

In the matter of charges brought under the Tennis Anti-Corruption Program (2016) before

**ANTI-CORRUPTION HEARING OFFICER
RAJ PARKER**

INTERNATIONAL TENNIS INTEGRITY AGENCY (ITIA)

And

Bárbara Gatica Aviles (the player)

Introduction

1. On 1 September 2022 the International Tennis Integrity Agency (ITIA) sent a Notice of Major Offense (the Notice) pursuant to section G.1.a of the 2022 version of the Tennis Anti-Corruption Program (the TACP) to Bárbara Gatica Aviles, a Chilean professional tennis player, informing her that she was being charged with four alleged breaches of the 2016 TACP.
2. The ITIA had concluded, after an investigation, that there was a realistic prospect that the player had committed certain Corruption Offenses within the meaning of the TACP.
3. This case is governed by the 2016 TACP because the alleged Corruption Offenses occurred in that year.
4. The ITIA is an independent body established by the international governing bodies of tennis to promote, encourage and safeguard the integrity of professional tennis world-wide.
5. I have been appointed as the Anti-Corruption Hearing Officer (AHO) in this case. No party has challenged my independence, impartiality and neutrality to render an award.

Factual background

6. Between 2014 and 2018 Belgian law enforcement authorities carried out investigations into a suspected organised criminal network that the authorities believed to be operating to fix tennis matches worldwide.
7. The ITIA was granted access to certain evidence collated by the Belgian authorities in 2020. This included transcripts of interviews, the content of forensic downloads of mobile telephones and records of money transfers. From the evidence collated, at the centre of the suspected organised criminal network is an individual called ██████████ (██████████ would communicate with tennis players (sometimes directly and sometimes through another individual) to make arrangements to fix tennis matches. ██████████ also used a network of associates to ensure that players were paid for any successful match-fixing arrangements via international money transfer companies, including MoneyGram. One of ██████████ associates involved in the payment of players is known to be an individual called ██████████

c) The player carried out the fix on court by losing the [REDACTED] game of the [REDACTED] set and the [REDACTED] game of the [REDACTED] set (game [REDACTED])

d) The three bettors were instructed by [REDACTED] to place, at least, the 17 bets identified by [REDACTED]. The player then received payment for fixing the match/aspect(s) thereof through the MoneyGram transfer to [REDACTED].

15. The player was interviewed by ITIA investigator, Helen Calton on 1 June 2021. She denied any involvement in match-fixing.

Charges

16. 2016 TACP

(I) Summary charges 1 -2

D.1.d (**Contriving**) *"No Covered Person shall, directly or indirectly, contrive or attempt to contrive the outcome or any other aspect of any Event."*

D.1.b (**Facilitation**) *"No Covered Person shall, directly or indirectly, solicit or facilitate any other person to wager on the outcome or any other aspect of any Event or any other tennis competition."*

On [REDACTED] December 2016, the ITIA the player did not use her best efforts in her match against [REDACTED] at the [REDACTED] tournament in [REDACTED]. She purposefully lost games 7 and 19 of that match including intentionally serving three double faults in game 19.

The ITIA alleges that the player contrived the outcome and/or aspects of the match in breach of section D.1.d of the TACP. The ITIA alleges that the player did so in order to facilitate betting on that match in breach of section D.1.b of the TACP.

(II) Summary charges 3-4

D.1.f (**Receipt**) *"No Covered Person shall, directly or indirectly, solicit or accept any money, benefit or Consideration with the intention of negatively influencing a Player's best efforts in any Event."*

D.2.a.i (**Non-reporting**) *"In the event any Player is approached by any person who offers or provides any type of money, benefit or Consideration to a Player to (i) influence the outcome or any other aspect of any Event, or (ii) provide Inside Information, it shall be the Player's obligation to report such incident to the ITIA as soon as possible."*

On 16 December 2016 (indirectly, via her [REDACTED] [REDACTED] [REDACTED] the player received a MoneyGram payment for \$1,000 from [REDACTED] [REDACTED] a known associate of [REDACTED]. The ITIA alleges that she did so as payment for not using her best efforts in her match on [REDACTED] December 2016 against [REDACTED] in breach of section D.1.f of the TACP.

In addition, and in the alternative only, the ITIA alleges that she failed to report a corrupt approach by [REDACTED] where he offered her money to influence the outcome or an aspect of an

Event, and the subsequent payment that she then received, in breach of section D.2.a.i of the TACP.

