

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
Nikael Bikua-Mfantse

THE FACTS

RUSADA conducted in-competition testing at the Grand Moscow Regatta on 8 June 2014. A urine sample was collected from Nikael Bikua-Mfantse. ("the Athlete").

The sample collected from the Athlete Nikael Bikua-Mfantse was given the sample number 2918789 and was recorded on the doping control form. The Athlete declared on the form that he had taken Preductal as well as several other substances which included multivitamins, Riboxin, Creatine, Levocarnitine, Magnerot. He 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 17 June 2014, indicates that Sample 2918789 showed the presence of trimetazidine. Trimetazidine is included in the 2014 Prohibited Substances/Methods List of the World Anti-Doping Code and is classified in class S6, Stimulants under section b, Specified Stimulants.

No valid Therapeutic Use Exemption (TUE) for trimetazidine was obtained by the athlete 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 26 August 2014.

HEARING

The Athlete confirmed in the questionnaire that he did not wish to have a hearing but that he has "official documents with my diagnosis that state cardiovascular insufficiency and prescriptions by cardiologists for the treatment with Preductal MR".

Athletes' Evidence

The evidence submitted by the Athlete included his responses to the FISA Athlete questionnaire, a statement, as well as clinical notes, prescriptions and medical imaging.

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: Preductal MR

He noted that the substance was first prescribed to him on 15 April 2010 by the doctors Yurchak Tatiana Valeryevna and Golubizkaya Elena Alexandrovna. His two most recent prescriptions were given to him on December 2013, then May 2014. He had taken one dose of 35mg of Preductal (trimetazidine) on the morning of the race.

The Athlete noted that he had received anti-doping education from RUSADA or his National Federation in the form of an anti-doping lecture before the Championships of Russia.

He wrote that he was suffering from a health condition at the time. In the Athlete's statement he writes that *"in 2010 after a lengthy illness (myocarditis) medical specialists began to observe abnormalities in my cardiovascular system. They diagnosed permanent first degree AV - block and second-degree AV block at nighttime. In March 2010 I undergone a health screening at the medical center "Luzhniki" and was diagnosed - "acute myocarditis". I was suspended from trainings and was sent to the Institute of Rheumatology and Immunology...*

During the treatment I was prescribed "Preductal" in combination with other medications for cardiovascular system. After the successfully completed course of rehabilitation at a monitoring medical examination in June 2010 I was allowed to return to trainings and competitions. Upon the recommendation of medical staff I continued to take "Preductal" during strenuous exercise. It helped me to prevent the recurrence of problems with cardiovascular system. In 2011 and 2012 as it was prescribed by medical staff I periodically took Preductal, Riboksin, Mildronat, Magnesium B6 during training camps and competitions. I knew that "Preductal" was not in the Prohibited List, and I took it without hesitation.

In June 2013, after the European Rowing Championships in Seville, I again began to feel unwell (excessive fatigue syndrome). In this regard I consulted medical specialists at the Medical Center LLC "President SK №2». During the medical screening I was diagnosed "left ventricular hypertrophy, cardiosclerosis, mitral valve insufficiency". I was recommended cardiotherapy, including "Preductal".

In December 2013 I undergone medical examination at State Scientific Center "Biophysics Institute" named after A.I. Burnazyan, Cardiovascular Department. I was diagnosed "Overtraining with hormonal exhaustion". Upon doctor's recommendation, I gave up high physical activities and within three months continued with light trainings with an individual plan. After repeated examinations at State Scientific Center "Biophysics Institute" named after A.I. Burnazyan held in January and February 2014 and improvement of my general well-being, I was admitted to NT trainings with a gradual increase in physical activity. In the second half of May 2014, according to the recommendation of a cardiologist, I again began to take "Preductal." On June 8th after final races at "Grand Moscow Regatta" I was invited to sample collection. In the doping control protocol I have mentioned medications and food additives: Preductal, Magnesium B6, Isotonic, Creatine, Amino Acids. I didn't know that the Prohibited substance "Trimetazidine" is found in "Preductal"."

