

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE WORLD ATHLETICS  
DISCIPLINARY TRIBUNAL RULES**

Before:

Catherine O'Regan (Chair)  
Anna Smirnova  
Barbara Agostinis

**BETWEEN:**

**WORLD ATHLETICS**

**Anti-Doping Organisation**

**and**

**GJERGJ RULI**

**First Respondent**

**IZMIR SMAJLAJ**

**Second Respondent**

---

**DECISION OF THE DISCIPLINARY TRIBUNAL**

---

Date of Hearing: 3 March 2023

Place of Hearing: Nice, France

Appearances:

For Athletics Integrity Unit                      Mr Adam Taylor

For the First Respondent                        Ms Romina Zano

For the Second Respondent      Mr Ermir Beta

Assisted by the interpreter      Ms Etleva Pushi

Observers      Mr Tony Jackson

   Ms Laura Gallo

   Ms Clara el Ayat

   Ms Neha Dubey

Ms Kylie Brackenridge, Senior Case Manager, Sport Resolutions, assisted the Parties and the Panel during the hearing.

### *Background*

1. This decision concerns the alleged knowing involvement of the President of the Albanian Athletics Federation (**the AAF**), Mr Gjergj Ruli, and an Albanian athlete, Mr Izmir Smajlaj, in the falsification of wind measurement readings relating to a competition, in which Mr Smajlaj, who is coached by Mr Ruli, achieved an Albanian national record in the long jump competition. Mr Ruli and Mr Smajlaj will be referred to as the Respondents in this decision. The General Secretary of the AAF, Mr Dionisi, admitted providing the false wind measurement readings and a falsified photograph to World Athletics in relation to the competition.
2. The relevant events happened between May and July 2021. At that time, Mr Ruli as President of the AAF, and Mr Smajlaj, as an athlete were subject to the World Athletics Integrity Code of Conduct (**the Code**). Mr Ruli and Mr Smajlaj were charged with knowingly submitting falsified and manipulated competition results for Mr Smajlaj which violated the following provisions of the Code:

Integrity Standard 3.3.1

**Honesty:** to act with utmost integrity and honesty at all times including acting in good faith towards others and with mutual trust and understanding in all their dealings and in particular

not to forge any document, falsify any authentic document or use a forged or falsified document;

#### Integrity Standard 3.3.4

**Maintain Integrity of Competition:** to ensure the integrity of, and not to improperly benefit from, Athletics competitions, and in particular to comply with the Manipulation of Sports Competition Rules;

#### Integrity Standard 3.3.15

**Reporting:** to promptly report to the Integrity Unit any act, thing or information which the person becomes aware of, which may constitute (on its own or with other information) a violation of this Integrity Code; and

#### Rule 4.4 Violation of the Code

Applicable Persons shall also violate this Integrity Code of Conduct if they assist, encourage, aid, abet, conspire, cover up or engage in any other type of intentional complicity involving a violation or attempted violation of this Integrity Code.

#### *Facts*

3. On 8 May 2021, the Dita E Kërcimeve competition (**the competition**) took place in Tirana, Albania where Mr Smajlaj set a new Albanian national record in long jump of 8.16 metre. On 10 May 2021, Mr Dionisi informed World Athletics of Mr Smajlaj's record-breaking jump and also advised World Athletics that the wind measurement at the time of the jump was +1.7. World Athletics then requested Mr Dionisi to supply the wind measurement readings for all the competitors in the competition, which Mr Dionisi did. Mr Ruli and Mr Smajlaj do

not dispute that there was no wind measuring device in place at the competition and that the wind measurement readings supplied by Mr Dionisi were therefore false.

4. On the following day, 11 May 2021, Mr Ruli sent Mr Dionisi an email message containing a photograph of a Wohler FA410 wind measuring device and its price. The subject line of the email read "Print".
5. Just over a month later, on 18 June 2021, the Albanian National Olympic Committee submitted Mr Smajlaj's application to participate in the Tokyo Olympic Games under the universality programme which enables athletes to compete who have not otherwise qualified. In that application, his personal best was recorded as the 8.16 metre jump at the competition on 8 May 2021. As a result of this application, Mr Smajlaj did compete at the Olympic Games in Tokyo later in 2021 and Mr Ruli also attended the Games.
6. In the early afternoon of 30 June 2021, the Athletics Integrity Unit (**the AIU**) sent an email to the AAF requesting the AAF to provide the original competition results, photographic and video evidence of Mr Smajlaj's jump, and evidence of the wind-measuring equipment used and where it was placed during the competition. At 8.27am (Albanian time) on 1 July, a photograph (**the photograph**) was created in the WhatsApp folder on Mr Ruli's mobile telephone. The photograph shows Mr Smajlaj standing on an athletic track with a device in the background, similar to the wind measurement device (the Wohler FA410) pictured in Mr Ruli's email to Mr Dionisi of 11 May 2021. The relevant file path on Mr Ruli's mobile telephone recorded the time of the creation of the photograph as 11.27pm on 30 June 2021. Mr Kieran Elliott, an investigator at the AIU, in his testimony at the hearing, explained that the time zone on the phone was set to Eugene, Oregon in the United States of America. The actual time in Tirana, Albania was nine hours ahead of the Oregon time zone, and so the creation time of the photograph was 8.27am in Tirana on 1 July 2021. This evidence regarding time zones was not disputed by the Respondents.
7. On 1 July 2021, Mr Dionisi sent an email to the AIU attaching a link to the photograph and stating "*in link below you will find the photos from Izmir Smajlaj jump*" (sic). The email also enclosed press records of the jump.

