

**CAS 2023/A/9551 Georgi Yomov v. Union Européenne de Football Association (UEFA)**

**ARBITRAL AWARD**

**delivered by the**

**COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

President: Mr Philippe Sands K.C., Barrister in London, United Kingdom  
Arbitrators: Mr Jeffrey G. Benz, Attorney-at-law and Barrister in London, United Kingdom  
Prof. Luigi Fumagalli, Attorney-at-Law and Professor in Milan, Italy  
Clerk: Ms Stéphanie De Dycker, CAS Clerk, Lausanne, Switzerland

**in the arbitration between**

**Mr Georgi Yomov, Bulgaria**

Represented by Mr Marc Cavaliero and Mr Jaime Cambreleng, Attorneys-at-Law, Cavaliero & Associates, Geneva, Switzerland

**Appellant**

**and**

**Union of European Football Associations (UEFA), Nyon, Switzerland**

Represented by Mr Antonio Rigozzi, Attorney-at-Law, Lévy Kaufmann-Kohler, Geneva, Switzerland

**Respondent**

## **I. PARTIES**

1. Mr Georgi Yomov (the “Appellant” or the “Player”) is a professional football player of Bulgarian citizenship. At the time of the relevant facts, he was employed by PFC CSKA-Sofia (the “Club”).
2. The Union of European Football Associations (the “Respondent” or “UEFA”) is the governing body of European football, recognised as such by Fédération Internationale de Football Association (FIFA), and is subject to the requirements of the World Anti-Doping Code, in respect of which it has passed its own anti-doping rules; it is an association under the Swiss Civil Code (SCC) with its headquarters in Nyon, Switzerland.
3. The Appellant and the Respondent are jointly referred to as the “Parties”.

## **II. FACTUAL BACKGROUND**

4. The present appeal was brought by the Player against the 10 February 2023 decision (the “Decision”) of the UEFA Appeals Body (the “UEFA AB”), according to which he was found guilty of use of a prohibited substance under Article 3.1 of the UEFA Anti-Doping Regulations (the “ADR”). He was consequently suspended for a period of four (4) years starting from the date on which he was provisionally suspended (i.e., 25 August 2022) and ending on 25 August 2026.
5. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced at the hearing. 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 Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this award (the “Award”) only to the submissions and evidence it considers necessary to explain its reasoning and conclusions.

### **A. The facts of the case**

6. On 28 July 2022, after the 2022/23 UEFA Europa Conference League match between the Club and FK Makedonija played in Sofia at 19:00 CET (the “Match”), the Player underwent an in-competition test (the “Test”) where he provided a urine sample (the “Sample”).
7. The Player declared on his Doping Control Form (“DCF”) having taken the following medications or supplements in the seven days preceding the Test: creatine, benalgin, magnesium and arkoksia.
8. The Sample was analysed by the WADA-accredited laboratory in Bucharest (the

- “Laboratory”), which reported an Adverse Analytical Finding (“AAF”) for the presence of a metabolite of Dehydrochloromethyltestosterone (“DHCMT”). DHCMT and its metabolite (the “Prohibited Substance”) are prohibited substances under the category S1.1 Anabolic Androgenic Steroids according to the 2022 WADA Prohibited List (“Prohibited List”). This substance is prohibited in and out-of-competition.
9. The UEFA Anti-Doping Unit reviewed the AAF and concluded that the Player did not have any applicable Therapeutic Use Exemption (“TUE”) for the presence and use of the Prohibited Substance and that no apparent departures from the WADA International Standard for Testing and Investigations or International Standard for Laboratories could be identified.
  10. On 25 August 2022, UEFA informed the Appellant about the AAF and that the Control, Ethics and Disciplinary Body (“CEDB”) had decided to impose a provisional suspension of 90 days on the Player. The Player was given an opportunity to request a hearing in relation to the provisional suspension by 1 September 2022. The Appellant remains suspended ever since and has respected that suspension.
  11. On 1 September 2022, the Appellant waived his right to request a hearing in relation to the provisional suspension, requested the B Sample to be analysed and sought further information about the concentration of the Prohibited Substance in the Sample. In view of these requests, the Player requested that his deadline to provide his explanation for the AAF be set aside until such time that he would have received the requested information. Alternatively, the Player requested a 30-day extension to provide his explanation.
  12. On 2 September 2022, the Player requested that he be provided with the Laboratory Documentation Package (“LDP”) relating to his A Sample analysis.
  13. On 8 September 2022, a member of the UEFA Anti-Doping Unit e-mailed to the Player:  
*“[...] The laboratory has informed me that in accordance with the WADA International Standard for Laboratories, there is no requirement for them to provide an estimated concentration for a non-threshold substance to the athlete. The estimate concentration is only provided if required by the Testing Authority (TA), Results Management Authority (RMA) or WADA if relevant for results management purposes. UEFA (which is the TA and RMA) considers the concentration is not relevant for the results management, accordingly the concentration will not be provided at this stage. [...]”*
  14. On 9 September 2022, the Player expressed surprise and dissatisfaction with the decision of the UEFA Anti-Doping Unit, stating that the withholding of crucial information without any explanation was concerning. The Player emphasized the importance of having access to this information at an early stage of the procedure to adequately prepare his defence. He further highlighted the burden of proof placed on players like himself by the ADR. The Player requested UEFA to reconsider its decision and promptly provide him with the essential information.
  15. On 16 September 2022, UEFA sent a copy of the A Sample LDP to the Player and

requested him to provide within seven days information about any intake of medicines or supplements in the 15 days prior to the Test. In the same communication, the steps for the Player's B sample opening and analysis were confirmed.

16. On 20 September 2022, the B Sample was analysed in the presence of Dr Douwe de Boer.
17. On 23 September 2022, the Player again expressed his surprise with respect to UEFA's decision to withhold the estimated concentration and reserved the right to provide his comments at a later stage of the proceeding.
18. On 29 September 2022, UEFA informed the Appellant that the B Sample confirmed the presence of a metabolite of DHCMT. In the same letter, the Player was again requested to provide a comprehensive list of all supplements and medications consumed within the 15 days leading up to the sample collection.
19. On 5 October 2022, the Player sent a letter to UEFA clarifying his position. He emphasised his willingness to cooperate fully with UEFA and stated that he had never refused to provide information. However, he explained that once he was given a specific deadline, he intended to present his defence and in this context he would also respond to the "query" regarding the information about any intake of medicines or supplements in the 15 days prior to the Test. The Player described the emotional difficulty he faced upon receiving the result of the A sample and being provisionally suspended. He further set out his efforts to determine how the Prohibited Substance entered his body, highlighting the challenging nature of this task as he claimed to have never taken any prohibited substance.
20. On 6 October 2022, the UEFA Anti-Doping Unit informed the Player that it had decided to forward the matter to the UEFA Disciplinary Unit.
21. On 19 October 2022, the UEFA Disciplinary Unit initiated a disciplinary proceeding against the Player, and formally invited him to provide a statement addressing the allegation by 31 October 2022.
22. On the same date, the UEFA Disciplinary Unit informed the Player as to the estimated concentrations of the Prohibited Substance found in his A sample (0.05 ng/mL) and B sample (0.04 ng/mL). Additionally, the UEFA Disciplinary Unit clarified that these concentrations were derived from an analytical testing procedure that had not been validated for quantitative purposes.

#### **B. Proceedings before the UEFA Appeals Body**

23. On 20 October 2022, the Player was informed that the CEDB had decided to refer the proceedings directly to the UEFA AB.
24. On 25 October and 3 November 2022, the Player requested two extensions of the deadline to submit his position, which were granted on 26 October and 8 November 2022.

25. On 22 November 2022, the Chairman of the UEFA AB notified the Player that, due to the two deadline extensions granted, it was not possible to conclude the results management proceedings within the stipulated 90-days timeframe. As a result, the Chairman of the UEFA AB confirmed that the Player would remain provisionally suspended until a decision was rendered by the UEFA AB.
26. On 25 November 2022, the UEFA AB granted a final extension for the Appellant to file his Defence submission by 5 December 2022.
27. On 5 December 2022, the Appellant filed his written submission before the UEFA AB.
28. On 13 December 2022, UEFA appointed an Ethics and Disciplinary Inspector (the “EDI”) and provided her a deadline of 42 days to file a report.
29. On 24 January 2023, the EDI submitted her report.
30. On 10 February 2023, a hearing was held at UEFA’s headquarters, where three of the five witnesses summoned by the Appellant were heard and the four experts summoned by the Parties were questioned.
31. On 10 February 2023, the UEFA AB rendered the Decision, as follows:
  - “1. To suspend PFC CSKA Sofia player, Mr. Georgi Yomov, for four (4) years, starting from the date on which he was provisionally suspended (i.e. 25 August 2022) and ending on 25 August 2026, for committing an anti-doping rule violation.
  2. To request FIFA to extend worldwide the above-mentioned ban.
  3. That there are no costs in these proceedings to be paid by the parties.”
32. On 15 March 2023, the UEFA AB rendered the Decision in its motivated form. The reasoning to explain the Decision can be set out in material part as follows:

“ [...] [T]he Player does not challenge that he committed the ADRV. [...] Consequently, the Appeals Body concludes that the ADRV has been established pursuant to Article 3.1 ADR by the presence of a prohibited substance or its metabolites or markers in the Player’s A Sample and B Sample and therefore, it shall determine which is the appropriate sanction.

