

IAAF ETHICS BOARD

Notice of closure of investigation

11 April 2019

On 2 December 2015, the President of the IAAF, Lord Coe, gave evidence to the Digital, Culture, Media and Sport Committee of the UK Parliament's lower house (the House of Commons) ("the Parliamentary Committee"). Lord Coe's evidence was given to the Parliamentary Committee in connection with the Parliamentary Committee's inquiry into combatting doping in sport. On 10 January 2017, David Bedford OBE, the former race director of the London Marathon, also gave evidence to the Parliamentary Committee.

On 5 March 2018, the Parliamentary Committee published a report of its findings in a report called 'Combatting doping in sport' (the "Report").¹

In a section of the Report called 'Knowledge and prevalence of doping in world athletics', the Parliamentary Committee concluded that answers Lord Coe had given to it were "misleading". The Committee opined that, "it stretches credibility to believe that [Lord Coe] was not aware, at least in general terms, of the main allegations that the Ethics Commission had been asked to investigate."² Those allegations related to a (then, alleged) extortion scheme of the Russian marathon runner, Liliya Shobukhova, connected to the alleged suppression of positive doping control test results³.

Following the Parliamentary Committee's publication of the Report, having taken note of the Committee's observations, set out above, and having consulted with the entire membership of the Ethics Board, the Chairperson of the Board, Michael Beloff QC, exercised the Ethics Board's powers to open an investigation to consider the

¹ <https://publications.parliament.uk/pa/cm201719/cmselect/cmcumeds/366/366.pdf>.

² Report, paragraph 45.

³ The IAAF Ethics Board subsequently found the extortion scheme proven in a decision of 7 January 2016 and imposed life bans on participation in the sport against Valentin Balakhnichev, former President of the All-Russia Athletic Federation (ARAF) and Honorary Treasurer of the IAAF, Alexei Melnikov, former Senior ARAF Coach for long distance walkers and runners, and Papa Massata Diack, former marketing consultant to the IAAF and son of the IAAF's then President, Lamine Diack (and lesser sanctions against Gabriel Dollé, former Director of the IAAF's Anti-Doping Department). Appeals by Messrs Balakhnichev, Melnikov and Diack were all dismissed on appeal by the Court of Arbitration for Sport in a 97-page decision of 21 August 2017. The full Ethics Board and CAS decisions can be accessed on the Ethics Board's website at: <https://www.iaafethicsboard.org/decisions>

matter of Lord Coe's evidence to the Parliamentary Committee by reference to his duties under the IAAF Code of Ethics as in force at the relevant time ("the Code").

In opening an investigation, the Ethics Board exercised a power, granted to it by the IAAF Council in November 2015, to open an investigation in the absence of a qualifying complaint by a participant in the sport, in circumstances where the Chairperson of the Ethics Board, having consulted with the entire Board, considered that there was a prima facie case (meaning, in accordance with the Board's established jurisprudence, a "matter warranting investigation") of a "serious" infringement of the Code. It was the view of the Chairperson of the Ethics Board that this test was satisfied in the light of the comments of the Parliamentary Committee set out above.

As required by its rules, the Ethics Board accordingly appointed an investigator to carry out an investigation, appointing Sir David Calvert-Smith, a former High Court judge in England and Wales and, prior to his appointment to hold judicial office, the United Kingdom's Director of Public Prosecutions.

The investigation commenced in September 2018. As provided for by the Ethics Board's rules, the investigator then directed the investigation proceedings. During the course of the investigation, the investigator determined that in investigating Lord Coe's state of knowledge at relevant times, he needed to seek evidence from the Chairperson of the Ethics Board as to the communications he had received from the President at the relevant time. Accordingly, the Chairperson of the Ethics Board determined in advance that in circumstances where he was in the role of a witness, it was appropriate that he recuse himself from undertaking the functions of the Chairperson of the Ethics Board which would otherwise be for him to discharge upon receipt of the investigator's report. Accordingly, the Chairperson asked the Deputy Chairperson of the Ethics Board, Justice Catherine O'Regan, a former Judge of the Constitutional Court of South Africa and former ad hoc Judge of the Supreme Court of Namibia, to deputise for him in all aspects of the management of the case.

In accordance with the Ethics Board's Procedural Rule 13(8), the Investigator was required, upon the conclusion of his investigation, to provide a written investigation report to the Chairperson of the Ethics Board (in this case, for the reasons set out above, the Deputy Chairperson), including a recommendation whether the matter should proceed to disciplinary adjudication against any person for any potential violation of the Code of Ethics. Sir David has provided his investigation report and his recommendation. In summary the investigation concluded as follows.

