Arbitration CAS 2014/A/3798 Danilo Decembrini v. Fédération Internationale de Roller Sports (FIRS), award of 4 March 2015

Panel: Mr Romano Subiotto QC (United Kingdom), Sole Arbitrator

Roller Sports (Artistic – Senior Freeskating Pairs)
Doping (3' hydroxystanozolol glucuronide)
Scope of CAS review
Burden of proof of athletes in anti-doping cases
No fault or negligence in cases of nutritional supplements
No significant fault or negligence in cases of nutritional supplements

1. **If an athlete who tested positive for a prohibited substance and is sanctioned for an anti-doping rule violation by a first instance decision only requests the cancellation of the suspension in the CAS proceedings but does not challenge the finding of an anti-doping rule violation, the latter issue cannot be reviewed by the CAS.**

2. **Pursuant to established CAS case law and the wording of Articles 10.5.1 and 10.5.2 of the FIRS Anti-Doping Policy (the "FIRS ADP"), once an anti-doping rule violation has been established, in order for an athlete to escape a sanction under Articles 10.5.1 or 10.5.2 of the FIRS ADP, the burden of proof shifts to the athlete who has to establish a) how the prohibited substance entered the athlete's system, and b) that the athlete, in the individual case, bears no fault or negligence or no significant fault or negligence for the rule violation.**

3. **The standard of care required for a no fault or negligence finding, *i.e.* utmost caution, requires that an athlete establishes that he has done all that is possible, within his medical treatment, to avoid a positive testing result. A professional and experienced athlete who, despite being familiar with repeated warnings from his International Federation, WADA and National Anti-Doping Organizations emphasizing the risk of contamination in nutritional supplements, choses to take the risk of using nutritional supplements anyway, fails to exercise the standard of care required for no fault or negligence, *i.e.* utmost caution.**

4. **In the case of a positive test resulting from a contaminated vitamin or nutritional supplement, a reduction of the period of ineligibility under Article 10.5.2 of the FIRS ADP may be appropriate, for instance, if the athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to prohibited substances and that the athlete exercised care in not taking other nutritional supplements. These requirements are however not met if the athlete uses a nutritional supplement which is not an approved commercially available supplement, but rather a product which had been prepared specifically for the**

athlete following prescription from the athlete's doctor. It is even less applicable in case the product leading to the positive test was purchased from a pharmacy that makes preparations containing the prohibited substance at stake. This is because an athlete is responsible for the conduct of people around him from whom he receives food, drinks, supplements or medications, including his doctor, and cannot therefore simply say that he trusts them and follows their instructions.

I. THE PARTIES

1. Mr. Danilo Decembrini ("Mr. Decembrini" or the "Appellant") is an Italian national born on 19 May 1988, residing in Rimini, Italy, and a member of the Federazione Italiana Hockey e Pattinaggio ("FIHP"). The Appellant is an international athlete of the roller sports discipline "Artistic – Senior Freeskating Pairs".

2. The Fédération Internationale de Roller Sports ("FIRS" or the "Respondent") is the international governing body for roller sports, recognized by the International Olympic Committee. The FIRS organizes international events and championships for various different categories of roller sports. The FIRS gathers a number of national federations, including the FIHP.

3. The Appellant and the Respondent are collectively referred to as the "Parties".

II. FACTUAL BACKGROUND

4. Below is a summary of the relevant facts based on the Parties' written submissions and evidence adduced. Additional facts and allegations found in the Parties' submissions and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all 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.

5. On September 4, 2014, Mr. Decembrini was tested out of competition by FIRS. The analysis of the A sample revealed the presence of 3' hydroxystanozolol glucuronide, a metabolite of stanozolol. Stanozolol is a prohibited substance under the World Anti-Doping Agency ("WADA") prohibited list, classified under S1.1 A as an Exogenous Anabolic Androgenic Steroid ("AAS"). The alleged Adverse Analytical Finding ("AAF") was reported by the WADA-accredited laboratory in Cologne, Germany, on September 19, 2014, and confirmed on analysis of the B sample on September 30, 2014.

6. On October 7, 2014, the FIRS Doping Review Panel issued a decision establishing the existence of an anti-doping rule violation under Article 2.1 of the FIRS Anti-Doping Policy ("FIRS

ADP")[1] and the World Anti-Doping Code ("WADC")[2] and imposing a two-year period of ineligibility on Mr. Decembrini under Article 10.2 of the FIRS ADP and the WADC.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

7. Pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (the "Code"), the Appellant filed its statement of appeal on October 28, 2014 (the "Statement of Appeal") at the Court of Arbitration for Sport in Lausanne, Switzerland (the "CAS"), against the FIRS Doping Review Panel decision of October 7, 2014 (the "Appealed Decision") (the "Appeal"). The Appellant requested that a Sole Arbitrator be appointed.

8. By letter dated October 31, 2014, the CAS Court Office acknowledged receipt of the Appellant's Statement of Appeal. Noting that the Appellant had chosen to proceed in French, the CAS Court Office gave the Respondent one week to indicate any objection to the selection of French as the language of the Appeal proceedings. In addition, the CAS Court Office invited the Respondent to inform the CAS Court Office, within seven days, whether it agreed to the appointment of a Sole Arbitrator. Finally, the CAS Court Office informed the Appellant that, pursuant to Article R51 of the Code, the Appellant shall file with the CAS Court Office an appeal brief, within ten days following the expiry of the time limit for the appeal. If the Statement of Appeal were to be considered as the appeal brief, the Appellant should inform the CAS Court Office accordingly within the same ten-day deadline.

9. By e-mail dated November 5, 2014, noting that the information received was in French, the Respondent requested an English translation of *"the key areas of what we need to provide in response for the hearing"*.

10. By letter of the same day, the CAS Court Office provided the Parties with an English translation of the CAS Court Office letter dated October 31, 2014, drawing the attention of the Parties towards the section on the language of the proceedings contained in such letter. The CAS Court Office informed the Respondent that the present letter had no impact on the deadlines set out in the CAS Court Office letter dated October 31, 2014.

