



Decision of the UCI

regarding the case

United States Anti-Doping Agency (USADA)

versus

Lance Armstrong

Summary:

1. The UCI will not appeal the reasoned decision of USADA in the case of Lance Armstrong.
2. The UCI will recognize and implement the reasoned decision of USADA.
3. The UCI will disqualify all competitive results achieved by Mr Armstrong from 1 August 1998 thereon; the sporting consequences of such disqualification on the rankings to be discussed by the UCI Management Committee during an upcoming extraordinary meeting.

1. Decision not to appeal to CAS

After consideration of the reasoned decision by USADA and its appendices, the UCI has decided not to appeal to CAS.

The UCI has considered the following main issues: jurisdiction, the statute of limitations, the evidence gathered by USADA and the sanctions imposed upon Mr Armstrong.

a) Jurisdiction

For the UCI jurisdiction is no longer an issue at this stage.

Prior to the decision taken by USADA on 24 August 2012 and imposing a sanction upon Mr Armstrong, the UCI had claimed jurisdiction for results management. The UCI had requested USADA to send a copy of the file to UCI so that UCI as responsible organization for results management would have submitted the file to an independent body in order to take the decision whether there was enough evidence warranting the opening of disciplinary proceedings against Mr Armstrong.

Even apart from any discussion on jurisdiction it would have been better that the evidence collected by USADA had been assessed by a neutral body or person who was not involved in collecting the evidence and prosecuting the defendant. This would have avoided both the criticism of witch hunt against Mr Armstrong and the criticism that the UCI had a conflict of interest. Also the on occasion animated or overstated language of the reasoned decision as well as incorrect and incomplete statements made in relation with the UCI reflect USADA's intense involvement in the prosecution which not always serves the degree of detachment that one may expect from a disciplinary decision.

Mr Armstrong has decided not to participate in an arbitration process. In such process he could have contested not only the allegations that USADA made against him but also the jurisdiction of USADA. The District Court in Austin decided on 20 August 2012 that the arbitration by the American Arbitration Association, as provided under the USADA protocol, was the appropriate forum for Mr Armstrong to contest the jurisdiction of USADA.

As Mr Armstrong has chosen not to engage into arbitration and not to proceed to a hearing, USADA's reasoned decision has to be considered as a decision on the merits of Mr Armstrong's case. As Mr Armstrong was at relevant times a licence-holder of USA Cycling and USA Cycling delegates the handling of disciplinary proceedings to USADA, USADA has to be considered as having jurisdiction for the merits of Mr Armstrong's case (as opposed to jurisdiction for results management).

Apart from this technical explanation and more importantly, there should be no doubt that if USADA had provided UCI with the case file – which USADA refused to do – for results management purposes, UCI would have come to the conclusion that Mr Armstrong had a case to answer indeed and that UCI would have asked USA Cycling to open disciplinary proceedings against Mr Armstrong. Then USA Cycling, under its own rules, would have referred the case to USADA to deal with the disciplinary proceedings. If then, as he did now, Mr Armstrong would also have decided not to proceed to an arbitration hearing, USADA would have taken a decision in the same way as it has done on 10 October 2012.

Therefore there is for UCI no issue of jurisdiction when it comes to decide at this stage whether to appeal to CAS or not.

b) Statute of limitations

If UCI would have taken the decision at the end of results management, it would have limited disciplinary proceedings to violations asserted to have occurred during the eight years preceding the opening of such proceedings.

The UCI is of the opinion that the Code is very clear in this respect:

No action may be commenced against an Athlete or other Person for an anti-doping rule violation contained in the Code unless such action is commenced within eight (8) years from the date the violation is asserted to have occurred.

The Code does not provide for any possibility for an anti-doping organization to take away from the athlete or other person the benefit of this clause.

It is UCI's view that USADA's reference to national law is not appropriate. First article 24.3 of the Code states that the Code shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the Code signatories or governments. Secondly it would be in full contradiction with the purpose of harmonisation of the Code that an action could be commenced against one athlete but not against another because of different national legislations governing the statute of limitations. Where WADA emphasizes the need for harmonisation of sanctions, there should be no disharmony in the possibility to sanction an athlete at all.

Yet the UCI does not consider this as a sufficient ground for the UCI to appeal to CAS in this case.

On the one hand, the statute of limitations protects the interests of the persons accused of having committed an anti-doping rule violation, not the interests of the anti-doping organizations such as the UCI. Mr Armstrong had the possibility to invoke the statute of limitations in the arbitration provided for in USADA's protocol. Mr Armstrong has chosen not to avail himself of this possibility.

On the other hand, the statute of limitations is a fundamental rule of the World Anti-Doping Code. It is WADA's role and responsibility to ensure compliance with the Code and to appeal to CAS in order to warrant, as is the mission of WADA, that the Code is applied in a uniform way worldwide and that all athletes are treated equally.

c) The evidence gathered by USADA

The evidence against Mr Armstrong gathered by USADA in the wake of a federal investigation consists mainly of statements by witnesses, a number of which had already testified before the grand jury.

The UCI notes that these statements have been made under penalty of perjury.

The circumstance that the witnesses have not been submitted to cross-examination follows from the decision of Mr Armstrong not to enter into arbitration.

Even if, purely as an assumption, some statements made against Mr Armstrong would be incorrect, vague or confusing, the UCI does not have the elements to show that this would be the case.

It is for Mr Armstrong to defend himself against such witness statements that he deems to be incorrect. It is not for the UCI to do so.

The UCI is aware that some witnesses have made statements that affect the UCI and that also USADA criticizes UCI at some points of its reasoned decision. While UCI disagrees with these statements and criticism, as USADA's decision is not directed against the UCI but against Mr Armstrong, the UCI sees no reason to appeal to CAS on such ground.

d) The sanctions

As the sanctions imposed by USADA are compatible with the Code in view of the anti-doping rule violations that were found established by USADA, the UCI sees no reason to appeal to CAS on this ground. Once again it has to be kept in mind that the sanctions were announced in advance to Mr Armstrong and that Mr Armstrong chose not to contest these sanctions in arbitration.

2. Recognition and implementation of the USADA decision

UCI will recognize and implement the decision of USADA, which implies that all competitive results achieved by Mr Armstrong in cycling since August 1, 1998 will be disqualified, including his seven Tour de France wins.

This recognition is subject to the following:

- a. The recognition does not alter UCI's position on the issue of the statute of limitations as exposed above;
- b. The recognition also depends on whether Mr Armstrong or WADA will appeal USADA's decision to CAS. If Mr Armstrong or WADA appeals to CAS, the UCI must wait until CAS delivers its award: the USADA decision might be overruled in whole or in part by CAS.

3. Rankings

As to the exact sporting consequences of this decision on the rankings, this issue will be on the agenda of an extraordinary meeting of the UCI Management Committee next Friday, 26 October.

Aigle, 22 October 2012

For the UCI,



Pat McQuaid
President