



2025/ADD/117 International Judo Federation v. Beka Gviniashvili

DECISION

delivered by the

ANTI-DOPING DIVISION OF THE COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Single Judge: Mr Marco Steiner, Attorney-at-Law, Krattigen, Switzerland

in the procedure between

International Judo Federation, Budapest, Hungary

Represented by Ms. Dominique Leroux-Lacroix, Head of Legal Affairs, Ms. Ayesha Talpade, Senior Legal Counsel, and Mr. Anton Sotir, Senior Legal Counsel, International Testing Agency, Lausanne, Switzerland

Claimant

and

Mr. Beka Gviniashvili, Tbilisi, Georgia

Respondent

I. PARTIES

1. The International Judo Federation (“IJF” or the “Claimant”) is the world governing body for the sport of judo. Its headquarters are in Budapest, Hungary. The Claimant is a signatory to the World Anti-Doping Code (“WADC”). As per its obligations as a signatory, the Claimant has adopted the *Anti-Doping Rules International Judo Federation* (“ADR-IJF”). By the ADR-IJF, the Claimant has delegated its anti-doping program’s implementation – including results management and prosecution of adverse analytical findings (“AAF”) – to the International Testing Agency (“ITA”). Consequently, this procedure was conducted by ITA as the Claimant’s legal representative.
2. Beka Gviniashvili (the “Respondent”) was born on 26 October 1995, and he lives in Tbilisi, Georgia. He has competed in international judo events since 2011, is a two-time junior world champion (in 2013 and in 2015), has won a total of 43 medals at international events and had his last win at the Tel Aviv Grand Slam on 16 February 2023. He was not legally represented in this procedure.

II. FACTUAL BACKGROUND

3. Below is a summary of the facts based on the Parties’ written allegations and evidence adduced in this procedure. Additional facts based on the allegations and the evidence may be set out in connection with the legal discussion that follows. While the Single Judge has considered all the allegations and evidence submitted by the Parties, he only refers to those he considers necessary to explain his reasoning.
4. The Respondent has been in the Claimant’s Registered Testing Pool (“RTP”) since January 2023.
5. As per his Whereabouts, between 21 June 2023 and 28 June 2023, the Respondent was in Tbilisi.
6. On 5 July 2023, the Respondent was subject to an out-of-competition (“OOC”) doping control, where urine samples A-1190719 and B-1190719 were collected from him under the Claimant’s testing authority. The Respondent declared on the Doping Control Form that he had not taken any supplements or medication within the seven days preceding the control. He furthermore confirmed on the Form that the sample collection had been undertaken in accordance with the World Anti-Doping Agency’s (“WADA”) relevant International Standards.
7. On 24 July 2023, the Cologne Laboratory for Doping Analysis reported an AAF for “*S1.2 Other Anabolic Agents/SARMS enobosarm (ostarine) metabolite ostarine glucuronide*” in sample A-1190719. On 26 July 2023, the Laboratory informed ITA that the roughly estimated concentration of ostarine glucuronide in the sample was about 17 pg/mL.
8. On 26 July 2023 as well, ITA notified the Respondent of the AAF and imposed a provisional suspension with immediate effect.
9. On 1 August 2023, the Respondent let ITA know that ostarine glucuronide was unknown to him, that he did not know “*where the trace of the existing substance got into my organism*”, that he had “*not taken that substance or anything that contains it*”, and that he thought “*there was food contamination*”. Moreover, the Respondent attached the form which had been included with the AAF notification, in which he confirmed the challenge of the AAF but waived his right to the opening and analysing of the B-sample. Finally, he submitted a letter from the Doctor of the National Olympic Team and President of the Georgian Sports Medicine Association, Zurab Kahkabrishvili, dated 1 August 2023 as well. In his letter Prof. Kahkabrishvili stated that “*during April and July 2023, non-competitive doping testing was carried out in athletes of different sports. During these testings, several athletes tested positive for substance*”.

Enobosarm (Ostarine)". Prof. Kakhabrishvili to continue that "[w]e have a major, well-founded suspicion that this substance has originated from contaminated food, sports supplements or meats (pork, beef, rabbit, fish, chicken)".

10. On 13 August 2023, 2 September 2023 and 14 October 2023, the Respondent provided further explanations and additional documentation to ITA.
11. On 31 January 2024, ITA issued a Notice of Charge to the Respondent.
12. On 31 January 2024 as well, Mr. Nikoloz Gogava wrote a letter to the Georgian Anti-Doping Agency ("GADA"). By his letter, Mr. Gogava stated what follows.

"[...] Before my arrival to Georgia, I used to live in Russia, namely in Moscow. I was exercising there physically and took Ostarin. When I returned to Georgia I had these drugs with me. [...] so I was frustrated and decided to seek revenge on Zurab Kakhabrishvili and Giorgi Asanidze, I thought I could punish them for their behavior. On 24th June, in an inadequate state went to Bakuriani, to hotel Cristal, to one of the rooms where wrestlers were, opened the door and in a jar with water poured the powder of Ostarin to make revenge on Kakhabrishvili, then on 1st July, I went to Dusheti and did the same in order to make revenge on Giorgi Asanidze, then when I became sober, I heard from Irakli Tsirekidze that athletes face ineligibility because of doping, I felt so bad, cause I felt I ruined their life, this I confessed to Irakli Tsirekidze, and because of that I applied to Criminal Police in Tbilisi and cooperated with them. Please take into consideration my reckless behavior and I apologize to my athletes. [...]"

