

EXPLANATORY NOTE TO THE AZERBAIJAN NATIONAL ANTI-DOPING AGENCY PRO BONO POLICY

INTRODUCTION

Azerbaijan National Anti-Doping Agency (hereinafter referred to as 'AMADA') recognizes the importance of adherence to and ensuring of the principles of clean sport by adopting best available practices, developing, and implementing innovative approaches to anti-doping prevention. To seek the full provision of and ensuring the right to a fair trial, AMADA developed a Pro Bono Policy. Pro bono legal aid entails free legal assistance and representation by a legal professional offered to individuals charged with anti-doping rule violations during results management and proceedings before disciplinary and appeal panels.

AMADA's Pro Bono Policy reflects the provision of high-quality free legal aid, free of charge, by local law firms to athletes or other persons charged with anti-doping rule violations throughout the results management process and representation before national adjudicatory panels. The policy is based on the right to a free trial, the motto of clean sport and fair play, as well as the principles of equality, fairness and rule of law. It aims to ensure that everyone has an opportunity to fairly defend their rights in anti-doping proceedings - particularly financial hardship should not prevent individuals from fully exercising their right to a fair trial. In addition to that criterion, policy defines priority groups, such as minors, individuals with impairments etc. and prioritize them in applications for legal aid free of charge. Upon receiving the application, AMADA refers the case to the law firm and the latter takes the case from the very beginning until the final resolution of the case at national level. Athletes benefit from the policy by having access to high-quality and anti-doping-trained legal aid services free of charge.

In addition to the Pro Bono Policy, AMADA launched a specific legal education program for athletes and other persons asserted to have committed anti-doping rule violation. Thus, whenever the athlete is notified of the anti-doping rule violation, AMADA provides a legal education seminar session, which explains the details of results management process and the adjudication. This ensures that, in addition to free of charge legal aid, athletes are aware of the entire process and have an understanding of each step required by the World Anti-Doping Code and the International Standard for Results Management.

OBJECTIVES

- Demonstrate level of commitment to protection of human rights, especially right to a fair trial of athletes, athletes' support personnel or other persons charged with anti-doping rule violation;
- Send a consistent message about values of clean sport and integrity in sport;
- Provide equal opportunities for everybody in the anti-doping proceedings;

- Promote efficient implementation of Athletes' Anti-Doping Rights Act and provisions of the World Anti-Doping Code (hereinafter referred to as 'Code') as well as Azerbaijan National Anti-Doping Rules regarding protection of rights of athletes and other persons;
- Disseminate clean sport values among and enhance skills of legal professionals in terms of sports and anti-doping law;
- Promote a pro bono culture;
- Provide lawyers with valuable opportunities for anti-doping training and experience.

CRITERIA

Policy is aimed at providing equal opportunities for individuals charged with anti-doping rule violations in terms of access to legal aid instruments during anti-doping proceedings that is one of essential elements of the right to a fair trial. The number of complexity of cases handled during the calendar year, as well as ensuring gender equality among those benefitting from free legal assistance, and the workload of partner law firms are considered while processing applications. Pro Bono Policy presents a differentiated approach for reducing a gap between athletes with access to a professional legal assistance and those who for certain reasons unable to afford themselves legal aid.

Applications from athletes and other persons should meet one or more of the following criteria:

- Applicant is a minor;
- Applicant is subject to state social allowances;
- Applicant is an impaired person;
- Applicant experiences financial hardship.

Exclusion criteria:

- Applicant who early accepted violation and consented to consequences proposed;
- Applicant is severely (unwillingness) non-cooperative;
- Applicant is charged with trafficking or attempted trafficking in any prohibited substance or prohibited method, or with the administration or attempted administration to a minor of any prohibited substance or prohibited method.

CASE OPENING

A person applying for legal aid should fill in the form and submit to AMADA. Copies of other required documents, together with a completed application form, must be submitted to AMADA by e-mail, regular mail or in person. Upon receiving application, AMADA reviews the documents within a reasonable time and renders one of the following decisions:

- Sends an application form to a law firm once it is duly completed and all the relevant documents are attached.

- In case of technical errors, an application will be sent back to an applicant, and they will be given a reasonable time to correct them. Should an applicant miss the deadline, they will be considered to have waived their right to pro bono legal aid.
- In case of falsification of data, an applicant is deprived of their right to further applying for free legal aid.

COORDINATION

The whole procedure encompassing receipt of application, check of application (whether it is duly filled in) and attached documents, transmitting it to the relevant law firm and guaranteeing set deadlines are respected are led by a Legal (pro bono) coordinator. Legal coordinator is appointed by the Head of Legal Department. Legal coordinator is responsible for pro bono matters and deal with coordination tasks to ensure the pro bono practice runs efficiently and effectively.

