



**Arbitration CAS 2017/O/4980 International Association of Athletics Federations (IAAF) v. Russian Athletic Federation (RUSAF) & Svetlana Vasilyeva, award of 4 August 2017**

Panel: Mr Markus Manninen (Finland), Sole Arbitrator

*Athletics (race walking)*

*Doping (blood doping based on the ABP)*

*CAS jurisdiction under IAAF Rule 38.3*

*Applicable law*

*Applicable sanction in case of aggravating circumstances*

*Fairness exception applicable to the disqualification of results*

1. Where a national federation is suspended by IAAF, the latter is not in a position to conduct a hearing in a doping case. Against this background, pursuant to Rule 38.3 of the IAAF Anti-Doping Rules (ADR), IAAF can take over the responsibility for coordinating the relevant disciplinary proceedings regarding an international-level athlete and refer directly the matter to the CAS for a hearing subject to an appeal to CAS in accordance with Rule 42 IAAF ADR. In this regard, where the proceedings are based on a request for arbitration for the conduct of a first instance hearing and do not involve an appeal against a decision rendered by a sports-related body, they are considered as ordinary arbitration proceedings, within the meaning, and for the purposes, of the CAS Code. However, in accordance with Rule 38.3 IAAF ADR, these proceedings are handled in accordance with CAS rules applicable to the appeal arbitration procedure without reference to any time limit for appeal.
2. Pursuant to the legal principle of *tempus regit actum*, procedural matters are governed by the regulations in force at the time of the procedural act in question. With respect to the rules applicable to the substantive aspects of the case, subject to the possible application of *lex mitior*, substantive aspects shall be governed by the anti-doping regulations in force at the time of the alleged violations, i.e. the 2012-2013 IAAF Rules in the particular case. The rules in force at the time of the first sample taken shall be applied.
3. The starting point for the length of the ineligibility period under the applicable 2012-2013 edition of the IAAF Rules is two years' ineligibility. Pursuant to CAS case law, aggravating circumstances may justify the imposition of a period of ineligibility greater than the standard sanction of a two-year ineligibility. However, the words "*up to a maximum of four (4) years*" do not mean that a period of ineligibility of four years must be imposed in every case in which aggravating circumstances are present. The appropriate period of ineligibility should be determined taking into account the gravity of the aggravating circumstances and the particular circumstances of the case. A single example of aggravating circumstances may sometimes warrant the maximum period,

while another time multiple examples may call for a lesser penalty only. The fact that the athlete's career appears to have been built on blood doping over a five years period shows the existence of a doping plan or scheme. Blood doping offences are repetitive and sophisticated by their nature. These aggravating circumstances justify a maximum ineligibility period of four years.

4. As to the disqualification of results, CAS panels have deemed that Rule 40.8 in the 2012-2013 IAAF Rules also includes a fairness exception, even though not explicitly mentioned therein, or at least that it cannot be excluded that a general principle of "*fairness*" may be applied in deciding whether some results are to be left untouched even in the absence of an explicit rule to this effect. Pursuant to Rule 40.8 of the 2012-2013 IAAF Rules, the disqualification of results is the main rule, and applying fairness would be an exception. The findings that an athlete has committed an anti-doping rule violation and that his/her anti-doping rule violation can be set on the date of the collection of the first relevant sample, mean that his/her competitive results obtained in the period between this date and the date of collection of the last relevant sample must be disqualified unless fairness requires otherwise. This period may exceed 4 years. Yet, where there is no proof that the athlete has used prohibited substances or methods during 2 consecutive years, fairness requires that the athlete's results in this period remain untouched.

## I. THE PARTIES

1. The International Association of Athletics Federations (the "*Claimant*" or the "*IAAF*") is the international governing body for the sport of athletics recognised as such by the International Olympic Committee. It has its seat and headquarters in Monaco.
2. Russian Athletic Federation (the "*First Respondent*" or "*RUSAF*") is the national governing body for the sport of Athletics in Russia. RUSAF has its registered seat in Moscow and is the relevant Member Federation of the IAAF for Russia.
3. Ms Svetlana Vasilyeva (the "*Second Respondent*" or the "*Athlete*"), born in 1992, is a racewalker of Russian nationality. The Athlete is an International-Level Athlete for the purposes of the IAAF Competition Rules (the "*IAAF Rules*").

## II. FACTUAL BACKGROUND

4. Below is a summary of the relevant facts and allegations based on the parties' written submissions, pleadings, and evidence adduced. Additional facts and allegations found in the parties' written submissions, pleadings, and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present

proceedings, he refers in his Award only to the submissions and evidence he considers necessary to explain his reasoning.

5. The Athlete has been charged with violating Rule 32.2(b) of the IAAF Rules: *“Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method”*.
6. The evidence of the Athlete’s alleged anti-doping rule violation in the matter at hand is based on a longitudinal analysis of her Athlete Biological Passport (“ABP”) and allegedly involves prohibited blood doping since 2011.
7. Between 20 July 2011 and 27 July 2016, the IAAF collected nineteen (19) ABP blood samples from the Athlete, one of which has been considered invalid. Each of the samples was analysed by a laboratory accredited by the World Anti-Doping Agency (“WADA”) and logged in the Anti-Doping Administration & Management System (“ADAMS”) using the Adaptive Model, a statistical model that calculates whether the reported HGB (haemoglobin concentration), RET% (percentage of immature red blood cells – reticulocytes) and OFF-score (a combination of HGB and RET%) values fall within an athlete’s expected distribution.
8. The registered values for HGB, RET% and OFF-score in the Athlete’s respective samples are as follows:

