

INTERNATIONAL WEIGHTLIFTING FEDERATION ("IWF")

DECISION OF THE INDEPENDENT MONITORING
GROUP IN THE MATTER INVOLVING THE THAI
AMATEUR WEIGHTLIFTING ASSOCIATION

Case 2020-1

I. Proceedings before the Independent Member Federations Sanctioning Panel and the Court of Arbitration for Sport

1. On 8 April 2021, the Court of Arbitration for Sport issued an award ("the CAS Award") upon the appeal filed by the Thai Amateur Weightlifting Association ("TAWA") against the decision of the Independent Member Federations Sanctioning Panel ("IMFSP") dated 1 April 2020 (the "IMFSP Decision") with the following operative ruling (where relevant to this case):

1. [...]
2. [...]
3. *The decision rendered by the [IMFSP] Panel on 1 April 2020 is set aside and replaced as follows*
 - a. [...]
 - b. *All other TAWA athletes shall not be allowed to participate in IWF Events until 11 months following the 1st Online PanAm Cup LIVE by ZKC, i.e. until 18 June 2021. This sanction may be lifted as early as 18 December 2020 upon satisfaction of the conditions set forth at section (g) below.*
 - c. [...]
 - d. *Except for the early participation opportunity for TAWA athletes to participate in IWF Events after the dates set forth above, TAWA is suspended for a period of 3 years through 1 April 2023;*
 - e. [...]
 - f. [...]
 - g. *The 3-year suspension of TAWA may be lifted on or after 7 March 2022 if TAWA can demonstrate to the IWF Independent Monitoring Group.*
 - i. *TAWA athletes, athlete support personnel and officials are receiving anti-doping education at a level which complies with the WADA International Standard for Education;*
 - ii. *TAWA provides evidence that, notwithstanding the fact that the Sports Authority of Thailand is the party contracting with coaches working at the Chiang Mai training center, TAWA has the authority to vet and approve any coach hired by the Sports Authority of Thailand to coach TAWA athletes. Further, prior to approving the hiring of any weightlifting coach training TAWA athletes at the Chiang Mai training center, or other TAWA national team training center or camp, TAWA will thoroughly investigate that coach's anti-doping background, for example prior anti-doping rule violations committed by that coach or one of his/her athletes, whether that coach comes from a country or*

countries with a track record of doping in weightlifting and whether the coach is familiar with the basic principles of the IWF ADP together with the potential causes of unintentional anti-doping rule violations.

iii. TAWA shall actively supervise any coach working with its athletes at the Chiang Mai training center or other TAWA national team training center or camp, TAWA shall provide evidence that it has the authority to have the coach removed when that coach's performance is not consistent with best practices of anti-doping.

iv. The fine set forth below has been paid in full.

h. The fine imposed on TAWA shall be \$200'000.--.

4. [...]

5. [...]

6. [...]

2. The facts underlying the CAS Award and the IMFSP Decision will be referred to if and when they are relevant to the adjudication of this case.

II. Proceedings before the Independent Monitoring Group

3. Through decisions issued on 23 February 2021 and 16 June 2021, the Independent Monitoring Group ("IMG") decided that TAWA athletes and athlete personnel's suspension according to § 28 of the IMFSP Decision is lifted ("the First IMG Decision" and "the Second IMG Decision"). § 28 of the IMFSP Decision is of similar content as § 3b of the CAS Award, save minor modifications that have no relevance for the resolution of the present matter.

4. In the First IMG Decision (§ 13), this Panel found that TAWA's prayer for relief III., through which TAWA sought confirmation that its 3-year suspension should be lifted on 7 March 2022 pursuant to § 30 of the IMFSP Decision [*i.e.* § 3d of the CAS Award] was, in view of the Panel, to be monitored at a later stage. Whether conditions set out at § 31 of the IMFSP Decision were deemed fulfilled at the date of the First IMG Decision shall not mean that these conditions would automatically be deemed fulfilled on or after 7 March 2022. The fulfilment of these conditions would be scrutinized in due time. The Panel invited TAWA to submit a new application, through the IWF Secretariat, for its referral to the IMG according to Art. 7.1 IMG-ToR, on or after 1 January 2022 so as to enable the IMG to issue a decision by 7 March 2022. This review is precisely the object of this decision.

5. On 25 January 2022, the International Testing Agency ("ITA"), acting on behalf of the IWF, sent a Notice for Referral to the IMG and requested the IMG to adjudicate the case. On the same day, TAWA spontaneously filed its submission.

