

**IRISH SPORT ANTI-DOPING DISCIPLINARY PANEL**

**IN THE MATTER OF  
IRISH AMATEUR WEIGHTLIFTING ASSOCIATION**

**V**

**Athlete IS-1526**

**DECISION**

**A. Introduction**

1. This is the written decision of the Irish Sport Anti-Doping Disciplinary Panel (the "Panel") in proceedings brought by the Irish Amateur Weightlifting Association (the "IAWLA") under the Irish Anti-Doping Rules (2009 Version) (the "Rules") against IS-1526, an athlete competing in the sport of weightlifting.
2. The anti-doping rule violation alleged against Mr. IS-1526 was that he was in breach of Article 2.1 of the Rules in that a prohibited substance, namely, stanozolol was found in a sample of urine taken from him during in-competition testing on [...] 2011. Having been informed that

his "A" sample had tested positive for the prohibited substance, Mr. IS-1526 asked for his "B" sample to be tested, as he was entitled to do. The "B" sample analysis confirmed the analytical finding in respect of the "A" sample. Mr. IS-1526 then failed to indicate within the required timeframe whether he was admitting or denying the alleged violation. In those circumstances, an issue arose for determination as to whether Mr. IS-1526 was deemed to have admitted the violation under the relevant provisions of the Rules. However, it was not necessary for the Panel ultimately to determine that issue as Mr. IS-1526 finally admitted the violation at a hearing before the Panel on 22 September 2011.

3. Having heard evidence from Mr. IS-1526 at the hearing on 22 September 2011 and having heard submissions by Mr. IS-1526, by the IAWLA and by the Irish Sports Council, the Panel determined that the appropriate sanction to be imposed on Mr. IS-1526 in respect of his belated admitted violation of the Rules was a period of ineligibility or ban of two years.
4. The Panel now sets out in greater detail the background to the proceedings and the reasons for its decision.

## **B. Factual Background**

### **(a) The Allegation**

5. The allegation against Mr. IS-1526 was that he had committed an anti-doping rule violation under Article 2.1 of the Rules in that a prohibited substance or one of its metabolites or markers, namely, stanozolol, was found in a sample of urine collected from Mr. IS-1526 during in-competition testing at the IAWLA [...] Competition which was being held at [...] on [...] 2011.

### **(b) Analytical Results**

6. The analysis of Mr. IS-1526 "A" sample was conducted by the Deutsche Sporthochschule Köln Institut für Biochemie. The analytical report in respect of the analysis of Mr. IS-1526 "A" sample disclosed the presence of stanozolol and 16 beta-hydroxystanozolol both anabolic agents / anabolic androgenic steroids under Section 1.1 of the 2011 Prohibited List of the World Anti Doping Code (valid 1 January 2011). It was noted that the detection of 16 beta-hydroxystanozolol was consistent with the administration of the prohibited substance stanozolol.
7. The analytical report was duly furnished to the Irish Sports Council which then conducted an initial review, pursuant to Article 7.2 of the Rules, to determine whether any therapeutic use exemption had been granted to Mr. IS-1526 or whether there had been any apparent departure from the International Standards for Testing for Laboratories which might have caused the adverse analytical finding. That review was carried out by the Irish Sports Council on 1 June 2011. In a Certificate dated 1 June 2011, the Irish Sports Council certified that its review did not reveal the existence of a valid and applicable therapeutic use exemption in Mr. IS-1526 favour or any departure from the international Standard for Testing for International Laboratories in force at the time of testing or analysis that may have caused the adverse analytical finding.