No.	Date of Sample	HGB (g/dl)	RET%	OFF-score
1.	20 July 2011	13.20	1.45	59.80
2.	18 October 2011	12.90	1.85	47.40
3.	17 January 2012	13.80	0.91	80.80
4.	18 January 2012	14.20	0.84	87.00
5.	14 April 2012	14.40	1.11	80.80
6.	16 October 2012	14.00	0.62	92.80
7.	21 November 2012	12.40	1.51	50.30
8.	9 December 2012	12.10	1.81	40.30
9.	21 December 2012	12.00	1.78	40.00
10.	9 July 2013	15.20	0.74	100.40
11.	6 June 2014	14.00	0.45	99.80
12.	15 February 2015	13.70	0.78	84.00
13.	19 March 2015	14.60	1.29	77.90
14.	30 July 2015	13.90	0.88	82.70
15.	29 September 2015	14.10	1.22	74.70
16.	15 October 2015	13.60	1.21	70.00
17.	24 May 2016	12.00	1.62	43.60
18.	24 June 2016	14.00	1.41	68.80
19.	27 July 2016	13.50	1.03	74.10

9. According to the IAAF, sample 11 of 6 June 2014, shaded in light grey in the above table, is invalid.
10. The Athlete's ABP was submitted to a panel of experts for review on an anonymous basis. The expert panel comprised three experts with knowledge in the field of clinical haematology (diagnosis of blood pathological conditions), laboratory medicine and haematology (assessment of quality control data, analytical and biological variability, and instrument calibration), and sports medicine and exercise physiology: Professor Yorck Olaf Schumacher, Professor Giuseppe d'Onofrio and Professor Michel Audran (together the "Expert Panel"). The Expert Panel analysed the Athlete's ABP on an anonymous basis and concluded in its joint opinion dated 18 October 2016 (the "First Joint Expert Opinion") that *"it 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"*.
11. On 7 November 2016, the IAAF Anti-Doping Administrator informed the Athlete that the IAAF was considering bringing charges against the Athlete but that such charges would not be brought until she had been given the opportunity to provide an explanation for the alleged abnormalities.
12. On 20 November 2016, the Athlete sent a letter by e-mail to the IAAF providing explanations for the alleged abnormalities in her ABP profile. The Athlete indicated that her blood values could be explained (1) *"by the intensive training periods on high"*, (2) *"by illnesses that [she] suffered"*, (3) *"by using hypoxic tent"*, and (4) *"by blood loss in menstruation periods"*.
13. On 5 December 2016, the Expert Panel issued a joint report (the "Second Joint Expert Opinion"), in which the Athlete's explanations were considered, concluding as follows: *"(...) the arguments provided at this stage by the athlete do not explain the key abnormalities found in her profile. The likelihood of the described feature being due to blood manipulation, namely the artificial increase of red cell mass using erythropoiesis stimulating substances and/or blood transfusions, is high. On the contrary, the likelihood of environmental factors or a medical condition causing the pattern is low"*. The Expert Panel continued by concluding unanimously that *"based on the information in the passport and the explanations provided by the athlete, it is highly likely the Athlete used a Prohibited Substance or Prohibited Method, and that it is unlikely to find the Passport abnormal assuming any other cause"*.
14. On 13 December 2016, the IAAF notified the Athlete of the alleged anti-doping rule violation, her immediate provisional suspension, and her right to request a hearing. The Athlete was also advised that, in view of the suspension of RUSAF's membership of the IAAF, her case would be referred to the Court of Arbitration for Sport (the "CAS") in Lausanne.
15. More particularly, the Athlete was advised that her case could either be referred to (1) a Sole Arbitrator of the CAS with the possibility of a further appeal to the CAS against such Sole Arbitrator's decision in accordance with IAAF Rule 38.3 or (2) subject to the consent of all relevant parties, to a CAS Panel for a single hearing in accordance with IAAF Rule 38.19. The Athlete was given a deadline of 29 December 2016 to state her preference.

16. By the date of the IAAF's Request for Arbitration, i.e. 13 February 2017, the IAAF had received no response to its letter.

### III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

17. On 13 February 2017, the IAAF filed a Request for Arbitration with the CAS in accordance with Article R38 of the CAS Code of Sports-related Arbitration (2017 edition) (the "*CAS Code*"). The IAAF informed the CAS that its Request for Arbitration was to be considered as the IAAF's Statement of Appeal and Appeal Brief for the purposes of R47 and R51 of the CAS Code. Furthermore, the IAAF requested the matter to be submitted to a Sole Arbitrator. The Request for Arbitration contained a statement of facts and legal arguments and included a request for relief.
18. On 15 February 2017, the CAS Court Office initiated the present arbitration and specified that it had been assigned to the CAS Ordinary Arbitration Division but would be dealt with according to the Appeals Arbitration Division rules. The Respondents were further invited to submit their Answers. Additionally, the First Respondent was invited to forward the letter of the CAS Court Office dated 15 February 2017 and its exhibits to the Second Respondent and both Respondents were invited to communicate the personal postal address of the Second Respondent at their earliest convenience.
19. On 2 March 2017, in accordance with Article R54 of the CAS Code, and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the parties that Mr Markus Manninen had been appointed as the Sole Arbitrator. The parties did not raise any objection as to the constitution and composition of the Panel.
20. On 6 March 2017, the CAS Court Office advised the parties that it had received no communication from the Respondents. Therefore, the CAS Court Office invited the First Respondent to provide confirmation of the fact that the CAS Court Office letter dated 15 February 2017 containing a copy of the Request for Arbitration and its exhibits had been forwarded to the Second Respondent. Alternatively, the Second Respondent was invited to inform the CAS Court Office whether she had received such documents. Finally, the Second Respondent was invited to provide the CAS Court Office with her postal address no later than on 8 March 2017.
21. On 13 March 2017, the CAS Court Office repeated the requests of its letter dated 6 March 2017 to the Respondents.
22. On 23 March 2017, the CAS Court Office informed the parties that it had not received any communication with regard to the requests included in the CAS Court Office's letters dated 15 February 2017, 6 March 2017, and 13 March 2017. The Respondents were again invited to inform the CAS Court Office of whether the Second Respondent had received the letter of the CAS Court Office dated 15 February 2017 and its appendices.

