

Translation from Romanian:

APPEAL COMMISSION
attached to
NATIONAL ANTI-DOPING AGENCY
Bucharest

DECISION
No. 3/8.01.2010

The Appeal Commission convened on 8.01.2010, 12:00 hours, at the headquarters of the National Anti-Doping Agency (ANAD) in Bucharest, Blvd. Basarabia, No. 37-39, Sector 2, for the settlement of the appeal filed by the World Anti-Doping Agency (WADA), Stock Exchange Tower, 800 Victoria Square, Suite 1700, P.O. Box 120, Montreal, Quebec, Canada, represented by dr. Francois Kaiser, 1, Place Saint-Francois, P.O. Box 7191, 1002 Lausanne, Switzerland, against Decision No. 8/04.08.2009 of the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations, which decided the sanctioning with a "reprimand" of athlete Mădălina Veronica Mureșan, member of Club Sportiv Municipal Baia Mare [*Baia Mare Municipal Sport Club*], without the application of the sanction of suspension from the sport activity, according to the provisions of art. 37 of Law No. 227/2006 regarding the prevention and fight against doping in sport, republished, because she was guilty of the breach of the provisions of art. 2 para. (2) letter a) of the said law.

The debates took place on 15 December 2009 at the headquarters of the National Anti-Doping Agency, and the issuance of a decision in this case was postponed, according to the provisions of Order No. 47/2009 for the approval of the Regulation for organization and operation of the Appeal Commission, as amended, for the date of 08.01.2010.

The following persons participated in the meeting of the Appeal Commission of 15.12.2009:

- Athlete Mureșan Mădălina Veronica, a member of Club Sportiv Municipal Baia Mare, identified by Identity Card series MM, No. 296846, with her domicile in Baia Mare, str. Petru Rareș, No. 17, entrance B, 4th floor, apt. 37, Maramureș county;
- Her coach, Szabo Maria-Magdalena, identified by Identity Card series MM, No. 226147, with her domicile in Baia Mare, Satu Nou de Jos village, Maramureș county;

The Appeal Commission:

- Ms. Floarea CHIVU - member
- Ms. Carmen TROCAN - member

- Ms. Elena - Magdalena COSTACHE - member
- Mr. Alin Florin CÂRSTOIU - member

Mr. Dragoş CONDREA, as president of the Appeal Commission, was absent.

In the absence of the president of the Appeal Commission, the meeting shall be chaired according to the provisions of art. 11 of Order No. 47/2009, by the oldest member from among the members present, i.e. by Ms. Chivu Floarea.

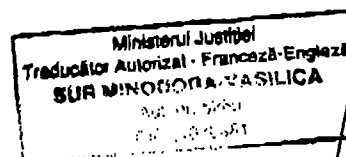
Analyzing the appeal filed by WADA against Decision No. 8/04.08.2009 of the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations, which decided the sanctioning with a "reprimand" of athlete Mădălina Veronica Mureşan, member of Club Sportiv Municipal Baia Mare, according to the provisions of art. 37 of Law No. 227/2006 regarding the prevention and fight against doping in sport, republished, because she was guilty of the breach of the provisions of art. 2 para. (2) letter a) of the said law, the Appeal Commission establishes as follows:

In fact, by Decision No. 8/04.08.2009, the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations, analyzing File No. 9/2009 regarding athlete **Mădălina Veronica MUREŞAN**, a member of **Club Sportiv Municipal Baia Mare**, established that, as a result of the doping control conducted on 06.06.2009, for the Fitness sports discipline, on the occasion of the National Fitness and Bodybuilding Championship – Juniors and Masters, which took place in Slobozia, the analytic result of the sample of athlete **Mădălina Veronica MUREŞAN**, holding code **2435963A**, indicated the presence of **sibutramine M1** and **sibutramine M2**, metabolites of **sibutramine**, which is also revealed by the Test Report No. 236/23.06.2009 issued by the Research and Doping Control Laboratory Division within ANAD.

This result was confirmed by the Doping Control Laboratory in Koln, Germany, the result being communicated and registered with the National Anti-Doping Agency under No. 2720/15.07.2009.

The substance identified in the athlete's sample is included in Class S6.b of the Prohibited List, being a specific substance.

Further to the debates, the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations established that the athlete used a natural product for losing weight called "Capsula de Slăbit" [Losing Weight Pill], and the leaflet of such product does not reveal that it would contain prohibited substances, the package of the product containing the information "a 100% natural product", and the athlete mentioned in the doping control form that she used this product.



In consideration of the above, the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations decided to sanction the athlete by a "reprimand" according to the provisions of art. 37 of Law No. 227/2006 regarding the prevention and fight against doping in sport, republished, because she was guilty of the breach of the provisions of art. 2 para. (2) letter a) of the said law, and the athlete was warned to use in the future only medicines prescribed by the sports physician.

Against the decision of the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations, WADA submitted to ANAD a appeal on 13.11.2009 registered under No. 4343/13.11.2009, requesting the admission of the appeal, the cancellation of the challenged decision and, consequently, the suspension of athlete Mureșan Mădălina Veronica for a period of two years starting from the date on which the decision of the Appeal Commission enters into force, the disqualification of all results obtained in competitions starting from 6 June 2009 and until the commencement of the applicable period of ineligibility, also requesting an award for costs.

The appellant criticizes the decision issued because of the fact that the athlete did not prove how the prohibited substance entered her body, and, in order for her to benefit from the elimination of the suspension period for no fault or negligence, the athlete should have exercised utmost caution in using the food supplement.

