

**UCI Anti-Doping Tribunal**

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**Judgment**

**case ADT 03.2020**

**UCI v. Domingos Gonçalves**

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**Single Judge:**

**Ms. Emily Wisnosky (United States)**

**Aigle, 28 January 2021**

## **I. INTRODUCTION**

1. The UCI Anti-Doping Tribunal (“the Tribunal”) issues the present Judgment in application of the UCI Anti-Doping Tribunal Procedural Rules (the “ADT Rules”) in order to decide whether Mr Domingos Gonçalves (the “Rider”) violated the UCI Anti-Doping Rules (the “UCI ADR”) as asserted by the UCI (collectively with the Rider, the “Parties”).

## **II. FACTUAL BACKGROUND**

2. The following is a summary of the main relevant facts established based on the submissions of the Parties, provided to give an overview of the matter in dispute. Additional facts are set out where relevant in the legal discussion that follows. While the Single Judge has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, the Judgment refers only to the submissions and evidence she considers necessary to explain her reasoning.

### **A. The Parties**

3. The UCI is the association of national cycling federations and is a non-governmental international association with a non-profit-making purpose of international interest, having legal personality pursuant to art 60 ff. Swiss Civil Code according to arts. 1.1 and 1.2 of the UCI Constitution.
4. The Rider at the time of the alleged anti-doping rule violation, i.e. in the years 2015 through 2019, was a professional road cyclist, affiliated with the Portuguese Cycling Federation (“PCF”). The Rider started his professional career in 2012 with the UCI Team Onda. In 2016, he joined the UCI Professional Continental Team Caja Rural – Seguros RGA. In 2017 and 2018, he was under contract with the UCI Continental Team Radio Popular – Boavista. In 2019, the Rider returned the UCI Professional Continental Team Caja Rural – Seguros RGA.
5. Hence, he was a License-Holder within the meaning of the UCI ADR.

### **B. The ABP**

6. The Rider was part of the UCI’s Athlete Biological Passport (the “ABP”) Program. The ABP Program is based on the longitudinal monitoring of an athlete’s haematological values and is designed to be an “indirect” method of doping detection. It focuses on the effect of prohibited substances and methods on the athlete’s blood values rather than on the identification of a specific substance or method in an athlete’s specimen. The ABP Program is administered and managed by an Athlete Passport Management Unit (“APMU”).
7. An Athlete’s ABP is monitored by the Adaptive Model. The Adaptive Model is a mathematical model designed to identify unusual longitudinal results in an athlete’s ABP or profiles that warrant further investigation (an “Atypical Passport Finding,” or “ATPF”). It predicts for an individual an expected range within which a series of marker values falls assuming a normal physiological condition.
8. The Adaptive Model produces an ATPF when either a primary marker is outside an athlete’s intra-individual range or a longitudinal profile of a primary marker’s values (sequence deviations) fall outside expected ranges. Outliers correspond to those values outside of the 99%-range, from a lower limit corresponding to the 0.5th percentile to an upper limit corresponding to the 99.5th percentile (1:100 chance or less that this result is due to normal physiological variation). A specificity of 99% is used to identify hematological ATPFs. In the case of sequence deviations (sequence ATPFs), the applied specificity is 99.9% (1:1000 chance or less that this is due to

normal physiological variation). The OFF-score value is a haematological marker which is a combination of HGB and the percentage of reticulocytes (RET%).

9. If an athlete's ABP is flagged as atypical through the Adaptive Model, the Athlete's ABP is submitted to an initial expert review.
10. In the initial expert review, an expert conducts a review based on the ABP and other basic information (e.g. competition schedules), without knowing the identity of the Athlete. The expert weighs the likelihood that the ABP is the result of the Use of a Prohibited Substance or Prohibited Method against the likelihood that the ABP is the result of a normal physiological or pathological condition in order to provide one of the following opinions: "Normal", "Suspicious", "Likely doping" or "Likely medical condition."
11. If the Expert in the initial review reaches the conclusion that the ABP represents "likely doping", then the ABP is referred to an Expert Panel, consisting of the initial Expert joined by two additional experts. If the Expert Panel unanimously agrees that the ABP suggests "likely doping", then an Adverse Passport Finding ("APF") is declared.
12. At this stage, the Athlete is notified of the APF, provided with the ABP Documentation Package and joint Expert Report, and invited to provide their own explanation. Once the APMU receives an Athlete's explanations (and any further information), it will then reassess the ABP and state whether it confirms its initial position and the procedure moves into the results management stage.

### C. The alleged anti-doping rule violation

13. The UCI alleges that the Rider committed a violation of Art. 2.2 of the UCI ADR based on abnormalities detected in the haematological values contained in the Rider's ABP.
14. The following table summarizes the key parameters reported in the Rider's ABP:

No.	Sample Code	Date of Collection	Type	HGB	RET%	OFF-score	HCT	RET#	Altitude
1	107575	28 July 2015	IN	14.9	0.75	97.04	43.7	0.0328	NA
2	107676	05 August 2015	IN	14	0.76	87.69	41	0.0306	2000m
3	176697	4 January 2016*	OUT	16.1	1.47	88.25	48.3	0.072	NA
4	894849	9 March 2016	IN	16.3	1.6	87.1	48.5	0.0781	NA
5	182599	14 April 2016	OUT	16	1.48	87.01	46.9	0.0706	2300m
6	168996	10 October 2016	OUT	16.1	1.59	85.34	46.8	0.0752	NA
7	199217	14 February 2017	OUT	15.2	1.37	81.77	45.9	0.0626	Yes
8	238086	8 August 2017	OUT	14.8	0.55	103.5	44.8	0.0246	2200m
9	350182	15 March 2018	OUT	14.9	1.16	84.4	43.7	0.051	NA
10	398357	11 July 2018	OUT	14.5	2.17	56.6	41	0.0892	2320m
11	239288	4 August 2018	IN	15.9	0.55	114.5	46.6	0.0251	2350m
12	260150	5 August 2018	IN	16.1	0.47	119.9	47	0.0216	2350m
13	239551	11 August 2018	IN	16.4	0.48	122.4	48.1	0.0228	2350m
14	629984	26 September 2018	IN	16.5	0.95	106.52	47.2	0.0464	2900m
15	607336	1 February 2019	OUT	15.2	0.87	96.04	45.8	0.04	NA

\* Information originating from ADAMS

15. As indicated by the highlighted rows, above, Samples 8, 10, 11, 12, and 13 were flagged by the Adaptive Model for abnormalities, each at a 99% specificity:

- a. Sample 8 was flagged for lower limit reticulocytes;
  - b. Sample 10 was flagged for higher limit reticulocytes and lower limit OFF-score; and
  - c. Samples 11, 12 and 13 were flagged for lower limit of reticulocytes and higher limit OFF-score.
16. The Rider's ABP was submitted to an Expert Panel, consisting of Giuseppe d'Onofrio, Jakob Mørkeberg, and Laura Garvican-Lewis for independent evaluation.
17. The Expert Panel conducted a review of the Rider's ABP, competition schedule, and altitude profile. In a joint expert opinion dated 22 August 2019 ("Expert Opinion #1") set forth their unanimous opinion on the Rider's haematological profile, as follows (emphasis added):

*"Quality of hematological laboratory results*

*All samples were scrutinized for their analytical details outlined in LDPs or CA. During this process, sample 6 was revalidated since the Blood Stability Score (BSS) was calculated as 68, and therefore within the WADA ABP guidelines. In the available documentation, there is no indication that any analytical or pre-analytical issues might have influenced the results in a way that would explain the abnormalities in the profile or alter the analytical data to the disadvantage of the athlete. The observation and hematological assessment of instrument reports and internal quality control data confirms absence of pre-analytical interferences and good analytical performance.*

*Quantitative Analysis*

*The profile consists of 15 valid samples, obtained between July 2015 and February 2019. In the automated analysis by the adaptive model, which determines whether fluctuations in the biomarkers of the Athlete Biological Passport are within the expected individual reference ranges for an athlete or not, several previous samples have been flagged as atypical due to breaches of the upper or lower limit of intra-individual reference ranges, specifically:*

- *Sample 8: Low percentage of reticulocytes (%ret) exceeding the lower reference limit at 99.0% specificity;*
- *Sample 10: High %ret and low OFF score exceeding the upper and lower reference limit, respectively at 99.0% specificity;*
- *Samples 11, 12 and 13: Low %ret and high OFF score exceeding the lower and upper reference limit at 99.0 specificity, respectively.*

*Hematological evaluation*

*The hematologic assessment of the blood parameters in this passport reveals a number of highly aberrant patterns, characteristic of blood manipulation. Early in the profile, samples 3-5 display an elevated hemoglobin concentration (Hb) in tandem with elevated %ret indicating bone marrow stimulation during a period with competitions (sample 4 was collected in-competition (INC) at the "Tirreno-Adriatico" stage race).*