## *Procedure*

8. On 8 February 2022, the Head of the AIU considered the matter and decided that there was sufficient evidence to establish a *prima facie* case of a Non-Doping Violation under Rule 2.3 of the AIU Reporting, Investigation and Prosecution Rules (**the AIU Rules**) and the AIU commenced to investigate whether there had been violations of the Code by Mr Dionisi, Mr Ruli and Mr Smajlaj.
9. Following its investigations, the AIU charged Mr Dionisi, Mr Ruli and Mr Smajlaj with breaches of the Code. All three were informed of the charges against them (as set out in para 2 above) by notice of charge dated 9 December 2022 in terms of Rule 5 of the AIU Rules. The notices of charge briefly set out the relevant facts relating to the violations of the Code alleged by the AIU, the charges against the Respondents and the potential consequences and sanctions that could be imposed if the violations were found to have been committed. The notices of charge also informed the Respondents that, in accordance with Rule 4.20 of the AIU Rules, the Head of the AIU had decided that each of the Respondents should be provisionally suspended pending the resolution of the case. The provisional suspension had the effect that the Respondents were suspended temporarily from participating in any competition or activity in Athletics. The relevant exhibits were appended to the notices of charge.
10. On 23 December 2022, Mr Ruli and Mr Smajlaj gave notice that they denied that they were guilty of the charges levelled against them and asserted that in any event the proposed sanction was disproportionate and requested a hearing before the Disciplinary Tribunal.
11. On 10 January 2023, Mr Dionisi signed an Admission and Acceptance Form, admitting the charges against him. Mr Dionisi was sanctioned to a four-year suspension in accordance with the decision of the Athletics Integrity Unit passed on 25 January 2023.
12. In terms of article 4.1 of the World Athletics Disciplinary Tribunal Rules (**the Tribunal Rules**), World Athletics determined that the Disciplinary Tribunal shall have an independent secretariat for the management of this case and contracted with Sport Resolutions to serve as the secretariat.

13. On 19 January 2023, the chairperson of the Disciplinary Tribunal, Mr Charles Hollander KC, acting in terms of Article 7.1 of the Tribunal Rules appointed Catherine O'Regan to chair the Panel of the Disciplinary Tribunal in this case.
14. A preliminary hearing was convened on 27 January 2023, which was attended by Ms O'Regan, as chairperson of the Panel, Ms Neha Dubey, AIU Senior Case Manager on behalf of the AIU, and the Respondents, who were assisted by their counsel - Ms Zano on behalf of Mr Ruli, and Mr Beta on behalf of Mr Smajlaj. Directions were issued following the preliminary hearing. The hearing was set for Friday 3 March 2023 in Monaco. The Respondents were required to file their Answering Briefs by 5pm on 10 February 2023, together with any written witness statements, and the AIU was afforded the opportunity to file a Reply Brief and produce rebuttal witness statements by no later than 5pm on 24 February 2023. The AIU was also directed to file an electronic copy of the hearing bundle by 5pm on 28 February 2023 together with an indicative hearing schedule.
15. Following the preliminary hearing, Mr Charles Hollander KC appointed Anna Smirnova and Barbara Agostinis to serve as additional members of the Panel for the hearing.
16. The Respondents filed their Answer Briefs on time, but the AIU failed to file its Reply Brief on time. During the afternoon of Friday 24 February 2023, the day the Reply Brief was due, an email was received by the secretariat indicating that the AIU would not be able to file its Reply Brief on time and requesting an extension to file till 28 February 2023. No reasons were given for the inability to file the brief, other than "*counsel's availability*". In its email message, the AIU noted that it had not had an opportunity, ahead of requesting the extension, to approach counsel for the Respondents regarding their delay. The secretariat requested counsel for the Respondents to respond to the request by the AIU. Counsel for the Respondents both opposed the grant of an extension to the AIU noting that they had complied with the time frame set for the filing of their Answer Briefs and the extension of time would prejudice their preparation for the hearing which was scheduled to take place only a few days later.
17. On the morning of Monday 27 February 2023, the secretariat informed the parties that the Panel had decided to reserve its decision regarding the AIU's request for an extension until the hearing on 3 March 2023. In the meantime, the AIU was instructed to submit its Reply

Brief by no later than 11am that morning. The AIU filed its Reply Brief together with several further exhibits on 27 February 2023, as directed. Regarding the delay in filing, the AIU noted that the Reply Brief was short, and that the period of extension was short so that there was no material prejudice to the Respondents caused by the delay. As to the reasons for the delay, the AIU stated that it had been caused by external counsel needing to consult about the investigation evidence and because its external counsel had had several filing deadlines on 24 February 2023.

