

**DECISION OF THE INTERNATIONAL TENNIS FEDERATION
PURSUANT TO ARTICLE 7.14 OF THE 2023 TENNIS ANTI-DOPING PROGRAMME**

I. Introduction

1. The International Tennis Federation (the **ITF**) is the international governing body for the sport of tennis. Further to its obligations as a signatory to the World Anti-Doping Code (the **Code**) and its responsibilities as custodian of the sport, the ITF issued the 2021 Tennis Anti-Doping Programme (the **TADP** or the **Programme**),¹ which set out Code-compliant anti-doping rules applicable to players competing in '**Covered Events**' (as defined in TADP Appendix 1).²
2. Daria Mishina (the **Player**) is a 29-year-old tennis player who is a national of and resident in Russia. She has competed on the ITF World Tennis Tour (in both singles and doubles competitions) since 2008. When she registered online for an International Player Identification Number (IPIN) in 2010 and subsequent years, the Player expressly agreed to be bound by and to comply with each edition of the Programme. By virtue of that agreement, and by virtue of her participation in ITF World Tennis Tour events (which fall within the definition of '**Covered Events**' under the TADP), the Player became bound by and was required to comply with the TADP.
3. The ITF charged the Player with the commission of Anti-Doping Rule Violations under the TADP and has proposed certain Consequences based on its analysis of the degree of fault that the Player bears for those violations. The Player has admitted the Anti-Doping Rule Violations charged and acceded to the Consequences proposed. The ITF therefore issues this decision further to 2023 TADP Article 7.14, which provides:

'7.14.1 At any time prior to a final decision by the Independent Tribunal, the [ITF] may invite the Player [...] to admit the Anti-Doping Rule Violation(s) charged and accede to specified Consequences [...]

7.14.2 In the event that the Player [...] admits the Anti-Doping Rule Violation(s) asserted and accedes to Consequences specified by the [ITF] [...], the [ITF] will promptly issue a reasoned decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences [...], will send notice of the decision to the Player [...] and to each Interested Party, and will Publicly Disclose the decision in accordance with Article 8.6. [...]

7.14.3 Any decision issued by the [ITF] in accordance with Article 7.14.2 that an Anti-Doping Rule Violation has been committed [...] will address and determine (without limitation): (1) the factual basis of the decision that an Anti-Doping Rule Violation was committed; and (2) all of the Consequences to be imposed for such Anti-Doping Rule Violation, including the reasons for imposing the Consequences specified [...].'

II. The Player's commission of an anti-doping rule violation

4. On 25 August 2021, while competing at the W25 Almaty held in Almaty, Kazakhstan, from 23 August to 29 August 2021 (the **Event**), the Player was required to provide a urine sample for drug testing under to the TADP. The Player was 28 years old at the time. The sample she provided was

¹ The Programme is issued annually. The 2023 Programme came into effect from 1 January 2023 (**2023 TADP**), superseding the 2021 and 2022 editions of the TADP. From 1 January 2022, the ITF has delegated all aspects of Doping Control and Education under the 2023 Programme to the International Tennis Integrity Agency, save for certain matters arising prior to the Effective Date (such as results management in respect of this case) (see 2022 and 2023 TADP Articles 1.1.7).

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

assigned reference number 3163663 and split into an A sample and a B sample, which were sealed in tamper-evident bottles and transported to the WADA-accredited laboratory in Montreal (the **Laboratory**) for analysis. The Laboratory detected in the A sample the presence of exogenous testosterone. Exogenous testosterone is prohibited at all times under section S1.1 of the 2021 Prohibited List. It is not a Specified Substance. The Player did not have a Therapeutic Use Exemption permitting use of testosterone.

5. The Adverse Analytical Finding reported by the Laboratory in respect of the A sample was considered by an independent Review Board in accordance with TADP Article 7.4. The Review Board did not identify any apparent departures from the applicable sample collection or sample analysis procedures that could have caused this Adverse Analytical Finding, and therefore decided that the Player had a case to answer for breach of TADP Article 2.1 and/or TADP Article 2.2.

6. A series of further investigations followed:

6.1 On 6 October 2021, the ITF notified the Player that testosterone was present in her sample collected on 25 August 2021 and that she may therefore have committed anti-doping rule violation(s) under TADP Article 2.1 (presence of a Prohibited Substance in her sample) and/or TADP Article 2.2 (use of a Prohibited Substance). Given that testosterone is not classified as a Specified Substance under the TADP, the Player was further informed that she would be subject to a mandatory provisional suspension under TADP Article 7.12.1, with effect from 16 October 2021. The Player responded on 8 October 2021, denying the possible violations but asserting that the Adverse Analytical Finding might have been caused by treatment for certain health conditions.

