

# INTERNATIONAL RUGBY BOARD

IN THE MATTER OF REGULATIONS RELATING TO THE GAME

AND IN THE MATTER OF ALLEGED DOPING OFFENCES BY  
**ANDREY GARBUZOV** and  
**YAROSLAV RECHNEV**  
CONTRARY TO REGULATION 21

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

## Judicial Committee

Tim Gresson	(New Zealand) - Chair
Barry O'Driscoll	(Ireland)
Ichiro Kono	(Japan)

## Appearances and Attendances

Lily Orlovska	(Translation Assistant)
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## For the Board

Susan Ahern	(Counsel for the IRB)
Tim Ricketts	(Anti-Doping Manager)

## For the Player

Vadim Petrenchuk	(Executive Director - Rugby Union of Russia)
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## DECISION OF THE JUDICIAL COMMITTEE

1. The International Rugby Board (the "Board") alleges that the players, ANDREY GARBUZOV and YAROSLAV RECHNEV, members of the Russian men's team, committed anti-doping rule violations, contrary to Regulation 21 of the Regulations Relating to the Game (the "Regulations") when urine samples provided in the course of a doping control test taken on the 18<sup>th</sup> of June 2006 during the IRB Nations Cup Tournament played at Lisbon were found to have contained the prohibited substance namely 11-nor-delta 9-tetrahydrocannabinol-9-carboxylic acid (Cannabinoids) at concentrations of higher than 15ng/ml.
2. The Board has no record of Therapeutic Use Exemptions ("TUE's") on the file for the players for the use of this substance and the Declarations of Medication on the Doping Control Forms completed by the players as part of the testing protocol referred to "*vitamins*".

3. The players' urine specimens were divided into "A" and "B" samples and were sent to the World Anti-Doping Agency ("WADA") accredited laboratory at the Institut Municipal d'Investigacio Medica in Barcelona, Spain. The laboratories subsequently provided the Board with analytical reports dated 25 July indicating adverse analytical findings from the testing of the players' "A" samples for 11-nor-delta 9-tetrahydrocannabinol-9-carboxylic acid at concentrations of higher than 15ng/ml.
4. Following a preliminary review (which found no departure from the International Standard for testing) undertaken pursuant to Regulation 21.20.1, the players were notified by letters to them care of the Rugby Union of Russia (the "Union") dated 1 August 2006 that the "A" samples of the specimens they had provided had resulted in adverse analytical findings for the presence of Cannabinoids. Each player was given the option of having the "B" samples of their respective specimens analysed and were notified that pursuant to Regulation 21.19.1 that they were provisionally suspended pending the outcome of the case. On 9 August 2006 the Union confirmed that as from 8 August both players had been suspended from all rugby activity pending the outcome of their cases.
5. Both players did not avail themselves of the opportunity of having their "B" samples of their specimens analysed.
6. Subsequently in letters of explanation sent by the players they stated:

*"I, Garbuzov Andrey, the son of Mikhail on the 18<sup>th</sup> June 2006 after the match with Argentina I was in a bar with players from Argentina and Italy.*

*We were talking when one of them asked if I would like a cigarette. So I had it without thinking about the consequences. It was a cigarette with Marijuana.*

*That is why I refuse the B sample analysis. I would like to ask the light sentence cause it had happened to me for the first time and I would never make the same mistake again."*

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*"I, Rechnev Yaroslav, the son of Ivan after the match with Argentina I was in a night bar together with players from other teams that were participating at the tournament.*

*We were sitting and chatting when one of them gave me a cigarette. So I had it without thinking about the consequences. It was a cigarette with Marijuana.*

*That is why I refuse the B sample analysis. I would like to ask the light sentence because it had happened to me for the first time and I would never make the same mistake again."*

7. By letters to the players (via the Union) dated 16 August 2006, the players were informed that a Board Judicial Committee ("BJC") would be appointed to consider their cases and were further advised they could attend the hearing in person, have a representative attend with them on their behalf, participate by telephone, or make written submissions. The Union was reminded that as the testing had been conducted under Board jurisdiction, the decision of the BJC would (subject to appeal) be final and binding on the players.
8. Subsequently on the 14<sup>th</sup> September 2006 both players advised, through their Union, that they did not wish to participate in the hearings following which on the 18<sup>th</sup> September in further letters to the players (via the Union) the Board advised because the outcome of the hearings could result in sanctions being handed down against them they may wish to reconsider whether they should be present for the hearing.
9. Subsequently on the 19<sup>th</sup> September the Union advised that both players confirmed by telephone that they did not wish to participate in the hearings.
10. Accordingly, the hearing proceeded without the players participating. However, Mr Petrenchuk provided background information on the players' circumstances and Russia's domestic and international seasons. Further, by way of mitigation, he made able submissions on behalf of the players. In addition, to the oral evidence and submissions provided at the hearing, the Judicial Committee also considered documents placed before it including the following:
  - (i) IRB Nations Cup Manual - Section 11 Anti-Doping Programme:
  - (ii) Doping Control Form, Andrey Garbuzov
  - (iii) Doping Control Form, Yaroslav Rechnev
  - (iv) Laboratory Analysis Report
  - (v) Preliminary Review Report
  - (vi) Player consent forms
  - (vii) E-mails and other correspondence
11. The hearing was conducted by telephone conference on 21 September 2006.

