CAS 2006/A/1162 Fernando Iglesias v/ FILA

ARBITRAL AWARD

Pronounced by the

COURT OF ARBITRATION FOR SPORT

Sitting in the following composition:

President: Mr John A. **Faylor**, Attorney-at-law, Frankfurt am Main, Germany

Arbitrators: Mr Hernán Jorge **Ferrari**, Attorney-at-law, Buenos Aires, Argentina

Mr Francois **Carrard**, Attorney-at-law, Lausanne, Switzerland

in the arbitration between

Mr Fernando **Iglesias**, represented by his legal guardian, Mr Daniel Alfredo **Iglesias**, Buenos Aires, Argentina

as Appellant

and

Fédération Internationale des Luttes Associées (FILA), Corsier-sur-Vevey, Switzerland

as Respondent

I. FACTS

1. Parties

1.1 The Appellant, Mr Fernando Iglesias, is a wrestler and citizen of Argentina who was born on 23 December 1986. Because the Appellant has not yet reached the age of majority under Argentinean law, he has been legally represented by his father, Mr Daniel Alfredo Iglesias, during the prior sanctioning proceedings and continues to be represented by his father in this appeal.

1.2 The Appellant has been classified by the Respondent as an International-Level Athlete defined in the International Standard for Testing ("IST") as being within the Registered Testing Pool of FILA. He is, for this reason, subject both to In-Competition and Out-of-Competition Testing.

1.3 The Respondent, Fédération Internationale de Luttes Associées ("FILA"), is the international federation governing wrestling worldwide. It maintains its seat in Cosier-sur-Vevey Switzerland.

2. Subject Matter of this Appeal

2.1 On 1 June 2006, the Appellant submitted to a doping control in out-of-competition testing conducted by the World Anti-Doping Association ("WADA") while attending the Senior Pan-American Championships held in Rio de Janeiro. The test sample was analyzed by the Deutsche Sporthochschule in Cologne, a WADA-accredited testing laboratory (the "Cologne Laboratory"), to contain the prohibited substances hydrochlorothiazide and 17a-methyl-5ß-androstane-3a, 17ß-diol. The detection of the latter substance was stated in the Cologne Laboratory's report to WADA to be consistent with the administration of the prohibited substance methyltestosterone or the prohibited substance methandriol.

2.2 Upon receiving the WADA notification of the adverse analytical finding on 28 June 2006, the Respondent informed the Appellant on 18 July 2006 and thereupon provisionally suspended him from all further competition pending the final decision of the FILA Sporting Judge. The Respondent also demanded the forfeiture of the Silver Medal which the Appellant had won during the Senior Pan-American Championships.

2.3 Upon receipt of the Respondent's notification of the doping violation, the Appellant, acting through his father as his legal representative ("Representative"), contested the legality of the sample procedure under Argentinean law on the grounds that the Appellant was only 19 years of age at the time of the testing. Moreover, his father asserted that he, as legal representative, had not signed the Doping Control Form at the time of testing.

2.4 In his decision dated 4 September 2006, the Respondent's Sporting Judge, acting as the first instance of adjudication, ruled that the Appellant be disqualified from competition and suspended him from participation in any national or international competition for a two-year term from 1 June 2006 through 31 May 2008. This decision was communicated to the Appellant per telefax on 22 September 2006.

3. Appellant's Statement of Appeal

3.1 On 29 September 2006, the Appellant lodged a statement of appeal followed by an appeal brief dated 5 October 2006 in challenge of the decision of the Respondent's Sporting Judge. Acting through his Representative, the Appellant submitted that the failure of his Representative to sign the Doping Control Form (the "Form") rendered the entire doping control procedure and the sanction null and void.

3.2 In support of his position, the Appellant cited Section 7.4.6 of the IST which states as follows:

> "7.4.6 The *Athlete* and DCO [Doping Control Officer] shall sign appropriate documentation to indicate their satisfaction that the documentation accurately reflects the details of the *Athlete's* Sample Collection Session, including any concerns recorded by the *Athlete*. The *Athlete's* representative shall sign on behalf of the *Athlete* if the *Athlete* is a Minor. Other persons present who had a formal role during the *Athlete's* Sample Collection Session may sign the documentation as a witness of the proceedings."

