

**THE APPEAL COMMISSION BESIDE THE  
NATIONAL ANTI-DOPING AGENCY**

**FILE NO. 1/2015**

**DECISION NO. 2**

**Date: 22.06.2015**

**Chairperson:** Carmen TROCAN

**Members:**

Dan Oancea

Georgeta Miscă

Daniela Mihaela Chiripuş

Diana Elena Ştefănescu

Elena - Cristina Vişan

Irina Tonca

**Secretary:** Maria Rusu

The Appeal Commission beside the National Anti-Doping Agency (named hereinafter "the Commission"), convened in session on 22.06.2015, at 16h00, at the HQs of the National Anti-Doping Agency in Bucharest, 37-39, Basarabia Bd., Sector 2, examined the appeal lodged by BASARAB Laurentiu against Decision nr. 1/12.03.2015 of the *Hearing Commission for Athletes and Athlete Support Personnel who violated anti-doping rules* beside the National Anti-Doping Agency (named hereinafter "the Hearing Commission") on the grounds of which the appellant received life ineligibility from sport in accordance with the provisions of article 43 of Law no. 227/2006 on the prevention of and fight against doping in sport, as per the text in force on the date of the violation, as he was found liable for the violation of the provisions stipulated in article 2 alinea (2) letter h) of the above referenced Law and article 2.8 of the World Anti-Doping Code. The appeal was filed with the Appeal Commission under ref. no. 97/20.04.2015.

The appellant BASARAB Laurentiu is identified based on Identity Card (I.C.) series GL no. 882843, issued by SPCLEP Galati on 15.07.2013, PIC 1880730170049, - with domicile in Galati, at 18, Ionel Fernic Street, bldg. V2, entrance 1, apt. 1, Galati county.

The sessions of the Commission were lawfully convened, with the quorum required per session and for decision-making.

The appellant BASARAB Laurentiu was assisted by counsels GHENA Tudor, power of attorney series B/2194462/04.05.2015, and respectively IOAN Silviu Veronel, power of attorney series GL/0100191/04.05.2015. Pursuant to the powers of attorney included on file, the sessions of the Commission were attended by a representative of the Hearing Commission.

The Commission, proceeding to the verification of the foregoing issues, finds that the Appeal was lodged within term, that the appeal fee was paid by the appellant and that the parties were duly convened. In consideration of the express claims introduced by the appellant, registered under ref. no. 101/04.05.2015, respectively ref. no. 113/02.06.2015, the Commission allowed for the sessions to be held on dates others than those stipulated in its *Regulations for Organization and Functioning*.

The arguments and claims of the Parties, the deliberations of the Commission on the claims introduced by the Parties, the presentation of the evidence and the debates on the appellate matters were lodged and recorded in the minutes of the Commission - with ref. no. 38/27.04.2015, no. 39/04.05.2015, no. 40/18.05.2015, no. 41/02.06.2015, no. 42/15.06.2015 and no. 43/22.06.2015 - which constitute an integral part of the present Decision.

At the session held on 04.05.2015, the counsels filed requests for: submission of session notes, time granted to examine the file, as well as the set up of a 14-day term until the following session of the Commission.

At the session held on 18.05.2015, submissions were made, in original and in copy, of the record of evidence joined by the listing of the requested written evidence (11 pages). By means of the record of evidence submitted on file by the counsels of the appellant and lodged with the Commission under ref. no. 106/18.05.2015, a request was made for: the re-hearing of BASARAB, Laurentiu; presentation of written evidence; witness testimony; and counter-expertize for the urine A sample collected from the athlete CAPRARU Elana Madalina on 28.09.2014 (this evidence request being later waived). The Commission allowed the request for the re-hearing of the appellant and the hearing of the witnesses PRODAN Marcel, coach on the payroll of Dacia Galati Sports Club (named hereinafter "the Club") and BARANESCU Ilie, as Chairperson of the Galati County Tennis Association. *Ex officio*, the Commission decided the hearing as witnesses of Mrs. GUZGA Valentina Liliana, the mother of the athlete CAPRARU Elena Madalina, and respectively of the accountant of the Club. The Commission also allowed the request of the appellant to have the following session date set for 02.06.2015.

