

**National Anti-Doping Agency vs. GAITA ANDREI,
Affiliated with Farul Constanta County Rugby Club, sport discipline rugby**

Decision

No. 14/21.10.2014

Issued by

**THE HEARING COMMISSION FOR THE ATHLETES AND THEIR
SUPPORT PERSONNEL WHO VIOLATED THE ANTI-DOPING RULES**

With the following structure:

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Secretary of the Hearing Commission: Gabriela ANDREIAȘU

The Hearing Commission for athletes and their support personnel who violated the anti-doping rules, named hereinafter „the Hearing Commission”, gathered on 21.10.2014, at 10h00, at the official seat of National Anti-Doping Agency in Bucharest, 37-39 Basarabia Boulevard, District 2, pursuant to the provisions of article 33, paragraph (2) of the Law 227/2006 regarding prevention and fight against doping in sport, republished, for the hearing of the athlete Gaita Andrei, affiliated with Farul Constanta County Rugby Club, having the domicile in Focsani, 29 1 Decembrie 1918 street, Vrancea County, holds the following:

Following the doping control conducted in competition on 17.05.2014, at sport discipline - rugby, on the occasion of the A Division match between Bucharest MSC and Farul Constanta CRC that took place in Bucharest, the bulletin of analysis no. 387/05.06.2014 issued by the Doping Control Laboratory of Bucharest indicated a testosterone / epitestosterone ratio higher than 4, for the sample with the code number 6097936A, belonging to the athlete Gaita Andrei. Following the recommendations of the Doping Control Laboratory in compliance with the Technical Document TD2014EAAS, National Anti-Doping Agency, as authority responsible with the case management, requested through the letter no. 1753/05.06.2014 the GC/C/IRMS analysis. Through the bulletin of analysis no. 717/29.08.2014, the Doping Control Laboratory reported that the results of the GC/C/IRMS analysis indicated the ‰ exogenous origin for testosterone, 5 β Adiol and 5 α Adiol (S1.1.b Endogenous androgenic anabolic steroids).

Pursuant to the provisions of article 28, paragraph (5) of Law 227/2006 regarding prevention and fight against doping in sport, republished, the National Anti-Doping Agency examined if a therapeutic use exemptions was granted or a violation of the International Standard for Laboratories or the International Standard for Testing occurred, which could invalidate the analytical result. Taking into account that the examination underlined that none of the situations above occurred, but it established that the athlete's team – Farul Constanta County Rugby Club was going to play in the Super League semifinal with Timisoara RCM MVT on 06.09.2014, the Agency notified the Hearing Commission in order to arrange an expedited hearing, according to article 33, paragraph (4).

Therefore, the *Hearing Commission for athletes and their support personnel who violated the anti-doping rules* gathered on 04.09.2014; on this occasion, the athlete stated that he suffered an injury on 23.04.2013 and then a surgery on 26.04.2013 at the County Hospital of Timisoara. He also stated that, during the recovery period, from 26 April 2013 until April 2014, he did not compete or train due to his health condition. Furthermore, the Commission's members held the fact that the athlete used a product containing testosterone for treating his medical condition and this was also declared during the Notice for Doping Control and registered in the Doping Control Form by the Doping Control Officer.

To sustain the athlete's statements, the Commission established the necessity for the athlete to provide his medical record, including the discharge summary, the analyses performed, as well as other medical documentation from the recovery period indicating the use of this product.

The Romanian Rugby Federation was represented by the physician, Mr. Alin Popescu, as observer, who sustained the athlete's statement, namely that he was injured, followed by the recovery period, from 26.04.2013 to 12.04.2014, during this period he did not participated in competitions.

By Decision no. 10/04.09.2014, the athlete Gaita Andrei was provisional suspended from sport activity, pursuant to the provisions of article 31, paragraph (3) of the Law 227/2006 regarding prevention and fight against doping in sport, republished, giving him the possibility to submit his medical record, as well as other medical evidences of the recovery period.

