

Decision
No. 2 / 29.08.2007

The Appeal Commission assembled on 29.08.2007, 11h00 a.m., at National Anti-Doping Agency's official seat in Bucharest, 37-39 Basarabia Blvd, District 2, in order to solve the appeal submitted by IORDACHE Ioan against the Sanction Committee's Decision no. 3/03.07.2007, which establishes a four (4) years ineligibility from sport activity, according to the provisions of the Article 33 paragraph 2 of the Law no. 227/2006 regarding the prevention and fight against doping in sport, as he was found guilty of violating the provisions of the Article 2 paragraph 2 (h) of the above mentioned Law.

The Appeal Commission meeting was attended by:

- Mr. Iordache Ioan as appellant,
- Mrs. Trocan Carmen as the representative of the Sanction Committee,
- Mr. Predoi Alexandru-Victor as witness,
- Mr. Raducanu Ionel as witness,
- Mr. Butoi Alexandru as witness,
- Mrs. Gabriela Andreiasu as witness.

The Appeal Commission was composed of:

- Mr. ZAHARIA LEFTER Constantin- – Chairman
- Mrs. TEIANU Daniela – member
- Mrs. BARBU Elena – member
- Mrs. SANDULESCU Mihaela – member
- Mrs. CHIRIPUS Daniela – member, who was absent from this meeting.

The above mentioned witnesses were heard and their depositions have been documented in the minute of the Appeal Commission's meeting. Subsequently, the appellant – Mr. Iordache Ioan was also heard.

Analyzing the appeal statement having the registration number 764/09.08.2007, the Appeal Commission establishes the followings:

De facto, through the Decision no. 3/03.07.2007, the Sanction Committee has decided a four (4) years ineligibility sanction for the coach Iordache Ioan, registered at C.S.A. STEAUA BUCURESTI Sport Club. Before taking this decision, the Sanction Committee noted that he was guilty of violating the provisions of Article 2 paragraph 2 (h) of the Law no. 227/2006. The decision was grounded on the fact that Mr. Iordache Ioan instigated the athletes Predoi Alexandru-Victor and Raducanu Ionel to not submit to the doping control, thus being party to the anti-doping rule

violation. In taking its decision, the Committee has taken into consideration, as evidential support, the report drawn up by the witnesses Butoi Alexandru and Andreiasu Gabriela in their quality of doping control officers.

For an equitable solving of the matter, the Appeal Commission has reviewed all the documents in the case file and heard all the above mentioned witness, in order to establish the exact circumstances that led to the sanctioning of the appellant.

After the hearings and the review of the evidences, the Appeal Commission establishes that the appeal is grounded and admits it for the following reasons:

The Appeal Commission considers that there are no indubitable evidences in the case file to establish the appellant's guilt of violating the Article 2 paragraph 2 (h) of the Law no. 227/2006. Therefore, the only evidence brought into the attention of the Sanction Committee, i.e. the report drawn up on 14.06.2007 by the DCOs, does not contain any elements to certainly prove the appellant's guilt. The Commission considers that this report contains subjective opinions and presumptions belonging to the DCOs, which are not sustained by direct evidences related to the appellant's guilt and, therefore, they cannot represent the legal grounds for such sanctioning decision. Moreover, taking into account the statements of the two athletes involved – Predoi Alexandru-Victor and Raducanu Ionel, the Appeal Commission couldn't establish a firm conviction with regard to the appellant's guilt of violating the Article 2 paragraph 2(h) of the Law no. 227/2006.

Given the above mentioned facts, and on the basis of Articles 29 and 30 of the Disposition no. 60/21.05.2007, the Appeal Commission

DECIDES:

Admits the appeal submitted by Mr. Iordache Ioan and, consequently, disposes the modification of the Decision no. 3/03.07.2007, i.e. the annulment of the Article 3 of the Decision, as it was established that the coach Iordache Ioan registered at C.S.A. STEAUA BUCURESTI Sport Club is not guilty of violating the Article 2 paragraph 2 (h) of the Law no. 227/2006.

The Appeal Commission's decision may be appealed before the Court of Arbitration in Sport in Lausanne, in maximum 21 days from its communication.

CHAIRMAN OF THE APPEAL COMMISSION,

Constantin ZAHARIA LEFTER