*A suspicious sequence of results is then observed in samples 10 to 14, collected in summer 2018, before and during the Volta a Portugal (1-12th August 2018). Here, sample 10 was collected in July, during a month without competitions, and after 8 days of altitude training at 2300 m above sea level. Sample 10 displays a Hb value in the low-normal range for the Athlete, (14.5 g/dL) but highly elevated %ret (2.17%), which exceed the upper 99.0% specificity level. Whilst increased reticulocytes are typically observed in response to altitude exposure, the*

response appears extreme relative to the altitude dose [1]. Samples 11, 12 and 13 were obtained “in competition” after the 4th stage, 5th stage and on the penultimate day of racing, respectively. Here, Hb is elevated, increasing during the tour, in direct contrast to the physiological decrease of Hb due to exercise-related hemodilution. This phenomenon is a universal finding during stage racing, where plasma volume expansion is observed in most riders [2-4]. In tandem, the %ret is suppressed in samples 11-13 which indicates suppressed bone marrow activity. Therefore, this combination of high Hb in tandem with low %ret indicates a supraphysiological Hbmass, and gives rise to three consecutive high OFF scores, which exceed the upper 99.0% specificity level. Such a stimulation-suppression pattern as observed in samples 10-14, is typical of the administration of an erythropoiesis-stimulating agents e.g. EPO and/or autologous blood transfusions. In addition, sample 8, also obtained during the Volta a Portugal in 2017 displays a similar picture (low %ret and increased OFF score).

According to the elevation profile provided, as well as information declared on the doping control form (DCF), the athlete conducted 23 days of altitude training at 2300 m during July 2018, returning to sea level on 26th July 2018. Thus, altitude exposure ceased 9 and 10 days before samples 11 and 12 were collected and 16 days prior to sample 13. Therefore, whilst some suppression of reticulocyte production may be observed upon removal of the altitude stimulus, the magnitude of change observed here is three times greater than expected [5, 6]. Lastly, the continuous increase in Hb in samples 11-13 after removal of the altitude stimulus, contrasts the normal response, where Hb decreases after descending [1].

Considering these facts and the information available to date, and in particular the hematologic picture observed in Samples 10 to 13, it is our unanimous opinion that, in the absence of an explanation, the likelihood of the abnormalities described above being due to blood manipulation, namely the artificial increase of red cell mass using erythropoiesis stimulating agents and/or blood transfusions in connection with major events in 2018, is very high. On the contrary, the likelihood of environmental factors or a medical condition causing the described pattern is very low.

We therefore conclude that it is highly likely that a prohibited substance or prohibited method has been used and that it is unlikely that the passport is the result of any other cause.” (emphasis added)

18. On 28 August 2019, the APMU issued an Adverse Passport Finding Report, on the basis that the Expert Panel “considering the information within the Passport at this stage, it is likely that a Prohibited Substance or Prohibited Method had been used, and highly unlikely that it is the result of any other cause.”
19. On 18 September 2019, the UCI informed the Rider of the APF and provided him with Expert Opinion #1 and the relevant documentation. The UCI further invited the Rider to submit an explanation for the abnormalities detected in his ABP.
20. On 2 October 2019, the Rider sent the following explanation for the abnormal findings to the UCI:

*“As a right of reply referring to my hematological profile I spend most of my time training at high altitudes, feeding me, supplementing me training in a natural and healthy way. I claim that I **have never used any prohibited substances**, as a prove also all my urine analysis don’t show any reaction for prohibited*

*substances and concluding I haven't explanation for how my analysis reacted on the samples obtained."*

21. On 11 November 2019, the Expert Panel issued a new report in response to the Rider's explanations ("Expert Opinion #2"), emphasis added:

*"We refer to our report dated 22.8.2019 for the abnormalities observed in the profile. In brief, the key abnormality was a pattern of unphysiological erythropoietic stimulation in samples 3, 4 (in-competition) and 5, and in a very abnormal sequence of samples showing a clear pattern of erythropoietic stimulation in sample 10, followed by a marked and persistent hemoglobin (HB) increase, with reticulocyte suppression and high OFF score in samples 11 to 13, respectively collected before and during the 2018 Tour of Portugal. Such changes represent a clear blood doping scenario, in striking contrasts with the expected HB decrease which is universally observed during cycling stage races as the consequence of hemodilution (i.e. increased liquid plasma fraction of blood, causing a relative decrease of HB).*

*In his letter, the Athlete concludes that he hasn't explanations for the anomalies in his ABP. He also hints at training at high altitudes, food and supplements. He does not mention any specific supplement, - thus making any consideration from our side on this topic impossible -, although we can anticipate, on scientific basis, that none of the known legal supplements, such as iron and vitamins, is capable of inducing similar hematological variations. We know from the DCFs and whereabouts information that the Athlete had resided for several weeks at altitude during the month of July 2017 and July 2018. We have already considered all the possible effects of such hypoxic exposure in our Joint Expert Report [Expert Report #1], in which we have provided the detailed scientific bases for our opinion that such exposure is not sufficient to explain the serious abnormalities of the Athlete's ABP in August 2018. We thus refer to page 2 of our Joint Expert Report as far as this point is concerned. In addition, altitude stays are not recorded in the first six months of the year 2016, when a clear pattern of exogenous erythropoietic stimulation is visible in samples 3, 4 and 5.*

*In summary, we confirm the opinion expressed in our Joint Expert Report that it is highly likely that a prohibited substance or prohibited method has been used and that it is unlikely that the passport is the result of any other cause."*  
(emphasis added)

22. On the same day, the Expert Panel, in response to the UCI's inquiry as to "when the athlete used a Prohibited Substance and/or Prohibited Method" the Expert Panel replied:

*"It is our opinion that there is evidence of blood manipulation in this passport BP56HHW5 from sample 3 to sample 5 in 2016, and in samples 10 to 13 in 2018."*  
(emphasis added)

23. On 12 December 2019, the UCI sent the Rider a letter that *inter alia*:

- informed the Rider of the Expert Panel's conclusions and provided him with the relevant documentation;
- asserted that the Rider committed a violation of Art. 2.2 of the UCI ADR, for the Use of a Prohibited Method and/or Prohibited Substance;
- provisionally suspended the Rider with immediate effect;

- offered the Rider an Acceptance of Consequences, including: (i) A four-year period of Ineligibility, starting on the date of Expert Opinion #1 (i.e. 22 August 2019); (ii) Disqualification of all results between the collection of Sample 3 (4 January 2016) until the collection of sample 6 (10 October 2016) and from the collection of Sample 9 (15 March 2018) until the Vuelta a Portugal (inclusive); (iii) a fine of [REDACTED]; and (iv) Reimbursement of the costs for results management (CHF 2,500); and the costs of the documentation packages of the samples analysed for the Rider's ABP (CHF 3,792); and
  - offered the Rider the opportunity to provide Substantial Assistance.
24. On 20 December 2019, the Rider submitted a list of questions to the UCI as to the relevant process, as well as the exact allegations and potential consequences. On 6 January 2020, the UCI replied to the Rider's questions.
25. On 9 January 2020, the Rider requested an extension from the UCI to reply to the UCI's proposed Acceptance of Consequences (to 24 January 2020), which the UCI granted on 10 January 2020.
26. On 31 January 2020, the Rider submitted the following reply, along with analytical results that the Rider had received from a non-WADA-accredited laboratory in June and July 2018:

*"I am really disappointed with this situation, because:*

*- Firstly, I disagree with the opinion of the experts regarding my biological passport.*

*- My financial situation does not allow me to resort to this process as it should.*

*- In addition to what I already declared, having been at altitude, I have analyzes done in a laboratory in the same periods and that are not the same as the controls made.*

*-I believe there may be some mistake or that these samples were violated or poorly maintained.*

*This is my point of view and not least, I declare to be in a critical financial situation, and I cannot denounce myself as much less to pay for a penalty that does not fit me.*

*Attached I send you an analysis made in 2018 and to the side you find the values of the 2 previous analyzes made. Normally after the controls I have done analyzes in the same laboratory. And they vary a lot in relation to the controls.*

*I wonder how we can end this process in this way?"*

27. On 6 February 2020, the UCI sent an email noting that the Rider alleged that he was unable to cover the contemplated costs and requesting the Rider to provide further elaboration on the Rider's current financial situation and further supporting evidence in support.
28. On 13 February, the UCI sent the Rider a reminder to submit the information on his financial situation requested by the UCI and providing the Rider with the following additional report from the ABP panel in response to the Rider's 31 January 2020 communication ("Expert Opinion #3"), including the laboratory results, as follows:

*"We refer to our reports dated 22.8.2019 and 11.11.2019 for the description of the Athlete's Passport abnormalities and, respectively, for our evaluation of the first Athlete's justifications.*

*In his new email, the Athlete claims to believe that, since his private test results are 'not the same as the controls made', the Passport results (arguably obtained*

in July and August 2018) could depend on ‘some mistake’ or on sample violation or bad storage.

