

Decision of the FIFA Disciplinary Committee

passed on 25 January 2023

DECISION BY:

Jorge Ivan PALACIO (Colombia), Chairperson
Thomas HOLLERER (Austria), Member
Mark Anthony WADE (Bermuda), Member

ON THE CASE OF:

Mr Orlando Moisés Galo Calderón, Costa Rica

(Decision FDD-12345)

REGARDING:

Article 17 of the FIFA Disciplinary Code [2019 ed.] – Doping
**Article 6 of the FIFA Anti-Doping Regulations [2021 ed.] – Presence of a Prohibited
Substance or its Metabolites or Markers in a Player's Sample**

I. FACTS OF THE CASE

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the FIFA Disciplinary Committee (**the Committee**) has thoroughly considered any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.
2. On 21 September 2022, the Costa Rican player Orlando Moisés Galo Calderón (**the Player** or **the Respondent**) was tested out-of-competition by the FIFA Anti-Doping Unit during the Costa Rican national team's preparation in South Korea ahead of the FIFA World Cup Qatar 2022™.
3. The urine sample collected was sent to a World Anti-Doping Agency (**WADA**) accredited laboratory in Seoul.
4. On 13 October 2022, the aforementioned laboratory reported the analysis results via the Anti-Doping Administration and Management System (**ADAMS**), where it was stated that the Player's urine sample had returned an Adverse Analytical Finding (**AAF**) for *Clostebol metabolite 4-chloro-3 α -hydroxy-androst-4-en-17-one* (**Clostebol**), a non-specified substance prohibited under the World Anti-Doping Code (**WADC**) International Standard Prohibited List 2022 (**Prohibited List**).
5. Upon receipt of the aforementioned finding, the FIFA Anti-Doping Unit conducted an initial review as per art. 53 (1) FIFA Anti-Doping Regulations (**FIFA ADR**), which did not yield a justification for this Adverse Analytical Finding.
6. On 18 October 2022, the FIFA Anti-Doping Unit, in collaboration with the Costa Rican Football Federation, notified the Player of a potential Anti-Doping Rule Violation (**ADRV**), informing him, *inter alia*, that his case would be referred to the FIFA Disciplinary Committee. Moreover, the Player was asked if he wished to verify whether the Prohibited Substance detected in the "A" sample was also present in the "B" sample.
7. On the same day, the Player requested the opening and analysis of the "B" sample.
8. Subsequently, on 19 October 2022, the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) informed the Player of the opening of disciplinary proceedings against him and notified him of his mandatory provisional suspension pursuant to art. 52 FIFA Disciplinary Code, 2019 edition (**FDC**) and arts. 34 and 35 FIFA ADR. In addition, the Player was informed of his right to a preliminary hearing before the aforementioned Committee.
9. On 21 October 2022, the Player, through his legal representative, requested that *"the hearing be held to assess the request to annul the mandatory provisional suspension measure decreed against him"* and explained, *inter alia*, that the presence of the substance was due to contamination resulting from the application of a product (*Neobol*) to his partner's body¹.

¹ The position of the Player is summarized in the second section below.

