Arbitration CAS 2022/ADD/41 International Weightlifting Federation (IWF) v. Tamás Aján, award of 16 June 2022

Panel: Prof. Jens Evald (Denmark), Sole Arbitrator

Weightlifting
Doping (tampering with the doping process and complicity)
CAS ADD jurisdiction
Applicable law
Means of proof
Tampering with the doping process
Complicity
Ineligibility period

1. **According to Article 8.1.1 of the 2021 IWF Anti-Doping Rules (ADR), the IWF has delegated its responsibility to act as first instance to the CAS ADD. Furthermore, Article A2 of the CAS ADD Rules provides that the ADD has jurisdiction to rule as a first- instance authority on behalf of any sports entity which has formally delegated its powers to the ADD to conduct anti-doping proceedings and impose applicable sanctions.**

2. **According to the principle *tempus regit actum,* the rules in place at the time of the procedural act govern the procedural aspects of the case, irrespective of the rules applicable to the merits. The asserted Anti-Doping Rule Violations (ADRV) shall be governed by the IWF ADR in force at the time of their commission.**

3. **Pursuant to Article 3.2 of the 2009, 2012 and 2015 IWF ADR, an ADRV can be established by *"any reliable means, including but not limited to admissions, evidence of third Persons, witness statements, expert reports, documentary evidence".* Accordingly, the correspondence between the parties whose content is undisputed and authentic can constitute contemporaneous evidence of a high official's awareness in relation to his tampering with the doping process and covering-up of Adverse Analytical Findings (AAFs).**

4. **Article 2.5 of the 2009, 2012, 2015 IWF ADR states that *"Tampering or Attempted Tampering with any part of Doping Control"* constitute an ADRV. These articles and their respective comments prohibit *"conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods".* As set out in the respective comments, a broad range of behaviours may qualify as "tampering". Whether a certain behaviour qualifies as tampering must be asserted in the individual context. In this respect, pursuant to Article 20.3.9 of the 2012 IWF ADR, the President of the IWF has the duty to ensure that the IWF would**

abide to its Code requirements, which include the obligation to pursue all potential ADRV within its jurisdiction. Although the latter is not personally responsible of the result management of the ADRV's on a day-to-day basis, he is ultimately in charge of making sure that the IWF processes cases in compliance with the IWF ADR. Thus, the obstruction to WADA's inquiries into the resolution of unsanctioned ADRVs committed by IWF athletes constitutes tampering with the doping process.

5. **Pursuant to Article 2.8 of the 2009 and 2012 IWF ADR and to Article 2.9 of the 2015 ADR, complicity constitutes an ADRV. The language of those articles that cover *"assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of [intentional* (2015 version IWF ADR)] *complicity involving an anti-doping rule violation"* is broad in order to capture any form of complicity and cover acts which are supposed to prevent an anti-doping rule violation from being discovered after it has been committed. The obstruction to WADA's inquiries into the resolution of unsanctioned ADRVs committed by IWF athletes is a form of complicity.**

6. **The seriousness of the ADRVs committed by a high official - tampering with the doping process and complicity -, and the fact that the conduct was displayed over a decade, justifies a lifetime period of ineligibility starting on the date of the award.**

I. PARTIES

1. The International Weightlifting Federation (the "IWF" or the "Claimant") is the world governing body for the sport of weightlifting having its registered offices in Lausanne, Switzerland. The IWF has delegated the implementation of its anti-doping programme to the International Testing Agency (the "ITA"). Such delegation includes amongst others, the Result Management and the subsequent prosecution of potential Anti-Doping Rule Violations ("ADRV") under IWF's jurisdiction.

2. Mr. Tamás Aján ("Mr. Aján" or the "Respondent") is the former Secretary General (1975-2000) and President (2000-2020) of the IWF. Mr. Aján is also former member of the International Olympic Committee ("IOC") and a former council member of the World Anti-Doping Agency ("WADA").

II. FACTUAL BACKGROUND

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

by the parties in the present proceedings, he only refers to the submissions and evidence he considers necessary to explain his reasoning.

A. Tampering and complicity in relation to the ADRVs committed by Ms. Roxana Cocos

1. The samples collected from Ms Roxana Cocos

4. On 20 July 2010, Ms. Roxana Cocos ("Ms. Cocos"), an elite international level Romanian weightlifter, was subject to an Out-Of-Competition ("OOC") doping control in Bascov, Romania, where a urine sample No. 2550268 (the "20 July 2010 Sample") was allegedly collected from her by the National Anti-Doping Agency ("HUNADO"), on behalf of the IWF.

5. On 20 September 2010, during the 2010 World Weightlifting Championships in Antalya, Turkey, Ms Cocos was subject to an In-Competition ("IC") doping control where urine sample No. 2550867 (the "20 September 2010 Sample") was collected from her by HUNADO on behalf of the IWF.

6. On 13 April 2012, during the 2012 European Championships in Antalya, Turkey, Ms Cocos was subject to an IC doping control where urine sample No. 2685884 (the "European Championships Sample") was collected from her.

7. On 8 May 2012, the Cologne WADA-accredited laboratory (the "Laboratory") in charge of the IWF program reported to Ms Monika Ungar ("Ms Ungar"), the IWF Legal Counsel at the time, that the analysis of the European Championships Sample had returned an Adverse Analytical Finding ("AAF") for oxandrolone metabolite, i.e. an Anabolic steroid prohibited at all times under section 1.1 of the WADA Prohibited List.

8. On 9 May 2012, the laboratory officially reported the AAF via the ADAMS system and the IWF was notified of the positive result through ADAMS.

2. Ms Cocos' first provisional suspension for an AAF

9. On 10 May 2012, Ms Ungar notified Mr Nicu Vlad ("Mr Vlad"), the President of the Weightlifting Federation of Romania ("FRH"), and Ms Cocos of the AAF related to the analysis of the European Championships Sample (the "AAF Notification").

10. In the AAF Notification, the IWF informed Mr Vlad and Ms Cocos, that she was immediately suspended *"from any weightlifting activity"* and that the provisional suspension was to remain *"in force until all applicable procedures have been completed"*. The IWF further invited Ms Cocos to inform the IWF whether she requested the analysis of her B sample.

11. Moreover, the IWF informed Mr Vlad that the *"IWF does everything on its behalf to expedite the procedure due to the closeness of the London Games"* and asked Mr Vlad to *"respond within the set deadlines and take the necessary action"*.

3. Ms Cocos' second provisional suspension for sample substitution

12. On 27 June 2012, upon Ms Ungar's request, a testing mission under the IWF authority was carried out with a view of collecting an additional sample from Ms Cocos. The mission was prompted by information provided by the Athlete Passport Management Unit ("APMU") of the Laboratory according to which Ms Cocos had manipulated some of her samples and someone else had been passing the doping controls on her behalf. One urine and one blood samples were collected OOC from someone who presented herself as the Athlete.

13. On 20 July 2012, the APMU informed Ms Ungar that it was in a position to prove manipulation in relation to samples collected from Ms Cocos and he would soon be providing to the IWF the written documentation confirming the manipulation.

14. On the very same day, the then IWF President, Mr Aján sent an email to Mr Vlad informing him that *"[w]e have just received information that the laboratory detected the manipulation of the urine samples of Ms Roxana Cocos. It means the DNA analysis of her samples prove that some of her samples were provided by someone else"*.

15. Mr Aján further informed Mr Vlad that *"Based on the above and to try and avoid any scandals right before the London Olympic Games I suggest that you reconsider this athlete's nomination to the Games. There will be many tests in London as well and those controls are carried out by the IOC and they will release all information immediately"*.

16. On 24 July 2012, the APMU provided the written DNA profile analysis report (the "DNA Report") to the IWF which confirmed, amongst others, that the DNA from 20 July 2010 Sample and the 27 June 2012 Sample did not match the DNA from the World Championships Sample and the European Championships Sample.

17. On the same day, Ms Ungar notified Mr Vlad of *"the proof of manipulation by your lifter Ms Roxana Cocos"*. Ms Ungar further informed Mr Vlad to *"[p]lease consider her as provisionally suspended [from] today, the 24th July 2012. Therefore she shall be withdrawn from the 2012 London Olympic Games and replaced by someone else"*.

