

DECISION

of the

IOC Disciplinary Commission

sitting in the following composition:

Denis Oswald, Chairman

Gunilla Lindberg

Patrick Baumann

in the proceedings

against

Maxim BELUGIN

born on 5 March 1985, Russian Federation, Athlete, Bobsleigh

(SRT – 001)

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I. FACTS

A. Sochi Games

1. Maxim BELUGIN (hereinafter the “Athlete” or the “Athlete Belugin”) participated in the XXII Olympic Winter Games in Sochi, Russia, in 2014 (the “Olympic Winter Games Sochi 2014”). The Athlete was identified on this occasion through his accreditation, which bore the reference number 2001965.
2. From 16 to 17 February 2014, the Athlete competed in the Two-Man’s Bobsleigh Event, in which he ranked 4th for which he was awarded a diploma.
3. From 22 to 23 February 2014, the Athlete competed in the Four-Man’s Bobsleigh Event, in which he ranked 4th for which he was awarded a diploma.
4. On 15 February 2014, the Athlete was requested to provide a urine sample for doping control. Such sample was identified with the number 2891900.
5. The A-Sample 2891900 was analysed during the Olympic Winter Games Sochi 2014, by the WADA-accredited laboratory in Sochi, Russia (the “Sochi Laboratory”). Such analytical analysis did not result in an adverse analytical finding at that time.
6. After the conclusion of the Olympic Winter Games Sochi 2014, the samples collected upon the occasion of the Olympic Winter Games Sochi 2014 were transferred to the WADA-accredited laboratory, *Laboratoire suisse d’analyse du dopage* in Lausanne, Switzerland (the “Lausanne Laboratory”) for long-term storage.

B. Institutionalised doping cover-up scheme in Russia

7. Triggered by revelations of whistle-blowers and media reports, the successive reports of the Independent Commission and of the Independent Person, Prof. McLaren established that institutionalized doping cover-up schemes have been implemented in Russia over years.
8. What occurred in Sochi was only “*the apex of a decade-long effort to perfect Russia’s doping strategy at international competitions*”.
9. In response to a documentary aired by ARD “Top Secret Doping: How Russia makes its Winners”, alleging the existence of a sophisticated and well-established system of state-sponsored doping within the All Russia Athletics Federation, the governing body for the sport of athletics in Russia, WADA established the Independent Commission (“IC”) to investigate the allegations arising from the documentary.
10. The IC’s findings (the “IC Report”) included a “*deeply rooted culture of cheating*” and “*consistent and systematic use of performance enhancing drugs by many Russian athletes*”. The IC also observed that the Moscow Anti-Doping Centre in Russia (“Moscow Laboratory”) was covertly analysing urine stored in non-regular containers.
11. At the time of the IC Report, the significance and purpose of this irregular analysis was not fully understood. This practice is returned to and explained below.
12. On 8 May 2016, the American CBS newsmagazine, 60 Minutes, aired a story alleging doping during the Winter Olympic Games Sochi 2014. On 12 May 2016, the New York Times published an article based on interviews with Dr Grigory Rodchenkov, former head of the Moscow Laboratory, regarding doping at the Winter Olympic Games Sochi 2014, “Russian Insider Says State-Run Doping Fueled Olympic Gold”.
13. WADA appointed Professor McLaren as the Independent Person (“IP”) to investigate the allegations made by Dr Rodchenkov.
14. The key findings of the IP Report 1 are the following:

- The Moscow Laboratory operated, for the protection of doped Russian athletes, within a State-dictated failsafe system, described in the report as the Disappearing Positive Methodology.
 - The Sochi Laboratory operated a unique sample swapping methodology to enable doped Russian athletes to compete at the Games.
 - The Ministry of Sport directed, controlled and oversaw the manipulation of athlete's analytical results or sample swapping, with the active participation and assistance of the Federal Security Service ("FSB", which is the main successor agency to the USSR's KGB), the Centre of Sports Preparation of National Teams of Russia (CSP), and both the Moscow and Sochi Laboratories.
15. After the IP Report 1 was published in July 2016, the IOC established two Disciplinary Commissions. The first, chaired by Mr Samuel Schmid, former President of the Swiss Confederation, was established not to assess the value of the IP Reports, but to establish the facts on the basis of documented, independent and impartial evidence ("Schmid Commission"). The second, is the present Disciplinary Commission, which was tasked with carrying out reanalysis of samples and an inquiry into all Russian athletes who participated at the Winter Olympic Games Sochi 2014 and their coaches, officials and support staff.
16. On 9 December 2016, the IP issued a second report (the "IP Report 2"), confirming the findings of the IP Report 1 and identifying summer, winter and Paralympic athletes involved in the doping cover-up and manipulations.
17. In support of the IP Report 2, the IP released non-confidential evidence reviewed in the course of his investigations, viz. the Evidence Disclosure Package ("EDP"), and made it available to the public on a website.
18. The IP Report 2 found as follows:
- An institutional conspiracy existed amongst summer and winter sports athletes, who cooperated with Russian officials within the Ministry of Sports and other institutions (including RUSADA, CSP and the Moscow Laboratory) and the FSB, for the purposes of manipulating doping controls;
 - The systematic and centralised cover-up manipulation of the doping control evolved and was refined over the course of its use at the 2012 London Olympic Games, 2013 Universiade Games, 2013 Moscow IAAF World Championships and the Winter Olympic Games Sochi 2014;
 - The swapping of samples, which occurred during the Winter Olympic Games Sochi 2014, was continued beyond such event and became a regular monthly practice at the Moscow Laboratory in respect of elite athletes;
 - The key findings of the IP Report 1 are confirmed and are supported by forensic evidence.
19. With respect to the Olympic Winter Games Sochi 2014, the IP found, *inter alia*, that sample swapping was established and corroborated by the objective findings made through forensic examination of scratches and marks, salt content analysis and DNA analysis, all indicating tampering of the urine samples.

C. Initiation of the disciplinary proceedings

20. On 22 December 2016, the IOC Disciplinary Commission opened a number of disciplinary proceedings against Russian athletes identified by their respective International Federations as being potentially implicated in the doping scheme, and which were to be conducted by the IOC Disciplinary Commission. At this stage, the Athlete Belugin was not one of the athletes against whom disciplinary proceedings had been initiated.
21. As part of the investigation process, the IOC ordered a further analysis of the remaining part of the A-Samples of Russian athletes collected in Sochi. Such re-analysis has been performed by the Lausanne Laboratory.
22. The sample A-2891900 was one of the A-samples subject to analysis.
23. The corresponding analytical results obtained on 21 March 2017 revealed the presence of *Prohibited Substances or its Metabolites or Markers* in the Athlete's sample constituting an Adverse Analytical Finding (the "AAF").
24. In particular, the analysis established the presence of metabolites of *Metenolone* and *Trenbolone metabolites*. Both substances are non-specified Anabolic Androgenic Steroids prohibited under S1.1 of the 2014 Prohibited List.

D. Proceedings related to the Athlete

25. On 10 April 2017, the IOC notified the Athlete Belugin, through the Russian Olympic Committee (the "NOC" or "ROC"), of the AAF in accordance with Art. 6.2.6 of the IOC Anti-Doping Rules, and, consequently, of the commencement of disciplinary proceedings against him, which were to be conducted by the IOC Disciplinary Commission. By the same correspondence, he was invited to provide his answer and the completed AAF Notification Appendix by 20 April 2017.
26. On 21 April 2017, the ROC forwarded the AAF Notification Appendix signed by the Athlete Belugin. He did not accept the AAF and requested the opening and analysis of his B-Sample 2891900.
27. On 2 May 2017, the IOC informed the Athlete that further analyses of his B-Sample will be conducted after the conclusion of additional investigations, including notably forensic examination of the sample bottles by the University of Lausanne, and the Lausanne Laboratory to determine whether or not marks found on BEREG-KIT bottles with urine samples collected by the IOC from Russian athletes, during the Olympic Winter Games Sochi 2014, were indicative of tampering.
28. In the context the above investigation, results concerning the Athlete were obtained, namely that the B-sample bottle number 2891900 was found to bear marks indicative of potential surreptitious opening.
29. On 26 October 2017, the IOC provided the Athlete Belugin, through the NOC, the results of the forensic examination of his B-Sample 2891900 and informed him of the further procedural steps in the proceedings.
30. The Athlete was invited to attend the opening and splitting of his B-Sample 2891900 scheduled to be held on 16 November 2017 and invited to submit written explanations.
31. The Athlete was informed that the hearing was scheduled to be held on 23 November 2017.
32. The IOC also provided the Athlete with further evidence which included the following elements:

- McLaren Report (Part I and II).
 - The Report of the Methodology Developed for the Forensic Examination of Marks Visible on the Inside of the Plastic Caps of BEREG-KIT Bottles and their Potential Association with Tampering Activity Using Tools dated 27 July 2017 and issued by Prof. Champod.
 - The specific forensic report related to the examination of the B-Sample 2891900, according to which multiple T marks had been observed.
 - The Expert Medical Report prepared by Prof Michel Burnier regarding his study of the salt content of various samples.
33. On 13 November 2017, Mr Luka Groselj, attorney-at-law at Schellenberg Wittmer Ltd, informed the IOC that his firm would act as the Athlete's representative.
 34. On 14 November 2017, the IOC forwarded to the Athlete the laboratory documentation package (the "LDP") related to the analysis of his A-Sample 2891900.
 35. The opening of the B-Sample, and the sealing of the B-Sample occurred on 16 November 2017 at the Lausanne Laboratory. The Athlete's representative attended the process. An independent witness was also present on this occasion.
 36. On 17 November 2017, the IOC provided the results of the further analyses of the Athlete's B-Sample 2891900. The analysis confirmed the presence of both *Prohibited Substances* already detected in the Athlete's A-Sample. The LDP related to the analysis of the B-Sample 2891900 were also sent to the Athlete.
 37. On 20 November 2017, the IOC informed the Athlete that due to a pending DNA analyses of his B-Sample 2891900, the hearing, initially scheduled on 23 November 2017, was postponed to a later date.
 38. On 21 November 2017, the IOC provided the Athlete and the Disciplinary Commission with an affidavit from Prof. McLaren and an affidavit from Dr Rodchenkov.
 39. On 24 November 2017, the IOC further notified the Athlete that the hearing would take place on 12 December 2017. The Athlete was invited to file his written submissions by 11 December 2017 at noon.
 40. The NOC and the International Bobsleigh & Skeleton Federation ("IBSF") were also invited to attend the hearing as interested parties.
 41. On 4 December 2017, the IOC provided the results of the DNA analyses of the Athlete's samples. Such confirmed the fact that the analysed samples were the Athlete's samples.
 42. On 7 December 2017, the IOC informed the Athlete that the hearing had been postponed to 20 December 2017. The deadline for filing written submissions was extended until 18 December 2017.
 43. On 18 December 2017, the Athlete filed his written submissions.
 44. On 19 December 2017, the IOC provided the Athlete and the Disciplinary Commission with two additional affidavits of Dr Rodchenkov, one addressed to the WADA dated 6 December 2017 and the second addressed to the Schmid Commission dated 2 November 2017.
 45. The hearing of the Disciplinary Commission was held on 20 December 2017 at the IOC Headquarter in Lausanne, Switzerland.

46. The Athlete participated at the hearing via videoconference and was assisted by his counsels Mr Philippe Bärtsch, Ms Anna Kozmenko, Mr Geoffrey Erriquez and Mr Artem Patsev attorneys-at-law, and Mr Andrey Dolgov, interpreter.
47. The NOC was represented at the hearing by Mr Artem Koshel, Senior lawyer.
48. The IOC was represented by Mr Jean-Pierre Morand, Mr David Casserly and Mr Anton Sotir, IOC external legal counsels.
49. Prof. Christophe Champod was heard as witness called by the IOC.
50. Mr Bushin and Ms Burova were heard as witnesses called by the Athlete.
51. On December 22, 2017, the Disciplinary Commission issued a decision in this case (operative part).
52. On January 4, 2018, the Athlete's counsels informed the IOC that they were no longer representing the Athlete.
53. The Athlete is the only one amongst all the athletes in respect to whom the Disciplinary Commission issued a decision in connection with doping controls performed on the occasion of the Winter Olympic Games in Sochi, who has not filed an appeal before the CAS.

II. APPLICABLE RULES

54. These proceedings are conducted in application of The International Olympic Committee Anti-Doping Rules applicable to the XXI Olympic Winter Games in Sochi, in 2014 (the "**IOC Anti-Doping Rules**").
55. Art. 1 of the IOC Anti-Doping Rules provides as follows:

"The application of the Code – Definition of Doping – Breach of the Rules

 - 1.1 *The Commission of an anti-doping rule violation is a breach of these Rules.*
 - 1.2 *Subject to the specific following provisions of the Rules below, the provisions of the Code and of the International Standards apply mutatis mutandis in relation to the Sochi Olympic Winter Games."*
56. Art. 2 of the IOC Anti-Doping Rules provides that, with certain identified amendments, "*Article 2 of the Code applies to determine anti-doping rule violations.*"
57. Art. 2 of the 2009 World Anti-Doping Code ("**2009 WADC**") provides as follows:

"Athletes or other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List."
58. Art. 2.1 of the 2009 WADC provides as follows:

"Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample

 - 2.1.1 *It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an antidoping violation under Article 2.1.*

2.1.2 *Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analyzed; or, where the Athlete's B Sample is analyzed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample.*

2.1.3 *Excepting those substances for which a quantitative threshold is specifically identified in the Prohibited List, the presence of any quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample shall constitute an anti-doping rule violation."*

59. Art. 2.2 of the 2009 WADC provides as follows:

"Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method

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

2.2.2 *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. Art. 2.5 of the 2009 WADC provides as follows:

"The following constitute anti-doping rule violations:

[..]

Tampering or Attempted Tampering with any part of Doping Control."

61. Art. 2.8 of the 2009 WADC provides as follows:

"The following constitute anti-doping rule violations:

[..]

Administration or Attempted administration to any Athlete In-Competition of any Prohibited Method or Prohibited Substance, or administration or Attempted administration to any Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation."

62. Art. 3 of the 2009 WADC provides as follows:

"Proof of Doping

3.1 *Burdens and Standards of Proof*

The Anti-Doping Organization shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the Anti-Doping Organization has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where the Code places the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability, except as provided in Articles 10.4 and 10.6 where the Athlete must satisfy a higher burden of proof.

- Methods of Establishing Facts and Presumptions

Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:

- WADA-accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Athlete or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding.

If the Athlete or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could have reasonably have caused the Adverse Analytical Finding, then the Anti-Doping Organization shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.

3.2.1 *Departures from any other International Standard or other anti-doping rule or policy which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such results. If the Athlete or other Person establishes that a departure from another International Standard or other anti-doping rule or policy which could reasonably have caused the Adverse Analytical Finding or other anti-doping rule violation occurred, then the Anti-Doping Organisation shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation.*

3.2.2 *The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the Athlete or other Person to whom the decision pertained of those facts unless the Athlete or other Person establishes that the decision violated principles of natural justice.*

3.2.3 *The hearing panel in a hearing on an anti-doping rule violation may draw an inference adverse to the Athlete or other Person who is asserted to have committed an anti-doping rule violation based on the Athlete's or other Person's refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as directed by the hearing panel) and to answer questions from the hearing panel or the Anti-Doping Organization asserting the anti-doping rule violation."*

63. Art. 4.2.1 of the 2009 WADC provides as follows:

"Prohibited Substances and Prohibited Methods

The Prohibited List shall identify those Prohibited Substances and Prohibited Methods which are prohibited as doping at all times (both In-Competition and Out-of-Competition) because of their potential to enhance performance in future Competitions or their masking potential and those substances and methods which are prohibited In-Competition only. The Prohibited List may be expanded by WADA for a particular sport. Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (e.g., anabolic agents) or by specific reference to a particular substance or method."

64. Chapter M2.1 of the 2009 Prohibited List provides as follows:

"M2. Chemical and Physical Manipulation

1. *Tampering, or attempting to tamper, in order to alter the integrity and validity of Samples collected during Doping Controls is prohibited. These include but are not limited to catheterisation, urine substitution and/or alteration."*

65. Art. 6.2.9 of the IOC Anti-Doping Rules provides as follows:

“Nature and circumstances of violation; adducing evidence

The Disciplinary Commission shall determine the nature and circumstances of any anti-doping rule violation which may have been committed. It shall allow the Athlete or other Person concerned an opportunity to adduce any relevant evidence, which does not require the use of disproportionate means (as decided by the Disciplinary Commission), which the Athlete or other Person deems helpful to the defence of this case in relation to the result of the test, or other anti-doping rule violation, either orally, before the Commission, or in writing, as the Athlete or other Person concerned so wishes.”

66. Art. 6.2.10 of the IOC Anti-Doping Rules provides as follows:

“Opinion of experts, adducing other evidence

The Disciplinary Commission may seek the opinion of experts or obtain other evidence on its own motion.”

67. Art. 7.1 of the IOC Anti-Doping Rules provides as follows:

“Automatic Disqualification

A violation of these Rules in Individual Sports in connection with Doping Control automatically leads to Disqualification of the Athlete’s results in the Competition in question, with all other consequences, including forfeiture of any medals, points and prizes.”

68. Art. 7.3 of the IOC Anti-Doping Rules provides as follows:

“The Disciplinary Commission or the IOC Executive Board, as the case may be, may declare the Athlete, as well as other Persons concerned, temporarily or permanently ineligible for editions of the Games of the Olympiad and the Olympic Winter Games subsequent to the Sochi Olympic Winter Games.”

69. Art. 8.1 of the IOC Anti-Doping Rules provides as follows:

“Disqualification of Sochi Olympic Winter Games Results

An anti-doping rule violation occurring during or in connection with the Sochi Olympic Winter Games may lead to Disqualification of all of the Athlete’s results obtained in the Sochi Olympic Winter Games with all consequences, including forfeiture of all medals, points and prizes, except as provided in Article 8.1.1.

