

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE WORLD ATHLETICS INTEGRITY CODE OF CONDUCT**

Before:  
Mr. Lucas Ferrer (Sole Arbitrator)

**BETWEEN:**

**WORLD ATHLETICS (WA)**

**Applicant**

**and**

**YURY MOISEVICH**

**Respondent**

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**DECISION OF THE DISCIPLINARY TRIBUNAL**

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**I. FACTUAL BACKGROUND**

1. Mr. Yury Moisevich (the “**Head Coach**” or “**Respondent**”) is a 63-year-old athletics coach from Belarus.
2. On 27 July 2021, the Head Coach travelled to Tokyo to attend the Games of the XXXII Olympiad (the “**Olympic Games**”) in his capacity as the Head Coach for athletics and Team Leader of the Belarusian Athletics Federation (the “**BAF**”). He was accredited by the International Olympic Committee (the “**IOC**”) for this purpose.
3. The Head Coach has held this position with the BAF since 2019. While in Tokyo, he was designated as the Team Leader of a team of 31 individuals. This involved the organization and administration of the entire team of athletes and staff.

4. Ms. Krystsina Tsimanouskaya (the “**Athlete**”) is a 100m and 200m Belarusian sprinter. From 2015 to 2021, she represented the BAF in international athletics competitions.
5. The heats and races at the Olympic Games were scheduled to take place between 30 and 31 July 2021 for the 100m and between 2 and 3 August 2021 for the 200m. The Athlete was selected for the 100m and 200m events before she arrived in Tokyo on 27 July 2021.
6. On 30 July 2021, the Athlete competed in heat six of the first round of the Women’s 100m event and finished in fourth place, with a time of 1147s. Based on this result, she did not automatically qualify for the semi-final.
7. On the same day, the Athletics Integrity Unit (“**AIU**”) announced that 18 athletes from the final entries for the Tokyo Olympic Games were not eligible to participate because the minimum testing requirements under Rule 15 of the World Athletics Anti-Doping Rules (the “**WA ADR**”) were not met by “Category A” Federations. The key requirement in Rule 15 WA ADR is that an athlete from a “Category A” country must undergo at least three no-notice out-of-competition tests (urine and blood) conducted no less than 3 weeks apart in the 10 months leading up to a major event.
8. According to this regulation and per the AIU’s announcement, 3 Belarusian athletes were not eligible to participate in the final event due to their failure to meet the minimum testing requirements established by Rule 15 WA ADR.
9. Also on 30 July 2021, the Athlete became aware, upon reviewing her electronic entry information for the Tokyo Olympic Games, that the Women’s 4x400m relay event had been included in her profile. The Athlete had not participated in this specific distance before, neither individually nor in a relay team. Upon this change, the Athlete sent two messages to BAF Covid Liaison Officer, Mr. Arthur Shumak, but he failed to respond.
10. A few hours later without having received a response from Mr. Shumak, the Athlete uploaded a video to her Instagram account (the “**Instagram Video**”). In this video, she voiced her critique regarding the leadership of the BAF in relation to the withdrawal of the Belarusian athletes due to non-compliance with Rule 15 WA ADR testing requirements. Additionally, she addressed her own situation concerning her participation

in the Women's 4x400m relay event and expressed her disappointment with Mr. Shumak for not responding to her messages.

11. The Instagram Video attracted significant attention within the Belarusian media and led to a surge of adverse comments directed towards the Athlete.
12. Approximately 10 minutes after the publication of the Instagram Video, the Athlete received a phone call from Ms. Yevgenia Volodko, the Head Coach of the National Team in Sprints. Following the conversation with Ms. Volodko, the Athlete proceeded to remove the Instagram Video on the same day.
13. On 31 July 2021, the Athlete messaged Mr. Shumak to discuss the possibility of participating in the Women's 100m semi-final.
14. At some point on 31 July 2021, there was a team meeting with the athletes and coaches. The Athlete did not attend, and the various statements submitted by the AIU, appear to diverge in terms of what was discussed at this meeting (see paragraph 20 below).
15. After the team meeting concluded, the Head Coach went to the Athlete's accommodation to speak to her. During this visit, the Head Coach received a phone call from the Belarus Minister of Sport, Mr. Sergey Kovalchuk, who also spoke with the Athlete.
16. Right after the conversation with the Minister of Sport, the Athlete handed the phone back to the Head Coach and decided to record the rest of her conversation with the Head Coach on her own phone. The following statements from the Head Coach have been extracted from the translation of the recording made by the Athlete:

*"Don't put your pride forward. [...] That's how people commit suicide, unfortunately. The Devil grabs them and says, 'You have to prove it to somebody, so jump from a balcony.' [...] Ok, let me go to Dovgalenok, we will withdraw with an injury, and you'll calmly return home."*

*"You can't stay. You will not prove anything with that, neither to yourself nor to others. You will just make the situation worse. Don't touch this thing anymore. Talk to your husband, family, but also... do not inform them. You're a strong person. One's force is to surrender."*

17. On 1 August 2021, the Head Coach exchanged some messages with the Athlete, in which the Athlete enquired about her career prospects in athletics in light of the impact of the Instagram Video. In response, the Head Coach conveyed to the Athlete that he had spoken to the Minister of Sport earlier, assured her that “*everything would be fine*”, and advised the Athlete to concentrate on her preparations for participation in the Women’s 200m event.
18. Also, on 1 August 2021, the Athlete met with Mr. Dmitri Dovgalenok, Vice President of the Belarus National Olympic Committee (the “**NOC**”) at the NOC office.
19. Additionally, on the same day, the Athlete received a call from the NOC Press Secretary, Ms. Viktoria Mennanova. Subsequently, the Athlete gave an interview to a Belarusian national television channel in which she stated that she had an emotional reaction and apologized for the Instagram Video incident.
20. According to the AIU Brief and the Head Coach’s statement (as well as some of the interviews conducted during the investigatory phase of this matter), there was a meeting held on 1 August 2021 amongst several coaches and other personnel from the BAF delegation, where it was decided that the Athlete should be sent home. However, other interviews place this meeting as having occurred on 31 July 2021 (see paragraph 14 above). In any case, all accounts seem to coincide in that there was a determination by those present to remove the Athlete and return her to Belarus after considering the Athlete’s mental state.
21. There is a written report concerning the Athlete’s mental health signed by a Mr. Sergei Osheroov and a Dr. Irina Malevanaya, dated 1 August 2021 (the “**NOC Report**”). It states that, on that same day, the Head Coach had contacted the delegation’s administration team concerning an athlete’s “unstable psycho-emotional condition,” and recounted physical and emotional symptoms, as well as misconduct. It mentions that it was decided by the coaches that it should be requested to the delegation’s management that the athlete be withdrawn from her next event and recounts a 40-minute evaluation that took place with the Athlete in question.<sup>1</sup> According to some of the interviews conducted by

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<sup>1</sup> The translation never mentions the Athlete’s name, nor does it identify her in any clear manner.

the AIU, the NOC Report was presented and discussed at the aforementioned coaches meeting. However, according to the Head Coach's statement, the meeting happened before the Athlete was allegedly evaluated by a doctor and a psychologist.