*In our opinion, such statements are not based on any factual evidence. As indicated in our previous reports, Laboratory Documentation Packages for all the relevant Passport samples do not show any significant departure from good pre-analytical (including storage) or analytical requirements.*

*On the other hand, private sample results cannot be taken into account in the context of the Athlete Biological Passport, because they have not been obtained in WADA accredited laboratories, under the stringent preanalytical and analytical conditions that WADA Technical Documents prescribe for all ABP samples to guarantee valid and comparable results. In addition, such tests were likely carried out on dates and at times which were known in advance to the Athlete, which contradicts the normal principles within anti-doping testing. It must also be considered that it is not guaranteed that the athlete provided all available results but might have selectively chosen suitable tests and omitted others. Thus we will abstain from any specific comment on the Athlete’s private tests, except for noting that they would not add any decisive element for the evaluation of the main Passport anomalies, which lie in the hematological variation during the stage race in August 2018.*

*We therefore confirm the opinion expressed in our Joint Expert Report that it is highly likely that a prohibited substance or prohibited and that it is unlikely that the passport is the result of any other cause.”*

29. On 3 March 2020, the UCI offered the Rider a final deadline of 6 March to respond to the UCI’s Acceptance of Consequences offer. The Rider did not respond.
30. On 11 June 2020, the UCI referred the Rider’s case to the Tribunal by petition (the “UCI Petition”).
31. In the UCI Petition, the UCI requested the following relief:
  - *“Declaring that Mr. Domingos Gonçalves has committed an Anti-Doping Rule Violation.*
  - *Imposing on Mr. Domingos Gonçalves a period of ineligibility of 4 years starting on the date of notification of the Tribunal’s decision.*
  - *Holding that the period of provisional suspension served by Mr. Domingos Gonçalves since 12 December 2019 shall be credited against the period of ineligibility imposed by the Tribunal.*
  - *Disqualifying all the results obtained by Mr. Domingos Gonçalves from the date of collection of Sample 3 (i.e. 4 January 2016) until the day he was provisionally suspended (i.e. 12 December 2019).*
  - *Ordering Mr. Domingos Gonçalves to pay a Fine of [REDACTED]*
  - *Ordering Mr. Domingos Gonçalves to pay the costs of results management by the UCI (CHF 2’500.-) and the costs incurred for the documentation packages of the blood samples analysed for the Athlete Biological Passport (CHF 3’792.).”*

### **III. PROCEDURE BEFORE THE TRIBUNAL**

32. In compliance with art. 13.1 of the ADT Rules the UCI initiated proceedings before the Tribunal through the filing of a petition to the Secretariat on 11 June 2020. Before referring the case to



the Tribunal, the UCI offered the Rider an Acceptance of Consequences within the meaning of art. 8.4 of the UCI ADR and art. 2 of the ADT Rules by letter dated 12 December 2019.

33. On 15 June 2020, the Secretariat of the Tribunal appointed Ms. Emily Wisnosky to act as Single Judge in the present proceedings in application of art. 14.1 of the ADT Rules.
34. On 16 June 2020, the Tribunal informed the Rider that in application of art. 14 of the ADT Rules, the UCI initiated a disciplinary proceeding before the Tribunal and that the Single Judge set a deadline of 3 July 2020 to submit his answer in conformity with art. 18 of the ADT Rules.
35. On 2 July 2020, the Rider submitted his response:

*As a right of reply referring I repeat that I don't have explanation for how my blood reacted on the samples obtained.*

*At least without real prove against me and in my defense, I believe that I don't have passed enough irregular controls to be accused, with the accusation in 2016 until 2019 is 4 years of my work cancelled and more 4 years in suspension, totalize 8 years of a punishment without sufficient evidence.*

*In important addiction I have to inform to this tribunal that I don't have savings, no money and no job to pay the costs of this procedure and the fine. How you can note that I have no money enough to pay a good lawyer to defend myself adequately.*

*With nothing more to declare.*

*I await your final answer.*

36. On 9 July 2020, the Single Judge granted the Rider an additional deadline of 7 days, i.e. until 16 July to submit evidence in support of his financial situation (for example, bank statements, employment contracts, record of expenses, etc).
37. On 16 July 2020, the Rider submitted an extract from a bank account with a balance of ██████████, stating “[t]hat's all money that I have to live now.” In addition, the bank statement showed the banking activity for this account from 1 June 2020 to 30 June 2020, with no credits and only debits.
38. On 21 July 2020, the Single Judge granted the UCI until 28 July to submit any observations. None were submitted.
39. On 23 July, the Rider submitted further evidence to the Tribunal that consisted of several blood test results from non-WADA accredited laboratories in the time period from 2012 to 2019 and a request that the Tribunal admit the test results as evidence:

*In view of the circumstances of my current situation, I also send you an attachment of analyzes prior to the biological passport that prove that my values have always been high since the basic categories of cycling.*

*I don't know if you can include these analyzes in time as evidence, I would like them to be considered of this process.*

40. On 30 July 2020, the Single Judge granted the UCI seven days to submit comments on the new evidence the Rider sent to the Tribunal.
41. On 6 August, the UCI submitted its comments:

- While the submitted new elements are belated, the UCI would leave the question of the admissibility of this new evidence to the discretion of the Tribunal;
- Irrespective of the admissibility of the new evidence, *“private tests conducted in [a] non-WADA accredited Laboratory are irrelevant and should be disregarded”*;
- The issue of admitting private samples was discussed and dismissed in a previous case by the Tribunal (UCI ADT 07.2019):

*“The two tests submitted by the Rider (before and after the taking of Sample 6) cannot contradict the doping scenario either. There is no evidence on file that the two blood sample analysis results were provided by the Rider. In addition, the laboratory report was drawn up by Farabi Pathobiology Lab. The latter is not a WADA-accredited laboratory. Thus, it is completely unknown which standards were applied by this laboratory and whether or not results were obtained under comparable conditions as the other samples in the Rider’s ABP”*; and

- The UCI maintains that the Rider has committed an anti-doping rule violation (art. 2.2 of the UCI ADR).

42. On 12 August 2020, the Single Judge communicated to the parties her decision to admit the Rider’s newly submitted evidence and to bring the proceedings to a close and render her decision based on the parties’ written submissions.

#### **IV. JURISDICTION OF THE TRIBUNAL**

43. The jurisdiction of the Tribunal follows from art. 8.2 and 3.1 of the ADT rules, according to which *“the Tribunal shall have jurisdiction over all matters in which an anti-doping rule violation is asserted by the UCI based on a results management or investigation process under Article 7 ADR.”*

44. Furthermore, art. 3.2 of the ADT Rules provides the following: *“Any objection to the jurisdiction of the Tribunal shall be brought to the Tribunal’s attention within 7 days upon notification of the initiation of the proceedings. If no objection is filed within this time limit, the Parties are deemed to have accepted the Tribunal’s jurisdiction.”*

45. Neither party objected to the jurisdiction of the Tribunal during the present proceedings.

46. For the sake of completeness, the Tribunal notes that its jurisdiction is in any case consistent with the applicable provisions of the UCI ADR.

47. Part C of the Introduction of the UCI ADR addresses its scope of application, as follows:

*“These Anti-Doping Rules shall apply to the UCI and to each of its National Federations. They shall also apply to the following Riders, Rider Support Personnel and other Persons: a) any License-Holder, ....”*

48. The Rider was affiliated to the PCF and held a UCI license in in the years 2015 through 2019 and is thus a License-Holder within the meaning of the UCI ADR and bound by the UCI ADR.

49. Art. 8.2 of the UCI ADR provides as follows:

*“The UCI Anti-Doping Tribunal shall have jurisdiction over all matters in which*

- *An anti-doping rule violation is asserted by the UCI based on a results management or investigation process under Article 7....”*

50. In this case, the UCI asserted the anti-doping rule violation following a results management/investigation process under art. 7 of the UCI ADR, and thus it follows that the Tribunal has jurisdiction in this matter.

## **V. APPLICABLE RULES**

51. Art. 25 of the ADT Rules provide that *“the Single Judge shall apply the [UCI] ADR and the standards referenced therein as well as the UCI Constitution, the UCI Regulations and, subsidiarily, Swiss law.”*

52. All relevant Samples were collected between 28 July 2015 and 1 February 2019.

53. Art. 25.1 of the UCI ADR provides that effective date of the 2015 edition of the UCI ADR is 1 January 2015. Since all relevant events occurred after this date, the Tribunal shall apply the 2015 edition of the UCI ADR.

