



GUVERNUL ROMÂNIEI

AGENȚIA NAȚIONALĂ ANTI-DOPING

DECISION

Nr. 18/08.07.2010

The *Hearing Commission for athletes and their support personnel who violated the anti-doping rules* summoned on 08.07.2010, 10:00 H at the official seat of the National Anti-Doping Agency in Bucharest, 37 – 39 Basarabia Bvd., sector 2 to make a the decision in the case of the athlete **DUMBRAVEAN CORINA**, residing in Craiova, 34C Stirbei Voda Bvd, Appt. 7, Dolj County, identified with IC series DX, no. 572667, registered to Olimpic Sport Craiova Sport Club and Bucharest Municipal Sport Club establishes:

Based on ADAMS whereabouts information form, the National Doping Agency (ANAD) planned a doping testing on sport discipline Athletics on 18.05.2010, in Poiana Brașov, at Vila Olimpic located in Fântânița Călugărului Street. After signing the *Invitation to doping testing*, the athlete Corina Dumbravean attempted to temper the sample, when the Doping Control Officer Ilica Ecaterina – who was witnessing the sample provision - noticed what the athlete was doing. Following the incident, the athlete refused to undergo the doping testing and left the doping control station. These facts were ascertained by Mrs. Ilica Ecaterina and Mr. Rădulescu Corneliu, Doping Control Officers (DCOs) authorized by the National Anti-Doping Agency (authorization No. 7135/17.05.2010 and authorization No. 7136/17.05.2010) to perform the doping

testing. The Doping Control Officers' Report elaborated by the DCOs details the events.

The athlete Corina Dumbrăvean was notified legally with regard to the hearing set for 03.06.2010. As a result, acting on behalf of the athlete Corina Dumbrăvean the Olimpic Sport Craiova Sport Club requested for the hearing to be postponed, by the address no. 233/01.06.2010, registered by ANAD with no. 7369/01.06.2010.

The athlete did not submit any document in this regard by herself. Nevertheless the hearing of the athlete has been postponed for 11.06.2010, taking into account the request of the Olimpic Sport Craiova Sport Club.

The Hearing Commission decided on 03.06.2010 - by the decision no. 16 - the provisional suspension of the athlete, preventing her to compete in any national and international competition until the final decision. The decision regarding the provisional suspension was communicated to the athlete personally by the secretary of the *Hearing Commission* Mrs. Gabriela Andreiasu who went to Constanta, Hotel Traian – where the athlete was accommodated – and the athlete signed for the notification.

By a written request registered by ANAD with no. 7427/03.06.2010, the athlete Corina Dumbrăvean requested an expedited hearing on 04.06.2010. *The Hearing Commission* accepted the request and summoned on 04.06.2010.

On 04.06.2010 the athlete submitted to the session of the *Hearing Commission* assisted by the lawyer Ghiță Gabriel – according to the Empowerment Letter no. 207784/04.06.2010 submitted to the file – together with professor Roșca Eleodor. During the expedited hearing the athlete stated that on 18.05.2010 – when the doping testing took place – she was not in the location

mentioned in the whereabouts information form, respectively Vila Olimpic of Poiana Braşov, located on Fântâniţa Călugărului Street. The athlete stated that starting with the evening of 17.05.2010 she was in Brasov County at her friend Elena Iagăr's place. The athlete Corina Dumbrăvean stated that the DCOs received her identification card from professor Roşca Eleodor. She also stated that when she got back to Poiana Brasov on 18.05.2010, around 11⁰⁰ H, professor Roşca Eleodor informed her the doping control officers looked for her in order to test her. The athlete stated that the *Invitation to doping testing* form had not been signed by her.

At the request of the lawyer, *the Hearing Commission* agreed to hear Mr. Roşca Eleodor, General Director of Olimpic Sport Craiova Sport Club and at the same time the person in charge with the training program of the athlete – according to her statement. Mr. Roşca Eleodor stated he personally handed over to Mr. Rădulescu Corneliu – who was there together with Mrs. Ilica Ecaterina - the Identity Card of the athlete Corina Dumbrăvean. When the Chairperson of the *Hearing Commission* asked him if he knew who was the person who submitted to the doping control station and signed the *Invitation to doping testing* form, Mr. Roşca Eleodor answered: „I know a lot, but I can not tell right now”.

At the end of the hearing session, the members of the *Hearing Commission* requested to have the following documents submitted to the file by 11.06.2010: an official copy of the athlete's Corina Dumbrăvean work file, details about the athlete's registration to one or more sport clubs as well as details regarding her health state (medical documents, medical certificates, results of medical analysis and her file from National Institute of Sport Medicine).

On 10.06.2010, the athlete – by her lawyer Ghiță Gabriel – requested through the address no. 7702 a copy of her file. The request was approved and she got the file personally at the same date.

