CAS 2019/A/6245 César Macnaught Ramírez Rodríguez v. International Tennis Federation (ITF)

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President:	Prof. Luigi **Fumagalli**, Professor and Attorney-at-law, Milan, Italy
Arbitrators:	Mr Fernando J. **Cabrera Garcia**, Attorney-at-law, Mexico City, Mexico
	His Honour James Robert **Reid** Q.C., Retired Judge, West Liss, United Kingdom
Ad hoc clerk:	Ms Stéphanie **De Dycker**, Attorney-at-law in Lausanne, Switzerland

in the arbitration between

Mr César Macnaught Ramírez Rodríguez, Mexico City, Mexico

Represented by Mr Luis Fernando Jimenez Aguayo, independent lawyer, Mr Victor Espinoza, attorney-at-law, Mexico City, Mexico, Mr Santiago Nebot Rodrigo, attorney-at-law, Valencia, Spain, and Mr Josep F. Vandellos Alamilla, independent lawyer, Spain

Appellant

and

International Tennis Federation, London, United Kingdom

Represented by Mr Jonathan Taylor, Mr Richard Bush and Ms Lauren Pagé, Attorneys-at-law, London, United Kingdom

Respondent

I. PARTIES

1. Mr César Macnaught Ramírez Rodríguez is a professional tennis player of Mexican nationality, born on 25 January 1990 (the "Appellant" or the "Athlete").

2. The International Tennis Federation ("ITF" or the "Respondent") is the international governing body for the sport of tennis, and has its headquarters in London, United Kingdom. One of the objects and purposes of the ITF is to promote the integrity of tennis and to protect the health and rights of tennis players. To these ends, the ITF, a signatory to the World Anti-Doping Code (the "WADC") established by the World Anti-Doping Agency ("WADA"), adopted the Tennis Anti-Doping Programme (the "TADP") to implement the provisions of the WADC.

II. FACTUAL BACKGROUND

3. Below is a summary of the main relevant facts and allegations based on the Parties' submissions and allegations. Additional facts and allegations 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 this Award only to the submissions and evidence it considers necessary to explain its reasoning.

A. Background of the dispute

4. The Appellant participated in the *Challenger Cuidad de Mexico 2018*, an event of the ATP Challenger Tour held from 9 to 15 April 2018 in Mexico City (the "Event").

5. On 12 April 2018, after having played a match, the Appellant was notified that he had been selected to undergo a doping control (the "ADC"). A urine sample was duly collected from him, split into A and B samples, and then sent to the WADA-accredited laboratory in Montreal for analysis.

6. On 11 May 2018, the Montreal laboratory (the *Laboratoire de contrôle du dopage INRS - Institut Armand-Frappier* – the "Laboratory") reported an Adverse Analytical Finding ("AAF"), namely that it had found in the Player's A sample metabolites of Nandrolone (19-norandrosterone), Boldenone or Boldenone-related steroids, Drostanolone and Stanozolol, prohibited substances in the category of Anabolic Agents (category S1.1 of the 2018 Prohibited List under the WADC) (the "Prohibited Substances").

7. On 14 June 2018, the ITF formally notified the Player that, on the basis of the AAF, he was charged with committing an anti-doping rule violation under the 2018 TADP (the "ADRV") and that, as a result, he was provisionally suspended from competition.

8. On 28 June 2018, the Player provided his response to the charge. In his letter, the Player requested his case to be heard by an independent tribunal of the ITF and stated the following:

"*(...) I admit the charges consisting in the commission of an Anti-Doping Rule Violation under TADP Article 2.1, on the basis that Prohibited Substances (metabolites of*

nandrolone, boldenone, drostanolone and stanozolol) were found to be present in the urine sample (...) that I provided at the ATP Challenger CDMX open, on April 12th, 2018, therefore I plead the benefit of TADP Article 10.10.3 (b).

I would like to highlight that said Anti-Doping Rule Violation was not intentional and/or, in any case, there was no significant fault or negligence on my part. Said statement is based on the fact that five weeks before the Event, I underwent a muscle infiltration procedure to mitigate an injury in the ligaments of my wrist. For that reason and in order to re-establish my health, I was prescribed with the medications that I declared in the Doping Control Form, which are the following: Diprospan y Alin.

On April 7th, 2018, I had a strange general rash form [sic] which the cause could not be determined. For that reason, I was interned at the Metropolitan Angeles Hospital.

On April 8th, 2018, I was discharged from the hospital and was prescribed, to re-establish my health, with the medications that I declared in the Doping Control Form, which are the following: Alin, Celestamine, Loratadina, Arcoxia y Celebrex.

All of the above detailed procedures and medications were duly informed to the Mexican Tennis Federation. Furthermore, I filed the procedure to obtain the corresponding TUA.

It is worth observing that said treatment and procedures were declared during the competition by/to the medical personnel of the tournament (Mr. Ramiro Aymard Tobón) as well as to the authorities of the International Tennis Federation. (...)."

9. On 10 July 2018, the ITF replied to the Player, stating:

"*We have conducted preliminary research into each of the six medications that you say you took in the lead up to the tournament (i.e. Diprosan, Alin (2x), Celestamine, Loratadina, Arcoxia and Celebrex). As far as we are aware, none of those medications contains any of the anabolic androgenic steroids that were detected in your sample (i.e. nandrolone; boldenone or boldenone-related steroids; drostanolone; and stanozolol). Nor would we expect to see such anabolic steroids used as active ingredients in therapeutic medications, given their nature. The ITF is also more than sceptical that such anabolic steroids were undeclared ingredients of the medications you list (if you maintain that they were, you will need to produce compelling evidence to that effect).*"

10. On 12 July 2018, the Laboratory reported that it had also found in the Player's B sample metabolites of each of the Prohibited Substances.

