

IAAF TASKFORCE REPORT TO COUNCIL, 4 DECEMBER 2018

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

2. As a reminder, RusAF was suspended from membership of the IAAF in November 2015, after a WADA Commission concluded there was a systemic and deeply-rooted culture of doping in Russian athletics. Council decided that, in order to be reinstated to membership, RusAF must demonstrate that: (i) it 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 and will be 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 (the 'Reinstatement Conditions'). A number of specific 'Verification Criteria' were identified that have to be met as part of this task. In April 2017 Council approved a 'Roadmap' proposed by the Taskforce that identified six specific conditions to be met in order for the Taskforce to consider recommending RusAF's reinstatement. And in 2018 Council added a further requirement relating to the LIMS data provided by WADA to the IAAF in December 2017. 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, so that RusAF and its athletes can start participating again in international competitions without jeopardising the integrity of those competitions.

Engagement with RusAF since the last Council meeting, on 27 July 2018

3. At its last meeting, Council accepted the Taskforce's recommendation that RusAF should not be reinstated until certain costs had been paid by RusAF and the last three outstanding requirements had been met: Roadmap Condition 5 (relating to the McLaren reports), Roadmap Condition 6 (relating to reinstatement of RUSADA by WADA), and the LIMS-related requirement (provision of information to the AIU about the results of analysis by the Moscow anti-doping laboratory of samples collected from Russian track & field athletes in the period 2012-2015).

4. Since July, the Taskforce has continued to receive monthly updates from RusAF on its anti-doping activities, which have included (1) undertaking further anti-doping training of athletes and coaches; (2) persuading RUSADA to test certain athletes who were not previously tested; and (3) taking further steps to warn athletes not to associate with coaches who have been banned from the sport (this follows reports earlier in 2018 that banned coaches Viktor Chegin and Vladimir Khazarin were still active in the sport).

5. On 25 September 2018, RusAF filed an appeal with the Court of Arbitration for Sport against Council's decision not to reinstate RusAF in July. In the appeal, RusAF argues that the IAAF should be required to reinstate RusAF immediately, on the basis that the three outstanding requirements either (a) have since been met; or (b) are unlawful and therefore do not have to be met. An answer to that appeal was filed on behalf of the IAAF on 20 November 2018, robustly rejecting RusAF's arguments and insisting that it is for Council, and Council alone, to determine when RusAF has done enough to be reinstated. CAS is expected to hold a hearing on the appeal some time in the first quarter of 2019.

6. The full Taskforce met in Rome on 8 November 2018 with Dmitry Shlyakhtin, the President of RusAF, and Artem Yakubov, a representative of the Russian Minister of Sport. We had a useful and constructive discussion with them about progress to that date and their proposals to address the outstanding requirements.

Current status

7. Here is where we stand today:

7.1 Roadmap Condition 1 (satisfying the Verification Criteria):

7.1.1 The only Verification Criterion that currently remains outstanding is Verification Criterion 7.2, which requires RusAF to reimburse the IAAF for all of the costs incurred by the IAAF 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, including the Taskforce costs, the costs of the Russia-related cases that have been taken to CAS, and the costs incurred by the Doping Review Board from 1 January 2018 in dealing with applications from Russian athletes for neutral athlete status.

7.1.2 In July, Mr Shlyakhtin gave the Taskforce a formal assurance that RusAF would pay all of these costs once the invoice and supporting documents had been received. The invoice and supporting documents for costs incurred through 30 June 2018 were received in October 2018. However, on 8 November Mr Shlyakhtin advised the Taskforce that RusAF is not in a position to pay the invoice immediately. He asked whether RusAF could be permitted to pay the debt in instalments over a six month period. He also asked that full payment not be made a condition of reinstatement, but instead, once all other requirements are met, that RusAF be reinstated even if some instalments of the debt have not yet become due and so are still outstanding.

7.1.3 While RUSAF's capacity to generate its own revenues may have been compromised during the period of suspension of its IAAF membership, RUSAF has been aware since at least December 2016 of this requirement to pay the IAAF's costs, and as recently as July 2018 it provided an unconditional assurance of payment of those costs in full upon receipt of an appropriate invoice and supporting documentation. The Taskforce does not think it fair that the IAAF and its other members should have to bear those costs any longer. Therefore the Taskforce recommends below that Council insist on the payment of the costs as a condition of reinstatement.

