

## CRITICAL ANALYSIS OF THE REPORT OF ROBERT MCLAREN DATED 16.07.2016

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SOMMARIO: 1. Introduction. – 2. Evaluation of the “investigative methodology” in the Report by R. McLaren. – 3. Evaluation of the stated objectives and the subject of the “investigation”, their conformity with the conclusions of the Report. – 4. Evaluation of the factual and other source base of R. McLaren’s Report. – 4.1 G. Rodchenkov’s statements as one of the sources of information in R. McLaren’s Report base. – 4.2. Information from newspapers and television as one of the information sources in the base of R. McLaren’s report. – 4.3. Materials from some certain “e-mails”. – 4.4. Other sources. – 5. Assessing the adequacy of the terms of the declared “investigation” by R. McLaren and the proceedings based on the results of such an investigation report. – 6. Evaluation of reasonability of engaging in the Report works of the other individuals. – 7. Conclusions.

### 1. Introduction.

The subject of this critical analysis is the content of the Report “WADA Investigation of Sochi allegations”, dated July 16, 2016 prepared and directed to WADA President by Richard McLaren (Richard H. McLaren), referred to as “Independent Person” (NL), (hereinafter - the Report, Report by R. McLaren)<sup>1</sup>.

Fundamentally agreeing with R. McLaren’s viewpoint on the inadmissibility of the distribution and use of doping substances in sports, however, we have to note that the Report under study has a number of critical defects that make it impossible to see it as reasonably sufficient and unprejudiced. As this Report has already inflicted substantial damage to the entire Russian sports in general; as it has played its role in strengthening the ideologically motivated attempts to remove all the Russian athletes from the list of the participants in the Olympic Games 2016; as it has further provoked the politically and ideologically motivated demands on cancellation of World Cup 2018 in Russia, the relevance of the analysis of this Report and the assessment of the validity of its conclusions is obvious.

This critical analysis is made applying to the original text of the Report, taking into account the 2 translations into the Russian language available to the author of the review (one of the translations is available in the Internet<sup>2</sup>). Page numbering for the quotations is performed according to the original document in English.

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<sup>1</sup> [McLaren Independent Investigations Report into Sochi allegations](#), published on WADA web site.

<sup>2</sup> Russian translation available [here](#) or [here](#).

## 2. Evaluation of the “investigative methodology” in the Report by R. McLaren.

R. McLaren claims that he *“In doing so, the IP has only made Findings in this Report that meet the standard of beyond a reasonable doubt”* (pp. 4–5).

However, in reality, a sufficient number of statements in the Report lead to sound and reasonable doubts. And it will be proved below.

First of all, it is the lack of the proper description and justification of the methodology applied in the Report which causes reasonable doubts. According to the statement on p. 2 of the Report, *“this Executive Summary describes the formation of the IP and sets out the Terms of Reference and a brief summary of the investigative methodology used”*. However, the description of the “investigative methodology used” in the Report by R. McLaren is not represented, not in the summary or further.

Chapter 2 of the Report, “The IP Investigation Method”, does not show or explain the investigative methodology. Section 2.1 “Introduction” is dedicated to the survey of the materials released through newspapers and television, having no relation to the actual description of the stated methodology. Section 2.2 “The Investigation Process” is overfull with acknowledgements by R. McLaren to some certain persons who assisted him, according to his statements, or those who he “kept informed” (below we will touch on this section). Section 2.3 “The Investigation Procedure” (1 page in total) brings the whole description of the procedure to the notion that there was evidence obtained from G. Rodchenkov; to empty declarations that Mr. Rodchenkov is “truthful” (p. 21), that he *“is a credible and truthful person”* (p. 21); to articulating the opinion that there is no sense and use in meetings with people residing on the territory of Russia (p. 22), and with Russian government officials (p. 22); to indicating that a number of materials were received from *“one important government representative”* (p. 22). Section 2.3 concludes with the text fragment, which makes sense to quote in full: *“All the allegations that were made have been followed up by the IP and Findings have been made along with revealing other evidence discovered during the course of the investigation. The allegations, which we find to have been established, attack the principle of clean sport and clean athletes which are at the very heart of WADA’s raison d’etre”* (p. 22).

