Arbitration CAS 2010/A/2110 International Association of Athletics Federation (IAAF) v. Colombian Athletics Federation (CAF) & Johanna Trivino-Urrutia, award of 31 January 2011

Panel: Mr Efraim Barak (Israel), President; Mrs Alexandra Brilliantova (Russia); Prof. Denis Oswald, (Switzerland)

Athletics
Doping (stanozolol)
Obligation of IAAF Members to abide by the IAAF Rules and Regulations
Election of the governing law by tacit agreement
No participation of the respondent in doping proceedings and procedural fairness
Obligation of a doping control officer to deliver the samples to the laboratory "as soon as practically possible"
Departure from the ISL and cause of the adverse analytical finding

1. **According to the IAAF Constitution, the IAAF members agree to abide by the IAAF Constitution and by its Rules and Regulations. Furthermore, the IAAF members have the obligations to comply with all applicable IAAF Rules and Regulations. In this regard, the application for membership to the IAAF by a national governing body for athletics must include a formal undertaking to observe and abide by the IAAF Constitution, Rules and Regulations.**

2. **The election of governing law by tacit agreement is possible. For instance, by their behaviour, the parties could have clearly given their assent to the application of a specific law. Nevertheless, to admit this, it must undoubtedly emerge through the parties' conclusive acts, that they agreed on the applicable law when they entered into the disputed contractual relationship.**

3. **The participation of the respondent is mandatory in an appeal, otherwise the appeal would be inadmissible due to the absence of a valid legal procedural relationship between the parties to the proceedings. Especially in doping proceedings concerning the magnification of the sanction imposed on the athlete, it would be procedurally unacceptable to make a decision on the merits if the athlete concerned has not been properly included in the proceedings or, at least, received knowledge of the proceedings in such a way that enables the person to legally defend himself. If the respondent was aware of the proceedings and had the opportunity to present his case, the legal relationship can be adequately established between the parties and the non-participation of the respondent should not put into question the validity of the proceedings in respect of procedural fairness.**

4. **The International Standards for Laboratories (ISL) do not prescribe a more specific period of time from the samples collection to their delivery to the laboratory but only stipulate that this should be done *"as soon as practicably possible"*. The phrase**

undoubtedly implies that transportation should be made at the first reasonable opportunity. A delay of ten days from the date of collection to the date of delivery should be justifiable only in exceptional circumstances, whereas an excuse in relation to other professional commitments is untenable. When a person accepts to assume the responsibility of a doping control officer, he must dedicate himself to comply and fulfil all the required duties expected of him and constantly be aware of the seriousness of his mission as well as the severe consequences that his actions may have upon the career of an athlete. Once a sample is collected, the requirement of *"as soon as practicably possible"* receives priority over other work commitments. Therefore, a ten-day delay is totally unacceptable and constitutes a departure from the ISL.

5. **A delay in the transportation of the samples to the laboratory and/or their storage conditions cannot reasonably cause the materialization of an exogenous steroid where it was not otherwise present.**

The International Association of Athletics Federations (IAAF or the "Appellant") is the international federation governing the sport of athletics world-wide. It has its registered seat in Monaco.

The Colombian Athletics Federation (CAF) is the national federation governing the sport of athletics in Colombia. It has its registered seat in Santafé de Bogotá, Colombia and is affiliated with the IAAF.

Ms Johanna Trivino-Urrutia ("the Athlete") is a track and field athlete competing in the triple jump and the long jump disciplines. She is a registered member of the CAF.

On 23 May 2009, the Athlete participated in the 54th Colombian Senior Championship, which took place in Bogotá, Colombia. On that occasion, she was subject to in-competition drug testing.

The doping control form signed by the Athlete gives the following indications:

The time of notification was 16:40hrs and the sampling time was 18:10hrs.

The urine provided by the Athlete was dispatched in two bottles. Their code number was A 2910 and B 2910.

No comment was made on the sample collection procedure.

The Athlete signed a statement confirming that all the sample collection procedures were respected. Dr Nestor Mejia was in charge of the doping control station. He is a trained and experienced doping control officer, who has been working for the Colombian National Anti-Doping Agency since 2004. As such, he has conducted over 500 sample collection sessions. Dr Nestor Mejia also works at the emergency department of two different hospitals in Bogotá, Colombia.

As the 23 May 2009 was a Saturday, Dr Nestor Mejia could not send the collected samples to the competent anti-doping laboratory on the same day. Consequently, he stored the Athlete's sample, together with nineteen other samples, in an adequate container specifically designed for transportation. He placed the said container in the trunk of his car and drove home. On arrival at his apartment, he deposited the samples in a fridge used exclusively for this purpose of maintaining samples until their delivery to the laboratory.

In a written witness statement dated 20 May 2010 and filed by the IAAF in support of its appeal before the Court of Arbitration for Sport, Dr Nestor Mejia stated that his apartment was secure and that no one could enter it, except his wife, Ms Adriana Herrera and himself.

Ms Adriana Herrera is a trained doping control assistant and, in this quality, often assists her husband when the latter is required to conduct a sample collection procedure.

On 2 June 2009, Dr Nestor Mejia instructed his wife, Ms Adriana Herrera, to deliver the samples to the Laboratorio de Control al Dopaje of the Colombian Institute of Sport, Coldeportes, a WADA-accredited laboratory located in Bogotá, Colombia (LCD). In a complementary form attached to the sample container, Dr Nestor Mejia explained that he was unable to convey the samples any earlier due to other professional commitments.

On 2 June 2009, Ms Adriana Herrera transported the samples directly from her apartment to the LCD, where she arrived at 12:52hrs. At that moment, she handed the twenty samples – among which the sample 2910 - over to Ms Sandra Quiroga, a sample reception technician of the LCD. Ms Sandra Quiroga inspected the shipping container and found that it was in satisfactory condition. She checked the samples one by one in the presence of Ms Adriana Herrera and did not identify any anomaly. Having observed that there were no irregularities with the incoming samples, Ms Sandra Quiroga completed and signed the Lab Receipt Form (countersigned by Ms Adriana Herrera) and the Chain of Custody Form.

On 5 June 2009, Dr Gloria Gallo Isaza, head of the LCD, conducted the screening analysis on the Athlete's A sample, which tested positive for 3-OH stanozolol. Five days later, she conducted a confirmatory analysis on the Athlete's A sample, which corroborated the presence of 3-OH stanozolol.

