

UWW ANTI-DOPING PANEL

DECISION

Case

United World Wrestling (UWW) v. Mr Anarbek Sydykbekov (Athlete - FS 50 kg - member of Kyrgyzstan Wrestling Federation)

Panel:

- Dr Milica Vukasinovic-Vesic
- Dr Wozniak Daniel
- Ms Carla Morais

- Prosecutor: UWW

I. Introduction

1. This is the final Decision of the UWW Anti-doping panel as between UWW and Mr Anarbek Sydykbekov relating to an Anti-Doping Rule Violation (“ADRV”) arising from the UWW Anti-Doping Rules (“the Rules”).
2. United World Wrestling (UWW) is the governing body for the sport of Wrestling. It is based in Corsier-sur-Vevey, Switzerland.
3. Mr Anarbek Sydykbekov (herein after the “wrestler”) is a Freestyle wrestler (50 kg) from Kyrgyzstan. He is an international wrestler and member of the Kyrgyz junior wrestling team. As a UWW licensed wrestler, he was subject to the jurisdiction of UWW and bound to comply with the Rules. Pursuant to the Rules, UWW was empowered to conduct Doping Controls, as those terms are used in the Rules, in respect of all Wrestlers subject to the jurisdiction of UWW.

II. Facts

1. On 17 June 2017, a *Doping Control Officer* (“DCO”) collected a urine *Sample* in-competition from the wrestler. The *Sample* was split into two separate bottles, which were given reference numbers **6252162**.
2. Both *Samples* were transported to the World Anti-Doping Agency (“WADA”)-accredited Laboratory in Tokyo (JPN) (the “Laboratory”). The Laboratory analyzed the *A Sample* in accordance with the procedures set out in WADA’s International Standard for Laboratories. The analysis of the *A Sample* returned an *Adverse Analytical Finding* (“AAF”) for the following: *Furosemide*. This result was reported by the laboratory on 21 July 2017.
3. *Furosemide* is a Diuretic & Masking Agent under class S5 of WADA’s 2017 *Prohibited List* and is prohibited at all times (in and out-of-competition).
4. *Furosemide* is a *specified substance*.

5. According to UWW's records, no Therapeutic Use Exemption ("TUE") was delivered by UWW to justify the Presence of *Furosemide* in the wrestler's system.
6. No apparent departure from the International Standard for Testing & Investigation or International Standard for Laboratories caused the Adverse Analytical Finding.
7. On 21st July 2017, the wrestler was formally charged with the commission of an anti-doping rule violation (herein after 'ADRV') for the Presence of: *Furosemide* in a *Sample* provided by the Wrestler on 17 June 2017 numbered A 6252162, in violation of Article 2.1 of the [UWW Anti-doping Rules](#) (herein after the "Rules").
8. A deadline to request the opening and analysis of the B sample was set until 28 July 2017.
9. On 3rd August 2017, the Wrestler informed that he did not wish to open and analyze the B sample.
10. The wrestler was not suspended provisionally nor opted for a voluntarily provisional suspension.
11. The wrestler did not request a hearing but submitted written explanations in writing on 7 August 2017 together with some explanations from his personal coach Mr Botikov Ydyrys, and his head coach Mr Nadyrbek Uulu Ulan.

In substance, they explained that the athlete did not take *Furosemide* and that a bottle of water which was allegedly already opened was given to him during the sample collection procedure.
12. In view of these explanations, UWW asked for some clarifications from the Sample Collection Authority on 7 August.
13. On 8 August 2017, the NADO explained that no "open bottle" could have been given to the athlete and that no complaint was made by any other tested wrestler. There were no irregularities recorded with regard to the sample collection procedure.
14. Some clarifications were also requested to the UWW Official Doctor appointed at this competition. On 8 August, Dr Abaeva confirmed that the procedure was fully respected and that wrestlers were instructed to take the sealed bottle of water by themselves.

