

**FINAL REPORT
OF THE IBU EXTERNAL REVIEW COMMISSION**

REDACTED VERSION

28 January 2021

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1. EXECUTIVE SUMMARY

In April 2018, it was widely reported that the criminal authorities in Austria and Norway were investigating allegations that then-IBU President Anders Besseberg and IBU Secretary General Nicole Resch had buried evidence of Russian doping in return for improper benefits (including, in Mr Besseberg's case, receipt of up to \$300,000), and had conducted surprise raids of their respective residences and of the IBU offices to search for potential evidence.

Recognising the critical importance of restoring public confidence in the integrity of the IBU and in its zero tolerance for corruption and doping in biathlon, in November 2018 the IBU Executive Board appointed an independent External Review Commission to support the criminal authorities in their enquiries and to conduct its own thorough, independent, and transparent investigation into the allegations. The IBU Executive Board committed to the publication of the outcome of the Commission's investigation once it was completed.

The External Review Commission has now completed an exhaustive investigation, and this Final Report sets out its conclusions. It is important to emphasise that although the criminal investigations remain pending at the time of writing against Mr Besseberg in Norway and Ms Resch in Austria, neither of them has yet been charged with any offence, let alone convicted, and they remain presumed innocent of any wrongdoing unless and until charged and convicted. Furthermore, the External Review Commission is not considering criminal liability, only potential liability under the IBU's rules.

In addition, the External Review Commission is not a court or tribunal, and it cannot make and has not made any findings against Mr Besseberg or Ms Resch or anyone else. Instead, the task of the Commission was only to gather the available evidence, whether inculpatory or exculpatory, and to assess whether it presents a case for Mr Besseberg or Ms Resch or anyone else to answer for potential breach of the IBU's rules. The Commission does not have subpoena powers or formal powers of interrogation, and it therefore cannot access evidence in the same way as a court or a public prosecutor's office is able to do. However, the Commission has gathered information from various sources, including interviewing many people who have provided answers and given documentation to the Commission.

Based on the Commission's analysis of that evidence, this Final Report sets out where the Commission considers that there is such a case to answer, and where there is not. Where the Commission considers that there is a case to answer, that means the Commission has identified evidence that it considers credible and reliable, and that it believes would be sufficient, if accepted by the Disciplinary Tribunal, to sustain a charge of breach of the IBU rules. It will now be up to the Biathlon Integrity Unit to decide whether or not to bring any such charges. If it does so, and if those charges are disputed by the persons charged, then it will be up to the Disciplinary Tribunal to determine whether or not to uphold the charges. In the meantime, all of the persons in issue remain presumed innocent of any wrongdoing not only under criminal law but also under the IBU's rules.

1A. Introduction

- 1.1 This final report of the independent IBU External Review Commission (the **Commission**) identifies what the Commission considers to be evidence of systematic corrupt and unethical conduct at the very top of the IBU for a decade (2008 to 2018) and more, by a president (Anders Besseberg, IBU President 1993 to 2018) who appears, in the view of the Commission, to have had no regard for ethical values and no real interest in protecting the sport from cheating. Enabled by a complete lack of basic governance safeguards that left integrity decisions in the sole hands of the President and his allies on the IBU

Executive Board, with no checks and balances, no transparency, and no accountability whatsoever to keep them honest, Mr Besseberg's proclaimed commitment to clean sport was, in the Commission's view, a charade. He and his allies recounted by rote their supposed 'zero tolerance for doping', but did only the absolute minimum that was necessary to preserve a veneer of respectability for the sport.

- 1.2 In the Commission's view, the pattern of corrupt and unethical decision-making was apparent long before evidence of an institutionalised doping conspiracy in Russia started to emerge in 2014 and 2015, but it was clearly exposed by Mr Besseberg's woeful response to that evidence, even as it turned inexorably from a trickle to a stream to a torrent. He and his allies insisted that Dr Grigory Rodchenkov was a liar and a fantasist, that Professor Richard McLaren was a gullible fool, and that even if the Russian Ministry of Sport and the Moscow doping control laboratory had conspired to cheat the anti-doping system, there was no evidence that the Russian Biathlon Union (the **RBU**) or any of its athletes were knowingly involved. They did not trouble themselves with wondering why the RBU would be excluded from such conspiracy, or how an athlete could be injected with rEPO or doped with steroids without knowing about it. Doping, they said, had to be proved by catching athletes with prohibited substances in their systems. In their view, anything less than a positive drugs test was not good enough, whatever any commission or hearing panel might say.
- 1.3 Eventually, thanks to the bravery of whistleblowers, the stalwart efforts of investigative journalists and of the Intelligence & Investigations Department of the World Anti-Doping Agency (**WADA**), and the steadfastness of a few biathlon leaders who were determined to fight for clean sport notwithstanding the hostile and intimidating reaction from Mr Besseberg and his allies, the evidence of the nature and scope of the Russian doping conspiracy, and the scale of its impact on biathlon, have finally emerged. The long list of proven doping cases that is set out at Section 6A.4 of this Final Report reveals not only that blood doping and steroid abuse were widespread within the Russian national biathlon team in the period 2008 to 2014, but also that the Russian conspirators intervened at every stage to cover up that doping and to enable the cheating to continue.
- 1.4 There will always be cheating in sport, as there is in all walks of life, so the real question is how those in charge of the governance and regulation of sport respond to the challenge of protecting clean sport. Clean athletes have a right to expect those in leadership positions not to flinch, not to try to sweep the problem under the carpet, but rather to do absolutely everything in their power to prevent cheating, and to root it out and punish it robustly and without fear or favour, whenever and wherever it occurs. In the Commission's view, however, in biathlon in 2008 to 2018, as detailed in Section 6B of this Final Report, due to Mr Besseberg's attitude, and the lack of any proper governance controls in the sport to hold him accountable, that just did not happen.

1B. Cases to answer for breach of the IBU's rules

- 1.5 The Commission has compiled more than 70,000 documents and electronic files,¹ and has questioned approximately 60 people. It has been given lawful access to the intelligence developed in the context of WADA's investigation and the evidence posted by the authorities in the criminal proceedings in Austria, as well as the evidence filed in various IBU anti-doping proceedings. It has also had unrestricted access to the IBU's own electronic and physical files. Mr Besseberg has declined to answer the Commission's questions while the criminal investigation into his conduct remains pending, and his former colleague Nicole Resch (the IBU Secretary General from 2008 to 2018) said that

¹ A number of documents reviewed were originally in German. Where any such documents are referenced in this report, informal English translations are set out in the text.

she was unable to submit to an interview with the Commission within the timeframe of its investigation for health-related reasons. They also both declined the opportunity to comment substantively on the allegations and evidence set out in this Final Report. However, in accordance with Austrian law the Commission has been granted access to the Austrian criminal investigation file (see paragraph 3.8.1, below) and therefore has copies of the statements that Mr Besseberg and Ms Resch have respectively made to the police, and which they both referred the Commission to as explanations of their respective positions. The Commission acknowledges that they both deny all wrongdoing, and at the moment the criminal proceedings have not resulted in any formal charges, let alone any convictions. They are to be presumed innocent of any wrongdoing (criminal or otherwise) unless and until it is proven otherwise. Nevertheless, in the view of the Commission the evidentiary record that it has gathered establishes that each of them has a case to answer for breach of their duties under the IBU Constitution, the IBU Disciplinary Rules, and/or the IBU Code of Ethics, to act at all times with the utmost of integrity, to protect the rights of clean athletes, and not to undertake any actions that are contrary to the interests of the sport.

- 1.6 In the view of the Commission, the die was cast long before details of the Russian doping conspiracy began to emerge in 2014 and 2015. As detailed in Section 6B of this Final Report, in the Commission's view the evidence uncovered suggests that IBU President Anders Besseberg consistently preferred and protected Russian interests in virtually everything that he did. It is not surprising, or even necessarily a matter for criticism, that the IBU President would want one of the sport's greatest powerhouses to thrive (because, he might say, its success would drive the success of the sport as a whole). But in the Commission's view Mr Besseberg's support for Russian interests went well beyond that general concern, and indeed well beyond all rational bounds. The Commission considers that the evidence *prima facie* establishes the following:
- 1.6.1 First of all, Mr Besseberg allowed former multiple Olympic champion and IBU President Alexander Tikhonov to remain in office as 1st Vice-President of the IBU even after he was charged with conspiring ██████████ to commit a serious crime ██████████. While ██████████ was brought to justice and convicted, Mr Tikhonov avoided trial by fleeing from Russia and taking refuge in Austria. Mr Besseberg gave Mr Tikhonov safe harbour on the IBU Executive Board, even after Mr Tikhonov returned to Russia and was convicted (and then immediately pardoned) (see Section 6B.4).
- 1.6.2 Nor did Mr Besseberg make any effort to remove Mr Tikhonov from the IBU Executive Board after Mr Tikhonov attempted to bribe IBU Secretary General Nicole Resch to drop the rEPO cases the IBU had brought against three Russian national team biathletes in 2009. In fact, Mr Besseberg did not challenge Mr Tikhonov over the incident at all, or over his subsequent attempt to obtain improper influence over a president of an IBU member federation (see Section 6B.5).
- 1.6.3 Nor did Mr Besseberg follow up as he was required (a) in 2014 when the IBU Executive Board was presented with evidence of an apparent effort by then IBU President Alexander Kravtsov ██████████ ██████████ to buy votes at the 2014 IBU Congress elections (see Section 6B.7); or (b) when a used rEPO syringe was found on the track at the 2015 IBU World Cup event in Antholz (see Section 6B.8).
- 1.6.4 It was Mr Tikhonov and Mr Kravtsov that Dr Rodchenkov says he witnessed discussing in the summer of 2013 how much they had paid Mr Besseberg to do their bidding (see Section 6B.1). The Austrian and Norwegian criminal

authorities have identified evidence sufficient to warrant setting up a joint taskforce to investigate the bribery allegation against Mr Besseberg, while the Commission has identified extensive provision of favours by the Russians to Mr Besseberg, particularly in the form of free hunting trips and the services of prostitutes (see Section 6B.1). That Mr Besseberg acted under improper Russian influence may (in the Commission's view) be inferred from his consistent and implacable favouring of Russian interests, even when doing so took him well over the line of propriety into clear breach of his duties as IBU President.

1.7 The Commission would also point, in this regard, to Mr Besseberg's response to the news of the Russian doping scandal that broke in late 2014 and 2015. One would expect a founder member of and the representative of the Olympic winter sports federations on WADA's Foundation Board to react with outrage and condemnation to such a betrayal of sport, and commit himself to establishing the scope of the alleged conspiracy and its impact on biathlon, and to bringing all those involved to justice as quickly as possible. However, the evidence gathered by the Commission indicates that Mr Besseberg did quite the opposite, trying his best to downplay the scandal and to belittle and undermine the efforts of those who were striving to ensure an effective and meaningful response.

1.7.1 In reaction to the initial disclosures by the Pound Commission, and the suggestion that biathlon should consider whether it had been affected by the conspiracy, Mr Besseberg did not propose that the IBU set up its own commission to investigate. Instead, the IBU Executive Board that he presided over instructed the IBU Secretary General to write an indignant letter to WADA, demanding that evidence be produced to justify the suggestion that biathlon may have been affected (see paragraph 6.145).

1.7.2 Similarly, Mr Besseberg reacted to WADA's call to international federations to honour their commitment as Code signatories not to grant their World Championships to a country whose corrupt national anti-doping organisation had been declared non-compliant by complaining that Russian biathlon should not have to suffer from the wrongdoing of others, and by telling the IBU's member federations at the 2016 IBU Congress that they could grant the 2021 IBU World Championships to Tyumen, Russia, without breaching that commitment, when that was clearly not the case.² When WADA and the Czech national biathlon federation called him out on these actions, he had no defence, but was forced to capitulate, pausing only to state to his detractors that the IBU Legal Committee had confirmed that the IBU had complied with its Code obligations, when in truth that committee had done no such thing (see Section 6B.10).

1.7.3 The evidence reflects that, even while acknowledging on the side that there had been a conspiracy between the Moscow laboratory and the Russian Sports Ministry, Mr Besseberg reacted to Professor McLaren's report detailing that conspiracy by insisting loudly that it was not worth the paper it was written on, because it relied solely on the evidence of a man, Dr Rodchenkov, who was not to be trusted (see paragraph 6.199.2). The fact that two separate IOC Disciplinary Commissions (the Oswald Commission and the Schmid Commission) agreed with Professor McLaren that Dr Rodchenkov's testimony was corroborated by the objective evidence and was credible did not give

² Despite having relevant intelligence on the subject, the Commission has not gathered specific evidence to substantiate allegations that delegates at the 2016 IBU Congress were bribed to vote for the Tyumen bid: see Section 6B.11.

Mr Besseberg pause. And while he agreed with his fellow IBU Executive Board members that the IBU should support the IOC's decision (based on the Schmid Commission's findings) to ban the Russian team from the 2018 Olympic Games, and should not lobby the IOC to allow Russian athletes to compete in Pyeongchang, there is clear evidence that he then disregarded that decision and went behind the IBU Executive Board's back to argue to the IOC that the RBU and its athletes were blameless and should be allowed to participate in the 2018 Games (see Section 6B.14).

- 1.7.4 In late 2017 and early 2018, leading biathletes and IBU member federations and even the IBU's broadcast partners pleaded to the IBU to send a message in support of clean sport by moving the 2018 IBU World Cup final event out of Russia. However, Mr Besseberg insisted that it was for the IBU Executive Board alone to make that decision, and then ensured that it did so in favour of Russia, first by using his double (casting) vote to defeat a motion at the Executive Board to move the event [REDACTED] and then by telling the IBU Executive Board members that they could be held personally liable for the losses of the local organising committee, and may lose their houses, if they took the event away from Russia after the hosting contract had been signed (see Section 6B.15).

- 1.8 IBU Secretary General Nicole Resch worried about Mr Besseberg's clear pro-Russia stance [REDACTED] but ultimately, in the view of the Commission, she too has a case to answer for breach of the IBU's rules:

- 1.8.1 The evidence gathered by the Commission corroborates Dr Rodchenkov's testimony that the RBU and RUSADA were concerned that WADA's Athlete Biological Passport (**ABP**) programme would expose blood doping by Russian biathletes, and so worked hard to corrupt the programme to avoid that exposure. However, the Commission has not found evidence to corroborate Dr Rodchenkov's belief that the IBU (or, specifically, Nicole Resch) was complicit in those efforts. In fact, the record suggests that no one at the IBU did anything to transfer 'dirty' ABP profiles to the RBU and RUSADA so that they could bury them. Those responsible at the IBU could not do so, because they were not even looking at the ABP profiles for evidence of doping, and so did not know whether the Russian profiles were 'dirty' or not (see Section 6B.3.1).
- 1.8.2 The Commission considers that at the Olympic Games in Sochi in 2014, Nicole Resch [REDACTED] failed to react as required to highly abnormal values in the blood parameters of Russian biathlete Evgeniy Ustyugov ([REDACTED]), i.e., by ordering the immediate collection of further blood and urine samples from him to be tested for erythropoietin-stimulating agents (**ESAs**) (see Section 6B.6). The Commission can identify no excuse for that failure, which allowed Mr Ustyugov to go on and help win a gold medal for the Russian team in the men's relay. It considers that Ms Resch [REDACTED] may have a case to answer for complicity in Mr Ustyugov's blood-doping anti-doping rule violation (**ADRV**), and that Ms Resch has a case to answer for putting the IBU at risk of being declared non-compliant with the World Anti-Doping Code for failure to investigate properly Mr Ustyugov's apparent ADRV.
- 1.8.3 The evidence available to the Commission suggests that Nicole Resch has a case to answer for colluding with Anders Besseberg in 2015 to stifle investigation of the used rEPO syringe that was found on the track at the 2015 IBU World

Cup event in Antholz. DNA analysis confirmed the blood in the syringe came from a male subject, but the evidence reflects that Ms Resch only sent a sample of one athlete to the laboratory to be checked for a DNA match, and declined to send any others, for no good reason that the Commission can discern. And two years later, when the IBU Athletes' Committee asked her what had been done to investigate the syringe, she told them 'We sent it to the police. We checked it with all athletes in our records from the last 10 years and found nothing', when the evidence indicates that the IBU did neither of those things (see Section 6B.8).

- 1.8.4 In the view of the Commission, there is clear evidence to suggest that Nicole Resch took control over the IBU anti-doping programme (including the ABP element) and sought to disempower and block any oversight of that programme by the IBU Medical Committee whose efforts had led to the exposure of three Russian rEPO users in 2009 (see Section 6B.3.2). She also appears to have dragged her feet over arranging for the external oversight of the IBU's ABP programme that is required under the WADA rules, even though WADA had told her there were atypical ABP profiles that needed to be addressed, one of which (when eventually independently reviewed) led to charges being brought against Mr Ustyugov (see Section 6B.9). However, the Commission is not ready to conclude that her motive in these actions was to help to cover up Russian doping. Rather, it appears to the Commission that this may have simply been an attempt on her part to aggregate power under her control and limit proper oversight of that power.
- 1.8.5 Nor, in the Commission's view, did Nicole Resch improperly divert or delay the efforts of the IBU Working Group to follow up on the evidence of doping by Russian biathletes that was presented along with the McLaren report in December 2016, or with the LIMS data provided by WADA in December 2017. She was hostile, sceptical, and incredibly cautious about bringing any doping case that was not based on a positive test for a prohibited substance in an athlete's sample, and was fully backed and encouraged in that stance by Mr Besseberg [REDACTED]. But there is no evidence that she blocked any actions that should have been taken, and in particular there is no evidence that she blocked any new cases from being brought in 2018 because she wanted to avoid the final 2018 IBU World Cup event being moved from Tyumen. To the contrary, the evidence indicates that she thought that the event should be moved from Tyumen, and it was not her fault that there was a delay in the Working Group pushing forward with the four cases that the IBU eventually brought in September 2018 based on the LIMS data (see Sections 6B.12 and 6B.16).
- 1.8.6 However, while Nicole Resch appears to have believed that there had been a conspiracy between the Russian Ministry of Sport, the Moscow laboratory, and the Russian Olympic Committee to win medals at the Sochi Games by illicit means, she demanded that clear evidence be provided that individual Russian biathletes knew about the conspiracy before she would believe they were complicit in that scheme, and she remained (at best) highly sceptical that any evidence short of a positive doping test should be accepted as sufficient for that purpose. In the Commission's view, Ms Resch was entitled to insist that individual Russian athletes should not be banned unless there was specific evidence that they were knowingly involved. Eventually, however, apparently succumbing to relentless blandishments from [REDACTED] the RBU (see Section 6B.2), in the view of the Commission there is clear evidence that she

went further, giving rise to a case to answer for breach of the IBU rules, by (among other things) (see Section 6B.13):

- 1.8.6.1 providing strategic advice to [REDACTED] about how best to pursue the appeals to CAS of Sochi medal winners Zaitseva, Romanova, and Vilukhina, and offering to provide them with further 'undercover' assistance in relation to those appeals;
- 1.8.6.2 providing strategic input in relation to and encouraging the three medal winners to bring damages claims against WADA and Professor McLaren and Dr Rodchenkov if the CAS ruled Rodchenkov's evidence unreliable;
- 1.8.6.3 agreeing that [REDACTED] should add IBU Executive Board member Dr Jim Carrabre to the list of people to be 'investigated'; and
- 1.8.6.4 trying (albeit unsuccessfully) to influence improperly the Chair of the IBU Anti-Doping Hearing Panel (ADHP) in relation to the case that the IBU itself had brought against Russian biathlete Ekaterina Glazyrina [REDACTED].

1.9 [REDACTED]

1.9.1 [REDACTED]

1.9.2 [REDACTED]

[Redacted text block]

1.9.3

[Redacted text block]

1.9.4

[Redacted text block]

1.10 In addition, the Commission notes that:

1.10.1

[REDACTED]

1.10.2 The Commission is aware that it is a condition of the reinstatement of the RBU to full membership of the IBU that the RBU cooperates in full with the Commission's enquiries. The Commission therefore notes for the record that the RBU cooperated with the Commission's requests for information, Mr Maygurov (current RBU President and former IBU 1st Vice-President) made himself available for interview at the Commission's request, and the RBU also sought to help the Commission to arrange interviews with the RBU's former President, Mr Alexander Kravtsov, [REDACTED], and a former RBU employee [REDACTED] who is referred to in this report by the alias 'Person B'. Person B submitted to an interview, but ultimately both Mr Kravtsov and [REDACTED] refused to be interviewed. While Mr Kravtsov agreed to answer written questions, he then failed to do so. [REDACTED]

1C. Recommendations for action going forward

- 1.11 A full unredacted copy of this Final Report, together with all supporting evidence, has been provided to the Biathlon Integrity Unit (the **BIU**). Under the new IBU Constitution, it will be the sole and exclusive right and responsibility of the BIU to decide whether to undertake any further investigations and (where it agrees with the Commission that there is a case to answer) whether to bring disciplinary charges for breach of the IBU rules that were in place at the relevant time. Unless and until such disciplinary charges are brought and upheld, the persons involved remain presumed innocent of any wrongdoing. In addition, the Commission acknowledges that whether or not disciplinary charges are brought will depend on a range of factors, including in particular the status and progress of the pending criminal proceedings.
- 1.12 The Commission has also identified further evidence of potential doping by Russian biathletes, beyond the cases brought to date by the IBU or (since October 2019) by the BIU. This includes in particular evidence of potential blood doping, with various efforts to cover up that blood doping, including not entering testing details promptly into ADAMS, missed tests, and early retirements followed by a return to competition. Again, the Commission has passed on that evidence to the BIU, and it will be the exclusive right and responsibility of the BIU to investigate further as necessary and determine whether any charges should be brought for violation of the IBU's Anti-Doping Rules.
- 1.13 The Commission has also provided a full unredacted copy of this Final Report (a) to WADA; (b) to the Austrian criminal authorities investigating the case against Ms Resch; and (c) to the Norwegian criminal authorities investigating the case against Mr Besseberg. In accordance with its mandate, the Commission has sought throughout to assist these authorities as much as it could with their respective investigations, and again that responsibility will now fall upon the BIU moving forward.

- 1.14 In the view of the Commission, this Final Report stands as a case study for the importance of good governance in sport, and in particular for the compelling need to take integrity decisions away from an executive board that will never be free of conflict (actual or apparent) and put them exclusively in the hands of an independent body or unit. At this point, the Commission would recommend that the IBU make as soon as possible a raft of improvements to the governance of the IBU, including the introduction of (a) term limits for Executive Board members; (b) processes to make financial and other decision-making more transparent and more accountable; (c) integrity-related eligibility requirements for anyone wishing to hold office at the IBU; as well as (d) the transfer of exclusive authority over integrity-related decisions to a properly-resourced independent Biathlon Integrity Unit. However, the IBU member federations already accepted each of those recommendations from the Commission at the 2019 IBU Congress, by adopting a completely new Constitution that has already brought in all of those improvements and many others. In addition, the Commission notes that the IBU Executive Board understands that a new constitution on its own achieves nothing, and has stated that it is 'determined to lead by example and to ensure that high good governance standards are achieved across our sport; from the IBU through to the National Federations. It is not about ticking boxes but about delivering meaningful improvements that will benefit biathlon and give our athletes, fans and all stakeholders complete trust in our sport'.³ The Commission could not agree more, and commends the IBU Executive Board on this initiative. The Commission recommends that the IBU Executive Board sets up a standing committee or working group to advise the IBU on any further developments in best governance practice in other sports or sectors that the IBU should also consider adopting, and to help it to ensure that the dramatic change in culture that the IBU has undergone under the guidance of this Executive Board since the 2018 Congress – putting at the heart of the organisation an unconditional commitment to clean sport and to the ethical values that make sport worthwhile – is truly embedded within the IBU and the sport.
- 1.15 For the sake of transparency, throughout the Commission's mandate its interim reports have been published on the IBU's website, and the Commission has also reported to the IBU's member federations at the Congresses held in October 2019 and November 2020. In addition, according to the Commission's Terms of Reference dated 6 November 2018 and revised on 27 September 2020,⁴ a copy of this Final Report is to be published on the IBU website and on the BIU website (less certain information that the Commission has decided to redact prior to publication, for legal and/or other reasons).
- 1.16 The Commission hopes that other international federations and stakeholders in the sports movement will also read this Final Report to see whether it can provide any insights to assist them to maintain the highest standards of governance and integrity in their own sports.
- 1.17 The Commission strongly recommends that the IBU and the BIU make special efforts to bring the contents of this Final Report to the attention of current and former biathletes, including those who competed between 2008 and 2018, as well as those competing today. To the Commission, the evidence appears strong that the IBU under Mr Besseberg betrayed clean biathletes, marginalising them and failing to protect their right to clean sport. When some of them tried to speak out, he tried to ignore them, he belittled them, and he rejected their efforts to introduce transparency and accountability to the sport. It is therefore very important that those biathletes see that he has been called to account for his actions. The Commission commends the IBU Executive Board and the 2018 IBU Congress for giving a seat on the IBU Executive Board to the chair of the IBU Athletes'

³ IBU press release, *IBU welcomes results of the AIOWF Governance Review*, 1 September 2020.

⁴ Available at biathlonworld.com/about-ibu/inside-ibu/committees.

Committee, and it recommends that the IBU take further steps to engage with competing and retired biathletes in every aspect of its activities, and to encourage its member federations to do the same, so that the interests of clean athletes are put at heart of everything the IBU does and everything for which the IBU stands.

- 1.18 Finally, the Commission has included in Appendix Three of this Final Report comments and in one case recommendations in relation to the whistleblower complaints that it received in relation to three different topics.

1D. Conclusion

- 1.19 In closing, the Commission respectfully commends the new IBU President and Executive Board members who were elected at the 2018 IBU Congress for being committed to the proper investigation of the allegations against Mr Besseberg and Ms Resch, in accordance with the IBU's obligations as a signatory to the World Anti-Doping Code, and in cooperation with WADA and the criminal authorities. It also commends them for their commitment to updating and strengthening the constitution of the IBU and the IBU's governance practices moving forward in line with international best practice, to minimise the chances of recurrence. The steps that the IBU Executive Board has taken to learn the lessons from the past and to do what it can to protect the future should stand the sport in good stead for many years to come.
- 1.20 The Commission hopes that by illuminating the governance failures of the past, this Final Report helps the IBU Executive Board and the independent Board of the Biathlon Integrity Unit in their efforts to engage with biathletes and member federations, as well as other stakeholders, to embed into the DNA of the IBU the new culture of ethical values, accountability, and transparency that they have championed. The Commission wishes them well in that task, which will be for the great long-term benefit of this fantastic sport.

Dated: 28 January 2021

IBU External Review Commission:

Jonathan Taylor QC (Chair)
Vincent Defrasne (IBU Athletes' Committee representative)
Dr Christian Dorda
Dr Tanja Haug
Dr Anja Martin
Lauren Pagé (Legal Secretary)

2. GLOSSARY AND *DRAMATIS PERSONAE*

2A. Glossary of acronyms

ABP	Athlete Biological Passport.
ADAMS	WADA's Anti-Doping Administration & Management System, a web-based database management system used by stakeholders and athletes involved in the anti-doping system. See wada-ama.org/en/what-we-do/adams .
ADHP	IBU Anti-Doping Hearing Panel.
ADRV	Anti-doping rule violation.
AIOWF	Association of International Olympic Winter Federations.
BIU	Biathlon Integrity Unit.
CAS	Court of Arbitration for Sport, in Lausanne, Switzerland.
CERA	Continuous erythropoietin receptor activator (CERA) is the generic term for drugs in a class of third-generation erythropoiesis-stimulating agents (ESAs).
CRC	WADA's independent Compliance Review Committee.
CSP	The Centre of Sports Preparation of the National Teams of Russia, a federal government agency operating under the direction of the Russian Ministry of Sport.
EDPs	Evidence Document Packages issued in support of the second McLaren report.
EPO	Erythropoietin, a natural hormone that boosts the number of red blood cells in the blood and so the transport of oxygen to the muscles.
ESA	Erythropoiesis-stimulating agent.
FIS	Fédération Internationale de Ski.
FSB	Federal Security Service of the Russian Federation.
HGB	Haemoglobin.
IBSF	International Bobsleigh and Skeleton Federation.
IBU	International Biathlon Union.
IF	International federation.
IIHF	International Ice Hockey Federation.
IOC	International Olympic Committee.
LIMS	Laboratory Information Management System.
NADO	National Anti-Doping Organisation (e.g., in Russia – RUSADA).
NF	National federation.
RBU	Russian Biathlon Union.
rEPO	Recombinant EPO, a synthetic version of EPO, used in medicine to treat anaemia and kidney disease, and used illicitly in endurance sports to boost performance.
RET%	The percentage of reticulocytes (young blood cells) in the blood.
ROC	The Russian Olympic Committee.
RUSADA	The Russian Anti-Doping Agency.
WADA	The World Anti-Doping Agency.
WADA I&I	The independent Intelligence & Investigations Department of WADA.
WCH	World Championship.

2B. *Key dramatis personae*

Anders Besseberg	IBU President, 1992 to 2018.
Tore Bøygard	President, Norwegian Biathlon Federation, 2006 to 2016; IBU Executive Board member, 2018 to date.
Dr Jim Carrabre	Medical doctor; IBU Executive Board member, 2006 to date; Chair of the IBU Medical Committee, 2002 to 2018.
Max Cobb	IBU Executive Board member, September 2016 to date.
Olle Dahlin	IBU Executive Board member, 2014 to date; IBU President, 2018 to date.

Dr Nikita Kamaev	RUSADA Executive Director, December 2010 to December 2015.
Alexander Kravtsov	Director of the CSP, 2009 to September 2020; RBU President, 2014 to 2018; Chef de Mission for the Russian team at 2014 Sochi Olympic Games.

Dr Klaus Leistner	Secretary General, Austrian Ski Federation, 1971 to 2020; IBU Executive Board member (Vice-President, Finance), 2006 to date.
Ivor Lehotan	IBU Executive Board member, 2002 to date; former Vice-President of the Slovak Biathlon Association, 2006-2016; President of the Organising Committee Biathlon Brezno-Osrblie.
Victor Maygurov	Former biathlete, IBU 1st Vice-President, 2014 to 2018; RBU Board member, 2010 to 2020; RBU President, July 2020 to date.
Yuri Nagornykh	Deputy Minister of Sport of the Russian Federation, February 2010 to October 2016 (title was Deputy Minister of Sports, Tourism and Youth Policy of the Russian Federation from February 2010 to June 2012, until the ministry was renamed in June 2012).

Dr Stephan **Netzle** Swiss lawyer; external counsel to the IBU, 2008 to date; Chair of IBU's McLaren Working Group, December 2016 to 2018.

Person A
 [Redacted] Person who worked for the IBU. (The pronoun 'they' is used for any alias to conceal gender).

Person B
 [Redacted] Former RBU employee. (The pronoun 'they' is used for any alias to conceal gender).

[Redacted]
 Nicole **Resch** IBU Deputy Secretary General, 2007 to 2008; interim IBU Secretary General, April to November 2008; IBU Secretary General, December 2008 to 2018.

[Redacted]
 Dr Grigory **Rodchenkov** Director of the Moscow doping control laboratory, 2005 to 2015.

[Redacted]
 Dr Franz **Steinle** President of the German Ski Association, 2013 to date; IBU Legal Committee member, 2014 to 2018; IBU Executive Board member, 2018 to date; Chair of the IBU Constitution Working Group, 2018 to 2019.

Alexander **Tikhonov** Olympic champion biathlete; RBU President, 1995 to 2008; IBU 1st Vice-President, 2002 to 2010.

Aleksey **Velikodny** CSP analyst, around 2009 to 2016.

3. THE COMMISSION'S FIRST MANDATE: ASSISTING WADA AND THE CRIMINAL AUTHORITIES IN THEIR RESPECTIVE INVESTIGATIONS

3.1 As per Article 1.1.1 of the Commission's Terms of Reference,⁵ the first mandate of the Commission was to cooperate with WADA and the criminal authorities in Austria and Norway in their respective investigations of matters relating to the IBU, including facilitating their access to relevant information under IBU control and ensuring there was no interference from within the IBU with those investigations.

3A. Cooperation with WADA

3.2 In late 2017, WADA's Intelligence & Investigations Department (**WADA I&I**) issued a report outlining allegations that the then IBU President (Anders Besseberg) had covered up ADRVs by Russian biathletes, with the assistance of the then IBU Secretary General (Nicole Resch), and that delegates of IBU member federations at the 2016 IBU Congress had been bribed to vote in favour of the 2021 World Championships being held in Tyumen, Russia.⁶ This led to the criminal authorities in Austria opening a formal criminal investigation into potential doping fraud, corruption, and/or financial crimes.

3.3 Shortly after the Commission was established in November 2018, it made contact with Gunter Younger, Director of WADA I&I, to confirm that the Commission had been mandated to provide WADA with any information or other assistance that it required to pursue its investigation. A strong and mutually cooperative relationship was quickly established.

3.4 In early 2019, WADA I&I decided to refer the investigation relating to the IBU over to the Commission, so that WADA I&I could concentrate on reviewing and authenticating the analytical data it had obtained from the Moscow doping control laboratory, some of which has since been provided to the IBU to support doping cases against Russian biathletes.⁷

3.5 Throughout its investigation, the Commission has remained in close contact with WADA I&I, keeping it updated on the Commission's investigation, and has benefited from its advice and inputs. The Commission is grateful to WADA I&I for its invaluable support and guidance.

3B. Cooperation with the criminal authorities

3.6 The Austrian criminal authorities first began their investigation in 2017 after WADA's investigation report was provided to the Austrian Federal Criminal Police Office (**BK**) in October 2017. A meeting between WADA and Interpol took place soon thereafter, in which officials of the BK and a delegation from the Norwegian police also took part. On the basis of suspected criminal activity, the Austrian criminal authorities (assisting the Norwegian criminal authorities) conducted surveillance of communications by Anders Besseberg and Nicole Resch, and in April 2018 they conducted raids and searched their respective private residences, as well as the IBU's offices in Salzburg.

3.7 The case was assigned to the Austrian Central Public Prosecution Office – Prosecution of Commercial Criminal Offences and Corruption (**WKStA**). Based on the evidence available,

⁵ Available at biathlonworld.com/about-ibu/inside-ibu/committees.

⁶ WADA I&I report, 04.10.17 [Document 1], discussed further at paragraph 5.3.

⁷ See wada-ama.org/en/media/news/2019-01/wada-successfully-retrieves-data-frommoscow-laboratory.

the initial matters investigated by the Austrian criminal authorities included the following:

- 3.7.1 An investigation against five Russian biathlon team officials for the use of prohibited substances or methods for the purposes of doping (section 22a paragraph 1, subparas 1 and 2 of the Austrian Anti-Doping-Act 2007⁸) and five Russian biathletes for serious fraud in connection with doping (section 146 and section 147 paragraphs 1a and 2 of the Austrian Criminal Code⁹) in relation to the 2017 IBU World Championships in Hochfilzen, Austria. The allegations were that the team officials provided or administered prohibited substances or methods to Russian biathletes participating in the 2017 IBU World Championships, and that the doped biathletes achieved placings and prize money by illicit means, thereby defrauding the organisers of the 2017 IBU World Championships.
- 3.7.2 An investigation against each of Anders Besseberg (Norwegian citizen) and Nicole Resch (German citizen) on suspicion of (i) serious fraud (section 146 and section 147 paragraphs 1a and 2 of the Austrian Criminal Code Code); (ii) facilitating doping (section 22a paragraph 1, subparas 1 and 2 of the Austrian Anti-Doping Act 2007); and (iii) acceptance of gifts and bribes from Russian officials (section 309 paragraphs 1 and 3 of the Austrian Criminal Code).¹⁰ The allegations were that in their capacities as (respectively) President and Secretary General of the IBU they received at different points in time between 2012 and 2018 (cash or non-cash) benefits or the promise thereof from officials of the RBU in return for not prosecuting (and not imposing sanctions for) suspected doping by Russian biathletes, including (in Mr Besseberg's case) a cash receipt of at least US \$300,000.¹¹ In so doing, they are also alleged to

⁸ Section 22a paragraph 1 of the Austrian Anti-Doping Act 2007 prohibits the following conduct (informal English translation): '(1) Anyone who, for the purpose of doping in sport, 1. distributes or uses on others substances prohibited in all sports pursuant to the annex to the Anti-Doping Convention (Prohibited List), as long as they are not addictive drugs as defined in the Addictive Drugs Act (Suchtmittelgesetz; SMG), or 2. uses prohibited methods specified in the Prohibited List for artificial enhancement of oxygen transfer (blood doping) or gene doping (the non-therapeutic use of cells, genes, genetic elements, or of the modulation of gene expression to enhance performance) on other people, shall be punished by imprisonment of up to six months or a fine of up to 360 daily rates'.

⁹ Sections 146 and 147 of the Austrian Criminal Code provide as follows (informal English translation): Fraud Section 146: ('Anyone who, with the intention of unlawfully enriching himself or a third party by the conduct of the deceived party, induces someone to commit an act, tolerate an act or refrain from committing an act which damages the latter or another person's property by deceiving them about facts, shall be punished by imprisonment for up to six months or by a fine of up to 360 daily rates'); and Aggravated Fraud Section 147 paragraphs 1a and 2 (informal English translation) ('anyone who commits a fraud with more than minor damage by deceiving about the use of a prohibited substance or a prohibited method according to the Annex to the Anti-Doping Convention, Federal Law Gazette No. 451/1991, for the purposes of doping in sport shall be punished. (2) Similarly, anyone who commits a fraud with damages exceeding EUR 5,000 shall be punished').

¹⁰ See footnotes 8 and 9, above. Section 309 of the Austrian Criminal Code provides as follows (informal English translation): '(1) An employee or agent of a company who demands, accepts or allows himself to be promised an advantage from another person for himself or a third party in the course of his business for the performance or omission of a legal act in breach of his duties shall be punished by imprisonment for up to two years. (2) Similarly, anyone who offers, promises or grants an advantage to an employee or agent of a company in the course of business for the unlawful performance or omission of a legal act for himself or a third party shall be punished. (3) Anyone who commits the act in respect of an advantage exceeding EUR 3 000 shall be punished by imprisonment for up to three years, but if the advantage exceeds EUR 50 000, by imprisonment for between six months and five years'.

¹¹ Later amended to US \$200,000.

have contributed to the offences mentioned above regarding the 2017 IBU World Championships in Hochfilzen (i.e., by having knowledge of doping by the Russian biathletes but nevertheless allowing them to compete), and to have illegally prevented the holding of an IBU Executive Board meeting during the 2018 Olympic Winter Games in Pyeongchang to decide on doping suspicions against Russian biathletes.

- 3.7.3 Mr Besseberg was also specifically alleged to have (i) unlawfully failed to take any action regarding Alexander Tikhonov (former IBU Vice-President and RBU President) after he allegedly offered a jewelry box to Nicole Resch to induce her not to pursue suspected doping by Russian biathletes in 2008/2009; (ii) unlawfully permitted Tyumen to bid to host the 2021 IBU World Championships; and (iii) unlawfully permitted other biathlon events to be awarded to Russian candidates.
- 3.8 Shortly after the Commission was first established in November 2018, it made contact with both the Austrian and Norwegian criminal authorities to advise that it stood ready and willing to assist them as necessary. At that time, the Norwegian criminal authorities were only assisting the Austrian criminal authorities and had not yet started their own investigation. As a result, they suggested that the Commission offer its support through the Austrian criminal authorities for the time being, which the Commission duly did.
- 3.8.1 In December 2018, the Austrian criminal investigators recognised the Commission's legitimate legal interest in reviewing the documents in the Austrian criminal file, and on that basis, in accordance with Austrian procedural law, granted the Commission access to those documents.¹²
- 3.8.2 In January 2019, the Commission met with the Austrian and Norwegian criminal authorities in Vienna to discuss concretely how the Commission might assist them with their respective investigations.
- 3.8.3 In March 2019, the Austrian and German criminal authorities announced that they were (separately) investigating allegations of blood doping involving 21 athletes from five sports and eight countries, initiated following an ARD report relating to Austrian cross-country skier Johannes Dür. In Austria, the investigation, called 'Operation Aderlass', is being conducted by the Innsbruck Public Prosecutor's Office (i.e., separately from the biathlon investigation being handled by WKStA). The Commission quickly established and maintained a dialogue with criminal authorities and national anti-doping agencies regarding Operation Aderlass, with a view to sharing any mutually relevant information. Operation Aderlass has led to court proceedings that have recently resulted in a number of criminal convictions.
- 3.8.4 In early July 2019, the Commission had a further in-person meeting with the Austrian criminal authorities, to discuss both the biathlon investigation and the possible impact of the Operation Aderlass. IBU President Olle Dahlin attended part of the meeting to confirm to the Austrian prosecutor the IBU's commitment to assist the criminal authorities.

¹² The Austrian criminal case file is in German. Where documents from the case file are referenced in this report, informal English translations are set out in the text.

- 3.9 At the end of July 2019, the Austrian criminal authorities formally requested to refer the part of their investigation relating to Anders Besseberg to the Norwegian criminal authorities (given that Mr Besseberg is a Norwegian citizen and resident).
- 3.10 In September 2019, the Austrian criminal authorities announced that they were terminating the preliminary proceedings initiated against the five Russian biathletes and five team officials for suspected ADRVs and fraud in relation to the IBU World Championships in Hochfilzen in February 2017, mainly due to lack of evidence, in particular given that the copy of the Moscow laboratory's LIMS database recovered by WADA covered only the period 2012–2015, and not 2017. However, the investigation was extended to cover unknown suspects among Russian biathletes and team officials for the period 2012-2017 on the basis that there was evidence that Russian state doping had also taken place in Austria. Given that Mr Besseberg and Ms Resch were alleged to be contributory offenders (by not following up evidence of Russian doping), the related allegations against them were also amended accordingly.
- 3.11 Also in September 2019, Mr Besseberg brought proceedings before the Landesgericht (first instance court) in Vienna, seeking to have the investigation against him in Austria discontinued, on the grounds that there was no criminal offence alleged to have been committed in Austria, and to prevent the Austrian criminal authorities from requesting that the Norwegian criminal authorities take over the investigation against him. The court dismissed his requests. Mr Besseberg appealed to the Oberlandesgericht (appeal court) in Vienna, but again without success. In particular, the appeal court found that 'in view of the extensive facts of the case, the number of persons involved, the scope of data to be evaluated and the considerable public interest in clarification, the consideration of the court of first instance that the continuation of investigative proceedings is justified in view of the suspicion, urgency, and weight of the offences as well as the previous duration and scope of the preliminary investigation is not objectionable'.¹³
- 3.12 In March 2020, the Norwegian criminal authorities (in particular the Head of the Norwegian Authority for Investigation and Prosecution of Economic and Environmental Crime, or **OKOKRIM**) formally agreed to accept the request from Austria to take over the investigation of the allegations that Mr Besseberg (in his capacity as an IBU official) received and accepted gifts, money, and other benefits from RBU officials and others with relation to and/or interests in the business of the IBU, in violation of sections 387 and 388(a) of the Norwegian Criminal Code.¹⁴ They did not take over the separate charges regarding doping offences and fraud because Norway does not have a regulation equivalent to the Austrian Anti-Doping Act and Mr Besseberg's acts would not be classified as fraud under the Norwegian Criminal Code.
- 3.13 A joint investigation team (**JIT**) was set up between the Austrian and Norwegian criminal authorities in April 2020 to facilitate the sharing of information between them in relation

¹³ Court decisions, February 2020 [Document 2] (informal translation from original German).

¹⁴ See Norwegian Criminal Code section 387(a) ('**Corruption** A penalty of a fine or imprisonment for a term not exceeding three years shall be applied to any person who a) for himself/herself or others demands, receives or accepts an offer of an improper advantage in connection with the conduct of a position, an office or performance of an assignment [...]); and section 388 ('**Aggravated corruption** Aggravated corruption is punishable by imprisonment for a term not exceeding 10 years. In determining whether the corruption is aggravated, particular weight shall be given to whether the act a) was carried out by or toward a public official or any other person by violating the special trust attached to his position, office or assignment, b) whether it resulted or could have resulted in a considerable financial advantage, c) whether there was a risk of considerable harm of a financial or other nature, and d) whether false accounting information was recorded or false accounting documentation or false annual accounts were prepared').

to their respective investigations. Europol joined the JIT in May 2020. At the end of May 2020, the Commission contacted the Norwegian criminal authorities to reiterate that it was ready and willing to assist if and when required.

- 3.14 The Austrian criminal authorities will assist the Norwegian investigation as part of the JIT, and in the meantime the Commission understands that they have temporarily suspended their investigation against Mr Besseberg in Austria. However, the Austrian criminal authorities have reserved the right to re-open that investigation if necessary in the future, and in the meantime they continue with their investigation in relation to Ms Resch [REDACTED].
- 3.15 At the time of issuing this Final Report, the Austrian and Norwegian criminal investigations are still ongoing. In addition to the significant workload involved in reviewing the large amount of evidence in the matter, the COVID-19 pandemic has delayed those investigations, in particular the ability to conduct further witness interviews.
- 3.16 With the issue of this Final Report, the Commission's mandate has come to an end. Consequently, the Biathlon Integrity Unit and the IBU Executive Board will need to decide how best to continue supporting the ongoing criminal investigations.

4. THE COMMISSION'S SECOND MANDATE: UPDATING AND STRENGTHENING THE IBU CONSTITUTION AND SUPPORTING RULES

- 4.1 As per Article 1.1.1 of the Commission's Terms of Reference, the second mandate of the Commission was to assist with the reform of the IBU Constitution, the IBU's rules of conduct (ethical, anti-doping and otherwise), and the IBU's related disciplinary rules and regulations, by recommending any reforms or amendments that the Commission considered necessary or appropriate to ensure that these legal instruments, structures, practices, policies and procedures reflect the highest standards of integrity and transparency, and that the IBU is operating in accordance with international best practice in this area, with a strengthened ability to prevent and to respond robustly to any future breaches of its rules.
- 4.2 To fulfil this mandate, the Commission supported Dr Franz Steinle, the Chair of the IBU Constitution Working Group, on the review of the IBU Constitution and supporting rules. It recommended several reforms, including the following:
- 4.2.1 Article 28.2 of the 2019 IBU Constitution, which establishes the Biathlon Integrity Unit (**BIU**), a new specialised unit responsible for investigating and prosecuting violations of the IBU Integrity Code, and for ensuring that the IBU complies with its obligations under the World Anti-Doping Code and with its other governance and ethical compliance obligations set out in the IBU Constitution and rules, in particular in a new and comprehensive IBU Integrity Code.
- 4.2.2 The Biathlon Integrity Unit operates independently of the IBU Executive Board and IBU staff, under the supervision of a strong independent board of directors.¹⁵ As a result, all of the IBU member federations and other stakeholders in the sport can have confidence that the Biathlon Integrity Unit will investigate and determine whether to bring proceedings for apparent violations of the IBU Integrity Code independently, impartially, and without fear or favour; and the actual or apparent conflicts of interest that the IBU Executive Board may have in dealing with potential violations of the IBU Integrity Code are avoided.
- 4.2.3 Articles 26 and 27 of the 2019 IBU Constitution, which require all persons elected or appointed (or nominated for election or appointment) as IBU staff or as members of the IBU Executive Board or an IBU committee to be vetted to ensure they meet specified eligibility criteria (e.g., not having any serious criminal convictions or doping violations on their record, not being bankrupt, not being subject to other specified disqualifying conditions). The vetting is carried out by the independent members of the BIU Board in accordance with the new IBU Vetting Rules. Any decision by the vetting panel that a person is not eligible for election or appointment as an IBU official or IBU staff member may be appealed to the CAS.
- 4.3 Under the supervision of Dr Steinle, there was a detailed consultation process with the IBU member federations on the new proposed Constitution and rules. There was strong support from those members for the integrity-related changes to the new Constitution and rules, including those highlighted above.
- 4.3.1 The draft Constitution and supporting rules were first circulated to member federations on 19 July 2019. Clare Egan, Chair of the IBU Athletes' Committee,

¹⁵ See official website at biathlonintegrity.com.

also circulated those drafts to biathletes on the same date. The feedback received through the consultation process was positive and supported the many reforms proposed. The feedback also provided a number of very detailed and helpful comments, which helped to improve the draft rules.

- 4.3.2 Following a meeting of the IBU Constitution Working Group on 19 August 2019, and the IBU Executive Board on 31 August 2019, amendments were made to the draft Constitution and rules, and revised drafts were circulated to IBU member federations on 5 September 2019.
- 4.3.3 The final drafts were circulated to IBU members on 4 October 2019. Seven motions from four Member NFs were submitted in relation to the final draft Constitution. Those motions were addressed (through minor amendments) or withdrawn prior to the Congress vote.
- 4.3.4 At the IBU Extraordinary Congress in Munich on 19 October 2019, the IBU's members adopted the new 2019 IBU Constitution and supporting rules (including the rules setting up the new Biathlon Integrity Unit) without dissent.
- 4.4 In the Commission's view, the 2019 IBU Constitution and supporting rules introduce the highest standards of integrity and transparency to the IBU, and therefore put the IBU at the forefront of good governance in international sport.
- 4.5 The Association of International Olympic Winter Federations (**AIOWF**) conducts a review of the governance of each of its members through a process of independent assessment and moderation. AIOWF issues a report for each federation setting out individual scores (out of 4) on a number of governance indicators, as well as a total score by which it ranks its members. AIOWF scored the IBU significantly higher in its 2019 governance assessment report than it had in 2018 (increasing from 91 to 121), and noted that the 'IBU has exceeded the target of 120 set by the ASOIF Governance Taskforce'. AIOWF specifically recognised that 'significant advances since 2018 include the new Constitution (with term limits), including the Integrity Code and the Biathlon Integrity Unit, which was in the process of implementation at the time of the review in May'. Further, it suggested that with the reforms the IBU would in the future score even higher, because the 'assessment is based on measures which were already in place by May 2020', and 'credit has not been given for reforms or activity to be implemented or proposed at a later date'.¹⁶
- 4.6 The Biathlon Integrity Unit has a very strong board and head of unit, with significant experience in (among other things) anti-doping, investigations, and sports law. The Commission has no doubt that the BIU will be able to fulfil the clear mandate given to it by the IBU's member federations, and thereby greatly strengthen the IBU's ability to address risks to the integrity of the sport.

¹⁶ For example, in relation to two integrity-related indicators, namely (i) establishing an internal ethics committee with independent representation; and (ii) having a unit or officer in charge of ensuring that the federation abides by the IOC's and federation's respective codes of ethics, AIOWF specifically noted that it assigned 3 points (out of 4) simply on the basis that the Biathlon Integrity Unit (which was first set up end of October 2019) was new and relatively untested at the time of the governance review (conducted only seven months later).

5. THE COMMISSION'S THIRD MANDATE: DETERMINING WHETHER ANYONE HAS A CASE TO ANSWER FOR BREACH OF THE IBU'S RULES

5.1 The third mandate in the Terms of Reference was as follows:

1.1.2 to ensure that the IBU fulfils its investigatory obligations under Article 20.3.10 of the World Anti-Doping Code, and its commitment to cooperation with WADA under Article 4.2 of the IBU Constitution, to conduct a full and unfettered investigation into all anti-doping, compliance, ethical and other disciplinary matters arising from the ongoing investigation by WADA and various national and international criminal authorities, as well as into any further issues of concern that arise in relation to IBU governance or ethical matters within the IBU and/or otherwise in the sport of biathlon that are identified in the course of the investigation (together, the **Matters**), in order:

- (a) to establish all of the relevant facts in relation to the Matters;
- (b) to determine whether any person or member or other body that is subject to the jurisdiction of the IBU has a case to answer for breach of their obligations to the IBU in relation to any of the Matters, whether by contract, under the IBU rules and regulations, or otherwise, including but not limited to:
 - (i) determining whether the IBU anti-doping rules and disciplinary rules, as well as all applicable World Anti-Doping Code provisions, have been properly applied, leading to appropriate adjudication and subsequent consequences, or alternatively whether any anti-doping rule violations have been covered up or otherwise improperly handled (by the IBU and/or others);
 - (ii) determining whether any breaches of the IBU code of ethics and/or other rules of conduct have occurred; and
 - (iii) determining whether the Russian Biathlon Union was given any preferential treatment by the IBU with respect to the hosting of events, either generally or in particular in relation to the vote for Tyumen to host the 2021 World Championships, and whether the voting for Tyumen was tainted by corruption; and [...]

1.1.4 to advise the IBU whether any person or member or other body has a case to answer for breach of their obligations to the IBU in relation to any of the Matters.

5.2 Following the adoption of the IBU's new Constitution in October 2019, and the consequent establishment of the Biathlon Integrity Unit, paragraph 1.14 of the Terms of Reference was revised to provide that the Commission is 'to advise the Board of the Biathlon Integrity Unit (which will be responsible for bringing any cases, in accordance with Article 1.3.2.3 of Chapter A of the IBU Integrity Code), copying the IBU Executive Board, whether any person or member or other body has a case to answer for breach of their obligations to the IBU in relation to any of the Matters'.

5A. The allegations investigated

5.3 A WADA I&I investigation report summarised information received from 'multiple sources', which in WADA I&I's view established reasonable grounds to suspect that:

- 5.3.1 The conspiracy spearheaded by the Russian Ministry of Sport to cover up doping by Russian national team athletes that was first described in the McLaren reports¹⁷ extended to and included the sport of biathlon.
- 5.3.2 The corruption of officials at international sports federations to bury or delay adverse Athlete Biological Passport (**ABP**) cases that implicated IAAF President Lamine Diack and certain of his associates at the IAAF¹⁸ also extended to and included IBU President Anders Besseberg and the IBU Secretary General, Nicole Resch.
- 5.3.3 Mr Besseberg was paid 'between \$200,000 and \$300,000 USD in bribes to ensure his protection of Russian interests. Mr Besseberg is further alleged to have been rewarded with Russian holidays, hunting trips and prostitutes'.
- 5.3.4 'In return, Mr Besseberg has proactively campaigned to award the 2021 IBU World Championship event to Russia despite the Code requiring him to "do everything possible" not to award such an event to a Code non-compliant country'.
- 5.3.5 'Informant information suggests that the Russian delegation offered and potentially paid unknown IBU Congress members between €25,000 and €100,000 to vote in support of their bid to host the 2021 Championships. Moreover, just before voting, Mr Besseberg stood up and asked all IBU Congress members to vote for Russia'.
- 5.3.6 'Ms Resch is believed to be highly protective of Russian interests, particularly in her handling of the Biological Passports of Russian biathletes. [...] For years Ms Resch has delayed the introduction of an effective ABP Program at the IBU. Moreover, in early 2015, Doctor Rodchenkov asserts the IBU returned the Biological Passport files of all Russian biathletes to RUSADA, despite nearly half revealing evidence of doping. As the Passport Custodian, the IBU (i.e., Ms Resch) was required to maintain carriage of the Biological Passports and progress any identified cases of doping. It is believed RUSADA took no further action in regards to the Biological Passports they received from the IBU'.¹⁹
- 5.4 In subsequent reports, the WADA I&I Department identified further allegations against Mr Besseberg and/or Ms Resch, including that they failed to investigate properly a used syringe of rEPO found on the track at the 2015 World Cup event in Antholz.²⁰
- 5.5 In addition, during its investigation the Commission also identified further areas of potential concern.
- 5.6 All such allegations and concerns are addressed in Section 6B, below.

¹⁷ See paragraph 6.5.1, below.

¹⁸ *Former IAAF Head Lamine Diack sentenced to 2 years in prison*, AP News, 16 September 2020.

¹⁹ WADA I&I report, 04.10.17 [Document 1].

²⁰ See WADA I&I reports [Documents 1 and 3].

5B. The legal framework for the investigation

5B.1 The IBU rules and regulations

5.7 On 19 October 2019 (the **Effective Date**), the IBU's new Integrity Code came into force. Article 1.4 of Chapter A of the IBU Integrity Code states:

1.4.1 This Integrity Code will apply in full to all cases where the violation occurs after the Effective Date.

1.4.2 Any case pending prior to the Effective Date, or brought after the Effective Date but based on a violation that occurred prior to the Effective Date, will be governed by the Former Rules in force at the time the violation occurred, save that:

1.4.2.1 the procedural rules set out in Chapter D or Chapter E (as applicable) of this Integrity Code will apply in place of the procedural rules in force at the time the violation occurred; and

1.4.2.2 the Disciplinary Tribunal and/or the CAS may decide to apply substantive provisions of this Integrity Code to the case where doing so benefits the Participant charged with the violation, based on the doctrine of *lex mitior*; and

1.4.2.3 all such cases will be handled as from the Effective Date by the BIU on behalf of the IBU, in accordance with the foregoing provisions.

5.8 Under Chapter E of the IBU Integrity Code, the Biathlon Integrity Unit has the right to coordinate its actions with those of law enforcement and other competent bodies and the exclusive right to determine, based on an analysis of the evidence and also weighing the imperatives underlying the Integrity Code, whether charges should be brought for breach of the IBU's rules:

3.5 Where it deems it appropriate, the BIU may coordinate and/or stay its own investigation pending the outcome of investigations and/or prosecutions by other competent bodies, including law enforcement and/or other regulatory or disciplinary bodies.

[...]

4.1 The BIU will have the sole and exclusive right and responsibility:

4.1.1 to determine whether a Participant has a case to answer for violation of this Integrity Code;

4.1.2 to charge a Participant with violation of this Integrity Code;

4.1.3 to present that charge before the Disciplinary Tribunal for hearing and determination; and

4.1.4 to pursue or defend (as applicable) any application and/or appeal arising in relation to such proceedings.

4.2 The BIU will discharge its rights and responsibilities in good faith in all cases, taking into account both at the point of determining whether to issue a Notice of Charge and throughout any proceedings that follow: (a) the likelihood of a charge being upheld (including considering the strength of any evidence relied upon, the merits of the BIU's case, and how the defence case is likely to affect the BIU's case); and (b) whether bringing or continuing to pursue the charge is necessary and proportionate to the achievement of the imperatives underlying this Integrity Code.

- 5.9 Therefore, given that the matters investigated occurred mainly in the period 2008 to 2018, the question for the Commission is whether anyone has a case to answer for breach of the IBU's rules of conduct in force in that period. If so, the current procedural rules will apply, and therefore it will be for the Biathlon Integrity Unit to decide whether, and if so when, to bring those cases forward, and it will bring any such cases before an independent CAS Ordinary Division arbitral panel for hearing and determination, and the sanctions applicable for any breach confirmed by that panel will be those set out in the IBU's rules of conduct in force in that period.²¹
- 5.10 A table of relevant provisions from IBU rules in force in the period 2008 to 2018 is set out at Appendix Two to this Final Report.²² In broad summary:
- 5.10.1 As set out in the IBU Disciplinary Rules, any person participating in the activities of the IBU or its member federations (including, among others, board members and staff) could be subject to disciplinary measures for:
- 5.10.1.1 violating the principles of fair play and unsportsmanlike conduct (including for offences under the anti-doping rules);
 - 5.10.1.2 violating the Constitution, other IBU rules (including the IBU Code of Ethics), or decisions of organs of the IBU;
 - 5.10.1.3 endangering or impairing the reputation or interests of the IBU; or
 - 5.10.1.4 offences against the IBU or its members (or their organs or persons belonging to members).
- 5.10.2 The Code of Ethics, first introduced in September 2012, imposed the following substantive obligations on any IBU functionaries and any person participating in any IBU activities:
- 5.10.2.1 to conduct themselves with due care and diligence in performing their assigned tasks, avoiding actions that might damage the reputation of the IBU and/or the sport of biathlon;
 - 5.10.2.2 to behave and act with complete credibility and integrity; and
 - 5.10.2.3 not to abuse their position as part of their function to take advantage of their function for private aims or gains, or in any other way.

²¹ This is consistent with the general principles of law applied by the CAS. See e.g. *Mong Joon Chung v FIFA*, CAS 2017/A/5086, paragraph 119 ('[...] according to well-established CAS jurisprudence, intertemporal issues are governed by the general principle *tempus regit actum* or principle of non-retroactivity, which holds that (i) any determination of what constitutes a sanctionable rule violation and what sanctions can be imposed in consequence must be determined in accordance with the law in effect at the time of the allegedly sanctionable conduct, (ii) new rules and regulations do not apply retrospectively to facts [that] occurred before their entry into force, (iii) any procedural rule applies immediately upon its entry into force and governs any subsequent procedural act, even in proceeding related to facts [that] occurred beforehand, and (iv) any new substantive rule in force at the time of the proceedings does not apply to conduct occurring prior to the issuance of that rule unless the principle of *lex mitior* makes it necessary') (citations omitted).

²² The table does not cover (i) the IBU Anti-Doping Rules, since they are based on the World Anti-Doping Code and therefore are well-known, or (ii) the IBU rules currently in force (i.e., in the IBU Integrity Code), given that the conduct in issue here occurred prior to their entry into force on 19 October 2019.

5.11 In addition, the Commission's Terms of Reference state the following:

2.2.1 The IBU Executive Board will instruct the IBU's officers, committee members, commission members, working party members, legal and other representatives, employees, agents, and suppliers, contractors and partners to cooperate fully with the Commission, including (1) providing any documents or other information (including information stored on telephones, computers and/or other devices) that the Commission requests in full and without delay; (2) answering any and all Commission questions, whether in formal interview or otherwise; and (3) where requested by the Commission, keeping communications between themselves and the Commission confidential.

2.2.2 Each of the members of the IBU Executive Board will provide the same cooperation to the Commission.

2.2.3 Any failure to provide the cooperation set out above to the Commission, and/or any attempt to hinder or delay the work of the Commission, including (without limitation) any attempt to withhold potentially relevant information, interfere with witnesses or tamper with or destroy potentially relevant information, will be treated as a serious breach of obligation to the IBU, for example (but without limitation) under Articles 18, 22 and/or 54 of the IBU Constitution, Article 1.2 of the IBU Code of Ethics, Articles 3.3(b), (c) and/or (d) of the IBU Disciplinary Rules, and/or Articles 2.5, 22.1.6/22.1.7 and/or 22.2.6/22.2.7 of the IBU Anti-Doping Rules, and sanctioned accordingly. [The revised version of the Commission's Terms of Reference provides at clause 2.2.3 that '[r]eferences to particular provisions encompass any successor provisions subsequently adopted, in the same or amended form, by the IBU'].

5.12 Under the IBU Disciplinary Rules in force from 2009 to 2018, the sanctions applicable for breach of the various above-referenced obligations include reprimands and fines, as well as (in serious cases) removal from office for the remainder of any elected or appointed term of service, and ineligibility for 'future periods of elected or appointed service up to a lifetime ban'.

5.13 In addition, pursuant to Article 5 of the current 2019 IBU Executive Board Rules, the IBU Executive Board also has the power to suspend or remove any of its members from office in certain circumstances.

5B.2 The test the Commission has applied to determine whether there is a case to answer for breach of the applicable IBU rules

5.14 In determining whether a person has a case to answer for breach of the IBU rules of conduct, the Commission has applied the following test: is there admissible and credible evidence that would be sufficient, if accepted by the hearing panel, to prove each element of the rule breach charged to the applicable standard of proof? The applicable standard of proof is 'to the comfortable satisfaction of the hearing panel' for any ADRVs,²³ and 'on the balance of probabilities' for all other alleged breaches.²⁴

²³ IBU Integrity Code of Conduct, Chapter D, Article 3.1. Thus, 'the Panel must carefully consider the ingredients of liability under each of the relevant provisions of the WADC that the Athlete is alleged to have contravened. It must then consider whether the totality of the evidence presented before the Panel enables it to conclude, to the requisite standard of comfortable satisfaction, that the Athlete personally committed the specific acts or omissions necessary to constitute an ADRV under each of those separate provisions of the WADC': *Zubkov v IOC*, CAS 2017/A/5422, paragraph 695; *Legkov v IOC*, CAS 2017/A/5379, paragraph 727 (same). See also *IRB v Troy & ARU*, CAS 2008/A/1664, paragraph 36 ('The burden remains upon the [Anti-Doping Organization] to prove each of the constituent elements of the alleged anti-doping rule violations to our comfortable satisfaction').

²⁴ IBU Integrity Code of Conduct, Chapter E, Article 8.3. The CAS has ruled that the burden of proof is a procedural provision, not a substantive one, and therefore the burden of proof in the rules in force at the

- 5.15 Rules restricting the admissibility of evidence in court proceedings do not apply in disciplinary proceedings to enforce the IBU Integrity Code. Instead, charges may be proven by 'any reliable means'.²⁵
- 5.16 Where, as here, the allegation is of deliberate and knowing involvement in a clandestine and corrupt scheme, in assessing the evidence the following principles apply:
- 5.16.1 Given the seriousness of the allegation, any hearing panel will need clear and cogent evidence of an individual's personal and knowing involvement in the scheme.²⁶
- 5.16.2 On the other hand, 'when assessing the evidence, the Panel has well in mind that corruption is, by nature, concealed as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoing'.²⁷
- 5.16.3 In fact, 'the more successful the alleged scheme was, the less direct evidence of wrongdoing is likely to be available'.²⁸
- 5.16.4 Therefore 'the absence of direct evidence is not necessarily an indication of innocence, but may equally be indicative that the wrongdoing has been effectively concealed'.²⁹
- 5.16.5 Furthermore, the hearing panel must take into account '[t]he paramount importance of fighting corruption of any kind in sport and also considering the nature and restricted powers of the investigation of authorities of the governing bodies of sport as compared to national formal interrogation authorities'.³⁰ In particular, '[s]ince the [sports governing body] cannot compel

time the charge is brought apply. *Mong Joon Chung v FIFA*, CAS 2017/A/5086, paragraph 133 (relying on 'CAS jurisprudence to the consistent effect that, pursuant to the legal principle of *tempus regit actum*, procedural matters are governed by the rules in force at the time of the procedural act in question. Therefore, given that burden of proof is a procedural principle, the Panel must apply in the present proceedings the rule on burden of proof set out in Article 52 FCE (2012 edition)') (citations omitted); *Gnidenko v IOC*, 2016/A/4803, paragraph 94 (whereas the general rule is that the IOC bears the burden of proving an ADRV, 'The 2015 WADC and, in particular, Article 3.2.1 [putting the burden on the athlete to prove a testing procedure used was not scientifically valid], were the procedural rules existing at the time each of the proceedings, giving rise to these appeals, was commenced. Accordingly, as accepted by the Appellants, the Panel is of the view that the Appellants bear the burden of proving that the testing procedures adopted by the Lausanne and Cologne laboratories were not scientifically valid'). Reasoning by analogy, the same is true of the standard of proof.

²⁵ IBU Integrity Code, Chapter D, Article 3.2.1.

²⁶ *Zubkov v IOC*, CAS 2017/A/5422, para 674; *Legkov v IOC*, CAS 2017/A/5379, para 706; *IAAF v RUSAF & Shkolina*, CAS 2018/O/5667, para 102.

²⁷ *Oriekhov v UEFA*, CAS 2010/A/2172, para 54; *Savic v PTIOs*, CAS 2011/A/2621, para 8.7.

²⁸ *Zubkov v IOC*, CAS 2017/A/5422, para 683; *Legkov v IOC*, CAS 2017/A/5379, para 715; *IAAF v RUSAF & Shkolina*, CAS 2018/O/5667, para 100.

²⁹ *IAAF v RUSAF & Shkolina*, CAS 2018/O/5667, paragraph 100; *IAAF v RUSAF & Bespalova*, CAS 2018/O/5676, para 63.

³⁰ *Salmond v IIHF*, CAS 2018/A/5885, para 110 (quoting from other CAS awards); *IAAF v RUSAF & Shkolina*, CAS 2018/O/5667, para 84 ('CAS jurisprudence provides guidance on the meaning and application of the "comfortable satisfaction" standard of proof. The test of comfortable satisfaction "must take into account the circumstances of the case" (CAS 2013/A/3258 paragraph. 122). Those circumstances include "[t]he paramount importance of fighting corruption of any kind in sport and also considering the nature and restricted powers of the investigation authorities of the governing bodies of sport as compared to national formal interrogation authorities" (CAS 2009/A/1920; CAS 2013/A/3258)') and para 101 (a

the provision of documents or testimony, it must place greater reliance on the consensual provision of information and evidence and on evidence that is already in the public domain. The evidence that it is able to present before the CAS necessarily reflects these inherent limitations in the [sports governing body]'s investigatory powers. The Sole Arbitrator's assessment of the evidence must respect those limitations. In particular, it must not be premised on unrealistic expectations concerning the evidence that the [sports governing body] is able to obtain from reluctant or evasive witnesses and other sources'.³¹

- 5.16.6 Therefore, there is no doubt that direct evidence is not a prerequisite; indirect, circumstantial evidence can be sufficient to sustain a corruption charge.³²
- 5.16.7 Furthermore, even if single items of circumstantial evidence may each be insufficient, considered in isolation, to establish a violation to the requisite standard, considered together they may suffice. Therefore it is vital to consider the different items of circumstantial evidence not in isolation but together, weighing their cumulative effect. To use the analogy of strands in a cable, the question is whether the different 'strands' of evidence make the 'cable' (the case) strong enough to bear the weight of the burden of proof borne by the body bringing the charge.³³
- 5.16.8 As part of that analysis, it may be entirely appropriate to invite the hearing panel 'to draw inferences from the established facts that seek to fill in gaps in the direct evidence. The Panel may accede to that invitation where it considers that the established facts reasonably support the drawing of the inferences'. If the hearing panel is satisfied to the required standard of proof about the secondary facts from which a primary fact is to be inferred, and that that inference is a reasonable one to draw, it may conclude that the offence has been committed 'notwithstanding that it is not possible to reach that conclusion by direct evidence alone'.³⁴

sports governing body 'is not a national or international law enforcement agency, and its investigatory powers are more limited than the powers available to such bodies'); *Vanakorn v FIS*, CAS 2014/A/3832, para 96 ('FIS has to establish such a violation to the comfortable satisfaction of the Panel, which will take into account FIS' restricted powers of investigation and, as such, its difficult position to produce evidence in relation to the offence in question given that acts of corruption are, as a matter of fact, sought to be concealed by the participants to it').

