

UWW ANTI-DOPING PANEL

DECISION

Case

United World Wrestling (UWW)

v.

Mrs Orkhon Purevdorj (Athlete - Women's Freestyle - Member of the National Wrestling team of Mongolia)

Panel:

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

- Prosecutor: UWW

I. Introduction

1. This is the final Decision of the UWW Anti-doping panel as between UWW and Mrs Orkhon Purevdorj 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. Mrs Orkhon Purevdorj (herein after the "Athlete") is a Women's Freestyle wrestler from Mongolia. Her competitions results include a Senior World Gold medal in 2017, a Silver medal at the Olympic Games Qualifying tournament in 2016, multiple gold medals at the Mongolia Open and a Bronze medal at the World Championship Junior in 2013. According to UWW's records, the athlete was the holder of a UWW licence in 2018.
4. In view of her result during the 2017 World Championship, Mrs Purevdorj was placed in UWW's registered testing pool from January 2018.
5. As a UWW licensed wrestler, she 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

6. On 20 August 2018, after winning the final in the Women's Freestyle in 62 kg at the Asian Games in Jakarta, Indonesia, the athlete was notified for a doping control. The *Doping Control Officer* ("DCO") collected a urine *Sample* from the athlete and after the splitting of the sample into two separate

bottles, which were given reference numbers 4289758, both Samples were transported to the World Anti-Doping Agency (“WADA”)-accredited Laboratory in Doha (Qatar) (the “Laboratory”).

7. The Laboratory analyzed the A Sample in accordance with the procedures set out in WADA’s International Standard for Laboratories. On 24 August 2018, the analysis of the A Sample returned an Adverse Analytical Finding (“AAF”) for the following:

S1.1A Exogenous AAS/stanozolol metabolite 3-Hydroxy-Stanozolol, 4-Hydroxystanozolol, 16Beta-Hydroxy-Stanozolol.

Stanozolol is an Exogenous Anabolic Androgenic Steroid under class S1.1A of the 2018 Prohibited List and is prohibited at all times (in and out-of-competition).

8. This substance is a *non-specified substance*.
9. According to UWW’s records, no Therapeutic Use Exemption (“TUE”) was delivered by UWW to justify the Presence of *Stanozolol* in the athlete’s system.
10. No apparent departure from the International Standard for Testing & Investigation or International Standard for Laboratories caused the Adverse Analytical Finding.
11. Proceedings were conducted by the Disciplinary Commission of the Olympic Council of Asia (“OCA”). In these proceedings, the athlete was offered the possibility to have the B sample opened and analyzed and the right to a fair hearing. Both options were chosen by the athlete: the B sample was analyzed and confirmed the result of the A sample.
12. According to the minutes of the hearing before the OCA Disciplinary Commission, the athlete did not contest the laboratory results but was not able to explain how the substance entered here system. She attributed the result to a sabotage but was not able to provide any evidence supporting this allegation.
13. The OCA Disciplinary Commission finally concluded to an anti-doping rules violation and decided to disqualify the athlete’s result achieved during the Asian Games.
14. On 14 September 2018, UWW the athlete was formally charged with the commission of an anti-doping rule violation. A 3-days deadline was set to allow the athlete any statement before the provisional suspension would enter in force. The provisional suspension entered in force on 17 September. The athlete did not challenge it.
15. On 20 September 2018, the athlete forwarded a statement of defense to UWW together with some documents.
16. As the athlete had requested it, a hearing was held. The athlete accepted that this took place by phone conference and that, for organizational reasons, only one member of the panel would attend the hearing. This hearing took place on 8 February 2019. The athlete attended together with her lawyer and the administrator of the Mongolian Wrestling Federation. Minutes of this hearing were drafted and provided to the all members of this panel together with all elements pertaining to this case.

III. Applicable rules

17. These proceedings are conducted in application of the Rules.
18. 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.

19. Art. 3.1 (Burden and Standards) of Proof of the Rules provides as follows:

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.

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

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.

21. 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.

22. Art. 10.4 provides as follows:

10.4 Elimination of the Period of Ineligibility where there is No Fault or Negligence

If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.

23. Art. 10.5 provides as follows:

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

[...]

10.5.1.2 Contaminated Products

In cases where the Athlete or other Person can establish No Significant Fault or Negligence and that the detected Prohibited Substance came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years Ineligibility, depending on the Athlete's or other Person's degree of Fault.

24. Appendix I (Definitions) of the Rules provides as follows:

No Fault or Negligence: The Athlete or other Person's establishing that he or she did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system.

