

# Decision of the FIFA Disciplinary Committee

passed on 3 June 2021

## DECISION BY:

**Mr. Jorge Palacio, Colombia** (Chairman)  
**Mr. Anin Yeboah, Ghana** (Deputy Chairman)  
**Mr. Thomas Hollerer, Austria** (Member)

## ON THE CASE OF:

**Dariya Meshcheryakova, Russia**

(Decision FDD-7836)

## Regarding:

Article 17 of the FIFA Disciplinary Code [2019 ed.] – Doping  
Article 7 of the FIFA Anti-Doping Regulations [2012 ed.] - Use or attempted  
Use of a Prohibited Substance or a Prohibited Method

## I. FACTS OF THE CASE

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the FIFA Disciplinary Committee has thoroughly considered in its discussion and deliberations any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.
2. On 27 March 2013, the player, Dariya Meshcheryakova (hereinafter: “*player*”) provided a urine sample to a Russian Anti-Doping Agency (RUSADA) Doping Control Officer during a doping control in Novogorsk, Russian Federation.
3. The sample taken on this occasion was analyzed in the Moscow laboratory and reported as “*negative*” in the Anti-Doping Administration and Management System (ADAMS) of the World Anti-Doping Agency (WADA), meaning that no prohibited substances were detected.
4. After a WADA-mandated independent commission’s report about a widespread doping system in Russia, in May 2016, Dr Rodchenkov (former director of the Moscow Anti-Doping laboratory) went public with a claim that the Russian Ministry of Sport sponsored a scheme from 2011 to 2015 to dope Russian athletes. The scheme was established to cover up positive doping cases by not following up or reporting Presumptive Adverse Analytical Findings (AAFs) from samples of protected Russian athletes and/or by swapping samples after they were collected but before they were analysed.
5. In October 2017, a whistleblower provided WADA Intelligence and Investigations Unit (I&I) with a copy of the Moscow Laboratory Information Management System (LIMS) database for samples analysed between 1 January 2012 and 31 August 2015 (defined as the 2015 LIMS database). The Russian authorities disputed the authenticity of the 2015 LIMS database and alleged that Dr Rodchenkov manipulated analytical results as part of his own private extortion scheme, not as part of a state-sponsored doping scheme. However, WADA I&I concluded through examination of external sources of information that the 2015 LIMS database was an authentic copy of the actual LIMS database in the Moscow laboratory.
6. In January 2019, the WADA team was allowed into the Moscow laboratory and made forensic copies of the data from the LIMS server. WADA I&I’s and independent forensic experts analysed the Moscow Data (2019 LIMS) and concluded that the Data was intentionally altered prior to and during it being forensically copied by WADA. Discrepancies were identified between the 2015 LIMS database and the 2019 LIMS database.
7. On 23 July 2020, the raw data of the player was provided to the Laboratoire d’analyse du dopage (LAD) in Lausanne, Switzerland.
8. On 5 August 2020, the LAD provided a “*Raw Data Assessment of the Athlete*”, concluding that:

- 1) *The interpretation of the CP-data refers to the presence of furosemide in the sample labeled with code "4089", which is linked to the sample 2782256 via laboratory documentation. The LC-MS/MS data shows also signs of glucuronide-conjugated furosemide (metabolite of furosemide). This target substance is not included in the positive control sample (most obviously due to the lack of rare reference material) and consequently, it cannot be identified in this CP.*
  - 2) *On the basis of the available data from the quality control samples, the analytical batch is acceptable and there are no further analytical questions related to the finding. Regarding routine laboratory reporting, however, no data are available to verify the chain-of-custody information of the sample aliquots.*
  - 3) *The available data supports reporting of an adverse analytical finding and assessing the possibility to conduct further investigations and to pursue an ADRV."*
9. On 11 March 2021, the FIFA Anti-Doping Unit sent a letter to the player via the Russian Football Union. In said letter, the FIFA Anti-Doping Unit held the following:

**"1. Facts to the case**

*You have been investigated because the sample 2782256 was identified as a suspicious sample in the Moscow Laboratory Information Management System (LIMS), and was possibly wrongly reported as a "negative" finding in the World Anti-Doping Agency's (WADA) Anti-Doping Administration and Management System (ADAMS), although having resulted in an adverse analytical finding (AAF) for the prohibited substance Furosemide (S5. Diuretics and Masking Agents). The Raw Data<sup>1</sup> of your sample was assessed by an Independent Laboratory Expert appointed by the FIFA Anti-Doping Unit who concluded that the sample should have been reported as an AAF. The confirmation screening verified the substance Furosemide (S5 Diuretics and Masking Agents). Also, WADA's Intelligence and Investigation department concluded in its assessment that you have committed an anti-doping rule violation (ADRV), but by being a protected athlete, your sample was falsely reported as "negative in ADAMS by the Moscow laboratory<sup>2</sup>.*

*In view of the above-mentioned facts FIFA makes reference to the following documents enclosed with this notification letter on which FIFA intends to rely as evidence in support of its allegations:*

- *Doping Control form, dated 27 March 2013*
- *Lab result report, dated 18 April 2013*
- *Joint Statement of Walker and Broséus – Athlete Meshcheryakova – FIFA, dated 10 November 2020 and its attachments*

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<sup>1</sup> The raw data are the result of sample analysis and indicate whether a substance or metabolite was detected. In an anti-doping case, raw data provide the most compelling evidence and are superior in that regard to LIMS data. Raw data are produced by an analytical procedure and are the evidence considered by a laboratory expert when reporting an Adverse Analytical Finding (AAF).

<sup>2</sup> See Joint Statement of Walker & Broséus - Athlete Meshcheryakova – FIFA – 10 November 2020

**1. Applicable rules**

*The presence of the above-mentioned prohibited substance in your sample constitutes a breach of the FIFA Anti-Doping Regulations (“FIFA ADR”) and may result in you being charged with an anti-doping rule violation of art. 7 FIFA ADR (Use or attempted use by a player of a prohibited substance or a prohibited method). As a consequence you may be sanctioned with a period of ineligibility to play of four years if you cannot establish that the ADRV was not intentional (article 20 para. 1 FIFA ADR).*

**2. FIFA Disciplinary Committee**

*After sending you this notification, the FIFA Anti-Doping Unit will compile your case file and hand it over to the FIFA Disciplinary Committee for further evaluation. The FIFA Disciplinary Committee will inform you that it has opened your case and offer you the opportunity to provide an explanation of this matter.*

*The committee will also decide whether you are to be provisionally suspended from participating in any competition or other activity prior to a final adjudication on your case, depending on the nature of the prohibited substance detected in your sample and other specific circumstances relating to your case (arts 35 and 36 FIFA ADR).*

*In addition, you may voluntarily accept a provisional suspension ten days from the notice of this notification letter (article 37 FIFA ADR).*

**3. Additional information**

*On receipt of this letter, you have the opportunity to admit the anti-doping rule violation and potentially benefit from a reduction of the otherwise applicable period of ineligibility, if the FIFA Disciplinary Committee decides that an anti-doping rule violation has been committed, and/or to provide substantial assistance in discovering or establishing other anti-doping rule violations as set out in article 24 par. 1 FIFA ADR.*

*You also have the opportunity to enter into a case resolution agreement as set out in art. 24 par. 5 FIFA ADR by admitting the anti-doping rule violation and agreeing to the consequences proposed to you by the FIFA Disciplinary Committee.*

*This letter will also be sent to the Head of the FIFA Disciplinary Department, your respective association and to WADA.”*

10. Subsequently, on 25 March 2021, the FIFA Disciplinary Department referred to the disciplinary proceedings opened against the player for the potential breach of Art. 17 FIFA Disciplinary Code (FDC), and that this potential breach should lead to a period of ineligibility.
11. In said letter, the player was further informed that she may be able to obtain a suspension of the consequence if she provides substantial assistance, and admit the anti-doping rule violation(s) and potentially benefit from a significant reduction in the period of Ineligibility and/or seek to enter into a case resolution agreement by admitting the anti-doping rule violation.

12. No position was provided by the player in the scope of the present disciplinary proceedings.

## II. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

1. In view of the circumstances of the case at hand, the FIFA Disciplinary Committee (hereinafter also referred to as: *'the Committee'*) decided to first assess as to whether it is competent to decide on the present matter, and should it be the case, whether the player, Dariya Meshcheryakova, could be held liable and considered responsible for the use or attempted use of a prohibited substance or a prohibited method.

