

**IWF INDEPENDENT MEMBER FEDERATIONS SANCTIONING PANEL**

In the matter

**Federatia Romana de Haltere (“FRH”)**

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**Final Decision**

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## **I. INTRODUCTION**

1. The present Decision is issued by the International Weightlifting Federation (the “IWF”)’s Independent Member Federation Sanctioning Panel (the “IWF Panel” or the “Panel”) in order to decide upon whether the Federatia Romana de Haltere (the “FRH”) has committed a breach of Article 12 of the 2009 IWF Anti-Doping Policy (the “IWF ADP”) and if so, the consequences of such breach.

## **II. PARTIES**

### **A. THE INTERNATIONAL WEIGHTLIFTING FEDERATION**

2. The IWF is the international governing body for the Olympic sport of weightlifting. Its headquarters are located in Budapest, Hungary and its registered seat is in Lausanne, Switzerland.

### **B. THE FEDERATION ROMANA DE HALTERE**

3. The FRH is the national governing body for the Olympic sport of weightlifting in Romania. The FRH is a Member Federation of the IWF. It has its seat in Bucharest, Romania.

## **III. FACTS AND PROCEDURAL BACKGROUND**

4. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced during the proceedings. Additional fact and allegations found in the Parties’ written submissions and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in its Decision only to the submissions and evidence it considers necessary to explain its reasoning.

### **A. THE ADVERSE ANALYTICAL FINDINGS OF THE FRH ATHLETES IN 2012**

5. In 2012, the FRH sent a delegation of four athletes (the “FRH Athletes”) to the London 2012 Summer Olympic Games (the “London Games”).
6. The FRH Athletes provided urine samples in the course of the London Games, whose analysis performed by the World Anti-Doping Agency (“WADA”)-accredited laboratory of London did not produce any Adverse Analytical Findings (“AAFs”) at that time.

7. After the London Games, at the IOC's request, all the samples collected at the Games were transferred to the WADA-accredited laboratory of Lausanne (the "Lausanne Laboratory") for long-term storage.
8. In 2019 and 2020, in application of Article 5.1 of the International Olympic Committee Anti-Doping Rules applicable to the London Games ("IOC ADR") and pursuant to the applicable International Standard for Laboratories ("ISL"), the Lausanne Laboratory performed further analysis on all the IWF samples collected in London. These analyses revealed AAFs for the presence of prohibited substances in the four samples provided by the four FRH Athletes.
9. In substance, the AAFs were the following:
  - **Mr. Florin Ionut Croitoru** provided an In-Competition sample on 29 July 2012, which revealed the presence of the following exogenous anabolic androgenic steroids: (i) Dehydrochlormethyltestosterone metabolites; (ii) Metenolone and metabolites; and (iii) Stanozolol metabolites.
  - **Mr. Gabriel Sincaian** provided an In-Competition sample on 3 August 2012, which revealed the presence of the following exogenous anabolic androgenic steroids: (i) Stanozolol metabolites; and (ii) Metenolone and metabolites.
  - **Mr. Razvan Martin** provided an In-Competition sample on 31 July 2012, which revealed the presence of the following exogenous anabolic androgenic steroids: (i) Stanozolol metabolites; (ii) Dehydrochlormethyltestosterone metabolite; and (iii) Metenolone and metabolites.
  - **Ms. Roxana Cocos** provided an In-Competition sample on 1 August 2012, which revealed the presence of the following exogenous anabolic androgenic steroids: (i) Stanozolol metabolites; and (ii) Metenolone and metabolites.
10. The first three athletes have all been sanctioned with a two-year period of ineligibility (i.e. the standard period of ineligibility under the IWF ADP applicable at the time of the Anti-Doping Rule Violations ("ADRV")) further to a results management process conducted in accordance with the IOC ADR and the applicable IWF ADP. As far as the Panel understands, the IOC Disciplinary Commission issued a decision confirming that Ms. Cocos had committed an ADRV and withdrawing her silver medal obtained during the London Games. The results management process regarding the other consequences pertaining to Ms. Cocos' ADRV is currently pending.
11. In addition to the above four AAFs, a fifth athlete member of the FRH, Mr. Marius Danciu, returned an AAF in 2012 for the presence of Methandienone (i.e. also an exogenous anabolic androgenic steroid). Mr. Danciu was likewise sanctioned with a two-year period of ineligibility.

## **B. THE PROCEDURE BEFORE THE ITA**

12. On 23 February 2021, the International Testing Agency (the “ITA”), on behalf of the IWF, notified the FRH of the alleged breaches of Article 12 of the IWF ADP (the “Notice”) and granted the FRH until 5 March 2021 to provide its written observations on the alleged breaches.
13. The relevant provisions of Article 12 of the IWF ADP read as follows:
- 12.3.1 Three or more violations (other than under articles 2.4 or 10.3) of these Anti-Doping Rules are committed by Athletes or other Persons affiliated with a National Federation within a 12-month period in testing conducted by the IWF or Anti-Doping Organizations other than the National Federation or its National Anti-Doping Organization. In such event the IWF Executive Board may in its discretion elect to:*
- (a) ban all or any specific officials from that National Federation from participation in any IWF activities for a period of up to two years and/or*
  - (b) fine the National Federation in an amount of at least \$50,000 U.S. Dollars (Fifty thousand US dollars), the amount of the fine as well as the conditions of payment to be decided by the IWF Executive Board. In default of the payment of such fine, the National Federation shall be suspended for a period of time decided by the IWF Executive Board, being not less than twelve (12) months and/or*
  - (c) suspend the National Federation from participating in any activities of the IWF for a period of up to two (2) years.*
- 12.4 If any National Federation or members or officials thereof, by reason of conduct connected with or associated with doping or antidoping rule violations, brings the sport of weightlifting into disrepute, the IWF Executive Board may, in its discretion, take such action as it deems fit to protect the reputation and integrity of the sport. Without limiting the discretion of the IWF Executive Board to impose a penalty that it considers just and proper in all the circumstances, the Executive Board may:*
- (a) Ban all or some of the officials of that National Federation from participating in any IWF activities for a period of up to two (2) years, and/or*
  - (b) Suspend the National Federation from participating in any activities for a period of up to two (2) years, and/or*
  - (c) Fine the National Federation in an amount of up to \$100,000 USD (one hundred thousand US dollars). In default of payment, the IWF Executive Board may suspend the National Federation for a period of up to two years.*
14. On 26 February 2021, the FRH requested: (i) to be granted a new, “more reasonable”, deadline to the FRH to submit its observations and (ii) to be provided with the procedural rules applicable to the proceedings before the IWF Panel.
15. On 1 March 2021, the ITA confirmed that in accordance with Article 12.7.2 of the 2021 IWF Anti-Doping Rules (the “2021 IWF ADR”), the enactment of procedural rules governing the work of the IWF Panel was optional and at the IWF’s discretion. The ITA further invited the FRH to file a specific request for extension in relation to its deadline to file observations to the Notice.

