TAS / CAS
TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2024/A/11602 Tuğrul Han Erdemir v. International Boxing Association

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Prof. Stefano Bastianon, Professor of Law in Bergamo, Italy, and Attorney-at-Law in Busto Arsizio, Italy

Arbitrators: Prof. Dr. Ulrich Haas, Professor in Zurich, Switzerland, and Attorney-at-Law in Hamburg, Germany

Mr Jordi López Batet, Attorney-at-Law in Barcelona, Spain

in the arbitration between

Tuğrul Han Erdemir, Turkey

Represented by Mrs Anil Gürsory Artan, Ankara, Turkey

Appellant

and

International Boxing Association, Lausanne, Switzerland

Represented by Mr Damien Clivaz and Ms Dominique Leroux-Lacroix, International Testing Agency, Lausanne, Switzerland

Respondent

I. THE PARTIES

1. Mr Tuğrul Han Erdemir (the "Appellant" or the "Athlete") is a 26-year-old international boxer from Turkey.

2. The International Boxing Association (the "Respondent" or "IBA") is the international governing body for the sport of boxing with registered offices in Lausanne, Switzerland. The IBA is a signatory of the World Anti-Doping Code ("WADC") and has adopted the IBA Anti-Doping Rules ("IBA Rules"). The IBA has delegated the implementation of its anti-doping programme to the International Testing Agency (the "ITA"). Such delegation includes amongst others the Result Management and subsequent prosecution of potential Anti-Doping Rule Violations ("ADRV") under the IBA's jurisdiction.

3. The Athlete and IBA are hereinafter jointly referred to as the "Parties".

II. FACTUAL BACKGROUND

4. Below is a summary of the relevant facts and allegations based on the Parties' written and oral submissions, pleadings and evidence adduced at the hearing held by videoconference on 14 May 2025. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

5. The present appeal arbitration proceedings concern an appeal filed by the Athlete against an arbitral award issued by a Sole Arbitrator (the "Sole Arbitrator") in the proceedings CAS 2024/ADD/106 (the "Appealed Decision") in which it was held that the Athlete had committed a violation of Article 2.1 of the IBA Rules, and a two-year period of ineligibility was imposed on the Athlete.

A. Background Facts

6. On 17 February 2024, the Athlete underwent an out-of-competition doping control while on a training camp in Alicante, Spain. The testing agency was a private sample collection authority "Clearidium" on behalf of the IBA. Urine samples A-7205436 and B-7205436 were collected from him. The Athlete did not declare the use of any product in the days prior to the sample collection on the Doping Control Form. The form stated "*No medication used*".

7. On 15 March 2024, the WADA-accredited laboratory of Barcelona, Spain (the "Barcelona laboratory") reported an Atypical Finding ("ATF") for hydrochlorothiazide ("HCTZ") in sample A-7505436 at an estimated concentration of 9 ng/mL Hydrochlorothiazide is listed as a Prohibited Substance in the WADA Prohibited List under the Category S.5 Diuretics and Masking Agents and is prohibited at all times, both in and out of competition.

8. Upon receipt of the report from the Barcelona laboratory, the ITA, on behalf of the IBA, initiated an investigation as mandated by the WADA Stakeholder Notice regarding potential contamination cases related to meat and diuretics (including hydrochlorothiazide), published by WADA on 1 June 2021 (the "WADA Stakeholder Notice"), to attempt to determine if the ATF was caused by inadvertent contamination from a pharmaceutical product taken by the Athlete.

9. On 12 April 2024, the ITA notified the Athlete of the ATF and invited him to provide details of any prescription or non-prescription pharmaceutical products used prior to the doping control, which he may have forgotten to include on his Doping Control Form.

10. On 17 April 2024, the Athlete replied that he had never used a medication containing hydrochlorothiazide. He also explained that the doping control took place whilst on training camp and not leading up to a competition, and that he did not have weight control issues. He also explained that during the training camp he had used a painkiller called "Arveles" to treat headaches.

11. On 22 April 2024, the ITA inquired whether the Athlete had kept any of the Arveles tablets he had taken and if so for them to be sent to the ITA for analysis.

12. On 30 April 2024, the Athlete informed the ITA that he had some remaining Arveles tablets from the same package and would courier them to the ITA. He explained that he had taken one tablet six days, and one tablet four days, prior to the doping control on 17 February 2024.

13. On 6 May 2024, the ITA received the parcel from the Athlete which was provided unopened to the WADA-accredited laboratory in Lausanne (the "Lausanne laboratory") the next day for analysis.

14. On 17 May 2024, the Lausanne laboratory reported that its analysis performed on "*3 randomly selected specimens of medication Arveles indicated presence of hydrochlorothiazide at concentration between less than 0.05 to 0.12 ng per tablet which represent less than 0.4 ppt.*"

15. On 28 May 2024, the ITA notified the Athlete that the ATF was being treated as an Adverse Analytical Finding ("AAF") and informed the Athlete of the result of the analysis of the Arveles tablets and of his right to request the analysis of the B sample, B-205436, as well as his right to accept a voluntary Provisional Suspension and of the potential consequences of the AAF.

16. On 3 June 2024, the Athlete requested the analysis of the B sample, and on 7 June 2024 that his representative attend the B-sample analysis on 3 July 2024.

17. On 3 July 2024, the Barcelona laboratory opened and analysed B-sample number 7205436 in the presence of the Athlete's representative, and, on 4 July 2024, the laboratory reported an ATF for hydrochlorothiazide at an estimated concentration of 10 ng/mL, which confirmed the A-sample analysis.

18. On 4 July 2024 the ITA sent a Notice of Charge to the Athlete that an ADRV was asserted against him for the presence of hydrochlorothiazide in light of the results of the analysis of the B-Sample. In the Notice of Charge the ITA proposed an Agreement of Consequences to the Athlete and informed him that the case would be referred to CAS ADD in the case of the Athlete not accepting that Agreement.

19. On 8 July 2024, the Athlete rejected the proposed Agreement of Consequences.

20. On 10 July 2024, the ITA informed the Athlete that he was provisionally suspended pending the resolution of his case under Article 7.4.2 of the IBA Rules and informed him of his right to challenge the provisional suspension

B. Proceedings Before the CAS Anti-Doping Division

21. On 10 July 2024, the ITA on behalf of the IBA filed with the CAS Anti-Doping Division (the "CAS ADD") a Request for Disciplinary Proceedings in accordance with Article 8 of the IBA Rules and Article 13 of the CAS ADD Procedural Rules ("CAS ADD Rules"), with, *inter alia*, the following requests for relief:

"[…] 2. Mr Tugrulhan Erdemir is found to have committed an anti-doping rule violation pursuant to Article 2.1 and/or 2.2 of the IBA Anti-Doping Rules.IBA v. Mr Tugrulhan Erdemir

3. Mr Tugrulhan Erdemir is sanctioned with a period of Ineligibility of 2 years.

4. The periods of Ineligibility shall start on the date on which the CAS ADD award enters into force. Any period of provisional suspension or Ineligibility effectively served by Mr Tugrulhan Erdemir before the entry into force of the CAS award shall be credited against the total period of Ineligibility to be served.

22. *5. All competitive results of Mr Tugrulhan Erdemir from and including 17 February 2024 are disqualified with all resulting Consequences, including forfeiture of any medals, points and prizes. […]"*On 12 July 2024, the Athlete filed with the CAS ADD a "Request for Lifting the Provisional Suspension of the Athlete" based on Article 7.4. of the IBA ADR.

23. On 15 July 2024 the CAS ADD invited the IBA to file a Reply to the Athlete's Request by 18 July 2024.

24. On 18 July 2024, the ITA on behalf of the IBA filed with the CAS ADD its Reply to the Request to Lift the Provisional Suspension

25. On 22 July 2024, a video hearing of the request to lift the provisional sanction was held.

26. On 24 July 2024, the operative part of the Order on Provisional Suspension was issued by the ADD and notified to the Parties. In the decision, the Sole Arbitrator ruled that the provisional suspension was confirmed.