Determining the applicable sanction

As a preliminary remark, the Appeals Body recalls that in accordance with Article 10.2.1 ADR, the period of ineligibility shall be four (4) years where the ADRV does not involve a Specified Substance, unless the Player can establish that the ADRV was not intentional, in which case the period of ineligibility shall be two years in accordance with Article 10.2.2 ADR.

[...] In view of the above, the Appeals Body first analyses if (a) it has been established by Player that he did not intentionally commit an ADRV (presence or use of a prohibited substance) and, if this is the case, (b) whether the Player is entitled to any reduction of the basic two (2) year period of ineligibility through the application of Articles 10.5 & 10.6 ADR. [...] If this is not the case, the standard sanction is four (4) years and no

*further reduction is possible.*

*a) Is the Anti-Doping Rule Violation intentional?*

*[...] The Appeals Body therefore first has to determine (i) whether the Player has established how the Prohibited Substance entered his system or, in the event it considers that this is not the case, (ii) whether there are the kind of “narrowest of corridors” circumstances that could allow a finding of lack of intent despite the Player not being able to establish the source of the prohibited substance, in accordance with CAS jurisprudence. [...] After having carefully considered the Player’s arguments and evidence put forward in support of his explanation for the AAF, the Appeals Body considers that the Player has not met his burden to establish that he did not commit the ADRV intentionally. [...] According to the Player, his Brother bought four packages of Turinabol from a member of the gym he goes to, Mr. Mladenov, and started using Turinabol in April 2022 at the rate of three Turinabol pills (each containing 10 mg DHCMT) 3-4 times a week prior to training during one month (i.e. between 20 April 2022 and 20 May 2022), before pausing for a month, as per Mr. Mladenov’s instructions. The Brother stated that he then continued to take Turinabol at the same frequency between 20 June and 20 August 2022 (although he [newly] explained at the hearing that he paused for two weeks at the end of June 2022 because of a back injury). The Player’s explanation, in essence, is that since his Brother has had issues swallowing pills since childhood, the Brother inserted the Turinabol pills – previously smashed with a spoon - in his blender when preparing his smoothies and that the Player must have consumed the remnants of the Brother’s Turinabol-contaminated smoothie when preparing his own smoothie using the same blender as his Brother. [...] The Appeals Body finds that the Player’s explanation lacks overall credibility. In particular, the Appeals Body notes that, during the hearing, the Brother first confirmed that he knew at the relevant time that it was “certainly not allowed” for the Player to use Turinabol and that he was aware his brother [the Player] was being careful with the substances and medications he ingests. [...] The Brother also explained that he was being “very careful” when throwing the empty Turinabol packages away and that he was taking the Turinabol pills, which he explains were stored in his room, with him every morning to make sure that “nobody [in his family] would find them”. [...] Considering the caution that the Brother claims to have exercised to ensure that his family would not find out about his Turinabol use and his knowledge of the fact that Turinabol was a Prohibited Substance, the Appeals Body does not find it credible that the Brother would knowingly leave remnants of the smoothies containing Turinabol for the Player to finish. The Brother’s claim that he must have “forgotten” to wash the blender after using it, or that in order to avoid food waste he left “leftovers” of his own smoothies tainted with Turinabol in the blender before leaving the family home, is simply not consistent with the Brother’s overall explanations and also not particularly convincing. [...] Similarly, the Appeals Body does not find it likely that the Brother could have repeatedly, i.e. three or four times a week during three months in 2022, smashed unknown pills in the kitchen and put them in the family’s blender to prepare his smoothies without having anyone in the family (including the Player and his mother) noticing anything. [...] When assessing the Player’s scenario, the Appeals Body has also considered the contradictions between the witnesses’ respective statements regarding when the Brother told his family that he was using Turinabol. According to the Player, his Brother informed him of his Turinabol*

*use “several months after [his] punishment became known”, i.e. after the Brother saw that the Player and his team were desperately trying to find the source of the Prohibited Substance. The Brother and the Player’s mother, on the other hand, both asserted that the Brother had informed the Player “immediately after [they] learned about [the Player’s] case”. [...] The Appeals Body is also not convinced by the evidence put forward by the Player as to how the Turinabol was allegedly purchased by the Brother. Two dates appear on the e-mail purchase confirmation sent by ABV Steroid Store to Mr. Mladenov and filed by the Player, 28 November 2021 (date mentioned in the text of the e-mail) and 27 November 2022 (date on which the e-mail has been allegedly sent and received). Mr. Mladenov did not provide any explanation for this discrepancy, explaining on the contrary that he was always carefully keeping purchase receipts in the event of non-conforming products. Furthermore, no credible explanation has been provided by Mr. Mladenov supporting his reason for purchasing numerous boxes of Turinabol for a significant amount compared to his monthly salary (i.e. the equivalent of 15% of his monthly revenue: 354 EUR / 2,500 EUR) without intent to re-sell them or make a profit. The Player did not either file any proof of the actual delivery of the products to Mr. Mladenov in November 2021, nor any payment receipt or other evidence of payment (either by Mr. Mladenov to ABV Steroid Store or from the Brother to Mr. Mladenov). The Appeals Body therefore finds that the Player failed – on a balance of probabilities – to demonstrate how Turinabol has been purchased by the Brother in the case at hand. The Appeals Body further finds that the scientific evidence provided by the Player and the EDI provide no useful or convincing insights with respect to the source of the Prohibited Substance, let alone to establish, on the balance of probability, that the use of Turinabol was not intentional.[...] The Appeals Body indeed notes in this regard that there appears to be a consensus among the Player’s and the EDI’s experts that the dosage of DHCMT required in order to yield a positive hair test result is unknown, which, in the Appeals Body’s view, constitutes a significant limitation to the interpretation of the hair analysis results. [...] In any event, irrespective of whether the Brother’s hair test result should be considered inconclusive or negative, the Appeals Body finds that such result provides no assistance to the Appeals Body’s assessment of the Player’s explanation anyway because, as acknowledged by Prof. Kintz during the hearing, the Brother’s chest hair does not cover the period of the AAF (or the months preceding the AAF) [...] As to the Brother’s nail test results, while the Appeals Body is ready to accept that it demonstrates contact with DHCMT on the Brother’s part, the fact that such positive result could also correspond to a time frame after the AAF was reported, as acknowledged by Prof. Kintz during the hearing, drastically reduces the overall relevance of the nail test, irrespective of the reliability of such test. Finally, the Appeals Body notes that there is also a consensus among the experts that no analysis in the case file is robust evidence that DHCMT was not used intentionally but by inadvertent contamination. [...] [T]he Appeals Body is not satisfied that the Player established, on a balance of probabilities, that the source of the Prohibited Substance was a smoothie containing the remnants of his Brother’s Turinabol-contaminated smoothie.[...] Moreover, the Appeals Body considers that the Player has put forward no (additional) concrete and convincing circumstances that would allow the Appeals Body to find that the Player has passed through the “narrowest of corridors” that is left to athletes to establish a lack of intent despite not being able to establish the source of the Prohibited Substance, in accordance with CAS jurisprudence. [...]*

*[I]n accordance with Article 10.2.1.1 ADR, the Appeals Body finds that a period of ineligibility of four (4) years applies to the Player's case as the Player has failed to establish that the ADRV was not intentional. [...] Furthermore, as the Player has failed to establish – on a balance of probabilities, how the prohibited substance DHCMT entered his system, no further reduction of the sanction based on no significant fault or negligence as per Article 10.6 ADR is possible. The Player did not either submit that he should be entitled to an elimination, reduction or suspension of the period of ineligibility for reasons other than fault as per Article 10.7 or 10.8 ADR.*

33. On 15 March 2023, the Decision was notified to the Player.

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

34. On 5 April 2023, the Appellant filed his appeal against the Decision before the Court of Arbitration for Sport (the “CAS”) and submitted his Statement of Appeal pursuant to Article R48 of the Code of Sports-related Arbitration (2019 edition) (the “CAS Code”). In his Statement of Appeal, the Appellant nominated Mr Jeffrey G. Benz, Attorney-at-Law in London, United Kingdom, as arbitrator and informed the CAS Court Office of the procedural calendar agreed upon by the Parties.

35. On 11 April 2023, the CAS Court Office informed the Parties that the present arbitration proceedings had been assigned to the Appeals Arbitration Division of the CAS and invited the Appellant to file his Appeal Brief within the agreed time limit and the Respondent to nominate an arbitrator.

36. On 24 April 2023, the Respondent nominated Prof. Luigi Fumagalli, Attorney-at-Law and Professor in Milan, Italy, as arbitrator.

37. On 24 April 2023, within the agreed time limit, the Appellant filed his Appeal Brief with the CAS Court Office.

38. On 16 May 2023, the CAS Court Office informed the Parties that the Panel appointed to decide the present procedure was constituted as follows:

President: Mr Philippe Sands K.C., Barrister in London, United Kingdom

Arbitrators: Mr Jeffrey G. Benz, Attorney-at-law and Barrister in London, United Kingdom

Prof. Luigi Fumagalli, Attorney-at-Law and Professor in Milan, Italy

The CAS Court Office also informed the Parties that Ms Stéphanie De Dycker, CAS Clerk, would assist the Panel in the present matter.

39. On 17 May 2023, the CAS Court Office informed the Parties that, in light of the agreed procedural calendar, a hearing would be held in the present matter on 28 June 2023 at the CAS Court Office.

40. On 1, 8, and 12 June 2023, the Respondent informed the CAS Court Office that the



Parties had agreed to extend the time limit to file its Answer.

