FISA DOPING HEARING PANEL

IN THE MATTER OF:

Anastasia FATINA and Anastasia KARABELSHCHIKOVA

Preliminary Matters

On 27 November 2007, the FISA Executive Director convened a FISA Anti-Doping Hearing Panel to hear the cases of the two rowers listed above who the Executive Director considered may have committed anti-doping rule violations. The Executive Director had conducted an investigation under Article 7.1.9 of the FISA Anti-Doping Rules, and had notified the athletes in terms of that Article on 11 September 2007 of this fact.

The Panel convened in Geneva on 27 November in the presence of athlete Anastasia Fatina, Mr. Alexander POPOV, President of the Russian Rowing Federation and Mr. Victor BEREZOV, Lawyer from the Russian National Olympic Committee.

The Chairman of the Panel advised them that:

1. the hearing involved an alleged use of a prohibited method – namely, intravenous infusion, for a reason other than as a legitimate acute medical treatment.

2. the provisional suspension would continue until a decision on the case was reached.

3. they had been provided with the written evidence from the Executive Director which would be the evidence relied on at the hearing.

4. the athletes had the right to be represented by counsel.

5. the athletes had the right to adduce any evidence and call any witnesses that they might choose.

6. they could provide an interpreter, or that FISA would provide one if they wished.

7. if found to have committed an anti-doping rule violation, the athletes could be liable to a period of 2 years ineligibility, which could only be reduced in certain circumstances outlined in the Rules.

The athlete Anastasia FATINA was present and provided testimony. Mr. BEREZOV served as the interpreter for the hearing.

Evidence from FISA

Matt Smith, the Executive Director of FISA provided his written statement (Exhibit A) which explained:

1. On 16 July 2007 he had been told of medical materials found in a rubbish bin behind the hotel used by the Russian team in Lucerne during the World Cup Regatta from 13-15 July. The materials were provided to him.

2. The materials were taken to the Anti-Doping Laboratory in Lausanne, and analysed. They comprised eight identical sets of intravenous infusion equipment, along with legal substances such as creatine and fructose. The languages appearing on the boxes of the substances were using both Cyrillic and Latin alphabets (Italian and English). Cyrillic handwriting was found on some of the boxes.

3. Blood was found on the intravenous infusion needles and in the tubes, so DNA analysis was ordered to be performed on the blood remains. A number of different identifiable DNA chains were found in the blood.

4. Surprise testing of some members of the Russian team was then ordered by FISA and was undertaken on 13 August 2007 in Trakai, Lithuania (blood and urine), then on 23 August (blood and urine) and 29 August (blood samples only) in Munich, Germany. All samples were analysed by the WADA accredited anti-doping laboratory in Lausanne.

5. On 26 and 27 August, Mr Smith, and on one occasion Denis Oswald, the FISA President, met with representatives of the Russian Rowing Federation, including the Secretary General, Mrs. Ludmila Saraeva, and the Team Doctor, Dr Fillipp Shvetsky, in Munich at the 2007 World Rowing Championships. At these meetings, both the Secretary General and the Team Doctor confirmed verbally and in writing that no intravenous infusions had taken place on athletes of the Russian team during the month of July of which they were aware (Exhibit B).

6. On 27 and 28 August 2007, FISA banned three athletes for intravenous infusion of substances for other than a legitimate acute medical treatment. These corresponded to the first three DNA samples which were identified from the blood remains and identified the athletes.

7. On 11 September 2007 the Lausanne laboratory advised FISA that they had matched five more DNA samples and FISA confirmed that these were three members of the Russian men's eight and, two from the women's eight which competed at Lucerne and Munich.

8. On 11 September 2007, FISA imposed a provisional suspension on these five athletes according to Article 7.4.

9. On 26 October 2007, FISA received a "statement" from the Russian Rowing Federation President (Exhibit C) in which he reports on an internal investigation inside the Federation and in which it was again confirmed that the Team Doctor "did not recommend the athletes to make intravenous injections, nor did he know of the possible usage by the athletes of this substances and methods."

    a. "Also in July the doctor of the team had passed the special certification for the knowledge in Russian and international rules and procedures where he was warned of the prohibition in sport to make the intravenous injections."
    b. "According to the team doctor, he did not recommend the athletes to make intravenous injections, either he did not know of the possible usage by the athletes of this substances and methods."

