

**Anti-Doping Hearing Panel
of the
International Biathlon Union**

Decision
in the matter of
Ms. Ekaterina Iourieva

The Anti-Doping Hearing Panel, according to Article 8.1.3 IBU Anti-Doping Rules, in the composition of Christoph Vedder, Professor of Law, Munich, Germany (Chair), Walter O. Frey, Medical Doctor, Zurich, Switzerland, and Markus Manninen, Attorney-at-Law, Helsinki Finland tried the case of Ms. Ekaterina Iourieva in a written proceedings and, having duly deliberated the facts and the law, renders the following decision:

I. Statement of Facts

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Ms. Ekaterina Iourieva ("the Athlete"), an athlete under the jurisdiction of the Russian Biathlon Union ("RBU"), was submitted twice to an in-competition doping control initiated by the International Biathlon Union ("IBU") on November 28 and 29, 2013 at Östersund, Sweden.

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The first analysis of the A samples of the Athlete was performed in early December 2013 by the WADA accredited laboratory in Cologne and showed atypical results and, therefore, were stored for later re-analysis. Between 4 and 12 November 2014 the A samples A 2690983 and 2691007 collected on November 28 and 29, 2013 were re-analysed in the Cologne laboratory. The analysis revealed the presence of recombinant EPO. The Expert Opinion by the WADA accredited Seibersdorf Laboratories, dated November 10, 2014, confirmed the presence of exogenous EPO. The Cologne laboratory informed the IBU of the Adverse Analytical Finding ("AAF") under letter of November 17, 2014. The Documentation Package was sent to IBU under letter of December 19, 2014.

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By letter of November 25, 2014 the IBU Secretary General notified the RBU and the Athlete that the samples taken in Östersund in November 2013, after a re-test was performed according to Article 6.5 IBU ADR, resulted in two AAFs. The Athlete was not suspended explicitly because she was already declared ineligible to compete for 8 years as of December 23, 2013 by decision of the ADHP of July 14, 2014 because of an ADRV occurred on December 23, 2013 and January 1, 2014.

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By the said letter of November 25, 2014 the Athlete and the RBU were further notified of:

- the result of the analysis not being consistent with an applicable TUE
- the initial review conducted by the IBU not showing any apparent departure from the WADA International Standards for Testing and for Laboratories ("ISL")
- the initiation, by the IBU, of the result management process for a possible Anti-Doping Rule Violation ("ADRV") in the sense of Article 2.1 IBU ADR
- the right to request the analysis of the B sample or, failing such request, that the B sample analysis may be deemed waived
- the scheduled date, time and venue as well as the costs of the B sample analysis and the opportunity of the Athlete and/or his representatives as well as representatives of the RBU to attend the B sample analysis
- the possibility to have a provisional hearing according to Articles 7.6.3, 7.6.1 IBU ADR

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By letter of December 10, 2014 RBU, on behalf of the Athlete, waived her right to the B samples analysis.

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On January 8, 2015, the IBU Secretary General referred the matter to the ADHP.

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On February 2, 2015, according to Article 8.1.3 IBU ADR, the particular Panel to hear the Athlete's case was established.

II. Proceedings before the Anti-Doping Hearing Panel

1. The IBU ADHP

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According to Article 8 IBU ADR, the ADHP is the competent body to decide whether or not, in a given case, an ADRV was committed. According to Article 11.2 of the IBU Constitution and Article 8.1.8 IBU ADR, the decisions of the ADHP can be appealed directly to the Court of Arbitration for Sport in Lausanne, Switzerland.

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Although the ADHP is part of the institutional framework of the IBU and renders, in matters of alleged ADRVs, the final decision for the IBU, it acts in complete independence. As Article 8.1.1 IBU ADR states "(e)ach panel member shall be otherwise independent of IBU". The Panel members appointed in the case pending have no prior involvement with the case.

