

**IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS BROUGHT BY THE WORLD  
BASEBALL SOFTBALL CONFEDERATION AGAINST WALLY VROLIJK UNDER THE WBSC  
ANTI-DOPING RULES**

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**FINAL AWARD OF THE WBSC ANTI-DOPING DEPARTMENT**

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The WBSC Anti-Doping Department convened to hear and determine the disciplinary proceedings brought by the World Baseball Softball Confederation (the “**WBSC**”) against Mr. Wally Vrolijk (the “**Player**”) for violation of the WBSC Anti-Doping Rules hereby issues the following Final Award:

**1. Facts**

*The parties*

1.1 The WBSC, headquartered in Pully, Canton de Vaud, Switzerland, is the international governing body for the sport of baseball and softball. As part of its responsibility to protect the integrity of the sport of baseball and softball, the WBSC has issued the WBSC Anti-Doping Rules (the “**WBSC ADR**”), which implement the provisions of the World Anti-Doping Code in the sport of baseball and softball.

1.1.1 The current WBSC ADR were approved by the WBSC Executive Board on 15 December 2014 and came into force as of 1 January 2015. They apply to “*WBSC, each National Federation of WBSC, and each Participant in the activities of WBSC or any of its National Federations by virtue of the Participant’s membership, accreditation, or participation in WBSC, its National Federations, or their activities or Events*”, as well as to “*any continental confederation that does not have its own anti-doping rules*” (in which case “*references to National Federations should be read as continental confederations as appropriate*”).

1.1.2 In accordance with the World Anti-Doping Code, the WBSC ADR allow for the collection of players’ samples at any time, i.e., both in and out of competition, to be analysed to check for the presence of the substances mentioned in the List of Prohibited Substances and Prohibited Methods issued by the World Anti-Doping Agency “*WADA*”).

1.2 The Player has Dutch nationality.

*Collection of urine sample from the Player at the 2018 German League tournament*

1.3 The 2018 German League tournament is a baseball tournament organised by the German Baseball and Softball National Federation and contested by the top baseball teams in Germany. The 2015 WBSC ADR apply to the 2018 German League tournament.

1.4 The Team Falcons participated to the 2018 German League tournament and the Player was included in the roster. Following the Game of 31<sup>st</sup> March 2018 in Germany, the Player was notified that he was required to provide a urine sample for doping control purposes. As indicated in the doping control form, the test was carried out by PWC GmbH at the request of the German Baseball and Softball National Federation and the German NADO, with the German NADO and WBSC designated as the results management authority.

1.5 The Player provided a sample and signed the doping control form without adverse comment, so indicating his satisfaction with the sample collection procedures followed in conducting the test. The sample was given code number 4643784 for reference and

was divided into two bottles, being the A Sample (A4643784) and the B Sample (B4643784).

### ***Adverse Analytical Finding***

- 1.6 The Player's urine sample was sent to the WADA-accredited laboratory in Dresden, Germany, for analysis. On 17<sup>th</sup> April 2018, the laboratory reported an Adverse Analytical Finding in respect of the A Sample, for stanozolol.
- 1.7 Stanozolol is an Anabolic Androgenic Steroid. It is included in the Prohibited List, in category S1, as substances that are banned at all times, both in and out of competition.
- 1.8 By letter dated 3<sup>rd</sup> May 2018 the German NADO and by letter dated 20<sup>th</sup> December 2019 the WBSC notified the Player of the Adverse Analytical Finding and queried whether the Player had a therapeutic use exemption (a "TUE") for stanozolol or wished to apply for one retrospectively. No such TUE was declared or requested. Therefore, the WBSC notified the Player of his right (should he choose to exercise it) to require analysis of his B Sample to confirm the Adverse Analytical Finding reported in respect of his A Sample.
- 1.9 Despite the difficulties in reaching the Player, B Sample was not analysed.

## **2. Disciplinary proceedings**

- 2.1 By letter dated 20<sup>th</sup> December 2019, the WBSC commenced formal disciplinary proceedings against the Player for commission of an anti-doping rule violation under WBSC ADR Article 2.1 (presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample).
- 2.2 Despite the difficulties in reaching the athlete, the Player accepted all charges and did not deny any part of the proceedings. For this reason, an agreement was reached, and no hearing or other proceeding will be followed.