On 18 September, the Athlete was requested to provide his complete medical file regarding his cardiac issues. On 24 September, he submitted MRI, ECG and other clinical evidence dating from 2010. The National Federation submitted translations of the medical evidence.

On 12 December, the Athlete and the National Federation submitted further detailed medical imaging and clinical notes in response to final FISA Panel request.

APPLICABLE LAW

The applicable rules

The applicable rules are the FISA Anti-Doping Rules in force at the time of the test (8 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 if the substance is a specified substance;

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 and did not request the analysis of the B sample. The sanction for an anti-doping rule violation in this case is a two year period of ineligibility.

The substance trimetazidine is a Stimulant which is a Specified Substance.

As it is a specified substance, the Panel must decide if Article 10.4 applies, and if the Athlete provided sufficient evidence of how the substance entered his body and that he did not use it to enhance performance. Under the Article 10.5 the Athlete must provide evidence which corroborates his evidence that he did not intend to enhance performance and also as to the degree of fault of the athlete. If he can do so, the Panel may reduce the sanction to somewhere between a reprimand and 2 years' suspension.

The FISA Panel finds that the Athlete has shown how the substance entered his body. It was taken by him, as admitted by him, and as recorded on the doping control form. He had been prescribed it by cardiologists in the form of Preductal on several occasions since 2010 for a condition described as myocarditis, and later for other heart conditions described as left ventricular hypertrophy, cardiosclerosis and mitral valve insufficiency.

The FISA Panel accepts that it was not intended to enhance performance due to the evidence that it was prescribed for a particular medical condition. Also the fact that he willingly declared it on the doping control form suggests he was not aware that it might be prohibited. He has stated that he was sure that it was not a banned substance.

Under Article 10.5, the Athlete needs to adduce corroborating evidence which establishes an absence of intention to enhance performance, and as to his degree of fault. The medical evidence provided constitutes such corroborating evidence that his intention for taking the substance was not to enhance performance but to treat a heart condition.

The FISA Panel agrees that it considers his fault was not of a high degree. The substance was not banned before 2014 and it was prescribed for him since 2010. It was prescribed for him again in May 2014. Several doctors had prescribed it over the years. He indicated that he had been provided with education about doping in sport and that he had signed a commitment form to abide by anti-doping rules.

His level of fault is that he failed to keep up to date with changes in the WADA Prohibited List with the introduction of this substance in the Prohibited List in 2014. He relied on the various doctors who prescribed it over the years, and didn't question them in 2014. Therefore he failed to seek a TUE in 2014 when the substance became prohibited.

The FISA Panel is unable to conclude whether the use of Preductal for the conditions he was diagnosed with is a usual or justifiable medical course to take. The experts consulted by the Panel were unable to express an opinion on the basis of the medical records provided without further examination of the rower by another cardiologist. Nevertheless, we accept the fact that, whether the treatment would be considered justified by other experts or not, the substance was used by the rower, as prescribed by a number of doctors, for a condition which they had

diagnosed, and these factors have been relevant in considering the requirements of Articles 10.4 and 10.5.

FOR THESE REASONS

The FISA Doping Hearing Panel finds:

1. Nikael Bikua-Mfantse has committed an Anti-Doping Rule Violation through the presence of trimetazidine in his body from the test conducted on 8 June 2014.
2. Nikael Bikua-Mfantse's results are to be disqualified from the 2014 Grand Moscow Regatta.
3. The sanction should be reduced from 2 years to 6 months from the date of sample collection.
4. The period of ineligibility commences from the date of sample collection, 8 June 2014.

This award is rendered without costs.

Lausanne, 15 December 2014

For the FISA Doping Hearing Panel:

Tricia Smith

Mike Williams

John Boulton