

## INTERNATIONAL RUGBY BOARD

IN THE MATTER OF REGULATIONS RELATING TO THE GAME

AND IN THE MATTER OF A DOPING OFFENCE BY AZAT ABISHEV

BEFORE A BOARD JUDICIAL COMMITTEE APPOINTED PURSUANT  
CLAUSE 21, TOURNAMENT ANTI-DOPING PROGRAMME, RUGBY WORLD  
CUP 2011 QUALIFYING TERMS OF PARTICIPATION

### Judicial Committee

Christopher Quinlan (RFU, Chairman)

Dr. Barry O'Driscoll (IRFU)

Dr Roger Evans (WRU)

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## DECISION OF THE BOARD JUDICIAL COMMITTEE

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### **Introduction**

1. Pursuant to the (updated) Clause 21, Tournament Anti-Doping Programme (Rugby World Cup 2011 Qualifying Terms of Participation, Section 7), we (Christopher Quinlan, Dr. Barry O'Driscoll and Dr Roger Evans) comprise the Board Judicial Committee appointed to consider this alleged anti-doping rule violation.
2. Azat Abishev ('the Player') was tested as part of the Rugby World Cup 2011 Qualifying Terms of Participation, Tournament Anti-Doping Programme ('the Programme'). The urine sample was taken from him on 17 July 2010 by authorised doping control officers in accordance with the Programme, Clause 8. At the material time the Player was playing for the Kazakhstan National side in a Rugby World Cup 2011 ('RWC2011') qualifying match against

Uruguay played in Uruguay. The sample was split into two: A and B samples and transported to an accredited laboratory in Montreal, Canada. The Player tested positive (A Sample 2533194) for stanozolol and trenbolone.

3. The detection of stanozolol and trenbolone is consistent with the administration of the prohibited substances stanozolol and trenbolone. Stanozolol and trenbolone are Prohibited Substances listed as Anabolic Androgenic Steroid S1 in the World Anti-Doping Agency 2010 List of Prohibited Substances and Methods and in Schedule 2 to the Programme.
4. A preliminary review of the case was undertaken by Dr Ismail Jakoet (South Africa) on 13 August 2010 (*per* Clause 20, the Programme). He determined that an anti-doping rule violation may have been committed contrary to Clause 2.1.
5. The IRB notified the Player and his Union, Kazakhstan Rugby Football Federation ('KRFF'), of the adverse analytical finding by letter dated 16 August 2010. That letter also informed the Player of, *inter alia* the following
  - a. the relevant sanction regime;
  - b. his right to have the B sample tested and the time within which he must make that request;
  - c. that in default thereof, he was deemed to have accepted the accuracy of the said adverse analytical finding;
  - d. his right to request a hearing before the Board Judicial Committee; and
  - e. in consequence of the said adverse analytical finding that he was provisionally suspended from playing or training for his team or Union or participating in any other team or any organised rugby activity until resolution of the matter.

6. In an email sent by Timur Mashurov for and on behalf of the Kazakhstan Rugby Football Federation to Mr Tim Ricketts (IRB Anti-Doping Manager) on 27 August 2010 08.57, the following was stated:  
*“Azat Abishev admits the anti-doping rule violation now and accept [sic] the prescribed sanction (2 years ineligibility)”.*
7. By return Mr Ricketts informed author of the said email that the Player must set out his position in writing. In a document dated 1 September 2010 and apparently signed by the Player, he stated:  
*“I Azat Abishev, Kazakhstan Rugby Team Player admit the anti-doping rule violation. I was using both substances found in my urine without noticing anyone [sic] and I accept the prescribed sanction. I do apologise.”*
8. In a further statement apparently signed by the Player, dated 8 September 2010 he therein confirmed his waiver of a right to a hearing before a Board Judicial Committee with respect to the anti-doping violation. Therein he also stated that he did not wish to make any submissions on sanction and acknowledged that he understood and agreed with the content of the document, which is in English.
9. Further to the Player’s waiver of his right to a hearing before us (*per* Clause 14.3 of the Programme), we did not consider one necessary.

