CAS 2024/A/10861 WADA v. Egyptian Anti-Doping Organisation & Ramadan Sobhi Ahmed

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr. Jordi López Batet, Attorney-at-law in Barcelona, Spain

in the arbitration proceedings between

World Anti-Doping Agency, Montreal, Canada

Represented by Mr. Ross Wenzel, General Counsel, and Messrs. Nicolas Zbinden and Robert Kerslake, Attorneys-at-law in Lausanne, Switzerland

- Appellant -

and

Egyptian Anti-Doping Organisation, Cairo, Egypt

Represented by Ms. Iman Gomaa, CEO, and Mr. Mahmoud Assem, Prosecutor

- First Respondent -

And

Mr. Ramadan Sobhi Ahmed, Cairo, Egypt

Represented by Messrs. Hani Zahran, Mostafa Abdelhamid and Yassin Zahran, Attorneys-at-law in New Cairo, Egypt

-Second Respondent -

I. PARTIES

1. The World Anti-Doping Agency ("WADA" or the "Appellant") is the international anti-doping agency, constituted as a private law foundation under Swiss law. WADA has its registered seat in Lausanne, Switzerland and has its headquarters in Montreal, Canada.

2. The Egyptian Anti-Doping Organisation ("Egy-NADO" or the "First Respondent") is the national anti-doping organization in Egypt, with registered seat in Cairo, Egypt.

3. Mr. Ramadan Sobhi Ahmed (the "Athlete" or "Second Respondent") is an Egyptian professional football player.

4. WADA, Egy-NADO and the Athlete will be hereinafter jointly referred to as the "Parties", and Egy-NADO and the Athlete will be hereinafter jointly referred to as the "Respondents".

II. BACKGROUND FACTS AND THE PROCEEDINGS BEFORE THE EGY-NADO HEARING PANEL

5. On 21 August 2023, the Athlete underwent an out-of-competition doping control during a training session. The Athlete requested the Doping Control Officer (the "DCO") to provide the urine sample while seating down in the toilet, as he alleged that he was suffering from diarrhoea that day, which the DCO accepted.

6. The sample collected from the Athlete (the "First Sample") had a low specific gravity and the DCO requested the Athlete to provide a second urine sample (the "Second Sample"), which the Athlete did one hour and a half after providing the First Sample, also sitting in the toilet.

7. The First Sample was analysed by the WADA-accredited laboratory in Barcelona (the "Laboratory"), which reported an Atypical Finding ("ATF") due to Tampering or Attempted Tampering, as the sample was *"not consistent with human urine (SG 1.001, creatinine concentration below 5 mg/dL, non-physiological salt concentrations, abnormally low levels of endogenous steroids)".* Further investigation was recommended by the Laboratory.

8. The Second Sample was also analysed by the Laboratory, which result was negative. However, a small concentration of […] (a substance prohibited in-competition in accordance with the WADA Prohibited List) metabolite was found in such sample.

9. On 29 February 2024 and during the investigation of the ATF in respect of the First Sample, questions were raised by Egy-NADO to the DCO, and further questions were directed to him on 17 March 2024. *Inter alia*, the DCO stated in his response that it was possible that the Athlete had taken water from the toilet to fill the sample collection vessel in the provision of the First Sample.

10. On 26 March 2024, the Athlete was notified by the Egy-NADO of a potential Anti-Doping Rule Violation ("ADRV") under Articles 2.2 and/or 2.5 of the Egyptian Anti-Doping Rules (the "Egyptian ADR").

11. On 9 April 2024, the Athlete rejected having committed any ADRV.

12. On 26 May 2024, the Athlete was charged by Egy-NADO with a violation of Articles 2.2 and/or 2.5 of the Egyptian ADR and a provisional suspension was imposed on him.

13. On 2 June 2024, the Athlete requested the charges be dismissed and the provisional suspension be lifted.

14. On 9 June 2024, a first hearing took place before the Egyptian Anti-Doping Hearing Panel ("EADHP"), and a second hearing took place on 29 June 2024, after which the Athlete filed a post-hearing brief in which he rejected the charges once again.

15. On 16 July 2024, the EADHP resolved by majority that the Athlete did not commit an ADRV, as follows:

> *"On these grounds, the Hearing Panel, by majority, decided the following consequences:*
>
> *1. The Athlete, Mr. Ramadan Sobhi Ahmed is not proved to be guilty of an ADRV.*
>
> *2. No sanction shall be imposed on the Athlete.*
>
> *3. The Mandatory Provisional Suspension imposed on the Athlete is lifted immediately.*
>
> *4. The EGY-NADO shall notify this decision to the relevant stakeholders who have a right to appeal.*
>
> *5. All other claims or requests for relief are dismissed."*

16. The decision with grounds was issued on 30 July 2024 (the "Appealed Decision"). In a nutshell, the EADHP found that Egy-NADO had not established to its comfortable satisfaction that the Athlete had committed an ADRV pursuant to Article 2.2 and/or 2.5 of the Egyptian ADR. Consequently, no sanction was imposed on the Athlete. The Appealed Decision, in the pertinent part, reads as follows:

> *"155. In consideration of the aforementioned points, the determination of the sufficiency and/or efficiency of investigations conducted by an ADO appears to be relative and dependent on the specific circumstances of each case. Therefore, the Panel resorted to the CAS jurisprudence and the content of the email exchanges between the EGY-NADO and the three laboratories as evidence adduced by the EGY-NADO, to determine the possible investigation steps that the EGY-NADO could have followed in this case (including the two examples given by article 4 of the TD2021EAAS v. 2.0.). The Panel concludes that the following steps were relevant to the circumstances of this case:*
>
> *1) additional analyses on the Sample; 2) target testing the Athlete ; 3) a DNA analysis; 4) B sample analysis; 5) to contact the analyzing laboratory for further details; 6) to review the details of the sample collection with the DCO, 7) to inquire the presence/validity of the potential*

second sample collected within the same session from the Athlete; 8) and finally to investigate/interview the athlete.

156. During the First and Second Hearings, the EGY-NADO has illustrated its investigative steps as follows: target testing the Athlete, validation of the sample collection process with the relevant DCOs, and contacting the Barcelona Lab as well as two other WADA accredited laboratories to seek more elaboration and/or guidance around the ATF. The Panel assessed each step of such investigation to reach a comprehensive yet accurate evaluation on the totality of evidence adduced by the EGY-NADO and whether it qualifies to prove the ADRV.

157. Firstly, the Panel assessed the sample collection process of the Disputed Sample based on the EGY-NADO's internal investigations with the DCO and his testimony during the hearing sessions. It is worth mentioning that the DCO "Mr. Asaad" did not document any suspicions or comments around the sample collection process of the Disputed Sample, the same as the Athlete. However, in his testimony, Mr. Asaad confirmed that the Athlete's request to provide the sample seated but he affirmed that it is not prohibited to do so; Mr. Asaad had a partial vision on the sample's source during the First Sample; while Mr. […]*, the Athlete's representative as a family member, and the Athlete's teammate in Pyramids FC, aside from questioning of the DCO's integrity during the First Hearing, has alleged that the bathroom where the two samples were collected does not allow for any position of the DCO except for in front of the Athlete which gives him direct vision. Such a statement was confirmed by Dr. Abdelrahman Saeed, the nutrition specialist at Pyramids FC.*

158. As for the internal investigations conducted with the DCO by the EGY-NADO, the DCO has resorted to a hypothetical scenario, as an assumption for what could have happened to reach such result of the Disputed Sample, that "the Athlete might have filled the vessel from the toilet water", which means that the Athlete may have diluted his urine sample.