At the session held on 02.06.2015, witness testimony was given by the witness BARANESCU Ilie, identified with Identity Card (I.C.) series GL no. 550881. According to his testimony, in 2014 and upsofar he has not fulfilled any official duty with the Galati County Tennis Association, acting only in the capacity of Honorary Chairperson. The other convoked witnesses did not attend, either due to personal reasons (GUZGA Valentina Liliana and PRODAN Marcel), or because there is no accountant hired by the Club - as indicated in the written information submitted on file by the Chairperson of the Club. Mr. BASARAB Mircea, Chairperson of the Club and present *in lieu* of the accountant, was not heard - being a relative of the appellant. On the same grounds, the Commission waived the re-hearing of the witness PRODAN Mircea. The counsels requested and the Commission allowed the witness hearing of an athlete from the pool registered with the Club in the sports discipline of tennis, on condition that he/be over 18 year of age and having trained in sports in 2014-2015. Based on the list relayed by the Club and the information posted on the website of the Romanian Tennis Federation, the Commission elected as witness the athlete SANDU Mirel Catalin.

The Commission also allowed the request lodged by the appellant to have the following session of the Commission set for 15.06.2015.

At the session held on 15.06.2015 the following witnesses were heard: GUZGA Valentina Liliana, the mother of athlete CAPRARU Elena Madalina, identified with I.C. series GL no. 918567; the athlete SANDU Mirel Catalin, identified with I.C. series GL

no. 756441. The Commission deferred its decision by a week, advising the appellant to submit written evidence, as requested, as well as written closing arguments.

On 22.06.2015, the Commission - lawfully convened - proceeded to deliberations on the appeal lodged by BASARAB Laurentiu and ruled the present decision, on the grounds of the written evidence introduced on the matter, the statements recorded in the session minutes and the evidence records, respectively the written closing arguments submitted by the appellant.

\* \* \*

**In reviewing the appeal which was introduced within the appellate term, the Commission notes the following:**

By means of the appeal lodged against Decision no. 1/12.03.2015 of the Hearing Commission, registered with the National Anti-Doping Agency under ref. no. 263 of 20.04.2015 and with the Commission under ref. no. 97/20.04.2015, the appellant BASARAB Laurentiu, assisted by counsels GHENA Tudor and IOAN Silviu Veronel, sought the following: to have his appeal allowed as filed; to quash Decision no. 1 of 12.03.2015 ruled by the Hearing Commission; the cancellation of the sanction; and the re-hearing of the case by the Hearing Commission.

**In support of the appeal, the appellant, directly and via representation, maintains the following:**

The appellant BASARAB Laurentiu was served a lifetime ineligibility from sport, being found by the Hearing Commission as a member of the athlete support personnel of the underage athlete CAPRARU, Elena Madalina, to whom, around the date of 30 August 2014, he administered a tablet of Danabol (a half-tablet twice), a fact confirmed by the bulletin of analysis no. 849/14.10.2014 issued by the Doping Control Laboratory in Bucharest. The Danabol tablet contains the prohibited substance methandienone. The doping testing was conducted during a body-building competition a month past the asserted administration of the Danabol tablet, its effect consisting in the speedy growth of the muscle mass.

The appellant appreciates that Decision no. 1/12.03.2015 of the Hearing Commission is without merit and unlawful since he did not coach the athlete CAPRARU Elena Madalina for competitions as it was erroneously noted on page 3 of the said Decision and he can not be deemed as part of the support personnel of the athlete since he had not entered any contract relationship with the Club where the athlete in question was training in the sport discipline of tennis, thus having no official standing. The appellant was present at the said Club because he is a former tennis player of the Club and his uncle BASARAB Mircea is a tennis coach at the Club. In July-August 2014 he was asked by the athlete to practice with her for leisure and in order to learn from him certain playing skills, without establishing any rapport that would indicate him as athlete support personnel.

Although a graduate of the Physical Education and Sport Faculty of the Republic of Moldova, BASARAB Laurentiu does not hold an education diploma vetted for equivalence and recognition of credentials by the applicable ministry authority from Romania and he is not certified as tennis coach. In the appellant's opinion, in relation to the evidence administered in the case, he does not fit the domain described by the

notion of "athlete support personnel" such as this is defined in article 3 alinea (1) point 3 of Law 227/2006.