18. At the commencement of the hearing on 3 March 2023, two preliminary matters were considered. First, counsel for the AIU and the Respondents were given an opportunity to address the Panel on whether the AIU Reply Brief should be admitted. Having heard arguments, the Panel decided that the AIU Reply Brief should not be admitted and that reasons for that decision would be provided in this decision. The Panel notes that the AIU had known of the deadline for the filing of the Reply Brief for nearly a month, that it had two weeks from the date of the filing of the Respondents' Answer Briefs to prepare its Reply, that it had nevertheless left it till only hours before the Reply Brief was due to seek an extension, and that it had failed to approach counsel for the Respondents to obtain their consent to an extension. The Panel also notes that no satisfactory explanation as to why external counsel for the AIU could not have arranged his affairs to file the Reply Brief on time at some time in that two-week period. The Panel also notes that the hearing was due to take place only a week after the date set for the filing of the Reply Brief and that even a short delay in such circumstances would be likely to prejudice the ability of Respondents' counsel to prepare for the hearing.

19. Secondly, counsel for the AIU requested leave to lead the evidence of Mr Kieran Elliott, an investigator at the AIU, which dealt with one narrow issue relating to the time that the photograph file was created on Mr Ruli's mobile phone. The Respondents did not oppose this request and the Panel granted leave to the AIU to lead Mr Elliott.

### *Evidence*

20. The Panel heard evidence from one witness led by the AIU, Mr Elliott, and from both Respondents, Mr Ruli and Mr Smajlaj.

*(a) Mr Elliott*

21. As set out in the record of the facts above, Mr Elliott gave evidence on the narrow issue of the date and time when the photograph was created on Mr Ruli's mobile telephone. He testified that the time and date settings on Mr Ruli's mobile telephone were set to Eugene, Oregon which is seven hours behind Greenwich Mean Time. He stated that therefore when the file path recorded the photograph as having been created on 30 June 2021 at 11.27pm, it was referring to the time in Eugene, Oregon. At that moment, the time in Tirana had been 8.27am on 1 July, as Tirana is nine hours ahead of Eugene. He also testified that the fact that the filepath indicated the photograph had been created at that time did not determine when the photograph itself had been taken or by whom it had been taken. The Panel found Mr Elliott to be a truthful witness and accepts his testimony regarding the time at which the photograph was created on Mr Ruli's mobile device. It also notes that the Respondents did not dispute the substance of his testimony.

*(b) Mr Ruli*

22. Mr Ruli testified that his long career in athletics had commenced in 1975 when he became an athlete as a teenager but that his career as an athlete had been ended by a motor vehicle accident when he was in his twenties. He told the Panel that he had been elected as President of the AAF in 2005, a position he had held since and that he had also served as Deputy President of the Albanian National Olympics Committee for four years. He also described how he had become Mr Smajlaj's coach.

23. Mr Ruli told the Panel that the AAF was a poor federation that had few resources and that until recently it had never had a wind measuring device. However, in early 2021, the builder son of a friend of Mr Ruli, had donated a wind measuring device to the AAF. He said that the device had not been in use at the competition on 8 May 2021. He also told the Panel that on the 8 May he did attend the competition but that he was not well, as he had just been discharged from the Intensive Care Unit at a local hospital.



24. Mr Ruli told the Panel that he had sent the email containing the photograph of the Wohler FA410 wind measuring device to Mr Dionisi on 11 May because it was the device that had been donated by his friend's son and he was interested in its price. Under cross examination, he said that he had also been looking for the instructions for the use of the wind measuring device.
25. Mr Ruli then explained that the photograph that had been sent to World Athletics was not a photograph taken on the day of the competition, but that it had been taken on a training day. He admitted that he had set up the wind measuring device in the photograph. Under cross examination it was put to him that when he had been interviewed by the AIU during its investigation, he had stated that Mr Dionisi must have put up the wind measuring device. When confronted with this contradiction, Mr Ruli stated that he did not recall ever saying that Mr Dionisi had erected the wind measuring device.
26. Mr Ruli was also not certain who had taken the photograph, nor was he certain when it had been taken. He also stated that he did not know how the photograph had reached Mr Dionisi. He did not firmly deny that he had sent it to Mr Dionisi, but stated that he could not remember whether he had sent it, as he "could not" keep records of the people to whom he sends photographs.
27. Mr Ruli also stated that he had only heard that the photograph had been sent to World Athletics by Mr Dionisi during the AIU investigation in 2022. It was also put to Mr Ruli during cross examination that during his interview with the AIU he had stated that he had not seen the photograph until the AIU had sent a letter to Mr Smajlaj but that he now admitted that the photograph had been on his phone and so he had seen it previously. Mr Ruli's response to this was a non sequitur: he said that there had been a misunderstanding as usually both he and Mr Smajlaj were in the photographs taken during training, but this photograph was of Mr Smajlaj only.
28. Mr Ruli also testified that even if Mr Smajlaj's results from the competition had been excluded from consideration, Mr Smajlaj would still have been invited to compete in the Tokyo Olympics, as he had also been invited to compete in the Olympics in Rio de Janeiro in 2016.
29. The Panel found Mr Ruli's evidence to be unsatisfactory in several respects.