³¹ *IAAF v RUSAF & Bepalova*, CAS 2018/O/5676, para 63.

³² See eg *Boevski v IWF*, CAS 2004/A/607, para 7.9.5; *Smith de Bruin v FINA*, CAS 98/A/211, para 12.3. See also *Zulkiffli and Tan Chun Seang* (Badminton World Federation, Ethics Hearing Panel, decision 2018/01) at para 188 ('it is more likely than not that direct evidence will be the exception and indirect evidence the standard when dealing in cases involving alleged corrupt activity').

³³ *WADA v Bellchambers et al*, CAS 2015/A/4059, para 107, quoting Lord Hofmann in *Attorney General for Jersey v Edmond-O'Brien*, Privy Council, 2006 1 WLR 1485, para 25, followed in *DFSNZ v Murray*, CAS 2017/A/4937, paras 51-53, and in *IAAF v RUSAF & Shkolina*, CAS 2018/O/5667, para 85 ('[...] a panel is allowed to consider the cumulative effect of circumstantial evidence. Therefore, even if single items of evidence may each be inadequate to establish a violation to the comfortable satisfaction of a hearing panel, considered together they may suffice').

³⁴ *Zubkov v IOC*, CAS 2017/A/5422, paras 683 and 685; *Legkov v IOC*, CAS 2017/A/5379, paras 715 and 717 (same). See also *IAAF v RUSAF & Shkolina*, CAS 2018/O/5667, paras 99-100.

- 5.16.9 The question of whether someone undertook certain actions for corrupt reward is a paradigm example of a circumstance where it may be appropriate to draw an inference from all of the cumulative facts.³⁵
- 5.17 Unless the rules in question state otherwise, under applicable law (Austrian law: see paragraph 5.19) the limitations period for a claim for breach of the IBU rules is thirty years. Article 17 of Chapter D of the IBU Integrity Code states that proceedings alleging ADRVs must be brought within ten years of the alleged violation, but there is no express limitations period for proceedings for breach of the other IBU rules, and therefore the thirty year default limitations period under Austrian law applies.

5B.2 Duties owed to the IBU under the Austrian law of associations

- 5.18 In addition to the duties they owe under the IBU's rules of conduct, IBU Executive Board members and staff may also owe further duties to the IBU under applicable law.
- 5.19 The IBU is headquartered in Salzburg, Austria, and therefore the applicable law is Austrian law. It is an association (*Verein*) according to the provisions of the Austrian Law of Associations (*Vereinsgesetz*) and a non-governmental international organisation (NGO) as defined in the Austrian Federal Law (Federal Law Gazette 174/1992 - **NGOG**). Pursuant to Section 4 NGOG, the Austrian Law of Associations does not apply to NGO organisations. However, having applied for registration and being registered in the Austrian Registry of Associations the IBU has voluntarily submitted to that law.
- 5.20 The members of an association including the board members, are not *per se* responsible for liabilities of the association. However, board members of the association can become liable to the association if they act in a manner that has caused the association to incur liability for damages to members of the association or third parties.
- 5.21 The Austrian Law of Associations addresses the issue of such liability in Chapter 5, sections 23 to 26. These are mandatory provisions of law that apply to all associations, regardless of anything to the contrary in their constitutions. In relevant part, sections 23 and 24 provide as follows (informal English translation):

Liability for obligations of the association

Sec 23 The association is liable for the association's liabilities with its assets. Board members and members of the association are only personally liable if this results from other legal regulations or due to personal legal obligations.

Liability of board members and auditors

Sec 24 (1) If a board member of the Association violates his or her legal or statutory duties or lawful resolutions of a competent organ of the Association in disregard of the diligence of a prudent and conscientious board member, he or she shall be liable to the Association for the resulting damage in accordance with sections 1293 ff Austrian Civil Law Act; this

³⁵ *Greenwood et al v British Horseracing Authority*, Appeal Board decision dated 6 January 2016, paras 105-106 ('it must be borne in mind that in this type of case i.e. where corrupt practice for financial gain is alleged, but denied, [...] there will often be contested issues of fact in connection with which the tribunal has to ask itself whether the drawing of a given inference is, or is not, justifiably to be made. And, in making that decision, it will need to focus upon the facts, evidence and argument touching upon all aspects of the case, not only individually, but in so far as they may legitimately and logically be seen to inter-connect. Again, this is what was meant by "the wider context" in the Reasons. 106. Reward (or not) in this type of case is a cardinal example of those instances where, typically, it will be fair and appropriate for the adjudicating Panel to consider whether, direct evidence absent, an inference should or should not be drawn that a particular event has happened').

shall apply mutatis mutandis to auditors. If the board member or the auditor works free of charge, he is only liable in the event of intent or gross negligence, unless otherwise agreed or stipulated in the statutes. Association members are not [officials] in their capacity as participants of the general meeting.

(2) A Board member can in particular become liable for damages if he or she culpably acts as follows:

1. misappropriation of the association's assets,
2. association projects are started without sufficient financial security,
3. disregards his or her obligations with regard to the association's financial and accounting system,
4. the opening of insolvency proceedings on the assets of the Association is not applied for in time,
5. in the event of the dissolution of the association, obstructs or thwarts its liquidation or
6. behaviour which has caused the association to incur liability for damages towards members of the association or third parties.

(3) The obligation to pay compensation does not apply if the action is based on a decision of an organ of the association responsible for the decision in accordance with the statutes, which was taken in accordance with the law and in due form. However, the obligation to pay compensation does not cease to apply if the administrator of this organ of the Association has misled this organ.

5.22 The examples given in section 24(2) are not exhaustive. In fact, any unlawful behaviour of the board member may qualify where the conduct is either intentional or negligent (or in circumstances where the board member provides services free of charge, where the conduct is grossly negligent unless the constitution lowers the level to ordinary negligence, which is not the case here).

5.23 In the case at hand:

5.23.1 For section 24(2) point 6 to apply, the 'behaviour which has caused the association to incur liability for damages' must qualify under general criteria for compensation of damages, which are (i) a damage, (ii) a causal link between the behaviour and the damage, (iii) unlawfulness of the behaviour, and (iv) culpability on part of the perpetrator.

5.23.2 The commission of crimes would also be covered (bribery, doping fraud, embezzlement or *Untreue*).

5.23.3 As regards the general conduct of business of the association by the board members, the diligence of a prudent and conscientious legal agent (*ordentlicher und gewissenhafter Organwarter*) is required. A legal agent, who fails to comply with the required standard of diligence and, as a result of such failure, breaches his or her legal or statutory obligations or a lawful resolution by a competent organ, will be liable for the damage caused under general statutory tort law. The business conducted will be tested under the business judgement rule, a common law concept that the Austrian courts have explicitly applied.

- 5.23.4 A breach of duty of loyalty (e.g., lying to the executive board or the general meeting) would also qualify if it results in damages inflicted on the association (for instance by way of mishandling finances).
- 5.24 A three-year limitation period applies to a claim under section 24 of the Austrian Law of Associations, calculated from the date that the other IBU officials became aware of the damaging event(s).

5C. The investigation process followed by the Commission

- 5.25 Consistent with generally accepted principles of procedural fairness, the Commission has sought to conduct its investigation objectively and impartially. It has been open to and has considered all possible outcomes at each key stage of the investigation, and in each case has sought to gather not only any available evidence of a rule breach but also any available evidence indicating that there is no rule breach. It sought to interview all relevant people involved, and to put to each of them any evidence that appeared to be adverse to them, to give them an opportunity to provide any explanation they saw fit. In addition, prior to the publication of this Final Report, it offered to give Mr Besseberg, and did give Ms Resch, [REDACTED] copies of the sections of the report relating to each of them, and invited them to provide any comments. Where such comments were received, they have been duly taken into account in finalising this report.

5C.1 Hard copy documents and electronic files

- 5.26 The Commission has compiled over 70,000 documents/electronic files in relation to this matter, including:
- 5.26.1 the Austrian criminal file, as updated from time to time;
 - 5.26.2 the WADA investigation file and supporting documents;
 - 5.26.3 affidavits and witness statements of Dr Rodchenkov, and contemporaneous documents exhibited thereto;
 - 5.26.4 documentary evidence provided by witnesses;
 - 5.26.5 whistleblower reports;
 - 5.26.6 various files on the IBU computer server;
 - 5.26.7 various files provided by IBU external legal advisors;
 - 5.26.8 minutes of the meetings of the IBU Executive Board, the IBU Legal Committee, the IBU Medical Committee, and the IBU Athletes' Committee, as well as minutes of meetings of the IBU Congress;
 - 5.26.9 reports of the IBU McLaren Working Group to the IBU Executive Board;
 - 5.26.10 documents provided by RUSADA and the RBU upon the request of the Commission;
 - 5.26.11 various media articles;
 - 5.26.12 video-recordings from the 2016 IBU Congress;
 - 5.26.13 laboratory documentation; and

- 5.26.14 athlete testing data, including the IBU testing data and data available in ADAMS.
- 5.27 The Commission processed personal data in accordance with its Privacy Policy (available at biathlonworld.com/about-ibu/inside-ibu/committees) and in accordance with applicable legal provisions on the protection, lawful processing, and confidentiality of personal data as well as data security, in particular the Data Protection Act as amended (DSG) and the General Data Protection Regulation (GDPR). The Commission did not review all of the data collected, but instead where appropriate searched and sifted the data using search criteria limited by date (to the period relevant for the investigation) and using key words or phrases to identify only information that was potentially relevant to the investigation and to filter out information that was not relevant to the investigation.
- 5.28 During the period being investigated, a number of IBU Executive Board members and staff used personal email accounts to conduct IBU business, without copies of those emails being saved on the IBU server. As a result, a number of important emails were not available. On the recommendation of the Commission, the IBU Executive Board resolved in 2019 that moving forward only official IBU email addresses should be used for the conduct of IBU business, and copies of all emails relating to IBU business should be retained on the IBU's computer servers.
- 5.29 The Commission also collected and reviewed a significant amount of IBU blood screening data collected at IBU events, as well as the software (ARIETTA) occasionally used to analyse it (see paragraph 6.64.4, below). However, the data provided by the IBU were not complete. In particular, data from certain events were entered on a particular laptop that could not be found despite extensive searching at the IBU headquarters, and none of the IBU Medical Delegates or Medical Assistants or anti-doping staff were able to recall its location. Nor had the data on that laptop been backed up anywhere. Furthermore, although the IBU had retained hard copies of the Sysmex reports of the blood screening values, they were inadvertently destroyed when the IBU moved offices in 2020.

5C.2 Interviews

- 5.30 The Commission spoke to approximately 60 people, mainly in person or (during the COVID pandemic) by video, with a small number by telephone or through written questions. These persons (listed at Appendix One) have included:
- 5.30.1 current and former members of IBU staff;
 - 5.30.2 IBU Executive Board members;
 - 5.30.3 IBU advisors;
 - 5.30.4 former IBU Medical Committee members;
 - 5.30.5 an IBU [REDACTED] member;
 - 5.30.6 an IBU contractual partner;
 - 5.30.7 active and retired biathletes;
 - 5.30.8 Russian whistleblowers, including Dr Grigory Rodchenkov;
 - 5.30.9 former RBU and RUSADA officials (which interviews were arranged with the assistance of RUSADA and/or the RBU);
 - 5.30.10 Russian biathlon coaches;

- 5.30.11 WADA-accredited lab personnel;
 - 5.30.12 WADA representatives; and
 - 5.30.13 IOC representatives.
- 5.31 Regrettably, the Commission has been unable to interview Anders Besseberg or Nicole Resch. While the Commission made it clear that it wanted to provide them with a right to be heard, (i) Anders Besseberg was not willing to submit to an interview with the Commission until the conclusion of the Austrian and Norwegian criminal law proceedings, and (ii) Nicole Resch said that she was unable to submit to an interview with the Commission within the timeframe of the investigation due to health-related reasons. As a result, the Commission has not had the chance to put to them the specific questions and the evidence/allegations against them at interview. Nor did either of them take the opportunity given to them to provide substantive comments on a draft of this Final Report that was provided to them in November 2020. However, both Anders Besseberg and Nicole Resch expressly referred the Commission to the statements they made in the context of the Austrian criminal proceedings, and asked that the Commission take into account what they said in those statements. The Commission has done so.
- 5.32 The Commission also notes that the following people refused to submit to an interview or to answer the questions of the Commission:
- 5.32.1 Alexander Kravtsov, former RBU President. The Commission sought to arrange an interview with Mr Kravtsov with the assistance of Victor Maygurov, the current RBU President. Mr Maygurov stated that Mr Kravtsov was willing to answer questions, but only in writing. While an in-person or video meeting would have been preferable, the Commission prepared a list of written questions for Mr Kravtsov, and sent them to Victor Maygurov on 10 August 2020. Mr Kravtsov confirmed receipt of the Commission's letter on 19 August 2020, which was the deadline the Commission had initially set for a response, and said that he had started working on a response but needed more time as he was taking the letter very seriously and wanted to be precise in his response. The Commission followed up with Mr Kravtsov directly on 31 August and 6 September 2020, but he did not reply. The Commission made it clear that if he did not respond within a few days of 6 September 2020, then it would record in this Final Report that he had refused to answer the Commission's questions. As a final attempt, the Commission sought the assistance of Mr Maygurov on 11 September 2020, but again no response from Mr Kravtsov was forthcoming. As a result, the record is clear that Mr Kravtsov has failed to cooperate with the Commission's investigation. The Commission notes that on 18 September 2020 TASS news agency reported that Mr Kravtsov had been arrested on suspicion of embezzling federal funds.³⁶

5.32.2



³⁶ See tass.com/economy/1202513 and insidethegames.biz/articles/1098605/alexander-kravtsov-detained-embezzlement.



5.32.3



5.32.4



- 5.33 The refusal of various people to submit to interviews and the difficulty the Commission faced in obtaining timely answers and documentation from some people (including certain IBU Executive Board members) wasted a significant amount of the Commission's time, also resulting in increased costs to the IBU.

5C.3 Engagement with biathletes

- 5.34 In contrast, the Commission is grateful for the cooperation and input it received from certain current and former biathletes. In particular:
- 5.34.1 Commission member Vincent Defrasne and the Commission Legal Secretary Lauren Pagé staged a Q&A session for biathletes and support staff at the IBU World Cup in Holmenkollen on 19 March 2019, to explain the Commission's work and to invite biathletes and support staff to come forward with any information that they might wish to share with the Commission. Based on those discussions, it was clear that biathletes were keen to see stronger governance structures put in place at the IBU, and greater transparency in dealing with anti-doping and other integrity-related issues.
- 5.34.2 Mr Defrasne, Ms Pagé, and IBU Athletes' Committee chair Clare Egan hosted a webinar for biathletes on 8 August 2019, to provide an update on the key governance reforms in the new proposed Constitution and supporting rules, to

give them an opportunity to ask questions or comment on the draft Constitution and rules, and to provide an update of and a forum for questions about the Commission's investigation.

- 5.34.3 The Commission incorporated feedback received from biathletes into the governance reforms, including by giving the IBU Athletes' Committee the right to call an Extraordinary Congress meeting at any time if supported by at least three IBU member federations (see Article 13.2.3 of the 2019 IBU Constitution) and by ensuring that very strict sanctions (including quota reductions) apply to national federations where three or more of their athletes commit intentional ADRVs within any rolling four-year period (see Article 12 of Chapter D of the IBU Integrity Code).
- 5.34.4 With the assistance of Clare Egan, the Commission (represented again by Vincent Defrasne and Lauren Pagé) hosted a further Athlete Q&A session in Ostersund on 2 December 2019. The purpose of the session was to provide a broad overview of some of the major integrity-related governance reforms adopted by the IBU at the Extraordinary Congress on 19 October 2019, to provide an update on the Commission's investigation, and to allow athletes an opportunity to ask questions. Dr Franz Steinle (IBU Executive Board member and Biathlon Integrity Unit Board member) attended the first part of the session to introduce the new Biathlon Integrity Unit and explain his role. The athletes were again encouraged to speak to the Commission regarding any questions or if they had any information to share.
- 5.34.5 During the course of the investigation, the Commission also had an opportunity to speak with a number of biathletes one-on-one [REDACTED]
- 5.35 The Commission also provided copies of its interim reports to Clare Egan, who helpfully distributed them by email to her athlete distribution list.³⁷

5C.4 Whistleblower reports

- 5.36 The Commission set up a state-of-the-art whistleblower web portal, using the BKMS® System provided by Business Keeper AG, the leading whistleblower service provider in Europe for international criminal authorities, major sport organisations, and large corporations.
- 5.37 Although the web portal was widely publicised and made available via the IBU website, the Commission did not receive any whistleblower reports about the allegations that were the subject of its investigation. However, the Commission received whistleblower reports on three different topics, which are described in Appendix Three to this Final Report.

³⁷ Copies of those reports were also posted on the IBU's website: see biathlonworld.com/about-ibu/inside-ibu/committees.

6. THIRD MANDATE: THE EVIDENCE GATHERED AND THE CASES TO ANSWER IDENTIFIED BY THE COMMISSION

- 6.1 The nub of the allegations against Mr Besseberg is that he breached his obligations to the IBU by improperly favouring Russian interests in many spheres, including but not limited to the sphere of anti-doping. However, a central allegation is that the Russian conspirators bribed him to help cover up doping within the Russian national biathlon team. Therefore, an important threshold question is whether there is reliable evidence that Russian biathletes were doping in the relevant period (broadly, 2008-2015). If not, then there would have been no need to bribe Mr Besseberg to help cover up that doping.
- 6.2 In the Commission's view, the evidence (set out in Section 6A, below) is more than sufficient to conclude (i) that many Russian national team biathletes were doping (in particular, with rEPO and steroids) in the period 2008-2015; and (ii) that they were supported and protected from exposure by conspirators at the Ministry of Sport, the Centre for Sports Preparation (**CSP**), the Russian national anti-doping agency (**RUSADA**), and the RBU.
- 6.3 The Commission has not uncovered direct evidence that Mr Besseberg was paid to assist that conspiracy, and it considers it likely that only the criminal authorities could do so. But it has identified evidence of Mr Besseberg being provided *gratis* with hunting trips, hunting trophies, the services of prostitutes, and other expensive gifts by Russian parties (see Section 6B.1). It has also found evidence of Ms Resch being groomed by RBU officials and then assisting them in defending Russian biathletes from doping charges (see Section 6B.2). The Commission has not found evidence that Mr Besseberg or Ms Resch were complicit in burying ABP or other doping cases involving Russian biathletes (see Section 6B.3). However, in the Commission's view the evidence does show (see Section 6B.4-6B.16) a clear and consistent pattern of Mr Besseberg unduly favouring Russian interests, in breach of his duties as IBU President, and in addition various apparent breaches by Nicole Resch of her duties as IBU Secretary General (including apparent improper conduct in respect of certain doping cases brought against Russian biathletes).

6A. Doping in Russian biathlon

6A.1 Dr Rodchenkov's allegations

- 6.4 Dr Rodchenkov's allegations, set out in affidavits he has filed in various cases, are as follows:
- 6.4.1 Doping was rife in Russian biathlon in the period that Dr Rodchenkov worked at the Moscow anti-doping laboratory, i.e., between 2005 and 2015. In particular, as athletes in a highly competitive endurance sport, Russian biathletes abused recombinant erythropoietin (**rEPO**) as well as various anabolic steroids, including in particular the three steroids in the 'Duchess cocktail' that Dr Rodchenkov designed in 2011/12 (oxandrolone, metenolone, and trenbolone).
- 6.4.2 Before the 2010 Winter Olympic Games in Vancouver, Russian biathletes were using rEPO that was supplied to them by two doctors who worked with the national team, Stanislav (or 'Stasik') Dmitriev, and his son, Andrei

Initially the rEPO they supplied was not detectable by the WADA-accredited laboratories (because their supplier, [REDACTED], had removed the sialic acid from the rEPO so that the identification criteria specified by WADA would not be met), but subsequently they began supplying low-grade rEPO that could be detected. After three biathletes under their care tested positive for rEPO in 2009 (see paragraph 6.15, below), the RBU fired the Dmitrievs, and Dr Irina Rodionova (a medical doctor then working for the Russian Olympic Committee) replaced them as a doctor for the national biathlon team.

- 6.4.3 Dr Rodchenkov noted that in December 2010, the Russian national biathlon team was training for the 2011 IBU World Championships, which were to be held in Khanty-Mansiysk, Russia, in March 2011. He said that [REDACTED] [Dr Irina] Rodionova asked me to prepare a special doping program to help the team. I prepared a special plan, which included a regimen of human-growth hormones, high-quality EPO, and sports vitamins. [REDACTED] invited me into his car with him, after which [REDACTED] directed his driver, who was also in the car with us, to give me an envelope, which contained \$15,000 to acquire the PEDs, which I then gave to Rodionova'.
- 6.4.4 However, the Russian biathlon team's results at the 2011 IBU World Championships were poor (it came sixth in the medals table, with just three – silver – medals), and therefore [REDACTED] tolerated the Dmitrievs starting to supply rEPO to biathletes on the national team again [REDACTED].
- 6.4.5 In the autumn of 2012, Deputy Minister of Sport Yuri Nagornykh advised Dr Rodchenkov that he had drawn up a plan for the CSP, working with RUSADA and the Moscow laboratory and others, to dope Russian winter sport athletes to maximise their chances of winning medals at the 2014 Winter Olympic Games (to be held in Sochi, Russia, in February 2014).
- 6.4.6 In January 2013, Dr Rodionova became deputy Director of the CSP with responsibility for winter sports. According to Dr Rodchenkov, Dr Rodionova told him that Alexander Kravtsov, the Director of the CSP from 2009 to 2020 (and the President of the RBU from 2014 to 2018), released substantial funds to Dr Rodionova to finance the doping of Russian athletes in preparation for the Sochi Games, including giving her three million roubles in cash (approximately \$100,000) in October or November 2013 to cover the costs of buying drugs (including rEPO and growth hormone) for Russian skiers, bobsleigh, and biathletes. Dr Rodchenkov said: 'To provide EPO to female biathletes, Rodionova kept EPO ampules in bulk (100+ ampules) in my Director's office in Moscow Laboratory'.
- 6.4.7 Up to and including 2012, Russian athletes had used an anabolic steroid developed by the East Germans, called Turinabol,³⁹ but in 2012 Dr Rodchenkov and his associate Dr Tim Sobolevsky published a new testing method that enabled the detection of metabolites of Turinabol for up to five months after its

³⁹ Franke, W. & Berendonk, B., *Hormonal doping and androgenisation of athletes: a secret program of the German Democratic Republic government*, (1997) *Clinical Chemistry*, 43:1262-1279. In 2016, the IOC re-tested samples collected at the 2008 Beijing Games and the 2012 London Games. More than 75 samples belonging to Russian athletes tested positive for Turinabol. See *Chicherova v IOC*, CAS 2016/A/4839, paras 29-30.

use,⁴⁰ which meant that a different steroid with a much shorter detection window was needed. Dr Rodchenkov therefore devised a cocktail of oxandrolone, methenolone and trenbolone, mixed with whisky or vermouth, which would be absorbed quickly and would not be detectable after five days.⁴¹ He explained the method to Dr Rodionova and her associate [REDACTED], who sourced the steroids and mixed up the cocktail. (It was Dr Rodionova who called it the 'Duchess cocktail', after a popular brand of lemonade sold in Russia). Dr Rodionova subsequently told Dr Rodchenkov that 15-20 biathletes were using the cocktail [REDACTED], as well as athletes from other winter sports.

6.4.8 This doping was concealed by three different methods:

6.4.8.1 Pre-departure testing: Because it could not manipulate the drug testing of samples collected outside Russia and sent for analysis to WADA-accredited laboratories outside Russia, the Ministry of Sport instructed RUSADA to test Russian athletes before they left to compete abroad to check that the drugs they had taken were no longer detectable in their systems.

6.4.8.2 Domestic testing: Dr Rodchenkov manipulated the normal urine testing protocols at the Moscow anti-doping laboratory. If a urine sample tested positive on initial testing for a prohibited substance, he would email the sample number and the initial result to a liaison person at the CSP (usually Aleksey Velikodny, who was a CSP 'analyst'), who would then relay it to the Deputy Sports Minister, Yuri Nagornykh. (Velikodny worked on the second floor of the Ministry of Sport, in close proximity to the Deputy Minister). Velikodny would use the sample code number to find out from RUSADA which athlete had given the sample, inform Mr Nagornykh, and then email Dr Rodchenkov with Mr Nagornykh's instructions, i.e., whether or not to save the athlete. If the instruction was to save the athlete, Dr Rodchenkov would report the sample results as negative in the Moscow laboratory's Laboratory Information Management System (LIMS) database and in WADA's online ADAMS database, while retaining a record of the positive results in a hidden part of the LIMS database. (This is described in Professor McLaren's reports as the **Disappearing Positives Methodology**).

6.4.8.3 IOC testing at the Sochi Games: The plan was for key athletes to continue doping right up to and even at the Sochi Games. However, although Dr Rodchenkov would also be in charge of the satellite doping control laboratory in Sochi at which all samples collected at the Games would be analysed, he would not be able to manipulate the testing process there in the same way, because

⁴⁰ Sobolevsky & Rodchenkov (2012), 'Detection and mass spectrometric characterization of novel long-term dehydrochloromethyltestosterone metabolites in human urine', *J Steroid Biochem Mol Biol.* 2012 Feb;128(3-5):121-7 (doi: 10.1016/j.jsbmb.2011.11.004).

⁴¹ *IBU v Glazyrina*, ADHP decision dated 24 April 2018, paragraph 187 ('scientific studies have demonstrated that buccal administration of a combination of Androgenic Anabolic Steroids (AAS) like methenolone, oxandrolone and trenbolone dissolved in alcohol (aka the "Duchess Cocktail") will result in a significant ingestion of AAS. The detection period will be short and no long-term metabolites of the AAS will be detectable').

there would be a number of international experts present at the laboratory to observe the procedures on behalf of the IOC. Therefore, the Ministry of Sport arranged for FSB operatives to work out how to open the sealed sample bottles, swap out the urine, and then re-seal them, so that Dr Rodchenkov, assisted by laboratory staff members Evgeny Kudryavtsev and Yuri Chizhov, could swap out 'dirty' samples for clean samples collected from the athletes in question prior to the Games and stored in a 'clean urine bank' in an FSB building next to the Sochi laboratory. (This is described in Professor McLaren's reports as the **Sample-Swapping Methodology**). Dr Rodchenkov said that starting in 2012 Dr Rodionova collected samples unofficially from winter sport athletes (including biathletes) who might be selected for the national team at Sochi, and gave the samples to Dr Rodchenkov to test to ensure they were drug-free before those samples (and/or further samples collected quickly from the athletes while they were drug-free) were stored for potential use in Sochi.

6A.2 Dr Rodchenkov's credibility as a witness

6.5 The Russian authorities have dismissed Dr Rodchenkov as a fantasist and a criminal, and his alleged co-conspirators Mr Kravtsov, Dr Rodionova, and Mr Kudryavtsev have denied his allegations outright, including (in the last two cases) in sworn testimony before the CAS. However, their credibility is tainted,⁴² while several independent parties have examined the record and have found that Dr Rodchenkov's allegations are supported by objective evidence and therefore are credible:

6.5.1 Professor Richard McLaren investigated Dr Rodchenkov's allegations independently for WADA. He interviewed Dr Rodchenkov several times and also reviewed thousands of Excel sheets, emails, PDFs, and other documents from the Moscow laboratory that were saved on Dr Rodchenkov's laptop, after confirming the authenticity of those files by examining their metadata. He also spoke to other witnesses. On 18 July 2016, Professor McLaren issued his first report, which concluded that there was enough corroborated evidence to confirm 'beyond reasonable doubt' the use of the 'Disappearing Positives Methodology' and the existence of a protection scheme for Russian athletes.⁴³ Professor McLaren concluded that Dr Rodchenkov's account of a state-sponsored scheme of doping and cover-up of doping was 'credible and truthful', a conclusion he reached 'because the forensic and scientific evidence that I have gathered corroborates that he has been completely truthful in his interviews with me'.⁴⁴ He confirmed those findings in a second report dated 9 December 2016, alongside which he published Evidence Disclosure Packages (EDPs) containing evidence relating to the athletes (from both summer and

⁴² As to Dr Rodionova, see *IBU v Ustyugov*, ADHP decision dated 13 February 2020, paragraph 445 ('The Panel also finds that the manner in which she [Dr Rodionova] gave evidence before the Panel was at times evasive and non-responsive to the proper questioning of Counsel for IBU. In our minds Ms Rodionova was not a reliable witness'). As to Mr Kudryavtsev, see paragraph 6.11.4.2, below.

⁴³ Report of Independent Person to WADA dated 18 July 2016 (**McLaren Report 1**) [Document 5].

⁴⁴ McLaren Report 1, p.7.

winter sports) that he considered were involved in and/or benefited from the scheme.⁴⁵

6.5.2 After publication of the first McLaren Report on 18 July 2016, the IOC appointed (i) a Disciplinary Commission chaired (ultimately) by former President of Switzerland Mr Samuel Schmid, to investigate and report to the IOC Executive Board in relation to Dr Rodchenkov's allegations concerning a state-sponsored doping scheme in Russia (the **Schmid Commission**); and (ii) a second Disciplinary Commission, chaired by Professor Denis Oswald, to investigate whether individual Russian athletes had participated in the scheme and committed ADRVs at the 2014 Sochi Olympic Games (the **Oswald Commission**).

6.5.2.1 When it reported in December 2017, the Schmid Commission said it had identified 'independent and impartial evidence' that 'enables the confirmation of the existence of the Disappearing Positives Methodology as well as a tampering methodology, [...] as described in the Final Report by Prof. Richard McLaren. The IOC DC confirms the seriousness of the facts, the unprecedented nature of the cheating scheme and, as a consequence, the exceptional damage to the integrity of the IOC, the Olympic Games and the entire Olympic Movement'.⁴⁶ The Schmid Report also quoted Mr. Alexander Zhukov, President of the Russian National Olympic Committee, who (alongside Mr. Pavel Kolobkov, Russian Minister of Sport at the time) expressed his 'sincere regrets for the serious violations that took place' and gave his assurance 'that all organisations and agencies involved are taking necessary steps to prevent it in the future'. Mr Vitaly Mutko, Deputy Prime Minister, also declared in a letter of 9 October 2017 that 'individual officials who worked in different sport organisations and might have been connected to each other, unfortunately, violated the anti-doping rules. They were dismissed from office'.⁴⁷

6.5.2.2 Meanwhile the Oswald Commission accepted that the evidence relied on by Professor McLaren was 'extremely strong'. It agreed with him that that evidence proved beyond reasonable doubt the existence and implementation of the doping conspiracy in Sochi 'and well beyond Sochi'. It also made its own assessment of the credibility of the evidence given by Dr Rodchenkov, and concluded that he was 'telling the truth', in particular because '[e]very time other evidence has been available, the information provided by Dr Rodchenkov has been systematically corroborated by such evidence'.⁴⁸

⁴⁵ Report of Independent Person to WADA dated 9 December 2016 (**McLaren Report 2**) [Document 6].

⁴⁶ IOC Disciplinary Commission's Report to the IOC Executive Board dated 2 December 2017 [Document 7], p.24.

⁴⁷ Ibid, p.21 (Zhukov), p.22 (Mutko). Those officials were Deputy Sports Minister Yuri Nagornykh, Ministry anti-doping advisor Natalia Zhelanova, Evgeny Kudryavtsev, Yuri Chizhov, and Dr Avak Abalyan.

⁴⁸ *IOC v Zaitseva*, Oswald Commission decision dated 22 December 2017, paras 127, 247-48.

- 6.6 The existence of the Russian doping and protection scheme has been accepted over and over again by different CAS panels. For example:
- 6.6.1 The CAS panel in *International Weightlifting Federation v Russian Weightlifting Federation*, CAS OG 16/09, para 7.11, confirmed that the findings of the first McLaren Report constituted reliable evidence for the purposes of excluding Russian athletes from the 2016 Olympic Games in Rio, as those findings met 'a high threshold, because the standard of proof that was applied was "beyond reasonable doubt"'.⁴⁹
- 6.6.2 In *Balandin v FISA & IOC*, CAS OG 16/012, and other CAS Ad Hoc Division decisions prior to the 2016 Rio Olympic Games, CAS panels upheld decisions of international federations not to admit athletes who were implicated in the Russian scheme based on information provided by Professor McLaren.
- 6.6.3 The CAS panel in *Russian Paralympic Committee v International Paralympic Committee (IPC)*, CAS 2016/A/4745, para 60, upheld the IPC's ban of the entire Russian Paralympic team from the Rio Paralympic Games based on the findings of the first McLaren Report and a further affidavit from Professor McLaren, ruling that '[t]he existence of the system as described in the IP Report and in the McLaren affidavit means that the RPC breached its obligations and conditions of membership of the IPC'.
- 6.6.4 On 15 May 2017, a CAS panel rejected the appeal by Russian skier Alexander Legkov against the provisional suspension that FIS had imposed on him based on the evidence set out in the McLaren report, implicating him in the Sochi sample-swapping scheme. The CAS panel found that the evidence presented by Professor McLaren established that there was a reasonable possibility that he had committed an ADRV.⁴⁹
- 6.6.5 In *Legkov v IOC*, CAS 2017/A/5379, paragraph 867, and *Zubkov v IOC*, CAS 2017/A/5422, para 890, the CAS panel that heard the appeals of 39 athletes against the Oswald Commission's decisions stated: 'The Panel has not made a ruling on whether and to what extent the alleged doping scheme during the Sochi Games existed and how it operated even though it recognizes that there is significant evidence that it was in place and worked'. It upheld 28 of the appeals on the basis that there was no evidence proving the athletes concerned had personal knowledge of the scheme (*Legkov v IOC*), but upheld the finding of ADRVs in the other 11 appeals on the basis that the foreign DNA and/or unphysiological levels of salt found in the athletes' Sochi samples showed that they must have been complicit in the swapping of their samples at the 2014 Games (*Zubkov v IOC*).
- 6.6.6 In *Legkov et al v International Olympic Committee*, CAS OG 18/03 (as well as *Ahn et al v International Olympic Committee*, CAS OG 18/02), the CAS panel confirmed the IOC's right not to invite Russian athletes who were found not to be 'clean' based *inter alia* on the findings and evidence reviewed in the context of the second McLaren Report. The CAS panel went as far as to state that it was 'faced with evaluating an unprecedented response to an extraordinary situation, that is, a state-sponsored doping scheme' (paragraph 7.3).
- 6.6.7 In *IAAF v RUSAF & Pyatykh*, CAS 2017/O/5039, the CAS sole arbitrator also found, based in part on 'wash-out schedules' included in the EDPs

⁴⁹ *Legkov v FIS*, CAS 2017/A/4968, para 111 et seq.

accompanying the second McLaren report, that the athlete 'knowingly participated in a State-dictated doping plan' (paragraphs 91, 115), which was then cited as an aggravating factor warranting a four year ban.

- 6.6.8 In awards issued in twelve track & field cases, the CAS sole arbitrators were satisfied that the athletes benefitted from the Russian doping scheme and sanctioned all twelve of them with the (maximum) four-year period of ineligibility (CAS 2018/O/5666-5668, 5671-5676, 5704, 5712-5713, and CAS 2019/O/6156).
- 6.7 More specifically, the following CAS panels that have considered the testimony of Dr Rodchenkov have found him to be a credible witness:
- 6.7.1 In the *Legkov* provisional suspension decision, the CAS panel decided not to accept Professor McLaren's findings on their face (because he was not made available for cross-examination) but instead to assess for itself the evidence on which he had made those findings. It saw 'no reason not to credit the general testimony of Dr Rodchenkov', noting that it was corroborated by the scientific and forensic evidence, as well as the Duchess List, and therefore found Dr Rodchenkov to be 'a credible witness'.⁵⁰
- 6.7.2 In *IAAF v RUSAF and Adams et al*, CAS 2018/O/5671, para 86, the CAS sole arbitrator did 'not doubt the veracity of Dr Rodchenkov's evidence'. Rather, he found him to be 'forthright, honest and reasonable' and 'absolutely credible'.
- 6.7.3 In *IAAF v RUSAF and Shustov*, CAS 2019/O/6156, para 84, the CAS sole arbitrator found that Dr. Rodchenkov's 'narrative of how the anti-detection methodologies were developed and monitored, including discussion with Sports Ministry officials and liaisons and their evolution (including urine swapping from the time when he diluted or added ingredients to make the B samples look like the A sample, to the supply of a tool to open and reseal official BEREG bottles by FSB "Magicians") was compelling'.

6A.3 Corroboration of Dr Rodchenkov's evidence generally

- 6.8 In addition, Dr Rodchenkov's allegations are strongly corroborated by the copies of the Moscow laboratory's LIMS database that WADA obtained (a) from a whistleblower in October 2017; and (b) directly from the servers in the Moscow laboratory in January 2019.
- 6.9 In October 2017, a whistleblower provided WADA I&I with a copy of the Moscow laboratory's LIMS database for the period 2012-2015, which revealed that, exactly as Dr Rodchenkov had said, hundreds of samples collected from Russian athletes had returned presumptive findings for positive substances, but instead of pursuing those findings as required, the Moscow laboratory hid them and told WADA that the samples were negative.
- 6.10 In January 2019, WADA I&I was given access to the Moscow laboratory, and was provided with a copy, made directly from the computer servers in the laboratory, of the LIMS database and underlying raw data generated during testing by the laboratory analytical instruments. That information again confirmed that hundreds of samples returned

⁵⁰ Ibid, paras 208, 222.

presumptive analytical positives on initial testing by the Moscow laboratory that were then hidden and the samples reported as negative to WADA.

6.11 However, in yet a further cover-up of the original cover-up:⁵¹

6.11.1 The data copied from the Moscow laboratory servers in January 2019 were neither complete nor fully authentic. In particular, while the 2019 copy of the LIMS database matched the 2017 copy of the LIMS database in many respects, hundreds of presumptive adverse analytical findings that appear in the 2017 copy of the LIMS database were removed from the LIMS database before it was copied in 2019, and the related underlying raw data and PDF files were deleted or altered.

6.11.2 Some of the presumptive positive findings and related evidence were removed in 2016 or 2017, after the general scheme to cover up the doping of Russian athletes was first revealed by Dr Rodchenkov and then quickly confirmed by Professor Richard McLaren's investigation. As discussed further below (see paragraphs 6.20 and 6.22), this included the analytical evidence of the prohibited substances found in the urine samples of Russian star biathletes Evgeniy Ustyugov and Svetlana Sleptsova.

6.11.3 However, further significant deletions and/or alterations were made in December 2018 and January 2019 before the Moscow data were made available to the WADA team for copying. These activities were concealed by back-dating of computer systems and data files in an attempt to make it appear that the Moscow data have been in their current state since 2015. Furthermore, the commands issued to execute the manipulations, deletions and back-dating were also deleted, in an attempt to avoid detection of what had been done.

6.11.4 In addition, someone in the Moscow laboratory:

6.11.4.1 planted fabricated evidence into the 2019 copy of the LIMS database (purported messages between laboratory staff members) to suggest that Dr Rodchenkov and two co-conspirators falsified entries in the Moscow LIMS database as part of a scheme to extort money from athletes;⁵² and

6.11.4.2 deleted from the 2019 copy of the LIMS database 25 messages that are present in the 2017 copy of the LIMS database. These deleted messages show that in 2013 and 2014 the then head of Sample Reception and Aliquoting Department at the Moscow laboratory, Mr Evgeny Kudryavtsev, was involved in manipulation of chain of custody records, including in relation to 'pre-departure samples' (i.e., samples that were tested to ensure Russian athletes going to compete abroad would not test positive) and in relation to 'substituted samples' (a reference to destroying evidence in advance of an anticipated site visit by WADA in December 2014). Mr Kudryavtsev has testified in several CAS cases, denying Dr Rodchenkov's allegation that there was a scheme to prevent the detection of doping by Russian athletes, and insisting that Dr Rodchenkov is lying when he claims to the contrary. Therefore

⁵¹ See generally WADA Compliance Review Committee's recommendation of non-compliance, 21.11.19 [Document 8].

⁵² Ibid, para 28.

persons seeking to discredit Dr Rodchenkov, and to bolster denials of a protection scheme, would have every reason to remove these 25 messages from the LIMS database before allowing WADA to take a copy of it in 2019.

- 6.11.5 The Commission notes that following a detailed evidentiary hearing, the CAS recently confirmed these facts, notwithstanding further Russian denials, in *WADA v RUSADA*, CAS 2020/O/6689, paras 613-673.

6A.4 Corroboration of Dr Rodchenkov's evidence specifically in relation to biathlon

- 6.12 There is also a significant amount of third party testimony and objective analytical and documentary evidence that specifically corroborates Dr Rodchenkov's claim that Russian biathletes were included in and benefited from the conspiracy to protect doped athletes. It is set out below in chronological order.
- 6.13 First, though, it is important to note the types of drug testing that were conducted during the relevant period:
- 6.13.1 Urine samples were collected from athletes both in and out of competition and analysed at WADA-accredited laboratories for substances on WADA's prohibited list. The standard analysis 'menu' for initial testing procedures at the laboratory did not include analysis for ESAs; that had to be requested specifically by the anti-doping organisation on whose behalf the samples had been collected.
- 6.13.2 Blood samples were collected from athletes both in and out of competition and analysed at the WADA-accredited laboratories for the presence of human growth hormone and/or evidence of use of other prohibited substances or methods (e.g., blood transfusions).
- 6.13.3 Blood samples were also collected from athletes both in and out of competition for analysis as part of the Athlete Biological Passport (**ABP**) programme. The ABP programme tests blood samples taken from an athlete over time not for the presence of prohibited substances but instead for parameters such as haemoglobin (**HGB**) and reticulocyte count (**RET%**) that will vary in predictable ways if the athlete is taking an ESA or withdrawing/transfusing blood. This enables testing authorities to use abnormal values not only as a trigger for target testing for ESAs but also as the basis for charging an athlete with use of blood doping even in the absence of an adverse analytical finding for the presence of rEPO or another ESA in a sample.⁵³
- 6.14 In terms of third party testimony corroborating Dr Rodchenkov's allegations:
- 6.14.1 Anatoly Khovantsev, who was head coach of the Russian men's national biathlon team from 1992 to 1998, head coach of the Russian women's national biathlon team from June 2010 to April 2011, and head coach of the Russian national biathlon team (men and women) from 2018 to 2020, told the Russian media:

⁵³ See generally Sottas et al., 'The Athlete Biological Passport', (2011) 57(7) *Clinical Chemistry* 969-976.

'Between 2002 and 2014, you could count clean biathletes on the fingers of one hand', and referred to 'a whole generation raised on doping'.⁵⁴

6.14.2 Alexander Tikhonov, who was RBU President from 1995 to 2008 and RBU Vice-President from 2008 to 2010, stated publicly in 2010 that the Dmitrievs were engaged in doping biathletes on the Russian national team [REDACTED]

[REDACTED]⁵⁵ Mr Tikhonov repeated this in an interview with the Commission. He said that [REDACTED]

[REDACTED] doping of Russian biathletes was 'out of control' (which is why he resigned as RBU Vice-President at the end of 2010). He also said that he confronted Dmitriev, who said to him: 'No one will catch us'.⁵⁶

6.14.3 Generally speaking, the Commission does not consider Mr Tikhonov to be a reliable witness (see paragraph 6.44.3, below), but on this point his testimony is corroborated by Tatiana Akimova's coach (Alexei Kuznetsov), who said: 'Speaking of who ruined Russian biathlon, it is the so-called Dr. Dmitriev, who left his mark in cross-country skiing, biathlon and other sports and did a good job preaching the ill-fated EPO. He introduced it very widely, did not even stop at the Sochi Olympics'.⁵⁷

6.15 Turning to the objective analytical evidence corroborating Dr Rodchenkov's allegations, urine samples collected by the IBU from three Russian national team biathletes -- **Albina Akhatova** [REDACTED], **Ekaterina Iourieva**, and **Dmitry Yaroshenko** -- at the IBU World Cup in Ostersund on 4-5 December 2008 tested positive at the Lausanne doping control laboratory for rEPO,⁵⁸ leading to two year bans for all three biathletes that were upheld at CAS.⁵⁹

⁵⁴ Khovantsev denounces a "generation raised on doping", Nordic Magazine, 4 June 2020 [Document 9]. [REDACTED]

⁵⁵ [REDACTED]

⁵⁶ Tikhonov interview, 21.01.20 [Document 10].

⁵⁷ Akimova's coach: "The so-called doctor Dmitriev ruined Russian biathlon", 25 March 2016 eurosport.ru/biathlon/story_sto5396099.shtml [Document 11].

⁵⁸ [REDACTED], who was [REDACTED] Lausanne laboratory at the time, told the Commission that Mr Besseberg called him after they had reported these three rEPO positives, and said 'we support you, you must take this through to the end'. [REDACTED] understood Mr Besseberg was saying he would stand by him to resist any pressure from the Russians to turn the positives into negatives: [REDACTED] interview, 12.06.20 [Document 12].

⁵⁹ *E. & A. v IBU*, CAS 2009/A/1931.

- 6.15.1 Dr Carrabre has explained that these positive tests came about because the IBU Medical Committee had been monitoring the blood values of the leading Russian biathletes from the screening programme at IBU events (see paragraph 6.65, below), and considered it highly likely that they were doping, and so was collecting urine samples from them at the events, but those samples kept testing negative for ESAs. Upon closer analysis, the band on the electropherogram for the endogenous EPO in the samples looked particularly dense, and therefore Dr Carrabre agreed with the Lausanne laboratory to have the Seibersdorf laboratory conduct molecular analysis of the samples, which revealed that there were two forms of EPO in the samples, the endogenous EPO and also a 'biosimilar' form of rEPO with a similar molecular weight and therefore a similar electrical charge, leading to overlap in the electropherogram. They discussed with WADA and eventually, in February 2009, the Lausanne laboratory was able to declare the three samples positive for rEPO. Dr Rodchenkov told the Commission that this was a shock for everyone in Russian biathlon, because Dr Dmitriev had said that the rEPO he was supplying would not meet WADA's identification criteria.
- 6.15.2 An RBU Anti-Doping Commission found Dr Dmitriev to be responsible for the positive tests of Iourieva, Akhatova, and Yaroshenko.⁶⁰
- 6.15.3 All three athletes told the IBU ADHP that they had been given 'cardio-protector' medication by the team physician, Mr Dmitriev, that he had injected the medication into them in late November 2008, that he had admitted this before the RBU Anti-Doping Commission, and that he had thereby committed an ADRV (because the 'medication' must have contained rEPO).⁶¹
- 6.16 RUSADA collected urine samples from **Andrei Prokunin** and **Veronika Timofeyeva** at the 2009 Biathlon National Championships, and delivered them to the Moscow laboratory, where they tested positive for rEPO. Dr Rodchenkov said Mr Kravtsov asked him to delay reporting these positives until he had consulted internally, but subsequently agreed that they could be reported. Dr Rodchenkov considers that the Ministry of Sport considered it worth sacrificing these athletes (who were not on the national team) to keep up the appearance that the Moscow laboratory was catching cheats.⁶² The RBU subsequently announced that Prokunin and Timofeyeva had each been banned for two years.⁶³
- 6.17 At the 2010 Winter Olympic Games in Vancouver, Canada in February 2010, **Evgeniy Ustyugov** won a gold medal in the mass start 15 km event and a bronze in the 4 x 7.5 km men's relay. In early 2020, the BIU charged him with blood-doping in the lead-up to the 2010 Vancouver Games, based *inter alia* on the fact that [REDACTED] which the ABP experts eventually consulted by the IBU advised reflected 'likely doping'. Mr Ustyugov denied the charge on the basis that he has a genetic trait that gives him naturally high HGB levels.⁶⁴ His case was heard by the CAS Anti-Doping Division on

⁶⁰ See allsportinfo.ru/index.php?id=27388.

⁶¹ *IBU v Iourieva*, IBU ADHP decision dated 11 August 2009, paras 30-32; *IBU v Akhatova*, IBU ADHP decision dated 11 August 2009, paras 30-32; *IBU v Yaroshenko*, IBU ADHP decision dated 11 August 2009, paras 40-42.

⁶² Rodchenkov interview, 13-14.05.19 [Document 13].

⁶³ See eg *Two Russian biathletes banned*, globaltimes.cn/content/476791.shtml.

⁶⁴ *Putin hopeful genetic tests will help Ustyugov with his appeal*, 17 May 2020, insidethegames.biz/articles/1094344/putin-hopes-genetic-tests-help-ustyugov.

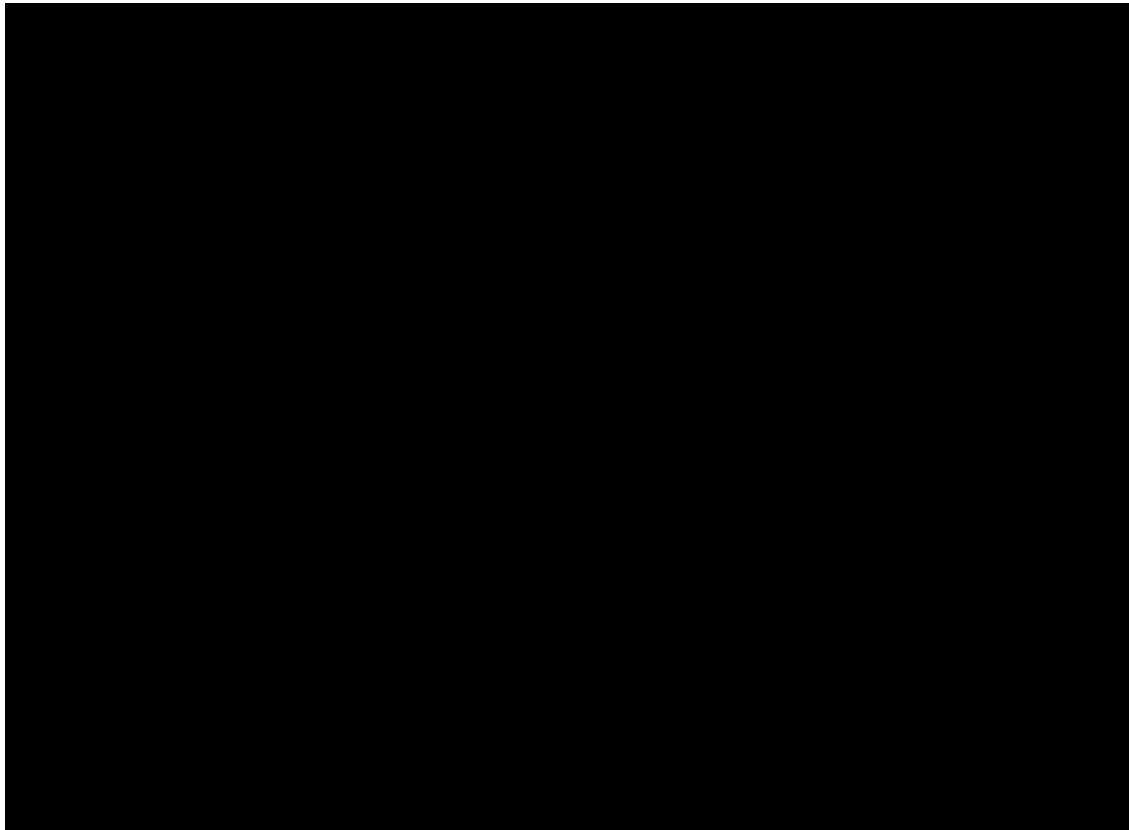
2 September 2020, and on 23 October 2020 it issued a decision upholding the charge, disqualifying Mr Ustyugov's results from 2010 to 2014, and banning him for four years (*IBU v Ustyugov*, CAS 2019/ADD/6). He appealed that decision to the CAS Appeal Division, and that appeal was still pending as of the date of publication of this Final Report.

- 6.18 On 7 January 2012, RUSADA collected a urine sample from **Alexander Pechenkin** in Izhevsk, Russia. The Moscow laboratory confirmed the presence of chlortalidone (a diuretic banned in and out of competition by WADA), but put that finding in the hidden section of its LIMS database and reported in the open section and in ADAMS that the sample was negative. After the hidden finding was uncovered, the IBU charged and provisionally suspended Mr Pechenkin on 5 November 2018. He did not contest the charge and was banned for four years in June 2019, an aggravated sanction based on his participation in an organised doping scheme.⁶⁵ He did not appeal his ban to the CAS.
- 6.19 Dr Rodchenkov has produced a document prepared by a Moscow laboratory staff member [REDACTED] listing urine samples that he says the Moscow laboratory was storing in December 2012 that had been collected from nine male Russian biathletes on 5 October 2012 ([REDACTED]) and from ten female biathletes on 24 October 2012 ([REDACTED]). Dr Rodchenkov says the samples were provided as part of the sample substitution scheme.⁶⁶

6.20 [REDACTED]

⁶⁵ IBU press release, *IBU renders verdicts on two Russian biathletes*, 25 June 2019 [Document 14].

⁶⁶ Rodchenkov affidavit, 18.11.17 [Document 15], Attachment 2. Dr Rodchenkov explained the collection of clean urine from biathletes in October 2012 was triggered by a surprise visit that WADA paid to the Moscow laboratory on 3 October 2012, demanding that 67 samples from Russian track & field athletes be handed over. Dr Rodchenkov was able to substitute the urine in the A samples overnight, but told Mr Nagornykh that this showed clean samples needed to be obtained from other doping athletes in case they needed to substitute their samples at collection stage. He says Mr Nagornykh spoke to Dr Rodionova, who immediately got associates who were part of the support staff for the biathlon national team to start collecting clean urine from national team members. This was the first time that Dr Rodchenkov received samples in non-Bereg kits from athletes in winter sports for analysis to establish they were clean (so that the athletes could start collecting and freezing their clean urine for later substitution). Dr Rodionova later told Dr Rodchenkov that she had lost the information about the samples she had provided, and so Dr Rodchenkov asked [REDACTED] to put together a list of clean samples from biathlon and skiing that were in the laboratory, and that is the clean urine inventory list that he has provided. Rodchenkov interview, 13-14.05.19 [Document 13]; Rodchenkov affidavit, 12.11.2019 [Document 16], paragraph 47.



6.21 On 5 April 2013 RUSADA collected ABP samples from various athletes, including three biathletes.⁷⁰ Dr Rodchenkov has produced an email sent by Moscow laboratory staff member [REDACTED] to Dr Rodchenkov, [REDACTED] on 15 April 2013, reporting that analysis of the biathletes' samples had revealed very high levels of HGB ('For men HGB (hemoglobin) [REDACTED] and higher (for women [REDACTED]), and high hematocrit').⁷¹ She attached to her email (i) an Excel spreadsheet listing 15 ABP samples, including three collected from the biathletes on 5 April 2013, and (ii) the lab Sysmex results for the three biathlete samples.

67 [REDACTED]

68 [REDACTED]

69 [REDACTED]

⁷⁰ The Commission understands that the 'Biathlon Champions Race 2013' was held at the Olympic Stadium in Moscow on 6 April 2013. This was a commercial (show) competition held after the culmination of the regular biathlon season (which finishes in the penultimate week of March each year). RUSADA tested Russian biathletes in the lead-up to the event (on 3-5 April 2013), while the IBU ordered in-competition testing (using RUSADA, as sample collection agency, with sample analysis at the Moscow laboratory) on 6 April 2013.

⁷¹ See Rodchenkov affidavit, 18.11.17 [Document 15], Attachment 4. See also original email at Document 19.

- 6.21.1 [REDACTED] had HGB of [REDACTED] g/dL [REDACTED].
- 6.21.2 [REDACTED] had HGB of [REDACTED] g/dL, [REDACTED].
- 6.21.3 [REDACTED] had HGB at [REDACTED] g/dL, [REDACTED].⁷²

The following day, Dr Rodchenkov forwarded [REDACTED] email to three RUSADA officials: Nikita Kamaev (Executive Director), [REDACTED]

[REDACTED]⁷³ The email (which was in Russian) was titled 'Fwd: blood samples with abnormal parameters for RUSADA, biathlon', and in it Dr Rodchenkov stated: 'We are due to react somehow, whatsoever, like we are following up. Sure, that it would be downloaded to ADAMS completely, and there might be unexpected problems prior to Sochi!'⁷⁴ RUSADA avoided this problem by the simple expedient of not entering the doping control forms for these three samples into ADAMS until 26 November 2015, i.e. two and a half years later. Until that point, the results for those samples (which had been uploaded into ADAMS by the Moscow laboratory on 9 April 2013) were 'orphans' in ADAMS, not matched to the respective athletes, not included in their respective ABP profiles, and so not visible to the IBU or WADA. Further, when the doping control forms were eventually uploaded into ADAMS in 2015, the samples were initially marked as invalid in ADAMS because an incorrect reception time was entered that meant they did not meet the time limits for validation. In mid-2016, WADA required correction of these data, and it was only then that the samples were marked as valid, and so only then did they become part of the athletes' profiles in ADAMS.⁷⁵ Dr Rodchenkov subsequently asked Mr Kamaev why biathletes would be taking rEPO after the end of the season. 'He told me that the athletes needed to enrich their blood so that it could be withdrawn, preserved, and then transfused back into the athletes before the Sochi Games'.⁷⁶

- 6.22 On 13 August 2013, IBU [REDACTED] asked RUSADA to collect urine and blood (ABP) samples from **Evgeniy Ustyugov**. On 27 August 2013, the samples were collected in Tyumen, and were sent to the Moscow laboratory for testing.
- 6.22.1 The Moscow laboratory detected a long-term metabolite of oxandrolone on initial screening of the urine sample, and then confirmed that finding in the confirmation testing procedure.⁷⁷ Oxandrolone is a prohibited anabolic steroid

⁷² The Nordic APMU has confirmed that all three HGB values were atypical for the biathletes in question. It also flagged sample [REDACTED] ([REDACTED]), as a sample collected from [REDACTED] by RUSADA on 4 April 2013 had a HGB of [REDACTED] g/dL ([REDACTED]). See Nordic APMU report, 21.09.20 [Document 20], p.11.

⁷³ Rodchenkov interview, 13-14.05.19 [Document 13], para 90.

⁷⁴ See Rodchenkov affidavit, 18.11.17 [Document 15], Attachment 4. In other words, these abnormal values would be visible in the athletes' ABP profiles in ADAMS, and therefore RUSADA needed to follow up on them by collecting urine and blood samples from the athletes to be tested for ESAs, or else there could be issues in the lead-up to the Sochi Games.

⁷⁵ Aikin email, 10.09.20 [Document 21].

⁷⁶ Rodchenkov affidavit, 18.11.17 [Document 15], paragraphs 24-26.

⁷⁷ Dr Rodchenkov has explained that if the laboratory knew in advance that a sample belonged to an athlete, it would automatically stop the process after initial testing. If not, it would contact the Ministry of Sport/CSP liaison person after initial testing, but it would continue with confirmation testing while it waited for a response, because if the instruction was not to save, and so the results would be reported as positive, the delay between initial testing and confirmation would be a red flag to any observer.

and one of the ingredients of the Duchess cocktail. In the open part of its LIMS database, and in ADAMS, the Moscow laboratory reported that the sample had tested negative.

- 6.22.2 The 2015 copy of the LIMS database obtained by WADA in 2017 included the actual positive result, stored in the hidden section of the LIMS database.
- 6.22.3 The copy of the LIMS database provided to WADA by the Russian authorities in January 2019 lists the sample but contains no mention (even in the hidden section of the database) of the presumptive finding or the confirmed finding for the oxandrolone metabolite. In addition, the PDF files reporting the results of analysis of the sample for anabolic steroids and SARMs are missing.
- 6.22.4 On 21 July 2016, the Russian Investigative Committee came to the Moscow laboratory, and an unidentified user of a Moscow laboratory computer deleted folders containing the raw data files evidencing the confirmation of the presence of oxandrolone in Ustyugov's sample. This was done at 13:48, which is 12 minutes before the Russian Investigative Committee left the laboratory (according to the protocol it provided to WADA).
- 6.22.5 Independent forensic experts were able to recover the raw data file evidencing the laboratory's confirmation of the oxandrolone metabolite. They were also able to find the missing PDF files reporting the presumptive AAF for the oxandrolone metabolite. The relevant PDF file contained traces of selective alteration to make the analytical results appear negative for oxandrolone.
- 6.22.6 In short, therefore, the forensic analytical evidence indicates that the sample did indeed test positive for oxandrolone metabolites, that someone deleted the presumptive finding from the 2019 LIMS copy, that someone manipulated and then deleted the PDF file reporting the presumptive finding for oxandrolone, and that on or before 21 July 2016 someone deleted the raw data files containing the results confirming the presumptive finding.⁷⁸
- 6.22.7 Based on this evidence, the IBU and WADA were able to establish to the comfortable satisfaction of the IBU ADHP that the evidence from the 2015 LIMS copy was reliable and proved that Ustyugov had used oxandrolone in August 2013. The IBU ADHP banned Ustyugov for two years and disqualified all of his results from 27 August 2013 onwards.⁷⁹ He appealed that decision to the CAS, and that appeal was still pending at the time this Final Report was finalised.
- 6.23 On 19 September 2013, a urine sample was collected from **Ekaterina Glazyrina** and sent to the Moscow laboratory, which identified and then confirmed the presence of two anabolic steroids (two of the Duchess cocktail steroids: oxandrolone, metenolone, and trenbolone). It recorded these positive results in the hidden section of its LIMS database, but reported the sample negative in ADAMS. The positive results and underlying raw data were then removed before the LIMS database and raw data were provided to WADA in January 2019. Further samples collected from Ms Glazyrina in December 2013 also tested positive for the same steroids, and she served a two-year ban for those positives from February 2018 to February 2020 (see paragraph 6.25, below). However, the IBU did not attribute the 19 September 2013 sample to Ms Glazyrina at the time it brought that case (see footnote 431, below), and therefore it was not considered in that case. Instead, the

⁷⁸ WADA Compliance Review Committee's recommendation of non-compliance, 21.11.19 [Document 8], para 28.

⁷⁹ *IBU v Ustyugov*, IBU ADHP decision dated 13 February 2020.

BIU charged and provisionally suspended Ms Glazyrina for this separate positive finding on 24 September 2020.⁸⁰

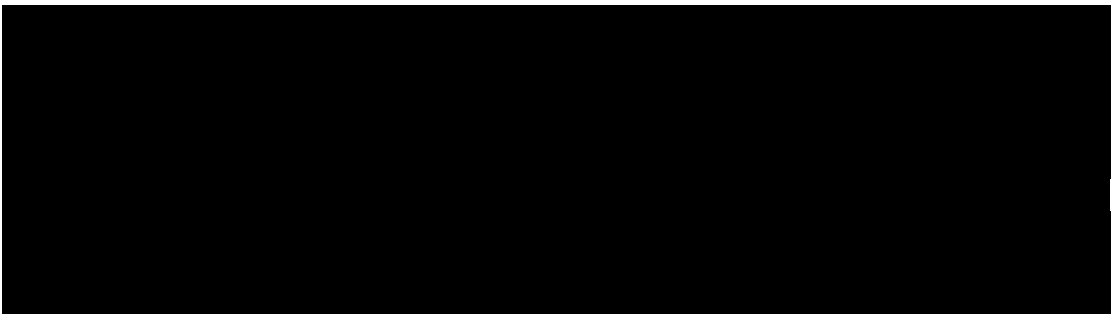
- 6.24 The first IBU World Cup event of the 2013/14 season was held in Ostersund, Sweden, from 22 November to 1 December 2013. On 26 November 2013, a urine sample was collected at the event from **Alexander Loginov** and sent to the WADA-accredited laboratory in Cologne for analysis. The Cologne laboratory reported an atypical finding for rEPO, meaning it was only positive by one method, not two as required by the WADA testing criteria in effect at the time, but the WADA testing criteria were in the process of being revised, so the Cologne laboratory recommended storing the sample for later re-analysis. When the sample was re-analysed in November 2014 in accordance with the new criteria, it tested positive for rEPO. Mr Loginov waived his right to analysis of the B sample and blamed his positive test on medication he had taken. The ADHP found that he had administered rEPO and that he had tried to deceive the panel, and therefore imposed a two-year ban (which it declined to back-date) and disqualified all his results from 26 November 2013 onwards.⁸¹
- 6.25 **Ekaterina Glazyrina**, a candidate for the women's relay team for the Sochi Games, competed in the first three IBU World Cup events in the 2013/14 season, from 22 November to 15 December 2013, and in the Russian Championships in Izhevsk on 19-21 December 2013. She then competed in the fifth and sixth IBU World Cup events from 7 to 19 January 2014, before going on to compete at the 2014 Olympic Games in Sochi. The only event she missed in that entire period was the fourth IBU World Cup event, in Oberhof from 1 to 5 January 2014. This is why:
- 6.25.1 RUSADA collected urine samples from Glazyrina on 19 December and 21 December 2013 at the Russian Championships in Izhevsk. The samples were sent to the Moscow laboratory on 23 December 2013.
- 6.25.2 On 25 December 2013, Dr Rodchenkov emailed Aleksey Velikodny at the CSP about Glazyrina's 19 December 2013 sample: 'Metelone, oxandrolone, trenbolone', and 'I think this is a bit too much and such samples should not get into the laboratory', and 'she has to be hidden immediately'. Mr Velikodny replied: 'The issue is being looked into as we speak! We will pull her out!' About an hour later, Velikodny emailed back: 'Yes, it is necessary! I checked it, she is in Ruhpolding (Germany) now until 13 January, and afterwards to Antholz (Italy) until 30, on 30th is arrival at the Games! I reported and wait for the decision'. About two hours later, Velikodny wrote: 'Save', and ten minutes later another laboratory staff member said: 'If she is now starting at the World Cup, she will be picked up for sure – it will be not a very pleasant situation for the laboratory if we didn't find anything in case of such a concentration and such substances'.⁸² The Moscow laboratory recorded the positive results only in the hidden section of its LIMS database; it reported the sample as negative in the open section of LIMS and in ADAMS.⁸³

⁸⁰ BIU press release, 24.09.20 [Document 22].

⁸¹ *IBU v Loginov*, IBU ADHP decision dated 30 June 2015.

⁸² EDP 0230, 0231, 0232 [Document 23].

⁸³ Rodchenkov affidavit, Oswald Commission, 05.11.17 [Document 24], paragraphs 27-28 and Attachment 7.

- 6.25.3 On 26 December 2013, someone at the Moscow laboratory emailed Velikodny the sample code number for Glazyrina's 21 December sample with the message 'Methenolone, oxandrolone (weak)'. Velikodny emailed back: 'Save'.⁸⁴ This sample was also reported negative in ADAMS.
- 6.25.4 Dr Rodchenkov has produced the following entries from his diary:
- 6.25.4.1 26 December 2013: 'Rodionova and Glaz to Ruhpolding'.
- 6.25.4.2 29 December 2013: 'Rod back. She hustled about on behalf of Glazyrina there'.⁸⁵
- 6.25.5 Glazyrina was pulled at the last minute from the start list for the IBU World Cup event in Oberhof on 1-5 January 2014.
- 6.25.6 A sample was collected from Glazyrina on 6 January 2014 in Ruhpolding. It was tested at the Moscow laboratory on 8 January 2014 and was negative for prohibited substances. Glazyrina competed that day at the IBU World Cup event in Ruhpolding, and at the next World Cup event, and then in Sochi. The IBU ADHP concluded that 'the 6 January 2014 doping control appears to have been a "wash-out" test by RUSADA during the training camp of the Russian team in Ruhpolding, analysed by and within the control of the Moscow laboratory, to verify the athlete had fully excreted the substance'.⁸⁶
- 6.25.7 Relying on the above evidence, the IBU provisionally suspended Glazyrina on 10 February 2017, and referred the case to the IBU ADHP on 29 June 2017.
- 6.25.8 Based on the above evidence, the IBU ADHP was comfortably satisfied that Glazyrina had used oxandrolone, trenbolone, and metenolone (i.e., the three ingredients of the Duchess cocktail). It banned her for two years and disqualified all of her results from 19 December 2013 on.⁸⁷
- 6.25.9 Ms Glazyrina filed an appeal to CAS against that decision, but subsequently withdrew it.⁸⁸
- 6.26 

⁸⁴ EDP 0235 [Document 25].

⁸⁵ Document 26.

⁸⁶ *IBU v Glazyrina*, ADHP decision dated 24 April 2018, para 184.

⁸⁷ *IBU v Glazyrina*, ADHP decision dated 24 April 2018.

⁸⁸ IBU press release, *IBU verdict against Glazyrina now legally binding*, 21.06.18 [Document 27].

