



Patron:  
His Majesty  
King Constantine

## UIPM DOPING PANEL REVIEW 01/23

Honorary President:  
His Serene Highness  
Prince Albert II of Monaco

To

**Mr. Pavel Sekretev**

C/o:

**Rostov Modern Pentathlon Federation  
Russian Modern Pentathlon Federation**

Copy to: RUSADA

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## Decision of the UIPM Doping Review Panel regarding

### PAVEL SEKRETEV

#### 1. THE PARTIES

**1.1. UNION INTERNATIONALE DE PENTATHLON MODERNE** (“UIPM”), an Association governed by Monegasque Law and formed under Law 1355 of 23 December 2009, is the world governing body for the sport of Modern Pentathlon a multi-disciplinary sport comprising fencing, swimming, horse riding, shooting, and running or any combination thereof. UIPM has its headquarters in the Principality of Monaco. According to § 3.2 of its Statute, among other things the role of UIPM is “promote integrity, ethics and fair-play in the sport of Modern Pentathlon and constituent sports preventing the use and diffusion of any kind of doping”. To pursue this goal, UIPM has implemented, in accordance with UIPM’s responsibility under the World Anti-doping Code, the UIPM Anti-Doping Rules.

**1.1.1.** UIPM is represented by Ms. Fulvia Lucantonio, UIPM Legal Counsel

**1.2. MR. PAVEL SEKRETEV**, born in the Russian Federation, on 9 July 1985, is a Modern Pentathlon athlete (the “**Athlete**”);

**1.2.1.** The Athlete is affiliated with Russian Modern Pentathlon Federation, a National Federation member of UIPM.



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1.2.2. Following ritual notification, the Athlete did not participate to the proceeding.

## 2. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

### Section I – Analysis and notification to the Athlete

- 2.1. The elements set out below are a summary of the main relevant facts as established by the Panel by way of a chronology on the basis of the submissions of the parties. Additional facts may be set out, where relevant, in the other chapters of the present award.
- 2.2. Save as otherwise provided below, terms with capitalized letters shall have the same meaning attributed to them in the UIPM Rules.
- 2.3. The Athlete is competing in Modern Pentathlon and has UIPM International license.
- 2.4. On 2 June 2012, the Athlete provided sample number 2688833 in occasion of an In-Competition testing, in the context of the Russian National Championships in Moscow, Russia ("**Sample**").
- 2.5. The testing authority was the Russian Anti-Doping Agency (RUSADA), Sample collection authority was the Moscow Anti-Doping Centre ("**Moscow Laboratory**").
- 2.6. The Moscow Laboratory did not report any Adverse Analytical Finding ("**AAF**") and falsely reported the sample "*negative*" to ADAMS.
- 2.7. Subsequently, extensive investigations carried out by the World Anti-Doping Agency (WADA) regarding anti-doping report evidenced the existence of a complex scheme aimed at protecting Russian athletes. Such scheme involved a very high number of Russian athletes up to the point that its existence was even admitted by the Russian Minister of Sport in 2018.
- 2.8. As a consequence of the evidence provided in the context of the investigation, the Sample became the subject of further investigation by WADA and UIPM. In such respect, the UIPM relied on the information contained in the Joint Statement of Aaron Richard WALKER & Doctor Julian BROSEUS related to investigation conducted by WADA in relation to the Laboratory Information Management System (LIMS) data and underlying analytical data obtained from the Moscow Laboratory.
- 2.9. In the context of such review, the following emerged:
  - 2.9.1. Following the Initial Testing Procedure (ITP) analysis, and successful Confirmation Procedure (CP), the Sample



