

# IAAF COMMENTS ON INDEPENDENT COMMISSION'S REPORT #1

## EXECUTIVE SUMMARY

On 9 November 2015, the Independent Commission issued a report (the **IC Report**) that set out evidence of widespread doping by Russian athletes, but also suggested that 'particular highly placed members and officials of IAAF' may have taken bribes to delay the bringing of anti-doping charges against certain athletes in 2012. On that basis, the Independent Commission suggested that it had 'identified systemic failures within the IAAF and Russia that prevent or diminish the possibility of an effective anti-doping program ...'.

These allegations of corruption by individuals formerly associated with the IAAF are truly abhorrent, and the IAAF cannot, and does not, seek to avoid or downplay them in any way. The IAAF wishes to salute the courage of the whistle-blowers (including its own staff members) who have helped to expose the wrongdoing described in the IC Report. It will do everything in its power to punish the wrongdoers and to reform its own systems to make sure that no one can ever again interfere improperly with its anti-doping procedures.

However, the IAAF believes it is also important to point out that:

- No doping case has been covered up by the IAAF. All cases that should have been pursued were pursued and all cases that should have been sanctioned were sanctioned in accordance with IAAF Rules and the World Anti-Doping Code.
- The IAAF is aware of four cases where (as the Independent Commission suggests) there were unexplained and suspicious delays in the prescribed results management process. These delays ranged between 3 and 6 months, from June 2012 to September-December 2012, before the athletes were provisionally suspended or they withdrew from competition. All four cases have since been concluded with doping violations and lengthy bans of more than 2 years.
- Only a very small number of individuals formerly associated with the IAAF are believed to have been involved in the alleged corruption of these four cases. The Independent Commission itself has emphasised in its first report that 'the allegations of corrupt behaviour affect a fraction of the many hard-working and committed men and women of the IAAF and ARAF. The IC was impressed by the courage of several staff members of the IAAF and whistle-blowers within Russian athletics, who took a stand against corruption within their sport'.
- In fact, without ever being aware of the alleged corruption, those IAAF staff members objected to what they considered to be inappropriate delays in the results management of the ABP cases in question and took repeated action to ensure that the athletes were withdrawn from competition before the end of 2012. The IAAF staff also succeeded in ensuring that each of the cases resulted in lengthy bans for the athletes and that all tainted competition results were disqualified (including medal performances by two of the athletes at the 2012 Olympic Games).
- As soon as they became aware of allegations of corrupt conduct, those same IAAF staff members also ensured that the matter was brought to the immediate attention of the IAAF Ethics Commission in April 2014, and thereafter they cooperated fully with the Commission's investigation of the matter, which last week culminated in four of the individuals involved being found guilty of multiple breaches of the IAAF Code of Ethics.
- The IAAF is not aware of any other interference with any other aspect of the work of the IAAF Medical & Anti-Doping Department. To the contrary, the IAAF believes that the work of that Department continues to be at the cutting edge of the fight against doping in sport, with results

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that match or exceed those of any other anti-doping organisation. There is no allegation or suspicion of interference in any of the thousands of other doping files handled by the IAAF.

- In particular, there can be no doubt as to the IAAF's commitment to the fight against doping in Russian athletics. Since 2011, 76 elite Russian athletes have been sanctioned thanks to the IAAF anti-doping programme, including 33 on the basis of the IAAF's ABP programme. The IAAF has caught and sanctioned more athletes in Russia than any other international federation.
- The IAAF offers this analysis not to try to downplay or distract from the allegations of corruption in the IC Report, but only to reassure the Athletics community that it has not been failing to take effective action in the fight against doping in its sport, but instead has had, and continues to have, many dedicated professionals fighting that fight robustly and to good effect. There is no systemic corruption within the IAAF, but instead a dedicated staff with high ethical standards whose work has contributed greatly to the fight against doping. The IAAF trusts that the actions of an alleged corrupt few will not be allowed to take away from that fact.

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### Introduction

On 9 November 2015, the Independent Commission appointed by WADA issued a report (the **IC Report**) that set out evidence of widespread doping by Russian athletes, but also suggested that ['particular highly placed members and officials of IAAF'](#) may have taken bribes to delay the bringing of anti-doping charges against certain athletes in 2012, thereby enabling those athletes to compete in the 2012 Olympic Games, when they should properly have been excluded. On that basis, the Independent Commission suggested that it had ['identified systemic failures within the IAAF and Russia that prevent or diminish the possibility of an effective anti-doping program ...'](#)

These allegations of corruption by individuals formerly associated with the IAAF are truly abhorrent, and the IAAF cannot, and does not, seek to avoid or downplay them in any way. The IAAF wishes to salute the courage of Vitaly Stepanov and Yuliya Stepanova and the other whistle-blowers (including its own staff members) who have helped to expose the wrongdoing described in the IC Report. It will do everything in its power to punish the wrongdoers and to reform its own systems to make sure that no one can ever again interfere improperly with its anti-doping procedures.

However, the IAAF believes it is also important to point out that:

- **No doping case has been covered up by the IAAF. All cases that should have been pursued were pursued and (where the charges have been upheld) all cases that should have been sanctioned were sanctioned in accordance with IAAF Rules and the World Anti-Doping Code. Where this outcome was not achieved at first instance, the IAAF has appealed to the CAS to ensure a proper outcome.**

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- The IAAF is aware of four cases (but only four, all of them Athlete Biological Passport (ABP) cases) where (as the Independent Commission suggests) there were unexplained and suspicious delays in the prescribed results management process. These delays ranged between 3 and 6 months, from June 2012 to September-December 2012, before the athletes were provisionally suspended or they withdrew from competition. All four cases were eventually concluded with doping violations and aggravated sanctions of more than 2 years. (See para 2.3 below)
- Only a very small number of individuals associated with the IAAF is believed to have been involved in the alleged corruption of these four cases. The Independent Commission itself has emphasised in its report that ['the allegations of corrupt behaviour affect a fraction of the many hard-working and committed men and women of the IAAF and ARAF. The IC was impressed by the courage of several staff members of the IAAF and whistle-blowers within Russian athletics, who took a stand against corruption within their sport'](#). (See para 1.22 below).
- In fact, without ever being aware of the alleged corruption, those IAAF staff members objected to what they considered to be inappropriate delays in the results management of the ABP cases in question and took repeated action to ensure that the cases were not covered up. In particular, they ensured that charges were brought and provisional suspensions were imposed or the athlete withdrew from competition in each of the cases before the end of 2012. The IAAF staff also worked hard to ensure that each of the cases eventually culminated in lengthy bans for the athletes involved, as well as in the disqualification of all tainted competition results in contested proceedings before the Court of Arbitration for Sport (including the medals won by two of the athletes at the 2012 Olympic Games).
- As soon as they became aware of allegations of corrupt conduct, those same IAAF staff members also ensured that the matter was brought to the immediate attention of the IAAF Ethics Commission in April 2014, and thereafter they cooperated fully with the Ethics Commission's investigation of the matter, which has culminated in four of the individuals involved being found guilty of multiple breaches of the Code of Ethics, three of whom have been banned from the sport for life.
- The IAAF is not aware of any other interference with any other aspect of the work of the IAAF Medical & Anti-Doping Department, including its decisions as to which athletes to include in its Registered Testing Pool, as to which athletes to test, and when, as to its management of ABP cases, and/or as to its results management in doping cases generally.
- **To the contrary, in each of those areas, the IAAF sincerely believes that the work of the IAAF Medical & Anti-Doping Department continues to be at the cutting edge of the fight against doping in sport, using all available tools in order to pursue intelligent testing that effectively detects and discourages doping in athletics, with results that match or exceed those of any other anti-doping organisation. There is no allegation or suspicion of interference in any of the thousands of other doping files handled by the IAAF, and nor is the IAAF aware of any such interference. Instead, all of those files have been handed properly and robustly, leading to the successful detection and punishment of hundreds of cheats, and strong deterrence of cheating by others.**

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- In particular, there can be no doubt as to the IAAF's commitment to the fight against doping in Russian athletics. The IAAF has always recognised Russia as a high risk country for blood doping, as evidenced by the substantial contingent of Russian athletes that it has put into its Registered Testing Pool, and its targeting of those and other Russian athletes as part of its general out-of-competition testing programme and, specifically, as part of its ABP programme. Since 2011, 76 elite Russian athletes have been sanctioned thanks to the IAAF anti-doping programme, including 33 on the basis of the IAAF's ABP programme. Furthermore, a significant number of Russian athletes have been caught and sanctioned as a result of the IAAF policy of storing and re-testing samples when new detection techniques have been developed (a practice that is unique amongst international federations). **The IAAF has caught and sanctioned more international-level athletes in Russia than any other international federation.**

The IAAF makes good each of these points in the analysis set out below. It offers this analysis not to try to downplay or distract from the allegations of corruption in the IC Report, but only to reassure the Independent Commission and all of the stakeholders in the sport that it has not been failing to take effective action in the fight against doping in its sport, but instead has had, and continues to have, many dedicated professionals fighting that fight robustly and to good effect. With the greatest respect, the IAAF does not believe that there is any 'systemic failure' within the IAAF that has prevented its anti-doping programme from being effective. There is no systemic corruption within the IAAF, but instead a dedicated staff with high ethical standards whose work has contributed greatly to the fight against doping in sport not only in athletics but also (through the significant support and assistance that the IAAF Medical & Anti-Doping Department has provided to WADA over the years) throughout sport generally. The IAAF trusts that the actions of an alleged corrupt few will not be allowed to take away from that fact.

### **1. The IAAF's Athlete Biological Passport programme, and how the IAAF staff resisted attempts to interfere with it**

#### **1A. The IAAF's Medical & Anti-Doping Department**

- 1.1 The IAAF Medical & Anti-Doping Department has a dedicated staff of 10 persons, many of whom have become experts in their respective fields and who have contributed significantly to advancing the fight against doping in sport through their participation in expert working groups organised by WADA and other anti-doping organisations.
- 1.2 The IAAF has always conducted significant drug-testing of athletes under its jurisdiction, including not just urine testing but also blood testing, on a scale unmatched by most other sports anti-doping organisations. For example, from 2001 to the end of 2008, the IAAF collected a total of 7794 blood samples from 3711 athletes, and conducted 6621 urine EPO tests in what was one of the world's largest and most comprehensive blood testing programmes in place at the time. And since 2009, the IAAF has collected over 13,000 ABP blood samples from more than 5,500 athletes, and conducted more than 7,400 urine rEPO tests.
- 1.3 The IAAF agrees with the WADA Independent Commission that it is not the quantity of drug tests that matters but instead the quality of those tests.<sup>1</sup> In fact, the IAAF believes it has been a leader in this field, having developed an intelligent, risk-based test distribution plan for athletics that includes substantial no-notice out-of-competition testing based on collection of daily whereabouts information from around 600 athletes in the IAAF's Registered Testing Pool,<sup>2</sup> and targeted urine and blood testing of those athletes and other

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elite athletes competing at international events, using the full menu of available drug tests, including rEPO tests, HBOC tests, and blood transfusion tests. IAAF staff members have been involved in a handpicked WADA working group that have incorporated these principles into WADA's International Standards for Testing since 2007. The IAAF has also created an intelligence unit to gather intelligence to inform its test distribution plans and investigate possible violations;<sup>3</sup> and pursued a successful strategy of storage and re-testing of samples once new testing techniques have been developed.<sup>4</sup> And whenever new testing techniques have been developed, it has incorporated them immediately into its test distribution plan, including in particular implementing the Athlete Biological Passport (**ABP**) programme immediately upon its validation by WADA in 2009. Through all these methods, and in particular with the success of its rEPO urine testing and of its ABP programme, the IAAF truly believes that it has demonstrated a commitment to fighting doping in its sport that stands comparison with any other anti-doping organisation governed by the World Anti-Doping Code.

