

SPANISH CYCLING FEDERATION

SPANISH DISCIPLINARY COMMITTEE FOR SPORTS

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Disciplinary Proceedings no. 17/2010

The Spanish Disciplinary Committee for Sports of the Spanish Cycling Federation, at its meeting held on 14 February 2011, adopted the following:

DECISION

POINTS OF FACT

ONE .- Mr. Alberto Contador Velasco, holder of the Elite Pro License no. 2247396, during the month of July last year, 2010, participated as a member of the cycling team "Team Astana" in the TOUR DE FRANCE competition, an international event registered in the calendar of the International Cycling Union (UCI).

TWO .- As a result of various anti-doping controls performed on the participants in said event, on 21 July 2010, the cyclist was the subject of doping control at the behest of UCI in the city of Pau (France), at the end of the sixteenth stage of the Tour de France 2010, namely at 19.35 hours, obtaining two urine samples that were stored in separate containers identified as follows: A- 2512045 and B-2512045. These samples were taken for analysis to the laboratory accredited by the World Anti-Doping Agency (WADA)-German Sports University Cologne's Laboratory for Doping Analysis, Institute of Biochemistry in Cologne (Am Sportpark Mungersdorf 6 DE - 50933 Koln Germany).

The analysis conducted by this laboratory, as stated in the analysis report S2010003810-1 dated 19 August 2010, returned an adverse finding upon discovering the presence of Clenbuterol, a substance included in paragraph S1.2 "Other Anabolic Agents" from the "List of Prohibited Substances and Methods of the World Anti-Doping Agency", effective 1 January 2010 and incorporated in the Anti-Doping Rules (RAD) of UCI by express provision of rule 29.

THREE.- On 26 August 2010, the cyclist received the communication from UCI, dated August 24, reporting an alleged violation of RAD due to the presence of Clenbuterol in the sample in container A-2512045, the athlete requesting the opening and analysis of the sample in container B-2512045, which took place on 8 September 2010, as recorded in the analysis report S2010003810-1(B-Analysis Report), which once more returned an adverse analytical finding for the same substance.

FOUR .- Given the adverse analytical finding, in accordance with rule 235 RAD, the cyclist's competition rights granted by his federation licenses are suspended by UCI from 26 August 2010 as an interim measure.

FIVE .- In view of the findings of samples A-2512045 and B-2512045 analyzed and as a consequence of, as stated by the international federation in its communication dated 26 August 2010, the "extremely low concentration measured" and the fact that the samples collected in the days prior to 21 July 2010 did not contain the Clenbuterol substance, both UCI

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and WADA decided to conduct a series of investigations in order to try to understand the finding and, in particular, whether the appearance of the substance found indicated that we might be in the presence of other anti-doping rule violations.

SIX .- After conducting the investigations UCI and WADA deemed appropriate, the former put an end to the process of managing findings, confirming that there had been a violation of doping rules and urging the Spanish Disciplinary Committee for Sports (CNCDD) of the Spanish Cycling Federation (RFEC) the initiation of disciplinary proceedings in accordance with rule 234 RAD.

In the communication dated 8 November 2010, with entry at the federation on the same day, UCI articulated the case against the cyclist based on a number of possible explanations, shared by WADA regarding the source of the adverse finding detected in the doping control carried out on the athlete. Thus, the alternatives unilaterally set by UCI are as follows:

- i. - Ingestion of food supplements contaminated with Clenbuterol.
- ii. - Ingestion of food contaminated with Clenbuterol.
- iii. - Transfusion of blood products containing Clenbuterol.
- iv. - Intake of Clenbuterol microdoses.
- v. - _____

The athlete at that time was provisionally suspended pending the initiation by CNCDD of the relevant Disciplinary Proceedings to determine whether he had committed a doping violation or if, on the contrary, the presence of the substance in his body was not due to fault or negligence on his part and, consequently, the suspension period applicable to the case could be annulled.

SEVEN .- UCI, along with the decision dated 8 November 2010, in addition to the records of the tests performed on the cyclist, enclosed a letter dated 5 November 2010, sent by David Howman, Director General of the World Anti-Doping Agency (WADA), to Pat McQuaid, President of UCI, as well as the documentation attached to the same, comprising a total of nine annexes.

The information contained in the Annexes referred to above is as follows:

- Report of the European Union (EU) in 2008 stating that of 286,748 tests carried out on animals, there was only one potential case of Clenbuterol in Europe (notably in Italy). It is mentioned that the report of 2009 is not yet available and that with these official figures there is evidence that the prevalence of meat contamination is extremely low, below the EU's detection levels of 0.1 ug / kg (100 ng / kg) or lower.

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- It is also reported that, based on information provided by the cyclist at the request of WADA, enquiries were made about the butcher shop where meat was purchased and about its suppliers. The research findings are those appearing in Annex 2. The report finally attempts to prove that the beef purchased on July 20 came from Spain and not from imports and that the exact supplier was identified. The conclusion reached is that there was never a case of Clenbuterol related either to the butcher shop, or to the supplier of the beef purchased on July 20, or to the slaughterhouse that slaughters the cattle of this particular supplier.

- According to WADA, the reports demonstrate contact with one of the leading manufacturers of Clenbuterol and, with the help of previous studies, they were able to estimate the amount of Clenbuterol the eaten meat must have contained (Annexes 3, 4 and 5). Thus, taking into account various scenarios and assumptions, the most favorable for the sportsman shows that contamination should have been around 312ng/kg., contamination that would be at least 3 times higher than the minimum detection level set by the EU. Other scenarios go from 11,000 ng / kg, based on excretion studies carried out by the laboratory in Cologne, i.e. 110 times the minimum detection level within the EU (these calculations were confirmed by a pharmacokinetic of one of the leading manufacturers of Clenbuterol). In all cases it would mean a high concentration of Clenbuterol, fully detectable by the health authorities.

Moreover, these reports consider that the level of contamination in beef treated with anabolic doses of Clenbuterol varies considerably depending on dose duration and frequency of treatment and, more importantly, the time between the last administration and slaughter of the animal. In this regard, they argue that to achieve the greatest benefit of the treatment (that the animal gains muscle mass while avoiding detection and possible adverse effects in humans), animals treated with Clenbuterol would not be slaughtered immediately after being given the last dose. According to the reported treatment systems used in livestock and according to reasonable scenarios resulting from these calculations (Annexes 6, 7, 8 and 9), the cattle should have been slaughtered 3 or 4 days after the last dose of Clenbuterol to have caused contamination at the levels estimated in each case: "It goes without saying that 8 or 10 days later, the content of Clenbuterol in beef would have been so low that it would be inconsistent with the hypothesis provided by the cyclist."