4. Ms Cocos participation in the 2012 London Olympic Games

18. On 1 August 2012, Ms Cocos nevertheless participated in the women's 69 kg weightlifting competition of the 2012 London Olympic Games ("London Games") and won the silver medal. After the competition, Ms Cocos was subject to an IC doping control where a urine sample No. 2718603 (the "Olympic Sample") was collected from her.

19. The analysis of the Olympic Sample did not result in an AAF at the time. However, in 2019, the Olympic Sample was reanalysed as part of the International Olympic Committee's ("IOC") reanalysis programme of the samples collected during the London Games. Upon reanalysis, the Olympic Sample showed presence of metenolone and stanozolol metabolites.

20. On 23 November 2020, Ms Cocos was found by the IOC Disciplinary Commission to have committed an ADRV pursuant to the IOC Anti-Doping Rules and was disqualified from the London Games event in which she participated and was ordered to return the silver medal, diploma and pin she had obtained.

21. The two ADRVs committed by Ms Cocos, i.e. the sample substitution of 20 July 2010 and the presence of a prohibited substance in her 13 April 2012 sample were never pursued and/or sanctioned by the IWF.

22. On 20 August 2020, WADA notified the IWF, that a number of AAFs relating to IWF were indicated as still pending in its records and requested the IWF to initiate an investigation into these pending cases.

23. After being entrusted by the IWF with this mission, the ITA noticed that the 13 April 2012 AAF originated from a sample belonging to Ms Cocos.

24. On 23 June 2021, the ITA notified Ms Cocos that it was charging her for the presence of a Prohibited Substance in her 13 April 2012 Sample and for resorting to sample substitution on 27 June 2012. The sample substitution of 20 July 2010 was time-barred, so Ms Cocos could not be sanctioned for this ADRV. On 26 November 2021, the ITA issued a decision imposing a lifetime eligibility on Ms Cocos for her multiple ADRVs.

B. Tampering and complicity in relation to the ADRVs committed by several Azerbaijani weightlifters

1. The samples collected from the Azerbaijani weightlifters

25. In 2013, several Azerbaijani weightlifters (the "Azerbaijani Weightlifters") were tested positive further to the analysis of samples collected by the IWF during both IC and OOC missions:

- IC tests conducted during the April 2013 IWF European Championships and IWF Youth World Championships (6 Azerbaijani weightlifters tested positive for anabolic steroids)

- OOC testing mission of 19 June 2013 in Azerbaijan (8 Azerbaijani weightlifters tested positive for anabolic steroids)

- OOC testing mission of 14 September 2013 in Azerbaijan (8 Azerbaijani weightlifters tested positive for anabolic steroids).

26. Over the course of 2013, the IWF was made aware by the Cologne WADA-accredited laboratory (the "Laboratory") of the results of the analysis of the samples collected during the above testing missions.

2. The participation of known-positive Azerbaijani weightlifters at the 2013 IWF World Weightlifting Championship

27. On 23 August 2013, the Executive Director of the Azerbaijani Weightlifting Federation ("AWF"), Mr. Isgandar Asgarov ("Mr. Asgarov"), submitted to the IWF its preliminary entry list (the "Preliminary WWC List") for the 2013 IWF World Weightlifting Championship ("2013 IWF WWC") scheduled to take place from 16-27 October 2013 in Wroclaw, Poland.

28. The Preliminary WWC List contained the names of 8 Azerbaijani weightlifters whose samples had returned AAFs in the prior months and for which the IWF had obtained prior notice of these AAFs.

29. On 3 October 2013, the AWF submitted to the IWF the final entry list (the "Final WWC List") for the 2013 IWF WWC. The Final WWC List contained the name of 3 Azerbaijani weightlifters whose samples had returned AAFs in the prior months.

30. On 9 October 2013, Mr. Aján sent an email to Mr Asgarov requesting him to organize a national testing mission. Mr. Arján's correspondence to Mr Asgarov read as follows:

> *"I request the following:*
>
> 1. *Ask the Azeri Anti-Doping Agency to make the control. No cheating can happen!*
> 2. *Fill in the documents of the Azeri Nado.*
> 3. *Send the samples to the following laboratory in Austria […].*
> 4. *Write a letter requesting an urgent analysis […] Ask for deadline 16 October.*
> 5. *It would be good if somebody could take the samples to Austria.*
>
> *The time is very short, urgent steps are needed, the results should be sent to the Azeri NADO".*

31. On 11 October 2013, Mr Aján personally wrote an official letter (the "11 October 2013 Letter") to the President of AWF, Mr Jahangir Askerov ("Mr Askerov") and to the AWF which read, in part, as follows:

- *"We have just received the laboratory results of the out-of-competition mission carried out in Baku, Azerbaijan on the 14th September. There are eight positive findings among the tested athletes".*
- *"The total number for this is 23".*
- *"I cannot take any responsibility or accept such serious violation of the IWF Anti-Doping rules and the objective of our sport. This is clearly a moral massacre regarding the athletes".*
- *"Now I know that it was a terrible mistake when earlier this year I did not insist on the application of stricter sanctions on your lifters and coaches".*

- *"The mentioned cases will not yet be published but I can no longer take responsibility in front of the WADA and the IOC for your federation".*

32. Despite the fact, that Mr Aján, in his 11 October 2013 Letter, mentioned the 23 AAFs related to Azerbaijani weightlifters during the year 2013, only one of them, a junior athlete, had been notified by the IWF of its AAF.

33. According to the 2013 IWF WWC results book, the 3 athletes listed in the Final WWC List and who had tested positive in the months prior nevertheless competed in the 2013 IWF WWC. Ms Christina Iovu placed 2nd in the 53kg category event, Mr Valentin Hristov placed 3rd in the 62kg category and Mr Firidun Guliyev placed 3rd in the 69kg category.

3. The participation of known-positive Azerbaijani weightlifters in the 2013 IWF Baku Cup

34. On 3 December 2013, the AWF submitted to the IWF the final entry list (the "Final Baku List") for the IWF 2013 Grand Prix Baku International Cup (the "2013 Baku Cup") scheduled to take place from 5-8 December 2013. The Final Baku List contained the names of 8 Azerbaijani weightlifters whose samples had returned AAFs in the prior months and for which the IWF had obtained prior notice of these AAFs.

35. According to the 2013 Baku Cup results book, 7 of these athletes competed in the 2013 Baku Cup.

36. On 10 December 2013, i.e. a few days after the 2013 Baku Cup, Mr Aján personally wrote an official letter (the "10 December 2013 Letter") to the Executive Director of the AWF which read, in full, as follows:

> *Dear Isgandar,*
>
> *The Azerbaijan Weightlifting Federation quicky became a strong pilar of the International Weightlifting Federation with the leadership of President Asgarov and under your management as Chief Executive.*
>
> *I wish to inform you in confidentiality of the following:*
>
> *In my opinion your federation does not feel the weight and the pressure that ou are under and the responsibility this entails.*
>
> *Kindly ask you to treat this letter with outmost discretion since the subkect we have to discuss is very sensitive and needs careful consideration. In 2013 there were 23 positive cases among your athletes related to 18 athletes, whereas 5 athletes are concerned twice.*
>
> *This important issue is not only a concern for the IWF Secretariat but also WADA is aware of the samples, without name and nationality. The IWF however shall report to WADA to name, country and sanction related to each sample number.*

There is a standardized control system for the entire sport world therefore there is no way for the IWF to cover up these cases.

What we have done for your athletes and Federation is something the IWF has never done before and not willing or able to do in the future. The knot tightens around my neck and my 45 years work could go down in a blink.

The IWF keeps receiving reminders from WADA related to all 23 cases and sooner or later an answer shall be given.

Dear Friend,

From the 1st January of next year the IWF will not be able to assist in any such or similar matters. At the moment my biggest concern is when and what the IWF shall report to WADA related to the 23 cases and what names will be listed behind the cases.

Since we have received two warnings from WADA already, I am only able to postpone this matter until the end of this year and I need to provide some answers.

