

INTERNATIONAL OLYMPIC COMMITTEE

**IOC DISCIPLINARY COMMISSION
DECISION**

**REGARDING VANJA PERISIC
BORN ON 5 JULY 1985, ATHLETE, CROATIA, ATHLETICS**

(Rule 23.2.1 of the Olympic Charter)

1. On 7 August 2008, Vanja Perisic (hereinafter the "Athlete"), a participant in the Games of the XXIX Olympiad in Beijing (the "2008 Olympic Games") was requested to provide a pre-competition blood sample for a doping control.
2. On 15 August 2008, the Athlete competed in the Athletics Women's 800m event (Round 1, Heat 3) of the 2008 Olympic Games, in which she placed 6th.
3. The above-noted A sample of the Athlete was tested during the 2008 Olympic Games by the WADA Accredited Laboratory in Beijing, for Recombinant Human Growth Hormone, but did not result in an adverse analytical finding at the time.
4. After the end of the 2008 Olympic Games, the A and B samples collected from the Athlete were sent to Lausanne, at the WADA Accredited "Laboratoire Suisse d'Analyse du Dopage" (hereinafter the "LAD"), along with other samples from other Athletes collected upon the occasion of the 2008 Olympic Games.
5. The International Olympic Committee (hereinafter the "IOC"), pursuant to Article 6.5 of the *IOC Anti-Doping Rules applicable to the Games of the XXIX Olympiad in Beijing in 2008* (the "*Rules*"), decided in January 2009 to perform further testing on the samples collected during the 2008 Olympic Games, targeting mirCERA© (hereafter "CERA" a third generation of EPO) and insuline.
6. The remaining portion of the A sample of the Athlete was subject to a screening test for the prohibited substance CERA by the LAD, and subsequently sent for analysis to the WADA-Accredited "Laboratoire d'Analyses de l'Agence Française de Lutte contre le Dopage" (hereinafter the "LAAFLD").
7. Pursuant to Article 7.2.1 of the *Rules*, the representative of the Chairman of the IOC Medical Commission, Dr. Patrick Schamasch, was informed on 28 April 2009, by the Head of the LAAFLD, of an adverse analytical finding on the A sample of the Athlete.
8. Pursuant to Article 7.2.2 of the *Rules*, Dr. Patrick Schamasch determined that the above-noted A sample belonged to the Athlete, and verified that it did in fact give rise to an adverse analytical finding. He also determined that there was no apparent departure from the International Standards for Testing or the International Standards for Laboratories that undermined the validity of the adverse analytical finding.
9. Pursuant to Article 7.2.3 of the *Rules*, the IOC President, Dr. Jacques Rogge, was promptly informed of the existence of the adverse analytical finding and the essential details concerning the case.
10. Pursuant to Article 7.2.4 of the *Rules*, the IOC President, by letter dated 28 April 2009, set up a Disciplinary Commission, consisting of:
 - Thomas Bach (Chairman)
 - Denis Oswald

- Frank Fredericks

The IOC President decided that the decision of the Disciplinary Commission shall constitute the decision of the IOC.

The IOC President has in this case decided that the procedure may be extended beyond the 24 hour time limit as per Article 7.2.13 of the *Rules*.

11. Pursuant to Article 7.2.5 of the *Rules*, by letter dated 28 April 2009 notified to the Athlete, to the Secretary General of the National Olympic Committee ("NOC") of Croatia, to the International Association of Athletics Federations (IAAF) and to the Head of the Independent Observers' Programme (WADA), the IOC President advised of, among other things, the above-mentioned adverse analytical finding and that the Athlete had the option to attend a hearing of the Disciplinary Commission and/or to submit a defence in writing.

The analytical report of the laboratory analysis of the A sample, prepared by the Head of LAAFLD and attached to the above-mentioned letter dated 28 April 2009, indicated the presence of the prohibited substance CERA.

