

WADA COMPLIANCE REVIEW COMMITTEE

An independent standing committee established under Article 11 of the WADA Statutes

17 January 2019

By email

Mr Olivier Niggli
Director General
World Anti-Doping Agency

Dear Olivier

RUSADA

In September 2018, the WADA Executive Committee (**ExCo**) resolved that RUSADA should be reinstated, with the following special post-reinstatement conditions:

- WADA to conduct a compliance audit of RUSADA's operations within four months of reinstatement (the **Audit Requirement**).
- RUSADA and the Russian authorities to procure that the authentic LIMS data and underlying analytical data relating to the testing procedures carried out by the Moscow anti-doping laboratory on samples tested between 1 January 2012 and 31 August 2015 (the **Analytical Data**) are received by WADA by no later than 31 December 2018 (the **Data Requirement**).
- Following WADA's review of the Analytical Data, RUSADA and the Russian authorities to procure that any re-analysis that is required by WADA of any of the samples that are still stored at the Moscow laboratory is completed by a WADA-accredited laboratory by no later than 30 June 2019 (the **Sample Re-Analysis Requirement**).

At its meeting this week, the CRC received the following oral and/or written reports on these requirements:

- from Mr Tom May, head of the WADA team that went to Moscow on 11-12 December 2018 to audit the operations of RUSADA;
- from Dr Olivier Rabin, who was part of the WADA team that went to Moscow on 28 November 2018 to confirm the protocol for extraction of the Analytical Data from the Moscow laboratory;
- from Professor Toni Pascual, who headed the data extraction team that went to Moscow on 17 December 2018 but was unable to complete its mission; and

- from Mr Gunter Younger, Director of the WADA Intelligence & Investigations Department, whose staff members went to Moscow again on 9 January 2019, together with a forensic IT expert (the **WADA Data Team**), to extract the Analytical Data.

After due consideration of these reports, the CRC noted the following:

1. **Audit Requirement:** WADA conducted a compliance audit of RUSADA's operations on 11-12 December 2018, with full cooperation from RUSADA. Based on the report provided by Mr May on behalf of the WADA audit team, it appears that RUSADA is continuing to strengthen its operational activities and increase its level of performance.

2. **Data Requirement:** The Russian authorities and RUSADA failed to procure that the Analytical Data were received by WADA by no later than 31 December 2018. For purposes of the International Standard for Code Compliance by Signatories ([ISCCS](#)), this constitutes a non-conformity with a Critical requirement.

3. **Decision to fast-track this case:** In normal cases, ISCCS Article 9 gives a Signatory an initial three months and then if necessary a further three months to correct a non-conformity with a Critical requirement, before the matter is brought before the CRC. This reflects the strong stakeholder sentiment, explicitly acknowledged in the ISCCS, that formal non-compliance proceedings against a Signatory should be a 'last resort', pursued only after the Signatory has been given several opportunities to correct the non-conformity. However, the WADA Compliance Taskforce took the view that, due to the unique circumstances of this case, urgent action is required in order to maintain confidence in the integrity of sport, which justifies departing from the normal procedure set out in ISCCS Article 9 and instead following the fast-track procedure set out in ISCCS Art 9.5. It therefore referred the file to the CRC immediately. The CRC agreed with that approach.

4. **Russian submission:** In accordance with ISCCS Article 9.5.3, on 1 January 2019 WADA invited the Russian authorities to make a submission to the CRC in relation to the non-conformity with the Data Requirement. In response, letters were received from Russian Minister of Sport Pavel Kolobkov on 10 January 2019 and 14 January 2019, asserting that the Russian authorities were doing everything possible to satisfy the Data Requirement without further delay. Minister Kolobkov said that the Russian authorities had agreed a protocol with WADA for the extraction of the Analytical Data, and had also agreed with WADA on the equipment to be used to accomplish the extraction. He noted that a WADA Data Team had arrived in Moscow on 9 January 2019 and was being given full and unrestricted access to the LIMS database and to the instruments and central server at the Moscow laboratory in order to perform the extraction, which was in process when his letters were sent.

5. **Extraction of the Analytical Data:** Gunter Younger confirmed what Minister Kolobkov had said, and explained what had happened at the laboratory to that point and what he expected to happen over the next few days. And today Mr Younger has confirmed that the mission has been completed as expected, and that the WADA Data Team has left Moscow with all of the Analytical Data. Specifically, he explained that the WADA Data Team has taken forensic images of the Analytical Data from the hard drives of the 19 instruments in the laboratory that were used to test the samples in question, and from the hard drives on the central server that were used to back up the instruments, and it has also obtained a database dump (SQL dump) of the original LIMS database in which some of the Analytical Data were collected. During that process, the WADA Data Team also verified the integrity of the Analytical Data being extracted, i.e., they verified that the data can be opened and read. They have also extracted the meta data from the central server, which will include records of any changes made to the Analytical Data generated by the instruments and saved on the hard drives. In fact, they have obtained a forensic image of the entire central server (approximately seven

