



2022/ADD/55 International Bobsleigh & Skeleton Federation (IBSF) v. Anastasia Valerievna Tambovtseva

ARBITRAL AWARD

delivered by the

ANTI-DOPING DIVISION OF THE COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr. Patrice Brunet, Attorney-at-Law in Montreal, Canada

in the arbitration between

International Bobsleigh & Skeleton Federation (IBSF), Switzerland

Represented by Dr Stephan Netzle and Dr Mirjam Koller, Attorneys-at-Law, TIMES Attorneys AG

Claimant

and

Anastasia Valerievna Tambovtseva, Russia

Represented by Ms Daria Gorlova, Attorney-at-Law, Russia

Respondent

I. PARTIES

1. The International Bobsleigh & Skeleton Federation (“IBSF”) or (the “Claimant”) is the world governing body for the sport of Bobsleigh with registered offices in Lausanne, Switzerland.
2. Ms. Anastasia Valerievna Tambovtseva (the “Respondent”) is a 40-year-old retired bobsledder from Russia. She competed from 2007 to 2014 and is now a bobsleigh coach. She is considered an Athlete within the meaning of the IBSF ADR.
3. The Claimant and Respondent are hereinafter referred to as the “Parties”.

II. FACTUAL BACKGROUND

4. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings, and evidence adduced in this procedure. Additional facts and allegations found in the Parties’ written submissions, pleadings, and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, he only refers to the submissions and evidence he considers necessary to explain his reasoning.
5. On 21 September 2022, the IBSF was informed by the WADA (“World Anti-Doping Agency”) Intelligence and Investigation Department that an examination of the data from the Moscow Laboratory Information Management System (“Moscow LIMS”) had revealed that urine sample no. 2743615 taken from the Respondent on 25 October 2012 at a competition in Krasnaya-Polyana contained the prohibited substance Methylhexanamine (MHA) at a concentration of 1,5 micrograms per millilitre (“mcg/mL”).
6. MHA was a Prohibited Substance under the WADA 2012 Prohibited List, class S 6.b (Stimulants) at the time of collection, and is still prohibited to this day. More specifically, MHA is a Specified Substance, prohibited in-competition.
7. The positive finding was not reported in the Anti-Doping Administration & Management System (“ADAMS”). The analysis was reported as negative. Therefore, the IBSF was not made aware of the positive analysis result of the Respondent’s sample contemporaneously with its first analysis, but only on or about 21 September 2022.
8. On 30 September 2022, the IBSF notified the Respondent of the finding by a Charge Letter, informing her of an Anti-Doping Rule Violation (“ADRV”) and inviting her to comment on the matter.
9. On 17 October 2022, the Respondent contested the charge of an ADRV.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

10. On 9 December 2022, the IBSF referred the matter to the CAS Anti-Doping Division (“CAS ADD”) through an application under Article 8.1.1 IBSF ADR 2021, in accordance with Article A13 of the CAS ADD Rules.
11. On 23 December 2022, the ADD, on behalf of the President of the ADD, confirmed the appointment of Mr. Patrice Brunet as Sole Arbitrator in accordance with Article A16 of the ADD Rules.
12. On 29 December 2022, the Respondent filed her Answer to the Request for Arbitration in accordance with Article A14 of the CAS ADD Rules.

13. On 16 January 2023, the Parties were instructed to file a further round of written submissions focused on the Respondent's objection to the jurisdiction of the CAS ADD.
14. On 2 February 2023, the Claimant submitted its Reply brief.
15. On 28 February 2023, the Respondent submitted her Rejoinder brief.
16. On 28 March 2023, a case management conference was held. The Sole Arbitrator was assisted by Mr. Fabien Cagneux, Managing Counsel of the Anti-Doping Division, and joined by the following:

For the Claimant:

- Dr. Mirjam Koller, counsel
- Dr. Stephan Netzle, counsel

For the Respondent:

- The Respondent was not present at the case management conference despite accepting the invitation. She later explained that she missed the appointment because of a miscalculation of the time zone. She was informed that the management conference did not proceed in her absence, and that the Claimant informed the Sole Arbitrator that they agreed for the decision to be issued on documentary evidence only. She did not request that the case management conference be rescheduled, and also agreed that the Sole Arbitrator may decide this matter based on the Parties' written submissions.
17. The Parties recognized that their right to be heard has been respected through the Order of Procedure dated 3 April 2023.