On 16 June 2009, the LCD informed IAAF President, Mr Lamine Diack, that *"in the sample 2910 was detected the presence of 3-OH stanozolol (metabolite of STANOZOLOL), prohibited substance by WADA list, so it is a considered as an adverse analytical finding for Anabolics"*.

On 22 June 2009, the IAAF Anti-Doping Administrator, Mr Gabriel Dollé, informed the Secretary of the CAF that the *"urine sample code n° 2910 collected on 23rd May 2009 at the '54 Campeonato Nacional Mayores' held in Bogotá, contained the prohibited substance Stanozolol"*.

On 26 June 2009, the CAF Disciplinary Commission informed the Athlete a) of the adverse analytical finding of her A-sample, b) of the fact that it was requested to instigate disciplinary proceedings against her and c) that it decided to provisionally suspend her for 30 days with immediate effect.

At no moment did the Athlete request the analysis of the B-sample.

On 20 August 2009, the CAF Disciplinary Commission held that the Athlete was guilty of an anti-doping rule violation and decided to declare her ineligible for two years. All the Athlete's results, awards and prizes obtained during the 54th Colombian Senior Championship were forfeited.

On 2 September 2009, the CAF informed the IAAF that the two-year suspension imposed upon the Athlete was to run from 28 August 2009 to 28 July 2011, i.e. two years less the month of provisional suspension already served from 24 June 2009.

On 7 September 2009, the Athlete challenged the decision of the CAF Disciplinary Commission before the General Disciplinary Commission (GDC), with the consequence that her suspension was immediately lifted.

On appeal, the Athlete alleged that she had never taken voluntarily any prohibited substance. She also claimed that the CAF Disciplinary Commission violated her right to a fair hearing and tarnished her name and reputation as it found her guilty of an anti-doping rule violation based on the mere assumption that the anti-doping tests were flawless, because they were carried out by a WADA-accredited laboratory. The Athlete contended that, in her case, the disciplinary proceeding suffered of many inconsistencies as she was sanctioned in spite of the fact that the following questions did not find any answer: *"What happens to a sample when it is not stored under proper conditions? What happens to an unidentified sample in the mailing or marketing systems? Is it possible for certain substances be turned into substances prohibited by WADA's list when the samples are being analyzed at the laboratory, as in the case of Maria Luisa Calle? It is possible that an athlete who has given adverse positive results may yield a negative result five days later without a doping marker being spotted in the second sample? (…) The commission did not research nor looked for a positive or negative scientific explanation regarding the fact that the sample gave out a positive result in Bogota and a negative result in Cali. Even though they were independent samples, there should have been some traces of a possible marker or residues of the substance"*. The Athlete was of the opinion that the CAF Disciplinary Commission committed a denial of justice when it refused her persistent request to conduct serious investigations in order to obtain answers to the above questions. In particular, the Athlete asserted that a breach in the chain of custody occurred as there was no justification of the *"exaggerated, disproportionate and unlawful length of time it took for the sample to reach the laboratory, considering the time the urine sample was taken at the competition.(…). It is inadmissible that from May 23rd, 10 days go by to reach the anti-doping laboratory, a fact that is even more absurd if we consider that the event in which the sample was taken was held in Bogota, the capital of Colombia, the place where the anti-doping laboratory is located"*. According to the Athlete, such a delay in the delivery of the samples does not comply with the International Standards for Laboratories. The Athlete also alleged that Articles 5.2 and 6.4 of the WADA Code must be closely followed.

The GDC found that the ten-day delay to deliver the collected samples was incompatible with the applicable standards for WADA accredited laboratories. According to this authority, such a delay was especially unjustified as the event where the samples were retrieved, took place in the very same city where the LCD is located. Furthermore, taking into account the fact that, during this ten-day period, a) there is no indication as to where the samples actually were and how many people had access to them, b) that the samples did not remain under the constant supervision of the doping control officer

formally in charge, c) that the person who delivered the samples was Ms Adriana Herrera, who was not identified and whose connection with the LCD was not established, the GDC held that a sample manipulation could not be excluded. Furthermore, it deemed that *"the fact that the questions raised by the athlete did not receive a prompt response either by the national Anti-doping Organization or by the Disciplinary Committee of first instance […] violated the right to counsel and the contradiction of evidence"*.

Based on the foregoing, the GDC considered that *"in this case there was a flagrant and unjustified violation of the chain of custody of the sample leading to the invalidity of the same. The latter, the EVIDENCE in support of the sentence at first instance is irreparably flawed of Nullity; it is illegal evidence and therefore cannot be the basis for the imposition of disciplinary sanction"*.

Consequently, on 12 February 2010, the GDC decided the following:

> *"**ARTICLE ONE**: To declare the nullity of the Evidence for the sampling conducted to the athlete Johana Trivino-Urrutia on May 23, 2009 in the framework of the 54th National Senior Championship held in Bogota, for the reasons stated herein.*
>
> ***ARTICLE TWO**: To repeal in its entirety Resolution No. 06 of August 20, 2009 and Number 07 of September 9, 2009, issued by the Disciplinary Commission of the Colombian Federation of Athletics through which athlete Johana Trivino was found responsible for a serious offense. The athlete was disqualified from the medals, points and prizes and was sanctioned with a suspension of two (2) years to participate in any sporting competition.*
>
> ***ARTICLE THREE**: To declare athlete Johana Trivino-Urrutia (…) NOT responsible for the alleged offence in Resolution No. 03, Investigation Opening Writ dated June 24, 2009, issued by the Disciplinary Commission of the Colombian Federation of Athletics.*
>
> ***ARTICLE FOUR**: Send communications due by Law*
>
> ***ARTICLE FIVE:** No appeal proceeds against this Resolution"*.

The above decision was initially written in Spanish. The IAAF was notified of that decision (the "Appealed Decision") on 25 February 2010. The English translation of the Appealed Decision of the GDC was received by the IAAF on 17 March 2010.

On 29 April 2010, the IAAF filed a statement of appeal with the Court of Arbitration for Sport (CAS).

On the same day, the IAAF Doping Review Board decided to provisionally suspend the Athlete.

