

## **INTERNATIONAL RUGBY BOARD**

IN THE MATTER OF REGULATIONS RELATING TO THE GAME

AND IN THE MATTER OF AN ALLEGED DOPING OFFENCE BY **YOUNES HO**  
CONTRARY TO REGULATION 21

BEFORE A BOARD JUDICIAL COMMITTEE APPOINTED PURSUANT TO  
REGULATION 21.20 and 21.21 CONSISTING OF:

Judicial Committee:

**Gregor Nicholson** (Scotland)

**Barry O'Driscoll** (Ireland)

**Graeme Mew** (Canada – Chair)

Appearances and Attendances:

For the Board:

Tim Ricketts (Anti-Doping Manager)

Darren Bailey (Counsel)

For the Player

Younes Ho (Player)

Jean-Claude Noguier (President – Rugby Club Chateaurenardais)

Jean-Louis Pelissier (Vice President - Rugby Club Chateaurenardais)

### **DECISION OF THE JUDICIAL COMMITTEE**

1. The International Rugby Board (the “Board”) alleges that Younes Ho, a member of the Moroccan national seven and fifteen-a-side mens’ teams (the “Player”), committed a Doping Offence, contrary to Regulation 21 of the Regulations Relating to the Game (the “Regulations”) when a urine sample provided in the course of a doping control test taken at the Rugby World Cup 2005 Sevens qualifying tournament in Tunis, Tunisia, on 25 September 2004, was found to have contained a Prohibited Substance, 11-nor-delta 9-tetrahydrocannabinol-9-carboxylic acid (Cannabinoids) at a concentration of higher than 15ng/ml.

2. Following a preliminary review undertaken pursuant to Regulation 21.20.1., the Player was notified by a letter to him care of the Federation Royale Marocaine de Rugby dated 15 October 2004 that the “A” sample of the specimen he had provided had resulted in an Adverse Analytical Finding for the presence of Cannabinoids. The Player was given the option of having the “B” sample of his specimen analysed and was notified that pursuant to Regulation 21.19.1 he was provisionally suspended pending the outcome of the case. It was subsequently confirmed by the Player’s French club, Rugby Club Chateaurenardais, that the temporary suspension took effect on 25 October 2004 (presumably the date upon which the club became aware of the Board’s 15 October letter to the Moroccan Union).

3. In letters dated 5 November and 30 November 2004 the Player acknowledged the result. He wrote [translation]:

“I do not refute in any case the results of the analysis of the samples I provided ... I would like for the disciplinary committee to adjudicate on the decision for my case. I would like to reiterate my regret for my lack of responsibility ... and deeply regret the taking of an illegal substance”.

The Player waived his right to have the “B” sample analysed. The Player was informed that a Board Judicial Committee would be appointed to consider his case and was further advised that he could attend the hearing in person, have a representative attend with him or on his behalf, participate by telephone, or make written submissions.

4. The Player elected to participate in the hearing before the Judicial Committee by telephone. The President and Vice-President of Rugby Club Chateaurenardais also participated. In addition to the oral evidence and submissions provided at the hearing, the Judicial Committee also considered the documents placed before it, including the following:

- a) RWC 2005 7s Qualification Tournament Anti-Doping Regulations
- b) Laboratory Analysis Report
- c) Doping Control Form

- d) Union Consent and Agreement Form
- e) Player Consent and Agreement Form
- f) Preliminary Review Report
- g) Letter from the Player to the Board dated 5 November 2004
- h) Letter from the Player to the Board dated 30 November 2004

*Anti-Doping Rule Violation Established*

5. We are satisfied, on the evidence before us, that the Player has committed an Anti-Doping Rule Violation due to the presence of a Prohibited Substance, namely Cannabinoids, in the Player's urine sample.

*Anti-Doping Rule Violations Involving Specified Substances*

- 6. It was confirmed that this is the Player's first anti-doping rule violation.
- 7. Although the period of ineligibility for a first offence involving the presence of a Prohibited Substance is usually two years, certain "specified substances", including Cannabinoids, are governed by Regulation 21.22.2, which provides as follows:

**Imposition of Ineligibility for Specified Substances**

21.22.2 The Prohibited List may identify specified substances which are particularly susceptible to unintentional anti-doping rules violations because of their general availability in medicinal products or which are less likely to be successfully abused as doping agents. Where a Player can establish that the Use of such a specified substance was not intended to enhance sport performance, the period of Ineligibility found in Regulation 21.22.1 shall be replaced with the following:

First violation: At a minimum, a warning and reprimand and no period of Ineligibility from future Events, and at a maximum, one (1) year's Ineligibility.