10. On 27 October 2022, the Secretariat informed the Player that his request for a preliminary hearing had been granted, said hearing being scheduled for 1 November 2022.
11. On the same date, the Laboratory provided the Player with the documentation package regarding the "A" sample (urine) and the blood sample that was collected on the same occasion as the urine sample.
12. On 1 November 2022, a virtual (preliminary) hearing was held in the presence of the Chairperson of the Disciplinary Committee.
13. On 3 November 2022, the Player was informed that the provisional suspension was maintained.
14. On 7 November 2022, the FIFA Anti-Doping Unit informed the Player that the analysis of the "B" sample confirmed the presence of *Clostebol*.
15. In view of the above, the Secretariat gave 6 days to the Player to submit his comments and/or explanations in accordance with art. 54 (5) FIFA ADR.
16. On 24 November 2022, the Player submitted his comments and attached various documentation in support of his initial position submitted on 21 October 2022².
17. On 28 November 2022, the Secretariat notified a letter of charge to the Player. In particular, the Player was informed that the present proceedings related to breaches of the following provisions:
 - Art. 6 FIFA ADR - *Presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample*, and
 - Art. 17 FDC - *Doping*.
18. Moreover, the letter of charge recounted the factual background of the case as well as the evidence on file and informed the Player that the abovementioned offences should be accompanied by a 12-month period of Ineligibility in accordance with art. 20 (2) FIFA ADR read in conjunction with art. 23 (1) (a) FIFA ADR.
19. The Player was therefore invited to inform the FIFA Disciplinary Committee within 20 days whether he wished:
 - To admit the alleged Anti-Doping rule violation and accept the aforementioned sanction; or
 - To contest in writing the aforementioned allegations and/or the proposed consequences and/or to request in writing a hearing with the FIFA Disciplinary Committee.
20. On 7 December 2022, the Player submitted a brief correspondence in which he acknowledged that he had been in contact with the substance (*clostebol*) without intent, fault or negligence on his part. For this reason, the Player rejected the consequences proposed in the letter of charge and requested a hearing.

² The position of the Player is summarized in the second section below.

21. On 17 January 2023, the Secretariat, *inter alia*, informed the Player that the hearing was scheduled for 25 January 2023. Moreover, the composition of the Committee appointed to hear the case was also communicated to the Player.
22. On 20 January 2023, the Secretariat provided the Player with (i) the provisional schedule of the hearing as well as (ii) the “*Acceptance and Statement of Independence*” of the three members of the Disciplinary Committee appointed to hear his case.
23. On 25 January 2023, a hearing was held by video-conference (**the Hearing**) in the presence of the following persons:
 - For the Committee:
 - Mr Jorge Ivan Palacio, chairperson;
 - Mr Thomas Hollerer, member;
 - Mr Mark Anthony Wade, member;
 - For the Respondent:
 - Mr Orlando Moisés Galo Calderón, Player;
 - Mr Juan Carlos Retana, legal representative of the Player;
 - Mr Jafet Soto Molina, representative of the Player’s club;
 - Mr Cristian Moraga, consulting physician.
 - Representatives of the Secretariat.
24. During the Hearing, the Player received the opportunity to provide his position and answer questions from the members of the Committee.

II. POSITION OF THE PLAYER

25. The Player submitted two “positions” throughout the proceedings, namely one on 21 October and on 24 November 2022. However, in all his statements, the Player essentially claimed that he had been “contaminated” by a product he had applied to his partner following surgery and during intimate interactions with her. In particular, the Player explained that:
 - The notification by the FIFA Anti-Doping Unit of his Adverse Analytical Findings came as a shock as he had never been in contact with doping or any other banned substance during his entire football career. However, after a lengthy investigation into the possible origin of the substance in his body, his partner/girlfriend (**partner**) reminded him that he had applied a cream to her body after her surgery.
 - On 26 August 2022, his partner underwent surgery and the Player was “*in charge of her care, a recovery in which [the Player] participated with the application of the care pre and post operative that were prescribed*”.

- Among the various medicines that were prescribed to his partner was the product "NEOBOL".
- The application of said product was carried out by the Player himself three times a day "*approximately seven days*" before the sample collection in South Korea. During that period, the Player claimed to have maintained close contact with his partner, which would explain the accidental contamination.
- "NEOBOL" in its different presentations is an over-the-counter medication, without medical prescription in Costa Rica, and contains the non-specific prohibited substance *Clostebol*. "NEOBOL" in its form of cream and spray is used very frequently for wound healing as a result of abrasions, wounds and/or surgery, such as *in casu*.
- There are studies that suggest that people who have had contact with the substance, *i.e.*, those who have applied it to another person, without the intention of using it, "*had samples with traces of clostebol above 20 ng/ml and that it lasted for several days even with values well above (4 ng/dl)*". In light of such scientific studies, "*it is clearly established that the mechanisms by which the presence of the substance in [the Player] occurred were of an unintentional nature.*"
- The suspension of the Player would cause irreparable harm because it would deprive him of the possibility of playing the final phase of the national Championship and even the next FIFA World Cup Qatar 2022™.
- The Player therefore requested that the Provisional Suspension imposed be lifted and that no sanction be imposed as his Adverse Analytical Finding was not malicious or intentional, or that a lenient sanction be imposed.

