

## IAAF TASKFORCE REPORT TO IAAF COUNCIL, 6 MARCH 2018

1. I am pleased to present this Taskforce report on the progress that RusAF has made since the last Council meeting to satisfy the conditions that the Council has set for its reinstatement to membership of the IAAF. You should have copies in front of you; I will only read out the highlights.

2. As a reminder, the IAAF Council suspended RusAF from membership in November 2015, after a WADA Independent Commission concluded there was a systemic and deeply-rooted culture of doping in Russian athletics. The Council decided that, in order to be reinstated to membership, RusAF must demonstrate that: (i) RusAF complies in full with the World Anti-Doping Code and IAAF Anti-Doping Rules; (ii) the IAAF and RUSADA (the Russian national anti-doping organisation) are able to conduct their anti-doping programmes in Russia (in particular, drug-testing) effectively and without interference; and (iii) as a result, the reintegration of Russian athletes into international competitions will not jeopardise the integrity of those competitions. A number of specific '**Verification Criteria**' were identified that have to be met as part of this task. And in April 2017 the Council approved a '**Roadmap**' proposed by the Taskforce that identified six specific conditions to be met in order for the Taskforce to recommend RusAF's reinstatement. All of these requirements are designed to ensure that RusAF establishes a culture of zero tolerance towards doping in Russian athletics, and that RusAF, RUSADA, and the public authorities in Russia, working in cooperation, create an anti-doping infrastructure that is effective in detecting and deterring cheats, and therefore provides reasonable assurance and protection to clean athletes both inside and outside of Russia.

### Progress since last Council meeting, 26.11.17

3. At the last Council meeting, in November in Monaco, I reported that RusAF seemed to be making good progress in its efforts to change the old culture of doping within Russian track & field, but that various important reinstatement conditions had still not yet been met, including (a) WADA had not yet reinstated RUSADA as a fully reformed and independent national anti-doping organisation, capable of conducting adequate testing of Russian track and field athletes; and (b) the Russian authorities had not acknowledged and addressed Professor Richard McLaren's findings that the Russian Ministry of Sport, supported by other agencies, including RUSADA, had orchestrated a conspiracy to dope Russian athletes and to tamper with the doping control process to prevent that doping being uncovered. The Council agreed with the Taskforce that unless and until Professor McLaren's findings are properly acknowledged and addressed by the Russian authorities, there can be no comfort that such actions will not be repeated in the future. WADA agrees, and therefore has made such acknowledgement a condition of reinstatement of RUSADA.

4. After the last Council meeting, I sent RusAF and the Ministry of Sport a letter listing the last few Verification Criteria that remained outstanding. Since then, however, RusAF has not asked to meet with the Taskforce, and it has made limited progress (and the Ministry of Sport has made no progress) in completing those remaining Verification Criteria. Although they have not said so, this may be because they consider there is little point addressing these remaining items unless and until the overriding issues of acknowledgement of the McLaren findings and reinstatement of RUSADA (which are outside RusAF's control) are resolved.

5. Nevertheless, the Taskforce has kept in contact with RusAF President Dmitry Shlyakhtin, and has had particular exchanges with him on one matter. On 17 January 2018, the media reported that 36 Russian athletes withdrew from a regional competition in Irkutsk after RUSADA doping control officers turned up without prior notice to test at the event (see, e.g., <https://www.insidethegames.biz/articles/1060264/thirty-six-russian-athletes-withdraw-from-regional-event-after-surprise-visit-by-drug-testers>). Obviously that is a matter of great concern to

the Taskforce. The next day, Mr Shlyakhtin contacted the Taskforce on his own initiative, to say that RusAF had investigated, had determined that many of those who withdrew had '*medical exemptions*' that justified their withdrawal, and that this information had been transferred to RUSADA '*for verification*'. The Taskforce was surprised at this, since we had previously pointed out to RusAF that it should not be investigating potential ADRVs, but instead should refer all such matters immediately to RUSADA. We were also unconvinced at his apparent acceptance that many of these withdrawals were justified on 'medical' grounds. We have said in response that RUSADA rather than RusAF should investigate the issue, and have asked for an update on that investigation. No update has yet been received.

