Fédération Internationale des Sociétés d'Aviron
International Rowing Federation

7 March 2006
Lausanne, Switzerland

AWARD DELIVERED BY THE FISA DOPING HEARING PANEL

sitting in the following composition

Members **Tricia Smith**
Jean-Christophe Rolland
John Boultbee

In the case

Milka Dimitrova MANCHOROVA

In Lucerne on 11th July 2005 and in Lausanne, Switzerland on 22nd January 2006

I. The Facts

1.1 The facts in this case are established by documents made available to the hearing panel by FISA and by the Bulgarian Rowing Federation on behalf of the athlete. There was no oral evidence, and therefore no questioning of any person on the basis of the documents. The athlete and her federation waived their right to appear before the panel.

The panel at its first sitting in July 2005 requested advice from an independent medical expert which was received and considered at its second hearing in January 2006.

1.2 The athlete was subjected to an out of competition test on 3 May 2005. The analysis of her sample collected on that date indicated the presence of recombinant EPO, which is a banned substance.

1.3 In the explanation provided by the federation, it was explained that the athlete was hospitalised from 26 April 2005 and 1 May 2005. The hospitalisation was following a heavy bout of drinking, and resultant ill health, including bleeding. The hospital notes indicated that whilst in hospital the athlete was administered Neorecomormon – 2000 U.I.

1.4 The FISA expert, Dr Martial Saugy of the Institut Universitaire de Medecine Legale in Lausanne, reported to FISA on 20 January 2006 that Noerecomormon – 2000 U.I. is one trademark for recombinant EPO, and that this treatment is an explanation for the result in the test on 3 May 2005, and that "the presence of EPO in athlete's urine collected 2 days after the treatment is consistent with the application of Recormon (recombinant EPO) during the stay of the athlete at the hospital."

1.5 The athlete did not mention the administration of this substance to her on the form at the time of the test on 3 May, and did not mention her very recent hospitalisation in the "comments" section of the form. The only medication she mentioned was "Multivitamins".

1.6 Dr. Saugy notes that "the history and the origin of the pathology is not extremely clear and the treatment with EPO…..is to our point of view (also that from several specialists from our Hospital) not really the most relevant in that case."

1.7 The federation has indicated that the athlete has now retired from competition.

II. Applicable law

2.1 The applicable rules are the FISA Anti-Doping Rules in force at the time of the test (3 May 2005). These rules are consistent with the World Anti-Doping Code.

2.2 The relevant rules in this case are the FISA Anti-Doping Bye Laws;

- Article 10.2 which sets a period of two years' ineligibility for a first violation for the substance here concerned, and which provides that the athlete shall have the opportunity to establish the basis for eliminating or reducing this sanction as provided in Article 10.5; and

- Article 10.5 providing for elimination or reduction of the period of ineligibility based on exceptional circumstances: (10.5.1) elimination in the case of 'no fault or negligence' and establishing how the prohibited substance entered his or her system; (10.5.2) reduction to no less than one half of the minimum period of ineligibility in the case of 'no significant fault or negligence'.

III Merits

3.1 The Panel is faced with very little evidence consisting only of the hospital report, the explanation given in writing by the federation on behalf of the athlete, and the expert medical opinion acquired by FISA. It is not in a strong position to look deeply into the facts, particularly; the reasons behind the hospitalisation and the injury / illness the athlete was suffering; the treatment the athlete received including the administration of EPO and the relevance of that treatment; and, the circumstances in which the athlete did not mention the hospitalisation or the medication administered on the form at the time of undergoing the test.

3.2 There is no challenge to the test result, and the Panel has no difficulty finding that the athlete has committed an anti-doping rule violation in that a prohibited substance (EPO) or its metabolite or markers were present in her bodily specimen (Article 2.1). There is no challenge to the fact that the appropriate sanction would normally be two years' ineligibility (Article 10.2)

3.4 In considering the question of elimination of the period of ineligibility under Article 10.5.1, the Panel finds itself bound to accept the explanation that the hospital administered EPO to her and that this satisfies the athlete's onus to establish how the substance entered her system on the balance of probabilities. The Panel comes to this conclusion despite sharing the medical expert's concern over the relevance of the treatment, without further explanation.

3.5 The Panel is not satisfied that the athlete has established "no fault or negligence". It accepts that if the reason for the hospitalisation is believed, and despite misgivings about the quality of the explanation given, it has no evidence to the contrary before it, then the athlete was unlikely to know what was being administered to her. However, there is at least fault or negligence on the athlete's part in either not finding out what had been administered to her, and not declaring the hospitalisation and the administration of the substance to her on the form at the time of the test. The form invites "comments" and a period of hospitalisation lasting some 4-5 days and finishing only 2 days before the test, when the athlete must have known she was administered some medications, would warrant some mention at least. As a high level athlete faced with an anti-doping test, it would at least be negligent not to have made some enquiries, and registered some comment in the circumstances.

3.6 The Panel is however prepared to find that the failure to make a remark on the form at the time of the test or, as far as we know, to her team staff, shows significant fault or negligence on behalf of the athlete following the administration to her of the prohibited substance.

3.7 The Panel therefore finds that the period of ineligibility should not be reduced because we consider she has not established that there was no significant fault or negligence on her part.

3.8 Because of the delay of the hearing, the Panel, under Article 10.8 considers that the period of ineligibility should commence from the date on which the athlete indicated that she would submit to the decision of FISA, and that any provisional suspension should be taken into account.

FOR THESE REASONS

The FISA Doping Hearing Panel finds:

1. Milka Dimitrova Manchorova is ineligible to compete for a period of 2 years.

2. The ineligibility period of two years began with the provisional suspension applied on the athlete.

3. This award is rendered without costs.

Lausanne, 22nd January 2005

For the FISA Doping Hearing Panel:

Tricia Smith Jean-Christophe Rolland John Boultbee