### **(c) Communications with the Athlete**

8. The results of the adverse analytical finding were communicated to Mr. IS-1526 by the Irish Sports Council by letter dated 2 June 2011. The purpose of that letter was to notify Mr. IS-1526 of the alleged violation

of the Rules. Mr. IS-1526 was informed that, on the basis of the adverse analytical finding, it was alleged that he had committed an anti-doping rule violation by virtue of the presence of a prohibited substance or its metabolites or markers in a sample of his urine which was collected during in-competition testing on [...] 2011. The prohibited substance, was identified as stanozolol and it was alleged that the presence of that substance in his urine constituted an anti doping rule violation under Article 2.1. of the Rules. Mr. IS-1526 was provided with detailed information and extensive documentation with that letter. Mr. IS-1526 was informed of his right to have his "B" sample tested in order to determine whether it disclosed the same substances found in the "A" sample. He was informed that under the Rules any such request had to be made by 16 June 2011 failing which his right to have the "B" sample analysed would be deemed to have been waived. Mr. IS-1526 was also informed that he had the right to admit or deny the alleged violation to the Panel by 23 June 2011 (being 14 days from the date of notification of that right to Mr. IS-1526) under Article 7.3.2.8 of the Rules. He was informed that if he admitted the alleged violation, the consequences or sanctions imposed in respect of that violation would have to be determined by the Panel and that he had a right to a hearing before the Panel. He was also informed that if he failed to admit or deny the alleged violation by 23 June 2011, he would be deemed under the Rules to have admitted the violation. The potential consequences or sanctions in respect of the alleged violation were also set out in the letter. Mr. IS-1526 was informed of potential opportunities for the reduction or elimination of any otherwise applicable consequence or sanction.

9. Mr. IS-1526 was also informed that the IAWLA was required to provisionally suspend him from the date of the letter based on the adverse analytical finding in respect of his "A" sample. He was informed of his right to appeal the imposition of the provisional suspension and

that he had a right to an expedited hearing before the Panel in respect of such appeal.

10. On the same date, the Irish Sports Council wrote to the Secretary of the Panel informing it of the alleged violation and enclosing a copy of the correspondence and other documentation which it had furnished to Mr. IS-1526.
11. The Irish Sports Council also wrote to the Anti-Doping Officer of the IAWLA on the same date notifying him of the alleged anti-doping rule violation.
12. The Secretary of the Panel then wrote to Mr. IS-1526 on 10 June 2011 setting out again the violation alleged against him and explaining the role and function of the Panel in that regard. It was noted that Mr. IS-1526 had the right to request that his "B" sample be analysed to determine whether it disclosed the same prohibited substance as was allegedly found in the "A" sample and he was informed that any such request had to be made by 16 June 2011. He was also reminded of the fact that he had to admit or deny the alleged anti doping rule violation to the Panel by 23 June 2011 in accordance with the Rules. It was explained to him that if he did admit the alleged anti doping rule violation he would still be entitled to a hearing to determine the appropriate sanction and that if he failed to admit or deny it by that date, he would be deemed to have admitted the violation. He was also reminded that if he wished to deny the alleged violation he was required to state the basis for that denial.
13. In an email dated 10 June 2011, Mr. IS-1526 informed the Secretary of the Panel that he wished to have his "B" Sample tested. His request was passed on by the Secretary to Dr. Una May, Director of Anti-Doping with the Irish Sports Council. Arrangements were made to have the "B" Sample analysed in the same laboratory as the "A" sample on 20 June 2011. The results of the analysis carried out on the "B" sample were

furnished by the Irish Sports Council to the Secretary of the Panel on 22 June 2011. An analysis disclosed that the laboratory identified the presence of the same prohibited substance or one of its metabolites or markers as was found in the "A" sample, namely, stanozolol. In other words the "B" sample analysis confirmed the "A" sample adverse analytical finding. Mr. IS-1526 was informed of the results of the analysis of his "B" sample by the Irish Sports Council by another letter also dated 22 June 2011.