No Significant Fault or Negligence: The Athlete or other Person's establishing that his or her Fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or negligence, was not significant in relationship to the anti-doping rule violation. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system.

25. Art. 12.3 of the Rules reads 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. A 20.000 Swiss Francs fine will also be imposed on the National Federation for any anti-doping rule violation committed by an Athlete included in the registered testing pool [emphasize added].

IV. Discussion

26. The UWW Anti-doping panel observes that the results of the analysis of the sample provided by the Athlete establish the presence in her sample of a prohibited substance and its metabolite, i.e. Stanozolol.
27. The substance detected in the Athlete's sample is an anabolic steroid. It is listed in the WADA 2018 Prohibited List and is prohibited at all times. According to the prohibited list, the substance is a non-specified substance.
28. The panel is satisfied that the sample analysed by the WADA accredited laboratory in Doha is unequivocally linked to the Athlete and no departure from WADA's International Standards for Laboratories occurred.
29. The panel notes that no Therapeutic Use Exemption was granted to the Athlete for the use of the substance.
30. In view of the analytical results, including the B sample's, the Anti-doping Panel finds that an anti-doping rule violation pursuant to Art. 2.1 of the Rules consisting of the presence of a Prohibited Substance in the Athlete's body is established.
31. The panel notes that the decision already made by the Olympic Council of Asia (OCA) also concluded, during its own proceedings, to an anti-doping rules violation.

32. While the proceedings conducted by the disciplinary panel of the OCA concluded to the disqualification of the results obtained by the athlete during the 2018 Asian Games, the purpose of the present proceedings is to determine the consequences for the Athlete other than the disqualification of results, i.e. the period of ineligibility.
33. In the case at hand, the substance involves a non-specified substance and is prohibited at all times. The period of ineligibility in such case is four years (article 10.2.1.1). This period of suspension is subject to potential reduction pursuant to article 10.4 (No Fault or Negligence), 10.5 (No Significant Fault or Negligence) or 10.6 (Reasons Other than Fault) of the Rules. In order to apply No Fault or Negligence or No Significant Fault or Negligence, the Athlete has to establish how the prohibited substance entered in her system.
34. The Athlete explained that she had an intravenous injection once in July 2018 with a substance that was described by her club's doctor as proteins. She trusted that doctor and had asked him what the substance was and if it was authorized. Given the reply she had received and given that she heard that other wrestlers of her club had received the same product, she did not refuse.
35. In her written statement, she provided a picture of that product made in China. After a request for translation by the UWW Headquarter, it resulted that this product was actually made of soybean oil and lecithin and that there was no indication on the label that the substance contained any anabolic steroid. Nor did the athlete bring any evidence that this product had been contaminated.
36. The panel notes that this injection can also be regarded as the use of a prohibited method since the picture shows a bottle of 250 mL of this product which was apparently injected intravenously outside the course of a hospital treatment, surgical procedure or clinical diagnostic investigation, and at a dose beyond the limit set for prohibited methods in the prohibited list under M2.
37. The athlete also hazarded a guess that the result found in her sample could be due to a sabotage. She informed the panel that she had filed a complaint at the local prosecutor's office. In this investigation, the athlete's teammate and roommate during the Asian Games was interviewed but it did not result in any charge for sabotage or any other violation. A fitness coach was also to be included in that investigation, but he died in late September 2018 and no conclusions could be drawn from that side.
38. The panel finds that both theories are speculations and do not satisfy the degree of proof placed on the athlete to demonstrate the origin of the presence of Stanazolol in her body. Hence it is meaningless at this stage to examine the degree of fault or negligence of the athlete.
39. Based on this, the athlete is not entitled to any fault-related mitigation and should be sanctioned with a period of ineligibility of four years, with deduction of the period of provisional suspension already served.
40. Being an athlete included in the registered testing pool, article 12.3 of the Rules apply and the financial penalty provided therein must be must imposed on the athlete's federation.

V. Consequences

Considering the above, pursuant to the Rules:

A. Mrs Orkhon Purevdorj:

- 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 four years, with deduction of the provisional already served, i.e. until 16 September 2022;

B. The Mongolian Wrestling Federation is:

- I. Imposed a fine of 20'000 Swiss Francs pursuant to article 12.3 of the Rules.

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](#)).

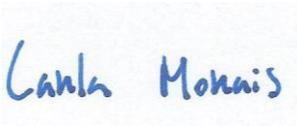
This decision is to be notified to the Athlete c/o his National Federation.



Dr. Milica Vukašinović-Vesić, PhD



Dr. iur. Daniel Wozniak



Ms Carla Morais

Corsier-sur-Vevey, 15 February 2019