

Tribunal Arbitral du Sport
Court of Arbitration for Sport

CAS 2018/A/5570 Denislav Dimitrov Ivanov v. International Judo Federation (IJF)

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Prof. Dr. Jens Ewald, Professor of Law, Aarhus, Denmark

in the arbitration between

Mr. DENISLAV DIMITROV IVANOV, Sofia, Bulgaria
Represented by Ms Irena Yankova, Attorney-at-Law, Sofia, Bulgaria

Appellant

and

INTERNATIONAL JUDO FEDERATION (IJF), Lausanne, Switzerland

Represented by Mr François Carrard, Mr Ross Wenzel and Mr Anton Sotir, Attorneys-at-Law,
Lausanne, Switzerland

Respondent

I. PARTIES

1. Mr. Denislav Dimitrov Ivanov (the “Athlete” of the “Appellant”) is a judoka from Bulgaria and a member of the Bulgarian Judo Federation.
2. The International Judo Federation (the “IJF” or the “Respondent”) is the international federation governing judo and is recognized by the International Olympic Committee.

II. FACTUAL BACKGROUND

3. Below is a summary of the relevant facts and allegations based on the Parties’ submissions on the merits of this appeal. Additional facts and allegations found in the Parties’ written submissions may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he refers in his Award only to the submissions and evidence he considers necessary to explain his reasoning.
4. On 15 September 2017, on the occasion of the European Junior Judo Championships in Maribor, Slovenia, the Athlete underwent an in-competition doping control.
5. The analysis of the A Sample revealed the presence of the metabolites of the metabolic modulator GW1516 being a Peroxisome Proliferator Activated Receptor (PPAR) agonist. GW1516 is a non-specified metabolic modulator prohibited at all times under S4.5 of the 2017 WADA Prohibited List.
6. The Athlete did not request the analysis of the B Sample.
7. On 15 October 2017, the IJF Hearing Panel provisionally suspended the Athlete.
8. On 4 January 2018, the IJF Executive Committee found that the Athlete had committed an anti-doping rule violation (“ADRV”) and imposed a period of ineligibility of four years. The period of provisional suspension already served by the Athlete was credited against the total period of ineligibility to be served. In addition, the results achieved by the Athlete were disqualified with all respective consequences, including forfeiture of medals, points and prize money

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

9. On 24 January 2018, the Appellant filed his Statement of Appeal against the International Judo Federation Executive Committee Decision (the “Appealed Decision”) with the Court of Arbitration for Sport (the “CAS”) in accordance with Article 47 et seq. of the Code of Sports-

related Arbitration (the “CAS Code”). The Appellant informed the CAS that his Statement of Appeal was to be regarded as his Appeal Brief.

10. On 20 February 2018, the CAS Court Office opened this procedure and invited the Respondent to submit an Answer within 20 days from receipt of the letter. Further, the Respondent was invited to inform the CAS Court Office whether it agreed to the appointment of a sole arbitrator, and in absence of an answer or in case of disagreement, in accordance with Article R50 of the CAS Code, it would be for the President of the CAS Appeals Arbitration Division, or her Deputy, to decide the issue, taking into account the circumstances of the case. In case of submission of the present case to a Sole Arbitrator, the latter should be appointed in accordance with Article R54 of the CAS Code.
11. On 28 February 2018, the CAS Court Office asked the IJF to confirm whether it had received the CAS Court Office correspondence of 20 February 2018. On the same date, the IJF confirmed that it did not receive any correspondence regarding the present case.
12. On 8 March 2018, the CAS Court Office advised the Parties that the Respondent did not state its position to the Appellant’s request to submit the case to a sole arbitrator within the prescribed deadline, and it now would be for the President of CAS Appeals Arbitration Division to decide the issue in accordance with Article R50 of the CAS Code.
13. On 12 March 2018, the Respondent requested a five-day extension of the time limit for filing an Answer. In its letter the same date, the CAS Court Office advised the Parties the Respondent’s request was granted.
14. On 19 March 2018, the Respondent filed its Answer.
15. On 20 March 2018, the CAS Court Office invited the Parties to inform the CAS whether they preferred a hearing to be held or for the Panel/the Sole Arbitrator to issue an award based solely on the Parties’ written submissions.
16. On 21 March 2018, the CAS Court Office advised the Parties that the case had been submitted to a sole arbitrator.
17. On 27 March 2018, the Respondent informed the CAS Court Office that in view of the clarity of the legal factual circumstances, it deemed that no hearing was necessary and that the Sole Arbitrator may decide the case based on the documents at his/her disposal.
18. In an email on the same date, the Appellant informed the CAS Court Office that his preference was that the decision was based on the Parties’ written statements.