159. In fact, the nature of the sample remained unidentified. The Analytical Report did not explicitly specify the particular reason behind the result of "not consistent with human urine". Referring to the EGY-NADO's correspondence with the Barcelona Lab (para. 44 supra) whereas the latter stated "We had to report the result as an ATF for tampering or attempted tampering because the nature of the adulterated sample was not identified, according to the technical document TD2022EAAS. However, it is sure that the sample was adulterated." [Emphasis added]

160. The Barcelona Lab has gone to a conclusion that the sample was "adulterated" by adding a foreign substance not "diluted". The DCO's assumption is not confirmed by any reliable evidence neither by his testimony nor by the Analytical Report from the laboratory which did not confirm the "dilution" of the sample by adding water. On the contrary, it could not identify the nature of the liquid.

161. During the hearing, the Panel asked the EGY-NADO representatives about the nature of the sample and why the EGY-NADO did not conduct a DNA test on the sample. The EGY- NADO has confirmed that the DNA test was an option that was taken into consideration, however, according to their understanding from the correspondences with different laboratories was that the test was not applicable as the matrix of the sample is not urine, based on the conclusion of the Switzerland Laboratory in its email sent to EGY-NADO (para. 51 supra) stating "In case if substitution is suspected with urine of another person, DNA analysis could be an alternative

to proceed, but in my understanding, in this case the question is different if the sample matrix refers to another matrix than urine."

162. Despite the allegations from both parties, which may involve some factual discrepancies, there is still no evidence, at this phase, to conclude that the Athlete tampered or attempted to tamper with the sample.

163. Secondly, the Panel assessed the target testing performed by the EGY-NADO on the Athlete. In this respect, the EGY-NADO proved to have conducted two different sample collections for the Athlete as part of its investigations; on 02 November 2023 and on 18 February 2024. However, the Panel considers that, in this context, the Second Sample collected in the same session as the Disputed Sample cannot be excluded from this assessment and shall be taken into consideration.

164. In this respect, the evidence adduced by the EGY-NADO demonstrates no issues with the sample collected in February 2024, nor any issues related to the Second Sample collected in August 2023 during the same Disputed Sample session .However, the EGY-NADO relied on the November Sample as a proof of the Athlete's "suspicious attitude" in addition to the fact that the analysis of the two samples returned an AAF despite the fact that this result was covered by a retroactive TUE.

165. The Panel has thoroughly examined the circumstances surrounding the November Sample, including the retroactive TUE and the testimonies of the two EGY-NADO's employees who conducted the sample collection.

166. The TUE incidence is not examined by the Panel in isolation. It is rather examined as evidence that raised the suspicions of the EGY-NADO against the Athlete in a view to prove, or be closer to prove, that the ATF reported from the analysis of the Disputed Sample (dated back in August 2023) can qualify as either an AAF or an ADRV. From this perspective, the Panel went through the whole process of the TUE, reviewed the TUE application process and the decision to grant the Athlete the retroactive TUE. In case there were suspicions around the TUE application process or around the authenticity of the documents provided by the Athlete for the purpose of the TUE, it could have been possible to have valid suspicions around the Athlete in relation to the accusations of ADRV in the Disputed Sample.

167. The Panel took note of the EGY-NADO's statement that they were able to verify the existence of the doctor who wrote the report in the hospital, as part of their investigation. In addition, and during the two hearings, the Panel presented the Athlete with questions to examine the facts of the relevant hospital incident, and therefore concluded that there was no outcome from such an incident that can qualify as sufficient proof against the Athlete as an investigation on the ATF of the Disputed Sample. Particularly, taking into consideration the fact that the retroactive TUE application submitted by the Athlete, has already been approved by the EGY-NADO.

168. Furthermore, the two witnesses involved in the sample collection process of the November Sample did not provide direct evidence that the Athlete used or attempted to use a prohibited method. Their observations were limited to noting "strange change of color" as recorded on the DCF of the first sample collected in November. Additionally, there was an incident where the Athlete was asked to stand due to difficulties in the vision of the sample's source. Although

these observations qualify as proven facts, they do not constitute proof of any ADRV committed by the Athlete.

169. In this regard, the Panel refers to the comment on article 12.2.2 from the International Standards of Testing and Investigations whereas the duty of the ADO in conducting the investigations entails adopting an objective methodology in order to be able to consider and accept all possible outcomes, either to move forward with an ADRV or not to move forward:

"It is important that information is provided to and gathered by the investigating Anti-Doping Organization as quickly as possible and in as much detail as possible because the longer the period between the incident and investigation, the greater the risk that certain evidence may no longer exist. Investigations should not be conducted with a closed mind, pursuing only one outcome (e.g., institution of anti-doping rule violation proceedings against an Athlete or other Person). Rather, the investigator(s) should be open to and should consider all possible outcomes at each keystage of the investigation, and should seek to gather not only any available evidence indicating that there is a case to answer but also any available evidence indicating that there is no case to answer."

170. Thirdly, no probative value can be assigned to the EGY-NADO's exchange of emails with the three laboratories except for the confirmation of Dr. Ventura that the Disputed Sample was adulterated (which does not solely qualify as satisfactory proof against the Athlete), the rest of emails only provides generic advice and general guidance in light of the Rules, the International Standards, and the Technical Documents.

171. Regrettably, The Barcelona Lab failed to provide the Documentation Package for the Disputed Sample within the stipulated time for the Panel's deliberation. This omission occurred despite persistent requests from the EGY-NADO, and in contravention with article 1.1 of the Technical Document TD2021LDOC stipulating on:

"1.1. Production of Laboratory Documentation Packages by Laboratories If requested by the Testing Authority (TA), Results Management Authority (RMA) or WADA, Laboratory Documentation Packages shall be provided by the Laboratory that reported the results supporting an Adverse Analytical Finding (AAF) or Atypical Finding (ATF). …"

172. Therefore, the forensic evidence, in relation to the EGY-NADO's correspondences with laboratories, submitted on the record in relation with the Disputed Sample is not conclusive that the Athlete committed an ADRV.

173. In summary, the Panel observes that: 1) the Doping Control process, despite the comments on the DCO, did not prove any wrongdoing committed by the Athlete; 2) there is no evidence before the Panel from any witness who claims to have observed the Athlete use a prohibited method; 3) the exchange of emails with the three laboratories has no probative value and provides no evidence against the Athlete; 4) finally, the Analytical Report does not constitute a conclusive evidence against the Athlete particularly that it does not identify the prohibited method that may have been used in absence of a conclusive forensic evidence by means of DNA analysis or further analysis on the Disputed Sample.

174. In light of those factors, the Panel concludes, by majority, that the EGY-NADO has not discharged its burden of establishing, to the comfortable satisfaction of the Panel, that the Athlete used or attempted to use a prohibited method.

175. Consequently, for the reasons set out above, the Panel concludes, by majority, that the evidence submitted by the EGY-NADO was not sufficient to prove that the Athlete used or attempted to use a prohibited method under Article 2.2 of the Rules in connection with section M2.1 of the Prohibited List. […]
186. In light of the above, the Panel decided, by majority, that the evidence submitted by the EGY-NADO was not sufficient to prove, to the comfortable satisfaction of the Panel, that the Athlete used or attempted to use a prohibited method. In this respect, the Panel's ruling refrains from affirming or negating the Athlete's innocence. Rather, it finds that due to insufficiencies in the evidence submitted, no sanction can be justified against the Athlete at this juncture. The decision does not purport to absolve the Athlete of wrongdoing. Instead, it reflects the Panel's determination that the available evidence does not substantiate a violation warranting sanctions."

