



2024/ADD/114 International Weightlifting Federation (IWF) v. Goran Ćetković & Tia Sarah Tovarlaža

DECISION

delivered by the

ANTI-DOPING DIVISION OF THE COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Single Judge: Mr. Pekka Ilmivalta, Lawyer in Helsinki, Finland

in the procedure between

International Weightlifting Federation (IWF), Lausanne, Switzerland

Represented by Ms. Dominique Leroux-Lacroix, Head of Legal Affairs, Ms. Ayesha Talpade, Senior Legal Counsel, and Mr. Anton Sotir, Senior Legal Counsel, International Testing Agency (ITA), Lausanne, Switzerland

Claimant

and

Mr. Goran Ćetković, Croatia

Ms. Tia Sarah Tovarlaža, Croatia

Represented by Mr Ivan Krželj, Attorney-at-Law in Split, Croatia,

Respondents

I. PARTIES

1. The International Weightlifting Federation (the “IWF” or the “Claimant”) is the world governing body of weightlifting having its registered offices in Lausanne, Switzerland. IWF has delegated the implementation of its anti-doping programme to the International Testing Agency (“ITA”).
2. Mr. Goran Ćetković (born 1994) and Ms. Tia Sarah Tovarlaža (born 1996) (together the “Athletes” or “Respondents”) are Croatian weightlifters, who competed, *inter alia*, in the 2023 European Weightlifting Championships representing Croatia.

II. FACTUAL BACKGROUND

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

3. Mr. Goran Ćetković has been competing in international weightlifting events since 2021, when he participated in the 2021 European Championships. Since then, he has regularly competed in the IWF European and World Championships.
4. Ms. Tia Sarah Tovarlaža has been competing in international weightlifting events since 2022.
5. At the time of the Adverse Analytical Findings (the “AAFs”), both Athletes were competing in the 2023 European Weightlifting Championships, which were held from 15 until 23 April 2023 in Yerevan, Armenia (the “2023 European Championships”).
6. Mr. Ćetković has been in the IWF Registered Testing Pool (the “RTP”) since March 2023, including at the time of the circumstances giving rise to these proceedings. As an athlete included in the RTP, Mr. Ćetković was made aware of his obligations to *inter alia* be available for unannounced out-of-competition (the “OOC”) testing at the location indicated by him at any time and at any place.
7. At the time of the AAFs, the Athletes were considered as International-level athletes. They were neither Minors, Protected Persons nor Recreational Athletes within the meaning of the IWF Anti-Doping Rules (the “IWF ADR”).

Sample collection and AFF notifications

8. On 19 April 2023, Ms. Tovarlaža competed in the 2023 European Championships in Yerevan, Armenia in the Women’s 71 kg category. At approximately 12:45 pm, she was notified that she had been selected for an In-Competition (the “IC”) doping control under the Testing Authority of the IWF.

9. On 19 April 2023, Mr. Ćetković competed in the 2023 European Championships in Yerevan, Armenia, in the Men's 81 kg category. At approximately 13:20 pm, he was notified that he had been selected for IC doping control under the Testing Authority of the IWF.
10. Ms. Tovarlaža provided A and B Samples no. 3176554 at around 14:15, while Mr. Ćetković provided A and B Samples no. 3176557 at around 15:40.
11. Mr. Ćetković declared on the Doping Control Form (the "DCF") associated with sample no. 3176557 that he had taken the following medications and supplements in the seven days preceding the doping control: "Dual tabs, Zinc, Voltaren retard".
12. Ms. Tovarlaža declared that she did not take any medications or supplements on the DCF associated with her sample no. 3176554.
13. Both Athletes also confirmed on their respective DCFs that the sample collection was undertaken in accordance with the relevant WADA International Standards.
14. The samples A and B of the Athletes were transferred for analysis to the WADA-accredited laboratory in Cologne, Germany (the "Cologne Laboratory").
15. On 9 June 2023, the Cologne Laboratory reported AAFs for the Presence of Selective Androgen Receptor Modulator (SARM) enobosarm (ostarine) ("Ostarine") in samples no. A-3176554 and A-3176557. Ostarine is a Prohibited Substance and classified as non-specified Substance under S1.2 "*Other Anabolic Agents*" of the 2023 WADA Prohibited List and is prohibited at all times and without any concentration limits.
16. On 13 June 2023, upon inquiry, the Cologne Laboratory informed the ITA that the roughly estimated concentration of *Ostarine* in samples 3176557 and 3176554 was about 2 pg/mL for both samples.
17. Upon receipt of the AAFs, the ITA conducted the Initial Review of the results under Article 7.2 of the IWF ADR and Article 5.1.1 of the International Standards for Results Management (the "ISRM") and found that no applicable Therapeutic Use Exemption (the "TUE") had been or was in the process of being granted to the Athletes by the IWF or Croatian Institute of Public Health (the "CIPH"). Moreover, the ITA found that, based on the review of the documentation, there was no apparent departure from the International Standard for Testing and Investigations (the "ISTP") or the International Standard for Laboratories (the "ISL") that could undermine the validity of the AAFs.
18. On 20 May 2023, Mr. Ćetković was subject to an Out-of-Competition doping control. The result was negative.
19. On 14 June 2023, Mr. Ćetković was subject to an Out-of-Competition doping control, where urine A and B samples no. 1160521 were collected from him under the Testing Authority of the IWF.
20. Mr. Ćetković declared on his DCF associated with the urine sample 1160521 that in the seven days preceding the doping control he had taken "*Voltaren retard*". The Athlete also confirmed on the DCF that the sample collection was undertaken in accordance with the relevant WADA International Standards.

21. The A and B samples no. 1160521 of Mr. Ćetković were transferred for analysis also to the Cologne Laboratory.
22. On 5 July 2023, the ITA notified Mr. Ćetković and Ms. Tovarlaža of their respective AAFs and imposed a mandatory Provisional Suspension with immediate effect pursuant to Article 7.4.1 of the IWF ADR (the “AAF Notifications”).
23. Through the AAF Notifications, the Athletes were also informed of: (i) their procedural rights, including the right to request the opening and analysis of the B sample, a Provisional Hearing or an expedited final hearing; (ii) the potential Consequences of their respective AAF; and (iii) the right to admit the Anti-Doping Rule Violation (the “ADRV”) and/or provide Substantial Assistance. Lastly, the Athletes were invited to provide their explanations as to the circumstances that led to the Presence of *Ostarine* in their samples.
24. On 6 July 2023, the Cologne Laboratory reported an AAF for the presence of *Ostarine* metabolite ‘ostarine glucuronide’ in sample A-1160521. The roughly estimated concentration of *Ostarine* metabolite ostarine glucuronide was about 500 pg/mL.
25. On 14 July 2023, the ITA notified Mr. Ćetković of his second AAF and provided him with an opportunity to inform whether he wanted to proceed with the sample B-1160521 analysis. Considering that Mr. Ćetković was notified of the first AAF (sample no. 3176557) on 5 July 2023, *i.e.* after the date of sample collection for both the First AAF (19 April 2023) and Second AAF (14 June 2023), in application of Article 10.9.3.1 of the IWF ADR, both AAFs were jointly considered as a single first violation.

Athletes’ explanations and further analysis

26. On 11 July 2023, the Athletes, through their appointed legal representative, responded to the AAF Notifications. The Athletes challenged the AAFs, requested the opening and analysis of their B-samples and asked for a copy of the laboratory documentation packages (the “LDPs”). Additionally, the Athletes alleged that the source of Ostarine in their bodies was likely the result of consuming supplements contaminated with the Prohibited Substance. They informed the ITA that they had already initiated the laboratory analysis of all of the Supplements used by them in order to be able to prove that the only possible source of presence of such Prohibited Substance is Contaminated Product.
27. On 13 July 2023, the Athletes provided further explanations, elaborating on their assumption that their AAFs resulted from the consumption of contaminated supplements. They also expressed their intention to have their supplements analyzed in a WADA-accredited laboratory if the B-sample analysis returned positive results.
28. On 21 July 2023, Mr. Ćetković informed the ITA that he was also challenging his second AAF related to sample 1160521 and requested the opening and analysis of B-sample 1160521, along with the provision of the LDPs for this sample.
29. On 29 July 2023, the Athletes sent a letter to the ITA providing further details about the supplements they had allegedly taken in the weeks leading up to their positive tests, including the specific dates, timings, and dosages for each supplement.