He maintains that the athlete CAPRARU Elena Madalina was "training" with the appellant in private, outside the official training hours she had within the Club, respectively in her private time, a context in which liability was exclusively pertaining to the athlete in question and to her legal guardian, since she accepted to be coached and to take energizing pills from a third party (BASARAB Laurentiu) who could not be considered in legal terms to be a representative of the Club.

From the statement provided by the athlete's mother it appears that the two had a close relationship. In exchange for the private tennis classes, BASARAB Laurentiu was collecting the rent for the tennis courts and deposited the amounts with the teller of the sports facility owner, an entity other than the Club. It is indicated that the witness SANDU Mirel Catalin, an athlete registered with the Club, declared that he had never seen the athlete CAPRARU Elena Madalina playing with BASARAB Laurentiu, although the witness spent 6-7 hours on the tennis court.

In consideration of all these grounds, the appellant requests to have his appeal allowed and the dismissal of the Decision no. 1/12.03.2015 of the Hearing Commission.

**The Hearing Commission, by representative**, upholds its standing on the sanction issued to the appellant BASARAB Laurentiu and motivated as per Decision no. 1/12.03.2015.

From the text of the Decision no. 1/12.03.2015 of the Hearing Commission, the Commission notes the following:

*„By Decision no. 16/28.10.2014 of the Hearing Commission, the athlete Capraru Elena Madalina received a 2-year ineligibility from sport, as a result of the presence in her sample of the prohibited substance 17 $\beta$ -HYDROXYMETHYL-17 $\alpha$ -METHYL-18 NORANDROSTA-1,4,13-TRIEN-3ONE, indicating the use of the prohibited substance methandienone included in Section S1.1.A Endogenous androgenic anabolic steroids of the 2014 Prohibited List. At the athlete's hearing, she stated that on 30.08.2014 her coach, Mr. Laurentiu Basarab gave her a "small pink pill" with the aim of enhancing her performance, without mentioning the name of the pill or other additional information. Her faith in the pill's effects was strengthened by the fact that coach Laurentiu Basarab was also taking these pills. The athlete stated she didn't ask him which is the active substance in this pill, but instead she asked him where to buy these pills from in order to avoid asking him for the pills in the future. Laurentiu Basarab told her that he took them from the Republic of Moldova and that - should she need more - she was to ask him directly.*

*The athlete appealed the Hearing Commission's decision to the Appeal Commission beside the National Anti-Doping Agency.*

*By Decision no. 1/2015, the Appeal Commission, in compliance with the provisions of article 48, paragraph (3) of the Law no. 227/2006 regarding the prevention and fight against doping in sport, applicable on the date of the violation, allowed the appeal and ruled for **the reduction of the athlete Capraru Elena Madalina's ineligibility to one (1) year.***

In outcome to the statements of the athlete Capraru Elena Madalina and Mr. Basarab Laurentiu, given during the athlete's case management, the Hearing Commission decided to open a new file and to conduct a separate management on his case regarding a possible anti-doping rules violation. Thus, on 09.02.2015 Mr. Laurentiu Basarab was summoned for the meeting of the Hearing Commission. On that occasion he maintained his statement given on 28.10.2014 as part of the management of the case of the athlete Capraru Elena Madalina, when he had admitted that he gave the athlete **DANABOL** manufactured by Pharmaceutical Balkan, in a concentration of 50mg.

Moreover, he informed the Hearing Commission that he does not approve of the use of food supplements and that he had not had knowledge of the DANABOL pills content prior to the athlete being notified by the Hearing Commission - at which point he sought information regarding the pills.

Also, he stated that he trains the athlete as a courtesy without having signed any form of contract with Dacia Galati S.C. where the athlete is affiliated to train in tennis sport discipline.

Pursuant to the World Anti-Doping Code and Law no. 227/2006 regarding the prevention and fight against doping in sport, republished with subsequent amendments, **the athlete support personnel** is any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any **other person working with, treating or assisting an Athlete participating in or preparing for sports competition.**

**With an aim to verify his coaching credentials**, the Hearing Commission asked Mr. Laurentiu Basarab to provide the certified copy of his graduation diploma from the Sports and Physical Education Faculty, as well as any other proof of equivalence, if available.

