

CAS 2025/A/11288 Liber García v. World Triathlon & Ms Michelle Cooper

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Prof. Luigi Fumagalli, Professor and Attorney-at-Law in Milan, Italy
Arbitrator: Mr Jordi López Batet, Attorney-at-Law in Barcelona, Spain
Prof. Ulrich Haas, Professor in Zurich, Switzerland, and Attorney-at-Law in
Hamburg, Germany

between

Liber García, Montevideo, Uruguay

Represented by Mr Claude Ramoni and Ms Monia Karmass, Attorneys-at-Law in Lausanne,
Switzerland

- Appellant -

and

World Triathlon, Lausanne, Switzerland

Represented by Ms Monique Houten, Chair of the World Triathlon Tribunal, and Mr Serge
Vittoz, Attorney-at-Law in Geneva, Switzerland

- First Respondent -

and

Michelle Cooper, Queensland, Australia

Represented by Mr Ian Fullagar, Attorney-at-Law in Hampton North, Victoria, Australia

- Second Respondent -

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I. PARTIES

1. Mr Liber García (“Mr García” or the “Appellant”) is the President of the Uruguayan Triathlon Federation, the President of Americas Triathlon and a member of the Executive Board of World Triathlon.
2. World Triathlon (“TRI” or the “First Respondent”) is the international governing body for the sport of triathlon. Its headquarters are located in Lausanne, Switzerland.
3. Ms Michelle Cooper (“Ms Cooper” or the “Second Respondent”) at the relevant times was the President of the Australian Triathlon Federation, President of Oceania Triathlon, member of the Executive Board of TRI and a candidate for the Presidency, as well as for the position of Vice-President and ordinary Executive Board member, of TRI.
4. The First Respondent and the Second Respondent are jointly referred to as the “Respondents”. The Appellant and the Respondents together are referred to as the “Parties”.

II. OUTLINE OF THE MATTER

5. The Appellant appeals to the Court of Arbitration for Sport (“CAS”) against a decision rendered by the World Triathlon Tribunal (the “TRI Tribunal”) on 17 March 2025 (the “Appealed Decision”), by which he was suspended for a period of 12 months for the breach of Articles B5, B6 and B7 of the World Triathlon Code of Ethics (the “Code of Ethics”), of Article 2(a) of the World Triathlon Anti-Bribery and Anti-Corruption Policy (the “ABACP”), and, accordingly, of the World Triathlon Constitution (the “Constitution”). The complaint that led to the Appealed Decision was filed by Ms Cooper. The Appellant (i) seeks the annulment of the Appealed Decision and, subsidiarily, the reduction of the sanction imposed, and (ii) requests that Ms Cooper be sanctioned. The Respondents’ position is that the appeal should be dismissed.

III. FACTUAL BACKGROUND

6. Below is a summary of the main relevant facts and allegations based on the Parties’ oral and written submissions as lodged with the CAS. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceeding, this Award refers only to the submissions and evidence it considers necessary to explain its reasoning.
7. On 12 July 2024, the elections for the position as President of TRI (as well as for other positions within the TRI governing bodies) (the “Elections”) were called to take place during the TRI Congress in Torremolinos, Spain, on 21 October 2024. The nominations for the position of TRI President were to be received by 28 July 2024.
8. On 7 August 2024, World Triathlon announced on its website that eight candidates were

to run for the Presidency, namely:

- Antonio Álvarez (MEX)
- Antonio Arimany (ESP)
- Michelle Cooper (AUS)
- Mads Freund (DEN)
- Ian Howard (GBR)
- Shin Otsuka (JPN)
- Tamás Tóth (HUN).

9. On 18/19 September 2024,¹ an exchange of WhatsApp messages took place between Ms Cooper and Mr García. Ms Cooper and Mr García discussed different items concerning the upcoming Elections, as follows:

[18/09/2024, 20:49] Ms Cooper: *Hi Liber! Hope you're well. You might not feel comfortable with this so I totally understand, but I'm trying to understand Antonio Alvarez's position and if that's a view others share. Obviously I haven't been here as long as others. Do others agree with Alvarez? I have assumed that your votes would be likely headed in his direction which I understand so it's not about that. I too have strong concerns as you know and am raising that in my presentation in Vichy but I'm trying to understand if there's anything more I need to be aware of. It's quite a strong email so maybe there's history I don't know about. No pressure and not trying to undermine Alvarez. Just hoping to understand better.*

[18/09/2024, 20:58] Mr García: *Hi Michelle...*

[18/09/2024, 21:00] Mr García: *You'll see what happens at Vichy! But I don't understand this email either, especially at this time. In fact, it ends by talking about the good human group (I understand it's because of the staff). I would have already fired someone!!!*

[18/09/2024, 21:01] Ms Cooper: *That's what confused me. He was so angry at staff in Paris. Now in his president submission and this email, he talks about how amazing they are. I'm very confused.*

[18/09/2024, 21:01] Mr García: *I'm taking this opportunity to ask you a question. I don't understand how you are running without having enough votes!!!*

[18/09/2024, 21:01] Ms Cooper: *Oooo I'll see what happens in Vichy? That sounds interesting. It's crazy times!!!*

[18/09/2024, 21:02] Ms Cooper: *I really appreciate the question Liber. Thanks for being open.*

[18/09/2024, 21:02] Ms Cooper: *Ahmed asked me the same thing in Paris.*

[18/09/2024, 21:04] Ms Cooper: *It might seem like a strange decision but I truly believe that we need an alternative to Antonio Arimany. I don't believe Ian, Tamas, Debbie, Mads or Shin are good choices. I know I can do this job and might surprise people with the level of support I have. I'm just quieter about it. I'm not saying I have what I need to win. But I think I'm a strong choice to at least help create change.*

[18/09/2024, 21:04] Mr García: *It would have been nice if we had talked before! I don't know if*

¹ The timing of the messages reproduced below is mentioned only to put them in a coherent chronological sequence. Different timings, depending on time zones, appear in the various printouts of the same conversation, as filed by the Parties.

you've noticed, but we have a strong agreement between Africa, Asia and America! This is mathematic and the president that we support will be elected.

[18/09/2024, 21:05] Ms Cooper: *Yes Ahmed made me aware. I totally understand the mathematics. Obviously my mistake not to be more open earlier. I was trying to obey the rules.*

[18/09/2024, 21:06] Ms Cooper: *Is there anything I can do to work with the three of you to look at an option?*

[18/09/2024, 21:06] Ms Cooper: *I am very open to hearing what you all need and want.*

[18/09/2024, 21:10] Mr García: *I think you can, but understand that more than a candidate we are a team! I can talk, but not now because of the time difference. If you want, I promise to see him quickly and get back to you with something concrete. Having a candidate supported by 4 presidents of confederations is very strong!!!*

[18/09/2024, 21:11] Ms Cooper: *Liber, I am very grateful and sorry for the late night messages. I am HUGE on building a team. A super strong team. Together we can do so much more. I'll leave it with you but know I am at your disposal.*

[18/09/2024, 21:12] Mr García: *Even more so if 4 candidates drop out and support one!!! leaving Ian, Mads and Tamas as rivals.*

[18/09/2024, 21:12] Ms Cooper: *They aren't really rivals are they????? I don't see them getting anywhere near enough support.*

[18/09/2024, 21:13] Ms Cooper: *I'm very willing to have conversations that you need while I am here. We can build a great team together.*

[18/09/2024, 21:14] Mr García: *Are you willing to come down to Vichy and have us support you to stay on the board?*

[18/09/2024, 21:15] Ms Cooper: *I'm on my way to Vichy right now. I'll be there Thursday evening. Are you asking me to step down as president to stay on the board or to support me as president?*

[18/09/2024, 21:17] Mr García: *No no, the President is already here! It's for you to step down as president and we'll support you to stay on the board.*

[18/09/2024, 21:17] Ms Cooper: *You mean Arimany as president?*

[18/09/2024, 21:19] Mr García: *The president is supported by the three continents and some European countries! This is a group. In my humble opinion we already have enough votes! I don't assume so, we have spoken directly with each of our federations!*

[18/09/2024, 21:20] Ms Cooper: *It would help to know who I would be stepping aside for. Some are more palatable than others. I'd need to talk to my board as well. They've revoked Miles' nomination for some poor behaviour. Things have changed.*

[18/09/2024, 21:23] Mr García: *The most important thing is to know if you would back out, because that is decisive! Honestly, and not to sound arrogant, we don't need votes. Personally, I appreciate and find very interesting an alliance between 4 continents!*

[18/09/2024, 21:45] Ms Cooper: *Your opinion is a very wise one I trust and I appreciate how honest you're being. Thank you.*

[18/09/2024, 21:45] Ms Cooper: *I'm also interested in who your groups wants on the board. I need to know who to support.*

[18/09/2024, 21:46] Ms Cooper: *I can't back out until I know who will be the president. I don't think you're being arrogant. I understand it's just reality. If Europe are already aligned with you that's new information too.*

[18/09/2024, 21:49] Mr García: *Michelle, obviously you will know! I don't want to know if you are willing, because it is not just my decision. If you say yes, we will continue the discussion*

tomorrow with the approval of the Group.

[18/09/2024, 21:50] Ms Cooper: *I'll think about it. I'd need to consult my board.*

[18/09/2024, 21:51] Mr García: *Perfect.*

[18/09/2024, 21:51] Mr García: *We'll talk tomorrow, okay?*

[18/09/2024, 21:51] Ms Cooper: *Of course. Thank you for your honesty.*

[19/09/2024, 06:15] Mr García: *Hi Michelle, sorry for the time, but I really don't know if you are in Europe or on a flight.*

[19/09/2024, 06:16] Ms Cooper: *Hi Liber, I am on a plane. I should land in Lyon in about 2 hours and then travel to Vichy. I should arrive about 6pm at the hotel.*

[19/09/2024, 06:17] Mr García: *If you are interested in joining our group, it is key that it be prior to Vichy.*

[19/09/2024, 06:18] Mr García: *If you agree, please find Jose Hidalgo, President of the Spanish Federation and close it. It's the same as talking to me.*

[19/09/2024, 06:18] Mr García: *With it you will see who the presidential candidate is and how we continue.*

[19/09/2024, 06:19] Ms Cooper: *Hi Liber, I am sorry but I cannot make that decision right now. I understand the consequences for that but I need more time sorry. I haven't been able to speak to anyone yet.*

[19/09/2024, 06:20] Mr García: *No problem Michelle!*

[19/09/2024, 06:21] Ms Cooper: *Thank you Liber. I truly appreciate your honesty. I will find Jose. I will come back to you. Thank you again.*

[19/09/2024, 06:21] Mr García: *You simply asked me how you could join our team and I was telling you what the conditions are to do so.*

[19/09/2024, 06:22] Ms Cooper: *Totally understand. Thank you again for the opportunity.*

[19/09/2024, 06:22] Mr García: *You can always come back to me because you know I appreciate you so much.*

[19/09/2024, 06:22] Ms Cooper: *That's very kind and generous. I promise to come back to you.*

[19/09/2024, 06:23] Mr García: *But I'm also honest with you, regarding the elections, the last chance is now, before Vichy.*

[19/09/2024, 06:23] Mr García: *Then the die is cast... and believe me, we are the winning group.*

[19/09/2024, 06:24] Ms Cooper: *I understand. I assume that means I would need to formally withdraw and not present at all in Vichy - correct?*

[19/09/2024, 06:24] Ms Cooper: *I also assume that means if I do not join then I will be blocked from any position on the board?*

[19/09/2024, 06:25] Ms Cooper: *Just need to give them all the information for a decision*

[19/09/2024, 06:25] Mr García: *In Vichy, you would have to announce that you are withdrawing and, like Africa, Asia and America, be the fourth continent to support our candidate who is from Europe!*

[19/09/2024, 06:26] Ms Cooper: *Understood*

[19/09/2024, 06:29] Mr García: *You understood everything very clearly. Now the decision is yours. Well, have a good flight! And you have time to think about it until you get to Vichy.*

[19/09/2024, 06:30] Mr García: *Sorry if I'm not entirely clear, but my English doesn't help at all.*

[19/09/2024, 06:30] Ms Cooper: *Liber your English is excellent. I understand you well.*

[19/09/2024, 07:30] Ms Cooper: *Would you mind connecting me with Jose so I can try to meet up*

with him? If you're comfortable to do that.

