

UWW ANTI-DOPING PANEL

DECISION

Case

United World Wrestling (UWW) v. Mr Toghrul Asgarov (Athlete - FS 65-70 kg - member of Azerbaijan Wrestling Federation)

Panel:

- Dr Milica Vukasinovic-Vesic
- Dr Wozniak Daniel
- Dr Szabolcs Molnar

- Prosecutor: UWW

I. Introduction

1. This is the final Decision of the UWW Anti-doping panel as between UWW and Mr Toghrul Asgarov 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 Toghrul Asgarov (herein after the “wrestler”) is a Freestyle wrestler (65-70 kg) from Azerbaijan. He is an elite wrestler and member of the Azerbaijan wrestling team. He won several medals in top international events, including a silver Olympic medal in 2016 and a gold Olympic medal in 2012. 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

4. On 5 February 2017, a *Doping Control Officer* (“DCO”) collected a urine *Sample* out-of-competition from the wrestler. The *Sample* was split into two separate bottles, which were given reference numbers 3087496.
5. Both *Samples* were transported to the World Anti-Doping Agency (“WADA”)-accredited Laboratory in Cologne (GER) (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: *Higenamine*. This result was reported by the laboratory on 22 February 2017.

6. Higenamine is a Beta-2 Agonist under class S3 of WADA's 2017 *Prohibited List* and is prohibited at all times (in and out-of-competition). Higenamine is a *specified substance*.
7. According to UWW's records, no Therapeutic Use Exemption ("TUE") was delivered by UWW to justify the Presence of *Higenamine* in the wrestler's system.
8. No apparent departure from the International Standard for Testing & Investigation or International Standard for Laboratories caused the Adverse Analytical Finding.
9. On 10 March 2017, the wrestler was formally charged with the commission of an alleged anti-doping rule violation (herein after 'ADRV') for the Presence of: Higenamine in a *Sample* provided by the Wrestler on 5 February 2017 numbered A 3087496, in violation of Article 2.1 of the Rules.
10. A copy of the laboratory result and the doping control form were provided with the notice of charge.
11. The athlete was offered the right to have the B sample analyzed and the right to request a copy of the laboratory documentation package.
12. Pursuant to article 7.9.2 of the Rules, the wrestler was not suspended provisionally nor opted for a voluntarily provisional suspension as offered to him in the notice of charge of 10 March 2017.
13. The wrestler did not request a hearing but submitted his defense in writing on 16 March 2017.
14. In view of the explanations received, UWW requested additional information from the wrestler on 5 April 2017 and a confirmation that he did not request a hearing.
15. The wrestler replied to the additional questions on 6 April 2017 and confirmed that he did not request a hearing.

III. Relevant rules

16. These proceedings are conducted in application of the Rules.
17. 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.

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.

IV. Discussion

20. The presence of the substances identified as Higenamine was established by the A Sample report. This result was not contested by the Wrestler.

21. In his submission, the athlete explained that he used a dietary supplement named *Fitovit*. He found out after the notification of AAF that *Fitovit* is composed of an ingredient called *tinospora cordifolia*, which contains *Higenamine*. The wrestler sustained that this was not indicated on the label. According to the wrestler, a friend informed him about this supplement and brought him a package.

22. The wrestler also explained that he used the supplement during "30-45 day" from mid-December 2016 until end of January 2017. However, he did not mention it on the doping control form when tested on 5 February 2017.

23. In the present case, the substance found is a specified substance. There is no evidence that this rules violation was intentional. The default sanction should be 2 years.
24. The panel finds that athlete has established how he ingested the substance, i.e. through the use of Fitovit, and that he could not reasonably know that *higenamine* was an active ingredient of a plant contained in Fitovit.
25. Pursuant to article 10.5.1.1 on Specified Substances and based on the circumstances of the case, the panel finds that the degree of fault of the wrestler is normal (as compared to a significant or light degree of fault) and warrants a suspension period of twelve months.

IV. Decision

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

- 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 twelve (12) months from the date of the decision until 17 April 2018 included.

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, 18th April 2017



Dr. Milica Vukašinović-Vesić, PhD



Dr. iur. Daniel Wozniak

Dr Szabolcs Molnar