26. In support of his allegations, the Player submitted various evidence, including:

- WhatsApp exchange between his partner and her doctor, prior to and after the surgery;
- Post-surgery reports;
- Prescription of "*NEOBOL Spray*" by the doctor;
- Picture of the product "*NEOBOL Spray – Neomicina -Clostebol*";
- Pharmacy invoice.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

27. In view of the circumstances of the present matter, the Committee decided to first address the procedural aspects, namely, its jurisdiction and the applicable law, before entering into the substance of the matter.

A. Jurisdiction of the FIFA Disciplinary Committee

28. First of all, the Committee noted that at no point during the present proceedings did the Player challenge its jurisdiction or the applicability of the FDC.

29. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasize that, in view of arts. 17 and 53 of the FDC [2019 ed.] – edition applicable to the present matter as outlined below – the Disciplinary Committee is competent to evaluate any Doping-related violation and to impose sanctions in case of corresponding violations.

B. Applicable law

30. In order to duly assess the matter, the Committee first recalled the factual circumstances which led to the Adverse Analytical Finding, in particular the Player's doping control that took place on 21 September 2022. Bearing in mind that the 2019 edition of the FDC entered into force on 15 July 2019, the Committee considered that both the procedural aspects and merits of the present disciplinary proceedings should be governed by the provisions stipulated in the 2019 edition of the FDC.

31. Secondly, the Committee observed that according to art. 17 FDC, doping offences shall be sanctioned in accordance with the provision of the FDC as well as those contained in the FIFA ADR. Consequently, the Committee determined that the 2021 edition of the FIFA ADR (which came into force on 1 January 2021) should, in addition to the FDC, also apply to the present disciplinary proceedings.

32. The above clarified, the Committee decided to begin by recalling the content of the relevant provisions of the FDC and the FIFA ADR applicable to the present case, this without prejudice that other rules may also be at stake. In particular, the Committee acknowledged that the letter of charge sent to the Player on 28 November 2022 referred to a potential violation of arts. 17 FDC and 6 FIFA ADR, which read as follows:

Article 17 FDC – Doping:

"Doping is sanctioned in accordance with the FIFA Anti-Doping Regulations and this Code."

Article 6 FIFA ADR - Presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample

"1. It is the Player's personal duty to ensure that no Prohibited Substance enters his body. Players are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that

intent, Fault, negligence or knowing Use on the Player's part be demonstrated in order to establish an anti-doping rule violation under art. 6.

2. *Sufficient proof of an anti-doping rule violation under art. 6 is established by any of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Player's "A" Sample where the Player waives analysis of the "B" Sample and the "B" Sample is not analyzed; or where the Player's "B" Sample is analyzed and the analysis of the Player's "B" Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Player's "A" Sample; or where the Player's "A" or "B" Sample is split into two parts and the analysis of the confirmation part of the split Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first part of the split Sample or the Player waives analysis of the confirmation part of the split Sample.*
3. *Excepting those substances for which a Decision Limit is specifically identified in the Prohibited List or a Technical Document, the presence of any reported quantity of a Prohibited Substance or its Metabolites or Markers in a Player's Sample shall constitute an anti-doping rule violation.*
4. *As an exception to the general rule of art. 6, the Prohibited List, International Standards or Technical Documents may establish special criteria for the reporting or the evaluation of certain Prohibited Substances".*

