

*In the matter of alleged Corruption Offenses under the Tennis Anti-Corruption Program*

Professional Tennis Integrity Officers

-and-

Temur Ismailov

Before Anti-Corruption Hearing Officer:

Janie Soublière

Representing the Professional Tennis Integrity Officers:

Ross Brown and Alex Brooks

Temur Ismailov:

Self-represented.

**DECISION ON SANCTION**

**INTRODUCTION**

1. This dispute involves the Professional Tennis Integrity Officers ('PTIOs') and Temur Ismailov, a former International Tennis Association ('ITF') and Association of Tennis Professionals ('ATP') tennis player.
2. Janie Soublière holds an appointment as an Anti-Corruption Hearing Officer ('AHO') per section F.1 of Tennis Anti-Corruption Program ('TACP'). The AHO was appointed without objection by either party as the independent and impartial adjudicator to determine this matter as set out in the 2020 TACP, which governs all procedural aspect of this dispute.
3. Mr. Ismailov was previously sanctioned with a 7-year ban (2 years suspended) in December 2020 as a result of 3 admitted Section D1.d. offenses.
4. On 1 December 2020, the PTIOs charged Mr. Ismailov, Mr. [REDACTED] and Mr. [REDACTED] with various Tennis Anti-Corruption Program ('TACP') Corruption Offense charges relating to a match at the [REDACTED] tournament in [REDACTED] Uzbekistan on [REDACTED] June 2019 in which [REDACTED] and [REDACTED] played [REDACTED] and [REDACTED] ('the Match'). [REDACTED] and [REDACTED] lost the Match [REDACTED]

5. In a decision issued 1 June 2021 (the Decision), the AHO found Mr. Temur Ismailov liable for Corruption Offenses for his part in the fixing of the Match pursuant to sections D 1. k., D 1. d., D. 1. e and D.2 a. i. of the TACP, as detailed below, with a decision to be issued at a later date.
6. This is the AHO's order on sanction.

## THE PARTIES

7. The PTIOs are appointed by the Governing Bodies who participate in the TACP, namely the ATP Tour Inc., the Grand Slam Board, the ITF and the WTA Tour Inc. The PTIOs are responsible for administering the TACP and directing the Tennis Integrity Unit ('TIU'), now known as the International Tennis Integrity Agency ('ITIA'). 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. Temur Ismailov is a 26-year-old former professional tennis player from Uzbekistan. At the time the Corruption Offenses took place, he was registered with the ITF. To play in ITF tournaments, Mr. Ismailov 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. Ismailov did in 2019. Mr. Ismailov was previously charged and found liable for a Corruption Offense under the TACP for which he was banned for 7 years.

## THE LIABILITY

9. The 1 June 2021 Decision found Mr. Ismailov liable for breaches of TACP Sections D 1. k., D 1. d., D. 1. e and D.2 a. i.. They are as follows:

### **Charge 1**

Section D.1.k of the 2019 TACP: *"No Covered Person shall, directly or indirectly, solicit, facilitate, or conspire to solicit or facilitate any other person to contrive, attempt to contrive or conspire to contrive the outcome or any other aspect of any Event."*

### **Charge 2**

Section D.1.d of the 2019 TACP: *“No Covered Person shall, directly or indirectly, contrive, attempt to contrive, agree to contrive, or conspire to contrive the outcome, or any other aspect, of any Event.”*

### **Charge 3**

Section D.1.e of the 2019 TACP: *“No Covered Person shall, directly or indirectly, solicit, facilitate, or conspire to solicit or facilitate any Player to not use his or her best efforts in any Event.”*

### **Charge 4**

Section D.2.a.i of the TACP : *“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 TIU as soon as possible.”*

10. As there are multiple Corruption Offenses involved, in the interests of efficiency, the AHO is proceeding with her assessment and determination based on the offense which carries the highest sanction (Charge 3: D 1.e.) as any other sanction would ordinarily run concurrently. The others confirmed Offenses are to be considered as “aggravating circumstances”.