41. On 15 June 2023, within the agreed time limit, the Respondent filed its Answer with the CAS Court Office .
42. On the same date, the CAS Court Office invited the Parties to communicate the list of the persons attending the hearing and to indicate whether they request a case management conference with the Panel to discuss procedural issues.
43. On 16 June 2023, the Respondent communicated to the CAS Court Office the list of the persons attending the hearing.
44. On 19 June 2023, the CAS Court Office issued an order of procedure (the “Order of Procedure”) in the present matter, and requested the Parties to return a completed and signed copy. The CAS Court Office also communicated a tentative hearing schedule for the Parties to comment.
45. On 21 June 2023, the Appellant informed the CAS Court Office that, in view of the Respondent’s Answer, the Appellant requested the Panel to authorize the Appellant to file the remaining documents pertaining to the polygraph tests done on 19 April 2023 and to postpone the hearing to a later date so that Mr Palmatier and UEFA have sufficient time to analyse such documents. Subject to the Panel’s instruction regarding the requests of the Appellant, the Appellant further communicated the list of the persons attending the hearing and confirmed his agreement with the hearing schedule.
46. On 23 June 2023, the Respondent informed the CAS Court Office that it objected to the request to file additional documentation based on Article R56 of the CAS Code, and that as a result, it also objected against the Appellant’s request to postpone the hearing. Finally, the Respondent made its comments regarding the proposed hearing schedule, and, in light of the discussion on the authorisation to file additional documentation, proposed to hold a case management conference.
47. On 26 June 2023, the CAS Court Office informed the Parties that the Panel had decided to maintain the hearing as initially scheduled and to deny the Appellant’s request to file additional documentation based on Article R56 of the CAS Code, and that the reasoning of the Panel’s decision will be included in the final Award in the present matter. The CAS Court Office also informed the Parties that the Panel had decided that it was not necessary to hold a case management conference.
48. On 26 June 2023, the Appellant confirmed his agreement with the latest comments of the Respondent to the hearing schedule and made few comments himself to the hearing schedule; he also returned a signed copy of the Order of Procedure.
49. On the same day, the Respondent returned to the CAS Court Office a signed copy of the Order of Procedure.
50. On 27 June 2023, the CAS Court Office acknowledged receipt of the latest comments on the hearing schedule as well as of the signed Order of Procedure received from each

of the Parties.

51. On 28 June 2023, a hearing was held in the present matter at the headquarters of the CAS in Lausanne, Switzerland. In addition to the members of the Panel, Ms Delphine Deschenaux-Rochat, CAS Counsel, and Ms Stéphanie De Dycker, CAS Clerk, the following persons attended the hearing:

For the Appellant: Mr Jaime Cambreleng, counsel [in person]  
Mr Marc Cavaliero, counsel [in person]  
Mr Georgi Yomov, Player [in person]  
Ms Borislava Yomova, witness [by videoconference]  
Mr Todor Yomov, witness [by videoconference]  
Mr Georgi Iliev Mladenov, witness [by videoconference]  
Mr Vasil Todorov Uzunov, witness [by videoconference]  
Mr Robert Ventsislavov Mihailov, witness [by videoconference]  
Dr Georgi Iliev, witness [by videoconference]  
Mr Douwe de Boer, expert [in person]  
Mr Pascal Kintz, expert [by videoconference]  
Ms Velina Vladimirova, expert [by videoconference]  
Mr Todor Todorov, expert [by videoconference]  
Ms Boryana Desheva, interpreter  
Ms Lyubomira Nesheva Genova, interpreter

For the Respondent: Mr Antonio Rigozzi, counsel [in person]  
Ms Marie-Christin Bareuther, counsel [in person]  
Mr William McAuliffe, UEFA [in person]  
Prof. Christiane Ayotte, expert [by videoconference]  
Dr Detlef Thieme, expert [by videoconference]  
Mr John J. Palmatier, expert [by videoconference]

52. At the outset of the hearing, the Parties declared that they had no objections as to the constitution of the Panel.
53. At the hearing, the Panel heard evidence from the following experts and witnesses: Mr Todor Yomov, Ms Borislava Yomova, Mr Georgi Iliev Mladenov, Mr Vasil Todorov Uzunov, Mr Robert Ventsislavov Mihailov, Dr Georgi Iliev, Mr Douwe de Boer, Mr Pascal Kintz, Ms Velina Vladimirova and Mr Todor Todorov, all named by the Appellant, as well as Prof. Christiane Ayotte, Dr Detlef Thieme and Mr John J. Palmatier, all named by the Respondent. Before taking their evidence, the President of the Panel informed all of the experts and witnesses of their duty to tell the truth subject to sanctions of perjury under Swiss law. The Parties and the Panel had the opportunity to examine and cross-examine them. Each of them confirmed their written statement or expert opinion. Finally, the Player also made a statement.
54. The Parties were given full opportunity to present their case, submit their arguments and answer the questions from the Panel. At the end of the hearing, the Parties also confirmed that they were satisfied with the procedure throughout the hearing, and that their right to be heard had been fully respected.

#### IV. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF

55. The aim of this section of the Award is to provide a summary of the Parties' main arguments rather than a comprehensive list thereof. However, the Panel confirms that in deciding upon the Parties' claims it has carefully considered all of the submissions made and evidence adduced by the Parties, even if not expressly mentioned in this section of the Award or in the discussion of the claims below.

##### A. The Appellant

56. In his Appeal Brief, the Appellant requested the following relief:

“

*Prayer 1:* The decision of the UEFA Appeals Body shall be set aside.

*Prayer 2:* Mr Georgi Yomov shall be issued, on the basis of article 10.6.1.2 ADR, a reprimand and, at most, a period of ineligibility of 3 months.

*Prayer 3:* In the alternative, Mr Georgi Yomov shall be imposed a maximum period of ineligibility of 14 months on the basis of art. 10.6.2 ADR.

*Prayer 4:* In any case, UEFA shall be ordered to contribute substantially to the legal fees incurred by Mr Yomov and to reimburse his expenses.”

57. The Appellant's submissions, in essence, may be summarized as follows:

- The Player acknowledges the existence of an ADRV but submits that the sanction imposed upon him must be reduced to a period of ineligibility of 3 months, on the basis of Article 10.6.1.2 of the ADR since (i) the ADRV was caused by the consumption of a product contaminated with DHCMT, and (ii) he did not commit any significant fault or negligence:
  - From 20 April until 20 May 2022, the Player's brother, Mr Todor Yomov (the “Brother”), who lives with the Player, took 3-4 times per week, 3 pills of Turinabol, which he had bought from Mr Mladenov, a friend of the Brother. Mr Mladenov purchased several boxes of Turinabol on a website on 28 November 2021. On the morning, the Brother took the pills to the kitchen where he would smash them and mix them in a blender with milk, fruits, nuts and/or proteins, that he would drink as a milkshake. The Brother then paused for a month and took the pills again from 20 June 2022 until 20 August 2022. The Brother did not inform his family nor the Player about his taking of Turinabol and would take the pills without them being aware of it. Like the Brother, the Player would use the same blender regularly to prepare smoothies for himself, thereby inadvertently and unintentionally consuming a smoothie that was contaminated with DHCMT. After having taken the pills for one month, the Brother informed two of his friends about it. The Brother disclosed his taking of Turinabol to his family including to the Player only after he was told of the Player's AAF.
  - The Player's negative hair sample test confirms that he did not consume common and repetitive doses of DHCMT in the 6 months prior to the analysis (i.e. at least 7 April 2022). The Brother's positive nail test in turn reveals that

the Brother has taken at least common doses of DHCMT during the last 8 months (i.e. at least since 10 March 2022).

- Dr de Boer confirms that the intake of DHCMT is not particularly relevant for the enhancement of football players' sporting activity and that the very low estimated concentration of the Prohibited Substance found in the Sample is indicative of an inadvertent intake of DHCMT.
  - The Brother's and the Player's polygraph examinations combined to separate psychological assessments by expert psychologists and psychophysiologists confirm the truthfulness of their statements.
  - Regardless of whether the Player successfully demonstrated the source of the Prohibited Substance, the fact that the concentration found in the Sample is very low, that such amount would not have any effect over the Player, the Player's efforts to find out the source of the ADRV and his clean record up until now as well as the polygraph examinations, combined with the fact that the Player – like any other professional athlete – could not have reasonably suspected – let alone known – that by preparing a smoothie at his house after his Brother had used the blender, he would be led to committing an ADRV, sufficiently demonstrate that the Player acted unintentionally.
  - The Player committed no significant fault or negligence since (i) he demonstrated how the Prohibited Substance entered his body, and (ii) based on the objective and subjective elements of fault as identified in the CAS case law, the Player's situation falls within the category of light degree of fault and must be situated between the minimal (0 to 3 months) and the standard (4 months) degrees.
- Alternatively, the Player submits that his sanction should be reduced to a period of ineligibility of a maximum of 14 months on the basis of Article 10.6.2 for No Significant Fault or Negligence since (i) he demonstrated how the Prohibited Substance entered his body, and (ii) based on the objective and subjective elements of fault as identified in the CAS case law, the Player's situation falls within a light degree of fault encompassing a sanction range between 12 to 16 months with a standard suspension of 14 months, since (i) any professional athlete would have not doubted about using the blender after his brother in their house and drinking the smoothie that he had prepared for himself, (ii) the preparation of the Player's smoothie took place within a secure and controlled environment, adhering to a long-established daily routine that had been constantly maintained for several years; (iii) the Player had undergone a separate doping control test, which produced a negative result while using the same blender.