- 29.1 First, Mr Ruli's account of why he had sent a photograph of a Wohler FA410 wind measuring device to Mr Dionisi on 11 May 2021, the day after Mr Dionisi had been asked to provide wind measurement readings for the competition seemed implausible. Mr Ruli stated that it was because a donor had donated the Wohler FA410 wind measuring device to the AAF sometime earlier and he was interested in its price. Later under cross examination, he suggested that it was because he was looking for an instruction manual, but he could not then explain why he had not sent the instructions to Mr Dionisi.
- 29.2 Secondly, his evidence that he had set up the wind measuring device in the photograph that was sent to World Athletics contradicted the statement he made to the AIU during its investigation that Mr Dionisi must have set up the device. He did not provide a satisfactory explanation for this inconsistency.
- 29.3 Thirdly, his testimony that the photograph had been taken on his mobile phone by Mr Smajlaj's partner or even himself appeared inconsistent with his statement to the AIU during the investigation that he had only seen the photograph when Mr Smajlaj had received a letter about the investigation from the AIU. Again, he did not provide a satisfactory explanation for this inconsistency.
- 29.4 Fourthly, Mr Ruli could not say how Mr Dionisi had received the photograph. He did not firmly deny that he had sent it to Mr Dionisi, he simply said that he could not remember if he had and he could not keep records of those to whom he sent photographs.
- 29.5 Fifthly, Mr Ruli admitted that he had made no attempt to ascertain who had taken the photograph nor how the photograph had reached Mr Dionisi, despite its being clear that the photograph was used by Mr Dionisi to seek to persuade World Athletics that a wind measuring device had been employed at the competition.

*(c) Mr Smajlaj*

30. Mr Smajlaj testified about his successful career as a long jump athlete. He was born in Shkodra in Albania in 1993, became a professional athlete at the age of 17 and has

represented Albania in many international competitions including at the Olympic Games in Rio de Janeiro in 2016 and Tokyo in 2021.

31. He told the Panel that he had participated at the competition on 8 May 2021 and had established a new national record for long jump of 8.16 metres. He admitted that there had not been any wind measuring device at the competition and stated that he had no knowledge of how his results were transmitted to World Athletics, as that was a matter for the sports administrators. He admitted that there should be wind measuring devices at competitions but stated that it was not his role to ensure compliance with the rules.
32. Mr Smajlaj told the Panel that the photograph had not been taken on 8 May 2021 and that he was certain of that as in the photograph he was not wearing the strapping that he had worn at the competition. He testified that the photograph had been taken at a training session, but he did not know when or who had taken the photograph, although he said it could have been his partner, who often attends his training sessions.
33. Mr Smajlaj said that the wind measuring device in the photograph had been set up by Mr Ruli, but that he had not asked Mr Ruli any questions as to why he was setting up the device, even though it was the first (and only) time that Mr Ruli had erected a wind measuring device during a training session. Mr Smajlaj also stated that he had not been aware that the photograph had been sent to World Athletics until he had been contacted by the AIU.
34. On balance, the Panel found Mr Smajlaj's evidence to be credible. It noted that Mr Smajlaj did not ask Mr Ruli why he had set up a wind measuring device at the practice session, but given Mr Ruli's seniority over Mr Smajlaj, the Panel did not consider his failure to raise any query improbable.

#### *Standard of Proof*

35. On several occasions during the hearing, counsel for the Respondents suggested that the standard of proof in these proceedings was proof beyond a reasonable doubt. However, that is not the correct standard. Article 10.1 of the Tribunal Rules provides that the AIU bears the burden of establishing a violation of the Code. It also provides that the standard of proof is whether the AIU had "*established the commission of the alleged violation to the*

*comfortable satisfaction of the Panel. This standard of proof is in all cases greater than a mere balance of probability but less than proof beyond a reasonable doubt.”* Article 10.2 provides that where the Code imposes a burden upon a Respondent to rebut a presumption or establish specified facts, that standard will be by a balance of probability.

