

11 November 2024

**DECISION OF THE INTERNATIONAL TENNIS INTEGRITY AGENCY
PURSUANT TO ARTICLE 7.14 OF THE 2024 TENNIS ANTI-DOPING PROGRAMME**

I. Introduction

1. The International Tennis Integrity Agency (**ITIA**) is the delegated third party, under the World Anti-Doping Code (**Code**), of the International Tennis Federation (**ITF**), the international governing body for the sport of tennis and signatory of the Code. Under the delegation, the ITIA is responsible for the management and administration of anti-doping across professional tennis in accordance with the Tennis Anti-Doping Programme (the **TADP** or the **Programme**), which sets out Code-compliant anti-doping rules applicable to players competing in Covered Events.¹
2. Nikola Bartunkova (the **Player**) is an 18-year-old tennis player from Czechia. She has achieved a career-high WTA singles ranking of 226 and was the runner up in the girl's singles tournament at the 2023 Wimbledon Championships. By virtue of (among other things) her WTA ranking and participation in Covered Events in 2024, the Player was bound by and required to comply with the TADP.
3. The ITIA charged the Player with the commission of anti-doping rule violations under Article 2.1 and/or Article 2.2 of the TADP (copied below), and subsequently proposed certain Consequences based on its analysis of the degree of Fault that the Player bears for those violations:

"2.1 The presence of a Prohibited Substance or any of its Metabolites or Markers in a Player's Sample, unless the Player establishes that such presence is consistent with a TUE granted in accordance with Article 4.4."

"2.2 Use or Attempted Use by a Player of a Prohibited Substance or a Prohibited Method, unless the Player establishes that such Use or Attempted Use is consistent with a TUE granted in accordance with Article 4.4."

4. Following an investigation, the Player has admitted the anti-doping rule violations charged and acceded to the Consequences proposed by the ITIA.
5. In such circumstances, TADP Article 7.14 provides that:

"7.14.1 At any time prior to a final decision by the Independent Tribunal, the ITIA may invite the Player or other Person to admit the Anti-Doping Rule Violation(s) asserted and accede to specified Consequences [...]"

¹ Unless specified otherwise, references in this decision to the TADP are to the 2024 edition, the substantive and procedural rules of which apply to this case (see TADP Article 1.5).

Any defined term denoted by an initial capital letter that is not otherwise defined in this decision has the meaning given to it in the TADP.

7.14.2 *In the event that the Player or other Person admits the Anti-Doping Rule Violation(s) asserted and accedes to Consequences specified by the ITIA [...], the ITIA will promptly issue a reasoned decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences [...], will send notice of the 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 ITIA 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 anti-doping rule violations

6. On 28 February 2024, while competing at the ITF WTT W50 event held in Trnava, Slovakia (the **First Event**), the Player was required to provide a urine sample for drug testing pursuant to the TADP. The sample she provided was given reference number 1316114 and was 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 the presence in sample A1316114 of trimetazidine (**TMZ**).
7. On 19 March 2024, while competing at the ITF WTT W75 event held in Maribor, Slovenia (the **Second Event**), the Player was required to provide a urine sample for drug testing pursuant to the TADP. The sample she provided was given reference number 1347405 and was split into an A sample and a B sample, which were sealed in tamper-evident bottles and transported to the Laboratory for analysis. The Laboratory detected the presence in sample A1347405 of TMZ.
8. TMZ is a metabolic modulator prohibited at all times under Section S4.4 of the 2024 WADA Prohibited List. TMZ is not a Specified Substance.
9. The Adverse Analytical Findings reported by the Laboratory in respect of the two samples were considered by an independent Review Board in accordance with TADP Article 7.4. The Review Board did not identify any apparent departures from the applicable sample collection and sample analysis procedures that could have caused these Adverse Analytical Findings. It therefore decided that the Player had a case to answer for breach of TADP Articles 2.1 and/or 2.2.
10. Accordingly, on 16 April 2024 the ITIA sent the Player a formal pre-charge Notice, asserting that the Player had a case to answer for breach of TADP Articles 2.1 and/or 2.2.
11. Given that TMZ 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 16 April 2024.
12. On 23 April 2024, the Player requested analysis of the B samples and, on 1 May 2024, the Player explained that she was investigating the source of the TMZ and requested additional time to respond to the pre-charge Notice.