On 24 May 2010 and within the authorized time extension, the IAAF filed its appeal brief. This document contains a statement of the facts and legal arguments accompanied by supporting documents. It challenged the above-mentioned Appealed Decision, submitting the following request for relief:

> *"39. In conclusion, therefore, the IAAF respectfully submits that:*
>
> > *39.1 Ms Trivino-Urrutia committed an anti-doping rule violation in accordance with IAAF Rule 32.2(a); and consequently,*

39.2 In accordance with IAAF Rule 40.1, all of Ms Trivino-Urrutia's results at the Colombian Senior Championships shall be disqualified;

39.3 In accordance with IAAF Rule 40.2, Ms Trivino-Urrutia shall be declared ineligible for a minimum period of two years from the date of the hearing of this matter, less any period of provisional suspension already served;

39.4 In accordance with IAAF Rule 40.8, all of Ms Trivino-Urrutia's competitive results since 23 May 2009 shall be disqualified.

40. In addition, the IAAF requests that the CAF and/or Ms Trivino-Urrutia reimburse the IAAF for the CAS Court Office Fee of CHF 500 that it has paid and make a contribution to its costs, including legal costs, in bringing this appeal, with such costs to be ascertained".

The Respondents failed to submit a response to the aforementioned submissions of the IAAF either within the given time limit or subsequent to the expiry of it.

On 21 July 2010, the IAAF confirmed to the CAS Court Office that it agreed to waive a hearing.

The Respondents were formally invited to inform the CAS Court Office whether they preferred a hearing to be held or whether the Panel should issue an award on the basis of the written submissions. They failed to communicate their position in this regard.

In the above circumstances and pursuant to article R57 of the Code of Sport-related Arbitration (the "Code"), the Panel decided to refrain from holding a hearing. Nevertheless, On 14 October 2010, the Panel requested both parties to file additional documentation and to answers to a list of questions raised by the Panel which were essential for the decision. The Appellant filed its observations as well as some documentation on 25 October 2010 whereas the Respondents failed to do so and did not response at all to the Panel's request.

LAW

CAS Jurisdiction

1. CAS jurisdiction to decide on the present dispute was not disputed and was actually confirmed by all the parties by means of their signing the Order of procedure. Still, in the circumstances of this case, the Panel finds important to discuss and deal with two main issues which are important in the context of CAS jurisdiction.

2. These main issues to be discussed and resolved by the Panel are:

   A. Is there an "arbitration clause"?

   B. Is the Athlete an international-level athlete or a national-level athlete?

A. Is there an "arbitration clause"?

a) The IAAF Constitution

3. It is obvious and undisputed that the CAF is the national governing body for athletics in Colombia and is affiliated to the IAAF.

4. According to article 4.1 of the IAAF Constitution, the IAAF members agree to abide by the IAAF Constitution and by its Rules and Regulations. Furthermore, and pursuant to article 4.8 (b) of the IAAF Constitution, the IAAF members have the obligations to comply with all applicable IAAF Rules and Regulations. In this regard, it can be observed that the application for membership to the IAAF by a national governing body for athletics must include a formal undertaking to observe and abide by the IAAF Constitution, Rules and Regulations (Article 4.3 (f) of the IAAF Constitution).

b) The IAAF Competition Rules

5. Rules 30.1 and 30.2 of the IAAF Competition Rules (IAAF Rules) provide the following:

"30.1 The Anti-Doping Rules shall apply to the IAAF, its Members and Area Associations and to Athletes, Athlete Support Personnel and other Persons who participate in the IAAF, its Members and Area Associations by virtue of their agreement, membership, affiliation, authorisation, accreditation or participation in their activities or competitions.

30.2 All Members and Area Associations shall comply with the Anti-Doping Rules and Regulations. The Anti-Doping Rules and Regulations shall be incorporated either directly, or by reference, into the rules or regulations of each Member and Area Association and each Member and Area Association shall include in its rules the procedural regulations necessary to implement the Anti-Doping Rules and Regulations effectively (and any changes that may be made to them). The rules of each Member and Area Association shall specifically provide that all Athletes, Athlete Support Personnel and other Persons under its jurisdiction shall be bound by the Anti-Doping Rules and Regulations".

6. Pursuant to IAAF Rule 37.2, first sentences *"In the case of an International-Level Athlete, the results management process shall be conducted by the IAAF Anti-Doping Administrator and, in all other cases, it shall be conducted by the relevant person or body of the Athlete or other Person's National Federation. The relevant person or body of the Athlete or other Person's National Federation shall keep the IAAF Anti-Doping Administrator updated on the process at all times".*

c) In casu

7. The CAF pointedly makes reference directly or indirectly to the IAAF Rules and Regulations:

- On 22 June 2009, following the receipt of the LCD results, the IAAF informed the CAF that *"this matter should now be dealt with in accordance with the results management procedure set out in IAAF Rule 37. (…) In accordance with IAAF Rule 37.2, please note that you must now keep*

[Mr Gabriel Dollé, IAAF Anti-doping Administrator] updated in the conduct of this case at all times". On 16 July 2009, the CAF informed the IAAF that it would comply with the latter's request and report back to it on the evolution of the proceedings initiated against the Athlete.

- On 28 August 2009, the CAF sent to Mr Gabriel Dollé the decision issued by its Disciplinary Commission on 20 August 2009 (in accordance with IAAF Rule 37).

- On 2 September 2009 and answering IAAF's request of 31 August 2009, the CAF gave more details in relation with the Athlete's two-year ineligibility (in accordance with IAAF Rule 37).

- On 25 February 2010, the CAF notified the IAAF of the Spanish version of the Appealed Decision of its GDC. At the request of the IAAF, the CAF translated the said document into English and sent it to the IAAF on 17 March 2010 (in accordance with IAAF Rule 42.13).

8. Additionally, on 16 June 2009, the LCD sent the results of its analysis to the IAAF as required by IAAF Rule 36.6.

9. In an e-mail dated 12 May 2010 and sent to the CAS Court Office, the Athlete explained that she was hoping for a quick resolution of the dispute. At no moment did she question the jurisdiction of the CAS. On the contrary, on 15 and 16 May 2010, she expressly appointed Ms Alexandra Brilliantova as arbitrator and signed the order of procedure, without making any reservation.