- [REDACTED]
- 6.27 On 23 December 2013, urine samples were collected from **Irina Starykh** and **Ekaterina Iourieva** out of competition in Slovenia on behalf of the IBU. On 1 January 2014, a second sample was collected from Iourieva, and on 2 January 2014 a second sample was collected from Starykh in Oberhof. The samples were analysed in the WADA-accredited doping control laboratory in Seibersdorf. The first three tested positive for rEPO, the fourth was atypical and was stored for later re-analysis. Nicole Resch notified the RBU and the athletes of their provisional suspension on 28 January 2014, shortly before the start of the 2014 Olympic Games in Sochi. Dr Rodchenkov said Dr Rodionova told him that Starykh was furious that she would not be able to compete in the Sochi Olympics, and threatened to come out publicly and blame Dr Dmitriev for giving her rEPO,⁹⁰ and [REDACTED] bought her silence by paying her the same amount of money as she would have received had she won a medal at the Sochi Games.⁹¹ Starykh subsequently waived her right to a hearing before the IBU ADHP, and acknowledged her ADRV, blaming a substance that she injected as part of a 'cosmetic procedure'. The IBU ADHP banned her for two years and disqualified all of her results from 23 December 2013 on.⁹² Iourieva also acknowledged her ADRV, and the ADHP banned her for life (as it was a second offence).⁹³ In November 2014, Starykh's second sample was re-analysed and also tested positive for rEPO. In August 2015, the IBU ADHP accepted the IBU's submission that she must have taken more than one injection of rEPO to have positive samples ten days apart and considered that to be an aggravating factor that justified increasing her ban from two years to three.⁹⁴
- 6.28 The evidence produced by Professor McLaren also included lists of Russian biathletes from whom samples were collected *en masse* on 6 January 2014 in Ruhpolding, with the samples shipped back to Moscow for analysis; on 11 January 2014 in Moscow; and on 16 January 2014.⁹⁵ The lists originated with RUSADA, and were sent to the Russian Ministry of Sport, and the sample numbers were then communicated to the Moscow laboratory. According to the McLaren EDPs, all of the samples were 'pre-departure saves' and were reported negative in ADAMS. [REDACTED]
- 6.29 On 21 January 2014, Aleksey Velikodny sent Dr Rodchenkov a list of athletes who would be in the Russian team at the Sochi Olympics and who were continuing to take the Duchess

89 [REDACTED]

90 Alexei Kuznetsov (coach to Tatiana Akimova) has publicly blamed Dmitriev for Starykh's positive test. *Akimova's coach: "The so-called doctor Dmitriev ruined Russian biathlon"*, 25 March 2016 (eurosport.ru/biathlon/story_sto5396099.shtml).

91 Rodchenkov interview, 13-14.05.19 [Document 13]; Rodchenkov affidavit to Schmid Commission, 02.11.2017 [Document 29], paragraph 201, fn 23 [REDACTED].

92 *IBU v Starykh*, ADHP decision dated 14 July 2014.

93 *IBU v Iourieva*, ADHP decision dated 18 July 2014.

94 *IBU v Starykh*, ADHP decision dated 30 June 2015.

95 EDPs 0883, 0884, and 0885 [Document 30].

96 [REDACTED]

cocktail, so that Dr Rodchenkov would know that if those athletes were selected for testing at the Sochi Games, their samples would have to be discarded and replaced by urine from the 'clean urine bank' before the samples were analysed at the Sochi satellite laboratory.⁹⁷ [REDACTED]

- 6.30 The biathlon competitions at the 2014 Olympic Games in Sochi took place from 8 to 22 February 2014. Dr Rodchenkov claims to have swapped out the urine from 11 samples [REDACTED] during the Games. He says they only had three bottles of Zaitseva's clean urine to swap in, and so nearly ran out, but Dr Rodionova delivered a further bottle. These samples all tested negative in the Sochi laboratory, but subsequent analysis revealed scratches and marks on all of the sample bottles that were consistent with them having been opened and then re-sealed. In addition, one of Zaitseva's samples contained non-physiological levels of salt. (Dr Rodchenkov has explained that he added salt to the clean urine where necessary to match the specific gravity of the urine in the sample collection bottle, as recorded on the doping control form). On this basis, the Oswald Commission found that Romanova, Vilukhina, and Zaitseva had committed anti-doping violations, disqualified their results at the Sochi Games (including their silver medals in the 4x6km relay race and Vilukhina's silver medal in the women's 7.5km race), and banned all three of them for life from the Olympic Games.⁹⁹ All three appealed to CAS, but the appeals were stayed at their request (see paragraph 6.246), ultimately for two years, and therefore were only heard in March 2020. On 24 September 2020, the CAS announced that it had found that Ms Zaitseva had used a prohibited substance and a prohibited method (sample substitution), but that the evidence did not establish ADRVs to its comfortable satisfaction in the cases of Romanova and Vilukhina.¹⁰⁰
- 6.31 The IBU brought its own Sysmex machine to Sochi in order to screen biathletes' blood samples for abnormal markers that warranted follow-up testing for rEPO or other erythropoietin-stimulating agents (ESAs) (which was part of its normal testing at events: see paragraph 6.64.2, below). The machine was flown from Austria to Sochi, but when the IBU delegates took delivery of the machine it was not working properly. Nikita Kamaev subsequently told [REDACTED] (then working at the Lausanne laboratory) that 'they' (which in that context [REDACTED] took to probably mean the FSB) had sabotaged the

⁹⁷ Dr Rodchenkov had the document saved on the hard drive of his laptop computer, but the meta-data of the file showed that it was authored by Mr Velikodny. *IOC v Zaitseva*, Oswald Commission decision dated 22 December 2017, paragraph 155.

⁹⁸ [REDACTED]

⁹⁹ *IOC v Zaitseva*, Oswald Commission decision dated 22 December 2017; *IOC v Vilukhina*, Oswald Commission decision dated 27 November 2017.

¹⁰⁰ CAS press release, 24.09.20 [Document 31]. The reasoned decisions subsequently published in those cases (CAS 2017/A/5434, 5435, and 5444) reveal that the CAS panel followed the precedent set in the *Legkov* and *Zubkov* appeals (see paragraph 6.6.5, above), since in Zaitseva's case there was salt in one of her samples at a highly unusual level that persuaded the panel that the salt had been manually added to clean urine that must have been provided by Zaitseva prior to the Games, whereas in the other two cases there was only the Duchess List and the scratches and marks on the bottles, and no unphysiological salt levels or DNA evidence that established to the panel's satisfaction that the biathletes must have known about the sample substitution.

machine deliberately,¹⁰¹ but the Commission has not been able to corroborate that. In any event, unable to carry out its original plan, the IBU instead arranged for Sochi Organising Committee to collect ABP samples from biathletes on its behalf and send them to the Sochi laboratory for analysis.¹⁰² That allowed the manipulation of the testing process to try to cover up blood doping by Evgeniy Ustyugov, as follows:

- 6.31.1 The IBU [REDACTED] issued a mission order for the collection of ABP samples from twenty named athletes, including the four members of the Russian men's relay team, including Ustyugov. On 14 February 2014, a Sochi Organising Committee doping control officer collected the 20 samples one after the other between 09:00 and 15:45 at the Endurance Village. The first 15 samples collected were later shipped in one box to the Sochi laboratory, together with the laboratory copies of the doping control forms for those samples. They were marked as having been received at the laboratory at 00:00 on 15 February 2014. They were tested and the relevant blood parameters were posted in ADAMS later that day, all entirely in accordance with normal ABP procedures, at which point they could be reviewed for any abnormalities that warranted follow-up in the form of collection of further samples from the athletes to be tested for ESAs.
- 6.31.2 For no obvious good reason, the last five samples collected by the Sochi Organising Committee doping control officer on 14 February 2014 (i.e., the four collected from the members of the Russian men's relay team, plus one from a Norwegian biathlete) were packed in a separate box for shipment to the Sochi laboratory. When they arrived at the Sochi laboratory, at 1.20am on 15 February 2014, it appears that the laboratory copies of the doping control forms were not with them.¹⁰³ The head of reception at the Sochi laboratory, Evgeny Kudryavtsev, who was a co-conspirator involved in the sample-swapping scheme at Sochi (see paragraphs 6.4.8.3 and 6.11.4.2), emailed Dr Rodchenkov to ask him to track down the forms or at least the gender of the sample providers (because the gender has to be entered in ADAMS when the test results are entered). Pending receipt of an answer, he did not register the ABP samples. Instead, they were held in the special room for temporary storage of aliquots and samples at the reception zone, and were not forwarded to the laboratory's blood department for analysis.
- 6.31.3 The five ABP samples were only registered as received when Kudryavtsev came back in to work the next evening, by which time Rodchenkov had ascertained from the IBU and had forwarded him the gender of the five athletes to whom the samples belonged. [REDACTED] registered the five ABP samples at 00:15 on 16 February 2014. They were then again put into the temporary storage room (because the blood testing department was unstaffed during the night) and released when the blood testing staff got in to work the next morning. The samples were then run through the Sysmex machine at c. 11am that day (16 February 2014). The Sysmex machine measured the HGB in Ustyugov's sample at [REDACTED] g/dL and the reticulocytes at [REDACTED]%. These results were uploaded into ADAMS at 11:46am Sochi time.¹⁰⁴

101 [REDACTED] interview, 07.08.20 [Document 32].

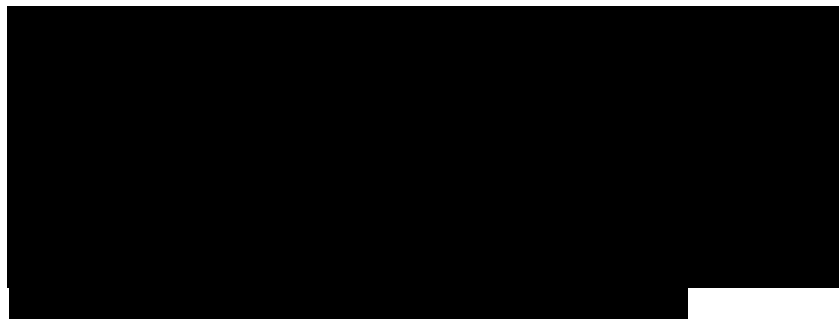
102 [REDACTED] email, 10.02.14 [Document 33].

103 See chain of custody form [Document 34].

104 Sysmex reports uploaded into ADAMS on 16.02.14 [Document 35].

- 6.31.4 This is important because version 3.1 of the WADA ABP Operating Guidelines (April 2012) specified that ABP samples had to be analysed by the laboratory within 36 hours of collection. The ADAMS database was programmed to invalidate automatically any results uploaded by laboratories where that deadline was not met. Therefore, it automatically registered as invalid the results of analysis of the ABP samples of the Russian men's biathlon team that had been collected in the afternoon of 14 February 2014, because they were not analysed until the morning of 16 February 2014, and so had not met the 36-hour deadline. (The rule had actually been changed to a 48-hour deadline, but the changes were not made to the ADAMS programme until after the 2014 Sochi Games, and so during the Games period ADAMS still applied the previous 36-hour deadline).
- 6.31.5 Importantly, there was absolutely no reason to delay registration or analysis of the ABP samples, even without having the doping control forms or knowing the gender of the athlete. Given the strict deadline for analysis that applied for ABP samples, Mr Kudryavtsev could and should have registered the samples and sent them up for analysis without delay on 15 February 2014. They could have been run through the Sysmex machine and the results uploaded into ADAMS immediately using just the sample code number on the sample bottle (entering gender as 'unknown').
- 6.31.6 Dr Rodchenkov was not involved in the analysis of blood samples at the Sochi laboratory, and says that there was no pre-arranged plan to manipulate the analysis of ABP samples, but he agrees that there was no good reason to delay registration or analysis of the ABP samples belonging to the Russian male biathletes, and that the ABP samples should have been processed normally in order to meet the required deadline. The Commission infers that the delay was deliberate in an effort to prevent detection of Ustyugov's highly abnormal values (or to allow him to argue that the values were invalid).
- 6.31.7 In this regard, it is noteworthy that these five ABP samples collected on 14 February 2014 were the only ones of the 41 ABP samples that were collected by the Sochi Organising Committee on behalf of the IBU and tested at the Sochi laboratory that were recorded as invalid.
- 6.31.8 Further incidents resulted in **Evgeniy Ustyugov** avoiding detection for a number of years. On 21 February 2014 (the day before the men's relay event, at which the Russian team won gold):

6.31.8.1



6.31.8.2 The mission order was entered into ADAMS by a Sochi 2014 staff member at 14:17 that afternoon. The staff member ticked the

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boxes for a blood sample to be tested for CERA, and for a urine sample, but did not tick the box to test the urine sample for ESAs. The blood sample was collected at 20:00. A urine sample was collected from Ustyugov at 20.07 and given number [REDACTED], but it was dilute ([REDACTED]) and so a second sample was collected at 21.43 ([REDACTED]) that was more concentrated ([REDACTED]). The Sochi laboratory reported in ADAMS that the blood sample tested negative, including for CERA, and that both urine samples tested negative (although neither was tested for ESAs).

- 6.31.8.3 Re-analysis of those samples by the IOC in 2017 did not detect any prohibited substances (or any excessive salt or foreign DNA). Subsequently, however, [REDACTED]

- 6.32 On 17 July 2014, a urine sample was collected from **Alexander Chernysov**. In August 2018, the IBU charged him with using rEPO based on data recorded in the hidden section of the Moscow laboratory's LIMS database. He did not contest the charge, and was banned for four years in June 2019, which was an aggravated sanction based on his participation in an organised doping scheme.¹⁰⁸ He did not appeal his ban to the CAS.

¹⁰⁷ November 2017 Report [REDACTED]

[Document 37]; March 2019 Report [REDACTED]

¹⁰⁸ IBU press release, *IBU renders verdicts on two Russian biathletes*, biathlonworld.com/news/detail/ibu-renders-verdicts-on-two-russian-biathletes.

- 6.33 As the above narrative details, most of these positive drug tests were hidden by the Moscow laboratory and therefore not unearthed and not prosecuted for several years.
- 6.34 From 2010-2015, the only adverse analytical findings that the Moscow laboratory reported for Russian biathletes were for the following non-national team athletes, who were duly sanctioned by the RBU:

Name	Substance	Class	Date of award	Period of ineligibility
	Canrenone	S5	16.07.2012	2 years
	Canrenone	S5	19.07.2012	1 year
	methylhexanamine	S6b	12.03.2013	1 year
	furosemide	S5	14.03.2013	18 months
	carphedon	S6a	02.07.2013	2 years
	GW1516, ostarine	S4.5, S1	31.07.2014	2 years
	Trimetazidine	S6b	18.08.2014	2 years
	mesterolone, metandienone	S1	06.10.2014	2 years

- 6.35 The Commission is sure that this section of the Final Report makes for devastating reading for clean athletes who competed against these doped athletes and were denied medals and other opportunities because of that doping and the elaborate scheme to cover it up. It shows how significant the doping was within the Russian national biathlon team, and what lengths the Russian authorities went to in order to cover up that doping and prevent its exposure.
- 6.36 It also means the Russian authorities had significant incentive to bribe or compromise IBU officials to assist them in covering up that doping. We now turn to the question of whether or not they did so.

6B. Did Anders Besseberg and/or Nicole Resch improperly favour Russian interests, in breach of their duties to the IBU and to the sport?

6B.1 Did Anders Besseberg receive bribes and/or other favours from Russian parties?

- 6.37 Dr Rodchenkov notes that he only met Anders Besseberg twice, both times in innocuous circumstances, he had no ongoing contacts with him, and he has only indirect evidence that Mr Besseberg received bribes or other inducements from the RBU to favour Russian interests (namely, interactions that Dr Rodchenkov had with different people that indicated to him that they were exercising improper influence over Mr Besseberg/the IBU).
- 6.38 First, Dr Rodchenkov says that in 2009 he was introduced to [REDACTED] of the FSB, who wanted advice from him on how to defeat the rEPO charges brought against Iourieva, Akhatova, and Yaroshenko (see paragraph 6.15, above). He says [REDACTED] told him that he ([REDACTED]) was responsible for helping RBU [REDACTED] to improve relations between the RBU and IBU. However, Dr Rodchenkov does not recall [REDACTED] ever saying that he had met with IBU representatives or that he had obtained any influence over the IBU, or that he had sought to bribe or otherwise gain influence over Mr Besseberg.

- 6.39 Second, Dr Rodchenkov states that Dr Rodionova¹⁰⁹ told him on several occasions between 2010 and 2011 that [REDACTED] [REDACTED] 'had built relations with Mr Besseberg in order to directly solve problems between the RBU and IBU. These problems usually involved Russian athletes who were doping', that [REDACTED] 'has all means, including [REDACTED] bank, to leverage good relations' with the IBU [REDACTED] and that in 2010 [REDACTED] had told her that 'he had "found a way to get along" with the IBU'.¹¹⁰ Dr Rodchenkov confirmed this evidence in his interview with the Commission in May 2019: he could not recall Dr Rodionova specifically mentioning Mr Besseberg, or explaining more specifically what arrangement [REDACTED] had come to with the IBU, nor did [REDACTED] ever say anything on the subject in his limited interactions with Dr Rodchenkov. When asked whether he thought Dr Rodionova meant (i) there were problems and [REDACTED] had solved them, or (ii) [REDACTED] had a good relationship with the IBU so there were no problems, Dr Rodchenkov said he thought the latter was more accurate. Dr Rodchenkov thought she was saying that they 'had enough sensitive information to escape problems in the future', but did not know what that sensitive information might have been. He only noted that Dr Rodionova appeared to be unconcerned about doped Russian biathletes being caught through IBU testing (including ABP testing), from which he inferred that she understood [REDACTED] had made an arrangement with Mr Besseberg to prevent such exposure.¹¹¹
- 6.40 The Commission addresses in the next section of this report whether or not there is evidence that Mr Besseberg or Ms Resch did anything to prevent exposure of doped Russian biathletes through IBU testing. For now, it notes that it has a copy of an affidavit from Dr Rodionova in which she denies almost everything that Dr Rodchenkov has said about her.¹¹² However, the Commission also notes that the IBU ADHP found her to be an unreliable witness.¹¹³ [REDACTED]
- 6.41 Third, Dr Rodchenkov said that he believed Alexander Kravtsov, who was head of the CSP throughout the relevant period, and president of the RBU from 2014 to 2018, was involved in the bribery of Mr Besseberg, based on a conversation he witnessed when he went to see Mr Kravtsov at the CSP offices one day in approximately May or June of 2013. According to Dr Rodchenkov, when he arrived, Mr Kravtsov waved him into his office, where Kravtsov was in the middle of a conversation with Alexander Tikhonov (former

¹⁰⁹ The doctor at the ROC and then at the CSP who worked with the RBU's national team athletes (see paragraph 6.4.6, above).

¹¹⁰ Rodchenkov affidavit, 04.10.17 [Document 40], paragraphs 23, 47, 54, 55.

¹¹¹ Rodchenkov interview, 13-14.05.19 [Document 13].

¹¹² Rodionova affidavit, 19.12.18 [Document 41].

¹¹³ *IBU v Sleptsova*, IBU ADHP decision dated 11 February 2020, paragraph 392; *IBU v Ustyugov*, IBU ADHP decision dated 13 February 2020, paragraph 445.

IBU 1st Vice-President, who is a known close associate of Kravtsov¹¹⁴). Dr Rodchenkov states:

Mr Kravtsov and Mr Tikhonov were openly trying to recall how much money Mr Tikhonov had paid Mr Besseberg. ... [They] openly discussed having paid Mr Besseberg somewhere between \$200,000 USD and \$300,000 USD in a one-off payment. The cash for that payment had been held in a small diplomatic case. Tikhonov said the type of case they used could hold about \$300,000 USD. Mr Kravtsov disagreed and stated that this type of case could hold \$400,000 USD. Mr Tikhonov said that Mr Besseberg was "under his control", which I understood to mean Mr Tikhonov had leverage over Mr Besseberg. I understood "under his control" to mean that Mr Besseberg was obligated to him and that Mr Tikhonov had leverage over him.¹¹⁵

6.42 The Commission questioned Dr Rodchenkov in detail at interview in May 2019 about this evidence. He was clear and consistent in his answers, and did not falter in any aspect of his account. In fact, in the course of re-telling it, he incidentally included further detail that in the view of the Commission gave his evidence a clear ring of truth:

6.42.1 When Dr Rodchenkov entered the room, Mr Kravtsov and Mr Tikhonov were coming to the end of a conversation. Mr Tikhonov was trying to prove something to Mr Kravtsov. Dr Rodchenkov immediately understood that they were talking about Anders Besseberg because they referred to him by the nickname they used for him, 'Bes' (a play on words, since 'Bes' in Russian means 'demon'). They were angry, because Mr Besseberg had not done something that he had promised to do, although they did not state what it was that Mr Besseberg had supposedly failed to do.

6.42.2 In sum and substance, Mr Kravtsov and Mr Tikhonov were discussing that they had paid Mr Besseberg to do something specific and he had not fulfilled his part of the bargain. They were clear that they had given him enough money to be sure that he would do this particular thing. They were trying to work out whether they gave him the money to do this thing 'last time' or a previous time (i.e., there had been more than one payment). That led them to try to remember how much they had paid him on that last occasion. They were saying the money had been in a diplomat case and were trying to work out how much it was by figuring out how many dollars could fit inside a diplomatic case. That struck Dr Rodchenkov as an unusual and interesting question, which is why he specifically remembers the discussion. He thought they concluded it would have been \$300,000, more or less, and then Mr Kravtsov suggested that it could have been even more than that, as much as \$400,000.

6.42.3 Mr Tikhonov said of Mr Besseberg: 'I hold him like this' (making a fist gesture). In Russia that means 'he is under my control'. Dr Rodchenkov understood that Mr Tikhonov meant that Mr Tikhonov had leverage over Mr Besseberg that meant Mr Besseberg would have to do what Mr Tikhonov wanted.¹¹⁶

6.43 Acknowledging that it lacks the investigative powers of state/criminal authorities, the Commission has nevertheless sought to gather evidence corroborating or refuting the

¹¹⁴ Tikhonov backed Kravtsov to take over as RBU President in May 2014: *The arrival of Kravtsov is my idea*, biathlon.ru, 21.5.14 [Document 42] ('Regarding Kravtsov, I had to argue with the Minister of Sports. He did not want to let him go from the CSP').

¹¹⁵ Rodchenkov affidavit, 04.10.17 [Document 40], paragraphs 48-51.

¹¹⁶ Rodchenkov interview, 13-14.05.19 [Document 13].

allegation that the RBU sought to exercise improper influence (whether through bribes or otherwise) over Mr Besseberg.

6.44 First, the Commission sought to interview both Mr Kravtsov and Mr Tikhonov, so that it could put Dr Rodchenkov's allegations to them:

6.44.1 Mr Kravtsov refused to be interviewed, and said that he would only answer questions in writing. The Commission put the above evidence and other points to Mr Kravtsov in writing (via the RBU), and he acknowledged receipt and said he was taking the questions seriously and would provide answers.¹¹⁷ However, despite the Commission sending him several chasers and requesting assistance from the RBU, ultimately Mr Kravtsov did not provide any response to the Commission's written questions. He provided no explanation or excuse for that failure. However, the Commission notes that on 18 September 2020 TASS news agency reported that Mr Kravtsov had been arrested on charges of embezzling federal funds.¹¹⁸

6.44.2 Mr Tikhonov agreed to be interviewed by the Commission and was an expansive witness. He was clear that there had been doping in Russian biathlon [REDACTED], and said that when Dr Rodchenkov had told the world about the Russian doping scheme, he had supported Dr Rodchenkov, 'because I knew that Dr Rodchenkov was a very good specialist and would not make things up'. However, when the Commission put to Mr Tikhonov what Dr Rodchenkov said he had discussed with Mr Kravtsov, Mr Tikhonov immediately denied it and said that Dr Rodchenkov 'made this up'. Mr Tikhonov said that he did meet with Mr Kravtsov from time to time in Kravtsov's office, but he insisted that he never saw Dr Rodchenkov there, that he never had the described conversation with Kravtsov, and indeed that he had no contact with Mr Besseberg after he left the IBU in 2010.¹¹⁹

6.44.3 For various reasons, however, the Commission did not consider Mr Tikhonov to be a reliable witness. For example, Mr Tikhonov's argument that he has had no contact with Mr Besseberg since 2010 can be clearly refuted. In particular, Mr Tikhonov attended the 2014 IBU Congress as a candidate for election as President,¹²⁰ at which he obviously had contact with Mr Besseberg. Furthermore, according to Mr Besseberg, Mr Tikhonov also continued to be present regularly at IBU events after 2010.¹²¹ And the IBU's accreditation records confirm that Mr Tikhonov was accredited for a number of IBU events for several years after 2010, including events that Mr Besseberg also attended.¹²²

6.45 Although Mr Besseberg declined to be interviewed by the Commission while the criminal proceedings are pending, he has stated formally to the police that he has never received

¹¹⁷ Kravtsov-Taylor email, 19.08.20 [Document 43].

¹¹⁸ See tass.com/economy/1202513 and insidethegames.biz/articles/1098605/alexander-kravtsov-detained-embezzlement.

¹¹⁹ Tikhonov interview, 21.01.20 [Document 10].

¹²⁰ Mr Tikhonov was present from 03-08.09.2014: 2014 IBU Congress attendance list [Document 44].

¹²¹ Besseberg police interview, 10-11.04.18 [Document 45].

¹²² IBU accreditation records [Document 46].

any improper payments of any kind from any Russian party.¹²³ In this respect, the Commission notes the following:

- 6.45.1 Mr Besseberg's bank accounts showed that his credit balance increased from 2012 to 2016 by approximately [REDACTED], even though he only reported a small profit from his farming activities in three of those years [REDACTED], and losses in two of those years.¹²⁴ He told the police the rest of the money came from three inheritances and from the annual payment he received from the IBU as compensation for 'loss of income' (this was originally €15,000, then €20,000, then from 2016 it was €30,000).
- 6.45.2 Mr Besseberg's bank accounts showed withdrawals of only [REDACTED] (equivalent to [REDACTED]) in total in the period 2012-2017.¹²⁵ He said that instead he would usually pay expenses using money that was 'lying around' that he had received (1) from the IBU as per diem allowances¹²⁶ and for travel expenses in the period 1988-2006, which he said could total up to [REDACTED] pa (but that figure included reimbursement of travel expenses he had already incurred);¹²⁷ (2) from WADA as per diem allowances for his attendance at Foundation Board meetings (WADA advised the Commission these payments amounted to [REDACTED] in the period 2000-2017¹²⁸); (3) from the IOC (it informed the Commission that Mr Besseberg would have received [REDACTED] per diem as a member of the Agenda 2020 working groups 'Olympic Winter Games Beijing 2022' and 'Protecting Clean athletes', but it stopped paying per diems in cash in 2012¹²⁹); and (4) from the International Masters Games Association (although it usually paid by bank transfer). He said he would use the cash per diems 'for food, drink and everything [else] there is' while working and travelling for these organisations,¹³⁰ as well as for his general living expenses. He said these payments were also the source of the cash that the police found on his farm in Norway on April 2018, in various currencies (in particular, Norwegian kroner, euros, and US dollars) totalling approximately [REDACTED] (converted).¹³¹

¹²³ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

¹²⁴ Report of the 'Economic Investigations Group' of the Austrian Federal Police [Document 48]. [REDACTED]

¹²⁵ Report of the 'Economic Investigations Group' of the Austrian Federal Police [Document 48].

¹²⁶ Per travel day: [REDACTED]; per working day: [REDACTED].

¹²⁷ The IBU no longer has records of cash payments for the period prior to 2004. For the season 2004/2005 its records indicate that Mr Besseberg received [REDACTED], while for the season 2005/2006 he received [REDACTED], but both payments were wire-transferred to his bank, not paid in cash [Document 49]. After 2006, the IBU switched permanently from cash payments to wire transfers: Leistner interview, 03.07.20 [Document 133]. Only smaller amounts were settled through the 'Handkassa', a manual cash register kept by IBU accounting. The police investigations established that amounts in the range of [REDACTED] were refunded to Mr Besseberg by bank transfer in recent years (2013-2017).

¹²⁸ [REDACTED]-Taylor email, 02.04.19 [Document 50]. This sum is composed of [REDACTED].

¹²⁹ [REDACTED]-Taylor email, 18.04.19 [Document 51].

¹³⁰ Besseberg police interview, 10-11.04.18 [Document 45].

¹³¹ See details in the police report, 18.06.18, p.333 et seq [Document 52].

- 6.45.3 The police also seized thirteen watches at Mr Besseberg's home. Four of them were from specific sporting events, the other nine watches being luxury brands like RAM (2), Omega Broad Arrow, Ulysee Nardin (2), Huboldt Geneve, Poljot, and two unknown brands (both probably Russian). Mr Besseberg confirmed that he had received the Omega watch (worth about €20,000) as a personal present from ██████████ in March 2011 in Khanty-Mansysk, to mark the occasion of the 100th IBU Executive Board meeting and his 65th birthday.¹³² He said a blue watch (brand unknown, probably 'Naprer') was given to him by Alexander Tikhonov, but he could not provide the occasion or the date of the gift, just that it was at an IBU World Cup event at Holmenkollen.¹³³ That leaves seven watches of unclear provenance. Mr Besseberg himself did not state that he had bought them or indicate how he had obtained them.
- 6.45.4 These facts raise a number of obvious questions. For example, it is difficult to see how the cash per diems from the IBU, WADA, IOC and IMGA could cover all of the expenses from the trips involved,¹³⁴ and Mr Besseberg's living expenses over many years, and still leave approximately ██████████ over (especially since the IBU stopped all cash payments from 2006, and the IOC from 2012). The Commission is therefore not surprised that the appeal court in Vienna declined to shut down the Austrian criminal investigation (see paragraph 3.11). Nor is it surprised that the Norwegian criminal authorities agreed in March 2020 to open their own investigation into whether Mr Besseberg had received and accepted gifts, money, and other benefits from IBU officials and others with interests in IBU business, in violation of the Norwegian Criminal Code (see paragraph 3.12). They obviously have significant powers that the Commission does not have to examine these issues further, which may lead to the discovery of evidence that assists the BIU with its consideration of this matter moving forward.
- 6.45.5 The Commission has also established that Mr Besseberg frequently went on expensive hunting trips paid for by his Russian hosts:
- 6.45.5.1 Mr Besseberg confirmed to the police that he had received various hunting and fishing invitations and trophies from Russian officials, including invitations to hunt in Khanty-Mansiysk (3-4 times) and Tyumen (2-3 times). He admitted that he never paid for the equipment or accommodation or for the trophies from these trips, but said this was not bribery or anything else improper, since these invitations 'more or less' took place only in connection with official meetings and IBU World Cup events, as part of the normal programme of events in which he participated in his official capacity as IBU President.¹³⁵

¹³² Mr Besseberg told the police that he had not been aware of the watch's value until he saw it in a display at Geneva Airport, and realised that it was worth around €20,000. He said he had then asked ██████████ if this was real gold in the watch and when ██████████ confirmed it was, he told him that he could not accept such a present, but ██████████ had insisted that Mr Besseberg should have such a watch as IBU President: Besseberg police interview, 10-11.04.18 [Document 45].

¹³³ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

¹³⁴ Mr Besseberg said he always paid parking fees, restaurant bills and the like in cash, although flights and hotels were always paid directly by the IBU or WADA.

¹³⁵ Besseberg police interview, 10-11.04.18 [Document 45] and statement to criminal authorities, 31.07.2019 [Document 53].

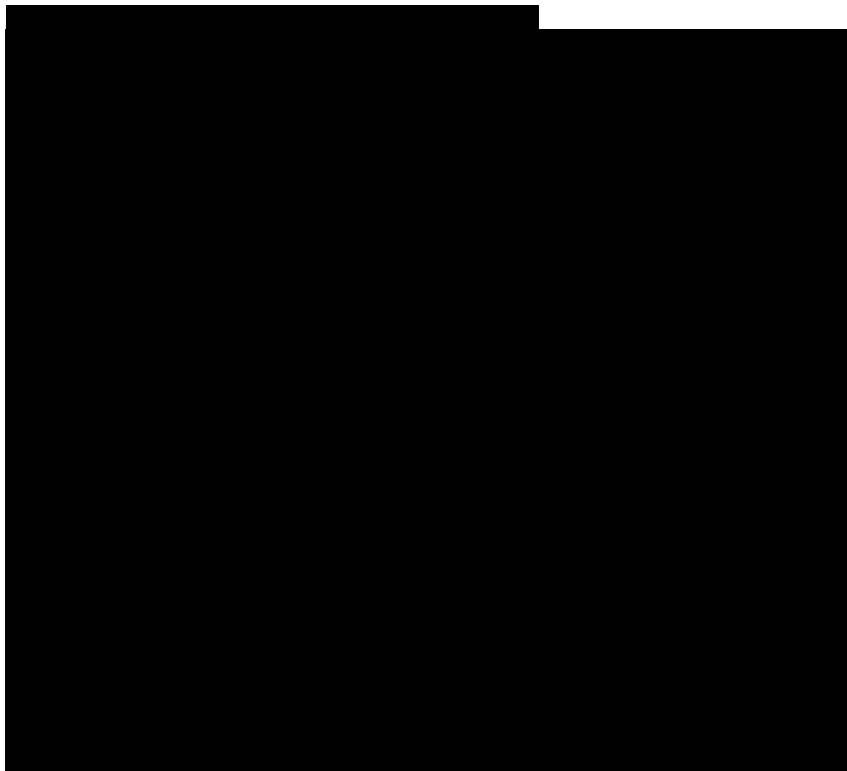
- 6.45.5.2 Tore Bøygaard, who has known Anders Besseberg for decades, confirmed that hunting was Anders Besseberg's 'biggest interest' and that he had been hunting a lot in Russia (as well as in other countries). He understood that some of these hunting trips were private, although Anders Besseberg certainly also used the hunting trips as an activity with business partners.¹³⁶
- 6.45.5.3 Nicole Resch told the police: 'I am also aware that Besseberg has been invited several times to hunt in Russia. I don't know who invited him there. Some trophies for him were delivered to our office. I remember once he got a package sent to our office by the Governor of Khanty-Mansysk. Besseberg always wanted IBU employees to take his trophies with them to Norway. When it came to drivable distances, we went by car to various events in order to take our blood test device with us. Besseberg then wanted us to take his trophies with us in this car'.¹³⁷
- 6.45.5.4 Mr Besseberg was unable to produce for the criminal authorities any evidence that he paid any of the expenses of these hunting trips himself. Jim Carrabre said that before the Vancouver Olympics in 2010, Anders Besseberg was in Canada and 'since we knew that he is a passionate hunter, we offered to organize a hunt in Canada for him. Besseberg was extremely interested and asked us if we would pay for it. We said no, we (the Canadian Biathlon Union) would only organize the hunt. He would have to pay for the hunt himself. Besseberg then lost interest in the hunt'.¹³⁸
- 6.45.6 Another way of gaining improper influence over someone is by obtaining compromising material that can be used to blackmail them. In this regard, the Commission notes that there is evidence of Mr Besseberg's use of prostitutes in Russia, some or all of them arranged for him by his hosts:
- 6.45.6.1 It was notorious within IBU circles that Mr Besseberg's hosts would often provide him with the services of a young, female 'interpreter' when he visited Russia. For example,

¹³⁶ Bøygaard interview, 20.10.18 [Document 54].

¹³⁷ Resch police interview, 10-11.04.18 [Document 55].

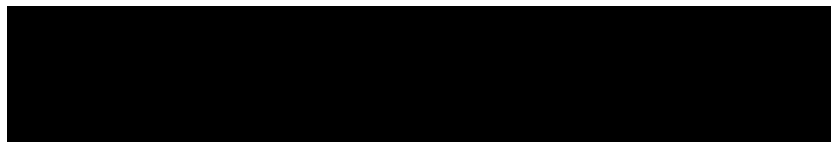
¹³⁸ Carrabre police interview, 09.11.19 [Document 56].

¹³⁹ [REDACTED]



6.45.6.2 IBU Board Member [REDACTED] stated to the Commission: 'in this regard Anders was a special man. It was well known that when he was in Russia, he had an interpreter on his side'. The interpreter indeed translated speeches and other conversation, but 'what kind of the role of the interpreters of Mr Besseberg are doing later after official events, I don't know, if it was a double role'. He understood that 'the RBU hired these interpreters'.¹⁴⁰

6.45.6.3



6.45.6.4 Nicole Resch said to the police: 'Because of the way Anders Besseberg treated these women, I got the impression of an intimate relationship'. But she could not say definitively if these women were paid or who paid them.¹⁴²

6.45.6.5 Anders Besseberg himself insisted that the women accompanying him at official events in Russia were indeed interpreters, but admitted to the police that he received the services of prostitutes 'in connection with Russian officials', and was well aware that they were being provided by his hosts: 'That may have well happened. I never went out on the street, to say it like that'.¹⁴³

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[REDACTED]

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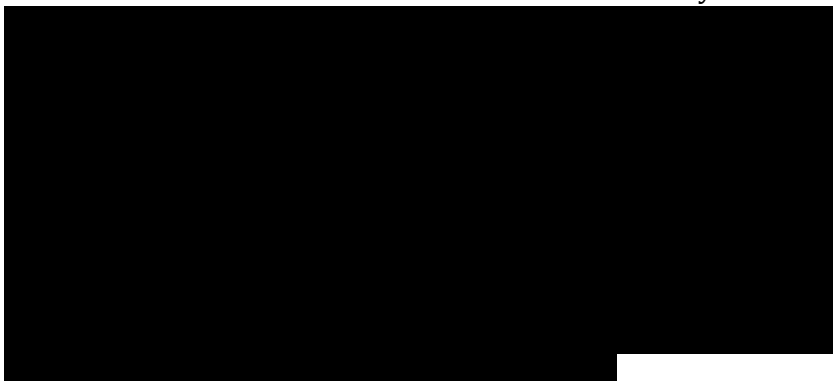
[REDACTED]

142 Resch police interview, 10-11.04.18 [Document 55].

143 Besseberg police interview, 10-11.04.18 [Document 45].

6.45.6.6 Mr Besseberg admitted to the police that he had received the service of a prostitute on one single occasion between 2010 and 2014 in Moscow, although Mr Besseberg says he did not know at the time who paid for her services, just that she was sent 'by someone, probably from the Organising Committee'.¹⁴⁴

6.45.6.7 The Commission has evidence that this was not the only occasion.



6.45.6.8 In his interview with the police in April 2018, Mr Besseberg admitted that [REDACTED] had already offered him the services of a prostitute on another occasion, or at least he strongly suspected that it was a prostitute, in connection with an IBU World Cup event in Hochfilzen, either in 2016 or 2017. [REDACTED]

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6.45.6.9 In addition, Mr Besseberg confirmed to the police that he had a friendship with a woman [REDACTED] that included sexual contact. He met her in March 2016, during the IBU World Cup event in Khanty-Mansiysk. He was invited to a dinner with several people, but he could not remember who invited him or who else was present. It would definitely have been in connection with an event, but not a very official dinner. He also could not say if it was coincidence that [REDACTED] was there. She told him that she was [REDACTED] years old and was an ex-nightclub dancer and a big fan of biathlon. Anders Besseberg had close contact with her also on the remaining days of his stay in Khanty-Mansiysk.

6.45.6.10 Mr Besseberg also spent the 2018 IBU World Cup event in Tyumen with [REDACTED]. She stayed in his hotel room and had official accreditation for the event, issued by the Organising Committee. He told the police that he had sex with her but he did not pay her, she was not a prostitute. He said she did not speak English and so

¹⁴⁴ Besseberg police interview, 10-11.04.18 [Document 45].

¹⁴⁵ Resch police interview, 10-11.04.18 [Document 55].

¹⁴⁶ [REDACTED]

¹⁴⁷ Besseberg police interview, 10-11.04.18 [Document 45].

[REDACTED] (RBU [REDACTED]) helped to interpret between them.

6.45.6.11 In fact, there is evidence that RBU official [REDACTED] helped to make the arrangements for [REDACTED] to be in Tyumen for Mr Besseberg:

(a) On 24 February 2018, [REDACTED] asked Mr Besseberg if he was coming to Tyumen [REDACTED].¹⁴⁹

(b) The Commission has further evidence that on 28 February 2018, Anders Besseberg told [REDACTED] that she should stay in his hotel room in Tyumen and that [REDACTED] would contact her for the arrangements. [REDACTED]

(c) Mr Besseberg also told the police that he had called [REDACTED] on her cell phone after he had landed, and that [REDACTED] answered the phone, and told Mr Besseberg that he was in the hotel with [REDACTED]. They wanted to pick up Mr Besseberg from the airport.¹⁵¹

6.45.6.12 When interviewed by the Commission [REDACTED].¹⁵²

6.45.6.13 Mr Besseberg’s statements to the police as well as results from the police investigation confirm that RBU official [REDACTED] was involved in the contacts between Mr Besseberg and [REDACTED]. It seems clear that [REDACTED] statement to the Commission that he did not even know [REDACTED] was not accurate.

148 Ibid, p.102 et seq [REDACTED]

149 Ibid.

150 [REDACTED]

151 Besseberg police interview, 10-11.04.18 [Document 45].

152 [REDACTED]

6.46 In conclusion:

6.46.1 Although the Commission has not found direct evidence that Mr Besseberg received cash bribes from Russian parties, there are significant apparent gaps in his explanation of his personal finances, as well as direct evidence that he received expensive hunting trips paid for by his Russian hosts.

6.46.2 There is evidence that Mr Besseberg [REDACTED] used the services of prostitutes, [REDACTED] while staying in Russia. He himself stated, that he did not 'go on the streets' or pay for the services rendered. Therefore, they must have been made available and paid for by somebody else. In the above-mentioned cases there are clear indications that Russian officials were involved in these arrangements, namely [REDACTED].

6.46.3 In addition, as explained below, there is a clear record of Anders Besseberg favouring Russian interests to such a significant extent that it justifies an inference that he did so in exchange for illicit reward, and/or because he was compromised.

6B.2 Was Nicole Resch groomed by the RBU?

6.47 It also appears that RBU officials made a concerted effort to develop personal friendships with Nicole Resch in order to win her favour and loyalty. Their efforts appear to have started in around 2011 (after the Vancouver Olympic Games) and intensified prior to and after the 2014 Sochi Olympic Games.

6.48 [REDACTED]¹⁵³
 Person B first became friends with Nicole Resch in around 2011. The friendship is clearly documented in their extensive communications.¹⁵⁴ [REDACTED]
 [REDACTED]¹⁵⁶ Person B often helped to arrange meetings between Nicole Resch and [REDACTED], and at times also with [REDACTED]. Person B also often provided invitations and gifts to Nicole Resch on behalf of [REDACTED].¹⁵⁷

6.49 [REDACTED]

153 [REDACTED]

154 See various examples collected at Document 63.

155 [REDACTED]

156 [REDACTED]

157 See various examples collected at Document 66.

6.50

[REDACTED]

[REDACTED]¹⁵⁹ [REDACTED] also often gave Ms Resch gifts, including smaller gifts (e.g. flowers), but often far more significant gifts, such as dinner invitations, specialty wines, and an all-expenses paid trip to New York from 31 October to 2 November 2013 [REDACTED]

[REDACTED]¹⁶⁰ Person B provided Nicole Resch with the flight tickets (business class Munich - New York - Geneva), confirmations for the hotel (Four Seasons Hotel), limousine service for the airport journeys, and the shuttle from the hotel to [REDACTED], all at the cost of her hosts.¹⁶¹ Nicole Resch told the Austrian police that this was a business trip, as she met other officials from international sport and had a tour of [REDACTED]. However, she took annual leave to go on the trip,¹⁶² and the IBU did not pay any of the costs of the trip.

6.51

[REDACTED] also extended a number of other invitations to Nicole Resch (through Person B) [REDACTED]. Nicole Resch often accepted the invitations initially, but then later cancelled for various reasons.¹⁶³ As far as the Commission is aware, the October 2013 trip was the only expenses-paid trip she took to New York.

6.52

In addition, Nicole Resch regularly had private meetings with [REDACTED], which were arranged by Person B.¹⁶⁴ For example, during an IBU work trip to Moscow on 12-14 December 2012 for meetings with broadcasters and the RBU, Person B organised an itinerary for Ms Resch, including meetings with [REDACTED], and arranged payment for Ms Resch's hotel, transfers, and meals.¹⁶⁵ Ms Resch also went on at least two private trips (i.e., not officially on IBU business) to Moscow where she met with Person B.¹⁶⁶

6.53

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160 See various examples collected at Document 69.

161 See Document 69.

162 Resch statement to criminal authorities, 15.04.19 [Document 70].

163 See various examples collected at Document 71.

164 See various examples collected at Document 72.

165 See Document 73.

166 See various examples collected at Document 74.

[Redacted]

6.54

[Redacted]

6.55 In the Commission's view, the above examples and others in the record gathered by the Commission show that the gifts provided to and accepted by Ms Resch were a ploy by the RBU officials to groom Nicole Resch. And from her reactions, it is clear that Nicole Resch was clearly disarmed by these blandishments

[Redacted]

As explained in detail below (see Section 6B.13), by the end of 2017, the same people were continuously offering to help her to rise at the IBU or to find another job, and she was plotting to help them win the doping appeals of three of the members of the Sochi women's relay team and launch counter-attacks against Dr Rodchenkov, Professor McLaren, and WADA, in clear breach of her duties as IBU Secretary General (see Section 6B.13).

6B.3 Did Mr Besseberg or Ms Resch compromise IBU ABP testing and/or other testing of Russian biathletes?

6B.3.1 Did they compromise the IBU's ABP programme?

a. The allegations

6.56 In his October 2017 affidavit, Dr Rodchenkov said:

6.56.1 He has never met Ms Resch in person. He communicated with her by telephone and email, starting in or around 2010, in relation to routine anti-doping matters only. He was clear that 'I do not have any direct knowledge that Ms Resch was involved in any corrupt behaviour'.¹⁷⁰

6.56.2 After WADA launched the Athlete Biological Passport (ABP) programme in 2009, the Russians were slow to realise its potential to catch blood-dopers (by tracking an athlete's blood parameters over time to establish their normal values and so to identify abnormal changes in those values that could only have been caused by use of an ESA and/or blood transfusions), and therefore had

167 [Redacted]

168 [Redacted]

169 [Redacted]

170 Rodchenkov affidavit, 04.10.17 [Document 40], paragraph 62.

not identified a way to beat the tests. That was why officials at the Russian national athletics federation had resorted to bribing IAAF officials in 2012 to delay the bringing of doping cases based on abnormal ABP results.¹⁷¹

- 6.56.3 In late 2014, Dr Rodchenkov 'learned from Mr Kamaev that the IBU sent all "dirty" ABP Profiles of Russian biathletes in their possession to RUSADA. By "dirty" I mean an ABP Profile that indicates an athlete has doped. While I am certain that this event occurred, I am not sure where the ABP Profiles were delivered, to RUSADA or directly to Mr Kravtsov at the RBU. I believe Ms Resch was the IBU representative who sent the ABP Profiles to Moscow, because in my previous experiences, Ms Resch was the IBU representative involved with delivering ABP Profiles and LDP [laboratory documentation packages]. [...] The ABP Profiles returned by the IBU revealed that almost 50% of the Russian biathletes were doping. I saw these ABP Profiles on at least three occasions. By delivering the ABP Profiles to RUSADA, IBU ensured that the doping Russian biathletes could avoid detection. Mr Kravtsov and Dr Kamaev subsequently ensured that no further analysis or action was taken in respect of any "dirty" ABP samples by IBU'.¹⁷²
- 6.56.4 In an interview with the criminal authorities, Dr Rodchenkov said that the athletes he identified in his October 2017 affidavit 'had APB values which should require immediate action by the IBU. [...] The IBU alone has access to the ADAMS system and to these ABP profiles. [...] RUSADA was a corrupt organization, which was essentially "burying" this data and used the knowledge of their athletes' ABP profiles in order to take action directed against their sanctioning, in order to protect them and prevent further problems with the analyses. In other words, RUSADA was taking control over any further actions to make sure that further doping can be conducted in such a way that it would not lead to any positive results. It was prohibited to provide these ABP profiles of Russian biathletes either to RUSADA or the RBU, or any other Russian sports institution, without the prior analysis and assessment of three independent experts [...]. I have no explanation of this other than that the IBU was passing these data in violation of the rules and due to corruption. The IBU ought to have suspended and disqualified these athletes and informed the IOC before the Games in Sochi'.¹⁷³
- 6.56.5 In an affidavit that he provided for the Oswald Commission's proceedings against Russian biathlete Olga Zaitseva, Dr Rodchenkov said:
39. In November 2014, I met with Nagornykh and Rodionova in Nagornykh's office in the Ministry of Sport to discuss abnormal ABPs of biathletes and skiers. The next day, we continued the discussion at Alexander Kravtsov's office also with Nikita Kamaev. We discussed that Zaytseva's ABP was abnormal and clearly showed an Anti-Doping Rule Violation, but that the IBU had not brought an ADRV against her. Moreover, IBU sent Zaytseva's and other IBU athletes' ABP data to RUSADA for further evaluation. I believed that passing athlete ABP data to RUSADA suggested that IBU did not want to identify or act on Russian National Team athletes' ADRV violations because they were in collusion with Russian officials. By sending the results to RUSADA, IBU effectively did not have to conduct evaluations or make any determinations about any ADRV.

¹⁷¹ McLaren Report 1 [Document 5], p.9.

¹⁷² Rodchenkov affidavit, 04.10.17 [Document 40], paragraphs 85 et seq.

¹⁷³ Rodchenkov interview with criminal authorities, 25.10.18 [Document 79].

40. At the end of December 2014, I learned from Kravtsov and Rodionova that Zaytseva was retiring from biathlon competition. Rodionova told me that because of Zaytseva's continually abnormal ABP that constituted ADRV, Nagornykh and Rodionova decided it was time for her to retire and discontinue her ABP evaluation.

41. In January 2015, Zaytseva officially retired and Kravtsov offered her a position as state coach of the Russian female biathlon team.¹⁷⁴

6.57 As noted above, WADA I&I wrote: 'Ms Resch is believed to be highly protective of Russian interests, particularly in her handling of the Biological Passports of Russian biathletes. [...] For years Ms Resch has delayed the introduction of an effective ABP Program at the IBU.^[175] Moreover, in early 2015 [sic], Doctor Rodchenkov asserts the IBU returned the Biological Passport files of all Russian biathletes to RUSADA, despite nearly half revealing evidence of doping. As the Passport Custodian, the IBU (i.e., Ms Resch) was required to maintain carriage of the Biological Passports and progress any identified cases of doping. It is believed RUSADA took no further action in regards to the Biological Passports they received from the IBU'.¹⁷⁶

6.58 When the Commission interviewed Dr Rodchenkov in May 2019, it went over these allegations with him in great detail.

6.58.1 Dr Rodchenkov reiterated that he had no discussions with Ms Resch about 'dirty' ABP profiles, and he had no direct evidence that she sent such profiles to the RBU or RUSADA to be buried. He said that Mr Kamaev did not tell him that the IBU had sent the dirty ABP profiles of Russian biathletes to RUSADA or that Ms Resch had told him to bury any ABP profiles. Rather, Mr Kamaev said that he was having to deal with dirty ABP profiles of Russian biathletes in the IBU's Registered Testing Pool. Dr Rodchenkov's impression was that the profiles had been sent by the IBU to the RBU, who had got Dr Kamaev involved and told him that he had to find a way to bury them. Dr Rodchenkov assumed that the IBU transferred results management authority for these athletes over to RUSADA, so that it was RUSADA's responsibility either to pursue them as adverse passport findings or to bury them, on the understanding that at that time WADA did not have access to the results in ADAMS and so could not see if dirty profiles were not being followed up.

6.58.2 In April 2013, when the Moscow laboratory saw elevated HGB levels in ABP samples collected from three Russian biathletes, Dr Rodchenkov told Nikita Kamaev that 'We are due to react somehow, whatsoever, like we are following up' by collecting further samples from the athletes concerned (blood and urine), because the results would be uploaded into ADAMS, and 'there might be unexpected problems prior to Sochi!' (see paragraph 6.21). He says that Dr Kamaev told him not to worry about it. Dr Rodchenkov assumed that this was because Dr Kamaev knew that the IBU would not challenge RUSADA if it did not follow up on these results.¹⁷⁷ As explained above, however (see paragraph 6.21), it appears that RUSADA actually avoided having to follow up the ABP values by the simple expedient of not entering the doping control forms for the samples

¹⁷⁴ Rodchenkov affidavit, 18.11.17 [Document 15].

¹⁷⁵ As to this allegation, see Section 6B.9.1, below.

¹⁷⁶ WADA I&I report, 02.11.2017 [Document 80].

¹⁷⁷ Dr Rodchenkov interview, 13-14.05.19 [Document 13].

in ADAMS, so that the results were not matched with the athletes in question, until late 2015.

6.58.3 Dr Rodchenkov said that at the above-referenced meeting in Mr Kravtsov's office in November 2014, there were two stacks of paper, one of which appeared to be print-outs from ADAMS of the ABP graphs of about 20 Russian biathletes (roughly half men and half women, including most if not all of the Russian team in Sochi), with Sysmex reports attached to each page of graphs. [REDACTED] Dr Rodionova had the documents and had identified the profiles that she thought were 'dirty', others that were questionable, and others that were not problematic. Dr Rodchenkov picked up and looked at some of the profiles during the meeting. He assumed the profiles came from the IBU because they were in English and they contained results from testing outside Russia, which he believed RUSADA could not access without the IBU's permission. No one at the meeting said that the IBU had transferred results management authority over these profiles to RUSADA. The discussion was only that they needed to report to Deputy Minister Nagornykh how many 'almost positive' ABP cases they had in biathlon and in skiing, and they had to propose a solution. They did not think they could save everyone; they thought they would have to sacrifice at least one or two athletes in order to save the others. He recalls that they reviewed at the meeting the ABP profiles of the following athletes, all of which he remembers were 'dirty': [REDACTED] (who was a candidate to be sacrificed), [REDACTED] (who was to be saved, because [REDACTED]); Ustyugov (ditto); Zaitseva [REDACTED]

.178

6.58.4

[REDACTED]

6.59 In summary, then, the allegations are that:

6.59.1 In 2009-2014, the IBU was the custodian of the ABP profiles of the leading Russian national team biathletes, with exclusive access to their profiles in ADAMS (the WADA online database) and exclusive authority to charge the biathletes with ADRVs (whether EPO/ESA abuse or blood transfusions/manipulations) based on those ABP results.

¹⁷⁸ Dr Rodchenkov set out a table with names of biathletes at paragraph 67 of his October 2017 affidavit [Document 40], which appears to be a list of athletes alleged to have given clean urine samples in October 2012. Dr Rodchenkov added some comments in the table, including that the ABP profiles of a number of those athletes were 'very dirty'. Dr Rodchenkov said that as far as he can remember, he said they were 'very dirty' based on seeing their profiles in November 2014.

- 6.59.2 ABP testing of those athletes had revealed that about half of them had 'dirty' profiles, i.e., profiles reflecting that they were positive (or 'almost positive') for blood doping by use of ESAs and/or blood transfusions.
- 6.59.3 Based on those ABP profiles, the IBU should have charged these biathletes with ADRVs and suspended them before the Olympic Games in Sochi in February 2014.
- 6.59.4 Instead, the IBU did not act before the Games, and in late 2014 the IBU improperly shared the biathletes' ABP profiles with the RBU and/or RUSADA, and improperly transferred results management authority over those ABP profiles to RUSADA, on the understanding that RUSADA would either bring the necessary charges or else do something to bury the cases (taking advantage of the fact that WADA could not see the ABP profiles in ADAMS at that point).
- 6.59.5 Dr Rodchenkov presumed it was Nicole Resch at the IBU who did this, or it was done with her knowledge, given that she was in charge of the IBU's ABP programme.
- 6.59.6 The RBU, RUSADA, Dr Rodionova and Dr Rodchenkov discussed the dirty ABP profiles and found ways to deal with them. [REDACTED]

b. The evidence gathered by the Commission

- 6.60 Anders Besseberg and Nicole Resch have denied any knowledge of any improper transfer of ABP data to the RBU or RUSADA. They have also denied ever protecting any athlete who was suspected of doping.¹⁸⁰ [REDACTED] also denied any knowledge of any ABP data being improperly shared with the RBU or RUSADA.¹⁸¹
- 6.61 The Commission has investigated Dr Rodchenkov's allegations to the greatest extent possible, and has reached the following conclusions:
- 6.61.1 It is correct that in 2009-2014 the IBU was the custodian of the ABP profiles of the leading Russian national team biathletes (who were all in the IBU registered testing pool), which meant that it had the right and the responsibility to bring charges against those biathletes where their profiles revealed blood doping.
- 6.61.2 It is not correct that it was only the IBU that had access in ADAMS to the ABP profiles of the biathletes for whom the IBU was passport custodian. WADA has confirmed that it could see all ABP profiles in ADAMS, including in 2014, without requiring agreement from the anti-doping organisation(s) involved in the profiles.¹⁸² And RUSADA could see the results of analysis of ABP samples

¹⁸⁰ Besseberg police interview, 10-11.04.18 [Document 45]; Resch police interview, 10-11.04.18 [Document 55].

¹⁸¹ [REDACTED].

¹⁸² The only way to avoid such oversight was to delay entering the doping control form for an ABP sample into ADAMS, which would mean the results for that sample loaded into ADAMS by the laboratory would not be matched with the athlete who gave the sample and so would not be included in their profile. That loophole was closed on 1 June 2016, when WADA made it mandatory to enter all doping control forms into ADAMS within 15 days of sample collection, but it was available before then, and was exploited by RUSADA on at least one occasion to avoid biathletes' highly abnormal ABP results being included in their

that it collected, and (where the relevant international federation gave it 'read access') could see the athlete's entire ABP profile, including the results of analysis of ABP samples collected for the international federation. WADA encouraged international federations and NADOs to give each other 'read access' in ADAMS to the ABP profiles of athletes they had in common, so they could both see the full profiles for those athletes. In response to a request from RUSADA in June 2013 for such an arrangement, the IBU entered into a 'BP Collaboration Agreement' with RUSADA that allowed the IBU to have read access to the ABP profiles of Russian biathletes for whom RUSADA was the custodian in ADAMS and in turn allowed RUSADA to have read access to the ABP profiles of Russian biathletes for whom the IBU was the custodian in ADAMS, which included the members of the Russian men's and women's biathlon teams.¹⁸³ While the agreement was signed on 13 May 2014, the IBU actually granted RUSADA access to the ABP profiles on 5 June 2014.¹⁸⁴ This was not a secret arrangement; it was papered as a formal legal agreement using a template provided by WADA.¹⁸⁵

6.61.3 In 2009-2014, the IBU staff were not looking at the ABP profiles of athletes for whom it was passport custodian, and therefore would not have known whether they were 'dirty' or not:

6.61.3.1 When WADA introduced the ABP programme in 2009, the IBU was already collecting blood samples at events and screening them for abnormal HGB and RET% values, partly as part of its 'no start' rule but also to trigger follow-up testing for ESAs (see paragraph 6.64.2, below). It also had a prototype blood profiling system of its own (called **ARIETTA**) to examine changes in an individual's HGB and RET% values over time, in order to identify targets for further testing. In addition, it appears that Nicole Resch and Person A considered that finding a prohibited substance in an athlete's samples was the only reliable way of proving doping, and that indirect evidence, such as changes in athletes' biomarkers, were not reliable (see paragraphs 6.125 and 6.131). Until 2016 the IBU only used the ABP programme in a very limited way, collecting ABP samples only on a limited and *ad hoc* basis, and reviewing the results only on a sample-by-sample basis, to see whether they fell within the global parameters that the IBU had fixed for follow-up testing. The values of the athlete's samples were not considered together in longitudinal profile, looking at the individual parameters that the ABP software set for that athlete, to see whether any values were so abnormal that they should be sent to independent experts for consideration as potential evidence of blood doping.

ABP profiles in ADAMS (see paragraph 6.21, above). This would not have required the acquiescence of the IBU unless the ABP samples in question were collected on its behalf.

¹⁸³ See Document 85.

¹⁸⁴ See [REDACTED] email, 05.06.2014 [Document 83]; Aikin-Pagé email, 11.09.20 [Document 84].

¹⁸⁵ See IBU-RUSADA ABP Collaboration Agreement signed 13.05.2014 [Document 85]; and WADA template agreement annexed to ABP Operating Guidelines: wada-ama.org/en/resources/athlete-biological-passport/athlete-biological-passport-abp-operating-guidelines.

- 6.61.3.2 Consistent with that limited approach, the IBU did not appoint an external Athlete Passport Management Unit (**APMU**) or an external panel of scientific experts (an **Expert Panel**) to review abnormal profiles to determine whether they indicated likely blood doping.
- 6.61.3.3 Nor did the IBU have anyone with that expertise on their staff. [REDACTED] would check in ADAMS for the results of ABP tests ordered by the IBU, but only to see if the values from recent tests met any of the parameters set in the IBU's own blood screening to trigger a follow-up test. [REDACTED] was not trained to assess the profiles of athletes based on the values from their ABP samples over time and did not try to do so. Nor did Person A.¹⁸⁶ Nicole Resch also had access to ADAMS and might look things up from time to time; but she was not reviewing profiles for evidence of potential blood doping either.¹⁸⁷
- 6.61.3.4 Dr Carrabre confirmed that no one [REDACTED] ever flagged any atypical ABP profiles from ADAMS for his review. The first that he or anyone else at the IBU was aware that ADAMS had flagged some atypical profiles was in October 2015, when a WADA team alerted them to that fact as part of its review of the IBU's entire anti-doping programme (see paragraph 6.90).¹⁸⁸ When Dr Carrabre chased Nicole Resch by email on 23 February 2016 to follow up on the atypical ABP profiles that had been flagged by WADA, Nicole Resch asked [REDACTED] : [REDACTED] ('what is he talking about when he says atypical findings?').¹⁸⁹
- 6.61.4 Therefore, the IBU [REDACTED] could not have tipped off the RBU or RUSADA in 2014 that the ABP profiles of the Russian national team athletes were 'dirty', because the IBU [REDACTED] were not even looking at those profiles, and did not know what they did or did not show. However, it appears from information obtained from a confidential informant (**CI**) that RUSADA in contrast *was* working to identify problematic ABP profiles of Russian biathletes:
- 6.61.4.1 From 2009 to 2013, RUSADA conducted ABP testing fairly randomly, and did not enter the details from the sample collection forms into ADAMS. Therefore, the results of analysis of those samples (which were uploaded into ADAMS by the Moscow laboratory) were not matched with the athlete who gave the sample, and therefore were not included in the athlete's ABP profile. These forms were only put into ADAMS in late 2013, and therefore RUSADA could only see the profiles of Russian athletes

186 [REDACTED]

187 Nicole Resch was asked how the IBU identified possible ABP cases without having an APMU of its own and answered that the data were '[compared for anomalies](#)' and '[used as clues for further target testing](#)'. Resch police interview, 10.-11.04.18 [Document 55] ('[Deviations from normal values were always used as a trigger for target testing. The APMU has only existed for us since the summer of 2016](#)').

188 Carrabre interview, 20.01.19 [Document 86].

189 Carrabre-Resch [REDACTED] emails, 23.02.16 [Document 87].

(or in fact the part of their profiles that was based on RUSADA testing) starting in late 2013.¹⁹⁰

- 6.61.4.2 In 2013, RUSADA sought to enter into collaboration agreements with international federations so that it could see the entire ABP profiles of its athletes. This was what eventually led to the BP Collaboration Agreement with the IBU that was signed in May 2014, which gave RUSADA 'read access' to all samples included in the Russian biathletes' ABP profiles (see paragraph 6.61.2).
- 6.61.4.3 Each month, a list of ABP profiles, classified as normal (green), atypical (yellow), or critical (red), would be prepared and given to [REDACTED] who would discuss with Dr Nikita Kamaev (then RUSADA Executive Director, subsequently Director-General).
- 6.61.4.4 Generally the biathletes' profiles were not too bad, even though it was a high risk sport for blood doping. In particular, before the 2014 Olympic Games the profiles for [REDACTED] were normal. Sometimes there were biathletes' profiles that were 'critical' [REDACTED], but they did not have that many samples in their profiles, so further samples were collected, and when the results of that testing were included, the profiles tended to normalise.
- 6.61.4.5 Dr Rodionova sometimes called RUSADA in her capacity as doctor for the national biathlon team to ask about the ABP profiles of specific athletes, in particular Zaitseva.
- 6.61.4.6 The profiles of [REDACTED] and [REDACTED] were both flagged as critical, and shortly afterwards both athletes were said to have retired [REDACTED], at which point RUSADA would drop the matter on the basis it was not worth sending the profile for expensive external expert review where the athlete in question had retired.¹⁹¹
- 6.61.5 It is possible that the ABP profiles that Dr Rodchenkov says he was asked to look at in the November 2014 meeting at the CSP were the 'critical' profiles [REDACTED] that had been flagged internally within RUSADA.
- 6.61.6 When the IBU finally sent the ABP profiles that ADAMS had flagged as atypical to the Nordic APMU in late 2016, following a full review, and in some cases some follow-up testing, the Nordic APMU and its Expert Panel only flagged one profile as 'likely doping', that of Evgeniy Ustyugov (see paragraph 6.135, below).
- 6.61.7 It is also possible that the profiles that Dr Rodchenkov was asked to look at included values from non-ABP blood testing. Dr Carrabre says that, at the time,

¹⁹⁰ The Commission notes, however, that RUSADA appears to have deliberately failed to enter all of the sample collection forms into ADAMS in 2013, so that particularly abnormal results that reflected blood doping would remain 'orphaned' in ADAMS and so not visible in the profile of the athlete in question: see paragraph 6.21, above.

¹⁹¹ CI interview [Documents 88 and 89].

the RBU brought its own blood-testing machine to events, which they set up in a hotel room. Dr Carrabre saw one of them at one point prior to 2014.¹⁹² Alternatively the profiles shown to Dr Rodchenkov could have included values from ABP samples that RUSADA had collected but had intentionally left 'orphaned' in ADAMS, so that only it knew in which profile the sample should be included.

- 6.61.8 The Commission has also considered whether the profiles that Dr Rodchenkov saw could have included abnormal HGB and RET% values from the IBU's own blood screening programme. It is possible that someone at the IBU provided these values to Mr Kravtsov, and that these were at least part of what Dr Rodchenkov was asked to look at (although the Commission did not find any evidence of such (illicit) data sharing). Alternatively, the Russian biathletes who were tested were always given a copy of the blood screening values for their samples, and therefore the RBU could have collected them all that way. The Commission therefore had the Nordic APMU look at the available IBU blood screening values for 21 high profile Russian biathletes in combination with the values in those athletes' ABP profiles. The Nordic APMU found a number of screening values that fell outside the individualised profiles for those athletes generated by the ABP adaptive model and so would have triggered follow up testing, but it did not highlight any values that would have prompted reference of an otherwise non-suspicious profile to an Expert Panel.¹⁹³
- 6.61.9 Dr Rodchenkov has suggested that abnormal values may have been removed from the ABP profiles in ADAMS to make the 'dirty' profiles that he reviewed in 2014 seem normal. However, the Commission understands that while a laboratory may manipulate values before loading them into ADAMS (which Dr Rodchenkov insists the Moscow laboratory never did¹⁹⁴), once values are recorded in ADAMS they cannot be removed without leaving a trail, and the Commission understands from WADA that there is no such trail in respect of the Russian biathletes' ABP profiles. Dr Rodchenkov could only say that he had seen that at least in athletics, the ABP profile could be manipulated to protect athletes. He said he was involved in a case where the athlete said her results were altered, because instead of all of her 15 samples showing up in ADAMS there were only 10. Dr Rodchenkov therefore insisted that it is possible for an international federation to manipulate ABP results, but he accepted he has no knowledge that this was actually done in biathlon.
- 6.61.10 Furthermore, the 'BP Collaboration Agreement' that the IBU and RUSADA entered into in May 2014 only provided for 'read access' to profiles on both sides. It did not provide for transfer of results management authority over the Russian biathletes for whom the IBU was passport custodian from the IBU to RUSADA. Nor has the Commission found any evidence that the IBU otherwise sought to transfer results management authority over any Russian biathletes'

¹⁹² Carrabre interview, 21.11.18 [Document 90].

¹⁹³ Nordic APMU report, 21.09.20 [Document 20].

¹⁹⁴ Rodchenkov interview, 13-14.05.19 [Document 13] ('The Sysmex machine produces a report, then there is a software programme that converts the data into an ADAMS readable format (CSV file) that can be uploaded (with the press of a button) to ADAMS. When asked whether the data could have been changed before it was uploaded, Rodchenkov said that in general yes it could be. However, he said that he never did that for one reason: all of the blood data are linked to each other, and he did not know how to change all the parameters. Rodchenkov told ██████ that if he changed something he would be fired').

ABP profiles to RUSADA. On 30 July 2015, ██████████ asked the IBU to transfer passport custodianship (and therefore results management authority) for 21 Russian athletes to RUSADA, but none of them was a national team athlete. With WADA's assistance, the Commission has reviewed passport custodianship details for 21 top Russian biathletes during 2013-14, and has determined that the IBU only transferred passport custodianship to RUSADA for two of them in the relevant period, neither of which transfers is considered to be suspicious (see [Figure 2](#)).