[19/09/2024, 07:35] Mr García: *Yes of course! He is waiting for your call.*

[19/09/2024, 07:35] Mr García: *Jose Hidalgo*

[19/09/2024, 07:35] Ms Cooper: *Thank you. I'm still flying but good to be ready.*

10. On 26 September 2024, Ms Cooper submitted to TRI a complaint (the “Complaint”) against, *inter alia*, Mr García for an alleged breach of the World Triathlon Elections Rules (the “Elections Rules”). In her Complaint, Ms Cooper alleged collusion, intimidation, threats and manipulations “*to various degrees*” by Mr García, Mr Ahmed Nasser, Mr José Hidalgo, Mr Antonio Álvarez, Mr Shin Otsuka and Mr Antonio Arimany.
11. On 7 October 2024, the Chair of the TRI Tribunal issued Procedural Order No 1, indicating the composition of the panel of the TRI Tribunal appointed to hear the case (the “Hearing Panel”).
12. On 11 October 2024, the Chair of the Hearing Panel issued Procedural Order No 2, requesting Ms Cooper to submit her statement of claim and her prayers for relief by 13 October 2024.
13. On 13 October 2024, Ms Cooper lodged her affidavit and submissions.
14. On 14 October 2024, the Chair of the Hearing Panel issued Procedural Order No 3, requesting Mr García to file submissions and evidence in response to Ms Cooper’s Complaint by 16 October 2024.
15. On 16 October 2024, Mr García submitted his response to the TRI Tribunal, accompanied by the complete WhatsApp conversation with Ms Cooper. In his submission, Mr García denied any violation of TRI rules, asserting that there was no collusion, threat, pressure, or manipulation involved, and criticized Ms Cooper for bringing unfounded accusations. Mr García contended that, during an electoral campaign, discussions, alliances and strategy exchanges are normal and legitimate, as long as they respect the rules, to gather support based on ideas, values and projects. In this same response, Mr García also requested the suspension of Ms Cooper from all triathlon activities for a duration the Hearing Panel considered appropriate, and Ms Cooper to make a public and immediate rectification.
16. On 18 October 2024, the Chair of the Hearing Panel issued Procedural Order No 4, instructing Ms Cooper to provide her response by 20 October 2024.
17. On 20 October 2024, Ms Cooper submitted her response.
18. On 20 October 2024, the Chair of the Hearing Panel issued Procedural Order No 5, informing the parties that the Hearing Panel was not comfortably satisfied that the alleged conduct had a material influence on the Elections and therefore a decision could not be rendered before the Elections. Further briefing was therefore ordered.
19. On 21 October 2024, the TRI Congress and the Elections took place. On that occasion:

- i. Mr Antonio Arimany was elected as the TRI President with 90 votes. Mr Ian Howard received 29 votes, Mr Mads Freund 19 votes, Mr Tamas Toth 2 votes;
 - ii. Mr Shin Otsuka (90 votes), Ms Gabriela Gallegos (90 votes), Ms Debbie Alexander (83 votes) and Mr Antonio Álvarez (72 votes) were elected as TRI Vice Presidents. Mr Ian Howard received 47 votes, Mr Mads Freund 35 votes, Ms Anette Bruras 31 votes, Ms Cooper 30 votes, Ms Ria Damgren 13 votes, Ms Caterina Vacchi 9, Mr Mohammad Hojaji 8 votes;
 - iii. Ms Leslie Buchanan (96 votes), Mr Bernard Saint-Jean (76 votes), Ms Caterina Vacchi (59 votes) and Mr Marco Antonio La Porta (64 votes) were elected as TRI Executive Board members. Mr Mads Freund received 52 votes, Ms Cooper 40 votes, Ms Anette Bruras 32 votes, Ms Yelena Kun 23 votes, Mr Sabeur Gharbi 21 votes, Mr Sajad Bagherian 15 votes, Ms Ria Damgren 13 votes.
20. On 31 October 2024, Mr García filed a further response contesting Ms Cooper's allegations.
 21. On 17 March 2025, the TRI Tribunal issued the Appealed Decision, finding as follows with regard to Mr García:
 - “1. *The complaint is admissible pursuant to the Constitution, Articles 3.1, 4.2, 22.1 of the Tribunal Procedural Rules and Section H of the Code of Ethics.*
 2. *Mr. Liber Garcia is in breach of the World Triathlon Code of Ethics, in particular, Articles B5, B6 and B7; Article 2.a. of the World Triathlon Anti-Bribery and Anti-Corruption Policy, and accordingly, the World triathlon Constitution.*
 3. *The Panel has concluded that the standard of proof of comfortable satisfaction, which is greater than a mere balance of probability, but less than proof beyond a reasonable doubt, has been obtained and further that there is sufficient supporting evidence to prove that the allegation has been proved. (see CAS 2021/A/7840, §2) (further see CAS 2021/A/7839).*
 4. *In light of the severity of the breaches held against Mr. Liber GARCIA, the Panel determines that the appropriate sanction is a one (1) year suspension period from exercising any functions on behalf of World Triathlon in all his positions in Triathlon. Six (6) months of this suspension will be implemented immediately, starting from the date of this decision, while the remaining six (6) months of suspension will be dismissed, conditional upon Mr. Liber GARCIA successfully completed a certified course or program on ethics, integrity, fair play, and good governance in sport within the first six (6) months of suspension. Written evidence of the course completion and fulfillment of these conditions must be submitted to the World Triathlon within the six (6) months suspension period. If Mr. Liber GARCIA fails to meet these requirements, the second six (6) months of the suspension will automatically take effect after the initial six-month suspension period.”*
 22. At the same time, the TRI Tribunal dismissed in the Appealed Decision the Complaint of Ms Cooper against all other individuals.
 23. In the Appealed Decision the TRI Tribunal determined first that the Complaint was admissible and then considered, *inter alia*, whether Mr García had violated the Elections Rules, as alleged by Ms Cooper, and found the following:

- i. Mr García breached Articles B5, B6 and B7 of the Code of Ethics, Article 4 of the World Triathlon Code of Conduct (the “Code of Conduct”) and Article 2(a) of the ABACP. Mr García, as President of the Americas Continental Federation and an automatic member of the TRI Executive Board, held a position of significant influence within the triathlon community. This gave him a heightened responsibility to uphold the integrity of TRI, as outlined in various ethical and conduct policies. He was required to avoid any actions that could even appear improper, as such behaviour could damage the organization’s reputation. Mr García’s WhatsApp messages to Ms Cooper, in which he described the forming of an alliance to secure his preferred candidates’ election and offered improper benefits in exchange for her withdrawal from the presidential race, demonstrated a clear violation of these responsibilities. His actions, therefore, including the pressure placed on Ms Cooper, amounted to manipulating the election process and damaging the reputation of TRI;
- ii. the Complaint was therefore found not to be frivolous, contrary to what was alleged by Mr García in his counterclaim;
- iii. the sanction had to reflect the severity of the breaches.

IV. PROCEEDING BEFORE THE COURT OF ARBITRATION FOR SPORT

24. On 25 March 2025, the Appellant filed with the CAS a statement of appeal in accordance with Article R47 of the Code of Sports-related Arbitration (the “CAS Code”) to challenge the Appealed Decision. The statement of appeal contained also the Appellant’s Request for Provisional Measures, as well as a subsidiary claim against Ms Cooper. The Appellant, in addition, requested that the arbitration be expedited in accordance with Article R52 of the CAS Code and suggested a procedural timetable. Furthermore, the Appellant nominated Mr Jordi López Batet, Attorney-at-law in Barcelona, Spain, as an arbitrator.
25. On 26 March 2025, the Second Respondent in a letter to the CAS Court Office stated the following:

“We query why Ms Cooper is joined as a respondent to this matter given it is an appeal against a decision of World Triathlon (WT)? We note the ‘counter claim’ against Ms Cooper and consider such claim to have no proper legal basis and to be vengeful and vexatious. Ms Cooper no longer holds any position in WT nor Triathlon Australia and will not be seeking such position. Ms Cooper does not consent to the jurisdiction of CAS in this matter in respect of her and we ask that Ms Cooper be released as a party from this action.”
26. On 27 March 2025, the CAS Court Office informed the Parties that, unless the Appellant accepted by 28 March 2025 to withdraw the appeal against the Second Respondent, the present procedure would involve all the Parties, including Ms Cooper.
27. On 28 March 2025, the Appellant indicated that *“the appeal against Ms Cooper [was] maintained. We reiterate that CAS has full jurisdiction over her”*. Consequently, the CAS Court Office confirmed that the Second Respondent would remain a party to this proceeding.

