

PRESS RELEASE

SWIMMING — DOPING

THE FOUR-YEAR BAN IMPOSED ON CLAUDIA POLL CONFIRMED
BY THE COURT OF ARBITRATION FOR SPORT (CAS)

Lausanne, 4 February 2003 - The Court of Arbitration for Sport (CAS) has dismissed the appeal filed by the Costarican swimmer Claudia Poll against the decision of the FINA Doping Panel to sanction her further to a positive out-of-competition doping control with nandrolone metabolites. Accordingly, the decision made by the FINA Doping Panel on 3 June 2002, providing for a four-year suspension commencing on 26 March 2002, is confirmed.

In the framework of the out-of-competition doping control programme conducted by FINA, Claudia Poll underwent a doping test in February 2002. The samples were sent to the IOC-Accredited Laboratory in Montreal, Canada. The analyses performed by the laboratory revealed the presence of norandrosterone in a concentration of 7.3 ng/ml ("A" sample) and 7.5 ng/ml ("B" sample). On the basis of the laboratory report, this case was submitted to the FINA Doping Panel which decided to sanction the Costarican swimmer with a four-year suspension commencing on 26 March 2002 and to cancel all her results achieved during the period from 26 September 2001 to 26 March 2002.

Claudia Poll appealed against that decision before the Court of Arbitration for Sport. Her appeal was submitted to a Panel composed of three CAS arbitrators : Dr. Martin Schimke, attorney at law in Dortmund/Germany (President), Prof. Richard McLaren, Barrister at law in London/Canada, Mr. Denis Oswald, attorney at law in Neuchatel/Switzerland. A hearing was held in Lausanne on 12 December 2002 in the presence of the athlete, her legal counsel and the FINA representatives. CAS announced its final decision to the parties in the evening of 3 February 2003.

In her appeal, Claudia Poll put forward that the sampling procedure had not been properly carried out, that the laboratory had failed to follow some requirements with respect to the analysis procedure and that the quantities of nandrolone detected in her urine samples were too low, considering that this substance can be produced naturally by athletes.

In its decision, the CAS Panel confirmed the CAS case law with respect to the principle of strict liability in doping cases : it is a matter for the sports federation to prove the presence of a banned substance in the athlete's body; if the federation is successful in proving this element, there is a legal presumption that the athlete committed an offence, whatever the intention of the athlete to commit such offence; the athlete can reverse this presumption of guilt by showing that the case is not one of doping and that he/she is innocent but it is for him/her to produce that proof.

The Panel found that Claudia Poll did not bring any convincing argument to establish that the laboratory analyses were not correctly conducted. Furthermore, the Panel considered that the athlete did not establish that the sampling procedure was flawed. Finally, the arbitrators noted that the quantity of nandrolone detected in Ms Poll's urine was above the threshold of 5 ng/ml which is provided by the FINA Regulations.

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