**CAS 2010/A/2293 Saeid Ali-Hosseini v. International Weightlifting Federation**

**ARBITRAL AWARD**

**delivered by**

**THE COURT OF ARBITRATION FOR SPORT**

sitting in the following composition:

President: His Hon. Judge James Robert Reid in West Liss, United Kingdom

Arbitrators: Mr. Graeme Mew, barrister in Toronto, Canada

Prof. Dr. Denis Oswald, Colombier, Switzerland

*Ad hoc* Clerk: Ms. Jennifer Kirby, attorney-at-law in Paris, France

in the arbitration between

**SAEID ALI-HOSSEINI**, Ardabil, Iran

Represented by Me Alexis Schoeb, Schoeb, Geneva, Switzerland.

-Appellant-

and

**INTERNATIONAL WEIGHTLIFTING FEDERATION**, Lausanne, Switzerland

Represented by Me Jean-Pierre Morand and Me Serge Vittoz, Carrard & Associés, Lausanne, Switzerland.

-Respondent-

## 1. THE PARTIES

1.1 Mr. Saeid Ali-Hosseini ("Mr. Hosseini" or "the Appellant") is an Iranian national who competes as an international-level weightlifter.

1.2 The International Weightlifting Federation ("IWF" or "the Respondent") is the international federation governing weightlifting worldwide and has its registered seat in Lausanne, Switzerland.

## 2. FACTUAL BACKGROUND

2.1 Below is a summary of the main relevant facts and allegations based on the parties' written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations found in the parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

2.2 These are the second doping proceedings involving the Appellant. In 2006, the Appellant was suspended for two years after testing positive for clenbuterol.

2.3 This case concerns an out-of-competition doping control test the Appellant underwent in Tehran on 24 October 2009.

2.4 On 16 November 2009, the Appellant's A sample was analyzed and tested positive for methandienone, a prohibited substance under the 2009 World Anti-Doping Agency ("WADA") World Anti-Doping Code (the "WADA Code") and the Respondent's 2009 Anti-Doping Policy ("Respondent's Anti-Doping Policy").

2.5 On 23 November 2009, the Respondent delivered to the Weightlifting Federation of Iran ("Iran WF"), the Appellant's National Federation, a doping control report stating that the Appellant had tested positive for methandienone and that he had been provisionally suspended from any weightlifting activity. The Respondent also stated that Iran WF or the Appellant had the right to request the analysis of the Appellant's B sample no later than 8 December 2009, failing which analysis of the B sample would be considered waived. The Respondent further stated that Iran WF or the Appellant had the right to be present or send a representative for the opening of the B sample.

2.6 The Respondent's doping control report further provided as follows:

> ***Please inform the IWF Secretariat as follows:***
>
> - ***do you want analysis of the "B" sample?***
> -
>
> ☐ *yes* ☐ *no*
>
> - ***if you want: do you wish to send (on your costs) your representative to the laboratory (Cologne, GER) to be present at the opening of the "B" sample?***
>
> ☐ *yes* ☐ *no*

(Emphasis original.)

2.7 By an email dated 13 December 2009, Iran WF returned to the Respondent a copy of the Respondent's doping control report filled out as follows:

> ***Please inform the IWF Secretariat as follows:***
>
> - ***do you want analysis of the "B" sample?***
> -
>
> ■ *yes* ☐ *no*
>
> - ***if you want: do you wish to send (on your costs) your representative to the laboratory (Cologne, GER) to be present at the opening of the "B" sample?***
>
> ☐ *yes* ■ *no*

(Emphasis original.)

2.8 Despite the request coming after the time limit set in the Respondent's doping control report, the Respondent stated that it "hereby ordered the B sample analysis" and would inform Iran WF of the result as soon as it was available.

2.9 On 16 December 2009, the B sample was analysed and confirmed the findings of the A sample.

2.10 On 21 December 2009, the Respondent emailed the B-sample test results to Iran WF.

2.11 On 24 January 2010, Iran WF informed the Respondent that the Appellant requested a hearing be held. The same day, Iran WF requested the documentation package for the Appellant's A-sample and B-sample tests, which was provided to Iran WF.

