

Final Decision of the Disciplinary Commission

Case No. 2024-01

1 October 2024

In the matter of

INTERNATIONAL SKATING UNION

- Complainant

Represented by Legal Advisor Dr M Geistlinger

against

Mr Alex VARNYU

- Alleged Offender

and

**HUNGARIAN NATIONAL
SKATING FEDERATION**

**- Interested ISU
Member**

Regarding Violations of the ISU Anti-Doping Rules

Avenue Juste-Olivier 17, 1006 Lausanne, Switzerland

t:+41 21 612 66 66 f:+41 21 612 66 77 e:info@isu.ch VAT Nr. CHE-107.058.509

I. Procedural Matters

Introduction

- [1] The present case arises out of an Adverse Passport Finding («APF») of the Alleged Offender who is an International-Level Short Track Speed Skater from the Hungarian National Skating Federation («HNSF»), a Member of the ISU.
- [2] The Complainant received notification on 07-08-2023 from the Athlete Passport Management Unit («APMU») that the Biological passport #BP9CV10681D19D99, which is related to the Alleged Offender, was flagged as APF.
- [3] The main abnormal feature concerned sample 11, collected on 28-02-2023, twelve (12) days before the ISU World Short Track Speed Skating Championships in Seoul, on 10 - 12 March 2023.
- [4] All samples were scrutinized by the Athlete Biological Passport («ABP») experts and the APMU and the analytical details were outlined in the appropriate ABP documentation package. The joint evaluation of the experts' opinion dated 31-07-2023, concludes unanimously that it is highly likely that the abnormality observed in sample 11 is the consequence of the use of a prohibited substance and/or a prohibited method in the lead up to important competition, and that it is unlikely that this abnormality is the result of any other cause (the «Joint Expert Opinion»).
- [5] On 15-08-2023, the Alleged Offender was notified of the APF and provided with the Athlete Biological Passport Documentation Package and the Joint Expert Opinion, according to WADA International Standard on Results Management («ISRM») Annex C.5.1, as the Expert Panel had confirmed their unanimous position of "Likely doping". This same notification has set off a deadline to 05-09-2023 allowing the Alleged Offender to submit his explanations and to voluntarily accept a provisional suspension if he so wished. It allowed him to provide Substantial Assistance as set out in article 10.7.1 of the ISU ADR and admit and enter into a Results Management Agreement under article 10.8 of the ISU ADR to achieve a reduction of the otherwise applicable sanction.
- [6] Within the set deadline, the Alleged Offender submitted his explanations. In his response :
 - A) he declared that he had not used any prohibited substance during his career at all, including EPO ;
 - B) he declared he consulted the medical team of the Hungarian Short Track Speed Skating Olympic Team and attached relevant scientific literature.
 - C) the Alleged Offender through expert evidence argued as follows « *the alterations found in my biological passport sample may be explained with multifactorial factors. ... We believe, that three most important samples are sample 10, 11, 12 and 13. As it can be found in the official report, sample 10 was taken on 17.01.2023., sample 11. was taken on 28.02.2023. and sample 12 was taken on 09.03.2023, while sample 13 was taken on 20.03.2023. In sample 10 both the reticulocyte and hemoglobin levels are in normal range, in contrast there was a higher level of reticulocyte with a small increase in hemoglobin in sample 11, while these changes were not to be found in sample 12 and 13, where the hemoglobin and red blood cell count was lower than in sample 11. Additionally the reticulocyte number was normal is sample 12 and 13. By the way I can not understand how the Sample 1. was not eligible for analysis.*»

D) he alleged several factors that could have caused the abnormalities in sample 11.

