



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2023/A/9525 World Anti-Doping Agency (WADA) v. Anti-Doping Control Agency of Bosnia and Herzegovina & Doris Živković

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Ms. Annett Rombach, Attorney-at-law, Frankfurt am Main, Germany

in the arbitration between

World Anti-Doping Agency (WADA), Montreal, Canada

Represented by Mr. Ross Wenzel of WADA and Mr. Nicolas Zbinden and Mr. Anton Sotir of Kellerhals Carrard, Lausanne, Switzerland

Appellant

and

Anti-Doping Control Agency of Bosnia and Herzegovina (ADA), Tuzla, Bosnia and Herzegovina

First Respondent

&

Doris Živković, Brčko, Bosnia and Herzegovina

Represented by Ms. Tijanu Živković and Ms. Ivana Bojović, Novi Sad, Serbia

Second Respondent

I. THE PARTIES

1. The World Anti-Doping Agency (“WADA” or the “Appellant”) is a private law foundation constituted under Swiss law in 1999 to promote and coordinate at international level the fight against doping in sport on the basis of the World Anti-Doping Code (the “WADC” or the “Code”). WADA has its registered seat in Lausanne, Switzerland, and its headquarters in Montreal, Canada.
2. The Anti-Doping Control Agency of Bosnia and Herzegovina (“ADA BH” or the “First Respondent”) is the National Anti-Doping Organisation (“NADO”) for the country of Bosnia and Herzegovina, recognised as such by WADA. Its registered seat is in Tuzla, Bosnia and Herzegovina.
3. Ms. Doris Živković (the “Athlete” or the “Second Respondent”) is a kickboxer from Bosnia and Herzegovina.
4. ADA BH and the Athlete are collectively referred to as the “Respondents”. The Appellant and the Respondents are collectively referred to as the “Parties”.

II. FACTUAL BACKGROUND

5. Below is a summary of the main relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced during these proceedings. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the present Award only refers to the submissions and evidence considered necessary to explain its reasoning.
6. The present dispute concerns an alleged anti-doping rule violation (“ADRV”) of the Athlete under Article 2.1 of the First Respondent’s Anti-Doping Rules (the “ADA BH ADR”), which addresses the presence of a Prohibited Substance or its Metabolites or Markers in an athlete’s sample.
7. On 22 October 2022, the Athlete was subjected to an in-competition doping control on the occasion of the WAKO Balkan Open 2022 kickboxing tournament in Tešanj, Bosnia and Herzegovina. The analysis of the Athlete’s A Sample revealed the presence of furosemide, a diuretic listed under the category “S5 Diuretics and Masking Agents” of the WADA Prohibited List (2022 version). It is stated to be a “Specified Substance” and prohibited at all times.
8. On 30 December 2022, the Athlete was notified of an adverse analytical finding and the potential consequences. She was invited to provide her explanations, including whether she required the analysis of the B Sample.
9. On 24 January 2023, the Athlete submitted her written explanations to the ADA BH. The Athlete admitted the use of furosemide, but alleged that such use occurred without her knowledge, based upon a prescription given to her by her doctor.

10. On 7 February 2023, the Hearing Panel of ADA BH found the Athlete to have committed an anti-doping rule violation and imposed a period of ineligibility of six months on her, together with a disqualification of her results achieved from 22 October 2022 (the “Appealed Decision”). In relevant parts, the Appealed Decision reads as follows:

“1.1. Athlete Doris Živković does not dispute the presence of the found prohibited substance in her body, and accordingly the violation of Article 2.1, but claims that she did not know that medicine lasix contains furosemide and also claims that she took medicine following the recommendation of the doctor.

1.2. Considering the above, the Hearing Panel determined that the athlete Doris Živković violated the anti-doping rule from Article 2.1. of the World Anti-Doping Code 2021 and Article 2.1. of Anti - Doping Rules in Bosnia and Herzegovina.

[...]

5.2. Pursuant to Article 10.2. of the World Anti-doping Code, the period of ineligibility due to the presence of a specific substance furosemide will be 2 years, unless the Hearing Panel determines that the anti-doping rule violation due to a specific substance is caused by the athlete's intentional conduct, in which case the ineligibility period would be 4 years.

[...]

5.4. In the specific case, the Hearing Panel considers that there was no intention of the athlete Doris Živković to violate the anti-doping rule from Article 2.1. of the World Anti-Doping Code, so ineligibility period was imposed for a period of 6 (six) months.

5.5. The World Anti-Doping Code provides for the possibility of eliminating the period of ineligibility in accordance with Article 10.5. or reduction of the sanction imposed due to the absence of a significant fault or negligence in accordance with Article 10.6.

[...]

5.7. According to the Hearing Panel’s opinion, the athlete Doris Živković was able to prove with reasonable probability how the prohibited substance furosemide got into her body (by taking a lasix tablet before breakfast the day before the competition), which is why the Panel believes that it is possible to start an analysis of the grounds for reducing the imposed period of ban on participation in sports. The Hearing Board bases this position on the following:

- *Bearing in mind the method of sentencing in respect of which the CAS gave a recommendation when deciding on the Čilić case, it is possible to distinguish the following degrees of fault: a) significant degree or significant fault (16-24 months of ban on participating in sports, while the standard significant fault leads to suspension of 20 months); b) normal level of fault (8 – 16 months ban from participation in sports, where standard normal fault leads to a suspension of 12 months; c) light level of fault (0-8 months ban from participation in sports, where standard light fault leads to suspension of 4 months) .*
- *When assessing the degree of fault, the considered circumstances must be specific and relevant in a way that clearly shows why the athlete deviated*

from the expected standard of behavior.