terabytes of data). Mr Younger advises that the data from the server, in combination with the data extracted from the instruments and the LIMS database, will put WADA's investigators in a strong position to identify and recover evidence of any intentional manipulation of the Analytical Data. Moreover, the server data will be of significant assistance to the investigators in forming a complete picture of what happened within the Moscow laboratory. In short, the WADA Intelligence & Investigations Department believe they now have everything they need first to confirm the authenticity of the Analytical Data and then to determine which of the athletes whose samples were tested in the relevant period has a case to answer for breach of the anti-doping rules.

6. **No sanction recommended for missing the 31 December deadline:** In every case to date, if a Signatory corrects a non-conformity after the specified deadline but before the CRC meeting at which its case is to be considered, or even after the CRC meeting but before the CRC's recommendation has been considered by the ExCo, then (consistent with the 'last resort' principle mentioned above) the late corrective action has been accepted, with no sanction imposed on the Signatory for missing the specified deadline. The CRC acknowledged the call from some quarters for a different response in this case, but its recommendation is that RUSADA should be treated no differently from other Signatories in this respect. The critical point was to get the Analytical Data, and that has now happened.

7. **Authentication of the Analytical Data:** The next step in the process is to confirm the authenticity of the Analytical Data, starting by taking the different datasets copied from the instrument computers, from the central server, and from the LIMS database, and comparing them with each other and also with the copy of the LIMS database that WADA obtained from a whistleblower in October 2017. The further data copied from the server can be used to investigate any discrepancies identified during this comparison process. The authentication process is expected to take approximately two to three months to complete.

8. **Reporting on authentication:** The WADA Data Team will submit reports every two weeks to the CRC on the progress made in authenticating the Analytical Data. If at any point they report that the Analytical Data have been tampered with by the Russian authorities after 10 November 2015 (the date that WADA suspended the accreditation of the Moscow laboratory and Dr Rodchenkov resigned as director of the laboratory), the CRC will meet without delay to review the facts. If that review confirms the tampering, the CRC will recommend to the ExCo that a formal notice be sent to RUSADA, asserting non-compliance with the Data Requirement and proposing consequences in accordance with ISCCS Annex B, paragraph B.3.1. These will very likely include (a) that Russia may not be granted any right to host any World Championships in any sport for a specified period; and (b) that no Russian officials, athletes or athlete support personnel will be permitted to participate in the 2020 Olympic or Paralympic Games.

9. **Determining which athletes have a case to answer for breach of the anti-doping rules:** Upon successful completion of the authentication process, the WADA Intelligence & Investigations Department will analyse the Analytical Data to determine whether they indicate that athletes whose samples were tested in the relevant period have a case to answer for breach of the anti-doping rules. Gunter Younger noted that his team will be completing that analysis as expeditiously as possible, and liaising as soon as possible with the relevant international federations, who will be responsible for bringing the cases. If as part of that process the WADA investigators decide that any of the samples still in storage at the Moscow laboratory need to be re-analysed to help determine whether the athlete who provided the sample has a case to answer, then (in accordance with the Sample Re-Analysis Requirement) the Russian authorities and RUSADA must procure that such re-analysis is completed at a WADA-accredited laboratory by no later than 30 June 2019. The CRC will continue to receive reports from the WADA Intelligence & Investigations Department throughout this process, and if any non-conformity with this second requirement is reported, again the CRC will convene without

delay and (upon confirmation of the non-conformity) will recommend to the ExCo that a formal notice be sent to RUSADA, asserting non-compliance with the Sample Re-Analysis Requirement and proposing consequences in accordance with ISCCS Annex B, Article B.3.1.

10. **Summary:** WADA has been granted full access to the relevant instruments, server and LIMS database in the Moscow laboratory, and has successfully extracted and brought safely and securely out of Russia all of the Analytical Data required by the ExCo, including data that will assist in assessing the authenticity of that Analytical Data. Once authenticated, the Analytical Data will be analysed to determine who has a case to answer (which may include re-analysis of samples stored at the laboratory), following which evidence packages will be turned over to the relevant international federations to bring disciplinary proceedings against the athletes in question for breach of the anti-doping rules. If at any point in this process it is determined that the Analytical Data provided have been tampered with, or that samples requested have not been provided for re-analysis, the CRC will come back to the ExCo without delay with a recommendation that WADA pursue stringent sanctions as set out in ISCCS Annex B, Article B.3.1.

11. **Recommendation:** The ExCo is asked to note the contents of this report. No further action is recommended at this time.

Yours sincerely,



Jonathan Taylor QC
Chair
WADA Compliance Review Committee