6. In addition, the Taskforce has been in contact with the Athletics Integrity Unit (**AIU**) on the following matters:

- The Taskforce received allegations that thirteen Russian nationals had competed at the Open Baltic Masters Championships at Pärnu, Estonia, on 12-13 August 2017, without first obtaining 'neutral athlete' status. The AIU looked into the matter but concluded that it does not have authority over such events, which are sanctioned by the World Masters Association (**WMA**), and therefore it referred the matter to the WMA to follow up.
- WADA has transferred to the AIU details of 1800 samples collected by RUSADA from over 1000 Russian track & field athletes between 2012 and August 2015. The Moscow laboratory analysed these samples and stored the results in its internal database (**LIMS**) but did not report them all to WADA via its ADAMS database. The AIU has been analysing the data to determine whether there are any adverse analytical findings that should be pursued as anti-doping rule violations by the athletes in question. In some cases, the database indicates samples with prohibited substances in them but the athlete who provided the same is only identified by code number, not by name. The AIU has managed to get the number of unattributed samples down from c.500 to 50. Through WADA, the AIU asked RUSADA to identify the athletes who provided those 50 remaining samples as a matter of urgency, since many of the samples had significant prohibited substances present in them. So far, RUSADA has identified the athletes who provided 17 of those samples, but it has not yet identified who provided the remaining 33 samples. The Taskforce considers that this information should be provided without delay, and that RusAF's reinstatement should not be considered while it remains outstanding. Otherwise we will not know whether there was further cheating that should be punished, with any results unfairly obtained to be disqualified.
- In addition, the AIU wishes to re-analyse certain of the samples involved, but has been denied access to those samples (which are stored at the Moscow laboratory) on the grounds that it constitutes a crime scene in a live criminal investigation by the Investigative Committee. Once again, the Taskforce considers that access to all samples for further analysis should be provided without delay, as a further condition to RusAF's reinstatement, so that all potential cheating can be fully investigated and addressed.
- Finally, RusAF asked whether results management of cases involving Russian athletes could be transferred from the AIU to RUSADA, to save costs (since RusAF has to reimburse the IAAF for the costs it incurs in managing such cases, as a condition of reinstatement). The AIU noted that all cases involving national-level athletes do go to RUSADA for results management. However, having consulted with and on the advice of WADA, the AIU declined to transfer results management authority over cases involving international-level Russian athletes to RUSADA (including pending cases arising out of the McLaren findings and cases arising out of the LIMS data mentioned above).

## Current status

7. Here is where we stand today:

**7.1 Roadmap Condition 1 (satisfying the Verification Criteria):** Most of the individual Verification Criteria have been satisfied, but there remain a few material ones still outstanding, including reimbursement of the IAAF for all of the costs that it has incurred to date, and all of the costs that it will incur prior to and after the reinstatement of RusAF, as a result of the need to impose, enforce and assess compliance with the Reinstatement Conditions and the Verification Criteria. The Taskforce understands that a full statement of those costs to date is being drawn up and provided to RusAF, to assist it with organising payment.

**7.2 Roadmap Condition 2 (adequate testing of Russian athletes):** Apart from the potential evasion at the Irkutsk competition noted above, the Taskforce has not been advised of any adverse incidents or difficulties in the testing of Russian track & field athletes in the past few months, whether by the AIU or by RUSADA or its service providers IDTM/PWC. However, the Council confirmed at its last meeting that the Verification Criteria should be amended to require RusAF to work with RUSADA to produce and implement an effective, intelligent and proportionate test distribution plan for the testing of its athletes at the national level that is sufficient to provide reasonable assurance that Russian athletes seeking to compete in international competition will be competing clean.<sup>1</sup> To date, the Taskforce has not received anything from RusAF or RUSADA on this point.

**7.3 Roadmap Condition 3 (demonstrating that provisional suspensions of coaches charged with doping offences can be enforced effectively):** The Russian authorities have advised that the Russian Labor Law has been amended to make it clear that an employer may fire a coach for committing an anti-doping rule violation (new federal law, No. 155241-7). However, the Taskforce has asked for confirmation that this would also permit an employer to suspend a coach provisionally from his job coaching athletes if he is provisionally suspended under the anti-doping rules pending resolution of allegations that he has committed an anti-doping rule violation. (The Council will recall this has been a recurring problem since RusAF was suspended in November 2015). RusAF and the Ministry of Sport have promised to provide such confirmation, but none has been provided to date.

**7.4 Roadmap Condition 4 (RusAF to take appropriate steps to cultivate and support the Clean Sport Movement and the associated Rocket Sport Project championed by certain individual Russian athletes and coaches):** The Taskforce considers that RusAF has met this condition to date.