16. On 4 March 2021, the FRH expressed its concerns in relation to the lack of procedural rules governing the IWF Panel's work and requested an extension until 20 April 2021 to provide its comments to the Notice.
17. On 18 March 2021, the ITA partially granted the FRH's request for extension until 30 March 2021.
18. On 26 March 2021, further to the FRH's reiterated request, the ITA granted the FRH until 20 April 2021 to provide its comments to the Notice.
19. On 16 April 2021, the FRH, by way of its legal counsel, requested that the proceedings against it be annulled, subsidiarily suspended, until a proper set of rules governing the IWF Panel's work be adopted. In this respect, the FRH claimed that the proceedings did not guarantee the FRH's due process and fair procedure rights.
20. Moreover, on 19 April 2021, the FRH submitted a request for document production.
21. On 20 April 2021, the FRH filed its Brief Answer in relation to the Notice, in which it *inter alia* reiterated its requests mentioned at paras 19 and 20 above.

### **C. THE PROCEEDINGS BEFORE THE IWF PANEL**

22. On 21 April 2021, the ITA referred the matter of the FRH to the Chairman of the IWF Panel for adjudication (the "Referral").
23. On 27 April 2021, the Parties were informed of the composition of the IWF Panel as follows:
  - Mr. Antonio Rigozzi, Chairman
  - Ms. Louise Reilly; and
  - Mr. Heiner Kahlert.
24. In the same communication, the IWF Panel informed the Parties that it wished to hold a procedural session on 30 April 2021 and thus invited the Parties to confirm their availability on the suggested date. The Parties were also invited to make any specific procedural requests by 29 April 2021.
25. On 27 April 2021, due to the FRH's unavailability, the IWF Panel informed the Parties that the procedural session would take place on 5 May 2021 at 2pm and invited the Parties to make any procedural requests by 3 May 2021.
26. On 29 April 2021, the IWF Panel provided the Parties with Acceptance and Statement of Independence forms duly signed by the members of the Panel and requested the

Parties to inform the Panel without delay in the event they had any issue with its composition.

27. On 29 April 2021, the FRH submitted the following procedural requests:
  - Clarification on whether a settlement between the IWF and the FRH was possible and whether the IWF Panel could invite the Parties to accept a mutual solution;
  - That a set of procedural rules be adopted by the competent IWF bodies before the proceedings go ahead in order to ensure fair proceedings.
28. On 3 May 2021, the ITA requested that the decision (or its operative part) be issued by 31 May 2021 at the latest, given the possible implication of the IWF Panel's decision on the participation of another Member Federation at the 2020 Tokyo Summer Olympic Games (the "Tokyo Games").
29. On 5 May 2021, the procedural session took place in accordance with the agenda issued by the IWF Panel on the same day.
30. The details of the procedural session are set out in the Procedural Order 1 ("PO#1") issued on 6 May 2021. In substance, based on the Parties' submissions during the procedural session, the IWF Panel *inter alia* decided the following:
  - Dismissed the FRH's request for "annulment", subsidiarily "suspension" of the proceedings "until a proper set of rules are adopted";
  - Granted the IWF a 7-day deadline from the notification of PO#1 to specify the criteria it would consider as "assisting the IWF in the fight against doping" for the purposes of the possible imposition of a partially suspended sanction.
  - Dismissed the FRH's request for document production, on the basis that the FRH had not established the relevance of the requested information in light of the wording of Articles 12.3.1 and 12.4 IWF ADP.
  - Granted the FRH a 14-day deadline to file its answer to the Referral, including any comments on the criteria for a possible suspended sanction set out by the IWF in accordance with the second bullet point above.
  - Informed the Parties that if the IWF requested a virtual hearing to be held in order to exercise its right to reply and/or to cross-examine any witnesses that would have filed a witness statement on behalf of the FRH, such hearing would take place virtually on 24 May 2021 at 2pm CET.

31. On 13 May 2021, the IWF submitted the requirements it considered to be applicable in the present matter regarding the possible conditional lifting of the sanction imposed on the FRH (if any).
32. On 20 May 2021, the FRH filed its response to the Referral, together with additional evidence (the "Answer").
33. On 21 May 2021, the IWF informed the Panel that it did not request the holding of a hearing but noted that:
  - It maintained its position as expressed in its Referral and considered that the claims made by the FRH in the Answer were not sufficient to invalidate the findings of a breach of Article 12 of the IWF ADP; and
  - The only acceptable demand from the FRH in relation to the IWF's suggested requirements in the scope of the conditional lifting of any suspension that would be imposed related to the date of the payment of the FRH's contribution to the IWF's enhanced anti-doping activities and the agreement to an instalment plan.

#### **IV. THE PARTIES' POSITIONS**

34. The IWF Panel has taken into consideration all the Parties' written submissions and has weighed the arguments made by the Parties in the light of all the evidence presented. The Panel sets out below a summary of the Parties' position relevant to the present Decision, which is not intended to be an exhaustive account of all the arguments and evidence put forward by the Parties but only the most relevant ones. When necessary, other factual and legal arguments will be described in the section related to the legal discussion.

##### **A. THE IWF'S POSITION**

35. In its Referral, the IWF essentially submitted that it was satisfied that the FRH had breached Article 12 of the IWF ADP and thus requested the IWF Panel to render a decision regarding the establishment of such breach and the applicable consequences for same.
36. The IWF submitted that the FRH had committed a breach of Article 12.3.1 and/or Article 12.4 of the IWF ADP.
37. In particular, the IWF considered that the requirements of Article 12.3.1 of the IWF ADP were met, insofar as:

- More than 3 ADRVs had occurred within a 12-month period, as required by this provision. Specifically, the IWF noted that five ADRVs had occurred among FRH athletes between 29 July 2012 and 15 November 2012;
  - The five AAFs resulted from testing conducted by the IWF or Anti-Doping Organizations (“ADO”) other than the National Federation or the National Anti-Doping Organization. Specifically, the IWF noted that four samples had been collected by the IOC during the London Games and the fifth sample by the IWF itself.
38. With respect to the breach of Article 12.4 of the IWF ADP, the IWF noted that in 2016, further to the re-analysis programme of samples collected during the 2008 Beijing Summer Olympic Games (the “Beijing Games”) and the London Games, the IWF decided that National Federations confirmed to have produced 3 or more ADRVs in the combined re-analysis programme of the Beijing and London Games would be suspended for a one-year period (the “Tbilisi Decision”).
39. The IWF further noted that the Tbilisi Decision had been deemed by the CAS to be a policy, i.e. a standard practice interpreting Article 12.4 of the IWF ADP and submitted that the FRH’s case could fall under the Tbilisi Decision. Specifically, the IWF submitted that the requirements of Article 12.4 of the IWF ADP were met and that the FRH had brought the sport into disrepute, insofar as:
- The FRH had produced more than 3 ADRVs in the context of the re-analysis programme of the London Games;
  - The four FRH Athletes that returned AAFs in the context of the London Games constituted the entire delegation of the FRH;
  - Two of these athletes had won medals;
  - The Olympic Games was the most coveted event;
  - The four FRH Athletes returned AAFs for the same prohibited substances;
  - The FRH Athletes had provided no explanation for their ADRVs nor challenged same, which meant that it could be presumed that the ADRVs were intentional; and
  - In accordance with Article 14.1 of the IWF ADP, Member Federations are required to implement effective mechanisms to combat any doping by its members, the failure of which would constitute a “conduct connected with or association with doping or anti-doping rule violations” within the meaning of Article 12.4 of the IWF ADP.

