the above mentioned verdicts by a motivated sentence.

It is referred to either on motion of the unsuccessful party, or on motion of the Executive Board President after advising with the Managing Board.

3°/ - **The Executive Board as body of appeal**

1 : Judgments pronounced by the Commission of Appeal can be contested through an appeal from either party and from the President of the Executive Board, after advising with the Managing Board, as stated below.

2 : An appeal can be instituted on technicality and non-respect of these Rules, or on wrong count of indictment.

3 : The Executive Board can either dismiss the appeal - and in this case its judgment is final -, or quash the judgment.

The guilty person may ask, by way of exception, to be heard by the Executive Board. It is for the Executive Board to decide whether to grant his/her request.

In case of cassation, the panel of Jury shall be modified as follows:

Three newly appointed judges, none of them having entered the panel of both the First instance Commission and the Commission of Appeal. This new panel is composed of:

- A member of the Executive Board
- A member chosen among the accredited representatives of the Federations having the right of vote.

Both of them will be appointed by the Executive Board.

- A member of the Legal Commission appointed by its President

The new panel shall elect its President.

4° - Grounds of incompatibility and disqualification

Members of the Discipline Commissions are not allowed to judge any case they are directly or indirectly involved in, or involving the body they belong to or directly or indirectly represent.

Furthermore, nobody can be appointed in both the First instance Commission and the Commission of Appeal.

The members of the Managing Board are not allowed to sit in any of the two disciplinary Commissions.

When the Executive Board is submitted a case in its quality of body of appeal, the members of the E.B. having entered the panel of either the First instance Commission or Commission of Appeal that judged the case, are strictly forbidden to attend any of its discussions and even, their physical presence is not allowed..

The same goes for the witnesses, of the first or second instance, belonging to the E.B.

5° - Duties of the President of the first instance commission and of the commission of appeal

The President sees to the proper working of the Commission; he/she chairs the meetings and enforces the Rules within his/her competence, takes the necessary steps to assure the dispatching of day-to-day matters, verifies that all the members conscientiously carry out their duties.

He/she lays down the Agenda, calls and chairs the meetings of the Commission.

Through his/her signature, he/she authorizes the discovery of any record, paper or agreement necessary to prosecute an affair.

He/she represents the Commission in any instrument and official meeting or interview with private and public organizations, legal entities and/or individuals.

The above duties are not restrictive, the President is allowed to take any step he/she will deem necessary to enforce the rules of the Federation, in full compliance of the C.M.A.S. Rules and Regulations.

He/she sees to the safeguard of the rights of the Defense.

6° - Duties of the commission members

Members of the First instance Commission and Commission of Appeal are bound to fulfill the following duties:

- Attend all the meetings, excepted if excused;
- Carry out the tasks they are entrusted with;
- Carefully look after the dossier and records received, to prevent any leak or divulgation;
- Strictly keep the secret on any Commission debate, decision or inquiry;
- Inform the President of any event or occurrence would prevent them from attending any Commission meeting or hearing.

TITLE 2

First instance procedure

ART. 6 Submission of the case to the discipline commission, preliminary investigation, hearing

1° - Submission of a case to the commission

Any C.M.A.S. member is entitled to notify the Managing Board of the Executive Board of any offense or violation prejudicial to the community or to its material or moral lawful interest. In this case, he/she can lodge a complaint against the offender. The same applies to any public law institution of a country, provided that the offender is related to C.M.A.S. or to an O.C.C. member of the C.M.A.S.

The Executive Board is therefore submitted the case.

2° - Preliminary investigation

During the month of the submission, the Managing Board of the Executive Board shall appoint a legal advisers chosen among the members of the Executive Board, to conduct the investigation for the case and submit a report to the President within the given period, defined at the moment of his/her appointment.

However, if the case appear complex, the legal adviser can ask for the help of one or two more legal advisers, chosen among the Federation members having the right of vote.

The inquiry must be included in a period of one to two months.

The presumed offender shall be in the same time notified the opening of the investigation.