28. On 2 April 2025, the First Respondent's counsel submitted a letter to the CAS Court Office attaching the power of attorney and affirming that:
"it (i) agree[d] to the matter being expedited in line with the timetable proffered by the Appellant; and (ii) concur[red] that English [...] be the designated language for the conduct of the proceedings. Additionally, considering that the proceedings should be conducted in an expedited manner, the First Respondent raise[d] no opposition to the application for provisional measures submitted by the Appellant".
29. On 3 April 2025, the Second Respondent stated that (i) she consented to the expedited timetable proposed by the Appellant; (ii) she did not oppose the proposed provisional measures; and (iii) she would propose an arbitrator shortly.
30. Also on 3 April 2025, the CAS Court Office in a letter to the Parties noted, *inter alia*, the position of the Respondents with respect to the Appellant's Request for Provisional Measures and informed them that the pending matters would be addressed by the Panel once constituted.
31. Also on 3 April 2025, the Respondents jointly nominated Prof. Dr Ulrich Haas, Attorney-at-Law in Hamburg, Germany as an arbitrator.
32. On 7 April 2025, the Appellant filed with the CAS Court Office his appeal brief, in accordance with Article R51 of the CAS Code. In the appeal brief, the Appellant requested that the First Respondent produce *"the video and/or audio recording of the Executive Board meeting held on 2-3 December 2023 in Lausanne"*, submitted a witness statement signed by Mr García, and indicated as witnesses to be heard at the hearing the Appellant himself, Ms Marisol Casado (President of TRI from 2008 to 2025 and IOC Member) and Mr Gergely Markus (Sport Director of TRI).
33. On 8 April 2025, in accordance with Article R54 of the CAS Code, and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the Panel appointed to decide the present matter was constituted as follows:
 President: Prof. Luigi Fumagalli, Professor and Attorney-at-Law in Milan, Italy;
 Arbitrators: Mr Jordi López Batet, Attorney-at-Law in Barcelona, Spain;
 Prof. Ulrich Haas, Professor in Zurich, Switzerland, and Attorney-at-Law in Hamburg, Germany.
34. On 9 April 2025, the Appellant wrote a letter to the CAS Court Office stating as follows:
"With the panel now constituted and based on the Respondents' consent to the provisional measures, we respectfully request that the Panel urgently issue a formal ruling, by way of an operative part on provisional measures, regarding the suspensive effect and confidentiality of the Challenged Decision.
This request aims to remove any uncertainty regarding the Challenged Decision's effects and to allow Mr Liber to resume his functions without delay, relying on a formal ruling by the CAS.
It is respectfully submitted that, in order to prevent any delay and given the urgency of the matter,

the question of imposing penalties for any breach of confidentiality obligations may be addressed by the Panel in a separate decision at a later stage.”

35. On 10 April 2025, the First Respondent informed the CAS Court Office that it would provide with its answer the documents requested by the Appellant in the appeal brief, even though the relevance of those documents was negligible, *“given that the Appellant’s conduct at the Executive Board meeting on 2-3 December 2023 was not factored into the Panel’s reasoning in the Appealed Decision”*.
36. On 24 April 2025, the Second Respondent filed her answer. At the same time, she indicated that she would not make further submissions and would not attend any hearing, since she is not a proper respondent to the appeal.
37. On 25 April 2025, the CAS Court Office informed the Parties that the hearing in this matter would be held on 13 May 2025 by videoconference and noted that the Second Respondent would not attend it.
38. Also on 25 April 2025, the First Respondent filed its answer, together with the documents requested by the Appellant, *“namely, the video and/or audio recordings and the official minutes of the meeting”* of the TRI Executive Board held on 2-3 December 2023. At the same time, the First Respondent requested (i) that the Appellant be ordered to specify in advance the exact portions of the recording – given that the full recording is approximately 11h and 30min in length – that he intended to reference during his oral submissions, and (ii) that the First Respondent be granted the right to make written submissions in response to any such references, if deemed necessary.
39. On 28 April 2025, the Order on Request for Provisional Measures was issued. Its operative part reads as follows:
 - “1. The application for provisional measures filed by Mr Liber García on 25 March 2025 is partially granted.*
 - 2. The decision issued by the World Triathlon Tribunal on 17 March 2025 is stayed.*
 - 3. The decision issued by the World Triathlon Tribunal on 17 March 2025 shall remain confidential and shall not be published or disclosed to any third party.*
 - 4. The request for imposition of financial consequences in case of breach of the confidentiality obligations is denied.*
 - 5. The costs of the present Order shall be determined in the final award or any other final disposition”*.
40. On 5 May 2025, the CAS Court Office issued an order of procedure (the “Order of Procedure”) on behalf of the President of the Panel and invited the Parties to return a signed copy of it, which the Appellant did on 9 May 2025, the First Respondent on 8 May 2025 and the Second Respondent on 13 May 2025. Furthermore, the Appellant was invited to specify which portions of the audio or video recording, submitted as evidence by the First Respondent, he intended to rely upon during the hearing.
41. On 8 May 2025, the Appellant specified the portions of the video recording of the meeting of the TRI Executive Board held on 2-3 December 2023 on which he intended to rely

during the hearing.

42. On 13 May 2025, the hearing was held in this case by videoconference further to Articles R44.2 and R57 of the CAS Code. The Panel was assisted by Mr Giovanni Maria Fares, CAS Counsel. The Panel was joined at the hearing by:
 - i. for the Appellant: Mr García in person, assisted by Mr Claude Ramoni, counsel, Ms Monia Karmass, co-counsel, and Ms Sol Nemeth, interpreter;
 - ii. for the First Respondent: Ms Monique Houten, Chair of the TRI Tribunal, and Mr Serge Vittoz, counsel;
 - iii. for the Second Respondent nobody.
43. At the hearing, as a preliminary matter, the Appellant and the First Respondent confirmed that they had no objection to the appointment of the Panel. After opening statements by counsel, the Panel heard declaration from the Appellant and from the witnesses he had indicated. The declarations heard can be summarized as follows:
 - i. the Appellant stated that:
 - political alliances are common and are a part of the electoral process. In the specific case, a group had been formed to identify the suitable candidate for the position of TRI President, on the basis of a common view and programme. In his capacity as president of the confederation of the Americas, he just considered which of the candidates suited best the interests of its member federations;
 - the WhatsApp conversation of September 2024 was started by the Second Respondent and the tone was friendly. However, while he was trying to broaden the support of the group that had worked together for a long time, Ms Cooper did not express any intention to join it: she was only promoting her position;
 - in any case, he was not in a position and had no power to offer or to block the election of anybody, which depended only on the vote at the TRI Congress;
 - in fact, the Elections were free, and all TRI members could freely decide the candidate to vote. The freedom of vote was guaranteed;
 - during the WhatsApp conversation he never mentioned the name of the candidate supported, because it was not important and in any case Ms Cooper knew it;
 - it is true that Mr Álvarez and Mr Otsuka withdrew their candidacy as TRI President and were thereafter elected as TRI Vice-Presidents. However, no link can be established between the two facts;
 - ii. Mr Gergely Markus, Sport Director of TRI, testified that in the meeting of the TRI Executive Board held in December 2023 to which he had been invited, he did not have any argument with Mr García and there was no heated dispute between him and Mr García. There was only a normal discussion on a point to be decided by the

TRI Executive Board on which they had different views. He then left the meeting before the vote only because he was not a member of the TRI Executive Board;

- iii. Ms Marisol Casado, President of TRI from 2008 to 2025, declared that she has known Mr García for years, as a staunch worker and a firm defender of his confederation. At the same time, she confirmed that in view of elections it is normal to form political alliances and to exchange opinions on candidates. The elections remain however free. Ms Marisol Casado explained that she was part of the alliance together with the Appellant that promoted Mr Antonio Arimany for the TRI Presidency.
44. Right after the declaration of the witnesses, the Appellant and the First Respondent's counsel made their closing statements, and a brief turn of rebuttal was also granted to them. At the end of the hearing, the Appellant and the First Respondent confirmed having no objection regarding the conduct of the proceeding and that their right to be heard had been respected.

V. THE PARTIES' SUBMISSIONS

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

A. The Appellant

46. The Appellant's requests for relief as submitted in his Appeal Brief are the following:

"Mr Liber Garcia applies for the Court of Arbitration for Sport to rule as follows:

- I. The appeal is upheld.*
- II. The decision issued by the World Triathlon Tribunal on 17 March 2025 is null and void, respectively annulled.*
- III. The complaint filed on 26 September 2024 by Ms Michelle Cooper against Mr Liber Garcia is inadmissible, respectively rejected.*
- IV. Mr Garcia did not commit any breach of any rule applicable within World Triathlon.*
- V. Ms Cooper is to be sanctioned for having brought a frivolous claim against Mr Garcia, with the nature and extent of the sanction left to the discretion of the Panel.*

Subsidiarily to III, IV, and V if Mr Liber Garcia's breach is confirmed, quod non

- VI. Mr Liber Garcia's sanction is reduced to a warning, or, in the alternative, is deemed to have been fully served through the suspension he already underwent from the decision of 17 March until its effects were provisionally suspended.*
- VII. Mr Liber Garcia's counterclaim against Ms Cooper is upheld. Consequently, Ms Michelle Cooper is found to have committed the same breaches as Mr Liber Garcia and shall be subject to the same sanction, namely a warning or any other sanction decided by the Panel, quod non.*

In any event

- VIII. *World Triathlon and Ms Michelle Cooper shall bear all the arbitration costs, if any, and shall be ordered to reimburse the minimum CAS Court Office fee of CHF 1,000 as well as any other advances of costs paid by Mr Liber Garcia.*
- IX. *World Triathlon and Ms Michelle Cooper shall be ordered to pay Liber Garcia a contribution towards the legal and other costs incurred in the framework of these proceedings, in an amount to be specified at the hearing or at the Panel's discretion."*

47. In his submissions, the Appellant first describes the events giving rise to the present dispute he indicates to be relevant, with respect to the election of the new TRI President in 2024, the WhatsApp conversation with the Second Respondent, and the proceeding before the TRI Tribunal. The Appellant, then, makes submissions as to the legal aspects of the dispute. They can be summarized as follows:
- i. *"Ms Cooper has standing to be sued"*. According to established CAS case law, a party has standing to be sued if it has a direct interest in the dispute, meaning that relief is sought against it or that it is personally bound by the outcome. In the present case, the Second Respondent clearly meets this requirement and therefore has standing to be sued. In fact:
 - a. the Appellant already filed a counterclaim against the Second Respondent before the TRI Tribunal, seeking to sanction her for submitting a frivolous Complaint that harmed his and the TRI's reputation. Although the TRI Tribunal rejected the counterclaim, since the Second Respondent was the subject of it, she is directly affected by its outcome and therefore has standing in the CAS proceedings;
 - b. by initiating a formal Complaint against Mr García, Ms Cooper qualified as an "interested party" within the meaning of Article 19.1 of the Elections Rules;
 - c. the Second Respondent was formally recognized as a "*claimant*" by the TRI Tribunal. She did not just report a violation, but actively requested a specific sanction against the Appellant, fully participating in the proceedings through submissions and responses. She was also personally notified of the Appealed Decision as a party. Under Article 24.1.1 of the TRI Tribunal Procedural Rules (the "*Procedural Rules*"), any individual directly affected by a case is considered a party, confirming the Second Respondent's actual status;
 - d. the Second Respondent was directly involved in the WhatsApp conversation that led to Mr García's sanction, and actively participated in it. If the exchange is deemed a rule violation, both participants should be held equally responsible, and the Second Respondent also be sanctioned if the breach is confirmed;
 - ii. *"Ms Cooper's claim was inadmissible due to being manifestly late and the TRI Tribunal acted ultra vires"*. The Panel should consider the following circumstances:
 - a. Article 19.1 of the Elections Rules sets a strict and cumulative two-part deadline for submitting complaints: (1) within 24 hours of discovering the alleged breach, and (2) in any case, no later than the close of voting;

