

In the matter of alleged Corruption Offenses under the Tennis Anti-Corruption Program (TACP)

The International Tennis Integrity Agency

-and-

Younes Rachidi

Before Anti-Corruption Hearing Officer:

Janie Soublière

Representing The International Tennis Integrity Agency:

Julia Lowis

Rustam Sethna

Representing Younes Rachidi:

Giulio Palermo

Panagiotis A. Kyriakou

DECISION

INTRODUCTION

1. This dispute involves The International Tennis Integrity Agency ('ITIA') and Younes Rachidi, a professional tennis player from Morocco.
2. On 12 October 2022, by way of a Notice of Major Offense under the 2022 Tennis Anti-Corruption Program and referral to Anti-Corruption Hearing Officer ('Notice of Charge'), the ITIA charged Mr. Rachidi, [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED] [REDACTED] (all 'Covered Persons' or individually 'the Player' herein) with various Tennis Anti-Corruption Program ('TACP') Corruption Offenses.
3. The three Covered Persons were faced with related Charges pertaining to their actions or inactions. In particular, as outlined later in this decision, the one hundred and thirty-five (135) Corruption Offenses Mr. Rachidi faces relate to his brokering of the outcome and financial reward of twenty-seven (27) professional tennis matches played at International Tennis Federation ('ITF') tournaments during the period of [REDACTED] July 2017 to [REDACTED] April 2018.

4. Although having been given the opportunity, Mr. Rachidi elected not to make submissions in answer to the Notice of the Charge. As a result, he effectively accepted liability for the twenty (27) Charges. He has however now made Submissions on Sanction upon being given the opportunity to do so by the Anti-Corruption Hearing Officer ('AHO').
5. Janie Soublière holds an appointment as an AHO per section F.1 of the TACP. The AHO was appointed without objection by any party to these proceedings as the independent and impartial adjudicator to determine this matter as set out in the 2022 TACP, which governs all procedural aspects of this dispute.
6. This dispute has been consolidated pursuant to section G. 1. c.iii of the TACP because all Charges being faced by the three Covered Persons pertain to the same alleged conspiracy, common scheme or plan. Thus, the procedure for all Covered Persons has been joined. However, a separate decision is issued for each Covered Person.

THE PARTIES

7. The ITIA is appointed by the Governing Bodies who participate in the TACP, namely the ATP Tour, Inc., the Grand Slam Board, the ITF and the Women's Tennis Association (WTA) Tour, Inc., to administer the TACP. Professional tennis is structured such that top-level men's tournaments are organized by the ATP, whereas lower-level men's tournaments, such as ITF Futures tournaments which are part of the ITF Pro Circuit, are organized by the ITF. A player must register with the relevant Governing Body to be eligible to compete in their tournaments.
8. Mr Younes Rachidi is a former professional tennis player from Morocco. At the time the Corruption Offenses took place, he was registered with the ITF. To play in ITF tournaments, all players must obtain and use an ITF International Player Identification Number ('IPIN'). When registering for an IPIN, players confirm their agreement to the terms of the Player Welfare Statement thereby agreeing to comply with and be bound by the rules of tennis, including the TACP. All players endorse the Player Welfare Statement on an annual basis, as Mr. Rachidi did in 2017 and 2018.

THE NOTICE OF CHARGE

9. The alleged Corruption Offenses that Mr. Rachidi has been charged with are outlined in the ITIA's 12 October 2022 Notice of Charge.
10. Twenty-seven (27) charges have been brought against Mr. Rachidi, consisting of one hundred and thirty-five (135) TACP Corruption Offenses. Some of the Charges brought

against Mr. Rachidi are also being brought against [REDACTED] and/or [REDACTED] [REDACTED] which is why the three cases were consolidated.

11. Appendix A of the Notice of Charge sent to Mr. Rachidi outlines the factual background giving rise to the Corruption Offenses brought against him. These are reproduced below as the AHO could not summarize them any better:

Between 2014 and 2018, Belgian law enforcement authorities investigated a suspected organised criminal network that those authorities believed to be operating to fix tennis matches worldwide (“Operation Belgium”).

As part of the investigation, the ITIA was granted access to evidence collated by the Belgian authorities in 2020, including transcripts of interviews, the content of forensic downloads of mobile devices and records of money transfers. From the evidence collated, at the centre of the suspected organised criminal network is an individual named [REDACTED] [REDACTED] (“[REDACTED]” who is also referred to as “[REDACTED]” amongst other aliases. [REDACTED] had a network of persons who acted as “fixers” in the corruption of tennis matches – two of these fixers were [REDACTED] [REDACTED] (“[REDACTED]” a former [REDACTED] professional tennis player) and you.

Upon examining the forensic downloads of [REDACTED] mobile phones, the ITIA discovered discussions between [REDACTED] and you in which you brokered the outcome and financial reward of 27 professional tennis matches played at ITF tournaments during the period 19 July 2017 – 11 April 2018.

(...)

12. For brevity, the detailed charges the ITIA has brought against Mr. Rachidi (referred to below as YR) in its Notice of Charge are summarized with reference to the involvement of [REDACTED] [REDACTED] [REDACTED] (referred to below as [REDACTED] or [REDACTED] [REDACTED] [REDACTED] (referred to below as [REDACTED] where relevant, the date of the match in question and brief explanation of the same, and the applicable TACP Offenses. To the AHO, these were first considered “alleged” Offenses until the AHO could assess the evidence and parties’ submissions during the course of the disciplinary procedure. However, by failing to answer the Charges being brought against him, Mr. Rachidi has effectively admitted liability for all the below Offenses, as charged:

Charge 1/Match 1: YR

Details: ██████ Match played on ██████ July 2017 further to which YR received 1300 USD for fixing the match. Agreed fix of two players (██████ ██████ and ██████ ██████) who were to lose their ██████ game in each set. YR kept 500 USD commission and paid USD 400 USD to each player.

2017 TACP Offenses: D.1.d (contriving) and/or, D.1.e (Soliciting/facilitating to not use best efforts) and/or, D.1.f (Soliciting/accepting money with the intent to negatively influence) and/or, D.1.g (Offering or providing money with the intention of negatively influencing a Player's best efforts) and/or D.2.a.i (non reporting).

Charge 2/Match 2: YR

Details: ██████ Match played on ██████ August 2017 between ██████ ██████ ██████ ██████ further to which YR allegedly received 2800 USD for fixing the match.

2017 TACP Offenses: same as Charge 1

Charge 3/Match 3: YR, ██████

Details: ██████ match played on ██████ September 2018 between ██████ and another player during which ██████ agreed with YR to fix the match by losing the ██████ set ██████ YR allegedly received 1500 USD for the fix.

2017 TACP Offenses: same as Charge 1.

Charge 4/Match 4: YR, ██████ ██████

Details: ██████ match played on ██████ September 2017 with ██████. The fix YR orchestrated was that ██████ and ██████ ██████ would ██████ game service break in ██████ It is alleged that a total of 2700 USD was paid in return for fixing this match and that part of this money was paid to ██████ ██████ ██████ ██████

2017 TACP Offenses: same as Charge 1

Charge 5/Match 5: YR, ██████

Details: ██████ match played on ██████ September 2017 with ██████. Offer to fix the match with ██████ losing with a service break in each set was retracted, but ██████ followed through with the plan. No money was paid out as a result of the retraction.