C. Standard of proof

33. The above having been established, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement (namely that an ADRV had occurred) under arts. 36 (1) FDC and 68 (1) FIFA ADR.
34. Furthermore, the Committee noted that, in accordance with art. 68 FIFA ADR, different standards of proof apply in doping proceedings: on the one hand, FIFA must establish that an ADRV occurred to the "comfortable satisfaction" of the Disciplinary Committee (par. 1), whereas on the other hand, where the FIFA ADR places the burden of proof on the person alleged to have committed an ADRV to rebut a presumption or to establish specific facts or circumstances, a lower standard of proof applies, *i.e.* the "balance of probabilities" (par. 2).
35. Finally, the Committee pointed out that as per art. 69 (1) FIFA ADR, "*[f]acts related to anti-doping rule violations may be established by any reliable means, including admissions.*" Moreover, with respect to the sample analysis, the second paragraph of the above provision clarifies that:
 - "b) *WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Player or other Person may rebut this presumption by establishing that a departure from the International Standard for laboratories occurred which could reasonably have caused the Adverse Analytical Finding. If the Player or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then FIFA shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.*"

36. Having clarified the foregoing, the Committee subsequently proceeded to consider the merits of the case at hand.

D. Merits of the dispute

I. The Anti-Doping Rule Violation

37. To begin with, the Committee observed that pursuant to art. 66 FIFA ADR, it had to “*consider first whether or not an [ADRV had] been committed*”, and if this was the case, “*it shall consider the appropriate measures applicable under art. 20 (...) and 21 (...) prior to the imposition of any period of Ineligibility*”.
38. In this regard, the Committee noted that the “A” and “B” samples collected on 21 September 2022 and analyzed by a WADA-accredited laboratory in Seoul revealed the presence of *Clostebol*, a non-specified substance which is on the Prohibited List (2022) under S1.1 “Anabolic Androgenic Steroids” and is prohibited for use in- and out-of-competition. Furthermore, the Committee observed that *Clostebol* is not subject to a minimum threshold, so that any reported quantity of that Prohibited Substance in a player’s sample constitutes an ADRV pursuant to art. 6 (3) FIFA ADR.
39. Against this background, the Committee pointed out that according to the information contained in the case file, (i) the Player did not have a “Therapeutic Use Exemption” for the use of *Clostebol* detected in his body, (ii) there appeared to be no evidence of an apparent departure from the International Standard for Laboratories, the International Standard for Testing and Investigations or any other applicable provision of the FIFA ADR that caused the Adverse Analytical Finding to call into question the validity of the result and (iii) the Adverse Analytical Finding was not caused by ingestion of the Prohibited Substance through an approved route (cf. art. 53 (1) FIFA ADR). Finally, the Committee highlighted that the Player did not dispute the above Adverse Analytical Finding, but rather explained that he had been “contaminated” by a product called “NEOBOL” he had applied to his partner following surgery.
40. Consequently, and in accordance with art. 66 FIFA ADR, the Committee concluded that the presence of *Clostebol* found in the Player’s urine samples by the WADA-accredited laboratory in Seoul constituted a violation of the FIFA ADR, more specifically of art. 6 FIFA ADR that specifically prohibits and sanctions the presence of a Prohibited Substance – such as *Clostebol* – in a player’s samples.

II. Liability of the Player

(1) The conditions to establish the standard period of Ineligibility for an ADRV

41. Having established that the Player had infringed art. 6 FIFA ADR, the Committee went on to determine the extent of the Player’s liability, and thus whether or not a disciplinary sanction should be imposed.

42. In this respect, the Committee recalled that the Player was found in violation of art. 6 FIFA ADR due to the presence of *Clostebol*, a non-specified substance, in his urine samples. With this in mind, the Committee observed that according to art. 20 (1) FIFA ADR, the period of Ineligibility for a violation of art. 6 FIFA ADR shall be of four (4) years if the ADRV involves a non-specified substance – as *in casu* – unless the Player can establish that the ADRV was not intentional. In particular, the Committee noted that should the Player establish that his ADRV was not intentional, then the period of Ineligibility would be of two (2) years in accordance with art. 20 (2) FIFA ADR.
43. With the above in mind, the Committee deemed that, as a first step before assessing the period of Ineligibility applicable to the Player, it had to determine whether the latter deliberately ingested the Prohibited Substance or, on the contrary, whether there was evidence establishing that the Player's ADRV was not intentional.

(2) Did the Player intend to engage in doping?

