

FINA Doping Panel 08/14 3 November 2014

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FINA Doping Panel

comprised of

Robert Fox	(SUI)	Chairman
William Bock, III	(USA)	Member
Raymond Hack	(RSA)	Member

In the proceedings against

the mixed 4x50m Russian Medley Team (Yuliya Efimova, Vladimir Morozov, Viacheslav Prudnikov, Elizaveta Bazarova), FINA Swimming World Cup 5-6 November 2013, Singapore (SIN);

the mixed 4x50m Russian Medley Team, (Yuliya Efimova, Vladimir Morozov, Viacheslav Prudnikov, Elizaveta Bazarova), FINA Swimming World Cup 9-10 November 2013, Tokyo (JPN);

the mixed 4x50m Russian Medley Team (Yuliya Efimova, Vitaly Melnikov, Svetlana Chimrova, Vladimir Morozov) LEN European Short Course Swimming Championships, 12-15 December 2013, Herning (DEN);

the 4x50m Russian Women's Medley Team (Yuliya Efimova, Daria Ustinova, Svetlana Chimrova, Rozaliya Nasretdinova) LEN European Short Course Swimming Championships, 12-15 December 2013, Herning (DEN);

affiliated to the Russian Swimming Federation

I. THE PARTIES

1.1 The FEDERATION INTERNATIONALE de NATATION (FINA) is the International Federation governing disciplines related to swimming. FINA has established and is carrying out, *inter alia*, a doping

control program, both for in-competition as well as out-of-competition testing.

1.2 The RUSSIAN SWIMMING FEDERATION (RSF) is a member of FINA. RSF is required to recognize and comply with FINA's anti-doping rules which are set out in the FINA Doping Control Rules ("FINA DC"). The FINA DC is directly applicable to, and must be followed by, *Competitors, Competitor Support Personnel*, coaches, physicians, team leaders, and club and representatives under the jurisdiction of the RSF.

1.3 The mixed medley relay teams and the women's medley relay teams of Russia concerned in this affair are comprised of the following athletes:

- a) the mixed 4x50m Russian Medley Team (*Yuliya Efimova, Vladimir Morozov, Viacheslav Prudnikov, Elizaveta Bazarova*), who competed on 5 November in the FINA Swimming World Cup in Singapore;
- b) the mixed 4x50m Russian Medley Team, (*Yuliya Efimova, Vladimir Morozov, Viacheslav Prudnikov, Elizaveta Bazarova*), who competed on 9 November in the FINA Swimming World Cup in Tokyo, Japan;
- c) the mixed 4x50m Russian Medley Team (*Yuliya Efimova, Vitaly Melnikov, Svetlana Chimrova, Vladimir Morozov*), who competed in the LEN European Short Course Swimming Championships relay race held on 13 December 2013;
- d) the 4x50m Russian Women's Medley Team (*Yuliya Efimova, Daria Ustinova, Svetlana Chimrova, Rozaliya Nasretdinova*), who competed in the LEN European Short Course Swimming Championships relay race held on 15 December 2013.

1.4 Ms. Yuliya Efimova was a member of all these teams. Ms. Yulia Efimova is a twenty-two (22) year old elite international swimmer, a

native of Russia. She has enjoyed extraordinary success as a swimmer since her middle teens.

II. NATURE OF THE CASE

2.1 On 31 October 2013, Ms. Efimova provided a urine sample as a result of an out of competition doping control conducted by FINA.

2.2 Ms. Efimova's sample was received at the World Anti-Doping Agency (WADA) accredited laboratory in Montreal, Canada on 4 November 2013.

2.3 On 29 November 2013, the Laboratory reported to FINA that Ms. Efimova's sample was positive for the prohibited substance 7-keto DHEA and its metabolites, a prohibited anabolic agent in Class S1 of the WADA Prohibited List.

2.4 On 3 January 2014, the FINA Doping Control Review Board recommended that the positive drug test be considered an adverse analytical finding.