All these investigations lead WADA to conclude the following: "For the cyclist to have given an adverse finding of Clenbuterol at levels of 50 pg / ml, he had to have eaten beef that would have been highly contaminated and the result of slaughtering, against all logic, shortly after the last administration of Clenbuterol. This has to be seen in the context of the fact that the meat comes from an EU country where the use of Clenbuterol is banned, where veterinary checks are frequent and neither the butcher shop where the meat was bought or its suppliers have any known cases of Clenbuterol."

Receipt of the documentation submitted by UCI led to, on 10 November 2010, the CNCDD of the RFEC, whose powers to impose sanctions for the processing of these Proceedings are delegated by said international organization, to agree to initiate Disciplinary Proceedings

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under number 17/2010 against the cyclist Alberto Contador Velasco, for the alleged commission of an infringement under rule 21, paragraphs 1 and 2, RAD.

EIGHT .- On 11 November 2010, the Indictment was prepared by the Examining Judge. In the same, the cyclist was summoned "to appear in CNCDD agencies on 26 November 2010, at 16.30, for the purposes of fulfilling the hearing proceedings provided for in the applicable rules, being able to appear with all means of proof he may try to use in order to defend his interests under the provisions of rule 256 et seq. RAD. Notwithstanding the above, the cyclist is offered the possibility to waive the hearing proceedings from being oral and choose to submit, if he so deems it convenient, his claims in writing in the same period. "

Both the resolution of Initiation of Disciplinary Proceedings, as well as Indictment, were personally notified to the cyclist on 11 November 2010.

NINE .- The day of the hearing was held before the examining body and the Secretariat of the CNCDD, the cyclist appeared with counsel and stated that his arguments and evidence would be presented simultaneously and in writing in the same act, so the dossier provided by the athlete, consisting of the submissions of discharge numbered up to number 85, with 23 documents attached to the same, the aforementioned number 20 being a physical sample of Spasmobronchal (injected Clenbuterol), was attached to the record of Proceedings.

Finally, note that at the Hearing the cyclist was granted the right to the last word in accordance with rule 268 RAD, which he used to postulate his innocence against the charges of doping.

TEN .- Given the abundant expert evidence of a technical, medical and scientific nature articulated by the cyclist, admitted at the hearing held on November 26 and in view of the contradiction arising from the comparison of the same with reports of the same nature initially provided by WADA and UCI with its decision dated 8 November 2010, the Examining Judge decided to examine such evidence as she deemed of interest in order to clarify the subject matter of the Proceedings, under the aegis of section 17.3 of Royal Decree 1398/1993, which is applicable in as much as these Proceedings are handled in accordance with the procedural rules that are applicable to the disciplinary powers delegated to the CNCDD of the RFEC, despite its international nature, also by virtue of rule 258 RAD.

Therefore it was ordered that official requests be made to the Medical and Anti-Doping Committees of UCI, WADA and the Spanish Anti-Doping Agency (AEA) in order that they make the technical considerations they deemed necessary in relation to the reports provided by the cyclist, specifically in relation to exhibits 3, 4, 5, 6, 7, 10, 14, 17 and 21. At the request of the athlete, the requests were broadened to also issue a report on the exhibit bearing number 15 of those provided by the cyclist with the submissions of discharge.

ELEVEN .- The request was performed by the Spanish AEA through the issuance of various reports that were recorded with date of entry into the CNCDD on 23 and 27 December 2010.

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The first three, dated December 23, contained an assessment of the documents cited in the previous point of fact. The first was prepared by Mrs. Cecilia Rodriguez Bueno (Head of the Department of Doping Prevention and Control) and Mrs. Coral Fernandez Gumiel (Head of Division of the Department of Doping Prevention and Control), the second report was issued by Mr. Jesús Muñoz-Guerra Revilla (Director of the Laboratory for Doping Control) and the last is signed by Mr. Antonio de Campos Gutierrez Calderón (member of the Medical Unit of the Department of Doping Prevention and Control). The report dated December 27 contains the assessment of exhibit number 15 and is signed by all the experts mentioned above.

For its part, UCI on 20 December 2010, sent a communication to the examining body in which it reported that it would not perform the requests made on 24 January 2011, citing as reasons the large volume of documents submitted and the Christmas holidays for some of its members. Reached the appointed date, 24 January 2011, it sent a communication by e-mail requesting an extension of the term "sine die".

Also, WADA, on 12 January 2011, wrote to the examining body indicating that it would not attend to the request made as it did not fall within its jurisdiction.

In this regard, the Committee agrees with the Examining Judge in the surprise at the lack of cooperation of international organizations required in this case in connection with complex medical and scientific issues raised, this and no other being the reason for the delay in implementing the proceedings, where WADA reported that it would not even address the request made by the Examining Judge and UCI requested time to attend the request expiring on 24 January 2011, and reaching its expiry requested an extension of the same, but until today has not met the request.

TWELVE .- On 3 January 2011, in view of UCI's request to extend the deadline until 24 January 2011 to answer, the cyclist submitted a written request for a declaration of preclusion of the proceedings for submission of arguments by UCI as the requirements of rule 33.1 of the Disciplinary Rules and Regulations of the RFEC and 49.1 of Act 30/1992 of 26 November on the Legal Regime of the Public Administration and Administrative Procedures, as amended by Act 4 / 1999 of 13 January, had not been met.

Thus, given the lack of response by international agencies, the Examining Judge concluded, on 25 January 2011, the evidence stage and proceeded to issue the appropriate Proposed Decision.

THIRTEEN .- Having issued the Proposed Decision, the cyclist challenged the same on the basis of the following allegations:

1. Possibility of applying the exemption from liability due to lack of negligence (rule 296 RAD) without having to bring the item of evidence, being only required to make a balance of possibilities among the possible causes by reason of which the finding of an analysis had returned positive (rule 22 RAD).

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2. The ingestion of contaminated meat was the cause of the appearance of the banned substance "Clenbuterol" in the cyclist's body
3. The right to know the basic elements of the procedure in disciplinary decisions of the federation: violation of section 24 of the Spanish Constitution.
4. Application of Epikeia (sic) by the sanctioning body: breakdown of the principles of equality and legal certainty under sections 14 and 9.3 of the Spanish Constitution.
5. Regarding the first point, erroneous interpretation of rule 22 and 296 of UCI's Anti-Doping Regulations.

