

**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**), which sets out Code-compliant anti-doping rules applicable to players competing in ‘Covered Events’ (as defined in TADP Appendix 1).<sup>1</sup>
2. Igor Marcondes (the **Player**) is a 24-year-old tennis player who is a national of, and resident in, Brazil. He has competed on the Futures circuit since 2012 and in ATP and ITF World Tennis Tour tournaments subsequently. He currently has an ATP singles ranking of 265, and a career-high ranking of 262. When he registered for an International Player Identification Number in 2012 and in subsequent years, the Player expressly agreed to be bound by and to comply with the Programme for that year. By virtue of that agreement, that ranking, and his participation in ITF tournaments (which were ‘Covered Events’ under the TADP), the Player was bound by and required to comply with the 2021 TADP.
3. By a letter dated 13 June 2019, the ITF informed the Player that he had been included in the ITF International Registered Testing Pool, and was therefore required to (among other things) provide information to the ITF on a quarterly basis in order to facilitate out-of-competition testing. This included designating, for each day of the following quarter, a specified location where he would be present and available for testing during a specified 60-minute time slot. The Player remained in the International Registered Testing Pool in each subsequent year.
4. On 15 February 2022, the ITF charged the Player with the commission of an anti-doping rule violation under TADP Article 2.4 on the basis that the Player had had three whereabouts failures (two Missed Tests and one Filing Failure) recorded against him in a 12-month period. The ITF has proposed certain Consequences for that violation in accordance with the requirements of the TADP. The Player has admitted the anti-doping rule violation charged and acceded to the Consequences proposed. The ITF therefore issues this decision further to 2022 TADP Article 7.14, which provides:
  - 7.14.1 At any time prior to a final decision by the Independent Tribunal, the [ITF] may invite the Player [...] to admit the Anti-Doping Rule Violation(s) asserted and accede to specified Consequences [...].
  - 7.14.2 In the event that the Player [...] admits the Anti-Doping Rule Violation(s) asserted and accedes to Consequences specified by the [ITF] [...], 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 decision to the Player [...] 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 not purport to be limited in effect to a particular geographic area or sport, and will address and determine (without limitation): (1) the factual basis of the

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<sup>1</sup> 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. The 2022 Tennis Anti-Doping Programme (the **2022 TADP** or the **2022 Programme**) came into force on 1 January 2022. 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 1 January 2022 (such as results management in respect of this case).

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 two occasions in 2021, IDTM (the anti-doping service provider that is contracted by the ITF to provide certain doping control services under the Programme) instructed one of its Doping Control Officers (a **DCO**), to conduct an Out-of-Competition test on the Player within the 60-minute time slot and at the location specified in his whereabouts filing. In each case, the DCO sought to do so, but was unable to locate the Player for testing. Once in 2021 the ITF became aware that while the Player’s whereabouts filing stated he was in Brazil, he was in fact playing in a tournament in Poland and therefore the whereabouts filing was inaccurate. In particular:
  - 5.1 On 21 May 2021, a DCO sought to test the Player in the 60-minute time slot (12:00 to 1:00 pm) and at the address in Itajaí, Brazil, that the Player had specified for that date in his whereabouts filing. The DCO knocked on the door at the address and spoke with the Player’s roommate, who told the DCO that the Player had travelled to another city the day before. At 12:55 pm, the DCO twice called the telephone number specified in the Player's whereabouts filing. The Player answered the second call, and the DCO explained the situation. The Player confirmed that he had travelled to Criciúma, Brazil, and forgot to update his whereabouts information. The DCO therefore filed an Unsuccessful Attempt Report. Subsequently, the ITF notified the Player of this first apparent Whereabouts Failure, the Player provided a response in which he admitted to the Missed Test, and the ITF acknowledged the Player's response and recorded a Missed Test (a first Whereabouts Failure) against him.
  - 5.2 From 9 August 2021 to the end of September 2021, the Player’s whereabouts filing stated that he would be in Brazil, but the Player played in the M15 ITF World Tennis Tour tournament held in Gdynia, Poland, between 9 and 15 August 2021. The ITF therefore notified the Player that his whereabouts filing appeared to be inaccurate and that he appeared to have committed a second Whereabouts Failure, a Filing Failure. The Player did not respond to that notification, so the ITF wrote to the Player explaining that it had recorded a Filing Failure (a second Whereabouts Failure) against him.
  - 5.3 On 22 November 2021, a DCO sought to test the Player in the 60-minute time slot (7:00 to 8:00 am) and at the address in Itajaí, Brazil, that the Player had specified for that date in his whereabouts. The DCO rang the intercom to the property at the specified address and spoke with another player and the Player’s physical trainer, who confirmed that the Player had travelled early that morning to compete in Florianópolis, Brazil. The trainer called the Player to check whether he could return, but the Player confirmed to the trainer that he was already two hours away. At 7:55 am, the DCO called the telephone number specified in the Player's whereabouts filing, and the Player confirmed that he had travelled to Florianópolis, Brazil, to play a match. The DCO therefore filed an Unsuccessful Attempt Report. Subsequently, the ITF notified the Player of this third apparent Whereabouts Failure. The Player did not respond to that notification, so the ITF wrote to the Player explaining that it had recorded a Missed Test (a third Whereabouts Failure) against him.
6. In accordance with TADP Article 7.7.7, and Article B.3.4 of the International Standard for Results Management (**ISRM**), the ITF referred the matter to an independent Review Board, which reviewed the file, determined that all the requirements set out in the ISRM for a Missed Test or

