

INTERNATIONAL SKATING UNION

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DECISION

Of

The ISU Disciplinary Commission

Panel: - Dr. Béatrice Pfister (Chair)
- Mr Fred Benjamin
- Dr. Egbert Schmid

In the matter of

International Skating Union, Chemin de Primerose 2, 1007 Lausanne, Switzerland

- Complainant -

against

Mr. Yuri Larionov, Russia

- Alleged Offender -

and

The Figure Skating Federation of Russia, Luzhnetskaia nab. 8. 119992 Moscow,

- Interested ISU Member -

Concerning violation of the ISU Anti – Doping Rules

I. History of The Procedure

On February 19, 2008, the ISU filed a complaint against the Alleged Offender, together with exhibits. On March 3, 2008, in due time, the Alleged Offender filed his statement of reply, and therein waived his right to an oral hearing. The Interested ISU Member filed its own statement also on March 3, 2008.

II. Procedural Matters

1. According to Article 8.1 of the ISU Anti-Doping Rules the DC has jurisdiction in anti-doping cases in relation to which the ISU is the responsible Anti-Doping Organization for results management, i.e. in cases arising out of ISU Testing or Testing at International Events. The present case arises out of an Out-of-Competition Test initiated by the ISU. Therefore the DC has jurisdiction to hear and decide the present case.
2. The present case is governed by the ISU Anti-Doping Rules, the ISU Anti-Doping Procedures and the DC Rules of Procedure.

III. Facts

1. The Alleged Offender is a 21 year old world class junior pair skater and member of the Figure Skating Federation of Russia.
2. On November 26, 2007, the Alleged Offender was subject to an Out-of-Competition anti-doping test in Perm, Russia. His urine samples were marked with the code No. 3006449.
3. On the Doping Control Form the Alleged Offender declared to have used several supplements and medicines.
4. On December 21, 2007, IDAS, Institut für Dopinganalytik und Sportbiochemie Dresden, sent its analytical report no. ES52/07 to the ISU, showing an adverse analytical finding of furosemide for sample coded 3006449. Upon request of the Figure Skating Federation of Russia the ISU ordered a B-sample analysis. On January 31, 2008, IDAS informed

that also in the B sample of code no. 3006449 furosemide was detected and thereby the adverse analytical finding of the A-sample confirmed.

5. In his statement of reply of March 3, 2008, the Alleged Offender referred to his explanatory note to the President of the Figure Skating Federation of Russia of January 19, 2008. In said note the Alleged Offender had explained that on the morning of the anti-doping test he had taken a pill given to him by his father because of a strong headache. He further explained that he had not told the controller about this pill because he did not know its name. He further underlined that he had taken "the pill" only once, for the only reason to relieve himself from headache and that he had not known that the pill contained the prohibited substance furosemide. He admitted to have committed a mistake by not having consulted the team doctor before taking the pill.
6. In its statement of March 2, 2008, the Interested ISU Member referred to its letter addressed to the ISU on February 8, 2008, in which it had explained that the Alleged Offender had been prescribed the usual medical program for vegeto-vascular dystonia of hypertensive type which did not include any prohibited substances, but in the morning of November 26, had been given some pill by his father, which was later found out to be Lasix (furosemide). Furosemide had been prescribed to the Alleged Offender's father and grandfather for headache caused by high blood pressure. In its statement of March 3, 2008, the Interested ISU Member said that its additional inquiries had confirmed that the use of furosemide had not been intentional and an only one time usage. In this context the Figure Skating Federation of Russia pointed out the negative testing of the Alleged Offender at the ISU Junior Grand Prix in Sheffield (October 18 - 21, 2007), the ISU Junior Grand Prix Final in Dansk (December 6 - 9, 2007) and the several tests of the Alleged Offender at various national competitions during his skating career which had never showed any prohibited substance.

At the same time the Interested ISU Member blamed the Alleged Offender for carelessly having neglected the rule imposed on its skaters to consult the team doctor each time before taking medicine not prescribed by the team doctor and informed that the executive board of the Figure Skating Federation of Russia at its meeting of February 18, 2008, had decided to suspend the Alleged Offender from the National Team and from

the participation in national and international competitions until the end of the season 2007/2008.

IV. Law

1. Furosemide, as uncontestedly found present in the Alleged Offender's bodily specimen, is contained in the 2007 as well as the 2008 prohibited list of the World Anti-Doping Agency (WADA) under S 5 "Diuretics and Other Masking Agents". The WADA prohibited list, by virtue of Article 4.1 of the ISU Anti-Doping Rules, is incorporated into those rules.
2. According to Article 2.1 of the ISU Anti-Doping Rules, the presence of a prohibited substance in a skater's bodily specimen constitutes an Anti-Doping Rule violation, unless a therapeutic use exemption (TUE) for the otherwise prohibited substance has been granted in accordance with letter D of the ISU Anti-Doping Procedures. In the present case a TUE had neither been applied for nor granted.
3. According to Article 10.2 of the ISU Anti-Doping Rules a two years' ineligibility must be imposed for a first violation of Article 2.1 of the ISU Anti-Doping Rules, except for cases involving specified substances as per Article 10.3. Furosemide does not fall under the category of specified substances as defined in Article 10.3. according to the 2007 and 2008 WADA prohibited lists (WADA Prohibited Lists 2007 and 2008, page 11). Therefore and given that it is the Alleged Offender's first violation, the principle of the two years' ineligibility sanction applies in the present case.
4. However, Article 10.2 of the ISU Anti-Doping Rules states that the skater shall have the opportunity to establish the basis for eliminating or reducing this sanction as provided in Article 10.5.
 - 4.1 Under Article 10.5.1 of the ISU Anti-Doping Rules the otherwise applicable period of ineligibility shall be eliminated if the skater establishes that he bears no fault or negligence for the violation. The Alleged Offender as well as the Interested ISU Member (for good reasons) admit that the intake of the pill containing furosemide