27. On 19 August 2024 the Athlete filed his Answer to the Request for Disciplinary Proceedings.

28. On 19 September 2024, the Reasoned Order on the Request for the Lifting of the Provisional Suspension was provided to the Parties.

29. On 31 October 2024, a video hearing of the proceedings relating to the Request for Disciplinary Proceedings was held.

30. On 18 November 2024, the CAS ADD issued its decision in such proceedings (the "Appealed Decision"), with the following operative part:

"*1. The Anti-Doping Division of the Court of Arbitration for Sport has jurisdiction to entertain the Request for Disciplinary Proceedings filed by the International Testing Agency on 10 July 2024 on behalf of the International Boxing Association.*

2. Mr. Tuğrulhan Erdemir is found to have committed an anti-doping rule violation pursuant to Article 2.1 of the International Boxing Association Anti-Doping Rules.

3. Mr. Tuğrulhan Erdemir is sanctioned with a period of ineligibility of two (2) years commencing on the date of notification of this decision.

4. The period of provisional suspension served by Mr. Tuğrulhan Erdemir from 10 July 2024 shall be credited against the total period of ineligibility to be served.

5. All competitive results of Mr. Tuğrulhan Erdemir from and including 17 February 2024 are disqualified with all resulting consequences, including forfeiture of any medals, points and prizes.

6. The costs of the proceedings shall be determined in accordance with Article A24 of the ADD Rules, if necessary.

7. Each Party shall bear its own legal costs and other expenses incurred by these proceedings.

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

31. In finding against the Athlete, the Appealed Decision *inter alia* held that:

(i) IBA was the relevant WADA Code signatory at the time of the anti-doping control on 17 February 2024, and it was under its auspices that the testing was undertaken, and the results management process proceeded.

(ii) It is not contested that at the time of the anti-doping control the Athlete was a member of the Turkish Boxing Federation, which was affiliated with the IBA, and he was on the IBA's International Testing Pool.

(iii) The Athlete's case did not arise at or in connection with the 2024 Paris Olympic Games, and the International Olympic Committee ("IOC") has not been involved in the proceedings.

(iv) According to Article 8.1.1 IBA Rules, the IBA has delegated its responsibility to act as first instance hearing panel to the CAS ADD and the procedural rules of the proceeding shall be governed by the rules of the CAS ADD.

(v) Article A2 of the CAS ADD Rules provides as follows: *"CAS ADD shall be the first-instance authority to conduct proceedings and issue decisions when an alleged anti-doping rule violation has been filed with it and for the imposition of any sanctions resulting from a finding that an anti-doping rule violation has occurred. CAS ADD has jurisdiction to rule as a first-instance authority on behalf of any WADC signatory which has formally delegated powers to CAS ADD to conduct anti-doping proceedings and impose applicable sanctions".* Accordingly, the jurisdiction of the ADD shall be confirmed.

(vi) Although not every element of the mandatory investigation set out under the terms of the WADA Stakeholder Notice has been fully undertaken by the ITA, this does not lead to a conclusion that the IBA as the Result management Authority ("RMA") was bound to conclude that no AAF or ADRV had been established on the basis of inadvertent contamination.

(vii) According to the IBA's expert Prof Saugy, the tablets analysed by the Lausanne laboratory "*showed that the source of the ATF cannot be the Arveles tablets (analysed by the Lausanne Laboratory), taken 6 and 4 days before the anti-doping control*". (…) "*With the intake of the medication (Arveles tablets) containing 0.05 to 0.12 ng of hydrochlorothiazide/tablet, it can be said that the explanations of the athlete are not compatible with the alleged intake of contaminated medication*".

(viii) The expert's report submitted by the Athlete does not provide actual evidence that it is more probable than not that the tablets analysed by the Lausanne laboratory would be enormously less contaminated than those from the same packet which the Athlete indicated he had consumed. Nor the report produces concrete evidence beyond a possibility that the Athlete's metabolism could convert a concentration found in the range of the tablets that were analysed into an enormously larger concentration in the urine.

(ix) As the Athlete has not established the source of the prohibited substance in his urine, Article 10.5 (No fault or Negligence) and Article 10.6 (No Significant Fault or Negligence) of the IBA Rules do not apply.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

32. On 9 December 2024, pursuant to Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the "CAS Code"), the Appellant filed a Statement of Appeal against

the Respondent with respect to the decision rendered by the CAS ADD on case 2024/ADD/106 on 18 November 2024. In his Statement of Appeal, the Appellant nominated Prof Ulrich Haas as an arbitrator.

33. On the same date, upon request of the Appellant, the CAS Court Office granted a 10-day extension of the time limit to file the Appeal Brief.

34. On 20 December 2024, the Respondent appointed Mr Jordi López Batet as an arbitrator.

35. On 30 December 2024, the Appellant filed his Appeal Brief.

36. On 10 February 2025, after being granted extensions, the Respondent filed its Answer.

37. On 13 February 2025, the Appellant informed the CAS Court Office that he preferred a hearing to be held, while he did not request a Case Management Conference ("CMC").

38. On 17 February 2025, the Respondent informed the CAS Court Office that he preferred a hearing to be held, while he did not request a CMC.

39. On 18 February 2025, the CAS Court Office, on behalf of the Deputy President of the CAS Appeals Arbitration Division, informed the Parties that the Panel appointed to decide the case was constituted as follows:

President: Prof. Stefano Bastianon, Professor of Law in Bergamo, Italy, and Attorney-at-Law in Busto Arsizio, Italy

Arbitrators: Prof. Dr. Ulrich Haas, Professor in Zurich, Switzerland, ad Attorney-at-Law in Hamburg, Germany

Mr Jordi López Batet, Attorney-at-Law in Barcelona, Spain

40. On 4 March 2025, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing by videoconference on 14 May 2025.

41. On 17 March 2025, the Respondent signed the Order of Procedure.

42. On 18 March 2025, the Appellant signed the Order of Procedure.

43. On 14 May 2025, a hearing was held by videoconference (via Cisco Webex).

44. In addition to the Panel and Mr Giovanni Maria Fares (CAS Counsel), the following persons attended the hearing:

- <u>For the Appellant:</u>

  - Mr Tuğrul Han Erdemir (athlete)
  - Mr Anil Gürsory Artari (counsel)
  - Prof. Dr Nebile Dağlioğlu (expert witness)
  - Mr Vedat Demirkol (witness)

- Mr Orhan Bayulken (interpreter)
- Ms Berfin Sude Ertas (interpreter)

- For the Respondent:

  - Mr Damien Clivaz (counsel)
  - Ms Greta Egri (ITA legal counsel)
  - Prof. Martial Saugy (expert witness)

45. At the outset of the hearing, the Parties confirmed that they had no objection to the appointment of the Panel.

46. During the hearing, the Parties were given a full opportunity to present their case, submit their arguments and submissions, and answer the questions posed by the Panel. The Parties and the Panel had the opportunity to examine and cross-examine the witnesses and experts, who were informed by the President of the Panel to tell the truth subject to sanction of perjury under Swiss law.

47. After the Parties' final arguments, the Parties' counsels confirmed that they were satisfied with the hearing and that their right to be heard had been fully respected.

IV. SUBMISSION OF THE PARTIES

A. The Appellant

48. The Appellant requests the following reliefs:

"*(a) set aside the Decision,*

(b) declare that the whole proceeding is null and void thus inadmissible,

(c) declare that no period of ineligibility is imposed on Mr. Erdemir,

(d) order the IBA to bear the costs of the proceedings (if applicable),

(e) order the IBA to compensate Mr. Erdemir for the legal fees and other expenses incurred in connection with these proceedings, from the date of the notice of allegation till the date of the hearing,

(f) and order any other relief that the Panel deems just and appropriate.