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<sup>1</sup> To confirm, Verification Criterion 5.3 has been amended as follows (blue text is original, red text is new): 'When RusAF is reinstated to IAAF membership such that it (and/or the Russian Olympic Committee, as applicable) is permitted to enter athletes to represent Russia in international events, nevertheless (unless the IAAF Council agrees otherwise, in its absolute discretion) a Russian athlete may not participate in an international event unless (a) he or she has been in the IAAF's international Registered Testing Pool or in the National Registered Testing Pool maintained by RUSADA and/or the Stand In Agency (whether because he or she is on the National List or otherwise) for at least the six months immediately preceding the event; and (b) during that period he or she has undergone at least three no notice out of competition tests and (if he or she competes in a middle distance, long distance, combined events, or race walk discipline) at least three Athlete Biological Passport tests (blood and urine), all of which must have been conducted in strict compliance with all applicable International Standards. RusAF must ensure that all athletes to whom this requirement may be relevant receive effective and timely written notice of it. RusAF has ensured that an effective, intelligent and proportionate test distribution plan is implemented by RUSADA for testing its athletes at the national level, with the Athletics Integrity Unit to determine whether this condition has been met'.

7.5 **Roadmap Condition 5 (an appropriate official response to the McLaren reports, specifically addressing Professor McLaren's findings that officials from the Ministry for Sport, the FSB, and the Centre for Sport Preparation were involved in the doping scheme, either by convincingly rebutting those findings or else by acknowledging and properly addressing them).** The Taskforce has still received no official communication on this point from the Russian Ministry of Sport, despite several promises that one would be sent, and it is clear that this condition has not been met:

- At the WADA Foundation Board meeting on 16 November 2017, the President of the Russian Olympic Committee, Alexander Zhukov, said: *"We accept that our national anti-doping system has failed. It is also recognized by the country's top leadership. This failure was the result of the organized activities aimed at manipulations with doping samples of the Russian athletes by a group of individuals for their personal benefit. This group consisted of a number of managers within RUSADA, the Moscow anti-doping laboratory and other anti-doping institutions. The level of involvement and guilt of certain individuals will be determined by the Investigative Committee upon the end of investigation. At the same time we absolutely deny the existence of a state-sponsored doping system"*. As noted at the last Council meeting, however, the WADA Foundation Board did not accept that this met the requirement of acceptance of the McLaren findings, in particular because it did not either refute or accept Professor McLaren's findings that the conspiracy was orchestrated by officials in the Ministry of Sport and carried out with the assistance of the FSB. The Taskforce agrees with the WADA Foundation Board on this point.
- In the meantime, a separate commission set up by the IOC to investigate the McLaren findings (the **Schmid Commission**) reported on 5 December 2017 that it agreed with McLaren on *'the existence of a systemic doping scheme in Russia'*, involving *'the systemic manipulation of the anti-doping rules and system in Russia, through the Disappearing Positive Methodology and [by sample swapping] during the Olympic Winter Games Sochi 2014, as well as the various levels of administrative, legal and contractual responsibility, resulting from the failure to respect the respective obligations of the various entities involved'*. In terms of who was responsible for that scheme, the Schmid Commission found that:
  - the Russian Ministry of Sport *'controlled every sphere related to sports in the country, including ... anti-doping'*;
  - *'The detailed analysis of the email exchanges attached to the [McLaren] Reports allows to confirm the involvement of a number of individuals within the Ministry of Sport and its subordinated entities, such as CSP, VNIIFK, RUSADA, Moscow and Sochi laboratories. All the independent and impartial evidence as well as the results of the forensic and biological analysis confirm this conclusion'*;
  - although it was not possible to tell how far up the chain of command in the Ministry the scheme went, Vice-Minister Yuri Nagornych was involved and so was Natalia Zhelanova, anti-doping advisor to the Russian Minister of Sport, Vitaly Mutko;
  - Minister Mutko had told the Schmid Commission that *'all the individuals involved [in the system] were dismissed'*; and
  - Minister Mutko *'had ultimate administrative responsibility for the acts perpetrated at*

*the time within the Russian Ministry or the entities under its responsibility'.<sup>2</sup>*

The Schmid Commission therefore recommended that the IOC Executive Board *"take the appropriate measures that should be strong enough to effectively sanction the existence of a systemic manipulation of the anti-doping rules and system in Russia, as well as the legal responsibility of the various entities involved"*.