40. With respect to the consequences applicable to the FRH's breaches, the IWF referred to the sanctions set out in Articles 12.3.1 and 12.4 of the IWF ADP as well as the Policy based on Article 12.4 of the IWF ADP.
41. Finally, the IWF noted that in the context of the Tbilisi Decision, the Member Federations were given the opportunity to partially suspend the sanctions imposed on them provided that they complied with a set of requirements related to the fight against doping. The IWF submitted that Article 12.6 of the 2021 IWF ADR provided for the conditional suspension of any sanction imposed in accordance with Article 12. In this respect, the IWF submitted that the FRH should be able to benefit from such conditional suspension, provided that it commits to the following:
1. *FRH ensures that FRH Athlete Support Personnel, such as coaches, and Officials of the FRH in contact with Athletes have never committed anti-doping rule violations or acts that would amount to anti-doping rule violations but were not sanctioned for some reason; ergo, FRH to remove from their FRH functions any Athlete Support Personnel who have trained more than three Athletes who have committed anti-doping rule violations in the past 10 years;*
  2. *No FRH Athletes, Athlete Support Personnel or Officials receive notice of an Adverse Analytical Finding for a Prohibited Method or a Prohibited Substance that is neither a Specified Substance nor a Substance of Abuse or notice regarding Articles 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.9 2.10 or 2.11 of the IWF ADR from now on and until the end of the relevant period of the Member Consequences to be imposed by the Panel;*
  3. *FRH ensure that its Registered Testing Pool Athletes – not the FRH on their behalf – submit accurate, complete and timely whereabouts filings including accurate phone number and individualized email addresses for each Athlete in ADAMS;*
  4. *FRH ensures that it shares the dates and locations of training camps of the National Team's Athletes with the ITA on a timely basis;*
  5. *FRH makes its Athletes and Athlete Support Personnel available for an interview with the ITA, upon ITA's simple request;*
  6. *FRH makes its Athletes and Athlete Support Personnel aware of the ITA's Reveal confidential reporting platform, the FRH posts a link on its website to the ITA's Reveal platform, and the FRH Athletes and Athlete Support Personnel download the ITA's Reveal reporting app (once available);*
  7. *FRH ensures that its Athletes and Athlete Support Personnel attend one anti-doping education session hosted by the ITA (in Romanian) within the next six months and to bear the ITA's related costs and the costs of ensuring that the Athletes and Athlete Support Personnel are available, if any;*
  8. *FRH to pay a 50'000 USD to the IWF as of 1 July 2021 as a contribution to the IWF's enhanced anti-doping activities;*
  9. *The FRH leadership accept public responsibility to change culture of doping in Romanian weightlifting.*

## B. THE FRH'S POSITION

42. In its Brief Answer submitted with the ITA, the FRH submitted the following request for relief:

1. *(i) The annulment of the procedure until a proper set of rules are adopted and the rights of FRH and its athletes are guaranteed by a just procedure;*  
*(ii) In subsidiary to point (i), the suspension of this procedure until a proper set of rules are adopted and the rights of FRH and its athletes are guaranteed by a just procedure.*
2. *The suspension of the procedure until all requested evidence is provided;*
3. *To dismiss all the claims lodged by ITA on behalf of IWF against FRH;*
4. *In subsidiary to point 2., in case FRH is declared at fault:*
  - (i) Non-application of a sanction that prevents the participation of the future generations in competitions;*
  - (ii) FRH to be offered the opportunity to:*
    - a. benefit from a partial conditional reinstatement of the suspended rights according to the practice under policy based on Article 12.4 2009 IWF ADR; or*
    - b. benefit from the conditional suspension or lifting of the Member Consequences according to art. 12.6 2021 IWF ADR.*

43. With respect to the alleged breaches committed by the FRH, the FRH submitted that:

- It was not a party to the anti-doping proceedings that are the basis for the alleged breach put forward in the present proceedings and was thus not in a position to defend and challenge said anti-doping proceedings. Therefore, the FRH considers that all the facts that were taken into consideration to reach the decisions against the FRH Athletes should be “revalidated, questioned and reanalyzed” in order for them to be used against the FRH.

In particular, the FRH submitted that the IWF's assumption that the ADRVs of the FRH Athletes were intentional because those athletes had not submitted any explanations in the course of their proceedings should not be held against the FRH as it had “no means to challenge anything that happened before the current procedure”.

- The FRH also questioned whether the IWF had jurisdiction over the FRH athletes that had retired by the time anti-doping proceedings were initiated against them and who were therefore no longer members of the FRH. According to the FRH, the sanctions against those retired athletes cannot be used as a legitimate basis for sanctioning the FRH.
- The question of whether proceedings may be started against the FRH should be examined, considering that there is no available statute of limitations. In this respect, the FRH referred to Article 16 of the IWF ADP, according to which no

action may be commenced against an athlete or other person for a violation of an anti-doping rule contained in the IWF ADP unless such action is commenced within eight years from the date the violation occurred.

The FRH thus submitted that the statute of limitations had expired and that no proceedings could have been initiated against it.

- The FRH had taken all the available measures at the time the ADRVs occurred in order to fight doping within the federation. In particular, the FRH noted that in 2012, the available technology was not able to detect the use of the prohibited substances used by the FRH Athletes and that it would therefore be “unfair” to expect the FRH to be able to fight an undetectable enemy as it has no available measures or possibility to properly investigate the matter beforehand.

The FRH further set out the amounts it devoted to the anti-doping control since 2010 and submitted that in light of the FRH’s limited financial resources, these amounts constituted a considerable effort on the federation’s part.

- The FRH had “constantly transmitted anti-doping information” as part of its educational and prevention action.
- The present and future generations of FRH athletes should not bear the fault of the previous generation of athletes who committed ADRVs. In this regard, the FRH submitted that the human rights of those “innocent athletes” and the principle of proportionality should be taken into account.

44. In its Answer, the FRH further submitted that:

- The conditions of Article 12.3.1.1 of the IWF ADR were not fulfilled, which means that the FRH should not be banned from entering participants in the Tokyo Games.

45. As to the potential consequences of the FRH’s alleged breaches, the FRH noted that its goal was the same as the IWF’s, namely the fight against doping among athletes and the improvement of the measures taken and their effectiveness. This notwithstanding, the FRH submitted that:

- No sanctions that would prevent the participation of the future generation of athletes in competitions should be imposed; and
- The FRH should benefit from a partial conditional reinstatement of the suspended rights within the meaning of the Tbilisi Decision or benefit from the conditional suspension or lifting of the consequences of its breaches in accordance with Article 12.6 of the 2021 IWF ADR.

