



# **FIVB Anti-Doping Hearing Panel**

## **Decision**

In the matter of  
**Ms. Nataliya CHERNETSKA**  
(Ukraine)

**4 November 2011**



## THE FIVB ANTI-DOPING HEARING PANEL

composed by

<b>Prof. Bruno Manzella</b>	(Italy) Disciplinary Committee President
<b>Dr. Annie Peytavin</b>	(France) Medical Commission Member
<b>Ms. Margaret Ann Fleming</b>	(Scotland) Disciplinary Committee Member

at the hearing which took place via telephone conference  
on 27 October 2011, 3pm Swiss time, heard the case identified as n. 2654034:

### FACTUAL BACKGROUND

1. On 28 September 2010, the FIVB was notified by the WADA-accredited Laboratory in Seibersdorf, Austria regarding an Adverse Analytical Finding concerning the A-sample 2654034, which contained the prohibited substance Furosemide.
2. The above mentioned urine sample was taken in-competition on 25 September 2011 in Belgrade (Serbia) during the 2011 CEV Volleyball Women's European Championships and belongs to the athlete Ms. Nataliya Chernetska (Ukrainian, born 30 April 1985, hereinafter "Athlete").
3. After having received a copy of the doping control form by the CEV, on 30 September 2011 the FIVB contacted the Ukrainian Volleyball Association ("UVA") and through it informed the Athlete of her right to request the analysis of the B sample and to attend the opening thereof.
4. By letter of 5 October 2011 the Athlete sent to the FIVB her statement on the case and also confirmed that she waived her right to have the B Sample opened and analyzed.
5. By letter of 11 October 2011 the FIVB informed the Athlete that she had the right to be heard before the FIVB Anti-doping Hearing Panel either by telephone conference or by a hearing in person. By email of 18 October 2011 the Athlete opted to be heard via telephone conference.
6. On 27 October 2011 the hearing via telephone conference was attended – aside from the Anti-Doping Hearing Panel – by the Athlete who was



assisted by: Mr Dimitry Maryukhnich (athlete's manager), Mr Sergy Chernyshov (chairman of the Athletic Club "Khimik") and Dr. Elena Shargorodskaya (surgeon at Odessa Port Plant Polyclinic). Mr Oleg Gora acted as interpreter. Also in attendance were the FIVB legal counsel Mr. Andreas Zagklis and Mrs. Valentina Ganesan from the FIVB President's Office.

7. The athlete and her representatives answered questions from the Panel and were given ample opportunity to explain their position and request for a reduced sanction.
8. In her written statement and during the hearing the Athlete argued in essence that *"I badly transfer flights in the plane – during the flight feet and the face swell. This time I also felt not so well since the morning, therefore took "Furosemid-Darnitsa": it is on sale without the recipe in any drugstore in Ukraine and costs ... 0,42 Euro. I ha[ve been] taking this preparation at similar problems earlier [...] I do not know that it is included in the forbidden list. I [did] not consult with doctor of our team, as has no suspected anything. [...]"* (sic). In addition, the Athlete admitted that she had never consulted a doctor about her swelling and only asked a pharmacist who recommended this medication long time ago.
9. Also, the Athlete submitted that she bought the medication at the airport, when the national team was departing to Serbia for the European Championships, because the flight would last 4 hours. She used it for the last time two days before the doping control of 25 September 2011. She did not declare the medication on the doping control form alongside the other four medication/supplements she declared because she did not know it was necessary. She is a professional volleyball player for 8 years and plays already 1 year for the senior national team but this was her first doping control. She has received no anti-doping education nor did she ask the UVF for information about medication. Lastly, the Athlete stated that this is her first anti-doping rule violation, that the last game she has played

was with her national team at the European Championships and that she is since September 2011 under contract with the club Khimik.

10. Mr Chernyshov, wished to add that in his club, all the athletes were informed of the prohibited substances. Dr. Shargorodskaya stated that she was not involved in any process of the medication taken by the athlete nor was she aware of the medical condition of the athlete. She works for the Odessa Port Plant which is a sponsor of the club and sometimes consults the Volleyball team.

