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IDSF DISCIPLINARY COUNCIL

Procedural Decision

as of

21th February 2011

regarding

Violation Of The IDSF Anti-Doping Code

by

Schrebrina, Olga
Checherskii pr 72/30/Moscow, Russia

- Athlete -



IDSF Disciplinary Council

REASONS FOR THE DECISION

1. Facts

1. On **19 August 2010**, the couple **Igor Kruglov / Olga Shcherbina** participated in the German Open Championships DTV 2010 Youth Standard, held at Stuttgart, Germany. After competition and prize ceremony (the couple was placed 1st in this championship) were notified of the selection by the ISDF Anti-Doping Director, Mr. Ko de Mooy, for anti-doping control. The couple reported to the doping control room and completed the sample collection without any problem.
2. On **2 September 2010**, the Laboratory report from Dr. D. Thieme, Director of the "Institute für Dopinganalytik und Sportbiochemie" Dresden, determined that the analyses showed the presence of **acetazolamide** in Olga Shcherbina's urine sample, a prohibited substance according to the WADA Prohibited List 2010, section S5 (Diuretics and other masked agents) These substances shall be considered as "Specified Substances".
3. On **9 September 2010**, the notice of Anti-Doping Rule violation was sent to Olga Shcherbina. The athlete was informed about the fact that the Laboratory analyses of her sample (nr 2431482) showed the presence of **acetazolamide**, a forbidden substance in-competition as well as out-competition according to the WADA 2010 Prohibited List, section S5 Diuretics and other masking agents. Afore mentioned is an anti-doping rule violation according to the ISDF Anti-Doping Code, art. 1, VII, 1 (*The presence of a prohibited substance or its metabolites or markers in an athlete's sample*).

According to the testing officer, Dr. Ineke Crijns, the explanations from the athlete were not really trustworthy, as a *diureticum* is not the standard medicine for a fast heart beat. On top of that, her body should have secreted the diureticum for 70-100% within 24 hours.



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4. The notice of Anti-Doping Rule violation established further more;
 - a. The afore mentioned violation of the IDSF Anti-Doping Code automatically leads to the disqualification of your results obtained in the GOC 2010 Youth Standard (1st place) with all resulting consequences including forfeiture of medals, prizes, ranking points, etc., irrespective of any other sanction that may be applied (art. 8, I, 1 of the IDSF Anti-Doping Code).
This decision couldn't be appealed.
 - b. Olga Shcherbina has been provisionally suspended from all IDSF competitions and/or national competitions until the IDSF Disciplinary Council decides about the case (art. 5, IV, 1 of the IDSF Anti-Doping Code).
This decision could be appealed to the IDSF Disciplinary Council within 2 weeks from 9 September 2010.

5. On **15 September 2010**, The IDSF Presidium's decided to submit an official complaint regarding the violation of the IDSF Anti-Doping Code, allegedly committed by Olga Shcherbina, to the IDSF Disciplinary Council. In view of afore mentioned, the Anti-Doping Director requested that the IDSF Disciplinary Council should decide to impose Olga Shcherbina from Russia the following sanctions;
 - i. **One (1) year ineligibility**, starting from the date of the provisional suspension, (i.e. from September 9th, 2010, to September 9th, 2011)
 - ii. All competition results (national and international) obtained from the date the anti-doping rule violation occurred (August 19th 2010) shall be disqualified with all resulting consequences including forfeiture of medals, prizes and ranking points.

6. On **19 September 2010**, the IDSF Anti-Doping Director received an explanation letter from Mrs. Olga Shcherbina about the Anti-Doping Director's complaint. From the above mentioned letter we would like to remark the following facts;
 - a. Before the doping test on August 19th 2010, **the athlete confessed that she used medicine "Diacarbium" (acetazolamide) 4 days before the competition**. Due to poor health and difficult ecological situation in Moscow at the time (fires, smog, heat waves...), her doctor prescribed those medicines.
 - b. The athlete applies to consider the exceptional circumstances (art. 10'5 World Anti-Doping Code), as she had no significant fault or negligence (art 10'5, 2). The appellant invokes that the special essence was not intended to enhance the athlete's sport performance or mask the use of a performance enhancing substance.