46. The FRH further submitted that the following circumstances should also be taken into consideration when determining the applicable sanction:
- The fact that the FRH had never supported an athlete subject of any ADRV.
  - The fact that the FRH or Romania never practiced a sponsored doping activity such as Russia's and was also never involved in "a program regarding the use of a grey area substance as is the case concerning United Kingdom that starts to take shape".
  - The fact that in the context of the Tbilisi Decision, the sanctions were applied on the relevant Member Federations after the 2016 Rio de Janeiro Summer Olympic Games (the "Rio Games"), so that "the innocent athletes were not prevented from participating in the most important event of their career".
  - The fact that the federations of Iraq and Colombia are allegedly in the same situation as the FRH yet are not subject to the same proceedings.
47. As to the requirements put forward by the IWF that the FRH would need to comply with in order to benefit from a conditional suspension of any sanction ultimately imposed, the FRH noted that it agreed with them, but submitted the following comments:
- Any measure imposed on the FRH should be compatible with Romanian law, i.e. the FRH should not be sanctioned if certain measures are invalidated by Romanian courts (such as for instance "dismissing the athlete support personnel or any other person");
  - The requirement under point 2 of ITA's letter of 13 May 2021 should apply only to "breaches/violations committed after the [IWF Panel's] decision and not before";
  - Payment instalments and a deadline should be discussed for the payment mentioned under point 8 of the ITA's letter of 13 May 2021; and
  - The IWF should provide guarantees for the athletes to participate in competitions under a neutral flag during the FRH's suspension.

## V. JURISDICTION AND APPLICABLE LAW

48. At the outset, the Panel notes that the IWF and the FRH do not dispute that the IWF Panel has jurisdiction over the present matter.
49. Indeed, according to Article 12.7.2 of the 2021 IWF ADR, once the Member Federation has been notified of the alleged breach, the IWF shall:

*[...] transfer the file to the Independent Panel for adjudication. The Independent Panel will render a decision on the basis of the written file, unless it considers*

*in its entire discretion that exceptional circumstances require the holding of a hearing.*

50. The application of this provision was not contested by the Parties. Rather, the FRH merely raised issues with the absence of procedural rules to govern the work of the Independent Panel. Such claims have been discussed during the procedural session that took place on 5 May 2021, further to which the Panel confirmed in PO#1 that:

*[...] it would take the procedural orders necessary to conduct the present proceedings being understood that:*

- i. The parties' right to be heard would always be complied with, and*
- ii. Both parties would have the right to a de novo hearing in front of an arbitral tribunal if they wished to challenge the Panel's decision in CAS.*

51. With respect to the applicable law, the Parties agreed during the procedural session that the present proceedings would be adjudicated in application of the applicable IWF's regulations and Swiss substantive law.

## **VI. MERITS**

52. In light of the Parties' respective arguments, the questions that the IWF Panel needs to solve in the present proceedings are the following:

- Has the FRH breached Article 12 of the IWF ADP?
- If so, what sanctions should be imposed on the FRH?
- If a sanction is to be imposed, does the FRH get to benefit from a conditional suspension or lifting of its sanction?

53. Prior to examining the above questions, the Panel deems it necessary to briefly address the FRH's procedural request for suspension of the present proceedings, pending the outcome of an ongoing investigative report conducted by the ITA and an ongoing investigation conducted by the WADA Intelligence & Investigation Department in cooperation with Hungarian law enforcement and the ITA.

### **A. THE FRH'S REQUEST FOR SUSPENSION OF THE PRESENT PROCEEDINGS**

54. In its Answer, the FRH referred to an investigation conducted by Prof. Richard H. McLaren into allegations of "impropriety surrounding President Dr. Tamas Ajan [i.e. the former IWF President] and the IWF" and noted that:

*The McLaren Report tried to make light in the case, as it reveals especially in Chapter V the substantial and disturbing interference of the former President Ajan in anti-doping controls as a manner to retaliate against Member Federations who manifested an opposition against former President Ajan. It is now notorious from the RUSADA investigation that the samples of athletes, even sealed, can be opened, contaminated or changed and resealed without*

*any visible mark. Also, the actual report discloses other ways the samples were manipulated or changed. Therefore, it is not impossible that clean samples were contaminated intentionally, or that tags of samples were changed during the chain of custody. It is for this reason that, in our opinion, there is a dose of uncertainty if the results of FRH's athletes' 2012 samples, reported after retesting, reflect the reality or not.*

55. The FRH further noted that in addition to this report (the "McLaren Report"), two other investigations, one conducted by the ITA and another conducted by the WADA Intelligence & Investigation Department in cooperation with Hungarian law enforcement authorities and the ITA, were ongoing.
56. According to the FRH, these investigations could "produce conclusions that would completely change the situation of the 2012 samples of Romanian athletes", which would justify the suspension of the present proceedings pending the outcome of these ongoing investigations.
57. The IWF Panel fails to see, and the FRH has not expressly identified, which "conclusion" could be reached by those investigations that would "completely change the situation of the 2012 samples of Romanian athletes". The IWF Panel finds the FRH's suggestion, based on the "RUSADA investigation" (i.e. the investigation conducted by Prof. McLaren into the allegations of state-sponsored doping manipulation during the 2014 Sochi Winter Olympic Games) that the samples of the FRH Athletes might have been tampered with and intentionally contaminated to be purely speculative and not supported by any evidence. Moreover, that investigation focused on manipulations aimed at tampering with the anti-doping process in order to conceal ADRVs and one fails to see how this could possibly explain the AAF's that resulted in the ADRVs in the present case.
58. Therefore, the IWF Panel sees no reason to suspend the present proceedings and the FRH's request in this regard is dismissed.

**B. HAS THE FRH BREACHED ARTICLE 12 OF THE IWF ADP ?**

59. As mentioned, the IWF considers that the FRH has breached Articles 12.3.1 and 12.4 of the IWF ADP.
60. As a reminder,<sup>1</sup> these provisions – the applicability of which is not contested by the FRH – provide as follows:
  - Under Article 12.3 of the IWF ADP, a Member Federation may be sanctioned in the event that three or more ADRVs are committed by an athlete or other Person affiliated with such Member Federation within a twelve-month period in testing

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<sup>1</sup> For the full wording of these provisions, see above para. 13.

conducted by the IWF or an ADO other than the National Federation or its National ADO.

- Under Article 12.4 of the IWF ADP, a Member Federation may be sanctioned if it adopts a conduct connected with or associated with doping or ADRVs which brings the sport into disrepute.

61. The IWF's claims are based on the fact that five ADRVs have been committed by FRH athletes within a 12-months period, namely:

- Mr. Croitoru, Mr. Sincaian, Mr. Martin and Ms. Cocos were all found to have committed ADRVs during the London Games further to a re-analysis of their samples collected between 29 July and 3 August 2012;
- Mr. Danciu was found to have committed an ADRV on 15 November 2012 and was sanctioned with a two-year period of ineligibility on 7 February 2013.

62. Prior to determining whether these facts are sufficient to meet the requirements of the above-mentioned provisions, the IWF Panel deems it necessary to examine the FRH's various claims in relation to the ADRVs committed by the four ADRV Athletes during the London Games.

