



**Arbitration CAS 2001/A/345 M. / Swiss Cycling, Award of 28 January 2002**

Panel: Mr. Dirk-Reiner Martens (Germany), President; Mr. Stephan Netzle (Switzerland); Mr. Hans Nater (Switzerland)

*Cycling*

*Doping (rEPO)*

*Procedural defects*

*Reliability of the testing method for rEPO*

- 1. Pursuant to the first paragraph of R57 of the CAS Code, the Panel has full power to review the facts and the law of cases before it. Any procedural defects which occurred in the internal proceedings of a federation are cured by arbitration proceedings before the CAS.**
- 2. The "direct test method", which tries to directly detect the presence of recombinant (artificial) EPO (rEPO) in the urine of the person being tested, combines an isoelectrical focussing with a double immunal blotting. The method is based on the finding that artificially produced rEPO behaves differently in an electrical field than human nEPO and can therefore be distinguished from one another. A second basic assumption of the test method is that, as is the case with many steroids, the production of natural hormones is reduced when an artificial hormone is introduced. The direct method for detecting rEPO is to be considered as being, in principle, sufficiently scientifically proven.**
- 3. The finding of rEPO in an athlete's urine means that a doping offence has been committed.**

In the morning of 18 April 2001, a blood sample was taken from M. (the Appellant) on the occasion of the cycling race "Flèche Wallone". The analysis of the blood resulted in a haematocrit level of 45.6% and a reticulocyte level of 1.95%. Following the race, the Appellant was then also selected to give a urine sample.

The Appellant's urine was analysed by the Institut Universitaire de Médecine Légale (IUML) in Lausanne. The analysis of the A sample, which was begun on 23 April 2001, resulted in a finding of 84.0% for recombinant erythropoietin (rEPO).

By letter of 16 May 2001 the Appellant requested that the B sample be tested. The B sample was then analysed by the same institute beginning on 5 June 2001. The analysis resulted in a finding of 90.1% of rEPO.

On the basis of this test result the UCI first imposed a provisional suspension on the athlete on 20 August 2001.

By decision of Swiss Cycling's Doping Tribunal (*Dopingstrafbehörde*, hereinafter referred to as "Doping Tribunal") of 27 August 2001, the Respondent found the Appellant guilty of a doping offence and imposed on him a suspension of eight months, beginning on 20 August 2001, and a fine of CHF 4,000 and disqualified him from the cycling race Flèche Wallone of 18 April 2001. In addition the Appellant was ordered to pay the costs of the B sample analysis and further procedural costs of CHF 2,000. This decision was served on the Appellant's lawyer by registered letter of 29 August 2001.

By letter of 28 September 2001, the Appellant appealed to the Court of Arbitration for Sport (hereinafter referred to as "the CAS").

The Appellant's appeal is an appeal against the decision of the Respondent reached on 27 August 2001.

First, the Appellant objects to various procedural errors.

He submits that the B sample was not analysed within the prescribed period of ten working days.

Another procedural error was that, despite his repeated requests, he was not sent any original files and he was not granted any other kind of access to the original files.

Finally, the Appellant submits that it was a procedural error that the minutes of the hearing before Swiss Cycling's Doping Tribunal were signed by a representative of Swiss Cycling.

As regards the merits of the case, the Appellant first remarks that the quantity of urine which was available for the analysis of the B sample was not sufficient for carrying out a test for rEPO.

Generally the Appellant questions the test method used and the method of analysis pertaining thereto. He pleads that the test method was not sufficiently developed to allow conclusive results.

The Appellant claims that, applying the criminal law principle of "*in dubio pro reo*", in case of doubt, the court must decide in favour of the accused.

The Appellant therefore requests to be fully acquitted of any doping accusation.

The Respondent moves that the final decision be confirmed.

In support of its motion, the Respondent pleads that there is no doubt that the findings evidenced the presence of rEPO in the Appellant's urine.

As regards the procedural errors mentioned, the Respondent first points out that, even if there had been such errors in the first place, they would in any event not have had any effect on the test results found.