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- produced a reportable AAF for Furosemide (the “**Reportable AAF**”);
- 2.9.2.** the Moscow Laboratory estimated the concentration as 0.02 mcg/ml;
- 2.9.3.** the Moscow Laboratory did not report the detection of Furosemide in the Sample to ADAMS.
- 2.10.** According to UIPM, the above is evidenced by the elements listed below:
- 2.10.1.** the data recorded for the Sample in the “2015 Database” matched that as recorded in the “2019 Database”, both of which corroborated the existence of the Reportable AAF;
- 2.10.2.** by using specialised software, appointed independent experts recovered the ITP and CP Raw Data files (collectively the “**Raw Files**”) for the Sample from the Moscow Data. These files confirm that despite the ‘*negative*’ report submitted to ADAMS, the Sample was actually to be considered as ‘*positive*’ in relation to the presence of Furosemide;
- 2.10.3.** the analysis of the Raw Files confirmed the existence of the Reportable AAF.
- 2.11.** As a consequence of the above, in the opinion of UIPM the competent officer, Doctor Timofey Sobolevsky falsely reported the Sample as ‘*negative*’ in ADAMS. Such course of action, along with the evidence contained in the so-called “*Mc Laren Report*” made UIPM conclude that the Athlete as one of the persons subject to special protection under the Russian cover-up scheme.
- 2.12.** Furosemide is a prohibited substance and a Specified Substance listed in the WADA Prohibited List under Section S5 (*Diuretics and Masking Agents*) and was in the WADA Prohibited List at the time of the sampling.
- 2.13.** Following review of the evidence listed above, the UIPM considered that:
- 2.13.1.** the matters set out aforesaid (and detailed in the Joint Statement of Aaron Richard WALKER & Doctor Julian BROSEUS) constitute violation of article 1.2.3 of the UIPM Medical Rules 2012, which reads as follows: “1.2.3 *Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method*”;



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**2.13.2.** as with other anti-doping rule violations, the term “Use” had the meaning of Article 3.2. *Facts related to anti-doping rule* and violations may be established by any reliable means, including admissions.

**2.14.** In consideration of all the above, by means of a notification served to the Athlete and dated 4 June 2021 (“**Notification**”) the Athlete was informed by UIPM of an adverse analytical finding (“**AAF**”) in his sample as a result of the test and invited him to provide a reply within 20 days.

**2.15.** Among other things, by means of the Notification, the Athlete was informed that, in accordance with Article 7.4.1 of the UIPM Rules, the Athlete was provisionally suspended from the date of receipt of the Notification from national and international competitions until this procedure has been completed.

**2.16.** The Athlete did not reply to the Notification.

**2.17.** In the meantime, the UIPM required additional testing of the Raw Data, to be carried out by Dr. Guenter GMEINER of Seibersdorf Labor GmbH of Seibersdorf, Austria. The task was to evaluate data as submitted by UIPM and issue an expert statement about possible occurrence of the detection of doping substances in the data files as recorded by the former WADA accredited Moscow Laboratory. The final report delivered to UIPM is dated 16 August 2021 (“**Gmeiner Report**”).

**2.18.** Among other things, the Gmeiner Report confirmed the presence of Furosemide in the respective sample, with an estimated concentration of 0.02 µg/ml.

**2.19.** Considering the above, UIPM referred the case of the Athlete to the UIPM Doping review panel and requested that it promptly issue a written decision.

### **3. JURISDICTION. APPLICABLE RULES**

#### **Jurisdiction and governing rules**

**3.1.** In accordance with WADA’s World Anti-doping Code, UIPM has implemented its Anti-Doping Rules (“**UIPM Rules**”), in accordance with UIPM’s responsibilities under the Code, and in furtherance of UIPM’s continuing efforts to eradicate doping in sport.