23. On 27 March 2017, RUSAF informed CAS Court Office that it had sent the CAS documentation to the Athlete by mail on 17 February 2017 and on 17 March 2017. According to RUSAF, the Athlete confirmed the receipt of the first letter but had not received the second letter yet. RUSAF provided the CAS Court Office with its cover letters dated 17 February 2017 and 14 March 2017, as well as two other documents in the Russian language.
24. On 3 April 2017, the CAS Court Office invited the parties to confirm their position on whether they prefer that a hearing be held in this matter by 10 April 2017.
25. On 10 April 2017, the IAAF informed the CAS Court Office that its preference is for the matter to be decided on the basis of the written record.
26. On 21 April 2017, the CAS Court Office invited the First Respondent to inform the CAS Court Office on or before 26 April 2017 of the date on which the CAS letter of 15 February 2017 had been delivered to the Second Respondent and to produce any relating evidence of said date in the English language. Furthermore, the Claimant and First Respondent were invited to communicate the personal postal address of the Second Respondent within the same time limit. On the same day, the Claimant provided the CAS Court Office with the Second Respondent's postal address.
27. On 21 April 2017, upon receipt of the Second Respondent's postal address, the CAS Court Office re-sent its letter of 15 February 2017 with appendices to the Second Respondent and invited her to submit an Answer. The CAS Court Office advised that if she remains silent, it will be considered that she has chosen not to file any written submissions in the matter and the Sole Arbitrator would nevertheless proceed with the arbitration.
28. The letter of the CAS Court Office dated 21 April 2017 was served upon the Second Respondent on 26 April 2017. Thus, the 30-day period for the Second Respondent to submit her Answer expired on 26 May 2017. The Second Respondent did not file any submission within the given time limit.
29. On 30 May 2017, the CAS Court Office sent an Order of Procedure to the Parties. It was signed and returned to the CAS Court Office by the Claimant's counsel on 30 May 2017 and by the First Respondent on 1 June 2017. The Second Respondent failed to return a duly signed copy of the Order of Procedure.

## **VI. SUBMISSIONS OF THE PARTIES**

30. The following is a summary of the parties' submissions and does not purport to be comprehensive. However, the Sole Arbitrator has thoroughly considered in its deliberation all of the evidence and arguments submitted by the Parties, even if no specific or detailed reference has been made to those arguments in the following outline of their positions and in the ensuing discussion on the merits.
31. The IAAF submits, in essence, the following:

- The IAAF's case is that the Athlete's ABP profile constitutes clear evidence that the Athlete has committed an anti-doping rule violation in breach of Rule 32.2(b) as follows:
  - The ABP profile contains seven individual "outliers" at a specificity of 99%, one for sample 7 (low OFF-score), one for sample 8 (low OFF-score), one for sample 9 (low OFF-score), two for sample 10 (high HGB and high OFF-score) and two for sample 17 (low HGB and low OFF-score). Sample 20, which is subsequent to the passport submitted to the Expert Panel, also has an HGB level that would have constituted an outlier (low HGB).
  - In addition to the individual outliers, the HGB, RET% and OFF-score sequences of the Athlete are abnormal at a probability of more than 99.9%.
  - Sample 10 is an example of the so-called OFF-phase. The sample was taken on the eve of an important competition *viz.* the European Athletics U23 Championships. The sample reveals high HGB (15.2 g/dl) and low RET% (0.74), resulting in the highest OFF-score value (100.40) in the passport. As explained by the Expert Panel, these values are symptomatic of the use and discontinuation of an erythropoiesis stimulating agent ("ESA") in order to artificially boost red cell mass during competition.
  - Samples 2, 7, 8, 9, and 17 are indicative of either an acute pathological blood loss or, in the absence of the same, of a blood withdrawal. The Athlete has not been able to provide any pathological explanation for these values. Therefore, the only credible explanation for these abnormal values is a blood withdrawal. Moreover, as observed by the Expert Panel, these values are mainly seen far from competition periods (in October 2011, November 2012, and October 2016), which is consistent with blood manipulation schemes.
- In view of the foregoing and, in particular, on the basis of the First Joint Expert Opinion and the Second Joint Expert Opinion, the IAAF submits that the ABP profile of the Athlete constitutes reliable evidence of blood doping, in particular in the period between 2011 and 2016.
- As to the period of ineligibility, the IAAF maintains that the Expert Panel considers that samples 2, 7, 8, 9, 10, and 17 are abnormal in view of the Athlete's ABP profile. The IAAF submits that each of these samples is evidence of individual use violations.
- The IAAF submits that pursuant to Rule 40.8(d)(i) of the IAAF Rules, the violations shall be considered together as a single violation and the sanction imposed shall be based on the violation that carries the most severe sanction.
- As sample 17 was collected on 24 May 2016, it is subject to the 2016 IAAF Rules. According to Rule 40.2 of the 2016 IAAF Rules, a violation of Rule 32.2(b) leads to a period of ineligibility of four years, unless the Athlete can establish that the anti-doping rule violation was not intentional.
- Even if the Sole Arbitrator were to find, for whatever reason, that there was no evidence of doping after 1 January 2015, the IAAF still submits that the Athlete should be subject to a four-year ineligibility period. The fact that the doping occurred over the course of five years, involved different sophisticated methods of blood manipulation, and the

Athlete's ABP profile contains many outliers do indeed constitute aggravating circumstances for the purposes of Rule 40.6 of the 2012 IAAF Rules.

