

9th February 2005
Lausanne, Switzerland

**ANTI-DOPING AWARD
DELIVERED BY THE
ANTI-DOPING HEARING PANEL OF FISA**

sitting in the following composition



President: Denis Oswald

**Members: Jean-Christophe Rolland
Tricia Smith**

In the case

Ganna Gryhchenko (UKR)

On 9th February 2005

I. Facts

1. On 22 August 2004, Ms. Olena Olefirenko (the Athlete) competed in the Women's quadruple sculls event in Athens, in which her team placed third. The team doctor for Ms. Olena Olefirenko was Doctor Ganna Gryhchenko.
2. Immediately following Ms. Olefirenko's participation in the competition, she was requested to provide a urine sample for a doping control in Athens.
3. Pursuant to Article 7.2.1. of the *IOC Anti-Doping Rules applicable to the Games of the XXVIII Olympiad in Athens in 2004* (the "Rules"), Dr. Patrick Schamasch, IOC Medical Director and representative of the Chairman of the IOC Medical Commission, was informed in the evening of 24 August 2004 by the Head of the WADA Accredited Laboratory in Athens of an adverse finding on a "A" sample collected on 22 August 2004 in Athens.
4. Pursuant to Article 7.2.2. of the *Rules*, Dr. Schamasch determined that the above-noted "A" sample belonged to Ms. Olena Olefirenko, and verified that it did in fact give rise to an adverse analytical finding. He also determined that there was no apparent departure from the International Standards for Testing or the International Standards for Laboratories that undermined the validity of the adverse analytical finding.

5. Pursuant to Article 7.2.3. of the *Rules*, Dr. Schamasch immediately informed the IOC President Dr. Jacques Rogge of the adverse analytical finding and the essential details available to him concerning the case.
6. Pursuant to Article 7.2.4. of the *Rules*, the IOC President, by letter dated 25 August 2004, immediately set up a Disciplinary Commission, consisting of:
 - Mr. Thomas Bach (Chairman)
 - Mrs. Gunilla Lindberg
 - Mr. James Easton
7. Pursuant to Article 7.2.5. of the *Rules*, the IOC President by letter dated 25 August 2004 informed the athlete (represented by Ms. Nina Umanets, Coach), the Chef de Mission of the Ukraine Olympic Committee (Mr. Oleksandr Artemiev), the President of the FISA (President Denis Oswald) and the Head of the Independent Observer Programme (Prof. Ulrich Haas) of the adverse analytical finding and the time, date and place of the hearing of the Disciplinary Commission regarding this case.
8. The Disciplinary Commission held a hearing on 25 August 2004 at 17:00 hours, at the Divani Caravel Hotel in Athens in the presence of a delegation (hereinafter the “Delegation”) comprised of:
 - Mr. Oleksandr Artemiev, Chef de mission
 - Ms. Nini Umanets, Coach
 - Mr. Volodymyr Bud, Coach
 - Mr. Oleksiy Romanov, Translator
9. Prof. Rainer Stephany attended the hearing in his capacity as representative of the Independent Observer Programme.
10. Also attending the hearing was Dr. Patrick Schamasch, IOC Medical Director, Mr. Howard Stupp, IOC Director of Legal Affairs and Mr. François Carrard, IOC Legal Advisor.
11. The Delegation had been informed of the results of the laboratory analysis which indicated the presence of “Ethamivan”, a stimulant. The Delegation requested the analysis of the “B” sample.
12. By letter dated 25 August 2004, WADA officially confirmed to the IOC that “Ethamivan” is a prohibited stimulant. It is not expressly stated as such in the list of examples, however, it is classified as a substance with “similar chemical structure or similar pharmacological effect”.
13. The Delegation informed the Disciplinary Commission that Ms. Olena Olefirenko had already gone home but was represented by Ms. Umanets.

14. The Delegation declared that the athlete only took the medications listed on the Doping Control Official Record which she signed on 21 August 2004.
15. The Delegation also declared that these medications were given to the athlete by the team doctor Ms. Ganna Gryshchenko.
16. The Disciplinary Commission noted that, on the Doping Control Official Record filled out by the athlete at the time of the collection, one of the medications declared by the athlete, Instenon, contains the prohibited substance Ethamivan, found in her urine.
17. The representative of the NOC reminded the Commission that the NOC was implementing the World Anti-Doping Code and was serious about preventing doping.
18. The Delegation was advised that the Commission would apply the principle of strict liability with respect to a possible disqualification of the athlete.
19. After hearing the Delegation and the arguments it put forward, the Disciplinary Commission retired in order to deliberate.
20. The Disciplinary Commission unanimously concluded that Ms. Olena Olefirenko had committed a doping offense pursuant to Article 2.1 of the *Rules* in that there was Ethamivan in Ms. Olena Olefirenko's urine.
21. Women's quadruple scull is not a team sport. Article 11 of the *Rules*, last sentence, reads as follows: "*In sports which are not Team Sports but where awards are given to teams, Disqualification or other disciplinary action against the team when one or more team members have committed an anti-doping rule violation shall be as provided in the applicable rules of the International Federation*". According to Byelaw 11.1 to Rule 81 11 of the FISA Anti-Doping Rules, if a member of a crew is found to have committed an anti-doping rule violation, the whole crew shall be disqualified from the competition.
22. Based on the recommendation of the Disciplinary Commission, the IOC Executive Board decided on August 26 2004 :
 - I. *that, due to the adverse analytical finding in the urine of the athlete Ms. Olena Olefirenko, the Ukraine team (women's quadruple sculls in final A) be disqualified from the Women's quadruple sculls event, in which they had placed third (Olena Olefirenko, Olena Morozova, Tetyana Kolesnikova and Yana Dementyeva);*
 - II. *that all bronze medals and diplomas be withdrawn from the above-noted athletes;*