19. On 29 March 2018, in accordance with Article R54 of the CAS Code and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that Prof. Dr. Jens Evald had been appointed as the Sole Arbitrator. The Parties did not raise any objection to the constitution and the composition of the Panel.
20. On 4 April 2018, on behalf of the Sole Arbitrator, who had considered the Parties' positions with respect to a hearing, and pursuant to Article R57 of the CAS Code, the Parties were advised that the Sole Arbitrator deemed himself sufficiently well-informed to decide this case based solely on the Parties' written submissions without the need to hold a hearing.
21. In his Statement of Appeal/Appeal Brief, the Appellant submitted an "Evidence requests" asking the CAS:

"Please ask the following questions to an expert microbiologist or other appropriate specialist.

 1. *Is it possible to find metabolites of this substance in a sample of urine taken on 15 September in intake of the forbidden substance GW1516 at the end of May?*
 2. *What will be the impact of GW1516 in quantity – 0.01 on the athlete's performance?*
 3. *Could it be assumed that the amount of 0.01 of the GW1516 is minimal or negligible and may it be claimed that it concerns contamination?"*
22. On 16 April 2018, on behalf of the Sole Arbitrator, the Parties were advised that the Sole Arbitrator considered himself sufficiently well-informed with the Parties' submissions at stake in this proceedings and, therefore did not deem it necessary to call an independent expert as requested by the Appellant. The Sole Arbitrator based his decision on the following findings: i) it is undisputed by the Parties that the Athlete's A Sample revealed the presence of a Prohibited Substance and therefore questions 1 and 2 in the "Evidence requests" are of no relevance in the present case, ii) whether or not an anti-doping rule violation is intentional is a legal issue that the panel/sole arbitrator has to determine (and not an expert witness), and iii) the mere possibility that an anti-doping rule violation may have been caused by the intake of contaminated products is not enough to establish that a contamination in fact caused the adverse analytical finding.
23. The Respondent's counsel signed and returned the Order of Procedure to the CAS Court Office on 12 April 2018. The Appellant's counsel signed and returned the Order of Procedure to the CAS Court Office on 25 April 2018.

IV. PARTIES' SUBMISSIONS

24. The following is a summary of the Parties' submissions and does not purport to be comprehensive. However, the Sole Arbitrator has thoroughly considered in his deliberation all of the evidence and arguments submitted by the Parties, even if no specific or detailed reference is made to those arguments in the following outline of their positions and in the ensuing discussion on the merits.
25. The Appellant's submissions, in essence, may be summarized as follows:
- The violation of IJF Anti-Doping Rules was not intentional for the following reasons:
 - The only likely and logical explanation for the presence of the prohibited substance in his body is two surgical interventions and subsequent treatment.
 - The only chance that the prohibited substance in his body is that it happened in the period January 2017 to May 2017, when he took the medications for treatment and additional vitamins and food additives.
 - The likelihood of dietary additives and vitamins to be contaminated is unquestionable.
 - The amount of GW1516 found in the sample is 0.01 and is likely to reflect incidental intake instead of being used in quantity to influence the Athlete's performance.
 - According to publications on the website (US National Library of Medicine, National Institute of Health) even a one-time intake of 10 mg are detected over a long period of time 40-60 days. Therefore it is likely that the substance "*has come under the way described*" by the Appellant, which excludes his negligence and intent.
 - Another possibility is that the Appellant inadvertently consumed GW1516 through a protein drink in a fitness centre in Sofia at the end of May 2017. Several Bulgarian websites indicate that GW1516 is used in fitness centres.
26. In light of the above, the Appellant submits the following prayer for relief:
1. *Cancel the penalty imposed by accepting that there is no intention or negligence on the part of the athlete and latter should not be sanctioned.*
 2. *Alternatively, I request the repeal of the penalty imposed and the replacement with the least provided penalty, taking into account the facts and circumstances set out herein."*

[...]