## **B. The Respondent**

58. In its Answer, the Respondent requested the following relief:

- “1. *Dismissing Mr. Yomov's appeal and rejecting all of the prayers for relief put forward in his Appeal Brief dated 24 April 2023.*
2. *Upholding the Decision of the UEFA Appeals Body in Mr. Yomov's anti-doping*

*proceedings.*

3. *Ordering Mr. Yomov to pay a contribution towards UEFA's legal fees and other expenses, which will be quantified after the hearing."*

59. The Respondent's submissions, in essence, may be summarized as follows:

- The Player failed to demonstrate that he acted unintentionally, and as a result, the applicable period of ineligibility is four years:
  - The Player failed to establish the source of the Prohibited Substance:
    - While the email showing the purchase on the internet of Turinabol, as presented before the CAS, mentions that the purchase occurred on 28 November 2021, the same email as it was presented before the UEFA AB showed a different date of purchase; similarly, while before CAS, Mr Mladenov confirmed that he purchased Turinabol on 28 November 2021, before the UEFA AB he stated that he had bought the Prohibited Substance on 21 November 2021.
    - The Brother's explanation regarding his intake of the Prohibited Substance is not credible: while the Player produced pictures of empty packages of Turinabol consumed by his Brother, the latter testified that he threw the empty packages in the garbage; it is doubtful that the Brother would keep the packages of Turinabol in his room while consuming the pills in the kitchen which is far from being adjacent to his room, and disposing the empty packages in the communal trash, without anyone noticing nor the pills neither the empty packages; it is also doubtful that the Player's family did not notice anything about the changes in the Brother's physical appearance while the Brother's friends did notice such changes after a few weeks of use of the Prohibited Substance.
    - The Player claims that his Brother informed him about his use of Turinabol several months after his punishment whereas the Brother and the Player's mother state it occurred immediately after they learned about the case.
    - Prof. Ayotte's expert opinion confirms that (i) the use of DHCMT is the second most frequently reported anabolic steroid in 2020; (ii) the detection of a long term metabolite of DHCMT without the substance itself being detected is entirely consistent with the ingestion of the Prohibited Substance several weeks prior to the test otherwise than by contamination; (iii) experts agree that the dosage of DHCMT required to yield a positive result in hair test is scientifically unknown which renders the Player's hair test result inconclusive; (iv) the positive nail test of the Brother could be the result of an intake after the AAF was reported and is therefore not conclusive either; (v) it is plausible that the Player coincidentally tested positive shortly after commencing the use of DHCMT as a result of his ankle injury and the resulting inability to participate in matches in June and July 2022.

- Mr Palmatier’s expert opinion confirms that the polygraph examinations produced on behalf of the Player are unreliable; even if reliable, the limited data provided with the ASSESS report shows that the Player and his Brother did not pass their polygraph examination.
- The contradictory and unconvincing nature of the evidence put forward by the Player clearly speak against the application of the “narrowest corridor” doctrine in the present case.
- In the alternative, if the Panel were to find that the Player established the source of DHCMT in his Sample, he is not entitled to a reduction of the applicable period of ineligibility on the basis of Article 10.6 of the ADR.
  - The smoothie prepared and consumed by the Player cannot be considered as a Contaminated Product within the meaning of the ADR. Therefore Article 10.6.1 ADR is inapplicable.
  - The Player bears a significant/considerable degree of fault in the present matter since he was under the obligation to control his environment and nevertheless utilized a blender that still contained remnants of his Brother’s smoothie, without verifying it or even washing it first.

## V. THE HEARING

60. At the hearing, the Panel heard evidence from the witnesses and experts.

61. The evidence of the witnesses can be summarized as follows:

- Mr Todor Yomov: Mr Todor Yomov is the Brother. He lives at his parents’ house with the Player and their parents. He is member of a gym called Fitness Ares in Sofia, where he trains 3-4 times per week. At the gym, he met Georgi Iliev Mladenov, who is also a member of that gym. In the course of a discussion with Mr Mladenov in early April 2022, the Brother asked the latter how he managed to develop his muscles, and Mr Mladenov explained that in addition to training hard he was taking a product called Turinabol; he mentioned he could re-sell that product to the Brother because he had spare boxes. On 20 April 2022, the Brother bought four packets of Turinabol (i.e. 400 pills) from Mr Mladenov, for which he paid cash (316 BGN). He started that same day to take the pills. Mr Mladenov had told the Brother that he had taken three pills on the days he was training and that he would do that for a period of one month. The Brother decided to follow the same routine. Since he had problems swallowing pills, he used to smash the pills in the kitchen at home and add them together with other ingredients in the blender, to prepare a smoothie, which he would drink in the morning before going to the gym in the afternoon. He took the pills 3-4 times per week for one month, then paused for one month and then took again the pills from 20 June to 20 August 2022. The Brother is conscious that he and the Player had used the same blender for years, as they had the same habit to prepare their own smoothies. The Brother never disclosed to his family members that he was taking the Turinabol pills, as he knew they would disapprove. It was only around 20 May 2022, when he had been taking the pills for

about a month, that two friends who had not seen him for a few months expressed surprise as to his physical appearance. He mentioned to them that in addition to training hard he was taking Turinabol. Only after the Player was informed about the AAF, did the Brother realize “right away” that the substance the Player tested positive for was the same as the one indicated on the Turinabol packages, and that the Player might have tested positive as a result of ingesting left-overs from his own smoothies containing Turinabol. The Brother knew at the time he was taking the Turinabol pills that anabolic steroids were prohibited and that this would be considered to be doping for the Player. The Brother also knew already at the time that the Player had anti-doping obligations, and that, for instance, when going out he only drank from a sealed bottle. He never realized that the Player would ingest left overs of his own smoothies containing Turinabol despite knowing that the Player used to have the same routine of preparing a smoothie for himself in the mornings but would still leave them in the fridge. The Brother expressed deep regret for what he had done.

- Ms Borislava Yomova: Ms Yomova is the Player’s mother (the “Mother”). She has lived in the same house as her husband and two sons, the Player and the Brother. Since he was a child, Todor had been unable to swallow pills. She explained that since the Player became a professional football player, he had been very careful not to take prohibited substances. She was also prudent when cooking for the family. She explained that her two sons care for each other and that they had a normal relationship; their topics of discussion were those of young people of their age; she never heard them talking about body building. The Mother explained that straight after the Player got the AAF, the Player called her to inform her that the Brother had disclosed to him that he was taking Turinabol, which was the same substance that the Player tested positive for, and that the AAF was likely the result of the Player drinking the left overs of the Brother’s smoothies containing pills of Turinabol. The Mother said that she was deeply disappointed at the Brother’s behaviour. She also said that it was heart-breaking to see that the Player’s career was at risk because of a mistake of her other son.
- Mr Georgi Iliev Mladenov: Mr Iliev Mladenov is a Bulgarian citizen who sold four packages of Turinabol to the Player’s Brother. On 28 November 2021, he bought seven packages of Turinabol from the website [www.abvsteroid.com](http://www.abvsteroid.com); he received a confirmation of his purchase by email. The product was delivered to him in person a few days later, and he paid cash as it is required on the website. He was a passionate of body building which is his main hobby; he was therefore ready to spend an important sum for those pills. Early April 2022, the Brother approached him to ask how he gained so much muscles. After Mr Mladenov explained to him that he was taking Turinabol in addition to training, the Brother said he wanted to do the same. Mr Mladenov then offered to re-sell the pills to the Brother which the Brother accepted. When the Brother asked how he should take the Turinabol pills, Mr Mladenov explained that he had been taking three pills on the days he was training for a period of one month, and then paused for one month. Mr Mladenov explained that he purchased the pills on 28 November 2021 and upon placing the order for the pills, he received a confirmation of the purchase per email. He said that the email mentioned the date of the purchase on 28 November 2021.

Mr Mladenov explained that upon forwarding the purchase confirmation email to the lawyers, he tried to change the date on which the email was sent to him, which explains why the version of that email that was used in the first instance proceedings referred erroneously to 27 November 2022.

- Mr Vasil Todorov Uzunov: Mr Vasil Todorov Uzunov is a Bulgarian citizen who trained at the same gym as the Brother. He was an acquaintance of the Brother. In May 2022, as he was about to enter the gym with his friend Robert Ventsislavov Mihailov, he ran into the Brother, who was wearing a tee-shirt. Mr Uzunov recalled that it was in May 2022, because he linked that date to personal events. During the conversation, the three started to talk about how the Brother was looking good physically. The Brother then told the two friends that he had been training hard and taking a substance called Turinabol. The two friends then continued into the gym, the Brother left.
- Mr Robert Ventsislavov Mihailov: Mr Robert Ventsislavov Mihailov is a Bulgarian citizen who trained at the same gym as the Brother. In May 2022, as he was about to enter the gym with his friend Vasil Todorov Uzunov, he met the Brother. Mr Mihailov recalled that it was in May 2022 because he could link that date to personal events. During the conversation, the three started talking about how the Brother was looking good physically. The Brother told the two friends that he had been training hard and taking a substance called Turinabol. The two friends then continued into the gym, and the Brother left.
- Dr Georgi Iliev: is a member of the medical team of the Club. He has been a sport doctor for seven years. He explained that the Player got a direct hit in the ankle and as a result suffered from sprained ankle ligaments. The Player recovered normally. In his experience, players wanted to recover as fast as possible, and the Player was no exception.

