



**Tribunal Arbitral du Sport
Court of Arbitration for Sport**

CAS 2017/O/5268 International Association of Athletics Federations (IAAF) v. All Russia Athletic Federation (ARAF) & Svetlana Karamasheva

ARBITRAL AWARD

delivered by

THE COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Murray Rosen QC, Barrister, London, United Kingdom

In the arbitration between:

INTERNATIONAL ASSOCIATION OF ATHLETICS FEDERATIONS, Monaco
represented by Messrs Ross Wenzel & Nicolas Zbinden, Kellerhals Carrard, Lausanne,
Switzerland

Claimant

-and-

ALL RUSSIA ATHLETICS FEDERATION, Moscow, Russia

First Respondent

-and-

SVETLANA KARAMSHEVA, Omsk, Russia

Second Respondent

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I. PARTIES

1. The Claimant, the International Association of Athletics Federations ("the IAAF") is the international federation governing athletics worldwide and has its registered seat in Monaco.
2. The First Respondent, All Russia Athletics Federation ("ARAF") is the national governing body for athletics in Russia and as such, a member federation of the IAAF. ARAF's registered seat is in Moscow, subject to its suspension as mentioned below.
3. The Second Respondent, Svetlana Karamasheva ("the Athlete") is a 29-year old Russian middle-distance runner competing in IAAF international events and thus an International-Level Athlete for the purposes of the IAAF Rules referred to below.

II. FACTUAL BACKGROUND

4. The Sole Arbitrator has taken account of all the Parties' submissions and evidence and the following is a summary to assist in the understanding of the reasoning below. It is not intended as comprehensive and additional matters may later be mentioned if relevant.
 - A. **Blood doping and ABPs**
 5. The World Anti-Doping Agency ("WADA") has defined blood doping as *"the misuse of certain techniques and/or substances to increase one's red blood cell mass, which allows the body to transport more oxygen to muscles and therefore increase stamina and performance"*.
 6. The methods to achieve this are various, and include the injection of human erythropoietin ("rEPO") to trigger erythropoiesis (the stimulation of red blood cells) or infusing synthetic oxygen carriers or the athlete's own previously-extracted red blood cells, or a matching donor's, in order to increase haemoglobin concentration ("HGB").
 7. On the World-Anti Doping Code Prohibited List, rEPO is a Prohibited Substance in class "S2. Hormones and related substances" whilst synthetic oxygen carriers and blood transfusions are Prohibited Methods under class "M1. Enhancement of oxygen transfer".
 8. In 2009, as part of the fight against blood doping, the IAAF introduced Athlete Biological Passports ("ABPs") as developed by WADA, whose web-based database, the Anti-Doping Administration and Management System ("ADAMS") collates athletes' test results and other data including the values of haematological parameters known to be sensitive to changes in red blood cell production.
 9. The values recorded include percentages of reticulocytes, that is, immature red blood cells or "RET%". The ratio of the HGB and the RET% values is used to calculate a further value, known as the "OFF-score", which is sensitive to changes in erythropoiesis.
 10. Marker values from blood samples are fed into a an "Adaptive Model", which uses an algorithm based on the variability of such values within the population generally and for the athlete individually (by reference to gender, ethnic origin, age and so forth) in order to establish a longitudinal profile over a period of time, with upper and lower limits to a quantitative "specificity" of 99%, within which the athlete's values would be expected assuming normal physiological conditions.

11. The Adaptive Model also calculates the probability of abnormality of the sequence of values in the ABP profile. Each time a blood sample is recorded, it calculates where the reported HGB, RET% and OFF-score values fall within the athlete's expected distribution. And after each new test, a new range of expected results for the athlete is determined.

B. The Athlete

12. Between 4 July 2012 and 14 November 2016, the IAAF collected 12 ABP blood samples from the Athlete. Each of the samples was analysed by a WADA-accredited laboratory and logged in ADAMS using the Adaptive Model.
13. A table of the Athlete's ABP 12 sample results, showing the HGB, RET% and OFF-scores, is as follows:

	Date of Sample	HGB (2/dL)	RET%	OFF-score
1 .	14 July 2012	14.80	0.27	116.80
2 .	12 October 2012	14.40	1.24	77.20
3 .	12 October 2012	13.70	1.15	72.70
4 .	20 January 2013	14.70	1.70	68.80
5 .	19 February 2013	15.40	0.89	97.40
6 .	28 February 2013	15.10	1.09	88.40
7 .	8 May 2013	13.60	1.11	72.80
8 .	4 July 2013	14.40	1.11	80.80
9 .	10 August 2013	13.80	1.14	73.90
1 0 .	6 March 2014	15.20	1.07	89.90
1 1 .	6 August 2014	14.20	1.24	75.20
1 2 .	14 November 2016	13.10	1.30	62.60

