

# FÉDÉRATION INTERNATIONALE DE GYMNASTIQUE



FONDÉE EN 1881

## Decision of the FIG Presidential Commission

**Ms. MELNYCHENKO Anastasiya (UKR), anti-doping control dated October 23, 2010,  
Nr. 2390290 A**

### Facts :

Ms. Melnychenko Anastasiya, born on 8 December 1994 and competing for the Ukrainian (« UKR ») National Federation (« NF ») underwent an in-competition anti-doping control on 23 October 2010 during the 2<sup>nd</sup> European Team Championships in Acrobatics Gymnastics, Rzeszów, Poland. Urine sample Nr. 2390290 analysed by WADA-accredited laboratory Institute of Sport, Department Anti-Doping Research, Warsaw, Poland, revealed a positive result to Furosemide (see p. 2 of the file). Furosemide is a diuretic included in the list of prohibited substances and methods established by the World Anti-Doping Agency (« WADA »).

No Therapeutic Use Exemption (« TUE ») was neither granted by the International Gymnastics Federation (« FIG ») nor requested by the gymnast.

No apparent departure from the International Standards for Testing or for Laboratories resulted in the adverse analytical finding.

By mail dated 7 December 2010 sent by DHL, by email and by fax (pp. 8 -16), the FIG notified the Ukrainian National Federation (« UKR-NF ») about the positive finding of the control, of the opening of proceedings and of the gymnast's rights. A "B Sample Analysis Request form" and a "Hearing Request form" were attached to this letter.

In an email dated 8 December 2010, the UKR-NF confirmed reception of the notification and added that the gymnast and her coach would be informed on the same day.

On 13 December 2010, the FIG received by email an explanatory letter by the gymnast's father and both her coaches as well as the medical report of the doctor who treated her (pp. 18-29). There was no request to analyse B sample.

On 3 January 2011, the FIG informed the gymnast and the UKR-NF that based on the explanation provided and on the fact that no request for Therapeutic Use Exemption (TUE) had been submitted to FIG, the case had been transferred to the Disciplinary Commission (pp. 34-36).

On 20 January 2011, the FIG informed the gymnast and the UKR-NF that in view of the elements in its possession the Disciplinary Commission was of the opinion that anti-doping rules might have been breached not only by the gymnast but also by her federation, her coach and the team doctor. Therefore, the Disciplinary Commission summoned the gymnast, her father, a representative from the UKR-NF and both coaches of the gymnast to a hearing (pp.37-41). In addition, several questions were asked in writing to the doctor who provided a treatment to the gymnast at hospital.

In its answer dated 25 January 2011, the UKR-NF confirmed that all the persons requested would attend the hearing scheduled on 12 and 13 February 2011.

On 12 and 13 February 2011, the gymnast, both her coaches as well as the UKR-NF representative accompanied by an interpreter were heard during the hearing which took place in Lausanne, Switzerland, at the FIG Headquarter, before the FIG Disciplinary Commission. Unable to travel, the gymnast's father provided a notarized certificate signed by the gymnast's parents to authorise her to appear before the Disciplinary Commission without any representative.

In his letter, the father explained that during the night of 7 October 2010 his daughter felt ill, her nose was aching and she had had a very bad sleep. On 8 October in the morning her temperature had reached 40°C and her nose was swollen. He drove his daughter to Odessa hospital. The doctor examined the gymnast and concluded that she had a furuncle on the nose which explained the high temperature and sharp pain. He prescribed her five medications among which the Lasix which contains Furosemide. The gymnast and her father told the doctor that she was an elite gymnast due to take part shortly in a competition and that she was not allowed to take prohibited substances. The doctor guaranteed that the medications prescribed were not listed in a doping group and that the half-life elimination of the medications did not exceed 2-3 days. The father explained that the medical prescription was observed only partly, only 1½ day because as soon as the temperature and the pain had disappeared the gymnast stopped taking her medication, i.e. on the evening of 9 October 2010. The father assured that the gymnast had not taken these medications during the training camp which took place before the competition and neither did she during the competition because she did not have them with her. The gymnast was entirely under her father's control.

In his written statement, the hospital doctor, Dr. Yurin explained that Furosemide was commonly used to heal various pathologies and that it was not a forbidden substance. This substance had been prescribed in order to reduce the inflammatory oedema and the pain. He added that he had been informed by the gymnast's father that she was an elite gymnast and that she could not take any doping substance. He informed the gymnast's father that doping substances were not used to heal furuncles. Since he was not a sports doctor he acknowledged that he did not know the exact WADA List of prohibited substances and the gymnast's father had not indicated to him that Furosemide was part of this List.

