

IRISH SPORT ANTI-DOPING DISCIPLINARY PANEL

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

V

Athlete IS-1501

AND

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

V

Coach IS-1502

REASONED DECISION

A. INTRODUCTION

1. This is the written reasoned decision of the Irish Sports Anti-Doping Disciplinary Panel (the "Panel") in proceedings brought by the Irish Amateur Boxing Association ("IABA") under the Irish Anti-Doping Rules (2009 Version) (the "Rules") against IS-1501, an athlete competing in the sport of boxing, and against IS-1502, who is the brother and coach of IS-1501.
2. The Panel heard the two cases together on 2 April 2012. As outlined below, the Panel ruled that IS-1501 and IS-1502 had each admitted the relevant anti-doping rule violations. In the case of IS-1501

[...] , the Panel ruled in the alternative that he was deemed to have admitted the relevant violation. In IS-1501's case, the relevant anti-doping rule violation was a violation of Article 2.1 of the Rules by virtue of the presence of a Prohibited Substance or its metabolites or markers, namely, furosemide (a Specified Substance) in a sample of his urine which had been collected during in-competition testing at the Irish National Under 21 Championships on [...] 2011. In IS-1502's case, the anti-doping rule violation was a violation of Article 2.8 of the Rules by the provision of that Prohibited Substance to IS-1501.

3. Having heard evidence and submissions in both cases on 2 April 2012, the Panel reserved its decision on the consequences or sanctions to be imposed on IS-1501 and IS-1502 in respect of those violations. Since there was considerable pressure on the Panel to notify the parties of its decision on the consequences or sanctions to be imposed, the Panel took the unusual step of preparing a written document outlining those consequences or sanctions and communicating its decision to the parties as soon as it decided upon them on 3 April 2012.
4. In IS-1501's case the Panel determined that the appropriate period of ineligibility to be imposed was that of nine (9) months which, taking into account the period of IS-1501's provisional suspension which commenced on 19 December 2011, would expire on 18 September 2012. The Panel also noted the provisions of Article 9.1 of the Rules in respect of IS-1501's violation and the automatic disqualification of his results together with the forfeiture of any medals, titles, points and prizes won by him during the relevant competition on [...] 2011.
5. In IS-1502's case, the Panel determined that the appropriate period of ineligibility to be imposed was a period of twenty seven (27)

months which, taking into account the period of his provisional suspension which commenced on 27 January 2012, would expire on 26 April 2014.

6. While the Panel explained the basis for the decision to impose those consequences or sanctions upon IS-1501 and IS-1502 in its Decision dated 3 April 2012 setting out the consequences or sanctions, and while that decision represented the relevant decision from which either party could appeal under Article 13 of the Rules, the Panel feels it appropriate that it should set out in somewhat more expanded form an account of the proceedings before it, the evidence adduced before it, the submissions to be made and conclusions reached by the Panel on foot of the evidence and those submissions. That is the purpose of this Reasoned Decision.

B. FACTUAL BACKGROUND

(a) IS-1501

7. IS-1501 was competing in the [...] Championships in the [...] on [...] 2011. He was selected for doping control. A sample of his urine was taken late on [...] 2011 / early in the morning of [...] 2011. The Doping Control Form completed in respect of the taking of IS-1501's urine sample noted that Mr. IS-1501 had declared the fact that he had taken two Panadol tablets orally that day. No other medication or supplement was disclosed.
8. The analysis of IS-1501's "A" sample was carried out by the Deutsche Sporthochschule Köln Institut für Biochemie (the "Laboratory"). The Analytical Report in respect of the analysis of IS-1501's "A" sample disclosed the presence of a Prohibited Substance, namely, furosemide (which is contained in S5 of the 2011 Prohibited List

of the World Anti-Doping Code (the "Prohibited List") falling under the heading of "*Diuretics and Other Masking Agents*". The substance in question is on the Prohibited List but is a Specified Substance as the World Anti-Doping Agency (WADA) considers that there is a greater likelihood that it is a substance which, compared to other Prohibited Substances, could be susceptible to a credible non-doping explanation. The Analytical Report dated 8 November 2011 was duly furnished by the Laboratory to the Irish Sports Council who conducted an Initial Review pursuant to Article 7.2 of the Rules to determine whether there existed any Therapeutic Use Exemption (TUE) granted to IS-1501 or whether there had been any apparent departure from the International Standard for Testing or the International Standard for Laboratories published by WADA which might have caused the adverse analytical finding. In a Certificate dated 8 December 2011, the Irish Sports Council certified that its TUE review did not disclose the existence of a valid and applicable TUE or any departure from the relevant International Standards which may have caused the adverse analytical finding.

9. However, before the Certificate was issued by the Irish Sports Council, a number of relevant events occurred. IS-1501 was informed of the result of the doping test by letter from the Irish Sports Council dated 18 November 2011. Later, on 18 November 2011, IS-1502 telephoned Dr. Una May, Director of Anti-Doping with the Irish Sports Council. IS-1502 explained to Dr. May the circumstances in which IS-1501 had taken the furosemide. Dr. May prepared a contemporaneous note of that telephone conversation which was put before the Panel. The note records that IS-1502 informed Dr. May that the medication had been prescribed for their mother for the treatment of fluid retention and that when IS-1501 was suffering from "*fluid on his knee*", he took one tablet of his mother's medication. It should be noted that in the course of the hearing, IS-1502 stated that the reference in that note to IS-1501's knee was

incorrect and that the note should have referred to his ankle. Subsequent references were to the ankle. The note records that Dr. May attempted to explain the procedure involved in relation to the obtaining of a TUE but that Dr. May was not advising IS-1502 as to whether such an application should be made or, if it were made, whether it would be successful.

10. There were further contacts and communications between IS-1502 and Dr. May prior to 2 December 2011. On that date, a TUE Application Form was furnished in respect of IS-1501. It was signed by Dr. [...] of [...], [...]. It was also signed by IS-1501 and by his father, [...]. The Form noted that IS-1501 had sustained a ligament injury to his ankle which resulted in swelling of the ankle and that he had taken one 20mg tablet without realising what it was. The Form further stated that furosemide 20mg tablets had been prescribed for IS-1501's mother, [...], in 2010.
11. Dr. [...] also furnished a handwritten note dated 2 December 2011:

"To whom it concerns

I understand the above has recently tested positive for frusemide (sic). I further understand that he had swelling of his ankle due to ligament injury. In order to alleviate the swelling he took one of the above tablets which I had prescribed for his mother [...], also a patient of mine, in 2010. She also had swelling of her ankles. I enclose a copy of said prescription. I would be quite confident that Mr. [...] did not know that the tablets were not allowable".

A record of the prescription for Mrs. [...] dated [...] 2010 was also enclosed with Dr. [...] 's note.