7.2 **Roadmap Condition 2 (adequate testing of Russian athletes):** A further update on this condition was provided to the Taskforce during the Rome meeting. RusAF has continued its push to have more of its athletes included in RUSADA's testing pools, with at least 400 athletes now included, an increase of around 150 since July. RUSADA has collected 1,930 blood or urine samples from Russian national-level athletes to date in 2018, and the total is expected to exceed 2,000 by the end of the year. (Despite some reservations previously that RusAF would have to pay for a considerable amount of that testing from its own budget, RusAF has confirmed that RUSADA has not sought payment for the additional level of testing). The Taskforce therefore considers that this condition continues to be met.

7.3 **Roadmap Condition 3 (demonstrating that provisional suspensions of coaches charged with doping offences can be enforced effectively):** Council will recall that the

Taskforce reported in July that this condition has been satisfied. That remains the position.

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): As previously reported to Council, the Taskforce considers that this condition has been met and continues to be met to date.

7.5 Roadmap Condition 5 (an appropriate official response be provided 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).

7.5.1 Council has previously agreed with the Taskforce that this condition is very important in terms of delivering assurance that reintegrating RusAF and its athletes to international competitions will not undermine the integrity of those competitions. Unless the McLaren findings are acknowledged and properly addressed, how can we feel confident that there will not further undermining of RUSADA's activities moving forward?

7.5.2 In July the Taskforce reported that it understood WADA had proposed a solution to the Russian authorities that could resolve this issue prior to the next meeting of the WADA Executive Committee. The detail of that solution became clear with the issue of a WADA press release on 20 September 2018, which stated: *'the letter from the Russian Ministry of Sport sent to WADA on the 13th September 2018 amounts to an acceptance of all of the findings of the IOC Schmid Report (which itself endorsed the core findings of the WADA commissioned McLaren Investigation reports), including that "a number of individuals within the Ministry of Sport and its subordinated entities" were involved in the manipulations of the anti-doping system in Russia. The Russian Ministry of Sport's letter states: "The Russian Federation fully accepted the decision of the IOC Executive Board of 5 December 2017 that was made based on the findings of the Schmid Report"'*.

7.5.3 In its July report to Council, the Taskforce observed that the Schmid Commission agreed with Professor McLaren's conclusion that there was a *'systemic manipulation of the anti-doping rules and system in Russia, through the Disappearing Positive Methodology and during the Olympic Winter Games Sochi 2014'*; and it also agreed with him that the scheme was orchestrated from within the Ministry of Sport, going at least as high at Deputy Minister Yuri Nagornykh.

7.5.4 The Taskforce remains disappointed that Russia has not recognised all of the findings of the McLaren reports directly. However, the Taskforce notes that WADA has accepted the acknowledgement by Russia of the findings of the Schmid Commission as tantamount to acceptance of the McLaren reports, leading to WADA's reinstatement of RUSADA on 20 September 2018. The Taskforce therefore accepts that this condition has been met, but will continue to monitor the steps that Russia takes to address these findings.

7.6 Roadmap Condition 6 (WADA has determined that all of the conditions it has specified for the reinstatement of RUSADA as a truly autonomous, independent and properly-resourced national anti-doping organisation have been met, and on that basis has reinstated RUSADA as the official, Code-compliant NADO for Russia)

7.6.1 On 20 September 2018, RUSADA was fully reinstated by WADA following a decision

of the WADA Executive Committee. However, the Taskforce notes that this was based on a change in WADA's roadmap for the reinstatement of RUSADA. That roadmap originally required two pre-conditions to be met: (1) acknowledgement of the McLaren findings; and (2) access to the samples and electronic data stored at the Moscow laboratory relating to analysis of samples collected from Russian athletes from 2012 to 2015. As discussed above, the first condition was met to the satisfaction of the WADA Executive Committee by the Russian Sports Minister's letter of 13 September 2018. The Taskforce reflected at length on WADA's decision to turn a critical pre-reinstatement condition into a 'post-reinstatement condition'. While the Taskforce would have preferred that reinstatement of RUSADA by WADA be based on RUSADA having met all conditions, the fact of an imminent deadline to meet the post-reinstatement condition (December 31st 2018) provides the assurance the Taskforce requires to accept that this requirement has been met. The Taskforce understands that WADA will consider the position of RUSADA again if the post-reinstatement condition is not met by the end of 2018. If WADA decides to suspend RUSADA again, then this requirement will no longer be met.