IV. SUBMISSIONS OF THE PARTIES

A. The Claimant

18. In its request for arbitration, the IBSF requested the following relief from CAS ADD:

- 1. accept its jurisdiction and hear and adjudicate the case against the Respondent as a first instance according to Article 8.1.1 IBSF ADR;*
- 2. find the Respondent guilty of a violation of Art. 2.2 of the IBSF ADR 2009 ("use of a prohibited substance");*
- 3. impose a sanction of two years of ineligibility starting at the date of the decision of the ADD;*
- 4. disqualify all of the Respondent's sporting results since 25 October 2012, including forfeiture of any medals, points, and prizes;*
- 5. order the Respondent to pay a contribution to the costs of the IBSF at the discretion of the Panel.*

19. The IBSF's submissions, in essence, may be summarized as follows:
20. According to Article 7.1.10 of FIBT (former name of IBSF) ADR 2009 provides a parallel competence to the international federation to conduct the result management process if the national federation's result management process is not in accordance with the regulations.

21. According to Article 7.7. IBSF ADR 2021, IBSF has the authority to initiate proceedings against a retired athlete.
22. According to Article 8.1.1. IBSF ADR 2021, CAS ADD is the competent forum to hear the present instance, because IBSF has delegated its first instance competence to CAS ADD.
23. Based on the principle of *Tempus Regit Actum*, and the concept of *dynamic reference*, the procedure should be conducted following the procedural regulations in force at the time of the initiation of the proceedings, which means that IBSF ADR 2021 should be guiding the procedure, and the anti-doping violation and any potential sanction should be based on FIBT (IBSF) ADR 2009, and the *2012 Prohibited List*.
24. The Claimant charges the Respondent with the offence of *use of a prohibited substance* pursuant to Article 2.2 of FIBT (IBSF) ADR 2009.
25. The Claimant alleges that the Respondent used the specified substance MHA, which was prohibited in competition, while competing at an event on 25 October 2012, in Krasnaya Polyana, Russia.
26. Based on Article 3.1 ADR 2021, the Claimant states that the standard of proof is beyond the balance of probabilities, but less than proof beyond a reasonable doubt.
27. The Claimant submits that for the offence of *use of a prohibited substance*, CAS jurisprudence allows for the evidence to be established by any reliable means.
28. In support of its position, the Claimant relies on the McLaren Report that details a doping scheme that took place in Russia, sanctioned by governmental authorities, and that affected the reporting of anti-doping test results conducted by the Moscow Laboratory in WADA's Anti-Doping Administration and Management System (ADAMS) during the period when the Respondent's sample was collected and initially analysed.
29. Referring to CAS 2017/A/5379, the Claimant states that the McLaren Report is not sufficient to establish an individual anti-doping violation and that it requires corroborative evidence.
30. As corroborative evidence, the Claimant presents the data received from the Russian authorities and the Joint Statement of Mr. Aaron Richard Walker ("Mr. Walker") and Dr. Julian Broséus ("Dr. Broséus") of WADA's Intelligence and Investigations Department, explaining that the LIMS database received by WADA from Russian authorities indicated, after recovery of deleted files, that sample 2743615 related to the Respondent was positive to MHA.
31. The evidence submitted by the Claimant shows that the Respondent's sample contained MHA at a concentration of 1.5 mcg/ml.
32. The Claimant also presents correspondence between Dr. Grigory Rodchenkov ("Dr. Rodchenkov"), and Dr. Timofey Sobolevsky ("Dr. Sobolevsky"), of the Moscow Laboratory, and between Dr. Rodchenkov and Ms. Natalya Zhelanova ("Ms. Zhelanova"), liaison to then Russian Deputy Minister of Sport Yuri Dmitrievich Nagornykh related to sample 2743615's result. The correspondence mentioned the following:

"2743615, G, bobsleigh, RF Cup, selection date 2012-10-25, S6. Methylhexanamine"
33. As to the competition status of the Respondent, the Claimant relies on the Doping Control Form signed by the Respondent on 25 October 2012, noting that the box "in competition" is ticked on the form.