- In response, the IOC Executive Board suspended the Russian Olympic Committee and its President, Alexander Zhukov; banned all Ministry of Sport officials from the 2018 Winter Games; banned Minister Mutko and Vice-Minister Nagornych from the Olympic Games for life; set up a mechanism for Russian athletes who could demonstrate that they are clean to compete in the 2018 Games as 'Olympic Athletes from Russia'; and required the ROC to pay \$15 million to reimburse the IOC for the costs of the investigation (and as a contribution towards the setting up of the new International Testing Authority). IOC President Thomas Bach said: *"This was an unprecedented attack on the integrity of the Olympic Games and sport. The IOC EB, after following due process, has issued proportional sanctions for this systemic manipulation while protecting the clean athletes. This should draw a line under this damaging episode and serve as a catalyst for a more effective anti-doping system led by WADA"*.
- The Russian Olympic Committee did not challenge its suspension. However, the Russian authorities have still not acknowledged and sought to address the McLaren findings of an institutionalised doping scheme, even after they were corroborated and endorsed in this clear way by the Schmid Commission. Instead, they have continued to claim that there is no basis for the McLaren findings, and instead this is just a politically motivated attack:
  - At the same time as the Schmid Commission was doing its work, another IOC disciplinary commission (the **Oswald Commission**) was considering whether there was enough evidence against any individual Russian athletes to find that they were knowingly implicated in the sample swapping scheme at the Sochi Games. After commissioning further expert evidence on the opening of the sample collection bottles, the Oswald Commission found that clear evidence existed of the doping scheme that Professor McLaren had described in his reports, and also found that 43 Russian athletes identified by McLaren were knowingly complicit in that conspiracy. It therefore found them guilty of the ADRVs of use of prohibited substances, tampering with doping control, and complicity in the doping scheme, and banned them for life from the Games.
  - In late January 2018 a CAS panel upheld the appeals of 28 of those athletes, and overturned the findings that they had committed ADRVs. It rejected the appeals of 11 other athletes, upholding the findings that they had committed ADRVs, but reduced their bans to one Olympic Games only. The CAS Panel has not yet issued the reasons for its decisions, but our understanding is that the 28 cases involved only disputed evidence about whether marks on a bottle confirmed conclusively that it had been tampered with, whereas in the 11 cases that were upheld, the urine in the bottles contained DNA that did not belong to the athlete and/or a physiologically impossible level of salt, so confirming the bottle had been opened and the urine had been tampered with.
  - Russian politicians and the Russian media responded to these findings by claiming that the CAS had rejected Professor McLaren's finding of a 'state-sponsored' doping scheme;

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<sup>2</sup> On the other hand, the Schmid Commission did not mention and made no findings about the involvement (or lack of involvement) of the FSB in the conspiracy.

and current Russian Minister of Sport Pavel Kolobkov suggested the CAS decisions meant Schmid and Oswald should apologise for their findings of institutionalised doping in Russia. Meanwhile Russian President Vladimir Putin has continued to attack whistleblower Gregory Rodchenkov (who made the allegations that led to the McLaren investigation) as mentally unstable, and has claimed the whole doping crisis has been contrived by the US in order to increase discontent before next month's Presidential elections in Russia; while Russia's Foreign Minister, Sergei Lavrov, has accused the US of orchestrating the doping scandal in order to get Russia suspended from the 2018 Games, because they *"can't beat us fairly. ... I think it's a form of competition without scruples because the US team, obviously, are not capable of beating us fairly at sport"*.

- The Taskforce rejects this interpretation of events:
  - Whereas the issue before the Schmid Commission was whether there was a conspiracy to cover up doping, the issue before the Oswald Commission (and so before the CAS on appeal) was whether or not there was enough evidence to find an athlete complicit in that conspiracy.<sup>3</sup> By finding that there was sufficient evidence of tampering and complicity by eleven athletes, the CAS Panel's decisions effectively confirmed that there was a conspiracy. As the IOC said: *"the confirmation of the Anti-Doping Rule Violations for 11 athletes because of the manipulation of their samples clearly demonstrates once more the existence of the systemic manipulation of the anti-doping system at the Olympic Winter Games Sochi 2014"*.
  - Several other CAS Panels have also acknowledged the existence of this institutionalised scheme to cover up doping by Russian athletes, including the CAS panel that upheld the IAAF's exclusion of Russian athletes from the Rio Olympics (CAS 2016/O/4684), the CAS panel that upheld the IPC's ban of the Russian Paralympic Committee from the Rio Paralympics (CAS 2016/A/4745), the CAS arbitrator who upheld the case brought by the IAAF against Anna Pyatykh (CAS 2017/O/5039), and (most recently) the CAS panel that upheld the IOC's decision not to permit the 28 athletes cleared of ADRVs to participate as 'clean' athletes in the 2018 Winter Games (CAS OG 18/02 and 18/03). Furthermore, the Swiss Federal Tribunal (SFT 4 A\_470/2016), and the German Federal Constitutional Court (Decision of 15 September 2016-1 BvQ 38/16) both acknowledged and relied upon the evidence of an institutional conspiracy in rejecting a request to suspend the ban of the Russian Paralympic team from Rio.
  - As a result, even subsequent to the CAS decisions overturning the Oswald Commission's banning of 28 Russian athletes, WADA President Sir Craig Reedie has reiterated that RUSADA cannot be reinstated until the Russian authorities have acknowledged and adequately addressed the McLaren findings (<https://www.insidethegames.biz/articles/1061198/wada-president-does-not-rule-out-rusada-suspension-remaining-until-tokyo-2020>). The Taskforce is of the view that such acknowledgement of the McLaren findings (and the consequent reinstatement of RUSADA by WADA) should also remain a strict condition of reinstatement of RusAF to membership of the IAAF.