The athlete was legally summoned on 06.10.2014, at the Hearing Commission meeting, on this occasion he submitted the medical record consisted in: discharge summary of Timisoara County Hospital, Orthopaedics and Traumatology department – FO 14941, issued on 30.04.2014, as well as the medical prescription signed by the physician, Mr. Diaconu Cristian and dated with 29.05.2014, which indicated the administration of Nebidol 1000mg/4ml. The athlete stated the fact that the physician, Mr. Diaconu Cristian saw him at Dinamo Bucharest Sport Club, where he was affiliated when the injury occurred and during a short period of the recovery, later he was transferred to Farul Constanta County Rugby Club. The discharge summary indicates the fact that the athlete Gaita

Andrei, aged 22, was hospitalized from 24.04.2013 to 30.04.2013 at County Hospital of Timisoara, being diagnosed with the main diagnosis S82.21 Tibia Shaft Fracture with Fibula Fracture (any part), in other terms of diagnosis: both bones fracture of the right leg with comminuted fracture 42-B2-operated. The patient condition at discharge was improved. The discharge summary was signed by the attending physician, Dr. Vermesan Dinu Valeriu and by the chief physician Prof. Dr. Prejbeanu Radu.

Within the same hearing meeting, the athlete stated also that from 04.04.2013 to 12.04.2014 did not participate in any official match. By letter no. 522/04.10.2014 registered at ANAD with no. 095/06.10.2014, Farul Constanta County Rugby Club informed the Hearing Commission that the athlete Gaita Andrei was diagnosed with tibia and fibula fracture of right lower leg with comminuted fracture, and from 24.04.2013 to 12.04.2014 the athlete was immobilized and followed the recovery treatment.

The physician, Mr. Alin Popescu also attended the meeting of 06.10.2014 as observer of the Romanian Rugby Federation, who stated that in the last two years (2012-2013) the athlete was not included in the national rugby pool. Moreover, actually the athlete is again injured having right anterior cruciate ligament and meniscus injury and he will be operated, the recovery period will be a minimum of 6 months. The coach, Mr. Cristian Petre attended the meeting, who stated that the athlete did not participated in any competition or training of the Farul Constanta County Rugby Club team, from the moment of the transfer until 12.04.2014.

Deliberating on the case herein the Commission holds the followings:

To establish the sanction, the Hearing Commission must take into account the fact that the athlete had a fair and honest attitude during the doping control process, by admitting the use of the product NEBIDOL from the moment of signing the *Notice for Doping Control*. Reviewing the existing documentation within the athlete's file, it was established that the medicine was prescribed by a physician to facilitate his postoperative recovery. Moreover, the fact that the athlete declared to the physician, Mr. Diaconu Cristian his athlete status, who did the medical examination within Dinamo Bucharest Sport Club after his surgery, in conjunction with the fact that he did not request the B sample analysis, as well as

the fact that he admitted before signing the Notice for Doping Control and registered in the Doping Control Form, determined the Hearing Commission to consider that the use of this product, which contains prohibited substances was not used with intention of doping. The Commission will also take into account that the athlete did not participate with his team in matches or trainings for a long period. The athlete's absence from sport activity was also sustained by the Romanian Rugby Federation's representative, the physician, Mr. Alin Popescu, and also by the Farul Constanta County Rugby Club's representative, the coach, Mr. Cristian Petre.

Based on the existing evidence in the file case, the Hearing Commission considers that the athlete bore no significant negligence regarding to the using of the product Nebidol, taking into account the fact that in that moment the athlete was not participating in any sport activity and the product was not used to increase performance, but to return to the health condition prior to the injury.

The Hearing Commission will take into account the fact that the athlete has the responsibility to ensure that no substance enters his body. The athletes are directly responsible for the presence of any prohibited substance or its metabolites or markers, found in the collected biological samples.