2017 TACP Offenses: same as Charge 1

Charge 6/Match 6: YR

Details: ██████████ match played on ██████ October 2017. YR solicited an offer for a fix of this match and YR offered USD 2500 for fixing certain aspects of the match. Fix was cancelled as one of the players refused to participate. No money was paid as a result of the cancelled fix.

2017 TACP Offenses: same as Charge 1

Charge 7/Match 7: YR

Details: ██████████ match played on ██████ November 2017 where YR received USD 1500 for fixing the match with ██████ ██████ and ██████████ ██████. The fix was to ██████████ and the ██████ ██████ game in the second set..

2017 TACP Offenses: same as Charge 1

Charge 8/Match 8: YR

Details: ██████████ match played on ██████ November 2017 where YR received 500 USD commission for organising to fix the match with ██████████ ██████ ██████ agreeing to ██████████ for 2000 USD.

2017 TACP Offenses: Same as Charge 1

Charge 9/Match 9: YR

Details: ██████████ match played on ██████ November 2017 where YR received 500 USD commission for organising to fix the match with ██████ ██████ who agreed to ██████████ 2000 USD.

2017 TACP Offenses: Same as Charge 1

Charge 10/Match 10: YR

Details: ██████████ match on 7 November 2017 where YR received 300 USD commission for organising to fix the match with ██████████ ██████ who agreed g to ██████████ game in ██████ ██████. This fix occurred and for which YR was paid 700 USD.

2017 TACP Offenses: Same as Charge 1

Charge 11/Match 11: YR

Details: ██████ match on █ November 2017 where YR received 500 USD commission for organising a fix whereby ██████ and ██████ would ██████ and the ██████ game in each set of their match and for which they were each paid 600 USD.

2017 TACP Offenses: Same as Charge 1

Charge 12/Match 12: YR

Details: ██████ match on █ November 2017 where YR received a 300 USD commission for organising a fix whereby ██████ and ██████ would lose the ██████ game in each set of ██████ match in return for 700 USD.

2017 TACP Offenses: Same as Charge 1

Charge 13/Match 13: YR

Details: ██████ match on █ November 2017. YR offered one of the players (█████ ██████) as someone who could fix the match. In the end YR informed the player to win his match and there were no opportunities to fix a match that day.

2017 TACP Offenses: Same as Charge 1

Charge 14/Match 14 YR

Details: ██████ match on █ November 2022. YR tried to fix a match with ██████ again. YR was told to fix the match ██████ YR cancelled the bet in the end.

2017 TACP Offenses: Same as Charge 1

Charge 15/Match 15 YR

Details: ██████ match on █ November 2017. YR tried to fix a match again with ██████ YR was told to fix the match ██████. YR cancelled the bet in the end because it would be too hard for the player to fix the match on his own without the knowledge of his partner.

2017 TACP Offenses: Same as Charge 1

Charge 16/Match 16 YR

Details: ██████ match on █ November 2017. YR was offered 300 USD commission to fix a match with ██████ and ██████ losing their ██████ game in each set for 700 USD. Commission was raised to 500 USD after the fix was delivered.

2017 TACP Offenses: Same as Charge 1

Charge 17/Match 17 YR

Details: ██████ match on █ November 2017. YR offers to fix a match again with ██████ who was playing a weaker opponent. The fix did not go through.

2017 TACP Offenses: Same as Charge 1

Charge 18/Match 18 YR

Details: ██████ match on █ November 2017. YR agreed to arrange a fix where ██████ would ██████ which he did for 800 USD with a 200 USD commission to YR.

2017 TACP Offenses: Same as Charge 1

Charge 19/Match 19 YR

Details: ██████ match on █ November 2017, YR agreed to a 400 USD commission for arranging to fix a match in which ██████ and ██████ would lose their ██████ game in ██████ which they did, for 400 USD each.

2017 TACP Offenses: Same as Charge 1

Charge 20/Match 20 YR

Details: ██████ match on █ November 2017. YR was solicited to fix a match for a 500 USD commission. YR offered different fix scenarios because only ██████ would cooperate, but these were not accepted. As the fix could not be arranged, it was cancelled.

2017 TACP Offenses: Same as Charge 1

Charge 21/Match 21 YR, █

Details: ██████ match on ██████ January 2018. YR offered 500 USD commission to have ██████ and ██████ lose their ██████ service game in ██████ which they did, for 400 USD.

2018 TACP Offenses: D.1.d (Contriving) and/or, D.1.e (Soliciting/facilitating to not use best efforts) and/or D.1.f (Soliciting/accepting money with the intent to negatively influence) and/or D.1.g (Offering or providing money with the intention of negatively influencing a Player's best efforts) and/or D.2.a.i (Non-reporting).

Charge 22/Match 22: YR, ██████

Details: ██████ match ██████ January 2018. YR offered to fix the match, but it was not fixed because the ██████ seeds were playing wild card entries and so no fixing should be made.

2018 TACP Offenses: Same as Charge 21

Charge 23/Match 23 YR, ██████

Details: ██████ match. YR organised a fix for a 500 USD commission where ██████ would ██████ which ██████ did, for 1200 USD.

2018 TACP Offenses: Same as Charge 21

Charge 24/Match 24: YR

Details: ██████ match on ██████ April 2018. YR agreed to accept a total of 4500 USD (500 USD commission) for arranging a fix, in which ██████ loses the ██████ set of a match ██████ which he did.

2018 TACP Offenses: Same as Charge 21

Charge 25/Match 25. YR

Details: ██████ match on ██████ April 2018. YR offered USD 4000 USD (with 1000 USD commission for himself) or 2500 USD (500 USD commission for himself) to fix a match in return for ██████ losing the ██████ set by a score of either ██████ or ██████ After consulting with ██████ YR cancelled the fix.

2018 TACP Offenses: Same as Charge 21

Charge 26/Match 26 YR

Details: ██████ match on ██████ April 2018. YR offered to fix the match in return for money. ██████ was to chose one of 5 options. YR confirmed that ██████ would lose the ██████ game in ██████ for 5000 USD (plus 2000 USD commission). And he did.

2018 TACP Offenses: Same as Charge 21

Charge 27/Match 27 YR

Details: ██████████ match on ██████████ April 2018. YR confirmed that he would arrange a fix with ██████████ ██████████ and ██████████ ██████████ who would ██████████ ██████████ for 6000 USD plus 1000 USD commission. They lost the match ██████████ ██████████

2018 TACP Offenses: Same as Charge 21

13. The last paragraph of the Notice of Charge sent translated into French for the Player reads as follows:

You are entitled to have this matter determined by the AHO at a Hearing if you dispute the ITIA's allegations. If so, under Section G.1.b of the Program, you must submit a written request to the AHO for a Hearing so that it is received as soon as possible, but in any event within ten (10) Business Days of the date of your receipt of this Notice. If you do not file a written request for a hearing within ten (10) Business Days, the AHO will, under section G.1.e of the Program, issue a Decision confirming the commission of the Corruption Offense alleged in this Notice and ordering the imposition of sanctions.

JURISDICTION

14. The AHO has been properly appointed and seized of the matters in dispute pursuant to all applicable versions of the TACP, and neither the ITIA nor Mr. Rachidi raised an objection to her appointment at any stage of this procedure. However, along with his Submissions on Sanction, Mr. Rachidi raised a jurisdictional objection that needed to be addressed prior to the AHO's Decision on Sanction.