POINTS OF LAW

ONE .- On the jurisdiction of the Spanish Disciplinary Committee for Sports of the Spanish Cycling Federation.

In order to process and determine the rules applicable to these Proceedings, we must first make a brief comment on the sanctioning powers of the CNCDD of the RFEC in respect of its members arising from doping controls outside our national territory conducted by the International Federation to which the RFEC, i.e., UCI, appertains.

Spanish Sports Federations are set up (section 30.1 of the Sports Act 10/1990, of October 15) as "private bodies" with a separate legal existence, and as such may be part of an international body, UCI, a nongovernmental International Association that groups national cycling federations with headquarters in Switzerland and governed by private law rules (its own Articles of Association/Bylaws and Rules and Regulations). Thus, by order of the Third Preliminary Provision of RAD, National Federations must include such rules in the publication of their own regulations and the latter must contain an express clause stating that said UCI Regulations form part of its own rules.

As a consequence of the above, both the RFEC, as an integral member of this international organization, as well as the athletes that are part of it, undertake to respect UCI's bylaws and rules and regulations, so that holders of licenses required by the International Federation through the National Federation, are subject to the jurisdiction of the competent disciplinary bodies (rule 1.1.004 of UCI's Rules and Regulation of Cycling).

It is also necessary to know that when the athlete requests an RFEC license he does so in accordance with a form in which he/she undertakes not only to respect UCI's bylaws and rules and regulations, but also to accept the Court of Arbitration for Sport (CAS) as unique instance of appeal, and, particularly, as regards doping, submit to RDA, clauses of the World Anti-

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Doping Code and its International Standards and, as is expressly stated, to "submit in conflicts in the area of doping to the Court of Arbitration for Sport (CAS) which I accept to decide in last instance"(rule 1.1.023 of UCI's Rules and Regulation of Cycling), since the sanction of suspension deprives the person concerned of the right to participate in organized sports activities under UCI's rules and regulations (rule 12.1 of UCI's Rules of Cycling).

It should not be forgotten, moreover, that RAD allows anti-doping controls to be initiated, either at the request of UCI itself or at the request of the relevant National Anti-Doping Commission, so one must differentiate two sanctioning procedures for doping:

i) The first would be international in nature, to which will be applied international standards (RAD-in the case of cycling, and World Anti-Doping Code WADA (hereinafter, CMA).

ii) And the second of a national nature, to which will be applied national legislation (Act 7 / 2006 of 21 November and its implementing regulations).

This distinction is entirely consistent since, although the Spanish Sports Federations can act exercising delegated functions of the Public Administration, in which case their actions are subject to judicial review by administrative courts, they also act as private organizations part of an international organization that brings them together, as delegates of said organization, and when they do, their private rules will apply in such cases and their decisions will be subject to the control mechanisms established by its own rules, without necessarily infringing national law or ignoring public functions of an internal nature that have not come into play as there has been no public initiative and as public functions of an administrative are not being exercised through delegation.

This also follows from section 1 of Act 10/1990, of 15 October, which provides that national sports management occurs within the scope of the powers under the State Administration. Furthermore, section 58 of this same rule adds that these powers are exercised in relation to official competitions at state level, which is consistent with the provisions of section 84 of the aforementioned Act 10/1990, in that it attributes jurisdiction to the Spanish Disciplinary Committee for Sports, a state scope body, to decide, at last instance and through the administrative track, sports disciplinary issues under its jurisdiction, i.e., matters arising from competitions and activities that are purely domestic.

As a result of the foregoing, these Disciplinary Proceedings cannot be subject to the application of Spanish law, but rather the RAD (version 2009) and the CMA insofar as involving, as we have said, a doping control conducted in an international event or competition, "Tour de France", held in France and carried out by UCI itself, whose RAD attributes responsibility for the resolution of these Proceedings (rule 256) to the Competition Committee of the athlete's National Federation.

TWO .- On the management of the adverse analytical finding detected in samples A-2512045 and B-2512045 of the athlete. Summons and Indictment.

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The process of managing the adverse analytical finding (positive) in the athlete's physiological samples has been processed in accordance with rules 184 to 223 RAD. Thus, as the UCI Anti-Doping Commission deemed in its decision dated 8 November 2010 that there was a breach of the RAD, the Commission notified the alleged infringement to RFEC, as a national federation of the licensee, and this CNCDD of the RFEC was requested to initiate disciplinary proceedings, as set out above.

From that moment, that is, when the UCI Anti-Doping Commission determined that there had been a deviation which caused the adverse analytical finding, the finding is notified to the cyclist in the manner provided in the regulations, initiating the appropriate disciplinary procedure through the CNCDD of the RFEC, a procedure that is regulated in rules 224 et seq. RAD and respecting the provisions of section 8.1 of the CMA, which includes the right of every athlete to defense and legal aid, to be informed of the accusation made against him/her, to be tried without undue delay and with all the guarantees, and to use the relevant means of evidence for his/her defense. In short, it establishes the right to a so-called "fair trial", right that has been respected in these proceedings.

On 10 November 2010 Summons were issued by this CNCDD that clearly informed of the substance detected, and the rule that was applicable, the provisions infringed and the possible sanctions to impose if any. For its part, the Indictment issued by the Examining Judge requires those concepts and against the same the cyclist alleged what he deemed appropriate, providing and requesting evidence deemed necessary to defend his interests.

Against the Proposed Decision, the cyclist now alleges that the right of defense and the right to be informed of the charges have been infringed due to the mere fact that the Examining Judge has considered in the above proposal that although true that *"the athlete tries to prove that the substance detected is not listed as a result of certain practices to which UCI referred in the decision dated 8 November 2010 (blood transfusions, microdose, etc.), the fact is that these practices or actions are not a 'numerus clausus' of possibilities, there being others that have not been considered or analyzed by the athlete, which renders the specific path of ingestion the concerned party wishes to avail himself of not marginally more likely than if this had happened"* .

In this respect, case law states that the Indictment serves to inform the subject of proceedings of the charges made, in compliance with the constitutional legality of section 24.2 of the Spanish Constitution in two ways: on the one hand, have material knowledge of the charges against him and, on the other, formally delimit and with full effect, the sphere in which the public power is going to act against the accused. Such demarcation must be referred to facts and not generic assessments or offences because, as stated by the Supreme Court ruling of 30 June, 20 December 1999 and 12 February 2003

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"the right to be informed of the charges, which with the guarantee of being fundamental is guaranteed in section 24.2 of the Constitution EDL1978/3879, is usually satisfied in administrative disciplinary proceedings through the notification of the proposed decision, since such contains a precise statement about the liability attributed, composed at least of the definition of unlawful conduct that is observed, and its subsuming within a specific class of infringement, and the punitive consequences which are linked thereto as the case may be."

