

INTERNATIONAL OLYMPIC COMMITTEE
EXECUTIVE BOARD

DECISION

(Rule 25.2.2.1 of the Olympic Charter)

1. In re Johann MUEHLEGG, born on 8th November 1970, athlete (Spain), men's cross-country skiing.
2. The athlete was requested on 21st February 2002 in the evening to provide blood and urine samples for an out-of-competition test.
3. The acting Chairman of the IOC Medical Commission was informed at about 19:00 hours on 23rd February 2002 by the IOC Accredited Laboratory in Salt Lake City of an adverse finding on an "A" sample collected on 21st February 2001 at the XIX Olympic Winter Games Salt Lake City 2002.
4. Pursuant to Bye-Laws to the Olympic Movement Anti-Doping Code, the acting Chairman of the IOC Medical Commission, Prof. Arne Ljungqvist, set up an Inquiry Commission consisting of the following persons:
 - Denis Oswald (Chairman)
 - Eduardo de Rose
 - Peter Hemmersbach.
5. The Inquiry Commission held an investigation hearing on 23rd February 2002 at 22:00 hours in the presence of a delegation (hereinafter "the Delegation (I)") comprised of:
 - Johann MuehleGG, Athlete
 - Juan A. Gómez-Angulo, Minister for Sport
 - Víctor Sánchez, Secretary General of the Spanish NOC
 - Joaquin Agulla, Chef de Mission
 - Benjamin Fernández, Doctor
6. The Delegation was informed of the results of the laboratory analysis which, according to the report of the Inquiry Commission, are the following:

The analyses of the two samples indicated the presence of darbepoetin in the athlete's urine. Prof. Catlin, Head of the laboratory, confirmed the results of his finding. He described the method used that is the one commonly used and recognised for the detection of EPO. This method also allows the detection of darbepoetin. The urine findings were supported by the analytical results of the blood samples.

According to Prof. Catlin, darbepoetin stimulates the production of red blood cells and therefore can enhance performance in endurance sports. It may also be harmful for the athlete's health because it increases the viscosity of the blood. It is a substance which can be easily differentiated from EPO. It is an artificial substance which is not produced naturally by the human body. Therefore, its presence in the urine can only have an exogenous source.

Prof Catlin indicated that the darbepoetin is not listed, as such, in the Olympic Movement Anti-Doping Code but is clearly a related substance to EPO and is therefore prohibited.

7. According to the Inquiry Commission, the presence of darbepoetin in the athlete's urine is confirmed without any doubt by the laboratory's report. The substance darbepoetin is an analogue/mimetic related substance to EPO. It has the same pharmacological action and similar chemical structure to EPO, which is a prohibited substance according to the Olympic Movement Anti-Doping Code. The substance darbepoetin is capable of enhancing performance and is potentially harmful to athlete's health. It is therefore also prohibited in application of Chapter II Article 2.1 of the Olympic Movement Anti-Doping Code. The Inquiry Commission has concluded that Johann Muehlegg has committed the doping offence of using a substance prohibited by Chapter II, Article 2.1 and 2.2 of the Olympic Movement Anti-Doping Code (Appendix A I E of the current IOC list of prohibited substances).

8. The Delegation (I) denied that there was a doping offense and requested for the "B" sample to be tested.

9. The President of the IOC designated the following five members of the IOC Executive Board to act as members of the Disciplinary Commission:

- Thomas Bach (Chairman)
- Richard Kevan Gosper
- Marc Hodler
- Ottavio Cinquanta
- Gunilla Lindberg

10. The Disciplinary Commission subsequently held a hearing in the morning of 24th February 2002 in the presence of the delegation (hereinafter "the Delegation (D)) comprised of:

- Johann Muehlegg, Athlete
- Juan A. Gómez-Angulo, Minister for Sport
- Víctor Sánchez, Secretary General of the Spanish NOC
- Joaquín Agulla, Chef de Mission
- Benjamin Fernández, Doctor

11. The International Ski Federation was represented at the Disciplinary Commission hearing by: Gianfranco Kasper, FIS President.

12. WADA was represented at the Disciplinary Commission hearing by: David Howman, WADA observer.

13. The Delegation (D) raised some procedural questions relating essentially to the signature of the report of the Inquiry Commission but agreed to discuss the merits. The Delegation (D) submitted that there could be no doping offense as the concerned substance darbepoetin (Aranesp=NESP) is neither on the list nor a related substance. They challenged the validation of the test method. The athlete pointed out that he had been tested several times, even during these Olympic Games, with negative results and could not offer any further explanation. He described his dietary behavior in the lead up to his competitions.

14. After hearing the Delegation (D) and the arguments it put forward, as well as hearing the representative of the International Ski Federation, the Disciplinary Commission retired in order to deliberate.

15. The Disciplinary Commission concluded that the athlete had committed a doping offense according to Chapter II, Articles 2.1 and 2.2 of the Olympic Movement Anti-Doping Code.

16. The Disciplinary Commission proposed that the IOC Executive Board, pursuant to the Olympic Movement Anti-Doping Code and the Olympic Charter, pronounce the following sanctions:

- disqualification of the athlete from the men's 50 km classical cross country skiing event,
- withdrawal of the medal and diploma,
- exclusion from the XIX Olympic Winter Games Salt Lake 2002.

17. The IOC Executive Board upholds the facts as stated and reported by the Inquiry Commission.

18. The IOC Executive Board took note today of the conclusions of the Disciplinary Commission based among other elements on the report of the Inquiry Commission and its hearing.

CONSIDERING the above, pursuant to Rule 25, paragraph 2.2.1 of the Olympic Charter and the terms of the Olympic Movement Anti-Doping Code,

THE EXECUTIVE BOARD OF THE
INTERNATIONAL OLYMPIC COMMITTEE

DECIDES

1. The athlete Johann MUEHLEGG (Spain), man's cross-country skiing, is:
 - (i) disqualified from the men's 50 km classical cross country skiing event, and
 - (ii) excluded from the XIX Olympic Winter Games Salt Lake City 2002,according to Chapter II, Articles 2.1 and 2.2 of the Olympic Movement Anti-Doping Code,
2. The International Ski Federation is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
3. The National Olympic Committee of Spain is hereby ordered to return to the IOC, not later than 17:00 hours today, the medal and the diploma awarded to the athlete in relation to the above-mentioned event.
4. The decision shall enter into force immediately.

Salt Lake City, 24th February 2002
For the IOC Executive Board
François CARRARD
Director General