

## ISSUED DECISION

In the Matter of:

**UK ANTI-DOPING LIMITED**

and

**VASYL KRUK**

Relating to:

**Disciplinary Proceedings under the Anti-Doping Rules of the British Weightlifting Association**

This is an Issued Decision as between UK Anti-Doping Limited (“UK Anti-Doping”) and Mr Vasyl Kruk (the “Athlete”) relating to an Anti-Doping Rule Violation arising from the British Weightlifting Association (“BWL”) Anti-Doping Rules (the “Anti-Doping Rules” or “ADR”).

### Background and Facts

1. UK Anti-Doping is the National Anti-Doping Organisation for the UK. It is responsible for managing the results of drug tests conducted under the Anti-Doping Rules of the BWL, the governing body for the sport of weightlifting in Great Britain.
2. The Athlete is a 32-year-old weightlifter. He was born in Ukraine, but has resided in the UK for a number of years. At all material times he was a participant in the sport of weightlifting and subject to the Anti-Doping Rules.
3. On 17 May 2012, the Athlete provided an out-of-competition sample (#1102112) for doping control purposes pursuant to the Anti-Doping Rules (the “Sample”). The Sample was submitted for analysis to the Institute for Biochemistry, German Sport University, Cologne, a World Anti-Doping Agency (“WADA”) accredited laboratory (the “Cologne laboratory”).
4. On 25 May 2012, the Cologne Laboratory reported to UK Anti-Doping that an Adverse Analytical Finding for stanozolol and its metabolite 16 $\beta$ -hydroxystanozolol had been detected in the Sample.
5. On 31 May 2012, the Cologne Laboratory further reported that the Sample returned a testosterone/epitestosterone ratio (“T/E ratio”) of 107/1, and that IRMS analysis confirmed an Adverse Analytical Finding for exogenous testosterone and testosterone metabolites.
6. Both stanozolol and testosterone are Prohibited Substances and included in the WADA 2012 Prohibited List (the “Prohibited List”).

## The Charge

7. ADR 2 provides:

***“Article 2: Anti-Doping Rule Violations***

*Each of the acts or omissions set out in Articles 2.1 to 2.8 shall constitute an Anti-Doping Rule Violation under these Rules:*

*2.1 The presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample, unless the Athlete establishes that the presence is consistent with a TUE granted in accordance with Article 4.*

...

*2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method.”*

8. On 25 May 2012, UK Anti-Doping issued a Notice of Charge to the Athlete for a violation of ADR 2.1 and 2.2 in relation to the finding of stanozolol in the Sample. The Athlete was also provisionally suspended effective from 26 May 2012. On 14 June 2012, UK Anti-Doping issued an amended Notice of Charge to the Athlete for violations of ADR 2.1 and 2.2 in relation to testosterone, as well as stanozolol.
9. The amended Notice of Charge explained the facts relied on in support of the allegations, the details of the charges, the consequences of an admission or proof of Anti-Doping Rule Violations and the procedure for analysis of the B Sample.
10. On 28 May 2012, the Athlete waived his right to B sample analysis in respect of the stanozolol finding and admitted the finding of stanozolol in the Sample. Following receipt of the amended Notice of Charge, he waived his right to B sample analysis in respect of the testosterone finding. He also admitted the finding of testosterone in the Sample.
11. On 15 June 2012, the Athlete requested a hearing. He stated that he was unable to explain the stanozolol or testosterone findings, but admitted that he had purchased and used a supplement product called “Anavar”. The Athlete blamed the Anavar product for the findings and asserted that it must have been contaminated with stanozolol or testosterone.
12. On 26 June 2012, the Athlete withdrew his request for a hearing of the matter. In the course of so doing he accepted the consequences specified in the Charge, being a period of Ineligibility of two years.