It further states: *“2.3.1 IP Findings.1. Dr. Rodchenkov, in the context of the subject matter within the IP mandate, was a credible and truthful person. 2. All other witnesses interviewed by the IP investigative team were credible. Their evidence was only accepted where it met the standard of beyond a reasonable doubt”* (p. 23). Section 2.4 is devoted to the description of the Taskforce of the International Association of Athletics Federations. The information provided to the Taskforce by R. McLaren is presumed as *“met the highest level of legal proof”* (p. 24). The rest of this section refers to the publication of R. McLaren’s statement on the Canadian wire service.

It is clear that Chapter 2 of the Report, “The IP Investigation Method”, in fact, gives no explanation or description of any methodology of collection, assessment, and analysis of the facts.

The Chapter has no indication and, certainly, no description of the logic and contents of the research activities carried out by R. McLaren personally or in cooperation with other parties, of the sequences of research activities and their stages, of the

particular research methods applied. There is no description of the methods for checking and confirming the allegations, claims, and “accusations” made by the third parties and underlying R. McLaren’s Report.

In general, almost no relevant information is given in the Report.

And that could only mean the following: there is no scientifically recognized methodology of objective research used. Further, we provide a lot of evidence to prove that.

As the only exception, in Chapter 2, which could formally be assessed as setting out the investigative methodology, the following text fragment can be specified: “ *All other witnesses interviewed by the IP investigative team ... **Their evidence was only accepted where it met the standard of beyond a reasonable doubt***” (p. 23). But even in this case, the relevance of the statement tends to zero, as the well-known approach to proving in the Anglo-Saxon law, reflected in the lexical construction “requirements of the lack of reasonable doubts”, in R. McLaren’s Report turned into a rhetorical cover of unproven facts. This Report leaves not disclosed the most important - how exactly the above mentioned “evidences” were assessed, what instruments were used to verify their accuracy to meet the requirements of this standard.

Another more or less intelligible text is found in Chapter 1, “*The IP **conducted a number of witness interviews and reviewed thousands of documents, employed cyber analysis, conducted cyber and forensic analysis of hard drives, urine sample collection bottles and laboratory analysis of individual athlete samples***” (p. 5). But this information is insufficient. All this requires a detail disclosure. In particular – what exactly was the subject of “cyber-analysis” (from the quoted text of the Report it is impossible to understand whether such analysis was carried out by R. McLaren personally), if the Report talks mostly about opening the bottles and replacing their contents. We can assume that we are told about some printouts or screenshots of questionable forensic value, of obtained illegally, or, that can not be excluded, just fully fabricated, files of correspondence between some individuals. But this kind of Report should not and can not contain so many uncertainties.

According to the Report, the primary technique for the collection of key information, in fact, was the following: “*The IP and his investigators interviewed and personally met the principal witness, Dr. Rodchenkov... Dr. Rodchenkov is credible and truthful in relaying to me the testimony he gave which is the subject matter of this Report*” (p. 21).

It should also be noted that the implementation of the stated goals and objectives of the Report, obviously, could not avoid the on-site visit and conducting the works (“investigation”) in place. The approach, realized contrary to what was said in the Report, is the brightest innovation in the offense investigation world practice. The unfairness and prejudice are obvious.

However, the Report stated that R. McLaren and his anonymous “investigative team” of unknown character and composition did not intend to conduct the proceedings on site, “*The IP **did not seek to interview persons living within the Russian Federation***” (pp. 8, 22).

R. McLaren said: “*Therefore, I did not hesitate in coming to the conclusion that within the context of the subject matter that was my mandate he is a credible and truthful person. I do*”

*not need to go further afield in assessing his credibility as it is beyond the scope of my inquiry” (p. 21).*

Assessment of the evidence reliability is an essential and integral part of any investigation (an investigation conducted by the investigating authority, journalistic investigation, etc.). This is obvious to anyone but, judging by the Report, not to R. McLaren.

The statement found in the Report: “**did not permit compilation of data to establish an antidoping rule violation**” (p. 4), in itself, deflates the findings of the Report.

If the facts had not been established, then, where did the rough invective conclusions of the Report come from?