6. On 18 February 2022, the IMG sought information and documents from both parties:

- From the IWF: (a) IWF's Education Plan enacted pursuant to Art. 7.3.2 of the International Standard for Education; (b) If available to IWF, Thai National Anti-Doping Organisation ("DCAT")'s Education Plan enacted pursuant to Art. 7.2.2 of the International Standard for Education; (c) Information regarding whether or not IWF required TAWA to conduct Education in coordination with DCAT, in view of art. 7.2.4 and 7.3.4 of the International Standard for Education; (d) List of registered participants to the seminar

organized by ITA on 26 February 2021; (e) List of registered participants to the seminar organized by ITA on 9 June 2021, ITA Webinar; (f) Any eventual comment on TAWA's submission dated 25 January 2022.

- From TAWA: (a) List of Officials who performed anti-doping education; (b) Evidence about the participation of Coach Lukman and/or athlete, athlete support personnel or other officials to the anti-doping course on 7 December 2021 cited in § 37 of TAWA's statement; (c) If available to TAWA, DCAT's Education Plan enacted pursuant to Art. 7.2.2 of the International Standard for Education.

7. On 28 February 2022 (subsequently completed), IWF and TAWA provided the required documentation, more specifically the IWF and DCAT Education Plans. IWF confirmed it did not require TAWA to conduct Education in coordination with DCAT.
8. On 2 March 2022, the Panel informed the Parties that it ignored whether IWF or DCAT had produced any Monitoring report (including Evaluation Learning, Program Evaluation or Determining Impact) which would refer to TAWA athletes as referred to in IWF or DCAT Education Plan. The Parties were invited to provide such reports, if existent and so long as it contained any specific information regarding TAWA or its Athletes, ASP or Officials. IWF confirmed no such report existed. TAWA shared a statement by DCAT by which DCAT confirmed that it held evaluations on TAWA Athletes but could not share them due to data protection regulations.

III. Parties' Prayers for Relief

9. TAWA applies for the Panel to rule as follows:
 - I. TAWA has fully complied and is in compliance with the conditions set out at §31 of the Decision of the Independent Member Federation Sanctions Panel of 1 April 2020.
 - II. Pursuant to §31 of the Decision of the Independent Member Federation Sanctions Panel of 1 April 2020, the 3-year suspension imposed on TAWA should be lifted on 7 March 2022 pursuant to §30.
10. IWF made no specific prayers for relief.
11. The Parties' arguments have been fully considered. It will be referred to those arguments more specifically as well as to the facts and findings underlying the First and Second IMG Decisions if and when they are relevant to the adjudication of this case.

IV. Preliminary Matters

i. Applicable Law and Regulation

12. The applicable rules are principally the CAS Award, so long as it has set aside the IMFSP Decision. Consequently, the IMFSP Decision will be ignored. This Panel will further apply the IMG Terms of Reference (IMG-ToR), the 2021 IWF ADR, the IWF Constitution and Swiss law on a subsidiary basis.

ii. Jurisdiction

13. TAWA did not challenge IMG's jurisdiction nor composition. The IMG has jurisdiction to hear and adjudicate this case based on Art. 12.6.2 IWF ADR and Art. 7.1 IMG-ToR as well as § 3g of the operational part of the CAS Award.
14. The scope of this Panel's review is to consider whether, pursuant to § 3g of the operational part of the CAS Award, the 3-year suspension of TAWA may be lifted on or after 7 March 2022, following an assessment of TAWA's compliance with the conditions set under § 3g of the CAS Award. The so-defined scope of jurisdiction is in line with TAWA's submission, considering the alteration of versions between the IMFSP Decision and the CAS Award.

iii. Admissibility

15. The case has been referred to the IMG by the IWF Secretariat according to Art. 7.1 IMG-ToR, and is, hence, admissible.

iv. Burden of Proof

16. According to the CAS Award, the burden of proof lies with TAWA as "the suspension of TAWA may be lifted [...] if TAWA can demonstrate to the IWF Independent Monitoring Group [that certain criteria are fulfilled]" (§ 3g of the operational part of the CAS Award). According to Art. 12.6.1 IWF-ADR, TAWA must "satisfy certain criteria".
17. The Panel is not bound by the prayers made by the Parties.

V. Merits

18. As a result of the Parties' requests and submissions, there are four conditions that need to be addressed by this Panel:

i. Condition 1: Education.