6.2 On 21 October 2021, the Laboratory reported that the B sample had been analysed and found to contain exogenous testosterone, confirming the A sample analysis results. On 25 October 2021, the ITF charged the Player with the commission of anti-doping rule violations under TADP Articles 2.1 and/or 2.2. On 15 January 2022, the Player responded, admitting the violations but asserting that the Adverse Analytical Finding was caused by inadvertent administration of a medication containing testosterone. Specifically, the Player explained that on 20 August 2021 she attended an appointment at a private medical clinic in St Petersburg (the **Clinic**) for assessment of various health conditions following a diagnosis of COVID-19 in June 2021. The Player undertook a course of treatment in the Clinic that included injections of Vitamin D, as well as the ingestion of other substances (by intravenous and oral routes). This treatment was administered at the Clinic between once and three times per week between June 2021 and August 2021. Following notification of the Adverse Analytical Finding, the Player discussed the matter with an acquaintance, who informed the Player that he had also attended the Clinic on 20 August 2021, and had been treated in the bed next to the Player with a medication containing four testosterone esters. The Player asserted that the medical staff administering the injections must have accidentally mixed up the two treatments (such that the Player was inadvertently administered an intravenous infusion containing testosterone and the acquaintance received an injection of Vitamin D).

6.3 In support of this explanation, the Player provided a number of documents, upon review of which, the ITF requested further clarifications. On 24 March 2022, in response to the ITF's request, the Player provided additional documents relating to the intravenous infusions administered. These documents included copies of the Player's treatment plans, which set out the treatments that were prescribed to her, and copies of medical services delivery reports, which were stated to be receipts provided to the Player after each treatment recording the treatments that had been administered. On 19 May 2022, in response to further requests by the ITF, the Player provided further documents, including

hand-written drug charts, purporting to show the treatments administered to the Player on each of the relevant treatment days.

- 6.4 The ITF assessed the additional documents provided by the Player and concluded that the Player may have committed Anti-Doping Rule Violations in breach of TADP Article 2.2 in relation to the asserted Use of a Prohibited Method (intravenous infusions of more than a total of 100 mL per 12-hour period). At the ITF's invitation, on 20 August 2022, the Player submitted retroactive Therapeutic Use Exemption (TUE) applications. On 25 August 2022, the TUE Committee rejected those applications because the relevant requirements had not been met. The evidence in relation to the intravenous infusions was considered by an independent Review Board in accordance with TADP Article 7.4, which decided that the Player had a case to answer for breach of TADP Article 2.1 and/or TADP Article 2.2.
7. On 2 December 2022, the ITF sent the Player a pre-charge Notice explaining that: (1) exogenous testosterone was present in her sample collected on 25 August 2021 and that she may therefore have committed anti-doping rule violation(s) pursuant to TADP Article 2.1 (presence of a Prohibited Substance in her sample) and/or TADP Article 2.2 (use of a Prohibited Substance); and (2) she may have committed anti-doping rule violation(s) under TADP Article 2.2, on the basis of her Use on multiple occasions between July 2021 and August 2021 of a Prohibited Method, namely intravenous infusions over the permitted limit.
8. On 21 December 2022, the ITF formally charged the Player with the commission of anti-doping rule violations pursuant to TADP Articles 2.1 and/or 2.2 (**Charge Letter**), specifically those violations set out at paragraph 7, above. TADP Article 2.1 is a strict liability offence that is established simply by proof that a Prohibited Substance was present in the sample, i.e., the ITF does not have to prove how the substance got into the Player's system or that the Player took the substance intentionally (or even knowingly). TADP Article 2.2 is also a strict liability offence that is established simply by proof that a Prohibited Substance and/or Prohibited Method was used by the Player, i.e., the ITF does not have to prove that the Player used the Prohibited Substance and/or Prohibited Method intentionally (or even knowingly).

III. Consequences

III.A **Period of Ineligibility**

(a) **How the testosterone got into the Player's system**

During the course of correspondence with the ITF, the Player asserted that the testosterone was ingested and the intravenous infusions used during the course of her treatment at the Clinic in July and August 2021 (as detailed more fully at paragraphs 6, above).

(b) **TADP Articles 10.2 and 10.9.4**

9. TADP Article 10.2.1 specifies that a TADP Article 2.1 or 2.2 violation that is 'intentional' and is a first offence attracts a mandatory four-year ban.
- 9.1 If the prohibited substance in question is classified as a non-Specified Substance (as is testosterone here), TADP Article 10.2.1 specifies that the player has the burden of proving that the violation was not 'intentional'. If the player can do so, then TADP Article 10.2.2 provides for a two-year period of ineligibility, subject to mitigation.
- 9.2 If the prohibited method in question is classified as a Specified Method (as are intravenous infusions here), TADP Article 10.2.1 specifies that the ITF has the burden of proving that the violation was 'intentional', and if it can do so then a four-year period of ineligibility will

apply. If it cannot, TADP Article 10.2.2 confirms a two-year period of ineligibility will apply, subject to mitigation.