There are so many lapses of this kind in the Report, that they turn it into a set of conjectures and eliminate any possibility to see it as a serious document that contains a compelling rationale of the findings noted.

Let us show more statements of that same kind:

*“it must be recognised that we have only skimmed the surface of the extensive data available” (p. 4);*

*“the compressed time frame in which to compile this Report has left much of the possible evidence unreviewed” (p. 25);*

*«This Report has skimmed the surface of the data that is available or could be available” (pp. 25–26);*

*“the highly compressed timeline has meant that the IP investigative team has had to be selective” (p. 4);*

*“The precise method used by the FSB to open the Sochi sample bottles is unknown. The IP experts conclusively established that the caps can be removed and reused later” (p. 73);*

*“The IP investigators were not able to confirm the presence of Dr. Rodchenkov’s fingerprints or DNA on any of the B sample bottles” (p. 73);*

*“the IP has not found communications between FSB Blokhin and his superiors in the FSB chain of command, that is not surprising given that the FSB is a secret service organization” (p. 59).*

The question of, what, then, did R. McLaren and persons involved manage to establish and prove, in this case turns out to make no sense. The above quotes from the Report speak for themselves. To read the Report, really and truly, critical reasoning is an essential skill.

Most of the “evidence” is set out in the style of yellow press, *“was a simple but effective and efficient method for direction and control under the Deputy Minister of Sport to force the Laboratory to report any positive screen finding as a negative analytical result. The disappearing positive!” (p. 10); “the Moscow Laboratory was the final failsafe protective shield in the State directed doping regime” (p. 41).*

This “disappearing” was realized, as stated in the Report, by the following: *“laboratory personnel would falsify the screen result” (p. 11).* In practice, as stated in the Report, it was accomplished as follows: *“Through the efforts of the FSB, a method for surreptitiously removing the caps of tamper evident sample bottles containing the urine samples of doped Russian athletes had been developed...” (p. 12).*

What kind of “*surreptitiously removing the caps*” method (“some method” as it is called in the Report) is meant is not made clear in the Report. Instead, it is claimed that the use of such a method was confirmed, “*The IP has developed forensic evidence that establishes beyond a reasonable doubt some method was used to replace positive dirty samples during the Sochi Games*” (p. 12). “*Forensic examination of these bottles found evidence of scratches and marks confirmed tampering*” (p. 17).

What kind of forensic examination data was obtained, what person (what persons) and of what qualification (what kind of confirmation of qualification was represented) were involved, and most important - on what grounds and using what materials was it carried out, - the Report is silent again.

In this Report, almost all the arguments have the following character: *some persons used some techniques, that have been confirmed somehow by some other persons, who applied some other methods as well, which was reported about by some witnesses*. It should be noted, that even yellow press authors try to write more clearly and convincingly.

The Report states: “*The IP investigation, assisted by forensic experts, has conducted its own experiments and can confirm, without any doubt whatsoever, that the caps of urine sample bottles can be removed without any evidence visible to the untrained eye*” (p. 12).

Common sense predetermines that the detection of the method for removing caps from sample bottles can not automatically, by itself, prove that this is exactly what was done in practice, specifically – by some Russian officials. But in the Report by R. McLaren requirements of common sense and logic are ignored so often that one can speak of illogicality as one of the original principles of the preparation of this Report.

The Report states: “*The FSB was intricately entwined in the scheme to allow Russian athletes to compete while dirty. The FSB developed a method to surreptitiously open the urine bottles to enable sample swapping*” (p. 13).

Obviously and logically that if R. McLaren witnessed a demonstration of a method of surreptitiously opening bottles by other persons, besides those unnamed FSB operatives, then this method is quite widely known.

The Report further states that “*A and B bottles would pass through the “mouse hole” from the aliquoting room inside the secure perimeter of the Sochi Laboratory into an adjacent operations room, outside the secure perimeter*” (p. 14); “*the quaint solution of passing dirty samples through a mouse hole drilled between the aliquoting room in the secure area of the laboratory and the adjacent “operations” room on the exterior of the secure area*” (p. 64). However, no evidence of this hypothesis is given, the only proof is solely unsubstantiated allegations of G. Rodchenkov (or, closer to the truth, his story about his own illegal activities).