LETTERS OF ENGAGEMENT

Once an application is considered to be in line with the requirements set in this Policy, law firm sends the Letter of Engagement to an applicant through AMADA. The letter of engagement includes the scope of obligations, costs (waiver of professional costs, attorney's not being liable for expenses other than service fees), the conduct of the work, contacts of a lawyer providing pro bono legal aid, measures to be taken to avoid future conflicts of interest or to resolve conflicts of interest, termination, applicant's obligations and other relevant information.

LAW FIRM PARTNERS

AMADA strives to establish links with as more law firms as possible to offer pro bono legal aid to a wider number of individuals. Currently, AMADA concluded a memorandum of understanding with two law firms and works on diversification of pro bono service providers.

COSTS

Pro bono legal services mean the rendering of professional legal services at no cost to the applicant.

PARTIES' OBLIGATIONS

An attorney who provides free legal assistance on behalf of the law firm, at a minimum, undertakes to take the following actions: to inform the Athlete or other person of the merits and details of the claim brought against them, explain their rights and obligations; provide with information on their procedural rights and timelines; to respond to results management notifications; to represent them in the proceedings and hearings before panels; prepare defense arguments (defense strategy) and present them in the hearings; in case if the Athlete or other person is not satisfied with the decision rendered by hearing panel, to file an

appeal; to comply with the code of ethics of lawyers; to take reasonable measures to protect the confidentiality of information received and transmitted during the consideration of case files as well as comply with the provisions of the Code, the International Standard for the Protection of Privacy and Personal Information (ISPPPI), the Law of the Republic of Azerbaijan "On Personal Information" and other relevant domestic legislation; to defend in good faith the rights of the Athlete or other person. An attorney should not discriminate between the service they provide within the framework of pro bono program and the one they deliver on a regular paid basis and should refrain from actions/inactions that adversely affect the quality of services provided.

A person receiving free legal aid has, at a minimum, the following responsibilities: providing complete and accurate information about an anti-doping rule violation to a lawyer defending their rights and interests; meeting with a lawyer at a pre-agreed date and time to prepare the defense strategy without undue delay within the period specified in the rules; immediately informing attorney and AMADA in case of refusal of free legal aid at any stage.

PARTIES' RIGHTS

An attorney (or a law firm) delivering pro bono legal services has, at a minimum, the following rights: to arrange meetings with a principal for the preparation of defense strategy, taking into account the work schedule of both parties; to take any legal action during anti-doping proceedings not prohibited by the law and anti-doping rules, regulations and legislation; to bear no responsibility for outcomes of proceedings and decisions rendered by hearing panels.

A person receiving free legal aid has, at a minimum, the following rights: to require the other party not to disclose personal information related to an anti-doping rule violation to third parties and to act in accordance with the principle of confidentiality; to refuse their right to pro bono legal aid for any reason at any stage of the proceedings.

CONFIDENTIALITY

All parties to pro bono legal aid should take reasonable measures to protect the confidentiality of information received and transmitted during the consideration of case files as well as to comply with the provisions of the Code, the International Standard for the Protection of Privacy and Personal Information (ISPPPI), the Law of the Republic of Azerbaijan "On Personal Information" and other relevant domestic legislation. A person applying for pro bono legal aid should be explicitly informed of the further transmittal of their personal and confidential information regarding an alleged anti-doping rule violation to a law firm. An applicant shall give a written consent for further transfer of their case file and relevant information to a law firm and an appointed attorney respectively. Case file may be transmitted to an attorney either on paper or via e-mail. When using hardcopy materials, both parties shall sign a handover form. Documents are sealed in an envelope and handed over to an attorney. When using e-mail for transfer of information, AMADA sends an encrypted version of information to an attorney using specific platform or other software

tools, in order to prevent possible threats to the confidentiality of shared information and to protect against cyber attacks. In both cases, an attorney shall sign a declaration of confidentiality. Information about an anti-doping rule violation shall be available only to an attorney or attorneys who provide free legal services directly and to assistants assisting them during anti-doping proceedings.

TERMINATION

A law firm reserves the right to cease acting in the matter for different reasons. A law firm may end an agreement if the athlete or other person does not repeatedly follow their professional advice and does not keep in contact with their attorney; does not give adequate instructions, engages another lawyer to act in the case, or the case gives rise to a conflict of interest. An athlete or other person may quit the exercise of their right to pro bono legal aid for any reason at any stage of the proceedings.

TRAINING

Anti-doping is an emerging and complex area, so provision of pro bono advice or representation requires in-depth and profound knowledge of that area of law and considerable experience. AMADA consistently conducts training sessions dedicated to different aspects of anti-doping for legal professionals from partner law firms.