- The IAAF requests that a period of ineligibility of four years be imposed on the Athlete.
- The IAAF submits that in accordance with Rule 40.11 of the 2016 IAAF Rules, the period of ineligibility should commence on the date of the (final) CAS Award.
- Finally, the IAAF submits that the first evidence of an anti-doping rule violation in the ABP profile of the Athlete is sample 2 of 18 October 2011. Pursuant to Rule 40.9 of the 2016 IAAF Rules, all results obtained by the Athlete from the date of collection of sample 2, i.e. 18 October 2011, shall therefore be disqualified, unless fairness requires otherwise. The IAAF submits that it would be inappropriate to apply the fairness exception to an Athlete who has engaged in blood manipulation over the course of years, from 2011 until 2016. Therefore, the Athlete's results must be disqualified from 18 October 2011 until the date of her Provisional Suspension.

32. In light of the above, the IAAF submits the following prayers for relief in the Request for Arbitration:

- “(i) CAS has jurisdiction to decide on the subject matter of this dispute.*
- (ii) The Request for Arbitration of the 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.*
- (iv) A period of ineligibility of four years be imposed upon the Athlete, commencing on the date of the (final) CAS Award. 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) All competitive results obtained by the Athlete from 18 October 2011, through to the commencement of her provisional suspension on 13 December 2016, shall be disqualified, with all resulting consequences (including forfeiture of any titles, awards, medals, profits, prizes and appearance money).*
- (vi) The arbitration costs be borne entirely by the First Respondent pursuant to Rule 38.3 of the IAAF Competition Rules or, in the alternative, by the Respondents jointly and severally.*
- (vii) The IAAF is awarded a significant contribution to its legal costs”.*

33. Although duly invited, neither of the Respondents filed an Answer to the IAAF's Request for Arbitration within the prescribed time limit or thereafter. Pursuant to Article R55 of the CAS Code, the Sole Arbitrator can proceed to make an award in relation to IAAF's claims. Despite the lack of any formal Answer from the Respondents, the legal analysis below will take into account all available relevant information, and is not restricted to the submissions of the IAAF.

## V. ADMISSIBILITY

34. The IAAF's Request for Arbitration complies with all procedural and substantive requirements of the CAS Code. Neither Respondent disputes the admissibility of the IAAF's claims. Accordingly, the Sole Arbitrator deems the claims admissible.

## VI. JURISDICTION

35. The IAAF maintains that the jurisdiction of the CAS derives from Rule 38.3 of the 2016-2017 IAAF Rules, effective from 1 November 2015.
36. The suspension of RUSAF's IAAF membership was confirmed on the occasion of the IAAF Council meeting in Monaco on 26 November 2015. On 17 June 2016 and, more recently, on 1 December 2016, the IAAF Council decided that RUSAF had not met the conditions for reinstatement to membership, and therefore RUSAF's suspension remains in place. As a consequence of its suspension, RUSAF was not in a position to conduct the hearing process of the Athlete's case by way of delegated authority from the IAAF pursuant to Rule 38 of the 2016-2017 IAAF Rules. In these circumstances, it is plainly not necessary for the IAAF to impose any deadline on RUSAF for that purpose.
37. Rule 38.3 of the 2016-2017 IAAF Rules provides as follows:
- "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. Members shall keep the IAAF fully informed as to the status of all cases pending hearing and of all hearing dates as soon as they are fixed. The IAAF shall have the right to attend all hearings as an observer. However, the IAAF's attendance at a hearing, or any other involvement in a case, shall not affect its right to appeal the Member's decision to CAS pursuant to Rule 42. 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. A failure by a Member to hold a hearing for an Athlete within two months under this Rule may further result in the imposition of a sanction under Rule 45".*
38. The Sole Arbitrator notes that the Athlete is an International-Level Athlete and that RUSAF is indeed prevented from conducting a hearing in the Athlete's case within the deadline set by Rule 38.3 of the 2016-2017 IAAF Rules. The Sole Arbitrator confirms that IAAF was therefore permitted to refer the matter directly to a sole arbitrator appointed by CAS, subject to an appeal to CAS in accordance with Rule 42 of the 2016-2017 IAAF Rules. The IAAF and RUSAF also confirmed the jurisdiction of the CAS based on this rule by signing the Order of Procedure.

39. It follows that the CAS has jurisdiction to adjudicate and decide the present matter and that the present case shall be dealt with in accordance with the Appeals Arbitration rules.

## VII. APPLICABLE LAW

40. The IAAF submits that the procedural aspects of these proceedings shall be subject to the 2016-2017 edition of the IAAF Rules and that the substantive aspects of the alleged anti-doping rule violations shall be governed by the IAAF Rules in place at the time of each violation, subject to the possible application of the principle of *lex mitior*. To the extent that the IAAF Rules do not deal with a relevant issue, Monegasque law shall be applied (on a subsidiary basis) to such issue.
41. RUSAF or the Athlete did not put forward any specific position in respect of the applicable law.
42. Article R58 of the CAS Code provides as follows:  
*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to 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 that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.*
43. This provision is in line with Article 187 para 1 of the Swiss Private International Law Act (PILA) which in its English translation states as follows: *“The arbitral tribunal shall rule according to the rules of law chosen by the parties or, in the absence of such choice, according to the law with which the action is most closely connected”.*
44. Rule 42.23 of the 2016-2017 IAAF Rules states as follows:  
*“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). (...)”*
45. Rule 42.24 of the 2016-2017 IAAF Rules further provides as follows:  
*“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”.*
46. Rule 30.1 of the 2016-2017 IAAF Rules reads as follows:  
*“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”.*
47. Based on the above, the applicable laws in this arbitration are the IAAF regulations, in particular the IAAF Rules, and, subsidiarily, Monegasque law.