3.3 The Appellant further cited Article 59 of the Respondent's International Wrestling Rules which provides as follows:

> *"Article 59 Doping*
>
> *In applying the provisions of the FILA Constitution, and in order to combat the possibility of drug use, which is formally prohibited, FILA reserves the right to require that wrestlers undergo examinations or tests in all competitions it supervises.*

This provision must be applied at Continental and World Championships, according to FILA Regulations, and at the Olympic and Continental Games, according to IOC Rules.

In no case competitors or officers may oppose this verification without incurring immediate elimination and the penalties imposed for doping.

The FILA Medical Commission will decide the time, the number or frequency of these examinations, which will be carried out by any means it deems useful.

Suitable samples will be taken by a doctor certified by FILA, in the presence of an officer for the wrestler to be tested.

Where sampling is not carried out under the conditions set out above, the results obtained shall be considered void. (see Doping Regulations).

The setting up and financial implications of the anti-doping controls are paid for by the host country and the National Federations.

The FILA, being subject to the convention fighting drug use signed with the IOC and applied by the World Anti-Doping Agency (WADA), all its Regulations, procedures and sanctions are applicable by the FILA."

3.4 The Appellant cites numerous provisions of the International Standard for Testing in support of the nullity of the sample collection session, among them, the following:

Section 3.1 Definition of "Minor":

"*Minor: A natural Person who has not reached the age of majority, as established by the applicable laws of his or her country of residence*."

Section 5.3 Requirements prior to notification of *Athletes*

"5.3.10 The ADO/DCO/Chaperone, as applicable, shall consider whether a third party is required to be notified prior to notification of the Athlete when the Athlete is a Minor, where required by an Athlete's disability as provided for in Annex B – Modifications for Athletes with disabilities, or in situations where an interpreter is required for the notification."

Section 5.4.1 Requirements for notification of Athletes

"*5.4.1 When initial contact is made, the ADO, DCO or Chaperone, as applicable, shall ensure that the Athlete and/or a third party if required in accordance with 5.3.10, is informed:*

a) That the Athlete is required to undergo a Sample collection;

b) . . .

c) . . .

d) Of the Athlete's rights, including the right to:

1. Have a representative and, if required, an interpreter; . . . "

Section 6.3.3 Requirements for preparing for the Sample Collection Session

"*6.3.3 The ADO shall establish criteria for who may be authorised to be present during the Sample Collection Session in addition to the Sample Collection Personnel. At a minimum the criteria shall include:*

a) An Athlete's entitlement to be accompanied by a representative and/or interpreter during the Sample Collection Session except when the Athlete is passing a urine Sample.

b) A Minor Athlete's entitlement, and the witnessing DCO/Chaperone's entitlement to have a representative observe the Chaperone when the Minor Athlete is passing a urine Sample, but without the representative directly observing the passing of the Sample unless requested to do so by the Minor Athlete.

Section 7.4.5 Requirements for *Sample* collection

"*7.4.5 In conducting the Sample Collection Session the following information shall be recorded as a minimum:*

a) Date, time and type of notification (No Advance Notice, advance notice, In-Competition or Out-of-Competition);

b) Date and time of Sample provision;

c) The name of the Athlete;

d) The date of birth of the Athlete;

e) The gender of the Athlete;

f) The Athlete's home address and telephone number;

g) The Athlete's sport and discipline;

h) The Sample code number;

i) The name and signature of the Chaperone who witnessed the urine Sample provision;

j) The name and signature of the Blood Collection Official who collected the blood Sample, where applicable;

k) Required laboratory information on the Sample;

l) Medications and supplements taken and recent blood transfusion details if applicable, within the timeframe specified by the lab as declared by the Athlete;

m) Any irregularities in procedures;

n) Athlete comments or concerns regarding the conduct of the session, if provided;

o) The name and signature of the Athlete;

p) The name and signature of the Athlete's representative, if required;

q) The name and signature of the DCO.