### 1B. The IAAF's ABP programme

- 1.4 Testing for different forms of blood doping has formed a central part of the IAAF's test distribution planning since 2001, but for a long time the available tools to detect blood doping were relatively weak (for example, the direct urine test for rEPO, though very reliable, has a very small detection window). Starting in 2006, therefore, WADA began working with the IAAF and other stakeholders and scientists to evaluate the feasibility of developing a new tool, called the Athlete Biological Passport, that would produce reliable evidence of blood doping that would be 'both scientifically and legally robust'.<sup>5</sup>
- 1.5 The idea behind the ABP, in brief, is to monitor changes over time in parameters in an athlete's blood that would ordinarily be expected to remain relatively stable, but that will deviate from the norm in predictable ways in the event of blood doping. Injecting an ESA or transfusing blood will have a marked and predictable effect on various blood parameters that should otherwise (if everything else is equal) remain relatively stable. Therefore, just as the medical profession tracks certain haematological parameters as biological markers of disease, so too changes in haematological parameters can be tracked as biomarkers of blood doping.<sup>6</sup>
- 1.6 After much work by a WADA working group that included IAAF staff members, and following several pilot projects, all of the necessary elements of this new 'indirect detection' method were identified,<sup>7</sup> and they were set out in a document that WADA approved and adopted with effect from 1 December 2009 (the WADA ABP Operating Guidelines & Compilation of Required Elements', or **WADA ABP Protocol**).<sup>8</sup> In short:
  - 1.6.1 A number of blood samples are collected from an athlete over time; they are sent to a laboratory, where various parameters in the samples are measured (including haemoglobin concentration (**HGB**)<sup>9</sup> and percentage of reticulocytes (**RET%**),<sup>10</sup> which combined together produce an **OFF-score**<sup>11</sup>) and the data is stored in the WADA ADAMS database; a longitudinal profile of that data is created; and a standardised Bayesian statistical model (the **Adaptive Model**) is used to predict the range into which the athlete's future values would normally be expected to fall, assuming the athlete is healthy and not blood-doping.<sup>12</sup> The Adaptive Model calculates the likelihood that values falling outside that range would be observed absent a medical condition or blood doping, and if that likelihood is sufficiently small (e.g., no more

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than 1 in 1,000), then the profile is sent for review first by a single expert and then by three independent experts.

- 1.6.2 Those three independent experts first have to review the sample collection forms, the chain of custody forms, and the laboratory documentation packages (including the blood results, the scatter grams, the internal chain of custody, and the internal and external quality controls) in order to ascertain compliance with the mandatory protocols for sample collection, transport and analysis set out in the WADA ABP Protocol, to ensure that the samples have been collected, transported and analysed properly and consistently, so that the values reported are reliable and may be fairly compared from one sample to the next.<sup>13</sup>
- 1.6.3 The experts then have to consider whether there are any other plausible explanations for the deviation observed in the profile (such as extreme physiology, altitude, recent exercise, a medical condition, etc.).<sup>14</sup>
- 1.6.4 If (but only if) the experts unanimously conclude that the values in the profile are reliable and fairly comparable, and that it is highly likely that the abnormal deviation is due to blood doping, and any other explanation is unlikely, then the athlete is contacted and given an opportunity to raise any potentially relevant medical issues or other explanation for his or her abnormal values.
- 1.6.5 If (but only if) the experts unanimously consider any explanation offered by the athlete to be implausible, may the IAAF then charge the athlete with blood doping in breach of IAAF Rule 32.2(d) (Use of a Prohibited Substance or a Prohibited Method).<sup>15</sup> The opinion of the three independent experts is binding on the IAAF and, if they conclude that there is a case to pursue, the IAAF has no option but to pursue it.
- 1.6.6 **In summary, therefore, before an athlete can be charged with blood doping under the ABP programme, the athlete's atypical profile is sent for review by three independent experts who verify first that the samples in the profile are reliable and then that the athlete has no plausible explanation for the abnormalities observed. Only if, following such review, the experts are unanimous in their conclusion that the athlete is highly likely to have blood doped does a case proceed to discipline. Historically, just under 50% of the atypical profiles submitted to expertise under the IAAF's ABP programmes have resulted in athletes being sanctioned for blood doping.**<sup>16</sup>
- 1.7 In 2009, although it was not a mandatory requirement under the WADA ABP Protocol (and is still not a mandatory requirement today), the IAAF immediately established a dedicated ABP programme for the sport of athletics. The IAAF was one of only a very few anti-doping organisations (mainly international federations) that chose to implement an ABP programme at that time.
- 1.8 The IAAF's initial approach to developing an ABP programme in athletics was very different to that of other international federations such as the UCI and FIS. First, the IAAF sought to draw upon its considerable experience from blood sampling elite athletes since 2001 to identify target countries for ABP testing and specific athletes for target testing from within those countries. A number of countries were identified by the IAAF as being susceptible to blood doping in the period from 2001-2008 (as reported in the IAAF's prevalence study

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published in 2011<sup>17</sup>). The IAAF was able to use that information to good effect in drawing up an intelligence-based Registered Testing Pool for the immediate targeting of specific athletes for ABP purposes. In addition, starting in 2010, the IAAF embarked upon a series of mass screening initiatives conducted at international level competitions (including world and continental championships), which meant it was able to collect blood samples from thousands of elite athletes across all disciplines and different age groups, and so establish individual passports for a significant cross-section of its athlete population.

- 1.9 The IAAF's ABP testing programme at the outset was an ambitious one and it gave rise to a number of practical challenges in the field, notably when it came to testing out-of-competition in certain jurisdictions. The WADA ABP Protocol stipulated the need for strict adherence to a number of mandatory protocols for blood sample collection, transportation and analysis by WADA-accredited laboratories in order '[to harmonize the results of monitored variables within the Athlete Biological Passport to ensure both legal fortitude and scientific certainty](#)', and yet it still took some time beyond 2009 for WADA to develop an international network of accredited/approved laboratories that were able to conduct analysis of ABP samples to the requisite standard. For example, the WADA-accredited laboratory in Moscow was not accredited to conduct ABP analyses until mid-2011. Given that the WADA ABP Protocol at the time required that ABP samples be analysed within 36 hours of collection, the fact that the laboratory in Moscow could not carry out that analysis made ABP testing of athletes in Russia virtually impossible before mid-2011. There were also practical issues in collecting ABP samples in Africa and other jurisdictions of interest to the IAAF that meant that samples could not be shipped in secure conditions for analysis within the 36 hour timeframe stipulated in the WADA ABP Protocol. These logistical issues took some time to be resolved, and they remain problematic in some jurisdictions even today.
- 1.10 As well as adapting its blood sampling protocols to WADA's requirements, the IAAF also proceeded to establish protocols for the results management of ABP samples. The WADA ABP Protocol stipulated in this regard that there had to be a secretariat responsible for administering and managing the ABP programme '[within or on behalf of the Anti-Doping Organisation](#)'. In January 2011, the IAAF outsourced this function to the Athlete Passport Management Unit (**APMU**) established by the WADA-accredited laboratory in Lausanne, Switzerland. Under this arrangement, the APMU were to monitor the passports of each athlete in the Registered Testing Pool by exporting test results from the ADAMS database and identifying any anomalies in the passports that should besent for expert review. The APMU was also required to review the analytical documentation for each sample in an athlete's profile, to ensure that it complied with the strict requirements of the WADA ABP Protocol. In contrast to the situation today, where there are nine WADA-approved APMUs operating worldwide, Lausanne was one of the few APMUs that had been established in 2011 and, given the volume of passports that the IAAF ABP programme was generating (as well as Lausanne's contractual commitments to other sports such as cycling), these functions ended up being largely shared between the APMU and the IAAF Medical and Scientific Manager.
- 1.11 In early 2011, the IAAF also moved to appoint some of the world's leading experts in blood doping in Professor Giuseppe d'Onofrio, Professor Olaf Schumacher and Dr Michel Audran to act as members of its expert review panel in accordance with the detailed results management protocols in the WADA ABP Protocol.<sup>18</sup>

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- 1.12 By the end of 2010, the IAAF had collected nearly 2,000 ABP samples from over 1,300 athletes. By the end of 2011, it was more than 4,700 ABP samples from 2,800 athletes. The first atypical profiles were identified for expert review in the first quarter of 2011. The IAAF's initial policy (developed in consultation with its appointed experts) was to ensure that there were at least two abnormal sequences of values in each ABP profile, as well as a suitable mix of some samples collected during the off-season and others during periods of competition. This allowed the experts to consider the likelihood of specific doping scenarios occurring within each passport, and created a sound basis for the IAAF to pursue a policy of treating ABP violations as serious doping violations warranting an aggravated sanction of 4 years, in accordance with the then-applicable provisions of the World Anti-Doping Code (subject to the possibility that the Code gave to the athlete to promptly accept a sanction upon notification of the charge, which had the consequence of reducing the potential 4 year sanction to 2 years).
- 1.13 Once a profile had been identified as atypical, the process for evaluating each passport under the results management protocols in place at the time was a lengthy one involving multiple steps conducted both internally by the IAAF Medical and Scientific Manager and by reference to various third parties outside of the IAAF (e.g., APMU, laboratories and experts). Before an athlete could be charged with an anti-doping rule violation, the results management process typically included the following: matching doping control forms with analytical results on ADAMS; updating the atypical profile and referring it for single expert review; contacting each laboratory that had analysed a sample forming part of the profile to provide a laboratory documentation package; referring the file to the three-person expert panel; notifying the athlete of the abnormal profile via his or her national federation; providing the athlete with an opportunity to provide a medical or other explanation for the abnormalities in the profile; anonymizing the data provided by the athlete and re-submitting the file to the 3-person expert panel; and finally charging the athlete.

As noted in Figure 1, below, these various steps could take 12-21 weeks to complete.

**Atypical ABP Results Management Process - 2011/2012**

<i>Process / Action</i>	<i>Timeline</i>
→ Matching the Laboratory results to the Doping Control Forms in ADAMS	0,5 week per sample
→ Updating the .abp files and sending a typical profile to a single ABP Expert	1 to 2 week(s)
→ <b>Single ABP Expert's reply</b>	0,5 week
→ Contacting the relevant laboratories and collecting all Laboratory Documentation Packages	2 to 3 week(s)
→ Referring the file to be checked by the APMU (for compliance with the mandatory collection, transport and analysis protocols)	2 to 3 week(s)
→ Sending the Laboratory Documentation Packages (by mail) to the three experts for separate review	0,5 week
→ <b>ABP Panel (3 members) Expert Review # 1</b>	1 to 3 week(s)
→ Sending a letter (Post mail) to the athlete (via NF) and notifying her of his abnormal profile (with all LDPs)	0,5 weeks
→ <b>Athlete to provide any medical or other explanation for the profile's abnormalities</b>	2 to 4 weeks
→ Anonymising the athlete's response and sending it to the ABP expert panel	0,5 week
→ <b>ABP Panel (3 members) Expert Review # 2</b>	1 to 3 week(s)
→ Sending charging letter to the athlete	0,5 week
<b>Total</b>	<b>12 to 21 weeks</b>

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- 1.14 The first ABP case brought forward by the IAAF as an anti-doping rule violation involved Portuguese athlete, Helder Ornelas. In May 2011, the IAAF charged Mr Ornelas with an ABP violation based on abnormal values in a profile based on ABP samples collected between December 2009 and November 2010. The IAAF sought an increased sanction of 4 years on the basis that the profile evidenced multiple episodes of blood doping. The disciplinary tribunal at national level in Portugal agreed and banned Mr Ornelas for a period of 4 years, as well as disqualifying all his results from December 2009 onwards.
- 1.15 Between April and November 2011, six more ABP cases were brought forward by the IAAF, including cases against four Russian athletes (Zinurova, Alminova, Klyuka, and Yulamanova). A high number of other ABP profiles, including profiles of Russian athletes, were also identified as being atypical at the end of 2011 and referred to the IAAF expert panel for review.
- 1.16 To date, the IAAF has collected over 13,000 blood samples for ABP purposes from more than 5,500 athletes, across all disciplines of the sport. The IAAF has created ABP profiles for each of those athletes based on those samples, which profiles have always been visible to WADA and other stakeholders via ADAMS and through data-sharing agreements that the IAAF has made with more than 25 other anti-doping organisations. The IAAF is strictly compliant with the WADA ABP Guidelines and related documents. All tests conducted by the IAAF in the course of its ABP programme are, without exception, analysed in WADA-accredited laboratories that are, in turn, obliged to report the results to WADA, via ADAMS. This is to ensure that WADA can monitor to ensure that all abnormal profiles are duly followed up by the relevant anti-doping organisation. WADA and the IAAF have at all times remained in close contact since 2011 in relation to the management of the results of the IAAF ABP programme.
- 1.17 To date, the IAAF has charged a total of 69 athletes with blood doping based on their ABP profiles, and has provisionally suspended athletes from competition pending determination of the charge (including even before such provisional suspensions were mandatory under the World Anti-Doping Code<sup>19</sup>). As of the time of writing, 58 of those athletes have had the charges against them upheld and have been banned from the sport, many of them receiving increased sanctions under the rules. The remaining 11 cases are still pending. Meanwhile, 12 other atypical ABP profiles are undergoing expert review at the time of writing and could lead to further charges.
- 1.18 Only 85 ABP cases have ever been brought in total across all sports, meaning that the IAAF's 69 cases constitute more than 80% of all ABP cases brought. The IAAF's 58 ABP bans (to date) are more than every other anti-doping organisation in the world combined (the UCI is next, with 13).