9.3 TADP Article 10.2.3 explains that in this context ‘the term ‘intentional’ is meant to identify those Players or other Persons who engage in conduct that they knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk’. The jurisprudence is clear that what counts in this context is what the Player actually knew, not what she should have known.³

9.4 This is the Player's first doping violation. While the Player has committed several anti-doping rule violations (i.e., in respect of both presence and use of exogenous testosterone and the use of intravenous infusions above the permitted limit), TADP Article 10.9.4.1 provides they should be treated as one violation for the purposes of sanction because the Player committed the second violation before she received notice of the first violation. Also in accordance with TADP Article 10.9.4.1, the sanction imposed for the violation ‘will be based on the Anti-Doping Rule Violation that carries the more severe sanction’, which here is the TADP Article 2.1/2.2 (exogenous testosterone) violation.

10. While the Player asserts that the violation was inadvertent and unintentional, the ITF does not accept that she has rebutted the presumption of intentional use of exogenous testosterone. Accordingly, a four-year period of ineligibility is the starting point in this case.

(d) TADP Article 10.8.1

11. TADP Article 10.8.1 provides for a one-year reduction to the otherwise applicable period of ineligibility where a player provides an early admission of the anti-doping violation(s) and accepts the default consequences:

‘Where the [ITF] sends a Player [...] a Charge Letter for an Anti-Doping Rule Violation that carries an asserted period of Ineligibility of four or more years (including any period of Ineligibility asserted under Article 10.4), if the Player [...] admits the violation and accepts the asserted period of Ineligibility no later than 20 days after receiving the Charge Letter, they will receive a one year reduction in the period of Ineligibility asserted by the [ITF]. Where the Player or other Person receives the one year reduction in the asserted period of Ineligibility under this Article 10.8.1, no further reduction in the asserted period of Ineligibility will be allowed under any other Article.’

12. The ITF sent the Player the Charge Letter in respect of the violations on 21 December 2022, and the Player admitted the charges and accepted the consequences five days later, on 26 December 2022. Accordingly, the Player will benefit from the one-year reduction to the otherwise applicable four-year period of ineligibility, pursuant to TADP Article 10.8.1.

13. The Player is therefore subject to a three-year period of ineligibility, backdated to 16 October 2021 to give the Player credit for time served while provisionally suspended, in accordance with TADP Article 10.13.2. Therefore, the Player’s period of ineligibility will expire at midnight on 16 October 2024 (subject always to the requirement of the Programme, including that the Player be available for Testing during her period of ineligibility in order for her to be deemed to have satisfactorily served her period of ineligibility, failing which 2023 TADP Article 10.16.1 will apply

³ ITF v Sharapova, Independent Tribunal decision dated 6 June 2016, para 77 (‘It is clear from the wording of article 10.2.3 that whether conduct is intentional is to be judged on the actual knowledge of the player, not on the basis of what she ought to have known or understood’) and para 71 (‘the concession that the player did not know that she was taking a Prohibited Substance resolves both elements of article 10.2.3. On neither basis was the conduct of the player intentional’).

and the Player will not be eligible for reinstatement until she has made herself available for Testing (by notifying the ITIA and ITF in writing) for a period of time equal to the period of Ineligibility remaining as at the date the Player first stopped making herself available for Testing).

III.B Disqualification of results

14. The Player's results in both the women's singles and women's doubles Competitions at the Event are automatically disqualified in accordance with TADP Articles 9.1 and 10.1 (with all resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money received as a result of participation in the Event).
15. The Player competed in three Competitions at two tournaments between the date of sample collection (25 August 2021) and the date of her provisional suspension under TADP Article 7.12.1, which came into effect on 16 October 2021. The general rule is that results obtained by the Player in that period will be disqualified pursuant to TADP Article 10.10, unless fairness requires otherwise. The Player has not asserted that the general rule should not apply, nor does the ITF consider that it should not apply. Accordingly, the Player's results obtained in the women's singles and doubles Competitions at the W15 Varna tournament from 6 to 12 September 2021 and the singles Competition for the WTA Astana Open from 27 September to 3 October 2021 are disqualified with all of the resulting consequences.

III.C Costs

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

III.D Publication

17. In accordance with 2023 TADP Articles 7.14.2 and 8.6, this decision will be publicly reported by being posted (in full and/or summary form) on the ITF's website.

III.E Acceptance by the Player

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

IV. Rights of appeal

19. This decision constitutes the final decision of the ITF, resolving this matter pursuant to 2023 TADP Article 7.14.
20. Further to 2023 TADP Article 13.2, each of WADA and RUSADA has a right to appeal against this decision to the CAS in Lausanne, Switzerland, in accordance with the procedure set out at TADP Article 13.9.
21. As part of this resolution of the matter, the Player has waived her right to appeal against or otherwise challenge any aspect of this decision (both as to the finding that the Player has committed anti-doping rule violations and as to the imposition of the Consequences set out above), whether pursuant to 2023 TADP Article 13.2 or otherwise. However, if an appeal is filed with the CAS against this decision either by WADA or RUSADA, the Player will be entitled (if so advised) to exercise her right of cross-appeal in accordance with 2023 TADP Article 13.9.4.

London, 17 February 2023