17. Initially, the player requested the opportunity to be heard via videoconference during a hearing (Section G.1.b of the TACP 2022).
18. However, after having received the ITIA's submissions dated 4 November 2022, by which the ITIA agreed that Ms. Gatica's conduct could be categorized as Level B.2, and in the spirit of co-operating with the present proceedings, the player withdrew her request for a hearing.
19. The parties agreed that this matter should be decided by the AHO based upon written submissions and evidence without conducting a hearing. I agreed to do so.

Player's case

20. The player admits substantial involvement in match fixing corruption as set out in the charges and puts forward mitigation in respect of the sanction to be imposed.
21. She sincerely apologises for her actions. She was only 20 years old at the time and at the beginning of her career and says she had not at that stage had any anti-corruption education. She was therefore not aware of the seriousness of her actions and the impact on the sport.
22. She now understands the gravity of the situation and wishes to collaborate with the ITIA specifically so that players do not commit the same mistakes that she once did.
23. As to the particular charges, she admitted by her attorneys letters of 30 September 2022 and 21 October 2022 that she breached section D.1.d (contriving) in that :
 - (i) She received and accepted an offer to fix a match against ██████████ in the ██████████ of the ██████ tournament in ██████████ on ██████ December 2016 (the Match) by losing specific service games;
 - ii) She did not use her best efforts in the Match, wilfully losing the ██████ game of the ██████ set and the ██████ game of the ██████ set (game ██████ without considering the seriousness of her actions and damage she was agreeing to do to the integrity of the sport;
24. She did not act with the specific intention of facilitating betting as she was unaware of the corruption scheme D.1.b. She thought that her opponent would be the only¹ person who would benefit from her losing the match.
25. As to D.1.f (receipt), she partially admits this charge as she was aware that as a result of her acts (contriving), ██████████ received a MoneyGram payment of \$1,000. Nevertheless, she, herself, did not receive any amounts, as ██████████ kept the totality of the payments received.
26. As to D.2a.i (non reporting) although she did in fact not report having contrived, she did not know of the entire corruption scheme nor of all the people who were involved. As such, to the best of her knowledge at the time, the only offence not reported was having purposefully lost

¹ presumably in addition to her ██████████

the match against ██████████ in order for ██████████ to receive \$1000. She was not aware that she was in any way facilitating a corruption scheme, being unaware of any bets placed or other people who were in any way favoured. She did not report what happened in relation with the above admitted facts, since, at the time, she was unaware of the seriousness of her actions.

27. She had been ██████████ for about ██████████. Before the Match, he contacted her and claimed that he was in financial distress. He told her that he had heard of an easy way to make money by simply accepting to lose a match. He asked if she would be willing to do so, in order to help him out. At first, Ms. Gatica was resistant to the idea, but ██████████ insisted that there would be no harm, since she would only be losing a match. Feeling pressured by her ██████████ Ms. Gatica accepted to help out. However, when Ms. Gatica accepted the offer to fix the Match, she believed that this was a single and isolated act.
28. She did not know of any other people involved in the scheme, and she was completely unaware that this was part of a bigger corruption scheme, involving people from different countries and betting platforms. At the time, she thought that the person who would benefit from her losing the Match would be ██████████ who would have accumulated more points.
29. The player argues that in accordance with the ITIA Sanctioning Guidelines, this case should be categorized as a B.2 because :
 - a) There was no material gain. ██████████ was the person who received the money as a consequence of the services lost in the Match and the fix, without Ms. Gatica having benefited from it. ██████████ received and kept the illicit gain for himself.
 - b) The impact on the reputation and/or integrity of the sport was not significant but rather minor. Even though any match fixing is harmful for the integrity of the sport in general, in this case, the damage is not significant, considering that it was a single and isolated event, which resulted in the payment of a derisory amount, without being entirely insignificant.
 - c) Ms. Gatica did not hold a position of trust/responsibility within the sport. She was only 20 years old, at the beginning of her career and had only been playing as a professional for 2 years.
30. As a B.2 case the starting point of any suspension should be 3 years, with a possibility of reducing it to 6 months.
31. The specific mitigation for reducing it is as follows:

Age, lack of maturity and inexperience on the professional tennis circuit.

Ms. Gatica was 20 years old at the time of the event (2016), and the Match was in only her second year playing as a professional in an ITF tournament.

Lack of access to education.