10. It results from the foregoing that the CAF is and considers itself subject to the IAAF Rules and Regulations. Furthermore none of the Respondents has never contested the application of the IAAF Rules and the athlete herself made reference to the WADA Code and, therefore, to international regulations. Therefore, the Panel has no doubt that IAAF Regulations, in particular IAAF Competition Rules, can be deemed applicable to the Athlete (either through an agreement, a license or through her accreditation for the competition at hand, pursuant to which the Athlete acquiesced to the IAAF Rules, or through a chain of references to the IAAF Rules in by-laws or other regulations).

B. Is the Athlete an international-level athlete or a national-level athlete?

11. The available appeal remedies vary depending on whether the Athlete is a national-level athlete or an international-level athlete. In the latter case, the decision of the Disciplinary Committee of the CAF should have been appealed exclusively to the CAS.

a) The IAAF Competition Rules

12. IAAF Rules 42.3 and 42.4 read as follows:

"42.3 Appeals involving International-Level Athletes: in cases involving International-Level Athletes or their Athlete Support Personnel, the decision of the relevant body of the Member may be appealed exclusively to CAS in accordance with the provisions set out below.

42.4 Appeals which do not involve International-Level Athletes: in cases which do not involve International-Level Athletes or their Athlete Support Personnel, the decision of the relevant body of the Member may (unless Rule 42.8 below applies) be appealed to an independent and impartial body in accordance with rules established by the Member. The rules for such appeal shall respect the following principles:

- a timely hearing;

- a fair, impartial and independent hearing panel;

- the right to be represented by counsel at the Person's own expense;

- the right to have an interpreter at the hearing at the Person's own expense; and

- a timely, written, reasoned decision.

The decision of the national level appeal body may be appealed in accordance with Rule 42.7 below".

13. IAAF Rules 42.6 and 42.7 state the following, where relevant:

"42.6 In any case which does not involve an International-Level Athlete or his Athlete Support Personnel, the following parties shall have the right to appeal the decision to the national level appeal body:

(a) the Athlete or other Person who is the subject of the decision being appealed;

(b) the other party to the case in which the decision was rendered;

(c) the Member;

(d) the National Anti-Doping Organisation of the Athlete or other Person's country of residence or where the Athlete or other Person is a national or licence holder; and (e) WADA.

The IAAF shall not have the right to appeal a decision to the national level appeal body but shall be entitled to attend any hearing before the national level appeal body as an observer. The IAAF's attendance at a hearing in such capacity shall not affect its right to appeal the decision of the national level appeal body to CAS in accordance with Rule 42.7 below.

42.7 In any case which does not involve an International-Level Athlete or his Athlete Support Personnel, the following parties shall have the right to appeal the decision of the national level appeal body to CAS:

(a) the IAAF; (…)".

b) In casu

14. On 14 October 2010, the Panel requested the parties to take position on whether the Athlete was of national or international level at the moment of the sample collection procedure on 23 May 2009.

15. In response, the IAAF submitted that the Athlete was not an international-level athlete in accordance with the IAAF definition at the time of the 54th Colombian Senior National Championship. This submission is consistent with the facts of the case as, in accordance with IAAF Rule 42.4, the decision of the CAF Disciplinary Commission was appealed before the GDC and not directly before the CAS, as IAAF Rule 42.3 would have required in the presence of an international-level athlete.

16. Based on the above and in the absence of any evidence to counter IAAF's submission and since the Respondents did not take position on this issue, the Panel does not see any reason to question the fact that the Athlete was of national-level.

17. In any event, it appears that all internal procedures and legal remedies available to the parties have been exhausted prior to the appeal before the CAS. As a matter of fact, the appeal by the Athlete before the GDC was obviously the final appeal at national level. This is confirmed by article 5 of the operative part of the Appealed Decision, according to which *"No appeal proceeds against this Resolution"*.

18. Pursuant to IAAF Rule 42.4, the decision of the national-level appeal body may be appealed in accordance with IAAF Rule 42.7. Following IAAF Rule 38.11, the Appealed Decision of the GDC thereby became a decision of the CAF, challengeable before the CAS by the IAAF in accordance with IAAF Rule 42.7.

C. Conclusion

19. The CAS therefore has jurisdiction to decide on the present dispute. Moreover, its jurisdiction in the present case is not being disputed and was actually confirmed by the Order of procedure duly signed by all the parties.

20. Under article R57 of the Code, the Panel has the full power to review the facts and the law. The Panel did not therefore examine only the formal aspects of the appealed Decision but held a trial *de novo*, evaluating all facts and legal issues involved in the dispute.

Applicable law

21. According to the IAAF, its Regulations are applicable to the proceedings.

22. Given that the samples were retrieved from a national competition and that the Athlete did not comply with the definition of an international-level athlete at the relevant time, the application of the IAAF Regulations can be questioned. Consequently, the Panel requested the parties to submit their detailed and substantiated opinions in respect of the issue of the law applicable to the present matter.

23. Once more, the Respondents failed to submit any response to the Panel's request.

24. In its letter dated 25 October 2010, the IAAF restated the application of its Regulations. To support its position, the IAAF relied on IAAF Rule 38.11 pursuant to which the Appealed Decision of the GDC was final and became a decision of the CAF for the purposes of an appeal of the IAAF to the CAS as provided under IAAF Rule 42.7. Pursuant to IAAF Rule 42.22 in respect of appeals brought before the CAS involving the IAAF, *"the CAS and the CAS Panel shall be bound by the IAAF Constitution, Rules and Regulations (including the Anti-Doping Regulations)"*.

25. Moreover, the IAAF considered as irrelevant the fact that the in-competition drug testing took place at the 54th Colombian Senior Championship. According to the IAAF, Colombia is a signatory to the International Convention against Doping in Sport and, thereby, is bound to adopt the measures at national level which are consistent with the World Anti-Doping Code. Furthermore, the IAAF contended that, under IAAF Constitution, the CAF, as the member federation of the IAAF for the territory of Colombia, is required to apply IAAF Anti-Doping Rules which are in harmony with the provisions of the World Anti-Doping Code. IAAF Rule 30.4 states that IAAF Anti-Doping Rules and Regulations shall apply to all doping controls over which the IAAF and its members have jurisdiction. The IAAF explained that in accordance with IAAF Rule 35.3, the CAF delegated the testing responsibilities at the 54th Colombian Senior Championship to the Colombian Institute of Sport, Coldeportes. Additionally, IAAF Rule 35.6 provides that the testing conducted by the IAAF and its members under this Rule is required to be in substantial conformity with the Anti-Doping Regulations in force at the time of the testing.