- *In order for the athlete's behavior to qualify as "no fault" behavior, the athlete had to act with "extreme caution" in terms of avoiding the ingestion of a prohibited substance.*
- *Considering all the facts of the case, the Hearing Panel does not consider that the athlete acted without any fault, that is, that she acted with "extreme caution" regarding the ingestion of a prohibited substance.*
- *Although lasix was sold as a therapeutic drug, no significant fault can be placed on the athlete, because she took the drug on the recommendation of a doctor after performing medical tests. Therefore, in terms of assessing the objective level of fault, the athlete used the standard of care expected of any reasonable person in that she consulted a doctor and performed medical tests before using the drug. However, we should not ignore the fact that the athlete is always personally responsible for what she puts into the body and the failure of the doctor does not release the athlete from responsibility in this sense.*
- *The Hearing Panel concluded that the degree of the athlete's objective fault is at the level of light fault, which leads to ineligibility period of 0 to 8 months.*
- *Analyzing the level of subjective fault of Doris Živković, the Hearing Panel took into account the following factors:*
 - *the Athlete Doris Živković submitted a medical file attached to the statement to the notification of the ADA BH - doctor's findings from which it is evident that the doctor, after the medical examinations, recommended the occasional use of lasix tablets due to the accumulation of fluid and bloating in the body, unrelated to sports;*
 - *The athlete also occasionally took the mentioned medicine before, as recommended by the doctor;*
 - *The athlete did not undergo significant education about anti-doping (she only filled out a quiz before the competition);*
 - *The athlete was not previously punished for violating anti-doping rules;*
 - *The athlete was exposed to a high level of stress due to her health condition (absence of menstruation, onset of bulimia);*
 - *The athlete completely relied on the doctor's recommendation and did not consider it necessary to further check the recommended medicine, which she considered harmless;*
 - *The Hearing Panel is of the opinion that considering the amount and time of taking the drug in question, it would not benefit the athlete in terms of improving sports performance;*
 - *Although she did not state in the form for anti-doping control that she was using the drug, Doris Živković stated in her statement that after receiving the notification about the positive result of the analysis, she checked where the furosemide detected by the analysis came from and stated that*

she used the drug lasix;

- *Regarding the evaluation of the subjective level of fault, the lack of a significant level of education, it was not reasonable to expect that after the doctor's recommendation, the athlete Doris Živković would additionally and thoroughly check the mentioned product.*
- *Nevertheless, bearing in mind that it is a therapeutic substance, the athlete Živković was obliged to request a therapeutic exemption or a retroactive therapeutic exemption, which she did not do, and which affects the assessment of the degree of subjective fault in this case.*
- *Accordingly, according to the opinion of the Hearing Panel, the case of Doris Živković goes beyond the "standard" case of a light level of fault, to which half of the possible sentence of 0-8 months of prohibition of participation is applied, i.e. 4 months, so the Panel is of the opinion that in this case the ineligibility period should be **six months.**"*

11. The Appealed Decision contained the following paragraph with respect to the Parties' right to appeal:

"In accordance with Article 13.2.1. and 13.6.1. an appeal against this decision may be filed with the CAS within 21 (twenty-one) days from the date of delivery of the decision."

12. On 14 February 2023, WADA received a copy of the Appealed Decision by email.
13. On 1 March 2023, WADA requested the case file.
14. On 3 March 2023, WADA received the complete case file from the ADA BH.

III. THE PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

15. On 24 March 2023, the Appellant filed its Statement of Appeal with the Court of Arbitration for Sport ("CAS") against the Appealed Decision, pursuant to Articles R47 *et seq.* of the CAS Code of Sports-related Arbitration (the "CAS Code") (the "Appeal"). The Appellant requested the appointment of a sole arbitrator.
16. On 27 March 2023, the CAS Court Office informed the Parties about the Appeal, requested the Appellant to file its Appeal Brief in accordance with Article R51 of the CAS Code and noted the Appellant's choice to proceed with its Appeal in the English language. In addition, the Respondents were invited to inform the CAS Court Office whether they agree to the appointment of a sole arbitrator.
17. On 31 March 2023, the Appellant wrote to the CAS Court Office and requested a 10-day extension for filing its Appeal Brief.
18. On the same date, the CAS Court Office informed the Parties that the Appellant's extension request was granted.
19. On 3 April 2023, the Second Respondent wrote to the CAS Court Office and requested the language of the present proceedings to be Serbian.

20. On 4 April 2023, WADA objected to Serbian as the language of this proceeding.
21. On the same date, the Second Respondent wrote to the CAS Court Office indicating that she “*can argue in English*” and requested an extension of the time limit to reply to the CAS Court Office’s letter dated 27 March 2023.
22. On 5 April 2023, in light of the Second Respondent’s submission, the CAS Court Office confirmed that the language of the present procedure would be English. It further informed the Parties that in light of the expiration (on 3 April 2023) of the time limits set by the CAS Court Office in its letter dated 27 March 2023, the Second Respondent’s extension request was rejected.
23. On 12 April 2023, WADA requested a further 20-day extension of the time limit to file its Appeal Brief.
24. On 14 April 2023, the Second Respondent wrote to the CAS Court Office objecting to the Appellant’s further extension request.
25. On 18 April 2023, on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the Appellant was granted a 15-day extension of the time limit to file its Appeal Brief in accordance with Article R32 para. 2 of the CAS Code.
26. On 2 May 2023, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
27. On 3 May 2023, the CAS Court Office acknowledged receipt of the Appeal Brief and invited the Respondents to submit their respective Answers within twenty (20) days, pursuant to Article R55 of the CAS Code.
28. On 19 May 2023, the Respondents, separately from each other, wrote to the CAS Court Office requesting a 10-day extension of the time limit to file their respective Answers. These requests were granted by the CAS Court Office on 19 and 22 May 2023, respectively.
29. On 2 June 2023, the Second Respondent submitted her Answer and requested a (remote) hearing.
30. On 12 June 2023, the CAS Court Office invited the Parties to indicate whether they prefer a hearing and/or a case management conference to be held in this matter. Furthermore, the CAS Court Office noted that no Answer had been received from the First Respondent within the prescribed time limit, but that certain documents had been uploaded by the First Respondent to the CAS e-Filing platform on 12 June 2023 (“First Respondent’s Documents”). The Appellant and the Second Respondent were invited to comment on the First Respondent’s Documents.
31. On 15 June 2023, the Appellant objected to the admissibility of the First Respondent’s Documents.
32. On 16 June 2023, the Appellant requested a 7-day extension of the time limit to provide its position in relation to the hearing. Such request was granted by the CAS Court Office on the same day.

