CAS 2025/A/11339 World Anti-Doping Agency (WADA) v. Finnish Center for Integrity in Sports (FINCIS) & Miro Sihvonen

ARBITRAL AWARD

rendered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr. Jacques Radoux, Référendaire at the Court of Justice of the European Union, Luxembourg

in the arbitration between

World Anti-Doping Agency (WADA), Lausanne, Switzerland

Represented by Mr. Nicolas Zbinden and Ms. Louise Reilly SC, Attorneys-at-Law, Kellerhals Carrard, Lausanne, Switzerland; and Mr. Ross Wenzel, WADA General Counsel

Appellant

and

Finnish Center for Integrity in Sports (FINCIS), Helsinki, Finland

Represented by Mr. Jukka Blomberg, Attorney-at-Law, and Ms. Henni Untamo, licensed legal counsel, Attorneys-at-law Magnussen Ltd, Helsinki, Finland, and Mr. Petteri Lindblom, FINCIS General Counsel

First Respondent

and

Miro Sihvonen, Vantaa, Finland

Represented by Mr. Hannu Kalkas, Attorney-at-Law, Asianajotoimisto Teperi & Co Oy, Helsinki, Finland

Second Respondent

I. PARTIES

1. The World Anti-Doping Agency (the "WADA" or the "Appellant") is a Swiss private-law foundation. Its legal seat is in Lausanne, Switzerland, and its headquarters are in Montreal, Canada. The WADA was created in 1999 to promote, coordinate and monitor at international level the fight against doping in sport in all its forms. It does this on the basis of the World Anti-Doping Code (the "WADC").

2. The Finnish Center for Integrity in Sport (Suomen urheilun eettinen keskus SUEK ry) (the "FINCIS" or the "First Respondent"), is the national authority responsible for anti-doping controls and for the implementation of the WADC in Finland. To do so, it adopted and implemented "Finland's Anti-Doping Rules" (the "ADR"). Its Anti-Doping Disciplinary Board rendered the decision that is the subject of the present appeal (the "Appealed Decision").

3. Mr. Miro Sihvonen (the "Athlete" or the "Second Respondent"), born on 20 September 1998, is a national-level professional motocross rider who was racing in Brazil from March 2024 until June 2024.

4. Together, the First Respondent and the Second Respondent are referred to as the "Respondents". The Appellant and the Respondents are collectively referred to as the "Parties".

II. FACTUAL BACKGROUND AND FIRST INSTANCE PROCEEDINGS

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

4. On 14 July 2024, the Athlete was subject to an in-competition doping control in Karkkila, Finland. During that control, the Athlete provided a urine sample (the "Athlete's Sample" or the "Sample").

5. On 7 August 2024, the analysis of the "A" Sample by the WADA-accredited laboratory in Helsinki, Finland, (the "Laboratory") revealed the presence of drostanolone metabolite 2a-methyl-5a-androstan-3a-ol-17-one and 19-norandrosterone. Both of these substances are Anabolic Androgenic Steroid listed under S.1.1 of the 2024 WADA Prohibited List.

6. On 16 August 2024, the FINCIS notified the Athlete of the fact that his Sample had revealed an Adverse Analytical Finding ("AAF"), meaning that there was a potential breach of Article 2.1 and/or 2.2 of the ADR, invited him to provide his explanations and informed him that he could request the "B" Sample opening and analysis. Further, the

Athlete was informed that the FINCIS had decided to impose a Provisional Suspension against him.

7. On 22 August 2024, the Athlete informed the FINCIS that he reserved his right to have the B-Sample analysed once the concentrations found in the A-Sample have been communicated, knowing that the FINCIS had not disclosed that concentration. He further stated that in absence of any information on those concentrations, he could not comment further on the matter.

8. On 20 September 2024, the FINCIS informed the Athlete that he was charged with an anti-doping rule violation ("ADRV") pursuant to Article 2.1 and Article 2.2 of the ADR. The FINCIS further informed the Athlete that the estimated concentrations of the Prohibited Substances found in his A-Sample were as follows:

(i) drostanolone metabolite 2a-methyl-5a-androstan-3a-ol-17-one: 0.3 ng/mL;

(ii) 19-norandrosterone: 19 ng/mL.

9. On 10 October 2024, in response to the letter of indictment, the Athlete informed the FINCIS that he admitted the ADRV and requested a hearing. In his response, he explained, in substance, that his enquiries had revealed that on 9 June 2024, during a competition in Brazil, the physiotherapist of the team he was competing for administered him what he believed to be a painkiller. However, contrary to what he had believed, the injection apparently consisted of 2 mL of nandrolone which had, apparently, been obtained by the team manager through a friend, who in turn had bought it in Paraguay, where it is available without a prescription. The Athlete added that he had been told during the injection that it was just a painkiller. He thus argued that his ADRV was not intentional and that his actions did not involve Significant Fault or Negligence within the meaning of Article 10.6.2 of the ADR. Consequently, he considered that a "*proportionate ban on sports in this case would be 12-18 months*".

10. On 28 October 2024, the Athlete filed written statements by Mr. Pedro Bueno, his former team manager in Brazil, and Ms. Roberta Bueno, the physiotherapist of his former team in Brazil.

11. On 16 December 2024, the Anti-Doping Disciplinary Board of the FINCIS held a first hearing in the matter after which it decided that a second round of written submissions would be appropriate.

12. In the second round of written submissions, the FINCIS and the Athlete filed, *inter alia*, some expert reports and literature.

13. On 30 January 2025, the Anti-Doping Disciplinary Board held a second hearing in the matter.

14. On the 25 February 2025, the Anti-Doping Disciplinary Board rendered the Appealed Decision. In its relevant parts, the Appealed Decision reads as follows:

"*[FINCIS] has dropped its claim requiring the athlete to be intentional at the end of the oral hearing. [FINCIS] has considered that it has been shown in the case by the usual standard of probability that the prohibited substances detected in the athlete's sample could have ended up in him through the approximately 2 ml Nandrol injection given by Roberta Bueno at the Interlagos championships on June 9, 2024. According to [FINCIS], this is also supported by the concentrations of prohibited substances in the sample taken from the athlete.*

[FINCIS] has stated that this is a situation in accordance with Section 10.6 of the Code [...], on the basis of which the duration of the athlete's ban must be assessed in relation to his fault. The athlete has also considered this to be the case. Based on the above, [FINCIS] has demanded an 18-month ban from sports for the athlete.

[...]

The Disciplinary Committee has decided that this is a doping violation as defined in Section 2.1 of the Code. [...]

[FINCIS] has stated that the athlete's actions were not intentional and has dropped its demand for a four-year ban. The parties have agreed that this was a case of negligence, which must be assessed pursuant to Section 10.6 of the Code. The Board considers that no circumstances have arisen in the handling of the matter that would require it to base its assessment on other starting points and circumstances than those that the parties have jointly accepted. The Board therefore agrees with the parties' view that the athlete has been able to demonstrate by a standard balance of probabilities that the prohibited substances entered his body through the approximately 2 ml Nandrol injection given by Roberta Bueno at the Interlagos championships on 9 June 2024.

Therefore, the board will investigate, as requested by the parties, based on the evidence received, the degree of negligence in the athlete's case. The degree of negligence determines the length of the suspension imposed on an athlete for a doping violation.

[...] The Board's assessment of the degree of negligence in this respect is based on Section 10.6.2 of the Code.

[...]

In the case under assessment, the focus of the assessment of negligence is on the athlete's conduct and the circumstances surrounding him/her. 9.6.2024 For the muscle injected in the Interlagos races approximately 2 ml of Nandrol injection, through which the prohibited substances have entered his body. [...]