3.5 The Appellant asserts that, due to the non-observance of the above provisions of the International Standard for Testing, in particular, for not having provided the Appellant with the opportunity to be represented at the sample collection session, a procedural error has been committed which renders the entire sample collection session and the two-year ineligibility sanction null and void. Therefore, the sanction must be revoked and the Appellant reinstated.

4. Respondent's Answer

4.1 The Respondent admits that the Appellant had not yet reached legal majority under Argentinean law at the time of the sample session. The Respondent further asserts that the Appellant was "aware of what was required from him", but at no point during the Sample Collection Session did he raise an objection regarding his age nor did anyone else around him object to the procedure.

4.2 The Respondent asserts that, following receipt of the adverse analytical finding of the Cologne Laboratory and Appellant's initial response, it requested WADA to investigate the procedure in order to establish whether the sample collection session was conducted in conformity with the International Standards for Testing.

4.3 WADA, according to the Respondent, replied that "this doping test was conducted in compliance with WADA's standards and that this sample was collected in compliance with WADA's procedure."

4.4 The Respondent further points out that the Form bears the signature of the Appellant, "which gives evidence of his agreement on the method and the controlling procedure applied to him."

4.5 The Respondent further cites the Appellant's admission in the Form that he had been taking food supplements. The Respondent points out, however, that the WADA Code and the jurisprudence of the CAS are clear in establishing that "it is up to the consumer to check that food supplements do not contain any prohibited substance."

5. Denial of Provisional Measures

5.1 On 16 October 2006, the Deputy President of the Appeals Arbitration Division of the Court of Arbitration for Sport denied the Appellant's motion to stay the two-year term of ineligibility imposed by the Sporting Judge pending a final decision of the CAS.

5.2 The Deputy President took the position that, although the Appellant was still a minor at the time of testing and that his representative had not signed the Form, failure to comply with these rules "may have little influence on the result of the analytical finding".

5.3 In addition, the Deputy President pointed out that the Appellant

> *"has not proven or even alleged that he asked that his representative be allowed to attend the sample collection. Neither has the Appellant shown or even contended that he made any complaint upon the signing of the anti-doping form without the assistance of his father or another authorized representative. One can reasonably expect from an athlete who is 19 years old that he should at least complain immediately of the non-fulfilment of these procedural warranties. Instead, the Appellant has made no objection until he received the suspension decision."*

6. Order of procedure

On 2 November 2006, the CAS Court Office issued, on behalf of the Chairman of the Panel, an order of procedure, which confirmed amongst other that CAS had jurisdiction to rule on this matter, and that the applicable law would be determined in accordance with Art. R58 of the Code of Sports-related Arbitration (the "Code"). The parties signed and returned such order of procedure to the CAS Court Office.

7. Hearing

Although the Panel initially set a date for the hearing of this matter on 24 November 2006, it subsequently cancelled the hearing on the grounds it deemed itself sufficiently informed by the parties' submissions to reach a decision and to issue an award without holding a hearing.

II. IN LAW

1. CAS Jurisdiction

1.1 The jurisdiction of the CAS rests on Art. 13.2.1 of the Respondent's Anti-Doping Regulations.

> "*13.2.1 In cases arising from competition in an International Event or in cases involving International-Level Wrestlers, the decision may be appealed exclusively to the FILA Federal Appeal Commission. The only body recognized by all parties in case of dispute is the CAS*."

1.2 Moreover, in its notification to the Appellant dated 18 August 2006, the Respondent instructed the Appellant that he may appeal against the Respondent's decision "*exclusively to the FILA Federal Appeal Commission and present all evidence to support his claims.*"

> *"Afterwards you may if you wish file an appeal to the Court of Arbitration for Sports (CAS) within 21 days from the date of receipt of the decision."*

1.3. The parties have also executed the Order of Procedure in which they have confirmed their mutual agreement to bring this matter before the CAS for final decision.

