Arbitration CAS 2018/A/5620 World Anti-Doping Agency (WADA) v. Hungarian National Anti-Doping Organization (HUNADO) & Darja Dmitrijevna Beklemiscseva, award of 13 August 2018

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

Skating
Doping (furosemide)
Occurrence of an ADRV and standard sanction for a specified substance
Burden and standard of proof regarding the non-significance of the fault
No reduction of the standard sanction due to the lack of establishment of the origin of the prohibited substance

1. **An Anti-Doping Rule Violation (ADRV) is established where it is undisputed that the athlete's A Sample revealed the presence of a specified substance. According to Article 10.2 of the HUNADO Anti-Doping Regulation (ADR), the standard sanction for an ADRV involving a specified substance is 2 (two) years, unless the Anti-Doping Organization can establish that the ADRV was intentional.**

2. **Where the intentionality of the commission of the ADRV cannot be demonstrated, in order for the athlete to benefit from a lower sanction than the otherwise two years ineligibility, he or she must establish that he or she bears No Significant Fault or Negligence. It naturally follows that the athlete must also establish how the substance entered his or her body. The standard of proof is the balance of probabilities. This standard requires the athlete to convince the panel that the occurrence of the circumstances on which the athlete relies is more probable than their non-occurrence.**

3. **In order to establish the origin of a Prohibited Substance by the required balance of probability, an athlete must provide actual evidence as opposed to mere speculation. If the athlete's explanation has virtually no evidentiary basis supporting it, the athlete has not met his or her burden of proof regarding the origin of the prohibited substance that entered his or her body.**

I. PARTIES

1. The World Anti-Doping Agency ("WADA" or the "Appellant") is a Swiss private law Foundation. Its seat is in Lausanne, Switzerland, and its headquarters are in Montreal, Canada. The Appellant is an international independent organization created in 1999 to promote, coordinate, and monitor the fight against doping in sport in all its forms.

2. The Hungarian National Anti-Doping Organization ("HUNADO" or the "First Respondent") is the National Anti-Doping Organization of Hungary.

3. Ms Darja Dmitrijevna Beklemiscseva (the "Athlete" or "Second Respondent", together with the First Respondent, the "Respondents") is a figure skater from Russia, who competes for Hungary.

II. FACTUAL BACKGROUND

4. Below is a summary of the relevant facts and allegations based on the Parties' submissions on the merits of this appeal. Additional facts and allegations found in the Parties' written submissions may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he refers in his Award only to the submissions and evidence he considers necessary to explain his reasoning.

5. On 25 October 2017, the Athlete underwent an out-of-competition doping control in Budapest, Hungary.

6. The analysis of the sample revealed the presence of furosemide, a diuretic and masking agent, prohibited under S5 of the WADA Prohibited List.

7. The Athlete did not request the analysis of the B Sample.

8. The Athlete was provisionally suspended from 1 December 2017.

9. On 22 January 2018, the Doping Committee of HUNADO issued the Appealed Decision, by which it imposed a seven-month Ineligibility period starting from 1 December 2017.

10. WADA received the Appealed Decision by email of 1 February 2018, along with the International Skating Union and the Russian Athletic Federation (the "RUSAF"). Further to WADA's request, the full case file was sent to it on 19 February 2018.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

11. On 12 March 2019, WADA filed its Statement of Appeal against the decision rendered by the Doping Committee of HUNADO (the "Appealed Decision") with the Court of Arbitration for Sport (the "CAS") in accordance with Article 47 et seq. of the Code of Sports-related Arbitration (the "CAS Code"). In its Statement of Appeal, WADA requested that the case be submitted to a sole arbitrator.

12. On 21 March 2018, the CAS Court Office opened this procedure and granted the Respondents a five day deadline from receipt of the letter to inform the CAS Court Office whether they agree to the appointment of a sole arbitrator. In the absence of an answer or in

case of disagreement, it would be for the President of the CAS Appeals Arbitration Division, or her Deputy, to decide the issue.

13. On 22 March 2018, WADA filed its Appeal Brief.

14. On 26 March 2018, the CAS Court Office acknowledged receipt of the Appeal Brief and invited the Respondents to submit to CAS an Answer within twenty days of receipt of the letter pursuant to Article R55 of the CAS Code.