17. On 31 July 2024, the Appealed Decision was notified to WADA.

18. On 14 August 2024, WADA requested the case file to the Egy-NADO.

19. On 21 August 2024, the Egy-NADO provided the case file.

20. On 22 August 2024, WADA wrote to the Egy-NADO to request the Laboratory Documentation Package (the "LDP") of the First Sample, which had not been made available to WADA with the documentation provided on 21 August 2024.

21. On 26 August 2024, Egy-NADO provided the First Sample's LDP to WADA.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

22. On 11 September 2024, WADA filed a Statement of Appeal with the Court of Arbitration for Sport (the "CAS") against the Appealed Decision with the following request for relief:

"1. The appeal of WADA is admissible.

2. The decision rendered on 30 July 2024 by the Egyptian Anti-Doping Hearing Panel in the matter of Mr Ramadan Sobhi Ahmed is set aside.

3. Mr Ramadan Sobhi Ahmed is found to have committed an anti-doping rule violation under art. 2.2 and/or 2.5 of the Egyptian ADR.

4. Mr Ramadan Sobhi Ahmed is sanctioned with a period of Ineligibility of four years, starting on the date on which the CAS award enters into force. Any period of provisional suspension effectively served by Mr Ramadan Sobhi Ahmed before the entry into force of the CAS award shall be credited against the total period of Ineligibility to be served.

5. The costs of the proceedings shall be borne by the Egyptian Anti-Doping Organisation or, in the alternative, by the Respondents jointly and severally.

6. WADA is granted a significant contribution to its legal and other costs."

23. In the Statement of Appeal, the Appellant requested the case be submitted to a Sole Arbitrator and an extension of its deadline to file the Appeal Brief until 16 October 2024. The Appellant also requested a suspension of such deadline pending determination of its extension request.

24. On 17 September 2024, the CAS Court Office notified the Statement of Appeal to the Respondents, noted the Appellant's request for extension of 20 days to file the Appeal Brief, granted a 10-day extension as per article R32 of the Code of Sport related Arbitration (the "CAS Code"), and *inter alia* invited the Respondents to state whether they consented to the other 10-day extension requested by WADA and to the submission of the case to a Sole Arbitrator.

25. On 20 September 2024, the Second Respondent agreed to submitting the case to the consideration of a Sole Arbitrator (and proposed the appointment of a specific arbitrator) but opposed to the deadline extension requested by the Appellant. The First Respondent remained silent to the invitation made by the CAS Court Office in its letter of 17 September 2024.

26. On 23 September 2024, the CAS Court Office communicated to the Parties that in light of the Second Respondent's objection to the further deadline extension requested by WADA, it would be for the President of the CAS Appeals Arbitration Division or her Deputy to decide the issue.

27. On 24 September 2024, the CAS Court Office communicated to the Parties on behalf of the Deputy of the CAS Appeals Division that the Appellant's time limit to file the Appeal Brief was extended for 10 additional days.

28. On 11 October 2024, the Appellant sent an email to the CAS Court Office which in the pertinent part reads as follows:

> *"[…] out of abundance of caution, in the event that the Appeal Brief deadline is calculated as 30 days from 11 September 2024 […], WADA requests an extension until Wednesday, 16 October 2024. […] WADA requests that the deadline to file the Appeal Brief is suspended pending the outcome of this request."*

29. On 14 October 2024, the CAS Court Office confirmed that the Appellant's calculations for the deadline of the Appeal Brief were correct. No complaint was filed against this by the Respondents.

30. On 16 October 2024, the Appeal Brief was filed by WADA.

31. On 17 October 2024, the CAS Court Office invited the Respondents to file their respective Answers to the Appeal Brief.

32. On 6 November 2024, the First Respondent filed its Answer to the Appeal Brief.

33. On 16 November 2024, the Second Respondent filed its Answer to the Appeal Brief.

34. On 18 November 2024, the CAS Court Office asked the Parties whether they preferred a hearing to be held in this matter or the Sole Arbitrator to issue an award based solely on the Parties' written submissions, and also invited them to inform whether they requested a case management conference.

35. On 24 November 2024, the Athlete informed the CAS Court Office that he did not consider it necessary to hold a hearing in the case.

36. On 26 November 2024, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Division had decided to submit the case to a Sole Arbitrator.

37. On 29 November 2024, WADA communicated to the CAS Court Office that it found it necessary to hold a hearing in this case and that no case management conference was required. It also requested to be granted "*a deadline to file additional submissions to address the lack of jurisdiction argument advanced by the Athlete*", and it set out its position on the request for damages made by the Athlete in his Answer, which WADA considered inadmissible.

38. On 2 December 2024, the CAS Court Office noted WADA's position that the Second Respondent's request for damages is manifestly outside the scope of the appeal and informed the Parties that the Sole Arbitrator, once appointed, would decide as to this issue.

39. On 9 December 2024, the CAS Court Office informed the Parties that Mr. Jordi López Batet, Attorney-at-law in Barcelona, had been appointed by the Deputy President of the CAS Appeals Division as Sole Arbitrator to decide this dispute.

40. On 6 January 2025, the CAS Court Office informed the Parties that the Sole Arbitrator, in light of the issue of the inadmissibility of the appeal raised by the Athlete and the "*out-of-scope*" matter raised by the Appellant in its letter of 29 November 2024, had decided to grant the Parties a second round of written submissions, and invited the Appellant to submit its Reply, which it did on 21 January 2025.

41. On 7 February 2025, the Second Respondent filed his Rejoinder.

42. The Egy-NADO, despite having been invited to do so, did not file its Rejoinder.

43. On 11 February 2025, the CAS Court Office asked the Parties again whether they preferred a hearing to be held in this matter or the Sole Arbitrator to issue an award based solely on the Parties' written submissions. The Appellant considered it necessary to hold a hearing in this case, while the Respondents remained silent.

44. On 28 February 2025, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to hold a hearing in this case.

45. On 13 March 2025 and light of the various allegations made by the Parties in respect of the hearing format, the CAS Court Office communicated to the Parties that the Sole Arbitrator

decided to hold a hybrid hearing, allowing the Parties to participate by video-conference or in person.

46. On 20 March 2025, the CAS Court Office informed the Parties that the hearing would be held on 19 May 2025.

47. On 28 March and 3rd April 2025, the Appellant and the Second Respondent sent to the CAS Court Office the Order of Procedure respectively signed by them.