48. Pursuant to the legal principle of *tempus regit actum*, the Sole Arbitrator is satisfied that procedural matters are governed by the regulations in force at the time of the procedural act in question. As such, procedural matters are governed by the 2016-2017 version of the IAAF Rules.
49. With respect to the rules applicable to the substantive aspects of the case, the IAAF has put forth that, subject to the possible application of *lex mitior*, substantive aspects shall be governed by the anti-doping regulations in force at the time of the alleged violations. The IAAF has noted that the Athlete's ABP is evidence of anti-doping rule violations occurring in 2011-2016. Therefore, each violation shall, in principle, be subject to the rules applicable at the time when the violation was committed. The IAAF has submitted that the IAAF Rules applicable from 2011 until 31 December 2014 were the same, in all material respects, with respect to violations and sanctions and that the same goes for the IAAF Rules applicable from 1 January 2015 onwards. Therefore, for the sake of convenience, the IAAF has in its Request for Arbitration referred to the 2012-2013 IAAF Rules in respect of violations committed between 2011 and the end of 2014 and to the 2016-2017 IAAF Rules for violations committed after 1 January 2015.
50. The Sole Arbitrator notes that the matter concerning rules applicable to ABP cases has been addressed in CAS case law. According to the prevailing doctrine, the rules in force at the time of the first sample taken shall be applied (see e.g. TAS 2010/A/2178 and, in particular, CAS 2016/O/4464, in which the relevant facts were similar to those of the matter at hand).
51. The applicability of the rules in force at the time of the first relevant sample taken has also been confirmed in legal literature in the following manner: “[i]n general, the legal principle of *tempus regit actum* applies, i.e. the Panel shall apply the regulations in force at the moment that the violation occurred. In a case related to the ABP (since the ABP is based on the longitudinal profiling of the athlete's sample) [sic] should coincide with the first sample taken” (MAVROMATI D., The Athlete's Biological Passport (ABP) Program, Bulletin TAS – CAS Bulletin, 2/2011 p. 39.)
52. On the basis of CAS case law and legal literature, the Sole Arbitrator finds that, since samples 1 and 2 were taken in 2011 and since the IAAF Rules in force between 2011 and 31 December 2014 were the same in all material respects, the 2012-2013 version of the IAAF Rules can be regarded as being the applicable law with respect to violations and sanctions, subject to the possible application of the principle of *lex mitior*.
53. As for the sanctions to be applied, the provisions concerning ineligibility under aggravating circumstances in the 2012-2013 IAAF Rules (Rules 40.2 and 40.6) are clearly the *lex mitior* in comparison to the 2016-2017 IAAF Rules (Rule 40.2). The 2012-2013 IAAF Rules allow the Sole Arbitrator to decide on a period of ineligibility within a spectrum of two to four years, whereas the 2016-2017 IAAF Rules set a standard sanction of four years. As in the case of an ABP anti-doping rule violation it is hardly ever possible for an athlete to establish that the violation had been committed unintentionally, no deviation from the four-year period of ineligibility would in principle be possible. As to the disqualification of results, CAS panels have deemed that Rule 40.8 in the 2012-2013 IAAF Rules also includes a fairness exception, even though not explicitly mentioned therein (CAS 2016/O/4464), or at least that it cannot be

excluded that a general principle of “*fairness*” may be applied in deciding whether some results are to be left untouched even in the absence of an explicit rule to this effect (e.g. CAS 2015/A/4005).

54. It follows that the most favourable version of the IAAF Rules for the Athlete is the 2012-2013 version, which shall be applied in the substantive aspects of the matter at hand (similarly CAS 2016/O/4883).

### VIII. MERITS

55. Considering all parties’ submissions, the main issues to be resolved by the Sole Arbitrator are the following:
- A. Did the Athlete violate Rule 32.2(b) of the applicable IAAF Rules?
  - B. In case the first question is answered in the affirmative, what is the appropriate sanction to be imposed on the Athlete?

#### A. Did the Athlete Commit an ADRV?

56. The Sole Arbitrator observes that the following general regulatory framework is relevant as to the merits of the case at hand.

57. The relevant parts of Rule 32 of the 2012-2013 IAAF Rules read as follows:

*“RULE 32 Anti-Doping Rule Violations*

*1. Doping is defined as the occurrence of one or more of the anti-doping rule violations set out in Rule 32.2 of these Anti-Doping Rules.*

*2. 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. The following constitute anti-doping rule violations:*

*(...)*

*(b) Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method*

- (i) it is each Athlete’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 Athlete’s part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.*
- (ii) 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”.*

58. Rules 33.1, 33.2 and 33.3 of the 2012-2013 IAAF Rules read as follows:

*“RULE 33 Proof of Doping*

*Burdens and Standards of Proof*

1. *The IAAF, the Member or other prosecuting authority shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the IAAF, the Member or other prosecuting authority has established an anti-doping rule violation to the comfortable satisfaction of the relevant 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.*
2. *Where these Anti-Doping Rules place the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping 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 Rules 40.4 (Specified Substances) and 40.6 (aggravating circumstances) where the Athlete must satisfy a higher burden of proof.*