Figure 2: Passport custodian for Russian international-level biathletes

BPID	Jan-14	Dec-14	May-15	Jun-15	Oct-15	Jan-16	Feb-16	May-16	Apr-18
Athlete 1	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 2	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 3	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 4	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 5	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 6	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 7	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 8	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 9	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 10*	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	RUSAD
Athlete 11	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 12	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 13	NA	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 14**	IBU	IBU	RUSAD	RUSAD	RUSAD	RUSAD	RUSAD	RUSAD	RUSAD
Athlete 15	NA	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 16	NA	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 17	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 18	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU
Athlete 19***	NA	IBU	IBU	IBU	IBU	IBU	IBU	IBU	RUSAD
Athlete 20 §	IBU	RUSAD	RUSAD	RUSAD	RUSAD	RUSAD	RUSAD	RUSAD	RUSAD
Athlete 21	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU	IBU

* ██████████ RMA transferred April 2018; ** ██████████: RMA transferred May 2015; *** ██████████ RMA transferred April 2018; § ██████████: RMA transferred December 2014.

6.62 In conclusion:

6.62.1 The evidence set out in Section 6A.4, above, including the multiple adverse analytical findings for rePO, reflects that a number of top Russian biathletes were blood doping in the period 2009-2014.

6.62.2 There is no doubt that the IBU did not use the ABP programme properly during this period. They did not review the ABP profiles, instead confining themselves to checking the values of single samples in isolation to see if they met the population-based parameters set by the IBU for follow-up testing.

6.62.3 If the IBU had looked at the ABP profiles properly in 2012 or 2013 or early 2014, it appears that they would not have found any profiles that an expert panel would have unanimously characterised as 'likely doping' (which is what is

needed in order to start an ABP case against an athlete), with the important exception of the profile of Evgeniy Ustyugov.

- 6.62.4 The IBU were not the only people who could look at the Russian biathletes' profiles: WADA could do so too, and from June 2014 RUSADA also had 'read access' to those profiles.
- 6.62.5 The IBU did not improperly transfer results management authority over the ABP profiles of Russian biathletes to RUSADA.
- 6.63 The Commission examines below whether the IBU's failure to use the ABP programme properly until 2016 was deliberate (see Section 6B.9.1). It also identifies a failure by the IBU to follow up a highly abnormal value in Evgeniy Ustyugov's ABP sample that is (at best) highly suspicious (see Section 6B.6). And we also identify below various other ways in which Nicole Resch breached her obligations as IBU Secretary General. But the Commission has not found evidence that she (or Mr Besseberg) or anyone else at the IBU knowingly conspired with RUSADA or the RBU to bury 'dirty' ABP profiles of Russian national team biathletes.

6B.3.2 Did they compromise other aspects of the IBU's anti-doping programme?

- 6.64 Originally, the IBU's anti-doping programme was organised as follows:

6.64.1



- 6.64.2 The IBU did in-competition testing at IBU World Championships and IBU World Cup events:¹⁹⁵

6.64.2.1 Blood screening: Before every race, the IBU Medical Delegate (one of the members of the Medical Committee) and the IBU Medical Assistant [redacted] would collect blood samples from selected athletes and run them through a Sysmex machine that the IBU brought to the event. If the values met the criteria set by the IBU at the time -- a HGB concentration above 16 g/dl (women) or 17.5 g/dl (men) -- the athlete was required to stand down from competition (the 'no start' rule). This no start rule was in place until the end of the 2014/15 season.

6.64.2.2 Urine testing: The IBU Medical Delegate would also personally collect urine samples from athletes in each competition, some based on rankings (first three finishers), and others based on random draw or target testing based on the values seen on screening of their blood samples. The urine samples collected would all be delivered to a WADA-accredited laboratory to be tested for ESAs as well as the standard menu of prohibited substances.

¹⁹⁵ The IBU would also get a NADO or a service provider to do testing at IBU Cup events. There was some (but far less) blood screening at IBU Cup events.

- 6.64.3 As for out-of-competition testing, at the end of each season the IBU put the top 30 male biathletes and the top 30 female biathletes in the final IBU World Cup rankings into its Registered Testing Pool, as well as other athletes selected by the IBU Medical Committee (e.g., from countries where there was little or no NADO testing). The IBU contracted other parties (a private service provider such as PWC or IDTM and/or NADOs) to collect 2-3 urine samples from those athletes during the off-season and between competitions. Those urine samples were also sent to WADA-accredited laboratories to be tested for prohibited substances, including ESAs.
- 6.64.4 The IBU also had its own software programme (called **ARIETTA**) [REDACTED] to assess the values of biathletes' blood parameters (from the in-competition screening programme) over time, in combination with athletes' performance data, in order to identify athletes who should be targeted for testing for possible blood doping. In other words, this was a prototype blood profiling system, looking to develop individual profiles with values specific to the athlete in question rather than use only the population-based parameters on which the IBU's target testing was otherwise based. However, the ARIETTA system seems to have been somewhat underused. [REDACTED] told the Commission that it was regarded more as a study than a practical tool, and that the Medical Delegates only brought it to certain competitions, and therefore only the blood values for samples tested at those competitions were inputted into ARIETTA. As far as [REDACTED] was aware, little or no use was made of the ARIETTA profiles. Nor did [REDACTED] look otherwise at the longitudinal profiles of each athlete from the blood-screening that they did at the IBU World Cup and World Championship events, instead just looking at the values on the day of the competition to see if they exceeded the fixed parameters set out in the IBU's no start rule (see para 6.64.3.1), in which case they would not be allowed to start, and (if the RET% was above 2% and either the HGB was above 16 (women) or 17.5 (men) or the OFF score was below 60 (women) or 80 (men)) follow-up urine testing would be ordered. Periodically Dr Carrabre would ask [REDACTED] to put together and send him all of the values for a particular athlete from the blood screening at IBU events, but [REDACTED] never looked at the longitudinal profiles [REDACTED].¹⁹⁶
- 6.65 Dr Carrabre has explained that in the period 2007 to 2009 the IBU Medical Committee noticed that the blood samples of Russian biathletes that they were testing at events were consistently producing suspicious values, indicating possible use of rEPO, and at the same time the biathletes were producing unusually good results, but when urine samples were collected from the athletes, they were not testing positive for rEPO. One Russian biathlete told Dr Carrabre, 'you will never catch us'. Dr Carrabre sent a number of urine samples to the WADA-accredited laboratory in Lausanne for analysis. They tested negative for rEPO, but all produced a strangely dense band in the electropherogram. That prompted Dr Carrabre to commission molecular testing of the samples at the Seibersdorf laboratory, which identified that the samples contained both endogenous EPO and a 'biosimilar' rEPO with a very similar molecular weight. They consulted with WADA and the testing procedures were amended to take account of this discovery.¹⁹⁷ The IBU Medical

¹⁹⁶ [REDACTED] interview, 19.06.20 [Document 81].

¹⁹⁷ Carrabre statement to criminal authorities, 16.02.20 [Document 91] ('2008-2010 was a very important time because the Russian blood profiles were very abnormal. In 2009 a Russian athlete even told me quite openly that he was doping and we would never find the substance. We knew that the Russians were using a new kind of substance because they also produced very unusually good results. There were also rumors at that time that Russia had infiltrated several WADA laboratories and bribed people there to make positive test results disappear. So I never commissioned the same laboratory twice and sent a set of

Committee then directed target testing of Russian biathletes at the IBU World Cup event in Ostersund in December 2008. Urine samples were collected from Iourieva, Akhatova, and Yaroshenko, and analysis using the amended testing procedure revealed the presence of the biosimilar rEPO, resulting in two-year bans for all three of them.

6.66 Dr Carrabre says that the Russians were shocked that their athletes had been caught, since they thought the WADA test could not detect the rEPO they were using. He speculates that they therefore put pressure on Anders Besseberg to take anti-doping away from the IBU Medical Committee, and that is why from about 2010 onward his perception was that Nicole Resch gradually 'disempowered' the Medical Committee, [REDACTED] and gradually marginalised Dr Carrabre and his fellow volunteers on the Medical Committee, until ultimately it was disbanded in 2018.¹⁹⁸

6.66.1 Originally the annual IBU test distribution plans were put together by Jim Carrabre with his colleagues on the Medical Committee, but from 2010 on his understanding was that that task was given to [REDACTED]. Dr Carrabre would give his opinion as to who should be tested, but it was a one-way line of communication. His impression was that Nicole Resch wanted the entire anti-doping programme to be under her control.

6.66.2 Dr Carrabre told the criminal investigators: [REDACTED]

.¹⁹⁹

6.66.3 The Commission gathered all of the available blood screening values²⁰⁰ collected by the IBU from 21 high profile Russian biathletes at IBU events in the period 2001-2018, and passed them to the Nordic APMU for review. The Nordic APMU concluded that most of the blood values that fell outside the fixed parameters specified by the IBU were properly followed up by collecting a urine sample and having it tested for ESAs. The Nordic APMU only found five cases where there is no record of testing of a follow-up urine sample,²⁰¹ and that could be for innocent reasons.²⁰² Accordingly, the Commission sees no material

Russian samples to Lausanne, which were all declared negative there. I then called [REDACTED] afterwards and asked him for any abnormal values. He found that the "EPO-banding pattern" in all athletes was unusually denser or stronger than expected, indicating a new substance. Put simply, the Russians were hiding a protein (the new EPO-substance) behind another protein by creating a "bio-like EPO" ("bio-similar EPO"). The proteins had the same weight; therefore, because the EPO test weighs the weight, it could not be detected').

¹⁹⁸ Carrabre statement to criminal authorities, 16.02.20 [Document 91] ('As I said before, that was the reason why we were "disempowered" within the IBU from about 2010 onwards. It was clear to me that Russia, shaken by this scandal, had put pressure on the IBU and especially on Besseberg and Resch).

¹⁹⁹ Carrabre statement to criminal authorities, 16.02.20 [Document 91].

²⁰⁰ Recalling that a laptop containing some of those data is missing: see paragraph 5.29, above.

²⁰¹ Nordic APMU report, 21.09.20 [Document 20].

²⁰² Two of the samples were collected in 2008, and ADAMS does not retain testing records that are more than ten years old; and in the other three cases there may have been attempts to collect a follow-up sample that were unsuccessful for innocent reasons (although the blood samples were collected in competition and so in principle follow-up urine testing should have been possible).

deficiency in this aspect of the anti-doping programme. Again, however, neither [REDACTED] nor anyone else looked at the athletes' results in longitudinal profile, either within or outside the ABP programme, to see whether changes in those results over time indicated likely blood doping worthy of consideration by an Expert Panel (see paragraph 6.61.3, above).

6.66.4 In March 2013, a year before the 2014 Olympic Games, a biathlon test event was held at the Olympic venue in Sochi. As it was general practice for the Chair of the Medical Committee to go to the Olympic venue to plan anti-doping and medical issues, Jim Carrabre had arranged a meeting with the IOC Medical Director, Richard Budgett, and [REDACTED]. Dr Carrabre informed Nicole Resch that the purpose of the meeting was 'to make sure that what we have discussed on my prior visits has been accomplished and also the plan leading to the OWG. I am not planning on being back there again before the OWG'.²⁰³ However, Nicole Resch did her best to stop him coming to Sochi, manipulating the process and misinforming him that there were no hotel rooms available:

6.66.4.1 When Dr Carrabre advised her of the meeting, Ms Resch wrote back that she would be pleased to be invited to the meeting as well, but also said that she would have to check whether there was accommodation available for him on such short notice. When IBU staff member [REDACTED] confirmed at 11:42am that a hotel room was available, Nicole Resch instructed the staff member not to confirm the booking until she (Nicole Resch) had checked with Dr Carrabre, and said that there would not be a decision till the next day (although it was only 18:26 then, and Dr Carrabre was six hours behind in the USA). Nicole Resch also rejected immediately [REDACTED]'s alternative suggestion to move Anders Besseberg to another hotel and give his room to Jim Carrabre.²⁰⁴

6.66.4.2 The next morning, Nicole Resch emailed Jim Carrabre: 'Unfortunately there is no room available in our hotel for this weekend anymore. The only option would be far away, and no transport would be provided by the OC. [...] Regarding the medical meeting, I would be happy to take up your open points with the IOC in my meetings with them next week. Please feel free to send me any issues you would like to discuss'.²⁰⁵ She then apparently told [REDACTED] that Dr Carrabre could not make it, because about ten minutes later, [REDACTED] emailed the Sochi team: 'Sorry for not confirming until now, but I had to wait for the final information. So, it came out that Mr. Carrabre will not make it for the test event due to some other short time commitments. Therefore, we do not need the room at Radisson and you can use it for another guest'.²⁰⁶

²⁰³ Carrabre-Resch email, 06.03.13 [Document 92].

²⁰⁴ Resch-[REDACTED] email, 06.03.13 [Document 93].

²⁰⁵ Resch-Carrabre email, 07.03.13, 8:26am [Document 94].

²⁰⁶ [REDACTED]-Sochi team email, 07.03.13 [Document 95]. [REDACTED]

- 6.66.4.3 Subsequently, Sochi team member [REDACTED] forwarded [REDACTED] [REDACTED]'s email to Jim Carrabre: 'It looks like you canceled your trip to Sochi (see below). Please advise is it a true or just a mess which usually follows such events. Your hotel in mountains was reserved yesterday in the morning'. Jim Carrabre forwarded this email to Nicole Resch, seeking an explanation, and Ms Resch replied: 'I talked to [REDACTED] and it was a misunderstanding regarding which Radisson it was. The operations here are a mess and nobody speaks english. Also I am also not quite clear who initiated this meeting and on whose costs this is since I was not informed about anything. [...] I have to say that I am so irritated that all this communication is running "around" me and I am not involved. It is not possible for me to understand the full picture if communication is done around me'.²⁰⁷
- 6.66.5 In August 2013, Nicole Resch proposed to the IBU Executive Committee, without prior notice to Dr Carrabre, that the IBU Medical Committee members should no longer be involved in blood screening at IBU events.²⁰⁸
- 6.66.6 As a result, from season 2015/16 on, no members of the IBU Medical Committee attended IBU World Cup events or IBU World Championships as Medical Delegates. [REDACTED]
[REDACTED]
- 6.66.7 On 16 February 2016, when advised by [REDACTED] that Dr Carrabre was asking [REDACTED] for details of the invalid ABP samples from Sochi (see Section 6B.6, below), Nicole Resch said that she had agreed with Anders Besseberg that IBU Executive Board members were not permitted to give instructions directly to staff members, and therefore [REDACTED] should tell Dr Carrabre he had to come to Ms Resch as Secretary General if he wanted anything.²¹⁰
- 6.66.8 In November 2017, the IBU Executive Board rejected the Medical Committee's proposal to send [REDACTED]
[REDACTED]

[REDACTED]

²⁰⁷ Resch-Carrabre email, 07.03.13 [Document 98].

²⁰⁸ Carrabre email, 18.09.20 [Document 99].

²⁰⁹ [REDACTED]
[REDACTED]

²¹⁰ [REDACTED]

²¹¹ [REDACTED].

[REDACTED]

6.67 In conclusion, the Commission's view is that there is clear evidence of a concerted action by Ms Resch to strip the IBU Medical Committee of power and oversight over the IBU's anti-doping programme. And it is a fact that after the IBU Medical Committee's success in catching the Russian rEPO users in 2008, the IBU's testing programme only caught three more Russian dopers in the next ten years. All of this is consistent with an attempt to prevent the IBU anti-doping programme catching further Russian drug cheats. However, it is also consistent with an attempt by Nicole Resch to aggregate power in the Secretary General's hands and remove any oversight. The Commission has not had the opportunity to put these points to Ms Resch to try to help determine what her motivation was, and therefore is not able to come to a clear conclusion on this point.

6B.4 Allowing Alexander Tikhonov to remain in office as IBU 1st Vice-President after he was convicted of conspiracy to commit a serious crime

- 6.68 Alexander Tikhonov was elected as IBU 1st Vice-President in 2002. In the years 2000-2002, Mr Tikhonov was investigated in Russia on suspicion of having conspired to commit a serious crime [REDACTED]. Detained in 2000, Mr Tikhonov was released from custody in order to receive medical treatment in Moscow with an order to remain in Russia, but he left for Austria in 2001, reportedly to undergo medical treatment in Innsbruck, and stayed in Austria and Germany after this treatment was finished.²¹² In his absence, [REDACTED] was convicted for his part in the conspiracy and served two years of a four year prison sentence. Only in 2007 did Alexander Tikhonov go back to Russia and stand trial on the conspiracy charge. He was convicted and sentenced to three years of imprisonment, but he did not have to serve his sentence, as he was immediately given amnesty, pursuant to a law passed in May 2000 to mark the 55th anniversary of Russia's victory in World War Two.²¹³
- 6.69 On 10 November 2007, after his conviction, Mr Tikhonov had to report to the IBU Executive Board at its meeting in Vienna, and the issue was submitted to the IBU Legal Committee to advise the Board.²¹⁴ The IBU Executive Board and the IBU Legal Committee asked Mr Tikhonov to provide documents that would justify his claims of innocence, but he did not cooperate and did not provide the documents requested.²¹⁵ Nevertheless,

²¹² [REDACTED]

²¹³ [REDACTED]

²¹⁴ Minutes of IBU Executive Board meeting 82, 10.11.2007 [Document 103].

²¹⁵ Minutes of IBU Legal Committee meeting 18, 19.03.2009 [Document 104], item D.I.3.4 ('In regard to the case of the First Vice-President, the Legal Committee is of the unanimous opinion that no further action has been provoked or can be taken on the part of the Legal Committee because the First Vice-President had not yet presented the requested official declaration (to which he had agreed) to a suitable Russian authority for a judgement and amnesty ruling; without the necessary binding factual and legal basis, the Legal Committee cannot take any further decisions, much less provide any recommendations').

despite much criticism from within the IBU's own ranks as well as from outside,²¹⁶ Mr Tikhonov was allowed to remain in office as the IBU's 1st Vice-President.

- 6.70 It strikes the Commission as remarkable that the IBU Executive Board would consider it appropriate to allow someone to remain on the IBU Executive Board (let alone as IBU 1st Vice-President) after they have been convicted of conspiracy to commit a serious crime [REDACTED]. One possible explanation would be that Mr Tikhonov had some leverage over Mr Besseberg that meant he could not remove him, but the Commission has not had the opportunity to question Mr Besseberg on this point and therefore it remains nothing more than speculation at this stage.
- 6.71 Nevertheless, irrespective of the motive behind it, the Commission considers that based on this failure to act Mr Besseberg has a case to answer for breach of his obligations under Article 3.3 of the then-IBU Disciplinary Rules not to do anything (whether by act or omission) that endangered or impaired the reputation or the interests of the IBU.

6B.5 Tolerating attempts by Alexander Tikhonov to bribe other parties

- 6.72 Nicole Resch told the Austrian criminal investigators that Mr Tikhonov tried to bribe her to drop the rEPO cases that the IBU brought in 2009 against Iourieva, Akhatova, and Yaroshenko (see paragraph 6.15, above), and that she reported this to Mr Besseberg but he did nothing about it:

Tikhonov tried to bribe me once. Specifically, in the period of 2008/2009 I was offered a jewellery box by the then 1st Vice President Tikhonov in return for not prosecuting Russian doping cases. I can still remember a name concretely [REDACTED]. The incident occurred in the IBU lounge in Salzburg. He had this box standing at the table and stated that it contained valuable jewellery and that the doping cases were not so important. However, he did not open this box, so I do not know what it actually contained. Anyway, he had the box for the bribe attempt. During this conversation Tikhonov was accompanied by [REDACTED], she translated this conversation from Russian into German.

I immediately reported these facts via telephone to my President Anders Besseberg. He tried to appease the situation and no consequences were carried out against Tikhonov because of this incident. It was never an issue on the board either.²¹⁷

- 6.73 The Commission asked Mr Tikhonov about this incident. He [REDACTED] denied it had ever happened: "That never took place. As I said to you before, she was such an unpleasant person. For me I never had any conversations with her".²¹⁸
- 6.74 Anders Besseberg admitted to the criminal authorities that Ms Resch had reported this incident to him at the time, but noted that she could not tell him what Mr Tikhonov had offered her, because she did not open the box. He said he told her that she had acted correctly, that she should not yield to improper influence from any person, and that she should continue to perform her duties properly. He justified the lack of action against Mr Tikhonov as follows: "The relationship with Tikhonov was already extremely bad at that time and therefore [I] was aware that a confrontation with the contents of the box would

²¹⁶ For example, Dr Carrabre stated: 'It's not good for us, it's not good for our sponsors, to have this perception that maybe we have someone who is a criminal on our board': New York Times, *In biathlon, concerns about Russia's Program*, 22.02.2010 [Document 105].

²¹⁷ Resch police interview, 10-11.04.18 [Document 55].

²¹⁸ Tikhonov interview, 21.01.20 [Document 10].

not be fruitful due to a lack of evidence and perceptions of [Nicole Resch]'.²¹⁹ The Commission does not consider that to be anything like an adequate reason to ignore an apparent attempt by the IBU's then-1st Vice-President to bribe the IBU Secretary General to drop doping cases against three Russian biathletes. It begs the question - what was the real reason for Mr Besseberg's failure to take action against Mr Tikhonov? Was it, for example, because Mr Tikhonov had some leverage over Mr Besseberg that prevented him from doing so? In the Commission's view, that could be a reasonable inference.

- 6.75 In a second, separate incident, in March 2013 at the IBU World Cup event in Holmenkollen, Mr Tikhonov gave ██████████ (then President of the ██████████ Biathlon Federation) a small wallet as a present. Back in his room Mr ██████████ discovered that there was a €500 note in the wallet. Immediately, he went downstairs and handed the wallet back to ██████████. Mr ██████████ told the Commission that the next morning Anders Besseberg called him and asked him to come and meet with him and Mr Tikhonov. At the meeting, Mr Besseberg said that it is a normal custom in Russia to put some coins in a wallet as a present for someone. Mr Tikhonov also said that it is normal in Russia to put in some coins. Mr ██████████ insisted that €500 is a lot more than some coins and not acceptable. Mr Besseberg said to him: 'usually you should have accepted the gift because this is a normal way to do things in Russia'.²²⁰
- 6.76 The Commission asked Mr Tikhonov about this incident. He did not deny it but said he had given the wallet to Mr ██████████ as a birthday present (Mr ██████████ told us it was not his birthday until about five months after that). Mr Tikhonov said that he put €500 in the wallet because that was the smallest note he had in his wallet. He said it could not be a bribe because it was not enough money.²²¹
- 6.77 The Commission does not agree. It is a well-known technique for corruptors to start with small favours, in order to draw the subject in and make them feel indebted and complicit, so that they are then susceptible to further approaches. Once again, therefore, it considers this to be an improper approach by Mr Tikhonov, even if not as blatant as the approach to Ms Resch, and it regards Mr Besseberg's acquiescence in the practice as highly improper, again irrespective of the precise motivation, and a breach of his duties as IBU President.
- 6.78 In the Commission's view, these two failures by Mr Besseberg to take action against Mr Tikhonov for attempting to bribe first Ms Resch and then Mr ██████████ not only suggest that Mr Besseberg unduly favoured Russian interests. They also give rise for a case for Mr Besseberg to answer for breach of his duties under Article 3.3 of the then-IBU Disciplinary Rules, not to do anything (whether by act or omission) that might endanger or impair the reputation or the interests of the IBU.

6B.6 The failure to follow up Ustyugov's highly abnormal ABP values at the 2014 Olympic Games in Sochi

- 6.79 As noted above (see paragraph 6.61.3), until 2015 the IBU tested blood samples at events with its own Sysmex machine, not just for purposes of its 'no start' rule but also to screen the blood for abnormal values indicating possible blood doping, which would then trigger the collection of further samples from the athlete, including at the event itself, to be analysed for the presence of rEPO or other ESAs or for evidence of transfusion; and similarly ██████████ would review the results of

²¹⁹ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

²²⁰ ██████████ interview, 20.10.19 [Document 54].

²²¹ Tikhonov interview, 21.01.20 [Document 10].

testing of ABP samples collected out of competition to decide (using the same parameters) whether further samples should be collected from the athlete. For example:

- 6.79.1 On 29 October 2010, ██████████ emailed ██████████, flagging that an ABP sample collected from Evgeniy Ustyugov on 26 October 2010 had an HGB value of ██████████ and a reticulocyte count of ██████████. She noted the sample was collected after ten days of training in Ramsau. ██████████ replied: 'we must test the Russian team during this week. Ustyugov has ██████████. My advise is to test the Russian team during the week before Ostersund, wednesday or thursday, if is possible late in the evening (22:00-23:00) urine for Epo and BP'.²²²
- 6.79.2 In December 2011, Jim Carrabre (Chair of the IBU Medical Committee) asked ██████████ for a report on the results of blood testing at the IBU World Cup event in Hochfilzen. ██████████ replied: 'we tested many Russian athletes: only Ustyugov saturday had ██████████. We did urine control and blood after the race sent to the lab asking for CERA and blood transfusion'.²²³
- 6.80 As explained above (see paragraph 6.31), the IBU was planning on testing biathletes' blood samples in Sochi before the 2014 Olympic Games to identify abnormal values that warranted follow-up testing for EPO or other ESAs.²²⁴ Before the Games, ██████████, ██████████, emailed Jim Carrabre, copying Nicole Resch, ██████████, Person A, ██████████, and ██████████ at the IBU (along with Dr Richard Budgett at the IOC) to confirm: 'I understand that IBU testing will be out of "doping control" and in cases of untypical results you'll inform IOC, and IOC could initiate doping control test for this athlete'.²²⁵
- 6.81 When the IBU's Sysmex machine did not work on arrival in Sochi, and so the IBU could no longer do its own pre-competition blood screening, the plan had to change. The Sochi Local Organising Committee agreed to collect a maximum of 50 ABP samples from biathletes selected by the IBU²²⁶ and to ship them to the Sochi laboratory for testing. This meant the IBU delegates would have to wait for the Sochi laboratory to upload the results in ADAMS rather than get them immediately, but they would still be able to review those results and react to any abnormalities by asking the IOC to organise the collection of further samples for follow-up testing.

²²² ██████████ emails, 29-30.10.10 [Document 108]. ██████████

²²³ ██████████-Carrabre email, 12.12.11 [Document 109].

²²⁴ The 'no start' rule was not applied because it was an IOC event and the IOC did not have a 'no start' rule for the Olympic Games.

²²⁵ See ██████████ email of 09.12.13 [Document 110]; see also WADA PowerPoint distributed to the IBU and other winter international federations at a meeting in Lausanne in September 2013 and forwarded ██████████ on 19.09.13 ('The IF's APMU reviews the Passports in real-time and, in case of a doping suspicion, sends a testing recommendation to abp@olympic.org') [Document 111].

The same protocol was agreed with FIS and the ISU, who were following the same approach. The WADA Independent Observers Report for the Sochi Games [Document 112] reveals that the FIS blood testing led to the IOC carrying out 20 follow-up tests, and the ISU blood testing triggered eight follow-up tests as part of the OWG testing programme.

²²⁶ ██████████ email, 10.02.14 [Document 113] ('we can do no more than 50 ABP tests for IBU athletes').

- 6.82 IBU [REDACTED] duly selected biathletes to be tested on 14-17 February 2014. As also noted above (see paragraph 6.31.3), on 16 February 2014 the Sochi laboratory uploaded to ADAMS the results of Sysmex testing of ABP samples collected from the four members of the Russian men's biathlon relay team on 14 February 2014, including Evgeniy Ustyugov's sample with an HGB value of [REDACTED] and reticulocyte count of [REDACTED]. There is no question that these values [REDACTED] cried out for follow-up testing, even when only viewed in isolation. [REDACTED]
- 6.83 The fact that the 14 February values were (improperly) recorded as invalid in ADAMS (see paragraph 6.31.4, above) did not change that fact. The ABP guidelines in place at the time specifically provided that samples analysed after the deadline could be included in the athlete's profile if the experts considered it appropriate;²²⁷ and everybody consulted by the Commission has agreed that, irrespective of the invalidity classification, those values demanded that blood and urine samples be collected from the athlete immediately and tested for evidence of blood doping. The Nordic APMU, which now acts as the IBU's APMU, has confirmed that would also have been its clear view.²²⁸
- 6.84 Again, it was [REDACTED] who chose the 20 biathletes from whom ABP samples should be collected on 14 February 2014, including the four members of the Russian men's relay team; but it was Person A, [REDACTED] who liaised with the Sochi Local Organising Committee and the Sochi laboratory, and worked with [REDACTED] to get the mission order number and other details entered into ADAMS.²²⁹ The laboratory uploaded the results of analysis of those samples, including Ustyugov's highly abnormal results, at 11.46am on Sunday 16 February 2014. When interviewed by the Commission,²³⁰ Person A was very keen to downplay their role at the Games, and said they were '**probably not**' checking ADAMS every day, but they acknowledged that an email that they sent to the Sochi laboratory on Wednesday 19 February 2014 showed they had seen the results of analysis of the 14 February samples in ADAMS by that 19 February.²³¹

²²⁷ ABP Operating Guidelines, version 3.1 (April 2012), p.42: '[The Athlete Passport Management Unit \(APMU\) will coordinate with the appropriate Laboratory and haematological experts in order to ensure the validity of any result analyzed after 36 hours](#)'; [REDACTED] interview, 12.06.20 [Document 12] ('any expert looking at a passport with an invalid sample will look behind the invalidity. If you have a result showing 19 HGB and this is invalid because of time, you know the most robust parameter is HGB. So 19 HGB will not change during 96 hours. What is more difficult are the reticulocytes. And of course for the target test the reticulocytes are much more important. It means if you have reticulocytes at 4.8, the mean reticulocyte is 1%. If you have from 0.8 to 1.5, it is very unlikely that the athlete is in the 'on phase', ie is still on EPO. If reticulocytes are higher than 2, you have to go for target test').

²²⁸ Nordic APMU report, 21.09.20 [Document 20], footnote 11. Notably, the Nordic APMU also identified that three samples collected from Russian biathletes the next day, 15 February 2014, produced a high HGB value (one case) and high RET% values (all three cases) that should also have prompted follow-up testing.

²²⁹ [REDACTED] emails, 14.02.2014 [Document 114].

²³⁰ [REDACTED] interview, 19.06.20 [Document 81].

²³¹ [REDACTED]-Rodchenkov email, 19.02.14 [Document 115] ('[This mail to remind you my question about IBU tests for BP. The question is: why the samples 81670/783/793/806/817 belonging to the second shipment of 14 February are not considered valid for BP?](#)'). Dr Rodchenkov forwarded that email to [REDACTED], who replied by sending copies of the Sysmex results for the five athletes, including Ustyugov ([REDACTED] email, 19.02.14 [Document 116]). Person A responded with an email drafted by [REDACTED]:

Person A also agreed that if an athlete's ABP sample had HGB of [REDACTED] and reticulocytes of [REDACTED] you should 'test him repeatedly'. Person A noted that the IBU could not test any athletes themselves, only the IOC could order testing, but was forced to acknowledge that it had been agreed (in an email that was copied to them, described at paragraph 6.80, above) that the IBU could ask the IOC to initiate any follow-up testing that it considered necessary. After reviewing the draft Final Report, Person A suggested that that email referred to blood samples collected by the IBU, not to ABP samples collected by the IOC, and that any abnormal values from ABP samples collected by the IOC would be for the IOC's APMU to follow up. But the IOC is a major event organiser, not an international federation, and therefore it has never run its own ABP programme, and therefore did not have an APMU in Sochi. Instead, the international federations that asked for the ABP tests were responsible for interpreting the results and for asking the IOC to conduct any follow-up testing that might be required.

6.85 Instead of immediately requesting that the IOC conduct follow-up testing of Ustyugov, however, all that Person A did was ask the Sochi laboratory why the results had been marked as invalid in ADAMS. As a result, no further samples were collected from Ustyugov in the following days for follow-up testing, despite the highly abnormal values in his ABP profile.²³²

6.86 Questioned by the Commission on this point, Person A claimed that it was 'not my duty' to advise the IOC to conduct a follow-up test on Ustyugov [REDACTED]

[REDACTED]. Nevertheless, Person A said that they 'probably' told [REDACTED] and Dr Carrabre. However, [REDACTED] and Dr Carrabre have both always been absolutely adamant that Person A did not tell them; instead they only found out by chance in 2016.²³³ Person A insisted that in any event it was not their (Person A's) responsibility to alert [REDACTED] or Dr Carrabre to the abnormal values, because [REDACTED] and Dr Carrabre had their own access to ADAMS and could check the values for themselves (although Person A acknowledged not knowing if [REDACTED] and Dr Carrabre were actively doing so in Sochi). In contrast, [REDACTED] said that he would have expected Person A [REDACTED] to alert him to any high values.²³⁴ [REDACTED]

²³⁵ In any event,

'Thank you for your answer. The results of the sample analyses are visible in ADAMS, that is not the problem. I was asking why the outlined samples are set as "invalid". Was there any problem with the transport of the samples or the analyses of the samples (all other samples are valid)' ([REDACTED] email, 20.02.14, [REDACTED] email, 20.02.14 [Document 116]). Person A copied [REDACTED] and Nicole Resch on the email to [REDACTED]. However, Person A made a mistake in [REDACTED]'s email address, and therefore received a bounce-back email. Person A then re-sent the same email to [REDACTED] the next day on 21 February 2014. See bounce-back emails and [REDACTED] email, 21.02.14 [Documents 118 and 119].

²³² On 21 February 2014, [REDACTED] asked for further urine and blood samples to be collected from Ustyugov (see paragraph 6.31.8), but [REDACTED] for other reasons, not because of the HGB and RET% values in the 14 February sample (he says he did not know about them): [REDACTED] interview, 04.03.20 [Document 120].

²³³ [REDACTED] interview, 06.08.20 [Document 121]; Carrabre interview, 20.01.19 [Document 86]. Dr Carrabre was very clear then that he was not an ADAMS expert and had always expected that any abnormal ABP results would be reported to him by the IBU medical and anti-doping team.

²³⁴ [REDACTED] interview, 04.03.20 [Document 120]. [REDACTED]

²³⁵ [REDACTED] interview, 06.08.20 [Document 121].

the Commission considers it obvious that [REDACTED] would alert [REDACTED] to such abnormal values, to get their confirmation that further samples should be ordered immediately. [REDACTED] also found it surprising that Person A would not have alerted [REDACTED] to the abnormal values.²³⁶ On reviewing the draft Final Report, Person A insisted that they must have informed [REDACTED] of Ustyugov's suspicious values, and also said it was the responsibility not of Person A but of the 'IOC APMU' to determine whether any follow-up testing should be done in light of those values. As noted above, however (see paragraph 6.84), that is simply incorrect: it was the responsibility of the international federations that asked for the ABP tests to interpret the results and to ask the IOC to conduct any follow-up testing that might be required

6.87 Person A told the Commission that they did not remember talking to Nicole Resch about the abnormal values, but according to Dr Carrabre he was told by Person A (in 2016, after he finally found out about the invalid Sochi samples) that Person A had spoken to Nicole Resch about the values, and Ms Resch had told Person A that she would follow up on the matter.²³⁷ And the file shows Ms Resch knew of the invalid values as of 20 February 2014, because she is copied on Person A's emails to the Sochi laboratory of that date, asking why the samples are marked as invalid (see footnote 231). There is also an email on file from Ms Resch on 22 February 2014 to the IOC, asking for its assistance in determining why the results had been marked as invalid (but making no request for any follow-up testing).²³⁸

6.88 When the Austrian criminal authorities asked Nicole Resch about this incident, she said:

These cases were raised in a Board meeting, possibly in Sochi, by Dr. Jim Carrabre. Together with [REDACTED], he conducted and supervised these tests. I assume these are the five cases mentioned above. The IOC was responsible for doping controls. We were allowed to do samples for our Blood Screens. Carrabre explained to us then, that he could observe irregularities. I was not involved at all in the operational process at the time. [...] If this email was about the said samples for the blood screen, then they were damaged and could not be used anymore. I assume that these athletes were tested again, which were then examined in the laboratory as normal. There is a normal test routine for all active athletes. I assume that the athletes affected at that time were also among them.²³⁹

6.89 However:

6.89.1 At the IBU Executive Board meetings in Sochi, on 12, 20 and 22 February 2014, Nicole Resch (not Dr Carrabre) presented on anti-doping issues, and she made no mention of the invalid samples. Nor did Dr Carrabre, but that is unsurprising, given that he had not been told about them. He only raised them on the IBU Executive Board two years later, in 2016, when he eventually discovered them in ADAMS for himself.

6.89.2 Nicole Resch was involved in the operational process at the Games: Person A informed her (not [REDACTED] or Dr Carrabre) of the invalid results, and Ms Resch intervened with the IOC to seek an explanation of why they had been marked as invalid.

²³⁶ [REDACTED] interview, 20.08.20 [Document 122].

²³⁷ Carrabre-Pagé email, 11.09.20 [Document 123]. The Commission asked Dr Carrabre whether Person A told him that Nicole Resch told Person A not to tell anyone about the matter. Dr Carrabre could not remember that.

²³⁸ Resch-[REDACTED] email, 22.02.14 [Document 124].

²³⁹ Resch police interview, 10-11.04.18 [Document 55].

- 6.89.3 Ms Resch told the criminal authorities that she assumed the athletes involved were tested again, but there is no evidence that she asked for any follow-up testing, and in fact there was none.
- 6.90 It is clear that Nicole Resch [REDACTED] failed to share key information with the IBU Medical Committee after the 2014 Sochi Olympic Games:
- 6.90.1 There was an IBU Medical Committee meeting in Prague on 9-11 May 2014, just three months after the Sochi Games. One of the items on the agenda was review of the testing conducted in season 2013/14, including at the Games. Person A was unable to attend in person so they sent in a report, but made no mention in it of the invalid samples.²⁴⁰ Nor did Nicole Resch or [REDACTED] mention them at the meeting.²⁴¹ Therefore the IBU Medical Committee was not aware of the invalid results.
- 6.90.2 During a meeting in Salzburg in October 2015 as part of the WADA audit process, WADA noted that there were 10 Russian biathlete profiles in ADAMS at that time that had been flagged by the ABP software as atypical and requiring follow-up (these were separate from the invalid ABP samples, which WADA was not aware of at the time). Dr Carrabre (who attended the meeting) was not aware of those atypical findings, and was concerned that the IBU staff had not brought them to his attention previously.
- 6.90.3 Dr Carrabre recalls that WADA's comments prompted him to look into the atypical findings, including by going into ADAMS himself to check the data and by asking Person A to provide him with the Sochi test results [REDACTED]. In doing so, he first discovered around the end of 2015 that there a number of Russian biathlete ABP samples collected in Sochi had been marked invalid, including Ustyugov's sample that had highly abnormal HGB and RET% values. He then tried to determine the reason why they had been marked invalid. He asked Nicole Resch about them, and she told him she knew nothing and that he should speak to WADA. He also asked [REDACTED] and [REDACTED], but they did not have an answer. When he asked [REDACTED] again, Nicole Resch instructed [REDACTED] to tell him that he could not instruct IBU staff to do anything and if he wanted information he had to go through Ms Resch as the IBU Secretary General (see paragraph 6.66.7). He checked with Professor Christiane Ayotte (director of the Montreal laboratory), since she had been at the Sochi laboratory during the Games, as well as with IOC medical director Dr Richard Budgett, and neither of them knew anything about the invalid ABP results. In around early February 2016, a journalist asked him whether the IBU could have covered up Russian ABP cases in the same way as the IAAF had. Dr Carrabre said he would check personally (which prompted a public rebuke from Anders Besseberg²⁴²). Still without answers, he asked Person A about the invalid samples at the 2016 IBU World Cup event in Holmenkollen in March 2016, and they showed him emails they had exchanged with the Sochi laboratory at the time, asking why the results were marked as

²⁴⁰ [REDACTED] email, 09.05.14, including report for IBU Medical Committee meeting [Document 125].

²⁴¹ Minutes of IBU Medical Committee meeting, 9-11.05.14 [Document 126].

²⁴² *IBU boss dismisses claims of a probe of drugs in the sport*, si.com/uncategorized/2016/02/17/ap-bia-doping-russia ('International Biathlon Union president Anders Besseberg has dismissed claims by his doping chief that he will initiate an investigation into drugs in biathlon').

invalid.²⁴³ These email exchanges had not previously been shared with Dr Carrabre. Not having found any reason why the results should be marked invalid, Dr Carrabre raised the issue with the ABP team at WADA, who investigated, determined the results were valid, and re-classified them as such in ADAMS, which ultimately led to Ustyugov's ABP profile being referred to an Expert Panel for review.²⁴⁴

6.91 The Commission was sorry not to have the opportunity to ask Ms Resch about this incident, because it is obviously highly suspicious and cries out for an explanation. [REDACTED]

6.92 The Commission's view is that Person A and Nicole Resch should have immediately ordered follow-up testing of Mr Ustyugov upon seeing the HGB and RET% values in his 14 February ABP sample. Given that they were both bound by the IBU Anti-Doping Rules in place at the time, in the Commission's view it is arguable that each of them has a case to answer for complicity in Mr Ustyugov's blood doping ADRV, in breach of Article 2.8 of the 2012 IBU Anti-Doping Rules. The difficulty is that the jurisprudence is not clear whether the 2014 ADRV of complicity could be committed negligently or whether intent was required.²⁴⁵ If intent were required, the question would be whether it could be inferred from the lack of any good reason for the failure to order follow-up testing, and the failure even to notify IBU [REDACTED] or Dr Carrabre of Ustyugov's abnormal values, when Person A and Ms Resch knew that [REDACTED]. In any event, Ms Resch was responsible as IBU Secretary General to ensure that the IBU complied with its obligation under Article 20.3.9 of the World Anti-Doping Code 'to vigorously pursue all potential anti-doping rule violations within its jurisdiction'. Therefore, in the view of the Commission, if she cannot provide any satisfactory explanation for her failure to follow up on the abnormal values in Ustyugov's 14 February sample, she has a case to answer for breach of Article 3.2 of the IBU Disciplinary Rules in force at the time, for endangering the interests of the IBU by exposing it to a risk of being declared non-compliant with the World Anti-Doping Code.

6B.7 The failure to address RBU President Alexander Kravtsov's apparent attempt to buy votes at the 2014 IBU Election Congress

6.93 In 2010 the following persons were elected to the IBU Executive Board for the period 2010-2014: Anders Besseberg (President), Sergey Kushchenko, Klaus Leistner, Ivor

²⁴³ Carrabre- [REDACTED] email, 17.03.16 [Document 128], asking for copies of those emails.

²⁴⁴ Carrabre statement to criminal authorities, 09.11.19 [Document 56].

²⁴⁵ The cases that suggested that negligence was sufficient include *Eder v IOC*, CAS 2007/A/1286, para 9.6.1 (an athlete who did not know that other athletes were involved in the blood doping network would still be liable for giving them psychological assistance if his actions were negligent) and para 9.6.6 ('[...] assistance contributing to the violations of other athletes, even if negligently provided, will trigger joint liability'), and *ITF v Dorofeyeva*, Independent Anti-Doping Tribunal decision dated 9 June 2016, paras 63 and 64 (if intent is required to sustain an Art 2.8 charge, on the basis of CAS case law (*Qerimaj v IWF*, CAS 2012/A/2822 and *Lapikov v IWF*, CAS 2011/A/2677), which establishes that 'indirect intent' is sufficient to establish intent, that intent is clearly established by the evidence that shows that there were numerous red flags that the product contained a prohibited substance, which red flags the person charged manifestly disregarded), appeal upheld on other grounds, *Dorofeyeva v ITF*, CAS 2016/A/4697. However, other cases suggested intent was required.

Lehotan, Thomas Pfüller, Gottlieb Taschler, Jim Carrabre, Nami Kim, and Vaclav Firtik (who died in March 2014).

6.94 At the IBU Congress held in St Wolfgang, Austria, on 4-8 September 2014, elections were held for positions on the IBU Executive Board for the period 2014-2018.

6.94.1 Anders Besseberg stood again for election as IBU President, a position he had held since the IBU was founded in 1993. Jim Carrabre and Alexander Tikhonov stood against him.

6.94.2 The 1st Vice-President, Sergey Kushchenko, was stepping down [REDACTED]
[REDACTED]
The candidates to replace him were the RBU's Victor Maygurov, Sergey Bulygin of Belarus, Olle Dahlin of Sweden, and Volodymyr Brynzak of Ukraine.

6.94.3 Anders Besseberg told the Austrian criminal investigators that the Russians had originally proposed to have Mr Tikhonov stand both for IBU President and (if not elected as President) for 1st Vice-President, but Besseberg advised Vitaly Mutko, the Russian Minister of Sport, that if they did that, they would not have anyone on the IBU Executive Board, and that instead they should put Viktor Maygurov up for election as 1st Vice-President.²⁴⁶

6.95 On 29 August 2014, the week before the Congress, [REDACTED] [REDACTED] sent an email to several member federations from the Balkan region, stating:

During the SB WCH [Summer Biathlon World Championships] in Tyumen/RUS I was invited to a formal conversation with President of the Russian Federation biathlon Mr. Kravtsov [REDACTED]. At the meeting they expressed readiness for a future cooperation with the countries of the Balkan region for the next four years until the next Congress. Provided that the countries of the Balkan region support Russian candidates during the upcoming Congress, the RBU are ready to providing annual support [for] the countries of our region expressed as:

- Organize early snow training camps in Tyumen at their expense in the period October-November or during the summer period with lasting up to 3 weeks.
- Free ensuring cartridges during the preparation period within 1500 rounds per competitor.
- Free supply ski equipment and 1-2 rifles within reasonable limits according to the needs of the respective Federation.
- Certain annual financial support within reasonable limits depending on the needs of the respective Federation

Please for your urgent response and opinion concerning this proposal by the Russian Federation, which largely have to formed our strategy during the Congress in voting for individual candidates for the structures of the IBU.

After I receive your feedback I can prepare a scheme with appropriate parameters under proposed conditions (training days, number of cartridges, materials and weapons and amount of financial support).²⁴⁷

6.96 That email was forwarded to the IBU Executive Board, who called [REDACTED] to a personal hearing at the IBU Executive Board meeting held at the Congress venue on 4 September 2014. The minutes of the meeting reflect the following:

²⁴⁶ Besseberg police interview, 10-11.04.18 [Document 45].

²⁴⁷ [REDACTED] email, 29.08.14 [Document 130].

The EB was forwarded an email, sent by [REDACTED] – [REDACTED] [REDACTED] – to several member federations. The email offered financial support and service in exchange for the respective NFs voting for RBU candidates at the IBU Congress 2014.

The EB noted this email with great concern. This behavior by an IBU functionary was not compliant with the IBU Code of Ethics. Therefore [REDACTED] was called to attend a personal hearing before the EB. The IBU Legal Committee was also present. After the conduct of this hearing and a consultation with the IBU Legal Committee, the EB passed the following decision:

According to Art. 6.6 of the IBU Disciplinary Rules and the IBU Code of Ethics: 1. to remove [REDACTED] from his function as a member of the Technical Committee; 2. to restrict [REDACTED] from any IBU function for the period 2014-2018.

The acting IBU Executive Board decided to recommend to the future Executive Board to conduct a hearing with the President of the RBU.²⁴⁸

6.97 A decision letter signed the same day by Mr Besseberg and Ms Resch stated:²⁴⁹

With regard to the Email by [REDACTED] dated 29th August 2014 that was addressed to several IBU member federations (attachment), the Legal Committee was consulted.

A hearing of [REDACTED] took place at the 115 Executive Board meeting.

After a thorough discussion, the Executive Board unanimously decided, according to Art. 6.6 of the IBU Disciplinary Rules and the IBU Code of Ethics:

1. to remove [REDACTED] from his function as a member of the [REDACTED]
2. to restrict [REDACTED] from any IBU function the period 2014 – 2018

The acting IBU Executive Board decided to recommend to the future Executive Board to conduct a hearing with the President of the RBU.

6.98 Mr Besseberg told the police investigators: 'This incident clearly shows that the IBU took immediate action as soon as there were concrete indications of such "money offer" in exchange for the casting of votes'.²⁵⁰ The Commission agrees, but Mr Besseberg missed out a crucial point, which was that (as the documents quoted above state) the IBU Executive Board also agreed that Mr Kravtsov, the RBU President, should be summoned to answer for the vote-buying, but that never happened.

6.99 The Commission is not surprised that the IBU Executive Board considered it necessary to summon Mr Kravtsov to explain himself over the matter. After all, vote buying is a very serious breach of the rules, a denial of the rights of members who have proposed other candidates,²⁵¹ and [REDACTED] was clear in his letter to the Balkan region federations that the

²⁴⁸ Minutes of IBU Executive Board meeting, 04.09.14 [Document 131]. A similar account was also included in the minutes of the Congress itself [Document 132].

²⁴⁹ The decision (including the recommendation that the new IBU Executive Board hold a hearing with the RBU President) was also noted at page 14 of the minutes of the 2014 IBU Congress [Document 132].

²⁵⁰ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

²⁵¹ In *BTTTC v ITTF*, CAS 2005/A/996, the Brazilian national table tennis federation challenged the elections of the executive board of the International Table Tennis Federation (**ITTF**) at the annual general assembly, alleging that there had been serious irregularities, including bribery, the counting of invalid votes, and lack of secrecy during the voting. The ITTF's constitution and rules did not contain a dispute resolution mechanism, so the parties agreed to refer the dispute to CAS. The CAS sole arbitrator sided with

offer to buy their votes was a '[proposal by the Russian Federation](#)', communicated to him by Mr Kravtsov. The Commission is surprised, however, that the IBU Executive Board did not consider it important to warn delegates at the Congress that no votes were to be cast based on promises of financial and other consideration from the RBU.

- 6.100 In addition, the Commission does not understand why the IBU Executive Board did not say that the other party to the apparent vote-buying conversation ([REDACTED]) should also be summoned to explain himself. Like Mr Kravtsov, he was an official RBU delegate to the 2014 Congress, and therefore on hand to be called before the IBU Executive Board. The fact that he was a longstanding friend of Mr Besseberg makes his omission from the IBU Executive Board's decision highly suspicious (particularly when considered in combination with the incredible lengths that Mr Besseberg went to in 2016 to get Congress to award Tyumen the right to host the 2021 IBU World Championships and in 2018 to resist a wave of stakeholder calls to move the 2018 IBU World Cup final event from Tyumen: see Sections 6B.10 and 6B.15).
- 6.101 IBU Executive Board member Ivor Lehotan told the Commission that he recalled the discussion of this matter at the meeting in September 2014. He specifically recalled that it was agreed that the President (i.e. Mr Besseberg, or his successor – although they all fully expected him to be re-elected President) would have the task of contacting Mr Kravtsov to summon him to a hearing before the Executive Board elected by Congress.²⁵² Jim Carrabre agreed that it was left to Mr Besseberg to contact Mr Kravtsov and report back.
- 6.102 At the Congress meeting the next day, Mr Besseberg was re-elected as IBU President in the first round, winning 33 of the 50 votes cast. Mr Maygurov was elected as the new 1st Vice-President, also in the first round, with 27 of the 50 votes cast. Messrs Leistner, Carrabre, Taschler and Lehotan, and Ms Kim were re-elected to the Executive Board without opposition; Thomas Pfüller was re-elected as VP Marketing; and Olle Dahlin was elected as VP Development.
- 6.103 The new IBU Executive Board next met on 7 September 2014, i.e., immediately after the elections, and just three days after the meeting at which it was decided that Mr Kravtsov should be summoned to answer for vote-buying. However, Mr Kravtsov was not summoned to be heard at that meeting (even though he attended the Congress in person and was still on site²⁵³), or at any subsequent meeting of the IBU Executive Board. Nor could the Commission find any evidence of any communication with him or any effort by Mr Besseberg or Ms Resch to follow up with him (or with [REDACTED]) on the RBU's apparent proposal to buy votes for their candidates at the 2014 Congress.
- 6.104 The Commission has not had an opportunity to ask Mr Besseberg or Ms Resch why they failed to follow up as the IBU Executive Board had directed. Given that Ms Resch was a stickler for protocol, however, and was always very careful to ensure that Executive Board minutes accurately recorded Executive Board decisions and that they were properly

the appellant and annulled the results of the election. Quoting Baddeley, *L'association sportive face au droit* (1994), the sole arbitrator said: '[the principle of equality of treatment demands that the rights of those members who acted fairly and whose candidates were not elected be preserved, since \[...\] such principle is particularly important for an association: "...\[the\] principle of equality of treatment between members imposes itself due to the fundamental characteristics of an association, that is the pursuit of a common non-lucrative goal, the democratic basis of the entity and the fact that the social relationship depends more on the cooperation between members than on financial contributions"](#)' (ibid, paragraph 138).

²⁵² Lehotan interview, 12/14.08.20 [Document 58].

²⁵³ See 2014 Congress attendance list [Document 44].

followed up, saying that that was one of her principal obligations spelled out in her employment contract, this failure seems inexplicable to the Commission.

6.105 In his interview with the Commission, IBU Executive Board member [REDACTED] was unable to account for it.²⁵⁴ He said he did not think this evidenced improper favouring of Russian interests, but he offered only two possible alternative explanations for the failure to follow up, neither of which seems plausible to the Commission:

6.105.1 First, [REDACTED] speculated that the follow-up with Mr Kravtsov may have been postponed because it was not considered a priority, and then Mr Besseberg simply forgot to follow it up. However, that would seem remarkable, given how serious the incident was. And even in January 2018 Anders Besseberg was recounting the incident to others, [REDACTED]

[REDACTED]

²⁵⁵ So it is clear that even in 2018, four years later, Mr Besseberg remembered the incident well.

6.105.2 Second, [REDACTED] speculated that it may have eventually been considered that the sanction imposed on [REDACTED] was enough to deter any repeat of this conduct in the future. But that would have meant (a) ignoring a clear decision by the IBU Executive Board; and (b) punishing only a minor player in a conspiracy to buy votes, and not the instigator of the conspiracy. [REDACTED]

6.106 Whatever the reason for the failure to follow up with Mr Kravtsov on his apparent attempt to buy votes at the 2014 IBU Election Congress, the Commission concludes that it was a clear breach by Mr Besseberg and Ms Resch of their obligations under Article 3.3 of the IBU Disciplinary Rules:

6.106.1 not to violate the decisions of the IBU Executive Board; and/or

6.106.2 not to do anything (by act or omission) that endangered or impaired the reputation or the interests of the IBU.

6B.8 The failure to investigate properly the syringe of rEPO found on the training track at the 2015 IBU World Cup event in Antholz

6.107 An IBU World Cup event was held in Antholz from 21 to 24 January 2015. On the morning of 23 January 2015, a used syringe was found on the track, in an area to which only accredited persons had access. The label on the syringe indicated that it was manufactured by Janssen and had contained 2,000 I.E./0.5 ml rEPO. (See [Figure 3](#)).

²⁵⁴ [REDACTED] Mr Lehotan believes the IBU Executive Board members forgot to follow up: Lehotan interview, 12./14.08.20 [Document 58].

²⁵⁵ [REDACTED]

Figure 3: Photographs of rEPO syringe found at IBU World Cup in Antholz in 2015



6.108 The previous evening an IBU Referee had seen some Russian coaches on the track, but this could have been entirely coincidental.²⁵⁶ He also noted that he saw some team athletes on skis on the course that evening, but did not know their nationalities.²⁵⁷

6.109 The syringe was handed to [REDACTED]. [REDACTED] consulted with Anders Besseberg and Nicole Resch, who were also at the event, and it was decided not to give the syringe to the police but instead to collect additional samples from athletes at the event. Ms Resch explained the reasoning to Dr Carrabre (who was not at the event) as follows: 'Due to the experience from Ridanna many years ago at an IBU Cup – where such a syringe was found in the trash and police was informed but the outcome was zero, and also based on the Vancouver decision when the IOC informed us months later about a syringe that was found randomly in the kitchen of the a team's house and the device did not bring any additional facts to use for target testing as it was too late, we did not think it would be helpful to take the syringe to police but rather do immediate additional testing on the same day'.²⁵⁸ [REDACTED] proposed to test the whole Russian team (because there had been three more rEPO positives for Russian biathletes in 2014: see paragraphs 6.24 and 6.27), and Anders Besseberg agreed, but said they should also test biathletes from other countries.²⁵⁹

6.110 On 24 January 2015, [REDACTED] took a blood sample from Russian biathlete [REDACTED]. [REDACTED] ran it through the Sysmex machine, which revealed HGB of g/d, a reticulocyte count of %, and an OFF-score of [REDACTED].

6.111 On 26 January 2015, Nicole Resch emailed Jim Carrabre, recounted the above facts, [REDACTED] and asked for his advice on further steps.

[REDACTED] A urine sample was collected from [REDACTED] the same day and tested by the Lausanne laboratory for ESAs, and was reported to be negative for any prohibited substances.²⁶⁰ Dr Carrabre suggested [REDACTED] be put in the Registered Testing Pool and be required to provide several ABP samples, and that the

²⁵⁶ [REDACTED] email, 25.05.20 [Document 135]; [REDACTED] interview, 18.03.19 [Document 136].

²⁵⁷ [REDACTED] email, 25.05.20 [Document 135].

²⁵⁸ Resch-Carrabre email, 26.01.15 [Document 137].

²⁵⁹ [REDACTED] interview, 06.08.20 [Document 121]; Resch-Carrabre email, 26.01.15 [Document 137].

²⁶⁰ See test data available in ADAMS.

syringe be taken to a WADA-accredited laboratory and tested (a) to confirm the substance in the syringe was rEPO; and (b) to see if there was any DNA from the blood traces that were visible in the syringe and presumably came from the user of the rEPO. In relation to Ms Resch's comments about past experiences from Ridanna, he said: 'I agree with your comments about past experiences and I do remember those events. The Torino scandal, however, was useful in that they did have DNA evidence to use, based on analysis of the blood samples found'.²⁶¹

- 6.112 Nicole Resch replied on 28 January 2015 [REDACTED]. She also asked if the laboratory analysis on the syringe was 'timely urgent' or whether they could first discuss it in person at the next IBU World Cup event, in Nové Město the following weekend. Dr Carrabre replied the next day stating that he would be happy to discuss the issue in Nové Město, but that the IBU should look into testing the syringe before then so as not to lose the opportunity to preserve any evidence from the syringe, and that the Lausanne laboratory could do the analysis. Ms Resch replied the same day stating: 'Does this mean you do not want to discuss it and listen to the facts I would like to share?'. Dr Carrabre clarified that he was happy to have input from Ms Resch but wanted to preserve the ability to gather evidence from the syringe. He stated: 'If the lab is sure that waiting will not compromise the data collection, then we can wait. We should ask the questions to be sure'. Ms Resch responded on 2 February 2015, proposing a meeting in Nové Město on 6 February 2015.²⁶³
- 6.113 Ms Resch, [REDACTED], Dr Carrabre, Person A, and Mr Besseberg duly met to discuss the matter in Nové Město on 6 February 2015. It was agreed to have the syringe tested as Dr Carrabre had proposed, and on 9 February 2015 [REDACTED] delivered the syringe to the Lausanne laboratory for that purpose. [REDACTED] followed up with instructions for the laboratory to identify the substance in the syringe, to analyse the DNA of the blood on the syringe, to trace the syringe number if possible, and to send the results to Nicole Resch only.²⁶⁴
- 6.114 On 3 March 2015, the Lausanne laboratory reported that the syringe contained first generation EPO, and that the DNA in the blood on the syringe showed it came from a male subject. The laboratory said that if the IBU sent it samples from athletes suspected of using the syringe, it could check to see if the DNA matched.²⁶⁵ Upon receipt, Nicole Resch proposed that a sample be collected from [REDACTED].²⁶⁶ [REDACTED] replied saying that a urine sample and an ABP sample had already been collected from him at the IBU Cup in Canmore, which took place on 4 March 2015 (around five days before Ms Resch's email).²⁶⁷

²⁶¹ Resch-Carrabre emails, 26-27.01.15 [Document 138].

²⁶² This was correct, WADA's view was that an abnormal blood value should result in an investigation into whether there was blood doping, not simply in exclusion from that competition: Niggli, 23.09.20 [Document 139].

²⁶³ Resch-Carrabre emails, 26.01.-02.02.15 [Document 140].

²⁶⁴ [REDACTED]-Lausanne laboratory email, 09.02.15 [Document 141].

²⁶⁵ [REDACTED]-[REDACTED] email, 03.03.15 and [REDACTED]-Resch email, 09.03.15 [Document 142]; formal lab report, dated 20.02.15 [Document 143].

²⁶⁶ Resch-Besseberg/Carrabre/[REDACTED] email, 09.03.15 [Document 144].

²⁶⁷ [REDACTED]-Resch email, 09.03.2015 [Document 145].

- 6.115 On 11 March 2015, Nicole Resch emailed [REDACTED] (but not Jim Carrabre), saying: 'Anders and I would like to have a meeting with you on Sunday morning. Please bring the blood values of [REDACTED]'. At the meeting (at the IBU World Cup event in Kontiolahti), Nicole Resch proposed that the IBU should stop trying to identify the 'owner' of the syringe and instead 'just store the data' and wait. [REDACTED] stated that he agreed with this course in light of Ms Resch's view that [REDACTED] ²⁶⁸ told the Commission: [REDACTED] I don't remember everything exactly. ... what shocked me deeply was that there was no follow-up to the needle case. We should have tested, like, every athlete to see whose DNA it was. It was never done'.²⁶⁹
- 6.116 On 16 March 2015, the Lausanne laboratory wrote to Ms Resch to say that the syringe was being stored safely and securely, and that it would wait to receive the reference samples for the matching process.²⁷⁰ Ms Resch replied the same day and instructed the Lausanne laboratory to store the syringe 'for possible matching results in the future', saying 'it might be next season'. She confirmed again that the laboratory should communicate only with her on the matter.²⁷¹
- 6.117 On 27 April 2015, [REDACTED] sent Nicole Resch his report to the Medical Committee for the 2014/15 season. He noted: 'For me it's necessary to continue the investigations, we ask [for] a doping blood test and the samples will be sent to Lausanne to compare the DNA. If the result is negative, it's necessary to test other members of the Russian team'. Nicole Resch replied: 'According to our discussion in Kontiolahti that Lab is advised to store the syringe so that we can send data for evaluation any time in the future and see if any data matches'.²⁷²
- 6.118 On 20 August 2015, [REDACTED] asked (again) that blood and urine samples be collected from [REDACTED] and sent to Lausanne for DNA analysis. [REDACTED] complained about [REDACTED] bringing up the syringe matter again,²⁷³ and Nicole Resch agreed and said: 'We cannot give any data to external authorities due to legal reasons anyways but by testing the athletes we also take political arguments away'.²⁷⁴ It seems that she therefore gave the go ahead for [REDACTED] to be tested, because on 30 August 2015 urine and ABP samples were collected from [REDACTED] in Obertilliach and sent to the Lausanne laboratory for testing.²⁷⁵

²⁶⁸ Resch-[REDACTED] email, 11.03.15 [Document 146]. [REDACTED]

²⁶⁹ [REDACTED] interview, 06.08.20 [Document 121].

²⁷⁰ [REDACTED]-Resch email, 16.03.15 [Document 147].

²⁷¹ Resch-[REDACTED] emails, 15-16.03.15 [Document 147]. Ms Resch wrote: 'I kindly ask you to exclusively communicate any IBU issues with me.'

²⁷² Resch-[REDACTED] email, 27.04.15 [Document 148].

²⁷³ [REDACTED]

²⁷⁴ Resch-[REDACTED] email, 23.08.15 [Document 150].

²⁷⁵ See ADAMS Doping Control Form and Lausanne laboratory final report, 22.01.16 [Document 151].

- 6.119 The Lausanne laboratory initially overlooked the request to do DNA analysis on ██████'s sample, but eventually informed Nicole Resch on 8 January 2016 that it was not a match for the DNA on the syringe, and provided a formal report to that effect on 22 January 2016.²⁷⁶ Dr Carrabre recalls asking Nicole Resch at some point if there had been any results back from the DNA analysis, and she told him there was nothing to report.²⁷⁷
- 6.120 As far as the Commission is aware, there was no further follow up done in relation to the syringe. ██████ told the Commission: 'Jim Carrabre and I were in the perspective of going all the way, if you can put the search for the culprit in quotes. But Nicole Resch, President Besseberg were a little more either in diplomacy, or we're not going to make any waves ... so in the sense that we've always thought that biathlon is a very clean sport, we were not going to make any waves, so to speak. Even if it wasn't formally expressed. [...] [W]hether it was Jim Carrabre or myself, we didn't understand that there was no follow-up to this cheating, which was nevertheless obvious. ... There was no willingness on the part of the President or on the part of Nicole Resch to continue the investigations'.²⁷⁸ Jim Carrabre advised the Commission that he agreed with ██████'s recollection.
- 6.121 A year later, on 4 January 2017, the IBU Athletes' Committee met at the IBU World Cup event in Oberhof. Nicole Resch attended the meeting, and the notes of the meeting (which she reviewed, and did not amend) indicate that ██████ biathlete ██████ asked her what was done with the syringe found in Antholz in 2015, and she replied: 'We sent it to the police. We checked it with all athletes in our records from the last 10 years and found nothing. It happened a month after Vancouver [2010 Olympic Games] also. But we couldn't link this to anything. We need facts. Seriously, this happened also one time and it was just the media putting stuff in the garbage to make a story'.²⁷⁹
- 6.122 However:
- 6.122.1 The IBU never sent the syringe to the police. In fact, Nicole Resch was one of the people who discussed that option and decided not to do it.
- 6.122.2 The IBU did not check the DNA in the syringe against all of the athletes in its records. Rather it checked only against ██████. It did not send the samples of other athletes who had been at the 2015 IBU World Cup in Antholz to the Lausanne laboratory for DNA analysis, to see if there was a match for the DNA from the blood in the syringe. And nor did it get any DNA analysis done at any other laboratory.
- 6.122.3 Furthermore, the Commission is not aware of any basis for Nicole Resch's suggestion that the rEPO syringe may have been planted by the media 'to make a story'.
- 6.123 The Commission notes, for the record, that WADA I&I arranged for DNA analysis of samples collected from all of the male Russian biathletes who were at the IBU World Cup event in Antholz in January 2015, and none of them was a match for the DNA of the blood

²⁷⁶ ██████-Resch emails, 08.01.16 and 22.01.16 [Document 152].

²⁷⁷ Carrabre interview, 20.01.19 [Document 86].

²⁷⁸ ██████ interview, 06.08.2020 [Document 121].

²⁷⁹ Minutes of IBU Athletes' Committee meeting, Oberhof, 04.01.2017 [Document 153].

on the rEPO syringe found in Antholz.²⁸⁰ However, that does not change the Commission's view that there was no good reason for the decision of Mr Besseberg and Ms Resch not to send further samples from possible suspects to the Lausanne laboratory for DNA comparison. The Commission does not know whether this decision was due to a desire not to mire the sport in further doping controversy, or for some other reason. But it considers it to be a breach of the IBU's duty under Article 20.3.9 of the World Anti-Doping Code 'to vigorously pursue all potential anti-doping rule violations within its jurisdiction'. Mr Besseberg and Ms Resch therefore have a case to answer for breach of Article 3.2 of the IBU Disciplinary Rules in force at the time, for endangering the interests of the IBU by exposing it to a risk of being declared non-compliant with the World Anti-Doping Code.

6B.9 The delay in establishing a proper ABP programme and in pursuing the Ustyugov case

6B.9.1 Delay in setting up proper ABP programme

6.124 As already noted above (see paragraph 6.61.3), the IBU did not set up a proper ABP programme when the ABP was introduced by WADA in 2009. The WADA guidelines called for anti-doping organisations to appoint an Athlete Passport Management Unit (**APMU**) to review results as they came in to determine whether follow-up testing should be ordered, and to appoint an external panel of haematological and other experts (**Expert Panel**) to whom the APMU could refer profiles that the ABP algorithm identified as being so abnormal that they needed to be reviewed for possible doping;²⁸¹ but the IBU did neither. Instead, ██████████ reviewed the results of analysis of each ABP sample collected for the IBU to see if they met the criteria for follow-up testing that the IBU had established in the context of the 'no start' rule, but no one looked at the profiles as a whole to track any changes over time, even when the ADAMS system flagged the profiles as abnormal. ██████████ both said that they expected the IBU Medical Committee to review the profiles to see if any action was required,²⁸² but Jim Carrabre, the Chair of the IBU Medical Committee, said that he relied on the IBU ██████████ to refer any abnormal profiles to him for review, and that none had been referred.²⁸³

6.125 It appears to the Commission that part of Nicole Resch's reluctance to take up the ABP programme may have been due to her reservations about charging an athlete with blood doping based not on the presence of a prohibited substance in their sample but rather on indirect evidence (in the form of changes in markers in the blood that were consistent with blood doping). It is fair to say that other international federations were also cautious about the ABP programme at first, for the same reason. They were not sure whether the CAS would accept the reliability of the ABP programme, or that it would uphold a charge of blood doping based on markers of use rather than direct evidence in the form of an adverse analytical finding for the presence of a prohibited substance in the sample. In fact, Nicole Resch was still telling her colleagues ██████████ as of 9 November 2016 that 'no such case was ever won in front of CAS so far',²⁸⁴ even though the opposite was the case: the CAS had already several years previously accepted the

²⁸⁰ See Document 129.

