

National Anti-Doping Agency vs. Dragos Popescu

DECISION

No. 4/19.08.2015

Issued by

**HEARING COMMISSION FOR ATHLETES AND THEIR SUPPORT PERSONNEL
WHO VIOLATED THE ANTI-DOPING RULES**

PANEL:

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Secretary of the Hearing Commission: Gabriela ANDREIASU

The Hearing Commission for athletes and their support personnel who violated the anti-doping rules, named hereinafter the “Hearing Commission”, gathered on 19.08.2015, at 10h00, at the official seat of National Anti-Doping Agency in Bucharest, 37-39 Basarabia Boulevard, District 2, in compliance with the provisions of article 33 of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, with subsequent amendments and completions, for establishing a decision regarding the anti-doping rule violation committed by the athlete Dragos Popescu, with the domicile in Bucharest, 1 Aleea Lipanesti, bl. M1, sc.2, ap. 48, District 3, affiliated with Champions Gym Sport Club, sport discipline – bodybuilding and fitness.

As result of the out-of-competition doping control conducted in Bucharest, on 08.04.2015, the athlete Dragos Popescu’s sample with the code number 3858307A, revealed the presence of the metabolite 2 α -methyl-5 α –Androstan-3 α -ol-17-one, which indicates the administration of the prohibited substance **Drostanolon**, included in Section S1.1.a – Exogenous Androgenic Anabolic Steroids.

Following the reviews conducted as provided in Article 28 paragraph (3) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions, the Agency established that no therapeutic use exemption (TUE) has been granted for the substances detected in the athlete’s sample and there is no apparent departure from the International Standard for Testing and Investigations or the International Standard for Laboratories to invalidate the adverse analytical finding.

As provided in Article 2 paragraph (2) letters a) and b) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, the presence of a prohibited substance or its metabolites or markers in a biological sample of an athlete, as well as the use or attempted use of a prohibited substances or method represent anti-doping rules violations.

Through the notification no. 1568/29.04.2015, the Agency notified the athlete Dragos Popescu, Romanian Bodybuilding and Fitness Federation, Romanian Olympic and Sport Committee, Champions Gym Sport Club, Ministry of Youth and Sport and International Bodybuilding and Fitness Federation of the following information:

- The athlete’s provisional suspension from sport activity, in compliance with Article 35¹ paragraph (1) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions.

- The athlete's right to request, in written, for B sample analysis, within 48 hours from the notification receipt, as provided in Article 28 of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions.
- When the athlete promptly admits the anti-doping rule violation after receiving the notification from the Agency regarding the alleged anti-doping rule violation and he doesn't challenge the accusation, the athlete is bound to remit to the Agency a written statement, within 10 days from the notification receipt.
- The athlete's right to waive the hearing, expressly, through a written notification remitted to the Agency, within maximum 10 days from the notification receipt, stating his point of view regarding the alleged anti-doping rule violation.
- In case the athlete intends to provide substantial assistance in discovering and/or establishing an anti-doping rule violation set forth in Article 2 paragraph 2 of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions, committed by other person, a part of the ineligibility period may be suspended up to three quarters of the otherwise applicable period of ineligibility, with the approval of WADA and the relevant international federation.

Following this notification, the athlete remitted his answer by e-mail on 20.05.2015, requesting a hearing and expressing his intention to cooperate with the Hearing Commission within the frame of the relevant legal provisions. After reviewing the existing documents, it came out that the athlete was notified by ANAD on 29.04.2015, and the notification was received on 30.04.2015. Moreover, the athlete stated that the notification was received by his mother, and this fact is confirmed by the proof of delivery conducted by UPS courier, and he acquired it only on 15.05.2015.

After receiving the athlete's answer, the Agency submitted a notification to the Hearing Commission, asking the Commission to gather for the athlete's hearing.

Taking into account the nature of the prohibited substance detected, respectively a non-specified substance, the athlete was informed that, as provided in Article 35¹ paragraph (1) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions, he is provisionally suspended from the moment of the notification receipt. After reviewing the communication

evidences, it resulted that the athlete received the notification on 30.04.2015, and, therefore, the provisional suspension began to run from that date.