15. On 9 April 2018, the CAS Court Office informed the Parties that the Respondents had failed within the prescribed deadline to declare whether they would agree to submit the present case to a sole arbitrator. The Parties were advised that the President of the CAS Appeals Arbitration Division, or her Deputy, would decide the issue, taking into account the circumstances of the case.

16. On 25 April 2018, the CAS Court Office informed the Parties that the Respondents had failed to file their Answers within the prescribed deadline. The Parties were invited to inform the CAS Court Office by 2 May 2018 whether they preferred a hearing to be held in this matter or for the Sole Arbitrator to issue an award based solely on the Parties' written submissions.

17. On 2 May 2018, WADA informed the CAS Court Office that in view of the fact that neither Respondents had filed an Answer, WADA considered that the case should be decided on the papers.

18. On the same date, HUNADO informed the CAS Court Office it agreed that a Sole Arbitrator should issue an award based on the written submissions, and no hearing should be held, with special regard to the fact that no legal argument was sent by the Athlete.

19. On 14 May 2018, the CAS Court Office, on behalf of the President of the CAS Appeals Arbitration Division, informed the Parties that the Panel had been constituted as follows: Mr Jens Evald, Professor of law in Aarhus, Denmark.

20. On 18 May 2018, the CAS Court Office, on behalf of the Sole Arbitrator, advised the Parties that the Sole Arbitrator deemed himself sufficiently well-informed to decide the case based solely on the Parties' written submissions, without holding a hearing in accordance with Article R57 of the CAS Code.

21. The same date, the CAS Court Office, on behalf of the Sole Arbitrator, asked the International Skating Union ("ISU") to inform the CAS whether the Athlete is considered as an "International-Level Athlete".

22. On 28 May 2018, ISU replied that it considers the Second Respondent *"as International Level Skater"*.

23. On 14 and 15 June 2018, respectively, the First Respondent and Appellant signed and returned the Order of Procedure to the CAS Court Office. The Second Respondent neither signed the document nor objected to its contents. In signing the Order of Procedure, the Parties accepted, *inter alia*, the appointment of a Sole Arbitrator.

IV. PARTIES' SUBMISSIONS

24. The following is a summary of the Parties' submissions and does not purport to be comprehensive. However, the Sole Arbitrator has thoroughly considered in his deliberation all of the evidence and arguments submitted by the Parties, even if no specific or detailed reference is made to those arguments in the following outline of their positions and in the ensuing discussion on the merits.

25. The WADA submissions, in essence, may be summarized as follows:

- Pursuant to Article 2.1 of the HUNADO Anti-Doping Regulation (the "HUNADO ADR"), the presence of a Prohibited Substance or its Metabolites or Markers constitutes an anti-doping rule violation ("ADRV").
- Sufficient proof of an ADRV is established by the presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's Sample where the Athlete waives analysis of the B Sample and the B Sample is not analysed (Article 2.1.2 of the HUNADO ADR).
- The Athlete underwent an out-of-competition doping control on 25 October 2017. The analysis of the sample revealed the presence of furosemide. Furosemide is a diuretic and masking agent, prohibited under S5 of the Prohibited List.
- The Athlete did not request the analysis of the B Sample.
- Therefore, the violation of Article 2.1 of the HUNADO ADR is established.
- Pursuant to Article 10.2.1.2 and 10.2.2 of the HUNADO ADR, where an ADRV involves a specified substance, the period of Ineligibility shall be two years unless HUNADO proceedings can establish that the ADRV was intentional. WADA is not in a position to demonstrate that the ADRV was committed intentionally.
- In order to benefit from an even lower sanction, in view of the fact that a specified substance is involved, the Athlete must demonstrate that the requirements of Article 10.5.1.1 of the HUNADO ADR are fulfilled. For these purposes, the Athlete must first establish the origin of the prohibited substance.
- In the present case, the Athlete's explanation relies on nothing more than an unsubstantiated statement from a Mr Chernykh, a friend of the Athlete's brother (who, WADA understands, is not subject to anti-doping rules), that he took "Lasix" from 19 until 22 October 2017. However, there is no evidence that the "Lasix" product was prescribed to Mr Chernykh (although the product is a prescription product) or that he ever bought or possessed the product. There is no information that he ever suffered from any condition that would justify the prescription of a diuretic such as "Lasix" either. Moreover, Mr Chernykh does not give any details as to how he claims he used

"Lasix", how often, the quantity contained in the ampoules for injections, the amount of substance that he poured in the glass etc.