The Hearing Commission summoned on 11.06.2010 for the final hearing of the athlete Corina Dumbravean. During this session, the athlete supported her statement as of 04.06.2010. She submitted in her defense the file registered by ANAD with number 7713/11.06.2010 consisting in: memorial, ANAD-ROM minute no. 130/18.05.2010, ANAD-ROM minute no. 138/28.04.2010, 15 statements of some athletes, persons within her entourage, employees of Olimpic Sport Craiova Sport Club and employees of Vila Olimpic from Poiana Braşov - legalized by the notary, Decision No. 237/05.06.2010 of Olimpic Sport Craiova Sport Club, Medical Letter and Certificate No. 240/08.06.2010. The following persons submitted to the hearing session as the athlete's witness and they supported the legalized statements: Grigoriu Cosmin – the receptionist of Vila Olimpic, Beregszaszi Ştefan – trainer, Păuna Nicolae – vice-president of Olimpic Sport Craiova Sport Club, Roşca Eleodor – General Director of Olimpic Sport Craiova Sport Club.

They stated in front of the *Hearing Commission* that the athlete was not in Vila Olimpic when the doping testing was conducted on 18.05.2010, 8¹⁵a.m. H. They also stated they were in the restaurant of Vila Olimpic when the athlete Bărbulescu Liliana was doping tested as well as during the doping testing of the person presumed to have submitted to the doping testing.

During this hearing session, the doping control officers were confronted with the athlete Corina Dumbrăvean in order to establish the identity of the athlete who was tested. Both DCOs recognized the athlete Corina Dumbrăvean as the

person who signed the *Invitation to doping testing* form and submitted to the doping control station on 18.05.2010.

According to the minute no. 14/11.06.2010, the DCOs also stated in front of the *Hearing Commission* about the events taking place in the morning of 18.05.2010 when the athletes Bărbulescu Liliana and Corina Dumbrăvean were doping tested.

Although Corina Dumbrăvean admitted she knew the two DCOs from the previous testing, she sustained she was not the person who undergone the testing conducted by the two DCOs in the morning of 18.05.2010.

The Chairperson of the *Hearing Commission* asked Mr. Roșca Eleodor if he admitted that in the morning of 18.05.2010 - following the events – he tried to contact her by mobile phone. The Chair also asked the athlete if she admitted she sent the Chairperson 3 SMS on her work mobile phone. Mr. Roșca Eleodor admitted he tried to contact the Chair, while the athlete denied having sent the SMS regarding what had happened.

On 21.06.2010, Olimpic Sport Craiova Sport Club submitted - in its own behalf - to ANAD a *Technical-Scientific Finding Report* issued by the authorized criminologist expert Florescu F. Dumitru.

Although he shows some doubts regarding the accuracy of the analysis („Taking into account that the comparison exam showed both similitude in terms of composition and fundamental general and morphologic differences, we conclude that the disputed signature is a fake done by forging the original signatures.”), his conclusion is that „***The disputed signature, written in the box “ATHLETE’S SIGNATURE” of the “INVITATION TO DOPING TESTING” form, filled in on the name Dumbrăvean Corina-Mihaela with the date „18.05.2010” was not written by the holder Dumbrăvean Corina-Mihaela***”.

On 24.06.2010 the athlete Bărbulescu Liliana was also heard by the *Hearing Commission* with regard to the incident which took place on 18.05.2010 with the purpose to have a complete management of results. The athlete's statement showed she had seen the athlete Corina Dumbrăvean for the last time in the evening of 17.05.2010 at dinner. She also stated that she did not see Corina Dumbrăvean when herself was tested on 18.05.2010, she only saw her after 11⁰⁰ H at training.

Her statement also showed that when she completed the doping testing and left Vila Olimpica, Mr. Beregszaszi Ștefan and Mr. Păuna Nicolae were in front of Vila Olimpica waiting for professor Roșca Eleodor.

The statement of the athlete Bărbulescu Liliana is contradictory to the statements of Mr. Beregszaszi Ștefan and Mr. Păuna Nicolae who claimed they were in the restaurant of Vila Olimpica during the entire period of doping testing which took place in Vila Olimpica.

Aiming to clear up the doubts expressed with regard to the authenticity of the athlete Corina Dumbrăvean's signature on the *Invitation to doping testing* from 18.05.2010, ANAD requested through the address no. 134/23.06.2010 to the National Criminology Institute – national specialized institution under the subordination of the Ministry of Justice – to issue a specialty note with regard to athlete's signature. The documents submitted by ANAD for expertise were: Invitation to doping testing as of 18.05.2010 containing the disputed signature, Doping Control Form of 10.03.2010 filled in by the Doping Control Officers of International Association of Athletics Federations – IAAF when they tested the athlete, Doping Control Form of 19.03.2010, Invitation to doping testing of 19.03.2010, Doping Control Form of 08.11.2009, athlete's statement of 04.06.2010.

Following this demarche, *The Specialty Note* no. 242/05.07.2010 elaborated by the Inter-counties Laboratory of Criminology Expertise of Bucharest concluded firmly that: „*The athlete’s signature on the Invitation to doping testing – ANAD’s form as of 18.05.2010 belongs to the athlete Corina Dumbrăvean*”. This official note is signed by the expert Adrian Frățilă.