14. The Secretary of the Panel wrote to Mr. IS-1526 again on 1 July 2011 referring to the results of the analysis of the "B" sample. The Secretary noted that Mr. IS-1526 had not admitted or denied the alleged violation to the Panel by 23 June 2011 and that in those circumstances, under Article 7.3.2.9 of the Rules, it appeared that Mr. IS-1526 would be deemed to have admitted the alleged violation. The Secretary did, however, state that the Panel was prepared to consider the submissions of the relevant parties on that issue and to afford Mr. IS-1526 an opportunity to set out his position as to whether he accepted that he was now deemed to have admitted the alleged violation. An opportunity was also provided to the IAWLA and to the Irish Sports Council to set out their respective positions on that issue within the same period of time, namely, 7 days. The letter also contained a detailed explanation of the procedure before the Panel and sought to ascertain Mr. IS-1526 availability for a hearing.
15. Submissions were received from Beauchamps Solicitors on behalf of the Irish Sports Council on the issue referred to in the Panel's letter of 8 July 2011. In those submissions, the Irish Sports Council submitted that unless Mr. IS-1526 attempted to deny the alleged violation, in the event that the Panel were to afford him further time in which to do so, the question raised by the Panel was moot. Otherwise, the Irish Sports Council submitted that Mr. IS-1526 should be deemed to have admitted the alleged violation by virtue of his failure to deny it in accordance with

Articles 7.3.2.8 and 7.3.2.9 and that the Panel had so found in a previous case involving a different athlete.

16. No submissions were received from Mr. IS-1526 or from the IAWLA on that issue.
17. On 5 September 2011, having consulted with the parties to ascertain their availability, the Secretary of the Panel wrote to Mr. IS-1526, to the IAWLA and to the Irish Sports Council to inform them that the Panel would hear the case on 22 September 2011. The Secretary also wrote to the International Weightlifting Federation (as the relevant international federation for the sport) and to the World Anti Doping Agency (WADA) to ascertain whether those bodies wished to attend the hearing as an observer.
18. By letter dated 20 September 2011, Beauchamps, Solicitors acting for the Irish Sports Council, confirmed that the Irish Sports Council was exercising its right, pursuant to Article 8.3.6 of the Rules, to become a party to the case.

### **C. The Hearing on 22 September 2011**

19. The hearing was held on 22 September 2011. Mr. IS-1526 attended and was unrepresented. The IAWLA was represented by Neil Dougan (Ethics Officer and Legal Counsel), James Jennings (General Secretary) and Patsy Conboy (Anti-Doping Officer). The Irish Sports Council was represented by Siobhan Leonard (Head of Doping Control and Quality Unit) and by Gary Rice, a partner with Beauchamps Solicitors, the Solicitors acting for the Irish Sports Council. Neither the International Weightlifting Federation nor WADA attended.

### **(a) Ruling of Panel**

20. The first issue which was raised at the hearing was whether it was necessary to rule on the issue as to the effect of Mr. IS-1526 failure to admit or deny the anti-doping rule violation alleged against him within the time period required under the Rules. That was the issue on which the Panel had requested submissions from the parties but had, as indicated above, only received submissions from the Irish Sports Council.
21. As the Irish Sports Council correctly pointed out in its submissions, it would only be necessary for the Panel to decide that issue if Mr. IS-1526 was seeking to deny the alleged violation at the hearing. Otherwise, the question would be moot. In fact, when asked by the Panel whether he was admitting or denying the violation, Mr. IS-1526 made clear that he was admitting the violation. He accepted that a prohibited substance was found in both samples of his urine tested by the laboratory in Germany. He stated that the test "*one hundred per cent guarantees that there was doping in my urine*". He accepted that a prohibited substance was found in his "A" sample and that it was found again in his "B" sample. Therefore, he was admitting the violation. In those circumstances, it was not necessary for the Panel specifically to rule on the effect of the failure of Mr. IS-1526 to admit or deny the alleged violation within the time required under the Rules.
22. In light of Mr. IS-1526 admission of the anti doping violation alleged against him, the hearing before the Panel proceeded on the basis that it was for the Panel to determine the appropriate consequence or sanction which should be imposed on Mr. IS-1526 in respect of that violation.
23. The Panel determined that Mr. IS-1526 should give evidence first and that he should be open to cross-examination on behalf of the IAWLA and on behalf of the Irish Sports Council. It would then be open to the IAWLA and subsequently to the Irish Sports Council to call evidence, if



they so wished, which would also be open to cross-examination by Mr. IS-1526.

