

DECISION

No. 5/20.10.2015

Issued by

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

PANEL:

Chairperson

Graziela Elena Vajjala

Members:

Valentina ALEXANDRESCU

Gabriela ANDREIASU

Eugen COIFAN

Doina MELINTE

Cristian SMARANDA

Vlad STOENESCU

Eusebiu SZILAGYI

Irina TURCU

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 20.10.2015, 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 hearing the athlete Giantau Sergiu, with the domicile in Iasi, 128A Arapului Street, App.7, affiliated with CFR Iasi 2002 Sport Club, sport discipline – bodybuilding and fitness.

As result of the doping control conducted on 05.09.2015, in Sibiu, during the National Bodybuilding Championship for Seniors, Women Physique, Pairs and Masters, the athlete Giantau Sergiu's sample with the code number 6149192A 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) 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. 639/24.09.2015, the Agency notified the athlete 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.

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 no. 639/24.09.2015 from ANAD on 29.09.2015, by UPS courier and, taking into account the lack of any answer from the athlete, ANAD requested the Hearing Commission to proceed with the hearing pursuant to the provisions of article 33 of the Law 227/2006 regarding prevention and fight against doping in sport, republished with subsequent amendments and completions.

The Commission reviewed whether the secretariat has complied with the procedure for the athlete's convening to the hearing session and it has established that the athlete

was properly notified through the notification no. 191/14.10.2015, the case file including the delivery confirmation from UPS.

Therefore, the Hearing Commission gathered on 20.10.2015, while the athlete was not present at the hearing session and he didn't submit any written statement.

The Romanian Bodybuilding and Fitness Federation was represented by its General Secretary – Mr. Badea Alexandru, who took note of the Hearing Commission Chairperson's remarks and endorsed the athlete's sanctioning as provided by the applicable legal provisions.

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

Pursuant to the provisions of Article 2 paragraph (2) letter a) 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 Hearing Commission, by reviewing the documents in the file, the analytical certificate no. 827/18.09.2015 issued by the Doping Control Laboratory in Bucharest and taking into account the nature of the metabolite detected in the athlete's samples, which indicates the use of Drostanolon - included in the category of non-specified substances, the fact that the athlete neither submitted any written statement or presented himself at

the Hearing Commission meeting, as well as the relevant national and international legal provisions:

DECIDES

4 years ineligibility of the athlete Giantau Sergiu, affiliated with CFR Iasi 2002 S.C., 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) letter a) 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 20.10.2015, 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 de 29.09.2015, the period of the athlete's ineligibility shall be from 20.10.2015 to 28.09.2019.

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 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 Giantau Sergiu, CFR Iasi 2002 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

IOAN DOBRESCU