



Appendix N

FIM Alcohol Testing Procedure

Riders participating in any FIM World Championship, FIM Prize or International event will be subject to alcohol breath and/or blood testing at any time in-competition* in accordance with the following procedure:

*In-competition: for the purpose of the alcohol testing procedure, the in-competition period is defined as the period commencing 12 hours before the rider rides his bike for the first time during the event**, ending thirty (30) minutes after the end of the last race*** in his/her class and category. This is the minimum period of time that riders should abstain from consuming alcohol prior to competition for safety reasons.

**Event: an event is defined as a single sporting event (composed, depending on the discipline, of free practice sessions, qualifying practice sessions and race(s), rounds, legs, heats or stages).

*** or round, leg, heat or stage.

1. Such testing will be undertaken by an FIM Official **or any person appointed by the FIM for this purpose** at the event using an FIM approved testing device. At certain events, for example, those involving the use of public roads, the police may undertake such testing.
2. Testing will be undertaken at the event by an FIM Official **or any person appointed by the FIM for this purpose** who is trained in the use of the alcohol testing device.
3. Testing will be performed with no prior notice.
4. Riders will be selected **by any person appointed by the FIM for this purpose**, either randomly by lot or at the discretion of the FIM Chief Steward, FIM Jury President, FIM Delegate or the FIM Medical Representative.
5. At least three riders will be tested at each event.
6. At any time in-competition* alcohol testing may be included as part of a special medical examination conducted at the request of the CMO, Race Director, Clerk of the Course, Medical Director, Jury President, Chief Steward or the FIM Medical Representative in accordance with the FIM Medical Code.
7. Following notification of selection for alcohol testing, the rider must immediately attend the designated location for testing.
8. A refusal to undergo alcohol testing will be regarded for the purpose of the application of sanctions as identical to a test reading above the permitted threshold.
9. Any rider who refuses to submit himself to alcohol testing will be automatically and immediately excluded from further participation in, and disqualified from the event by the disciplinary body responsible for applying disciplinary sanctions at the event.



Such decision is final and may not be appealed against. Such automatic and immediate decision may not under any circumstances give rise to any claim from the rider or any other affected party. The details of the case will be notified immediately to the FIM Legal Department (legal@fim.ch) by the disciplinary body responsible for applying disciplinary sanctions at the event.

The rider will also be automatically provisionally barred by the FIM (Provisional Suspension) from participating in any competition sanctioned by the FIM, its CONUs and its FMNs until further notice and without any further notification. Such automatic Provisional Suspension may not under any circumstances give rise to any claim from the rider or any other affected party.

10. Alcohol testing will in principle take place in a location that maintains rider confidentiality, is secure with restricted access, and is in a suitable location with adequate facilities such as light and ventilation.
11. Each rider will be tested individually and in private.
12. The alcohol testing device will be determined and provided by the FIM.
13. The device will be calibrated in accordance with the manufacturer's instructions.
14. The alcohol test procedure will take place where possible in the presence of a witness.
15. The testing procedure and use of the device will be explained to the rider.
16. The rider will be allowed to select an individual mouthpiece from a selection of individually sealed single use mouthpieces and attach it to the device.
17. The rider will blow steadily into the mouthpiece until the device indicates that an adequate sample of breath has been obtained.
18. The test result displayed on the device will be shown to the rider and recorded on the test record documentation.
19. The exact time of each test will also be recorded on the documentation.
20. The documentation will then be signed by the rider, officials **and any person appointed by the FIM for this purpose**, present at the test. Any refusal by a rider to sign the documentation will be duly noted and recorded on the documentation but will not invalidate the result of the test.
21. The results and associated documentation will be forwarded to the FIM Administration.
22. If the test reading is greater than the permitted threshold of 0.10g/L, a confirmatory test will be performed following a waiting period of at least a fifteen minutes starting after the first result of the first test has been recorded. If the first test reading is below or equal to 0.00g/L, no further test will be conducted.
23. As part of this confirmatory test the rider will again be asked to select a further mouthpiece from a selection of sealed mouthpieces. (The purpose of conducting a confirmatory test after a period of fifteen minutes in the event of a positive test is to ensure that any residual alcohol in the rider's mouth from food, mouth wash etc. is no longer present in order to limit false positive results).
24. If the result of the confirmatory test is above the permitted threshold the rider will be automatically and immediately excluded from further participation in, and disqualified from the event by the disciplinary body responsible for applying disciplinary sanctions at the event.