In short, we can conclude that the Summons and Indictment are rigorous in complying with the provisions of section 135 of Act 30/1992, without being able to speak of helplessness by the fact that the Examining Judge made in the Proposal an assessment of the various possibilities by which the substance Clenbuterol could reach the body of the cyclist, and much less that the Examining Judge is compelled to consider each and every one of them, regardless of the final assessment of this CNCDD.

We must remember that under the accusation principle recognized in the aforementioned provision, the Constitutional Court in its Judgment 117/2002 of 20 May, placed emphasis *"in the complex body or rules enclosed, since together with the clear mandate to make known who is subjected to the State's exercise of the right to punish, the reason for this presupposes the existence of the accusation itself and is, in turn, an essential tool to exercise the right to defense, as a guarantee to avoid the powerlessness that would result from the fact that someone can be convicted of something other than he/she was being accused of"*, which is clearly not occurring in the present case in which the cyclist has been able to fully exercise his right to defense against the charge brought against him (violation of rule 21 RAD upon detecting Clenbuterol in a doping control). We insist that we have but to observe the documentation provided by the cyclist to verify the full exercise of his right of defense against the charge, having been admitted all expert reports and documentary evidence. Thus, it is not reasonable nor acceptable to argue that an Examining Judge's simple allusion to the possibility of other causes that can return a positive finding for Clenbuterol, and even less to pretend to explain each and every one of them, is sufficient to infringe the accusation principle since we must remember that under the current anti-doping rules, it is the cyclist who must prove how the prohibited substance has come into his body.

Notwithstanding the foregoing, this CNCDD should consider how UCI initially articulated and delineated the terms of the accusation since it established the different possibilities by which the banned substance could reach the body of the athlete. Thus, as has already been explained elsewhere in this Decision, the international organization itself indicates that the presence of the substance in the body of the cyclist may be due to ingestion of Clenbuterol-contaminated food supplements, ingestion of food contaminated with Clenbuterol, transfusion of blood products containing Clenbuterol, a microdose of Clenbuterol intake, and "V. -"

Thus it has to be considered that in making this unusual accusatory approach, UCI already had the expert technical, scientific and statistical information and other additional information collected from 24 August 2010, date on which the adverse analytical was confirmed by the

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finding of sample B, up to 8 November 2010, when the communication was sent to the RFEC to initiate the relevant proceedings. Therefore, the structure of the charges that initiate these disciplinary proceedings conditions, not only the defense strategy of the cyclist who has to focus on those assumptions UCI considers more likely, but also limits the processing of these disciplinary proceedings, since the subject of debate has been constrained to the actual terms of the accusation, defense and evidence examined, including the possibility despised by UCI and WADA to complete the initial reports submitted by these bodies under the prerogative available to the Examining Judge, who opted to complete the body of evidence by sending the requests mentioned above. Thus, the finding of this Decision is strictly owing to the evidence on record, so that any subsequent finding that is brought up by the parties, could lead to the collapse of the right of defense given fundamental status in section 24.2 of the Spanish Constitution, inasmuch as compromising the right to know the terms of the accusation and allow the articulation of the defense according to these.

THREE .- On the violation of the principle of equality and legal certainty.

Prior to the analysis of documentation on record and in order to give coherence to this decision, we should analyze the argument concerning the violation of the principle of equality the cyclist includes within the more generic "The application of epikeia (sic) by the sanctioning body".

The athlete argues on the basis of reports requested by the Spanish AEA from the Examining Judge, that the results of the analysis of the laboratories approved by WADA, in which not all can find the tiny amount of Clenbuterol detected in the cyclist, involve not only a breach of the principle of equality, but also of legal certainty.

As could not be otherwise, the cyclist supports this argument on different constitutional case law with which we cannot agree with more, but we would do not believe it is applicable to this case. Indeed, we must remember that the same Constitutional Court's case law tells us that the principle of equality does not operate in the area of illegality and lack of ability to cover situations which are contrary to law or, equally, "*that the principle of equality before the law cannot become a requirement of equal treatment for all outside the law, infringement of such in some cases can certainly lead to annulling or punitive rulings in nature, but cannot cover the infringement of all or coverage under an alleged principle of equality outside the law*" (for all, STC 43/1982, of July 6).

Furthermore, the decision of CAS 2009/A/1847 IAAF v. RFEA & Josephine Onyia, already specifically addressed the argument that we now analyze, considering that while for Clenbuterol the minimum detection level required for a laboratory to be accredited by WADA is 2 ng / ml., this does not mean that if a laboratory can detect a lower level it should not report it. In this sense, WADA's technical documents specify that MRPL is not a threshold or a limit of detection and that adverse analytical findings may result from concentrations below

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the MRPL, which is the threshold at which all laboratories must be able to operate. In short, the Court of Arbitration considers that

"WADA accredited laboratories are simply required to report as adverse analytical findings the presence of any banned substance in an athlete within the range of detection capability (which obviously varies from one laboratory to the next). This is supported by the decision of Jerson Anes Ribeiro UEFA 2005/A/958 v TAS: see paragraphs 70 to 72. To hold otherwise would be to align the 35 laboratories accredited by WADA with the less capable".

While the above allows us to reject the allegation of breach of the principle of equality, this does not mean that we do not believe that current legislation should be amended in the interests of legal certainty, as we will discuss below, since it does not seem very consistent with the basic legal principle that the analysis of urine samples with the same amount of Clenbuterol give an adverse or negative finding depending only on the laboratory for analysis.

FOUR .- The documentation in these Proceedings.

As set forth in these Proceedings, the cyclist underwent seven consecutive tests during the international event called "Tour de France 2010" according to the analysis performed at the "Institut fur Biochemie, Cologne" and the "Laboratory of Lausanne." In the latter there was a negative finding in urine samples of 5, 12, 19, and 20 July 2010, and a positive finding for Clenbuterol, which led to the initiation of these Proceedings, in those of the days 21 July 2010 (50 pg / ml), 22 July 2010 (16pg/ml), 24 July 2010 (7pg/ml) and 25 July 2010 (17 pg / ml) in samples analyzed in Cologne.