8.1.1 If the Athlete established that he or she bears No Fault or Negligence for the violation, the Athlete’s results in the Competitions (for which the Athlete’s results have not been automatically Disqualified as per Article 7.1 hereof) shall not be Disqualified unless the Athlete’s results in Competitions other than the Competition in which the anti-doping rule violation occurred were likely to have been affected by the Athlete’s anti-doping rule violation.”

70. Art. 8.3 of the IOC Anti-Doping Rules provides as follows:

“Consequences of Anti-Doping Rule Violations beyond Disqualification:

The Consequences of Anti-Doping Rule Violations and the conduct of additional hearings as a consequence of hearings and decisions of the IOC, including with regard to the imposition of sanctions over and above those relating to the Sochi Olympic Winter Games, shall be managed by the relevant International Federations.”

71. Art. 9.1 § 3 of the IOC Anti-Doping Rules provides as follows:

"In sports which are not Team Sports but where awards are given to teams, if one or more team members have committed an anti-doping rule violation during the Period of the Sochi Olympic Winter Games, the team may be subject to Disqualification, and/or other disciplinary action as provided in the applicable rules of the relevant International Federation."

72. Art. 11 of the 2009 IBSF Anti-Doping Regulations provides as follows:

"Article 11 Consequences to Teams

(...)

11.2 Consequences for Teams

If more than two members of a team are found to have committed an anti-doping rule violation during an Event Period, the ruling body of the Event shall impose an appropriate sanction on the team (e.g. loss of points, Disqualification from a Competition or Event, or other sanction) in addition to any Consequences imposed upon the individual Athletes committing the anti-doping rule violation.

11.3 Event Ruling Body May Establish Stricter Consequences for Team Sports

The ruling body for an Event may elect to establish rules for the Event that impose Consequences for Teams stricter than those in Article 11.2 for purposes of the Event."

III. DISCUSSION

A. THE EVIDENCE AT THE DISPOSAL OF THE DISCIPLINARY COMMISSION

73. When assessing the case of the Athlete Belugin, the Disciplinary Commission had at its disposal and considered the following elements of evidence:

a. Adverse Analytical Finding

74. In accordance with Article 5.1 of the IOC Anti-Doping Rules, the IOC is entitled to re-analyse samples collected during the period of the Olympic Games. Based on the information provided by the McLaren Report, the IOC has decided to conduct further analyses of a number of the samples collected in Sochi, including the sample of the Athlete Belugin.
75. As part of this process and pursuant to Article 5.2.2.12.10 of the 2016 International Standard for Laboratories ("ISL"), an analysis of the remaining part of the A-Sample 2891900, has been performed by the Lausanne Laboratory.
76. The corresponding analytical results obtained on 21 March 2017 revealed the presence of a *Prohibited Substance or its Metabolites or Markers* in the Athlete's sample, which constitutes an Adverse Analytical Finding.
77. In particular, the analysis confirmed the presence of *Metenolone and metabolite*, and the presence of *Trenbolone metabolite*. Both of the substances are non-specified Anabolic Androgenic Steroids prohibited under S1.1 of the 2014 Prohibited List.
78. On 17 November 2017, the IOC provided the results of a further analysis of the Athlete's B1-Sample 2891900. The analysis confirmed the presence of both *Prohibited Substances* already detected in the Athlete's A-Sample.
79. The Disciplinary Commission feels comfortable relying on both doping control reports of the Lausanne Laboratory demonstrating the AAF.

b. The McLaren Report and the Affidavit from Prof. McLaren

80. Prof. McLaren has explained on various occasions the purpose and scope of his mission, which was the establishment of the existence of a doping conspiracy. In this respect, the evidence set out in the report is extremely strong.
81. The compelling findings made by Prof. McLaren include the confirmation of the existence, during the Olympic Winter Games Sochi 2014, of a scheme in which the samples of protected Russian athletes, notably but not only athletes on a preselected list, were swapped, *i.e.* substituted with clean urine to allow these athletes to compete with immunity from doping controls (IP Report I, p.87).
82. These findings were not only based on the witness evidence provided by Dr Rodchenkov. Prof. McLaren heard other witnesses and obtained forensic and analytical studies, which corroborated the implementation of the alleged scheme.
83. The global evidence obtained by Prof. McLaren is very strong with regard to the existence of the scheme. It allows a conclusion about the existence and implementation of the scheme in Sochi (and well beyond Sochi), which Prof. McLaren describes as “beyond reasonable doubt”.
84. The Disciplinary Commission can only concur with that conclusion.
85. The Disciplinary Commission observes that Prof. McLaren has done a great job with his team, collecting a lot of information, interviewing many people, studying several e-mails and other documents, and comparing and cross-checking information from various sources.
86. The IP Report 1, the IP Report 2 and the EDPs contain a wealth of relevant elements, which have contributed to help the Disciplinary Commission to understand the scheme put in place in Sochi and the implication of athletes therein.
87. These evidential elements (pieces of the puzzle) form an important part of the overall body of available evidence.
88. In view of the specificity of cases that involve a scheme whose purpose was to suppress evidence, the Disciplinary Commission underlines that the conclusions it reaches do not necessarily arise from one specific element of evidence, but rather from the addition of concurring elements of both circumstantial and direct evidence, when such evidence is available (marks on bottles, abnormal salt levels).
89. In this context, the conclusive findings of Prof. McLaren regarding the existence of a scheme, and the elements of evidence he provides in the EDPs regarding the identification of the individual implicated athletes, are essential.

c. Sample Swapping and Forensic Scratches and Marks Evidence

90. As part of the investigations conducted by Prof. McLaren, a certain number of sample bottles collected from Russian athletes in Sochi were subjected to examination by a forensic expert in London.
91. This expert first confirmed that, although the seal mechanism was intended to make this impossible, sample bottles could indeed be opened. To achieve that result, the expert used tools corresponding to the ones Dr Rodchenkov had described seeing in Sochi during a visit to the FSB facilities in which he had explained that the clean samples bottles were stored and the opening of the samples took place.
92. Regarding the interpretation of the results, the experts in London classified the various scratches and marks appearing on the bottles into several categories: Type 1 marks (impact marks), Type 2 marks (scratch marks) and sub-categories of Type 2 marks.

93. The conclusion of the forensic expert in London was that a certain number of the bottles he had examined bore scratches and marks, which did not correspond to scratches, and marks which would be expected on bottles used under normal conditions, *i.e.* closed in the regular manner and not reopened.
94. These scratches and marks were consistent with the marks, which would be expected if the examined bottles had been opened using a method and tools consistent with the ones the expert had been using.
95. Whilst the findings of the London expert are still relevant with regard to the proof of the tampering scheme, the Disciplinary Commission will more specifically rely on the findings of the more extensive second forensic study.

d. Forensic expertise of Professor Christophe Champod

96. A more complete and thorough forensic analysis was performed in Lausanne. For this purpose, the IOC contacted and appointed as an expert a renowned professor of criminology at the University of Lausanne, and a marks specialist, Prof. Christophe Champod.
97. Prof. Champod produced a general report on the methodology he used as well as specific reports regarding his findings in relation with each bottle examined.
98. The Disciplinary Commission is convinced that the method and tools used by the Russian operators to open the bottles cannot be very different from the method and tools eventually retained by Prof. Champod for his expertise.
99. Regarding the examination of the samples, the Disciplinary Commission understands that it was a very delicate and work-intensive task, which Prof. Champod carried out with particular care and expertise.
100. The sample bottles Prof. Champod was asked to examine were 232 sample bottles (B-Sample bottles) collected from the Russian athletes in Sochi. 32 additional control samples were included in the examination.
101. The examination of the bottles started in the second part of August 2017 and the results of a first batch of 50 bottles (including 10 controls) were delivered in September 2017. The results of further batches were subsequently delivered.
102. On the date of the hearing in the present case, the results of the examination of 201 bottles had been provided. The bottles examined included the sample bottle that had been collected from the Athlete Belugin.
103. Regarding the interpretation of the results, Prof. Champod explained to the Disciplinary Commission that, in order to describe the results, he had classified the various marks and scratches that he observed into three categories, as follows:
 - **“Multiple T Marks”**: T-marks observed in multiple positions. Results consistent with the use of tools to open the bottles. They provide very strong support for the alleged tampering.
 - **“One or more Isolated T Marks”**: T-Mark(s) never observed on a bottle used normally. However, given their number and position on the bottles, no strong inference can be drawn: results inconclusive.
 - **“No T Mark”**: In this case, no mark consistent with opening with tools could be found on the bottle. This would provide support for the proposition that the bottle had not been opened with the method and tools described.
104. As of the date of the hearing, the results already reported on 201 samples were the following:

- 34 samples with Multiple T Marks;
 - 18 samples with One or more Isolated T Marks; and
 - 149 samples with no T Marks.
105. The Disciplinary Commission has been impressed by the quality of the work carried out by Prof. Champod and his team, and by his approach to the task submitted to him.
106. The quality of the methodology and the validity of the approach followed by Prof. Champod has been fully confirmed by the audit conducted by the Swedish National Forensic Centre (NFC).
107. With regard to the quality of his assessments, Prof. Champod appeared to be very knowledgeable and very cautious at the same time. When not sure, he never hesitated to admit that he had no certainty. This gave a lot of credibility to the positions of which he claimed to be certain.
108. The Disciplinary Commission comes to the conclusion that the expertise provided by Prof. Champod supports the following findings:
- It confirms with a high level of certainty that a significant number of samples were surreptitiously opened in a *modus operandi* that corresponds to the explanation provided by Dr Rodchenkov. This reinforces the finding that the scheme described in his statement was indeed put in place and implemented as he described.
 - With regard to the samples of individual athletes, it confirms with a high level of certainty that for the samples found with multiple T Marks, such marks are direct and objective evidence that the samples concerned were tampered with.
109. In conclusion, the Disciplinary Commission feels comfortable relying on the results of Prof. Champod's expertise demonstrating the possibility of tampering with the samples, and the fact that several bottles were indeed opened.
110. As regards the sample bottle B-2891900 containing the Athlete's urine sample, the examination established the presence of multiple T marks.

e. Salt Content Analysis

111. Dr Rodchenkov had indicated to Prof. McLaren that, before swapping urine, he had to make sure that the urine replacing the urine collected in the doping control process had a specific gravity consistent with the specific gravity measured upon collection and indicated on the Doping Control Form ("DCF").
112. If and when an adjustment had to be made, it was carried out by the addition of salt or by dilution (see IP Report 2, Chapter 5). Depending on the quantity of salt used, or on the volume of dilution, this adjustment could result in levels of salt in the urine that would be beyond the normal physiological levels.
113. The IOC commissioned a complete and thorough medical expertise with regard to salt content of all the samples collected from the Russian athletes. This expertise was performed by Prof. Michel Burnier of Lausanne University Hospital.
114. Prof. Burnier first established an adequate and specific reference population based on the measurements made on the samples collected on the occasion of the Olympic Winter Games Vancouver 2010. The values thus obtained were then compared with the values of all the samples collected from Russian athletes in Sochi (A-Samples).
115. The comparison resulted in the identification of 13 clear outliers in the case of Sochi (5 Men and 8 Women). These outliers were samples with abnormally high levels of salt (more than 3 standard deviations above the mean Vancouver value).

116. In his report dated 7 October 2017, Prof. Burnier describes the corresponding results as being *“definitively out of range and even out of renal physiological possibilities suggesting strongly a manipulation of the samples for example an addition of sodium chloride (NaCl).”*
117. In conclusion, the Disciplinary Commission found that the expert report of Prof. Burnier provided key evidence in regard of the effective application of the alleged scheme on which the Disciplinary Commission could rely.
118. This general conclusion which concerns the application of the scheme in general is not put in question by the fact that abnormal salt levels are not found in the majority of the samples, including the Athlete’s samples. Indeed a correction of the specific gravity implying a detectable addition of salt was by nature limited to a minority samples in which the specific gravity had to be significantly increased.

f. DNA Analysis

119. DNA analysis was performed as part of the verifications conducted by Prof. McLaren in London. This analysis had the purpose of verifying two aspects of Dr Rodchenkov’s explanations. In both respects the verification has been positive.
120. Firstly, the explanations of Dr Rodchenkov regarding the creation of a clean urine bank implied that the urine, which would be found in samples after swapping, would be the concerned athlete’s own urine. This should normally be the case for the athletes for whom protection had been planned in advance, *i.e.* notably the athletes on the Duchess list. The analysis of all the samples of the athletes on the Duchess List, which were included in the DNA analysis carried out in London, did indeed result in a match.
121. Secondly, Dr Rodchenkov had also indicated that the members of the women’s ice hockey team were not on the Duchess List and that they had been included in the protection scheme at the last moment. For this reason, he suspected that in this case, there might not have been any, or at least enough, of their own clean urine available in the urine bank. Consequently, he had indicated that third-party urine might have been used for substitution purposes.
122. In this case, the DNA analysis of the samples of two members of the women’s ice hockey team, conducted as part of the investigations of Prof. McLaren, did indeed show inconsistent results (mixed DNA). Therefore, in this second respect also, the declarations of Dr Rodchenkov proved to be correct.
123. The Disciplinary Commission observes that the DNA analysis conducted in London does provide relevant evidence with regard to the implementation of the scheme.
124. The samples analysed for DNA in London did not include the Athlete’s samples. However, a DNA analysis was conducted in Lausanne. A sample of the Athlete seized by WADA was used as control sample.
125. The DNA analysis confirmed that the urine in sample 2891900 (A & B) had the same DNA profile than the control urine.

g. Dr Grigory Rodchenkov’s Affidavit

126. The mission of Prof. McLaren was notably to verify whether the statements made by Dr Rodchenkov about the existence of a system of manipulation of the doping controls in Russia were correct and reliable. This verification was essential, as the explanations provided by Dr Rodchenkov are, of course, of major significance.
127. Prof. McLaren conducted three long interviews with Dr Rodchenkov and he was able to cross-check the various declarations of the former director of the Moscow Laboratory and the Sochi Laboratory with other elements he had obtained.

128. Prof. McLaren is therefore the best placed person to make an assessment of the reliability of what Dr Rodchenkov had reported. Prof. McLaren came to the clear conclusion that Dr Rodchenkov was a “truthful witness”. Indeed, he made that finding one of his key findings (IP Report 1, p.86).

129. Prof. McLaren explained this as follows (IP Report 1, p.21):

“I have concluded that Dr Rodchenkov is a credible and truthful witness in relaying to me the testimony he gave which is the subject matter of this Report. I am aware that there are allegations against him made by various persons and institutional representatives. While that might impinge on his credibility in a broader context, I do not find that does so in respect of this Report. I reach that conclusion because the forensic and laboratory scientific evidence that I have gathered corroborates that he has been completely truthful in his interviews with me. Therefore, I did not hesitate in coming to the conclusion that within the subject matter that was my mandate he is a credible and truthful person.”

130. The Disciplinary Commission made its own assessment of the credibility of the declarations of Dr Rodchenkov, especially of the affidavits he eventually agreed to provide for the purpose of these proceedings.

131. After reviewing all aspects of the case and all elements available, the Disciplinary Commission was convinced that Dr Rodchenkov was telling the truth, for a large number of reasons, not limited to the following ones:

- Dr Rodchenkov was the main actor in the system and he is the best placed person to explain what it was.
- Dr Rodchenkov is no longer in Russia and he is protected. Therefore, he is now free to speak without fearing dire consequences. The fact that the explanations that he gave to the Independent Commission, whilst still acting as Moscow Laboratory Director, in respect of mass destruction of samples on the eve of a WADA visit, were not found credible by the Independent Commission and the fact that the IC found him at that time to be a “guarded” witness is neither surprising, nor relevant. It does not put in question the credibility of the explanations he provided later, when free to speak. Dr Rodchenkov subsequently confirmed that the destruction of the samples was indeed intended to cover-up falsely reported samples, which is indeed the only credible explanation.
- His statements are very precise and very clear. They are also very consistent and there are no contradictions between the various elements he describes.
- He provides detailed information related to athletes only when he appears to have specific information. In many cases, he just mentions the presence on the Duchess List and the objective consequences thereof, without seeking to add specific details. In one case, the information he provided was decisive for the purposes of clearing an athlete against whom proceedings had been opened as a consequence of her being mentioned on the Medal by Day List. This shows that the allegation that Dr Rodchenkov would simply invent stories against athletes has no basis. On the contrary, the clearly differentiated content of the explanations he provided supports the reliability of their content.

- Every time other evidence has been available, the information provided by Dr Rodchenkov has been systematically corroborated by such evidence. Thus, for example, his explanations regarding the surreptitious opening of the bottles and urine substitution is confirmed by the presence of indicative marks found first by the London forensic experts appointed by Prof. McLaren then confirmed by the more extensive and thorough examination conducted by Prof. Champod in Lausanne, with a specifically high proportion of marked bottles in the case of athletes on the Duchess List. The same is true for his description of the adjustment of specific gravity through addition of salt or dilution. Both an expert appointed by Prof. McLaren, and Prof. Burnier appointed by the IOC, confirmed the presence of abnormal levels of salt, corroborating the explanations of Dr Rodchenkov.
 - The explanation given in connection with athletes whose samples were swapped, although they were not on the Duchess List in Sochi, also proved to be correct. In this case, no clean urine bank could be prepared or not in sufficient quantity. Therefore, the urine could come from other sources. The fact that mixed urine was found in the samples of precisely the athletes in relation to which Dr Rodchenkov had predicted this could be possibly the case is an additional verification of his explanations.
 - Dr Rodchenkov kept a regular diary, including when he was head of the laboratories in Moscow and Sochi. The facts he has reported often have a corresponding entry in his diary, relevant handwritten pages of which he attached to his affidavits. This also explains why he has always been able to be so precise regarding dates and telephone calls, for example. These pages were written during a period in which Dr Rodchenkov could not anticipate what would happen later. The Disciplinary Commission does not consider it at all likely that these pages were newly re-written or that, at the time, Dr Rodchenkov misrepresented the reality in his own diary. These entries may therefore be considered as a significant evidential element.
132. The more closely the Disciplinary Commission considered the evidence on file, the more it found that all the other elements, which were available, corroborated Dr Rodchenkov's statements. Therefore, the Disciplinary Commission has come to the conclusion that, whatever his motivation may be and whichever wrongdoing he may have committed in the past, Dr Rodchenkov was telling the truth when he provided explanations of the cover-up scheme that he managed.
133. As regards specifically the Athlete, Dr Rodchenkov has notably provided relevant indications in connection with the reasons why the Prohibited Substances detected by the laboratory in Lausanne may not have been detected in previous analysis in Russia.