48. On 18 May 2025, the First Respondent sent to the CAS Court Office the Order of Procedure duly signed.

49. On 19 May 2025, the hearing was held in hybrid format (in the CAS Headquarters in Lausanne and by videoconference). The Sole Arbitrator, Mr. Francisco Mateo Pavia, CAS Counsel, and the following persons attended the hearing:

- For the Appellant:
  - Mr. Ross Wenzel – WADA's General Counsel
  - Mr. Cyril Troussard – WADA Associate Director
  - Mr. Nicolas Zbinden – Counsel
  - Mr. Robert Kerslake – Counsel
  - Dr. Tiia Kuuranne – Expert (by videoconference)
  - Dr. Rosa Ventura – Expert (by videoconference)
  - Dr. Asaad Ibrahim Al-Maadawi (the "DCO") – Witness (by videoconference)
  - Ms. Helena Seel-Constantin – Interpreter
  - Mr. Sameh Elray – Interpreter

- For Egy-NADO:
  - Ms. Iman Gomaa – CEO of Egy-NADO (by videoconference)
  - Mr. Mahmoud Assem – Egy-NADO Prosecutor (by videoconference)

- For the Athlete (all of them by videoconference):
  - Mr. Ramadan Sobhi Ahmed – Party (by videoconference)
  - Mr. Hani Fadl Zahran – Counsel (by videoconference)
  - Mr. Mostafa Abdelhamid – Counsel (by videoconference)
  - Mr. Yassin Zahran – Counsel (by videoconference)
  - Ms. Mariam El Zier – Counsel (by videoconference)
  - Mr. […] – Family member (by videoconference)
  - Ms. Lobna Abdelhalim – Interpreter (by videoconference)

50. At the outset of the hearing, the Parties confirmed that they had no objections with regard to the constitution of the Tribunal. The Parties then made their opening statements, the witness, the experts and the Athlete were examined, the Parties made their respective closing statements, and a brief turn for rebuttal was granted to the Parties. In his closing statements, the Athlete requested to file a witness statement of the Athlete's team doctor on certain facts related to the sample taking and its related Doping Control Form, to which the Appellant opposed. The Sole Arbitrator informed the Parties that a decision on such

request would be made after the hearing. At the end of the hearing, all the Parties confirmed that they did not have any objections with respect to the procedure and that their rights had been duly respected.

51. On 19 May 2025, the CAS Court Office, on behalf of the Sole Arbitrator, informed the Parties that the request for production of a witness statement made by the Second Respondent at the hearing was rejected and that reasons for the rejection would be provided in the final award. The reasons leading the Sole Arbitrator to reject this request were that (i) witness statements are to be filed with the Appeal Brief and the Answer in accordance with the CAS Code, (ii) such a witness statement could have been filed by the Athlete with his Answer and (iii) none of the events enabling the admission of such evidence under article R56 of the CAS Code took place *in casu* (the Appellant opposed to the Athlete's request and no exceptional circumstances exist in the Sole Arbitrator's view).

IV. SUBMISSIONS OF THE PARTIES

52. The following summary of the Parties' positions is for illustrative purposes only and does not necessarily comprise each contention put forward by them. However, in considering and deciding upon the Parties' claims, the Sole Arbitrator has carefully considered all the submissions made and the evidence adduced by the Parties, even if there is no specific reference to those submissions in this section of the Award or in the legal analysis that follows.

A. The Appellant

53. The Appellant's position may be summarised as follows:

- The appeal is admissible since the deadline for filing it expired on 16 September 2024, and the Statement of Appeal was filed on 11 September 2024. Even applying the logic of the Second Respondent's arguments for considering the appeal inadmissible, the deadline would still expire on 11 September 2024, i.e. the day on which the Statement of Appeal was filed.

- The claim for damages made by the First Respondent is outside the scope of the present proceedings and lacks a jurisdictional basis and therefore cannot be entertained. The claim for damages is not made in response to, or arising from, any of the reliefs sought in the Statement of Appeal or in the Appeal Brief. Rather, it is an entirely new claim.

- The First Sample is inconsistent with human urine, as asserted by the Laboratory and by the expert Dr. Tina Kuuranne. Given that the Athlete was sitting in the toilet while providing the First Sample, he had a means of access to a liquid that he could use to replace his urine during the doping control process and indeed manipulated the sample substituting a foreign liquid in place of his urine. This constitutes an ADRV of Use of Prohibited Method (Article 2.2 of the Egyptian ADR) or in the alternative, an ADRV of Tampering (Article 2.5 of the Egyptian ADR).

- The results of the Second Sample do not counter the contention that the First Sample was tampered. There are plenty of reasons why an Athlete, who has been confronted with a potential ATF and requested by the DCO to repeat a sample collection process, might decide not to tamper with the Second Sample. An athlete may feel that if they are caught "red-handed", intentionally cheating during a doping control process, they may face an increase in the sanctions imposed. An athlete who is emboldened to try altering the integrity and validity of a sample through substitution with a different liquid may also be significantly less brave when the sample is inspected by a DCO, appears clear and transparent and presents with low specific gravity, and as a result they are requested to repeat the process. Therefore, the results of the Second Sample do not support the Athlete's claim that the First Sample was not tampered.

- The presence of […] in the Second Sample may explain why the Athlete adulterated the First Sample. If the Athlete was afraid of being caught for using […], either due to a misunderstanding of the WADA Prohibited List, or due to the potential reputational damage (or criminal/contractual consequences) associated with […] use in football and in Egypt, this is a clear motivation for the Athlete to attempt to physically manipulate his sample.

- The Athlete shall thus be sanctioned with a period of ineligibility of 4 years based on Article 10.2.1.1 of the Egyptian ADR.

- Based on the aforementioned, the Appellant requests the CAS in its Reply to render an award in the following terms:

  "1. The appeal of WADA is admissible.

  2. Section VI, paragraph 297, and the claim for compensation included in the Answer filed on behalf of Ramadan Sobhi Ahmed is excluded from this Appeal.

  3. The reliefs sought in the Answer filed on 16 November 2024 on behalf of Ramadan Sobhi Ahmed are dismissed.

  4. The decision dated 30 July 2024 rendered by the Egyptian Anti-Doping Hearing Panel in the matter involving Ramadan Sobhi Ahmed is set aside.

  5. Mr Ramadan Sobhi Ahmed is found to have committed an anti-doping rule violation under art. 2.2 and/or 2.5 of the Egyptian ADR.

  6. Mr Ramadan Sobhi Ahmed is sanctioned with a period of Ineligibility of four years, starting on the date on which the CAS award enters into force. Any period of provisional suspension effectively served by Mr Ramadan Sobhi Ahmed before the entry into force of the CAS award shall be credited against the total period of Ineligibility to be served.

  7. The costs of the proceedings shall be borne by Egy-NADO or, in the alternative, by the Respondents jointly and severally.

  8. WADA is granted a significant contribution to its legal and other costs."

B. The First Respondent

- The First Respondent disagrees with the Appealed Decision, as the substantial evidence in this case should be considered enough to meet the comfortable satisfaction test of the ADRV committed by the Athlete. The First Sample was found not consistent with human urine, as confirmed by the Laboratory. The Athlete provided the First Sample sitting in the toilet, which is not usual, and according to the DCO, it was possible for the Athlete to take water from the toilet to fill the sample collection vessel. The Egy-NADO believes that the evidence establishes a credible basis for the ADRV.

- The Egy-NADO conducted the relevant investigations to seek clarification on the AFT.

- Egy-NADO was unable to prepare a comprehensive case for the initial hearing due to the delayed responses and insufficient documentation from the Laboratory, including the non-disclosure that the Second Sample contained […].

- Based on the aforementioned, the First Respondent requests the CAS to render an award in the following terms:

  "19. In light of the evidence, EGY-NADO respectfully requests that CAS re-evaluate the following:

  1. The decision dated 30 July 2024 rendered by the Egyptian Anti-Doping Hearing Panel in the matter involving Ramadan Sobhi Ahmed is set aside.

  2. Ramadan Sobhi Ahmed is found to have committed an anti-doping rule violation under art. 2.2 and/or 2.5 of the Egyptian ADR.