### *Issues for Determination*

36. The Panel considers the following issues arise for determination:

- (a) Was Mr Ruli knowingly involved in the falsification of the wind measurement records relating to the competition on 8 May 2021 that were provided to World Athletics by Mr Dionisi?
- (b) Was Mr Ruli knowingly involved in the submitting of the photograph to World Athletics with the purpose of suggesting that the photograph had been taken on 8 May 2021 and that therefore a wind measurement device had been used on that day?
- (c) Was Mr Smajlaj knowingly involved in the falsification of the wind measurement records relating to the competition on 8 May 2021 that were provided to World Athletics by Mr Dionisi?
- (d) Was Mr Smajlaj knowingly involved in the submitting of the photograph to World Athletics with the purpose of suggesting that the photograph had been taken on 8 May 2021 and that therefore a wind measurement device had been used on that day?
- (e) If the answer to any of the above questions is in the affirmative, has Mr Ruli or Mr Smajlaj acted in violation of the Code, and if so, which provisions?
- (f) If Mr Ruli or Mr Smajlaj has acted in violation of the Code, what is the appropriate sanction?

*Was Mr Ruli knowingly involved in the falsification of the wind measurement records relating to the competition on 8 May 2021 that were provided to World Athletics by Mr Dionisi?*

37. Mr Ruli admitted that there was no wind measuring device at the competition on 8 May 2021. He denies any knowledge of Mr Dionisi sending falsified wind measurement readings in respect of the competition to World Athletics. Yet on 11 May 2021, the day after World Athletics had asked Mr Dionisi for wind measurement records, Mr Ruli sent an email to Mr Dionisi with a picture of a Wohler FA410 wind measuring device and its price. The logical inference to be drawn from this email message given its timing, was that Mr Ruli was interested in purchasing a wind measuring device which would have enabled Mr Dionisi to persuade World Athletics that a wind measurement device had been used on 8 May 2021.

38. In his testimony, Mr Ruli explained that he had sent the email to Mr Dionisi because the AAF had received a gift of the Wohler FA410 wind measuring device some time earlier in the year and he was interested in its price. He denied that his email was in any way connected to the competition on 8 May 2021 but could also not explain why the wind measurement device apparently at the disposal of the AAF before 8 May 2021 had not been used by the AAF during the competition. Under cross examination he gave a different reason for his email. He stated that he had sent the email because he was looking for the instruction manual for the device. However, he did not explain why, if he was interested in the instruction manual, he did not search for the instruction manual on the internet, but merely sent the price of the device.

39. The Panel concludes that Mr Ruli's explanation for why he sent the email picture of the Wohler FA410 wind measuring device to Mr Dionisi on 11 May 2021 was inconsistent and unsatisfactory. The Panel also concludes that Mr Ruli's account of the donation of the wind measuring device to the AAF lacked plausibility. It notes that although Mr Ruli claimed to have known the donor well, he did not seek to present any written or testimonial evidence to the Panel concerning the donation. Nor could he explain why the wind measuring device which, on his version of the events, had been donated some months previously had not been used at the competition, given that he knew that World Athletics required a wind measuring device to be used.

40. The Panel notes that the timing of the email message was closely related to World Athletics' request that the AAF provide wind measurement readings in relation to the competition. Given Mr Ruli's failure to provide a satisfactory explanation for the email he sent to Mr Dionisi on 11 May 2021 with a photograph of the Wohler FA410 wind measuring device, the

Panel concludes that Mr Ruli was aware that World Athletics had requested wind measurement readings for the competition, and he sent the email in order to propose to Mr Dionisi that the device be purchased, in order to satisfy World Athletics that wind measurement readings had been taken on 8 May 2021. In so doing, the Panel concludes that it is comfortably satisfied that Mr Ruli became knowingly involved in the falsification of the wind measurement readings relating to the competition on 8 May 2021.

*Was Mr Ruli knowingly involved in the submitting of the photograph to World Athletics with the purpose of suggesting that the photograph had been taken on 8 May 2021 and that therefore a wind measurement device had been used on that day?*

41. Mr Ruli admitted in his testimony that the photograph was taken on his mobile phone, although he denied any knowledge of how the photograph which was created on his mobile phone at 8.27am on 1 July 2021 reached Mr Dionisi on the same day, given that Mr Dionisi sent it to World Athletics by email at 9.45am on 1 July 2021.

42. The Panel notes that Mr Ruli's evidence as to the circumstances in which the photograph was taken was inconsistent and unsatisfactory. In his testimony Mr Ruli stated that he had set up the wind measuring device at the training session, and Mr Smajlaj confirmed that. However, in his statement to the AIU during its investigation, Mr Ruli had stated that Mr Dionisi must have set up the device. During cross examination, Mr Ruli was unable to account for this contradiction. Mr Ruli also could not account for the fact that he told the AIU during its investigation that he had not been aware of the photograph before it had been sent to Mr Smajlaj by the AIU, with the fact that he admitted in his testimony before the Panel that the photograph was created on his mobile phone on 1 July 2021. Finally, in his testimony, Mr Ruli did not deny that he had sent the photograph to Mr Dionisi, although he stated that he could not remember if he had done so. He testified that he had taken no steps to ascertain how the photograph had reached Mr Dionisi. The Panel thus concluded that Mr Ruli was an unreliable witness on these matters.