“Other requests and statements:

1. *Please release the competitor from payment of the advance fee due for the current proceedings. We apply a signed legal aid form.”*

[...]

27. The IJF submissions, in essence, may be summarized as follows:

- Pursuant to Article 2.1 of the 2017 IJF Anti-Doping Rules, the presence of a prohibited substance or its metabolites found to be present in an athlete’s sample constitutes an ADRV.
- The analysis of the Athlete’s A Sample revealed the presence of GW1516, a metabolic modulator prohibited at all times under S4.5 of the 2017 WADA Prohibited List.
- The Athlete does not challenge the fact of the ADRV, which was confirmed by the Appealed Decision, but rather seeks the reduction of the period of ineligibility imposed by IJF.
- In light of the above, the Athlete has committed an ADRV under Article 2.1 of the 2017 IJF Anti-Doping Rules.
- According to Article 10.2.1.1 of the 2017 IJF Anti-Doping Rules, the period of ineligibility shall be four years, unless the athlete can establish that the ADRV was not intentional.
- As to the Athlete’s explanations, the IJF notes the following:
 - None of the medications the Athlete was prescribed contains GW1516. His explanations are mere speculations.
 - GW1516 is popular on the black market among athletes. On 21 March 2013, WADA issued a separate alert with respect to GW1516: *“The side effect of GW1516 is so serious that WADA [was] taking the rare step of warning “cheats” to ensure that there is complete awareness of the possible health risk to athletes who succumb to the temptation of using GW501516 for performance enhancement”*. WADA also mentioned that *“GW501516 was a developmental drug that was withdrawn from*

research by the pharmaceutical company and terminated when serious toxicities were discovered in pre-clinical studies.”

- Being an experimental drug leading to cancer, the IJF excluded any possibility that the Athlete, even hypothetically, could be prescribed with a medicine containing GW1516 that has not been clinically approved or allowed, in Bulgaria or elsewhere. Indeed, none of the medications mentioned by the Athlete contain the prohibited substance as an ingredient.
 - In the alternative that the Athlete might have inadvertently consumed the GW1516 through a protein drink in a fitness centre in Sofia in the end of May 2017, there is no evidence to support such contention.
 - Even if the Athlete could present evidence that this protein scenario were true, the IJF submits that a consumption of a cocktail with GW1516 in a fitness centre (without knowing or verifying the ingredients) to get some “*tonus*” implies “*a significant risk that the conduct might constitute or result in an anti-doping rule violation*”. In other words, such behavior of the Athlete, even if true, *quod non*, would be tantamount to an (indirectly) “intentional” ADRV under Article 10.2.3 of the 2017 IJF Anti-Doping Rules.
- In view of the CAS case law regarding the strict nature of the duty on athletes to establish the origin of the prohibited substance in their system, it is clear that the Athlete has manifestly not satisfied his burden of establishing the origin of the prohibited substance. Therefore, the ADRV must be deemed intentionally and the Athlete sanctioned with a four year ineligibility period.

28. In light of the above, IJF submits the following prayer for relief:

- (1) *The appeal of the Athlete is dismissed.*
- (2) *The IJF is granted an award for costs.*

V. JURISDICTION

29. Article R47 provides as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal

remedies available to it prior to the appeal, in accordance with the statutes or regulations of said body.”

30. Article 13.2.1 of the 2017 IJF Anti-Doping Rules (the “IJF ADR”) states *“In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS”*.
31. The jurisdiction of CAS is not contested by the Respondent.
32. Hence, it follows that CAS has jurisdiction to adjudicate and decide on the present dispute.

VI. ADMISSIBILITY

33. According to Article 13.7.1 of the 2017 IJF ADR, the deadline to appeal to CAS is *“twenty-one days from the date of receipt of the decision by the appealing party”*.
34. The Appellant was notified of the Appealed Decision on 4 January 2018. As the Statement of Appeal was filed on 24 January 2018, the appeal was lodged within the deadline set forth under Article 13.7.1 of the 2017 IJF ADR. The appeal complied with all other requirements of Article R47 of the CAS Code.
35. It follows that the appeal is admissible.