2. Admissibility; Applicable Law

2.1 Following receipt of the Respondent's decision to impose the two-year sanction on 22 September 2006, the Appellant filed his statement of appeal within the 21-day filing period on 27 September 2006.

2.2 The Appellant filed his appeal brief on 6 October 2006 within the 10-day period set forth in Art. R51 of the Code of Sports-related Arbitration (the "Code").

2.3 Under Art. R58 of the Code:

> The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the Parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.

2.4 In the present matter, the parties have not agreed on the application of any particular law. Therefore, the rules and regulations of FILA shall apply primarily and Swiss law shall apply subsidiarily, as the Respondent has its seat in Switzerland.

3. The Merits of this Appeal

A. The Doping Violation

3.1 The analysis of the urine sample performed by the Cologne Laboratory established the presence of the prohibited substances hydrochlorothiazide and 17a-methyl-5ß-androstane-3a,17 ß-diol. Both are deemed by WADA and by FILA to be prohibited substances. The mere presence of a prohibited substance or its metabolites or markers in a Wrestler's bodily specimen constitutes an anti-doping rule violation. Article 2.1.1 of the FILA Anti-Doping Regulations states as follows:

> *"2.1.1 It is each Wrestler's personal duty to ensure that no Prohibited Substance enters his or her body. Wrestlers are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their bodily Specimens. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Wrestler's part be demonstrated in order to establish an anti-doping violation under Article 2.1.*"

3.2 In his letter to the CAS dated 18 October 2006, the Appellant's Representative denied emphatically that his son ever ingested prohibited substances for "sports advantages". If the Appellant's Representative felt secure in his conviction that his son never, knowingly or unknowingly, ingested a prohibited substance, it can logically and reasonably be expected of him to permit the opening and the analysis of the B Sample. The Appellant's Representative rejected this right of the Appellant.

3.3 Moreover, in his insistence that the results of the sample collection together with the results of the laboratory analysis must be declared null and void due to his absence at the collection session, the Appellant's Representative has failed to cite any facts or circumstances which might support a possible elimination or reduction of the period of ineligibility based on exceptional circumstances pursuant to Article 10.5 of the FILA Anti-Doping Regulations. The burden of evidence rests with the Appellant to establish the facts and circumstances which may eliminate or reduce the period of ineligibility imposed by the Sporting Judge. The Representative has based the Appellant's defence exclusively upon the presence of the procedural defects cited in his statement of appeal.

3.4 In light of the above, the Panel has no alternative than to hold that the presence of the prohibited substances in the Appellant's specimen constitutes a doping violation

which requires under the governing strict liability principle the full measure of the sanctions set out in Articles 10.1 and 10.2 of the FILA Anti-Doping Regulations.

B. The Issue of Nullification of the Adverse Analytical Finding and the Sanctions Imposed

3.5 The WADA Anti-Doping Program is comprised of various sets of rules which are intended to ensure optimal harmonization and best practice in international and national anti-doping programs. The main elements of the WADA Program are in the order of their governing priority: the WADA Code (level 1), International Standards (level 2), and Models of Best Practice (level 3).

3.6 Although they are incorporated into the WADA Code by reference, the IST is a subordinate set of rules to the WADA Code. The IST rules and standards are technical and administrative in nature. Section 1.0 (Introduction and Scope) of the IST sets out the main purpose of the IST, namely "*to plan for effective Testing and to maintain the integrity and identity of the Samples, from notifying the Athlete to transporting Samples for analysis*." To be more precise, the IST contains "*standards for test distribution planning, notification of Athletes, preparing for and conducting Sample collection, security/post test administration and transport of Samples*."

3.7 Although the introduction to the WADA Code states that "*adherence to the International Standards is mandatory for compliance with the Code*," it does not follow that a violation of the IST inexorably results in non-compliance with the WADA Code or the invalidation of consequences provided in the WADA Code. This principle is made clear in Section 3.2.2 of the WADA Code which states as follows:

> "*Departures from the International Standard for Testing which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such results. If the Athlete establishes that departures from the International Standard occurred during Testing then the Anti-Doping Organization shall have the burden to establish that such departures did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation*."