7.2. Alternatively, if the Panel decides that the disciplinary proceeding is admissible, the Athlete respectfully request the Panel:

(a) set aside the Decision,

(b) declare that the Athlete did not violate IBA Anti-Doping Rules,

(c) declare that no period of ineligibility is imposed on Mr. Erdemir,

(d) order the IBA to bear the costs of the proceedings (if applicable),

(e) order the IBA to compensate Mr. Erdemir for the legal fees and other expenses incurred in connection with these proceedings, from the date of the notice of allegation till the date of the hearing,

(f) and order any other relief that the Panel deems just and appropriate.

7.3. If the Panel, decides that the Athlete violated IBA Anti-Doping Rules, the Athlete respectfully request the Panel:

(a) set aside the Decision,

(b) declare that the Athlete has No Fault or Negligence,

(c) impose a minimum sanction,

(d) order the IBA to bear the costs of the proceedings (if applicable),

(e) order the IBA to compensate Mr. Erdemir for the legal fees and other expenses incurred in connection with these proceedings, from the date of the notice of allegation till the date of the hearing,

(f) and order any other relief that the Panel deems just and appropriate".

49. In support of his requests for relief, the Appellant relied on the following main arguments:

(a) The provisional suspension imposed by the ITA within the scope of an investigation carried out by the ITA on behalf of the IBA was applied by the IOC and the Athlete was not admitted to the Paris 2024 Summer Olympic Games.

(b) The Joint Paris 2024 Boxing Unit/IOC Statement reads as follows: "*All athletes participating in the boxing tournament of the Olympic Games Paris 2024 comply with the competition's eligibility and entry regulations, as well as all applicable medical regulations set by the Paris 2024 Boxing Unit (PBU)*".

(c) Accordingly, there is no legal basis for the application of a provisional suspension issued by the IBA with the assistance of the ITA, an organization which is not even a signatory of the WADC. By contrast, the PBU was the sole body that could decide who could and could not participate in the Olympic Games.

(d) The IBA did not comply with all the investigative steps set out in the WADA Stakeholder Notice. In particular (i) the IBA never contacted the Athlete about his competition schedule and timing of weigh-ins; (ii) the ITA tested only the pills

sent to it by the Athlete, but no further research on the pills was carried out; and (iii) the ITA did not consider that the Athlete had no excess weight and that, at the time of the anti-doping control, he was in Alicante for training purpose, where there is no scaling needed before the sparring. Accordingly, the Athlete had no reason to lose weight.

(e) The analysis conducted by the Lausanne laboratory did not take into account the "*non-homogenous manufacturing process*" of the Arveles tablets. Therefore, the "*pills already been consumed by the Athlete could have been contaminated with a higher dose than the ones tested at the Swiss Laboratory*".

(f) The excretion study relied upon by the Respondent's expert is limited and is not representative of the excretion of HCTZ in all individuals and does not take into account "*individual differences for the elimination mechanism of the drug*" such as "*polymorphism*".

(g) The Athlete did not remember exactly how many Arveles tablets he "*used for the treatment*", thus making the presence of HCTZ in his sample "*likely have been caused by the Athlete drug he used for treatment*".

B. The Respondent

50. The Respondent requests the following reliefs:

"*1. The Answer is admissible.*

2. The Appeal is dismissed, and the Decision is upheld.

3. Mr Tugrulhan Erdemir is found to have committed an anti-doping rule violation pursuant to Article 2.1 and/or 2.2 of the IBA Anti-Doping Rules.

4. Mr Tugrulhan Erdemir is sanctioned with a period of ineligibility of 2 years. Any period of provisional suspension or ineligibility effectively served by Mr Tugrulhan Ermedir 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 of Mr Tugrulhan Erdemir from and including 17 February 2024 are disqualified with all resulting Consequences, including forfeiture of any medals, points and prizes.

6. The costs of the proceedings, if any, shall be borne by Mr Tugrulhan Erdemir.

7. The IBA is granted an award for its legal and other costs pursuant to Article 10.12.1 of the IBA Anti-Doping Rules.

8. Any other prayer for relief that the Panel deems fit based on the facts and circumstances of the present case".

51. In support of its requests for relief, the Respondent relies on the following main arguments:

(a) The Barcelona laboratory analysed the Athlete's A-sample and reported the presence of HCTZ, a prohibited substance under the Prohibited List. In addition, the Athlete requested the opening and analysis of the B-sample which confirmed the presence of HCTZ. Consequently, the presence of a prohibited substance in the Athlete's urine is established, thereby confirming the commission of an ADRV as set forth at Article 2.1 of the IBA ADR.

(b) In compliance with the WADA Stakeholder Notice, the IBA conducted the following investigative steps:

- *"Conducted an initial review of the case determining that (i) no TUE was granted for the diuretic and (ii) no apparent departure from the International Standard for Testing and Investigations ("ISTI") or the International Standard for Laboratories ("ISL") caused the Atypical Finding (Point 1 of the WADA Stakeholder Notice)".*

- *"Collected another urine sample from the Athlete prior to notifying him of the ATF which returned a negative test result. For the sake of clarity, the Athlete did not declare the consumption of any medication during this second doping control (Point 2 of the WADA Stakeholder Notice)".*

- *"Reviewed the Athlete's Biological Passport ('ABP') as well as the Athlete's Testing history for any potential abnormalities. No abnormalities were identified which was to be expected considering the lack of any relevant anti-doping control in the days prior to the control of 17 February 202461 (Point 3 of the WADA Stakeholder Notice)".*

- *"Noted that the Athlete did not declare the consumption of any medication on the DCF of the 17 February 2024 Sample. Although the Athlete later declared the consumption of ARVELES tablets, such omission is odd considering the Athlete's experience and familiarity with the doping control process (Point 4 of the WADA Stakeholder Notice)".*

- *"Reviewed the Athlete's competition schedule before and after the collection of the Sample that returned the ATF. The IBA noted that the Athlete's next scheduled competition was scheduled in April 2024 (Point 5 of the WADA Stakeholder Notice)".*

- *"Notified the Athlete of the ATF and gave him the opportunity to provide explanations at to any potential pharmaceutical products he had consumed prior to the doping control. The Athlete explained that during the training camp, and contrary to the declaration made on his DCF he had used a painkiller called ARVELES to treat headaches (Point 6 of the WADA Stakeholder Notice)".*

- *"Inquired with the Athlete as to the posology of the ARVELES tablets and whether the Athlete still possessed the ARVELES tablets used at the time of Sample collection which should be couriered to a WADA-accredited laboratory for analysis (Point 7 of the WADA Stakeholder Notice)".*

- *"Identified (i) the manufacturer of the ARVELES tablets (i.e. the Turkish pharmaceutical company 'Menarini Türkiye', (ii) the batch/lot number of the tablets (i.e. 'A23363216') (Point 8 of the WADA Stakeholder Notice)".*

- *"Although the obtention of reference ARVELES tablets was not required seeing as tablets from the same package consumed by the Athlete prior to the doping control were still available and could be analyzed, the IBA later sought to obtain a sealed ARVELES tablets package with the same batch/lot number from Menarini Türkiye. The manufacturer did not reply to the IBA's request (Point 9 of the WADA Stakeholder Notice)".*

(c) As such, the WADA Stakeholder Notice provides that the investigative steps listed therein are "*not intended to be an exhaustive list of possibly relevant investigative steps*".

(d) In any case, departures from Technical Documents may only be raised as a defense to an ADRV subject to the strict requirements of article 3.2.3 of the IBA Rules which reads as follows: "*departures from any other International Standard or other anti-doping rule or policy set forth in the Code or these Anti-Doping Rules shall not invalidate analytical results or other evidence of an anti-doping rule violation, and shall not constitute a defense to an anti-doping rule violation; provided, however, if the Athlete or other Person establishes that a departure from one of the specific International Standard provisions listed below* ***could reasonably have caused an anti-doping rule violation based*** *on an Adverse Analytical Finding or whereabouts failure, then IBA shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the whereabouts failure".*

(e) The concentration of HCTZ identified in the Arveles tablets analysed by the Lausanne laboratory and the consumption of two such tablets by the Athlete prior to the doping control could not explain the concentration of HCTZ found in the Athlete's sample.