30. On 8 August 2023, the ITA confirmed receipt of the supplements that were sent by the Athletes for analysis via courier and forwarded the LDPs for the three A samples to them.
31. On 8 August 2023, the Athletes' B samples no. 3176557, 1160521 (for Mr. Ćetković) and 3176554 (for Ms. Tovarlaža) were opened and analyzed at the Cologne Laboratory in the presence of an independent witness.
32. On 9 August 2023, the Cologne Laboratory reported AAFs for SARMS enobosarm (ostarine) in sample no. B-3176557 and B-3176554 and an AAF for SARMS enobosarm (ostarine) metabolite ostarine glucuronide in sample no. B-1160521 thereby confirming the analysis of their respective A-samples.
33. On 15 August 2023, the Athletes sent further explanations to the ITA. They claimed that because of the low concentration of Ostarine in their samples, they did not and could not have knowingly and intentionally ingested the Ostarine in such miniscule amounts which led to the AAFs.
34. On 17 August 2023, the results of the B-sample analysis were forwarded by the ITA to the Athletes.
35. On 15 September 2023, the ITA forwarded the LDPs for three B samples to the Athletes and informed them that pursuant to their request, their supplements would be sent to the WADA-accredited laboratory in Lausanne, Switzerland (the "LAD") for analysis.

Further results management

36. On 7 November 2023, the LAD issued a scientific report on the analysis of the 17 supplements provided by the Athletes, following their initial request. The LAD did not detect Ostarine in any of the analyzed supplements.
37. On 15 December 2023, the ITA, on behalf of the IWF, issued a Notice of Charge to the Athletes. The Athletes were informed that, since B-sample analysis confirmed the AAFs detected in their respective A-samples, it was undisputed under Article 2.1.2 of the IWF ADR that they had each committed ADRVs under Article 2.1 and/or 2.2 of the IWF ADR. Alongside the Notice of Charge, the ITA also provided the Athletes with the LAD Scientific Report dated 7 November 2023.
38. The ITA also referred to the LAD scientific report, in which it was concluded that "[t]he analyses of the specimen from the different products (Supplement 1 to Supplement 17) transmitted by ITA did not reveal presence of ostarine. Analyses performed on randomly selected specimens of each supplement provide very strong support (1'000 – 10'000 times more probable) for the hypothesis that the supplements provided by ITA do not contain Ostarine".
39. The ITA explained to the Athletes that, after analyzing the case file and their explanations, it considered that the Athletes had failed to establish, on the balance of probabilities, how the Prohibited Substance entered their bodies and, consequently, that the ADRVs were not intentional. Accordingly, the ITA did not find any basis for mitigation under Articles 10.2.3, 10.5, or 10.6 of the IWF ADR and informed the Athletes that the applicable period of Ineligibility for their ADRV was four (4) years from the date of Provisional Suspension. The Athletes were also given the opportunity to admit the ADRVs within 20 days and

receive a one-year reduction in the applicable period of Ineligibility pursuant to Article 10.8.1 of the IWF ADR.

40. On 2 January 2024, the Athletes responded to the Notice of Charge. The Athletes stated that they did not admit to committing the ADRVs and requested additional information from the LAD regarding the analysis of their supplements. Specifically, the Athletes raised questions regarding the LAD scientific report and alleged that (i) the LAD scientific report lacked an explanation of the preparation process for powder supplements before analysis; (ii) the detection level used in the supplement analysis was not sufficiently low to identify trace amounts of Ostarine that might correspond to the very low concentrations detected in the Athletes' urine samples. They noted that the detection limit used by LAD, namely 60 µg/g, would likely have missed detecting such minute amounts of Ostarine that could have caused the AAFs in question (estimated at 2 pg/mL) given that such a concentration might result from the ingestion of Ostarine in quantities less than 1 µg/g. The Athletes also requested (iii) clarification regarding the units and measures applied by the LAD, citing an alleged lack of consistency.
41. On this basis, the Athletes requested that their supplements be re-analysed by the Cologne Laboratory, which had previously analyzed their urine samples. Additionally, the Athletes requested an extension for providing further explanations in response to the Notice of Charge pending receipt of the clarifications from the LAD.
42. On 13 February 2024, the Athletes submitted further explanations to the ITA, maintaining their challenge to the analysis conducted by the LAD and insisting that their supplements be re-analyzed by the Cologne Laboratory.
43. On 15 March 2024, the ITA responded to the Athletes with additional information obtained from the LAD, addressing their queries. Specifically, the LAD provided the following explanations:
 - (i) The LAD did not include a detailed description of the preparation process for powder supplements for the sake of conciseness. The preparation process for powders was the same as for tablets, with the exception that a fixed amount of 250 mg was used for most powder supplements. For supplements 16 and 17, which were packaged in individual 2,000 mg sachets, the entire sachet contents were analyzed.
 - (ii) Regarding the alleged insufficiently low detection level, the LAD clarified that the methodology for detecting Ostarine in urine differs from detecting Ostarine in a supplement. While the studies referenced by the Athletes focused on the effect of Ostarine administration on its excretion and detection in urine, the LAD analysis was directed toward detecting the presence of Ostarine in the supplements. These approaches – source-based versus impact-based – are fundamentally different and should not be overlaid.
 - (iii) In terms of the units and measures used by the LAD, the parts per billion (“ppb”) formulation was applied to provide a more consistent representation of the LAD's method capabilities and to avoid confusion arising from the variety of product formats.
44. In the same correspondence, the Athletes were also advised on the next procedural steps and were given a deadline to provide further explanations.

45. On 29 March 2024, the Athletes submitted additional comments on the LAD's supplement analysis and reiterated their request for re-analysis of five of their supplements at the Cologne Laboratory to ensure that the detection limit did not exceed 15 ppb.
46. On 25 April 2024, following coordination with both laboratories, the ITA informed the Athletes that the Cologne Laboratory had agreed to analyze their supplements, and that the LAD would arrange to send the supplements to Cologne.
47. On 29 May 2024, the Cologne Laboratory issued testing reports on five of the supplements chosen by the Athletes, confirming that no Ostarine was detected in any of the provided supplements. The detection limit applied by the Cologne Laboratory was 2.4 ng/g, or 2.4 ppb.
48. On 10 June 2024, the ITA forwarded the testing reports issued by the Cologne Laboratory to the Athletes and reminded the Athletes that they could either accept a period of Ineligibility of four years or request for the matter to be referred to CAS ADD.
49. On 24 June 2024, the Athletes informed the ITA that they did not accept the suggested consequences, including the four-year period of Ineligibility, and their preference was for the case to be referred to the CAS ADD for adjudication.
50. Pursuant to Article 8.1.1 of the IWF ADR, the ITA referred the proceedings to the CAS ADD for a determination on the ADRV and the consequences to be applied.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

51. On 1 November 2024, the Claimant filed a "Joint Request for Disciplinary Proceedings" with the Anti-Doping Division of the Court of Arbitration for Sport (the "ADD") in accordance with Article A13 of the Arbitration Rules of the ADD (the "ADD Rules"). For the sake of procedural efficiency, the Claimant requested that the individual cases of both Athletes be consolidated.
52. In its Request for Disciplinary Proceedings, and in accordance with Articles A14 and A16 of the ADD Rules, the Claimant requested that this procedure be referred to a Single Judge appointed by the President of the ADD.
53. On 4 November 2024, the ADD opened this procedure and invited the Athletes to file an Answer to the Request for Proceedings in accordance with Article A14 of the ADD Rules.
54. On 11 November 2024, the ADD, on behalf of the President of the ADD, confirmed the appointment of Mr. Pekka Ilmivalta, Lawyer, Helsinki, Finland, as Single Judge in accordance with Article A17 of the ADD Rules.
55. On 26 November 2024, the Respondents filed their Answer to the Request.
56. On 27 November 2024, the ADD invited the Parties to state, by 4 December 2024, whether they requested a hearing. A Party's silence would be considered confirmation that no hearing was needed.