3.8 Stated differently, the athlete bears the burden to establish by a preponderance of the evidence that a departure from the IST has occurred. If the athlete succeeds, the burden then shifts to the Respondent to prove to the "comfortable satisfaction" of the hearing body that the departure did not change the test result.

3.9 The Respondent has adopted and implemented the WADA Code in the FILA Anti-Doping Regulations which were last updated on 15 December 2005. Wrestlers accept these rules as a condition of participation in the sport. Both the Athlete and his Representative have recognized the application of the FILA Anti-Doping Regulations and have agreed to abide by them in competition.

3.10 Article 3.2.2 of the WADA Code finds its counterpart in Article 3.2.1 and 3.2.1.1 of the FILA Anti-Doping Regulations:

> "*3.2.1 WADA-accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for laboratory analysis. The wrestler may rebut this presumption by establishing that a departure from the International Standard occurred.*
>
> *If the wrestler rebuts the preceding presumption by showing that a departure from the International Standard occurred, then FILA or its National Federation shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.*
>
> *3.2.1.1 Departures from the International Standard for Testing which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such results. If the wrestler establishes that departures from the International Standard occurred during Testing then FILA or its National Federation shall have the burden to establish that such departures did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation.* "

3.11 Whereas Article 3.2.1 above deals with "departures" within the narrower scope of sample analysis and custodial procedures in and around the laboratory, the language of Article 3.2.1.1, although being a sub-section of Article 3.2.1, spans a broader spectrum of "departures" falling under the term "*Testing*". The latter is defined in the definitions of the IST as

> "*<u>Testing.</u> The parts of the Doping Control process involving test distribution planning, Sample collection, Sample handling, and Sample transport to the laboratory.* "

3.12 On the basis of the above analysis, it can be concluded – in contradiction to the position taken by the Appellant – that the FILA Anti-Doping Regulations, which represent the adopted and implemented provisions of the WADA Code, will indeed permit a finding that, despite concrete violations of the standards and procedures

contained in the IST, a doping violation has been committed and that a sanction can be imposed.

C. Alleged Violations of the International Standard for Testing and Violations of the WADA Code during the Sample Collection

3.13 The litany of "departures" cited by the Appellant in his appeal brief and summarized in I. 3.2 3.3, 3.4 and 3.5 above focuses exclusively on alleged violations of the IST standards falling under the term "Testing" and specifically "*Sample* collection" referred to in Article 3.2.1.1 of the FILA Anti-Doping Regulations. These include the "consideration" to be exercised by the DCO prior to notification whether a representative of a minor athlete is required to be notified of the collection session (Section 5.3.10 IST); notification of the athlete and/or his/her representative of the athlete's right to have the representative present at the collection session (Section 5.4.1 IST); the athlete's entitlement to be accompanied by a representative at the time of providing the specimen (Section 6.3.3 IST) and the procurement of information at the time of conducting the sample collection session. With regard to the latter, the Appellant focuses, in particular, on the failure of his Representative to sign the "appropriate documentation" to indicate his satisfaction that such documentation accurately reflects the details of the Athlete's sample collection session (Section 7.4.6 IST). The "appropriate documentation" regarding this phase of the control procedure is the Form.

3.14 The Appellant's Representative has submitted into evidence the Form filled out and executed by the DCO and the minor Appellant at the sample collection session on 1 June 2006. A review of the Form reveals, *prima facie,* that the Representative's signature is missing. However, the Appellant has neither substantiated nor proven that any of the other "departures" from the IST, e.g., proper notification of the out-of-competition test to the Athlete and his Representative, notification of the athlete's right to have his Representative present at the collection session, etc., have occurred.

3.15 The Appellant's Representative does not provide the Panel an explanation for his failure to sign the Form. Was he not present at the sample collection session? If so, what is the reason for his absence? Being an out-of-competition test as confirmed in the WADA Report to the Respondent, it must be assumed that no advance notice of the test was given. Because the Appellant is an International-Level Athlete within the

Registered Testing Pool for the Respondent, the Appellant's Representative should have been aware that an out-of-competition test with no advance notice was possible and could be expected at any time.