In view of the adverse analytical finding detected on 21 July, 2010 and subsequent counter-analysis, UCI's Anti-Doping Commission proceeded with the management of the findings, and finally, by the oft-cited letter dated 8 November 2010, referred this analysis to RFEC which, in turn, forwarded all documentation to the competent disciplinary body which initiated these disciplinary proceedings, calling the athlete for a hearing to submit written arguments for defense and evidence, thus having complied with each and every one of the requirements which guarantee the right of defense, set out in Chapter IX of the RAD - right to a fair hearing, and section 8 of the CMA.

The athlete, together with his written statement, presented consistent and numerous expert evidence (medical, scientific, technical, etc ...) intending to prove that there was no fault or negligence, arguing that the banned substance of Clenbuterol detected, had entered his body through a contaminated food product (meat), without, in his opinion, there being other different probabilities giving rise to the appearance of the substance.

4.1 .- Reports in these Disciplinary Proceedings provided by the cyclist.

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4.1.1 Technical report on Clenbuterol, prepared by Professor Julio Cortijo Gimeno, dated 25 November 2010 (exhibit 3 of those provided by the athlete)

This report deals with the pharmacological activity of Clenbuterol and the dose required to cause bronchodilation (12 micrograms every 12 hours) and have an anabolic effect (200-400 micrograms every 12 hours in 20 days), and its purpose is to answer two specific questions:

- If the presence of 50 pg / ml of Clenbuterol in the urine of Mr. Alberto Contador Velasco may have produced an anabolic effect and, therefore, have increased athletic performance.
- If it is likely that the amount (50 picograms/ml of Clenbuterol in urine), is from an accidental ingestion.

Dr. Cortijo Gimeno, reaches the following conclusions in his report:

- In the case of Mr Alberto Contador, there is no drug plateau originating in the blood, only a single maximum of Clenbuterol occurs, which does not fit in any case with the administration of multiple doses of Clenbuterol and not even a repetition of doses lower than those which are therapeutic (microdose). It is also possible to determine the time of intake of the substance, since on July 20 there was a negative finding in a doping test and the next day showed that maximum of Clenbuterol (50 pg / ml), so the intake was indisputably between 20 and 21 July 2010.
- In view of the data, we can say that the amount of drug reached in the blood of Mr. Alberto Contador, has been negligible and in any case the Clenbuterol did not have an anabolic effect, or increase athletic performance.
- The amount ingested by Mr. Alberto Contador, is outside the range of pharmaceuticals available in the pharmaceutical market (drugs), therefore we can state that the intake of Clenbuterol by Mr. Alberto Contador, has been accidental and unintentional (being the most likely case that of intake of contaminated food), without having a therapeutic or anabolic purpose.

4.1.2 Report by Dr. Douwe de Boer, dated 14 October 2010, (Exhibit 4 of those provided by the cyclist). This report examines the so-called athlete's biological passport, and concludes as follows: "*The hematology passport of the athlete Alberto Contador, shows aside from normal biological variations, some variants of interest for which there are several explanations, but no evidence of self-blood transfusions can be found*".

4.1.3 Expert opinion given by Professor Don Giuseppe Banfi, in relation to the biological passport and hematologic data of the cyclist during the seasons 2009-2010, of 10 November 2010 (exhibit number 51). The aforementioned professor arrives at the following conclusions: The evaluation and interpretation of the hematologic profile of the athlete Alberto Contador, during the seasons 2009-2010, makes it possible to suggest that changes in the hematological

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values are physiological and are the characteristic trend of professional cyclists throughout the competition season. There is no indication of stimulation of blood or manipulation of the bone marrow".

4.1.4 Exhibits marked with the numbers 6, 7 and 15 provided by the athlete, are the reports prepared by Dr. Tomas Martin Jimenez called "Evaluation of Pharmacokinetics of Clenbuterol traces observed in urine samples of the cyclist Alberto Contador "the first of those contributed - exhibit 6- is on" autologous blood contaminated with Clenbuterol, dated 24 November 2010, and aims to reject that the concentration of Clenbuterol detected in samples of Tour de France can match the self-transfusion of blood contaminated with Clenbuterol. Dr. Martin concludes in this report that *"the thesis of Clenbuterol contamination due to the adventitious presence in blood bags of micro-transfusion in an athlete that would have been treated with the drug months ago is not compatible with existing scientific data on human pharmacokinetics of Clenbuterol. Therefore, we conclude that this thesis is highly unlikely and is not, therefore, scientifically defensible"*.

The second report focuses on "micro-doses of Clenbuterol" and is intended to exclude that the concentration of Clenbuterol detected in samples of Tour de France may correspond with the administration of a microdose 24 hours before sampling. Dr. Martin concludes that *"the thesis of deliberate use of micro-doses to obtain therapeutic or beneficial effects on athletic performance is not consistent with the pharmacokinetic and pharmacodynamic data existing regarding Clenbuterol in humans. Therefore, we conclude that such thesis is not defensible from a scientific standpoint."*

Exhibit number 15 is a study of food contamination, with the conclusion in this report as follows: *"The argument put forward by the cyclist Alberto Contador, in conjunction with Clenbuterol positive for the past Tour de France, is consistent with the existing pharmacokinetic data on Clenbuterol in cattle and humans. The consumption of two steaks, according to the sequence described by the cyclist, would result in concentrations of Clenbuterol in urine within 24 hours well above 50 pg / ml, if withdrawal time was zero and about 50 pg / ml if the withdrawal time was 3-4 days. This time of withdrawal could be 5-7 days for individuals with longer half-life or a daily volume of urine lower than 1.5 L Although it is expected that a farmer applies the withdrawal period required to pass the inspections, we have historically seen that this is not always so. Although the EU is generally considered an area of low incidence of illegal use of Clenbuterol in cattle, given that its use for fattening is prohibited and that spot checks are conducted in slaughterhouses and other facilities, it is necessary to assess the actual level of detection of the current sampling system in order to estimate the individual maximum likelihood of Clenbuterol food contamination."*

4.1.5 Exhibit number 8 provided by the cyclist constitutes an affidavit dated 9 November 2010 of the physiotherapists of the Astana cycling team, regarding all nutritional supplements that have been provided to the cyclist and which are common for the rest of the team, without any

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supporting documentation submitted in this regard, apart from the declaration itself of those who undersign.