57. On 4 December 2024, the Claimant considered that the final decision could be issued solely on the Parties' written submissions. Furthermore, the Claimant stated that it will of course make itself available for a possible hearing.
58. On 4 December 2024, the Respondents requested a hearing to be held. Furthermore, the Respondents stated that they wish to be cross-examined, as well as they wish to call Prof. Pascal Kintz to be heard as an expert witness in regard to the interpretation of the results of the tests of the Respondents samples, including the full laboratory documentation package. The Respondents also stated their wish to cross-examine the expert witnesses suggested by the Claimant.
59. On 6 December 2024, the Single Judge decided to hold a hearing by videoconference and suggested available dates.
60. On 10 December 2024, the Claimant recalled that, pursuant to Articles A19.1 and A19.2 of the CAS ADD Procedural Rules, the parties shall "*list the name(s) of any witnesses whom they intend to call, including a brief summary of their expected testimony, and the name(s) of any experts, stating their area of expertise, and shall provide any exhibits or specify all other evidence upon which they intend to rely*" in their written submissions. Furthermore, after "*the exchange of the written submissions, the parties shall not be authorized to produce further documentary evidence, except by mutual agreement, or if the Panel so permits, in the latter case, on the basis of exceptional circumstances*". The Claimant noted that the "*Athletes have not claimed that any 'exceptional circumstances' exist to justify introducing new evidence after filing their written submissions. Additionally, no expert report has been filed, and the scope of Prof. Kintz's expertise and testimony remains vague and unclear.*" In these circumstances, the Claimant deferred to the Single Judge's discretion regarding whether the participation of Prof. Pascal Kintz as the Athletes' expert witness should be authorised. The Claimant further noted that if the Single Judge permits Prof. Kintz's participation, the ITA, on behalf of the IWF, submits that it would be beneficial for the Single Judge and all Parties to require the Athletes to provide a written statement from Prof. Kintz. The ITA would equally be willing to provide expert statements of its listed experts, if asked so by the Single Judge and once the position of Prof. Kintz is made known. Due to the lack of clarity regarding Prof. Kintz's testimony, the Claimant was unable to determine which of the experts or witnesses listed in its Request for Disciplinary Proceedings should be called. Furthermore, the ITA reserved its right to seek leave to submit additional evidence and submissions, depending on the content of Prof. Kintz's written statement.
61. On 13 December 2024, the Respondents replied to the Claimant's letter of 10 December and noted that the Respondents "*under point 6. of their Answer to the Request, have (among other) reserved the right to call experts to be heard during the hearing in regards to the clearly defined topic that concentration of 2 pg/ml of the Ostarine in urine can be consistent with the tail-end excretion after the intake of a therapeutic dose of Ostarine 15 to 30 prior to doping control.*"
62. On 16 December 2024, the CAS ADD informed the Parties that the Single Judge had decided to allow the testimony of Prof. Pascal Kintz, provided that the Athletes submit his expert opinion or any written statement by 24 December 2024. The decision to allow the expert was based on the Respondents' Answer to the Request, where they clearly stated their intention to call an expert to be heard.

63. On 23 December 2024, the CAS ADD acknowledged receipt of the expert opinion of Prof. Pascal Kintz, and invited IWF to submit any expert opinion in response to Prof. Kintz's opinion by 10 January 2025.
64. On 9 January 2025, the Claimant, pursuant to Article A7 (2) of the CAS ADD Procedural Rules, requested a one-week extension to provide its expert opinion. The request was approved and the time limit to submit an expert opinion was extended until 17 January 2025.
65. On 17 January 2025, the Claimant submitted Prof. Saugy's expert report along with an updated list of exhibits.
66. On 29 January 2025, an oral hearing was held via video conference. The Claimant was represented by Mr. Anton Sotir and Ms. Ayesha Talpade. The Respondent was represented by Mr. Ivan Krželj. Along with the legal counsels, both Athletes were present. Furthermore, expert witnesses named by both Parties (Prof. Martial Saugy named by the Claimant and Prof. Pascal Kintz named by the Respondents) were heard in the hearing.
67. On 30 January 2025, both the Claimant and the Respondents signed and provided the Order of Procedure to the CAS Court Office.
68. On 19 February 2025, the Respondents sent an email to the CAS Court Office referring to several articles concerning another doping matter and stating views and arguments in relation to the matter at hand.
69. On 21 February 2025, the Claimant objected the Respondents email and requested that any unsolicited submissions from the Respondents at this stage of the proceedings should be declared inadmissible and excluded for the case file.
70. On 24 February 2025, the Single Judge ruled that the Respondents' submission of 19 February 2025 is inadmissible and will be disregarded. The Single Judge's decision was based on the Articles A19.2 and A19.3 of the CAS ADD Rules according to which (i) after the exchange of the written submissions, the parties shall not be authorized to produce further documentary evidence, except by mutual agreement, or if the Panel so permits, in the latter case, on the basis of exceptional circumstances and (ii) once the hearing is closed, the parties are not permitted to produce further written pleadings, unless the Panel so orders.

IV. SUBMISSIONS OF THE PARTIES

International Weightlifting Federation

71. The IWF's submission, in essence, may be summarised as follows:
 - A) Anti-Doping Rule Violations
72. Pursuant to Article 3.1 of the IWF ADR, the burden of proof rests with the IWF to establish, to the comfortable satisfaction of the hearing body, that an ADRV has occurred.

The standard of “comfortable satisfaction” is defined in Article 3.1 of the IWF ADR as being “*greater than a mere balance of probability but less than proof beyond a reasonable doubt*”.

73. According to Article 2.1.2 of the IWF ADR, sufficient proof of an ADRV for Presence of a Prohibited Substance is established inter alia “*where the Athlete’s B Sample is analyzed, and the analysis of the Athlete’s B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete’s A Sample*”.
74. As set forth in Article 2.1.1 of the IWF ADR, “*it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation under Article 2.1*”. This principle of strict liability, where an ADRV occurs whenever a Prohibited Substance is detected in an athlete’s bodily specimen, has been consistently upheld by CAS jurisprudence.
75. In the present matter, the analysis of the three B samples of the Athletes confirmed the presence of Ostarine or its metabolite found in their A samples. Therefore, it is undisputed that the Athletes have committed an ADRV under Article 2.1 for Presence of a Prohibited Substance or Prohibited Method.
76. At no time during the Results Management process have the Athletes raised any issue with regards to the reliability of the analytical results in relation to the urine sample analysis and the ITA’s initial review has not uncovered any issue pertaining to the processing of the samples or analyses, which would undermine the AAFs, to the contrary.
77. Pursuant to Article 3.2.2 of the IWF ADR, WADA-accredited laboratories, such as the Cologne Laboratory, are presumed to have conducted Sample analysis and custodial procedures in accordance with the ISL. In any event, it would be for the Athletes to rebut this presumption by first establishing that a departure from the ISL occurred and then that such deviation could reasonably have caused the AAFs.
78. The same applies to the Sample collection process. IDTM, an experienced Sample Collection Authority, under the instructions of the ITA, collected the samples and there is no indication, let alone evidence, that the collection process did not comply with the International Standard for Testing and Investigation (the “ISTP”). The Athletes further confirmed the regularity of the control when they signed the DCFs without filing any remarks or comments pertaining to the doping control process.
79. In any event, pursuant to Article 3.2.3 (i) of the IWF ADR, the burden of proof is on the Athletes to establish the occurrence of an ISTI deviation and that such breach could reasonably have caused the AAF. The Athlete have not alleged any possible departure from the relevant standards, nor did the ITA’s review identify any such departure.
80. Ostarine is an investigational drug that is not approved for human consumption. Therefore, it is obvious that the Athletes did not have, and could not have, a TUE for its therapeutic use in Croatia or elsewhere.
81. The ITA has also charged the Athletes with an Article 2.2 violation for Use. An ADRV for Use can be made out by “any reliable means” including “reliable analytical data” and Use is defined as the “utilization, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Substance or Prohibited Method”.

82. The elements of a Use ADRV are made out in the present case. Indeed, the same facts that prove the Presence violation demonstrate that the Athletes must have Used Ostarine prior to the sample collection on 19 April 2023 and 14 June 2023.

83. Accordingly, the IWF has met its burden of proof to establish the ADRVs for Presence and/or Use of a Prohibited Substance in accordance with Articles 2.1 and 2.2 of the IWF ADR to the comfortable satisfaction.