12. For a period of time, a firm of solicitors, [...], was advising IS-1501 and IS-1502. They submitted the TUE Application Form on behalf of IS-1501. IS-1502 contacted the Irish Sports Council on 1 December 2011 to indicate that an application for a TUE would not now be made. However, the application was in fact made the following day. It was refused by the TUE Committee of the Irish Sports Council.

13. Following that refusal, the Irish Sports Council, wrote to IS-1501 on 9 December 2011 referring to the adverse analytical finding and to the anti-doping rule violation alleged against him, namely, a violation of Article 2.1 of the Rules by virtue of the presence of the Prohibited Substance, furosemide, in his urine sample. He was provided with detailed information and extensive documentation with that letter. He was informed of his right to have his "B" sample tested to determine whether it disclosed the same substance as was found in his "A" sample and that any such request had to be made by 23 December 2011. He was also informed of his right to admit or deny the alleged anti-doping rule violation and that this had to be done by 4 January 2012 having regard to 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 still have to be determined by the Panel and that IS-1501 had a right to a hearing before the Panel. He was further informed that if he failed to admit or deny the alleged violation by 4 January 2012, 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. IS-1501 was informed of potential opportunities for reducing or eliminating any otherwise applicable consequence or sanction in light of

the fact that the substance was a Specified Substance and on other potential grounds.

14. IS-1501 was provisionally suspended by the IABA on 9 December 2011. A letter informing him of the provisional suspension and of his right to appeal that provisional suspension was sent by Don Stewart, the IABA's Anti-Doping Officer, by registered post on 9 December 2011. IS-1501 was, therefore, informed of his right to appeal the provisional suspension and of the fact that such appeal had to be made to the Chair of the Panel. He was also informed of his right to request an expedited hearing before the Panel.
15. On the same date as it wrote to IS-1501, the Irish Sports Council wrote to the Secretary of the Panel informing it of the alleged violation by IS-1501 and enclosing a copy of the correspondence and other documentation which it had furnished to IS-1501.
16. The Secretary of the Panel wrote to IS-1501 on 19 December 2011 setting out again the violation alleged against him and explaining the role and function of the Panel in that regard. IS-1501 was again informed of his right to request that his "B" sample be tested and that such request (if he wished to make it) had to be made by 23 December 2011. IS-1501 was also again informed in that letter that he had to admit or deny the alleged anti-doping rule violation to the Panel by 4 January 2012. He was reminded that if he did admit the alleged violation, he would still be entitled to a hearing to determine the appropriate sanction. He was further reminded that if he failed to admit or deny the alleged violation by 4 January 2012, he would be deemed to have admitted it. He was also reminded that if he wished to deny the alleged violation, he was required to state the basis for his denial.
17. In the same letter, the Panel noted the provisional suspension imposed by the IABA and reminded him that he was entitled to appeal the

imposition of the provisional suspension to the Chair of the Panel or to a Vice-Chair appointed by the Chair for that purpose in accordance with Article 13.2.4 of the Rules, with a further appeal to the Court of Arbitration for Sport (CAS). IS-1501 was informed that if he wished to pursue such an appeal, arrangements would be made to have the appeal determined as expeditiously as possible. He was further informed that the Panel was prepared to facilitate an early hearing of the entire matter which might render unnecessary an appeal against the provisional suspension. The Panel's letter was furnished to the IABA and to the Irish Sports Council.

18. On 20 December 2011, IS-1502 telephoned Dr. May. He outlined again the circumstances surrounding the administration of the Prohibited Substance and explained the importance of IS-1501 being in a position to compete in a competition in January 2012.
19. In a letter dated 21 December 2011, the Solicitors then acting for IS-1501, wrote to the Secretary of the Panel on his behalf explaining the circumstances in which the Prohibited Substance was taken by IS-1501. The letter stated that the substance was given to IS-1501 by IS-1502, in his capacity as his coach. It further stated that both IS-1501 and IS-1502 were unaware of the fact that the drug contained any Prohibited Substance. It stated that the drug had been prescribed to IS-1501's and IS-1502's mother to reduce swelling in her leg. It was given by IS-1502 to IS-1501 as IS-1501 was suffering from a swollen left ankle. It was claimed that the drug was taken to help reduce that swelling. The letter further stated that IS-1502 was accepting full responsibility for the incident and that he accepted that he should not have provided the drug to IS-1501 without proper medical advice. It was further stated that IS-1502 was *"quite willing to accept any punishment that the Disciplinary Panel may feel is*

appropriate in the circumstances." The letter stressed that IS-1502 was at fault and that he should have taken the necessary steps to ensure that IS-1501 did not take any Prohibited Substance. The letter asserted that it would be unfair to punish IS-1501 for something which was outside his control and that he "*merely followed his coach's instructions in taking the pill in question*". The letter explained that furosemide could act as a diuretic and as such could cause weight loss, but that was not the purpose for which it was taken by IS-1501. It was pointed out that IS-1501 had moved from the 81kg weight category to the 85kg category, in other words, that he had moved up a division and, therefore, did not need to lose weight. The letter concluded by pointing out that there were a number of competitions in January 2012 in which IS-1501 wished to compete.

20. At the same time (in another letter dated 21 December 2011 [the Solicitors] lodged an appeal on IS-1501's behalf from the provisional suspension imposed by the IABA. The Panel gave directions for the determination of that appeal. Provision was made for submissions to be furnished by or on behalf of IS-1501 in support of his appeal and for responding submissions to be furnished by the IABA. In the event, no further submissions were lodged by or on behalf of IS-1501. A submission was furnished on behalf of the IABA which opposed IS-1501's appeal. The appeal was determined in a Decision dated 3 January 2012. IS-1501's appeal was refused. An expedited hearing of the entire matter had been offered to IS-1501 to take place on 12 January 2012. However, IS-1501 decided not to take up the opportunity of that expedited hearing.
21. On 24 January 2012, the Secretary to the Panel wrote to [the Solicitors] , IS-1501's then Solicitors, to clarify IS-1501's position in relation to the alleged anti-doping rule violation. In that letter reference

was made to the two letters from [the Solicitors] dated 21 December 2011. It was pointed out that apart from those letters, IS-1501 had neither admitted nor denied the alleged violation to the Panel by 4 January 2012. The letter noted that the longer of the two letters from [the Solicitors] dated 21 December 2011 appeared to amount to an admission in fact by IS-1501 that he had taken the Specified Substance concerned and that he had been given that substance by IS-1502. The Panel noted that even if that letter did not constitute an admission in fact of the violation, it was apparent that pursuant to Article 7.3.1.9 of the Rules, IS-1501 may in any event be deemed to have admitted the violation alleged against him. Confirmation of IS-1501's position was sought. The Panel afforded IS-1501 a further period of seven days from the date of the letter to set out his position as to whether (a) it was accepted that the [the Solicitors] letter of 21 December 2011 amounted to an actual admission by IS-1501 of the violation or (b) whether it was accepted by IS-1501 that he was by that stage, in any event, deemed to have admitted the violation having regard to the provisions of the Rules referred to. Further information was provided in that letter to IS-1501 in relation to the manner in which the Panel would hear the case.