- This unspecific and unsubstantiated explanation clearly cannot be enough to establish the origin of the prohibited substance; otherwise it would suffice for an athlete to have a third party acquaintance, not subject to any anti-doping rules, admit, in very generic terms, to using a prohibited substance in order to avoid the proper consequences for the ADRV.
- Even leaving aside the lack of substantiation, it is difficult to believe that someone would pour the content of *"ampoules for injections"* into a glass of water to ingest medicine for therapeutic purposes. Even assuming that Mr Chernykh does not tolerate tablets, it appears that "Lasix" is also available in liquid form in *"a flask for oral administration"*. If Mr Chernykh has the sensitivity he claims to have with respect to medication in tablet form, it is difficult to understand why he would not have contained the "Lasix" in liquid form.
- Finally, the Athlete's explanation cannot explain the positive finding in terms of pharmacokinetics:
  - The Athlete claims that the finding came from a residual amount of furosemide contained in a dirty glass ingested when she was at home in Saint Petersburg. The Athlete very clearly indicates that she was at her home only until 22 October 2017 (i.e. 2.5 days before the doping control) and does not claim that she was exposed to the furosemide after that date.
  - However, as set out by Dr Irene Mazzoni, *"one would expect* [the] *concentration* [found in the sample of 35ng/mL] *after intake of a full dose of 40 mg of furosemide two days before the doping control, and not after the intake of a residual dose 2.5 days before the doping control"*.
  - Dr Mazzoni therefore concluded:

    "that the explanation given by the Athlete i.e. that the AAF may be due to the ingestion of a residual amount of furosemide 2.5 days before te doping control, cannot explain the analytical results.

    The results are rather compatible with the ingestion of a pharmacological dose (e.g. 40 mg) of furosemide just hours before the doping control".

26. WADA makes the following requests for relief, asking the CAS:

"1. The Appeal of WADA is admissible.

2. The decision rendered by the Doping Committee of HUNADO on 22 January 2018 in the matter of Darja Dmitrijevna Beklemiscseva is set aside.

3. Darja Dmitrijevna Beklemiscseva is sanctioned with a two-year period of starting on the date on which the CAS award enters into force. Any period of provisional suspension effectively served by Darja Dmitrijevna Beklemiscseva before the entry into force of the CAS award shall be credited against the total period of ineligibility to be served.

4. All competitive results obtained by Darja Dmitrijevna Beklemiscseva from and including 25 October 2017 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).

5. The costs of the arbitration are borne by the Respondents jointly and severally.

6. The First Respondent, or in the alternative, the Respondents jointly and severally is/are ordered to contribute to WADA's legal and other costs".

27. Although duly invited, neither of the Respondents filed an Answer to WADA's Statement of Appeal and Appeal Brief, within the prescribed time limit or thereafter. Pursuant to Article R55 of the CAS Code, the Sole Arbitrator can proceed to make an award in relation to WADA's claims. Despite the lack of formal Answer from the Respondents, the legal analysis below will take into account all available relevant information, and is not restricted to the submissions of WADA.

V. JURISDICTION

28. Article R47 of the CAS Code provides as follows:

"An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of said body".

29. The jurisdiction of the CAS, which is not disputed, derives from Article 13.2.1 *cum* Article 13.2.3 of the HUNADO ADR which state that WADA has a right of appeal in cases *"arising from participation in an International Event or involving an International-Level Athlete"*. The Athlete in the present case is an International-Level Athlete for the purposes of the applicable rules.

30. Hence, it follows that CAS has jurisdiction to adjudicate and decide on the present dispute, and that the present case shall be dealt with according to the Appeals Arbitration Rules in the CAS Code.

VI. ADMISSIBILITY

31. According to Article 13.7.1 of the HUNADO ADR, *"the filing deadline for an appeal filed by WADA shall be the later of: a) Twenty-one days after the last day on which any other party in the case could have appealed; or b) twenty-one days after WADA's receipt of the complete file relating to the decision"*.