- III. *that the International Rowing Federation be requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence;*
 - IV. *the Ukraine Olympic Committee be ordered to return to the IOC, as soon as possible, the medals and diplomas awarded to the athletes in relation to the above-noted event;*
 - V. *that the International Rowing Federation consider possible action against Ms. Ganna Gryshchenko;*
 - VI. *that the Ukraine Olympic Committee consider possible action against Ms. Ganna Gryshchenko;*
 - VII. *that the IOC reserves the right to open a new procedure in front of the IOC with respect to any participation of Ms. Ganna Gryshchenko in the 2006 or 2008 Olympic Games; and*
 - VIII. *this decision shall enter into force immediately.*
23. On 1st November 2004, the National Olympic Committee of Ukraine indicated to Mr. Denis Oswald, President of FISA, that the National Olympic Committee of Ukraine accepted the IOC decision, strongly recommended that Doctor Ganna Gryshchenko should be suspended from participation at the Olympic Winter Games 2006 and that no sanction should be taken against the athlete Ms. Olena Olefirenko.
 24. On November 15 2004, FISA informed the National Olympic Committee of Ukraine that it was going to consider the case of the athlete Olena Olefirenko and of the Doctor Ganna Gryshchenko and that these two persons had the opportunity to appear in person before the Anti-Doping Hearing Panel of FISA on November 21 or 22 2004 or at a later date or to submit a return statement.
 25. On November 19 2004, the National Olympic Committee of Ukraine indicated to FISA that they agreed that the case could be heard without the presence of the two persons concerned and that the NOC of Ukraine had no additional statement to make. They confirmed their belief that no sanction should be imposed on Ms. Olena Olefirenko.
 26. On December 1st 2004, FISA asked the NOC of Ukraine to provide the personal confirmations of the two persons concerned, the athlete Olena Olefirenko and the Doctor Ganna Gryshchenko, that they did not intend to appear before the FISA Anti-Doping Panel and that they were in agreement with the position expressed by the NOC of Ukraine on November 1st 2004.
 27. On 1st February 2005, FISA did receive completed "FISA Possible Doping Case" questionnaires from the Athlete Ms. Olena Olefirenko and from the National Federation of Ukraine related to this case. In spite of several requests, the Doctor Mrs. Ganna Gryshchenko did not send any confirmation.

II. Applicable law

This case is governed by the rules in force at the time of the offense (FISA Rule 81, para. 3), i. e. the World Anti-Doping Code adopted by FISA at the 2003 FISA Ordinary Congress effective 1st January 2004 and the corresponding FISA Bye-laws.

III. The Athlete's contentions

The athlete claims that she did not take any other substance than those listed in the doping form that she had completed. The analytical finding of the lab is compatible with this statement and confirmed the intake of "Ethamivan", a stimulant. She insisted that she only took the medication given to her by the team doctor Ganna Gryshchenko, without any consideration that it could be prohibited.

IV. The Team Doctor's contentions

The team doctor Dr. Ganna Gryshchenko did not deny the contentions of the athlete.

V. Merits

The Anti-Doping Hearing Panel of FISA has now to decide whether Dr. Ganna Gryshchenko has committed an anti-doping rule violation as set out in Article 2.8 of the Rules.

"Administration or attempted administration of a prohibited substance or prohibited method to any athlete or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any attempted violation."

The IOC disciplinary commission stated in the minutes of the hearing (page 2): *"The commission recognizes that the medicine has been recommended by the doctor; that the athlete had relied on the doctor. It was noted that even if one looked at the contents of the medicine, one would not have realised that it contained a prohibited substance, as it was not included on the prohibited list."*

This comforts the FISA Anti-Doping Hearing Panel in its belief that Olena Olefirenko had no intention to artificially improve her performances but that she just followed the advice of her doctor in order to combat her medical condition.

As set out above, Ethamivan is a prohibited stimulant. It is not expressly stated as such in the list of examples, however, it is classified as a substance with "similar chemical structure or similar pharmacological effect".

As the team doctor at the Olympic Games responsible for the athletes, Dr. Ganna Gryhchenko is expected to know the IOC Anti-Doping Rules applicable to the Games, in particular the list of prohibited substances as defined by the Rules.

The athletes of the team, including Ms. Olena Olefirenko, relied on the expertise and experience of Dr. Ganna Gryhchenko and had no reason not to trust her doctor and to follow her advise and direction on what medication was appropriate and not prohibited in the context of competing at the Olympic Games.

In spite of this, Dr. Ganna Gryhchenko provided to the athlete Ms. Olena Olefirenko. Instenon, a medication containing the prohibited substance Ethamivan, which was subsequently found in the athlete's urine, resulting in disqualification of the athlete and her crew and the loss of an Olympic medal.

Even if Doctor Ganna Gryhchenko had probably no intention to violate any anti-doping rules, her negligence in that case is significant and it had disastrous consequences for the athletes. Therefore, a four years ban is appropriate and shall apply.

FOR THESE REASONS

The FISA Anti-Doping Hearing Panel finds:

1. Pursuant to Article 2.8 of the Rules, Dr. Ganna Gryhchenko has committed an Anti-Doping rule violation.
2. Pursuant to Article 10.4.2 of the Rules, Dr. Ganna Gryhchenko shall be ineligible for a 4 years period from August 22, 2004. The terms of ineligibility are as defined in Article 10.9 of the Rules.
3. This award is rendered without costs.

Dubrovnik, Croatia, 5th February 2005

For the FISA Anti-Doping Hearing Panel

Denis Oswald
President

Jean-Christophe Roland
Member

Tricia Smith
Member