22. Submissions were also sought from the IABA and from the Irish Sports Council on the same issue. No submission or any response was received from or on behalf of IS-1501 on that issue. In those circumstances, a further letter was sent to [the Solicitors] dated 21 February 2012 referring to the previous correspondence and pointing out that as no response had been received to the letter of 24 January 2012, the Panel was disposed to proceeding on the basis that the letter from [the Solicitors] of 21 December 2011 amounted to an admission in fact that IS-1501 had taken the Specified Substance or, alternatively, that the failure by

IS-1501 otherwise to admit or deny the violation by 4 January 2012 meant that he was deemed to have admitted the violation. The letter stated that the Panel would then proceed to deal with the matter on the basis of an admitted or deemed admitted violation.

23. On 27 February 2012, Beauchamps, Solicitors acting for the Irish Sports Council, informed the Panel that the Irish Sports Council wished to exercise its right under Article 8.3 of the Rules to join the proceedings and to attend the hearing as a party.
24. By letter dated 29 February 2012, McMahon Goldrick, Solicitors acting for the IABA applied to the Panel to issue a direction to IS-1501 to furnish further particulars of his case by 6 March 2012 to include details of any witnesses that IS-1501 intended to call at the hearing together with details of the evidence to be given by those witnesses. The hearing had by that stage been fixed for 8 March 2012 with the agreement of all the parties. The Panel acceded to the IABA's application and in a letter dated 2 March 2012 issued a direction to [the Solicitors] on behalf of IS-1501 requiring IS-1501 to supply to the Panel and to the other parties to the proceedings further particulars in writing of his case, including details of all witnesses that he intended to call at the hearing and details of the evidence to be given by those witnesses. The further particulars and details were directed to be provided by 6 March 2012.
25. Those directions were not complied with. An application was made by [the Solicitors] on behalf of IS-1501 and IS-1502 to adjourn the hearing on 8 March 2012 due to the unavailability of IS-1502. Neither the IABA nor the Irish Sports Council opposed that application which was then granted by the Panel. The hearing was then fixed for 2 April 2012.

26. WADA and the International Boxing Association were informed of the hearing but neither wished to attend or participate.
27. In advance of the hearing, a detailed written submission was received from the Irish Sports Council. The hearing proceeded on 2 April 2012. IS-1501's case was heard at the same as the case against IS-1502. The relevant chronology in respect of IS-1502's case is set out below.

(b) IS-1502

28. The allegation against IS-1502 was that he had committed a violation of Article 2.8 of the Rules which prohibits (amongst other things) the administration or attempted administration to an athlete either in-completion or out of competition of a Prohibited Substance and assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any attempted anti-doping rule violation. The basis of the alleged violation by IS-1502 of Article 2.8 of the Rules was the detection of the furosemide in IS-1501's urine sample and the subsequent explanation given by IS-1502 to the Irish Sports Council for that positive test. That explanation was provided in the various conversations between IS-1502 and Dr. May referred to above and in the letter from [the Solicitors] dated 21 December 2011.
29. The Irish Sports Council wrote to IS-1502 by letter dated 19 January 2012 informing him of the alleged violation by him of Article 2.8 of the Rules. That letter was copied to the Panel. The Panel then wrote to IS-1502 by letter dated 27 January 2012. That letter noted that IS-1502 had been informed by the Irish Sports Council in its letter that while IS-1502 may previously have admitted providing or administering furosemide to IS-1501, he had the right formally to admit or deny the alleged anti-doping rule violation on his part to the

Panel by 9 February 2012. He was reminded that if he did not admit or deny the alleged violation by that date, he would be deemed under the Rules to have admitted it. He was also reminded that if he wished to deny the alleged violation he was required to state the basis for his denial. The letter concluded by noting that the Panel proposed, subject to any objection, to hear IS-1502's and IS-1501's case at the same time.

30. The Panel received no reply to its letter of 27 January 2012. IS-1502 did not, therefore, admit or deny the alleged violation by 9 February 2012. Therefore, by letter dated 21 February 2012, the Panel wrote to IS-1502 pointing out that the Panel was disposed to proceed on the basis that IS-1502 was deemed to have admitted the violation unless some good reason was furnished as to why the Panel should not proceed on that basis and requested him to reply within seven days of the date of the letter. The Panel received no response to that letter either.
31. On 27 February 2012, Beauchamps informed the Panel that the Irish Sports Council also wished to exercise its right under Article 8.3 of the Rules to join the proceedings involving IS-1502 and to attend the hearing as a party.
32. The Panel issued a similar direction in IS-1502's case on 2 March 2012 as it had in the case of IS-1501 requesting IS-1502 to furnish further particulars in writing of his case including details of all witnesses that he intended calling at the hearing and details of the evidence to be given by those witnesses. That information was sought by 6 March 2012 in circumstances where the hearing was then due to take place on 8 March 2012. However, as indicated above, the hearing was adjourned at the request of [the Solicitors], on behalf of IS-1501 and IS-1502. It was rescheduled for 2 April 2012.

IS-1502 did not provide the information requested prior to the hearing.

33. In advance of the hearing, Beauchamps on behalf of the Irish Sports Council furnished a written submission which also dealt with IS-1502's case. The Panel was also informed by McMahon Goldrick, Solicitors on behalf of the IABA, that IS-1502 was provisionally suspended by the IABA on 24 January 2012.

C. THE HEARING ON 2 APRIL 2012

34. The hearing of both cases was held by the Panel on 2 April 2012. IS-1501 and IS-1502 were not represented but were accompanied by their father, [...]. The IABA was represented by Edward Farrelly BL, instructed by McMahon Goldrick Solicitors. Don Stewart, Chief Executive of the IABA was also present on its behalf. The Irish Sports Council was represented by Beauchamps Solicitors. Dr. May was also present on its behalf.

(a) Ruling of the Panel

35. The first issue which the Panel had to determine was whether IS-1501 and IS-1502 had admitted or were deemed to have admitted the anti-doping rule violations alleged against them. Having considered the correspondence summarised above and having heard submissions by IS-1502 (on his own behalf and on behalf of IS-1501), submissions on behalf of the IABA and on behalf of the Irish Sports Council, the Panel ruled that IS-1501 had admitted the violation of Article 2.1 of the Rules in the letter sent by [the Solicitors] on his behalf on 21 December 2011. In the alternative, the Panel ruled that if it was incorrect in reaching that conclusion, IS-1501 was in any event deemed to have admitted the violation having regard to Articles 7.3.2.8 and 7.3.2.9 of the Rules

since, if the [the Solicitors] letter of 21 December 2011 did not amount to an admission in fact, IS-1501 had not otherwise admitted or denied the alleged violation by 4 January 2012 as required by the Irish Sports Council's letter of 9 December 2011 and the Panel's letter of 19 December 2011.

