

WADA COMPLIANCE REVIEW COMMITTEE
An independent standing committee established under Article 11 of the WADA Statutes

4 January 2019

By email

Sebastian Samuelsson
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Dear Mr Samuelsson

Thank you for your letter of 3 January 2019. I am glad of the opportunity to address your concerns.

First, the CRC has not '*delayed the process*' or '*dragged its feet*'; and nor have we moved the goalposts. We have not come under any pressure from anyone at WADA to delay meeting until 14-15 January 2019, and we would not have succumbed to such pressure even if we had. Instead, the forthcoming special CRC meeting to consider the RUSADA case has always been scheduled for 14-15 January 2019. Those dates were announced back in October, I think, without comment or complaint from anyone, and so they should not come as a surprise to anyone now.

I understand that you would prefer that we hold an emergency conference call now, and declare RUSADA non-compliant immediately and without delay. However, there are good legal and practical reasons why we scheduled the CRC meeting for 14-15 January 2019:

- One of the criticisms of the recommendation that the CRC made in September to reinstate RUSADA was that it was too rushed, not enough time was allowed for due deliberation, and we should have met in person to make such an important decision, rather than just by conference call. As it happens, I don't agree with that criticism (or with the other criticisms of that recommendation), but I don't want to give the Russian authorities the chance to make the same complaint here.
- 14-15 January was the first time all CRC members could meet in person in January. But even if we could have met before then, we also wanted to ensure that there was time for a full report to be provided by the WADA compliance team to the CRC, and considered by the CRC in advance of the meeting, setting out the position and explaining the reasons for any non-compliance. In addition, in cases of non-compliance, the special fast-track procedure in Article 9.5 of the International Standard for Code Compliance by Signatories (ISCCS), which is what we are following here, requires WADA to give the Russian authorities a fair opportunity to make a submission for the consideration of the CRC before the CRC makes its recommendation to the WADA Executive Committee on compliance and consequences.
- I note your suggestion that '*this is nothing but obscene bureaucracy and hiding behind "due process"*', but all stakeholders agreed on that Article 9.5 provision during the ISCCS consultation process, and I don't want to create a legal argument by failing to follow it now. You might say that there is nothing to be considered, the non-compliance is plain, the

reasons are irrelevant, so following due process is futile and therefore unnecessary. In my experience, however, the courts do not like such arguments, and so if we were to plough ahead and recommend sanctions now, without following the rules, the risk of successful challenge on process grounds would be significant, irrespective of the merits of the underlying decision. Surely no one wants that outcome?

I also note your concern that waiting till 14-15 January might give the Russian authorities a further opportunity to provide the data. However:

- When the ISCCS was drafted, all stakeholders were very keen to ensure that declaring a Signatory non-compliant was a last resort, to be pursued only after the Signatory has been given every opportunity to comply and failed to take them. The ISCCS duly reflects that strong stakeholder sentiment. And as a result, we regularly find that Signatories comply at the very last minute, even after the CRC has made its recommendation, and in those instances, in accordance with the will of WADA's stakeholders, that last minute compliance has been accepted, and no further action taken. If WADA takes a different course here, again it will face a legal challenge, for treating RUSADA differently from everyone else.
- More importantly, I am not sure why you think that provision of the data, albeit after the 31 December deadline, would be such a bad thing. I thought everyone agreed that it is vital to get the data, so that it can be determined which of the athletes tested in the relevant period have a case to answer and which do not. That imperative is what drove the CRC's recommendation in September. If it is achieved, that is presumably a good thing, isn't it, whether it happens on 31 December or next week?

I note your accusation that I am '*siding with the cheats instead of the honest athletes*', and '*doing everything within [my] power to help the nation that committed doping fraud*'. Given the efforts that I have made in this context, including successfully defending at CAS the IAAF's exclusion of Russian athletes from the 2016 Olympic Games and (separately) the IPC's exclusion of the Russian Paralympic team from the 2016 Paralympic Games, I doubt the Russian authorities would agree with you. In any event, I am happy to continue to be judged by my actions moving forward.

Thank you again for your letter. I have tried to explain the CRC's thinking. You may or may not agree with it, but at least you made the effort to find out, and I am grateful for that.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Jonathan Taylor'.

