

**DECISION OF THE INTERNATIONAL TENNIS FEDERATION
PURSUANT TO ARTICLE 7.14 OF THE 2022 TENNIS ANTI-DOPING PROGRAMME**

I. Introduction

1. The International Tennis Federation (the **ITF**) is the international governing body for the sport of tennis. Further to its obligations as a signatory to the World Anti-Doping Code (the **Code**) and its responsibilities as custodian of the sport, the ITF has issued the 2021 Tennis Anti-Doping Programme (the **TADP** or the **Programme**)¹, which sets out Code-compliant anti-doping rules applicable to players competing in ‘**Covered Events**’ (as defined in TADP Appendix 1).²
2. Timur Mukhtarulin (the **Player**) is a 19-year-old tennis player who is a national of Ukraine. He has competed on the Junior ITF circuit since 2016, the ITF Men’s World Tennis Tour (in both singles and doubles competitions) since 2019, and on the ATP Challenger Tour since 2021. When he registered online for an International Player Identification Number (IPIN) in 2013 and subsequent years, the Player expressly agreed to be bound by and to comply with the Programme. By virtue of that agreement, and by virtue of his participation in ITF World Tennis Tour events and ATP Challenger Tour tournaments (which fall within the definition of ‘**Covered Events**’ under the TADP), the Player became bound by and was required to comply with the Programme.
3. The ITF charged the Player with the commission of an Anti-Doping Rule Violation under the TADP and asserted the default Consequences based on the provisions of the TADP. The Player did not provide a formal response to the Charge Letter (although he did inform the ITF that he was retiring from the sport) and therefore, pursuant to 2022 TADP Article 7.13.3, is deemed to have admitted the Anti-Doping Rule Violation(s) charged and acceded to the Consequences specified in the Charge Letter:

‘7.13.3 [...] if no response is received by the deadline specified in the Charge Letter, the Player or other Person will be deemed to have admitted the Anti-Doping Rule Violation(s) charged, and, unless the [ITF] (at its sole discretion) refers the determination of the applicable Consequences to a hearing conducted in accordance with Article 8, the Player or other Person will also be deemed to have acceded to the Consequences specified in the Charge Letter.’

4. The ITF therefore issues this decision further to 2022 TADP Article 7.14, which provides:

‘7.14.2 In the event that the Player or other Person admits the Anti-Doping Rule Violation(s) asserted and accedes to the Consequences specified by the [ITF] (or is deemed to have done so in accordance with Article 7.13.3), the [ITF] will promptly issue a reasoned decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences (as applicable), will send notice of the

¹ The Programme has since, as from 1 January 2022, been superseded by the 2022 Tennis Anti-Doping Programme (the **2022 TADP** or the **2022 Programme**). The ITF has delegated all aspects of Doping Control and Education under the 2022 Programme to the International Tennis Integrity Agency, save for certain matters arising prior to the Effective Date (such as results management in respect of this case).

² Any term in this Decision that begins with a capital letter and is not otherwise defined in this Decision has the meaning given to it in the Programme.

decision to the Player or other Person and to each Interested Party, and will Publicly Disclose the decision in accordance with Article 8.6. [...]’.

‘7.14.3 Any decision issued by the [ITF] in accordance with Article 7.14.2 that an Anti-Doping Rule Violation has been committed [...] will address and determine (without limitation): (1) the factual basis of the decision that an Anti-Doping Rule Violation was committed; and (2) all of the Consequences to be imposed for such Anti-Doping Rule Violation, including the reasons for imposing the Consequences specified, and in particular the reasons for exercising any discretion not to impose the full Consequences available under this Programme.’