36. In the case of IS-1502, the Panel ruled that IS-1502 had admitted in fact the violation of Article 2.8 of the Rules and indeed repeated that admission at the outset of the hearing. He stated:

"As far as I am concerned it was me that done all the wrong here like. At the end of the day I gave this tablet to IS-1501 on the basis, of only one purpose and one purpose only was to take the swelling down on his ankle."

- Alternatively, the Panel was of the view and so ruled that if it was wrong in concluding that IS-1502 had in fact admitted the violation of Article 2.8 of the Rules, he was deemed to have admitted that violation having regard to the provisions of Articles 7.3.2.8 and 7.3.2.9 of the Rules since (if the previous explanations provided by IS-1502 to Dr. May and in the correspondence from [the Solicitors] did not amount to
37. admissions by or on behalf of IS-1502 had not admitted or denied the alleged violation by 9 February 2012 as required in the Irish Sports Council's letter to him of 19 January 2012 and the Panel's letter to him of 27 January 2012.

In light of the rulings made by the Panel in each case, the Panel determined that its only function in each case was to determine the appropriate consequences or sanctions to be imposed in respect of the admitted or, alternatively, the deemed admitted violations of the Rules.

(b) Submissions for IABA

39. Mr. Farrelly BL made submissions on behalf of the IABA on the sanctions which should be imposed by the Panel on IS-1501 and IS-1502.
40. He stated that the IABA was requesting the Panel to impose a period of ineligibility of 12 months on IS-1501 to run from the date on which he was provisionally suspended (9 December 2011). It was contended on behalf of the IABA that that period of ineligibility was appropriate having regard to the provisions of Articles 10.1 and 10.3 of the Rules. The IABA accepted the case made on behalf of IS-1501 in correspondence that IS-1501 did not take the furosemide with the intention of enhancing his sporting performance.
41. The IABA also submitted that Article 10.4.2 could be relevant in that IS-1501 did not bear "*significant fault or negligence*" in respect of the violation. The IABA stated that IS-1501 was a minor and that IS-1502 had taken a significant degree of responsibility for the violation. However, the IABA noted that boxers were aware and should be aware of the need to be careful about the substances which they take and that, taking into account all of these factors, the appropriate period of ineligibility for IS-1501 was 12 months.
42. The IABA accepted that what was said in the letter from [the Solicitors] of 21 December 2011 that it was not in IS-1501's interest to lose weight as he had moved up a weight category from the 81kg category to the 85kg category was correct.
43. In the case of IS-1502, the IABA drew the Panel's attention to the provisions of Article 10.2.3 and noted that under that provision, the period of ineligibility in respect of a violation of Article 2.8 of the Rules was a minimum of 4 years up to a lifetime period of ineligibility unless

the conditions provided for in Article 10.4 were met. The IABA also drew attention to Article 10.2.3.1 which provides that an anti-doping rule violation involving a minor must be considered a "*particularly serious violation*", which in the case of Athlete Support Personnel (such as a coach) should result in a lifetime period of ineligibility if the substance in issue was not a Specified Substance. The IABA contended that IS-1502 could not rely on the defences contained in Article 10.4.1 or 10.4.2 in that he could not establish that he bore no fault or negligence or no significant fault or negligence in connection with the violation.

44. The IABA did draw the Panel's attention to Article 10.4.4 of the Rules which concerns the admission of an anti-doping rule violation in the absence of other evidence. The IABA submitted that this provision could apply in the present case as IS-1502 had admitted the violation before receiving first notice of it pursuant to Article 7 of the Rules (in the correspondence and communications summarised earlier in this Decision). The IABA also drew the Panel's attention to Article 10.7.2 of the Rules which deals with timely admissions. The IABA indicated that the Panel could have regard to the provisions of Articles 10.4.4 and 10.7.2 of the Rules but did not request the Panel to reduce the period of ineligibility imposed in respect of IS-1502's violation. The IABA contended that the appropriate period of ineligibility for IS-1502 was the 4 year period provided for in Article 10.2.3. However, Mr. Farrelly did accept that Article 10.4.4 (and possibly Article 10.7.2) could provide a basis for that period being reduced by the Panel.

(c) Evidence / Submissions by IS-1502 and IS-1501

45. IS-1502 spoke on his own behalf and on behalf of IS-1501. He explained that IS-1501 had twisted his ankle in training and that it was swollen the following morning. He said that they

had been having lunch at home with their mother when she told them that she had been prescribed with medication for a problem she had with swollen ankles. She had some prescribed medication left. IS-1502 said that he went to the press in the kitchen and took out one of the pills prescribed for their mother and gave it to IS-1501. IS-1502 accepted that it was unprofessional of him to have done so, that he should have consulted with a doctor before doing so but that he thought that there would be no harm in giving the pill to IS-1501 and that the pill worked, in that the swelling went down.

46. IS-1502 was uncertain in his evidence as to when this incident occurred. He stated that it "*could be a few weeks*" before the positive test on [...] 2011, that it could have been in "[...]" or in "[...]". Dr. O'Neill (the medical member of the Panel) later sought to establish with greater certainty the date on which the incident occurred. In response to a question from Dr. O'Neill, IS-1502 replied that it had occurred "*a few weeks*" before the positive test.
47. IS-1502 then gave evidence about the different weight categories in which IS-1501 boxed. He outlined to the Panel that the weight categories would vary depending on whether the competition was an Open Youths competition or an Under-21 competition. In the Open Youths, the relevant weight categories in which IS-1501 boxed were 81kgs and 91kgs. In the Under-21 competition there was an additional intermediate category of 85kg. IS-1502 brought the Panel through this evidence in order to support a point made in the letter from [the Solicitors] of 21 September 2011. IS-1501 had recently moved up from the 81kg category to the 85kg category and that, while it was accepted that furosemide is a diuretic and is often used for weight loss purposes, that was not the intention or purpose for which it was given by IS-1502 to IS-1501 and taken by

IS-1501 on that occasion. The evidence from IS-1502 on his behalf and on behalf of IS-1501 was that this was the only occasion on which IS-1501 had taken furosemide.

48. IS-1502 explained that IS-1501 was party of the IABA's "High Performance" group or unit, a group of particularly promising and successful boxers. While IS-1502 was IS-1501's full time coach, IS-1501 was also being coached by IABA coaches in the "High Performance" group. IS-1501 had been subjected to doping control on one previous occasion. There was no positive test on that occasion.