*Methods of Establishing Facts and Presumptions*

3. *Facts related to anti-doping rule violations may be established by any reliable means, including but not limited to admissions, evidence of third Persons, witness statements, experts reports, documentary evidence, conclusions drawn from longitudinal profiling and other analytical information”.*
59. The Sole Arbitrator observes that, in its attempt to establish an anti-doping rule violation of the Athlete under IAAF Rule 32.2(b), the IAAF relies on conclusions drawn from longitudinal profiling as shown by the Athlete’s ABP. The IAAF focuses on (i) seven individual outliers at a specificity of 99% (low and high OFF-scores, low and high HGB) (ii) abnormal sequences in HGB, RET% and OFF-score values in the Athlete’s ABP with a probability in excess of 99.9%, (iii) indications of blood withdrawal, as well as (iv) two Joint Expert Opinions and (v) an Additional Statement from the Expert Panel.
60. In the First Joint Expert Opinion, the Expert Panel reached the following conclusion:  
*“Based on these facts and the information available to date, it is our unanimous opinion that, in the absence of an appropriate explanation, the likelihood of the abnormalities described above being due to blood manipulation, namely the artificial increase of red cell mass using erythropoiesis stimulating substances or blood transfusion, is high. On the contrary, the likelihood of environmental factors or a medical condition causing the described pattern is very low.*  
*We therefore conclude that it 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”.*
61. The Athlete has, in her letter dated 20 November 2016, provided different explanations for the abnormal values in her ABP. These are addressed in the following.
- a) *Training at high altitude and sleeping in a hypoxic tent***
62. The Athlete has presented that she has carried out “*intensive training periods on high*”. More particularly, according to the Athlete’s letter dated 20 November 2016, she trained at high altitude and/or slept in an altitude (hypoxic) tent as described below:

*“In 2011 I trained in Kislovodsk on high 1400-1500m from 11.11.11 until 02.12.11. During all that period and until 01.01.12 I slept in a hypoxic tent with 2500m a.s.l.mode.*

*In 2012 I was in Kislovodsk twice from 01.04.12 until 09.05.12 and from 10.11.12 until 02.12.12. During those periods and about a month after the last one I slept as well in a hypoxic tent with 2500m a.s.l.mode. That time my trainings were quite intensive.*

*Year 2013. From 1 May until 20 June I was trained in Kislovodsk (1400 – 1500 m a.s.l.) and I slept in a hypoxic tent with 2500m a.s.l.mode. Then I continued sleeping there until 2 July. From 25 June until 9 July I practiced a little having rest before the competition.*

*In 2014 I practiced in Kislovodsk (1400 – 1500 m a.s.l.) from 1 April until 20 May and I slept in a hypoxic tent with 2500 m a.s.l.mode.*

*From 13 April until 1 May 2015, I stayed as well in Kislovodsk”.*

63. In the Second Joint Expert Opinion, the Expert Panel evaluated the Athlete’s arguments relating to the hypoxia of altitude. The Expert Panel noted that it is well documented in the scientific literature that the hypoxia of altitude can cause changes in markers of the ABP. However, the hypoxia needs to be strong and long enough to stimulate the erythropoietic system. According to the Expert Panel, it is generally recognised that 18 days at ~ 2,500 meters or an equivalent altitude dose is required to trigger measurable changes in the red blood cell system. The Expert Panel added that there is good scientific evidence that even life-long residence at 1,600 meters does not cause any relevant changes in the haematological system. The Expert Panel pointed out that the Athlete stayed at altitudes of 1,400-1,500 for the majority of time. Therefore, the Expert Panel found it unlikely that the stay at the relatively low altitude by the Athlete would have caused the abnormalities in the ABP profile.
64. With regard to the altitude tent, the Expert Panel noted that the literature indicates that the haematologic effect of natural and artificial hypoxia can be similar. However, the exposure time must also be similar, which is often difficult to achieve with artificial hypoxic devices such as tents. Most of the time, the nightly exposure is too short to trigger measurable increases in erythropoiesis. It is generally believed that, depending on the degree of hypoxia, 10 or more hours of continuous exposure is required to increase red cell production. The Expert Panel concluded that studies concerning the haematological effects of exposure using hypoxic devices have shown no or only minor effects on the markers used in the ABP. Therefore, the Expert Panel deemed it highly unlikely that the changes visible in the Athlete’s ABP profile would have been caused by the use of a hypoxic tent alone or in combination with natural altitude at 1,400-1,500 meters.
65. For the sake of completeness, the Expert Panel also related the abnormalities of the profile to the declared altitude exposure. It noted that erythropoietic stimulation features are visible for example in samples 8 and 9, which were obtained on 9 and 21 December 2012, i.e. 7 and 19 days after an altitude sojourn in Kislovodsk. Based on the scientific literature, a slight downregulation of erythropoiesis with higher OFF-scores and lower reticulocytes would be expected at that moment. However, the opposite pattern (low haemoglobin with high reticulocytes) is visible in the ABP, indicating a stimulated erythropoiesis. Such signs are usually observed when the bone marrow is actively producing new red blood cells at the time of

sampling. According to the Expert Panel, it is therefore clear that previous altitude exposure cannot be the explanation for this feature, especially when samples 8 and 9 are compared to sample 10, which was, according to the Athlete, obtained under very similar conditions.

66. The Expert Panel has stated that the Athlete displays an erythropoietic suppression pattern, high haemoglobin and low reticulocytes in sample 10. According to the Athlete's declaration, she stayed at altitude until 20 June 2013, i.e. 20 days prior to the sample. The literature on the topic confirms the possibility of a slight erythropoietic suppression shortly after return from altitude to re-adapt the excessive amount of red cells to the new normoxic environment. The peak of this phenomenon is usually observed about 7 to 14 days after return to sea level. Its magnitude is fairly small with reported average changes of about 10 units. However, sample 10 in the profile features an OFF-score which is between 10 and 60 units higher than many other measures obtained from the same athlete. In the Expert Panel's opinion, it is therefore obvious that the erythropoietic suppression visible in the profile cannot be explained by the declared altitude exposure alone.
67. The Expert Panel has summarised that it is obvious that abnormalities in the ABP profile are highly unlikely to have been caused by any form of altitude or artificial hypoxic exposure. The likelihood of the features described in the Second Joint Expert Opinion being due to blood manipulation, namely the artificial increase of red cell mass using erythropoiesis stimulating substances and/or blood transfusions, is high.
68. RUSAF or the Athlete have not commented on the Second Joint Expert Opinion before or during the arbitration.
69. The Sole Arbitrator has no reason to doubt the convincing Second Joint Expert Opinion, which has not been rebutted by RUSAF or the Athlete. Consequently, the Sole Arbitrator finds that the blood values of Athlete's samples cannot be explained by training or residing at high altitude or by sleeping in an altitude tent.