62. The evidence of the experts can be summarized as follows:

- Dr Douwe de Boer: Dr de Boer confirmed that he attended the B sample analysis, and clarified that the Laboratory only looked at the long-term metabolite of DHCMT and not for the short-term metabolite. DHCMT has been applied in sports as a doping agent in order to stimulate the net balance of muscle growth and recovery after a training performance. Common low therapeutic dosages are in the range from 1 to 5 mg (e.g. track and field athletics and swimming) up to high to very high therapeutic dosages of 25 to 50 mg daily (bodybuilding and fitness exercise). In order for DHCMT to have any effect, some persons may consume a regular low therapeutic dosage during a cyclic period of time of four to six weeks or a high therapeutic dosage for a period up to six weeks. Based on the fact that at the time of sample collection merely a DHCMT “M3” concentration of 0.04 to 0.05 ng/mL was indicated by UEFA, it must be concluded that the concentration of DHCMT “M3” was very low. A low concentration can indicate the intake of a low dosage of for example 1 mg shortly before urine sample collection or of high dosages of 25 to 50 mg long before the sample collection. Based on the pharmacokinetic of DHCMT and its metabolites, the low concentration found in the Sample is likely to not correspond to a therapeutic dosage at the time of sample collection. In addition, non-



continuous low therapeutic dosages are unlikely to be detected in hair and high and very high dosages are likely to be detected due to the detection limitation of the analytical methods and technologies. Therefore, it must be concluded that in this specific case DHCMT did not have any therapeutic significance at the time of sample collection. The Brother typically would put every day, that he was going to train, three pills together in the shaker and mix them with milk, banana, nuts or something else and make a big milkshake. The intake of DHCMT this way by the Brother was at a high therapeutic level and thus significant. The Player himself would use the same shaker to do his shakes, sometimes without previously cleaning the shaker after his Brother had used it. The intake of DHCMT this way by the Player himself was at a non-therapeutic level (as it was much lower) and can be considered to be insignificant. The hair and nail tests would indicate the administration of continuous therapeutic amounts of anabolic-androgenic steroids (“AAS”) by the person of whom the materials were collected, as non-significant amounts of AAS do not show up in those biological materials and significant amounts do. Unfortunately, the value of the hair sample provided by the Brother was limited (length was insufficient) and the analysis was inconclusive. However, the clippings of the nails were suitable and demonstrated the presence of DHCMT. The hair sample of the Player was suitable and its analysis demonstrated the absence of DHCMT. This is in line with the intake of DHCMT at a non-therapeutic level. Consequently, it can be deduced that the very low concentration of DHCMT in the Sample was likely to originate from a contamination caused by the surroundings of the Player.

- Prof. Christiane Ayotte: Professor Ayotte stated that the concentration estimated in the Athlete’s sample (0.05 ng/mL – which is 50 pg/mL) may seem low, but it is the concentration expected for this urinary long-term metabolite. The excretion profile of the substance is documented. Based on the available studies it is not uncommon to see concentrations around 0.02 – 0.03 ng/mL (20 – 30 pg/mL) 40 to 100 days after the administration of a single dose of DHCMT (20 mg) to a male volunteer. Therefore, Prof. Ayotte is of the opinion that it is not possible to conclude, as did Dr de Boer, that such a concentration of 50 pg/mL “*did not have any therapeutic significance at the time of sample collection*”. The performance-enhancing effects of an AAS last longer than the last detection of a metabolite, albeit a persistent one. In addition, it is not possible to associate the presence of 50 pg/mL of DHCMT to the ingestion of a low dose only compatible with scenarios of contamination. Finally, Prof. Ayotte confirmed that she does not consider as did Dr de Boer that the negative test carried out on the athlete’s hair was only consistent with a one-time micro-dose exposure to the AAS: the dosage required to detect DHCMT in hair whether head hair or other body hairs, remains to be demonstrated and the reliability of the type of sample used (i.e. not scalp hair) is subject to a range of factors. Also, she confirmed that based on the concentration found in the Sample, it was not possible to determine the approximate time period in which the ingestion took place. In Prof. Ayotte’s view, it is not possible to exclude that the athlete intentionally used the substance based on the documents on file. In particular:
- i) Low concentrations of this substance are to be expected also with intentional use (as explained above), and can be found in the urine for a long time after

- administration.
- ii) No previous test was done in the months preceding the sample collection. Therefore, there is no evidence excluding that “deliberate” doping could have occurred.
  - iii) It is difficult to accept the reliability of the hair test to detect robustly and systematically past use of DHCMT, and even Prof. Kintz acknowledges this in the conclusion of his analysis reports.
  - iv) Additionally, the tests carried out on the Brother’s hair were negative despite him allegedly using the substance repeatedly in relatively high dosages (30 mg), and DHCMT was apparently detected in the brother’s nails clippings in November 2022, however, the same test was not done on the athlete.
- Prof. Pascal Kintz: Professor Kintz explained that the Player’s hair test returned negative whereas the Brother’s hair test was inconclusive; the Brother then performed a nail test which returned positive. He confirmed that anabolic drugs are difficult to detect in hair and nail testing; but because steroids have to be used repetitively, it is still possible to have a fair result on hair and nail. It is true that for cocaine, for instance, it is thousand times more detectable. So it is required to use specific techniques in order to have a result. Prof. Kintz explained that it is not possible to simply rule out hair and nail testing just by saying that it is not relevant. In addition, hair and nail testing are acceptable in criminal courts proceedings. The results are not ideal because the concentrations are very low; but it was still possible to go back to 3 months behind. What can be concluded from the hair and nail test results is at least that they do not contradict the scenario of contamination. Prof. Kintz agreed that no one ever published on the detection of Turinabol in hair and nail testing. Nail testing is less frequent than hair testing; it is interesting as it avoids external contamination; because it is less used there is also less research on the topic; however, that does not mean that it is unreliable.
- Dr Detlef Thieme: Dr Thieme explained that hair testing can be a useful tool in drug testing, but becomes – with increasing time post administration – less reliable for substances such as DHCMT which are not incorporated into the hair via blood stream. Additionally, the above parameters are based on scalp hair and need to be reconsidered for hair collected from any other body region. While growing rates appear to be rather similar the percentage of non-growing hairs that remain on the body in different regions differ considerably. The reliability of hair tests depends on various factors including the type and length of hair sampled, the substance in question and the potential wash-out effects. In the present case, the use of axillary and chest hair, respectively – characterized by a high proportion of non-growing hairs – involves significant uncertainties when interpreting the results. Prof. Kintz acknowledges in the Player’s and the Brother’s respective hair test reports that he has not addressed any of the above factors, which makes it difficult to conduct a proper interpretation of the results. In addition, it is not possible based on hair tests to indicate the precise period during which an Anabolic Agent was used by an individual. Nail testing represents merely a proof of principle and is not considered as forensically reliable. Therefore, nail testing does not have comparable forensic significance to hair testing and in Dr Thieme’s opinion cannot be relied upon to give any insights into whether, how and when the Brother used DHCMT. He explained

that from the data presented it is hardly possible to draw any scientifically reliable conclusion on a specific time span or source, especially taking into account the high contamination risk of nails. In the case of the Brother, even if it is accepted that the nail analyses showed prior contact with DHCMT, this could have happened either via incorporation or contamination, and at any time – including after the Player learned of his positive test. Dr Thieme therefore confirmed that based on the documents he was provided it is not possible to draw any conclusions as to whether, when and how the Brother used DHCMT or as to the source of the Prohibited Substance in the Player's sample. Intentional substance abuse (multiple ingestion of therapeutically effective amounts) could have occurred a significant time before the doping test. Alternatively, an ingestion of small amounts could have occurred at a later point in time (yet not immediately before sampling). Both scenarios would be difficult, if not impossible, to detect with the present hair analysis. Therefore, the Player's negative hair test cannot exclude that he used DHCMT intentionally.

- Dr Velina Vladimirova & Mr Todor Todorov: Dr Valdimirova and Mr Todorov are certified polygraph examiners, members of the American Polygraph Association. They reported having performed a polygraph examination on 18 and 19 April 2023. The examinations of the Player and the Brother comprised: (i) a psychological interview, (ii) Cattell's 16 personality factors test, (iii) Personality Assessment Inventory (Plus), and (iv) a Polygraph examination using a computerized polygraph and the Empirical Scoring System for the evaluation.

*Conclusions on the Player's examination.* During the pre-test interview the Player was calm, cooperative and open in the communication process. He followed all given instructions during the instrumental part of the examination. The Player stated he did not knowingly and on purpose take any anabolic steroids in the last year. After the procedure had been explained to him in detail, he voluntarily agreed to undergo a polygraph examination to verify the veracity of his statements. He answered "no" to the significant questions he was asked such as: "*During the last year, have you taken on purpose anabolic steroids?*". The experts concluded that there was no significant psychophysiological activity on part of the Player in regard to the relevant question in the test.

*Conclusions on the Brother's examination:* During the pre-test interview the Brother said he understood why he had to take the polygraph and declared his willingness to participate in the procedure. He stated that had been taking Turinabol and used to put the pills in the shaker he used to make smoothies at home. He admitted the Player used the same shaker, because they lived together. However, he said that before the doping test of the Player he never told the Player that he was using this anabolic steroid. After the procedure was explained in detail to him, he voluntarily agreed to undergo a polygraph examination to verify the veracity of his statements. He answered "no" to all significant questions he was asked: "*Did you tell your brother before 25 August 2022 that you were taking Turinabol?*", "*Are you lying about taking Turinabol before 20 April 2022?*", "*Are you lying about taking Turinabol in smoothies you prepared at home?*". The experts conclude that there was no significant psychophysiological activity on part of the Brother in regard to the relevant questions in the test.

