



International Paralympic Committee  
Anti-Doping Committee

In the matter of:

INTERNATIONAL PARALYMPIC COMMITTEE  
(the *Applicant*)

Versus

MR VASILIEV, Oleksandr  
(the *Respondent*)

The case is heard in front of the Panel comprised of:

Dr. José A. Toni Pascual, Chairperson IPC Anti-Doping Committee  
Mr. Joseph de Pencier, Ms. Katarzyna Rogowicz, Dr. Matthias Strupler:  
Members IPC Anti-Doping Committee

(hereafter the *Hearing Panel*)

Hearing conducted on 18 July 2011 at 13:00 CET via teleconference.

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## Parties

1. The International Paralympic Committee (IPC) is the global governing body of the Paralympic Movement and, in particular, of the Paralympic Games. In addition, the IPC is the International Federation of several sports, including IPC Shooting. The IPC holds registered offices in Bonn, Germany.
2. Mr. Vasiliev, the Respondent, is a Ukrainian athlete in the sport of IPC Shooting.

## Communication

3. In accordance with Article 14.1.1 of the IPC Anti-Doping Code 2009 (the *Code*), the Respondent (and other relevant persons) shall be notified by the IPC through the relevant National Paralympic Committee (NPC).

## Background

4. On 6 May 2011, the Respondent competed at the 2011 IPC Shooting World Cup in Alicante, Spain.
5. After completion of his competition, the Respondent was requested to provide a sample for doping control for an in-competition test.
6. The Respondent provided a sample (sample number 2010762) (the *Sample*) and signed the doping control form (*DCF*) without adverse comment. By doing so, the Respondent indicated that he was satisfied with the sample collection procedures that had been followed in conducting the test. The Sample was sent for analysis to the WADA accredited laboratory in Madrid, Spain; Laboratorio de Control de Dopaje de la Agencia Estatal Antidopaje (the *Laboratory*).
7. On 16 June 2011, the Laboratory reported an adverse analytical finding for Hydrochlorothiazide. This substance is classified as S5. Diuretics and Other Masking Agents in the World Anti-Doping Agency (WADA) 2011 Prohibited List (the *Prohibited List*) and is prohibited at all times (both in- and out-of-competition).
8. The initial review by the IPC determined that there was no applicable Therapeutic Use Exemption (*TUE*) for this substance, and that there was no departure from the International Standard for Laboratories or the International Standard for Testing that caused the adverse analytical finding.



9. Accordingly, on 1 July 2011, the IPC notified the Respondent via the Ukrainian NPC of the adverse analytical finding in accordance with Article 7.2 of the Code. The Respondent was advised that he was provisionally suspended from the date of notification (1 July 2011) and that unless Article 10.4 or Article 10.5 of the Code apply the standard sanctions for a first-time violation would be:
- automatic disqualification of any competition results in connection with an in-competition test, including forfeiture of any medals, points and prizes obtained on the date of sample collection (6 May 2011);
  - disqualification of all competition results including forfeiture of any medals, points and prizes obtained subsequent to the sample collection date;
  - an ineligibility period of two (2) years; and
  - a financial sanction of €1.500 (Article 10.11 and Chapter 1.2, Section 2, IPC Handbook ('Rules on the imposition of financial sanctions for anti-doping rule violations')).

The Respondent was also advised of his rights, including the right to request the B sample analysis and the laboratory documentation package.

10. The notification included a form named "Letter of Decision" for the Respondent to complete and return to the IPC by no later than 8 July 2011 at 1700 hours CET. The Letter of Decision requested the Respondent to respond to a series of questions whereby the Respondent accepts or denies the allegations and any consequences of such allegations.
11. The Respondent returned the signed Letter of Decision to the IPC in a timely fashion. In the Letter of Decision, the Respondent stated that he:
- had no valid TUE justifying the presence of the Prohibited Substance found in his sample,
  - accepted the A sample analysis and waives the right for the B sample analysis,
  - accepted to have committed an anti-doping rule violation,
  - challenged the consequences set out in the 'Notification of an Adverse Analytical Finding' and wished to submit information to support a claim for a reduced or eliminated period of ineligibility,
  - waives the right to a Hearing.
12. With the Letter of Decision, the Respondent also submitted a letter (original letter in Russian, with a copy of the translation in English)



explaining the conditions of substance intake due to fatigue related to travel, and a request to the IPC Anti-Doping Committee to consider reduction of sanction in accordance with Article 10.4 and/or Article 10.5 of the Code.

13. Along with the Respondent's submissions, NPC Ukraine submitted a request to the IPC Anti-Doping Committee to consider the possibility of cancelling the penalty fee payment and financial sanctions to the Respondent.
14. Upon receipt of the Letter of Decision, the Chairperson of the IPC Anti-Doping Committee decided to hold a Hearing in which the Respondent is asked to clarify the declaration of two medicines in his letter that, at first sight, do not seem to contain the Prohibited Substance reported by the Laboratory. Such clarification was needed in order for the IPC Anti-Doping Committee to consider the requests listed in points 12 and 13.

### **The Hearing**

15. On 18 July 2011, the Hearing was scheduled to take place via conference call in accordance with Article 8.1.6. The Hearing was audio-taped for evidential purposes.
16. The IPC was represented in the case by:
  - Dr. Peter Van de Vliet, IPC Medical & Scientific Director
  - Ms. Emilie Jones, IPC's Legal Counsel
  - Ms. Vanessa Webb, IPC Anti-Doping Manager
17. Attending the hearing on behalf of the Respondent were:
  - Mr. Oleksandr Vasiliev, the Respondent
  - Ms. Olena Maximova, NPC Ukraine Athlete Representative
  - Ms. Olena Zaitseva, NPC Representative
  - Ms. Nadia Litucha, NPC Representative
  - Ms. Tamara Ischenko, interpreter
18. Ms. Athena Charitaki, IPC Shooting Sport Manager, attended the Hearing as the representative of IPC Shooting and as an observer.
19. The following outline of the parties' positions is illustrative only and does not necessarily comprise every contention put forward by the parties. The Hearing Panel has carefully considered all the submissions made by the parties, even if there is no specific reference to those submissions in the below summary.