C. The Expert Panel

14. The Athlete's ABP was submitted for review on an anonymous basis (identified by the code "BPD4135A25") to Professors Yorck Olaf Schumacher, Giuseppe d'Onofrio and Michel Audran, a panel of experts in the fields of (i) clinical haematology (diagnosis of blood pathological conditions); (ii) laboratory medicine and haematology (assessment of quality control data, analytical and biological variability and instrument calibration); and (iii) sports medicine and exercise physiology: ("the IAAF Expert Panel").
15. The IAAF Expert Panel examined the Athlete's ABP and produced a joint report dated 22 February 2017 which noted that there were multiple "outliers" at 99% specificity. More particularly, the First Opinion stated that *"the profile was flagged with abnormalities at 99.0% twice for sample 1 (high OFFscore and low RET% values), once for sample 4 (high RET% value)"* and that the *"sequence for OFF score is abnormal at >99%."*
16. In its assessment of the ABP profile, the joint report focused on sample 1 and the sequence of samples 4-6. It described the abnormality of sample 1 dated 14 July 2012 and relation to the subsequent samples 2 and 3 (of 12 October 2012), as follows:

"In our view, the data sample 1 of the athlete shows clear indication of blood manipulation. Sample 1 indeed, shows a high and abnormal OFF score for a female athlete. This abnormal value is mainly due to the very low and abnormal reticulocyte value. Such pattern is typically observed when the body's blood cell mass has been supra-physiologically increased and its own red blood cell production has subsequently been reduced (low reticulocytes). The configuration is characteristic for the use and discontinuation of an erythropoietic stimulant or the recent application of a blood transfusion (1). This down regulation, which appears some days after a blood infusion or cessation of ESA administration, lasts several weeks while the body's blood cell mass is adjusted back to its normal value (2-3). The fact that the sample in question has been obtained close to competitions increases the suspicion about the observed pattern."

17. As regards the sequence of samples 4, 5 and 6 (of 20 January to 28 February 2013), the joint report stated:

"Sample 4 displays a high and abnormal reticulocyte value. Reticulocytes are slightly immature red blood cells of which the normal range depends on the level of haemoglobin and is around 0.5% to 1.5% for healthy adults. High reticulocytes are the sign of erythropoiesis stimulation that, in this case and due to the normal haemoglobin value for a female athlete, could be the consequence of ESA use and could explain the high haemoglobin values of sample 5, the highest of the profile, one month later, and the one of the subsequent sample 6 obtained a only a few days after sample 5."

18. The joint report concluded with a *"... unanimous opinion that in the absence of an appropriate physiological explanation, the likelihood of the abnormalities described above being due to blood manipulation, namely the artificial increase of red cell mass using for example erythropoiesis stimulating substances, is high ... [and that] the likelihood of environmental factors or a medical condition causing the described pattern is low... [and it*

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is] *highly likely that a prohibited substance or prohibited method has been used and that it is unlikely that the passport is the result of any other cause*".

D. THE ATHLETE'S INITIAL EXPLANATION

19. On 10 April 2017, the Anti-Doping Administrator of the IAAF Athletics Integrity Unit ("the AIU") wrote to the Athlete to report the abnormalities detected in her ABP profile and to notify her that the IAAF was considering bringing charges but they would not be brought until she had been given the opportunity to provide an explanation for the alleged abnormalities by 24 April 2017.
20. On 14 April 2017, the Athlete sent an email to the AIU, together with related medical documentation. By an email dated 18 April 2017, the AIU requested the translation of certain medical documents attached, which she provided by an email dated 20 April 2017, the Athlete provided the requested translations.
21. In her email, the Athlete sought to explain the abnormality in Sample 1 with the fact that she had allegedly suffered a first-term miscarriage (at 5-6 weeks) on 19 May 2012 that is more than 7 weeks before the date of Sample 1 (taken after she had competed in a 1,500 metre race at Yerino). She also mentioned that she had given birth on 17 November 2015 (that is more than a year after the date of sample 11 and about a year before Sample 12) and had then breast-fed the baby.
22. On 29 May 2017, the IAAF Expert Panel issued a further (second) joint report which considered and rejected the Athlete's explanations since:
 - (a) an uncomplicated first term miscarriage is not expected to cause any significant change in hematological parameters and the lapse of time before the date of Sample 1 would be sufficient to re-equilibrate any possible hematological alteration; and
 - (b) the haematological anomaly observed in sample 1 (low reticulocytes, indicating, suppressed red blood cell production, with high OFF score and hemoglobin) is the opposite of what would have occurred in the unlikely hypothesis of a recent and heavy blood loss associated with a miscarriage (low haemoglobin with reactive increase in reticulocytes) and is characteristic of the OFF phase subsequent to the discontinuation of an erythropoietic stimulating agent ("ESA") such as EPO or to a blood transfusion.
23. The Athlete's explanation based on her baby's delivery in November 2015 was dismissed as irrelevant as the ABP sample results did not include any samples taken in 2015 and sample 12 dated 14 November 2016 was normal.
24. The second joint report concluded:

"In summary, the arguments forwarded by the Athlete cannot explain the hematological abnormalities in the BPD4135A25 ABP Passport. In contrast, it is typical to observe such features assuming blood manipulation, notably an artificial increase in red blood cell mass, likely caused by intake of erythropoiesis stimulating substances and/or blood transfusion...We therefore confirm our previous opinion that it is highly unlikely that this profile is the result of a normal

physiological or pathological condition, and it is likely that it was caused by the use of prohibited substances or prohibited methods."

E. THE DISCIPLINARY PROCESS

25. On 7 June 2017, the AIU notified the Athlete *inter alia* of the alleged anti-doping rule violation and that she was provisionally suspended and had the right to request a hearing within 14 days of the notification.
26. The Athlete was told that in view of the suspension of ARAF's membership of the IAAF, her case would be referred to the Court of Arbitration for Sport ("CAS") in Lausanne and ask to state within 21 days her preference as between (i) a Sole Arbitrator of CAS, with the possibility of a further appeal to CAS; or (ii) subject to the consent of all relevant Parties, a CAS Panel for a single hearing in accordance with Rule 38.19 of the IAAF Rules referred to below.
27. By emails from the Athlete to the AIU dated 20 June 2017, she stated that she wished for her case to be adjudicated at first instance by a Sole Arbitrator of CAS.
27. By emails to the AIU dated 18 June 2017 the Athlete had referred again to her miscarriage in early 2012 and later 2015 pregnancy and offered as further explanations for the abnormalities in her ABP:
 - (a) that from 21 March 2012 until 25 April 2012 she had been training at Bostery in Kyrgyzstan at an altitude between 1,650 and 2,000 metres; and
 - (b) that on 9 July 2012, after experiencing "*stomach-ache, bdelygmla and diarrhea*", she had been diagnosed with "*RV GE (rotavirus)*" and treated at the Clinical Medico-surgical Center."
28. The Athlete also alleged that there had been a departure from the ABP testing protocol as the time between her arriving at the doping control station and the blood withdrawal was only 1 hour and 50 minutes and therefore less than the requisite two hours.
49. The IAAF Expert Panel was asked to consider these points and issued a further (third) joint report dated 19 July 2017, stating:
 - (i) as regards the Athlete's miscarriage prior to Sample 1 -

"Collection of sample 1 was carried out on 14.7.2012, more than two months after both the diagnosis of early pregnancy and the date of the first term miscarriage. We can thus exclude that any hypothetical and extremely unlikely interference of such events could have been still visible in the Athlete's blood. Moreover, as stated in our previous report, such hypothetical effects of pregnancy or excessive blood loss would have induced a blood picture of anemia with reactive increase of reticulocytes, which is the opposite of the suppression pattern (relatively high HB with low reticulocytes and increased OFF score) observed in sample 1."
 - (ii) as regards high altitude training a few months prior to Sample 1 -

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"Even if one or two weeks after the end of an altitude stay a slight increase of the OFF score has been described 0,41 the hypothesis of any residual effect of altitude on sample 1 can be dismissed, owing to the simple fact that it was collected two and half months after the end of the Athlete's sojourn at relatively low elevation in Kyrgyzstan."

(iii) as regards gastroenteritis and rotavirus on 9 July 2012 -

"Even in the case of dehydration caused by severe diarrhea and vomiting, the physiologic fluid regulation keeps plasma volume constant and avoids excessive haemo-concentration ... the most abnormal result in sample 1 is the low reticulocyte count (indicating suppressed red cell production), which is a proportional, concentration-independent measure unaffected by the hydration status."