13. The Laboratory subsequently analysed samples B1316114 and B1347405 and reported, on 2 and 3 May 2024 respectively, that it had detected TMZ in both samples, i.e., the B sample analyses confirmed the Adverse Analytical Findings made in respect of the A samples.
14. On 31 May 2024 and 5 July 2024, the Player requested further extensions to respond to the pre-charge Notice, which the ITIA agreed to.
15. On 31 July 2024, the Player filed her response to the pre-charge Notice. In summary, she denied having deliberately or knowingly used TMZ and indicated that she had not been able to identify the source of the TMZ in her samples, but asserted that the TMZ must have been inadvertently ingested through environmental contamination or a contaminated product.
16. On 9 August 2024, after considering the Player's response to the pre-charge Notice, the ITIA sent the Player a formal Charge Letter asserting that the presence of TMZ in her samples collected on 28 February 2024 and 19 March 2024 constitutes anti-doping rule violations under TADP Articles 2.1 and/or 2.2.
17. TADP Article 2.1 is a strict liability offence that is established simply by proof that a prohibited substance was present in the Player's sample, i.e., the ITIA 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).
18. On 27 August 2024, the Player filed a short response to the Charge Letter, confirming that she did not intend to file any further submissions or evidence at that time. The Player accepted that TMZ was present in her samples collected on 28 February 2024 and 19 March 2024, and therefore admitted that she had committed the anti-doping rule violations with which she was charged.
19. The case was forwarded to the Independent Tribunal for determination, and procedural directions for the hearing of the matter were agreed between the parties and ordered by the Independent Tribunal.
20. On 27 October 2024, the Player informed the ITIA that following further analysis of supplements she believed that she had identified the source of the TMZ detected in her samples, and filed several documents in support of that explanation. As explained in more detail below, the ITIA further investigated and verified that explanation and proposed to the Player certain Consequences for the violations, which the Player acceded to.

III. Consequences

A. Period of Ineligibility

(i) How TMZ got into the Player's system

21. The Player has asserted that she did not intend to cheat and did not knowingly ingest TMZ. She asserts that her general practitioner physician, with a focus on sports medicine and the provision of nutritional advice to athletes, recommended – for general health reasons following illness – that the Player purchase and use a supplement manufactured by a specific company containing vitamin B, vitamin E, and milk thistle extract (the **Supplement**), and that (unknown to her) the Supplement was contaminated with TMZ.

22. In support of her explanation, the Player provided (among other things): (i) an explanation of how the Player and her mother consulted a physician in July 2023 regarding the Player's ill health who recommended that the Player purchase and use the Supplement; (ii) extracts from the Player's medical records, including a record of the consultation in July 2023, which itself records the recommendation of the Supplement; (iii) records (in the Player's mother's name) of purchase of the Supplement from a pharmacy in Prague, Czechia; (iv) photographs of the Supplement and information regarding its contents; (v) an explanation by the Player, her mother, and her father of when in the days prior to sample collection the Player ingested capsules of the Supplement; (vi) analysis reports by a Prague laboratory confirming the detection of TMZ in the remaining capsules of the Supplement used by the Player prior to the sample collections on 28 February 2024 and 19 March 2024; (vii) analysis reports by a Strasbourg laboratory confirming the detection of TMZ in the remaining capsules of the Supplement used by the Player prior to the sample collections on 28 February 2024 and 19 March 2024; and (viii) an explanation as to why no TMZ was detected in the sample collected from her on 13 March 2024 (because she had stopped taking the Supplement at that time while she took a contraindicated medication), which explanation was corroborated by medical records.
23. When the Player's urine sample was collected on 28 February 2024, she was asked to declare on the Doping Control Form, "*any prescription/non-prescription medications or supplements, including vitamins and minerals, taken over the past 7 days (include substance, dosage and when last taken)*". The Player wrote on the DCF (among other things) "*Vitamines C, D, B*" [sic.].
24. When the Player's urine sample was collected on 19 March 2024, she was asked to declare on the Doping Control Form, "*any prescription/non-prescription medications or supplements, including vitamins and minerals, taken over the past 7 days (include substance, dosage and when last taken)*". The Player wrote on the DCF (among other things) "*Vitamine B*", "*Vitamine C*", "*Vitamine D*", and "*Vitamine E*" [sic.].
25. On 28 October 2024 (the day after the Player informed the ITIA that she believed she had discovered the source of the TMZ), the ITIA requested that the Player send the remainder of the Supplement (inside a sealed blister pack) to the WADA-accredited laboratory in Salt Lake City (**SMRTL**) for analysis. On 8 November 2024, SMRTL reported that the Supplement contained TMZ at an estimated concentration of 1,400 ng/capsule.
26. On the same day and subsequently, the ITIA contacted the manufacturer of the Supplement. The manufacturer failed to respond to the ITIA despite numerous attempts.
27. The ITIA consulted Professor Peter Van Eenoo, Director of the WADA-accredited laboratory at the University of Ghent in Belgium, who has previous experience in cases involving TMZ. Prof Van Eenoo confirmed that the Player's explanation is scientifically plausible, i.e., the dosage and ingestion schedule asserted by the Player is consistent with the Adverse Analytical Findings reported for the samples collected on 28 February 2024 and 19 March 2024.
28. Given all the circumstances of this case, the ITIA accepts the Player has established that it is more likely than not that the TMZ found in her urine samples 1316114 and 1347405 was due to the presence of TMZ (an undisclosed contaminant) in capsules of the Supplement that she consumed in the days prior to the collection of each sample.