13. On 6 February 2024, the Respondent expressed himself on the Notice of Charge as follows.

"In response to your letter on 31.01.2024, I inform you of the following:

I declare once again that I have not consumed any prohibited substances. I have an information that criminal division of the Ministry of Internal Affairs of Georgia is conducting an investigation about the fact of a premeditated sabotage action against athletes, including me. Which will make clear the case and [sic] prove my innocence. We will inform you further about the results of the investigation.

Based on it, I refuse the proposed agreement and ask you to suspend the issue of my disqualification until the case is resolved (until the investigation is completed). [...]"

14. On 8 February 2024, ITA confirmed to the Respondent that, in light of the ongoing investigation, he was given an extension of the deadline to provide his response with supporting documents.
15. On 26 February 2024, the Respondent sent a letter from the Georgian police dated 15 February 2024 and signed by a senior investigator to ITA. The second part of the letter reads as follows.

"According to the explanation of veteran judoka Nikoloz Gogava, in the months of June and July 2023, at the sports bases of Dusheti and Bakuriani, he intentionally contaminated the water intended for athletes and probably also the nutritional supplements, which were in an open state, with the prohibited substance "Ostarin" in his possession. [...] Later, when Nikoloz Gogava learned that the athletes [sic] were under threat of disqualification, he decided to report to the investigative body with a corresponding statement, which was also confirmed by him during the inquiry [sic] process."

16. On 25 June 2024, after further extensions of deadline, the Respondent provided a copy of the Verdict issued by the Tbilisi City Court on 20 June 2024 against Nikoloz Gogava to ITA, and

on 26 July 2024, he claimed that the decision confirmed his innocence. According to the Verdict, the Respondent was one of six Georgian athletes spiked by Mr. Gogava, resulting in positive tests for ostarine in July and August 2023. In particular, the decision refers to the Respondent, two wrestlers and three weightlifters. The Verdict indicates that two sabotage incidents occurred in Bakuriani, Georgia, the first one on 24 June 2023, and the second one on 1 July 2023. As per the Verdict, the Respondent, two wrestlers and one weightlifter were affected by the first incident.

17. GADA acted as Testing Authority and as Results Management Authority for four of the six athletes (two weightlifters and two wrestlers). GADA's disciplinary body accepted the sabotage scenario, relying on the Tbilisi Verdict, and it found that all four athletes bore no fault or negligence. The four decisions are under appeal before the Court of Arbitration for Sport ("CAS", CAS 2024/A/10960, CAS 2024/A/10961, CAS 2024/A/10988, and CAS 2024/A/10989). The case of the third weightlifter has been submitted to the CAS Anti-Doping Division (the "CAS ADD", 2023/ADD/65).
18. From 28 to 31 August 2024, the Respondent competed in the Gushtingiri World Senior Championship held in Dushanbe, Tajikistan, organised by the International Gushtingiri Federation.
19. On 7 November 2024, ITA confirmed to the Respondent that his case would be referred for adjudication to the CAS ADD.

III. PROCEDURE BEFORE THE COURT OF ARBITRATION FOR SPORT

20. On 5 February 2025, the Claimant filed a Request for Disciplinary Proceedings in respect of an alleged anti-doping rule violation ("ADRV") committed by the Respondent (the "Request") to the CAS ADD. The Request contains 47 exhibits.
21. On 5 February 2025 as well, the CAS ADD Office invited the Respondent to file his Answer within 20 days.
22. On 5 February 2025 again, WADA informed the CAS ADD Office that, *"at this stage, WADA does not wish to participate in this arbitration"*.
23. On 9 February 2025, the Respondent asked the CAS ADD Office in how many copies the Answer had to be filed to what address, and whether he had to pay a fee, too. On 10 February 2025, the Office answered the Respondent's two questions.
24. On 17 February 2025, the Respondent filed his Answer. The latter contains a request to lift the Respondent's provisional suspension as well as three exhibits.
25. On 28 February 2025, on behalf of the Single Judge, the CAS ADD Office informed the Parties that (1) the Claimant, by 7 March 2025, was given the possibility to submit its position with regard to the Respondent's request dated 17 February 2025, (2) the Respondent, by 12 March 2025, was requested to submit the originals or certified copies of (2.1) Tbilisi City Court's Verdict dated 20 June 2024 (1/3853-24), (2.2) the Police letter dated 15 February 2024 (MIA 4 24 00461778), (2.3) the Police letter dated 2 February 2024 (MIA 3 24 00320683), subsidiarily to justify and prove why it would not be possible to comply with such order, (3) the Respondent, by 12 March 2025 again, was ordered to submit a certified translation of the Verdict, subsidiarily to justify and prove why it would not be possible to comply with such order. Finally, both Parties were invited to state whether they considered a hearing as necessary by 7 March 2025.
26. On 7 March 2025, the Claimant objected to the Respondent's request to lift his provisional suspension, and it considered that the final decision could be issued solely on the Parties written

submissions. Furthermore, the Claimant requested the Single Judge to admit an additional exhibit, a letter by WADA to ITA dated 12 February 2025.

27. On 7 March 2025 as well, the Respondent respectively submitted the original version and a certified English translation of the documents 2.1 and 2.3 as per the Single Judge's Order dated 28 February 2025. Without indicating reasons, he did not submit document 2.2 (which, in its English version, had already been part of the Request) as ordered, and he did not comment on the question whether a hearing was to be held.
28. On 21 March 2025, the CAS ADD Office informed the Parties that the Single Judge deemed himself sufficiently informed to render a final decision based on the Parties' written submissions. Moreover, the CAS ADD Office invited the Parties to sign and return the Order of Procedure by 28 March 2025. Furthermore, the Parties were informed on behalf of the Single Judge that the additional exhibit requested by the Claimant on 7 March 2025 was admitted into the file.