- i. First, he claimed to have had an infection between 13 – 20 February 2023 with fever and upper respiratory symptoms, particularly in the first days of infection. At the time, he did not consult a medical doctor, just stayed at home and did not attend training. According to his medical team, the infection and the oxidative stress in his body could cause a decrease in red blood cells and later a consequential upcoming increase in the reticulocyte number as a compensation mechanism. The fact that the hemoglobin level and red blood cell count did not increase in sample 12 supports this, because the reticulocytes just compensated the red blood cells and did not increase the count further. The same applied to the hemoglobin levels. Furthermore, in samples 12 and 13, the reticulocyte number did not decrease. This fact does not support the use of EPO, because stopping EPO would lead to hemoglobin being high and the reticulocyte number being low. (professor Martial Saugy, PhD)
- ii. Second, because of his back pain he received a local betamethasone injection (Diprophos) on 05-02-2023. The corresponding Therapeutic Use Exemption («TUE») documentation was added to his letter. According to supplemental information he provided from his medical team and the scientific literature, steroids such as betamethasone can increase red blood cell production, the number of white blood cells in the circulation and the thrombocyte numbers. The increase in white blood cells and thrombocyte numbers in sample 11 supported the effect of betamethasone, because the number of white blood cells was double compared to any of his samples.
- iii. He and his medical team disagree with the Joint Expert Opinion's reference to support that the abnormalities are likely not caused by the betamethasone injection. The study, the Joint Expert Opinion relies on references results from a small sample number of 10 tested people. These subjects were not elite athletes like him, used a different type of steroid (triamcinolone acetonide and not betamethasone) and in contrast to the Joint Expert Opinion came to the conclusion that „*Intramuscular injection of 40 mg triamcinolone acetonide accelerates erythropoiesis and increases hemoglobin mass but does not improve aerobic exercise performance in the present study.*” The Alleged Offender argues that it is not scientifically acceptable to draw conclusions based on a study which tested a different and small group using a different substance and finding that the steroid increased the red blood cell production and the reticulocyte number, while not increasing athletes' performance. He referred to studies on the effects of betamethasone which have been done on pregnant women (with physiologic hemodilution) and animal models. There are no others available because the effects of steroids on red blood cells production and white blood cell number are known
- iv. [...]

[7] The explanations given by the Alleged Offender were then submitted to review by the three ABP experts.

[8] The ABP experts in their Expert Opinion of 18-10-2023 to the APMU came to the joint conclusion that «*none of the arguments provided by the athlete has offered any credible alternative explanation for*

the abnormalities observed in the profile. We, therefore, confirm the opinion expressed in our Joint Expert Opinion that it is highly likely that a prohibited substance or prohibited method has been used and that it is unlikely that the passport is the result of any other cause.» providing reasons for their rejection of the then provided arguments of the Alleged Offender.

- [9] Following the Joint Expert Opinion, Alleged Offender' explanations and ABP Experts' review of the explanations, the Complainant consulted its own expert, Professor Martial Saugy, PhD. Prof Martial Saugy, after careful examination of the supporting documentation and evidence, confirmed Biological passport #BP9CV10681D19D99 to be an APF by fully agreeing with the findings of the three ABP experts « **that the abnormality observed in sample 11 and in the ABP profile is highly likely the consequence of the use of a prohibited substance and/or a prohibited method. This abnormality cannot result of any other cause.**» [Panel notes that his letter seems to be mistakenly dated «22.02.2023» without prejudicial effects on the present procedure]
- [10] In consequence of the above, on 27-11-2023, the Complainant provided the Alleged Offender through HNSF with a Notice of Charge under the ISU ADR and in accordance with Article 7.4.1 of the ISU ADR, provisionally suspending the Alleged Offender from participating in any Competition or other activity subject to the authority of the ISU prior to the final decision from ISU DC. The Alleged Offender was also offered a timely hearing on this suspension as well as the possibility of achieving a reduction of the otherwise applicable period of Ineligibility in case substantial assistance and was set a deadline of 17-12-2023 in order to admit the Anti-doping Rule Violation («ADRV») and accept the consequences of a four (4) year period of Ineligibility and public disclosure.
- [11] By letter dated 15-12-2023, the Alleged Offender accepted the provisional suspension, requested not to disclose his name in relation with the APF he was facing, and to be granted a hearing to demonstrate that he did not commit an ADRV. In this letter, he neither admitted the ADRV, nor provided further substantial assistance.
- [12] The Complainant then asked the International Testing Agency («ITA») to interview the Alleged Offender in order to better explain and explore the option of "substantial assistance". This interview was held online by Mr Michael King and Ms Emma Saint, of ITA, on 07-02-2024. The Alleged Offender was assisted by his attorney Dr Szigmond Nagy. According to the record and report, which were provided to the ISU on 13-02-2024, the Alleged Offender maintained his position contesting any ADRV and ability to provide any substantial assistance.