(ii) TADP Article 10.2

29. This is the Player's first doping violation.
30. TADP Article 10.2.1 mandates a four-year ban for a TADP Article 2.1 and/or 2.2 violation that is "*intentional*" and is a first violation.² If the prohibited substance in question is not classified as a Specified Substance (as here), the Player has the burden of proving that the violation was not "*intentional*". If the Player can do so, TADP Article 10.2.2 provides for a two-year period of ineligibility, subject to potential further 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 she should have known.³
31. As set out above, the ITIA has accepted that undisclosed contamination of the Supplement was more likely than not the source of the Player's positive tests and, as explained in more detail below, the Player took steps to ensure that the Supplement did not contain any prohibited substance before she ingested it. In such circumstances, the ITIA considers that the Player did not manifestly disregard the significant risk that the Supplement contained a prohibited substance. Accordingly, the ITIA accepts that the Player has met her burden of demonstrating that her commission of the violation was not "*intentional*" within the meaning of TADP Articles 10.2.1 and 10.2.3, and so the two-year period of ineligibility set out in TADP Article 10.2.2 applies.

(iii) TADP Articles 10.5 and 10.6

32. TADP Article 10.5 provides that if a player establishes that they bear No Fault or Negligence for the anti-doping rule violation in question, the otherwise applicable period of ineligibility will be eliminated. 'No Fault or Negligence' is defined in the TADP as follows: "*The Player or other Person establishing that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule*".
33. TADP Article 10.6.1.2 provides that where a player can establish that they bear No Significant Fault or Negligence and that the prohibited substance came from a Contaminated Product, then the otherwise applicable two-year period of ineligibility may be reduced by up to 100% (in which case there would be a reprimand only). A 'Contaminated Product' is defined in the TADP as a "*product that contains a Prohibited Substance that is not disclosed on the product label or in information available in a reasonable Internet search*". The definition of 'No Significant Fault or Negligence' is: "*The Player or other Person establishing that their Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relation to the Anti-Doping Rule Violation*". Where No

² In accordance with TADP Article 10.9.4.1, for the purposes of imposing consequences under the TADP, the anti-doping rule violations will be "*considered together as one single first Anti-Doping Rule Violation, and the sanction imposed will be based on the Anti-Doping Rule Violation that carries the more severe sanction*" if (as here) the Player did not commit the second anti-doping rule violation after she received notice of the first.

³ ITF v Sharapova, Independent Tribunal decision dated 6 June 2016, para 68, not challenged on appeal, Sharapova v ITF, CAS 2016/A/4643.

Significant Fault or Negligence is found, the amount of reduction to be applied depends upon the player's degree of Fault.