B) Consequences

Period of ineligibility

84. According to Article 10.2.1.1 of the IWF ADR, the period of ineligibility shall be four (4) years where the ADRV does not involve a specified substance. Ostarine is not a specified substance. The four-year period can be mitigated or increased as explained below:

(i) The four-year period of Ineligibility can firstly be reduced only if an athlete can successfully establish that the ADRV was not “intentional” within the meaning of Article 10.2.3 of the IWF ADR.

(ii) If an athlete succeeds in proving a lack of intent, the start-off point for calculating the period of Ineligibility will be two years.

(iii) Thereafter, the sanction may be further mitigated if an athlete succeeds in establishing “No Fault or Negligence” as per Articles 10.5 or “No Significant Fault or Negligence” as per Article 10.6 of the IWF ADR, and the definitions of those terms in the IWF ADR.

85. The requirement to establish the origin of the Prohibited Substance is a condition precedent for the application of Article 10.5 and 10.6 since the Athletes are not Protected Persons or Recreational Athletes.

86. The onus is on the Athletes to establish their entitlement to one or more of the reductions set out above. Therefore, unless and until that is established, the otherwise applicable period of Ineligibility for the commission of the ADRV(s) under Article 2.1 and/or 2.2 must be four (4) years.

87. According to the Claimant, the Athletes have failed to meet the burden of proving that their ADRVs were not intentional. As a result, the period of Ineligibility shall be four (4) years.

88. Established CAS caselaw defines athletes’ evidentiary threshold as follows:

“The Athlete bears the burden of establishing that the violation was not intentional within the above meaning, and it naturally follows that the athlete must also establish how the substance entered her body. The Athlete is required to prove her allegations on the “balance of probability”. This standard, long established in the CAS jurisprudence, requires the Athlete to convince the Panel that the occurrence of the circumstances on which the Athlete relies is more probable than their non-occurrence.”

89. Therefore, it is an athlete who has the burden of establishing that the violation was not intentional, failing which the violation will be deemed intentional. In terms of proving the athlete's lack of intent, generally speaking, CAS finds that the requirement of the proof of source of a Prohibited Substance, which falls on the athlete, is a critical first step in any exculpation of intent.
90. When it comes to establishing the origin of a Prohibited Substance, CAS case law has made it clear that speculation as to the source of the Prohibited Substance is insufficient and that the athlete must adduce concrete evidence to conclusively demonstrate that a particular supplement, medication, or other product that has been taken had in fact contained the substance in question.
91. In the present case, the Athletes denied having intentionally used any Prohibited Substance. According to the Athletes, their positive results were due to contamination of one of the supplements they had taken ("Contaminated Supplement Scenario"). To support this claim, the Athletes submitted a number of supplement products, some in open and some in sealed packages, and requested to have them tested in a WADA-accredited laboratory.
92. When an athlete alleges that he or she has been the victim of contamination (as in the present case), the definition of a Contaminated Product (i.e. a product "*that contains a Prohibited Substance that is not disclosed on the product label or in information available in a reasonable Internet search*") is relevant to determining intention. Indeed, if a product has been contaminated with no clear indication of the presence of the Prohibited Substance in that product, the question will inevitably come down to whether the athlete acted with 'indirect' or 'reckless' intent when using that product.
93. In other words, if an athlete alleges that the source of the Prohibited Substance is a contaminated product, the athlete must (i) first establish that they purchased and used a Contaminated Product at around the time of sample collections, (ii) the product actually contained the Prohibited Substance Ostarine. Only if (i) and (ii) are established, then an athletes' level of fault and negligence can be assessed.
94. In the present case, it is the ITA's position that the Athletes have been unable to establish either that they used a Contaminated Product or that they acted without intent.
95. Firstly, the Athletes' have not provided any evidence which may establish they used supplements prior to their doping controls. Although the Athletes provided invoices for the purchase of most of the supplements, along with a schedule detailing when and in what doses they take them, this information was submitted only after the Athletes were notified about their AAFs. During the sample collection, Mr Četković simply declared "*Dual tabs, Zinc, Voltaren*" on his DCF associated with sample no. 3176557 and "*Voltaren*" on his DCF associated with sample no. 1160521. Ms Tovarlaža did not declare the use of any supplements on her DCF. The Athletes' have been unable to satisfactorily explain why they failed to make declarations on their DCF. Therefore, apart from the Athletes' own word, there is no evidence that the Athletes actually used 17 different supplements prior to their respective sample collections.
96. Second, the strongest evidence that the Athletes did not use a Contaminated Product is the fact that the analysis of the supplements by two WADA-accredited laboratories, did not reveal the presence of Ostarine. In this regard, as per the Athletes' request, the 17

supplements that the Athletes allegedly used in the lead up to the 2023 European Championships, were sent for analysis to the LAD. On 7 November 2023, the LAD issued the LAD Scientific Report, concluding that “[t]he analyses of the specimen from the different products (Supplement 1 to Supplement 17) transmitted by ITA did not reveal presence of Ostarine. Analyses performed on randomly selected specimens of each supplement provide very strong support (1’000 – 10’000 times more probable) for the hypothesis that the supplements provided by ITA do not contain Ostarine”. On this basis alone, the Contaminated Supplement Scenario cannot be accepted.

97. Following the results of the LAD Scientific Report, the Athletes raised various allegations challenging the findings on the LAD. Despite the negative supplement analysis results from the LAD, which had already disproved their claims of supplement contamination, the Athletes insisted that their supplements should be re-tested at the Cologne Laboratory, another WADA-accredited facility. The results from the Cologne Laboratory, which the Athletes have never challenged, were consistent with those of the LAD, confirming that none of the supplements provided by the Athletes contained any traces of Ostarine and, therefore, could not have been the source of the Athletes’ AAFs.
98. In view of the CAS case law regarding the strict nature of the duty on athletes to establish the origin of the Prohibited Substance in their system, it is clear that the Athletes have not satisfied their burden of proof as to source and the circumstances of the ADRVs remain unknown. For the reasons set out above, therefore, the violation must be deemed to be intentional and attract a four-year period of Ineligibility as per Article 10.2.1.1 of the IWF ADR.
99. For the sake of completeness, the ITA is aware of a number of CAS awards which have found that in “extremely rare” cases, athletes might be able to demonstrate a lack of intent even where they cannot establish the origin of the prohibited substance. The case CAS 2016/A/4534 refers to the “narrowest of corridors” in order to stress just how rare it will be for an athlete to be able to rebut the presumption of intentionality without establishing the origin of the prohibited substance. The panel in 2016/A/4919 went so far as to hold that “*in all but the rarest cases the issue is academic*”.
100. Even if one accepts in principle that such exceptional cases may exist, as per the CAS case law cited above, the circumstances would have to be truly exceptional.
101. In the present matter, the Athletes claim that because of the low concentration of Ostarine in their samples (notably, 2 pg/mL in the 19 April 2023 samples), the positive results could only have been caused “*by minute amounts of the prohibited substance*” and that they did not and could not “*knowingly and intentionally ingested the Ostarine in such miniscule amounts which led to [the] AAFs*”.
102. However, a low concentration of a Prohibited Substance in an athlete’s body does not imply per se that only a “miniscule amount” was ingested or that the ingestion was unintentional. The Athletes’ assertions are speculative and unsupported by evidence. Studies indicate that a concentration of 2 pg/mL of Ostarine in urine, such as that found in the Athletes’ 19 April 2023 samples collected In-Competition during the 2023 European Championships, can be consistent with the tail-end excretion after the intake of a therapeutic dose of Ostarine 15 to 30 days prior to the doping control. This concentration could also result from microdoses taken 10 to 15 days before testing. The Athletes have not provided any negative urine samples sufficiently close to the samples in question to

indicate that they may have been inadvertently exposed to trace amounts of Ostarine or attest to their non-intentionality. More specifically, Mr. Cetkovic's and Ms. Tovarlaža's anti-doping tests (prior to 19 April 2023) were taken on the occasion of the 2022 IWF World Championships on 10 and 13 December 2022 respectively. Further, it must be recalled that an anabolic agent like Ostarine has obvious performance enhancing benefits in a sport such as weightlifting. Thus, the ITA considers that the intentional use of Ostarine cannot be ruled out in principle.

