

RUSADA COMPLIANCE

COURT OF ARBITRATION FOR SPORT DECISION OF 17 DECEMBER 2020

QUESTIONS AND ANSWERS

1. What brought about this case?

When WADA reinstated the Russian Anti-Doping Agency (RUSADA) as compliant with the World Anti-Doping Code (Code) in [September 2018](#), the WADA [Executive Committee](#) (ExCo) set out certain conditions that RUSADA and the Russian authorities needed to fulfil. Notably, WADA was to be provided with full access to the authentic data and samples held at the former Moscow anti-doping Laboratory. The data and samples were retrieved from the laboratory by a team led by the WADA Intelligence and Investigations (I&I) Department.

A detailed forensic analysis of the data by WADA I&I and independent forensic experts from Lausanne University's Institute of Forensic Science, however, revealed extensive manipulation and deletion of some data. This led to a fast-track compliance procedure being opened by WADA on [22 September 2019](#), in line with the [International Standard for Code Compliance by Signatories](#) (ISCCS). In that context, the Russian authorities were given the opportunity to provide responses to a list of detailed and technical questions raised by WADA I&I and the independent forensic experts. A [report](#) was then submitted to the independent Compliance Review Committee (CRC).

On [25 November 2019](#), the CRC recommended to the ExCo that RUSADA's non-compliance be reasserted for a period of four years, that a series of strong consequences be imposed and that stringent reinstatement conditions be established. Meeting in Lausanne on [9 December 2019](#), the ExCo unanimously endorsed the CRC's [recommendation](#) in accordance with the ISCCS.

The recommendation was not accepted by RUSADA and so the matter was referred to the Court of Arbitration for Sport (CAS), where a hearing took place from 2-5 November 2020. On [17 December 2020](#), CAS ruled in favour of WADA but decided to impose a different set of consequences to those recommended by WADA, declaring RUSADA non-compliant with the Code for a period of two years from 17 December 2020 until 16 December 2022 (the "Two-Year Period"), not four as had been recommended.

2. What consequences did CAS impose?

CAS imposed the following consequences:

- During the Two-Year Period, Russian Government officials/representatives may not sit or be appointed to sit as members of the boards or committees or any other bodies of any Code Signatory (or its members) or association of Signatories.

- Russian Government officials/representatives may not participate in or attend any of the following events held in the Two-Year Period: (a) the Olympic Games and Paralympic Games (summer and winter); (b) any World Championships organized or sanctioned by any Signatory (together, the Covered Events).

Note: The above orders do not apply to a Government Representative who, in their personal capacity only, is an International Olympic Committee (IOC) or International Paralympic Committee (IPC) member or is otherwise elected to an IOC/IPC body or appointed by the IOC/IPC to sit on IOC/IPC bodies; who is invited to a specified event by the Head of State or Prime Minister (or equivalent) of the host country of that specified event; or who is required to be accredited for and participate in a specified event in their capacity as an athlete or legitimate athlete support personnel.

- During the Two-Year Period, Russia may not host, bid for or be granted the right to host any editions of the Covered Events.

Note: Where the right to host a Covered Event in the Two-Year Period has already been awarded to Russia, the Signatory must withdraw that right and re-assign the event to another country, unless it is legally or practically impossible to do so.

- The flag of the Russian Federation (current or historical) may not be flown at any Covered Event staged in the Two-Year Period. This includes at any official venue or area controlled by the relevant Signatory or event organizer appointed by the Signatory.
- The Russian anthem (or any anthem linked to Russia) shall not be officially played or sung at any venue or other area controlled by the Signatory or its appointed event organizer in a Covered Event, including medal ceremonies and opening/closing ceremonies.

3. Has the full reasoned award been published?

Yes, under the terms of Article 10.4.1 of the [International Standard for Code Compliance by Signatories](#) (ISCCS), the 186-page [full reasoned decision](#) has been publicly reported by CAS and WADA. WADA strongly believes it is important to have a public award for the sake of clarity and transparency. In addition, WADA published a [Legal Note](#) on the award, which outlines the background leading to the CAS proceedings, provides a summary of the parties' key arguments, and summarizes the CAS decision.

