

**AWARD DELIVERED BY THE EXECUTIVE COMMITTEE OF FISA**

**sitting in the following composition**

<b>President</b>	<b>Denis Oswald</b>
<b>Members</b>	<b>Anita DeFrantz</b> <b>Mike Sweeney</b> <b>Tricia Smith</b> <b>Denis Maseglia</b>

**In the case**

**Mohamed Abdel Ghaffar Ahmed**

**In Frankfurt, Germany on 25<sup>th</sup> January 2004**

**I. The Facts**

The Executive Committee of FISA considers that the facts have been satisfactorily established by the Commission of Enquiry. The athlete concerned has not contested the description of the facts. The athlete did not appear before the Commission of Enquiry, but submitted a written declaration to FISA in the form of a response to the “athlete’s questionnaire”.

The Executive Committee of FISA, however, requested additional information. It was therefore not in a position to make a decision until its meeting on 25<sup>th</sup> January 2004 in Frankfurt. This delay was not detrimental to the athlete as, in the meantime, FISA adopted the more favourable World Anti-Doping Code (WADC). Nor was it detrimental to the fight against doping as the athlete has been provisionally suspended since 16<sup>th</sup> August 2002. FISA never lifted that provisional suspension.

The Executive Committee of FISA therefore bases its judgment on the following facts:

1. On 15 June 2002 the athlete provided a urine sample for an in-competition doping test conducted by the Flemish Ministry of Health during the Rowing World Cup regatta in Hazewinkel, Belgium.
2. FISA received a report from the Gent Anti-Doping Laboratory on a positive A sample on 02 July 2002, just before the Rowing World Cup regatta in Lucerne. The Flemish Ministry of Health, through the Royal Belgian Rowing Federation, reported to FISA that the sample A was from the Egyptian Athlete.

The Lab analysis revealed the presence of nandrolone metabolites. FISA was informed that the Flemish Ministry of Health was pursuing this case according to its laws and regulations, independent of FISA.

3. On 13 July 2002, Matt SMITH informed the Egyptian Rowing Federation of the possible positive doping offence. The ERF then, on its own initiative, withdrew the athlete from international competition and engaged the Swiss Olympic Anti-Doping Agency to conduct out of competition doping tests on this Athlete and many others from their team attending the Lucerne International Regatta, 14 to 16 July in Lucerne, Switzerland. On the Athlete Signature Form completed at the time of the test, the Athlete answered the "Voluntary Declaration of medications taken during the last 14 days" as follows: "Nothing."
4. On 05 August 2002, the Swiss Olympic Association reported to FISA that the sample A of the test 108664 they had conducted on the Egyptian Athlete was positive. The analysis revealed the presence of nandrolone metabolites.
5. On 07 August 2002, the Swiss Anti Doping Laboratory reported a positive A sample from the test conducted in Lucerne on 13 July 2002.
6. On 16 August 2002, Matt SMITH wrote to the President of the Egyptian Rowing Federation informing him that one result of the tests commissioned by Egyptian Rowing was positive and asking if they wanted a control analysis of the "B" sample to be made. He also confirmed the provisional suspension from international competition on (of) the athlete until the procedure was completed.
7. On 24 August 02, Matt SMITH received a fax from Khaled Zein EL DIN, President of the Egyptian Rowing Federation stating, "*we are satisfied with the previous result*". They did not request an analysis of the B sample.
8. On 05 September 2002, Matt SMITH received by fax the result of the investigations conducted by the Egyptian Federation and the disciplinary decision on this case.
9. The Athlete claims that following intensive weight training at a training camp in Cairo from 1<sup>st</sup> March till 12- 13<sup>th</sup> April, he felt severe pain in his leg. An undated report from the National team coach Dimitri Ryabokha states that he recommended that the Athlete return to his home in Upper Egypt and take leave for two weeks to recover from the pain. In the last week of April 2002, the Athlete went to the pharmacist in his village who gave him an injection of Deca Durabolin to relieve the pain.
10. On 29 January 2003, Matt SMITH received a translation from Flemish to French of the final Award of the Flemish Ministry of Health on the case from Hazewinkel.

## **II. Applicable law**

2.1 The applicable rules are the ones in force at the time of the offence. This means in this case the Olympic Movement Anti-Doping Code and the corresponding FISA rules. However there is an exception regarding sanctions because the principle of *lex mitior* is applicable. Under *lex mitior*, the sanctions which are more favourable for the athletes must be applied even if they were not in force at the time of the offence. The Court for Arbitration of Sport (CAS) in Lausanne has recognised this principle in many different awards.

The 2003 FISA Ordinary Congress adopted the World Anti-Doping Code (WADC) effective on 1<sup>st</sup> January 2004. The WADC contains sanctions which are less severe than the FISA rules and therefore that part of the WADC will apply to this case.

## **III. Merits**

3.1 It is clear for the Executive Committee of FISA, from the file and the written declaration, that the athlete Mohamed Abdel Ghaffar Ahmed did not act intentionally to enhance his performance by prohibited means.

3.2 The Executive Committee of FISA must therefore determine if the athlete concerned was negligent and, if yes, whether this negligence is significant or not.

The Executive Committee of FISA has to take into account the fact that the athlete has a poor level of education. He can neither read nor write, and lives in a region where it is difficult to get qualified medical assistance. However, he was with his national team just before going back home and was already feeling pain. He could have requested medical attention which would have probably been more appropriate and in conformity with his obligations as an athlete. He should have realised as well that the pharmacist he consulted was not a specialist in anti-doping matters and could not give him safe and appropriate advice. He certainly has been negligent and the Executive Committee has to assess the level of his negligence in order to apply the appropriate penalty.

This negligence is certainly not totally insignificant. However the Executive Committee feels that a difference must be made between intentional doping which would incur an ineligibility period of 2 years and this case where there is no intention but only negligence. Therefore the executive committee has decided to apply article 10.5.2 of the WADC and reduce the otherwise applicable penalty to 18 months.

## **FOR THESE REASONS**

### **The FISA Executive Committee finds:**

1. Mohamed Abdel Ghaffar Ahmed is ineligible to participate in any rowing competition for 18 months.
2. The ineligibility period of 18 months began with the provisional suspension applied on the athlete on 16<sup>th</sup> August 2002 and will therefore end on 15th February 2004
3. This award is rendered without costs.

Frankfurt, 25<sup>th</sup> January 2004

For the FISA Executive Committee:

Denis Oswald  
President

Mike Sweeney  
Member