- Mr John Palmatier: Mr Palmatier is a fully licenced Forensic Polygraph Examiner,

who served 16 years for the Michigan State Police where he conducted approximately 3,760 assessments. Mr Palmatier stated that, based on the documents' review, the opinion given by Dr Vladimirova and Mr Todorov in their report was in error, and the examinations conducted for Todor Yomov, and Georgi Yomov did not adhere to the Standards of Practice with regard to the reporting of results.

The assessment of Todor Yomov did not follow the Standards of Practice, in that Dr Vladimirova did not use the appropriate template for a three question AFMGQT, choosing instead to use the two question template (AFMGQT v2 2RQs) and then add an additional relevant/comparison question pair. Doing so, Dr Vladimirova did not alter the question sequence prescribed when using the three question template (AFMGQT v2 3RQs), which possibly affected the tests results. Additionally, Dr Vladimirova did not include all of the questions asked (i.e., Relevant/ Control/ other technical questions), did not include score sheets that would detail how she evaluated the different physiological responses, nor are there spot scores or an exam total score summarizing the data that Dr Vladimirova relied upon in formulating her opinion.

The assessment of Georgi Yomov was supposedly conducted as a one question examination using an AFMGQT v2 2RQs template. Dr Vladimirova stated in her report that "*He [Georgi Yomov] answered "NO" to the **SIGNIFICANT** questions he was asked*"; however, Dr Vladimirova only cited one question. There was no valid one question polygraph exam to be found in the research literature or such an exam that is used in day-to-day field assessments. To ensure the validity of his observations, Mr Palmatier reviewed this issue with Dr Frank Horvath, who concurred with his observations and opinions. In addition, Dr Vladimirova once more, did not include all of the questions asked (i.e., Relevant/ Control/ other technical questions), did not include score sheets that would detail how she (Dr Vladimirova) evaluated the different physiological responses elicited in response to the questions asked of Georgi Yomov, nor are there spot scores or an exam total score anywhere in the documentation.

63. Finally, the statement of the Appellant can be summarized as follows:

- Mr Georgi Yomov: The Player is a Bulgarian citizen. He stated that he had always lived in the same house as his parents and his Brother. He had been a professional football player since 2016, always in his home town. The Player confirmed he was aware that he had anti-doping obligations, and that his family members were familiar with his obligations, even if only in a general way. Prior to the present proceedings, he had been tested once for anti-doping by UEFA and the test was negative. He stated that he was always very cautious in making sure he did not consume any prohibited substance: whenever away from home, he would only drink from sealed bottles; whenever prescribed a medication by the doctor, he would inform the doctor about his anti-doping obligations and ask to check whether the medication contained any prohibited substances; he would always check the list of ingredients of the medication that he would buy over-the-counter; he would also check the list of ingredients of the supplements he would take.

The Player confirmed that he knew his Brother was training 3-4 times per week in a

gym for about 2 or 3 years. He expected him to develop his muscles, but he never considered it necessary to talk to his Brother about the risks of entering into contact with prohibited substances at the gym, since this is something that was not considered at all in his family. The two brothers had the same routine of preparing their own smoothie with several ingredients and sometimes some supplements. When the Brother did not finish the smoothie that he had prepared earlier in the same morning, the Player would mix the left over with ingredients of his own, consume the smoothie and then wash it out after use. The Player explained that, according to what the Brother told him, the Brother would smash the pills with a spoon and put them in the blender upon preparation of his smoothie. The Player confirmed he never saw this happen. Upon being informed of the AAF, the Player was shocked and devastated and had no idea at all how DHCMT could have entered his body. That was when he started to investigate the source of the AAF. With the help of the Club, he listed all the supplements he had been taking in order to test them. At some point, his Brother disclosed to him that he had been taking Turinabol pills and that the substance on the package was the same as the one for which the Player had been tested positive. In his written statement, the Player stated that this happened “*as part of his investigation*”; at the hearing, he specified that he did not remember the exact date, but that it happened “*some time after he found out about the AAF*” and “*after testing the supplements*”. The two brothers were alone at home at the time, and the Brother came to the Player while he was watching television. The Player was shocked and very disappointed about the Brother’s behavior. The Brother said he was sorry, got upset, and left home. To assess whether the doping substance entered the Player’s body that way, the Player and the Brother undertook hair tests; since the hair test could not be done properly because the Brother had very short hair, the Brother underwent a nail test which came out positive. The Player is currently unemployed.

## VI. JURISDICTION

64. Article R47 of the CAS Code provides as follows:

*“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body. [...]”*

65. Article 62 of the UEFA Statutes provides as follows:

1. *Any decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as an appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration.*
2. *Only parties directly affected by a decision may appeal to the CAS.*
3. *The time limit for appeal to the CAS shall be ten days from the receipt of the decision in question.*
4. *An appeal before the CAS may only be brought after UEFA’s internal procedures*

*and remedies have been exhausted.*

5. *An appeal shall not have any suspensory effect as a stay of execution of a disciplinary sanction, subject to the power of the CAS to order that any disciplinary sanction be stayed pending the arbitration.*
  6. *The CAS shall not take into account facts or evidence which the appellant could have submitted to an internal UEFA body by acting with the diligence required under the circumstances, but failed or chose not to do so.*
  7. *Appeals to the CAS against UEFA doping-related decisions may be subject to specific rules adopted by the Executive Committee in line with the World Anti-Doping Code.*
66. Article 13 of the ADR provides that “[a] decision that an anti-doping rule violation was committed [...] may be appealed exclusively as provided in this Article 13.2. [...] In [...] cases involving Players, the decision may be appealed exclusively to CAS.[...]”.
67. It was not in dispute that the present case qualifies as a case involving a Player. The Panel therefore finds that the Player has a right to appeal to CAS, and that CAS has jurisdiction to decide on the appeal. Moreover, the Panel notes that Respondent has not contested the jurisdiction of CAS.

## **VII. ADMISSIBILITY**

68. Article R49 of the CAS Code provides as follows:

*“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties. [...]”*

69. Article 13 of the ADR provides that “[t]he time to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the motivated decision in an official UEFA language by the appealing party.”
70. In the present matter, the Statement of Appeal was filed with the CAS Court Office within the time limit of 21 days as from receipt of the Decision. The appeal is therefore admissible. Moreover, it fulfils the requirements for a Statement of Appeal in accordance with Article R48 of the CAS Code.

## **VIII. APPLICABLE LAW**

71. Article R58 of the CAS Code provides as follows:

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

72. Article 64 of the UEFA Statutes provides that “[t]hese Statutes shall be governed in all respects by Swiss law”.
73. Based on the above provisions, and the date of the relevant facts, the Panel finds that it is required to decide the present dispute by reference to the ADR, especially the 2021 ADR. Swiss law shall apply subsidiarily, as necessary.

#### **IX. PROCEDURAL ISSUES**

74. On 21 June 2023, in view of the Respondent’s Answer, the Appellant requested the Panel to be authorized to file documents pertaining to the polygraph tests done on 19 April 2023. On 23 June 2023, the Respondent informed the CAS Court Office that it objected to the request.
75. On 26 June 2023, the CAS Court Office informed the Parties that the Panel had decided to deny the Appellant’s request to file additional documentation based on Article R56 of the CAS Code, and that the reasoning of the Panel’s decision would be included in the Award.
76. Article R56 of the CAS Code provides as follows:
- “Unless the parties agree otherwise or the President of the Panel orders otherwise on the basis of exceptional circumstances, the parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the appeal brief and of the answer.”*
77. The Panel notes that that Appellant did not put forward any exceptional circumstances, within the meaning of Article R56, to justify the late filing of the additional documents. In addition, the said documents pertaining to the performed polygraph examinations were available and could have been filed at an earlier stage together with the Appeal Brief. Therefore, on the basis of the information before the Panel, there was no legal basis to accept the Appellant’s request.

#### **X. MERITS**

78. The Panel first notes that the existence of an ADRV in the present matter is undisputed among the Parties. The matter under appeal concerns the consequences of such ADRV.
79. The Panel notes that, while it has carefully considered the entirety of the submissions

made and the evidence adduced by the Parties, it sets out below only those matters which it deems necessary for it to decide the dispute. In this section of the Award, the Panel will accordingly examine the following issues:

- (a) Has the Player established the source of the Prohibited Substance in his Sample, or otherwise demonstrated that he acted unintentionally?
- (b) What are the consequences of the conclusion in relation to (a)?

80. The Panel shall examine in the present section each of the above-mentioned questions in the indicated order. However, it shall first recall evidentiary issues that are of utmost importance in the case at hand.

#### **A. Evidentiary Issues**

81. Article 10.2 of the ADR provides as follows:

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

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

*10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Player or other Person can establish that the anti-doping rule violation was not intentional.”*

82. Based on the above provision, the Player has the burden of establishing that the ADRV was not intentional in order to obtain a reduction of the sanction imposed upon him in the Decision.