## **PROCEDURAL BACKGROUND**

11. Further to the Decision on liability being issued, as had been requested and agreed by all Parties and as acceded to by the AHO, on 9 June 2021 the AHO set out a procedural calendar for the parties to file their submissions on sanction. Both parties respected the procedural calendar.

## **APPLICABLE LAW AND JURISDICTION**

12. All Parties have agreed that the applicable rules are the 2019 TACP with regards to the alleged offenses and the 2020 TACP with regards to the procedure.
13. The PTIOs rely on the newly published 2021 Tennis Integrity Supervisory Board Sanctioning Guidelines although such Guidelines need not strictly apply to this matter.
14. No issues relating to jurisdiction or the arbitrability of this matter have been raised by any party at any time throughout these proceedings.

## PARTIES SUBMISSIONS

### I. PTIOs submissions

15. The PTIOs submit that it is reasonable and proportionate that Mr. Ismailov be ordered:

(i) to serve a lifetime ban from the sport of tennis; and

(ii) pay a fine of \$50,000

16. The PTIOs focus on the most serious Section D.1.e Offense for which Mr. Ismailov has been found liable as a result of soliciting and/or facilitating ██████████ (i.e., coercing and corrupting him) to commit match-fixing offenses.

17. Section D.1.e offenses have been deemed by AHOs and confirmed by the Court of Arbitration for Sport as being those which bear the greatest risk to tennis as a sport and require the most serious sanctions to offer the required level of deterrence to any Covered Person who might consider match-fixing in the future.

18. In making their recommendations, the PTIOs rely among others, on the lifetime ban sanctions imposed on the following players for their TACP Offenses further to being found liable of between one and four match fixing offenses, all notably Section D 1 offenses which, again, the PTIOs submit must be treated with the utmost seriousness: Daniel Koellerer, David Savic, Mauricio Alvarez-Guzman, Joao de Souza , Yossef Hossam, Aymen Ikhlef and Franco Feitt.

19. The PTIOs submit that a lifetime ban is entirely appropriate for Mr. Ismailov on the basis of the precedents for section D.1.e offenses and that this conclusion is substantially reinforced given Mr. Ismailov is already starting off with a seven-year sanction as previously imposed further to his admission of three for Section D2A offenses in December 2020.

20. The PTIOs then submit that Mr. Ismailov's Section D.1 d and D. 1 K offenses further support the imposition of a lifetime ban.

21. The PTIOs reiterate that Mr. Ismailov has been found to have been a part of a sophisticated match-fixing operation acting over a period of time. The match that was the subject of these proceedings was not a one-off. Mr. Ismailov had a crucial role to play as in many

match fixes. The PTIOs thus submit that it was Mr. Ismailov who was the focal point of a conspiracy and was the glue that held it all together.

22. The PTIOs reiterate that Mr. Ismailov is already serving a seven-year ban (with two years suspended) for other Corruption Offenses. The PTIOs thus submit that when a sanction is around the 15-year mark a threshold is reached whereby the sanction becomes a lifetime ban. That broadly equates with the length of a professional career for many professionals. As a result, the PTIOs argue that they need only demonstrate that Mr. Ismailov's sanction for the Charges should be eight years or higher in order for his seven-year sanction to be updated to a lifetime ban.

23. The PTIOs position can be summarised as follows:

- i. Mr. Ismailov should receive a lifetime ban on account of the section D.1.e offense.
- ii. In the event that the AHO does not consider that a lifetime ban is warranted for a section D.1.e offense, then a lifetime ban is still the appropriate sanction if the AHO concludes that the section D.1.e offense warrants a sanction of eight years or more (given the seven-year sanction already in place).
- iii. To the extent that consideration of section D.1.e in points (i) and (ii) above along with the existing sanction does not result in a lifetime ban, the PTIOs submit that one can still be justified when the broader nature of Mr. Ismailov's conduct that is highlighted by the section D.1.d and D.1.k charges.

24. In support of the above and relying on the new Tennis Integrity Supervisory Board Sanctioning Guidelines, although not strictly applicable here, the PTIOs note that under these same Guidelines, an assessment of Mr. Ismailov case would be categorised as an A1 offense which is the most serious category and for which the starting point is a lifetime ban.