II. The Player's commission of an Anti-Doping Rule Violation

5. On 31 August 2021, while competing in the singles competition at the ITF World Tennis Tour M15 event held in Chornomorsk, Ukraine, from 30 August to 5 September 2021 (the **Event**), the Player was required to provide a urine sample for drug testing pursuant to the TADP. The sample he provided was assigned reference number 3168109 and split into an A sample and a B sample, which were sealed in tamper-evident bottles and transported to the WADA-accredited laboratory in Montreal (the **Laboratory**) for analysis. The Laboratory detected in the A sample the presence of Amfetamine, at an estimated concentration of 126 ng/mL. Amfetamine is prohibited under the TADP, in the category of Stimulants (Section S6 of the 2021 WADA Prohibited List). It is not a Specified Substance. The Player did not have and has never had a Therapeutic Use Exemption permitting the use of Amfetamine.
6. The Adverse Analytical Finding reported by the Laboratory in respect of the A sample was considered by an independent Review Board in accordance with TADP Article 7.4. The Review Board did not identify any TUE held by the Player for Amfetamine, or any apparent departures from the applicable sample collection or sample analysis procedures that could have caused the Adverse Analytical Finding, and therefore decided that the Player had a case to answer for breach of TADP Article 2.1 and/or TADP Article 2.2.
7. Prior to the issue of a pre-charge Notice, the ITF informed the Player that the Review Board had invited him to apply for a retroactive TUE by 8 November 2021 based on the possibility that the Amfetamine found in his sample was being used by him to treat a valid medical condition that had been diagnosed by a physician. The Player replied, confirming that he had understood the message and would provide ‘all the information as soon as possible’.
8. The Player did not file a TUE application by 8 November 2021, and therefore on 12 November 2021 the ITF issued to the Player a pre-charge Notice, explaining that Amfetamine was present in the sample collected from him on 31 August 2021 and that he may therefore have committed an Anti-Doping Rule Violation under TADP Article 2.1 (presence of a Prohibited Substance in his sample) and/or TADP Article 2.2 (Use of a Prohibited Substance). Since Amfetamine is not classified as a Specified Substance under the TADP, the Player was subject to a mandatory provisional suspension under TADP Article 7.12.1, which came into effect on 22 November 2021.
9. The Laboratory subsequently analysed the B sample (B3168109), and reported on 22 November 2021 that it had detected the presence of Amfetamine, which confirmed the Adverse Analytical Finding made in respect of the A sample.
10. The Player did not provide a response to the pre-charge Notice by the specified deadline. Exceptionally, and as a courtesy, the ITF extended the deadline for response until 30 November 2021, but warned the Player that if he did not respond, there would be no choice but to formally

charge him with an Anti-Doping Rule Violation. On 26 November 2021, the Player sent a message to the ITF via the TADP Portal stating that he and his doctor would attempt to provide all the documents needed in order to apply for a retroactive TUE. On 29 November 2021, the Player requested a further extension to the deadline for responding to the pre-charge Notice in order to complete the TUE application process. The ITF therefore extended the deadline again until 3 December 2021.

11. The Player did not apply for a retroactive TUE by the extended deadline and did not respond to the pre-charge Notice. On 6 December 2021 the Player sent a message via the TADP Portal asserting that he had applied for a TUE 'last Friday' (i.e., Friday 2 December). On 18 December 2021, the ITF informed the Player that no such application had been made (an application had been started but the Player had not invited a physician to complete the application) and therefore the Player would be charged with an Anti-Doping Rule Violation.
12. On 18 December 2021, the ITF formally charged the Player with the commission of an Anti-Doping Rule Violation under TADP Articles 2.1 and/or 2.2. TADP Articles 2.1 and 2.2 are strict liability offences that are established simply by proof that a Prohibited Substance was present in the sample or that the Player used or attempted to use the Prohibited Substance, i.e., the ITF does not have to prove how the substance got into the Player's system or that the Player took the substance intentionally (or even knowingly). The Charge Letter stated (among other things):

