

# UWW ANTI-DOPING PANEL

## DECISION

### Case

United World Wrestling (UWW)

v.

Mr Saiakbai Usupov (Athlete - Freestyle Wrestling -Kyrgyzstan Wrestling Federation)

#### Panel:

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

- Prosecutor: UWW

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#### I. Introduction

1. This is the final Decision of the UWW Anti-doping panel as between UWW and Mr Saiakbai Usupov 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 Saiakbai Usupov is a 22 years old Freestyle wrestler (74-86 kg) from Kyrgyzstan. He is an active wrestler on the international level since 2014 and participated in numerous international competitions, including World and Asian Championships (Junior and Senior) as well Olympic Qualifying tournaments in 2016. His best achievement is a silver medal at the Asian Championship Junior in 2012.
4. 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

5. On 3 March 2018, after his defeat in the 3-5 finals of the 2018 Asian Championships, his brother Aibek Usupov (the “Athlete”) was approached by a chaperone and notified for a doping control. The Wrestler asked for a moment to calm down after his defeat in that match and did not sign the form. According to the chaperone, who stayed with him all the time after he asked for a moment, Mr Saiakbai Usupov came and told the chaperone that his brother would not provide a sample. The chaperone explained to the Wrestler and Mr Saiakbai Usupov what the consequences would be for refusing the test. Despite this warning, Mr Saikbai Usupov persuaded his brother not to pass the test and both the Athlete and Mr Usupov walked away without justification.
6. These facts were reported by the Sample Collection Authority. A report was drafted by the Doping Control Officers and signed by the Secretary General of the Kyrgyzstan Wrestling Federation.

7. These facts were also confirmed by the UWW Medical delegate and the UWW Technical Delegate.
8. On 28 March 2018, Mr Usupov was formally charged with the commission of an anti-doping rules violation (herein after 'ADRV') for *Complicity*, in violation of Article 2.9 ("*Complicity*") of the [UWW Anti-doping Rules](#) (herein after the "Rules").
9. Mr Usupov was provisionally suspended from the date of the notice and the right was offered to him to apply to have the provisional suspension lifted prior to the determination of this matter. This offer was not regarded by the wrestler.
10. In parallel, the Wrestler was also charged on the same day with the commission of an anti-doping rules violation for *Refusal*, in violation of Article 2.3 of the Rules. The Wrestler was provisionally suspended from the date of the notice and the right was offered to him to apply to have the provisional suspension lifted prior to the determination of this matter.
11. On 13 April 2018, Mr Usupov's written explanations were forwarded to UWW by the Kyrgyz Wrestling Federation. The wrestler also sent written explanations to UWW on the same day.
12. In substance, Mr Usupov explained that he was watching the bouts in the hall with his parents and that he was informed after the 1-2 final that the Wrestler left the hall. He tried to reach him, but his phone was switched off. According to his explanations, he went to the doping control station to explain the situation to the DCO. He also asserted that he was not the person who was accompanying his brother after he was notified for doping control. This person was actually someone called Osmonaliev Ulanbek.
13. No statement was received from that Mr Osmonaliev Ulanbek to support this allegation.
14. The *Unsuccessful Attempt Report Form* ("UAF") was signed by the Secretary General of the Kyrgyz Federation and its content was not challenged.
15. The testimonies of two doping control officers were received on 2 May 2018 to further document the case.

### III. Applicable rules

16. These proceedings are conducted in application of the Rules.
17. Art. 2.9 of the Rules provides as follows:

#### **2.9 Complicity**

*Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation, Attempted anti-doping rule violation or violation of Article 10.12.1 by another Person.*

18. Art. 3.1 of the Rules provides as follows:

#### **3.1 Burdens and Standards of Proof**

*UNITED WORLD WRESTLING shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether UNITED WORLD WRESTLING has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the Athlete or other Person alleged to have committed an antidoping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability.*

19. Art. 10.3 of the Rules provides as follows :

**10.3 Ineligibility for Other Anti-Doping Rule Violations**

*The period of Ineligibility for anti-doping rule violations other than as provided in Article 10.2 shall be as follows, unless Articles 10.5 or 10.6 are applicable:*

*10.3.4 For violations of Article 2.9, the period of Ineligibility imposed shall be a minimum of two years, up to four years, depending on the seriousness of the violation.*

**IV. Discussion**

20. Having concluded to an anti-doping rules violation (“Refusal”) perpetrated by Mr Aibek Usupov, this panel was solicited to decide on the present violation for complicity as both cases are directly linked. All documents and submissions were carefully reviewed, and the panel made the following considerations.
21. The report of the Doping Control Officer (“DCO”) Assem Shalgumbayeva is considered as reliable and trustful. It is based on the information provided by the chaperone.
22. The detailed statements made by the DCOs as a result of the investigation on this case provide further information on how Mr Usupov was actually identified when he showed at the Doping Control Station after Mr Aibek Usupov had refused the control and disappeared.
23. The report also details his conduct whereby he actively, aggressively and intentionally encouraged and persuaded his brother to refuse the control.
24. As in his brother’s statement of defense, Mr Usupov asserts that there was a confusion between him and his brother’s friend called Ulanbek Osmanaliev. However, he did not bring any evidence forward to support this allegation nor a statement from Mr Osmanaliev himself which could have exonerated him.
25. The panel is comfortably satisfied that all elements constituting a violation for complicity are present in this case: Mr Usupov’s physical and psychological conduct falls in the definition of *Complicity* which covers any intentional conduct which assists another to commit an anti-doping rule violation and meet the standard of proof required by UWW to establish the anti-doping rules violation.
26. For these reasons, considering that there are no grounds for a reduction of the period of ineligibility, Mr Saiakbak Usupov must be sanctioned with a two (2) year period of ineligibility.

**V. Decision**

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

- I. Is found to have committed an anti-doping rules violation, namely article 2.9 of the Rules;
- II. Is imposed a period of ineligibility of two (2) years, starting from 28 March 2018 until 28 March 2020 included.

**VI. Status during ineligibility**

In order to understand the athlete’s 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, the athlete 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.

## VII. 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).

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This decision is to be notified to the Athlete c/o his National Federation.

Corsier-sur-Vevey, 24 July 2018



Dr. iur. Daniel Wozniak



Dr. Milica Vukašinović-Vesić, PhD



Ms Carla Morais