2.12 The Respondent held two hearings, one on 15 June 2010 and another on 4 September 2010. The hearings were attended by representatives of Iran WF and a lawyer representing the Appellant. The first hearing was adjourned to enable the Appellant's lawyer to prepare more fully for the case.

2.13 On 20 September 2010, pursuant to article 10.7.1 of the Respondent's Anti-Doping Policy, the Respondent's Doping Hearing Panel imposed a lifetime ban on the Appellant as from the date of his sample's collection (24 October 2009) (the "Decision").

2.14 On 3 November 2010, the Decision was communicated to Iran WF. The Decision was communicated to the Appellant on 7 November 2010.

## 3. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

3.1 On 29 November 2010, pursuant to Article R47 of the Code of Sports-Related Arbitration (2010 edition) (the "Code"), the Appellant filed a Statement of Appeal at the Court of Arbitration for Sport (the "CAS") against the Decision.

3.2 In his Statement of Appeal, the Appellant nominated Mr. Graeme Mew for appointment to the Panel.

3.3 By letter dated 1 December 2010, the CAS notified the Appellant's Statement of Appeal to the Respondent.

3.4 By letter dated 3 December 2010, the Respondent nominated Prof. Dr. Denis Oswald for appointment to the Panel.

3.5 By letter dated 6 December 2011, the CAS noted that parties' agreement that this matter be suspended until 7 February 2011 and that the Appellant would file his Appeal Brief by 17 February 2011. The parties subsequently agreed that the Appellant would file his Appeal Brief by 10 March 2011, which the Appellant duly did.

3.6 On 4 April 2011, the Respondent filed its Answer.

3.7 By letter dated 5 April 2011, the Respondent requested that the Panel issue a decision based on the written submissions of the parties without holding a hearing.

3.8 By letter dated 12 April 2011, the Appellant requested a hearing in this matter.

3.9 By letter dated 15 April 2011, the CAS informed the parties of the appointment of Ms. Jenifer Kirby as *ad hoc* clerk in this matter.

3.10 After consulting the parties, by letter dated 10 May 2011, the CAS informed the parties that the Panel would hold a hearing in this matter on 22 July 2011 at 9H30 at the CAS in Lausanne, Switzerland.

## 4. THE CONSTITUTION OF THE PANEL AND THE HEARING

4.1 By letter dated 11 March 2011, the CAS informed the parties that the Panel to hear the appeal had been constituted as follows: His Hon. Judge James Robert Reid, President of the Panel, Mr. Graeme Mew and Prof. Dr. Denis Oswald, arbitrators. The parties did not raise any objection to the constitution and composition of the Panel.

4.2 By Order of Procedure dated 30 May 2011, signed by the parties, the parties confirmed that the CAS has jurisdiction over this dispute and the date and time of the hearing (22 July 2011 at 9H30).

4.3 A hearing was held on 22 July 2011 at the CAS headquarters in Lausanne. At the close of the hearing, the parties confirmed that they were satisfied as to how the hearing and the proceedings were conducted.

4.4 In addition to the Panel, Ms. Louise Reilly, Counsel to the CAS, and Ms. Kirby, the following people attended the hearing:

- Mr. Hosseini, the Appellant
- Me Alexis Schoeb, counsel for the Appellant
- Mr. Alexander Gordis, legal trainee
- Ms. Leily Lankarani, interpreter
- Ms. Mónika Ungár, the Respondent's in-house Legal Counsel
- Me Jean-Pierre Morand, counsel for the Respondent

## 5. THE PARTIES' SUBMISSIONS

### A. The Appellant's Submissions and Requests for Relief

5.1 In summary, the Appellant submitted the following in support of his appeal:

5.2 In his Statement of Appeal, the Appellant raised three grounds for appealing the Decision: (a) he did not knowingly or deliberately commit an anti-doping rule violation; (b) he was not granted an opportunity to attend the B-sample test; (c) he was excluded from participation during the course of the first instance proceedings and was therefore not granted the opportunity to make any representations.