19. The condition set at § 3g.i of the operational part of the CAS Award reads as follows:

TAWA athletes, athlete support personnel and officials are receiving anti-doping education at a level which complies with the WADA International Standard for Education

20. In the First IMG Decision, the Panel was satisfied that the condition was fulfilled as of 23 February 2021 (§ 25). In view of an eventual future submission by TAWA for full anticipated reinstatement in 2022, the Panel noted that the International Standard of Education ("ISE") would then be in force and that any future review of TAWA's education requirement would be reviewed against the implementation of the ISE provisions (§ 26).
21. In its submission, TAWA states that it continued to actively implement anti-doping events "in compliance with the WADA ISE".
22. According to art. 18.a of the WADA Code ("WADC"), all Signatories shall, within their scope of responsibility and in cooperation with each other, plan, implement, monitor, evaluate and promote Education programs in line with the requirements set out in the ISE. The ISE came into force on 1 January 2021 so as to support the preservation of the spirit of sport as outlined in the WADC. IWF and DCAT are Signatories, while TAWA is not. However, the CAS Award clarified that ISE is a "reference point" and

that "it suffices for TAWA to access to the ISE to comply with this criterion" (§ 14.4i of the CAS Award). Hence, the ISE criterion must be met by TAWA where relevant.

23. The ISE requires Anti-Doping Organizations (ADOs) to perform an Education Program which is defined as "a collection of Education activities undertaken by a Signatory to achieve the intended learning objectives". In order to achieve the learning objectives the ADOs must perform an Education Plan which is defined as: "a document that includes: a situation assessment; identification of an Education Pool; objectives; Education activities and monitoring procedures". Hence, the Education Program and its activities shall be documented through an Education Plan (art. 4.1.1 ISE). Signatories shall select appropriate Education activities to achieve the objectives of the Education Plan, which methods are described in the Guidelines for Education (art. 5.7 ISE). These Guidelines for Education are non-mandatory and are for those in ADOs who are responsible for developing and implementing an education program, as described in the ISE (See Guidelines for Education, Introduction). The Education Program shall also include monitoring procedures for the activities to aid reporting and evaluation and foster continuous improvement (art. 4.5 ISE). Finally, the IF shall require National Federations to conduct Education in cooperation with the NADO's (art. 20.3.13 WADC and art. 7.3.4 ISE).
24. The Panel requested the IWF to submit its Education Plan and requested TAWA to submit that of the DCAT as required by the ISE (see. art. 7.3.2 and 7.2.2 ISE/art. 18.1 § 3 WADC). IWF and DCAT Education Plans were provided to the Panel. IWF confirmed it did not require TAWA to conduct Education in coordination with DCAT according to art. 20.3.13 WADC and 7.3.4 ISE. It was further confirmed that neither IWF nor DCAT had produced any Monitoring report (including Evaluation Learning, Program Evaluation or Determining Impact) which would refer to TAWA. However, DCAT indicated that it held evaluation of athletes, but that it could not share them in view of data protection considerations.
25. The Panel wants to stress out that its decision on the matter could not take into consideration eventual monitoring activities and related reports of IWF and DCAT respectively. The Panel regrets not to have had the opportunity to consult such documentation, where existent. The monitoring of TAWA's educational activities could have given an appreciation on the quality of the Anti-Doping education delivered by IWF and DCAT. Producing a comprehensive report including IWF and DCAT educational activities related to TAWA and its athletes, ASP and officials might have assisted the Panel in assessing the level of the Education received by TAWA athletes, ASP and officials. In any event, none of these considerations may be held against TAWA. It is also questionable that DCAT refused to produce its "evaluation" of education of TAWA athletes. In view of art. 8.1 of the International Standard for Privacy and Personal Information (ISPP), this Panel is of the opinion that it was legitimate to receive such information. However, even if some "evaluation" of Athletes had been available, it does not seem to actually bring much information on TAWA itself. Also, DCAT being an ADO and, hence, a Code Signatory under monitoring itself, the mere fact that DCAT confirmed that it evaluated the Athletes is, in these specific circumstances, favourable to TAWA
26. In order for the Panel to review whether TAWA's athletes, ASP and officials receive anti-doping education "at a level which complies with ISE" according to the CAS Award, the Panel has to make its own assessment. The "level" to be complied with must be assessed against the applicable (IWF or DCAT) Education Plans prescribed by ISE.