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- c. After the incidence, she requested the advice of a doctor and tried to significantly assist in discovering and establishing anti-doping rule violations (art. 10'5, 3 World Anti-Doping Code).
 - d. As a last request, Olga Shcherbina desires the IDSF Anti-Doping Director to show understanding, clemency and to reduce the disqualification period to 3 months (using art. 10'9, 2 World Anti-Doping Code, so that the disqualification period should begin from the date of the last rule violation, that is August 19th 2010).
7. Due to the fact that the IDSF Presidium's decision is based on an alleged violation of the IDSF Statutes by the Appellant, and the Appellant is directly affected by the respective Presidium's decision, the Appellant was actively legitimated to submit this Appeal according to Art. 5'1 of the IDSF DC Code.
 8. On **20 September 2010**, Mrs. Olga Shcherbina sends her refusal of analyses of the B-sample.
 9. On **15 October 2010**, according Art. 2 of the IDSF Disciplinary Council Code, the Chairman of the IDSF Disciplinary Council has officially initiated the IDSF DC proceedings by appointing and communicating the following Chamber in Charge:
 - i. **Marcos de Robles, Spain (Chairman)**
 - ii. **Lars Wallin, Sweden**
 - iii. **Noel A. Laman, The Philippines**

The Chamber in Charge of the IDSF Disciplinary Council requested the parties to this Appeal to provide detailed information or additional facts, as well as answers to questions the Chamber in Charge had raised.

10. On **2 December 2010**, Mrs. Olga Scherbina send a message to the Chamber Chair explaining her case personally. She prefers not using her right in which she could go to the hearing, but she prefers the specialists appointed by the Council. She asks the Chamber in Charge considere the following circumstances (art. 10.5 WADA Code):

"I have no significant fault or negligence (art. 10.5.2. World Anti-Doping Code). Special Essence was not intended to enhance the athlete's sport performance or mask the use of a performance enhancing substance. I tried to significantly assist in discovering and establishing anti-doping rule violations (art. 10.5.3 World Anti-Doping Code). I ask you very much to show understanding, clemency and reduce the disqualification period to 3 months. Please use 10.9.2 Timely Admission (art. 10.9.2 World Anti Doping Code). Let's begin the disqualification period from the date of the last rule violation, August 19th, 2010.



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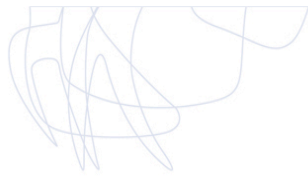
I felt bad, and in the absence of my doctor and mother, who provides control over my health, I went to the other doctor. I was prescribed medicine "diacarbium" (acetazolamide). I regret that I did not fill Therapeutic Use Form. That's because my only thought was that my health is threatened with danger because of strong heat and smoke causing problem with brain vessels I have not thought that the forbidden substance can be contained in this medicine. The medicine had no marking that it's doping.

I understand that I was inattentive. I did not check the prohibited substances in medicine. I knew that I did not use anything to make better results, reduce fatigue, absolutely nothing. I had no purpose to play the fool with anybody (...)

I understand the responsibility under the World Anti-Doping Code and fair play in sport, I fully admit my guilt. I told about my refusal to request analyses of the B-sample according to art. 5 of the ISDF Anti-Doping Code.

(...) I told that according the instructions of the use of diacarbium (acetazolamide), the substance removes from the body by itself upon expiration of 2 days in 70-90 % of cases. I did not know, the substance can detained in me for a longer period. After this incident, I have addressed for consultation to doctors who said to me that even in 7 days acetazolamide can be found in high concentration in erythrocytes.

(...) Such a disqualification is too harsh punishment for a young athlete for whom sport is the main thing in his life. This is the first time in my life when a prohibited substance entered my body. (...) It all is a good lesson for me, I will never make the mistake again.



