

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION RECOMMENDATIONS

REGARDING MR WOLFGANG PERNER BORN ON 17 SEPTEMBER 1967, ATHLETE, AUSTRIA, BIATHLON

1. Pursuant to the terms of the “Entry Form – Eligibility Conditions” pertaining to the XX Olympic Winter Games in Torino in 2006” (the “Torino Olympic Games”), Mr Wolfgang PERNER agreed to abide by the Olympic Charter and the IOC Anti-Doping Rules applicable to the Torino Olympic Games (the “IOC Anti-Doping Rules”).
2. In February 2006, Mr PERNER competed in the Men’s 20 km Individual in which he placed 60th, the Men’s 10 km Sprint in which he placed 4th and the Men’s 12.5 km Pursuit in which he placed 25th.
3. The Italian police searched the premises in which Mr PERNER resided, namely San Sicario, on the night of 18 February 2006 pursuant to a search and confiscation warrant.
4. The Italian police found a number of items within the accommodation of the Austrian cross-country and biathlon teams, including numerous syringes (some used), blood bags (some used), butterfly valves for intravenous fusion, injection needles, bottles of saline and devices for measuring a person’s haemoglobin levels as well as a device for determining the blood group of a blood sample.
5. Subsequently, the Torino Prosecutor’s Office analysed the materials seized by the police. The resulting report noted that many of the materials indicated the use of blood transfusions by the members of the Austrian cross-country and biathlon teams, which is a prohibited method in accordance with the IOC Anti-Doping Rules, and the use of prohibited substances such as hCG and albumin.
6. Specifically, in relation to Mr PERNER, the Italian police found, among other items, the following materials in his room:
 - 2 bottles that were unlabelled as well as numerous labelled bottles, including two bottles labelled “FRISCH & VIT”;
 - 4 application sets;
 - 2 butterfly valves for intravenous infusions;
 - 7 injection needles;
 - 1 used 24 ml syringe;
 - 2x5 ml syringes;
 - 1 used application set;

- 1 piece of toilet paper containing several used needles for syringes;
 - 1 apple juice carton containing used syringes and phial; and
 - 3x500 ml bottles of saline.
7. The Torino Prosecutor's Office analysed these materials and determined that within the bottles that were seized by the police, there were:
 - (i) two infusors for blood components with filter for microaggregates commonly used for transfusing whole blood or its components with a butterfly needle still connected. The infusors contained traces of blood;
 - (ii) two small calibre needles with protective caps that could be used for taking blood samples. The calibre needles had been used or, at least, had been removed from their packaging;
 - (iii) one medium calibre needle with a protective cap that could be used for taking blood samples. The calibre needle had been used or, at least, had been removed from its packaging;
 - (iv) one bag for collecting whole blood for transfusion use with marketing label in German (marked Gerätezentrale für Bluttransfusion des ORK GmbH, A-5301 Eugendorf), used, with blood residues as it appears after use;
 - (v) one transfusion bag with English language labelling showing the name of the manufacturing company (Haemonetics Corporation), used and with residues of blood such as would be present after use.
 8. In addition, the report noted that two of the bottles seized from Mr PERNER contained albumin and hGC, both of which are expressly prohibited.
 9. It is also noteworthy that, according to the police report, during the house search, Mr PERNER tried to recover two small bottles that had already been confiscated and to conceal them in his room. The bottles were then seized by the police a second time.
 10. Furthermore, Mr PERNER departed Torino for Austria immediately after the police search and, three days after the house search, Mr PERNER announced his retirement from competitive sport.
 11. The Austrian Olympic Committee ("AOC") subsequently established an Inquiry Commission to investigate the conduct of the Austrian cross-country and biathlon teams at the Torino Olympic Games. Among other things, the AOC Inquiry Commission found that "medicines and medical equipment were lying around in the accommodation and obviously being used by the athletes without supervision ...".
 12. Mr PERNER declined a request for him to appear and give evidence before the AOC Inquiry Commission.