In consideration of the aspects invoked, the Appeal Commission establishes that, from the produced evidence, it results that the athlete did not use the substance to enhance the sport performance in her discipline, given that the athlete was the only athlete signed in for the category in which she competed within the competition, and, for the Fitness sport, for which she competed, the bodily weight is not a selection criterion, the aesthetics and muscle mass of the athlete's body being more appreciated, and the use of the food supplement did not contribute to enhancing the sport performance, and, consequently, the athlete's intention in this respect cannot be established.

Moreover, the athlete and her coach declared that they purchased the "losing weight pill" from *Plafar*, a store specialized in selling natural products, and that the package of the product read that the product is "100% natural", and the leaflet accompanying the package did not contain any sign regarding the existence of any prohibited substance in the product's composition.

The statements of the athlete and of her coach, made both before the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations, and before the Appeal Commission, reveal that these "losing weight pills" were ingested by the athlete at the recommendation of her coach, who also has the capacity as athlete, who, in her turn, took such food supplement, and the results of the doping controls conducted in the period when she was using this product were negative.

Thus, given that also the athlete's coach, i.e. her mentor, consumed the same supplement and the results of the doping controls conducted in the last year were not positive, significant negligence cannot be established against the athlete in respect of the violation of anti-doping rules, because another athlete/coach ingested the same food supplement and the result was negative.

The fact that the athlete purchased the "losing weight pills" from a Plafar store, which is assumed to sell natural products, corroborated with the fact that its package read that the product is "100% natural", as well as the fact that she ingested these pills at the advice of her coach, who, in her turn had used the same food supplement, and the results of her doping controls were not positive confirms the idea that the athlete took caution measures in taking the respective product.

The Appeal Commission assesses that athlete Mureşan Mădălina Veronica could have taken more caution measures before consuming such "losing weight pills", by direct inquiries to the distributor of the product and could have tested the food supplement to see its content, being aware or having the obligation to be aware of the anti-doping regulations which establish the athlete's responsibility for any substance identified in his/her body. Moreover, according to the provisions of art. 21 of Law No. 227/2006 regarding the prevention and fight against doping in sport, republished, she should have specified her capacity as athlete upon purchasing the respective product.

The Appeal Commission establishes that this is the first violation of the anti-doping regulations by the athlete and that, as a result of the positive result of the control of 06.06.2009, she no longer participated in any competition, including a week later, at the European championships for which she was training.

In consideration of the above, the Appeal Commission admits in part the appeal filed by WADA and modifies Decision No. 8/04.08.2009 of the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations, replacing the measure of reprimand applied to athlete Mădălina Veronica MUREŞAN, a member of Club Sportiv Municipal Baia Mare, with the application of the sanction of suspension of the athlete from the sport activity for a period of 1 (one) year from the date of taking her biological sample.

In respect of the request for disqualification of the results obtained by the athlete starting from 06.06.2009 and until the commencement of the suspension period, the Appeal Commission shall order the disqualification of the results obtained if they occurred in the athlete's carrier, starting from 06.06.2009 and until the date of issuance of this decision, taking into account that the athlete's suspension shall be ordered starting from the date of taking her biological sample.

In respect of the request to compel the respondent to bear the costs incurred by WADA for the submission of the appeal, the Appeal Commission shall reject this

request, because the appellant did not prove any costs related to the submission of the appeal and did not submit in the file of the case any document in this respect and did not specify the amount of the costs.

In consideration of the provisions of art. 37, art. 42 para. 3 of Law No. 227/2006 regarding the prevention and fight against doping in sport, republished, based on art. 30 letter a) of Order No. 47/2009, as subsequently amended, for the approval of the Regulation for organization and operation of the Appeal Commission, the Appeal Commission

DECIDES:

To admit in part the appeal filed by the World Anti-Doping Agency (WADA) on 13.11.2009 against Decision No. 8/04.08.2009 of the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations.

To modify Decision No. 8/04.08.2009 of the Hearing Commission of Athletes and Athlete Support Personnel who infringed the anti-doping regulations, replacing the sanction of "reprimand" applied to athlete Mădălina Veronica MUREȘAN, a member of Club Sportiv Municipal Baia Mare, with her domicile in Baia Mare, str. Petru Rareș, No. 17, entrance B, 4th floor, apt. 37, Maramureș county, with the application of the sanction of "suspension of the athlete from the sport activity for a period of 1 (one) year from the date of taking her biological sample".

The competitive results obtained by athlete Mureșan Mădălina Veronica starting from 06.06.2009 and until the date of issuance of this decision shall be disqualified, with all the consequences resulting from this fact, including forfeiture of any medals, points and prizes, if they occurred in the athlete's carrier.

To reject WADA's request to compel respondent Mureșan Mădălina Veronica to pay the costs incurred by WADA for the submission of the appeal.

The decision of the Appeal Commission may be challenged with the Court of Arbitration for Sport in Lausanne within 21 days from notification.

This decision is binding.

APPEAL COMMISSION

For

Dragoș Condrea – president

Chairperson of the meeting signing

Floarea Chivu

(Illegible signature)

Stamp: National Anti-Doping Agency, Appeal Commission

I, the undersigned SUR MINODORA-VASILICA, a certified translator with authorization no. 5260 issued by the Ministry of Justice, certify the exactness of the translation of the Romanian document,

Translator,

Ministerul Justiției
Serviciul Național de Traduceri
SUR MINODORA-VASILICA
Aut. nr. 5260
CIF 21670481