  3. Ramadan Sobhi Ahmed is sanctioned with a period of Ineligibility of four years, starting on the date on which the CAS award enters into force. Any period of provisional suspension effectively served by Ramadan Sobhi Ahmed before the entry into force of the CAS award shall be credited against the total period of Ineligibility to be served.

  4. The costs of the proceedings shall be borne solely by the second respondent."

C. The Second Respondent

- The appeal is inadmissible as it was belatedly filed by WADA. The Appellant did not file the Statement of Appeal within 21 days from the expiry of the last day for another party to appeal pursuant to Article 13.6.1 (a) of the Egyptian ADR (20 August 2024).

- Should the Appellant, however, argue that its time limit for filing the Statement of Appeal follows Article 13.6.2 (b) of the Egyptian ADR, the appeal would also have been belated filed as the Appellant did not file the Statement of Appeal within twenty one (21) days from receipt of the complete case file, which took place on 21 August 2024. The LDP that the Appellant received afterwards cannot be considered as part of the case file and is immaterial to the case, so the *dies a quo* for the calculation of the deadline cannot be the 26th of August 2024 as contended by WADA. In addition, the Appellant filed the Appeal Brief on 16 October 2024, i.e. five (5) days after the

relevant deadline, as this time limit was initially set to expire on 10 September 2024, and later extended by 20 days and another ten 10 days, making the said deadline to expire on 10 October 2024.

- Should the Sole Arbitrator find the LDP relevant and material to the present appeal, the Athlete requests to (i) order the Appellant to submit a full copy of said LDP; (ii) immediately terminate the present proceedings; and (iii) refer the present dispute back to the EADHP, in its original constitution, to assess the LDP.

- The claim for damages made by the Athlete in the Answer is admissible. Even if it was not submitted before the EADHP, the claim for damages is closely connected to the original claim, should be entertained by the CAS and should be granted given the DCO fault, the Egy-NADO failure to properly perform its obligations, the causal link between the fault committed and the direct, foreseeable and certain damages suffered by the Athlete.

- None of the Parties has contested that the First Sample was adulterated. However, the issue to be resolved is whether the Athlete committed an ADRV.

- The Athlete did not commit an ADRV of Tampering. Tampering requires, due to the seriousness of the offence, to be proven to the high threshold as stated by the relevant case law, which is not the case in these proceedings.

- The Athlete also did not commit an ADRV of Use or Attempt to Use a Prohibited Substance or Prohibited Method based on the assessment of the evidence of the file.

- The First Sample analytical report does not constitute conclusive evidence against the Athlete, in particular because it does not identify the Prohibited Method that may have been used in absence of conclusive forensic evidence by means of DNA analysis or further analysis on the First Sample.

- Dr. Kuuranne's report filed by WADA shall be discarded as it holds no weigh as to the dispute.

- The DCO did not record any suspicious actions of the Athlete during the collection process. Moreover, the DCO confirmed that the Athlete's request to be seated during the collection process was not prohibited. Only after receiving the results was the DCO required to provide an explanation of what could have happened to the Sample, i.e. knowing the results of the test and trying to come up with a hypothetical scenario to explain the results. As correctly stated by the EADHP in the Appealed Decision, the DCO's assumption was *"not confirmed by any reliable evidence neither by his testimony nor by the Analytical Report from the laboratory which did not confirm the "dilution" of the sample by adding water"*.

- The DCO acknowledged before the EAHP that, after the collection of First Sample and before the collection of the Second Sample, the DCO collected all copies of the Doping Control Form, destroyed them and drafted a new one in the absence of the

Athlete or any of his representatives, using the spare barcodes provided by the sample kit. Therefore, no weight should be attributed to the testimony of the DCO.

- The pictures of the doping control station where the disputed sample was collected prove that it was impossible for the Athlete to have tampered with the Sample, as the DCO could only have been positioned vertically to the Athlete and would therefore have noticed the alleged tampering.

- If the Athlete had filled the vessel with toilet water in the presence of the DCO, the DCO would not only have noticed the Athlete's unorthodox posture (or reflection from the toilet door) required to fill the vessel with toilet water, but the DCO would also have noticed that the vessel was wet from the sides as a result of the "scooping" of toilet water.

- There is no evidence from any witness who claims to have observed the Athlete using a prohibited method.

- The exchange of emails between the Laboratory and the laboratories of Lausanne and Qatar on this case provided to the file do not prove any ADRV.

- The results of the Second Sample are irrelevant, as it is impossible to draw any relevant conclusion with respect to tampering alleged theory. The alleged presence of […], which is not prohibited out-of-competition, in the Second Sample was not confirmed by any evidence, and the arguments of the Appellant in this regard are purely speculative.

- Case law referenced by the Appellant is either completely irrelevant to the present case or support the Athlete´s position. The circumstances of the present case differ from those cited by WADA: the Athlete was under constant supervision from the moment of notification and until the First Sample was provided and the DCO had a clear view during the sample collection.

- To determine that the Athlete has tampered the First Sample, it is not sufficient that the analytical reports show an abnormally low level of specific gravity and endogenous steroids.

- The Athlete is entitled to compensation based on (i) the DCO’s fault occurred during the sample collection process and his testimony after, (ii) the Egy-NADO’s failure to properly perform its obligations in accordance with the International Standards for Testing and Investigations (ISTI) and International Standard for Result Management (ISRM), (iii) the damages suffered by the Athlete, (iv) causal link between the fault committed and the damage suffered by the Athlete.

- Based on the aforementioned, the Second Respondent requests in his Rejoinder that the CAS resolves the following:

"99. PRINCIPALLY, to find, determine and declare that the Appellant's appeal is inadmissible for being filed after the prescribed deadlines.

100. ALTERNATIVELY, should the Sole Arbitrator determine that the Appeal is admissible, DECLARE that the Appealed Decision is upheld and ORDER the Appellant and the First Respondent to jointly and/or severally pay the Athlete the amount of USD 4,250,000 in damages.

101. IN ALL EVENTS, order the Appellant to bear:

101.1. All costs and expenses in these CAS proceedings, including the fees and expenses of the Sole Arbitrator and the CAS's administrative fees;

101.2. All professional fees and disbursements incurred in relation to the present CAS proceedings, including the cost of the Player's legal representation and any appointed experts; and

101.3. Such other relief the Sole Arbitrator may deem, just, proper and appropriate under the circumstances."

V. JURISDICTION

54. Article R47 of the CAS Code provides, in the pertinent part, the following:

"*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.*"

55. Pursuant to Article 13.2.3.2 of the Egyptian ADR:

"[i]n cases stipulated by Article 13.2.2, the following parties shall have the right to appeal:

[…]

f) WADA."

56. The jurisdiction of CAS has not been contested by the Respondents, and all the Parties signed the Order of Procedure.

57. Accordingly, the CAS is competent to deal with this case.

VI. ADMISSIBILITY

58. 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.*"

59. Article 13.6.2 of the Egyptian ADR provides the following:

"13.6.2. Appeals Under Article 13.2.2

[…]

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."