32. WADA received elements of the case file by email 19 February 2018. As the Statement of Appeal was filed on 12 March 2018, the appeal was lodged within the deadline set forth under Article 13.7.1 of the HUNADO ADR. The appeal complied with all other requirements of Article R47 of the CAS Code.

33. It follows that the appeal is admissible.

VII. APPLICABLE LAW

34. The Sole Arbitrator notes that pursuant to Article 1.3.1. of the HUNADO ADR the HUNADO ADR applies *inter alia* to the following persons, *"whether or not such Person is a national of or resident in Hungary"* (a) all athletes who are members or license-holders of any national federation in Hungary or (b) all athletes participating in Events, Competitions and under activities organized or recognized by any national federation in Hungary, or by any federation in Hungary (including any clubs, teams, associations or leagues), wherever held. Article 1.3.2 of the HUNADO ADR adds that *"These Anti-Doping Rules shall also apply to all other Persons over whom the Code gives HUNADO jurisdiction including all Athletes who are nationals of or resident in Hungary and all Athletes who are present in Georgia, whether to compete or to train or otherwise"*.

35. Therefore, the HUNADO ADR apply to the Athlete.

36. Article R58 of the CAS Code provides the following:

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

37. In accordance with Article R58 of the CAS Code, the applicable regulation to this case is the HUNADO ADR.

38. As the "seat" of this arbitration is Lausanne, Switzerland, Swiss Law governs all procedural aspects of this proceeding.

VIII. MERITS

39. The sole issue for determination for the Sole Arbitrator is the appropriate length of the Athlete's period of ineligibility under the HUNADO ADR. All factual determinations and rulings of the Doping Committee of HUNADO that have not been contested by either Party in these proceedings and, therefore the Sole Arbitrator treats them as uncontested facts.

40. The Sole Arbitrator will address the issues as follows:

(A) The Occurrence of an ADRV and the Standard Sanction;

(B) Burden and Standard of Proof;

(C) Reduction of the Period of Ineligibility based on No Significant Fault or Negligence?;

(D) Sanctions;

- Disqualification;
- Period of Ineligibility Start and End Date.

A. The Occurrence of an ADRV and the Standard Sanction

41. With regard to the Athlete's ADRV, the Sole Arbitrator notes that it is undisputed that the Athlete's A Sample revealed the presence of a specified substance furosemide, a diuretic and masking agent, prohibited under S5 of the WADA Prohibited List.

42. Furthermore, the Sole Arbitrator notes that the Doping Committee of HUNADO ruled that an ADRV was established pursuant to Article 2.1 of the HUNADO ADR, which was not disputed by the Athlete. This issue is not disputed.

43. With respect to the appropriate period of ineligibility, Article 10.2 of the HUNADO ADR provides that:

"The period of ineligibility for a violation of Article 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6:

10.2.1 The period of ineligibility shall be four years where:

[…]

10.2.1.2 The anti-doping rule violation involves a Specified Substance and the Anti-Doping Organization can establish that the anti-doping rule violation was intentional".

44. The Sole Arbitrator notes that the standard sanction for an ADRV involving a specified substance is 2 (two) years, unless the Anti-Doping Organization can establish that the ADRV was intentional.

45. The Sole Arbitrator notes that WADA concedes that it is not in a position to demonstrate that the ADRV was committed intentionally.

B. Burden and Standard of Proof

46. The main relevant rule in question in the present case is Article 10.5.1 of the HUNADO ADR, that reads as follows:

"10.5 Reduction of the Period of Ineligibility based on No Significant Fault or negligence

10.5.1 Specified Substances

Where the anti-doping rule violation involves a Specified Substance, and the Athlete or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, an at a maximum two years of Ineligibility, depending on the Athlete's or other Person's degree of Fault".

47. In order for the Athlete to benefit from a lower sanction than the otherwise two years ineligibility, it is for the Athlete to demonstrate that the requirements of Article 10.5.1.1 of the HUNADO ADR are fulfilled. It naturally follows that the Athlete must also establish how the substance entered her body.

