

IBU EXTERNAL REVIEW COMMISSION

REPORT TO IBU CONGRESS

14 November 2020

Who is the IBU External Review Commission?

- Jonathan Taylor QC (Chair)
- Vincent Defrasne (nominated by IBU Athletes' Committee)
- Dr Christian Dorda
- Dr Tanja Haug
- Dr Anja Martin
- Lauren Pagé (Legal Secretary)

What was the Commission's mandate?

1. Assist WADA and the criminal authorities with their investigations.
2. Support the updating and strengthening of the IBU governance system in accordance with best practice.
3. Determine whether anyone has a case to answer for breach of the IBU rules.

See Terms of Reference: biathlonworld.com/about-ibu/inside-ibu/committees

Mandate 1:

Assist WADA and the criminal authorities
with their investigations

Mandate 1:

- Allegations that triggered investigations:

Anders Besseberg covered up ADRVs by Russian biathletes, with the assistance of Nicole Resch; vote in favour of 2021 IBU WCH Tyumen was corrupted.

- WADA handed over its investigation to the ERC, with close cooperation ever since.

Mandate 1:

- ERC has provided support to Austrian criminal authorities, and offered its support to Norwegian criminal authorities regarding biathlon investigations.
- ERC has also been in contact with the German and Austrian authorities involved in 'Operation Aderlass' (blood doping in different sports).

Mandate 1:

Austria

- Ended preliminary proceedings against 10 Russian team members for suspected ADRVs at 2017 IBU WCH Hochfilzen. Extended investigation to unknown suspects among Russian biathletes/team officials for 2012-2017.
- Investigation against Ms Resch ongoing.

Norway

- Accepted request from Austria to take over investigation of allegations that Mr Besseberg received and accepted gifts, money, and other benefits from RBU officials and others with interests in IBU business.
- Did not take over charges regarding doping offences and fraud.

Mandate 2:

Next steps

- Criminal investigations in AUS/NOR are ongoing.
- Norwegian and Austrian authorities set up a Joint Investigation Team (JIT). Europol has joined JIT.
- Moving forward, Biathlon Integrity Unit will take over responsibility to support the criminal authorities as necessary from the IBU's side.

Mandate 2:

Support the updating and strengthening of
the IBU governance system

Mandate 2:

- Completed at 2019 IBU Congress.
- New Constitution adopted with:
 - eligibility criteria (assessed by Vetting Panel);
 - term limits for IBU officials;
 - new IBU Integrity Code;
 - new Biathlon Integrity Unit
- AIOWF independent assessment acknowledged significant improvement above changes made to IBU governance.

Mandate 2:

Biathlon Integrity Unit

- Operationally independent from the IBU.
- Responsible for investigating and prosecuting breaches of IBU Integrity Code, under supervision of Integrity Unit Board.
- Integrity Unit Board:
 - **Louise Reilly** (Chair, independent member)
 - **Markus Hauptmann** (independent member)
 - **Alex Marshall** (independent member)
 - **Dr Franz Steinle** (IBU EB member)
 - **Greg McKenna** (Head of the Integrity Unit)

Mandate 3:

Determine if anyone has a case to answer for breach of the IBU rules

Mandate 3:

What rules apply?

- **Substantive rules:** rules in place at the time (2008-2018).
- **Procedural rules:** new procedural rules apply.

Mandate 3:

- Test applied: is there admissible and credible evidence that would be sufficient, if accepted by the hearing panel, to prove each element of the rule breach charged to the requisite standard (comfortable satisfaction/balance of probabilities)?
- In corruption cases, unlikely to be much direct evidence, but use indirect/circumstantial evidence and inferences that strand together to create a strong enough 'cable' to sustain charge.

Mandate 3:

Prosecution of cases to answer

- Biathlon Integrity Unit may bring charges before the CAS.
- BUT a case to answer does not necessarily lead to a charge.

→ See Integrity Code Art E.3.5 (coordination with criminal authorities); Art E.4.2 (is bringing the charge necessary and proportionate to the achievement of the imperatives underlying the Integrity Code?).

Mandate 3:

- Collected and reviewed over 70,000 documents/electronic files
from Austrian criminal file, WADA investigation file, Dr Rodchenkov affidavits, IBU internal documents, IBU email archives, documents provided by RBU/RUSADA, and analytical data from IBU testing and WADA-accredited analysis of doping samples.
- Interviewed approximately 60 people
IBU EB members; current and former IBU staff and advisors; active and retired biathletes; Russian whistleblowers including Dr Rodchenkov; former RBU and RUSADA officials including Alexander Tikhonov; and representatives from WADA and WADA labs.

Mandate 3:

Anders Besseberg declined interview while criminal investigation pending.

Nicole Resch unable to submit to interview within investigation timeline due to health reasons.

[BUT, ERC has the statements AB/NR gave to the criminal authorities].

Alexander Kravtsov (former RBU President) agreed to answer written questions but failed to do so (now under house arrest in Russia on suspicion of embezzling federal funds).

Sergey Kushchenko (former RBU CEO and IBU VP) agreed but then declined to submit to interview, citing data protection concerns.

Mandate 3:

- Was there doping in Russian biathlon? YES (mainly rEPO and steroids)
 - Akhatova, Iourieva, Yaroshenko (rEPO, 2008)
 - Prokunin and Timofeyeva (rEPO, 2009)
 - **Ustyugov** (blood doping, 2010 and 2014) (CAS appeal expected)
 - **Pechenkin** (chlortalidone, 2012)
 - **Sleptsova** (ostarine and rEPO, 2013 – CAS appeal pending)
 - **Ustyugov** (oxandrolone, 2013 – CAS appeal pending)
 - **Glazyrina** (oxandrolone, 2013)
 - Loginov (rEPO, 2013)
 - **Lapshin** (tuaminoheptane, 2013) – pending
 - Starykh and Iourieva (rEPO, 2013)
 - **Zaitseva** (sample substitution, 2014)
 - **Chernysov** (rEPO, 2014)
- Was there a conspiracy to cover up that doping? YES
 - 8 cases (in bold underline) were covered up and only resolved years after event.

Mandate 3:

- ERC has concluded its investigation and drafted its report.
- Draft report is > 200 pages long
 - Addresses original allegations and other issues over 2008-2018;
 - Sets out the evidence;
 - Makes provisional findings of 'case to answer' or 'no case to answer'

Mandate 3:

Provisional findings will address:

- whether AB and/or NR received benefits of any kind to favour Russian interests;
- whether AB and/or NR compromised the IBU anti-doping programme to favour Russian interests;
- whether AB and/or NR followed up properly on evidence of other Russian wrongdoing;
- whether adequate investigation of rEPO syringe found at 2015 IBU WC Antholz;
- award of the 2021 IBU WCH to Tyumen, Russia;
- whether IBU followed up properly on December 2016 McLaren Report; and
- IBU's response to Schmid Commission report (Dec 2017) and LIMS evidence (Dec 2017), including decision not to move 2018 IBU WC final event from Tyumen.

Mandate 3:

- ERC has given those against whom provisional findings have been made a chance to comment on the relevant extracts of the report (in case of inaccuracies, errors or important omissions).
- Once any comments are received, ERC will:
 - (i) consider the comments;
 - (ii) finalise the report; and
 - (iii) provide a copy to IBU EB and Integrity Unit Board, who will publish it on their websites.

Mandate 3:

Next steps:

- Expected publication: first half of December 2020.
- Once published, the ERC's mandate will be over.
- Then up to the Biathlon Integrity Unit to consider next steps.