

APPEAL COMMISSION

Besides

NATIONAL ANTI-DOPING AGENCY

Bucharest

DECISION

No. 4/08.04.2010

The Appeal Commission summoned on 08.04.2010, 16.00H, at National Anti-Doping Agency's official seat in Bucharest, 37-39 Basarabia Blvd, District 2, in order to solve the appeal formulated by the athlete **Angelica Raluca Răducu**, residing in Bucharest, 4 Călțunași Street, bl.175, ap.3, District 4, against the Decision no. 18/24.11.2009 of the Hearing Commission for athletes and their support personnel who violated the anti-doping rules besides ANAD, which decided the ineligibility of the athlete **Angelica Raluca Răducu** registered to Bucharest School Sport Club no.5 and to Redis Buftea Sport Club for two (2) years, pursuant to art. 36 of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, the athlete being guilty of violating the provisions of art. 2, paragraph 2, letter a) of the mentioned law.

The hearing of the athlete took place on 15.03.2010 at the official seat of National Anti-Doping Agency, reprieving on 25.03.2010 to give her the opportunity to make inscriptions for reasoning the appeal, and on 08.04.2010 members of the Appeal Commission besides National Anti-Doping Agency gather to pronounce a decision in this case.

The following persons attended the Appeal Commission's session of March 15th 2010:

- The athlete Angelica Raluca Răducu, registered to Bucharest School Sport Club, no. 5 and to Redis Buftea Sport Club, residing in Bucharest, 4 Călțunași Street, bl. 175, ap. 3, District 4, identified with IC series RT, no. 364049, issued on 27.10.2204, CNP 2851106460076;
- Mr. Răducu Marcel, athlete's father, as her representative, identified with the IC series RT no. 364047, issued on 27.04.2004, CNP 1560126400151.

The members of the Appeal Commission:

- Mrs. Floarea CHIVU – member
- Mrs. Carmen TROCAN – member
- Mrs. Elena Magdalena COSTACHE – member
- Mr. Alin Florin CÂRSTOIU – member
- Absent: Mr. Dragoș CONDREA, Chairman of the Appeal Commission.

In the absence of the Chairman of the Appeal Commission, the hearing session was chaired by the eldest member of the present members, respectively by Mrs. Chivu Floarea, pursuant to art. 11 of the Order no. 47/2009.

At the date when the decision was rendered, the following members were present:

- Mr. Dragoș CONDREA – Chairman of the Appeal Commission
- Mrs. Floarea CHIVU – member

- Mrs. Carmen TROCAN – member
- Mrs. Elena Magdalena COSTACHE – member
- Mr. Alin Florin CÂRSTOIU – member

The Appeal Commission besides NADA, by reviewing the appeal statement formulated by athlete Angelica Raluca Răducu against the Decision no. 18/24.11.2009 of the Hearing Commission for athletes and their support personnel who violated the anti-doping rules, which decided the ineligibility of the athlete **Angelica Raluca Răducu** registered to Bucharest School Sport Club no.5 and to Redis Buftea Sport Club for two (2) years, pursuant to art. 36 of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, the athlete being guilty of violating the provisions of art. 2, paragraph 2, letter a) of the mentioned law.

Taking into account the provisions of the Law no. 227/2006, republished, the Appeal Commission besides National Anti-Doping Agency takes note of the followings:

De facto, on the occasion of the National Bodybuilding Championship – senior Males and Females – which took place in Brasov, on 05.09.2009, ANAD initiated an in competition doping control. Following the doping control conducted on 05.09.2009 on sport discipline bodybuilding, the analytical result of the sample of the athlete Angelica Raluca Raducu, having the code no. **2450357 A** indicated the presence of 3-hidroxytanazolole and 4-b hidroxytanazolole, metabolites of stanazolole, according to the analysis bulletin no. 412/25.09.2009 issued by the Research and Doping Control Laboratory – WADA Accredited Laboratory within ANAD.

The substance detected in athlete's sample is included in S1.1.a of the Prohibited List.

The Hearing Commission for athletes and their support personnel who violated the anti-doping rules besides ANAD summoned on 14.10.2009, at the athlete's request, decided to have athlete's B sample analyzed, pursuant to art. 82, paragraph (2) of the Methodological Norms regarding the organization and conduct of doping control, approved by G.D. no. 1592/2006. The result of B sample analysis performed by the Doping Control Laboratory of Bucharest confirmed the analytical result of the sample having the code number **2450357 A**, by the analysis bulletin no. 481/23.10.2009 issued by the Research and Doping Control Laboratory – WADA Accredited Laboratory within ANAD.

Thus, by the Decision no. 18/24.11.2009 of the Hearing Commission for athletes and their support personnel who violated the anti-doping rules besides ANAD, it was decided the ineligibility of the athlete **Angelica Raluca Răducu** registered to Bucharest School Sport Club no.5 and to Redis Buftea Sport Club for two (2) years, starting with the date when the decision was rendered, pursuant to art. 36 of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, the athlete being guilty of violating the provisions of art. 2, paragraph 2, letter a) of the mentioned law.

The athlete appealed against the above-mentioned decision within the legal term, the appeal being registered at ANAD with no. 4087/26.02.2010 while the mail date was 25.02.2010, as the modified decision was communicated to the athlete by the Judicial Executory Office Culea Marian Orlando on 08.02.2010.