The Jurisdictional Objection

15. Mr. Rachidi's extensive jurisdictional objection is succinctly summarised as follows.
16. He does not appear to contest that he is contractually bound by the 2017 and 2018 TACPs or that he could be charged with Offenses under the same. However, he argues that he "has not provided his consent to the initiation of the present arbitral proceedings, since he is not a signatory to the 2022 TACP". He says that by virtue of not being a signatory to the 2022 TACP, the present proceedings should be governed by the Swiss Private International

Law Act (“PILA”) in respect of their procedural aspects and submits that the seat of arbitration of these proceedings should be Switzerland.

17. The Player argues that the ITIA’s mere allegation that the Player is a “Covered Person” under the 2022 TACP does not suffice and that his signing of previous versions of the TACP (2017 or 2018) cannot be relied upon to establish his consent to the initiation of proceedings under a subsequent arbitration agreement, namely the 2022 TACP.
18. Finally, while the Player acknowledges that, according to Berger and Kellerhals¹ *“it is too late for the respondent to raise the plea of lack of jurisdiction once it has made ‘any defence on the merits’”*, he argues that because his first defense on the merits is raised as part of his Answer, his objection, which is raised at the same time, is unquestionably timely. The Player thus argues that he cannot be precluded from raising his jurisdictional objection on the ground that it is allegedly untimely.
19. The ITIA has not submitted a response to the Procedural Objection because it was filed at a late hour in the proceedings and the written procedure is now closed. The AHO however recognizes that the ITIA’s position, by way of its Notice of Charge and Submissions on Sanction, is that the ITIA has jurisdiction for this dispute pursuant to all applicable versions of the TACP, notably the 2017 and 2018 TACP with regards to the Offenses committed, and the 2022 TACP with regards to the procedure as the Notice of Charge was issued and sent to the Player in 2022.

AHO ruling on the Jurisdictional Objection

20. Although the Player argues that he is not precluded from raising his jurisdictional objection at this late juncture in the proceedings, the AHO finds that he is in fact and in law precluded from doing so. Paraphrasing the citation Mr. Rachidi has relied upon above, the AHO finds that it is now too late for the Player to raise the plea of lack of jurisdiction because he has made a defence on the merits earlier in the procedure and in so doing attorned to the ITIA’s jurisdiction.
21. The proceedings started on 2 October 2022 when Mr. Rachidi received the ITIA’s Notice of Charge. Upon receipt of the Notice of Charge, Mr. Rachidi failed both to file a jurisdictional objection, which was de rigueur at the juncture in the proceedings, and to make submissions on his behalf on liability (after being given the opportunity to do so within a

¹ Berger, B. and Kellerhals, F., *International and Domestic Arbitration in Switzerland* (3rd ed., Stämpfli 2015), para. 643. This principle is based on Article 186(2) PILA, which reads as follows: “[a]ny plea of lack of jurisdiction must be raised prior to any defence on the merits”.

TACP prescribed 10 business-day deadline). The AHO, properly seized of the matter under the 2022 TACP, then issued a ruling on liability and invited the parties to make Submissions on Sanction pursuant to the procedure outlined in the 2022 TACP.

22. Mr. Rachidi made initial Submissions on Sanction on 29 November 2022, in which he tried in vain to argue that the correspondences sent to him, by the AHO and the ITIA, had been sent into his spam folder and that he had not taken note of them *“I am sorry for the delay, I found all these in spam box”*.

23. However, the ITIA tendered convincing evidence to the contrary, which the AHO accepts, as follows:

“Mr. Rachidi was notified of the Notice of Charge and its exhibits/ attachments by email on 12/10/22, in which a link to the SharePoint case file was included. The SharePoint case file shows that Mr. Rachidi most recently viewed the Notice of Charge Cover Letter (English) on 13/10/22, (French) on 24/10/22, Notice of Charge Appendix (English) on 12/10/22, and (French) on 18/10/22. Print screen images showing this are attached to this email. “

24. Later in the same correspondence, tacitly recognizing the AHO’s ruling on liability, Mr. Rachidi offered a brief Submission on Sanction (or in other words made a “defense on the merits”) to the effect that *“You are perfectly aware that you cannot put me any fine on top of the life ban, you know very well that is prohibited”*.

25. To the AHO, by submitting a defence on the merits to the effect that *“Sorry for the delay...you can not impose a fine on top of a ban...”*, Mr. Rachidi attorned to the ITIA’s jurisdiction, unequivocally indicating that he had understood that (i) he had received all correspondences, (ii) he had been found to have accepted liability for his Corruption Offenses under the TACP (even if he now denied them), and (iii) the AHO, whose appointment under the 2022 TACP remained uncontested, was at the procedural stage of receiving Submissions on Sanction.

26. Thus, further to Mr. Rachidi electing not to respond to the Notice of Charge issued under the 2022 TACP, the AHO was seized of the matter and issued a procedural ruling in accordance with the 2022 TACP confirming Mr. Rachidi’s commission of the 135 Corruption Offenses (committed under the 2017 and 2018 TACP). The AHO later issued Procedural Directions in this regard pursuant to the 2022 TACP, to which Mr. Rachidi responded and respected, well before filing his untimely jurisdictional objection.

27. The AHO notes hypothetically that had the Player successfully raised the jurisdictional objection in a timely manner, in other words, (i) if the objection had been received by the

AHO promptly upon the Player being notified of the Notice of Charge, (ii) had the ITIA been given an opportunity to respond to it, and (iii) if the AHO had sided with the Player on this issue (which is in no way agreed upon by the AHO as explained below because Swiss Law has no bearing on and does not apply to TACP proceedings), the AHO could have cured any alleged irregularity by applying either the 2017 or 2018 TACP to the procedure (since the Player concedes he is contractually bound by both) and the matter would have proceeded in any event pursuant to any of the applicable TACPs under which the ITIA holds jurisdiction. Thus, interestingly, it is only because of the Player's own choice neither to respond to the Notice of Charge nor to raise any jurisdictional objection until this late hour that he is in the position to argue that it may be raised now.

28. Although the Player claims that he cannot be precluded from doing so at this juncture in the proceedings, in fact and in law, the time for Mr. Rachidi to have raised his procedural objection has long passed. Considering the above, the AHO finds that the Player's jurisdictional objection is time-barred.

AHO Ruling on the Applicable Law

29. Substantively, it is uncontested (i) that the Player is contractually bound by the 2017 and 2018 TACP (ii) that the applicable rules are the 2017 and 2018 TACP with regards to the substantive elements of this dispute, (iii) that the Player is subject to sanctions under both the 2017 and 2018 TACP as a result of the Corruption Offenses he committed in contravention to the same.

30. Procedurally, the ITIA submits that the 2022 TACP applies to the procedure. On the other hand, in his jurisdictional objection, Mr. Rachidi argues that he has not signed the 2022 TACP and not consented to arbitration under the same. Thus, to Mr. Rachidi, because the Parties have no valid arbitration agreement under the 2022 TACP, the matter cannot be arbitrated under the 2022 TACP.

31. At the outset, the AHO notes that there is in fact no material difference between the applicable sanctions or the procedure provided in the 2017, 2018 or 2022 TACP. The only part that would not apply to this disciplinary process if the 2017 and 2018 TACP applied procedurally are the Sanctioning Guidelines. This is a moot point as the AHO is not applying or relying on the Sanctioning Guidelines in her decision. Regardless of which version of the TACP applies, the Player is bound by similar provisions and subject to identical sanctions by virtue of having been found liable for committing Corruption Offenses under the 2017 and 2018 TACP to which he does not contest being contractually bound.