²⁸¹ See early editions of WADA ABP Guidelines at wada-ama.org/en/resources/athlete-biological-passport/athlete-biological-passport-abp-operating-guidelines.

²⁸² ██████████ interview, 19.06.20 [Document 81]; ██████████ interview, 20.08.20 [Document 122].

²⁸³ Carrabre February 2016 emails [Document 154].

²⁸⁴ Resch-█████████ email, 09.11.16 [Document 155].

reliability of the ABP programme as evidence of blood doping in multiple cases, and had never rejected any ABP charge.²⁸⁵

6.126 On 1-2 October 2015, a WADA team visited the IBU in Salzburg to review its anti-doping programme. They noted that there were 10 Russian biathlete profiles in ADAMS at that time that had been flagged by the ABP software as atypical and requiring follow-up, but no follow up had been done. They said that in line with WADA ABP requirements an external APMU should be appointed, as well as an Expert Panel, to do that follow up.²⁸⁶

6.127 Jim Carrabre immediately set about trying to identify an appropriate WADA-accredited laboratory to appoint as APMU, but Nicole Resch blocked his efforts and said any appointment of an APMU had to be done through her.²⁸⁷

6.127.1 In December 2015, Jim Carrabre asked ██████████ to find out if the Seibersdorf laboratory might want to make a proposal to act as APMU for the IBU, and said the priority was for the APMU to review Ustyugov's profile, particularly given his ABP values in Sochi. In response ██████████ said (incorrectly) that the IOC was responsible for following up on the Sochi ABP results²⁸⁸ (the IBU was the passport custodian and therefore it was its responsibility to follow up on any abnormal results).

6.127.2 Jim Carrabre asked ██████████ for copies of the 10 atypical findings from ADAMS that WADA had mentioned during an October 2015 meeting, and was concerned when she only located and sent him four. He also asked repeatedly for details of the invalid ABP samples from Sochi. In response to such a request, on 16 February 2016 ██████████ wrote to him: 'I kindly ask you to forward this request to Nicole. HQ staff can only act following directives given by the Secretary General'. Dr Carrabre immediately queried this with Nicole Resch, prompting this reply from her: 'It is obviously a grey zone, to which extent a Vice President wants to be involved in operational daily procedures. This needs clarification'.²⁸⁹

²⁸⁵ Including *Caucchioli v CONI & UCI*, CAS 2010/A/2178; *Pellizzotti v UCI*, CAS 2010/A/2308 and CAS 2011/A/2335; *UCI v Valjavec & Olympic Committee of Slovenia*, CAS 2010/A/2235; *De Bonis v CONI & UCI*, CAS 2010/A/2174; *IAAF v SEGAS & Kokkinariou*, CAS 2012/A/2773; *IAAF v Çakir-Alptekin*, CAS/2014/A/3498, *IAAF v RFEA & Marta Dominguez Azpeleta*, CAS 2014/A/3561; and *IAAF v TAF and Yanit*, CAS 2013/A/3373.

²⁸⁶ WADA Partnership to Quality Report, IBU, 1-2 October 2015 [Document 156] ('While acknowledging the early adoption and experience of the IBU with blood profiling, WADA strongly recommends that IBU take that expertise and apply it in full to the ABP. In operation for six full years, the ABP has been proven to be an effective targeting tool to identify athletes of the highest risk, and it has been proven to be a legally robust tool to pursue doping violations that may be difficult to identify via traditional means. The IBU is encouraged to work with WADA, and ultimately a lab-associated APMU in order to adopt current best practice in this field and provide clean athletes with the most current anti-doping tool to protect their sport. WADA looks forward to interacting with the IBU team both at the upcoming ABP symposium in Doha and in the months ahead to see that the value of the ABP is incorporated into the IBU program, and that WADA can benefit from IBU's experience as it seeks to advance the ABP with other ADOs new to blood profiling').

²⁸⁷ Resch-Carrabre emails, 11-30.03.16 [Document 158].

²⁸⁸ Carrabre-██████████ emails, 12.15 [Document 159].

²⁸⁹ Carrabre-██████████-Resch emails, 22.10.15-23.02.16 [Document 160].

- 6.127.3 On 24 March 2016, Ms Resch responded to a report from Dr Carrabre on the different laboratories that could be suitable for appointment as the IBU's APMU by suggesting it be discussed in person at the next Medical Committee meeting.
- 6.127.4 Dr Carrabre replied on 28 March 2016: 'In this situation we are bound by the WADA code and we are currently not compliant. I feel that it is important we proceed immediately with the analysis of our outstanding atypical results by the APMU in Montreal. We can discuss this further at the MC meeting but we must not delay the APMU for this. This is especially important since in my opinion, we will have at least one positive passport case to manage. This is not about us doing internal checks it is about being WADA compliant by having an independent APMU review our atypical results. We also must discuss and clarify who will check what, when, and where internally'.
- 6.127.5 Nicole Resch forwarded Dr Carrabre's email to [REDACTED] and asked '[w]hat is your opinion?'.²⁹⁰ On 29 March 2016, [REDACTED] responded: 'I'm sure that we are doing a good program of target testing following the BP results but any way we need an external authority following the process as WADA requires because for sure we have some BP that are suspicious'.²⁹¹
- 6.127.6 Nicole Resch then emailed Dr Carrabre to say that 'we all agreed that it would be beneficial to have an external APMU expert in addition to our internal ones. Having said this, I think it is important to point out, that internal review on our blood passports is regularly conducted, so we are following the procedures as suggested by WADA. What I would not understand is, if we substitute our in house expertise completely by external experts, as the past proved that our in house experts of the Medical Committee and Assistants have profound knowledge in following up suspicious blood values any adverse findings and that we managed to track most of them down as AAF after intelligent target testing'. She also said WADA had advised her to get an APMU that was in the same time zone as the IBU's operational staff, which was her reason for not appointing the Montreal laboratory to be the IBU's APMU, as Dr Carrabre had proposed.²⁹²
- 6.127.7 Dr Carrabre responded that he agreed they needed to discuss the IBU's internal review ('We must agree to what will be shared internally in IBU and by whom as I frankly feel that I have been left out of this loop for some time. I think we have clarified this at our last meeting ... that I must be informed of all abnormal results') but emphasised again that independent external review of atypical results was not optional but a Code requirement, and a matter of urgency for the IBU because in October 2015 WADA had identified atypical ABP findings that had not been followed up, and there were also the Sochi invalids that he considered should lead to a positive ABP case (for Ustyugov).²⁹³
- 6.127.8 There was an IBU Medical Committee meeting on 30 April-1 May 2016. The minutes of that meeting state: 'The APMU was discussed in depth and different possibilities were evaluated during the meeting. It was agreed to maximize expertise by using an internal and external APMU. An external WADA certified APMU will be established for both the Steroid Passport and the Blood Passport

²⁹⁰ Resch-[REDACTED] email, 28.03.16 [Document 161].

²⁹¹ [REDACTED]-Resch email, 29.03.16 [Document 161].

²⁹² Resch-Carrabre email, 30.03.16 [Document 162].

²⁹³ Carrabre-Resch email, 31.03.16 [Document 163].

generated on IBU athletes. The purpose is for external validation/transparency and review of concerning findings from any internal IBU APMU review. Atypical Passport profiles (Blood Passport and Steroid Passport) will be evaluated first internally within the IBU internal APMU. All MC members and the 2 Medical Assistants will be provided an appropriate access format in ADAMS to fulfill this task'.²⁹⁴

- 6.128 On 8 June 2016, Alan Vernec of WADA asked for an update on who was being appointed as the IBU's APMU, emphasising that there were outstanding atypical findings that the IBU was required to follow up. In response, Nicole Resch blamed the laboratories for being slow in providing proposals to her.²⁹⁵
- 6.129 In July 2016, the IBU Executive Board agreed to Nicole Resch's proposal that the Nordic APMU be appointed to act as external APMU.²⁹⁶
- 6.130 The contract with the Nordic APMU was finally signed in September 2016, and it started the process of reviewing all of the IBU's ABP profiles in ADAMS.
- 6.131 In November 2016, the Nordic APMU sent over the ADAMS profiles of three Russian biathletes that it considered needed to be sent to the Expert Panel for review as 'likely doping', and one (non-Russian) profile that was flagged as suspicious. On 9 November 2016, Nicole Resch sent them to [REDACTED], who wrote back:²⁹⁷

Here we are! One year ago, when we decided to run this way, we knew that this time would come (sooner or later).

Honestly, a scientific mind and a pragmatic character like mine is horrified hearing words as: "likely" or "slightly". For me is yes or not! (this preamble just to share my feelings.....)

[REDACTED]; [REDACTED]; [REDACTED]. This three, based on my opinion and the large amount of data that we collected with our machine are guilty^[298] and for this reason [REDACTED] tested them many times, in any period of the season but unfortunately without success (it would have been much easier).

It will be a long and hard process but I think that we have to start somewhere. A curiosity: what happens if we do not go ahead at this moment?

Then we have some others Bp :slightly(!!!) that should be consider. We need a program because in a short time also they can be "likely" or better "positive" in an urine test!

I hope I have made clear my position ... and first of all, I hope we will have a concrete meeting in Leogang.

- 6.132 This is a remarkable email:

- 6.132.1 It is utterly disingenuous for [REDACTED] to suggest that the ABP programme characterises a profile as 'slightly' suspicious. The ABP programme does not use the term 'slightly'. When challenged on the point, [REDACTED] said in an

²⁹⁴ Minutes of IBU Medical Committee meeting, 30.04-01.05.16 [Document 157].

²⁹⁵ Vernec-Resch emails, 08.06.16 [Document 164].

²⁹⁶ Minutes of IBU Executive Board meeting 123, 03-06.07.16 [Document 165].

²⁹⁷ [REDACTED]-Resch email, 09.11.16 [Document 155].

²⁹⁸ [REDACTED] said this was just poor English, and what [REDACTED] meant was that their profiles suggested they were likely doping: [REDACTED] interview, 19.06.20 [Document 81].

interview that: 'I don't know why I would have written that then'.²⁹⁹ In response to the draft Final Report, ██████████ confirmed knowing that 'slightly' is not a term used in the ABP programme, but that the term was used by an expert called by the APMU to review the ABP, and so ██████████ used the term too ██████████

██████████ The Commission checked the APMU and expert comments relating to the three ABP profiles mentioned in the above email, but found no mention of 'slightly'.

- 6.132.2 By maintaining that it is unscientific to accuse someone of doping based not on a positive test but on abnormal changes in their blood parameters, ██████████ shows a profound lack of knowledge of the rigorous scientific principles behind the programme, which have been consistently upheld by CAS in every ABP case that has come before it (see paragraph 6.125, above).
- 6.132.3 It is very concerning that ██████████ states: 'A curiosity: what happens if we do not go ahead at this moment?' When challenged as to what they meant by that, ██████████ had no good answer, telling the Commission: 'I can't understand what I would have been asking'.³⁰⁰ Nor did ██████████ offer any explanation after being given a draft of the Final Report for comment.
- 6.132.4 Based on this advice, Nicole Resch took the position that an ABP case should only be brought if there was no chance of using the information to target test the athlete and get an adverse analytical finding, and then only if there was at least an 80% chance of success.³⁰¹
- 6.133 In the Commission's view, it would be reasonable to infer from the facts set out above that Nicole Resch ██████████ deliberately delayed in setting up a proper programme, with an APMU to review ABP profiles and an Expert Panel to determine whether any abnormal profile indicated likely doping. Commenting on the draft Final Report, ██████████ insisted that that is not correct, and that in fact ██████████ asked for an APMU 'from the beginning', but the Commission found no contemporaneous evidence of that. The Commission did not get the opportunity to ask Ms Resch for her comments on the point.

6B.9.2 The delay in progressing Ustyugov's abnormal ABP profile

- 6.134 The broader question is whether Ms Resch dragged her heels in getting the Nordic APMU on board in order to delay pursuit of any abnormal profiles involving Russian athletes, and so to avoid problems for the bid by the Russian city of Tyumen to host the 2021 IBU World Championships that was pending at the time (see Section 6B.10). Again, the Commission did not get an opportunity to question her on that point, and therefore does not know whether that was the motive or whether it was simply another example of Ms Resch wanting to control everything and not wanting to have any external scrutiny of her work.
- 6.135 In 2016, WADA re-validated the four invalidated results from the Russian men's relay team's ABP samples collected on 14 February 2014 (see paragraph 6.90), and in September 2016 the Nordic APMU flagged Mr Ustyugov's profile for review by the Expert Panel, which concluded that the profile reflected likely blood doping. When Mr Ustyugov

²⁹⁹ ██████████ interview, 19.06.19 [Document 81].

³⁰⁰ ██████████ interview, 19.06.19 [Document 81].

³⁰¹ Resch-██████████ email, 09.11.16 [Document 155].

responded to that suggestion by claiming he had a genetic trait that caused high HGB values, the Expert Panel requested that further samples be collected from him. However, Nicole Resch forwarded details of that request to the IBU Executive Board, including 1st Vice-President, Victor Maygurov,³⁰² which created the possibility that Mr Ustyugov could be warned of the planned testing, giving him an opportunity to manipulate his values if he so desired prior to the testing. While the Commission does not know if any such warning was given, in any event, the results of that further testing caused a further delay in progressing the ABP case against Mr Ustyugov, which was eventually only filed in January 2020.

- 6.136 In the Commission's view, there was no good reason for Ms Resch to share this information with the IBU Executive Board, and one possibility is that she did so on purpose to (again) help cover up Mr Ustyugov's blood testing. However, the Commission has not had the opportunity to put that to Ms Resch for comment, and therefore cannot draw any firm conclusions as to whether she may have a case to answer for the Code Article 2.9 ADRV of complicity in another's ADRV.

6B.10 The failure to comply with the IBU's commitment under the World Anti-Doping Code to do everything possible not to award the 2021 Biathlon World Championships to Russia

- 6.137 On 16 December 2014, WADA established an independent commission chaired by Richard Pound (the **Pound Commission**) to investigate the allegations made in a documentary broadcast by ARD on 3 December 2014, titled "*Top-secret doping: How Russia makes its winners*".³⁰³ The documentary alleged that there was a sophisticated and well-established system of state-sponsored doping in effect in Russian athletics. More specifically, the documentary claimed that national team coaches, doctors and officials from the Russian national athletics federation (**RusAF**) had colluded with the Russian national anti-doping agency (**RUSADA**) and Moscow laboratory staff members to provide performance-enhancing drugs to elite Russian athletes, in order to help them win success and prestige for the nation in international competitions.
- 6.138 On 9 November 2015, the Pound Commission submitted its first report, which identified a series of serious ADRVs and non-compliance not only by athletes but also by RusAF administrators and coaching staff, RUSADA, and the Russian Ministry of Sport. It recommended that RUSADA and RusAF be immediately declared non-compliant with the WADA Code.³⁰⁴
- 6.139 On 13 November 2015, the IAAF Council provisionally suspended RusAF from membership with immediate effect.³⁰⁵
- 6.140 On 18 November 2015, the WADA Foundation Board declared RUSADA non-compliant with its obligations under the World Anti-Doping Code,³⁰⁶ and the then-chair of WADA's

³⁰² Resch-IBU Executive Board email, 08.11.17 [Document 166].

³⁰³ See hajoseppelt.de/2014/12/doping-top-secret-how-russia-makes-its-winners/.

³⁰⁴ WADA Independent Commission Report #1 dated 9 November 2015 [Document 168], pp.38-40.

³⁰⁵ IAAF press release, *IAAF Provisionally Suspends Russian Member Federation*, 13 November 2015 [Document 169].

³⁰⁶ wada-ama.org/en/media/news/2015-11/foundation-board-media-release-wada-strengthens-anti-doping-worldwide [Document 170].

independent Compliance Review Committee (CRC) called on all signatories to the Code to implement 'the consequences provided for in the 2015 World Anti-Doping Code'.³⁰⁷

- 6.141 When a country's NADO was declared non-compliant with the Code, the main consequence (which had been in place since 2009) was to trigger the commitment that all international federations made at Code Article 20.11.3 '[t]o do everything possible to award World Championships only to countries where [...] the National Olympic Committee, National Paralympic Committee and National Anti-Doping Organization are in compliance with the Code'.³⁰⁸ This was very clear: in order to incentivise compliance/deter non-compliance by NADOs (and national Olympic committees and national Paralympic committees), international federations agreed that in case of non-compliance by any of those parties they would do everything possible not to award their respective world championships to the country in question. It was not an absolute obligation. For example, if there were no other bids for the event, and there was truly no time to delay the grant of hosting rights while further bids were solicited, then perhaps the event could be granted to a country with a non-compliant NADO or National Olympic Committee. But if it was possible for an international federation to award its World Championships to another country, e.g., if it had received a qualifying bid from another country, then Code Article 20.11.3 required it to do so.
- 6.142 As a member of the WADA Foundation Board since its inception in 1999, Mr Besseberg was well aware of the commitment that the IBU had made pursuant to Code Article 20.11.3, and was present at the November 2015 meeting to hear the CRC chair's call to arms.³⁰⁹ However, he did not respond by committing the IBU to stand together with other international federations in firm repudiation of RUSADA's actions. In fact, in the Commission's view, at no point did he show any interest in living up to the IBU's Code commitment. Instead, he devoted all of his efforts to trying to find a way out of that commitment, because the IBU would be putting the right to host the IBU 2021 World Championships (**IBU 2021 WCH**) out to tender in 2016, and the events that transpired showed that he very much wanted the event to go to Tyumen in Russia, where his friend [REDACTED] and where he had spent several hunting trips.
- 6.143 In January 2016, at a press conference where he announced the publication of the Pound Commission's second report into the Russian doping scandal, former WADA President Richard Pound said that he did not think that Russian doping was confined to athletics, and that certain other sports, including biathlon, should consider launching their own investigations.³¹⁰
- 6.144 According to Mr Besseberg, the issue of RUSADA non-compliance was discussed by the IBU Executive Board at its meeting in Oslo in March 2016, 'and we were waiting for some

³⁰⁷ See wada-ama.org/sites/default/files/resources/files/foundationboardminutes_18nov2015_final.pdf [Document 171].

³⁰⁸ 2009 World Anti-Doping Code, Article 20.3.10; 2015 World Anti-Doping Code, Article 20.3.11.

³⁰⁹ Unlike many other attendees at that meeting, Mr Besseberg made no statement condemning Russia. Instead his only comment was that '... the focus that day was on Russia and athletics, but WADA should not forget that there was a problem with that culture in a lot of other countries if one looked at the list of doped athletes, so WADA and the IFs should not lose focus on a lot of other nations, as they were putting so much focus on Russia and athletics. There were similar problems also in other countries, so WADA should be very careful and not think that this was only a Russian problem' [WADA minutes, Document 171].

³¹⁰ See wada-ama.org/en/media/news/2016-01/independent-commissions-press-conference-part-two-video-now-available.

clarification at that time because it could also be [that RUSADA] were made compliant again before the Congress' in September 2016 (when member federations would vote on who should host the IBU 2021 WCH).³¹¹ From the beginning, then, he plainly hoped the IBU would not have to live up to its Code commitment.

6.145 The minutes of the IBU Executive Board meeting in March 2016 state only that 'The SG is tasked to follow up on the WADA independent observer report [*sic*] that was presented to the media by R. Pound'. On 5 April 2016, Nicole Resch wrote to WADA Director-General David Howman as follows: 'Today, I contact you with reference to part two (2) of the WADA independent observer group report that was conducted to investigate track and field in Russia. Based on the constructive cooperation we have been establishing over many years, this letter aims to receive first hand information and prevent misunderstandings. In January 2016, the WADA independent observer group, led by R. Pound, informed media that Biathlon should consider its own independent investigation into doping. This announcement was made at the press conference after the presentation of the investigation into track and field in Russia was completed. Therefore the IBU would like to understand if this proposal aimed to do more WADA investigations into results for any specific event, team, if it refers to international Biathlon or if this was advice to an ADO (IBU or RUSADA (which is inactive)? Specification would be appreciated in this regard and absolutely necessary to plan a thorough follow up on IBU side, if we as an IF are addressed by this statement. In addition, can you tell us if there is any specific information or data that WADA possesses through its independent commission report that would point to doping problems within Biathlon at any point in time? Please also inform us if you do not possess such information. The IBU has zero tolerance in its fight against doping in our sport. We are ready to do provide any information needed to be fully transparent and we were of the opinion that this is what we did during the WADA audit visit in October 2015'.³¹²

6.146 The Commission finds the indignant tone of this letter very telling:

6.146.1 As noted above (see paragraph 6.15, 6.24 and 6.27), the IBU itself had caught three Russian biathletes (Iourieva, Akhatova, and Yaroshenko) using rEPO in December 2008, and then had caught Iourieva (again), Starykh, and Loginov using rEPO in November/December 2013 (although results management was not completed for the Loginov case till June 2015).

6.146.2 The IBU Anti-Doping Rules allowed the IBU Executive Board to fine a member federation up to €100,000 if two or more athletes committed ADRVs in any 12-month period, and the IBU Executive Committee invoked that rule to fine the RBU €50,000 in November 2010³¹³ and €100,000 in 6 November 2015,³¹⁴ i.e., just a week before the IAAF suspended its Russian national member federation for involvement in doping its athletes.

6.146.3 Therefore, one would expect that the IBU Executive Board would be keenly interested in the Pound Commission's findings, and in determining whether the RBU was simply failing to prevent its biathletes doping, or rather whether it was more actively involved than that. Under Mr Besseberg's leadership, however, it showed no such interest.

³¹¹ IBU press conference, 08.02.17, see: [youtube.com/watch?v=Ef4WY3QM-I#action=share](https://www.youtube.com/watch?v=Ef4WY3QM-I#action=share).

³¹² Resch-Howman letter, 05.04.16 [Document 167].

³¹³ Minutes of IBU Executive Board meeting, 12-13.11.10 [Document 172].

³¹⁴ Minutes of IBU Executive Board meeting, 06.11.15 [Document 173].

- 6.147 On 5 April 2016, WADA President Craig Reddie wrote to Mr Besseberg, asking if the IBU was going to conduct an investigation into possible doping in biathlon in Russia, and also asking if the IBU had increased its testing of Russian biathletes as a result of the Pound report.³¹⁵ The Commission understands that Mr Besseberg never responded to that letter, thereby again revealing his lack of real interest in the fight against doping.
- 6.148 On 27 April 2016, the IBU sent out invitations to member federations to apply to host the IBU 2020 WCH and/or the IBU 2021 WCH. The deadline for receipt of bids was 3 June 2016.
- 6.149 On 12 May 2016, the New York Times published an article setting out a detailed description by Dr Grigory Rodchenkov, the former director of the Moscow anti-doping laboratory, of how the Russian Ministry of Sport had 'actively guided' a doping programme designed to deliver Olympic medals for Russia at Sochi: 'Dozens of Russian athletes at the 2014 Winter Olympics in Sochi, including at least 15 medal winners, were part of a state-run doping program, meticulously planned for years to ensure dominance at the Games, according to the director of the country's antidoping laboratory at the time'.³¹⁶
- 6.150 At the WADA Foundation Board meeting that took place the same day, Mr Besseberg complained about the 'headache' that the Code Art 20.11.3 obligation created for international federations who wanted to grant their World Championships to Russia:³¹⁷
- MR BESSEBERG said that many IFs had a big problem in relation to the Code and the non-compliance of Russia, because Russia was hosting many major international events, and he knew that Russia would apply to host the world biathlon championships at the IF congress in September. The member federations would grant the event. The same situation applied in relation to big international events: the sports acted as the rights-holders and organisers at the top giving the rights. That was a headache, and there had already been many international events given to Russia before it had been declared non-compliant, as far as he could see. According to the Code, the IFs should do everything possible only to give big events to those in compliance with the Code. He sought clarification from WADA as to what to do. It was not only his federation. Many other IFs had large international events in Russia. The country was applying to host a major event that was five years away, but the decision would be taken in September.
- 6.151 Mr Besseberg was not given any leeway in response to his plea. Instead WADA President Sir Craig Reddie noted that it was unlikely that the Compliance Review Committee would be recommending reinstatement of RUSADA 'at any early date'. Nor did Mr Besseberg ever follow up on his request to WADA for 'clarification'. He did not have to: he knew very well that the IBU was required to do everything possible not to award the IBU 2021 WCH to Russia.
- 6.152 At the IBU Executive Board meeting on 20 May 2016, in Going, Austria, there was a detailed discussion about whether the IBU should allow the RBU to bid to host the IBU 2021 WCH. However, there is no mention in the minutes of the meeting of the IBU's obligations under the Code. ██████████ recollection was that 'the opinion was that until any final decisions had been made as to who was involved and who was responsible, the

³¹⁵ Reddie-Besseberg letter, 05.04.16 [Document 174].

³¹⁶ *Russian Insider Says State-Run Doping Fueled Olympic Gold*, The New York Times, 12 May 2016 [Document 175].

³¹⁷ See wada-ama.org/en/resources/governance/foundation-board-meeting-minutes [Document 176].

bids should be accepted',³¹⁸ but that obviously does not match the IBU's commitment under the Code (which is to take action if the national anti-doping organisation is non-compliant, irrespective of whether the national federation is implicated). Mr Lehotan recalls only that there was a discussion of a concern raised by Nicole Resch that the RBU might sue if it was not allowed to bid.³¹⁹

6.153 On 14 June 2016, the IBU announced that it had received bids for the IBU 2021 WCH from the Russian, Czech, German, Italian, and Slovenian national biathlon federations. The Italian federation also bid for the IBU 2020 WCH and when it won that event at the Congress it dropped its bid for 2021. The German bid was also dropped, but the Czech Biathlon Union maintained its bid (for Nové Město), and so did the Slovenian federation (for Pokljuka). Both were strong bids that met all of the IBU's requirements. Again, Mr Besseberg sought no guidance from WADA as to how to proceed. Again, however, he did not need to: Code Article 20.11.3 was clear that the IBU had to do everything possible not to award the IBU 2021 WCH to Russia/Tyumen.

6.154 On 18 July 2016, Professor Richard McLaren (who had been appointed by WADA to investigate Dr Rodchenkov's allegations) published his first report, confirming that he had found evidence that proved 'beyond reasonable doubt' that there had been a state-sponsored conspiracy to cover up doping in thirty different sports, including biathlon.³²⁰ His key findings were summarised on the first page of the report as follows:

1. The Moscow Laboratory operated, for the protection of doped Russian athletes, within a State-dictated failsafe system, described in the report as the Disappearing Positive Methodology.
2. The Sochi Laboratory operated a unique sample swapping methodology to enable doped Russian athletes to compete at the Games.
3. The Ministry of Sport directed, controlled and oversaw the manipulation of athlete's analytical results or sample swapping, with the active participation and assistance of the FSB, CSP, and both Moscow and Sochi Laboratories.

6.155 In response:

6.155.1 WADA extended Professor McLaren's mandate, asking him to identify any athlete that might have benefited from those alleged manipulations to conceal positive doping tests.³²¹

6.155.2 On 19 July 2016, the IOC set up the two disciplinary commissions referenced above (see paragraph 6.5.2), the first (the Schmid Commission) to investigate the allegation of a state-sponsored scheme to dope Russian athletes and protect them from exposure, and the second (the Oswald Commission) to determine whether any of the Russian team at the Sochi Games had committed ADRVs.

6.155.3 On the same day, the IOC announced that it 'will not organise or give patronage to any sports event or meeting in Russia', and called on all international federations 'to freeze their preparations for major events in Russia, such as

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319 Lehotan interview, 12/14.08.20 [Document 58].

320 See wada-ama.org/sites/default/files/resources/files/20160718_ip_report_newfinal.pdf [Document 5].

321 See wada-ama.org/en/media/news/2016-07/wada-acknowledges-ioc-decision-on-russia-stands-by-agencys-executive-committee [Document 178].

World Championships, World Cups or other major international competitions under their responsibility, and to actively look for alternative organisers'.³²² In other words, the IOC wanted international federations not to grant any major events to Russia for the time being (not just their World Championships).

- 6.156 On 22 July 2016, WADA's Olivier Niggli sent Nicole Resch a list of ten biathletes that Professor McLaren had identified in the course of his investigation as being potentially implicated in the conspiracy. He recommended that any samples still available for those athletes be re-analysed, and emphasised it was for the IBU to review the information and take the necessary decisions in accordance with its own rules and regulations. The list enclosed with Mr Niggli's letter (which is reproduced at paragraph 6.192, below) mentioned five (non-national team) Russian biathletes whose positive samples had been 'quarantined' (i.e., allowed to be processed normally) and who had been sanctioned, and five whose positive samples (for metelonone/oxandrolone/trenbolone, tuaminoheptane, [unknown], amphetamine, and phthalates, respectively) had been 'saved' (i.e., reported negative in ADAMS). Nicole Resch replied the next day, advising that the IBU would follow up 'where possible and as suggested'. She forwarded the letter and list to Anders Besseberg and Jim Carrabre for discussion at the next IBU Executive Board meeting, which was six weeks later, on 1 September 2016, in Chişinău, just before the 2016 Congress. So this was no longer an abstract concept; a direct and specific link had been drawn between the alleged scheme and Russian biathletes. However, IBU Executive Board member Max Cobb recalls that Nicole Resch told the IBU Executive Board that the list included only athletes banned by RUSADA (showing that it was actually doing a good job) or substances that were not banned out of competition (tuominoheptane), or 'no name' athletes, and she and Mr Besseberg therefore said it provided no basis to exclude Tyumen from bidding for the 2021 IBU WCH.³²³ If so, such comments would be (at best) misleading.
- 6.157 On 27 July 2016, the RBU wrote to Nicole Resch seeking confirmation that the IBU was not planning to move the 2017 IBU Junior World Championships from Ostrov, Russia. Ms Resch said there would be a meeting with the IOC in Rio the following week to determine what would happen to events that had already been allocated to specific countries.
- 6.158 On 5 August 2016, Mr Besseberg attended an AIOWF meeting in Rio. WADA Director-General Olivier Niggli and Chief Operating Officer Frédéric Donzé attended the meeting as observers. Neither Mr Besseberg nor any other attendee asked them about the Code Article 20.11.3 obligation on international federations to do everything possible not to award their World Championships to Russia. Instead, Mr Besseberg asked the IOC Sport Director, Kit McConnell, for clarification of the IOC's request to international federations 'to freeze their preparations for major events in Russia'.³²⁴ The minutes of the meeting (circulated the following day) state: 'Kit McConnell, IOC Sports Director clarified the IOC's recommendation to Winter Sports Federations to freeze the preparations for major events in Russia. It is not the intention of the IOC that the IFs cancel existing events that are on confirmed calendars or already official candidates. He stated that this would be confirmed by the IOC in writing as well at the earliest convenience'.³²⁵ Frédéric Donzé did

³²² See olympic.org/news/statement-of-the-executive-board-of-the-international-olympic-committee-on-the-wada-independent-person-report, 19 July 2016 [Document 179].

³²³ Cobb email, 20.09.20 [Document 180].

³²⁴ Resch-Niggli letter, 14.09.16 [Document 181].

³²⁵ AIOWF minutes, 05.08.16 [Document 182].

not recall Mr McConnell's comments going that far,³²⁶ and as far as the Commission is aware, the IOC never did confirm it in writing.³²⁷ Furthermore, Mr McConnell was speaking for the IOC, and did not and could not speak for WADA, yet neither Mr Besseberg nor anyone else invited Mr Niggli or Mr Donzé to comment, let alone to confirm whether that was also WADA's position in respect of Code Art 20.11.3. Nor did either of them say anything to suggest that it was, which is unsurprising since Code Art 20.11.3 is clear that an international federation must do everything possible not to accept a bid to host its World Championships that is received from a country whose NADO is non-compliant.

- 6.159 Nevertheless, Mr Besseberg told the criminal investigators that he took it from the failure of the WADA representatives at the meeting to object to what Mr McConnell had said that they took the same view.³²⁸ But if Mr Besseberg wanted to take from the meeting that WADA was not sticking to the position set out in the Code, then the Commission would have expected him, as a WADA Foundation Board member, to make sure he got a clear statement to that effect from WADA's representatives at the meeting. In the Commission's view, to argue in such circumstances that silence means acquiescence is simply untenable.
- 6.160 Nevertheless, without seeking any assurance from WADA, or obtaining any legal advice on the point, for example from the IBU Legal Committee,³²⁹ at the next IBU Executive Board meeting, in Chişinău, Moldova, on 1 September 2016, Mr Besseberg emphasised that the RBU had not been declared non-compliant, only RUSADA. He said no country could have orchestrated a conspiracy on the scale described by Professor McLaren and therefore the McLaren report was not relevant.³³⁰ He produced the minutes of the AIOWF meeting in Rio. He claimed that by not saying anything, the WADA representatives at that meeting had effectively confirmed Mr McConnell's remarks. He therefore concluded that 'running procedures are not affected by Art 20.3.11 of the Code', and so the Tyumen bid should not be removed but instead should be allowed to proceed and be considered by Congress delegates.³³¹ Ivor Lehotan told the Commission that this was what tipped the balance for him and others on the IBU Executive Board that the Tyumen bid should be allowed to proceed.³³²
- 6.161 The 2016 IBU Congress started on 2 September 2016. A delegate queried from the floor whether the RBU should be permitted to bid for the IBU 2021 WCH, given RUSADA's non-compliant status, and in response Mr Besseberg repeated to delegates what he had told the IBU Executive Board, i.e., that the IOC and WADA representatives had effectively confirmed that pending bids were not affected, and said therefore the IBU Executive Board had decided that Tyumen was a valid bid. He even put the extract from the AIOWF minutes up on the big screen for delegates to see. He did not mention that Mr McConnell was speaking for the IOC, not for WADA, or that the Code still required the IBU '[t]o do

³²⁶ Donzé email, 05.09.2016 [Document 183]. Olivier Niggli could not remember the detail of the meeting, but does recall that WADA would not have got into a discussion about what the IOC meant by its announcement. Instead, it would only have responded to questions about the Code Article 20.11.3 obligation, and he does not recall any such questions: Niggli interview, 25.06.20 [Document 184].

³²⁷ [REDACTED]

³²⁸ Besseberg statement to criminal authorities, 31.07.19 [Document 53].

³²⁹ Riess interview, 15.04.19 [Document 186].

³³⁰ Carrabre police interview, 15/16.02.20 [Document 91].

³³¹ Resch-Niggli letter, 14.09.16 [Document 181].

³³² Lehotan interview, 12/14.08.20 [Document 58].

everything possible to award World Championships only to countries where [...] the National Anti-Doping Organization [is] in compliance with the Code'. However, his comments ended the discussion on the point; the Tyumen bid was allowed to stand.

6.162 Mr Besseberg told the criminal investigators that he did not lobby delegates at the 2016 Congress to vote for Tyumen,³³³ but several IBU Executive Board members confirmed that Mr Besseberg told them personally that he wanted the IBU 2021 WCH to go to Tyumen, and that they saw him lobbying delegates at the Congress to cast their votes for Tyumen.³³⁴ He also gave a very warm speech at a dinner hosted by the Tyumen bid team at the Congress. Although it is arguable that ultimately he did not overstep the mark in that speech, he was undoubtedly a powerful man at the IBU Congress, President since its foundation in 1993 and in control of the distribution of IBU funds to member federations. The Commission therefore does not doubt that Mr Besseberg's support for Tyumen would have been very influential among delegates. As noted below (see Section 6B.11), the Commission has not been able to corroborate allegations that the Tyumen bid team bribed delegates for their votes. What is clear, however, is that Tyumen won in the first round of voting, gaining 25 of the 49 votes cast, which was exactly the minimum of votes required, and a remarkable result when set against the enormous controversy surrounding Russian sport at that time, and the fact that there were two other strong and non-controversial bids for delegates to choose.

6.163 When it was announced at the end of the Congress that the IBU had granted the hosting rights to the 2021 IBU WCH to Tyumen, WADA Director-General Olivier Niggli immediately wrote to IBU Secretary General Nicole Resch as follows:³³⁵

Article 20.3.11 of the Code states that it is the International Federations' responsibility to "do everything possible to award World Championships only to countries where the government has ratified, accepted, approved or acceded to the UNESCO Convention and the National Olympic Committee, National Paralympic Committee and National Anti-Doping Organization are in compliance with the Code".

Since we understand that two other cities (Nové Město na Moravě in the Czech Republic and Pokljuka in Slovenia) had also presented a bid in relation to the 2021 IBU World Championships, we kindly ask you to clarify whether and how IBU did "everything possible" not to award its 2021 World Championships to the Russian city of Tyumen in light of the above-mentioned Code provision.

6.164 Max Cobb (who had just been elected onto the IBU Executive Board to replace Mr Taschler) told the Commission that Nicole Resch informed him at the time about the letter from WADA. He says he asked her what the IBU had done to meet its Code obligation, and she told him it had done nothing, and that she was very scared that WADA would declare the IBU non-compliant and its athletes would be excluded from the Olympic Games. She told him she was very shocked and disappointed at the Congress vote.³³⁶ Similarly, Ms Resch told the criminal investigators: 'I didn't understand why he [Mr Besseberg] was claiming that he did everything he could to prevent the World Championship from going

³³³ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

³³⁴ Carrabre, Lehotan, Bøygard.

³³⁵ Niggli-Resch letter, 06.09.16 [Document 187].

³³⁶ Cobb interview, 09.11.18 [Document 188].

to Tyumen, where he should actually have simply pointed out that the RUSADA is no longer Code compliant. That's what he should have done'.³³⁷

- 6.165 Nevertheless Nicole Resch responded to Mr Niggli on 14 September 2016, noting that Mr Besseberg had told the IBU Executive Board that Kit McConnell had said in Rio that Tyumen's bid did not have to be rejected.³³⁸ Mr Niggli wrote back on 21 September, reiterating his request that the IBU 'kindly explain how IBU did "everything possible" not to award its 2021 World Championships to Tyumen, bearing in mind that two other cities had also presented a bid in relation to the 2021 IBU World Championships'.³³⁹
- 6.166 Ms Resch forwarded that letter on the same day to [REDACTED], together with her letter to WADA from 14 September and the AWOIF minutes. She said in the cover email: 'With a request for your diplomatic advice. I think we should wait for the Commission's reply and not reply to this letter from today. Anders has been informed'. [REDACTED] replied: 'Dear Nicole, in my opinion this is actually an imposition. I don't know if you should leave it like that ...'.³⁴⁰ [REDACTED] explained at interview that he thought the IBU had already answered WADA's question and should simply refer WADA back to that answer.
- 6.167 When WADA's Chief Compliance Manager, Emiliano Simonelli, sent Ms Resch a chaser letter on 11 October 2016, she responded that she had nothing to add to her 14 September letter, and asked what else WADA wanted. On 17 October 2016, Mr Simonelli repeated that WADA wanted her 'to kindly explain how, under the relevant provisions of the Code, your federation did "everything possible" not to award its 2021 World Championships to Tyumen, bearing in mind that two other cities had also presented a bid in relation to the 2021 IBU World Championships'.³⁴¹ He gave the IBU a deadline of 14 January 2017 to provide a satisfactory response, or else the matter would be referred to WADA's Compliance Review Committee.
- 6.168 At the WADA Foundation Board meeting in Glasgow on 20 November 2016, Mr Besseberg asked:³⁴²

Was it correct, if a NADO was not compliant, that it [the NADO's country] could not organise major events? In practice, WADA would not be giving a sanction to the nation involved but giving sanctions to all the national sport federations of that country. Was that fair, given that they had not been doing anything wrong? He felt it was more of a threat, in that, for a country to be compliant, WADA would punish all the NFs. Was that really fair?

- 6.169 Once again Mr Besseberg found no sympathisers at the WADA Foundation Board. The Commission is not surprised. It finds it remarkable that a founder member of the WADA Foundation Board would try to argue in this way that international federations should not have to comply with Code Article 20.11.3. Putting aside the fact that the NADO is responsible for trying to ensure that the national federations' athletes are not doping,³⁴³

³³⁷ Resch police interview, 10-11.04.18 [Document 55].

³³⁸ Resch-Niggli letter, 14.09.16 [Document 181].

³³⁹ Niggli-Resch letter, 21.09.16 (emphasis in original) [Document 189].

³⁴⁰ Resch-[REDACTED] emails, 21-22.09.16 [Document 190].

³⁴¹ Simonelli-Resch email, 17.10.16 (emphasis in original) [Document 191].

³⁴² WADA Foundation Board minutes, 20.11.16 (https://www.wada-ama.org/sites/default/files/resources/files/foundation_board_minutes_-_20_nov_2016.pdf).

³⁴³ As former WADA President Richard Pound pointed out in response to Mr Besseberg's comments: 'To deal with the point raised by Mr Besseberg, a national ADO assumed responsibility for the entire country and, therefore, if the entire country was not compliant through its NADO, that should also affect all

and the (at best, remarkably credulous) assumption that the Russian national sports federations were 'not doing anything wrong', Mr Besseberg knew well that this commitment by international federations was important to signal to the governments and national sports bodies of all countries that they faced meaningful consequences if they failed to ensure their NADOs and National Olympic Committees complied with their Code obligations. Mr Besseberg also knew that if international federations did not live up to that commitment, Code Article 20.11.3 would lose its deterrent effect.

- 6.170 On 7 December 2016, the IOC Executive Board extended until further notice its own separate request to all international federations 'to freeze their preparations for major events in Russia, such as World Championships, World Cups or other major international competitions under their responsibility, and to actively look for alternative organisers';³⁴⁴ and on 9 December 2016, Professor McLaren published his second report,³⁴⁵ which confirmed the findings of a systemic doping and cover-up conspiracy set out in his first report, and included evidence packages potentially incriminating 31 Russian biathletes (see paragraph 6.291, below). As noted below, the IBU Executive Board set up a working group to consider that evidence (see paragraph 6.198).
- 6.171 On 20 December 2016, the Czech Biathlon Union (CBU) wrote to the IBU Executive Board, stating that 'The fact that our Union is still actively cooperating with a state which is directly and on such vast scale involved with organizing doping practices is a laugh in the face ... of all members of the biathlon family who respect the rules & ethics', and calling on the IBU Executive Board to remove 'all international competitions from Russia until AD-standards in the country are officially approved and recognised by the WADA again'.³⁴⁶
- 6.172 On 5 January 2017, the CBU wrote to the IBU Executive Board again, reiterating the original request, and specifically asking the IBU Executive Board to take the IBU 2021 WCH away from Tyumen, 'which simply resulted from a bid which should never have been allowed by the IBU'. The CBU complained about Mr Besseberg's 'active and open support for the Russian bid at the Candidate's dinner'. The CBU also demanded that the IBU 'takes a much stricter approach towards doping in general so that it becomes really demotivating for all to cheat', including changing its rules to include greater financial and other sanctions for member federations with a number of doping cases.³⁴⁷
- 6.173 On 9 January 2017, Mr Simonelli of WADA wrote to Ms Resch to confirm that in the absence of a satisfactory explanation of how the IBU had done everything possible to award the IBU 2021 WCH to a country other than Russia, WADA would refer the matter to the Compliance Review Committee, and if the Compliance Review Committee concluded that the IBU had failed to comply with Code Art 20.11.3, it would likely recommend that the Foundation Board declare the IBU non-compliant at its meeting in May 2017.
- 6.174 On 11 January 2017, Biathlon Canada wrote to the IBU, requesting the removal of the 2021 WCH from Russia. Other federations and biathletes followed suit.

of the domestic sport organisations in that country' (see minutes: wada-ama.org/sites/default/files/resources/files/foundation_board_minutes_-_20_nov_2016.pdf).

³⁴⁴ IOC statement, 19.07.16, olympic.org/news/statement-of-the-executive-board-of-the-international-olympic-committee-on-the-wada-independent-person-report.

³⁴⁵ See wada-ama.org/sites/default/files/resources/files/mclaren_report_part_ii_2.pdf.

³⁴⁶ Czech Biathlon Union letter, 20.12.16 [Document 192].

³⁴⁷ Czech Biathlon Union letter, 05.01.17 [Document 193].

- 6.175 On 13 January 2017, Ms Resch spoke on the phone with Mr Simonelli to discuss how the IBU could get out of the position it was in. She suggested that the IBU Executive Committee could simply resolve that the issue of Tyumen hosting the 2021 IBU WCH would have to be considered again by the next IBU Congress, in September 2018, but Mr Simonelli said he expected the Compliance Review Committee would not be satisfied with this, and would expect a decision from the IBU Executive Board to pull the event from Russia with immediate effect. She said she would discuss this further internally.³⁴⁸
- 6.176 The IBU Executive Board did not discuss the issue further at its meeting on 21 January 2017 because it was dealing with the McLaren report (see paragraph 6.214, below). After the meeting, members of the Executive Board met with athletes and coaches for a lengthy session that went on long into the night, with the athletes and coaches demanding stricter sanctions for doping offenders as well as their respective federations. The athletes threatened a boycott, there were suggestions there could be a motion to censure Mr Besseberg, and the only way the IBU Executive Board managed to avoid that was by announcing the next day that they would hold an Extraordinary Congress in February 2017 (during the 2017 Biathlon World Championships in Hochfilzen) to adopt new strengthened anti-doping rules.³⁴⁹
- 6.177 On 23 January 2017, Nicole Resch wrote to WADA to advise that the IBU Executive Board had decided to call an Extraordinary Congress for 8 February 2017 to discuss the award of the IBU 2021 WCH to Tyumen. The same day, she also wrote to Dr Riess, the chair of the IBU Legal Committee, stating: '[WCH 2021 Tyumen/WADA Code compliance. WADA informed the IBU that with the election of a Russian host during non-compliance period of RUSADA, IBU risks to be non-compliant and therefore has to withdraw the WCH. My question is, for re-election of the WCH 2021 host, would it be necessary to hold new bidding procedures or would the election take place between the two remaining candidates NMNM/CZE and POK/SLO?](#)'³⁵⁰ The Commission notes that Ms Resch did not ask the IBU Legal Committee in that letter for its view on whether WADA was right that it was a breach of the IBU's obligations under the Code to award the IBU 2021 WCH to Russia (presumably because she knew that it was obvious from the wording of Code Article 20.11.3 that it was a breach to do so when there were other qualifying bids to host the event from countries whose NADOs had not been declared non-compliant).
- 6.178 In a conference call on 24 January 2017, Ms Resch advised the IBU Executive Board of her conversation with Mr Simonelli on 13 January, and recommended that the point be added to the agenda for the Extraordinary Congress on 8 February 2017, in order to avoid the IBU being declared non-compliant with the World Anti-Doping Code, which could lead to exclusion from the Olympic Games.³⁵¹
- 6.179 At her request, WADA then sent the IBU a letter summarising the file and confirming that the IBU faced a possible declaration of non-compliance if it did not take back the 2021 IBU WCH from Tyumen.³⁵² She claimed to the criminal investigators that she was in favour of the event being taken back from Tyumen, and therefore worked hard to point out the

³⁴⁸ Simonelli-Resch call note, 13.01.17 [Document 194].

³⁴⁹ IBU press release, 22.01.17 [Document 195]; Resch-Netzle email, 23.01.17 [Document 196].

³⁵⁰ Resch-Riess email, 23.01.17 [Document 197].

³⁵¹ Draft agenda of Extraordinary Congress, 25.01.17 [Document 198].

³⁵² WADA letter, 26.01.17 [Document 199]; Resch-Niggli email, 27.02.17 [Document 200]; WADA revised letter, 30.01.17 [Document 201].

consequences of not taking that action, and the documents in the file appear to bear this out.³⁵³

- 6.180 Still Mr Besseberg did not give up the fight, however. On 1 February 2017, he called WADA Director-General Olivier Niggli to ask whether, if the decision on hosting of the IBU 2021 WCH was deferred to the 2018 IBU Congress, and RUSADA had been reinstated by the time that Congress took place, Russia could then be granted the right to host the event. Mr Niggli confirmed that in those circumstances it would not be a breach of the Code to accept a Russian bid.³⁵⁴
- 6.181 The IBU Executive Board met again on 8 February 2017 in Hochfilzen. Nicole Resch told the criminal investigators that she told the Board that in her view the 2021 IBU WCH should be taken back from Tyumen, and pointed out the potential consequences if this did not happen.³⁵⁵ The minutes of the meeting reflect that Mr Besseberg '[informed the EB members of his communication with WADA regarding IBU Code compliance](#)'. The Executive Board noted WADA's position that it was a breach of the Code for the IBU to award the IBU 2021 WCH to Russia when RUSADA was non-compliant, and decided to invite the RBU to return the IBU WCH 2021, or else the Executive Board would annul the award. However, rather than ask the Extraordinary Congress to award the event to one of the other bidders (Czech Republic or Slovenia), the IBU Executive Board followed Mr Besseberg's suggestion that the new host of the IBU WCH 2021 should be elected at the next IBU Congress, to be held in September 2018³⁵⁶ (by which time, Mr Besseberg apparently hoped, RUSADA would have been reinstated and therefore Tyumen could bid again to host the event).
- 6.182 The IBU Extraordinary Congress later that day on 8 February 2017 ratified that decision. At a press conference after the Congress, Mr Besseberg acknowledged: '[maybe it's a breach with the WADA Code that the Congress gave these world championships to Tyumen Russia and the risk is we could be declared non-compliant with the WADA Code and this would not be a good situation for the sport of biathlon for more reasons](#)'.³⁵⁷ What is noticeable is that he was no longer attempting to justify himself based on Kit McConnell's comments at the AIOWF meeting in Rio.
- 6.183 The RBU declined to give back the IBU 2021 WCH voluntarily, and so the IBU Executive Board annulled the award of the event to Tyumen, citing Code Art 20.11.3.³⁵⁸
- 6.184 Still Mr Besseberg did not let the matter go. At the May 2017 WADA Foundation Board meeting, Mr Besseberg repeated his objection that Code Article 20.11.3 punished '[innocent](#)' national federations for the sins of their NADO:

[MR BESSEBERG advised that WADA \[should\] amend one special article that clarified the situation of National Federations \(NFs\) if their NADOs or NOCs as signatories were not compliant, because it was known all too often that an NF normally had no influence on the](#)

³⁵³ Resch statement to criminal authorities, 15.04.19 [Document 70].

³⁵⁴ Niggli email to Besseberg, 01.02.17 [Document 202] ('[You asked me the following question: "In the hypothesis of IBU organizing a new bid for the 2021 World Championships next year at the IBU Congress, would Russia be able to bid again if by then RUSADA would be compliant?" The answer to your question is that if Russia is compliant again at the time of the decision of allocating the World Championships, they are indeed entitled to be awarded the hosting of such event](#)').

³⁵⁵ Resch statement to criminal authorities, 15.04.19 [Document 70].

³⁵⁶ Minutes of IBU Executive Board, 08.02.17 [Document 203].

³⁵⁷ See [youtube.com/watch?v=Ef4WY3QM-I#action=share](https://www.youtube.com/watch?v=Ef4WY3QM-I#action=share).

³⁵⁸ Resch letter to Niggli, 27.02.17 [Document 204].

mistakes made by the NOC or the NADO. The IFs had rules and regulations whereby a national member federation would have consequences if those were not followed, but there was a gap. There were the athletes and the signatories, but the gap as he saw it was the NFs in between, and the question had been raised by many in relation to the McLaren report and the discussions related to Rio.

6.185 There is then an important post-script to this episode:

6.185.1 On 27 July 2017, Mr Besseberg wrote a reply to the correspondence received in December 2016 and January 2017 from the Czech Biathlon Union, including its letter of 5 January 2017, which had asserted that the award of the IBU 2021 WCH to Russia 'resulted from a bid which should never have been allowed by the IBU'. In relation to this, Mr Besseberg wrote: 'The Legal Committee had your letter of January 5 on the agenda of their meeting on May 10 in accordance with the EB decisions. The Legal Committee has informed the EB that [...] the EB followed all the procedures in the correct manner in compliance with the IBU Rules and the WADA Code'.³⁵⁹

6.185.2 The Commission was surprised when it read this, since the IBU Legal Committee members at its 10 May meeting were two experienced lawyers, Dr Günther Riess (chair) and Dr Franz Steinle, who would have readily seen that the IBU had not met its Code obligation to do everything possible not to award the IBU 2021 WCH to Russia. The Commission therefore asked them both about this point, and they both confirmed that they were the only two Legal Committee members present at that meeting, that Nicole Resch and Dr Leistner also attended, and so did Mr Besseberg for the part of the meeting that concerned him (although the minutes of the meeting taken by Ms Resch do not mention that).³⁶⁰ They both also confirmed that the only point they discussed at that meeting in relation to the CBU's letter was the allegation that Mr Besseberg had breached the Code of Ethics by endorsing the Tyumen bid in his speech at the candidate dinner at the 2016 Congress. They both confirmed they were not asked to discuss and therefore did not discuss whether the IBU had complied with its obligations under the World Anti-Doping Code in relation to the Tyumen bid. Nor did they draft the letter from Mr Besseberg to the CBU dated 27 July 2017, or the original version of that letter that was circulated with the minutes of the 10 May meeting.³⁶¹

6.185.3 Therefore, it appears that Mr Besseberg lied to the CBU in his letter of 27 July 2017 when he said the IBU Legal Committee had advised him that the Executive Board had followed all the procedures required by the World Anti-Doping Code.³⁶²

6.186 Once again, then, Mr Besseberg exhibited a clear commitment to favouring Russian interests, and a lack of any interest in (let alone outrage, or even concern, about) the scope of the Russian betrayal of clean sport.

³⁵⁹ Besseberg-Czech Biathlon Union letter, 27.07.17 [Document 205].

³⁶⁰ IBU Legal Committee minutes [Document 206]. Dr Leistner told the Commission he attended only as an observer and did not participate in the discussions: Leistner interview, 03.07.20 [Document 133].

³⁶¹ Riess interview, 13.08.20 [Document 207]; Steinle interview, 17.08.20 [Document 208].

³⁶² On 9 September 2018, the IBU Congress awarded the IBU 2021 WCH to Pokljuka, Slovenia (the only bidder then).

- 6.187 Based on this conduct, the Commission considers that Mr Besseberg has a case to answer for:
- 6.187.1 breach of his obligations under Article 3.3 of the IBU Disciplinary Rules:
 - 6.187.1.1 not to endanger the interests of the IBU (by risking a declaration of non-compliance with the World Anti-Doping Code); and
 - 6.187.1.2 not to commit offences against the IBU or persons affiliated with its members (by stating falsely to the president of a member federation that he had received legal advice that his actions complied with the World Anti-Doping Code); and
 - 6.187.2 breach of his obligations under the IBU Code of Ethics:
 - 6.187.2.1 to avoid actions that might damage the reputation of the IBU and/or the sport of biathlon; and
 - 6.187.2.2 to behave and act with complete credibility and integrity.
- 6.188 It appears from the record that it may have been Ms Resch who wrote the original version of the 27 July 2017 letter, i.e., the version that was circulated with the minutes of the 10 May meeting, which included the inaccurate statement that the IBU Legal Committee had advised that the IBU Executive Board had followed all the procedures required by the World Anti-Doping Code. The Commission did not get the opportunity to ask Ms Resch whether she did so. If she did write that draft, knowing that it contained a false statement, she also would have a case to answer for breach of several of the same obligations.

6B.11 Was the vote at the 2016 IBU Congress to award the 2021 IBU WCH to Tyumen corrupted by bribery?

- 6.189 The WADA I&I investigation report stated that there were reasonable grounds to suspect that at the 2016 IBU Congress members of the Russian delegation offered and potentially paid unknown IBU Congress members between €25,000 and €100,000 each to vote in support of their bid to host the 2021 World Championships in Tyumen.³⁶³
- 6.190 The Commission identified the following information:

- 6.190.1 [REDACTED] told him at the 2016 Congress itself that he saw and overheard two Congress delegates holding 'fat' envelopes full of money and discussing how they had received them from the Russians. Asked by the Commission, [REDACTED] denied saying this [REDACTED]. He confirmed that he attended the 2016 Congress [REDACTED]
- [REDACTED] in my opinion, this delegate should have been in the Congress Hall instead of at the Russian stand. I saw the delegate come out from the stand with an envelope but I can

³⁶³ WADA I&I report [Document 1].

not say for sure what was inside the envelope'.³⁶⁴ [REDACTED]

- 6.190.2 In addition, [REDACTED]
[REDACTED]
[REDACTED]³⁶⁶
- 6.190.3 On 4 January 2017, at a meeting in Oberhof, Nicole Resch told the athletes: 'At Congress your national federations voted for Italy and Russia – the two countries with the worst doping problems. This was a very black day for me'. When asked by [REDACTED] if she had any indication that there was corruption in the voting process and if they could make the voting transparent, Nicole Resch replied: 'They want secret voting. I was so frustrated after this vote because I thought “what am I doing all this work for?”'³⁶⁷
- 6.190.4 On 21 January 2017, Anders Besseberg and Nicole Resch met with athletes and coaches, after the athletes' outcry for stronger anti-doping rules.³⁶⁸ At this meeting, [REDACTED] referred to Nicole Resch's statement of 4 January insinuating that there was corruption in the Congress voting process, and asked what the IBU was doing to promote transparent voting. In reply, Mr Besseberg confirmed that 'there was corruption in the voting process, and that they think some delegates were being promised money or training camps in exchange for their votes, but no one has officially come forward'.³⁶⁹
- 6.190.5 In her interview with the police, however, Nicole Resch said that she had not personally had any concerns at the Congress itself, but only heard a rumour about vote buying afterwards.³⁷⁰ Similarly, Mr Besseberg told the investigating authorities that he had heard the rumours only months later, but without precise information.³⁷¹
- 6.191 The Commission regrets that it was not able to question Mr Besseberg and Ms Resch on their statements, to develop further evidence on this issue. At this stage, however, the allegation remains unproven.

6B.12 Did the IBU follow up properly on the second McLaren report?

- 6.192 As noted above (see paragraph 6.5.1), in July 2016 Professor McLaren issued his first report, saying that he had been able to corroborate 'beyond reasonable doubt' Dr Rodchenkov's allegations of an institutional conspiracy to cover up doping by Russian

³⁶⁴ [REDACTED] email, 10.08.20 [Document 209]

³⁶⁵ [REDACTED]

³⁶⁶ [REDACTED]

³⁶⁷ Minutes of athletes' meeting, 04.01.17 [Document 153].

³⁶⁸ On 13 January 2017, the IBU athletes submitted a petition to the IBU (signed by over 200 athletes and coaches from 29 countries) requesting stronger anti-doping rules and 'swift and decisive action from the IBU in defense of clean sport, the World Anti-Doping Agency (WADA) Code, and the ethical standards outlined in the IBU Constitution and Rules': see Document 213.

³⁶⁹ See note written by [REDACTED] [Document 213].

³⁷⁰ Resch police interview, 10-11.04.18 [Document 55].

³⁷¹ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

athletes. The report included a specific assertion that Russian biathletes may have benefited from the conspiracy by having adverse analytical findings from the Moscow laboratory covered up. And on 22 July 2016 WADA Director-General Olivier Niggli had sent over the following list of potentially affected samples:

BIATHLON - POSITIVE TEST RESULTS

Indicated/ Sample Date	Sample No	Indication of Steroid	Name of Competitor	Save/ Quarantine
28-09-2014		phthalates		S
28-09-2014		isomer of amphetamine		S
31-07-2014		methandienone, T/E		Q
07-03-2014				S
06-04-2014		trimetazidine		Q
21-12-2013		tuaminoheptane		S
19-12-2013		methenolone, oxandrolone, trenbolone		S
01-09-2013		furosemide		Q
14-12-2012		methylhexaneamine		Q
06-03-2012		Karenon		Q

This report details athletes and or samples connected to your Federation where the IP is holding specific intelligence that the person and/or sample involved was a positive screening test that has been reported as a negative or in some cases simply disappeared from the system.

Note: This document is

1. Litigation Privileged.
2. Absence from the list means we had no further information at the time, it does not automatically clear an unnamed athlete.

6.193 In response, Nicole Resch noted that the RBU had banned five of the biathletes on the list

[REDACTED]. She provided details of test results for [REDACTED], and confirmed that [REDACTED] were being put into the IBU's Registered Testing Pool. She noted that the samples listed had all been collected by RUSADA and therefore RUSADA not the IBU should be responsible for managing the results of analysis of those samples.³⁷²

6.194 On 2 September 2016, WADA Legal Director Julien Sieveking advised in response that because RUSADA remained non-compliant, the IBU should take over results management authority for these cases. He also noted that in the absence of a B sample to confirm the presence of the mentioned prohibited substance(s) in the sample, the charge would have to be 'Use' (Code Art 2.2), and that ['this would require obtaining evidence that establishes that the athlete knew that they were "saved."](#) As mentioned above, we would recommend

³⁷² Resch-Niggli email, 26.07.16 [Document 214].

waiting for the second part of the McLaren Report in case further evidence comes forward with respect to any cases that would fall under the IBU's jurisdiction'.³⁷³

- 6.195 On 29 September 2016, Nicole Resch wrote back to Mr Sieveking, again insisting that 'the result management authority for these cases is not with the IBU as the tests were not done under IBU authority'.³⁷⁴ This is obviously a disappointing response (at best) by an international federation to evidence that international athletes from one of its major countries may have been doping.
- 6.196 On 7 October 2016, WADA Director-General Olivier Niggli wrote again to all of the international federations whose sports had been mentioned in the first McLaren report, saying that Professor McLaren was ready to provide the names of individual athletes from their sports who appeared to be beneficiaries of disappearing positives and/or sample swapping. Mr Niggli asked if the international federations wanted the names at that stage, noting: [REDACTED] at the end of Professor McLaren's investigation, when you receive the underlying evidence, your IF will have to decide for each athlete if the evidence is sufficient to support the assertion of an anti-doping rule violation. However, at this stage, the names provided may enable you to conduct target testing and pay particular attention to the relevant athletes, especially if they are already part of an ongoing investigation being conducted by your IF'.³⁷⁵
- 6.197 On 9 December 2016, Professor McLaren published his second report, which confirmed the findings in the first report of a conspiracy to cover up doping by Russian athletes.³⁷⁶ He said he had identified 695 athletes that had potentially been implicated in the conspiracy, including 95 athletes from winter sports. The Evidence Documentation Packages (EDPs) that were provided to the IBU along with the report identified 31 individual Russian biathletes who were potentially implicated in the scheme, three of them because samples collected from them at the Sochi Games had scratches and marks inside the bottle cap, suggesting possible sample swapping [REDACTED], and the other 28 because they were subjected to mass testing prior to the Sochi Games, marked 'pre-departure save', and reported negative in ADAMS, and/or because they had samples that had tested positive on screening but reported negative in ADAMS. The athletes were:

Pre-departure save and reported negative in ADAMS: [REDACTED]

SAVE and reported negative in ADAMS: [REDACTED]

Positive screening but reported negative in ADAMS: [REDACTED].

- 6.198 On 10 December 2016, Nicole Resch advised the IBU Executive Board that she proposed to set up a working group chaired by the IBU's external legal advisor, Dr Stephan Netzle (a well-known sports lawyer and former CAS arbitrator who also acted for the FIS and the

³⁷³ Sieveking-Resch email, 02.09.16 [Document 215].

³⁷⁴ Resch-Sieveking letter, 28.09.16 [Document 216].

³⁷⁵ Niggli letter, 07.10.16 [Document 217].

³⁷⁶ McLaren Report 2, 09.12.16 [Document 6].

IBSF) to analyse the evidence and recommend any follow-up actions. The IBU Executive Board accepted Ms Resch's recommendation. She and Jim Carrabre also went onto the working group, together with [REDACTED], a lawyer who had previously worked with Dr Netzele.

6.199 It appears from the evidentiary record and from their subsequent comments and conduct that people had very different views of and approaches to the McLaren report:

6.199.1 IBU Executive Board members Max Cobb and Jim Carrabre were appalled at the nature and scale of the conspiracy exposed by Professor McLaren, and felt that the IBU needed to react urgently and decisively in order to assure stakeholders of its commitment to vindicate the rights of clean athletes by bringing any cheats to justice. They committed significant time and effort to going through and analysing all of the evidence as it emerged, and (where they thought the evidence supported it) pushed hard for the IBU to charge athletes with ADRVs and to suspend them from competition pending determination of the charges (if they were not already retired).

6.199.2 IBU President Anders Besseberg took a very different approach. While he privately confirmed that he believed there had been a conspiracy between the Russian Ministry of Sport and the Moscow laboratory, and that a lot of athletes must have known what was going on (see paragraph 6.287.4, below), in public he stated that the McLaren report was 'not worth the paper it is written on', because it was based on one source (Dr Rodchenkov) who was not credible. He said there had to be proof that the RBU knew about the conspiracy and that individual athletes knew about the conspiracy before they could be held liable, and without adverse analytical findings there was no sufficient proof.³⁷⁷ Mr Besseberg told Jim Carrabre that he 'couldn't imagine that Russia had such a complicated system in place'.³⁷⁸ He told Nicole Resch that Dr Rodchenkov 'should be sued, as the allegations [in the McLaren Report] are not supported by evidence',³⁷⁹ a suggestion that Ms Resch subsequently passed on to her Russian contacts (see paragraph 6.240, below). Mr Besseberg acknowledged to the criminal investigators that he had been critical of the McLaren report. He explained that was because he felt that there was no concrete evidence in it of the systematic doping that it alleged had happened. 'He has therefore said that

³⁷⁷ See e.g. [REDACTED] interview, 18.03.19 [Document 136] ('I guess we were in Nove Mesto in the World Cup, and [Anders Besseberg] was explaining me that this report is nothing and there is nothing you can find in it, that he was reading everything, and this is something from a person that it's just have no idea what he's talking about, and that there's absolutely no proof, and the only proof is the positive doping test, and we don't have any. So we have to deal with them the same that when somebody will come up with the proof, and he was always telling me, "This Mr McLaren should put on my table the proof and then everything will be okay." So he was finding everything what's written in this report completely untrue. Even that there was other guys from the board trying to explain him that it's not actually true that we could find from the numbers, and knowing a lot of people in Russia that there are quite a lot of connections there, even if they are blacked out from the reports that we were getting, this is still good enough to understand who was who. ... I would say that he was very protective about everything what was written in McLaren report. That's for sure. At least this is my opinion. Because for me, we talked in Nove Mesto, in Czech Republic, when this was coming out because he gives me the file that I printed out for him, and then after spending a night reading this and he comes to me and said, 'Yeah, really this is complete nonsense and this is nothing.' But anyway when this come out, the report, the first moment was shock for him definitely, but then he was reacting like, "No, no, no. But here now, I read everything, but this is nothing. This has no value at all"').

³⁷⁸ Carrabre interview, 20.01.19 [Document 86].

³⁷⁹ Resch police interview, 10-11.04.18 [Document 55].

he hopes that the report is worth more than the paper on which it was written'.³⁸⁰ He emphasised repeatedly that in his view someone should only be charged with doping if their sample tested positive for a prohibited substance.³⁸¹

- 6.199.3 IBU Board Member ██████████ told the Commission he had not heard Mr Besseberg say that the McLaren report was not worth the paper it was written on. He said that Mr Besseberg 'was shocked and was kind of depressed that biathlon was one of main focus of this report', and said 'there are many things mentioned that has to be clarified [as to] what is really reliable evidence and what is a "maybe"'. ██████████ clearly shared that view, saying in response to Ms Resch's email in December 2016 about setting up the Working Group: 'I support the proposal, however, if I remember correctly what was said about Part I, I really hope one can examine and identify precisely what is an assumption and what is reliable evidence'.³⁸² ██████████ told the Commission that he personally did not read either of the McLaren reports, but he thought what he had expressed was a commonly held view.³⁸³ He could not recall the IBU Executive Board taking a hard look at whether the RBU had been complicit in the scheme; and his approach was always that athletes could only be sanctioned if it could be shown that they had been personally aware of and involved in the scheme.³⁸⁴
- 6.199.4 Nicole Resch believed there had been a conspiracy involving the Ministry and the laboratory and perhaps the Russian Olympic Committee (for the Sochi Olympic Games), but also insisted that there had to be clear proof (not just an assumption) that the RBU and the athletes had known about the conspiracy (see paragraph 6.244).
- 6.199.5 Dr Netzle recalls that the IBU, like the other winter federations, disliked the approach that the IAAF and the IPC had taken in 2016 (banning the entire Russian team from their respective events) and that WADA had recommended the IOC to take as well. They preferred instead to follow IOC President Bach's line that that was improper 'collective punishment'. They did not want to rely on Dr Rodchenkov's testimony, insisting instead that there had to be objective evidence of individual culpability before they would act.³⁸⁵ He told the Commission:

There were two factions on the Board, and one faction was promoting a more aggressive stance against the Russians. And the other group was rather, let's say, reluctant or they said, "As long as we don't have specific evidence, we should not go the way of collective punishment." You know, you may remember that was the time when also Thomas Bach came out and said, "Well, slow down. We don't want to have collective punishment." [...] I saw that many federations followed that

³⁸⁰ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

³⁸¹ See e.g. ██████████ interview, 18.03.19 [Document 136] ('I guess we were in Nove Mesto in the World Cup, and [Anders Besseberg] was explaining me that this report is nothing and there is nothing you can find in it, that he was reading everything, and this is something from a person that it's just have no idea what he's talking about, and that there's absolutely no proof, and the only proof is the positive doping test, and we don't have any'). See footnote 356.

³⁸² ██████████-Resch email, 12.12.16 [Document 218].