33. On 19 June 2023, the CAS Court Office acknowledged receipt of the First Respondent's comments on the Appellant's objection to the admissibility of the First Respondent's Documents. Furthermore, pursuant to Article R54 of the CAS Code, and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the Panel appointed to decide the present matter was constituted as follows:

Sole Arbitrator: Ms. Annett Rombach, Attorney-at-law, Frankfurt am Main, Germany.

34. On 23 June 2023, the Appellant informed the CAS Court Office that it preferred a hearing to be held in this matter. The Appellant further provided a response to the alleged weight-loss properties of the medication taken by the Athlete and introduced an expert statement by Prof. Olivier Rabin, WADA Senior Director of Science and Medicine (the "WADA Response").

35. On 30 June 2023, the Second Respondent objected to the admissibility of the WADA Response and Prof. Rabin's testimony.

36. On 13 July 2023, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to admit both the First Respondent's Documents and the WADA Response (including Prof. Rabin's written statement) to the file.

37. On 20 July 2023, on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties that the hearing would be held on 14 August 2023 by videoconference.

38. Between 28 and 31 July 2023, the Parties returned duly signed copies of the Order of Procedure to the CAS Court Office.

39. On 14 August 2023, a hearing via videoconference was held. At the outset of the hearing, all Parties confirmed that they had no objection to the constitution and composition of the arbitral tribunal.

40. In addition to the Sole Arbitrator and Dr. Björn Hessert, Counsel to the CAS, the following persons attended the video hearing:

For the Appellant:	Mr. Adam Taylor, Counsel
	Mr. Anton Sotir, Counsel
	Mr. Cyril Troussard, WADA Associate Director, Legal Affairs
	Mr. Alexander Ducic, WADA Legal Counsel

For the First Respondent:	Mr. Amir Avdagić, ADA BH
	Mr. Emir Jahić, Interpreter

For the Second Respondent:	Ms. Doris Živković, Athlete
	Ms. Ivana Bojović, Counsel
	Ms. Tijana Živković, Counsel
	Ms. Ksenija Došen, Interpreter

Witness:	Prof. Olivier Rabin, called by the Appellant
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41. The hearing began at 9:30 am and ended at 2:40 pm without any technical interruption or difficulty. The Parties were given the opportunity to present their cases, to make their

submissions and arguments and to answer questions posed by the Sole Arbitrator. The witness was questioned by the Parties and the Sole Arbitrator. After the Parties' final and closing submissions, the hearing was closed and the Sole Arbitrator reserved her detailed decision for this written award.

42. At the end of the hearing, the Parties expressly confirmed that they had no objections in relation to their respective rights to be heard and that they had been treated equally in these arbitration proceedings.
43. In reaching the present decision, the Sole Arbitrator has carefully taken into account all the evidence and the arguments presented by the Parties, even if they have not been summarised in the present Award.

IV. THE POSITIONS OF THE PARTIES

44. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Parties. The Sole Arbitrator confirms, however, that she has carefully considered all the submissions made by the Parties, whether or not there is specific reference to them in the following summary.

A. The Appellant's Position

45. The Appellant submits the following in substance:
 - The Athlete does not dispute the ADRV. She admitted the use of furosemide, a diuretic prohibited at all times. Therefore, the only relevant question is the applicable sanction.
 - Article 10.2.1.2 of the ADA BH ADR sets out that the applicable period of ineligibility shall be four years where “[t]he anti-doping rule violation involves a Specified Substance or a Specified Method and ADA can establish that the anti-doping rule violation was intentional”. The Sole Arbitrator can be comfortably satisfied that the Athlete's ADRV was intentional.
 - Furosemide is a diuretic that has weight-loss properties and is therefore particularly susceptible to abuse in sports with weight categories.
 - The Athlete conceded that “[t]here are categories in [her] sport, kickboxing, and just before the competition the majority of [the athletes] have to take into account [their] weight”. The Athlete conceded that she had problems with her weight and said that the reason why she consulted the doctor in February 2022 was that she “would like to trim [her] weight to 58 kg”.
 - The Athlete admitted that she realised that Lasix (furosemide) was efficient for releasing the excess water from the body.
 - The Athlete admitted that she took a Lasix pill a day before the competition on 21 October 2022.
 - Therefore, the Athlete knew that Lasix had weight-loss properties (as it had been prescribed precisely in that context) and decided to use it on the day of the weigh-

in of the competition in October 2022. She had a sporting incentive.

