

11 May 2005  
Lausanne, Switzerland



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

**Sitting in the following composition**

**Tricia Smith**  
**Michael Williams**  
**John Boulton**

**In the case of**

**Tomasz Mrozowicz**

**11 May 2005**

**I. Facts**

The Members of the FISA Anti-Doping Hearing Panel have been presented with the findings of the FISU Anti-Doping test and laboratory analysis and base their judgment on the following facts which are established by the file and which are not disputed:

The International University Sports Organization (FISU) conducted "in competition" anti-doping tests at the World University Rowing Championships held in Brive, France on the 2<sup>nd</sup> and the 9<sup>th</sup> of September 2004. Two tests were performed on Samples 808203 and 826569 collected from Tomasz Mrozowicz ("the Athlete") on those dates and they showed the presence of 19-Norandrosterone, a metabolite of Nandrolone which is a prohibited substance. The further control analysis was made on 16<sup>th</sup> of November 2004 which confirmed a positive result of the "A sample".

FISA Rules of Racing, Bye-laws to Rule 81-Anti-Doping, describe the procedure when an "A" sample is found positive and a "B" analysis confirms the "A" result. Consequently, the Athlete's crew was disqualified from the World University Rowing Championships Regatta by FISU and FISA now has the responsibility to conduct a disciplinary procedure.

The Athlete was informed of the above noted steps by the Executive Director of FISA, Matt Smith, by letter dated December 7, 2004. The Athlete and his National Federation were asked to complete the FISA Anti-Doping questionnaires which ask all details on the case and asked to return them to FISA by the 5<sup>th</sup> of January 2005. The questionnaire was completed on behalf of the National Federation and returned to FISA.

The Polish Rowing Association informed the Athlete on December 15, 2004 that they had been informed of the positive test and that FISA would be deciding the final conclusions on the case. In the meantime, the Board of Polish Rowing Association suspended the Athlete from any National regatta until the final FISA decision.

FISA received a letter dated the 16<sup>th</sup> of January 2005 from the Athlete advising that he did not knowingly take any illegal or illicit substances and that his current financial situation made it impossible to personally appear before the FISA Anti-Doping Hearing Panel to present his case.

At the request of the three members of the Anti-Doping Hearing Panel appointed to hear the case, Matt Smith again requested that the Athlete complete the questionnaire. The questionnaire answers were subsequently received by email from the Athlete on or about March 6, 2005 and distributed to the Members.

The Members asked that additional questions be put to the athlete which clearly asked if he could provide an explanation for the presence of a banned substance in his sample. His answers were received by the FISA office and forwarded to the Members and received by them on or about, March 30<sup>th</sup>, 2005.

## **II Applicable Law**

The 2003 FISA Ordinary Congress adopted the World Anti-Doping Code (WADC) effective on the 1<sup>st</sup> of January 2004. These Rules were complemented by the FISA Anti-Doping Rules and Bye-Laws. Therefore, these rules apply to this case.

## **III The Athlete's Contentions**

The Athlete submits that he did not knowingly take any illegal or illicit substances and he does not know how the illegal substance came to be in his body. He could provide no explanation.

He said he is aware that he won the title of World University Rowing Champion in the FISU Regatta possessing in his body illegal and illicit substances in defiance of the principal of fair play and he understands and agrees with the fact the championship title was taken away from him.

The athlete states that he trains hard and that he is an honest man and did not do anything bad. He said he still believes that hard work is the only way to success. He asks for leniency in his case.

#### **IV Merits**

The "A" sample was positive for 19-Norandrosterone. The analysis of the "B" sample confirmed the analysis of the "A" sample.

An athlete is presumed guilty once the presence of a prohibited substance in his body or bodily fluids has been established. The sports organization bears the burden of proof to establish such a presence. In this case, the presence of 19-Norandrosterone has been established and the Athlete himself does not question the regularity of the procedure or the results of the analysis.

Under these circumstances, a positive doping case is validly established and the athlete is presumed to be responsible for that positive case.

The Athlete can rebut that presumption but he has the burden to prove that the prohibited substance came to be in his body without fault or negligence on his part. This can affect the sanction which may be imposed on the athlete.

The Athlete stated he did not knowingly take any illegal or illicit substances. However, the athlete was unable to present any evidence to explain how the prohibited substance came to be in his body. He has, therefore, failed to rebut the presumption of guilt resulting from the presence of a prohibited substance in his body.

The Athlete therefore has violated Article 10.2 of the World Anti-Doping Code which foresees a period of ineligibility of two years for the given substance. This period can only be eliminated if the Athlete demonstrates that he had no fault or negligence or reduced if the Athlete had no significant fault or negligence. In this case, the Athlete has failed to demonstrate either, and therefore the period of ineligibility cannot be reduced.

**FOR THESE REASONS**

**The FISA Anti-Doping Hearing Panel finds:**

1. Tomasz Mrozowicz is ineligible to participate in any rowing competitions for two years.
2. The ineligibility period of two years begins on the date of his first positive test, the day after the collection of the positive sample, that is, September 2, 2004.
3. This award is rendered without costs.

**Chair**

**Tricia Smith**

**Members**

**Michael Williams**

**John Boulton**