### **1C. Improper interference with the ABP programme**

- 1.19 The summary 'investigative findings' at the beginning of the IC Report include the following: 'Corruption and Bribery within IAAF – This Report also identifies corruption and bribery practices at the highest level of international athletics, evidence of which has been transmitted to Interpol for appropriate investigation'.<sup>20</sup> Then, in the list of specific findings at pp.28-31 of the IC Report, nineteen 'specific findings' are set out in respect of the IAAF, of which seventeen relate to that same allegation, namely that very high-ranking IAAF officials corruptly covered up/delayed prosecution of doping cases against eight different athletes (seven Russians and one Turkish athlete) so that they could compete at the 2012 Olympic

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Games. In particular, it is stated that '[t]he IC investigation ultimately corroborated the whistleblower's allegations of a multifaceted and complex conspiracy involving members of the athletic community within the IAAF and ARAF'.<sup>21</sup> More specifically, 'there existed a consistent disregard for ethical behaviour and a conspiracy to conduct and conceal corrupt behaviour by particular highly placed members and officials of IAAF and the ARAF. For reasons detailed below, the IC is currently withholding information as to how and by whom, unlawful disclosures and acts were carried out'.<sup>22</sup> Nevertheless, certain details are provided:

- 1.19.1 The IC Report notes that in November 2011, the IAAF Medical & Anti-Doping Department put together a list of 23 Russian athletes with suspicious ABP profiles, all of which were referred to its panel of independent experts for assessment.<sup>23</sup> That same month, there was an 'unauthorised disclosure' of that list by a person or persons unnamed to Valentin Balakhnichev, who was at the time IAAF Treasurer but also President of the Russian national athletic federation (ARAF).<sup>24</sup>
- 1.19.2 The IC Report states that the ARAF 'engage[d] in wrongful conduct in order to delay the application of the ADRVs, thereby allowing several Russian athletes with abnormal ABP test results to compete at the 2012 London Olympic Games and, in certain cases, win medals'.<sup>25</sup> More specifically, it states that the list was obtained by Mr Balakhnichev, who used it together with 'ARAF National Coach Melnikov to identify vulnerable athletes, who were then extorted for cash payments, in hopes of concealing their doping violations'.<sup>26</sup>
- 1.19.3 However, the IC Report also asserts that there was 'collusion between certain officials in RUSADA and senior level officials in IAAF' in this context, i.e., those 'senior level' IAAF officials are also to blame, along with Mr Melnikov, for the fact that 'a number of [ABP] doping cases had not been dealt with properly'.<sup>27</sup>
- 1.19.4 According to the IC Report, up to six cases from the November 2011 list were possibly affected by this corrupt behaviour, as well as two further cases (involving one Russian athlete and one Turkish athlete) that were not on the list. The report refers to 'unexplained and highly suspicious delayed notifications allowing these 10 [sic] athletes the ability to continue competing despite their abnormal ABPs. Six of these athletes competed in the London 2012 Olympics, two of whom won Olympic medals'.<sup>28</sup> It also states: 'the IC considers that the IAAF did not expedite the results management process for several athletes prior to the 2012 London Games. The IC comes to this conclusion based on the delays that occurred between the November 2011 notification by the IAAF to ARAF that the above-mentioned athletes had abnormal ABPs, the continued collection of suspect samples after this initial notification, including leading up to and, in some cases, at the 2012 Olympic Games, and the notification provided to the athlete indicating that they had an abnormal ABP (and the eventual assertion of an ADRV). In all of the above-mentioned cases, involving Russian athletes and one Turkish athlete, with the exception of Mr Bakulin whose name was not on the list provided to ARAF by the IAAF in November 2011, this delay allowed each athlete to compete at the 2012 Olympic Games and effectively postponed the finding of an ADRV based on the respective abnormal ABP results. It is the opinion of the IC that it is possible that certain individuals may have engaged in extortion, which would have led to the delays that allowed these athletes to participate at the 2012 Olympic Games'.<sup>29</sup>

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- 1.19.5 The only specific allegation of extortion mentioned in the IC Report relates to Russian marathon athlete Liliya Shobukhova. The IC Report refers to 'serious allegations following the German ARD television documentary that Ms Shobukhova paid 450,000€ to make her abnormal ABP notification [made by the IAAF in June 2012] "go away" in order to allow her to compete in the London 2012 Olympic Games'.<sup>30</sup> And it states that 'Ms Shobukhova further explained that Russian officials threatened her, stating "you could have problems", implying that some level of retaliatory action would impact her career, or that she would face suspension at the hands of the IAAF, including forfeiture of prize money, unless she made monetary payments to the officials to intervene on her behalf'.<sup>31</sup>
- 1.20 These allegations, which in the Shobukhova case have been confirmed by the IAAF Ethics Commission Panel's findings<sup>32</sup>, are truly shocking, and suggest there has been a fundamental betrayal of everything that the IAAF stands for. The IAAF cannot, and does not, seek to avoid or downplay that devastating fact in any way. However, it does note that the alleged corruption is limited in terms of both number of people involved and number of cases impacted.
- 1.21 In terms of number of people involved, only a limited number of individuals associated with the IAAF are believed to have been involved in the alleged corruption. The IC Report itself emphasises that 'the allegations of corrupt behaviour affect a fraction of the many hard-working and committed men and women of the IAAF and ARAF. The IC was impressed by the courage of several staff members of the IAAF and whistle-blowers within Russian athletics, who took a stand against corruption within their sport'.<sup>33</sup>
- 1.22 The IAAF believes the Independent Commission's acknowledgement of the integrity of the vast majority of its staff is a much more accurate reflection of the true ethos of the organisation, which is full of hardworking and committed individuals who love the sport and work hard every day to maintain its integrity and the rights of clean athletes to fair competition. And the Independent Commission is right, with respect, to acknowledge that IAAF staff members took a stand against the corruption of the high-ranking few. Moreover, they were successful in that stand: as a result of their actions, the improper interference was limited to a 3-6 month delay in results management in four cases before the athletes concerned were provisionally suspended or withdrew from competition. They were also responsible for referring the matter to the IAAF Ethics Commission for investigation:
- 1.22.1 As far as the staff of the IAAF Medical & Anti-Doping Department were concerned, the list that they drew up in November 2011 of Russian athletes with suspicious ABP profiles was an internal working list intended for testing and results management purposes only, and as such was a strictly confidential document that should not have been shared with anyone outside of the department. They were not aware until very recently that that list had been disclosed to persons outside of the IAAF, including allegedly with individuals at ARAF, and they were truly shocked at the allegation that it was used to try to extort money from Liliya Shobukhova and potentially other athletes on the list as well.
- 1.22.2 This being said, the IAAF would like to make very clear at this point that no actual or attempted misconduct had any impact on the implementation of the IAAF testing programme, whether as to the selection of athletes to be tested, the timing of the tests, the evaluation of ABP profiles, or the referral of profiles to the independent ABP experts.

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- 1.22.3 As explained below (see Section 2), the IAAF staff is aware of only four ABP cases where there are 'unexplained and highly suspicious' delays in results management. Importantly, there is no evidence of any improper interference in any other ABP (or other) case. The four ABP cases relate to Russian athletes Liliya Shobukhova, Olga Kaniskina, Vladimir Kanaykin, and Valeriy Borchin. Those cases are described in detail in Section 2, below, but in short, in each of them, the then-director of the IAAF Medical & Anti-Doping Department, Dr Gabriel Dollé, should have notified the ARAF and the athlete concerned by June 2012 at the latest that the IAAF considered his/her abnormal profile to reflect blood doping, and invited the athlete to provide any alternative explanation for the abnormalities. Instead, the notification process was delayed, thereby allowing all four of those athletes to compete in the 2012 Olympic Games in London. The members of the IAAF Medical & Anti-Doping Department do not know of any good reason for that delay, and therefore agree with the Independent Commission that an explanation is required (and, if wrongdoing is discovered, the persons involved are brought to account). For their part, they confronted Dr Dollé immediately upon his return from the Olympic Games in September 2012, and insisted that (1) notifications be sent to the four athletes (and to two further athletes, Kiryapkin and Bakulin), and (2) that all four of them be provisionally suspended from competition until their cases were resolved. **As a result, the charges were issued and all of the athletes in question were provisionally suspended or withdrew from competition by no later than December 2012. The Independent Commission has highlighted delays in the disciplinary processes of these athletes subsequent to their provisional suspension or withdrawal from competition but none of the athletes concerned competed again before their cases were concluded and so these delays had no impact upon the integrity of competition.**
- 1.22.4 In January 2013, an IAAF staff member raised the matter of delayed disciplinary proceedings in six Russian ABP cases directly with IAAF President, Mr Lamine Diack, and was assured that all six cases would be dealt with properly and in accordance with IAAF Rules and that the athletes concerned would not compete in the meantime. The IAAF staff member reported back accordingly to two of his colleagues in the IAAF Medical & Anti-Doping Department and those two colleagues followed up with President Diack in the same vein in February 2013.
- 1.22.5 When there was no progress in the management of the six Russian ABP disciplinary cases by April 2013, the same IAAF staff member raised the matter with President Diack again, and again he received the same assurances that the cases would all be concluded in accordance with IAAF Rules and that the athletes would not compete in the meantime.
- 1.22.6 When, unexpectedly, on 25 July 2013, four of the six athletes concerned were entered by the ARAF to compete in the IAAF World Championships in Moscow in August 2013, the IAAF staff member confronted President Diack again, who once again assured him that they would not be allowed to compete. Five days later, all four athletes were removed from the entry list, only for two of them to re-appear in the final entry list on 2 August 2013. At that point, the IAAF staff member told President Diack that he would resign from the IAAF, but again President Diack insisted that the athletes would not compete. The IAAF staff member did not travel to Moscow until it was clear that none of the athletes would be competing there.

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- 1.22.7 Attempts were made in approaches to other IAAF staff members in late July 2013 to try to secure the participation of the athletes concerned at the 2013 World Championships in Moscow, but those attempts were all strenuously resisted. Indeed, two IAAF staff members who attended the World Championships in Moscow went ready to resign if any of the suspended athletes competed there, but in the end none of the athletes did compete.
- 1.22.8 After the 2013 World Championships, President Diack assured the same IAAF staff members who had confronted him previously that the six outstanding cases would be resolved by 31 October 2013, and then by 31 December 2013. But the six cases were not resolved, and they remained outstanding at year-end, prompting one staff member to resign from the IAAF in January 2014.
- 1.22.9 On 28 February 2014, while serving out his notice, that IAAF staff member was told by a colleague from a different IAAF department of a conversation that the latter had recently had in Tokyo with Liliya Shobukhova's agent, in which the agent alleged that the athlete had made a payment to a person associated with the IAAF to have her ABP case covered up. This was the first indication to the IAAF staff concerned that corruption may have been the cause of the delays in the disciplinary proceedings of the Russian ABP cases. Each of the two IAAF staff members separately confronted President Diack with this information and he responded to each of them that it was not true. He told one of the IAAF staff members that, if there was any truth in the allegations, they would be investigated.
- 1.22.10 The two IAAF staff members concerned agreed that, if the Shobukhova allegation could be substantiated, then it had to be referred to the (then recently-established) IAAF Ethics Commission for further investigation. On 7 April 2014, having been able to substantiate the allegation, the IAAF staff member who had had the conversation with Liliya Shobukhova's agent filed a formal complaint in the matter with the IAAF Ethics Commission, and four days later he met with the Chairman of the Ethics Commission (Michael Beloff QC) to discuss the complaint in person. On 11 April 2014, the other IAAF staff member left the IAAF, and he too subsequently met with the Chairman of the IAAF Ethics Commission to discuss the complaint. A number of IAAF staff members have since signed formal witness statements for use in the disciplinary proceedings brought by the IAAF Ethics Commission, which has resulted in disciplinary charges against four persons alleged to be part of the conspiracy.
- 1.22.11 In late June 2014, two IAAF staff members from the Medical and Anti-Doping Department issued an ultimatum to President Diack to the effect that, if the outstanding Russian ABP cases were not resolved by ARAF by the end of July, they had to be referred to CAS or else the two staff members would also resign their positions at the IAAF. The cases were not resolved by ARAF within the stipulated timeframe and so, on 29 July 2014, the IAAF staff members referred the cases to CAS without further notice to their superiors at the IAAF.
- 1.22.12 The IAAF only agreed to stay those CAS proceedings (not to dismiss them) when ARAF advised that the six cases would be heard at first instance before a panel established by RUSADA (the Russian national anti-doping organisation). The RUSADA panel in each case found the charges proved and imposed aggravated sanctions. The IAAF agreed with the RUSADA panel's findings as regards the anti-doping rule violations and corresponding sanctions but disagreed with the panel's decision not

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to disqualify certain results that had been obtained by the athletes during the period of violation (including at World Championships and the 2012 Olympic Games). Therefore, in March 2015, the IAAF appealed all six cases to CAS.

