

# International Standard for Intentional Misrepresentation

## Contents

1. Purpose .....	2
2. Definitions and Interpretation.....	2
3. General Provision.....	4
4. Obligations to report and cooperate .....	4
5. Investigations.....	5
6. Proceedings .....	7
7. Confidentiality.....	10
8. Sanctions .....	10
9. Decisions.....	14
10. Appeals.....	15

## 1. Purpose

- 1.1 As noted in the Classification Code, Intentional Misrepresentation presents a major threat to the integrity of Classification and Para sport. It is a very serious offence because it constitutes an attempt to: (i) mislead an International Federation (and/or its representatives) in relation to any aspect of Classification; and/or (ii) achieve an unfair advantage that undermines meaningful competition. Consequently, potential incidents of Intentional Misrepresentation must be investigated thoroughly, and if evidence indicates that Intentional Misrepresentation has occurred, disciplinary action must be taken.
- 1.2 The purpose of this International Standard is to provide detailed rules and procedures for International Federations to identify, investigate, and prosecute alleged Intentional Misrepresentation by Participants under their jurisdiction.
- 1.3 Those processes are, and must remain, distinct from the process of Classification. In other words, the rules and procedures set out in this International Standard are not concerned with verifying (and if necessary, correcting) the Sport Class or Sport Class Status allocated to an Athlete, but with preventing (and if necessary, sanctioning) instances of the specific disciplinary offence of Intentional Misrepresentation, as defined below.

## 2. Definitions and Interpretation

- 2.1 Defined terms (denoted by initial capital letters) in the Classification Code and the IPC Constitution, and the rules of interpretation set out in Appendix 1 to the Constitution, apply to this International Standard. Additional defined terms specific to this International Standard are set out as follows:
- 2.2 **First Instance Body** means a disciplinary body designated by an International Federation to hear and determine cases of alleged Intentional Misrepresentation.
- 2.3 **Intentional Misrepresentation** has the meaning given to it in Article 52.1 of the Classification Code. Examples of behaviours constituting Intentional Misrepresentation are given in Articles 52.2 and 52.3 of the Classification Code. For ease of reference, each of those Articles is reproduced below:

*52.1 The following constitutes Intentional Misrepresentation:*

*52.1.1 a Participant, at any time, whether by act or omission, intentionally misleads or attempts to mislead an International Federation or any of its representatives (such as Classification Personnel) in relation to any aspect of Classification; or*

- 52.1.2 *a Participant, at any time, whether by act or omission, engages in any type of intentional complicity in respect of any violation or attempted violation of Article 52.1.1.*
- 52.2 *Examples of Intentional Misrepresentation falling under Article 52.1.1 include (without limitation) a Participant:*
- 52.2.1 *submitting forged medical documentation attesting to the existence of an Underlying Health Condition or Eligible Impairment that they do not have;*
- 52.2.2 *deliberately underperforming during an Evaluation Session;*
- 52.2.3 *intentionally undergoing an Evaluation Session without the Adaptive Equipment that they intend to use in competition;*
- 52.2.4 *otherwise misrepresenting their skills, abilities, and/or the existence, nature, and/or degree of their impairment before, during or after an Evaluation Session;*
- 52.2.5 *disrupting an Evaluation Session, or refusing to cooperate with a Classification Panel during an Evaluation Session, with the intention of misleading the Classification Panel;*
- 52.2.6 *not providing accurate information as to their identity or having another person attend an Evaluation Session in their place; and/or*
- 52.2.7 *deliberately failing to notify the relevant International Federation of any relevant Classification-related information, including that they have previously undergone Classification (for example in the context of another Para sport) and/or that there has been a change in the nature or degree of their impairment that may necessitate a Medical Review.*
- 52.3 *Examples of Intentional Misrepresentation falling under Article 52.1.2 include (without limitation):*
- 52.3.1 *where a Participant induces, instructs, facilitates, assists, encourages, aids, abets or conspires with another Participant to commit, or attempt to commit, Intentional Misrepresentation; and/or*
- 52.3.2 *where, having discovered that a Participant has committed or intends to commit Intentional Misrepresentation, they conceal or cover up the offence, or any information which would assist*

*an International Federation in the investigation or prosecution of that offence.*

For the avoidance of doubt:

- 2.3.1 A Participant does not need to know that their conduct will constitute a violation of Article 52.1 for their conduct to be intentional.
- 2.3.2 A Participant can commit Intentional Misrepresentation irrespective of any designation, Sport Class, and/or Sport Class Status allocated to an Athlete.