54. As to the other *“standards referenced therein”* mentioned in art. 25 of the ADT Rules, the Tribunal notes that Part E of the Introduction of the UCI ADR provides as follows:

*“Under the World Anti-Doping Program, WADA may release various types of documents, including (a) International Standards and related Technical Documents, and (b) Guidelines and Models of Best Practices.*

*The UCI may, consistent with its responsibilities under the Code, choose to (a) directly incorporate some of these documents by reference into these Anti-Doping Rules, and/or (b) adopt Regulations implementing all or certain aspects of these documents for the sport of cycling.*

*Compliance with an International Standard incorporated in these Anti-Doping Rules or with UCI Regulations (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the International Standard or UCI Regulations were performed properly.*

*All documents binding upon Riders or other Persons subject to these Anti-Doping Rules are made available on the UCI Website, in their version effective and as amended from time to time.”*

55. The Tribunal also notes that art. 7.5 of the UCI ADR provides as follows:

*“Review of Atypical Passport Findings and Adverse Passport Findings shall take place as provided in the UCI Testing & Investigations Regulations, the International Standard for Laboratories, WADA Athlete Biological Passport Operating Guidelines and respectively related Technical Documents ....”*

56. Accordingly, in addition to the UCI ADR, the Tribunal will take into consideration the UCI Testing & Investigation Regulations, the International Standard for Laboratories, WADA Athlete Biological Passport Operating Guidelines (“ABP Guidelines”), and the related Technical Documents to the extent relevant or necessary. Of relevance, version 6.0 (January 2017) of the ABP Guidelines applies to Sample 8 and version 6.1 (July 2018) to Samples 10 through 13.

## VI. THE FINDINGS OF THE TRIBUNAL

57. The main issues for the Tribunal to decide are whether the UCI has successfully established that the Rider committed a violation of art. 2.2 of the UCI ADR (A.), and if so, to decide upon the Consequences of such anti-doping rule violation (B.)

### A. Anti-doping rule violation

58. As set forth below, upon consideration of the submissions of the Parties, and all evidence and arguments before it, the Single Judge is comfortably satisfied that abnormalities do exist in the Rider's haematological profile that were caused by the Rider's Use of a Prohibited Substance or Prohibited Method, thus the Rider committed a violation of art. 2.2 of the UCI ADR.

#### 1. Legal framework

59. The UCI submits that the Rider has committed a violation of art. 2.2 of the UCI ADR, which provides as follows:

#### **"2.2 Use or Attempted Use by a Rider of a Prohibited Substance or a Prohibited Method**

*2.2.1 It is each Rider's personal duty to ensure that no Prohibited Substance enters his or her body and that no Prohibited Method is Used. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Rider's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.*

*2.2.2 The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.*

*[Comment to Article 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2, unlike the proof required to establish an anti-doping rule violation under Article 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Rider, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Rider Biological Passport, or other analytical which does not otherwise satisfy all the requirements to establish 'Presence' of a Prohibited Substance under Article 2.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample ) or from the analysis of a B Sample alone where the Anti-Doping Organization provides a satisfactory explanation for the lack of confirmation in the other Sample.]*

*[Comment to Article 2.2.2: Demonstrating the 'Attempted Use' of a Prohibited Substance or a Prohibited Method requires proof of intent on the Rider's part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the Strict Liability principle established for violations of Article 2.1 and violations of Article 2.2 in respect of Use of a Prohibited Substance or Prohibited Method. A Rider's 'Use' of a Prohibited Substance constitutes an anti-doping rule violation unless such substance is not prohibited Out-of-Competition and the Rider's Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance*

*or its Metabolites or Markers in a Sample collected In-Competition is a violation of Article 2.1 regardless of when that substance might have been administered)].”*

60. As to the burden and standard of proof, art. 3.1 of the UCI ADR reads as follows:

*“The UCI shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the UCI has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the Rider 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. ....”*

61. As to the methods of establishing facts and presumptions, art. 3.2 of the UCI ADR provides:

*“Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:*

*[Comment to Article 3.2: For example, the UCI may establish an anti-doping rule violation under Article 2.2 based on the Rider’s admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the Rider’s blood or urine Samples, such as data from the Athlete Biological Passport.]*

*3.2.1 Analytical methods or decision limits approved by WADA after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any Rider or other Person seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge.*

*CAS on its own initiative may also inform WADA of any such challenge. At WADA’s request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within 10 days of WADA’s receipt of such notice, and WADA’s receipt of the CAS file, WADA shall also have the right to intervene as a party, appear amicus curiae, or otherwise provide evidence in such proceeding.*

*3.2.2 WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Rider or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding.*

*If the Rider or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.*

*[Comment to Article 3.2.2: The burden is on the Rider or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. If the Rider or other Person does so, the burden shifts to the UCI to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]*

*3.2.3 Departures from any other rule set forth in these Anti-Doping Rules, or any International Standard or UCI Regulation incorporated in these Anti-Doping Rules which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such evidence or results. If the Rider or other Person establishes a departure from any other rule set forth in these Anti-Doping Rules, or any International Standard or UCI Regulation incorporated in these Anti-Doping Rules which could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding or other anti-doping rule violation, then the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation.”*

62. Thus, the burden of proof to establish that the Rider committed a violation of art. 2.2 of the UCI ADR rests with the UCI. The standard of proof, according to art. 3.2 of the UCI ADR is *“comfortable satisfaction, bearing in mind the seriousness of the allegation... . This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.”*

63. As per the ABP Guidelines, versions 6.0 and 6.1, the following describes the standard needed for an APMU to reach a conclusion of “Likely Doping”:

*“Considering the information within the Athlete’s Passport, it is likely that the Passport is the result [of] the Use of a Prohibited Substance or Prohibited Method and it is highly unlikely that it may be the result of a normal physiological or pathological condition.”*

2. Is the ABP a reliable means to establish an anti-doping rule violation?

64. In the Single Judge’s understanding, the Rider suggested that the ABP is an inadequate means to establish an anti-doping rule violation when he alleged that the UCI lacked *“real prove [sic]”* against him and that he did not believe that there had not been *“enough irregular controls to be accused.”*

65. According to the UCI, the ABP is a reliable means of evidence, a notion it draws directly from art. 3.2 of the UCI ADR that provides *“[f]acts related to anti-doping rule violations may be established by any reliable means”*, and more precisely, the Comment to art. 3.2 of the UCI ADR that includes among the examples of reliable means *“conclusions drawn from the profile of a series of the Rider’s blood or urine Samples, such as data from the Athlete Biological Passport.”*

66. In addition, the UCI underscored that this Tribunal’s decisions,<sup>1</sup> in addition to numerous CAS awards recognise the ABP as a reliable means to establish an ADRV:

*[T]he Panel notes that the ABP profile has been validated in a long line of CAS cases (see inter alia: CAS 2010/A/2174; TAS 2010/A/2178; CAS 2010/A/2308 & 2335; CAS 2012/A/2773; as well as CAS 2010/A/2235) as a reliable means to detect blood*

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<sup>1</sup> See, e.g., ADT 06.2017 UCI v. Correia Diniz, Judgment of 13 September 2017, para. 54.

*doping, even in the absence of positive tests, through the identification of abnormal values calling for an explanation by the athlete in question.*<sup>2</sup>

67. Taking into account the above, the Single Judge accepts that the ABP may serve as a reliable means of evidence to establish an anti-doping rule violation. This remains true even though it is also accepted that the ABP operates to indirectly detect the Use of a Prohibited Substance or Prohibited Method.

3. Establishing an anti-doping rule violation based on the ABP

68. To establish an anti-doping rule violation based on a longitudinal haematological profile, the members of the expert panel must reach the conclusion that the abnormalities observed in an ABP are linked to doping, and not to other causes.
69. The relevant applicable rules and guidelines provide further insight into the level of certainty the Expert Panel should reach as to the likelihood that an ABP is caused by doping or by any other cause. Sections L.5 and L.6 of the WADA ABP Guidelines (versions 6.0 and 6.1, which were in force at the time of the collection of Samples 8 through 13) instruct the Expert Panel that reporting an Adverse Passport Finding requires the Expert Panel to take the position *“that it is likely that a Prohibited Substance or Prohibited Method had been used, and highly unlikely that it is the result of any other cause.”*
70. This is also reflected in CAS case law, which has emphasized *“a pitfall to be avoided [in the context of the ABP] is the fallacy that if the probability of observing the values that assume a normal or pathological condition is low, then the probability of doping is automatically high.”*<sup>3</sup> Concretely this has been said in legal literature to mean that *“if the ADO is not able to produce a 'doping scenario' with a minimum degree of credibility ('density'), the abnormality is simply unexplained, the burden of proof enters into play and the ADO's case must be dismissed since there is no evidence pleading in favour of the hypothesis of 'doping' any more than for another cause.”*<sup>4</sup>
71. As this Tribunal previously stated, in reviewing the available expert reports and other evidence, the Single Judge agrees that, *“[a]t the end of the day, it is for the Single Judge to decide, if the UCI has fulfilled its burden of proving, to the comfortable satisfaction of the Single Judge, that the Rider has committed a violation of the anti-doping rules.”*<sup>5</sup>
72. Thus, as set forth above, it is not enough to establish that abnormalities exist in the Rider's haematological profile (4.); the Single Judge must also evaluate whether the cause of the abnormalities was the Use of a Prohibited Substance or Prohibited Method (5.).

