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Integrity in Tennis

Doping, Match-Fixing and Other Corruption Offenses

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1 Introduction

Tennis, like all sports, takes the maintenance of integrity in all its events with the utmost seriousness. Tackling the issues of corruption and doping, which this chapter focuses on, has been a cornerstone of the approach adopted by the governing bodies of tennis for a significant period. Corruption issues, where a player, coach or official might contrive some or all of a match in a variety of ways for a financial return were first investigated by the Tennis Integrity Unit (TIU) in 2009 and managed under the Tennis Anti-Corruption Program (TACP). The International Tennis Federation (ITF) has dealt with doping matters for far longer under the Tennis Anti-Doping Program (TADP). In December 2020, the International Tennis Integrity Agency (ITIA) was formed. It is a private company limited by guarantee and without share capital with a registered office in the United Kingdom. The ITIA is an operationally independent organization with the aim of addressing integrity issues in tennis. On January 1, 2021, it took over responsibility for investigating and prosecuting corruption matters from the TIU and took over responsibility for investigating and prosecuting doping matters from the ITF a year later.

The ITIA employs over forty individuals and is led by a CEO, currently Karen Moorhouse. There are significant teams investigating breaches of the TACP and TADP, analyzing data and addressing education. The ITIA is overseen by the Tennis Integrity Supervisory Board, which has nine members and is independently chaired by Jennie Price CBE. Of those members, four are from each of the tennis governing bodies in membership of the ITIA, being the ITF, the Association of Tennis Professionals (ATP), the Women's Tennis Association (WTA) and the Grand Slam Board (as the umbrella body for the four Grand Slam

https://doi.org/10.1017/9781009597616.011 Published online by Cambridge University Press

tournaments). The remaining five, including the non-executive chair, are independent of the sport of tennis, ensuring that the ITIA's decision-making is as independent as it possibly could be. Funding for the ITIA is received from the governing bodies.

2 Anti-Doping

The concept of anti-doping is an evocative one. The vast majority of professional athletes, together with all stakeholders in sport from governing bodies, sponsors, fans and others, are firmly opposed to doping. It is cheating and it should have no place in professional sport. Sport is, of course, based upon the principles of fairness and equality. If one athlete seeks to change that through artificially enhancing their own performance, then the basic concepts of sport that so many love will start to break down. It is, therefore, natural that there must be rules to regulate the doping of athletes, and hopefully dissuade them from doping in the first place. Sport has dealt with anti-doping issues before harmonization of the international approach, with the incorporation of the World Anti-Doping Agency (WADA) in November 1999 to regulate anti-doping on a global basis. The WADA brought a consistency to how athletes were held to account and sanctioned. The Prohibited List was born, which set out what the Prohibited Substances were (and the related Prohibited Methods). It categorized them – some were more serious than others, some had legitimate uses, while others did not. It is scientific and technical in nature, making it complicated for all.

In order for the WADA to address this complexity, its rules were necessarily lengthy and detailed. The World Anti-Doping Code itself is currently over 150 pages long. There are several supporting regulations known as International Standards encompassing all areas of anti-doping which also run to hundreds of pages when taken together. This results in a complex but necessary set of harmonized rules for both the regulators and the athletes, as well as a significant amount of case law.

2.1 Legal Framework

In common with other international federations, the ITF is a signatory to the Code and is accountable to the WADA for its compliance with the Code in terms of how it regulates anti-doping within tennis. It does so

through the TADP. The ITF has delegated all aspects of doping control and education to the ITIA.[1] This means that the ITIA is responsible for the entirety of the anti-doping process from testing through to results management, which ultimately involves the prosecution of individuals alleged to have committed an Anti-Doping Rule Violation (ADRV).

The TADP principally applies to players, with the term defined on a broad basis.[2] There are other individuals/entities that are subject to the TADP,[3] but for the purposes of this chapter, the focus is on players. The TADP and the International Standards set out the anti-doping offenses before addressing the entire anti-doping process that an individual might be subject to, from the act of providing a urine or blood sample; what happens if that sample is found to contain a prohibited substance; and the legal process that would then follow to establish whether that individual should have a sanction imposed upon them.