### 3. General Provision

- 3.1 Each International Federation must include in its Classification rules procedures that are consistent with those in: (i) this International Standard; and (ii) the Model Rules].

### 4. Obligations to report and cooperate

- 4.1 Each Participant, and each National Federation to which the Participant is affiliated, must:
  - 4.1.1 report to their International Federation promptly, truthfully, completely, and in good faith any information they possess that a reasonable person would consider might evidence or otherwise reflect:
    - (a) any approach or invitation by any Participant (including themselves) to engage in conduct that might constitute Intentional Misrepresentation; and
    - (b) any incident, fact, or matter that might indicate the planning or commission of Intentional Misrepresentation by any Participant (including themselves);
  - 4.1.2 cooperate promptly, truthfully, completely, and in good faith with all investigations carried out by the International Federation and/or by the IPC, including by answering any questions and providing access to any information, data, and/or documentation requested as part of that investigation;
  - 4.1.3 cooperate promptly, truthfully, completely, and in good faith with any proceedings brought by the International Federation and/or by the IPC against any Participant for Intentional Misrepresentation; and

- 4.1.4 not do anything (by act or omission) that has the object or effect of obstructing, preventing, delaying, or otherwise interfering with or frustrating any such investigation or proceeding.
- 4.2 The International Federation must have disciplinary rules in place[, consistent with the Model Rules,] to sanction Participants who fail to comply with this Article.
- 4.3 Each International Federation must provide the IPC with a report (as required by the IPC) containing details of: (i) all credible reports or other intelligence that the International Federation has received which indicate potential Intentional Misrepresentation; (ii) the actions taken in relation to such reports; and (iii) updates in relation to all of its ongoing investigations or proceedings relating to Intentional Misrepresentation.
- 5. Investigations**
- 5.1 Where there are reasonable grounds to suspect that a Participant might have committed Intentional Misrepresentation, an International Federation must initiate an investigation in a timely manner. Grounds do not need to be given to a Participant for the initiation of an investigation and the decision to initiate an investigation may not be contested.
- 5.2 Except as otherwise provided in Article 5.5.3, the investigation shall be the responsibility of, and shall be governed by, the procedural rules of the International Federation to whom the Participant suspected of Intentional Misrepresentation is affiliated.
- 5.3 In circumstances where a Participant is affiliated with more than one International Federation, the International Federation who first became aware of the suspected Intentional Misrepresentation shall have primary investigative responsibility. If, notwithstanding the foregoing, a dispute arises as to which International Federation has the responsibility to investigate the suspected Intentional Misrepresentation, the IPC may decide which International Federation has such responsibility.
- 5.4 International Federations may delegate aspects of their investigative responsibilities under this International Standard (including to the IPC, subject to terms being agreed that are acceptable to the IPC), but shall remain fully responsible for ensuring that any aspect they delegate is performed in compliance with this International Standard. To the extent that an International Federation delegates responsibility to any person other than another International Federation or the IPC, it must require the delegated party to agree, as part of its terms of appointment, to comply with this International Standard.

- 5.5 The IPC may, in its absolute discretion:
- 5.5.1 offer assistance to International Federations in conducting investigations into suspected International Misrepresentation, including, but not limited to, facilitating inquiries and investigations;
  - 5.5.2 direct an International Federation to conduct an investigation in relation to a suspected Intentional Misrepresentation that has come to the attention of the IPC. If that International Federation refuses to investigate the suspected Intentional Misrepresentation within a reasonable deadline set by the IPC, such refusal shall be considered to be an act of non-compliance; and
  - 5.5.3 conduct its own investigations into suspected Intentional Misrepresentation, whether on its own initiative and/or as requested by an International Federation. In such circumstances: (i) the investigation shall proceed in accordance with the IPC's procedural rules; and (ii) references to an International Federation in the remainder of this Article 5 shall, where the context requires, be interpreted as a reference to the IPC.
- 5.6 The objective for each investigation will be to gather information necessary to determine: (i) whether a Participant has a case to answer for Intentional Misrepresentation; and, if so (ii) whether any other Participant has a case to answer for intentional complicity in that Intentional Misrepresentation. This will include gathering and recording all relevant information, developing that information into reliable and admissible evidence, and identifying and pursuing further lines of enquiry that might lead to the discovery of such evidence.
- 5.7 An International Federation must conduct each investigation fairly, objectively, and impartially. It must be open to and consider all possible outcomes at each key stage of the investigation and must seek to gather not only any available evidence of Intentional Misrepresentation but also any available evidence indicating that there is no case to answer.
- 5.8 An International Federation must notify the Participant of the investigation and give the Participant an opportunity to make a written submission as part of the investigation. The International Federation will decide when this notification should be made.
- 5.9 An International Federation may make requests of any Participant, and of any National Federation to which the Participant is affiliated, to assist an investigation by producing documents, information, and/or other material, including by answering questions.

