

## DECISION IN THE MATTER OF IGOR YEROKHIN (“ATHLETE”)

### 1 FACTUAL BACKGROUND

- 1.1. On 30 October 2017, the World Anti-Doping Agency (“WADA”) Intelligence & Investigations Department (“WADA I&I”) secured from a whistleblower a copy of the Laboratory Information Management System (“LIMS”) data of the Moscow Laboratory for the years 2011 to August 2015 (the “2015 LIMS”).
- 1.2. The LIMS is a system that allows a laboratory to manage a sample through the analytical process and the resultant analytical data. Conceptually, the LIMS is a warehouse of multiple databases organized by year. The most relevant anti-doping data within the LIMS are those related to sample reception, analysis, and the actions of users within the system. This pertinent data is housed in key tables including: “bags”, “samples”, “screening”, “found” (or “scr\_results” prior to 2013), “confirmation”, “MS\_data” (or “Pro\_4” prior to 2013) and “pdf”.
- 1.3. Subsequently, as part of the reinstatement process of the Russian Anti-Doping Agency (“RUSADA”), WADA required that *inter alia* authentic analytical data from the Moscow Laboratory for the years 2012 to 2015 be provided. Access to the Moscow Laboratory was therefore given to a team of WADA-selected experts, who were allowed to remove data from the Moscow Laboratory, including another copy of the LIMS data for the relevant years (the “2019 LIMS”) as well as the underlying analytical PDFs and raw data of the analyses reported in the LIMS (the “Analytical Data”). The analytical PDFs are automatically generated from the instruments and contain the chromatograms, which demonstrate whether a substance is present or not in a given sample.
- 1.4. Further investigations were conducted by WADA I&I in collaboration with forensic experts from the University of Lausanne on the data retrieved from the Moscow Laboratory and evidence of manipulation of the 2019 LIMS was uncovered, in particular, to remove positive findings contained in the LIMS. On that basis, WADA I&I concluded that the 2015 LIMS was reliable (and the 2019 LIMS was not). WADA I&I also identified evidence of deletions/alterations of Analytical Data to remove evidence of positive findings prior to WADA’s retrieval mission in January 2019.<sup>1</sup>
- 1.5. In the present case, the 2015 LIMS data and the Analytical Data show that a number of the Athlete’s samples contained prohibited substances and were not reported as positive as part of the Russian manipulation scheme. More particularly:

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<sup>1</sup> See in particular CAS 2020/O/6689, para. 614: “The Panel finds that, prior to the Moscow Data being retrieved by WADA in January 2019, and during its retrieval, it was subjected to deliberate, sophisticated and brazen alterations, amendments and deletions. Those alterations, amendments and deletions were intentionally carried out in order to remove or obfuscate evidence of improper activities carried out by the Moscow Laboratory as identified in the McLaren Reports or to interfere with WADA’s analysis of the Moscow Data”.

### 1.6. Sample 2687433

- 1.6.1. On 6 May 2012, the Athlete was subject to an out-of-competition urine doping control collected by RUSADA. The 2015 LIMS indicates that GW1516 was found in this sample, and that the finding was subject to a confirmation procedure.
- 1.6.2. GW1516 is a hormone and metabolic modulator prohibited under S4 of the 2012 WADA Prohibited List.
- 1.6.3. The sample was reported negative by the Moscow laboratory.

### 1.7. Sample 2688818

- 1.7.1. On 13 May 2012, the Athlete was subject to an in-competition urine doping control collected under the authority of the then International Association of Athletics Federations (“IAAF”)<sup>2</sup>. The 2015 LIMS indicates that GW1516, caffeine and pseudoephedrine were found in this sample.
- 1.7.2. GW1516 is a hormone and metabolic modulator prohibited under S4 of the 2012 WADA Prohibited List. Pseudoephedrine is a stimulant prohibited In-Competition under S6 of the 2012 WADA Prohibited List.
- 1.7.3. The sample was reported negative by the Moscow laboratory.

## 2 PROCEDURAL BACKGROUND

- 2.1. On 3 May 2022, the Athlete was notified by the Athletics Integrity Unit (“AIU”), on behalf of World Athletics, of the potential anti-doping rule violations and of his right to provide explanations by 17 May 2022 or to admit the potential anti-doping rule violations *inter alia*.
- 2.2. The Athlete did not respond to this letter.
- 2.3. As a result, on 30 June 2022, the AIU noted that the Athlete had not provided any explanations within the deadline and maintained its assertion that he had committed anti-doping rule violations. The Athlete was granted an opportunity to request a hearing by 14 July 2022. The Athlete was specifically informed that, if he failed to request a hearing, he would be deemed to have waived his right to a hearing and to have accepted the asserted anti-doping rule violations, and that the AIU would render a decision confirming the imposition of the consequences set out in the letter.
- 2.4. The Athlete did not respond to this letter either.
- 2.5. On 20 July 2022, exceptionally, the AIU set a final deadline of 25 July 2022 for the Athlete to request a hearing, failing which the AIU would render a decision confirming

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<sup>2</sup> Now World Athletics

the imposition of the consequences set out at section 4 of the attached Notice (i.e., Public Disclosure of the matter).