22. There is also a note from Mr. Ivan Tsikhan, BAF President, to Mr. Dovgalenok, dated 1 August 2021, indicating that “[b]ased on the athletic coaches’ decision and medical staff report on the athlete’s unstable psycho-emotional state, the Belarusian Athletics Federation asks to withdraw Kristina Timanovskaya, National Team athlete from the competitions (200m and 4x400 m relays) in Tokyo Olympics 2020.”
23. It is averred by some interviewees that, at some point after the above-described meeting, the coaches decided that the Athlete should be sent home, but in any case, on 1 August 2021, the Head Coach and Mr. Shumak went to visit the Athlete in her room in the Olympic Village on 1 August 2021. The Athlete again recorded the conversation that took place with her own phone. The translation of the recorded conversation illustrates how the Head Coach and Mr. Shumak informed the Athlete that she had to immediately pack her belongings and leave for the airport.
24. Later in the day, as the Athlete was packing her bags, the Athlete indicated she was visited by Mr. Osherov, who identified himself as a therapist. Following a brief meeting between Mr. Osherov and the Athlete, they left for the airport in a car, accompanied by Mr. Vassily Yurchik, Head of the NOC.
25. During the trip to the airport, the Athlete engaged in telephone conversations with both her grandmother and the Belarus Sport Solidarity Foundation and was advised to approach the police immediately upon her arrival at the airport.
26. When the Athlete arrived at the airport, she sought assistance from local Japanese law enforcement to prevent her from being placed on a flight back to Belarus. The Athlete was interviewed at the airport and then transferred to a hotel where she spent the night.
27. On 2 August 2021, a gathering was convened between the Athlete and multiple representatives from diverse organizations and nation states, with the aim of extending support and providing asylum to the Athlete. Finally, the Athlete formally requested

assistance from Poland, and subsequently, the embassy of Poland contacted her to facilitate the issuance of a visa and arrange a flight to Poland.

28. On or around 6 August 2021, the IOC revoked the Head Coach's accreditation and subsequently expelled him from the Olympic Village on account of his involvement with the Athlete's departure.
29. On 24 August 2021, the Head of the AIU assessed the situation and deemed the circumstances substantial enough to establish a *prima facie* case of a Non-Doping Violation, in accordance with Rule 2.3 of the AIU Reporting, Investigation and Prosecution Rules (the "**RIP Rules**"). The AIU initiated an investigation into the matter concerning potential breaches of WA's Integrity Code of Conduct (the "**Integrity Code**"). Since then, the AIU conducted the investigation pursuant Rule 7 of the RIP Rules and conducted the following interviews with:
  - a. The Athlete on 16 August 2021;
  - b. The Head Coach on 14 September and 15 November 2021;
  - c. Mr. Shumak on 7 September 2021;
  - d. Mr. Tsikhan on 6 December 2021;
  - e. Dr. Artur Kirilov, National Team Doctor, on 20 January 2022;
  - f. Mr. Dovgalenok on 16 September 2022;
  - g. Ms. Volodko on 21 September 2022;
  - h. Ms. Tatiana Nareyko, Belarus High Jump Coach, on 22 September 2022;
30. On 19 January 2023, the AIU issued the Head Coach with a Notice of Charges (the "**Charges**") for Violations of the Honesty, Dignity, and Protect Reputation Integrity Standards (respectively, Rules 3.3.1, 3.3.10, and 3.3.17 of the Integrity Code), and requested that he provide a response to the Charges by no later than 2 February 2023.

31. On 2 February 2023, the Head Coach submitted his response by which he did not admit the Charges, stating that the AIU failed to meet the standard of proof. The Head Coach also informed that he had since reached the retirement age and was no longer active in athletics.
32. The matter was therefore referred to the WA Disciplinary Tribunal (the “**Tribunal**”) for determination of potential consequences for Violations of the Honesty, Dignity, and Protect Reputation Integrity Standards (respectively, Rules 3.3.1, 3.3.10, and 3.3.17 of the Integrity Code).

## II. PROCEEDINGS BEFORE THE DISCIPLINARY TRIBUNAL

33. On 10 February 2023, Mr Lucas Ferrer was appointed by the Chair of the Disciplinary Tribunal, to chair the Disciplinary Panel (the “**Panel**”) determining this disciplinary matter.
34. On 12 April 2023, a preliminary meeting in relation to this matter was held via video conference. In attendance was Ms. Neha Dubey, on behalf of the AIU, and Mr. James, on behalf of the Head Coach.
35. On 14 April 2023, the Chair of the Panel, Mr. Lucas Ferrer, issued the Directions agreed to between the parties in the preliminary meeting for the present procedure, which stated in relevant part:
  - “1.1. *The Applicant shall file its Brief and Exhibits, including all documents and (witness) evidence to be relied upon, by no later than 5pm GMT on 10 May 2023.*
  - 1.2. *The Respondent shall file its Answer Brief and Exhibits, including witness statements from the Athlete and from each other witness (fact and/or expert) that the Respondent intends to rely upon, by no later than 5pm GMT on 7 June 2023.*
  - 1.3. *The Applicant may submit a Reply Brief, responding to the Answer Briefs and producing any rebuttal evidence, by no later than 5pm GMT on 21 June 2023.*

1.4. *Once the written phase of the proceedings is finished, the parties shall discuss the need for a hearing and its modality and shall submit its proposal on this topic to the Chair by no later than 5pm GMT on 3 July 2023. Shortly after analysing the proposal, the Chair shall issue the appropriate procedural directions.”*

36. On 5 May 2023, after receiving a joint request from the parties for a two-week extension to the timetable, in view of their ongoing discussions to reach an informal resolution to this matter, the Chair issued Amended Directions, which stated in relevant part:

*“1.1. The Applicant shall file its Brief and Exhibits, including all documents and (witness) evidence to be relied upon, by no later than 5pm GMT on 24 May 2023.*

*1.2. The Respondent shall file its Answer Brief and Exhibits, including witness statements from the Athlete and from each other witness (fact and/or expert) that the Respondent intends to rely upon, by no later than 5pm GMT on 21 June 2023.*

*1.3. The Applicant may submit a Reply Brief, responding to the Answer Briefs and producing any rebuttal evidence, by no later than 5pm GMT on 5 July 2023.*

*1.4. Once the written phase of the proceedings is finished, the parties shall discuss the need for a hearing and its modality and shall submit its proposal on this topic to the Chair by no later than 5pm GMT on 12 July 2023. Shortly after analysing the proposal, the Chair shall issue the appropriate procedural directions.”*

37. A further three-week extension to stay the proceedings was requested on 22 May 2023 (i.e., until 14 June 2023) and was granted on 24 May 2023.

38. Once more, on 14 June 2023, the parties requested an additional three-week extension to stay the proceedings (i.e., until 5 July 2023), which was granted the same day.