3.16 In filling out the Form, it is apparent that the Appellant provided correct information regarding his date of birth, nationality, sport discipline and place of residence. Clearly, information provided by the Appellant on these matters must not be declared or subsequently ratified by the Representative's signature under Argentinean majority rules. This information serves merely to identify the athlete.

3.17 On the other hand, the Form requests in section 3 the disclosure of any prescription or non-prescription medications or supplements, including vitamins and minerals, taken over the previous 7 days. The Appellant answered this question without objection by naming certain supplements. It is difficult for the Panel to believe that Argentina's 21-year majority rule is intended to nullify any declaration made by a 19-year old athlete regarding substances which he has consumed over the past 7 days on the grounds that such a disclosure may be self-incriminating or that the minor may not have the mental maturity to render a true and accurate statement. A 19-year old athlete is mature enough to know what medications and supplements he has taken and the disclosure of this information has no detrimental legal implication, even if the athlete later tests positive.

3.18 A different analysis applies, however, to the declaration contained at the foot of the Form and signed by the Appellant:

> "*I declare that the information I have given on this document is correct. I declare that subject to comments made in section 4, sample collection was conducted in accordance with the relevant procedures for sample collection. I accept that all information related to doping control, including but not limited to laboratory results and possible sanctions, shall be shared with relevant bodies in accordance with the World Anti-Doping Code. I accept that all disputes howsoever arising from this doping control shall be resolved in accordance with the doping control rules of the organisation authorising the test.*"

3.19 It can indeed be argued that the content of this declaration bears legal consequence and, if considered legal and binding, (1) could result in a waiver of the athlete's right to object to "relevant procedures for sample collection" at a later point in time; (2) would permit the circulation of the minor's personal data related to doping control to third parties and (3) would impose a modus of dispute resolution upon the athlete

which derogates civil law procedures. It is arguable that the Argentinean majority rule is intended to protect the minor against the legal disadvantages deriving from such a declaration if rendered alone by the minor and not by his/her legal representative.

3.20 When considered in light of the legal consequences deriving from the above declaration, the Panel tends to agree with the Appellant that a "departure" from the standards set down in the IST has occurred. Having established the fact of this violation, it remains to be determined whether, as a consequence, the adverse analytical finding of the Cologne Laboratory is thus nullified together with any subsequent sanction. On this point, the burden shifts to the Respondent to establish that such departures did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation.

D. The Violation of the International Standard for Testing did not cause the Adverse Analytical Finding

3.21 The Appellant's Representative bases the Appellant's challenge on the fact that, because he, as Representative, neither signed the Form at the time of the sample collection nor subsequently ratified the statements made by his son on the Form, both the entire testing procedure and the two-year sanction imposed by the Sporting Judge, is null and void. In this regard, he cites Section 7.4.6 IST in conjunction with Article 59 of the International Wrestling Rules. The Respondent, citing the WADA report, has asserted that the testing procedure was conducted in conformity with the applicable rules. The Panel requested the submission of the WADA report during its deliberations and a copy was forwarded to the Appellant's Representative for his review.

3.22 The Panel holds that the failure of the Respondent to sign the Form did not "cause" the Adverse Analytical Finding of the Cologne Laboratory. The Respondent, who bears the burden of evidence, has established the absence of any causality between the missing signature and the fact of the adverse analytical finding. This is confirmed in the WADA report which was submitted to the Panel together with the Respondent's file. To be sure, the two events demonstrate no connexity whatsoever. They are completely independent of each other. The provision of the urine specimen as a bodily act had no declarative content or legal effect which may have been falsified or impaired as a result of the Appellant being 19 years and not 21 years of age and not in

the presence of his Representative. The Appellant's confirmation of the specimen on the Form as being his own serves only identification purposes.

