

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

19 June 2018

By email

Mr Olivier Niggli
Director General
World Anti-Doping Agency

Dear Olivier

RUSADA ROADMAP TO REINSTATEMENT

As requested, at its meeting on 14 June 2018 the Compliance Review Committee (CRC) considered:

- (1) whether the letter received by WADA from the Russian Ministry of Sport, the Russian Olympic Committee (ROC) and the Russian Paralympic Committee (RPC) on 14 May 2018 satisfies the Roadmap requirement that the Russian authorities publicly accept the findings in the McLaren Report (i.e., of an institutionalised doping scheme involving named individuals from the Ministry of Sport, the Centre for Sports Preparation, RUSADA, the FSB, and the Moscow anti-doping laboratory); and
- (2) whether it could come up with any recommendations to resolve the deadlock in relation to the other remaining Roadmap requirement, i.e., that the Russian authorities give WADA access to all of the anti-doping samples that are currently stored in the Moscow anti-doping laboratory and to the electronic data for all sample analyses conducted from 2011 to 2015 in that laboratory (to help determine whether any of the athletes who provided those samples were part of that doping scheme).

The CRC began its deliberations by reminding itself that the Roadmap requirements are designed to ensure that RUSADA is only reinstated when (1) it is fully Code compliant again (including being operationally independent) and (2) there is reasonable assurance that it will remain so following its reinstatement. According to Professor McLaren's findings, which were subsequently confirmed by the IOC's Schmid Commission, officials from the Ministry of Sport oversaw an institutionalised conspiracy that corrupted and completely undermined RUSADA's operations. According to the international experts appointed by WADA to oversee the reform of RUSADA, none of the recent reforms would be sufficient to prevent the recurrence of such interference. Therefore, unless and until the McLaren/Schmid findings are acknowledged, and the full scope of that conspiracy and its effect on competition and on clean athletes have been fully addressed, Russian athletes will remain under a cloud of suspicion, and there can be no assurance that RUSADA's operational independence will not be compromised again in the future. That is the backdrop against which the current questions are to be assessed.

First condition (acknowledgement of McLaren findings)

Prior to receipt of the 14 May 2018 letter, the position of the Russian authorities in relation to the McLaren findings was explained by ROC President Alexander Zhukov at the WADA meetings in Seoul in November 2017 as follows:

The McLaren report had become a key reason for the total reorganisation of the Russian anti-doping system. Russia accepted the fact that the national anti-doping system had failed. It had also been recognised by the country's top leadership that the failure had been the result of organised activities aimed at manipulating doping samples of Russian athletes by a group of individuals for their own personal benefit. That group had consisted of a number of individuals within RUSADA, the Moscow anti-doping laboratory and other anti-doping institutions. The level of involvement and the guilt of certain individuals would be determined by the Investigative Committee of Russia at the end of its investigation. At the same time, Russia absolutely denied the existence of a state-sponsored doping system.

The WADA Executive Committee decided that this did not go far enough, because it did not acknowledge that the individuals at RUSADA and the Moscow anti-doping laboratory and other institutions that were being blamed by Mr Zhukov had acted under the direction of officials at the Ministry of Sport.

The 14 May 2018 letter, signed by Russian Minister of Sport Pavel Kolobkov, Mr Zhukov on behalf of the ROC, and Mr Lukin on behalf of the RPC, says the following (in pertinent part):

The serious crisis that has affected the Russian sports was caused by some unacceptable manipulations of the anti-doping system revealed in the investigations conducted under the auspices of WADA (Pound's Independent Commission, McLaren – Independent Person) and the IOC (the Schmid Commission).

As a result of the accomplished investigations, on 5 December 2017 the IOC Executive Board has taken the decision, upon which, inter alia, the Russian Olympic Committee has been suspended. We have accepted and executed this IOC EB decision based on the findings of the Schmid Commission.

On behalf of all the organizations which we represent, we regret sincerely that some manipulations and practices occurred in Russia. ...

It is important to note that the recent CAS decisions caused reasonable doubts in the validity of evidence provided by the former head of the Moscow Anti-Doping Laboratory G. Rodchenkov to the IOC Disciplinary Commission dealing with sanctions for individual athletes.

Along with WADA, our organizations and the Russian state bear the obligation to ensure integrity in sport. We want to assure you that any eventual manipulations and practices were carried out without our knowledge or authorization.

In this regard, it is important to remember the speech of 1 March 2017 in Krasnoyarsk when Mr Putin said: "... despite the shortcomings in the work, we should pay heed to what the independent commission said. We should pay attention to WADA demands as we have to admit that there are established cases of doping. This is totally unacceptable. It means that the existing Russian anti-doping monitoring system has not worked out, and this is our fault, and we should say it aloud and admit".

... In addition, we confirm that appropriate actions have been taken and will be taken against the individuals involved in the operation of the systemic doping scheme including ensuring that such individuals no longer have any role in or influence over Russia's anti-doping efforts. ... We also assure you that we fully support the investigation conducted by the Investigative Committee of Russia with

respect to the alleged anti-doping rules violations. We believe that the guilty will get the punishment they deserve under the court judgements. ...