11. By letter dated November 6, 2014, the Respondent agreed to the appointment of a Sole Arbitrator and objected to all written correspondence being in French, requesting that an English translation of such correspondence be provided.

12. By letter dated November 7, 2014, noting that it was understood that the Respondent had requested that the proceedings be conducted in English, the CAS Court Office invited the Appellant to submit its position on this request by November 12, 2014. In addition, the CAS Court Office informed the Parties that, in view of the uncertainties regarding the language of

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1 Fédération Internationale de Roller Sports, Anti-Doping Policy (December 2009).

2 World Anti-Doping Code (2009).

the proceedings, the time limit for filing the appeal brief was suspended until further notice from the CAS Court Office.

13. On the same day, pursuant to Article R51 of the Code, the Appellant filed its appeal brief (the "Appeal Brief"), together with annexed exhibits. The Appellant provided a list of the witnesses that he intended to call in the oral hearing.

14. By letter dated November 11, 2014, noting *inter alia* that it had already provided both the Statement of Appeal and the Appeal Brief, as well as translations of evidence contained therein, in French, and that Mr. Decembrini has no knowledge of the English language, the Appellant requested that the proceedings be conducted in French.

15. By letter dated November 12, 2014, the CAS Court Office acknowledged receipt of the Appellant's Appeal Brief and letter dated November 11, 2014. As regards the language of the proceedings, the CAS Court Office suggested to the Parties that: (i) future communications by CAS and the Parties be drafted in English; (ii) the Statement of Appeal and the Appeal Brief, already received by the CAS Court Office, be admitted in French in the CAS file; (iii) the Respondent be allowed to submit its answer in English; (iv) exhibits may be submitted in French or in English; (v) the Parties, their experts and witnesses may express themselves at the hearing, if any, in French or in English; and that (vi) the Sole Arbitrator may chose the language in which he would conduct the hearing, if any, and draft the award. The CAS Court Office invited the Parties to submit their position on this proposal on or before November 17, 2014.

16. By letter dated November 13, 2014, the Appellant accepted this proposal. The Respondent also accepted this proposal by letter dated November 16, 2014.

17. By letter dated November 18, 2014, the CAS Court Office determined the language of the proceedings by confirming the above proposal. In addition, the CAS Court Office notified the Appel Brief and informed the Respondent that it should submit its answer within twenty days of receipt of this letter.

18. On December 2, 2014, pursuant to Article R55 of the Code, the Respondent filed its answer (the "Answer"), together with annexed exhibits.

19. By letter dated December 3, 2014, the CAS Court Office acknowledged receipt of the Respondent's Answer. In addition, the CAS Court Office invited the Parties to respond as to whether they would prefer a hearing to be held in the present matter, or for the Sole Arbitrator to issue an award based solely on the Parties' written submissions, by December 9, 2014. Finally, the CAS Court Office informed the Parties that Mr. Romano Subiotto, QC had been appointed Sole Arbitrator.

20. By letter of the same day, the CAS Court Office informed the Parties that the Sole Arbitrator would be available to hold a possible hearing on December 18 or 19, 2014, and requested that they inform the CAS Court Office, by December 9, 2014, of any impossibility to attend a hearing, if any, on such dates.

21. By e-mails dated December 3 and 4, 2014, the Respondent informed the CAS Court Office that its preference was for the Sole Arbitrator to issue an award based solely on the Parties' written submissions. In addition, the Respondent informed the CAS Court Office that Dr. Egbert Schulze would represent the Respondent in the oral hearing, if any.

22. Following e-mails sent by the Respondent on December 10, 2014, expressing concerns with regard to the language of the hearing, by letter dated December 10, 2014, the CAS Court Office reminded the Parties of the language arrangements agreed upon by the Parties and expressed in the CAS Court Office letter dated November 18, 2014. In addition, the CAS Court Office requested that the Appellant provide information with regard to the language that would be used during the hearing by the Appellant, his witnesses and his counsel.

23. By letter dated December 17, 2014 and after having duly consulted the Parties, the CAS Court Office informed the Parties that the oral hearing would be held on January 28, 2015, since the Parties were not available on earlier suggested dates. In addition, the CAS Court Office invited the Parties to provide the CAS Court Office with the names of all the persons who would attend the oral hearing on or before January 6, 2015. Both the Appellant and the Respondent provided such names by e-mails dated December 18, 2014.

24. By letter dated January 20, 2015, the CAS Court Office sent the Parties an Order of Procedure (the "Order of Procedure"), requesting the Parties' signatures by January 22, 2015.

25. On January 21, 2015, the Appellant returned a fully-executed copy of the Order of Procedure. On January 23, 2015, the Respondent returned a fully-executed copy of the Order of Procedure.

26. The oral hearing was held on January 28, 2015, in Lausanne, at which the Appellant, his legal representative, his sister, and Dr. Porcellini and Dr. Pieraccini were present. Dr. Egbert Schulze was present for the Respondent.

IV. JURISDICTION, APPLICABLE LAW, AND ADMISSIBILITY

A. Jurisdiction

27. The jurisdiction of the CAS was not contested by the Respondent. In addition, the Respondent confirmed the jurisdiction of the CAS by returning a fully-executed copy of the Order of Procedure on January 23, 2015.

28. As a result, CAS has jurisdiction to review the present dispute. For the sake of completeness, the Sole Arbitrator underlines, that the applicable rules would in any event have founded such jurisdiction as confirmed by the following jurisdictional analysis.

29. Article R47(1) of the Code provides as follows:

> *"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".*

30. Pursuant to Article R47 of the Code, CAS has the power to decide appeals against a sports organization only if: (i) there is a decision of a federation, association or another sports-related body; (ii) all internal legal remedies have been exhausted prior to appealing to CAS; and (iii) the Parties have agreed to CAS's jurisdiction[3].