The board finds that the athlete's conduct meets the characteristics of normal negligence, assessed on an objective level, and he should be banned from sports for a minimum of 16 and a maximum of 20 months. To determine the length of the ban, the following must be assessed: the subjective factors affecting the athlete's misconduct.

[...]

Taking the above into account, the board considers that a proportionate punishment for what is considered normal negligence on the part of the athlete in this case is an 18-month ban from sports activities. In accordance with Article 10.13.2.1 of the Code, the duration of the provisional suspension shall be deducted from the period of Ineligibility imposed on the athlete. The athlete has been temporarily banned from sports activities on 16 August 2024 [...]

According to Article 10.10 of the Code, in addition to the automatic disqualification of the individual competition in which a positive sample was taken as referred to in Article 9 of the Code, all other competition results achieved after the time of testing shall be disqualified and points, medals and awards shall be forfeited until the start of the provisional suspension from sport, unless reasons of fairness require otherwise.

Based on this, the athlete's results in the Karkkila Finnish Championships in question must be rejected with all consequences. In addition, competition results achieved after the testing date of 14 July 2024 [...] and the start of the temporary sports ban on 16 August 2024 [must be rejected]".

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

15. On 9 April 2025, the WADA filed a Statement of Appeal with the Court of Arbitration for Sport (the "CAS"), in Lausanne, Switzerland, in accordance with Articles 13.2.3.2 and 13.1.3 of the ADR and Article R47 et seq. of the Code of Sports-related Arbitration (the "CAS Code") (2023 edition) against the FINCIS and the Athlete with respect to the Appealed Decision. In its Statement of Appeal, the Appellant requested that the present matter be submitted to a sole arbitrator.

16. On 14 April 2025, the CAS Court Office acknowledged receipt of the Statement of Appeal and invited the Respondents to state, *inter alia*, whether they agreed to the appointment of a sole arbitrator.

17. On 22 April 2025, the CAS Court Office acknowledged that the Respondents had agreed to the Appellant's request that the case be handled by a sole arbitrator.

18. On 9 May 2025, the WADA filed its Appeal Brief in accordance with Article R51 of the CAS Code.

19. On 13 May 2025, the CAS Court Office invited the Respondents to submit their Answer pursuant to Article R55 of the CAS Code, highlighting that if a Respondent failed to do so, the sole arbitrator, once appointed, may nevertheless proceed with the arbitration and deliver an award.

20. On 28 May 2025, the CAS Court Office informed the Parties that the Sole Arbitrator appointed to resolve the present case was Mr. Jacques Radoux, Référendaire, Court of Justice of the European Union, Luxembourg.

21. On 18 and 19 June 2025, respectively the Second Respondent and the First Respondent filed their Answer.

22. On 19 June 2025, the CAS Court Office acknowledged receipt of the Respondents' Answers and informed the Parties that unless they agree or the Sole Arbitrator orders otherwise on the basis of exceptional circumstances, Article R56 para.1 of the CAS Code provides that the Parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the Appeal Brief and of the Answer. The Parties were also invited to state, by 26 June 2025, whether they preferred a hearing to be held in the present matter and whether they requested a case management conference (CMC) with the Sole Arbitrator.

23. On 25 June 2025, the Parties informed the CAS Court Office of their preference for a hearing to be held in this matter. None of them considered a CMC to be necessary.

24. On 30 June 2025, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to hold a hearing by videoconference in the present matter and provided the Parties with possible dates for that hearing in July and August.

25. On 21 July 2025, the CAS Court Office informed the Parties that, in light of the difficulties encountered to find a suitable hearing date, the Sole Arbitrator had decided to hold a CMC conference (CMC) by video conference, on 14 August 2025, in order to discuss and determine the next steps in the present procedure.

26. On 25 July 2025, the CAS Court Office acknowledged that an agreement had been found on the hearing date and informed the Parties that the hearing would be held on 29 September 2025 by videoconference.

27. On 14 August 2025, a CMC, attended by all the Parties, was held by videoconference.

28. On 1 September 2025, the Court Office sent to the Parties an Order of Procedure, requesting them to return a signed copy by 8 September 2025. On 5 September 2025, the Appellant returned a signed copy of said Order of Procedure. Both Respondents returned a signed copy of the Order of Procedure on 8 September 2025.

29. On 29 September 2025, a hearing took place by videoconference. The Sole Arbitrator was assisted by Ms. Delphine Deschenaux-Rochat, counsel to the CAS, and joined by the following participants:

For the WADA:

Mr. Ross Wenzel, WADA General Counsel;

Mr. Nicolas Zbinden, counsel;

Ms. Louise Reilly SC, counsel;

Mr. Cyril Troussard, WADA ;

Ms. Frédérique Lacroix Dion, WADA ;

Ms. Lisa Benaglia, WADA;

Mr. Matthieu Holz, WADA.

For the First Respondent:

Mr. Jukka Blomberg, counsel;

Ms. Henni Untamo, counsel;

Mr. Petteri Lindblom, FINCIS General Counsel.

For the Second Respondent:

Mr. Miro Sihvonen;

Mr. Hannu Kalkas, counsel;

Ms. Janika Sokolova, counsel;

Ms. Roberta Bueno, witness;

Mr. Pedro Bueno, witness;

Mr. Sami Eerola, interpreter.

30. At the outset of the hearing, the Parties confirmed that they had no objection as to the constitution of the Panel.

31. During the hearing, the Sole Arbitrator heard evidence from the above mentioned witnesses. Before doing so, the Sole Arbitrator informed the Interpreter and each of the witnesses of their duty to tell the truth, subject to sanctions of perjury under Swiss law. The Parties had the opportunity to examine and cross-examine the witnesses. Finally, the Athlete also made a statement.

32. The Parties were given full opportunity to present their case, submit their arguments and answer the questions from the Sole Arbitrator. At the end of the hearing, the Parties confirmed that their right to be heard and their right to a fair trial had been fully respected during the hearing and that they had no objections as to the manner in which the proceedings had been conducted.

IV. THE PARTIES' SUBMISSIONS

33. The aim of this section of the Award is to provide a summary of the Parties' main arguments rather than a comprehensive list thereof. However, the Sole Arbitrator confirms that in making his decision he has carefully considered all the Parties submissions and evidence, even if not expressly mentioned in this section of the Award or in the discussion of the claims below.

A. The Appellant's Submissions and Requests for Relief

34. In its Statement of Appeal, the WADA observes, as a preliminary point, that, in light of the fact that the Appealed Decision was rendered in application of the ADR, the latter are governing the present matter. It further maintains that it has a right to appeal the Appealed Decision to the CAS on the basis of Article 13.2.3.2 of the ADR and is, pursuant to Article 13.1.3 of the ADR, not required to exhaust the internal remedies before doing so. Finally, it argues that its appeal is filed within the deadline set out in Article 13.6.1 of the ADR and is, hence, admissible.

35. In its Appeal Brief, the WADA notes that, in the present matter, the Athlete admitted the ADRV but denied intent before the FINCIS Anti-Doping Disciplinary Board. Accordingly, the elements of both Article 2.1 and 2.2 of the ADR are met and the only issue before the Sole Arbitrator is the period of ineligibility to impose on the Athlete.

36. According to Article 10.2.1.1 of the ADR, the period of ineligibility in respect of an Article 2.1 or Article 2.2 ADRV shall be four (4) years where the ADRV does not involve a specified substance, unless the athlete can establish that the ADRV was not intentional. Pursuant to constant CAS jurisprudence, athletes must necessarily establish how the substance entered their body to successfully prove that the substance was not taken intentionally. While it is true that, as per the comment to Article 10.2.1.1 of the ADR, there exists a theoretical possibility for an athlete to prove that the ADRV was not intentional without establishing the source of the prohibited substance, it would, in the light of the existing CAS jurisprudence (CAS 2016/A/4534; CAS 2016/A/4919; CAS 2017/A/5016 & 5036; CAS 2020/A/6978; CAS 2020/A/7068; CAS 2023/A/9916 & 9966), be highly unlikely that an athlete would manage to do so. The standard of proof required to establish the source of the prohibited substance is on the balance of probabilities. This requires, according to the CAS jurisprudence, persuasive, objective evidence adduced by the athlete demonstrating that his or her explanation for the source is more likely than not to be true (CAS 2006/A/1067; CAS 2010/A/2230; CAS 2014/A/3820; CAS 2016/A/4676). An athlete cannot seek to establish source by relying on conceptual, speculative evidence of the source of the prohibited substance.