3.23 In addition, it must be pointed out that the Appellant's entries on the Form do not contain the slightest indication that the Appellant objected to the absence of his Representative during the Sample Collection Session. If the Appellant considered himself disadvantaged by the absence of his Representative, it can certainly be expected of him as a 19-year old to register his objection on the Form. Neither has the Appellant's Representative asserted at any time during the instant proceedings that his son objected to the absence of his Representative at the time of the sample collection nor do the protocols of the test procedure attached to the WADA report contain any fact, statement or circumstance to the contrary.

3.24 As a consequence, the fact that the minor Appellant confirmed in the above declaration on 01 June 2006 that

> "*[the] sample collection was conducted in accordance with the relevant procedures for sample collection*",

while arguably being without legal effect under Argentinean law, does not have the consequence of rendering the remaining testing procedure, in particular, the laboratory analysis, null and void. Nor does it invalidate the fact of the violation of the FILA Anti-Doping Regulations. In arriving at this conclusion, the Panel cites Section 3.2.2 of the WADA Code and Articles 3.2.1 and 3.2.1.1 of the FILA Anti-Doping Regulations.

3.25 After all of the above, the Panel, in the absence of any pleadings in favour of a reduction of the sanction under Article 10.5 of the FILA Anti-Doping Regulations, reaffirms the two-year period of ineligibility imposed by the Sporting Judge in his decision of 4 September 2006. Any other decision would contravene the purposes of the World Anti-Doping Program and the WADA Code which are to protect athletes fundamental right to participate in doping-free sport and thus promote health, fairness and equality for Athletes worldwide. The failure of the Appellant's Representative to sign or later ratify the declarations made by his son on the Form cannot result in a nullification or invalidation of the Adverse Analytical Finding pursuant to Article 3.2.1.1 of the FILA Anti-Doping Regulations. Parents, coaches and other representatives must be held to the same standard of responsibility as an adult athlete.

Otherwise, the door will be open to a possible system of doping abuse, which, as cited by the Panel in Sesil Karatancheva v/ International Tennis Federation (CAS 2006/A/1032)

> "*would put the youngest athletes at the highest risk when in fact they need the most protection. Any attempt to reduce the responsibility of younger athletes due to their age will in fact increase their vulnerability.*

4. The Costs

4.1 Art. R65 of the Code is in the following terms:

> R65 Disciplinary cases of an international nature ruled in appeal
>
> R65.1 Subject to Articles R65.2 and R65.4, the proceedings shall be free.
>
> The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of the CAS are borne by the CAS.
>
> R65.2 Upon submission of the statement of appeal, the Appellant shall pay a minimum Court Office fee of Swiss francs 500.— without which the CAS shall not proceed and the appeal shall be deemed withdrawn. The CAS shall in any event keep this fee.
>
> R65.3 The costs of the parties, witnesses, experts and interpreters shall be advanced by the parties. In the award, the Panel shall decide which party shall bear them or in what proportion the parties shall share them, taking into account the outcome of the proceedings, as well as the conduct and financial resources of the parties.

4.2 As this is a disciplinary case of an international nature, the proceedings will be at no cost to the parties, except for the minimum Court Office fee, already paid by the Appellant, which is retained by the CAS.

4.3 Art. R65.3 of the Code requires the Panel to decide which party shall bear the parties' legal costs and other expenses incurred in connection with the arbitration or in what proportion such costs will be shared between them, taking into account the outcome of the proceedings as well as the conduct and financial resources of the parties.

4.4 Having taken into account the legal issues posed by this matter, the conduct and the financial resources of the parties, the Panel is of the view that it is reasonable for each party to bear their own costs and expenses incurred in connection with this appeal arbitration procedure.

* * * * *

ON THESE GROUNDS

The Court of Arbitration for Sport rules that

1. The appeal filed by Fernando Iglesias on 29 September 2006 is dismissed.

2. The award is pronounced without costs, except for the Court Office fee of CHF 500 already paid by Fernando Iglesias and which is retained by the CAS.

3. Each party shall bear its own legal costs and other expenses incurred in connection to the present arbitration.

Lausanne, 19 February 2007

THE COURT OF ARBITRATION FOR SPORT

President of the Panel

John A. Faylor