5.3 In his Appeal Brief, the Appellant only developed his argument that the Decision should be annulled on appeal because he was not given an opportunity to attend or be represented at the opening and testing of his B sample.

5.4 With reference to article 2.1.2 of the Respondent's Anti-Doing Policy, the Appellant states that, where (as here) an athlete's B sample is tested, an anti-doping violation can only be established where the results of the B-sample test confirm the results of the A-sample test.

5.5 It is now established CAS jurisprudence that an athlete has a fundamental right to attend or be represented at the opening and analysis of his B sample (citing *CAS 2010/A/2161 Tong v IJF*; *CAS 2008/A/1607 Varis v IBU*; *CAS 2002/A/385 Tchachina v FIG*).

5.6 This fundamental right derives directly from article 7.1.4 of the Respondent's Anti-Doping Policy which provides in pertinent part as follows:

> *[T]he IWF shall promptly notify the Athlete of: (a) the Adverse Analytical finding; (b) the anti-doping rule violated; (c) the Athlete's right to promptly request the analysis of the B Sample or, failing such request, that the B Sample analysis may be waived; (d) the scheduled date, time and place for the B Sample analysis . . . if the Athlete or the IWF chooses to request an analysis of the B Sample; (e) the opportunity for the Athlete and/or the Athlete's representative to attend the B sample opening and analysis at the scheduled date, time and place if such analysis is requested . . .*

5.7 This fits with article 7.1.6 of the Respondent's Anti-Doping Policy, which provides that the "Athlete and/or his representative shall be allowed to be present at the analysis of the B Sample".

5.8 These rights are taken away from the athlete when the B sample is tested without giving the athlete notice of the time and date of the test. It is not possible to remedy such a procedural error though the course of the arbitral process. Rather, where these rights are not respected, the "B-sample results must be disregarded". *Tong*, § 9.8.

5.9 Here, the Respondent had the Appellant's B sample tested at the request of Iran WF, but never informed the Appellant that his B sample would be tested. In addition, the Respondent did not inform the Appellant (or Iran WF, for that matter) of the place, date and time for the opening and analysis of the Appellant's B sample. As a consequence, neither the Appellant nor Iran WF had an opportunity to attend the opening and analysis of the Appellant's B sample in person or through a representative.

5.10 In this way, the Respondent violated the Appellant's fundamental rights and the results of the B-sample test must therefore be disregarded. The absence of B-sample results to confirm the A-sample results means that the Respondent cannot establish an anti-doping violation and the Decision should accordingly be annulled.

5.11 Finally, the Appellant stated that, "[e]ven if this has no incidence in this case, the Appellant denies, once again, having deliberately or knowingly taken any prohibited substance."

5.12 In his Statement of Appeal, the Appellant requested that the Panel grant the following relief:

a. Annulment of the decision dated 20 September 2010 of the IWF Doping Hearing Panel.

b. Confirmation that:

(i) There is no basis upon which to find that the Appellant has committed an anti-doping rule violation; or alternatively;

(ii) The Appellant bore "No Fault" for the alleged anti-doping rule violation; or alternatively;

(iii) The Appellant bore "No Significant Fault" for the alleged anti-doping rule violation.

c. Confirmation that:

(i) If either paragraph b(i) or (ii) above applies, no period of ineligibility be imposed on the Appellant so that he be reinstated to sports participation with immediate effect;

(ii) If paragraph b(iii) above applies, the maximum period of ineligibility be limited to four years.

d. That any applicable period of ineligibility commenced on 24 October 2009, the date of sample collection.

e. The Respondent be ordered to reimburse the Appellant's legal costs and pay the CAS court costs.