The Respondent had not reacted to the invitation to state whether he considered a hearing as necessary though, what he could be expected to do, even without legal representation. Furthermore, the case file seems complete, the Claimant has explicitly considered that the final decision could be issued solely on the Parties written submissions, and Article A19.3 (1) of the Procedural Rules CAS Anti-Doping-Division (the "ADD Rules") leaves a certain power of discretion to the Single Judge if he deems himself to be sufficiently well informed. For all these reasons, there are no grounds for the Single Judge to order a hearing.

29. By 21 March 2025 as well, the Claimant returned the signed Order of Procedure. So did the Respondent on 26 March 2025.
30. The procedure before the CAS ADD between the Request and the present decision has been an efficient one. There has consequently been no reason to deal with the Respondent's request to lift his provisional suspension by means of a separate order. Instead, the question is (*per definitionem*) part of this decision.

IV. SUBMISSIONS OF THE PARTIES

31. The Single Judge has read and takes into account all of the Parties' submissions. He only refers to key matters to set out the submissions' substance.
32. The Claimant asserts that the Respondent committed an ADRV pursuant to Article 2.1 ADR-IJF and/or Article 2.2 ADR-IJF by reason of the non-specified substance enobosarm's (commonly known as ostarine) metabolite ostarine glucuronide being identified in the A sample of his urine.
33. The primary issue in dispute has been whether the Respondent is entitled to a reduction from the *prima facie* four-year period of ineligibility on the basis that the ADRV resulted from sabotage.
34. As the Respondent bore the onus of proof in establishing that his ADRV had been caused by sabotage and that he was free of (significant) fault or negligence, it seems appropriate to address his case first, and then the Claimant's point of view.

A. The Respondent

35. By his Answer, which is a so-called one-pager, the Respondent essentially submits what follows.

"[...] The test results were a surprise to me, because I had never taken any prohibited substance and had no intention of doing so, [...]."

[...]. The Department [...] for Combating Organized Crime has started proceedings [...]. [...], citizen Nikoloz Gogava determined that in June 2023, he mixed Ostarine in the drinking water of the athletes during their absence at the sports training camp in Bakuriani, Georgia. As a result, several athletes, including me, took Ostarine against our will without even having an idea about what happened earlier.

Nikoloz Gogava's illegal action is confirmed by the information obtained from the interrogation protocols of the victims, the confession of the accused person himself, the information obtained from the interrogation protocol of the witness Zurab Kakhabrishvili, also by the conclusions of forensic medical examination, protocols of investigative and procedural actions and a set of other materials in the case.

Based on all facts mentioned above, Nikoloz Gogava was found guilty by the verdict of Tbilisi City Court dated 20.06.2024 [...]. The verdict entered into legal force.

I have provided the indisputable evidence, [...] confirming my innocence in the case of taking the prohibited substance Ostarine [...]. [...] Now I have to appeal to you and ask you to make a decision to reconsider the decision of the IJF and declare it void. Also, I would like to ask you to cancel my ineligibility [...] and give me the permission to participate in the competitions before making a decision on this case."

B. The Claimant

36. By its Request filed on 5 February 2025 and its submission dated 7 March 2025, the Claimant essentially submits what follows.

- The Respondent is a member of the Georgian Judo Federation and has participated in multiple IJF events. Moreover, he was in the Registered Testing Pool and the AAF-sample was provided as part of a control conducted under IJF's testing authority. It is therefore indisputable that the Respondent has been bound by the provisions of the ADR-IJF.
- It is undisputed that the Respondent has committed an ADRV for presence of a prohibited substance.
- The elements of a use-ADRV are made out as well. The same facts that prove the presence-violation demonstrate that the Respondent must have used ostarine prior to the sample collection. Accordingly, it is without a doubt that the Claimant has met its burden to establish an ADRV for presence and/or use of a prohibited substance to the Single Judge's comfortable satisfaction.
- The Respondent has been unable to establish that his ADRV was non-intentional or that he was a victim of sabotage. Consequently, there are no grounds to reduce the applicable period of ineligibility of four-years. The Respondent has indeed put forward a wholly unsubstantiated scenario to explain his AAF, but he has failed to present any cogent evidence on the required balance of probabilities standard.
- There is no independent documentation or supporting evidence to corroborate Mr. Gogava's claims of spiking drinking water. To the contrary, hard evidence – ignored by the Tbilisi Decision and the underlying investigation – demonstrate that, at least, four out of six athletes could not have been the alleged victims of the sabotage theory

either because they were physically not present at the training camps when the alleged sabotage occurred, or their analytical finding is scientifically not compatible with the sabotage.

- According to the information the Respondent provided in his whereabouts filings, he did not attend the training camp where the alleged sabotage occurred. On this basis alone, his fanciful theory can be rebutted.
- The Claimant considers that not only did the Respondent fail to establish the source of the prohibited substance, but there are no subjective or objective factors otherwise showing that the ADRV was not intentional, to the contrary. Since the Respondent has failed to satisfy his burden of proof, the circumstances of his ADRV are left unknown, which therefore prevents the Single Judge from making a finding as to whether the Respondent bears no (significant) fault or negligence.
- It is evident that the Respondent has breached the conditions of his provisional suspension as he participated in a competition organized by a non-signatory international event organisation. Accordingly, he is ineligible to receive credit for the time served under the provisional suspension. Consequently, the period of Ineligibility should commence from the date on which the CAS ADD decision enters into force.
- Since the ADRV occurred on 6 July 2023, all competitive results obtained by the Respondent from that date until the date of the CAS ADD decision should be disqualified with all associated consequences.
- The Claimant leaves it to the Single Judge to determine the appropriate amount of financial costs to be imposed on the Respondent.
- The Respondent's request for lifting the mandatory provisional suspension has already been addressed, and in any event, there are no grounds for lifting the provisional suspension.