28. The IAAF Expert Panel also noted that (a) the allegation that Sample 1 was collected less than 2 hours after the cessation of exercise, contradicted the information recorded (i) in ADAMS and (ii) on the Doping Control Form as regards the notification time (which is necessarily after the cessation of exercise) and (b) the slightly elevated white blood cell count is consistent with the passage of several hours after intense training.
29. The third joint report concluded that *"the new arguments cannot explain the hematological aberrations ... [and] it is highly unlikely that this profile is the result of a normal physiological or pathological condition, and it is likely that it was caused by the use of prohibited substances or prohibited methods"*

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

30. On 31 July 2017, the IAAF filed a Request for Arbitration with the CAS in accordance with Article R38 of the CAS' Code of Sports-related Arbitration (2016 Edition, "the Code"). The Request for Arbitration contained a statement of facts and legal arguments and included a request for relief.
31. The IAAF asked that the Request for Arbitration be treated as including its Statement of Appeal and Appeal Brief for the purposes of Articles R47 and R51 of the Code, and that the matter be submitted to a Sole Arbitrator.
32. Because of the suspension of ARAF, whilst the matter is to be treated as before CAS at first instance, the appeals arbitration rules under the Code are to apply.
33. On 7 August 2017 the CAS Court Office informed the Parties accordingly and invited the Respondents to submit their Answers.
34. On 1 September 2017, the Sole Arbitrator was appointed and notified to the Parties. In accordance with the 2015 IAAF Rules and pursuant to Article R29 of the Code, the arbitration was conducted in English.
35. On 5 September 2017, the Athlete filed her Answer. ARAF did not file any Answer within the prescribed deadline under Article R55 of the Code or at all

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36. By letter dated 11 September 2017, the Parties were invited to indicate whether they requested a hearing in this matter. The IAAF and the Athlete indicated that they did not, ARAF again failed to respond.
37. On 18 October 2017, the CAS Court Office issued the Order of Procedure in this matter which it requested the Parties to sign. The IAAF did so on 19 October 2017 and the Athlete on 21 October 2017.
38. The hearing took place on 14 November 2017 at the Lausanne Palace, Lausanne, Switzerland. Ms Pauline Pellaux of CAS was in attendance to assist.
39. The IAAF was represented by Messrs Ross Wenzel and Nicolas Zbinden.
40. The Athlete participated at her request by Skype and telephone accompanied by her legal counsel Mr Moskyin Anatolyevich, her medical expert Professor Victorova Anatolyevna of Omsk State Medical University, and their interpreter Ms Kovalyova Yevgenyevna.
33. At the outset of the hearing the Athlete sought to adduce further written submissions and copy documents, making complaints *inter alia* about transport times and temperature controls, and Samples 2 and 3 both taken on 12 October 2012 with different results. Insofar as those were new, the IAAF opposed their admission and the Sole Arbitrator refused the Athlete's application, for reasons summarised below.
34. The IAAF called as witnesses, by Skype, Professor d'Onofrio and Dr Schumacher of the IAAF Expert Panel and the Athlete called Professor Anatolyevna, similarly, all experts giving their evidence concurrently. The Athlete also gave evidence and made a closing address after her counsel.
36. At the end of the hearing, both Parties confirmed that their rights to be heard had been fully respected.

IV. THE PARTIES' SUBMISSIONS

41. In summary, the IAAF submitted by reference to the IAAF Expert Panel's reports that the Athlete's, in the absence of proper explanation by the Athlete for the abnormalities found, constituted clear and reliable proof of blood doping contrary to the applicable IAAF Rules and that the appropriate sanction was between two and four years.
42. ARAF submitted no response to the Request for Arbitration nor to the various letters from the CAS Court Office referred to above nor any evidence or arguments against the IAAF's contentions.
43. The IAAF sought by way of relief orders that:

"(i) CAS has jurisdiction to decide on the subject matter of this dispute [and] (ii) The Request for Arbitration of IAAF is admissible...

(iii) The Athlete be found guilty of an anti-doping rule violation in accordance with Rule 32.2 (b) of the IAAF Rules [and] (iv) A period of ineligibility of between two and four years be imposed upon the Athlete, commencing on the date of the (final) CAS Award [and] Any period of ineligibility or provisional suspension

effectively served by the Athlete before the entry into force of the CAS award shall be credited against the total period of ineligibility to be served....

(v) The arbitration costs be borne entirely by [ARAF] pursuant to Rule 38 of the IAAF Competition Rules or, alternatively, by the Respondents jointly and severally [and] (vi) The IAAF is awarded a significant contribution to its legal costs."

44. In the Athlete's Answer dated 31 August 2017 and her submissions at the hearing on 14 November 2017 she
- (a) denied blood-doping, saying that over the 4 year period of testing from 2012 to 2016 IAAF official had not raised any issues with her, and maintained the explanations that the apparent abnormalities in her ABP samples resulted from her miscarriage, training at high altitude and rotavirus, and also referred to the birth of her baby on 17 November 2015 and breast-feeding;
 - (b) relied on statements from Professor Victorova and a haematologist, Basilze Irakly Guramovich (who was not offered as a witness) to the effect that the abnormal blood values did not "on their own" or "uniformly" indicate the use of prohibited substances or methods and that sample 1 might have been affected by high altitude training and/or rotavirus infection; and
 - (c) stated that only 1 hour and 50 minutes elapsed between her arrival at the doping control station at the stadium where she had competed and the taking of sample 1 on 14 July 2012, in breach of testing protocols, and sought to raise other alleged breaches as above on the morning of the hearing, so as to dispute the sample findings
45. By way of relief, the Athlete asked that she be not disqualified.