32. With regards to the procedural aspects of the dispute, Section C.3 of the 2022 TACP provides expressly that,

“The ITIA shall be permitted to issue a Notice of Offense, Notice of Major Offense or Proposal for Disposition to any individual where they are no longer a Covered Person but were a Covered Person at the time of the events giving rise to the charges within the notice. In those circumstances, the provisions of this Program shall apply to such individual.”

33. Section K.1 of both the 2017 and 2018 TACPs provides that:

“No action may be commenced under this Program against any Covered Person for any Corruption Offence unless such action is commenced within eight years from the date that the Corruption Offence allegedly occurred”.

34. The ITIA commenced its action and issued a Notice of a Major Offence for the Corruption Offenses that Mr. Rachidi committed in 2017 and 2018 in 2022, well within this limitation period.

35. The Player’s jurisdictional objection relies wholly on Swiss Law which has no application here as we are not before the Court of Arbitration for Sport. Every applicable version of the TACP (K.3 2017, K.3 2018 and K.2 2022) clearly stipulates that:

“The TACP is governed in all respects (including, but not limited to, matters concerning the arbitrability of disputes) by the laws of the State of Florida.

36. And, for good measure, TACP Section K.2 additionally adds in its 2022 version “(...) without reference to conflict of laws principles.”

37. Finally, the Player’s jurisdictional objection was rejected above because it was time-barred and using the same reasoning as above, the Player’s tardy contention that the 2022 TACP cannot apply to him procedurally is also time-barred.

38. For all these reasons, the AHO finds that the 2017 and 2018 TACP apply substantially to these proceedings and that the 2022 TACP applies procedurally.

PROCEDURAL BACKGROUND

39. On 12 October 2022, the ITIA issues the Notice of Charge to Mr. Rachidi, [REDACTED] and [REDACTED] outlining the allegations and charges against the three Covered Persons, informing them of the identity of the AHO who is seized with the matters and to be responsible for deciding this dispute, explaining that the allegations fall within the scope of Article G.1.c. 2022 TACP and that the cases are to proceed on a consolidated basis. In the notice of Charge, the Covered Persons are given 10 business days to respond, either by requesting a hearing, making submissions, or other.
40. Mr. Rachidi elects not to respond to the Notice of Charge within the deadline provided.
41. In accordance with Article G.1.e of the 2022 TACP and all its subsections, Mr. Rachidi has as a result *inter alia* waived his entitlement to a hearing and has admitted that he is liable for all Corruption Offenses for which he was charged in the Notice of Charge.
42. Further to the deadline lapsing for the Covered Persons to respond to the Notice of Charge issued in accordance with the 2022 TACP, on 31 October 2022, the AHO sends the Parties directions in which she requests that Counsel to the ITIA file Submissions on Sanction by 21 November 2022, and for Mr. Rachidi (and the other Covered Persons), to file his Submissions on Sanction by 12 December 2022, further to which the AHO would issue her decision within the timelines provided in the TACP. To err on the side of caution and to ensure their comprehension, the AHO's procedural calendar and directions are resent in French to all Parties on 31 October 2022.
43. On the same day and further to these directions, for the sake of completeness, the AHO sends an additional correspondence to all parties in both French and English which reads:

To the Parties

For completeness, further to the Directions that were sent to you on 31 October 2022, the AHO wishes to bring the following clarifications to the attention of all Parties.

As indicated in the last paragraph of the Notice of Charge sent to them on 12 October 2022, because neither Mr. Rachidi, [REDACTED] or [REDACTED] (together the "Covered Persons") filed a response to the Notice of Charge within 10 business days from its receipt, and because neither of the Covered Persons submitted a written request to the AHO for a hearing within 10 business days from receipt of the Notice of Charge as provided in Article G.1.b of the Tennis Anti-Corruption Program (TACP), in accordance with Article G.1.e of the TACP, Mr. Rachidi, [REDACTED] and [REDACTED] are all deemed:

G.1.e.i. to have waived his or her entitlement to a Hearing;
G.1.e.ii. to have admitted that he or she has committed the Corruption Offense(s) specified in the Notice of Major Offense;
G.1.e.iii. to have acceded to the potential sanctions specified in the Notice of Major Offense; and
G.1.e.iv. the AHO shall promptly issue a Decision confirming the commission of the Corruption Offense(s) alleged in the Notice of Major Offense and ordering the imposition of sanctions, (after requesting and giving due consideration to a written submission from the ITIA on the recommended sanction).

This means that Mr. Rachidi, [REDACTED] and [REDACTED] have each accepted liability for all offenses and charges that have been brought against them. Further details on the same will be provided in the AHO's decisions.

Accordingly, on 31 October 2022., the AHO has requested from the Parties that submissions on sanction be made within the procedural calendar provided.

All Parties are advised to refer to the TACP Sanctioning Guidelines in making their submissions on sanction on ineligibility and fines. The Sanctioning Guidelines are attached once again for ease of reference.

Once the Covered Persons receive the ITIA's submissions on sanction, which should identify any mitigating or aggravating circumstances the AHO should consider in making her decisions, the Covered Persons will each be invited and encouraged to respond to the same with explanations as to why they believe mitigating elements warrant a reduction in the sanctions sought by the ITIA.

The Parties are once again reminded that their submission on sanction are due as follows:

- 21 November 2022 ITIA. Three separate succinct submissions for each Covered Person are requested.*
- 12 December 2022 Mr. Rachidi, [REDACTED] and [REDACTED] With each Covered Person being asked to respond independently from the others.*

Should further clarifications be required, please do not hesitate to direct them to the undersigned.

44. The ITIA files its three separate Submissions on Sanction on 18 November 2022.

45. On the same day, the AHO sends the Parties directions, inviting Mr. Rachidi once again of his opportunity to file Submissions on Sanction in answer to the ITIA's submission. The correspondence, sent both in French and in English reads as follows:

Further to receipt of the ITIA's submissions on sanction for each of the Covered Persons, the AHO writes to each Covered Person once more to reiterate the contents of the Procedural Ruling and Directions that were sent on 02 November 2022.

As indicated in the last paragraph of the Notice of Charge sent to him by the ITIA on 12 October 2022, because Mr. Rachidi failed to file a response to the Notice of Charge within 10 business days from its receipt, and because M. Rachidi failed to submit a written request to the AHO for a hearing within 10 business days from receipt of the Notice of Charge as provided in Article G.1.b of the Tennis Anti-Corruption Program (TACP), in accordance with Article G.1.e of the TACP, Mr. Rachidi is deemed:

G.1.e.i. to have waived his or her entitlement to a Hearing;

G.1.e.ii. to have admitted that he or she has committed the Corruption Offense(s) specified in the Notice of Major Offense;

G.1.e.iii. to have acceded to the potential sanctions specified in the Notice of Major Offense; and

G.1.e.iv. the AHO shall promptly issue a Decision confirming the commission of the Corruption Offense(s) alleged in the Notice of Major Offense and ordering the imposition of sanctions, (after requesting and giving due consideration to a written submission from the ITIA on the recommended sanction).

You are reminded of the AHO's ruling, that that in accordance with the G 1.e of the TACP, the AHO has confirmed that Mr. Rachidi, has now accepted liability for all the charges that have been brought against him in the ITIA Notice sent to him on 12 October 2022.