As regards the scientific standard and reliability of the test method used, the Respondent points out that the UCI, the international cycling federation, had generally permitted rEPO to be evidenced by a urine test. The scientific standard of the test procedure used had also been sufficiently proven in several studies, some of which had been published. The Respondent added that the Appellant had been selected for a urine test precisely because of the unusual blood test results.

By letter of 28 September 2001 the Appellant filed a statement of appeal with the CAS against the Respondent's decision of 27 August 2001 and gave reasons for the appeal in the same letter.

The hearing was held on 8 January 2002.

## LAW

1. The CAS's jurisdiction is based on Article 84 of the UCI's Anti-Doping Examination Regulations (hereinafter referred to as "the UCI's Anti-Doping Regulations"):

*"Art. 84: The person sentenced and the UCI may enter an appeal against the decision before the National Federation of the rider or license-holder by taking the matter to arbitration before an arbitration tribunal constituted in accordance with the statutes and regulations of the CAS in Lausanne.*

*No other recourses shall be permitted."*

2. No objection was raised against the jurisdiction of the Court.
3. Pursuant to Article R58 of the CAS Code, in the event that the parties have not chosen any other law, the Panel is under an obligation to decide the dispute according to the applicable regulations of the federation concerned, which issued the decision and according to the law applicable where the federation is domiciled.
4. The instant case is therefore to be decided on the basis of the UCI rules and, more particularly, on the basis of the UCI Anti-Doping Examination Regulations (hereinafter referred to as "the UCI's Anti-Doping Regulations"). The Panel will essentially draw upon the UCI's Anti-Doping Regulations which applied at the time the urine sample was taken. As the parties have not made an express choice of law and Swiss Cycling is domiciled in Switzerland, the Panel shall also apply Swiss law.
5. In the instant case the urine sample was taken following the one-day race "Flèche Wallone", one of the world cup races.

6. Pursuant to Article 58 *et. seq.* of the UCI's Anti-Doping Regulations, positive laboratory findings are communicated by the UCI directly to the respective national federation, which, after a hearing, independently decides upon the doping offence and in so doing must apply the UCI's Anti-Doping Regulations.
7. In the instant case the results of the urine test carried out under the supervision of the UCI were communicated to Swiss Cycling, which imposed a sanction for doping on 28 August 2001 in accordance with the UCI's Anti-Doping Regulations. In this regard there does not appear to have been any breach of the rules.
8. Pursuant to the first paragraph of Article R57 of the CAS Code, the Panel has full power to review the facts and the law of cases before it. Numerous Panels have understood this to mean that any procedural defects which occurred in the internal proceedings of a federation are cured by arbitration proceedings before the CAS (cf. F. v/ FINA, CAS 96/156, award of 6 October 1997, p. 61 with reference to the *Bundesgerichtsentscheidungen* (Decisions of the Swiss Federal Tribunal) 116 Ia 94 and 116 Ib 37). This Panel agrees with these decisions.
9. The fact that the time limit for the analysis of the B sample was exceeded can therefore be disregarded.
10. This also results from the UCI's own rules. Although Article 66 of the UCI's Anti-Doping Regulations provides for a ten-day time limit for carrying out the analysis of the B sample, this time limit is, according to the express provision in Article 132 of the UCI's Anti-Doping Regulations, only an administrative deadline. As is shown by the second sentence of that provision, any breach of the time limits stipulated in the UCI's Anti-Doping Regulations does not invalidate any decision subsequently rendered.
11. The fact that the Appellant was not sent the original case files is also a matter which can be disregarded. As submitted by the Respondent, and not disputed, the Appellant was given an opportunity to inspect the original files at the Respondent's headquarters. Furthermore, the Appellant was sent copies of the documents which were relevant for the finding of a doping offence. Finally, both the Appellant and his expert witnesses had an opportunity to inspect the original files during the hearing before this Panel.
12. Therefore, the Panel considers that the Appellant has not suffered any disadvantageous curtailment in the legal protection afforded to him.
13. Finally, the Appellant has not demonstrated how the other procedural defects claimed by him are supposed to have an effect on the decision reached by the Respondent.
14. On the basis of the results of the evidence taking, the Panel is convinced that, at the time the urine sample was taken, rEPO, a prohibited substance under the UCI's rules, was present in the Appellant's urine. The Appellant was not able to rebut the consequent presumption of a doping offence.