4. What is WADA's reaction to the CAS decision?

WADA is pleased to have successfully proven its case in the face of continual resistance and denial from the Russian authorities, and in accordance with due process. We left no stone unturned in investigating this very complex matter and in presenting our case before CAS. The Panel clearly upheld our findings that the Russian authorities brazenly and illegally manipulated the Moscow Laboratory data in an effort to cover up an institutionalized doping scheme.

We are also satisfied that this landmark decision upholds the strong investigative and legal framework put in place by WADA in recent years that underpins the anti-doping system. In particular, the investigative powers WADA acquired in 2015 and the introduction of the ISCCS in 2018 have proven to be game changers. The award clearly endorses the resolute, process-driven approach taken by WADA in dealing effectively with this case.

We are, however, disappointed that the CAS Panel did not endorse all our recommended consequences for the four-year period we requested. We believe they were proportionate to the egregious nature of the offences committed by the Russian authorities as they sought to cover up the details of their institutionalized doping scheme. However, ultimately WADA is not the judge but the prosecutor and we must respect the decision of the Panel.

5. If WADA is disappointed with aspects of the decision, why did it choose not to appeal it?

WADA was disappointed that the CAS Panel, based on its own assessment of proportionality, decided not to impose all the consequences that WADA sought (and not for the full four-year period). However, the grounds of appeal to the Swiss Federal Tribunal are effectively limited to procedural matters such as jurisdiction, the composition of the Panel and the right to be heard. The Swiss Federal Tribunal does not conduct a review of the merits (save for a breach of public policy) and would therefore not interfere with the Panel's assessment of the proportionality of the consequences. As a result, and following unanimous advice from in-house and external legal counsel, WADA strongly believes an appeal would have served no useful purpose.

6. What is WADA's role in the implementation of this CAS award?

While WADA is not primarily responsible for how the stated consequences are to be implemented in practice, WADA is monitoring the enforcement of the CAS decision by all World Anti-Doping Code Signatory organizations as part of its Code compliance monitoring program to ensure that all the consequences are properly applied.

7. What happens if the terms of this decision are ignored or breached?

The terms of this decision are binding for all Signatories and WADA can treat any breach as a non-conformity and deal with it as a compliance matter under the ISCCS.

8. Which Russian athletes are allowed to participate in the Covered Events?

Under the terms of the CAS decision, Russian athletes and their support personnel may only participate in Covered Events staged in the Two-Year Period where they are not otherwise subject to periods of ineligibility, restriction, condition or exclusion imposed by a competent authority in any past or future proceedings which remains in force at the time of the event.

Athletes from Russia shall participate in a uniform to be approved by the relevant Signatory which shall not contain the flag, any national emblem or other national symbol of the Russian Federation. If the uniform contains or displays the name "Russia", the words "neutral athlete" (or an equivalent) must be displayed in English in a position and size that is no less prominent than

the name “Russia”. The uniform may contain the colors of the Russian flag (collectively or in combination).

9. Who decides whether it is legally and practically possible to withdraw hosting rights for Covered Events scheduled to be held in Russia during the Two-Year Period?

The Code Signatories, whether International Federations (IFs), the IOC, IPC, or other Major Event Organizations, are responsible for their part in implementing the consequences. As such, it is for the Signatories to withdraw and re-assign hosting rights unless they can demonstrate it is legally or practically impossible to do so. If a Signatory does not comply with this, it could trigger a compliance procedure, which would come before the independent Compliance Review Committee (CRC) for possible recommendation to, and decision by WADA’s ExCo. If the Signatory does not agree with that decision, ultimately, it will be for CAS to decide. WADA is proactively contacting all relevant Signatories to ensure these terms of the CAS Award are implemented appropriately.

10. If time is too short to make alternative arrangements for hosting a Covered Event that was attributed to Russia, then does that make it “practically impossible” to withdraw hosting rights from Russia?

The consequence does not anticipate cancelling Covered Events. It proposes re-assigning them. If a Signatory can demonstrate that it is not possible to find another host for the event, then the “practically impossible” proviso would in principle apply.