In his written statement dated 2 February 2011, the President of the FIG Medical Commission, Dr. Michel Léglise explained that "the most dangerous location for a furuncle is on the wing of the nose. Indeed, it can then develop very fast to the brain and be lethal without a very quick intervention" and therefore "In case of such an emergency, one cannot accept to consider whether or not the substance is part of the Prohibited List of the doping fight". The explanation went on about Dr. Yurin's statement who said that the products were not forbidden while he meant perhaps "not restricted for sale".

At the hearing, the gymnast explained that she had started gymnastics at the age of 4, that this sport was all her life was about and that she had ended 1<sup>st</sup> at the 2010 ACRO World Championships, Wroclaw. She added that it was the first time she underwent an anti-doping control and that her partner had been selected during their gold medal. She confirmed her father's words about her illness and pointed out that before going to the doctor she had warned her father and told him that she had to beware about the substances she takes. She confirmed that her father informed the doctor of the coming competition and the latter reassured him and told that the prescribed substances were not prohibited. She added that her father told her to stop taking the medications as soon as she felt better because she was leaving the day after to the preparation camp. She had missed only 2 training days. She certified that she took absolutely nothing and that she did not have access to the medications during the whole camp and competition because they were with her father and he was not with her. As soon as she arrived at the camp she informed her

coach Elena about the medications she had taken and she controlled the List of prohibited substances together with her on the Internet. They did not find Lasix on the list. She added that as a principle she does not take any product because they cannot enhance performance in this sport. She did not mention on the anti-doping control form the medications she had taken because the question was about the substances taken within 7 days before the control whereas she had not taken anything for the last 14 days.

In her written statement as well as during the hearing, gymnast's coach Elena Roshynets explained that she has been a coach for 25 years and that she has been working with the gymnast for 2 years. She confirmed that the gymnast was under her supervision and control during the training camp before and during the competition, i.e. October 10-24, 2010. She stated that the gymnast took no substance during this period of time either on her own initiative or upon medical prescription. She underlined that during the camp the head coach asked them to check and see if the medications the gymnast had taken were on the list. They looked at the list on the WADA website and did not find Lasix. As she had read on the Internet that the medication would eliminate after 2-3 days, that the parents had been reassured by the hospital doctor that there was no prohibited substance she felt at rest and did not investigate further nor asked a confirmation to the team doctor who arrived to the camp on the day after, especially as the gymnast felt well and was fit. She pointed out that since she had taken the medications before the camp, they had not been controlled by the team doctor. It was still then under the responsibility of the gymnast's parents.

In her written statement as well as during the hearing, gymnast's head coach Nataliya Struck explained that she was a member of the UKR-NF Technical Commission, she had been coaching the duo for 11 years and she knew very well the gymnast whom she considered her daughter. She explained that during the training camp and the competition she worked as a judge and that Anastasiya Melnychenko was under the supervision of the coach Elena Roshynets and of the team doctor. She herself had not been directly involved with the gymnast during all this period of time as she was not accommodated in the same hotel as the team. When she was told, during the camp, that the gymnast had been ill, she called Elena and told her to check if the medications she had taken were on the List of prohibited substances. She advised her not to take anything anymore and to take natural medication such as vinegar compresses to cut the temperature if need be.

She explained that at training camps gymnasts and coaches are reminded during information meetings about the existence of prohibited substances and about what to do. Such meetings are organised by the UKR-NF head coach who usually reads documents. According to Nataliya Struck, no information has ever been given as to a request of authorisation for a prohibited substance.

The gymnast and both her coaches said that the gymnast is often ill. The coaches think this is because she is very emotional and under stress and that she gives so much during the competitions that she gets worn out and catches a chill. According to her coaches, she is so small and petite; she does not have much body mass and her precarious family situation also have an influence. According to Nataliya Struck, most of the times, she follows her advice and uses natural medicine such as phytotherapy.

At the hearing, Mr. Dmitriy Fomenko introduced himself as a businessman working in a bank while being the Vice-President of the Ukrainian Acrobatic Gymnastics Federation. He explained that there is no one in charge of the anti-doping issues at the UKR-NF but that during the camps the chief medical officer is given a form containing the health situation of every gymnast. As far as the Gymnast was concerned, her health situation was not mentioned because the medications had not been prescribed under the authority of the team doctor. He pointed out that he had received the Anti-Doping Code translated into Ukrainian. He explained that he was never told about a positive finding in acrobatic gymnastics nor of the existence of anti-doping controls at the national level in this discipline. He acknowledged that he was aware about the existence of the Anti-Doping Ukrainian Agency but that he knew nothing about its work. He said he would establish more tests on the national level.