11. On 28 August 2018, the Player wrote to the ITF stating as follows:

"*We are grateful for your preliminary research into each of the six medications that were previously identified by Mr Ramirez as possible sources for the ADRV. We appreciate the ITF's points in relation to these medications and we understand that it would be unlikely to see anabolic agents as active ingredients in therapeutic medications. We therefore agree with the analysis of the ITF and conducted further investigations into the source of the ADRV. We have now identified the source of the ADRV and detail it below. For the avoidance of doubt Mr Ramirez is not asserting that the medication he was prescribed in the hospital contained undeclared substances.*

Mr Ramirez is of limited means and separate to his tennis coach, whilst training in a gym in Mexico City encountered a gym trainer, called Alvaro Gonzalez. Mr Gonzalez

is a Venezuelan national. Mr Ramirez had an injury approaching the time of the ADRV. Due to his injury Mr Ramirez was not training tennis and did not intend on playing tennis at all. Our understanding is that Mr Gonzalez does not assist with other tennis players and is a gym trainer as opposed to a tennis specific trainer. Mr Gonzalez sold Mr Ramirez the supplement detailed below.

The name of the supplement was 'Maxi Plus Suplexx' and the container contained 50 pills. Mr Ramirez took this supplement for approximately 70 days. Unfortunately, we do not have any pictures of the packaging or leaflets that came with it. The supplement was taken orally."

B. Proceedings before the Independent Tribunal under the TADP

12. On 11 September 2018, following the Player's request dated 28 June 2018 (§ 9 above), Sports Resolutions (UK) advised the Player that an independent tribunal (the "Independent Tribunal") to hear his case had been established.

13. On 16 January 2019, a hearing was held in London before the Independent Tribunal. On that occasion, the Player submitted (i) that his ADRV was not intentional, (iii) that there was no significant fault or negligence on his side, and (iii) that he had consumed a contaminated product. In such regard, the Player produced a written statement dated 10 November 2018, stating the following:

"*[...] I thought that I turned positive because of the hospital, because some days before the competition I was hospitalised at the Angeles hospital in Mexico City and they gave me a lot of drugs to treat an allergy that I had. I have never taken anything that might affect me in any anti-doping check that I have had during my career. That is why I thought it was something from the hospital.*

I met the personal trainer Alvaro at the Veracruz sports gymnasium where I went to play tennis, I have known him for approximately 6 years.

In January 2018 Alvaro offered me to work with me for my physical recovery from all the injuries that I had at that time in my knee and 2 operations on my right wrist, so that in the future I might hire him as my full fitness coach.

After a few chats about my sporting situation Alvaro recommended that I take some Maxi Plus Suplex pills of natural origin which would help me to burn off fat and have more energy and regenerate tissue, I was going to be taking two pills of this product per day.

I knew that Alvarado (sic) had changed the pills since when I gave a positive result at the tournament in Mexico City it was major news on a national level, and when he understood what he had done to my career, he decided to confess to me that he had switched the pills in the bottle of Maxi Plus Duplex (sic) pills for some that contained stanozolol.

Subsequently, approximately 15 days before the tournament where I turned up positive, he gave me three injections which were normal for me: a "vampiro" which I was accustomed to taking since I had been given these injections at my Davis Cup competitions, they contained B complex vitamins and analgesics, which Alvaro

confessed he had changed for Deca-Durabolin (nandrolone, drostanolone and boldenone).

I must stress that I had not been active in any competition for three years due to my injuries and I decided to enter the Mexico City tournament since I was in Mexico City and I used my protected ranking."

14. On 18 March 2019, the Independent Tribunal rendered its decision in this matter (the "Appealed Decision"), (i) finding that the Player had committed an ADRV under the Article 2.1 of the TADP, as a result of the presence of the metabolites of the Prohibited Substances in his urine sample collected on 12 April 2018, (ii) disqualifying the Player's results at the Event pursuant to Articles 9.1 and 9.2 of the TADP and (iii) imposing on the Player a period of ineligibility of four years, with a commencement date of 12 April 2018, to expire on 11 April 2022, pursuant to Articles 10.2.1 and 10.10.3 (b) of the TADP.

15. The essence of the Appealed Decision was as follows:

"*[...] the key issue in this case is the credibility of Mr Ramirez and Mr Lira's 'spiking' account, and that it is for Mr Ramirez to persuade the Independent Tribunal that "the occurrence of a specified circumstance is more probable than its non-occurrence. [...] The only contemporaneous evidence available [...] is the What's App messages. [...] The first message that Mr Ramirez exchanged with Mr Lira via What's App was on 26 September 2018 [...]. [...] According to both Mr Ramirez and Mr Lira, before that time there had not been any communication between them for a considerable time [...]. Mr Ramirez's evidence was that he first suspected that Mr Lira was behind the positive test after receiving the ITF's email (i.e. the email of 10 July 2018). [...] Given that Mr Ramirez had identified Mr Lira as the source of the ADRV [in his letter to the ITF dated 28 August 2018], we find it difficult to understand why Mr Ramirez would not have contacted Mr Lira [earlier]. Mr Ramirez having done so is, in any event, inconsistent with Mr Lira's evidence that it was Mr Lira who had proposed meeting up. In this context we have had regard to Mr Lira's evidence that he substituted the supplements and 'vampiro' injections with steroids in order to persuade Mr Ramirez to take him on as a personal trainer, and bolster his CV. In our view, were this to have been Mr Lira's motivation for doing so he would not simply have ceased to have contact with Mr Ramirez [...]. We also have regard to the content of the first three messages sent by Mr Ramirez [...] [and] the subsequent messages from Mr Lira [...] [as well as] the apparent gap in communications between 27 September 2018 and 5 January 2019 [...]. For all [these] reasons, we are not persuaded that it is more probable than not that Mr Lira substituted four different steroids for Maxi Plus Suplexx and vampiro injections without Mr Ramirez's knowledge. [...] Mr Ramirez has therefore failed to establish that the ADRV was not intentional. [...]*"

16. The Appealed Decision was notified to the Parties on 18 March 2019.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

17. On 8 April 2019, in accordance with Article R47 of the Code of Sports-related Arbitration, edition in force since 1 January 2019 (the "CAS Code"), the Appellant filed

a Statement of Appeal with the Court of Arbitration for Sport ("CAS") against the Respondent to challenge the Appealed Decision. In his Statement of Appeal, the Appellant requested *inter alia* that a panel composed of three arbitrators be appointed to determine his appeal.

18. On 12 April 2019, the Appellant nominated Mr Fernando J. Cabrera Garcia, attorney-at-law in Mexico City, Mexico, as an arbitrator.