B. The Respondent

34. In her submissions the Respondent is seeking the following relief:

1. *Not to consider the case due to lack of jurisdiction.*
2. *In case of consideration of the case, refuse to satisfy the Plaintiff's claims in full.*
3. *Assign all the costs of the case to the Federation.*

35. The Respondent's submissions, in essence, may be summarized as follows:

36. The Respondent alleges that CAS ADD is not the appropriate forum for the present dispute, because she has not consented to the application of IBSF ADR 2021, having retired from the sport before the entry into force of these regulations.

37. Instead, the Respondent suggests that the present dispute should be adjudicated pursuant to Sections 7 and 8 of the FIBT ADR 2009 that were in force on 25 October 2012 and that the dispute should be heard before a panel designated by the Russian national federation, as it is the level of competition at which the Respondent was competing when the test occurred.

38. Based on article 3.1 of FIBT ADR 2009, the Respondent affirms that the standard of proof should be beyond the balance of probabilities but less than reasonable doubt.

39. The Respondent affirms that the Claimant failed to demonstrate that she was a "protected athlete" from anti-doping by Russian authorities because the email exchanges between Dr. Rodchenkov, Dr. Sobolevsky, and Ms. Zhelanova have not been confirmed via testimony.

40. In addition, the Respondent points out that nowhere in the email exchanges between Dr. Rodchenkov, Dr. Sobolevsky, and Ms. Zhelanova, the word "Save" is mentioned, contrary to what is claimed to be a standard practice by Mr. Walker and Dr. Broséus when an athlete is protected. The Respondent claims that the evidence submitted by the Claimant is solely based on assumptions.

41. To further her claims, the Respondent explains that the other test mentioned in Dr. Sobolevsky's letter "2747209, M, speed skating, Russian Championship (5832), Selection date October 27, 2012" relates to speed skater Sergei Lisin who was sanctioned for an anti-doping violation by Russian authorities.

42. Regarding the electronic proof that AAFs were not reported in ADAMS, the Respondent submits that the McLaren Report is not admissible proof that an individual ADRV happened and that it constitutes one person's opinion of a wider situation, and that it should not be used in individual cases. Relying on CAS 2019/A/6167, the Respondent submits that the existence of a doping scheme is not sufficient to establish individual ADRVs.

43. Regarding the LIMS database and the Joint Statement of Mr. Walker and Dr. Broséus submitted as corroborative evidence by the Claimant, the Respondent explains that the Claimant failed to demonstrate that it is reliable, as the authors of the statement were not cross-examined forensically, that there is no evidence that the 2015 LIMS copy on which the Claimant relies is accurate and that only the information, rather than the content of CP Raw file "13433.raw", could be retrieved.

44. In her submissions, the Respondent also disputes the validity of the doping control form stating that several elements are incorrect, including her date of birth and the "in-competition" box that is ticked. The Respondent also submits that the signature on the form is incorrect.

45. The Respondent states that since the Krasnaya Polyana track was accepted by the Federation on 26 October 2012, and that track was only registered in the *All-Russian Register of sports facility*, in 2013,

the Russian Bobsleigh Cup could have not taken place in 2012. Therefore, since the event was not an official competition, the sample could not have been collected *in-competition*. The analysis of the sample, therefore, does not meet the definition of an *in-competition Prohibited Substance*.

46. The Respondent finally submits that the initiation of the present procedure by the Claimant only 25 days before the 10-year time limitation amounts to an abuse of rights. The Respondent alleges that the Claimant had knowledge of the situation since 2019 and should have acted sooner.