V. JURISDICTION

37. The Request was filed in accordance with Article 8.1.1 ADR-IJF, Article 8.1.2 ADR-IJF and Article A2 of the ADD Rules. No objection was taken regarding the CAS ADD's jurisdiction to hear the case.
38. By virtue of Article 8.1.1 ADR-IJF, the Claimant has delegated first instance decisions to the CAS ADD. According to Article 8.1.2.1 ADR-IJF, when the Claimant notifies an athlete of a potential ADRV and the athlete does not waive a hearing, the case shall be referred to the CAS ADD for adjudication.
39. As per Article A2 (1) of the ADD Rules, the CAS ADD shall be the first-instance authority to conduct proceedings and issue decisions when an alleged ADRV has been filed with it and for imposition of any sanction resulting from a finding that a violation has occurred. The same provision to continue that the CAS ADD has jurisdiction to rule as a first-instance authority on behalf of any WADC Signatory which has formally delegated its powers to the CAS ADD to conduct anti-doping proceedings and impose applicable sanctions.

40. Furthermore, by signing the Order of Procedure, the Parties have agreed to refer the dispute to the CAS ADD. By his signature, the Respondent has additionally stated that he does not contest the CAS ADD's jurisdiction to hear the case.
41. The Single Judge is satisfied that he has jurisdiction to hear the present matter. Provided that the Request be admissible, this means that he will rule on whether the Respondent committed the alleged ADRV and, if so, impose the ensuing consequences.

VI. ADMISSIBILITY

42. No objection was taken regarding the Request's admissibility.
43. As per Article A13 (1) of the ADD Rules, a request in respect of an alleged ADRV shall be filed with the CAS ADD by or on behalf of the WADC Signatory alleging the violation, by way of a written request containing the name and full address of the Respondent and of any third parties, a complete statement of the facts as then known and legal argument, the request for relief, a copy of the regulations containing the specific agreement or of any document providing for the adjudication of ADRVs as a first-instance authority, a copy of the applicable anti-doping regulations. By virtue of Article A13 (2) of the ADD Rules, upon filing its request initiating CAS ADD proceedings, the Claimant shall pay the CAS ADD fee.
44. The Single Judge decides that the Request is admissible.

VII. APPLICABLE LAW

45. The Claimant submits that the ADR-IJF materially apply to the present matter. The Respondent has not commented on the question of the law applicable to the merits.
46. By signing the Order of Procedure, both Parties have agreed that, as per Article A20 of the ADD Rules, the Single Judge shall decide the dispute in accordance with the WADC and the applicable anti-doping rules, or with the laws of a particular jurisdiction chosen by agreement of the parties or, in the absence of such a choice, according to Swiss law.
47. In slight variation from the Order of Procedure, by virtue of Article A20 of the ADD Rules, the Single Judge shall decide the dispute according to the applicable anti-doping rules or the laws of a particular jurisdiction chosen by agreement of the parties or, in the absence of such a choice, according to Swiss law.
48. Under *Introduction / Scope of these Anti-Doping Rules*, the ADR-IJF provide that they shall apply to all athletes who are members of IJF, or of any National Federation, or of any member or affiliate organization of any National Federation (lit. c/i), all athletes who participate in such capacity in events, competitions and other activities organised, convened, authorized or recognized by IJF, or any National Federation, or by any member or affiliate organization of any National Federation (including any clubs, teams, associations, or leagues), wherever held (lit. c/ii), any other athlete who, by virtue of an accreditation, a license or other contractual arrangement, or otherwise, is subject to the authority of IJF, its Continental Unions or of any National Federation, or of any member or affiliate organization of any National Federation, for purposes of anti-doping (lit. c/iii), athletes who are not regular members of IJF or of one of its Continental Unions or National Federations but who want to be eligible to compete in a particular international event (lit. c/iv). As per the next paragraph of the same provision, each athlete is deemed, as a condition of his participation or involvement in the sport, to have agreed to and be bound by the ADR-IJF, and to have submitted to the authority of IJF to enforce the ADR-IJF, including any consequences for the breach thereof.

49. According to Appendix 1 of the ADR-IJF, an *athlete* is any person who competes in sport at the international or the national level.
50. The Single Judge is satisfied that the Respondent is an athlete as per the ADR-IJF, and he is satisfied that the ADR-IJF are applicable to the merits of this procedure. Therefore, in the absence of agreement between the Parties, the Single Judge applies the ADR-IJF (in their function of implementing the WADC) to the merits and, if deemed necessary, subsidiarily Swiss Law.

VIII. MERITS

51. While the Single Judge has considered all legal arguments submitted by the Parties, he only refers to those he considers as necessary to explain his reasoning.

A. Matters not in dispute

52. The following matters were not disputed by the Respondent:
- ostarine glucuronide was present in the Respondent's urine sample;
 - ostarine glucuronide was prohibited at all times in any concentration according to the 2023 WADA Prohibited List;
 - for the purposes of the ADR-IJF, ostarine glucuronide is not a so-called specified substance.

The Single Judge is satisfied that each of these matters is established based on the evidence produced by the Parties.