## Consequences

13. ADR 10.2 provides:

***“10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of Prohibited Substances and/or Prohibited Methods***

*For an Anti-Doping Rule Violation under Article 2.1 (presence of a Prohibited Substance or its Metabolites or Markers), Article 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) or Article 2.6 (Possession of a Prohibited Substance and/or a Prohibited Method) that is the Participant’s first violation, a period of Ineligibility of two years shall be imposed, unless the conditions for eliminating or reducing the period of Ineligibility (as specified in Article 10.4 and/or Article 10.5) or for increasing the period of Ineligibility (as specified in Article 10.6) are met.”*

14. Where an Athlete is found to have committed an Anti-Doping Violation under ADR 2.1 or 2.2, and such offence is the Athlete's first Anti-Doping Violation, a period of Ineligibility of two (2) years must be imposed pursuant to ADR 10.2 ("the Standard Sanction").
15. This is the Athlete's first doping offence.
16. The Athlete did not seek any mitigation of sanction under ADR 10.5.1 or 10.5.2.
17. The Standard Sanction must therefore be imposed.
18. Given that the Athlete has admitted two separate Anti-Doping Rule Violations, the provisions of ADR 10.7.4 are relevant. ADR 10.7.4 provides:

***"10.7.4 Additional rules for certain potential multiple offences:***

*a. A second Anti-Doping Rule Violation may only be considered for the purposes of imposing sanctions under Article 10.7 if the NADO can establish that the Participant committed the second Anti-Doping Rule Violation after he/she received notice, or after the NADO or its designee made a reasonable attempt to give notice, of the first Anti-Doping Rule Violation. Otherwise, the Anti-Doping Rule Violations shall be considered as one single first Anti-Doping Rule Violation, and the sanction imposed shall be based on the Anti-Doping Rule Violation that carries the more severe sanction. However, the occurrence of multiple Anti-Doping Rule Violations may be considered as a factor in determining aggravated circumstances under Article 10.6."*

19. The Athlete has committed two individual anti-doping rule violations. However, because the Use did not take place after the Athlete received notice as to the relevant Adverse Analytical Findings, the operative provision of ADR 10.7.4 is:

*"the Anti-Doping Rule Violations shall be considered as one single first Anti-Doping Rule Violation, and the sanction imposed shall be based on the Anti-Doping Rule Violation that carries the more severe sanction. However, the occurrence of multiple Anti-Doping Rule Violations may be considered as a factor in determining aggravated circumstances under Article 10.6."*

20. The impact of this provision as far as Consequences are concerned is that the Athlete should receive the Standard Sanction, notwithstanding that two anti-doping rule violations have been committed. (The position vis-a-vis aggravated circumstances is addressed below).

**Availability of Increased Sanction**

21. There is provision in the Anti-Doping Rules for the Standard Sanction to be increased. This provision is encapsulated within ADR 10.6, which provides:

***"10.6 Aggravating Circumstances that may Increase the Period of Ineligibility***

*10.6.1 If the NADO establishes in an individual case involving an Anti-Doping Rule Violation other than under Article 2.7 (Trafficking or Attempted Trafficking) or Article 2.8 (administration or Attempted administration) that aggravating circumstances are present that justify the imposition of a period of Ineligibility greater than the standard period, then the period of Ineligibility otherwise applicable shall be increased up to a maximum of four years, unless the Participant can prove to the comfortable satisfaction of the hearing panel that he/she did not knowingly commit the Anti-Doping Rule Violation.*

10.6.2 A Participant can avoid the application of Article 10.6.1 by admitting his/her Anti-Doping Rule Anti-Doping Rule Violation promptly after being confronted with it by the NADO.”