- The Athlete's claim that she used Lasix due to an infection which increased her urge to urinate and made her feel constantly bloated cannot be accepted, because Lasix had been prescribed to the Athlete 8 months ago in a different context. To treat her infection, the Athlete was prescribed a different medication, Nifuran. No evidence has been submitted by the Athlete showing that she suffered from symptoms requiring the intake of Lasix the day before the competition.
 - The Athlete did not disclose Lasix on the Doping Control Form.
 - In any event, even accepting the Athlete's explanation at face value, the ADRV was committed with indirect intent. Article 10.2.3 of the ADA BH ADR describes indirect intent subject to two requirements: (i) the Athlete knew that there was a significant risk that his/her conduct might constitute or result in an anti-doping rule violation; and (ii) he/she manifestly disregarded that risk.
 - The Athlete had an anti-doping education. She did not ask the doctor whether Lasix contained any prohibited substances, despite it being prescribed for weight-loss purposes. Lasix is a medication, with respect to which the duties of an athlete in terms of anti-doping are heightened.
 - The evidence shows that, at best, the Athlete was incredibly reckless when she decided to use Lasix on the eve of a significant competition.
 - Case law is clear that an athlete cannot hide behind the mistakes of his/her doctor, which are attributable to him/her.
 - Provisions of the ADA BH ADR on No Fault or Negligence or No Significant Fault or Negligence are not applicable to the Athlete's case taking into account the comment to Article 10.6.2 of the ADA BH ADR, which sets out that "*No Significant Fault or Negligence provisions may be applied to anti-doping rule violations, except those where intent is an element of the anti-doping rule violation or an element of a particular sanction or a range of ineligibility is already provided in an article based on the athlete or other person's degree or fault.*"
 - Thus, the ADRV was committed with (indirect) intent and the Athlete should have been sanctioned with a four-year period of ineligibility and all competitive results obtained by the Athlete from 21 October 2022 until the date on which the CAS award enters into force should be disqualified with all associated consequences.
46. The Appellant had submitted new evidence together with the WADA Response, namely Prof. Rabin's written expert statement. The Sole Arbitrator decided to admit this new evidence, because it was prompted by allegations (relating to the effect of one pill of Lasix) which the Athlete had made, for the first time, in her Answer. For the Appellant's right to be heard to be observed, it was necessary to grant the Appellant the opportunity to respond to these new allegations, including through the submission of new evidence. Consequently, in accordance with Article R56 para. 1 of the CAS Code, the new evidence submitted together with the WADA response was admitted on exceptional basis.
47. The Appellant requests the following relief:

- “1. *The Appeal of WADA is admissible.*
2. *The decision dated 7 February 2023 rendered by the Hearing Panel of the Anti-Doping Control Agency of Bosnia and Herzegovina in the matter of Doris Živković is set aside.*
3. *Doris Živković is found to have committed an anti-doping rule violation under art. 2.1 and/or 2.2 of the ADA BH Anti-Doping Rules.*
4. *Doris Živković 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 and/or ineligibility effectively served by Doris Živković before the entry into force of the CAS award shall be credited against the total period of ineligibility to be served.*
5. *All competitive results obtained by Doris Živković from (and including) 21 October 2022 until (and including) the date on which the CAS award enters into force are disqualified, with all resulting consequences, including forfeiture of medals, points and prizes.*
6. *The arbitration costs shall be borne by the Anti-Doping Control Agency of Bosnia and Herzegovina or, in the alternative, by the Respondents jointly and severally.*
7. *The Anti-Doping Control Agency of Bosnia and Herzegovina (or, in the alternative, the Respondents jointly and severally) is ordered to significantly contribute to WADA’s legal and other costs.”*

B. The First Respondent’s Position

48. The First Respondent did not file an Answer, but submitted, without any explanatory comments, some documents to the CAS e-Filing platform after the prescribed time limit, including:
 - The Appealed Decision in the English and Bosnian language;
 - A doctor’s report evidencing the prescribed medicines and recommended supplements for the Athlete, as of February 2022;
 - The Athlete’s explanations that were submitted to the ADA BH on 24 January 2023;
 - A list of expected witnesses to be called by the First Respondent for the oral hearing; and
 - The minutes of the hearing which took place before the Hearing Panel of the ADA BH.
49. For her decision below, the Sole Arbitrator took these documents fully into account, despite them having been filed late by 10 days. In accordance with Article R56 para. 1 of the CAS Code, the Sole Arbitrator decided to admit these documents based on the fact that (apart from the “List of anticipated witnesses”) they were not new and formed part of the record already. Furthermore, there was no danger of any delay because the Sole Arbitrator had also admitted new evidence from WADA (Prof. Rabin’s written

statement) in the same procedural correspondence.

50. During the oral hearing, the First Respondent indicated that it supports the Appealed Decision and requested that such decision should be upheld.

C. The Second Respondent's Position

51. The Second Respondent submits the following in substance:

- The Athlete did not have any intention to enhance her sporting performance by taking a Lasix pill.
- The Athlete took one Lasix pill on 21 October 2022, *i.e.* the day before the competition (in the morning), to facilitate urination, thinking that it would relieve the discomfort she was experiencing.
- If the Athlete had intended to lose weight by taking a Lasix pill, a significantly higher amount of furosemide would have been necessary instead of the detected amount of 140 ng/ml.
- Lasix was prescribed to the Athlete by a renowned doctor. The only mistake the Athlete made was trusting the specialist doctor and not questioning the treatment.
- At the time of the doping control, the Athlete was only 19 years old and had a very low level of anti-doping education.
- The Athlete did not disclose Lasix on the Doping Control Form, since it was not a medication she regularly took.
- Contrary to the Appellant's claim, Lasix was not prescribed to the Athlete to lose weight, but for occasional use when she would feel bloated. The Athlete did not associate Lasix with weight loss.
- By taking the Lasix pill on the day before the competition, the Athlete did not end up competing at the lower weight category. She competed at her natural weight category – 60 kg.

52. The Second Respondent requests the following relief:

“In light thereof, the Second Respondent respectfully requests the Court of Arbitration for Sport to

(A) dismiss the Appeal of the World Anti-Doping Agency in its entirety;

(B) confirm the decision of the ADA BH issued on 7 February 2023; and

(C) order Appellant to bear the entirety of the costs of the proceedings, as well as the legal fees and expenses incurred by the Second Respondent in connection with these proceedings.”

V. JURISDICTION

53. Article R47 para. 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”.

54. The ADA BH ADR, which is applicable to the procedural aspects of the present appeal, provides for the jurisdiction of the CAS on WADA’s challenge of the Appealed Decision. In relevant parts, Article 13 of the ADA BH ADR provides as follows:

“13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, Provisional Suspensions, Implementation of Decisions and Authority

A decision that an anti-doping rule violation was committed, a decision imposing Consequences or not imposing Consequences for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed [...] may be appealed exclusively as provided in this Article 13.2.

13.2.1 Appeals Involving International-Level Athletes or International Events

In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS.