37. Moreover, the burden of establishing lack of intent lies solely with the athletes and, pursuant to Article 3.1 of the ADR, the standard to which the athletes must prove the lack of intention is on the balance of probabilities. To meet such standard of proof, it is not sufficient to show that an explanation is possible, but the athletes must show that the proposed hypothesis is more likely than not to be true.

38. The WADA adds, in relation to intent, that it is not necessary that an athlete acts with "direct intent" in committing the ADRV knowing that, according to constant CAS jurisprudence (CAS 2016/A/4609), it is sufficient if the athlete had "indirect intent" or "*dolus eventualis*". Such "indirect intent" is established where the athlete, (i) knew that there was a significant risk that his conduct might constitute or result in an ADRV and (ii) manifestly disregarded that risk.

39. The WADA argues that, in the present matter, the Athlete has failed to provide any actual evidence as to the specific source of the two prohibited substances in his sample.

His explanations amount to nothing more than bare assertions and are an exercise in speculation. Indeed, as regards his ADRV for nandrolone, the Athlete's only evidence would be the witness statement and testimony of Ms. Roberta Bueno according to which she injected him 2 mL of Nandrolone on 9 June 2024. However, Ms. Bueno admitted that she had administered prohibited substances to athletes and knew this was illegal. Additionally, that injection is not on record, there would is no evidence as to whom bought the nandrolone and to where it was bought, there is no prescription and no receipt. In addition, WADA considers that, even taking the Athlete's scenario at face value, there is a discrepancy as to who bought the alleged bottle of nandrolone. In these conditions, one could not consider that the Athlete established the source of the nandrolone found in his system. In any event, even if the Sole Arbitrator were to find that the Athlete has established source, the Athlete's behaviour would still amount to recklessness and, thus, to indirect intent. In response to the argument that the WADA had not put forward any alternative scenario to the one advanced by the Athlete, the Appellant stated that given the circumstances under which the Athlete was competing in Brazil, *i.e.* competing in an environment for five months where doping was freely available, where everyone was doping and where nobody was being tested, he could very easily have been thinking that he should do the same to help his chronic knee problem. However, the burden of establishing source and non-intent would be on the Athlete and the latter failed to discharge this burden.

40. As regards the Athlete's ADRVs for drostanolone, there would be no explanation at all except the Athlete's allegation that the drostanolone must have been contained in the nandrolone injection, *i.e.* the nandrolone was somehow contaminated with drostanolone. However, the expert report from a Brazilian sports physician who states that it is "*possible to have cross contamination*" with substances from Paraguay, and the article referring to the frequent contamination of steroids bought on the underground market are entirely speculative. These elements should thus be dismissed.

41. The Appellant thus considers that the Athlete has failed to establish on the balance of probabilities the source of the drostanolone and nandrolone in his Sample.

42. According to the Appellant, the Athlete also failed to rebut the presumption that his ADRV was intentional. Indeed, pursuant to the CAS jurisprudence, establishing a lack of intent absent proof of source requires the Athlete to traverse the "*narrowest of corridors*" and is only possible in the "*rarest of cases*". The present case would not be one of those rare cases as the Athlete's explanations are purely based on speculation, *i.e.* an alleged injection and a possible contamination, without any specific evidence.

43. Hence, the Appellant submits that, in the present matter, the standard four-year period of Ineligibility applicable under Article 10.2.1 should be imposed. It adds that, in accordance with Article 10.4 of the ADR governing the Aggravating Circumstances, the Sole Arbitrator may increase this standard Period of Ineligibility by up to two years as the Athlete's Sample contained multiple Prohibited Substances.

44. The Appellant further argues that, pursuant to Article 10.13 of the ADR, the period of ineligibility shall commence on the date of the CAS award and that credit should be given for the period of Provisional Suspension served by the Athlete, and that, pursuant

to Article 10.10 of the ADR, all of the Athlete's results from 14 July 2024, *i.e.* the date of collection of the Athlete's Sample, until his Provisional Suspension, *i.e.* 16 August 2024, must be disqualified.

45. Finally, the Appellant argues, primarily, that the FINCIS should bear the costs of the present proceedings as the FINCIS may be considered as responsible for the decisions adopted by its Anti-Doping Disciplinary Board.

46. In view of all the above considerations, the Appellant requests the CAS to rule that:

"*1) The appeal of WADA is admissible.*

2) The decision dated 25 February 2025 rendered by the Finnish Sports Ethics Center SUEK ry Anti-Doping Disciplinary Board in the matter of Miro Sihvonen is set aside.

3) Miro Sihvonen is found to have committed an anti-doping rule violation under Article 2.1 and/or Article 2.2 of the ADR.

4) Miro Sihvonen is sanctioned with a period of ineligibility of between four and six years starting on the date on which the CAS award enters into force. Any period of provisional suspension or ineligibility effectively served by Miro Sihvonen before the entry into force of the CAS award shall be credited against the total period of ineligibility to be served.

5) All competitive results obtained by Miro Sihvonen from and including 14 July 2024 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).

6) The arbitration costs shall be borne by FINCIS/SUEK or, in the alternative, by the Respondents jointly and severally.

7) WADA is granted a contribution to its legal and other costs."

B. The First Respondent's Submissions and Requests for Relief

47. In its Answer, the FINCIS notes that, in the present matter, the Athlete has admitted the ADRV but denied intent. Hence, the question would be whether the Athlete can establish that the ADRV was not intentional within the meaning of Article 10.2.1.1 of the ADR and what would be the justified length of the Period of Ineligibility. As regards intent, in principle, it would be for the Athlete to establish the source of the Prohibited Sustances found in his system in order to prove that the ADRV was not intentional. The standard of proof to establish that an ADRV was not intentional would be by balance of probabilities. However, according to CAS jurisprudence, an ADRV could be found to be unintentional even if an athlete has not been able to identify nor prove the source of a prohibited substance (CAS 2020/A/7579 & 7580).

48. The First Respondent highlights that it follows from the evidence filed by the Athlete that (i) he has a chronic knee condition; (ii) he has undergone frequent treatment for his

knee, *inter alia*, in Brazil including multiple injections; (iii) he requested pain medication from Ms. Bueno on 9 June 2024; (iv) Ms. Bueno testified that she gave the Athlete an injection of 2 mL of nandrolone because she sometimes uses that substance as pain killer; (v) according to the evidence from Ms. and Mr. Bueno the substance was bought in Paraguay; (vi) according to the expert report by Dr. Gilberto Kocerginsky it is possible that any medication from Paraguay could be contaminated with another substance; (vii) an article referred to by the Athlete shows that anabolic steroids obtained from illegal markets often contain impurities. In light of this evidence, the First Respondent considers that the Athlete has established, on the balance of probabilities, that the source of the Prohibited Substances was the injection given by Ms. Bueno on 9 June 2024 and that his ADRV was not intentional.

