

**ANTI-DOPING COMMISSION  
ALL-RUSSIAN ATHLETIC FEDERATION**

Moscow

9 April 2014

**DECISION**

ARAF Anti-Doping Commission (hereinafter referred as Commission) considered the case of alleged anti-doping rule violation committed by Ms SHOBUKHOVA LILIYA and ruled:

- 1) To declare that Ms LILIYA SHOBUKHOVA committed an anti-doping rule violation (art. 32.2.(b) of the IAAF Anti-Doping Rules);
- 2) To determine 2-year period of ineligibility for Ms LILIYA SHOBUKHOVA as applicable sanction in this matter commencing from 24 January 2013;
- 3) To disqualify all results achieved by Ms LILIYA SHOBUKHOVA as from 9 October 2009 – the date of anti-doping rule violation.

**LEGAL GROUNDS**

1. Pursuant to Art. 32. 2 (b) of the IAAF Anti-Doping Rules use of attempted use by an athlete of a prohibited substance or prohibited method constitutes an anti-doping rule violation. It is each Athlete's personal duty to ensure that no Prohibited Substance enters his body.
2. 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 rule violation foreseen by the Art. 32.2. (b) of the IAAF Anti-Doping Rules.
3. Under Art. 33.1 IAAF Anti-Doping Rules the IAAF, the Member or other prosecuting authority shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the IAAF, the Member or other prosecuting authority has established an

Source:

Decision Number 02/2016

Panel of the IAAF Ethics Commission

In the matter of: (1) Valentin Balakhnichev, (2) Alexei Melnikov, (3) Gabriel Dollé and (4) Papa Massata Diack and the IAAF Code of Ethics 7 January 2016, page 77-81

anti-doping rule violation to the comfortable satisfaction of the relevant hearing panel, bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof *beyond a reasonable doubt*.

4. Given that this case is non-analytical, i.e. does not involve Adverse Analytical Finding, the Commission refers to Art. 33.3 of the IAAF Anti-Doping Rules which states that facts related to anti-doping rule violations may be established by any reliable means, including but not limited to admissions, evidence of third Persons, witness statements, experts reports, documentary evidence, conclusions drawn from longitudinal profiling and other analytical information.
5. Therefore, initially the Commission shall determine whether the IAAF and ARAF could submit reliable and convincing evidence that the Athlete had committed an anti-doping rule violation.
6. After thorough examination of the ABP blood profile of the Athlete (5 blood tests within the period October 2009 – October 2011) and expert opinions of Dr. G. D’Onofrio, Dr. M. Audran and Dr. J. Schumacher, the Commission came to unanimous conclusion that the only possible explanation of the Athlete’s abnormal blood profile is blood manipulations, e.g. use of prohibited substance (rhEPO) or prohibited method (blood transfusions).
7. In particular, Dr. G. D’Onofrio indicated in his expert opinion:

*“Although the number of tests is relatively limited, the variation in hemoglobin and the level of the two top values obtained in October 2009 and 2011 in strict correlations with endurance competitions (Chicago marathon) are so extreme that this case should be considered a medical emergency. Hemoglobin above 180 g/l in a woman entails very high blood viscosity and carries a significant risk of thrombosis and ischemia in major organs, such as heart, central nervous system or intestine.*

*The blood doping scenario in a case like this could be based on a massive use of erythropoietin associated to an autologous transfusion strategy. A sequence of*

*repeated blood withdrawals and reinfusions could explain both the episode of low hemoglobin with high reticulocytes (at the time of collection, like in sample 4) and those of high hemoglobin with depressed reticulocytes (at the time of pre-competition reinfusions). Information about urine and blood erythropoietin tests could be helpful. In conclusion, according to paragraph 9.6 of the IAAF Blood Testing Protocol, my opinion for the case S3A9 is that "It is highly likely, absent a satisfactory explanation from the athlete, that the athlete's profile is the result of the use of a prohibited substance or a prohibited method".*

8. The same conclusions have also been made by two other world leading experts in this area – Prof. M. Audran and Prof. J. Schumacher.
9. To the contrary, the Commission does not have any explanations from the Athlete explaining her abnormal blood data and alleged anti-doping rule violation. Neither any request for oral hearing had been made by the Athlete. The Commission has in its disposal the documents confirming that the Athlete has been notified about the alleged anti-doping rule violation and her right to request an oral hearing.
10. Under such circumstances and having overwhelming evidence, the Commission made a conclusion that the Athlete DID commit an anti-doping rule violation described in Art. 32.2. (b) of the IAAF Anti-Doping Rules – *“Use or Attempted Use by an Athlete of a Prohibited Substance or Prohibited Method”*.
11. Subsequently, the Commission shall determine a sanction for the Athlete which committed first anti-doping rule violation.
12. According to the Art. 40.2. of the IAAF Anti-Doping Rules the standard sanction for committing the first anti-doping rule violation is 2-year period of ineligibility.
13. However, the Art. 40.6. of the IAAF Anti-Doping Rules stipulates that the standard sanction may be increased up to a maximum of 4 years should the aggravating circumstances be present. Abovementioned article also contains the examples of aggravating circumstances: the Athlete or other

Person committed the anti-doping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person used or possessed multiple Prohibited Substances or Prohibited Methods or used or possessed a Prohibited Substance or Prohibited Method on multiple occasions and some other examples.

14. The Commission suggests that the burden of proof rests on the anti-doping organization. Therefore, IAAF and ARAF should have proved that this case involves aggravating circumstances. However, evidence which could confirm the presence of aggravating circumstances was not provided.
15. Expert opinions submitted by the IAAF do not contain direct indications that the anti-doping rule violation committed by the Athlete involved any aggravating circumstances.
16. Thus, the Commission does not see any reason to depart from the standard sanction of 2-year period of ineligibility. Thereafter, the Commission rules that the Art. 40.2 of the IAAF Anti-Doping Rules shall be applied in this matter and the Athlete shall be sanctioned with the 2-year ineligibility period.
17. Under Art. 40.10 of the IAAF Anti-Doping Rules the period of ineligibility shall start on the date of the hearing decision providing for ineligibility or, if the hearing is waived, on the date the ineligibility is accepted or otherwise imposed. Any period of provisional suspension shall be credited against the total period of ineligibility to be served. Given that the Athlete had been provisionally suspended from 24 January 2013, the total period of ineligibility shall end on 23 January 2015.
18. Additionally, the Commission shall annul all competitive results of the Athletes from 9 October 2009 according to Art. 40.1 and 40.8 of the IAAF Anti-Doping Rules. The Commission determined the date of 9 October

2009 as the date of an anti-doping rule violation on the basis of her blood profile.

**CHAIRMAN:**

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Zelichenok V.B.

**MEMBERS:**

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Maslakov V.M.

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Avramenko V.A.

**SECRETARY**

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Sinelobov S.P.

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