2. The Proceedings before the Panel and the Submissions of the Parties

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Under letter of January 8, 2015 the IBU served to the Panel the documentation package of the laboratory and the full set of correspondence with the Athlete and the RBU. On the same day the documentation package and other documents were sent to RBU and the Athlete.

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By letter of February 2, 2015, directed to RBU, the Chairman of the Panel reiterated the right of the Athlete to request a hearing and notified that a hearing could take place if explicitly requested by the Athlete no later than February 9, 2014. Furthermore, the Athlete was invited to submit a statement no later than February 16, 2015.

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Since no response was received within the time-limit RBU was contacted by the IBU and, for the sake of fairness to the Athlete, the Panel, by letter of February 26, 2015, granted RBU and the Athlete a second opportunity to request a hearing and to submit a statement no later than March 25, 2015.

13

By letter of March 24, 2015, RBU informed the Panel that

"There will no feedback from Yourieva as she decided to finish her professional sports career."

14.

On April 3, 2015 IBU was invited to respond no later than May 8, 2015. On May 8, 2015, within the time-limit, IBU filed a written statement which replaces a first statement dated February 16, 2015. IBU submitted that the rules applicable to the case are the ADR 2012 while the amended ADR 2015 may be applied as *lex mitior* to the extent they provide for

milder sanctions.

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IBU claims that, based on the documentation of the A sample analyses, it has demonstrated the presence of recombinant EPO, a prohibited substance, in the Athlete's A samples which constitute two ADRVs under Article 2.1 IBU ADR. Based on Article 10.7.4 IBU ADR IBU considers the two AAF's found on the two A samples collected at the same competition to constitute one single ADRV.

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IBU further submits that the Athlete previously has been found guilty of two ADRVs by decision of the CAS of November 12, 2009 and a decision of the ADHP of July 14, 2014, respectively. The second of those decisions related to two samples which were collected on December 23, 2013 and January 1, 2014 and were to be considered a single ADRV as well. Taking into consideration that the ADRV which is the subject matter of the present proceedings occurred before the second decision was communicated and even before the samples leading to the second decision were collected, IBU concludes that the ADRVs leading to the decision of July, 2014 and the ADRV now before the Panel together shall be considered one single ADRV.

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However, IBU comes to the view:

"The multitude of positive samples shall however be taken into account under Art. 10.6 IBU ADR (aggravating circumstances) as if the two violations had been adjudicated at the same time, which may lead to an increase of the sanction which was imposed last (i.e. the 8 years period of ineligibility ...). Such increase may result in a lifetime ban. The IBU prefers however to leave it to the ADHP to determine the appropriate additional sanction."

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IBU stated that the Athlete did not submit any evidence which might justify an elimination or reduction of the period of ineligibility.

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With respect to the commencement of the period of ineligibility IBU refers to the fact that the period of ineligibility of 8 years imposed by the ADHP by decision of July 14, 2014 which begun on December 23, 2013 is still pending. According to IBU,

"Any additional period of ineligibility based on Art. 10.7.4 and 10.6 shall commence upon expiration of the pending ban (i.e. on 24 December 2021)."

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IBU's requests for relief are:

"The Athlete shall be declared ineligible because of an Anti-Doping Rule Violation and aggravating circumstances according to Art. 10.2, 10.7.4 and 10.6 IBU ADR 2012, for an additional period of time to be determined by the ADHP starting on the expiration of the pending period of ineligibility (i.e. 24 December 2021)"

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The Athlete, at no stage of the proceedings, did submit any statement.

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Therefore, the Panel renders its decision based on the documents made available to it, including IBU's written statement.

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The Panel considered the facts and the law and deliberated on the decision by

correspondence and at the occasion of a meeting on June 2, 2015 at Salzburg.

III. In Law

1. Applicable Law

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The Athlete who is an Athlete under the jurisdiction of the RBU is bound by the IBU ADR which, according to their introductory "Scope"

"apply to the IBU, each national federation ... and each participant in the activities of the IBU or any of its national federations by virtue of the participant's membership, accreditation, or participation in IBU, its member federations, or their activities or Events."