As indicated, further details on the same will be provided in the AHO's written and reasoned decision.

On 31 October 2022 and again on 2 November 2022, the AHO directed the Parties to file their submissions on sanctions within the procedural calendar provided. The ITIA has now filed its three separate succinct submissions on sanction for each Covered Person as requested and in a timely manner and has proposed that the following sanctions be imposed on Mr. Rachidi:

- *A lifetime period of ineligibility and a fine of \$250 000.00*

In accordance with the Procedural Calendar set on 2 November 2022, the AHO hereby once again invites Mr. Rachidi to file submissions with regards to the proposed sanctions. Mr. Rachidi may wish to identify any mitigating elements that the AHO should consider when issuing the sanctions.

*Mr. Rachidi's submissions on sanction are to be received **not later than 12 December 2022**. No further reminders will be provided.*

Should further clarifications be required, please do not hesitate to direct them to Jodie Cox who will relay them to the AHO.

46. Mr. Rachidi files a brief written submission by email on 29 November 2022.
47. On 6 December 2022, Mr. Rachidi's newly appointed Legal Counsel requests an extension to file a response to the ITIA's submission on sanction. The extension is agreed upon by the ITIA and granted by the AHO on 7 December 2022.
48. As agreed, Mr. Rachidi's Submissions on Sanction are filed on 15 December 2022.
49. The written procedure now closed; this is the AHO's Decision on Sanction.

PARTIES' SUBMISSIONS ON SANCTION

50. The AHO has carefully considered the totality of the Parties' written submissions. They are summarised below. Additional facts and allegations found in the Parties' submission, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. The AHO refers in its Decision only to the submissions and evidence it considers necessary to explain its reasoning.

I. ITIA

51. The ITIA first briefly recounts the factual background that led to the charges against Mr. Rachidi being brought:
 - Between 2014 and 2018, Belgian law enforcement authorities investigated a suspected organised criminal network that those authorities believed to be operating to fix tennis matches worldwide ('Operation Belgium').

- As part of the investigation, the ITIA was granted access to evidence collated by the Belgian authorities in 2020, including transcripts of interviews, the content of forensic downloads of mobile devices and records of money transfers. From the evidence collated, at the centre of the suspected organised criminal network is an individual named ██████████ (██████████ who is also referred to as “██████████ amongst other aliases. ██████████ had a network of persons who acted as “fixers” in the corruption of tennis matches – two of these fixers were Mr. Rachidi and ██████████ ██████████ an ██████████ Professional tennis player.
- Upon examining the forensic downloads of ██████████ mobile phones, the ITIA discovered discussions between ██████████ and Mr. Rachidi in which Mr. Rachidi brokered the outcome and financial reward of 27 professional tennis matches played at ITF tournaments during the period ██████████ July 2017 – ██████████ April 2018.
- Based on the evidence in its possession, the ITIA believes that Mr. Rachidi had a network of at least 17 Players who were prepared to fix their matches in return for money flowing from ██████████ through Mr. Rachidi to these various Players.

52. The ITIA submits that Mr. Rachidi has been charged and admitted to committing one hundred and thirty-five (135) Corruption Offenses under the 2017 and 2018 TACP arising in relation to twenty-seven (27) matches.

53. Relying on CAS case law (CAS 2007/A/1427, CAS 2011/A/26231, CAS 2001/A/330, CAS 2011/A/2490, CAS/2011A/2621 and CAS 2016/A/4388) the ITIA *inter alia* submits that:

- Match fixing is the most serious corruption offence in tennis and a threat to the integrity of professional sport as well as the physical and moral integrity of the players.
- Lifetime bans are a necessary deterrent to make others aware that match fixing is simply not worth the risk and the only truly effective means of purging corruption in tennis.
- Players must be reinforced in their resistance to corrupt approaches or at least deterred from yielding to them.
- It is essential for sporting regulators to demonstrate a zero tolerance against corruption in tennis.

54. Whilst recognizing the AHO’s full discretion on whether to apply or depart from the ITIA Sanctioning Guidelines (‘the Guidelines’), the ITIA submits that the Guidelines should be followed in this case to determine the appropriate sanction.

55. Under the Guidelines, the totality of Mr. Rachidi's admitted Offenses are classified as A.1 e.g.: High culpability with a Category 1 impact. The ITIA submits that all three level A 'culpability' criteria are present, namely:

- High degree of planning or premeditation: Each 'fix' involved instructions from [REDACTED] a vast network of Players and middlemen and the international transfer of large sums of money through different payment platforms using several aliases.
- Initiating or leading others to commit offenses: YR was part of a sophisticated, international network of fixers, often acting as the "go-between" for [REDACTED] other middlemen (such as [REDACTED] [REDACTED] and his network of Players.
- Multiple offenses over a protracted period.

56. The ITIA also submits that Mr. Rachidi's case is clearly a Category 1 as it involves:

- Major TACP Offenses, 135 in total,
- a significant material impact on the reputation and the integrity of tennis,
- and a relatively high illicit gain, the evidence shows that the 27 fixed matches involved the exchange and circulation of more than USD 65000.

57. The ITIA further notes that Mr. Rachidi does not satisfy any of the mitigating factors under the Guidelines. Rather, aggravating factors exist e.g. he has shown no remorse, made no admissions, has ceased communications with the ITIA and failed to respond to the charges brought against him "*wasting the time of both the ITIA and the AHO*", which result in neither substantial assistance nor a discount for early admissions being available to him.

58. The ITIA thus submits that it is entirely appropriate, if not necessary, to sanction Mr. Rachidi with the maximum lifetime ban, in addition to a monetary fine.

59. With regards to the monetary fine, the ITIA notes that Section H.1.a (i) of the TACP allows for fines of up to \$250 000 to be imposed alongside suspensions and seeks this maximum amount based on the Corruption Offenses that Mr. Rachidi has committed. The ITIA does not seek repayment of Mr. Rachidi's corrupt earnings in addition to this fine.

60. In summary the ITIA respectfully requests the AHO to impose the following sanctions on Mr. Rachidi:

- A lifetime period of ineligibility; and
- A fine of \$250,000, none of which is suspended.

II. MR. RACHIDI

61. Mr. Rachidi's first brief written submission is received on 29 November 2022. It is reproduced in its entirety as follows:

*Hello ,
I'm very sorry for the delay , I found all these emails in spam box .
I strongly deny all charges.
You are perfectly aware that you cannot put me any fine on top of the life ban, you know very well that is prohibited. Regards*

62. Further to retaining Legal Counsel and requesting an extension to file his submissions on sanction, Mr. Rachidi's submissions received on 15 December 2022 can be summarized as follows.

63. He submits that pursuant to the principle of non-retroactivity, the versions of the TACP applicable to the question of the appropriate sanction for the Player's alleged offenses are those of 2017 and 2018, i.e. the years the alleged offenses were committed. Section H.1.a of the 2018 TACP, which is identical to Section H.1.a of the 2017 TACP, includes a lifetime ban, and a maximum \$250 000 fine for the Offenses committed. While this provision uses permissive terms, prescribing what a given sanction "may" include, it does not unequivocally and automatically establish the AHO's unconstrained discretion to combine the three types of sanctions it lists.