5.13 In his Appeal Brief, the Appellant requested the following relief:

a. Annulment of the decision dated 20 September 2010 of the IWF Doping Hearing Panel.

b. Confirmation that:

(i) There is no basis upon which to find that the Appellant had committed an anti-doping rule violation;

(ii) No period of ineligibility be imposed on the Appellant;

(iii) The Appellant be reinstated to sports participation with immediate effect.

c. An order that the Respondent shall bear all of the costs of the arbitration.

d. An order that the Respondent pay compensation towards the legal fees and other expenses incurred by the Appellant in connection with these proceedings.

5.14 In the event the Panel finds that the Appellant committed a second anti-doping rule violation, the Appellant requested at the hearing that the Panel set the Appellant's period of ineligibility at eight years rather than life.

## B. The Respondent's Submissions and Requests for Relief

5.15 In summary, the Respondent submitted the following in defence:

5.16 The Respondent does not dispute that the right to attend the opening and analysis of the B sample is a fundamental one. But in this case, the Respondent contends that this right was fully respected because the Appellant was offered the possibility to attend the B-sample opening and such opportunity was expressly waived.

5.17 The Respondent properly effected all notifications in compliance with its Anti-Doping Policy. In that regard, article 18.6 of that Policy provides that "[n]otice to an Athlete or other Person who is a member of a National Federation may be accomplished by delivery of the notice to the National Federation". The Respondent's notification regarding the analysis of the Appellant's B sample was therefore validly made to Iran WF, which answered the Respondent's notification and expressly waived attendance. "Given such a waiver and the fact that neither [the Appellant] nor [Iran WF] would attend, the notification of the actual time, place of analysis becomes immaterial."

5.18 The Appellant's argument to the contrary is abusive, particularly as the Appellant – who is familiar with doping proceedings by virtue of his prior anti-doping rule violation – did not raise any issue in this regard in the course of the first instance proceedings. The abusive character of the Appellant's argument was highlighted by his failure to attach to his Appeal Brief the filled-out doping report by which Iran WF expressly waived attendance at the B-sample opening and analysis.

5.19 With respect to the length of the Appellant's suspension, the Appellant's period of ineligibility should be for life and should not be reduced.

5.20 As the Appellant's arguments have no merit, his appeal should be dismissed.

5.21 The Respondent asks the Panel to grant the following relief:

a. Dismiss the Appellant's appeal;

b. Order the Appellant to bear all of the costs of the proceedings;

c. Order the Appellant to pay the Respondent's costs and expenses arising out of this arbitration in an amount to be determined by the Panel.

## 6. JURISDICTION OF THE CAS

6.1 Article R47 of the Code provides as follows:

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

6.2 Article 8.1.8 of the Respondent's Anti-Doping Policy provides as follows:

*Decisions of the IWF Doping Hearing Panel may be appealed to the Court of Arbitration for Sport as provided in Article 13.*

6.3 Article 13.2.1 of the Respondent's Anti-Doping Policy provides as follows with respect to appeals involving International-Level Athletes:

*In cases arising from competition in an* International Event *or in cases involving* International-Level Athletes*, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court.*

6.4 The Appellant filed his appeal with the CAS and the Respondent has not raised any jurisdictional objections. Furthermore, both parties confirmed that the CAS has jurisdiction in this matter by signing the Order of Procedure dated 30 May 2011. It is accordingly undisputed that the CAS has jurisdiction over the Appellant's appeal.

## 7. APPLICABLE LAW

7.1 Article R58 of the Code provides as follows:

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

7.2 In their submissions, the parties make reference to and rely on provisions of the WADA Code and the Respondent's Anti-Doping Policy. At the hearing, both parties made arguments with reference to Swiss law. Accordingly, these regulations and Swiss law are applicable to the merits of the parties' dispute.