V. JURISDICTION

47. Article A2 of the ADD Rules provides as follows:

“CAS ADD shall be the first-instance authority to conduct proceedings and issue decisions when an alleged anti-doping rule violation has been filed with it and for imposition of any sanctions resulting from a finding that an anti-doping rule violation has occurred. CAS ADD has jurisdiction to rule as a first-instance authority on behalf of any sports entity which has formally delegated its powers to CAS ADD to conduct anti-doping proceedings and impose applicable sanctions.

These Rules apply whenever a case is filed with CAS ADD. Such filing may arise by reason of an arbitration clause in the Anti-Doping Rules of a sports entity, by contract or by specific agreement.

These Rules apply only to the resolution by first instance arbitration of alleged anti-doping rule violations filed with CAS ADD. They neither apply with respect to appeals against any other decision rendered by an entity referred to in this Article nor against any decision rendered by CAS ADD.

Decisions rendered by CAS ADD shall be applied and recognized in accordance with the WADC.

CAS ADD shall also have jurisdiction in case of alleged doping violations linked with any re-analysis of samples.”

48. According to Article 7.7. IBSF ADR 2021, IBSF has the authority to initiate proceedings against a retired athlete.
49. IBSF has delegated its competence regarding first-instance hearing to CAS ADD according to Article 8.1.1. IBSF ADR 2021.
50. While The Respondent had retired from competition several years before the adoption of IBSF ADR 2021 and has never competed under these rules, the principle of *Tempus Regit Actum* is well recognized in CAS jurisprudence, as explained in CAS 2017/A/5086 and CAS 2018/O/5822:

*(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 occurred before their entry into force (CAS 2008/A/1545, para. 10; CAS 2000/A/274, para. 208; CAS 2004/A/635, para. 44; CAS 2005/C/841, para. 51), (iii) any procedural rule applies immediately upon its entry into force and governs any subsequent procedural act, even in proceedings related to facts 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 necessary¹.*

51. Since the present dispute was initiated on 30 September 2022, IBSF ADR 2021 was the procedure in force at the time of initiation of the beginning of the procedure, it should govern the present instance.
52. The Respondent has claimed that the proceedings against her by the Claimant amount to an abuse of rights as they were filed 25 days before the statute limitation. However, Article 16 IBSF ADR 2021

¹ CAS 2017/A/5086 para. 119

allows for proceedings to be initiated within the 10 years following the alleged occurrence of an ADRV. Considering that the Claimant initiated the proceedings before the prescription of the 10-year period, the Sole Arbitrator has no discretion to decline jurisdiction simply based on the proximity of the prescription of the period. The right is either prescribed or not, and no analysis may be swayed by the impending proximity of such prescription. It is a simple binary analysis.

53. The right was exercised within the prescribed period, and therefore in consideration of the foregoing, the Sole Arbitrator confirms the jurisdiction of the ADD to decide this matter.

VI. APPLICABLE LAW

54. Article A20 of the ADD Rules provides as follows:

“The Panel shall decide the dispute according to the applicable ADR or the laws of a particular jurisdiction chosen by agreement of the parties or, in the absence of such a choice, according to Swiss law.”

55. As explained herein, the principle of *Tempus Regit Actum* requires that the procedure is governed by the IBSF ADR 2021.
56. The same principle, however, commands that the offence and the sanction be governed by the regulations in place at the time that the alleged ADRV took place.
57. The Sole Arbitrator, therefore, confirms that the IBSF ADR 2021 applies to the procedure in conjunction with the WADC, while the sanction and the offence conjunction are governed by FIBT ADR 2009 and the *2012 Prohibited List*.

VII. MERITS

A. The Anti-Doping Rule Violation

58. Under Article 3.1 IBSF ADR 2021, the Claimant has the burden of establishing “to the comfortable satisfaction of the” Sole Arbitrator that an ADRV has occurred. This “standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt”.

59. Article 2.2 FIBT (IBSF) ADR 2009 sets the ground for the offence of *use of a prohibited substance*:

“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 anti-doping rule violation to be committed.”

60. Article 3.2 FIBT (IBSF) ADR 2009 allows the following:

“Facts related to anti-doping rule violations may be established by any reliable means, including admissions”.

61. The main issues to be resolved by the Sole Arbitrator are:

Did the Respondent commit an Anti-Doping Rule Violation?