64. The Player argues that monetary sanctions are incompatible with lifetime bans since a lifetime ban deprives Players of their main and often only source of income. A monetary fine in combination with such a ban would be exceedingly onerous and cannot simply be assumed to have been introduced by the formulation "may" found in Section H.1.a of the 2017 and 2018 TACPs. To the Player, there are no textual or teleological grounds under this TACP Section (H.1.a) for the combination of a life ban and a monetary fine.

65. To Mr. Rachidi, had the TACP drafters intended to allow combinations of sanctions that can entirely deprive Covered Persons of their ability to generate basic income, they would have expressed as much in unambiguous terms and made their stipulation subject to precise and predictable criteria. He submits that the TACP drafters' intention could not have been to create a regime through which Covered Persons can be deprived of their

ability to sustain their livelihood, and to do so based on generic, vague and discretionary language.

66. Mr. Rachidi then submits that he has not genuinely consented to an alleged contractual stipulation permitting the AHO to combine a life ban with a monetary sanction. Relying heavily on Swiss Public Law, Swiss Federal tribunal awards and the European Convention on Human rights, and *“assuming Section H.1.a of the 2017 and 2018 TACPs allows for the imposition of a monetary sanction in conjunction with a life ban”*, he requests that *“the AHO disregard this stipulation in order to ensure that any decision on the present dispute complies with Swiss public policy”*.
67. He also submits that the combination of a life ban with a monetary sanction would violate the principle of proportionality. Irrespective of the degree of discretion nominally afforded to a sports governing body under its own rules, fines must always be proportionate to the seriousness of the offense for which they are imposed. He argues that when fines exceed their justifiable aim by financially crippling a player, they can also contravene Article 27(2) of the Swiss Civil Code, which expressly prohibits excessive restrictions on the economic freedom of contractual parties. The Player thus argues that a monetary sanction imposed on top of a lifetime ban is inconsistent with the principle of proportionality and Swiss substantive public policy. This is so especially where a player has no alternative source of income and would be financially crippled by the fine in question, which he says is indisputably his case as he has no capitalizable education and no meaningful prospect of employment beyond tennis.
68. Relying on past AHO decisions and CAS awards he submits that panels have taken the view that, where a lifetime ban is imposed, there is no need for a financial penalty as well and that AHOs have also generally heeded this principle. He relies notably on CAS 2020/A/7129 & 7130 (hereinafter ‘Hossam’) where the player was charged with twenty-one (21) match fixing offenses and on appeal the CAS panel found, as had the AHO in the first instance, that *“a lifetime ban alone was sufficient penalty to reflect the seriousness of the corruption offenses committed”* when declining to impose a fine.
69. Finally, the Player argues that the conditions for imposing a monetary sanction on top of a life ban are not met in the present case and that the ITIA has failed to prove, or even claim, that the Player’s alleged offenses resulted in restorable monetary gains. Relying on CAS 2011/A/2490 (hereinafter Köellerer), CAS 2021/A/7975 and Hossam, as well as PTIOs v Ismailov (2020) and PTIOs v. Vesantero (2020), the Player argues that because the ITIA has failed to bring forward tangible evidence of financial gains made by the Player as a result of his alleged offenses, the ITIA is only seeking a fine under the punitive limb of Section

H.1.a(i) of the 2017 and 2018 TACPs, a remedy which Mr. Rachidi argues the AHO cannot grant in conjunction with a life ban without breaching the principle of proportionality.

70. Mr. Rachidi submits that the ITIA's request for a fine of \$250 000 must be dismissed because the ITIA has failed to fulfill its burden of submitting conclusive evidence:

- That monetary transfers were made in exchange for the Player's conduct.
- That the sums in question were personally received by the Player; and
- That the Player personally benefited from the relevant sums, i.e., that the latter were not transferred merely to the benefit of a related person.

71. Thus, the Player argues that the ITIA:

- wrongly seeks to condemn him to pay a fine of \$250000 based on a mere presumption of guilt,
- has produced no evidence of any financial gains, while being fully aware that the Player has no other source of income besides tennis and thus faces total financial collapse, and,
- has by no means satisfied its burden of proving that any fine, let alone one of \$250 000, should be imposed.

AHO DELIBERATIONS AND REASONS

The Decision on Liability

72. Unlike Mr. Rachidi alleged in his first submission of 29 November 2022, the ITIA argues that its correspondences and Notices could not have been in his spam folder , as he alleges. Rather, the ITIA submits with supporting evidence (in the form of print screen shot images of each read email by Mr. Rachidi) that:

“Mr. Rachidi was notified of the Notice of Charge and its exhibits/ attachments by email on 12/10/22, in which a link to the SharePoint case file was included. The SharePoint case file shows that Mr. Rachidi most recently viewed the Notice of Charge Cover Letter (English) on 13/10/22, (French) on 24/10/22, Notice of Charge Appendix (English) on 12/10/22, and (French) on 18/10/22. Print screen images showing this are attached to this email. “

73. The AHO accepts the ITIA's evidence that Mr. Rachidi was aware of the contents of all Notices, Directions and communications that were sent to him. Any contention to the contrary made by Mr. Rachidi is rejected.

74. Fully aware of its contents, Mr. Rachidi elected not to answer the Notice of Charge. Pursuant to Article G.1.e of the TACP, he is therefore deemed to have accepted liability for each of the above charges as ruled by the AHO on 2 November 2022 and again on 21 November 2022.

The Decision on Sanction

75. Section H.1 TACP provides that:

H.1 The penalty for any Corruption Offense shall be determined by the AHO in accordance with the procedures set forth in Section G, and may include:

H.1.a With respect to any Player,

(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,

(...) and

(iii) with respect to any violation of Section D.1., clauses (c)-(l) 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.”

76. The case against Mr. Rachidi is grounded mostly in interview excerpts and WhatsApp evidence of the various fixes, how bets were placed and with whom, and on reliance that the matches were fixed to generate financial gain and how Mr. Rachidi or his associates received their share of the profits. The evidence is further grounded on the fact that [REDACTED] and [REDACTED] admitted liability for their role in these fixes.

77. As stated above, for the reasons outlined in their Submission on Sanction and with reference to the Sanctioning Guidelines, the ITIA has recommended that a fine in the amount of \$250 000 and a lifetime period of ineligibility be imposed as appropriate sanctions for Mr. Rachidi's many Corruption Offenses. Mr. Rachidi on the other hand submits that such a fine cannot be imposed in addition to a lifetime ban and relies heavily on Swiss Public Law in this regard.

78. At the outset, the AHO clarifies for the benefit of both Parties, firstly that she is not bound by the sanctions recommended by the Sanctioning Guidelines. Pursuant to the applicable versions of the TACP, she may impose appropriate, just and proportional sanctions bearing in mind all of the particular circumstances of each individual case. Secondly, the AHO is also not bound by Swiss Law because all applicable versions of the TACP expressly provide

(as noted above) that the TACP is governed by the laws of the State of Florida, not those of Switzerland.

79. In issuing this decision, the AHO reiterates, as the ITIA rightly has, that match fixing is a serious threat to tennis. Once admitted or established, match fixing in tennis amounts to a most egregious deliberate, intentional offense that threatens the purity of competition by eliminating the uncertainty of its outcome. This is even more so when other Players, including impressionable minors, are dishonestly approached and coerced into further tarnishing and corrupting the sport and when conspiracies are formed and perpetuated to this end.
80. The TACP purports to eradicate such corruption. The imposition of lenient sanctions would defeat the purpose not only of the TACP's attempts to circumvent recidivism but also its efforts to deter other players from being swayed by the possible windfalls of match fixing, which the AHO fully appreciates are often considerably greater than a player's usual earnings for the event in question.
81. Conversely, as case law has established in all spheres, any sanction imposed must both be proportional to the offense and within the usual sanctions imposed in similar circumstances to ensure as a matter of fairness and justice that a certain degree of consistency is applied in the imposition of sanctions resulting from TACP Offenses.