without consulting the team doctor was a mistake. Therefore the no fault or negligence exception as provided for in Article 10.5.1 cannot be admitted in the present case.

- 4.2 Article 10.5.2 of the ISU Anti-Doping Rules states that the period of ineligibility may be reduced to one half of the minimum period otherwise applicable, if a skater accused of an Anti-Doping Rule violation involving the presence of a prohibited substance establishes that he bears no significant fault or negligence.

This provision stands under the heading "Elimination or Reduction of Period of Ineligibility based on Exceptional Circumstances" which reflects that a reduction requires rare and truly exceptional facts and circumstances of a doping offense (see *Decision CAS OG 04/003, Edwards*). In other words: the Alleged Offender must establish that his fault or negligence, viewed in the totality of the circumstances, was not significant in relationship to the Anti-Doping Rule violation in question (see summary of the presentation of Richard W. Pound, former Chairman of WADA, at the CAS seminar of June 15 - 16, 2005, P. 4).

While the DC considers the explanations of the Alleged Offender and the Interested ISU Member as plausible and credible, it cannot see any special and exceptional facts which in the totality of the circumstances would suggest that the Alleged Offender's negligence was not significant in relationship to his Anti-Doping Rule violation. It is not exceptional that an athlete suffers from an attack of headache or similar pains and seeks relief through medicine. Yet, any top class athlete can and must be expected, even in a situation of sudden severe headache or the like, to be aware of the basic principle incorporated in Article 2.1.1 of the ISU Anti-Doping Rules which imposes on each skater a personal duty to ensure that no prohibited substance enters his or her body. From this it follows that an athlete who takes medication in circumstances like the ones of the present case, must ascertain that the medication in question does not contain any prohibited substances and if he fails to do so cannot be considered to have acted without significant negligence. In the case at hand this is even the more true because the Interested ISU Member has established an explicit rule requiring its skaters to consult the team doctor each time they intend to take medicine not prescribed by the team doctor.

For these reasons the DC considers the conditions for a reduction of the period of ineligibility not to be met. Therefore the two years' ineligibility according to Article 10.2 of the ISU Anti-Doping Rules has to be imposed.

5. According to Article 10.8 of the ISU Anti-Doping Rules the ineligibility commences on the date on which ineligibility is imposed, but any period of provisional suspension shall be credited against the total period of ineligibility to be served. The Alleged Offender was provisionally suspended by the ISU President and the ISU Director General according to Article 7.4 of the ISU Anti-Doping Code on February 19, 2008. The time elapsed since then has to be taken into account. Further Article 10.8. of the ISU Anti-Doping Rules says that where required by fairness, the period of ineligibility may be started at an earlier date. On January 18, 2008, the Interested ISU Member informed the ISU that the Alleged Offender was withdrawn from the National Team and all competitions. The DC considers it fair to give the skater credit also for this suspension imposed by his own Federation and therefore to have the period of ineligibility started on January 18, 2008.

V. COSTS

According to Article 12.2 of the ISU Anti-Doping-Rules the ISU Members shall be obligated to reimburse the ISU for all costs, related to a violation of the ISU Anti-Doping Rules committed by a skater affiliated with that Member. Therefore the costs of these proceedings, including the laboratory fees of the Anti-Doping testing, have to be borne by the Figure Skating Federation of Russia. These costs consists of US\$ 1'401.-- and Euro 410.-- for laboratory fees and CHF 650.-- for the DC procedure.

Based on the above considerations, the DC issues the following

DECISION

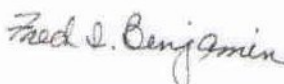
1. Yuri Larionov is declared responsible for an Anti-Doping violation, committed on November 26, 2007.
2. A two years' ineligibility, beginning on January 18, 2008, is imposed on Yuri Larionov.
3. The Figure Skating Federation of Russia has to pay to the ISU the amount of:
 - US\$ 1'401.--
 - Euro 410.--
 - CHF 650.--
4. Each party bears its own costs.

This decision is sent to Yuri Larionov and the Skating Federation of Russia by telefax and registered mail against return receipt and by e-mail to the ISU.

April 6th, 2008



Dr. Béatrice Pfister (Chair)



Fred Benjamin



Egbert Schmid

The present decision is subject to appeal to the Court of Arbitration for Sport, Château de Béthusy, Av. de Beaumont 2, CH-1012 Lausanne, Switzerland, within 21 days upon receipt of the decision, in accordance with Article 23.12 and Article 24 of the ISU Constitution.