83. Article 3.1 of the ADR provides as follows:

*“[...] Where these regulations place the burden of proof upon the Player or other Person alleged to have committed an antidoping rule violation to rebut a presumption or establish specified facts or circumstances, except as provided in Articles 3.2.2 and 3.2.3, the standard of proof shall be by a balance of probability.”*

84. Hence, the burden is on the Player to demonstrate that he acted unintentionally on a balance of probabilities standard. This standard of proof is rather strict, and usually entails the following principles:

- The indicted athlete must prove that his hypothesis is more probable than other possible explanations; and/or at least 51% likely to have occurred (CAS 2007/A/1370, para 58; CAS 2011/A/2384 & 2386, para 6).
- The standard of proof of balance of probability requires that the occurrence of a scenario suggested by an athlete must be more likely than its non-occurrence, and not the most likely among competing scenarios (CAS 2017/A/5301 & CAS 2017/A/5302).
- There is no need to decide which is the most likely between two or more competing scenarios, but rather the athlete must prove that the chain of events presented by



him was more likely than not to have happened. The athlete is allowed to address other scenarios put forward in order to support his position. However, the other party does not have the burden of proving the prevailing likelihood of a different scenario and it is not obliged to put forward any other competing scenarios (CAS 2019/A/6541 para 80, CAS 2012/A/2759, paras 11.31 and 11.32, CAS 2014/A/3615, para. 52).

- Mere denial, attestations of innocence and efforts to locate the source are not enough to meet the required standard. The athlete has to submit actual evidence as opposed to mere speculation (CAS 2010/A/2230, para 11.34; CAS 2014/A/3820, para 80; CAS 2014/A/3615, para 56).
- Therefore, establishing that a scenario is possible is insufficient to establish the origin of the Prohibited Substance. By way of example, the Panel in CAS OG 16/25 “*found the sabotage(s) theory possible, but not probable and certainly not grounded in any real evidence*” (para 7.27).
- The athlete must also demonstrate that the source could have caused the actual adverse finding, using corroborating evidence, such as scientific or other evidence (CAS 2010/A/2277, para 36).

## **B. Is the Player’s ADRV intentional?**

85. A series of CAS cases have held that an athlete who tests positive for the presence of a non-Specified Substance bears the burden of establishing that he acted unintentionally. It usually follows that the athlete must establish how that substance entered his/her body (for example, CAS 2017/A/5248, CAS 2017/A/5295, CAS 2017/A/5335; CAS 2017/A/5392; and CAS 2018/A/5570).

86. However, other CAS awards – notably CAS 2016/A/4534 (*Villanueva*), CAS 2016/A/4676 and CAS 2016/A/4919 (*Iqbal*) – have found that in “extremely rare” cases, an athlete might be able to demonstrate a lack of intent even where he/she cannot establish the origin of the prohibited substance. The *Villanueva* award refers to the “*narrowest of corridors*” and the *Iqbal* award stated that “*in all but the rarest cases the issue is academic*”. These cases emphasised that it will be rare for an athlete to be able to rebut the presumption of intentionality without establishing the origin of the prohibited substance.

87. The Panel shall follow the same approach in the following sections.

88. The Panel shall first examine whether the Athlete has been able to establish the source of the Prohibited Substance in the Sample.

89. As stated in CAS 2010/A/2230:

*“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”.*

90. Evidence establishing that a scenario is possible is not enough to establish the likely origin of the prohibited substance. The Panel endorses the approach taken in CAS OG 16/25:
- “... the nature and quality of the defensive evidence put forward by the athlete, in light of all the facts established, must be such that it leaves the tribunal actually satisfied (albeit not comfortably so) that the athlete’s defence is more likely than not [to be] true”.*
91. The Player submits that he inadvertently ingested DHCMT by drinking the leftover of one or more smoothies prepared by his Brother, who, unbeknown to him, was taking Turinabol in April 2022. In support of his allegation, the Player has produced the witness statements of his Brother, his Mother, and his Brother’s two friends, Mr Vasil Todorov Uzanov and Mr Robert Vantsislavov Mihailov. He also relies on the evidence of Mr Georgi Todorov Mladenov, who sold Turinabol to the Player’s Brother. In addition to witness evidence, the Player has also produced scientific evidence, in particular a negative hair test for him and a positive nail test for his Brother.
92. UEFA, in turn, contends that the Player has failed to establish, on a balance of probability, that the ADRV is the result of an unintentional and inadvertent ingestion of DHCMT as a result of the Brother’s secret use of Turinabol. UEFA highlights several contradictions in the witness statements, and produced experts’ opinions confirming that the low concentration of DHCMT in the Player’s hair test does not enable to exclude a “deliberate” administration of DHCMT, because low concentrations might also be expected to be found in a case of intentional use.
93. The Panel begins by noting that the Player’s diligence in undergoing Dr Kintz’s hair test, as well as a polygraph test, both of which he initiated, tends to show that he believed himself to be innocent: an adverse result of such tests, in fact, would have demonstrated the opposite. The same may be said in relation to the willingness of his Brother to undergo a hair and nail tests, as well as a polygraph test. That said, the mere facts that these tests were taken cannot be dispositive.
94. The Panel in CAS 2019/A/6313 structured its analysis by assessing the evidence in a manner that (i) begins with the science and then (ii) considers the totality of the evidence (iii) through the prism of common sense, possibly (iv) “bolstered” by the athlete’s credibility (para. 65). In other words, it is appropriate to start with the science, continue by taking a broad view, test it against common sense, and finally consider whether the credibility factor confirms the emerging conclusion. The Panel sees no reason to depart from this way of proceeding in the assessment of the evidence on record.
95. The Panel has not reached a unanimous view on the issue of the origin of the Athlete’s AAF. Accordingly, the following paragraphs express the view of the majority of the Panel.
96. **Scientific Evidence.** The Player produced the testing reports for each of the supplements

he was using at the time of the Test. Based on these reports, none of the tests performed demonstrated the presence of DHCMT in any of the supplements he was taking. The Parties do not dispute, and it is accepted that the origin of the ADRV is not to be found in the supplements that were taken by the Player at the time he got tested.

97. Secondly, the experts disagree on the qualification of the concentration of DHCMT found in the Sample. The concentration of DHCMT found in the A Sample amounted 0,05 ng/mL and 0,04 ng/mL in the B Sample. Dr de Boer affirmed that the concentration found in the Sample is very low, and that such very low concentration did not have any therapeutic significance at the time of sample collection. For her part, Prof. Ayotte contended that the concentration found in the Player's Sample was rather "normal" as it concerned long-term metabolites. She insisted that the performance-enhancing effects of an AAS last longer than the last detection of a metabolite, albeit a persistent one.
98. At this stage of the analysis, it is recalled that DHCMT is a non-threshold substance, and that as a result, the presence of any quantity is sufficient to constitute an AAF, independently of the concentration levels. In addition, based on the studies which were relied upon by Prof. Ayotte, for a single administration of a single dose of 20 mg, the concentration measured could fall to around 0.02 – 0.03 ng/mL (20 – 30 pg/mL) 40 to 100 days later and that traces at 0.002 and 0.003 ng/mL (2 and 3 pg/mL) could still be detected after 200 days. Accordingly, no material conclusions can be drawn from the level of concentration (other than the fact that the Sample revealed an AAF).
99. Thirdly, the Panel turns to the hair and nail tests results that were produced by the Player: a DHCMT-negative hair test for him, as well as an inconclusive hair test for his Brother and a DHCMT-positive nail test for his Brother.
100. As confirmed by Prof. Thieme, hair testing represents an analytically and forensically well-established approach in drug testing, but the reliability of hair tests depends on various factors including the type and length of hair sampled, the substance in question and the potential wash-out effects. Prof. Kintz agreed that anabolic drugs were difficult to detect in hair and nail testing, but because steroids have to be used repetitively, it was still possible to have a fair result on hair and nail, using specific technologies.
101. In cases CAS 2019/A/6313, CAS 2020/A/6978 & 7068 and CAS 2017/A/5301, panels placed evidentiary weight and relied on hair analysis, when considered alongside all the other evidence in the case file. In the present case, Prof. Kintz agreed that the hair tests results were not ideal because the concentrations found were low. However, as stated by Prof. Kintz, it was not possible to rule out hair and nail testing just by saying that it was not relevant. The hair and nail test results tend to show that the Player had not ingested high amounts of the Prohibited Substance for a long period of time. They did not, however, exclude that the Player could have intentionally ingested a single low dose, or small amounts of DHCMT. As stated by Prof. Kintz, the hair and nail tests results at least do not contradict the scenario of contamination submitted by the Player.
102. As confirmed by Prof. Kintz, the Brother's hair test was not negative, but rather inconclusive, as a result of the limited amount of hair he was able to submit to analysis. For this reason, it was decided to test nail clippings of the Brother. Those nail tests

returned positive. Nail clipping tests are less documented than hair tests, as they are less frequently used. However, this does not mean that they are unreliable. In any event, such a test is likely to be of limited utility where, as in the present case, its result is positive but relates to a person in the Player's entourage and not directly to the Player.

