



**Tribunal Arbitral du Sport
Court of Arbitration for Sport**

CAS 2006/A/1130 WADA v/Darko Stanic & Swiss Olympic

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Quentin Byrne-Sutton, Attorney-at-law in Geneva, Switzerland

Arbitrators: Mr Stephan Netze, Attorney-at-law in Zurich, Switzerland
Ms Corinne Schmidhauser, Attorney-at-law in Bern, Switzerland

between

World Anti-Doping Agency (WADA), 800 Place Victoria, CA-Montreal, Quebec, H4Z 1B7
Represented by Mr François Kaiser, Attorney-at-law in Lausanne, Switzerland

As Appellant

and

Darko Stanic, Schlossgasse 4, CH-8003 Zurich
Represented by Mr Adrian F. Howald, Attorney-at-law in Zurich, Switzerland

&

Swiss Olympic Association, Laubeggstrasse 70, CH-3000 Bern 22
Represented by Mr Bernhard Welten, Attorney-at-law in Bern, Switzerland

As Respondents

I. THE PARTIES AND THE ORIGIN OF THE DISPUTE**A. The Parties****a) *The Appellant***

1. The Appellant, the World Anti-Doping Agency (“WADA”) is an independent non-governmental organization created to promote, coordinate, and monitor the fight against doping in sport in all its forms.

b) *The Respondents*

2. The first Respondent, Darko Stanic, is a professional handball player, who plays for a Swiss club named Grasshoppers Handball AG (“Grasshoppers”), which is a member of the Swiss Handball Association.
3. The second Respondent, the Swiss Olympic Association (“Swiss Olympic”), is the head of the organization grouping Swiss sports federations in Olympic and non-Olympic disciplines.

B. The Origin of the Dispute

4. On 28 April 2006, after a game between St. Otmar St. Gallen and Grasshoppers, Darko Stanic was tested positive for Benzoyllecgonine and Methylecgonine, which are metabolites of cocaine; cocaine being specified within WADA’s list of substances prohibited In-Competition. The analysis of the B sample, which was made on Darko Stanic’s request, confirmed the results of the analysis of the A sample.
5. Upon receiving the results, Darko Stanic immediately indicated his surprise to the president of his club, Grasshoppers, and assured him he had not voluntarily taken cocaine in any form.
6. The disciplinary Chamber of Swiss Olympic opened a procedure against Darko Stanic, who was convened to a hearing.
7. During his hearing, Darko Stanic stated that he had come to the conclusion that the cocaine must have entered his system as a consequence of him unknowingly smoking a cigarette containing cocaine, in the following circumstances:
 - Four days before the positive test, in the early morning of 24 April 2006, he and one of his friends Vladan Marsenic had gone to a discotheque in Zurich.

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- In general, he smokes approximately one packet of cigarettes a day and at some point during their stay in the discotheque he ran out of cigarettes and asked his friend for one.
 - Because his friend had none, he asked a group of compatriots from ex Yugoslavia with whom they had been talking whether someone could give him a cigarette.
 - The cigarette he was offered did not raise any suspicions in his mind because although he did recognize that it was probably a self-made cigarette it was the same shape and size as an industrially-produced cigarette. In other words, the cigarette did not have the funnel shape typical of a so-called "joint" containing marijuana, hashish or other drugs rolled into cigarettes.
 - He accepted the cigarette and while smoking it felt somewhat strange. He also quite quickly began feeling nausea and some unusual stomach pains aches and therefore decided to leave the discotheque with his friend. Upon arriving home he could not sleep.
8. On 6 July 2006, the disciplinary Chamber of Swiss Olympic issued its decision, whereby Darko Stanic was suspended for a period of six months.
9. In reaching its decision, the disciplinary Chamber of Swiss Olympic considered that Darko Stanic had committed "*no significant fault or negligence*" as defined by article 17.4.2 of its doping Statute and that given the overall circumstances, including Darko Stanic's personal situation, the minimum sanction of one year's suspension should be reduced to six months.
10. On 13 July 2006, Swiss Olympic's decision was copied to WADA.
11. WADA decided to appeal Swiss Olympic's decision because it considered Swiss Olympic to have misapplied its doping Statute by relying on article 17.4.2 and fixing a six-month suspension rather than a two-year suspension based on articles 12.1 and 17.1 of the Statute.

II. SUMMARY OF THE ARBITRATION PROCEEDINGS

12. On 27 July 2006, WADA filed a Statement of Appeal with the Court of Arbitration for Sport (hereinafter "CAS") against Swiss Olympic's decision of 6 July 2006. It nominated Mr. Stephan Netzle as arbitrator.