- b. in this case, the Second Respondent submitted her Complaint six days after the relevant WhatsApp conversation, beyond the 24-hour established, even though she was aware of the facts at the time of the exchange and gave no explanation for the delay. No extension of the deadline was granted by the Credentials Committee, as allowed by Article 19.2 of the Elections Rules. Despite this, the TRI Tribunal accepted her Complaint based solely on the second part of the deadline (“*no later than the close of voting*”), disregarding the mandatory 24-hour rule. This interpretation, which was wrongly accepted by the TRI Tribunal, is inconsistent with the clear wording and purpose of Article 19.1 of the Elections Rules;
 - c. moreover, according to Article 19.6 of the Elections Rules, the Credentials Committee can only refer cases to the TRI Tribunal if a complaint is admissible. Since the Second Respondent’s Complaint was manifestly late, the Credentials Committee erred by transmitting it to the TRI Tribunal, and the TRI Tribunal lacked jurisdiction to hear it from the outset. This procedural flaw is further highlighted by the TRI Tribunal’s own acknowledgment that the alleged breach did not impact on the electoral process and did not require urgent resolution before voting closed. If the accusations were not serious enough to justify immediate action, the TRI Tribunal had no reason to entertain a complaint that was procedurally invalid;
 - d. finally, under Swiss law, which governs TRI as an association, any decision made by an incompetent body is null and void. Therefore, the Appealed Decision based on an inadmissible Complaint must be annulled.
- iii. “*the Decision violates the principle of legality (nulla poena sine lege)*”. This principle is fundamental in both sports law and international law. It ensures that sanctions can only be imposed based on clear, specific and pre-existing legal provisions, and not on vague or overly broad rules. CAS jurisprudence (CAS 2020/A/7008; CAS 2020/A/7009) consistently upholds this principle, requiring that rules must be precise enough for individuals to foresee both their obligations and the potential consequences of violations. In the current case, the sanctions were grounded on general provisions from the Code of Ethics and the ABACP (respectively Articles B5, B6, B7, and Article 2), which set out general standards of ethical behaviour, but do not define specific infractions or establish clear criteria for what constitutes a breach, nor do they prescribe specific sanctions. The TRI Tribunal never identified any concrete act by the Appellant that amounted to bribery, corruption or fraud. The WhatsApp exchange was a routine political conversation, and the Second Respondent, who actively participated in such exchange, was not sanctioned;
- iv. “*the applicable standard of proof was not met*”. The allegation against the Appellant (of exerting “*intense psychological pressure*” on the Second Respondent and of committing bribery and corruption) is extremely serious and, under CAS jurisprudence and pursuant to Article 14 of the Procedural Rules, requires proof to the standard of “*comfortable satisfaction*”. Such standard of proof was clearly not met and no violation can be established:

- a. the only evidence supporting the finding of responsibility was a WhatsApp conversation between the Appellant and the Second Respondent, which reflected a normal, mutual and legitimate political discussion, common during election campaigns. Expressions like “*the last chance*” and “*the die is cast*” were typical of political negotiation and not coercive or threatening. The Second Respondent actively engaged in the exchange in a cordial and constructive manner, even asking for the Appellant’s help afterwards, adopting a behaviour inconsistent with the attitude of someone who felt pressured or harassed;
 - b. despite this, the TRI Tribunal accepted the Second Respondent’s testimony uncritically, even though her statements were found unreliable in relation to other individuals and in other aspects of the same case. Notably, her claim that the Appellant behaved aggressively during a December 2023 TRI Executive Board meeting was neither verified nor investigated;
 - c. additionally, the Second Respondent’s selective production of the WhatsApp exchange and her history of filing unsubstantiated complaints against other candidates further call into question her credibility;
- v. “*the principle venire contra factum proprium*”. This principle, affirmed in Swiss law and consistently applied in CAS jurisprudence (CAS 2020/A/6861), prohibits a party, including disciplinary bodies, from contradicting its prior conduct or decisions to the detriment of someone who relied on them. This ensures fairness and protects legitimate expectations. In this case, the TRI Tribunal had initially reviewed the Appellant’s conduct and explicitly concluded that it did not affect the integrity of the Elections, meaning that no immediate disciplinary action was needed. Based on this, the Appellant had a legitimate expectation that no sanction would follow. However, despite no new evidence or change in circumstances, the TRI Tribunal later reversed its own assessment and imposed a sanction on the Appellant, solely based on the same facts. This shift, without justification, violated the principle of good faith and fairness, and strongly supports the annulment of the Appealed Decision;
- vi. “*the Decision reflects unequal treatment and procedural inconsistency*”, since:
 - a. the Appellant was sanctioned for participating in a WhatsApp conversation that was mutual, informal and political with the Second Respondent, who actively engaged and even suggested campaign collaboration. Despite her identical involvement, no proceedings were initiated against her;
 - b. the Appellant filed a counterclaim before the TRI Tribunal requesting the Second Respondent’s suspension for filing a frivolous Complaint, but it was dismissed without properly addressing the fact that both were equally involved;
 - c. this unequal treatment, punishing only one participant while exempting the other, violates the principle of fairness and equal treatment. The TRI Tribunal also acquitted other individuals accused in the same context, applying a “lack of evidence” standard, but abandoned this approach for the Appellant, relying solely on the Second Respondent’s uncorroborated and unreliable testimony;

- vii. “*the Decision violates the principle of proportionality and the legal certainty*”. The Appellant was suspended for one year from all TRI roles, with six months to be served immediately, and six months potentially waived if he completes a “*certified ethics course*.” However, the Appealed Decision is unclear, as it fails to specify which courses qualify or how completion will be assessed, leaving full discretion to TRI. This uncertainty violates the principle of legal certainty, as sanctions must be clear, predictable, and objectively verifiable. Moreover, the sanction is disproportionate. CAS jurisprudence requires that disciplinary measures match the seriousness of the offence. In this case, the alleged misconduct, a private, mutual and non-binding WhatsApp discussion, with no evidence of bribery, coercion or manipulation, does not justify such a severe penalty. Given the absence of harm or intent, a simple warning would have been the only appropriate and proportionate measure, if any. The one-year suspension is excessive, especially compared to the lenient treatment of others involved, none of whom were sanctioned.

B. The First Respondent

- 48. In its Answer, the First Respondent submitted the following prayers for relief, requesting an award:
 - “1. *Dismissing the appeal filed by Mr Liber Garcia.*
 - 2. *Confirming the decision rendered by the World Triathlon Tribunal on 17 March 2025.*
 - 3. *Ordering Mr Liber Garcia to bear all arbitration costs, if any*
 - 4. *Ordering Mr Liber Garcia to pay World Triathlon a significant contribution towards the legal and other costs incurred in the framework of these proceedings, in an amount to be specified at the hearing or at the Panel’s discretion.*
 - 5. *Rejecting all further or other conclusions submitted by Mr Liber Garcia.*”
- 49. While the First Respondent defers to the Panel’s determination regarding the Second Respondent’s standing to be sued, in support of its request that the appeal be dismissed, it submits *inter alia* the following:
 - i. as to the “*alleged nullity of the Appealed Decision*”, the TRI Tribunal correctly assumed jurisdiction and found a violation by reference to the relevant provisions of the Constitution, of the Procedural Rules, of the Code of Ethics, of the ABACP and of the Elections Rules:
 - a. the TRI Tribunal’s jurisdiction is based on Article 50.1 of the Constitution, which authorizes the TRI Tribunal to investigate breaches of the Constitution and of TRI rules and codes;
 - b. the Appellant was sanctioned under Articles B5, B6, and B7 of the Code of Ethics, Article 2(a) of the ABACP and Article 4 of the Code of Conduct. These codes are interconnected, and the formal Complaint by the Second Respondent on 26 September 2024 properly brought the matter before the TRI Tribunal;
 - ii. as to the “*alleged violation of the principle of legality (nulla poena sine lege)*”, the

principle applies and was respected in this case. The charges against the Appellant came from the WhatsApp exchanges on 20 September 2024, which the TRI Tribunal characterized as a deliberate attempt to manipulate election results by pressuring a candidate to withdraw and offering improper benefits. The applicable legal framework is composed of the Code of Ethics, the ABACP and the Code of Conduct, which together form a coherent set of rules regulating conduct. The Code of Ethics expressly prohibits attempts to manipulate election outcomes and states that a corruption offense is committed simply by offering or soliciting an advantage, even if no benefit is actually exchanged. Article 4 of the Code of Conduct further defines corruption broadly. Violations of these obligations trigger disciplinary sanctions according to the Code of Ethics and the Procedural Rules. As such, the TRI Tribunal found that the Appellant's actions clearly fall within the prohibited conduct defined by the regulations: the principle of legality, therefore, has been fully respected;

- iii. as to the “*the applicable standard of proof*”, the Appellant's arguments are misplaced. The Appellant has not specifically referenced the relevant provisions of the regulations applied by the TRI Tribunal. The correct standard of proof in this case is the “*comfortable satisfaction*” of the deciding body, as set forth in Article 14 of the Procedural Rules. The TRI Tribunal appropriately evaluated the factual background and the evidence on record in determining whether the sanctions imposed on the Appellant were justified. To address the question whether the Appellant breached the Code of Ethics, the ABACP, or the Code of Conduct, specifically in relation to the offence of corruption, the following sub-questions were correctly answered:
 - a. “*did the Appellant offer any form of advantage to the Second Respondent?*” The answer was correctly “*Yes*”, because the Appellant offered a guaranteed position on the TRI Executive Board to the Second Respondent;
 - b. “*if so, was this offer made with the intent to influence the Second Respondent?*” The answer was correctly “*Yes*”, because the Appellant's offer was made with the intent to influence the Second Respondent's decision to withdraw her candidacy and endorse the Appellant's preferred candidate;
 - c. “*if so, could this action potentially lead to fraud or manipulation of the results of the Elections?*” The answer was correctly “*Yes*”, because the Second Respondent's withdrawal and endorsement of another candidate would have affected the distribution of votes.