In case the first question is answered in the affirmative, what is the consequence?

1 Use of MHA by The Respondent:

1.1 Evidence Submitted by the Claimant

62. In support of its claims that the Respondent tested positive to MHA, the Claimant submits the following evidence.

1.1.1 Doping Control Form

63. The Doping Control Form signed by The Respondent indicates that sample 2743615 was collected from the Respondent on 25 October 2012. The form indicates that the sample was collected in competition.
64. The Respondent disputes the reliability of the Doping Control Form indicating in her submission that the date of birth reported on the form is incorrect (11 July 1982), whereas her accurate date of birth is 11 August 1982. The Respondent also disputes the signature of the form.
65. Although there was a mistake in the reporting of her date of birth, this is not fatal to the process. The Respondent signed the Doping Control Form twice and has not provided any other evidence, including a signature verification expert, to challenge the validity of the signature.
66. Despite the imperfect Doping Control Form with respect to the month of birth, the Sole Arbitrator considers it to be valid evidence and reject the Respondent's claim that her signature was falsified.

1.1.2 Moscow Laboratory Data

1.1.2.1 Reliability of evidence

67. In support of its claim that the Respondent used a prohibited substance, the Claimant submits data related to the Respondent from the Moscow Laboratory and analyzed by WADA's expert. The Respondent disputes the reliability of this evidence.
68. The 2015 LIMS copy was obtained on 31 October 2017 by WADA, from a whistleblower.
69. On 17 January 2019, WADA took possession of the Moscow Data, as part of the reinstating process of the Russian Anti-Doping Agency and commenced an investigation which found that the data received by WADA had been manipulated to hide misreporting of anti-doping cases by the Moscow Laboratory between 1 January 2012 to 3 September 2015.
70. CAS jurisprudence regarding cases pertaining to the false reporting of data from the Moscow Laboratory is abundant and has recognized that the data provided to WADA by RUSADA in 2019 had been altered. In CAS 2020/O/6689, the Panel concluded the following:
- “RUSADA failed to procure an authentic copy of the Moscow Data and therefore failed to comply with the PostReinstatement Data Requirement. The steps taken to manipulate the Moscow Data and deceive WADA could hardly be more serious.”*
71. The email correspondence between Dr. Rodchenkov, Dr. Sobolevsky and Ms. Zhelanova (EDP1184 and EDP1185) has been obtained via the Evidence Disclosure Package released publicly as part of the McLaren investigation.
72. Akin to case CAS 2021/ADD/14, the evidence comes from three different sources. First, the emails were from the Evidence Disclosure Package. Second, the 2015 LIMS copy was obtained from a whistleblower and the manipulations are detailed in the Joint Statement of Mr. Walker and Dr. Broséus. Lastly, the 2019 Moscow Laboratory database originates from the Russian Investigative Committee.
73. The Respondent disputes the reliability of the evidence but she fails to substantiate her claims. She simply states that the evidence presented by the Claimant regarding the 2015 LIMS copy and the 2019 Moscow

Laboratory database was not “forensically cross-examined”. This is insufficient to challenge the reliability of the evidence.

74. The impossibility for WADA’s experts to recover the content of the CP Raw file “13433.raw” does not materially affect the reliability of the evidence. The information recovered, the name of the file, the PDFs and the logs are sufficient evidence that demonstrates that there were abundant manipulations, that AAFs occurred but were not appropriately reported in ADAMS, and that an attempt in hiding the misreporting occurred before the database was submitted to WADA.
75. In light of the above, the Sole Arbitrator is satisfied with the reliability of the evidence submitted by the Claimant under this heading, as were CAS Panel and Sole Arbitrator in similar cases including CAS 2021/A/7840 and CAS 2021/ADD/14.

1.1.2.2 Content of the 2015 LIMS copy

76. The 2015 LIMS contains the following information:
 - a. The Sample was received at the Moscow Laboratory on 29 October 2012, and assigned an internal code of 13433.