43. The Panel notes that the photograph was created on Mr Ruli's phone less than 24 hours after the AIU approached the AAF requesting proof that the wind measurement device was in place at the competition on 8 May 2021. It notes that the photograph shows Mr Smajlaj

on a track in the presence of a wind measurement device. It also notes that the photograph was sent to World Athletics by Mr Dionisi just over an hour after it had been created on Mr Ruli's mobile telephone. These circumstances give rise to a strong inference that the photograph was taken in response to the request by World Athletics for proof that a wind measurement device had been in use on 8 May 2021, and that it was then sent to World Athletics almost immediately to provide that proof. The inconsistent and unsatisfactory account provided by Mr Ruli does nothing to disturb the drawing of such an inference, if anything it strengthens it. The Panel is thus accordingly comfortably satisfied that the photograph was sent to Mr Dionisi by Mr Ruli with the purpose of being sent onto World Athletics in response to their 30 June 2021 request for proof of the fact that a wind measurement device was in use at the competition.

44. The Panel accordingly concludes that it is comfortably satisfied that Mr Ruli was knowingly involved in the submitting of the photograph to World Athletics with the purpose of suggesting that the photograph had been taken on 8 May 2021 and that therefore a wind measurement device had been used on that day.

*Was Mr Smajlaj knowingly involved in the falsification of the wind measurement records relating to the competition on 8 May 2021 that were provided to World Athletics by Mr Dionisi?*

45. In his evidence, Mr Smajlaj admitted that there was no wind measuring device in use at the competition on 8 May 2021. He also stated that wind measuring devices had never been in use in Albanian athletics competitions. He testified that he had no knowledge of how his results were transmitted to World Athletics, and that he had no knowledge that Mr Dionisi had falsified wind measurement records to accompany the competition results.

46. There is nothing on the record which suggests that Mr Smajlaj did have any knowledge of Mr Dionisi's falsification of the records on 8 May 2021. The Panel accordingly concludes that it has not been established to its comfortable satisfaction that Mr Smajlaj was knowingly involved in the falsification of the wind measurement records relating to the competition on 8 May 2021.

*Was Mr Smajlaj knowingly involved in the submitting of the photograph to World Athletics with the purpose of suggesting that the photograph had been taken on 8 May 2021 and that therefore a wind measurement device had been used on that day?*

47. Mr Smajlaj testified that he became aware of the photograph when he received the letter from the AIU stating that he was under investigation. He stated that the photograph was not taken on 8 May 2021 and explained that he could be sure of that because his leg was not strapped in the photograph which it had been on 8 May 2021. He stated that it was taken at a training session, but he was not sure when. Mr Smajlaj was also uncertain as to who had taken the photograph.

48. Mr Smajlaj testified that the wind measuring device in the photograph has been set up by Mr Ruli at one of his training sessions. During cross examination, external counsel for the AIU pressed Mr Smajlaj on why he had not asked Mr Ruli why he was setting up the device. In his closing submissions, external counsel for the AIU submitted that it was inconceivable that Mr Smajlaj would not have asked Mr Ruli why he was setting up the wind measuring device. However, the Panel is not comfortably satisfied that Mr Smajlaj's testimony in this regard was untruthful. The Panel notes that Mr Smajlaj is much younger and far more junior to Mr Ruli in the athletics hierarchy. Mr Ruli has been the President of the AAF for more than fifteen years and a recognised athlete before that. In the view of the Panel, it is plausible that Mr Smajlaj would not have thought it appropriate to question Mr Ruli on a matter of this sort.

49. Accordingly, given that there is no other evidence that suggests that Mr Smajlaj was knowingly involved in the use of the photograph to persuade World Athletics that a wind measurement device had been used in the competition on 8 May 2021, the Panel concludes that it is not comfortably satisfied that he was knowingly involved in the submitting of the photograph to World Athletics. The Panel therefore concludes that it has not been established in these proceedings that Mr Smajlaj violated any of the provisions of the Code.



