Arbitration CAS 2013/A/3341 World Anti-Doping Agency (WADA) v. Daniel Pineda Contreras & Chilean Olympic Committee (COC), award of 28 May 2014

Panel: Mr Michele Bernasconi (Switzerland), Sole Arbitrator

Athletics (long-jump, sprint)
Doping (refusal to submit to sample collection)
Time limit to appeal against a decision of the sports association rendered in a doping matter
Restrictive interpretation of the compelling justification to the refusal to submit to sample collection
Sample collection equipment
Tampering

1. **The fact that the statutes of a sports association specify a 21-day time limit to appeal a decision of the sports association to a State court shall not be interpreted as a constraint on the time limits specified in the IAAF Anti-Doping Rules (ADR) or the WADC. The ADR (and therefore not the sports association's statutes) are relevant to determine the applicable time limit for the appellant to appeal against a decision of the sports association rendered in a doping matter and within the framework of the ADR.**

2. **As established in CAS jurisprudence, the defence of compelling justification of the refusal to submit to sample collection is to be interpreted restrictively. The logic of the anti-doping tests demands and expects that whenever physically, hygienically and morally possible, the sample be provided despite objections by the athlete. If that does not occur, athletes would systematically refuse to provide samples for whatever reasons, leaving no opportunity for testing. Furthermore, if the athlete is not satisfied with any of the equipment available for selection, this shall be recorded by the doping control officer.**

3. **After the doping control officer orders additional urine collection equipment to be delivered to the doping control station, the athlete is not entitled to simply leave the doping control station based on his/her assertion that no appropriate sample collection equipment was available.**

4. **To establish that the athlete has tampered or attempted to tamper with any of the steps or processes that make up the doping control process, the party supporting this has the burden of establishing to the comfortable satisfaction of the adjudicating body that the athlete engaged in one or more of the actions specified in the definition of tampering. All of the actions specified in the definition of tampering require intent and certain actions also require fraudulent conduct, or the intent to deceive, on the part of the person involved.**

I. PARTIES

1. The World Anti-Doping Agency ("WADA" or the "Appellant") is a Swiss private law foundation with its seat in Lausanne, Switzerland and its headquarters in Montreal, Canada. WADA was created in 1999 to promote, coordinate and monitor the fight against doping in sport in all its forms.

2. Mr. Daniel Pineda Contreras (the "Athlete" or "First Respondent") is a long-jump and sprint athlete. He is a member of the Athletics Federation of Chile ("FEDACHI"), which is the national governing body for athletics in Chile and which is affiliated with the International Association of Athletics Federations ("IAAF").

3. The Chilean Olympic Committee (the "COC" or "Second Respondent") was created in 1934 and is the National Olympic Committee of Chile. Pursuant to the Olympic Charter, the mission of the National Olympic Committees is to *"develop, promote and protect the Olympic Movement in their respective countries"*.

II. FACTUAL BACKGROUND

4. This section summarizes the main relevant facts that emerge from the written submissions and evidence offered by the Appellant, the First Respondent and the Second Respondent (collectively, the "Parties") in respect of the present dispute. Additional facts and allegations found in the Parties' written submissions and evidence offered may be set out, where relevant, in connection with the legal discussion that follows.

II.1. The Events of 30 June 2012

5. On 30 June 2012, the Athlete participated in the Bogota Grand Prix athletics competition in Bogota, Colombia. He finished in first place in the long-jump competition.

6. At 15:30 hr., after completion of his competition, the Athlete was notified by the chaperone delegated by the Colombian national anti-doping authority ("Coldeportes") that he had been selected for doping control.

7. At 15:45 hr., the Athlete signed the doping control form (the "DCF"), indicating his consent to proceed with the doping control session.

8. After signing the DCF, the Athlete remained at the doping control station (the "DCS") under the supervision of the doping control officer (the "DCO"), hydrated and at approximately 17:00 hr., communicated to the DCO that he was ready to attempt to provide a urine sample.

9. During his first attempt to provide a urine sample, the Athlete dropped the urine collection container into the toilet bowl.

10. During the course of his second attempt to provide a urine sample, the Athlete placed the urine

collection container on a surface above the division between the toilets. This second, open container fell to the floor and the Athlete refused to continue using this container due to the risk of contamination.

11. At this point in the doping control session, the remaining stock of urine collection containers at the DCS was as follows:

(i) According to the Appellant, there remained two containers, one of which had a very small hole in the plastic packaging which enveloped the container but which was nevertheless clean, not broken or contaminated, and was adequate for the purposes of the doping control.

(ii) According to the Athlete, there remained one container, which container was poorly enveloped and sealed, scratched and which did not meet the minimum standards for collection equipment as prescribed by the rules of WADA.

12. The Athlete refused to provide a urine sample using the remaining urine collection container(s).

13. The DCO contacted a Coldeportes representative to bring additional urine collection containers to the DCS.

14. Before the additional urine collection containers were delivered to the DCS, the Athlete expressed his intention to not continue with the doping control session, documented some information in respect of such session, and left the DCS without providing a urine sample.

II.2. The Results Management Process

15. By letter to the IAAF dated 21 August 2012, Coldeportes reported the incident involving the Athlete during the doping control session at the Bogota Grand Prix on 30 June 2012 (the "Coldeportes Report").

16. In December 2012, the IAAF notified the Athlete of its investigation and requested an explanation from the Athlete.

17. By letter dated 28 December 2012, the Athlete provided his explanation to the IAAF, accompanied by a letter of support from FEDACHI dated 2 January 2013.

18. By letter dated 5 March 2013 to FEDACHI, the IAAF:

(i) communicated its rejection of the Athlete's explanation,

(ii) informed FEDACHI of the charges against the Athlete for anti-doping rule violations in respect of IAAF Rule 32.2(c) *Refusing or failing without compelling justification to submit to Sample collection after notification or otherwise evading sample collection* and IAAF Rule 32.2(e) *Tampering or Attempted tampering with any part of Doping Control*, and

(iii) in accordance with IAAF Rule 38.2, asked FEDACHI to provisionally suspend the Athlete from all athletics competitions effective immediately, pending resolution of the case by

FEDACHI.

19. By letter dated 5 March 2013 to the Athlete, FEDACHI notified the Athlete that he was provisionally suspended from all athletics competitions (the "Provisional Suspension").