I have shared this matter with Mr Jahangir Asgarov on our last meeting and at the office only Dr Ungar is aware of the cases and this should remain the case.

Kindly ask you to have this letter translated for you by Mirzamed or Zaur and following delete it from your emails and destroy it completely.

Following, I am looking forward to your response to be able to resolve this matter as soon as possible".

4. The backdated AAF notifications and sanctions of the Azerbaijani Weightlifters

37. On 19 March 2014, the IWF published a press release which stated that *"[t]he relevant procedures of anti-doping violations by multiple weightlifters from Azerbaijan have now been closed. Accordingly, lifters found positive at the 2013 European Championships and subsequently in out-of-competition testing have been sanctioned and the results of the 2013 Championships have been updated. Both the competitors concerned and the Azerbaijani Weightlifting Federation have received punishment following the sanctions stipulated in the IWF Anti-Doping Policy".*

38. On 31 March 2014, Mr Aján wrote an email to the president of the AWF referring to the *"previous letter regarding the numerous doping cases occurred in Azerbaijan in 2013"* and informing the AWF of the decision of the IWF Executive Board to impose a USD 500,000 fine on the AWF.

39. On 11 April 2014, Dr Magdolna Trombitas ("Dr Trombitas"), the then IWF Legal Counsel, sent an email to WADA with the object title *"IWF Decisions"* and explaining that she was sending to WADA *"some decisions from 2013"*. The documents sent by Dr Trombitas to the IWF were a series of 18 documents dated from 4 June 2013 to 18 November 2013 and which

purported to be both AAF notifications and sanctioning decisions related to the 23 AAFs from the Azerbaijani Weightlifters (the "Azerbaijani Decisions").

40. Contrary to the purported date of the Azerbaijani Decisions, the Azerbaijani Weightlifters had not been sanctioned in 2013. Some of the athletes participated in IWF events although, based on the date of the alleged decisions, they would have been sanctioned and banned at the time.

C. Complicity with regard to unsanctioned ADRVs committed by IWF athletes prior to the year 2014

41. Throughout the years, WADA repeatedly inquired with the IWF as to the status of cases which were still pending in its files – i.e. AAFs which had not been pursued according to WADA's records – be it through automatic email reminders or official letters.

42. On 7 September 2016, Dr Trombitas sent Mr Aján an email which contained an *"extended summary"* of an internal IWF meeting. Under the topic of *"Result management"*, the summary read as follows:

"Cases before 2014 – WADA pending cases Annexes (multiple before 2014). The IWF received multiple e-mails from WADA regarding past cases (meaning cases before 2014 when the ADC and dr Trombit´s took over). We tried to communicate some we found but after a while and in line with the request of Dr Aján we did not send past cases only the ones we closed from 2014".

43. On 11 November 2016, the IWF received a letter from WADA's Legal Director, Mr Julien Sieveking, requesting information in relation to four pending cases.

44. On the same day, the then IWF Legal Counsel, Dr Eva Nyirfa ("Dr Nyirfa"), sent Mr Aján an email referring to WADA's request and explaining that:

- *"As I informed earlier, WADA had repeatedly requested information from us about pre-2014 cases. I forwarded these emails to you".*

- *"In response to your express request and considering that I have no information whatsoever on these matters, I am unable to provide information to WADA".*

45. On 12 November 2016, Mr Aján replied to Dr Nyirfa in an email which read, in part, as follows:

- *Dear Vicuska, I have wanted to go through the WADA request for a long time. To brief you on the story".*

- *"*[Ms Ungar] *left after 1 Jan 2014.* [Dr Trombitas] *came later and started to process the flows. In her words, a mass of skeletons dropped out of the closet. We have been putting this off, I will tell you the details after 18 Nov. We have never had the time to discuss this in peace. Please give me the*

information name by name, and I will provide the appropriate information to WADA. That's all I will say by mail. So, detailed information is requested. Thank you, Tamás".

46. The above was further confirmed by Dr Nyirfa in her interview with the McLaren Investigation ("McLaren Independent Weightlifting Investigation", 4 June 2020) (the "McLaren Report") were she declared that:

- *"Wada regularly sent emails to* [Dr Trombitas]*, about older cases. I received regular emails as well.*
- *I was asked by the president not to reply to them. In the beginning I found some results and sent them to WADA. I was instructed not to reply, and* [Dr Trombitas] *was also told not to reply".*
- *"I believe* [the president] *is holding back on the results because he likely has something to hide".*
- *Decisions could been avoided in a lot of the cases and I was scared of the potential consequences. This is wrong and this is why I sent the email to Tamas. He responded to the email – he excused himself, and was nice in the email, and he didn't have information about the cases, and to draft a letter that it was handled by previous legal counsel and she wasn't here – he shifted responsibility to Monika Ungar".*

47. On the 28 June 2017, the IWF received an email from WADA inquiring as to the status of 85 pending cases for which the IWF had received automatic reminders but had failed to provide WADA with a status update.

48. On 31 July 2017, Dr Nyirfa replied to WADA with cursory information as to the status of these cases, often mentioning that the IWF did not have information related to these cases and stating that *"[U]fortunately the IWF records might be incomplete for the period before 2014".*

49. On 18 August 2020, WADA issued a notice to the IWF which read as following: *"[a]ccording to our records the IWF has 146 pending cases which occurred between 1 January 2009 and 31 December 2019. These cases are where an ADRV may be, or has been, alleged against an athlete or other person (e.g. as a result of an adverse analytical finding or an investigation) by the IWF but WADA has not received notice of a reasoned decision".*

50. The breakdown of those cases was as follows: 2009 (11), 2010 (46), 2011 (31), 2012 (9), 2013 (12) 2014 (2), 2015 (4), 2016 (1), 2017 (1), 2018 (3) and 2019 (23).

51. The ITA was tasked by the IWF to process these pending cases. After further investigations, 29 of these cases could not be salvaged by the ITA due to statute of limitations issues, since the athletes were never informed of the AAFs within the ten-year period and/or unavailability of evidence.

D. Procedural history

52. On 23 June 2021, the ITA, on behalf of the IWF, notified its Notice of Charge to Mr Aján. In the Notice of Charge, the ITA summarized the evidence and basis of the assertion of the

ADRVs and outlined the potential consequences of the ADRVs. The ITA also drew Mr Aján's attention to the possibility for him to promptly admit the asserted ADRVs and/or to provide substantial assistance to the ITA's investigation. Finally, the ITA invited Mr Aján to provide his explanations as to the asserted ADRVs.

53. On 5 July 2021, Mr Arján informed the ITA that he had instructed Dr Peter Zamecsnik and Dr Peter Sulánui of Zamecsnik, Pósfai és Társai Ügyvédi Iroda to represent him in the present proceedings. Mr Aján also informed the ITA that he challenged the asserted ADRVs and that *"the whole procedure was initiated and pushed by a narrow circle of individuals based on unfounded and false pretexts, who want to put Mr Aján personally in a negative context"*.

54. On 19 August 2021, the ITA informed Mr Aján that in the light of his challenge of the asserted ADRVs, the matter would be referred for adjudication to the CAS ADD pursuant to art. 8.1.1 of the 2021 IWF ADR.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

55. On 16 December 2021, the Claimant filed a Request for Arbitration with the Anti-Doping Division of the Court of Arbitration for Sport (the "ADD") in accordance with Article A13 of the Arbitration Rules of the ADD (the "ADD Rules").

56. On the same day, and in response to the letter from the Managing Counsel of the ADD, WADA informed that it did not wish to participate in these procedures.

57. In its Request for Arbitration, and in accordance with Article A16 of the ADD Rules, the Claimant requested that this procedure be referred to a Sole Arbitrator.

58. On 23 December 2021, the Managing Counsel of the ADD notified the Parties that they had failed to jointly nominate a Sole Arbitrator. Therefore, the Sole Arbitrator would be appointed by the President of the ADD.

59. On 4 January 2022, Dr Péter Zamecsnik informed the CAS ADD that he did not have any Power of Attorney to represent Mr Tamás Aján in front of the CAS ADD and therefore should not represent the Respondent in these proceedings.