7.7 Lastly, an additional requirement added in 2018 (access to analytical data stored at the Moscow laboratory relating to analysis of samples collected from Russian athletes in the period 2012 to 2015, and – if necessary – access to the samples themselves for re-analysis)

7.7.1 Council will recall why this new requirement was added:

7.7.1.1 In late 2017, WADA obtained from a whistle-blower a copy of the "LIMS" database maintained by the Moscow anti-doping laboratory, which summarised the lab's findings from analysis of samples sent to the lab in the period January 2012 to August 2015. The LIMS database included thousands of suspicious findings, for athletes from different sports, that the Moscow laboratory had failed to file in the central WADA database (ADAMS), in breach of the requirements of the WADA Code.

7.7.1.2 In December 2017, WADA transferred to the AIU details of the findings recorded in the Moscow laboratory's LIMS database in respect of 1,800 samples collected by RUSADA from over 1,000 Russian track & field athletes between 2012 and August 2015.

7.7.1.3 At the next Council meeting, in March 2018, the Taskforce recommended that to the extent the AIU needed further information or cooperation from the Russian authorities to determine whether ADRV proceedings should be brought against any of those athletes, the provision of that information and cooperation should be a further condition of reinstatement of RUSADA. Council agreed with that recommendation.

7.7.1.4 On 22 July 2018, the AIU advised that in order to decide whether any of these athletes has a case to answer, it needs to receive the analytical data underlying the findings reported in the LIMS database (i.e., the actual chromatograms and electropherograms generated during analysis of the samples), as well as the related samples themselves (for purpose of re-analysis), and the names of the athletes who had provided certain unattributed samples. At its meeting five days later, Council accepted the Taskforce's recommendation that receipt of this information by the AIU

should be a condition of reinstatement of RusAF, on the basis that RusAF and its athletes cannot be re-integrated into international competitions without undermining the integrity of those competitions if there remains a suspicion that some of those athletes may have evaded punishment for doping.

7.7.2 To date, this requirement has not been met. The AIU still does not have the access to the information it needs to determine whether any of the 1,000 Russian athletes from whom samples were collected by RUSADA in the period 2012 to 2015 have cases to answer for breach of the IAAF Anti-Doping Rules. At the Rome meeting, the Ministry of Sport representative noted that it was not within RusAF's power to meet this requirement. The Taskforce did not find it necessary to challenge him on that issue, however, because he nonetheless assured the Taskforce that this requirement will be met in due course.

7.7.3 As noted above, WADA also required access to the analytical data underlying the LIMS findings and to the related samples, as a condition of reinstatement of RUSADA. However, on 20 September 2018 WADA agreed to change that from a pre-condition to reinstatement of RUSADA to the following two separate post-reinstatement conditions: (1) the Russian authorities must permit an independent expert to access the instruments in the Moscow laboratory to extract an authentic copy of the underlying analytical data (for athletes from all sports, including athletics) by no later than 31 December 2018; and (2) once that data has been reviewed to determine which samples need to be re-analysed, the Russian authorities must permit re-analysis of those samples at a WADA-accredited laboratory by no later than 30 June 2019.

7.7.4 WADA had its own reasons for doing this. In short, the compliance regime under which RUSADA had been declared non-compliant back in 2015 did not give WADA the power to impose any meaningful consequences if the Russian authorities continued to withhold access to the data and samples held at the Moscow laboratory; but WADA now has a new compliance regime that provides for significant consequences for non-compliance. Therefore, by reinstating RUSADA and making provision of the data and samples a post-reinstatement condition, the new regime applies, and Russia faces significant consequences if the data and samples are not provided by the deadlines WADA has set.