**3.2.** As per §8.1 of the UIPM Rules, the UIPM Doping Review Panel (“**DRP**”) is the responsible body to adjudicate cases relating to violations of the UIPM Rules and, more precisely,



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*has jurisdiction to hear and determine whether an Athlete or other Person, subject to these Anti-Doping Rules, has committed an anti-doping rule violation and, if applicable, to impose relevant Consequences*

- 3.3.** The provisions of the UIPM Rules, entitled “Scope of these antidoping rules”, stipulates that such rules shall apply to, among others:

*all Athletes and Athlete Support Personnel who are members of UIPM, or of any National Federation, or of any member or affiliate organization of any National Federation (including any clubs, teams, associations, or leagues;*

- 3.4.** In the case at hand, the Russian Federation is a member of UIPM and the Athlete is affiliated with the Russian Federation.
- 3.5.** Therefore, the Athlete is bound by the UIPM Rules.
- 3.6.** Pursuant to §8.1.2.2 of the UIPM Rules:

*The Chair of the Doping Review Panel shall appoint either three (3) members (which may include the Chair) or a single adjudicator, who can be the Chair, to hear a case, depending on the nature of the charge and the evidence put forward.*

- 3.7.** In the case at hand, the UIPM Doping Review Panel Chairman chose to decide on this case alone as a single adjudicator, without appointing the panel. In such respect, no challenges have been brought by any of the parties.
- 3.8.** As the facts relating to the case at hand occurred on 2 June 2012:
- 3.8.1.** the asserted Anti-Doping Rules violation occurred in 2012 and shall therefore be governed by the UIPM Medical Rules and Disciplinary Rules in force at the time; and
- 3.8.2.** 2021 UIPM Anti-doping rules currently in force shall govern the procedural aspects of this matter.
- 3.9.** The Athlete did not reply to the Notification and therefore is deemed to have waived the right to a hearing, in accordance with UIPM Rule 8.3.

#### Application of UIPM Rules

- 3.10.** Pursuant to Article 7.4.1 of the UIPM Disciplinary Rules 2012, “an athlete having been found of having committed an anti-doping rule violation shall be disqualified from all competitions the athlete participated since the collection of a positive Sample and from a competition where the anti-doping rule violation occurred or is



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*connected with., All medals, points and prizes achieved at these competitions shall be forfeited. The medals, points and prizes shall be reallocated to the next ranked athlete who moves into the position of the disqualified athlete. The athletes ranked behind move forward accordingly [...].*

- 3.11.** Pursuant to Article 7.8.1. of UIPM Disciplinary Rules 2012 “A ban of two years will be imposed on athletes who are found having violated Articles 1.2.2 (Presence of a Prohibited Substance or its Metabolites or Markers), 1.2.3 (Use or attempted use of a Prohibited Substance or Prohibited Method), 1.2.4 (Refusing or failing to submit to Sample collection), 1.2.6 (Tampering with Doping Control) or 1.2.7 (Possession of Prohibited Substances and Methods) of the UIPM Medical Rules, in or out of competition. Athletes who are found having been doped in such a way a second time shall be banned from 8 years to lifetime from UIPM competitions, in case of aggravated circumstances for lifetime. A third time will result in a lifetime ban from UIPM competitions, unless already so banned before”.
- 3.12.** From a procedural standpoint, it must be also considered that:
- 3.12.1.** under UIPM Rule 16 “No anti-doping rule violation proceeding may be commenced against an Athlete or other Person unless he or she has been notified of the anti-doping rule violation as provided in Article 7, or notification has been reasonably attempted, within ten (10) years from the date the violation is asserted to have occurred”;
- 3.12.2.** the collection of the Sample occurred on 2 June 2012, while the notification of the ADRV 4 June 2021, therefore, before well within the limits of UIPM Rule 16;
- 3.12.3.** therefore, the case can be adjudicated.
- 3.13.** On 31 May 2021, the WADA Executive Committee approved WADA Technical Letter named “*TL24: Minimum Reporting Levels for Certain Diuretics that are known Contaminants of Pharmaceutical Products*” (“**TL24**”), with an effective date of 1 June 2021.
- 3.14.** In accordance with Article 1.1.3 of the International Standard for Laboratories (“**ISL**”), once approved, a Technical Letter becomes an integral part of the ISL and supersedes any previous publication on the same topic, including Technical Document(s) and/or the ISL.
- 3.15.** TL24 identifies 6 (six) named diuretics, including Furosemide, and states in material part as follows: “*at estimated urinary concentrations of 20 ng/mL or less, a diuretic would not be effective to mask the presence of any other Prohibited Substances that may be present in the Sample. Therefore, the new Minimum Reporting Level (MRL) for*