2.1.1 The Anti-Doping Offenses

The two most common violations under the TADP are "presence" and "use" of a prohibited substance, or a prohibited method under Articles 2.1 and 2.2 of the TADP.[4] For the purposes of this chapter, the focus will be on prohibited substances. These are strict liability offenses which put a personal responsibility on any player to ensure that they do not commit an offense.[5] It is not, therefore, necessary in most situations to prove intent, fault, negligence or knowing use on the player's part in order to establish an ADRV; nor is lack of intent, fault or knowledge a defense to an ADRV.[6] The usual starting point is that in most cases where there is an Article 2.1 charge brought, a charge will also be brought under Article 2.2.

[1] See TADP 2025, Art. 1.1.7.

[2] "Player" is defined by reference to TADP, Art. 1.2.6, which includes any individual who has an association with the ITF or any national association, as well as any individual who has participated in professional tennis. This provision also addresses how players become subject to the jurisdiction of the TADP.

[3] In particular, a "player support person," which is also broadly defined as "any coach, trainer, manager, agent, team staff, official, nutritionist, medical or paramedical personnel, parent or any other Person working with, treating or assisting a Player who is participating in or preparing for sports Competition."

[4] TADP, Art. 2.1 states that an ADRV is committed by the "presence of a Prohibited Substance or any of its metabolites or markers in a Player's Sample." TADP, Art. 2.2 states that an ADRV is committed by the "use or attempted use by a player of a prohibited substance or a prohibited method."

[5] See TADP, Art. 2.1.1.

[6] Ibid.

The only circumstances where presence or use is established but there is no ADRV is where: (1) the presence or use is in accordance with a therapeutic use exemption[7] (so to address a legitimate medical need); and/or (2) the prohibited substance or prohibited method[8] related to a period where the relevant individual was out-of-competition, with such substance or method only being prohibited in-competition. The WADA publishes the Prohibited List[9] on an annual basis and that document determines what constitutes a prohibited substance or a prohibited method.

2.1.1.1 Presence An ADRV is often established under Article 2.1 simply by virtue of a prohibited substance (or its metabolites or markers[10]) being detected in a blood or urine sample provided by an athlete – namely, the testing of the sample results in a positive result, known as an Adverse Analytical Finding (AAF). The exception to that is where a prohibited substance is a threshold substance, meaning that an AAF will only arise if a specific quantity of the prohibited substance is detected, with those quantities being set out in the Prohibited List. A good example is asthma medication, where use of a certain amount is accepted as treating a legitimate condition, but going above the threshold suggests abuse of that product for performance-enhancement reasons.

2.1.1.2 Use An ADRV under Article 2.2 usually follows on directly from an Article 2.1 violation. If "presence" is established, then it is assumed that a player "used" the prohibited substance, and received some benefit from it, whether or not that use was intentional, and irrespective if the benefit was significant or not.

[7] A therapeutic use exemption (TUE) permits "a player with a medical condition to use a prohibited substance or prohibited method," albeit subject to conditions.

[8] A prohibited substance refers to any "substance, or class of substances, so described on the Prohibited List," being a list produced annually by the WADA, with a prohibited method defined by reference to the Prohibited List as well.

[9] The Prohibited List 2025 is available at: www.wada-ama.org/sites/default/files/2024-09/2025list_en_final_clean_12_september_2024.pdf.

[10] A metabolite is defined as "any substance produced by a biotransformation process," which essentially refers to a substance produced during the process of metabolism in the body. A marker is defined as a "compound, group of compounds or biological variable(s) that indicate the use of a prohibited substance or prohibited method."

2.1.1.3 Other ADRVs There are nine other ADRVs under the TADP, addressed at Articles 2.3 to 2.11. These predominantly relate to circumstances where: (1) a player is seeking to avoid the doping control process in some way; or (2) a player/player support person is assisting another player in committing (or covering up) an ADRV.

Those ADRVs are (in summary):

1. Evading, refusing or failing to submit to sample collection (Article 2.3).
2. Whereabout failures, including missed tests and filing failures in a 12-month period (Article 2.4).
3. Tampering with any part of doping control (Article 2.5).
4. Possession of a prohibited substance or a prohibited method (Article 2.6).
5. Trafficking in any prohibited substance or prohibited method (Article 2.7).
6. Administration of a prohibited substance or a prohibited method with variation depending on whether the administration is out-of-competition or not (Article 2.8).
7. Complicity (Article 2.9).
8. Prohibited association with an individual serving a period of ineligibility (Article 2.10).
9. Acts that discourage or retaliate against reporting to anti-doping authorities (Article 2.11).