49. IS-1502 was adamant that the purpose for giving the furosemide pill to IS-1501 was to reduce the swelling in his ankle and not for the purpose of enhancing IS-1501's sporting performance or to mask the use of another performance enhancing substance. To corroborate the circumstances in which the pill was given by IS-1502 to IS-1501 and ingested by IS-1501, reliance was placed by IS-1502 on the note from Dr. [...] (Mrs. [...] 's general practitioner) of 2 December 2011, the record of the prescription given by Dr. [...] to Mrs. [...] in [...] 2010 and the TUE Application Form completed in respect of IS-1501 by Dr. [...] on 2 December 2011. It should be said that, since IS-1502 and IS-1501 were unrepresented, the Panel felt it obliged to draw to their attention the obligation under some of the relevant Rules to provide corroborating evidence in order to secure a reduction in the period of ineligibility which might otherwise be imposed in respect of a violation of the Rules. IS-1502's attention was drawn to this additional material and he confirmed that it was being relied upon by him and by IS-1501.

50. IS-1501 also made submissions on his own behalf. He confirmed the account given by IS-1502. IS-1501 was 17 years of age at the time of the incident and of his positive test and had just turned 18 on the eve of the hearing before the Panel.
51. In response to questions from members of the Panel, IS-1502 stated that the reference to IS-1501's knee being swollen in Dr. May's note of her telephone conversation with IS-1502 on 18 November 2011 was an error and that the reference should have been to IS-1501's ankle.
52. While IS-1502 contended that he had not received information from the IABA in relation to doping matters, the Panel notes that IS-1502 is a qualified IABA coach and that the IABA do run courses in relation to doping matters, the evidence from the IABA was to the effect that IS-1501 would have received information in relation to doping and doping requirements from the Billy Walsh as part of his involvement in the "High Performance" group. Indeed, IS-1501 accepted that that was so although he did not have any particular recollection of it.
53. It was contended by IS-1502 on IS-1501's behalf that no further sanction should be imposed upon IS-1501 over and above the period of the provisional suspension and that IS-1501 should be permitted to resume competing following the hearing.

(d) Submissions for the Irish Sports Council

54. Mr. Rice of Beauchamps Solicitors then made submission on behalf of the Irish Sports Council. The Irish Sports Council had previously furnished preliminary written submissions. The Irish Sports Council intervened in the cases and applied to become a party to the cases in

order to assist the Panel and the parties in construing the Rules and to draw to the attention of the parties the relevant law and commentary by WADA on the equivalent provisions of the World Anti-Doping Code (the "Code").

(i) IS-1501

55. In relation to IS-1501, the Irish Sports Council noted that the only function for the Panel was to determine the appropriate sanction to be imposed. He accepted that the period of ineligibility to be imposed in respect of a first violation of Article 2.1 is two years' ineligibility unless the conditions for eliminating or reducing that period as provided for in Articles 10.3 and 10.4 of the Rules or the conditions for increasing that period as provided for in Article 10.5 are met. The Irish Sports Council noted that no case had been made on behalf of IS-1501 in relation to Article 10.4.1 (no fault or negligence) or Article 10.4.2 (no significant fault or negligence) despite the fact that the Panel had requested particulars of IS-1501's case in advance of the hearing.
56. The Irish Sports Council did, however, accept that IS-1501 may be able to avail of the provisions of Article 10.3 of the Rules and that it was a matter for him to satisfy the Panel that he came within those provisions. Mr. Rice submitted that to avail of a reduced period of ineligibility under Article 10.3, IS-1501 would have to establish (1) how the furosemide entered his body and (2) that the furosemide was not intended to enhance his sport performance or to mask the use of a performance enhancing substance. Mr. Rice submitted that IS-1501 was obliged to produce corroborating evidence (in addition to his own word) which established to the "*comfortable satisfaction*" of the Panel the absence of an intention on his part to enhance his sport performance or to mask the use of a performance enhancing substance.

57. Mr. Rice drew to the attention of the Panel the relevant provisions of WADA's comment on Article 10.4 of the Code (which is the equivalent to Article 10.3 of the Rules). In relation to the intention, Mr. Rice referred the Panel to the decision of CAS in ***Kendrick v ITF***¹ and to the decision of the Panel (under the Chair of Helen Kilroy SC) in ***Irish Rugby Football Union v Carroll***.² The Council submitted that it was not necessary for IS-1501 to establish that he did not take the product in question to enhance his sporting performance or to mask the use of a performance enhancing substance. Rather, it was necessary for him to show that he did not intend to take the specified substance himself for that purpose. The distinction is well established in case law from CAS and was accepted by the Panel in the ***Carroll*** case.
58. On the question of corroboration, Mr. Rice submitted that the Panel was entitled to look at the objective circumstances of the case as well as any evidence furnished to the Panel, including evidence from IS-1501, IS-1502 and others including Dr. [...] . He also submitted that on the basis of ***Carroll***, a lack of knowledge on the part of the athlete that the substance contained a specified substance may be taken as corroboration of a lack of intention to enhance sport performance.
59. Mr. Rice then turned to the second part of the test under Article 10.3, namely, "*the degree of fault*" on the part of IS-1501 in order to determine whether there should be any reduction in the period of ineligibility which would otherwise apply. He drew attention to the fact that every athlete is personally responsible for what is in his or her body and in that context referred to Article 2.1.1 of the Rules. He noted on behalf of the Council that IS-1501 appeared to have failed to take any steps to find out about the substance he was taking. He then referred to WADA's comment on Article 10.4 of the Code (which is the

¹ CAS 2011 A/2518.

² Decision of the Irish Sport Anti-Doping Disciplinary Panel (Chair Helen Kilroy SC) dated 19 December 2011.

equivalent to Article 10.3 of the Rules). There, WADA noted that in assessing the degree of fault at issue:

"... the circumstances considered must be specific and relevant to explain the athlete's (or other person's) departure from the expected standard of behaviour ... it is anticipated that the period of ineligibility will be eliminated entirely in only the most exceptional cases".

60. Mr. Rice stressed the appropriate sanction to be imposed must further the objective of the Code which states there should be proportionate and consistent sanctions for doping based on the level of fault of the athlete in the circumstances.

61. Mr. Rice referred to a number of cases in relation to minors which show that the Rules do unequivocally apply to minors and also the fact that a person is a minor and may lack the same experience as an adult is a relevant factor to be taken into account in determining the athlete's fault in relation to a violation of the provisions of Article 10.3 of the Rules. The cases which Mr. Rice opened to the Panel on this issue were ***I v Federation Internationale de l'Automobile (FIA)***³ (which involved a positive test for a Specified Substance in the case of a twelve year old carting driver), ***Raducan v International Olympic Committee***⁴ (which involved a sixteen, almost seventeen, year old gymnast who tested positive for a Specified Substance, pseudoephedrine) and ***WADA v Federation Internationale de Gymnastique (FIG) and Anastasiya Melnychenko***⁵ (which involved a fifteen year old gymnast who tested positive for the same Specified Substance as it at issue here, furosemide).

³ CAS 2010/A/2268.

⁴ CAS Ad Hoc Division 00/011 dated 28 September 2011.

⁵ CAS 2011/A/2403.