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2. Jurisdiction of the IDSF Disciplinary Council / Chamber in Charge

2.1. The competence of the IDSF Disciplinary Council ("the DC"), represented by this Chamber in Charge, is first based on art. 19 of the IDSF Statutes, in its version in force as of June 2010, which provides that:

*"The Disciplinary Council ("the DC") is the independent jurisdictional organ of the IDSF. It considers and renders judgements on the subjects referred to it by the **Code** of the IDSF Disciplinary Council and the provisions of the **Anti-Doping Code**"*

2.2. Moreover, the jurisdiction of the Chamber in Charge is explicitly recognised in the IDSF Disciplinary Code –version in force as of June 2006-, when it establishes in its art. 2 and 8, respectively:

"Art. 2 Scope of the IDSF Disciplinary Council

The IDSF Disciplinary Council shall be the sole judicial organ of the IDSF.

It shall be responsible and entitled to render a formal judgement on the following issues: (...)

- *Violations of the IDSF Anti-Doping Code"*

"Art. 8 Chamber in Charge

Each case submitted to the Disciplinary Council will be attributed by the Chair to a "Chamber in Charge", which will consist of an appointed "Chamber Chair" (being either the President or one of the Vice Presidents of the Disciplinary Council) as well as two Ordinary Members".

2.3. Finally, article 9 of the IADC ("ISDF Anti-Doping Code 2009"), as the specific regulation for this case, clearly determines that:



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“Art. 9. Disciplinary Proceedings

I. The IDSF Disciplinary Council (...)

II.- Commencing Proceedings: (...) Thereupon the Chamber in Charge of the ISDF Disciplinary Council appointed following Art.8 Disciplinary Council Code will act as First Instance as per Art. 9 Disciplinary Council Code”.

- 2.4 According to the foregoing, this Chamber in Charge has full power to review the facts, the allegations and the law, in order to render a final decision on the case.

3. Applicable Law

3.1. Article 9.III.1 of the IADC establishes that:

“The Disciplinary Council must consider and decide the case according to this CODE, the Disciplinary Council Code, the ISDF Statutes, Art. 8 of the WADA Code defining the right to a fair hearing, and Swiss Law”.

3.2. The Athlete signed the “IDSF Form of Consent for Athletes 2010”, agreeing to all the terms of the IDSF Anti-Doping Code.

3.3. The applicable regulations in this case are then the IDSF Anti-Doping Code 2009, and subsidiary the Swiss Law.



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IN LAW

- 4.1 Without any doubt this case of doping is extremely complex and has been studied with significant effort by this Chamber in Charge of the ISDF Disciplinary Council. On the one hand, the will to be as fair as possible in the resolution as we are dealing with decisions that will have a major effect on the sporting career of the Athlete and her sporting life. Sporting interests and also economic and image interests are at stake in a case such as this.
- 4.2 On the other hand, we have also had to consider the effect resolutions like this produce on the dancing sport internationally and therefore the scope of the resolutions we take. Last but not least, from a legal point of view, perhaps the main thing in any resolution is stating the application of law, the application of regulations, in other words compliance with the law, the principle of legality that a resolution should intrinsically contain so as to be fair but also legal.
- 4.3 Moreover, the technical complexities of the substance object of this case for doping have led the need for technical information from medical and pharmacological professionals.
- 4.4 We also would like to state that the present decision has been unanimously agreed by all the members of the Chamber in Charge, without any discrepancy between them and acting always with the highest sense of liberty and responsibility with the organization we depend on, which has, at no moment of the procedure, expressed its opinion whatsoever.
- 4.5 Pursuant to Article 1.VII.1 of the IADC, the following constitutes an anti-doping rule violation:

“The presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample (...) the presence of any quantity of a prohibited substance or its metabolites or markers in an athlete’s sample shall constitute an anti-doping rule violation”