1.22.13 The IAAF first referred publicly to the investigation by the IAAF Ethics Commission in December 2014, after German TV station ARD broadcast a documentary that recounted Liliya Shobukhova's allegation of extortion.<sup>34</sup> The IAAF Ethics Commission was bound until recently not to make any public disclosure about the investigation; it was only able to do so on 6 November 2015, when the IAAF Council agreed an amendment to its rules that enabled the Ethics Commission to announce that it had brought disciplinary charges against Papa Massata Diack, Valentin Balakhnichev, Gabriel Dollé, and Alexei Melnikov (former ARAF coach) that were scheduled to be heard in December 2015, and that there is an ongoing investigation against one other (unnamed) individual.<sup>35</sup> These charges have now resulted in all four individuals being found guilty of multiple breaches of the IAAF Code of Ethics. Messrs Diack, Balakhnichev and Melnikov have all been banned from the sport for life and Dr Dollé has been banned for five years (although the Ethics Commission has said it may still consider revisiting his case depending upon the findings of the French criminal investigation)<sup>36</sup>.

1.22.14 The statement the Chairman of the IAAF Ethics Commission issued in November 2015 did not mention former IAAF President, Lamine Diack. The IAAF did not become aware of any allegation that he was implicated in this matter until reports started appearing in the media in early November 2015 that he had been detained in custody and questioned as part of a French criminal investigation.<sup>37</sup> The Chairman of the IAAF Ethics Commission has now confirmed that President Diack is under investigation for breaching the IAAF Code of Ethics, as is his legal adviser, Habib Cisse<sup>38</sup>.

1.22.15 The IAAF staff have cooperated fully not only with the IAAF Ethics Commission but also with the criminal investigations in France and Monaco, as well as with the WADA Independent Commission, which noted that '[k]ey individuals within the IAAF provided exemplary cooperation with the IC investigative team. ... IAAF staff helped identify suspect athletes and assisted in developing evidence in support of sanctioning athletes who were found to have violated established practices and doping controls'.<sup>39</sup>

### **2. Only four of the eight cases identified by the Independent Commission involve 'unexplained and highly suspicious delays' in results management**

2.1 The IC Report identifies eight cases involving 'unexplained and highly suspicious' delays in results management, as follows:

2.1.1 As noted above, in November 2011, the IAAF Medical & Anti-Doping Department drew up a list of 23 Russian athletes whose ABP profiles were suspicious for blood doping. By June 2012, the independent experts had reviewed all of those profiles and determined that the following fourteen athletes were likely to be blood doping: Inga Abitova, Anna Alminova, Valeriy Borchin, Stanislav Emelyanov, Vladimir Kanaykin, Olga Kaniskina, Sergey Kiryapkin, Svetlana Klyuka, Tatyana Mineeva, Sergey Morozov, Liliya Shobukhova, Nailiya Yulamanova, Yevgeniya Zinurova, and Yevgeniya Zolotova.<sup>40</sup>

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- 2.1.2 The Independent Commission accepts that four of those 14 athletes 'were sanctioned in a timely manner through proper protocols prior to the London 2012 Olympics'.<sup>41</sup> These athletes were Anna Alminova, Svetlana Klyuka, Nailiya Yulamanova and Yevgeniya Zinurova.<sup>42</sup>
- 2.1.3 The Independent Commission also accepts that the files in four other cases out of the 14 are 'indicative of normal procedures with respect to notifying abnormal ABPs and the consequent finding of an ADRV. As such, the IC does not consider that further investigations are required into [those] files. The IC comes to this conclusion based mainly on the fact that all of the athletes were precluded from competing in the London 2012 Olympic Games based on their abnormal ABPs and the sanctions that were eventually imposed'.<sup>43</sup> These four other athletes are Inga Abitova, Tatyana Mineeva and Sergey Morozov and Stanislav Emelyanov.<sup>44</sup>
- 2.1.4 The IC Report says that 'the remaining 10' cases from the November 2011 list had 'unexplained and highly suspicious delayed notifications allowing these 10 athletes the ability to continue competing despite their abnormal ABPs. Six of these athletes competed in the London 2012 Olympics, two of whom won Olympic medals'.<sup>45</sup> However, that reference to 10 cases appears to be a typographical mistake, since removal of the eight cases mentioned above from the list of 14 leaves only six athletes remaining: Valeriy Borchin, Vladimir Kanaykin, Olga Kaniskina, Sergey Kiryapkin, Liliya Shobukhova, and Yevgeniya Zolotova. And the Independent Commission considers that two other cases that were not on the November 2011 list also featured delays that require explanation, namely the cases of Sergey Bakulin and Asli Çakir-Alptekin, making eight in total. Seven of these eight athletes competed at the 2012 Olympic Games, the odd one out being Ms Zolotova.
- 2.2 The IAAF agrees that four of these cases involved 'unexplained and highly suspicious delayed notifications' that permitted the athletes in question to compete in the 2012 Games (with two of them winning medals). With great respect, however, it believes that any delays in the other four cases are readily explainable, and were due to good faith management of those cases by the IAAF Medical and Scientific Manager, without any suspicion of foul play.
- 2.3 **The IAAF accepts that there were unexplained and suspicious delays in results management in the following four cases, although it also notes that, thanks to the efforts of the IAAF staff, the cases were not covered up but instead were pursued in late 2012, with the athletes first being provisionally suspended or withdrawn from competition and then ultimately given lengthy bans from the sport:**
- 2.3.1 Liliya **Shobukhova**, the Russian long-distance runner:
- Ms Shobukhova was included in the IAAF Registered Testing Pool in 2004 until 2012, and five ABP samples were collected from her between 9 October 2009 and 8 October 2011. Ms Shobukhova was included on the November 2011 list of suspicious profiles prepared by the IAAF Medical & Anti-Doping Department, and her case was referred to the IAAF's panel of independent experts for review in December 2011. Those experts unanimously concluded that her abnormal profile was highly likely to be due to blood doping and unlikely to be due to any innocent factor.

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- b. The IAAF did not notify ARAF and the athlete immediately, because it was decided that the file could be strengthened further by collecting one further ABP sample from her at the London Marathon on 22 April 2012. Ms Shobukhova's case was the first high-profile athlete to be pursued for a doping offence under the ABP programme, and the IAAF thought in good faith that it would be safer to add one more value to her profile, making a total of six. (In comparison, the ABP profiles of cyclists that had brought forward by the UCI prior to that date had all contained between 10 and 20 values). Ultimately, however, Ms Shobukhova did not compete at the London Marathon. The IAAF staff therefore prepared a letter formally notifying the ARAF of the athlete's abnormal ABP profile, and asking it to invite her to provide any medical explanation for her abnormal values (the next step in the mandatory WADA ABP Protocol). They included in the letter an invitation to the athlete to make a prompt admission that she had blood-doped, thereby avoiding the possibility of a four year ban for 'aggravating factors', as provided for in Article 10.6 of the 2009 World Anti-Doping Code, in favour of the standard two year ban for a first offence.
- c. A first notification letter was prepared by IAAF staff in April 2012 for Dr Gabriel Dollé, the then Director of the IAAF Medical & Anti-Doping Department, to send out. But Dr Dollé only sent the letter to ARAF on 12 June 2012. Ms Shobukhova did not subsequently offer any explanation for her abnormal profile and therefore in the normal course she should have been formally charged with blood doping, at which point the IAAF would have been entitled (though not obliged) to suspend her provisionally from competition pending determination of the charge. However, Dr Dollé did not charge her or provisionally suspend her, which meant that she was able to compete at the marathon at the Olympic Games in August 2012 (where she did not finish) and at the Chicago Marathon in October 2012 (where she came fourth).
- d. The IAAF staff did not know at that time why Dr Dollé did not charge and provisionally suspend Ms Shobukhova. (As noted above, it was not until 2014 that they heard the allegation that she had allegedly paid a bribe to avoid or delay a ban, which allegation was referred by IAAF staff at that point to the IAAF Ethics Commission, and was followed by the termination of Dr Dollé's employment in September 2014). When the staff asked whether the athlete had been officially charged or provisionally suspended, Dr Dollé answered that ARAF had told him that Ms Shobukhova had been duly informed of the charge, and that (consistent with the outcome of other ABP cases involving Russian athletes that the IAAF had referred to ARAF) she had withdrawn from competition and would admit the doping violation and accept a sanction. Therefore, the staff were astonished when they saw Ms Shobukhova compete at the Olympic Games in London (she did not finish the race) and even more so when she competed in October 2012 at the Chicago Marathon. The staff urged Dr Dollé to send a letter of provisional suspension. A letter was prepared but, again, apparently it was never sent. Instead, Dr Dollé did not progress the matter with ARAF again until December 2012, when, on the staff's request, he gave the athlete an additional week to sign the acceptance of sanction form. That form was not returned, so the matter was left with ARAF to pursue, but the athlete did not compete again after the Chicago marathon, either at domestic or at international level, and eventually, thanks to the staff (as noted below) the IAAF got her banned from all competitions by CAS for a period of three years

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and two months, as well as disqualification of all of her related results from 2009 (including those at the London Olympic Games and the 2012 Chicago marathon).

### 2.3.2 Olga **Kaniskina**, a Russian race walker:

- a. Ms Kaniskina was a member of the IAAF's Registered Testing Pool from 2008 until 2013. Like other elite Russian race walkers, she was specifically targeted by the IAAF on the basis of previous blood values collected from her, prior to the implementation of the ABP. Twelve ABP samples were collected from this athlete between August 2009 and August 2012. She was also included on the November 2011 list of suspect profiles, and her case was referred to the IAAF's panel of independent experts in January 2012. Two of them concluded that the abnormalities in that profile were highly likely to be due to blood doping and unlikely to be due to any other factor, but the third expert felt unable to differentiate between blood doping and a potential pathology. Under the WADA ABP Protocol, this lack of unanimity meant that no disciplinary action could be taken against the athlete at that time.<sup>46</sup>
- b. The IAAF therefore targeted the athlete for further testing, and collected two further ABP samples from her in quick succession in June 2012, following which it sent her profile to the experts for review a second time. On 26 June 2012, all three experts agreed that her updated profile was consistent with blood doping and unlikely to be caused by any other factor, and the Department staff therefore prepared a letter for Dr Dollé to send to ARAF, formally notifying ARAF of her abnormal profile, and asking it to invite the athlete to provide any medical explanation for her abnormal values. As noted above, that was a necessary next step before considering whether or not to bring disciplinary proceedings against the athlete and whether to provisionally suspend her pending resolution of those proceedings.
- c. Apparently, however, the letter was never sent to ARAF, despite the fact that the staff was told at the time that the athlete had been informed of her abnormal profile and that she would withdraw from competition on a voluntary basis. Again, the IAAF agrees with the Independent Commission that this failure is suspicious and requires explanation<sup>47</sup> (and, if wrongdoing is confirmed, the appropriate action taken), even though the athlete has apparently denied that she was approached by anyone to pay money to delay that notification.<sup>48</sup>
- d. In any event, the athlete competed at the 2012 Olympic Games when she should not have done. Immediately after the Games, the Department staff urged Dr Dollé to formally charge the athlete and to suspend her provisionally. As a result, she was charged on 19 September 2012 and provisionally suspended on 15 October 2012, and she remained provisionally suspended (and so not competing, either at national level or at international level) until her case was concluded with the imposition of a ban of three years and two months (see below) and the disqualification of her results in the 2009 and 2011 World Championships.
- e. The IAAF subsequently appealed Ms Kaniskina's case to the CAS, seeking the additional disqualification of her results at the 2010 European Championships,

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the 2012 World Race Walking Cup, and the 2012 Olympic Games. That appeal was heard on 2-3 December 2015 and a decision is awaited.