### A. Jurisdiction of the FIFA Disciplinary Committee and Applicable Law

2. First of all, the Committee noted that at no point during the present proceedings did the player challenge its jurisdiction or the applicability of the FIFA Disciplinary Code (FDC).
3. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasise that, in view of arts. 17 and 53 of FDC (2019 Edition) – edition applicable to the present matter as outlined below – the Disciplinary Committee is competent to evaluate any Doping-related violation and to impose sanctions in case of corresponding violations.
4. Further, the Committee recalled that the factual circumstances which led to the possible anti-doping rule violation, in particular the Player's doping control, took place in 2013. Bearing in mind that the current and applicable 2019 edition of the Disciplinary Code entered into force on 15 July 2019, any Doping-related breach should be analysed under the edition of the FDC applicable at that time, namely the 2011 edition.
5. However, as the two versions, the 2011 and 2019 editions, are inherently identical, the Committee considered it irrelevant which edition of the Disciplinary Code to apply and decided to refer to the current version of the FDC, i.e. the 2019 edition.
6. Secondly, with regard to the FIFA Anti-Doping Regulations (ADR), the Committee chose to handle the substantive rules applicable to the case separately from the procedural rules.
7. In this regard, while it understood that the substantive rules of the 2012 ed. of the ADR were those applicable to the present case, the Disciplinary Committee deemed that the present case should be governed by the procedural rules contained in the 2021 version of the ADR, in accordance with art. 88 of the 2021 ed. of the ADR.
8. The above clarified, the Committee decided to begin by recalling the content and the scope of the relevant provisions of the FDC (2019 Edition) and the ADR (2012 Edition) applicable to the present case, this without prejudice that other rules may also be at stake.

### Article 17 of the FIDA Disciplinary Code (2019 edition) – Doping

*“Doping is sanctioned in accordance with the FIFA Anti-Doping Regulations and this Code.”*

9. As clearly stated in this provision, any doping-related infringement should be analysed and sanctioned in accordance with the relevant provision of the FIFA regulations dedicated to Doping, namely the FIFA Anti-Doping Regulations.
10. In this regard, the Committee acknowledged that the letter of charge sent by the FIFA Anti-Doping Unit to the player on 11 March 2021 referred to a potential violation of art. 7 of the ADR, which reads as follows:

### Article 7 of the FIFA Anti-Doping Regulations (2012 Edition) – Use or attempted Use of a Prohibited Substance or a Prohibited Method

*“It is each Player’s personal duty to ensure that no Prohibited Substance enters his body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Player’s part be demonstrated in order to establish an antidoping violation for Use of a Prohibited Substance or a Prohibited Method.”*

### Article 14 of the FIFA Anti-Doping Regulations (2012 Edition) – Imposition of Ineligibility for Prohibited Substances and Prohibited Methods

*“The period of Ineligibility imposed for a violation of arts 6 to 8 (Presence of a Prohibited Substance, Use or attempted Use of a Prohibited Substance or a Prohibited Method, Possession of Prohibited Substances and Methods) shall be two years unless the conditions for eliminating or reducing the period of Ineligibility, as provided under arts 16 to 22 (section 2 of this chapter), or the conditions for increasing the period of Ineligibility, as provided under art. 23 (Aggravating circumstances that may increase the period of Ineligibility), are met.”*

11. This provision applies in case Anti-Doping violation has been established and governs the sanctions to be imposed on the individual in fault. According to Art. 14 of the ADR, the period of ineligibility for violation of Arts. 6 to 8, including the use or attempted use of a prohibited substance, shall be of two years, unless the conditions for eliminating or reducing to the period of Ineligibility are met.
12. In particular, Arts. 17-20 of the ADR provide for three possible ways by means of which the otherwise applicable period of ineligibility can be reduced or eliminated:
  - If the player can establish that she bears no fault or negligence (art. 17), the otherwise applicable period shall be eliminated;
  - If the player can establish that she bears no significant fault or negligence (art. 18), the otherwise applicable period may be reduced, but the reduced period may not be less than one half of the period of Ineligibility otherwise applicable.

- If the player provides substantial Assistance to FIFA or other Anti-Doping bodies, which results in discovering or establishing an Anti-Doping rule violation by another person, the period of Ineligibility normally applicable may be suspended but not more than three-quarters of the otherwise applicable period of Ineligibility.
13. All in all, the aforementioned provisions aim to achieve one of FIFA's statutory objectives, namely the promotion of integrity, ethics and fair play with a view to preventing all methods or practices, such as corruption, doping or match manipulation, which might jeopardize the integrity of matches, competitions, players, officials and member associations or give rise to abuse of association football<sup>3</sup>.
14. The relevant provisions being outlined, the Committee turned its attention to the merits of the case. Furthermore, the Committee recalled that while the burden of proof to establish an Anti-Doping rule violation lies with FIFA, the onus is on the player to establish that she was not at fault or negligent.