The existence of a decision

31. According to CAS jurisprudence, a decision is a unilateral act sent to one or more determined recipients and intended to produce legal effects[4]. The form of communication has no relevance for determining whether a decision exists[5].

32. In the present case, the Appealed Decision constitutes a unilateral act intended to produce legal effects. Hence, the Appealed Decision constitutes a "decision" for the purposes of determining whether CAS has jurisdiction in the present dispute.

The exhaustion of the internal legal remedies

33. Article 13.1 of the FIRS ADP provides as follows:

> *"Decisions made under these Anti-Doping Rules may be appealed as set forth below in Article 13.2 through 13.4 or as otherwise provided in these Anti-Doping Rules. […] Before an appeal is commenced, any post-decision review provided in these rules or in the rules of the Anti-Doping Organization conducting the hearing process as per article 8 must be exhausted".*

34. Article 8.1.6 of the FIRS ADP provides as follows:

> *"8.1.6 Decisions of the FIRS Doping Hearing Panel may be appealed to the Court of Arbitration for Sport as provided in Article 13".*

35. Articles 13.2 and 13.2.1 of the FIRS ADP provide as follows:

> *"13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, and Provisional Suspensions*
>
> *A decision that an anti-doping rule violation was committed, a decision imposing Consequences for an anti-doping rule violation […] may be appealed exclusively as provided in this Article 13.2.*
>
> *13.2.1 Appeals Involving International-Level Athletes*
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> *In cases arising from participation 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".*

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3 CAS 2008/A/1583; CAS 2008/A/1584.

4 CAS 2004/A/659; CAS 2008/A/1634.

5 CAS 2008/A/1634.

36. Appendix 1 of the FIRS ADP provides as follows:

> *"International-Level Athlete. Athletes designated by one or more International Federations as being within the Registered Testing Pool for an International Federation".*

37. The Appealed Decision was adopted by the FIRS Doping Review Panel. According to Article 8.1.6 of the FIRS ADP, it may thus be appealed to CAS, as provided in Article 13 of the FIRS ADP. The Appealed Decision established the existence of an anti-doping rule violation and imposed a two-year period of ineligibility on Mr. Decembrini. It therefore constitutes a *"decision that an anti-doping rule violation was committed"* and a *"decision imposing Consequences for an anti-doping rule violation"*, within the meaning of Article 13.2 of the FIRS ADP. Mr. Decembrini is an international-level athlete within the meaning of Appendix 1 of the FIRS ADP. The Sole Arbitrator therefore concludes that the Appealed Decision *"may be appealed exclusively to CAS"*, as established in Article 13.2.1 of the FIRS ADP.

38. The Appealed Decision is thus final, with no internal legal remedies available. This is not disputed, as the Appealed Decision itself established that *"[u]nder article 13 of the FIRS ADP and the WADA Code, the decision of the FIRS Doping Review Panel may be appealed to the Court of Arbitration for Sport (CAS) within 21 days of its notification date".*

The consent to arbitrate

39. Pursuant to Article R47, CAS derives its jurisdiction to hear an appeal either: (i) from a specific arbitration agreement concluded by the Parties; or (ii) insofar as the FIRS ADP so provides[6].

40. The Sole Arbitrator recalls in this regard that *"As art. R47 of the Code of Sports-related Arbitration states, the statutes or regulations of the sports-related body from whose decision the appeal is being made, must expressly recognize the CAS as an arbitral body of appeal, in order for the CAS to have jurisdiction to hear an appeal"*[7].

41. Pursuant to the FIRS ADP, *"[d]ecisions of the FIRS Doping Hearing Panel may be appealed to the Court of Arbitration for Sport as provided in Article 13"* (Article 8.1.6 of the FIRS ADP). Article 13.1 of the FIRS ADP stipulates that *"[d]ecisions made under these Anti-Doping Rules may be appealed as set forth below in Article 13.2"*, which applies, *inter alia*, to *"[a] decision that an anti-doping rule violation was committed* [and] *a decision imposing Consequences for an anti-doping rule violation"* (Article 13.2 of the FIRS ADP). According to Article 13.2.1 of the FIRS ADP *"[i]n cases arising from participation 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".*

42. The Sole Arbitrator notes that the Appealed Decision constitutes a *"decision that an anti-doping rule violation was committed"* and a *"decision imposing Consequences for an anti-doping rule violation"*, within the meaning of Article 13.2 of the FIRS ADP. Mr. Decembrini is an international-level athlete

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6 CAS 2011/A/2435.

7 CAS 2005/A/952; CAS 2002/O/422.

within the meaning of Appendix 1 of the FIRS ADP. Accordingly, the Sole Arbitrator has jurisdiction to entertain the present Appeal, pursuant to Article 13.2.1 of the FIRS ADP.

B. Applicable Law

43. Article R58 of the Code provides as follows:

> *"The Panel shall 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".*

44. The Appealed Decision was issued under the FIRS ADP, and there is no dispute as to the applicability of the FIRS ADP in the present matter. These rules incorporate the mandatory provisions of the WADC. The Appealed Decision explicitly acknowledges the applicability of the WADC to the present dispute.

45. For the sake of completeness, the Sole Arbitrator notes that the FIRS ADP, based on the WADC, is the body of rules which was in force at the moment of the conduct under examination. For this reason, the FIRS ADP applies to the present matter. The Sole Arbitrator notes that although on January 1, 2015, the FIRS Anti-Doping Rules (the "FIRS ADR"), based on the 2015 World Anti-Doping Code, came into full force and effect, these rules do not apply to the present case, pursuant to Article 20.7 of the FIRS ADR, according to which these rules *"shall not apply retroactively to matters pending before the Effective Date* [*i.e.*, January 1, 2015]*".*

C. Admissibility

46. Article 13.6 of the FIRS ADP provides as follows:

> *"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".*

47. The Appealed Decision was adopted on October 7, 2014. The Appellant received the Appealed Decision on October 8, 2014. The Appellant filed the Statement of Appeal on October 28, 2014, hence within the 21 days deadline provided for in Article 13.6 of the FIRS ADP. The Appeal complied with all requirements of Article R48 of the Code and the admissibility of the Appeal was acknowledged by the Respondent. It follows that the Appeal is therefore admissible.