103. Additionally, it is noted that the estimated concentration of Ostarine metabolite in Mr. Četković's second positive Out-of-Competition sample was 500 pg/mL, which is 250 times higher than the estimate concentration detected in his April sample collected In-Competition which once again does not rule out an intentional intake.
104. Therefore, the Athletes' claim that the "low concentration" of Ostarine in their samples can only be compatible with unintentional ingestion is purely speculative and unsupported by any corroborative evidence and cannot be accepted.
105. For the reasons outlined above, it is evident that the Athletes have failed to establish the source of Ostarine in their system. Moreover, there are clearly no exceptional circumstances in this case that would justify excluding intentional violation without determining the origin, to the contrary. Therefore, the academic debate regarding whether there may be limited circumstances in which intent can be rebutted without establishing origin, as per the cited jurisprudence, is moot.
106. It is without question that proof of source is a mandatory prerequisite when considering whether an athlete has established No Fault or Negligence under Article 10.5, or No Significant Fault or Negligence under Article 10.6, since the Athletes are not "Protected Person" or Recreational Athlete". For the sake of clarity, it is ITA's primary submission that source has not been established in the present cases as exhaustively explained above. Assuming for the sake of the following submissions on fault (but without accepting) that the Athletes have established the source of the Ostarine in their samples based on the supplements they used, *quod non*, any potential reduction under Articles 10.5 or 10.6 would still require the Single Judge to assess the requirements detailed in Article 10.5 and 10.6. Should the Single Judge not accept this, no reduction in the period of Ineligibility is possible under either Article 10.5 or 10.6.
107. The commentary to Article 10.5 in the IWF ADR makes clear that an athlete cannot meet the threshold for No Fault or Negligence when they have returned "a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1) and have been warned against the possibility of supplement contamination)". Therefore, the ITA submits that the Athletes (on the basis of the current Supplement Contamination Scenario) must necessarily bear some degree of fault or negligence and are not entitled to an elimination of period of Ineligibility under Article 10.5.
108. Now coming to Article 10.6, there are two ways in which the Athletes could conceivably reduce their sanction on the basis of No Significant Fault or Negligence: (i) if it is accepted that they ingested a Contaminated Product with No Significant Fault or Negligence (Article 10.6.1.2); or (ii) if No Significant Fault or Negligence otherwise applies generally (Article 10.6.2).

109. Fault is defined in the IWF ADR as “*any breach of duty or any lack of care appropriate to a particular situation*” and requires the assessment of factors “*specific and relevant to explain the Athlete’s or other Person’s departure from the expected standard of behavior*”.
110. Assessing the objective fault requires a panel to start from all athletes’ strict personal duty to ensure that no Prohibited Substances enter their system. CAS has previously noted that “*the Athlete’s fault is measured against the fundamental duty which he or she owes under the Programme and the WADC to do everything in his or her power to avoid ingesting any Prohibited Substance*”.
111. When it comes to the intake of supplements, ever since the 2000s, athletes have been warned of the risk that supplements may be contaminated with prohibited substances. It is therefore reasonable to assume that athletes are aware that consumption of any supplement brings with it an inherent risk and accordingly, there is a high standard which must be applied.
112. In the present case, the Athletes allegedly took multiple supplements on the day of competition and therefore in circumstances where a reasonable athlete’s duty to ensure no prohibited substances entered their body is heightened, as therefore are the precautions expected of them. Similarly, an OOC test also has an equal duty of care from an athlete.
113. In relation to the Athletes’ subjective fault:
- (i) The Athletes are both International-Level Athlete who has competed in IWF events since 2022 and have been subject to several anti-doping controls (under the Testing Authority of both the NADO and the IWF). As a result, it is difficult to accept that they could be unaware that supplements could lead to an AAF. In addition, Mr Četković has been in the IWF RTP since March 2023, including at the time of the circumstances giving rise to the present matter.
 - (ii) The Athletes have not claimed (nor established) that they consulted any support personnel (e.g. a doctor or coach) prior to using the supplements. In any case, the Athletes cannot exculpate themselves merely by reference to the advice of their support personnel prior to taking supplements, and the failure of a doctor or coach does not exempt an athlete from personal responsibility and/or satisfy entirely their requisite duty of care.
114. In view of the above, the ITA submits that, even accepting the Athletes’ explanation at face value, *quod non*, their level of Fault would be significant, such that a sanction of two years would be applicable.
115. Out of an abundance of caution, should the Single Judge somehow accept that the Athletes have established that they ingested a Contaminated Product with No Significant Fault or Negligence, Article 10.6.1.2 would apply. Even in that scenario, for all the reasons outlined above, the period of Ineligibility must still be set at the very higher end of the spectrum from a reprimand with no period of Ineligibility to two years.
116. As per Article 10.13 of the IWF ADR, the period of Ineligibility shall start on the date of the decision providing for Ineligibility.
117. That said, given that the Athletes each have been provisionally suspended since 5 July 2023, and that, based on the information at IWF/ITA’s current disposal, the terms of the

temporary ban have been respected, credit for the time served should be granted against the period of Ineligibility pursuant to Article 10.13.2 of the IWF ADR.

Disqualification

118. In addition to the period of Ineligibility imposed, as two Athletes' samples (sample 3176554 for Ms. Tovarlaža and sample 3176557 for Mr. Ćetković) were collected In-Competition on the occasion of the 2023 European Championships, according to Articles 9 and 10.1 of the IWF ADR, the individual results obtained by the Athletes during the 2023 European Championships shall be automatically disqualified with all resulting consequences, including the forfeiture of any medals, points, and prizes.
119. Moreover, pursuant to Article 10.10 of the IWF ADR, all competitive results obtained from the date a positive sample was collected through to the commencement of any Provisional Suspension or Ineligibility period shall be disqualified, unless the athlete can establish that fairness requires otherwise.
120. Since the ADRVs occurred on 19 April 2023, all competitive results obtained by the Athletes from that date until 5 July 2023, when the Provisional Suspension was imposed, should be disqualified with all associated consequences, including the forfeiture of any medals, prizes and points, as per Article 10.10 of the IWF ADR.

Financial consequences and costs

121. Pursuant to Article 10.12 of the IWF ADR and Articles A24 and A25 of the CAS ADD Rules, the ITA respectfully requests the Single Judge to impose upon the Athletes the costs associated with these proceedings. The ITA leaves it to the discretion of the Single Judge to determine the appropriate amount of financial costs to be imposed on the Athletes.
122. In its Request for Proceedings, the ITA, on behalf of the International Weightlifting Federation, requested the Single Judge to issue decisions holding the following:

With respect to Mr. Goran Ćetković

- (1) *The Anti-Doping Division of the Court of Arbitration for Sport has jurisdiction to decide on the subject matter of this dispute.*
- (2) *Goran Ćetković is found to have committed an Anti-Doping Rule Violation pursuant to Article 2.1 and/or 2.2 of the IWF ADR.*
- (3) *Goran Ćetković is sanctioned with a period of Ineligibility of four years starting on the date on which the CAS ADD decision enters into force. Any period of Provisional Suspension effectively served by Goran Ćetković before the entry into force of the CAS decision shall be credited against the total period of ineligibility to be served.*
- (4) *All competitive results obtained by Goran Ćetković during the 2023 European Weightlifting Championships, and from 19 April 2023 until 5 July 2023 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).*
- (5) *The costs of the proceedings, if any, shall be borne by Goran Ćetković.*

- (6) *The International Weightlifting Federation is granted a contribution to its legal and other costs.*
- (7) *Any other prayers for relief that the Single Judge deems fit in the facts and circumstances of the present case.*

With respect to Ms. Tia Sarah Tovarlaža

- (1) *The Anti-Doping Division of the Court of Arbitration for Sport has jurisdiction to decide on the subject matter of this dispute.*
- (2) *Tia Sarah Tovarlaža is found to have committed an Anti-Doping Rule Violation pursuant to Article 2.1 and/or 2.2 of the IWF ADR.*
- (3) *Tia Sarah Tovarlaža is sanctioned with a period of Ineligibility of four years starting on the date on which the CAS ADD decision enters into force. Any period of Provisional Suspension effectively served by Tia Sarah Tovarlaža before the entry into force of the CAS decision shall be credited against the total period of ineligibility to be served.*
- (4) *All competitive results obtained by Tia Sarah Tovarlaža during the 2023 European Weightlifting Championships, and from 19 April 2023 until 5 July 2023 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).*
- (5) *The costs of the proceedings, if any, shall be borne by Tia Sarah Tovarlaža.*
- (6) *The International Weightlifting Federation is granted a contribution to its legal and other costs.*
- (7) *Any other prayers for relief that the Single Judge deems fit in the facts and circumstances of the present case.*

The Athletes

123. The Athlete's submission, in essence, may be summarized as follows:
124. The Athletes have never knowingly or intentionally used any prohibited substances and do not know how the detected Ostarine has entered into their organisms.
125. The most probable source of very low concentrations of *Ostarine* in the Respondents' bodies is consumption of supplements contaminated with the Prohibited Substance. Alternatively, the AAFs could result from cross-contamination. Namely, there is evidence of Ostarine cross-contamination via sweat between two athletes using same neoprene hamstring sleeves or having intimate relations.
126. In any case, the very low concentration of the Prohibited Substance detected in the Athletes' urine samples clearly indicate that they have ingested so minute amounts of the prohibited substance that such amounts cannot even theoretically be prepared by the Athletes themselves, nor is it likely that they would have ingested such dosages with any intention. On the contrary, the results support the fact that the Athletes have not ingested the prohibited substance with intention or knowledge. In any case, there is No Fault or Negligence on the Athletes' side.