13.2.3 Persons Entitled to Appeal

13.2.3.1 Appeals Involving International-Level Athletes or International Events

In cases under Article 13.2.1, the following parties shall have the right to appeal to CAS: [...] (f) WADA.”

55. The Athlete is undisputedly an international-level athlete within the meaning of Article 13.2.1 of the ADA BH ADR. The Appealed Decision is a decision that an anti-doping rule violation was committed (including the imposition of Consequences), against which a CAS appeal is admissible. The Sole Arbitrator, consequently, has jurisdiction to decide on the Appeal filed against the Appealed Decision.

56. The Parties further confirmed that CAS has jurisdiction by execution of the Order of Procedure.

VI. ADMISSIBILITY

57. Article R49 of the Code provides – in its pertinent parts – 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.”

58. Article 13.6 of the ADA BH ADR provides as follows:

“13.6 Time for Filing Appeals

13.6.1. Appeals to CAS

The time to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party. [...]

The above notwithstanding, the 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.”

59. WADA received the case file from the ADA BH on 3 March 2023. Hence, the 21-day time limit to file the Appeal expired on 24 March 2023. WADA’s Statement of Appeal submitted on 24 March 2023 was, therefore, filed in time.
60. The Statement of Appeal also complied with the requirements of Article R48 of the CAS Code. In addition, the admissibility of the Appeal is not challenged by any Party.
61. The Appeal is therefore admissible.

VII. APPLICABLE LAW

62. For appeal proceedings, Article R58 of the CAS Code provides the following:

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

63. The “*applicable regulations*” for the purposes of Article R58 of the CAS Code are those contained in the ADA BH ADR because the Appeal is directed against a decision issued by the ADA BH Hearing Panel, which was passed applying the ADA BH ADR. Subsidiarily, the law of Bosnia and Herzegovina applies in case of a *lacuna* in the ADA BH ADR, as the ADA BH is domiciled in Bosnia and Herzegovina.

VIII. SCOPE OF REVIEW

64. According to Article R57 para. 1 of the CAS Code,

“The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. ...”.

65. The unlimited scope of review is also confirmed by Article 13.1.1 of the ADA BH ADR which provides – in its pertinent parts – as follows:

“The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker.”

66. Against this background, the Sole Arbitrator finds that her power to review the facts and the law of the present case is not limited.

IX. MERITS

67. It is undisputed between the Parties that the Appellant’s A Sample collected on 22 October 2022 contained *furosemide*, a diuretic listed under the category “S5 Diuretics and Masking Agents” of the WADA Prohibited List (2022 version). Furosemide is a “Specified Substance” prohibited at all times, *i.e.* in-competition and out-of-competition. The Athlete waived the opening and analysis of the B Sample.
68. Equally, it is uncontested between the Parties that the Appellant committed an ADRV within the meaning of Article 2.1 and 2.2 of the ADA BH ADR. In addition, the Appellant did not challenge the disqualification of her results obtained at the WAKO Balkan Open 2022 kickboxing competition in Tešanj, Bosnia and Herzegovina, in accordance with Article 9 of the ADA BH ADR (with all resulting consequences, including forfeiture of medals, points and prizes). However, what is contested between the Parties is the appropriate period of ineligibility to be imposed on the Appellant for the ADRV she committed.

A. The Applicable Legal Framework

69. With respect to periods of ineligibility in cases involving the presence of a prohibited substance (Article 2.1 of the ADA BH ADR) and use of a prohibited substance (Article 2.2 of the ADA BH ADR) possible elimination or reduction of ineligibility periods, the ADA BH ADR provides – in its pertinent parts – as follows:

“10.2 Ineligibility for Presence, Use or Attempted Use or Possession of a Prohibited Substance or Prohibited Method

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 ADA BH 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.*

[...]

10.5 *Elimination of the Period of Ineligibility where there is No Fault or Negligence*

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

10.6 *Reduction of the Period of Ineligibility based on No Significant Fault or Negligence*

10.6.1 *Reduction of Sanctions in Particular Circumstances for Violations of Article 2.1, 2.2 or 2.6. [...]*

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.”

70. With respect to the standard and burden of proof, Article 3.1 of the ADA BH ADR provides the following:

“3.1 *Burdens and Standards of Proof*

ADA BH shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether ADA BH 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 probabilities 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, [...] the standard of proof shall be by a balance of probability.”

B. Overview of the Questions at Stake in these Proceedings

71. Considering the Parties' submissions in light of the applicable rules quoted above, the main issues to be resolved by the Sole Arbitrator are the following:
1. Was the ADRV committed by the Athlete "intentional" within the meaning of Article 10.2.1.2 of the ADA BH ADR?
 2. What is the appropriate sanction to be imposed on the Athlete?

C. Analysis

1. Was the Athlete's ADRV intentional?

72. Furosemide is a Specified Substance, *i.e.* a substance which is "more likely to have been consumed or used [...] for a purpose other than the enhancement of sport performance" (Comment to Article 4.2.2 of the ADA BH ADR). The burden of proof to demonstrate intent rests on the Anti-Doping Organisation, in this case WADA, and the standard of proof is that of comfortable satisfaction pursuant to Article 3.1 ADR BH ADR (*Rigozzi et al.*, 'Breaking down the process for determining a basic sanction under the 2015 World Anti-Doping Code', 2015, 15 ISLJ 3, 20, 30; CAS 2016/A/4716, para. 47).
73. Hence, the central question to be resolved in this case is whether WADA established, to the comfortable satisfaction of the Sole Arbitrator, that the violation for which the Athlete is responsible was intentional. A definition of what constitutes an "intentional" violation is contained in Article 10.2.3 of the ADA BH ADR. That definition includes two limbs of intent. The first one is 'direct' intent, which is attributed to athletes who have positive knowledge of committing an ADRV. The second one is 'indirect' intent, which is attributed to athletes who knew that there was a significant risk that the conduct might constitute or result in an ADRV and manifestly disregarded that risk. For the Anti-Doping Organisation, it is sufficient to prove either of the two limbs (see, e.g., CAS 2016/A/4512 paras 49-56; CAS 2016/A/4609, para. 62). Therefore, there is no separate requirement to prove that the Athlete had the intent to cheat; the 2021 WADC removed the reference to the "cheating" requirement in Article 10.2.3, and so did the ADA BH ADR, in the same provision.

