

Disciplinary Commission

Case No. 2019-03

08.10.2019

Panel: Volker Waldeck, Chair
Albert Hazelhoff
Jean-François Monette

**Final Decision
in the matter of**

International Skating Union, Avenue Juste-Olivier 17, 1006 Lausanne,
represented by its Legal Advisor, Dr. Béatrice Pfister,

- **Complainant** -

against

Ms. Alexandra KOSHEVAIA,
Russia

- **Alleged Offender** -

and

Figure Skating Federation of Russia

- **Interested ISU Member** -

Regarding the Violation of the ISU Anti-Doping Rules

I. History of the Procedure

On August 23, 2019, the ISU filed a complaint against the Alleged Offender, together with 14 exhibits. On August 26, 2019 the Alleged Offender and the Interested Member were invited by the ISU Disciplinary Commission to file a statement of reply within 21 days upon receipt of the complaint. The Interested Member filed a statement of reply on September 10, 2019.

II. Procedural Matters

The present case arises out of testing of the Alleged Offender at the occasion of the 2019 Winter Universiade where she participated in the Pairs Skating competition. According to Article 2.1.2. of the FISU Anti-Doping Rules, contained in the Regulations for the 29th Winter Universiade 2019 as point 2, all Athletes participating in the Winter Universiade are subject to the FISU Anti-Doping Rules.

According to Article 2.8.1.2 of the FISU Anti-Doping Rules, sanctions that extend beyond the Winter Universiade to other international events are the responsibility of the international sports federations. Therefore, under Article 2.8.1.2 of the FISU Anti-Doping Rules and Article 25.10 of the ISU Constitution the ISU Disciplinary Commission has jurisdiction to hear and decide this case.

III. Facts

1. The Alleged Offender is a 19 years old Pair Skater and member of the Figure Skating Federation of Russia (FSFR). Together with her partner, Dimitry Bushlanov, she participated in the Pair Skating competition at the 29th Winter Universiade which was held in Krasnoyarsk, Russia, in March 2019. The couple Koshevaia/Bushlanov placed 3rd and hence was awarded the bronze medal.
2. Following an In-Competition Anti-Doping test carried out under FISU testing authority on March 7, 2019, the ISU on March 26, 2019, received the laboratory result of Sample number 3104834, with an adverse analytical finding for the presence of Torasemide. Upon request of the ISU, FISU informed that Sample number 3104834 was from the Alleged Offender by copying the ISU with its notification on the Adverse Analytical Finding to Ms. Koshevaia.
3. Together with the notification FISU requested the Alleged Offender to provide a response and to indicate her choice in relation to the rights available to the athlete by filling out the Athlete Rights Form by April 25, 2019. On April 24, 2019, the Alleged Offender filed her explanation and admitted having taken Torasemide because she had had a swelling (edema) of her foot not long before the Universiade after reading in the internet that the substance may help to remove the swelling. She further stated that she was aware that diuretics are forbidden but she had not known that Torasemide is a diuretic because it is not contained in the WADA Prohibited List. She underlined to have taken the medicine with no intentions other than to remove the swelling but admitted her mistake not to have inquired about the details of Torasemide and not consulted

a sports doctor before its intake. The Alleged Offender concluded by regretting what had happened and taking the obligation never to take any medicine without prior consultation with specialists again. Together with her explanation she filed the Athlete Rights Form on which she accepted the Adverse Analytical Finding and declined to request the analysis of the B-Sample and copy of the laboratory documentation package.

4. On May 29, 2019, the International Testing Agency (ITA), to whom FISU had delegated certain of its powers under the FISU Anti-Doping Rules, informed the Alleged Offender that according to Articles 2.8.1.1 and 2.8.1.2 of the FISU Anti-Doping Rules the jurisdiction of FISU relates exclusively to the consequences applicable to the Winter Universiade, i.e. the automatic disqualification of the results obtained by her at this occasion and that the proceedings in relation to consequences extending beyond the Winter Universiade shall be conducted by the ISU. Further, the Alleged Offender was advised that under Article 2.8.7 of the FISU Anti-Doping Rules she had the possibility to admit the ADR violation with respect to the presence of a Prohibited Substance, waive a hearing before a disciplinary panel and accept automatic disqualification as mandated by the FISU Anti-Doping Rules.
5. On May 30, 2019, the Alleged Offender signed the respective «Voluntary Admission and Acceptance of Consequences Form». In its decision of July 2, 2019 – notified to the ISU on the same day – the ITA found the Alleged Offender to have committed an Anti-Doping Rule violation pursuant to Article 2.2 of the FISU Anti-Doping Rules (presence of a Prohibited Substance), declared the results obtained by her and her partner to be disqualified and indicated that the case would be transferred to the ISU for the administration of any further consequences under the ISU Anti-Doping Rules.