The Period of Ineligibility

82. Precedent provides a yardstick to which an AHO may compare the facts of an individual case to prior cases adjudicated under the TACP as well as their outcomes. In this case, the AHO relies on recent ITIA case law including the PTIOs v. Alvarez-Guzman matter (2019), the PTIOs v. De Souza matter (2020), the PTIOs v. Hossam matter (2020), the PTIOs v. Ikhlef matter (2020, hereinafter 'Ikhlef'), the ITIA v. Khabibulina matter (2021) and the ITIA v. Ismailov matter (2021), where all Covered Persons had committed similar Corruption Offenses, but far less in sheer volume than Mr. Rachidi and were handed lifetime bans. The AHO also relies on Köellerer and CAS 2011/A/2621 where lifetime bans were imposed.
83. All these relied upon cases where lifetime bans have been imposed involve a player committing numerous fixing offenses including a TACP section D.1.e. Offense, e.g., making corrupt approaches to a third party.
84. The ITIA has submitted that a lifetime ban is entirely appropriate for Mr. Rachidi. This, in accordance with the well-established legal precedent for Section D.1.e Offenses and reliance on the Guidelines under which the Offenses committed by Mr. Rachidi are

classified as Category A offenses: offenses displaying a high level of culpability. Viz, a high degree of planning or premeditation, initiating or leading other to commit offenses, multiple offense over a protracted period. The AHO agrees.

85. The ITIA has categorised Mr. Rachidi's offenses as High Culpability (A) Category 1 offenses and the Player has not offered any rebuttal to this assertion. Without needing to apply the Guidelines, the AHO agrees that Mr. Rachidi's one hundred and thirty-five (135) Offenses are egregious.

86. The AHO finds the impact that Mr. Rachidi's repeated Corruption Offenses have had on the integrity of the sport is not negligible, considering that he consistently sought out the involvement of various other players, including vulnerable minors, in his match fixing schemes. The fact that Mr. Rachidi has admitted liability for bringing other Covered Persons like (at least) [REDACTED] and [REDACTED] into his web of match fixing cannot and must not be disregarded; it is an aggravating element. On this point, the AHO strictly abides by the AHO's finding in the [REDACTED] matter ([REDACTED]) when stating:

"Finding others to add to the web of fixers by putting them into the corruption net is a more serious form of breach of the TACP provision."

87. For the benefit of Mr. Rachidi, who has neither shown remorse nor recognized the severity of this actions or their negative impact on the sport of tennis, the AHO also echoes the reasons of the CAS Panel in Köellerer in making its determination:

"The sport of tennis is extremely vulnerable to corruption as a match-fixer only needs to corrupt one player (rather than a full team). It is therefore imperative that, once a Player gets caught, the Governing Bodies send out a clear signal to the entire tennis community that such actions are not tolerated. This Panel agrees that any sanction shorter than a lifetime ban would not have the deterrent effect that is required to make players aware that it is simply not worth the risk".

88. The presumptive sanction for the vast number of Offenses committed by Mr. Rachidi is undoubtedly a lifetime ban. It would only be where a player is able to demonstrate with compelling objective and subjective evidence that their circumstances warrant a reduction in this presumptive sanction that some flexibility be afforded to such player. Here, Mr. Rachidi has not done so. There are simply no mitigating elements in this case that would justify a reduction in the presumptive sanction.

89. In light of the one hundred and thirty-five (135) established TACP Corruption Offenses, and keeping in mind the facts and circumstances before her, the AHO finds that a lengthy ban

must be imposed to protect the integrity of the sport, to deter other players from getting involved in match fixing, and to ensure that Mr. Rachidi be adequately admonished for the major match fixing and corruption offenses he has committed and solicited others to commit.

90. The only appropriate ban to be imposed on Mr. Rachidi as a result of his admitted TACP Offenses is a lifetime ban from Participation in Sanctioned Events.

The Fine

91. With regards to the applicable fine, the ITIA seeks the imposition of a \$250 000 fine. They argue that such a fine is vital to the interests of the sport of tennis and that it would also account both for the monies Mr. Rachidi earned from fixing the Matches identified in the Notice of Charge and its Appendices.

92. On the other hand, Mr. Rachidi has argued that *“you cannot put me any fine on top of the life ban, you know very well that is prohibited.”* He relies on recent TACP case law cited above where no fine was imposed on a player in addition to a lifetime ban and additionally relies on other ITIA case law where the fines imposed were limited to the (approximate) monies received by the relevant player further to fixing matches, where compelling evidence supported the same.

93. The AHO is mindful that in issuing its decision on sanction, it must respect the approach of the TACP regulators. Given the evidence before the AHO, a fine can and should be imposed on Mr. Rachidi in addition to the lifetime ineligibility as it was clearly intended by the TACP regulators when they drafted Section H.1. In this regard the AHO relies on this passage from CAS 2016/A/4388:

*“Tennis, an individual sport subject to many variances, is an obvious target for those who want to fix matches and may be particularly vulnerable since the approach to only one participant appears sufficient to obtain the illegal result. **Players must be reinforced in their resistance to such corrupt approaches, or at least deterred from yielding to them.** CAS must, **applying considerations of legality and proportionality, respect in its awards the approaches of such regulators devoted to such virtuous ends.**”* (Emphasis is the AHO’s)

94. Thus, the AHO clarifies for the benefit of Mr. Rachidi, that a fine may in fact be imposed upon him, in addition to a lifetime ban. This is clearly provided for in Section H.1 of the TACP and, unlike he argues, is supported by AHO and CAS case law. On this, in Hossam,

relying on two previous CAS awards (CAS 2020/A/7129 & 7130, hereinafter 'Alekseenko cases') the Panel held that:

“Sanctions need to have an effective deterrent effect to prevent any corrupt conduct in tennis” and that “CAS panels have acknowledged that a fine can be reasonable and proportionate with regard to the objective of a corruption-free sport in addition to permanent ineligibility sanction, cf. CAS 2016/A/4388, CAS 2018/A/5999 and CAS 2018/A/6000. In particular, the last two decisions mentioned are the latest CAS decisions on the imposition of a financial penalty within cases in which the Players were banned for life from the sport of tennis. Both players in CAS 2018/A/5999 and CAS 2018/A/6000 received a USD 25,000 fine”.

95. Mr. Rachidi argues nonetheless that when a fine is imposed in addition to a lifetime ban, it should not exceed the amount of money a player would have earned from the fixes. The AHO accepts Mr. Rachidi's argument that it would be incorrect to impose the repayment of monies when no tangible evidence has been tendered to the AHO which establishes with any certainty the monies that need to be repaid.

96. Conversely, on this point, the AHO relies on the █████ matter, where the AHO stated:

“The amount of money earned by fixes by a Covered Person far exceeds the prize money that can be earned. (...) It is virtually impossible to trace payments from corruptors to competitors. The fine therefore, is an important deterrent and represents a means by which ill-gotten gains may be disgorged by the fine because of the inability to trace and demand back the exact amounts actually obtained from breaches of the TACP.”