10. On 26 November, a faxed letter with no date was received by FISA from the now former team doctor Dr Shvetsky, the Russian Team Doctor (Exhibit D). In this letter, he completely changes his position on his involvement with intravenous infusions and informs the panel that he did administer intravenous infusions to the three male rowers but made no comment about the two female rowers:

    a. For the three male rowers from the Russian men's eight, he wrote:"Taking into account changes of laboratory analysis and electrocardiography, augmentation of the symptoms of the disease such as acute dehydration, change of fluid-and-electrolyte balance, cramps I recommended to continue medical treatment prescribed in Moscow, intravenous drip-feed of the fructose fluid (Esafosfina 200,0, intravenous drip-feed, divided) and intramuscular injections of the fluids of Panangin and Inosin (twice)."

    b. He confirmed the names of the athletes having used intravenous infusions and the use of the substance "Esafosfina" which was one of the substances found in the garbage bin along with the intravenous infusion materials.

    c. Regarding the use of Esafosfina, he claims that this substance was the only possible therapy for dehydration and convulsions:

    d. "At that moment I had to take an urgent decision regarding the athletes and taking into consideration acute dehydration and convulsions I decided to make the only possible therapy."

    e. Regarding his prior testimony, he now writes:

    f. "I did not notify the head coach of the Russian National Rowing Team O. Saraev or any other head officer of the Russian Rowing Federation about the health status of the athletes and intravenous injections made in Lucerne. I was not sure about the consequences of my actions concerning intravenous infusions and I preferred to keep these things in secret. But after my dismissal as a Doctor of the Russian National Rowing Team and right after my arrival from Perm to Moscow I took a decision to cease my

career as a sports doctor and now I can tell all the story as it happened in reality."

11. In another document dated 26 November 2007 from the President of the Russian Rowing Federation (Exhibit E), in contradiction to explanations previously given, he confirms that intravenous infusions of Esofosfina did take place and argues that these were legitimate medical treatment executed by the team doctor:

    a. "…that all intravenous injections in the period of July 11, 2007 – July 12, 2007 were executed by the Team Doctor Mr. Shvetsky in the hotel rooms in Lucerne, Switzerland, unambiguously prove that there was no violation of WADC and all intravenous injections were the result of the necessity of legitimate medical treatment as it is prescribed by the Rule M2.2 of the WADA Prohibited List 2007.

    b. And that: "Intravenous injections were the only possible way for medical treatment of such type of disease taking in mind that two days later the athletes should have competed in the Rowing World Cup III."

    c. "As for athletes Fatina A. and Korabelshchikova A. there were no intravenous infusions ever made. Mr. Shvetsky as a Team Doctor responsible for current monitoring of the health status of the athletes made a drawing of a blood sample of these athletes in the medical purposes."

    d. The Russian Rowing Federation President concludes by stating the following:

    e. "On these grounds the Russian Rowing Federation requests FISA Anti-Doping Hearing Panel for the following relief:
    (b) to admit that no intravenous infusions were executed in the regard of athletes Fatina A. and Karabelshchikova A.;

12. The panel has not received written confirmation from Ms. Karabelshchikova that the President of the Russian Rowing Federation Mr. Popov or Mr. Berezov are authorized to represent her, but relies on Mr. Popov's representation that this is the case.

The Russian Rowing Federation was given the opportunity to ask questions of Mr. Smith but they had no questions.

The Evidence from the Athlete Anastasia FATINA

The Russian Rowing Federation had been asked to produce any evidence or make any statements on behalf of the athletes. They said that they relied on the papers mentioned above which were sent to Mr. Smith on 26 October 2007 and 26 November 2007.

1. Ms. Fatina made no statement.

2. The Federation presented no further evidence.

Questions from the Panel

Ms. Fatina answered questions from the Anti-Doping Hearing Panel.

1. She responded that, at competitions, "*blood is drawn twice, once before and once after*" and once per week at training camps. She also told the panel that blood was drawn from her "*one time while in Lucerne*" but she "*cannot remember if there were devices in the doctor's hotel room*".

2. She testified that the doctor took "*two syringes*" of blood (5 ml each), "one then the other" from her. She "*didn't know if there was a device in the doctor's hotel room for analysing*".

3. In addition, she told the panel that she was never told the results of the analysis of the blood drawn from her: "the team doctor always discusses the analysis with the coaches but never with the athletes."

Follow-up to the Hearing

As a follow-up to the hearing, the panel asked the Russian Rowing Federation to send the reports of the analysis made on these blood samples allegedly drawn from the two female athletes in Lucerne.

1. On 28 November 2007, the panel received a document from the Russian Rowing Federation (Exhibit F) which reported the results of a "Data of biochemical analysis of laboratory of a center of science "EFIS" from 10 to 13 July 2007". This science center is in Moscow. The report showed analysis of ten parameters of the blood taken from 27 rowers on 10 July 2007 and 17 rowers on 11 July 2007. Ms. Fatina and Ms. Karabelshchikova, according to these reports, gave blood twice, once on the 10th and once on the 11th of July, contrary to the testimony of Ms. Fatina in Geneva that she had had blood drawn only one time. There was no answer to the question about how it was possible that all these

blood samples could possibly have been drawn in Lucerne and transported to Moscow for analysis.

2. On 10 January 2008, after receiving the document dated 28 November 2007, the Panel sent further questions (Exhibit G) regarding the situation.