V. JURISDICTION

46. Rule 38.3 of the 2012 IAAF Rules provides:

"... If a hearing is requested by an Athlete, it shall be convened without delay and the hearing completed within two months of the date of notification of the Athlete's request to the Member If the Member fails to complete a hearing within two months, or, if having completed a hearing, fails to render a decision within a reasonable time period thereafter, the IAAF may impose a deadline for such event. If in either case the deadline is not met, the IAAF may elect, if the Athlete is an International-Level Athlete, to have the case referred directly to a single arbitrator appointed by CAS. The case shall be handled in accordance with CAS rules (those applicable to the appeal arbitration procedure without reference to any time limit for appeal). The hearing shall proceed at the responsibility and expense of the Member and the decision of the single arbitrator shall be subject to appeal to CAS in accordance with Rule 42..."

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47. As a consequence of the suspension of its membership:
- (a) ARAF is and remains in no position to conduct proceedings in respect of the IAAF's charge against the Athlete by way of delegated authority from the IAAF pursuant to Rule 38 of the IAAF Rules; and
 - (b) the IAAF is entitled pursuant to Rule 38.3 of the IAAF Rules to refer the case of the Athlete to CAS, to be heard in the first instance by a Sole Arbitrator.
48. It follows that CAS has jurisdiction over the present matter and the present case was and is to be dealt with in accordance with the Code.

VI. ADMISSIBILITY

49. Pursuant to Rule 47 of the IAAF Rules, the statute of limitation for anti-doping rule violation proceedings is "*ten years from the date on which the anti-doping rule violation is asserted to have occurred.*"
50. The samples the basis of the present proceedings were collected from the Athlete between 14 July 2012 and 14 November 2016 and (because of samples 1 dated 14 July 2012 and samples 4-6 between 20 January and 28 February 2013) the Athlete was charged and provisionally suspended on 7 June 2017.
51. The Request for Arbitration dated 31 July 2017 was not subject to a specified time limit and was made with reasonable expedition given the need to examine the ABP results and seek an explanation from the Athlete. It included all of IAAF's arguments and evidence sufficient to constitute IAAF's Statement of Appeal and Appeal Brief for the purposes of R47 and R51 of the Code.
52. The IAAF's Request for Arbitration was and is therefore admissible.

VII. APPLICABLE LAW

53. Article R58 of the Code provides the following:
- "The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".*
54. As an International-Level Athlete participating in IAAF events, the Athlete is bound by the IAAF's Rules.
55. The current IAAF's Anti-Doping Rules which entered into force on 3 April 2017 provide by Rule 21.3 that anti-doping rule violations committed prior to that date are subject to the rules (including procedural rules) in place at the time of the alleged violation.

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56. The relevant IAAF Competition Rules in force at the time of the anti-doping rule violations alleged against the Athlete were in Chapter 3 of the 2012-2013 IAAF Competition Rules effective from 1 November 2011 ("the IAAF Rules").
57. The IAAF Rules include the following:
- Rule 30.1 - "... the Anti-Doping Rules shall apply to the IAAF, its Members and Area Associations and to Athletes, Athlete Support Personnel and other Persons who participate in the activities or Competitions of the IAAF, its Members and Area Associations by virtue of their agreement, membership, affiliation, authorisation or accreditation."
 - Rule 42.23 - "In all CAS appeals involving the IAAF, CAS and the CAS Panel shall be bound by the IAAF Constitution, Rules and Regulations (including the Anti-Doping Regulations)".
 - Rule 42.24 - "In all CAS appeals involving the IAAF, the governing law shall be Monegasque law and the arbitrations shall be conducted in English, unless the parties agree otherwise".
58. Accordingly, the IAAF Rules are applicable in this case and Monegasque law applies on a subsidiary basis.