B. EVIDENCE SUBMITTED BY THE ATHLETE

134. In support of his written submissions, the Athlete provided five press articles/releases.
135. At the hearing on 20 December 2017, Mr Bushin, and Ms Burova, forensic experts, members of the Russian Federal Centre of Forensic Science, were heard with respect to the issues linked with the significance of the results obtained from the forensic examination of the sample bottles and with the methodology used by Prof. Christophe Champod when conducting his examinations.
136. The Disciplinary Commission considered the above evidence and addressed its relevance in the course of the assessment below and notably when reviewing the arguments raised by the Athlete on this basis.

C. ADMISSIBILITY OF THE EVIDENCE – DUE PROCESS

137. The Athlete's counsels have strongly challenged the conduct of the proceedings.

138. Objections were notably raised with regard to the admissibility of the affidavits of Dr Rodchenkov and of Prof. McLaren. These objections were made both on the basis of having insufficient time to examine the affidavits and because Dr Rodchenkov and Prof. McLaren were not available for cross-examination.
139. As regards the affidavit of Dr Rodchenkov, Dr Rodchenkov is presently living under a protection program in the United States of America (USA). Access to him is controlled and subject to severe restrictions. Until very shortly before the hearing, the IOC had been informed that it would not be possible to have direct access to Dr Rodchenkov for the purpose of the Disciplinary Commission proceedings, in any manner or form.
140. Because of the constraints linked to the conditions imposed on any intervention of Dr Rodchenkov on the one hand, and the already mentioned time constraints requiring a resolution of the matters without further delay, the only practicable solution at that stage of the proceedings was the provision of written affidavits.
141. A first affidavit could be obtained on 27 October 2017. Subsequently, further affidavits were successively obtained, each time with specific parts covering the different athletes concerned.
142. In this case and apart from a general affidavit dated 5 November 2017 covering the overall scheme, Dr Rodchenkov also produced two separate affidavits concerning the Athlete only.
143. The Disciplinary Commission observes that this is the first time that direct testimony of Dr Rodchenkov could be obtained at all in proceedings concerning the situation in Russia. This is a positive element even if it occurred late in the proceedings.
144. As regards the fact that the affidavit is only in writing and Dr Rodchenkov could not be heard in person, the Disciplinary Commission was plainly conscious and has already mentioned that it would have been preferable to have Dr Rodchenkov present in the hearing, as well as in all other hearings concerning cases linked with Sochi.
145. The Disciplinary Commission underlines however that the proceedings are of a civil law nature and are governed by the IOC Anti-Doping Rules. These define the evidence admissible in these proceedings.
146. Pursuant to art. 6.2.9 of the IOC Anti-Doping Rules, the Athlete may adduce evidence, provided such does not require the use of disproportionate means. Art. 6.2.9 of the IOC Anti-Doping Rules further specifies that such evidence may be in writing.
147. The Disciplinary Commission accordingly decided that the affidavit of Dr Rodchenkov could be admitted as written evidence in these proceedings. In the present circumstances, it is the only practicable manner under which this important evidence could be provided.
148. The Disciplinary Commission has given the evidence appropriate weight, taking into account the fact that Dr Rodchenkov could not be heard and subject to questioning at the hearing.
149. Regarding the affidavit of Prof. McLaren, the Disciplinary Commission remarks that the content of this affidavit is only a clarification of certain aspects, which are already covered by the reports or the EDP.
150. To conclude on that point, the Disciplinary Commission considers that, under the given circumstances, the principle of due process was not violated by the admission of this evidence and that the Athlete could still validly defend his case.

D. ASSESSMENTS

a. Findings regarding the Athlete Belugin

151. The re-analysis of the Athlete's A-Sample and B1-Sample 2891900 revealed the presence of *Metenolone and metabolite*, and of *Trenbolone metabolite*. Both of the substances are non-specified Anabolic Androgenic Steroids prohibited under S1.1 of the 2014 Prohibited List.
152. The presence of the *Prohibited Substance or its Metabolites or Markers* in the Athlete's sample constitutes an Adverse Analytical Finding.
153. It has never been disputed by the Athlete that there was a departure from the International Standard for Testing or the International Standard for Laboratories that caused the AAF.
154. The Disciplinary Commission emphasises that the *Prohibited substances* that were detected in the Athlete's samples are *Metenolone* and *Trenbolone*. These steroids are two of three elements of the Duchess Cocktail.
155. Furthermore, Dr Rodchenkov explained in his affidavit of 13 December 2017 that the Lausanne Laboratory that retested Athlete's Belugin sample used methods and equipment capable of detecting the concerned substances at much lower levels than the Moscow and/or Sochi Laboratory (using the screening methods used by the laboratory).
156. This explains why the Prohibited Substance may not have been detected in the analysis performed in Sochi.
157. This also explains why the urine in question may have been considered as "clean urine" used for swapping if it had been tested for the purpose of preparing urine for the "clean urine bank".
158. Given the fact that the B-Sample bottle bears marks indicative of tampering, this is probably what occurred in this case.
159. Since the DNA analysis confirms that the samples do belong to the Athlete, the analysis results confirm under any hypothesis that the Athlete did use Prohibited Substances.
160. The nature of the substances found are further consistent with the ingestion of the "cocktail" described by Dr Rodchenkov.
161. In this respect and regarding the fact that the third component of the cocktail (oxandrolone) was not detected, Dr Rodchenkov explained the following "*Based on my experience and expertise, the absence of oxandrolone traces is not surprising and is in accordance with my knowledge of the steroids included in and the eluting order of steroids in the Duchess Cocktail. During wash-out, the steroids elute in the following order: first, epioxandrolone; second, epitrenbolone disappeared; and finally, metenolone metabolite, which was detectable longer than other steroids.*"
162. The presence of Prohibited Substances is enough to establish an anti-doping rule violation. Further, the fact that the steroids detected in the Athlete's sample are the components of the Duchess Cocktail is an indication of his involvement in the scheme.
163. The fact that the sample bottle bears conclusive multiple T Marks (B-Sample 2891900) is further evidence that the Athlete has been implicated in the scheme, which was implemented during the Olympic Games in Sochi.
164. In this respect, the Disciplinary Commission confirms that it is comfortably satisfied that the evidence establishes that a scheme of sample-swapping as described in the McLaren Report and the affidavit of Dr Rodchenkov was indeed in place and implemented in Sochi.
165. The Disciplinary Commission shares the conclusions reached by Prof. McLaren in this respect.

166. Its findings are not only based on the evidence provided by Dr Rodchenkov in his interviews, but on a wealth of other corroborating evidence, including other witnesses, the forensic examination of the sample bottles, the evidence showing abnormal salt results and the additional elements coming from DNA analysis.
167. The Disciplinary Commission notes that a correct evaluation of the available evidence requires it to be placed in a global perspective. To return to an image already used, the various elements established in the report are like pieces of a puzzle. Considered in isolation, it may be not clear what they represent. However, put together, they have a clear meaning.
168. In this case, all the pieces provided by Prof. McLaren fit with each other to confirm the doping scheme applied, *inter alia*, in Sochi.
169. The overall results of the forensic examination and of the salt analysis, which Prof. Champod and Burnier performed on all samples provide confirmation that samples have indeed been manipulated on a large scale and through the *modus operandi* described by Dr Rodchenkov and set out in the McLaren Report.
170. The two studies do bring evidence consistent with the scenario described, (*i.e.* marks and abnormal salt levels) in connection with a significantly high number of samples to which, according to Dr Rodchenkov, the tampering scheme had been applied.
171. The Disciplinary Commission has further come to the conclusion that the scheme could not work without the personal implication of the athletes.
172. For these athletes, the use of the Duchess Cocktail was part of the scheme.
173. With respect to the Athlete Belugin, his personal use of the Duchess Cocktail is evidenced by the fact that *Prohibited substances* that were detected in the Athlete's samples are *Metenolone* and *Trenbolone*: these steroids are two of three elements of the Duchess Cocktail.
174. Finally, the purpose of the scheme, *i.e.* to allow athletes to dope without fear of a positive doping tests, could not be achieved and the scheme would be senseless if the athletes were not made aware that they are protected. Indeed, if they were not made aware, they could not take advantage of their protection.
175. This applies to the Athlete Belugin.
176. In addition to the evidence concerning the personal implication of the Athlete, the Disciplinary Commission observes that its findings in this respect are further supported by the evidence existing in connection with the active implication of the bobsleigh team to which he belonged in doping activities.
177. In this respect, the Disciplinary Commission observes that the indications of Dr Rodchenkov concerning the active implication of the bobsleigh team are corroborated by objective elements obtained in the forensic examination of the samples and the salt content study: no fewer than 7 other members of the Men's bobsleigh team were found with samples with significant Multiple T-marks and/or abnormal salt levels.
178. Based on the above elements, the Disciplinary Commission is comfortably satisfied that the Athlete has committed an anti-doping rule violation and was a participant in, and a beneficiary of, the cover up scheme implemented on the occasion of the Olympic Winter Games Sochi 2014.