## 8. ADMISSIBILITY

8.1 Article 13.6 of the Respondent's Anti-Doping Policy provides in pertinent part as follows with respect to the time for filing appeals:

*The time to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party, subject to article 7.8 above.*

8.2 Article 7.8 of the Respondent's Anti-Doping Policy provides as follows:

*Notification of test results, sanctions, decisions or any documents intended for athletes and officials are notified by IWF to the National Federation which is responsible to forward the test results, sanctions, decision or any documents to the parties concerned.*

*The National Federation ensures a proper communication to the parties concerned. In the case that test results, sanctions, decisions or any documents were not also or solely sent to the parties concerned, these documents are considered to have been communicated properly to the parties concerned and ultimate addressees five (5) days after receipt by the National Federation.*

8.3 The Decision was communicated to the Appellant on 7 November 2010, and he accordingly had until 29 November 2010 to appeal. The Appellant filed his Statement of Appeal on 29 November 2010. The Appellant's appeal was therefore timely filed and is admissible.

## 9. MERITS OF THE APPEAL

9.1 For the reasons set forth below, the Panel rejects the Appellant's appeal except to the extent that it decides that the Appellant's period of ineligibility should be for twelve years from 24 October 2009 (the date of sample collection) rather than for life.

9.2 As noted above (¶ 5.2), in his Statement of Appeal, the Appellant contended that the Panel should annul the Decision dated 20 September 2010 of the IWF Doping Hearing Panel in its entirety on three different of grounds. However, in his Appeal Brief and at the hearing the Appellant only developed his argument that the Panel should annul the Decision because he was not given an opportunity to attend or be represented at the opening and testing of his B sample. The Appellant contended that the Respondent

thus violated the Appellant's fundamental rights and the results of the B-sample test must therefore be disregarded so that the Respondent cannot establish an anti-doping rule violation under article 2.1.2 of the Respondent's Anti-Doping Policy.

9.3 The Panel disagrees.

9.4 On 23 November 2003, the Respondent delivered by hand and sent to Iran WF its doping control report that explained that the Appellant had the right to have his B sample tested and to be present in person or through a representative for the B-sample analysis. It was not disputed that a copy of Respondent's communication comprising the doping control report and concerning the testing of the B-sample was received by the Appellant. At the hearing, the Appellant expressly accepted that, in doing so, the Respondent gave the Appellant notice of his rights in light of article 18.6 of the Respondent's Anti-Doping Policy, which provides that "[n]otice to an Athlete or other Person who is a member of a National Federation may be accomplished by delivery of the notice to the National Federation".

9.5 On 13 December 2009, Iran WF returned to the Respondent the filled-out doping control report requesting the B sample be tested and declining to be present for the B-sample analysis. Under these circumstances, there was no reason for the Respondent to notify the Appellant of the date, time and place of the B-sample test, and the Respondent did not violate the Appellant's rights in failing to do so.

9.6 The Appellant attempted to escape this conclusion by contending that, when Iran WF filled out the doping control form and returned it to the Respondent, Iran WF was speaking only for itself and not on behalf of the Appellant. In this regard, the Appellant contended that he never gave Iran WF authority to request testing of his B-sample or waive his right to be present for the B-sample analysis. The Panel does not accept this assertion.

9.7 The Respondent delivered the doping control form to Iran WF not only by email but also by hand on 23 November 2009 when the Appellant and the rest of the Iranian national team were in Korea for the World Weightlifting Championships. The Appellant was provisionally suspended with immediate effect and not allowed to compete in the World Championships. Ms. Ungár testified (uncontradicted) that Iran WF responded orally to the doping control form at the World Championships. There, Iran WF orally requested testing of the Appellant's B sample and waived attendance at the B-sample analysis. This was then confirmed in writing when Iran WF returned to the Respondent the filled-out doping control form.

9.8 In these circumstances, the Panel considers it unlikely that Iran WF acted alone in deciding how to respond to the doping control form. The Panel finds it more likely that Iran WF and the Appellant discussed his provisional suspension while together at the World Championships and agreed together how to respond to the doping control form. As Ms. Ungár testified at the hearing, the Iranian national team is a tightly knit group – a characterisation the Appellant did not contest.