The Presidential Commission, considering :

For the Gymnast that :

- The finding of the analysis of the sample 2390290 is positive to Furosemide;
- The gymnast did not contest the positive finding ;
- The gymnast did not ask for a TUE;
- There is no apparent departure from the International Standards for Testing or the International Standard for Laboratories;
- The gymnast did not require sample B to be analysed;
- The FIG Anti-Doping Rule (« **FIG ADR** ») and WADA Code, both effective as of January 1, 2009, apply ;
- According to the WADA « 2010 Prohibited List » which forms an integral part of the FIG ADR and WADA Code, Furosemide is a diuretic to be considered as a substance specified under Art. 4.2.2 of the FIG ADR and Art. 4.2.2 of WADA Code;
- Under Art. 10.4 FIG ADR and Art. 10.4 WADA Code, the suspension period provided for under Art. 10.2 FIG ADR and 10.2 WADA Code may be reduced provided that the gymnast may establish how a specified substance entered her body and that such specified substance was not intended to enhance the athlete's sport performance nor mask the use of a performance-enhancing substance;
- The gymnast acknowledged that she was not aware of the FIG and WADA Anti-Doping rules but that she had explained to the hospital doctor that she was an elite gymnast and that he should not prescribe any prohibited substance;
- The gymnast had never undergone a doping test at the national or international level despite her victory in duo at the 2010 Acrobatics Gymnastics World Championships;
- The gymnast checked on the Internet to see if the Lasix prescribed by the doctor was part of the List of prohibited substances without making any difference between the name of the medication and the name of the substance;
- The gymnast admitted that she was not aware that she could ask for a TUE to use a medication containing prohibited substances;
- The gymnast knew that Furosemide was a prohibited substance but ignored that it was contained in Lasix;
- The gymnast informed the hospital doctor – who is not an expert in sports – about her responsibilities as a high-level sportswoman;
- She had not been sufficiently informed of her liabilities by her Federation;
- She demonstrated that she used Furosemide in a therapeutic aim and not to enhance her performance;
- She never denied that she had taken medications, Lasix in particular, and that she did not mention them on the doping control form because she had taken them more than 7 days before the test;
- The gymnast expressed thorough regrets and said that in the future she would be much more careful and that she would herself tell her mates not to take any medication without a thorough check on their prohibition;
- The gymnast is under age and very much dependent from her father;
- The mitigating circumstances considered by the Presidential Commission ;
- The automatic disqualification of the gymnast's results at the 2<sup>nd</sup> European Team Championships in Acrobatics Gymnastics, Rzeszów, Poland in accordance with Art. 9 of the FIG ADR;
- The gymnast's status during a suspension in accordance with Art. 10.10 FIG ADR and 10.10 WADA Code;
- Since all the terms and conditions for a reduction of the suspension period are available, Art. 10.4 FIG ADR and Art. 10.4 WADA Code apply ;
- The proposal of the Disciplinary Commission to the Presidential Commission on 21 February 2011;

For the Coaches that:

- Both coaches have not been sufficiently informed or educated on the risks and procedures linked with the consumption of prohibited substances by their gymnasts;
- Both coaches do not make any difference between the name of prohibited substances and the name of medications;
- They were never faced with anti-doping controls in acrobatic gymnastics at national competitions;
- They did not call the team doctor to check the medications taken by the gymnast;
- They only looked on the Internet for the List of prohibited substances to see if Lasix was part of it;
- They did not care about the situation before the finding proved positive;
- They are not aware that some medications require an authorisation (TUE) by the FIG;
- They think that this case opened their eyes on the doping issues and that in the future they will pay a much greater attention to these problems;
- They think necessary to conduct anti-doping controls even during national competitions;
- They had never heard about doping cases in acrobatic gymnastics;
- They were not aware and had never been informed by their Federation about the positive finding with Furosemide ruled in 2010 by the FIG also in acrobatic gymnastics;
- They are warned against doping risks only during the preparation camps before major international competitions;
- The coaches' status during a suspension in accordance with Art. 10.10 FIG ADR and 10.10 WADA Code;
- Since all the terms and conditions for a reduction of the suspension period are available, Art. 10.4 FIG ADR and Art. 10.4 WADA Code apply ;
- The proposal of the Disciplinary Commission to the Presidential Commission on 21 February 2011;