As the most vivid manipulative technique, used in R. McLaren’s Report, we should highlight the following. G. Rodchenkov’s illegal actions are listed: “*The Report has already referred to the doping program using the athlete cocktail developed by Dr. Rodchenkov*” (p. 62), “*Rodchenkov and laboratory staff then adjusted the clean urine with salt, diluted it with water*” (p. 44); “*Rodchenkov developed a steroid cocktail optimized to avoid detection*” (p. 49). However, further in the Report those actions are extrapolated, the responsibility is transferred to the state, without any proof imputing the fault for all the illegal actions of G. Rodchenkov on the state, state authorities of the Russian Federation:

*“The picture that emerges from all of the foregoing is an intertwined network of State involvement through the MofS and the FSB in the operations of both the Moscow and Sochi Laboratories. The FSB was woven into the fabric of the Laboratory operations and the MofS was directing the operational results of the Laboratories”* (p. 60). And G. Rodchenkov himself is definitively removed out of this criminal scheme in a remarkable manner and showed as *“credible and truthful person”* (p. 21), because, allegedly, *“Laboratory was merely a cog in a State run machine, and not the rogue body of individuals that has alleged”* (p. 35).

This technique is not and could not be recognized as anything but irresponsible and unethical manipulation.

The Report states: *“The veracity of Dr. Rodchenkov’s statements to The New York Times article is supported by the forensic analysis of the IP which included laboratory analysis of the salt content of samples selected by the investigative team”* (p. 15); *“The Laboratory analytical analysis has established that some samples had salt levels in excess of what can be found in a healthy human urine analysis, thereby confirming interview evidence that salt had been added”* (p. 75).

Thus, the following main arguments are presented in the Report by R. McLaren:

1). There were found micro-scratches on the bottles. Logically, there are reasonable questions about who and how can ensure that those micro-scratches had not been on the sterile bottles before collecting samples, while storing at the manufacturer’s place, that those had not appeared at the primary sample collection stage, and who and how had checked it. But these questions are ignored in the Report, while many pages of the Report are devoted to the discussion of the scratches issue (pp. 45-48).

2). The samples revealed some variation in salt content that, in fact, is non-referential to the range of issues discussed in the Report and proves nothing.

The Report by R. McLaren repeatedly uses manipulative techniques that substantially depreciate the Report as a whole, and its conclusions in particular.

In particular, we are talking about the Report containing too many “references to nowhere”, referencing something supposedly available, but not indicated in the Report (similar to - “we have it, but we will not show it to you”):

In the text fragment of the Report under study: *“The IP can confirm the general veracity of the published information concerning the sample swapping that went on at the Sochi Laboratory during the Sochi Games”* (p. 6) – such promises that *“The IP can confirm”*, in fact, do not make sense. Those particular evidences would be relevant and would be of value, but they are not represented.

Excessive use (to the point and not to the point, always, too often) of lexical structures “without doubt”, “beyond a reasonable doubt” (pp. 5, 6, 12, 23, etc.), known in legal documents of the Anglo Saxon law, cannot replace and substitute the expected relevant and convincing evidence in the Report by R. McLaren.

And in the absence of the latter, it looks just as a rhetorical cover for the absence of real evidence and relevant arguments. The declarations presented in abundance in the Report and not having convincing and evidentiary disclosure in the Report, such as: *“The IC exposed”* (p. 6), *“The IC Report detailed”* (p. 6), *“The outcomes of the IP add a deeper understanding”* (p. 6-7), *“The IC uncovered a system within Russia”* (p. 8) – do not add to the credibility of the Report.

R. McLaren states: *“in order to demonstrate that **we have hard credible evidence we have chosen to publish selected portions of the evidence we have obtained**”* (p. 26).

But in reality, further in the Report there is no relevant and convincing evidence given.

In the absence of relevant arguments, self-praising of this kind: *“however, **we are confident that what we have found meets the highest evidentiary standard and can be stated with confidence**”* (p. 26) – doesn’t just look unconvincingly, but also completely unserious.

