
Decision of the National Anti-Doping Disciplinary Panel.

Case Ref: 3/2019

Anti-Doping Commission (Malta)

-vs-

**Ayrton Agius Difesa (ID No. 0280994M) -
Powerlifting**

Ref: 1TSTAYRAGIDIF-19

The National Anti-Doping Disciplinary Panel (hereinafter referred to as the 'Panel') consisting of Dr. Maria Azzopardi LL.D. as Chairperson, and Dr. Frank Testa LL.D., and Mr. Mark Zammit (Clinical Pharmacology and Therapeutics) as members.

Before the commencement of this proceeding, the Chairperson and members of the Panel declared that they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review.

The athlete appeared before the Panel on the 20th of June 2019 at 17:00.

1. Preliminaries:

Considered the Request by the National Anti-Doping Commission dated the 25th March 2019 to the Chairperson of the Panel to schedule a sitting for the hearing of a case concerning the alleged breach by Ayrton Agius Difesa of the Anti-doping Regulations (Legal Notice 17 of of 2015, Sports Act, Chapter 455, Laws of Malta).

Took note and reviewed the following documents that were forwarded to the Panel at the initial stage by the Coordinator of the Anti-Doping Programme, namely:

- (i) The Test Report dated the 14th March 2019 reporting an Adverse Analytical Finding (anabolic agent Clenbuterol);
- (ii) Letters by NADO to the Association of the alleged breach by Ayrton Agius Difesa dated the 18th March 2019
- (iii) A letter dated the 19th March 2019 from the Malta Drug Free Powerlifting Association to Ayrton Agius Difesa imposing a provisional suspension.
- (iv) The letter of acceptance for the provisional suspension from the athlete dated 23rd March 2019.
- (v) The request by NADO to the Panel to schedule a hearing dated the 25th March 2019;
- (vi) The Notice dated 11th May 2019 issued by the Panel to the athlete to provide written submissions and details and the reply from the athlete.

Took note of the Notice by the Panel dated 4th June 2019 sent to the athlete to appear before the Panel on the 20th June 2019 at 17:00 and answer to the accusation based on Article 3 (2)(a) u (b) of L.N 17 of 2015 of the Laws of Malta. Copy of the Notice of hearing was also forwarded to the Anti-Doping Commission and Malta Drug Free Powerlifting Association.

Took note of the fact that verbal representation provided by Ayrton Agius Difesa whereby he explained that he took some pills, offered to him by a friend, because he was suffering from unspecified difficulty in breathing. He claimed that he asked his friend whether such pills contained steroids and allegedly his friend replied in the negative. The athlete confirmed that he did not consult a doctor or pharmacist. He could not specify the brand name of the pills supplied, but ex-

plained that such were in a foil sachet without a name. The athlete explained that he did not intend to cheat. The athlete also declared that he took the substance days before the competition but failed to prove any useful information and proof to his declaration.

2. Merits:

2.1 Took note of the evidence showing that the athlete produced a urine sample on the 24th February 2019 in competition; of the Doping Control Form whereby there is no indication of the said pills containing clenbuterol, but wherein the athlete listed 'Catafast' as medication in use (*Catafast® being a brand name of diclofenac potassium, a non-steroidal anti-inflammatory medication totally unrelated to clenbuterol*); the Test Report dated the 14th March 2019 confirming an Adverse Analytical Finding which indicates that an anabolic agent clenbuterol was found; that the athlete did not request a B Sample.

2.2 Took note of the athlete's declaration and NADO's submissions on the finding which concerns a substance classed under S1.2 as an anabolic agent according to the 2018 List of Prohibited Substances and such was found during an 'in competition' event.

3. Considerations:

3.1 The Panel considers the evidence produced confirm an analytical adverse finding in the urine sample submitted by the athlete.

3.2 The Panel takes note that the provisional suspension was accepted on the 23rd of March 2019.

3.3 The Panel echoes the words of Article 3 (2) (a) (i) whereby "*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 of knowing use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under sub-regulation (2) (a).*" This article confirms that every athlete has the responsibility for any substance that enters his or her body and therefore the athlete failed to his obligation to ensure that no prohibited substance enters his body.

3.4 It is not sufficient that the athlete declares that he had no intention to cheat, since he took no precautionary measures whatsoever to ensure that the substance that was offered to him, was in fact not prohibited under the WADA Code. Taking into consideration the declaration of the athlete it transpires that there was a significant risk and he manifestly disregard the risk.

3.5 Clenbuterol hydrochloride is a direct-acting sympathomimetic amine with β_2 adrenergic receptor agonist activity and bronchodilatory effects. Clenbuterol is however not an ingredient of any pharmaceutical licensed by the Malta Medicines Authority or the European Medicines Agency. Clenbuterol is also classified as an anabolic agent. In fact WADA classifies clenbuterol as an anabolic agent, not as a β_2 agonist. Clenbuterol is a prohibited substance and there is no threshold under which this substance is not prohibited.

4. Decision:-

Therefore on the basis of the above considerations, the National Anti-Doping Disciplinary Panel rules that:

4.1 Ayrton Agius Difesa has breached the Anti-Doping Regulations, 2015 [Art. 3(2)(a)] and WADA Code Art. 2.1, whereby the presence of a prohibited substance or its metabolites or markers has been found in Ayrton Agius Difesa urine sample A that had been collected from him on the 24th of February 2019.

4.2 And therefore the National Anti-Doping Disciplinary Panel as provided under Art 11(2)(a) of the Anti Doping Regulations, 2015 and Art. 10.2.1 of the WADA Code is imposing on the athlete Ayrton Agius Difesa a suspension of ineligibility from any sports activities for a period of four (4) years commencing from the date of acceptance of the provisional suspension (23/3/2019).

4.3 All competitive results obtained by Ayrton Agius Difesa on or after 24th February 2019 until the end of the period of ineligibility are disqualified. All awards and prizes achieved by Ayrton Agius Difesa on 24th February 2019 shall be forfeited.

4.4 A copy of this decision is to be forwarded to WADA, SportMalta and the Malta Drug Free Powerlifting Association.

Dr. Maria Azzopardi LL.D
Chairperson

Dr. Frank Testa
Member

Mr Mark L. Zammit
Member

This 10th July 2019.