

Decision of the National Anti-Doping Disciplinary Panel.

Case Ref: 06/2015

Anti-Doping Commission (Malta)

-vs-

**Basil Onuta (Member of the Futsal Malta
Association - ID Card No. 61543A)**

The National Anti-Doping Disciplinary Panel (hereinafter referred to as the 'Panel') consisting of Dr. Maria Azzopardi as Chairperson, and Dr. Aaron Formosa and Dr. Abigail Sciberras as members.

Before the commencement of this proceeding, Dr. Aaron Formosa M.D. and Dr. Abigail Sciberra declared to the Chairperson that they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review. The same declaration was made by the Chairperson to the 'Panel'.

1. Preliminaries

Considered the Request by the National Anti-Doping Commission (Ref. No. ITSTBASONU-15/12 of the 27th of April, 2015 to the Chairperson of the Panel to schedule a sitting for the hearing of a case concerning the alleged breach by Basil Onuta of the Anti-doping Regulations (Legal Notice 17 of 2015, Sports Act, Chapter 455, Laws of Malta).

Took note and reviewed the following documents that were forwarded to the Panel at the initial stage by the Coordinator of the Anti-Doping Programme, namely:

- (i) The request to the Panel to schedule a hearing dated 27th April, 2015;
- (ii) The request by NADO to the National Association/Federation of the alleged breach by Basil Onuta dated the 20th of April, 2015;
- (iii) Letter of Notification by NADO to Basil Onuta dated the 20th of April of a possible violation of the Anti-Doping Rules;
- (iv) A copy of the Doping Control Officer Report Form filed by NADO doping officer Johani Pace dated 12th of March, 2015;
- (v) A copy of the Chain of Custody dated 12th of March, 2015;
- (vi) A copy of the Analysis Report dated 18th April, 2015 confirming a Positive Result to Bendroflumethiazide;
- (vii) A copy of the Report of Adverse Analytical Finding.

Took note of the Notice issued by the Panel to Basil Onuta to appear before the Panel on the 6th of August, 2015 at 11am and answer to the accusation based on Article 3(2)(a) & (b) of L.N 17 of 2015 of the Laws of Malta:

"(2) *The following constitute anti-doping rule violations:*

(a) *the presence of a prohibited substance or its metabolites or markers in an athlete's sample:*

(b) *the use or attempted use by an athlete of a prohibited substance or a prohibited method:"*



Copy of the Notice of hearing was also forwarded to the Anti-Doping Commission, the Futsal Malta Association and Malta Sports Council.

Basil Onuta informed the Panel by email that he was not present in the Malta and sent his submissions and evidence by email on 21st of July, 2015 and such information was forwarded to all parties concerned.

2. Merits:

2.1 The Panel took note of the evidence and submissions presented by Basil Onuta in his email dated 21st July, 2015. During the sitting of the 6th of August, 2015, Mr Ounta was not present while the National Anti-doping Commission represented by Dr. Lucienne Attard submitted a hard copy of all relevant documentation which were already sent to Mr Onuta prior to the sitting. Dr Attard made oral submissions and the case was put off for judgement. The main considerations of the parties on the case were the following:

(a) Mr Onuta claimed that the result of the doping test was due to the fact that he was having regular medication as prescribed by the doctor and he sent images of the medication and prescription of the doctor, as well as his "control card for free drugs". Mr Onuta explained that the substance Bendroflumethiazide is found in one of the medicines prescribed by the doctor which he must take until 2019.

(b) Dr. Attard in her oral submissions makes reference to the Doping Control Form in which the Athlete can declare any medications he is undergoing but Mr Onuta failed to declare such medicines. Moreover, Dr Attard made reference to Dok 8b exhibited by the Commission which is the Analysis report of the Greek Laboratory which confirmed that there was the presence of Bendroflumethiazide and its artifacts which fall under the class of Diuretics which is a prohibited substance. Dr Attard also claimed that the athlete did not have the authorization to use such medications and did not feature under the Therapeutic Use Exemption and therefore the use of such medication was prohibited. Dr Attard specified under the Anti-Doping Regulations in order for the athlete to make use of prescribed medications, he must apply for the TUE but in this case there was never such application.

3. Considerations:

3.1 The substance found in the urine sample of the athlete was the Bendroflumethiazide. This was found in an "in competition" test.

3.2 The athlete admits and actually provides evidence that he is taking the medication containing such substance. The athlete does not opt for the testing of the B Sample.

3.3 The Bendroflumethiazide forms part of a class of medication called diuretics. Diuretics are listed in Section S5 in the WADA list 2015 - substances and methods prohibited at all times - diuretics and masking agents.

3.4 The athlete never applied for a TUE on the basis that the medication is absolutely necessary and no alternative treatment is available. In the treatment of high blood pressure, diuretics are not irreplaceable and can be avoided in athletes. Thus, their use/prescription in athletes is never recommended in the treatment of high blood pressure unless for some extraordinary circumstances and which would have to be approved with a TUE.

3.5 The Panel is of the opinion that the use of Bendroflumethiazide by Basil Onuta is not justified and therefore finds him in breach of the Anti-Doping Regulations. However, the Panel after



taking into consideration all the circumstances of the case believes that there was no intentional element on part of the athlete but his misconduct was due to negligence.

4. Decision

Therefore on the basis of the above considerations, the National Anti-Doping Disciplinary Panel rules that:

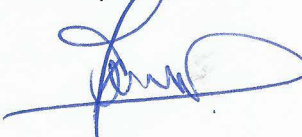
4.1 Basil Onuta has breached the Anti-Doping Regulations, 2015 [Art. 3(2)(a)] and WADA Code (Art. 2.1) as the presence of a prohibited substance or its metabolites or markers has been found in Basil Onuta's urine samples A that had been collected from him on the 12th of March, 2015 .

4.2 And therefore the National Anti-Doping Disciplinary Panel as provided under Art 11 (2) (b) of the Anti Doping Regulations, 2015 and Art. 10.2.2 of the WADA Code is imposing on the athlete Basil Onuta a suspension of ineligibility from any sports activities for a period of two (2) year commencing from the date of his provisional suspension if there was one. Otherwise the period of ineligibility is to start running from the date of this decision.


4.3 A copy of this decision is to be forwarded to the Malta Amateur Athletic Association.



Dr. Maria Azzopardi
Chairperson



Dr. Aaron Formosa
Member



Dr. Abigail Sciberras
Member

This 26 day of August 2015

At Cospicua, Malta