44. The contours of the notion of "intentional" doping are defined in art. 20 (3) FIFA ADR and serve *"to identify those Players or other persons who engage in conduct which they knew constituted an [ADRV] or know that there was a significant risk that the conduct might constitute or result in an [ADRV] and manifestly disregarded that risk"*.
45. Furthermore, the Committee recalled that according to the jurisprudence of the Court of Arbitration for Sport (**CAS**), the Athlete bears the burden of proof of demonstrating that he did not intend to violate the Anti-Doping rule³.
46. In light of the above, the Player explained that his partner underwent surgery, and he was in charge of her care. In particular, he applied to her a product called *"NEOBOL Spray"* prescribed by the doctor's partner three times a day, approximately seven days before the sample collection in South Korea. The Player further pointed out that during that period, he has maintained close contact with his partner, which would explain the accidental contamination.
47. In other words, the Player submitted that his Adverse Analytical Finding was due to the application of *"NEOBOL"* to his partner, a medication prescribed by her doctor following her surgery. To corroborate the above, the Player filed various documents, including WhatsApp exchange between his partner and her doctor prior to and after the surgery, post-surgery reports, prescription of *"NEOBOL Spray"* by the doctor as well as a picture of the product *"NEOBOL Spray - Neomicina -Clostebol"*.
48. In view of the above explanations, the Committee verified the composition of the medicine and was satisfied that the active substance of *"NEOBOL Spray"* was indeed *Clostebol*, an information, which in view of the picture provided by the Player, was clearly indicated on the packaging of the medicine. Moreover, the estimated concentration of *Clostebol* metabolites detected in the Player's sample was 0.7 ng/mL – which can be considered a low concentration –. In particular, the Committee noted that such concentration appeared to be consistent with the Player's explanation, although this had to be taken with some caution as the concentration of the

³ CAS 2017/A/5139 ; CAS 2016/A/4377; CAS 2016/A/4662; CAS 2016/A/4563; CAS 2016/A/4626.

prohibited substance decreases over time. In any event, the Committee considered this to be part of a pattern of evidence consistent with the Player's explanation.

49. Therefore, after careful consideration of the documents on file, the Committee concluded that the Player proved, on a "balance of probabilities", that he had ingested the Prohibited Substance unintentionally, *i.e.* that he did not intend to dope, but rather the substance entered his system by applying a medicinal product to his partner following her surgery.
50. Consequently, the Committee decided that the standard period of Ineligibility should no longer be four (4) years, but two (2) years, in accordance with art. 20 (2) FIFA ADR, due to the Player's lack of intent to dope.

(3) Possible reduction of the period of Ineligibility (arts. 22-24 FIFA ADR)

51. The standard period of Ineligibility defined, the Committee then focused on arts. 22-24 FIFA ADR which provide for several "possibilities" for the accused to have his sanction reduced. Put differently, the Committee recounted that the standard period of Ineligibility would be of two (2) years, unless the conditions for eliminating or reducing it are met.
52. In this regard, the Committee observed the following:
 - If the Player can establish that he bears no fault or negligence (art. 22 FIFA ADR), the otherwise applicable period shall be eliminated;
 - If the Player can establish that he bears no significant fault or negligence (art. 23 (2) FIFA ADR), the otherwise applicable period may be reduced based on the Player's degree of fault, but the reduced period of Ineligibility may not be less than one half of the period of Ineligibility otherwise applicable.
 - If the Player (i) provides substantial Assistance in discovering or establishing Code violations (art. 24 (1) FIFA ADR); (ii) admits an Anti-Doping rule violation in the absence of other evidence (art. 24 (2) FIFA ADR); (iii) enters into a Results Management or case resolution agreement (art. 24 (4) and (5) FIFA ADR), the period of Ineligibility normally applicable may be suspended or reduced depending on the circumstances of the case.
53. In this respect, the Committee could already conclude that the different scenarios described in art. 24 FIFA ADR would not apply in the present case.
54. Moreover, the Committee recalled that a WADA-accredited laboratory detected the presence of a Prohibited Substance - *Closterbol* - in the Player's urine samples, so the latter was deemed to be at fault⁴.
55. Given that the Player was at fault, the Committee felt that the degree of fault or negligence on the part of the latter in relation to his ADRV had to be assessed as this assessment could have an influence on the period of Ineligibility to be imposed in view of arts. 22 and 23 (2) of the FIFA ADR.