53. According to Article 2.1.2 ADR-IJF, the mere presence of a prohibited substance or its metabolites (*in casu*: ostarine glucuronide) in an athlete's A sample, where the athlete waives the analysis of the B Sample and the B Sample is not analysed, constitutes an ADRV. By virtue of Article 2.2 ADR-IJF, the mere use by an athlete of a prohibited substance (*in casu*: enobosarm) constitutes an ADRV as well.

The tone and nature of the Respondent's submissions suggest a lack of familiarity with the ADR-IJF and related jurisprudence. However, the substance of the Respondent's case was clearly that he should not be suspended on the basis that he had consumed ostarine / enobosarm unknowingly during a training camp through sabotaged drinking water. In other words, during the present procedure, the Respondent has questioned neither the sample collection process nor the laboratory analysis. It is therefore not disputed that two ADRVs pursuant to Article 2.1.2 ADR-IJF and Article 2.2 ADR-IJF have been committed, and that, consequently, the Single Judge's task is limited to the question whether sanctions and/or other consequences have to be applied to the Respondent. The Single Judge is satisfied that this matter is established based on the evidence produced by the Parties.

B. *Prima facie* period of ineligibility

54. The Respondent has contravened Article 2.1.2 ADR-IJF and Article 2.2 ADR-IJF by the finding of ostarine glucuronide in his urine sample. Pursuant to Article 10.2.1.1 ADR-IJF and Article 10.9.3.1 ADR-IJF, the *prima facie* period of ineligibility for such contravention is four years. Therefore, subject to the Respondent being able to establish grounds for the elimination, the reduction or the suspension of his period of ineligibility, that sanction will apply.

C. The Respondent's burden and standard of proof

55. According to Article 10.2.1.1 ADR-IJF, the period of ineligibility for a violation of Article 2.1 ADR-IJF or Article 2.2 ADR-IJF by the finding of ostarine glucuronide shall (subject to potential elimination, reduction or suspension pursuant to Article 10.5 ADR-IJF, Article 10.6 ADR-IJF

or Article 10.7 ADR-IJF) be four years, unless the athlete can establish that the ADRV was not intentional.

56. Article 10.7.1 ADR-IJF deals with substantial assistance in discovering or establishing ADRVs, Article 10.7.2 ADR-IJF with the admission of an ADRV in the absence of other evidence, and Article 10.7.3 ADR-IJF with multiple grounds for reduction of a sanction. They are not of relevance in the present matter, which means that Article 10.7 ADR-IJF does not apply *in casu*.
57. Article 10.5 ADR-IJF provides that, if an athlete establishes that he bears no fault or negligence, the otherwise applicable period of ineligibility shall be eliminated. As per the Comment to Article 10.5 ADR-IJF, that provision as well as Article 10.6.2 ADR-IJF will only apply in exceptional circumstances, e.g., where an athlete could prove that, despite all due care, he was sabotaged. By the same Comment, conversely, no fault or negligence would not apply to sabotage of the athlete's food or drink by a spouse, coach or other person within the athlete's circle of associates, because athletes are responsible for what they ingest and for the conduct of those persons to whom they entrust access to their food and drink. However, again by the same Comment, depending on the unique facts of a particular case, the referenced illustration could result in a reduced sanction under Article 10.6 ADR-IJF based on no significant fault or negligence. By virtue of the ADR-IJF Definitions, *no fault or negligence* is the athlete's establishing that he did not know or suspect, neither could reasonably have known or suspected even with the exercise of utmost caution, that he had used the prohibited substance. By the same Definition, except in the case of a protected person or recreational athlete (which are both not the case for the Respondent), for any violation of Article 2.1 ADR-IJF, the athlete must also establish how the prohibited substance entered his system.
58. Article 10.6.1 ADR-IJF deals with the reduction of sanctions in particular circumstances for violations of Article 2.1 ADR-IJF or Article 2.2 ADR-IJF: specified substances or methods, contaminated products, and protected persons or recreational athletes. All these circumstances are not of relevance in the present matter, which means that Article 10.6.1 ADR-IJF does not apply *in casu*. As per Article 10.6.2 ADR-IJF, if an athlete establishes in a case where Article 10.6.1 ADR-IJF is not applicable that he bears no significant fault or negligence, the otherwise applicable period of ineligibility may be reduced based on the athlete's degree of fault, but the reduced period may not be less than one-half of the period of ineligibility otherwise applicable. By virtue of the ADR-IJF Definitions, *no significant fault or negligence* is the Athlete's establishing that any 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 ADRV. By the same Definition, except in the case of a protected person or recreational athlete (which are both not the case for the Respondent), for any violation of Article 2.1 ADR-IJF, the athlete must also establish how the prohibited substance entered his system.
59. As per Article 3.1 ADR-IJF, where the ADR-IJF place the burden of proof upon the athlete to rebut a presumption, or to establish specified facts or circumstances, the standard of proof shall be by a balance of probability. This standard is very strict and comprises the following principles (CAS 2021/A/7768, n° 218, including further references).
 - The indicted athlete must prove that his hypothesis is more probable than other possible explanations, or at least 51% likely to have occurred.
 - There is no need to decide which is the most likely between two or more competing scenarios, but rather the athlete must prove that the chain of events presented by him was more likely than not to have happened. The other party does not have the burden of proving the prevailing likelihood of a different scenario and it is not obliged to put forward any other competing scenarios.

- Mere denial, attestations of innocence and efforts to locate the source are not enough to meet the required standard. The athlete must submit actual evidence as opposed to mere speculation.