*Anti-Doping Rule Violations Involving Specified Substances*

12. Both players acknowledged the use of a prohibited substance and accepted the analytical findings. Accordingly we are satisfied that players have committed an Anti-Doping Rule violations due to the presence of a prohibited substance, namely Cannabinoids, in the Players' urine samples.

13. 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 is 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.

14. Regulation 21.22.2 requires us to consider whether the player has established on the balance of probabilities, that his use of Cannabinoids was not intended to enhance sport performance and, if so, to decide what sanction should be imposed for a first violation by the player.

*Discussion*

15. We have difficulty accepting the players' accounts. The likelihood that the players' infractions resulted from the unintentional smoking of cannabis cigarettes gratuitously handed to each of them by a player from either the Italian or Argentinian teams at a bar at night in Lisbon is regarded by us as unconvincing. In this regard we note:
- generally in contrast to other cigarettes, a cannabis cigarette has a distinctive appearance and smell.
  - the assertion that the positive tests were as a result of the smoking of a cannabis cigarette on the 18<sup>th</sup> June 2006; that is six days before the samples were taken on the 24<sup>th</sup> June 2006 forensically we consider was questionable.
  - by electing not to participate in hearings, their written accounts could not be tested by questioning from counsel for the IRB or members of the Committee.
  - a total lack of corroborative evidence supporting their respective accounts.

16. Although the information provided by the players as to the circumstances of the violation was limited, we are satisfied that both players used cannabis in a social setting and that there was no intention on their part to enhance sport performance. However, the players and others who find themselves in a similar situation in the future should clearly understand that the burden is on them to establish a lack of intent to enhance sports performance. Failure to do so will result, in the absence of exceptional circumstances, in a period of ineligibility up to two years.
17. Although the use of cannabis in social settings is not behaviour which is unknown, the regulations to the game make it 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 may lead to sanctions. Accordingly the Judicial Committee is not prepared, in the absence of any truly mitigating circumstances, to look on the players' violations as trivial matters deserving of no more than slaps on the wrist in the form of reprimands. The Committee is particularly troubled that the infractions occurred midway during IRB Nations Cup Tournament.
18. In mitigation, Mr Petrenchuk submitted that both players have distinguished records in representing their country at rugby. Further, they both are regarded as "leaders" in the team environment, they deeply regret their actions, and acknowledged that their behaviour had been unacceptable.
19. We were advised that Yaroslav Rechnev is aged 25, and Andrey Garbuzov is aged 23. They are both professional rugby players and do not have other vocations. As indicated we were informed that they have not played domestic rugby since 8<sup>th</sup> August and Russia has a full programme of important international Rugby World Cup qualifying matches during October and November 2006.
20. We have decided that for reasons of general and specific deterrence there should be stern sanctions imposed on both players. The Committee deplores the use of cannabis by players during the course of rugby tournaments and clearly there is a need for condign sanctions to demonstrate the Board's strong repudiation of conduct of this nature. We consider the appropriate sanction for this type of "In Competition" offending would be a six month period of suspension – refer BJC decision of Kolyshkin Vadym dated 25<sup>th</sup> July 2005. However, allowing for the mitigating factors that have been advanced on behalf of the players in each case that will be reduced to periods of suspension of four months.

21. Accordingly we direct that the period of suspension should commence from 8<sup>th</sup> August 2006 (being the date when both players were provisionally suspended) until and including 9<sup>th</sup> December 2006.
22. This decision is, subject to review by a Post Hearing Review Body (Regulation 21.25) and an appeal to the Court of Arbitration for Sport, binding on both the players and the Union. For the sake of clarity, it is intended that the sanctions determined by the BJC in this matter shall replace any domestic sanctions imposed on the players by the Union.
23. 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 players by 17:00 Dublin time on 2 October 2006, with any written submissions by the players 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 16 October 2006.

28<sup>th</sup> September 2006



Tim Gresson (for and on behalf of the Board Judicial Committee)

Dr Barry O'Driscoll

Dr Ichiro Kono