**(b) Evidence of Mr. IS-1526**

24. Mr. IS-1526 was offered the opportunity of giving evidence under oath. He was informed that he was not obliged to do so but could if he wished. He declined to give evidence on oath and proceeded to make an unsworn statement as his evidence.
25. His evidence was clear and concise. He accepted that a prohibited substance had been found in his urine in both tests. He proceeded to explain how following his participation in the sport of weight lifting in Latvia for many years, he came to Ireland and took up the sport in Ireland in 2010. He stated that he took many different substances and products as part of his training regime. He explained that he ordered supplements from the United States. These included what he called "*fat burners*" and he noted that stanozolol "*mainly burns fat*". He felt that the most likely explanation for the prohibited substance being found in his sample was that it was contained in the products which he had purchased and consumed for that purpose.
26. Mr. IS-1526 accepted that it was totally his responsibility to ensure that all substances ingested by him complied with the applicable anti-doping rules and regulations. In answer to a question from Mr. Dougan (on behalf of the IAWLA) he stated that "*it is all my responsibility*".
27. Mr. IS-1526 stated that it was necessary for him to take "*a lot of different substances*" as he wished to break the Irish record in his discipline, which he noted had not been broken for the past ten years. He accepted that he could at any time have asked his coach or anyone within the IAWLA if a product purchased by him contained a prohibited substance or not. He accepted that if he had a query or concern about whether a product contained a prohibited substance he could "*easily*"

check this with the IAWLA. However, he accepted that he had not done so.

28. In explaining his involvement in the sport of weightlifting in Latvia, Mr. IS-1526 acknowledged that the Latvian Weightlifting Association had an anti-doping awareness programme and that there was plenty of access to information there and on the internet in relation to doping issues. However, Mr. IS-1526 sought on a number of occasions in the course of his evidence to attribute blame or responsibility for the fact that he had allegedly been unaware that a product or products he had been taking contained a prohibited substance on the absence of compulsory annual medical examinations in Ireland. He later sought to attribute responsibility for this to the Irish Sports Council. The Panel views this as self-serving and an attempt by Mr. IS-1526 to dilute the extent of this personal responsibility.
29. Mr. IS-1526 accepted that he was and is a member of the IAWLA and that he would not have had any difficulty in contacting representatives of that organisation had he wished to do or in obtaining information on anti-doping issues.
30. In response to a question from the Panel, Mr. IS-1526 stated that he took the supplements (which he believes were the source of the prohibited substance found in his samples) orally and not by injection. However, he was not in a position to produce any of the products he had consumed, claiming that they were no longer available. Mr. IS-1526 concluded his evidence by professing his "*shock*" for being tested positive for a prohibited substance.
31. Mr. IS-1526 was cross-examined by Mr. Dougan on behalf of the IAWLA and gave some of the evidence summarised above in response to the questions raised in that cross-examination. In light of the evidence given by Mr. IS-1526, Mr. Rice did not feel it necessary to cross-examine him.

32. No other witness was called at the hearing. The Panel went on to hear submissions from the parties which are summarised below.

**(c) Submissions of the Parties**

33. Mr. Dougan on behalf of the IAWLA submitted that Mr. IS-1526 had acknowledged his responsibility to ensure that any substance taken by him was not prohibited and that if it was it was his responsibility. He submitted that there was no basis on which the standard sanction provided for under the Rules could be reduced or mitigated in this case. Equally, it was confirmed that the IAWLA was not advancing the case that there were aggravating circumstances present in this case which should lead to an increase in the period of ineligibility otherwise applicable.
34. Mr. Rice on behalf of the Irish Sports Council correctly pointed to the role of the Irish Sports Council at the hearing before the Panel. He noted that there was no real issue in relation to the interpretation of the Rules or in relation to the actual doping control itself or otherwise in relation to the Irish Sports Council. He did not feel it appropriate for the Irish Sports Council to comment on the sanctions which should be imposed. In response to the point made by Mr. IS-1526 that the Irish Sports Council had some responsibility for not ensuring that there were compulsory annual medical examinations provided for participants in the sport of weightlifting in Ireland, Mr. Rice correctly pointed out that this was not a case which had previously been made by Mr. IS-1526 (notwithstanding the fact that he had several opportunities to make that case prior to the hearing) and that he had no instructions on the issue. He noted that if the point was to be pursued then detailed particulars would be required from Mr. IS-1526 and the matter would have to be adjourned so that it could be addressed. However, Mr. Rice did say that he could not see how (even if correct) that point could in any way

displace or dilute the personal responsibility of the athlete under the Rules which Mr. IS-1526 accepted.