a. The Parties' Positions

74. The Athlete submits that she acted without intent (either direct or indirect) to violate the applicable anti-doping rules when she took the Lasix pill on the day before the competition. Lasix was prescribed to her by a renowned and trustworthy doctor to treat her bloating. That doctor never indicated to her that the medication could contain a prohibited substance, or that she should check the ingredients of the medication against the WADA Prohibited List. The Athlete further submits that she did not know about her responsibility to investigate the ingredients of Lasix proactively, even without any warning from the doctor, due to her almost non-existing anti-doping education. She was only 19 years old at the time. The Athlete also contends that she did not know about the weight-loss properties of Lasix, and had no reason to lose weight in light of the fact that she competed in her "normal" weight category of 60 kg. Given that she had no problem to stay within that category, she had no sporting benefit from using Lasix. She used Lasix

on the day before the competition to treat an infection that urged her to constantly urinate. She hoped that Lasix would relieve her uncomfortableness related to the urge to go to the toilet frequently.

75. WADA submits that the basic and uncontested facts of the case strongly suggest that the Athlete had direct intent. Furosemide is the most powerful and efficient diuretic (out of a full list of diuretics contained in the WADA Prohibited List) helping athletes competing in weight categories to lose weight quickly. The Athlete had weight problems when she was prescribed Lasix in February 2022 (as evidenced by her weight of 62,9 kg measured at the doctor's office on the day of the prescription). On the competition day on which she returned the positive sample, she weighed 59,6 kg, *i.e.* just slightly under the limit, after having taken the Lasix pill. The Athlete admitted that the doctor explained to her that Lasix would help her release excess water. Furthermore, the Athlete failed to provide any evidence to back her story (e.g. witness testimony from her mother or Dr. Gifing on why and how Lasix was obtained, or the exact condition that was to be treated, or why she would take Lasix eight months after the prescription in a different context). There is no plausible explanation for why she took Lasix on the day before the competition to treat her urinary tract infection for which she had been prescribed antibiotics. The Athlete had failed to disclose Lasix on the Doping Control Form, although she disclosed a long list of other products.
76. WADA further submits that even if one were to accept the Athlete's explanation at face value, she still acted with indirect intent (*i.e.* recklessly, or with *dolus eventualis*), because she had received anti-doping education and was, therefore, aware of her obligations. Despite being sufficiently educated, she did not verify the ingredients of Lasix and did not ask her doctor whether Lasix contains any prohibited substances. Therefore, she knew that taking the medication without any prior investigations involved a significant doping risk, and manifestly disregarded that risk.

b. The Sole Arbitrator's Findings

77. At the outset, the Sole Arbitrator notes that WADA will only succeed with its Appeal if it is demonstrated, to the Sole Arbitrator's comfortable satisfaction, that the Athlete acted – at least – with indirect intent when she administered Lasix on the day before the competition.
78. Taking into account the Parties' submissions, including the Athlete's written statement during the disciplinary proceedings and her oral testimony, the Sole Arbitrator further notes that the following facts are undisputed between the Parties:
- The Athlete, willingly and knowingly, took a Lasix or Lodix pill (with Lodix being the brand under which the Lasix medication is distributed in Bosnia and Herzegovina) on the day before the competition.
 - The Athlete did not disclose the use of Lasix (or Lodix) on the Doping Control Form.
 - The Lasix (or Lodix) was prescribed to the Athlete by Dr. Gifing on 22 February 2022 because the Athlete had issues with bloating. Dr. Gifing advised the Athlete to take a Lasix pill occasionally after breakfast to release an excess of water in her body (the reason for her bloating).

- The Athlete did not undertake any research as to the ingredients of Lasix (or Lodix) at any time between the prescription and the competition.
 - In terms of her anti-doping education, the Athlete completed different training sessions (including questionnaires) on various days in October 2021. She scored 100 points on the anti-doping questionnaire.
79. WADA maintains that the record suggests that the Athlete acted with direct intent when she took Lasix on the day before the competition. The Sole Arbitrator finds that the following indications support WADA's contention and indicate that the Athlete indeed had positive knowledge of committing an ADRV:
80. First, in her written statement provided during the disciplinary proceedings, the Athlete clearly admitted that she was aware of the diuretic effect of Lasix. She explained that Dr. Gifing had diagnosed an "*excess of water*" in the Athlete's body, and that Lasix was prescribed "*to release the excess of water*" from her body. She confirmed this statement during the oral hearing. Its diuretic effect is precisely the reason why furosemide is a prohibited substance under the WADA Prohibited List. It is well-known amongst professional athletes that diuretics are performance-enhancing in the sense that they can facilitate participation in a lower weight class.
81. Second, the record suggests that, contrary to what the Athlete asserts, she indeed had problems to reach the admissible weight in the 60kg category in 2022, and that, as a result, she benefitted from the intake of a diuretic shortly before a competition. In her written statement, the Athlete explained that her "*natural weight ranges between 59 to 63kg*". With the maximum limit of 60 kg for the weight class in which the Athlete competes, the larger part of her "*natural weight*" exceeds this weight limit. When the Athlete visited Dr. Gifing on 22 February 2022, only four days before she participated in the Kick Boxing Grand Prix in Sarajevo, she weighed 62.9 kg, *i.e.* almost three kilograms more than the admissible weight limit for the competition. While the Athlete testified during the hearing that it would be "*no problem*" for her to lose 3 kg in four days, and that the weight of 62.9 kg measured at Dr. Gifing's office was the result of a rich lunch she had with her mother shortly before, these statements are not corroborated by any evidence. There is no witness testimony from the Athlete's mother, no receipt evidencing the lunch, and no explanation on how she can easily manage to lose 3 kg in 4 days. To the contrary, general life experience suggests that it may not be very easy to lose 3 kg in 4 days without any detrimental effect on high performance professional sports. Similarly, during the competition in which the Athlete tested positive, her weight was 59.6 kg, *i.e.* only 400g below the limit, after the Athlete had taken the Lasix pill.
82. Third, the uncontested testimony provided by the expert witness Prof. Olivier Rabin during the oral hearing suggests that the Athlete may indeed have benefitted from the diuretic effect of the Lasix pill taken on the day before the competition. Prof. Rabin testified that considering the concentration of furosemide found in the Athlete's sample (140 ng/ml), the Athlete must have taken the Lasix tablet around 24-30 hours before the doping control. Pursuant to the doping control form, the doping control began at 8:35 pm. Therefore, in Prof. Rabin's view, the Athlete must have administered furosemide in the evening before the competition, or (at the earliest) in the afternoon. Based on the concentration found in the Athlete's sample, Prof. Rabin considered it very unlikely that the Athlete took the pill already in the morning, at 8 am, on the day before, as alleged by