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<sup>2</sup> CAS 2015/A/4006, IAAF v. Zaripova, Award of 25 April 2016, para. 103.v. See also, CAS 2016/O/4481, IAAF v. Savinova-Farnosova, Award of 10 February 2017, para. 133; CAS 2016/O/4464, IAAF v. Sharmina, Award of 29 November 2016, para. 148-149; CAS 2016/O/4463, IAAF v. Ugarova, Award of 29 November 2016, para. 90-91; CAS 2016/O/4469, IAAF v. Chernova, Award of 29 November 2016, para. 137.

<sup>3</sup> CAS 2016/O/4464, IAAF v. Sharmina, para 150, *referencing* M. Viret, Evidence in Anti-Doping at the Intersection of Science and Law, T.M.C. Asser Press, 2016, p. 763.

<sup>4</sup> M. Viret, Evidence in Anti-Doping at the Intersection of Science and Law, T.M.C. Asser Press, 2016, p. 774.

<sup>5</sup> UCI ADT 07.2019, UCI v. Sohrabi, para. 55.

4. Were there abnormalities in the Rider's ABP?

73. As set forward by the UCI, the Single Judge must be comfortably satisfied that the UCI has established an ADRV by reliable means. In the context of the ABP, this means that the Single Judge must be comfortably satisfied that the Expert Panel's unanimous conclusion is correct.

74. Samples 8, 10, 11, 12, and 13 were flagged by the Adaptive Model for abnormalities at a 99% specificity, in line with the applicable ABP Guidelines. This finding was corroborated by the Expert Panel in their Expert Opinions. In Expert Opinion #1, the experts stated that:

*"[S]everal previous samples have been flagged as atypical due to breaches of the upper or lower limit of intra-individual reference ranges, specifically:*

- *Sample 8: Low percentage of reticulocytes (%ret) exceeding the lower reference limit at 99.0% specificity;*
- *Sample 10: High %ret and low OFF score exceeding the upper and lower reference limit, respectively at 99.0% specificity;*
- *Samples 11, 12 and 13: Low %ret and high OFF score exceeding the lower and upper reference limit at 99.0 specificity, respectively.*

75. In addition, the ABP in the Rider's case is based on the Expert Panel's evaluation of 15 valid samples, the documentation for which was included as evidence in the UCI's submissions. As reported by the Expert Panel, the Rider's passport *"reveals a number of highly aberrant patterns."* First, Samples 3 through 5 *"display an elevated haemoglobin concentration (Hb) in tandem with elevated %ret indicating bone marrow stimulation during a period with competitions."* Second, the Expert Panel observed a *"suspicious sequence of results in Samples 10 through 14."* Sample 10 displays a low-normal Hb value, but with a *"highly elevated ret (2.17%), which exceed the upper 99.0% specificity level."* In Samples 11 through 13, the *"combination of high Hb in tandem with low %ret indicates a supraphysiological Hbmass, and gives rise to three consecutive high OFF scores."*

76. In his second set of explanations, the Rider suggested that these abnormalities may be explained by *"some mistake or that these samples were violated or poorly maintained."* As noted by the UCI, the Rider did not, however, refer to any article of the ISL or other relevant regulations that could support his position. For the UCI this means that the Rider's claim is a long way away from establishing a departure from the ISL (or other relevant regulations) that could have reasonably caused these abnormalities. In addition, the Expert Panel confirmed on at least two occasions its opinion that the Samples were not mishandled, once in Expert Opinion #1 (*"In the available documentation, there is no indication that any analytical or pre-analytical issues might have influenced the results in a way that would explain the abnormalities in the profile or alter the analytical data to the disadvantage of the athlete. The observation and hematological assessment of instrument 35 reports and internal quality control data confirms absence of pre-analytical interferences and good analytical performance."*) and again in Expert Opinion #3 (*"In our opinion, such statements are not based on any factual evidence. As indicated in our previous reports, Laboratory Documentation Packages for all the relevant Passport samples do not show any significant departure from good pre-analytical (including storage) or analytical requirements."*). The Rider, by contrast, did not provide any proof of his claims. Considering the above, the Single Judge dismisses this argument.

77. In sum, after examining the documentation on record with respect to the various Samples, the Single Judge is comfortably satisfied that the Expert Panel Opinions in this respect are credible and correct and thus finds that important abnormalities did exist in the Rider's haematological profile.



5. Were the abnormalities caused by the Use of a Prohibited Substance or Prohibited Method?

78. As set forth above, it is not enough that abnormalities existed, the abnormalities must be linked to the Use of a Prohibited Substance or Prohibited Method.

79. The Expert Panel reached the conclusion that that the likelihood that the abnormalities seen in the Rider's ABP in connection with the "major events in 2018" were due to blood manipulation as "very high", whereas the "likelihood of environmental factors or a medical condition causing the described pattern is very low." In addition, the Expert Panel observed a "number of highly aberrant patterns, characteristic of blood manipulation", as set forth in Expert Opinion #1:

- Samples 3 to 5 showed a "an elevated hemoglobin concentration (Hb) in tandem with elevated %ret indicating bone marrow stimulation during a period with competitions (sample 4 was collected in-competition (INC) at the "Tirreno-Adriatico" stage race";
- Samples 10 to 14 (with Samples 11-13 taken during the Volta a Portugal em Bicicleta Santander) present a "suspicious sequence of results", particularly relevant, the Expert Panel observed that "Hb is elevated, increasing during the tour, in direct contrast to the physiological decrease of Hb due to exercise-related hemodilution. This phenomenon is a universal finding during stage racing, where plasma volume expansion is observed in most riders" further noting that "a stimulation-suppression pattern as observed in samples 10-14, is typical of the administration of an erythropoiesis-stimulating agents e.g. EPO and/or autologous blood transfusions." Sample 8, which was taken during the 2017 edition of the Volta a Portugal, "displays a similar picture (low %ret and increased OFF score)."

80. The Expert Panel confirmed the above in Expert Opinion #2:

- It emphasized that Samples 3 to 5 displayed a "pattern of unphysiological erythropoietic stimulation";
- It also recalled that the Rider's ABP displayed a "a very abnormal sequence of samples showing a clear pattern of erythropoietic stimulation in sample 10, followed by a marked and persistent hemoglobin (HB) increase, with reticulocyte suppression and high OFF score in samples 11 to 13, respectively collected before and during the 2018 Tour of Portugal."; and
- Finally, it concluded that "[s]uch changes represent a clear blood doping scenario, in striking contrasts with the expected HB decrease which is universally observed during cycling stage races as the consequence of hemodilution (i.e. increased liquid plasma fraction of blood, causing a relative decrease of HB)."

81. Moreover, in a further communication, the Expert Panel, in response to the UCI's inquiry as to the timing of the Rider's Use of a Prohibited Substance, "[i]t is our opinion that there is evidence of blood manipulation in this passport BP56HHW5 from sample 3 to sample 5 in 2016, and in samples 10 to 13 in 2018."

82. The explanations provided by the Rider did not undermine the Expert Panel's assessment. Rather, after assessing the Rider's initial explanations, the Expert Panel concluded that "we confirm the opinion expressed in our Joint Expert." (Expert Opinion #2).

83. More specifically, in his initial explanations, the Rider pointed to his training at high altitude, underscoring that he supplements his training in a "natural and healthy way" and that he has never used any prohibited substances. For proof of this, he highlighted the fact that his urine analyses have never revealed the presence of prohibited substances, at the same time

acknowledging that he did not have an “*explanation for how my analysis reacted on the samples obtained.*” In addition, he submitted several blood analysis results conducted at non-WADA-accredited laboratories. The Rider also disagreed with the Expert Panel’s evaluation, noting also that the Rider believed that he did not have the financial means to adequately defend himself.

84. As to the possibility that altitude may play a role in the abnormalities observed in the Rider’s passport, the Expert Panel was not convinced.

85. Indeed, it rejected the possibility the value in Sample 10 was due to the Rider’s stay at altitude: “[w]hilst increased reticulocytes are typically observed in response to altitude exposure, the response appears extreme relative to the altitude dose [1].” (Expert Opinion #1).