a Filing Failure (as applicable) were met, and therefore determined that the Player had a case to answer for breach of TADP Article 2.4.

7. TADP Article 2.4 makes the following an anti-doping rule violation: 'Whereabouts Failures by a Player. Any combination of three Missed Tests and/or Filing Failures within a 12-month period by a Player in a Registered Testing Pool'.
8. The ITF sent the Player a (pre-charge) Notice on 11 January 2022, notifying him that he may have committed an anti-doping rule violation under TADP Article 2.4 on the basis of the three whereabouts failures apparently committed by the Player in a 12-month period. The Player was not subject to a mandatory or discretionary provisional suspension under TADP Article 7.12.1 or 7.12.2, nor did he accept a voluntary provisional suspension within the limited period permitted by TADP Article 7.12.5.1 (although the Player has not competed since participating in the Blumenau Challenger from 10 to 16 January 2022).
9. On 20 January 2022, in his preliminary response to the (pre-charge) Notice, the Player denied that he had committed the possible TADP Article 2.4 anti-doping rule violation set out in that Notice.
10. On 26 January 2022, the ITF formally charged the Player with the commission of an anti-doping rule violation under TADP Article 2.4. On 15 February 2022, the ITF reissued the formal Charge Letter to correct an error.
11. On 24 February 2022, the Player replied to the Charge Letter, denying the charge, and providing explanations for each of the three asserted Whereabouts Failures. In subsequent correspondence, the Player admitted the Article 2.4 anti-doping rule violation charged.

### III. Consequences

#### III.A **Period of Ineligibility**

12. TADP Article 10.3.2 provides that for an anti-doping rule violation under TADP Article 2.4 that is the player's first violation, 'the period of Ineligibility imposed will be two years, subject to reduction down to a minimum of one year, depending on the Player's degree of Fault'.<sup>2</sup>
13. However, this is the Player's second anti-doping rule violation, having previously served a nine-month period of Ineligibility after urine samples he provided in 2018 were found to contain the prohibited substance hydrochlorothiazide, which the ITF accepted had entered his body through contaminated supplements. Therefore, the applicable period of ineligibility will be determined by reference to TADP Article 10.9.1 (second anti-doping rule violations):

For a Player's [...] second Anti-Doping Rule Violation, the period of Ineligibility will be the greater of:

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<sup>2</sup> Fault is defined in the TADP as 'any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Player's [...] degree of Fault include, for example, the Player's [...] experience, whether the Player [...] 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 [...] degree of Fault, the circumstances considered must be specific and relevant to explain the Player's [...] departure from the expected standard of behaviour. Thus, for example, the fact that a Player would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Player only has a short time left in their career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.6.1 or 10.6.2'.

