

**IDSF**  
**DISCIPLINARY COUNCIL**

**Formal Decision**

as of

**3 July 2007**

regarding

**ALLEGED VIOLATION OF THE IDSF ANTI-DOPING CODE**

by

**Ivan Novikov**

Novosheremyshinkays House 20/23, Flat 248 - 1170360 Moskow - Russia

- **Athlete** -

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1. The Athlete has been found **not guilty** of a violation of the IDSF Anti-Doping Code.
  2. The costs and expenses of this procedure incurred with the IDSF Disciplinary Council shall be borne by the IDSF.
  3. The present formal decision is rendered without costs.



## Reasons for the decision

### 1. Facts of the Case

- 1.1 On Thursday, the 17<sup>th</sup> of August 2006, the ISDF Youth Standard Competition took place in Stuttgart (Germany) at the German Open Championships (GOC).
- 1.2 Mr. Ivan Novikov – Russia – (in the following referred to as "the Athlete"), as a participant in the competition, had signed the "ISDF Form of Consent for Athletes 2006" thereby agreeing to the terms of the ISDF Anti-Doping-Code ("IADC" - issue 2007 effective July 1<sup>st</sup> 2006 ) and the ISDF Competition Rules.
- 1.3 At the said competition an anti-doping control was held corresponding to the rules of the IADC.
- 1.4 The winning couple of the competition, the Athlete and his partner Margarita Klimenkov – Start No. 127 –, was selected before to be tested and therefore had to report to the anti-doping control room after having been notified as such.
- 1.5 The couple reported to the anti-doping control room at 23.50 hours and the partner of the Athlete completed the sample collection successfully.
- 1.6 The Athlete did not produce sufficient urine (at least 75 ml, art. 4. VII. 4 IADC) and therefore was given a bottle of water to drink and requested to wait outside the control room till he could produce sufficient urine (procedure according to art. 4. VII. 9 of the IADC).

In the meantime, other athletes were tested.

- 1.7 After a while one of the control officers discovered, that the Athlete was no longer available at the control room.

He had disappeared and did not return to the control room till it was closed at 02.45 hours.

- 1.8 This incident was reported to the ISDF President and to the ISDF Sports Director by the ISDF Anti Doping Director on the next morning, Friday, 18 August 2006.
- 1.9 Because of the fact, that the Athlete and his partner had entered the ISDF Grand Slam Standard Competition to be held on Saturday, 19 August 2006, the Doping Control Team (DCT) requested a provisional suspension of the Athlete for that competition (Art. 5. IV. 1 + 2 IADC).
- 1.10 The ISDF Sports Director refused this request after having contacted the Athlete verbally on Friday, 18 August 2006.

On this occasion, the Athlete stated that the notification to be tested was in German only and that speaking English would be a problem for him so that he did not understand the request of the DCT properly.

- 1.11 On Saturday, 19 August 2006, the Athlete and his partner participated in the ISDF Grand Slam Standard Competition and afterwards the Athlete passed an anti-doping control without any problem by completing the sample collection successfully showing no positive result.
- 1.12 Dated 21 November 2006 the ISDF Anti-Doping Director officially submitted the above-described anti-doping test incident to the President of the ISDF Disciplinary Council to decide the question of an anti-doping rule violation.

The ISDF Anti-Doping Director stated additionally that the delay in the submittal of the report happened due to the fact, that the report of the doping control officer in charge was delayed.

- 1.13 On 28 January 2007 the President of the ISDF Disciplinary Council (ISDF DC) – according to art. 8 of the ISDF Disciplinary Council Code – appointed the following Chamber in Charge responsible to deal with the present case:
- Christoph Rubien (Germany) Chamber Chairman
  - Juris Arajs (Latvia)
  - Antun Marki (Croatia)

- 1.14 On 5 February 2006 the Athlete had been informed by the Chamber Chairman of the fact that the above mentioned Chamber in Charge had been appointed to deal with the case and that the Athlete may state the case from his point of view in writing to the chamber chair within a period of four weeks.
- 1.15 On 9 February 2006 the Athlete submitted his statement to the merits of the case. He explained that he does not know English so well and that he did not understand the doctor at the anti-doping control room saying to him that there was not enough urine for the doping test. He thought that he had given enough urine. His partner could not help him with translation because she was the first one to pass the anti-doping control on 17 August 2006 and left immediately after the test was taken. He would be terrible sorry for such a misunderstanding and would like to apologize for it.
- 1.16 In the following time, the Chamber Chairman asked the IDSF Anti-Doping Director, the IDSF Sports Director and the head of the doping-control team in Stuttgart to provide additional facts and/or information, which had not already been raised in the precedent proceedings.
- 1.17 The appointed Chamber in Charge took its decision unanimous, unaffected and in full consciousness of the responsibility for our sport based on the following:

## **2. Considerations:**

- 2.1 Pursuant to art. 4. II. 3 of the IADC the following constitutes an anti-doping rule violation:

*“Any Athlete who, in the opinion of the Head of the DCT, before or after the notification of the Athlete to be tested (art. 4. VI. 1), evades a possible testing and escapes the control of the DCT, or attempts to do so, shall be deemed to have refused to submit to Doping Control as per art. 5. VI. 2 and be sanctioned accordingly!”*

2.2 Article 5. VI. 2 of the IADC establishes that:

*“The refusal to submit to Doping Control or to provide a blood or urine sample is a frustration of evidence and a violation of the Athletes cooperation duties (Art. 4. II. 2, 4. II. 4). ...”*

2.3 In the present case the Athlete, who had been chosen according to the IADC (Art. 4. VI. 2) to undergo Doping Control, was requested by notice in writing by the DCT to make his way to the doping control room immediately after the end of the competition. Even if the notification was written only in German language, the Athlete reported to the doping control room in time and herewith showed that he had understood the meaning of the notification although speaking English for him would be a problem. After this, the Athlete could not state the notification to be invalid. Nevertheless, it has been a formal failure of the DCT that the notification was not written in English – the official language of the ISDF – as well.

2.4 Nevertheless, this chamber cannot exclude the possibility of a misunderstanding between the Athlete and the Head of the DCT. The Athlete himself thought that he had given enough urine. He did not understand the demand of the Head of the DCT even if this one had the feeling of a good communication. An interpreter has not been involved in the procedure. The partner of the Athlete could not help him because she was tested herself at the same time. Therefore we do have to judge by the principle “in dubio pro reo”.

2.5 According to Nr. 5. 12. 3. of the WADA-Guideline for the Urine Sample collection (Appendix to the IADC) the Athlete shall remain under *continuous observation* by a Doping Control Officer/Chaperone while waiting to provide an additional sample. Therefore, it is just not enough that only the door between the waiting zone and the control room was left open and other athletes were tested in the meantime.

- 2.6 In addition to that, the Head of the DCT did not state clearly and without any doubt that in his opinion the Athlete evaded a possible testing and escaped the control of the DCT or attempted to do so. Generally, the chamber wants to point out that such a subjective measure (“... in his opinion ...”) may cause problems and difficulties by finding out if an objective offence against a rule or a code like the IADC is given. Apart from this reflection here, the Head of the DCT described the Athlete as “absenting”. From the chambers point of view this cannot fulfil the requirements of the physical element of such an offence and so cannot constitute a violation.
- 2.7 To evade a possible testing or to refuse to submit to doping control always means a mental element, a consciously and deliberately action. Namely, if the Athlete would have a reason to hide something what would be relevant in the sense of doping, he would certainly not have gone to the doping control. To go there instead of staying away and then being in full control of the situation to give an insufficient amount of urine with the intention to leave the control room afterwards seems to be a magnificent theatrical performance or like poker to us which is unbelievable and has not been particularized in any way. Finally, the Athlete did pass the doping control on 19 August 2006 after the next competition without any complaint.
- 2.8 Apart from the above mentioned the Athlete stated that he thought to have acted correctly and that he had to go to the training for the coming up team-match. This could be rated as an excuse in the sense of a compelling justification like being mentioned in art. 1. VII. 3 IADC.
- 2.9 The delay in handling this case after the GOC in Stuttgart has not been explained adequately to the chamber in charge. Not in the least, this delay can prove a disadvantage to the Athlete. The IDSF Anti-Doping Director first informed the IDSF Sports-Director about the incident by letter on 18 August 2006. The letter concludes with the consideration that depending on the outcome of the hearing with the Athlete being held on the afternoon of that day it will be decided to present the case to the IDSF Disciplinary Council or not.

Not before 31 October 2006 the report off the Head of the DCT was given and on 21 November 2006, the IDSF Anti-Doping Director submitted the case to the President of the IDSF Disciplinary Council. There has been no acceptable explanation why the decision to present the case to the IDSF DC did take such a long time. As a matter of fact, it has to be taken into account that the Athlete has not at all been suspended by the so far involved IDSF President and the IDSF Sports-Director.

2.10 After all, this chamber in charge cannot establish a violation of the IDSF Anti-Doping Code.

### **3. Costs / Expenses**

3.1 The present formal decision is rendered without any costs.

3.2 The costs and expenses incurred with the IDSF Disciplinary Council shall be borne by the IDSF.

### **4. Appeal**

4.1 The formal decision of the IDSF Disciplinary Council may be appealed to the Court of Arbitration for Sport ("CAS") in Lausanne, Switzerland, according to its rules and jurisdiction.

4.2 Any such appeal must be made within two months after the reception of this decision (according to art. 11 of the DC Code).

4.3 Filing an appeal does not suspend or affect the IDSF Disciplinary Councils decision, which shall remain in full force until the CAS has taken its respective decision.

4.4 According to art. 6. VI. of the IADC, and applicable to this case, the following persons shall have the right to appeal to CAS:

- The Athlete or other person who is the subject of the decision being appealed;
- The International DanceSport Federation (IDSF);
- The World Anti-Doping Agency (WADA).

Bremen, Germany, 3 July 2007

## **IDSF DISCIPLINARY COUNCIL**

### **Chamber in Charge**

Christoph Rubien  
Chairman

Juris Arajs

Antun Marki