

Questions and Answers Executive Committee Decision: RUSADA Compliance

1. In September 2018, what post-reinstatement conditions were imposed on RUSADA by the WADA Executive Committee (ExCo)?

In September 2018, WADA's ExCo resolved to reinstate the Russian Anti-Doping Agency (RUSADA), subject strictly to the following post-reinstatement conditions:

- WADA to conduct a compliance audit of RUSADA's operations within four months of reinstatement.
- RUSADA and the Russian authorities to procure that the authentic Laboratory Information Management System (LIMS) data and underlying analytical data relating to the testing procedures carried out by the former Moscow Laboratory are received by WADA by 31 December 2018.
- Following WADA's review of the 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 30 June 2019.

2. Given that RUSADA and the Russian authorities did not meet the 31 December 2018 deadline to provide the data, what is the rationale for WADA's ExCo decision of 22 January 2019 to endorse the CRC's recommendation to continue applying conditions of RUSADA compliance?

In its recommendation, endorsed by the ExCo today, WADA's independent Compliance Review Committee (CRC) noted that a WADA audit team had successfully completed a compliance audit of RUSADA in December; but that, the Russian authorities had missed the 31 December 2018 deadline to provide the data. The CRC considered whether any sanction should be imposed for not meeting the deadline, but noted that in all other cases, corrective actions after the specified deadline but before the CRC or ExCo meeting in question has been accepted. This is consistent with the view of stakeholders, which is reflected in the International Standard for Code Compliance by Signatories (ISCCS) – a new Standard that came into force on 1 April 2018 – that formal non-compliance proceedings against a World Anti-Doping Code (Code) Signatory should be a 'last resort', pursued only after the Signatory has been given several opportunities to correct non-conformities. The CRC acknowledged the call from some quarters for a different response in this case, but its recommendation was that RUSADA should be treated no differently from other Signatories in this respect.

For more details, please refer to media release and CRC recommendation of 22 January 2019.

3. Why did WADA allow Russia to provide information after the deadline?

In all cases, the CRC takes into account any relevant information it receives in order to make its recommendation to the ExCo, even if that information arrives from the Signatory after a deadline to address its non-conformities but before the ExCo meets.

This is reflected in the ISCCS.

During the drafting of the ISCCS, WADA was specifically asked by its stakeholders to ensure that every opportunity be given to Signatories to comply with the Code, i.e. they asked WADA to ensure that declaring a Code Signatory non-compliant would be a last resort.

As such, RUSADA has been treated exactly like other Signatories in similar cases.

4. Why did RUSADA and the Russian authorities miss the 31 December 2018 deadline?

The 31 December 2018 [deadline was missed](#) after a previous five-person WADA mission, carried out from [17-21 December](#), was unable to access the data due to an issue raised by the Russian authorities in relation to the certification of the equipment under Russian law. That issue was subsequently resolved by the Russian authorities; and, a three-person WADA mission successfully completed retrieval and left Russia with the data on 17 January.

5. When the WADA expert team was given access to the laboratory, why did it take 8 days for the team to retrieve the data?

There was a huge amount of data, over 20 terabytes, that needed to be imaged (copied), i.e.: images from more than 20 devices (instruments, servers, hard drives). Beyond experiencing some technical difficulties with the imaging process, due to the age of some hard drives, the IT expert had to employ a very careful approach so as to avoid potentially losing data.

6. What process did WADA follow at the point that Russia missed the deadline?

In October 2018, the CRC scheduled an extraordinary in-person meeting for 14-15 January 2019 to consider RUSADA's compliance status. The first reason why those dates were selected was on the basis of them being the closest available dates from the 21 December 2018 deadline when all CRC members could meet in person (which the CRC members felt was imperative). These dates were publicly communicated by WADA, including on its website, since October 2018.

These dates also made it possible for the CRC to receive and discuss full reports from the various WADA expert teams, as well as the audit team that visited RUSADA mid-December and WADA's internal Compliance Taskforce.

Lastly, in cases of non-conformity such as this one, where the special fast-track procedure in Article 9.5 of the ISCCS is being used, the fast-track procedure required WADA to give RUSADA and the Russian authorities a fair opportunity to make a submission for the consideration of the CRC before its meeting.

In fact, on 1 January 2019, when the deadline elapsed, the fast-track process outlined in the ISCCS was instigated and WADA immediately notified RUSADA of the non-conformity as well as its opportunity to make a submission to the CRC. Under the terms of the ISCCS, it is key for WADA, as the regulator, to follow due process.

The CRC then met on 14-15 January as planned and the recommendation was provided to ExCo members on 17 January. ExCo members specifically requested a few days to appropriately review the CRC recommendation and consult with their stakeholders, which is why the extraordinary ExCo conference call was scheduled for one week later, on 22 January. Governments' representatives, in particular, represent a continent within WADA's ExCo and some requested time to consult with the other countries of their region.