Therefore, the IBU ADR are the law applicable to the dispute before the Panel.

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The law applicable consists of the rules applicable at the time when the alleged ADRV was committed, i.e. on November 28 and 29, 2013. Hence, the IBU ADR as adopted in 2012 apply while the IBU ADR 2015, according to their Article 25 are in force only as of January 1, 2015. According to Article 20.7.2 IBU ADR 2015, the new rules have no retroactive effect except for a possible *lex mitior*.

2. Anti-Doping Rule Violation

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Doping, by virtue of Article 1 IBU ADR, is defined as the occurrence of one of the ADRV set forth in Article 2 IBU ADR.

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According to Article 2.1 IBU ADR,

"the presence of a prohibited substance or its metabolites or markers in an Athlete's sample"

constitutes an ADRV. The prohibited substances are contained in the WADA Prohibited List which, according to Article 4.1 IBU ADR, is incorporated into the IBU ADR.

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The 2013 Prohibited List, which applied at the time of the sample collection, under S2 1, lists "*erythropoietin (EPO)*"

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The re-analysis of the Athlete's A samples performed in November 2014 showed the presence of recombinant EPO. According to Article 6.5 IBU ADR, IBU has the authority to re-analyse samples. This analysis too has to be and was conducted in conformity with the WADA International Standards for Laboratories ("ISL").

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In a situation where the Athlete waived the analysis of the B sample, the finding of a prohibited substance in the Athlete's A sample, according to Article 2.1.2 IBU ADR, establishes sufficient proof of an ADRV.

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Based upon the laboratory's documentation including the Expert Opinion by Drs. Gmeiner and Reichel of Seibersdorf Laboratories, the IBU has discharged its burden of proving that an ADRV occurred "*to the comfortable satisfaction*" of the Panel, according to Article 3.1 IBU

ADR. According to Article 3.2.1 IBU ADR, WADA accredited laboratories are presumed to have conducted the sample analysis in accordance with the ISL. The initial review in the course of the results management conducted by the IBU did not reveal any departure from the ISL nor did the Athlete, in the absence of any explanation, in accordance with Article 3.1.2 IBU ADR, rebut the presumption by establishing that a departure from the ISL which reasonably could have caused the AAF.

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Therefore, the presence of a prohibited substance in the Athlete's samples in the sense of Article 2.1 IBU ADR has been proven. According to Article 2.1.1 IBU ADR, no intent, fault, negligence, or knowing use is required in order to constitute an ADRV.

33

Although, after having been notified of the AAF detected in her samples collected on December 23, 2013 and January 1, 2014 in Pokljuka which then led to the eight-years-ban determined by the ADHP on July 14, 2014 and having been provisionally suspended on January 28, 2014, the Athlete had declared to terminate her sport career in February 2014, IBU, according to Article 7.7 second sentence IBU ADR, retains jurisdiction to conduct the results management process. This Article provides that IBU has jurisdiction to conduct the results management if it would have had that jurisdiction at the time the ADRV was committed, *i.e.* in November 2013. The results management process, according to Article 7.6.1 IBU ADR, includes the determination of an ADRV by the Panel.

3. Sanction for the ADRV committed on November 28 and 29, 2013

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For a first ADRV in the form of the presence of a prohibited substance Article 10.2 IBU ADR provides a regular sanction of two years' ineligibility.

4. Elimination or Reduction of the Sanction

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If an athlete establishes by a balance of probability, as required by Article 3.1 IBU ADR, that, due to exceptional circumstances, he or she bears no significant fault or negligence Article 10.5.2 IBU ADR allows to reduce the period of ineligibility, but in the case before the Panel the reduced period may not be less than one year.

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In the event of an ADRV for the presence of a prohibited substances Article 10.5.2 IBU ADR specifically requires that the athlete establishes how the substance entered his body. The only explanation by the Athlete available is the mention of "*vitamines*" in the Doping Control Forms. This does not allow the application of Article 10.5.2 IBU ADR in the Athlete's case.