## II. Mr. Ismailov's submissions

25. The Player has made brief submissions on his behalf in response to the PTIOs recommended sanction, they are reproduced in their entirety as follows:

*"I do not fully agree with the decision, I cooperated with the investigation, I always showed my readiness to cooperate, I always asked how I could help, I already got a long term and lost my job. in fact, I am already deprived of the right to inject at tournaments professionally. I think it is not fair to deprive me of the right to play and train for life with regard to the violations committed by me*

*Thank you*

*I hope for a fair decision".*

## DISCUSSION

26. Section H1 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,*

*(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)-(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”.*

27. Thus, pursuant to the TACP the harshest possible range of sanction that can be imposed on the Player is a fine of \$250 000, plus any amounts he received as a result of his match fixing, and a lifetime period of ineligibility.

28. As stated above, for the reasons outlined, the PTIOs have recommended a fine in the amount of \$50 000 and a lifetime period of ineligibility. The Player seeks a reduction of the recommended sanctions. Of course, the AHO is not bound by the sanction recommended by the PTIOs. The AHO may impose appropriate, just and proportional sanctions pursuant to the TACP bearing in mind all of the particular circumstances of each individual case.

29. In issuing this decision, the AHO reiterates that match fixing is a serious threat to sport, more pointedly tennis. Once admitted to and or established, match fixing can only amount to a deliberate, intentional offense directly threatening the purity of competition by eliminating the uncertainty of its outcome, which is the very heart of each tennis match. This is even more so when other players are approached and coerced into further tarnishing and corrupting the sport and conspiracies are formed and perpetuated to this end.

30. 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 athletes 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.

31. 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 in order 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 breaches.
32. 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 PTIOs have relied on 7 cases where the Players received lifetime bans.
33. In order to assist an AHO to determine the appropriate sanction to impose on a Player who has been found liable of Corruption Offenses the PTIOs' usual approach is to present several precedents of other players who have similar bans to that the PTIOs seek an AHO impose on a given Player after being found liable for one or more match-fixing offenses in similar circumstances. The PTIOs here propose that the sanction imposed by the AHO on Mr. Ismailov must reflect both what his conduct in the current proceedings warrants but also the impact of any ban that may be imposed here upon the sanction he is already serving.
34. Here, a precision must be brought, which in a way mitigates the sanction proposed by the PTIOs. Although Mr. Ismailov has indeed already been banned for 7 years and is currently serving out this ban, these new corruption charges for which he has been found liable are not a product of recidivism. He did not commit these infractions after being confronted by the TIU about the first charges. He did not serve out his ban and commit new charges. The Offenses for which he has now been found liable are in fact all part of match-fixing activities he committed at the same time. The current liabilities were brought forward in a separate procedure because of the involvement of ██████████ (who is being sanctioned for 5 years as a result of his role in fixing the Match) and possible involvement of ██████████ who has since been absolved as a result of the evidence against him falling short of satisfying the required standard of proof) in the Match.
35. Therefore, the AHO considers the Offenses committed by Mr. Ismailov as a whole and shall thus impose a sanction on Mr. Ismailov as a repeat offender, but not as a recidivist.
36. Whilst keeping in mind these above-noted and other AHO decisions and AHO's Decision on liability, the aggravating and mitigating elements considered in this determination are as follows:

### Aggravating factors

- Mr. Ismailov was a willing and integral participant in a sophisticated match-fixing operation with [REDACTED] (a professional match-fixer).
- He actively sought out the involvement of other, younger players, in his match-fixing endeavors.
- He displayed a proactivity about ensuring arrangements were properly made. He knew exactly what he was doing at all times and his sanction should reflect that conduct.
- Mr. Ismailov last completed the Tennis Integrity Protection Programme online training course in May 2019, having also completed it on other previous occasions. He has also signed the Player Welfare Statement on an annual basis between 2010 and 2019 which confirms Mr. Ismailov's agreement to be bound by the TACP.
- Although he argues that he was cooperative, on the evidence, Mr. Ismailov was obstructive during the TIU's investigation and the Hearing, and changed his story on a number of occasions in a futile attempt to disguise his actions from the TIU and the AHO and to protect [REDACTED]
- The Offenses were not a one-off, having already been sanctioned for admitted Corruption Offenses in 2020.
- Mr. Ismailov has shown no genuine contrition at any stage during the proceedings.

