

# INTERNATIONAL SKATING UNION

## PRESS RELEASE ISU Position in the Pechstein Case May 18, 2010

The International Skating Union (ISU) filed on Monday with the Swiss Federal Tribunal in Lausanne (the Swiss Supreme Court), its Reply to the Request of Claudia Pechstein for “Revisionsverfahren” (a Swiss law term for a “Revision Procedure”).

Ms Pechstein’s Request seeks: (1) cancellation of the CAS Final Arbitration Award of November 25, 2009 and, (2) return of the case to the CAS for retrial.

On February 10, 2010, a first judgment of the Swiss Federal Tribunal denied Ms. Pechstein’s Appeal against the CAS Final Arbitration Award of November 25, 2009. The CAS Award upheld a Decision of the ISU Disciplinary Commission (DC) of July 1, 2009, finding C. Pechstein to have committed an ISU Anti-doping rule violation and imposing the mandatory 2 year suspension.

Since the publication of the DC decision in July 2009, the ISU has not publicly reacted to the numerous media campaigns against the ISU which have been organized by C. Pechstein, her lawyer Dr. S. Bergmann and her management team. These campaigns consisted of TV talk shows, press conferences, interviews and commentary on C. Pechstein’s website, and often were the source of unjustified and sometimes incredible accusations against the ISU.

The above campaigns included allegations that the ISU data base of blood tests results was not reliable; that the anonymity bar-codes on blood samples were wrong; that wrong blood samples were used; that the dates of certain tests were wrong; and expanded into accusations that the ISU had suppressed evidence allegedly favorable of C. Pechstein; and that the panel of CAS arbitrators had been composed in violation of the applicable rules. Incredible accusations of improper interfering were made against the Secretary General of the CAS and even against the International Olympic Committee (IOC).

Up until today, the ISU has respected the principle that no public-relations-type Press Releases or comments should be made while a case is pending in the CAS and in the Swiss court.

The ISU has fought, with patience, within the Swiss legal system, against all accusations made by C. Pechstein in the arbitration and court proceedings. None of the allegations were proven to be justified and all have been disposed of by the CAS decision and also by the Decision of the Swiss Tribunal Federal dated February 10, 2010 dismissing the Appeal of C. Pechstein against the CAS award. The Court has also dismissed accusations that the CAS proceeding and decision violated Swiss law (Swiss public order) and that the rights of Ms. Pechstein to a fair trial and equal treatment have not been respected.

Ms. Pechstein filed the Request for “Revisionsverfahren” mentioned above on March 4, 2010 based on the Swiss law rules allowing such filing on the basis of an allegation that new evidence has been found that was not available during the CAS proceedings. The substance of her new claim is that a new scientific method to diagnose a blood disease called hereditary

spherocytosis (HS) has been developed in 2009 but was not known and available to C. Pechstein, and that new tests using the new method conducted by German experts in hematology after the date of the CAS decision have revealed the presence of the above disease in her body.

When preparing a reply to the new Request, the ISU had to use a number of experts to review the opinions of the German experts and the test results obtained by them. Among these experts was also Prof. Alberto Zanella who is a well-known expert in blood disorders and the former Director of a Hematological Unit in the Milan University Hospital.

All experts addressed by the ISU have independently of each other confirmed that no new scientific method for diagnosis of HS exists and that the method alleged by the German experts to be a diagnostic method has never been validated, even as a screening procedure, in any recognized scientific medical journal, subjected to “peer review” by medical experts in the same medical field, and, in the opinion of the experts consulted, has never been applied before, even as a screening tool, in actual medical practice.

In addition, all these experts have also expressed the opinion that regardless of the non - existence of any new scientific method, the new tests did not bring evidence that C. Pechstein suffered HS. Nevertheless, Prof. Alberto Zanella, has expressed the opinion that C. Pechstein “was likely to carry hereditary red cell membrane defect of the stomatocytic type (xerocytosis?)” (HSt). However, Prof. Zanella had not the possibility to examine Ms. Pechstein and to perform his own testing of her blood samples. He was dependent on the tests results presented by Ms. Pechstein in her new Request.