103. Accordingly, the majority of the Panel is not able to draw any material conclusions, one way or another, from the scientific evidence on record.
104. **Other Evidence.** In his statement, the Player explained that his Brother and he followed the same routine in preparing their smoothies each morning. The Brother usually left the family house earlier than the Player, a routine that was confirmed by the Brother. The Player would sometimes use left overs of his Brother's smoothie, which he found in the fridge, mixing them into his own smoothie. His submission is that he must have ingested DHCMT without knowledge, when ingesting the left overs of his Brother's contaminated smoothies.
105. The Brother explained in his written statement, and at the hearing, how he obtained the pills, and who he got them from. He explained where he would store the pills, and how he would consume them secretly: in the morning, he would take the pills to the kitchen of the family house, smash them with a spoon, and mix them in with the other ingredients of his smoothie. If some of the smoothie was left over, he would leave it in the fridge, in the blender, with the expectation that he would use the leftovers at a later occasion. The Player confirmed all of these details as being what his Brother told him upon disclosing the fact that he had been taking Turinabol.
106. The Panel also notes that the Player and the Brother have a good relationship, and accepts the evidence as tendered that they may not have spoken specifically about the Brother's bodybuilding activities, noting that the Brother is not a professional athlete. The Panel has also taken note of the Brother's expression of deep regret for having put the Player's career at risk by his activities, fault and negligence. Finally, it is to be noted that the Brother has gone to significant lengths to support the Player's case, subjecting himself to hair, nail and polygraph tests, and being examined and cross-examined in first and second instance proceedings.
107. The Panel also heard from the person from whom the Brother purchased the Turinabol packages, Mr Mladenov. He confirmed the Brother's account. He was questioned about possible inconsistencies with respect to the date on which he purchased the Turinabol packages on the internet. In this regard, the Panel notes that the purchase confirmation email in its content refers – and always referred to – to a purchase date of 28 November 2021, which corresponds to what Mr Mladenov stated in the present proceedings. At a previous hearing, he stated that the purchase occurred on a different date (21 November 2021) but he confirmed before this Panel that this was an error. Mr Mladenov also explained that upon forwarding the purchase confirmation email to the lawyers in this case, he tried to change the date on which the email was sent to him, which explains why the version of that email submitted in the first instance proceedings referred erroneously to 27 November 2022. The Panel is not entirely comfortable with the explanation given for the different dates offered, which might be said to raise questions about the veracity of the witness. That said, it is not apparent to the Panel that anything

material turns on this aspect of the evidence.

108. The Panel accepts the Brother's explanation that he had concealed the consumption of Turinabol from his family, including the Player. It accepts too his testimony that, around May 2022, he disclosed his intake of Turinabol to two acquaintances. The evidence before the Panel tends to confirm that this happened May 2022. It also tends to offer confirmation that the Brother was, around that time, taking Turinabol.
109. What is more troubling to the majority of the Panel is the evidence before it that the Player and his parents said that they did not notice any change in the Brother's appearance, after he had been taking Turinabol for a month. This is all the more curious, as two acquaintances did notice a change in the Brother's physical appearance. This could be explained by the fact that the two acquaintances had not seen the Brother for several months, whereas the Player and his Mother saw him each day, so may not have noticed a cumulative change.
110. Equally troubling to the majority of the Panel is the inability of the Player, the Brother or the Mother to be able to offer any indication as to a precise date when the Brother told the Player that he was putting Turinabol in his smoothie. The evidence here is contradictory. At one point, the Brother stated that as soon as he heard of the notification of the AAF, he disclosed "*right away*" to the Player that he had been ingesting Turinabol. For his part, the Player stated in his written statement that his Brother disclosed his intake of Turinabol to him "*as part of [his] investigation*"; at the hearing, however, he stated that he was very bad in remembering dates but that this must have happened "*some time after [he] found out about the AAF*" and "*after testing the supplements*".
111. The timeline is as follows. The AAF notification was on 25 August 2022. The supplements were sent for testing on 7 September 2022 (the results only came on 18 October 2022). On 7 October 2022, the Brother had a hair sample collected for testing, that is to say before the result of the supplement testing was obtained. This means that by that date – 7 October, before the Player learned that his supplements had not been contaminated – the Brother must have disclosed to the Player that he was taking Turinabol. What caused the Brother to make the disclosure to the Player? This remains entirely unclear. When did the Brother make the disclosure? This too is unclear.
112. The Panel has asked itself why the Player would test the supplements if he already knew about his Brother's intake of DHCMT. It is possible, of course, that the procedure for testing the supplements (which was said to have been recommended by the Club) had already been initiated when the Player was informed of the Brother's intake of Turinabol.
113. The Panel was left with other questions. If the Brother was crushing Turinabol tablets in the kitchen for a full month, is it realistic that no member of the family would have noticed?
114. If the Brother was aware – as he testified – that the Player was taking great care not to ingest prohibited substances, is it realistic that he would leave a part of his smoothie

(containing Turinabol) in the blender in the fridge, and not warn the Player? If the Player – as he testified – was using the remainder of the Brother’s smoothie, why did this not alert the Brother to the risk the Player was facing, and if so why did not take steps to prevent the Player from ingesting the leftovers of a smoothie that he knew to contain Turinabol, a prohibited substance?

115. In the view of the majority of the Panel, these questions were not answered in such a way as to give full credence to the account given by the Player.
116. As regards the polygraph tests, the Panel notes that in the light of the Swiss Federal Tribunal and CAS jurisprudence, they are often considered to be inadmissible or mere statements (see e.g. SFT 6B\_663/2011 para 1.3; SFT 6B\_708/2009 para 1.6; SFT 109 Ia 273 para 7; CAS 1999/A/246, para 9; CAS 1996/A/157, para. 14; CAS OG 00/006, para 40d; CAS 2008/A/1515, para 119; CAS 2017/A/4954; CAS 2017/A/5954), or to have a limited probative value (CAS 2011/A/2384 & 2386; CAS 2019/A/6313). The Parties engaged in rigorous examination of the experts in relation to the polygraph, the consequence of which was to cause the Panel to place no reliance on the polygraph tests, one way or another.
117. The Panel has taken note of the fact that the Player suffered an ankle injury around the time of the events that occurred last year, and that he felt a need to recover from that. In this regard, the Panel has addressed the possibility that the Player may have ingested DHCMT in order to speed up his recovery, but concludes on the basis of the evidence before it, having regard in particular to the evidence of his medical doctor, that his recovery was normal.
118. On the basis of all the above considerations, the Panel is left with a difficult decision with regard to the question of whether the Player’s ADRV was intentional or not.
119. The Panel recalls that the burden is on the Player to establish, to the standard of a balance of probabilities, that the source of DHCMT in his Sample was the result of an inadvertent ingestion of Turinabol in drinking the remains of his Brother’s smoothies.
120. Based on the evidence before it, the majority of the Panel concludes that, in light of the significant questions which remain unanswered in the Player’s case, the Player has not been able to establish, on a balance of probabilities, that the source of the ADRV was the inadvertent ingestion of Turinabol in drinking the leftovers of the Brother’s contaminated smoothies.
121. The majority of the Panel further notes that, in light of the doubts expressed above on the plausibility of the Player’s case, the present case is not one of these cases where the athlete might be able to demonstrate a lack of intent even where he/she cannot establish the origin of the prohibited substance.
122. It is therefore apparent that the Player has not established that the ADRV was not intentional.

### C. Consequences

123. In accordance with Article 10.2.1.1 ADR, as the Player has failed to demonstrate that the ADRV was not intentional, a period of four years of ineligibility is applicable in this case.
124. Moreover, no further reduction of the sanction based on *No Significant Fault or Negligence* as per Article 10.6.2 of the ADR or on *Contaminated Product* as per Article 10.6.1.2 of the ADR is possible. Both provisions required the Player to establish how the Prohibited Substance entered his system, and the majority of the Panel has concluded that in the present matter, on the basis of the totality of the evidence before it, the Player had not been able to demonstrate, on the threshold of balance of probabilities, how the Prohibited Substance DHCMT entered his system. The Panel also notes that, in any case, Article 10.6.1.2 of the ADR does not apply *in casu* since a home-made smoothie does not, in its view, qualify as a contaminated product: it does not fall within the definition provided and is not a labelled product or one the contents of which are liable to be subject to information on an internet search.
125. The majority of the Panel therefore reaches the conclusion that the present appeal must be dismissed, and the Decision confirmed.
126. In reaching this conclusion, the majority of the Panel wishes to express its view that, in the particular circumstances of this case and having regard to nature and extent of the violation, and the fact that it is not apparent that the Player would have obtained any sporting or other advantages or benefit from the presence of DHMCT in his system, the period of ineligibility may be said to be harsh. That said, the majority of the Panel is bound to apply the rules, of which the Player was aware, as they are set out. There is no scope to act otherwise.
127. Finally, the Panel notes that according to Article 10.13 of the ADR, “*the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed.*”
128. Also, according to Article 10.13.2.1 of the ADR, “*If a Provisional Suspension is respected by the Player or other Person, then the Player or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If the Player or other Person does not respect a Provisional Suspension, then the Player or other Person shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Player or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal.*”
129. Since the Player has been (provisionally) suspended since 25 August 2022, the majority of the Panel finds that the Player shall be imposed a period of ineligibility of four years as from 25 August 2022.

**XI. COSTS**

(...).



## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The appeal filed by Mr Georgi Yomov on 5 April 2023 against the Decision rendered by the UEFA Appeals Body on 10 February 2023 is dismissed.
2. The Decision rendered by the UEFA Appeals Body on 10 February 2023 in the matter Mr Georgi Yomov v. UEFA is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 21 September 2023

## **THE COURT OF ARBITRATION FOR SPORT**

Philippe Sands K.C.  
President of the Panel

Jeffrey G. Benz  
Arbitrator

Luigi Fumagalli  
Arbitrator

Stéphanie De Dycker  
Clerk