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Therefore, in the absence of exceptional circumstances which would allow to reduce the sanction, the period of ineligibility to be imposed on the Athlete for the ADRV committed on November 28 and 29, 2013 is two years as provided for in Article 10.2 IBU ADR.

5. Multiple Anti-Doping Rule Violations

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However, prior to the proceedings presently before the Panel, the Athlete was found guilty of two ADRVs in the form of the presence of EPO. The first of these ADRV occurred on December 4 and 5, 2008 and was determined by a decision of the ADHP of August 11, 2009 ("first decision") by which the Athlete was declared ineligible to compete for two years until December 3, 2010. Upon appeal by the Athlete this decision was upheld by decision of the CAS of November 12, 2009. The second ADRV took place on December 23, 2013 and January 1, 2014 in Pokljuka as determined by the decision of the ADHP of July 14, 2014 ("second decision"). As a consequence, by that decision the Athlete was declared ineligible

for eight years commencing on December 23, 2013 for a second ADRV.

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For a third ADRV Article 10.7.3 IBU ADR provides:

"A third anti-doping rule violation will always result in a lifetime period of ineligibility, except if the third violation fulfills the condition for elimination or reduction of the period of ineligibility under Article 10.4 or involves a violation of Article 2.4 (Filing Failures and/or Missed Tests)."

As the Athlete's ADRV pending before the Panel consists of a violation of Article 2.1 IBU ADR and, as determined above (par. 37), no mitigating circumstances occur, Article 10.7.3. IBU ADR unambiguously requires a lifetime ban.

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The further condition set forth by Article 10.7.5 IBU ADR that each ADRV must be committed within the same eight-years period is met too. The ADRVs committed by the Athlete took place between December 4, 2008 and January 1, 2014.

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However, the ADRV presently under consideration occurred shortly prior to the one which was determined as the second ADRV (on November 28 and 29, 2013 as compared to December 23, 2013 and January 1, 2014) and before the later-in-time ADRV was notified to the Athlete (January 28, 2014) and adjudicated by the ADHP (July 14, 2014). The ADRV under consideration was notified to the Athlete as late as on November 25, 2014.

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Article 10.7.4 IBU ADR establishes "additional rules" of general application to "certain potential multiple violations". Article 10.7.4 first indent IBU ADR relates to the timely relationship between a first and second ADRV and covers the situation when the second violation occurred after the first one was notified to the athlete but not yet adjudicated by decision of the ADHP.

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The situation when a violation already has been determined by decision is covered by the second indent of Article 10.7.4 IBU ADR, which reads as follows:

"If, after the resolution of a first anti-doping rule violation, the IBU discovers facts involving an anti-doping rule violation by the athlete ... that occurred prior to notification regarding the first violation, then the IBU will impose an additional sanction based on the sanction that could have been imposed if the two violations had been adjudicated at the same time."

This rule, according to the last sentence of the second indent of Article 10.7.4 IBU ADR, also applies

"when the IBU discovers facts involving another prior violation after the resolution of a second anti-doping rule violation."

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Therefore, Article 10.7.4 second indent IBU ADR applies to the relationship of the ADRV committed by the Athlete on December 23, 2013 and January 1, 2014, notified to her on January 28, 2014, and adjudicated by the second decision of July 14, 2014, on the one, and the prior violation occurred on November 28 and 29, 2013, on the other hand, which is now pending before the Panel.

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For such situation, Article 10.7.4 second indent IBU ADR provides that "an additional sanction" must be imposed. The additional sanction the Panel has to impose must be

“based on the sanction that could have been imposed if the two violations had been adjudicated at the same time.”

Hence, the Panel finds itself in the situation to hypothetically adjudicate both the ADRV committed on November 28 and 29, 2013 and on December 23 and January 1, 2014 together, assuming that the second decision had not been made.