(f) In order to ensure that a potential non-homogenous manufacturing process does not undermine the outcome of the analysis, the Lausanne laboratory crushed and homogenized the entire tablets. Accordingly, the analysis is representative of the concentration of HCTZ in the entire capsule and is not impacted by a potential non-homogenous manufacturing process of the preparation.

(g) Not one, but three tablets (out of the five remaining) were analysed by the Lausanne laboratory and the concentration of HCTZ remained consistent in each tablet and was measured between less than 0.05 to 0.12 ng.

(h) There is no scientific evidence supporting the claim that individual differences in metabolism have a material influence on the excretion of HCTZ. In any case, excretion is not the issue at stake, given that more HCTZ was identified in a single mL of the Athlete's sample than in the Arveles tablets. Accordingly, the Athlete excreted more HCTZ than would ever been consumed through the ingestion of the Arveles tablets.

(i) Even assuming (*quod non*) that the Athlete did not remember exactly how many Arveles tablets he used, Prof Saugy's report is based on a hypothetical scenario most favourable to the Athlete (i.e. the consumption of several Arveles tablets in the hours preceding the control. Even in this scenario, Prof Saugy concluded that "*the minimum dosage of HCTZ which was absorbed by the athlete was between 2.5 ug and 5 ug in the hours before the urine collection. With a recent intake of tablets (at an estimated concentration in the Arveles tablets between 0,005 and 0,12 ng), the expected concentration in urine would be between 50'000 and 20'000 times lower that was been found in the athlete's urine*". Accordingly, even if consumed hours prior to the control, the Athlete would have needed to consume between 50'000 and 20'000 Arveles tablets to explain the concentration of HCTZ identified in his sample.

(j) Although there is no evidence on record of the Athlete having attended a competition in the days prior to or following the doping control of 17 February 2024, weight-control must be considered a constant requirement in the Athlete's support, including during a training camp such as the one the Athlete was participating in when he underwent the unannounced Out-of-Competition doping control. This is also set out in the WADA Stakeholder Notice which provides that "*diuretics may be abused to induce weight loss in sports/disciplines where Athlete need to meet weight criteria. This risk exists both In- and Out-of-Competition*".

V. JURISDICTION OF THE CAS

52. Article R47.1 of the CAS Code provides as follows:

"*An appeal against the decision of a federation, association or sports-related body may be filed with the 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*."

53. Article A21 of the CAS ADD Rules provides as follows:

"*(...) the final decision may be appealed to the CAS Appeals Arbitration Division within 21 days from receipt of the notification of the final decision with reasons by mail or courier in accordance with Articles R47 et seq. of the Code of Sports -related Arbitration, applicable to appeals procedures (...)*".

54. Article 13.2.1 of the IBA Rules provides as follows:

"*In cases arising from participation in International Events or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS Appeals Arbitration Division*".

55. The Panel notes that (i) the jurisdiction of CAS is not disputed by the Appellant and (ii) the Appellant (and also the Respondent) confirmed CAS jurisdiction by signing the Order of Procedure.

56. Accordingly, based on the aforementioned and in particular with the CAS ADD and IBA Rules provisions cited above, the Panel concludes that CAS has jurisdiction to adjudicate and decide on the present Appeal.

VI. ADMISSIBILITY OF THE APPEAL

57. The Appealed Decision was issued on 18 November 2024, and the Appeal was filed on 9 December 2024, *i.e.*, within the deadline of 21 days. Furthermore, the admissibility of the Appeal is not disputed by the Parties. The Statement of Appeal also complied with the requirements of Articles R47 and R48 of the CAS Code, including the payment of the CAS Court Office fee.

58. It follows that the Appeal is admissible.

VII. APPLICABLE LAW

59. 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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.*"

60. The Panel notes that the appeal is directed against a decision issued by the CAS ADD concerning an ADRV under the IBA Rules. Accordingly, the Panel concludes that the "*applicable regulations*" for the purposes of Article R58 of the CAS Code are those of the IBA Rules. It is true that R58 of the CAS Code provides for the subsidiary application of the law of the country, where the IBA is domiciled, i.e. Swiss law. However, at the same time the Panel notes that Article 23.3 of the IBA Rules provides as follows:

"The Code shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the Signatories or governments"

61. Thus, it is not clear to what extent there is room for the subsidiary application of Swiss law in the case at hand. Be it as it may, the Panel does not need to decide the issue, because there is no need to fall back on any subsidiarily applicable law in the case at hand.

62. The Panel's conclusion is further supported by the fact that the applicable law is not disputed by the Parties.

VIII. RELEVANT IBA RULES' PROVISIONS

63. The following provisions of the IBA Rules are material to this appeal:

(a) The ADRV

Article 2.1 of the 2021 IBA Rules provides as follows:

"*2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample*

2.1.1 It is the Athletes' personal duty to ensure that no Prohibited Substance enters their bodies. Athletes are responsible for any Prohibited Substance, or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analyzed; or, where the Athlete's B Sample is analyzed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample; or where the Athlete's A or B Sample is split into two (2) parts and the analysis of the confirmation part of the split Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first part of the split Sample or the Athlete waives analysis of the confirmation part of the split Sample.

2.1.3 Excepting those substances for which a Decision Limit is specifically identified in the Prohibited List or a Technical Document, the presence of any reported quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample shall constitute an anti-doping rule violation.

2.1.4 As an exception to the general rule of Article 2.1, the Prohibited List, International Standards or Technical Documents may establish special criteria for reporting or the evaluation of certain Prohibited Substances.

The WADA Stakeholder Notice contains the WADA Technical letter entitled "*Minimum Reporting Level for Certain Diuretics that are Known Contaminants of*

Pharmaceutical Products". Hydrochlorothiazide (HCTZ) is one of the six diuretics named in the Notice.

The WADA Stakeholder Notice provides, *inter alia*, that:

"*1. Subject to paragraph 2 below, a Minimum Reporting Level (MRL) of 20 ng/mL shall be established for acetazolamide, bumetanide, furosemide, hydrochlorothiazide, torasemide, and triamterene, so that the presence of one or more of these diuretics or their Metabolite(s) in an Athlete's urine Sample at an estimated concentration at or below (≤) 20 ng/mL shall not be reported either as an Adverse Analytical Finding or as an Atypical Finding.*

Rationale: The new MRL for the six diuretics named above will minimize the risk of sanctioning Athletes who test positive due to the use of contaminated medications, without undermining the fight for clean sport.

As the sole exception to this new MRL for acetazolamide, bumetanide, furosemide, hydrochlorothiazide, torasemide, and triamterene, where a Sample is collected from an Athlete participating in a sport or discipline that uses weight classes, WADA-accredited laboratories shall report the presence of one or more of these six named diuretics or their Metabolite(s) at an estimated concentration equal to or below (≤) the MRL of 20 ng/mL as an Atypical Finding, triggering a mandatory investigation by the Results Management Authority to determine whether an anti-doping rule violation should be asserted.

Rationale: Diuretics may be abused to induce weight loss in sports/disciplines where Athletes need to meet weight criteria. This risk exists both In- and Out-Of-Competition. Therefore when a laboratory reports an Atypical Finding in the form of the presence of one or more of the six diuretics identified above (or their Metabolite(s)) at an estimated concentration of 20 ng/mL or less in the Sample of an Athlete competing in such a sport or discipline, the Results Management Authority shall conduct an investigation to determine whether it is appropriate in all the circumstances to bring proceedings asserting the commission of an anti-doping rule violation".

This exception applies in respect of Athletes competing, *inter alia*, in the boxing sport/disciplines, as it uses weight classes.

(b) Burden and Standards of Proof

Article 3.1 of the IBA Rules provides as follows:

"*IBA shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether IBA has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping 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"

(c) Applicable Consequences

(c1) Period of Ineligibility

Article 10.2 of the IBA Rules reads as follows:

"*10.2.1 The period of Ineligibility shall be four years where:*

(…)

10.2.1.2 The anti-doping rule violation involves a Specified Substance or a Specified Method and IBA can establish that the anti-doping rule violation was intentional.