19. On 15 April 2019, the CAS Court Office acknowledged receipt of the Statement of Appeal filed on 8 April 2019, invited the Appellant to file his Appeal brief and requested the Respondent to nominate an arbitrator.

20. On 17 April 2019, the Appellant informed the CAS Court Office that he was no longer represented by counsel and requested a suspension of the procedure until he had appointed his new legal team.

21. On 18 April 2019, counsel of the Respondent sent to the CAS Court Office a copy of his power of representation and expressly reserved the ITF's right to challenge the validity of the filing of the Appellant's appeal for lack of notification of the Statement of Appeal to the ITF by the Appellant on the same day (as provided by Article 12.5.1 of the TADP).

22. On 23 April 2019, in view of the parties' agreement, the CAS Court Office confirmed that the procedure was suspended until 16 May 2019.

23. On 17 May 2019, the CAS Court Office informed the Parties that the Appellant had appointed a new legal team for the purpose of this procedure and that, as a result, the procedure would resume. It therefore invited the Appellant to file his Appeal Brief and the Respondent to nominate an arbitrator.

24. On 18 May 2019, the Respondent appointed His Honour James Robert Reid Q.C., retired judge in West Liss, United Kingdom, as an arbitrator.

25. On 3 June 2019, the CAS Court Office informed the Parties that the Panel appointed to decide on the present proceedings was constituted as follows:

President:	Prof. Luigi Fumagalli, professor and attorney-at-law in Milan, Italy
Arbitrators:	Mr Fernando J. Cabrera Garcia, attorney-at-law in Mexico City, Mexico
	His Honour James Robert Reid Q.C., retired judge in West Liss, United Kingdom.

26. On 16 June 2019, the Appellant filed with the CAS Court Office his Appeal Brief dated 14 June 2019. The Appeal Brief named as witnesses himself, Mr Alvaro Lira, Dr Ramiro Eymard Tobon Rodriguez and Ms Royelina Silva Rodriguez, and had attached *inter alia* the documents submitted to the Independent Tribunal, which included a witness statement signed by the Appellant on 10 November 2018, an undated witness statement of Mr Alvaro Lira, and a witness statement of Dr Ramiro Eymard Tobon Rodriguez dated 8 August 2018. At the same time, the Appeal Brief contained a request for production of documents relating to the application of Article 10.6.3 of the TADP.

27. On 21 June 2019, the CAS Court Office acknowledged receipt of the Appeal Brief and invited the Respondent to file its Answer.

28. On 15 July 2019, the Respondent filed its Answer, together with an expert opinion dated 27 June 2019, signed by Professor Christiane Ayotte, Director of the Laboratory. In its Answer, the ITF declared that it had elected not to pursue the challenge to the validity of the Appellant's filing, which it had previously reserved (§ 21 above).

29. On 17 July 2019, the CAS Court Office invited the Parties to advise whether they wished a hearing to be held in this matter.

30. On 17 July 2019, the Appellant informed the CAS Court Office that he preferred that a hearing be held.

31. On 22 July 2019, the Respondent informed the CAS Court Office that it would prefer that the Panel issue an award based solely on the Parties' written submissions.

32. On 24 July 2019, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing in this matter and consulted the Parties with respect to the hearing date.

33. On 25 July 2019, the CAS Court Office informed the Parties that the hearing would be held on Thursday, 19 September 2019 at the CAS headquarters in Lausanne, Switzerland.

34. On 21 August 2019, the CAS Court Office issued on behalf of the President of the Panel an order of procedure (the "Order of Procedure") confirming *inter alia* the CAS jurisdiction and the hearing date, and invited the Parties to return a completed and signed copy of it.

35. On 27 August 2019, the Appellant requested the CAS Court Office that the eventual award in this matter remain confidential.

36. On 28 August 2019, the Respondent returned a signed copy of the Order of Procedure to the CAS Court Office and indicated that it did not agree that the award be kept confidential.

37. On 29 August 2019, the Appellant returned a signed copy of the Order of Procedure to the CAS Court Office.

38. On 12 September 2019, the CAS Court Office informed the Parties, further to the letter of 25 July 2019 (§ 33 above), to advise them "*that the hearing location [had] been changed to the Lausanne Palace hotel*" (underlining in the original), so that the hearing would take place on "*Wednesday, 18 September 2019 ... at Lausanne Palace Hotel ....*"

39. On 17 September 2019, the CAS Court Office noted that in a letter to the Parties of 12 September 2019 the date of 18 September 2019 had been "*erroneously indicated*" instead of the date of 19 September 2019 mentioned in the letter of 25 July 2019. It therefore confirmed that the hearing would be held on 19 September 2019 at the Lausanne Palace hotel.

40. In an email of 17 September 2019, the Appellant informed the CAS Court Office that as a result of the change of date of the hearing contained in the letter of 12 September 2019 he had bought flight tickets and made a hotel reservation on the basis of the new date, but only to discover that the date had been changed again. Such change implied additional costs and inconvenience for the Appellant and in addition meant that witnesses who had given witness statements were not available to give oral evidence either in person or by video link at the hearing. As a result, the Appellant inquired whether those extra costs would be borne by CAS.

41. On 19 September 2019, a hearing was held in Lausanne. In addition to the Panel, Mr Daniele Boccucci, Counsel to the CAS, and Ms Stéphanie De Dycker, *ad hoc* Clerk, the following persons attended the hearing:

For the Appellant:	the Appellant in person; Mr Luis Fernando Jimenez Aguayo, Mr Josep Francesc Vandellos Alamilla, counsel.
For the Respondent:	Mr Richard Bush, attorney-at-law; Mr Stuart Miller, ITF Senior Executive Director, Integrity & Development.