This principal unsubstantiality of the Report expresses a grave lack of respect to its readers.

The fact that R. McLaren himself named himself “independent person” and he was called so at WADA, absolutely does not mean that each of his words has to be taken on faith uncritically. Even if we assume, that, until now, Robert McLaren has been a model of crystal clear honesty and objectivity, then it would not allow him to avoid the obligation to prove his findings and explain how those have been obtained.

### **3. Evaluation of the stated objectives and the subject of the “investigation”, their conformity with the conclusions of the Report.**

The subject of the “investigation” by R. McLaren, as declared, are the “allegations” (also the word “testimony” is used) of G. Rodchenkov: *“On 19 May 2016 the World Anti-Doping Agency (WADA) announced the appointment of an Independent Person (IP) to conduct an investigation of the **allegations made by the former Director of the Moscow Laboratory, Dr. Grigory Rodchenkov**”* (p. 2); *“The IP and his investigators interviewed and personally met the principal witness, Dr. Rodchenkov. I have concluded that Dr. **Rodchenkov is credible and truthful in relaying to me the testimony he gave which is the subject matter of this Report**”* (p. 21).

However, according to the results of the “investigation”, it is obvious that such large-scale and radical conclusions couldn’t be made.

Yet this Report is called “WADA Investigation of Sochi allegations”. That is that the subject, in the title of the Report, is some “accusations” on the part of WADA.

Unreasoned statements of G. Rodchenkov and other persons (unnamed, except V. Stepanov), legally and actually, quite unreasonably are evaluated and positioned as “allegations”: *“**All the allegations that were made have been followed up by the IP and Findings have been made along with revealing other evidence discovered during the course of the investigation**”* (p. 22). In what order, by whom specifically, within the framework of what procedure, and on what grounds these allegations were brought, - all these substantive points are simply ignored in the Report.

It is not possible to understand what exactly is the subject of the investigation in R. McLaren’s Report from the text of the Report, since it has too much ambiguity.

Thus, it is reasonable to talk about uncertainty of R. McLaren’s Report subject, predetermining unreliability and other critical drawbacks of this Report.

The third objective of the Report (the “third authority”): “3. Identify any athlete that might have benefited from those alleged manipulations to conceal positive doping tests” (p. 3), in the same Report is disavowed: “The third paragraph of the IP’s mandate, identifying athletes who benefited from the manipulations, has not been the primary focus of the IP’s work. The IP investigative team has developed evidence identifying dozens of Russian athletes who appear to have been involved in doping. The compressed timeline of the IP investigation **did not permit compilation of data to establish an antidoping rule violation**. The time limitation required the IP to deem this part of the mandate of lesser priority. The IP concentrated on the other four directives of the mandate” (p. 4).

It is reasonable to talk about the defects of the other objectives set for the Report by R. McLaren.

In addition, the analysis of R. McLaren’s Report leads to the conclusion about the absence of reference of the stated objectives and the subject of the Report to the findings of the Report.

#### 4. Evaluation of the factual and other source base of R. McLaren’s Report.

##### 4.1. G. Rodchenkov’s statements as one of the sources of information in R. McLaren’s Report base.

The main source of information laid down in the Report base is declared to be the statements and materials provided by G. Rodchenkov.

Whereas, as for the materials presented by G. Rodchenkov, the whole idea reduces simply to indicate that such materials were transferred, in some form, in some volume (all that is abstract): “Dr. Rodchenkov’s public statements triggered the creation of the IP investigation. He cooperated with the investigation, agreeing to multiple interviews and providing thousands of documents electronically or in hard copy” (p. 7).

No information on how to confirm the findings and verify the data shared by G. Rodchenkov, on examination and confirmation of the validity of the “documents” provided by him is given in the Report.

Just allegedly unsubstantiated conclusions about this person:

“he has been truthful with the IP” (p. 7);

“Rodchenkov **provided credible evidence**” (p. 14);

“Dr. Rodchenkov is **credible and truthful** in relaying to me the testimony... has been completely truthful in his interviews with me” (p. 21);

“**Rodchenkov, in the context of the subject matter within the IP mandate, was a credible and truthful person**” (p. 23);

R. McLaren says about G. Rodchenkov and his statements and materials: “Therefore, I did not hesitate in coming to the conclusion that **within the context of the subject matter that was my mandate he is a credible and truthful person**” (p. 21).