13. In its report, the AOC Inquiry Commission noted the materials that had been reported as having been seized by the police from Mr PERNER, his attempt to recover some of the seized items, his “hurried” departure for Austria and his subsequent retirement.
14. The Austrian Ski Federation (“ASF”) Disciplinary Board also conducted a general investigation into the conduct of the Austrian cross-country and biathlon teams at the Torino Olympic Games.
15. In these circumstances, the IOC informed Mr PERNER by letter dated 1 March 2007 that the IOC was establishing a Disciplinary Commission, comprising Dr Thomas BACH (Chairman), Mr Denis OSWALD (member) and Mr Sergey BUBKA (member), to investigate the appropriateness of sanctions in connection with the seizure of evidence from his accommodation which appeared to demonstrate the possession, administration and use of prohibited substances and prohibited methods, or complicity in violations of the IOC Anti-Doping Rules.
16. Mr PERNER was informed that the Disciplinary Commission would conduct a hearing on 4-5 April 2007 at the IOC headquarters in Lausanne, Switzerland.
17. Mr PERNER was also informed that he was suspected of having committed the following violations:
 - a. possession of Prohibited Methods pursuant to Article 2.6.3-M1 and 2.6.3-M2 of the IOC Anti-Doping Rules;
 - b. possession of Prohibited Substances pursuant to Article 2.6.3-S2 of the IOC Anti-Doping Rules; and
 - c. administration or attempted administration of a Prohibited Substance or Prohibited Method to any athlete, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any attempted violation, pursuant to Article 2.8 of the IOC Anti-Doping Rules.
18. Mr PERNER was given a choice as to whether to attend the Disciplinary Commission hearing in person or to submit a defence in writing.
19. Ultimately, Mr PERNER chose the latter. His attorney, Dr Adolph PLATZGUMMER, responded to the IOC by letter dated 29 March 2007 by asserting that all the accusations made against his client were unjustified and totally inaccurate. Dr PLATZGUMMER also stated that Mr PERNER had not been furnished with sufficient information regarding the accusations against him and that under the Olympic Charter he had a right to be acquainted with the charges.
20. By letter dated 28 March 2007, the IOC reminded Dr PLATZGUMMER that his client would have an opportunity at the hearing to provide any explanations he may have in relation to the seized materials.
21. The Disciplinary Commission convened on 4-5 April 2007. In addition to the members of the Commission, the following were also present:

- Francois CARRARD, Senior Legal Advisor (in part)
 - Mark MANGAN, Legal Advisor
 - Howard STUPP, IOC Legal Director
 - Christian THILL, IOC Legal Department
 - Patrick SCHAMASCH, IOC Medical Director
22. While Mr PERNER declined the opportunity to attend the hearing, cross-country athlete Markus HASLER of Liechtenstein appeared before the Disciplinary Commission on 5 April 2007 and gave evidence on the events surrounding the seizure of materials by the Italian police, particularly in relation to the Austrian cross-country ski team.
23. Having considered the evidence before it, the Disciplinary Commission concludes that Mr PERNER has violated the IOC Anti-Doping Rules by possession of prohibited methods and substances. In particular, it is apparent that he possessed materials for the carrying out of blood transfusions and the artificial manipulation of blood haemoglobin levels in violation of Article 2.6.1 of the IOC Anti-Doping Rules (categories M1(a) and M2(b) of Article 2.6.3 of the IOC Anti-Doping Rules). Furthermore, Mr PERNER possessed hCG and albumin in violation of Article 2.6.1 of the IOC Anti-Doping Rules (categories S2(3) and S5 of Article 2.6.3 of the IOC Anti-Doping Rules). In reaching this conclusion, the Disciplinary Commission notes the following evidence against Mr PERNER:
- the Italian police's seizure of a multitude of prohibited substances and methods, as listed above, from Mr PERNER's room;
 - the determination by the Italian Prosecutor's Office that some of the material seized from Mr PERNER contained high concentrations of hCG and albumin;
 - MR PERNER's attempt to recover items seized by the police in a manner that suggests that he was aware that the police had discovered prohibited materials;
 - MR PERNER's "hurried" departure to Austria by car following the search conducted by the Italian police and his announced retirement shortly thereafter, both of which suggest his acceptance of him having been caught committing anti-doping rule violations; and
 - MR PERNER's complete failure to explain the materials seized by the police either in writing or by way of oral evidence before the Disciplinary Commission.
24. In addition to the charge of possession considered above, it is necessary to consider the charge of complicity in the violations of others. The Disciplinary Commission notes that the Italian police seized a large amount of prohibited substances and methods throughout the Austrian cross country and biathlon team accommodation, including that of the athletes and their coaches and

trainers. There is no reason to doubt the findings of the Italian police and the existence of this material has been acknowledged by the AOC Inquiry Commission. Indeed, several of the athletes, including Mr Wolfgang ROTTMANN and Mr Johannes EDER, have acknowledged in interviews before the ASF or the AOC Inquiry Commission that the police seized various medical equipment and substances from their rooms. Moreover, many of the athletes, namely Mr Juergen PINTER, Mr Roland DIETHART and Mr Martin TAUBER, have, through their counsel, confirmed in writing in these proceedings that many of the items reported by the police as having been found were in their possession. These items include a haemoglobinmeter, butterfly valves, syringes, needles and saline. The team doctor, for his part, has asserted that he was not aware that the athletes possessed such a vast array of medical equipment. Moreover, despite this equipment normally being administrable by a doctor for medical reasons, neither the team doctor nor any other doctor was accommodated with the athletes.