³⁸³ ██████████

³⁸⁴ ██████████

³⁸⁵ Netzle interview, 29.06.20 [Document 219].

line. ... [REDACTED] ... also Besseberg tended to ... he said that we need specific evidence on individuals and we should not throw the whole federation and the whole country into the, into that pot. That was his position.³⁸⁶

- 6.199.6 For his part, Dr Netzle was clear that there had been a conspiracy, as described in the McLaren reports, and he considered it hard to believe that the RBU had not been complicit in it, even if there was no direct evidence of that. He also thought ('as a matter of common sense') that the athletes could not have been doped without knowing about it, but he was clear that legally a case could only be brought against an individual athlete if there was sufficient evidence that the athlete acted knowingly.³⁸⁷ His preference was to consider whether there was a sufficient basis to suspend the RBU, thereby excluding it and its athletes from international events, and then (following the IAAF approach) allow individual Russian athletes to compete if they could show they were not tainted by the conspiracy.³⁸⁸
- 6.200 The fault lines between these various approaches emerged quickly when the IBU Working Group began its work:
- 6.200.1 On 12 December 2016, Jim Carrabre emailed the IBU Executive Board to support Ms Resch's proposal to set up the Working Group, but stressed the importance of acting quickly to determine whether there was a sufficient basis to provisionally suspend any implicated athlete who was due to compete in any IBU World Cup or IBU Cup event.³⁸⁹
- 6.200.2 Nicole Resch reacted by asking Dr Netzle if it was the IBU's responsibility to provisionally suspend the implicated athletes, and expressed 'great reservations' as to whether the evidence provided by Professor McLaren provided 'the necessary conviction of the IBU of a violation of the rules'.³⁹⁰ She then forwarded a copy of that email to Mr Besseberg and [REDACTED], and the latter quickly replied: 'these are all correct and good questions that really need to be asked, also with regard to the general legal situation'.³⁹¹
- 6.200.3 Dr Netzle responded that they should provisionally suspend the three athletes against whom the IOC was going to proceed based on scratches and marks on their Sochi sample bottles, but agreed that the other 28 should not be provisionally suspended pending further investigation, in particular into the meaning of the 'pre-departure save' entries made for the 26 biathletes who were tested *en masse* in the lead-up to the Sochi Games.³⁹²
- 6.201 This was agreed by the Working Group in its first meeting, on 15 December 2016,³⁹³ and also by the IBU Executive Board at the extraordinary meeting that it held on 22 December

³⁸⁶ Netzle interview, 29.06.20 [Document 219].

³⁸⁷ Netzle interview, 29.06.20 [Document 219].

³⁸⁸ For example, on 14 December 2016 Dr Netzle told Ms Resch he was also 'interested in whether and how measures should be taken against the Russian Biathlon Association based on the findings from the McLaren Report II', Netzle-Resch email, 14.12.16 [Document 220].

³⁸⁹ Carrabre-Executive Board email, 12.12.16 [Document 221].

³⁹⁰ Resch-Netzle email, 16.12.16 [Document 222].

³⁹¹ [REDACTED]-Resch email, 16.12.16 [Document 223].

³⁹² Netzle-Resch email, 17.12.16 [Document 224].

³⁹³ Netzle memorandum, 20.12.16 [Document 225].

2016³⁹⁴ (the same day that the Oswald Commission opened disciplinary proceedings against a number of Russian athletes from the Sochi Games). Following that meeting, the IBU sent letters to the biathletes involved, and to the RBU, inviting them to provide any explanation or relevant information they may have in relation to the issues raised by Professor McLaren.³⁹⁵

- 6.202 The IBU press release announcing these decisions referred to the 'alarming findings' of the second McLaren report. It also stated:³⁹⁶

Today, the RBU informed the IBU that the Youth and Junior World Championships 2017 that was originally assigned to Ostrov and the BMW IBU World Cup 8 in 2017 that was assigned to Tyumen are given back to the IBU. This is a first important step by the Russian Biathlon Union to show to the IBU and to the world of sport that the current situation is taken very seriously. This will now allow the international biathlon family to focus on biathlon during these events.^[397]

Findings of the McLaren Report indicated severe problems in Russian sport and it's Anti – Doping control system. IBU takes all available information very seriously; it is now on us to find out in detail the scale of the problem in Russian Biathlon.

The IBU has always demonstrated zero-tolerance towards doping at all levels by extending the two year ban on a former IBU official, Gottlieb Taschler to all IBU competitions until 12th June 2018. The fight against doping is not an easy one but one of our top priorities. It is important in order to ensure the future of our sport and maintain the trust of our teams, athletes, member federations, partners and fans.

All athletes deserve that we avoid having any shadow on their performance and that they can compete without any doubts and can completely concentrate on their sport activities.

Nevertheless suspicion is not enough to implement the sanctions and we will keep going down a professional pathway, considering all opinions, but not acting on suspicion only. Correctness of Rules has to work both ways – for the guilty and for the non-guilty.

- 6.203 In the Russian media, Alexander Tikhonov welcomed the fact that no biathletes had been disqualified, saying: 'Besseberg? Yes, he showed that he is our man'.³⁹⁸

- 6.204 The next day, IBU Executive Board member Max Cobb emailed Dr Netzle to point out that in some cases the McLaren EDPs showed that there was more than just a 'pre-departure save'. In particular, he pointed out that the sample collected from one athlete on 19 December 2013 in Izhevsk was shown as testing positive for methenolone, oxandrolone, and trenbolone, and that Rodchenkov had responded by saying 'it is necessary to hide her immediately', presumably from the IBU World Cups in January 2014. Max Cobb also noted that another athlete's sample, collected in Sochi, had an 'over the limit salt concentration'. Echoing what Jim Carrabre had said, Max Cobb's view was that it was vital to pull together all of the evidence on individual cases (including talking

³⁹⁴ Minutes of IBU Executive Board meeting, 22.12.16 [Document 226]. On the same day, FIS provisionally suspended six skiers implicated in the doping conspiracy by the McLaren report. Dr Netzle acted for the FIS in those proceedings. *Legkov v FIS*, CAS 2017/A/4968, paragraph 18.

³⁹⁵ Notification letter, 22.12.16 [Document 227].

³⁹⁶ IBU press release, 22.12.16 [Document 228].

³⁹⁷ Dr Netzle told the Commission that Mr Besseberg had taken Mr Maygurov out of the Executive Board meeting room to discuss this issue with him and to persuade him to give back these two events: Netzle interview, 29.06.20 [Document 219].

³⁹⁸ *Alexander Tikhonov: Besseberg showed that he is our man*, 22 December 2016, olympetka.ru/sport/biathlon/news/3611.html.

to Dr Rodchenkov) as a matter of urgency, prioritising athletes who were still competing.³⁹⁹

- 6.205 Dr Netzle replied to say he was glad he could count on Max Cobb's 'valuable inputs'. He said: 'My suspicion is that there was indeed a doping programme in Biathlon and the pre-departure tests were part of it, namely to see whether the substances could still be discovered'.⁴⁰⁰
- 6.206 On 6 January 2017, Max Cobb emailed Dr Netzle again, expressing concern that the credibility of the IBU depended on prompt and clear reaction. He said he thought that the RBU should be suspended (with a mechanism for clean athletes to compete) and/or that at least one athlete should be provisionally suspended, being the one where there was a save order for a sample that tested positive for methenolone, oxandrolone, and trenbolone, and then an email exchange suggesting that the athlete needed to be pulled from competition in order to avoid testing positive.⁴⁰¹
- 6.207 Dr Netzle responded that he agreed the 'clearest solution' would be to suspend the RBU and only allow Russian biathletes who could show they were clean to compete, but said he did not think there was 'sufficient evidence of the involvement of the RBU in the scandal' to warrant its suspension. Max Cobb replied by noting that RBU athletes accounted for ten of the fifteen total AAFs from IBU testing in the period 2008 to 2014, the invalid ABP samples from Sochi, the potential further ABP cases against Russian athletes identified by the Nordic APMU, the three Russian biathletes implicated in sample-swapping at the Sochi Games, and the athlete pulled from competition in December 2013 to avoid testing positive (whom he had by now been able to identify as Ekaterina Glazyrina), which he considered suggested 'that there was communication with the RBU team'.⁴⁰²
- 6.208 On a Working Group call on 12 January 2017, Dr Netzle agreed that 'there is an extraordinary number of athletes of the RBU who have been and still are subject to doping investigations and sanctions. It is difficult to accept that the RBU was not aware of all these cases. In any event, it would be in the own interest of the RBU to find out what happened and why there seems to be a huge doping problem in Russian biathlon. In addition, RBU is well positioned to carry out further investigations'. He flagged the possibility of provisionally suspending the RBU (with a mechanism to allow 'clean athletes' to compete) on the basis that it had violated its anti-doping obligations as a member federation, but noted this was risky, since there was 'no direct evidence that the RBU has violated (eg by tolerating doping practices) its anti-doping obligations'. He said an alternative would be to open a formal investigation against the RBU (which 'is not difficult to justify, considering the number of ADRV and investigations related to RBU athletes') and require it to produce a proper compliance plan for the future, with the threat of a provisional suspension if the plan was not satisfactory.⁴⁰³

[REDACTED] All he said about the other cases (involving apparent disappearing positives) was that the samples, if still available, should be re-analysed. He did not address whether Glazyrina should be provisionally

³⁹⁹ Cobb-Netzle email, 23.12.16 [Document 229].

⁴⁰⁰ Netzle-Cobb email, 26.12.16 [Document 230].

⁴⁰¹ Cobb-Netzle email, 06.01.17 [Document 231].

⁴⁰² Cobb-Netzle emails, 08.01.17 [Document 232].

⁴⁰³ Netzle memorandum, 12.01.17 [Document 233].

suspended.⁴⁰⁴ In his interview with the Commission (more than three years later), he could not recall why not.⁴⁰⁵

6.209 On 10 January 2017, Nicole Resch suggested to the IBU Executive Board members that they should hold another extraordinary meeting to consider next steps. Messrs Cobb and Lehotan agreed, but [REDACTED]

[REDACTED].⁴⁰⁶ When a meeting was nevertheless called for 21 January 2017, with the RBU to be called to attend to answer questions, [REDACTED]

6.210 On 16 January 2017, the RBU sent back answers to the Working Group's questions from the athletes concerned. Dr Netzle and [REDACTED] deemed the RBU's own reply to be unsatisfactory, not addressing the questions asked, but they noted the answers from the athletes showed that RBU officials (coach and/or team doctors) were present during the mass testing and that one mass test (of the RBU junior team) was conducted at a building in Moscow that also housed the Russian Ministry of Sport.⁴⁰⁸

6.211 The next day, Jim Carrabre said that Glazyrina's samples (including a sample collected from her by the IOC at the Games on 15 February 2014) should be re-tested for steroids, and that Zaitseva should be provisionally suspended (because her name was on the Duchess list (see paragraph 6.4.7, above) and because one of her samples had excessive salt in it, indicating it had been tampered with.⁴⁰⁹ In response, Nicole Resch said that most of what Dr Carrabre was suggesting was for the IOC or WADA to do, whereas 'I propose to focus on IBU relevant circumstances as first priority'. She noted that she had queried with WADA whether the IBU had results management authority in relation to samples collected by RUSADA, but did not mention WADA's response that the IBU should take over results management for these cases because RUSADA had been declared non-compliant.⁴¹⁰ At this stage, therefore, it appears she was still looking for excuses for the IBU not to take matters forward itself. She subsequently appears to have accepted that the IBU should step up and take these cases forward even though it had not ordered the samples to be collected, although it is not clear from the file when or why she dropped her initial opposition on this point.

6.212 In a conference call on 18 January 2017, Dr Netzle's advice to the Working Group was the same as it had been on 12 January, [REDACTED]

that further questions should be asked of the RBU, and it could be required to submit a detailed report on all of the individual cases as well as a full compliance plan for the future, and it could be provisionally suspended if it did not cooperate properly, with its athletes only able to participate in events if they could show 'they had not been part of the

404 Netzle memorandum, 12.01.17 [Document 233].

405 Netzle interview, 29.06.20 [Document 219].

406 [REDACTED]

407 [REDACTED]

408 [REDACTED] report, 16.01.17 [Document 236].

409 Carrabre-Working Group email, 17.01.17 [Document 237].

410 Resch-Working Group email, 18.01.17 [Document 238].

system'.⁴¹¹ For her part, Ms Resch noted her understanding from media reports that 'Mr. Velikhodny, the email correspondent of Mr. Rodshenko [in December 2013 in relation to Glazyrina's positive test for the Duchess cocktail of steroids], was working in the same office as Kravtsov, the present President of RBU Kravtsov. Media say he was his deputy'.⁴¹²

6.213 On 20 January 2017, Dr Netzle sent Ms Resch a draft resolution for consideration by the IBU Executive Board, which required the RBU to provide the investigation report and the compliance plan he had proposed, and warned that the RBU would be suspended if it failed to comply.⁴¹³

6.214 At the extraordinary IBU Executive Board meeting on 21 January 2017 in Antholz:

6.214.1 Max Cobb made a presentation of the evidence included in the EDPs provided to the IBU along with the McLaren report. He flagged in particular the evidence against Glazyrina.⁴¹⁴ His presentation is not mentioned in the minutes of the meeting.

6.214.2

6.214.3 Mr Kravtsov (RBU President) and [REDACTED] attended the meeting in person, and Dr Netzle asked them about the cases identified by Professor McLaren, in particular the 'pre-departure saves'. They denied any knowledge of any conspiracy. There is no record of Ms Resch asking Mr Kravtsov about his colleague Mr Velikhodny.

6.214.4 IBU Executive Board member Ivor Lehotan told the Commission that no one at the meeting was satisfied with Mr Kravtsov's answers. Dr Netzle noted to Ms Resch after the meeting that Mr Kravtsov's answers 'were really disappointing and anything but cooperative', and that the information he provided 'was anything but inspiring confidence', and Ms Resch agreed (see paragraph 6.215, below).

6.214.5

⁴¹¹ Netzle memorandum, 18.01.17 [Document 239].

⁴¹² Resch-Netzle/WG email, 18.01.17 [Document 240].

⁴¹³ Netzle-Resch memo, 20.01.17 [Document 241].

⁴¹⁴ Cobb PowerPoint [Document 242]; Cobb-Resch/Netzle email, 23.01.17 [Document 243].

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██████████⁴¹⁷ However, ██████████ agreed in his interview with the Commission that the IBU Executive Board thought the RBU's explanation was not sufficient, and said that is why it decided that an investigation should be opened into whether the RBU was involved in the conspiracy.⁴¹⁸

- 6.214.6 The IBU Executive Board resolved that the Working Group should continue to investigate the seven athletes for whom there was evidence of disappearing positives (██████████), but that 'there is no sufficient evidence for the other athletes for the time being'.⁴²⁰ It also decided to open a formal investigation of the RBU, giving it a deadline to provide information on the seven individual cases under investigation (but it did not require the RBU to produce the compliance report suggested by Dr Netzle, and nor did it threaten provisional suspension in the event that the RBU failed to cooperate).
- 6.215 After the meeting, Dr Netzle noted to Ms Resch that 'the focus is now on the RBU', and said (again) that if the lack of cooperation continued, provisional suspension of the RBU may be necessary (with a mechanism for clean Russian biathletes to compete in a neutral capacity).⁴²¹ Ms Resch said she agreed, and that the RBU's possible exclusion should be considered at the Extraordinary Congress that the IBU Executive Board had called for 8 February 2017 in response to calls from biathletes for stronger anti-doping rules (see paragraph 6.190.4).⁴²²
- 6.216 On 23 January 2017, however, Ms Resch told Max Cobb that 'the President does not think it [i.e., suspension of the RBU] is a good time and too hasty to discuss it'. For her part, she remained of the view that Congress should decide on the RBU's fate, not the Executive Board.⁴²³ On 24 January 2017, Dr Netzle sent Ms Resch a draft investigation letter to be sent to the RBU. He said: 'I must leave it to you and the President to decide how "strictly" you want to sanction the consequences of lack of or poor cooperation. Personally, however, I think that the IBU should be firm and uncompromising towards the member association. There is nothing to lose but a lot to win!' The Commission notes that this was

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420 IBU press release, 21.01.17 [Document 245]. Dr Netzle said afterwards this should not have been said, because the cases were still being investigated: Netzle-Resch email, 23.01.17 [Document 246].

421 Netzle-Resch email, 22.01.17 [Document 247].

422 Resch-Netzle email, 23.01.17 [Document 248].

423 Resch-Cobb email, 23.01.17 [Document 249].

a forceful opinion. Ms Resch responded that it was for the IBU Executive Board to decide what to do, not her and Mr Besseberg.⁴²⁴

- 6.217 The RBU responded to the IBU's investigation letter on 5 February 2017, enclosing testing histories, doping control forms, and ADAMS test reports for the seven athletes identified, and denying any knowledge about 'the alleged save orders', or that there was 'valid proof of the existence of these orders'. It noted that a sample collected on 19 September 2013 that the IBU had attributed to Zaitseva actually belonged to Glazyrina.⁴²⁵
- 6.218 Dr Netzle's assessment was that 'this is not cooperation'.⁴²⁶ He noted that 'they only did the minimum and some information is still missing (e.g. certain DCFs, or the information on sample 2870746 from Glazyrina). Finally, some answers are simply not satisfactory (e.g. that the WADC does not require the labs to provide any documentation packages on negative tests), since such information certainly exists at the lab and can be retrieved there. Finally, we still have no satisfactory explanation of the "multiple testing" (which led to the finding of 'pre-departure save, reported negative in ADAMS'). While this does not violate the rules, it still looks kind of suspicious. [...] Do the information gaps justify a sanction against the RBU? [REDACTED] I suggest to postpone an answer until Wednesday when [REDACTED] and I will meet in Zurich to finalize our written report to the Working Group and then the EB'.⁴²⁷
- 6.219 Dr Netzle reported by telephone to the IBU Executive Board meeting on 8 February 2017 (the day before the start of the 2017 IBU World Championship). He said that [REDACTED]. He did not mention again his previous suggestion that the RBU should be required to produce a plan for compliance with its anti-doping obligations moving forward.⁴²⁸
- 6.220 At the meeting, Dr Netzle was also asked many questions about individual athletes, which he sought to address in a subsequent email. He noted that four of the seven athletes being actively investigated were the subject of a 'save' instruction, but he thought Zaitseva should be the priority, because her name was on the Duchess List for the Sochi Games and she had won a silver medal there (he apparently had overlooked the RBU's comment that the sample in question actually belonged to Glazyrina, not Zaitseva). He also insisted that provisional suspensions could not be imposed on individual athletes unless there was evidence that the athlete 'knew or must have known of the manipulations', and at that time there was only 'circumstantial evidence and assumptions'.⁴²⁹ Max Cobb raised the evidence relating to Glazyrina again, and noted that the CAS Ad Hoc Division had accepted in the *Balandin* case in Rio that a 'save' order and indications of a prohibited substance were enough to justify excluding the athlete from the Rio Games.⁴³⁰ After the meeting, Dr Netzle emailed Mr Cobb to say that having re-read the CAS decision and reviewed the data relating to Glazyrina, he could 'see the similarities'. He said: 'I agree that we could consider

⁴²⁴ Netzle-Resch emails, 24.01.17 [Document 250].

⁴²⁵ RBU letter, 05.02.17 [Document 251].

⁴²⁶ Netzle interview, 29.06.20 [Document 219].

⁴²⁷ Netzle-Resch email, 06.02.17 [Document 252].

⁴²⁸ Netzle-Resch email, 08.02.17 [Document 253].

⁴²⁹ Netzle-Cobb email, 09.02.17 [Document 254].

⁴³⁰ *Balandin v FISA & IOC*, CAS OG 16/012.

suspending Glazyrina by referring to the RBU answers which do not at all explain the inconsistent lab findings and the save order', and noted that [REDACTED] were 'probably comparable situations'.⁴³¹ In response, Max Cobb suggested that those four athletes should also be provisionally suspended,⁴³² but Dr Netzle did not agree. [REDACTED]

6.221 Shortly afterwards (within an hour), Dr Netzle recommended to Ms Resch that Glazyrina be provisionally suspended, but suggested they not look at the other athletes yet: 'It also makes sense that we concentrate on a single athlete for once and only turn to the others afterwards'.⁴³⁴ At interview, Dr Netzle could not recall why the other cases were not pursued as well at that time, other than because Glazyrina was most urgent (she was entered for the 2017 IBU World Championship, which was about to start). He was very clear, however, that he was not given any instructions to delay the other four cases. He thought perhaps the idea was to try Glazyrina as something of a test case before bringing any others.⁴³⁵

6.222 At the IBU Executive Board's meeting in Hochfilzen on 8 February 2017:

6.222.1 Jim Carrabre presented the evidence against Glazyrina and argued she should be provisionally suspended immediately (so that she did not compete in the IBU World Championships that had just started).

6.222.2 Anders Besseberg told the criminal investigators in 2018 that he 'asked what you could call critical questions, at least some questions to assure myself about it. Now I'm not a medical expert, so I have to be able to listen to an expert. And we unanimously decided in the Board to suspend this athlete. And now I can say the name because there's a temporary ban, Glazyrina. Because I personally was very unsure whether it was more than 50% safe, and the case couldn't possibly have been so very clear'.⁴³⁶

6.222.3 The IBU press release after the meeting stated: 'After having collected additional information and documentation, the working group concluded that an optional provisional suspension was to be implemented since several samples from the

⁴³¹ Netzle-Cobb email, 09.02.17 [Document 255]. [REDACTED]

[REDACTED] (see paragraph 6.23, above).

⁴³² Cobb-Netzle email, 09.02.17 [Document 256].

⁴³³ Netzle interview, 29.06.20 [Document 219].

⁴³⁴ Netzle-Resch email, 09.02.17 [Document 257].

⁴³⁵ Netzle interview, 29.06.20 [Document 219]. Chernysov was charged and provisionally suspended in August 2018; [REDACTED]. Due to lack of sufficient evidence, [REDACTED] has not been charged with any ADRV.

⁴³⁶ Besseberg police interview, 10-11.04.18 [Document 45]. He also said: 'But the case was not as clear as we thought at the time on the basis of Carrabre's advice, because for the time being there is no judgment in the proceedings. And that means that this athlete of course lost both a world championship and once the Olympic Games, to which she might not have been invited anyway, we don't know, because it's the IOC that was inviting. And an additional 15 World Cups. And if you say that there are on average 3 races in each of them, then there are 45 World Cup races from which she was excluded'. Mr Besseberg was right that the case still had not been decided by that point, but the decision was issued just a couple of days later, the charge was upheld, and Glazyrina was banned for two years (see paragraph 6.23, above).

athlete may have contained prohibited substances and the doping controls conducted by RUSADA may have been tampered with, without limitation by manipulation of sample(s)'.⁴³⁷

6.223 After Glazyrina's suspension, and after the IBU Extraordinary Congress on 8 February 2017 voted to give the Executive Board the power to strengthen the sanctions against national federations in the IBU's anti-doping rules for season 2017/18, and endorsed the IBU Executive Board's decision to take the 2021 WCH back from Tyumen (see paragraph 6.182, above), the pace of the Working Group's work appears to have eased off. The other cases were not actively investigated,⁴³⁸ and progress on the Glazyrina case was slow, with the case file only being referred to the IBU Anti-Doping Hearing Panel on 29 June 2017. However, the Commission has not found any evidence that the delays were deliberate or malign. In particular, Dr Netzle was busy at this time fighting several cases for FIS against Russian skiers implicated by the McLaren report.

6.224 On 27 April 2017, Nicole Resch suggested to Dr Netzle that the Working Group should now end its work, on the basis that the Glazyrina case would be pursued and the IBU would await the outcome of that case, as well as the results of the Oswald Commission's investigation into Romanova, Vilukhina, and Zaitseva. Dr Netzle agreed.⁴³⁹ In a status report to the IBU Executive Board on 10 May 2017, he noted that

[REDACTED]

[REDACTED] He said that the Glazyrina case would proceed, and noted that there was re-testing being conducted in two other cases, [REDACTED]

[REDACTED]⁴⁴⁰ On 29 June 2017 the IBU filed a status report with WADA to the same effect, which WADA subsequently accepted,⁴⁴¹ and on 1 July 2017 the IBU Executive Board agreed that the Working Group should suspend its work pending decisions in the IOC proceedings.

6.225 In conclusion of this section of its report, the Commission notes the following:

6.225.1 As Dr Netzle told the Commission in interview, whatever may or may not be provable in court, common sense tells you that the RBU must at least have known of, and more likely been actively complicit in, the doping of the biathletes on its men's and women's national teams. And it is (to put it mildly) very difficult to believe that all of the biathletes identified in Section 6A.4 of this report were doped with rEPO and multiple anabolic steroids without their knowledge.

6.225.2 Therefore, one would expect those who genuinely care about clean sport to have been at the very least extremely concerned when Professor McLaren announced that he had investigated Dr Rodchenkov's allegations of a state-sponsored doping conspiracy in Russia, corrupting the Sochi Olympic Games, and found them to be corroborated by objective evidence and to be true 'beyond reasonable doubt'. One would certainly expect that of the President [REDACTED]

⁴³⁷ IBU press release, 10.02.17 [Document 258].

⁴³⁸ Netzle-Carrabre email, 22.03.17 [Document 259].

⁴³⁹ Resch-Netzle emails, 27-28.04.17 [Document 260].

⁴⁴⁰ Netzle status report, 10.05.17 [Document 261].

⁴⁴¹ Sieveking-Resch letter, 23.08.17 [Document 262].

█ of an international federation governing an Olympic winter sport allegedly victimised by that corruption. Whatever they might think of Dr Rodchenkov, they would presumably not expect Professor McLaren, a highly experienced CAS arbitrator, to put his reputation on the line with such an emphatic judgment if he did not have very good reasons to do so. As a result, one would expect them to take the allegations extremely seriously, and to commit themselves to doing what was necessary to root out the facts of the cases implicating their own sport, in order to vindicate the rights of their athletes to genuinely clean and fair competition.

6.225.3 Instead, however, Mr Besseberg reacted by rejecting Dr Rodchenkov's evidence and Professor McLaren's findings as worthless, and insisting that doping could only be proved by positive drug tests. Such an approach from the President of an international federation whose sport is said to have been cheated by the conspiracy, let alone from a founder member of WADA's Foundation Board, is simply remarkable.

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6.225.5 Mr Besseberg █ were effective in communicating that they wanted the Working Group to be very cautious. They were clear that they were not interested in taking meaningful action against the RBU, despite Dr Netzle advocating that they do so; and they were also clear that they did not want any cases brought against individual athletes unless there was clear evidence of their knowing participation in the conspiracy.

6.225.6 In the view of the Commission, Nicole Resch tried hard to avoid the IBU having to investigate the biathlon cases identified by Professor McLaren, by insisting that the IOC should be left to investigate the alleged swapping of samples of the Russian women's relay team at Sochi and that the IBU should not have to investigate the 'disappearing positives' from the samples that RUSADA had collected. She was also very critical of WADA, on the basis that the McLaren report had created a public expectation that the international federations would take effective action but did not give them the tools to do so.

6.226 However:

6.226.1 Nicole Resch also set up the Working Group with an experienced external lawyer (Dr Netzle) at its head, and ultimately she did not prevent that group (assisted by Max Cobb) gathering and analysing the evidence.

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- 6.226.2 Dr Netzle has been very clear that he received no instructions or suggestions from Nicole Resch or Anders Besseberg (or anyone else) to bury or soft-pedal or delay any cases. The Commission accepts that and has found no evidence to the contrary.
- 6.226.3 While one can criticise the lack of drive from the IBU leadership, they are not the first to be very wary about bringing doping cases based not on adverse analytical findings but on indirect, circumstantial evidence. And they can point to WADA's own words of caution as justification for their own very conservative approach to individual cases, and to the IOC's criticisms of alleged 'collective punishment' as justification for not taking stronger action against the RBU.
- 6.226.4 Furthermore, the Commission accepts that in early 2017 no one knew how the IBU ADHP and CAS would assess the testimony of Dr Rodchenkov, or the supporting documentary, scientific, and forensic evidence, and therefore it was justifiable to take what was considered to be the best case first (against Ekaterina Glazyrina) and to wait to see what happened with that case before bringing any others. Precisely for this reason, however, in the view of the Commission the proceedings against Glazyrina should have been pushed forward. The actual delays of months not only slowed down the Glazyrina case, but also the other cases that were 'on hold'.
- 6.227 It remains the case that (a) the case against Ekaterina Glazyrina was only identified and pursued (and therefore she was only removed from competition) because of the efforts of Max Cobb and Jim Carrabre; and (b) it was pursued very slowly after that, with more than four months passing before it was filed with the IBU ADHP. In addition, it will also be seen that (c) Nicole Resch hoped [REDACTED] to lose that case (see paragraph 6.244, below), and (d) that she was very upset when the three Russian biathletes from the women's relay team in Sochi were banned for doping, and helped to work towards overturning that decision, in what the Commission considers to be a clear breach of her duties as Secretary General of the IBU (see paragraph 6.253, below). It also seems clear, albeit with the benefit of hindsight, that further cases could and should have been brought much quicker than they were (something that Dr Netzle acknowledged in interview). But while the Commission considers that many criticisms may be levelled at the IBU leadership (particularly by clean biathletes who were cheated by their Russian counterparts), the Commission considers that no one has a case to answer for breach of the IBU's rules based solely on the facts set out in this section of the report.

6B.13 Nicole Resch's actions in late 2017 and early 2018 in relation to the anti-doping cases brought by the IBU and the IOC

- 6.228 In the period after February 2017, once Ekaterina Glazyrina had been provisionally suspended and the Working Group stopped actively investigating the other cases pending a decision in that case and in the three Oswald Commission biathlon cases (relating to Yana Romanova, Olga Vilukhina, and Olga Zaitseva), Nicole Resch began to express increasing criticism of WADA (for dumping the McLaren report on the IBU and leaving it to try to work out what to do with the individual cases) and of IBU Executive Board member Jim Carrabre for pushing for individual cases to be brought based (in her view) on supposition rather than hard evidence, allegedly to promote his 'political' agenda. [REDACTED]

[REDACTED]

6.228.1

[REDACTED]

6.228.2

[REDACTED]

6.228.3 On 31 August 2017, the CAS issued its decision on the appeal by Russian skier Alexander Legkov against his provisional suspension pending a hearing before the Oswald Commission. At the hearing on 15 May 2017, Dr Netzle (representing FIS) had argued that the McLaren report and the evidence on which it relied (the documents in the EDPs, including the Duchess List, evidence about the athlete's provision of clean urine, and email exchanges between Dr Rodchenkov and Aleksey Velikodny) established a reasonable possibility that Russian skier Legkov had knowingly committed an ADRV at the Sochi Games. After examining for itself the evidence underlying the McLaren report, the panel determined that there was ['no reason not to credit the general testimony of Dr Rodchenkov'](#), noting that it was corroborated by the scientific and forensic evidence, as well as the Duchess List, and therefore concluded that there was a reasonable possibility that the athlete had committed an ADRV, justifying maintaining the provisional suspension, although it left open whether at the hearing on the merits the Oswald Commission would be able to conclude that the athlete was individually liable for an ADRV.⁴⁴⁶ [REDACTED]

6.228.4

[REDACTED]

443 [REDACTED] Dr Netzle told the Commission that Max Cobb ['was a very helpful person, and he was well informed \[...\] his arguments always came with solid foundation'](#): Netzle interview, 29.06.20 [Document 219].

444

[REDACTED]

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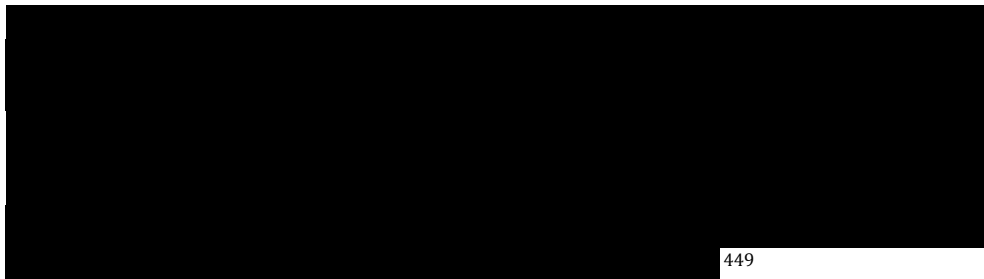
[REDACTED]

446 *Legkov v FIS*, CAS 2017/A/4968, paragraph 111 et seq.

447

[REDACTED]

6.228.5



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6.229 On 10 November 2017, WADA I&I announced that it had acquired 'new intelligence' in the form of an electronic copy of the Moscow laboratory's LIMS database, containing summary data from the testing of anti-doping samples in the Moscow laboratory in the period January 2012 to August 2015.⁴⁵⁰ On 25 November 2017, Dr Netzle advised Nicole Resch that he had spoken with Gunter Younger (director of WADA I&I) and:



joint task force is to be set up to ensure that these cases are dealt with and sanctioned in a uniform manner. I think that is good. [...] I assume that these data actually contain the additional evidence requested by CAS, which would allow the Ibs to block the Russian athletes concerned'.⁴⁵¹ Nicole Resch reacted by proposing to the IBU Executive Board that the Working Group be revived to consider this new evidence, but that she should not be on the Working Group this time; instead laboratory experts should take her place.⁴⁵²

6.230



6.231 As a reminder, the IBU had provisionally suspended Vilukhina and Romanova in December 2016, after the IOC opened an investigation against them (see paragraph 6.30). On 26 October 2017 the IOC also opened proceedings against Zaitseva, prompting the IBU to provisionally suspend her as well on 2 November 2017.⁴⁵⁴ On 13 November 2017,

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450 WADA press release, *WADA in possession of new intelligence from Moscow Laboratory*, 10 November 2017 [Document 268].

451 Netzle-Resch email, 25.11.17 [Document 269].

452 See Minutes of the Executive Board meeting 133, 9-10.12.17 [Document 270].

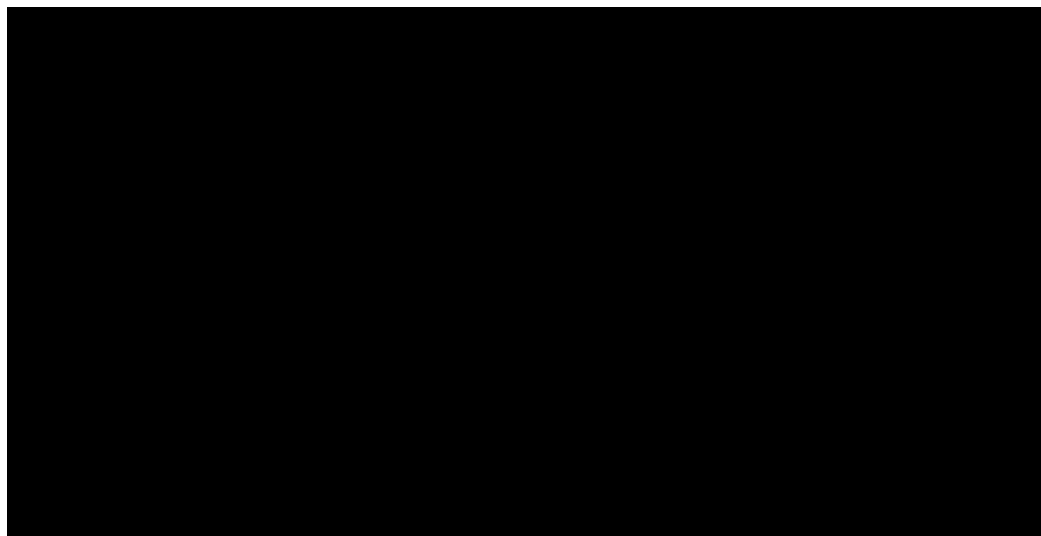
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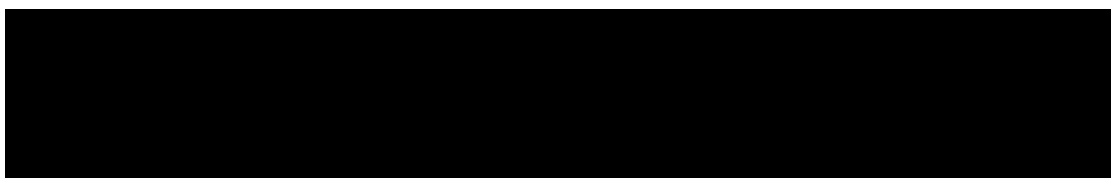
454 See stillmed.olympic.org/media/Document%20Library/OlympicOrg/IOC/Who-We-Are/Commissions/Disciplinary-Commission/2017/SML-036-Decision-Disciplinary-Commission-Olga-ZAYTSEVA.pdf and stillmed.olympic.org/media/Document%20Library/OlympicOrg/IOC/Who-We-Are/Commissions/Disciplinary-Commission/2017/SML-036-Decision-Disciplinary-Commission-Olga-ZAYTSEVA.pdf

Ms Zaitseva emailed Nicole Resch directly, saying: 'Dear Nicole! The notification sent to me raises concerns. Please provide a personal analysis of the situation by the International Biathlon Union'.⁴⁵⁵ The Commission does not know whether Ms Resch responded to Ms Zaitseva.

- 6.232 The Oswald Commission started hearing cases in October 2017. On 1 November 2017, it issued its first decision, finding Russian skier Alexander Legkov guilty of violating the anti-doping rules, disqualified his Sochi gold medal, and banned him from the Olympic Games for life. Between then and 22 December 2017, it issued decisions banning a total of 43 athletes, from skiing, skeleton, bobsleigh, speed skating, ice hockey, luge, and biathlon, for using prohibited substances, tampering with doping control, and complicity in the overall doping scheme, at the Sochi Games, and banned them for life from the Olympic Games.
- 6.233 Nicole Resch and Dr Netzle attended the hearing held by the Oswald Commission in the Romanova and Vilukhina cases on 13 November 2017. On 23 November 2017, Ms Resch wrote to Person B to say she was attending the hearing of the case against Olga Zaitseva that day. Person B replied: 'to be honest, I am worried about Zaitseva. She could be a victim of all this political situation'. Ms Resch replied, 'we all are', and later referred to 'big politics' and 'les coques politics' (i.e., the IOC), and 'WADA egos'.⁴⁵⁶
- 6.234 On the same day, Ms Resch had the following exchange with [REDACTED], complaining that in her view the Russian government was responsible for the doping conspiracy, and yet instead of the Russian government being punished, the international federations were being pressured to take action against Russian federations and athletes without sufficient evidence that they were involved in the conspiracy:⁴⁵⁷



6.235



[Are/Commissions/Disciplinary-Commission/2017/SML-036-Decision-Disciplinary-Commission-Olga-ZAYTSEVA.pdf](#).

⁴⁵⁵ Zaitseva-Resch email, 13.11.17 [Document 272].

⁴⁵⁶ Resch-Person B exchange, 23.11.2017 [Document 273].

⁴⁵⁷ [REDACTED]

- [REDACTED]
- 6.236 On 27 November 2017, the Oswald Commission issued rulings that Vilukhina and Romanova had infringed the anti-doping rules at the Sochi Games, disqualified their silver medals, and banned them for life from the Olympic Games.⁴⁵⁹ It also published its reasoned decision in the *Legkov* case, setting out its findings that the institutionalised doping and protection scheme had happened as described by Dr Rodchenkov, including at the Sochi Olympics, and that Alexander Legkov was knowingly complicit in the scheme. This was partly inference ('The Disciplinary Commission has come to the conclusion that the scheme could not work without the personal implication of the athletes'; the suggestion that the scheme was implemented without the knowledge and participation of the athletes 'would be senseless') and partly because Legkov was named on the Duchess List, his sample bottles bore scratch marks consistent with attempts to tamper with them, and Dr Rodchenkov testified as to his direct recollection of swapping Legkov's samples. The Oswald Commission found Legkov guilty of tampering with doping control, use of prohibited substances, and complicity in the general conspiracy, disqualified his gold medal and his results, and banned him from the Olympics for life.⁴⁶⁰
- 6.237 The same day, Dr Netzle suggested [REDACTED] consolidating all of the cases before CAS, including the athletes' appeals against the Oswald Commission decisions and the international federations' proceedings to determine further consequences, so that only one hearing had to be held to decide whether the evidence was sufficient to sanction the athletes not only in relation to the Olympic Games but also in respect of other competitions, and it could be held in New York, so that Dr Rodchenkov could be cross-examined.⁴⁶¹
- 6.238 Also that day, Person B wrote to Ms Resch to say Person B wanted to fight for 'Olja' (i.e., Olga Zaitseva). In reply, Ms Resch said: 'CAS is a must'. Ms Resch then said: 'I think it is so funny that Starykh was sanctioned with evidence but CAN now compete at the Olympics forever. Where there is no evidence against the others but they are banned for life time. This is sick'. [REDACTED] Ms Resch then stated: 'we might all together try and have the CAS hearings in New York in January'. The exchange then continues:⁴⁶²

NR: To hear this guy. I am sure Zaitseva will turn out the same. And the legkov decision will just be copy pasted. To all....

Pers B: It is a great idea to bring all this to US...

NR: Why? Rodchenkov cannot leave so there is no option.

[REDACTED]

458 [REDACTED]

459 *IOC v Romanova*, Oswald Commission decision dated 27 November 2017 [Document 276]; *IOC v Vilukhina*, Oswald Commission decision dated 27 November 2017 [Document 277].

460 *IOC v Legkov*, Oswald Commission decision dated 27 November 2017, paragraphs 317, 328.

461 Netzle-[REDACTED] email, 27.11.17 [Document 279].

462 [REDACTED]

[...]

Pers B: We need to find the [REDACTED] powerful lawyers there. and hire him [REDACTED]

N: I am in.

Pers B: [REDACTED] has told me that he is in because it will be a great fun. And because nobody could do this with you and Anders. [REDACTED] NY is a good idea... you are totally right. ... Good chance for your career also.

21:33

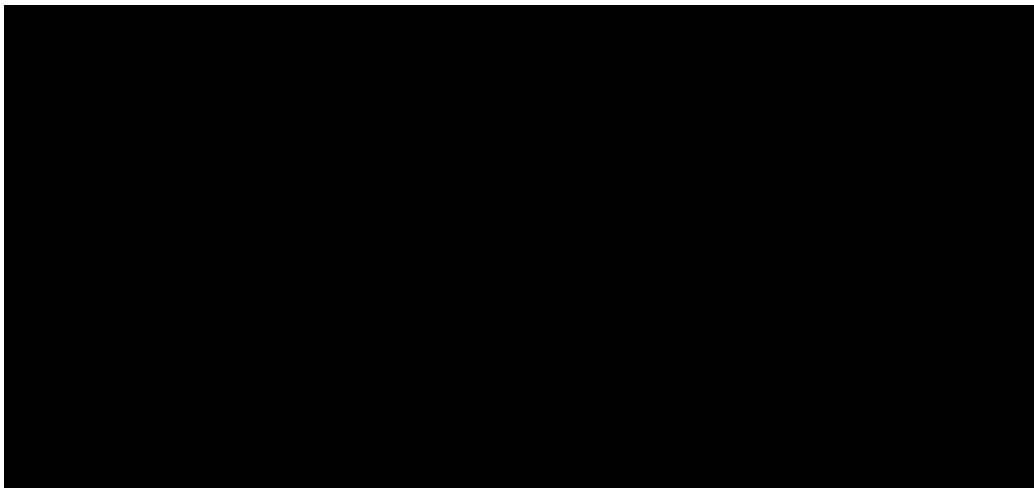
Pers B: [REDACTED] is in. He is ready to support. And to support you and Anders. He will call you tomorrow.

NR: I don't think it's about Anders and me.

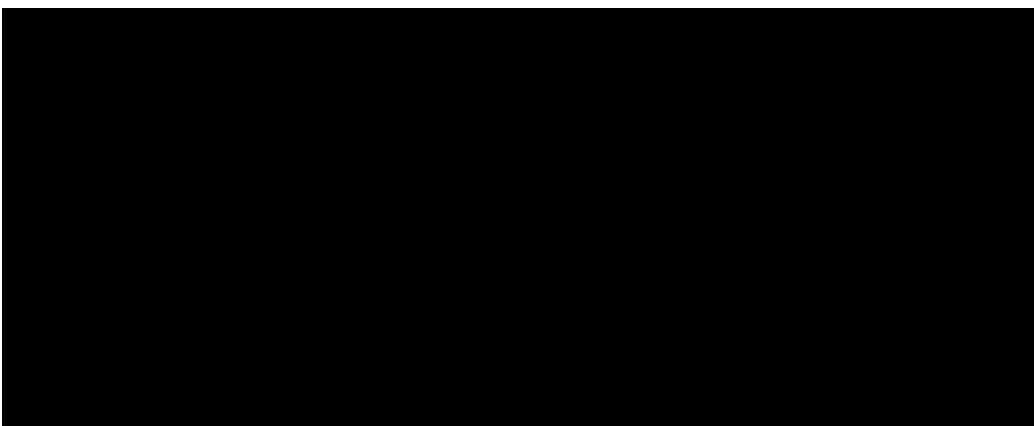
Pers B: I know...

NR: ;)

Pers B: But somebody should think about you. [REDACTED]

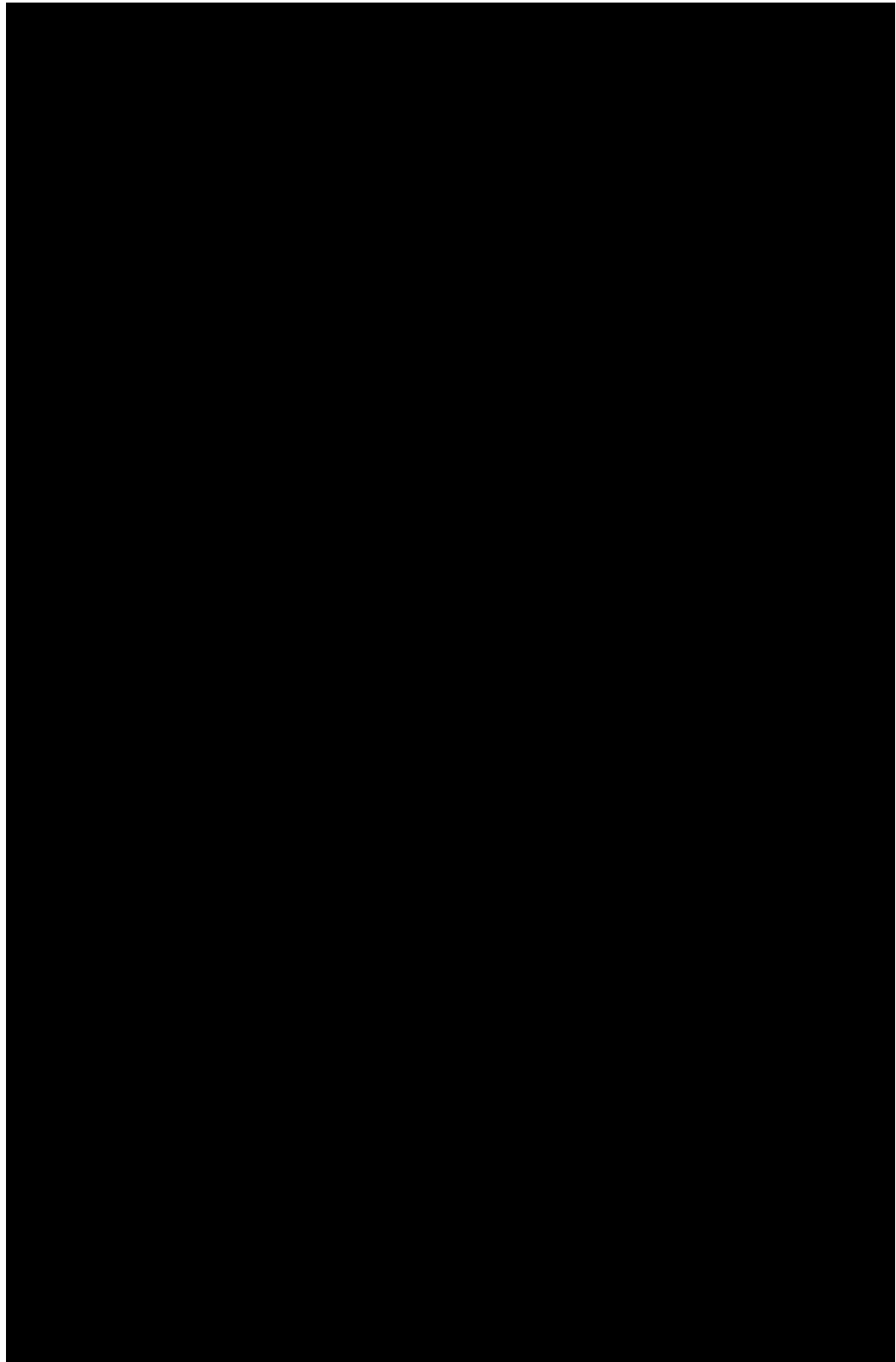


6.239 On 28 November 2017, Ms Resch helped Person B with a media statement [REDACTED] [REDACTED] about Dr Rodchenkov having to give evidence at the proposed CAS appeal hearing:



6.240 The next day, 29 November 2017, Ms Resch and Person B exchanged messages in which Ms Resch again said that she was ready to help the three female biathletes with an appeal

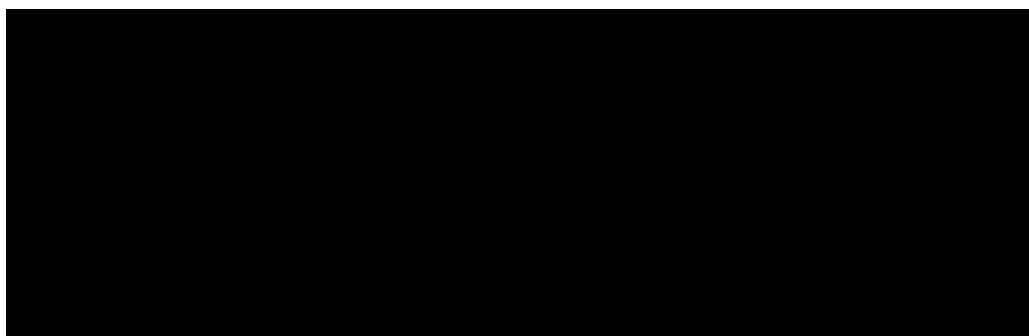
to the CAS, and if CAS found Dr Rodchenkov's evidence to be unreliable then claims against him and WADA might follow:



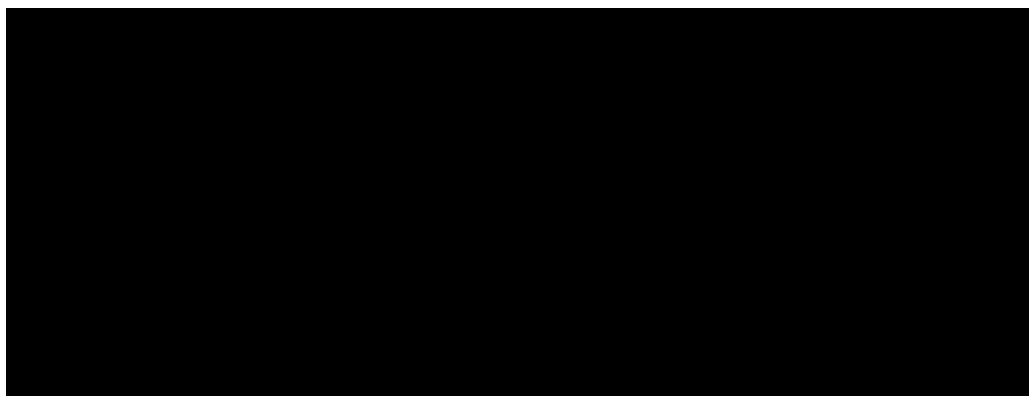
NR: Claim against WADA / Rodchenkov could only be a consequence after CAS declared Rodchenkov evidence unreliable.

Pers B: So we need to initiate this process? Right? In cas? From which side?

NR: Yes. Appeal to CAS after IOC decisions. By athletes.



NR: [redacted] the only real argument to help olga Zaitseva came from me... not from them



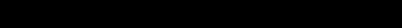
- 6.241 On 30 November 2017, Person B sent Ms Resch some attachments that the Commission has not been able to access. In response, Ms Resch asked Person B: 'are you trying to tell me that I should advise your athlete's lawyers and skip IBU?' Person B replied, 'I think we need to use this situation to help you become more powerful'. And: 'if IBU needs any support [redacted] it will get it'. Ms Resch then thanked Person B.⁴⁶³
- 6.242 On 1 December 2017, the Oswald Commission issued its decision in Olga Zaitseva's case, with reasons following on 22 December 2017. It found that the doping and protection scheme happened as described by Dr Rodchenkov, including at the Sochi Olympics, and that Olga Zaitseva was knowingly complicit in the scheme, including taking the Duchess cocktail, and providing clean urine in advance of the Sochi Games to be swapped for her dirty urine at the Games. Again, this was partly inference ('The Disciplinary Commission has come to the conclusion that the scheme could not work without the personal implication of the athletes'; the suggestion that the scheme was implemented without the knowledge and participation of the athletes 'would simply not make any sense') and partly because her name was on the Duchess List, there were scratches and marks on her sample bottles indicating tampering, and the salt level in one of her samples was 'clearly non-physiological'. It found her guilty of tampering with doping control (by providing clean urine to be swapped for her dirty samples), use of prohibited substances, and complicity in the general conspiracy, disqualified her medal and her results, and banned her from the Olympics for life.⁴⁶⁴ In response, Ms Resch told Person B that she felt like attacking the IOC and WADA in the media [redacted] Person B replied: 'Come to Moscow!'⁴⁶⁵


⁴⁶³ Resch-Person B messages, 30.11.17 [Document 281].

⁴⁶⁴ *IOC v Zaitseva*, Oswald Commission decision dated 22 December 2017 [Document 282], paragraphs 309, 338, 345.

⁴⁶⁵ Resch-Person B message, 01.12.17 [Document 283].

6.243 On 11 December 2017, Nicole Resch wrote to Person B and others to say that Anders Besseberg had told her IBU staff were quitting because they could not work with her, and that she thought he was planning to fire her.⁴⁶⁶ Person B responded: '[We need to create a new opportunity for you](#)'.⁴⁶⁷

6.244 The Commission has evidence that Nicole Resch tried to influence improperly Professor Christoph Vedder, the chair of the IBU ADHP that was considering the case against Ekaterina Glazyrina, albeit that she was unsuccessful. 



6.245 On 20 December 2017, Person B wrote to Ms Resch: '[We will appeal. For the girls and then make a big process against rodchenkov and maclaren for their lies](#)'. Ms Resch replied: '[I am in](#)'.⁴⁷¹

⁴⁶⁶ Resch messages, 11.12.17 [Document 284].

⁴⁶⁷ Resch-Person B messages, 11.12.17 [Document 285].

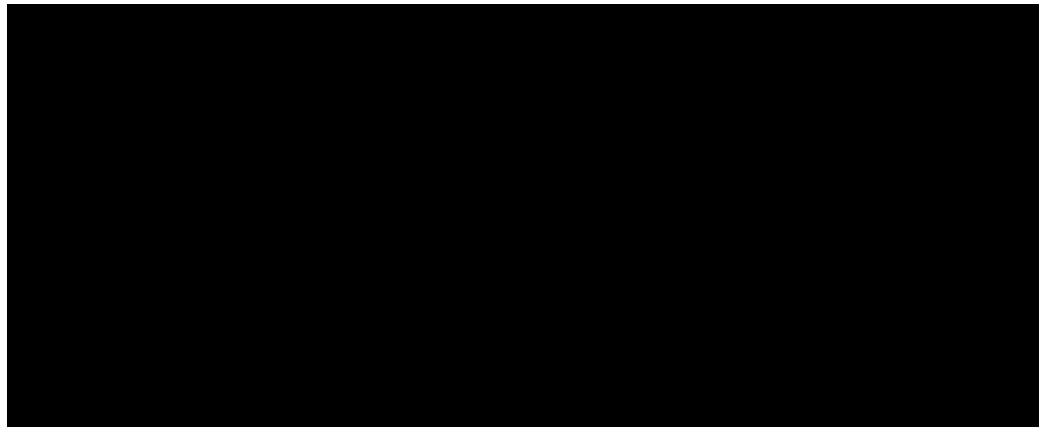
⁴⁶⁸ 

⁴⁶⁹ 

⁴⁷⁰ 

⁴⁷¹ Resch-Person B messages, 20.12.17 [Document 287].

6.246 On 27 December 2017, Person B and Ms Resch had the following exchange, in which Ms Resch offered to help 'undercover' with the three female biathletes' appeals to CAS:⁴⁷²



Pers B: [redacted] . 3 athletes now are separate from the others!!!!

NR: Proud of you!! Let me know if i can help... undercover.

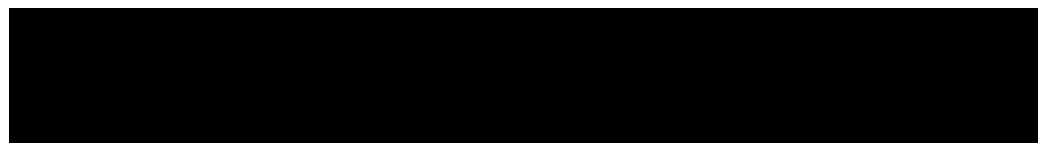
Pers B: [redacted] I think we need to focus only on the girls. They swear God they have done nothing. I think it is not our job to fight for the country. Ist ROC's job.

...

NR: I agree with you. Everyone gets carried away with the RUS State system thing and in the mean time they ruin individual athletes' lifes. I hate it. [redacted] They probably tampered some samples for NOTHING in Sochi.

6.247 In the end, 42 of the 43 athletes banned by the Oswald Commission appealed to CAS. Consistent with the above exchange, 39 of them [redacted] filed one consolidated appeal, and the three female biathletes [redacted] filed a separate appeal.

6.248 On 2 January 2018, Ms Resch and Person B had the following exchange:⁴⁷³



Pers B: I will need your advice. I know that politically IOC couldn't accept that they accepted lies from Rodchenkov... so my head is trying to calculate the variant to save [redacted] [the three female biathletes] and not ruin IOC)). [redacted]

We postponed the hearings for our girls till [redacted] summer to make it as far from collective case as possible ... But we will get the evidence for 100%... because lies is not so difficult to appeal to. Don't know why the ROC layers didn't do it.. No... I know They made a deal for 100%... Need

472 [redacted]

473 [redacted]

██████████ your undercover advice as a lawyer. There should be a variant not to fight against IOC

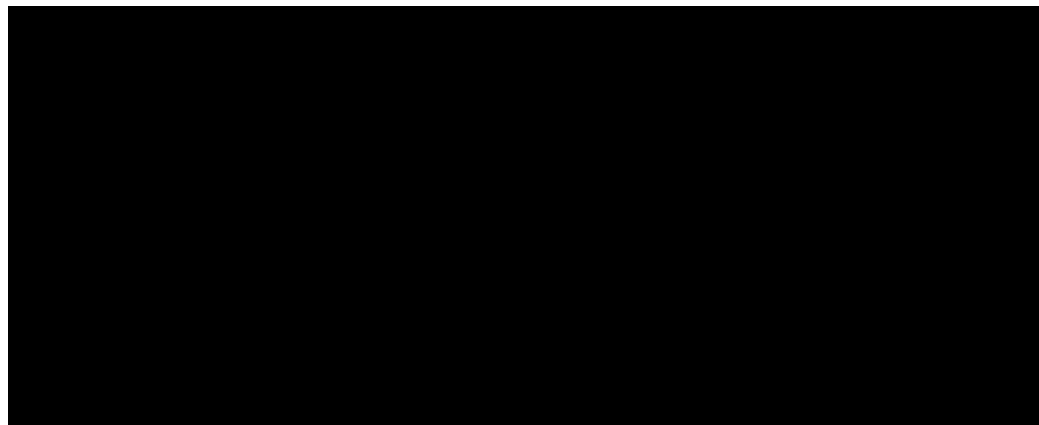
NR: don't think there is a variant not to fight against IOC and WADA. They chose the path.



Pers B: it sounds like a reason to ruin IOC and wada))))... a good reason)

By the way ... ██████████ hired one of the toughest lawyers in US... ██████████ ... my idea was to ask him be more diplomatic...maybe I shouldn't. If you will need us to add Jim to the list of people ██████████ should investigate about – please tell

NR: Agree. I don't think they will understand the diplomatic way)... You should! And you know it ;)



6.249 The CAS panel (also chaired by Professor Vedder) heard the appeals by the 39 athletes on 22-27 January 2018. Dr Netzle attended as an observer for the FIS and the IBU. On 1 February 2018, the CAS panel issued the operative part of its decision, with its reasons to follow. It found that the evidence that was collected by the Oswald Commission was sufficient to establish that 11 of the athletes had committed individual ADRVs, but insufficient in respect of the other 28 athletes.⁴⁷⁴

6.250 On 20 February 2018, ██████████ Herbert Smith filed a lawsuit on behalf of Romanova, Vilukhina, and Zaitseva in New York state court against Dr Rodchenkov for libel, accusing him of being 'a pathological liar and recidivist criminal', and seeking damages of \$10 million each from him for falsely accusing them of doping.⁴⁷⁵ As far as the Commission is aware, that lawsuit remains pending to this day.

6.251 On 24 February 2018, Ms Resch agreed to meet Person B in Lausanne, and said she would 'bring you [i.e., Person B] the documents for the US lawyer then'.⁴⁷⁶ The Commission does not know what those documents were.

⁴⁷⁴ CAS media release, *The Court of Arbitration for Sport (CAS) delivers its decisions in the matter of 39 Russian athletes v/ the IOC: 28 appeals upheld, 11 partially upheld*, 1 February 2018 [Document 290].

⁴⁷⁵ Summons and complaint dated 20 February 2018 [Document 292].

⁴⁷⁶ Resch-Person B message, 24.02.18 [Document 293].

- 6.252 In the Commission's view, Ms Resch was entitled to take the view that the conspiracy was between the Russian Ministry of Sport and the Moscow laboratory, and to insist that individual Russian athletes should not be banned unless there was specific evidence that they were knowingly involved. However, as IBU Secretary General she was not entitled to do any of the following:
- 6.252.1 provide arguments for Olga Zaitseva to use in the defence of the IOC proceedings brought against her for cheating at the Sochi Olympic Games (see paragraph 6.238, above);
 - 6.252.2 provide strategic advice [REDACTED] about how best to pursue the appeals to CAS of Zaitseva, Romanova, and Vilukhina, and offer to provide [REDACTED] further 'undercover' assistance in relation to those appeals (see paragraph 6.246, above);
 - 6.252.3 provide strategic input in relation to and encouraging the three biathletes to bring damages claims against WADA and Professor McLaren and Dr Rodchenkov if the CAS ruled Rodchenkov's evidence unreliable ('I am in') (see paragraphs 6.240 and 6.245, above);
 - 6.252.4 agree that [REDACTED] should add IBU Executive Board member Dr Jim Carrabre to the list of people to be 'investigated' (see paragraph 6.248, above); and
 - 6.252.5 try to influence improperly the Chair of the IBU ADHP in respect of the case brought by the IBU against Ekaterina Glazyrina [REDACTED]
- 6.253 Based on this conduct, the Commission considers that Ms Resch has a case to answer for:
- 6.253.1 breaches of her obligations under Article 3.3 of the IBU Disciplinary Rules:
 - 6.253.1.1 not to violate the decisions of the IBU Executive Board;
 - 6.253.1.2 not to endanger or impair the reputation or the interests of the IBU or to impair the contractual relations of the IBU (e.g. with the IOC or WADA); and
 - 6.253.1.3 not to commit offences against the IBU or persons affiliated with its members (Dr Carrabre); and
 - 6.253.2 breaches of her obligations under the IBU Code of Ethics:
 - 6.253.2.1 to avoid actions that might damage the reputation of the IBU and/or the sport of biathlon;

6.253.2.2 to behave and act with complete credibility and integrity; and

6.253.2.3 not to abuse her position for improper purposes.

6B.14 Anders Besseberg lobbying the IOC to allow Russian biathletes to compete in the 2018 Olympic Games after the IBU Executive Board had decided the IBU should not do so

6.254 In November 2017, while the Oswald Commission was issuing its various decisions in relation to individual athletes (see paragraph 6.236 et seq), the Schmid Commission was preparing to issue its findings on 5 December 2017 as to the allegation that the doping was part of an institutional conspiracy involving the Russian Ministry of Sport. It was widely speculated in the media that if the Schmid Commission found there had been such a scheme, the Russian Olympic Committee would not be permitted to enter a team in the 2018 Olympic Games, in Pyeongchang in February 2018.

6.255 On 30 November 2017, [REDACTED] emailed to Mr Besseberg and Ms Resch a copy of a letter that the International Ice Hockey Federation (IIHF) had sent to the IOC. That letter stated:⁴⁷⁸

IIHF Council Statement on Olympic participation

To the IOC President and IOC Executive Board,

The IIHF Council has reached a unanimous opinion that all clean athletes, including those from Russia, must be permitted to represent their country in the 2018 Olympic Winter Games in PyeongChang.

We oppose the use of collective punishment in the case of Russian athletes. Although we recognize the need to confront doping in sport, Olympic participation should not be used to sanction the many for the actions of the few. In addition, the extent to which the IOC is seeking punitive measures in the case of Russia is putting the health of ice hockey at risk.

Russia's role in the growth and development of ice hockey cannot be understated. This country forms a pillar on which our sport's legacy rests upon.

To preserve the integrity of the Olympic ice hockey tournaments, the IIHF in full cooperation with the Russian Ice Hockey Federation and the Kontinental Hockey League initiated a highly structured testing program for the KHL, MHL, and WHL, which went into operation in December 2016 and up to the present has tested nearly 400 Russian players.

To this effect, the IIHF Council submits this statement letter outlining its position that clean athletes from all qualified Federations should be permitted to go to the 2018 Olympic Winter Games and represent their countries.

6.256 [REDACTED]

⁴⁷⁸ IIHF letter, 28.11.17 [Document 291].

[Redacted]

[Redacted]

6.258 The Commission interviewed [Redacted], who confirmed that he had forwarded the letter and that he had spoken to Nicole Resch about it [Redacted]

[Redacted]

479 [Redacted]

480 [Redacted]

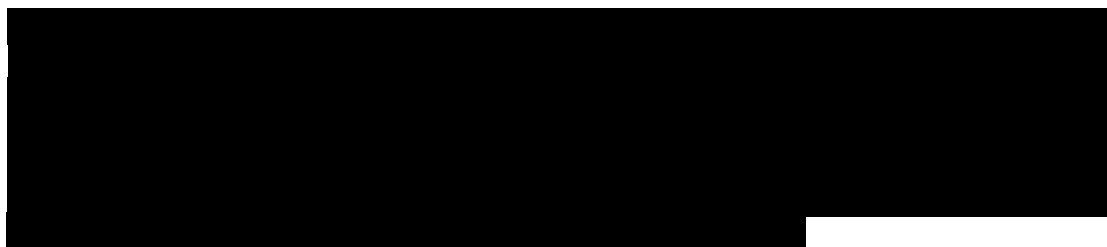
481 [Redacted]

482 [Redacted]

483 [Redacted]

484 [Redacted]

6.259



6.260 On 2 December 2017, the Schmid Commission published its findings (the **Schmid Report**).⁴⁸⁷ The Commission agreed with Professor McLaren on 'the existence of a systemic doping scheme in Russia', involving 'the systemic manipulation of the anti-doping rules and system in Russia, through the Disappearing Positive Methodology and [by sample swapping] during the Olympic Winter Games Sochi 2014'. In terms of who was responsible for that scheme, the Schmid Commission found that:

6.260.1 The Russian Ministry of Sport 'controlled every sphere related to sports in the country, including ... anti-doping'.

6.260.2 'The Ministry of Sport, according to the government structure, was dealing directly with the National Federations, in particular with regard to anti-doping matters'.

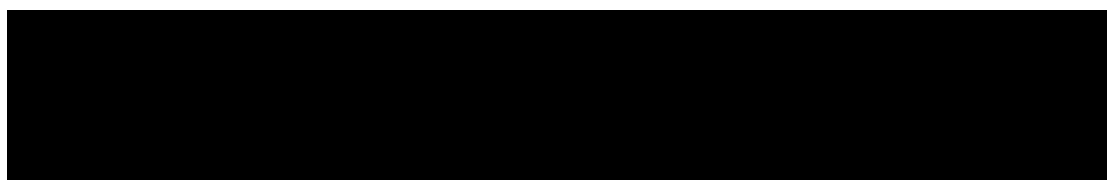
6.260.3 'The detailed analysis of the email exchanges attached to the [McLaren] Reports allows to confirm the involvement of a number of individuals within the Ministry of Sport and its subordinated entities, such as CSP, VNIIFK, RUSADA, Moscow and Sochi laboratories. All the independent and impartial evidence as well as the results of the forensic and biological analysis confirm this conclusion'.

6.260.4 Although it was not possible to tell how far up the chain of command in the Ministry the scheme went, Deputy Sports Minister Yuri Nagornykh was involved and so was Natalia Zhelanova, anti-doping advisor to the Russian Minister of Sport, Vitaly Mutko.

6.260.5 Minister Mutko 'had ultimate administrative responsibility for the acts perpetrated at the time within the Russian Ministry or the entities under its responsibility'.