The Hearing Commission also takes note that despite the fact that some of the witnesses claimed the athlete Corina Dumbrăvean was not seen there when the doping testing took place, they were not able to identify the person presumed to have undergone doping testing.

In relation to this, the *Hearing Commission* ascertains that:

- By their statements, the witnesses intended to prove the negative fact – namely they trended to prove the athlete was not in a certain place without proving the positive fact – namely indicating where the athlete was. Both civil jurisprudence and juridical doctrine do not admit “the proof of negative fact” – which might be considered at the most the initial part of a proof;
- *Invitation to doping testing as of 18.05.2010* (containing the athlete’s signature), Doping Control Officer’s Report as well as *Specialty Note* no. 242/05.07.2010 elaborated by the Inter-counties Laboratory of Criminology Expertise of Bucharest are authentic documents issued by or under the authority of State Institutions;
- The documents of public institutions are authentic documents and are presumed to be legal; therefore until their annulment they prove the facts and data they certify;

– Additionally, the legal presumptions and authentic writings can not be disputed by witnesses if there is no special provision of the law in this regard and the less by “the proof of negative act”;

– Consequently, *the Hearing Commission* will take note – based on the documents submitted to the file, certifying that the person who signed the *Invitation to doping testing*, who underwent doping testing and subsequently avoided and disputed it – it is one and only, namely the athlete Corina Dumbrăvean.

When judging the case, *the Hearing Commission* keeps in mind that the athlete Corina Dumbrăvean commits now the second anti-doping rules violation. In 2008 by the Decision no. 6/08.12.2008 of the Appeal Commission besides ANAD, which remained final by the Decision of the Court of Arbitration for Sport of Lausanne as of 09.10.2009 in the case CAS 2009/A/1764, she has been sanctioned for violating the provisions of art. 2 paragraph (2) letter a) („The presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete’s* bodily *Specimen*”) of Law 227/2006 regarding prevention and fight against doping in sport. The athlete was sanctioned with two (2) years of ineligibility.

Based on the facts and documents filed, it is established that the following legal provisions are applicable in this case: *refusing or failing without compelling justification, to submit to Sample collection after notification as authorized in applicable anti-doping rules or otherwise evading Sample* (art. 2 paragraph (2) letter c) of Law 227/2006 regarding prevention and fight against doping in sport republished, which corresponds to art. 2.3 of the World Anti-Doping Code and Rule 32.2 letter c) of IAAF Anti-Doping Rules and *tamper or attempting to tamper with any part of doping control* (art. 2 paragraph (2) letter e) of Law 227/2006 regarding prevention and fight against doping in sport republished,

which corresponds to art. 2.5 of the World Anti-Doping Code and art. 32.2 letter e) of IAAF Anti_Doping Rules).

Taking into account the above-mentioned, corroborated with the fact that the analytical result of the sample collected on 10.03.2010 by IAAF – according to the analysis bulletin issued by the Doping Control Laboratory of Lausanne – shows that the athlete is suspected of using EPO; the two years of ineligibility of the athlete Corina Dumbrăvean served during the period 16.01.2008-15.01.2010 and the provisions of article 47 letter c) of Law 227/2006 regarding prevention and fight against doping in sport republished (*the athlete or other person engaged in deceptive or obstructing conduct to avoid the detection or adjudication of an anti-doping rules violation*), *the Hearing Commission of the athletes and their support personnel who violated the anti-doping rules:*

DECIDES

The lifetime ineligibility of the athlete Dumbravean Corina pursuant to the provisions of art. 39 of Law 227/2006 regarding prevention and fight against doping in sport republished as a consequence of violating the provisions of article 2 paragraph (2) letters c) and e) of the above mentioned law; the athlete committing the second anti-doping rules violation.

The ineligibility period begins to run on 03.06.2010, the date of the athlete's provisional decision.

The decision may be appealed by the athlete to the Court of Arbitration for Sport in Lausanne in 21 days since the notification.

The decision shall be communicated to the athlete, Olympic Sport Craiova Sport Club, Bucharest Municipal Sport Club, to the Romanian Athletics Federation, the National Authority for Youth and Sport, Romanian Olympic and Sport Committee, IAAF and the World Anti-Doping Agency.

Romanian Athletics Federation has the obligation to apply the provisions of the current decision and to comply with the legal provisions in force pursuant to the provisions of the article 65, paragraph (1) of the Law 227/2006 republished.

Pursuant to the provisions of the art. 34, paragraph (4) of the Law 227/2006 regarding prevention and fight against doping in sport, republished, the above-mentioned institutions are required to maintain confidentiality of the information communicated until the public disclosure of the case.

**CHAIRPERSON OF THE HEARING COMMISSION FOR ATHLETES
AND THEIR SUPPORT PERSONNEL WHO VIOLATED THE ANTI-
DOPING RULES,**

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