VII. APPLICABLE LAW

36. Article R58 of the CAS Code provides the following:

“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of the law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”

37. In accordance with Article R58 of the CAS Code, the applicable regulation to this case is the 2017 IJF ADR.
38. As the “seat” of this arbitration is Lausanne, Switzerland, Swiss Law governs all procedural aspects of this proceeding.

39. The Parties have not made any choice regarding which country's substantive rules of law "*subsidiarily*" apply in resolving the merits of this appeal. Since the sole issue raised by this appeal can and will be determined solely with reference to the 2017 IJF ADR, it is not necessary to determine the law of the country that would be subsidiarily applicable.

VIII. MERITS

40. The sole issue for determination by the Sole Arbitrator is the appropriate length of the Athlete's period of ineligibility under the 2017 IJF ADR. All factual determinations and rulings of the IJF Executive Committee that have not been contested by either party in these proceedings and, therefore the Sole Arbitrator treats them as uncontested facts.

41. The Sole Arbitrator will address the issues as follows:

(A) The Occurrence of an ADRV and the Standard Sanction

(B) Burden and Standard of Proof

(C) Was the Athlete's ADRV Intentional?

(D) Sanctions.

A. The Occurrence of an ADRV and the Standard Sanction

42. With regard to the Athlete's ADRV, the Sole Arbitrator notes that it is undisputed that the Athlete's A Sample revealed the presence of, GW1516, a Peroxisome Proliferator Activated Receptor (PPAR) agonist. GW1516 is a non-specified metabolic modulator prohibited at all times under S4.5 of the 2017 WADA Prohibited List.
43. Furthermore, the Sole Arbitrator notes that the IJF Executive Committee ruled that an ADRV was established pursuant to Article 2.1 of the 2017 IJF ADR, which was not disputed by the Athlete. This issue is not disputed.
44. With respect for the appropriate period of ineligibility, Article 10.2 of the 2017 IJF ADR provides that:

The period of ineligibility for a violation of Article 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Article 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

...

10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.

45. The Sole Arbitrator notes that the standard sanction for an ADRV involving a non-specified substance is 4 (four) years, unless the Athlete (or other Person) can establish that the ADRV was not intentional.

B. Burden and Standard of Proof

46. In the present case, the burden of proof that the ADRV was not intentional bears on the Athlete, cf. Article 10.2.1 of the 2017 IJF ADR and it naturally follows that the Athlete must also establish how the substance entered her body.
47. Pursuant to Article 3.1 of the 2017 IJF ADR, the standard of proof is the balance of probabilities:

[...] Where these Anti-Doping Rules place the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by balance of probability.

48. The Sole Arbitrator notes that this standard requires the Athlete to convince the Sole Arbitrator that the occurrence of the circumstances on which the Athlete relies is more probable than their non-occurrence, cf. CAS 2016/A/4377, at para. 51.

C. Was the Athlete's ADRV Intentional?

49. The main relevant rule in question in the present case is Article 10.2.3 of the 2017 IJF ADR, that reads as follows:

"As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Athletes who cheat. The term, therefore, requires that the Athlete or other Person engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An anti-

doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered “intentional” if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was unrelated to sport performance.”

50. The WADA 2015 World Anti-Doping Code, Anti-Doping Organizations Reference Guide (section 10.1 “What does ‘intentional’ mean?”, p. 24) provides the following guidance:

‘Intentional’ means the athlete, or other person, engaged in conduct he/she knew constituted an ADRV, or knew there was significant risk the conduct might constitute an ADRV, and manifestly disregard that risk.

Article 10.2 is clear that it is four years of ineligibility for presence, use or possession of a non-specified substance, unless an athlete can establish that the violation was not intentional. For specified substances, it is also four years if an ADO can prove the violation was not intentional.

Note: Specified substances are more susceptible to a credible, non-doping explanation; non-specified substances do not have any non-doping explanation for being in an athlete’s system.