26. The IAAF presented the case TAS 2006/A/1159) wherein the CAS was called upon to resolve the IAAF's challenge to a national decision relating to a Belgian national-level athlete who had been exonerated of a doping violation arising from a sample collected at a national competition. The award reads in its relevant part as follows (as translated into English by the IAAF):

"41. (…) As previously mentioned above, the CAS jurisprudence cited by the appellant provides that the latitude afforded to International Federations to review doping decisions of national federations must be extended to cases where the sample collection and sanction fall under the authority of a public body in accordance with national law or on the basis or on the basis of an international convention. CAS considers in fact that it is imperative that International Sporting Federations have the possibility to review decisions made national federations in doping cases. The power conferred to International Federations is designed to protect the integrity of international competitions, in cases where a national federation either would not sanction an athlete at all or would sanction an athlete less severely in order for him to compete in a major competition. The international review of national decisions in doping-related matters, whichever the adjudicatory body, is designed to ensure consistency amongst the decisions taken at national level in a given sport (TAS 98/214) therefore avoiding an inequality of treatment between those athletes sanctioned with severity and those treated more leniently by national disciplinary bodies.

(…)

43. … The Panel is therefore of the opinion, considering the above and the jurisprudence set out, that when a national federation is deprived of any disciplinary powers, there is a possibility to attribute a decision rendered by another national body to the national federation, placing this decision within the sport order. The aim is to permit an international review of a national decision within the framework of the sports movement. The International Federation can thereby verify that the fundamental principles established in doping matters are well and truly complied with by the national federation. It is the only means by which an International Federation can review decisions taken by state authorities, as they would normally not have any right of appeal against these decisions under national law".

27. Thus, the IAAF concluded that, in accordance with its Regulations and the jurisprudence of the CAS, the IAAF had the right to challenge the Appealed Decision of the GDC through the appropriate channels. As a result and in line with IAAF Rule 42.22, the IAAF contended that the CAS Panel *"shall be bound by the IAAF Constitution, Rules and Regulations (including the Anti-Doping Regulations)"*,

28. It is generally accepted that the choice of the place of arbitration also determines the law to be applied to arbitration proceedings. The Swiss Code of Private International Law (CPIL) is the relevant arbitration law (DUTOIT B., *Droit international privé Suisse, commentaire de la loi fédérale du 18 décembre 1987*, Bâle 2005, N. 1 on article 176 CPIL). Article 176 par. 1 CPIL provides that the provisions of Chapter 12 of the CPIL regarding international arbitration shall apply to any arbitration if the seat of the arbitral tribunal is in Switzerland and if, at the time the arbitration agreement was entered into, at least one of the parties had neither its domicile nor its usual residence in Switzerland.

29. The CAS is recognized as a true court of Arbitration. It has its seat in Switzerland. Chapter 12 of the CPIL shall therefore apply, the Respondents in the present matter having neither their domicile nor their usual residence in Switzerland.

30. Pursuant to article 176 par. 2 CPIL, the provisions of Chapter 12 do not apply where the parties have excluded its application in writing and agreed to the exclusive application of the procedural provisions of cantonal law regarding arbitration. There is no such agreement in this case. Therefore, articles 176 ff. CPIL are applicable.

31. Article 187 CPIL is of particular relevance. It provides that the arbitral tribunal shall decide the dispute according to the rules of law chosen by the parties or, in the absence of such a choice, according to the rules of law with which the case has the closest connection.

32. Likewise, article R58 of the Code provides the following:

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

33. The election of governing law by tacit agreement is possible. For instance, by their behaviour, the parties could have clearly given their assent to the application of a specific law. Nevertheless, to admit this, it must undoubtedly emerge through the parties' conclusive acts, that they agreed on the applicable law when they entered into the disputed contractual relationship (see CAS 2005/A/896).

34. In the present matter, the parties have not expressly agreed on the application of any particular law but for the reasons already exposed here above (under "Jurisdiction"), the Panel has already observed that the Respondents are subject to the IAAF Rules and Regulations.

35. Rule 42.23 of the IAAF Competition Rules stipulates that *"In all CAS appeals involving the IAAF, the governing law shall be Monegasque law…unless the parties agree otherwise"*. It is therefore a case in which the applicable regulations includes also the choice of law to be applied subsidiary in case of a CAS appeal.

36. Therefore, the Rules and Regulations of the IAAF shall apply primarily and the Monegasque law shall apply subsidiary.

37. As the Athlete's sample collection and testing occurred after 1 January 2009, which is the date when the 2009 edition of the IAAF Anti-Doping Rules and IAAF Anti Doping Regulations came into force, the case is to be assessed according to the 2009 edition of these Rules and Regulations.

Admissibility

38. In accordance with IAAF Rule 42.13 *"the appellant shall have forty-five (45) days in which to file his statement of appeal with CAS starting from the date of communication of the written reasons of the decision to be appealed (in English or French where the IAAF is the prospective appellant) or from the last day on which the decision could have been appealed to the national level appeal body in accordance with Rule 42.8(b) above"*.

39. In the case at hand, the IAAF received the English written reasons of the Appealed Decision of the GDC on 17 March 2010. The appeal was timely as it was filed on 29 April 2010. It complied with all the other requirements.

40. It follows that the appeal is admissible.

Procedural issue – the non-participation of the Respondents

41. Pursuant to article R31 of the Code, all notifications and communications that the CAS or the Panel intend for the parties, shall be sent to the address of the parties as shown in the statement of appeal.

42. In the present case, the CAS Court Office sent its communication to the Athlete by ordinary means as well as via e-mail as this is how she exclusively made contact with the CAS. This dual method constitutes an extraordinary approach permitted under the particular circumstances of the case. Likewise, the Athlete's emails were exceptionally admitted.