10.2.2. If Article 10.2.1 does not apply, subject to Article 10.2.4.1, the period of Ineligibility shall be two (2) years.

10.2.3: 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 […]".

Article 10.5 of the IBA Rules provides as follows:

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

The IBA Rules defines "No Fault or Negligence" as follows:

"*The Athlete or other Person's establishing that he or he did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that he or he had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system*".

Article 10.6 of the IBA Rules provides as follows:

"*10.6.1.1 Specified Substances or Specified Methods*

Where the anti-doping rule violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Athlete or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Athlete's or other Person's degree of Fault.

[…]

10.6.1.2 Contaminated Products

In cases where the Athlete or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance (other than a Substance of Abuse) came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years Ineligibility, depending on the Athlete or other Person's degree of Fault".

"[Comment to Article 10.6.1.2: In order to receive the benefit of this Article, the Athlete or other Person must establish not only that the detected Prohibited Substance came from a Contaminated Product but must also separately establish No Significant Fault or Negligence. It should be further noted that Athletes are on notice that they take nutritional supplements at their own risk. The sanction reduction based on No Significant Fault or Negligence has rarely been applied in Contaminated Product cases unless the Athlete has exercised a high level of caution before taking the Contaminated Product. In assessing whether the Athlete can establish the source of the Prohibited Substance, it would, for example, be significant for purposes of establishing whether the Athlete actually Used the Contaminated Product, whether the Athlete had declared the product which was subsequently determined to be contaminated on the Doping Control form.

This Article should not be extended beyond products that have gone through some process of manufacturing. Where an Adverse Analytical Finding results from environment contamination of a "non-product" such as tap water or lake water in circumstances where no reasonable person would expect any risk of an anti-doping rule violation, typically there would be No Fault or Negligence under Article 10.5.]"

The IBA Rules defines "No Significant Fault or Negligence" as follows:

"*The Athlete or other Person's establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doping rule violation. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system*".

(c2) Commencement of Ineligibility Period

Article 10.13 of the IBA Rules reads as follows:

"*10.13 Commencement of Ineligibility Period*

Where an Athlete is already serving a period of Ineligibility for an anti-doping rule violation, any new period of Ineligibility shall commence on the first day after the current period of Ineligibility has been served. Otherwise, except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing

for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed.

10.13.2 Credit for Provisional Suspension or Period of Ineligibility Served

10.13.2.1 If a Provisional Suspension is respected by the Athlete or other Person, then the Athlete or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If the Athlete or other Person does not respect a Provisional Suspension, then the Athlete or other Person shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal".

(c3) Disqualification of Results

Article 10.10 of the IBA Rules provides as follows:

"*10.10 Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation*

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

(c4) Financial Consequences

Article 10.12 of the IBA Rules provides as follows:

"*10.12.1 Where an Athlete or other Person commits an anti-doping rule violation, IBA may, in its discretion and subject to the principle of proportionality, elect to (a) recover from the Athlete or other Person costs associated with the anti-doping rule violation, regardless of the period of Ineligibility imposed and/or (b) fine the Athlete or other Person in an amount up to 10'000 Swiss Francs, only in cases where the maximum period of Ineligibility otherwise applicable has already been imposed.*

10.12.2 The imposition of a financial sanction or the IBA's recovery of costs shall not be considered a basis for reducing the Ineligibility or other sanction which would otherwise be applicable under these Anti-Doping Rules".

IX. PRELIMINARY MATTERS

64. In his Appeal Brief's, the Athlete requests the Panel to "*declare that the whole proceeding is null and void thus inadmissible*" arguing in essence that the provisional suspension imposed by the ITA was applied by the IOC and the Athlete was thus not admitted to the Paris 2024 Summer Olympic Games despite the fact that according to the Joint Paris 2024 Boxing Unit/IOC Statement, all athletes participating in the boxing tournament of the Olympic Games Paris 2024 were to comply with the competition's eligibility and entry regulations set by the PBU.

65. The Panel notes that the present case concerns an appeal filed by the Athlete against the Appealed Decision in which it was held that the Athlete had committed a violation of Article 2.1 of the IBA Rules, and a two-year period of ineligibility was imposed on the Athlete. In other words, the present case is not an appeal against the IOC's decision to implement the provisional suspension and, consequently, to prohibit the Athlete from being admitted to the Paris 2024 Summer Olympic Games. Therefore, any claim for lack of jurisdiction, as well as any claim for nullity or inadmissibility of the proceedings, based on this, is clearly untenable in the Panel's view.

66. In any case, the Panel notes that the Appellant does not dispute either that the IBA was the relevant WADC signatory at the time of the anti-doping control on 17 February 2024, or that at the time of the anti-doping control the Athlete was a member of the Turkish Boxing Federation, which was affiliated with the IBA, and that he was on the IBA's International Testing Pool.

67. The Panel also notes that in accordance with Article 15.1.1 of the CAS Code, the provisional suspension decision, confirmed by the CAS ADD, had an automatic binding effect upon every Code Signatory, including the IOC. In other words, the IOC had no discretion in recognizing and implementing the provisional suspension imposed on the Athlete. In particular, pursuant to Article 15.1.1.1 of the IBA Rules, a provisional suspension "*automatically prohibits the Athlete from participation in all sports within the authority of any Signatory during the Provisional Suspension*".

68. Accordingly, the Panel finds that the Athlete's claim that the Appealed Decision is null and void or was issued in an inadmissible procedure are unsubstantiated and have no merit in this appeal.

X. THE MERITS

69. In his Appeal Brief, the Athlete does not contest that his sample contained the prohibited substance HCTZ in the concentration of 9 ug/mL in the A-sample and 10 ug/mL in the B-sample, nor did the Athlete challenge the result of the analysis performed by the Barcelona laboratory.

A. The Position of the Parties

70. By contrast, the Athlete argues that, pursuant to the WADA Stakeholder Notice, the ITA should have not reported an AAF given that:

(i) the concentration of HCTZ found in his urine was below 20 ng/mL;

(ii) he did not need to lose weight; and because

(iii) the ITA failed to comply with the investigative steps laid down in the WADA Stakeholder Notice.

71. Moreover, the Athlete argues that (i) the analysis conducted by the Lausanne laboratory did not take into account the "*non-homogenous manufacturing process*" of the Arveles tablets. Therefore, the "*pills already been consumed by the Athlete could have been contaminated with a higher dose than the ones tested at the Swiss Laboratory*"; (ii) the excretion study relied upon by the Respondent's expert is limited and is not representative of the excretion of HCTZ in all individuals and did not take into account "*individual differences for the elimination mechanism of the drug*" such as "*polymorphism*"; and (iii) the Athlete did not remember exactly how many Arveles tablets he "*used for the treatment*", thus making the presence of HCTZ in his sample "*likely …* [to] *have been caused by the Athlete drug he used for treatment*".

72. By contrast, the Respondent claims in essence that (i) the risk of abuse of diuretics to induce weight loss in sports where athletes need to meet weight criteria exists both In-Competition and Out-of-Competition; (ii) the ITA has fully complied with the investigative procedure provided for by the WADA Stakeholder Notice and in any event, even if established - *quod non* - that there were shortcomings in the IBA's investigation, this does not constitute a defense to the ADRV as the Athlete would have failed to establish that they could have reasonably caused the ADRV; (iii) the ATF was therefore rightfully brought forward as an AAF, (iv) the Athlete failed to prove the source of the substance found in his urine, which cannot be the intake of Arveles pills and (v) the Appealed Decision is, therefore, to be confirmed.

73. By way of introduction the Panel notes that in the case at hand it is not disputed that:

(a) the presence of a Prohibited Substance (i.e. HCTZ) in the Athlete's urine is established;

(b) there is no element on record showing that the Athlete's ADRV was intentional, as admitted by the Respondent in its Answer to the Appeal Brief.