IV. Law

1. Torasemide, as uncontestedly found present in the Alleged Offender's bodily specimen, is a specific substance prohibited at all times, according to the 2019 Prohibited List of the World Anti-Doping Agency (WADA) under class "S5. Diuretics and Masking Agents".
2. According to Article 2.1. of the ISU Anti-Doping Rules 2018, the presence of a Prohibited Substance in a Skater's bodily specimen constitutes an Anti-doping Rule violation, unless a Therapeutic Use Exemption (TUE) for the otherwise Prohibited Substance has been granted in accordance with Article F of the ISU Anti-Doping Procedures.
3. According to Article 2 of the ISU Anti-Doping Rules, Skaters are responsible for knowing what constitutes an Anti-doping Rule violation and the substances and methods which have been included in the Prohibited List. Under Article 2.1.1, it is each Skater's personal duty to ensure that no Prohibited Substance enters his/her body. Skaters are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples.
4. It is undisputed that the Alleged Offender committed an anti-doping rule violation within the meaning of Article 2.1 of the ISU Anti-Doping Rules.
5. Article 10.2 of the ISU Anti-Doping Rules 2018 sets out the period of ineligibility that must be imposed on the Alleged Offender.
6. As stated before, Torasemide belongs to class S5 of the 2019 WADA Prohibited List and, thus, is a Specified Substance under the meaning of Article 10.2 of the ISU Anti-Doping Rules.
7. According to Articles 10.2.1.2 and 10.2.2. of the ISU Anti-Doping Rules, the period of Ineligibility shall be two years, unless the Complainant can establish that the Anti-Doping Rule Violation was intentional.

8. Based on the credible explanation given by the Alleged Offender provided in Exhibit 9, and the fact that the Complainant does not find itself to be able to establish that the Anti-Doping Rule Violation happened intentionally, as set out in its Complaint, a two years Ineligibility is to be imposed.
9. Any reduction of the Ineligibility period must then follow the criteria set out under Article 10.4 of the ISU Anti-Doping Rules (No Fault or Negligence), or Article 10.5 (No Significant Fault or Negligence). The Alleged Offender provided explanation where she had taken the substance for medical reasons, thereby forgetting that it was on the Prohibited List, and relying solely on information in the internet, without first finding out the details of the substance and consulting any medical doctor. The Panel considers Article 10.5 not to be applicable. By taking, without any further inquiries, a substance which she had not known before, the Alleged Offender acted with significant negligence.
10. Upon having been confronted by FISU Anti-Doping, the Alleged Offender promptly and openly admitted and regretted her Anti-Doping Rule violation and took the obligation to never take any medicine in the future without prior consultation with specialists. Thus, Article 10.11.2 of the ISU Anti-Doping Rules on Timely Admission applies. That means that the period of Ineligibility shall start to run from the date of the Sample collection, i.e. on March 7, 2019.

V. Costs

1. According to Article 12.2 of the ISU Anti-Doping Rules 2018, the ISU Member shall be obligated to reimburse the ISU for all costs (including but not limited to laboratory fees, hearing and travel expenses) related to a violation of these Anti-Doping Rules committed by a skater affiliated with that member. Therefore, the costs of these proceedings, including the laboratory fees of the Anti-Doping testing, must be borne by the Interested ISU Member - Figure Skating Federation of Russia.
2. The Alleged Offender has to bear her own costs.

Based on the above considerations, the ISU Disciplinary Commission rules as follows:

Decision

1. Alexandra KOSHEVAIA is declared responsible for an Anti-Doping violation, committed on March 7, 2019, at the 29th Winter Universiade in Krasnoyarsk, Russia.
2. A period of ineligibility of two (2) years, beginning on March 7, 2019 and ending on March 6, 2021, is imposed on Alexandra KOSHEVAIA.
3. The Figure Skating Federation of Russia must reimburse the ISU for the costs of these proceedings and the laboratory fees of the Anti-Doping testing.
4. The skater Alexandra KOSHEVAIA bears her own costs.



Volker Waldeck



Albert Hazelhoff



Jean-François Monette

The present decision is subject to appeal to the Court of Arbitration for Sport, Avenue de Beaumont 2, CH-1012 Lausanne, Switzerland, within 21 days upon receipt of the decision, in accordance with Article 25 Paragraph 12 and Article 26 of the ISU Constitution 2018.