60. On 6 January 2022, Mr Aján requested to be granted a 20-day deadline to file his Answer *"after receiving the documents by courier"*.

61. On 7 January 2022, the Managing Counsel of the ADD advised the Respondent that in order to re-route the shipment containing the Claimant's Request for Arbitration and its annexes, Mr Aján was requested to provide his full and valid address no later than 10 January 2022.

62. In an email of 17 January 2022, Mr Aján informed that he was abroad and not currently staying at his home address.

63. On the same day, the Managing Counsel of the ADD, on behalf of the President of the ADD, informed the Parties that Mr. Jens Evald, Professor of Law in Aarhus, Denmark, had been appointed as the Sole Arbitrator. The Parties did not raise any objection to the constitution and the composition of the Panel.

64. On 18 January 2022, the Sole Arbitrator acknowledged that the Respondent was not represented by lawyer and informed the Parties that the Respondent was granted a 14-day time limit – running as of 26 January 2022 – under the condition that he would be at his domicile on such date to receive the documents. Should the Respondent not be at his domicile on 26 January 2022 to receive the documents, or if the Respondent did not file his Answer for any other reasons within the granted time limit, the Sole Arbitrator would consider the Respondent's letter of 6 January 2022 as his Answer.

65. On 11 February 2022, the Managing Counsel of the ADD informed the Parties that the original hard covers of the Request for Arbitration and its annexes had been duly delivered to the Respondent on 24 January 2022 and the Respondent had failed to file his Answer within the given deadline. Therefore, the Sole Arbitrator would consider the Respondent's letter of 6 January 2022 as his Answer. Finally, the Parties were invited, by 16 February 2022, to indicate whether they requested a hearing to be held in this matter. The Parties' silence would be deemed as a waiver to their right to a hearing.

66. On 21 February 2021, and considering that the Respondent's position in his letter of 6 January 2022 (now his Answer), that the case or part of the case was time-barred had not been addressed by the Claimant in its Request for Arbitration, the Sole Arbitrator, in accordance with Article 19.1(1) of the ADD Rules, granted the Claimant a deadline until 28 February 2022 to file a Reply to the allegations made by the Respondent in the Answer.

67. On 22 February 2022, the Claimant filed its Reply with annexes and the Respondent was granted a deadline until 28 February 2022 to file his Second Response.

68. On 1 March 2022, the Managing Counsel of the ADD, notified the Parties that the Respondent did not submit his Second Response within the given deadline. Further, and after consultation with the Parties, the Sole Arbitrator deemed himself sufficiently informed to render the Arbitral Award on the basis of the Parties' written submissions, without holding a hearing.

69. On 2 March 2022, the Claimant signed and returned the Order of Procedure. Despite two attempts, the Respondent failed to sign and return the Order of Procedure to the CAS ADD Office.

IV. SUBMISSIONS OF THE PARTIES

A. The Claimant

70. The Claimant's submissions, in essence, may be summarized as follows:

1. The applicable limitation period is ten years

- Article 20.7.2 of the 2015 IWF clarified that the revised 10-year statute of limitation of Article 17 of the 2015 IWF ADR had retroactive effect and therefore also applied to ADRVs which occurred prior to the coming into effect of the 2015 IWF ADR *"provided however that Article 17 shall only be applied retroactively if the statute of limitations period has not already expired by the Effective Date"*.

- The Effective Date according to Article 20.7.2 of the 2015 IWF ADR was 1 January 2015. In the present case, the asserted ADRVs were committed between 1 August 2012 and the fall of the year 2016. Therefore, as on the Effective Date of the 2015 IWF ADR, the 8-year limitations period had not expired for any asserted ADRVs.

- As per Article 17 and Article 20.7.2 of the 2015 IWF ADR, the limitations period was extended to 10-years (i.e. until 1 August 2022 at a minimum for the earliest asserted ADRV). The 10-year statute of limitations continued under the 2021 ADR.

2. The Evidence of the Respondent's ADRVs

2.1. Tampering and Complicity in relation to the ADRVs committed by Ms Roxana Cocos

- Ms Cocos was suspended twice by IWF prior to the 2012 London Olympic Games for the use of a prohibited substance and for sample substitution.

- Despite being fully aware of the fact that Ms Cocos had been caught using anabolic steroids in the lead-up to the 2012 London Olympic Games, Mr Aján allowed Ms Cocos to participate in the women's 69kg weightlifting competition of the 2012 London Olympic Games, an event organized by the IWF and listed on the IWF calendar.

- In addition, Mr Aján also allowed Ms Cocos' use of sample substitution and prohibited substances to remain entirely unsanctioned, even after the Management proceedings would have necessarily led to Ms Cocos' London results being disqualified.

- Article 2.5 of the 2009 ADR prohibits *Tampering and Attempted Tampering which is defined as "conduct which subverts the Doping Control Process"*. As defined in the 2009 ADR and confirmed by CAS jurisprudence, a broad range of conduct may be qualified as Tampering, i.e., *"engaging in any fraudulent conduct to alter results or prevent normal procedure from occurring"*.

- In addition, and pursuant to Article 2.8 of the 2009 ADR, *"assisting, encouraging, aiding, abetting, covering up or any type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation"* also constitutes an ADRV.

- There is sufficient evidence to conclude that Mr Aján knowingly did not enforce the Athlete's Provisional Suspension. The content of the emails of 20 and 24 July 2012 are

abundantly clear: the Athlete was to be removed from the 2012 London Olympic Games and the fear of having her test positive (and not being able to conceal it) were expressly mentioned by the Respondent. The fact that the email audit stops after 24 July 2012 is not only expected, but further corroborates the evidence of the ADRV.

- Mr Aján, as the then IWF President, had the power and responsibility to enforce the Provisional Suspension and ensure that the Results Management was pursued in compliance with the applicable ADR.

- In conclusion, the Claimant, on behalf of the IWF, has discharged its burden of establishing to the comfortable satisfaction of the Sole Arbitrator that Mr Aján tampered with the Doping Control Process and was complicit in the ADRVs committed by Ms Cocos and, thus, committed ADRVs pursuant to Articles 2.5 and 2.8 of the 2009 IWF ADR.

2.2. Tampering and Complicity in relation to the ADRVs committed by several Azerbaijani weightlifters

- In 2013, Mr Aján was made aware of that samples collected from several Azerbaijani weightlifters had returned 23 AAFs.

- Mr Aján allowed several known-positive Azerbaijani weightlifters to participate in IWF events and not to process their AAFs.

- Mr Aján personal correspondence with the AWF is contemporaneous evidence of his awareness and concern in relation to his Tampering and covering-up of the AAFs.

- Mr Aján oversaw the backdating of the sanctions of the Azebaijani Weightlifters.

- Article 2.5 of the 2012 ADR prohibits Tampering and Attempted Tampering which is defined as *"conduct which subverts the Doping Control process"*. As defined in the 2012 ADR and confirmed by CAS jurisprudence a broad range of conduct may be qualified as Tampering, i.e.; *"obstructing misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring or providing fraudulent information to an Anti-Doping Organization"*.

- In addition, and pursuant to Article 2.8 of the 2012 ADR, *"assisting, encouraging, aiding, abetting, covering up or any type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation"* also constitutes an ADRV.

- In conclusion, the Claimant, on behalf of the IWF, has discharged its burden of establishing to the comfortable satisfaction of the Sole Arbitrator that Mr Aján tampered with the Doping Control Process and was complicit in the ADRVs committed by the AWF athletes and, thus, committed ADRVs pursuant to Articles 2.5 and 2.8 of the 2012 ADR.

2.3. Tampering and Complicity in relation to unsanctioned ADRVs committed by IWF athletes prior to the year 2014

- Mr Aján's intentional obstruction to the investigation and resolution of unsanctioned ADRVs committed by IWF athletes prior to the year 2014.

- As the leader of the IWF and board member of WADA and the IOC, Mr Aján had the duty to ensure that the IWF would abide by its Code requirements, which include the obligation to *vigorously pursue all potential ADRV within its jurisdiction"*.