9.9 The Appellant's behaviour with respect to the proceedings below is consistent with this view. Again further to the Respondent's doping control form, it was Iran WF that requested the hearing below, and the Appellant does not suggest that Iran WF was not acting on his behalf when it did so. During that hearing, the Appellant never raised any issue with respect to the testing of his B sample, much less the specific issue of the Respondent's failure to provide him notice of the date, time and place of the B-sample analysis, although he stated to the Panel that he had been advised before the first hearing that he had had a right to be present at the testing of the B sample. While this does not prevent the Appellant from raising the issue before this Panel, it suggests that the Appellant at that time did not consider at the time of the hearing below that the Respondent had violated his rights in this regard.

9.10 On appeal, the Appellant has offered no testimony but his own to support the contention he now makes that Iran WF spoke only for itself in responding to the doping control form. Conspicuously absent was any witness from Iran WF confirming the Appellant's account. And there is no reason on the facts of this case to believe that the interests of the Appellant and Iran WF diverge.

9.11 Under these circumstances, the Panel finds the Appellant's contention unpersuasive and considers that Iran WF was speaking on the Appellant's behalf when it returned the filled-out doping control form to the Respondent and expressly declined to be present for the B-sample analysis. The Respondent therefore did not violate the Appellant's rights in failing to inform him of the date, time and place of the B-sample analysis because there was no reason for the Respondent to do so. The results of the B-sample analysis stand and confirm the results of the A-sample analysis. The Respondent has accordingly proved to the comfortable satisfaction of the Panel that the Appellant committed a second anti-doping rule violation under article 2.1.2 of the Respondent's Anti-Doping Policy.

9.12 Turning to the length of the Appellant's suspension, in his Statement of Appeal, the Appellant requested in the alternative that his period of ineligibility be eliminated or limited to four years on the grounds that he bore "No Fault" or "No Significant Fault" for the alleged anti-doping rule violation. The Appellant did not, however, develop these points in his Appeal Brief or at the hearing.

9.13 Instead, at the hearing, the Appellant contended that, if the Panel found that he committed a second anti-doping rule violation, he should be suspended for only eight years from 24 October 2009 (the date of sample collection) rather than for life. Specifically, the Appellant noted that the Doping Hearing Panel below appears to have been unaware that it could impose anything other than a lifetime ban. Article 10.7.1 of the Respondent's Anti-Doping Policy, however, provides that the penalty for the second offence at issue here may be anywhere from eight years to life. The Appellant contends that under the circumstances an eight-year ban is appropriate, particularly in light of the circumstances surrounding the Appellant's first violation in 2006. That violation occurred because his team's then coach (who was subsequently banned for life) doped the team with clenbuterol without the Appellant's knowledge.

9.14 The Panel agrees in part.

9.15 Nothing in the Decision below suggests that the Doping Hearing Panel considered the range of possible sanctions available under article 10.7.1. The Decision provides no reasoning to support the imposition of a lifetime ban as opposed to a lesser sanction. This Panel accordingly considers the issue against a blank slate.

9.16 In the Panel's view, the circumstances surrounding the Appellant's first anti-doping rule violation weigh in favour of not imposing the maximum penalty on the Appellant. At the hearing, the Respondent did not contest the Appellant's contention that his first violation arose out of the conduct of his coach and was not one the Appellant committed knowingly. Having said this, the Respondent did point out that the prohibited substance at issue now – methandienone – is one of the classic steroids-of-choice for doping weightlifters and stated that it could not have entered the Appellant's body by accident. In light of these considerations, and in the absence of further information from the parties, the Panel decides to impose on the Appellant a twelve-year ban.

9.17 In urging the Panel to maintain the Decision's lifetime ban, the Respondent stated at the hearing that it has long had a policy of imposing lifetime bans on athletes who commit a second anti-doping rule violation in an effort to deter doping in weightlifting. This policy, however, appears to have arisen under earlier versions of its Anti-Doping Policy that required a lifetime ban under the circumstances presented here in accordance with the lifetime ban specified in earlier versions of the WADA Code. Both the WADA Code and the Respondent's Anti-Doping Policy were recently revised in 2009, however, to provide for the range of possible sanctions article 10.7.1 now allows. In light of this, the Panel considers that the Respondent's past policy is

not necessarily relevant to deciding the appropriate sanction under the current version of article 10.7.1.

