



Tribunal Arbitral du Sport  
Court of Arbitration for Sport

**CAS 2014/A/3662 IAAF v ARAF, Liliya Shobukhova & WADA**

## **CONSENT ARBITRAL AWARD**

**delivered by the**

## **COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

President: Mr. Ken E. **Lalo**, Attorney-at-Law, Gan-Yoshiyya, Israel  
Arbitrators: Mr. Mark A. **Hovell**, Solicitor, Manchester, England  
Mr. Ulrich **Haas**, Professor in Zurich, Switzerland

**in the arbitration between**

**THE INTERNATIONAL ASSOCIATION OF ATHLETICS FEDERATIONS**, Monaco

Represented by Mr. Thomas Capdevielle, Attorney-at-law, Monaco

**as Appellant**

**and**

**ALL RUSSIA ATHLETIC FEDERATION**, Moscow, Russia

Represented by Mr. Artem Patsev, Attorney-at-law, Moscow, Russia

**as First Respondent**

**MS. LILIYA SHOBUKHOVA**, Beloretsk, Russia

Represented by Mr. Mike Morgan, Solicitor, London, England

**as Second Respondent**

**WORLD ANTI-DOPING AGENCY**, Montreal, Canada

Represented by Mr. Ross Wenzel, Attorney-at-law, Lausanne, Switzerland

**as an Interested Party**

## I. PARTIES

1. The International Association of Athletics Federations (“IAAF” or the “Appellant”) is the international governing body for track and field athletes recognized as such by the International Olympic Committee. The membership of the IAAF primarily comprises national and regional athletics federations. It has its seat and headquarters in Monaco.
2. All Russia Athletic Federation (“ARAF” or the “First Respondent”) is the national governing body for track and field athletes in Russia. It has its headquarters in Moscow and is the relevant member federation of the IAAF for Russia.
3. Ms. Liliya Shobukhova (the “Athlete” or the “Second Respondent”), born on 13 November 1977, is an athlete of Russian nationality and is affiliated to the ARAF. She is a marathon runner and is an international-level athlete under the IAAF rules.
4. World Anti-Doping Agency (“WADA” or the “Interested Party”) is a Swiss private-law foundation. Its seat is in Lausanne, Switzerland and its headquarters are in Montreal, Canada.

## II. JURISDICTION

5. The IAAF relies on the IAAF Rule 42 par. 1, 2, 3, 5, 13, 16, 17 and 20 as conferring jurisdiction on the Court of Arbitration for Sport (“CAS”). The jurisdiction of the CAS over this matter is not disputed by the ARAF or the Athlete (“the Respondents”) or by WADA.

## III. FACTUAL BACKGROUND OF THE DISPUTE AND PROCEDURAL HISTORY

6. On 9 April 2014, the ARAF Anti-Doping Commission issued a decision as follows (the “Appealed Decision”):
  - “ 1) To declare that Ms LILIYA SHOBUKHOVA committed an anti-doping rule violation (art. 32.2(b) of the IAAF Anti-Doping Rules);
  - 2) To determine 2-year period of ineligibility for Ms LILIYA SHOBUKHOVA as applicable sanction in this matter commencing from 24 January 2013;
  - 3) To disqualify all results achieved by Ms LILIYA SHOBUKHOVA as from 9 October 2009 the date of anti-doping rule violation.”
7. On 11 July 2014, in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration (the “CAS Code”), the IAAF filed a statement of appeal and had the following requests for relief:

“The IAAF hereby respectfully requests CAS to rule the following, that:

  - (i) The IAAF’s appeal is admissible;