48. Pursuant to Article 3.1 of the HUNADO ADR, the standard of proof is the balance of probabilities;

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

49. The Sole Arbitrator notes that this standard requires the Athlete to convince the Sole Arbitrator that the occurrence of the circumstances on which the Athlete relies is more probable than their non-occurrence, cf. CAS 2016/A/4377, at para. 51.

C. Reduction of the Period of Ineligibility based on No Significant Fault or Negligence?

50. The Sole Arbitrator in the present case notes that the Athlete is required to prove the origin of the prohibited substance on the "balance of probability". This burden lies solely on the Athlete.

51. The Sole Arbitrator aligns with the Panel in CAS 2014/A/3820: *"In order to establish the origin of a Prohibited Substance by the required balance of probability, an athlete must provide* ***actual evidence*** *as opposed to mere speculation".* In CAS 2010/A/2230, the Panel held: *"To permit an athlete to establish how a substance came to be present in his body by little more than a denial that he took it would undermine the objectives of the Code and Rules. Spiking and contamination – two prevalent explanations volunteered by athletes for such presence – do and can occur; but it is too easy to assert either; more must sensibly be required by way of proof, given the nature of the athlete's basic personal duty to ensure that no prohibited substances enter his body".*

52. The Sole Arbitrator observes the Athlete's explanation how the Prohibited Substance entered her body. In her defense before the Doping Committee of HUNADO, the Athlete asserts the following:

"I was at the training camp in Moscow from 9.10.2017 to 18.10.2017, then I was four days at home in Saint-Petersburg from 19.10.2017 to 22.10.2017 included. In this apartment lives my brother Beklemishchev Ivan Dmitrievich. In this apartment was his friend in this period from 19.10.2017 to 22.10.2017, who was invited as a guest by my brother from 15.10.2017 to 29.10.2017. We had a common kitchen and he used our dish. As it turned out later, this person took a diuretic drug "Lasix". He mixes the liquid from the ampoules for injection in a glass of water, because his stomach does not take medicine in tablets. I guess I drank water from the glass that Ilia used and did not wash after use. I regret what happened. I have never resorted to the use of illegal drugs and never had a problem with a doping test".

53. Further, the Sole Arbitrator observes the written statement from Mr Chernykh IIia Igorevich dated 30 November 2017:

"[…] I hereby confirm this statement, that I have been in that apartmen in te period from 15.10.2017 to 29.10.2017, where lives Beklemishchev Ivan Dmitrievich, who is a brother of Beklemishcheva (Beklemiscseva) Daria (Darja) Dmitrievna. I hade a common kitchen and used common dish. I declare with full responsibility that I took the drug "Lasix" in the period from 19.10.2017 to 22.10.2017 included, when Beklemishcheva Daria Dmitrievna was here. I mix the liquid from the ampoules for injection in a glass of water, because my stomach does not take medicine in tablets.

I was not carefull enough, because I could not imagine such consequences" [Sic].

54. The Sole Arbitrator finds that the Athlete's explanation have virtually no evidentiary basis supporting it. As for the Athlete's explanation which solely relies on the written statement by Mr Chernykh, the Sole Arbitrator holds as follows:

- The Athlete explains that Mr Chernykh took a diuretic drug, "Lasix". The Sole Arbitrator observes that "Lasix" is a prescription product and the Athlete did not provide any documentation or copy of a prescription that would indicate that Mr Chernykh bought or possessed the product. The Athlete did not provide any information that Mr Chernykh in fact suffered from any condition that would justify the prescription of "Lasix". Moreover, the Athlete did not give any detailed information on Mr Chernykh's alleged use of "Lasix" (the quantity contained in the ampoules, the amount of substance he poured in the glass, how often he used the substance etc.). The Sole Arbitrator notes that Mr Chernykh was not called as a witness by the Athlete in the HUNADO proceeding or this CAS proceeding. The Sole Arbitrator finds, that the Athlete did not prove on the balance of probability *that* "Lasix" was in fact prescribed (by a doctor) and *that* Mr Chernykh took the product.

- The Athlete explains that Mr Chernykh poured the contents of *"ampoules for injections"* into a glass of water to ingest medicine for therapeutic purposes *"because his stomach does not take medicine in tablets"*. The Athlete did not provide any detailed information on Mr Chernykh's alleged sensitivity to tablets. Nor did the Athlete explain why Mr Chernykh took *"ampoules for injections"* instead of Oral "Lasix". The Sole Arbitrator finds that the Athlete's explanation is unsubstantiated.