The following information was entered into the LIMS:

- i. Internal code: 13433
- ii. External code: 2743615

- b. On 30 October 2012, the Moscow Laboratory performed a number of initial testing procedures on the Sample.

The following information was entered into the Moscow LIMS after a substance was found in the sample:

- i. Id. 2467
- ii. Internal code: 13433
- iii. Substance: Methylhexaneamine (1.3-Dimethylpentylamine)
- iv. Concentration: 1,65 ng/mL
- v. User: Marina Dikunets
- vi. Do: 1

- c. On 31 October 2012, a PDF named “/pdf/2012/nibbler/s_13433_stimulants_v8_1351655174.pdf” was generated and uploaded in the Moscow LIMS.

- d. A confirmation procedure was conducted on 31 October 2012, and the following information was entered into the LIMS:

- i. Id Screen Result: 2467
- ii. End concentration: 1.5 ng/mL
- iii. User: Marina Dikunets

77. The 2015 LIMS copy was updated with the results of the test of the Respondent's sample upon completion. As it is an authentic and reliable document, it demonstrates the presence of a Prohibited Substance (MHA) in the Respondent's sample.

1.1.3 Email correspondence between Dr. Rodchenkov, Dr. Sobolevsky and Ms. Zhelanova

78. An email from Dr. Sobolevsky to Ms. Zhelanova on 31 October 2012 further corroborates the use of MHA by the Respondent as it says:

"2743615, W, bobsleigh, RF Cup, collection date 2012-10-25, S6. Methylhexanamine."

79. In a subsequent email, on 5 November 2012, Dr. Rodchenkov confirms to Dr. Sobolevsky that he will discuss the situation of the Respondent with Ms. Zhelanova.
80. A reasonable inference can be drawn that the conversation between Dr. Rodchenkov and Ms. Zhelanova lead to the reporting of sample 2743615 as negative in ADAMS, based on the information contained in the McLaren Reports regarding the intervention of State actors in a doping scheme in Russia from 2011 and 2015.
81. Although the Sole Arbitrator concurs with the Respondent's position, and the Arbitrators in CAS 2017/A/5468, that the McLaren report is not sufficient in itself to establish individual use of prohibited substances, it has been widely recognized by CAS (CAS 2020/O/6689, CAS 2021/A/7840), that it constitutes a reliable account of the doping scheme that took place in Russia.
82. In the context described by the McLaren Report combined with the individual elements presented by the Claimant, and the absence of contradicting evidence by the Respondent that MHA was found in her body, the Sole Arbitrator is satisfied that her sample tested positive to the presence of MHA.
83. However, the presence of MHA in the Respondent's body is not sufficient to prove that she committed an ADRV, since the substance is only prohibited *in competition*.

2 Use in competition of MHA by The Respondent:

84. According to the *2012 Prohibited List*, MHA was only prohibited *in competition* at the time the alleged offence occurred.
85. The Claimant relies on the Doping Control Form that listed the sample as taken in-competition, on the email sent on 31 October 2012, by Dr. Sobolevsky to Ms. Zhelanova that mentioned the *Russian Federation Cup*, and on the test report submitted in ADAMS by Dr. Sobolevsky on 13 November 2012 which listed the test to have been conducted in-competition.
86. The Sole Arbitrator is satisfied that the Claimant has demonstrated that the Respondent was participating in a competition on the day the sample was collected.
87. The Respondent submits that the Sochi bobsleigh track was only approved by the Claimant on 26 October 2012, which is the day after the doping control occurred, and therefore, no competition could not have been held on the day prior.
88. However, the competition was organized by the national federation, and it was the national antidoping authority, RUSADA, that was competent to determine if the test occurred in-competition. They confirmed this fact on the Doping Control Form. The Respondent had the opportunity to correct the form, before its signature, but failed to do so. Therefore, there is strong evidence that supports the fact that the event that occurred on that day was, in fact, a competition.

89. In addition, the letter submitted by the Respondent from the *Department of Sports of the city of Moscow* and the translation she provided indicates that:

“At the same time, this sporting event was included in the Unified Calendar Plan of interregional, All-Russian and International Physical Culture Events and Sporting events for 2012.”