10.9.1.1 a six month period of Ineligibility; and

10.9.1.2 a period of Ineligibility in the range between:

- (a) the sum of the period of Ineligibility imposed for the first Anti-Doping Rule Violation plus the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation; and
- (b) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation.

The period of Ineligibility within this range will be determined based on the entirety of the circumstances and the Player's [...] degree of Fault with respect to the second violation. The period of Ineligibility established in this Article 10.9.1 may then be further reduced by the application of Article 10.7.

14. Since the sanction for the Player's first violation was determined based on rules in force prior to 2021, TADP Article 1.5.2.5 applies, i.e., the period of Ineligibility that would have been imposed for that first violation if the 2021 Programme had been applicable at that time will be used to help determine the period of Ineligibility for the second violation under Article 10.9.1.
15. Applying those provisions to the Player's case:
  - 15.1 The period of ineligibility for the Player's first violation would, under the 2021 Programme, be nine months.
  - 15.2 Pursuant to TADP Article 10.9.1.2(a), the bottom end of the range is two years and nine months (i.e., nine months plus two years).
  - 15.3 Pursuant to TADP Article 10.9.1.2(b), the top end of the range is four years (i.e., two years plus two years).
  - 15.4 Therefore the Player's period of ineligibility for the second violation will be within the range from (a) two years and nine months, and (b) four years, based on 'the entirety of the circumstances' and the Player's 'degree of Fault with respect to the second violation'.
16. The Player provided detailed explanations regarding the circumstances of each of the three Whereabouts Failures, and submitted his level of fault was low and the lowest possible period of Ineligibility should be imposed.
  - 16.1 In relation to the first Missed Test, the Player agreed at the last minute to play in a tournament and forgot to change his whereabouts filing accordingly.
  - 16.2 In relation to the Filing Failure, the Player changed his plans at the last minute to play in a tournament in Poland (after a tournament in the USA was cancelled) and made a mistake when entering the whereabouts information so that he said he would be in Poland on 8 August and then between 15 and 29 August but did not change the information for 9 to 14 August (which still said he would be in Brazil).
  - 16.3 In relation to the second Missed Test, he was asked late to play in a tournament and intended to change his whereabouts but when he tried to do so he could not access ADAMS. When the Player discussed the situation with the DCO, she told him to 'normally do his things' and so he did not worry about the discrepancy or come back to do the test. (although those discussions took place halfway through the 60-minute time slot hour and

the Player was approximately one and a half hours' drive away, so he could not have got back in time).

- 16.4 More generally: (1) the Player acted at all times in good faith and never intended to avoid the tests; (2) the pandemic has made scheduling and administration more difficult; (3) the Player made a series of honest mistakes; (4) English is not the Player's first language or a language he is comfortable with; (5) the Player is not well-trained in the use of ADAMS and has had access issues; and (6) the Player has gained no advantage from the errors.
17. The ITF has assessed the Player's degree of Fault for the Whereabouts Failures, noting that ['the circumstances considered must be specific and relevant to explain the Player's \[...\] departure from the expected standard of behaviour'](#) (and the case law considering an athlete's specific individual circumstances in that analysis<sup>3</sup>), and does not consider that the Player's level of fault was low. However, the ITF has also assessed ['the entirety of the circumstances'](#) in accordance with TADP Article 10.9.1 (for second violations).
18. The ITF proposed to the Player (and the Player agreed to) a period of Ineligibility of three years. In accordance with TADP Article 10.13.1, the period of Ineligibility will be deemed to have commenced on 4 March 2022 to account for the 11-day delay caused by the ITF's reissue of the Charge Letter and so will expire at midnight on 3 March 2025.
19. During his period of ineligibility, the Player's status will be as set out under TADP Article 10.14, i.e., he may not play, coach or otherwise participate in any capacity in (or assist any Player participating in any capacity in): (a) any Covered Event; (b) any other Event or Competition or activity (other than authorised anti-doping education or rehabilitation programmes) authorised, organised or sanctioned by the ITF, the ATP, the WTA, any National Association or member of a National Association, or any Signatory, Signatory's member organisation, or club or member organisation of that Signatory's member organisation; (c) any Event or Competition authorised or organised by any professional league or any international or national-level Event or Competition organisation; or (d) any elite or national-level sporting activity funded by a governmental agency. Nor will he be given accreditation for or otherwise granted access to any Event referred to at points (a) and (b). In accordance with TADP Article 10.14.5.2, the Player may use the facilities of a club or other member organisation of a Signatory's member organisation in the last two months of his period of Ineligibility, i.e., from 4 January 2025 on.