### 2.3.3 Vladimir **Kanaykin**, another Russian race walker:

- a. Mr Kanaykin was a member of the IAAF's Registered Testing Pool from 2008 until 2014, and nine ABP samples were collected from him between February 2011 and May 2012. He was also included on the November 2011 list of suspicious profiles and his case was referred to the independent experts in May 2012. In June 2012, the experts unanimously agreed that his abnormal profile was highly likely to be due to blood doping and unlikely to be due to any innocent cause.
- b. Again, the Department staff therefore prepared a letter for Dr Dollé to send to ARAF, formally notifying ARAF of the athlete's abnormal profile, and asking it to invite him to provide any medical or other explanation for his abnormal values. Again, this was a necessary next step before considering whether or not to bring disciplinary proceedings against the athlete and whether to provisionally suspend him pending resolution of those proceedings.
- c. Again, however, it is now known that the letter was not sent to ARAF at that stage. Again, however, the IAAF staff did not know that at the time. Instead, as in the cases of Ms Shobukhova and Ms Kaniskina, the IAAF staff were told that the athlete had been informed of the charge and that he would stop competing pending resolution of his case. Again, the IAAF agrees with the Independent Commission that the failure to send the letter is highly suspicious and requires explanation,<sup>49</sup> even though it does not know whether there is any allegation that the athlete was approached by anyone to pay money to delay that notification. In any event, the athlete competed in the 20 km race walk at the Olympic Games, although he was disqualified on technical grounds. He was tested at the Games at Dr Dollé's request.
- d. Immediately after the Games, the Department staff urged Dr Dollé to send the notification to the athlete and to suspend him provisionally as soon as possible. The notification was sent to ARAF on 19 November 2012 and the athlete was provisionally suspended as from 17 December 2012. He remained provisionally suspended (and so not competing, either at national level or at international level) until his case was eventually concluded with the imposition of a lifetime ban (see below) and disqualification of his 2011 World Championships result.
- e. The IAAF subsequently appealed Mr Kanaykin's case to the CAS, seeking the additional disqualification of his results at the 2011 European Race Walking Cup, the 2012 World Race Walking Cup, and the 2012 Olympic Games. The appeal was heard on 2-3 December 2015 and a decision is awaited.

### 2.3.4 Valeriy **Borchin**, a third Russian race walker:

- a. Mr Borchin was a member of the IAAF's Registered Testing Pool from 2007 until 2014 and eleven ABP samples were collected from him between August 2009 and August 2012. He too was included on the November 2011 list of suspicious ABP profiles drawn up by the IAAF. In December 2011, all three of the IAAF's independent experts decided that the abnormalities in his profile were highly

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likely to be due to blood doping and unlikely to be due to any innocent factor. On Dr Dollé's request, further ABP samples were collected from Mr Borchin in January, April and May 2012, and the updated profile was referred back to the experts in June 2012, when they unanimously agreed that the abnormalities in the profile were highly likely to be due to blood doping and unlikely to be caused by anything else.

- b. Again, the Department staff therefore prepared a letter for Dr Dollé to send to ARAF, formally notifying ARAF of the athlete's abnormal profile, and asking it to invite him to provide any medical or other explanation for his abnormal values. Again, this was a necessary next step before considering whether or not to bring disciplinary proceedings against the athlete and whether to provisionally suspend him pending resolution of those proceedings.
- c. Again, however, Dr Dollé did not send the letter to the ARAF at that stage. And again the Department staff were not informed. Instead, as for the three other athletes, the staff were told that the athlete had been informed by ARAF and that he would stop competing immediately pending resolution of his case. The IAAF again agrees with the Independent Commission that the failure to send the letter is highly suspicious and requires explanation,<sup>50</sup> even though the IAAF does not know whether there is any allegation that the athlete was approached by anyone to pay money to delay that notification. In any event, the athlete competed in the 20 km race walk at the Olympic Games, although he did not finish the race. He was also tested at the Games at Dr Dollé's request.
- d. Immediately after the Games, the Department staff urged Dr Dollé to send the notification to the athlete and to suspend him provisionally as soon as possible. As a result, the notification was sent to the ARAF on 19 September 2012 and the athlete was provisionally suspended as from 15 October 2012. He remained provisionally suspended (and so not competing, either at national level or at international level) until his case was eventually concluded with the imposition of an eight year ban (see below) and disqualification of his results at the 2009 and 2011 World Championships, the 2012 World Race Walking Cup, and the 2012 Olympic Games.
- e. The IAAF subsequently appealed Mr Borchin's case to CAS, seeking the additional disqualification of his results at the Race Walking event at Rio Maior in April 2011 and the 2012 Russian Winter Indoor meeting in February 2012. This appeal was also heard on 2-3 December 2015, and a decision is awaited.

2.4 In relation to the other four cases identified by the Independent Commission, however, the IAAF disputes that there are inexplicable or suspicious delays in the results management phase. Instead, the cases were managed in good faith by the IAAF's ABP Manager, without any suspected foul play. Taking these four cases in turn:

2.4.1 Yevgeniya **Zolotova**, a Russian middle-distance runner:

- a. Ms Zolotova was a member of the IAAF's Registered Testing Pool from 2009 until 2012 and the IAAF collected six ABP samples her between March 2009 and November 2011. The resulting profile was flagged as abnormal by the Adaptive Model, prompting the IAAF to include her name on its November 2011 list of

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Russian athletes with suspicious profiles, and to refer the profile to its panel of independent experts for review.

- b. The IC Report states: 'The file provided by the IAAF does not contain the documents typically found in the other files received by the IC. There is no letter informing the athlete and her NF of the investigation into the potential ADRV for her ABP, and no letter indicating that a decision had been rendered imposing a sanction. WADA also does not have any sanction on record in ADAMS. The IAAF informed ARAF of Ms Zolotova's abnormal ABP in November 2011. IC Recommendation: The IC recommends that WADA seek additional clarifications from the IAAF with respect to the case of Yevgeniya Zolotova'.<sup>51</sup>
- c. In response, the IAAF notes that this is because, when this athlete's file was referred to the independent experts, only one of them concluded that the abnormal features in the profile were unlikely to be of a physiological nature. The other two both separately concluded that, although her profile was suspicious for blood doping, additional investigations (targeted testing) should be pursued before initiating disciplinary proceedings for blood doping. As a result, as noted above, the WADA ABP Protocol (and therefore the IAAF Anti-Doping Regulations) prohibited the taking of any disciplinary action against this athlete at that stage.
- d. Importantly, however, Ms Zolotova did not compete again at all after June 2012 (either at the London Olympics or otherwise). That is why there was no follow-up testing of this athlete. In January 2014, the IAAF transferred custody of her ABP profile to RUSADA, in case she started competing at national level again, but as far as the IAAF is aware, she has not done so.
- e. The IAAF therefore respectfully suggests that this provides a perfectly good explanation for the lack of disciplinary follow-up in this case to date.

### 2.4.2 Sergey Kirdyapkin, another Russian race walker:

- a. Mr Kirdyapkin was a member of the IAAF's Registered Testing Pool from 2008 until 2014, and eleven ABP samples were collected from him between August 2009 and August 2011. The resulting profile was flagged by the Adaptive Model as abnormal, and therefore it was included in the list that the IAAF compiled in November 2011 of suspicious Russian profiles. After a further ABP sample was collected from the athlete on 17 January 2012, the updated profile was referred to the independent expert panel for review.
- b. Two of the three experts considered that the athlete's profile was abnormal (due to low RET% values in two samples) and, absent a satisfactory explanation from the athlete, was very likely to be due to blood doping. However, the third expert noted evidence in the profile of potential haematological disorders that might account for the abnormal findings, and therefore concluded that the profile was suspicious but further investigations should be conducted before initiating disciplinary proceedings against the athlete, including target testing close to important competitions, as well as consideration of additional clinical information. This lack of unanimity meant that the IAAF could not pursue disciplinary action against Mr Kirdyapkin at that time.

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- c. Instead therefore, the IAAF had further ABP samples collected from Mr Kirdyapkin throughout the 2012 athletics season, in April, May and August 2012 (the last one at the London Olympic Games), and the updated profile was referred back to the expert panel in October 2012, immediately after the end of the outdoor season. At that stage, the experts unanimously agreed that the updated profile contained abnormalities that were highly likely to be due to blood doping and unlikely to be due to any other factor. The IAAF notified the athlete (via ARAF) that it was investigating his profile as a potential blood doping violation and invited him to provide any explanations he might have for the abnormal values. He accepted a provisional suspension on 15 October 2012, and so did not compete again, either at national level or at international level, until his case was eventually concluded with the imposition of a ban of three years and two months (see below).
- d. The IC Report focuses on the samples collected from Mr Kirdyapkin in April and May 2012. The HGB concentration in the first sample (collected on 14 April 2012) was 13.3 g/dl, and the HGB concentration in the second sample (collected on 11 May 2012, the day before the IAAF Race Walking Cup, in Saransk) was 16.1 g/dl. The IC Report notes that when the athlete's updated profile was referred to the experts in October 2012, they all agreed that an increase in HGB concentration of 2.8 g/dl in one month was abnormal, with one expert hypothesising that the cause was a stimulated erythropoiesis, while the other two experts suggested autologous blood transfusion as a possible cause.<sup>52</sup> The IC Report then states: '[despite clear and problematic abnormalities in Mr Kirdyapkin's ABP in the period leading up to the London 2012 Olympic Games, he was nevertheless allowed to compete. Although the ABP expert panel provided its opinion in October and November 2012, the results of the abnormal samples mentioned above would have been known to the IAAF prior to the Olympic Games. IC Finding: For the reasons mentioned above, and given that the IAAF only sent the ARAF official notification of Sergey Kirdyapkin's abnormal ABP on 1 October 2012, which is nearly one year after the IAAF initially informed ARAF of his abnormal ABP \(Kirdyapkin was an athlete included on the list of 18 November 2011\), the IC considers that there was an excessive time delay](#)'.<sup>53</sup>
- e. With respect, the IAAF could not do anything in November 2011 or indeed in February 2012, because at that point there was no unanimous opinion among the experts that the athlete's abnormal profile was highly likely to be due to blood doping and unlikely to be due to any other cause. Instead, in February 2012 the experts tasked the IAAF with going back and building the athlete's profile further, including with targeted testing close to important competitions. The criticism appears to be that the IAAF should have referred the athlete's profile back to the expert panel as soon as the results of analysis of the 11 May 2012 sample were added to the profile, showing an abnormal increase in HGB of 2.8 g/dl in less than a month (since the 14 April 2012 sample). The suggestion is the athlete could then have been prevented from competing in the London Olympics (where he won gold in the 50 km race walk). However, having had the file referred back to him by the experts in February 2012, the IAAF's ABP Manager had decided to bolster the profile with samples collected over the entire 2012 season, and to refer the profile back to the experts only at the end of that season, based on all of the new values, to try to ensure that it

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was not rejected again. The athlete was therefore specifically targeted three times (including being one of the 10% of athletes targeted for ABP testing at the London Games), and it was based on that complete profile that the experts subsequently unanimously agreed that the profile was highly likely to be due to blood doping, leading to the athlete being provisionally suspended as from October 2012 and eventually banned for more than three years. It might be possible, with the benefit of hindsight, to second guess that decision, but its good faith cannot be questioned: the IAAF's ABP Manager has confirmed that he was not subjected to any improper interference at all in this case.