II. The DC Complaint and Procedural Steps

- [13] On 29-02-2024, the Complainant filed a Statement of Complaint to the ISU DC to find the Alleged Offender to have violated the ISU Anti-Doping Rules («ISU ADR») and to impose appropriate sanctions as set out in the Complaint, along with all relevant documentation and evidence as above provided by both parties to this date.
- [14] By Order No 1, issued on 06-03-2024, the ISU DC informed the parties of the composition of the DC Panel, provided the Alleged Offender with the Complaint together with its exhibits and invited him to file a Statement of Reply within 21 days upon receipt of this Order.

- [15] On 21-03-2024 (within the requisite 21 days filing period) the ISU DC received a request by email from HNSF for an extension of time for filing a Statement of Reply. Such extension was granted through Order No 2 issued the same day, without opposition from the Complainant, setting the time limit for filing a Statement of Reply to be extended to 10-04-2024 for both HNSF and the Alleged Offender.
- [16] By email sent to the ISU DC Chair on 10-04-2024, the Alleged Offender and HNSF filed a joint Statement of Reply, together with its exhibits, in a timely manner. None of the facts and evidence relevant to the present procedure were denied by the Alleged Offender nor the HNSF, but their joint Statement of Reply brought new explanations never provided before.
- [17] On 26-04-2024, the Complainant was formally addressed with the Statement of Reply and permitted by the ISU DC to make an additional exchange of writs, given the new explanation and expert evidence provided by the Alleged Offender in his Statement of Reply.
- [18] In an email addressed to ISU DC Chair on 17-05-2024, the Complainant provided an intermediary report from Prof. Martial Saugy, who was requested to evaluate the new medical arguments brought forward by the Alleged Offender in his Statement of Reply. In his intermediary report [mistakenly dated 16-05-2024, without prejudice], Prof. Saugy noted the following statement from the Statement of Reply:
- « Since the symptoms of the athlete did not disappear completely, making the training difficult for him another dose of Diprophos was administered by doctor Andras Tállay on 21.02.2023 [the «second Injection»]. The medical documentation of the second injection is also submitted as a supplement. »**
- [19] Because this second Injection had never previously been reported or communicated to the APB experts or to the Complainant during their investigations before the filling of the Complaint, the Complainant requested access to the medical documentation related to the second injection, which had not been included as exhibits to the Statement of Reply.
- [20] By Order No 3 issued on 21-05-2024, the Alleged Offender was urgently asked to provide the appropriate medical documentation supporting the second injection, if he so wished it to be considered.
- [21] Such documentation was provided by the Alleged Offender by email sent 27-05-2024, within the timeline set, and the Complainant then submitted the final report from Prof. Martial Saugy dated 03-06-2023. After careful review of the documentation and additional analyses of Sample #11 collected seven (7) days after the second Injection, Prof. Marty Saugy made the following conclusion:
- « It is then my opinion that we cannot exclude that the injection of Betamethasone administered to the athlete 21 February [the second Injection] is responsible of the stimulation of erythropoiesis which has been observed in the blood sample # 11, collected 28 February 2023. »**
- [22] Upon request of the Complainant, and with no opposition from the Alleged Offender, the present Case procedure was formally suspended by the ISU DC on 04-06-2024. This was to allow the Complainant

reasonable time to review its formal position regarding a possible withdrawal of the Complaint in light of this new opinion.