### **III.B Disqualification of results**

20. Pursuant to ISRM Article B.3.6, in cases involving Article 2.4 violations ['the anti-doping rule violation shall be deemed to have occurred on the date of the third Whereabouts Failure'](#). Given that the violation did not arise from an In-Competition test, nor was the violation committed during or in connection with a Competition during an Event, no results fall to be disqualified in accordance with TADP Articles 9 and 10.1. TADP Article 10.10 states that ['unless fairness requires otherwise'](#) results obtained in competitions ['taking place in the period starting on the date \[...\] \[the\] Anti-Doping Rule Violation occurred and ending on the commencement of any \[...\] Ineligibility period, will be Disqualified, with all of the resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money'](#). The ITF accepts that – in this case – fairness requires that the Player's results between 22 November 2021 and the date that his period of Ineligibility is deemed to have commenced (4 March 2022) do not have to be disqualified,

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<sup>3</sup> [World Athletics v Stevens](#), World Athletics Disciplinary Tribunal decision dated 9 July 2020; [FINA v Zakharov](#), FINA Doping Panel decision dated 22 November 2019.

primarily because there is no suggestion that his results during that period were affected by any doping practice.<sup>4</sup>

### **III.C Costs**

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

### **III.D Publication**

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

### **III.E Acceptance by the Player**

23. The Player has accepted the consequences proposed above by the ITF for his anti-doping rule violation, and has expressly waived his right to have those consequences determined by the Independent Tribunal at a hearing.

## **IV. Rights of appeal**

24. This decision constitutes the final decision of the ITF, resolving this matter pursuant to 2022 TADP Article 7.14.
25. Further to 2022 TADP Article 13.2, each of WADA and the Autoridade Brasileira de Controle de Dopagem (**ABCD**) has a right to appeal against this decision to the Court of Arbitration for Sport (**CAS**) in Lausanne, Switzerland, in accordance with the procedure set out at 2022 TADP Article 13.9.
26. As part of this resolution of the matter, the Player has waived his right to appeal against or otherwise challenge any aspect of this decision (both as to the finding that the Player has committed an anti-doping rule violation and as to the imposition of the Consequences set out above), whether pursuant to 2022 TADP Article 13.2 or otherwise. However, if an appeal is filed with the CAS against this decision either by WADA or ABCD, the Player will be entitled (if so advised) to exercise his right of cross-appeal in accordance with 2022 TADP Article 13.9.4.

London, 15 March 2022

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<sup>4</sup> [UCI v Rasmussen, CAS 2011/A/2671, para 84](#) ('In this case, the Panel finds that fairness requires that no disqualification be imposed on the First Respondent with respect to the results obtained in the period between 28 April 2011, date of the third whereabouts failure, and 14 September 2001, date of the provisional suspension. In addition to the fact that Rasmussen was not responsible for the delay in the management of his case, the Panel finds it important to emphasize the circumstance that, as conceded by the UCI at the hearing, the First Respondent's competitive results after 28 April 2011 had not been affected by any doping practice, and were fairly obtained by Rasmussen. Therefore, the Panel sees no reason to disqualify them').