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The Panel understands the rationale behind the rule enshrined in Article 10.7.4 first indent IBU ADR to the effect that an ADRV is considered a second one only if it occurs after the previous one had been notified to the athlete, already. Although the time span between the two ADRVs amounts to three weeks and 3 days only the first-in-time one was notified not before November 25, 2014 because it was detected in a re-analysis only. In such situation, according to Article 10.7.4 first indent IBU ADR, the second-in-time ADRV would not be considered a second ADRV and both ADRV should have been considered one single ADRV.

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Based on that conclusion the violations occurred on November 28 and 29, 2013, on the one, and on December 23, 2013 and January 1, 2014, on the other hand, together legally constitute a single second ADRV the sanction for which, according to Article 10.7.1 IBU ADR, amounts from 8 years to lifetime.

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Within that range, the Panel has to determine a hypothetical sanction for that hypothetical second ADRV which, according to Article 10.7.4 second indent IBU ADR, serves as the basis for the *additional sanction* which, then, actually has to be imposed by the Panel in the present proceedings.

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Article 10.7.4. IBU ADR, in the last sentence of its first indent, reads as follows:

“the occurrence of multiple violations may be considered as a factor in determining aggravating circumstances ...”

and Article 10.7.4, second indent, third sentence IBU ADR stipulates:

“To avoid the possibility of a finding of aggravating circumstances (Article 10.6) on account of the earlier-in-time but later-discovered violation, the athlete ... must voluntarily admit the earlier anti-doping rule violation on a timely basis after notice of the violation for which he or she is first charged.”

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According to the decision of the ADHP concerning the ADRV committed on December 23, 2013 and January 1, 2014, the Athlete had admitted that ADRV. But there is no evidence of the Athlete having admitted the ADRV now under consideration in a timely occurrence with the notification of the later-in-time ADRV, i.e. around January 28, 2014. Hence, aggravating circumstances can be taken into account.

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Article 10.6 IBU ADR provides:

“If the IBU establishes in an individual case involving an anti-doping rule violation other than violations under Article 2.7 (Trafficking) and 2.8 (Administration) that aggravating circumstances are present that justify the imposition of a period of ineligibility greater than the standard sanction, then the period of ineligibility otherwise applicable will be increased up to a maximum of four years unless the athlete ... can prove to the comfortable satisfaction of the hearing panel that he or she did not knowingly violate the anti-doping rule.”

The *Comment to Article 10.6* IBU ADR lists as examples for aggravating circumstances amongst others:

"the athlete ... used ... a prohibited substance on multiple occasions".

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Within five weeks time, on November 28 and 29, 2013 (in-competition tests) and on December 23, 2013 and January 1, 2014 (out-of-competition tests) the Athlete committed four violations which, however, legally are to be considered one single ADRV (above par. 47). Nonetheless, the Panel considers these violations as the

"use of a prohibited substance on multiple occasions"

and, hence constituting aggravating circumstances. Furthermore, the Panel takes into account that second of these violations occurred during the seasons break between the World Cup events in Ostersund and Oberhof five weeks before the Opening Ceremony of the Olympic Winter Games in Sochi. Finally, the Panel is aware of the Athlete's first sanction imposed in 2009 which did not induce the Athlete to refrain from using EPO.

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The single ADRV now under consideration (above par. 52), however, constitutes a second ADRV in relation to the one committed in 2009. Based on the foregoing the Panel concludes that the hypothetical sanction for the two ADRVs, within the frame provided by Article 10.7.1 IBU ADR, should be 12 years of ineligibility. The Panel takes into account the aggravating circumstances (above par. 52) and the fact that altogether the Athlete provided positive samples at five occasions.

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In order to determine the *additional sanction* which, according to Article 10.7.4 IBU ADR (above par. 42) must be imposed by the Panel, the sanction already imposed by the decision of July 14, 2014 is to be subtracted from the hypothetical sanction. Therefore, under the IBU ADR in force at the time the ADRV occurred, the Panel should impose upon the Athlete an additional sanction of four years.