It seems that the only relevant information in this statement (if not in the whole Report) is - “not hesitate”.

Attempts to convince that Rodchenkov's statements were proved by objective means look quite unconvincing:

*"The veracity of Dr. Rodchenkov's statements to The New York Times article is supported by the forensic analysis of the IP which included laboratory analysis of the salt content of samples selected by the investigative team"* (p. 15). But nothing else in the Report in support of G. Rodchenkov's statements is found.

The abovementioned circumstances do not allow us to consider such information and materials relevant sources.

#### 4.2. Information from newspapers and television as one of the information sources in the base of R. McLaren's report.

It is said a lot in the Report that R. McLaren uses as true and verified information obtained through newspapers:

*"In the first part of May the American newsmagazine 60 Minutes and then The New York Times reported"* (p. 2);

*"means of concealing positive doping results than had been publically described for Sochi"* (p. 9);

*"The swapping occurred largely as described in The New York Times article"* (p. 14);

*"The veracity of Dr. Rodchenkov's statements to The New York Times article..."* (p. 15);

*"The first ARD documentary aired in early December of 2014"* (p. 16);

*"On 08 May 2016, the American CBS newsmagazine, 60 Minutes, aired a story of doping allegations occurring during the Sochi Games. During a segment of the 60 Minutes program, whistleblower, Mr. Vitaly Stepanov, a former employee of the Russian Anti-Doping Agency (RUSADA) ... On the basis of recorded conversations between Stepanov and the former Director of the WADA-accredited Moscow Anti-Doping Laboratory (the "Moscow Laboratory"), Dr. Grigory Rodchenkov ("Dr. Rodchenkov"), the broadcast claims that..."* (p. 18);

*"The New York Times published the article, "Russian Insider Says State-Run Doping Fueled Olympic Gold," on 12 May 2016 alleging..."* (p. 18);

*"The IP has strong evidence that verifies and corroborates a substantial part of The New York Times article"* (p. 61);

*"It was reported by The New York Times..."* (p. 64).

Such references (and in such quantities) are not just totally unconvincing, but convert the entire Report by R. McLaren into a number of speculations, a compilation of newspaper clippings and television transcripts, without giving any opportunity to assess the Report as a thorough and convincing analytical legal product.

Especially inappropriate are the references to newspapers and television in Chapter 2 of the Report, "The IP Investigation Method".

#### 4.3. Materials from some certain "e-mails".

Another source stated was “*email evidence available to the IP*” (p. 38). The sources of these “e-mails” in the Report are not represented. Just as nothing is said about how the authenticity of this correspondence was confirmed and verified. This circumstance does not allow to consider such materials to be appropriate sources.

#### 4.4. Other sources.

According to the Report, “*The mandate was not limited to just the published allegations. The IP examined other evidence of what was transpiring in the Moscow Laboratory before and after the period of the Sochi Games*” (p. 6).

What exactly is “other evidence”, in addition to the provided by G. Rodchenkov, the Report does not reveal. If we assume those described in Chapter 3, in this chapter, everything is equally vague, imprecise.

Another statement in the Report regarding the sources used: “*What the IP investigation adds to the bigger picture... With the additional evidence available to the IP, this Report provides facts and proof...*” (p. 9). Nothing is said about the kind of “new evidence” in the Report, as it has become traditional for the Report.

Reference in Exhibit 1 is written in newspaper style, the evidence presented in it does not have any proves.

In addition, it is stated in the Report that there was made an overview of the previous V.Stepanov’s statements - “*Stepanov, a former employee of RUSADA did not participate in the investigation*” (p. 7). What statements by Stepanov were overviewed and what sources were used to obtain such statements (statements in the yellow press or sworn statements, any other), the Report is silent again.

The word “witnesses” is used repeatedly (pp. 5, 7, 21, 23, 27, etc.).