Legal advisers are free to conduct their investigation and question any witness. They summon and hear the defendant who can be accompanied by his/her legal consultant and an interpreter, if he/she wishes to. Legal advisers then draw their report including requisition of penalties, if any, as a final requisitory.

3° - **The decision to send back a case**

- 1 : After going through the report, the Board can decide to send the case back to the First instance Commission for trial or dismiss it.

In case of dismissal, the Board shall notify the plaintiff within a fortnight from the decision; should the plaintiff persist in his/her complaint, he/she has two weeks time to renew the complaint, otherwise it will be invalidated. In this case, the Board shall send the case before the Discipline Commission, as below:

In this case, the plaintiff shall be informed of the following, that acquittal of the defendant would possibly lead to prosecute the plaintiff for improper proceeding.

- 2 : If the Board decides to send the case for trial, it submits the case to the First instance Commission within a month from the decision.

The Board notifies the defendant its decision of submitting the case for trial to the First instance Commission, and inform him/her that he/she can appoint a legal consultant for the case; that he/she can apply at Rome HQ to be sent copy of the dossier for him/her and his/her legal consultant to go through; that he/she will be further notified copy of the final requisitory in a recorded delivery envelop.

- 3 : The Executive Board can institute an inquiry ex-officio, in case it is aware of any infringement or violation of general interest.
- 4 : After the preliminary inquiry and under specific circumstances, when the offender's guilty attitude is likely to be amended, the Commission can meet and make an effort to reconcile the parties; the offender is informed of the attempt. Failing which, the Commission proceeds in its judgment, or immediately, or in a further date on submission to the First instance Commission.

4° - **The hearing**

- 1 : The First instance Commission will meet at a date set by the C.M.A.S. President.

The defendant is summoned to appear before the Commission by recorded delivery letter, at least 30 days before the hearing, specifying he/she can be assisted by a counsel..

A copy of the final requisitory, including the formal statement of charges and the request of specific penalties is sent with the letter.

The notification shall also mention that the defendant can be tried by default after due hearing of the parties, should he/she fail to appear to Court as summoned.

- 2 : The trials

Before hearing the report of the legal advisers and their request of penalties, the Commission shall verify the qualifications of the appearing party. Legal advisers can request a specified penalty or leave it to the Commission to decide.

The President leads any examination.

Defendant and his/her legal consultant are finally given the floor. They can submit, expose and develop their defensive statement.

The Commission deliberates in the absence of the defendant and the legal advisers. Decisions are taken by an absolute majority of the votes.

The Commission takes a decision. It can acquit or pronounce a penalty - subject to appeal. It can accept or decide to send the case to further date , which it can do only once and for a maximum delay of three months.

The decision is immediately notified to the defendant and the Managing Board by registered delivery letter. Reasons should be stated for the verdict and the specific minutes signed by the President of the Commission and his/her clerk: it will mention the name of the judges seating the trial.

TITLE 3

ART. 7 Procedure of appeal

An appeal can be instituted through challenge, appeal and appeal to the Supreme Court.
The appeal stays the execution.

With regards to the penalties pronounced by default, they're executive only when the offender is proved to have been notified the legal action taken against him/her, and he/she failed to challenge or lodge appeal in due time.

1° Challenge

Any individual or affiliated body who, brought before the original jurisdiction or the Commission of Appeal, failed to be notified and, as a consequence, was tried by default, is entitled to address to the Managing Board of the Executive Board and challenge the judgment or the verdict.

He/she's granted 15 clear days as from the date of the notification of the judgment/verdict. The challenge stays the execution.

In this case, the case is submitted to the same degree of jurisdiction having taken the challenged decision.

2° The appeal

1 : The defendant can lodge an appeal within twenty clear days as from the notification, by addressing a registered delivery letter to the Board of the Executive Board - under penalty of debarment.

2 : The Managing Board of the Executive Board can lodge an appeal both in its original capacity, when judging the penalty inadequate, and in its incidental capacity, when defending against the appeal of the unsuccessful party.