6. *Lex mitior*

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However, the Panel may apply the IBU ADR 2014 as *lex mitior* provided the application of the new regime of sanctions established by Article 10 IBU ADR 2014 would lead to a lesser sanction. According to Article 20.7.2 second sentence IBU ADR 2014 an ADRV which occurred prior to January 1, 2015

"shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred unless the panel hearing the case determines the principle of "lex mitior" appropriately applies under the circumstances of the case."

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The Panel will examine, first, whether the new rules actually provide for a lesser hypothetical sanction for the two violations under consideration and, in the affirmative event, second, whether the application of the new rules is *"appropriate under the circumstances of the case"*.

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Article 10 IBU ADR 2014 does no longer allow to consider aggravating circumstances which, however, is compensated by the fact that, according to Article 10.2.1 IBU ADR 2014, the regular sanction for an ADRV in the form of the presence of a EPO is four years.

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Under Articles 10.7.2 and 10.7.4 IBU ADR 2014 too, the violations under consideration in order to determine the hypothetical sanction upon which the *additional sanction* shall be based, legally constitute one single second ADRV (as determined under the IBU ADR 2012, above par. 46). The Panel notes that the new Article 10.7.4.2 IBU ADR 2014 does no longer contain the last sentence of the old rule (here reproduced in par. 43 second quotation) which makes that rule expressly applicable to the situation when "another prior" ADRV was detected "after the resolution of a second" ADRV, i.e. the one adjudicated in July 2014. Nonetheless, the Panel applies the general principle embraced in Article 10.7.4 of both IBU ADR 2014 and 2012 which regulates the relationship between a later-in-time occurred but earlier adjudicated violation and an earlier-in-time occurred but still pending violation to the effect that together they form one single ADRV.

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This single ADRV constitutes a second ADRV in relation to the one occurred in 2008. For a second ADRV, Article 10.7.1 IBU ADR 2014 provides that

"the period of ineligibility shall be greater of:

- a. *six month;*
- b. *one-half of the period of ineligibility imposed for the first anti-doping rule violation without taking into account any reduction under Article 10.6; or*
- c. *twice the period of ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were the first violation, without taking into account any reduction under Article 10.6."*

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According to Article 10.7.1 lit. c IBU ADR 2014, which alone is applicable in the case before the Panel, the hypothetical sanction for the single second ADRV under consideration here would be twice the period of ineligibility to be imposed for it as if it were treated as the first violation. As a first violation, under the new rules, the period would be four years, according to Article 10.2.1 IBU ADR 2014 (above par. 57). The double sanction would amount to 8 years.

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According to Article 10.7.4.2 IBU ADR 2014, the Panel has to impose

"an additional sanction based on the sanction that could have been imposed if the two violations had been adjudicated at the same time".

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In cases where the hypothetical sanction were greater than the sanction already imposed, the difference would constitute the additional sanction (above in par. 54; ADHP Decision of June 30, 2015, *Starykh* par. 53). In the case before the Panel, both the hypothetical and the already imposed sanction amount to 8 years. However, Article 10.7.4.2 IBU ADR 2014 provides that the additional sanction must be "based on" the hypothetical sanction rather than just relating to situations where the hypothetical sanction exceeds the already imposed sanction. Thus, Article 10.7.4.2 IBU ADR gives a margin of discretion to take the particularities of each case into account.

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Although the violations are considered one single ADRV legally (above par. 53), it is a matter of fact that the Athlete provided positive samples at four occasions in a time span of five weeks during the World Cup season and ahead of the Olympic Winter Games. This indicates systematic use of EPO and, against the background of the ADRV committed by the Athlete in 2008, distinguishes the situation to be determined by the Panel from just two findings constituting a first and a second ADRV. Therefore, the Panel concludes that the additional sanction provided for by Article 10.7.4.2 IBU ADR 2014 shall be four years.