Therefore, again according to the Panel in CAS 2021/A/7768 (n° 218), establishing that a scenario is possible is insufficient to establish the origin of the prohibited substance. By way of example, the Panel in CAS OG 16/25 (n° 7.27) “*found the sabotage(s) theory possible, but not probable and certainly not grounded in any real evidence*”. In other words, the athlete must also demonstrate that the source could have caused the actual AAF, using corroborating evidence (CAS 2010/A/2277, n° 36).

60. Article 3.2 ADR-IJF provides that facts related to ADRVs may be established by any reliable means. Article 3.2.4 ADR-IJF specifies that the facts established by a decision of a court of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the athlete to whom the decision pertained of those facts unless he establishes that the decision violates principles of natural justice.
61. By synthesising what precedes, the Single Judge must decide whether the Respondent bears no (significant) fault or negligence in his AAF. This means that the Single Judge must verify whether the Respondent has established how ostarine glucuronide had entered his system, and whether he had not known or suspected, neither could reasonably have known or suspected even with the exercise of utmost caution, that he had used that substance, respectively its so-called mother substance enobosarm. To do so, the Single Judge must start by determining whether the Respondent has proved that the sabotage he had put forward not only is possible, but that it is probable and grounded in real evidence, meaning that it probably is the actual cause of the Respondent’s AAF. By doing so, the Single Judge can rely on any reliable means.

D. Sabotage of drinking water

62. In his Answer, the Respondent, in essence, claims what follows.

“[...] The Department [...] for Combating Organized Crime has started proceedings [...]. [...], citizen Nikoloz Gogava determined that in June 2023, he mixed Ostarine in the drinking water of the athletes during their absence at the sports training camp in Bakuriani, Georgia. As a result, several athletes, including me, took Ostarine against our will without even having an idea about what happened earlier.

Nikoloz Gogava’s illegal action is confirmed by the information obtained from the interrogation protocols of the victims, the confession of the accused person himself, the information obtained from the interrogation protocol of the witness Zurab Kakhabrishvili, also by the conclusions of forensic medical examination, protocols of investigative and procedural actions and a set of other materials in the case.

Based on all facts mentioned above, Nikoloz Gogava was found guilty by the verdict of Tbilisi City Court dated 20.06.2024 [...]. The verdict entered into legal force.

I have provided the indisputable evidence, [...] confirming my innocence in the case of taking the prohibited substance Ostarine [...]. [...] Now I have to appeal to you and ask you to make a decision to reconsider the decision of the IJF and declare it void. Also, I would like to ask you to cancel my ineligibility [...] and give me the permission to participate in the competitions before making a decision on this case.”

63. The Claimant, in its Request, argues that the Respondent has been unable to establish that his ADRV was non-intentional or that he was a victim of sabotage. The Claimant to continue that the Respondent has not only put forward an unsubstantiated scenario to explain his AAF, but that he has also failed to present any cogent evidence on the required balance of probabilities standard.

According to the Claimant, there is no independent documentation or supporting evidence to corroborate the Respondent's claims of spiking drinking water, to the contrary: hard evidence – ignored by the Tbilisi Verdict and the underlying investigation – demonstrate that, at least, four out of six athletes could not have been the alleged victims of the sabotage theory either because they were physically not present at the training camps when the alleged sabotage occurred or their analytical finding is scientifically not compatible with the sabotage. Furthermore, the Claimant puts forward that, as per the information the Respondent provided in his Whereabouts, he did not attend the training camp where the alleged sabotage occurred, so that, on this basis alone, his theory can be rebutted. Moreover, the Claimant considers that not only did the Respondent fail to establish the source of the prohibited substance, but there are no factors otherwise showing that the ADRV was not intentional. Finally, according to the Claimant, since the Respondent has failed to satisfy his burden of proof, the circumstances of his ADRV are left unknown, which therefore prevents the Single Judge from making a finding as to whether the Respondent bears no (significant) fault or negligence.

64. During the present procedure, the Respondent has submitted the original version and a certified English translation of Tbilisi City Court's Verdict dated 20 June 2024, and the Claimant itself has submitted the English version of the Police letter dated 15 February 2024. The Claimant has put into question neither the authenticity of these documents or of the said translation nor the accurateness of the information contained therein. The Single Judge considers that information as reliable means of proof as per Article 3.2 ADR-IJF. However, the facts established by Tbilisi City Court cannot be considered as irrebuttable evidence in favour of the Respondent, because the wording of Article 3.2.4 ADR-IJF unambiguously excludes its application in establishing a defence, such as sabotage, to an ADRV.

Nikoloz Gogava's letter

65. By his letter to GADA dated 31 January 2024, Nikoloz Gogava, in essence, stated what follows.

"[...] Ostarin. When I returned to Georgia I had these drugs with me. [...] so I was frustrated and decided to seek revenge on Zurab Kakhabrishvili and Giorgi Asanidze, I thought I could punish them for their behavior. On 24th June, in an inadequate state went to Bakuriani, to hotel Cristal, to one of the rooms where wrestlers were, opened the door and in a jar with water poured the powder of Ostarin to make revenge on Kakhabrishvili, then on 1st July, I went to Dusheti and did the same in order to make revenge on Giorgi Asanidze, [...]."

The letter's content is formulated so generically that it is not suitable for drawing any conclusion based on the balance of probability requirement.

The criminal investigation and the Tbilisi Verdict

66. On 15 February 2024, Georgias Central Criminal Police Department and Division of Fighting Organized Crime let the Respondent know what follows.