- Whilst Mr Aján was not personally responsible of the Results Management of ADRVs on a day-to-day basis (this was tasked to the IWF legal counsel), he was ultimately in charge of making sure that the IWF processed cases in compliance with the ADR.

- The fact that in 2020, when he was still in office, the IWF had 146 pending cases (which occurred between 1 January 2009 and 31 December 2019) is clear evidence that Mr Aján failed to ensure that ADRVs were duly handled by the IWF. The staggering volume of unresolved cases under his leadership amounts to Tampering and Complicity by omission.

- Moreover, the evidence uncovered by the ITA as part of its investigation shows that in the fall of 2016, Mr Aján actively gave clear and deliberate instructions to the IWF personnel in charge of Results management to obstruct WADA's inquiries into the resolution of unsanctioned ADRVs committed by IWF athletes prior to the year 2014.

- Article 2.5 of the 2015 ADR prohibits *Tampering and Attempted Tampering* which is defined as *"Conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods"*. The notion of Doping Control necessarily comprises Results management. As defined in the 2015 ADR and confirmed by CAS jurisprudence a broad range of conduct may be qualified as Tampering, i.e.; *"obstructing misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring"*.

- In addition, and pursuant to Article 2.9 of the 2015 ADR *"assisting, encouraging, aiding, abetting, covering up or any type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation"* also constitutes an ADRV.

- In conclusion, the Claimant, on behalf of the IWF, has discharged its burden of establishing to the comfortable satisfaction of the Sole Arbitrator that Mr Aján Tampered with the Doping Control Process and was complicit in the ADRVs committed by IWF athletes prior to the year 2014 and, thus, committed ADRVs pursuant to Articles 2.5 and 2.9 of the 2015 ADR.

3. Period of Ineligibility

- Pursuant to Article 10.7.4 of the 2009, 2012 and 2015 IWF ADR, the violations shall be considered together as one single first violation and the sanction imposed shall be based on the violation that carries the more sever sanction.

- With regard to the ADRVs for Tampering and Complicity in relation to the ADRVs committed by Ms Roxana Cocos:

    - Tampering: Article 10.3.1 of the 2009 ADR provides that the period of Ineligibility imposed for the violation of Article 2.5 shall be two years unless the conditions for Aggravating Circumstances pursuant to Article 10.6 of the 2009 ADR are met;

    - Complicity: Article 10.3.2 of the 2009 ADR provides that the period of Ineligibility imposed for the violation of Article 2.8 shall be a minimum four years up to lifetime unless the conditions for Exceptional Circumstances pursuant Article 10.5 of the 2012 ADR are met.

- With regard to the ADRVs for Tampering and Complicity in relation to unsanctioned ADRVs committed by several Azerbaijani weightlifters;

    - Tampering: Article 10.3.1 of the 2012 ADR provides that the period of Ineligibility imposed for the violation of Article 2.5 shall be two years unless the conditions for Exceptional Circumstances pursuant Article 10.5 of the 2012 ADR or for Aggravating Circumstances pursuant to Article 10.6 of the IWF are met;

    - Complicity: Article 10.3.2 of the 2012 ADR provides that the period of Ineligibility imposed for the violation of Article 2.8 shall be a minimum four years up to lifetime unless the conditions for Exceptional Circumstances pursuant Article 10.5 of the 2012 ADR are met.

- With regard to the ADRVs for Tampering and Complicity in relation to unsanctioned ADRVs committed by IWF athletes prior to the year 2014;

    - Tampering: Article 10.3.1 of the 2015 ADR provides that the period of Ineligibility imposed for the violation of Article 2.5 shall be four years;

    - Complicity: Article 10.3.4 of the 2015 ADR provides that the period of Ineligibility imposed for the violation of Article 2.9 shall be a minimum two years up to a maximum of four years.

- The Claimant submits that in light of Mr Aján status and high official positions held within the IWF and involvement in the IWF's anti-doping matters and given the particularly deceptive and obstructing conduct displayed by Mr Aján over a decade, the appropriate sanction in the present case shall be a lifetime period of Ineligibility.

- The period of Ineligibility can be potentially reduced or suspended only if the conditions provided in Article 10.5, 10.6 and 10.7 of the 2021 ADR (and/or equivalent provisions of the 2009, 2012 and 2015 ADR) are met.

- The Claimant submits that none of these provisions are applicable to the present proceedings. Therefore, the Respondent should be sanctioned with a lifetime period of Ineligibility.

- In conclusion, the behaviour displayed by Mr Aján is grave and warrants a clear reaction. These are offences of the utmost seriousness committed by an official at the helm of the international institution of the sport of weightlifting. As the former President and the most senior official at the IWF, Mr Aján must bear great responsibility and the maximum sanction, i.e. a lifetime period of Ineligibility.

- As per Article 10.13 of the 2021 ADR, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility.

71. In its Request for Arbitration, the Claimant requested the following relief:

1. The IWF's request is admissible.

2. Mr Tamás Aján is found to have committed ADRVs for Tampering or Attempted Tampering and/or Complicity pursuant to Articles 2.5 and 2.8 of the 2009 IWF Anti-Doping Rules.

3. Mr Tamás Aján is found to have committed ADRVs for Tampering or Attempted Tampering and/or Complicity pursuant to Articles 2.5 and 2.8 of the 2012 IWF Anti-Doping Rules.

4. Mr Tamás Aján is found to have committed ADRVs for tampering or Attempted Tampering and/or Complicity pursuant to Articles 2.5 and 2.9 of the 2015 IWF Anti-Doping Rules.

5. Mr Tamás Aján is sanctioned with a lifetime period of Ineligibility starting on the date on which the CAS ADD award enters into force.

6. The costs of the proceedings, if any, shall be borne by Mr Tamás Aján.

7. The ITA is granted an award for its legal and other costs.

8. Any other prayer for relief that the Hearing panel deems fit in the facts and circumstances of the present case.

B. The Respondent

72. The Respondent's submissions, in essence, may be summarized as follows:

1. Lack of jurisdiction and statute of limitations

- There is no applicable arbitration agreement referring the present case to CAS ADD.

- There is no binding decision or agreement where the ITA *"would have been empowered or appointed to start any procedure on behalf of IWF"*.

- The hypothetic breaches were in 2012 and 2013. According to the procedure of CAS ADD – as a novum – appeared only in the newest IWF Anti-Doping Policy which is effective from the 1st January 2021. Until this date the hearing panel of IWF were appointed to be the first instance decision maker. Only from the 1st January 2021 has IWF delegated its Article 8 responsibilities as first instance to the CAS ADD.

- The procedure should have been made within 8 years from the date the violation was asserted to have occurred according to Article 16 of the 2009 IWF Anti-Doping Policy or Article 14 of the 2012 IWF Anti-Doping Policy.

- Article 17 of the 2015 IWF Anti-Doping Policy has extended the limitation period to 10 years, however the regulation is only effective from 1st January 2015. The limitation period expired in 2020 or 2021.

2. Legality of filed evidence

- The Request for Arbitration does not contain how the evidence – like emails and other documents – were collected, which raise doubt to the legality of the evidence: *"Who have collected the referred evidences, in which procedure, how were these evidences protected from possible manipulation? These are questions which can not be answered only from reading the Request"*.

- Further, not all emails and other evidence, only *"just a group"* were selected by the Claimant: *"Obviously in case we grab out some details from the original context then it is possible that we are going to misunderstand the meaning of it. We can not investigate only the selected evidence- We must see all the evidence in order to see the whole picture"*.

- The evidence was unlawfully collected and is a violation of the *"General Protection Regulation"* and therefore cannot be used in this procedure.

3. Declaration regarding the ADRVs

- The Respondent *"strictly declare*[s]*"* that he did not violate any regulation of the ADR.

V. JURISDICTION AND ADMISSIBILITY

73. The Respondent asserts that the CAS ADD has no jurisdiction to render the present case, as the CAS ADD "*appeared only in the newest IWF Anti-Doping Policy which is effective from the 1st January 2021"*.

74. The Sole Arbitrator does not agree with the Respondent's assertion based on the following facts and considerations:

75. First, according to Article 8.1.1 of the 2021 IWF ADR, the IWF has delegated its responsibility to act as first instance to the CAS ADD and the procedural rules of the arbitration shall be governed by the rules of the CAS ADD.