Mr. Basarab Lurentiu relayed the certified copy of his education diploma and the Hearing Commission noted that the he is a graduate of the Sports and Physical Education Faculty of the Republic of Moldova, in the academic program of "Sport and Physical Culture", professional occupation training in sport and physical education, specialization in sport and physical education. Taking into account that he was training the athlete for tennis competitions, the Hearing Commission deemed that he is part of the athlete support personnel of the athlete Capraru Elena Madalina.

**In deliberating on the case in question, the Commission holds the following:**

Pursuant to the provisions of article 2 of the World Anti-Doping Code, athletes or other persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods included on the Prohibited List.

**Administration or attempted administration of a prohibited substance on any athlete** represents an anti-doping rules violation, pursuant to the provisions of article 2, paragraph (2), letter h) of Law no. 227/2006 regarding the prevention and fight against doping in sport, republished with subsequent amendments, as well as of the article 2.8 of the World Anti-Doping Code.

The violation committed by Mr. Basarab Laurentiu, as athlete support personnel, namely the administration of one pill of DANABOL to the athlete Capraru Elena Madalina, constitutes an anti-doping rules violation, pursuant to the 2009 World Anti-Doping Code, on the grounds of which the sanction is applied, and also pursuant to the 2015 World Anti-Doping Code which was came in force on January 1st 2015."

The **Commission** noted that on 29 and 30 August 2014, the appellant BASARAB Laurentiu administered to the athlete CAPRARU Elena Madalina a half of a "pink pill". In follow-up to the doping testing conducted on 28.09.2014 during the National Bodybuilding Championships - fitness-bikini competition - held in Cluj-Napoca, the athlete CAPRARU Elena Madalina, aged 16 at the time, tested positive, according to the analytical result of the Sample with code 6117434A which indicated the presence of the prohibited substance *17 $\beta$ -HYDROXYMETHYL-17 $\alpha$ -METHYL-18 NORANDROSTA-1,4,13-TRIEN-3ONE*, indicating the use of the prohibited substance *methandienone* included in Section S1.1.A Endogenous androgenic anabolic steroids of the 2014 Prohibited List.

After receiving the notification issued by the National Anti-Doping Agency with regards to the analytical finding, the athlete contacted her "tennis coach" BASARAB Laurentiu from whom she learned that the pill he had administered her was named "Danabol". As far as this pill, the athlete stated that she had seen the "coach" take it and on this consideration she felt confident to use it. When she asked him about the benefits of these pills, the "coach" replied that they serve to soothe emotions. These emotions were tied to the participation in the competition due the next day, namely on 30 August 2014.

In relation to her circumstances, the athlete stated that she did not have knowledge of the content of the pill administered by BASARAB Laurentiu and that she did not give consideration to the issue of doping since she knew that this phenomenon is not manifest in tennis.

In follow-up to the request relayed by the conventional representative of the appellant - Counsel GHENA Tudor - the Doping Control Laboratory in Bucharest provided an opinion recorded in the report filed under ref. no. 1117/15.05.2015 - with aim to establish the retention period of the prohibited substance methandienone, given the 1-month period elapsed between the date of the administration and the date of the detection, and also to clarify the source of the chemical compounds detected in the urine sample which were listed in the analysis bulletin no. 839/14.10.2014.

From the opinion relayed by the Laboratory representative, the Commission took note of the following: *"the remanence period of a prohibited substance is influenced by the metabolization features specific to the athlete, and also by the way of administration and the administered quantity ... and that, according to the specialized reference readings, the detected substance is a long term excreted metabolite of methandienone and it can be detected in urine up to 19 days past the administration date of one dosage of only 5 mg of methandienone (the 10th part of the quantity contained in the pill that was administered). The metabolite detected in the urine sample could not have been generated by a substance other than methandienone. Methandienone, as such, can be commercialized under brands other than Danabol"*.

The writings submitted on file by the appellant's counsels indicate the following: BASARAB Laurentiu has not entered a work contract with the Club, does not act as a volunteer in relation to the Club, held no status - either official or unofficial - with the Club during the period July-September 2014, was not affiliated as an athlete with the Club during the period of time concerned, is not listed as tennis coach with the records of the Romanian Tennis Federation (RFT); the athlete CAPRARU Elena Madalina did not participate during the period 01.08-01.10.2014 in individual or team national

championships as a representative of the Club - and is not listed as an athlete with the official rankings of the RFT (according to note no. 551/12.05/2015 issued by the RFT).