39. On 7 July 2023, considering that the parties had not been successful at coming to an informal resolution to this matter and had jointly proposed a revised procedural timetable, the Chair of the Panel agreed the following:



*“1.1. The Applicant shall file its Brief and Exhibits, including all documents and (witness) evidence to be relied upon, by no later than 5pm GMT on 7 August 2023.*

*1.2. The Respondent shall file its Answer Brief and Exhibits, including all documents and witness statements to be relied upon, by no later than 5pm GMT on 18 September 2023.*

*1.3. The matter be listed for a Directions Hearing in the week commencing 25 September 2023. At the Directions Hearing, the parties shall advise whether a Reply Brief is required, list the matter for hearing and make any other directions relevant for the hearing.”*

40. On 7 August 2023, the AIU, on behalf of WA, filed its Brief and accompanying Exhibits, in accordance with paragraph 1.1. of the Amended Directions, dated 7 July 2023.

41. On 18 September 2023, the Head Coach submitted his Answer Brief, in accordance with paragraph 1.2. of the Amended Directions, dated 7 July 2023.

42. On 3 October 2023, the Panel held a case management conference with the parties and immediately thereafter issued additional Directions, which stated in relevant part:

*“1.1. By no later than 5pm GMT on 6 December 2023, the Applicant shall file a Reply Brief, responding to the Respondent’s Answer Brief and produce any rebuttal witness statements and/or documents.*

*1.2. By no later than 5pm GMT on 6 December 2023, the parties shall further submit to the Disciplinary Tribunal an agreed indicative hearing schedule and an agreed hearing bundle.*

*1.3. The hearing, lasting no more than one day, is to be held via Zoom, at 9am GMT on Wednesday 20 December 2023. An authorised interpreter for translation between Belarusian and English must attend the hearing. Sport Resolutions has agreed to make enquiries on the parties’ behalf and seeking their approval on costs ahead of finalising arrangements.*

*1.4. The parties have agreed that this matter may be determined by myself sitting as sole arbitrator.”*

43. On 4 December 2023, the AIU requested a brief extension to file its Reply Brief (i.e., until 5pm GMT on 11 December 2023). The Chair granted the aforementioned request on 5 December 2023.

44. On 11 December 2023, the AIU filed its Reply Brief.

45. A hearing was held via video conference on 20 December 2023. The Panel was composed of Mr. Lucas Ferrer as Sole Arbitrator and assisted by Sport Resolutions, acting as Secretariat to the Panel.

46. The following individuals were present:

For the Applicant:

Ms. Louise Reilly, Legal Counsel

Ms. Neha Dubey, Legal Counsel, AIU

Ms. Laura Gallo, Case Manager, AIU

Ms. Krystsina Tsimanouskaya, witness

Ms. Maryia Zhurava, Ms. Tsimanouskaya's legal representative

For the Respondent:

Mr. Nick James, Legal Counsel

Mr. Yury Moisevich, Head Coach

47. The Panel was also assisted by two translators during the hearing.

### **III. ARGUMENTS PRESENTED BY THE PARTIES**

#### **A. By the AIU**

48. The AIU submits that the Head Coach's conduct constitutes a Violation of the following Integrity Standards set forth in Rule 3 of the Integrity Code:

*“3.3.1 **Honesty**: to act with utmost integrity and honesty at all times including acting in good faith towards others and with mutual trust and understanding in all their dealings and in particular not to forge any document, falsify any authentic document or use a forged or falsified document;*

*3.3.10 **Dignity**: to safeguard the dignity of individuals and not to engage, (directly or indirectly) in any form of harassment or abuse, whether physical, verbal, mental, sexual or otherwise;*

*3.3.17 **Protect Reputation**: to protect the reputation of World Athletics and not act, or fail to act, in any manner which may:*

- a. adversely affect the reputation of World Athletics or Athletics generally; or,*
- b. bring World Athletics or Athletics generally into disrepute; or,*
- c. be contrary to the objects of World Athletics; or, be prejudicial to, or adversely affect the interests of, World Athletics or Athletics generally.”*

49. Furthermore, the AIU submits that Rule 4.3 of the Integrity Code provides that it shall also be a Violation of the Integrity Code for an Applicable Person *“to attempt, or agree with another person or entity, to act in a manner that would constitute or culminate in the commission of a violation of the Integrity Code, whether or not such attempt or agreement in fact results in a violation.”*

**i. Burden and Standard of Proof**

50. Rule 10.1 of the Disciplinary Tribunal Rules (the “**DT Rules**”) establishes that the AIU bears the burden of establishing the occurrence of a Non-Doping Violation. The requisite level of proof in this context is in the Panel’s comfortable satisfaction. Meanwhile, Rule 10.2 of DT Rules mandates that the Respondent must counter any presumption or substantiate specific facts or circumstances by a balance of probabilities.

51. One of the sources of evidence upon which the AIU relies is the recordings of the conversations held prior to her departure from the Olympic Village, provided by the Athlete to the AIU. The AIU posits that the Panel must determine the weight to be accorded to these recordings by balancing the public interest in discerning the truth over

the private interest that covert recordings should not be relied upon against an individual without their consent.

52. In this respect, the AIU underscores that the contemporaneous evidence is pertinent to determining what the Head Coach's statements were, in addition to corroborating the Athlete's testimony during her interview with the AIU, revealing the Athlete's true emotional state at the relevant time, and informing on the Head Coach's credibility.

53. The AIU has asserted in its Brief that the case's facts are interrelated, and the circumstances should be examined as a whole. By reference to the Integrity Code, the following matters need to be considered and determined in this instance:

ii. **Was the Respondent dishonest in advising the Belarus Sports Minister, the NOC and other BAF officials that the Athlete should be withdrawn from the Olympic Games due to her emotional and psychological state?**

54. The AIU first submits that all the actions undertaken by the BAF and NOC to remove the Athlete from the Olympic Games stem from what the Respondent alleges the Athlete stated in their conversation on 31 July 2021, and maintains that this was a blatant lie from the Head Coach to justify the Athlete's removal.

55. In this sense, in the Respondent's first interview, he said that he was shocked by the Athlete's comments, referring to those made in the recounting of the Instagram Video to the Belarus media, when she said, "*That now they will bully me, I just can throw myself out of the window.*" In his second AIU interview, the Respondent said the following:

*"You see, she had such a viewpoint. And then she says: 'I will throw myself out of the window.' This is why later I started this conversation that 'maybe you should leave'. Because I understood: the athlete lives alone in the room. We cannot control her. Well, with such a statement, you know ... This is a serious statement of a person."*

56. The Applicant notes in its Brief that Mr. Shumak sought to corroborate the Respondent's account, as he mentioned in his interview that he shared a room with the Respondent, and when the Respondent returned from an encounter with the Athlete, he appeared

frightened. According to Mr. Shumak, the Respondent relayed that the Athlete expressed fear, the possibility of going to prison, and even contemplating self-harm, leaving him shocked and unsure of how to respond.

57. Conversely, the Athlete denies ever making such statements. The Applicant alleges an obvious disconnect between the Respondent's recollection of the conversation and the recording of that conversation. What the AIU firmly asserts is that, contrary to the Respondent's argument, there is no evidence to support the claim that the Athlete ever made any statements indicating suicidal thoughts, a willingness to jump from a balcony, or the presence of any psychological problems.