76. Second, it is consistent CAS case law that the rules in place at the time of the procedural act govern the procedural aspects of the case, cf. the principle *tempus regit actum*, irrespective of the rules applicable to the merits.

77. Finally, Article A2 of the CAS ADD Rules provides that the ADD has jurisdiction to rule as a first- instance authority on behalf of any sports entity which has formally delegated its powers to the ADD to conduct anti-doping proceedings and impose applicable sanctions.

78. The Sole Arbitrator therefore concludes that the CAS ADD has jurisdiction to adjudicate and decide in the present dispute.

79. The Sole Arbitrator observes the Respondent's contention that the ITA has not *"empowered or appointed to start any procedure on behalf of the IWF"*. The Respondent did not offer any arguments to substantiate his assertion.

80. The Sole Arbitrator does not agree with the Respondent's assertion based on the following facts and considerations:

81. First, according to the "Introduction" ("Preface") of the 2021 IWF ADR, the IWF has delegated the implementation of its anti-doping programme to the ITA. Such delegation includes, amongst others, the Result Management and subsequent prosecution of potential ADRVs under IWF's jurisdiction.

82. Second, it is consistent CAS case law that the rules in place at the time of the procedural act govern the procedural aspects of the case, cf. the principle *tempus regit actum*, irrespective of the rules applicable to the merits. As a result, when the case was initiated against the Respondent on 23 June 2021, the 2021 IWF ADR are the applicable rules to this procedure.

83. Since the Request for Arbitration complies with formal requirement set by the ADD Rules, the Sole Arbitrator finds that the Request for Arbitration is admissible.

VI. APPLICABLE LAW

84. Article A20 of the ADD Rules provides as follows:

> *The Panel shall decide the dispute in accordance with the WADC and with the applicable ADR or with the laws of particular jurisdiction chosen by agreement of the parties or, in absence of such a choice, according to Swiss law.*

85. The asserted ADRVs occurred between 2012 and 2020 and shall therefore be governed by the IWF ADR in force at the time, i.e. the 2009 IWF ADR, 2012 IWF ADR and the 2015 IWF ADR respectively.

86. The Sole Arbitrator observes that at the time of the alleged ADRVs, the Respondent was the President of the IWF and former member of the IOC and a WADA council member.

87. The Sole Arbitrator observes that the Introduction ("Scope") to the 2009, 2012 and 2015 IWF ADR state that ADR apply to *"the IWF, each National Federation of the IWF, and each Participant in the activities of the IWF"*.

88. The 2015 IWF ADR further provide that the ADR shall also apply to *"other Person who, by virtue of an accreditation, or other contractual arrangement, or otherwise, is subject to the jurisdiction to the jurisdiction of IWF"*.

89. Moreover, Mr Aján was involved and supervised the IWF anti-doping activities, and he was kept informed of and gave instructions regarding the administration of AAFs and ADRVs committed by IWF athletes.

90. Based on the above, the Sole Arbitrator finds that the 2009, 2012 and 2015 IWF ADR are applicable to the Respondent.

91. With respect of procedural matters, the 2021 IWF ADR is applicable by virtue of the principle *tempus fugit actum.*

VII. MERITS

92. The Sole Arbitrator notes that while he has carefully considered the entirety of the Parties' written submissions and annexes he only relies below on that evidence he deems necessary to decide the dispute.

A. Statutes of Limitations

93. The Respondent asserts that the present procedure *"should have been made within 8 years from the date the violation was asserted to have occurred"* according to Articles 16 and 14 of the 2009 and 2012 IWF ADR respectively.

94. The Sole Arbitrator does not agree with the Respondent's assertion based on the following facts and considerations:

95. First, the Effective Date according to Article 20.7.2 of the 2015 IWF ADR was 1 January 2015. In the present case, the asserted ADRVs were committed between 1 August 2012 and the fall of the year 2016. Therefore, as on the Effective Date of the 2015 IWF ADR, the 8-year limitation period had not expired for any asserted ADRVs.

96. Second, Article 17 and Article 20.7.2 of the 2015 IWF ADR, the limitation period was extended to 10-years (i.e. until 1 August 2022 at a minimum for the earliest asserted ADRV). The 10-year statute of limitations continued under the 2021 IWF ADR.

97. In conclusion, the Sole Arbitrator holds that the present case is not time-barred.

B. Legality of filed evidence

98. The Respondent maintains that the evidence was unlawfully collected and is *"a violation of the General Protection Regulation"* and therefore cannot be used in this procedure.

99. The Respondent has not offered any arguments nor guided the Sole Arbitrator to any specific rule in the General Data Protection Regulation or any case law that support his assertion. It follows that the Sole Arbitrator finds the Respondent's assertion unfounded.

C. Regulatory framework

100. The Sole Arbitrator observes that the notions of "Tampering" and "Complicity" are defined in a substantively similar manner in the relevant versions of the IWF ADR, including in the 2021 IWF ADR.

1. Definition of ADRV

101. Article 2.5 of the 2009 and 2012 IWF ADR states that *"Tampering or Attempted Tampering with any part of Doping Control"* constitute an ADRV.

102. The Comments to Article 2.5 of the 2009 and 2012 IWF ADR reads as follows:

> *"This Article prohibits conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods. For example, altering identification numbers on a Doping Control Form during Testing, breaking the B Bottle at the time of B Sample analysis or providing fraudulent information to the IWF".*

103. Tampering is defined in the 2009 and 2021 IWF ADR as meaning:

> *"[a]ltering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring; or providing fraudulent information to an Anti-Doping Organisation".*

104. The Doping Control is defined in the 2009 and 2012 IWF Anti-Doping Policy ("ADP") as meaning:

> *"[a]ll steps and processes from test distribution and planning through to ultimate disposition of any appeal including all steps and processes in between such as provision of whereabouts information, Sample collection and handling, laboratory analysis, TUE's, results management and hearings".*

105. In addition, Article 2.8 of the 2009 and 2012 IWF ADR states that, *"assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation"* also constitutes an ADRV.

106. Pursuant to Article 2.5 of the 2015 IWF ADR, Tampering or Attempted Tampering with any part of Doping Control constitutes an ADRV:

"Conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods, tampering shall include, without limitation, intentionally interfering or attempting to interfere, with the Doping Control official, providing fraudulent information to an Anti-Doping Organization, or intimidating or attempting to intimidate a potential witness".

"[Comment to Article 2.5: For example, this Article would prohibit altering identification numbers on a Doping Control form during Testing, breaking the B bottle of the time of B Sample analysis, or altering a Sample by the addition of a foreign substance. Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering shall be addressed in the disciplinary rules of sports organizations]".

107. Tampering is defined in the 2015 IWF ADR as meaning:

"[a]ltering for an improper purpose or in an improper way; bringing improper influence to bear; interfearing improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring".

108. The Doping Control is defined in the 2015 IWF ADR as meaning:

"[a]ll steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps and processes in between such as provision of whereabouts information, Sample collection and handling laboratory analysis, TUEs, results management and hearings".

109. In addition, pursuant to Article 2.9 of the 2015 IWF ADR, Complicity also constitutes an ADRV:

"Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation or violation of Article 10.12.1 by another Person".

2. Burden, standard and means of proof

110. Article 3.1 of the 2009, 2012 and 2015 IWF ADR reads as follows:

"IWF shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether IWF 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 Athlete or other Person alleged to have committed

an anti-doping ruleviolation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability".

"[Comments to Article 3-1: This standard of proof to be met by IWF is comparable to the standard which is applied in most countries to cases involving professional conduct]".

111. Pursuant to Article 3.1, the IWF bears the burden of proof of establishing that the Respondent committed an ADRV.

112. The Sole Arbitrator notes that in order to establish an ADRV in accordance with Article 3.1 of the IWF ADR, the IWF has to establish an ADRV to the comfortable satisfaction of the Sole Arbitrator.