25. Furthermore, the seized material was found in houses that were contiguous, so that the occupants are extremely likely to have been aware of the existence of the practices of their fellow athletes residing in their respective houses. Indeed, video footage of the houses has confirmed that the housing plans were relatively open with shared dining and kitchen facilities, as well as small bedrooms that were sparsely furnished.
26. The Torino Prosecutor's report noted that a number of the materials that were seized were prepared in a professional manner. They also noted that the seized materials evidenced collaborative know-how capable not only of collecting blood but also of freezing it in accordance with the most modern techniques available. Further, the fact that a device was found that allowed a sample's blood group to be determined suggests that multiple athletes were infusing blood that had originated from multiple sources. In addition, a number of the athletes have admitted using a haemoglobinmeter for regular checking of their haemoglobin levels. Furthermore, much of the same medical equipment was found in the possession of multiple athletes competing in two different sports and residing in various locations.
27. The Disciplinary Commission notes that Mr PERNER could not have been unaware of the very serious and highly publicized incident following which certain members of the Austrian cross-country ski team, and in particular Walter MAYER, all having organized their sojourn in a very similar manner, were found to have been engaged in the use of prohibited methods at the Salt Lake City Olympic Games in 2002. The Disciplinary Commission further recalls that this incident resulted in sanctions against members of the Austrian Cross Country ski team.
28. In these circumstances, the Disciplinary Commission concludes that Mr PERNER's violations of the IOC Anti-Doping Rules were facilitated and supported by significant collusive collaboration, the full parameters of which will be explored by the Disciplinary Commission in due course. At this juncture, it is sufficient to note that Mr PERNER's involvement in this collaboration was itself a violation of the IOC Anti-Doping Rules in that he necessarily assisted, encouraged, aided and abetted, and covered up IOC Anti-

Doping Rule violations committed by his fellow athletes in the Austrian cross-country ski team.

29. While Mr PERNER's possession of prohibited substances and methods warrants being sanctioned in its own right, it is Mr PERNER's collaboration with his fellow athletes and support staff that is particularly disturbing. Moreover, the Disciplinary Commission finds Mr PERNER's conduct to constitute aggravating circumstances and therefore worthy of significant sanctions given that the doping violations committed by members of the Austrian cross-country ski team during the Salt Lake City Olympic Games in 2002 should have been taken as a clear warning that the IOC would not tolerate such behaviour.
30. The Disciplinary Commission unanimously concludes that Mr PERNER has violated Articles 2.6.1 and 2.8 of the IOC Anti-Doping Rules in that he possessed and aided and abetted other athletes to use or possess prohibited substances and methods.

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 XX Olympic Winter Games in Torino in 2006 and, in particular, Articles 2.6.1, 2.6.3 and 2.8 thereof:

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
RECOMMENDS TO THE EXECUTIVE BOARD

- I. The athlete Mr Wolfgang PERNER, Austrian, Biathlon, Men's 20 km Individual, Men's 10 km Sprint and Men's 12.5 km Pursuit:
 - i. be disqualified from the Men's 20 km Individual, in which he placed 60th;
 - ii. be disqualified from the Men's 10 km Sprint, in which he placed 4th, and his diploma be withdrawn;
 - iii. be disqualified from the Men's 12.5 km Pursuit, in which he placed 25th; and
 - iv. be permanently ineligible for all future Olympic Games in any capacity.
- II. The International Biathlon Union be requested to modify the results of the above-mentioned events accordingly.
- III. The file be referred to the International Biathlon Union to consider any further action within its own competence.
- IV. The Austrian Olympic Committee be ordered to return to the IOC, as soon as possible, the diploma awarded to the athlete in the Men's 10 km Sprint.

Beijing, 24 April 2007.

The IOC Disciplinary Commission

Thomas BACH
Chairman

Denis OSWALD

Sergey BUBKA