#### **1. The statute of limitations of the present proceedings**

63. In its Answer, the FRH requested that the "Independent Panel [establishes] the nature of the current proceedings as well as the applicable legal regime". Specifically, the FRH considered that the issue of the statute of limitations regarding the present proceedings should be determined.

64. According to the FRH, the relevant statute of limitations is eight years in accordance with Article 16 of the IWF ADP, with the consequence that the present proceedings should be dismissed, given that they were started more than eight years after the relevant ADRVs were committed.

65. The IWF Panel disagrees with the FRH's submission.

66. The statute of limitations of Article 16 of the IWF ADP applies to disciplinary sanctions with respect to an ADRV and not to present proceedings. Even if one were to apply Article 16 of the IWF ADP, the relevant time limit for the purposes of the present proceedings (which concerns measures against a Member Federation for ADRVs committed by its athletes) would have started at the earliest on 23 November 2020, when the last ADRV relied upon by the IWF was established.<sup>2</sup>

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<sup>2</sup> Even assuming that the starting point of the relevant statute of limitations was 15 November 2012, i.e. the date on which the first ADRV relied upon by the IWF occurred, the IWF Panel

67. The FRH's submission regarding the expiration of the statute of limitations is therefore dismissed.

## **2. Jurisdiction of the IWF to impose sanctions on retired athletes**

68. In order to determine whether three or more ADRVs were committed within a 12-month period (i.e. the requirements of Article 12.3.1 of the IWF ADP), the IWF Panel deems it necessary to deal with the question of the imposition of sanctions on retired athletes.

69. According to the FRH, the IWF's jurisdiction "only covers the matters which involves its affiliated members, members who, by means of affiliation, delegate and authorize the responsible committees/panels from inside the federation to rule over certain litigious matters".

70. In this respect, the FRH referred to the award rendered in the case CAS 2020/A/6971, *Mihaita Plesan v. FC Nizhny Novgorod & FIFA* to argue that:

*For example, FIFA Regulation on the Status and Transfer of Players clearly provides in article 4 that professionals who end their careers upon expiry of their contracts shall remain registered at the association of their last club for a period of 30 months. In CAS 2020/A/6971 (Mihaita Plesan v. FC Nizhny Novgorod & FIFA), CAS stated that the player did not meet the party requirement according to applicable law and thus he did not have standing to sue the Club before FIFA given the fact that he terminated his football career and was deregistered from the association of his last club.*

71. The IWF Panel is not convinced by the FRH's submission and does not consider the above-mentioned award to be particularly relevant in the present case, given that the present case is governed by a specific set of rules that is different than the one governing contractual relationships between a football player and a club.

72. Indeed, the IWF Panel notes that according to Article 7.7 of the IWF ADP:

*If an Athlete or other Person retires while a results management process is underway, the IWF retains jurisdiction to complete its results management process. If an Athlete or other Person retires before any results management process has begun and the IWF would have had results management jurisdiction over the Athlete or other Person at the time the Athlete or other Person committed an anti-doping rule violation, the IWF has jurisdiction to conduct results management.*

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notes that on 1 January 2015, WADA adopted a new World Anti-Doping Code ("WADA Code"), Article 17 of which extended the statute of limitations from eight to ten years. Moreover, Article 25.2 of the 2015 WADA Code provides that Article 17 applies retroactively, provided that the statute of limitation period has not already expired on 1 January 2015, when the 2015 WADA Code entered into force. This was evidently not the case in the present proceedings. Thus, the relevant statute of limitations in the present case would be ten years. In this respect, the IWF Panel notes that in CAS 2015/A/4304, *Tatyana Andrianova v. ARAF*, § 49, the Panel confirmed that the 10-year statute of limitation of the new Article 17 of the WADA Code could apply to those cases that were not already time-barred on 1 January 2015, i.e. on the date the 2015 WADA Code entered into force.

73. As such, the fact that the FRH Athletes were retired at the time disciplinary proceedings were initiated against them is not relevant, considering that the above provision expressly provides for the IWF's jurisdiction over such athletes, provided that it already had jurisdiction at the time the athletes committed the relevant ADRV.
74. The FRH does not allege that this was not the case with respect to the four FRH Athletes. Indeed the FRH did not put forward such a defence.
75. Therefore, the IWF Panel finds that the IWF had jurisdiction to initiate anti-doping proceedings against the four FRH Athletes.

### **3. Binding effect of the decisions against the FRH Athletes**

76. The FRH alleges that “[t]he decisions adopted in cases in which FRH was not a party are not vested with *res judicata* effect and have no binding effect on subsequent trials even if the questions which arise are typically the same”.
77. In substance, it is the FRH's position that since it did not have the opportunity to present a point of view in the anti-doping proceedings against the four FRH Athletes, the decisions against those athletes cannot have any binding value and cannot be “input[ed] to the federation”.
78. In this respect, the FRH further disputed the IWF's assumption that the ADRVs of the four FRH Athletes were intentional based on the fact that these athletes had failed to submit any explanation in relation to their violations. According to the FRH, “[i]n a fair standard procedure, intention is not presumed but it should be established based on facts and proof”.
79. As an initial remark, the IWF Panel does not consider the *res judicata* principle to be relevant in the case at hand. The issue is not whether the *res judicata* nature of the ADRVs somehow extends to the FRH but rather whether it is established that either “four or more violations [...] are committed” within the meaning of 12.3.1 of the IWF ADP or that the ADRVs (which are *res judicata* as far as the athletes is concerned) “brought the sport into disrepute” within the meaning of Article 12.4 of the IWF ADP.
80. It is the Panel's view that the question of whether the ADRVs have been “committed” within the meaning of Article 12.3.1 of the IWF ADP can only be interpreted as meaning that they have been established by a final decision binding to the athletes concerned. As the national federations are not a party to the disciplinary proceedings between the athletes and the international federation, any reading that would require the ADRVs to be re-litigated would be difficult to square with the purpose of Article 12.3.1 of the IWF ADP.

81. As to the question of whether a conduct from a Member Federation has “brought the sport into disrepute”, the FRH does not explain why final decisions concerning its athletes could bring the sport in disrepute only if the FRH was allowed to participate in the disciplinary proceedings against those athletes.
82. In this respect, the CAS has confirmed that suspending a Member Federation for its failure to administer an effective anti-doping program with regards to its members cannot be considered as a violation of the Swiss public policy on the grounds that it imposes a strict liability (CAS 2016/A/4701, *WFRK v. IWF*, § 147).
83. In view of the above, the IWF Panel is satisfied that, contrary to the FRH’s position, the present proceedings are not based on the same facts as the proceedings against each individual FRH affiliate that committed an ADRV.
84. By the same token, the IWF Panel does not consider the question of whether the FRH Athlete’s ADRVs were intentional or not to be relevant.
85. Indeed, given that, as mentioned, the sanction(s) provided under Article 12.3.1 and Article 12.4 of the IWF ADP are triggered on the basis of an objective factor, which is the existence of three or more ADRVs in one calendar year, respectively the fact that the sport of weightlifting was brought into disrepute, there is no reason to determine these athletes’ fault or intention in relation to their respective ADRVs.