At the time of the incident, Ms. Gatica had not had any access to education about sports integrity, match fixing, or corruption in sport. These programs were not implemented nor were they given in Chile, where she started her career as a profession a

thlete. [REDACTED], at the time, confirmed in writing that :

“...the integrity educational programs concerning corruption prevention were, to say the least, limited - a scenario that [the Chilean Tennis Federation]seeks to change.”

Genuine remorse.

Ms. Gatica highly regrets her acts and is remorseful .This is the reason why she decided to admit the facts and matters in the Notice of Charge, declaring that she will never again be involved in any similar situation, compromising herself to cooperate with the ITIA, hoping to serve as an example to other players. Ms. Gatica highlights that over the years, she grew aware of her actions and how she was wrong to participate in the match fixing. This has been a major issue during her therapy sections, and also led her to seek further help from a psychiatrist as can be seen from the declaration made by [REDACTED].

Early admission.

Additionally, Ms. Gatica relies on her early admission, without it having been necessary to hold a hearing.

Compromise to cooperate and rehabilitate.

Ms. Gatica only later became aware of the seriousness of match fixing and the impact this has on the integrity of sport. As such, she is willing to collaborate with the ITIA in order to raise awareness of this fact and help promote fair play. The Player knows that tennis is a very competitive sport and that the pressure is very high, especially in the beginning of one's career. She believes that her example will help serve as a lesson to those who may ever have considered to succumb to such pressure Ms. Gatica is available to participate in any educational program that the ITIA deems appropriate and to work together with young and inexperienced athletes so that they do not commit the same mistake as she once did.

32. In a B.2 category case the starting point of any sanction is a 3 year period of ineligibility, and considering the above factors, the player requests a period of ineligibility of no longer than 3 years. The player also asks for a partial suspension and deduction of any period of ineligibility imposed on her, considering that she is willing to cooperate with the ITIA and to participate in any type of rehabilitation .If the partial suspension and deduction are not granted, she reserves her right to ask for it again within a reasonable period, providing evidence on her cooperation and rehabilitation process.
33. Section H.1.a (i) of the TACP 2016 states that beside the fine, the Player should be penalized with the *“amount equal to the value of any winning or other amounts received (...) in connection with any corruption offence .’*
34. Ms. Gatica has not benefited financially or otherwise , because despite having accepted the offer and intentionally losing the services during the Match, [REDACTED] was the only one who received the money from the people behind the fixing scheme. Thus, [REDACTED] to the player's knowledge ,was the only person who had a financial gain, not transferring, giving, or sharing any of it with the Player .

35. Notwithstanding the above, in order to show her intent to co-operate further with the present proceedings, Ms. Gatica would agree to pay an amount equivalent to the amount received by [REDACTED]
36. The past weeks have been the worst of her life. She is ashamed of her acts and knows that her poor conduct will affect the rest of her career and her reputation. Thus, she respectfully submits that a three year sanction would be proportionate to serve as a punishment to her and as an example for other players. A sanction of this duration would not result in the termination of her career, and she would have an opportunity to return to tennis.
37. Any additional period imposed on the player would terminate her career. The player argues that this would be disproportionate considering the totality of the circumstances. Ms. Gatica highlights that she does not seek to be excused from her actions, and she now understands the harm this type of conduct has in sport. She argues for a balanced sanction which will allow her to continue her career at a later stage
38. Ms. Gatica does not have have financial means beside her sole and unique income as a professional tennis player. She requests that any fine imposed on her is not greater than \$1,000.

Decision on Sanction

39. Section H of the 2022 Program provides in relevant part:

The penalty for any Corruption Offense shall be determined by the Anti-Corruption Hearing Officer in accordance with the procedures set forth in Section G, and may include:

"H.1.a. ... (i) a fine of up to \$250,000 plus an amount equal to the value of any winnings or other amounts received by such Covered Person in connection with any Corruption Offense, (ii) ineligibility from Participation in any Sanctioned Events for a period of up to three years unless permitted under Section H.1.c., and (iii) with respect to any violation of Section D.1., clauses (c)-(p), Section D.2. and Section F. ineligibility from Participation in any Sanctioned Events for a maximum period of permanent ineligibility unless permitted under Section H.1.c.

"The exception in Section H.1.c referred to relates only to being allowed to attend an Event "for the purpose of any authorized anti-gambling or anti-corruption education or rehabilitation program organized or sanctioned by that Governing Body."