49. As regards, the Athlete's degree of fault, the First Respondent argues that, according to the CAS jurisprudence, an athlete's degree of fault under Article 10.6 of the ADR has to be determined in consideration of that athlete's "*objective and the subjective level of fault*" (CAS 2013/A/3327). Further, although athletes cannot fully delegate their anti-doping responsibilities to others, CAS panels have accepted that athletes can delegate some elements of their anti-doping *obligations (CAS 2016/A/4643).* In the present matter, it appears from the elements on file and from the witness testimony that the Athlete completely trusted the team around him in Brazil*, i.e.* Mr. and Ms. Bueno, with regards to legality of the Substances he was given by Ms. Bueno. Indeed, both Mr. and Ms. Bueno testified that the Athlete clearly stated that he did not want to use any Prohibited Substances. Given that Ms. Bueno was a trained physiotherapist, had her own clinic and acted as the team's physiotherapist, the Athlete trusted her competence in that matter and delegated partially his anti-doping responsibilities to her. The Athlete's fault or negligence regarding his decision to partially delegate these responsibilities is not significant. As regards the Athlete's fault not to inspect the label of the vial the Nandrolone injection came from, the First Respondent considers, in essence, that, in light of the language barriers that existed, the fact that he had asked the physiotherapist whether the injection contained painkillers and the fact that he had stated before that he did not want to use any Prohibited Substances, he could reasonably believe that there was no risk for him. Hence, the Athlete's degree of fault is a normal degree of fault, and the Period of Ineligibility of eighteen (18) months imposed in the Appealed Decision is, in comparison to other cases (CAS 2017/A/5015 and CAS 2016/A/4643), appropriate.

50. Finally, with respect to the Appellant's argument that, pursuant to Article 10.4 of the ADR, the Period of Ineligibility should be increased for Aggravating Circumstances, the First Respondent maintains that such Aggravating Circumstances only come into play when the ADRVs are serious and require exceptional circumstances and gross misconduct. However, in the present matter, (i) the ADRV was unintentionnal, (ii) the Athlete has no previous ADRVs; (iii) the Athlete has not tried to manipulate the results or hide the violation and (iv) the fact that the analysis of the Athlete's Sample revealed the presence of two Prohibited Substances could be due to the fact that the nandrolone was contaminated with drostanolone. Hence, according to an overall assessment, Aggravating Circumstances do not apply to this case.

51. In view of the above considerations, the FINCIS requests the CAS to rule that:

> "*1. The Appellant's appeal is rejected.*
>
> *2. The decision dated 25 February 2025 given by the Finnish Sports Ethics Center SUEK ry Anti-Doping Disciplinary Board in the matter of Miro Sihvonen is upheld.*
>
> *3. WADA shall bear all arbitration costs.*
>
> *4. WADA shall pay a contribution towards FINCIS' legal fees and other expenses in this matter.*"

C. The Second Respondent's Submissions and Requests for Relief

52. The Second Respondent emphasises, first, that, according to the CAS jurisprudence, the intent mentioned in Article 10.2.3 of the ADR is not the intention to cheat. Indeed, the relevant intent in the context of an ADRV for presence of a Prohibited Substance is the intent to ingest the said Prohibited Substance (CAS 2023/A/9451, 9455 & 9456).

53. In the present case, the Athlete did not intentionally use the substance, and he only learned what had been injected into him after the positive test result. At the moment of the injection on 9 June 2024, the circumstances were such that he could not have known that there was a significant risk to commit an ADRV. In this regard, the Second Respondent argues that (i) he does not speak Portuguese; (ii) he was hired by the Team GASGAS Brazil as professional driver for the 2024 season; (iii) he moved to Brazil in March 2024 and lived with the team manager's family for about a month before he moved into his own flat; (iv) he was very close to the team manager's family as they had built a special bond and trust; (v) Ms. Roberta Bueno has her own physiotherapy clinic; (vi) the team knew that he suffered from advanced osteoarthritis in his right knee; (vii) the team also knew that he wanted to compete clean and did not want to take any Prohibited Substances; (viii) he received many different treatments and medications from the team's physiotherapist and was always careful about all the medication he received; (ix) he asked his team manager to translate the information about the medication he did not understand; (x) before receiving his injection on 9 June2024, he asked Ms. Bueno if it was a painkiller and she said yes; (xi) he trusted her because of the close relation he had with the family; (xii) he received the injection shortly before the start of the race and the situation was hectic and he was in a lot of pain; (xiii) in Brazil, nandrolone is used by some people as a painkiller, especially in osteoarthritis cases. It would be confirmed by Ms. Tiina Suominen that nandrolone is used in osteoporosis treatments. In light of these circumstances, it would be clear that the Athlete did not intend, neither directly nor indirectly, to commit the ADRV.

54. Regarding, in particular, the Appellant's argument that the Athlete could be considered as having acted with "*indirect intent*", the Second Respondent notes that the precedent referred to by the Appellant, *i.e.* CAS 2016/A/4609, is very different from to the present matter as the athlete in that case had access to the package of the medication and was

injected four times. The circumstances of the present case would be totally different and there could, thus, not be any indirect intent.

55. The Second Respondent adds that, pursuant to Articles 3.1 and 3.2. of the ADR, an athlete can establish the absence of intent by any reliable means. He emphasizes that, although the standard of proof in a case like the one at hand, *i.e.* balance of probabilities, is the same for all athletes, one should keep in mind that national level athletes very often do not have the same means to fulfil their burden of proof as international level athletes and should, thus, not be expected to bring the same kind of evidence to fulfil their burden of proof.

56. With respect to the alleged obligation to establish the source of the Prohibited Substance in order to be able to prove lack of intent, the Second Respondent argues, in essence, that it is clear from Article 10.2.1 of the ADR and the CAS jurisprudence, in particular CAS 2020/A/7579 & 7580 and CAS 2023/A/9451, 9455 & 9556, that athletes do not have to establish the origin of the substance in order to demonstrate that their conduct was not intentional. This would be so even in the light of the comment to Article 10.2.1.1 of the ADR as that comment cannot override the rules set out in Articles 3.1. and 3.2 of the ADR.

57. In the present matter, the Athlete has established, to the relevant standard of proof, the source of both nandrolone and drostanolone, *i.e.* the injection he was given on 9 June 2024 by Ms. Bueno. Indeed, the testimonies of Mr. and Ms. Bueno, which is direct evidence, the testimony of the Athlete, the expert opinion from Dr. Kocerginsky, the Article on "Anabolic Androgenic Steroids from Underground Market: drug Quality and Implications for Research" as well as the FINCIS's expert opinion from Ms. Tiina Suominen all allow to state that this injection was the source of the substances found in the Athlete's system. Even the concentrations found in the Athlete Sample were, as pointed out by Ms. Suominen, in line with the half-life of both nandrolone and drostanolone, it cannot be shown whether the drostanolone finding is related to the nandrolone injection or not and the WADA has not disputed the fact that the two compounds can exist together. Moreover, the WADA has not put forward any reason why the Athlete would have used these Prohibited Substances and it is clear that for Motocross their intake would not make sense as an increase in muscle mass is a disadvantage in that sport. In light of the above, the case at hand cannot be compared to the one underlying the award in CAS 2017/A/5016 & 5036, given that the athlete in that case did not know and could not understand where the Prohibited Substance came from.

58. As regards the Appellant's claim that, in the present matter, there are Aggravating Circumstances as the ADRV involved "multiple prohibited substances", the Second Respondent argues that Article 10.4 of the ADR is not meant for a case like the present and that the WADA has not fulfilled its burden of proof in this respect.

59. All in all, it would be clear that the Athlete has established, on the balance of probabilities, that he did not engage in conduct which he knew constituted an ADRV or knew that there was a significant risk that the conduct might constitute or result in an ADRV, and he did not disregard that risk. Accordingly, the decision to impose a Period of Ineligibility of eighteen (18) months would be appropriate.