### 2.4.3 Sergey **Bakulin**, a fifth Russian race walker:

- a. Mr Bakulin was intermittently a member of the IAAF's Registered Testing Pool between 2008 and 2014, and seven ABP samples were collected from him between July 2010 and January 2012. The ABP software flagged his resulting profile as abnormal in February 2012, and therefore it was referred to the experts for review in late March 2012. In April 2012, one expert decided it was highly unlikely that the abnormal values in the athlete's profile were the result of a normal physiological or pathological condition and they likely may be the result of blood doping. However, the other two experts both separately concluded that, although the profile was suspicious for blood doping, additional investigations should be pursued before initiating disciplinary proceedings. As a result, as already noted, according to the WADA ABP Protocol, the IAAF could not take any disciplinary action against this athlete at that stage.
- b. Instead, the IAAF had further ABP samples collected from the athlete in April, May, August (at the London Olympics, where he came 5<sup>th</sup> in the 50 km race walk), and October 2012. The updated profile was then referred back to the experts in November 2012, at which point they agreed unanimously that the abnormalities in his updated profile were highly unlikely to be due to a normal physiological or pathological condition and likely may be due to blood doping.
- c. The IAAF Medical & Anti-Doping Department therefore sent a formal letter to the athlete, via ARAF, on 19 December 2012, notifying him that the IAAF was considering charging him with blood doping based on his abnormal ABP profile, enclosing the documentation package, and inviting him to provide an explanation for the apparent abnormalities in his profile. On 24 December 2012, the athlete accepted a voluntary provisional suspension pending resolution of his case. And he did not compete again (either internationally or nationally) until his case was eventually concluded with the imposition of a ban of three years and two months (see below).
- d. The IC Report focuses on the ABP sample collected from the athlete on 11 May 2012, which had a HGB level of 16.9 g/dl, which was outside the expected parameters for that athlete, and so was flagged as abnormal by the Adaptive Model. The Independent Commission suggests that (as in the Kirdyapkin case) at that point the athlete's profile **'should have been expedited to the ABP expert panel, mainly because the athlete's ABP could have been considered abnormal and suspect prior to the 2012 Olympic Games. However, despite these abnormalities [sic], the IAAF nevertheless allowed Mr Bakulin to continue**

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competing throughout 2012, including at the Olympic Games, and only took action with respect to his abnormal ABP in late 2012'.<sup>54</sup>

- e. The IAAF's response is the same as its response in the Kirdyapkin case. Having had two experts say only one month previously that the profile was not sufficient to establish blood doping, and further testing had to be conducted before any disciplinary action could be considered, the IAAF's ABP Manager had decided to bolster the profile with samples collected over the entire 2012 season, and to refer the profile back to the experts only at that point, based on all of the new values, in an attempt to ensure that it was not rejected by the experts again. The athlete was therefore specifically targeted tested three times (including being one of the 10% of athletes targeted for ABP testing at the London Games), and it was based on that complete profile that the experts subsequently agreed unanimously that the profile highly likely reflected blood doping, leading to the athlete's provisional suspension in December 2012 and ultimately to his ban for three years and two months. Once again, it might be possible, with the benefit of hindsight, to second-guess the decision to wait to have a full season's worth of new samples before referring the profile back to the experts, but its good faith cannot be questioned: the IAAF's ABP Manager has again confirmed that he was not subjected to any improper interference in this case either.

### 2.4.4 Asli Çakir-Alptekin, the Turkish middle distance runner:

- a. The IAAF collected a first ABP sample from Ms Çakir-Alptekin in July 2010, at the European Athletics Championships in Barcelona. The values from the sample were atypical, prompting the IAAF to put her into its Registered Testing Pool, so that she was required to provide daily whereabouts information, and then targeted her for further ABP testing using that information. As a result, a further eight ABP samples were collected from the athlete in 2011 and the first half of 2012, the last one on 5 August 2012, at the London Olympic Games (where she unexpectedly won the 1500m gold).
- b. The athlete's (abnormal) profile was sent to the independent experts for review in October 2012, and they unanimously concluded that the abnormalities were highly likely to be due to blood doping and unlikely to have any other cause. The IAAF therefore notified the athlete (via the Turkish national federation) and invited her to provide any medical or other explanation for those abnormalities. Her various explanations (including medical conditions, altitude training and the use of a hypoxic device, use of medications and supplements, and potential analytical or pre-analytical issues) were received on 14 November 2012, and reviewed and rejected by the experts in December 2012, and the IAAF formally charged the athlete and provisionally suspended her on 10 January 2013. As noted below, the charge was eventually upheld, she was banned for eight years, and all of her results, including her gold medal at the London Olympics, were disqualified.
- c. Looking back on this case, the IC Report states: 'sample five of her ABP, taken on 8 March 2012, indicates a haemoglobin level of 157 g/L. ABP samples taken corresponding to her first place finish at the European Championships on 01 July 2012 are sample seven, taken on 29 June 2012, which indicates a haemoglobin

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level of 175 g/L, and sample eight, taken on 05 July 2012, which indicate a haemoglobin level of 164 g/L. However, Ms Cakir Alptekin was only notified of her abnormal ABP on 22 October 2012. For the aforementioned reasons, and notwithstanding the sanction now imposed on the athlete, the IC considers that this file merits further investigation by WADA. IC Finding: The IC finds that the IAAF ought to have expedited the matter to an ABP expert panel prior to the pending 2012 London Games'.

- d. In response, the IAAF notes the following:
- i. The HGB concentration of 15.7 g/dL in the athlete's 8 March 2012 sample was within the limits predicted for the athlete by the Adaptive Model, and therefore did not trigger any alarm. Indeed, none of the experts subsequently identified any of the values from that sample to be abnormal.
  - ii. The results of analysis of the athlete's sample collected on 29 June 2012, including the abnormally high HGB concentration of 17.5 g/dL, immediately prompted another target test on 5 July 2012 prior to the IAAF Diamond league meeting in Paris. The ABP sample collected there was subsequently reported to have an HGB of 16.4 g/dL.
  - iii. There are two reasons why the IAAF did not immediately refer the profile for expert review, in an attempt to keep her out of the Games:
    - A. Again, knowing the experts' desire to see a confirmed and repeated atypical sequence, the ABP Manager's strategy was to complete a full season's worth of testing of the athlete before referring her profile to them. He therefore immediately arranged for the athlete to be target tested at the Olympic Games, with a view to referring the complete profile to the experts immediately after the end of the outdoor season, which is exactly what ultimately happened.
    - B. In any event, when the 17.5 g/dL HGB concentration in the sample collected on 29 June 2012 and the 5 July value confirming this abnormal pattern was reported to the IAAF on 12 July 2012, there were only 25 days to go until the first heats of the women's 1500m competition in London, on 6 August 2015. That was not nearly enough time to complete the various results management procedures mandated by the WADA ABP Protocol as a pre-condition to the bringing of any disciplinary action against the athlete based on her ABP profile.
    - C. As noted above, those mandatory procedures included: (1) referring the file to a single expert for initial review (usually 1-2 weeks); (2) contacting each of the laboratories that analysed a sample in the profile and getting them to produce full laboratory documentation packs for each of the samples in the profile (which usually takes at least 2-3 weeks); (3) having the Lausanne APMU analyse those documentation packs to confirm compliance in each case with all of the mandatory collection, transport and analysis protocols set out in the WADA ABP Protocol (this usually takes 2-3 weeks at a minimum, in particular in July, when the Lausanne laboratory are extremely busy with the Tour de France); (4) sending the

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documentation packages to each of the three experts for separate review, to see if they all agree that it is highly unlikely that the values in the athlete's profile are the result of a normal physiological or pathological condition and likely may be the result of blood doping (this generally takes between 1-3 weeks); (5) if so, then sending a letter to the athlete (via her national federation), notifying her of her abnormal profile, providing the laboratory documentation packages, and inviting her to provide any medical or other explanation for those abnormalities (the athlete is usually given fourteen days to respond, but will often request further time in order to be able to gather medical records, etc., in order to be able to respond properly to this invitation); (6) once the athlete's response is received, it has to be sent to the three experts, who have to review it and advise whether they still consider, notwithstanding that explanation, that the abnormalities in the profile are highly likely to be due to blood doping and unlikely to be due to any other factor (normally, a further 1-3 weeks); and (7) if (and only if) they remain unanimously of that view, then (and only then) is the IAAF permitted under the WADA ABP Protocol to charge the athlete with an anti-doping rule violation, and only then is the IAAF permitted (although not mandated) to impose a provisional suspension on the athlete, preventing her from competing pending determination of the charge.<sup>55</sup>

- iv. For these reasons, the IAAF Medical and Scientific Manager decided to collect a further ABP sample from the athlete in London at the Games, and to refer her case to the expert panel immediately after the Games. The ABP Manager had in fact already started the collection of laboratory documentation packages prior to the Games. He received the last documentation package on 8 September 2012, and referred them all to the Lausanne APMU on 10 September 2012.
- v. Once again, it might be possible, with the benefit of hindsight, to second-guess that decision, but (once again) its good faith cannot be questioned: the IAAF's ABP Manager has again confirmed that he was not subjected to any improper interference at all in this case, at any stage. Nor was there any improper interference during the subsequent disciplinary stage, including when the IAAF appealed the domestic panel's exoneration of the athlete to CAS and secured an eight year ban and disqualification of all of her results (see below).

2.5 Moving on to the concerns expressed in the IC Report as to the time it took to get these cases resolved once charges had been brought (disciplinary phase):

2.5.1 Under the IAAF Anti-Doping Rules (and as permitted by the World Anti-Doping Code), the IAAF currently delegates prosecution of cases to the member national federation to which the athlete belongs, retaining the right to take over the case if it is not properly pursued and to appeal the outcome if it believes it is not adequate. (The IAAF has announced that it plans to change that in future so that it prosecutes all such actions itself before an independent tribunal).

2.5.2 In 2012, therefore, the IAAF delegated responsibility to the ARAF to prosecute the charges against the six Russian athletes, i.e., Shobukhova and the five race walkers

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(Kaniskina, Kanaykin, Kirdyapkin, Borchin and Bakulin), and to the Turkish Athletics Federation to prosecute the case against Çakir-Alptekin.

- 2.5.3 After the Olympic Games and in light of the participation of four athletes who should have been suspended in normal circumstances, the IAAF staff urged Dr Dollé and ARAF to have a written document on file confirming the athletes' provisional suspension, for the athletes in question and all subsequent ABP cases brought forward. As a result, IAAF Acceptance of Provisional Suspension forms were systematically attached to the first notification letters and all five Russian race walkers identified above ultimately signed an Acceptance of Provisional Suspension. Cakir-Alptekin was provisionally suspended immediately after rejection of her explanation, as per the IAAF's normal practice.
- 2.5.4 As noted above, in 2013 and early 2014, IAAF staff members continually confronted Dr Dollé and President Diack about the delays by ARAF in pursuing the six cases involving the Russian athletes and it is now clear, as illustrated in the evidence that has emerged in the Shobukhova case before the IAAF Ethics Commission, that the IAAF staff's persistence was instrumental in foiling further attempts to subvert the process<sup>56</sup>. Formal requests for information as to the status of those cases were sent to the ARAF in 2013 and in 2014, with the following results:
- a. In March 2014, the ARAF advised that Ms Shobukhova had accepted a two year sanction, commencing on 24 January 2013, when she had voluntarily withdrawn from competition. However, the ARAF Anti-Doping Commission then issued a decision, dated 9 April 2014, imposing a two-year sanction on Ms Shobukhova.<sup>57</sup> The IAAF Medical & Anti-Doping Department recommended to the IAAF's Doping Review Board that that decision be appealed to CAS on the ground that her offence was aggravated and therefore a four year ban should have been imposed. The Doping Review Board agreed and the IAAF therefore filed that appeal in July 2014 and ultimately secured an increase in her ban to three years and two months, as well as disqualification of all of her results since October 2009.<sup>58</sup>
  - b. When ARAF did not respond to the IAAF's requests for information about the status of the six race walker cases, on 29 July 2014 the IAAF exercised its powers under IAAF Rule 38.9 to refer those cases to CAS for determination. It only stayed those proceedings before the CAS the following month when RUSADA informed the IAAF that it would be taking the cases forward at the national level. On 20 January 2015, a panel convened by RUSADA held hearings in the five cases, following which it advised the IAAF that the charges had been upheld against all five athletes, that Kaniskina had been banned for 38 months, Kanaykin for life (this being his second offence), Borchin for eight years (again, this was a second offence), Kirdyapkin for three years and two months, and Bakulin for three years and two months. On 23 March 2015, the IAAF filed appeals with the CAS in all five cases, based on the panel's failure to find all of the relevant ABP samples abnormal, and its consequent failure to disqualify all relevant results, including Kaniskina's silver medal and Kirdyapkin's gold medal from London 2012.<sup>59</sup> Those appeals were heard by the CAS on 2-3 December 2015 and a decision is awaited.