40. Therefore, the potential sanction under Section H.1.a is permanent ineligibility (ie. a lifetime ban), a \$250,000 fine and repayment of any corrupt payments received (that is, at least \$1,000).
41. The Tennis Integrity Supervisory Board (TISB) issued a set of Sanctioning Guidelines (the Guidelines) in March 2021. An updated version of the Guidelines was approved by the TISB earlier this year and took effect from 1 July 2022, so that is the version to be used in these proceedings.

42. The preface states:

"The guidelines are for use of tennis Anti-Corruption Hearing Officers (AHO) and the Senior Director, Legal in the International Tennis Integrity Agency (ITIA) to provide a framework for

the issuing of sanctions under the TACP. They draw on historical precedent and tennis' stated 'zero tolerance' for corruption in the sport."

And

"These guidelines are a reference tool for AHOs which aim to provide a framework to support fairness and consistency in sanctioning across the sport. The guidelines are not binding on AHOs but set out principles and various indicators and factors which AHOs may consider appropriate to take into account in their decision making. AHOs retain full discretion in relation to the sanctions to be imposed in accordance with the TACP and may apply to depart from the guidelines in accordance with the circumstances of the case."

43. The Guidelines also provide that where

"there are multiple Corruption Offenses, in the interests of efficiency, they should ordinarily be taken together in one concurrent sanctioning process (albeit taking particular cognizance of the offense(s) which carry(ies) the highest sanction)".

It is, therefore, clear that all offences where liability is found are relevant to the consideration of sanction.

44. The Guidelines provide a five-step process by which to determine the appropriate sanction in a particular case, as follows:

- a. Determining the category of offence.
- b. Assessing the starting point for a sanction and where, in the applicable range, the case of Ms Gatica falls. This includes the impact of applicable aggravating or mitigating factors.
- c. Consideration of any appropriate reduction for early admissions.
- d. Consideration of any other factors which may merit a reduction in sanction, such as the provision of Substantial Assistance to the ITIA.
- e. Determining the appropriate fine (if any).

45. Any sanction must be proportionate to the level of offending admitted or proven. It must also take account the need for the sanction serve as a deterrent to others.

46. In accordance with these Sanctioning Guidelines if the case had proceeded to a Hearing it may have been categorised as B.1 which has a starting point of a ban of 10 years and a potential fine in the range of \$25,000 in addition to repayment of any corrupt payments.

Basis of admissions

47. The ITIA has chosen to accept the players admissions and partial admissions and I proceed to consider sanction on this basis.

48. This includes the player's case that her [REDACTED] received the money, was the person who asked her to fix the Match, and that she did not know of any corruption scheme.
49. It is to be noted that this still represents a Corruption Offense under D.1.b of the TACP as actual knowledge of facilitating or soliciting betting on the part of a Covered Person is not required– it is only necessary to demonstrate that betting did occur as a result of the Covered Person's actions.
50. It is unfortunately standard practice for payment for match-fixing to be made using money transfer services with friends/family members being the recipients, to seek to hide that the player was the ultimate beneficiary. D.1.f of the TACP is also made out (on the basis of indirect solicitation or receipt) .
51. It is not necessary to consider the non reporting charge (charge 4) as it was put by the ITIA in the alternative and I impose sanction only in respect of charges 1-3 on the basis of the player's admissions and partial admissions.
52. As is well known ,match-fixing strikes at the heart of the sport and poses a huge threat to the integrity of tennis. The sport's image of being clean and fair is damaged by each case of corruption. The draw of competitive sport for participants and for its audience (and therefore also for sponsors, broadcasters and other stakeholders) lies largely in the uncertainty of outcome of any match and a true and fair competition .
53. The offences which Ms Gatica has admitted represent serious Corruption Offences and are a severe risk to the sport of tennis .

Offence category

54. The category for an offence is split into two parts. The first is the level of culpability which is determined, under the Guidelines, by "*weighing up all the factors of the case*" and then ranked against various criteria in categories A to C. The second is the level of impact that a Covered Person's actions have had, which are then ranked against various criteria in categories 1 to 3.

Culpability

55. This case is in Category B as each of the factors set out there are relevant to the player. Both parties accept this.
 - a. *Some planning or premeditation* – On her explanation, Ms Gatica planned how to fix the Match with [REDACTED]. They must have discussed how to do so given the specific outcomes that Ms Gatica has admitted to, being losing specific games in the Match. Whilst Ms Gatica claims no further knowledge or involvement, it is clear that the scheme she agreed to must then have been discussed with third party bettors given the specific betting which took place. In addition, the fixing was clearly premeditated as Ms Gatica made these arrangements in advance and went on to court knowing she would be fixing an aspect of the Match .
 - b. *Acting in concert with others* – On her explanation, Ms Gatica has admitted acting with [REDACTED] to fix the relevant match.