60. As regards the costs of the proceedings, the Second Respondent maintains, *inter alia*, that in light of (i) the fact that the Athlete is in a subordinate position in relation to the WADA, (ii) the financial resources of the parties, and (iii) the fact that this is a forced arbitration for the Athlete, the Sole Arbitrator, in application of Article R64.5 of the CAS Code, should decide that the Second Respondent is not to bear any of the arbitration costs regardless of the outcome of the case and order the WADA to pay a contribution towards the Second Respondent's legal fees and other expenses related to the present proceedings.

61. In light of the above considerations, the Second Respondent requests the CAS to rule:

"*1. The Appeal by WADA is dismissed.*

2. The decision by the FINCIS Anti-Doping Disciplinary Board is upheld.

3. All arbitration costs shall be borne by WADA and, in case WADA's Appeal would be successful, by FINCIS.

4. Mr. Sihvonen is granted a contribution to his legal and other costs in all possible outcomes of appeal."

V. THE WITNESS AND EXPERT EVIDENCE HEARD AT THE HEARING

62. In addition to the written evidence filed, at the hearing, the Sole Arbitrator heard the witness testimonies from the Athlete, Mr. Pedro Bueno and Ms. Roberta Bueno.

63. The relevant parts of the witness testimonies may be summarized as follows:

- The Athlete stated that he finished his motocross career and works, at the moment, as an insurance salesman. He explained that when he learned about his ADRV, he could not understand where it could be coming from and, thus, turned to his former team manager in Brazil to see whether the latter had an idea. After a day or two, his former team manager told him that he had been injected "nandrolone". It was the first time he heard that word. He stated that when in Brazil he was always cautious not to take any Prohibited Substance and was checking the boxes and asking for translations from his former team manager. He stated that he felt like being part of the Bueno family and that he fully trusted them. He explained that the moments before the race on 9 June 2024 were hectic and that he was in a lot of pain. That's when Ms. Bueno asked him if he was ok. He said he was not and asked for painkillers, using the little Portuguese he knew. She went into the front of the truck, came back and told him to come. They went into the area next to the kitchen and she took out the same kind of syringe that she had used before to inject him B12, iron etc. He stated that he asked again whether it would help him against the pain. She answered "Sim Sim" (yes, yes) and just nodded. He stated that he did not see the bottle the medication was taken from and had not asked to see that bottle either. He admitted that it was a fault not to ask to see the bottle. As regards the Prohibited Substances found in his system, he stated that it would not make any sense to take

these substances in motocross as an increase in muscle mass is detrimental to the performance.

During cross-examination, he confirmed that he had followed several courses on anti-doping and was well educated in that matter. He explained that in Brazil medication was available without prescription and that the situation in Brazil was very different from that in Finland. He stated that the first time he got an injection from Ms. Bueno, he checked the boxes and the contents of the medications and double-checked with his former team manger to make sure it was ok to take the B12 and iron. He confirmed that he had informed Mr. Bueno about the fact that he was subject to anti-doping rules. Mr. Bueno gave that information to Ms. Bueno. He stated that while being in Brazil he was not tested for doping once and that Mr. Bueno told him most riders in Brazil were taking Prohibited Substances. He also stated that he was aware that he was competing in an environment in which he had to be extra-careful. He acknowledged having received a cortisone injection while in Brazil, but that injection did not occur on the weekend of 9 June 2024 and admitted not having been aware that cortisone was forbidden in-competition.

- Ms. Bueno stated that she is working with high-performance athletes in different sports and has her own cabinet/clinic for twenty years. She explained that she met the Athlete for the first time in 2023 and that she considers him to be a very integer and honest person. She confirmed that he was always strict about what medication he was taking. Her son normally translated the contents of the medication the Athlete was taking or the injections he was given, *i.e.* B12, iron, cortisone. She stated that, on 9 June 2024, she injected 2 mL of nandrolone to the Athlete as he had asked for painkillers. She testified that she opened the package in front of the Athlete and showed it to him. When confronted with her written witness statement dated 10 October 2024, in which she stated that the Athlete had not seen the vial, she confirmed her written witness statement.

  During cross-examination, Ms. Bueno explained that she had not received any anti-doping training, given that in Brazil, at least in Motocross, there are no anti-doping tests. She confirmed that she knew that the Athlete was submitted to the ADR and could be tested in Finland. She stated that she had given injections to the Athlete on a few occasions. Although affirming that she kept a record of the injections/treatments she gives to athletes in her cabinet/clinic, she acknowledged that she did not have a record of the injection she gave the Athlete on 9 June 2024 as it was given at a competition. She stated that she was not aware of the fact that cortisone is prohibited in-competition. She also stated that she knew, before injection the 2 mL of nandrolone to the Athlete, that it was a Prohibited Substance and that the Athlete could not take it. She, again, confirmed that she showed the medication, *i.e.* the vial of nandrolone, to the Athlete before she injected it, but they did not discuss the content. She explained that she got the nandrolone over a friend of her son, who bought it in Paraguay and added that, in the past, she had injected nandrolone to other athletes, including her son. She used it, in very small doses, as fast acting pain relief on race days. She acknowledged that, in Brazil, you need a prescription to buy nandrolone and that it was illegal for her to administer that substance to the Athlete without a prescription. She confirmed that she understood

that her evidence, *i.e.* admitting that she injected nandrolone to the Athlete without having a prescription, could have professional repercussions for her. Finally she stated that she does not have nandrolone in her clinic/cabinet but that they have some in the truck for emergencies.

In response to a question from the Sole Arbitrator, Ms. Bueno stated that she only knew that the nandrolone was bought in Paraguay and did not know whether it was bought on the black marked or not as she did not buy the product. She stated that she knew what she was injecting because she looked on the vial and used it for emergency cases.

- Mr. Bueno stated that the Athlete was very cautious about the medication he would take and did not want to take anything that could make him test positive. He confirmed that he was not in the team bus/truck when the Athlete received the nandrolone injection on 9 June 2024 as he was on the track with other pilots of the team. He also confirmed that they had gotten the nandrolone from a friend who had bought it in Paraguay. He testified that the nandrolone injected to the Athlete had been bought 4 or 5 months prior and was kept in the truck ever since.

  In cross-examination, he acknowledged having taken nandrolone himself at one or two occasions. He stated that they had only bought the nandrolone on two occasions from friends of his in 2022 and 2024. He stated that, in Brazil, they use nandrolone to relief pain and that they had bought it for extreme situations. As regards his written witness statement, in which he stated that cortisone could not be envisaged on the 9 June 2024 because it had already been administered previously, he specified that cortisone had not been administered on that weekend. He confirmed that he was not present when the Athlete received the nandrolone injection but that his mother had told him that she had administered 2 mL to the Athlete. He confirmed that there is no record of what the athletes receive from his mother on the race days because there is no time to keep such a record. He stated that his friend bought the nandrolone in Paraguay, where you don't need a prescription.

  In response to a question from the Sole Arbitrator, Mr. Bueno explained that in Paraguay you don't need a prescription to buy nandrolone. He could not say whether his friend bought the nandrolone in a pharmacy or not.

VI. JURISDICTION

64. 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*".

65. Pursuant to Article 13.1 of the ADR:

"*Decisions made under the Code or these Anti-Doping Rules may be appealed as set forth below in Articles 13.2 through 13.7 or as otherwise provided in these Anti-Doping Rules, the Code or the International Standards. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise.*"

66. Article 13.1.3 of the ADR provides as follows:

"*Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within FINCIS's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in FINCIS's process*."

67. Pursuant to article 13.2 of the ADR:

"*The following decisions may be appealed exclusively as provided in Article 13.2:*

a) a decision establishing that an anti-doping rule violation has occurred;

b) a decision imposing Consequences or not imposing Consequences for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed;

[...]"

68. According to article 13.2.2 of the ADR, in cases not involving "International-Level Athletes" or "International Events", "*the decision may be appealed to the Finnish Sports Arbitration Board in accordance with its rules*".