ADRVs under Articles 2.3 and 2.5 to 2.8 have the same starting point of a four-year ban when considering the appropriate sanction being imposed. The presence and use of ADRVs are potentially considered as serious. Articles 2.9 and 2.11 have a lower starting point of two years, but with scope for a four-year ban or higher. Articles 2.4 and 2.10 have a maximum sanction of two years. There is a significant body of case law (both from tennis and other sports) that considers many of these ADRVs. However, Articles 2.3 to 2.11 are beyond the scope of this chapter, where the focus is on the substantial detail available regarding ADRVs under Articles 2.1 and 2.2.

2.2 Proceedings

Once a sample has been taken from a player, it will be transported to a WADA-accredited laboratory for testing for any prohibited substance, on an anonymous basis. If a prohibited substance is detected in a player's

A sample, an AAF will be reported to the Results Management Authority, which is usually either a national anti-doping organization or the relevant domestic or international federation. As above, in tennis, it is the ITIA that is tasked with responsibility for results management. This responsibility has been delegated by the ITF.

An AAF does not mean that a player has committed an ADRV, but rather gives rise to the need for the ITIA to investigate. The first step the ITIA may take is to appoint a review board which will consider several issues,[11] including whether the player has a TUE in place, which would adequately address an AAF so that the matter would go no further.

2.2.1 Notice

Assuming the review board finds no reason not to, the ITIA would then issue a Notice.[12] That document will address various issues, including: (1) the alleged ADRV(s); (2) the relevant facts/evidence; (3) whether a provisional suspension[13] is to be imposed; (4) the possible sanction the player may face; and (5) what the player must do next. As to point (5), the Notice will also set out the principal rights that the player has, including the right to the laboratory documentation package relating to the AAF and the right for the player to have their B sample analyzed, as well as attend that analysis. The two other key steps are that the player will be invited to provide an explanation of why their A sample tested positive for a prohibited substance and be asked if they want to admit or deny that they have committed an ADRV.

2.2.2 Charge Letter

The ITIA will review the player's explanation and the results of any B sample analysis. The ITIA may also elect to investigate the matter, including conducting interviews with a player and any other relevant individuals (such as members of the player's coaching and support teams). At the conclusion of its review/investigation, the ITIA will decide whether the player should be charged with one or more ADRVs. If the player is to be charged, a Charge Letter will be sent.[14] Like the Notice, it will include the alleged ADRV(s) and the relevant facts/evidence. It will also confirm the Consequences the ITIA will seek, which is principally

[11] See TADP 2025, Art. 7.4.2.
[12] Ibid., Art. 7.4.4.
[13] See ibid., Art. 7.12, for how provisional suspensions are imposed and challenged.
[14] See TADP 2025, Art. 7.13.

the period of ineligibility,[15] and the timeframe for a response. Here, the player will need to set out clearly the option they would like to pursue. They can:

1. Admit the ADRV(s) and accede to the Consequences specified in the Charge Letter.[16]
2. Admit the ADRV(s), but seek to mitigate the Consequences by attempting to agree a sanction with the ITIA.[17]
3. Admit the ADRV(s), but seek to mitigate the Consequences and request that they be determined at a hearing.[18]
4. Deny the ADRV(s) and have the charge and Consequences determined at a hearing.[19]

In the event of the ADRV(s) being admitted and Consequences acceded to, the ITIA will promptly issue a reasoned decision to confirm the outcome.[20]

2.2.3 Hearing

Where an individual requests that the charge and/or Consequences are to be determined at a hearing, the matter will be referred to an Independent Panel, comprised of lawyers, and medical and technical experts.[21] The Chair of the Independent Panel will select an Independent Tribunal, made up of three individuals with a legally qualified Chair, to determine the matter.[22] Once convened, the Chair of the Independent Tribunal will convene a preliminary meeting to set a hearing date and a timetable leading up to that date, along with addressing any other pre-hearing issues.[23] The principal directions to be agreed will be for the parties to exchange witness evidence, whether factual or expert, and a written brief setting out their position on the charges in light of the evidence.