The Hearing Commission for athletes and their support personnel who violated the anti-doping rules, after reviewing the documents within the file, the analysis bulletins no. 387/05.06.2014 and no. 717/29.08.2014 issued by Bucharest Doping Control Laboratory, the nature of the detected prohibited substance, taking into account that in 2013 the athlete suffered an injury, the medical prescription which indicated the use of product NEBIDOL, the fact that he did not request the B sample analysis, the fact that he did not participate in trainings or matches with his team from 24.04.2013 to 12.04.2014, the fact that he declared to the physician, Mr. Diaconu Cristian his athlete status, being examined at Dinamo Bucharest Sport Club, the fact that he admitted that he used a product which contained prohibited substances before signing the Notice for Doping Control and registered it in the Doping Control Form, the statements of the physician, Mr. Alin Popescu, representative of Romanian Rugby Federation and of the coach, Mr. Cristian Petre, representative of Farul Constanta County Rugby Club, who attended the hearing meetings of 30.09.2014 and of 06.10.2014, the long period passed from the

sample's collection (17.05.2014), which is not athlete's fault, as well as the national and international legal provisions:

DECIDES

The ineligibility of the athlete Gaita Andrei, affiliated with Farul Constanta County Rugby Club, for a period of one (1) year and six (6) months from sport activity, pursuant to the provisions of article 48, paragraph (3) of Law 227/2006 regarding prevention and fight against doping in sport, republished, taking into account that *in case of anti-doping rules violations set forth in Article 2 paragraph (2), letters a)-c) and e)-h), the ineligibility period may be reduced but the reduced period of ineligibility may not be less than half of the period of ineligibility otherwise applicable, when the athlete or other person establishes that he or she bears no significant negligence.*

The athlete had violated the provisions of article 2, paragraph (2), letter a) of the mentioned law - *the presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's biological sample*, namely the % exogenous origin for testosterone, 5 β Adiol and 5 α Adiol (S1.1.b Endogenous androgenic anabolic steroids).

The reduced sanction is based on the fair and honest attitude, on the fact that the athlete suffered an injury and he was seen by the physician, Mr. Diaconu Cristian within the Dinamo Bucharest Sport Club complex, after that the physician prescribed him the product NEBIDOL. Moreover, the athlete stated in front of the doping control Officers when he signed the Notice for Doping Control the fact that he used a product which contained prohibited substances during the postoperative recovery. The Commission took into account also the fact that the athlete did not participate in trainings and competitions with his team from 24.04.2013 to 12.04.2014.

The ineligibility period begins to run from the date of the sample's collection (17.05.2014), due to the long period passed from this date to the settlement of sanction, the athlete is not responsible for this period, thus the period of athlete's ineligibility is: 17.05.2014-16.11.2015.

Pursuant to the provisions of article 45 of Law 227/2006 regarding prevention and fight against doping in sport, republished, during the ineligibility period, the athlete has the obligation to submit her whereabouts information to the Agency. Aiming to reintegrate in sport activity, during the ineligibility period, the athlete has to undergo to four (4) no advance notice doping testing, one of them at the moment when the sport activity is started again. When the athlete firstly retires from sport activity during the ineligibility period and then he requests to be reintegrated in sport activity, he won't be reintegrated until he informs the Agency and no advance notice doping testing is performed during a period of time equal to the ineligibility period remained when he retired.

The decision shall be communicated to the athlete Gaita Andrei, Farul Constanta County Rugby Club where he is affiliated, Romanian Rugby Federation, the Ministry of Youth and Sport, Romanian Olympic and Sport Committee, the International Rugby Board and the World Anti-Doping Agency, pursuant to the provisions of article 28 of Order no. 47/2014 regarding the approval of the Regulation of organizing and functioning of the Hearing Commission for the athletes and their support personnel who violated the anti-doping rules.

Romanian Rugby Federation has the obligation to apply the provisions of the current decision and to comply with the legal provisions in force pursuant to the provisions of the articles 37 and 68 of the Law 227/2006, republished.

Pursuant to the provisions of article 36, paragraph (4) of the Law 227/2006 regarding prevention and fight against doping in sport, republished, the above mentioned institutions are required to maintain confidentiality of the information communicated, until the public disclosure of the case.

CHAIRMAN OF HEARING COMMISSION

IOAN DOBRESU