

JUDICIAL AWARD DELIVERED BY THE FISA DOPING HEARING PANEL

sitting in the following composition

Members: **Tricia Smith**
 Mike Williams
 John Boulton

In the case of
Yana Suzdaltseva

THE FACTS

RUSADA conducted in-competition testing at the Grand Moscow Regatta on 7 June 2014. A urine sample was collected from Yana Suzdaltseva (“the Athlete”).

The sample collected from the Athlete Yana Suzdaltseva was given the sample number 2919101 and was recorded on the Doping Control Form. The Athlete declared on the form that she had taken no medications or supplements in the seven days before the test. She made no comments about the procedure on the doping control form. The WADA accredited laboratory in Moscow, received the “A and B” samples on 9 June 2014.

The Laboratory Results report form in ADAMS entered by the Moscow Laboratory on 20 June 2014, indicates that Sample 2919101 showed the presence of a metabolite of metandienone. Metandienone is included in the 2014 Prohibited Substances/Methods List of the World Anti-Doping Code and is classified in class S1, Anabolic Agents.

No valid Therapeutic Use Exemption (TUE) for metandienone exists and no departures from the International Standard for Testing (ISL) have been established.

RUSADA conducted the in-competition testing at the Grand Moscow Regatta and indicated FISA as the Testing Authority on the Doping Control Form (without communicating this information to FISA) Therefore there was a delay in establishing FISA as results management authority in this case. The FISA Executive Director wrote a letter on 13 August 2014 to the National Federation to notify the Athlete of the adverse analytical finding and to provisionally suspend the Athlete. The Russian Rowing Federation confirmed on 14 August 2014 that the Athlete waived the B-Sample analysis.

On 20 August, the FISA Executive Director sent a letter to the Russian Rowing Federation with information about the Athlete’s right to a Hearing with a FISA appointed Hearing Panel. On 23 August an email was sent to the Russian Rowing Federation with a questionnaire to be completed by the Athlete. This questionnaire was duly completed in Russian by the Athlete, translated by the National Federation and returned to FISA by email on 27 August 2014.

HEARING

The Athlete confirmed in the questionnaire that she did not wish to be heard by the Hearing Panel or be represented by someone else. She noted that she did not wish to provide evidence by any other means.

Athletes' Evidence

The evidence submitted by the Athlete is limited to the sum of her responses in the Athlete's questionnaire.

The questionnaire is a series of twelve questions for the Athlete to answer. These questions relate to the substance responsible for the positive test and how it was ingested, the Athlete's decision regarding the B-Sample analysis, anti-doping education received by the Athlete, and the decision by the Athlete regarding the Hearing or submitting any further evidence in writing.

The first question is the following:

1. According to you, what was the name of the medication or product which led to this positive test?

The Athlete's response was: CLENBUTEROL

She noted that this medication was not prescribed or given to her but that she purchased it "at a drug store" and that "I took it by myself without prescription" for "bronchitis treatment" between "14/05/14 and 28/05/14".

She wrote that she was not suffering from any other health condition at the time. She was also tested on 30 June 2014 and 10 August 2014, but had not yet received the results.

The Athlete noted that she had received anti-doping education from RUSADA or her National Federation in the form of "information sheets". She claimed that she had signed the FISA Commitment Form on 5 September 2013, but that she had not understood what she had signed.

As noted previously, the Athlete wrote that she did not wish to be heard by the Panel and that she does not wish to present her evidence in any other way. The FISA Panel can now proceed with their adjudication.

APPLICABLE LAW

The applicable rules

The applicable rules are the FISA Anti-Doping Rules in force at the time of the test (7 June 2014). These rules are consistent with the World Anti-Doping Code.

The relevant rules

The relevant rules in this case are the FISA Anti-Doping Bye Laws including but not limited to:

- Article 2.1.1 which states it is each Rower's personal duty to ensure no Prohibited Substance enters his body;
- Article 10.2 which sets a period of two years' ineligibility for a first violation for prohibited substances, and which provides that the athlete shall have the opportunity to establish the basis for eliminating or reducing this sanction as provided in Articles 10.4 and 10.5;

MERITS

The Panel is satisfied that a positive test result was established by the evidence of the laboratory analysis. The Athlete did not dispute the findings of the test. The sanction for an anti-doping rule violation in this case is a two year period of ineligibility.

The substance metandienone is an Anabolic Agent which is not a Specified Substance, therefore Article 10.4 does not apply in this case.

The Panel must decide if the Athlete provided sufficient evidence of exceptional circumstances and no fault or negligence (Article 10.5) or no significant fault or negligence (10.5.2) to reduce the period of ineligibility. Under the Article the Athlete must also explain and give evidence as to how the Prohibited Substance entered her body.

The Athlete has surprisingly indicated that the ingestion of clenbuterol has resulted in the adverse analytical finding. This is unexpected as clenbuterol is another prohibited substance. In any case, there is no evidence before the Panel that ingestion of clenbuterol could have produced a positive test result for the substance metandienone. The Panel does not accept that this was how the Prohibited Substance entered her body.

The Athlete has not produced any evidence in this case to demonstrate an exceptional circumstance or a reduction in the level of fault which would reduce the applicable period of ineligibility. She noted that she had bronchitis which is why she claimed she took clenbuterol, however, as noted, this does not assist her case. Article 10.5 does not apply.

The Panel accepts the analysis indicates the presence of the metandienone. This constitutes an anti-doping rule violation. The athlete in the questionnaire has reported that she took Clenbuterol, also a Prohibited Substance, for bronchitis. The Panel cannot accept this statement as true. In any case, there is no evidence to indicate Clenbuterol would produce the presence of metandienone. In the absence of any sort of explanation for the presence of metandienone, and with answers to the questionnaire which do not appear to the Panel to be honest or believable, the Panel has no hesitation in finding the athlete guilty of an anti-doping rule violation with no reduction in the penalty.

The Panel would like to express its concern regarding this case. The Athlete, Yana Suzdaltseva is a very young woman. Metandienone is an “old fashioned” anabolic agent which causes severe masculinising effects in women. The Panel also was concerned that she has claimed to have taken “clenbuterol” allegedly for bronchitis (and without having tested positive for the substance). The Panel strongly encourages the Russian Rowing Federation to conduct an internal investigation to ensure that the entourage of the rowers are respecting the health of the rowers and the anti-doping rules. The Panel would also like to reiterate that it is very important for the national federation to conduct anti-doping education sessions with rowers to ensure that all athletes are well informed about the health and legal issues and risks.

FOR THESE REASONS

The FISA Doping Hearing Panel finds:

1. Yana Suzdaltseva has committed an Anti-Doping Rule Violation under the Anti-Doping Bye-Laws.
2. Yana Suzdaltseva is suspended and ineligible for two years from national and international competition
3. The period of ineligibility commences from the date of the provisional suspension, 13 August 2014.

This award is rendered without costs.

Lausanne, 30 September 2014

For the FISA Doping Hearing Panel:

Tricia Smith

Mike Williams

John Boulton