15. As has already been established above, pursuant to Article 4 of the UCI's Anti-Doping Regulations, only the UCI's rules and regulations apply to the question of whether a doping offence has been committed. This Panel is therefore also constrained, in accordance with R58 of the CAS Code, to apply only the provisions contained in the UCI's rules and regulations. If said rules and regulations do not refer to the rules and regulations of other sports organisations (e.g. the IOC), no account can be taken of the latter when reviewing the instant case. However, the Panel is of the opinion that the actual findings upon which the rules and regulations of other organisations are based can be taken into account, even when assessing the facts of the instant case.

16. As regards doping offences the English original of the UCI's Anti-Doping Regulations contain the following provisions:

*"Art. 2 The use of the pharmaceutical categories of substances and of the doping methods appearing on the list of doping agents and methods adopted by the UCI president shall be prohibited.*

*Participants in cycling races are required to undertake not to avail themselves of the forbidden agents and methods even if they consider that neither their sporting performance nor their health would be affected. Such considerations shall not be open to discussion.*

*Should a doping method be found to have been used or should the analysis or other evidence reveal the presence or administration of a doping agent or any substance likely to influence the result of the analysis, the rider shall be punished.*

*[...]*

*Art. 3 The list of doping agents and methods shall be compiled by the UCI Anti-Doping Commission and submitted to the President of the UCI for approval. Once adopted and published in the "information" bulletin, that list shall form an integral part of these regulations.*

*That list shall not be exhaustive. It shall merely contain the names of examples of each category of doping agents for information purposes.*

*The list of doping agents and methods of doping may include a special section on agents and, possibly, their modes of administration, in respect of which the disciplinary measures as referred to in Art. 90(2) of the present regulations, shall apply.*

*Each list shall remain in force until the publication of a new list.*

*Art. 4 These regulations and these alone shall apply to the events mentioned in Art. 8. They shall be binding on all national federations which may neither deviate therefrom nor add thereto.*

*If a drug test is organised in another race of the international calendar other than cycle touring events, that test shall also be governed by the present regulations."*

17. Part V.B of the list of "prohibited classes of substances and prohibited methods" adopted pursuant to Article 2 of the UCI's Anti-Doping Regulations, which entered into force on 15 March 2001, prohibits certain peptide hormones. Pursuant to the notes in Part E6 these include the substance erythropoietine ("EPO"). The following explanation is given:

*"... the presence of an abnormal concentration of an endogenous hormone in class E or its diagnostic marker(s) in the urine of a competitor constitutes an offence unless it has been proven to be due to a physiological or pathological condition".*