Such decision is final and may not be appealed against. Such automatic and immediate decision may not under any circumstances give rise to any claim from the rider or any other affected party. The details of the case will be notified immediately to the FIM Legal Department (legal@fim.ch) by the disciplinary body responsible for applying disciplinary sanctions at the event.

The rider will also be automatically provisionally barred by the FIM (Provisional Suspension) from participating in any competition sanctioned by the FIM, its CONUs and its FMNs until further notice and without any further notification. Such automatic Provisional Suspension may not under any circumstances give rise to any claim from the rider or any other affected party.

25. Following notification of the case to the FIM Legal Department (legal@fim.ch), first-instance proceedings will be opened ex officio before the International Disciplinary Court (CDI) for consideration of the handing down of a suspension which shall range from a minimum of 9 (nine) months to a maximum of 18 (eighteen). The duration of the suspension shall be decided on the riders' degree of fault and on any aggravating (e.g. recidivism) and/or mitigating factors. Riders and other persons shall receive credit for a Provisional Suspension against any period of Ineligibility which is ultimately imposed. In addition, further sanction(s) in accordance with the FIM Disciplinary & Arbitration Code (Article 3.1.3) and/or the relevant Sporting Regulations may be imposed on the rider. If the rider establishes that he bears no fault (i.e. no negligent or intentional failure), no suspension or other sanctions may be imposed on him.
26. If the result of the confirmatory test is below the permitted threshold, no further action will be taken.
27. A rider provisionally suspended as per Article 9 or Article 24 above may petition the CDI to have his provisional suspension lifted. The request, submitted in writing and with reasons, must be received within 15 days of the date of the beginning of the provisional suspension of the rider.

The proceedings before the CDI on a request for lifting of the provisional suspension will be conducted exclusively on the basis of written submissions. Any oral or ungrounded request will be found inadmissible. The CDI shall consider only whether the Provisional Suspension shall be maintained until the full consideration of the case on the merits by the CDI in the framework of a final hearing.

The Provisional Suspension shall not be lifted unless the rider establishes that: (a) the assertion of an alcohol rule violation has no reasonable prospect of being upheld (e.g., because of a patent flaw in the case against the rider); or (b) the rider has a strong arguable case that he/she bears no fault (i.e. no negligent or intentional failure) for the alcohol rule violation(s) asserted, so that any period of suspension that might otherwise be imposed for such a violation is likely to be completely eliminated by application of Article 25 above; or (c) some other facts exist that make it clearly unfair, in all of the circumstances, to maintain a Provisional Suspension prior to a final hearing before the CDI.

NB: This last ground is to be construed narrowly, and applied only in very exceptional circumstances. For example, the fact that the Provisional Suspension would prevent the rider participating in a particular event shall not qualify as exceptional circumstances.



Neither a Provisional Suspension imposed by the FIM nor any decision taken by the CDI in connection with a Provisional Decision will prejudice the question as to whether an alcohol rule violation has actually been committed (the existence of an alcohol rule violation and of a disciplinary responsibility of the rider is to be addressed by the CDI when the latter adjudicates on the merits of the case in the framework of a final hearing; nor will any such Provisional Suspension or decision give rise under any circumstances to any claim (from the rider or any other affected party), should such violation not be upheld at a later stage in the procedure.

The decision from the CDI on a request lodged by the rider to have his provisional suspension lifted may be appealed against before the Court of Arbitration of Sport (CAS) within 5 (five) days of receipt of the notification of the reasoned decision of the CDI. The Code of Sports-related Arbitration shall be applicable. In particular, irrespective of the fact that at least one of the three above-mentioned conditions shall in all cases be established by the rider, the cumulative fulfilment of the three factors (i.e. "likelihood of success on the merits of the claim", irreparable harm" and "whether the interests of the Applicant outweigh those of the Respondent(s)") set out under R37 of the Code of Sports-related Arbitration shall also be met cumulatively in favour of the rider in order for the CAS to be enabled to lift the rider's provisional suspension.