'Please note carefully: If you fail to file a request for a hearing by the above-specified deadline, then (further to TADP Articles 7.13.3 and 7.13.2.5) you will be deemed: (a) to have waived your entitlement to a hearing; (b) to have admitted that you have committed the Anti-Doping Rule Violations specified above; and (c) to have acceded to the Consequences set out above (without any mitigation of the four-year period of Ineligibility specified above). In such circumstances, there will not be a contested hearing. Instead, a decision will be issued confirming the commission of an Anti-Doping Rule Violation and specifying the applicable Consequences.'
13. On 7 January 2022 (the 'Important deadline for action' set in the Charge Letter for response), the Player did not provide a formal response but instead sent a message to the ITF via the TADP Portal stating that his doctor had not submitted the forms that he was supposed to, that he had not educated himself on the substances that are prohibited, that he had no intention of enhancing his performance, and he had 'absolutely no idea that the medication [he took] could cause it'. The Player also stated that he had decided to retire from tennis.
14. The ITF extended the Player's deadline for formal response to the Charge Letter until 14 January 2022 to provide the Player with a final opportunity to either submit a retroactive TUE application or provide a formal response to the Charge Letter. The ITF confirmed to the Player that, even if he retired, the ITF would retain authority to complete the Results Management process, because he was subject to the proceedings prior to his retirement.³
15. On 14 January 2022, the Player filed a player retirement form but did not respond to the Charge Letter or submit a retroactive TUE application (and has not done so since). On 21 January 2022, the ITF informed the Player that since he had not responded to the Charge Letter by the

³ 2022 TADP Article 1.4.7 states: 'The ITF, ITIA, relevant National Association, relevant NADO, Independent Tribunal, and CAS (as applicable) will continue to have jurisdiction under this Programme over a Player in respect of matters taking place prior to the Player's retirement [...]. If such Player or other Person retires or ceases to be subject to the Programme while subject to a Results Management process, the ITIA or other Anti-Doping Organisation conducting that Results Management process retains authority to complete that process'.

extended deadline or at all, he was deemed to have (a) waived his entitlement to a hearing; (b) admitted commission of the Anti-Doping Rule Violations charged; and (c) acceded to the default Consequences specified by the ITF. Pursuant to 2022 TADP Article 7.13.3, the Player was therefore deemed to have admitted the Anti-Doping Rule Violation(s) charged and acceded to the Consequences specified in the Charge Letter.

III. Consequences

III.A **Period of Ineligibility**

(a) **The Player has not established how Amfetamine was present in his system**

16. While the Player's correspondence with the ITF appears to suggest that the Adverse Analytical Finding was caused by medication that the Player was taking, no medical or other evidence has been provided by the Player to support that assertion. Accordingly, the Player has not met his burden to establish how the Amfetamine entered his system.

(b) **TADP Article 10.2**

17. This is the Player's first doping violation.⁴

18. TADP Article 10.2.1 specifies that a TADP Article 2.1 or 2.2 violation that is 'intentional' and is a first offence attracts a mandatory four-year ban. If the prohibited substance in question is classified as a non-Specified Substance (as here), TADP Article 10.2.1 also specifies that the player has the burden of proving that the violation was not 'intentional'. If the player can do so, then TADP Article 10.2.2 provides for a two-year period of ineligibility, subject to mitigation. TADP Article 10.2.3 explains that in this context 'the term 'intentional' is meant to identify those Players or other Persons who engage in conduct that they knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk'. The jurisprudence is clear that what counts in this context is what the Player actually knew, not what they should have known.⁵

19. The Player has not sought to establish that the Anti-Doping Rule Violation(s) was unintentional. In any event, save in the rarest cases, a player will only be able to rebut the TADP Article 10.2.1 presumption of intentional use if they prove exactly when and how the substance entered their system.⁶ As explained at paragraph 16, above, the Player has not met that burden, and the presumption of intentional use has not been rebutted.