69. In the present matter, it is uncontested that the Second Respondent is not an International-Level Athlete within the meaning of the ADR and none of the Parties objected to the CAS jurisdiction.

70. Moreover, all Parties confirmed such jurisdiction by signing the Order of Procedure.

71. In view of the above, the Sole Arbitrator considers that the CAS has jurisdiction to decide on the present appeal.

VII. ADMISSIBILITY

72. Article R49 of the CAS Code provides as follows:

"*In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The*

Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties".

73. Pursuant to Article 13.6.1 of the ADR:

"*The time to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party. The above notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal, but which was not a party to the proceedings having led to the decision subject to appeal:*

[...]

The above notwithstanding, the filing deadline for an appeal filed by WADA shall be the later of:

(a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed, or

(b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision."

74. In the present matter, it is uncontested that the Appealed Decision was notified on 26 February 2025, and the WADA received the case file from FINCIS on 14 March 2025. Pursuant to the provisions of Article 13.6.1 of the ADR, the deadline within which the WADA could file an appeal came to an end on 9 April 2025. The WADA having filed its Statement of Appeal on that exact day, it respected that deadline and its appeal is, thus, admissible.

VIII. APPLICABLE LAW

75. Article R58 of the CAS Code provides as follows:

"*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*".

76. The Appealed Decision was rendered by the Anti-Doping Disciplinary Board of the FINCIS in application of the ADR and there is no dispute as to the applicability of these ADR in the present matter.

IX. MERITS

77. In the present matter, it is common ground between the Parties that the Athlete committed an ADRV within the meaning of Article 2.1 of the ADR for the presence of drostanolone metabolite 2a-methyl-5a-androstan-3a-ol-17-one and 19-norandrosterone (nandrolone). Both of these substances are Anabolic Androgenic Steroids listed under S.1.1 of the 2024 WADA Prohibited List.

A. The Relevant Provisions

78. According to Article 10.2.1.1 of the ADR, the period of Ineligibility, subject to Article 10.2.4, shall be four (4) years where the ADRV "*does not involve a Specified Substance or a Specified Method, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional*".

79. The comment to Article 10.2.1.1 specifies that *"[w]hile it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance*".

80. Article 10.2.3 of the ADR provides:

> "*As used in Article 10.2, the term 'intentional' is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. [...]*".

81. Article 10.4 of the ADR, entitled "*Aggravating Circumstances which may Increase the Period of Ineligibility*", reads as follows:

> "*If FINCIS establishes in an individual case involving an anti-doping rule violation other than violations under Article 2.7 (Trafficking or Attempted Trafficking), 2.8 (Administration or Attempted Administration), 2.9 (Complicity) or 2.11 (Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting) that Aggravating Circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable shall be increased by an additional period of Ineligibility of up to two (2) years depending on the seriousness of the violation and the nature of the Aggravating Circumstances, unless the Athlete or other Person can establish that he or she did not knowingly commit the anti-doping rule violation*".

82. Pursuant to Article 10.5 of the ADR:

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

83. Article 10.6.2 of the ADR provides:

"*If an Athlete or other Person establishes in an individual case where Article 10.6.1 is not applicable, that he or she bears No Significant Fault or Negligence, then, subject to further reduction or elimination as provided in Article 10.7, the otherwise applicable period of Ineligibility may be reduced based on the Athlete or other Person's degree of Fault. However, the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight (8) years*".

B. The Burden and Standard of Proof

84. As is clear from the above provisions, the burden of proving that the ADRV was not intentional, within the meaning of Article 10.2.3 of the ADR, lies on the Athlete. Further, according to this provision, the Athlete is required to prove that his ADRV was neither deliberate (direct intent) nor reckless (indirect intent).

85. As to the standard of proof applicable to the Athlete, Article 3.1 of the ADR provides, in its relevant parts, that *"[w]here these Anti-Doping Rules place the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, except as provided in Articles 3.2.2 and 3.2.3, the standard of proof shall be by a balance of probability*".

86. As recalled by some CAS panels, according to predominant line of jurisprudence, this standard of proof requires the athletes to establish that "*the occurrence of a specified circumstance is more probable than its non-occurrence*" or, in other words, the athletes must establish that the facts they rely on are more likely than not to have occurred (more than 50%) (CAS 2024/A/10655).

87. Pursuant to another line of jurisprudence, it is sufficient for athletes to prove that the theory put forward by them is the most likely among several scenarios (see, e.g., CAS 2007/A/1370 & 1376, para. 58; CAS 2008/A/1515, para. 116; CAS 2012/A/2986, para. 69; CAS 2011/A/2384 & 2386, paras. 111-113). The Sole Arbitrator considers that, as is clear, for example, from the award in CAS 2011/A/2384 & 2386, this second line of jurisprudence is mainly inspired by the thought that in some cases the athletes have to prove a negative fact and that principles of procedural fairness impose, in such a case, a duty of cooperation on the counterparty. Hence, while it is accepted that the WADA does not have to establish that scenarios alternative to the one advanced by an athlete caused the AAF, the lack of sufficiently plausible alternative scenarios presented to the panel may, in some cases, assist the athlete in meeting his or her burden of proof

(CAS 2024/A/10655). However, it must be recalled that, ultimately, the burden of proving that the ADRV was not intentional lies with the athletes.

C. Preliminary Points

88. As a preliminary point, the Sole Arbitrator recalls that, as is clear from the wording of Article 10.2.3 of the ADR, an athlete does not have to establish how the Prohibited Substance entered his or her system in order to claim that the ADRV was not intentional. However, according to constant CAS jurisprudence, apart from extremely rare cases (see CAS 2016/A/4534, CAS 2016/A/4676, and CAS 2016/A/4919), athletes must establish how the prohibited substance entered their system in order to discharge the burden of establishing the lack of intention (CAS 2016/A/4377, CAS 2023/A/9377).

89. Regarding the "*extremely rare cases*" in which a ADRV may be deemed unintentional even if an athlete has failed to prove the source of a prohibited substance, the Sole Arbitrator considers that in such a case an athlete has to establish lack of intention with other robust evidence, such as the possibility that the prohibited substance came from a specific product, the athlete's credible testimony, evidence by the athlete's doctors that the athlete had no intent to use a prohibited substance, or the implausibility of a scenario that the athlete intentionally used prohibited substances (CAS 2017/A/5248 and CAS 2023/A/10273). Or, as the CAS Panel in CAS 2023/A/9451, 9455 & 9456 has summarized it:

"*An athlete must provide actual evidence to support his protestations of innocence; he or she must provide 'concrete and persuasive evidence establishing such lack of intent on the balance of probabilities'; protestations of innocence, however credible they appear, 'carry no material weight in the analysis of intent' [...]. The same applies to a 'lack of a demonstrable sporting incentive to dope, diligent attempts to discover the origin of the prohibited substance or the athlete's clean record', which have constantly been rejected as justifications for a plea of lack of intent [...]*".

D. Applying the above Principles to the Case at Hand

90. In the present matter, the Athlete argues that the ADRV was caused by the injection, on 9 June 2024, of 2 mL of nandrolone that was contaminated with drostanolone. He asserts, in essence, that he did not know that his physiotherapist, Ms. Roberta Bueno, injected him nandrolone and that he had, thus, no direct intent. Further, given that he had repeatedly informed his physiotherapist and his team manager that he wanted to compete clean and trusted them, there would be no indirect intent either in the present matter. He acknowledged that he made a fault by not asking to see the package and/or the vial containing the injected substance, but he explained that he was in a lot of pain and that the situation was hectic as it was shortly before the start of his race. He argues that he should benefit from Article 10.6.2 of the ADR and considers that the period of ineligibility of eighteen (18) months imposed in the Appealed Decision is appropriate.