20. By letter dated 14 May 2013 to the COC, FEDACHI provided information in respect of the Athlete's alleged infringement of Articles 2.3 and 2.5 of the World Anti-Doping Code (the "WADC") or Rules 32.2(c) & (e) of the IAAF anti-doping rules (the "ADR") in order for the COC's Court of Honor and Sports Arbitration (the "COC Court of Honor"**)** to hold hearings and deliver a judgment in respect of such alleged infringement, as requested by the IAAF.

21. In a decision dated 3 June 2013 (the "Decision"), the COC Court of Honor ruled, *inter alia*, as follows:

(i) the Athlete did not commit either of the anti-doping rule violations alleged by the IAAF,

(ii) the Athlete acted negligently and imprudently during the doping control at the Bogota Grand Prix on 30 June 2012, and

(iii) a three-month period of ineligibility shall be imposed upon the Athlete, starting on 5 March 2013.

22. On 5 June 2013, the Athlete was notified of the Decision.

23. On 6 June 2013, FEDACHI was notified of the Decision.

24. On 30 July 2013, FEDACHI notified the IAAF of the Decision.

III. SUMMARY OF THE PROCEEDINGS BEFORE THE CAS

25. On 4 October 2013, WADA filed its statement of appeal (the "Statement of Appeal") with the Court of Arbitration for Sport ("CAS"), pursuant to Article R48 of the Code of Sports-related Arbitration (the "Code"), to challenge the Decision (the "Appeal"). The Statement of Appeal attached three exhibits and contained, *inter alia*, the Appellant's nomination of Mr. Quentin Byrne-Sutton as arbitrator.

26. By communication dated 8 October 2013 to the Parties, the CAS Court Office acknowledged receipt of the Statement of Appeal.

27. On 18 October 2013, the Appellant filed its appeal brief (the "Appeal Brief") together with six exhibits pursuant to Article R51 of the Code.

28. By letter dated 25 October 2013 to the CAS Court Office, the First Respondent nominated Mr. Michele A. R. Bernasconi as arbitrator.

29. On 7 November 2013, the First Respondent filed an application with the CAS Court Office for

a 30-day extension of the time limit for filing his statement of defense pursuant to Articles R32 and R55 of the Code. By communication dated 13 November 2013 to the Parties and after having duly consulted the other Parties, the CAS Court Office confirmed, *inter alia*, that the extension specified in the previous paragraph had been granted to the First Respondent and requested that the Parties inform the CAS Court Office whether they would accept that the Appeal be submitted to a panel composed of a sole arbitrator.

30. By communication dated 29 November 2013 to the Parties, the CAS Court Office confirmed that all of the Parties would agree with the designation of Mr. Michele A. R. Bernasconi as the Sole Arbitrator in respect of the Appeal.

31. On 13 December 2013, the First Respondent filed its answer (the "Answer"), together with 10 exhibits pursuant to Article R55 of the Code, together with an exception of inadmissibility of the appeal.

32. By communication dated 17 December 2013, the CAS Court Office invited the Parties to inform the CAS Court Office whether in respect of the Appeal, they preferred a hearing to be held or for the Sole Arbitrator to issue an award based solely on the Parties' written submissions.

33. By communication dated 20 December 2013, the CAS Court Office informed the Parties that pursuant to Article R54 of the Code and on behalf of the President of the CAS Appeals Arbitration Division, the panel appointed to decide the Appeal (the "Panel") consists of Mr. Michele A. R. Bernasconi.

34. By communication dated 8 January 2014, the CAS Court Office informed the Parties that none of the Parties had requested that a hearing be held in respect of the Appeal and that pursuant to Article R57 of the Code, the Panel would decide whether to hold a hearing or to issue an award based on the Parties' written submissions.

35. By communication dated 11 February 2014, the Parties were advised, *inter alia*, that (i) the Panel had granted the First Respondent 20 days to file a further submission commenting on the Appellant's request, as set out in the Appeal Brief, that the period of ineligibility that should be imposed upon the Athlete pursuant to the Appeal should start on the date that the Panel's award in respect of the Appeal enters into force, and (ii) Mr. Daniel Ratushny had been appointed as *ad hoc* clerk in respect of the Appeal.

36. By letter dated 6 March 2014 to the CAS Court Office, the First Respondent filed his submission in respect of the Sole Arbitrator's communication of 11 February 2014.

37. By letter dated 13 March 2014 to the CAS Court Office, the Appellant filed his reply to the First Respondent's submission dated 6 March 2014.

38. Since none of the Parties had requested the holding of a hearing, and after having reviewed the CAS file, the Panel decided, in accordance with Article R57 of the Code, to issue an award on the basis of the Parties' written submissions.

39. On 15 April 2014 and 22 April 2014, the Appellant and the First Respondent, respectively, signed the order of procedure (the "Order of Procedure") confirming, *inter alia*, the jurisdiction of CAS, that their right to be heard has been respected and their agreement that the Sole Arbitrator may decide the present matter based on the Parties' written submissions.

40. The Second Respondent did not file any written submissions in respect of the Appeal and did not otherwise participate in the Appeal.

IV. SUBMISSIONS OF THE PARTIES

41. This section summarizes the substance of the Parties' main arguments as set out in the Parties' written submissions and evidence offered. While this section does not contain every contention and allegation made by the Parties, the Panel has carefully considered all of the written submissions and evidence offered by the Parties, including those not specifically mentioned in the following summary.

IV.1 The Appellant's Submissions

42. In its Appeal Brief, the Appellant requests the following rulings by CAS:

> *"1. The Appeal of WADA is admissible.*
>
> *2. The decision rendered on 3 July* (sic) *2013 by the Court of Arbitration for Sport of the Chilean Olympic Committee in the matter of Mr Daniel Pineda Contreras is set aside.*
>
> *3. Mr. Daniel Pineda Contreras is sanctioned with a two-year period of ineligibility, starting on the date on which the CAS award enters into force. Any period of ineligibility (whether imposed to or voluntary accepted by Mr Daniel Pineda Contreras) before the entry into force of the CAS award shall be credited against the total period of ineligibility to be served.*
>
> *4. All competitive results obtained by Mr Daniel Pineda Contreras from 30 June 2012, through the commencement of the applicable period of ineligibility shall be disqualified with all of the resulting consequences including forfeiture of any medals, points and prices.*
>
> *5. WADA is granted an Award for costs".*