34. A plea of No Fault or Negligence or No Significant Fault or Negligence is assessed by considering how far the player departed from their duty under the TADP to use "*utmost caution*" to ensure that they would not ingest any prohibited substances or otherwise do anything that might constitute or result in the commission of an anti-doping rule violation.⁴ "*The difference between the two [...] is one of degree: to establish No Fault or Negligence, the athlete must show that he took every step available to him to avoid the violation, and could not have done any more; whereas to establish No Significant Fault or Negligence, he must show that, to the extent he failed to take certain steps that were available to him to avoid the violation, the circumstances were exceptional and therefore that failure was not significant*".⁵ The TADP definition of 'Fault'⁶ makes clear that the first question is how far the player departed from the duty of utmost caution (objective fault) and the second question is whether there is any acceptable explanation for that failure (subjective fault).
35. The standard of "*utmost caution*" is very onerous and requires a player to show that they "*made every conceivable effort to avoid taking a prohibited substance*".⁷ It follows that "*even in cases of inadvertent use of a Prohibited Substance, the principle of the Athlete's personal responsibility will usually result in a conclusion that there has been some degree of fault or negligence*".⁸
36. The Player does not assert that she bears No Fault or Negligence for her violation. She asserts however that she bears No Significant Fault or Negligence, so that a period of ineligibility of less than two years should be imposed, because: (i) she consulted a doctor with some experience in sports medicine and only took the products that she prescribed or recommended; (ii) she told the doctor that she was a professional tennis player and specifically checked with the doctor that the ingredients of the Supplement were not prohibited under anti-doping rules, and the doctor

⁴ See, e.g., Kutrovsky v ITF, CAS 2012/A/2804, para 9.49 ("*the athlete's fault is measured against the fundamental duty that he or she owes under the Programme and the WADC to do everything in his or her power to avoid ingesting any prohibited substance*"); FIFA & WADA, CAS 2005/C/976 & 986, paras 73-75 ("*The WADC imposes on the athlete a duty of utmost caution to avoid that a prohibited substance enters his or her body. [...] It is this standard of utmost care against which the behaviour of an athlete is measured if an anti-doping violation has been identified*").

⁵ IBAF v Luque, IBAF Anti-Doping Tribunal decision dated 13 December 2010, para 6.10.

⁶ "*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. 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*".

⁷ Knauss v FIS, CAS 2005/A/847, para 7.3.1; WADA v NSAM et al, CAS 2007/A/1395, para 80 ("*The burden is therefore shifted to the athlete to establish that he/she has done all that is possible to avoid a positive testing result*").

⁸ Adams v CCES, CAS 2007/A/131, para 155.

confirmed that they were not (having undertaken checks and previously prescribed the Supplement and specific brand to other athletes subject to anti-doping rules); (iii) she and her parents undertook searches of the Supplement's ingredients against the WADA Prohibited List; (iv) she had sourced the Supplement from a reputable pharmacy; and (v) at the time that she was prescribed, purchased, and commenced use of the Supplement, she was under 18 years of age.

37. The ITIA accepts that these factors weigh in the Player's favour. However:
- 37.1 TADP Article 1.3.1 states that it is the "*personal responsibility*" of each player bound by the TADP to "*be knowledgeable of and comply with this Programme at all times*", "*take responsibility for what they use*", "*carry out research regarding any products or substance that they intend to Use to ensure that Using them will not constitute or result in an Anti-Doping Rule Violation*", and "*ensure that any medical treatment they receive does not violate this Programme*".
- 37.2 TADP Article 4.2.1.5(a) specifically reminds players that "***[m]any Prohibited Substances may appear (either as listed ingredients or otherwise, e.g., as unlisted contaminants) within supplements and/or medications that may be available with or without a physician's prescription. Since Players are strictly liable for any Prohibited Substances present in Samples collected from them (see Article 2.1.1), they are responsible for ensuring that Prohibited Substances do not enter or come to be present in their bodies by any means and that Prohibited Methods are not Used***" [emphasis added].
- 37.3 In any event, it has long been known that vitamins and supplements may contain substances that are not listed as a named ingredient. The comment to Code Article 10.5 is clear that a plea of No Fault or Negligence cannot succeed in the case of "*a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination)*".
38. As a result of the foregoing, the Player knew, and is deemed to have been on specific notice that, there is a significant risk that products, even those checked and recommended by a medical professional, may contain prohibited substances that are not listed as ingredients.
39. In the circumstances, the Player was right not to pursue a plea of No Fault or Negligence because it is not sustainable on these facts. However, the Code comment to Article 10.5 that is quoted above goes on to say: "*depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Article 10.6 based on No Significant Fault or Negligence*". The ITIA accepts that, in the specific circumstances of this case, the Player's Fault was not 'significant' within the meaning of TADP Article 10.6.1, justifying a reduction from the two-year starting point. The ITIA also accepts that the Player has shown that the prohibited substance in her sample came from a Contaminated Product, in that TMZ was not disclosed on the product label of the Supplement, nor would it have been disclosed in information available in a reasonable internet search. The ITIA accepts that the nature of the Supplement was such that she would reasonably have perceived a lower degree of risk compared to some other types of product, and that the Player took certain steps as set out in paragraph 36 above to mitigate some of the risks of consuming such a product. Therefore, discretion arises to reduce the two-year ban applicable under TADP Article 10.2.2 by up to 24 months, depending on the Player's level of objective and subjective Fault.