### Mitigating factors

37. The AHO notes as limited mitigating factors that Mr. Ismailov:

- Does not have the benefit of legal counsel.
- Has argued that a lifetime period of ineligibility would stop him from earning a living.
- Has admitted the last Corruption Offenses with which he was charged and, on a preponderance of the evidence, the only reason he only did not in this case was to protect [REDACTED] (as explained in the AHO's decision on liability).

## **DECISION ON SANCTIONS**

38. All the past cases relied upon by the PTIOs where lifetime bans have been imposed involve a player committing numerous fixing offenses including a D1e offense, e.g. making a corrupt approach to a third party. Therefore, the PTIOs have submitted that a lifetime ban is entirely appropriate for Mr. Ismailov on the basis of the well-established legal precedent for section D.1.e offenses.



39. Mr. Ismailov has requested a “fair decision” and he has submitted that a lifetime ban would be an overly harsh punishment to impose upon him. The AHO thus deems it imperative to point out that the seven (77 cases the PTIOs rely upon to support their request for a lifetime period of ineligibility, should cause Mr. Ismailov to appreciate the seriousness of the circumstances in which he finds himself, acknowledge the gravity of the offenses he has committed on a repeated basis and of the sanctions that usually derive from such offenses. Mr. Ismailov should understand that under the circumstances, a lengthy sanction 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. Ismailov be adequately admonished for the major match fixing and corruption offenses he has committed.
40. The AHO has little flexibility in terms of the applicable sanction both in terms of applicable jurisprudence and in terms of the applicable regulations.
41. The AHO refers to the new ITIA sanctioning Guidelines under which the Offenses committed by Mr. Ismailov 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 of time. The PTIOs have categorised Mr. Ismailov’s offenses as High Culpability (A) Category 1 offenses and the Player has not offered any rebuttal to this assertion.
42. This A1 categorisation is based on objective elements and factors provided in the Sanctioning Guidelines’ tables. It reflects the impact that Mr. Ismailov’s repeated corruption offenses actions have had on the integrity of the sport most notably considering that he sought out the involvement of ██████████ in his match fixing scheme. The fact that Mr. Ismailov has been found liable for bringing other Covered Persons like (at least) ██████████ into his web of match fixing cannot and must not be disregarded nor diminished. On this point, the AHO strictly abides by the finding in the Ikhlef matter relied upon by the PTIOs when the AHO stated:

*“ 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”.*

43. For the benefit of Mr. Ismailov, who neither appears to grasp the severity of this actions nor their negative impact on the sport of tennis, which the AHO does believe he loves, the AHO also echoes the reasons of the CAS Panel in Koellerer (CAS 2011/A/2490) in making its determination, and expressly cites the following passage:

*“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”.*

44. Although the PTIOs submit that when a sanction is around the 15-year mark the threshold of the sanction automatically becomes a lifetime ban because this broadly equates with the length of a professional career for many professionals, the AHO does not concur. Certainly in terms of playing careers this is the case, but not in terms of coaching. The new Sanctioning Guidelines also appear to reflect this approach when providing for a range of sanctions between 10yrs to a lifetime ban for Major TACP Offenses.
45. Nonetheless, the presumptive sanction for Category 1A offenses (as defined in the Sanctioning Guidelines) remains that of a lifetime ban. It is only where a Player is able to demonstrate with compelling objective and subjective evidence that his or her circumstances warrant a reduction in this presumptive sanction that some flexibility may be afforded to such Player.
46. The factors expressly listed in the Sanctioning Guidelines as those which “*may be considered*” by an AHO to reduce a Player’s presumptive lifetime ban are as follows:
- Genuine remorse
  - Good character and/or exemplary conduct
  - Real threat of harm to his self/herself or to their immediate family
  - Age, lack of maturity and/or inexperience on the professional tennis circuit
  - Mental disorder at the time of committing the offense or learning disability
  - Lack of access to education (for the avoidance of doubt, a failure to undertake education to which the Covered Person had access should not be a mitigating factor)
  - Gambling addiction (in Section D.1.a cases only where he or she has not committed offenses of any other type)
47. Mr. Ismailov will agree that the evidence here does not establish that any of the above mitigating factors apply to him. Therefore, there is little the AHO may do with regards reducing the presumptive sanction proposed by the PTIOs as provided for in the Sanctioning Guidelines and as clearly established in prior AHO and CAS decisions.
48. Applying the Table from the Sanctioning Guidelines and weighing up all the evidence and factors of this case, given the many aggravating factors outlined above *viz.* the repeated intentional, deliberate, premeditated and coercive acts of corruption the Player committed