11. Are there restrictions on the President, the Secretary-General, the CEO, or any member of the Executive Board/Governing Board of either the Russian Olympic Committee (ROC) or the Russian Paralympic Committee (RPC) from participating in or attend any Covered Event staged in the Two-Year Period?

No, unless they are also Government officials/representatives. WADA’s recommendation was for those individuals to be included in the restrictions but that was not upheld by CAS.

12. What do and do not constitute “World Championships”?

The term World Championships, in the context of the Covered Events, indicates the event or series of events by which the relevant IF determines its open, senior world champions (men’s and women’s, and in any of its various disciplines, including para-sport). If this determination is made through a series of World Cups or other events that include ranking points, then those events are considered to be part of the World Championships. To be clear, this covers the World Championships of all IFs that are Code Signatories, not just those that are recognized by the IOC.

World Cup events that do not determine an IF’s world champions are not considered to be Covered Events in the context of the proposed consequences. Neither are junior, masters or age-group World Championships. Qualifying events for a World Championship or the Olympic Games are not considered to be Covered Events and neither are continental or regional championships.

13. How is “Government Representatives” defined for the purposes of this decision?

Government Representatives include any person who, as of the date of the award or during the Two-Year Period, met or meets one or more of the following categories:

- Deputy Minister, Minister, Deputy Prime Minister, Prime Minister or President of the Russian Federation (whatever their formal title).
- Members of the Federal Assembly of the Russian Federation, including both the Upper House (the Federation Council) and the Lower House (the State Duma).
- The Heads and Deputy Heads (whatever their formal title, e.g., Directors and Deputy Directors) of the Federal Services and Agencies, and of the Centre for Sports Preparation.
- Any person working for the Administrative Directorate of the President of the Russian Federation and/or for the Russian Investigative Committee.

14. What will this ban ‘look like’ during the Olympic Games? Will it be similar to PyeongChang 2018?

This ban covers two editions of the Olympic Games – Tokyo 2020 and Beijing 2022. It will differ from that imposed at PyeongChang 2018 as the Russian Olympic Committee (ROC) is not suspended. If the uniform contains or displays the name “Russia”, the words “neutral athlete” (or an equivalent) must be displayed in English in a position and size that is no less prominent than the name “Russia”. The athletes will be entered to the Games by the ROC but they will not represent the Russian Federation and cannot be shown as representing the country. The flag of the Russian Federation (current or historical) will not be flown at any Covered Event staged in the Two-Year Period. This will include at any official venue or area controlled by the relevant Signatory or event organizer appointed by the Signatory. The Russian anthem (or any anthem linked to Russia) will not be officially played or sung at any venue or other area controlled by the Signatory or its appointed event organizer in a Covered Event, including medal ceremonies and opening/closing ceremonies. WADA’s proposed consequences went further than this but were not approved by CAS.

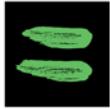
15. What happens to RUSADA during the period where the consequences apply?

As it relates to RUSADA, in line with the WADA ExCo recommendation, CAS decided not to impose any special monitoring or supervision or takeover of RUSADA’s anti-doping activities in the Two-Year Period. RUSADA will continue to carry out its work, subject to close monitoring from WADA. One of the conditions of reinstatement will be that WADA remains satisfied throughout the Two-Year Period that RUSADA’s independence is being respected and there is no improper outside interference with its operations.

16. Are there any conditions attached to RUSADA’s reinstatement once the Two-Year Period has elapsed?

Yes, in addition to a ruling on costs outlined in the answer to question 18 below, the following reinstatement conditions apply under the terms of the CAS decision:

- RUSADA shall, under supervision of WADA I&I or the Athletics Integrity Unit (AIU) of World Athletics (as applicable), conduct investigations into any cases impacted by the



deletions and/or alterations of the Moscow Laboratory data, as notified by WADA, including doing everything possible to locate the complete and authentic data from the Moscow Laboratory relating to those cases, so as to rectify in full the tampering that has impacted those cases.