127. The concentration levels of the Athletes' positive results have been significantly lower than it has been recorded in the cited Ostarine microdosing studies. Such minute amounts of Ostarine could not lead to any performance enhancement. Acute or short-term nano/microgram Ostarine exposure cannot produce strong enough biological signal to improve neural efficiency of motor neurons nor can it yield any noticeable changes in the lean muscle mass and/or recovery.
128. For his defence, Mr. Goran Ćetković has also stated that after being tested positive for Ostarine on 19 April 2023, his doping test result was negative on 20 May 2023, i.e. some 3,5 weeks before the second positive test on 14 June 2023. This negative test result in between the two positive ones, also, indicates that the positive tests with minute concentration must result from contaminated supplements or cross-contamination without any intention to performance enhancement. Also, the blood sample of 14 June 2023 was negative.
129. The Respondents have provided ITA with 17 different supplements they have used prior and during the time of the positive test results. All of these supplements have been tested for Ostarine contamination, but the applied detection level has been too high to meet the requirements to detect concentration levels of Ostarine enough to cause positive test results by the Athletes.
130. In their oral pleading, the Athletes requested the Single Judge to issue decisions
- (1) *including sanctions with a period of Ineligibility of no more than two years starting on the date on which the CAS ADD decision enters into force and*
 - (2) *where the period of Provisional Suspension effectively served before the entry into force of the CAS decision shall be credited against the total period of ineligibility to be served.*

V. JURISDICTION

131. Article A2 of the ADD Rules provides as follows:

“CAS ADD shall be the first-instance authority to conduct proceedings and issue decisions when an alleged anti-doping rule violation has been filed with it and for imposition of any sanctions resulting from a finding that an anti-doping rule violation has occurred. CAS ADD has jurisdiction to rule as a first-instance authority on behalf of any any WADC signatory which has formally delegated its powers to CAS ADD to conduct anti-doping proceedings and impose applicable sanctions.

These Rules apply whenever a case is filed with CAS ADD. Such filing may arise by reason of a specific clause in the Anti-Doping Rules of a WADC signatory, by contract or by specific agreement.

These procedural rules apply only to the resolution by first instance adjudication of alleged anti-doping rule violations filed with CAS ADD. They neither apply with respect to appeals against any other decision rendered by an entity referred to in this Article nor against any decision rendered by CAS ADD.

Decisions rendered by CAS ADD shall be applied and recognized in accordance with the WADC.”

132. Article 8.1.1 of the 2024 IWF ADR state as follows:

“IWF has delegated its Article 8 responsibilities (first instance hearings, waiver of hearings and decisions) to the CAS ADD as an appropriate independent arbitration forum. The procedural rules of the arbitration shall be governed by the rules of the CAS ADD. CAS ADD will always ensure that the Athlete or other Person is provided with a fair hearing within a reasonable time by a fair, impartial and Operationally Independent hearing panel in compliance with the Code and the International Standards for Results Management”.

According to the article 8.1.2.1 of the 2021 IWF ADR, “[w]hen IWF sends a notice to an Athlete or other Person notifying them of a potential anti-doping rule violation or other breach of the Anti-Doping Rules, and the Athlete or other Person does not waive a hearing in accordance with Article 8.3.1 or Article 8.3.2, then the case shall be referred to CAS ADD for hearing and adjudication, which shall be conducted in accordance with CAS ADD’s procedural rules and the principles described in Articles 8 and 9 of the International Standard for Results Management.”

133. In their return of the Order of Procedure on 30 January 2025 the Athletes agreed to the ADD’s jurisdiction.
134. In consideration of the foregoing, the Single Judge confirms the jurisdiction of the ADD to decide this matter.

VI. APPLICABLE LAW

135. Article A20 of the ADD Rules provides as follows:

“The Panel shall decide the dispute in accordance with the applicable ADR or the laws of a particular jurisdiction chosen by agreement of the parties or, in the absence of such a choice, according to Swiss law.”

136. Since the Athletes have participated in competitions organised by the IWF, the IWF anti-doping rules are applicable to him. Based on the principle *tempus regis actum*, the version of rules currently in force, i.e. the 2024 IWF Anti-Doping Rules (“2024 IWF ADR”) govern the procedural aspects of this matter.
137. As per Article 24.7.2 of the 2024 IWF ADR, anti-doping rules violations are governed by the substantive anti-doping rules in effect when the asserted anti-doping rule violations occurred. More specifically, as the asserted anti-doping rule violations occurred in 2023, these violations shall be governed by the rules in force at the time of their commission, i.e. the 2023 IWF Anti-Doping Rules (“2023 IWF ADR”), subject to the principle of *lex mitior*. The 2023 IWF ADR and 2024 IWF ADR shall be referred together as “IWF ADRs”.

VII. MERITS

A. The Anti-Doping Rule Violation

138. Article 2.1.1. of the IWF ADR states as follows:

“It is the Athletes’ personal duty to ensure that no Prohibited Substance enters their bodies. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples.

Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1."

139. Article 2.1.2 of the IWF ADR further states:

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

140. Article 2.1.3. of the IWF ADR further states:

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

141. The analysis of the Athletes' B samples confirmed the presence of Ostarine or its metabolite found in their A samples. Therefore, the Athletes have committed an ADRV under Article 2.1 for Presence of a Prohibited Substance or Prohibited Method.

142. The Athletes have not raised any issue with regards to the reliability of the analytical results in relation to the urine sample analysis, and the ITA's initial review has not uncovered any issue pertaining to the processing of the samples or analyses, which would undermine the AAFs, to the contrary.

143. Pursuant to Article 3.2.2 of the IWF ADR, WADA-accredited laboratories, such as the Cologne Laboratory, are presumed to have conducted Sample analysis and custodial procedures in accordance with the ISL. The Athletes have not questioned this presumption.

144. Regarding the Sample collection process, there is no claim by the Athletes nor other indication that the collection process did not comply with the International Standard for Testing and Investigation (the "ISTP"). The Athletes confirmed the regularity of the control when they signed the DCFs without filing any remarks or comments pertaining to the doping control process.

145. The Athletes did not have a TUE for the therapeutic use of Ostarine.

146. The Claimant has also charged the Athletes with an Article 2.2 violation for Use. An ADRV for Use can be made out by "any reliable means" including "reliable analytical data" and Use is defined as the "utilization, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Substance or Prohibited Method".

147. The elements of a Use ADRV are made out in the present case. Indeed, the same facts that prove the Presence violation demonstrate that the Athletes must have Used Ostarine prior to the sample collection on 19 April 2023 and 14 June 2023.

148. Based on these facts, the Single Judge finds that the IWF has met its burden of proof to establish the ADRVs for Presence and Use of a Prohibited Substance in accordance with Articles 2.1 and 2.2 of the IWF ADR.

B. The Applicable Sanction

149. According to Article 10.2.1.1 of the IWF ADR, the period of ineligibility shall be four (4) years where the ADRV does not involve a specified substance. Ostarine is not a specified substance.

150. As the Claimant has submitted, the four-year period can be mitigated or increased as follows:

(i) The four-year period of Ineligibility can be reduced if an athlete can successfully establish that the ADRV was not “intentional” within the meaning of Article 10.2.3 of the IWF ADR.