35. In his submissions, which appeared somewhat flippant to the Panel, Mr. IS-1526 asked the Panel not to impose the sanction provided for under the Rules, namely, a ban of two years and asked the Panel to take into account the fact that he and other athletes needed medical assistance. It was noted by Dr. O'Neill on behalf of Panel that advice on medical issues is available to athletes involved in any organisation with a national sports governing body through the Institute of Sport, which is attached to the Irish Sports Council.
36. Having heard these submissions, the Panel then retired briefly to consider the evidence and submissions before returning to give its oral decision.

#### **D. The Decision**

37. As indicated above, the Panel was in a position to give its decision orally at the hearing on 22 September 2011.

##### **(a) Anti – Doping Rule Violation**

38. In light of the fact that Mr. IS-1526 admitted the anti-doping rule violation alleged against him at the hearing on 22 September 2011, it was not necessary for the Panel to determine in this case whether Mr. IS-1526 should be deemed to have admitted the violation by virtue of his failure to admit or deny the allegation within the time period required under the Rules. It should be noted, however, that the Panel previously found in the case of *Motor Sport Ireland v John Reilly*<sup>1</sup> that having regard to the failure by the athlete in that case to admit or deny the anti-doping rule violation alleged against him within the time period required under the Rules, the athlete was deemed to have admitted the

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<sup>1</sup> Decision dated 8 December 2010.

alleged violation. It was likely, if required to decide the issue in the present case, that the Panel would have reached the same decision as I did in that case.

39. In light of Mr. IS-1526' admission, the Panel did not have to decide the issue and the only matter required to be determined by the Panel was the issue of the appropriate consequence or sanction to be imposed in respect of the violation.

**(b) The consequences / sanctions**

40. The admitted violation was a breach of Article 2.1 of the Rules by, namely, the presence of a prohibited substance or its metabolites or markers in Mr. IS-1526' sample taken during in competition testing on [...] 2011. The prohibited substance in question was identified as stanozolol, an anabolic agent / anabolic androgenic steroid, within Section 1.1. of the 2011 Prohibited List of the World Anti Doping Code (Valid 1 January 2011).
41. Article 10.1 of the Rules provides for the period of ineligibility or ban to be imposed in respect of a first violation of Article 2.1. This was Mr. IS-1526' first violation of that provision.
42. Article 10.1 provides that the period of ineligibility to be imposed for such a first violation of Article 2.1 shall be *"two years' ineligibility unless the conditions for eliminating or reducing the period of ineligibility as provided for in Articles 10.3 and 10.4 of the Rules, or the conditions for increasing the period of ineligibility, as provided for in Article 10.5, are met"*.
43. Article 10.3 of the Rules provides for the circumstances in which the period of ineligibility for *"specified substances"* may be eliminated or reduced. The anabolic agent identified in Mr. IS-1526' "A" and "B" samples was not a *"specified substance"* and, therefore, it was not open

to him to seek to eliminate or reduce the period of ineligibility otherwise applicable under those provisions of the Rules.

44. Article 10.4 provides for the circumstances in which a period of ineligibility could be eliminated or reduced in so called "*exceptional circumstances*" where the athlete can establish in an individual case that he or she bore "*no fault or negligence*" or "*no significant fault or negligence*". The Panel was of the view and so determined that it was not open to Mr. IS-1526 to establish the period of ineligibility otherwise applicable should be eliminated or reduced under Article 10.4.
45. The Panel is quite satisfied that it could not be said that Mr. IS-1526 bore "*no fault or negligence*" in respect of the violation as that term is defined in the Rules so as to eliminate completely the period of ineligibility.
46. The term "*no fault or negligence*" is defined as follows:

*"The Athlete's establishing that he or she did not know or suspect, and could not reasonably have known or suspected, even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method."*