- RUSADA shall, as soon as possible and in good faith, provide any other support (including locating and providing any further data or information, and/or carrying out interviews or other investigative measures) as required by WADA or any other Anti-Doping Organization (ADO) to assist in determining whether Russian athletes whose samples are listed in the Moscow Laboratory LIMS database provided to WADA by a whistle-blower in or around October 2017 have a case to answer for breach of the anti-doping rules.
- RUSADA shall, where requested by WADA I&I, conduct results management in respect of adverse analytical findings identified by the targeted re-analysis of the samples obtained by WADA I&I from the Moscow Laboratory in April 2019.
- An international observer must remain on RUSADA's Supervisory Board and RUSADA's Director General must provide quarterly reports to WADA confirming that RUSADA's independence has been fully respected by the Russian authorities and no attempt has been made to interfere in any of its operations.
- RUSADA must not interfere with the efforts of other ADOs to test and/or investigate athletes in Russia.
- All consequences imposed for RUSADA's non-compliance must have been respected and observed in full by RUSADA throughout the Two-Year Period during which the consequences are in place.

17. Who decides if the reinstatement conditions are met and what happens if they are not?

WADA, upon advice from the CRC, will determine if the reinstatement conditions are met. Ultimately, in case of disagreement between WADA and RUSADA, this will be for CAS to decide. Failure to meet the reinstatement conditions in full would lead to RUSADA's non-compliance status being maintained until such time as they have been met.

18. Was there any ruling around costs?

Yes. As a condition of its reinstatement, RUSADA has been ordered to pay WADA USD 1,270,000 as a contribution towards costs incurred between January 2019 and the date of the award in investigating the authenticity of the laboratory data. It has also been ordered to pay a fine to WADA of 10% of its 2019 income or USD 100,000 (whichever is lower); 80% of the costs of the arbitration; and it must also pay WADA a further amount of CHF 400,000 as contribution towards the Agency's expenses incurred throughout the arbitration proceedings.

19. What is the status of the Moscow Laboratory?

As per a decision of [April 2016](#), the accreditation of the National Anti-Doping Laboratory of Moscow remains revoked. In addition, the [provisional suspension](#) of the approved status of the laboratory related to the analysis of blood samples in connection with the Athlete Biological

Passport program also remains in place pending formal disciplinary proceedings, which can now proceed following the conclusion of this case.

20. What is happening with the evidence gathered in the course of the investigations into the Russian doping scheme?

The evidence underlying the McLaren Reports, the LIMS data (together with the associated analytical data) as well as the samples seized from the Moscow laboratory have already led to significantly more than 100 Russian athletes being charged with anti-doping rule violations. In addition, WADA is actively following up on and assisting Signatories with the results management of other potential anti-doping rule violations arising from the Russian doping scheme. In cases where Signatories choose not to pursue, WADA retains the right to bring them forward to CAS, as appropriate.

21. What resources have been used for this investigation?

The entire WADA I&I department has worked on this CRC-mandated investigation and WADA estimates that since January 2019, more than 10,000 hours have been spent on this very technical and sophisticated investigation. Due to the forensic examination and other necessary investments, it is estimated that WADA I&I had to spend around USD 2 million. In total, since the beginning of 2015, WADA has spent in the region of USD 10 million on matters related to the Russian doping scheme. It is positive, therefore, that CAS has made a strong ruling in relation to fines and costs (see question 18) so that WADA can recoup some of the resources spent on this long-running and complex case.

22. Is the anti-doping system stronger or weaker now than it was when the Russian doping crisis was revealed?

Today, the global anti-doping program is much stronger than it was at the time of the Sochi Olympic and Paralympic Games in 2014, and with the revised Code that came into force on 1 January 2021, the program is even stronger. The CAS ruling was made possible by the enhancements that have been put in place by WADA since the end of 2014 when the Russian doping program was first exposed. In particular, WADA's acquisition of investigative powers in 2015 and the growth of our independent Intelligence and Investigations Department have proven to be a game-changer, while the ISCCS that entered into effect in April 2018 has stood up to this rigorous test. This CAS decision in such a high-profile and complex case demonstrates that the legal framework underpinning anti-doping works and works well.

23. What are the next steps?

The consequences and reinstatement conditions are binding and must be recognized and enforced by all Signatories. WADA will be monitoring the implementation of the CAS Award and will continue to follow up with Signatories regarding results management of cases arising from the data and samples retrieved from the Moscow Laboratory.