

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

RECOMMENDATIONS REGARDING MR JOHANNES EDER BORN ON 19 OCTOBER 1979, ATHLETE, AUSTRIA, CROSS COUNTRY

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 Johannes EDER 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 EDER competed in the Men’s Team Sprint and the Men’s 4x10 km Relay.
3. The Italian police searched the premises in which Mr EDER resided, namely via del plan no. 5 in Pragelato, 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, and their coaches and trainers, including numerous syringes (some used), blood bags (some used), butterfly valves for intravenous infusion, injection needles, bottles of saline and a device 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 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 EDER, the Italian police found under Mr EDER’s bed one intravenous drip with needle containing a small quantity of transparent liquid.
7. The Torino Prosecutor’s Office determined that the liquid within the infusion equipment seized from Mr EDER was saline, which indicated that Mr EDER had attempted to manipulate his “physiological parameters”.
8. 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 ...”.

9. Specifically, in relation to Mr EDER, the AOC Inquiry Commission noted that the materials referred to in paragraph 6 above were reported by the police as having been seized from him. The Commission also noted that Mr EDER had given himself an infusion.
10. In addition, the Austrian Ski Federation (“ASF”) investigated the conduct of Mr EDER and they also concluded that he had self-injected saline during the Torino Olympic Games. Mr EDER was suspended for one year, effective 12 May 2006.
11. During the course of the ASF proceedings, Mr EDER reportedly explained that he self-administered a saline solution infusion because he suffered from a heavy diarrhoea attack. In addition, Mr EDER reportedly explained the self-infusion on the basis that he had been concerned about his haemoglobin levels, which he asserted were permanently increased for genetic reasons, and that he feared a so-called “protective suspension”. Thus, Mr EDER appears to have accepted that he infused himself with saline in order to manipulate his haemoglobin levels in an attempt to avoid a “protective suspension”.
12. Mr EDER appealed the sanction imposed by the ASF to the Court of Arbitration for Sport (“CAS”). CAS rejected the appeal and reaffirmed the ASF decision.
13. The ASF Disciplinary Board also conducted a general investigation into the conduct of the Austrian cross-country and biathlon teams at the Torino Olympic Games. During the course of the investigation, the ASF team doctor, Dr BAUMGARTL, noted that Mr EDER had infused himself. Nevertheless, the team doctor asserted that he was not aware that Mr EDER had had his own infusion kit. Similarly, the cross-country ski team trainer, Emil HOCH, acknowledged that Mr EDER had given himself infusions of saline.
14. In these circumstances, the IOC informed Mr EDER 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.
15. Mr EDER was informed that the Disciplinary Commission would conduct a hearing on 4-5 April 2007 at the IOC headquarters in Lausanne, Switzerland.
16. Mr EDER was informed that he was suspected of having committed the following violations:
 - a. use of a Prohibited Method pursuant to Article 2.2 of the IOC Anti-Doping Rules;
 - b. possession of Prohibited Methods pursuant to Article 2.6.3-M1 and 2.6.3-M2 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.

17. Mr EDER was given a choice as to whether to attend the Disciplinary Commission hearing in person or to submit a defence in writing.
18. Ultimately, Mr EDER chose the latter. Mr EDER submitted a response dated 17 March 2007 in which he stated that the ASF Disciplinary Board and CAS had already ruled on his involvement in the Torino Olympic Games doping incident.
19. By letter dated 28 March 2007, the IOC reminded Mr EDER that his attendance at the hearing would give him an opportunity to provide any explanations he might have in relation to the seized materials.
20. 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
21. While Mr EDER declined the opportunity to attend the hearing, the 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.
22. Despite representing Liechtenstein, Mr HASLER confirmed that he had been assigned to the Austrian cross-country ski team for the purposes of meals, accommodation and training. Accordingly, Mr HASLER confirmed that he had an intimate knowledge of the housing arrangements for the Austrian cross-country ski team during the Torino Olympic Games.
23. Having considered the evidence before it, the Disciplinary Commission concludes that Mr EDER has violated the IOC Anti-Doping Rules by (i) self-infusion and (ii) by being in possession of prohibited methods. In terms of the latter, it is apparent that Mr EDER 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). In reaching this conclusion, the Disciplinary Commission notes the following evidence against Mr EDER:
 - the Italian police's seizure from him of a used intravenous drip with needle containing a small quantity of transparent liquid;

- the Torino Prosecutor’s determination that the transparent liquid within the equipment seized from Mr EDER by the police was saline;
- Mr EDER’s admissions before the ASF and CAS that he self-infused a saline solution;
- Mr EDER’s apparent acknowledgement that he infused himself with saline in order to manipulate his haemoglobin levels;
- the acknowledgement by Dr Peter BAUMGARTL, the Austrian team doctor, before the ASF Disciplinary Board, that Mr EDER had administered his own saline solution infusion;
- the acknowledgement by Emil HOCH, the trainer of the ASF national cross-country ski team, before the ASF Disciplinary Board, that Mr EDER had self-infused a saline solution during the Games; and
- testimony by Markus HASLER before the IOC Disciplinary Commission on 5 April 2007, including his acknowledgement that Mr EDER had been “caught red-handed” and, elsewhere, that he had been “caught [by the police] in any case, as he was on the needle”, thereby suggesting that this was not an isolated incident.

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 EDER himself, 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 fact 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 shared 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 one'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 EDER 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 EDER'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 EDER'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 EDER's possession of prohibited substances and methods warrants being sanctioned in its own right, it is Mr EDER's collaboration with his fellow athletes and support staff that is particularly disturbing. Moreover, the Disciplinary Commission finds Mr EDER'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 EDER has violated Articles 2.2, 2.6.1 and 2.8 of the IOC Anti-Doping Rules in that Mr EDER used, possessed, and aided and abetted other athletes to use or possess, prohibited substances and methods.
31. Finally, given that Mr EDER participated in a team sport, it is relevant to note that Article 11.1 of the FIS Anti-Doping Rules provides:

If a member of a team is found to have committed a violation of these Anti-Doping Rules during a Competition, the team shall be Disqualified from the Competition with all resulting consequences, including forfeiture of any medals, points and prizes.

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 2.2, 2.6.1, 2.6.3 and 2.8 thereof:

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

- I. The athlete Mr Johannes EDER, Austrian, Cross Country, Men's Team Sprint and Men's 4x10 km Relay:
 - i. be disqualified from the Men's Team Sprint;
 - ii. be disqualified from the Men's 4x10 km Relay;
 - iii. be permanently ineligible for all future Olympic Games in any capacity.
- II. The Austrian Men's Team Sprint and Men's 4x10 km Relay teams be disqualified.
- III. The Fédération Internationale de Ski be requested to modify the results of the above-mentioned events accordingly.
- IV. The file be referred to the Fédération Internationale de Ski to consider any further action within its own competence.

Beijing, 24 April 2007.

The IOC Disciplinary Commission

Thomas BACH
Chairman

Denis OSWALD

Sergey BUBKA