4.1.6 In addition to the scientific and technical reports, the cyclist, to substantiate his claims provides a Descriptive Statistical Analysis and Sample Representation on detection controls of Clenbuterol in cattle slaughtered in the Basque Autonomous Community, prepared by Professor María José Pérez-Fructuoso (exhibit number 10). The findings in this statistical analysis are those set out below: *1) For best results from a statistical standpoint (i.e., with a confidence level of 95% and a prediction error of 1%), 8,586 animals should have been analyzed in 2007, which contrasts with the 97 cattle that are actually tested in that year. 2) With the sample of cattle tested, the probability that the checks in the Basque Autonomous Community identify Clenbuterol contaminated beef is extremely low, 0.001221 in 2007. This level of sampling does not ensure from a statistical point of view that there are no meat products contaminated with Clenbuterol in the Autonomous Community of the Basque Country. 3) On the basis of these data, it appears that the checks are far from optimal on a statistical basis to assert that the analysis might be able to detect, even with a strict minimum, cattle illegally fed with Clenbuterol.*

4.1.7 Exhibit 14 is an expert report of Dr. D. De Boer on the origin of the unexpected presence of Clenbuterol in biological samples in general and a cyclist's urine sample in particular. In this report Dr. De Boer argues that, *"1) The concentration of Clenbuterol in the urine sample of Mr. Contador is very low. 2) Very likely and fair to consider is the scenario of accidental ingestion of a low amount of Clenbuterol in meat consumption. 3) It confirms the opinion of Professor W. Schanzer of the WADA anti-doping laboratory in Cologne that the time has come to establish a tolerance for Clenbuterol. 4) WADA accredited laboratories should not report on Clenbuterol below 10% (1 / 10 part) of MRPL of 2 ng / ml (= 200pg/ml) as a concentration "fair and reasonable" for a Clenbuterol adverse analytical finding"*.

4.2 Reports issued by the Spanish State Anti-Doping Agency at the request of the Examining Judge, evaluating exhibits 3, 4, 5, 6, 7, 10, 14, 15, 17 and 21 provided by the cyclist.

4.2.1 Ms. Cecilia Rodriguez Bueno (Head of Department of Doping Prevention and Control and PhD in Chemistry) and Mrs Coral Gumiel Fernández (Head of Division in the Department of Doping Prevention and Control and BA in Chemistry) considered regarding the documents provided that:

"While the documents produced by different experts may constitute expert evidence, it could be of interest to insist on the small sampling of the analysis of cattle, which means that the assessment presented cannot be conclusive".

Emphasis should also be placed on the need to verify that the detection limits established for laboratories that analyze the meat are such as to ensure that no one will produce an adverse analytical finding in an athlete due to allegedly contaminated meat intake.

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And conclude:

"It is clear that in the interest of fairness, and to remove any prejudicial comparisons, WADA should urge, from the various forums and bodies for the fixing of analytical limits, not only for the detection of substances but also with respect to information communicated to laboratories in the case of an adverse finding in the relevant detection. In this case, a lower value established to consider a finding as adverse could be reported by the laboratory, and therefore should not be punished, but the information provided could be used by the official body responsible for, where appropriate, subsequent monitoring.

Moreover, the analysis of Clenbuterol in cattle, provided statistically significant, ensures the sanitary quality regarding the risk of poisoning, but in principle does not rule out the risk of doping.

It is also considered that detection at levels lower than the detection limit established for the laboratories accredited by WADA, which is consistent with a single administration, does not comply in principle with the requirements established to consider as responsible for increasing athletic performance".

4.2.2 Mr. Jesús Muñoz-Guerra Revilla, (Director of the Doping Control Laboratory and with a Ph.D. in Chemistry), based on a study of the documentation submitted to him, concludes as follows:

a) The method of analysis of Clenbuterol is qualitative, not quantitative, because of which it has an associated level of uncertainty that leads to the estimation of concentrations that are not accurate. Consequently, small spikes in the analytic concentration must be associated more with an error in the method than with possible microdoses repeated over time. A rise in concentration of Clenbuterol from 7 to 17 picograms per milliliter may be due to error of estimation of the concentration rather than a second microdose.

b) Given the excretion kinetics, the case can correspond to a single intake on 21 July and with a normal clearance time of Clenbuterol of three days.

c) Assuming a minimum one-time administration, there appears to be a voluntary use of the compound in order to artificially enhance athletic performance. This amount would correspond to an infratherapeutic administration both for bronchodilation and anabolic effect.

4.2.3 Mr. Antonio Calderon Campos Gutierrez, Bachelor of Medicine and Surgery, Medical Specialist in Physical Education and Sport and a member of the Medical Unit of the Department of Doping Prevention and Control, maintains that, "from a clinical point of view, in principle, the presence in the cyclist's urine of 50pg/ml, does not allow us to state categorically that such a presence would undermine the athlete's health. In clinical terms, from the perspective of sports performance, it cannot be categorically said that a concentration of 50 pg / ml in urine represents an extraordinary exogenous contribution for improving performance.

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However it is recalled that Clenbuterol is in Group S1.2 of the list of prohibited substances and methods in sport in force. "

4.2.4 With regard to exhibit number 15 of those provided by the athlete, the Spanish AEA professionals mentioned above, maintain that the conclusions in the report issued by Mr. Thomas Martin Jimenez, in relation to food contamination, are suppositions, since data are missing.

4.3 Documents provided by WADA and UCI.

We have already commented that the international organizations have not complied with the evidence requests of the Examining Judge. Thus, the only reports of these organizations are those provided by the decision dated 8 November 2010 which was forwarded to the RFEC, its contents in Point of Fact Seven hereof.

FIVE .- Lack or absence of negligence.

Once exposed and summarized all of the documentation attached to these Proceedings, it is obvious that the allegations made by the athlete trying to prove that eating meat contaminated with Clenbuterol, consumed on 20 and 21 July 2010, is the origin of the prohibited substance in his body.

Thus, having rejected the arguments that might justify the annulment of these proceedings for infringement of certain fundamental rights and principles of administrative penalty and once made the appropriate considerations with respect to a hypothetical change of evidentiary scenario, which could give identity and sense to these allegations, this CNCDD, coinciding with the statement by the Examining Judge, believes that the debate should focus on whether or not there has been negligence on the part of the cyclist. To do this we must start with a basic premise and this is none other than the real possibility that the substance found (Clenbuterol) may result from the highly probable consumption of contaminated meat, without having to determine the country of origin of the meat because, although the steak was acquired from a Spanish butcher, not all meat sold in Spain is of Spanish origin.