3. On 17 January 2008, The Russian Federation responded to the questions of 10 January (Exhibit H). In this message, the RRF now claimed that these ten parameters were analysed in the hotel room with a machine called Microlab 300, and not transported to Moscow to the EFIS science center as previously stated in the document of 28 November 2007.

4. The Panel contacted the firm which manufactures this Microlab 300. The manufacturer confirmed that this machine is only able to analyse five of these ten parameters claimed by the Russians (Exhibit I). So again it is not possible that these ten parameters were analysed in a hotel room in Lucerne.

5. Several medical experts informed the panel that a 29 cm tube with an attachment for an infusion system on one end and a butterfly needle on the other end is not appropriate for the drawing of blood. This tube could only have been used to infuse a substance, not draw blood.

Motivation

1. DNA from blood found on medical equipment in Lucerne identified eight Russian rowers.

2. All medical equipment found consisted of butterfly needles attached to 29 cm long soft tubes attached to infusion system tubes for intravenous infusion. In six of the cases, the butterfly needles with tubes were attached to the infusion systems, while in the cases of Fatina and Karabelshchikova, butterfly needles and 29 cm long soft tubes were found with their blood but had been dis-attached from two used infusion systems.

3. The Russian Rowing Federation has never questioned that all DNA identifications are correct.

4. The Russian Rowing Federation first denied that any infusions had taken place.

5. The Russian Rowing Federation claimed that “As for athletes Fatina A. and Korabelshchikova A. there were no intravenous infusions ever made. Mr. Shvetsky as a Team Doctor responsible for current monitoring of the health status of the athletes made a drawing of a blood sample of these athletes in the medical purposes.

6. The team doctor, after having denied any involvement with intravenous infusions, suddenly admitted on 26 November 2007 that he infused fructose substances into three men rowers.

7. The Russian Rowing Federation claimed on 26 November that rowers Fatina and Karabelshchikova had blood drawn from them in Lucerne.

8. Ms. Fatina claimed that 10 ml of blood was drawn from her one time in Lucerne.

9. The Russian Rowing Federation then produced evidence on 28 November 2007 that blood had been drawn from 27 rowers on 10 July 2007 and 17 rowers on 11 July 2007 (both days including Fatina and Karabelshchikova) and that the blood was analysed by a laboratory in Moscow for ten parameters.

10. After further questions, on 17 January 2008 the Russian Rowing Federation produced different evidence that the blood was not transported to Moscow and analysed in Moscow but was, in fact, analysed in a hotel room in Lucerne on a machine called Microlab 300 which contradicts the evidence of 28 November.

11. The manufacturer of the machine was consulted and verified that it is possible to analyse only five of the ten parameters listed by the Russians using this device. The other parameters required much more sophisticated equipment implying that these analyses could not have taken place in a hotel room.

12. The Panel was presented with two different versions of what happened with blood allegedly drawn in the hotel room in Lucerne between 10 and 15 July 2007. Both explanations are implausible and in contradiction with the evidence. Therefore, the panel concludes that there has been no credible documentation to support the assertion that blood was drawn from the athletes in Lucerne.

13. It finds that the evidence is overwhelming that similar treatments were carried out on all eight implicated rowers, i.e. infusions or other blood manipulation and that, in all cases, there was no legitimate medical treatment involved.

14. The panel notes that the late provision of a statement by Dr Shvetsky and other evidence in complete contradiction with Dr Shvetsky's initial statements and also in contradiction with the statements of the other Russian athletes in the same situation who have expressly admitted to have applied infusions without medical support and were sanctioned on that basis does raise questions as to the reliability of the evidence submitted.

15. In any event however, the panel does not consider it decisive to the case whether the treatment at stake was or not by Dr Shvetsky.

16. Indeed, there is no evidence that what went on in Lucerne was legitimate medical treatment, not to speak of treatment for any acute medical condition and therefore the cumulative conditions set forth in this respect were in any event not met.

17. It is an athlete's personal duty to know what enters his or her body and, in the case of a prohibited method, how any substances enter his or her body: according to World Anti-Doping Code paragraph 2.2.1 "It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed."

18. With respect to the starting date of the sanctions, the panel considers that these athletes should be treated similarly to the previously banned athletes for the same doping offense and bear a similar consequence for this anti-doping rule violation as allowed in the last sentence of Article 10.8 of the World Anti-Doping Code. Therefore, any sanction should start retroactively from 27 August 2007.

Decision

1. The panel is convinced that there has been an anti-doping rule violation under Article 2.2 of the FISA Anti-Doping Rules.

2. There is no evidence to suggest that Article 10.5 should apply to reduce the period of ineligibility based on exceptional circumstances.

3. The provisions of Article 10.2 apply, and these two athletes are declared to be ineligible within the meaning of the Rules, for a period of two years starting retroactively from 27 August 2007.

4. This award is delivered without cost.

Signed in Lausanne, Switzerland on 5 February 2008, by the FISA Doping Hearing Panel

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Jean-Pierre Morand (Chairman)

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Michael Williams Jean-Christophe Rolland