58. Likewise, the Athlete's recollection is also corroborated by the covert recording, during which the Respondent discussed unusual topics, including references to historical figures like Napoleon, and suggested that people who behave in a certain manner might end up taking their own lives. Specifically, the AIU quotes the following statements from the recording:

*"The Orthodox faith says 'accept'. Don't put your pride forward. Your pride will tell you: 'No, don't do it. What are you doing?' And then it starts pulling you down into the Devil's hands and starts twisting you. That's how people commit suicide, unfortunately. The Devil grabs them and says, 'You have to prove it to somebody, so jump from a balcony. Oh, they'll pull their hair and regret it after, saying "it was us who caused it". And you know what's the funniest thing? The people will say: "Stupid girl, she could have lived. What did you prove?"' Ok, let me go to Dovgalenok, we will withdraw with an injury, and you'll calmly return home."*

*"Kristina, you understand, the other way is even worse. Believe me, the other way is worse. Today, we need to smooth things over and remove this unpleasantness, you know? If we don't listen and leave it in place, then we're left with no escape routes at all. You know, with gangrene, you cut off half the leg, otherwise you lose the whole body. Of course, you don't want to lose a leg, but then you have to die if you leave it."*

59. The AIU also alleges that there is no reliable medical evidence to demonstrate that the Athlete was in fact suffering from any condition whatsoever at the material time. The AIU was unable to contact both Mr. Osherov and Dr. Malevanaya refused to cooperate with

the investigation, which the AIU contends is confirmation that the report signed by the aforementioned individuals lacks any evidentiary value. Moreover, as the AIU stated in its Brief, Mr. Osherov's report does not corroborate the Respondent's opinion about the Athlete's mental state and only contains information that must have been recounted to Dr. Malevanaya and Mr. Osherov by the Respondent, not obtained through any professional assessment or considerations regarding treatment, even though Mr. Osherov conducted a 40-minute-long evaluation of the Athlete.

60. The AIU defends that the conclusions that can be drawn from the 1 August 2021 meeting are that the Respondent did not provide any other information to the BAF and NOC officials, that the meeting attendees relied upon the Respondent's representations to draw conclusions about the Athlete's mental state, and that these conclusions were made without any expert medical opinion and without meeting the Athlete themselves, due to the following reasons:
  - a. A lack of a professional medical opinion or diagnosis;
  - b. A lack of detail as to what occurred during the evaluation and what was the proposed course of treatment;
  - c. An absence of information concerning Dr. Malevanaya or Mr. Osherov's qualifications;
  - d. A reference to the same expression attributed to the Head Coach, i.e., that the Athlete *"started expressing thoughts about suicide (jumping out of the window)."*
61. Therefore, the Applicant asserts that the Respondent's statement to Mr. Shumak after the 31 July 2021 meeting, and repeated statements to other BAF and NOC officials on 1 August 2021, were false.
62. The key point for the AIU is that the lie played a crucial role in the decision to remove the Athlete from the Olympic Games. In this sense, the AIU alleges that the Respondent consistently lied by alleging that the Athlete's mental state was of concern and that the only appropriate recourse was to remove her from the Olympic Games. According to the

Applicant, the Athlete's mental state only became an issue once she refused to comply with the Respondent's instructions.

63. Overall, the AIU alleges that the Respondent's conduct is deemed to have been dishonest, lacking in integrity, and an obvious breach of the Honesty Integrity Standard.

iii. **Did the Respondent's conduct towards the Athlete fail to safeguard her dignity and constitute harassment?**

64. The AIU refers to Rule 3.3.10 of the Integrity Code, to suggest that there are two aspects to the Dignity Integrity Standard: (i) safeguarding; and (ii) harassment or abuse. In its Brief, it is stated that the Athlete caused the BAF public embarrassment through the Instagram Video, and when she refused to leave Tokyo upon the Head Coach's instructions to do so, his solution was to disseminate a lie about the Athlete's mental state to justify a decision that he requested the BAF make to withdraw her from the Olympic Games.

65. The AIU notes an evident pattern of misconduct in three key elements: (i) the conversation between the Athlete and the Respondent on 31 July 2021; (ii) the alleged basis for withdrawing the Athlete from competition; and (iii) the subsequent meeting between the Respondent, the Athlete, and Mr. Shumak on 1 August 2021.

66. As previously stated by the AIU, the meeting that occurred on 31 July 2021, serves as the starting point for the Respondent's false claims regarding the Athlete's mental state. The Applicant submits that the audio recording of this meeting is the most reliable source of evidence concerning the conversation's content.

67. In the recording, the Respondent attempts to persuade the Athlete to claim that she is injured and to return to Belarus, whereas the Athlete disagrees with this suggestion and states that she does not believe that she would be able to continue participating in athletics following a return to Belarus. The AIU alleges that the conversation between the Athlete and the Minister of Sport in Belarus was designed to threaten or intimidate the Athlete to not run in the Olympic Games and return home.

68. The AIU alleges that the Respondent's decision to terminate the Athlete's candidacy for the Women's 200m event is seen as an affront to her dignity and her fundamental right to participate. It is also alleged that the decision was not based on merit, preventing the Athlete from competing despite her fitness and qualification through training and selection processes for the Olympic Games. Therefore, the AIU considered such decision a violation of the Athlete's dignity as it relates to her physical ability and eligibility for the event, resulting in her exclusion from a prestigious competition.
69. In relation to the meeting between the Respondent, Mr. Shumak, and the Athlete on 1 August 2021, the AIU reiterates the importance of the recording as the most reliable source of evidence concerning what was said. In this sense, the Applicant states that the Respondent's presence, as well as delivering the message that she had to leave immediately, has the same effect: to threaten, to intimidate, to remind the Athlete of the power dynamic and to reinforce that the Respondent's view was held by the decision-makers of the BAF.
70. In sum, the AIU alleges that the conduct of the Respondent objectively constitutes verbal and mental harassment, it violated the Athlete's dignity, and is an obvious breach of the Dignity Integrity Standard for the following reasons:
- a. He told the Athlete to voluntarily withdraw from competition to save the BAF team embarrassment. When she refused, he actively sought to promote a narrative that the Athlete was mentally and emotionally unwell, which he knew was a lie.
  - b. The timing of the Respondent's conduct was in retaliation to the Athlete posting the Instagram Video, even though she took down the video and gave an interview to a Belarusian national television channel to explain her comments.
  - c. He promoted the lie as demonstrated by the inclusion of this allegation in the questionable NOC Report that does not contain any medical diagnosis and is signed by witnesses who cannot or will not verify its contents.
  - d. He did not actually consult with the Athlete about her continued participation in the Olympic Games and instead presented her with conditions, which she had to comply with if she wanted to maintain her career.



e. As the Head Coach, a BAF official, and someone with a direct line to the Minister of Sport, the Respondent was aware that he was in a position of power and influence over the Athlete. Therefore, his advice to the Athlete on 31 July 2021 to lie about an injury and withdraw from the Olympic Games, what she should say and do to ensure that she was not reprimanded further when she returned to Belarus, and his suggestion that he would vouch for her if she followed his instructions, are particularly intimidating and humiliating for the Athlete, and sought to make her further dependent on the Respondent for protection.

iv. **Did the Respondent's conduct adversely affect the reputation or interest of athletics generally or bring athletics generally into dispute?**

71. Finally, the AIU refers to the Protect Reputation Integrity Standard provided for in Rule 3.3.17 of the Integrity Code, which states that any act or omission which would fail to protect the reputation of WA or athletics generally is a Violation of the Integrity Code.
72. The AIU acknowledges that the Instagram Video, the Athlete's treatment in Belarusian media, her public cry for help to the IOC, and the IOC removing the accreditation from BAF officials and their early return to Belarus, were widely reported in reputable publications and even the subject of an IOC announcement via Twitter, naming not only the Athlete but also the Head Coach and Mr. Shumak. The AIU also argues that any reasonable person in the Respondent's position should have been aware that their behavior towards the Athlete during that period could potentially harm the reputation or broader interest of WA or the sport of athletics as a whole, based on the following reasons:
- a. Instagram is an incredibly popular and international medium. Regardless of the veracity or appropriateness of the Instagram Video, the Respondent should have known and understood that the publicity generated by it meant that his conduct would be equally scrutinized.