Jonathan Taylor QC
Chair
WADA Compliance Review Committee

Open Letter to the Chair of WADA Compliance Committee, Mr. Jonathan Taylor

Why has your Committee not called an immediate meeting to reimpose Russia's suspension?

3 January 2019

Dear Mr. Taylor,

It is now more than two days since WADA's so-called "hard deadline" has passed for WADA to obtain the anti-doping data from the Moscow Laboratory, yet WADA and the Compliance Committee that you lead have remained completely silent in the face of what is the biggest crisis the global regulator has ever faced and following the biggest scandal in sporting history.

You can understand why the world's athletes and sports fans are completely bewildered at this out-of-touch behaviour, and the constant secretive backroom deals and compromises by your parent body WADA at a time when they expect decisive leadership and action.

Mr. Taylor, a deadline is a deadline and there have now been over two days since your deadline has passed – the world is waiting for your Committee to act and serve justice on the state that perpetrated the worst doping scandal of all time – I repeat, the biggest doping scandal of all time.

There has been unprecedented outcry from the world's athletes, sports fans, anti-doping leaders and even the WADA Vice President Linda Helleland calling for your Compliance Committee to convene an immediate meeting without delay so that the nation that perpetrated this grotesque doping fraud can be suspended, as per the rules. Yet, there has been complete silence from your Committee -until today in the media when you claim to have delayed the process because of the need to 'ensure that there was time for a full report to be provided by the Wada compliance taskforce'. To be candid, and I believe I speak for the clear majority outside the WADA bubble, I must say it as it is: this is nothing but obscene bureaucracy and hiding behind "due process"; only a few months ago we heard that a failure from Russia to meet the rules would result in immediate non-compliance following 31 December.

The global athlete and sports fan community still believes WADA and the International Olympic Committee have not served Russia with proper punishment following the biggest doping scandal ever; and your recent comments to media will only further fuel that overwhelming belief that justice has not been served, and that politics have been placed above principle for a global superpower. Mr. Taylor, this is about putting principle first, doing the right thing and being on the right side of history.

Athletes are well aware that the WADA Compliance Committee has the power to call an immediate meeting without delay – it has done so before, and so I ask you why is the biggest state-sponsored doping scandal of all time, and the biggest moment in WADA's history with the world's eyes on the global regulator not the time to call an urgent meeting?

On a recurring – almost daily – basis, Craig Reedie's WADA is bringing its own reputation to the ground by its cosy relationship with Russia and the unpopular International Olympic Committee. At each and every turn, Reedie's WADA has made a concerted effort to side with systematic cheating instead of clean athletes – you surely can understand why this shocks and perplexes athletes all across the world. And I'm sure you can understand why – if your Compliance Committee is independent from WADA's leadership as it is meant to be – why you don't act independently and reimpose the suspension without delay as was made clear back in September? By not acting, and by dragging heels, WADA and your Compliance Committee is showing itself to be siding with the cheats

instead of the honest athletes, and by doing everything within its power to help the nation that committed doping fraud. Mr. Taylor, you'll understand why the athlete community believes WADA is intent on showing that there is one set of rules for itself and quite another for athletes; if athletes are rightly expected to play by the rules, then why is WADA now making a habit of moving the goal posts?

Mr. Taylor, on behalf of the world's athletes and clean sport supporters, can you categorically and publicly confirm that the Compliance Committee is truly independent from WADA and is under no pressure from President Reedie, Director Niggli or others to delay its meeting until 14 January?

Can you also categorically and publicly confirm that with your lack of calling an urgent Compliance Committee meeting – as is completely within your power to do - Russia has not been given a two-week extension to provide the data until 14 January? If Russia has been given an extension, as WADA subtly suggested in its statement on New Year's Day, then that makes the so-called 31 December "hard deadline" a farce, does it not? A deadline must always be a deadline – not least when set by the global anti-doping regulator.

As a matter of reputation of your Compliance Committee, the world's athletes urge you to do what is right and ethical by sticking to the deadline that was imposed, and that has now passed – anything else is a travesty for sport, and will regrettably bring down the Compliance Committee's reputation along with WADA's. Anything else than ethical and transparent action will further ruin WADA's reputation in a week when it has reached rock bottom.

Any further delays by your Committee simply says one thing: we have sided with the cheats over the honest athletes.

Surely that is not a reputation with which you wish your Committee to be known.

Yours sincerely

Sebastian Samuelsson