#### **4. Conclusion on the breaches of Article 12.3.1 and Article 12.4 of the IWF ADP**

86. Having examined and dismissed the FRH’s various defences in relation to the samples collected during the London Games, the IWF Panel is satisfied that the requirements of both Articles 12.3.1 and 12.4 of the IWF ADP are met in the case at hand.
87. Indeed, with respect to Article 12.3.1 of the IWF ADP, the IWF Panel notes that:
- Five ADRVs have been committed within a 12-months period, as required under this provision; and
  - The testing of all five samples was conducted by the IWF or an ADO other than the National Federation or its National ADO.
88. As to the requirements of Article 12.4 of the IWF ADP, the IWF Panel is also satisfied that the sport was brought into disrepute.
89. In this respect, the IWF Panel notes that according to CAS jurisprudence (see CAS CAS ad hoc Division OG 16/009 *RWF v. IWF*, § 7.13 and CAS 2016/A/4701 *WFRK v. IWF*, § 134), the term “disrepute” refers to “loss of reputation or dishonour” and:
- [...] in principle, multiple ADRVs within a certain period of time by a certain number of athletes at certain events, combined with a proven failure of a*

*national member federation to administer a proper anti-doping program, may constitute circumstances that bring the sport into disrepute.*

90. In the present case, the IWF Panel considers that the circumstances of the multiple ADRVs are so compelling that the sport has been brought into disrepute, irrespective of whether or not the FRH failed at administering a proper anti-doping program. Indeed, as emphasized by the ITA on behalf of the IWF:
- Four out of the five ADRVs triggering the application of Article 12.3.1 of the IWF ADP in the present case were committed during the London Games.
  - The four FRH Athletes constituted the entire FRH delegation during those Games.
  - Two of those athletes won medals (i.e. Mr. Martin won the bronze medal in the 69kg category and Ms. Cocos won the silver medal in the 69kg category).
  - By the FRH's own account, the Olympic Games constitute the most coveted event in an athlete's life.
  - Four out of the five relevant samples contained more than one Prohibited Substance and all of them revealed the same classes of Prohibited Substances (i.e. exogenous anabolic androgenic steroids).
91. Be that as it may, the IWF Panel accepts the IWF's submission, according to which Article 14.1 of the IWF ADP requires Member Federations to "implement effective mechanisms to combat any doping by its members" and considers that having five of the FRH's affiliates committing ADRVs within a 5-months period (and indeed the entire delegation of the London Games testing positive) is sufficient to constitute a failure to implement such effective mechanisms.
92. Based on the above, the IWF Panel is therefore satisfied that the FRH committed a breach of both Article 12.3.1 and Article 12.4 of the IWF ADP.
93. The IWF Panel thus needs to determine the relevant sanction for these breaches.
94. As a final remark, the IWF Panel notes that the FRH argued that the FRH should not be banned from the next Olympic Games because the requirements of Article 12.3.1.1 of the IWF ADP are not met.
95. In this regard, the IWF Panel agrees with the FRH that the IWF did not put forward a breach of Article 12.3.1.1 of the IWF ADP and therefore does not deem it necessary to examine whether the requirements of this provision are met in the present case. The question of the FRH's participation in the Tokyo Games will further be examined in the following section.

### **C. WHAT SANCTION SHOULD BE IMPOSED ON THE FRH?**

96. Prior to determining the appropriate sanction for the FRH's breaches, the IWF Panel will address the FRH's arguments regarding the circumstances that, in its opinion, need to be considered in reaching a conclusion regarding the sanction.

97. The IWF Panel considers that such arguments constitute an attempt by the FRH to establish the existence of mitigating circumstances. The Panel will therefore start by examining whether such mitigating circumstances exist in the present case.

#### **1. Existence of any mitigating circumstances**

98. The FRH has put forward several arguments and circumstances that it considers relevant in the context of determining the relevant sanction to be applied in its case.

99. In particular, the FRH claimed that:

- Given that the WADA technology itself was unable to detect the presence of the Prohibited Substances in the analyses conducted on the samples of the four FRH Athletes in 2012, it was unfair to expect from the FRH to be able to "fight an undetectable enemy as it had no available measures".
- It allocated a significant amount of money to the fight against doping, which constituted a considerable effort on the FRH's part.
- Anti-doping controls would, according to the system put in place, take place "at the level of the national and Olympic teams, within the national competitions and before the trips to the international competitions".
- The FRH "constantly transmitted anti-doping information" as part of its educational and prevention actions, in particular by providing such information during competitions.

100. With respect to the first point raised by the FRH, the IWF Panel does not accept the FRH's reasoning. Indeed, what is relevant is not whether the FRH was able to detect the Prohibited Substances and take actions against the relevant athletes itself, but rather whether the FRH implemented the necessary measures to avoid that any athletes would use Prohibited Substances in the first place.

101. In this respect, while the FRH claims that it has taken measures and "constantly transmitted anti-doping information" to its affiliates, the IWF Panel notes that the FRH has produced no particular evidence to establish, concretely: (i) the measures that were taken to educate its athletes; and (ii) the content of the information that was provided.

102. As such, while the IWF Panel is ready to accept that the FRH did take some educational measures, the fact that five different athletes tested positive for the same class of substances within a five-months period is a strong indication that such measures were evidently not fit for purpose and in any event not sufficient to ensure effective anti-doping measures.
103. Moreover, the IWF Panel is reassured in its finding based on the FRH's description of its testing program. Indeed, the IWF Panel is not convinced that having a program in place which provides merely for anti-doping controls to take place during national competitions and before trips to international competitions is sufficient – in particular the FRH does not mention whether it conducts any out-of-competition controls outside of the mentioned period (i.e. "before trips to international competitions").
104. Based on the above, the IWF Panel is not satisfied that the measures taken by the FRH to fight against doping are sufficient to constitute a mitigating circumstance to take into account in determining the relevant sanction.

## **2. Relevant sanction**

105. As mentioned, the IWF Panel finds that the FRH has committed a breach of both Article 12.3.1 and Article 12.4 of the IWF ADP.
106. Given that the FRH has breached two different rules, the questions of the principle of concurrent infringements arises, i.e. treating the plurality of violations as a violation of a single provision to avoid double incriminations.
107. Article 12 of the IWF ADP does not provide any guidance on how to determine the relevant sanction when several breaches occur based on the same factual circumstances.
108. The IWF Panel will therefore impose the sanction for the most serious offence without increasing it to take into account the existence of a separate offence.<sup>3</sup>
109. In the present case, the Panel considers that Article 12.4 of the IWF ADP is the more serious offence as it is expressed in more stigmatizing terms and provides for sanctions that are broader in scope. Indeed, Article 12.4 of the IWF ADP provides that a Member Federation may be suspended from participating "in any activities for a period of up to

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<sup>3</sup> In the absence of a specific rule, the Panel deems it inappropriate to apply the general rule about "concurrent offences" as set out for instance at Article 49 of the Swiss Criminal Code (which reads as follows: "*If the offender, by committing one or more offences, has fulfilled the requirements for two or more penalties of the same form, the court shall impose the sentence for the most serious offence at an appropriately increased level. It may not, however, increase the maximum level of the sentence by more than half, and it is bound by the statutory maximum for that form of penalty*").

two (2) years", whereas Article 12.3.1 of the IWF ADP only provides for a suspension from participating "in any activities of the IWF".