- [23] After informal requests made in general terms by the Complainant to resume the Case and expand its motions towards its costs, the ISU DC exceptionally ordered and agreed to an extra exchange of writs making a full submission on this question.
- [24] The Complainant's new submission, which was presented in a timely manner, requested the ISU DC to impose costs on the Alleged Offender to reimburse the sum of CHF 5 451,00 to the Complainant, irrespective of the outcome of the Case, should the Alleged Offender the ISU DC finds that the Alleged Offender has or has not committed an ADRV, with or without a sanction, and with joint responsibility towards HNSF, if so decided.
- [25] The requested sum allegedly represented the unnecessary costs imposed on the Complainant regarding additional inquiries and efforts from the APMU experts, expert opinions provided by Prof. Saugy and ITA investigations, that would allegedly not been required by the Complainant should the Alleged Offender have disclosed the information about the second injection at first opportunity, inferring that if known it would probably have not filed the Statement of Complaint against the Alleged Offender.
- [26] The Alleged Offender and HNSF filed a joint Statement of Response on 31-07-2024 in due time, requesting that the ADRV charges against the Alleged Offender be dismissed, and therefore not to impose on him or the HNSF any financial sanction nor impose any costs.

III. Jurisdiction

- [27] According to Article 25 (10) of the ISU Constitution and Article 8.1.1.1. of the ISU Anti-Doping Rules ("ISU ADR"), the ISU Disciplinary Commission («ISU DC») has jurisdiction in doping cases arising from an APF, where the ISU is the Passport Custodian of a Skater's Hematological Passport.
- [28] In the "Declaration for Competitors and Officials entering ISU Events" signed on 25-11-2022, the Alleged Offender confirms:

«I/we, the undersigned,

I) accept the ISU Constitution, which establishes an ISU Disciplinary Commission (Article 25) and recognizes the Court of Arbitration for Sport (CAS), in Lausanne, Switzerland as the arbitration tribunal authorized to issue final and binding awards involving the ISU, its Members and all participants in ISU activities, excluding all recourse to ordinary courts (Articles 26 & 27);

[...]

VI) I am familiar with the ISU Code of Ethics (ISU Communication 2478 or any update of this Communication) as well as ISU Anti-Doping Rules and ISU Anti-Doping Procedures (ISU Communication 2344 & 2366 or any update of these Communications) and also with the current List of Prohibited Substances and Methods and I declare that I will fully comply with such Rules.»

[29] Therefore, the ISU DC has jurisdiction to hear and decide the present case.

Filing of complaint

[30] According to Article 4 (1) of the ISU Disciplinary Commission Rules of Procedure (ISU Communication 2551) («ISU DC Rules»), the ISU DC rules on complaints brought before it pursuant to the applicable provisions of the ISU Statutes, in particular the ISU Constitution, the General Regulations, the Special Regulations, other special rules, including the ISU Code of Ethics, the ISU Anti-Doping Rules, the ISU Anti-Doping Procedures, the Technical Rules, the ISU DC Rules of Procedure, and other decisions of the ISU Council made in accordance with Article 17 of the Constitution communicated and published in accordance with the provisions of Article 28 of the Constitution and general principles of law. According to Article 25 (6) a) of the ISU Constitution, no deadline applies to filing of complaints for violation of an Anti-Doping Rule. Therefore, the Complaint is admissible.

Rules of procedure

[31] According to Article 3 (2) of the DC Rules, the ISU DC proceedings are based upon the written submissions of the Parties. The Panel, at its sole discretion, may decide to hold an oral hearing.

[32] On 07-06-2024, through an email communication, the Complainant requested a hearing to examine the explanations of the Alleged Offender regarding one (1) fact in particular (i.e. the delay in reporting a second injection of betamethasone on 21-02-2023).

[33] In their response to ISU DC Order No. 5, submitted on 31-07-2024, the Alleged Offender and HNSF sought in a joint submission to acquit the Alleged Offender without an oral hearing before the ISU DC.

[34] According to Article 8.1 of *WADA's International Standard for Results Management*, it is not required that a hearing should take place in person. Depending on the circumstances of a case, it may be fair or necessary to conduct a hearing "in writing", based on written materials without an oral hearing.