[15] See the definition of Consequences for the full list, which can include disqualification of results, public disclosure and the payment of costs.
[16] Where the Charge Letter asserts a period of Ineligibility of four or more years, the player may seek a reduction in their sanction for an early admission in accordance with TADP 2025, Art. 10.8.1. See also Art. 7.13.3.
[17] See the Case Resolution Agreement process under TADP 2025, Art. 10.8.2, something that also requires the approval of the WADA. In the well-publicised CAS proceedings of *WADA* v. *Jannik Sinner, the ITIA and the ITF*, the parties agreed a case resolution agreement in February 2025. See also TADP 2025, Art. 7.13.3.2.
[18] See TADP 2025, Art. 7.13.3.3.
[19] Ibid., Art. 7.13.3.4.
[20] Ibid., Art. 7.14.2.
[21] Ibid., Art. 8.1.
[22] Ibid., Art. 8.2.
[23] Ibid., Art. 8.3.

The starting point is that an in-person hearing will be held in London, in English and will be confidential.[24] The player has the right to be present and to speak at the hearing, as well as being legally represented.[25] The Independent Tribunal will aim to issue its decision within fourteen days, albeit longer is often needed. That decision will address, as needed, whether an ADRV has been committed and, if so, what the Consequences should be (being, principally, what the period of ineligibility for the player should be), as well as confirm that there is a right of appeal.[26] As to costs, and subject to the Independent Tribunal's view, the starting point is that the ITIA will bear the costs of convening the hearing and each party will then bear its own costs.[27]

Given the strict liability nature of the offenses under the TADP, it is most likely that a hearing will not address the question of liability and will only address the appropriate Consequences. For example, in the "presence" charges being considered here, the presence of a prohibited substance in a player's sample is sufficient for liability to be found. Therefore, the battleground at hearings is usually around the period of ineligibility issued and the extent to which that can be reduced, or even eliminated, under the TADP. All matters pertaining to the Independent Tribunal are explained in detail in Chapter 7 of this volume.

2.3 Sanctions

In Article 2.1 or 2.2 concerning "presence" and "use," the starting point for a player's period of ineligibility, assuming it is a first offense, will be four years.[28] However, it is possible that a four-year period may be significantly reduced or even eliminated by various means. The Independent Tribunal may consider two key questions in order to determine the appropriate period of ineligibility:

1. Whether the player acted with intention in committing the ADRV. If so, no further steps are required, and the period of ineligibility will stay at four years. If the player did not act intentionally, the four-year starting point will be reduced to a two-year starting point.[29]

[24] Ibid., Art. 8.4.3.
[25] Ibid., Art. 8.4.5.
[26] Ibid., Art. 8.5.2.
[27] Ibid., Arts 8.5.3 and 8.5.4.
[28] Ibid., Art. 10.2.1.
[29] Ibid., Art. 10.2.2.

2. Assuming that the player was successful on the question of intention, the period of ineligibility may be reduced further, or eliminated entirely, depending on the level of fault. The player will need to establish that one of the concepts of "no fault or negligence" or "no significant fault or negligence" applies to their circumstances.

While the burden of proof is on the ITIA to establish that an ADRV has taken place,[30] since the strict liability concept exists and ADRVs are usually admitted, it is the questions of intention and fault that are most important. As regards those questions, the burden of proof usually, but not always, falls upon the player.

2.3.1 Intention

The first issue to consider when addressing intention in "presence" and "use" cases is whether the prohibited substance is a specified substance or a non-specified substance. Various substances are identified as such on the Prohibited List. Broadly, a specified substance is one where there may be a legitimate reason for a player to be using it, such as medication for treating a condition like asthma. A non-specified substance is one for which there is no therapeutic need and hence there is no legitimate reason for its use, such as an anabolic steroid. This distinction is important since:

1. for a non-specified substance, the burden of proof is on the player to prove that an ADRV was not intentional;[31]
2. for a specified substance, the burden of proof is on the ITIA to prove that an ADRV was intentional.[32]