- (ii) *The decision of the ARAF Anti-Doping Commission of 9 April 2014 to find Ms Shobukhova guilty of an anti-doping rule violation under IAAF Rule 32.2(b) be upheld;*
  - (iii) *There are aggravating circumstances in Ms Shobukhova's case warranting the imposition of a 4-year period of Ineligibility in accordance with IAAF Rule 40.6;*
  - (iv) *The period of ineligibility in Ms Shobukhova's case therefore be increased from 2 years to 4 years in accordance with Rules 40.6, such 4-year period to start on the date of the CAS decision, with any period of provisional suspension and/or Ineligibility previously served to be credited against the total period of Ineligibility to be imposed;*
  - (v) *All competitive results obtained by Ms Shobukhova from the date of commission of the anti-doping rule violation through to the commencement of her provisional suspension be disqualified, will all resulting consequences in accordance with IAAF Rule 40.8.*
  - (vi) *The IAAF be granted its costs in the appeal (including CAS costs), such costs to be assessed."*
8. On 8 August 2014, in accordance with Article R41.3 of the CAS Code, WADA informed the CAS Court Office by way of letter that it wished to participate in the proceedings CAS 2014/A/3662 as an interested party.
  9. On 8 August 2014, the Athlete filed an appeal (CAS 2014/A/3689) against the Appealed Decision and requested the ARAF to disclose documentation related to the Athlete.
  10. On 15 August 2014, the Athlete sent a letter to the CAS Court Office nominating Mr. Mark Hovell as an arbitrator.
  11. On 20 August 2014, the IAAF informed the CAS Court Office by letter that it wished to nominate Dr. Ulrich Haas as an arbitrator.
  12. On 22 August 2014, the Deputy President of the CAS Appeals Arbitration Division decided to consolidate the proceedings CAS 2014/A/3662 and CAS 2014/A/3689 in accordance with Article R52 of the CAS Code.
  13. On 27 August 2014, in accordance with Article R41.3 of the CAS Code, WADA informed the CAS Court Office by way of letter that it wished to participate in the proceedings CAS 2014/A/3689 as an interested party.
  14. On 24 September 2014, the Athlete withdrew her appeal in the procedure CAS 2014/A/3689.
  15. On 11 September 2014, the ARAF submitted the documents requested by the Athlete in her statement of appeal dated 8 August 2014.
  16. On 12 September 2014, in view of the parties' agreement regarding the participation of WADA and in accordance with Articles R41.3 and R41.4 of the CAS Code, the CAS

Court Office informed the parties that WADA would be considered as a party in the procedure CAS 2014/A/3662.

17. On 29 October 2014, WADA filed an Interested Party Brief and made requests for documentation in relation to the Athlete from the IAAF and the ARAF.
18. On 3 November 2014, the IAAF filed its Appeal Brief in accordance with Article R51 of the CAS Code and had the following requests for relief:

*“76. In all the circumstances, the IAAF respectfully seeks the CAS Panel to rule as follows:*

- (i) CAS has jurisdiction to decide on the subject matter of this appeal.*
- (ii) The IAAF’s appeal is admissible.*
- (iii) The decision of the ARAF Anti-Doping Commission dated 9 April 2014 be partially set aside.*
- (iv) The Athlete be found guilty of an anti-doping rule violation in accordance with IAAF Rule 32.2(b).*
- (v) A four year Period of Ineligibility be imposed upon the Athlete for a first anti-doping rule violation where aggravating circumstances are present in accordance with IAAF Rules 40.2 and 40.6. The Period of Ineligibility should commence on the date of the hearing before CAS in accordance with Rule 40.10.*
- (vi) All competitive results obtained by the Athlete from the date that the first positive sample was collected, 9 October 2009, through to the commencement of her provisional suspension, 24 January 2013, shall be disqualified, with all resulting consequences (including forfeiture of any titles, awards, medals, profits, prizes and appearance money, in accordance with IAAF Rule 40.8).*
- (vii) The IAAF be granted its costs in the appeal (including CAS costs), such costs to be assessed.”*

19. By letter dated 9 December 2014, the CAS Court Office, pursuant to Article R54 of the CAS Code and on behalf of the President of the CAS Appeals Division, informed the parties that the panel to hear the appeal had been constituted as follows: President, Mr. Ken E. Lalo, Attorney-at-Law, Gan-Yoshiyya, Israel, Mr. Mark A. Hovell, Solicitor, Manchester, England, and Dr. Ulrich Haas, Professor in Zurich, Switzerland.

20. On 6 January 2015, the ARAF filed its Answer to the WADA and IAAF briefs in accordance with Article R55 of the CAS Code, with the following requests for relief:

*“In light of the above, the All-Russia Athletic Federation applies for the Court of Arbitration for Sport to rule as follows:*

- I. The All-Russia Athletic Federation does not object to the International Association of Athletic Federations prayers for relief and leaves it to the Court*

*of Arbitration for Sport to decide on the appeal and determine the appropriate sanction to be imposed on Ms Liliya Shobukhova.*