II. Applicable rules

15. These proceedings are conducted in application of the Rules.
16. Art. 2.1 of the Rules provides as follows:

2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample

2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes 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 Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analyzed; or, where the Athlete's B Sample is analyzed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample; or, where the Athlete's B Sample is split into two bottles and the analysis

of the second bottle confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first bottle.

17. Art. 9 of the Rules provides as follows:

9 Automatic Disqualification of individual results

An anti-doping rule violation in Individual Sports in connection with an In-Competition test automatically leads to Disqualification of the result obtained in that Competition with all resulting Consequences, including forfeiture of any medals, points and prizes.

18. Art. 10.2 of the Rules provides as follows:

10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional.

10.2.1.2 The anti-doping rule violation involves a Specified Substance and United World Wrestling can establish that the anti-doping rule violation was intentional.

10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.

19. Art. 10.5 of the Rules provides as follows:

10.5 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence

10.5.1 Reduction of Sanctions for Specified Substances or Contaminated Products for Violations of Article 2.1, 2.2 or 2.6.

10.5.1.1 Specified Substances

Where the anti-doping rule violation involves a Specified Substance, and the Athlete [...] can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years of Ineligibility, depending on the Athlete's [...] degree of Fault.

20. Art. 12.3 of the Rules provides as follows :

12.3 If an anti-doping rule violation is committed by an Athlete during an official competition on the UNITED WORLD WRESTLING calendar, a 20.000 Swiss Francs fine will be imposed on the Athlete's National Federation.

III. Discussion

In the present case, the anti-doping rule violation involves a specified substance, prohibited in and out-of-competition. The proof of the anti-doping rules violation has been duly established pursuant to article 2.1.2.

The athlete has not provided any explanation on how this substance entered his system. He made some vague allegations that a bottle was given to which had already been opened, however without mentioning any problem on the doping control form.

No complaint from any of the 47 other wrestlers who underwent a doping control was recorded. None of them reported any issue with the bottles or the sample collection procedure.

The allegations of the wrestler are not convincing and he did not establish the absence of significant fault of negligence.

On its side, United World Wrestling could not establish that the anti-doping rule violation was intentional.

IV. Decision

Considering the above, pursuant to the Rules, the UWW Anti-doping panel decides that the wrestler, Mr Anarbek Sydykbekov:

- I. Is found to have committed an anti-doping rules violation, namely article 2.1 of the Rules;
- II. Is imposed a period of suspension of twenty-four (24) months from the date of the decision, until 1 October 2019 included.
- III. The results obtained in the Asian Championship Junior are disqualified with all resulting consequences, including the forfeiture of the medal, points and prizes. The medal obtained in this competition must be returned to UWW headquarters within 30 days from the date the decision is received by the wrestler's national federation.
- IV. The Kyrgyzstan Wrestling Federation is imposed a fine of 20'000 Swiss Francs.

V. Status during ineligibility

In order to understand your rights during this period of ineligibility, please refer to article 10.12 of the United World Wrestling Anti-doping rules.

During the period of Ineligibility, you shall not be permitted to participate in any capacity in a Competition or other activity (other than authorized anti-doping education or rehabilitation programs) organized, convened or authorized by:

- United World Wrestling or by any body that is a member of, or affiliated to, or licensed by United World Wrestling;
- Any Signatory (as that term is defined in the ADR);
- Any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a signatory's member organization; or
- Any professional league or any international-or national-level Event organization.

VI. Right to Appeal

Pursuant to article 13.2.1 of the United World Wrestling Anti-doping rules, this decision may be appealed to the Court of Arbitration for Sport within 21 days after reception of the decision (please refer to the [procedural rule R47 and the following of the CAS Code](#)).

Corsier-sur-Vevey, 2nd October 2017



Dr. Milica Vukašinović-Vesić, PhD



Dr. iur. Daniel Wozniak



Ms Carla Morais