2.5 On 12 May 2014, the FINA Doping Panel decided to sanction Ms. Yulia Efimova by a sixteen (16) month period of ineligibility commencing on 31 October 2013, and ending at the conclusion of 28 February 2015, for her first anti-doping rule violation. In addition, all results obtained by Ms. Efimova on or after 31 October 2013 and through and including the date of this decision were disqualified. Any medals, points and prizes which had been achieved during that period were forfeited.

III. PROCEEDINGS

3.1 By letter dated 17 September 2014, the FINA Doping Panel (hereafter FINA DP) Chairman notified the President of the Russian Swimming Federation that the decision against Ms Efimova could have an effect on the results and medals obtained by the relay teams in which she participated consequently to the date of 31 October 2013. A deadline which expired on 30 September 2014 was provided to the Russian Federation to comment on this and inform the FINA DP of its intentions and more specifically if it wanted a hearing, or to submit a written defense. On 22 September 2014, the Russian Federation sent an email in which it stated the following:

"Dear Sirs,

Thank you for your e-mail.

The Russian Swimming Federation will not make use of the right to a hearing and will not send a written defense to the Doping Panel.

We quite well understand that according to art. 11.1 of FINA Doping Control Rules our relay team should be disqualified.

We remain at your disposal for any other information you may need.

Kind regards,

Russian Swimming Federation"

3.2 The FINA DP was formed pursuant to FINA Rule C 23.10.

3.3 On 3 October 2014, the Chairman of the FINA DP advised the Russian Federation of the composition of the Panel and gave it a deadline to 7 October 2014 to raise any objections it may have regarding this composition. Within the deadline the Russian Federation replied confirming it had no objection to the composition of the Panel.

IV. JURISDICTION AND APPLICABLE RULES

4.1 The jurisdiction of the FINA Doping Panel arises out of the following provisions of the FINA Rules: C 23.9, C 23.10 and FINA DC 8.1.

4.2 The applicable Rules in this case are the FINA Doping Control Rules in effect since 1 January 2009 (amended on the occasion of the FINA General Congress on 24 July 2009).

V. MOTIONS AND CONTENTIONS

A. Russian Federation motions and contentions

5.1 The Russian Federation immediately stated that it would accept the decision rendered by the FINA DP and that it had no intention to dispute the forfeiture of medals and the annulment of the results and records.

VI. LEGAL DISCUSSION

A. THE FACTS

The FINA DP has found that the following facts were established in this case:

6.1 7-keto DHEA is a prohibited anabolic agent in Class S1 of the 2013 WADA Prohibited List and is therefore prohibited at all times, in and out of competition, pursuant to FINA DC 4.1. Ms Efimova was sanctioned by a sixteen (16) month period of ineligibility commencing on 31 October 2013, and ending at the conclusion of 28 February 2015, for

her first anti-doping rule violation. In addition, all results obtained by Ms. Efimova on or after 31 October 2013 and through and including the date of this decision were disqualified. Any medals, points and prizes which had been achieved during that period were forfeited. The swimmer did not challenge this decision before the Court of Arbitration for Sport within the statutory deadline. Hence the decision is deemed to be final and binding.

6.2 The mixed 4x50m Russian Medley Team (Yuliya Efimova, Vladimir Morozov, Viacheslav Prudnikov, Elizaveta Bazarova), who competed on 5 November 2013 in the FINA Swimming World Cup in Singapore placed second in a time of 1:40:84.

The mixed 4x50m Russian Medley Team, (Yuliya Efimova, Vladimir Morozov, Viacheslav Prudnikov, Elizaveta Bazarova), who competed on 9 November 2013 in the FINA Swimming World Cup in Tokyo, Japan placed second in a time of 1:39:69.

The mixed 4x50m Russian Medley Team (Yuliya Efimova, Vitaly Melnikov, Svetlana Chimrova, Vladimir Morozov), who competed in the LEN European Short Course Swimming Championships relay race held on 13 December 2013 placed first in a time of 1:37:63, which constituted a world record.