18. The above provisions are interpreted by the Panel to mean that the finding of recombinant EPO ("rEPO") in an athlete's urine means that a doping offence has been committed.
19. Although, pursuant to the basic principle of Swiss law under Article 8 Swiss Civil Code (*Zivilgesetzbuch*, "ZGB"), whoever wishes to derive a right from a claim must prove that claim, this does not preclude the possibility of the rules governing the burden of proof being modified because of presumptions (cf. VOGEL, *Grundriss des Zivilprozessrechts* (Outline of Civil Procedure), chapter 10, margin nos. 45 *et. seq.*); HABSCHEID, *Schweizerisches Zivilprozess- und Gerichtsorganisationsrecht* (Swiss Law of Civil Procedure and the Court System), margin nos. 644 *et. seq.*).
20. The CAS has repeatedly interpreted the regulations of federations such that it is proper to allocate the burden of proof, taking into account what is reasonable, so that, in the event of a dispute, the federation imposing the sanction must prove the objective elements of the doping offence. If these elements are proven, then the athlete is presumed to be guilty. It is then up to the athlete to rebut this presumption by bringing counter-evidence (CAS 2001/A/317, A. v/ FILA, award of 9 July 2001, p. 18; CAS 2001/A/310, L. v/ IOC, award of 22 October 2001, p. 28; CAS 2001/A/312, L. v/ FILA, award of 22 October 2001, p. 13). The Panel agrees with these precedents, also for the instant case. At the same time it is irrelevant which of the parties is the appellant and which is the respondent (VOGEL, *Grundriss des Zivilprozessrechts* (Outline of Civil Procedure), chapter 10, margin no. 37).
21. Here, it should first be pointed out that criminal principles do not generally apply when reviewing the penalties imposed by associations (cf. Swiss Federal Tribunal, ASA Bull 1993, p. 398, 409 *et seq.* [G. v/ FEI] = REEB (ed.), CAS Digest I, p. 545, 559; Swiss Federal Tribunal, Judgement of 31 March 1999 [5P. 83/1999], p. 12; CAS 2001/A/317, A. v/ FILA, award of 9 July 2001, p. 17). Penalties imposed by associations are purely a matter of civil law. Consequently only civil law standards and civil procedural standards can apply to any review of penalties imposed by associations, which include doping sanctions.
22. The Panel appreciates, however, that because of the drastic consequences of a doping suspension on the athlete's exercise of his/her trade (Article 28 Swiss Civil Code (ZGB)) it is appropriate to apply a higher standard than the general standard required in civil procedure, namely simply having to convince the court on the balance of probabilities. Following an earlier decision of the CAS, the disputed facts therefore have to be "established to the comfortable satisfaction of the court having in mind the seriousness of the allegation" (cf. CAS OG/96/003, CAS OG/96/004, K. & G. v/ IOC; CAS 98/208, N. *et al.* v/ FINA, award of 22 December 1998, p. 23; confirmed by the Swiss Federal Tribunal, Judgement of 31 March 1999 [5P.83/1999]).
23. Below, therefore, the only pertinent question is whether the Panel is comfortably satisfied that the result of the evidence-taking is that the Appellant's tested urine contained rEPO.
24. There is no UCI rule whereby the presence of rEPO can be concluded only from a combined blood and urine test, as was, for example, the case with the doping tests at the Olympic

Games in Sydney. The UCI's rules also do not contain any provision whereby a sample can be considered positive only if the rEPO exceeds a certain threshold.

25. The Appellant did not raise any objection to the process of taking the sample.
26. The Appellant doubts whether the quantity of 28 ml of urine available for the B sample was sufficient to carry out the test procedure.
27. According to the testimony of the witnesses, Messrs. Saugy and Ceaurriz, a urine quantity of at least 25-30 ml is required in order to allow precise measuring results. In this particular case, the witness, Dr. Saugy, confirmed that the quantity of 28 ml of urine actually available was sufficient to perform a reliable B sample test. The Panel has no reason to doubt his testimony.
28. Erythropoietin (EPO) is a natural human hormone which is produced in the kidney and stimulates the production of red blood corpuscles, which are responsible for transporting oxygen to the muscles. The production of red blood corpuscles can be disturbed or prevented (for example in people with defective kidneys). The consequences are treated by exogenously administering EPO obtained by genetic engineering (recombinant EPO = rEPO). EPO and rEPO are practically identical which meant that, until recently, it was not possible to distinguish between the two substances.
29. From the evidence heard, it was learned that currently two methods are known, which are supposed to allow one to conclude the presence of rEPO. One is an indirect test, where one can conclude from certain parameters in the blood that rEPO has previously been administered exogenously. However, in this method it is not possible to distinguish precisely whether and, if so, what proportion of the EPO concentration in the body is due to the presence of recombinant (artificial) EPO. The second test method tries to directly detect the presence of rEPO in the urine of the person being tested. This "direct method" combines an isoelectrical focussing with a double immunal blotting. The method is based on the finding that artificially produced rEPO behaves differently in an electrical field than human nEPO and can therefore be distinguished from one another. A second basic assumption of the test method is that, as is the case with many steroids, the production of natural hormones is reduced when an artificial hormone is introduced.
30. The Panel is aware that in the run-up to the Sydney Olympic Games of 2000 and again in the run-up to the Salt Lake City Olympic Games of 2002, the IOC decided to acknowledge only those tests as positive in which the results of a blood sample and cumulatively the results of a urine sample indicated the presence of rEPO.
31. It must be made quite clear that every federation is free to lay down its own method of testing for the presence of a prohibited substance, provided the test method is sufficiently reliable. The Panel is not aware that the IOC method of combining a blood and urine sample has been prescribed as the general standard which has to be applied by every international federation for their test methods or for evaluating a test result, even though the expert witnesses heard in the instant case all confirmed that the levels found quickly and cost-effectively in a blood test