Therefore, the Hearing Commission gathered on 04.06.2015; the athlete was present at the meeting where he stated that he doesn't challenge the doping test and he assumes the fault. He also declared his will to collaborate with the Commission. Furthermore, he declared that he purchased the product from the website www.steroizi.com, giving all the delivery details. Around 20-25 January 2015, he sent a request to buy the product *Masteron propionat*. He was contacted on the phone and told that the product shall be delivered in the afternoon of the same day by a man. He took the decision to buy that product in a state of defective logic, following the discussions with the athletes who competed in 2013 European Championships and who advised him to use adjuvant substances, namely anabolic steroids. One of the athletes who suggested the use of anabolic steroids was Andrei Rucharchuk.

The athlete also stated that in 2014, he competed in the European Championships without using any prohibited substances, as established by the doping control conducted by RNADA before the departure to this event. The 5th position gained at that championship was the reason for which he decided to use prohibited substance, but this was definitely a wrong approach.

The athlete totally assumed the established result and he waived the B sample analysis.

The Commission took note of the athlete's intention to provide substantial assistance and explained him what substantial assistance means. Subsequently, the athlete submitted a statement indicating an athlete from the same sport discipline.

Following the doping control conducted on the athlete alleged to have committed an anti-doping rule violation, the analytical result provided by the doping control laboratory was negative.

On 19.08.2015, the athlete Dragos Popescu was notified to submit to the hearing meeting and to be informed with respect to the result of the investigations conducted.

The athlete participated in the hearing convened on 19.08.2015, when he was informed of the investigation results. When asked if he would like to add something in his defense, the athlete said no and he let the Commission to apply the legal provisions and to establish the applicable sanction.

In deliberating on the case in question, the Commission holds the following:

Pursuant to the provisions of Article 2 paragraph (2) letters a) and b) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions, the presence of a prohibited substance or its metabolites or markers in an athlete's biological sample, as well as the use or attempted use of a prohibited substances or method represent anti-doping rules violations.

According to the principle of strict liability, the athletes or other persons are responsible for knowing what an anti-doping rule violation is, as well as the prohibited substances and methods included in the Prohibited List.

It is each athlete's duty to make sure that no prohibited substance enters his/her body. The athletes are directly responsible for the presence of any prohibited substance or its metabolites or markers detected in their biological samples. Therefore, there is no need to prove the intention, fault, negligence or conscious use by the athlete to establish an anti-doping rule violation, in compliance with Article 2 paragraph (2) letter a) of the above mentioned Law and Article 2.1 of the World Anti-Doping Code.

An anti-doping rule violation shall be proven when one of the following situation is established: the presence of a prohibited substance or its metabolites or markers in the A sample of an athlete, when the athlete doesn't ask for B sample analysis and the B sample is not analyzed, or, when B sample is analyzed and the result confirms the presence of the prohibited substance or its metabolites or markers detected in the A sample of the athlete.

The Commission followed the athlete's indications for discovering another case of anti-doping rule violation.

The Hearing Commission, by reviewing the documents in the file, the analytical certificates no. 234/28.04.2015 issued by the Doping Control Laboratory in Bucharest and taking into account the nature of the metabolite detected in the athlete's samples, which is included in the category of non-specified substances, his statements, the fact that he didn't ask for the analysis of B sample and admitted the allegations against him as result of the presence of the substances detected by the Laboratory in his urine sample following the use of androgenic anabolic steroids, the fact that the result of the investigations conducted following the cooperation with the Hearing Commission was negative, as well as the relevant national and international legal provisions:

DECIDES

4 years ineligibility of the athlete Dragos Popescu, affiliated with Champions Gym Sport Club, pursuant to the provisions of Article 38 letter a) of the Law no. 227/2006

regarding prevention and fight against doping in sport, republished with subsequent amendments and completions, as she violated the provisions of Article 2 paragraph (2) letters a) and b) of the above mentioned Law, namely the presence of the metabolite 2 α -methyl-5 α –Androstan-3 α -ol-17-one, which indicates the administration of the prohibited substances **Drostanolon**, included in Section S1.1.a (Exogenous androgenic anabolic steroids).