12. The Athlete made a first written statement to the IOC on 8 May 2009, indicating in summary that:

- she was shocked when she learned the result of the A sample analysis because she could not imagine herself associated with any prohibited doping methods or substances
- she never heard about CERA until a few months after the 2008 Olympic Games from the newspaper;
- she used preparations from "reliable and available producers in [her] city";
- as a conclusion, she had never seen nor used CERA.

13. The Athlete requested the opening and analysis of the B sample. The B samples' opening and analysis was scheduled to occur on 2 June 2009 in Paris, at the LAAFLD.

The Athlete was offered the possibility to appoint a representative to attend such opening and analysis in Paris and was informed that in case she did not appoint a representative, an independent witness would be appointed in compliance with the WADA international Standards.

The athlete did not attend nor appoint a representative to attend the B sample's opening and analysis, which occurred as scheduled on 2 June 2009 at around 09h20, in the presence of an independent witness.

14. The B sample analysis result confirmed on 5 June 2009 the finding of the A sample analysis, indicating the presence of CERA in the B sample.

The A and B sample Laboratory Packages and certificates have been sent to the Athlete, through her NOC.

15. As the Athlete had requested to attend a hearing of the Disciplinary Commission, she has been informed by the IOC, by letter dated 9 June 2009, of the date of the hearing.

The Athlete was also granted a deadline until 15 July 2009 to submit her defence in writing.

16. The Athlete has been suspended provisionally by her national federation as of 10 July 2009 in compliance with the rules of the International Association of Athletics Federations (IAAF).
17. The Athlete made a second written submission dated 14 July 2009.
18. In her second written submission, the Athlete stated, in summary, that:
 - There were irregularities regarding blood sample collection and the chain of custody was deficient due to a lack of proper documentation;
 - The analytical method for detecting CERA conducted by the labs is unreliable, and not subject to validation at the time of the analyses of the Athlete's samples.
19. The Disciplinary Commission held a hearing on 27 July 2009 at approximately 2:00 pm, at the IOC Headquarters in Vidy, Lausanne, in the Coubertin Room, in the presence of:
 - Ms. Ljiljana Ujlaki, Croatian NOC
20. The IAAF was represented at the hearing by Mr. Thomas Capdevielle.
21. Also attending the hearing were:
 - Dr. Patrick Schamasch, Director of the IOC Medical and Scientific Department
 - Mr. Andre Sabbah and Mr. Christian Thill, IOC Legal Department
 - Dr. François Carrard, IOC Counsel
 - Dr. Martial Saugy, external scientific expert
 - Ms. Soheyla Behnam, Ms. Cherine Fahmy and Ms. Sophie Berwick, IOC staff
22. The Athlete did not appear at the hearing. The Disciplinary Commission was informed by Ms. Ujlaki that she had received information that neither the Athlete nor her lawyer would attend the hearing. Ms. Ujlaki further informed the Disciplinary Commission that she received an email from the Athlete in which she denied taking the prohibited substance.
23. After a careful review of the Athlete's written arguments and all the documents relating to the chain of custody between the Beijing Laboratory and the LAAFLLD, the Disciplinary Commission is satisfied that no deviation occurred. Moreover, even if such a deviation had occurred in the chain of custody, with the consequence of causing an alteration of the samples, such deviation and alteration could not have caused a positive result. As Dr. Martial Saugy, Director of the LAD, previously explained to the Disciplinary Commission, since CERA is a very specific synthetic substance, it cannot appear in a blood sample through an alteration process of such sample. On the contrary, Dr. Saugy, further explained that an alteration of a sample, due, for example, to insufficient cooling conditions during transport, would more likely lead to a false negative, as the alteration of the sample would eliminate the prohibited substance, rather than create it. Put another way, samples that are not properly transported would not create a false positive but might prevent an adverse analytical finding due to an elimination of the prohibited substance.
24. After carefully considering the Athlete's arguments and the various complex issues at hand, and based on the documents and information available, the Disciplinary Commission noted that the LAAFLLD performed an isoelectric focusing method ("IEF method") in order to detect CERA, and further noted that the IEF method is not new, since it has been previously approved (since many years) for urine sample analyses. In this respect, the LAAFLLD had been granted the accreditation ISO/IEC 17025 by the COFRAC.