(the test is made on the spot with mobile equipment and there is no "B sample"), especially a higher level of haematocrit or a significant increase in the number of reticulocytes, are reliable indications of abnormal EPO levels. The blood test thus serves, on the one hand, as a way of screening the person being tested, i.e. it determines whether certain blood parameters justify a suspicion of rEPO having been administered exogenously and therefore justify an additional urine test, which is time consuming and costly, being carried out. On the other hand the blood test can be used as a plausibility check, i.e. to confirm a suspicion, based on a urine sample, that rEPO is present.

32. So long as there is no single, uniform test method accepted by every federation, it is at the discretion of each federation to itself lay down whichever (reliable) test method it sees fit to determine the presence of rEPO. The UCI has used this discretion by laying down that rEPO administered exogenously must be established using the direct test method (urine test without a blood test). The UCI published this decision in its press release of 31 March 2001. The IOC-accredited doping laboratory in Lausanne was instructed to carry out the test.
33. Following the evidence heard, the Panel is convinced that the method used in the Lausanne laboratory is suitable for proving the presence of rEPO. The witnesses called by the Respondent also gave the Panel a detailed explanation of the method used with the aid of diagrams. On the other hand the Appellant and the expert witnesses called by the Appellant did not succeed in casting any general doubt on the test method.
34. The witness, Mr. Jakob, who was a doctor in the Appellant's team when the urine sample was taken, did, however, point out numerous factors which could conceivably influence the results of the analysis. However, his criticism was limited to global statements concerning the test method used and the inherent weaknesses of such a method. Examination of the witness did not, however, give rise to any indication that, in the instant case, the analysis of the Appellant's urine had been distorted by the factors mentioned.
35. The witnesses, Messrs. Saugy and Ceaurriz also admitted that the method for proving rEPO can, like numerous other laboratory processes, be interfered with by improper manipulation and other influences and must therefore be carried out with great care. However, even considering the testimony of the witness, Mr. Jakob, the Panel is not aware of any laboratory errors which might have interfered with the test results in the Appellant's case.
36. It is correct that it is only relatively recently that the method of analysis used has been applied for detecting rEPO and that currently not all of the IOC-accredited laboratories are able to carry out this method of analysis. On the other hand, it cannot be said that this method is still at a trial stage. There is already an extensive laboratory guide in place which fully lists the steps to be performed. Moreover, according to the testimony of the witnesses, validation studies have taken place for proving the presence of rEPO, the results of which are to be considered a success.
37. As a consequence, the Panel is therefore convinced that the test method described by the witnesses is sufficiently developed to, in principle, allow the presence of rEPO to be



concluded.