48. For the sake of completeness, the Sole Arbitrator notes that the Appeal Brief, filed on November 7, 2014, was filed within the deadline of 10 days following the expiry of the time limit for the appeal, provided for in Article R51 of the Code.

V. SUBMISSIONS OF THE PARTIES

49. The summary below refers to the substance of the allegations and arguments without listing them exhaustively. In its discussion of the case and its findings under Section VI of this Award,

the Sole Arbitrator has nevertheless examined and taken into account all of the allegations, arguments, and evidence, whether or not expressly referred to herein.

A. The Appellant's submissions

50. The Appellant does not dispute the finding of an anti-doping rule violation under Article 2.1 of the FIRS ADP and the WADC. However, the Appellant argues that in the Appealed Decision, the FIRS Doping Review Panel misapplied Articles 10.5.1 and 10.5.2 of the FIRS ADP and of the WADC, which provide for the elimination or the reduction of the period of ineligibility in case it is demonstrated that the athlete bears no fault or negligence or no significant fault or negligence.

51. The Appellant maintains that it has produced corroboratory evidence on how the prohibited substance entered its body. According to Mr. Decembrini, prior to the AAF, he had ingested a preparation containing amino acids, which had been prescribed to him by his usual doctor Dr. Porcellini. Such product was prepared at the laboratory of the Farmacia Rivazzurra, on August 19, 2014, at the choice of Dr. Porcellini. The Appellant argues that this preparation was contaminated with stanozolol because before preparing it, a product containing stanozolol had been prepared at the Farmacia Rivazzurra using the same machinery.

52. The Appellant relies on two pieces of evidence for these purposes.

- First, on a written declaration provided by the Farmacia Rivazzurra stating that: (i) before preparing the product dispensed to Mr. Decembrini, a product containing stanozolol had been prepared; and that (ii) because both products had been prepared with the same old encapsulating machine, which is difficult to take apart in its entirety, it cannot be excluded that the preparation dispensed to Mr. Decembrini may have been contaminated.

- Second, on an expert opinion of Prof. Favretto and Dr. Pieraccini, according to whom, taking into account the low amount of 3' hydroxystanozolol glucuronide detected in Mr. Decembrini's samples, in the present case *"an accidental absorption of a low amount of steroid such as that which could result from contamination may not be excluded"*. These experts add that they have not noted any anomalies with regard to other androgenic substances contained in Mr. Decembrini's body. This would militate in favour of the possibility of a contamination, as ingesting a substance such as stanozolol during a long period would alter the concentration and the relationships between such androgenic substances.

53. Mr. Decembrini maintains that he bears no fault or negligence, for which reason the period of ineligibility should be annulled or reduced. The main grounds invoked by the Appellant are the following:

- The contamination would be the result of the exceptional circumstances described above.

- Mr. Decembrini consumed a product prescribed by Dr. Porcellini, an extremely renowned and competent sports doctor, to whom he had entrusted his athletic preparation.

- The contaminated product had been dispensed by the Farmacia Rivazzurra, at the choice of Dr. Porcellini, and not of Mr. Decembrini, as wrongly noted in the Appealed Decision.

- The Farmacia Rivazzurra is an extremely renowned and competent pharmacy, used by some of the best sportsmen in Italy.

54. The Appellant relies on a written declaration provided by Dr. Porcellini to confirm that: (i) Dr. Porcellini chose the Farmacia Rivazzurra; and that (ii) the Farmacia Rivazzurra is highly reputed. In addition, in this declaration Dr. Porcellini notes that he is Mr. Decembrini's only sports doctor and that Mr. Decembrini has never consumed drugs and generally resists consuming medicine or dietary supplements unless he has to and unless they have been prescribed by Dr. Porcellini. Dr. Porcellini adds that he has always fought against doping in sport, as evidenced by the fact that he is a member of an anti-doping organization and that none of the athletes under his treatment have ever been involved in doping cases.

55. In addition, in its written submissions, the Appellant provided a photocopy of what was said to be the label of the flask containing the preparation acquired from the Farmacia Rivazzurra. The flask, including its label, was shown to the Sole Arbitrator during the oral hearing. There was no indication on the flask that it contained the prohibited substance ingested by Mr. Decembrini.

56. Finally, Mr. Decembrini notes that: (i) throughout his career, including in 2014, he has been subject to a number of anti-doping tests, all of which have shown up negative; (ii) he is an exemplary athlete who has won a number of competitions; (iii) the amount of 3' hydroxystanozolol glucuronide detected in his urine was minimal and in any case could not have improved his performance; and that (iv) if relief is denied to him in the present proceedings, this will irreversibly damage his career.

57. To prove that the amount of 3' hydroxystanozolol glucuronide detected in his urine was minimal, the Appellant relies on an e-mail sent to the FIRS by the WADA-accredited laboratory in Cologne, Germany, on September 10, 2014, which indicates that the concentration of 3' hydroxystanozolol glucuronide detected in the A and the B sample of Mr. Decembrini was approximately 340 and 390 pg/ml.

58. In light of the foregoing, the Appellant requests the following relief:

"In light of the above, Mr. Danilo Decembrini respectfully requests the Arbitration Panel to:

1. *declare the appeal admissible;*
2. *primarily, annul the two-year suspension established in the decision under appeal;*
3. *in the alternative, establish a shorter suspension, with reprieve if necessary;*
4. *in any case, the appellant requests that the procedural fees and expenses, including the fees of attorneys, witnesses and interpreters, be charged to the Respondent".*

B. The Respondent's submissions

59. The Respondent objects to the period of ineligibility imposed on Mr. Decembrini being eliminated or reduced on the grounds of lack of fault or negligence or of lack of significant fault or negligence, in application of Articles 10.5.1 and 10.5.2 of the FIRS ADP and of the WADC.