42. At the hearing, after opening statements by the Parties, the Panel heard evidence from the witness named by the Appellant (the Appellant himself and Mr Alvaro Lira, heard by video link) and from the expert witness presented by the Respondent (Professor Christiane Ayotte). The two other witnesses named by the Appellant in his Appeal Brief, *i.e.* Dr Royelina Silva Rodriguez and Dr Ramiro Eymard Tobon Rodriguez, were not heard at the hearing. First, with respect to the testimony of Dr Royelina Silva Rodriguez, the Panel noted that the Appellant had not filed any written statement and that he did not insist on hearing her at the hearing. The Panel in addition noted that Dr Silva's testimony related to the medications that she had prescribed to the Appellant during his admission to the hospital in Mexico shortly before the ADC, and that such medications turned out to be unrelated to the prohibited substances found in the Appellant's urine sample, which was accepted by the Appellant. The Panel also noted that the testimony of Dr Ramiro Eymard Tobon Rodriguez only concerned the confirmation of the existence of a practice of injection of "vampiros", which was accepted by the Respondent. There was thus no need to hear these two witnesses at the hearing. The Appellant and the witnesses were informed by the President of the Panel of their duty to tell the truth, subject to the sanctions of perjury under Swiss law. The Parties and the Panel had the opportunity to examine and cross-examine the Appellant and the witnesses. Each of them confirmed the written declarations already on file.

43. The testimony of the Appellant and of the witnesses can be summarised as follows:

i. the Appellant declared that he met Mr Alvaro Lira in a gym in Mexico City through a common friend. Mr Lira recommended him to take natural supplements, called Maxi Plus Suplexx, in order to recover from an injury he had suffered. As a result, he took those supplements on a regular basis from 28 January 2018 approximately, for a period of 40 to 60 days until around 2 April 2018. Shortly before the ADC, he was admitted to the hospital for a general rash and was treated with several medications. Upon receipt of the letter dated 10 July

2018 from the ITF's counsel indicating that the substances found in his body were not contained in the medications he had declared to have ingested, the Appellant started to suspect that Mr Lira had swapped the supplements he had taken with the Prohibited Substances. He therefore contacted Mr Lira, who then confessed to having replaced the Maxi Plus Supplex pills in the container with Stanozolol pills. The same happened with muscle injections commonly referred to "vampiros" that Mr Lira administered to the Appellant shortly before the Event. The "vampiros" contained Deca-Durabolin (Nandrolone, Drostanolone and Boldenone), although the Appellant was told that they contained B complex vitamins and analgesics;

ii. Mr Alvaro Lira is a personal physical trainer and a former professional football player. He helped the Appellant with his physical recovery starting from 2008. In January 2018, he purchased on behalf of the Appellant a bottle called "Maxi Plus Suplexx" at a health store called "La Bodeguita Natural" and, without informing the Appellant, swapped the pills contained in that bottle with Stanozolol pills; he recommended the Appellant to take two pills a day and rest on weekends. In addition, eighteen, fifteen and twelve days prior to the Event, Mr Lira personally administered to the Appellant three muscle injections called "vampiros", which contained, in addition to B complex vitamins, three prohibited substances, *i.e.* Nandrolone, Drostanolone and Boldenone. He did not inform the Appellant of the prohibited substances injected, which he had bought from a friend. In September 2018, after having heard from the media that the Appellant had been charged of having committed an ADRV, he contacted the Appellant and confessed to him what he had done. The reasons for his actions were that he was hoping that the Appellant hired him in his team. The Prohibited Substances, under the form of pills and injections, were given to the Appellant at a time nobody knew he would participate in the Event;

iii. Professor Christiane Ayotte explained that the results obtained for the Appellant's urine sample are not consistent with an "end of excretion", but with a recent administration (*i.e.*, administration within days, not weeks) of the Prohibited Substances. It is therefore highly unlikely that the presence of Stanozolol and all its metabolites in relatively high amount (>100 ng/mL) in the Appellant's sample could be due to oral doses stopped approximately 3 weeks before the ADC (as it had been stated by the Appellant before the Independent Tribunal) or even 10 days prior to the ADC (as stated by the Appellant at the hearing). Based on the scientific evidence available, Stanozolol could be detected for 13 days maximum. However, with an administration of approximately 40mg during 40 days, it is very unlikely that some traces of Stanozolol could still be detected 13 days after the final consumption. The results of the Appellant are not consistent either with a final consumption 8 days prior to the ADC.

44. The Parties thereafter were given a full opportunity to present their case, submit their arguments and submissions and answer the questions posed by the Panel. The Appellant was allowed to make a final statement after the conclusion of all of the evidence and submissions. At the end of the hearing, the Parties confirmed that they were satisfied with the hearing and as to their right to be heard.

IV. THE PARTIES' SUBMISSIONS

45. The following summary of the Parties' positions and submissions is illustrative only and does not necessarily comprise each and every contention put forward by the Parties. The Panel, however, has carefully considered all of the submissions made by the Parties, even if no explicit reference is made in what immediately follows.

A. The Appellant

46. The Appellant's submissions may be summarized as follows:

- The ADRV was not intentional. Based on the witness statement of Mr Lira, it has been established on a balance of probabilities that the Prohibited Substances found in the Athlete's system originated from the substances, which Mr Lira had administered to him secretly. The Appellant relied on the nutritional information on the container of the "Maxi Plus Suplexx" and did not know that he ingested Stanozolol instead of the "Maxi Plus Suplexx" pills; in addition, the Appellant was familiar with the "vampiros" and legitimately considered the injections administered to him by Mr Lira to contain only a vitamin booster, as he had been using regularly since he was 12 years old and as was recurrently administered by the Mexican Tennis Federation. The fact that, when he was hospitalised for a life-threatening situation, the Appellant did not mention to the doctors that he had been taking steroids further demonstrates that he was not aware of the presence of such substances in his body.
- The Appellant, in any case, bears no significant fault or negligence and the sanction to be imposed on him should be commensurate to his behaviour, and therefore not exceed a ineligibility period of 2 years. In fact, by being reckless in trusting Mr Lira for treatment to recover from his last surgery, at most, the Appellant assumed the risk of taking a supplement containing a non-specified substance prohibited only In-Competition during an Out-of-Competition period, at a time the Appellant had no intention to take part in any competition.
- Finally, the Panel should reduce his sanction pursuant to Article 10.6.3 of the TADP, because (i) the Athlete promptly admitted the ADRV in the letter of 28 June 2018, (ii) the offence was not serious, since his aim in taking the supplements was to speed up his recovery, (ii) and the degree of fault committed by him was not significant. As to the approval of the WADA and the ITF, the Appellant argues that the ITF never requested the approval of the WADA, preventing him from benefitting from this reduction.