The 4x50m Russian Women's Medley Team (Yuliya Efimova, Daria Ustinova, Svetlana Chimrova, Rozaliya Nasretdinova), who competed in the LEN European Short Course Swimming Championships relay race held on 15 December 2013 placed first in a time of 1:44:67, which was also a world record.

B. THE LAW

6.3 Pursuant to the FINA Doping Control Rules, FINA DC 11.1, where any Anti-Doping Rule has been violated by a member of a relay team or a duet or team in synchronized swimming or in synchronized diving, the team or duet shall be disqualified from the event.

6.4 This rule also appears consistent with decisions which have been rendered notably by the CAS in matters similar to these in which a team is sanctioned as a result of a doping offence committed by one of its members if a clear rule is applicable (cf. CAS 2004/A/725 *United States Olympic Committee (USOC) v. International Olympic Committee (IOC) & International Association of Athletics Federation (IAAF)*, award of 20 July 2005; CAS 2008/A/1545 *Andrea Anderson, LaTasha Colander Clark, Jearl Miles-Clark, Torri Edwards, Chryste Gaines, Monique Hennagan, Passion Richardson v. International Olympic Committee (IOC)*, award of 16 July 2010).

6.5 In this case, in light of the decision rendered regarding Ms. Efimova, it is clear that she has been found guilty of having committed an anti-doping rule violation. The violation was committed before 31 October 2013 and the resulting decision by this body was to sanction that doping offence by a period of ineligibility which encompassed the competitions which were held in November in Tokyo and Singapore as well as in December in Herning, Denmark.

6.6 The presence in a team of a person who has committed an offence and is sanctioned only later, after the event is a recurring situation, which in some sports leads to the disqualification of the whole team and in other sports does not affect the team's results; the outcome simply depends on the applicable rules. The rules in this matter are clear,

as FINA DC 11.1 sanction such situations by a disqualification. There is no reason to not apply this rule in the present matter.

The fact that the anti-doping offence was committed outside of the events considered in this case is irrelevant. Ms. Efimova was disqualified from these relay events. It therefore is not possible to maintain the results obtained for the remaining athletes, regardless of their committing a doping offence or not.

VII. SUMMARY OF THE DECISION

7.1 Any medal, points, prizes or records achieved by the mixed 4x50m Russian Medley Team (Yuliya Efimova, Vladimir Morozov, Viacheslav Prudnikov, Elizaveta Bazarova), who competed on 5 November 2013 in the FINA Swimming World Cup in Singapore is forfeited.

7.2 Any medal, points, prizes or records achieved by the mixed 4x50m Russian Medley Team, (Yuliya Efimova, Vladimir Morozov, Viacheslav Prudnikov, Elizaveta Bazarova), who competed on 9 November 2013 in the FINA Swimming World Cup in Tokyo, Japan is forfeited.

7.3 Any medal, points, prizes or records achieved by the mixed 4x50m Russian Medley Team (Yuliya Efimova, Vitaly Melnikov, Svetlana Chimrova, Vladimir Morozov), who competed in the LEN European Short Course Swimming Championships relay race held on 13 December 2013 is forfeited.

7.4 Any medal, points, prizes or records achieved by the 4x50m Russian Women's Medley Team (Yuliya Efimova, Daria Ustinova,

Svetlana Chimrova, Rozaliya Nasretdinova), who competed in the LEN European Short Course Swimming Championships relay race held on 15 December 2013 is forfeited.

7.5 All costs of this case shall be borne by the RSF in accordance with FINA DC 12.2.

7.6 Any appeal against this decision may be referred to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland not later than twenty one (21) days after receipt of this judgement (FINA Rule C 12.9.3 and DC 13.6).

Robert Fox
Chairman

William Bock III
Member

Raymond Hack
Member

Signed on behalf of all three Panel Members

A handwritten signature in black ink, appearing to be 'R. Fox', written over a faint horizontal line.

Robert Fox