110. In light of the above and all the circumstances of the present case, the IWF Panel considers the Policy based on Article 12.4 of the IWF ADP, the rationale of which has been confirmed by the CAS, to be the appropriate basis for the sanction to be imposed on the FRH.

111. Considering, *inter alia*, the number of FRH athletes committing ADRVs during the 2012 London Games, the substances involved and the absence of any mitigating circumstances, the Panel finds that the appropriate sanction to be imposed on the FRH is a suspension from participating in any activities for a period of one (1) year, in accordance with Article 12.4 of the IWF ADP and the Policy based on same. As provided for under the Policy based on Article 12.4 of the IWF ADP, this suspension includes the suspension of the FRH's following rights:

- The right to participate at IWF Events with Athletes and Technical Officials;
- The right to organize IWF Events, IWF Congress, IWF Executive Board meetings, meetings of IWF Commissions and Committees;
- The right to participate in the Congress with voting rights;
- The right to submit proposals for inclusion in the Agenda of the Congress;
- The right to take part in and benefit from the IWF Development program apart from Education and Anti-Doping Seminars; and
- The right to submit proposals if any for modification of the IWF Constitution, Technical and Competition Rules & Regulations whenever requested.<sup>4</sup>

112. Prior to examining whether the FRH shall benefit from a conditional suspension of the above sanction, the IWF Panel deems it necessary to address the FRH's arguments that:

- The new generation of athletes should not be sanctioned for the actions of the previous generation;
- The Tbilisi Decision was imposed after the 2016 Rio de Janeiro Summer Olympic Games (the "Rio Games") and that any sanction imposed on the FRH should take this fact into consideration; and
- The principle of equal treatment should be complied with.

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<sup>4</sup> See CAS 2016/A/4701, WFRK v. IWF, § 11.

113. The IWF Panel is not satisfied that any of these arguments have an impact on the sanction imposed on the FRH for the following reasons.

**a. Argument regarding the new generation of athletes**

114. The FRH argued that since the relevant facts occurred in 2012, those who will “indirectly bear the sanction” and who will “suffer direct consequences” are the young athletes of the new generation.

115. The FRH further submitted that a sanction on such athletes may not be compatible with Swiss public order, considering that: (i) “an innocent athlete is deprived of the right to participate to the most important event of an athlete’s career”, (ii) such a sanction would be imposed without those athletes ever having committed a violation or breach of the relevant regulations; and (iii) the athletes did not have the right to participate in the proceedings and to exercise their right to be heard.

116. Therefore, the FRH submitted that the FRH’s athlete’s fundamental rights of Article 6(1) of the European Convention on Human Rights (“ECHR”) should be complied with.

117. Irrespective of the applicability of Article 6(1) ECHR before internal tribunals like the present Panel, which the FRH did not substantiate, it should be noted that the present proceedings are not directed against the FRH athletes but against the FRH itself. With that said, the Panel cannot ignore the fact that the measures sought by the IWF against the FRH for failing to ensure an effective anti-doping policy have a direct impact on its athletes. However, the Panel considers that it is logical that sanctions imposed against a Member Federation will also affect their members, including their athletes.

118. In the Panel’s view however, such an impact is necessary in order to ensure the efficiency of the fight against doping. Indeed, should the IWF Panel consider that the measures imposed should not affect the athletes that are currently competing for the FRH, the FRH’s suspension would be of very limited effect.

119. Thus, as held in similar situations by the CAS (CAS 2015/A/4319, *BWF v. IWF*, award of 15 February 2016, § 73), the Panel considers the fact that FRH athletes are ineligible from participating in the Tokyo Games and IWF events to be “collateral damage” that is “justified by the overarching objectives to protect the values of sport and to ensure that general education is provided by national federation to its affiliated members”. The Panel sees no compelling reason to depart from this CAS case law in the present matter.

### 3. Proportionality of the sanction

120. The FRH argued that any sanction imposed on it should “fit the crime” and that the IWF Panel should consider the fact that given that the Olympic Games take place only once in four years, “even a short ban at the wrong time can have disproportionate effects”.
121. In this respect, the FRH referred to a CAS award (CAS 99/A/246, *W. / International Equestrian Federation (FEI)*), in which the CAS reduced a sanction imposed on an athlete from eight to six months in order to allow him to compete in the qualifying event for the Olympics, as otherwise “the suspension would have, in practice, an effect extending well beyond eight months”.
122. According to the FRH, the situation would be similar in the present case, considering that the Olympic Games only take place every four years.
123. The FRH also requested the IWF Panel to take into account the fact that in 2016, the sanction imposed in the Tbilisi Decision was applied “after the Olympic Games, not before”.
124. The IWF Panel is not convinced by the FRH’s arguments and does not consider its sanction against the FRH to be disproportionate.
125. First, it is the Panel’s understanding the sole reason the Tbilisi Decision and the sanction contained therein was imposed against the relevant Member Federations after the Rio Games is that the proceedings against the athletes’ ADRVs were still pending at the time the Rio Games started. Thus, in the absence of any decision establishing the existence of an ADRV, it is clear that the IWF could not take any measure prior to finalization of the pending procedures (see CAS 2016/A/4701 *WFRK v. IWF.*, § 10).
126. Conversely, in the present case, the ADRVs against the five FRH athletes have all been established and have not been disputed by the athletes.
127. It is therefore incorrect for the FRH to imply that in 2016, the IWF somehow “waited” until after the Rio Games to impose the relevant sanctions on the Member Federations that were in breach of Article 12 of the IWF ADP.
128. As to the FRH’s argument that the present sanction would extend well beyond its duration, the IWF Panel disagrees.
129. In the CAS award to which the FRH referred, the only reason for reducing the athlete’s sanction was that he would have been prevented from participating in the qualifying events for the Olympic Games (which were taking place during the initial eight month period) and thus prevented from participating in the Olympic Games themselves, although the Games were to take place after the relevant eight-month sanction. The

CAS panel thus correctly considered that such a sanction would in effect extend well beyond the eight-month sanction.

130. It is the IWF Panel's view that this is not the case in the present proceedings, as the Tokyo Games will take place during the one-year suspension imposed on the FRH. The mere fact that the Olympic Games take place only once every four years does not warrant a different sanction than the one imposed in the present proceedings. Given the fact that most of the ADRVs underpinning the present decision happened during the Olympic Games, the Panel is reinforced in its conclusion that having the FRH missing the Tokyo Games is by no standard disproportionate in nature.