To reach this conclusion one need only to examine the documentation provided in the Proceedings and summarized earlier. It is apparent that the tiny amount ("*extremely low concentration measured*" in the words of UCI) found in the cyclist's body may be due to food contamination. The reports provided by WADA do not completely rule out such a possibility as considered unlikely but not impossible and with regard to other possibilities initially considered by UCI, blood transfusion or injection of micro-doses should not be regarded as the most likely cause. In this sense, technical reports provided in the Proceedings, signed by all leading experts, are inconclusive and, in the absence of evidence to the contrary, reject a conscious practice of doping.

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Having established the above premise, which largely answers the allegations against the proposed decision, we analyze the claim for which the cyclist claims a correct application and interpretation by the disciplinary body of rules 296 and 22 of the RAD.

Rule 296 RAD provides as follows: *"If the Rider establishes in an individual case that he bears No Fault or Negligence, the otherwise applicable period of Ineligibility shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in a Rider's Sample as referred to in article 21.1 (presence of a Prohibited Substance), the Rider must also establish how the Prohibited Substance entered his system in order to have the period of Ineligibility eliminated. In the event this article is applied and the period of Ineligibility otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under articles 306 to 312"*.

As stated by the Examining Judge, the wording of that rule requires that the cyclist must prove not only that he has eaten meat (which has been established through the extensive documentary evidence produced), but also that it contained the banned substance "Clenbuterol" and that that substance is the one that appeared in the adverse analytical finding leading to the initiation of these Proceedings, so that there is a direct relationship between the appearance of the substance in the body and that in turn it has been found to have been fed to the animal whose meat the athlete ingested, something which is quite impossible insofar as the element of conviction has disappeared, that is, the actual meat ingested by the athlete that day.

This is one of the main problems of athletes with the current rules based on the principle of strict liability: to demonstrate that there has not been an anti-doping rule violation, the athlete must not only have to prove how he ended with a prohibited substance in his/her body, but also rule out any other possibility. In this way, the burden of proof is not only reversed but in some cases the evidence for the athlete is diabolical insofar as having to prove facts he has not committed, making it virtually impossible in as much as boundless.

Therefore we must refer to rule 22 RAD, which states:

"When Anti-Doping Rules place the burden of proof on the licensee accused of committing a doping rule violation in order to rebut a presumption or establish certain facts or circumstances, the standard of proof must be a balance of possibilities, except in rules 295 and 305, where the licensee must satisfy a higher burden of proof."

For its part, rule 3.1 CMA states that *"the standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt."* In short, *"the burden of proof that the anti-doping organization must submit to is similar to the rule that applies in most countries in cases involving professional misconduct"* {Comment to section 3.1 CMA}.

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Based on that right balance and the documentation in the Proceedings, which excludes the possibility that the occurrence of the prohibited substance: a) is likely to be caused by voluntary doping of the cyclist as the tiny amount detected is totally ineffective to improve athletic performance and b) arising from the use of vitamin supplements, microdose or autologous blood, the Committee believes the most probable cause of the detected positive is the consumption of contaminated meat and is, therefore, the fact that should be assessed.

Indeed, as already mentioned, the cyclist has proven that on 20 and 21 July 2010 he ate meat purchased at a Spanish butcher shop where no one, in principle, can expect selling of meat contaminated by Clenbuterol, but nevertheless is possible within the limited number of tests performed on animals for the total cattle population of the EU or, as best expressed by Drs Cecilia Pérez Bueno and Coral Fernández Gumiel, Director and Head of Division, respectively, Department of Doping Prevention and Control of the Spanish AEA, in relation to the EU report of 2008 cited in the points of facts: "*It might be of interest to insist in the small sampling of the analysis of cattle, which means that the assessment made cannot be conclusive*". In this sense, the recent case of dioxin in Germany is not trivial, where more than 4,700 poultry and pig farms have been shut down after finding that their animals are contaminated with dioxin. Could anyone could have imagined when he bought a pig or poultry product in that country that it could be contaminated by a substance such as dioxin totally banned by the EU and which also conducts periodic checks? Obviously not, but unfortunately it has happened.

Also, it is relevant to this CNCDD that the cyclist was the subject during the course of the Tour de France, even the days before 21 July 2010, of various doping controls, all with negative findings, which, coupled with the fact, as acknowledged by the UCI, of an extremely low concentration of Clenbuterol found in the Athlete's Sample (50 pg / ml), which, we insist, prevents the occurrence of the effect of increasing the athlete's sports performance in the Tour de France, leads to the obvious result that in the absence of other evidence or conviction in the Proceedings the substance found could be due, in a high probability, to the consumption of contaminated meat on July 20 and 21, and therefore we must analyze how an athlete should be diligent in food consumption within the EU.

It is obvious that in any athlete's diet there are meat products more or less common and its consumption within the EU should be considered safe in the sense that they do not contain prohibited substances such as Clenbuterol and, as in the case of Spain, when its use in cattle is a criminal offence (section 364 of the Criminal Code).

Therefore, it is conceivable that the cyclist did not know or suspect, even with the exercise of utmost caution, that he was eating meat contaminated with a prohibited product. Thus, it seems unreasonable to require that athletes, when they buy meat in the EU, should be so diligent that they have to go to a butcher accompanied by an expert analyst and a mobile laboratory.

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As already mentioned, the current anti-doping rules are based on the principle of strict liability as an analysis to detect any prohibited substance determines a doping violation, without this making it necessary to prove intent or negligence. However, both the RAD and the CMA do allow cyclist to try to prove the absence of negligence or, which is the same, that the found substance entered his/her body accidentally, yet acting quite diligently.

In this regard, the Court of Arbitration for Sport, in its decision WADA v. 2009/A/1930 ITF & Richard Gasquet, of 17 December 2009, when evaluating a positive finding of cocaine of the French player, considered the most probable cause for which the substance appeared in his body a kiss given to a lady who had used that substance:

"... Even in the exercise of utmost caution, the player could not have been aware of the consequences that Pamela's kiss could have on him. It was simply impossible for the player, even in the exercise of utmost caution, namely know that the kiss with Pamela could be contaminated with cocaine. The next question following this conclusion is therefore this: is the intention of the WADA Code Programme to reproach a player if he kisses an attractive stranger whom he met that night in the circumstances of this case? This cannot be, obviously, the intention of a programme to combat doping".