- The Athlete explains: *"I guess I drank water from the glass that Ilia used and did not wash after use"*. The Sole Arbitrator observes that the Athlete merely suggests that the Prohibited Substance *may* have entered her body due to the fact she *may* have drunk from the same glass as Mr Chernykh (*"I guess I drank"*). In other words, the Athlete is not sure whether she in fact drank from the same glass as Mr Chernykh. The Sole Arbitrator finds the Athlete's explanation to be based on mere speculation.

- Further, the Sole Arbitrator observes that the Athlete did not provide any documentation that it is pharmacokinetically possible that the alleged intake of "Lasix" by drinking water from the same glass as Mr Chernykh used and did not wash after use could give rise to an Adverse Analytical Finding ("AAF") in particular the concentration of furosemide found in her sample. The Sole Arbitrator takes into consideration the statement of Dr Irene Mazzoni (Research and List Manager, WADA) on the level detected in the Athlete's sample *"In the present case, the Athlete claims she suggested residues of*

furosemide more than 60 h before the doping control. In view of the pharmacokinetics of furosemide defined in studies using pharmacological doses of the drug, this cannot explain the concentration of 35 ng/mL found in her diluted urine sample. Indeed, one would expect such concentration after an intake of a full dose of 40 mg of furosemide two days before doping control, and not after the intake of a residual dose 2.5 days before the doping control". Based on the above, the Sole Arbitrator finds that the Athlete did not prove on the balance of probability that the AAF may be due to the intake of a residual dose of furosemide 2.5 days before the doping control.

55. Accordingly, the Sole Arbitrator finds that the Athlete has not met her burden of proof how the prohibited substance entered her body. The Athlete must therefore be sanctioned with a two-year period of ineligibility under the HUNADO ADR.

56. As the Sole Arbitrator has established that the Athlete has not met her burden of proof how the prohibited substance entered her body, the Sole Arbitrator cannot consider the application of Article 10.5.1 of the HUNADO ADR to reduce her sanction.

D. Sanctions

a) Disqualification

57. The relevant rule is Article 10.8 of the HUNADO ADR that reads as follows:

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

58. The Sole Arbitrator rules that pursuant to Article 10.8 of the HUNADO ADR, all competitive results obtained by the Athlete from and including 25 October 2017 (i.e. the date of the sample collection) are disqualified, with all resulting consequences, including forfeiture of medals, points and prizes.

b) Period of Ineligibility: start and end Date

59. With respect to the sanction start date, the Sole Arbitrator is guided by Article 10.11 of the HUNADO ADR which provides as follows:

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

60. Article 10.11.3 of the HUNADO ADR is titled "Credit for Provisional Suspension or Period of Ineligibility" and states as follows:

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

61. In this case, the sample collection was made on 25 October 2017, and according to the Doping Committee of HUNADO Decision, the Athlete was provisional suspended on 1 December 2017. It follows therefore, that the Athlete should receive 'credit' for the period of ineligibility already served. In this regard, the Sole Arbitrator determines that the Athlete's two-year period of ineligibility shall commence as from the date of the provisional suspension (i.e. 1 December 2017), thus giving her full credit for time already served in accordance with Article 10.2 of the HUNADO ADR. Consequently, the period of ineligibility starts as from 1 December 2017.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed on 12 March 2018 by the World Anti-Doping Agency against the Decision rendered by the Doping Committee of the Hungarian National Anti-Doping Organization on 22 January 2018 is upheld.

2. The decision rendered by the Doping Committee of the Hungarian National Anti-Doping Organization on 22 January 2018 is set aside.

3. Ms Darja Dmitrijevna Beklemiscseva is suspended for a period of two (2) years, starting from 1 December 2017.

4. All competitive results earned by Ms Darja Dmitrijevna Beklemiscseva during the period between 25 October 2017 and 30 November 2017 are disqualified, with all resulting consequences (including forfeiture of any titles, awards, medals, profits, prizes, and appearance money).

5. (…).

6. (…).

7. All further and other requests for relief are dismissed.