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- 2.5.5 The IC Report notes: 'If an athlete chose a provisional suspension, if it was offered, then the IAAF took anywhere from 18 months (Bakulin) to 25 months (Kirdyapkin) to follow up to determine if ARAF had investigated or initiated disciplinary proceedings'.<sup>60</sup> It describes this as an 'excessive delay'.<sup>61</sup> It is important to note, however, that throughout this period all six of the athletes were indeed provisionally suspended or (in one case) withdrew from competition and therefore unable to compete either at international level or at national level. Consequently, as the IAAF knew, any delay by the ARAF in pursuing and resolving the charges prejudiced the athletes rather than the sport.
- 2.5.6 Moving to Ms Çakir-Alptekin's case, there have been reports of attempted interference in her case but it should be emphasised that these attempts had no impact upon the routine management of her case by the IAAF Anti-Doping Department:
- a. On 19 December 2013, the relevant tribunal of the Turkish Athletics Federation, the TAF Disciplinary Commission, issued a decision rejecting the charge levelled by the IAAF against Ms Çakir-Alptekin, on the basis that her abnormal blood values could be explained by a combination of pre-analytical and/or analytical discrepancies, medical conditions, altitude training, and/or use of a surgical mask as an altitude simulator.
  - b. The IAAF disagreed and appealed that decision to CAS on 12 February 2014, seeking a lifetime ban (this being her second offence) and disqualification of all of her results from 29 July 2010. The IAAF also exercised its power under the IAAF Rules to suspend her pending determination of that appeal. The IAAF then spent considerable time and resources gathering and presenting the evidence required to refute the athlete's various purported explanations for her abnormal values. Together with delays caused by her failure to respond properly to disclosure requests, and her change of counsel, this meant that the appeal was eventually scheduled to be heard on 2 June 2015.
  - c. The IC Report states that the appeal proceedings were 'settled by a confidential consent award at CAS in the summer of 2015',<sup>62</sup> but the consent award, setting out the terms of settlement, was published on the CAS website and the outcome is therefore entirely transparent and not in any way confidential. In short, on the eve of the hearing, the athlete finally acknowledged that she was unable to substantiate her purported explanations for the abnormal values in her profile and therefore was unable to rebut the IAAF's assertion that those abnormal values were due to some form of blood manipulation contrary to IAAF Rule 32.2(b). In turn, in light of the new 2015 World Anti-Doping Code, which capped the ban for a second offence of this type to eight years, the IAAF agreed to accept an eight year ban for the athlete rather than the lifetime ban it had originally sought. A consent arbitral award was therefore entered by the CAS that upheld the charge against the athlete, disqualified all of her results from 29 July 2010 onward (including her gold medal from the London Olympics), and banned her from the sport for eight years.<sup>63</sup>
- 2.6 The IC Report asserts that '[t]here were inconsistencies in the proposed sanctions by IAAF and the eventual sanctions' in these cases.<sup>64</sup> This is a reference to the fact that 'the notification letters were not always consistent in offering a two-year sanction in exchange

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for a prompt admission'. There is nothing sinister about that. Under the 2009 World Anti-Doping Code, which was the version of the Code in effect in 2012, the standard sanction for a first offence of use of a prohibited substance was two years, but under Article 10.6 of that Code an anti-doping organisation could seek a higher sanction (of between two and four years) by proving that there were aggravating circumstances, while the athlete could avoid any increased ban based on such circumstances by making a prompt admission of his or her offence. The IAAF was one of the most aggressive anti-doping organisations in the use of Article 10.6, and is the only one that has secured aggravated sanctions under Article 10.6 against athletes in ABP cases. In all first notification letters referred to above, the athletes were informed that the IAAF would be seeking the imposition of an increased sanction on the grounds of aggravating circumstances. In some cases the option to avoid that increased sanction by making a prompt admission was set out; in others it was not, but the athlete could still exercise that option by making a prompt admission if he/she saw fit. Where any athlete subsequently accepted a two-year sanction, that was exactly as provided for by the Code provisions in force at the time.

- 2.7 The IC Report also asserts that '[t]here are unexplained delays in getting the CAS appeals argued and decided' in these cases.<sup>65</sup> It does not particularise this assertion further. However, the CAS appeal in the Shobukhova case took 11 months to resolve, from July 2014 to June 2015, which is not unusual for a CAS procedure; the Çakir-Alptekin appeal took 15 months to resolve, from February 2014 to May 2015, firstly because the athlete took many months to respond to the IAAF's disclosure requests, and then because she changed her counsel; and the appeals involving the five Russian race-walkers were filed on 25 March 2015 and heard in Lausanne on 2-3 December 2015, which is within normal time-lines for CAS appeal proceedings. And throughout each of these appeals, the IAAF ensured that all of the athletes concerned remained suspended from competition. Therefore the delays, such as they were, did not prejudice the sport.

### 3. There was no 'systemic' corruption or failure at the IAAF

- 3.1 Even if there are only four ABP cases where results management was improperly delayed, by 3-6 months, that is clearly four too many. While the IAAF takes solace from the fact that the IAAF staff members prevented any further delay, and ensured that in each case the athlete was eventually charged, provisionally suspended pending determination of the charge, and then banned for a lengthy period, with relevant results disqualified, nevertheless the IAAF will be proposing reforms in the near future designed to ensure there cannot even be an attempt at improper interference with any doping case in the future. Those proposals, which involve the establishment of an integrity unit reporting to independent oversight committees and audited by independent external auditors, will also consider carefully the recommendations in the IC Report that the IAAF appoint somebody to monitor Code compliance and the potential role of an Ombudsman to whom athletes and athlete support personnel can turn for advice and assistance.<sup>66</sup>
- 3.2 It is important to note, however, that the improper interference was limited in scope (to a few individuals, none of whom works for or with the IAAF any more), in time (November 2011 to the end of 2012) and in effect (a maximum of four cases, all of which eventually ended in a lengthy ban for the athlete concerned). In addition, there is no allegation of interference in any of the thousands of other doping files handled by the IAAF Medical &

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Anti-Doping Department, and nor is the IAAF aware of any such interference. In particular, there was no interference with the IAAF test distribution plan, with the selection of athletes to be tested as part of that plan, with the types of test to be conducted, or with any other aspect of the doping control process. Instead, all of those matters have been handled properly and robustly throughout by the staff of the IAAF Medical & Anti-Doping Department, leading to the successful detection and punishment of hundreds of cheats, and deterrence of cheating by others, all in strict accordance with the requirements of the World Anti-Doping Code and the IAAF Anti-Doping Rules and Regulations. Furthermore, all IAAF test results (urine and blood tests) are systematically reported by the WADA-accredited laboratories used by the IAAF via ADAMS. WADA receives specific notices through ADAMS of all positive findings and atypical ABP profiles reported by WADA-accredited laboratories in all sports, and in all countries. **As a result, it is simply not possible for an international federation to cover up a case arising from a doping test, or from an atypical ABP profile.** The IAAF also has regular meetings/exchanges with WADA as regards the follow-up of positive tests or atypical ABP cases arising from its anti-doping programme, and WADA can step in any time if it identifies failures to act or unusual delays.

3.3 The IAAF would also suggest that its tangible actions and successes in catching elite Russian athletes who are doping demonstrate that the IAAF has consistently and vigorously pursued Russian doping cases. The IAAF identified Russia as a high-risk country for blood doping in its 2011 Prevalence Study ("*Country X*"),<sup>67</sup> and as a result it put a substantial number of Russian athletes into its Registered Testing Pool, and targeted those and other Russian athletes as part of its general out-of-competition testing programme and as part of its ABP programme. Since 2011, 76 elite Russian athletes (including numerous Olympic, World and European Champions) have been caught doping and sanctioned thanks to the IAAF anti-doping programme, including 33 on the basis of the IAAF's ABP programme. Indeed, the statistics and doping cases referred to in the IC Report are all cases revealed exclusively by the IAAF, through its intelligence-led out-of-competition testing programme, including the two testing missions to Yunost and Saransk that feature heavily in the IC Report, both of which were IAAF target testing missions. Furthermore, a significant number of Russian athletes have been caught and sanctioned as a result of the IAAF policy of storing and re-testing samples when new detection techniques have been developed. In short, **the IAAF has caught and sanctioned more international-level athletes in Russia than any other international federation.** The IAAF has also alerted WADA and (within Russia), ARAF, RUSADA and the Russian Ministry of Sport on many occasions as to the high prevalence of atypical blood results amongst Russian athletes, and the need to put in place a more robust national anti-doping programme.

3.4 As for the other two specific findings set out in the IC Report in respect of the IAAF:

3.4.1 The first specific finding (that '[t]here was potential interference with the integrity of the samples, thwarted only by the extraordinary evasive actions taken by the DCO'<sup>68</sup>) is a reference to the events set out at pp.103-4 of the IC Report. A doping control officer that the IAAF sent to Saransk to collect samples out of competition from certain Russian athletes reported that he was forced to go to extraordinary lengths to evade ARAF monitors (who were acting in concert with Russian law enforcement) in order to ensure that the samples were delivered not to the Moscow laboratory but instead to the Lausanne laboratory, where testing led to five separate adverse analytical findings. The IAAF agrees with this account. With respect, however, it is not sure why this is presented as a finding '*with respect to*' the IAAF.

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- 3.4.2 The other specific finding (that '[t]he IC found examples of outright refusals by athletes, despite notification and evidence that the tester was an official DCO'<sup>69</sup>) relates to a no notice testing mission ordered by the IAAF at a training camp in Yunost, Russia on 22 May 2015, that led to two refusal/evasion cases.
- 3.5 In addition:
- 3.5.1 While the IC Report also notes various deficiencies relating to whereabouts – for example, 'The IC determined that there were many examples of inadequate, incorrect or inexistent whereabouts filings on the part of Russian athletes participating in athletics'<sup>70</sup> and 'The IC determined that there were many examples of missed tests on the part of Russian athletes participating in athletics'<sup>71</sup> – the IAAF understands those findings to relate to athletes in RUSADA's national-level Registered Testing Pool (as to which RUSADA manages any filing failures or missed tests),<sup>72</sup> not to Russian athletes in the IAAF's international-level Registered Testing Pool (every time the IAAF has identified a failure to file accurate whereabouts information or a missed test involving an IRTP athlete, it has declared a whereabouts failure).
- 3.5.2 The IAAF has received ten files from the Independent Commission, via WADA, setting out certain evidence on the basis of which the Independent Commission suggests that five athletes (Tatyana Myazina, Anastasiya Bazdyreva, Ekaterina Poistogova, Kristina Ugarova, and Mariya Savinova-Farsanova), four coaches and one medical doctor (Messrs Melnikov, Mokhnev, Kazarin, Chegin, and Portugalov) have cases to answer for breach of the anti-doping rules, and recommends that those cases 'be pursued as expeditiously as possible, accompanied by provisional sanctions'.<sup>73</sup> In accordance with its current rules, in August 2015 the IAAF issued charges in nine of those cases and referred those charges to ARAF to pursue,<sup>74</sup> at the same time provisionally suspending the individuals involved so that they could not compete in the 2015 IAAF World Championships in Beijing.<sup>75</sup> The only case not progressed to date is that of Tatyana Myazina, which is still under investigation. Now that ARAF has been suspended, and RUSADA has been declared non-compliant with the World Anti-Doping Code, the IAAF will exercise its powers under IAAF Rule 38.3 or 38.19 to have those cases heard directly by the CAS.
- 3.6 For all of these reasons, while the IAAF certainly cannot be and is not complacent, and understands that more always can and should be done, with the greatest respect it does not accept the suggestion in the IC Report that there are 'systemic failures within the IAAF ... that prevent or diminish the possibility of an effective anti-doping program'.<sup>76</sup> As demonstrated above, there is no systemic corruption within the IAAF, but rather a dedicated staff with high ethical standards whose work has contributed greatly to the fight against doping in sport not only in athletics specifically, but also (through the support and assistance that the IAAF Medical & Anti-Doping Department has provided to WADA over the years) in the whole of sport generally. Stakeholders in athletics can therefore have confidence that the IAAF will continue to do, as it has done for the last 50 years, whatever is necessary to protect the integrity of the sport from the scourge of doping.

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<sup>1</sup> IC Report at p.311.

<sup>2</sup> See IAAF Medical & Anti-Doping Department,, The IAAF Registered Testing Pool, <http://www.iaaf.org/download/download?filename=32d9e98f-b3ca-49f5-820b-b161e95f3ee3.pdf&urlslug=The%20IAAF%20Registered%20Testing%20Pool>.

<sup>3</sup> IAAF Medical & Anti-Doping Department, *Advisory Note – The Intelligence Function*, International Association of Athletics Federations, June 2013 (<http://www.iaaf.org/download/download?filename=ba05df77-2267-4a3f-8e36-af826d7f613e.pdf&urlslug=Athlete%20Advisory%20Notes%3A%20The%20Intelligence%20Function>).

<sup>4</sup> See, e.g., IAAF, *Latest Success of IAAF Re-Testing Strategy Reveals 32 More Adverse Findings From Helsinki 2005 and Osaka 2007*, IAAF press release dated 11 August 2015 (<http://www.iaaf.org/news/press-release/positive-retests-helsinki-2005-osaka-2007>).

<sup>5</sup> Verneck, *The Athlete Biological Passport: an integral element of innovative strategies in antidoping*, Br J Sports Med, published online first on 21 March 2014 as 10.1136/bjsports-2014-093560.

<sup>6</sup> See, e.g., *UCI v Valjavec*, CAS 2010/A/2235, award dated 21 April 2011 (<http://www.newcyclingpathway.com/wp-content/uploads/2011/04/valjavec-CAS-award-21-4-11.pdf>), para 7 ('While direct detection methods aim to detect the doping agent itself, the focus of the ABP is not on the detection of prohibited substances but rather on the effect of these substances on the body. Designed, as they are, to create physiological enhancements, biological markers of disease are used in medicine to detect pathological conditions. Biomarkers of doping are used to detect doping').

