

According to Article 7, the Athlete was informed by FISA through the Ukrainian National Rowing Federation (the “Federation”) on 17 January 2008 that a violation of the World Anti-Doping Code had occurred in relation to samples A-3009113, A-3009117, A3009124, A-3009108, A3009120.

In accordance with Article 8.1 of the FISA Anti-Doping Rules, the Athlete was invited to attend and participate in a hearing before a FISA Anti-Doping Hearing Panel or to provide a statement of her position in writing.

The Federation confirmed on 23 January 2008 that control analyses of the B samples were not required.

The Athlete provided a written statement to FISA through the Federation dated 22 February 2008.

On 13 March 2008, the Federations confirmed that the Athlete did not wish to appear before the Hearing Panel.

In her letter, the Athlete stated that she had become ill and had lost weight due to a bad respiratory disease. She consulted a training centre for information on how to regain her fitness level. She stated that she did not inform the training centre that she was an athlete, and that she was sure that the substance she was given was not prohibited. She also stated that the doctor and the coach were not aware that she was taking medicine. The Athlete wrote “When we were dope tested, I was sure that I would be negative because I did not even guess that I was taking a prohibited substance.”

Summary of Key Dates

- Date of the Test: 12 December 2007
- Date of the official notification by WADA to FISA of Anti-Doping Rule Violation: 16 January 2008
- Date of the Laboratory Report: 14 January 2008
- Date the Athlete through the Federation was informed of the Anti-Doping Rule Violation: 17 January 2008
- Date of receipt of the response from the Athlete through the Federation that the Athlete did not require a control analysis: 23 January 2008
- Date of receipt of official statement from the Athlete: 22 February 2008.
- Date of email from FISA to the Federation to ascertain whether the Athlete wished to appear in person before the FISA Doping Hearing Panel: 5 March 2008
- Date of letter from the Federation advising that the Athlete will not personally appear before the FISA Doping Hearing Panel: 13 March 2008.

Hearing

In accordance with the Rules, a Hearing Panel was formed by the FISA Executive Director consisting of John Boulton, Michael Williams and Anita DeFrantz.

The Panel reviewed the material provided to the Athlete through the Federation as well as the explanation provided by the Athlete.

Applicable Law

The applicable rules

The applicable rules are the FISA Anti-Doping Rules in force at the time of the test (12 December 2007). 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 10.2 which sets out the Imposition of Ineligibility for Prohibited Substances and Prohibited Methods. The Article sets a period of two years ineligibility for a first violation of Article 2.1 (the presence of a Prohibited Substance or its metabolites or Markers);
- Article 10.5 which deals with Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances. The Article provides for elimination of the period of ineligibility based on exceptional circumstances and no fault or negligence. Article 10.5.2 provides for a reduction to no less than one half of the minimum period of ineligibility in the case of “no significant fault or negligence.”

Merits

According to FISA Rules and the World Anti-Doping Code, the burden of proof is on the athlete to rebut the presumption of guilt established by the presence of a prohibited substance in her body or fluid.

The Panel is satisfied that a positive test was established by the evidence. In fact the Athlete did not dispute the findings of the test. The sanction for a positive finding in this case is a two year period of ineligibility.

The Panel must then decide if the Athlete provided sufficient evidence of exceptional circumstances and no fault or negligence (Article 10.5) or no significant fault or negligence (Article 10.5.2) to reduce the period of

ineligibility. Under the Article the Athlete must also explain how the Prohibited Substance entered her body.

The Athlete consulted a specialist at a training centre following a respiratory illness. She wanted to regain her previous level of fitness. She does not mention the name of a medication she was given.

With regard to her explanation relating to no fault or negligence, or no significant fault or negligence, she stated that she did not inform the specialists of the training centre that she was an athlete. She also stated that “the doctor or the personal coach were not informed by me that I used this medicine at the expense of sponsors.”

The Panel would have liked to have known the name of the medication to confirm if it was listed or not on the declaration section of the Doping Control Form. A total of 10 substances were listed, some of which are not legible.

The Athlete did not submit any information regarding her respiratory illness or any information received from the training centre about treatment to recover from her illness and regain her level of fitness.

The Panel finds the Athlete’s explanation relating to no fault or negligence to be insufficient and finds that the Athlete was at fault and was negligent.

Athletes are responsible for the medications or substances they take into their bodies. It is not a sufficient excuse that a substance was prescribed by a specialist at a training centre or that an athlete wants to recover quickly following an illness. It is the Panel’s view that in not telling the doctor that she was an athlete, and not checking to ask if the substance was not a prohibited substance, she was at fault and negligent in a significant way.

FOR THESE REASONS

The FISA Doping Hearing Panel finds:

1. The Athlete Irina IAROSH has committed an Anti-Doping Rule Violation under the Anti-Doping Bye-Laws.
2. The Athlete 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, 17 January 2008.
4. This award is rendered without costs.

16 May 2008

For the FISA Doping Hearing Panel:

John Boulton

Anita DeFrantz

Michael Williams