60. The Second Respondent contests the admissibility of the appeal filed by WADA. In his view, based in Article 13.6.2 (a) of the Egyptian ADR, the deadline for filing the appeal expired on 20 August 2024. In the alternative, should lit. (b) of such article be applied, the Athlete submits that the Appellant did not file the Statement of Appeal within twenty on (21) days from receipt of the complete case file as in his opinion, the LDP cannot be considered as part of the case file since it was submitted after the Appealed Decision, so the *dies a quo* for the calculation of the deadline cannot be the 26th of August 2024, and thus the Statement of Appeal filed on 11 September 2024 is belated. In addition, the Second Respondent argues that the Appellant filed the Appeal Brief on 16 October 2024, i.e. after the deadline granted, as this time limit was initially set to expire on 10 September 2024, and later extended by 20 days and another ten 10 days, making the said deadline to expire on 10 October 2024.

61. The Appellant opposes to the Second Respondent's contention that the appeal is inadmissible as the deadline for filing the Statement of Appeal was 16 September 2024, given that the complete case file was received on 26 August 2024 and it filed its Statement of Appeal on 11 September 2024. In addition, even admitting *arguendo* that the complete case file were provided on 21 August 2024, the Statement of Appeal would be considered filed on time as well, as the 21-day deadline was also met in this case.

62. The Sole Arbitrator notes that:

(i) in accordance with Article 13.6.2 of the Egyptian ADR, the deadline for filing the appeal against the Appealed Decision was the later of (a) 21 days after the last day on which any other party having a right to appeal could have appealed, or (b) 21 days after WADA's receipt of the complete file relating to the decision.

(ii) the Appealed Decision was rendered on 30 July 2024 and was notified to WADA and FIFA on 31 July 2024.

(iii) the Appellant requested access to the case file on 14 August 2024 and received it -without the LDP- on 21 August 2024.

(iv) the LDP was provided to the Appellant on 26 August 2024 upon its follow-up request, and

(v) the Statement of Appeal was filed by WADA on 11 September 2024.

63. Bearing the aforementioned in mind, the Sole Arbitrator shall conclude that the appeal was filed within the deadline established in the applicable regulations. The 21-day deadline established in Article 13.6.2. (b) of the Egyptian ADR (in this case, the later of the two deadlines set out in Article 13.6.2 of the Egyptian ADR) starts counting from WADA's receipt of the complete file relating to the decision. Either considering 21 August 2024 (the date on which WADA received the case file without the LDP) or 26 August 2024 (the date on which WADA received the LDP), the Statement of Appeal filed on 11 September 2024 would have been filed within the 21-day deadline set out in the aforementioned article. The discussions between the Parties on the LDP being part or not of the case file and on the relevance or materiality of the LDP are thus irrelevant, and subsequently, the Athlete's requests in section 3 of its Rejoinder (in particular, those made in para. 36 of the Rejoinder) are of no avail.

64. For the sake of completeness, the Statement of Appeal complies with all the further requirements of Article 48 of the Code and the Appeal Brief was also timely filed by the Appellant.

65. It follows that the appeal is admissible.

VII. APPLICABLE LAW

66. Article R58 of the Code reads 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.*"

67. WADA is appealing a decision of the EADHP (with seat in Egypt) which applied the Egyptian ADR.

68. All the Parties refer in their submissions to the Egyptian ADR.

69. Bearing the aforementioned in mind, the Sole Arbitrator shall apply to resolve this dispute the Egyptian ADR, and where necessary, Egyptian Law on a subsidiary basis.

VIII. MERITS

A. Preliminary issue – the Second Respondent's claim for damages

70. Before addressing the merits of the case, the Sole Arbitrator shall refer to the Athlete's claim for damages in these proceedings.

71. The Athlete, which is a Respondent in this appeal and did not file an appeal against the Appealed Decision, requests in his Answer and in his Rejoinder that the Appellant and the First Respondent are ordered to jointly and/or severally pay damages to him in the amount of USD 4,250,000 plus 4% annual interest.

72. The Appellant contests the admissibility of the claim for damages, stating in essence that (i) these appeal proceedings only concern the occurrence of an ADRV and its consequences, (ii) any alleged wrongful conduct of the Egy-NADO or the DCO should be dealt with in a separate procedure before the competent courts and (iii) no claim for damages was made during the first instance proceedings.

73. The Sole Arbitrator shall note in this respect that counterclaims are not admissible in CAS appeals proceedings (see *inter alia*, CAS 2019/A/6490, CAS 2020/A/6753 or CAS 2024/A/10519), and the claim for damages made by the Athlete, who did not file an appeal against the Appealed Decision, shall be considered a counterclaim. In any event, it shall be additionally mentioned that the first instance proceedings that gave rise to the Appealed Decision are of pure disciplinary (doping) nature, and that as a result of it no reference is made to a claim for damages in the Appealed Decision.

74. Therefore, the Athlete's claim for damages cannot be entertained in these proceedings and is thus excluded from this appeal and is thus declared inadmissible. Further comments and considerations on this matter are thus unnecessary.

B. The issues to be resolved in this appeal

75. WADA is appealing in these proceedings an EADHP decision by virtue of which it was found that the Athlete did not commit the ADRV that the Egy-NADO claimed that he committed. In essence, WADA claims that the Appealed Decision shall be set aside as the Athlete would have committed the ADRVs set out in Article 2.2 and/or Article 2.5 of the Egyptian ADR, and that he should be sanctioned with a period of ineligibility of 4 years. The First Respondent in essence shares WADA's view, while the Respondent requests that the Appealed Decision be confirmed.

76. Based on the aforementioned, the Sole Arbitrator shall address the following issues:

(i) Did the Athlete commit an ADRV?

(ii) In the affirmative, which are the consequences of such an ADRV?

C. The regulations applicable to the case

77. The Sole Arbitrator shall first refer to the anti-doping provisions that may be relevant to the case, which are transcribed, in the pertinent part, below:

- Article 2 of the Egyptian ADR:

"[…] The following constitute anti-doping rule violations: [...]

2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method

2.2.1. It is the Athletes' personal duty to ensure that no Prohibited Substance enters their bodies and that no Prohibited Method is Used. 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 for Use of a Prohibited Substance or a Prohibited Method.

2.2.2. The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed. […]

2.5 Tampering or Attempted Tampering with any Part of Doping Control by an Athlete or Other Person. […]

[Comment to Article 2.2]: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2, unlike the proof required to establish an anti-doping rule violation under Article 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Athlete Biological Passport, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Article 2.1."

- Article 3.1 of the Egyptian ADR:

"Burdens and Standards of Proof

EGY-NADO shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether EGY-NADO 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"

- Article 3.2 of the Egyptian ADR:

"Facts related to anti-doping rule violations may be established by any reliable means, including admissions. […]

[Comment to Article 3.2: For example, EGY-NADO may establish an anti-doping rule violation under Article 2.2 based on the Athlete's admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the Athlete's blood or urine Samples, such as data from the Athlete Biological Passport.]"

- Appendix 1 of the Egyptian ADR:

"Tampering: Intentional conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods. Tampering shall include, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents submitted to an Anti-Doping Organization or TUE committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the Anti-Doping Organization or hearing body to affect Results Management or the imposition of Consequences, and any other similar intentional interference or Attempted interference with any aspect of Doping Control.

[Comment to Tampering: For example, this Article would prohibit altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis, altering a Sample by the addition of a foreign substance, or intimidating or attempting to intimidate a potential witness or a witness who has provided testimony or information in the Doping Control process. Tampering includes misconduct which occurs during the Results Management process. See Article 10.9.3.3. However, actions taken as part of a Person's legitimate defense to an anti-doping rule violation charge shall not be considered Tampering. Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering shall be addressed in the disciplinary rules of sport organizations.]"