**b) *Illness***

70. In addition to training at high altitude, the Athlete has suggested in her letter of 20 November 2016 that the abnormalities in her ABP profile would have been caused "*by illnesses that [she] suffered*".
71. The Expert Panel has, according to its Additional Statement dated 25 January 2017, evaluated the Athlete's argument. The Expert Panel has noted that there are no pathologies that would cause abnormalities such as those seen in the profile of the Athlete, namely a disease alternating a stimulated and a suppressed erythropoietic system with associated variations in haemoglobin concentration. The Expert Panel has also paid attention to the fact that the Athlete has neither detailed what pathology she was suffering from, nor provided medical reports or other documentation in support of her allegation. The Expert Panel has concluded that it is highly likely that an illness has not caused the abnormalities observed in the Athlete's ABP profile.

72. RUSAF or the Athlete have not provided further explanations concerning the Athlete's illnesses before or during the current arbitration.
73. The Sole Arbitrator has no reason to doubt the correctness of the Expert Panel's statement, which deems that the abnormalities cannot be explained by illnesses. The Sole Arbitrator finds that the blood values of Athlete's samples cannot be explained by illnesses.

**c) Menstruation**

74. In her letter dated 20 November 2016, the Athlete has also offered "*blood loss in menstruation periods*" as an explanation for the abnormal ABP. She has not, however, detailed the type of menstrual disorder she was purportedly experiencing.
75. The Expert Panel has addressed the effects of menstruation to blood count in its Additional Statement dated 25 January 2017. According to the Expert Panel, it is well known that during the normal monthly bleeding approximately 40 ml of blood is lost. The variation of haemoglobin concentration during the menstrual cycle may range by a maximum of 0.7 g/dl. All authors investigating the topic attribute the observed changes in haemoglobin concentration mainly to hormone induced plasma volume shifts and not to variations in red cell mass itself. Thus, the variation caused by menstruation is, in the words of the Expert Panel, "*not very important and certainly smaller than the variations that might be induced by plasma volume shifts caused by different modalities of exercise*".
76. Heavy menstruation can, according to the Expert Panel, cause blood loss of 80 ml or more. The haemoglobin concentration of blood can be related to the quantity of blood lost through menstruation, but only persistent monthly loss of more than 80 ml will significantly affect this system. The range in magnitude of this association is around -1 g/dl for individuals who lose more than 80 ml regularly. Heavy bleeding of any origin in general can therefore, theoretically, lead to persistently low haemoglobin values, especially if iron stores have been depleted. Relating the Athlete's profile to these facts, the Expert Panel has concluded that it is clear that the variations seen in the ABP profile are much higher than the ones potentially triggered by menstrual blood loss. According to the Expert Panel, it is highly likely that a menstrual disorder has not caused the abnormalities observed in the Athlete's ABP profile.
77. RUSAF or the Athlete have not submitted any counterarguments to the Expert Panel's Additional Statement dated 25 January 2017.
78. The Sole Arbitrator finds the Expert Panel's Additional Statement persuasive. The Sole Arbitrator deems that the abnormalities in the Athlete's ABP profile cannot be explained by her menstruation.

**d) Conclusion**

79. On the basis of all of the above, the Sole Arbitrator is comfortably satisfied by the assessment of the Athlete's ABP that the Athlete has committed an anti-doping rule violation, i.e. the IAAF

succeeded to establish that the abnormal values in the Athlete's ABP were caused by blood doping. The Athlete has failed to prove by a balance of probability that the abnormal values of samples 2, 7, 8, 9, 10, and 17 in her ABP resulted from training and residing at high altitude, illnesses, or menstruation.

80. Consequently, the Sole Arbitrator finds that the Athlete has violated Rule 32.2(b) of the 2012-2013 IAAF Rules.

**B. If an ADRV Has Been Committed, What Is the Sanction?**

**a) *The Duration of the Ineligibility Period***

81. Rule 40.2 of the 2012-2013 IAAF Rules reads, in the relevant parts, as follows:

*“The period of Ineligibility imposed for a violation of Rules (...) 32.2(b) (Use or Attempted Use of a Prohibited Substances or Prohibited Method) (...), unless the conditions for eliminating or reducing the period of Ineligibility as provided in Rules 40.4 and 40.5, or the conditions for increasing the period of Ineligibility as provided in Rule 40.6 are met, shall be as follows: First Violation: Two (2) years’ Ineligibility”.*

82. Rule 40.6 of the 2012-2013 IAAF Rules determines, in the relevant parts, as follows:

*“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(b) (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 to 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.*

*(b) An Athlete or other Person can avoid the application of this Rule by admitting the anti-doping rule violation as asserted promptly after being confronted with the anti-doping rule violation (which means no later than the date of the deadline given to provide a written explanation in accordance with Rule 37.4(c) and, in all events, before the Athlete competes again”.*

83. The starting point for the length of the ineligibility period under 2012-2013 edition of the IAAF Rules is two years' ineligibility. However, the IAAF has put forth that the Athlete should be subject to a four-year ineligibility period because aggravating circumstances are present.