the Athlete. The Athlete's allegation contradicts the scientific experience referred to by Prof. Rabin, and the Athlete gave no explanation as to how this contradiction could be explained. In light of the fact that the Athlete provided contradictory, implausible and uncorroborated evidence on various key issues, the Sole Arbitrator finds that her allegation that she took the Lasix pill in the morning on the day before the competition is not credible, in light of Prof. Rabin's scientific evidence otherwise. Taking Prof. Rabin's unchallenged explanations as a starting point, the Athlete took Lasix approximately 12-18 hours before the competition. While the diuretic effect of Lasix kicks in about one hour after administration, and continues up until 6 to 8 hours (depending on the metabolism), Prof. Rabin explained that it is possible that the effect of the pill continues beyond this time window by limiting hydration and food consumption. Therefore, there is at least a possibility that the Athlete benefitted from the effect of Lasix (and wanted to benefit) when the weighing took place, which occurred earlier than the actual competition.

83. Fourth, the Athlete's different explanations as to why she took Lasix before the competition are incomprehensible and contradictory. On the one hand, she said that she was prescribed Lasix to excrete excess water in her body. On the other hand, she testified that she used the medication before the competition specifically to treat a urinary tract infection, which caused her a constant urge to urinate. However, if Lasix facilitates water release, it simply makes no sense to use it in order to suppress a constant urge to urinate. Also, the Athlete had been prescribed a different medication, *Nifuran* (a medication which she also mentioned on the Doping Control Form), to treat that condition. She failed to explain why she would administer Lasix on top of *Nifuran*, and why she would "forget" to add Lasix to the Doping Control Form when she remembered to list all other medications.
84. Considering all of these indications separately and in their entirety, the Sole Arbitrator finds that they strongly suggest that the Athlete acted with direct intent when taking Lasix.
85. In any event, on the basis of the uncontested facts of the case, the Sole Arbitrator is comfortably satisfied that – even if one were to assume that the Athlete did not act with direct intent – the prerequisites for indirect intent under the ADA BH ADR (interpreted in view of constant CAS jurisprudence) are clearly fulfilled.
86. As a starting point, the Sole Arbitrator observes that medications, no matter whether obtained with or without a prescription, bear a notoriously high risk that they contain prohibited substances (CAS 2016/A/4609, para. 68). Therefore, every professional athlete, whether experienced or inexperienced, must know about the "*significant risk*" within the sense of Article 10.2.3 of the WADC that the administration of a medication without any background check as to its ingredients may result in an ADRV. This risk is so obvious and flashy that athletes cannot play dumb. Every athlete must be deemed to know such risks, and contrary assertions of a lack of knowledge can principally not be accepted. To stay within the well-known "minefield"-metaphor adopted by various CAS panels to describe the concept of indirect intent (e.g. CAS 2012/A/2822, para. 8.14; also quoted in CAS 2016/A/4609, para. 63): A professional athlete alleging that he or she does not know that pharmaceuticals or medications may contain prohibited substances would just be the same as alleging that one does not know that a minefield contains mines.

87. In the present case, the Athlete does not go as far as to argue that she had no clue of the abstract risk of Lasix containing a prohibited substance. The Athlete’s argument is that she relied on her doctor’s statements, or rather, on her doctor’s omission to mention that Lasix involves a substance prohibited at all times under the WADA Prohibited List. In the Athlete’s view, her doctor’s failure to indicate proactively (*i.e.* even without the Athlete asking that question) any doping risk associated with Lasix was her *carte blanche* to take the medication. The Sole Arbitrator finds that the Athlete’s approach constitutes a “*manifest disregard*” of the risk that taking Lasix could result in an ADRV:
88. It is established and uncontested CAS jurisprudence that an athlete cannot simply rely on his or her doctor’s advice, but has a fundamental duty to carry out own research on medications (CAS 2008/A/1488, para.12: “[T]he prescription of a particular medicinal product by the athlete’s doctor does not excuse the athlete from investigating to their fullest extent that the medication does not contain prohibited substances”; see also CAS 2016/A/4609, para. 76). When an athlete fails to conduct the most rudimentary due diligence, *e.g.* by running a basic internet search, CAS panels held that such failure is not only (grossly) negligent, but reckless (see CAS 2016/A/4609, para. 77, 78):

“77. The Sole Arbitrator is satisfied to accept that a simple internet search would have revealed that Decadurabolin contains Nandrolone and that it is an anabolic steroid, but that the Player did not take any such precaution. Likewise, the Player does not contend to have even attempted to verify whether the medication contained any substances included on the 2015 Prohibited List.

