



Tribunal Arbitral du Sport  
Court of Arbitration for Sport

**CAS 2014/A/3590 Federation Internationale de l'Automobile v. Pal Lonyai**

**CONSENT ARBITRAL AWARD**

delivered by the

**COURT OF ARBITRATION FOR SPORT**

sitting in the following composition:

President: Mr. Ken E. Lalo, Attorney-at-law, Gan-Yoshiyya, Israel  
Arbitrators: Mr. Ulrich Haas, Professor, Zurich, Switzerland  
Mr. Rui Botica Santos, Attorney-at-law, Lisbon, Portugal

in the arbitration between

**Federation Internationale de l'Automobile,**  
Represented by Mr. Jonathan Taylor and Ms. Lauren Pagé, attorneys-at-law, London, United Kingdom

- Appellant -

and

**Mr. Pal Lonyai,** Budapest, Hungary  
Represented by Mr. Jan Krabec, attorney-at-law, Prague, Czech Republic

- Respondent -

## I. PARTIES

1. The Federation Internationale de l'Automobile ("**FIA**" or the "**Appellant**") is the world governing body for four-wheel motor sport.
2. Mr. Pal Lonyai (the "**Respondent**") is a Hungarian national, holder of FIA International License and an active participant at the FIA World Cup for Cross-Country Rallies as a race driver and team manager/ owner for Bioextra Garzone Racing team.

## II. JURISDICTION OVER THE DISPUTE

3. The jurisdiction of the Court of Arbitration for Sport ("**CAS**") over this matter is not disputed, with any arguments raised regarding the jurisdiction of CAS based on the possible imposition of costs being waived and jurisdiction fully accepted within the terms of the settlement agreement reached by the parties, as later described. Indeed, the dispute is an appeal against a decision of FIA in accordance with Articles R47 and R48 of the CAS Code of Sports-related Arbitration and Mediation ("**CAS Code**"), Article 30 of the FIA Statutes and Articles 3.2.1 and B.12 of the FIA Anti-Doping Regulations (the "**FIA ADR**").

## III. FACTUAL BACKGROUND OF THE DISPUTE AND PROCEDURAL HISTORY

4. On 1 September 2013, the Respondent was selected for doping control at the "Baja Poland" event of the FIA World Cup for Cross-Country Rallies (the "**Event**").
5. On 11 September 2013, the Warsaw Laboratory reported the Respondent's 'A' urine sample taken at the Event positive for Benzoylecgonine (BZE) and Ecgonine methyl ester (EME), both of which are metabolites of cocaine, a non-specified stimulant expressly listed in section S6a of the 2013 WADA Prohibited List.
6. On 18 September 2013, FIA notified the Respondent that based on the adverse analytical finding it was asserting that the Respondent had violated FIA ADR Article 2.1, indicated that the Respondent may request analysis of the 'B' Sample and advised that the Respondent was provisionally suspended in accordance with FIA ADR Article 7.6.1.
7. On 26 September 2013, the Warsaw Laboratory confirmed the presence of BZE and EME in the Respondent's 'B' sample.
8. On 7 October 2013, the Respondent challenged the provisional suspension at a preliminary hearing held via teleconference, supplementing his statements by written submissions filed on 9 October 2014. The Respondent indicated that he had never used cocaine and could not explain how it came into his systems, other than the possibility of someone spiking his drink at a Hungarian bar the week before the Event. On 9 October 2013, the FIA Anti-Doping Disciplinary Committee ("**ADC**") advised that it found no basis to lift the provisional suspension since the Respondent has failed to provide an explanation as to how cocaine had entered his systems.