- II. *In any event, the All-Russia Athletic Federation shall not bear any of the costs of this arbitration.*
  - III. *The International Association of Athletics Federations and/or Ms Liliya Shobukhova shall be ordered to reimburse the All-Russia Athletic Federation for the legal and other costs incurred in connection with this arbitration, in an amount to be determined at the discretion of the Panel.”*
21. On 6 January 2015, the Athlete filed her Answer to the WADA and IAAF briefs in accordance with Article R55 of the CAS Code, and requested the Panel to order the IAAF and ARAF to produce information/documentation relating to correspondence between the IAAF and ARAF. The Athlete also made the following requests for relief:
- “6.1 *Ms Shobukhova respectfully requests the Panel to dismiss the IAAF’s appeal.*
  - 6.2 *Ms Shobukhova respectfully submits that she should not be put in any worse position now than if she had received the particulars of the IAAF charges against her back in June 2012 and had been given the opportunity to accept a two-year ban at that point (i.e. June 2012). Ms Shobukhova reserves the right to elaborate further on this point once the IAAF and ARAF have disclosed the information requested by WADA at paragraphs 35 to 46 of its Brief.*
  - 6.3 *Ms Shobukhova respectfully requests the Panel to order the IAAF and ARAF to:*
    - (a) *reimburse Ms Shobukhova’s legal costs and other expenses pertaining to this appeal (to be assessed); and*
    - (b) *bear the costs of the arbitration.*
  - 6.4 *Ms Shobukhova respectfully requests the right to file separate costs submissions on completion of the merits portion of the appeal.”*
22. On 11 February 2015, the ARAF filed a further submission in reply to the Athlete’s Answer and confirmed the requests for relief contained in its initial answer dated 6 January 2015.
23. On 24 February 2015, the Athlete filed an answer in response to the ARAF’s second submission.
24. On 11 February 2015, the CAS Court office informed the parties that the Panel had determined to convene a hearing on 29 April 2015.
25. On 24 April 2015, the parties informed the CAS Court Office that they had reached a settlement and a hearing would no longer be needed.
26. On 1 July 2015, the parties submitted signed copies of the settlement agreement (the “Settlement Agreement”) to the CAS Court Office.

27. The parties requested the Panel to ratify the following Settlement Agreement:

*“THIS SETTLEMENT AGREEMENT (the “Agreement”) made and entered into between IAAF, ARAF, the Athlete and WADA (the “Parties”) describes the terms upon which the Parties are willing to dispose of the appeal currently pending before the Court of Arbitration for Sport (“CAS”) in case number CAS 2014/A/3662 (the “CAS Appeal”), subject to the approval of the CAS.*

1. *The decision of the ARAF Anti-Doping Commission dated 9 April 2014 in the matter of the Athlete, which was challenged by IAAF within the context of the CAS Appeal, is to be set aside.*
2. *The Athlete has committed an anti-doping rule violation under IAAF Rule 32.2 (b) established on the basis of certain blood data collected from the Athlete between 9 October 2009 and 7 October 2011 and which formed part of the Athlete's biological passport profile .*
3. *The IAAF considers that infractions relating to biological passport profiles constitute aggravating circumstances justifying an increased sanction under IAAF Rule 40.6.*
4. *The following consequences are to be imposed on the Athlete for a first-time anti-doping rule violation under the IAAF Rules:*
  - 4.1 *a period of Ineligibility of three (3) years and two (2) months commencing on 24 January 2013;*
  - 4.2 *a disqualification of all competitive results obtained by the Athlete as from (and including) 9 October 2009, with all resulting consequences in accordance with IAAF Rule 40.1 and 40.9.*
5. *The Athlete understands and accepts that her return to competition in Athletics is contingent upon compliance with applicable IAAF Rules.*
6. *The parties agree to bear their own legal costs in connection with the CAS Appeal. It is further agreed that the CAS arbitration costs in relation to the CAS Appeal - to be duly assessed and notified by the CAS Office to the parties in due course - shall be paid as follows: 50% of the costs to be paid by the IAAF and the remaining 50 % to be paid in equal parts by the Respondents (i.e. one sixth for each Respondent).*
7. *The parties request that the CAS Panel issue a Consent Arbitral Award incorporating the terms of this agreement as set out at paragraph 1 to 6 above. The parties agree that, pursuant to CAS Code Article R59, the award will remain confidential (save as may be required by law) and will*

*not be made public. For the avoidance of doubt, however, the Athlete's name will be included, together with the other details of the anti-doping rule violation and consequences, on the IAAF's list of athletes currently serving a period of ineligibility (which can be found on the IAAF website at [www.iaaf.org](http://www.iaaf.org)), up until the expiration of that period.*

8. *The IAAF agrees not to issue any further disciplinary or doping charges under Chapter 3 of the IAAF Competition Rules against the Athlete in relation to the Athlete Biological Passport, including, for the avoidance of doubt, blood variables measurements performed prior to 2009.*
9. *For the convenience of the parties and to facilitate execution, this Agreement may be executed in counterparts. For the avoidance of doubt, it will take effect and become binding on the parties only upon being executed by all four parties.*
10. *Each of the Parties acknowledges that they have had explained to them by legal counsel, understand, and agree to all provisions contained in this Agreement.*