E. ARGUMENTS SUBMITTED BY THE ATHLETE

179. A number of arguments were submitted by the Athlete in his written submissions and during the hearing. Some of these arguments have already been directly or implicitly addressed in previous parts of this decision and the Disciplinary Commission will try to avoid unnecessary repetitions.

a. Analytical results

180. The Athlete did not provide any explanation in respect of the presence in his samples of the Prohibited Substances found therein.
181. The Athlete only alleged in his written submissions dated 18 December 2017 that he would have had no time to do so.
182. The Disciplinary Commission observes that the results of the A-Sample analysis were obtained and communicated in March 2017. The results of the B-Sample analysis were communicated on 23 November 2017.
183. The Athlete had thus enough time to address the analytical results. The fact that he did not put forward any explanation in this respect is in itself significant and an indication that the Athlete has effectively no valid argument to challenge them.

b. Interpretation of the forensic examination

184. The conclusions of the forensic examination are empirical. They are therefore not expressed in absolute terms.
185. The Athlete has tried to undermine the value of the entire examination by referring to a caution, correctly expressed in the Methodological Report and which states that the expert could not claim that it was impossible to make a T-Mark observation on a bottle.
186. The Disciplinary Commission observes that the Athlete is taking the citation it uses in his written statement out of its context. The full text reads as follows:

*"In this case, we can state that these findings are in line with what have been empirically observed when we tampered with test bottles (...). But we never observed empirically such marks on bottles that have been regularly closed (...). Given the limited number of bottles we examined during the development of this methodology, we could not claim that it is impossible to make such observations under the proposition of normal use of the bottle, but the nature of the marks, their shape and compatibility with the working of tools at multiple locations allow us to conclude that these findings provide **very strong support** for the view that the bottle has been tampered with as alleged compared its normal use. By very strong support, we mean that, in our opinion, the observations are between 1000 and 10'000 times more likely if they are consecutive to tampering rather than a normal closing of the bottle." (Methodology Report, p.35)*

187. Thus, far from supporting the Athlete's position, the full text confirms that Multiple T-Marks constitute strong evidence of tampering.
188. The Disciplinary Commission has further considered the explanations brought forward by Mr Alexei Bushin and Ms Evgeniya Burova, who were heard as experts in relation with the forensic study and its validity in principle.
189. At the hearing, Mr Alexei Bushin and Ms Evgeniya Burova, provided explanations that suggested that the Methodology Report and a subsequent summary of the methodology produced by Prof. Champod and used by his team when performing the examination of the sample bottles, would contain a number of substantial flaws.
190. Mr Bushin raised concerns that the bottles used by Prof. Champod when establishing the opening method, were closed only with 6-11 clicks, while the maximum possible closure is 15 clicks. This may have an impact on the T marks that could be different if the bottles are closed with more than 11-12 clicks. He made reference to the Technical audit of the Swedish National Forensic Centre, whereby serious doubts were raised as to the possibility of opening a bottle closed with 15 clicks.

191. Mr Bushin mentioned having difficulty in determining the difference between U marks and T marks. Neither in the first nor in the second report is said about the possibility of establishing the level of closeness of bottles with respect to the T marks.
192. Mr Bushin has mentioned that Prof. Champod used Photoshop technique in order to upgrade their pictures, but nothing was mentioned in the Methodology and it is not clear what corrections were made by this software to the pictures.
193. One again Mr Bushin could not understand the exact shape and form of the instruments used in the studies, stating that the schemes depicted in two reports showed different tools.
194. Finally, Mr Bushin noted that according to the Swedish experts, the personnel from Lausanne was not well-trained due to the time constrains.
195. Based on all the above, Ms Bushin raised concerns about the effectiveness of the approach used in the Methodology Report to identify the marks that were definitely left by the instrument in tempering the bottle.
196. In continuation, Ms Burova stated that the methodology was created in ideal circumstances, while the result of the expertise was known in advance. She also mentioned that the traces of the marks are not horizontal or vertical, but tilted, meaning that they show not the level of the closure, but the depth of the penetration of the tool.
197. Ms Burova also showed as examples some pictures, questioning the method of distinction between T marks and other types of the marks.
198. Prof. Champod answered the issues raised by Mr Bushin and Mrs Burova.
199. Regarding the Swedish report, Prof. Champod is of the opinion that its understanding by his Russian colleagues was not correct. Swedish auditors were satisfied that there is a clear distinction between marks which are due to the usual closure and marks which are compatible with the use of a tool.
200. Regarding the use of Photoshop, every image is recorded in its raw format, and then to highlight some areas or globally to adjust the whole image, the use of this program was required. However, changes are trackable and may be easily seen, reverting the image to its initial state.
201. The assistants used by Prof. Champod during the expertise were trained for that specific assignment, having previous experience and knowledge as the students from their school. However, even the experiences experts have never been dealing with the task of the forensic examination, meaning that the trained students are better prepared than someone else.
202. Regarding the fact that the report did not include a comprehensive description of all the marks resulted from the fact that report was meant to provide a general explanation of the method. In this context, examples were provided and that was appropriate. Prof. Champod however confirmed the availability of the full supporting information consisting of terabytes of the images which could be provided on request.
203. The Disciplinary Commission observes that it is not clear how the alleged inconsistencies and flaws of the Report would affect the validity of the findings of Prof. Champod made in relation with the examined samples.
204. Neither Mr Alexei Bushin, nor Ms Evgeniya Burova did, in particular, offer any alternative explanations for the presence of marks consistent with the opening of the bottles with tools of the kind used by Prof. Champod.
205. In conclusion, the Disciplinary Commission finds that the explanations of Mr Bushin and Ms Burova do not contradict to the validity of the results of Prof. Champod's expertise.

c. Relevance of the McLaren Report

206. The Athlete argues that any reliance on the McLaren Report (and implicitly on any evidence provided by Prof. McLaren) would be misplaced.
207. The Disciplinary Commission has already addressed and clarified this issue.
208. The Disciplinary Commission confirms its position, which is also the one stated in the Report that (1) it was indeed not the mission of Prof. McLaren to assess individual ADRVs but that (2) the Report and the evidence provided for this purpose by Prof. McLaren are part of the evidence, which the Disciplinary Commission may assess, as it is its function to do, in individual cases within its jurisdiction.
209. The Disciplinary Commission notes that the content of the article relating Prof. McLaren's interview on which the Athlete relies is not in contradiction with the above.
210. This interview was given just after the publication of the first part of the report on 4 August 2016. Already then, the article mentioned the fact that information about some individual athletes had been collected and was provided as a "by-product".
211. As it is clarified in the second part of the Report, the provision to the concerned result management authorities of elements in connection with the identification of the implicated athletes had become one of the specific elements of Prof. McLaren's mission. The EDP site has been established just for this purpose.
212. Prof McLaren has provided substantial evidence for these proceedings and the Disciplinary Commission has consistently considered that it would take it into account.
213. Thus and notably, in an interview cited by the Athlete, the Chairman indicated that the Disciplinary Commission would "[...] *work with Mr McLaren, as he has more material than what was published in the report*". This is precisely what the Disciplinary Commission did.

d. Dr Rodchenkov's testimony

214. The Athlete heavily insists on the fact that Dr Rodchenkov's testimony cannot be held as reliable.
215. The Disciplinary Commission has already explained why it comes to the completely contrary conclusion that, as far as the doping scheme was concerned, it concurred with Prof. McLaren that Dr Rodchenkov could be considered as a reliable witness and had been shown to be such.
216. Given the insistence of the Athlete's attacks, the Disciplinary Commission will add the following.
217. The Athlete refers to the past actions and behaviours of Dr Rodchenkov.
218. In this respect, the Disciplinary Commission wants to be very clear in confirming that considering Dr Rodchenkov as a reliable witness is not in any way an approval of his past actions and his moral character.
219. His actions, while being a director of the Moscow Laboratory, are despicable and inexcusable. This said, in a case of a conspirative scheme, the main evidence is often coming from participants, who accept to stand as witness.
220. The question is therefore whether evidence obtained from such sources should not be taken into account for the reason that the witness in question has a dubious history and character record and is one, and in this case, a main actor of the conspiracy.