According to the information posted on the RFT's official site as of 02.06.2015, the athlete CAPRARU Elena Madalina is indicated as affiliated with Dacia Galati Sport Club, athlete badge no. 18408, with competition activity in 2014, namely on 23.08.2014 - Dacia Cup, 02.06.2014 - Mamaia IDU Junior Championships, international category, 30.06.2014 - Bucharest Trophy U16, international category.

The Notes issued by the Club under ref. no.'s 84 and 85 both on 15.05.2014 to the athlete CAPRARU Elena Madalina and to GUZGA Valentina Liliana, and respectively to the RFT, in reference to the transfer of the athlete to another club, which were submitted on file, were not given consideration by the Commission since no proof was provided to document their notification.

According to the Note issued by SC PADPREST SVN 99 SRL and registered under ref. no. 84/05.06.2015, the firm which handled the financial records of the Club, it is noted that: the sports facility which hosts the activities of the Club is not owned by the Club, and the Club operates a collaboration agreement with the owner of the sports facility - on the grounds of which the Club benefits from free use; the Club does not collect money from athletes or from other persons.

*Based on the hearing the parties and the witnesses, the Commission noted the following:*

*BASARAB Laurentiu gave the following statement upon his re-hearing:* Prior to to a training session, while in the locker room, the athlete CAPRARU saw him take a pill , asked him about it and if she could have one; he told her they were vitamins because he considered the pills as such and gave her a pill of Danabol from Pharmaceutical Balkan, in concentration of 50 mg, in two halves, on 29 and 30 August 2014. In reference to the context in which he gave her the pill, which was mentioned in the previous statements, the appellant emphasized that "while hitting balls with her, I noted that she was nervous, stressed". The athlete was training with BASARAB Mircea and PRODAN Marcel. He states that it was a mistake and that he had no interest. He practised tennis with the athlete - "hitting balls" - once or twice a week in July-August 2014 and what happened took place outside training. The money collected from the athlete for the use of the court was handed over to Mr. PRODAN Marcel in exchange for a receipt which he took and further discarded since he was told by the athlete that she does not need it. For the coach, the fee was paid to the Club separately. He initiated the cooperation with the athlete CAPRARU by chance, as he went to the Club to visit his uncle, and he began throwing balls with her as peers, as a sparring partner.

He barely meet the athlete's mother twice. He learned that the athlete was training in bodybuidling on the day he learned of the analytical finding. During the period concerned, he went to the Club for shape-up training, to be a sparring partner to his former peers, he threw balls. The appellant completed a degree in physical education and sport in the Republic of Moldova, the degree has not been recognized in Romania; he was not specialized in tennis. The syntagm "I coached her" was used on the spur of the moment, but there was no actual coaching in his exchanging balls with the athlete.

*Based on the hearing of the witness BARANESCU Ilie, the Commission took note that he does not hold and did not hold any official standing in 2014 within the Galati County Tennis Association. Given his activity in this field, as former chairperson of the association and current honorary president, the Commission took note of his statement in relation to the following: where a tennis court is rented, the Club is not under an obligation to provide a coach, this being a type of service paid for separately; if an athlete is affiliated with the Club, he/she can benefit from tax-free coaching according to the Club's availability of resources, sponsors and budget and to the performance of the athlete.*