Therefore, the TRI Tribunal correctly concluded that the Appellant violated his obligations by engaging in acts of corruption. The evidence, particularly the Appellant's own WhatsApp messages, supports this conclusion and meets the “*comfortable satisfaction*” standard of proof. Even under the higher standard of “*beyond reasonable doubt*” the evidence would remain compelling. The Appellant's references to unrelated issues, such as the credibility of the Second Respondent, the Appellant's behaviour in a separate meeting and the interactions post-election, are to be dismissed, because they are irrelevant to the corruption charges and were not considered by the TRI Tribunal in the Appealed Decision;

- iv. as to the “*Alleged violation of the principle ‘venire contra factum proprium’*”, it is to be noted that the TRI Tribunal’s procedural order was not a final decision and did not create a legitimate expectation that the Appellant would be exempt from sanctions. The order was explicitly stated as containing preliminary information, and did not conclude that no infraction had occurred, but only that there was no substantial impact on the election process. Additionally, since the Appellant was not a candidate in the Elections, his actions could not have influenced the outcome. Therefore, the Appellant’s argument is unfounded and should be rejected;
 - v. as to the “*alleged violation of the principle of equal treatment and procedural inconsistency*”, the Appellant failed to establish a proper legal basis for his claims, notably under Swiss law. In any case, the arguments are without merit because: (i) the Second Respondent did not engage in the same conduct as the Appellant, as she did not accept the offer made; (ii) the counterclaim for a frivolous Complaint was correctly dismissed, as the Complaint was partially upheld; and (iii) the Appellant’s sanction was based on clear evidence from his own WhatsApp messages, unlike the cases of the other individuals mentioned in the Complaint of Ms Cooper. Accordingly, the claims of unequal treatment and procedural irregularities are groundless and must be dismissed;
 - vi. as to the “*alleged violation of the principle of proportionality and the legal certainty*”, it is submitted that the sanctions are clear and legally justified:
 - a. the one-year suspension, as outlined in Article 49 of the Procedural Rules, is well-defined, and the requirement for the Appellant to complete an ethics course is in line with Article 49(3). Therefore, the sanctions adhere to the principles of legality and do not allow for arbitrary enforcement. Regarding proportionality, the severity of the Appellant’s actions, particularly his high-ranking role and involvement in the Elections, justifies the sanction. The breach of TRI’s governance integrity is serious, even though the TRI Tribunal could not conclusively establish that the Elections were materially compromised. The mere implication of the Appellant’s actions could tarnish the reputation of TRI and undermine public trust in its leadership;
 - b. the CAS jurisprudence supports the imposition of the most severe sanctions for corruption, with penalties ranging from several years to a lifetime ban. Considering this, the imposed one-year suspension is considered proportionate, as a lesser sanction could damage TRI’s reputation and fail to deter future misconduct. Should the Panel find the sanctions inadequate, at least a six-month suspension from official functions should be imposed in accordance with Article 49 of the Procedural Rules.
50. In conclusion, the Panel should uphold the Appealed Decision, as it is procedurally and substantively correct. The TRI Tribunal followed due process, properly evaluated the facts and based its findings on solid evidence, notably the WhatsApp messages which prove the Appellant’s corrupt conduct. Despite the Appellant’s challenge, the TRI Tribunal correctly applied the Code of Ethics and the related provisions, which prohibit corruption and election manipulation. The Appellant’s actions, such as influencing candidate withdrawals and TRI Executive Board appointments, further support the

finding of corruption. The imposed sanction, a one-year suspension with the possibility of reduction, is proportionate to the offense and necessary to maintain integrity in the organization. Therefore, the appeal should be dismissed.

C. The Second Respondent

51. In her Answer, the Second Respondent submitted the following prayers for relief:

“a) Prayer IX(I): The Appellant’s appeal should be dismissed in its entirety but the appeal against the Second Respondent should be dismissed immediately. It is embarrassing, contrived, vindictive and without basis.

(b) Prayer IX(II): The decision issued by the World Triathlon Tribunal on 17 March 2025 is valid and the relevant sanction(s) should remain in effect.

(c) Prayer IX (III) is not relief that can be ordered by CAS.

(d) If prayers IX(I) and (II) are upheld prayers IX (IV) and (V) need not be considered.

(e) In any event the Second Respondent cannot, and should not, be sanctioned at all by CAS.

(f) There is no counterclaim before CAS against the Second Respondent which can be upheld.

(g) If the Appeal is dismissed all costs of arbitration should be paid by the Appellant.

(h) If the Appeal is upheld all costs of arbitration should be borne equally by the Appellant and WT.

(i) Regardless of the appeal outcome no award of costs should be made towards legal and other costs for any party and each party should bear their own costs in this regard.

(j) The CAS provisional orders regarding staying the Challenged Decision and its confidentiality should be immediately lifted.”

52. In support of her requests, the Second Respondent submitted *inter alia* the following considerations:

- i. she filed her Complaint simultaneously with the Credentials Committee and the TRI Tribunal. Although the Credentials Committee requires complaints within 24 hours, the TRI Tribunal is not bound by that limit, making the timing issue irrelevant. Moreover, the Credentials Committee could not rule on the policy breaches for which the Appellant was sanctioned by the TRI Tribunal;
- ii. she has no stake in the dispute, as the appeal challenges the TRI Tribunal’s decision, not any action of hers. Even if CAS overturned the Appealed Decision, it would not affect her. The Appellant’s attempt to seek a warning against her is a contrived effort to involve her improperly in the appeal. Since she made no claim at CAS, she has no obligation in the dispute and no standing;
- iii. the CAS Panel cannot examine any counterclaim against her because she made no claim before CAS. The appeal concerns only the Appealed Decision of the TRI Tribunal, not the claims she previously submitted. The Appellant’s counterclaim at the TRI Tribunal is outside the scope of the Appealed Decision and thus beyond the CAS review. Simply having been involved in earlier proceedings does not automatically make her a respondent to this appeal. Accepting the Appellant’s

reasoning would mean that any complainants could wrongly become a respondent in an appeal against a sanction, even though they played no role in the decision.

53. In conclusion, the Second Respondent submits that she is not a “necessary respondent”, as she did not influence the TRI Tribunal’s decision-making. Any procedural errors or misapplication of law would concern only the TRI Tribunal, not her. She has no legal stake or interest in the outcome of the appeal and, while she supports the Appealed Decision, the Appellant’s attempt to involve her in the appeal is improper and should be dismissed.

VI. JURISDICTION OF THE CAS

54. 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 that body.

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned.”

55. Pursuant to Article 52 of the Constitution, TRI recognises the jurisdiction of the CAS as follows:

“52.1. Final decisions made by World Triathlon under this Constitution may be appealed exclusively to the CAS which will resolve the dispute definitively in accordance with the CAS Code of Sports-related Arbitration.

52.2. Any appeal under Art 052.1 must be filed with the CAS within twenty-one (21) days of the party’s reception of the written, reasoned decision of World Triathlon in question.”

56. Finally, the jurisdiction of CAS is not disputed by the Parties and was confirmed by them all when signing the Order of Procedure.
57. It follows that the CAS has jurisdiction to hear the appeal filed by the Appellant against the Appealed Decision.

VII. ADMISSIBILITY

58. The admissibility of the Appellant’s appeal is not challenged by the Parties. The Statement of Appeal also complied with the requirements of Articles R48 of the CAS Code, including the payment of the CAS Court Office fee.
59. It follows that the appeal is admissible.

VIII. OTHER PROCEDURAL ISSUES

60. The Second Respondent, as announced, did not attend the hearing. The Panel notes in this regard that Article R57 (4) of the CAS Code provide as follows:

“If any of the parties, or any of its witnesses, having been duly summoned, fails to appear, the Panel may nevertheless proceed with the hearing and render an award.”

61. In view of the above, the Panel proceeded with the hearing and the proceedings in order to render the Award.

IX. APPLICABLE LAW

62. Pursuant to Article R58 of the CAS Code, in an appeal arbitration procedure before the CAS:

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

63. Pursuant to Article 52.4 of the Constitution:

“52.4. An appeal before the CAS shall be governed by this Constitution and the Rules, Regulations and Codes, and on a subsidiary basis by Swiss law. The appeal proceedings shall be conducted in English unless the parties agree otherwise.”

64. As a result, the Panel finds that the various regulations of TRI are primarily applicable. Swiss law applies subsidiarily.

X. MERITS

65. The object of this arbitration is the Appealed Decision rendered by the TRI Tribunal, in which the Appellant was found responsible of a violation of the Code of Ethics and of the ABACP. In the reasoning, then, the TRI Tribunal found also a violation of the Code of Conduct.

66. The Appellant denies such findings and submits that the Appealed Decision is to be set aside for a number of reasons: the Complaint which originated the proceedings could not be entertained, as it was belated; no violation could be established, in the absence of a clear legal foundation and of convincing evidence; the Appealed Decision ran against some general principles; and the sanction was disproportionate. At the same time, the Appellant requests that the Second Respondent be sanctioned for having filed a frivolous Complaint, or, in the event that the Appellant is found responsible of a violation, that also the Second Respondent be sanctioned, because she committed the same violation. The Respondents sustain the Appealed Decision and seek the dismissal of the Appellant’s appeal and claims.

67. As a result of the foregoing, a number of issues have to be dealt with. They are the following:
- i. did the Appellant commit a disciplinary violation? More specifically:
 - a. is any finding in this respect precluded by a late filing of the Complaint?
 - b. is the Appellant responsible of the violation for which he was sanctioned?
 - ii. in the event the answer to the first question is positive, what is the sanction to be applied to the Appellant?
 - iii. can the Appellant's claims against the Second Respondent be granted?
68. The Panel will examine those issues in sequence.

i. Did the Appellant commit a disciplinary violation?

69. The Appellant disputes the finding of his responsibility, because, in his opinion (see § 47 above), the Complaint “*was inadmissible due to being manifestly late and the TRI Tribunal acted ultra vires*”, “*the applicable standard of proof was not met*”, the Appealed Decision violates the principle “*of legality (nulla poena sine lege)*” and the prohibition of “*venire contra factum proprium*” and “*reflects unequal treatment and procedural inconsistency*”: in other words, because the Complaint could not be entertained and because his responsibility could not be found.
70. The Panel, in order to answer the mentioned question, needs to address all issues raised by the Appellant.

Was the TRI Tribunal precluded from examining the Complaint?

71. The first issue is whether the TRI Tribunal was precluded from considering the Complaint and examining the commission by the Appellant of a disciplinary violation, because the Complaint was filed past an allegedly relevant deadline. In that regard, the Appellant refers to Articles 19.1 and 19.9 of the Elections Rules, which provide the following:
- “19.1 Any interested party should bring any breach of these Rules to the attention of the Credentials Committee (in writing or by email addressed to chair of the Credentials Committee or to the Secretary General) within twenty-four (24) hours following discovery of the circumstances but no later than the close of the voting. [...]”*
- 19.9 A complaint about a breach of these rules must be made to the chair of the Credentials committee within twenty-four (24) hours of the facts or twenty-four (24) hours of becoming aware of them but no later than the close of the voting.”*
72. The Panel observes that the Complaint, simultaneously submitted by Ms Cooper to the Credentials Committee and the TRI Tribunal, was filed (on 26 September 2024) before the closing of the vote at the TRI Congress (held on 21 October 2024), but after the expiry of the deadline of 24 hours of the events (which occurred on 18 and 19 September 2024) giving rise to it. As a result, the time limits set by Articles 19.1 and 19.9 of the Elections Rules were not respected. The question, therefore, is whether such non-compliance

prevented the TRI Tribunal from considering the Complaint, finding violations of the ABACP, of the Code of Ethics and of the Code of Conduct and issuing the Appealed Decision.