22. The Commentary to Article 10.6 of the World Anti-Doping Code, which is implemented by the above Article, provides:

*“Examples of aggravating circumstances which may justify the imposition of a period of Ineligibility greater than the standard sanction are: the Athlete or other Person committed the Antidoping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods or Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions; a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility; the Athlete or Person engaged in deceptive or obstructing conduct to avoid the detection or adjudication of an anti-doping rule violation.”*

23. The Commentary specifically refers to instances where *“the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods or Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions”* as being examples of *“aggravating circumstances”*. In the matters of *UK Anti-Doping vs Mark Edwards* and *UK Anti-Doping vs Bernice Wilson*, the National Anti-Doping Panel found that the presence of two Prohibited Substances in urine samples taken from Mr. Edwards and Ms. Wilson respectively constituted an aggravating factor, which was reflected in the periods of Ineligibility imposed upon Mr. Edwards and Ms. Wilson.
24. UK Anti-Doping has therefore given careful consideration to the possibility that the Standard Sanction might be increased pursuant to ADR 10.6, given that the Athlete has admitted the Presence and Use of two Prohibited Substances. In particular, it has noted the wording of ADR 10.6, which states that if *“aggravating circumstances are present that justify the imposition of a period of Ineligibility greater than the standard period, then the period of Ineligibility otherwise applicable shall be increased”*. UK Anti-Doping’s view is that the presence of two Prohibited Substances in the Sample is an aggravating circumstance, and that the Standard Sanction should therefore be increased.
25. However, as the Athlete made a prompt admission in respect of the Adverse Analytical Finding, he therefore avoids the application of ADR 10.6.1.

## **Decision**

26. ADR 7.5.4 provides:

*In the event that the Participant admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by the NADO (or is deemed to have done so in accordance with the last sentence of Article 7.5.1), neither B Sample analysis nor a hearing is required. Instead, the NADO shall promptly issue a decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences, shall send notice of the decision to the Participant and to each Interested Party, and shall publish the decision in accordance with Article 14.*

27. The Athlete has admitted the Anti-Doping rule Violations as charged. The specified Consequences are that the Standard Sanction be imposed.

28. ADR 10.8 provides:

*“Unless fairness requires otherwise, in addition to the automatic Disqualification of results under Article 9.1 and Article 10.1, any other results obtained by the Athlete, in Competitions taking place after the date the Sample in question was collected or other Anti-Doping Rule Violation occurred, shall be Disqualified, with all of the resulting consequences, including forfeiture of any medals, titles, points and prizes.”*

29. The Athlete has not competed in any competition in which he has obtained individual results: ADR 10.8 does not therefore apply.

30. The Athlete has been provisionally suspended since 26 May 2012. In accordance with ADR 10.9, the Athlete’s period of Ineligibility commences on 26 May 2012 and will expire at midnight on 25 May 2014.

31. The Athlete, the BWLA, the IWF and the World Anti-Doping Agency have a right of appeal against this Decision or any part of it in accordance with ADR 13.

32. The disposition of these proceedings on the terms set out above will be publicly announced via UK Anti-Doping’s website media release after any appeal period by third parties has expired and no appeal has been filed, or any appeal has been finalised.

#### **SUMMARY**

33. Accordingly, for the reasons given above, UK Anti-Doping has issued this Decision, pursuant to ADR 7.5.4, which records that:

- a. Anti-Doping Rule Violations in accordance with ADR 2.1 and 2.2 have been established in relation to stanozolol and testosterone;
- b. A period of Ineligibility of two years shall be the Consequences imposed pursuant to Anti-Doping Rule 10.2;
- c. That period of Ineligibility is deemed to have commenced as from 26 May 2012, and will end at midnight on 25 May 2014; and
- d. The Athlete’s status during this period of Ineligibility shall be as set out in Article 10.10.

34. During the period of Ineligibility, in accordance with Anti-Doping Rule 10.10.1, the Athlete shall not be permitted to participate in any capacity in a competition or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened or authorised by:

- i. the BWLA or by any body that is a member of, or affiliated to, or licensed by the BWLA;
- ii. any Signatory (as that term is defined in the Anti-Doping Rules);
- iii. any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory’s member organisation; or
- iv. any professional league or any international- or national-level Event organisation.

**Dated this 11<sup>th</sup> day of July, 2012.**