*Based on the hearing of the witness GUZGA Valentina Liliana, the mother of the athlete CAPRARU Elena Madalina, the Commission took note of the following: The athlete CAPRARU trained with the Club, approximatively from 2012 to 2014. During that period, the athlete practised competitive level tennis, was affiliated with the Club and - as an athlete affiliated with Dacia Galati Sport Club - she competed in tennis tournaments held in Slobozia, Iași, Bacău, București, Constanța. Upon entering every competition, she was required to declare the club of affiliation, the badge number and the name of the coach. At first, the athlete belonged to a group of children coached by BASARAB Catalin, then by PRODAN Marcel, by BASARAB Mircea - when he was available - and then by BASARAB Laurentiu (effective the winter of 2013, and more frequently in the summer of 2014). Usually the athlete did a 1,5-2 hour training, but she always stayed longer for physical exercise and for practice with the ball. During several of the summer months, the athlete stayed at the Club from morning til evening. She had a very good rapport with BASARAB Laurentiu, they communicated frequently by phone, they were very good friends. He did not accompany her in competitions. As for the financial aspect, the fee was of 200 RON/month and the fee for a private class with BASARAB Laurentiu was of 50 RON. Mrs. GUZGA paid the fee owed to the Club, most often, to Mr. BASARAB or to someone on behalf of the Club, and the private classes were paid for to Mr. BASARAB either by the mother of the athlete or by the athlete herself. No receipt was issued for these payments. The athlete was spending more time than required with BASARAB Laurentiu, she would find her sleeping on a couch at the Club at noon and she told the athlete that she was exaggerating. In reference to the cancellation of the affiliation, after the incident, in early October 2014, the athlete, while at school, received through a peer an envelope containing the transfer "in blank" and a notification that she owed no outstanding fees to the Club. The witness has no knowledge of Note no. 84/15.05.2015 which the Club claims to have sent to the athlete and to her mother. The witness had no knowledge that BASARAB Laurentiu was not licensed as coach, since he was actively coaching, he attended to a group of 10-12 children, accompanied the children on the training camps and was part of the sports facility.*

*Based on the hearing of the witness Sandu Mirel Cătălin, the Commission took note of the following: The witness has been training in tennis at the Club for 15 years, since the onset of his career. He was a training peer of BASARAB Laurentiu, they grew up together. He has no knowledge of whether in 2014 the appellant worked with someone at the Club. BASARAB Laurentiu is regarded as a former player. He has no knowledge of whether the athlete CAPRARU was affiliated with the Club and has not seen her in the company of Laurentiu. Enlisting for a tennis competition is individually done by each player, provided he/she is affiliated with the Federation, by phone and nowadays via internet. Each player creates his/her own account on the website of the Federation in*



order to register. In each competition, the player represents his/her club of affiliation. The athlete (player) devises his/her own competition agenda and chooses the competitions he/she wishes to attend. The witness has no knowledge of whether BASARAB Laurentiu chaperons children on the sport camps. The witness used to meet him during training sessions, but has not seen him at the Club in the past 5 years. He did see the athlete CAPRARU Elena Madalina playing tennis with various persons, yet he has never seen her with BASARAB Laurentiu. The witness was training daily, 6-7 hours in average.

In consideration of the above, **the Commission finds that the appeal is without merit, for the following reasons:**

The provisions of the World Anti-Doping Code (section *Definitions*) and Law no. 227/2006, republished, define as athlete support personnel: "*any (...) or any other Person working with, treating or assisting an Athlete participating in or preparing for sports Competition*".

Such as indicated in this definition, the inclusion of a person in this category is not conditioned, under the formal aspect, either by the existence of a legal rapport between such Person and an athlete or the athlete's club of affiliation - on one hand -, and, on the other hand, by a certain qualification of the Person concerned or by his/her being a holder of an unrestricted practice certificate. As a result, the very existence of a rapport of fact can determine the inclusion in this category of the Person who, in any form, works with, treats or assists athletes participating in or preparing for sports Competition. In this context, it appears irrelevant whether the person has the lawful competence to conduct the activity he/she devises with the athlete, because the role of the sports norm quoted above is not to sanction the unlawful exercise of an activity or profession, but to protect the athletes, and, implicitly, the sports movement as a whole, from the harmful effects of doping and to render ineligible from sport all those who endanger, in any way, the values which are to be protected. Undertaking measures in the ambit of sport does not preclude the enforcement of other norms which sanction the unlawful exercise of a profession.

In the appellate matter, the appellant BASARAB Laurentiu maintained before the Commission that he does not hold documents to attest to his coaching credentials and that he has not entered a legal rapport with the Club where the athlete CAPRARU Elena Madalina is affiliated - and he submitted written documents to this effect. Yet, he confirms that he worked with the athlete, by means of his own statements given as a witness in the matter ruled upon based on Decision no. 16/28.10.2014 of the Hearing Commission - on the grounds of which the athlete CAPRARU Elena Madalina, who was underage on the date of the doping testing, was sanctioned with a 2-year ineligibility from sport, and by means of his statements integral to the present case. Although in the first place BASARAB Laurentiu defined his rapport with CAPRARU Elena Madalina as a coaching relationship ("I was coaching her") - a definition which he later, in the present case, sought to undertone ("I was hitting balls with her") - it is indisputable that he and the athlete developed an interaction considered by the law and which does not amount only to an "exchange of balls" - no matter how is it labelled - but it also embodies a rapport of counseling and coaching, acknowledged by the appellant, who admitted that he was giving advice to the athlete.