221. Particularly in this case, one may understand that many might wish that to be the case. However, there is no objective reason not to use the most direct and relevant evidence, as long as it can be verified that its content is itself truthful and valid.
222. In the case of Dr Rodchenkov, it is worth underlying that, without his testimony, the swapping of samples in *inter alia* Sochi would never have been uncovered.
223. The reality of the scheme has been confirmed in the meantime by objective evidence, which would not even have been investigated for if Dr Rodchenkov had not provided explanations, which justified the corresponding investigations.
224. The verification of the allegations of Dr Rodchenkov was a main focus of Prof McLaren's mission. His conclusions in this respect are unequivocal.
225. When it published Dr Rodchenkov's account in May 2016, the New York Times was indeed correct in stating that it had, at that time, not been verified. This was however no longer the case after the publication of the Report of Prof. McLaren, which constitutes such verification.
226. The finding in the Report that Dr Rodchenkov is a reliable witness is obviously absolutely not in contradiction with the prior different finding of the IC of which Prof. McLaren was a member.
227. The context and accordingly the content of the testimony of Dr Rodchenkov had radically changed in the meantime. As already explained, this made all the difference.
228. Regarding the alleged "striking inconsistencies" that would exist in the testimony, the Disciplinary Commission observes that the example mentioned by the Athlete does not appear to be a contradiction at all.
229. There is indeed no effective contradiction between the mentioning by Prof. McLaren that Dr Rodchenkov would not have known the method used to open the samples and the fact that the second part of the Report indicates that Dr Rodchenkov had seen the tools, which might have been used for that purpose.
230. First, the determination of the level of details mentioned in each of the parts of the Report results from a decision of the writer of the report. Secondly, the description of a tool is not the description of the method. Dr Rodchenkov has remained consistent in indicating that he never actually saw how the bottles were opened.
231. In any event, the Disciplinary Commission does not see any relevant contradiction in the example made by the Athlete.

F. ANTI-DOPING RULES VIOLATIONS COMMITTED BY THE ATHLETE

a. Applicable Provision

232. In accordance to art. 1.2 of the IOC Anti-Doping Rules, the anti-doping rule violations applicable are the ones set forth in the WADC.
233. At the time of the commission of the alleged violations, the WADC in force was still the 2009 edition.
234. Based on the findings it made, the Disciplinary Commission holds that the Athlete Belugin has committed the following anti-doping rule violations defined in the 2009 WADC.

b. Presence of a Prohibited Substance (Art. 2.1 of the 2009 WADC) and use (Art. 2.2 of the 2009 WADC)

235. The re-analysis of the Athlete's A-Sample and B-Sample 2891900 revealed the presence of *Metenolone and metabolite*, and of *Trenbolone metabolite*. Both of the substances are non-specified Anabolic Androgenic Steroids prohibited under S1.1 of the 2014 Prohibited List.

236. It has never been disputed by the Athlete that there was a departure from the International Standard for Testing or the International Standard for Laboratories that caused the AAF.
237. Based on the above, the Disciplinary Commission finds that the Athlete has committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules.
238. An anti-doping rule violation is already established in application of Art. 2 of the IOC Anti-Doping Rules in connection with Art. 2.1 of the WADC based on the established presence of two Prohibited Substances in the Athlete's body.
239. Given the circumstances and the nature of the Prohibited Substances (anabolic steroids components of the Duchess cocktail), the only possible inference is that the presence of the Prohibited Substances is explained by the fact that the Athlete did use them for doping purposes.
240. Accordingly, the Disciplinary Commission finds that a violation in accordance of art. 2.2 of the WADC is also established in this case.

c. Tampering (Art. 2.5 of the 2009 WADC or 2.2 of the 2009 WADC & M2)

241. As a preliminary observation, the Disciplinary Commission notes that there is a question whether the factual circumstances of this case should be considered as potential tampering within the meaning of art. 2.5 of the 2009 WADC, or tampering defined as use of a Prohibited Method, which would constitute a violation pursuant to art. 2.2 of the 2009 WADC in combination with the definition of tampering as a Prohibited Method defined as such under M2 of the applicable Prohibited List (2014).
242. In accordance with the comment to 2.5 of the 2009 WADC, tampering pursuant 2.5 of the 2009 WADC is any conduct, which subverts any part of the Doping Control but which does not already fall under the definition of Prohibited Method.
243. The definition of the Prohibited Methods set forth in the Prohibited List under M2 reads as follows:

“Tampering, or attempting to tamper, in order to alter the integrity and validity of Samples collected during Doping Controls is prohibited. These include but are not limited to catheterisation, urine substitution and/or alteration.”
244. This definition of tampering as Prohibited Method pursuant to M2 Prohibited List, thus notably relates to alterations of the Integrity and validity of the sample, including specifically urine substitution.
245. The Disciplinary Commission observes that the actions described in the above definition appear to precisely correspond to the main features of the cover-up scheme in question.
246. Indeed, in this case, the subversion of the Doping Control process was achieved by substitution of the urine collected during the test by another urine.
247. This substitution requires the surreptitious opening of the bottle and as such does alter the integrity of the samples.
248. In view thereof and given the comment to 2.5 of the 2009 WADC, the Disciplinary Commission concludes that the circumstances of the present case shall be examined in the perspective of a violation of art. 2.2 of the 2009 WADC in connection with the definition of tampering set forth under M2 Prohibited Method, rather than as a potential violation of art. 2.5 of the 2009 WADC.
249. Given the articulation between the two provisions, art. 2.5 of the 2009 WADC covers in any event a broader concept of tampering and constitutes a *lex generalis*. Therefore, to the extent needed, any action which would not fall under art. 2.2 of the 2009 WADC would fall under art.

2.5 of the 2009 WADC, with effectively the same consequence.

250. This being clarified, the Disciplinary Commission notes that the established sample-swapping scheme constitutes a subversion of the entire Doping Control process.
251. The tampering action involves all the other necessary elements of the operation, including the provision of urine to be substituted and the provision of information on the samples allowing the samples to be swapped to be identified. The whole process does not even end with the swapping: it also includes the false reporting of results of a sample, which is not the one collected under the number, which identifies it.
252. The entire process thus forms a chain constitutive *in globo* of the conduct relevant as tampering.
253. The Athlete is necessarily a participant in this chain, *a minimo* through provision of the clean urine, as this is a necessary element of urine substitution.
254. The Athlete thus directly takes an active part and therefore commits tampering as much as the person who actually carries out the urine substitution.
255. The Disciplinary Commission notes that pursuant to Art. 2.2 of the 2009 WADC, the commission of the violation does not require intent or negligence, nor even conscious knowledge of the violation.
256. Therefore, it would not even be necessary to demonstrate that the Athlete was a conscious participant in the process and was aware of its subversion purpose to conclude that a violation of tampering pursuant to Art 2.2 of the 2009 WADC is in any event established.
257. Given the circumstances, and for the reasons already set out above, the possibility that the Athlete was just an unknowing participant can be excluded. The presence of the *Prohibited Substances* in the Athlete's body, which constitute the elements of the Duchess Cocktail, the consumption of which is followed by a special "mouth-washing" procedure, could not occur without the knowledge of the Athlete.
258. In conclusion, the Disciplinary Commission holds that a violation of Art. 2.2 of the 2009 WADC /use of a Prohibited Method – (M2) Tampering is established against the Athlete.
259. Subsidiarily, the same circumstances shall in any event be deemed as constitutive of a violation of art. 2.5 of the 2009 WADC.

d. Cover-up / Complicity (art. 2.8 of the 2009 WADC)

260. The application of the cover-up scheme in place and implemented in Sochi and beyond involved a complex conspiracy over time and the participation of several participants, from the athletes, to intermediaries, laboratory staff and ministry representatives.
261. All of them were participants in a conspiracy, which had the goal of covering up doping practices. This applies also to the athletes, and among them the Athlete Belugin, who participated in the cover-up and as such committed a violation of Art. 2.8 of the 2009 WADC (see IP Report 2, p.46-7).
262. This conclusion of complicity can be reached even if the Athlete takes part in the scheme in his own interest and in order to cover-up his own violations.
263. In the decision *CAS 2007/A/1286-8-9; Eder, Tauber & Pinter*, which arose in connection with another conspiracy (albeit of much lesser scope) which affected the Olympic Games Torino 2006, the CAS established the corresponding concept of vertical complicity pursuant to which an athlete embarking for its own interest in a conspiracy involving other athletes commits a violation pursuant to art. 2.8 WADC (*CAS 2007/A/1286-8-9*, p.27,#76).

264. In the case of the members of the bobsleigh team, this conclusion is reinforced by the fact that there are elements of evidence pointing to the fact that doping activities were organised and covered up by the entire team.
265. The Disciplinary Commission thus finds that through his participation in a complex scheme involving several athletes and other participants and having the purpose of covering up doping practices, the Athlete also committed a breach of art. 2.8 of the 2009 WADC.