*Which provisions of the Code has Mr Ruli breached?*

50. The Panel has concluded that it is comfortably satisfied that Mr Ruli was knowingly involved both in the submission to World Athletics of falsified wind measurement readings relating to the competition on 8 May 2021 and the submission of a falsified photograph to World Athletics to provide evidence that a wind measurement device had been in use at the competition. Providing falsified documents or photographs is dishonest, and therefore constitutes a breach of Integrity Standard 3.3.1 which requires those bound by the Code to *“act with utmost integrity and honesty at all times ... and in particular not to forge any document, falsify any authentic document or use a forged or falsified document”*.
51. It also constitutes a breach of Integrity Standard 3.3.4 which requires those bound by the Code *“to ensure the integrity of ... Athletics competitions”*. Counsel for the Respondents argued that because it had not been shown that Mr Ruli had improperly benefited for his conduct, he had not breached the Manipulation of Sports Competition Rules, nor breached Integrity Standard 3.3.4. However, a reading of Integrity Standard 3.3.4 makes clear that although a breach of the Manipulation of Sports Competition Rules will give rise to a breach of Integrity Standard 3.3.4, that Standard may also be breached in circumstances where it is not shown that a person has improperly benefited from his conduct. It is therefore not necessary to decide for the purposes of these proceedings whether Mr Ruli did in fact benefit from his conduct. What is clear is that Mr Ruli, in knowingly being involved in the falsification of wind measurement records did not act consistently with his obligation *“to ensure the integrity of ... Athletics competitions”* as Integrity Standard 3.3.4 requires.
52. Mr Ruli’s conduct also constituted a violation of Integrity Standard 3.3.15 in that he failed promptly (or at all) to report Mr Dionisi’s violation of the Code.
53. Finally, Mr Ruli’s conduct also constitutes a breach of Rule 4.4 of the Code which provides that a person violates the Code if *“they assist, encourage, aid, abet, conspire, cover up or engage in any other type of intentional complicity involving a violation ... of this Integrity Code.”* The Panel is comfortably satisfied that Mr Ruli aided and abetted Mr Dionisi in his provision of falsified wind measurement records to World Athletics in relation to the competition of 8 May 2021 and his provision of a falsified photograph in an effort to prove that a wind measurement device was in place on 8 May 2021.

### *Appropriate Sanction for Mr Ruli*

54. The Panel has concluded that Mr Smajlaj has committed no violations of the Code and so there is no need to consider any sanctions in relation to him. However, it has concluded that Mr Ruli has breached Integrity Standards 3.3.1, 3.3.4 and 3.3.15 as well as Rule 4.4 of the Code, and the Panel must now determine the appropriate Sanction for Mr Ruli.

55. The range of Consequences and Sanctions that may be imposed by this Tribunal are set out in article 11.1 of the Tribunal Rules, which provides that “*the Panel may impose such consequences and sanctions as it deems appropriate including...:*

- (a) a caution, reprimand and/or warning as to future conduct;*
- (b) a fine of any amount (which, unless otherwise specified, will be payable within 30 days);*
- (c) a compensation payment;*
- (d) reparation to any victim or victims of the violation;*
- (e) community service within Athletics;*
- (f) suspension or removal from office;*
- (g) removal of any award or other honour bestowed by World Athletics;*
- (h) disqualification of results, with all resulting consequences, including forfeiture of any related medals, titles, points and/or prizes;*
- (i) disqualification/expulsion from competitions or events; and*
- (j) a specified period of ineligibility, or life ban, from participating in any capacity in any aspect of Athletics and/or in any activities authorised, organised, controlled, recognised, sanctioned and/or supported in any way by World Athletics, Area Association or any Member Federation (other than authorised education or rehabilitation programs).”*

56. Article 11.2 provides that in determining the appropriate sanction, the Panel shall first determine the relative seriousness of the violation, including identifying all the relevant factors that it deems to aggravate the nature of the violation, including a lack of remorse, whether the person has been found guilty of any similar violation previously, whether the violation substantially damaged the commercial value and/or public interest in the relevant competition and/or the sport of Athletics; whether the violation affected the result of the competition; whether the welfare of anyone has been endangered as a result of the violation; whether the violation involved more than one person; and whether there has been a failure to cooperate with an investigation. It also requires the Panel to take into account any

mitigating factors including, whether there has been a timely admission of the violation; whether the person has otherwise a clean disciplinary record; whether the person is young or inexperienced; the fact that that the violation did not substantially damage the commercial value and/or public interest in the competition or the sport of Athletics; the fact that the violation did not affect the result of the relevant competition; whether the person has cooperated with the investigation; whether the person has provided substantial assistance to the AIU; whether the person has displayed remorse and whether the person has already suffered penalties for the same offence. The Panel may also take into account any provisional suspension already served.

57. The Panel notes that in the decision of *IAAF v Virjilio Griggs*, 6 February 2020, the Disciplinary Tribunal set out the proper approach to determining sanctions as follows. First, the Panel must determine the relative seriousness of the violation, and in so doing must take into account all the relevant factors that go to aggravation or mitigation, that the factors listed in the Rules are not exhaustive and so other factors may be considered, and it is for the Panel to determine the relevance of mitigating and aggravating factors subject to the constraints of legality and rationality. After all relevant factors have been considered and the relative seriousness of the violation determined, the Panel shall impose an appropriate sanction or sanctions from amongst those it is authorised to impose. This approach commends itself to this Panel as correct and it has accordingly followed it in this case.
58. The Panel observes that in this case the AIU proposed that Mr Ruli serve a period of ineligibility of six years from participating in any aspect of Athletics and/or in any activities authorised, organised, controlled, recognised, sanctioned and/or supported in any way by World Athletics, the AAF, Area Associations or any other National Federation. The Panel also notes that the sanction imposed on Mr Dionisi after he admitted the charges against him was that he serve a period of ineligibility of four years.
59. In assessing the seriousness of the violation, the Panel observes that Mr Ruli's violation of the Code related to his knowingly being involved in the falsification of wind measurement recordings relating to the results of a competition, and the provision of a falsified photograph. The Panel considers that these are serious offences that undermine the integrity and reputation of the sport of Athletics. Nevertheless, the Panel also notes that it is not disputed that Mr Smajlaj did indeed break the Albanian national long jump record at the competition