#### **4. The FRH's right to equal treatment**

131. As a final matter, the IWF Panel notes the FRH's claim that the Member Federations of Colombia and Iraq are allegedly in a similar situation as the FRH, but that no proceedings have been initiated against those federations.
132. In this respect, the FRH requested the IWF to "reveal to the Independent Panel, to which countries they sent a notification for similar alleged breaches in 2020 and what is the status of the procedure, and, in case that the procedure did not advance, what is the reason for not advancing such procedures for each particular case".
133. In this respect, the IWF Panel does not have any information in relation to the federations of Iraq and Colombia (other than the information available in the public domain) and would in any event be unable to share any information regarding any such confidential proceedings.
134. Be that as it may, the IWF Panel is satisfied that, should the situation of the federations of Colombia and Iraq indeed be similar to the FRH's situation, the IWF would treat every case equally and initiate proceedings against any Member Federation suspected of having committed a breach of Article 12 of the IWF ADP and impose the sanction it deems appropriate under the circumstances of the case, if any.
135. Hence, the IWF Panel concludes that the principle of equal treatment is of no relevance in the present case.

#### **5. Conclusion on the FRH's sanction**

136. In view of the above considerations, the IWF Panel is satisfied that a suspension of the FRH from participating in any activity (including those listed under para. 111 above) is a valid and proportionate sanction in light of the seriousness of the FRH's breach and the absence of any mitigating circumstances.

137. The sole remaining question is therefore whether the FRH should benefit from a conditional suspension of its sanction.

**D. SHOULD THE FRH BENEFIT FROM A CONDITIONAL SUSPENSION**

138. The IWF submitted that under the Tbilisi Decision, the Member Federations were offered the opportunity to benefit from a partial conditional reinstatement of the suspended rights provided that the Member Federation complied with a set of requirements related to the fight against doping.

139. The IWF also noted that such a possibility was further enshrined in Article 12.6 of the 2021 IWF ADR, which provides that:

*At the discretion of the Independent Panel, an appropriate portion up to a maximum of fifty percent of the Member Consequences (including any fine) imposed upon the Member Federation may be conditionally lifted provided that the Member Federation undertakes to satisfy certain criteria aimed at assisting IWF in the fight against doping in sport defined at its discretion by the Independent Panel and meets them throughout the period of application of the Member Consequences imposed, or an appropriate period should a fine only have been imposed. For the avoidance of doubt, any lifted period of Member Consequences or ban on team officials shall be applied to the end of the relevant period of Member Consequences or ban on team officials.*

140. Upon the Panel's request, on 13 May 2021, the IWF provided the list of criteria that it would consider as "assisting the IWF in the fight against doping".

141. In that context, the IWF noted that the Member Federations sanctioned pursuant to the Tbilisi Decision could only benefit from the partial conditional reinstatement of the suspended rights provided that: (i) they complied with the requirements and (ii) accepted the imposition of the suspension without further need of proceedings and by waiving its right of appeal against the decision of the IWF.

142. In its Answer, the FRH confirmed that it agreed with the criteria proposed by the IWF, but requested that:

- Any measure imposed to the FRH should be compliant with Romanian law;
- for the purposes of the conditional suspension, the IWF would only consider any potential AAFs committed after the issuance of the present Decision;
- the payment of USD 50'000.- as a contribution towards the IWF's enhanced anti-doping activities be payable in instalments and within a deadline of 1 October 2021 instead of 1 July 2021;
- the IWF should provide clear guarantees to the athletes to participate under neutral flag during the period during which the FRH is suspended.

143. The Panel considers that in light of all of the circumstances of the present case, in particular the FRH's collaborative approach and agreement to the IWF's criteria, the FRH should benefit from the partial conditional reinstatement of its suspended rights, provided that the criteria put forward by the IWF are met, namely:

- FRH ensures that FRH Athlete Support Personnel, such as coaches, and Officials of the FRH in contact with Athletes have never committed anti-doping rule violations or acts that would amount to anti-doping rule violations but were not sanctioned for some reason; ergo, FRH to remove from their FRH functions any Athlete Support Personnel who have trained more than three Athletes who have committed anti-doping rule violations in the past 10 years;

In this respect, the IWF Panel trusts that Romanian law provides for a system allowing the FRH to dismiss any person that would not meet the above requirement based on "just cause", as is *inter alia* the case under Swiss law.

- No FRH Athletes, Athlete Support Personnel or Officials receive notice of an Adverse Analytical Finding for a Prohibited Method or a Prohibited Substance that is neither a Specified Substance nor a Substance of Abuse or notice regarding Articles 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.9 2.10 or 2.11 of the IWF ADR from now on and until the end of the sanction imposed by the Panel;

In this respect, the IWF Panel agrees with the FRH that this criterion should comprise only the ADRVs that would be committed after the present Decision and not ADRVs committed prior to same but that would be notified only after the issuance of the Decision.

Indeed, the IWF Panel considers that the purpose of the sanction imposed against the FRH is for the FRH to implement effective measures to fight against doping for the future. Thus, the rationale of the sanction would be distorted if the partial reinstatement of the suspended rights were cancelled based on ADRVs that occurred prior to such sanction being imposed.

- FRH ensure that its Registered Testing Pool Athletes – not the FRH on their behalf – submit accurate, complete and timely whereabouts filings including accurate phone number and individualized email addresses for each Athlete in ADAMS;
- FRH ensures that it shares the dates and locations of training camps of the National Team's Athletes with the ITA on a timely basis;
- FRH makes its Athletes and Athlete Support Personnel available for an interview with the ITA, upon ITA's simple request;

- FRH makes its Athletes and Athlete Support Personnel aware of the ITA's Reveal confidential reporting platform, the FRH posts a link on its website to the ITA's Reveal platform, and the FRH Athletes and Athlete Support Personnel download the ITA's Reveal reporting app (once available);
- FRH ensures that its Athletes and Athlete Support Personnel attend one anti-doping education session hosted by the ITA (in Romanian) within the next six months and to bear the ITA's related costs and the costs of ensuring that the Athletes and Athlete Support Personnel are available, if any;
- FRH to pay a 50'000 USD to the IWF by 1 October 2021 as a contribution to the IWF's enhanced anti-doping activities, in accordance with a payment plan to be discussed and agreed upon between the Parties;

In view of the Parties' agreement in this respect, the IWF Panel confirms that the deadline to pay the relevant amount is 1 October 2021 and that a payment plan should be discussed between the Parties.

- The FRH leadership accept public responsibility to change the culture of doping in Romanian weightlifting.

144. The IWF Panel considers that the FRH should benefit from a partial reinstatement of the suspended rights after having served eight months of its suspension.

145. In other words, the FRH shall benefit from a four-month suspension of its sanction, in the event the above-mentioned criteria are met.

\* \* \* \*

## VII. DECISION

146. In light of the above the Panel rules as follows:

1. The Federatia Romana de Haltere has committed a breach of Articles 12.3.1 and 12.4 of the IWF ADP.
2. The Federatia Romana de Haltere is suspended from participating in any activities for a period of one (1) year, starting on the date of the present decision (i.e. 15 June 2021).
3. The present decision shall be conditionally lifted eight (8) months after it was issued (i.e. on 15 February 2022), provided that the criteria set out under paragraph 143 are met and as long as they are met.

Date: 15 June 2021

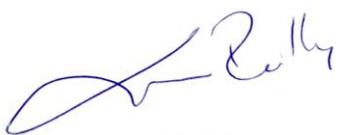
The IWF Panel:



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**Antonio Rigozzi**

Chair



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**Louise Reilly**



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**Heiner Kahlert**