20. The Applicant's case is that the Respondent has violated Article 2.1 of the Code.
21. The Respondent confirmed that he accepts the commission of an anti-doping rule violation, but that he would like the Hearing Panel to be informed that this was unintentional. The Respondent explained his medical record with high blood pressure and diabetes (type 2), for which he occasionally uses Captopril, and that he bought this medication at the airport upon departure from his home country, Ukraine. The Respondent informed the Panel that he asked the pharmacist for the medication he normally uses but was told only 'an equivalent' but even better medication was available (Captopress®). The Respondent bought this equivalent without any further consideration.
22. Because of acute medical discomfort on this pre-existing condition, due to travel and late night arrival at the competition, the Respondent took the medication on his own initiative without consultation with any of the Support Staff in attendance at the Event. The Respondent states that he accepts full responsibility for doing so.
23. When asked, the Respondent did not check the ingredient list of the medication package at the time he bought or used it. When notified of an Adverse Analytical Finding, he did so and found out that the Prohibited Substance Hydrochlorothiazide is listed on the package.
24. The Respondent further informed the Hearing Panel that he is aware of the existence of the Prohibited List and his roles and responsibilities as an international athlete.
25. When asked, the Respondent told the Hearing Panel that he did not pay attention to why he did not list the medication on the Doping Control Form because he does not use the medication on a regular basis and did not think the substance would be contained on the Prohibited List.

### **Legal Analysis**

26. As a member of the NPC Ukraine and a registered competitor in the 2011 IPC Shooting World Cup event in Spain, the Code applies to the Athlete.
27. The principle of strict liability applies to anti-doping matters. Athletes are responsible, and an Anti-Doping Rule Violation occurs whenever a



Prohibited Substance is found in an Athlete's sample (comment to Article 2.1.1.).

28. Hydrochlorothiazide is a substance contained in S5. Diuretics and Other Masking Agents of the WADA 2011 Prohibited List and is prohibited both in-and out-of-competition.
29. The Respondent admitted the presence of the Prohibited Substance in his body by accepting the anti-doping rule violation.
30. The Hearing Panel is of the view that the absence of intentional use of the substance is proven, but that application of Article 10.4 and 10.5 should not be considered for the following reasons:
  - The Respondent suffered a medical condition that required 'occasional' use of medication for high blood pressure. The Respondent indicated his familiarity with the medication. However, he failed to check the 'alternative' medication he bought at the airport pharmacy, listing explicitly a prohibited substance, included on the Prohibited List.
  - The Respondent is an experienced international elite athlete in the sport of IPC Shooting and has been subject to doping control on previous occasions. Notwithstanding, the use of the medication was not indicated on the Doping Control Form.
  - The Respondent, an experienced athlete, took the medication on his own initiative without any consultation with Support Staff (the absence of medical Support Staff to the team is recorded by the Hearing Panel).
31. The Hearing Panel is in view that the Respondent was negligent in his general anti-doping duties under Article 2 of the Code.
32. The Hearing Panel is in view that the Respondent should be liable for a financial sanction of €1,500 in accordance with Article 10.11 of the Code and Chapter 1.2, Section 2, IPC Handbook ('Rules on the imposition of financial sanctions for anti-doping rule violations'), for the reasons as listed above in paragraph 30 and due to the costs that the IPC has occurred in connection with the Result Management process (including initiating a Hearing).

### **Recommendation to the IPC Governing Board**

33. The IPC Anti-Doping Committee recommends the following to the IPC Governing Board:



- a. Pursuant to Article 9 of the Code, the Respondent's individual results obtained at the 2011 IPC Shooting World Cup in Alicante, Spain, and at any other event from the date of 6 May 2011 onwards should be automatically disqualified, including forfeiture of any medals, points and prizes won;
  - b. Pursuant to Article 10.2 of the Code, a two-year (2-year) period of ineligibility should be imposed on the Respondent.
  - c. Pursuant to Article 10.9.2 of the Code, the Respondent should receive credit for the timely admission of the anti-doping rule violation and should therefore be declared ineligible from 06 May 2011 until 05 May 2013; and
  - d. Pursuant to Article 10.11 of the Code and the IPC Handbook, Section 2, Chapter 1.2 ('Rules on the imposition of financial sanctions for anti-doping rule violations'), a financial sanction of €1.500,- should be imposed on the Respondent.
34. The IPC Anti-Doping Committee would further like to remind the Respondent of his status of Ineligibility as set forth in Article 10.10 of the Code.

#### **Appeal**

35. The Respondent is hereby informed of the Appeal procedures in Article 13 of the IPC Anti-Doping Code.

Submitted to the IPC Governing Board as a recommendation from the IPC Anti-Doping Committee in accordance with Article 8.5.2 of the IPC Anti-Doping Code 2009.

On 27 July 2011 the IPC Governing Board reviewed the above document and accepted the recommendation of the IPC Anti-Doping Committee.

A handwritten signature in black ink, appearing to read 'Xavier Gonzalez', is positioned above the typed name.

Mr. Xavier Gonzalez  
Chief Executive Officer  
International Paralympic Committee



cc. Kerwin Clarke, WADA Result Management  
Toni Pascual, Chairperson IPC Anti-Doping Committee