43. The Appellant's submissions in support of its requests may be summarized as follows:

IV.1.1 Applicable Rules

44. The ADR apply to the present case in accordance with Article 15.3.1 of the WADC.

IV.1.2 Admissibility of the Appeal

a) WADA's right of appeal to CAS

45. The Appellant's right to appeal the Decision to CAS is based on the following:

> *"Article 42.8 ADR sets out the persons entitled to appeal the decisions rendered against national-level athletes when there is no appeal procedure in place at the national level, like in the case at hand. WADA is explicitly mentioned amongst such persons".*

b) Compliance with the deadline to appeal to CAS

46. The time limits for appeals to CAS are specified in Rules 42.13 and 42.14 ADR, which state:

> *"13. Unless stated otherwise in these Rules (or the Doping Review Board determines otherwise in cases where the IAAF is the prospective appellant), the appellant shall have forty-five (45) days in which to file his statement of appeal with CAS starting from the date of communication of the written reasons of the decision to be appealed (in English or French where the IAAF is the prospective appellant) or from the last day on which the decision could have been appealed to the national level appeal body in accordance with Rule 42.8(b). Within fifteen (15) days of the deadline for filing the statement of appeal, the appellant shall file his appeal brief with CAS and, within thirty (30) days of receipt of the appeal brief, the respondent shall file his answer with CAS.*
>
> *14. The filing deadline for an appeal to CAS filed by WADA shall be the later of (a) twenty-one (21) days after the last day on which any party entitled to appeal in the case could have appealed; or (b) twenty-one (21) days after WADA's receipt of the complete file relating to the decision".*

47. The Appellant has complied with the time limits specified in Rules 42.13 and 42.14 ADR as follows:

- the IAAF received the case file on 30 July 2013 and could therefore file an appeal with CAS until 13 September 2013 (i.e., 45 days later);
- WADA filed the Statement of Appeal with CAS on 4 October 2013 (i.e., 21 days after 13 September 2013);
- WADA filed the Appeal Brief with CAS on 18 October 2013, i.e., within the 15-day deadline set out in Rule 42.13 ADR.

48. Based on the Appellant's compliance with the applicable time limits and the provisions of Articles R48 and R65.2 of the Code, the Appeal is admissible.

IV.1.3 Anti-Doping Rule Violations

49. Rule 32.2 ADR states:

> *"Athletes or other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List. The following constitute anti-doping*

rule violations:

(…)

(c) Refusing or failing without compelling justification to submit to Sample collection after notification as authorized in applicable anti-doping rules or otherwise evading Sample collection.

(…)

(e) Tampering or Attempted Tampering with any part of Doping Control".

50. The reports of the DCO filed by the Appellant with its Appeal Brief establish the following:

- Upon notification at 15:30 hr. that he had been selected for doping control, the Athlete was reluctant and initially refused to sign the DCF and undergo the doping control. He explained that he had to be at the El Dorado airport of Bogota at 19:00 hr. for his flight back to Chile and thus did not have sufficient time for doping control.

- The Athlete finally agreed to sign the DCF at 15:45 hr. at the insistence of the DCO, who repeatedly warned the Athlete that his failure to submit to doping control could lead to sanctions against him.

- Despite the Athlete's alleged concern about being on time at the airport to make his flight, the Athlete procrastinated once he arrived at the DCS and did not seem rushed or hurried prior to his first attempt to provide a urine sample at 17:00 hr.; not less than 75 minutes after his arrival at the DCS.

- The Athlete deliberately invalidated or wasted the first two urine collection containers given to him.

- Despite the DCO's instructions to do so, the Athlete refused to use either of the two remaining, perfectly intact and sealed urine collection containers offered to him by the DCO. There is no evidence whatsoever that either of such containers did not meet the minimum criteria specified in Article 6.3.4 of the WADC International Standard for Testing (the "IST").

- Explaining that he was in a hurry, the Athlete refused to wait for the arrival of the additional requested urine collection containers, terminated the doping control session and, despite further warnings from the DCO, left the DCS at approximately 17:30 hr. without providing a urine sample.

- The additional urine collection containers were delivered to the DCS by a Coldeportes representative at 17:40 hr.

51. In respect of the points summarized above, the Appellant states:

"…when these actions are considered globally, they can only sensibly be regarded as a deliberate, persistent and flagrant attempt to vitiate the sample collection process".

52. The Appellant cites the following statement from the DCO Reports:

"I believe that from the beginning … (the Athlete) delayed and hindered the process".

53. The DCO and his findings should be considered credible and objective and should prevail over the assertions of the Athlete, who has an evident interest to escape a sanction.

a) Rule 32.2(c) ADR

54. CAS has enforced the terms of Rule 32.2(c) ADR strictly, particularly in the following CAS jurisprudence: *CAS 2004/A/714; CAS 2004/A/718; CAS 2005/A/925 and CAS 2008/A/1470*.

55. The defence of a *"compelling justification"* has been interpreted restrictively by CAS. In the *CAS 2005/A/925* award (para. 75), the Panel stated:

"No doubt, we are of the view that the logic of the anti-doping tests and of the DC Rules demands and expects that, whenever physically, hygienically and morally possible, the sample be provided despite objections by the athlete. If that does not occur, athletes would systematically refuse to provide samples for whatever reasons, leaving no opportunity for testing" (emphasis added by the Appellant).

56. In respect of the Athlete's refusal to use either of the two remaining urine collection containers, the Appellant states:

"The situation when an athlete and the DCO do not agree as to the integrity of a container is expressly foreseen in the Annex D of the IST. Pursuant to Art. D.4.4., 'If the DCO does not agree with the Athlete that all of the equipment available for the selection is unsatisfactory, the DCO shall instruct the Athlete to proceed with the Sample Collection Session'. In the case at hand, the DCO requested the Athlete to provide a sample, but the latter did not accept. Such refusal constitutes a violation".

57. The Athlete committed the anti-doping rule violation specified in Rule 32.2(c) ADR.

b) Rule 32.2(e) ADR

58. The Appellant states:

"Considering that the Athlete did not drop the two first containers accidentally, but deliberately in order to hinder the sample collection, he tampered with the doping control process…

The comment to article 2.5 of the WADC provides some examples of tampering: 'altering identification numbers on a Doping Control Form during Testing, breaking the B Bottle at the time of the B sample analysis or providing fraudulent information to an Anti-Doping Organization' (emphasis added). By deliberately compromising the two first containers, as they were dropped (in the toilet bowl and the floor respectively), the Athlete tampered with the doping control".

