

UWW ANTI-DOPING PANEL

DECISION

Case

United World Wrestling (UWW)

v.

Mr Rustem Nazarov (Freestyle wrestler - member of the Turkmenistan national team)

Panel:

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

- Prosecutor: UWW

I. Introduction

1. This is the final Decision of the UWW Anti-doping panel as between UWW and Mr Rustem Nazarov 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 in all its styles. It is based in Corsier-sur-Vevey, Switzerland.
3. Mr Rustem Nazarov (herein after the “athlete” or alternatively the “wrestler”) is a Freestyle wrestler from Turkmenistan. He participated in the Asian Games 2018 in Jakarta, Indonesia in August 2018. As an athlete who participated in these Games and as a UWW licensed wrestler, he was subject to the jurisdiction, respectively of OCA and UWW and was bound to comply with the Rules.

II. Facts

4. On 17 August 2018, a *Doping Control Officer* (“DCO”) collected a urine *Sample* from the Wrestler. Assisted by the DCO, he split the *Sample* into two separate bottles, which were given reference numbers 4288775.
5. Both *Samples* were transported to the World Anti-Doping Agency (“WADA”)-accredited Laboratory in Doha (Qatar) (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.
6. Furosemide is classified under class S5 (Diuretics & Masking Agent) of the 2018 *Prohibited List* and is prohibited at all times (in and out-of-competition).

7. According to UWW's records, no Therapeutic Use Exemption ("TUE") was delivered by UWW to justify the Presence of these Stimulants in the athlete's system.
8. No apparent departure from the International Standard for Testing & Investigation or International Standard for Laboratories caused the Adverse Analytical Finding.
9. Following reception of the case file by the Disciplinary Commission of the Olympic Council of Asia ("OCA"), who disqualified the results of the athlete for this competition in its decision after having found that an Anti-doping Rules Violation was established, the athlete was formally charged by UWW on 14 September 2018 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 August 2018 numbered A 4288775, in violation of Article 2.1 of the [UWW Anti-doping Rules](#) (herein after the "Rules").
10. The B sample analysis opportunity had been offered to the wrestler during the proceedings before the OCA Disciplinary Commission. The wrestler declined his right to have the B sample tested and accepted the result of the A sample.
11. The athlete was also offered the possibility to request the laboratory documentation package.
12. The athlete was offered a fair hearing during the proceedings before the OCA Disciplinary Commission. In his declaration, he explained that he took some medicine prescribed by a doctor to treat a kidney disease and that he did not know that the medicine contained a prohibited substance, thus requiring a Therapeutic Use Exemption. The report of the hearing did not mention if the athlete provided any evidence to support his allegations.
13. No answer or any further comment was received from the athlete in the present proceedings.
14. On 2 November 2018, UWW informed the athlete that as no answer was received, the case would be decided based on the existing elements.

III. Relevant 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 analysed; or, where the Athlete's B Sample is analysed 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. 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.

IV. Discussion

18. The substance found (“Furosemide”) is a specified substance, classified as a Diuretic and a Masking Agent in the 2018 Prohibited List.
19. In his declaration at the hearing before the OCA Disciplinary Commission, the athlete explained that he took some medicine prescribed by a doctor to treat a kidney disease and that he did not know that the medicine contained a prohibited substance. No evidence was provided to support this explanation.
20. The athlete did not consider useful to provide this panel with evidence, documents or any testimony to prove that he used the medicine in good faith to treat a medical condition.
21. In the case at hand and in view of the existing elements, UWW is not able to establish that the anti-doping rule violation was intentional. The default sanction should be two (2) years.
22. There is not any element that would justify any reduction of the suspension for No Fault or Negligence or No Significant Fault or Negligence.

V. Decision

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

- I. Is found to have committed an anti-doping rules violation, namely article 2.1 of the Rules;
- II. Is imposed a period of ineligibility of two (2) years from the date the provisional suspension was effective, i.e. from 17 September 2018 until 16 September 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).

This decision must be notified to the Athlete.

Corsier-sur-Vevey, 20 November 2018



Dr. iur. Daniel Wozniak



Dr. Milica Vukašinović-Vesić, PhD



Ms Carla Morais