86. With respect to Samples 11, 12, & 13, the Expert Panel further explained the following:

*“According to the elevation profile provided, as well as information declared on the doping control form (DCF), the athlete conducted 23 days of altitude training at 2300 m during July 2018, returning to sea level on 26th July 2018. Thus, altitude exposure ceased 9 and 10 days before samples 11 and 12 were collected and 16 days prior to sample 13. Therefore, whilst some suppression of reticulocyte production may be observed upon removal of the altitude stimulus, the magnitude of change observed here is three times greater than expected [5, 6]. Lastly, the continuous increase in Hb in samples 11-13 after removal of the altitude stimulus, contrasts the normal response, where Hb decreases after descending [1].”* (Expert Opinion #1)

87. The Expert Panel reinforced the above in Expert Opinion #2:

*We know from the DCFs and whereabouts information that the Athlete had resided for several weeks at altitude during the month of July 2017 and July 2018. We have already considered all the possible effects of such hypoxic exposure in our Joint Expert Report [Expert Report #1], in which we have provided the detailed scientific bases for our opinion that such exposure is not sufficient to explain the serious abnormalities of the Athlete’s ABP in August 2018. We thus refer to page 2 of our Joint Expert Report as far as this point is concerned. In addition, altitude stays are not recorded in the first six months of the year 2016, when a clear pattern of exogenous erythropoietic stimulation is visible in samples 3, 4 and 5.*

88. In light of the Expert Panel’s assessment of the values, the Single Judge rejects the Rider’s abnormalities may be able to be explained by stays at high altitude.

89. The Rider also referred to supplement use in the explanations that he provided. For the UCI, the prospect of supplement use explaining the abnormalities in the Rider’s ABP could be rejected outright, since “[s]uch claim was not developed – let alone substantiated – further and was not accompanied by any scientific literature or support. Indeed, the Rider did not even specify the food and supplements he consumed.” Nor did the mention of this possibility sway the Expert Panel’s thinking, as is evident in its consideration of the Rider’s explanations:

*“In his letter, the Athlete concludes that he hasn’t explanations for the anomalies in his ABP. He also hints at training at high altitudes, food and supplements. He does not mention any specific supplement, - thus making any consideration from our side on this topic impossible -, although we can anticipate, on scientific basis, that none of the known legal supplements, such as iron and vitamins, is capable of inducing similar hematological variations.”*

90. The Single Judge agrees that the possibility of supplement use does not call into question the assessment of the Expert Panel in this case.
91. The Single Judge also acknowledges that the Rider denied the allegations that he used a Prohibited Substance or Method and “disagreed” with the Expert Panel’s assessment. However, as noted by this Tribunal, “a simple denial without any supporting evidence should be afforded at most limited evidentiary weight.”<sup>6</sup> The Rider also pointed to the fact that his urine analysis did not reveal the presence of any Prohibited Substances. For the UCI, the urine samples that the Rider referred to are “by no means evidence that the Rider did not use prohibited substances. Indeed, as already mentioned...the ABP program was established and put in place in direct response to athletes developing methods to avoid testing positive in urine and/or blood doping control tests. It is therefore not surprising that urine samples collected around the same time as the ABP Samples could be negative.” The Single Judge concurs, the presence of negative urine samples does not contradict the abnormalities observed in the Rider’s passport, nor does it mean that the Rider did not use Prohibited Substances and/or Prohibited Methods, the Use of both of which may be detected indirectly by the ABP.
92. Finally, the Rider submitted numerous independent blood analyses (by non-WADA accredited laboratories), providing the following explanation along with the second set of blood analyses submitted:

*“Attached I send you an analysis made in 2018 and to the side you find the values of the 2 previous analyzes made. Normally after the controls I have done analyzes in the same laboratory. And they vary a lot in relation to the controls.*

*In view of the circumstances of my current situation, I also send you an attachment of analyzes prior to the biological passport that prove that my values have always been high since the basic categories of cycling.”*

93. As to the first three analysis reports that the Rider submitted, the UCI took the position that the tests were “private tests” that were not performed by a WADA-Accredited Laboratory, and that there was no evidence on file that these three blood tests were provided by the Rider and no indication as to the standards that were applied by the laboratory that analysed the samples. As to the second batch of analysis reports the Rider submitted, the UCI reiterated that for reasons it previously provided, “private tests conducted in [a] non-WADA accredited [l]aboratory are irrelevant and should be disregarded.” It further provided in support the following passage from a previous case decided by the UCI Tribunal:

*“The two tests submitted by the Rider (before and after the taking of Sam[p]le 6) cannot contradict the doping scenario either. There is no evidence on file that the two blood sample analysis results were provided by the Rider. In addition, the laboratory report was drawn up by Farai Pathobiology Lab. The latter is not a WADA-accredited laboratory. Thus, it is completely unknown which standards were applied by this laboratory and whether or not the results were obtained under comparable conditions as the other samples in the Rider’s ABP.”*

94. In addition, as to the first three samples submitted, the Expert Panel in Expert Opinion #3 shared this opinion, confirming again its assessment of the Rider’s ABP:

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<sup>6</sup> ADT 03.2017, UCI v. Moreira Lacerda, para. 105; ADT 02.2016, UCI v. Taborre, Judgment of 25 May 2016, para. 85; ADT 04.2016, UCI v. Oyarzun, Judgment of 16 September 2016, para. 68.

<sup>7</sup> UCI ADT 07.2019, UCI v. Sohrabi, para. 62.

*“On the other hand, private sample results cannot be taken into account in the context of the Athlete Biological Passport, because they have not been obtained in WADA accredited laboratories, under the stringent preanalytical and analytical conditions that WADA Technical Documents prescribe for all ABP samples to guarantee valid and comparable results. In addition, such tests were likely carried out on dates and at times which were known in advance to the Athlete, which contradicts the normal principles within anti-doping testing. It must also be considered that it is not guaranteed that the athlete provided all available results but might have selectively chosen suitable tests and omitted others. Thus we will abstain from any specific comment on the Athlete’s private tests, except for noting that they would not add any decisive element for the evaluation of the main Passport anomalies, which lie in the hematological variation during the stage race in August 2018.*

*We therefore confirm the opinion expressed in our Joint Expert Report that it is highly likely that a prohibited substance or prohibited and that it is unlikely that the passport is the result of any other cause.”*

95. Finally, as submitted by the UCI, the Court of Arbitration for Sport (the “CAS”) has also weighed in on a similar situation:

*“The Panel finds that only samples collected for anti-doping purposes from the Athlete and that comply with the respective protocols should be included in the ABP in order to ensure that the data is reliable and reflects the true profile of an athlete. Only standardized sample-taking and quality control ensure fair and comparable testing results, needed to establish a level playing field and to ensure the equal treatment of all athletes. Thus, the Panel is not prepared to include private tests results whose origins and conditions in which they were taken are unknown and undocumented.”<sup>8</sup>*

96. For the reasons stated above, the Single Judge agrees that none of the private analysis results submitted by the Rider can affect the otherwise valid and reliable analysis of the Rider’s ABP.

97. On balance, and in consideration of all the Parties’ submissions, arguments and evidence, the Single Judge finds the Expert Panel’s opinions and conclusions to be well-founded and logical and is comfortably satisfied that the Rider committed a violation of art. 2.2 of the UCI ADR. This conclusion is based in particular on the following:

- Five Samples (i.e. Samples 8, 10, 11, 12, and 13) were flagged by the Adaptive Model for abnormalities at a 99% specificity;
- The “*highly aberrant*” patterns observed in the ABP that are “*characteristic*” of blood manipulation, in particular during competition periods, for example:
  - In Samples 3 to 5, the elevated haemoglobin concentration together with the elevated %ret indicated bone marrow stimulation during a period with competitions; and
  - The “*clear doping scenario*” that the Expert Panel observed in Samples 11 to 13 were collected before and during a competition period, and in particular, the “*marked and persistent haemoglobin (HB) increase*” in contrast to the

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<sup>8</sup> CAS 2017/A/5045, Farnosova v. IAAF, Award of 27 July 2018, para. 91.

*“expected HB decrease which is universally observed during cycling stage races”*; and

- Sample 8, an In-Competition Sample, is consistent with the stimulation-suppression pattern observed in Samples 10 to 14, which according to the Expert Panel is *“typical of the administration of an erythropoiesis-stimulating agent.”*
  - Certain values in the Rider’s ABP were too *“extreme”* to be explained by the Rider’s stays at high altitude;
  - Not only is the doping scenario observed and described by the Expert Panel credible, no other alternative scenario was presented or considered by the Expert Panel other than doping that could explain the abnormalities observed;
  - Indeed, the Expert Panel considered the *“likelihood of the abnormalities described above being due to blood manipulation... in connection with major events in 2018”* as *“very high,”* whereas *“the likelihood of environmental factors or a medical condition causing the described pattern is very low”*;
  - The Adverse Passport Finding report confirmed that the Expert Panel assessed the Rider’s ABP as follows: *“considering the information within the Passport at this stage, it is likely that a Prohibited Substance or Prohibited Method had been used, and highly unlikely that it is the result of any other cause,”* in line with the standard set forth in the ABP Guidelines and ISTI applicable at the time of the collection of Samples 8, 10, 11, 12, & 13; and
  - The Rider’s explanation for the abnormalities did not affect the Expert Panel’s assessment.
98. In conclusion, the Single Judge is comfortably satisfied that the Rider committed an ADRV according to art. 2.2 of the UCI ADR for the Use of a Prohibited Substance or Prohibited Method.