40. Taking the foregoing and the specific facts of this case into account – and consistent with sanctions imposed in other cases with factual similarities⁹ – the ITIA has proposed, and the Player has acceded to, a period of Ineligibility of six months.
41. In accordance with TADP Article 10.13.2, the Player is entitled to credit for the period of provisional suspension served to date, such that her six-month period of Ineligibility will be deemed to have started running from 16 April 2024. Consequently, that period of Ineligibility would have expired on 15 October 2024 (which was before the Player discovered the source of the TMZ; however, to the ITIA’s knowledge she fully complied with the terms of her provisional suspension) and therefore will have no period of Ineligibility to serve going forward.

B. Disqualification of results

42. The Player’s singles results at the First Event and the Second 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 those singles competitions.
43. TADP Article 10.10 requires that, in addition to the Disqualification of results under Article 9.1, any other results obtained by the Player in Competitions taking place in the period between (1) the date the Anti-Doping Rule Violation occurred (28 February 2024) and (2) the date that the Provisional Suspension commenced (16 April 2024) “*will be Disqualified*”, including forfeiture of any medals, titles, ranking points, and prize money received as a result of participation in those Competitions, “[u]nless fairness requires otherwise”. Accordingly, the Player’s results in competitions during that period are Disqualified with all resulting consequences, other than the Player’s results in the singles and doubles Competitions held in Říčany, Czechia, because (1) the Player has demonstrated that she was not using the Supplement at the time of that event, and (2) no TMZ (or any other prohibited substance) was detected in a sample collected from the Player at that event.

C. Costs

44. Each party shall bear its own costs of dealing with this matter.

D. Publication

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

E. Acceptance by the Player

46. The Player has accepted the consequences proposed above by the ITIA for her anti-doping rule violations and has expressly waived her right to have those consequences determined by the Independent Tribunal at a hearing.

⁹ [Zaripov v IIHE](#), CAS 2017/A/5280 (a six-month period of ineligibility imposed by agreement after HCTZ was found as a contaminant in a vitamin C supplement); [AIU v Kovač](#), AIU decision dated 16 February 2024 (a six-month period of ineligibility imposed by agreement after steroids were found as contaminants in a “*common nutritional supplement*”, the packaging or advertising for which did not suggest it was “*performance enhancing*”).

IV. Rights of appeal

47. This decision constitutes the final decision of the ITIA, resolving this matter pursuant to TADP Article 7.14.
48. Further to TADP Article 13.2.1, each of WADA and the Anti-Doping Committee of Czech Republic (**ADCCR**) has a right to appeal against this decision to the CAS in Lausanne, Switzerland, in accordance with the procedure set out at TADP Articles 13.8 and 13.9.
49. As part of the resolution of this matter, the Player has waived her right to appeal against or otherwise challenge any aspect of this decision (both as to the finding that the Player has committed anti-doping rule violations and as to the imposition of the consequences set out above), whether pursuant to TADP Article 13.2.1 or otherwise. However, if an appeal is filed with the CAS against this decision either by WADA or ADCCR, the Player will be entitled (if so advised) to exercise her right of cross-appeal in accordance with TADP Article 13.9.4.

Issued Decision of the ITIA

London, 11 November 2024

Tennis you can **trust.**