on 8 May 2021 and that he did jump a distance of 8.16 metres. The falsifications at issue in this case therefore did not affect the results of the competition and no competitor was prejudiced as a result of the falsification of the wind measurement records. The offence may well have been far more egregious if what had been falsified was the actual distance jumped.

60. The Panel identifies three aggravating factors: first, Mr Ruli has displayed no remorse for his conduct, indeed he has persisted in denying that he had been knowingly involved in the falsification of the records; secondly, Mr Ruli is a very senior and experienced figure in Athletics, a long-serving President of the AAF, who should have known that engaging in the falsification of records is a serious violation of the Integrity Code; and thirdly, there was more than one person involved in the falsification in this case; it involved both Mr Dionisi and Mr Ruli.

61. Turning to mitigating factors, the Panel identifies the following two factors: first, that Mr Ruli has a clean disciplinary record throughout his long career in Athletics, and secondly, that the violations in this case did not affect the outcome of the competition. The Panel also notes that Mr Ruli has been serving a provisional suspension since the notification of charges in December 2022.

62. In the case of *IAAF v Virjilio Griggs*, mentioned above, the Disciplinary Tribunal imposed a sanction of four years on Mr Griggs. Mr Griggs had knowingly submitted manipulated competition results to his national athletics federation in order to gain entry to the 2017 World Athletics Championships. There are differences between the *Griggs* case and the one at hand. On the one hand, the character of the falsification in the *Griggs* case was more egregious in that Mr Griggs knowingly falsified results of a competition (not merely wind measurement readings), but on the other, as soon as he was confronted, Mr Griggs admitted his wrongdoing and expressed remorse and regret and fully co-operated with the investigation, no one else was involved in the falsification of records, and Mr Griggs was very young and inexperienced. In sum, the Panel notes that although the falsification in the *Griggs* case was more egregious than in this case, there were a range of mitigating factors that reduced the seriousness of the offence, that are not present here.

63. There is one final consideration relating to sanction: it is clear from Mr Ruli's evidence that the AAF is an impoverished national association that has until recently never had its own wind measurement device to use at its national competitions. There is some dispute on the papers as to whether it has rented wind measurement devices from neighbouring nations, but that dispute does not need to be decided here. What is clear is that, given that World Athletics requires wind measurement recordings for results to be registered, the relative impoverishment of the AAF puts it, and its athletes, at a significant disadvantage in competing on the world stage. The Panel reiterates that it was a clear breach of the integrity required of leaders in the sport of Athletics for Mr Ruli (and Mr Dionisi) to submit falsified wind measurement readings and a falsified photograph to World Athletics, but it nevertheless considers the penurious circumstances of the AAF to be a mitigating factor in this case. If AAF had been a wealthy federation in possession of a wind measuring device, the falsification of records would have been far more reprehensible than it was in this case.
64. In conclusion, taking into account all the above mitigating and aggravating factors, including the period of provisional suspension already served by Mr Ruli, the Panel decides that Mr Ruli must serve a period of five years' ineligibility from participating in any capacity in any aspect of Athletics and/or in any activities authorised, organised, controlled, recognised, sanctioned and/or supported in any way by World Athletics, Area Association or Member Federation. In terms of article 11.4 of the Tribunal Rules, the period of ineligibility will commence on the date of this decision.

### *Costs*

65. Article 11.5 provides that the Panel has a discretion to order any party to pay some or all of the costs of the proceedings. Neither the AIU nor the Respondents asked the Tribunal to make such an order in this case, and the Panel does not consider it appropriate to make such an order.

*Right of Appeal*

66. This decision may be appealed to the Court of Arbitration for Sport (“CAS”), located at Palais de Beaulieu Av. des Bergières 10, CH-1004 Lausanne, Switzerland ([procedures@tas-cas.org](mailto:procedures@tas-cas.org)) within 21 days of this decision, in accordance with Article 13 of the Tribunal Rules.



Catherine O'Regan

Catherine O'Regan (On behalf of the Panel)  
London, UK  
6 April 2023

1 Paternoster Lane, St Paul's London EC4M 7BQ [resolve@sportresolutions.com](mailto:resolve@sportresolutions.com) 020 7036 1966

Company no: 03351039 Limited by guarantee in England and Wales  
Sport Resolutions is the trading name of Sports Dispute Resolution Panel Limited

[www.sportresolutions.com](http://www.sportresolutions.com)



ENABLING FAIR PLAY