90. The definition of “in-competition” in FIBT (IBSF) ADR 2009 reads as follows:

“Unless provided otherwise in the rules of an International Federation or other relevant Anti-Doping Organization, “In-Competition” means the period commencing twelve hours before a Competition in which The Respondent is scheduled to participate through the end of such Competition and the Sample collection process related to such Competition.”

91. Without clear evidence from the Respondent that the competition did not occur or occurred at least twelve hours after the sample collection occurred, the Sole Arbitrator has no alternative but to conclude that the sample collection was completed in-competition.

92. Consequently, the Sole Arbitrator finds that the Respondent committed an ADRV under Article 2.2 of FIBT (IBSF) ADR 2009.

B. The Applicable Sanction

1. Period of Ineligibility

93. Article 10.2.2 of FIBT (IBSF) ADR 2009 applies in connection with the present offense since MHA is a specified prohibited substance, but the Claimant has not established nor claimed that the violation was intentional.
94. Since the Respondent has not demonstrated that she had no significant fault or negligence in the use of a prohibited specified substance, the sanction cannot be reduced.
95. Therefore, the Sole Arbitrator finds no reason to vary the sanction period set by article 10.2.2. of FIBT (IBSF) ADR 2009, and it is set at two years for the ADRV of use of MHA in-competition.

2. Disqualification of all competitive results

96. A well-established principle in CAS jurisprudence, proportionality must be considered when determining a sanction.
97. As outlined in CAS 2016/O/4464 and CAS 2016/O/4469, a disqualification serves the purpose of restoring the integrity of the competition results, as well as punishing the offender.
98. In the present case, the Sole Arbitrator found no evidence that the Respondent actively participated in a doping scheme, and the substance found in her sample was only prohibited in-competition.
99. In addition, the Respondent competed for the last time on 16 January 2014, effectively retiring as of this date.
100. The sanction period having been set at two years in accordance with article 10.2.2. of FIBT (IBSF) ADR 2009, the Sole Arbitrator deems proportionate that the disqualification of all competitive results covers a period of equal length, starting on the date of collection of sample no. 2743615.
101. Therefore, the Sole Arbitrator orders the disqualification of all competitive results of the Respondent obtained between 25 October 2012 and 24 October 2014, pursuant to Article 10.8 of FIBT (IBSF) ADR 2009.

C. Commencement of *Ineligibility period*

102. Pursuant to Article 10.11 of FIBT (IBSF) ADR 2009, the period of ineligibility shall be deemed asserted upon release of this decision.

VIII. COSTS

(...).

IX. APPEAL

106. Article 13 of the IBSF ADR provides:

13.1 Decisions made under these Anti-Doping Rules may be appealed as set forth below in Article 13.2 through 13.7 or as otherwise provided in these Anti-Doping Rules, the Rules of the Court of Arbitration for Sport Anti-Doping Division, subject to Article A15 of the Arbitration Rules of the Court of Arbitration for Sport Anti-Doping, the Code or the International Standards.

Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise.

107. Pursuant to Article A21 of the ADD Rules, this award may be appealed to the CAS Appeals Arbitration Division within 21 days from receipt of the notification of the final award with reasons in accordance with Articles R47 *et seq.* of the CAS Code of Sports-Related Arbitration, applicable to appeals procedures.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The request for arbitration filed by the International Bobsleigh & Skeleton Federation (IBSF) on 9 December 2022 is partially upheld.
2. Ms. Anastasia Valerievna Tambovtseva is found to have committed an anti-doping rule violation in accordance with the FIBT (IBSF) ADR 2009 that was in force on 25 October 2012.
3. Ms. Anastasia Valerievna Tambovtseva is sanctioned with a two-year period of ineligibility starting from the date of this Award.
4. All competitive results obtained by Ms. Anastasia Valerievna Tambovtseva from 25 October 2012 until 24 October 2014 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).
5. (...).
6. (...).
7. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 3 October 2023

THE ANTI-DOPING DIVISION OF THE COURT OF ARBITRATION FOR SPORT

Patrice Brunet
Sole Arbitrator