6.261 The Schmid Commission therefore recommended that the IOC Executive Board 'take the appropriate measures that should be strong enough to effectively sanction the existence of a systemic manipulation of the anti-doping rules and system in Russia, as well as the legal responsibility of the various entities involved'.⁴⁸⁸

6.262



485



486



487 IOC Disciplinary Commission's Report to the IOC Executive Board dated 02.12.17 [Document 7].

488 Ibid.

[Redacted]

[Redacted]

- [REDACTED]
- 6.263 Mr Besseberg told the criminal investigators that he 'refused to block an entire collective, punishing many "clean" athletes for (massive) doping charges against other athletes of the same nation. However, [he] has supported [REDACTED] idea that those athletes who were accredited for the 2014 Olympic Games in Sochi should be banned. With this proposal at least those athletes can start who were not part of Sochi and therefore demonstrably have nothing to do with the doping accusations around Sochi 2014. [He] has always been concerned to protect "clean" athletes, especially when it has not even been proven which athletes have doped and which have not. In order not to punish all "clean" athletes for the doping allegations against Russian athletes, the RBU should not be generally excluded from the 2018 Olympic Winter Games, but at least (as a "middle course") those athletes who were accredited to the 2014 Olympic Games'.⁴⁹⁰
- 6.264 The IOC Executive Board met on 5 December 2017. Based on the findings set out in the Schmid Report, it decided to suspend the Russian Olympic Committee from the 2018 Olympic Games, and to allow Russian athletes to compete only by invitation.⁴⁹¹
- 6.265 An IBU press release issued the day after the Executive Board meeting said: 'The IBU President states: "We believe that the decision taken by the IOC Executive Board is an important step in the efforts to protect clean athletes"'.⁴⁹² The IBU Executive Board considered the matter at its meeting in Leogang on 9-10 December 2017. The minutes of that meeting state: 'The IBU Executive Board accepts the decision of the IOC Executive Board dated 5 December 2017 and agrees to implement it in time'.⁴⁹³
- 6.266 Dr Leistner told the Commission that he was aware of the IIHF letter to the IOC and noted that 'this issue was also brought up by Victor Maygurov, and it was discussed in the Executive Board, and we decided we can't do that. [...] there was a suggestion IBU should also write a letter to the IOC supporting the Russian point of view, but we decided not to do that ... because we felt it was not appropriate'. He said it was a unanimous decision of the IBU Executive Board that instead the IOC's position should be supported.⁴⁹⁴
- 6.267 Similarly, Mr Besseberg told the criminal investigators that he 'was against the IBU publishing a similar letter because he didn't want to signal that he stood up for the Russian athletes and thus possibly maneuvered himself into a close relationship to high Russian officials, as [IIHF President René] Fasel is said to do'.⁴⁹⁵
- 6.268 However, in April 2018, just after news broke of the investigation by the criminal authorities into whether Mr Besseberg had taken bribes from the Russians, IBU Executive Board member Max Cobb met with [REDACTED]. He told them that in his opinion Mr Besseberg had been delaying moving forward with the evidence against Russian

489 [REDACTED]

490 Besseberg police interview, 10-11.04.18 [Document 45].

491 Decision of the IOC Executive Board, 05.12.2017 [Document 300]. In the event, the IOC invited only four Russian biathletes to compete in Pyeongchang. Not one of the RBU's athletes who had competed in the IBU World Cup in the 2017-18 season was invited to compete.

492 IBU press release, 06.12.2017 [Document 301].

493 Minutes of IBU Executive Board meeting, 9-10.12.2017 [Document 270], p.2.

494 Leistner interview, 03.07.20 [Document 133].

495 Besseberg statement to criminal authorities, 11.03.19 [Document 47].

biathletes in the McLaren report and in the LIMS data. Max Cobb told the Commission that [REDACTED] noted in response that even after the Oswald Commission found three biathletes had been involved in the conspiracy, Mr Besseberg still came to the IOC and argued that Russian biathletes should be allowed to compete in the 2018 Olympic Games.⁴⁹⁶

- 6.269 The Commission does not know whether Mr Besseberg sought or received any consideration from Russia for lobbying the IOC in this way. What does seem clear, however, is that he acted in direct defiance of a very specific decision of the IBU Executive Board that the IBU would not lobby the IOC to allow Russian athletes to compete in the 2018 Olympic Games.
- 6.270 Based on this conduct, the Commission considers that Mr Besseberg has a case to answer for:
- 6.270.1 breach of his obligations under Article 3.3 of the IBU Disciplinary Rules:
 - 6.270.1.1 not to violate the decisions of the IBU Executive Board; and
 - 6.270.1.2 not to endanger or impair the reputation or the interests of the IBU; and
 - 6.270.2 breach of his obligations under the IBU Code of Ethics:
 - 6.270.2.1 to avoid actions that might damage the reputation of the IBU and/or the sport of biathlon;
 - 6.270.2.2 to behave and act with complete credibility and integrity; and
 - 6.270.2.3 not to abuse his position for improper purposes.

6B.15 Mr Besseberg blocking the relocation of the 2018 IBU World Cup final event away from Tyumen, Russia

- 6.271 Three IBU events were scheduled to be held in Russia in the 2017/18 season, namely the last two IBU Cup events (in Uvat on 9-11 March and Khanty-Mansiysk on 13-17 March) and the final IBU World Cup event, which was scheduled to be held in Tyumen on 22-25 March 2018. Following the Schmid Report and the IOC's decision to exclude the ROC from the 2018 Olympic Games, there was significant pressure from many different stakeholders, not least the biathletes, for the IBU to move those events out of Russia.
- 6.272 On 6 December 2017, Nicole Resch asked Dr Netzle if he thought the reference in the Schmid Report to the Ministry of Sport dealing directly with national federations in relation to anti-doping (see paragraph 6.5.2, above) was enough to justify relegating the RBU to provisional member status, so that 'the clean athletes could still start, but it would be easier to take away the events at the end of this season' from Russia, but the RBU's

⁴⁹⁶ Cobb interview, 09.11.18 [Document 188]; email dated 08.09.20 [Document 302].

athletes could still compete in those events. Dr Netzle responded the same day, suggesting suspension of the RBU's membership with a mechanism for allowing 'clean athletes' to compete, and even (if the idea was coordinated action between all winter sport international federations) one independent panel to decide on 'clean athletes' for all of them.⁴⁹⁷

6.273 The Commission has evidence that Nicole Resch then proposed to Anders Besseberg that the IBU use the reference to national federations in the Schmid Report as justification to relegate the RBU to the status of provisional member, meaning that it would not be allowed to propose motions or vote at Congress, but its athletes would be allowed to continue to compete in IBU competitions.

[REDACTED]

⁴⁹⁹

6.274 In a memorandum sent the next day, Dr Netzle gave the following advice:

23. As a matter of fact, the conspiracy and the organised doping system has been described in detail already by the WADA Commission led by D. Pound and the two IP Reports. The further investigation by the IOC DC (Schmid) has not brought any further evidence to light.

24. As an additional point, it is important to note that both the IOC DC Decisions against the individual athletes and the IOC EB Decision against the ROC do not constitute (new) evidence by themselves. They reflect the assessment of the well-known evidence as it was submitted by the IP Team in the EDP by the IOC DC and EB.

25. While the state-sponsored system of doping has been demonstrated in a credible manner which will most likely meet the necessary standard of proof, there are still questions when it comes to the allegation of individual ADRV. However, that must not be of the Executive Board's concern when it discusses the matter since its decision will only concern the Russian member association.

⁴⁹⁷ Resch-Netzle email, 06.12.17 [Document 305].

⁴⁹⁸ *FIFA: IOC ban on Russia has 'no impact' on World Cup*, 06.12.17 (theaustralian.com.au/sport/olympics/fifa-ioc-ban-on-russia-has-no-impact-on-world-cup/news-story/390894e82d6ceaed07e55868f40ccd17) [Document 306].

⁴⁹⁹ See paragraph 6.282, below.

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26. The more specific question is whether the Russian member association was indeed part of the manipulations or whether this was a matter of the Ministry of Sport, the ROC and RUSADA alone.

a. The ROC is the umbrella organisation of Russian Sports for Olympic matters. All national federations including RBU are constituents or members of the ROC.

b. According to the IOC DC Report (the Schmid Report), the Ministry of Sport has dealt directly with the National Federations (NF). This is the only indication that the NFs were involved in the manipulation scheme. [REDACTED]

c. The Executive Board may consider to rely also on the Constitution and the ADR. In Art. 19 of the Constitution, the member associations must “promote the interests of the IBU according to their ability, and to refrain from doing anything that could cause harm to the reputation and / or purposes of the IBU.” This includes the general duty to contribute to the fight against doping and to follow the ADR. Furthermore the member associations are obliged to apply and enforce, in their jurisdictions, the rules against doping (see also Art. 16 ADR).

d. More specifically, the member associations “shall report any information suggesting or relating to an anti-doping rule violation to IBU and to their National Anti-Doping Organisations, and shall cooperate with investigations conducted by any Anti-Doping Organisation with authority to conduct the investigation” (Art. 16.2 ADR). In fact, the Russian member association has not contributed a lot to the investigations based on the IP-Reports. In particular, they have they reported any observations which they must have made, considering the extensive manipulation scheme to IBU or WADA. Only specific requests have been answered.

e. A further point that may be relevant is the organisational structure of Russian sport. To my knowledge, these organisations are closely related to each other and rely on the same staff (e.g. legal services). It is difficult to accept that the information about the doping scheme was not shared among the Ministry of Sport, the ROC and the relevant NFs, including the Russian Biathlon Union.

f. In case the analysis of the LIMS will reveal further information about doping (e.g. disappearance of samples with a positive screening), it would be even more difficult to accept that the Russian member association had no knowledge of the scheme.⁵⁰¹

6.275 Dr Netzle's recommendation was that the IBU Executive Board consider suspending the RBU from all IBU activities (which would mean it could not host any IBU events), but establishing a mechanism for Russian biathletes to continue to compete in IBU competitions if they could establish they were 'clean' (i.e., not tainted by the doping conspiracy).⁵⁰²

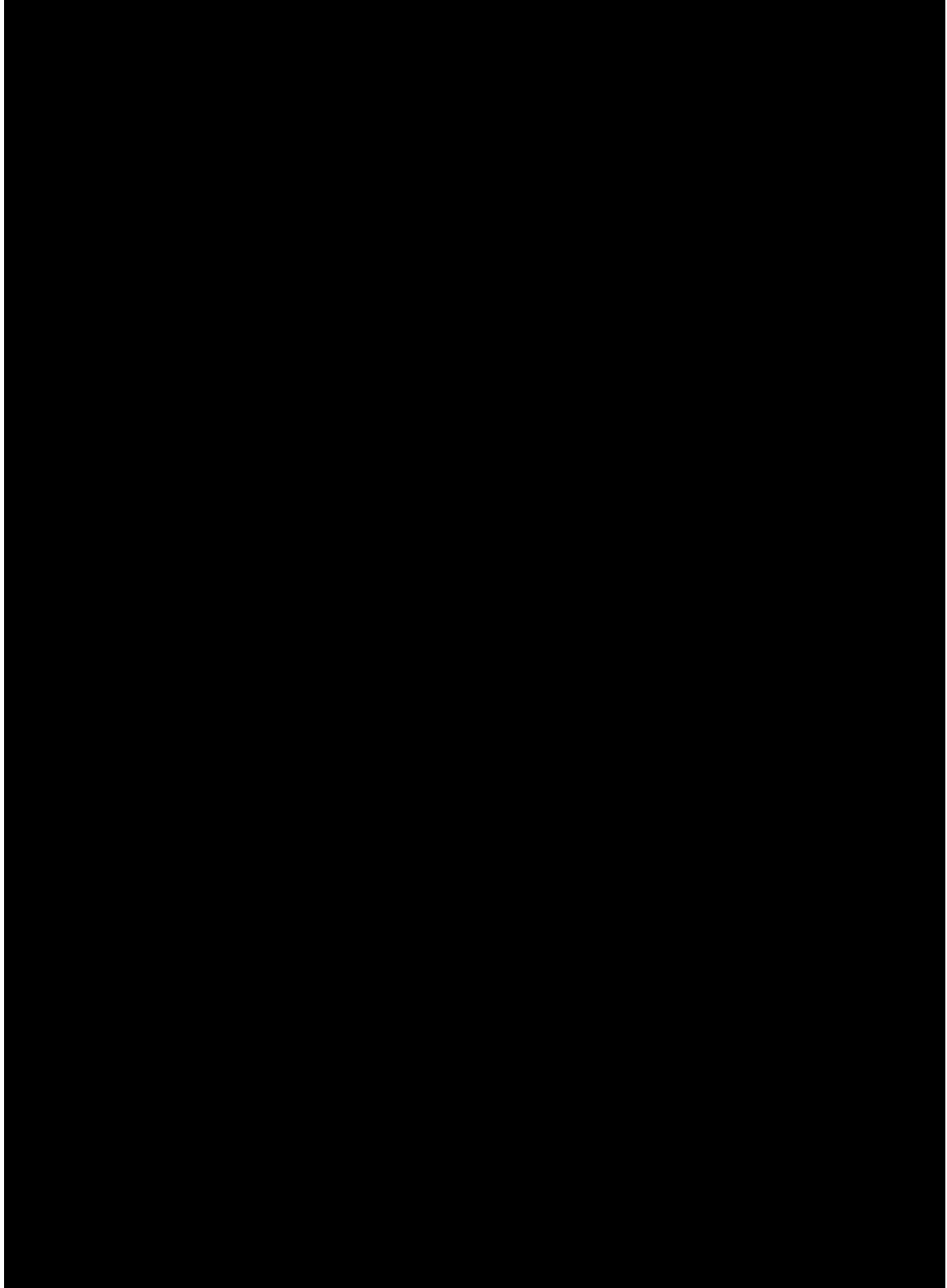
6.276 However, the next day, 8 December 2017, during an AIOWF conference call, the IOC [REDACTED] said that the Schmid Commission had not looked at the question of culpability of national federations, that that issue was up to each international federation to address, and that the IOC had no objection to international federations proceeding with events already assigned to Russia. Dr Netzle (who was on the call along with Anders Besseberg) reported to Ms Resch that 'Anders' suggestion that this clarification (participation of the Russian National Federations in organized doping) be made jointly by the Winter Sports Federations has not found support. This also means, however, that the suspension of a Russian national federation and in particular the RBU is no longer an issue. This is also consistent, because otherwise the staging of Russian events would be jeopardised. In addition, the “clean athletes” would no longer have

⁵⁰¹ Netzle memorandum, 07.12.17 [Document 308].

⁵⁰² Resch-Netzle email, 06.12.17 [Document 305].

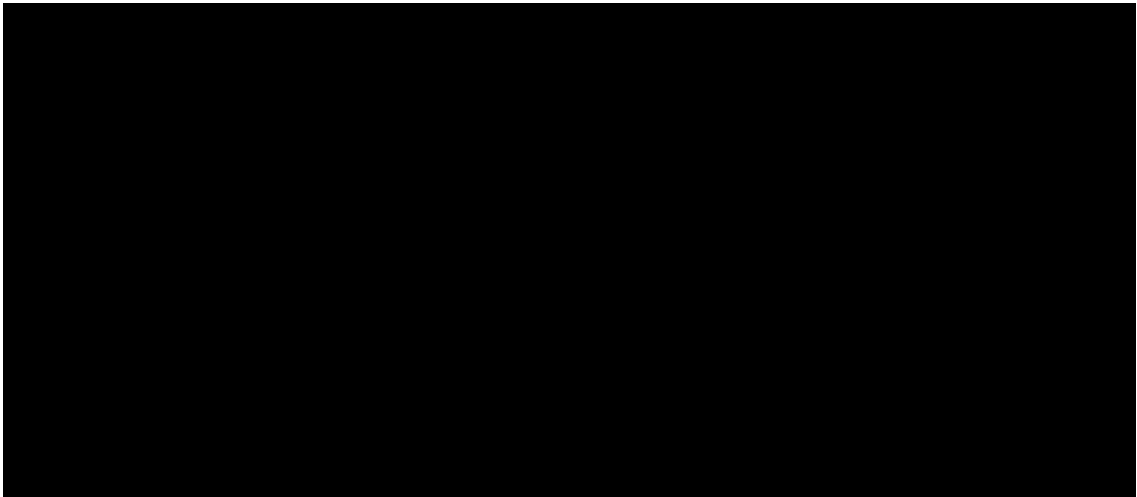
organisations supporting them'.⁵⁰³ Mr Besseberg advised the IBU Executive Board at its meeting on 9-10 December 2017 that the AIOWF had unanimously agreed not to move any events out of Russia for season 2017/18, and the IOC Sports Director had had no objections to this.⁵⁰⁴

6.277

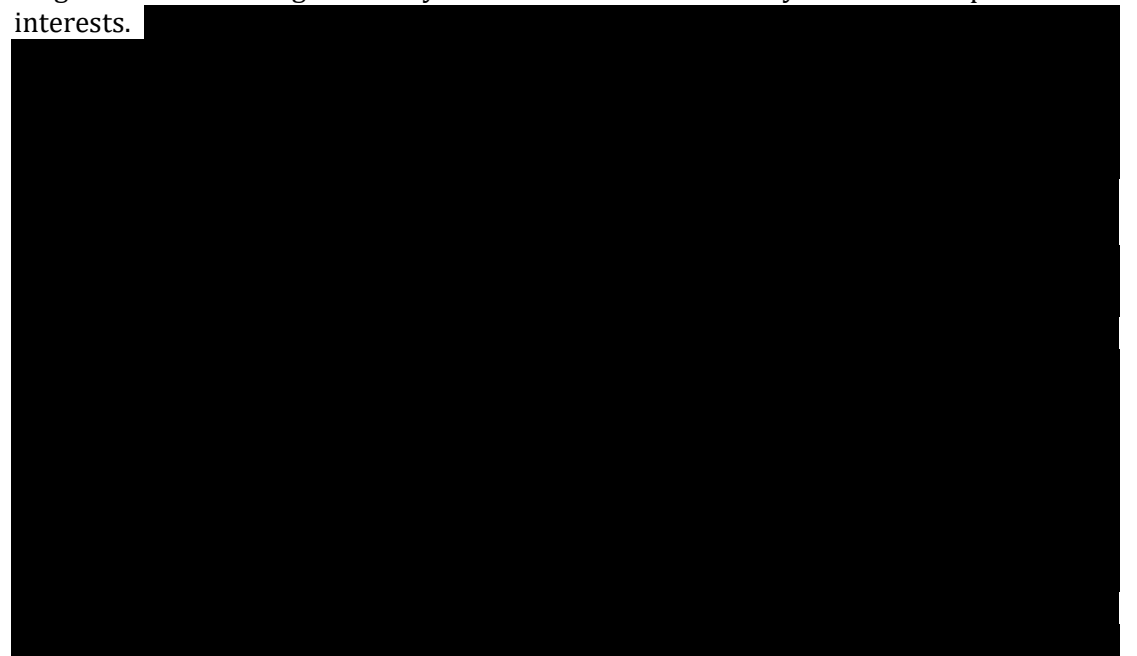


⁵⁰³ Netzle-Resch email, 08.12.17 [Document 309].

⁵⁰⁴ Minutes of IBU Executive Board meeting, 9-10.12.17 [Document 270].



- 6.278 Thereafter Dr Netzle revised his memorandum of advice to the IBU Executive Board, removing the reference to suspension and suggesting instead that the RBU be demoted to provisional membership (which meant that it would be able to continue to host events and enter athletes in competitions).⁵⁰⁶
- 6.279 On 8 December 2017, Biathlon Canada wrote an open letter to the IBU Executive Board, saying that not moving the two IBU Cups and the IBU World Cup event that had been allocated to Russia for season 2017/18 was inconsistent with the IOC's decision to disallow participation by the Russian team at the 2018 Olympic Games, expressed its frustration, and said it would not be sending a team to those events.⁵⁰⁷
- 6.280 The Commission also has further evidence that at around the same time, Ms Resch expressed serious concern that Mr Besseberg had become so pro-Russia that he was no longer communicating neutrally and would instead always side with pro-Russian interests.



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506 Netzle memorandum, 08.12.17 [Document 311].

507 Biathlon Canada letter to IBU, 08.12.17 [Document 312].

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- 6.281 [REDACTED] told the Commission: 'there was a hard pressure on Executive Board and the President that we should not go there [to Tyumen]. There were some nations not travelling there because of these McLaren report issues, and there was some other big events in Russia actually cancelled. And [there] was a strong suggestion from the sports side, from our nations, from the coaches and also the athletes, that biathlon is one of the kind of most popular winter sports, we should basically lead the way in this, but not that we are actually kind of ignoring what's going on in Russia and we still have to do it. At the end, like always, President just make a statement to everybody: "There is nothing wrong with that. It's completely okay and safe to go to the Russia and nothing will happen"'.⁵¹¹
- 6.282 Nicole Resch told the criminal investigators that before the IBU Executive Board meeting on 9-10 December 2017, 'I had an argument with Besseberg and [REDACTED]. I have held a different opinion on the disciplinary consequences against the RBU. I have communicated this in a conversation between Besseberg, [REDACTED] and myself prior to the Board meeting. Both of them found my idea bad and more or less forbid me to make a proposal at the Board meeting. However, I had already talked about this with other colleagues on the Executive Board in advance, who then presented and supported this idea at the meeting'.⁵¹²
- 6.283 On 9-10 December 2017, the IBU Executive Board met in Leogang.
- 6.283.1 Max Cobb made a formal motion to (i) investigate against RBU, (ii) suspend the RBU, and (iii) move the three IBU events in March 2018 from Russia, including the 2018 IBU World Cup Final in Tyumen. Mr Cobb based his motion on the Oswald Commission's rulings that 42 athletes (including three biathletes) were implicated in the doping conspiracy, and the Rodchenkov affidavits filed in those cases, which detailed the involvement of RBU officials in the scheme, as well as the findings of the Schmid Commission.⁵¹³
- 6.283.2 [REDACTED]
[REDACTED] Dr Netzle recommended instead that the IBU Executive

509 [REDACTED]

510 [REDACTED]

511 [REDACTED] interview, 18.03.19 [Document 136].

512 Resch police interview, 10-11.04.18 [Document 55].

513 Cobb motion [Document 314]; Cobb police interview, 23.09.20 [Document 315].

Board relegate the RBU to provisional member status, meaning it would be permitted to continue to host events.

6.283.3 Four IBU Executive Board members voted in favour of Mr Cobb's motion ([REDACTED]) and four voted against that motion and in favour of Dr Netzle's proposal ([REDACTED]). Mr Maygurov was excluded from the vote. Therefore, Mr Besseberg as President had a casting vote, which he cast in favour of the Netzle proposal and against the Cobb motion to move the events out of Russia. Mr Besseberg has noted that this was 'the first and only time' he ever used his casting vote in his entire 25 years as IBU President.⁵¹⁴

6.283.4 The resolution passed (which had been drafted by Dr Netzle before the meeting) was as follows:

After a thorough discussion of the different options,^[515] the EB voted for the following proposal:

As a consequence of the substantial number of doping convictions in the recent past, the IOC verdicts against three Russian biathletes who were found guilty of an ADRV at the OWG 2014 and the substantial number of athletes still suspicious of having been part of, or profited from the Russian doping conspiracy, which caused great damage to the sport of biathlon and the reputation of the IBU,

and in order to encourage the RBU to become more active in the fight against doping, to assist in the discovery of any doping manipulations in Russia and to enforce strict compliance with the applicable anti-doping rules and policies,

the IBU Executive Board herewith relegates the RBU to provisional membership (Art. 16.12 Constitution) with the limited membership rights as set out in Art. 15 of the Constitution.

The IBU Executive Board will review restitution of the RBU to full membership at a later date but not before the end of the 2017/2018 competition season, subject to the following conditions:

- (a) the IOC has lifted the suspension of the ROC;
- (b) no adverse analytical findings or other ADRVs of Russian biathletes committed after [1 January 2017] have been reported;
- (c) the RBU fully cooperates with any investigation of any alleged ADRVs in the context of, and the involvement of officials in, the alleged doping conspiracy that was described by the IP Report, Dr Rodchenkov's affidavits and the IOC Disciplinary Commission (Schmid Commission) Report.

The IBU Executive Board may, at its sole discretion, decide to extend the provisional membership if it deems that the above conditions have not been met. The IBU Executive Board is following the developments very closely and reserves the right to take further measures against the RBU or any individuals as a consequence of further results of the ongoing investigations.⁵¹⁶

6.284 [REDACTED]

⁵¹⁴ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

⁵¹⁵ [REDACTED]

⁵¹⁶ Minutes of IBU Executive Board meeting, 09-10.12.17 [Document 270].

- [REDACTED]
- 6.285 On 10 December 2017, when [REDACTED] of the IBU Athletes' Committee challenged Anders Besseberg as to how the IBU Executive Board could keep the events in Russia given the various independent reports about the doping conspiracy in Russia and given that RUSADA was non-compliant with the Code, Mr Besseberg responded that 'in fact it was the WADA Code that was the reason they were continuing to hold the Tyumen WC and that he had a letter from WADA stating that IBU should go forward with international competitions in Russia'.⁵¹⁸ This was simply untrue: nothing in the World Anti-Doping Code required that the IBU keep its events in Russia (in fact, Article 23.6 stated that additional consequences could be imposed for non-compliance with the Code, including 'Ineligibility or non-admission of any candidature to hold any International Event in a country; cancellation of International Events'), and Mr Besseberg had not received a letter from WADA stating that the IBU should go forward with international competitions in Russia.
- 6.286 The Commission agrees with Nicole Resch's view that Mr Besseberg's actions were clearly pro-Russia to a remarkable degree [REDACTED] in this period. Rather than bow to the wishes of the national federations and athletes who wanted him to move the three IBU events in 2018 out of Russia, he insisted that they must remain there, and used his double vote to ensure they did. He then apparently lied to a member of the IBU Athletes' Committee about why he did so, falsely suggesting that WADA had said he should keep the events in Russia. The Commission therefore considers that Mr Besseberg has a case to answer for breach of his duty under the IBU Ethics Code of the time to behave and act with complete credibility and integrity.

6B.16 The failure to move the 2018 IBU World Cup final event away from Tyumen even after the new LIMS evidence supported the bringing of further doping cases

- 6.287 As noted above (see paragraph 6.283), the IBU Executive Board resolution in December 2017 to keep the 2018 IBU World Cup event in Tyumen ended by stating: 'The IBU Executive Board is following the developments very closely and reserves the right to take further measures against the RBU or any individuals as a consequence of further results of the ongoing investigations'.
- 6.287.1 When interviewed by the Commission, Max Cobb and Ivor Lehotan were both very clear in their recollection that the agreement of the IBU Executive Board was that if the new LIMS evidence that WADA had obtained led to any further cases against Russian biathletes (beyond the four already pending: Glazyrina, Romanova, Vilukhina, and Zaitseva), the 2018 IBU World Cup Final event would have to be moved from Tyumen.
- 6.287.2 In contrast, Dr Leistner said he could not really remember any such discussion.⁵¹⁹
- 6.287.3 However, a press release issued by the IBU stated that 'all members of the Association of the International Olympic Winter Sports Federations (AIOWF) agreed at a conference call on 9 December 2017 that all competitions in Russia

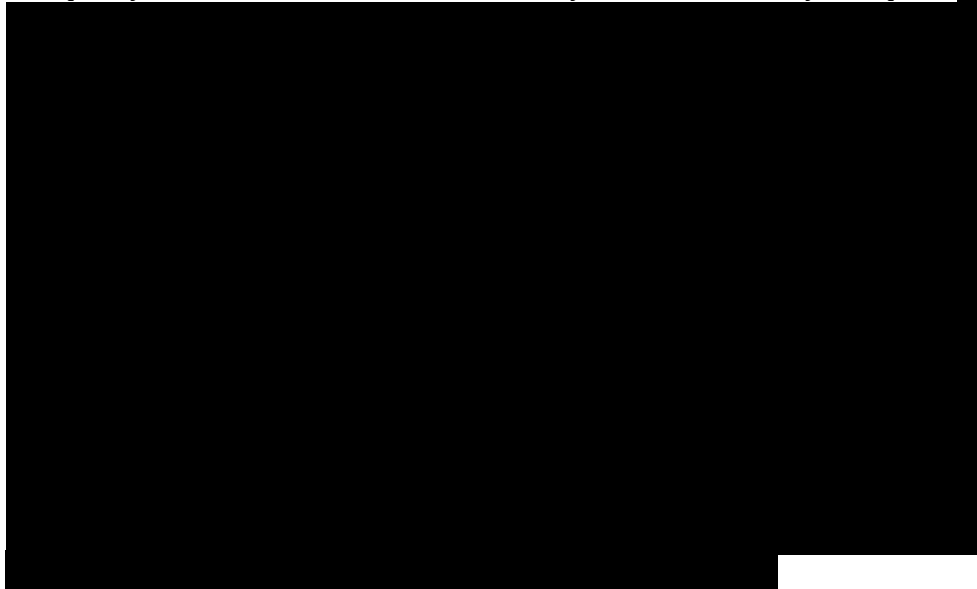
517 [REDACTED]

518 [REDACTED] email, 11.12.17 [Document 317].

519 Leistner interview, 03.07.20 [Document 133].

will be conducted as planned for the ongoing season 2017/2018, *unless new important and legally backed evidence is brought up*'.⁵²⁰

- 6.287.4 The Commission also has evidence that Mr Besseberg was well aware of the situation and was also apparently himself of the view that there had been a conspiracy between the Moscow laboratory and the Ministry of Sport.



- 6.287.5 On 9 January 2018, Mr Besseberg met with athletes and coaches at the IBU World Cup event in Ruhpolding, and they expressed significant concerns about competing in Russia. In addition, the IBU Athletes' Committee passed on to the IBU Executive Board a letter setting out their position that it was simply wrong to have the final 2018 IBU World Cup event and two IBU Cups in Russia, noting that there had even been threats of physical harm made to athletes who travelled to Russia, and that they were also worried about dope tests being tampered with. Individual biathletes also sent emails echoing that position.⁵²² In response, Mr Besseberg said the issue would be discussed again at the IBU Executive Board meeting in Pyeongchang in February 2018, and that the IBU Executive Board had specifically reserved the right to take further action.⁵²³
- 6.287.6 Consistent with that, on 26 January 2018 the IBU issued the following press release:

IBU Executive Board still evaluating whether to conduct events in Russia in March

Following the decisions of the 133rd IBU Executive Board Meeting in Hochfilzen, Austria on Sunday, December 10, 2017, the Executive Board of the International Biathlon Union would like to inform its members, partners and media representatives that the conduct of IBU-sanctioned events in Russia planned for the 2017/2018 season is currently still being evaluated in light of

⁵²⁰ IBU press release, 14.02.18 [Document 318] (emphasis added). The Commission believes that the call actually took place on 8 December 2017 and that there is a typo in the press release: see paragraph 6.276, above.

⁵²¹

See IBU Athletes' Committee letter and biathlete emails, 30.01.18 [Document 321].

⁵²³ See Document 320.

newly available information. The events under review are the BMW IBU World Cup 9 Tyumen, IBU Cup 7 Uvat and IBU Cup 8 Khanty – Mansiysk.

A final decision will be made during the IBU Executive Board Meeting in February during the Olympic Winter Games 2018 in PyeongChang, South Korea.⁵²⁴

- 6.287.7 On 29-31 January 2018, a number of competing biathletes sent IBU Secretary General Nicole Resch letters explaining why they did not think the IBU should be holding the three remaining events in Russia, and why they would not participate in those events if they were not moved away from Russia. They noted that RUSADA remained non-compliant, that the number of Russian biathletes convicted of serious doping offences showed that the RBU was failing in its duty to protect clean competition, and expressed concern that athletes travelling to Russia would be targeted, including by tampering with their drug tests. They called on the IBU Executive Board to signal its commitment to clean sport by moving the events so that biathletes were not forced to choose whether to take the risk of going to Russia.⁵²⁵ In each case, Nicole Resch replied that the issue was on the agenda for the IBU Executive Board meeting in Korea: 'The EB will consider all the circumstances again before a final decision, such as the result of the LIMS working group and also your emails. Until then, all preparations are on hold'.⁵²⁶
- 6.287.8 The Commission therefore accepts that the decision of the IBU Executive Board in December 2017 not to move the 2018 IBU World Cup event away from Tyumen was a provisional one only, not a final one, and that the IBU Executive Board specifically agreed that it would make a final decision only in Pyeongchang, in light of any new information arising. Obviously new doping cases against Russian biathletes based on the new LIMS evidence would count as very material new information in this context.
- 6.287.9 Importantly for what follows, however, Dr Netzle told the Commission that this was not communicated to him.⁵²⁷
- 6.288 On 13 December 2017, Max Cobb was planning to have a meeting with [REDACTED] in Lausanne. Nicole Resch knew about this appointment [REDACTED]

⁵²⁴ IBU press release, 26.01.18 [Document 322].

⁵²⁵ See Document 323.

⁵²⁶ [REDACTED] Resch emails, 31.01.18 [Document 324].

⁵²⁷ Netzle-Resch email, 09.12.17 [Document 325] [REDACTED]

6.289

6.290 The Commission's view is that Nicole Resch thereby not only tried to prevent Max Cobb from having a more detailed conversation with [REDACTED], but cast him as an opponent of Mr Besseberg [REDACTED]. She also misstated to her President the motive for and the content of her call with [REDACTED].

6.291 On 14 December 2017, Nicole Resch, Max Cobb, [REDACTED] attended a meeting hosted by WADA I&I in Lausanne, and were given a copy of the suspicious findings that WADA I&I had found stored in the hidden section of the 2015 copy of the LIMS database, relating to 31 Russian biathletes. Nicole Resch proposed that the re-constituted Working Group (now including [REDACTED]) prioritise any evidence relating to Glazyrina (since her case was still pending before the IBU ADHP at that stage) and any evidence relating to athletes who were still competing in season 2017/18.⁵³¹ On 3 January 2018, Nicole Resch advised the IBU Executive Board that the new Working Group would prioritise investigation of Russian athletes who were still competing, then the Russian athletes that had been identified by Richard McLaren as 'pre-departure saves'.⁵³²

6.292 Dr Netzle told the Commission that around this time he received a call from Mr Besseberg: 'there is one list which shows every athlete that was tested in the Moscow lab. And I'm not sure whether he saw it himself or whether Nicole told him, but he said he just wants to make sure that we are not stopping with the Russians, but there are many, many other names, other countries, and we should look at them too'.⁵³³

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531 Resch-Netzle email, 14.12.17 [Document 328].

532 Resch-EB email, 03.01.18 [Document 329].

533 Netzle interview, 29.06.20 [Document 219].

- 6.293 Max Cobb told the Commission that he went through the new LIMS data carefully, as did Jim Carrabre, and it matched up completely with the evidence set out in the McLaren EDPs.⁵³⁴
- 6.294 Based on his review of the LIMS data, on 8 January 2018 Jim Carrabre recommended that the Working Group: (1) consider a provisional suspension of [REDACTED] based on his positive results on initial screening for two prohibited substances, combined with his mention in a Rodchenkov affidavit as having provided clean urine, and the 'save' order for one of his samples in the EDPs; (2) arrange for analysis of the samples of [REDACTED], [REDACTED], and [REDACTED]; (3) bring a case against [REDACTED]; (4) bring a case against [REDACTED]; (5) check the blood data for the biathletes recorded as having disappearing positives for rEPO or phthalates; (6) submit the new Glazyrina evidence to the ADHP; (7) and consider bringing cases against six further athletes for disappearing positives following initial testing (and following confirmation testing in one case). He noted: 'I know there is a great deal of data but the Olympics are in just 1 month and many of these athletes are scheduled to potentially compete so I feel it is imperative that we look at the merits of taking some decisions soon'. He also said they should follow up with Dr Rodchenkov on the evidence in his Oswald affidavits that RBU President Kravtsov and RBU [REDACTED] were involved in the doping conspiracy.⁵³⁵
- 6.295 Dr Netzle responded by saying [REDACTED] was working through the LIMS data and they would take Dr Carrabre's analysis into account. [REDACTED]
- 6.296 On 9 January 2018, Dr Netzle and [REDACTED] exchanged emails reviewing Jim Carrabre's email in detail. Dr Netzle informed the Commission that he agreed (further to Dr Carrabre's email) that they should consider immediate action against [REDACTED]. He thought they had more time in respect of the others because they were not going to be competing at the 2018 Olympic Games, and therefore there was time to send their files [REDACTED] for specialist laboratory analysis (which was what WADA had recommended be done in each case), and also to wait for the ADHP's Glazyrina decision, to see what it said about the weight that could be put on the information supplied by Dr Rodchenkov.⁵³⁸
- 6.297 Dr Netzle's lack of urgency in the circumstances is understandable only when one appreciates that no one told him the IBU Executive Board had agreed to revisit its decision not to move the final 2018 IBU World Cup event in Tyumen at the Olympic Games in

⁵³⁴ Cobb interview [Document 330].

⁵³⁵ Carrabre-Working Group email, 08.01.18 [Document 332].

⁵³⁶ Netzle-Carrabre/Working Group emails, 08.01.18 [Document 333].

⁵³⁷ Resch-Besseberg email, 08.01.18 [Document 334].

⁵³⁸ Netzle email, 09.01.18 [Document 335] and Netzle interview, 01.07.2020 [Document 337].

February 2018 if the new LIMS evidence produced any new cases. In any event, he did not send the data for [REDACTED] and the others [REDACTED] for analysis until April 2018.

6.298

[REDACTED]

6.299 On 24 January 2018, Dr Netzle sent a status report to the Working Group, stating that [REDACTED] had identified 12 female biathletes and 12 male biathletes mentioned in the LIMS data who were still active and should be prioritised, that the IBU had ordered analysis of the samples of those athletes that were still in the laboratory, and that the LIMS data should be sent to [REDACTED] for analysis. However, Dr Netzle sought to temper expectations about what would come out of that analysis [REDACTED]

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[REDACTED]

[REDACTED]

6.301 On 31 January 2018, Nicole Resch emailed Dr Netzle to tell him that the IBU Executive Board would be meeting in Pyeongchang on 13 February 2018, and that ['it would be important to have a report of the working group on LIMS by then'](#).⁵⁴³

539

[REDACTED]

540

[REDACTED]

541 Netzle-WG email, 24.01.18 [Document 339]; Netzle-Resch email, 24.01.18 [Document 340].

542

[REDACTED]

543

Resch-Netzle email, 31.01.18 [Document 342].

6.302 As noted above (see paragraph 6.249), on 1 February 2018 the CAS issued its decision on the Oswald appeals, upholding the ADRV findings against 11 of the 39 athletes but rejecting them against the other 28 on the basis that there was insufficient evidence showing that they must have known about the conspiracy. [REDACTED]

[REDACTED]

[REDACTED]

6.303

6.304 Dr Netzle then emailed the Working Group as follows:⁵⁴⁷

The CAS has upheld 28 appeals and confirmed 11 IOC decisions.

I conclude from the list and my knowledge of the evidence available that the CAS upheld the sanctions only in those cases where the sample/fluid itself was contaminated (i.e. containing impossible salt levels or a different DNA). On the other side it did not accept the so-called "Duchess List" alone or in combination with any other evidence (e.g. scratches and marks, emails with a SAVE order, the "clean urine bank" inventory or other lists) as sufficient evidence to support a finding of an ADRV.

6.305 On 5 February 2018, Dr Netzle sent Nicole Resch an update, noting that Zaitseva had abnormal salt levels and so was likely to lose her appeal [REDACTED]. He also said that there was probably a basis to open individual cases where the evidence was similar to that in the Glazyrina case, i.e., suspicious LIMS entries combined with EDP evidence, but the evidence would need to [REDACTED] first.⁵⁴⁸ In response, Nicole Resch said it would be good to have this explanation included in the

⁵⁴⁵ Netzle interview, 01.07.20 [Document 337].

⁵⁴⁶ [REDACTED]

⁵⁴⁷ Netzle-Working Group email, 01.02.18 [Document 343].

⁵⁴⁸ Netzle-Resch email, 05.02.2018 [Document 344].

report that Dr Netzle was to provide for the IBU Executive Board's meeting on 13 February 2018.⁵⁴⁹

6.306 On 12 February 2018, Nicole Resch asked Dr Netzle where his report was for the IBU Executive Board meeting the next day, and he confessed he had not done one. He sent an email noting that [REDACTED]

[REDACTED] they needed to see the reasoned decision in the CAS Oswald appeals case to come to a final view.⁵⁵⁰

6.307 The Commission discussed in detail with Dr Netzle why he did not provide a report for the IBU Executive Board on 13 February 2018. He was very clear that he was not asked by anyone not to produce the report (and the file reflects that Nicole Resch reminded him of the need for it several times). He was also clear that it was not deliberate on his part, it was simply an oversight, at a time when there were many other demands on his time, [REDACTED]. He insisted that he had not been told that the IBU Executive Board would be making a final decision in Pyeongchang as to whether to move the remaining 2018 events out of Russia based on whether or not the new LIMS evidence gave rise to any new cases, and he was therefore simply not aware of that link. He maintained that there were no cases that were ready at that time to be filed; there were certain potential cases, but they needed to be sent to [REDACTED] for analysis.⁵⁵¹

6.308 Nicole Resch told the criminal authorities that before the meeting she again expressed her support for the withdrawal of the three events from Russia, but that 'met with strong disapproval, especially on the pro-Russian side of the Board. Before the Board meeting on 13.02.2018, Mr Besseberg [REDACTED], for example, had pointed out to her that she had to keep her opinion to herself'.⁵⁵²

6.309 At the IBU Executive Board meeting in Pyeongchang on 13 February 2018:

6.309.1 Jim Carrabre explained that in his opinion there was enough evidence to bring four cases forward. However, Nicole Resch also circulated Dr Netzle's email from the previous day, saying that further analysis was required before any recommendation could be made to bring a case.

6.309.2 During the discussion, Anders Besseberg strongly criticised Max Cobb for circulating a draft letter in his capacity as President and CEO of US Biathlon to other member federations to be sent to the IBU Executive Board, suggesting that the events should be removed from Russia.

6.309.3 According to Max Cobb: 'During the discussion Mr. Besseberg threatened that if the World Cup in Tyumen would not take place, we all could be held liable with our private assets'.⁵⁵³ Mr Besseberg told the criminal prosecutors that it was not him who said that. Rather, as far as he could recall, [REDACTED] 'noted that there is a risk that in the event of a withdrawal the board members could be liable with their private assets'.⁵⁵⁴ [REDACTED] told the Commission that he

⁵⁴⁹ Resch-Netzle email, 05.02.18 [Document 345].

⁵⁵⁰ Netzle-Resch email, 12.02.18 [Document 346].

⁵⁵¹ Netzle interview, 01.07.20 [Document 337].

⁵⁵² Resch statement to criminal authorities, 22.08.19 [Document 347].

⁵⁵³ Cobb interview by criminal authorities, 04.06.18 [Document 348].

⁵⁵⁴ Besseberg statement to criminal authorities, 11.03.19 [Document 47].

gave his own opinion that the IBU could be liable in damages if it moved the event, since it had signed the contract and the organiser had incurred costs.

[Redacted]

6.309.4 [Redacted] said that the [Redacted] federation wanted to complete the season as normal. In his view, whereas certain athletes, countries and coaches opposed the final 2018 World Cup event being held in Tyumen, there were many others who did not want to move it, and in the end he thought the decision to complete the season as planned proved to be the correct decision.⁵⁵⁷

6.309.5 The issue was then put to a vote [Redacted]

555 [Redacted]

556 [Redacted]

[Redacted]

[Redacted]

[Redacted]

557 [Redacted]

[REDACTED] Therefore, there was no change to the original decision in December 2017 to keep the three events in Russia.

6.309.6 It was agreed that Jim Carrabre should meet with Dr Netzle once he had arrived in Pyeongchang on 18 February 2018 to discuss the various cases, and if there were new findings and proposals the Executive Board could meet again to reconsider the position (including in relation to the events in Russia).⁵⁵⁸ However, the decision to keep the events in Russia was announced the next day, 14 February 2018,⁵⁵⁹ and so by that point was effectively a *fait accompli*.

6.310 After the meeting, Nicole Resch asked Dr Netzle to write a paper for the IBU Executive Board [REDACTED]

[REDACTED] Dr Netzle sent the paper on 15 February 2018 (although it was dated 14 February 2018). In it, he repeated what he had said in his email to the Working Group of 1 February 2018 about the CAS decision in the Oswald Commission cases. He said: [REDACTED] [did not \(yet\) analyse the individual data sets and whether the content created sufficient suspicion to open a formal ADHP proceeding.](#) [REDACTED]

558 Document 349.


559 IBU press release, 14.02.18 [Document 318].

560 [REDACTED]

561 [REDACTED]



⁵⁶² Ms Resch only forwarded that report on to the IBU Executive Board three days later, on 18 February 2018, and emphasised when she did so that Dr Netzle was not proposing that the IBU Executive Board take any action at that time.⁵⁶³

6.311 After Dr Netzle got to Pyeongchang on 18 February 2018, he met with Jim Carrabre and they went through the open cases, with Dr Netzle ultimately agreeing that initially four further cases should be taken forward. Jim Carrabre remembers that it was agreed those four cases should be taken forward as soon as possible,⁵⁶⁴ whereas Dr Netzle's recollection is that they agreed the process should be accelerated as much as possible, but with the understanding that there still had to be re-testing of samples and analysis of the data by ⁵⁶⁵.

6.312 Following that meeting, at 23:20 (local time) on 22 February 2018 Jim Carrabre emailed Nicole Resch, copying the other members of the IBU Executive Board, with the following request:⁵⁶⁶


Several EB members have asked me regarding an update on the data in the LIMS, McLaren and blood passport case. I have talked with Dr Netzle and he is available for this meeting while here in Korea. There is a proposal to meet at the stadium at 5 pm tomorrow.

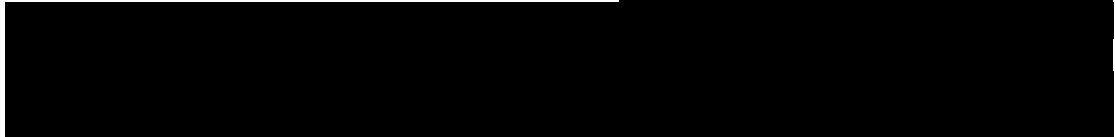
If the majority of the board members can be present then this seems to be a good time to meet.

Can you please help facilitate this request.

6.313



6.314 The next morning, at 8:52am local time, Nicole Resch forwarded Dr Carrabre's email to Dr Netzle, deleting Dr Carrabre as recipient (but not deleting the other IBU Executive Board members), and asking: 'Is this correct?'⁵⁶⁸ 



⁵⁶² Netzle-Working Group report, 14.02.18 [Document 352].

⁵⁶³ Resch-Executive Board email, 18.02.18 [Document 353].

⁵⁶⁴ Carrabre statement to criminal authorities, 15/16.02.20 [Document 91]; Cobb-Carrabre email, 14.12.19 [Document 354].

⁵⁶⁵ Netzle interview, 01.07.20 [Document 337].

⁵⁶⁶ Carrabre-Resch email, 22.02.18 [Document 355].

⁵⁶⁷ 

⁵⁶⁸ Resch-Netzle email, 23.02.18 [Document 357].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6.316 Subsequently, at 16:10 local time, Nicole Resch finally responded to Jim Carrabre's email, stating:⁵⁷¹

Dear Jim,

Thank you for your email, that I just read. I was at figure skating with some of the IBU staff [REDACTED]. They have all been working three weeks in a row now and this morning was the only chance to share some Olympic spirit before departure tomorrow.

Regarding your proposal for a meeting:

I talked to Dr. Netzle, who confirmed his availability for any questions any EB might have, tonight before the competition. However, he confirmed to me that there is no update from the last status quo report he provided last week, meaning there is no proposal for any EB decision at this point in time after he held a meeting with you here as proposed in the EB meeting on 13 Feb.

Unfortunately I am fully booked with meetings tonight as the last competition day and cannot join. I am not sure who of the EB members are attending. The EB has an office space in the stadium that is for your free deposit at any point in time.

6.317 Dr Leistner noted in the interview with the Commission that Ms Resch misrepresenting in this way to an IBU Executive Board member that she had 'just read' his email 'is not elegant, and in my business it would not be acceptable'.⁵⁷² In any event, Jim Carrabre

569 [REDACTED]

570 [REDACTED]

571 Resch-Carrabre email, 23.02.18 [Document 360].

572 Leistner interview, 03.07.20 [Document 133].

responded to Ms Resch at 16:27 local time: 'Thank you for your email. I think that it would be good to try and meet at 5 pm if Dr Netzle is there'.⁵⁷³

6.318 One minute before the scheduled meeting time, at 16:59 local time, Dr Netzle wrote to Nicole Resch: 'Jim called me and wanted a meeting with his "allies" and me. I told him that I don't support a split in the board: Either I meet with everyone or I meet with no one. Otherwise, it's just a mess, and I'll be taken over by Jim & Co. I don't want that. I'll be at the stadium at 7:00'. Nicole Resch replied: 'It's just a matter of questions and answers. It would only be operational, no meeting, no decision-making'. Dr Netzle replied: 'Ok - I just want to avoid being taken over by a member of the board. Besides, I've told Jim everything I know'.⁵⁷⁴ Ms Resch forwarded that email to Messrs Besseberg, [REDACTED].

6.319 When the IBU Executive Board members met in the hotel lobby at 5pm to take the transport to the stadium, Dr Netzle was not there, and when they called him to join them, he said that Nicole Resch had told him there was not going to be a meeting. In response, Olle Dahlin insisted he join them immediately, and also called Mr Besseberg and said he must join the meeting as well, and eventually they did gather at the stadium (including Dr Leistner, although he only stayed for the beginning of the meeting, but not Mr Maygurov or Ms Kim). They went through the cases and agreed on the four to be taken forward. The IBU Executive Board members who were present made it clear to Dr Netzle that they wanted more information and they wanted the cases to be progressed more quickly. [REDACTED]

6.320 On 9 March 2018, Dr Carrabre was interviewed by ZDF, and said he knew there would be more Russian doping cases in biathlon.⁵⁷⁶ [REDACTED]

[REDACTED] Mr Besseberg had an IBU statement drafted that criticised Dr Carrabre for 'publicly claim[ing] the future outcome of not yet examined and legally proven allegations'.⁵⁷⁹ although in the end the other IBU Executive Board members refused to let Mr Besseberg publish it.

6.321 On 12 March 2018, Dr Netzle wrote to Nicole Resch: 'We are working at full speed on the LIMS data. [REDACTED]

In any case, the matter is not as easy and as quick to settle as Jim C. and Max C. would like'. He said the Working Group would not be ready to make a decision until mid-April at the earliest, because they needed the reasoned decision from the CAS Oswald appeals [REDACTED].⁵⁸⁰

⁵⁷³ Carrabre-Resch email, 23.02.18 [Document 361].

⁵⁷⁴ Netzle-Resch emails, 23.02.18 [Document 362].

⁵⁷⁵ [REDACTED]

⁵⁷⁶ See idnes.cz/sport/biatlon/biatlon-ibu-doping-rusko.A180310_130630_biatlon_tof.

⁵⁷⁷ [REDACTED]

⁵⁷⁸ [REDACTED]

⁵⁷⁹ Document 365.

⁵⁸⁰ Netzle-Resch email, 12.03.18 [Document 366].

- 6.322 The final 2018 IBU World Cup event took place in Tyumen from 20 to 25 March 2018. Just days before it, Mr Besseberg was questioned forcefully at a meeting of coaches as to why the event had not been moved and what the IBU was doing about the doping scandal in Russia.⁵⁸¹ And the event itself was boycotted by IBU member federations from Britain, Canada, the USA, the Czech Republic, and the Ukraine, as well as by individual biathletes [REDACTED].
- 6.323 On 23 March 2018, Dr Netzle sent another update report to the Working Group, noting that WADA had identified a further 34 athletes with suspicious data. He said they needed to get [REDACTED] assessment of the LIMS data and the steroid profiles of the athletes in question in order to move forward with further cases. He again noted that it was difficult to believe that the RBU had been unaware of so many cases.⁵⁸²
- 6.324 On 3 April 2018, Dr Netzle wrote to Nicole Resch, proposing to focus ('for efficiency reasons') on bringing up to five test cases before the IBU ADHP, to be concluded before season 2018/19, with further cases to following depending on the outcome of those cases. He said: 'I also had the opportunity to talk to Anders Besseberg on the phone before he started his Easter holiday in his hut. He agrees with the procedure described above, but would rather like to initiate fewer pilot cases. We have also discussed the possibility of including a provision in the statutes at the coming congress which would make it easier for the board to suspend federations which cannot cope with their doping obligations. He welcomed this. In any case, now would be the right time for such a change in the statutes'.⁵⁸³
- 6.325 Dr Netzle eventually met with [REDACTED] and went through the cases on 18 April 2018. The reasoned awards from the CAS in the Oswald appeals came out on 23 April 2018.⁵⁸⁴ On 3 May 2018, the IBU received the ADHP's decision upholding the charge that Ekaterina Glazyrina had used the three steroids metenolone, oxandrolone, and trenbolone, based on the emails between the Moscow laboratory and Aleksey Velikodny at the CSP (see paragraph 6.25, above), and banned her for two years. In its decision, the ADHP found the EDP emails to be reliable evidence.⁵⁸⁵ On 10 May 2018, the IBU replaced one of the four further priority cases with a different one, based on new data from WADA, and the four cases (as revised) were ultimately referred to the IBU ADHP in September 2018. Evgeniy Ustyugov, Svetlana Sleptsova, Alexander Pechenkin, and Alexander Chernysov were charged with use of prohibited substances, based on LIMS data combined with McLaren evidence. Pechenkin and Chernysov did not contest the charges and were both banned for four years. Ustyugov and Sleptsova did contest the charges, WADA provided further raw data evidence that backed up the LIMS evidence against them, and ultimately the IBU ADHP upheld the charges and banned both of them and disqualified their results, and their appeals against those decisions are currently pending at CAS (see paragraphs 6.20, 6.22).
- 6.326 Once again, the facts set out in this section of the report repeat the clear pattern of Mr Besseberg [REDACTED] doing everything possible to stifle debate and avoid holding Russia to account for its doping misconduct. Once again, there is no evidence that they truly cared about a clean sport, or about the concerns raised by their athletes, coaches, and even their main media partner, the EBU. [REDACTED]

581 [REDACTED] interview, 18.03.19 [Document 136].

582 Netzle status report, 23.03.18 [Document 367].

583 Netzle-Resch email, 03.04.18 [Document 368].

584 *Zubkov v IOC*, CAS 2017/A/5422; *Legkov v IOC*, CAS 2017/A/5379.

585 *IBU v Glazyrina*, ADHP decision dated 24 April 2018, paragraph 169.

[Redacted]

6.327 The Commission also considers that Ms Resch crossed the line in Pyeongchang too, by misrepresenting to Jim Carrabre that she had only just seen his email [Redacted]

[Redacted]. In the Commission's view, she also has a case to answer for breach of her obligation under the IBU Code of Ethics to behave and act with complete credibility and integrity. However, the Commission does not consider that she (or anyone else) manipulated the process so that Dr Netzle did not report on new doping cases to the IBU Executive Board in Pyeongchang on 13 February 2018. That seems to the Commission to have been simply an unfortunate oversight.

[Redacted]