62. While Mr. Rice opened those cases to the Panel, he made it clear that each case had to be decided on its own merits and he was referring these cases to the Panel to demonstrate general principles and that the relevance of those cases to the present case was a matter for the Panel.
63. Although pointing out the general principles and noting that it might be open to IS-1501 to avail of the provisions of Article 10.3 of the Rules in order to reduce the period of ineligibility which might otherwise be imposed, the Irish Sports Council did not advocate any particular period of ineligibility in respect of IS-1501. Mr. Rice also reminded the Panel that the provisions of Article 9 of the Rules would also apply in that a violation committed by IS-1501 should automatically lead to the disqualification of his individual results in the completion in which the test arose with all resulting consequences including the forfeiture of any medals, titles, points and prizes.

(ii) IS-1502

64. In the case of IS-1502, the Irish Sports Council submitted that in light of IS-1502's admission of the violation, the only issue for the Panel to determine is the sanction to be imposed. It was noted that IS-1502 had admitted a violation of Article 2.8 of the Rules and that the period of ineligibility in respect of that violation is a minimum of four years under Article 10.3 of the Rules unless the conditions provided for in Article 10.4 are met. The Council also referred to the provisions Article 2.3.1 of the Rules where it is stated that an anti-doping rule violation involving a minor shall be considered a "*particularly serious violation*" which, if committed by "*athlete support personnel*" such as a coach, in cases involving substances other than Specified Substances will result in a lifetime period of ineligibility for the "*athlete support personnel*".

65. The Irish Sports Council noted that IS-1502 had not made any case under Article 10.4.2 of the Rules (which provides for a reduction in the case of no significant fault or negligence) and that Article 10.4.1 did not apply since it applied only to athletes. The only potentially applicable provision, in its view, was Article 10.4.4.
66. The Irish Sports Council submitted that IS-1502 had voluntarily admitted the commission of an anti-doping rule violation before he received notice of the alleged violation from the Irish Sports Council when he informed the Council that he had administered the prohibited substance to IS-1501. It should be recalled that IS-1502 first did so on 18 November 2011 and was only notified of a violation on his part by the Irish Sports Council on 27 January 2012.
67. The Irish Sports Council submitted that that admission by IS-1502 was the only reliable evidence of the violation at the time of the admission and that in those circumstances, under Article 10.4.4, the period of ineligibility provided in Article 10.2.3 may be reduced but that such reduction could not be below one half of the period of ineligibility otherwise applicable.
68. The Irish Sports Council noted that there was very little case law involving "*athlete support personnel*" and most of the cases that do exist has involved much more egregious anti-doping rule violations such as where there were organised anti-doping programmes or the consistent administration of steroids to an athlete or athletes over a period of years. The Irish Sports Council did bring to the attention of the Panel the following potentially relevant decisions: ***HOC v FIS and ISC***⁶, ***USADA v Mark Block***⁷ and ***CCES v Valerio Moscarillo***⁸.

⁶ CAS 2008/A/1513 26 January 2009.

⁷ American Arbitration Association Decision dated 17 March 2011.

⁸ Canadian Doping Tribunal Decision dated 14 December 2009.

69. Mr. Rice in his oral submission also referred to the WADA comment on Article 10.5.4 of the Code (equivalent to Article 10.4.4 of the Rules) where it stated:

“This Article is intended to apply when an athlete or other person comes forward and admits to an anti-doping rule violation in circumstances where no anti-doping organisation was aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the athlete or other person believes he or she is about to be caught”.

70. Mr. Rice submitted that while the applicability of those considerations to IS-1502's case was a matter for the Panel, he noted that where an athlete support personnel such as a coach professed ignorance of the Rules, the likelihood of that person expecting that a violation would be alleged against him was lesser than might otherwise be the case.
71. Again, the Irish Sports Council did not advocate any particular period of ineligibility to be imposed in respect of IS-1502.

(e) Response of IS-1502 and IS-1501

72. Both IS-1502 and IS-1501 were given an opportunity of responding to the submissions made. In the course of his response, IS-1502 apologised to IS-1501 for putting him through this procedure and noted that he took responsibility for what had occurred. He accepted that he had acted unprofessionally and that he should have sought medical advice. He further submitted that IS-1501 had suffered enough in respect of the violation.

73. The Panel reserved its decision on the consequences or sanctions to be imposed on IS-1501 and IS-1502. In light of the urgency with which the decision was required by the parties and since the Panel was able to form a view on the consequences or sanctions to be imposed, the Panel issued a note of its decision in respect of those consequences or sanctions on 3 April 2012.

D. CONSEQUENCES / SANCTIONS

74. The Panel carefully considered the documentation provided in connection with the above entitled two cases, the evidence adduced at the hearing of the above two cases on 2 April 2012, the submissions made by and on behalf of all parties at that hearing and the Book of Authorities and Cases provided at the hearing by the Irish Sports Council. Having done so the Panel decided that the following consequences / sanctions should be imposed on IS-1501 and IS-1502 in respect of the admitted or, alternatively, deemed admitted violations of the Rules for reasons outlined below.

(a) IS-1501

75. As indicated above, the Panel ruled that IS-1501 had admitted or, was in any event deemed to have admitted a violation of Article 2.1 of the Rules by virtue of the presence of a Prohibited Substance or its metabolites or markers (namely, furosemide which is a specified substance) in a sample of his urine collected during in-competition testing on [...] 2011.
76. This is IS-1501's first violation of the Rules. In those circumstances, the period of ineligibility for such a violation of Article 2.1 is two years' ineligibility under Article 10.1 of the Rules unless the conditions for eliminating or reducing that period as provided for in

Articles 10.3 or 10.4 are met. No case was made to the Panel that that period of ineligibility should be increased as provided for in Article 10.5. In those circumstances, the Panel is satisfied that there is no basis for increasing the period of ineligibility.

77. The most relevant provision of the Rules in determining the appropriate period of ineligibility for IS-1501 was Article 10.3 which provides for the circumstances in which the period of ineligibility in respect of a positive test for a Specified Substance may be eliminated or reduced.

78. Article 10.3 provides as follows:

"10.3.1

Where a participant can establish how a specified substance entered his or her body or came into his or her possession and that such specified substance was not intended to enhance the athlete's sport performance or mask the use of a performance-enhancing substance, the period of ineligibility found in Article 10.1 shall be replaced with, at a minimum, a reprimand and no period of ineligibility, and at a maximum, a period of ineligibility of two (2) years.

10.3.2

To justify any elimination or reduction, the participant must produce corroborating evidence in addition to his or her word which satisfies to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the use of a performance enhancing substance. The participant's degree of fault shall be the criterion considered in assessing any reduction of the period of ineligibility".

79. It can be seen, therefore, that under Article 10.3, IS-1501 must establish:

- (1) How the Specified Substance, furosemide, entered his body
- (2) That such Specified Substance was not intended to enhance his sport performance or to mask the use of a performance-enhancing substance.