As regards the ADRV for nandrolone

91. With respect to the source of the Prohibited Substances found in the Athlete's Sample, the Sole Arbitrator considers that, as regards the nandrolone, the Athlete has produced sufficient factual evidence to establish that the source of this substance was the injection he received on 9 June 2024 by his physiotherapist.

92. Indeed, first, there are two directly implicated witnesses that testified that an injection really occurred on that date. Second, while it is uncontested that the Athlete's former team manager was not present when the injection was performed, he testified that they had nandrolone in the truck, that he had bought the nandrolone from a friend of his, that they used nandrolone in emergency cases, that he had himself been injected that substance when he was still competing and that his mother told him that she had injected 2 mL of nandrolone to the Athlete on that date. Mr. Bueno did not contradict himself in this part of his testimony and appeared to be a credible witness, given that he acknowledged having himself used a Prohibited Substance and not having been honest about that with the Athlete. Third, and most importantly, Ms. Bueno provided direct evidence that she injected 2 mL of nandrolone to the Athlete on the 9 June 2024. Her testimony in this regard was crystal clear and univocal as she confirmed that she injected that substance on purpose, to relief the Athlete's pain, admitting that that injection was illegal as they did not have a prescription for that substance.

93. The Sole Arbitrator considers that, given the circumstances of the case, in particular the clarity of the witness testimonies and the fact that Ms. Bueno acknowledged that her testimony might have professional repercussions for her, the absence of a receipt of the purchase of the nandrolone as well as the fact that Ms. Bueno did not keep a record of this injection do not put the above-mentioned witness testimonies into doubt.

94. Hence, the Sole Arbitrator considers that the Athlete has established, on the balance of probabilities, the source of the nandrolone found in his Sample.

95. The Sole Arbitrator further considers that, in light of the circumstances of the case, in particular the fact that Ms. Bueno confirmed that, on 9 June 2024, the Athlete inquired with her whether the substance she was about to administer to him was a painkiller, that Ms. Bueno acknowledged that she knew that the Athlete's position was to not take Prohibited Substances and that she had not told him what she was injecting him, the Athlete has established, to the relevant standard of proof, that his ADRV for nandrolone did not involve direct intent.

96. As regards the question as to whether the Athlete can be considered to have committed the ADRV for nandrolone with indirect intent, the Sole Arbitrator considers that, in light of the circumstances in which the ADRV for nandrolone occurred, the Athlete cannot be considered to have acted with recklessness. Indeed, and while it is true that the Athlete acknowledged during the hearing that he was aware that, in Brazil, he was competing in environment in which he had to be extra-careful regarding the respect of anti-doping rules, the fact remains that both Mr. and Ms. Bueno confirmed that they knew the Athlete wanted to compete clean and that he had, previously to the 9 June 2024, been cautious about the medication he was taking or being administered. Further,

given that the Athlete had been treated for several months by Ms. Bueno and knew that she was aware of the fact that he wanted to compete clean, he had, at that stage, no reasons to believe that she would not respect his position regarding Prohibited Substances.

97. However, and notwithstanding the fact that he was in great pain and that he was soon to compete, the Athlete's omission to ask to see the package and/or the vial of the substance that Ms. Bueno was about to administer to him and to briefly check the package, vial or notice of the medication he was being administered amounts, in the Sole Arbitrator's view, to a significant negligence within the meaning of the ADR. Indeed, by not doing so, the Athlete failed to take an elementary, if not the most elementary, step to respect his duty of care. Hence, according to Article 10.2.2 of the ADR, the standard period of ineligibility for the ADRV for nandrolone would be two (2) years.

98. In light of the developments that follow, the Sole Arbitrator considers that it is not necessary to further analyse the degree of fault of the Athlete concerning his ADRV for nandrolone.

As regards the ADRV for drostanolone

99. As regards the source of the drostanolone found in the Athlete's Sample, the latter argues that this substance has entered his system through the nandrolone injection he received on 9 June 2024, the nandrolone having been contaminated with drostanolone. In support of this claim, the Athlete maintains, on the basis of the expert report from Dr. Gilberto Kocerginsky and the Article on "*Anabolic Androgenic Steroids from Underground Market: drug Quality and Implications for Research*", that "*Paraguayan black market medication can and often do contain different kind of contaminants*" and it would be "*common knowledge that black market products can include almost anything*".

100. In this respect, the Sole Arbitrator notes, first, that neither Mr. Bueno, who admitted having bought the nandrolone from a friend who had bought that substance in Paraguay, nor Ms. Bueno, who administered the substance to the Athlete, testified that the that the nandrolone had been bought on the black market. Moreover, given that Mr. Bueno argued that he bought the nandrolone from the above-mentioned friend because in Paraguay, in difference to Brazil, that substance can be bought without prescription, and taking into consideration that you don't need a prescription to buy a medication on the black market anyhow, the Sole Arbitrator finds that, on the balance of probabilities, it is not established that the nandrolone administered to the Athlete on 9 June 2024 was a black market product.

101. Second, in his expert report, Dr. Gilberto Kocerginsky listed several considerations, amongst others, that (i) "*bodybuilders in Brazil usually [use] anabolic steroids from underground origin, and mainly from Paraguay*", (ii) "*anabolic steroids are commonly smuggled from Paraguay to Brazil, with no health authority clearance*" and (iii) "*underground labs in Paraguay have no good practices on manipulation of those steroids*". On basis of these considerations and the observations he has made in his

medical practice, he concluded that it "*is possible to have cross contamination or even gross contamination for any possible drug, and it includes a contaminated vial of nandrolone with drost[an]olone, originated from Paraguay*". However, as mentioned above, in the present matter, it is not established to the relevant standard of proof, that the nandrolone administered to the Athlete was a "black market product". Hence, part of the premisses taken into consideration by Dr. Kocerginsky are not established in the present matter. Moreover, and in any event, Dr. Kocerginsky's conclusion only mentions a "possible" cross contamination. However, the mere possibility of a contamination of a substance by another substance is, in absence of any concrete and credible evidence to prove this beyond mere speculation, not enough to establish that such contamination is more likely than not to have occurred. The Sole Arbitrator thus considers that the expert report of Dr. Kocerginsky does not support the claim that, in the present matter, it is more likely than not that the nandrolone was contaminated with drostanolone.

102. Third, the Article on "*Anabolic Androgenic Steroids from Underground Market: drug Quality and Implications for Research*" is not helpful to the Athlete's case neither. Indeed, as mentioned above, in the present matter, it cannot be considered as established that the nandrolone came from the black market. Moreover, while it is true that, according to that Article, of the 5 samples labelled as nandrolone, 100% had "*some type of adulteration*", it is also clear from said Article that none of these adulterations concerned the presence of drostanolone.

103. The Athlete further maintains that (i) Ms. Tiina Suominen stated that "*it cannot be shown whether the drostanolone finding is related to the nandrolone injection or not*", (ii) that it is undisputed that nandrolone and drostanolone can exist together, and (iii) that the "*minimal concentration of drostanolone – 0.3 ng/mL – also suggests that the nandrolone injection [...] was in fact contaminated*".

104. In this regard, the Sole Arbitrator remarks, first, that these three arguments support, at best, the allegation that is scientifically possible that the administered nandrolone could have been contaminated with drostanolone. However, that is not enough to establish that it is more likely than not that, in the present matter, the administered nandrolone was indeed contaminated with drostanolone. Second, as mentioned by Ms. Suominen in her expert report dated 14 January 2025, (i) "*there are no reports indicating that drostanolone metabolites have been found in urine following nandrolone administration. Therefore, the findings are not attributable to the same preparation*" and (ii) "*based on the reported concentrations, it cannot be determined whether the drostanolone finding is related to the nandrolone injection preparation or not*".