51. The Sole Arbitrator in the present case aligns with the Panel in CAS 2016/A/4377 that the Athlete must establish how the substance entered her body *that* to establish the origin of the prohibited substance it is not sufficient for an Athlete “*merely to protest their innocence and suggest that the substance must have entered his or her body inadvertently from some supplement, medicine or other product which the athlete was taking at the relevant time. Rather, an athlete must adduce concrete evidence to demonstrate that a particular supplement, medication or other product that the athlete took contained the substance in question*”.

52. In CAS 2014/A/3820, the Panel made the following comments:

“In order to establish the origin of a Prohibited Substance by the required balance of probability, an athlete must provide actual evidence as opposed to mere speculation. In CAS 2010/A/2230, the Panel held that: [t]o permit an athlete to establish how a substance came to be present in his body by little more than a denial that he took it would undermine the objectives of the Code and Rules. Spiking and contamination – two prevalent explanations volunteered by athletes for such presence – do and can occur; but it is too easy to assert either; more must sensibly be required by way of proof, given the nature of the athlete’s basic personal duty to ensure that no prohibited substances enter his body.”

53. The Sole Arbitrator observes the Appellant’s contentions that the prohibited substance entered his body either by consuming i) prescribed medication, ii) contaminated dietary/food additives and vitamins, or iii) a contaminated protein drink in a fitness centre in Sofia. The

Sole Arbitrator finds that the Appellant's explanations have virtually no evidentiary basis supporting them. As for the Appellant's explanations, the Sole Arbitrator holds as follows:

- i. The Appellant asserts that the prohibited substance entered his body in connection with "*two surgical interventions and subsequent treatment*" and where he, *inter alia*, was "*prescribed extra Trimductal*". The Sole Arbitrator observes that the Appellant did not provide any documentation that the said medication contained GW1516. Further, the Sole Arbitrator takes into consideration that the Respondent contends that "*none of the medications he was prescribed contains GW1516*". The Sole Arbitrator finds it unlikely that the Athlete was prescribed medication containing a substance that has not been clinically approved or allowed in Bulgaria or elsewhere. It follows that the Sole Arbitrator finds the Appellant's assertion to be unsubstantiated.
 - ii. Further, the Appellant asserts that the prohibited substance have entered his body by consuming contaminated dietary/food additives and vitamins. The Sole Arbitrator observes that the Appellant relies on the website of the Bulgarian Ministry of Youth and Sports, "National strategy against the use of doping in sport for the period 2012-2025", which, *inter alia*, states that "*There are a number of cases where positive doping samples have been recorded due to the fact that the athletes who have been caught have used dietary supplements [...] Several such cases with Bulgarian athletes in recent years have negatively affected the international sports reputation of Bulgaria*" The Sole Arbitrator observes that the Appellant did not provide any concrete evidence that the dietary/food additives and vitamins he claims to have consumed actually contained GW1516. It follows that the Sole Arbitrator finds the Appellant's assertion to be unsubstantiated.
 - iii. The Appellant contends that the GW1516 entered his body consuming a protein drink in a fitness centre in Sofia. The Sole Arbitrator observes that the Appellant did not submit any evidence in support of the alleged consumption of a protein drink at a fitness centre in late May 2017. It follows that the Sole Arbitrator finds the Appellant's assertion to be unsubstantiated.
 - iv. The Appellant holds the position that "*The amount of GW1516 that is found in the sample is 0.01 and is likely to reflect incidental intake instead of being used in quantity to influence his performance in the competition*". The Sole Arbitrator notes that the Appellant did not provide any evidence or documentation that dietary/food additives or vitamins contaminated with GW1516 could cause the adverse analytical finding in the present case. It follows that the Sole Arbitrator finds the Appellant's assertion unsubstantiated.
54. The Sole Arbitrator is mindful of CAS 2016/A/4534 and CAS 2016/A/4676, where the Panels considered that an Athlete might be able to demonstrate a lack of intent even where

he/she cannot establish the origin of the prohibited substance. In CAS 2016/A/4676, at para 72, is, *inter alia*, stated that “*the Panel can envisage the theoretical possibility that it might be persuaded by a Player’s simple assertion of his innocence of intent when considering not only his demeanour, but also his character and history, even if such a situation may inevitably be extremely rare*”. The Sole Arbitrator finds, however, that there are no exceptional circumstances in the present case, which show on the balance of probability that the ADRV was not intentional (without the Athlete having to establish the origin of the prohibited substance).