VIII. MERITS

A. THE ANTI-DOPING VIOLATION

59. Rule 32.2(b) of the IAAF Rules forbids the use or attempted use of Prohibited Substances or Prohibited Methods. Under IAAF Rule 33.3, this may be proved by any reliable means "including, but not limited to, evidence of third persons, witness statements, experts' reports, documentary evidence and conclusions drawn from longitudinal profiling".
60. Blood doping and the nature and effect of an athlete's ABP have been considered in many previous CAS cases, including CAS 2010/A/2235; CAS 2012/A/2773; CAS 2014/A/3614 & 3561; CAS 2016/O/4463; CAS; CAS 2016/O/4469; and CAS 2016/O/4481.
61. It is well established under this jurisprudence that the ABP model is a "reliable means" of establishing anti-doping rule violations: see for example paragraph 13 of CAS 2012/A/2773 - "Systems which make use of these longitudinal profiles have evolved to become widespread and highly effective means of detecting EPO doping" and paragraphs 278-9 of CAS 2014/A/3614 & 3561 in which the Panel stated that it was "convinced that the ABP Model is a reliable and a valid mean of establishing an ADRV... numerous peer-reviewed applications have confirmed the ABP's reliability...".
62. In this case, the Sole Arbitrator accepts the IAAF's submission that the Athlete's ABP profile as analysed by the Expert Panel, in the absence of any viable explanation by the Athlete, constitutes satisfactory evidence that the Athlete has committed the anti-doping rule violation charged in breach of IAAF Rule 32.2(b). These are reliable means for that purpose.

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63. In particular:
- (a) Sample 1 is a clear example of the so-called OFF-phase, combining a relatively high HGB value (14.8 g/dL) and low RET% (0.27), resulting in a very high OFF-score value (116.80) symptomatic of the use and discontinuation of an ESA;
 - (b) the high RET% value in Sample 4 followed by the high HGB values in Samples 5 and 6 was indicative of erythropoietic stimulation; and
 - (c) in addition to the individual outliers (samples 1 and 4), the OFF-score sequence of the Athlete is abnormal at a specificity of more than 99%.use and discontinuation of an ESA and in addition,
64. The Athlete offered no acceptable pathological or environmental explanation for the abnormal blood values found, leaving unsubstantiated denials of doping. The Expert Panel adequately refuted any realistic possibility that her miscarriage, high altitude training and/or rotavirus affected Sample 1 results and even Professor Victorova did not, in the hearing, consider them significant.
65. In particular:
- (i) the miscarriage would, if anything, have produced the opposite constellation of blood values i.e. low HGB and low RET% (and it was only after being confronted with this that the Athlete said that the miscarriage did not result in "*a big blood loss*");
 - (ii) her return from altitude testing was two and a half months prior to the first sample and any slight impact on the Athlete's blood values would long since have normalised; and
 - (iii) the rotavirus infection (which the Athlete neglected to mention in her initial explanation) could not have had any material effect on the blood values especially regarding the RET% which is not a concentration-based value and therefore is not affected by hydration.
66. The Sole Arbitrator is also satisfied that the taking and testing of the samples complied with the relevant testing Protocols. The records show that Sample 1 was indeed taken 2 hours after the Athlete finished her race event at Yerino.
67. Finally, the Athlete's attempt to raise further complaints on the morning of the hearing on 14 November 2017 were inadmissible, although the Sole Arbitrator accepts that the provision of new written submissions in English was intended to assist.
68. She had been warned in correspondence from the CAS Court Office (by its letter dated 7 August 2017) to include in her Answer all matters relied on and there was no excuse to leave any further points until so late, when it would be difficult for them to be addressed in a fair and orderly way.
69. In particular the Athlete's contention that the relevant documents had not been available on ADAMS was without apparent foundation. The key documents had been attached to the AIU's letters to her and the IAAF's Request for Arbitration dated 31 July 2017; and the Athlete's written and oral submissions of 14 November 2017 attached and referred to some of these documents previously supplied to her, for example the IAAF exhibit 5.

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70. There were no exceptional circumstances to permit the admission of such late evidence under Article R57 of the Code. Moreover there was a real risk of injustice in doing so. Whilst the Sole Arbitrator takes account of the Athlete's difficulties in dealing at the hearing through Skype/telephone and in English, her additional complaints were confused, incomplete by reference to the records, did not vitiate the validity of the samples and were peripheral.
71. The rights of both Respondents to be heard has been fully respected and the Sole Arbitrator is comfortably satisfied that the Athlete was guilty of the violation charged.

B. PERIOD OF INELIGIBILITY

72. The IAAF asked that CAS impose a sanction of between two and four years' ineligibility on the Athlete in accordance with Rules 40.2 and 40.6 of the IAAF Rules.
73. Rule 40.6 states in part that:

"Aggravating Circumstances which may increase the Period of Ineligibility ... If it is established in an individual case involving an anti-doping rule violation other than violations under Rule 32.2(g) (Trafficking or Attempted Trafficking) and Rule 32.2(h) (Administration or Attempted Administration) that aggravating circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable shall be increased up to a maximum of four (4) years unless the Athlete or other Person can prove to the comfortable satisfaction of the hearing panel that he did not knowingly commit the anti-doping rule violation...."