73. The Panel notes that the provisions invoked by the Appellant are set in the framework of Article 19, dealing with the handling by the Credentials Committee of violations of the Elections Rules, *i.e.* of the rules adopted to govern the elections for all positions to be elected in TRI (fourth paragraph of their Preamble).
74. In that context, Article 19 of the Elections Rules sets deadlines for the submission of a complaint to the Credentials Committee in order to put the Credentials Committee in a position to exercise its duties and responsibilities under the Elections Rules following a report of their breach.
75. In that respect it is to be noted that the Credentials Committee is established under Article 47.3 of the Constitution and is responsible *“for the verification and admission of Delegates, Observers and Attendees participating at the Congress and verifies the Eligibility of Candidates for a position as Official prior to Congress, and for the verification of Good Standing of the Members and Associate members”* (Article 47.3(a) of the Constitution). The role of the Credentials Committee is described by the Constitution to be the following:
 - i. in general:
 - “(a) decide if a candidate or existing Official is eligible to take, or remain in Office as, an Official in accordance with the Constitution, Rules, Regulations and Codes;*
 - (b) examine the nominations from Members for all positions on the Executive Board, Committees, Commissions and the Tribunal, and*
 - (c) make recommendations to the Executive Board and Congress, as appropriate, based on objective eligibility criteria for each position provided by the Secretary General;*
 - (d) decide if Members and Associate members are in Good Standing”;*
 - ii. during the TRI Congress:
 - “(a) keep a complete record of the Members;*
 - (b) examines the credentials of each Delegate attending Congress under Art 20;*
 - (c) verify the authenticity of credentials and supplies Congress materials, voting cards or machines, and a form of identification appropriate to the Delegates;*
 - (d) verify the authenticity of credentials and supplies Congress materials and a form of identification appropriate to the delegates of Associate members under 21.1.a;*
 - (e) verify the authenticity of credentials and supplies Congress materials and a form of identification appropriate to Attendees and Observers under Art 21;*
 - (f) report to Congress on the presence or absence of Members, Committee and Commission chairs, and other Congress participants.”*
76. The Elections Rules, then, further detail the mandate of the Credentials Committee and its responsibility to guarantee that the Elections Rules are applied (Article 3.1). As a result, the role of the Credentials Committee is to supervise the administrative process relating to the election of officials, to monitor the compliance with the Elections Rules,

to ensure their correct application and to issue instructions to the TRI Secretary General in such respect (Article 3.2). In addition, the Credentials Committee conducts an eligibility check on candidates, determining whether each nominated candidate is eligible for election according to the Constitution (Article 6), allows debates or public meetings organized to promote a candidature, otherwise prohibited (Article 10.4), issues guidance to the TRI staff with regard to the neutrality in the electoral process (Article 17.3) and in general terms deals with matters not provided for in the Elections Rules (Article 15).

77. Finally, the Credentials Committee receives protests challenging the results of the election (Article 18) and handles violations of the Elections Rules (Article 19). The mentioned provisions on time-limits are contemplated in this latter context.
78. All the above shows that, as far as relevant in this arbitration, the mandate of the Credentials Committee is limited to the supervision of the administrative regularity of the electoral process, implementing the Elections Rules.
79. As a result, any and all disciplinary aspects, not relating simply to technical or minor breaches of the Elections Rules, are to be considered by the TRI Tribunal. In other words, the hearing of any disciplinary violation beyond that scope falls outside the jurisdiction of the Credentials Committee and has to be determined by the competent body, *i.e.* the TRI Tribunal. In fact, the Credentials Committee has no power to hear disciplinary cases where they do not involve a violation of the Elections Rules and for purposes other than those established by the Elections Rules.
80. Such conclusion is based on the other provisions set by Article 19 of the Elections Rules with respect to the handling of their violations:

“19.3 The Credentials Committee shall investigate an alleged breach of these Rules brought to its attention and will give the relevant candidate the opportunity to respond within such time frame as the Committee considers appropriate.

19.4 The Committee may determine its own procedures. Candidates are required to attend a meeting of Credentials Committee upon reasonable notice to do so.

19.5 If the Credentials Committee concludes there has been a minor or technical breach of these Rules, it may in its discretion:

- a. make written observations to the candidate, which shall be made public by the Committee; or*
- b. issue a warning to the candidate, which shall be made public by the Committee; or*
- c. temporary suspend the candidate from campaigning.*

19.6 If the Credentials Committee concludes there has been a breach of the Rules which is not minor nor technical, the case will be immediately referred to the Tribunal.

19.7 The Credentials committee can forward any breach to the Tribunal and give a candidate a provisional suspension.

19.8 The National Federation (Member), the Continental Confederation (Associate member) and the officials of the National Federation or Continental Confederation of the candidate may also be referred to the Tribunal if they assist their candidate in contravention of these rules. This also applies to other Members, Associate members and affiliated members if they assist a candidate in contravention of these Rules.”

81. In such context, the meaning and impact of the time limits set by Articles 19.1 and 19.9 of the Elections Rules for the submissions of complaints to the Credentials Committee becomes clear. Any interested party may report to the Credentials Committee any alleged breaches of the Elections Rules, but only immediately and in any case before the closing of the voting. Such short time-limit is imposed to allow the Credentials Committee to immediately intervene and deal with the matter in order to exercise its “jurisdiction” on the electoral process and ensure that it is conducted according to the Elections Rules while it is still ongoing, rectifying any violation.
82. In other words, the timely filing with the Credentials Committee of a report of an act that could lead to defraud or manipulate the result of any elections within TRI appears only to be a condition for the exercise of the powers of the Credentials Committee with respect to the pending elections. At the same time, the failure to comply with the deadline set by Articles 19.1 and 19.9 of the Elections Rules does not preclude the submission of that report to the TRI Tribunal for the exercise of the latter’s powers under the Procedural Rules with respect to disciplinary violations beyond their impact on the electoral process.
83. In that respect, the CAS Panel also notes that the Procedural Rules only provide (at Article 17) for much longer limitation periods for the prosecution of disciplinary infringements (not engaged in the present case), and that the notice requesting the opening of proceedings that “*the relevant party*” must send to the TRI Tribunal (Article 22.1) is not subject to strict deadlines corresponding to those established by Article 19 of the Elections Rules.
84. The case of Mr García fell outside the direct scope of application of the Elections Rules (see § 97 below). In fact, as already noted, the Complaint was addressed not only to the Credentials Committee, but also to the TRI Tribunal, which on its basis started disciplinary proceedings, considered it and found violations of rules set out in the ABACP, the Code of Ethics and the Code of Conduct, and not of the Elections Rules.
85. As a result, the Panel finds that the limits set by Article 19 of the Elections Rules did not prevent the TRI Tribunal from issuing the Appealed Decision.

Did the Appellant commit the violations for which he was sanctioned?

86. Mr García was declared, in the operative part of the Appealed Decision, responsible for a violation of Article 2(a) of the ABACP and of Articles B5, B6 and B7 of the Code of Ethics, which so provide:

Article 2 of ABACP (“*Corruption offences*”):

“No Covered Person [i.e., “Officials, Affiliated members and its related entities representing TRI”] shall, directly or indirectly, attempt, agree or conspire to commit any Corruption Offence [i.e., any violation of the ABACP]. For a Corruption Offence to be committed, it is sufficient that an offer or solicitation was made, regard less of whether any money, benefit or consideration was actually paid or received.

No Covered Person shall, directly or indirectly:

- a. *Engage in any action or collaboration that could lead to defraud or manipulate the result of any elections within TRI. [...]*”;

Articles B5, B6 and B7 of the Code of Ethics, part of Section 3 “*Integrity*”:

- “5. *A stakeholder in the Sport of Triathlon should not engage in any criminal or other improper activity, either within or outside Triathlon.*
6. *The World Triathlon Constitution should be observed at all times as should all regulations, codes and decisions of World Triathlon.*
7. *Even the appearance of misconduct and impropriety should be recognized as damaging to World Triathlon’s reputation, and should, therefore, be avoided.*”

87. In the text of the Appealed Decision, then, the TRI Tribunal found that Mr García had violated also Article 4 of the Code of Conduct, in the portion which follows:

“4. *TRI STAFF AND OFFICIALS WILL NEVER TAKE PART IN, CONTRIBUTE TO, OR TOLERATE: [...]*

Corruption: Attempts to influence any person or process by offering, giving, receiving or soliciting advantages of any kind (ref to World Triathlon anti-corruption policy). [...]”.

88. Such violations were found with respect to the WhatsApp exchange between the Appellant and the Second Respondent, which took place between 18 and 19 September 2024. The TRI Tribunal considered that Mr García was entitled to engage in political activities and legitimate lobbying. However, his conduct was found to have exceeded what is admissible and represented a deliberate and premeditated effort to manipulate the results of the Elections. In particular, the TRI Tribunal found it reproachable that, in the messages he sent, he:

- i. claimed to be part of a “*team*”, a “*group*”, comprising alliances among the Africa, Asia, and Americas confederations, along with some European countries, formed to secure the election of his preferred candidate for the TRI Presidency;
- ii. asked Ms Cooper to support his candidate for the TRI Presidency;
- iii. promised Ms Cooper that she would receive the necessary support to be re-elected to her position on the TRI Executive Board, if she withdrew from the Presidential election and publicly endorsed his preferred candidate;
- iv. exercised intense psychological pressure to manipulate Ms Cooper in order to force her to accept the deal with the use, among others, of the expressions “*the last chance*” or “*the die is cast*”.

89. The Panel notes that, in the WhatsApp exchange, as reproduced above (see § 9), the following messages were sent by the Appellant:

- i. on 18 September 2024:
 - at 21:01: *I’m taking this opportunity to ask you a question. I don’t understand how you are running without having enough votes!!!*
 - at 21:04: *It would have been nice if we had talked before! I don’t know if you’ve noticed, but we have a strong agreement between Africa, Asia and*

America! This is mathematic and the president that we support will be elected.