- b. The Respondent would have been aware of the media generated in Belarus by the Instagram Video and the Athlete's apology.
  - c. The Respondent clearly considered the matter to be of sufficient importance to discuss it at the meeting held on 31 July 2021 and to lead the discussion with BAF and NOC officials on 1 August 2021.
  - d. The media interest alone should have reinforced the importance of making any decisions about the Athlete in accordance with defined procedures and consistent with their obligations as WA and officials at the Olympic Games. Instead, the Respondent promoted a narrative that was defamatory to the Athlete and sought to silence and exclude her.
  - e. The Respondent was involved in drafting the NOC press release about the Athlete's mental condition despite knowing that the statement was untrue.
73. In conclusion, the AIU contends that when considering the Violations of the Honesty and Dignity Integrity Standards in conjunction with these facts, it becomes apparent that the Respondent acted in an arbitrary manner, contrary to basic principles of both sports and human rights, and with a clear lack of good faith, and that these actions collectively tarnish the reputation of the sport of athletics. Moreover, the Head Coach's behavior constitutes a breach of Rule 4.3 of the Integrity Code, which establishes that it is also a Violation, in and of itself, to attempt, or agree with another person or entity, to act in a manner that would constitute or culminate in the commission of a Violation of the Integrity Code, whether or not such attempt or agreement in fact results in a Violation.

**v. Request for Relief**

74. The AIU, on behalf of WA, asks the Panel to rule as follows:
- a. to determine that the Respondent's breach of the Honesty, Dignity, and Protect Reputation Integrity Standards (respectively, Rules 3.3.1, 3.3.10, and 3.3.17 of the Integrity Code), as well as the Violation of Rule 4.3 of the Integrity Code, are

incredibly serious and egregious offences that undermine the integrity and reputation of the sport of athletics; and

- b. to impose a **period of ineligibility of eight years**, commencing from the date of the Panel's final decision, pursuant to Rules 11.1 through 11.3 of the DT Rules, while taking into account the aggravating factors under Rule 11.2.1 of the DT Rules, as well as the only mitigating factor stated in Rule 11.2.2 of the DT Rules.

## **B. By the Head Coach**

75. The Respondent rejects all the charges set forth by the AIU.
76. The Head Coach alleges in his Answer Brief that he thought he was acting in the Athlete's and the BAF team's best interests due to concerns about the backlash against the Athlete's Instagram Video and the situation back in Belarus, leading him to recommend her withdrawal.
77. The Head Coach maintains that he genuinely believed that the Athlete was in a highly emotional state and not in the correct frame of mind to compete, based on his experience and observations, which were supported by the medical staff's assessment.
78. The Respondent further alleged that his actions were appropriate given the highly charged and difficult situation at hand.
79. Moreover, the Respondent avers that the covert recording is incomplete, and parts of the conversation are missing, whether because the full recording was not provided or because the full conversation was not recorded. As an example, the Head Coach points out that it was the Athlete who brought up the topic of suicide in the conversation. The Respondent denies harassing the Athlete and maintains he acted in her best interests.
80. The Respondent does not accept that the covert recording of the 31 July 2021 meeting is complete and maintains that the burden rests with WA to satisfy the Panel as to the veracity and accuracy of this recording.

81. As a final matter, the Respondent argues that if the events indeed brought the sport into disrepute, this was not a result of his conduct.
82. The Answer Brief is supported by a written statement from the Head Coach, where it is also denied that he led any meetings or was otherwise responsible for the decisions made or the press statement issued once it was decided that the Athlete would be withdrawn.

### **C. By the AIU in Reply**

83. The AIU points out that the Respondent's beliefs about whether he acted appropriately are irrelevant, as his conduct was objectively dishonest, amounted to harassment and a failure to safeguard the Athlete's dignity, and/or adversely affected the reputation of athletics or brought it into disrepute.
84. The Applicant maintains that it was dishonest for the Respondent to rely upon a narrative that the Athlete was somehow unfit to participate in the Olympic Games, as there was no medical evidence in support of his personal assessment of the Athlete's mental state and, therefore, there was no reasonable basis to assume she should be removed. Moreover, the AIU highlights the fact that the Answer Brief was presented with no documentary evidence and/or witness statements in support of the Head Coach's defense, aside from his own witness statement.
85. As to the recordings from 31 July and 1 August 2021, the Athlete will provide testimony at the hearing, regarding how she sent the files containing the recordings from her phone to her lawyer at the Belarus Sports Solidarity Foundation, using a phone number she no longer has access to. Moreover, during the Athlete's interview conducted by the AIU on 16 August 2021, the Athlete spoke about the recordings and agreed to send them to the AIU. Thereafter, on 20 August 2023, the Athlete's lawyer sent various materials via email to the AIU, including two files of audio recordings.
86. Neither the Athlete nor the AIU are aware of how the recordings were made available on YouTube, but there is no apparent difference between the substance of the audio files

provided by the Athlete to the AIU and the audio clip available on YouTube. The AIU considers that this supports its position that the recordings provided are authentic and have not been altered.

87. The AIU contends once again that it is for the Panel to determine the weight to be accorded to the recordings, assessed within the totality of the evidence, but there is no reason for it to doubt the veracity of the recordings. The Respondent does not appear to contest the truth of the recordings, but rather appears to submit that they are incomplete.
88. As to the Respondent's written statement, it only offers bare denials, high-level accounts of the events in question, and is countered by the evidence submitted by the Applicant. The AIU calls into question its reliability for a number of reasons, including that his allegations are inconsistent with the length of the recording, the nature and tone of the conversation, and the respective demeanors of those present during the conversation that occurred on 31 July 2023 between the Head Coach and the Athlete, as well as pointing out inconsistencies with other interviews conducted by the AIU and the Head Coach's explanations concerning the 1 August 2021 meeting. Therefore, the AIU submits that the Respondent's written statement should be given minimal weight by the Panel.

