



Decision

by

the FIBA Disciplinary Panel established in accordance with
Article 8.1 of the
FIBA Internal Regulations governing Anti-Doping
in the matter

Milka Bjelica
(born 22 June 1981)

hereafter:
(“the Player”)

(Nationality: Montenegrin)

Whereas, the Player underwent an in-competition doping test organised by the Polish Anti-Doping Agency (“POLADA”) on 22 April 2012 in Krakow, Poland.

Whereas, the analysis of the Player's sample (No: 1995420) was conducted at the WADA-accredited Laboratory in Warsaw, Poland (“Laboratory”). On 9 May 2012 the Laboratory entered into the Anti-Doping Administration & Management System (ADAMS) that the analysis of the sample with the above-mentioned number showed the presence of the prohibited substance “S6, *Stimulants/methylhexaneamine (dimethylpentylamine)*” established by the 2012 WADA List of prohibited substances;

Whereas, on 28 May 2012 POLADA wrote to FIBA that the Player was no longer registered with a Polish club and therefore it could not organise a hearing of the Player in Poland. POLADA intended to pass jurisdiction of this case to the Serbian Basketball Federation;

Whereas, by correspondence of 21 June 2012 POLADA informed FIBA that the Serbian Basketball Federation had refused to take over the case, since the Player is from Montenegro and not Serbia. For this reason, on 4 July 2012 POLADA requested FIBA to conduct the disciplinary proceedings in this case;

Whereas, by letter dated 17 July 2012 FIBA informed the Player – through the Basketball Federation of Montenegro – about the adverse analytical ("AAF") and that, in accordance with the FIBA Internal Regulations governing Anti-Doping ("FIBA ADR"), the case would be submitted to the FIBA Disciplinary Panel. In addition, FIBA invited the Player to submit her position in writing and also provided her with the option of being heard either in person (for which a hearing in FIBA's headquarters in Geneva would have to be organised) or via telephone conference;

Whereas, by letter dated 25 July 2012 the Player informed FIBA that it would not use her "right on hearing" and submitted her position in writing along with a document listing the nutritional information of the supplement "Rocket Fuel";

Whereas, in her written statement the Player:

- did not contest the result of the analysis and admitted the violation;
- stated that due to a heavy travel schedule during the previous season, she could not properly follow on her diet and therefore gained weight. She felt pushed to loose at least 5 kg of weight, since there was a team's weight measuring every week. In order to loose weight fast, she bought a supplement called "Rocket Fuel" in a supplement store, located in the club's training venue;



- stated that the salesperson recommended the supplement to her and also ensured that "it was not on the doping list";
- asserted that she did not have an intention to enhance her sport performance and only used the supplement to loose weight;
- stated that she checked and compared the components of the supplement with the WADA List of prohibited substances and did not find any match;
- informed the Panel that she did not have any organized support regarding supplements in her club but decided to buy a supplement from a store inside the venue, where also other teams (volleyball, football) train;
- stated that she researched the supplement on the internet and found the link between geranium and methylhexaneamine only after she had received the AAF;
- stated that she had never used supplements before and that this was her first anti-doping rule violation in her long career;

Whereas, on 31 August 2012 at 4.30pm Geneva time, the FIBA Disciplinary Panel composed of Dr. Wolfgang Hilgert, member of FIBA's Legal Commission and of Dr. Heinz Günter, member of FIBA's Medical Commission deliberated over this case;

Now, therefore, the Panel takes the following:

DECISION

A period of six (6) months' ineligibility, i.e. from 29 April 2012 to 28 October 2012, is imposed on Ms. Milka Bjelica.

Reasons:

1. Article 2.1 of the FIBA ADR reads as follows:

“ARTICLE 2 ANTI-DOPING RULE VIOLATIONS

Players and other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List.

The following constitute anti-doping rule violations:

2.1 The presence of a Prohibited Substance or its Metabolites or Markers in a Player’s Sample.

2.1.1 It is each Player’s personal duty to ensure that no Prohibited Substance enters his or her body. Players are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Player’s part be demonstrated in order to establish an anti-doping violation under Article 2.1. [...]”

2. The Player has committed an anti-doping-rule violation pursuant to Article 2.1 of the FIBA ADR since methylhexaneamine (demethylpentylamine), a prohibited substance listed in WADA’s 2012 Prohibited List (the “2012 Prohibited List”) under letter S.6.b (Specified Stimulants) was found in her urine sample. This fact remained uncontested.

3. According to Article 10.2 of the FIBA ADR

“The period of Ineligibility imposed for a violation of Article 2.1 (Presence of Prohibited Substance or its Metabolites or Markers), [...] shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided in Articles 10.4 and 10.5, or the conditions for increasing the period of Ineligibility, as provided in Article 10.6, are met:

First violation: Two (2) years’ Ineligibility.”

4. According to Article 10.4 of the FIBA ADR:

“Where a Player or other Person can establish how a Specified Substance entered his or her body or came into his or her possession and that such Specified

Substance was not intended to enhance the Player's sport performance or mask the use of a performance-enhancing substance, the period of Ineligibility found in Article 10.2 shall be replaced with the following:

First violation: At a minimum, a reprimand and no period of Ineligibility from future Events, and at a maximum, two (2) years of Ineligibility.

To justify any elimination or reduction, the Player or other Person must produce corroborating evidence in addition to his or her word which establishes to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the use of a performance enhancing substance. The Players or other Person's degree of fault shall be the criterion considered in assessing any reduction of the period of Ineligibility."

5. The Panel notes that the Player admitted the violation and the use of the prohibited substance from the outset. She was straightforward in her written submissions to the Panel, in particular the circumstances under which she decided to buy Rocket Fuel and why she used it. The Panel has also reviewed the print-out from the Rocket Fuel website, listing its ingredients, and has found that it indeed contains "Geranium Stem", which is the commercial name of the substance methylhexanamine (see also FIBA DP decision of 11 November 2010 in the matter of Elmedin Kikanovic). Further, the argument regarding weight loss is plausible given the Player's size (1.93m) and the circumstances raised in her pleadings. The Panel finds on the basis of the above evidence that Article 10.4 of the FIBA ADR is applicable to this case.

6. On the other hand, the Panel finds that the Player, a 31-year professional who has participated with her team in the highest level of team competitions (amongst others, Euro League Women, EuroCup, EuroBasket Women etc) and therefore has had sufficient exposure to professional basketball through her career, was indeed negligent in (a) purchasing and using the product upon recommendation of a supplement-store salesman and (b) failing to research the ingredients of the supplement before using it. The fact that the supplement store is located inside the training venue (implying a relationship with the local clubs) as well as that the club had no support personnel with which the Player could consult have been taken into account by



the Panel; however, such arguments are not capable of absolving the Player from any responsibility.

7. In view of the circumstances of this case, the Player's degree of fault and the jurisprudence of this Panel in similar cases involving the same substance (see *ex multis* decision of 17 April 2012 in the case of Enver Soobzokov), the Panel decides that it is appropriate to impose a sanction of six (6) months on the Player.
8. The Panel deems it appropriate pursuant to Article 10.9 of the FIBA ADR that the period of ineligibility is to start on 29 April 2012, i.e. the day after the Player's last official game.
9. This decision is subject to an Appeal according to the FIBA Internal Regulations governing Appeals as per the attached "Notice about Appeals Procedure".

Geneva, 17 September 2012

On behalf of the FIBA Disciplinary Panel

Dr. Wolfgang Hilgert

President of the Disciplinary Panel