Testimonies of anonymous witnesses are claimed as another source of information contained in the Report base: “***There were other witnesses who came forward on a confidential basis. They were important to the work of the IP investigation in that they provided highly credible cross-corroboration of evidence both viva voce and documentary that the IP had already secured. I have promised not to name these individuals, however I do want to thank them for their assistance, courage and fortitude in coming forward and sharing information and documents with the IP***” (p. 7–8).

What is the mechanism for granting the status of witnesses, evaluation, verification, and validation of information received from them, the Report is silent.

A little further, the Report talks about “other individuals”: “*The IP interviewed a number of other individuals on a confidential basis. Some were interviewed at the request of the IP investigation team and others came forward voluntarily*” (p. 22).

Assessing the state as a whole and the public authorities, referring to non-existent in reality “anonymous witnesses” - this is a typical yellow press tool. Using such a tool any blame can be placed. And inappropriate for this kind of document pathetics determines the credibility of such rhetoric as even lower.

Another source of information, which is the basis for the arguments and invective evaluation, declared as the conclusions of the Report, is determined as “one important

government representative”, “ I also received, unsolicited, an extensive narrative with attachments from **one important government representative** described in this Report” (p. 8, 22).

R. McLaren’s Report does not give any explanation about the ways of findings and validation of the said by all those unnamed persons and information transmitted by them.

Just unfounded presumption: “**All other witnesses** interviewed by the IP investigative team **were credible**” (p. 23).

## **5. Assessing the adequacy of the terms of the declared “investigation” by R. McLaren and the proceedings based on the results of such an investigation report.**

On May 19, 2016, as stated in the Report, R. McLaren was appointed to conduct the “investigation”, and on July 16, 2016 the Report was ready. The Report repeatedly emphasizes that the time limits for the Report was 57 days (pp. 5, 8, 22).

At the same time, R. McLaren’s Report repeatedly accents expressed sorrow that the time was not enough, “*compressed timeline of the IP investigation did not permit*” (p. 4), “*the time limitation*” (p. 4), “*the highly compressed timeline has meant that the IP investigative team has had to be selective*” (p. 4), “*in the short time of 57 days that I was given to conduct this IP investigation*” (p. 22); “*the compressed time frame in which to compile this Report*” (p. 25).

Yet, R. McLaren declares that during this period he examined “thousands of documents” (!). What kind of documents are they, what is the total number of pages, silence again. The Report does not give any information about the nature and extent of the “review” of such documents by R. McLaren, in the sense - how he researched and evaluated, whether he read them in detail, examined or superficially viewed, or those documents were searched for R. McLaren by other individuals. Meanwhile, it is very important and relevant for the assessment of the Report by R. McLaren, substantive issue, as the study of the documents conducted by R. McLaren, in its content to evaluate them requiring the assistance of specialists with other than R. McLaren’s specialization, should result in the expression of doubt in the adequacy of understanding and assessment of such documents by R. McLaren.

Despite the apparent lack of time for work and the need to consider “thousands of documents”, however, the Report states that “*upon embarking on its investigation the IP quickly found a wider means of concealing positive doping results than had been publically described for Sochi*” (p. 9), that is, presumably, not yet having had time to get acquainted with all the “thousands of documents” referred to in the Report. That much luck? Or just conclusions had been written initially, and the fake arguments were adopted later? We believe - the second.

And this is despite the fact that, according to the statement in the Report, the first period of the reported 57 days was “less than a month” (p. 24) – it was “*early in the investigation*” (p. 24).

Thus, the stated period of the procedure of the claimed “investigation” by R. McLaren and proceedings based on the results of the investigation Report, considering

the volume of the actual coverage of the subject-object area, reasonably can be assessed as inadequate, objectively determining the defectiveness of the conclusions of the Report.

## **6. Evaluation of reasonability of engaging in the Report works of the other individuals.**

According to the Report by R. McLaren, *“Throughout the course of his mandate, the IP has personally reviewed all evidence gathered by his independent investigative team. This Report was prepared from the collective work of the IP’s investigative team. The investigative process is outlined and the many significant aspects that were studied and analyzed ultimately provide evidence for findings of fact”* (p. 4).