⁴ Cf. *supra* "The Anti-Doping Rule Violation".

56. In this regard, the Committee first noted that the contours of the notion of "fault" were defined by the FIFA ADR in the following terms:

*"Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a Player's or other Person's degree of Fault include, for example, the Player's or other Person's experience, whether the Player or other Person is a Protected Person, special considerations such as impairment, the degree of risk that should have been perceived by the Player and the level of care and investigation exercised by the Player in relation to what should have been the perceived level of risk. In assessing the Player's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Player's or other Person's departure from the expected standard of behaviour."*⁵

57. Then, the Committee deemed it appropriate, in assessing the correct period of Ineligibility, to follow the guidance given by CAS in the *Cilic* award, in which three different degrees of fault and sanction ranges were distinguished (significant, normal or light degree of fault)⁶.

58. The Committee finally noted that the panel in the *Cilic* award suggested that in order to determine into which category of fault a particular case might fall in, the objective (standard of care expected from a reasonable person in the athlete's situation) and subjective (what could have been expected from that particular athlete, in light of his personal capacities) level of fault have to be taken into consideration.

59. In application of the above guidance, the Committee began by focusing on the objective level of fault and recalled that some of the actions or situations that could constitute an objective element would be whether the athlete⁷:

- a. read the label of the product used (or otherwise ascertained the ingredients);
- b. cross-checked all the ingredients on the label with the list of Prohibited Substances;
- c. made an internet search of the product;
- d. ensured the product is reliably sourced; and
- e. consulted appropriate experts in these matters before consuming the product.

60. With respect to the present case, the Committee noted that from the Player's position provided in the course of these proceedings, it appeared that the latter did not exercise the relevant care expected of a reasonable athlete. Indeed, from the Player's position provided during the course of these proceedings, it appears that the latter did not take any steps or actions to ensure that applying "NEOBOL" to his partner would prevent him of getting in contact with the prohibited substance. In particular, the Committee found that the mere mention of the product name "*NEOBOL Spray*" accompanied by the terms "*Neomicina -Clostebol*" on the main face of the packaging should have alerted him to the true nature of the product to be applied, or at least, it should have drawn his attention and prompted him to make further research. In particular, a "simple" internet search would have been sufficient to identify (i) the prohibited nature of the

⁵ Definition 28 in the FIFA ADR.

⁶ The *Cilic* guidelines in CAS 2013/A/3327 & 3335.

⁷ The *Cilic* guidelines in CAS 2013/A/3327 & 3335.

substance contained in the “NEOBOL Spray” and (ii) the risks of handling the substance and the high likelihood of getting into contact with it.

61. The Committee subsequently assessed the subjective level of fault, namely those attached to the personal situation of the Player, and made the following observation:
 - a. With respect to the Player’ age and experience: the Player was 21 years old at the time of the ADRV and was a professional football player for a few years. In particular, the Player himself stated that he had won several trophies. Moreover, the Committee noted from publicly available sources that the Player had been fielded in a least 8 matches of the preliminary competition to the FIFA World Cup Qatar 2022™.
 - b. With respect to the language or environmental problems that the Player might have encountered: the medicine was purchased by the Player and or his partner in his home country, *i.e.*, Costa Rica. Therefore, the chances of the Player having encountered linguistic or environmental problems are very limited.
 - c. Extend of Anti-Doping education received by the Player: The latter did not provide particular information on this respect.
62. In view of the above, the Committee could only conclude that the Player was a young professional player who had been called upon on several occasion to play for the Costa Rican “A” representative team, so that doping-related issues could not be totally unknown to him. Put differently, the Committee found that it could legitimately be expected from him to exercise caution and carry out some checks before applying any medicine on his partner. The corollary of the above is that by failing to carry out certain basic checks before applying the product at stake, the application of art. 22 FIFA ARD – no fault or negligence on the Player’s part – was ruled out by the Committee.
63. Notwithstanding the above, the Committee considered that the fact that Player never ingested this product but had come into contact with the substance while applying it to his partner represented an important mitigating factor that could not be ignored.
64. As a result, and in view of the circumstances of the case outlined above, the Committee concluded that the Player’s degree of fault was light rather than normal. Moreover, the Committee recalled that the Prohibited Substance found in the Player’s sample was a non-specified substance so that the reduced period of Ineligibility may not be less than one half of the period of Ineligibility otherwise applicable according to art. 23 (2) FIFA ADR.
65. Despite some sympathy on the part of the Committee towards the Player and his unfortunate situation, the said judicial body is bound by the applicable regulations and could not reduce the suspension below a period of Ineligibility of 12 months, as this sanction represented half of the period of Ineligibility otherwise applicable (two (2) years). Therefore, the Committee was compelled to impose a period of Ineligibly of 12 months on the Player for infringing art. 6 FIFA ADR, and by corollary, art. 17 FDC.