#### IV. PRELIMINARY MATTERS

##### A. Jurisdiction

89. The jurisdiction of the Disciplinary Tribunal is undisputed.
90. In any case, the Head Coach is to be considered an Athlete Support Personnel and/or a person who participated in International Competitions, according to Rule 1.1.6 of the Integrity Code, given his inclusion in the BAF delegation and his participation in the Olympic Games. Pursuant to Rule 2.3 of the Integrity Code, "***the Disciplinary Tribunal shall hear and decide all alleged violations of this Integrity Code of Conduct filed with it by the Integrity Unit***". (emphasis added)

91. Likewise, Rule 6.1 of the DT Rules confers jurisdiction to hear and decide any alleged Non-Doping Violations to the Disciplinary Tribunal.

## **B. Applicable Law**

92. The applicable rules to the present dispute, which neither party questions, are the World Athletics Integrity Code of Conduct in force at the time the alleged Non-Doping Violation occurred (i.e., the 2019 Integrity Code, since the conduct constituting the Non-Doping Violation would have occurred on 31 July 2021 and 1 August 2021).
93. Rule 4.1 of the Integrity Code explicitly stipulates that any breach or non-compliance with the Integrity Standards set out in Rule 3 of the Integrity Code, encompassing any of the Rules referenced within the Integrity Code, constitutes a transgression of the Integrity Code by an Applicable Person.
94. Moreover, as stated above, Rule 4.3 of the Integrity Code provides that “[i]t shall also be a violation of the Integrity Code of Conduct for an Applicable Person to attempt, or agree with another person or entity, to act in a manner that would constitute or culminate in the commission of a violation of the Integrity Code, whether or not such attempt or agreement in fact resulted in a violation.”

## **IV. MAIN ISSUES TO ADDRESS**

95. Having taken into account all of the written and oral submissions presented by the parties, the Panel now turns to analyze the concrete issues before it, specifically:
- a. Was the Head Coach dishonest about the Athlete’s mental state?
  - b. Did the Head Coach’s conduct fail to safeguard the Athlete’s dignity or otherwise constitute abuse or harassment?
  - c. Did the Head Coach’s conduct bring WA and/or the sport of athletics into disrepute or otherwise adversely affect its reputation or interests?

- d. In any case, did the Head Coach violate Rule 4.3 of the Integrity Code?
- e. In view of the conclusions regarding the issues above, what, if any, are the consequences?

96. Per the applicable regulations (Rule 10.1 of the DT Rules), the AIU bears the burden of establishing that a Non-Doping Violation has been committed to the comfortable satisfaction of the Panel. In this respect, the Head Coach argued at the hearing that the allegations concerned are very serious, for which both parties agree that a sliding scale test shall apply: the more serious the allegations and their consequences, the higher certainty and level of proof are needed for the Panel to be comfortably satisfied. Furthermore, Rule 10.2 of the DT Rules establishes that the Head Coach must rebut any presumption or establish specific facts or circumstances by a balance of probabilities.
97. Bearing the foregoing in mind, each alleged Violation shall be addressed in turn.

## **V. MERITS**

98. The Panel now turns to the analysis of the arguments and evidence as put forward by the parties. In doing so, the Panel has considered all of the allegations set forth and refers below only to those elements which are deemed pertinent to decide the matter at hand.

### **A. Was the Head Coach dishonest about the Athlete's mental state?**

99. In order to determine whether there was a breach of the Honesty Integrity Standard (Rule 3.3.1 of the Integrity Code), the Panel must principally rely on the evidence on file.
100. On one hand, WA avers that the Head Coach lied about the Athlete's mental state during the conversations held on 31 July 2021 as a ruse to justify her subsequent withdrawal from competition. To support these contentions, WA principally relies on the Athlete's covert recordings of the conversations, as well as the transcripts, which the Applicant

highlights do not demonstrate that the Athlete ever alluded to contemplations of suicide or an intention to “*jump from a balcony*.” Rather, WA points out that the recordings and transcripts demonstrate that those expressions came from and can be attributed solely to the Head Coach.

101. On the other hand, the Head Coach neither challenges the admissibility of the recordings, nor does he challenge the content of the recordings and transcripts as inaccurate, merely as incomplete. The Head Coach also relies on the interviews provided by other members of the BAF delegation that attest to the Athlete’s altered mental and emotional state at the Olympic Games, as well as documentary evidence that makes reference to the Athlete’s instability and suicidal ideations. It should be noted that this documentary evidence (the note from Mr. Tsikhan to Mr. Dovgalenok and the NOC report from Dr. Malevanaya and Mr. Osherov) was apparently created after the recorded conversation took place between the Head Coach and the Athlete, on 31 July 2021.
102. The Panel notes that, despite the fact that the conversations were recorded without the Head Coach’s consent, they are the only direct source of evidence for the issue at hand. Moreover, in challenging the completeness of the recordings, the Head Coach never denies that the statements that are heard concerning suicidal thoughts or ideations are his. The Head Coach has also not brought forth any convincing evidence concerning the (in)completeness of the recordings and whether, as he alleges, there were further statements from the Athlete alluding to a highly distressed or altered state of mind.
103. However, the Panel takes note of the testimony provided by both the Head Coach and the Athlete concerning the Belarus Minister of Sport’s intervention in the chain of events that unfolded between 31 July and 1 August 2021, namely, the call received from the Minister of Sports on 31 July 2021. This appears to be a key fact in how the events in Tokyo unfolded.
104. In her testimony, the Athlete confirmed that both she and the Head Coach spoke to the Minister of Sport on the phone and acknowledged that the Minister of Sport ordered her to go home. Meanwhile, the Head Coach sustains that the decision to send her home was a collective one, not one that the Head Coach would have made on his own.



Nevertheless, the transcript from the recorded conversation held on 31 July 2021 reflects the following relevant statements from the Head Coach:

*“Did you hear what the Minister said? Well, he told me after. It will be insubordination. Today, it’s not just m[sic] who is suspended, it’s vice president Dovgalenok as well. I’m telling you; do you want to go down in history? He’s also for staying till the end, but it’s no longer possible when things have developed into that... He asked me to have a heart-to-heart talk with you. I thought, maybe the minister ... But it doesn’t all depend on him anymore, unfortunately.*

[...]

*The only thing we can do now is go the way that we are being directed to. Obey. Obey to how it should be.*

[...]

*If we have been offered that, we have to obey and do as we’re told, do you understand?”*

105. In addition, the transcript from the recorded conversation from 1 August 2021 reflects that Mr. Shumak stated: *“The following **order** was received: you are flying home today”* (emphasis added).
106. Finally, it is noted that the Athlete provided testimony during the hearing whereby she indicated that the Respondent had admitted to receiving an order from Minsk to send her home, which she assumed meant the Sports Ministry, and that she was prompted by the Respondent to apologize to the Minister of Sport (it is understood that the apology was in relation to the Instagram Video).
107. The foregoing evidence certainly weakens the allegation that the decision to remove the Athlete was based on a determination made solely by the Head Coach or in consensus with the rest of the BAF delegation’s coaches present and acting of their own accord. Rather, the balance of the evidence strongly suggests this was an order from higher up in the BAF hierarchy (presumably, the Minister of Sport).