<sup>7</sup> See, e.g., Sottas et al, *The Athlete's Biological Passport and Indirect Markers of Blood Doping*, in *Doping in Sports* (Springer 2010, Thieme and Hemmersbach eds), pp. 307, 310 (describing the scientific research and findings from 2001 to 2008 that would henceforth permit reliance on indirect blood marker measurements as evidence in and of themselves of blood doping).

<sup>8</sup> The current version (5.0), issued in October 2014, can be found at [https://wada-main-prod.s3.amazonaws.com/resources/files/wada\\_abp\\_operating\\_guidelines\\_2014\\_v5.0\\_en.pdf](https://wada-main-prod.s3.amazonaws.com/resources/files/wada_abp_operating_guidelines_2014_v5.0_en.pdf).

<sup>9</sup> Haemoglobin is the protein inside the red blood cell that carries the oxygen molecules. Haemoglobin concentration (or **HGB**) is the mass of the haemoglobin in the blood divided by the volume of the blood. It is commonly expressed in grams per deciliter (g/dL).

<sup>10</sup> The usual life cycle of a red blood cell is about 120 days. Therefore, each day 1/120 of the red blood cells in circulation in the body need to be replaced by new blood cells (called 'reticulocytes'). Therefore, assuming a normal level of red cell production, in normal physiological circumstances (i.e., absent pathology or blood doping) each day approximately 0.8% of the total red blood cells in the body will be reticulocytes.

<sup>11</sup> See, e.g., *IAAF v SEGAS & Kokkinariou*, CAS 2012/A/2773, award dated 30 November 2012 (<http://jurisprudence.tas-cas.org/sites/CaseLaw/Shared%20Documents/2773.pdf>), para 114 ('association of high haemoglobin with low reticulocytes is a strong evidence of artificial inhibition of reticulocyte formation caused by the suspension of an ESA (or, less likely, by reinfusion of multiple blood bags). It is an indicator of the so-called OFF phase, which is seen when an ESA has been suspended one to three weeks before, such as is observed in doped athletes before important competitions. When the ESA is stopped, hemoglobin remains high for at least two to three weeks, depending on the dosage, while reticulocytes are reduced because the high hemoglobin inhibits endogenous EPO production').

<sup>12</sup> See Pottgiesser and Schumacher, *Biomarker monitoring in sports doping control*, *Bioanalysis*, 2012;4(10): 1245-1253, at 1247 ('The model ... is based on a global Bayesian inference approach for the

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detection of abnormal values over time. In such a Bayesian network, the causal relationship between a doping activity and the induced modification in the blood markers is represented as probabilities where every causal relationship is itself a model represented by a conditional probability density function'). See generally Sottas et al, *The Athlete's Biological Passport and Indirect Markers of Blood Doping*, in *Doping in Sports* (Springer 2010, Thieme and Hemmersbach eds), pp.317-324; Sottas et al, *A forensic approach to the interpretation of blood doping markers*, (2008) 7 *Law, Probability and Risk*, 191-201.

<sup>13</sup> WADA ABP Protocol at pp.47-48.

<sup>14</sup> WADA ABP Protocol at pp.47-48.

<sup>15</sup> WADA ABP Protocol, Appendix E, sections 6 and 7. See generally <https://www.wada-ama.org/en/questions-answers/athlete-biological-passport> (accessed 12 September 2015); IAAF Athlete Advisory Notes, *The Athlete Biological Passport*, <http://www.iaaf.org/about-iaaf/documents/anti-doping> (accessed 12 September 2015).

<sup>16</sup> Based on statistics for the period 2011-2013 inclusive.

<sup>17</sup> Sottas et al, *Prevalence of Blood Doping in Samples Collected from Elite Track and Field Athletes*, *Clinical Chemistry* 57:5; 762-769 (2011).

<sup>18</sup> See e.g. *UK Anti-Doping v Tiernan-Locke*, National Anti-Doping Panel decision dated 15 July 2014 (<http://www.ukad.org.uk/anti-doping-rule-violations/download-decision/a/6605>), para 36 ('Professor Schumacher and Professor d'Onorio [sic] are clearly experts of considerable distinction and unparalleled knowledge in the field of anti-doping, in particular relating to the ABP programme').

<sup>19</sup> The 2009 World Anti-Doping Code did not mandate provisional suspension of an athlete charged with an ABP violation; it left it to the discretion of the anti-doping organisation with results management responsibility in the particular case. It was not until 2015 that the World Anti-Doping Code mandated provisional suspension in such cases.

<sup>20</sup> IC Report at p.12.

<sup>21</sup> IC Report at p.28.

<sup>22</sup> IC Report at p.124.

<sup>23</sup> IC Report at p.235.

<sup>24</sup> IC Report at pp.127, 150-51, p.235.

<sup>25</sup> IC Report at p.128.

<sup>26</sup> IC Report at p.166.

<sup>27</sup> IC Report at p.182.

<sup>28</sup> IC Report, p.236.

<sup>29</sup> IC Report at p.255.

<sup>30</sup> IC Report, pp.240-41. See also, e.g., *L'Equipe, Has The Russian Federation bribed the IAAF?*, 3 December 2014.

<sup>31</sup> IC Report at p.51.

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<sup>32</sup> See, Decision 02/2016 of the Panel of the IAAF Ethics Commission in the matter of (1) Valentin Balaknichev (2) Alexei Melnikov (3) Gabriel Dollé and (4) Papa Massata Diack and the IAAF Code of Ethics, award dated 7 January 2016 (<http://www.iaafethicscommission.org/decisions>), para 50 ('All three compounded the vice of what they did by conspiring to extort what were in substance bribes from LS by acts of blackmail. They acted dishonestly and corruptly and did unprecedented damage to the sport of track and field which, by their actions, they have brought into serious dispute').

<sup>33</sup> IC Report, p.124.

<sup>34</sup> *IAAF reaction to German TV documentary*, <http://www.iaaf.org/news/press-release/iaaf-reaction-to-german-tv-documentary>, 4 December 2014 ('An investigation by the IAAF Ethics Commission is already ongoing with respect to some of the allegations made in the documentary. We would like to underline that the IAAF Ethics Commission is completely independent of the IAAF and has full powers to investigate and to issue sanctions where relevant'); *IAAF statement in response to further media allegations*, <http://www.iaaf.org/news/press-release/iaaf-statement-in-response-to-further-media-a>, 9 December 2014 ('The IAAF firmly believes that the Ethics Commission is the correct platform for any complaints and urges any members of the athletics family to contact this body directly').

<sup>35</sup> Statement of the Chairman of the IAAF Ethics Commission dated 6 November 2015 (<http://www.iaafethicscommission.org/>).

<sup>36</sup> See, Decision 02/2016 of the Panel of the IAAF Ethics Commission in the matter of (1) Valentin Balaknichev (2) Alexei Melnikov (3) Gabriel Dollé and (4) Papa Massata Diack and the IAAF Code of Ethics, award dated 7 January 2016 (<http://www.iaafethicscommission.org/decisions>), paras 59-60.

<sup>37</sup> See, e.g., The Guardian, 4 November 2015, *Lamine Diack, former IAAF head, under investigation in corruption and doping inquiry*.

<sup>38</sup> See, Decision 02/2016 of the Panel of the IAAF Ethics Commission in the matter of (1) Valentin Balaknichev (2) Alexei Melnikov (3) Gabriel Dollé and (4) Papa Massata Diack and the IAAF Code of Ethics, award dated 7 January 2016 (<http://www.iaafethicscommission.org/decisions>), para 68 ('Additionally, the Panel is aware that the French police are also investigating HC and LD, who were not the subject of the initial complaint. HC is currently being investigated by Sir Anthony as well. The Chairman of the EC has also determined, pursuant to Procedural Rule 13(4), that an investigation should be commenced into LD. It should be emphasised that at present no breach of the Code is proven against either').

<sup>39</sup> IC Report, p.69.

<sup>40</sup> IC Report, pp. 167-168, p.235.

<sup>41</sup> IC Report, p.236.

<sup>42</sup> Anna Aliminova was banned for 30 months, from 16 December 2011 to 15 May 2014, see *Positive cases in athletics*, IAAF News, <http://www.iaaf.org/download/download?filename=2778537f-15d0-45ad-8fc1-82ed94a8bd75.pdf&urlslug=Doping%20sanctions%20-%20News%20154>; Svetlana Klyuka was banned for two years, from 10 February 2012 to 9 February 2014, see *Klyuka*, ARAF Commission Decision, 29 June 2012; Nailiya Yulamanova was banned for two years, from 10 February 2012 to 9 February 2014, see *Yulamanova*, ARAF Commission Decision, 29 June 2012; and Yevgeniya Zinurova was banned for two years, from 13 September 2011 to 12 September 2013, see *Zinurova*, ARAF Commission Decision, 29 June 2012.

<sup>43</sup> IC Report, p.237.

<sup>44</sup> Inga Abitova was banned for two years from 11 October 2012 to 10 October 2014, see *Abitova*, ARAF Commission Decision, 1 November 2012; Stanislav Emelyanov was banned for two years from 15 December 2012 to 14 December 2014, see *Emelyanov*, ARAF Commission Decision, 21 December 2013; Sergey Morozov was given a lifetime ban from 18 December 2012, see *Morozov*, ARAF Commission Decision, 18 December

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2012; Tatyana Mineeva was banned for two years from 17 November 2013 to 16 November 2015, see Mineeva, ARAF Commission Decision, 14 December 2013.

45 IC Report, p.236.

46 See WADA ABP Protocol, p.46 ('A unanimous opinion among the three Experts is necessary in order to proceed with possible results management, which means that all three Experts come to the conclusion that considering the available information contained within the Passport at this stage, it is highly likely that a Prohibited Substance or Prohibited Method had been used, and unlikely that it is the result of any other cause. The conclusion of the Experts must be reached with the three Experts assessing the Athlete's Passport with the same data (i.e., three Expert opinions cannot be accumulated over time, as data is added to a profile. If there is no unanimity among the three Experts, the APMU may follow up on requests for additional information or expertise, or recommend the ADO to pursue additional Testing').

47 IC Report, p.251.

48 IC Report, p.251.

49 IC Report, p.246.

50 IC Report, p.248.

51 IC Report, p.238.

52 IC Report, p.243.

53 IC Report, p.243.

54 IC Report, p.253.

55 WADA ABP Protocol, p.49 ('If the Expert Panel expresses the opinion set forth in a. of section 6, then the ADO shall be informed by the APMU. The ADO will then proceed to results management in accordance with Code Article 7.5'); 2015 World Anti-Doping Code Articles 7.5 and 7.9.1.

56 See, the Investigator's Report as Appendix B to the Decision 02/2016 of the Panel of the IAAF Ethics Commission in the matter of (1) Valentin Balaknichev (2) Alexei Melnikov (3) Gabriel Dollé and (4) Papa Massata Diack and the IAAF Code of Ethics, award dated 7 January 2016 (<http://www.iaafethicscommission.org/decisions>), page 45

57 IC Report, p.240.

58 WADA statement regarding Liliya Shobukhova's sanction, 24 August 2015 (<https://www.wada-ama.org/en/media/news/2015-08/wada-statement-regarding-liliya-shobukhovas-sanction>).

59 IAAF appeals six decisions recently made by RUSADA, 25 March 2015, <http://www.iaaf.org/news/iaaf-news/russian-doping-appeal-rusada>.

60 IC Report at p.264.

61 IC Report at p.246.

62 IC Report at p.254.

63 IAAF v TAF and Cakir-Alptekin, CAS/2014/A/3498, award dated 17 August 2015 ([http://www.tas-cas.org/fileadmin/user\\_upload/consent\\_award\\_3498\\_final\\_.pdf](http://www.tas-cas.org/fileadmin/user_upload/consent_award_3498_final_.pdf)).

64 IC Report at p.31.

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65 IC Report at p.263.

66 IC Report at pp.45-46.

67 Sottas et al, *Prevalence of Blood Doping in Samples Collected from Elite Track and Field Athletes*, *Clinical Chemistry* 57:5; 762-769 (2011).

68 IC Report at p.28.

69 IC Report at p.28.

70 IC Report at p.11 and p.118.

71 IC Report at p.16 and p.118.

72 See, e.g., IC Report at pp.186-187.

73 IC Report at p.9, p.41, pp.256-262, and pp.301-303.

74 IC Report at pp.140, 147, 155, 165, 302.

75 IC Report at p.230.

76 IC Report at p.9.