60. The Respondent maintains that there is no corroboratory evidence on how the prohibited substance entered the Appellant's body. In particular, according to the Respondent: (i) there is no proof that the preparation prescribed by Dr. Porcellini contained stanozolol; and (ii) there is no proof that the machinery in the Farmacia Rivazzurra was contaminated with stanozolol.

61. The Respondent adds that the low concentration of steroid detected in Mr. Decembrini's body, referred to in the expert opinion of Prof. Favretto and Dr. Pieraccini, could be the result of a deliberate ingestion of the substance. The Respondent argues that the fact that the metabolites of stanozolol are eliminated slowly from the human body could be a good explanation for the finding of a low concentration of 3' hydroxystanozolol glucuronide in the test sample, in case the last dosage of the product had been consumed approximately three to five days prior to the test leading to the AAF. The Respondent adds that the lack of anomalies in the concentration and relationships between other androgenic substances contained in Mr. Decembrini's body would be consistent with specific features of stanozolol. Stanozolol has a low influence on parts of the androgen metabolism, in particular on other receptors (progesterone, glucocorticoids). Thus, according to the Respondent, *"a measurement of a relatively low concentration of stanozolol in a urine sample some days after the last administration is in good agreement with normal concentrations of other androgenic steroids"*.

62. The Respondent maintains that both Mr. Decembrini and Dr. Porcellini were negligent, for which reason the period of ineligibility should not be annulled or reduced. The main grounds invoked by the Respondent are the following:

- Mr. Decembrini is responsible for any substances found in his sample.
- Mr. Decembrini is responsible for the selection of his medical personnel, *i.e.*, of Dr. Porcellini, and thus for the decisions and the consequences of the actions of Dr. Porcellini.
- As demonstrated by the written declaration provided by the Farmacia Rivazzurra, this pharmacy: (i) dispenses preparations containing stanozolol, which is prohibited under the WADC; and (ii) does not ensure that its equipment is adequately cleaned, to prevent contamination.
- Dr. Porcellini should have carried out more diligent research with regard to the dispensing activities and the quality assurances of the Farmacia Rivazzurra, which he used regularly. In particular, he should have been aware of the fact that the pharmacy dispenses preparations containing prohibited substances and that there is therefore a risk of contamination.

63. In addition, the Respondent submits that the risk profile of Mr. Decembrini should be taken into account. According to the Respondent, Mr. Decembrini was subject to strong pressure to perform due to recent results, and had recently suffered injuries, both of which are factors

increasing the risk of use of performance-enhancing agents by athletes. The Respondent also notes that since Mr. Decembrini was added to the FIRS registered testing pool he had failed to submit his whereabouts and had missed tests on several occasions. In particular Mr. Decembrini failed to submit his whereabouts on August 1, 2009, and on January 6, 2011, and he missed tests on February 23, 2013, on July 2, 2013 (not carried forward) and on November 29, 2013. The Respondent notes that there were inconsistencies in the explanations put forward to justify the two last missed tests, and that it is often difficult to obtain whereabouts information from Mr. Decembrini.

64. In light of the foregoing, the Respondent requests the following relief:

"FIRS request[s] *the following*

- *The TAS hearing confirm that there are no grounds related to no fault or negligence or no significant fault or negligence as outline[d] in article 10.5 of the WADA code to reduce the applicable two year sanction imposed on Mr Decembrini by the FIRS Doping Review Panel on 7 October 2014.*
- *Each party is responsible for its own costs regardless of the outcome".*

VI. MERITS

A. Structure of the Merits section of this Award

65. The Sole Arbitrator addresses below the relevant substantive issues in the following sequence:

- First, the Sole Arbitrator will briefly discuss the scope of review in anti-doping cases.
- Second, the Sole Arbitrator will briefly recall the basis for a finding of an anti-doping rule violation.
- Third, the Sole Arbitrator will discuss the appropriateness of the sanction, *i.e.*, whether the two-year period of ineligibility imposed on the Appellant should be annulled or reduced due to the lack of fault or negligence or to the lack of significant fault or negligence, pursuant to Articles 10.5.1 or 10.5.2 of the FIRS ADP.

B. The Sole Arbitrator's scope of review

66. Pursuant to Article R57 of the Code *"[t]he Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance"*. Therefore, the Sole Arbitrator is not bound by the conclusions of facts and law set forth in the Appealed Decision, but may proceed with a full review on this Appeal *de novo*.

67. As the Appellant however only requests the cancellation of the suspension and does not challenge the finding of an anti-doping rule violation, the second substantive issue is simply recalled for the sake of completeness, but cannot be reviewed.

C. The existence of an anti-doping rule violation

68. The Appellant's A sample tested positive for 3' hydroxystanozolol glucuronide, a metabolite of stanozolol. Stanozolol is a prohibited substance under the WADA prohibited list, classified under S1.1 A, as an Exogenous AAS. This AAF was confirmed on analysis of the B sample. The Appellant has not contested the positive finding in any way.

D. The appropriateness of the sanction

1. Issues in dispute

69. The two issues that fall to be determined in the present case are:

- Primarily, whether the Appellant has established that he bears no fault or negligence, within the meaning of Article 10.5.1 of the FIRS ADP. In the affirmative, this would mean that the two-year period of ineligibility imposed on Mr. Decembrini under Article 10.2 of the FIRS ADP would be annulled.

- In the alternative, whether the Appellant has established that he bears no significant fault or negligence, within the meaning of Article 10.5.2 of the FIRS ADP. In the affirmative, this would mean that the two-year period of ineligibility imposed on Mr. Decembrini under Article 10.2 of the FIRS ADP could be reduced.