In reasoning the appeal, the athlete invokes the good-will and the lack of intention in violating the anti-doping rules and asks for the ineligibility period to be applied starting with the date of the sample collection and not the date of the decision regarding the ineligibility.

By reviewing the appeal submitted by the Appellant, the Appeal Commission words the following grounding towards the Appellant's claims:

As for the first claim within athlete's appeal, namely the athlete invoking the good-will and the lack of intention in violating the anti-doping rules, this aspect can not be taken into account as reason to admit the athlete's appeal.

Pursuant to art. 46, paragraph (1) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, "the athlete is strictly responsible for the presence in his / her biological sample of any prohibited substance or its metabolites or markers and there's no need to establish the intention or fault to determine an anti-doping rules violation".

Stanozolole, the prohibited substance detected in the appellant's body is an analytical synthetic steroid derived from testosterone; the anabolic steroids are used by the bodybuilder to build their muscles and to burn the excess of fat.

Therefore, athlete's statement regarding the fact she did not use the masking agent and she did not try to enhance her sport performances by ingesting a prohibited substance can not be taken into account by the Appeal Commission besides ANAD, as the athlete did not establish how the metabolites of stanozolole got into her body, while the effect of prohibited substance administration is exactly to build the muscles. Taking into account that in sport discipline where the athlete competed, respectively bodybuilding, the muscles are a criterion to designate the winner, the Appeal

Commission besides ANAD sees the athlete's statement according to which she did not try to enhance her performance as unreasoned in relation with the above-mentioned aspects.

The members of the Appeal Commission besides ANAD take note that the athlete does not reason the statements within the appeal and she does not even establish her lack of significant negligence or guilt with regard to her case.

As for the second claim within the appeal, the athlete asks for the ineligibility period to be applied starting with the date of the sample collection, respectively 05.09.2009 and not the date when the Hearing Commission for athletes and their support personnel who violated the anti-doping rules besides ANAD rendered the decision, respectively 24.11.2009, this claim was dismissed as ungrounded.

Thus, pursuant to art. 42, paragraph (1) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, "the Ineligibility period shall start on the date of the decision regarding the Ineligibility", while the same article, paragraph (3) reads: "In case of delays in the decision providing for Ineligibility, for reasons not attributable to the Athlete, the Ineligibility may start as early as the date of Sample collection."

In order to have this article applicable in her case, the athlete should have established that the delay in rendering the appealed decision on 24.11.2009 was due to other reasons not attributable to the athlete, while de facto there's no delay to take into consideration, as the athlete was tested on 05.09.2009 and the decision was rendered on 24.11.2009, while between the date of sample collection and the date when the decision was rendered the analysis of B sample was performed.

As for the third claim within the appeal, the athlete shows she did not benefit from the assumption of innocence and the National Anti-Doping Agency set up the Hearing Commission for athletes and their support personnel who violated the anti-doping rules.

Pursuant to art. 12, paragraph (1) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, “Additionally to the Agency, the following entities are set up: the Therapeutic Use Exemption Commission, the Hearing Commission of athletes and their support personnel who violated the anti-doping rules and the Appeal Commission”.

Therefore, ANAD did not set up the Hearing Commission of athletes and their support personnel who violated the anti-doping rules. This commission, as well as the other commissions were set up by the law regarding prevention and fight against doping in sport and does not function as part of ANAD, it functions besides ANAD. Even more, the members of these commissions are approved by the order of the Agency’s president, in general from among the representatives of the Romanian Olympic and Sport Committee and the representatives of the public authorities with no responsibilities in sport.

Pursuant to the legal provisions, both commissions, namely the hearing commission and the appeal commission provided the athlete with the framework necessary for her to defend her interests, by inviting the athlete Angelica Raluca Răducu to the sessions of these commissions aiming to solve this case, as well as to the date established for B samples analysis. The Appeal Commission besides ANAD finds that the athlete did not submit any document to support her appeal, although following the hearing session

on 15.03.2010 she was provided with a period of time in this regard, namely up to 25.03.2010.

Taking into account the above-mentioned aspects, by reviewing the documents within the file, namely:

- the analysis bulletin no. 412/25.09.2009 of the Bucharest Doping Control Laboratory
- the analysis bulletin of the B sample no. 481/23.10.2009 of the Bucharest Doping Control Laboratory
- the appeal submitted in due time by the appellant Angelica Raluca Răducu
- the other documents within the file (notifications, proofs of communications etc.)

Taking into account the provisions of the article 30, letter a) of the Order no. 47/2009 for the approval of the Regulation for the organization and functioning of the Appeal Commission, with subsequent changes, the Appeal Commission in unanimity

DECIDES:

To dismiss the appeal of the athlete Angelica Raluca Răducu, submitted on 25.02.2010 against the Decision no. 18/ 24.11.2009 of the Hearing Commission of athletes and their support personnel who violated the anti-doping rules besides ANAD as ungrounded.

To maintain in force the Decision no. 18/ 24.11.2009 as grounded and reasoned and, implicitly to maintain the sanction of the athlete Angelica Raluca Raducu, registered to registered to Bucharest School Sport Club no.5

and to Redis Buftea Sport Club with two (2) years ineligibility, the ineligibility period starting on the date when the appeal decision was issued.

The decision of the Appeal Commission may be appealed to the Court of Arbitration for Sports in Lausanne, in up to 21 days since the notification.

The current decision is mandatory.

THE APPEAL COMMISSION,
CHAIRMAN
DRAGOS CONDREA