⁴ While the Player has committed two anti-doping rule violations, 2022 TADP Article 10.9.4.1 confirms they should be treated as one violation for the purposes of sanction because the Player did not receive notice of the second violation after having received notice of the first violation.

⁵ ITF v Sharapova, Independent Tribunal decision dated 6 June 2016, para 77 ('It is clear from the wording of article 10.2.3 that whether conduct is intentional is to be judged on the actual knowledge of the player, not on the basis of what she ought to have known or understood') and para 71 ('the concession that the player did not know that she was taking a Prohibited Substance resolves both elements of article 10.2.3. On neither basis was the conduct of the player intentional').

⁶ See Villanueva v FINA, CAS 2016/A/4534, para 37; Ademi v UEFA, CAS 2016/A/4676, para 72; and WADA v WSF and Iqbal, CAS 2016/A/4919, paras 65-66.

(c) TADP Articles 10.5 and 10.6

20. TADP Article 10.5 provides for elimination of the period of ineligibility where a player can establish that they bear No Fault or Negligence for the Anti-Doping Rule Violation(s) charged, and TADP Article 10.6 provides for reduction of the period of ineligibility where a player can establish that they bear No Significant Fault or Negligence for the Anti-Doping Rule Violation(s). The Player has not sought to make a plea for reduction or elimination of the otherwise applicable four-year period of ineligibility. A violation that is intentional necessarily involves fault or negligence, and therefore a plea of No Fault or Negligence or No Significant Fault or Negligence cannot be accepted.⁷
21. Accordingly, TADP Articles 10.5 and 10.6 do not apply, and the Player is subject to the mandatory four-year period of ineligibility, backdated to 22 November 2021 to give the Player credit for time served while provisionally suspended, in accordance with TADP Article 10.13.2. Therefore, the Player's period of ineligibility will expire at midnight on 21 November 2025 (subject always to the requirement that the Player be available for Testing during his period of ineligibility in order for him to be deemed to have satisfactorily served his period of ineligibility, failing which 2022 TADP Article 10.16.1 will apply and the Player will not be eligible for reinstatement until he has made himself available for Testing (by notifying the ITIA and ITF in writing) for four years (the period of time equal to the period of Ineligibility remaining as at the date the Player first stopped making himself available for Testing).

III.B Disqualification of results

22. The Player's results in the singles competition at the Event are automatically disqualified in accordance with TADP Article 9.1 (including forfeiture of any medals, titles, ranking points and Prize Money received as a result of participation in that event).
23. The Player competed in one Competition between the date of sample collection (31 August 2021) and the date he was provisionally suspended (22 November 2021). Results obtained at Competitions in that period will be disqualified in accordance with TADP Article 10.10 unless fairness requires otherwise. The Player has not asserted that the general rule should not apply; nor does the ITF consider that it should not apply. Accordingly, the Player's results obtained in the singles competition at the Kyiv Challenger 80 from 6 to 12 September 2021 are disqualified with all of the resulting consequences.

III.C Costs

24. Each party shall bear its own costs of dealings with this matter.

III.D Publication

25. In accordance with 2022 TADP Articles 7.14.2 and 8.6, this decision will be publicly reported by being posted (in full and/or summary form) on the ITF's website.

⁷ [Arashov v ITF, CAS 2017/A/5112, para 74](#) ('In line with this definition [of intent under Art 10.2.3], where there is intent there is necessarily fault or negligence – though the inverse is not necessarily true (where there is no intent there may or may not be no fault or negligence; this will depend on the circumstances of the case)').

IV. Rights of appeal

26. This decision constitutes the final decision of the ITF, resolving this matter pursuant to 2022 TADP Article 7.14.
27. Further to 2022 TADP Article 13.2, each of WADA, the National Anti-Doping Center of Ukraine, and the Player, has a right to appeal against this decision to the CAS in Lausanne, Switzerland, in accordance with the procedure set out at 2022 TADP Article 13.9.

London, 1 February 2022