97. While the ITIA deems a fine of \$250 000 to be entirely appropriate, Mr. Rachidi argues that the onerous fine proposed by the ITIA would cripple him financially, exceeds the means required to ensure non-repetition and protect the integrity of tennis and would put his livelihood in danger.

98. In considering both these arguments, the AHO also considered the Alekseenko cases where the Players made similar allegations in their defence and, ultimately adding a 25 000 USD fine to their lifetime ban, the Panel found that:

“The financial profit of the Player from his illegal activities may not have been insignificant, however, there is also no indication that the Player made major profits from fixing tennis matches. In view of the Player's uncontested allegation that he has no other profession besides being a professional tennis player and occasionally providing tennis training to children, the Panel considers it important that the Player

will probably encounter significant difficulties in making a living for himself because of the permanent ineligibility imposed on him, which does not only prevent him from gaining an income as a professional tennis player, but also as a tennis coach for the rest of his life.”

99. In contrast, the █████ matter (where the player was fined 100 000 USD), provides additional insightful relevant commentary on the role and appropriateness of fines in addition to lifetime bans under the TACP:

“The role of the fine in the TACP is not well understood or appreciated particularly when it comes occasionally to review by the CAS. The early CAS cases were not receptive to fines apparently thinking that a lifetime ban meant a person was unable to play tennis. The sanction of ineligibility under the TACP is limited to the inability to participation in eligible tournaments and Events set out in the Appendix 1 to the TACP. A lifetime ban does not mean a complete inability to play or coach tennis (...)

100. Thus, it appears important to note, as held in █████, that a period of ineligibility relates only to a Covered Person’s ability to “Participate” in “Sanctioned Events” (as defined in the TACP). Here, Mr. Rachidi has not signed the TACP since 2019 and thus has not competed in Sanctioned Events since then. He likely does not intend to compete in Sanctioned Events again. Therefore, the lifetime period of ineligibility to participate may have little disciplinary/sanctioning effect on him.

101. Under the circumstances, the AHO finds that in this case, imposing a fine in addition to the lifetime ban is reasonable and proportionate with regard to the objective of eradicating match fixing in tennis. There needs to be an effective deterrent from Covered Persons to partake in match fixing. Where a period of ineligibility would not effectively sanction a Covered Person, a fine should certainly be imposed as a reasonable disciplinary action – notably when a Covered Person has been found liable for one hundred and thirty-five (135) Corruption Offenses under the TACP. This, as stated above, is an egregious number of Offenses.

102. While the AHO equally clarifies that the charges at this juncture are no longer ‘alleged’ as submitted by the Player, in view of applying Section H.1.a.i. of the TACP, she accepts the Player’s submission that the ITIA has failed to establish with compelling and conclusive evidence the amounts of money that Mr. Rachidi may have effectively received, directly or indirectly, as part of the twenty-seven (27) matches that he has been found liable for fixing (or attempting to fix).

103. The AHO is however satisfied that the ITIA’s evidence, as presented and shared to Mr. Rachidi in the course of his interviews and as relied upon in the ITIA’s Notice of Charge,

the contents of which Mr. Rachidi admitted liability and elected not to contest, does establish that the one hundred and thirty-five (135) Corruption Offenses committed by Mr. Rachidi involved the exchange of roughly 68 000 USD amongst various individuals involved in the fixes.

104. Although Mr. Rachidi has argued otherwise, and as the Panel found in the Alekseenko cases, the AHO finds that disposing of the fine here is not appropriate in view of the fact that the Player repeatedly exploited his sport and fellow tennis players for personal gain and financially profited from fixing tennis matches.

105. In making her decision, the AHO considers the legal precedent cited above, the fact that Mr. Rachidi's lifetime competition ban does not effectually preclude him from gainful tennis related employment (for example teaching or coaching) other than directly related to Participation in any Sanctioned Events as defined in the TACP, and that he has accepted liability for twenty-seven (27) Charges of match fixing brought against him involving the exchange of approximately 68 000 USD. The AHO finds that a reasonable and proportionate fine to be imposed upon Mr. Rachidi is the repayment of a share of the total monies in circulation at the time he committed each of these 135 Offenses, in addition to an additional financial sanction to account for the egregious nature of his repeated TACP infractions. Thus, the fine the AHO imposes upon Mr. Rachidi is of 34 000 USD.

CONCLUSION

106. As a result of not responding to the Notice of Charge issued by the ITIA in accordance with all applicable versions of the TACP, Mr. Rachidi is deemed to have admitted liability for the one hundred and thirty-five (135) Corruption Offenses with which he has been charged. The AHO properly seized of the matter, bound by and applying the 2017, 2018 and 2022 TACP then proceeded by issuing a ruling on the Player's admitted liability and requesting the Parties to make Submissions on Sanction.

107. Pursuant to all applicable versions of the TACP and AHO and CAS case law, the appropriate period of ineligibility to be imposed on Mr. Rachidi as a result of these one hundred and thirty-five (135) Corruption Offenses is a lifetime period of ineligibility from Participation in Sanctioned Events.

108. Pursuant to all applicable versions of the TACP, the AHO imposes an additional fine of 34 000 USD on Mr. Rachidi as a sanction for his corrupt activities and most importantly to sanction him for soliciting and corrupting other Covered Persons, notably minors, to join his match fixing endeavours.

ORDER

109. The Player, Younes Rachidi, has been found liable for Corruption Offenses pursuant to the following 2017 TACP sections:

- D.1.d (Contriving); and/or
- D.1.e (Soliciting/facilitating to not use best efforts); and/or
- D.1.f (Soliciting/accepting money with the intent to negatively influence) and/or, D.1.g (Offering or providing money with the intention of negatively influencing a Player's best efforts); and/or
- D.2.a.i (Non reporting).

110. He has also been found liable for Corruption Offenses pursuant to the following 2018 TACP Sections:

- D.1.d (Contriving); and/or
- D.1.e (Soliciting/facilitating to not use best efforts); and/or
- D.1.f (Soliciting/accepting money with the intent to negatively influence); and/or
- D.1.g (Offering or providing money with the intention of negatively influencing a Player's best efforts); and/or
- D.2.a.i (Non-reporting).

111. Pursuant to the 2017 and 2018 TACP the sanctions imposed upon Mr. Rachidi, as a result of these one hundred and thirty-five (135) Corruption Offenses, are:

- i. Effective on the date of this Decision and as prescribed in Section H.1.a(iii) of the TACP: a lifetime ban from "Participation" in any "Sanctioned Event".
- ii. As prescribed in Section H.1.a.(i) of the TACP: a 34 000 USD fine.

112. Pursuant to TACP Section G.4.e., this Decision on Sanction is to be publicly reported with redactions to [REDACTED] name made if the ITIA deems appropriate given that [REDACTED] was a minor at the time the Offenses were committed.

113. Pursuant to TACP Section G.4.d., this Decision on Sanction is a full, final, and complete disposition of this matter and is binding on all parties.

RIGHT OF APPEAL

114. This Decision can be appealed to the Court of Arbitration for Sport in Lausanne, Switzerland within twenty business days from the date of receipt of the decision by the appealing party.

Dated at Beaconsfield, Quebec this 26 day of January 2023



Janie Soublière C. Arb.
Anti-Corruption Hearing Officer