43. The non-participation of the Respondents may raise the question of the validity of the proceedings in light of procedural fairness. In this respect, the Panel sees no reason to depart from the position expressed in CAS 2007/A/1284 & 1308:

"Mandatory to an appeals proceeding in any case is the participation of the respondent. Otherwise the appeal would be inadmissible due to the absence of a valid legal procedural-relationship between the parties to the proceedings. Especially in doping proceedings that involve – as does the case at hand – the magnification of the sanction… imposed on the athlete, it would be procedurally unacceptable to make a decision on the merits if the athlete concerned has not been properly included in the proceedings; at the very least, he/she should receive knowledge of the proceedings in such a way that enables the person to legally defend him/herself".

44. A look at the file and in particular at the Athlete's emails as well as at the Order of procedure signed by all the parties indicates that repeated efforts were made over several weeks by the CAS Court Office to ensure that the Respondents were indeed aware of the proceedings and had the opportunity to present their case. It can therefore be concluded that legal relationship has been adequately established between the parties to the proceedings, i.e. between the IAAF, the CAF and the Athlete. Therefore, the non-participation of the Respondents should not put into question the validity of the proceedings in respect of procedural fairness.

Merits

45. The issues to be resolved by the Panel are:

A. Has a doping offence been committed?

B. Did a departure from the International Standards for Laboratories occur?

C. If such a departure occurred, could it have caused the adverse analytical finding?

D. What is the sanction and how should it be calculated?

A. Has a doping offence been committed?

a) In General

46. The IAAF Rule 32.2 provides:

"32.2 Athletes or other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List. The following constitute anti-doping rule violations:

(a) Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample.

(i) It is each Athlete's personal duty to ensure that no Prohibited Substance enters his body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Rule 32.2(a).

(ii) Sufficient proof of an anti-doping rule violation under Rule 32.2(a) is established by either of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analysed; or, where the Athlete's B Sample is analysed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample".

47. The rules as to the burden and standard of proof of doping are contained in IAAF Rule 33 which states:

"33.1 The IAAF, the Member or other prosecuting authority shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the IAAF, the Member or other prosecuting authority has established an anti-doping rule violation to the comfortable satisfaction of the relevant 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".

48. The *"Prohibited List"* which is published and revised by the WADA is incorporated in the IAAF Anti-Doping Rules pursuant to IAAF Rule 34.1.

49. Stanozolol is a prohibited substance mentioned in the 2009 WADA Prohibited List

b) The Athlete's case

50. The presence of the prohibited substance 3-OH stanozolol identified in the Athlete's sample 2910 is supported by the laboratory documentation package.

51. Therefore, in light of the scientific evidence available and in accordance with IAAF Rule 32.2, it can be concluded prima facie that the Athlete committed an anti-doping offence, the sanction of which is governed by IAAF Rule 40.

52. According to IAAF Rule 33.1, the IAAF is required to establish that an anti-doping violation has been committed to the comfortable satisfaction of the Panel, bearing in mind the seriousness of the allegation which is made. It is submitted that the IAAF has fulfilled this requirement.

B. Did a departure from the International Standards for Laboratories occur?

53. IAAF Rule 33.3(a) provides:

"(a) WADA-accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Athlete or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories has occurred which could reasonably have caused the Adverse Analytical Finding. If the Athlete 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 IAAF, the Member or other prosecuting authority shall have the burden of establishing that such departure did not cause the Adverse Analytical Finding".

54. This provision can be seen as placing two concomitant requirements upon the Athlete. Firstly, the Athlete must establish that there was a departure from the International Standard for Laboratories and secondly, that such departure could reasonably have caused the adverse analytical finding.

55. In order to determine whether a departure occurred, the following three aspects must be determined:

- Did a breach in the chain of custody occur during the transportation of the samples from the doping control station at the 54th Colombian Senior Championship to the LCD?
- Were the samples delivered without delay or *"as soon as practicably possible"*, as required by the applicable regulations?
- Did the storage of the samples at Dr Nestor Mejia's residence compromise their integrity, identity and security?

a) Breach in the chain of custody before the delivery of the samples?

56. The IAAF Anti-Doping Regulations provide:

"Sample Storage

(…)

3.91 The DCO shall keep the Samples under his control until they are passed to the courier or other Person responsible for their transportation.

Transportation of Samples:

3.92 A transportation system authorised by the IAAF shall be used that ensures that samples are transported to the laboratory in a manner that protects their integrity, identity and security. Samples should, at a minimum, be placed in a suitable outer container for despatch to the laboratory.

(…)

3.94 Samples may be taken directly to the laboratory by the DCO or handed over to a third party for transportation. The third party must document the chain of custody of the Samples. If an approved courier company is used to transport the Samples, the DCO shall record the waybill number".

57. The content and the accuracy of the documentation related to the chain of custody has not been disputed at any point. In addition, it appears from the testimony of Dr Nestor Mejia, Ms Adriana Herrera and Dr Gloria Gallo Isaza that all the documentation was completed correctly at the appropriate stages and that each phase of the chain of custody has been correctly recorded.

58. In a letter dated 12 June 2009, Dr Gloria Gallo Isaza explained to Dr Adriana Garzon that the samples collected during the 54th National Athletics Championship were delivered to the LCD ten days after their collection, by a person different from the doping control officer formally in charge. She exposed that *"For the foregoing reason, we believe that the chain of custody has been weakened"*. However, in a written witness statement dated 13 May 2010 and filed by the IAAF in support of its appeal before the CAS, Dr Gloria Gallo Isaza clarified that when she used the word "weakened", she did not mean that the chain of custody had been broken, contrary to what is reported in the Appealed Decision of the GDC.

59. The delivery of the samples to the LCD by a person other than the one authorised by the program is a concern. IAAF Anti-Doping Regulation 3.94 permits the handing over of the samples to a third party for transportation and its wording leaves considerable room for interpretation as it establishes only a minimum standard. However, considering the purpose and context in which the Anti-Doping Regulations were conceived, it cannot possibly be said that the samples can be handed over for transportation to simply any person. The seriousness of the procedure and the formal requirements governing doping controls imply that such interpretation is not acceptable and therefore cannot be enforced by the Panel.

60. In the case at hand, and according to the evidence available, the third person was not simply anybody but was Ms Adriana Herrera who is a trained and authorised doping control assistant, i.e. a chaperone. It can thus be presumed that she is aware of the importance of all steps related to the maintenance of the integrity, identity and the security of the samples, especially with regard to their storage and transportation.