5.10 Where during the course of any investigation an International Federation identifies any additional Participants who might also have committed Intentional Misrepresentation, the investigation may be expanded to cover such additional Participants or (alternatively) a separate investigation may be commenced.

## 6. Proceedings

6.1 If an International Federation determines that a Participant has a case to answer for Intentional Misrepresentation, the International Federation may bring disciplinary proceedings against the Participant. Except as provided for by Article 6.2, those proceedings shall be governed by the International Federation's own procedural rules.

6.2 The IPC may, in its absolute discretion, bring disciplinary proceedings of its own in relation to Intentional Misrepresentation, whether on its own initiative and/or as requested by an International Federation. In such circumstances: (i) such disciplinary proceedings shall proceed in accordance with the IPC's procedural rules; and (ii) references to an International Federation in the remainder of this Article 6, and in Articles 7-10 shall, where the context requires, be interpreted as a reference to the IPC.

6.3 Disciplinary proceedings brought by an International Federation for alleged Intentional Misrepresentation must be heard before the International Federation's designated First Instance Body. The International Federation's designated First Instance Body must be:

6.3.1 Operationally Independent from the International Federation; and

6.3.2 comprised of at least three members who: (i) are not currently Classifiers for that International Federation; (ii) have the appropriate skills and experience to hear and determine the matter; and (iii) have not had any prior involvement with the matter or any facts arising in the proceedings, and whose impartiality and independence could not otherwise be reasonably questioned.

### *Notice of Charge*

6.4 Where an International Federation brings disciplinary proceedings against the Participant, the International Federation must prepare and send a Notice of Charge to the Participant, copying: (i) the Participant's National Federation; and (ii) the IPC, which must contain (at a minimum) the following information:

6.4.1 the facts alleged in support of the charge and any other relevant information;

- 6.4.2 the sanction(s) that the International Federation says should be imposed if the charge is upheld;
- 6.4.3 the Participant's right:
- (a) to admit the charge and to accept the sanctions specified in the Notice of Charge;
  - (b) to admit the charge but dispute (or seek to mitigate) the sanctions specified in the Notice of Charge, and to have the matter of sanctions determined by the International Federation's First Instance Body if it cannot be agreed between the parties; or
  - (c) to dispute the charge and to have the charge determined (along with any sanctions, where a charge is upheld) by the International Federation's First Instance Body; and
- 6.4.4 the deadline for the Participant to provide a response to the charge (which must be no fewer than 14 days from the date of receipt of the Notice of Charge by the Participant).
- 6.5 Subsequent to sending a Notice of Charge to the Participant, an International Federation may adduce further facts and/or other relevant information in support of the charge, provided that the Participant is given a reasonable opportunity to respond to those facts/that information.
- 6.6 Once the Notice of Charge has been sent to a Participant, the International Federation may publicly disclose the identity of the Participant and the nature of the Intentional Misrepresentation involved.

#### ***Resolution of charges without a hearing***

- 6.7 Where the Participant:
- 6.7.1 admits the charge and accepts the sanctions specified in the Notice of Charge (or accepts other sanctions proposed by the International Federation); or
  - 6.7.2 fails to respond by the deadline specified in the Notice of Charge (which failure will be deemed to amount to: (i) a waiver of the Participant's right to have the charge and/or sanctions determined by the International Federation's First Instance Body, (ii) an admission of the charge, and (iii) an acceptance of the sanctions specified in the Notice of Charge),

a hearing before the International Federation's First Instance Body will not be required and the International Federation shall proceed to issue a decision in the case in accordance with Article 9.4.