80. Article 8.4.3 of the Rules provides that where the Rules place the burden of proof upon the participant (in this case, IS-1501) to rebut a presumption or establish specified facts or circumstances, the standard of proof is the balance of probability except in relation to the facts or circumstances to be established under a number of specified provisions including Article 10.3.2 of the Rules where the participant must satisfy a higher standard of proof. The standard of proof which IS-1501 had to discharge to establish how the furosemide entered his system is the balance of probability standard. However, the standard of proof which must be discharged in order to establish that the furosemide was not intended to enhance his sport performance or to mask the use of a performance-enhancing substance, is the "*comfortable satisfaction*" standard. This standard is greater than a mere balance of probability but less than proof beyond a reasonable doubt (see Article 8.4.1 of the Rules). Article 10.3.2 also requires corroborating evidence in addition to IS-1501's own word to discharge the burden of proving the absence of the relevant intent.

81. The Panel is satisfied that the conditions for reducing the period of ineligibility as provided for in Article 10.3 have been met. The Panel is satisfied on the balance of probabilities that IS-1501 has established how the Specified Substance, furosemide, entered his body. He has established that the substance entered his body when he ingested a tablet containing the Specified Substance which had been prescribed for his mother by Dr. [...] of [...], [...] which was given to him by IS-1502. The Panel also finds that IS-1501 has established to the comfortable satisfaction of the

Panel and on the basis of corroborating evidence in addition to his own word (including the evidence of his brother and coach, IS-1502, and written evidence from Dr. [...] in the form of the TUE Application Form dated 2 December 2011, Dr. [...] 's note dated 1 December 2011 and the written record of his prescription for Mrs [...] from [...] 2010) that he did not take the Specified Substance with the intention of enhancing his sport performance or of masking the use of a performance-enhancing substance. While furosemide is a diuretic and is often used to achieve weight loss, IS-1502 and IS-1501 denied that that was the purpose for which it was taken in this one instance. The Panel notes that the IABA did not question or dispute the *bona fides* of the explanation given by IS-1501 and by IS-1502 concerning the circumstances in which the Specified Substance was taken by IS-1501. Neither IS-1502 nor IS-1501 was cross-examined by any party and in those circumstances, the Panel accepts that the evidence provided is sufficient to discharge the two relevant burdens of proof.

82. In those circumstances, the Panel had to assess the "*degree of fault*" on the part of IS-1501 in relation to this violation of Article 2.1 of the Rules. This is stated in Article 10.3.2 to be "*the criterion*" to be considered in assessing any reduction of the period of ineligibility which would otherwise apply.
83. In assessing IS-1501's degree of fault, the Panel notes the views of WADA in its comment on Article 10.4. of the Code (equivalent to Article 10.3 of the Rules) to the effect that:

"The circumstances considered must be specific and relevant to explain the athlete's or other person's departure from the expected standard of behaviour ..."

84. The Panel also notes the view of WADA that:

"The period of ineligibility could be eliminated entirely in only the most exceptional cases".

85. The Panel also accepts that in determining the appropriate period of ineligibility, it is necessary to try to ensure that the period imposed is proportionate and, so far as is possible, consistent with periods of ineligibility imposed in other cases in equivalent circumstances. That said, the Panel must have regard to the specific circumstances of this case.
86. At the time of the violation, IS-1501 was 17 years of age. He has since turned 18. Nonetheless, the Rules did apply to him. He is not entitled to any special treatment in terms of the question of the violation of the Rules. However, his youth and lack of experience are, in the view of the Panel, relevant factors to be taken into account in determining his fault under Article 10.3 of the Rules. In its comment on Article 10.5 of the Code (equivalent to Article 10.4 of the Rules), WADA states:

"While minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the athlete's or other person's fault under Article 10.5.2, as well as Articles 10.3.3, 10.4 [i.e. Article 10.3 of the Rules in this case] and 10.5.1."

87. The Panel has considered the various decisions involving minors referred to by Mr. Rice on behalf of the Irish Sports Council. They are referred to above in the outline of the submissions made by the Irish Sports Council. In the **I** case, the athlete was aged 12 when he tested positive for the specified substance, nikethamide. Expressly referring to the principle of proportionality, the CAS imposed a period of ineligibility of

eighteen months on the athlete. The most relevant of these cases is probably **Melnycheko** since that case involved a 15 year old gymnast who tested positive for the same Specified Substance as it at issue here, furosemide. The explanation for the presence of that substance in her case was that she had ingested prescribed medication, Lasix. In its decision, the CAS found that the athlete had to be treated in the same way as an adult in respect of a finding of fact that a Prohibited Substance was present in her sample. However, the CAS held that the age of the athlete would have to be considered particularly when determining the appropriate sanction for the violation. CAS held that youth and lack of experience were relevant factors to be considered in assessing the athlete's fault. The CAS continued by stating that:

"An anti-doping rule violation is a serious offence for an athlete who carries the ultimate responsibility"

88. The CAS found that the FIG Disciplinary Commission (which decided the case at first instance) was justified in reducing the standard period of ineligibility and exercising its discretion under the equivalent of Article 10.3 of the Rules but that it had excessively reduced the appropriate period. The CAS imposed a period of ineligibility of four months from the date of its award (which issued in August 2011 in circumstances where the athlete had been provisionally suspended from February 2011). It is relevant that IS-1501 was at least one year older than the athlete in that case and had received some information in relation to anti-doping matters as part of his involvement in the "High Performance" group.
89. Taking into account his age and relative inexperience and the particular circumstances in which the Specified Substance was provided to him by his brother and coach, IS-1502, and taken by him, it is the view of the Panel that the period of two years which would otherwise apply should be significantly reduced.

90. The Panel notes the view of the IABA that the period of two years' ineligibility should be reduced to twelve months.
91. The Panel was satisfied that IS-1501's youth and inexperience are relevant factors to be taken into account in reducing the period of ineligibility which would otherwise apply. However, in saying that, IS-1501 was almost 17½ years of age at the time of testing and turned 18 just before the hearing. In the Panel's view the significance to be attached to his age is less than it might otherwise be if he was say 14, 15 or 16 at the time of the violation. While IS-1501 may be said to be inexperienced compared to more senior boxers, he has competed regularly and is part of the IABA's "High Performance" group. The Panel notes that he was previously subject to doping control as part of that group and also received information from the IABA on doping and doping matters. The Panel does not accept that he was completely ignorant of those issues.
92. Notwithstanding his age and relative inexperience, the Panel believes that he ought to have been significantly more careful before taking the tablet offered to him by his brother and coach, IS-1502. That said, the circumstances in which the substance was taken were such that IS-1501 may have been placed in a difficult position and may have found it unable to resist taking the substance offered to him by his brother, IS-1502, in circumstances where it was their mother who referred to the fact that she had been taking the tablets to reduce swelling in her ankles. It is also significantly to the credit of IS-1501 that the violation was immediately admitted on his behalf by IS-1502 who sought to take responsibility for it as early as 18 November 2011 and subsequently on a number of occasions including in a letter sent on behalf of IS-1501 by [the Solicitors] on 21 December 2011.