47. Mr. IS-1526 admitted purchasing and using products from the United States and elsewhere including "*fat burners*" without obtaining from his coach, from his national governing body (the IWLA) or from the Irish Sports Council information or guidance whether the products in question contained prohibited substances. Mr. IS-1526 further accepted and acknowledged that it was his responsibility to ensure that substances taken by him complied with the relevant anti-doping rules and regulations. It is quite clear to the Panel that Mr. IS-1526 could not conceivably establish that he did not know or suspect or could not reasonably have known or suspected that he had used or been

administered the prohibited substance. Nor could Mr. IS-1526 demonstrate that he had accepted caution, still less “*utmost caution*” as required under the Rules. Quite clearly, he did not. Indeed, the Panel regards the manner in which he apparently purchased and consumed supplements or other products from the United States or otherwise without ascertaining whether they contained prohibited substances as verging on reckless.

48. The Panel is also satisfied that Mr. IS-1526 could not avail of the provisions of Article 10.4.2 of the Rules under which an individual could seek to have the period of ineligibility otherwise applicable reduced on the grounds that he or she bore “*no significant fault or negligence*” in connection with the violation.

49. Article 10.4.2 provides as follows:

**“10.4.2. *No significant fault or negligence***

*If a Participant establishes in an individual case that he or she bears No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility may be reduced, but the reduced period of ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight (8) years. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete’s Sample in violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system in order to have the period of Ineligibility reduced.”<sup>2</sup>*

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<sup>2</sup> Emphasis added.

50. Some guidance as to the circumstances in which Article 10.4.2 might be satisfied in a particular case was provided by WADA in its comments concerning Article 10.5 of the WADA Code (which is identical to Article 10.4.2 of the Rules). WADA made it clear in those comments that Article 10.5 *"is meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases"*.<sup>3</sup>
51. WADA's comments on the Code then set out some examples of where an athlete might be able to establish *"no fault or negligence"* or *"no significant fault or negligence"*. None of the examples given is remotely similar to the circumstances which arose in this case, where Mr. IS-1526 consumed substances for the purpose of *"burning fat"* as part of his training regime. In the Panel's view, on no basis could it be said that the circumstances of this case are *"truly exceptional"* so as to merit an elimination or reduction in the period of ineligibility otherwise applicable. The Panel's view, in order for an athlete to be in a position to avail of a reduced period of ineligibility under Article 10.4.2, is that there would have to be clear evidence of how the prohibited substance entered his system and he would have to show that his or her *"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 relation to the anti-doping rule violation."*<sup>4</sup> Mr. IS-1526's evidence as to the products he consumed and which may have contained the prohibited substance was vague and non specific. He was not in a position to identify any particular or specific product consumed by him which contained the Stanozolol. Nor could it be said that Mr. IS-1526 bore *"no significant fault or negligence"* as that term is defined in the Rules. The Panel is of the view that Mr. IS-1526 was at best negligent (and verging on reckless) and used products (including the product or products containing the prohibited substance) without ascertaining whether they were permitted or not. That could indeed be said to go beyond mere

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<sup>3</sup> WADA Code Comments to Articles 10.5.1 and 10.5.2, page 56.

<sup>4</sup> See the definition of the term *"no significant fault or negligence"* in Appendix 1 to the Rules.



negligence on his part. Even if it could be classified as mere negligence (and the Panel doubts that it could), it could not be said that the fault or negligence was not significant in the context of the anti-doping rule violation. It was extremely significant and, in the view of the Panel, a direct causative factor in the violation.