2. Applicable rules

70. Article 10.5.1 of the FIRS ADP reads as follows:

> *"10.5.1 No Fault or Negligence. If an Athlete establishes in an individual case that he or she bears No Fault or Negligence, the otherwise applicable period of Ineligibility shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1 (Presence of Prohibited Substance), the Athlete must also establish how the Prohibited Substance entered his or her system in order to have the period of Ineligibility eliminated. In the event this Article is applied and the period of Ineligibility otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Article 10.7".*

71. Article 10.5.2 of the FIRS ADP reads as follows:

> *"10.5.2 No Significant Fault or Negligence. If an Athlete or other Person establishes in an individual case that he or she bears No Significant Fault or Negligence, then the otherwise applicable 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. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight (8) years. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers), the Athlete must also establish how the Prohibited Substance entered his or her system in order to have the period of Ineligibility reduced".*

72. The commentary to Articles 10.5.1 and 10.5.2 of the FIRS ADP, which has an interpretative value pursuant to Article 19.6 of the FIRS ADP, reads as follows:

'FIRS' Anti-Doping Rules provide for the possible reduction or elimination of the period of Ineligibility in the unique circumstance where the Athlete can establish that he or she had No Fault or Negligence, or No Significant Fault or Negligence, in connection with the violation. This approach is consistent with basic principles of human rights and provides a balance between those Anti-Doping Organizations that argue for a much narrower exception, or none at all, and those that would reduce a two year suspension based on a range of other factors even when the Athlete was admittedly at fault. These Articles apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. Article 10.5.2 may be applied to any anti-doping rule violation even though it will be especially difficult to meet the criteria for a reduction for those anti-doping rule violations where knowledge is an element of the violation.

Articles 10.5.1 and 10.5.2 are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases.

To illustrate the operation of Article 10.5.1, an example where No Fault or Negligence would result in the total elimination of a sanction is where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination); (b) the administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction based on No Significant Fault or Negligence. (For example, reduction may well be appropriate in illustration (a) if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements).

For purposes of assessing the Athlete's or other Person's fault under Articles 10.5.1 and 10.5.2, the evidence considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behavior. Thus, for example the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Athlete only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Article.

While Minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the Athlete's or other Person's fault under Article 10.5.2, as well as Articles 10.3.3, 10.4 and 10.5.1.

Article 10.5.2 should not be applied in cases where Articles 10.3.3 or 10.4 apply, as those Articles already take into consideration the Athlete or other Person's degree of fault for purposes of establishing the applicable period of Ineligibility" (Emphasis added).

3. Framework of analysis

73. Pursuant to established case law of the CAS[8] and to the wording of Articles 10.5.1 and 10.5.2 of the FIRS ADP, once an anti-doping rule violation has been established, as in the present case, in order for an athlete to escape a sanction under Articles 10.5.1 or 10.5.2 of the FIRS ADP, the burden of proof shifts to the athlete who has to establish:

- How the prohibited substance entered the athlete's system; and
- That the athlete, in the individual case, bears no fault or negligence or no significant fault or negligence.

74. Pursuant to Article 3.1 of the FIRS ADP, it is for the athlete to establish the above mentioned facts:

> *"Where these Rules place the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability".*

75. This means that the athlete alleged to have committed a doping violation bears the burden of persuading the judging body that the occurrence of a specified circumstance is more probable than its non-occurrence.

4. Credible explanation of the route of ingestion

76. The Sole Arbitrator recalls the explanation provided by the Appellant as regards the route of ingestion of stanozolol. According to the Appellant, prior to the AAF, he had ingested a preparation containing amino acids, which was prepared at the laboratory of the Farmacia Rivazzurra, on August 19, 2014. This preparation was allegedly contaminated with stanozolol because, just before preparing it, a product containing stanozolol had been prepared at the Farmacia Rivazzurra using the same machinery.

77. The Sole Arbitrator recognizes the following facts and evidence regarding the possible route of ingestion:

- The Appellant has produced evidence showing that it cannot be excluded that the preparation dispensed to Mr. Decembrini may have been contaminated because, according to the Farmacia Rivazzurra, before preparing the product dispensed to Mr. Decembrini, a product containing stanozolol had been prepared and both products had been prepared with the same old encapsulating machine, which is difficult to take apart in its entirety.
- The Appellant has produced evidence showing that, according to experts Prof. Favretto and Dr. Pieraccini, in the present case: (i) taking into account the low amount of 3'

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8 CAS 2011/A/2384 & CAS 2011/A/2386; CAS 2005/A/922, 923 & 926; CAS 2006/A/1067; CAS 2006/A/1130.

hydroxystanozolol glucuronide detected in Mr. Decembrini's sample, *"an accidental absorption of a low amount of steroid such as that which could result from contamination may not be excluded"*; and (ii) the fact that no anomalies have been detected with regard to other androgenic substances contained in Mr. Decembrini's body would militate in favour of the possibility of a contamination.

- Mr. Decembrini was subject to an anti-doping test on July 26, 2014, which showed up negative. Although the test carried out on September 4, 2014, led to an AAF, the concentration of 3' hydroxystanozolol glucuronide detected in Mr. Decembrini's A and B sample was low, *i.e.*, approximately 340 and 390 pg/ml, as evidenced by an e-mail sent to the FIRS by the WADA-accredited laboratory in Cologne, Germany, on September 10, 2014.

78. The above facts and evidence ought to be assessed against the following:

- The Sole Arbitrator notes that the Appellant failed to present specific undisputed evidence showing that the product prescribed by Dr. Porcellini and dispensed by the Farmacia Rivazzurra contained stanozolol. Indeed, although the Appellant provided an empty flask which had allegedly contained the product in question, none of the potentially contaminated capsules have been subject to analysis. In addition, there was no indication on the flask that it contained the prohibited substance ingested by Mr. Decembrini.

- The written declaration provided by the Farmacia Rivazzurra merely indicates that a contamination *"may not be excluded"*. In addition, this declaration has not been authenticated, *e.g.*, before a notary public, for which reason there is no guarantee as to whether it is genuine, although the Respondent has not raised this point. Finally, the Sole Arbitrator notes that in its Appeal Brief, the Appellant did not express that it intended to call as witnesses the owner of the Farmacia Rivazzurra and/or the employee who prepared the allegedly contaminated product dispensed to Mr. Decembrini. Neither of them attended the oral hearing held in Lausanne, Switzerland, on January 28, 2015.