93. In the circumstances, the Panel believes that the reduction in the period of ineligibility should be greater than that contended for by the IABA. It believes that taking into account all of these factors and attempting to be proportionate and consistent with other cases such as those referred to by the Irish Sports Council, the appropriate period of ineligibility is nine (9) months.
94. Since IS-1501 is entitled to credit for the period of his provisional suspension, the period should run from the date of commencement of IS-1501's provisional suspension which commenced on 19 December 2011.
95. Accordingly, the Panel has decided that the period of ineligibility to be imposed on IS-1501 is a period of nine (9) months commencing on 19 December 2011 and expiring on 18 September 2012.
96. The Panel also notes that under Article 9.1 of the Rules the anti-doping rule violation committed by IS-1501 in connection with the in-competition test on [...] 2011 automatically leads to a disqualification of his results in the competition taking place at that time with all resulting consequences including the forfeiture of any medals, titles, points and prizes. The Panel further notes the provisions of Article 9.3 of the Rules. No case has been made (nor indeed could it be made in the view of the Panel) that fairness requires otherwise than that all results obtained by IS-1501 in any competition taking place after the date on which his sample was collected on [...] 2011 up to the date of the commencement of his provisional suspension on 19 December 2011 should be disqualified with all of the resulting consequences including forfeiture of any medals, titles, points and prizes won or earned during that period.

(b) IS-1502

97. IS-1502 has admitted a violation of Article 2.8 of the Rules by providing a Prohibited Substance to an athlete, namely, IS-1501 to whom he is coach.
98. Article 10.2.3 of the Rules provides that for a violation of Article 2.8, the period of ineligibility to be imposed is in the range from a minimum of four years up to a lifetime period of ineligibility unless the conditions provided for in Article 10.4 are met. This is, however subject to the proviso under Article 10.2.3.1 of the Rules, which provides that an anti-doping rule violation involving a minor (being a person under the age of 18 years) "*shall be considered a particularly serious violation*". If the violation involves a Prohibited Substance which is not a Specified Substance, such a violation must result in a lifetime period of ineligibility for "*athlete support personnel*" which would include a coach. IS-1502 is and was at the relevant time IS-1501's brother and coach. The substance for which IS-1501 tested positive is a Specified Substance (furosemide). Having regard to the proviso to Article 10.2.3, the Panel must at all times in considering the appropriate sanction to be imposed on IS-1502 have regard to the fact that the anti-doping rule violation involving a minor must be considered to be a "*particularly serious violation*".
99. The Panel is satisfied, however, having heard the evidence and having considered the submissions and material put before it, that there is a basis for reducing the period of ineligibility which would otherwise apply having regard to the provisions of Article 10.4.4 of the Rules. The Panel is satisfied that were it not Article 10.4.4 of the Rules, the period of ineligibility which should be imposed upon IS-1502 is the minimum period of four years. The IABA submitted that the Panel should impose such a period of ineligibility on IS-1502.

100. The Panel notes that this is the first case in which an anti-doping rule violation has been admitted by or established in the case of a coach. However, the Panel has contrasted the facts and circumstances of this case with those which arose in the other cases involving coaches contained in the Book of Authorities provided by the Irish Sports Council at the hearing on 2 April 2012. While this case is undoubtedly a serious one (involving as it does an athlete who was still, just about, a minor), the cases referred to by the Irish Sports Council and which were contained in the Book of Authorities provided by it are much higher up on the range or spectrum of seriousness, in the view of the Panel. As noted by the Irish Sports Council in their written submission and in the oral submissions made by Mr. Rice on their behalf at the hearing, the three cases in question, **Hoc**, **Block** and **Moscariello**, all involved more serious violations of the relevant rules including organised anti-doping programmes or the consistent administration of steroids over a number of years. That is not what happened in the present case.

101. The Panel is satisfied on the evidence that IS-1502 did voluntarily admit the commission of an anti-doping rule violation before he received notice of that violation on his part. The evidence establishes that IS-1502 admitted the commission of the anti-doping rule violation as early as 18 November 2011 and repeated that admission on a number of occasions thereafter. The Panel agrees with the submission made by the Irish Sports Council that at that time, the admission was the "*only reliable evidence of the violation*" by IS-1502 for the purposes of Article 10.4.4 of the Rules. The Panel also notes that IS-1502 accepted full responsibility for the circumstances which led to the anti-doping rule violation by IS-1501 from an very early stage and again accepted responsibility and apologised for that violation during the hearing before the Panel on 2 April 2012.

102. Article 10.4.4 of the Rules provides that:

"Where a participant voluntarily admits the commission of an anti-doping rule violation before having received notice of a sample collection which could establish an anti-doping rule violation (or in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of ineligibility may be reduced, but not below one-half of the period of ineligibility otherwise applicable."

103. The Panel notes that both the IABA and the Irish Sports Council accepts that Article 10.4.4 may apply in this case and may be relied upon by IS-1502 to reduce the period of ineligibility which might otherwise apply.
104. In the circumstances, the Panel believes that there is a basis for reducing the period of ineligibility from the period which the Panel believes would otherwise apply, namely, four years. The Panel does not believe that a period of four years ineligibility would be a proportionate and consistent response to the admitted violation.
105. The Panel notes, however, that Article 10.4.4 of the Rules precludes the reduction to a period which would be below one-half of the period of ineligibility which would otherwise be applicable (i.e. the Panel could not reduce the period of ineligibility to below two years). Were it not for the fact that IS-1501 was a minor at the time of the violation (albeit that he has since reached the age of 18), and were it not for the proviso contained in Article 10.2.3.1 of the Rules which states that an anti-doping rule violation involving a minor shall be considered a *"particularly serious violation"*, the Panel would have reduced the period of ineligibility to two years. However, having regard to those two factors and taking into account the matters just summarised, the Panel believes that the appropriate period of ineligibility to be imposed on [...]

IS-1502 for the violation of Article 2.8 of the Rules is slightly greater than two years, namely, a period of twenty seven (27) months. The Panel believes that this period of ineligibility is proportionate to the violation and consistent with the fact that the period of ineligibility imposed in respect of IS-1501's violation was significantly reduced by reason of the circumstances in which that violation occurred.

106. IS-1502 has been provisionally suspended by the IABA since 27 January 2012. He is entitled to credit for the period of the provisional suspension. The period of ineligibility of twenty seven (27) months should, therefore, commence on 27 January 2012 and expire on 26 April 2014.

E. CONCLUDING COMMENTS

107. The Panel wishes to thank its Secretary, Miss Nicola Carroll BL for her hard work and assistance in relation to these proceedings. The Panel would also like to thank the parties and participants in the proceedings for their assistance.

Dated: 8 May 2012

SIGNED ON BEHALF OF THE PANEL

BY DAVID BARNIVILLE S.C.

CHAIRMAN

PHILIP BROWNE

DR. PAT O'NEILL