52. In those circumstances, on the evidence, Mr. IS-1526 could not satisfy the requirements of either Article 10.4.1 or Article 10.4.2 in order to eliminate or reduce the period of ineligibility otherwise applicable.
53. Consequently, the period of ineligibility for Mr. IS-1526' first violation of Article 2.1 should be two years' ineligibility (i.e. a two year ban) unless the conditions were such that the period should be increased under Article 10.5 of the Rules.
54. Article 10.5 of the Rules provides for "*aggravating circumstances*" in which the period of ineligibility may be increased. The term "*aggravating circumstances*" is not defined in the Rules. Article 10.5.1 of the Rules appears to confer on the Panel a discretion as to what might constitute "*aggravating circumstances*" which, if present, would justify the imposition of a period of ineligibility greater than the standard period. However, in the present case, no party present at the hearing, such as the IAWLA or the Irish Sports Council or any other body which was given notice of and an opportunity to attend the hearing, such as WADA or the International Weightlifting Federation, made the case to the Panel that aggravating circumstances existed in the present case so as to lead to the imposition of a greater period of ineligibility than would otherwise apply.
55. Merely because no party argues for the imposition of a greater period of ineligibility on the grounds of "*aggravating circumstances*" does not, in the view of the Panel, deprive the Panel of the power to determine that such circumstances existed and to impose a greater period of ineligibility. In the present case, the factors which might justify a greater

period than the normal two year period include Mr. IS-1526' extensive period of involvement in the sport of weightlifting in Latvia for many years prior to the pursuit of the sport in Ireland from 2010, his admitted awareness of anti-doping issues, the ready availability of assistance from the IAWLA and from his coach and, if required, from the Irish Sports Council as to the advisability of consuming products purchased from the United States or elsewhere, his (at best) negligent (verging on reckless) behaviour with regard to purchase and consumption of these products, his general failure to engage the Panel in the correspondence leading up to the hearing and the rather casual or flippant manner in which Mr. IS-1526 appeared to treat the violation. On the other hand, it has to be said that Mr. IS-1526 did (albeit belatedly) admit the violation at the hearing and accepted that he was personally responsible for substances ingested by him. Some allowance may also have to be made for the fact that English is not his first language and this may go some way to explaining his approach to the correspondence pre-dating the hearing and his attitude at the hearing itself.

56. The Panel believes that it would have had the power to impose a greater period of ineligibility on the grounds of "*aggravating circumstances*" notwithstanding the fact that no person or party before it was making that case. However, on balance, the Panel decided not to impose a greater sanction than that provided for in Article 10.1.
57. In those circumstances, the Panel determined that the appropriate period of ineligibility to be imposed on Mr. IS-1526 in respect of his first violation of Article 2.1 of the Rules is the period of two years ineligibility provided for in Article 10.1. of the Rules (i.e. a two year ban).

### **(c) Date Ineligibility Commences**

58. The next issue to determine is the date from which the period of ineligibility should run.

59. Article 10.7 of the Rules provides that:

*"Except as provided below, the period of ineligibility shall start on the date of the decision providing for ineligibility".*

60. There are a number of circumstances in which this principle may be altered and where the period of ineligibility may commence at an earlier date, such as where there are delays in the process which are not attributable to the athlete or where the athlete promptly admits the anti-doping rule violation having been notified of it by the Irish Sports Council. Neither of those circumstances is present in this case.

61. Article 10.7.3 provides that where a provisional suspension is imposed and respected by the athlete, the athlete is entitled to receive a credit for such a period of provisional suspension against any period of ineligibility which may ultimately be imposed. In this case, Mr. IS-1526 was provisionally suspended by the IAWLA on 2 June 2011. Mr. IS-1526 is, therefore, entitled to a credit for the period of the provisional suspension between 2 June 2011 and 22 September 2011. In those circumstances, the period of ineligibility would start on the date of the decision by the Panel, namely, 22 September 2011, but Mr. IS-1526 should be given credit for the period between 2 June 2011 and 22 September 2011 when he was provisionally suspended. Therefore, Mr. IS-1526 is barred from participating in any competition or other activity or funding as provided for in Article 10.8 for a period of two years from 22 September 2011 (with credit in respect of the period during which he was under provisional suspension from 2 June 2011 to 22 September 2011). Therefore, the period of eligibility will expire on 2 June 2013.

62. The Panel would like to thank the parties and participants in the proceedings for their assistance.

63. The Panel would also again thank its Secretary, Ms June Menton, for her hard work and assistance in relation to these proceedings and generally.

Dated the 27<sup>th</sup> day of October 2011.

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SIGNED ON BEHALF OF THE PANEL BY

DAVID BARNIVILLE S.C.

CHAIRMAN