If the player can meet their burden of proof in the first example, or the ITIA cannot meet its burden in the second example, the period of ineligibility will decrease from four years to two. In the rest of this chapter, the focus will be on the question of intention as regards non-specified substances, as that is where it is more likely that a player and the ITIA will be in dispute. There is a presumption that an ADRV in these circumstances was intentional, and the four-year starting point is

[30] See ibid., Art. 3.1.1, which addresses the "comfortable satisfaction" standard of proof and confirms it is "greater than a mere balance of probability [51%] but less than proof beyond a reasonable doubt [75%]." In percentage terms, it is generally considered to be around a 66 percent likelihood.

[31] See TADP 2025, Art. 10.2.1.1.

[32] Ibid., Art. 10.2.1.2.

justified, given such substances have a significant potential to enhance sporting performance and do not have relevant and/or legitimate therapeutic benefits.[33] That presumption has been consistent in Court of Arbitration for Sport (CAS) jurisprudence for at least twenty years.

The term "intentional" is used with the aim of identifying players engaging in conduct that they knew constituted an ADRV or knew that there was a significant risk that the conduct might constitute an ADRV and manifestly disregarded that risk;[34] or, in more simple terms, players who are cheating. There are two ways in which a player might establish a lack of intention to commit an ADRV:

1. The way envisaged by the TADP, and by far the more common, is for a player to identify the source of the prohibited substance found in the AAF and then use that to explain why they were not acting intentionally.
2. Despite not identifying the source, the player can demonstrate there is some other good reason to justify a finding that they were not acting intentionally.

2.3.2 Identifying the Source

The TADP is derived from the Code, which makes it clear that the expectation for an athlete seeking to establish a lack of intention is that they will usually be expected to establish the source of the prohibited substance.[35] The onus is on the athlete.[36] The starting point when interpreting the TADP and CAS jurisprudence is that establishing the source will entail the identification of a particular product, such as a medication or a supplement, or some other item that provides a clear rationale for that product/item being the source.[37] There is a logic to this,

[33] *Dylan Scott* v. *ITF*, CAS 2018/A/5768, at para. 128.
[34] See TADP 2025, Art. 10.2.3.
[35] Comment 58 to Art. 10.2.1.1 of the Code states that: "While it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance."
[36] *Jose Paolo Guerrero* v. *FIFA and WADA* v. *FIFA and Guerrero*, CAS 2018/A/5546 and 5571, at para. 65(i), which states: "It is for the athlete to establish the source of the prohibited substance, not for the antidoping organisation to prove an alternative source to that contended for by the athlete."
[37] *WADA* v. *International Weightlifting Federation & Yenny Fernanda Alvarez Caicedo*, CAS 2016/A/4377, at para. 52, which states: "CAS and other cases make clear that it is not

since knowing specifically how a prohibited substance was ingested permits the relevant arbitral body to draw a conclusion as to whether this was intentional or not. If the nature of the player's conduct is unknown, then it is difficult to assess whether the conduct was intentional.[38]

Therefore, establishing that something is possible is not sufficient to establish source.[39] Instead, "concrete evidence"[40] is required in a manner that permits an arbitral body to carry out a full analysis on a player's explanation of their AAF. That is why it is rare for an athlete to disprove intention without identifying a specific source or the "means of ingestion,"[41] something requiring a degree of specificity. Where a particular medication, supplement or other product is identified as containing a prohibited substance, there must be evidence to support that

sufficient for an athlete merely to protest their innocence and suggest that the substance must have entered his or her body inadvertently from some supplement, medicine or other product which the athlete was taking at the relevant time. Rather, an athlete must adduce concrete evidence to demonstrate that a particular supplement, medication or other product that the athlete took contained the substance in question."

[38] *Roberto La Barbera* v. *International Wheelchair & Amputee Sports Federation*, CAS 2010/A/2277, at para. 35: "The CAS has constantly repeated that the requirement of showing how the Prohibited Substance got into the Athlete's system must be enforced quite strictly since, if the manner in which a substance entered an athlete's system is unknown or unclear, it is logically difficult to determine whether the athlete has taken precautions in attempting to prevent such occurrence."