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- 4.6 In the present case, the analysis of the A-sample of Mrs. Olga Schrebina after her participation in the GOC 2010 Youth Standard Championships, held at Stuttgart, Germany, on August 19th, revealed the presence in her urine of **Acetazolamide**, a diuretic, listed on the Prohibited List of the World Anti-Doping Agency (WADA) under Section S5 (Diuretics and other masked agents). On September 21th, Mrs Scherbina refuses to request analyses of the B-Sample according to art. 5 of the IADC.
- 4.7 The Athlete did not obtain prior to competition a Therapeutic Use Exemption (TUE) for this substance, nor has it been provided after the competition either.
- 4.8 Pursuant to the strict liability theory provided in article 7.1.2 of the IADC:
- “It is each Athlete's personal duty to ensure that no Prohibited Substance enters 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 not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping violation under Art. 1.VII”*
- 4.9 The doping offence is hence confirmed and the sanctions for this anti-doping rule violation set out under article 8 of the IADC.
- 4.10 Once the presence of the prohibited substance has been duly accredited, and its ingestion admitted by the Athlete in her writing of December 2nd, it is obvious that we are in presence of an anti-doping rule violation of the IADC and other regulations.
- 4.11 As a result of the allegations of the Athlete contained in her writing of December 2nd., by virtue of which an amendment of the Athlete's responsibility is requested due to the alleged commission of inadvertent doping, this Chamber in Charge has studied in depth the technical data necessary aimed



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to obtain a higher degree of credibility and sureness in order to adopt the final decision on the case.

- 4.12 Two matters have turned into important elements so as to be able to establish the reality of the facts. First, the possibility that the medicament purchased could be "adulterated" with acetazolamide, a practice which is unfortunately possible, and secondly, the access the Athlete has and has had to this type of information, in other words the ignorance that the Athlete may or may not have had of all these adulteration processes and mechanisms prepared to obtain unauthorised improvements.
- 4.13 **Acetazolamide** is a carbonic anhydrase inhibitor, medically it may be used to treat conditions of moderate to severe metabolic alkalosis. Acetazolamide is often used in the treatment of various diseases: Glaucoma, Neurologic, Marfan syndrome, Sleep apnea Acute mountain sickness. Common side effects of using this drug include numbness and tingling in the fingers and toes, and taste alterations, especially for carbonated drinks. **Acetazolamide prolongs the effects of amphetamines and related drugs.** Acetazolamide also causes metabolic acidosis.
- 4.14 All these technical elements lead us to think that **it is a probable strong risk, for the athlete's health, with the ingestion of acetazolamide.**
- 4.15 It is surprising therefore, that if it really is a case of inadvertent doping, as stated in the written claim of the defendant, no scientific evidence or medical documents have been provided that justify on the one hand the need to ingest Acetazolamide and on the other hand the necessary medical supervision in the recommendation to use a drug.
- 4.16 Let us not forget that we are not dealing with an amateur athlete practising the sport as a hobby. Mrs Scherbina is a top-level athlete who is at the maximum category and especially she has maximum sporting objectives. Therefore, she should be very responsible with her training and with the substances she ingests and should also always be controlled by the necessary professionals and experts.



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- 4.17 Any top level athlete, as is the case of Mrs. Scherbina, should control its medication, food and supporting substances. Specially, if it involves a product, that in its presentation does not reflect the different substances that comprises it, neither its chemical composition. A simple visit to something as familiar and normal as the Internet would have enabled her to locate the vast amount of information that we ourselves have found easily without needing to turn to professional experts.
- 4.18 Once the doping infraction has been established, recognised by the Athlete and scientifically accredited, a violation of the anti-doping rules contained in art. 1 VII. 1) of the IADC has occurred and consequently should be sanctioned. Let us recall that it is known and recognised that the classification of the infraction occurred from the mere result of the analysis, turning this into precisely the necessary proof of disciplinary accusation.
- 4.19 The onus is therefore on the defendant to demonstrate that the result is not true and therefore the form in which the substance has appeared in the result of the analysis.
- 4.20 However, we insist this is not the debate of this case, basically because the Athlete has recognised in her allegations that effectively by ingesting "Diacarbium" (Acetazolamide) she was ingesting a substance prohibited by anti-doping regulations.
- 4.21 The crux of the debate surrounds the degree of responsibility of the Athlete for the substance ingested and whether – finally – the Athlete has the right to have certain legal criteria contained in the regulations that affect the degree of the sanction to be applied or not.
- 4.22 This circumstance that modifies responsibility cannot be applied to this case and the reason for this Committee is obvious: the Athlete cannot claim ignorance as after carrying out the relevant investigations we have noted that the information on the substance, effects of the substance, on the combination specifically with Acetazolamide are easily accessible to any person and of course much more accessible to an Athlete who should be informed about the drugs and other substances she takes.