47. In his Appeal Brief, the Appellant requested the Panel to decide as follows:

"*1. to declare that the present Appeal is admissible;*

2. to declare that the Appealed Decision is set aside;

3. to order that the minimum available sanction under the ADTP [sic] be imposed on the Athlete;

4. to order that ITF covers and reimburses any and all costs and expenses of the Athlete in relation to the present proceedings and be the sole responsible for any

eventual costs and legal expenses in connection with this appeal."

B. The Respondent

48. The Respondent's submissions may be summarized as follows:

- The Appellant did not prove on the balance of probabilities that his ADRV was due to spiking by Mr Lira. Based on CAS jurisprudence, spiking explanations need to be analysed very rigorously, because of the danger of collusion, especially when the spiker is not subject to anti-doping rules. The Appellant also needs to show that it is more likely than not that the concentrations of the substances found in his sample are consistent with his claimed ingestion in the amounts and at the times claimed.
- The WhatsApp messages between the Appellant and Mr Lira as from 26 September 2018, disclosed by the Appellant show several inconsistencies: (i) Mr Lira declared that he had undertaken the spiking to impress the Appellant and bolster his CV, but still he did not keep in contact with the Appellant to check on his progress; (ii) although he started to suspect Mr Lira upon receipt of ITF's email dated 10 July 2018, the Appellant only contacted Mr Lira on 26 September 2018; (iii) Mr Lira and the Appellant disagree as to who proposed to meet up in September 2018. The content and tone of the messages as well as the absence of any messages between 28 September 2018 and 5 January 2019 is also highly surprising.
- The spiking account does not explain the test results of the Appellant. Indeed, as explained by Professor Ayotte, the relatively high amounts of prohibited substances are not consistent with an ingestion of those substances stopped several days before the ADC, as it was stated by the Appellant before the Independent Tribunal, as well as at the hearing in the present matter.
- Even if the Panel were to accept the spiking claim (*quod non*), the Appellant's claim as to No Significant Fault or Negligence must be dismissed. CAS jurisprudence is very clear that, for the purpose of assessing pleas of No Significant Fault or Negligence, not only are the acts of an athlete to be considered, but also the acts and omissions of his friends, relatives, and other members of his entourage are to be taken into account. In the present matter, the Appellant clearly did not take a significant degree of "due diligence" in enlisting Mr Lira in the first place, let alone in taking his advice in relation to the use of supplements and allowing Mr Lira to inject him with anything.
- Finally, the Appellant does not qualify for a reduction for prompt admission as provided under Article 10.6.3 of the TADP. In particular, the Appellant's matter involved a serious ADRV and therefore there was never any question of any consultation with WADA as provided under Article 10.6.3 of the TADP.

49. The Respondent requested the Panel to decide as follows:

12.1.1. To dismiss in its entirety the instant appeal against the decision of the Independent Tribunal dated 18 March 2019;

12.1.2. In doing so, to confirm:

12.1.2.1 that the Player has committed an ADRV under TADP Article 2.1, as a result of the presence of the metabolites of four different steroids in his urine sample collected on 12 April 2018;

12.1.2.2 that the Player has failed to prove the source of the metabolites found in his sample, and/or has failed to provide that his violation was not 'intentional' within the meaning of TADP Article 10.2.3, and so is required to serve a period of ineligibility of four years pursuant to TADP Article 10.2.1 (a);

12.1.2.3 that the results obtained by the Player (and his doubles partner) at the Event at which his sample was taken that tested positive are to be disqualified (with all resulting consequences) pursuant to TADP Articles 9.1 and 9.2; and

12.1.2.4 that the results obtained by the Player (but not those of his doubles partner(s)) at subsequent events are to be disqualified, pursuant to TADP Article 10.8; or

12.1.3. Alternatively, if (contrary to the above) it finds hat the Player has proven the source of his positive test and that his ADRV was not 'intentional', to reject his plea of No Significant Fault or Negligence and impose a period of ineligibility of two years pursuant to TADP Article 10.2.2.

V. JURISDICTION OF THE CAS

50. The jurisdiction of CAS, which is not disputed, derives from Article 12.2.1 of the TADP, which reads as follows:

"*A decision that an Anti-Doping Rule Violation has been committed [...] may [...] be appealed by any of the following parties exclusively to CAS: (a) the Participant who is the subject of the decision being appealed; [...].*"

51. In addition, both Parties confirmed the jurisdiction of CAS by signing the Order of Procedure.

52. It follows that CAS has jurisdiction to adjudicate on and decide the present dispute.

VI. ADMISSIBILITY

53. Article 12.5.1 of the TADP provides as follows:

"The deadline for filing an appeal to CAS shall be 21 days from the date of receipt of the decision in question by the appealing party. Where the appellant is a party other than the ITF, to be a valid filing under this Article 12.5.1 a copy of the appeal must be filed on the same day with the ITF."

54. The appeal was filed within the deadline of 21 days from the date of receipt of the Appealed Decision. The appeal complied with all other requirements of Article R48 CAS Code, including the payment of the CAS Court Office fee.

55. It follows that the appeal is admissible.

VII. APPLICABLE LAW

56. Pursuant to Article R58 of the CAS Code:

"*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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.*"

57. The Panel further notes that Article 12.6.4 of the TADP provides as follows:

"*In all appeals to CAS pursuant to this Article 12, the governing law shall be English law and the appeal shall be conducted in English, unless the parties agree otherwise.*"

58. In addition, Article 1.6.1 of the TADP provides as follows:

"*The Programme shall apply in full to all cases where the alleged Anti-Doping Rule Violation occurs after the Effective Date [i.e. 1 January 2018].*"

59. The Panel therefore notes that the relevant ITF rules apply primarily, and more exactly that, since the alleged ADRV was committed on 12 April 2018, the 2018 edition of the TADP applies in the present matter. English law applies subsidiarily.

VIII. MERITS

60. The object of the present dispute is the Appealed Decision, which found the Appellant responsible for the ADRV contemplated by Article 2.1 of the TADP and, as a result, imposed on him an ineligibility period of 4 years and disqualified the results achieved by the Appellant at the Event. The Appellant challenges the Appealed Decision and submits that the violation was not intentional, and that a minimum sanction should, in this case, be applied, since he bears no significant fault or negligence, the AAF was caused by the ingestion of a contaminated supplement and he promptly admitted the violation. On the other hand, the Respondent seeks the confirmation of the Appealed Decision, because in its submission the Independent Tribunal correctly applied the relevant provisions of the TADP, and the sanction imposed on the Appellant was correctly determined.