[35] None of the relevant facts and evidence provided in the present Case have been openly disputed by the Parties. In consequence, the Panel concludes that the written submission provided by the Parties in response to all ISU DC orders are sufficient to render its decision, without the need to a further exchange of writs nor oral hearing. In addition, the Alleged Offender revoked their earlier request for an oral hearing.

IV. Law and Discussion

[36] Based on the facts, evidence and submissions made by the parties, the ISU DC considers the present Case by examining the following questions:

- A. Can the ISU DC find, from the evidence provided in the present Case, the Alleged Offender to have violated an ISU Anti-Doping Rule?

- B. If so, the ISU DC shall then impose the appropriate sanction or reprimand, including the possible imposition to the Alleged Offender to reimburse the Complainant's cost pertaining to the present case;
- C. If the ISU DC cannot find the Alleged Offender to have violated an ISU Anti-Doping Rules, can costs still be imposed to reimburse any cost to the Complainant pertaining to the present case?

Discussion over the asserted Anti-doping Rule Violation (Question A)

- [37] According to Article 2.2. of the ISU ADR, the Use or Attempted Use by a Skater of a Prohibited Substance or a Prohibited Method constitutes an ADRV.
- [38] The comments to Articles 2.2 and 3.2 of the ISU ADR explain that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established **by any reliable means**. This includes admissions by the Skater, witness statements, documentary evidence, and conclusions drawn from longitudinal profiling, including data collected as part of the ABP.
- [39] As set out in its Statement of Complaint, the Complainant relied in the present Case on the evidence provided by:
- a) the APMU in application of Annex C to the ISRM dealing with the ABP; and
 - b) the expert opinion of Prof. Saugy.
- [40] ISU DC concludes that the initial conclusion from Prof Saugy (« ***the abnormality observed in sample 11 and in the ABP profile is highly likely the consequence of the use of a prohibited substance and/or a prohibited method*** ») was properly and successfully explained by the Alleged Offender in his 1st Statement of reply by a second injection of Betamethasone administered to him on 2023-02-21, a prohibited substance for which the Alleged Offender had already received a First injection 16 days before to treat a back pain he had suffered.
- [41] The ISU DC notes that the appropriate TUE documentation seems to have been provided in connection with the First injection, as this information, inferred from Exhibit 5 (Explanations of the Alleged Offender on 2023-09-05), was not challenged by the Complainant. It was neither challenged that the TUE documents filed were also applicable for the second Injection.
- [42] Regarding the APMU joint expert opinion, ISU DC points out that the Complainant admits, in its Submission to Order No. 5 :
- « Had this fact [the Second injection] become known to the three APMU experts on 5 September 2Q23, the experts would not have run into extra-routine efforts and costs as to their expert opinion of 18 October 2023 [...] **and the ISU would not have initiated an ABP case [...] because most likely the three experts would have come to the same opinion the ISU expert Prof. Martial Saugy gave in his final Expert Opinion of 4 June 2024** »*

[emphasis added]

- [43] Therefore, and for the above reasons, in absence of any reliable means in the present case, the Alleged Offender cannot be found to have violated an ISU ADR, and Question B (Sanction and/or Cost if ADRV) is irrelevant.

Discussion on Costs – without any ADRV (Question C)

- [44] The Complainant, in its Submission related to Order No, 5, requests to impose on the Alleged Offender reimbursement of the costs incurred for the management of the Case, specifically the additional costs that it claims were unnecessary.
- [45] ISU DC respectfully notes that this submission was made without providing any legal grounds supporting its merits, especially in the event the Alleged Offender was found to have not committed an ADRV.
- [46] Nevertheless, the ISU DC has deemed it important to perform a careful review of the applicable law.
- [47] According to Article 10.12 of the ISU ADR, the ISU DC may, in its discretion and subject to the principle of proportionality, elect to recover from a skater the cost associated with an anti-doping rule violation. However, this rule only applies if the skater has committed an ADRV, so is not applicable in the present circumstances.
- [48] Article 4.4.6 of the ISU ADR, related to Expiration, Withdrawal or Reversal of a TUE, may be applied to the present case, as it was not evidenced that the TUE application had expired, been withdrawn or reversed before the second Injection :