2.6. The 20 July 2022 email remained unanswered as well.

### 3 REASONED DECISION

#### A) Applicable Rules

3.1. Pursuant to Rule 1.7.2(b) of the 2021 World Athletics Anti-Doping Rules (“WA ADR”), anti-doping rule violations committed prior to 1 January 2021 shall be governed by the substantive Anti-Doping Rules in effect at the time the alleged anti-doping rule violation occurred and, with respect to procedural matters, by the 2016-2017 IAAF Competition Rules (the “2016 IAAF Competition Rules”) for anti-doping rule violations committed prior to 3 April 2017.

3.2. As the Athlete’s anti-doping rule violations occurred in 2012, they are governed by the rules at the time of their commission, viz. the 2012-2013 IAAF Competition Rules (the “IAAF Competition Rules”), subject to the application of the principle of *lex mitior*.

#### B) Anti-Doping Rule Violations

3.3. Per Rule 32.2(b) of the IAAF Competition Rules, the Use of Prohibited Substances constitutes an anti-doping rule violation. The provision adds the following:

*“(i) it is each Athlete’s personal duty to ensure that no Prohibited Substance enters his body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.*

*“(ii) the success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used, or Attempted to be Used, for an antidoping rule violation to be committed.”*

3.4. Use within the meaning of Rule 32.2(b) of the IAAF Competition Rules can be established “by any reliable means, including but not limited to admissions, evidence of third Persons, witness statements, experts reports, documentary evidence, conclusions drawn from longitudinal profiling and other analytical information” (Rule 33.3 of the IAAF Competition Rules).

3.5. In the present case, the 2015 LIMS data and underlying Analytical Data show that GW1516 and pseudoephedrine, a prohibited anabolic steroid and a stimulant, were detected in samples collected from the Athlete in 2012. This clear and reliable evidence shows that the Athlete used Prohibited Substances in 2012 in breach of Rule 32.2(b) of the IAAF Competition Rules.

- 3.6. In addition, the AIU notes that, when confronted with the anti-doping rule violations, the Athlete did not challenge them and is therefore deemed to have accepted them.
- 3.7. In view of the above, it is clear that the Athlete committed anti-doping rule violations in breach of Rule 32.2(b) of the IAAF Competition Rules in 2012.

### C) Applicable Consequences

- 3.8. By way of background, the AIU notes that the Athlete was previously sanctioned for a violation involving EPO<sup>3</sup> resulting in a period of Ineligibility of two years from 9 September 2008 until 8 September 2010 and the disqualification of all the Athlete's results since 29 July 2008 until 8 September 2008 (the "**First Violation**"), and a violation relating to the Athlete's Athlete Biological Passport (ABP) resulting in a lifetime ban and the disqualification of all the Athlete's results since 25 February 2011 (the "**Second Violation**").

#### a. Period of Ineligibility

- 3.9. Per Rule 40.7(d)(i), "[f]or the purposes of imposing sanctions under Rule 40.7, an anti-doping rule violation will only be considered a second violation if it can be established that the Athlete or other Person committed the second anti-doping rule violation after the Athlete or other Person received notice pursuant to Rule 37 (Results Management) or after reasonable efforts were made to give notice of the first anti-doping rule violation; if this cannot be established, the violations shall be considered together as one single first violation and the sanction imposed shall be based on the violation that carries the more severe sanction; however, the occurrence of multiple violations may be considered as a factor in determining aggravating circumstances (Rule 40.6)."
- 3.10. In the present case, the Athlete committed the present anti-doping rule violations (in May 2012) after his notification of the First Violation which was committed on 29 July 2008, but prior to the notification (received in August 2013) of the Second Violation, which was committed as from 25 February 2011. As a result, the 2012 anti-doping rule violations shall therefore be considered together with the Second Violation as a "second" violation for the purposes of Rule 40.7(d)(i).
- 3.11. To determine the applicable sanction, the applicable rules indicate that, where multiple violations are to be considered together, "*the sanction imposed shall be based on the violation that carries the more severe sanction*".
- 3.12. In the present case, the Athlete already received a lifetime ban for the Second Violation. The 2012 anti-doping rule violations cannot be subject to a more severe sanction. As a result, no additional period of Ineligibility can be imposed on the Athlete for the present anti-doping rule violations.

#### b. Disqualification

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<sup>3</sup> The sample was collected on 29 July 2008.

3.13. Per Rule 40.8 of the IAAF Competition Rules, “[i]n addition to the automatic disqualification of the results in the Competition which produced the positive sample under Rules 39 and 40, all other competitive results obtained from the date the positive Sample was collected (whether In-Competition or Out-of-Competition) or other anti-doping rule violation occurred through to the commencement of any Provisional Suspension or Ineligibility period shall be Disqualified with all of the resulting Consequences for the Athlete including the forfeiture of any titles, awards, medals, points and prize and appearance money.”

3.14. In the present case, the results obtained by the Athlete since 25 February 2011 were already disqualified for previous anti-doping rule violations, and the Athlete subsequently received a lifetime ban on 28 August 2013. As a result, there are no remaining results to be disqualified.

D) Dispositive

3.15. In view of all the above, the following decision is hereby rendered (with binding effect on all Signatories to the World Anti-Doping Code, in all sports and countries as per Code Article 15):

3.15.1. The Athlete is found to have committed anti-doping rule violations as described in this decision under Rule 32.2(b) of the IAAF Competition Rules.

3.16. The disposition of the matter will be Publicly Disclosed in accordance with Rule 43 of the 2016 IAAF Competition Rules.

3.17. This decision is subject to appeal under Rule 42 of the 2016 IAAF Competition Rules.

Monaco, 25 August 2022