74. Keeping this in mind, the Panel also notes that, according to the IBA Rules an ATF is defined as "*a report from a WADA accredited laboratory or other WADA-approved laboratory which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an Adverse Analytical Finding*".

B. The Findings of the Panel

75. The WADA Stakeholder Notice acknowledges that the use of diuretics without a TUE is prohibited at all times and at any concentration, because diuretics may be abused (a)

to mask the presence in urine of another prohibited substance; and/or (b) to induce artificial weight loss in sports/disciplines where athletes need to meet weight criteria.

76. However, it is known that:

(i) traces of six diuretics, including HCTZ, have been found as contaminants in oral pharmaceutical products;

(ii) the ingestion of pharmaceutical products contaminated with a diuretic may lead to the presence of the diuretic in the athlete's urine sample at low concentrations, not greater than 20 ng/mL; and

(iii) at such concentrations, a diuretic would not be effective to mask the presence of any other prohibited substance that may be present in the sample.

77. For this reason, the WADA's Executive Committee approved a change to the requirements for the reporting of diuretics by WADA-accredited laboratories. Such a change is contained in the WADA Stakeholder Notice and provides that:

(i) the presence of one or more of six diuretics, including HCTZ, in an athlete's urine sample at an estimated concentration at or below 20 ng/mL shall not be reported either as an AAF or as an ATF;

(ii) as an exception to the above-mentioned Minimum Reporting Level ("MRL"), "*where a sample is collected from an athlete participating in a sport or discipline that uses weight classes (such as boxing), WADA-accredited laboratories shall report the presence of one or more of six diuretics at an estimated concentration equal or below 20 ng/mL as an AF, triggering a mandatory investigation by the Result Management Authority to determine whether an ADRV should be asserted*". The rationale behind this exception is represented by the fact that "*diuretics may be abused to induce weight loss in sports/disciplines where athlete need to meet weight criteria and such a risk exists both In-Competition and Out-of-Competition*".

78. That said, the Panel notes that the Appellant's challenge of the IBA's decision to pursue the ATF triggered by the presence of HCTZ in the Athlete's sample as an AAF is not material, given that:

(i) the decision to pursue an ATF as an AAF is a matter for the RMA to take with all the evidence available to it. Once such a decision is made, the only decision that can be appealed is the final decision concluding the AAF proceedings, i.e., in the case at hand, the Appealed Decision issued by the CAS ADD. Accordingly, it is not possible to appeal any previous step that led to the Appealed Decision;

(ii) as already observed (see para. 73 above), in the case at hand it is not disputed that the Athlete's sample contained a prohibited substance and that he did not act intentionally;

79. The Panel shall thus continue its analysis of the case by addressing the Appellant's contention that out of the ten Investigative steps laid down in the WADA Stakeholder

Notice, six steps were complied with (i.e., steps 1, 2, 3, 4, 7 and 10), while the ITA, on behalf of the IBA, would not have sufficiently applied investigative steps 5, 6, 8 and 9. The Panel will analyse each of these allegedly non-complied steps in the following paragraphs of this award.

WADA Stakeholder Notice Investigative step 5

80. Investigative step 5 reads as follows: "*5. Determine (e.g., from the Athlete's recent whereabouts filings) the Athlete's competition schedule before and after the collection of the Sample that returned the Atypical Finding, as well as the proximity of the Sample collection session to competition weigh-ins. Assess this information for indications of the Athlete's potential use of the diuretic in question to manipulate body weight*".

81. To this regard, the Appellant argues that (i) his last competition was 128 days before and 57 days after the anti-doping control; (ii) the Athlete had already raised his weight class from 62 kg to 71 kg and he had competed at the 71 kg weight class at two tournaments; (iii) he had no excess weight and (iv) he was in Alicante for training purposes. Accordingly, "*he had no motive to lose weight*".

82. By contrast, the Respondent submits that weight control is a constant requirement in the Athlete's support, including during a training camp, as shown by the WADA Stakeholder Notice which provides that "*diuretics may be abused to induce weight loss in sports/disciplines where athlete need to meet weight criteria and such a risk exists both In-Competition and Out-of-Competition*".

83. The Panel is of the opinion that the simple fact that the Athlete could have "*had no motive to lose weight*" and underwent the unannounced Out-of-Competition doping control during a training camp in Alicante does not support the argument that the IBA did not properly assess the information set out in investigative step 5 of the WADA Stakeholder Notice. In particular, the Panel notes that, as correctly pointed out by the Respondent, the WADA Stakeholder Notice clearly acknowledges that the risk of abuse of diuretics exists "*both In-Competition and Out-of-Competition*". Moreover, letter B.5 of the WADA Stakeholder Notice requires the Result Management Authority to determine "*the Athlete's competition schedule before and after the collection of the Sample that returned the Atypical Finding, as well as the proximity of the Sample collection to competition weigh-ins*" in order to assess "*the Athlete's potential use of diuretics in question to manipulate body weight*". By contrast, the WADA Stakeholder Notice does not provide that if sample collection did not occur in proximity of competition weigh-ins, this circumstance alone precludes the RMA from continuing with the investigation of the ATF. Even more so if one considers that (i) the decision of the RMA to pursue an ATF as an AAF is the result of a comprehensive assessment of the results of all investigative steps listed in the WADA Stakeholder Notice, and (ii) the investigation procedure laid down in the WADA Stakeholder Notice "*is not intended to be an exhaustive list of possibly relevant investigative steps. The Result Management Authority should pursue al potentially relevant lines on inquiry and take into account all of the relevant facts and circumstances*".

WADA Stakeholder Notice Investigative step 6

84. Investigative step 6 reads as follows: "*6. Contact and interview the Athlete about the circumstances of the Atypical Finding, including determining: (A) their competition schedule and timing of competition weigh-ins (see para 5, above); and (B) their use of pharmaceutical products. Seek full disclosure of products, dosage, timing and frequency of ingestion, as well as records confirming prescription of products (where applicable) and purchase/delivery receipts confirming acquisition of products*".

85. The Appellant argues that the ITA never contacted him about his competition schedule and timing of weigh-ins and focused only on the result of the anti-doping control. By contrast, the Respondent argues that it notified the Athlete of the ATF and invited him to provide explanations concerning any potential pharmaceutical products he had consumed prior to the doping control.

86. The Panel notes that there is evidence on file that on 12 April 2024 the ITA notified the Athlete of the ATF and invited him to provide an explanation for the presence of the prohibited substance in his sample. The ITA's letter expressly referred to the WADA Stakeholder Notice and requested the Athlete "*to comment on the following points and provide supporting documents: a) Use of any prescription and/or non-prescription pharmaceutical products that you used within the last 7 days prior to the date of sample collection (17 February 2024). In this regard the ITA notes and reminds you that you did not declare the use of any medication on the Doping Control Form ("DCF"); b) should you have used any pharmaceutical product within the 7 days prior to sample collection, do you still possess any of these products?*". Moreover, in its letter the ITA reiterated that "*the present letter is to obtain additional information regarding the presence of the Prohibited Substance in your sample*".

87. On 17 April 2024, the Appellant provided the ITA with his explanation and in the following days (in particular on 22 and 30 April 2024) there was further correspondence between the Parties.

88. In light of the above, the Panel considers that the Athlete was offered a sufficient possibility to provide all explanations deemed necessary and to submit the relevant evidence.

WADA Stakeholder Notice Investigative step 8

89. Investigative step 8 reads as follows: "*Obtain – either from the remaining pharmaceutical products or from records maintained by the Athlete – specific information about the manufacturer of each product used by the Athlete, the date/location that any prescription was filled, and the lot/batch number of the product used. If possible, independently obtain specific details of the lot number and other manufacturing/source details from the pharmacy where the pharmaceutical product was sourced*".

90. The Appellant argues that this step was not sufficiently undertaken, given that "*only the pills which were sent to ITA* [were] *tested*", and "*no deeper research has been done*". By contrast, the Respondent argues that it identified (i) the manufacturer of the Arveles

tablets (i.e. the Turkish pharmaceutical company Menarini Turkiye), and (ii) the batch/lot number of the tablets (i.e. A23363216).