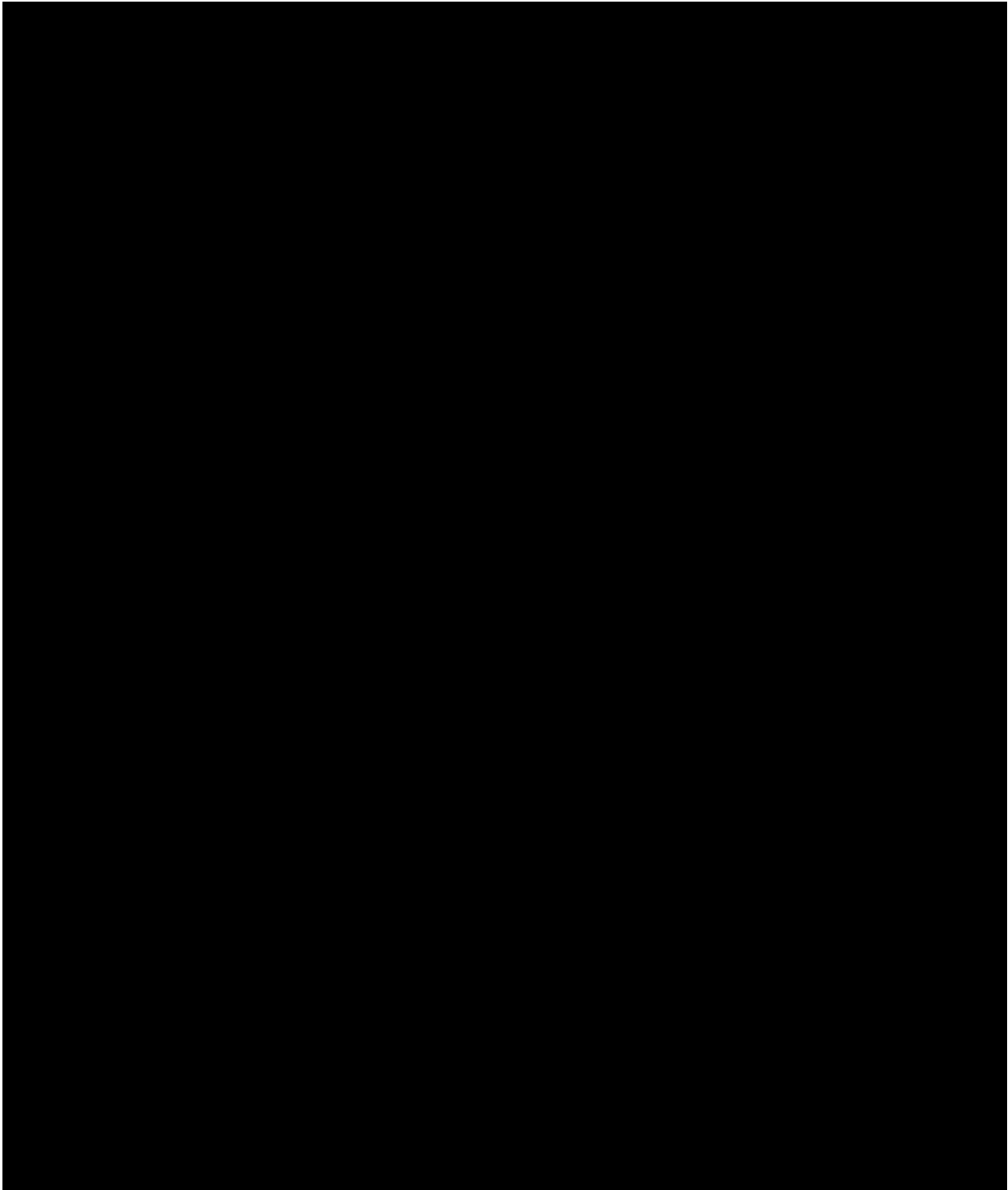
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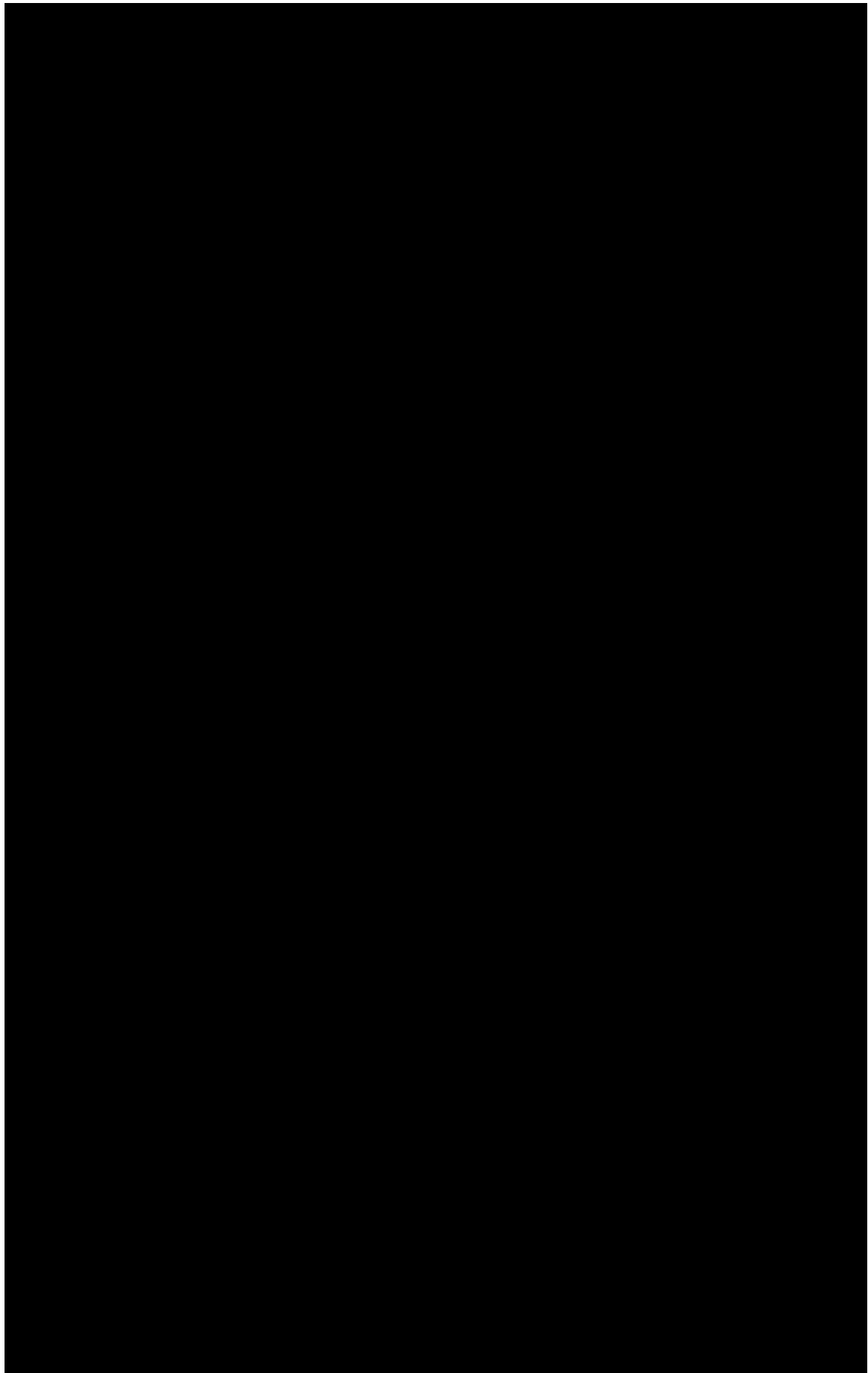
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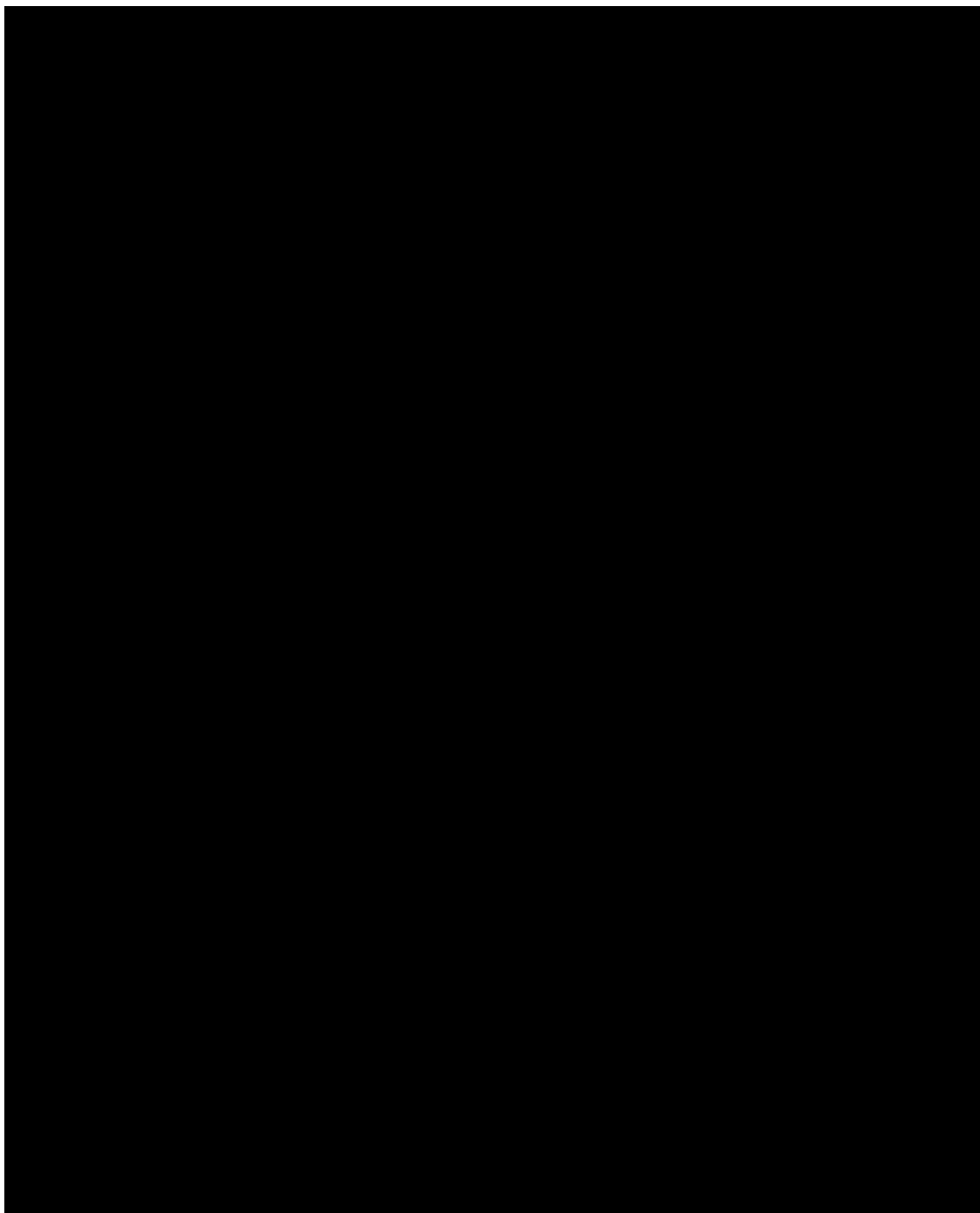
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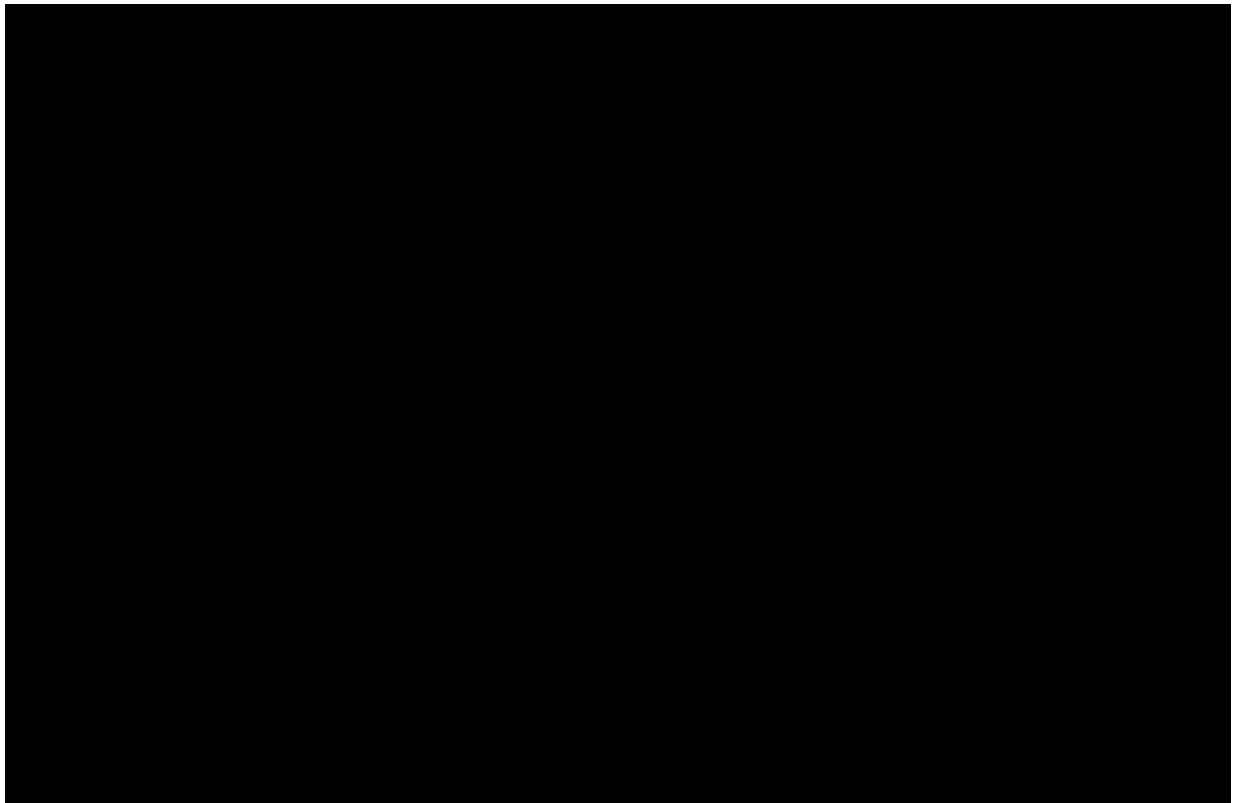
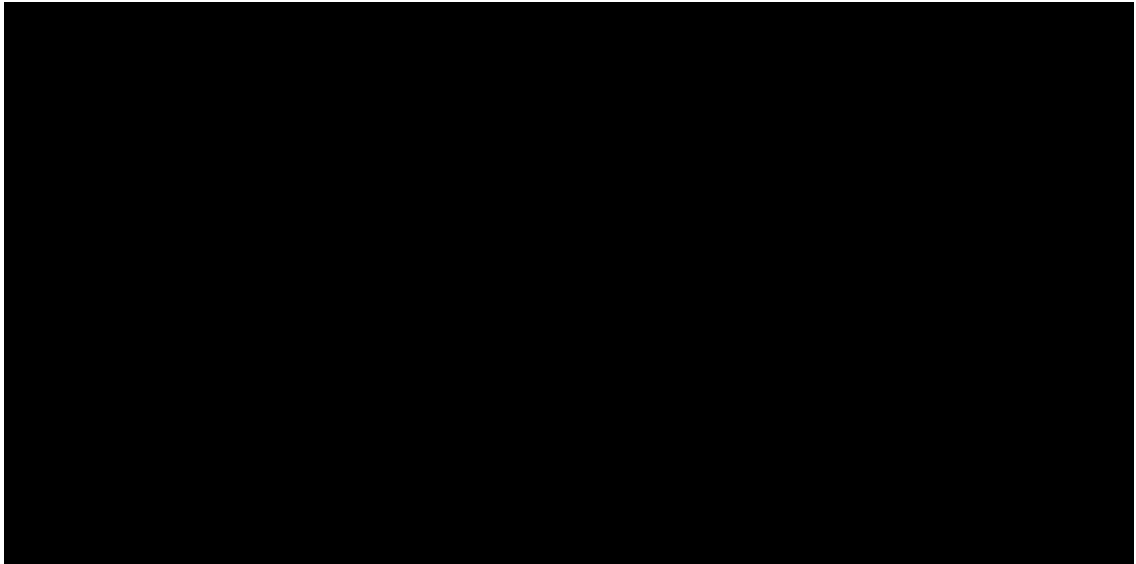
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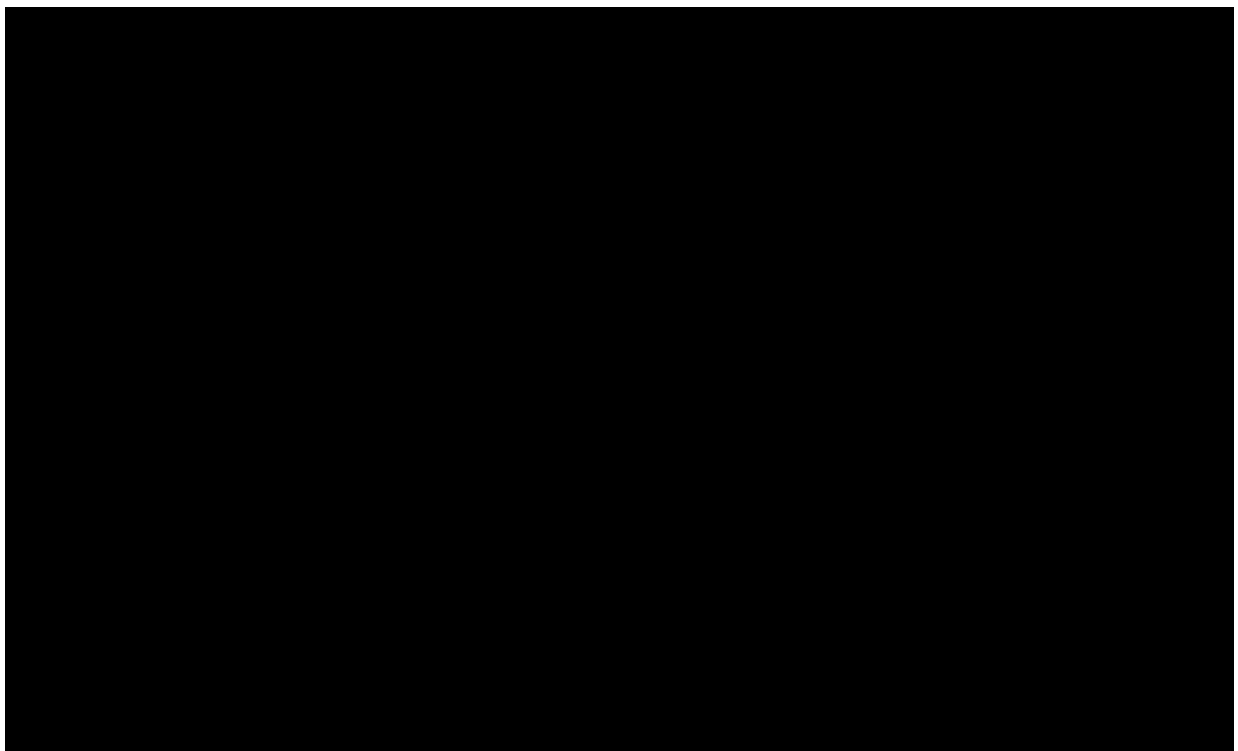
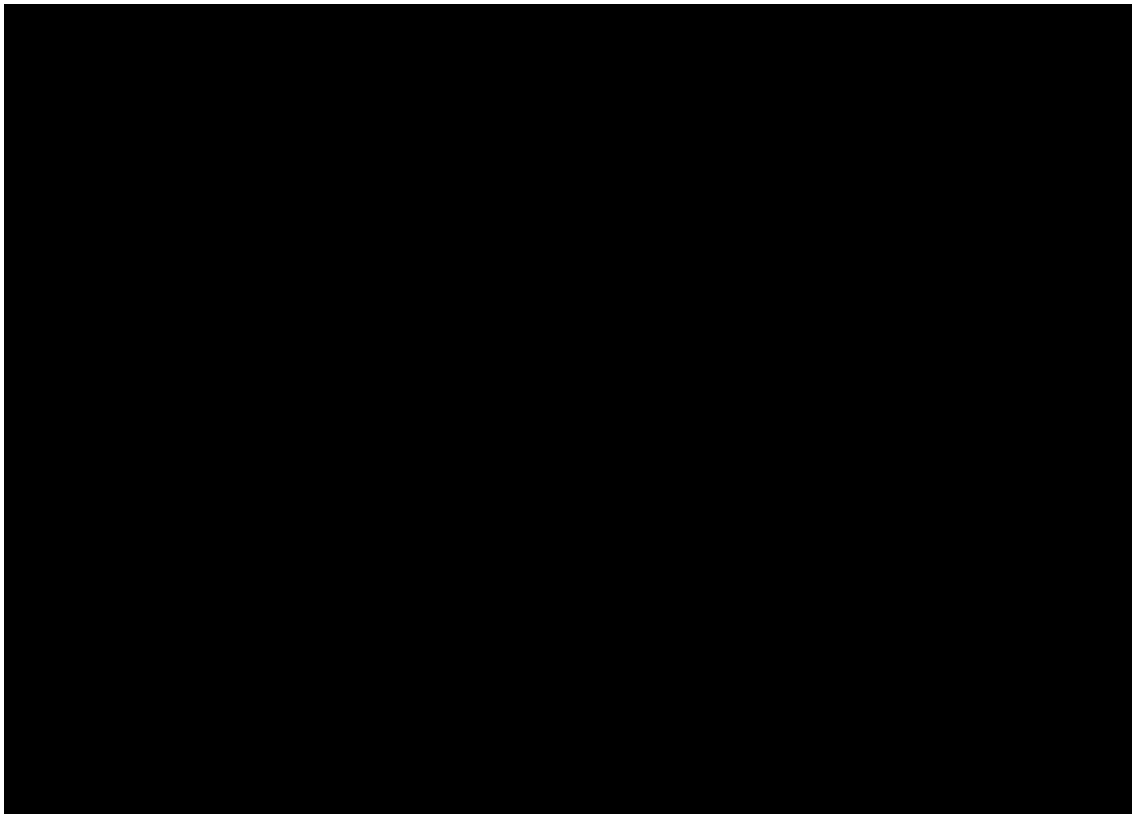
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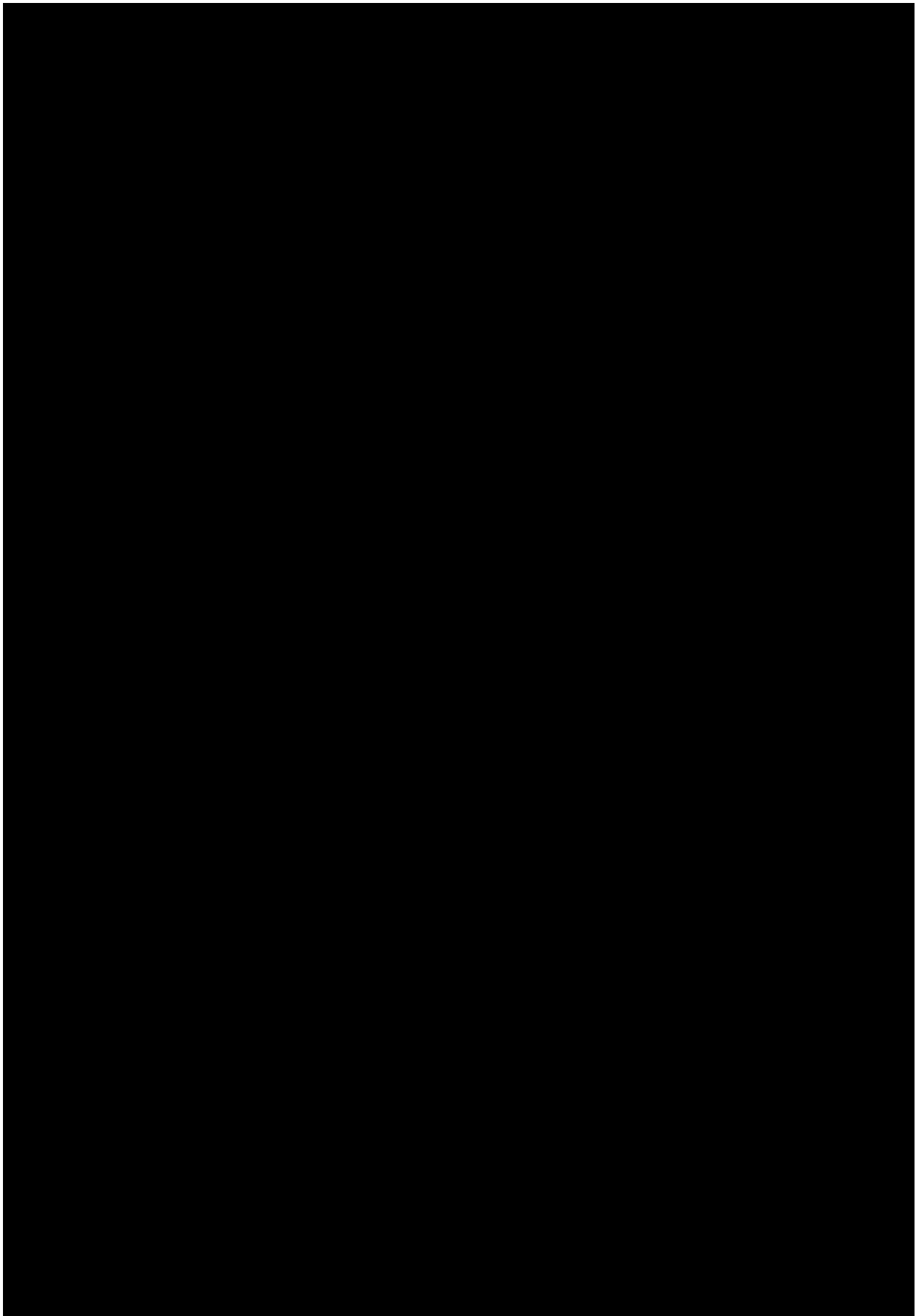
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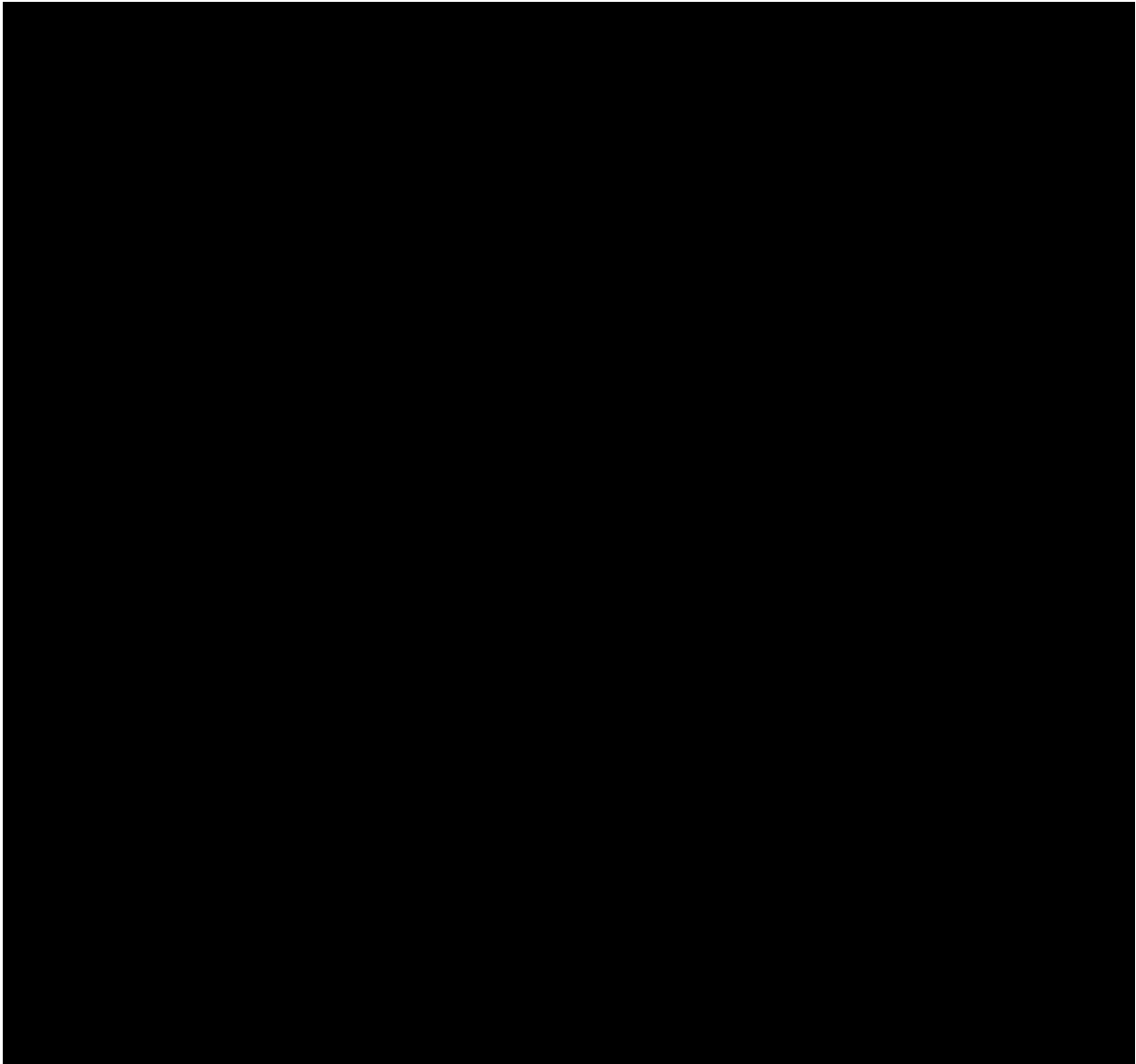


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Appendix 1: List of Information Sources

IBU Executive Board members		
1.	Olle Dahlin	IBU President, former President of the Swedish NF
2.	Tore Bøygard	EB member, former President of the Norwegian NF
3.	Dr Jim Carrabre	EB member, former Chair of the IBU Medical Committee
4.	Max Cobb	EB member, President and CEO of the US NF
5.	Clare Egan	EB member, Chair of the IBU Athletes' Committee
6.	Jiri Hamza	EB member, President of the Czech NF
7.	Ivor Lehotan	EB member, former Vice-President of the Slovak Biathlon Association
8.	Dr Klaus Leistner	VP Finance/Treasurer, former Secretary General of the Austrian Ski Federation
9.	Dr Franz Steinle	EB member, BIU Board member, former IBU Legal Committee member
IBU staff members (current and former)		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
IBU Medical Committee members, delegates, and assistants		
21.		
22.		
23.		
24.		
IBU [REDACTED]		
25.		

IBU advisors		
26.	Dr Stephan Netzle	IBU legal counsel (anti-doping)
27.	Dr Günther Riess	IBU legal counsel (Austrian law)
28.		
29.		
IBU partners		
30.		
31.		
32.		
Biathletes		
33.		
34.		
35.		
36.		
37.		
Other relevant biathlon persons		
38.		
39.		
Russian whistleblowers		
40.	Dr Grigory Rodchenkov	Former Director of Moscow Laboratory
41.	Vitaly Stepanov	Former RUSADA official
WADA		
42.	Gunter Younger	Director, Intelligence & Investigations
43.	Julian Broséus	Data analyst, Intelligence & Investigations
44.	Olivier Niggli	Director General
45.	Frédéric Donzé	Chief Operating Officer
46.	Reid Aikin	Deputy Director, Athlete Biological Passport
47.	Julien Sieveking	Director Legal Affairs
48.	Alan Vernec	Medical Director
49.	Tim Ricketts	Director, Standards and Harmonization
50.	Emiliano Simonelli	Chief Compliance Manager
WADA-accredited laboratory personnel		
51.		
52.		
53.		

APMU		
54.	[REDACTED]	
55.	[REDACTED]	
Russian officials		
56.	Victor Maygurov	Former biathlete, former IBU 1 st Vice-President, RBU Board member, current RBU President
57.	Alexander Tikhonov	Former biathlete, former IBU 1 st Vice-President, Former RBU President
58.	Person B [REDACTED] [REDACTED]	Former RBU employee
59.	Confidential informant	
Russian team coaches		
60.	[REDACTED]	
61.	[REDACTED]	

Appendix 2: IBU Rules of Conduct in force in the period 2009 to 2018

IBU rule/provision	2009 IBU Rules Adopted: 2008 IBU Congress, 04-07.09.2008	2010 IBU Rules Adopted: 2010 IBU Congress, 02-05.09.2010	2012 IBU Rules Adopted: 2012 IBU Congress, 31.08-02.09.2012	2014 IBU Rules Adopted: 2014 IBU Congress, 04-08.09.2014	2016 IBU Rules Adopted: 2016 IBU Congress, 01-04.09.2016
IBU Constitution		<p>1.3 Objectives</p> <p>The objectives of the IBU are: [...]</p> <p>c. to draw up regulations and provisions and insure their enforcement;</p> <p>d. to prevent doping in biathlon;</p> <p>e. to prevent all methods and practices that might jeopardize the integrity of biathlon competitions. [...]</p>	<p>1.3 Objectives</p> <p>The objectives of the IBU are: [...]</p> <p>d. to draw up regulations and provisions and insure their enforcement;</p> <p>e. to prevent doping in biathlon; [...]</p>	<p>6. Objectives</p> <p>[...] 6.2 The IBU promotes doping-free biathlon. [...]</p>	<p>6. Objectives</p> <p>6.1 The IBU sets worldwide rules and regulations for the sport of biathlon and its conduct.</p> <p>6.2 The IBU promotes doping-free biathlon. [...]</p>
	<p>2.7 Duties of Full Members</p> <p>The Member Federations are obligated:</p> <p>a. to agree to promote the aims of the IBU and to comply with the IBU Constitution as well as with the rules and decisions taken by the Congress and the Executive Board. [...]</p> <p>c. to fulfil all the requirements in connection with the participation at IBU events, [...]</p>	<p>2.3.2 Obligations of full members</p> <p>The member federations are obligated:</p> <p>a. to agree to promote the aims of the IBU;</p> <p>b. to comply with the IBU Constitution and Rules, and the decisions made by the Congress and the Executive Board. [...]</p> <p>e. to fulfil all the requirements in connection with their participation at IBU events, [...]</p> <p>If any of the above obligations are violated, the Executive Board may relegate those</p>	<p>2.3.2 Obligations of Full Members</p> <p>The member federations are obligated:</p> <p>a. to agree to promote the aims of the IBU;</p> <p>b. to comply with the IBU Constitution and Rules, and the decisions made by the Congress and the Executive Board. [...]</p> <p>e. to fulfil all the requirements in connection with their participation at IBU events, [...]</p> <p>If any of the above obligations are violated, the Executive Board may relegate those</p>	<p>16. Full Members</p> <p>[...]</p> <p>16.5 Full members must promote the IBU objectives. They must furthermore comply with, and implement on a national level, the IBU Constitution, all IBU rules and regulations, and the resolutions passed by the Congress and the Executive Board. [...]</p> <p>16.12 If a full member does not fulfil any of the above-mentioned obligations, the Executive Board may relegate that full member to provisional status.</p>	<p>16. Full Members</p> <p>[...]</p> <p>16.5 Full members must promote the IBU objectives. They must furthermore comply with, and implement on a national level, the IBU Constitution, all IBU rules and regulations, and the resolutions passed by the Congress and the Executive Board. [...]</p> <p>16.12 If a full member does not fulfil any of the above-mentioned obligations, the Executive Board may relegate that full member to provisional status.</p>

		member federations to a provisional status or suggest the member federations to the IBU Congress for expulsion from the IBU.	member federations to a provisional status or suggest the member federations to the IBU Congress for expulsion from the IBU.		
	<p>5.2 The Executive Board</p> <p>[...]</p> <p>5.2.2 Between the Congress meetings, the Executive Board is responsible for the IBU. The Executive Board shall act on the basis of and in accordance with this Constitution as well as with the decisions made by the Congress.</p> <p>5.2.3 The tasks of the members of the Executive Board are established in the Rules for the Executive Board. Contracts must be signed by the President and the Vice-President for Finances in order to become effective. The Executive Board shall manage the business of the International Biathlon Union. In urgent cases, the Executive Board shall be authorised to amend IBU law subject to the approval of the next following Congress. Amendments to the Constitution by the Executive Board shall only be allowed if they are required by the law or the authorities of Austria.</p> <p>[...]</p>	<p>5.2 The Executive Board</p> <p>[...]</p> <p>5.2.1 Between the Congress sittings, the Executive Board is responsible for the IBU. The Executive Board will act on the basis of and in accordance with this Constitution, and with the decisions made by the Congress.</p> <p>5.2.2 The tasks of the members of the Executive Board are set out in the Rules for the Executive Board. Contracts must be signed by the President and the Vice-President of Finances in order to become effective. The Executive Board is to manage the business of the International Biathlon Union. In urgent cases, the Executive Board will be authorized to amend IBU Regulations, subject to the approval of the next Congress. Amendments to the Constitution by the Executive Board will only be allowed if they are required by the law or the authorities of Austria. The Executive Board is authorized to enlist the help of committees, coordinators and experts and may enact rules regarding their activities. The Executive Board is in charge of awarding IBU licenses.</p>	<p>5.2 The Executive Board</p> <p>[...]</p> <p>5.2.1 Between the Congress sittings, the Executive Board is responsible for the IBU. The Executive Board will act on the basis of and in accordance with this Constitution, and with the decisions made by the Congress.</p> <p>5.2.2 The tasks of the members of the Executive Board are set out in the Rules for the Executive Board. Contracts must be signed by the President and the Vice-President of Finances in order to become effective. The Executive Board is to manage the business of the International Biathlon Union. In urgent cases, the Executive Board will be authorized to amend I BU regulations, subject to the approval of the next Congress. Amendments to the Constitution by the Executive Board will only be allowed if they are required by the law or the authorities of Austria. The Executive Board is authorized to enlist the help of committees, coordinators and experts and may enact rules regarding their activities. The Executive Board is in charge of awarding IBU licenses.</p>	<p>38. TERM OF OFFICE; DUTIES</p> <p>38.1 The Executive Board is elected by the Congress for a term of four (4) years.</p> <p>38.2 Board members may be re-elected. Every Executive Board function must be exercised personally by the elected individual.</p> <p>38.3 During their term of office, the Executive Board bears responsibility for the IBU on the basis of the Constitution and the decisions of the IBU Congress.</p>	<p>38. Term of Office; Duties</p> <p>38.1 The Executive Board is elected by the Congress for a term of four (4) years.</p> <p>38.2 Board members may be re-elected. Every Executive Board function must be exercised personally by the elected individual.</p> <p>38.3 During their term of office, the Executive Board bears responsibility for the IBU on the basis of the Constitution and the decisions of the IBU Congress.</p>

	<p>ARTICLE 8 DUTIES OF EXECUTIVE BOARD MEMBERS</p> <p>8.1 The President directs the IBU: he is responsible for the work done by the Executive Board. He shall represent the IBU in public, in relations with third parties and international organizations. Before the Executive Board and/or the Committees enter obligations/contracts or assume tasks, he must give his approval. He shall take the chair in the meetings of the Congress and of the Executive Board. He shall supervise the activities of the IBU and fulfilment of the delegated tasks. The President may enlist the help of experts to fulfil his tasks. He has the authority to have investigations made in the Committees that are subordinate to the Congress. It is his duty to submit a written report to the Congress 30 days before the beginning of the Congress. If the President cannot officiate, the First Vice-President will act on his behalf.</p> <p>8.2 The First Vice-President is responsible to act as deputy for the President.</p> <p>8.3 The Vice-President for Finances is responsible for the financial affairs of the IBU, for establishing and implementing the IBU budget plan; he shall act as the IBU financial representative in public, shall report the financial situation to the Executive Board and to</p>	<p>ARTICLE 8 DUTIES OF EXECUTIVE BOARD MEMBERS</p> <p>8.1 The President</p> <p>The President directs the IBU; he is responsible for the work done by the Executive Board. He represents the IBU in public. in relations with third parties and international organizations. Before the Executive Board and/or the committees enter obligations/contracts or assume tasks, he must give his approval. He takes the chair in the meetings of the Congress and of the Executive Board. He supervises the activities of the IBU and fulfillment of the delegated tasks. The President may enlist the help of experts to fulfill his tasks. He has the authority to have investigations made in the Committees that are subordinate to the Congress. It is his duty to submit a written report to the Congress 30 days before the beginning of the Congress. If the President cannot officiate, the First Vice-President will act on his behalf.</p> <p>The First Vice -President</p> <p>The First Vice-President is responsible to act as deputy for the President.</p> <p>The Vice-President of Finances</p> <p>The Vice-President of Finances is responsible for the financial affairs of the IBU, for establishing and implementing</p>	<p>8. DUTIES OF EXECUTIVE BOARD MEMBERS</p> <p>8.1 The President</p> <p>The President directs the IBU; he is responsible for the work done by the Executive Board. He represents the IBU in public, in relations with third parties and international organizations. Before the Executive Board and/or the committees enter obligations/contracts or assume tasks, he must give his approval. He takes the chair in the meetings of the Congress and of the Executive Board. He supervises the activities of the IBU and fulfilment of the delegated tasks. The President may enlist the help of experts to fulfil his tasks. He has the authority to have investigations made in the Committees that are subordinate to the Congress. It is his duty to submit a written report to the Congress 30 days before the beginning of the Congress. If the President cannot officiate, the First Vice-President will act on his behalf.</p> <p>8.2 The First Vice-President</p> <p>The First Vice-President is responsible to act as deputy for the President.</p> <p>8.3 The Vice-President of Finances</p> <p>The Vice-President of Finances is responsible for the financial affairs of the IBU, for establishing and implementing the IBU budget plan; he acts as</p>	<p>39. PRESIDENT</p> <p>39.1 The President represents the IBU in all important issues, directs the Executive Board, and monitors the activities of the Secretary General and Headquarters.</p> <p>39.2 The President, the Vice-President (VP) of Finance and the Secretary General are authorized to represent the IBU externally. Legally binding contracts must be signed by the President and the VP of Finance.</p> <p>40. FIRST VICE-PRESIDENT</p> <p>The First Vice-President is the deputy of the President. If the President is unable to exercise his office more than just temporarily, the first Vice-President is to represent him.</p> <p>41. VICE-PRESIDENT OF FINANCE</p> <p>The Vice-President of Finance is responsible for the financial and business affairs of the IBU. The VP of Finance represents the IBU in financial matters, and reports on the financial situation to the Executive Board and to the Congress.</p> <p>42. SECRETARY GENERAL</p> <p>42.1 The Secretary General is appointed by the Executive Board on proposal of the President.</p> <p>42.2 The Secretary General is a non-voting member of the Executive Board.</p>	<p>39. President</p> <p>39.1 The President represents the IBU in all important issues, directs the Executive Board, and monitors the activities of the Secretary General and Headquarters.</p> <p>39.2 The President, the Vice-President (VP) of Finance and the Secretary General are authorized to represent the IBU externally. Legally binding contracts must be signed by the President and the VP of Finance.</p> <p>40. First Vice-President</p> <p>The First Vice-President is the deputy of the President. If the President is unable to exercise his office more than just temporarily, the first Vice-President is to represent him.</p> <p>41. Vice-President of Finance</p> <p>The Vice-President of Finance is responsible for the financial and business affairs of the IBU. The VP of Finance represents the IBU in financial matters, and reports on the financial situation to the Executive Board and to the Congress.</p> <p>42. Secretary General</p> <p>42.1 The Secretary General is appointed by the Executive Board on proposal of the President.</p> <p>42.2 The Secretary General is a non-voting member of the Executive Board.</p>
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	<p>the Congress, and shall sign all contracts of the IBU together with the President. The Secretary General is proposed by the President and appointed by the Executive Board. He is a non-voting member of the Executive Board. He shall manage the day-to-day business of the IBU in accordance with the resolutions passed by the Executive Board and the Congress. He shall be in charge of the IBU Headquarters.</p>	<p>the IBU budget plan; he acts as the IBU financial representative in public, reports the financial situation to the Executive Board and to the Congress, and signs all contracts of the IBU together with the President.</p> <p>8.4 The Secretary General</p> <p>The Secretary General is proposed by the President and appointed by the Executive Board. He is a non-voting member of the Executive Board. He manages the day-to-day business of the IBU in accordance with the resolutions passed by the Executive Board and the Congress and is in charge of the IBU Headquarters.</p>	<p>the IBU financial representative in public, reports the financial situation to the Executive Board and to the Congress, and signs all contracts of the IBU together with the President.</p> <p>8.4 The Secretary General</p> <p>The Secretary General is proposed by the President and appointed by the Executive Board. He is a non-voting member of the Executive Board. He manages the day-to-day business of the IBU in accordance with the resolutions passed by the Executive Board and the Congress and is in charge of the IBU Headquarters.</p>	<p>42.3 The Secretary General manages the day-to-day business of the IBU in accordance with the resolutions passed by the Congress and the Executive Board, and is in charge of the IBU Headquarters. The Secretary General's signatory power encompasses the implementation of the daily affairs of the IBU, the individual details of which are set by the President and the VP of Finance.</p> <p>49. FINANCIAL MANAGEMENT; RESERVES</p> <p>49.1 The Vice-President of Finance is responsible for the management of the IBU finances. [...]</p>	<p>42.3 The Secretary General manages the day-to-day business of the IBU in accordance with the resolutions passed by the Congress and the Executive Board, and is in charge of the IBU Headquarters. The Secretary General's signatory power encompasses the implementation of the daily affairs of the IBU, the individual details of which are set by the President and the VP of Finance.</p> <p>49. Financial Management; Reserves</p> <p>49.1 The Vice-President of Finance is responsible for the management of the IBU finances. [...]</p>
	<p>ARTICLE 15 SANCTIONS AND DISCIPLINARY MEASURES</p> <p>15.1 Penalties and disciplinary measures may be imposed in accordance with the IBU Disciplinary Rules, which are part of the Constitution.</p> <p>15.2 Additional provisions are laid out in the Disciplinary Rules.</p>	<p>Article 16 Sanctions and disciplinary measures</p> <p>Penalties and disciplinary measures may be imposed in accordance with the IBU Disciplinary Rules, which are part of the Constitution. Additional provisions are set out in the Disciplinary Rules.</p>	<p>Article 16 Sanctions and disciplinary measures</p> <p>Penalties and disciplinary measures may be imposed in accordance with the IBU Disciplinary Rules, which are part of the Constitution. Additional provisions are set out in the Disciplinary Rules.</p>	<p>54. PENALTIES AND DISCIPLINARY MEASURES</p> <p>Penalties and disciplinary measures may be imposed by the respective decision-making bodies in accordance with the IBU Disciplinary Rules, which are part of this Constitution.</p>	<p>54. Penalties and Disciplinary Measures</p> <p>Penalties and disciplinary measures may be imposed by the respective decision-making bodies in accordance with the IBU Disciplinary Rules, which are part of this Constitution.</p>
				<p>19. Duty of all members to promote IBU interests</p> <p>All members of the IBU are obligated to promote the interests of the IBU according to their ability, and to refrain from doing anything that could cause any harm to the reputation and/or the purpose of the IBU.</p>	<p>19. Duty of all Members to Promote IBU Interests</p> <p>All members of the IBU are obligated to promote the interests of the IBU according to their ability, and to refrain from doing anything that could cause any harm to the reputation and/or the purpose of the IBU.</p>

				<p>22. Disciplinary measures and expulsion</p> <p>22.1 Upon violation of the Constitution or the IBU Rules, disciplinary measures may be imposed by the Executive Board as stipulated in the Disciplinary Rules.</p> <p>22.2 Any member that continues to seriously violate the Constitution and/or the rules and regulations of the IBU may be expelled by the Congress at the request of the Executive Board. The Executive Board may propose the expulsion of a member to the Congress.</p> <p>22.3 The member may appeal the Executive Board's decision to expel it, in writing, by sending the request 90 days before the Congress to the IBU Headquarters. The Congress' decision is final.</p>	<p>22. Disciplinary Measures and Expulsion</p> <p>22.1 Upon violation of the Constitution or the IBU Rules, disciplinary measures may be imposed by the Executive Board as stipulated in the Disciplinary Rules.</p> <p>22.2 Any member that continues to seriously violate the Constitution and/or the rules and regulations of the IBU may be expelled by the Congress at the request of the Executive Board. The Executive Board may propose the expulsion of a member to the Congress.</p> <p>22.3 The member may appeal the Executive Board's decision to expel it, in writing, by sending the request 90 days before the Congress to the IBU Headquarters. The Congress' decision is final.</p>
IBU Disciplinary Rules	<p>Article 2 Scope</p> <p>The IBU Disciplinary Rules are applicable to all members of the IBU and all participants in the activity of the IBU or any of its National Federations by virtue of the participant's membership, accreditation or participation in the IBU or its National Federation activities or events.</p>	<p>Article 2 Scope</p> <p>The IBU Disciplinary Rules are applicable to all members of the IBU and all participants in the activity of the IBU or any of its member federations by virtue of the participant's membership, accreditation or participation in the IBU or its member federations' activities or events.</p>	<p>Article 2 Scope</p> <p>The IBU Disciplinary Rules are applicable to all members of the IBU and all participants in the activity of the IBU or any of its member federations by virtue of the participant's membership, accreditation or participation in the IBU or its member federations' activities or events.</p>	<p>2. SCOPE</p> <p>The IBU Disciplinary Rules are applicable to all members of the IBU and to all participants in the activities of the IBU or of any of its member federations by virtue of the participant's membership, accreditation or participation in the IBU's or its member federations' activities or events.</p>	<p>2. SCOPE</p> <p>The IBU Disciplinary Rules are applicable to all members of the IBU and to all participants in the activities of the IBU or of any of its member federations by virtue of the participant's membership, accreditation or participation in the IBU's or its member federations' activities or events.</p>
	<p>Article 3 Conduct leading to penalties and disciplinary measures</p> <p>3.1 Athletes will be subject to penalties.</p>	<p>Article 3 Conduct leading to penalties and disciplinary measures</p> <p>3.1 Penalties may be imposed upon athletes.</p>	<p>Article 3 Conduct leading to penalties and disciplinary measures</p> <p>3.1 Penalties may be imposed upon athletes.</p>	<p>3. CONDUCT LEADING TO PENALTIES AND DISCIPLINARY MEASURES</p> <p>3.1 Penalties may be imposed upon athletes.</p>	<p>3. CONDUCT LEADING TO PENALTIES AND DISCIPLINARY MEASURES</p> <p>3.1 Penalties may be imposed upon athletes.</p>

	<p>3.2 Coaches, trainers, officials and staff of the IBU and its Member Federations, individual members of the IBU and members of competition committees as well as any other participant under article 2 above will be subject to disciplinary measures.</p> <p>3.3 Penalties and disciplinary measures shall be imposed for:</p> <ul style="list-style-type: none"> - violations of the principles of fair play and unsportsmanlike conduct, especially for offences against the IBU Event and Competition Rules and against the IBU Anti-Doping Rules as stated in the Anti-Doping Rules; - violations of the Constitution and other Rules of the IBU -as well as for violations of decisions of the Organs of the IBU; - endangering or impairing the reputation or the interests of the IBU and for impairing the contractual relations of the IBU; - offences against the IBU, its Organs, its members, the organs of its members or persons belonging to its members. 	<p>3.2 Disciplinary measures may be imposed upon coaches, trainers, officials and staff of the IBU and its member federations, individual members of the IBU and members of competition committees, and any other participant as defined in article 2 above.</p> <p>3.3 Penalties and disciplinary measures will be imposed for:</p> <ul style="list-style-type: none"> - violation of the principles of fair play and unsportsmanlike conduct, especially for offenses against the IBU Event and Competition Rules and against the IBU Anti-Doping Rules as stated in the Anti-Doping Rules; - violation of the Constitution and other Rules of the IBU - and for violations of decisions of the organs of the IBU; - endangering or impairing the reputation or the interests of the IBU and for impairing the contractual relations of the IBU; - offenses against the IBU, its organs, its members, the organs of its members or persons belonging to its members. 	<p>3.2 Disciplinary measures may be imposed upon coaches, trainers, officials and staff of the IBU and its member federations, individual members of the IBU and members of competition committees, and any other participant as defined in Article 2 above.</p> <p>3.3 Penalties and disciplinary measures will be imposed for:</p> <ul style="list-style-type: none"> - violation of the principles of fair play and unsportsmanlike conduct, especially for offenses against the IBU Event and Competition Rules and against the IBU Anti-Doping Rules as stated in the Anti-Doping Rules; - violation of the Constitution and other Rules of the IBU including the Code of Ethics - and for violations of decisions of the organs of the IBU; - endangering or impairing the reputation or the interests of the IBU and for impairing the contractual relations of the IBU; - offenses against the IBU. its organs, its members, the organs of its members or persons belonging to its members. 	<p>3.2 Disciplinary measures may be imposed upon coaches, trainers, officials and staff of the IBU and its member federations, individual members of the IBU and members of competition committees, and any other participant as defined in Article 2 above.</p> <p>3.3 Penalties and disciplinary measures will be imposed for:</p> <ul style="list-style-type: none"> - violation of the principles of fair play and unsportsmanlike conduct, especially for offenses against the IBU Event and Competition Rules and against the IBU Anti-Doping Rules as stated in the Anti-Doping Rules; - violation of the Constitution and other Rules of the IBU including the Code of Ethics – and for violations of decisions of the organs of the IBU; - endangering or impairing the reputation or the interests of the IBU and for impairing the contractual relations of the IBU; - offenses against the IBU, its organs, its members, the organs of its members or persons belonging to its members. 	<p>3.2 Disciplinary measures may be imposed upon coaches, trainers, officials and staff of the IBU and its member federations, individual members of the IBU and members of competition committees, and any other participant as defined in Article 2 above.</p> <p>3.3 Penalties and disciplinary measures will be imposed for:</p> <ul style="list-style-type: none"> - violation of the principles of fair play and unsportsmanlike conduct, especially for offenses against the IBU Event and Competition Rules and against the IBU Anti-Doping Rules as stated in the Anti-Doping Rules; - violation of the Constitution and other Rules of the IBU including the Code of Ethics – and for violations of decisions of the organs of the IBU; - endangering or impairing the reputation or the interests of the IBU and for impairing the contractual relations of the IBU; - offenses against the IBU, its organs, its members, the organs of its members or persons belonging to its members.
	<p>Article 4 Prerequisites for penalties and disciplinary measures</p> <p>4.1 With the exception of doping matters, persons who culpably, i.e. wilfully or negligently commit an infringement of the rules will</p>	<p>Article 4 Prerequisites for penalties and disciplinary measures</p> <p>4.1 With the exception of doping matters, persons who culpably, i.e. wilfully or negligently commit an infringement of the IBU rules</p>	<p>Article 4 Prerequisites for penalties and disciplinary measures</p> <p>4.1 With the exception of doping matters, persons who culpably, i.e. wilfully or negligently commit an infringement of the IBU rules</p>	<p>4. PREREQUISITES FOR PENALTIES AND DISCIPLINARY MEASURES</p> <p>4.1 With the exception of doping matters, persons who culpably, i.e. wilfully or negligently commit an infringement of the IBU Rules</p>	<p>4. PREREQUISITES FOR PENALTIES AND DISCIPLINARY MEASURES</p> <p>4.1 With the exception of doping matters, persons who culpably, i.e. wilfully or negligently commit an infringement of the IBU Rules</p>

	<p>be subject to penalties or disciplinary measures. For doping matters, the concepts underlying the World Anti-Doping Code and the IBU Anti-Doping Rules will apply.</p> <p>4.2 With the exception of doping matters, in the case of petty violations, the IBU may refrain from imposing a penalty or a disciplinary measure and may instead rebuke the offender or issue a warning.</p> <p>4.3 With the exception of doping matters, the respective IBU Bodies may refrain from imposing a penalty or impose a milder penalty if the Athlete makes a sincere attempt to repair the damage that has been caused to the sporting community or the victim.</p>	<p>will be subject to penalties or disciplinary measures. For doping matters, the Anti-Doping Rules and the World Anti-Doping Code will apply.</p> <p>4.2 With the exception of doping matters, in the case of petty violations the IBU may refrain from imposing a penalty or a disciplinary measure and may instead rebuke the offender or issue a warning.</p> <p>4.3 With the exception of doping matters, the respective IBU Bodies may refrain from imposing a penalty or impose a milder penalty if the athlete makes a sincere attempt to repair the damage that has been caused to the sporting community or the victim.</p>	<p>will be subject to penalties or disciplinary measures. For doping matters, the Anti-Doping Rules and the World Anti-Doping Code will apply.</p> <p>4.2 With the exception of doping matters, in the case of petty violations the IBU may refrain from imposing a penalty or a disciplinary measure and may instead rebuke the offender or issue a warning.</p> <p>4.3 With the exception of doping matters, the respective IBU Organs may refrain from imposing a penalty or impose a milder penalty if the athlete makes a sincere attempt to repair the damage that has been caused to the sporting community or the victim.</p>	<p>will be subject to penalties or disciplinary measures. For doping matters, the Anti-Doping Rules and the World Anti-Doping Code will apply.</p> <p>4.2 With the exception of doping matters, in the case of petty violations the IBU may refrain from imposing a penalty or a disciplinary measure and may instead rebuke the offender or issue a warning.</p> <p>4.3 With the exception of doping matters, the respective IBU Bodies may refrain from imposing a penalty or impose a milder penalty if the athlete makes a sincere attempt to repair the damage that has been caused to the sporting community or the victim.</p>	<p>will be subject to penalties or disciplinary measures. For doping matters, the Anti-Doping Rules and the World Anti-Doping Code will apply.</p> <p>4.2 With the exception of doping matters, in the case of petty violations the IBU may refrain from imposing a penalty or a disciplinary measure and may instead rebuke the offender or issue a warning.</p> <p>4.3 With the exception of doping matters, the respective IBU Bodies may refrain from imposing a penalty or impose a milder penalty if the athlete makes a sincere attempt to repair the damage that has been caused to the sporting community or the victim.</p>
	<p>Article 5 Penalties</p> <p>Penalties that may be imposed are:</p> <p>5.1 Reprimands</p> <p>A Reprimand shall be imposed in the case of:</p> <p>a. jeopardizing or defaming the honor or reputation of the IBU or its interests;</p> <p>b. insulting the IBU, its Organs, its members, the organs of its members or their affiliates and relatives;</p> <p>c. violations of rules for which there is no penalty or for which there is not an expressly stated more severe penalty;</p>	<p>Article 5 Penalties</p> <p>Penalties are reprimands, start prohibitions, time penalties, disqualification, suspension and fines.</p> <p>5.1 Reprimands</p> <p>A reprimand will be imposed in the case of:</p> <p>a. jeopardizing or defaming the honor or reputation of the IBU or its interests;</p> <p>b. insulting the IBU, its organs, its members, the organs of its members or their affiliates and relatives;</p> <p>c. violations of rules for which there is no penalty or for which there is not an</p>	<p>Article 5 Penalties</p> <p>Penalties are reprimands, start prohibitions, time penalties, disqualifications, suspensions and fines.</p> <p>5.1 Reprimands</p> <p>A reprimand will be imposed in the case of:</p> <p>a. jeopardizing or defaming the honor or reputation of the IBU or its interests;</p> <p>b. insulting the IBU, its organs, its members, the organs of its members or their affiliates and relatives;</p> <p>c. violations of rules for which there is no penalty or for which there is not an</p>	<p>5. PENALTIES</p> <p>Penalties are reprimands, start prohibitions, time penalties, disqualifications, suspensions and fines.</p> <p>5.1 Reprimands</p> <p>A reprimand will be imposed in the case of:</p> <p>a. jeopardizing or defaming the honor or reputation of the IBU or its interests;</p> <p>b. insulting the IBU, its organs, its members, the organs of its members or their affiliates and relatives;</p> <p>c. violations of rules for which there is no penalty or for which there is not an</p>	<p>5. PENALTIES</p> <p>Penalties are reprimands, start prohibitions, time penalties, disqualifications, suspensions and fines.</p> <p>5.1 Reprimands</p> <p>A reprimand will be imposed in the case of:</p> <p>a. jeopardizing or defaming the honor or reputation of the IBU or its interests;</p> <p>b. insulting the IBU, its organs, its members, the organs of its members or their affiliates and relatives;</p> <p>c. violations of rules for which there is no penalty or for which there is not an</p>

	<p>[... <i>Start prohibition, disqualification and suspension applicable to athletes</i>]</p> <p>5.7 Fine</p> <p>5.7.1 In the case of a gross violation of the IBU Constitution, the Rules of the IBU. of decisions made by IBU Bodies or in the case of endangering or damaging the reputation or the interests of the IBU, a fine can be imposed amounting from 70 € to 10,000 €.</p> <p>5.7.2 The fines will become the property of the IBU.</p> <p>5.8 The penalties stipulated above can only be imposed before the publication of the Final Results.</p>	<p>expressly stated, more severe penalty;</p> <p>[... <i>Start prohibition, disqualification and suspension applicable to athletes</i>]</p> <p>5.8 Fine</p> <p>5.8.1 Fines up to €500 may be imposed by the competition jury on those who violate the IBU Event and Competition Rules.</p> <p>5.8.2 Fines up to €100,000 may be imposed by the IBU Executive Board on those who seriously violate the IBU Constitution, the IBU Rules or decisions of the organs or other competent bodies of the IBU, and on those who jeopardize or damage the interests or the reputation of the IBU.</p> <p>5.8.3 Fines up to €200,000 may be imposed by the IBU Executive Board on those who have committed a serious violation of the IBU Anti-Doping Rules, and who by doing so have seriously damaged the interests or the reputation of the IBU.</p> <p>5.8.4 The fines will become the property of the IBU.</p> <p>5.9 Except monetary fines, the above penalties may only be imposed before the publication of the final results.</p>	<p>expressly stated, more severe penalty;</p> <p>[... <i>Start prohibition, disqualification and suspension applicable to athletes</i>]</p> <p>5.8 Fine</p> <p>5.8.1 Fines up to € 500 may be imposed by the competition jury on those who violate the IBU Event and Competition Rules.</p> <p>5.8.2 Fines up to € 100,000 may be imposed by the IBU Executive Board on those who seriously violate the IBU Constitution. the IBU Rules or decisions of the organs of the IBU, and on those who jeopardize or damage the interests or the reputation of the IBU.</p> <p>5.8.3 Fines up to € 200,000 may be imposed by the IBU Executive Board on those who have committed a serious violation of the IBU Anti-Doping Rules, and who by doing so have seriously damaged the interests or the reputation of the IBU.</p> <p>5.8.4 The fines will become the property of the IBU.</p> <p>5.9 Except monetary fines, the above penalties may only be imposed before the publication of the final results.</p>	<p>expressly stated, more severe penalty.</p> <p>[... <i>Start prohibition, disqualification and suspension applicable to athletes</i>]</p> <p>5.8 Fine</p> <p>5.8.1 Fines up to €500 may be imposed by the competition jury on those who violate the IBU Event and Competition Rules.</p> <p>5.8.2 Fines up to €100,000 may be imposed by the IBU Executive Board on those who seriously violate the IBU Constitution, the IBU Rules or decisions of the organs or other competent bodies of the IBU, and on those who jeopardize or damage the interests or the reputation of the IBU.</p> <p>5.8.3 Fines up to €200,000 may be imposed by the IBU Executive Board on those who have committed a serious violation of the IBU Anti-Doping Rules, and who by doing so have seriously damaged the interests or the reputation of the IBU.</p> <p>5.8.4 The fines will become the property of the IBU.</p> <p>5.9 Except monetary fines, the above penalties may only be imposed before the publication of the final results.</p>	<p>expressly stated, more severe penalty.</p> <p>[... <i>Start prohibition, disqualification and suspension applicable to athletes</i>]</p> <p>5.8 Fine</p> <p>5.8.1 Fines up to €500 may be imposed by the competition jury on those who violate the IBU Event and Competition Rules.</p> <p>5.8.2 Fines up to €100,000 may be imposed by the IBU Executive Board on those who seriously violate the IBU Constitution, the IBU Rules or decisions of the organs or other competent bodies of the IBU, and on those who jeopardize or damage the interests or the reputation of the IBU.</p> <p>5.8.3 Fines up to €200,000 may be imposed by the IBU Executive Board on those who have committed a serious violation of the IBU Anti-Doping Rules, and who by doing so have seriously damaged the interests or the reputation of the IBU.</p> <p>5.8.4 The fines will become the property of the IBU.</p> <p>5.9 Except monetary fines, the above penalties may only be imposed before the publication of the final results.</p>
	<p>Article 6 Disciplinary measures and sanctions on member federations</p>	<p>Article 6 Disciplinary measures and sanctions on member federations</p> <p>The following disciplinary measures will be imposed on</p>	<p>Article 6 Disciplinary measures and sanctions on member federations</p> <p>The following disciplinary measures will be imposed on</p>	<p>6. DISCIPLINARY MEASURES AND SANCTIONS ON MEMBER FEDERATIONS</p> <p>The following disciplinary measures may be imposed on</p>	<p>6. DISCIPLINARY MEASURES AND SANCTIONS ON MEMBER FEDERATIONS</p> <p>The following disciplinary measures may be imposed on</p>

	<p>These disciplinary measures will be imposed on persons listed under Article 3.2 above:</p> <p>6.1 Reprimand</p> <p>A reprimand will be given for insignificant offences against the Constitution and Rules of the IBU or against decisions of the Organs of the IBU as well as for endangerment or damage done to the reputation or interests of the IBU.</p> <p>6.2 Fines</p> <p>6.2.1 Fines will be imposed on those who seriously violate the IBU Constitution, the IBU Rules or decisions of the Organs or other competent Bodies of the IBU, as well as on those who jeopardize or damage the interests or the reputation of the IBU. The fine may be from 70 € to 10,000 €, depending on the seriousness of the violation as determined by the IBU Executive Board.</p> <p>6.2.2 The fines will become the property of the IBU.</p> <p>[...]</p> <p>6.3 Removal from a Function</p> <p>Persons listed in Article 3.2 above who seriously violate the IBU Constitution, the IBU Rules or decisions made by the IBU Executive Board or other competent Bodies of the IBU may be removed from their IBU function for the remaining period of elected or appointed service and may be further restricted from future periods of elected or</p>	<p>persons listed under Article 3.2 above:</p> <p>6.1 Reprimand</p> <p>A reprimand will be given for insignificant offenses against the Constitution and Rules of the IBU or against decisions of the organs of the IBU, and for endangerment or damage done to the reputation or interests of the IBU.</p> <p>6.2 Fines</p> <p>6.2.1 Fines up to €500 may be imposed by the competition jury on member federations that violate 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	<p>appointed service up to a lifetime ban.</p>	<p>imposed before the publication of the final results. [...] 6.6 Removal from a Function Persons listed in Article 3.2 above who seriously violate the IBU Constitution, the IBU Rules or decisions made by the IBU Executive Board or other competent bodies of the IBU may be removed from their IBU function for the remaining period of elected or appointed service and may be further restricted from future periods of elected or appointed service up to a lifetime ban.</p>	<p>imposed before the publication of the final results. [...] 6.6 Removal from a Function Persons listed in Article 3.2 above who seriously violate the IBU Constitution, the IBU Rules or decisions made by the IBU Executive Board or other competent organs of the IBU may be removed from their IBU function for the remaining period of elected or appointed service and may be further restricted from future periods of elected or appointed service up to a lifetime ban. 6.7 Suspension of Member Federations IBU member federations that are full members may be suspended by the Executive Board for up to two years until the next IBU Congress, if their obligations according to Art. 2.3.2 have not been fulfilled.</p>	<p>imposed before the publication of the final results. 6.5 Any organizing committee that violates its obligations according to the IBU Event and Competition Rules and/or IBU Anti-Doping Rules will be fined the sum of €350. 6.6 Removal from a Function Persons listed in Article 3.2 above who seriously violate the IBU Constitution, the IBU Rules or decisions made by the IBU Executive Board or other competent bodies of the IBU may be removed from their IBU function for the remaining period of elected or appointed service and may be further restricted from future periods of elected or appointed service up to a lifetime ban. 6.7 Suspension of Member Federations IBU member federations that are full members may be suspended by the Executive Board for up to two years until the next IBU Congress, if they don't fulfil their membership obligations as defined in the IBU Constitution.</p>	<p>imposed before the publication of the final results. 6.5 Any organizing committee that violates its obligations according to the IBU Event and Competition Rules and/or IBU Anti-Doping Rules will be fined the sum of €350. 6.6 Removal from a Function Persons listed in Article 3.2 above who seriously violate the IBU Constitution, the IBU Rules or decisions made by the IBU Executive Board or other competent bodies of the IBU may be removed from their IBU function for the remaining period of elected or appointed service and may be further restricted from future periods of elected or appointed service up to a lifetime ban. 6.7 Suspension of Member Federations IBU member federations that are full members may be suspended by the Executive Board for up to two years until the next IBU Congress, if they don't fulfil their membership obligations as defined in the IBU Constitution.</p>
<p>Code of Ethics</p>			<p>Preamble All those who act on behalf of the IBU must conduct themselves with due care and diligence in performing their assigned tasks, avoiding actions that might damage the</p>	<p>Preamble All those who act on behalf of the IBU must conduct themselves with due care and diligence in performing their assigned tasks, avoiding actions that might damage the</p>	<p>Preamble All those who act on behalf of the IBU must conduct themselves with due care and diligence in performing their assigned tasks, avoiding actions that might damage the</p>

			reputation of the IBU and/or the sport of biathlon.	reputation of the IBU and/or the sport of biathlon.	reputation of the IBU and/or the sport of biathlon.
			<p>1. Application</p> <p>1.1 Persons and Organizations Subject to this Code</p> <p>This Code applies to all elected, appointed or contracted IBU functionaries, organizing committees for IBU events and their officials and volunteers, officials and volunteers at IBU-sanctioned member events, athletes, coaches, trainers, doctors, team staff, team officials, all other persons claiming or seeking standing as present or prospective participants in any IBU activity, and persons without status or title who engage in any activity in relation to the IBU that is prohibited by this Code.</p> <p>1.2 General Rule</p> <p>Persons and organizations as listed in Art. 1.1 are expected to be aware of the importance of their task and shall be aware of their obligations and responsibilities. They shall pledge to behave in a dignified manner. They shall behave and act with complete credibility and integrity. They may not abuse their position as part of their function to take advantage of their function for private aims or gains, or in any other way.</p>	<p>1. APPLICATION</p> <p>1.1 Persons and Organizations Subject to this Code</p> <p>This Code applies to all elected, appointed or contracted IBU functionaries, organizing committees for IBU events and their officials and volunteers, officials and volunteers at IBU-sanctioned member events, athletes, coaches, trainers, doctors, team staff, team officials, all other persons claiming or seeking standing as present or prospective participants in any IBU activity, and persons without status or title who engage in any activity in relation to the IBU that is prohibited by this Code.</p> <p>1.2 General Rule</p> <p>Persons and organizations as listed in Art. 1.1 are expected to be aware of the importance of their task and shall be aware of their obligations and responsibilities. They shall pledge to behave in a dignified manner. They shall behave and act with complete credibility and integrity. They may not abuse their position as part of their function to take advantage of their function for private aims or gains, or in any other way.</p>	<p>1. APPLICATION</p> <p>1.1 Persons and Organizations Subject to this Code</p> <p>This Code applies to all elected, appointed or contracted IBU functionaries; IBU event organizing committees and their officials and volunteers; officials and volunteers at IBU-sanctioned member events; athletes, coaches, trainers, doctors, team staff, team officials, and all other persons claiming or seeking standing as present or prospective participants in any IBU activity, and persons without status or title who engage in any activity in relation to the IBU that is prohibited by this Code.</p> <p>1.2 General Rule</p> <p>Persons and organizations as listed in Art. 1.1 are expected to be aware of the importance of their task and shall be aware of their obligations and responsibilities. They shall pledge to behave in a dignified manner. They shall behave and act with complete credibility and integrity. They may not abuse their position as part of their function to take advantage of their function for private aims or gains, or in any other way.</p>
			<p>1.2 Conflict of interest</p> <p>All those acting on behalf of the IBU must make decisions</p>	<p>2. CONFLICTS OF INTEREST</p> <p>All those acting on behalf of the IBU must make decisions</p>	<p>2. CONFLICTS OF INTEREST</p> <p>All those acting on behalf of the IBU must make decisions</p>

			in the interests of the IBU. All those whose personal interests might reasonably be perceived as being affected by a decision or policy concerning an IBU matter [including receiving material benefits] shall refrain from the decision-making process.	in the interests of the IBU. All those whose personal interests might reasonably be perceived as being affected by a decision or policy concerning an IBU matter (including receiving material benefits) shall refrain from the decision-making process.	in the interests of the IBU. All those whose personal interests might reasonably be perceived as being affected by a decision or policy concerning an IBU matter (including receiving material benefits) shall refrain from the decision-making process.
					<p>6. GOOD GOVERNANCE</p> <p>The IBU recognizes the importance of the Basic Universal Principles of Good Governance of the Olympic Sports Movement and will follow these principles.</p>

Appendix 3: Whistleblower Complaints

A. Independence of the Commission chair

- A3.1 A whistleblower complained that the Commission could not assess the allegations brought forward by WADA I&I independently and impartially, because the chair of the Commission (Jonathan Taylor QC) was also chair of the WADA Compliance Review Committee (although his term on the WADA Compliance Review Committee ended in January 2020).⁶⁵⁷
- A3.2 The Commission did not accept this complaint, because the WADA Compliance Review Committee members, including the chair, are required to be independent of WADA. Furthermore, WADA I&I was bringing forward allegations made by whistleblowers, not allegations of its own. The chair of the Commission is also a very experienced lawyer and Queen's Counsel, and four of the other members of the Commission are also highly experienced lawyers. They therefore understand very well the importance of strict compliance with the requirements of independence and impartiality, and have been assiduous in ensuring such compliance throughout the Commission's work. In addition, the Commission has always worked consensually, and its work and the findings presented in this report have the unanimous support of each of its members.

B. Östersund workshops

- A3.3 An anonymous whistleblower provided a report (with supporting documents) stating that the Swedish Biathlon Federation invited certain smaller biathlon member federations to attend expenses-paid meetings at the IBU World Cup event held in Östersund, starting from around 2013.⁶⁵⁸ They suggested that these invitations were not extended to all IBU member federations, only to small nations that did not have any biathletes competing at the World Cup. The whistleblower questioned the ethics of this practice, and suggested that invitations to the meeting at Östersund in December 2013 were intended to buy votes for the Swedish Biathlon Federation's 2014 bid to host the 2019 World Championships in Östersund and for the candidacy of Olle Dahlin (then President of the Swedish Biathlon Federation) for election to the IBU Executive Board in 2014, while invitations to the meeting at Östersund in November 2017 were alleged to be intended to buy votes for Olle Dahlin's IBU presidential candidacy in 2018. The whistleblower also questioned the veracity of comments purportedly made by Olle Dahlin quoted in a Norwegian NRK article dated 6 September 2018 as follows: '[countries attending the seminar has been given financial support to cover travel expenses. Partly by the Swedish association, partly by Östersund council and partly by the International Biathlon Union](#)'. The whistleblower stated that in fact the IBU did not provide any support for such seminars.
- A3.4 To follow up the whistleblower report, the Commission (i) engaged in various correspondence with the whistleblower, (ii) contacted NRK to seek to obtain a copy of the anonymous German letter referred to in its article, (iii) put several questions to Mr Dahlin in a series of correspondence, (iv) reviewed the rules applicable at the time, and (v) sought to find through various channels a specific document that the whistleblower asserted contained a rule requiring all nations to be invited to any workshops held prior to an election/bidding Congress.

⁶⁵⁷ See Document 408.

⁶⁵⁸ Relevant documents collected at Document 406.

- A3.5 Based on the information provided by the whistleblower and Mr Dahlin, the Commission was able to establish that certain (but not all) IBU member federations were invited to attend meetings in Östersund:
- A3.5.1 on 25-27 July 2014, for the 'Biathlon Summer Summit', organised by the OC Östersund (company name: Biathlon Events i Sverige AB) in cooperation with the Municipality of Östersund, at the request of (and financed by) Peak Innovation AB;
 - A3.5.2 on 26 November 2016, at the first World Cup of the season, for the 'Östersund Winter Summit', focussed on 'A Bigger Biathlon world', organised by Biathlon Events i Sverige AB; and
 - A3.5.3 on 25 November 2017, at the first World Cup of the season, for a 'Premeeting World Championships Östersund 2019' with a workshop for 'A Bigger Biathlon World', organised by Biathlon Events i Sverige AB.
- A3.6 The purpose of each of the meetings was said to be:
- A3.6.1 for the Biathlon Summer Summit, to increase visitors to and establish a cooperation between the Municipality of Östersund and the Region of Jämtland Härjedalen; and
 - A3.6.2 for the 'A Bigger Biathlon World' workshops, to discuss how to involve national federations in a development phase and how to involve national federations not qualified for the Biathlon World Championships '[as an inspiration for the future](#)'.
- A3.7 The OC Östersund was responsible for inviting IBU member federations to the meeting and workshops described above. Not all national federations were invited to attend each of the three meetings:
- A3.7.1 Strong well-established NF members were not invited to attend the July 2014 seminar, because the focus was on nations that had a '[potential for training camps/studies/visitors/cooperation or that OC Östersund had connections to or where there was already a cooperation with the NF SWE \[Swedish Biathlon Federation\]](#)'.
 - A3.7.2 Countries around the Baltic and Balkan regions and some other countries in a development phase were invited to attend the workshops in November 2016 and 2017. This included both World Championships qualified and non-qualified countries.
- A3.8 As to financing:
- A3.8.1 The July 2014 meeting was financed by Peak Innovation AB, which covered participants' costs up to a total of SEK 150,000 excluding VAT, roughly equal to €14,400 excluding VAT.
 - A3.8.2 Biathlon Events i Sverige AB provided some financial support for the November 2016 and 2017 workshops, including free accommodation for one person from each invited country and travel support of €300 per person.

- A3.8.3 No gifts of value were provided to the delegates invited to attend the seminar or workshops. A small souvenir was distributed at the Biathlon Summer Summit (the mascot named 'Birger').
- A3.9 Mr Dahlin explained that the quote attributed to him in the Norwegian NRK article dated 6 September 2018 is not an accurate quote of what he said. Mr Dahlin has explained that Biathlon Events i Sverige AB and the County of Jämtland/Härjedalen financed the workshop. The IBU did not provide any financial support for the workshop itself, but only for the project that was developed as a result of the workshop, i.e. the 'Future Star Seminar & Next Generation Challenge'.
- A3.10 NRK was not willing to provide a copy of the German letter referred to in its article, due to a policy of not sharing any unpublished material from sources.
- A3.11 Mr Dahlin denied that there was any intent, or that any attempt was made, to solicit the support of attendees at the workshops either for the Swedish Biathlon Federation's 2014 bid to host the 2019 World Championships in Östersund, or for his election to the IBU Executive Board in 2014, or for his IBU presidential candidacy in 2018. Nor did the Commission identify any evidence to the contrary, whether from the materials provided by the whistleblower or otherwise.
- A3.12 There was no provision in the IBU rules in place at the time that precluded the holding of the workshops mentioned above, or that required the organiser of the workshops to extend an invitation to all IBU members, or that imposed restrictions on the reimbursement of expenses offered. The Commission tried to identify the further document referred to by the whistleblower that might contain an applicable rule, but (after contacting a number of organisations) it was unable to do so. It found 'Rules for committees bidding to host the IBU Congress 2016 and the IBU WCH 2019', but they did not include a reference to workshops organised in advance of a Congress.
- A3.13 Based on the available information, and the IBU rules in place at the time when these seminars/workshops were held, the Commission is of the view that neither Mr Dahlin nor the Swedish Biathlon Federation (nor the other entities involved) committed any breach of the IBU rules in relation to the organisation of the seminar and workshops held in Östersund on 25-27 July 2014, 26 November 2016, and 25 November 2017.
- A3.14 Nevertheless, the Commission is grateful to the whistleblower for bringing the information to its attention. In order to address the concerns raised by the whistleblower, the Commission recommends that going forward the IBU should:
- A3.14.1 inform member federations and organising committees that invitations to meetings of general interest to biathlon should generally be extended to all member federations, unless there is an objective and justified reason not to do so (which should be communicated to all members). Any financial assistance should be provided equally to all meeting attendees or alternatively only where requested and required based on defined and published and objective criteria; and
- A3.14.2 put in place rules prepared by the Biathlon Integrity Unit (as contemplated in the Integrity Code: see Articles 6.2 and 7.2 of the Code of Conduct) to prevent the risk of any conduct that (regardless of intent) might influence voting in relation to any candidate in an election or any bid application to host an event. In relation to rules concerning bids to host World Championships, the Commission notes that such bids were previously presented to Congress which

then voted on the competing bids, whereas under the new system that is currently in place, bid applications are made to the IBU Executive Board, which is then responsible for recommending a candidate to Congress for approval. In preparing candidacy/bidding rules, the Biathlon Integrity Unit should consider what activities any candidate or bidder (or related National Federation) might be precluded from doing within a certain time period in advance of an election or vote in which the candidate/bidder has an interest (consideration should in particular be given to the situation raised by the whistleblower in relation to seminars and workshops).

C. Australian Biathlon Union

- A3.15 Finally, the Commission received two whistleblower reports about the IBU's member federation for Australia (the Australian Biathlon Association, or **ABA**), raising alleged governance/ethical issues that were the subject of a long-standing dispute that had previously been brought to the attention of the IBU Executive Board.⁶⁵⁹ The issues raised by the whistleblower reports were beyond the scope of the Commission's mandate, but the Commission considered that the complaints raised serious issues about ABA's governance of the sport in Australia, and were certainly sufficient to warrant the IBU Executive Board asking the ABA to demonstrate that, contrary to the complainants' allegations, the ABA is inclusive of all stakeholders, from all states and territories, and allows a fair and equal opportunity for athletes of all levels and from all states and territories to participate and compete in the sport. This would require (among other things) asking the ABA to answer a series of detailed questions, supported by evidence and/or reasoning. The Commission therefore formally recommended to the Board that it (as a first step) put a number of questions to the ABA, and noted that it would expect the ABA to work with other stakeholders in Australia to find a common solution without further delay.
- A3.16 The Commission understands that the IBU wrote to the ABA on 2 November 2019 along the lines suggested by the Commission, and that the ABA provided its response on 19 November 2019, which response was then discussed at the IBU Executive Board meeting on 25-26 November 2019. We also understand that subsequent to that meeting, the IBU Secretary General and the Biathlon Integrity Unit have engaged in further communication with several parties in Australia. At present, we understand that the IBU has serious concerns about the ABA's governance framework, and that (as part of an initial phase) the IBU will require the ABA to make meaningful and cogent improvements in relation to certain specified governance criteria. In view of the seriousness of the situation and the desire to see biathlon thriving in Australia, following that initial phase a consultation committee (comprised of IBU and Australian sport representatives, and guided by external consultants), which the IBU is in the process of setting up, will be in charge of working with the ABA to meet further specified governance criteria. Should the ABA not comply with the required governance reforms, the IBU may reconsider the ABA's membership status with the IBU, including by (among other things) relegating it to provisional membership.

⁶⁵⁹ Relevant documents collected at Document 407.