#### **B. Consequences of the anti-doping rule violation**

99. Comfortably satisfied that the Rider committed an anti-doping rule violation, the Single Judge turns to the Consequences of the violation.
1. Period of Ineligibility
100. The starting point of the period of Ineligibility is art. 10.2, which specifically refers to violations of art. 2.2 of the UCI ADR.

*“The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6:*

*10.2.1 The period of Ineligibility shall be four years where:*

*10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Rider or other Person can establish 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.*

*10.2.3 As used in Articles 10.2 and 10.3, the term ‘intentional’ is meant to identify those Riders who cheat. The term therefore requires that the Rider or other Person engaged in conduct which he or 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. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not intentional if the substance is a Specified Substance and the Rider can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered intentional if the substance is not a Specified Substance and the Rider can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.”*

101. As for the relevant possibilities to reduce the period of Ineligibility based on Fault, the of the UCI ADR provides as follows:

**“10.4 Elimination of the Period of Ineligibility where there is No Fault or Negligence**

*If a Rider or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.*

...

**10.5 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence**

...

**10.5.2** *Application of No Significant Fault or Negligence beyond the Application of Article 10.5.1 If a Rider or other Person establishes in an individual case where Article 10.5.1 is not applicable that he or 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 Rider or other Person’s degree of Fault, 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.”*

102. The UCI submits that a four-year period of Ineligibility applies to the Rider. The Rider did not make any submissions specifically addressing the length of the period of Ineligibility, except to say that the UCI lacks sufficient proof to result in *“4 years of my work cancelled and more 4 years in suspension, totalize 8 years of a punishment without sufficient evidence.”*

103. Since blood manipulation by Use of a Prohibited Substance or Prohibited Method is not a “Specified Substance” according to art. 4.2.2 of the UCI ADR, art. 10.2.1.1 of the UCI ADR applies. Art. 10.2.1.1. of the UCI ADR provides that a reduction of this four-year period of Ineligibility may be granted only if the Rider is able to establish that the violation was not intentional. The standard of proof placed on the Rider in this regard is a balance of probability (art. 3.1 of the UCI ADR).

104. In the UCI’s view, the Rider *“has not provided any indication as to how his ADRV may have occurred. In addition, he has not put forward – nor do there appear to exist – any exceptional*

*circumstances that could somehow establish a lack of intent without first proving the source of the substance or the method used.”*

105. The Single Judge agrees that the Rider has not submitted evidence to establish that the violation was not intentional. Since the Rider was unable to establish that the violation was not intentional, the Single Judge need not consider whether any of the Fault-related reductions set forth in arts 10.4 and 10.5 of the UCI ADR apply. For the sake of thoroughness, the Single Judge notes that no submissions were made that the non-Fault related reductions in art. 10.6 UCI should apply.
106. Accordingly, the Single Judge holds that the period of Ineligibility of four years shall be imposed on the Rider.

## 2. Commencement of the period of Ineligibility

107. In relation to the commencement of the period of Ineligibility art. 10.11 of the UCI ADR provides as follows:

*“Except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed. [...]*

*10.11.3.1 If a Provisional Suspension is imposed and respected by the Rider or other Person, then the Rider or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Rider or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal. ....”*

108. Accordingly, as a rule the period of Ineligibility shall start on the date of the final decision providing for Ineligibility, with credit given for the period of the Provisional Suspension provided that the Provisional Suspension was respected by the Rider. UCI submitted that since the Rider has, as far as it is aware, respected the terms of the Provisional Suspension, the time served since it was imposed on 12 December 2019 should be credited against the Rider’s period of Ineligibility. The Single Judge agrees.
109. In application of art. 10.11 of the UCI ADR, the Single Judge holds that the commencement date of the Rider’s period of Ineligibility shall correspond to the date of the present decision, i.e. 28 January 2021. Since art. 10.11.3.1 of the UCI ADR allows the Rider to receive credit for any Provisional Suspension that was imposed if he respected the Provisional Suspension, the Rider shall receive credit for his Provisional Suspension served since it was imposed on 12 December 2019.

## 3. Disqualification

110. As for the automatic Disqualification of results, art. 9 of the UCI ADR provides as follows:

*“An anti-doping rule violation in connection with an In-Competition test automatically leads to Disqualification of the result obtained in that Competition with all resulting Consequences, including forfeiture of any medals, points and prizes.”*

111. Art. 10.8 of the UCI ADR provides as follows:

*“In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Rider obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes.”*

112. The general rule of art. 9 of the UCI ADR leads to Disqualification of results in connection with an In-Competition test only. The general rule of art. 10.8 of the UCI ADR requires Disqualification of all competitive results following *“the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred.”*

113. The UCI requests the Tribunal to Disqualify all the Rider’s competitive results from when Sample 3 was collected on 4 January 2016 until the date he was provisionally suspended on 12 December 2019. In support for this, the UCI states that *“according to the Expert Panel, the Rider committed the ADRV prior to the collection of Sample 3.”*

114. The Single Judge recalls and agrees with the following view expressed previously by this Tribunal:

*“[A]rt. 10(8) ADR provides an unfortunate lack of clarity in the situation involving a violation based on an ABP. The Single Judge has been unable to find a definition of a “positive Sample” in the ADR; the term appears to be used exclusively in connection with art. 10(8) ADR. The Single Judge sees fit to understand the reference to a “positive Sample” in the phrase “the date a positive Sample was collected” (as opposed to a more precise defined term such as “Adverse Analytical Finding”) here as a means to create a rule that distinguishes between violations based on collected Samples from other types of violations, such as art. 2(4) ADR (Whereabouts Failure) or art. 2(10) ADR (Prohibited Association), or even violations of art. 2(2) ADR that are based on non-analytical evidence. As a consequence, for violations that arise based on collected Samples, such as those based on an ABP, the Disqualification period would start on the date of Sample collection. The Single Judge feels comforted in this view by the consistent line of CAS case law that, in the context of the Disqualification for ABP violations, links the timing of the violation to the timing of the relevant Sample collection.”<sup>9</sup>*

115. The Single Judge must therefore determine the “timing” of the anti-doping rule violation, i.e. which of the Rider’s 15 Samples in his ABP should be considered the first “positive” Sample.

116. While the UCI submits that the Expert Panel *“committed the ADRV prior to the collection of Sample 3”*, the Single Judge does not view this conclusion as adequately supported by the evidence on file. Rather, the Single Judge takes the view that Sample 10 should be considered as the first “positive Sample” for the following main reasons:

- The Expert Panel stated in Expert Opinion #1 that its conclusions surrounding the likelihood of doping were drawn based on *“in particular the hematologic picture observed in Samples*

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<sup>9</sup> See e.g. CAS 2010/A/2235, UCI v. Valjavec, Award of 21 April 2011, para. 116; CAS 2014/A/3614, IAAF v. Dominguez, Award of 19 November 2015, para. 404; CAS 2016/O/4463, IAAF v. Ugarova, para. 133; UCI ADT 02.2018; UCI v. Roson Garcia, Judgment of 15 February 2019, para 158; UCI ADT 03.2017, UCI v. Moreira Lacerda, para. 132; UCI ADT 06.2017, UCI v. Correia Diniz, para 104; UCI ADT 07.2019, UCI v. Sohrabi, para. 77.



10 to 13” and explicitly linking its conclusion to the “*major events in 2018*”, i.e. the time period during which Samples 10 to 13 were collected;

- The Single Judge acknowledges that the Expert Panel did take the view that there was “*evidence of blood manipulation in this passport...from sample 3 to sample 5 in 2016*” and observed a “*pattern of unphysiological erythropoietic stimulation*” in Samples 3 to 5, which it labelled as a “*key abnormality*”, it did not provide an assessment of whether the “*evidence*” was compelling or sufficient. In other words, a mere reference to the existence of “*evidence*” is not enough for a hearing panel be comfortably satisfied that an ADRV occurred, nor did the other content of the Expert Panel’s assessment provide sufficient comfort of the same with respect to Samples 3 to 5, especially in light of the seriousness of the violation for which the Rider is being accused;
- The Single Judge notes that Sample 8 was flagged by the Adaptive Model as Atypical and the Expert Panel did observe that Sample 8 “*displays a similar picture*” to the pattern observed in Samples 10 to 14. Nevertheless, as stated above, the Expert Panel did not reference this Sample 8 in its overall assessment of the evidence, even leaving it out entirely when responding to the UCI’s question as to when in its view, the Rider Used a Prohibited Substance and/or a Prohibited Method; and
- The Adverse Passport Finding report does not state specifically on which Samples the overall conclusion of likely doping is based.

117. Therefore, the Single Judge sees it appropriate to start the period of Disqualification on the date of the collection of Sample 10, i.e. 11 July 2018, which corresponds to the second Sample flagged by the Adaptive Model as “Atypical.”