at the time of his Offenses, and the limited mitigating elements, e.g. that some breaches of the TACP were admitted to by the Player in a prior adjudication, the only appropriate sanction to be imposed on Mr. Ismailov as a result of his many TACP Offenses is a lifetime ban from participation.

49. With regards to the applicable fine, the PTIO's seek the imposition of a \$50 000 fine. They argue that such a fine is vital to the interests of the sport of tennis and that it would account both for the monies Mr. Ismailov earned from fixing the Match and the \$ 35 0000 that ██████████ would also have made from his part in the fix .
50. However, as currently stated in the Guidelines *"In accordance with Section H.1.a(i) of the TACP, any fine is separate from a requirement imposed on a Covered Person to pay an amount equal to the value of any winnings or other amounts received by such Covered Person in connection with the Corruption Offense."* Therefore, in assessing the fine to impose, the AHO solely considers the monies received by Mr. Ismailov in connection with the Offenses he has committed and which are the object of this adjudication.
51. The AHO also considers it inappropriate and disproportionate to combine a lengthy ban with a significant fine with goes beyond the monies obtained from the match fixing.
52. On the evidence, Mr. Ismailov received a payment of four thousand dollars ( USD \$4 000) prior to the Match as an act of good faith from ██████████ and then another of ten thousand dollars (USD \$10 000) which he likely shared with ██████████ as a windfall for fixing the Match.
53. Considering the aggravating factors in this case, the AHO deems it appropriate to impose a supplementary prophylactic fine, in addition to the repayment of monies Mr. Ismailov gained from his corrupt activities in relation to the Match, which are assumed to be between USD \$9,000.00 - \$ 14,000.00.
54. Thus, keeping in mind all the evidence and the circumstances of this case (as discussed in the AHO's award on liability), the AHO finds that in addition to the lifetime participation ban that is being imposed upon him, the total fine to be paid by Mr. Ismailov is to be set at fourteen thousand dollars (USD \$14 000.00).

## ORDER

55. The Player, Temur Ismailov, a Covered Person as defined in Section B.6 and B. 18 of the TACP, has been found liable for Corruption Offenses pursuant to sections D 1. k., D 1. d., D. 1. E and D.2 a. i. of the TACP.

56. Pursuant to the TACP and the ITIA Sanctioning Guidelines, the sanctions imposed upon Mr. Ismailov as a result of these Corruption Offenses are:

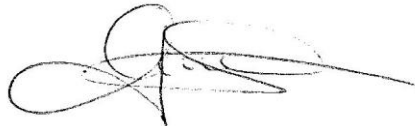
- i. A lifetime ban from Participation, as defined in Section B.17 of the TACP, in any Sanctioned Event as prescribed in TACP Section H1a(iii), effective on the date of this Decision.
- ii. A USD \$ 14 000 fine as prescribed in TACP section H1a(i), this fine is to be added to the previous fine of USD \$ 12 000 imposed on Mr. Ismailov in December 2020.

57. Pursuant to TACP Section G.4.e., this award on sanction along with the AHO's reasoned decision on liability are to be publicly reported.

58. Pursuant to TACP Section G.4.d. this award on sanction, read in conjunction with the AHO's full reasons on liability, is a full, final, and complete disposition of this matter and is binding on all parties.

59. This Decision can be appealed to 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 Montréal, Québec this 21<sup>st</sup> day of July 2021



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Janie Soublière C. Arb.  
Anti-Corruption Hearing Officer