38. On the basis of the evidence taken, the Panel is comfortably satisfied that the direct method described above for detecting rEPO is to be considered as being, in principle, not only sufficiently scientifically proven but also that it gave reliable results in the instant case.
39. In view of the great complexity of the biochemical processes, the Panel's satisfaction is not based on its own knowledge. Rather the Panel has, in this case as in similar cases, had to rely on the submissions of the parties and - if disputed - the testimony of the witnesses, especially expert witnesses. In the instant case the Panel heard a total of 6 experts/witnesses on this subject and the evidentiary hearing lasted almost 7 hours.
40. In connection with the evaluation of the test results, it should be pointed out that the UCI's rules and regulations – unlike those of the IOC – do not lay down any threshold which must be reached for the finding to be positive. Although the Panel does not consider such thresholds to be absolutely necessary in the rules and regulations of the federations, they are desirable to enable greater objective verification and, moreover, also for the purposes of acceptability.
41. So long as the rules of the federation concerned do not stipulate such generally recognised levels, the Panel must review, on a case by case basis, whether the levels, upon which the laboratory based its decision, justify a positive finding. In the instant case and on the basis of the evidence taken, the Panel is satisfied of this.
42. All of the witnesses called by the Respondent stated, in agreement with one another, that they were satisfied that the results of the laboratory analysis of the Appellant's urine proved the presence of rEPO in the Appellant's body at the time the sample was taken. Although the witness called by the Appellant, Mr. Jakob, contradicted this, his doubts related not so much to the evaluation of the test results in the instant case as to the basic reliability of the test method. As a consequence and for the following reasons the Panel accepts the testimony of those experts/witnesses who supported the opinion that the doping test was positive.
43. The witnesses called by the Respondent gave the impression in their testimony that the finding of a positive doping result was based more on experience and subjective judgement than on objective reference points. The Panel does not, however, consider the standard, "I know it when I see it", to be sufficient. The personal experience of a laboratory employee, no matter how much experience that employee has, is not sufficient to establish a positive doping result.
44. Instead it is imperative that a positive doping result be supported by objective criteria which can be verified by third parties. The witness, Dr. Saugy, relies on three characteristics for identification:
  - In the "basic" range of the test results more strong (i.e. dark) bands must be visible than in the "acidic" range. Dr. Saugy stated more concretely that the three strongest bands of evidence must, in any event, be in the "basic" range of the results. The boundary

between the "basic" and "acidic" ranges is determined by the signal given by a control substance consisting of pure rEPO.

- An additional characteristic of a positive result for rEPO is that there is a significantly lower concentration of EPO (i.e. weaker and therefore lighter bands) in the "acidic" range of the results, whereby the further into the acidic range, the less the concentration of EPO.
  - Finally, one can definitely assume that rEPO is present in the athlete's urine if more than 80% of the evidence of EPO is in the basic range of the results. The witness, Dr. Saugy, also explained that the value of 80% already includes a safety margin of 3 standard deviations plus a further safety margin of 10% from a mean value, calculated from the validation studies for persons who tested negative.
45. Dr. Saugy therefore advocates a qualitative approach, based on several reference points. In his opinion not all of the criteria have to be fulfilled cumulatively. The laboratory could also be satisfied that rEPO was present if only some of the criteria were met. However, Dr. Saugy could not say precisely where the limit would have to be drawn.
46. In the case of the Appellant, all of the criteria listed are fulfilled. In the end it was the clarity of the results of the analysis which caused the Lausanne laboratory, managed by the witness, Dr. Saugy, to find the Appellant's sample to be positive. The Panel has no reason to believe that the results determined by Dr. Saugy are arbitrary or scientifically untenable. Quite the contrary: the witness, Dr. Saugy, and the other witnesses called by the Respondent, explained the evaluation of the test results in detail and to the Panel's satisfaction. Furthermore, the blood test carried out on the Appellant confirms that the results of the urine test are plausible.
47. In the recent past, the CAS has repeatedly decided that, in view of the protection of rights of personality, a doping suspension may be imposed on a professional athlete only if the subjective circumstances of the particular case are taken into consideration. (CAS 2001/A/317 A. v/ FILA, award of 9 July 2001, p. 18; CAS 2001/A/310 L. v/ IOC, award of 22 October 2001, p. 28; CAS 2001/A/312 L. v/ FILA, award of 22 October 2001, p. 13).
48. The Panel has been given no indication that the presence of rEPO in the Appellant's urine might have been caused without any fault on his part. Although the Appellant stated that he was not aware of having taken EPO, this is not enough to rebut the presumption of guilt (CAS 96/156 F. v/ FINA, award of 6 October 1997, p. 53 *et. seq.*). Instead the Appellant would have had to demonstrate and prove that the rEPO established did not enter his body through intent or negligence. However, the Appellant did not make any such submissions.
49. For the reasons set forth above the Panel is satisfied that the conditions for a penalty to be imposed because of a contravention of the UCI's Anti-Doping Regulations have been met.
50. For a doping offence committed by an elite class rider, Article 90(1) of the UCI's Anti-Doping Regulations provides for disqualification from the competition in question in addition to a