59. The Athlete committed the anti-doping rule violation specified in Rule 32.2(e) ADR.

IV.1.4 Determining the Sanction

60. Rule 40.3(a) ADR establishes a two-year period of ineligibility for the anti-doping rule violations specified in Rule 32.2(c) or Rule 32.2(e) ADR, unless the conditions provided in Rule 40.5 ADR (*No Fault or Negligence, No Significant Fault or Negligence, Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations, Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence*) or the conditions provided in Rule 40.6 ADR (*Aggravating Circumstances*), are met in the applicable case.

61. The Athlete had no compelling justification to refuse or fail to submit to sample collection and thus may not rely on the exceptional circumstance set out in Rule 40.5(a) ADR (*No Fault or Negligence*).

62. The Athlete persistently and intentionally engaged in a series of acts to ultimately avoid the doping control and thus may not rely on the exceptional circumstance set out in Rule 40.5(b) ADR (*No Significant Fault or Negligence*).

63. None of the exceptional circumstances provided in Rule 40.5 ADR are met and none of the aggravating circumstances provided in Rule 40.6 ADR exist.

64. The Athlete must be sanctioned with a two-year period of ineligibility.

IV.1.5 Comment on the Commencement of any Period of Ineligibility

65. In support of his arguments below, the Appellant states as follows:

> *"While the IAAF, as a signatory of the WADA Code, has the duty to 'adopt and implement anti-doping policies and rules which conform with the (WADA) Code' (art. 20.3.1 of the WADA Code), the provisions of the WADA Code are not directly applicable (CAS 2005/C/976 & 986, para 15). In that respect, Rule 47 of the IAAF anti-doping rules specifies that 'in case of conflict between these Anti-Doping Rules and the Code, these Anti-Doping Rules prevails'. Therefore, the IAAF ADR are exclusively applicable to this case".*

66. The Appellant cites Rule 40.10 ADR as applicable to the commencement of a period of ineligibility to be imposed upon an athlete for an anti-doping rule violation:

> *"10. Except as provided below, the period of Ineligibility shall start on the date of the hearing decision providing for Ineligibility or, if the hearing is waived, on the date the Ineligibility is accepted or otherwise imposed. Any period of Provisional Suspension (whether imposed or voluntarily accepted) shall be credited against the total period of Ineligibility to be served.*
>
> *(a) Timely Admission: where the Athlete promptly admits the antidoping rule violation in writing after being confronted (which means no later than the date of the deadline given to provide a written explanation in accordance with Rule 37.4(c) and, in all events, before the Athlete competes again), the period of Ineligibility may start as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. In each case, however, where this Rule is applied, the Athlete or other Person shall serve at least one-*

half of the period of Ineligibility going forward from the date the Athlete or other Person accepted the imposition of a sanction, the date of a hearing decision imposing a sanction or the date the sanction is otherwise imposed.

(b) If a Provisional Suspension is imposed and respected by the Athlete, then the Athlete shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed.

(c) If an Athlete voluntarily accepts a Provisional Suspension in writing (pursuant to Rule 38.2) and thereafter refrains from competing, the Athlete shall receive credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed. In accordance with Rule 38.3, a voluntary suspension is effective upon the date of its receipt by the IAAF.

(d) No credit against a period of Ineligibility shall be given for any time period before the effective date of the Provisional Suspension or voluntary Provisional Suspension regardless of whether the Athlete elected not to compete or was not selected to compete".

67. In respect of Rule 40.10 ADR, the Appellant notes the following:

- The Athlete has never admitted in writing that he committed an anti-doping rule violation and consequently, may not rely on Rule 40.10(a) ADR in respect of the commencement of the period of ineligibility.

- Delays in the hearing process which are not attributable to the Athlete, while noted in Article 10.9 of the WADC, are not relevant in respect of the application of Rule 40.10 ADR, which applies exclusively to the commencement of the period of ineligibility.

- The anti-doping rule violation occurred on 30 June 2012 and the Athlete served a three-month suspension from 5 March 2013 until 6 June 2013.

68. The Appellant notes, however:

"Considering that the anti-doping rule violation occurred more than 18 months ago and in order to be fair with the Athlete, the Appellant would be prepared to accept that the period of ineligibility starts on 5 March 2013, which corresponds to the commencement of the provisional suspension".

69. In accordance with Rule 40.8 ADR, all competition results of the Athlete during the period between 30 June 2012 (including the results obtained by the Athlete at the Bogota Grand Prix) and 5 March 2013 must be annulled with all the resulting consequences for the Athlete, including the forfeiture of any titles, awards, medals, points and prize and appearance money.

IV.2 The First Respondent's Submissions

70. In his Answer, the First Respondent requests the following rulings by CAS:

(i) In respect of the admissibility of the Appeal:

"28. The Appeal of WADA is declared Inadmissible for non-compliance with the deadline for submit their

Statement of Appeal.

29. Therefore, and as a natural consequence of the first rule requested, terminate the case for being the Statement of Appeal late".

(ii) In respect of the allegations made by the Appellant that the Athlete violated certain anti-doping rules:

"1. The Appeal of WADA is dismissed regarding that no anti-doping rule violation was committed.

2. The decision rendered on 3 July 2013 by the Court of Honor of the Chilean Olympic Committee on this matter remains valid and fully executed".

71. The First Respondent's submissions in support of its requests may be summarized as follows:

IV.2.1 Applicable Rules

72. The substantive issues of the Appeal, i.e., the alleged anti-doping rule violations, require the application of the ADR and the WADC.

73. All procedural issues in respect of the Appeal should be governed by the Code and by the statutes of the COC Court of Honor (the "COC Statutes"). The only procedural rules of the ADR and the WADC that are relevant to the Appeal are those that do not contradict the procedural rules of the Code and the COC Statutes.

IV.2.2 Inadmissibility of the Appeal

74. The actual deadlines for the submission of the Statement of Appeal are to be found in the Code.

75. The First Respondent cites Article R47 of the Code in the manner set out below as a basis for his assertions which are summarized below:

"'An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of that body' (Emphasis added)".

- The Decision was rendered by the COC Court of Honor, which is an independent sports-related body and is not related to the IAAF.
- The Decision was not rendered by the body of a national or international federation or any association.
- The Appellant did not exhaust the legal remedies available to it prior to the Appeal because the Appellant did not appeal the Decision to the national level.