"According to the explanation of veteran judoka Nikoloz Gogava, in the months of June and July 2023, at the sports bases of Dusheti and Bakuriani, he intentionally contaminated the water intended for athletes and probably also the nutritional supplements, which were in an open state, with the prohibited substance "Ostarin" in his possession. [...] Later, when Nikoloz Gogava learned that the athletes [sic] were under threat of disqualification, he decided to report to the investigative body with a corresponding statement, which was also confirmed by him during the inquiry [sic] process."

The aforementioned letter indeed points towards a sabotage scenario. It is by far neither substantiated nor precise enough though to be considered as the establishing by the Respondent of how ostarine glucuronide entered his system. In other words, the letter cannot be considered as the proving by the Respondent that the sabotage he puts forward not only is possible, but that it probably is the actual cause of his AAF.

67. On 20 June 2024, the Tbilisi City Court sentenced Nikoloz Gogava to one year of conditional imprisonment with a probationary period of two years. The Verdict constitutes the approval of a plea agreement between the prosecutor and Mr. Gogava, and as such, it goes “*without considering the merits of the case*”, without “*a substantive review*” in other words. The essence of the agreement as described in the Verdict reads as follows concerning the present matter.

“1.1. Nikoloz Gogava intended to harm the health of Georgian athletes. It became known to him that on June 24-25, 2023, [...] a member of the Georgian National Weightlifting Team, as well as members of the Georgian National Wrestling Federation: [...], as well as Beka Gviniashvili, a member of the Georgian National Judo Team, were at the sports base in Bakuriani.

After receiving the mentioned information, Nikoloz Gogava started to take appropriate action to implement his intention. At first, a substance was sought - ostarine, the intake of which could cause a morbid condition. Later, he went from Kutaisi to Bakuriani township and determined the location of the Georgian athletes. Also, food supplements and drinking water intended for them.

After studying the above-mentioned circumstances, he went to the sports base in Bakuriani township, where at a convenient time and situation, during the absence of the athletes, he poured the substance - Ostarine - into the drinking water intended for them, and then secretly left the scene of the accident. As a result of the above, [...], a member of the National Weightlifting Team of Georgia, as well as members of the National Wrestling Federation of Georgia: [...], as well as Beka Gviniashvili, a member of the Judoist National Team of Georgia, suffered minor health damage as a result of taking the substance - Ostarine against their will. with short-term loss of health.”

Again, the Verdict indeed points towards a sabotage scenario. However (as the Claimant points out correctly), there had been no scrutiny over the factual basis of Nikoloz Gogava’s confession, which means that neither the Tbilisi City Court nor the prosecutor were required to prove his guilt or verify the accuracy of his claims. Furthermore (again as the Claimant points out correctly), the following, critical details of the alleged spiking remain unexplained. When exactly did Mr. Gogava travel to Bakuriani? Which room(s) did Mr. Gogava enter? Where was the drinking water located? Was it in sealed bottles or open containers? How much enobosarm was used? Being an ordinary means of proof according to Article 3.2 ADR-IJF and Article 3.2.4 ADR-IJF *a contrario*, the Verdict is therefore neither substantiated nor precise enough to be considered as the establishing by the Respondent of how ostarine glucuronide entered his system. In other words, the Verdict cannot be considered as the proving by the Respondent that the sabotage he puts forward not only is possible, but that it probably is the actual cause of his AAF.

On an additional note, the Single Judge notes that, according to the Verdict, there is a whole set of evidentiary material Nikoloz Gogava is “*fully familiar with*”. However, even though in his letter to GADA dated 31 January 2024, Mr. Gogava offered cooperation, and even though the Respondent knows or can at least be expected to know that the Verdict’s summary character constitutes an important argument of the Claimant, he has remained silent on such evidentiary material.

The Respondent's Whereabouts

68. Together with the Request, the Claimant submitted the Respondent's Whereabouts for the period between 1 June 2023 and 31 July 2023. The Respondent has put into question neither the authenticity of the said Whereabouts nor the accurateness of the information contained therein. The Single Judge considers that information as reliable means of proof as per Article 3.2 ADR-IJF.
69. According to his Whereabouts, between 21 June 2023 and 28 June 2023, the Respondent was in Tbilisi. Travelling from Tbilisi to Bakuriani (by car) means a journey of approximately 180 kilometres and nearly three hours. In other words, as per his Whereabouts, with a margin of several days in both directions, the Respondent, on 24 and 25 June 2023, was not at the place where the allegedly sabotaged water allegedly entered his system.
70. It is commonly known that athletes may be negligent regarding the accurateness of their Whereabouts. Nevertheless, even though the Respondent knows or can at least be expected to know that the contradiction between his sabotage scenario and his Whereabouts constitutes one of the Claimant's main arguments, he has remained silent on that point. He has namely not tried to align his scenario with his allegedly effective localisation, e.g., by submitting (raw) data of his social media accounts. The Single Judge has therefore no reason to put the accurateness of the Respondent's Whereabouts into question.

The Single Judge's conclusion

71. The Request may be interpreted as implicitly suggesting that the sabotage scenario might have been constructed in consultation between the Respondent, the other implicated athletes and Nikoloz Gogava. The question can remain unanswered here though. The Single Judge however notes that the Respondent's case is indeed characterised by contradictions and incomplete evidence, respectively with lack of evidence.
72. The Single Judge considers that the Respondent has failed to prove by the required balance of probability how ostarine glucuronide had entered his system, and that he had not known or suspected, neither could reasonably have known or suspected even with the exercise of utmost caution, that he had used that substance, respectively its so-called mother substance enobosarm. In other words, the Respondent has failed to prove that he bears no fault or negligence, or at least no significant fault or negligence, in his AAF. The Single Judge therefore decides that the Respondent is sanctioned with a period of ineligibility of four years.