(ii) If an athlete succeeds in proving a lack of intent, the start-off point for calculating the period of Ineligibility will be two years.

(iii) Thereafter, the sanction may be further mitigated if an athlete succeeds in establishing “No Fault or Negligence” as per Articles 10.5 or “No Significant Fault or Negligence” as per Article 10.6 of the IWF ADR, and the definitions of those terms in the IWF ADR.

151. Therefore, the Athletes have the burden of establishing that the violation was not intentional.

152. Regarding intent, the commentary to Article 10.2.1.1 of the IWF ADR states the following:

“While it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one’s system, it is highly unlikely that in a doping case under Article 2.1 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance.”

153. According to the Respondents, the most probable source of very low concentrations of *Ostarine* in their bodies is consumption of supplements contaminated with the Prohibited Substance. Alternatively, the AAFs could result from cross-contamination. Namely, there is evidence of *Ostarine* cross-contamination via sweat between two athletes using same neoprene hamstring sleeves or having intimate relations.

154. The Respondents have argued that the very low concentration of the Prohibited Substance detected in the urine samples clearly indicate that they have ingested so minute amounts of the prohibited substance that such amounts cannot even theoretically be prepared by the Athletes themselves, nor is it likely that they would have ingested such dosages with any intention. On the contrary, the results support the fact that the Athletes have not ingested the prohibited substance with intention or knowledge.

155. During the results management process, the Athletes have informed that they have used several Supplements and initiated laboratory analysis of all Supplements used by them in

order to prove that the only possible source of presence of such Prohibited Substance is a Contaminated Product.

156. Based on the Athletes' request, all 17 supplements named by the Athletes were analyzed by the LAD. In its Scientific Report, the LAD concluded that the *"analyses of the specimen from the different products (Supplement 1 to Supplement 17) transmitted by ITA did not reveal presence of Ostarine."*
157. Following the results of the LAD, the Athletes raised concerns regarding the outcome of the LAD analyses, especially the high detection level used. Therefore, the Athletes requested that five of their supplements should be re-analyzed by the Cologne Laboratory to ensure that the detection limit was low enough. However, the re-analyses of the Cologne Laboratory confirmed that no Ostarine was detected in any of the provided supplements. The detection limit applied by the Cologne Laboratory was below the level requested by the Athletes.
158. In line with the commentary to Article 10.2.1.1 of the IWF ADR states, the CAS case law has made it clear that an athlete should establish how the substance has entered his/her body, i.e. to provide concrete evidence to demonstrate with actual evidence that a particular supplement, medication, or other product that has been taken had in fact contained the substance in question.
159. In CAS 2022/A/8653, the Panel stated that
- "while it is right to say that it is open to the athlete to prove lack of intention without proving source, it would be extremely rare for an athlete to be able to do so such that, where an athlete cannot prove source, it leaves the "narrowest of corridors" through which the athlete must pass in order to discharge the burden which lies upon them."*
160. In CAS 2010/A/2230 the Sole Arbitrator stated:
- "To permit an athlete to establish how a substance came to be present in his body by little more than a denial that he took it would undermine the objectives of the Code and Rules. Spiking and contamination – two prevalent explanations volunteered by athletes for such presence – do and can occur; but it is too easy to assert either; more must sensibly be required by way of proof, given the nature of the athlete's basic personal duty to ensure that no prohibited substances enter his body."*
161. In CAS 2014/A/3615 the panel considered the following:
- "The person charged cannot discharge that burden [of proof] merely by showing that he made reasonable efforts to establish the source, but that they were without success. The resolution of the issue which arises at this first stage does not relate to the presence or absence of fault or negligence, or, if it is present, its degree. Such matters are relevant only to the second stage. The resolution of the issue which arises at the first stage depends upon the answer to a simple question: has the person charged established what the source is? Mere assertion as to what the source is, without supporting evidence, will be insufficient."*
162. In CAS 2017/A/5112 the Panel stated:
- "The raising of an unverified hypothesis is not the same as clearly establishing the facts."*

163. CAS 2016/A/4676 highlights the strict approach taken when it comes to proving the source of a prohibited substance, especially in cases of the alleged supplement contamination. In this case: (i) the athlete claimed that the stanozolol detected in his sample came from a supplement named Megamin; (ii) he requested that the product be tested by the WADA-accredited Seibersdorf laboratory, but this request was denied by the RMA; (iii) as a result, he had the product tested at a non-WADA-accredited laboratory in Croatia, which confirmed the presence of stanozolol; (iv) the product was then sent to a Dutch laboratory specializing in food safety, which found potential traces of stanozolol but could not conclusively confirm its presence; (v) finally, the product was tested at the Cologne WADA-accredited laboratory, which confirmed the presence of stanozolol in most of the capsules; (vi) despite these efforts, the CAS panel concluded that the respondent had failed to sufficiently prove the source of stanozolol in his sample.

164. Moreover, it is not sufficient for an athlete to simply identify a potential source. An athlete must also demonstrate that the source could have caused the actual AAF. By way of example in the case CAS 2010/A/2277, the panel emphasised that the athlete did not provide

“any actual evidence of the specific circumstances in which the unintentional ingestion of the Prohibited Substance would have occurred. [The athlete] does in particular neither bring any scientific evidence that would explain how the Prohibited Substance could still be found in his system one week after the end of the dogs’ treatment, nor whether such a potential ingestion through his biting his nails could result in the level of substance found in his body. As a result, the Panel finds that [the athlete’s] explanations lack corroborating evidence and prove unsatisfactory, thereby failing the balance of probability test.”

165. In the case CAS 2017/A/5260, and similarly in CAS 2017/A/5369, the sole arbitrator determined that although the athletes proved they had consumed supplements contaminated with the prohibited substances in question, the level of contamination was deemed too low to account for the positive IRMS result and the changes observed in their steroid profiles.

166. In CAS 2017/A/5016 & 5036 the panel contemplates

“that it could be de facto difficult for an athlete to establish lack of intent to commit an anti-doping rule violation demonstrated by presence of a prohibited substance in his sample if he cannot even establish the source of such substance: proof of source would be an important, even critical, first step in any exculpation of intent, because intent, or its lack, are more easily demonstrated and/or verified with respect to an identified “route of ingestion”. However, the Panel can envisage the possibility that it could be persuaded by an athlete’s assertion of lack intent, where it is sufficiently supported by all the circumstances and context of his or her case, even if, in the opinion of the majority of the Panel, such a situation may inevitably be extremely rare: where an athlete cannot prove source, it leaves the narrowest of corridors through which such athlete must pass to discharge the burden which lies upon him.”

167. In this matter, the Athletes have not been able to prove the source of Ostarine in their positive test results. Despite the very strict connection between the establishment of the source and the lack of intent, the Single Judge accepts that in exceptional cases it could be possible with “the narrowest of corridor” for the Athletes to plead their lack of intent even without giving convincing explanations about the source. Therefore, the Athletes are not

bound to prove the source of the prohibited substance, if they manage to prove, on the basis of the objective circumstances of the anti-doping rule violation and their behaviour, that specific circumstances exist disproving their intent to dope.

168. The Athletes have pleaded that the low concentration levels as well as Mr. Goran Ćetković's negative doping test result between the two positive ones shows that Ostarine has not been used intentionally. The Athletes expert witness Prof. Pascal Kintz has concluded as follows:

*"Therefore, there is nothing (literature, biological tests, pharmacology) that prevents a scenario of contamination that can explain the adverse analytical findings for ostarine in the case Mr Goran Cetkovic and Mrs Tia Sarah Tovarlaža. **Even more, the said scenario of accidental contamination, i.e. an unpredictable source is more likely than any other (including the tail-end excretion) and can explain the adverse analytical findings being caused by the accidental contamination beyond the balance of probability**". (Emphasis added by Prof. Kintz)*

169. Regarding the supplement tests conducted by the request of the Athletes, Prof. Kintz has questioned the validity of the tests and stated as follows:

"Although the laboratory of Lausanne acknowledged that its limit of detection does not permit to exclude ostarine contamination, the Director (Dr Tiia Kuuranne) considered extremely unlikely that the provided supplements are containing ostaine (sic). This statement is irrelevant and false, as supplements can contain ostarine at much lower concentrations than the one (180 ng/g) the laboratory is capable of testing. This means that the laboratory is only able to detect ostarine when higher than 180 ng/g. Supplements can be contaminated at concentrations lower than 1 ng/g (see the quoted case of Ryan Garcia) and both laboratories would have failed to do that. ITA must be aware of this limitation, once again given the minute amounts of ostarine that was found in the urine of the 2 athletes."