*FOR AND ON BEHALF OF THE IAAF*

*FOR AND BEHALF OF ARAF*

*FOR AND ON BEHALF OF WADA*

*MRS LILIYA SHOBUKHOVA"*

28. Under Swiss Law, an arbitration tribunal has authority to issue an award embodying the terms of the parties' settlement if the contesting parties agree to a termination of their dispute in this manner. The Panel's ratification of their settlement and its incorporation into this consent award serves the purpose of enabling the enforcement of their agreement.
29. Moreover, in accordance with Article R42 of the CAS code:  
*"[...] Any settlement agreement may be embodied in an arbitral award rendered by consent of the parties."*
30. The parties have requested that the Panel ratify and incorporate the Settlement Agreement reproduced in Paragraph 27 above into a Consent Award. It is the task of the Panel to verify the *bona fide* nature of the Settlement Agreement to ensure that the will of the parties has not been manipulated by them to commit fraud and to confirm that the terms of the Settlement Agreement are not contrary to public policy principles or mandatory rules of the law applicable to the dispute.
31. After reviewing the terms of the Settlement Agreement, the Panel finds no grounds to object or to disapprove of the terms of the Settlement Agreement and is satisfied that the Settlement Agreement constitutes a *bona fide* settlement of the dispute brought to its attention.

32. In view of the above, and in particular of the joint request made by all parties, the present Consent Award puts an end to the arbitration procedure *CAS 2014/A/3662 IAAF v ARAF, Liliya Shobukhova & WADA* on the terms indicated in the Settlement Agreement and those detailed below.
33. The above conclusion, finally, makes it unnecessary for the Panel to consider the other requests submitted by the parties to the Panel. Accordingly, all other prayers for relief are rejected.

#### IV. COSTS

34. Article R64.4 of the CAS Code provides that:

*“At the end of the proceedings, the CAS Court Office shall determine the final amount of the costs of arbitration, which shall include the CAS Court Office fee, the administrative costs of the CAS calculated in accordance with the CAS scale, the costs and fees of the arbitrators, the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale, a contribution towards the expenses of the CAS and the costs of witnesses, experts and interpreters.”*

35. Article R64.5 of the CAS Code provides that:

*“In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which portion the parties shall share them. As a general rule, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.”*

36. In the case at hand, the parties agreed that each party shall bear its own legal expenses and the arbitration costs arising from the proceeding *CAS 2014/A/3662 IAAF v ARAF, Liliya Shobukhova & WADA* shall be paid as follows: 50% of the costs to be paid by the IAAF and the remaining 50% to be paid in equal parts by the Respondents and WADA (i.e. one sixth for each of the Respondents and WADA). The Panel does not see any reason to deviate from the agreement reached by the parties, which is therefore confirmed by the present Consent Award.
37. The final amount of the costs, including the CAS Court Office fee, the administrative costs of the CAS, the costs and fees of the Panel and a contribution to the expenses of the CAS, shall be communicated separately to the parties by the CAS Court Office (see article R64.4 of the CAS Code).



Based on the above considerations, the Court of Arbitration for Sport renders the following:

## CONSENT AWARD

1. The Panel, with the consent of the IAAF and the Respondents, hereby ratify the Settlement Agreement executed by the parties on 30 June 2015 (see Paragraph 27 of the present award) and incorporates its terms into this consent arbitral award.
2. The arbitral procedure *CAS 2014/A/3662 IAAF v ARAF, Liliya Shobukhova & WADA* is terminated and deleted from the CAS roll.
3. Each party is hereby ordered to perform the obligations and duties as per the Settlement Agreement referred to above.
4. As per clause 6 of the Settlement Agreement signed on 30 June 2015, the costs of the arbitration, which shall be determined and separately communicated to the parties by the CAS Court Office, shall be paid as follows: 50% of the costs to be paid by the IAAF and the remaining 50% to be paid in equal parts by the Respondents and WADA (i.e. one sixth for each of the ARAF, Ms. Shobukhova and WADA).
5. As per clause 6 of the Settlement Agreement signed on 30 June 2015, each party shall bear its own legal costs and expenses.
6. All other requests of prayers for relief are rejected.

Done in Lausanne, 29 July 2015


## THE COURT OF ARBITRATION FOR SPORT



**Ken E. Lalo**  
President



**Mark A. Hovell**  
Arbitrator



**Ulrich Haas**  
Arbitrator