« 4.4.6.1 A TUE granted pursuant to these Anti-Doping Rules: (a) shall expire automatically at the end of any term for which it was granted, without the need for any further notice or other formality; (b) will be withdrawn if the *Skater* does not promptly comply with any requirements or conditions imposed by the TUEC upon grant of the TUE; (c) may be withdrawn by the TUEC if it is subsequently determined that the criteria for grant of a TUE are not in fact met; or (d) may be reversed on review by WADA or on appeal.

4.4.6.2 In such event, the *Skater* **shall not be subject to any Consequences** based on his *Use or Possession or Administration* of the *Prohibited Substance or Prohibited Method* in question in accordance with the TUE prior to the effective date of expiry, withdrawal, or reversal of the TUE [...] »

- [49] Appendix 1 of the ISU ADR offers the following definition to « *Consequence* »:

« *Consequences of Anti-Doping Rule Violations* (“*Consequences*”): A *Skater's* or other *Person's* violation of an anti-doping rule may result in one or more of the following: (a) *Disqualification* means the *Skater's* results in a particular *Competition* or *Event* are invalidated, with all resulting *Consequences* including forfeiture of any medals, points and prizes; (b) *Ineligibility* means the *Skater* or other *Person* is barred on account of an anti-doping rule violation for a specified period of time from participating in any *Competition, Event* or other ISU activity or funding as provided in Article 10.14; (c) *Provisional Suspension* means the *Skater* or other *Person* is barred

temporarily from participating in any *Competition, Event* or other ISU activity prior to the final decision at a hearing conducted under Article 8; (d) *Financial Consequences* means a financial sanction imposed for an anti-doping rule violation **or to recover costs associated with an anti-doping rule violation**; and (e) *Public Disclosure* means the dissemination or distribution of information to the general public or *Persons* beyond those *Persons* entitled to earlier notification in accordance with Article 14. Teams in *Team Sports* may also be subject to *Consequences* as provided in Article 11.»

[emphasis added]

- [50] On the other hand, Article 15 of the ISU DC Rules of Procedure gives the Panel the discretion to assess the cost involved in the proceedings, hearings and/or to the participation of witnesses, experts, interpreters and legal representations against any Party **as deemed just by the DC in the circumstances**.
- [51] Taking into consideration that a specific rule disrupts the option to recover costs associated with an ADRV when under a TUE, the Panel considered whether or not the Alleged Offender had failed to provide sufficient collaboration with the Anti-doping Organizations' investigation to the point where the Panel has no other choice but to exercise its discretion to impose costs on the Alleged Offender and HNSF.
- [52] One may argue that the Alleged Offender had a non-collaborative approach by only disclosing the second injection in his Statement of Reply to the ISU DC on 10-04-2024, and not in his first communication to the APMU's Joint Expert Opinion on 05-09-2023 (Exhibit 5 – Explanations of the Alleged Offender). The same conduct might be inferred from his silence regarding the second Injection through his letter sent to ISU Director General on 10-12-2023 (Exhibit 9 – Letter of Mr Alex Varnyu), and during the ITA interview conducted on 07-02-2024.
- [53] The ISU DC agrees that, by disclosing the second Injection at the first available occasion, the Alleged Offender would have saved the Complainant and the ISU DC a lot of cost and time. It could even have prevented the Alleged Offender undergoing a provisional suspension.
- [54] But the Alleged Offender' omission or silence over the second Injection during the initial portion of the proceedings cannot be condemned, as the Alleged Offender has the fundamental right, at any time before or during the hearing of the Case, to provide sufficient explanations. Doing otherwise would be contradictory with the ISU's obligation set in Article 8 of ISU ADR to provide « *a fair hearing within a reasonable time by a fair, impartial and Operationally Independent hearing panel* [note: the ISU DC] *in compliance with the Code and the International Standard for Results Management*. ».
- [55] It would also deny the Alleged Offender's right to rebut an asserted ADRV on the balance of probabilities, such as he successfully did in the present Case.
- [56] However, the ISU DC notes that according to article 20.6 of ISU ADR, a skater has the Additional responsibility to «*cooperate with Anti-Doping Organizations investigating anti-doping rule violations*. **Failure by any Skater to cooperate in full with Anti-Doping Organizations investigating anti-doping rule violations may result in a charge of a disciplinary or ethical offense under the ISU Code of Ethics**. » [emphasis added]