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*the six (6) diuretics identified above, set at 20 ng/mL, will minimize the risk of sanctioning Athletes who test positive due to the use of contaminated medications, without undermining the fight for clean sport[....] The presence in urine of one or more of these six (6) diuretics, namely acetazolamide, bumetanide, furosemide, hydrochlorothiazide, torasemide and triamterene, and their Metabolite(s) / degradation products, at an estimated concentration at or below ( $\leq$ ) 20 ng/mL, shall be reported as a Negative Finding; [....]*.

- 3.16.** The exception to the application of TL24 for certain sports that use weight classes does not apply to Modern Pentathlon.
- 3.17.** According to UIPM Rule 24.7.2 “Any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date, shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, and not by the substantive anti-doping rules set out in these Anti-Doping Rules, unless the panel hearing the case determines the principle of “lex mitior” appropriately applies under the circumstances of the case”.
- 3.18.** Moreover, according to UIPM Rule 24.7.6 “Changes to the Prohibited List and Technical Documents relating to substances or methods on the Prohibited List shall not, unless they specifically provide otherwise, be applied retroactively. As an exception, however, when a Prohibited Substance or a Prohibited Method has been removed from the Prohibited List, an Athlete or other Person currently serving a period of Ineligibility on account of the formerly Prohibited Substance or Prohibited Method may apply to UIPM or other Anti-Doping Organization which had Results Management responsibility for the anti-doping rule violation to consider a reduction in the period of Ineligibility in light of the removal of the substance or method from the Prohibited List”.
- 3.19.** In consideration of the above, it is the opinion of this sole adjudicator that:
- 3.19.1.** while the Sample has been collected before the introduction of TL24, the result of the collection analysis, as confirmed by the Gmeiner Report, shows a presence of Furosemide below the threshold that would now be relevant for the purposes of determining a sample as “positive”;
- 3.19.2.** in consideration of the above, the principle of “Lex Mitior” can nonetheless be applied to the case here discussed; and



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**3.19.3.** the above can be confirmed *a fortiori*, considering that the principle of the *lex mitior* would apply, in principle, also to Athletes already serving a period of ineligibility (and therefore can be applied also to cases that still have to be adjudicated).

## 4. SANCTIONS AND CONSEQUENCES

- 4.1.** In consideration of the above, the Athlete might have committed a doping offence in consideration of the results of the Sample, at the time when testing had been carried out.
- 4.2.** However, according to the principle of the *lex mitior* applicable to the case at hand, the Athlete cannot be sanctioned, as the level of Furosemide evidenced by the analysis of the Sample cannot be anymore considered as an AAF under current regulation.
- 4.3.** In conclusion, no further action should be taken with respect to the pending case involving the Athlete and no sanctions can be imposed with respect to the results of the Sample and the potential AAF.

## 5. RULING

In light of the above, the UIPM Doping Review Panel decides as follows:

- 5.1.** Mr. PAVEL SEKRETEV is acquitted.
- 5.2.** This decision shall be notified by UIPM to the Athlete and to the Anti-Doping Organization of the Athlete. Right of appeal shall be regulated by the UIPM Rule 13.
- 5.3.** The single adjudicator decided that it should not address the “*Financial Consequences*” (a financial sanction imposed for an anti-doping rule violation) due to the above, or to recover any costs associated with present proceeding.
- 5.4.** It also considers that “Public Disclosure” or “Public Reporting” of the fact and terms of this decision on the general public is justified and authorizes it accordingly.

Signed

Dr. Alfonso Parziale – Single Adjudicator

Made in Monaco-Rome, dated 18 May 2023