[39] See *Guerrero*, at para. 65(ii), which states that "establishing that a scenario is possible is not enough to establish the origin of the prohibited substance."

[40] See *Caicedo*. See also *Ihab Abdelrahman* v. *Egyptian Anti-Doping Organization, WADA* v. *Ihab Abdelrahman & Egyptian Anti-Doping Organization*, CAS 2017/A/5016 and 5036, at para. 125, which states that "in order to disprove intent, an athlete may not merely speculate as to the possible existence of a number of conceivable explanations for the AAF" and "then further speculate as to which appears the most likely of those possibilities to conclude that such possibility excludes intent." Reference is then made to significant consistent CAS jurisprudence on this topic. Another relevant case is *Iannone* v. *FIM*, CAS 2020/A/6978; *WADA* v. *FIM & Iannone*, CAS 2020/A/7068, at para. 134, which again refers to "concrete and persuasive evidence."

[41] See *UKAD* v. *Buttifant*, SR/NADP/508/2016, at para. 33, where it was stated that "we consider it will be a rare, possibly very rare case, where the athlete will be able to satisfy the burden of proof as to intent without establishing the likely means by which the Prohibited Substance entered his system." On appeal in the same case, at para. 31, it was held that: "It is only a rare case that the athlete will be able to satisfy the burden of proof that the violation of article 2.1 was not intentional without establishing, on the balance of probabilities, the means of ingestion."

conclusion.[42] Explanations based solely on speculation, clean anti-doping records and protestations of innocence will not be sufficient.

2.3.3 Other Good Reason

It is clear from the drafting of the TADP and the Code that it is not a mandatory requirement to establish source in order to establish a lack of intention. However, it is also clear from CAS jurisprudence that, factually, these will be rare and exceptional cases. A player must pass through the "narrowest of corridors" to be able to do so.[43]

In recent years, a few CAS awards have sought to widen the narrow corridor concept, even if marginally. Relevant awards widening the concept have preferred to consider: (1) the science; (2) the totality of the evidence; (3) common sense; and (4) the credibility of the relevant athlete.[44] However, other recent CAS awards have reinforced the traditional view.[45] Whichever analysis is used, it is clear that this route for a player discharging their burden to demonstrate a lack of intention remains an exceptional one.

2.3.4 Fault

The concept of fault is only relevant in non-specified substance cases where the player has managed to discharge their burden to prove a lack of

[42] *WADA* v. *CADC & CSF & Kaskova*, CAS 2019/A/6213, at para. 65: "In the proceedings before the CADC the Athlete submitted that the only way the prohibited substance could have entered her body was through the use of the food supplement Ginseng Kianpi Pil . . . She could not submit the product for testing, as she did not have it any more but furnished statements from her mother and colleagues of her father, a report on the care provided to her father, a written consultation from a toxicologist and website screenshot of Ginseng Kianpi Pil ('Ginseng'). There is no proof of purchase, no information as to the specific type of supplement used, by whom it is produced, etc. and the Athlete did not disclose Ginseng Kianpi Pil on the doping control form submitted by her. The documents submitted by the Athlete did not substantiate her contention that she did use that product or that it was contaminated with metandienone."

[43] *Mauricio Fiol Villaneuva* v. *FINA*, CAS 2016/A/4534, at para. 37, which states that: "the Panel can envisage the theoretical possibility that it might be persuaded by an athlete's simple assertion of his innocence of intent when considering not only his demeanour, but also his character and history . . . That said, such a situation would inevitably be extremely rare. Even on the persuasive analysis of Rigozzi, Haas et al, proof of source would be 'an important, even critical' first step in any exculpation of intent. Where an athlete cannot prove source it leaves the narrowest of corridors through which such an athlete must pass to discharge the burden which lies upon him."

[44] *WADA* v. *Swimming Australia, Sport Integrity Australia & Shayna Jack*, CAS 2021/A/7579 and 7580, at para. 157.

[45] See *Iannone*, at para. 134, where two precursor cases to *Jack*, ibid., were considered as "outliers."

intention. At this stage, the starting point for a player's period of ineligibility is two years. That period can be reduced further, or even eliminated entirely, where the player can:

1. Establish that he or she bears no fault or negligence in respect of the ADRVs. If so, the period of ineligibility shall be eliminated.[46]
2. Establish that he or she bears no significant fault or negligence.[47] If so, the period of ineligibility shall be, at a minimum, a reprimand and no period of ineligibility. At a maximum, two years of ineligibility depending on the degree of fault shall be imposed.