- Article M2.1 of the WADA Prohibited List:

"Prohibited Methods

The following are prohibited:

M2.1. Tampering, or Attempting to Tamper, to alter the integrity and validity of Samples collected during Doping Control.
Including, but not limited to:

Sample substitution and/or adulteration, e.g., addition of proteases to Sample."

D. The ADRV

78. The Sole Arbitrator shall start the analysis of this case by noting that the Appealed Decision found that no sanction was to be imposed on the Athlete because the evidence submitted by the EGY-NADO was not sufficient to prove, to the comfortable satisfaction of the Panel, that the Athlete committed an ADRV. In the EADHP's words, "*the Panel's ruling refrains from affirming or negating the Athlete's innocence. Rather, it finds that due to insufficiencies in the evidence submitted, no sanction can be justified against the Athlete at this juncture. The decision does not purport to absolve the Athlete of wrongdoing. Instead, it reflects the Panel's determination that the available evidence does not substantiate a violation warranting sanctions*."

79. WADA does not agree with this approach of the EADHP and finds that it has been duly established that the Athlete manipulated the First Sample, substituting a foreign liquid in place of his urine, based on (i) the scientific evidence that confirms that the First Sample is not consistent with human urine and (ii) the remaining evidence on file. Therefore and on such basis, WADA claims that the Athlete incurred in violation of Article 2.2 of the Egyptian ADR (Use or Attempted Use of a Prohibited Method) and also relies upon a violation of Article 2.5 of the Egyptian ADR (Tampering) in the alternative. The First Respondent also supports the thesis that the Athlete committed an ADRV, while the Athlete rejects all the aforementioned contentions and claims that the Appealed Decision is to be confirmed.

80. Bearing the arguments and pleadings made by the Parties in mind, the Sole Arbitrator shall firstly determine whether it has been established by the Appellant, to the Sole Arbitrator's comfortable satisfaction, that the Athlete committed an ADRV *in casu*.

81. The Sole Arbitrator shall note in this respect that Article 2.2 of the Egyptian ADR indeed establish that the Use or Attempted Use of a Prohibited Method is an ADRV, and that amongst the Prohibited Methods set forth in the WADA Prohibited List, the following can be found in its Article M2.1: "*Tampering, or Attempting to Tamper, to alter the integrity and validity of Samples collected during Doping Control. Including, but not limited to: Sample substitution and/or adulteration, e.g., addition of proteases to Sample."*

82. In accordance with Article 3.2 of the Egyptian ADR, facts related to ADRVs may be established by any reliable means, including admissions, and pursuant to the Comment to such Article, an ADRV under Article 2.2 of the Egyptian ADR may be established based on, *inter alia*, the credible testimony of third Persons and reliable documentary evidence.

83. After the analysis of the Parties' arguments and of the evidence taken in these proceedings, the Sole Arbitrator shall point out the following:

- It is abundantly accredited (and none of the Parties has contested it) that the Athlete's First Sample is not consistent with human urine. The Laboratory report as well as Dr. Kuuranne's report so assert without hesitation, and the declarations at the hearing of Dr. Ventura and Dr. Kuuranne confirmed it. In light of the aforementioned, no further

research or investigative steps (such as DNA tests) were required and the investigatory process followed by the Egy-NADO towards the ATF is found sufficient by the Sole Arbitrator. It thus follows that the First Sample was somehow adulterated.

- It is undisputed that the Athlete provided the First Sample while being seated in the toilet.

- The Athlete declared at the hearing that (i) he selected the vessel where the First Sample was to be provided, (ii) such vessel was empty, (iii) nobody else touched the vessel, (iv) he provided the sample while being seated in the toilet and made the sample split and (v) he closed and sealed the bottles or containers.

- The DCO declared at the hearing that (i) the Athlete selected the vessel where the First Sample was to be provided, (ii) he was present while the Athlete was providing the First Sample sitting in the toilet but given that the vessel was inside the toilet, he could not see the urine entering into the vessel even if he told the Athlete to change his position to allow visibility, (iii) the Athlete made the sample split and (iv) the Athlete sealed the bottles or containers. He also declared that he did not touch the vessel in the process of doping control and that it was the Athlete the one conducting himself the whole process, from the selection of the vessel until the seal of the bottles or containers.

- In para. 157 of the Appealed Decision, while referring to the DCO testimony in the first instance, it is mentioned that "*Mr. Assad had a partial vision of the sample source during the First Sample*", which is coincident with the declaration he made at the CAS hearing.

- The DCO declared in the investigatory procedure followed in the first instance that being the Athlete seated in the provision of the First Sample, "*it is possible that he took water from the toilet*". This being said, at the CAS hearing, the DCO declared that he did not see the Athlete adding water to the vessel, which goes in line with his declaration on the visibility restrictions he had when the First Sample was provided, as explained above.

- The Antidoping Analysis Report issued by the Laboratory indicates that the most probable reason explaining the inconsistency of the sample with human urine is the substitution of the urine by another liquid.

- The DCO declared at the hearing that unlike it happened with the First Sample, he had full visibility on how the Athlete provided the Second Sample.

- Dr. Ventura declared at the hearing that a small concentration of […] metabolite was found in the Second Sample.

- The Athlete declared at the hearing that he had consumed […] (which contains […]) once or twice (even if not days before the doping control) and that in August 2023,

while being on vacation, he could have been in contact with someone that had taken […].

84. It follows from the aforementioned that:

- As confirmed by the Athlete and the DCO at the hearing, the Athlete was the only person in contact with the vessel and the bottles or containers until its sealing. Therefore, the Athlete never lost control of such elements and is the only person that poured liquid (whatever it may be) in the vessel and thereafter in the bottles or containers, which were closed and sealed by him.

- By providing the sample while sitting in the toilet, the Athlete unquestionably had access to water from the toilet and was in a position to pour it into the vessel, and it cannot be disregarded (even if it seems less probable) that he could have hidden and thereafter poured another liquid or substance in the vessel. In any event and as mentioned above, what cannot be questioned is that the origin of whatever was poured in the vessel is to be found in the Athlete, as nobody else intervened in the sample collection process. The Athlete contention that if he had filled the vessel with toilet water, the DCO would not only have noticed his unorthodox posture on the toilet to fill the vessel with toilet water but also would have noticed that the vessel was wet from the sides as a result of the "scooping" of toilet water, is simply untenable. First of all, the Athlete himself admitted that the sole person that touched the vessel was the Athlete. The DCO never touched the vessel, so it was not possible that he could note whether it was wet or dry. Secondly, the Sole Arbitrator fails to see (and the contrary has not been proven by the Athlete) a significant difference between the posture of the Athlete while providing a urine sample sitting in the toilet and the posture of the Athlete filling the vessel with toilet water.

- It is deemed proven that the DCO did not see the Athlete pouring his urine into the vessel while sitting in the toilet. The DCO so witnessed at the hearing, the Sole Arbitrator has no reason to believe that his testimony is untrustworthy and the Athlete did not call other witnesses to the hearing that could contravene such DCO's assertion. What is more and unlike held by the Athlete, from the photographs of the place where the sample was provided produced by the Athlete with his Answer it seems reasonable to infer that the DCO, standing in front of the Athlete (not stuck to him) while the latter was providing the sample sitting in the toilet, did not have full or proper visibility of the whole scene. In this respect, it shall be reminded that lack of visibility was already pointed out as an element triggering a tampering scenario in the CAS award CAS 98/211, in which the panel applied the following logic with regard to sample manipulation where the source of the sample was not visible (emphasis added):

  "52. Given that,

  (i) according to Mrs. G. (whose evidence we accept), that ***during the course of the sampling the Appellant's vagina was not visible****, and that she was happy that the sample was properly provided by reason of sound rather than by sight;*

(ii) while she candidly conceded that she was not able to say that she detected any manipulation in or around the vaginal region by B., Mrs. G. was not prepared to eliminate the possibility, because – again – she could not actually see under B.'s fleece.