61. As a result of the Parties' requests and submissions, there are two main issues that need to be addressed by this Panel:

A. is the Appellant responsible for the anti-doping rule violation contemplated by Article 2.1 of the TADP?

B. if so, what are the consequences of such anti-doping rule violation?

62. Before examining those main questions, there are two preliminary points that the Panel needs to deal with.

63. The first concerns the objection raised by the Appellant in a message to the CAS Court Office on 17 September 2019, and confirmed at the hearing, concerning the hearing date.

64. In that regard the Panel notes that it was clear at the simple reading of the CAS Court Office letter of 12 September 2019 that a misunderstanding might have occurred. Indeed, the indication of 19 September 2019 as the hearing date had been the object of consultations with the Parties (on the basis of a request for the Parties' availability for that day contained in a CAS Court Office letter dated 24 July 2019), had been confirmed in a letter to the Parties of 25 July 2019, and was mentioned in the Order of Procedure signed by the Parties. On the other hand, the stated purpose of the letter of 12 September 2019 was only to change the hearing venue. In addition, any confusion that such letter (subsequently rectified) might have caused could have been solved by a simple request for clarification from the CAS Court Office. Finally, the Appellant offered no evidence, apart from his own word, of any change in his actions or of any impact on the availability of his witnesses, allegedly caused by the letter of 12 September 2019. In the end, in fact, the hearing took place on the very date announced in July 2019, about which no issue had been raised. The Appellant's objection, therefore, has no merit.

65. The second point concerns the Appellant's request, as contained in the Appeal Brief, for the production of documents, relating to the application of Article 10.6.3 of the TADP and to any consultation with WADA in that regard. In this respect, the Panel notes that the Respondent stated that there was never any question of any consultation with WADA as provided under Article 10.6.3 of the TADP. As, in other words, the Respondent denied the existence of any correspondence with WADA, there was no need for the Tribunal to order the Respondent to produce documents the existence of which is denied. This was, in any event, something which would have had to be dealt with before the hearing and the Appellant did not pursue the request before the hearing or make any reference to it at the hearing.

66. On this basis, the Panel can consider each of the main issues mentioned above, separately and in sequence.

A. The ADRV

67. Under Article 2 of the TADP, an anti-doping rule violation is defined as:

"*the occurrence of one or more of the following ....:*

2.1 The presence of a Prohibited Substance or any of its Metabolites or Markers in a Player's Sample, unless the Player establishes that such presence is consistent with a TUE granted in accordance with Article 3.5.

2.1.1 It is each Player's personal duty to ensure that no Prohibited Substance enters his/her body. A Player is responsible for any Prohibited Substance or any of its Metabolites or Markers found to be present in his/her

Sample. Accordingly, it is not necessary that intent, Fault, negligence or knowing Use on the Player's part be demonstrated in order to establish an Anti-Doping Rule Violation under Article 2.1; nor is the Player's lack of intent, Fault, negligence or knowledge a defence to a charge that an Anti-Doping Rule Violation has been committed under Article 2.1. [...]".

68. None of the Parties disputes the result of the ADC, *i.e.* that the Appellant's urine sample revealed an AAF, namely that the Laboratory found in the Player's A and B samples metabolites of Nandrolone (19-norandrosterone), Boldenone or Boldenone-related steroids, Drostanolone, and Stanozolol. The fact that Nandrolone, Boldenone, Drostanolone and Stanozolol are Prohibited Substances under the TADP, in the category of Anabolic Agents (category S1.1 of the 2018 Prohibited List), is not disputed either. It is also not disputed that the Appellant could not rely on a Therapeutic Use Exemption to explain such results.

69. The Panel therefore concludes that the Appellant committed an ADRV under Article 2.1 of the TADP.

B. Sanctions

70. Having found that the Appellant is responsible for an anti-doping rule violation under the TADP, the Panel has to determine the consequences that must be drawn from such finding.

71. In this respect, the Panel notes that the rules of the TADP that have been invoked in this case, concerning intentional violations, cases of no significant fault or negligence, use of contaminated products and prompt admission read as follows:

i. Article 10.2 of the TADP ("*Imposition of a Period of Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method*"):

"*The period of Ineligibility imposed for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Participant's first anti-doping offence shall be as follows, subject to potential suspension pursuant to Article 10.6.*

10.2.1 The period of Ineligibility shall be four years where:

(a) The Anti-Doping Rule Violation involves a Prohibited Substance that is not a Specified Substance, unless the Participant establishes that the Anti-Doping Rule Violation was not intentional. [...]

10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years, subject to potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6.

10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Participants who cheat. The term, therefore, requires that the Participant engaged in conduct that he/she knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk. [...]."

ii. Article 10.5 of the TADP ("*Reduction of the Period of Ineligibility based on No Significant Fault or Negligence*"):

"*10.5.1 Reduction of Sanctions for Specified Substances or Contaminated Products for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6: [...]*

(b) Contaminated Products.

In cases where the Participant can establish No Significant Fault or Negligence and that the detected Prohibited Substance came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years Ineligibility, depending on the degree of Fault of the Participant.

10.5.2 Application of No Significant Fault or Negligence beyond the Application of Article 10.5.1:

In an individual case where Article 10.5.1 is not applicable, if a Participant establishes that he/she bears No Significant Fault or Negligence, then (subject to further reduction or elimination as provided in Article 10.6) the otherwise applicable period of Ineligibility may be reduced based on the degree of Fault of the Participant, 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 years."

iii. Article 10.6 of the TADP ("*Elimination, Reduction, or Suspension of the Period of Ineligibility or other Consequences for Reasons Other than Fault*"):

"*10.6.3 Prompt Admission of an Anti-Doping Rule Violation after being Confronted with a Violation Sanctionable under Article 10.2.1 or Article 10.3.1:*

A Participant potentially subject to a four-year sanction under Article 10.2.1 or 10.3.1 (for evading or refusing Sample Collection or Tampering with Sample Collection) may receive a reduction in the period of Ineligibility down to a minimum of two years, depending on the seriousness of the violation and the Participant's degree of Fault, by promptly admitting the asserted Anti-Doping Rule Violation after being confronted with it, upon the approval and at the discretion of WADA and the ITF."