2.3.5 No Fault or Negligence

The player must demonstrate that "they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution" that they were committing an ADRV. In the majority of situations, the player "must also establish how the Prohibited Substance entered their system."[48] The latter quote sets out an initial threshold that an athlete "must" establish before going further. This is a mandatory requirement from which there is no discretion to depart and refers to the question of identifying the source addressed above in relation to the concept of intention.[49] This requirement entails that some specifics are needed, such as the name of the relevant product, how it was ingested and when, among others.[50] This is an important pre-condition[51] for the

[46] See TADP 2025, Art. 10.5.

[47] Ibid., Art. 10.6.1. While Art. 10.6.2 also provides the possibility of No Significant Fault or Negligence, that use of that provision is far less common and beyond the scope of this chapter.

[48] Both quotes taken from the definition of "No Fault or Negligence" in the TADP 2025.

[49] This is different from the concept of intention, where proving source is important, but not mandatory.

[50] See *FINA & WADA* v. *Marco Tagliaferri*, CAS 2008/A/1471 and 1486, at para. 9.5.2, which states that it was not established "how, and because of what surrounding circumstances" the Prohibited Substance came to be in the athlete's system. See also *I* v. *FIA*, CAS 2010/A/2268 – para. 130 of which states that: "As a consequence of the Appellant's failure to prove the objective element of the route of ingestion, the subjective element of fault does not fall for consideration." See also *ITF* v. *Mariano Puerta*, ITF Independent Anti-Doping Tribunal Award (December 21, 2005), available at: www.5rb.com/wp-content/uploads/2013/10/Maria-Puerta-Tribunal-ITF-21-Dec-2005.pdf, para. 57 of which quotes *ITF* v. *Jamie Burdekin*, ITF Independent Anti-Doping Tribunal Award (April 4, 2005) – para. 76 of which states that a player must "show what the factual circumstances were in which the substance entered his system, not merely the route by which it entered his system."

[51] See *WADA* v. *Darko Stanic & Swiss Olympic Association*, CAS 2006/A/1130 – para. 30 of which states: "Obviously this precondition is important and necessary otherwise an

obvious reason that an arbitral body cannot properly analyze whether a player is at fault for the presence of a prohibited substance if it is unknown how it got into the player's system. It is not, therefore, sufficient to make general assertions as to what the source might have been.[52] However, if a player has discharged their burden in proving a lack of intent, they are likely to have done so through the identification of a source. Hence, in practice, this threshold can often be overcome.

If this is so, consideration of the "utmost caution" test is required. A player must demonstrate to an arbitral body that they have fully complied with that duty. This means that they must show that they have made every conceivable effort to avoid taking a prohibited substance and that the substance got into their system despite all due care on their part. As a result, the "utmost caution" test is a very high standard to overcome.[53] The global anti-doping system is premised on the basis of strict liability. If a prohibited substance is in a player's system, then that player bears personal responsibility for that outcome. It is only on the basis of an exceptionally good reason, on an objective rather than a subjective basis, that a player may circumvent strict liability. It is, therefore, incumbent upon players to take all steps that they can to ensure a prohibited substance is not present in their system. It is their fundamental duty under the TADP and the Code.[54]

athlete's degree of diligence or absence of fault would be examined in relation to circumstances that are speculative and that could be partly or entirely made up. To allow any such speculation as to the circumstances in which an athlete ingested a prohibited substance would undermine the strict liability rules . . . thereby defeating their purpose."

[52] See *UKAD* v. *Catana*, UK Anti-Doping Tribunal Award (unreported) – para. 6.5 of which states that: "the Respondent's contention is that the Prohibited Substance in question must have entered his system by being ingested through contaminated supplement. The Respondent has provided no more than a list of supplements that he has taken. He has not indicated which one or more of the supplements he considered was contaminated, nor has explained how such contamination might have occurred. He produces no scientific or other evidence that any supplement taken by him is or was in fact contaminated . . ." See also *Roberto La Barbera* v. *IWAS*, CAS 2010/A/2277: "One hypothetical source of a positive test does not prove to the level of satisfaction required that such explanations are factually or scientifically probable. Mere speculation is not proof that it did actually occur."