The CRC noted that the reference in this letter to the McLaren Report, and the acknowledgement of its findings, are phrased in very general terms. The letter also emphasises that it was unidentified 'individuals' who were guilty of corrupting the system, and there is no acknowledgement that anyone at the Ministry of Sport was involved in (let alone directed) the scheme. To the contrary, the letter insists that 'any eventual manipulations and practices were carried out without our knowledge or authorization', and that the failure by the authorities was in 'the anti-doping monitoring system' (i.e., not spotting what others were doing). And at the same time, it is suggested that there are 'shortcomings' in McLaren's work and doubts over the evidence of Rodchenkov on which McLaren relied.

The CRC is concerned at the continuing lack of acknowledgement of the specific finding by both McLaren and Schmid that Ministry of Sport officials directed the doping scheme. And that concern is exacerbated by the following report that appeared in the Russian media on 25 May 2018:

A letter from Russia to the Executive Board of the World Anti-Doping Agency (WADA) admits the findings of the International Olympic Committee (IOC) Special Commission of Samuel Schmid, but rejects the so-called McLaren report, Russian Sports Minister Pavel Kolobkov said on Friday.

"We have stated in our letter that we do accept the decision of the International Olympic Committee, that we stand for cooperation with international organizations and are ready for a dialogue, since we are interested in the mutual development of sports," Kolobkov said speaking on the sidelines of the 2018 St. Petersburg International Economic Forum (SPIEF).

"This decision was based on the findings of the Schmid commission, however, we disagree with the McLaren report as it contains unsubstantiated conclusions," Kolobkov said.

"These conclusions may be declared as substantiated only in court after a thorough investigation and with irrefutable evidence in place," the minister said. "The Russian Investigative Committee keeps proceeding with its own investigation on the issue and if somebody is found guilty, the punishment is definitely to follow."

Given this, it obviously cannot be said that the Russian authorities have accepted the findings of the McLaren Report. However, the article also suggests a possible solution. Since the Russian authorities apparently accept the Schmid Commission's findings, they should therefore be able to acknowledge specifically the finding at page 25, paragraph 7 of the Schmid Commission's report that 'a number of individuals within the Ministry of Sport and its subordinated entities' were involved in the 'manipulations' they refer to in their letter of 14 May. If they were to do so, in writing, then the CRC would recommend that this condition be considered satisfied. We would therefore be grateful if you would communicate this view to the Russian authorities, and ask for their response before the CRC meets again (on 21 August 2018), so that we can consider that response and make the appropriate recommendation for consideration by the WADA Executive Committee at its meeting in September.

Second condition (access to analytical data and samples stored at the Moscow laboratory)

The second condition is designed to resolve the controversy about the number of Russian athletes who were doped as part of this conspiracy. It is not fair either to Russian athletes under a cloud of suspicion, or to the athletes they competed against, for this uncertainty to remain. Nor is it consistent with WADA's mission to protect clean athletes.

Gunter Younger, Director of WADA's Intelligence & Investigations Department, told the CRC that (1) the copy that WADA has of the Moscow laboratory's LIMS database includes 9,453 suspicious findings that were not reported in ADAMS, some of which relate to the 2,876 samples still stored at the Moscow laboratory; and (2) if WADA is given access to the analytical data stored on the hard drives of the laboratory instruments that generated those findings, his department will be able to resolve those suspicions (in some cases, subject to re-testing of the samples), either by concluding that the athlete has no case to answer (which may well be the conclusion in the majority of cases), or else by deciding, in respect of certain of the samples, that there is a case to answer.

The CRC noted that although the Russian authorities have insisted that no access can be given to any evidence at the Moscow laboratory until the Russian Investigative Committee has completed its own investigation, the Russian Minister for Sport, Pavel Kolobkov, has explained that '[procedural decisions concerning access to sealed samples can be taken by the Investigative Committee of the Russian Federation exceptionally](#)', and the Russian Investigative Committee itself has stated that it is ready to work collaboratively with WADA, and has recently provided some other information to Mr Younger. The CRC also noted from the report of RUSADA for the period 16-31/5/18 that in response to an official request from RUSADA the Russian Investigative Committee provided a confirmatory list of the samples sealed at the Moscow anti-doping laboratory. This shows for the first time progress in this matter.

The CRC therefore suggests that WADA write to Minister Kolobkov, setting out exactly what data/samples it needs access to, and why, and proposing conditions for joint access that provide the Investigative Committee with complete transparency and comfort that nothing proposed will compromise any evidence, and asking Minister Kolobkov to use his good offices to secure the Investigative Committee's agreement and cooperation. If the CRC is advised at its meeting on 21 August 2018 that the Investigative Committee has met that request, or at least has committed unconditionally to do so by a specific date in 2018, it would likely consider this last condition satisfied as well, and therefore (assuming the first condition had also been met, as set out above) the CRC would be in a position to recommend immediate reinstatement of RUSADA for consideration by the WADA Executive Committee at its September 2018 meeting.

Please feel free to contact me if you have any questions about the CRC's position. Otherwise, however, we look forward to hearing back from you, hopefully with positive news on the proposals set out above, prior to the CRC's meeting on 21 August 2018.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Jonathan Taylor'.

Jonathan Taylor QC
Chair
WADA Compliance Review Committee