## B. Merits of the Dispute

### I. Issues of review

15. The Committee then examined the evidence at its disposal, namely the "*Raw Data Assessment of the Athlete*" provided by the Laboratoire d'analyse du dopage (LAD) Investigative Report along with the different enclosures, as well as the conclusions drawn by FIFA Anti-Doping Unit in the letter of charge, in order to determine whether the player could be held liable and considered responsible for the use or attempted use of a prohibited substance or a prohibited method.
16. In this respect, the Committee recalled that, as per LAD, through its "*Raw Data Assessment of the Athlete*", concluded that:
- The interpretation of the data regarding the urine sample dated 27 March 2013 refers to the presence of a prohibited substance;
  - The data supports reporting of an adverse analytical finding and assessing the possibility to conduct further investigations and to pursue an ADRV.
17. In continuation, the FIFA Anti-Doping Unit notified the player of the ADRV and informed the FIFA Disciplinary Department that a case should be opened against the player for a possible ADRV.
18. In light of the foregoing, the Committee considered that it had to analyse whether the player is responsible for infringing Art. 7 ADR. (2012 Edition), and by corollary Art. 17 FDC (2019 Edition).

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<sup>3</sup> Cf. art. 2 lit. g) of the FIFA Statutes

## II. Did the player breach Art. 7 ADR (2012 ed.)?

19. As a preliminary observation, the Committee noted that this case involved a female Russian football player whose sample collected in 2013 was reported as negative in ADAMS. However, thorough investigations conducted by WADA and FIFA raised doubts about the results of the sample reported as negative. In particular, the said investigations concluded that, based on the Raw Data Assessment of the Athlete, the sample should have been reported as positive for the prohibited substance *Furosemide*.
20. In addition, the case-file suggested that the player was a "protected player"<sup>4</sup> and could therefore take advantage of the "*disappearing positive methodology*" to cover up the positive sample.
21. The above being clarified, the Committee understood that *Furosemide* is known to be one of the most potent masking agents and diuretics to lose weight rapidly. It is a specified substance, prohibited in- and out-of-competition and no matter the route of administration.
22. Moreover, the Committee acknowledged that as the respective sample collected in 2013 was not available for direct reanalysis, a possible charge for the ADRV had to be limited to "*use or attempted use by a player of a prohibited substance*" (Art. 7 ADR – 2012 Edition). In continuation, the Committee recalled that FIFA has to establish an anti-doping rule violation to the comfortable satisfaction of the Adjudicatory Body as per Art. 71 (1) ADR (2012 Edition). In other words, the necessary burden of proof lies with FIFA, which may establish the facts related to anti-doping rule violations "*by any reliable means [...]*" (Art. 72 ADR – 2012 Edition).
23. In this context, the Committee considered the evidence at its disposal, primarily the *Raw Data Assessment of the Athlete*" provided by the LAD, which concluded that the sample of the player should have been reported as an adverse analytical finding as the confirmation screening verified the substance *Furosemide*.
24. In light of these elements, the Committee was comfortably satisfied that a prohibited substance, *Furosemide*, was found in the sample of the player, rendering the player guilty of infringing art. 7 ADR (2012 Edition), and by corollary Art. 17 FDC (2019 Edition). Additionally, the Committee focused on the fact that the player did not provide any response to the letter of charge sent on 11 March 2021 and remained equally silent when disciplinary proceedings were initiated against her a few weeks later. In other words, the player did not refute the allegations against her and did not provide any plausible explanation for them.

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<sup>4</sup> As part of the Russian Ministry of Sport's centralised control over all aspects of the doping plan, the Ministry of Sport developed a list of athletes who would be taking the 'cocktail' as part of their preparation. These athletes were considered protected and their samples would be automatically swapped during the Games – McLaren Report, page 96 ([https://www.wada-ama.org/sites/default/files/resources/files/mclaren\\_report\\_part\\_ii\\_2.pdf](https://www.wada-ama.org/sites/default/files/resources/files/mclaren_report_part_ii_2.pdf)).

25. As a result, the Committee was satisfied with the evidence presented and found the player in breach of arts. 7 ADR (2012 Edition) and 17 FDC (2019 Edition) and deemed that the latter should be sanctioned accordingly.