E. Commencement of period of ineligibility and eventual credit for provisional suspension

Commencement of period of ineligibility

73. Article 10.13 ADR-IJF provides that the period of ineligibility shall start on the date ineligibility is imposed if there is no hearing, i.e., on the date of the present decision. However, as per Article 10.13.1 ADR-IJF, where there have been substantial delays and the athlete can establish that such delays are not attributable to himself, the CAS ADD may start the period of ineligibility at an earlier date commencing as early as the date of sample collection.
74. According to Article 10.13.2.1 ADR-IJF, only if a provisional suspension is respected by an athlete, he/she shall receive a credit for such period against any period of ineligibility ultimately imposed. By virtue of Article 10.14.1 ADR-IJF, no athlete who is subject to a provisional suspension may, during such period, participate in any capacity in a competition or activity (other than authorized anti-doping education or rehabilitation programs) authorised or organised by any WADC-Signatory, Signatory's member organisation, or a club or other member organisation of a Signatory's member organisation, or in competitions authorised or organised by any professional league or any

international-level or national-level event organisation or any elite or national-level sporting activity funded by a governmental agency.

75. There has been no hearing in the present procedure. Consequently, the Respondent's period of ineligibility starts upon the notification of the present decision.

Eventual credit for provisional suspension

76. As, from 28 to 31 August 2024, the Respondent competed in the Gushtingiri World Senior Championship organised by the International Gushtingiri Federation, a non-Signatory international-level event according to Article 10.14.1 ADR-IJF in other words, he did not respect his provisional suspension. The Respondent shall therefore not receive a credit for such period against his period of ineligibility.

The Single Judge's conclusion

77. The Single Judge decides that the Respondent's period of ineligibility shall start on the day of notification of the present Decision, and that he shall receive no credit for the provisional suspension he served.

F. Financial consequences

78. By virtue of Article 10.12.1 ADR-IJF, where an athlete commits an ADRV, IJF may, in its discretion and subject to the principle of proportionality, elect to (a) recover from the athlete costs associated with the ADRV and/or (b) fine the athlete in an amount up to USD 1,000 only in cases where the maximum period of ineligibility otherwise applicable has already been imposed.
79. By the Request, "[...] ITA leaves it to the discretion of the Single Judge to determine the appropriate amount of financial costs to be imposed on the Athlete". Taking into account the context of that assertion, the Single Judge is satisfied that it refers to Article 10.12.1 lit. b ADR-IJF. There is no formal prayer for relief going with the assertion. Even if the latter would be considered as such a prayer though, it would lack any substantiation (as required under Swiss Civil Law), which means that it would not be admissible. The Respondent is therefore not to be fined.

G. Disqualification

80. As per Article 10.10 ADR-IJF, all competitive results of the athlete obtained from the date a positive sample was collected through the commencement of his provisional suspension shall, unless fairness requires otherwise, be disqualified with all resulting consequences including forfeiture of any medals, points and prizes.
81. There is a range of factors to be taken into account in consideration of *fairness*. Numerous of those have been identified by the Sole Arbitrator in CAS 2019/O/6153, and according to the Single Judge in 2024/ADD/112, one of the most significant factors is the extent to which the results in question might have been affected by the ADRV. The Single Judge in this procedure shares these analyses, and he notices that the extent to which results might be affected is the only relevant factor *in casu*.
82. Ostarine glucuronide is a metabolite of enobosarm. The latter possesses effects comparable to anabolic steroids but with fewer androgenic properties. Specifically, Enobosarm, like other Selective Androgen Receptor Modulators, increases lean body mass and promotes muscle growth, which leads to increases of competitiveness in strength sports such as judo.
83. The Respondent's positive sample was collected on 5 July 2023. He has provisionally been suspended since 26 July 2023. Hence, between these two dates, namely because the concentration of ostarine

glucuronide in the sample was far from neglectable, the Respondent would most probably have benefited from the increases of competitiveness caused by enobosarm. Consequently, there is no fairness argument benefitting to the Respondent. Therefore, his competitive results obtained between 5 July 2023 and 26 July 2023, if any, are disqualified with all resulting consequences including forfeiture of any medals, points and prizes.

IX. COSTS

(...)

X. APPEAL

88. Pursuant to Article A21 (5) of the ADD Rules, the present decision, which is final and reasoned, may be appealed to the CAS Appeals Arbitration Division within 21 days from receipt of the decision's notification in accordance with Articles R47 *et seq.* of the Code of Sports-Related Arbitration.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Request for Disciplinary Proceedings filed by the International Testing Agency on behalf of the International Judo Federation on 5 February 2025 is partially upheld.
2. Mr. Beka Gviniashvili is found to have committed anti-doping rule violations pursuant to Article 2.1.2 and Article 2.2 of the International Judo Federation's Anti-Doping Rules.
3. Mr. Gviniashvili is sanctioned with a period of ineligibility of four (4) years starting from the day of notification of the present Decision.
4. Mr. Gviniashvili's competitive results obtained between 5 July 2023 and 26 July 2023, if any, are disqualified with all resulting consequences including forfeiture of any medals, points and prizes.
5. (...).
6. (...).
7. All other motions or prayers for relief are dismissed if admissible at all.

Lausanne, 22 May 2025

THE ANTI-DOPING DIVISION OF THE COURT OF ARBITRATION FOR SPORT

Marco Steiner
Single Judge