



Decision

by

the FIBA Disciplinary Panel established in accordance with
Article 8.1 of the
FIBA Internal Regulations governing Anti-Doping
in the matter

Djordje Jovanovic
(born 22 January 1980)

hereafter:

(“the Player”)

(Nationality: Serbian)

Whereas, the Player underwent an out-of-competition doping test on 8 October 2012 in Iraklion, Greece;

Whereas, the analysis of the Player's sample (sample No: 1921708 and 1921706 supplementary) was conducted at the WADA-accredited Laboratory in Athens, Greece (“Laboratory”). On 24 October 2012 the Laboratory entered into the Anti-Doping Administration and Management System (“ADAMS”) an analysis result record, according to which the analysis of the Player's A sample showed the presence of metabolites of the prohibited substance methandienone, which is included in the 2012 WADA Prohibited List;

Whereas, on 24 October 2012 the Hellenic Basketball Federation's ("HBF") informed the Player of the adverse analytical finding and of his right to request the analysis of the B sample. With the same letter, the HBF imposed a provisional suspension with immediate effect on the Player;

Whereas, on the same day the Hellenic National Anti-Doping Agency (hereinafter referred to by its Greek initials "ESKAN") invited the Player to explain his position before the Board of ESKAN on 26 October 2012, at 5pm;

Whereas, the Player did not request the analysis of the B sample;

Whereas, on 26 October 2012 the ESKAN informed the HBF that the result of the analysis had become final, that the Player did not appear before the Board of ESKAN and that the ESKAN recommended to the HBF the Player's provisional suspension until the competent body of the HBF would take a decision in this case;

Whereas, on 8 November 2012 the HBF's administration forwarded the case file to the HBF's First Instance One-Member Panel ("HBF Judge");

Whereas, by letter dated 9 November 2012 the HBF Judge invited the Player to a hearing at the HBF offices on 15 November 2012 at 9am, and provided him also with the alternative to submit his position in writing;

Whereas, the Player did not respond to the HBF Judge's letter and did not appear at the hearing;

Whereas, on 28 November 2012 the HBF Judge decided to impose a 5-month period of ineligibility on the Player ("HBF Decision");

Whereas, on 10 December 2012 the HBF forwarded to FIBA the file of the case, including an English translation of the HBF Decision and of the letter sent by the HBF Judge to the Player on 9 November 2012;

Whereas, on 18 December 2012 FIBA informed the Player (through his FIBA-licensed agent Mr. Goran Gramatikov, hereinafter the “Player’s Agent”) that the FIBA Disciplinary Panel would decide whether and to what extent a sanction should be imposed upon him for the purposes of FIBA competitions. In the same letter, the Player was informed about his right to be heard either in person (for which a hearing in FIBA’s headquarters in Geneva would have to be organised) or via telephone conference on 10 January 2013. The Player was advised that *“if we do not hear from you until Friday, 4 January 2013, you will be deemed to have waived your right to be heard and the Disciplinary Panel will decide on the basis of the evidence at our disposal.”*

Whereas, on the same day the Player’s Agent confirmed by e-mail receipt of FIBA’s correspondence;

Whereas, the Player did not reply to FIBA’s letter within the set deadline of 4 January 2013;

Whereas, on 7 January 2013 FIBA requested the Player’s Agent to confirm that he and the Player would attend the hearing of 10 January 2013 and informed them that the time of the hearing had been moved from 3pm to 2pm;

Whereas, by return correspondence of the same day, the Player’s Agent wrote to FIBA that *“i have informed the player how ever he did not contact me back did not respond to my emails and my phone calls so not much i can do to help him”* [sic];



Whereas, on 9 January 2013 the FIBA Disciplinary Panel, composed of Dr. Wolfgang Hilgert, member of FIBA's Legal Commission and of Dr. Peter Harcourt, Chairman of FIBA's Medical Commission, decided to proceed with a decision in this case;

Now, therefore, the Panel takes the following:

DECISION

A period of two (2) years' ineligibility, i.e. from 24 October 2012 until 23 October 2014 is imposed on Mr. Djordje Jovanovic.

Reasons:

1. Article 2.1 of the FIBA Anti-Doping Regulations ("FIBA ADR") reads as follows:

“ARTICLE 2 ANTI-DOPING RULE VIOLATIONS

Players and other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List.

The following constitute anti-doping rule violations:

2.1 The presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample.

2.1.1 It is each Player's personal duty to ensure that no Prohibited Substance enters his or her body. Players are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Player's part be demonstrated in order to establish an anti-doping violation under Article 2.1. [...]"

2. The Player has committed an anti-doping-rule violation pursuant to Article 2.1 of the FIBA ADR since metabolites of methandienone (17 α -methyl-5 β -androstane-3 α -, 17 β -diol, 17 β -methyl-5 β -androst-1-ene-3 α -, 17 α -diol, 18nor-17, 17-dimethyl-5 β -androst-1, 13-dien-3 α -ol, 18nor-17 β -hydroxymethyl-17 α -methyl-androst-1,4,13-trien-3-one) which is a prohibited substance listed in WADA's 2012 Prohibited List under letter S.1.1.a (Exogenous Anabolic Androgenic Steroids) was found in his urine sample. This fact remained uncontested.

3. According to Article 10.2 of the FIBA ADR

“The period of Ineligibility imposed for a violation of Article 2.1 (Presence of Prohibited Substance or its Metabolites or Markers), [...] shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided in Articles 10.4 and 10.5, or the conditions for increasing the period of Ineligibility, as provided in Article 10.6, are met:

First violation: Two (2) years' Ineligibility.”

4. It follows that the applicable sanction for the presence of methandienone metabolites in a player's sample is, in principle, two (2) years of ineligibility.

5. In this respect, Article 10.5 of the FIBA ADR provides that if a player establishes that he bears no fault or negligence (10.5.1) or no significant fault or negligence (10.5.2) the otherwise applicable period of ineligibility shall be reduced or even eliminated. In the event that the Player has violated Article 2.1 of the FIBA ADR, like in the present case, he must also establish *how* the Prohibited Substance entered his system.

6. In the present case, by not replying to FIBA's correspondence within the set deadline and by not participating in the hearing the Player waived his right to be heard and consequently failed to bring forward any circumstances in order to demonstrate how the substance entered his body. In addition, the Panel notes that the Player, despite several invitations, did not make any submissions before the competent Greek authorities (the HBF Judge and the ESKAN) either.

The Panel thus finds that neither the HBF Decision nor any other of the documents on record contains any information that could be considered under Article 10.5 of the FIBA ADR.

7. Therefore, based on the documentation before it the Panel has no choice but to apply the regular sanction of 2 years, as provided for in Article 10.2 of the FIBA ADR.
8. With respect to the start date of the sanction, pursuant to Article 10.9.3 of the FIBA ADR the period of ineligibility is to start on the date of the provisional suspension imposed by HBF, i.e. on 24 October 2012, since the Player has not participated in any competitions – either in Greece or elsewhere – since that date.
9. This decision is subject to an Appeal according to the FIBA Internal Regulations governing Appeals as per the attached “Notice about Appeals Procedure”.

Geneva, 20 February 2013

On behalf of the FIBA Disciplinary Panel

Dr. Wolfgang Hilgert
President of the Disciplinary Panel