61. In their respective witness statement, both Dr Nestor Mejia and Ms Adriana Herrera stated that from the moment the samples were stored in the fridge of their apartment, they were not moved until they were delivered to the LCD. According to the couple, no other person had access to their apartment and therefore there could not be any interference with the samples.

62. It must be borne in mind that in an era where domestic workers are the norm, it is dubious that only two persons had access to the apartment. However, in the absence of any clear evidence to the contrary, a possibility of manipulation of the samples by a third party must be disregarded.

63. It follows that in this case, no evidence was presented to the Court which would enable the Panel to be comfortably satisfied that a departure occurred while the samples were stored at the residence of Dr. Mejia and Ms Herrera. In the absence of such evidence, it cannot be decided that a break in the chain of custody occurred.

b) Timely delivery of the samples to the LCD?

64. In the case at hand, ten days have elapsed between the date of the samples collection and the date of their delivery to the LCD. Is such a ten-day period compatible with the applicable regulations?

65. In this regard, the IAAF Anti-Doping Regulations provide:

"3.96 Sealed Samples shall be transported using the authorised transport method as soon as practicable after the completion of the Sample Collection Session".

66. The IAAF acknowledged that the ten-day stretch of time is not ideal but submits that this delay does not in any way constitute a breach of the IAAF Regulations or affects the outcome of the analysis conducted on the sample. The International Standards for Laboratories do not prescribe a more specific period of time to be complied with other than *"as soon as practicably possible"*.

67. The question arises as to what the expression *"as soon as practicably possible"* means. The phrase undoubtedly implies that transportation should be made at the first reasonable opportunity. Dr Nestor Mejia testified that he was unable to make the delivery of the samples any sooner than the actual date of delivery due to other professional commitments, which finally made him ask his wife to make the delivery on his behalf.

68. The importance of the rights of the athletes and the effort to ensure a fair procedure must be emphasised. A delay of ten days from the date of collection to the date of delivery should be justifiable only in exceptional circumstances. The IAAF Anti-Doping Regulations provide alternative measures for the delivery of the samples to ensure that their conveyance is made *"as soon as practicably possible"*. In this regard, the Panel does not understand why Dr Nestor Mejia waited ten days to ask his wife to deliver the samples and what prevented him from instructing her to do so any earlier. Given that the sample collection session occurred in the same city where the LCD is located, such a ten-day delay is not justifiable. Furthermore, the excuse presented by Dr Nestor Mejia in relation to his other professional commitments is untenable. When a person accepts to assume the responsibility of a doping control officer, he must dedicate himself to comply and fulfil all the required duties expected of him and constantly be aware of the seriousness of his mission as well as the severe consequences that his actions may have upon the career of an athlete. Once a sample is collected, the requirement of *"as soon as practicably possible"* receives priority over other work commitments.

69. Based on the foregoing, the Panel holds as unacceptable the fact that ten days have elapsed between the date of the samples collection and the date of their delivery to the LCD. This delay is totally unacceptable and constitutes a departure from the International Standards for Laboratories.

70. Nonetheless, the Athlete still needs to establish that such departure could reasonably have caused the adverse analytical finding. In this regard, IAAF Rule 33.3 states the following:

"…

(a) WADA-accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Athlete or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories has occurred which could reasonably have caused the Adverse Analytical Finding. If the Athlete 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 IAAF, the Member or other prosecuting authority shall have the burden of establishing that such departure did not cause the Adverse Analytical Finding.

(b) Departures from any other International Standard or other anti-doping rule or policy which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such results. If the Athlete or other Person establishes that a departure from another International Standard or other anti-doping rule or policy has occurred which could reasonably have caused the Adverse Analytical Finding or other anti-doping rule violation, the IAAF, the Member or other prosecuting authority shall have the burden of establishing that such departure did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation".

71. The Athlete did not provide any evidence to support that an alleged departure from the International Standards could have reasonably caused an adverse analytical finding and also did not substantiate in any manner the motive which Dr Nestor Mejia and Ms Adriana Herrera could have had to manipulate her samples. Despite the foregoing, the Panel can still examine the facts before it, in order to establish whether there is a reasonable possibility that the ten-day delay caused an adverse analytical finding.

72. In a written witness statement filed by the IAAF in support of its appeal before CAS, Ms Christiane Ayotte, Professor and Director at the National Scientific Research Institute - Institut Armand-Frappier, Canada, reviewed the document package provided by the LCD in relation with the sample 2910 and confirmed that the delay in the transportation of the samples to the laboratory and/or their storage conditions could not reasonably have caused the materialization of the exogenous steroid where it was not otherwise present. Dr Gloria Gallo Isaza shares the same view (see her above-mentioned witness statement).

c) Satisfactory storage conditions of the samples?

73. Based on the above and after careful analysis of the facts and evidence submitted to it by the parties, the Panel accepts as beyond doubt that the source of 3-OH stanozolol was exogenous. In such case, and at any concentration, the athlete's sample shall be deemed to contain a prohibited substance. Under those circumstances, the Panel needs to examine whether the presence of such a substance in the Athlete's urine can be explained by another possible departures from the International Standards for Laboratories. In that context, an analysis of the storage conditions during the ten-day delay is necessary.

74. At the end of the sample collection session, Dr Nestor Mejia packaged the samples in an insulated container provided by the LCD and specifically designed to protect their integrity. On

arrival at his residence, Dr Nestor Mejia placed the samples directly into a refrigerator which was used exclusively for the storage of collected samples and was kept at a constant temperature of 4° Celsius. The IAAF Regulations do not provide for specific storage conditions. In article 5.14.3 of the WADA Guidelines for Urine Sample Collection, it is stated that where possible, samples should be stored in a cool environment and that warm conditions should be avoided. In their respective witness statement, Dr Nestor Mejia and Ms Adriana Herrera stated that the samples were stored in a special refrigerator designated for the purpose of stored the samples and were not moved at any time while they were stored at their residence.

75. One must keep in mind that when the samples were handed over to the LCD by Ms Adriana Herrera, their integrity and their container were carefully inspected by a technician who did not detect any anomaly or irregularity.