What is this “investigative team”, who authorized it? The fact of granting R. McLaren some authority does not predetermine and can not automatically prejudge granting the same power other persons. But the Report by R. McLaren, in most cases, does not specify who exactly those people are, what their professional qualification is, how it can be proved and verified (forensic experience, experience in sports law with experience in such cases - cases arising out of the facts of illicit distribution and using doping).

Lack of opportunities to verify the statement in R. McLaren’s Report that its “investigative team” was really independent and objective, also calls into question the validity of the Report as a whole.

More are mentioned as engaged in the “investigation” some (again anonymous) “forensic experts”: *“the IP investigation, assisted by forensic experts, has conducted”* (p. 12). What “forensic experts” were engaged by R. McLaren, on what grounds, what is their qualification, what are the grounds to trust them, the Report is silent again.

It further states that there was made a “forensic analysis”: *“The veracity of Dr. Rodchenkov’s statements to The New York Times article is supported by the forensic analysis...”* (p. 15). What criminalists were engaged by R. McLaren, on what grounds, what is their qualification, what are the grounds to trust them, the Report is silent again. It indicates only some certain *“The London WADA accredited Laboratory”* (p. 15).

Then it is said: *“The IP forensic examination of these bottles found evidence of scratches and marks confirmed tampering”* (p. 17). Here the author of the Report does not make any efforts to explain anything about this “expertise”.

Finally, on p. 19, the Report states about the existence and activities of some *“members of the IP investigative staff”* (reminder: independent person is R. McLaren himself).

But most importantly, who and on what grounds authorized all of these individuals to interfere in the issues, independently and arbitrarily grant themselves the authority?

Only on pp. 19-20 of the Report, R. McLaren deigned to partly list the persons included in the investigative team (another group of people or another name of the other parties to engage on the arbitrary grounds): *“Following that meeting, the IP acted quickly to*

*pull together his investigative team. Included were: Chief Investigator Martin Dubbey, Montreal Anti-Doping Laboratory Director, Dr. Christiane Ayotte, lawyer and the IP Russian language support, Diana Tesic, WADA investigation department Mathieu Holz, Richard Young, Esq., two Western University Law students, Karen Luu and Kaleigh Hawkins-Schulz”.*

Again, we note that R. McLaren does not bother to describe the professional and expert skills and experience of the above mentioned persons. With all due respect to those students (not school students, at least), however, let us express doubts about the relevance and adequacy of their skills and experience to work within the issue.

Qualification, specialization, and experience of other (besides students) persons, the scope and content of the work accomplished by those persons in the provision of the Report by R. McLaren - all this remains hidden. And this fact does not allow to consider the findings of this group as relevant, reliable, fair, and convincing.

Just below, the Report states that specialists in the field of forensic medicine, cyber-specialists, and others were engaged. (p. 20). But who are they - once again - silence.

It is stated that R. McLaren was provided with some laboratory and assistance of its direct superior: *“Dr. David Cowan Director of the Drug Control Centre and the DNA analysis unit at Kings College, London (“DCC”) provided the use of his laboratory and did the laboratory analytical work for the IP.”* This is, perhaps, the only indication of engaging a distinct entity and its expert resources. But such an indication is not enough. It should be a detailed description of what resources were involved in this laboratory, under what conditions, using assistance of what persons and with what professional qualification.

The reference contained hereinafter to some laboratory tests, almost all characterized by the absence of relevant specific information on these laboratories and the actions conducted in the provision of the Report.

Next, R. McLaren indicates another name of the other parties: *“experts involved in our team”* (p. 20).

Thus, to participate in the preparation of the Report and of the information used in it, R. McLaren invited in an unauthorized manner people with qualification which is not properly proved. R. McLaren, himself, systematically gets confused with the limits and status of the aggregate of such persons to be engaged, calling them in the text of the Report in many different ways.

## **7. Conclusions.**

The Report by R. McLaren *“WADA Investigation of Sochi allegations”* dated 16.07.2016 is based on the information which, judging by the Report, was not brought by R. McLaren to verification and validation with the use of objective means. This Report does not contain any direct and unambiguous proves or evidence, it possesses a number of inconsistencies and exaggerations.

It is justifiably to recognize R. McLaren’s Report as biased and unsubstantiated.