- [57] The present Case did not arise from a disciplinary or ethical complaint against the Alleged Offender, in accordance with the previous rule, and hence the ISU DC cannot decide upon a potential violation of the ISU Code of Ethics. However, the ISU DC wishes to analyze the Alleged Offender's conduct under that angle: the obligation to fully collaborate with the Anti-Doping Organizations.
- [58] Do omissions or silence during investigations constitute a breach of a skater's obligation to provide full collaboration as set out in Article 20.6? Without performing a full review on this question, the ISU DC concludes that, based on the information provided through written submissions in the present Case, the Alleged Offender cannot be accused of not having fully collaborated during the investigation.
- [59] In his first communication in response to the APMU's Joint Expert Opinion on 05-09-2023 (Exhibit 5 – Explanations of the Alleged Offender), the ISU DC finds it legitimate to assume, under the Alleged Offender's perspective, that the second injection was performed under the same conditions as the first one for which a TUE had been filed, as previously noted (*«since the symptoms of the athlete did not disappear completely, making the training difficult for him another dose of Diprophos was administered by doctor Andras Tállay on 21.02.2023.»*). Accordingly, it is reasonable to assert that the Alleged Offender, without proper guidance and assistance in the previous stages of the investigations, presumed that this information (the second Injection) was not relevant since the TUE information was available to the Anti-Doping Organizations.
- [60] In his second official communication, through his letter sent to ISU Director General on 10-12-2023 (Exhibit 9 – Letter of Mr Alex Varnyu), the ISU DC does not find either negligence or lack of collaboration as the objective of this letter is mainly to answer (in due time) the Notice of charge sent by the ISU on 27-11-2023 (Exhibit 8 – Notice of charge) on the following topics:
- a) Opportunity to request a hearing in regards of the provisional suspension he was facing;
 - b) Opportunity to offer substantial assistance, as defined in the ADR;
 - c) Opportunity to admission of the asserted ADRV;
 - d) Publicity of the procedures.
- [61] Finally, the ISU DC has reviewed the ITA interview conducted on 07-02-2024 and finds that the Alleged Offender offered a collaborative approach to that occasion. Yet, he was assisted and did not provide the now known explanation for his APF. The ISU DC notes that the efforts of the ITA team turned out to be more prospective rather than an opportunity to review, with the Alleged Offender, all possible and reliable means to explain the APF.
- [62] For those reasons, the ISU DC does not find the Alleged Offender to have failed his obligation to fully cooperate with the Anti-doping Organizations involved in the present Case's investigation to a point where the Panel can hold the Alleged Offender or HNSF responsible for the reimbursement of the associated additional costs.
- [63] Based on the above considerations the ISU Disciplinary Commission rules as follows:

V. Decision

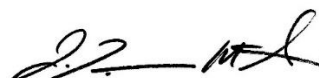
1. Alex Varnyu is found to have not violated an Anti-Doping Rule.
2. The Complaint is dismissed, in full.
3. All parties shall bear their own costs.



Sue Petricevic



Dr. Allan Böhm



Jean-Francois Monette

ISU Disciplinary Commission Panel.

The present decision is subject to appeal to the Court of Arbitration for Sport, Avenue de Beaumont 2, CH-1012 Lausanne, Switzerland, within 21 days upon receipt of the present unabridged decision, in accordance with Article 25 (12) and Article 26 of the ISU Constitution.