9. Various other pleadings and filings have then been made by the parties with additional attempts by the Respondent to lift the provisional suspension. The provisional suspension has not been lifted.
10. On 21 November 2013, a hearing in-person was convened and held. Since the Respondent has filed additional evidence immediately prior to and on the day of the hearing, the ADC Panel adjourned the hearing until 26 February 2014, which date was later rescheduled to 3 March, 2014.
11. Various pleadings, evidences and expert opinions have been filed by the parties during the period of adjournment and until the hearing on 3 March 2014, which was held by teleconference.
12. On 3 April 2014 the ADC issued a decision (the "**Appealed Decision**") which, in its main part:
  - a. Found the Respondent liable for the anti-doping offense of having metabolites of cocaine – a prohibited substance – present in the sample taken at the Event, in violation of FIA ADR Article 2.1.
  - b. Accepted the Respondent's plea that he bore No Fault or Negligence for the presence of the cocaine metabolites in the sample, based on the evidence of the Respondent's friend that, without the Respondent's knowledge, he spiked the Respondent's drink with cocaine in order to improve the Respondent's mood while they were at a bar a week before the Event.
  - c. Confirmed the automatic disqualification of the Respondent's results from the Event in accordance with FIA ADR 9, but completely eliminated the two year period of ineligibility that would have otherwise applied in accordance with FIA ADR 10.5.2.
13. On 11 April 2014, the Appealed Decision was notified to the parties.
14. On 2 May 2014, FIA filed a Statement of Appeal with the CAS in accordance with Articles R47 and R48 of the CAS Code. In its Statement of Appeal FIA made the following requests for relief:
  - a. That the CAS affirm the finding that the Respondent violated FIA ADR Article 2.1;
  - b. That the CAS affirm the disqualification of the Respondent's results at the Event, pursuant to FIA ADR Article 9; and
  - c. That the CAS reject the finding of No Fault or Negligence and the resulting elimination of the period of ineligibility and impose a two year period of ineligibility under FIA ADR 10.2 OR, in the alternative, that the CAS make a finding of No Significant Fault or Negligence and impose a reduced period of ineligibility from the two year period by up to twelve months pursuant to FIA ADR 10.5.2.

15. On 23 May 2014, FIA filed its Appeal Brief, in accordance with Article R51 of the CAS Code, repeating its requests for relief.
16. On 4 July 2014, the CAS Court Office informed the parties that the Panel to hear the appeal had been constituted as follows: Mr Ken E. Lalo (Israel), as President of the Panel, Professor Ulrich Haas (Switzerland) and Mr Rui Botica Santos (Portugal), as members of the Panel. The Panel in this case is assisted by Mr. Fabien Cagneux, Counsel to CAS.
17. Certain questions were raised as to the nomination of the President of the Panel, but finally no objection was made by any of the parties, as confirmed to the parties in a letter of 16 July 2014 from the CAS Office.
18. On 22 July 2014, the Respondent filed his Answer, in accordance with Article R55 of the CAS Code, requesting that the CAS affirm the Appealed Decision and that the Respondent does not bear the arbitration costs.
19. On 28 August 2014, after the consultation with the parties, the CAS Court office informed the parties that the Panel had determined to convene a hearing on 5 November 2014.
20. On 10 October 2014, the parties informed that a settlement has been reached by them and that the parties signed a settlement agreement (the "**Settlement Agreement**"). The parties submitted a signed copy of the Settlement Agreement to the CAS, requesting that the Panel issue a Consent Arbitral Award incorporating the signed Settlement Agreement.
21. The parties requested the Panel to ratify the following Settlement Agreement:

*\*\*\* Quote \*\*\**

*"IN THE COURT OF ARBITRATION FOR SPORT, CAS 2014/A/3590*

*THE FEDERATION INTERNATIONALE DE L'AUTOMOBILE*

*Appellant*

*v.*

*PAL LONYAI*

*Respondent*

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*SETTLEMENT AGREEMENT TO BE INCORPORATED IN A CONSENT ARBITRAL  
AWARD PURSUANT TO CAS CODE ARTICLE R56*

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*Whereas*

- a) *Mr Pal Lonyai's urine sample, collected in competition at the Baja Poland event of the 2013 FIA World Cup for Cross-Country Rallies on 1 September 2013 (the Event), tested positive for Benzoyllecgonine and Ecgonine methyl ester, both of which are metabolites of cocaine, which is a Prohibited Substance listed in section S6a of the 2013 WADA Prohibited List.*
- b) *On 18 September 2013, the FIA notified Mr Lonyai of the adverse analytical finding and imposed a provisional suspension.*
- c) *Mr Lonyai explained at a hearing held before the FIA Anti-Doping Disciplinary Committee (ADC) on 21 November 2013 that he had not ingested cocaine knowingly, but rather a friend of his put cocaine in his drink without his knowledge on a night out on 24 August 2013.*
- d) *Following receipt of further evidence, by decision dated 3 April 2014 the ADC found that the presence of cocaine metabolites in Mr Lonyai's urine sample amounted to a violation of the FIA Anti-Doping Regulations (FIA ADR), the presumptive sanction for which is a two-year period of ineligibility. However, the ADC accepted Mr. Lonyai's spiking claim and therefore found that he bore No Fault or Negligence for the violation, so that the presumptive two year period of ineligibility was eliminated entirely, his provisional suspension was vacated with immediate effect, and the only sanction was disqualification of his results at the Event (the ADC Decision).*
- e) *On 2 May 2014, the FIA filed an appeal with the CAS against the ADC Decision, asking the CAS to affirm the finding of a violation and the disqualification of subsequent results, but to replace the finding of No Fault or Negligence with either (1) a two year period of ineligibility under FIA ADR Article 10.2, on the basis that Mr Lonyai had not established (on a balance of probability) that his spiking claim was more likely than not true, or else (2) a finding of No Significant Fault or Negligence and therefore a reduction of the two year period of ineligibility by up to 50% pursuant to FIA Article 10.5.2, on the basis that, even if his spiking claim were accepted as the cause of his adverse analytical finding, the commentary to WADA Code Article 10.5 makes it clear that an athlete is responsible for the actions of the circle of associates to whom he entrusts access to/ care of his food and drink, so that a plea of No Fault or Negligence is precluded where an athlete's drink is spiked by a person in his/her circle of associates.*
- f) *Following the filing of the FIA's Statement of appeal, there have been discussions between counsel for the respective parties.*