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<sup>3</sup> The CAS press release specifically said: *"The mandate of the CAS Panels was not to determine generally whether there was an organized scheme allowing the manipulation of doping control samples in the Sochi laboratory but was strictly limited to dealing with 39 individual cases and to assess the evidence applicable to each athlete on an individual basis"*.

7.6 **Roadmap Condition 6 (reinstatement of RUSADA as a truly autonomous, independent and properly-resourced national anti-doping organisation):** At its meeting on 16 November 2017, the WADA Foundation Board decided that RUSADA should not be reinstated until the outstanding reinstatement conditions set by WADA have been met, including in particular (i) that the responsible authorities for anti-doping in Russia must publicly accept the reported outcomes of the McLaren investigation; and (ii) that the Russian Government must provide access for appropriate entities to the stored samples and electronic data in the Moscow laboratory relating to analysis of samples from 2011 to 2015. The WADA Foundation Board is scheduled to consider the matter again at its meeting in May 2018. Therefore this condition (reinstatement of RUSADA by WADA) has not yet been met either.

### **Recommendation**

8. Based on the above, the conditions established by the IAAF Council for reinstatement of RusAF to IAAF membership have not yet been met in full. Instead several material conditions remain outstanding, either in whole or in part. The Taskforce therefore recommends that the IAAF Council decides not to reinstate RusAF until all of the reinstatement conditions the Council has set have been met in full.

9. The Taskforce also recommends that the current Verification Criteria be amended as follows (original text in blue, proposed new text in red):

**VC 7.2** RusAF must reimburse the IAAF for all of the costs that the IAAF has incurred to date and that the IAAF will incur (prior to and after the reinstatement of RusAF) as a result of the need to impose, enforce, and assess compliance with the Reinstatement Conditions and these Verification Criteria, including (without limitation) the travel, accommodation, translation, legal and other costs incurred by the IAAF Taskforce, and the CAS costs, translation costs, and legal costs incurred by the IAAF in bringing the cases to CAS that are referenced at paragraphs 3.1, 3.2, 4.3 or 5.6, above, as well as in relation to the cases arising from the re-testing of samples collected at the 2008 and 2012 Olympic Games and any other case referred to CAS as a result of the suspension of RusAF and/or RUSADA, and the costs incurred by the Doping Review Board from 1 January 2018 onwards in dealing with applications by Russian athletes for neutral athlete status.

To date, the IAAF has borne all of the costs of the Doping Review Board dealing with applications by Russian athletes for 'neutral athlete' status. However, with RusAF's suspension now extending into 2018, and with more and more Russian athletes applying for neutral athlete status, it is not fair that the IAAF and its members should bear these costs. Instead, moving forward, the view of the Taskforce is that RusAF should bear these costs.

10. If these recommendations are accepted, then the Taskforce would propose to call RusAF to a meeting in short order, where we will make clear that it needs to start making the necessary effort (and to enlist the Russian Ministry of Sport to make the necessary effort) to complete the outstanding Verification Criteria and the Roadmap conditions to reinstatement as soon as possible.

11. If following that meeting we do not see meaningful progress, the Taskforce will consider whether to recommend to the Council, at its next meeting, in July 2018, (a) that it suspend further operation of the Taskforce; and (b) that it consider taking further measures vis-à-vis RusAF, such as (for example) no longer permitting Russian athletes to participate in international competition as

neutral athletes up to (ultimately) recommending the expulsion of RusAF from membership of the IAAF.

Rune Andersen, Taskforce Chair  
6 March 2018