84. RUSAF or the Athlete have not filed any submissions with regard to the length of the period of ineligibility or any other consequence imposed on her. In particular, the Athlete has not submitted that the period of ineligibility should be mitigated for some reason or that aggravating circumstances are not present.
85. Pursuant to CAS case law (*e.g.* CAS 2012/A/2773 and CAS 2013/A/3080), aggravating circumstances may justify the imposition of a period of ineligibility greater than the standard sanction of a two-year ineligibility. However, the words “*up to a maximum of four (4) years*” do not mean that a period of ineligibility of four years must be imposed in every case in which aggravating circumstances are present. The appropriate period of ineligibility should be determined taking into account the gravity of the aggravating circumstances and the particular circumstances of the case. Therefore, a single example of aggravating circumstances may sometimes warrant the maximum period, while another time multiple examples may call for a lesser penalty only.
86. The IAAF has put forth that the fact that (1) the doping occurred over the course of five years, (2) the doping involved different sophisticated methods of blood manipulation, and (3) the Athlete’s ABP profile contained many outliers constitutes aggravating circumstances for the purposes of Rule 40.6 of the 2012-2013 IAAF Rules.
87. The Sole Arbitrator notes that the IAAF’s view on the presence of aggravating circumstances is supported by the First Joint Expert Opinion. The Expert Panel has carried out a haematological evaluation and distinguished separate patterns, one of which (pattern B) involves samples 2, 7, 8, 9, and 17 collected in 2011 (sample 2), 2012 (samples 7-9), and 2016 (sample 17). The Expert Panel has reported the following: “*pattern B: samples 7, 8 and 9, collected in November and December 2012, that is far from the competition season, show lower HB than the previous samples, below 13.0 g/dl; similarly, a low value of HB is observed in sample 2, taken in October 2011, and in sample 17, taken in May 2015 [sic], respectively three months and one week after the last recorded race of those years*”.
88. Regarding sample 10, collected in 2013, the Expert Panel notes the following: “*Pattern C (high HB and OFF score) is typical of the so-called OFF phase of blood doping, and indicates an artificial and supraphysiological increase of the red blood cell mass causing a physiological bone marrow response characterized by moderate suppression of the endogenous reticulocyte (young red blood cell) production. This picture is typically observed in athletes who have suspended the intake of Erythropoiesis Stimulating Agents (ESA) two to three weeks before (...), or after reinfusion of units of stored blood or red blood cells (...). The fact that sample 10 was collected close to a competition strengthens the doping scenario*”.
89. The Sole Arbitrator finds that the IAAF has established 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. For these reasons, the Sole Arbitrator finds that the Athlete has committed a violation of Rule 32.2(b) of the 2012-2013 IAAF Rules under aggravating circumstances pursuant to the IAAF Rule 40.6. As a result, the Sole Arbitrator finds that the Athlete is ineligible for a period of four (4) years.

**b) Commencement of the Ineligibility Period**

90. 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”.*

91. The Sole Arbitrator takes note that the Athlete has been provisionally suspended by the IAAF, starting 13 December 2016. Consequently, the period of ineligibility of four (4) years shall start on 13 December 2016.

**c) Disqualification of Results**

92. Rule 40.8 of the 2012-2013 IAAF Rules reads as follows:

*“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”.*

93. The IAAF has submitted that all results obtained by the Athlete between the date of collection of sample 2, 18 October 2011, and the starting date of her provisional suspension, 13 December 2016, shall be disqualified unless fairness requires otherwise. According to the IAAF, it would be inappropriate not to disqualify all results of an athlete who has engaged in blood manipulation over the course of several years, in this case from 2011 until 2016.

94. As noted above, Rule 40.8 of the 2012-2013 IAAF Rules does not explicitly contain a fairness exception. However, CAS panels have recently deemed that Rule 40.8 of the 2012-2013 IAAF Rules includes a fairness exception (e.g. CAS 2016/O/4464) or at least that it cannot be excluded that a general principle of “fairness” may be applied in deciding whether some results are to be left untouched even in the absence of an explicit rule to this effect (e.g. CAS 2015/A/4005).

95. Pursuant to Rule 40.8 of the 2012-2013 IAAF Rules, the disqualification of results is the main rule, and applying fairness would be an exception. The findings that the Athlete has committed an anti-doping rule violation and that her anti-doping rule violation can be set on the date of the collection of sample 2, i.e. 18 October 2011, mean that her competitive results obtained in the period between 18 October 2011 and 13 December 2016 must be disqualified unless fairness requires otherwise.

96. The Sole Arbitrator finds that the Athlete has engaged in continuous, intentional, and severe violations of the anti-doping regulations which have led to the setting of an ineligibility period of four years based on aggravating circumstances. It has been established that the Athlete's ABP shows abnormalities indicating that the Athlete was engaged in blood doping cycles at least in 2011, 2012, 2013, and 2016. The Athlete did not commit the anti-doping rule violation by accident or even on a single occasion. Instead, she has been engaged in a long-lasting doping scheme with an aim to gain advantage of her unlawful practice. However, there is no proof that the Athlete has used prohibited substances or methods in 2014 and 2015 even though she gave altogether six samples during said years. Fairness requires that the Athlete's results in this period remain untouched.
97. Based on the above and considering, in particular, that RUSAF or the Athlete have not submitted any claims or arguments with respect to the disqualification of results, the Sole Arbitrator considers it justified to disqualify all of the Athlete's results obtained between 18 October 2011 (first abnormal result) and 14 July 2013 (end of the U23 European Athletics Championships) as well as between 24 May 2016 (Sample 17 with abnormal values) and 12 December 2016.

## ON THESE GROUNDS

### **The Court of Arbitration for Sport rules that:**

1. CAS has jurisdiction to hear this dispute and the claims submitted to it are admissible.
2. Ms Svetlana Vasilyeva has violated Rule 32.2(b) of the 2012-2013 IAAF Rules.
3. A period of ineligibility of four (4) years is imposed on Ms Svetlana Vasilyeva starting from 13 December 2016.
4. All competitive results of Ms Svetlana Vasilyeva from 18 October 2011 through to 14 July 2013 and from 24 May 2016 through to 12 December 2016 are disqualified, with all resulting consequences (including forfeiture of any titles, awards, medals, profits, prizes, and appearance money).
5. (...).
6. (...).
7. All other motions or prayers for relief are dismissed.