72. In light of the Parties submission, the first question that the Panel has to determine is whether the ADRV committed by the Athlete was intentional or not. Only in the event that no intent is found, in fact, would the Panel be required to examine whether the fault or negligence of the Athlete was significant or not.

73. Based on CAS jurisprudence, in order to demonstrate that the ADRV was not intentional, an athlete must demonstrate how the substance entered his/her body, on the basis of the "balance of probability" standard (*e.g.*, CAS 2017/A/5248, para. 55; CAS

2017/A/5295, para. 105; CAS 2017/A/5335, para. 137; CAS 2017/A/5392, para. 63; CAS 2018/A/5570, para. 51).

74. The Panel has carefully reviewed the evidence produced by the Appellant in the present matter. The Panel first highlights that some of such evidence is not relevant for the present matter. Indeed, the evidence relating to the hospitalisation of the Appellant for an allergic reaction, including any declaration of Ms Rodriguez in this respect, a medical report and the photos of the Appellant at the hospital, is not relevant, because the Prohibited Substances that were found in his body are unrelated to the medications that were administered to the Appellant on this occasion.

75. Indeed, the current case put forward by the Appellant is based on the hidden actions of Mr Alvaro Lira, who, unbeknown to the Athlete, had allegedly replaced the content of a bottle of a supplement with pills of a prohibited substance, and had injected other prohibited substances in a "vampiro", which should have contained only vitamins and analgesics. The Appellant's most relevant evidence in support of his case consists in the written statement and testimony of Mr Lira, in addition to his own declarations before this Panel, as well as on the WhatsApp messages exchanged between Mr Lira and the Appellant. According to the Appellant, Mr Lira, who is a physical trainer met in a gym in Mexico City, helped him to recover from physical injuries: it is in this context that Mr Lira recommended him to take supplements – which the Appellant supposed and was told were natural – and administered him three times "vampiros" – which the Appellant supposed contained B complex vitamins and anti inflammatory substances. It is only after the ITF's email of 10 July 2018 that the Appellant started to suspect Mr Lira for spiking, a fact that Mr Lira voluntarily confessed to him in September 2018, when the Athlete got in touch with him, as proved by the WhatsApp messages.

76. In the Panel's opinion, the Appellant's evidence in support of his explanation on how the Prohibited Substances entered his body suffers several inconsistencies.

77. In particular, the Panel notes that Mr Lira declared that, after learning from the media what had happened to the Appellant, he decided to confess voluntarily to the Appellant and contacted him, whereas the WhatsApp messages produced by the Appellant himself show that it is rather the Appellant who took the initiative of meeting Mr Lira. In addition, it appears striking to the Panel that there were no contacts between the Appellant and Mr Lira until September 2018, while the Appellant declared that upon receipt of the letter of 10 July 2018 (indicating that the AAF was not the result of any medications received while hospitalized) he started to suspect Mr Lira. In addition, the absence of contacts between Mr Lira and the Appellant in the period end of September 2018 – January 2019, as well as their very content and tone, always friendly, appears striking to the Panel and to contradict the contention that in September 2018 the Appellant discovered the secret actions of Mr Lira (a possible crime under several criminal jurisdictions, exposing the Athlete to severe sporting consequences). The declarations of Mr Lira (an individual not subject to anti-doping obligations), as well as the statements of the Appellant himself, appear to the Panel to constitute a self serving *ex post* explanation of events, devoid of additional contemporary supporting evidence: the fact that the Athlete did not mention the use of prohibited substances when hospitalized is in this context meaningless and in any case insufficient to support a contrary conclusion. The Panel therefore finds that the Athlete has not discharged the

burden imposed on him to prove by balance of probability that hidden actions of Mr Lira were the source of the administration of the Prohibited Substances.

78. This conclusion is corroborated by other elements. The Panel notes in fact some inconsistencies between the declarations made by the Appellant before the Independent Tribunal and in the framework of the present appeals procedure. In particular, the Appellant declared before the Independent Tribunal that the final consumption of Stanozolol pills occurred 3 to 5 weeks before the ADC, while at the hearing before this Panel he stated that he stopped taking the pills approximately 10 days before the ADC. The Panel further notes that, based on the expert opinion of Professor Ayotte, the results obtained for the Appellant's urine sample with respect to Stanozolol reveal a recent administration (*i.e.*, administration within days, not weeks) of the Prohibited Substances. In the expert's view, the results of the Appellant are not consistent with a final consumption even 8 days prior to the ADC. As a result, the Panel doubts that the Appellant's explanation is consistent with the concentrations of the prohibited substances at the time of the ADC, also taking into account that the Appellant did not submit any contrary expert opinion.

79. Independently from the issue of the credibility of the explanation provided by the Appellant (and therefore even if the Panel were to assume that the Appellant's explanation on how the Prohibited Substances entered his body is convincing on the basis of the "balance of probability" standard), what the Panel finds particularly striking in the present matter is the manner in which the Appellant engaged with Mr Lira. Indeed, upon his decision to work with Mr Lira on his physical recovery in January 2018, the Appellant took the "Maxi Plus Suplexx" pills and the three "vampiros" that were given to him by Mr Lira, without checking Mr Lira's background and experience and/or his actions. Mr Lira is a former football player, but has no professional experience or specific background in training high-level athletes; he does not assist with other tennis players and is a gym trainer as opposed to a tennis specific trainer. In this context, the Panel is of the view that the Appellant should indeed have been more careful when engaging in his relationship with Mr Lira. For instance, he could have refused to take any drugs, he could have required to buy the supplements himself directly from the shop or could have required a sealed container from Mr Lira. The same applies to the three intramuscular injections called "vampiros" that Mr Lira administered to the Appellant. The Appellant could have shown more care in accepting that Mr Lira administer such injections, especially by checking their content. As was shown by the written statement of Dr Rodriguez, the Appellant was familiar with the intramuscular injections called "vampiros" and therefore knew, or should have known based on his experience, that these injections can contain different substances. Despite his experience, the Appellant still did not check Mr Lira's actions in order to avoid taking a significant risk of spiking. As a result, the Panel is of the view that by engaging with Mr Lira, and especially taking supplements and intramuscular injections administered by Mr Lira, the Appellant intentionally took a significant risk that his conduct might constitute or result in an ADRV.