76. The First Respondent cites Article R49 of the Code in the manner set out below in respect of the time limits to appeal the Decision and as a basis for his assertions summarized below:

"In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeals shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has already been constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders his decision after considering any submission made by the other parties' (Emphasis added)".

- Article Thirty-Fourth of the COC Statutes (i.e., the "sports-related body concerned") establishes 21 working days as the time limit for the submission of a statement of appeal to CAS.

- There is a mixed situation regarding the time limit for submission of the Statement of Appeal, considering the rules set out in the Code and the COC Statutes. This mixed and confusing situation regarding the time limits for the Appeal is also addressed by IAAF and WADA in an exchange of e-mails between them filed by the Appellant with its Statement of Appeal.

- WADA clearly manifest the recognition of Chilean rules according to this matter.

- Rules 42.13 and 42.14 ADR, which are used by the Appellant as a last resource to assert compliance with the time limits to appeal the Decision, do not apply because the Decision was made by the COC Court of Honor, which is not a body from the Federation or its affiliated member.

77. The COC Court of Honor notified FEDACHI of the Decision on 6 June 2013. FEDACHI did not notify the IAAF of the Decision until 53 days later, on 30 July 2013, despite Rule 37.2 ADR which the First Respondent sets out in his Answer as follows:

"'The relevant person or body of the Athlete or other Person's National Federation shall keep the IAAF Anti-Doping Administrator updated on the process at all time. Request for assistance or information in conducting results management process may be made to the IAAF Anti-Doping Administrator at any times' (Emphasis added)".

78. Given FEDACHI's failure to promptly communicate the Decision to the IAAF and the expiry of the applicable time limit to submit the Statement of Appeal, the Appellant:

"…used as a last resource effort the combination of time lines established on the Articles 42.13 and 42.14 in relation of the Article 42.8 of the IAAF Competition Rules …".

and further:

"That situation is prima fasciae against every principle of natural justice and legal certainty. They took an unnecessary advantage based solely on the fault of a duly and prompt communication of the decision, and after their own arbitrary consideration that the decision was render by a relevant body of the Member (FEDACHI), which at the case at stake, it was not".

79. The Statement of Appeal should be declared inadmissible for non-compliance with the applicable deadline for submission and therefore, the Appeal should be terminated in

accordance with Article R49 of the Code.

IV.2.3 Alleged Anti-Doping Rule Violations

80. The First Respondent rejects several of the Appellant's claims and asserts the following:

- During the interval between notification of selection for doping control (at approximately 15:30 hr.) and signing the DCF (at 15:45 hr.), the Athlete expressed no reluctance or refusal to comply with the doping control. Upon arrival at the DCS, the Athlete was notified of and signed the DCF without hesitation.

- The Athlete did not feel the urge to urinate and therefore, walked and hydrated within the DCS under strict surveillance until he was ready to proceed with the sample collection at approximately 17:00 hr.

- From a choice of three urine collection containers – two with a red cap and one with a blue cap – the Athlete first chose a container with a red cap. During his first attempt to provide a urine sample, the urine collection container accidentally fell into the toilet.

- The Athlete chose a second urine collection container with a red cap. While preparing for his second attempt to provide a urine sample, the DCO instructed the Athlete to drop his pants to his knees. This prompted the Athlete to place the second, open container at the base of a separation between the toilets. Thereafter, this second urine collection container accidentally fell to the floor.

- The DCO picked up the second urine collection container and gave it back to the Athlete. However, the Athlete refused to continue using this second container because of a fear of contamination based on the poor hygiene of the DCS.

- At this point in the doping control session, only one remaining urine collection container, with a blue cap, was available to the Athlete.

- The last remaining container was different from the previous two containers, had an envelope and seal that were in poor condition and also had a scratched blue cap. This constituted a breach of the minimum standards for urine collection containers as prescribed by the rules of WADA.

- The DCO *"was fully aware of the conditions of the vessels and in any way he ordered me to continue with the sample collection process with the blue cap vessel that remained"*.

- The DCO *"never pointed or instructed me to proceed with the sample collection session in the unsatisfactory vessel…"*.

- The Athlete requested a new urine collection container, but the DCO indicated that the third container was the last one, breaching the need to ensure at all times the choice of at least two bottles in the process.

- The DCO called for a supervisor to come to the DCS to evaluate the situation but after more than 30 minutes of waiting, no one appeared.
- The Athlete stated his intention to terminate the doping control session based on the problems that had occurred in the session and the unsatisfactory condition of the last remaining urine collection container.
- The DCO did not express disagreement with the Athlete's decision to terminate the doping control session and did not inform the Athlete about the possible consequences of such a decision.
- Prior to leaving the DCS, the Athlete documented everything that happened, detailing the events of the doping control session, mainly relating to the urine collection containers.

a) Alleged violation of Rule 32.2(c) ADR

81. Rule 32.2(c) ADR should be interpreted restrictively given the consequences that arise from a finding that such rule has been violated.

82. The Athlete clearly submitted to sample collection and is being prosecuted for failing to submit a urine sample:

> *"I have been for a long space of time at disposal of the Doping Control Officer, and tried to collect the sample twice but accidentally the vessels fell, first to the toilet and second to the ground.*
>
> *I think its clear enough that the action of being submitted to is satisfied, considering what is detailed on the facts of this case and the reports filed by the parties.*
>
> *In regard of the specific situation, what is actually prosecuted is not the submission to sample collection, but the submission of sample itself".*

83. In respect of Rule 32.2(c) ADR, the fact that the available equipment is unsatisfactory and does not meet the requirement of the IST is always a *compelling justification*.

84. IST Article 6.3.4 specifies minimum criteria for sample collection equipment, which criteria include at Article 6.3.4 b) *"a sealing system that is tamper evident"*, and Article 6.3.4 d) *"all equipment is clean and sealed prior to use by the Athlete"*.

85. After the first two attempts to provide a urine sample, the remaining urine collection equipment failed to meet minimum IST requirements, which was agreed by the DCO:

> *"This is admirable on the Dr Acosta report where he state: 'This blue cap vessel had a very small hole in the plastic…'".*

86. Furthermore, the DCO did not instruct the Athlete to proceed with sample collection using this damaged equipment:

"…he never pointed or instructed me to proceed with the sample collection session in the unsatisfactory vessel, such as stated in the rule transcribed above".