Extrapolating to this case, it is clear that current regulations, including the application of very slight negligence, meaning that which must be observed by a professional in circumstances involving the exercise of his activity, cannot prevent a cyclist or criticize him/her for going to a restaurant and eating a fillet steak, let alone force him to check in each case if the meat purchased or consumed in a shop duly authorized to carry out such activities in the EU is contaminated or, a more so, to impose the obligation to deposit before a notary public a part of each and every one of the pieces of meat eaten for later analysis or, indeed, that the athlete must analyze his intake prior to each of those pieces of meat, which should not be forgotten, is a staple and very common diet not only for any athlete but for anyone. If that were the case and we took it to the extreme, we could fall into the absurdity of de facto forcing athletes to exclude meat from their diet, wholly disproportionate to the intended purpose, absurd, irrational and, indeed, contrary to all elementary principles of logic and law.

Obligations as absurd as those described would in itself be, in the words of the CAS used in evaluating different activities that athletes should not perform to preserve due diligence, "unrealistic and impractical and should not be imposed on athletes by sanctioning bodies in efforts to defeat doping (CAS CAS advisory opinion 2005/C/976 986 and FIFA and WADA, para. 73). From this perspective, we must ask the following question: Eating meat in a European Union country where Clenbuterol is prohibited and its supply to cattle is a crime, should be considered a negligent act? In the opinion of this Committee, under no circumstance.

Obviously, we are not facing the only positive case for "Clenbuterol" in which an athlete alleges the consumption of contaminated meat. Illustrative in this regard is the case of the German Table Tennis player Dimitij Ovtcharov, whose National Federation has recently

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exonerated him from responsibility on account of a positive finding for Clenbuterol (75pgr/ml, slightly higher than the amount found in Mr. Alberto Contador Velasco). That decision was based on the absence of fault as it considered the most probable cause that the substance detected was due to the consumption of contaminated or spoiled meat. In view of this result, we must draw attention to one case of undoubted significance that supports the finding of lack of negligence of the cyclist. Thus, in that case, as mentioned, negligence was not deemed in a case of food contamination due to meat consumed in China, where it was admitted as well known that in this country Clenbuterol is often used in fattening cattle. Therefore, if there is no negligence regarding the athlete who ate meat in such conditions, with greater difficulty negligence can be seen in the attitude of Mr. Contador, who relied on a product delivered by a legally authorised establishment and living in a country where the use of Clenbuterol in cattle is punishable. Also, what is especially relevant is that neither the International Table Tennis Federation, which from the beginning supported the player, or WADA, appealed that decision at the CAS, and therefore the decision of the German Table Tennis Federation is final.

In short, in view of all of the above, we reiterate once again that the tiny amount found could not be an improvement on athletic performance, that in samples from the days before the test findings were negative, that no evidence of blood transfusions has been found in the biological passport of the cyclist and that he has undergone dozens of analysis throughout the season, all with negative findings, which leads to the conclusion that, with a high degree of probability the positive finding was detected as a result of consuming contaminated meat, without this fact leading to the assumption or consideration, for the reasons already explained, of negligent conduct.

SIX.- Anti-doping rules in force.

This CNCCD does not want to end this decision without making a brief reflection on the current anti-doping rules that while a good tool in the fight against doping, must adapt to the times and we believe that the matter we are now trying, in the present circumstances, cannot entail a sanctioning decision.

In fact, the list of prohibited substances published by WADA for the year 2010 (also in 2011), includes Clenbuterol in the group of beta-2 agonists, classified as an anabolic agent (S1.2 Other Anabolic Agents) although we are not in the presence of a specific substance as the list of prohibited substances provides that all Beta-2 agonists are specific substances except Salbutamol above 1000ng/ml, and Clenbuterol.

Thus, while a limited number of substances that are reflected in the list of banned substances can only be considered as an adverse finding when detected in an analysis of substance concentrations exceeding the permitted threshold, Clenbuterol, nowadays, is not a substance subject to a threshold which, as the Examining Judge points out, it begs the question of why this threshold has not yet been established if we consider that the detection of any amount,

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for meager as it may be, must be considered by the laboratories as an adverse analytical finding and, therefore, as an anti-doping rule violation.

In this sense, the Spanish AEA, in the report to which reference has already been done in the points of fact, referring to it states that **"... It is clear that in the interest of fairness, and to remove any prejudicial comparisons, WADA should urge, from the various forums and bodies for the fixing of analytical limits, not only for the detection of substances but also with respect to information communicated to laboratories in the case of an adverse finding in the relevant detection. In this case, a lower value established to consider a finding as adverse could be reported by the laboratory, and therefore should not be punished, but the information provided could be used by the official body responsible for, where appropriate, subsequent monitoring"**.

In this case the concentration detected in the sample analyzed in the laboratory in Cologne was 50 picograms per milliliter, that is, 40 times below the minimum level of sensitivity required by WADA laboratories. That tiny amount has begun to be detected by some laboratories and has led in recent times to an increased positive for Clenbuterol in such small quantities that Dr. D. Wilhelm Schanzer, Director of the Laboratory of Cologne, said, with respect to the Ovtcharov matter, that *"the intake of this substance through contaminated food is the most likely explanation of the positive finding"* and that *"the use of Clenbuterol for doping is highly unlikely"*. Thus, he considers setting a limit of tolerance for this substance as it can be found in food and even in water (as demonstrated in documentary work in the background paper *"Analytical Methods for Detection of Clenbuterol"* Maria K. Parr; Opfermann Georg, and Wilhelm Schanzer, Center for Preventive Doping Research, which gives an account of the fact.)

On the other hand, that expressed by the Director of the Tour de France, Christian Prudhomme, is not negligible who, when asked about this matter, stated that *"the system should be clearer, too many times we have moved into the gray, we need a black or white"*.

These last words are nothing more than evidence that the regulations do not respect as it should, regarding this substance at least, the principle of legal certainty recognized in all countries of our milieu. The lack of threshold, the fact that some laboratories detect 2ng/ml below and others not, or that the sports federations might reach different conclusions analyzing similar situations, should give WADA pause to seriously consider and amend existing rules to ensure a homogeneous and more respectful application of such principle of legal certainty.

Now, therefore, this Committee DECIDES

TO CLOSE THE FILE on the present Proceeding,

In accordance with rules 329.1 and 333 of the UCI Anti-Doping Regulation, this decision may be appealed at the Court of Arbitration for Sport (CAS) within one month from notice.

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Notify this resolution to the concerned party, to the President of the Royal Spanish Cycling Federation, to the President of the Commission of Control and Supervision of Health and Doping, to the Chairman of the Committee on Health and Doping Prevention of the RFEC and to the International Cycling Union.



Fernando Uruburu Sistiaga

President of the C.N.C.D.D.