80. The Panel therefore concludes that the ADRV is intentional. The contrary submissions of the Appellant that the violation was not intentional and that was caused by the ingestion of a contaminated supplement or that he bore no significant fault or negligence are to be dismissed. In fact, the finding that the Appellant committed an intentional

ADRV excludes any reduction of the sanction based on no significant fault or negligence or any other fault-related ground (see for instance: CAS 2012/A/2763, para. 9.2; CAS 2006/A/1025, para. 11.2.5).

81. As a result, the Appealed Decision which found an intentional violation has to be confirmed.

82. The Panel finds that also the sanction imposed the Appealed Decision has to be confirmed. The Appellant in fact has not established any reason to depart from the mandatory sanction of 4 years of ineligibility, starting from 12 April 2018.

83. In that regard, the Appellant requested a reduction of the sanction on the basis of Article 10.6.3 of the TADP, namely a prompt admission contained in the letter of 28 June 2018. The Panel notes that such reduction cannot be applied.

84. Under that rule, in fact, even admitting, without conceding, (i) that the Athlete promptly admitted the asserted ADRV after being confronted with it, (ii) that ITF omitted without justification to consult WADA, (iii) that the discretion of WADA and ITF is not without limit (*i.e.*, that the approval of a reduction cannot be arbitrarily denied), and that (iv) a CAS Panel can substitute its discretion for the discretion of WADA and ITF, still (v) this Panel finds it not proper to reduce the 4 year ineligibility imposed, taking into account "*the seriousness of the violation and the Participant's degree of Fault*". The violation in fact is extremely serious, as it involved the use of a plurality of Prohibited Substances; and the Appellant, after admitting the ADRV, disputed to a large extent the consequences arising therefrom, advancing contentions that appeared to the Panel to amount to convenient and less than credible *post-factum* explanations of an intentional violation.

85. As to the disqualifications triggered by the commission of an ADRV, the Panel notes that pursuant Article 9 of the TADP:

> *9.1 An Anti-Doping Rule Violation committed by a Player in connection with or arising out of an In-Competition test automatically leads to Disqualification of the results obtained by the Player in the Competition in question, with all resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money obtained by the Player in that Competition. In addition, further results obtained by the Player in the same or subsequent Events may be Disqualified, in accordance with Article 10.1 (same Event) and/or Article 10.8 (subsequent Events). [...]*
>
> *9.2.1 Where results obtained by a Player in a doubles Competition are Disqualified pursuant to Article 9.1 because of that Player's Anti-Doping Rule Violation in connection with or arising out of that doubles Competition, the result of the Player's doubles partner in that Competition shall also be Disqualified, with all resulting consequences, including forfeiture of all medals, titles, ranking points and Prize Money.*

86. As a result, the Panel notes that the Appellant's results, and that of his doubles partner, from the Event are disqualified pursuant to Articles 9.1 and 9.2.1 of the TADP.

87. Moreover, the Panel notes that Article 10.8 of the TADP states as follows:

In addition to the automatic Disqualification, pursuant to Article 9, of the results in the Competition that produced the Adverse Analytical Finding (if any), all other competitive results of the Player obtained from the date the Sample in question was collected (whether In-Competition or Out-of-Competition) or other Anti-Doping Rule Violation occurred through to the start of any Provisional Suspension or Ineligibility period shall be Disqualified (with all of the resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money), unless the Independent Tribunal determines that fairness requires otherwise.

88. The Panel finds that, pursuant to Article 10.8 of the TADP, the Appellant's results shall be disqualified between 12 April 2018 and 18 March 2019, with all resulting consequences including the forfeiture of any titles, awards, medals, points, prize and appearance money, though it appears that as the Appellant was inactive over that period there is in the present case nothing to forfeit.

89. In conclusion, the appeal brought by the Appellant has to be dismissed in its entirety. The Appealed Decision is to be confirmed.

IX. COSTS

90. The Panel observes that Article R65 of the CAS Code provides the following:

"R65.1 This Article R65 applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body. [...]

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 CAS.

Upon submission of the statement of appeal, the Appellant shall pay a non-refundable Court Office fee of Swiss francs 1,000.– without which CAS shall not proceed and the appeal shall be deemed withdrawn. [...]

R65.3 Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties.

R65.4 If the circumstances so warrant, including whether the federation which has rendered the challenged decision is not a signatory to the Agreement constituting ICAS, the President of the Appeals Arbitration Division may apply Article R64 to an appeals arbitration, either ex officio or upon request of the President of the Panel."

91. Since the present appeal is lodged against a decision of an exclusively disciplinary nature rendered by an international federation, no costs are payable to CAS by the Parties beyond the Court Office fee of CHF 1,000 paid by the Appellant with the filing of his Statement of Appeal, which is in any event retained by CAS.

92. Furthermore, pursuant to Article R65.3 of the CAS Code, having taken into account the outcome of the arbitration, the conduct of the Parties in the arbitration, and the respective financial resources, the Panel decides that a contribution in the amount of CHF 5,000 towards the Respondent's legal fees and other expenses incurred in connection with the present proceedings shall be awarded.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr César Macnaught Ramírez Rodríguez on 8 April 2019 against the decision rendered by the Independent Tribunal of Sports Resolutions on 18 March 2019 is dismissed.

2. The decision rendered by the Independent Tribunal of Sports Resolutions (UK) on 18 March 2019 is confirmed.

3. The award is pronounced without costs, except for the Court Office fee of CHF 1,000 (one thousand Swiss Francs) paid by the Appellant, which is retained by the Court of Arbitration for Sport.

4. Mr César Macnaught Ramírez Rodríguez shall pay to the International Tennis Federation a contribution in the amount of CHF 5,000 (five thousand Swiss Francs) to its legal fees and expenses incurred in connection with the present proceedings.

5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 23 January 2020

THE COURT OF ARBITRATION FOR SPORT

Luigi Fumagalli
President of the Panel

Fernando J. Cabrera Garcia
Arbitrator

James Robert Reid
Arbitrator

Stéphanie De Dycker
Ad hoc Clerk