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Hence, the application of Article 10.7.4.2 IBU ADR 2014 would not lead to a lesser additional sanction than the one applicable under Article 10.7.4 IBU ADR 2012 which is four years as well (above par. 54). There is no *lex mitior* which could be applicable under the transitional rule of Article 20.7.2 IBU ADR 2014. Therefore, the rules on the disqualification of results and the commencement of the period of ineligibility which might be considered "*substantive anti-doping rules*" in the sense of Article 20.7.2. IBU ADR 2014, too, do not apply as *lex mitior*. Moreover, Articles 10.8 of both the old and the new IBU ADR on disqualification and Articles 10.11 IBU ADR 2014 and 10.9 IBU ADR 2012 on the commencement of the sanction are identical in substance.

7. Additional sanction

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Based on the foregoing the Panel concludes that a period of ineligibility of four years shall be imposed upon the Athlete as an additional sanction.

8. Disqualification of results

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According to Article 9 IBU ADR 2012, in case of an in-competition test, the results the Athlete has obtained are disqualified automatically, i.e. the results of the World Cup at Ostersund. According to Article 10.8 IBU ADR, also in the event of an in-competition test,

" all ... competitive results obtained from the date a positive sample was collected through the commencement of any provisional suspension will, unless fairness requires otherwise, be disqualified"

Therefore, all competitive results the Athlete has obtained as of November 28, 2013 shall be disqualified. In the present case, however, the results obtained by the Athlete as of December 23, 2013 are already disqualified because of the 8 years' period of ineligibility, commencing on that date, imposed by the decision of the ADHP of July 14, 2014.

9. Commencement of the Period of Ineligibility

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According to Article 10.9 IBU ADR 2012, the period of ineligibility shall commence on the date of the decision of the Panel. However, as provided for in Article 10.9 IBU ADR, the time of a provisional suspension is to be credited against the period of ineligibility ultimately imposed. On the occasion of the notification of the AAF on November 25, 2014 no provisional suspension was imposed on the Athlete because she was already declared ineligible to compete by decision of the ADHP dated July 14, 2014. Therefore, no period of suspension is to be credited against the sanction imposed by this decision.

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It follows from the very nature of an *additional sanction* in the meaning of Article 10.7.4. IBU ADR that the period of ineligibility imposed as an *additional sanction* shall start on the date the pending period of ineligibility had expired, i.e. on December 23, 2013.

IV. Conclusions

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The A samples collected from the Athlete on the occasion of in-competition tests conducted on November 28 and 29, 2013 revealed the presence of recombinant EPO which is a prohibited substance on the WADA Prohibited List and, therefore, the Athlete committed ADRVs according to Article 2.1 IBU ADR which are considered one single ADRV.

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For that ADRV, taken alone, in the absence of any exceptional circumstances the Athlete

would have to be declared ineligible for a period of two years.

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However, due to the sequence of the ADRV presently under consideration before the Panel, on the one, and the ADRV committed on December 23, 2013 and January 1, 2014 which was adjudicated by the decision of the ADHP dated July 14, 2014, on the other hand, both ADRVs together are considered one single ADRV which, in relation to the ADRV committed in 2008, constitutes a second ADRV for which, taking into account the aggravating circumstances present, a hypothetical sanction of 12 years should be determined.

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Therefore, the *additional sanction* the Panel has to impose by this decision shall be four years of ineligibility commencing on the day of the expiration of the pending sanction, i.e. on December 23, 2021.

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All competitive results obtained by the Athlete as of November 28, 2013 are disqualified. All medals, points, and prizes are forfeited.


V. Decision


On these grounds the Panel decides:

1. Ms Ekaterina Iourieva committed an ADRV on November 28 and 29, 2013 which, together with the ADRV occurred on December 23, 2013 and January 1, 2014 and adjudicated by the decision of the ADHP of July 14, 2014, is considered one single ADRV.
2. As an additional sanction, Ms Iourieva shall be ineligible to compete for four years commencing on December 23, 2021.
3. All competitive results obtained by Ms. Iourieva as of November 28, 2013 are disqualified.

The Anti-Doping Hearing Panel
June 30, 2015


Christoph Vedder
Chairman of the Panel


Walter O. Frey
Member of the Panel


Markus Manninen
Member of the Panel