It seems to us that ***the Appellant had the opportunity to manipulate the sample*** *[…]."*

- The fact that the Athlete, as he expressly admitted at the hearing, could have been in contact with someone having taken […], together with the findings of small concentrations of […] in the Second Sample, may reasonably explain a conduct of the Athlete aimed at adulterating the First Sample *in casu*. It may well be that the Athlete could have thought that providing the sample in the correct manner may bring detrimental anti-doping related consequences to him (as an Adverse Analytical Finding for presence of […]) or simply that he feared other (reputational or legal) consequences.

85. The Sole Arbitrator shall also stress that no alternative scenario that may reasonably and convincingly explain why the liquid contained in the First Sample bottles or containers is inconsistent with human urine has been raised, and less proven, in these proceedings. In fact, Dr. Kuuranne mentioned in her report that "*the alternative that there are other factors that support the natural causes that explain the observations […] is highly unlikely*".

86. In addition, the Sole Arbitrator finds that the fact that the result of the Second Sample's was negative is irrelevant to the case at hand: the relevant conduct to be analyzed and the one that gave rise to the disciplinary proceedings against the Athlete is the alleged adulteration of the First Sample (not the second) by the Athlete. The same irrelevance is to be given to other samples taken from the Athlete in other moments.

87. Moreover, the DCO's lack of objection to the Athlete providing the samples while sitting, the absence of any mention to suspicious conducts of the Athlete in the DCF and the fact that the initial DCF corresponding to the First Sample was destroyed and a new one was prepared instead are also of no relevance in the determination of whether the ADRV took place and do not put in question the reliability of the DCO's testimony. The DCO allowed the Athlete to provide the samples while sitting because the latter told him that he was suffering from diarrhoea. The DCO could not reasonably suspect (and had no evidence of) a tampering scenario at the time of the doping control, so he could not have included anything in such respect in the DCF. It was only after the analysis of the First Sample and the subsequent investigation that he got aware that the Athlete could have adulterated the First Sample, and simply explained in the investigatory process what happened during the doping control. In addition, the fact that the initial DCF was destroyed and a new one was issued does not affect or impair the adulteration of the First Sample and the fact that the Athlete was the only person that had control over the vessel, bottles and containers until sealing. In summary, the DCO's conduct in the doping control process does not invalidate or hinder the reliability of his testimony.

88. Based on all the aforementioned considerations (and not only on the scientific finding that the First Sample was inconsistent with human urine), the Sole Arbitrator dissents with the approach made by the EADHP in the Appealed Decision and is comfortably satisfied that

the Athlete committed an ADRV of Use or Attempted Use of a Prohibited Method (Article 2.2 of the Egyptian ADR): it is the Sole Arbitrator's view that it has been duly established that the Athlete adulterated the First Sample by adding a liquid different from urine to the vessel and thereafter to the bottles or containers, which constitutes tampering to alter the integrity and validity of a sample collected during doping control and is a Prohibited Method under Article M2.1 of the WADA Prohibited List.

89. Having been established that an ADRV of Use or Attempted Use of a Prohibited Method was committed by the Athlete, the Sole Arbitrator will address the consequences of such an ADRV.

E. Consequences of the ADRV

90. Article 10.2 of the Egyptian ADR reads in the pertinent part as follows:

"The period of Ineligibility for a violation of Article 2.1, 2.2 or 2.6 shall be as follows, subject to potential elimination, reduction or suspension pursuant to Article 10.5, 10.6 or 10.7:

10.2.1 The period of Ineligibility, subject to Article 10.2.4, shall be four (4) years where:

10.2.1.1 The anti-doping rule violation 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.

10.2.1.2 The anti-doping rule violation involves a Specified Substance or a Specified Method and EGY-NADO 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. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance."

91. In the case at hand, the Athlete's ADRV is of the kind set out in Article 2.2 of the Egyptian ADR (Use of Prohibited Method) and does not involve a Specified Substance or a Specified Method. Therefore, in accordance with Article 10.2.1.1 of the Egyptian ADR, unless the Athlete establishes (by a balance of probability, as per article 3.1 of the Egyptian ADR) that his violation was not intentional, the period of Ineligibility to be imposed on him shall be 4 years.

92. For the reasons already explained in section D above, the Sole Arbitrator considers not only that the Athlete failed to provide any convincing evidence that his ADRV was not intentional, but also that his intentionality in the commission of the ADRV is deemed proven: by acting the way he did (adulterating the First Sample), he knew that his conduct constituted an ADRV or that there was a significant risk that such conduct might constitute or result in an ADRV and manifestly disregarded that risk. Reference is made to paras. 83 et seq. of Section D of this award in order to avoid unnecessary repetitions.

93. Therefore, the Sole Arbitrator finds that as per Article 10.2.1.1. of the Egyptian ADR, a period of ineligibility of 4 years shall be imposed on the Athlete.

94. With regard to the commencement of the period of ineligibility, Article 10.13 of the Egyptian ADR reads in the pertinent part 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.

10.13.2.2 If an Athlete or other Person voluntarily accepts a Provisional Suspension in writing from EGY-NADO and thereafter respects the Provisional Suspension, the Athlete or other Person shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed. A copy of the Athlete or other Person's voluntary acceptance of a Provisional Suspension shall be provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation under Article 14.1.
[…]

95. The Sole Arbitrator notes that the Athlete was provisionally suspended by the Egy-NADO from 26 May 2024 until the Appealed Decision (which declared that the Athlete did not commit an ADRV) was issued.

96. Based on the aforementioned article, the Athlete's ineligibility sanction shall commence on the date of notification of this Award, but the period of provisional suspension effectively served by the Athlete shall be credited against the total period of ineligibility to be served.

IX. COSTS

(…)

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DECISION

The Court of Arbitration for Sport rules that:

1. The appeal filed by the World Anti-Doping Agency against the decision of the Egyptian Anti-Doping Hearing Panel dated 30 July 2024 regarding Ramadan Sobhi Ahmed is admissible.

2. Section VI, paragraph 297, and the claim for compensation included in the Answer filed on behalf of Ramadan Sobhi Ahmed is inadmissible.

3. The decision of the Egyptian Anti-Doping Hearing Panel dated 30 July 2024 regarding Ramadan Sobhi Ahmed is set aside.

4. Mr. Ramadan Sobhi Ahmed is found to have committed an anti-doping rule violation under art. 2.2 of the Egyptian Anti-Doping Regulations.

5. Mr. Ramadan Sobhi Ahmed is sanctioned with a period of Ineligibility of four years, starting on the date of this award. Any period of provisional suspension effectively served by Mr. Ramadan Sobhi Ahmed shall be credited against the total period of Ineligibility to be served.

6. (…).

7. (…).

8. (…).

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

Seat of arbitration: Lausanne, Switzerland
Date: 26 November 2025

THE COURT OF ARBITRATION FOR SPORT

Mr. Jordi López Batet
Sole Arbitrator