The ISU, for proper legal order and transparency, included the opinion of Prof. Zanella with its filing with the court, but based on opinions of other experts who have specialized experience in the detection of athletic doping, the ISU remains convinced that not even the HSt can explain all the abnormal values in Ms. Pechstein’s blood profile and their variability. The ISU Reply attaches the expert opinions and carefully explains this aspect of the case.

These opinions explicitly exclude the possibility that her abnormal blood profile can be explained by HSt. Several renowned and reputed German doping experts, such as Dr. F.Sörgel, Dr. W. Franke and Dr.A. Ganser (the former President of the German Hematological Society), have publicly expressed similar opinions after it had been announced that Ms. Pechstein was suffering HS.

Dr. Franke is reported to have also stated: “How should the bone marrow know when she (Pechstein) has big competitions?”

The coincidence of occurrence of high reticulocytes values and unexpected outstanding performances in competitions by C. Pechstein is indeed more than striking.

For example:

In Calgary in November 2007 at the age of 36, C. Pechstein with % reticulocytes value of 3.75 made her best time ever in the 1500 m race – beating her previous time reached many years ago when she was much younger.

In Moscow in October 2008 at the age of almost 37 she reached the second best time ever in the 5000 m race, a time very close to her personal record recorded in Salt Lake City 6 years earlier when she was 31. In addition, the Moscow rink is known to have “very slow ice” while in Salt Lake City where the altitude is about 1300m, the ice is the fastest among all the rinks.

In Erfurt in January 2009 C. Pechstein surprisingly won the European Championships after having lost that title in the previous years (5<sup>th</sup> in 2007 and 4<sup>th</sup> in 2008).

Her improved performances in the years 2007-09, after 20 year long sport career, are in sharp contrast with the natural physiological consequences of aging.

A comment made publicly by a member of the Norwegian training group with which C. Pechstein was training, is also of interest. H. Bokko said that the members of the group were surprised when C. Pechstein, after doing often poorly in the training, suddenly reached an excellent time in some competitions.

In addition, Ms. Pechstein had an unusual number of last minute changes in her whereabouts information. Whereabouts information, provided under WADA Rules by the Skater, is used to quickly locate a Skater so that short-notice anti-doping urine tests may be performed by a WADA certified agency. Ms Pechstein's changed locations number was the highest among all speed skaters and just during the month before the tests in Hamar on February 6 and 7, 2009 she had announced 12 whereabouts changes. Such changes severely impede or destroy the possibility of correct timing of out-of-competition tests and of finding EPO in the urine since it disappears from the urine quite fast and cannot be detected anymore after several days.

The ISU has right from the beginning openly stated that there were two possible explanations for the abnormal blood profile – either doping or blood disease. The ISU, however, could not conduct any special tests of C. Pechstein without her consent and cooperation. C. Pechstein has been offered to undergo special tests already during the proceedings before the DC and the DC explicitly warned Ms. Pechstein that in case of refusal to undergo such tests she would have to bear any possible negative consequences. In spite of that, Ms. Pechstein declined that offer. As early as during the DC proceeding Prof. D'Onofrio mentioned the specialized laboratory in Milano of Prof. Zanella. In the appellate proceedings before CAS, the ISU made the offer again and in its Answer filed on September 1, 2009 to the Appeal of Ms. Pechstein proposed that Prof. Zanella be appointed as expert and C. Pechstein be ordered to undergo tests in his laboratory. However, without the consent Ms. Pechstein, such order could not work.

All the above facts and arguments represent the reasons why the ISU does not believe that the new blood anomaly, diagnosed as “likely” possibility, is the exclusive cause of C. Pechstein's abnormal blood profile and high values of reticulocytes at the time of some competitions. The opinion that a possible blood disorder does not exclude doping, has been expressed by experts since the beginning of the case.

The ISU remains convinced that the Decision of the CAS Panel in this case is correct. No grounds have been demonstrated by the Request of the Skater or the medical evaluations and analyses to justify any reconsideration of that CAS Decision. The ISU is bound by and has to comply with the ISU Anti-doping Rules based on the WADA Code and fully respects final CAS decisions in doping matters.

The Swiss Federal Tribunal has stated that the decision in this case would be announced in July 2010. Until the decision is received the ISU will not make any further comments.