- 6.8 At any time prior to a final decision by the International Federation's First Instance Body, the International Federation may decide to withdraw a Notice of Charge for good cause. The International Federation must inform the Participant, the National Federation to which the Participant is affiliated, and the IPC, of the withdrawal of the charge and the reasons for that withdrawal. The International Federation will not publish the decision.

### *Hearing*

- 6.9 If the Participant wishes to have a hearing to dispute the charge and/or the sanctions specified in the Notice of Charge, the Participant must provide a written request for a hearing to the International Federation that is received by the International Federation within 14 days of the Participant's receipt of the Notice of Charge (or such longer period as may be specified in the Notice of Charge or agreed by the International Federation). The request must explain how the Participant responds to the charge and set out (in summary form) the basis for such response.
- 6.10 Subject to Article 6.11, the International Federation's First Instance Body will hear and determine Intentional Misrepresentation cases involving any Participant under its jurisdiction in accordance with that First Instance Body's procedural rules.
- 6.11 In the context of alleged Intentional Misrepresentation, the procedural rules of the International Federation's First Instance Body must provide that:
- 6.11.1 the International Federation's First Instance Body will have the power to call any person (including Classifiers, or any Participant with information relevant to the alleged International Misrepresentation) as fact or expert witnesses;
  - 6.11.2 the International Federation's First Instance Body will have the power to decide on the admissibility and relevance of and the weight to be given to any evidence (including the testimony of any fact or expert witness) and will not be bound by any judicial or evidential rules in relation to such matters;
  - 6.11.3 facts may be established by any reliable means; and
  - 6.11.4 the burden of proof will be on the party asserting the claim or fact in issue, and the standard of proof to be met will be the balance of probabilities.

## 7. Confidentiality

- 7.1 Subject to Articles 6.6, 7.2 and 9, all proceedings brought by an International Federation against a Participant in respect of alleged Intentional Misrepresentation will be confidential, including all documents, evidence, submissions and other information relating to the proceedings. Except as provided for in this International Standard, neither the parties to the proceedings, nor any third party witness, expert, observer or other participant in the proceedings or recipient of the First Instance Body's decision will publicly comment on the specific facts of any case (as opposed to general descriptions of the process), except that the International Federation may make or issue such comments as it considers necessary to correct any material legal or factual inaccuracies in any public comments attributed to, or based on information provided by the Participant who is the subject of the proceedings (or their entourage or representatives).
- 7.2 At any stage the International Federation may, in its discretion (exercised subject to all relevant data protection requirements, including those set out in the International Standard for Classification Data Protection, and other applicable laws), decide that information should be shared with any person or persons on a confidential and need-to-know basis in order to assist in the discharge of the International Federation's functions (including in the investigation and prosecution of any offences under this International Standard) and/or to protect its integrity and reputation, or that of the Paralympic Movement or Para sport. Such persons would include appropriate personnel within the International Federation, other International Federations, and the IPC, as well as other bodies with an investigatory or regulatory function.

## 8. Sanctions

- 8.1 Subject to Articles 8.2 and 8.3, a Participant who is found to have committed Intentional Misrepresentation shall be subject to one or more of the following sanctions:

### Disqualification of results

- 8.1.1 disqualification of any Competition results obtained by the Athlete whilst competing in a Sport Class that would not otherwise have been assigned to the them were it not for their Intentional Misrepresentation, with all resulting consequences, including

forfeiture of any related medals, titles, ranking points and/or prize money;

### Period of ineligibility

8.1.2 a period of ineligibility (as set out in Article 8.4), which must be a minimum of one year up to a maximum of four years, depending on the seriousness of the violation. Factors to be taken into consideration in assessing the seriousness of the violation include whether the Participant is a Minor, the Participant's experience in relation to the Classification process, and whether the Participant was pressured to commit Intentional Misrepresentation by the National Federation to which they are affiliated or any other Person. The period of ineligibility will start on the date of the relevant decision or such other date as specified by the International Federation (in an agreed case) or First Instance Body (in a contested case), and must be recognised, respected, and enforced by all IPC Members and RIFs.