### **Anti-Doping Rule Violation**

10. Section 7 of the RWC2011 Qualifying Terms of Participation contains the Tournament Anti-Doping Programme. The Programme was updated in January 2010 and the participating Unions were notified of that by a Notice promulgated on 29 January 2010. Clause 2.1 of Section 11 of RWC2011 Qualifying Terms of Participation states:

*“The Participating Union on its own behalf and on behalf of each Team Member accepts the invitation to take part in the Tournament in accordance with the Terms of Participation.”*

11. Before us was a Formal Acceptance by Team Members Form apparently signed by the Player dated 5 April 2010. Thereby he is bound the Terms of Participation, which, of course, include the Programme.

12. Clause 2 of the Programme provides:

*“Players or other persons shall be responsible for knowing what constitutes an anti-doping violation and the substances and methods which have been included on the Prohibited List. The following constitutes anti-doping rule violations:*

*2.1 The presence of a Prohibited Substance or its Metabolites or Markers in a Player’s Sample”*

13. No issue is taken by the Player is respect of the taking of the sample, its preservation, integrity or the secure transmission of the same.

14. In light of his admissions and the other evidence before us, we are satisfied that on 17 July 2010 the Player committed an Anti-Doing Rule Violation contrary to Clause 2.1 of the Programme.

### **Sanction Regime**

15. Stanozolol and trenbolone are Prohibited Substances. Clause 22.1 of the Programme provides:

*“The period of Ineligibility imposed for a violation of Clause 2.1 (Presence of Prohibited Substance or its Metabolites or Markers), Clause 2.2 (Use or Attempted Use of Prohibited Substance or Prohibited Method) and Clause 2.6 (Possession of Prohibited Substances and Methods) shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided in Clauses 22.3 and*

22.4, or the conditions for increasing the period of Ineligibility, as provided in Clause 22.9, are met:

*First violation: Two (2) years' Ineligibility."*

16. The starting point for a first violation therefore is a period of ineligibility of two (2) years.

17. The player did not wish to make any submissions with respect to the sanction to be imposed upon him and admitted taking the Prohibited Substances.

18. On the basis of the material before us there are no grounds for mitigating the starting point of ineligibility for two years.

19. We are told (and accept) it is his first anti-doping rule violation.

20. Accordingly, the only appropriate period of ineligibility is one of two (2) years commencing on the date of his provisional suspension, namely 16 August 2010 and continuing up to and including 15 August 2012.

21. The meaning of Ineligibility is set out in Clause 22.13 of the Programme. Clause 22.13A(i) thereof provides:

*"No Player or Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Match and/or Tournament (international or otherwise) or activity (other than authorised anti-doping education or rehabilitation programmes) authorised or organised by the Board or any member Union or Tournament Organiser. Such participation includes but is not limited to coaching, officiating, selection, team management, administration or promotion of the Game, playing, training as part of a team of squad, or involvement in the Game in any other capacity in any Union in membership of the IRB."*

## **Decision**

22. The sanction for the anti-doping rule violation committed by the Player on 22 May 2010 by reason of the presence in the Player's sample of stanozolol and trenbolone is a period of ineligibility of two (2) years.

## **Appeal**

23. This decision is final, subject to a Post Hearing Review Body (Clause 24 of the Programme) and, if applicable, an appeal to the Court of Arbitration for Sport (Clause 26 of the Programme). In this regard, attention is directed to Clause 24.2, which sets out the process for referral to a Post Hearing Review Body, including the time within which the process must be started.

## **Costs**

24. If the Board wishes us to exercise our discretion in relation to costs (Clause 21.10 of the Programme/IRB Regulation 21.21.10), written submissions should be submitted to the Board Judicial Committee via Mr Ricketts by 16.00 BST on Monday 29 November 2010, with any response from the Player in writing to be provided to Mr Ricketts by 16.00 GMT on Monday 6 December 2010.

**Christopher Quinlan, Chairman**

Dr. Barry O'Driscoll (IRFU)

Dr Roger Evans (WRU)



Signed on behalf of the Tribunal

14 November 2010