108. As to the motivation behind this decision, from the above-quoted evidence, together with additional statements derived from the conversation held on 31 July 2021 between the Head Coach and the Athlete, the Panel is not convinced that the decision was made due to the Athlete's mental or emotional state or any real risk of self-harm at the time. While it would be difficult to believe that the Athlete or another person similarly situated would remain entirely unaffected by the circumstances that occurred prior to and during her conversation with the Head Coach on 31 July 2021, the evidence does not support a finding that she was in such a highly altered mental or emotional state that she should be deemed mentally unfit to compete and was even a potential harm to herself.
109. Instead, statements such as *"it all started with Timanovskaya, she started it all"*, *"It will be insubordination"*, *"it's already out there"*, *"You will do the same mistake again. This has really gone very far. To all sports now."*, *"[...] we will withdraw with an injury, and you'll calmly return home."*, *"You see, it turned out well that you apologised to the minister."* from the Head Coach, and *"[...] you are to blame for the accusations and comments that you made. You must understand, you accuse people all over the country without figuring out what and how. Your stupidity silliness, do you know what influence it could have had?"* from Mr. Shumak, strongly invite the inference that the order to have the Athlete withdraw was in direct response to the Athlete's Instagram Video.
110. The aforementioned statements also strongly invite the inference that the Head Coach (possibly in concert with other members of the BAF delegation) concocted an explanation to justify such withdrawal and potentially invite others to reach the same conclusion, as no sporting reason was available to explain the Athlete's withdrawal. In the Panel's opinion, the evidence establishes that the Head Coach – irrespective of any good intention he may have had in light of the difficult situation, as he averred in his testimony – perpetrated, or, at the very least, assisted in the perpetration of a false narrative concerning the Athlete's mental and emotional state to justify her immediate removal from the Olympic Games pursuant to an order from the Ministry of Sport. The Panel is also satisfied that the additional documentary evidence on file that seeks to corroborate this false narrative in fact flows from the information and statements provided by the Head Coach.

111. Therefore, grounded upon the assertions made during the meetings on 31 July and 1 August 2021, the NOC Report and other documentary evidence discussing the Athlete's supposedly altered mental and emotional state lack credibility and it seems more than plausible, particularly in light of the absence of evidence to the contrary, that the Head Coach provided false or inaccurate information in the course of events leading up to the Athlete's departure from the Olympic Village. Moreover, as the Team Leader of the BAF delegation and in view of the level of responsibility and authority that comes with such a role, the Head Coach undoubtedly had a substantial amount of influence over the other members of the delegation, and he was likely aware that his judgement and conclusions would not be questioned by the others.
112. The Panel can therefore conclude that the Head Coach did not "*act with the utmost integrity and honesty at all times including acting in good faith towards others and with mutual trust and understanding in all [his] dealings [...]*," in violation of the Honesty Integrity Standard (Rule 3.3.1 of the Integrity Code).

**B. Did the Head Coach's conduct fail to safeguard the Athlete's dignity or otherwise constitute abuse or harassment?**

113. Having established that the Head Coach did in fact violate the Honesty Integrity Standard (Rule 3.3.1 of the Integrity Code), due to having perpetrated or assisted in the perpetration of a false narrative concerning the Athlete's mental and emotional state, the Panel now turns to whether this conduct failed to respect the Athlete's dignity in the sense of the Dignity Integrity Standard (Rule 3.3.10 of the Integrity Code).
114. As the AIU itself recognizes, no definition of "*dignity*" is provided in the Integrity Code. Having considered the analysis put forth by the AIU in its Brief concerning this term, the Panel sees fit to draw upon its own experience and legal expertise to develop a workable definition of this concept for the case at hand. Indeed, the Panel understands the term "*dignity*" as recognizing the equal, inherent, and inalienable value of every person, which implies the right of a person to be valued and respected for their own sake, and to be

treated ethically. Furthermore, the Dignity Integrity Standard (Rule 3.3.10 of the Integrity Code) requires individuals to refrain from engaging in any form of harassment or abuse.

115. In this sense, the Panel is comfortably satisfied that the Head Coach's actions (and omissions) in this case resulted in the Athlete being withdrawn from the Olympic Games against her clear wishes and without any objective evidence to justify it. Regardless of whether, as the Panel has concluded, the Head Coach appears to have been executing a decision from a higher-ranked official in Minsk, or it was in fact a manifestation of the Head Coach's own will and volition, as the AIU suggests, the fact remains that the Head Coach, as Team Leader of the BAF delegation, took steps to unjustly remove the Athlete from the competition she had qualified for and for which she was eligible. She was deprived of a once-in-a-lifetime opportunity and, as the evidence shows, was publicly reduced to an unstable, highly emotional young woman unfit to participate in her athletics event in an attempt to justify her removal from the Olympic Games.
116. The above can hardly be considered as evincing any sort of respect or ethical treatment towards the Athlete or her achievements through sporting merit in the ongoing competition. The Athlete's actions (namely, the Instagram Video) could very well be the subject of criticism and could have an impact both within the BAF delegation and even back home in Belarus, but this is not the issue the Panel must decide upon. The issue before the Panel and the conclusion reached in light of the evidence at hand, is that the manner in which the Head Coach and the BAF delegation's leadership chose to respond was a clear affront to the Athlete's dignity and an abuse of their position of power vis-à-vis the Athlete.
117. Therefore, on the basis of the evidence, the Panel is satisfied that the Head Coach has also breached the Dignity Integrity Standard (Rule 3.3.10 of the Integrity Code) in this case.

**C. Did the Head Coach's conduct bring WA and/or the sport of athletics into disrepute or otherwise adversely affect its reputation or interests?**

118. The Panel now turns to the third Integrity Standard alleged by the AIU as having been breached, the Protect Reputation Integrity Standard (Rule 3.3.17 of the Integrity Code).
119. To this end, the AIU has demonstrated that the events surrounding the Athlete's removal garnered international attention during the Olympic Games and generated media coverage and sustains that the Head Coach's behavior and the media exposure ran counter to the objectives of WA, exerted a detrimental influence on the reputation of sports, and undermined its standing and credibility.
120. In truth, the criterion set forth in Rule 3.3.17 of the Integrity Code can appear somewhat imprecise and its application may turn on a matter of the adjudicatory body's impression of the facts at hand. The Panel interprets the Protect Reputation Integrity Standard as inviting due consideration for the public exposure of a given Violation and the resulting public perception to determine if the conduct was indeed injurious to WA or the sport.
121. In this case, the Panel finds that the public exposure element alleged by the AIU is certainly an important consideration in finding whether this Integrity Standard has been breached, for the evidence adduced reflects media coverage from around the world concerning the Athlete's withdrawal and indeed more than one article identifies the Head Coach by name, but it should be noted that the news articles cited in the WA Brief seem to focus more on the larger context of the Athlete seeking assistance – and later asylum – due to safety concerns upon her returning to Belarus and the political situation in Belarus at the time.
122. However, as far as public perception is concerned, the Panel is not convinced, to the requisite evidentiary standard, that WA itself or the sport of athletics has been directly injured by the Head Coach's conduct, as this incident – as reported in the news – seemingly took on an entirely political connotation that cannot reasonably be placed solely on the Head Coach's shoulders.
123. The foregoing is by no means intended to minimize the Head Coach's misconduct, as evidenced by the findings concerning the other two Integrity Standard Violations alleged, but under this very particular set of circumstances, the Panel is not comfortably satisfied

that the Head Coach's conduct constituted a Violation of the Protect Reputation Integrity Standard (Rule 3.3.17 of the Integrity Code).