105. Hence, the Sole Arbitrator finds, in light of the evidence submitted in the present matter, that the Athlete has not established, on the balance of probabilities, that it is more likely than not that the nandrolone administered on 9 June 2024 was the source of the drostanolone found in his Sample.

106. Given that the Athlete has not put forward any other potential source of how the drostanolone entered his system, the Sole Arbitrator still has to examine whether the

Athlete has overcome his burden to establish, on the balance of probabilities, that his ADRV for drostanolone was not intentional.

107. In this regard, the Athlete recalls that, according to the Panel in CAS 2023/A/9451, 9455 & 9456, in essence, the elements of evidence put forward by an athlete to establish his lack of intent, such as his protestations of innocence and the lack of sporting incentive to dope, must be evaluated in light of the circumstances of the particular case and there is no a priori reason or basis to dismiss such evidence out of hand. In this particular case, it would be clear that the use of the substances at hand would not have made sense as their effects are detrimental to motocross riders. Also, the minimal concentrations of drostanolone found in his Sample would be compatible with a contamination, *i.e.* an unintentional intake. Finally, it would be established, *inter alia* by the witness testimonies of Mr. and Ms. Bueno, that he wanted to compete clean and was cautious about was medication he was taking. In light of all the circumstances of the case, it would be clear that there was neither intent nor indirect intent in the present case and that the Athlete's fault, when compared to the situations of other CAS cases, should only lead to the imposition of an ineligibility period of eighteen (18) months.

108. In this respect, the Sole Arbitrator notes that while it is true that the Athlete made a correct referral to what was said by the Panel in CAS 2023/A/9451, 9455 & 9456, it is also true that that Panel stated, "*that in the ordinary case such evidence will likely be given little weight*".

109. Regarding the weight that has to be given to the different elements brought forward by the Athlete to establish, on the balance of probabilities, that the ADRV for drostanolone was unintentional, the Sole Arbitrator recalls that, as is clear from Article 10.2 of the ADR, for an ADRV to be considered "intentional" it is not necessary for the athlete to have effectively benefitted from a performance enhancing effect nor is it required that the use of the relevant substance or method made "sense" from a scientific or a sports specific point of view (CAS 2024/A/10800 & 10802). Hence the Athlete argument according to which the intake of the substances found in his Sample would not have made sense is, at best, of very limited weight.

110. As regards the inferences that may be drawn from the concentration of drostanolone found in the Athlete's Sample, the Sole Arbitrator notes that drostanolone is not a threshold substance within the meaning of the WADC and that in absence of any other anti-doping tests shortly before or after the collection of the Athlete's Sample on 14 July 2024, this concentration does not, of itself, support any conclusion as to the intentional or unintentional administration of – or exposure to – drostanolone.

111. This leaves the Sole Arbitrator with nothing else but the witness testimonies of Mr. and Ms. Bueno according to which, in essence, the Athlete wanted to compete clean and the Athlete's own affirmations that he was mindful of not taking any Prohibited Substances. However, in light of the CAS jurisprudence recalled above, in particular CAS 2023/A/9451, 9455 & 9456, in absence of any other robust and concrete evidence supporting the Athlete's protestations that his ADRV for drostanolone was unintentional, the Sole Arbitrator finds that these elements do not carry enough weight

to consider that, in the present matter, an unintentional administration of – or exposure to – drostanolone is, on the balance of probabilities, more likely than not.

112. In light of all the above considerations, the Sole Arbitrator concludes that the Athlete, on the balance of probabilities, has not been able to rebut the presumption according to which his ADRV for drostanolone was intentional.

113. Hence, the Sole Arbitrator finds that the ADRV for drostanolone committed by the Athlete must be qualified as intentional within the meaning of Article 10.2.1 of the ADR and that the applicable sanction for that ADRV is a four (4) period of Ineligibility.

114. The Appellant argues that the fact that multiple Prohibited Substances were found in the Athlete's Sample constitutes an aggravating circumstance within the meaning of Article 10.4 of the ADR and justifies the imposition of an increased period of ineligibility on the Athlete.

115. In this regard, the Sole Arbitrator recalls that this provision, entitled "*Aggravating Circumstances which may Increase the Period of Ineligibility*", allows for an increase of the standard period of ineligibility in case of Aggravating Circumstances, "*unless the Athlete or other Person can establish that he or she did not knowingly commit the anti-doping rule violation*". Further, the Appendix 1 to the ADR defines the Aggravating Circumstances as follows: "*Circumstances involving, or actions by, an Athlete [...] which may justify the imposition of a period of Ineligibility greater than the standard sanction. Such circumstances and actions shall include but are not limited to the Athlete[...] Used or Possessed multiple Prohibited Substances or Prohibited Methods, [...] For the avoidance of doubt, the examples of circumstances and conduct described herein are not exclusive and other similar circumstances or conduct may also justify the imposition of a longer period of Ineligibility*".

116. In the present matter, it is true that two Prohibited Substances were found in the Athlete's Sample. However, as is clear from the considerations above, the Sole Arbitrator has found that the Athlete has established that he did not knowingly commit the ADRV for nandrolone. The Sole Arbitrator considers that, in these circumstances and in absence of any other facts that could constitute Aggravating Circumstances within the above meaning, the Appellant has not established that there are Aggravating Circumstances in the present matter that would warrant an increase of the standard period of ineligibility. Hence, this aspect of the Appellant's claims is dismissed.

117. According to Article 10.13 of the ADR the period of Ineligibility shall "*start on the date of the final hearing decision providing for Ineligibility*", *i.e.* in the present case the date of the notification of the present Award.

118. However, considering that the Athlete has been provisionally suspended from 16 August 2024 onwards and that the Period of Ineligibility imposed on the Athlete by the Appealed Decision on 25 February 2025 is still effective, the Period of Ineligibility already served shall, in application of Article 13.13.2 of the ADR, be credited against the four (4) year Period of Ineligibility to be served.

119. Finally, pursuant to Article 10.10 of the ADR, "*[i]n addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes*".

120. In application of that provision and given that neither of the Respondents has established that fairness requires otherwise, the Sole Arbitrator confirms that all the results obtained by the Athlete from 14 July 2024, *i.e.* date of the Athlete's Sample collection, until the provisional suspension on 16 August 2024 are disqualified, in each case with all resulting consequences, including forfeiture of any medals, titles, ranking points and prize money.

121. In view of the above considerations, the Sole Arbitrator concludes that the Appellant's Appeal is partially upheld and that the Appealed Decision must be set aside.

122. Any other and further claims or requests for relief on the merits are dismissed.

X. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed by the World Anti-Doping Agency (WADA) against the Finnish Center for Integrity in Sports (FINCIS) and Mr. Miro Sihvonen with respect to the decision rendered by the Anti-Doping Disciplinary Board of the FINCIS on 25 February 2025 is partially upheld.

2. The decision rendered by the Anti-Doping Disciplinary Board of the FINCIS on 25 February 2025 is set aside.

3. Mr. Miro Sihvonen is found to have committed an anti-doping rule violation under Article 2.1 of the ADR.

4. Miro Sihvonen is sanctioned with a period of ineligibility of four (4) years starting on the date of the present award. Any period of provisional suspension or ineligibility effectively served by Mr. Miro Sihvonen before the entry into force of the present award shall be credited against the four (4) year period of ineligibility to be served.

5. Mr. Miro Sihvonen's competitive results in the period from 14 July 2024 to 16 August 2024 are disqualified with all resulting consequences including forfeiture of medals, points and prizes.

6. (…).

7. (…).

8. All other and further claims or prayers for relief are dismissed.

Dated: 27 November 2025

COURT OF ARBITRATION FOR SPORT

Jacques Radoux
Sole Arbitrator