87. A series of inconsistencies contained in the Coldeportes Report and the DCO Reports indicates a lack of necessary arguments for an alleged anti-doping rule violation:

- Paragraph I. 2. b) & c) of the Coldeportes Report states that the Athlete was given a choice of three collection vessels for the first attempt to collect a urine sample, then again a choice of three collection vessels for the second attempt, then a choice of two collection vessels.

- In the report of the DCO dated 30 June 2012 filed by the Appellant with its Appeal Brief, the DCO states at SRF Number 2731: *"…there were 3 collection containers. The first two he chose were in suitable conditions and the fact that he dropped them respectively in the toilet bowl and on the floor exhausted the existence of available containers".*

- As illustrated in the two previous points, there is a clear difference between what is contained in the Coldeportes Report when compared to the DCO's statements.

- In the report of the DCO dated 25 February 2013 filed by the Appellant with its Appeal Brief, the DCO contradicts his initial report dated 30 June 2012 by stating that after the second attempt, there remained two available urine collection containers.

b) Alleged violation of Rule 32.2(e) ADR

88. The First Respondent cites the following from the Coldeportes Report:

"the performance of Mr. PINEDA CONTRERAS, during the control, also points to the tampering of the process, on one hand, with the destruction, twice, of the samples collected in vessels…".

89. The First Respondent cites evidence in both the Coldeportes Report and the DCO Reports as proof that:

"It was impossible to destroy the samples, because samples were never collected".

90. The First Respondent states:

"Similar reasoning brought the Appellant on its Appeal Brief as they transcribe the comments on the article 2.5 of the World Anti-Doping Code, on their paragraph 36, emphasizing 'breaking the B Bottle at the time of the B sample analysis'. The situation discussed hereby is not even close or related with the emphasized situation by the Appellant, as they address at the end of the same paragraph.

To put on the same context the accidental drop of the collection vessels with the breaking of the B Bottle, it's not only disproportionate but completely out of context and comparison".

91. And finally:

> *"The existence of so many inconsistencies on what has been informed only achieved to overthrown their own arguments and therefore, what is stated by the Columbian Agency, the DCO Dr Manuel Acosta, and the Appellant, loses validity.*
>
> *In sum, there is no logical analysis between facts, and sustainable arguments among rules that can lead to the configuration of the alleged anti-doping rule violations.*
>
> *With all the aspects rendered in this presentation, both factual and legal, I state that no anti-doping rule violation was committed by this part".*

IV.2.4 Comment on the Commencement of any Period of Ineligibility

92. The First Respondent asserts that he has always acted promptly and in good faith in order to actively facilitate the resolution of the present case, including timely notifications and responses to the applicable authorities.

93. In the Decision, the COC Court of Honor asserts that the reports and conduct of the Athlete *"…leads this Court to presume veracity and good faith in favor of the athlete".*

94. In the event that a sanction is ultimately imposed upon the Athlete in respect of the Appeal, and considering (i) Article 10.9 of the WADC (which contemplates starting the period of ineligibility as early as the date on which the anti-doping rule violation occurred in the event that there have been substantial delays in the hearing process not attributable to the Athlete), and (ii) Rule 40.9 ADR, it would be fair and just that the commencement of any period of ineligibility be as early as the date (x) that the alleged anti-doping rule violation took place (i.e., 30 June 2012), or (y) on which the Provisional Suspension began (i.e., 5 March 2013).

V. LEGAL ANALYSIS

V.1 Jurisdiction of CAS

95. CAS has jurisdiction to decide the present dispute between the Parties.

96. The jurisdiction of CAS, foreseen in Article 34 of the COC Statutes and in Article 42.8 ADR, is not disputed by any of the Parties and was confirmed in the Order of Procedure by the Appellant and by the First Respondent.

V.2 Law Applicable to the Merits

97. The law applicable to the merits in the present case is identified by the Panel in accordance with Article R58 of the Code, which provides that the Panel is required to decide the dispute:

> *"… according to the applicable regulations and, subsidiarily, to 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 that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".

98. The Decision was issued under the ADR and there is no dispute between the Parties as to the applicability of the ADR to the present matter.

99. The First Respondent submits in his Answer that in addition to the ADR, the WADC also applies to the substantive issues of the Appeal. This is disputed by the Appellant in his submission dated 13 March 2014, as follows:

"While the IAAF, as a signatory of the WADA Code, has the duty to 'adopt and implement anti-doping policies and rules which conform with the (WADA) Code' (art. 20.3.1 of the WADA Code), the provisions of the WADA Code are not directly applicable (FIFA & WADA, CAS 2005/C/976 & 986, para 15). In that respect, Rule 47 of the IAAF anti-doping rules specifies that 'in case of conflict between these Anti-Doping Rules and the Code, these Anti-Doping Rules prevails'. Therefore, the IAAF ADR are exclusively applicable to this case".

100. Based on the evidence submitted, the Panel is satisfied that the ADR are applicable to the present matter. Whether or not the WADC is applicable is an issue to which the Panel will revert later in the decision.

V.3 Admissibility of the Appeal

V.3.1 The exhaustion of internal legal remedies

101. Article Thirtieth of the COC Statutes provides as follows:

"The Committee will have a Court of Honor divided in two Boards of three members each, elected by the Council…".

102. Article Thirty-First of the COC Statutes provides as follows:

"The First Board shall be denominated of Sport Arbitration…" and "The Second Board denominated of Doping Control will know exclusively of the Anti-doping rule violations that may be incurred…".

103. The Decision was rendered by the Second Board (or "Second Courtroom") of the COC Court of Honor.

104. Article Thirty-Third of the COC Statutes provides for a national-level appeal as follows:

"All of the sanctions that apply the Court are subject to appeal before the Court of Sport Arbitration, which will be formed by the following members elected by the Council…".

105. Article Thirty-Fourth of the COC Statutes specifies the following in respect of appealing decisions of the COC Court of Honor First Board or Second Board to the COC Court of Sport Arbitration:

"The Appeals against the decisions of the Court of Honor will be subject to the following rules:

a) The appeal against decisions of the First Board must be filed within five working days before the Arbitration Court given in the previous article. On choice of the affected and instead of that appeal, the decision may be challenged by appeal to the Court of Arbitration of Sports, in Lausanne, Switzerland, which will resolve definitively the conflict under the Code of Arbitration Related to Sport. In the latter case, the appeal must be filed within a maximum period of twenty one working days from the date of the notification of the decision.

b) Against the decisions of the Second Board shall proceed the same remedies mentioned in the previous paragraph, but if the decision affects an International Level athlete, the appeal must necessarily be deducted before the Court of Arbitration for Sport in Lausanne, Switzerland".

