

- c. The applicable rules required the *Athlete* (see comment to Article 5.1) or permitted the *Athlete* (see *Code Article 4.4.5*) to apply for a retroactive TUE; or

[Comment to 4.3(c): Such Athletes are strongly advised to have a medical file prepared and ready to demonstrate their satisfaction of the TUE conditions set out at Article 4.1, in case an application for a retroactive TUE is necessary following Sample collection.]

- d. It is agreed, by WADA and by the *Anti-Doping Organization* to whom the application for a retroactive TUE is or would be made, that fairness requires the grant of a retroactive TUE.

[Comment to 4.3(d): If WADA and/or the Anti-Doping Organization do not agree to the application of Article 4.3(d), that may not be challenged either as a defense to proceedings for an anti-doping rule violation, or by way of appeal, or otherwise.]

5.0 TUE Responsibilities of Anti-Doping Organizations

5.1 *Code Article 4.4* specifies (a) which *Anti-Doping Organizations* have authority to make TUE decisions; (b) how those TUE decisions should be recognized and respected by other *Anti-Doping Organizations*; and (c) when TUE decisions may be reviewed and/or appealed.

[Comment to 5.1: See Annex 1 for a flow-chart summarizing the key provisions of Code Article 4.4.]

Code Article 4.4.2 specifies the authority of a *National Anti-Doping Organization* to make TUE decisions in respect of *Athletes* who are not *International-Level Athletes*. In case of dispute as to which *National Anti-Doping Organization* should deal with the TUE application of an *Athlete* who is not an *International-Level Athlete*, WADA will decide. WADA's decision will be final and not subject to appeal.

Where national policy requirements and imperatives lead a National Anti-Doping Organization to prioritize certain sports over others in its test distribution planning (as contemplated by Article 4.4.1 of the International Standard for Testing and Investigations), the National Anti-Doping Organization may decline to consider advance applications for TUEs from Athletes in some or all of the non-priority sports, but in that case it must permit any such Athlete from whom a Sample is subsequently collected to apply for a retroactive TUE. The National Anti-Doping Organization should publicize any such policy on its website for the benefit of affected Athletes.]