55. Accordingly, the Sole Arbitrator finds that the Athlete has not met his burden of proof, and the ADRV must be deemed to be intentional. The Athlete must therefore be sanctioned with a four-year period of ineligibility under the 2017 IJF ADR.

D. Sanctions

1. Disqualification

56. Article 10.8 of the 2017 IJF ADR reads as follows:

Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation

In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Athlete obtained from the date a positive sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all the resulting Consequences including forfeiture of any medals, points and prizes.

57. The Sole Arbitrator rules that pursuant to Article 10.8 of the 2017 IJF ADR, all competitive results obtained by the Athlete from and including 15 September 2017 (i.e. the date of the sample collection) to 15 October 2017 (i.e. the date of the provisional suspension) are disqualified, with all resulting consequences, including forfeiture of medals, points and prizes.

2. Period of Ineligibility Start and End Date

58. With respect to the sanction start date, the Sole Arbitrator is guided by Article 10.11 of the 2017 IJF ADR which provides as follows:

“Except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed.”

59. Article 10.11.3 of the 2017 IJF ADR is titled “Credit for Provisional Suspension or Period of Ineligibility” and states as follows:

“If a Provisional Suspension is imposed and respected by the Athlete or other Person, then the Athlete or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal.”

60. In this case, the sample collection was made on 15 September 2017, and according to the IJF Executive Committee Decision, the Athlete was provisional suspended on 15 October 2017. The Sole Arbitrator finds that for practical reasons, and in order to avoid any eventual misunderstanding, the period of ineligibility shall start on 15 October 2017, the date of commencement of the provisional suspension, and not of the date of this Award, thus giving him full credit for time already served in accordance with Article 10.2 of the 2017 IJF ADR. Consequently, the period of ineligibility starts from 15 October 2017.

IX. COSTS

61. Article R65.1 of the CAS Code applies “to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body”. Article R65.2 further states that:

“Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of CAS are borne by CAS. [...]”

62. Moreover, Article R65.3 of the CAS Code states:

“Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award, the Panel has discretion to grant the prevailing party a contribution towards its legal fees, and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties.”

63. In accordance with Article R65.2 of the CAS Code, the costs of these appeal proceedings are borne by CAS. In accordance with Article R65.3, however, the Sole Arbitrator has

discretionary power to order the unsuccessful party to make a contribution towards the legal costs and expenses of the successful party. For the reasons explained above, the Sole Arbitrator has determined that the Appellant's appeal shall not succeed. The Sole Arbitrator notes that, as a result of the Appellant's decision to pursue an unmeritorious appeal, the Respondent has been forced to incur costs in connection with these proceedings that it otherwise would not have borne.

64. In these circumstances, the Sole Arbitrator therefore considers it appropriate to exercise the power conferred by Article R65.3 of the CAS Code by directing the Appellant to make a contribution of CHF 2,000 (two thousand Swiss Francs) towards the Respondent's legal costs and expenses incurred in connection with this proceedings.


ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 24 January 2018 by Mr Denislav Dimitrov Ivanov against the decision rendered by the International Judo Federation Executive Committee on 4 January 2018 is dismissed.
2. The decision rendered by the International Judo Federation Executive Committee is upheld.
3. Mr. Denislav Dimitrov Ivanov is sanctioned with a four (4) year period of ineligibility, starting from 15 October 2017.
4. All competitive results of Mr Denislav Dimitrov Ivanov from and including 15 September 2017 to 15 October 2017 are disqualified, with all resulting consequences, including forfeiture of any titles, awards, medals, profits, prizes, and appearance money.
5. Mr Denislav Dimitrov Ivanov is ordered to pay a total amount of CHF 2,000 (two thousand Swiss Francs) to the International Judo Federation as a contribution to its legal costs and other expenses that it has incurred in these proceedings.
6. All further and other requests for relief are dismissed.

Lausanne, 17 May 2018

THE COURT OF ARBITRATION FOR SPORT


Jens Ewald
Sole Arbitrator