106. In respect of the time limit specified in Article Thirty-Fourth a) (i.e., *"five working days"*) of the COC Statutes, and considering that the IAAF was notified of the Decision 57 days after the date of the Decision, the Panel concludes that the internal legal remedies available to the Appellant have been exhausted.

V.3.2 The time limit

107. Article R49 of the Code provides as follows:

"In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against…".

108. The time limit in Article R49 of 21 days to file the statement of appeal may be derogated by the statutes or regulations of the association concerned. In this regard, Rules 42.13 and 42.14 ADR provide as follows:

"13. Unless stated otherwise in these Rules (or the Doping Review Board determines otherwise in cases where the IAAF is the prospective appellant), the appellant shall have forty-five (45) days in which to file his statement of appeal with CAS starting from the date of communication of the written reasons of the decision to be appealed (in English or French where the IAAF is the prospective appellant) or from the last day on which the decision could have been appealed to the national level appeal body in accordance with Rule 42.8(b). Within fifteen (15) days of the deadline for filing the statement of appeal, the appellant shall file his appeal brief with CAS and, within thirty (30) days of receipt of the appeal brief, the respondent shall file his answer with CAS.

14. The filing deadline for an appeal to CAS filed by WADA shall be the later of (a) twenty-one (21) days after the last day on which any party entitled to appeal in the case could have appealed; or (b) twenty-one (21) days after WADA's receipt of the complete file relating to the decision".

109. The fact that the COC Statutes specify a 21-day time limit to appeal a decision of the COC Court of Honor shall not be interpreted as a constraint on the time limits specified in the ADR (or the WADC). In other words, the Panel shares the view of the Appellant that the ADR, and not the COC Statutes, are relevant to determine the applicable time limit for the Appellant to appeal against a decision of the COC rendered in a doping matter and within the framework of

the ADR. In particular, taking into consideration (i) the date on which the IAAF received the case file (i.e., 30 July 2013), and (ii) the date on which the IAAF's right to appeal (pursuant to Rule 42.8 ADR) expired (i.e., 45 days later, on 13 September 2013, pursuant to Rule 42.13 ADR), the Panel concludes that WADA filed its Statement of Appeal within the applicable 21-day time limit specified in Rule 42.14 ADR.

110. For the above reasons, the Panel is satisfied that the Appellant complied with the applicable time limits and that therefore, the Appeal is admissible.

V.4 The Merits

V.4.1 Rule 32.2(c) ADR

111. Rule 32.2(c) ADR establishes the following anti-doping rule violation: *"Refusing or failing without compelling justification to submit to Sample collection after notification as authorized in applicable anti-doping rules or otherwise evading Sample collection".*

a) Refusal to submit

112. It is indisputable that after his first two attempts to provide a urine sample, the Athlete (i) refused to submit to sample collection using the remaining urine collection equipment, (ii) refused to continue with the doping control session, and (iii) ultimately left the DCS without providing a urine sample while the additional urine sample collection equipment was in the process of being delivered to the DCS.

b) No Compelling Justification

113. The Panel must decide whether the Athlete's justification for refusing to submit to sample collection constitutes a *"compelling justification"* in respect of Rule 32.2(c) ADR.

114. The Athlete justifies his refusal to submit to sample collection on the basis that: (i) the one remaining urine collection container did not meet minimum IST criteria, (ii) the DCO agreed that the one remaining container did not meet minimum IST criteria (the Athlete refers to the DCO's admission in the DCO Reports that *"this blue cap had a very small hole in the plastic…"*), and (iii) the DCO never instructed the Athlete to proceed with sample collection using the one remaining container.

115. The veracity of the Athlete's claims in support of his justification for refusing to submit to sample collection is disputed by the Appellant, with specific reference to the DCO Reports.

116. The Panel agrees that the defense of *compelling justification* is to be interpreted restrictively, as established in CAS jurisprudence:

> *"No doubt, we are of the view that the logic of the anti-doping tests and of the DC Rules demands and expects that whenever physically, hygienically and morally possible, the sample be provided despite objections by the athlete. If that does not occur, athletes would systematically refuse to provide samples for whatever reasons, leaving no opportunity for testing"* (CAS 2005/A/925 , para.75) (emphasis added).

117. The Panel notes Article D.4.4 in Annex D of the IST, which states as follows:

> *"…If the Athlete is not satisfied with any of the equipment available for selection, this shall be recorded by the DCO.*
>
> *If the DCO does not agree with the Athlete that all of the equipment available for the selection is unsatisfactory, the DCO shall instruct the Athlete to proceed with the Sample Collection Session.*
>
> *If the DCO agrees with the Athlete that all of the equipment available for the selection is unsatisfactory, the DCO shall terminate the collection of the Athlete's urine Sample and this shall be recorded by the DCO".*

118. It is clear in the present case that after the Athlete's first two failed attempts to provide a urine sample, the DCO did not agree that all of the available urine collection equipment was unsatisfactory. Not only did the DCO offer the remaining urine collection equipment to the Athlete, the DCO also ordered additional urine collection equipment to be delivered to the DCS.

119. It is also clear that the urine sample collection session was never terminated by the DCO, but continued while awaiting delivery of the additional urine collection equipment. It was in this context that the Athlete expressly and unilaterally refused to submit to sample collection, terminated the doping control session and ultimately left the DCS without providing a urine sample.

120. After considering all of the submissions of the Appellant and the First Respondent, the Panel concludes that it was physically, hygienically and morally possible for the Athlete to provide a urine sample during the doping control session on 30 June 2012 and that the Athlete had no *compelling justification* for refusing to submit to sample collection.

121. In the circumstances of the present case, the Athlete should have proceeded with the urine sample collection process using the remaining urine collection equipment, while documenting on the available forms that he was proceeding "under protest", so to speak, based on his view that the remaining equipment did not meet minimum applicable standards. In such a situation, Article D.4.4 of Annex D of the IST also requires the DCO to record the Athlete's dissatisfaction with the available equipment.