- at 21:10: *I think you can, but understand that more than a candidate we are a team! I can talk, but not now because of the time difference. If you want, I promise to see him quickly and get back to you with something concrete. Having a candidate supported by 4 presidents of confederations is very strong!!!*
- at 21:12: *Even more so if 4 candidates drop out and support one!!! leaving Ian, Mads and Tamas as rivals.*
- at 21:14: *Are you willing to come down to Vichy and have us support you to stay on the board?*
- at 21:17: *No no, the President is already here! It's for you to step down as president and we'll support you to stay on the board.*
- at 21:23: *The most important thing is to know if you would back out, because that is decisive! Honestly, and not to sound arrogant, we don't need votes. Personally, I appreciate and find very interesting an alliance between 4 continents!*

ii. on 19 September 2024:

- at 06:23: *But I'm also honest with you, regarding the elections, the last chance is now, before Vichy.*
- at 06:23: *Then the die is cast... and believe me, we are the winning group.*
- at 06:25: *In Vichy, you would have to announce that you are withdrawing and, like Africa, Asia and America, be the fourth continent to support our candidate who is from Europe!*

90. Those messages need to be read in the proper context of an exchange, as some of them constitute the answer to questions asked by Ms Cooper.
91. The issue, however, is whether the conduct of the Appellant, through those messages, read in their context, constitutes a breach of the rules applicable to him. In fact, the verification whether the messages sent by the Appellant in the conversation with the Second Respondent can be confined to the political discourse or amount to a breach of the rules cannot be conducted in abstract or general terms, but needs to be referred to the peculiarities of the TRI system. In other words, whether the “compromise” which appears to be suggested in those messages (but that the Appellant denies: if you do not run against our candidate but support him, we will help your re-election to another position within TRI) is common or accepted in the general politics or even in other sporting systems is irrelevant.
92. In that regard, the Panel notes that the “*Corruption Offence*” contemplated by Article 2 of the ABACP and Article 4 of the Code of Conduct does not cover only those actions that in the ordinary parlance are perceived as “corruption”, *i.e.* those consisting in the payment of bribes to obtain a favour by someone else (ordinarily a public officer). In fact:

- i. it covers “*any action or collaboration that could lead to defraud or manipulate the result of any elections within TRP*”;
 - ii. it extends to “*offers*”, irrespective of whether any benefit is actually given or obtained;
 - iii. it can consist simply in “*attempts to influence any person ... by offering advantages of any kind*”.
93. Such elements give a first indication of the very high level of protection that the TRI rules specifically offer to the electoral process within the TRI system: the “manipulation” of the results of an election can consist not only in the actual subversion or obstruction of the entire process, through the payment of bribes to “buy” votes; it may be committed simply with the attempt to influence any person’s free determination regarding an election with the offer of advantages. In other words, the system protects the pursuit of the statutory goals of TRI by striving to ensure that any person entitled to participate in the elections process remains in a position to be free to exercise its electoral rights, without being influenced by any personal consideration, so that the elections are conducted in line with the principles of fair play, equality of opportunity, transparency, good governance and democracy endorsed by TRI (Article 4 of the Constitution).
94. The extremely high level of protection of the TRI electoral process is confirmed for candidates by Article 16 of the Elections Rules. Such rule provides for:
- i. the obligation:
 - a. to abide by the Code of Ethics, the Constitution and the Elections Rules (Article 16.1);
 - b. to conduct their campaigns with honesty, dignity, moderation and respect for their opponents, limiting expenditure to a proportionate level (Article 16.3);
 - c. for candidates occupying an elected position, to declare to the Credentials Committee and have approved their travel activities and meetings, and to announce their agenda (Article 16.17);
 - ii. the prohibition:
 - a. to carry out any electoral campaigning prior to the start of the electoral period (Article 16.2);
 - b. to solicit, accept or offer, directly or indirectly, any form of remuneration or commission, or any concealed benefit or service of any nature, related with any TRI activity or election or appointment to office (Article 16.4);
 - c. in any circumstances and under any pretext, to give presents or offer donations or gifts or grant advantages or benefits of whatever nature to, or at the request of, any party who will vote in, or who may otherwise influence, an election (Article 16.5);
 - d. to enter into any promise or undertaking to personally act (whether as a candidate or following election) for the direct or indirect benefit of a specific member or individual (Article 16.6);
 - e. to accept paid travel, expenses, air tickets or accommodation from other

- candidates, their representatives, other Members, Associated Members or other associated organisations to attend meetings and activities directly related to a candidate's elections (Article 16.7);
- f. to enter into any form of undertaking with any individual or organisation that is likely to affect the candidate's freedom of decision or action if elected (Article 16.8);
 - g. to make payments, directly or indirectly, to journalists or other persons affiliated to the media in order to promote their candidacies (Article 16.11);
 - h. to produce (or cause third parties to produce) any spoken word, written text or representation of any nature likely to harm the image or reputation of another candidate or that of TRI (Article 16.12);
 - i. to engage in any act, collaboration or collusion by or between candidates with the intent to defraud or manipulate the result of the vote (Article 16.13);
 - j. to request support or service from TRI or from external advisors who are working with TRI in connection with their candidacies (Article 16.14);
 - k. for candidates occupying elected or appointed positions, to use TRI resources to fund travel and campaign activities (Article 16.15);
 - l. to promote a candidature in concealed form, by way of technical meetings or other events (Article 16.18);
- iii. the right:
- a. to promote their candidacies, but only subject to the provisions set out in the Elections Rules (Article 16.9);
 - b. to make declarations or to give interviews, provided that, in doing so, they comply with the Elections Rules (Article 16.10);
 - c. for candidates holding official positions within TRI, including its staff, to remain in office during the election campaign (Article 16.16).
95. The Panel notes on the basis of the foregoing that the high level of protection of the electoral process is confirmed by the fact that the mentioned prohibitions are intended not only to guarantee the freedom of vote, but also to safeguard the candidates from external influence, that may have accrued during the electoral process (see *e.g.*, Article 16.8).
96. Finally, the Panel remarks that, in addition to the mentioned "*Rules for candidates*" set at Article 16, the Elections Rules contain provisions applicable to "*Members ... and Associated Members, their delegates, attendees and observers, committee and commission members, other organisations, or other partners*" (Article 11), which prohibit announcements to the public in any form whatsoever of their intention to vote for a particular candidate, and any public declaration, or, in any way, support of a candidature to the public (Article 11.2). As a result, only private expressions of opinion or intentions are allowed (Article 11.1).
97. The Panel notes that the TRI Tribunal did not consider the Elections Rules to be applicable to the case of Mr García, and that no submission was made in this arbitration that he violated the Elections Rules. The Appellant in fact was not himself a candidate at

the Elections, and the WhatsApp conversation he had with Ms Cooper did not constitute a public declaration prohibited under Article 11.2 of the Elections Rules.

98. This Panel however finds that the broad scope of the prohibitions imposed on the candidates by the Elections Rules is an element guiding the interpretation of the prohibition to “*engage in any action or collaboration that could lead to defraud or manipulate the result of any election within TRI*” set by Article 2(a) of the ABACP. The manipulation of the result of elections, therefore, should be interpreted to include any activity affecting the freedom, transparency and good governance of the elections, including the possibility for candidates to stand freely for elections and for voters to exercise their voting rights free of any personal advantage or gain. Only private expressions of opinion or intentions, not otherwise leading to defraud or manipulate the result of an election within TRI, are allowed.
99. It is true, in that regard, that the mentioned prohibition of the ABACP corresponds to one of the prohibitions imposed on candidates by the Elections Rules (at Article 16.13) and appears to extend it to non-candidates. However, this Panel finds that such correspondence cannot be interpreted to “single out” only one of the restrictions that the Elections Rules imposes on candidates, and therefore allow non-candidates to engage in all other activities mentioned by Article 16 of the Elections Rules as prohibited to candidates. In fact, it cannot be seriously maintained that non-candidates can offer remunerations relating to an election (*i.e.*, make an action prohibited under Article 16.4) without committing a “*corruption offence*”, simply because Article 2(a) of the ABACP corresponds to the wording only of a specific different provision.
100. The question, therefore, remains whether in the WhatsApp conversation with the Second Respondent the Appellant attempted to manipulate or defraud the Elections, in the sense and in violation of Article 2(a) of the ABACP. The answer is to be given in light of the mentioned principles expressed by the TRI rules. It is in that respect undisputed that the Appellant is a “*Covered Person*”, bound by the ABACP according to the terms thereof and “*expected to act with transparency, honesty and integrity*” (Article 1, second paragraph of the ABACP).
101. In the Panel’s opinion, the answer is positive. The Appellant, bearing in mind the broad scope of Article 2(a) of the ABACP, attempted to influence the decision of the Second Respondent to stand as a candidate for the upcoming Elections, requesting her withdrawal and offering in exchange the support of his “*group*” to her re-election to the TRI Executive Board.
102. In fact, the Panel notes that, notwithstanding the Appellant’s denial, the messages he sent to Ms Cooper on 18 and 19 September 2024 are clear, and were clearly understood in their proper meaning by the Second Respondent: the Appellant tried to convince Ms Cooper to withdraw her candidature as TRI President (messages of 18 September 2024 at 21:17 and 21:23; of 19 September 2024 at 6:25) and endorse another candidate (messages of 18 September 2024 at 21:10 and of 19 September 2024 at 6:25), offering in exchange a support of the “*team*” to help her stay in the TRI Executive Board (message of 18 September 2024 at 21:14 and 21:17), and insisting on her withdrawal (messages of

19 September 2024 at 6:23). By so doing, the Appellant attempted to influence the conduct of a candidate to the TRI Presidential Elections and to a position within the TRI Executive Board, by offering an advantage (the support of the “team”) in exchange of her withdrawal.

103. The fact, then, that the WhatsApp conversation was on 18 September 2024 initiated by the Second Respondent (with a message at 20:49) is irrelevant. In fact, it was the Appellant who (at 21:01) took the opportunity of the ongoing conversation to raise the issue of the candidature at the Elections; and it was the Appellant who on 19 September 2024 continued the conversation (with a message sent at 6:15). The circumstance that the occasion for the discussion relating to the candidature was created by the Second Appellant (who started the exchange) does not prevent an evaluation as to the violation of the ABACP by the Appellant with the messages he sent. In the same way, it appears that:
 - i. the seemingly polite and friendly tone of the exchange is not inconsistent with the fact that the Appellant attempted to influence the decision of the Second Respondent to stand as a candidate for the upcoming Elections with the offer of a “benefit” (the support in the election to the TRI Executive Board);
 - ii. the fact that some messages were sent in response to Second Respondent’s questions does not change their unequivocal content.
104. At the same time, the Panel finds that those messages cannot be confined to the private expression of opinions or intentions, allowed by Article 11.1 of the Elections Rules, or to a political discourse, with the forming of alliances and agreements to support a candidate. The Panel notes as remarkable in such regard that in the conversation between the Appellant and the Second Respondent no mention was made of ideas, programs or perspectives regarding the future of TRI: the “bargain” was offered by the Appellant as a pure exercise of power, based on the availability of sufficient votes to secure the election as TRI President of the candidate supported by the “team” to which the Appellant belonged (messages of 18 September 2024 at 21:04 and 21:23): in other words, the support for the election to the TRI Executive Board was offered not on the basis of a sharing of views, but only in exchange of a withdrawal from the Presidential Elections. The fact, then, that political alliances are common and allowed, as mentioned by a witness (the former TRI President), does not exclude that in this specific case, the “alliance” sought by the Appellant with the Second Respondent was only the result of a pressure affecting the free determination of the Second Respondent as to the presentation or withdrawal of her candidature at the TRI Elections.
105. In the same way, and for the same reasons, the Panel does not accept the Appellant’s argument that he did not have the possibility to offer any benefit to the Second Respondent in exchange of her withdrawal as a candidate for the position of TRI President, because her re-election to the TRI Executive Board depended only on a free vote at the TRI Congress. This contention is contradicted by the messages sent by the Appellant in the WhatsApp conversation of 18 and 19 September 2024, where he claimed that the “team” had sufficient votes to secure the election as TRI President of the favoured candidate (18 September 2024 at 21:04 and 21:23; 19 September 2024 at 6:23), so that it

could be understood (as the Second Respondent did understand) that a support by the same “team” was sufficient to secure an election to the TRI Executive Board. In addition, this contention is irrelevant, insofar as also an “attempt” constitutes a “*corruption offence*”, which is committed “*regardless of whether any ... benefit ... was actually paid of received*”. In other words, even if the “team” did not have sufficient votes to secure the election of Ms Cooper to the TRI Executive Board, a violation by the Appellant of the ABACP would be found.