To lodge an appeal in its original capacity, the M.B. of the Executive Board shall, within 20 clear days as from the notification:

Notify its decision by registered delivery letter to

- the unsuccessful party
- the President of the Commission of Appeal

To lodge an appeal in its incidental capacity, the M.B. of the Executive Board is granted 20 (twenty) clear days as from the appeal lodged by the defendant.

3° Preliminary Investigation

The President of the Commission of Appeal appoints one of the members to report on the case and the proceedings implemented. The President is submitted the original dossier, including defense brief filed to the original jurisdiction, if any. He/she draws a final statement with the request of specific penalties, if any.

4°: The hearing, delays - the discussion

- a) The National Commission of Appeal shall meet within six months from the submission of the case at the latest.
- b) Summon to appear before the second degree jurisdiction shall be notified by recorded delivery letter or writ thirty clear days before the hearing at the latest for both parties.
- c) The defendant is summoned to appear before the Commission in full compliance with Art. 6, § 4, 1-2 of the Rules.
- d) According to Art. 4, the hearings of the Commission of Appeal will be held in open Court.
 - The legal adviser explains the specific facts and possible requisition of penalties.
 - The President examines the defendant and any witness.

The defendant and/or his/her legal consultant are finally given the floor; they can lodge any briefs and final statement.

The Commission adjourns to deliberate, outside the presence of the appellant, his adviser, and his/her legal consultant.

5° : According to the decision taken and within the limits of its competence, the Commission of Appeal pronounces its judgment as follows:

a) If the unsuccessful party was the only party to lodge an appeal, the jurisdiction cannot render a harsher judgment.

It can only:

- quash a verdict and acquit
- mitigate the penalty
- confirm the verdict

b) If the M.B. of the Executive Board appealed against the judgment, both in its original and incidental capacity, the penalty can be tightened up.

TITLE 4

Special powers vested in the C.M.A.S. President and in some

ART. 8

1° Under specially serious circumstances, C.M.A.S. President is allowed, as provisional remedy, to suspend any affiliated legal person or natural person representing it from their office in the bosom of C.M.A.S., the onus being upon him to submit the case to the MB of the Executive Board within ten days as from the notification. The MB of the Executive Board, through the intermediary of the Disciplinary Commission, must give a verdict within three months.

The procedure of the preliminary investigation are, therefore, shortened.

2° Suspensions taken as provisional remedy should not be regarded as penalties, but as simple protective measures against a situation that is likely to be dangerous or may cause serious prejudices.

TITLE 5

ART. 9

Violation

1° General violations

Below is a closed list of violations liable to be sanctioned:

- 1 : Any action occurred during Federal activities and listed as crime, offense or infraction in the criminal code of the relevant country, of the offender's country or of the country where C.M.A.S H.Q. is located, - according to the international private law.
- 2 : Any action violating the rules and law provisions ruling sport and underwater activities in the countries involved, in the offender's country, or in the country where C.M.A.S. HQ is located - according to the international private law.
- 3 : Any action violating C.M.A.S. General or Special Rules, causing damage or being prejudicial to the proper development of any activity of the sport, technical or scientific committee and any C.M.A.S. events, or hindering competitions or events or public order on the spot.
- 4 : Any action contrary to the Statutes, to C.M.A.S. Internal Rules or Committee and/or Commission Rules.
- 5 : Any inexcusable negligence or serious technical misdemeanor during underwater activities.
- 6 : Any trade directly or indirectly plied under cover of voluntary help as provided by C.M.A.S., or implementing underwater schemes non complying with C.M.A.S. standards, as well as any affiliation to a commercial/non-commercial implementing underwater techniques rejected by the Federation.

7 : Any breach of loyalty, integrity and honor governing all Federal activities and specially sport activities; any breach to Federal or sport code of ethics.

8 : Any misconduct, violent or slanderous attitude against any individual or C.M.A.S. member, during any Federal event.

The above violations apply to C.M.A.S.-member legal persons as well as to any natural person representing them and having a regular collaboration with C.M.A.S.