7.7.5 However, WADA's decision to convert this requirement into two post-reinstatement conditions does not bind the IAAF, and in the view of the Taskforce there is no reason for the IAAF to follow it. In particular, the IAAF does not have the same problem that WADA had of needing to change from an old compliance regime to a new compliance regime. Instead, Council is free to continue to insist that the AIU's requirements must be met before RusAF is reinstated. And the Taskforce strongly recommends that Council does so, because until those requirements are met the AIU cannot decide whether the 1,000 Russian athletes whose test results are in the LIMS database do or do not have cases to answer for breach of the IAAF Anti-Doping Rules. In the view of the Taskforce, to admit RusAF and its athletes back into international competitions without resolving these doubts would clearly jeopardise the integrity of those competitions.

Recommendation

8. Based on the above, the Taskforce RECOMMENDS that Council resolves as follows:

8.1 That the IAAF shall invoice RusAF in January 2019 for the further costs incurred by the IAAF between 30 June and 31 December 2018 that are payable by RusAF pursuant to Verification Criterion 7.2; thereafter the IAAF shall invoice RusAF for the ongoing costs on a monthly basis; and RusAF shall not be reinstated unless and until all outstanding invoices have been paid in full.

8.2 That prior to reinstatement the IAAF shall enter into a formal legal agreement with RusAF, in a form acceptable to IAAF management, that commits RusAF to pay any further relevant costs incurred by the IAAF following RusAF's reinstatement (e.g., the costs of monitoring compliance with post-reinstatement conditions, and the costs of any further cases that the AIU has to bring against Russian athletes). Those costs shall be invoiced by the IAAF on a monthly basis for payment by RusAF within 30 days of receipt, with appropriate remedies applicable in the event of non-payment.

8.3 In addition, there shall be no reinstatement unless and until the AIU confirms that it is satisfied that:

- (a) it has been given the information it requires to identify all of the athletes who provided the samples listed in the part of the LIMS database transferred by WADA to the AIU;**
- (b) it has received all of the analytical data produced by the Moscow lab when it analysed those samples (i.e., the chromatograms, the electropherograms, chain of custody records, etc.);**
- (c) any samples that the AIU considers need to be re-analysed (and that are still in the possession of the Moscow lab) have been sent to a WADA-accredited laboratory for re-analysis;**
- (d) these data and samples are authentic and have not been tampered with; and**
- (e) the AIU therefore has everything in the possession of the Moscow anti-doping laboratory that it needs to determine whether any of the athletes whose samples were included in the LIMS data has a case to answer for breach of the IAAF Anti-Doping Rules and/or the RusAF Anti-Doping Rules.**

9. The Taskforce stands ready to provide any guidance or support that RusAF may need in addressing the remaining requirements set out above. If and when they are met, then -- barring any unexpected developments (such as evidence emerging that requirements that the Taskforce thought had been met in fact have not been met, or are no longer being met) - - the Taskforce considers that it will be ready to recommend the reinstatement of RusAF's membership benefits (potentially in instalments). Any such recommendation will also include proposals as to the post-reinstatement conditions that the Taskforce considers Council should impose on RusAF to guard against future back-sliding.

10. Finally, **the Taskforce RECOMMENDS that the following paragraph be added to the Verification Criteria**, to reflect the fact that all anti-doping rule violations committed by international-level athletes and athlete support personnel on or after 3 April 2017 are now prosecuted by the AIU before the Disciplinary Tribunal:

5.12 Notwithstanding any other provision of these Verification Criteria, but subject to any contrary agreement made by the IAAF with athletes who have been granted Authorised Neutral Athlete status:

5.12.1 Where an International-Level Athlete or Athlete Support Personnel that is under RusAF's jurisdiction has a case to answer for a violation of the IAAF Anti-Doping Rules committed on or after 3 April 2017, the Athletics Integrity Unit ('AIU') will prosecute the case at first instance before the Disciplinary Tribunal in accordance with Article 8 of the IAAF Anti-Doping Rules, subject to appeal of the Disciplinary Tribunal's decision to CAS in accordance with Article 13 of the IAAF Anti-Doping Rules.

5.12.2 For the avoidance of doubt, where an International-Level Athlete or Athlete Support Personnel that is under RusAF's jurisdiction has a case to answer for a violation of the IAAF Anti-Doping Rules committed before 3 April 2017, the case will be prosecuted by the AIU on behalf of RusAF at RusAF's cost, in accordance with Verification Criteria 3.1.2 - 3.1.3.

Rune Andersen, Taskforce Chair
4 December 2018