For the UKR Federation that:

- The UKR-NF does not organise education courses and does not act enough to raise its staff's awareness about doping issues;
- While its representative at the hearing knows the existence of the National Anti-doping Agency he does not know which control system was implemented ;
- The UKR-NF does not organise anti-doping controls during national acrobatics gymnastics competitions ;
- According to its representative, there is no information on the UKR-NF website except for the translation into Ukrainian of the FIG Anti-doping Rules;
- According to its representative, the UKR-NF does not transmit to the associated federations the information given by the FIG;
- Therefore the UKR-NF shows great negligence and lack of communication as to the anti-doping fight;
- The UKR-NF should better educate the gymnasts and the gymnasts' support personnel;
- Art. 12 of the FIG ADR applies;
- Art. 43.2 of the FIG Statutes applies;
- The proposal of the Disciplinary Commission to the Presidential Commission on 21 February 2011;

the Presidential Commission

decides:

- To suspend Ms. MELNYCHENKO Anastasiya for a period of 2 months from any sports activity as of the date of notification of the decision of the Presidential Commission;
- To cancel the result(s) achieved by Ms. MELNYCHENKO Anastasiya at the 2<sup>nd</sup> European Team Championships in Acrobatics Gymnastics, Rzeszów, Poland, with the resulting consequences including the withdrawal of her medals, points and prizes.
- To suspend Mrs. ROSHYNETS Elena for a period of 6 months from any participation in competitions organised by FIG and its affiliated Unions and Federations including competitions in the Ukraine as of the date of notification of the decision of the Presidential Commission;
- To suspend Mrs. STRUCK Nataliya for a period of 6 months from any participation in competitions organised by FIG and its affiliated Unions and Federations including competitions in the Ukraine as of the date of notification of the decision of the Presidential Commission;
- To issue a blame to the Ukrainian National Federation;
- To sanction the Ukrainian National Federation to pay a financial fine amounting to CHF 5'000.-.

Costs of Proceedings:

The costs of the first instance disciplinary proceedings (Disciplinary Commission and Presidential Commission) shall be paid by the Ukrainian National Federation for an amount of CHF 7'489.-. Each Party shall bear its own fees and expenses.

Remedy:

The appeal duly signed by the Appellant and with rationale, shall be sent in writing, to the address of the FIG headquarters to the attention of the FIG Appeal Tribunal within 21 days from the notification of the decision. The Appellant shall indicate if his appeal is intended to be dealt with within the framework of a hearing or review of the case, without appearance of the parties.

Should the Appellant wish to call witnesses or experts, a hearing shall be held.

The appeal shall either be directly delivered to the FIG headquarters at the latest within the appeal deadline or to a Swiss post office at the latest by midnight of the last day of the deadline. The Appellant is responsible for showing proof, within a time limit to be determined by the President of the Appeal Tribunal, that his appeal has been lodged in due time, otherwise, the appeal shall be considered inadmissible.

The Appellant shall pay in advance the expenses of CHF 5'000.- to the FIG account at the same time as he shall lodge his appeal and at the latest by the end of the time limit for the appeal. While this amount shall be reimbursed to the appellant in the event that his appeal is allowed, this amount shall be kept by the FIG in the event that his appeal is considered inadmissible or is fully or partly rejected. The FIG is exempt from the obligation to pay the expenses in advance for its appeal.

Should the Appellant omit to pay in advance the expenses of CHF 5'000.- within the time limit, his appeal shall be considered inadmissible.

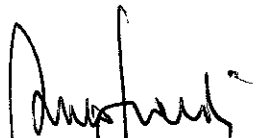
The appeal statement shall contain an account of the facts, the reasons for the appeal, the presentation of all evidence relied on by the appellant or an offer to present all the evidence (such as, the request for the hearing of witnesses or the request for an expert) and the arguments of the Appellant, failing which it shall be considered inadmissible.

The Appellant shall not be authorized to produce new elements of proof once his appeal is submitted, unless he justifies that he has not been able to do so for reasons beyond his control or his behest. The Appeal Tribunal may automatically conduct the investigations they may deem necessary.


Lausanne, 25 February 2011

**Fédération Internationale de Gymnastique**

On behalf of the Presidential Commission



**Prof. Bruno Grandi**  
FIG President



**André Gueisbuhler**  
Secretary General