The ineligibility period begins to run from the date of the sanctioning decision, respectively 19.08.2015, as provided in Article 41 paragraph (1) of the of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions, while the provisional suspension period shall be credited against the total period of ineligibility, as provided in Article 41 paragraph (6) of the above mentioned Law. As the athlete's provisional suspension was established on 30.04.2015, the period of the athlete's ineligibility shall be from 19.08.2015 to 29.04.2019.

Pursuant to the provisions of Article 42 of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions:

(1) During a period of ineligibility, no athlete or another person may participate in any competition or activity authorized or organized by a Signatory of the World Anti-Doping Code.

(2) During a period of ineligibility, no athlete or other person may act in any capacity within a sport body of a Signatory, or enter any contract relationship or act as volunteer in relation to such entity.

(3) As an exception to the provisions set forth in para (1) and (2) above, an athlete may only return to train or to use the training facilities, during the shorter of the last 2 (two) months of the athlete's period of ineligibility;

(4) During the period of ineligibility, an athlete shall remain subject to testing and bound to provide his/her whereabouts information.

(5) Where an athlete or other person violates the provisions set forth in para (1) and (2), the results shall be disqualified, and the full period of ineligibility initially imposed will resume from start effective the date of the violation of the prohibition.

(6) The period of ineligibility may be reduced pursuant to the conditions set forth under para (5), depending on the degree of fault.

(7) During the period of ineligibility, the financial support will be withheld, in part or in full, by Signatories and Signatories' member organizations.

As provided in Article 50 paragraph (1), the Decision may be appealed to the Appeal Commission beside National Anti-Doping Agency within 21 days from its notification.

Pursuant to Article 28 of the Disposition no. 47/2014 issued by the President of National Anti-Doping Agency for the approval of the Regulation for organization and operation of the Hearing Commission for the athletes and their support personnel who violated the anti-doping rules, the decision shall be communicated to the athlete Dragos Popescu, Champions Gym Sport Club where he is affiliated, the Romanian Bodybuilding and Fitness Federation, the Ministry of Youth and Sport, the Romanian Olympic and Sport Committee, the International Bodybuilding and Fitness Federation and the World Anti-Doping Agency.

The Romanian Bodybuilding and Fitness Federation is bound to enforce the current Decision. Thus, pursuant to Article 37, *“(1) Any anti-doping rule violation set forth in art. 2, paragraph (2) committed by the Athlete during or in connection with a competition and/or sport event, proven in conformity with the procedure stipulated by the present law, leads to disqualification, invalidation of all of the Athlete’s individual results obtained in that competition and forfeiture of all medals, points and prizes.*

(2) Further to the automatic invalidation of the results obtained in the competition where the positive sample was collected, by virtue of paragraph (1), all the other results obtained effective the date of sample collection or of another anti-doping rule violation shall be invalidated with all the consequences incurred thereof including forfeiture of all medals, points and prizes.”

According to the provisions of Article 52³ of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions, *“(1) Enforcing the sanctions against the athletes or athletes’ support personnel constitutes a responsibility of the federations, clubs and leagues and to this effect shall comply with the provisions of the present law and the applicable international regulations in force.*

(2) Failure by the federations, clubs, leagues or the Federation for School and University Sports to comply with the provisions set forth in paragraph (1), unless article 52⁴ para (1) applies, constitutes contravention and it is sanctioned with a fine ranging from 5,000 RON to 30,000 RON, withdrawal of any financial support from the state budget, provisional suspension of the Sports Identity Certificate or removal from the Sports Register.”

As provided in Article 36 paragraph (2) of the Law no. 227/2006 regarding prevention and fight against doping in sport, republished, the Agency shall disclose the

Decision within 20 days following the date of the Decision ruled in compliance with Article 33 paragraph (2) letter i).

CHAIRPERSON OF THE HEARING COMMISSION

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