#### LEGAL CONSIDERATIONS

1. According to the WADA 2011 Prohibited List, the substance furosemide is included in the category S5 (*Diuretics and other Masking Agents*) and is prohibited both in- and out-of-competition.
2. According to art. 2.1 of the FIVB Medical Regulations and in accordance with the World Anti-Doping Code, the presence of this substance in an athlete's bodily specimen constitutes an anti-doping rule violation, sanctioned as per article 10.2. of the FIVB Medical Regulations.
3. The above-mentioned sample belongs to the player Ms. Nataliya Chernetska.
4. No Therapeutic Use Exception (T.U.E.) exists, as per article 4.4 of the FIVB Medical Regulations.
5. Therefore, being the presence of the prohibited substance in the Athlete's urine undisputed, the anti-doping rule violation is established.
6. The Panel emphasizes that, according to article 2.1 of the FIVB Medical Regulations, *"It is each Athlete's personal duty to ensure no Prohibited Substance enter his or her body. Athletes are responsible for any prohibited substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is no necessary that intent, fault, negligence or knowing use, by the athlete's part, be demonstrated in order to establish an anti-doping violation under art. 2.1."*



7. Given that furosemide is a specified substance, the Panel shall now review whether article 10.4 of the FIVB Medical Regulations is applicable to this case and, if so, what the applicable sanction is.
8. Furosemid-Darnitsa (ФУРОСЕМИД-ДАРНИЦА) is a medicine containing the prohibited substance furosemide. This substance may be used by athletes as masking agent for other prohibited substances, making impossible their detection in the sample.
9. In view of the evidence on file, the Panel is convinced that the substance entered the Athlete's body through the above medication. Also, the Panel considers that the Player did not use Furosemid-Darnitsa to mask another prohibited substance. There is nothing in the analytical report to show that e.g. a steroid was found in low values, or anything in the Athlete's behaviour to suggest that furosemide was in her body as a result of a doping pattern.
10. On the other hand, the Panel notes that the Athlete's degree of fault is particularly high: although she is an experienced professional athlete, she failed to exercise the caution required by the applicable rules. Faced with a medical problem which, admittedly, affects her when travelling by plane or bus with her team for many hours, she did not consult any doctor but decided to resolve it on her own by visiting a pharmacy. In addition, although the national team was travelling with a team doctor to Serbia, she did not inform the doctor about the medication either before purchasing it or before using it. Lastly, the Panel cannot accept the Athlete's excuse regarding lack of anti-doping education: the name of the medicine (Furosemid-Darnitsa) is actually identical with the name of the prohibited substance (furosemide). A mere internet research would have revealed the prohibited nature of the drug.
11. In view of the above legal analysis and the evidence on file, considering also the principle of proportionality in calculating the sanction to be imposed and the fact that this is the athlete's first anti-doping violation,

**Taking all the above into consideration**

**THE FIVB ANTI-DOPING HEARING PANEL**

**Concludes and Decides**

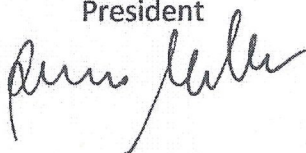
1. The player NATALIYA CHERNETSKA (Ukraine) has committed an anti-doping rule violation (presence of the prohibited substance Furosemide in her bodily specimen) according to article 2.1 of the FIVB Medical Regulations.
2. A sanction of eighteen (18) months of ineligibility shall be imposed on the player NATALIYA CHERNETSKA, according to articles 10.2. and 10.4 of the FIVB Medical Regulations.
3. The period of ineligibility shall start on the date of the Athlete's last official game, i.e. 26 September 2011, and end on 25 March 2013, as per article 10.9 of the FIVB Medical Regulations.

Decided in Lausanne, on 4 November 2011

**On behalf of the FIVB ANTI-DOPING HEARING PANEL**

Prof. Bruno Manzella

President

A handwritten signature in black ink, appearing to read 'Bruno Manzella', written in a cursive style.