suspension of 6 months to 1 year. In addition a fine of between CHF 2,000 and CHF 4,000 can be imposed.

51. Pursuant to Article 94(2) of the UCI's Anti-Doping Regulations the suspension takes effect on the day following the final decision. The term of the suspension imposed does not, however, include what is called the "period of inactivity", which, for a road racing cyclist, is between 1 November and 31 January and therefore constitutes 3 months. On the other hand, pursuant to Article 94(3), any period for which the rider has already been suspended from his team because of the accusation of doping, can be offset against the suspension imposed. The CAS also expressly has this power.
52. Finally, the CAS also has the power, pursuant to Article 95 of the UCI's Anti-Doping Regulations, to suspend part of the suspension.
53. The Respondent imposed on the Appellant a suspension of 8 months and in addition a fine of DM 4,000.
54. On the basis of the parties' submissions and the results of the evidence-taking the Panel sees no reason to shorten the suspension imposed. The Appellant has not pleaded any circumstances which ought to lead to the suspension being reduced to the federation's minimum. The Panel does, however, consider that it should make use of the possibility of bringing forward the date of the suspension's commencement to the date the Appellant was suspended by his team because of the accusation of doping. According to the Appellant's own submissions, he still took part in the Austrian Tour between 11 and 17 June 2001, so the Panel lays down the 18 June 2001 as the commencement date of the suspension. Taking into account the period of inactivity, the suspension will therefore last until 17 May 2002.
55. When deciding to reduce the fine to the minimum sum the Panel took into consideration that, according to the Appellant's own undisputed statements, he has not had a regular income since May and recently became the father of child.V.6.1 Costs of the Federation's Internal Proceedings
56. With reference to Article 79(2) of the UCI's Anti-Doping Regulations, the Respondent's Doping Tribunal ordered the Appellant to pay the costs of the B sample initially with the right to offset the advance which had already been paid. In addition the Appellant was ordered, in the aforementioned decision, to pay additional procedural costs of CHF 2,000.
57. The Panel is of the opinion that this decision should be reversed as regards the order to pay the additional CHF 2,000.
58. Article 79(1) of the UCI's Anti-Doping Regulations lays down that, in principle, unless it is especially indicated in the grounds of the decision why there should be a derogation, each party is to bear its own expenses, even in internal proceedings of the federation. In order to derogate from this basic rule, it would have been necessary to show in detail what costs were incurred in the proceedings and why it is justified to order the Appellant to bear said costs.

However, the Respondent's decision does not even disclose the considerations, upon which it based the amount ordered.

59. Applying Article 79(2) of the UCI's Anti-Doping Regulations, the Appellant has to bear the costs of the B sample because it was proven that he contravened the anti-doping provisions. The advance which has already been paid is to be offset against said costs.

**The Court of Arbitration for Sport hereby rules:**

1. The appeal is allowed in part.
2. The decision of the Swiss Cycling's Doping Tribunal of 27 August 2001 is amended as follows:

In application of Article 90(1) no. 1 of the UCI's Anti-Doping Examination Regulations, M. is suspended for 8 months. Taking into account the period for which he could not take part in cycling races because of the doping allegation and the period of inactivity (Article 90(2) and (3) of the UCI's Anti-Doping Examination Regulations), the suspension commenced on 18 June 2001 and shall last until 17 May 2002. In addition, M. is obliged to pay a fine of CHF 2,000 to the Respondent. He is disqualified from the cycling race "Flèche Wallone 2001".

3. (...)