76. In her witness statement, Dr Gloria Gallo Isaza reported signs of turbidity but no signs of degradation of the urine. She confirmed that signs of turbidity are not abnormal in her experience and considered that the integrity of the sample in question was not altered. In light of this and in the absence of IAAF guidelines to the contrary, it can be concluded that Dr Nestor Mejia took all reasonable measures to ensure the protection of the integrity of the samples and complied with IAAF Anti-Doping Regulation 3.92.

77. In addition to the above discussions, article 5.2.6.5 of the WADA International Standard for Laboratories reads as follows:

"Reporting of "A" Sample results should occur within ten (10) working days of receipt of the Sample. The reporting time required for specific Competitions may be substantially less than ten days. The reporting time may be altered by agreement between the Laboratory and the Testing Authority".

78. The sample was received by the LCD on 2 June 2009 and the certificate of analysis was issued by the LCD on 16 June 2009. The provision requires the reporting of the result within ten working days. Given that 15 June 2009 was a public holiday, the laboratory has complied with the applicable International Standards.

C. Could the departure from the International Standards for Laboratories have caused the adverse analytical finding?

79. The Respondents, in particular the Athlete, did not provide any evidence to call into question the validity and reliability of the testimonies and other evidence presented by the IAAF in support of its case.

80. For the reasons exposed above, the Panel has accepted to its comfortable satisfaction the exogenous origin of 3-OH stanozolol, which was scientifically assessed.

81. Neither before the CAF disciplinary bodies nor before the CAS, the Respondents have given any explanation with regard to the presence of exogenous prohibited substance in the Athlete's body. In particular they have not substantiated that the latter bears no fault or negligence for

the Anti-Doping Rules violation. They did not make credible or even plausible that during the phase of custody of the samples by Dr Nestor Mejia and Ms Adriana Herrera, the Athlete's samples could have been invaded or that a third party could have sabotaged them without leaving a trace of some kind on the sample container.

82. The Panel found the testimonies of Dr Nestor Mejia, Ms Adriana Herrera, Dr Gloria Gallo Isaza and Professor Christiane Ayotte both credible and compelling. They have never been challenged by the Respondents, who did not bring up any evidence related to a motive which could have led those highly qualified persons to make a false statement with deliberate intent to harm the Athlete's interests. The Respondents did not even suggest that those persons had any reason to sabotage the Athlete's samples. Therefore, the Panel does not see any grounds for casting doubts on their witness statements and on the other reports which are reliable and must be admitted into evidence.

83. Based upon the evaluation of the foregoing evidence, the Panel is convinced that a breach in the chain of custody did not occur and that a departure from the International Standards for Laboratories caused due to the delay in the delivery of the samples, did not cause the adverse analytical finding. In addition, the Respondents failed to cite any evidence whatsoever that would indicate manipulation of the sample by an ill-disposed person. On these findings of the evidence, it has been proven by the IAAF as well as by the circumstances that the Athlete therefore committed a doping offence prohibited by the applicable Anti-Doping Regulations.

D. What is the sanction and how should it be calculated?

84. It is undisputed that it is the first time that the Athlete is found guilty of an Anti-Doping Rule violation.

85. IAAF Rule 40.2 reads as follows:

> *"**Ineligibility for Presence, Use or Attempted Use or Possession of Prohibited Substances and Prohibited Methods***
>
> *2. The period of Ineligibility imposed for a violation of Rules 32.2(a) (Presence of a Prohibited Substance or its Metabolites or Markers), 32.2(b) (Use or Attempted Use of a Prohibited Substances or Prohibited Method) or 32.2(f) (Possession of Prohibited Substances and Prohibited Methods), unless the conditions for eliminating or reducing the period of Ineligibility as provided in Rules 40.4 and 40.5, or the conditions for increasing the period of Ineligibility as provided in Rule 40.6 are met, shall be as follows:*
>
> *First violation: Two (2) years' Ineligibility".*

86. IAAF Rule 40.8 provides the following:

> *"**Disqualification of results in Competitions subsequent to Sample collection or commission of an anti-doping rule violation***
>
> *8. In addition to the automatic Disqualification of the results in the Competition which produced the positive sample under Rules 39 and 40, all other competitive results obtained from the date the positive Sample*

was collected (whether In-Competition or Out-of-Competition) or other anti-doping rule violation occurred through to the commencement of any P Suspension or Ineligibility period shall be Disqualified with all of the resulting Consequences for the Athlete including the forfeiture of any titles, awards, medals, points and prize and appearance money".

87. IAAF Rule 40.10 states the following:

*"**Commencement of period of Ineligibility***

10. Except as provided below, the period of Ineligibility shall start on the date of the hearing decision providing for Ineligibility or, if the hearing is waived, on the date the Ineligibility is accepted or otherwise imposed. Any period of Provisional Suspension (whether imposed or voluntarily accepted) shall be credited against the total period of Ineligibility to be served".

88. In the absence of any submissions by the parties with regard to the existence of mitigating or aggravating circumstances, the Panel should impose the standard two-year period of ineligibility together with all its resulting consequences.

89. Furthermore, the Athlete served a provisional suspension of 30 days from 24 June 2009 and then another period spanning from 28 August to 7 September 2009 as a result of the 2 year sanction imposed by the CAF Disciplinary Commission. Finally, a provisional suspension pending the outcome of these proceedings was imposed upon the Athlete by the IAAF Doping Review Board on 29 April 2010.

The Court of Arbitration for Sport rules:

1. The appeal filed by the International Association of Athletics Federations against the decision issued by the General Disciplinary Commission of the Colombian Athletics Federation on 12 February 2010 is upheld.

2. The decision issued by the General Disciplinary Commission on 12 February 2010 is set aside.

3. Ms Johanna Trivino-Urrutia is guilty of an Anti-Doping Rule violation committed during the 54th Colombian Senior Championship, which took place in Bogotá, Colombia between 23 and 24 May 2009.

4. Ms Johanna Trivino-Urrutia shall be declared ineligible for two years. The period of ineligibility to be imposed upon her shall commence on the date of the notification of this award to Ms Trivino-Urruita. The periods of Provisional Suspension shall be credited against the total period of Ineligibility to be served.

5. Ms Johanna Trivino-Urrutia's results, her eventual medals, points and prizes obtained during the 54th Colombian Senior Championship, since 23 May 2009 and/or during the above-mentioned period of ineligibility, are forfeited.

6. (…).

7. (…).

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