7. What specifically is the data and why is it so important?

A WADA expert team (comprised of an independent forensic IT expert supported by two WADA staff) was given full access to the Moscow Laboratory and was able to make forensic images of all of the data from the instruments, from the back-up hard drives on the server, and from the separate LIMS database. The team also took forensic images of further data, including metadata, that will assist in the next phase of the process; during which, WADA's Intelligence and Investigations (I&I) Department, in cooperation with data forensic experts, will seek to confirm the authenticity of the data. This second phase may take two to three months.

The data are crucial to build strong cases against potentially hundreds of cheats and to exonerate other athletes suspected of having participated in widespread doping on the basis of previous WADA-commissioned investigations led by Richard W. Pound and Professor Richard H. McLaren. Specifically, WADA will use the data to determine which athletes have cases to answer for breach of the anti-doping rules and will pass those files on to the relevant International Sports Federations (IFs) to bring the cases forward. The Agency will keep its independent right to appeal any IF decision to the Court of Arbitration for Sport (CAS).

A significant number of cases could not be prosecuted or would be lost without these data.

8. What will WADA do with the data now that they have it?

WADA is now embarking on a second phase, which entails the authentication and review of the data to ensure it is complete and that it has not been compromised. This work will be done by WADA's I&I Department and specialized forensic experts. Given the amount of data, that will take some time to achieve but our experts have the tools they need, and enough information, to be able to verify the data with a high degree of confidence.

Once the data have been authenticated, WADA will be in a position to proceed to the third phase and support the various sports concerned to build strong cases against athletes who doped and, as part of that, ensure that if certain samples are still stored in the Moscow Laboratory, they will be identified for analysis in an accredited laboratory no later than 30 June 2019.

9. What happens if the data has been tampered with?

If at any point in this process it is determined that the data provided have been tampered with, or that samples requested have not been provided for re-analysis by 30 June 2019, the CRC will come back to the ExCo, in accordance with the ISCCS process, with a

recommendation that WADA pursue stringent sanctions as set out in ISCCS Annex B, Article B.3.1.

10. How long will it take WADA to determine whether the data is authentic?

Given the sheer amount of data, we estimate that it may take two-three months to authenticate the data.

11. Who will carry out the data authentication process?

WADA's Intelligence and Investigations (I&I) Department, in cooperation with data forensic experts, will carry out the data authentication process; and, submit progress reports every two weeks to the CRC. If, at any point, it is discovered that the data have been compromised, the CRC will meet without delay to review the facts.

12. Does WADA I&I Department have the necessary capacity to support the various sports concerned in building strong cases against athletes who are uncovered to have Adverse Analytical Findings (AAF) and/or committed Code breaches?

Yes. WADA's I&I Department has already reviewed all data it has had in its possession since October 2017, when it acquired a copy of the Laboratory Information Management System (LIMS) from a whistleblower, in order to identify the most suspicious cases. With the recently acquired/complementary data from the Moscow Laboratory, following data authentication, the I&I Department will be in the position to provide case templates with all evidence available to the respective International Federations (IFs). Then, the IFs will simply have to decide whether or not to commence an Anti-Doping Rule Violation proceeding against the athletes in question. Should an IF choose to close cases, WADA maintains its right to appeal to CAS.

13. Will RUSADA be under heightened compliance monitoring?

WADA will continue monitoring RUSADA to ensure that it is effective, robust and independent in its operational decisions and activities; that it demonstrates good governance, accountability and transparency; and that it operates in an environment that is free from undue external influence.

14. Does WADA have the authority to ban athletes from major sports events?

No, under the Code, WADA does not have the authority to ban athletes from major sporting events. Until the ISCCS came into effect in April 2018, it was the responsibility of the:

- International Olympic Committee (IOC) and the International Paralympic Committee (IPC) to consider, under their respective Charters, to decline entries of all athletes submitted by the Russian Olympic Committee (ROC) and the Russian Paralympic Committee for their events.
- International Federations (IFs) to consider their responsibilities under the Code as far as their Russian National Federations (NFs) are concerned.

As such, RUSADA's compliance made no real difference to Russian athletes competing in major sports events. With the exception of the International Association of Athletics Federations (IAAF), which in November 2015 suspended the All-Russia Athletic Federation (ARAF) following the Pound Report; of the IPC, which in August 2016 suspended the Russian Paralympic Committee following the McLaren Report; and of the International Weightlifting Federation (IWF) to a certain extent, every other sport continued to permit Russian athlete participation.

Therefore, all RUSADA's ongoing non-compliance did was potentially weaken the anti-doping program inside Russia, making it harder for anyone outside the country to believe in them. Its reinstatement changed nothing in terms of participation – all it does is increase the amount of testing of Russian athletes and strengthen the overall anti-doping program there.

The ISCCS is a significant new Standard. It was strongly proposed and supported by the athlete community worldwide that called for Signatories to be held to the same high standard as athletes under the Code and that WADA should be empowered to determine their compliance. Under the ISCCS, WADA monitors compliance and assists any Signatory that becomes non-compliant with clear steps back into the fold.

For those who do not take those steps, there is a range of graded, predictable and proportionate sanctions up to and including the ultimate sanction of removing the right to competition at major events (as determined by the Court of Arbitration for Sport). WADA believes that the ISCCS equips the Agency to deal better with serious circumstances of non-compliance, such as what happened in Russia.