
Decision of the National Anti-Doping Disciplinary Panel.

Case Ref: NADDP 20210308

Anti-Doping Commission (Malta)

-vs-

**Simon Baldacchino Barthet – ID No.
511481M
(Member of the Hockey Association Malta)
1TSTSIMBALBAR-20**

The National Anti-Doping Disciplinary Panel (hereinafter referred to as the 'Panel') consisting of Dr. Maria Azzopardi as Chairperson, and Professor Janet Mifsud and Dr. Abigail Gauci as members.

Before the commencement of these proceedings, the 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 parties confirmed that there is no objection to the composition of the Panel.

The hearing of the case was conducted through a visual telecommunication platform.

1. Preliminaries

Considered the Request by the National Anti-Doping Commission of the 30th November 2020 to the Chairperson of the Panel to schedule a sitting for the hearing of a case concerning the alleged breach by Simon Baldacchino Barthet 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 Program and other documents presented by the athlete during the hearing of the case, namely:

- i. The Doping Control Officer Report Form dated 25/10/2020.
- ii. Lab Report dated 13/11/2020 & APMU report.
- iii. Letter of Notification by NADO to the athlete of a possible violation of the Anti-Doping Rules dated 23/11/2020.
- iv. The letter by NADO to the National Association of the alleged breach dated 23/11/2020.
- v. The letter from the National Association to the athlete dated 24/11/2020.
- vi. Letter of Acceptance for the Provisional Suspension signed by the athlete and an email from the athlete to NADO, both dated 24/11/2020.
- vii. The request to the Panel to schedule a hearing dated 30/11/2020.
- viii. Notification of Hearing by the NADDP dated 5/1/2021 & 25/1/2021.

Took note that there was no request of a B Sample and that the athlete accepted a provision suspension on the 24th November 2020.

Took note of the Notice issued by the Panel to the athlete to appear before the Panel requesting the athlete to answer the accusation based on Article 3 (2)(a) u (b) of the LN 17 of 2015 of the Laws of Malta, whereby:

- i) a prohibited substance or its metabolites or markers (presence of Cocaine classified under S6 as a stimulant in the 2020 WADA Prohibited List) was detected in the athlete's urine sample collected on the 25th October 2020 in competition during the match White Hart Hockey Club vs Qormi Daikin Hockey Club.

Copy of the Notice of hearing was also forwarded to the Anti-Doping Commission, the Hockey Association Malta and SportMalta.

Took note of the evidence as well as the oral and written submissions submitted by the parties.

2. Merits:

2.1 When the case was called on Tuesday, 16th February 2021 at 17:00 via an Online Zoom Meeting , appeared the athlete Simon Baldacchino Barthet and Dr. Christina Borg DeBono and Dr. Lucienne Attard on behalf of NADO. The Panel heard the testimony of the athlete and the submissions presented by both parties.

2.2 During the hearing the athlete submitted that there is not contesting the violation attributed to him and he declared that he understands that such actions constitute a breach of Article 3(2)(a). The athlete also makes reference to the fact that he had declared this at the initial stage and this is evident from the DCO whereby the athlete declared that he had made use of "Catafast, Marijuana" and after the lab report, the athlete reconfirmed his admission in an email to NADO dated 24/11/2020 and in a letter addressed to NADDP (not dated). The athlete has explained that *"As a reply to my accusations and as stated in my initial statement when the report of the test result was made, I do not have any basis to contest this since the test is what it is and as also explained this was a one-time alcohol motivated decision which at the time sounded like a great idea, which obviously was not, therefore there is no line of defence for me to put forward in this regard. This was not done to improve my performance in any way during the match since the incident happened on the Friday which was 2 days prior to when the match was held."* (extract from the letter submitted to NADDP).

2.3 Dr. Borg Debono on part of NADO submitted that the breach has been proven and confirmed that the athlete had admitted the use of such substance at an early stage. Dr Borg Debono also made reference to the fact that the APMU Report confirmed a high level of alcohol, though this is not a prohibited substance. NADO argued that on the basis of the fact that the athlete declared the use of such substance on the DCO and after considering his admission in writing at the early stages of these proceedings and also during his evidence before the NADDP, NADO is not contesting the explanation given by the athlete which is indicative that the ingestion of such substance was not intentional.

3. Considerations:

3.1 Taking into consideration the non-contestation on part of the athlete on the violation being brought against him, the Panel can firmly conclude that the facts of the case have been proven.

3.2 The Panel makes reference tot he LAB report dated 13th November 2020 which confirms the presence of the stimulant cocaine and its metabolite. Cocaine is listed under the Prohibited List 2020 as an S.6, that is, a Non-Specified Stimulants and therefore it carries a 4 year ban unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional. (Article 11(2)(a) & (b) LN. 17 of

2015). In the latter circumstance, the ban shall be reduced to 2 years when the athlete proves a non-intentional element. The Panel is convinced that in this case the substance taken was for 'recreational' rather than performance-enhancing purposes and therefore there was no intention on part of the athlete to cheat. The confession on part of the athlete at an early stage on the DCO corroborates the evidence given by the athlete after the LAB report and during the sitting. The Panel also takes note that this is the first offence on part of the athlete.

3.4 The Panel opines that whilst the evidence brought forward confirms that there was a deliberate ingestion of an illicit substance ('cocaine'), consideration should be given to the early admission on part of the athlete and to the non-intentional element which is not being contested. These considerations should reflect on the period of ineligibility to be imposed.

4. Decision:

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

4.1 Simon Baldacchino Barthet has breached the Anti-Doping Regulations, 2015 [Art. 3(2)(a)].

4.2 And therefore the National Anti-Doping Disciplinary Panel as provided under Art 11 (2) (b) of the Anti Doping Regulations, 2015 is imposing on the athlete Simon Baldacchino Barthet a suspension of ineligibility from any sports activities for a period of two (2) years commencing from the 24th November 2020, being the date of his provisional suspension.

4.3 A copy of this decision is to be forwarded to the Hockey Association Malta.



Dr. Maria Azzopardi B.A. LL.D. LL.M (Sports Law)
Chairperson



Prof Janet Mifsud M.D.
Member



Dr. Abigail Gauci B.A. LL.D. LL.M (Int. Sports Law)
Member

This, the 8th March 2021.