G. CONSEQUENCES OF THE ANTI-DOPING RULE VIOLATIONS

a. Disqualification

266. In application of Art. 7.1 and 8.1 of the IOC Anti-Doping Rules, the results achieved by the Athlete during the Olympic Games Sochi 2014 shall be annulled, with all resulting consequences (notably withdrawal of medals, diplomas, pins *etc.*).
267. In respect of the above consequences, the Disciplinary Commission observes that in the presence of the anti-doping rules violations in this case, the only conceivable consequence is disqualification of any and all results in application of Art. 8.1 of the IOC Anti-Doping Rules.
268. The Disciplinary Commission underlines that the nature of the violation and the circumstances of this case make this consequence inescapable.
269. The results of the competitions directly concerned by a sample for which tampering is directly and objectively established are already to be automatically disqualified in application of Art. 7.1 of the IOC Anti-Doping Rules.
270. As far as the other results are concerned, the Disciplinary Commission considers that the Athlete has not demonstrated that he bears no fault or negligence. His involvement in the scheme affects his entire participation in the Olympic Games.
271. Given the circumstances and the violations at stake, the Disciplinary Commission finds with no hesitation that all the results have to be disqualified in application of Art. 8.1 of the IOC Anti-Doping Rules. Any other solution would be inconceivable.
272. In addition, and as a consequence of the Athlete's disqualification from the event in question, the Disciplinary Commission has to consider the consequences in respect of the results of the team, in which the Athlete competed.
273. These consequences are set forth in Art. 9.1 §3 of the IOC Anti-Doping Rules, granting a discretion to apply directly a Disqualification, when an award is given to a team in a sport which is not a Team sport.
274. *Team Sport*, according to the World Anti-Doping Code 2009, is a sport in which the substitution of players is permitted during a Competition. Bobsleigh is therefore not a *Team Sport* within the meaning of the Rules.
275. On this basis, in application of Art. 9.1 §3 of the IOC Anti-Doping Rules, the results of the Four-Man's Bobsleigh Event and of the Two-Man's Bobsleigh Event with a participation of the Athlete, shall be annulled, with all resulting consequences.

b. Ineligibility for the Olympic Games

276. In application of Art. 7.3 the IOC Anti-Doping Rules, the Disciplinary Commission may declare the Athlete temporarily or permanently ineligible for subsequent editions of the Games of the Olympiad and Olympic Winter Games.

277. This measure corresponds to an application of art. 59 §2.1 of the Olympic Charter, which provides for the possibility of temporary or permanent ineligibility *“in the case of any violation of the Olympic Charter, of the World Anti-Doping Code, or of any other decision or applicable regulation issued by the IOC or any IF or NOC, including but not limited to the IOC Code of Ethics, or of any applicable public law or regulation, or in case of any form of misbehaviour”*.
278. In this case, the Disciplinary Commission considers that the implementation of the sample-swapping scheme was one of the worst ever blows against the integrity and reputation of the Olympic Games.
279. It would be inconceivable that the Olympic Movement would have to continue to receive in its midst any athlete or person having been howsoever implicated in such a scheme.
280. The Disciplinary Commission underlines that it is not so much the fact that specific violations of the IOC Anti-Doping Rules were committed which justifies the application of a measure of ineligibility but much more the fact that they were part of a conspiracy, which infected and subverted the Olympic Games in the worst possible manner.
281. The participation in such conspiracy not only constitutes violations pursuant to the IOC Anti-Doping Rules, it constitutes a fundamental misbehaviour directly affecting the core values of the Olympic Games.
282. Given the severity of the prejudice and the long-lasting harm that has been caused to the Olympic Movement, the Disciplinary Commission is further of the opinion that the ineligibility shall not be limited to the next Olympic Winter Games but shall apply to all subsequent editions of the Games of the Olympiad and Olympic Winter Games.
283. As a final observation, the Disciplinary Commission underlines that it is conscious that the decision it issues in respect of ineligibility is likely to be challenged with reference to the CAS award *CAS 2011/O/2422 USOC v/ IOC*.
284. The Disciplinary Commission considers that the present situation is not the same as the one, which was the subject matter of that award.
285. In that case, the decision of ineligibility was not linked with a decision made in connection with violations that occurred at the Olympic Games, but rather in connection with decisions issued by other bodies in a different case. This notably raised the issue of double jeopardy. Such an issue is not at stake in the present case. In this case, the ineligibility is part of one decision, addressing consequences of occurrences at the Olympic Games in application of the regulations applicable thereto.
286. The Disciplinary Commission also considers that this matter is an occasion to reconsider and clarify the situation with respect to the entitlement of the IOC to adequately manage eligibility for the Olympic Games.
287. It is the Disciplinary Commission's opinion that, when the violations in question represent fundamental breaches of the Olympic values, the IOC shall be entitled to apply a rule, which is clearly enshrined in the Olympic Charter, the fundamental text governing the Olympic Movement.
288. The issue in this case is not whether it is legitimate to declare ineligible an athlete who committed an individual violation of the Rules, which would put only his or her own integrity in question.
289. The issue here is what consequences may arise regarding the participation in the Olympic Games of participants in a conspiracy, which, beyond the anti-doping rule violations which it involved, constituted a fundamental breach of the Olympic values and, as such, ethically unacceptable misbehaviour within the meaning of Art. 59 §2.1 of the Olympic Charter.

290. In such a context, ineligibility must be applicable and is clearly supported by Art. 59 §2.1 of the Olympic Charter.
291. This is the fundamental rationale of the decision that the Disciplinary Commission hereby issues.
292. The Disciplinary Commission observes that the same measure was applied in the context of the (lesser) conspiracy which affected the Winter Olympic Games 2006 and was affirmed by the CAS (*CAS 2007/A/1286-8-9 J. Eder, M. Tauber and J. Pinter vs the IOC*).

c. Consequences beyond the Olympic Games

293. In application of Art. 8.3 of the IOC Anti-Doping Rules, the further management of the consequences of the anti-doping rule violations, and in particular the imposition of sanctions over and above those related to the Olympic Games Sochi 2014, shall be conducted by the relevant International Federation, the IBSF.

* * * * *

IV. DECISION

PURSUANT to the Olympic Charter and, in particular, Rule 59.2.1 thereof, and pursuant to The International Olympic Committee Anti-Doping Rules applicable to the XXII Olympic Winter Games in Sochi, in 2014 and, in particular, Articles 1, 2, 6, 7, 8 and 9 thereof:

THE DISCIPLINARY COMMISSION OF THE INTERNATIONAL OLYMPIC COMMITTEE RULES

- I. The Athlete, Maxim BELUGIN:
 - a) is found to have committed anti-doping rule violations pursuant to Article 2 of The International Olympic Committee Anti-Doping Rules applicable to the XXII Olympic Winter Games in Sochi, in 2014;
 - b) is disqualified from the events in which he participated upon the occasion of the XXII Olympic Winter Games in Sochi, in 2014, namely:
 - (i) the Two-Man's Bobsleigh Event, in which he ranked 4th for which he was awarded a diploma;
 - (ii) the Four-Man's Bobsleigh Event, in which he ranked 4th for which he was awarded a diploma;
 - c) has the diplomas obtained in the above-mentioned events withdrawn and is ordered to return the same to the International Olympic Committee.
- II. The Russian Team is disqualified from the Two-Man's Bobsleigh Event¹. The corresponding diplomas are withdrawn and shall be returned to the International Olympic Committee.
- III. The Russian Team is disqualified from the Four-Man's Bobsleigh Event². The corresponding diplomas are withdrawn and shall be returned to the International Olympic Committee.
- IV. The International Bobsleigh and Skeleton Federation is requested to modify the results of the above-mentioned events accordingly and to consider any further action within its own competence.
- V. Maxim BELUGIN is declared ineligible to be accredited in any capacity for all editions of the Games of the Olympiad and the Olympic Winter Games subsequent to the Sochi Olympic Winter Games.
- VI. The Russian Olympic Committee shall ensure full implementation of this decision.
- VII. The Russian Olympic Committee shall notably secure the return to the International Olympic Committee, as soon as possible, of the diplomas awarded in connection with the Two-Man's Event to the members of the Russian Team.
- VIII. The Russian Olympic Committee shall also secure the return to the International Olympic Committee, as soon as possible, of the diplomas awarded in connection with the Four-Man's Bobsleigh Event to the members of the Russian Team.
- IX. This decision enters into force immediately.

¹ The other member of the team, Mr Alexander KAS'YANOV (SML – 030) has been disqualified as per the decision of the Disciplinary Commission issued on 29 November 2017

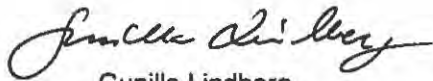
² The three other members of the team, Mr Alexander KAS'YANOV (SML – 030), Mr Aleksei PUSHKAREV (SML – 031) and Mr Ilvir KHUZIN (SML – 032), have been disqualified as per the decisions of the Disciplinary Commission issued on 29 November 2017

Lausanne, 21 March 2018 (operative part of the Decision issued on 22 December 2017)

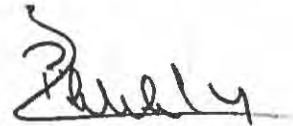
In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Gunilla Lindberg



Patrick Baumann