- The expert opinion of Prof. Favretto and Dr. Pieraccini merely indicates that *"an accidental absorption of a low amount of steroid such as that which could result from contamination may not be excluded"* (our underlined).

79. In light of the above, and in particular (i) of the low amount of 3' hydroxystanozolol glucuronide detected in Mr. Decembrini's body, and of the facts that (ii) stanozolol only has a very limited effect on sporting performance if taken over a short period and that Mr. Decembrini's body did not contain stanozolol on July 26, 2014 but did on September 4, 2014, and that (iii) it was agreed among the Parties at the oral hearing that intentionally ingesting stanozolol over such a short period makes little sense, particularly because of the limited effect on muscle mass during such a short period and because any increase in muscle mass would not be accompanied by a corresponding strengthening of the tendons, thereby resulting in a significant risk of tendon rupture, the Sole Arbitrator considers that it is more likely than not that the source of stanozolol

in the Appellant's body is a contaminated product prescribed by Dr. Porcellini and prepared by the Farmacia Rivazzurra on August 19, 2014, as opposed to a deliberate ingestion of the substance by Mr. Decembrini.

80. Thus, the first limb of the twofold test under Articles 10.5.1 and 10.5.2 of the FIRS ADP has been satisfied.

5. Degree of fault or negligence

81. The Sole Arbitrator is of the view that the Appellant has incurred in significant fault or negligence, for which reason the second limb of the twofold test under Articles 10.5.1 and 10.5.2 of the FIRS ADP would not be satisfied.

82. As a preliminary point, the Sole Arbitrator notes that:

- The application of the exception established in Article 10.5.1 of the FIRS ADP, *i.e.*, no fault or negligence, is conditional upon the Appellant demonstrating that *"he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method"* (Appendix 1 of the FIRS ADP).

- The application of the exception established in Article 10.5.2 of the FIRS ADP, *i.e.*, no significant fault or negligence, is conditional upon the Appellant demonstrating that *"his or her fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doping rule violation"* (Appendix 1 of the FIRS ADP).

83. In the first place, the Sole Arbitrator notes that the Appellant clearly failed to exercise the standard of care required for no fault or negligence, *i.e.*, utmost caution. The Sole Arbitrator recalls that the duty of utmost caution requires that the Appellant *"establish*[es] *that he has done all that is possible, within his medical treatment, to avoid a positive testing result"*[9].

84. However, the Appellant consumed the supplement prescribed by Dr. Porcellini and prepared by the Farmacia Rivazzurra on August 19, 2014, despite repeated warnings from FIRS, WADA and National Anti-Doping Organizations emphasizing the risk of contamination in nutritional supplements. The Appellant, a professional and experienced athlete who has been competing at the highest level for many years, was clearly familiar with these warnings but chose to take the risk anyway. Therefore, the Appellant clearly failed to exercise the standard of care required for no fault or negligence, *i.e.*, utmost caution[10].

85. This conclusion is consistent with the commentary to Articles 10.5.1 and 10.5.2 of the FIRS ADP, according to which *"a sanction could not be completely eliminated on the basis of No Fault or*

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9 CAS 2006/A/1133.

10 CAS 2008/A/1489 & CAS 2008/A/1510; CAS 2005/A/847.

Negligence in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination)".

86. In the second place, in view of the considerations below, the Sole Arbitrator notes that the Appellant's negligence was significant in relationship to the anti-doping rule violation and the Appellant thus failed to exercise the standard of care required for no significant fault or negligence.

87. First, the Sole Arbitrator notes that the exceptions regulated in Articles 10.5.1 and 10.5.2 of the FIRS ADP apply only *"where the circumstances are truly exceptional and not in the vast majority of cases"*[11]. As established repeatedly in the case law of the CAS, the burden of proving that such exceptions should apply in a specific case *"is a very high hurdle for an athlete to overcome"*[12]. Indeed, these exceptions are applied *"in a very restrictive manner"*[13].

88. Second, the Sole Arbitrator notes that the commentary to Articles 10.5.1 and 10.5.2 of the FIRS ADP states that in the case of a positive test resulting from a contaminated vitamin or nutritional supplement, a reduction of the period of ineligibility under Article 10.5.2 of the FIRS ADP may be appropriate, for instance, *"if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements"*[14].

89. The present case is clearly different to the scenario contemplated in this exception in at least two regards. First, the likely contaminated product procured by the Farmacia Rivazzurra was not a *"common multiple vitamin"*, or even an approved commercially available nutritional supplement, but rather a product which had been prepared specifically for the Appellant following a prescription from Dr. Porcellini. Second, this product was purchased from the Farmacia Rivazzurra, which has connections to prohibited substances insofar as, on its own admission, it makes preparations containing stanozolol, which is prohibited under the WADC prohibited list.

90. Third, it is clear to the Sole Arbitrator that both the Appellant and Dr. Porcellini displayed significant fault or negligence in failing to carry out sufficient research with regard to the activities of the Farmacia Rivazzurra.

91. In particular, neither the Appellant nor Dr. Porcellini made any efforts to determine whether the Farmacia Rivazzurra dispensed preparations containing substances which are prohibited under the WADA prohibited list, and which preparations had been made prior to making the one used by the Appellant. Neither did they make even the most basic effort to check with

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11 Commentary to Articles 10.5.1 and 10.5.2 of the FIRS ADP.

12 CAS 2007/A/1370 & CAS 2007/A/1376.

13 CAS 2004/A/690.

14 Commentary to Articles 10.5.1 and 10.5.2 of the FIRS ADP. See also, CAS/2009/A/1870; CAS 2008/A/1489 & CAS 2008/A/1510.