### Other sanctions

8.1.3 such other sanctions as the International Federation (in an agreed case) or First Instance Body (in a contested case) considers appropriate and proportionate in all the circumstances of the case.

### 8.2 Multiple violations:

8.2.1 The period of ineligibility that will be imposed on a Participant who is found to have committed Intentional Misrepresentation:

- (a) for a second time, will be twice the period of ineligibility that would otherwise be applicable; and
- (b) for a third or subsequent time, will be a lifetime period of ineligibility.

### 8.3 Possible reductions to period of ineligibility

8.3.1 If a Participant voluntarily admits the commission of Intentional Misrepresentation before being notified by the International Federation of its investigation into that Participant, and that admission is the only reliable evidence of the Intentional Misrepresentation at the time of admission, the period of ineligibility may be reduced, but not below one half of the period of ineligibility otherwise applicable.

*[Comment to Article 8.3.1: This Article is intended to apply where a Participant comes forward and admits to Intentional Misrepresentation in circumstances where the International Federation is not aware that Intentional Misrepresentation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Participant believes they are about to be caught. The amount by which the period of ineligibility is reduced should be based on the likelihood that the Participant would have been caught had they not come forward voluntarily.]*

- 8.3.2 If a Participant voluntarily admits the commission of Intentional Misrepresentation within a reasonable period of time after being notified by the International Federation of its investigation into that Participant, the period of ineligibility may be reduced, but not below three quarters of the period of ineligibility otherwise applicable.
- 8.3.3 A part of the period of ineligibility imposed on a Participant who is found to have committed Intentional Misrepresentation may be suspended, at the discretion of the International Federation, where the Participant has provided Substantial Assistance to the International Federation which results in the International Federation bringing forward a case of alleged Intentional Misrepresentation against another Participant.
- 8.3.3.1 For purposes of Article 8.3.3, a Participant providing ‘**Substantial Assistance**’ must: (i) fully disclose in a signed written statement or recorded interview all information they possess in relation to Intentional Misrepresentation by another Participant; and (ii) fully cooperate with the investigation and adjudication of any case or matter related to that information, including, for example, presenting testimony at a hearing if requested to do so by an International Federation or hearing panel. Further, the information provided must be credible and must comprise an important part of any case or proceeding that is initiated.
- 8.3.3.2 The extent to which the otherwise applicable period of ineligibility may be suspended will be based on the seriousness of the Intentional Misrepresentation committed by the Participant and the significance of the Substantial Assistance provided by the Participant to the effort to combat Intentional Misrepresentation within Para sport. No more than three-quarters of the otherwise applicable period of ineligibility may be suspended. If the otherwise

applicable period of ineligibility is a lifetime, the non-suspended period of ineligibility under this Article must be no less than eight years.

- 8.3.3.3 If so requested by a Participant who seeks to provide Substantial Assistance, the International Federation must allow the Participant to provide the information to it subject to a “without prejudice” agreement. If the Participant fails to continue to cooperate and to provide the complete and credible Substantial Assistance upon which a suspension of a period of ineligibility was based, the International Federation must reinstate the original period of ineligibility.
- 8.3.3.4 If the International Federation decides to reinstate a suspended period of ineligibility, that decision may be appealed by the Participant.

#### 8.4 Status during ineligibility:

- 8.4.1 During a period of ineligibility a Participant is prohibited from participating in any capacity in: (i) Classification; and (ii) any Competition, event, programme, or other activity organised, authorised, or recognised by the Participant’s International Federation (other than authorised education programs).

*[Comment to Article 8.4.1: For example, in addition to the prohibition on participating in Classification and all Competitions covered by this Article, subject to Article 8.4.3 below, ineligible Participants are not permitted to participate in a training camp, exhibition or practice organised by their National Federation. The term “activity” also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of their National Federation. Ineligibility imposed by one International Federation or RIF shall also be recognised by all other International Federations and RIFs (see Article 8.1.2). A Participant serving a period of ineligibility is prohibited from coaching or serving as an Athlete Support Person in any other capacity at any time during the period of ineligibility. Any performance standard accomplished during a period of ineligibility shall not be recognised for any purpose.]*

- 8.4.2 A Participant shall remain subject to all relevant anti-doping requirements throughout any period of ineligibility.
- 8.4.3 An Athlete may return to train with a team or to use the facilities of a National Federation or other member organisation affiliated with the

International Federation during the shorter of: (i) the last two (2) months of their period of ineligibility; or (ii) the last one-quarter of the period of ineligibility imposed.