27. As regards the Anti-Doping Education received by TAWA's athletes, ASP and officials, ITA on behalf of IWF, provided it via the specific seminars on various subjects including Education components such as Values-Based Education, Awareness Raising, Information Provision and Anti-Doping Education. DCAT had provided seminars at national level on 18 March and 7 December (TAWA provided the list of attendees to those events). In addition, TAWA held Anti-Doping courses throughout the year at the occasion of the national courses for coaches or at national camps. Moreover, TAWA in cooperation with DCAT elaborated and provided the athletes with material written in Thai language based on WADA templates in order for Thai athletes to be able to be acquainted with Anti-Doping and in order to know what they should do to avoid any risk of doping practice. DCAT in cooperation with TAWA has produced substantial educational material for the benefit of athletes, ASP and officials. Furthermore, TAWA transmitted a list of athletes, coaches and officials who have been awarded the ADEL Certificate issued by WADA. In these circumstances, the Panel is satisfied that the quality and quantity of the Education provided to TAWA athletes, ASP and officials is at the level of the ISE.

28. Consequently, the Panel is satisfied that this condition is met.

ii. **Condition 2: Coach Background Review, Vetting and Approval**

29. The condition set at § 3g.ii of the CAS Award reads as follows:

TAWA provides evidence that, notwithstanding the fact that the Sports Authority of Thailand is the party contracting with coaches working at the Chiang Mai training center, TAWA has the authority to vet and approve any coach hired by the Sports Authority of Thailand to coach TAWA athletes. Further, prior to approving the hiring of any weightlifting coach training TAWA athletes at the Chiang Mai training center, or other TAWA national team training center or camp, TAWA will thoroughly investigate that coach's anti-doping background, for example prior anti-doping rule violations committed by that coach or one of his/her athletes, whether that coach comes from a country or countries with a track record of doping in weightlifting and whether the coach is familiar with the basic principles of the IWF ADP together with the potential causes of unintentional anti-doping rule violations.

30. The First IMG Decision found that this condition was met (§ 31 and 36). According to TAWA's submission (§ 33), TAWA did not hire any new coach in 2021. As regards Coach Lukman and the findings of the First IMG Decision that his continuing anti-doping education will be scrutinized (§ 36), the information provided by TAWA evidences that he followed appropriate education, he followed the anti-doping webinars organized by ITA on 26 February as well as on 9 June 2021 as well as the seminar organized by DCAT on 18 March 2021. In addition, he was awarded an ADEL Certificate of High Performance Coaches' Education Program on 25 January 2022, issued by WADA.

31. Consequently, the Panel is satisfied that this condition is met.

iii. **Condition 3: Coach Supervision**

32. The condition set at § 3g.iii of the CAS Award reads as follows:

TAWA shall actively supervise any coach working with its athletes at the Chiang Mai training center or other TAWA national team training center or camp.

33. The First IMG Decision found that this condition was met as of the date of that decision. In view of a future application for TAWA's full and anticipated reinstatement, the Panel drew TAWA's attention to then present a comprehensive report of supervision activities at the Chiang Mai training center so as to enable the IMG to fully appreciate the actual involvement, presence and impact of the managers newly in place.
34. TAWA produced monthly reports prepared by Pany Phermthanyakit and Montree Harnjai, Team Managers of Thai National Team, hired to specifically supervise the activities at the Chiang Mai training center. These monthly reports clarify whether any TAWA regulation were violated, which was not the case. This Panel holds no adverse information in this regard. These reports further observe the monitoring of food and drink as well as health and education of athletes. The Panel holds no negative information regarding the management of the Chiang Mai training center or regarding the actual involvement, presence and impact of the managers newly in place.
35. Consequently, the Panel is satisfied that this condition is met.

iv. Condition 4: Fine Payment

36. The condition set at § 3g.iv of the CAS Award reads as follows:

The fine set forth below [\$ 200'000.--] has been paid in full.

37. The Second IMG Decision observed that the fine was paid.

38. Consequently, the Panel is satisfied that this condition is met.

VI. Decision

In consideration of all facts, in light of Art. 12.6.2 IWF ADR and the 8 April 2021 CAS Award, the IMG decides:

1. TAWA has fully complied and is in compliance with the conditions set out at § 3g of the operational part of the CAS Award dated 8 April 2021.
2. Pursuant to § 3g of the CAS Award dated 8 April 2021, the 3-year suspension imposed on TAWA is lifted on 7 March 2022.

* * *

The Panel

Philippe Vladimir Boss, Chair

Davide Delfini



Francisco Lima



Lausanne, 7 March 2022