- c. *Several offenses* – Ms Gatica has made admissions in relation to more than one offence.
56. Based on her admissions, this case falls within Category 2. Both parties accept this. This categorisation is on the basis that:
- a. Major TACP offense(s) – As noted above, match-fixing and related conduct is the most serious of offences under the TACP. They are “Major TACP offense(s)” and they are offences that Ms Gatica has made admissions or partial admissions to.
 - b. Material impact on the reputation and/or integrity of the sport – All match-fixing offences damage the reputation and integrity of the sport. That impact is exacerbated by multiple offences and the involvement, on Ms Gatica’s case, of other parties including [REDACTED]
 - c. Material gain – [REDACTED] was sent \$1,000 by way of a money transfer. That is a material gain.

Starting point and range

57. The Guidelines are not prescriptive. However the starting point for category B2 is a three-year suspension, with a category range of 6 months to a five-year suspension.
58. In my estimation balancing all the relevant factors and having carefully considered all relevant matters, in particular the gravity of the admitted and partially admitted charges, aggravating and mitigating factors, the relevant precedents and bearing in mind the personal mitigation that was put forward on the player’s behalf, a ban of three years is the correct starting point. There is no basis for any portion of this ban being suspended or reduced.
59. As to any increase, I do not accept that the decision to admit or partially admit the charges relatively late in this case should be taken as an aggravating factor. Neither did this come at an early enough opportunity so as to be given full weight as mitigation. Some credit is due as a hearing was avoided.
59. I accept that Ms Gatica is remorseful. It may be reasonably observed that if she had been genuinely remorseful she would have admitted her conduct when first interviewed by the ITIA or even prior to that. Her remorse does not serve as mitigation in all the circumstances.
60. I do not accept that the player would have been unaware of the implications of her wrongdoing. The ITIA’s records suggest that Ms Gatica completed the Tennis Integrity Protection Programme online training course prior to the Match in February 2016. At the end of the training, Ms Gatica would have been provided with all of the correct answers to the questions posed. Ms Gatica also completed TIPP training in 2017, 2019 and in 2021. Ms Gatica has also confirmed her agreement to the Player Welfare Statement over several years up to and including 2021. Both the TIPP and the Player Welfare Statement set out the responsibilities of Covered Persons including the obligation to comply with the TACP. It is to be inferred, notwithstanding her age and stage in the sport, that she knew match fixing was a high profile issue for tennis and had to be taken very seriously.

61. Ms Gatica has not provided any Substantial Assistance to the ITIA. There is no other reason for a reduction.

Fine

62. Any fine should reflect the key aims of the TACP in reaching a reasonable and proportionate overall sanction which acts as an effective deterrent.

63. The Guidelines provide broad discretion to AHO's in relation to the applicable fine. The Guidelines state:

"Section H.1.a(i) of the TACP allows for fines of up to \$250,000 to be imposed alongside bans and suspensions. The amount of any fine should ordinarily reflect the categorisation of the offense(s) such that, for example, offending categorised as A.1 in the table above may attract a fine at the higher end of the particular scale of the Fines Table . . ."

64. The Fines Table in the Guidelines suggests that the appropriate fine for 1-5 Major Offenses is on a scale between \$0 and \$25,000.

65. On the basis of the player's admissions and partial admissions and that this is a category B2 case, the appropriate fine will, together with the three year ban imposed, be \$5,000, without any portion of it being suspended.

Order

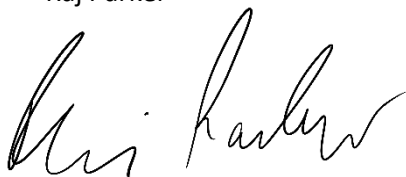
1. The player is to serve a three year suspension from the sport of professional tennis in relation to any event organised or sanctioned by any governing body. The start date of ineligibility will be 9th December 2022 and the end date will be 8th December 2025.

2. The player is to pay a fine of \$5,000.

3. This decision may be publicly reported.

4. This decision may be appealed to the Court of Arbitration for Sport (CAS). Any such appeal must be made within 20 business days from the date of receipt of the decision.

Raj Parker



Anti Corruption Hearing Officer

London, England

9th December 2022