1. As David Bedford explained to the Parliamentary Committee, serious allegations relating to an alleged extortion scheme of the Russian marathon runner, Liliya Shobukhova, connected to the alleged suppression of positive doping control test results had been communicated to the IAAF Ethics Board (then, Ethics Commission) in April 2014. Having not heard further from the Ethics Board as to its consideration of the complaint (unbeknown to David Bedford, the Ethics Board was at that time precluded by its rules from communicating with him about the investigation that it had already commenced by virtue of the strict confidentiality provisions by which it was bound at the time), he emailed the serious allegations to Lord Coe on 8 August 2014. His email contained certain attachments, in which the substance of the allegations relating to the Shobukhova affair, (later to form the subject of the Ethics Board and Court of Arbitration for Sport's decisions described in footnote 3 above), were set out.
2. Lord Coe's evidence to the Investigator was that his Personal Assistant read the body of the email, but not the attachments, to him. The evidence of Lord Coe's Personal Assistant corroborates this part of his account. Lord Coe subsequently had a conversation with David Bedford. Neither Lord Coe nor Mr Bedford suggests that the detail of the Shobukhova allegations were discussed on that telephone call. The investigation did not find any evidence inconsistent with this evidence.
3. Lord Coe then emailed Michael Beloff QC, the Chairperson of the IAAF Ethics Board to inform him that he had "received copied documentation of serious allegations being made by and on behalf of the Russian athlete Shobukhova from David Bedford". He continued "I have spoken to David today on the phone and he advises me he has shared this information with you. Should I forward this documentation onto you? The purpose of this note is of course to advise you that I have now been made aware of the allegations." Michael Beloff's reply told Lord Coe to forward the email on to him and that by doing so he would be discharging his obligation (common to all participants in the sport) to notify relevant matters to the Ethics Commission. Lord Coe's evidence is that his PA forwarded the email with its attachments to the Chairperson of the Ethics Board and that he (Lord Coe) did not read the attachments. The investigation did not find any evidence inconsistent with that position.

4. The investigation also considered whether there was evidence to suggest that Lord Coe was aware of the detail of the allegations relating to the Shobukhova affair from some other source. The investigation found that there was no evidence to suggest that that was the case.
5. The investigation found, by way of background, that as one of four Vice Presidents of the IAAF at the time (an honorary position), Lord Coe did not have executive powers or responsibilities. Moreover, Lord Coe behaved appropriately in referring the matter to the Ethics Board which had been specifically established to investigate allegations of possible unethical behaviour outside the framework of the IAAF, and which Lord Coe had played an important part in setting up.
6. The investigation has therefore not identified evidence of a potential breach of the Code of Ethics by Lord Coe. The investigator concluded that there is no realistic prospect of establishing that Lord Coe knew more about the Shobukhova affair at the relevant time than that Liliya Shobukhova had made a complaint, and that the complaint was serious.
7. As such, the investigator concluded that there is no evidence such that there is any realistic prospect that any disciplinary case could be established that Lord Coe intentionally misled the Parliamentary Committee and accordingly the investigator recommended against disciplinary charges being laid.

Upon receipt of the investigator's report and recommendation the Deputy Chairperson of the Ethics Board, in accordance with the Ethics Board's stipulated procedures, appointed Ethics Board member Thomas Murray, former Professor of Bioethics at Case Western Reserve University and President Emeritus of The Hastings Centre, to review the investigation report, investigation files and recommendation. Having received this final report, Mr Murray informed the Deputy Chairperson that he agreed with the investigator's assessment that there is insufficient evidence to proceed to lay disciplinary charges and recommended closing the case.

In exercise of her powers to confirm that recommendation or reconsider the matter and make a fresh decision, and having considered the matter carefully, the Deputy Chairperson of the Ethics Board agreed with Mr Murray's and the investigator's conclusions and recommendation and directed that the investigation be closed.

The subject matter of the investigation has been the subject of public comment in the form of the Parliamentary Committee's Report and attendant media coverage. In those

circumstances, and given the importance to the reputation of the sport that it be clearly understood that all participants in the sport from the top of the sport to the bottom are subject to strong ethical obligations and their conduct subject to independent scrutiny by the IAAF Ethics Board and its successor bodies, the Athletics Integrity Unit and IAAF Disciplinary Tribunal, the Deputy Chairperson of the Board, having consulted with the membership of the Board, determined that it is appropriate to issue this notice of closure of this case.