8.4.4 Subject to Article 8.4.3, where a Participant violates any period of ineligibility imposed upon them, any results achieved during that period shall be disqualified, and a new period of ineligibility equal in length to the original period of ineligibility (subject to adjustment at the discretion of the International Federation based on the Participant's degree of fault and other circumstances of the case) shall be added to the end of the original period of ineligibility.

## 8.5 Consequences for teams and National Federations

8.5.1 Any consequences to be applied to teams of which a Participant who is found to have committed Intentional Misrepresentation is a member will be at the discretion of the International Federation.

8.5.2 Any consequences to be applied to a National Federation to which a Participant who is found to have committed Intentional Misrepresentation is affiliated will be at the discretion of the International Federation.

## 9. Decisions

9.1 The International Federation's First Instance Body must notify its decision to the parties in a written reasoned decision, in accordance with its procedural rules. The decision of the International Federation's First Instance Body shall address and determine, at a minimum, the following issues:

9.1.1 whether the Participant committed Intentional Misrepresentation, the factual basis for such determination, and the specific provisions of the International Federation's Classification rules found to have been violated; and

9.1.2 the applicable sanctions imposed by the International Federation's First Instance Body under Article 7, with any resulting forfeiture of medals, points and prizes.

9.2 The International Federation shall disclose the decision of the First Instance Body to: (i) the Participant; (ii) the Participant's National Federation; (iii) the IPC; and (iv) the public (subject to any redactions as may be ordered by the First Instance Tribunal in accordance with its procedural rules) on its website and/or otherwise as it sees fit, save that:

- 9.2.1 if the person who is the subject of the decision is under the age of eighteen years, the International Federation will have the discretion not to publicly disclose the decision. Any public disclosure of such a decision must be proportionate to the facts and circumstances of the case; and
- 9.2.2 if the decision exonerates the Participant, then the decision may only be publicly disclosed with the consent of that Participant. However, the fact that the charge has been dismissed may be publicly disclosed by the International Federation.
- 9.3 Where the International Federation is aware that the Participant who is the subject of the decision is a participant in any other Para sport, it will circulate the decision to the relevant International Federation or RIF, (including where that decision is appealed pursuant to Article 10) unless it decides for good reason otherwise.
- 9.4 In a case where Article 6.7 applies, the International Federation shall produce a written reasoned decision covering the issues referred to in Article 9.1, which it shall provide as a minimum to: (i) the Participant; (ii) the Participant's National Federation; (iii) the IPC; and (iv) any organisation referred to in Article 9.3, which will take effect as if it were a final decision of the International Federation's First Instance Body. Alternatively, where it sees fit, the International Federation may refer the matter to the International Federation's First Instance Body to determine the sanction(s) to be imposed. The decision may be made available to the public by the International Federation, at its discretion. With the IPC's agreement, such decision may be redacted (for example so as to maintain confidentiality of any Substantial Assistance provided pursuant to Article 8.3.3). As a minimum, the International Federation shall issue a public notice confirming that the Participant has committed Intentional Misrepresentation and the sanction(s) imposed.

## 10. Appeals

- 10.1 The IPC, the International Federation and the Participant each have the right to appeal decisions of the First Instance Body to an independent appellate body within twenty-one (21) days from the date of receipt of the decision by the appealing party, save that:
- 10.1.1 if the IPC was not a party to the proceedings before the First Instance Body, it shall have fifteen (15) days from its receipt of the notice of the decision to request a copy of the full case file pertaining to the decision. In such case the IPC shall have twenty-one (21) days from its receipt of the full case file to file an appeal.

- 10.2 The independent appellate body to which decisions of the International Federation's First Instance Body are appealed pursuant to Article 10.1 must be:
- 10.2.1 Operationally Independent from the International Federation and the IPC;
  - 10.2.2 comprised of at least three members who: (i) are not Classifiers; (ii) have the appropriate skills and experience to objectively hear the matter; and (iii) have not had any prior involvement with the matter or any facts arising in the proceedings, and whose impartiality or independence could not otherwise be reasonably questioned; and
  - 10.2.3 comprised of members who are not members of the International Federation's First Instance Body.

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