113. With regard to means of proof, the Sole Arbitrator observes that pursuant to Article 3.2 of the 2009, 2012 and 2015 IWF ADR an ADRV can be established by *"any reliable means, including but not limited to admissions, evidence of third Persons, witness statements, expert reports, documentary evidence […]".*

D. The scope of the Sole Arbitrator's examination

114. The Sole Arbitrator observes that in its attempt to establish an ADRV of the Respondent under the Articles 2.5 and 2.8 of the 2009 and 2012 IWF ADR and Article 2.5 and 2.9 of the 2015 IWF ADR, the Claimant relies primarily on the correspondence between i) Mr Aján and the AWF and ii) Mr Aján and staff members of the IWF.

115. The Sole Arbitrator observes that the Respondent has not disputed the content of the correspondence nor that the correspondence is authentic and contemporaneous.

116. On this background, the Sole Arbitrator concludes that the IWF has established to the comfortable satisfaction of the Sole Arbitrator that the evidence upon which the IWF relies is authentic and contemporaneous. This conclusion is supported by the fact that the email addresses used – tamas.ajan@jwfnet.net, vladfrh1963@yahoo.com and frh@frhaltere.ro – belong to the two individuals and were actively used by them at the relevant time.

117. The Sole Arbitrator observes the Respondent's assertion that the Claimant, in general terms, 'cherry picked' the evidence and, therefore, has misunderstood the meaning of it.

118. The Sole Arbitrator notes that he has not been presented with any plausible innocent explanation for the content of the correspondence, and the Sole Arbitrator finds it difficult to conceive of any plausible innocent explanation to said correspondence. Therefore, the Sole Arbitrator is willing to accept the Claimant's explanation for the content of the correspondence unless such explanation is contradicted by other evidence in the case file pointing in a different direction.

119. The Sole Arbitrator bears in mind that whether there is sufficient evidence to establish that the Respondent has violated Articles 2.5 and 2.8 of the 2009 IWF ADR, Articles 2.5 and 2.8

of the 2012 IWF ADR and Articles 2.5 and 2.9 of the 2015 IWF ADR must be considered individually.

120. The Sole Arbitrator notes that it is for the Claimant to prove that the Respondent committed an ADRV to his comfortable satisfaction. Therefore, the Sole Arbitrator's scope of examination is limited to the evidence adduced by the Claimant.

E. Did the Respondent violate Articles 2.5 and 2.8 of the 2009 IWF ADR?

121. The Sole Arbitrator observes the Claimant's contention that Mr Aján knew that Ms Cocos on 10 May 2012 was provisionally suspended by the IWF for the presence of a prohibited substance in a sample collected on 13 April 2012.

122. Further, the Sole Arbitrator observes the Claimant's assertion that, on 20 July 2012, Mr Aján personally informed the President of FRH, Mr Vlad, that the IWF had received new evidence that Ms Cocos had also resorted to sample substitution on 20 July 2010 and 27 June 2012.

123. The Sole Arbitrator also observes the Claimant's assertion that, despite Mr Cocos suspension on 24 July 2012, Mr Aján, knowingly, did not enforce the Athlete's Provisional Suspension, and through this deliberate non-enforcement, allowed Mr Cocos to take part in the 2012 London Olympic Games.

124. The Sole Arbitrator finds that the Claimant's assertions and contentions are supported, *primarily*, by Mr Aján's 20 July 2012 email to Mr Vlad informing him that *"[w]e have just received information that the laboratory detected the manipulation of the urine samples of Ms Roxana Cocos. It means the DNA analysis of her samples prove that some of the samples were provided by someone else* […] *I suggest that you reconsider this athlete's nomination to the Games. There will be many tests in London as well and those controls are carried out by the IOC and they will release all information immediately".*

125. In conclusion, and based on the above, the Sole Arbitrator finds that the Claimant has proven to his comfortable satisfaction that Mr Aján tampered with the Doping Control Process and was complicit in the ADRVs committed by Ms Cocos and, thus, committed ADRVs pursuant to 2.5 and 2.8 of the 2009 IWF ADR.

F. Did the Respondent violate Articles 2.5 and 2.8 of the 2012 IWF ADR?

126. The Sole Arbitrator observes that the asserted ADRVs refer to Tampering and Complicity in relation to ADRVs committed by 23 Azerbaijani weightlifters in 2013.

127. The Sole Arbitrator observes that in 2013, 23 Azerbaijani weightlifters were tested positive for anabolic steroids and that the IWF was made aware by the Laboratory of the AAFs.

128. The Sole Arbitrator's conclusion is based on the following facts and findings:

129. First, the Sole Arbitrator finds that Mr Aján was closely involved in the Result Management, and that the IWF legal counsels did not act on their own when failing to prosecute the cases and allowing doped athletes to partake in IWF events.

130. Second, the Sole Arbitrator observes that Mr Aján was made aware that samples collected from the 23 Azerbaijani weightlifters had returned 23 AAFs. Notwithstanding, Mr Aján allowed several of the known-positive Azerbaijani weightlifters to participate in the 2013 IWF WWC and the 2013 Baku Cup and not to process their AAFs.

131. Third, as for the 2013 IWF Weightlifting Championship, the Sole Arbitrator finds that Mr Aján's personal correspondence with the AWF is contemporaneous evidence of his awareness and concern in relation to his Tampering and covering-up of the AAFs. First, Mr Aján's 9 October 2013 email to Mr Asgarov, Executive Director of the AWF, can only, as asserted by the Claimant, be described as step-by-step instructions from Mr Aján to Mr Asgarov to conduct so-called "wash-out" testing to ensure that AWF athletes would not test positive during 2013 IWF WWC despite their prior AAFs. Second, Mr Aján's 11 October 2013 email to Mr Asgarov confirms that Mr Aján was fully aware of the 23 AAFs related to the Azerbaijani weightlifters.

132. Fourth, the Sole Arbitrator finds that Mr Aján, despite being fully aware of the fact that 23 AWF athletes had been caught using anabolic steroids in the year 2013, admitted in his letter of 10 December 2013 to Mr Asgarov, Executive Director of AWF to have covered-up the AAFs and to allow several of the AWF athletes to compete in the 2013 IWF WWC and the 2013 IWF Baku Cup.

133. Fifth, as for the 2013 Baku Cup, the Sole Arbitrator finds that Mr Aján's 10 December 2013 email to the Mr Asgarov shows Mr Ajan's awareness and concern in relation to his Tampering and covering-up of the AAFs but also shows his detailed technical knowledge of the intricacies of the anti-doping system.

134. Finally, the Sole Arbitrator agrees with the Claimant's assertion that the Azerbaijani Decisions were backdated to have it appear that the 23 AAFs had been timely notified and sanctioned, and that Mr Aján oversaw the backdating of the sanctions of the Azerbaijani weightlifters. The Sole Arbitrator notes that the Azerbaijani weightlifters had not been sanctioned which is substantiated by the fact that some of these athletes participated in IWF events, although, based on the date of the alleged decisions, they would have been sanctioned and banned at the time.

135. The Sole Arbitrator observes that Article 2.5 of the ADRV prohibits "Tampering" and "Attempted Tampering" which is defined as "conduct which subvert the Doping Control Process". The notion of Doping Control process is defined in the 2012 IWF ADR as being *"all steps and processes from test distribution planning in between"*, which encompasses most of the activities of and Anti-Doping Organization from planning testing missions to the final adjudication of disciplinary sanctions.

136. Further, the Sole Arbitrator observes that the type of conduct which is considered apt to subvert the Doping Control process, Tampering is further defined in the 2012 IWF ADR as, *"[a]ltering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring or providing fraudulent information to an Anti-Doping Organisation"*.

137. The Sole Arbitrator aligns with the panel in CAS 2016/A/4700, at para. 54, stating, *"A broad range of behaviours may qualify as "tampering". […] whether a certain behaviour qualifies as tampering must be asserted in the individual context"*.

138. The Sole Arbitrator observes that pursuant to Article 2.8 of the 2012 IWF ADR *"assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation"*, also constitutes an ADRV. The Sole Arbitrator aligns with CAS 2007/A/1286, at para. 64, stating that the *"language of Article 2.8 is broad in order to capture any form of complicity"* and CAS 2008/A/1513, at para. 16, stating that Article 2.8 *"also covers acts which are supposed to prevent an anti-doping rule violation from being discovered after it has been committed"*.