### III. DETERMINATION OF THE SANCTION

26. Thus, the Committee noted that, in accordance with Art. 14 ADR (2012 Edition) the period of Ineligibility imposed for a violation of Art. 7 ADR (2012 Edition) shall be two years unless the conditions for eliminating or reducing the period of ineligibility or the conditions for increasing the period of Ineligibility are met.

27. In this regard, and as outlined above, the Committee clarified that a player has the possibility to have his sanction reduced or even eliminated if she can establish that she committed no fault or negligence (Art. 17) or no significant fault or negligence (Art. 18) in relation to his ADRV.

28. Having said this, the Committee wished to underline that no position was provided by the player, even though she was invited to do so. The fact that no position was provided made it impossible to analyse the objective and subjective elements in relation to the degree of fault<sup>5</sup>. In this regard, the Committee stressed that while the burden of proof to establish an Anti-Doping rule violation lies with FIFA, the onus is on the player to establish that she was not at fault or negligent.

29. In view of the above, and in particular the player's lack of response/reaction to the opening of the disciplinary procedure, the Committee concluded that the player was guilty of violating Art. 17 FDC (2019 Edition) – “Doping” - and Art. 7 ADR (2012 Edition) – “Use or attempted Use of a Prohibited Substance or a Prohibited Method” – and that she did not establish that she did not commit any (significant) fault or negligence with regard to his ADRV in order to trigger a possible reduction of the sanction.

30. As established above, in accordance with Art. 14 ADR (2012 Edition) the period of ineligibility imposed for a violation of Art. 7 ADR (2012 Edition) shall be 24 months. Furthermore, taking into account that the player did not establish that she did not commit any (significant) fault or negligence with regard to his ADRV, the Committee saw no possibility to reduce this period of ineligibility.

31. In conclusion, the Committee decided to impose a period of ineligibility of 24 months on the player, Mrs. Dariya Meshcheryakova, for violating Art. 17 FDC (2019 Edition) and Art. 7 ADR (2012 Edition). In application of art. 28 (1) ADR (2012 Edition), the period of Ineligibility of 24 months shall start as soon as the decision providing for Ineligibility is communicated to the player.

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<sup>5</sup> Cf. CAS Award 2013/A/3327 Marin Cilic v. International Tennis Federation

### III. DECISION OF THE DISCIPLINARY COMMITTEE

1. **The player, Mrs. Dariya Meshcheryakova, is found responsible for infringing Article 17 of the FIFA Disciplinary Code – 2019 edition, as well as Article 7 of the FIFA Anti-Doping Regulations - 2012 Edition.**
2. **A period of ineligibility of 24 months is imposed on the player, Mrs. Dariya Meshcheryakova. This period of ineligibility commences on the date of notification of the present decision, namely from 19 July 2021 until 19 July 2023.**
3. **The aforementioned sanction covers the participation, in any capacity, in a competition or activity authorised or organised by FIFA or any association, a club or other member organisation of an association, or in competitions authorised or organised by any professional league or any international or national-level competition organisation or any elite or national-level sporting activity funded by a governmental agency.**

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION



**Mr. Jorge Palacio**

Chairman of the Disciplinary Committee

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**NOTE RELATING TO THE LEGAL ACTION:**

This decision can be contested before the FIFA Appeal Committee (art. 57 of the FDC, 2019 edition). Any party intending to appeal must announce its intention to do so in writing within three (3) days of notification of the grounds of the decision. Reasons for the appeal must then be given in writing within a further time limit of five (5) days, commencing upon expiry of the first time limit of three (3) days (art. 56 par. 4 of the FDC, 2019 edition). The appeal fee of CHF 1,000 shall be transferred to the aforementioned bank account on the date of the expiry of the time limit of five days for submitting the reasons for appeal at the latest (art. 56 par. 6 of the FDC, 2019 edition).

**NOTE RELATING TO THE IMPOSITION OF THE SUSPENSION:**

As a member of FIFA, the Football Union of Russia is reminded of its duty to implement this decision and provide FIFA with proof that the period of ineligibility has been imposed on the player, Mrs. Dariya Meshcheryakova, at national level. If the Football Union of Russia does not comply with this decision, the FIFA Disciplinary Committee will decide on appropriate sanctions on the member. This can lead to an expulsion from FIFA competitions.