106. Finally, the Panel remarks that a finding of a violation is not precluded by the general principles invoked by the Appellant:

- i. as to the “*principle of legality*”, the Panel remarks that the prohibition to engage in activities that could lead to defraud or manipulate the result of an election is clearly established by the ABACP, which also underlines that it is sufficient that an offer or solicitation was made, regardless of whether any money, benefit or consideration was actually paid or received. Indeed, it has been established several times in CAS case law (CAS 2016/A/4921 & 4922, award of 30 May 2017; CAS 2019/A/6393, award of 19 April 2021; CAS 2017/A/5498, award of 3 July 2019; CAS 2017/A/5155, award of 21 September 2017) that the *nulla poena sine lege* principle applies in disciplinary cases such as the present. However, one award (CAS 2017/A/5086, award of 9 February 2018) summarized how the legal principle is applied as follows:

“For a sanction to be imposed, sports regulations must proscribe the misconduct with which the subject is charged, i.e. nulla poena sine lege (principle of legality), and the rule must be clear and precise, i.e. nulla poena sine lege clara (principle of predictability). A provision prescribing that all officials show commitment to an ethical attitude and behave and act with complete credibility and integrity, is sufficiently clear and precise and unambiguous, and provides a sufficient legal basis for sanction. The fact that it is broadly drawn does not necessarily lack sufficient legal basis because of that characteristic, as generality and ambiguity are different concepts. According to the principle of predictability, the offenses and sanctions of a sports organizations must be predictable, to the extent that those subject to them must be able to understand their meaning and the circumstances in which they apply. The inherent vagueness of concepts such as ethics and integrity does not preclude them to be used by sports legislators as a basis to impose disciplinary sanctions on officials that do not conform their behaviour to those standards. Disciplinary sanctions imposed by sport associations must conform to civil law standards and not to criminal law ones, and civil law standards are often inherently vague and reveal their full meaning on the basis of judicial application”

On this basis, the Panel finds that Article 2(a) of the ABACP, read in light of the provisions set by the Code of Ethics and the Code of Conduct, is sufficiently clear in terms of constituting a legal basis for imposing the sanction that has been applied to the Appellant in this case;

- ii. as to the prohibition of “*venire contra factum proprium*”, the Panel notes that in the Procedural Order No 5 (§ 18 above) the Chair of the Hearing Panel did not rule that no violation had been committed by the Appellant, and remarks that no action in reliance of any such ruling was taken to his detriment by the Appellant himself, so

that the Appellant could have a legitimate expectation that no violation would be found against him as a result of the still open procedure. The principle invoked by the Appellant was therefore not violated;

- iii. as to “*equality of treatment*” and “*procedural consistency*”, the Panel notes that the Appealed Decision was adopted on the basis of the peculiarities of the Appellant’s actions, and of the evidence available to justify a finding of his violation of the TRI rules. In addition, the acquittal of the other individuals named in the Complaint does not mean *per se* that also the Appellant, judged for the actions he committed, had to be acquitted on the basis of a claimed equality or consistency. In fact, it may be (but the Panel expresses no view on the point) that also the other individuals had to be sanctioned and that the Appealed Decision was wrong in the portions acquitting them, but correct to the extent it sanctioned the Appellant. And there is “no parity in illegality”: a benefit granted to one party notwithstanding a previous illegal action cannot be used to claim a similar benefit or right for another party based on the principle of equality.

107. In conclusion, the Panel finds, in light of the foregoing, that the Appellant committed a “*Corruption Offence*” in violation of Article 2(a) of the ABACP, as read together with Article 4 of the Code of Conduct and Article B of the Code of Ethics. In fact, the Code of Conduct concurs with the definition of “*Corruption*” and the Code of Ethics confirms the obligation of the Appellant to behave with “*Integrity*”.

ii. *In the event the answer to the first question is positive, what is the sanction to be applied to the Appellant?*

108. As a result of the above finding, the Panel needs to determine the sanction to be applied to the Appellant for the violations of which he was found responsible.

109. The sanctions that could be imposed on the Appellant for the violation he committed are listed at Article 50 of the Procedural Rules. They are the following:

- “50.2.1. *Warning;*
- 50.2.2. *Fine(s);*
- 50.2.3. *Roll down in race ranking;*
- 50.2.4. *Overturning of a result;*
- 50.2.5. *Returning of prize money;*
- 50.2.6. *Revocation of a title;*
- 50.2.7. *Revocation of a medal;*
- 50.2.8. *Community service;*
- 50.2.9. *Monetary penalties to a maximum of fifteen thousand USD (\$15,000);*
- 50.2.10. *Provisional suspension, loss of accreditation, financing, license or eligibility status to continue their involvement in the sport or a given event;*
- 50.2.11. *Expulsion from participation in one or multiple national or international competitions;*
- 50.2.12. *Suspension for a determinate or indeterminate period of time from competitions;*

- 50.2.13. *Suspension for a determinate or indeterminate period of time from exercising any official functions on behalf of TRI;*
- 50.2.14. *ban on exercising any triathlon-related activity;*
- 50.2.15. *counselling and/or requirement to complete a course of education;*
- 50.2.16. *support, through active participation in education, prevention, training and capacity building programmes; organised by either the respective National Federation and/or TRI;*
- 50.2.17. *contract terminated between the sport and the Participant (subject to the terms and conditions of any contract)."*

110. Article 50.2.19 of the Procedural Rules, then, indicates that the type and measure of the sanction to be imposed are to be determined:

"in accordance with the objective and subjective elements of the offence, taking account both aggravating and mitigating circumstances. The conduct of the accused party, including its reaction when confronted with the breach of the TRI Rules, as well as whether information provided by the accused party assisted in uncovering or establishing a breach of the TRI Rules may be taken into consideration as a mitigating circumstance."

111. The TRI Tribunal found that the appropriate sanction for the Appellant was a period of suspension of one year from exercising any functions on behalf of TRI in all his positions, with six months of this suspension implemented immediately and the remaining six months suspended on the condition that the Appellant successfully completed a certified course or program on ethics, integrity, fair play, and good governance in sport.

112. This Panel finds the sanction imposed to be excessive, taking into account *"the objective and subjective elements of the offence"* as well as any *"aggravating and mitigating circumstances"*.

113. The Panel in fact remarks that:

- i. the conversation was started by the Second Respondent. Even though such circumstance was found not to exclude the commission of a violation (because it was the Appellant who raised the matter of the Elections), there is no element that the Appellant would have otherwise contacted the Second Respondent in order to attempt to exercise a pressure on her determination to stand for the election as TRI President. In other words, the violation was occasional and not premeditated;
- ii. the Appellant did not use any particularly aggressive tone in the messages he sent. They might have been direct, but no explicit threat was made and the overall tone of the exchange was cordial;
- iii. no money or other financial benefit was offered to the Second Respondent in order to obtain her withdrawal from the Elections, but only the support to the re-election to a position she had already held;
- iv. the violation was committed on a single occasion;
- v. the Panel has not been directed to any disciplinary precedent of the Appellant.

114. In light of the foregoing, the Panel finds that the sanction for the Appellant should be kept

to a minimum and that only a “warning” (Article 50.2.1) must be imposed on him. Such measure does not exceed what is reasonably required in the circumstances of the case to punish the Appellant and to underline that his conduct is incompatible with the ABACP. The constraints which the Appellant will suffer as a consequence of the measure are justified by the overall interest to achieve this goal.

iii. Can the Appellant’s claim against the Second Respondent be granted?

115. The Appellant requested that, in the event of a finding of his responsibility for a violation of the ABACP, also the Second Respondent be sanctioned for the same violation, as she also engaged in the conversation constituting the “*Corruption Offence*”. The request made in this arbitration corresponds to a “counterclaim” he submitted before the TRI Tribunal in answer to the Complaint. The other request, that the Second Respondent be sanctioned for filing a “frivolous” Complaint is rendered moot by the above conclusion that the Appellant was indeed responsible of the violation to which the Complain referred.
116. The Panel notes that the Second Respondent denied her standing to answer the Appellant’s claims in this appeal proceedings, as the object of the arbitration concerns mainly the responsibility of the Appellant found in the Appealed Decision. In addition, the Panel notes that also the Appellant’s standing to appeal any finding in the Appealed Decision denying the Second Respondent’s responsibility can be doubted.
117. The Panel, however, finds it unnecessary to deal with those “preliminary” issues. In the Panel’s view, in fact, even if standing were found, the claims against the Second Respondent, referring to the portions of the Appealed Decision which dismissed the “counterclaim”, must be dismissed.
118. The Panel finds in fact that in the messages she sent on 18 and 19 September 2024, the Second Respondent did not attempt to engage in a corrupt practice: she received an offer to withdraw her candidature in exchange of a support to be re-elected as a member of the TRI Executive Board, but declined it and a week later she filed the Complaint with the Credentials Committee and the TRI Tribunal. Furthermore, the Panel notes that Article 3 (1) ABACP provides as follows:

“Any individual who knows, suspects, has been approached or is aware of any Covered Person’s behaviour that could constitute a Corruption Offence, as described in section 2 of this TABCP, should report to the following confidential email address.”
119. Such obligation to report that is vital to fight corruption only makes sense, if the person complying with the above duty enjoys, in principle, immunity from disciplinary persecution in case he or she reports an alleged violation of the ABACP. Otherwise, no person would report alleged violation because of fear of committing a disciplinary offense in case the competent authorities do not establish a violation of the ABACP. Thus, the Panel finds that, generally speaking, the threshold for accepting a “frivolous complaint” that warrants a disciplinary must be set particularly high. Such threshold is – by far – not met in the case at hand.
120. As a result, the Appellant’s claim against the Second Respondent are to be dismissed.

XI. COSTS

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 25 March 2025 by Mr Liber García against the decision rendered by the World Triathlon Tribunal on 17 March 2025 is partially granted.
2. The decision rendered by the World Triathlon Tribunal on 17 March 2025 is modified as follows:
 - Mr Liber García breached Article 2(a) of the World Triathlon Anti-Bribery and Anti-Corruption Policy, read together with Articles B5, B6 and B7 of the World Triathlon Code of Ethics and Article 4 of the World Triathlon Code of Conduct;
 - a warning is imposed on Mr Liber García for the violation of which he is found responsible.
3. (...).
4. (...).
5. All the other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 24 June 2025

THE COURT OF ARBITRATION FOR SPORT

Luigi Fumagalli
President of the Panel

Jordi López Batet
Arbitrator

Ulrich Haas
Arbitrator