91. The Panel notes that:

(a) the remaining Arveles tablets provided by the Athlete were analyzed by the Lausanne laboratory;

(b) the Respondent successfully identified both the manufacturer of the Arveles tablets (i.e. the Turkish pharmaceutical company Menarini Turkiye), and (ii) the batch/lot number of the tablets (i.e. A23363216); and that

(c) the Appellant fails to identify which other specific "*research*" or additional effective measure should have been adopted by the Lausanne laboratory.

WADA Stakeholder Notice Investigative step 9

92. Investigative step 9 reads as follows: "*Seek to obtain a sealed container of the pharmaceutical product(s) with the same lot number, either from the same pharmacy or from the manufacturer of the product, send it under secure chain of custody to a laboratory with the appropriate expertise, and instruct the laboratory to analyze it for the presence of diuretics and/or their Metabolite(s)*".

93. The Appellant reiterates the argument already invoked in respect of the Investigative step 8, i.e. "*only the pills which were sent to ITA [were] tested*", and "*no deeper research has been done*".

94. The Panel notes in this respect that (i) tablets from the same package consumed by the Athlete prior to the doping control were still available and could be analyzed and that (ii) the IBA sought to obtain a sealed Arveles tablet package with the same batch/lot number from the manufacturer. Unfortunately, the manufacturer did not reply to IBA's request. Therefore, the Panel fails to see to which extent Investigative step 9 has been infringed in this case.

95. In any case, even assuming (*quod non*) that one or more investigative steps set out under the terms of the WADA Stakeholder Notice have not been fully undertaken by the ITA, this does not lead to the conclusion that the IBA, as the RMA, was bound to conclude that no AAF or ADRV had been established. In particular, the Panel notes that point 10 of the WADA Stakeholder Notice provides that "*the above is not intended to be an exhaustive list of possibly relevant investigative steps. The Results Management Authority should pursue all potentially relevant lines of inquiry and take into account all of the relevant facts and circumstances*".

96. The Panel thus concludes that there are no shortcomings in the investigation conducted by the RMA.

97. Even if one were to assume (*quod non*) that not every element of the Investigative steps set out in the WADA Stakeholder Notice was fully undertaken by the ITA, the Panel notes that departures from Technical Documents may only be raised as a defense to an

ADRV subject to the strict requirements of Article 3.2.3 of the IBA Rules. The latter provides as follows:

"*Departures from any other International Standard or other anti-doping rule or policy set forth in the Code or these Anti-Doping Rules shall not invalidate analytical results or other evidence of an anti-doping rule violation, and shall not constitute a defense to an anti-doping rule violation; provided, however, if the Athlete or other Person establishes that a departure from one of the specific International Standard provisions listed below could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding or whereabouts failure, then IBA shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the whereabouts failure*".

98. *In casu*, the Panel notes that the Appellant failed to establish a causal link between the alleged shortcomings of the IBA investigation and the conclusion that an ADRV has been committed.

C. The Consequences of the above

99. Having made this clear, the Panel shall now determine the consequences (if any) of the ADRV, and within this topic, specifically address whether the Athlete has established, on balance of probabilities, the source of the Prohibited Substance, as a prerequisite of his request for elimination or reduction of the sanction as per articles 10.5 and 10.6 of the IBA Rules.

100. By way of introduction the Panel notes that Article 10.2 of the IBA Rules reads as follows:

"*10.2.1 The period of Ineligibility shall be four years where:*

(…).

10.2.1.2 The anti-doping rule violation involves a Specified Substance or a Specified Method and IBA can establish that the anti-doping rule violation was intentional.

10.2.2. If Article 10.2.1 does not apply, subject to Article 10.2.4.1, the period of Ineligibility shall be two (2) years".

101. In its Answer, the Respondent admits that "*based on the information currently in its possession, the IBA considers that there is no element on record showing that Mr Erdemir's ADRV was intentional*".

102. In light of the above, the Panel concurs with the Respondent' position that the starting point of the Athlete's period of ineligibility is two years pursuant to Article 10.2.2 of the IBA Rules.

103. Article 10.5 of the IBA Rules provides that "*If an Athlete or other Person establishes in an individual case that he or he bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated*". Moreover, the IBA Rules defines

"No Fault or Negligence" as follows: "*The Athlete or other Person's establishing that he or he did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that he or he had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1,* ***the Athlete must also establish how the Prohibited Substance entered the Athlete's system***" (emphasis added).

104. Article 10.6 of the IBA Rules provides as follows:

"*10.6.1.1 Specified Substances or Specified Methods*

Where the anti-doping rule violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Athlete or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Athlete's or other Person's degree of Fault.

[…]

10.6.1.2 Contaminated Products

In cases where the Athlete or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance (other than a Substance of Abuse) came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years Ineligibility, depending on the Athlete or other Person's degree of Fault".

105. Moreover, the IBA Rules define the term "No Significant Fault or Negligence" as follows:

"*The Athlete or other Person's establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doping rule violation. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1,* ***the Athlete must also establish how the Prohibited Substance entered the Athlete's system***" (emphasis added).

106. That said, the Panel concurs with the Respondent that, in order to successfully invoke Article 10.5 and/or Article 10.6 of the IBA Rules and benefit from the elimination/reduction of the period of ineligibility provided for by those provisions, the Athlete must establish, on balance of probabilities:

(a) how the prohibited substance entered the Athlete's system (i.e. the source of the prohibited substance); and

(b) that the Athlete bears no Fault or Negligence or No Significant Fault or Negligence within the meaning of Article 10.5 or Article 10.6 of the IBA Rules and the definitions of those terms in the IBA Rules.

107. In this respect, the Appellant basically argues that the consumption of the Arveles tablets led to his AAF. Accordingly, he holds that in case it is determined that he committed an ADRV, he should be imposed "*a minimum sanction*" based No Fault or Negligence, and not the standard 2-year sanction stipulated in the IBA Rules.

108. By contrast, the Respondent claims that the Athlete failed to establish, on balance of probabilities, that the Arveles tablets were the source of the prohibited substance found in the Athlete's sample. Accordingly, the Athlete cannot benefit from any reduction of the 2-year period of ineligibility pursuant to Article 10.5 and/or Article 10.6 of the IBA Rules.

109. According to the Athlete, Prof. Dağlioğlu's report provides actual evidence that (i) it is more probable than not that the Arveles tablets analysed by the Lausanne laboratory would be enormously less contaminated than those which the Athlete indicated he had consumed; and (ii) individual differences in metabolism have a material influence on the excretion of HCTZ. Accordingly, Prof. Dağlioğlu concludes that "*the HCTZ substance in the urine of Athlete Tuğrul Han Erdemir may be caused by the drug Arveles*".

110. By contrast, the Respondent claims that the Athlete has not established, on a balance of probabilities, that the Arveles tablets were the source of the prohibited substance. To substantiate this conclusion, the Respondent relies on Prof. Saugy's report according to which "*with a recent intake of tablets (at an estimated concentration in the ARVELES tablets between 0,05 to 0,12 ng, the expected concentration in urine would be between 50'000 and 20'000 times lower that what has been found in the athlete's urine. This showed that the source of the ATF cannot be the ARVELES tablets (analysed by the Lausanne laboratory), taken 6 and 4 days before the anti-doping control*".

111. The Panel notes that in his explanation dated 30 April 2024, the Athlete clearly admitted that he took "*one tablet prior to four days before the doping test and one tablet 6 days before the doping test. A total of two tablets*".

112. However, the Athlete afterwards claimed that he did not remember exactly how many Arveles tablets (also contained in a different blister) he ingested and, therefore, Prof Dağlioğlu stated in her report that "*while the amount of HCTZ in one blister might be the same [as in Prof. Saugy's report], there is a possibility that the amount of HCTZ in other blisters used by the athlete Tuğrul Han Erdemir might be different*".