9.18 In all events, however, the Panel emphasises that its decision in no way represents a benchmark, nor is it intended to provide the Respondent with any sort of policy. The Panel takes its decision to impose a twelve-year ban based on the particular facts and circumstances of this case. Other cases will necessarily turn on their particular facts.

**CONCLUSION**

9.19 The Panel accordingly rejects the Appellant's request to annul the Decision in its entirety.

9.20 Iran WF was acting on the Appellant's behalf when it requested testing of the Appellant's B sample and declined to be present during the B-sample analysis.

9.21 Under these circumstances, the Respondent did not violate the Appellant's fundamental rights when it failed to inform him of the time, date and place of the B-sample analysis.

9.22 As the results of the B-sample analysis stand and confirm the results of the A-sample analysis, the Respondent has established that the Appellant committed a second doping violation pursuant to article 2.1.2 of the Respondent's Anti-Doping Policy.

9.23 Pursuant to article 10.7.1 of the Respondent's Anti-Doping Policy, and taking into account the particular facts and circumstances of this case, the Panel annuls the Decision to the extent it imposed on the Appellant a lifetime ban and decides to impose on him a twelve-year ban running from 24 October 2009.

## 10. COSTS

10.1 For disciplinary cases of an international nature ruled in appeal, such as this case, Article R65 of the Code provides as follows:

*R65.2 Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of the CAS are borne by the CAS.*

*Upon submission of the statement of appeal, the Appellant shall pay a Court Office fee of Swiss francs 500.— without which the CAS shall not proceed and the appeal shall be deemed withdrawn. The CAS shall in any event keep this fee.*

*R65.3 The costs of the parties, witnesses, experts and interpreters shall be advanced by the parties. In the award, the Panel shall decide which party shall bear them or in what proportion the parties shall share them, taking into account the outcome of the proceedings, as well as the conduct and financial resources of the parties.*

*R65.4 If all circumstances so warrant, the President of the Appeals Arbitration Division may decide to apply Article R64 to an appeals arbitration, either ex officio or upon request of the President of the Panel.*

10.2 As this is a disciplinary case of an international nature, the proceedings will be free, except for the Court Office filing fee of CHF 500, which the Appellant already paid. This fee shall be retained by the CAS.

10.3 As a general rule, the award shall grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings. In the present case, in consideration of the outcome of the proceedings and the fact that the appeal succeeded only on a subsidiary point, and bearing in mind the financial situation of the two parties, the Panel rules that the Appellant shall pay a contribution towards the Respondent's legal fees in the amount of CHF 1,000 (one thousand Swiss Francs).

**ON THESE GROUNDS**

**The Court of Arbitration for Sport rules that:**

1. The appeal of Mr. Hosseini is partially upheld.

2. The Decision dated 20 September 2010 of IWF's Doping Hearing Panel is annulled only to the extent it imposed a lifetime ban on Mr. Hosseini.

3. Mr. Hosseini's period of ineligibility shall be for twelve years from 24 October 2009.

4. The award is pronounced without costs, except for the court office fee of CHF 500 (five hundred Swiss Francs) paid by Mr. Hosseini which is retained by the CAS.

5. Mr. Hosseini shall pay IWF a contribution towards its legal fees and expenses in the amount of CHF 1,000 (one thousand Swiss Francs) within 30 (thirty) days of notification of this award.

6. All other or further claims are dismissed.

Place of arbitration: Lausanne, Switzerland
Date: 24 August 2011

**THE COURT OF ARBITRATION FOR SPORT**

His Hon. Judge James Robert Reid
President of the Panel

Mr. Graeme Mew
Arbitrator

Prof. Dr. Denis Oswald
Arbitrator

Jennifer Kirby
*Ad hoc* Clerk