170. Based on the expert witness statement of Prof. Kintz it seems to be possible that the AAFs of the Athletes have been caused by contaminated supplements or cross-contamination.

171. The Claimant's expert witness Prof. Martial Saugy has a different opinion: Prof. Saugy has contested Prof. Kintz's assumptions and e.g. concluded that Mr. Goran Ćetković's sequence of results – positive, negative, positive – is compatible with a previous intentional intake of Ostarine in pharmacological doses or in microdoses. Prof. Saugy concluded as follows:

*"Regarding the AAF of 14 June 2023 with an estimated concentration of 500 pg/mL of Ostarine glucuronide in urine (or even 96 ng/mL, though these calculations are wrong as explained above), it is obvious based on the results of the studies described above that this result is compatible with an intentional intake of Ostarine in a pharmacological dose after 20 May 2023. **Then, based on pharmacokinetics, and the sequence of results, I consider that both the AAFs are compatible with the intentional intake of Ostarine on different dates (whether in pharmacological doses or micro-doses)**". (Emphasis added by Prof. Saugy)*

172. Furthermore, Prof. Saugy has assessed the possibility of Mr. Goran Ćetković's positive result on 14 June 2023 resulting from a contaminated supplement with lower concentration than detected by Cologne Laboratory. Regarding this, Prof. Saugy has stated as follows:

"Then, we can conclude that the source of the AAF of 14 June 2023 (with an estimated conc. of 500 pg/mL) cannot result from the intake of a supplement, which is contaminated with 2.4 ng/g of Ostarine or less.

Even if the urine concentration of this sample was 96 pg/mL, as wrongly claimed by the Athletes' experts, the source of the AAF cannot be a supplement contaminated with less than 2.4 ng/g.

I consider that Mr Ćetković's positive result on 14 June 2023 (estimated concentration of Ostarine glucuronide at 500 pg/mL) can be excluded as resulting from a contaminated supplement, given that the tested supplement was negative for Ostarine with a detection limit of 2.4 ng/g." (Emphasis added by Prof. Saugy)

173. The Athletes' argumentation relies almost entirely on the low concentration levels in their AAFs and contamination caused by supplements. The Single Judge refers to the Claimant's submission noting that prior to the AAFs, the Athlete's did not provide any information establishing their use of supplements. In their DCFs Mr. Goran Ćetković declared two supplements and Ms. Tia Sarah Tovarlaža did not declare any supplements, but soon after the positive results they claimed the use of the supplements and provided invoices and diaries of their usage. Even if the Athletes in the hearing admitted their mistake and that they should have declared the use of supplement in their DCFs, the fact that they did not declare earlier leaves doubt on their explanations.
174. Despite the fact that contamination is, based on Prof. Kintz's expert statement, a possible cause of at least the AAFs with low concentration in April, both intentional therapeutic dosing and/or intentional microdosing providing low tail-end results are, as the evidence presents, also possible scenarios in this matter.
175. As stated above, however, the Respondents have not been able to demonstrate the source of the contamination. Taking into account the strict CAS case law and the fact that Mr. Goran Ćetković's second positive test result in June 2023 with significantly higher concentration, weakening the credibility of the Athlete's contamination scenario, the Single Judge concludes that proving the possibility of contamination through low concentrations in the test results in April and systematically denying the doping violation is not sufficient to override the established principle that, in order to prove the absence of intent, an athlete must be able to demonstrate the cause of the contamination.
176. Based on Prof. Saugy's opinion, Ostarine is not targeted to be detected in a blood sample, i.e. analysis of blood will not reveal the presence of Ostarine. Therefore, Mr. Goran Ćetković's argument referring to the negative blood test on 14 June 2023 does not affect the evaluation of the matter.
177. The Respondents have denied the Claimant's allegations of intentionality also on the grounds that low Ostarine concentrations do not actually have a performance-enhancing effect. In this regard, the Single Judge notes that the CAS ADD's role is not to assess the correctness of the list of prohibited substances or their physiological effects. Ostarine is a

substance that has been prohibited in sports at all times, without any concentration limits. Based on the scientific studies and e.g. the expert witness of Prof. Saugy, it has positive performance-enhancing effects, especially in strength-demanding sports.

178. With these facts and evidence, the Single Judge is of the view that the Athletes have failed to discharge the burden upon them to establish what is required for the elimination or reduction of the period of ineligibility and/or that their conduct was not intentional with the result that, therefore, the applicable period of ineligibility remains four years.
179. It is evident that proof of lack of intent is a mandatory prerequisite when considering whether an athlete has established No Fault or Negligence under Article 10.5, or No Significant Fault or Negligence under Article 10.6, since the Athletes are not “Protected Person” or Recreational Athlete”.
180. Based on these aggravating facts, and taking into account CAS case law, the Sole Arbitrator confirms that the Athlete’s period of Ineligibility shall be four (4) years.

C. Disqualification

181. The Respondents’ positive test results from April 2023 were collected In-Competition during the 2023 European Championships. According to Articles 9 and 10.1 of the IWF ADR, the individual results obtained by the Athletes during the 2023 European Championships shall be automatically disqualified with all resulting consequences, including the forfeiture of any medals, points, and prizes.
182. Moreover, pursuant to Article 10.10 of the IWF ADR, all competitive results obtained from the date a positive sample was collected through to the commencement of any Provisional Suspension or Ineligibility period shall be disqualified, unless the athlete can establish that fairness requires otherwise.
183. Since the ADRVs occurred on 19 April 2023, all competitive results obtained by the Athletes from that date until 5 July 2023, when the Provisional Suspension was imposed, should be disqualified with all associated consequences, including the forfeiture of any medals, prizes and points, as per Article 10.10 of the IWF ADR.

VIII. COSTS

(...)

IX. APPEAL

187. Pursuant to Article A21 of the ADD Rules, this final decision may be appealed to the CAS Appeals Arbitration Division within 21 days from receipt of the notification of the final award with reasons by mail or courier in accordance with Articles R47 *et seq.* of the Code of Sports-Related Arbitration, applicable to appeals procedures.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

With respect to Mr. Goran Ćetković:

1. The Request for Disciplinary Proceedings filed on 1 November 2024 by the International Testing Agency, on behalf of the International Weightlifting Federation, is upheld.
2. Goran Ćetković is found to have committed an Anti-Doping Rule Violation pursuant to Article 2.1 and 2.2 of the IWF ADR.
3. Goran Ćetković is sanctioned with a period of Ineligibility of four (4) years starting on the date on which the CAS ADD decision enters into force.
4. Goran Ćetković shall receive credit for period of Provisional Suspension served from 5 July 2023 against the period of ineligibility imposed by this Decision.
5. All competitive results obtained by Goran Ćetković during the 2023 European Weightlifting Championships, and from 19 April 2023 until 5 July 2023 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).
6. (...).
7. (...).
8. All other motions or prayers for relief are dismissed.

With respect to Ms. Tia Sarah Tovarlaža:

9. The Request for Disciplinary Proceedings filed on 1 November 2024 by the International Testing Agency, on behalf of the International Weightlifting Federation, is upheld.
10. Tia Sarah Tovarlaža is found to have committed an Anti-Doping Rule Violation pursuant to Article 2.1 and/or 2.2 of the IWF ADR.
11. Tia Sarah Tovarlaža is sanctioned with a period of Ineligibility of four (4) years starting on the date on which the CAS ADD decision enters into force.
12. Tia Sarah Tovarlaža shall receive credit for period of Provisional Suspension served from 5 July 2023 against the period of ineligibility imposed by this Decision.
13. All competitive results obtained by Tia Sarah Tovarlaža during the 2023 European Weightlifting Championships, and from 19 April 2023 until 5 July 2023 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).
14. (...).
15. (...).

16. All other motions or prayers for relief are dismissed.

Seat of the adjudication: Lausanne, Switzerland

Date: 13 March 2025

**THE ANTI-DOPING DIVISION OF THE COURT OF
ARBITRATION FOR SPORT**

Pekka Ilmivalta
Single Judge