113. With all due respect to Prof. Dağlioğlu, the Panel is not ready to follow her conclusions, given that:

(i) Prof. Saugy's analysis is based on a hypothetical scenario most favourable to the Athlete, i.e. the consumption of several Arveles tablets in the hours preceding the anti-doping control;

(ii) even in this scenario, "*with a recent intake of tablets (at an estimated concentration in the Arveles tablets between 0,05 to 0,12 ng), the expected concentration in urine*

would be between 50'000 and 20'000 times lower that what has been found in the athlete's urine";

(iii) the Athlete's argument that he may have ingested Arveles tablets (in an unspecified quantity) from a different blister contaminated with a higher amount of HCTZ is a mere hypothesis devoid of any scientific and factual evidence;

(iv) similarly, the Athlete's argument that the two Arveles tablets taken by the Athlete could have been contaminated by a quantity of HCTZ significantly greater than that found by the Barcelona laboratory in the three tablets from the same blister is, in the Panel's opinion, highly unlikely and devoid of any factual or scientific evidence.

114. As regard the alleged effect of polymorphism on the excretion mechanism raised by the Appellant, the Panel notes that the Athlete's argument is twofold: on the one hand, he argues that the excretion study *(Helmlin et al.,* 2016) referred to by Prof. Saugy is limited to a single male volunteer aged 59 years and weighing 77 kg; on the other hand, he argues that Prof. Saugy did not take into account another study (*Liu et al.,* 2012) on polymorphism. Accordingly, "*it is not sufficient for Prof. Saugy to refer to a drug elimination study based on only 2 individuals (…). Studies conducted in a larger number or a larger group and in different ages ranges should be taken into account*".

115. The Panel considers the Athlete's argument speculative, given that:

(i) the *Liu et al*. study referred to by Prof. Dağlioğlu is only cited in a generic way without any precise reference to the alleged effect that polymorphism may have on the excretion of HCTZ;

(ii) the Respondent has correctly pointed out that excretion is not an issue at stake in the present proceeding, given that the Athlete excreted more HCTZ than would have ever been consumed through the ingestion of the Arveles tablets. Furthermore, since HCTZ is a synthetic substance which cannot be endogenously produced by the human body, the Athlete cannot reasonably argue that his individual metabolism led his body to create more HCTZ than he has ingested through the consumption of the Arveles tablets;

(iii) contrary to what Prof. Dağlioğlu claims, it is not for the Respondent to take into account *"Studies conducted in a larger number or a larger group and in different ages ranges*" to substantiate that the source of the prohibited substance in the Athlete's sample is HCTZ, but it is for the Athlete to establish, on balance of probabilities, how the prohibited substance entered his body and, thereby, caused the analytical finding.

116. More generally, the Panel concurs with the Appealed Decision that "*the language used by Professor Dağlioğlu in the conclusion of her report is 'the HCTZ substance in the urine of* [the Athlete] *may be caused by the drug Arveles' which does not meet the standard of proof required by Article 3.1 of the IBA ADD*".

117. In light of the above, the Panel finds that the Athlete has failed to establish, on a balance of probabilities, how the prohibited substance entered his system. Therefore, the Athlete

is not entitled to benefit from any elimination/reduction of the 2-year period of ineligibility pursuant to Article 10.5 and/or 10.6 of the IBA Rules.

118. Having established that the Athlete must be sanctioned with a 2-year period of ineligibility, the Panel must deal with the following further issues:

(i) the starting date (*dies a quo*) of said ineligibility period and the credit to be given to the period of ineligibility already served by the Athlete;

(ii) the disqualification of the Athlete's results.

119. In respect of the starting date of the 2-year ineligibility period, the Respondent argues that "*as per Article 10.13 of the IBA ADR, the period of ineligibility shall start on the date of the final hearing decision providing for ineligibility*". Moreover, the Respondent notes that "*the IBA imposed a Provisional Suspension on the Athlete on 10 July 2024 and Mr Erdemir has been serving his period of ineligibility since 18 November 2024. The IBA thus submits that as per Article 10.13.2.2 of the IBA ADR, the Athlete should receive a credit for the period of Provisional Suspension and period of Ineligibility against any period of ineligibility imposed*".

120. Article 10.13 of the IBA Rules states in its pertinent part as follows:

"*(…) the period of ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed*".

121. Article 10.13.2.1 of the IBA Rules states in the pertinent part as follows:

"*(…) If a period of ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal*".

122. The Panel notes that Article 10.13 of the IBA Rules raises a question concerning the identification of the "*hearing decision*" the date of which is the starting date of the ineligibility period: more particularly, the question is whether such "*hearing decision*" is the one adopted by the CAS ADD (*i.e.*, the Appealed Decision) or the present CAS decision.

123. In coming to its conclusion, the Panel falls bac on Article R57 of the CAS Code. As stated in CAS 2011/A/2515, "*under this provision, in fact, the CAS Panel has the power to issue a new decision that replaces the decision challenged: such power was indeed declared by the Swiss Federal Tribunal (in a judgment of 3 January 2011, 4A_386/2010, at § 5.3.4) to be consistent with the mission of arbitral jurisdiction exercised by the CAS. As a result, in the event the CAS award imposes a sanction to an athlete that had not been found responsible on an anti-doping rule violation, the ineligibility would be imposed only by CAS: therefore (…), the date of the CAS award would be the starting moment of the ineligibility (…). Conversely, the date of the decision of the disciplinary*

body is the starting date of the ineligibility in the event the CAS decision does not replace, but entirely confirms, the sanction imposed by the disciplinary body: in such event, ineligibility finds its foundation only in, and is therefore imposed only by, the lower-level decision" (para 82).

124. In light of the above, the Panel concludes that the starting date of the Athlete's ineligibility is the date of the Appealed Decision (i.e. 18 November 2024). This being said, the period of provisional suspension already served by the Athlete as well as the ineligibility period also served by the Athlete after the Appealed Decision shall be credited against the total period of ineligibility to be served, as per article 10.13.2.2 of the IBA Rules.

125. In respect of the disqualification of the Athlete's results, the Respondent argues that "*Pursuant to Article 10.10 of the IBA ADR, all competitive results of the Athlete obtained from the date of the ADRV through the commencement of the Provisional Suspension (10 July 2024) shall be disqualified unless the Athlete establishes that fairness requires otherwise. The IBA submits that fairness does not require in the instant case, especially considering that the circumstances of the ADRV are left unknown*".

126. Article 10.10 of the IBA Rules reads as follows:

"*In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other antidoping 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*".

127. As regard the disqualification of the Athlete's results, the Appealed Decision ruled as follows:

"*All competitive results of Mr Tuğrulham Erdemir from and including 17 February 2024 are disqualified with all resulting consequences, including forfeiture of any medals, points and prizes*".

128. The Panel notes that the Appellant has filed no submission concerning the disqualification of results.

129. Failing any submission as to any element of fairness that would require otherwise under Article 10.10 of the IBA Rules, the Panel confirms the disqualification of the Athlete's results from and including 17 February 2024 with all resulting consequences, including forfeiture of any medals, points and prizes.

130. In conclusion, the Panel dismisses the appeal filed by the Athlete in its entirety and confirms the Appealed Decision.

XI. COSTS

(…)

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ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed by Mr Tuğrul Han Erdemir on 9 December 2024 against the decision issued by the CAS ADD on 18 November 2024 in case *2024/ADD/106 International Boxing Association (IBA) v Tuğrul Han Erdemir* is dismissed.

2. The decision issued by the CAS ADD on 13 July 2023 in case *2024/ADD/106 International Boxing Association (IBA) v Tuğrul Han Erdemir* is confirmed.

3. (…).

4. (…).

5. All other and further motions or prayers for relief are dismissed.

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

THE COURT OF ARBITRATION FOR SPORT

Prof. Stefano Bastianon
President of the Panel

Prof. Ulrich Haas
Arbitrator

Mr Jordi López Batet
Arbitrator