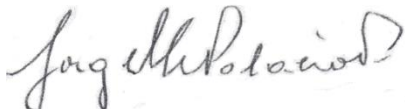
(4) Commencement of period of Ineligibility

66. In accordance with art. 29 FIFA ADR, the Committee noted that where a player is already serving a period of Ineligibility for an ADRV, any new period of Ineligibility shall commence on the first day after the current period of Ineligibility has been served.
67. The Committee also paid attention to art. 29 (2) (a) FIFA ADR, which provides that if a provisional suspension is complied with by the player, the latter will receive credit for that period of provisional suspension against any period of Ineligibility that may ultimately be imposed – as *in casu*.
68. In view of the fact that the Player was already serving a provisional suspension as of 19 October 2022, the Committee decided that the period served as a provisional suspension should be credited against the 12-month period of Ineligibility imposed under this decision.
69. For the sake of completeness and ease of computation, the Committee considered that the 12-month period of Ineligibility should run from 19 October 2022 until 19 October 2023.
70. In this context, and with regard to the extent of the suspension, the Committee reminded the Player of art. 30 (1) FIFA ADR, which states that *“No Player or other Person who has been declared Ineligible or is subject to a Provisional Suspension may, during a period of Ineligibility or Provisional Suspension, participate in any capacity in a Match or activity (other than authorised anti-doping Education or rehabilitation programmes) authorised or organised by FIFA, any Association, any other Signatory of the Code, a club or other member organisation of an Association or of any Signatory to the Code, or In-Competitions authorised or organised by any professional league or any international or national-level Competition organisation or any elite or national-level sporting activity funded by a governmental agency”*.
71. Finally, and in connection with the above, the Committee also wished to draw the Player’s attention to art. 30 (2) FIFA ADR, according to which the latter would be entitled to return to train with a team or use the facilities of a club or other member organisation of a FIFA Member Association as of 19 August 2023, *i.e.*, in the last two months of the period of Ineligibility imposed on him.

IV. DECISION OF THE DISCIPLINARY COMMITTEE

- 1. The player, Mr Orlando Moisés Galo Calderón, is sanctioned with a period of Ineligibility of 12 months for having infringed the relevant provision of the FIFA Disciplinary Code related to Doping as well as the relevant provision of the FIFA Anti-Doping Regulations sanctioning the Presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample.**
- 2. This period of Ineligibility shall run from 19 October 2022 until 19 October 2023.**
- 3. The aforementioned sanction covers the participation, in any capacity, in a competition or activity authorised or organised by FIFA or any association, a club or other member organisation of an association, or in competitions authorised or organised by any professional league or any international or national - level competition organisation or any elite or national level sporting activity funded by a governmental agency.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Jorge Ivan Palacio

Chairperson of the FIFA Disciplinary Department

NOTE RELATING TO THE LEGAL ACTION:

According to art. 57 (1) of the FIFA Statutes as read together with art. 52 of the FDC (ed. 2023) and art. 77 (1) of the FIFA ADR, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to CAS directly within 21 days of receipt of notification of this decision. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with the CAS.