25. According to article 4.4.10 ISL, "WADA accredited Laboratories may modify or add analytes to existing scientific methods to expand their scope or develop new methods that involve technology already within the scope of accreditation without the need for approval by the body that completed the ISO/IEC 17025 accreditation of that Laboratory. To have a Flexible Scope of Accreditation, the laboratory must have within its quality management documentation processes for method validation/acceptance, competence of key personnel, record keeping and reporting". In conformity with this provision, the LAAFLD could validly perform the IEF method, which is accredited for urine samples, to detect CERA in blood samples.

Pursuant to an attestation dated 10 September 2009 from Dr. Jacques de Ceaurriz, Director of the Analysis Department of the LAAFLD, the Disciplinary Commission notes that the validation study was completed by the LAAFLD on 25 September 2008. Therefore, the validation study was finished when the A and B samples analyses were performed, which have therefore been conducted in accordance with art. 4.4.10 ISL.

Moreover, the extension of the method for the detection of prohibited substances in blood samples has been accredited by the COFRAC on 30 June 2009. This accreditation is a confirmation that the method is reliable. The Disciplinary Commission is of the view that the IEF method could be validly performed on blood samples before the notification of the extension of the accreditation dated 30 June 2009 of the COFRAC, since it is not a new method but an only application of a pre-existing method. The Disciplinary Commission also notes that this method has been published in a peer review, namely "haematologica" (2009; 94(6); p. 888-890).

26. The Disciplinary Commission notes that the available documents and information regarding both the chain of custody of the samples and the method for detecting CERA are sufficient to conclude that the samples belonging to the Athlete have been handled, collected, transported and tested in compliance with the International Standards for Laboratories ("ISL") and International Standards for Testing ("IST"). Furthermore, the Disciplinary Commission notes that pursuant to the IOC Anti-Doping Rules, WADA Accredited laboratories are presumed to have conducted custodial procedures in accordance with the ISL, unless the athlete rebuts this presumption by establishing that a departure from the ISL (i) occurred and (ii) could have reasonably caused the adverse analytical finding. In this case, the Athlete has not shown that a departure from the ISL occurred, or that any such departure could have reasonably caused the adverse analytical finding. Finally, the Disciplinary Commission notes that according to the International Standards, any deviation from the chain of custody should be documented. Neither the Beijing lab, nor the LAD or LAAFLD reported any such deviation.
27. The Disciplinary Commission notes that several weeks have passed since the hearing. Given the serious nature of the case, the amount of documents in the file, and the technical nature of the information, it was necessary for the Disciplinary Commission to take the necessary time to carefully review and analyse the numerous documents, arguments and issues.
28. After carefully considering the Athlete's arguments and the various complex issues at hand, and based upon the, testimony, documents and information available, the Disciplinary Commission unanimously concludes that the Athlete has committed an anti-doping rule violation pursuant to Article 2.1 of the *Rules* in that there was the presence of the prohibited substance CERA in her body.

CONSIDERING the above, pursuant to the Olympic Charter and, in particular, Rule 23.2.1 thereof, and pursuant to the *IOC Anti-Doping Rules applicable to the Games of the XXIX Olympiad in Beijing in 2008* and, in particular, Articles 2.1, 8 and 10 thereof

THE DISCIPLINARY COMMISSION OF THE
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DECIDES

- I. The Athlete Vanja Perisic, Croatia, Athletics, is disqualified from the Athletics Women's 800m event (Round 1, Heat 3) of the 2008 Olympic Games, where she had placed 6th;
- II. The International Association of Athletics Federations is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
- III. This decision shall enter into force immediately.

Lausanne, ____ November 2009

The IOC Disciplinary Commission



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