122. After the DCO ordered additional urine collection equipment to be delivered to the DCS, the Athlete was not entitled to simply leave the DCS based on his assertion that no appropriate sample collection equipment was available.

123. Finally, the Panel also finds that the other arguments put forward by the Athlete, including the alleged inconsistencies in the Coldeportes Report and the DCO Reports, do not excuse his decision to leave the DCS without having provided a urine sample.

124. In accordance with Rule 33.1 ADR, the Appellant has established to the comfortable satisfaction of the Panel, bearing in mind the seriousness of the allegation which is made against the Athlete, that the Athlete did commit the anti-doping rule violation specified in Rule 32.2(c) ADR.

V.4.2 Rule 32.2(e) ADR

125. Rule 32.2(e) ADR establishes the following anti-doping rule violation: *"Tampering or Attempted Tampering with any part of Doping Control"*.

126. *Tampering* is defined in ADR *Chapter 3: Anti-Doping and Medical* as follows:

> *"Altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing; misleading or engaging in any fraudulent conduct to alter results or to prevent normal procedures from occurring; or providing fraudulent information"*.

127. To establish that the Athlete has tampered or attempted to tamper with any of the steps or processes that make up the doping control process, the Appellant has the burden of establishing to the *comfortable satisfaction* of the Panel that the Athlete engaged in one or more of the actions specified in the definition of *Tampering*, as set out above.

128. All of the actions specified in the definition of *Tampering* require intent and certain actions also require *fraudulent conduct*, or the intent to deceive, on the part of the person involved.

129. The Appellant states:

> *"Considering that the Athlete did not drop the first two containers accidentally, but deliberately in order to hinder the sample collection, he tampered with the doping control process as per Rule 32.2(c) ADR"*.
>
> and further, in respect of the overall actions of the Athlete during the doping control session:
>
> *"when these actions are considered globally, they can only sensibly be regarded as a deliberate, persistent and flagrant attempt to vitiate the sample collection process"*.

130. The Panel cannot hide a certain surprise in noting the circumstances surrounding the destruction of two urine sample collection containers. However, the Panel is not comfortably satisfied that the Athlete committed the anti-doping rule violation specified in Rule 32.2(e) ADR.

V.4.3 Determining the sanction

131. Rule 40.3(a) ADR provides that for anti-doping rule violations specified in Rule 32.2(c) or Rule 32.2(e) ADR, the period of ineligibility shall be two years, unless the mitigating circumstances set out in Rule 40.5 ADR (*No Fault or Negligence, No Significant Fault or Negligence, Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations, Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence*), or the aggravating circumstances set out in Rule 40.6 ADR exist in relation to such violation.

132. In the present case, the Athlete intentionally refused to submit to sample collection without compelling justification, which excludes the possibility that he bears *no fault or negligence* as set out in Rule 40.5(a) ADR.

133. In the case of *no significant fault or negligence* as set out in Rule 40.5(b) ADR, the two-year period of ineligibility may be reduced, but the reduced period of ineligibility may not be less than one-

half of the period of ineligibility otherwise applicable. The *Comment* to Articles 10.5.1 and 10.5.2 of the WADC (the WADC's complementary provisions to Rule 40.5(a) & (b) ADR) expressly states that these provisions *"are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases"*. Considering that the Athlete (i) invalidated two urine collection containers (whether by accident or intentionally), (ii) refused to provide a urine sample using the remaining urine collection equipment, (iii) refused to wait for the delivery of additional urine collection equipment, and (iv) ultimately left the DCS without providing a urine sample, the Panel finds that the circumstances set forth in Rule 40.5(b) ADR are not fulfilled.

134. None of the mitigating circumstances provided in Rules 40.5 (c), (d) and (e) ADR or aggravating circumstances provided in Rule 40.6 ADR exist in the present case.

135. Therefore, the Athlete is sanctioned with a two-year period of ineligibility pursuant to Rule 40.3(a) ADR.

V.4.4 Determining the starting point for the period of ineligibility

136. The Panel cannot ignore that the anti-doping rule violation in the present case occurred more than 22 months ago. The Panel also notes that the Provisional Suspension was imposed on and was served by the Athlete from 5 March 2013 until 6 June 2013.

137. With regard to the commencement of the period of ineligibility, the Panel notes that Rule 40.10 ADR does not provide for the possibility of an earlier start date for the period of ineligibility in cases where there have been substantial delays in the hearing process not attributable to the athlete. However, Article 10.9.1 of the WADC does provide for such possibility and in such cases, permits the body imposing the sanction to start the period of ineligibility at an earlier date, commencing as early as the date on which the applicable anti-doping rule violation occurred.

138. The Panel does not need to rule on whether the rules of the WADC should be applicable in the present case. In fact, the Appellant very fairly submitted that in the present case the Appellant *"would be prepared to accept that the period of ineligibility starts on 5 March 2013"*. (cf. para. 68 above).

139. Considering, therefore, the prayers for relief submitted by the Parties, the Sole Arbitrator considers it fair and just that the two-year period of ineligibility imposed on the Athlete shall start on 5 March 2013, which corresponds with the effective date of the Provisional Suspension. The Athlete shall receive credit for serving the Provisional Suspension and therefore, the duration of the Provisional Suspension shall be credited against the total period of ineligibility to be served.

140. Pursuant to Rule 40.8 ADR, all competitive results obtained by the Athlete from 30 June 2012, through the commencement of the applicable period of ineligibility shall be disqualified, with all of the resulting consequences for the Athlete including forfeiture of any medals, points and prices.

141. Based on this conclusion, all other prayers for reliefs and requests of the Parties are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The Appeal filed by the World Anti-Doping Agency is admissible and partially upheld.

2. The decision issued on 3 June 2013 by the Chilean Olympic Committee Court of Honor and Sports Arbitration in the matter of Mr. Daniel Pineda Contreras is set aside.

3. Mr. Daniel Pineda Contreras is sanctioned with a two-year period of ineligibility, starting on 5 March 2013. The three-month period of served provisional suspension shall be credited against the total period of ineligibility to be served.

4. All competitive results obtained by the Athlete from 30 June 2012, through the commencement of the applicable period of ineligibility shall be disqualified, with all resulting consequences for the Athlete including the forfeiture of any titles, awards, medals, points and prize and appearance money.

5. (…).

6. (…).

7. All other prayers for relief are dismissed.