139. In conclusion, and based on all of the above, the Sole Arbitrator finds that the Claimant has proven to his comfortable satisfaction that Mr Aján Tampered with the Doping Control process and was complicit in the ADRVs committed by the AWF athletes and, thus committed ADRVs pursuant to Articles 2.5 and 2.8 of the 2012 IWF ADR.

G. Did the Respondent violate Articles 2.8 and 2.9 of the 2015 IWF ADR?

140. The Sole Arbitrator observes the Claimant's contention that Mr Aján intentionally obstructed the investigation and resolution of unsanctioned ADRVs committed by IWF athletes prior to the year 2014.

141. The Sole Arbitrator's conclusion is based on the following facts and findings:

142. First, the Sole Arbitrator notes that Mr Aján as the President of the IWF, pursuant to Article 20.3.9 the 2012 IWF ADR, had the duty to ensure that the IWF would abide to its Code requirements, which include the obligation to *"vigorously pursue all potential ADRV within its jurisdiction"*.

143. Second, the Sole Arbitrator notes that Mr Aján was not personally responsible of the Result Management of the ADRV's on a day-to-day basis; however, the Sole Arbitrator finds Mr Aján was ultimately in charge of making sure that the IWF processed cases in compliance with the IWF ADR.

144. Third, the Sole Arbitrator observes that in 2020, while Mr Aján was still in office, the IWF had 146 pending cases, which occurred between 1 January 2009 and 31 December 2019. The Sole Arbitrator finds that Mr Aján failed to ensure that the ADRVs were duly handled by the IWF.

145. Finally, the Sole Arbitrator finds that in the fall 2016, Mr Aján actively gave clear and deliberate instructions to the IWF personnel in charge of Results Management to obstruct WADA's inquiries into the resolution of unsanctioned ADRVs committed by IWF athletes, prior to the year 2014, by i) deliberately not inquiring into their potential resolution, ii) by deliberately not following up on WADA's correspondence and/or iii) providing WADA with purposely lacklustre information. This finding is supported by the following correspondence: first, Dr Tombitas in her emails dated 7 September and 9 September 2016 to Mr Aján confirmed that *"in line with the request of dr Aján we did not send past cases* [to WADA] *only the ones we closed in 2014"*. Second, Dr Nyirfa in her emails dated 11 and 12 November 2016 from Mr Aján was told that *"We have been putting this off"* and *"That's all I will say by mail"*. Third, Dr Nyirfa in an interview with the McLaren investigation declared, that she was asked not to reply emails sent from WADA about older cases: *"I was asked by the president not to reply to them. In the beginning I found some results and sent them to WADA. I was instructed not to reply, and* [Dr Trombitas] *was also told not to reply"*.

146. The Sole Arbitrator observes that Article 2.5 of the 2015 IWF ADR prohibits "Tampering and Attempted Tampering" which is defined as *"Conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Method"*.

147. The Sole Arbitrator observes that Tampering is further defined in the 2015 IWF ADR, as *"[a]ltering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly, obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring"*.

148. The Sole Arbitrator aligns with the panel in CAS 2016/A/4700, at para. 54, that a broad range of conduct may be qualified as tampering and the behaviour must be assessed on a case-by-case basis.

149. In addition, the Sole Arbitrator aligns with the panel in CAS 2008/A/1533, at para. 16, that the "the *"language of Article 2.8 is broad in order to capture any form of complicity"* and CAS 2008/A/1513, at para. 16, stating that Article 2.8 *"also covers acts which are supposed to prevent an anti-doping rule violation from being discovered after it has been committed"*.

150. In conclusion, and based on all of the above, the Sole Arbitrator finds that the Claimant has proven to his comfortable satisfaction that Mr Aján Tampered with the Doping Control process and was complicit in the ADRVs committed by IWF athletes prior to the year 2014 and, thus, committed ADRVs pursuant to Articles 2.5 and 2.9 of the 2015 IWF ADR.

H. The Period of Ineligibility

151. Pursuant to Article 10.7.4 of the 2009, 2012 and 2015 IWF ADR, the violations shall be considered together as one single first violation and the sanction imposed shall be based on the violation that carries the more sever sanction.

152. With regard to the ADRVs for Tampering and Complicity in relation to the ADRVs committed by Ms Roxana Cocos:

(a) Tampering: Article 10.3.1 of the 2009 IWF ADR provides that the period of Ineligibility imposed for the violation of Article 2.5 shall be two years unless the conditions for Aggravating Circumstances pursuant to Article 10.6 of the 2009 IWF ADR;

(b) Complicity: Article 10.3.2. of the 2009 IWF ADR provides that the period of Ineligibility imposed for the violation of Article 2.8 shall be a minimum four years up to a lifetime, unless the conditions for Exceptional Circumstances pursuant Article 10.5 of the 2009 IWF ADR are met.

153. With regard to the ADRVs for Tampering and Complicity in relation to the ADRVs committed by several Azerbaijani weightlifters:

(a) Tampering: Article 10.3.1 of the 2012 IWF ADR provides that the period of Ineligibility imposed for the violation of Article 2.5 shall be two years unless the conditions for Exceptional Circumstances Article 10.5 or Aggravating Circumstances pursuant to Article 10.6 of the 2012 IWF ADR are met.

(b) Complicity: Article 10.3.2 of the 2012 IWF ADR provides that the period of Ineligibility imposed for the violation of Article 2.8 shall be a minimum four years up to a lifetime unless the conditions for Exceptional Circumstances pursuant to Article 10.5 of the 2012 IWF ADR are met.

154. With regard to the ADRVs for Tampering and Complicity in relation to unsanctioned ADRVs committed by IWF athletes prior to the year 2014

(a) Tampering: Article 10.3.1 of the 2015 IWF ADR provides that the period of Ineligibility imposed for the violation of Article 2.5 shall be four years;

(b) Complicity: Article 10.3.4 of the 2015 IWF ADR provides that the period of Ineligibility imposed for the violation of Article 2.9 shall be a minimum two years up to a maximum of four years.

155. The Claimant maintains that in the light of Mr Aján's status and high official position held within the IWF and involvement in the IWF's anti-doping matters and given the particularly deceptive and obstructing conduct displayed by Mr Aján over a decade, the appropriate sanction in the present case shall be a lifetime period of Ineligibility.

156. Previously, the Sole Arbitrator concluded that Mr Aján's tampered with the Doping Control process and was complicit in the ADRVs committed by Ms Cocos in 2012, several AWF athletes in 2012 and IWF athletes prior to the year 2014.

157. Considering the seriousness of Mr Ajáns ADRVs and the fact his conduct was displayed over a decade, the Sole Arbitrator finds that a lifetime period of Ineligibility starting on the date of the present Award is appropriate to the severity and Mr Aján's misbehaviour.

158. The Sole Arbitrator finds that the conditions to potentially reduce or suspend the period of Ineligibility provided for in Article 10.5, 10.6 or 10.7 of the 2021 IWF ADR (and/or the equivalent provisions of the 2009, 2012 and 2015 IWF ADR) are clearly not met.

VIII. COSTS

(…).

IX. APPEAL

163. Pursuant to Article A21 of the ADD Rules, this award may be appealed to the CAS Appeals Arbitration Division within 21 days from receipt of the notification of the final award with reasons in accordance with Articles R47 *et seq*. of the CAS Code of Sports-Related Arbitration, applicable to appeals procedures.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The request for arbitration filed by the International Testing Agency on 21 December 2021, acting on delegation from the International Weightlifting Federation, against Mr Tamas Aján is upheld.

2. Mr Tamas Aján is found to have committed violations of Articles 2.5 and 2.8 of the 2009 International Weightlifting Anti-Doping Rules, Articles 2.5 and 2.8 of the 2012 International Weightlifting Anti-Doping Rules and Articles 2.5 and 2.9 of the 2015 International Weightlifting Anti-Doping Rules.

3. A lifetime Ineligibility is imposed on Mr Tamas Aján starting on the date of this Award.

4. (…).

5. (…).

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