118. Art. 10.8 of the UCI ADR requires Disqualification of all results following this date up to the date the Provisional Suspension was imposed, unless “*fairness requires otherwise.*” The UCI submits that fairness does not require otherwise, in consideration of the nature of the anti-doping rule violation, i.e. “*blood manipulation over several years.*” In particular, it asked that the Rider’s results be Disqualified up through the date of the Provisional Suspension, i.e. 12 December 2019. The Rider did not specifically make a submission on this point, though he did point out that combined length of the Disqualification and period of Ineligibility would amount to eight years of punishment “*without sufficient evidence.*”

119. For the Single Judge, reasons of fairness do not call for a shorter period of Disqualification in this case. There was at least some indication of blood manipulation starting as early 2016, with aberrant patterns observed in the years 2017 and 2018, as well. For 2019, there was only one Sample collected, very early in the year, so it is not possible to reach any conclusions as to whether patterns indicating doping would also emerge in this year. The Single Judge also acknowledges that blood manipulation is an intentional and particularly serious anti-doping rule violation.

120. Thus the Single Judge, in exercise of her discretion, Disqualifies all results obtained by the Rider between the date of the Sample 10 collection (i.e. 11 July 2018) and the date the Rider’s Provisional Suspension was imposed (i.e. 12 December 2019), including forfeiture of any medals, points and prizes.

#### 4. Mandatory Fine

121. Art. 10.10.1.1 ADR provides the following instructions with respect to a mandatory fine in connection with intentional anti-doping rule violations:

*“A fine shall be imposed in case a Rider or other Person exercising a professional activity in cycling is found to have committed an intentional anti-doping rule violation within the meaning of Article 10.2.3.*

*[Comments: 1. A member of a Team registered with the UCI shall be considered as exercising a professional activity in cycling. 2: Suspension of part of a period of Ineligibility has no influence on the application of this Article].*

*The amount of the fine shall be equal to the net annual income from cycling that the Rider or other Person was entitled to for the whole year in which the anti-doping rule violation occurred. ...The net income shall be deemed to be 70 (seventy) % of the corresponding gross income. The Rider or other Person shall have the burden of proof to establish that the applicable national income tax legislation provides otherwise.”*

122. The UCI submitted that “[a]ccording to the Expert Panel, the ADRV in this case occurred between 4 January 2016 (i.e. date of collection of Sample 3) and 1 February 2019 (i.e. date of collection of Sample 15)” and therefore, he should be subject to a mandatory fine equivalent to the average annual gross income from cycling in the years 2016, 2017, 2018, and 2019, which according to the UCI, was [REDACTED]. As a result, the UCI asked the Tribunal to impose a mandatory fine of [REDACTED], “unless the Rider can establish that a reduction of the quantum of the fine would be justified by one or more of the criteria set out in Article 10.10.1.1 of the UCI ADR.”
123. As set forth above in paragraphs 120 to 121, the Single Judge disagrees that the anti-doping rule violation in this case took place from 2016 to 2018, rather, the anti-doping rule violation in this case was established based on Samples 10 to 13, all of which were collected in a single year, i.e. 2018.
124. Accordingly, the Rider’s mandatory fine shall be equal to the net annual income from cycling that the Rider was entitled to in 2018. According to the copy of the Rider’s contract, the Rider earned [REDACTED] in 2018. The Rider did not contest this, and the UCI did not present any other evidence that would suggest the Rider received any other income from cycling. Thus, the starting point for the mandatory fine is seventy percent (70%) of [REDACTED], [REDACTED].
125. Art. 10.10.1.1 ADR provides that this starting point amount may be subject to reduction, bearing in mind the seriousness of the offence, “where the circumstances so justify,” including those listed in art. 10.10.1.1 ADR (i.e. Nature of anti-doping rule violation and circumstances giving rise to it; Timing of the commission of the anti-doping rule violation; Rider or other Person’s financial situation; Cost of living in the Rider or other Person’s place of residence; Rider or other Person’s Cooperation during the proceedings and/or Substantial Assistance as per art. 10.6.1.). As set forth previously by this Tribunal, the CAS appears to give “particular weight to the present financial situation of a rider (as opposed to the financial situation when the ADRV occurred),”<sup>10</sup> if they are different, as well as whether the Rider is currently retired from racing.<sup>11</sup>
126. In this proceeding, the Rider stated that “I don’t have savings, no money and no job to pay the costs of this procedure and the fine,” submitting in support of his financial situation, a bank statement showing a balance of [REDACTED], stating “[t]hat’s all money that I have to live now.” In this case, the UCI made no submissions as to the circumstances that would justify a reduction of the fine, noting only that if the Rider addressed the circumstances in his submissions, the UCI reserved its right to respond to any future arguments. The Single Judge also notes that the bank

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<sup>10</sup> UCI ADT 05.2016, UCI v. Kocjan, Judgment of 28 June 2017, para. 122, referencing CAS 2016/A/4648, Klemencic v. UCI, Award of 3 March 2017, para. 162.

<sup>11</sup> UCI ADT 02.2019, UCI v. de Negri, Judgment of 28 January 2020, para. 65.

statement showed the account's activity for the month of June 2020, with no income shown. The UCI did not dispute the accuracy of this statement, nor did it make any submissions or argue against the reduction of the Rider's mandatory fine in any way.

127. For the Single Judge, the Rider has committed an especially serious anti-doping rule violation during a major in-competition period in 2018. The Single Judge also takes note that the Rider is retired, and has submitted uncontested statements and evidence of a precarious financial situation. While the Rider did not respond to the UCI's request to provide information in support of his financial situation prior to this proceeding, the Rider was responsive in these proceedings. In addition, the Single Judge is aware that in 2018, the Rider was not riding with a UCI Professional Continental Team, rather a UCI Continental Team, which means that his annual salary of ██████████ in 2018 would have been less than the annual minimum gross amount for Riders on UCI Professional Continental or World Teams as set forth in the "Joint Agreements."<sup>12</sup>
128. In consideration of the above and bearing in mind the criteria listed in art. 10.10.1.1 ADR the Single Judge concludes that the Rider's fine shall be reduced to ██████████.

#### 5. Costs

129. As for the liability for costs of the proceeding, art. 10.10.2 of the UCI ADR provides as follows:

*"If the Rider or other Person is found to have committed an anti-doping rule violation, he or she shall bear, unless the UCI Tribunal determines otherwise:*

- 1. The cost of the proceedings as determined by the UCI Anti-Doping Tribunal, if any.*
- 2. The cost of the results management by the UCI; the amount of this cost shall be CHF 2'500, unless a higher amount is claimed by the UCI and determined by the UCI Anti-Doping Tribunal.*

...

- 6. The cost for the documentation package of Samples analysed for the Biological Passport, where applicable.*

...

*The National Federation of the Rider or other Person shall be jointly and severally liable for its payment to the UCI."*

130. Applying the above provision, the Rider shall bear the following costs as a result of being found to have committed an anti-doping rule violation:
- The cost of result management set at an amount of CHF 2,500 (art. 10.10.2.2 of the UCI ADR); and
  - The cost for the documentation package of Samples analysed for the ABP of CHF 3,792 (art. 10.10.2.6 of the UCI ADR).

131. In application of art. 28.1 of the ADT Rules, the Tribunal must determine the cost of the proceeding as provided under art. 10.10.2.1 of the UCI ADR. Considering art. 28.2 of the ADT Rules, and in consideration of the circumstances of this case, the Tribunal decides that the present Judgment is rendered without costs.

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<sup>12</sup> <https://www.uci.org/docs/default-source/rules-and-regulations/part-ii-road/2018-joint-agreements.pdf>.

## VII. RULING

132. In light of the above, the Tribunal decides as follows:

1. **Mr Domingos Gonçalves has committed a violation of art. 2.2 of the UCI ADR.**
2. **To impose a period of Ineligibility of four years on Mr Domingos Gonçalves. The period of Ineligibility shall commence on the date of this decision, i.e. 28 January 2021.**
3. **The Provisional Suspension already served by Mr Domingos Gonçalves, starting from 12 December 2019, shall be credited against the four-year period of Ineligibility. Accordingly, Mr Domingos Gonçalves' period of Ineligibility shall come to an end on 11 December 2023.**
4. **All results obtained by Mr Domingos Gonçalves from the date of Sample Collection #10, i.e. 11 July 2018 until 12 December 2019 shall be Disqualified.**
5. **Mr Domingos Gonçalves shall pay a mandatory fine in the amount of [REDACTED].**
6. **Mr Domingos Gonçalves shall pay the costs of results management by the UCI (CHF 2,500) and the costs incurred for the documentation package of the blood samples analysed for the ABP (CHF 3,792).**

133. All other and/or further reaching requests are dismissed.

134. This judgment is final and will be notified to:

- Mr Domingos Gonçalves;
- Autoridade Antidopagem de Portugal ("ADoP");
- WADA; and
- UCI.

135. This Judgment may be appealed before the CAS pursuant to art. 30.2 of the ADT Rules and art. 74 of the UCI Constitution. The time limit to file the appeal is governed by the provisions in art. 13.2.5 of the UCI ADR.

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**Emily WISNOSKY**  
Single Judge