2°/- Violation occurred during sport, technical, scientific or federal events

For any international sport event organized by C.M.A.S., where an international jury is not expected, any referee, umpire or judge as well as the highest C.M.A.S. official in ranking for the discipline involved attending the event in his/her quality of non-competitor are entitled to immediately and finally exclude from the competition any athlete whose attitude, actions or behavior are prejudicial to the public order, the fair development of the competition and/or its results. The athletes can be punished on violent or injurious attitude, violating competition Rules, doping condition or implementing fraudulent schemes. Decisions taken by judges, referees, umpires, and officers are supposed be justified, unless evidence of the contrary; they shall notify their decisions to the M.B. of the Executive Board within three days.

The same immediate suspension can be imposed on any individual, even if C.M.A.S. officer, who would adopt the same attitude or play an accessory role in any fraud or doping fact.

The same applies to any non-sport event.

In the above cases, the President of C.M.A.S. as well as the person in charge for the discipline involved is immediately informed of the suspension. It is for them to open the procedure provided under Art. 7.

Penalties are decided upon by the First instance Commission.

Procedure of appeal as provided under Title 3.

TITLE 6

PENALTIES

ART. 10

The different degrees of jurisdiction can deliver either final or deferred penalties, or partly deferred ones - according to the nature of the penalty.

The period of deferment is three years, dating from the final judgment. If, at the end of this period the offender has not been delivered any further penalty, the deferred sentence is canceled.

Should the offender be delivered further penalties within the period of deferment, the penalty becomes final - unless the jurisdiction delivering the second sentence decides to keep the previous deferment.

ART. 11

Penalties imposed upon a natural person apply to the Federation he/she belongs or the C.M.A.S.-member organization it represents and to the natural persons running such bodies, who have the duty of respecting them - failing which, they're indictable.

ART. 12

Penalties can also be imposed upon a C.M.A.S. covenanted organization (O.C.C.) or one or more members of the aforementioned organization.

ART. 13

Decision to strike off or suspend a member on non-payment of the subscription falls within the sole competence of the Executive Board, as an exception to what is provided under the above titles, as an administrative decision.

ART. 14 Penalties against legal entities C.M.A.S. members

The following penalties can be imposed upon any legal entity C.M.A.S. member:

- warning
- reprimand
- temporary suspension
- (partly) deferred suspension
- striking off, providing a new application for membership after a probationary period

In that case, after the probatory period, the E.B. will examine and accept the new application after investigating on the results of the probatory period.

- striking off on serious offence, and ban from future membership.

The sanction may be imposed upon their representatives on personnel level.

ART. 15 Penalties against competitors and other individuals

The following penalties can be imposed upon competitors and other individuals:

- warning (Penalties can also be imposed upon their representative in his/her personal capacity).
- reprimand
- sport penalties such as relegation in the placing, temporary banning from competition venue, deferred or final banning from any C.M.A.S. competitions and/or events.

Final banning can be imposed on competitors having taken up doping and their accomplices. In case of doping, the penalty imposed upon the competitor and his accomplices cannot be inferior to temporary suspension.

- temporary suspension from any activity within the Federation, particularly any C.M.A.S. and international event.
- final banning of the offender from any activity within the Federation

TITLE 7

Mercy

ART. 16

The Executive Board may consider petitions of mercy submitted by the penalized organizations or individuals, after a reasonable lapse of time and on due investigation.

A C.M.A.S. member, who is responsible of the offender's amendment, shall back the petitioner – failing which, his/her petition will be rejected.

TITLE 8

Registration

Enforcement

ART. 17

The decision shall be recorded and justified in specific minutes signed by the members of the First instance Commission or Commission of Appeal.

A certified copy of the original, as acknowledged by the members of the Board, is notified to the offender or to the organization to which he/she belongs.

The Executive Board may decide to make the decision public.

The original will be filed in the record of the Executive Board.

The Executive Board will decide the date of enforcement of the present Code.