78. In view of the above, the Sole Arbitrator finds that the Player’s behaviour was not only extremely negligent, but indeed reckless, and failed to comply with his duties as an athlete subjected to anti-doping testing. The Player neglected all stop signs and accepted the manifest risk that the medication that was prescribed and injected would indeed contain a prohibited substance and result in an anti-doping rule violation.”

89. The Sole Arbitrator concurs with these findings. In the present case, it took even less for the Athlete to find out that Lasix (or Lodix) contained a prohibited substance. Different boxes in which the medication (Lasix and Lodix) is distributed to end customers show that the relevant prohibited substance – furosemide – is prominently displayed on the frontside of each box itself.



90. During the hearing, when the Athlete was confronted by the Sole Arbitrator with the image of the Lodix box shown in para. 89 (top left), she confirmed that it looked similar to the one she had purchased at the time, but that her box did not have the word “furosemide” written on its front. This statement is not credible. It is not corroborated by any evidence other than the Athlete’s own testimony, even though it should have been easy for the Athlete to produce the box that she had allegedly purchased. With many different box designs available for Lasix and Lodix tablets on the internet, the Sole Arbitrator, upon her own investigation, has not come across a single box layout that did not contain the hint to furosemide on the front. Furthermore, it is simply not credible that the Athlete, almost 18 months after having purchased the Lodix box, would remember a detail such as whether or not the word “furosemide” was written on the front side, when her testimony otherwise was that she had given no attention at all to the ingredients of the product.
91. Given that the name of one of the most prominent and efficient masking agents used in sports with weight classes is printed on the frontside of Lasix and Lodix products, it was not even necessary for the Athlete to read the packaging (as required under CAS jurisprudence). She could have simply researched “Lasix”, “Lodix”, or furosemide to find out quickly that the medication contains a prohibited substance. Failing to do so is clearly reckless and a “*manifest disregard*” of a doping risk within the sense of Article 10.2.3 of the ADA BH ADR.
92. The Athlete’s recklessness is not excused by her young age or by her allegedly poor anti-doping education. As stated above, it is undisputed that the Athlete participated in some online anti-doping training in October 2021, *i.e.* only 6 months before she obtained Lasix. Her submission that she did not benefit from such training because of the approach she took to succeed in the online test is yet another demonstration of her indifference towards her anti-doping responsibilities. Questioned on how she took the online test, the Athlete testified as follows:

“... I don’t remember exactly what the questions were, as I did it on my computer and when I saw the answer to the question, I would just go back and do it again because I was not at that level of English proficiency and I did not fully understand the test.

[...]

The way that I completed the test was that I would do it the first time, I would get something wrong and the correct answer would appear. I would, with my phone, take a picture of the correct answer. I would fail the test, then I would do it again and by looking at my phone, at the correct answers, I would get through the test to that final hundred.

[...]

As I was not able to translate that amount of text, I understood something but not most of it.”

93. Through her alleged “trial and error” strategy, the Athlete had obtained a maximum of hundred points from the anti-doping quiz, suggesting that she understood and was sufficiently acquainted with her anti-doping responsibilities. Cheating or circumventing the online training tools is grossly reckless in itself, and does not deserve any protection, despite the Athlete’s young age.
94. As a result, the Sole Arbitrator is comfortably satisfied that the Athlete acted, at least, with indirect intent. She knew – and had to know – that administering Lasix (or Lodix) involved a significant risk of an anti-doping rule violation, and she manifestly disregarded that risk. This is sufficient to establish intent within the meaning of Article 10.2.3 of the ADA BH ADR.

2. What Is the Appropriate Sanction to be Imposed on the Athlete?

95. The second question that the Sole Arbitrator has to answer concerns the consequences of the ADRV committed by the Athlete. Pursuant to Article 10.2.1 of the ADA BH ADR, the standard sanction for an intentional ADRV is four years.
96. The Athlete has argued, during the hearing, that a four-year period of ineligibility would potentially end her career. While the Sole Arbitrator is, to a degree, sympathetic with the Athlete’s position that a four-year sanction is a harsh result for a 19-year-old athlete, the applicable rules do not permit another outcome. The Athlete is not a minor and an athlete’s career perspectives do not constitute a criterion for the determination of the appropriate sanction. In addition, the comment to Article 10.6.2 of the ADA BH ADR clearly sets out that the benefit of a reduction of the sanction due to “no significant fault” or “negligence” is not available to ADRVs involving intent. This is all the more true for the exception of “no fault or negligence” enshrined in Article 10.5 of the ADA BH ADR, which is not applicable to intentional ADRVs.
97. Pursuant to Article 10.13 of the ADA BH ADR, the period of Ineligibility shall start on the date of this CAS Award. According to Article 10.13.2.1 of the ADA BH ADR, the Second Respondent shall receive credit for any period of ineligibility served pursuant to the Appealed Decision. In accordance with the Appealed Decision, the Athlete served a six months period of ineligibility as from 7 February 2023, which shall be credited against the four-year period of ineligibility imposed in this CAS Award.
98. Regarding disqualification, pursuant to Article 10.10 of the ADA BH ADR, all competitive results of the Athlete obtained from the date the positive sample was collected (*i.e.* 22 October 2022) shall be disqualified, with all resulting consequences, including forfeiture of any medals, points and prizes.

X. COSTS

(...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by the World Anti-Doping Agency on 24 March 2023 against the Anti-Doping Agency of Bosnia and Herzegovina and Doris Živković with respect to the decision rendered on 7 February 2022 by the Hearing Panel of the Anti-Doping Agency of Bosnia and Herzegovina is upheld.
2. The decision rendered on 7 February 2022 by the Hearing Panel of Anti-Doping Agency of Bosnia and Herzegovina is set aside.
3. Doris Živković is sanctioned with a period of ineligibility of four (4) years, commencing on the date of the notification of this award, with credit given for the period of ineligibility already served.
4. (...).
5. (...).
6. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 29 September 2023

THE COURT OF ARBITRATION FOR SPORT

Annett Rombach
Sole Arbitrator