**D. In any case, did the Head Coach violate Rule 4.3 of the Integrity Code?**

124. It is alleged by the Applicant that the Head Coach violated Rule 4.3 of the Integrity Code. In this line, it is recalled that Rule 4.3 of the Integrity Code concerns an *“attempt or agree[ment] with another person or entity, to act in a manner that would constitute or culminate in the commission of a violation of this Integrity Code, whether or not such attempt or agreement in fact resulted in a violation.”*
125. In the Panel's opinion, there are sufficient elements to establish the principal Integrity Code Violations that have been asserted and it sees no need to analyze the “attempt” of these Violations.

**E. The Consequences of the Integrity Code Violations**

126. Having established that the Head Coach violated the Honesty and Dignity Integrity Standards (Rules 3.3.1 and 3.3.10, respectively), the consequences of said Violations will be assessed pursuant to Rule 11.1 of the DT Rules:

***“11. Consequences, Sanctions and Costs***

*11.1 Where it is decided by a Panel that a Non-Doping Violation has been committed, subject to Rule 11.3, below, the Panel will impose such consequences and sanction(s) as it deems appropriate including, without limitation, any one or more of the following (any of which may, where appropriate, be suspended):*

*11.1.1 a caution, reprimand and/or warning as to future conduct;*

*11.1.2 a fine of any amount (which, unless otherwise specified, will be payable within 30 days);*

*11.1.3 a compensation payment;*

11.1.4 *reparation to any victim or victims of the violation;*

11.1.5 *community service within Athletics;*

11.1.6 *suspension or removal from office;*

11.1.7 *removal of any award or other honour bestowed by World Athletics;*

11.1.8 *disqualification of results, with all resulting consequences, including forfeiture of any related medals, titles, points and/or prizes;*

11.1.9 *disqualification/expulsion from competitions or events; and,*

11.1.10 **a specified period of ineligibility**, or life ban, from participating in any capacity in any aspect of Athletics and/or in any activities authorised, organised, controlled, recognised, sanctioned and/or supported in any way by World Athletics, Area Association or any Member Federation (other than authorised education or rehabilitation programs).” (emphasis added)

127. Furthermore, Rule 11 of the DT Rules imposes the identification of all relevant factors that it deems to be considered to aggravate or mitigate the seriousness of the Violation. In the present case, the Applicant alleges the following:

“11.2 *In order to determine the appropriate sanction(s) to be imposed in each case, the Panel must first determine the relative seriousness of the violation, including identifying all relevant factors that it deems to:*

11.2.1 *aggravate the nature of the violation, including (without limitation):*

a. a **lack of remorse** on the part of the Applicable Person;

[...]

c. where the violation **substantially damaged (or had the potential to substantially damage) the commercial value and/or public interest** in the relevant International Competition and/or the sport of Athletics;

d. where the violation **affected (or had the potential to affect) the result of the relevant competition** or event;

e. where the **welfare of a person has been endangered** as a result of the violation;

f. where the violation involved **more than one person or entity**; and

[...]

11.2.2 mitigate the nature of the violation, including (without limitation):

[...]

b. the Applicable Person's **clean disciplinary record**" (emphasis added)

128. Thus, the Panel set out the proper approach to determining sanctions as follows. First, the relative seriousness of the Violation must be determined, and in doing so all the relevant factors that go to aggravation or mitigation must be taken into account. Other factors may be considered, given that the factors listed in the Rules are not exhaustive, and it is for the Panel to determine the relevance of any mitigating and aggravating factors, subject to the constraints of legality and rationality. After all the relevant factors have been considered and the relative seriousness of the Violation determined, the Panel shall impose an appropriate sanction or sanctions from amongst those it is authorized to impose. (SR/010/2023, WA v Ruli and Smajlaj, 6 April 2023, paragraph 57)
129. On one hand, the AIU proposes an eight-year period of ineligibility, which *a priori* appears to be on the higher end of sanctions concerning Integrity Standard Violations.
130. On the other hand, the Head Coach argued at the hearing that the proposed sanction is excessive and disproportionate and should be far shorter, considering the aggravating factors alleged by the AIU are predicated on events that could not be attributed to him. The Head Coach further highlighted that his unblemished record in 39 years of working in sport is a highly telling factor.
131. In addition to the foregoing, the Panel notes that the Head Coach confirmed in his testimony that he retired in May 2023 and does not currently hold any position with the BAF.



132. Having due regard for all relevant circumstances in this case, the Panel finds that an eight-year period of ineligibility is neither proportionate nor appropriate in this particular instance. In the Panel's view, the sequence of events that unfolded after the Athlete posted the Instagram Video was truly unfortunate and unfair to the Athlete, and certainly it is regrettable that it all led to a situation where not only was she forced to withdraw from the Olympic Games, but she was also put in a position where she felt the need to seek asylum from another country given the concerns for her safety. However, the Panel, as explained in this decision, is not convinced that it is appropriate to lay the blame for that entire sequence of events exclusively at the Head Coach's feet. In addition to that, it should be noted that the proposed sanction of eight years corresponded to the alleged Violation of three separate Integrity Standards, whereas the violation of the criterion set forth in the Protect Reputation Integrity Standard (Rule 3.3.17 of the Integrity Code) has not been confirmed by the Panel.
133. All things considered, the Panel finds a five-year period of ineligibility to be adequate and proportionate in this case for the Head Coach's Violations of the Honesty and Dignity Integrity Standards (Rules 3.3.1 and 3.3.10 of the Integrity Code, respectively).

## **VI. COSTS**

134. Rule 11.5 of the DT Rules states, in relevant part: "*The Disciplinary Tribunal will have discretion to order any party subject to the Proceedings to pay some or all of the costs of the proceedings [...].*" The Panel notes that there has been no request for a contribution of costs by either party. Therefore, the costs associated with this procedure shall be borne equally amongst the parties.

## **VII. ORDER**

135. The Panel hereby orders that Mr. Yury Moisevich shall serve a period of ineligibility of five years for the Violation of the WA Honesty and Dignity Integrity Standards (Rules 3.3.1 and 3.3.10 of the Integrity Code, respectively). In accordance with Rule 11 of the

DT Rules, this period of ineligibility bars Mr. Moisevich from participating in any capacity in any aspect of Athletics and/or in any activities authorised, organised, controlled, recognised, sanctioned, and/or supported in any way by WA, Area Association, or any Member Federation, and shall commence as of the date of this decision.

## VIII. RIGHT TO APPEAL

136. This decision may be appealed to the Court of Arbitration for Sport (“CAS”), located at Palais de Beaulieu, Avenue des Bergières 10, CH-1004 Lausanne, Switzerland (procedures@tas-cas.org), in accordance with Rule 13 of the DT Rules.
137. In accordance with Rule 13.4 of the DT Rules, parties shall have 21 days from receipt of this decision to lodge an appeal before the CAS.



Lucas Ferrer

Sole Arbitrator, on behalf of the Disciplinary Tribunal

London, UK

20 February 2024

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ENABLING FAIR PLAY