

Decision of the FIDE Doping Hearing Panel

The procedure

A written statement by doctor Eduardo Ribot came in that the player Shaun Press from Papua New Guinea on October 28th 2004 during the Chess Olympiad in Calvia, Mallorca had refused to submit to the doping control.

On October 30th 2004 there was a hearing of the FIDE Doping Hearing Panel. At the hearing were present the five members of the FIDE Doping Hearing Panel Arthur Schuering, Dewperkash Gajadin, Klaus Deventer, Jonathan Speelman and Sergey Dolmatov, and the player Shaun Press, accompanied by his counsel Cathy Rogers and by his lawyer Roberto Ferrer.

The competence of the FIDE Doping Hearing Panel

The player Shaun Press has been notified that according to article 5 of the FIDE Anti-Doping Regulations the members of the FIDE Doping Hearing Panel should be appointed by the FIDE Executive Board. The player Shaun Press has been given the opportunity to discuss privately the composition of the Panel with his counsel and his lawyer. The player Shaun Press accepted the composition of the FIDE Doping Hearing Panel. So the Panel is competent.

The statement of the player Shaun Press

The statement of the player Shaun Press was the following. He confessed that he refused to submit to the doping control. The written statement of doctor Eduardo Ribot is not correct. When the doctor asked him to submit to the doping control, he asked the doctor if there was any evidence that he had used forbidden substances. When the doctor said no, he refused because he can not be obliged to produce evidence against himself. He did not know the possible sanctions at that moment. If he would have known the regulations, he first would have discussed the regulations with his teammates. In the meeting of teamcaptains on October 15th before the first round the chief arbiter told that there would be doping controls in the last week of the tournament, but he did not say anything about the possible sanctions and he did not say that there were new anti-doping regulations that were different from the regulations that were accepted in Bled in 2002. When a teamcaptain asked a question to the Chief Arbiter about the anti-doping regulations, the Chief Arbiter did not answer the question. Neither at any other moment had been told to the teamcaptains or the players that there were new anti-doping regulations. FIDE did not inform the federations that there were new anti-doping regulations. During the Olympiad in Bled in 2002 there were refusals and nobody had been sanctioned. He presented a written statement by Stuart Fancy, in the last 15 month president of the Papua New Guinea Chess Federation, that he is not informed during that time by FIDE of any anti-doping regulations and that he has not been asked to check on any website of such regulations. He also presented a written statement of zone president Gary Bekker that he was not made aware of the new anti-doping regulations prior to the 36th Olympiad. Further he was not all the time accompanied by a doping official in the hour between the refusal of the original test and the second visit to the doping room; so if he would have wished to take the test, then it would have been void. That is contrary to the anti-doping regulations. From the doping control form it is not clear which authorities are responsible for the doping controls. It was not known what would happen with the samples after the control. In the forms there was

no information about the regulations of procedure. In Australia chess is not a sport. He has a FIDE-rating. He did not play any FIDE rated event between the Olympiad in Bled in 2002 and the Olympiad in Mallorca in 2004. He is an amateur player.

The judgment

The refusal to submit to the doping control is a violation of article 2.2.3 of the FIDE Anti-Doping Regulations. The fact that the player was not accompanied by a doping official in the hour between his first visit and the second visit to the doping control and a test might be void, is not a good reason for a refusal. So this fact does not prevent a sanction. It is not assumable that the player refused because the form was deficient or not clear. In the meeting of the teamcaptains on october 15th the Chief Arbiter has announced that there will be doping controls during the last week of the Olympiad. He repeated this information at the beginning of the first round. The new anti-dopingregulations are since a long time published on the website www.fide.com. Although it is the reponsibility of FIDE to inform the federations and the players about the FIDE Anti-Doping Regulations, it is also a responsibility of the player to be informed about the applicable anti-dopingregulations when he is informed that doping controls will be held. Especially when he intends to refuse to submit to doping controls, he should try to get information about the possible sanctions. It is not assumable that the player was not able to get information. The fact that players who refused in Bled in 2002, where the first doping controls of FIDE were held, have not been sanctioned, was due to the fact that the anti-doping regulations of FIDE were changed during the event. This fact does not form a good reason to trust that there will be no sanctioning in case of refusals in future events. There is no violation of procedure regulations and there is no circumstance that prevent sanctioning Shaun Press.

The refusal of submitting a sample means that the player is considered to be positive tested. According to article 6.1 of the FIDE Anti-Doping Regulations the disqualification of individual results is the automatic consequence in each doping case. According to article 6.4.a juncto 6.2 of the FIDE Anti-Doping Regulations exclusion from participating in events organised by FIDE or national chess federations is further the normal sanction after a refusal. However, the Panel has discovered that the FIDE Anti-Doping Regulations are not well known in a part of the federations in FIDE. Further, Shaun Press is an amateur player who came on his own cost to the Olympiad. The FIDE Anti-Doping Regulations are in the first place meant for the professional players of whom there are many in chess. For these reasons a majority of three members of the Panel judges that next to the cancelling of the points gathered during the Olympiad, there is no place for an exclusion, but only a warning should be given. A minority of two members of the Panel judges that also this sanctioning is to severe and there should be no cancelling of points, but just a warning. The FIDE Doping Hearing Panel judges unanimously that in future cases the Panel will in all probability be forced to impose two years of ineligibility, even if an amateur is concerned. The decision will be given according to the judgment of the majority of the Panel.

At the moment that the decision was given orally, the player was informed that he had the possibility to appeal to the Court of Arbitration for Sport within 21 days.

The decision

The FIDE Doping Hearing Panel decides:

That the points gathered by Shaun Press from Papua New Guinea during the Olympiad in Calvia, Mallorca will be cancelled;

That Shaun Press will get a warning for violating the FIDE Anti-Doping Regulations.

This decision is given by Arthur Schuering, Dewperkash Gajadin, Klaus Deventer, Jonathan Speelman and Sergey Dolmatov, and is orally communicated to Shaun Press on october 30th 2004 and is sent to him in written form on november 4th 2004.