Farmacia Rivazzurra whether the equipment used, in particular the encapsulating machine, was of sufficient quality and modern enough to minimize the risk of possible contamination, and whether such equipment was adequately cleaned. The Sole Arbitrator observes, for example, that a simple internet search shows that the pharmacy is mentioned at least in one website related to bodybuilding. That ought to have been at least one reason for Mr. Decembrini to ask more questions about the suitability of Farmacia Rivazzurra.

92. This is particularly striking in the case of Dr. Porcellini, who admits to having chosen the Farmacia Rivazzurra, to using it regularly, and to trusting it *"blindly"*. However, blind trust cannot be a relevant legal threshold.

93. Mr. Decembrini has argued that he has not been negligent. However, it is a key principle of the fight against doping that an athlete cannot blindly rely on his support staff, including doctors. An athlete has a personal duty to ensure that no prohibited substance enters his or her body. He is responsible for the conduct of people around him from whom he receives food, drinks, supplements or medications, including his doctor, and cannot therefore simply say that he trusts them and follows their instructions[15]. It is clear to the Sole Arbitrator that by limiting himself to trusting Dr. Porcellini, without carrying out any research with regard to the activities of the Farmacia Rivazzurra, the Appellant has not made good faith efforts *"to leave no reasonable stone unturned"* and has thus significantly disregarded his positive duty of caution[16]. Indeed, nothing prevented Mr. Decembrini from checking personally, how, where and under what conditions the supplement had been prepared, what other types of supplements were prepared at Farmacia Rivazzurra, and whether there was any risk of contamination[17].

94. The Sole Arbitrator is of the view that Dr. Porcellini, a specialised sports doctor who has been treating athletes for years and who regularly uses the services of the Farmacia Rivazzurra, was not entitled to *"blindly trust"* the supervising authorities and has been particularly negligent in failing to become aware of the fact that such pharmacy dispenses products containing substances which are prohibited under the WADA prohibited list. The Sole Arbitrator is of the view that Dr. Porcellini should have, at the very least, made a minimum effort to become aware of the fact that the equipment used by such pharmacy and/or its cleaning practices did not offer the necessary guarantees for high-level athletes subject to stringent anti-doping rules. Pursuant to well established case law of the CAS, this significant negligence on the part of Dr. Porcellini *"must be attributed to the athlete who uses him in supplying the athlete either a food source or a supplement"*[18].

95. The Sole Arbitrator notes that this case is clearly different to case CAS 2011/A/2495/2496/2497/2498, in which CAS concluded that it could not find anything but the slightest fault on the part of a series of athletes who had ingested a specified substance as a result of contamination during the preparation of caffeine capsules at a pharmacy. In the present case, the substance is not specified, but, rather, prohibited at all times and one of the more

15 CAS 2007/A/1370 & CAS 2007/A/1376.

16 CAS 2009/A/1870.

17 CAS 2007/A/1370 & CAS 2007/A/1376. See also, CAS 2005/A/951.

18 CAS OG 04/003.

notorious doping substances, which has featured in a number of high profile doping incidents, for example that involving Ben Johnson at the Seoul Olympics. Furthermore, neither the Appellant nor his doctor, Dr. Porcellini, have demonstrated that they have made positive efforts in order to minimize the risk of a possible contamination. Indeed, while Mr. Decembrini invokes his trust towards Dr. Porcellini in order to advocate the lack of significant fault or negligence, Dr. Porcellini refers to the reputation of the Farmacia Rivazzurra and to his *"blind trust"* towards the supervising authorities. Conversely, in case CAS 2011/A/ 2495/2496/2497/2498, it was demonstrated that both the athletes who had committed an anti-doping rule violation as well as their doctor had exercised caution and made positive efforts in order to minimize the risk of a contamination of the caffeine capsules in question. For instance, the pharmacy had been selected at the recommendation of the public official responsible for inspecting all the pharmacies in the town to ensure compliance with health regulations, who had described it as the best he had seen, the doctor of the athletes had visited the pharmacy on a number of occasions and had had conversations with the pharmacist to satisfy himself of its suitability, and on several occasions the doctor had even requested certificates from the pharmacy indicating that the caffeine used to make the capsules was pure and not contaminated.

96. Finally, as regards the remaining evidence and arguments put forward by the Parties, the Sole Arbitrator notes the following:

- The arguments of the Appellant whereby (i) throughout his career, including in 2014, he has been subject to a number of anti-doping tests, all of which showed up negative, (ii) he is an exemplary athlete who has won a number of competitions, (iii) the amount of 3' hydroxystanozolol glucuronide detected in his urine was minimal and in any case could not have improved his performance, and that (iv) if relief is denied to him in the present proceedings, this will irreversibly damage his career, are all irrelevant for the purposes of determining whether Mr. Decembrini has been negligent.

- The evidence put forward by the Respondent, showing that Mr. Decembrini failed to submit his whereabouts and missed doping tests on several occasions during recent years is irrelevant for the purposes of determining whether, in the present case, Mr. Decembrini has been negligent. The arguments put forward by the Respondent with regard to Mr. Decembrini's risk profile are also irrelevant for the purposes of determining whether, in the present case, Mr. Decembrini has been significantly negligent.

97. In light of the foregoing, the Sole Arbitrator concludes that the second limb of the twofold test under Articles 10.5.1 and 10.5.2 of the FIRS ADP is not satisfied.

6. Determination of the sanction

98. The Sole Arbitrator concludes that a two-year period of ineligibility, as established under Article 10.2 of the FIRS ADP and in the Appealed Decision, is appropriate in this case.

99. The period of ineligibility is thus September 21, 2014, until September 20, 2016.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed by Mr. Danilo Decembrini on October 28, 2014, is dismissed.

2. Mr. Danilo Decembrini is sanctioned with a period of ineligibility of two years commencing on September 21, 2014.

3. All competitive results obtained by Mr. Danilo Decembrini from September 21, 2014, up to the expiry of the period of ineligibility shall be annulled, with all resulting consequences, including forfeiture of all medals, points and prizes.

(…)

6. All further and other claims for relief are dismissed.