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- 4.23 As stated above, a simple search on Internet with the words "Diacarb" and doping" provide sufficient responses that demonstrate that the product Diacarb contains Acetazolamide, a prohibited substance.
- 4.24 Therefore this Council rules out the possible application of the exculpatory clause of No fault or Negligence alleged by the legal representation of the Athlete.
- 4.25 There are one more procedure to reduce responsibility in the legislation in force, which are those contained in sections 8.IV. of the IADC.
- 4.26 If we objectively analyse the article mentioned, we can draw the conclusion that we are dealing with a specific substance, then art- 8.IV results applicable. The specificity prevails over generality as stated by the regulation itself, for which reason by speaking of acetazolamide we can only evaluate whether it is appropriate or not to definitively consider the possibility introduced by the regulation and that textually establishes:

"Art. 8. Sanctions and Disqualifications

IV. Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specific Circumstances. Where an Athlete or other person can establish how a specified substance entered his or her body or came into his or her possession and that such specified substance was not intended to enhance the athlete's sport performance or mask the use of a performance-enhancing substance, the period of ineligibility found in Art. 8.1 shall be replaced with the following:

- First violation: At a minimum, a reprimand and no period of Ineligibility from future Events, and at a maximum, two (2) year's Ineligibility"



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- 4.27 And it is specifically this regulatory possibility where this Chamber of Charge considers that not only is the sanction applicable, but rather it should be applied given the circumstances of the case.
- 4.28 These negative effects for the athlete with the use of Diacarbium also contrast with others that we could poorly denominate "positive effects". Its stimulant effects may enable reducing the sensation of fatigue in a similar way to amphetamines and in this context, any competitor may consider that its consumption will be beneficial to them.
- 4.29 Bearing in mind that regulation 8.IV foresees a "range" for the sanction from a REPRIMAND (minimum penalty) to a sanction of TWO-YEAR (maximum penalty), this Chamber in Charge considers that the appropriate sanction is ONE (1) YEAR of Ineligibility for any competition,.



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ON THESE GROUNDS

This Chamber in Charge hereby rules:

1. Pursuant to article 1.VII.1 of the IADC, an anti-doping rule violation has been committed by the Athlete.
2. The athlete Mrs. Olga Shcherbina is responsible for the commission of such anti-doping rule violation.
3. By virtue of art. 1.VII.1, and in accordance with art. 8.IV of the IADC, Mrs. Olga Scherbina shall be declared Ineligible for competition for 1 (ONE) YEAR, starting from 2010 September 9th, date of the provisional suspension. herefore, the Athlete will be allowed to compete again starting from 2011 September 9th
4. Any decision made by the Disciplinary Council or one of its Chambers may be appealed to the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, according to its rules and jurisdiction (art. 9.VI.1 IADC). This includes namely decisions that an anti-doping rule violation was committed.
5. Filing an appeal does not suspend or affect the IDSF Disciplinary Council's decision, which shall remain in full force until the CAS has taken its respective decision



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Other sentences

5 Commencement of the Sanction

- 5.1 On September 9th, the Athlete was provisionally suspended from all ISDF competitions and/or national competitions until the case is decided, according to provision set under article 6.1.1 of the IADC.

6 Disqualification of Subsequent Competition Results

- 6.1 According to Art. 8.1 of the IADC:

“An anti-doping rule violation in connection with an in-competition test automatically leads to the Disqualification of the individual result obtained in that competition with all resulting consequences, including forfeiture of any medals, points and prizes. (...)”

- 6.2 As Mrs. Schrebrina has committed an anti-doping rule violation during the German Open Championships DTV 2010 Youth Standard, held at Stuttgart (Germany) all results achieved during this event shall be disqualified and all prize money, medals and ranking points in respect of this competition forfeited.

7 Costs / Expenses

- 7.1 The present formal decision is rendered without costs.



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7.2 According to article 16 of the IDSF Disciplinary Code, the Athlete shall bear the minimum costs for any proceeding. Therefore, the Athlete shall pay the amount of CHF 200.00 CHF (two hundred Swiss Francs).

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

Barcelona, February 21th 2011

Lars Wallin

Marcos de Robles
Chamber Chair

Noel A. Laman