(a) Examples of aggravating circumstances which may justify the imposition of a period of Ineligibility greater than the standard sanction are: the Athlete or other Person committed the anti-doping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person used or possessed multiple Prohibited Substances or Prohibited Methods or used or possessed a Prohibited Substance or Prohibited Method on multiple occasions; a normal individual would be likely to enjoy performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility; the Athlete or other Person engaged in deceptive or obstructing conduct to avoid the detection or adjudication of an anti-doping rule violation. For the avoidance of doubt, the examples of aggravating circumstances referred to above are not exclusive and other aggravating factors may also justify the imposition of a longer period of Ineligibility..."

74. There are a number of established cases in which CAS has imposed sanctions taking account of aggravating circumstances under IAAF Rule 40.6. In particular:
- (i) in CAS 2012/A/2773, as a result of the use of Prohibited Substances or Prohibited Methods on multiple occasions over a protracted period of time as part of a doping scheme or plan, the sanction was increased on appeal from two to four years;

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- (ii) in *CAS 2013/A/3080*, as a result of the use of blood doping as part of a doping scheme the sanction was increased from two years to two years and nine months, even though the athlete had only used prohibited substances or methods over the course of months;
 - (iii) in *CAS 2014/A/3614* the Athlete was sanctioned with a period of ineligibility of three years in respect of her blood doping practices as established by her ABP for doping practices primarily concerning two events (a World Championship in 2009 and a European Championship in 2010); and
 - (iv) in *CAS 2017/O/4980*, the sole arbitrator imposed a 4 year sanction on the basis of aggravating circumstances, namely that "... the Athlete has been involved in a doping plan or scheme from 2011 to 2016. The Athlete's career over the five years appears to have been built on blood doping. Blood doping offences are repetitive and sophisticated by their nature ...".
75. The IAAF submitted that in the light of two aggravating circumstances in this case, namely the use of a Prohibited Substance or Prohibited Method on multiple occasions; and engaging in a doping plan or scheme, it would be reasonable in the circumstances to impose an increased sanction above two years and up to the maximum of four years.
76. Whereas the ABP profile provides only a snapshot of the Athlete's blood values, there is evidence of repeated use of Prohibited Substances and/or Methods: Sample 1 is indicative of the so-called "Off-phase" following the cessation of an ESA prior to competition in order to avoid direct detection and Samples 4-6 indicated the use of an ESA with high RET% followed by elevated HGB in the subsequent samples.
77. Moreover, EPO is typically taken as a course of many weeks, not as a single injection. Professor Schumacher explained that it can increase oxygen supply by 6% and take as much as one minute off the time taken to run 10,000 metres, and proportionately more over lesser distances.
78. As for a doping plan or scheme, an off-phase as indicated by sample 1 in or around competition dates pre-suppose the cessation of an ESA shortly before competition in order to avoid direct detection of the ESA in the sample. Indeed, the use of blood doping techniques. This must necessarily involve advice and support from medical personnel and other third Parties, and has consistently been held by CAS to constitute a doping plan or scheme.
79. Thus in *CAS 2013/A/3080*, the Panel held that the repeated and sophisticated nature of blood doping amounted to an aggravating factor. At paragraph 68 of the Award, it stated that it "*was a repetitive and planned application of drugs (rhEPO) or sophisticated, premeditated reinfusion techniques. Likewise, under these circumstances, it is difficult to conceive that Ms B. acted without the help or assistance of others...*"
80. In the present case the Sole Arbitrator is satisfied that both these features were present, namely the repeated use of a Prohibited Method or Prohibited Substance pursuant to a doping plan or scheme. There is no evidence as to the number of events affected over the 7-month

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period July 2012 to February 2013, or otherwise as to what the violation achieved and as the violation was disputed no mitigation is offered.

81. Accordingly, a judgment must be reached on the scale between two and four years, giving due weight to these aggravating factors but without more specific information. The Sole Arbitrator considers that it is better to guard against any risk of excessive or harsh punishment and to err if at all on the side of caution in fixing the period of ineligibility.

C. CONSEQUENCES

82. Having considered the above and all other relevant matters, the Sole Arbitrator is satisfied that the just, necessary and appropriate period of ineligibility to be imposed on the Athlete for the violation found, in accordance with the IAAF Rules, is 2 ½ (two and a half) years.
83. Rule 40.10 of the 2012-2013 IAAF Rules stipulates, in the relevant parts, as follows:

"Except as provided below, the period of Ineligibility shall start on the date of the hearing decision providing for Ineligibility or, if the hearing is waived, on the date the Ineligibility is accepted or otherwise imposed. Any period of Provisional Suspension (whether imposed or voluntarily accepted) shall be credited against the total period of Ineligibility to be served... (b) If a Provisional Suspension is imposed and respected by the Athlete, then the Athlete shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed."