Second violation: Two (2) years' Ineligibility.

Third violation: Lifetime Ineligibility.

However, the Player or other Person shall have the opportunity in each case, before a period of Ineligibility is imposed, to establish the basis for eliminating or reducing (in the case of a second or third violation) this sanction as provided in Regulation 21.22.4.

8. Regulation 21.22.2 requires us to consider whether the Player has established to the comfortable satisfaction of the Judicial Committee, that his use of cannabis was not intended to enhance sport performance and, if so, to decide what sanction should be imposed for a first violation by the Player.

*Intention to Enhance Sport Performance*

9. In his letter of 5 November 2004, having stated his acceptance of the result, the Player wrote [translation]:

“I would like to assure you that this substance was not taken for sporting performance but 10 days before the departure for this Tournament when I was invited for a wedding of a childhood friend and in a moment of party and celebration I forgot my responsibilities as an international rugby player. I am available to perform any other testing you may require me to do as I never use this substance. I hope you will appreciate my position and the fact that rugby is for me the only positive thing that ever happened in my life with my selection to represent the national team.”

10. During the hearing, the Player elaborated on the circumstances of the infraction. His friend’s wedding had been on 10 September. He had played two club matches in August but had not played in the two weeks prior to the infraction due to a shoulder injury. He played for his club again the week after the friend’s wedding before joining the Moroccan national team for the Sevens qualifying tournament in Tunis. Prior to taking the test which gave rise to the positive finding, the Player had not been drug tested, although he had previously signed forms consenting to anti-doping procedures. He understood that cannabis was a banned substance in rugby union. At a time of celebration, he forgot his

responsibilities. He never thought that his recreational use of cannabis would have any effect on his sporting performance.

11. The Player has established, to our satisfaction, that his use of cannabis was not intended to enhance sport performance.

### *Sanctions*

12. The Player started playing rugby in 1992 at the under 15 level. He has since played rugby at every age grade. His club competes in the Federale 1 league in France. He receives a material benefit for playing rugby in the form of match bonus payments. Since 2000 the Player has appeared for the national team of Morocco four times at fifteen-a-side and twice at sevens.

13. Born in France of Moroccan heritage, the Player was described by his club president, M. Noguier, as a role model for younger members of his community. The Player spoke of the positive force that rugby has been in his life. He said that he realised he had made a huge mistake for which he was very sorry.

14. Notwithstanding the contrition shown by the Player and the supportive participation in the hearing by his club, the fact remains that the Regulations relating to the Game make it quite clear that cannabinoids are prohibited and that their presence in the event of doping controls will result in an Adverse Analytical Finding, which, in turn, will lead to sanctions. Accordingly the Judicial Committee is not prepared, in the absence of any truly mitigating circumstances, to look on the Player's violation as a trivial matter. Indeed, the Player's position as a role model for younger people in his community underscores the magnitude of the Player's failure to meet his responsibilities when committing this infraction.

15. The Judicial Committee has therefore determined that the Player will be ineligible for participation in rugby for a period of three months, commencing on 25 October 2004 and concluding on 24 January 2005.

16. The Player should realise that a similar infraction in the future will invite the application of a two year suspension.

17. It is hoped that the Player will take the lesson he said he has learned as a result of this incident and share it with his fellow players and with the youngsters who look up to him.

18. If the Board wishes us to exercise our discretion in relation to costs pursuant to Regulation 21.21.9, written submissions should be provided to the Judicial Committee and to the Player by 17:00 Dublin time on 7 January 2005, with any written submissions by the Player in response to be provided to the Board (which shall be responsible for forwarding such submissions on to the Judicial Committee) by no later than 17:00 Dublin time on 20 January 2005.

22 December 2004

Graeme Mew

Gregor Nicholson

Barry O'Driscoll