Under such circumstances, it is of no relevance whether the appellant had or not a legal rapport with the Club, and whether he collected, in his name or on behalf of the Club or of a third party, any amount of money from the athlete in exchange for the activity he developed with her.

In this context, it is relevant to emphasize that the Club's approach to allow a Person with no legal ties the Club (being only a family member of the Chairperson of the Club) to develop sports and counseling activities specific to coaching - in relation with an athlete affiliated with the Club (as was the athlete CAPRARU Elena Madalina on the date of the doping testing) - generated a colour of right which could have constituted grounds for the liability of the appellant even if the law had conditioned the status of athlete support personnel on the existence of a legal rapport between the person concerned and a certain entity. This colour of right was the one that determined in the mind of the athlete the reasonable perception that the person in question held the qualifications and the authorization to act as he actually did. It is hard to believe, and the evidence administered both in the present case and in the matter which led to the sanction imposed to the athlete CAPRARU Elena Madalina does not allow for a different conclusion, that in such circumstances, an athlete, and more so an underage one, could have or should have had knowledge that the person who was constantly "coaching" her was - in legal terms - a person unrelated to the Club who had no right to conduct such activities. Furthermore, as far as credentials are concerned, such as indicated by written evidence submitted on file, the appellant is a qualified person, being a graduate of the Faculty of Physical Education and Sport of the Republic of Moldova, general field of studies: "Physical Culture and Sport", professional training in physical education and sport, speciality: physical education and sport, although, according to his statements, this diploma was not vetted through the equivalence procedure in Romania in accordance with the legal provisions.

Also, consideration can not be given to the arguments introduced by the counsels of the appellant with regards to the lack of athlete status of CAPRARU Elena Madalina, since the information posted on the official website of the RFT on 02.06.2015, confirm that the athlete CAPRARU Elena Madalina was affiliated with Dacia Galati Sport Club, with badge no. 18408, with competition activity in 2014, respectively on 23.08.2014, , with competition activity in 2014, namely on 23.08.2014 - Dacia Cup, 02.06.2014 - Mamaia IDU Junior Championships, international category, 30.06.2014 - Bucharest Trophy U16, international category.

In consideration of the above,

Finding that the conditions are met as stipulated in article 2 alinea (2) letter h) of Law no. 227/2006, republished, and in article 2.6.2 of the (2009) World Anti-Doping Code - in force on the date of the doping testing,

Applying the provisions of article 3 points 1 and 3 of Law. no. 227/2006, republished,

By reference to article 43 of Law no. 227/2006, republished, and article 10.5 of the World Anti-Doping Code, provisions which stipulate minority as an aggravating circumstance, imposing for these cases life ineligibility from sport;

On the grounds of article 9 alinea (1), article 26, article 27 and article 29 of the *Regulations for the organization and functioning of the Appeal Commission* approved by Order no. 38/2013 of the President of the National Anti-Doping Agency, the Commission, with a quorum of 5 members out of 7, with unanimity of votes,

## **DECIDES :**

On the grounds of article 28 letter a) corroborated with article 16 letter c) of the *Regulations for the organization and functioning of the Appeal Commission*, **dismisses the appeal** lodged by the appellant BASARAB Laurentiu, identified based on Identity Card (I.C.) series GL no. 882843, issued by SPCLEP Galati on 15.07.2013, PIC 1880730170049, - with domicile in Galati, at 18, Ionel Fernic Street, bldg. V2, entrance 1, apt. 1, Galati county, - appeal lodged against Decision no. 1 of 12.03.2015 of the Hearing Commission for athletes and athlete support personnel beside the National Anti-Doping Agency. **The appeal is found without merit and the appellate decision is upheld.**

With a right of appeal before the Court of Arbitration for Sport in Lausanne within 21 days from notification.

**CHAIRPERSON,**

**Carmen Trocan**