84. The Athlete was provisionally suspended by the IAAF, starting on 7 June 2017. Consequently, the period of ineligibility of two and a half years should commence on 7 June 2017, and not on the date of the (final) CAS Award.
85. Rule 40.8 of the 2012 IAAF Rules provides that:

"In addition to the automatic disqualification of the results in the Competition which produced the positive sample under Rules 39 and 40, all other competitive results obtained from the date the positive Sample was collected (whether In-Competition or Out-of-Competition) or other anti-doping rule violation occurred through to the commencement of any Provisional Suspension or Ineligibility period shall be Disqualified with all of the resulting Consequences for the Athlete including the forfeiture of any titles, awards, medals, points and prize and appearance money."

86. This rule has been subject to interpretation in CAS jurisprudence, as summarised in CAS 2016/O/4683 at paras 81-85, to the effect that the principle of proportionality requires that the period of disqualification should not be treated as automatically extending to the date of provisional suspension (in the present case, 7 June 2017) in the absence of clear evidence of the use of prohibited substances or methods over the whole of that period or the causing of delay by the Athlete in the results management process.
87. Instead, the period of disqualification should usually only extend to the date of the last time that the Athlete objectively committed a doping offence according to the ABP. Since the

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IAAF submitted that Sample 12 of 14 November 2016 was irrelevant, that was at the latest, Sample 11 on 6 August 2014

88. Considering therefore that there is no evidence that the Athlete was using prohibited substances or methods after 6 August 2014 until her provisional suspension on 7 June 2017 and she is not accountable for the delay until the start of the results management process on investigation by the IAAF, the Sole Arbitrator considers that it would be disproportionate to disqualify her results in that period.
89. However, since the Sole Arbitrator is satisfied that the Athlete's ABP profile shows that the Athlete used prohibited substances or prohibited methods from the date of the first violation on 14 July 2012 until the last relevant violation on 6 August 2014, all her results during that period must be disqualified pursuant to Rule 40.8 of the IAAF Rules.

IX. COSTS

90. The IAAF requested that the arbitration costs be borne entirely by the First Respondent ARAF pursuant to Rule 38.3 of the IAAF Rules (or in the alternative, by the Respondents jointly and severally) and that the IAAF is awarded "a significant contribution" to its legal costs.
91. 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 cost 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. The final account of the arbitration costs may either be included in the award or communicated separately to the parties."
92. Article R64.5 of the Code provides that:

"In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion 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 ... When granting such contribution, the Panel shall take into account the outcome of the proceedings, as well as the conduct and the financial resources of the parties".
94. Generally, although subject to exceptions depending on the circumstances, costs should be awarded to the party who prevails. In the present case that is the IAAF. There are no exceptional grounds in this case.
95. The Sole Arbitrator, taking account of all relevant matters, finds it just to order that, in accordance with the IAAF's primary request, ARAF pay the arbitration costs which shall be determined and separately communicated to the Parties by the CAS Court Office, and that the Respondents be jointly and severally liable for a contribution to the IAAF's costs, fees and expenses, in the sum of CHF 3,000 (three thousand Swiss Francs).

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ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Request for Arbitration filed by the International Association of Athletics Federations against All Russia Athletics Federation and Svetlana Karamasheva on 31 July 2017 is admissible and is upheld.
2. Svetlana Karamasheva is found guilty of an anti-doping rule violation under Rule 32.2(b) of the IAAF Rules.
3. Svetlana Karamasheva is sanctioned with a period of ineligibility of 2½ (two and a half) years starting from 7 June 2017.
4. All competitive results of Svetlana Karamasheva from and including 14 July 2012 until 6 August 2014 are disqualified, with all resulting consequences (including forfeiture of medals, points, and prizes).
5. The arbitration costs, to be determined and separately communicated by the CAS Court Office, shall be borne by All Russia Athletics Federation pursuant to Rule 38.3 of the IAAF Rules.
6. All Russia Athletics Federation and Svetlana Karamasheva are jointly and severally ordered to pay to the International Association of Athletics Federations CHF 3,000 (three thousand Swiss Francs) as contribution towards its legal fees and expenses incurred in connection with this arbitration procedure.
7. All other and further prayers or requests for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 20 December 2017

THE COURT OF ARBITRATION FOR SPORT



Murray Rosen QC

Sole Arbitrator