*NOW, THEREFORE, THE PARTIES HAVE AGREED (SUBJECT ONLY TO THE APPROVAL OF THE CAS) TO THE FOLLOWING TERMS FOR DISPOSITION OF THE APPEAL:*

1. *It is confirmed that Mr Lonyai has committed a violation of FIA ADR Article 2.1 ('Presence of a Prohibited substance or its Metabolites or Markers in an*



*Jonathan Taylor, Partner, Bird & Bird  
LLP, in London on 9 October 2014,  
for and on behalf of the FIA*

*Jan Krabec, attorney-at-law,  
Pelikan Kofra Kohoutek, in  
Prague on 8 October 2014, for and on  
behalf of Mr Pal Lonyai"*

\*\*\* Quote end \*\*\*

#### IV. ENDORSEMENT OF THE SETTLEMENT AGREEMENT

22. Under Swiss Law, an arbitration tribunal has authority to issue an award embodying the terms of the parties' settlement if the contesting parties agree to a termination of their dispute in this manner. The Panel's ratification of their settlement and its incorporation into this Consent Arbitral Award serves the purpose of enabling the enforcement of their agreement.
23. Moreover, in accordance with Article R42 of the CAS Code:  
*"[...] Any settlement agreement may be embodied in an arbitral award rendered by consent of the parties."*
24. The parties have requested that the Panel ratify and incorporate the Settlement Agreement reproduced in Paragraph 21 above into a Consent Arbitral Award. It is the task of the Panel to verify the *bona fide* nature of the Settlement Agreement to ensure that the will of the parties has not been manipulated by them to commit fraud and to confirm that the terms of the Settlement Agreement are not contrary to public policy principles or mandatory rules of law applicable to the dispute.
25. After reviewing the terms of the Settlement Agreement, the Panel finds no grounds to object or to disapprove of the terms of the Settlement Agreement and is satisfied that the Settlement Agreement constitutes a *bona fide* settlement of the dispute brought to its attention.
26. In view of the above, and in particular of the joint request made by both parties, the present Consent Arbitral Award puts an end to the arbitration procedure *CAS 2014/A/3590 Federation Internationale de l'Automobile v. Pal Lonyai* on the terms indicated in the Settlement Agreement and those detailed below.
27. The above conclusion, finally, makes it unnecessary for the Panel to consider the other requests submitted by the parties to the Panel. Accordingly, all other prayers for relief are rejected.

#### V. COSTS

28. In the case at hand, the parties agreed that FIA shall bear the entire arbitration costs arising from these proceedings and that each party shall bear its own legal and other costs. The Panel does not see any reason to deviate from the agreement reached by the parties, which is therefore confirmed by the present Consent Arbitral Award.

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- 29. The final amount of the costs, including the CAS Court Office fee, the administrative costs of the CAS, the costs and fees of the Panel and a contribution to the expenses of the CAS, shall be communicated separately to the parties by the CAS Court Office (see article R64.4 of the CAS Code).

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Based on the above considerations, the Court of Arbitration for Sport renders the following:

**CONSENT ARBITRAL AWARD**

1. The Panel hereby ratifies the Settlement Agreement executed by the parties on 8 and 9 October 2014.
2. The arbitral procedure *CAS 2014/A/3590 Federation Internationale de l'Automobile v. Pal Lonyai* is terminated and deleted from the CAS roll.
3. Each party is hereby ordered to perform the obligations and duties as per the Settlement Agreement referred to above.
4. The costs of the arbitration, which shall be determined and separately communicated to the parties by the CAS Court Office, shall be borne entirely by the FIA.
5. Each party shall bear its own legal and other costs and expenses incurred in connection with this arbitration.
6. All other claims for relief that either party might otherwise make against the other in relation to this dispute are released and discharged unconditionally, they may not be further pursued and they are hereby rejected.

Done in Lausanne, 10 November 2014

**THE COURT OF ARBITRATION FOR SPORT**



Ken E. Laló  
President of the Panel