## **3. Jurisdiction and applicable law**

### ***Jurisdiction***

- 3.1 WBSC ADR Article 10 provides that cases arising out of testing conducted pursuant to the WBSC ADR will be heard by the Anti-Doping Department in cooperation with the Player.
- 3.2 Given that the testing at the 2018 German League tournament was conducted under the WBSC ADR, and the WBSC was designated as the results management authority on the doping control form, the Anti-Doping Department will hear and determine this matter under WBSC Article 10. Indeed, the Player does not dispute such jurisdiction.

### ***Applicable law***

- 3.1 The Anti-Doping Department will be guided, in its interpretation and application of the WBSC ADR, by the World Anti-Doping Code, the official commentary thereto, and the decisions of the Court of Arbitration for Sport (the "CAS") as the ultimate appellate authority for all cases arising under the Code (including WBSC ADR cases) interpreting and applying Code-compliant rules.

#### **4. Consequences**

- 4.1 According to Article 10.2, the period of ineligibility imposed for the violation of Article 2.1 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.
  - 10.2.1.2 The anti-doping rule violation involves a Specified Substance and IF can establish that the anti-doping rule violation was intentional.
- 4.2 WBSC evaluated whether or not the violation can be regarded as intentional. WBSC does not believe that it could be established that the violation is not intentional; in fact, the athlete was unable to indicate the specific substances taken in that period and therefore, considering the involvement of a Specified Substance, WBSC has to assume the presumption of intent.
- 4.3 In accordance with Article 10.2.2 if Article 10.2.1 does not apply, the period of Ineligibility shall be two years. However, this period of Ineligibility is subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6.
- 4.4 Article 10.4 (elimination of the period of ineligibility where there is no fault or negligence) cannot apply since the athlete was found with the substance in the sample. Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any prohibited substance.
- 4.5 Article 10.5 (reduction of sanction based on no significant fault or negligence). This article is not applicable in the present case. The athlete's violation involves a Specified substance. The athlete ingested the product, and he does not say precisely how. On the other hand, the athletes are always responsible for the intake of failed to conduct such enquiry and did not verify if stanozolol was forbidden. The athlete could have discovered the status of the substance by simply checking the prohibited list. Based on those considerations WBSC believes that article 10.5 can not apply since the athlete did not establish no significant fault, therefore WBSC believes that a four-year period of ineligibility is the most appropriate eligibility period.
- 4.6 Article 10.6 is potentially applicable in the present case. WBSC analysed the behavior of the physicians during the 2018 German League tournament and WBSC believes that there are not enough elements to start a disciplinary action against any doctor and to sustain that any doctor violated an Anti-Doping and/or professional rules. Based on the evidence provided by the athlete WBSC believes that art 10.6 is not applicable.

#### ***Ineligibility Period***

- 4.7 The athlete and WBSC agree that the applicable period of ineligibility is 4 years. In order to determine the period of ineligibility the article 10.2 and article 10.5.1.1 have not been applied (Reduction of the Period of Ineligibility based on no-significant fault).

#### ***Start of Ineligibility Period***

- 4.8 Considering that the athlete has admitted the Anti-Doping rule violation; in accordance with Article 10.11.2 the parties agree that the period of ineligibility will start as early as the notification from the German NADO to the athlete (3<sup>rd</sup> May 2018).

***Disqualification of Results***

- 4.9 In accordance with Articles 9, 10.1, 11.2.1 of the WBSC ADR all the results achieved by the athlete at the competition 2018 German League tournament are disqualified, including forfeiture of medals, points and prizes. In accordance with article 10.8 all the competitive results of the athlete from the date of the sample collected (31<sup>st</sup> March 2018) are disqualified with all of the resulting consequences, including forfeiture of any medals, points and prizes.

***Right of Appeal***

- 4.10 This agreement will constitute the decision for this case. Consequently, it will be communicated to the parties with right of appeal in accordance with Article 13.2.3

Dated: 16<sup>th</sup> July 2020