[53] See *ITF* v. *Stefan Koubek*, ITF Independent Anti-Doping Tribunal Award (2005) – para. 79 of which referred to the "utmost caution" test and described it as being a "very high standard which will only be met in the most exceptional cases." A subsequent CAS appeal affirmed that decision.

[54] See *Robert Kendrick* v. *ITF*, CAS 2011/A/2518, at para. 10.14.

The phrase often used is a player making "every conceivable effort" to avoid a prohibited substance being present in their system.[55] However, this does not mean that it is impossible to succeed with a no fault or negligence defense – great care is needed, but there remains an avenue where a player may have been able to have done more, but such a step was not considered necessary in the relevant circumstances. A player is responsible for the acts and omissions of others around them, whether friends and family, members of the backroom staff at their club or members of the support team they surround themselves with.[56] Examples where a no fault or negligence defense has been successful include the following:

1. A player had a TUE in place for the use of a terbutaline inhaler for his asthma. He asked a doctor at an ATP event for some more, but the doctor provided a salbutamol inhaler in error, for which the player had no TUE. It was held that there was no way that the player could have known about that error.[57]
2. A player ingested cocaine after kissing a woman who had taken cocaine herself. It was held that it was not reasonable to expect anyone to know that it was possible to be contaminated with cocaine in such circumstances.[58]

Even so, a no fault or negligence defense was unsuccessful where a player was found to have some fault despite being unaware that the prohibited substance ingested was in a glass of water that his wife had used to take some medication and then used the same glass. There were no other clues from the flavor, odor or color of the water ingested.[59]

[55] *Hans Knauss* v. *FIS*, CAS 2005/A/847, at para. 7.3.1, where it states that athletes must demonstrate that they have "made every conceivable effort to avoid taking a prohibited substance." Mr. Knauss did actually take significant steps, such as proving that he reviewed the label and the packaging of the supplement he took and that he had written to the distributor of the supplement and obtained their written certification that no prohibited substance was contained within it. However, that was not enough to satisfy the "every conceivable effort" test since Mr. Knauss could have done more – such as having the supplement tested or simply not having taken it at all and avoiding the consequential risk.

[56] *Sara Errani* v. *ITF*, CAS 2017/A/5301, at para. 198, where it is stated that Ms. Errani's "responsibility includes that she is responsible for the behaviour of her entourage, be it her coaches, medical staff etc" and then at para. 199, that the "degree of fault exercised by the Athlete's mother is to be imputed to the Athlete herself."

[57] *ATP* v. *Perry*, ATP Anti-Doping Tribunal Award (2005).

[58] *ITF* v. *Richard Gasquet*, CAS 2009/A/1926.

[59] *Puerta* v. *ITF*, CAS 2006/A/1025.

A common defense to many anti-doping proceedings is that a supplement was contaminated with a prohibited substance, without the player's knowledge. However, the Code is clear that contaminated supplements are not sufficient to justify a finding of no fault of negligence.[60]

2.3.6 No Significant Fault or Negligence

In order to demonstrate that they are entitled to a reduction in their sanction under the concept of no significant fault or negligence, a player must establish that "their fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for no fault or negligence, was not significant . . ." Again, the player "must also establish how the prohibited substance entered their system."[61] The same points set out in this no fault or negligence section above regarding this threshold apply again.

Since this chapter is focused on ADRVs for non-specified substances, the most likely reason for a no significant fault or negligence defense to apply is in relation to "contaminated products."[62] In such cases, the player must establish that they meet the definition of no significant fault or negligence, as well as that the prohibited substance detected came from a contaminated product.[63] Given that a player will likely have established that there was a contaminated product in order to discharge their burden on the question of intention, this threshold may again not be a difficult one to overcome. However, if a player discharged their burden without proving source, then they would not be able to achieve a reduction under no significant fault or negligence as they would not have proven that the prohibited substance came from a contaminated product nor, therefore, how it entered their system. Assuming that threshold can be overcome, the principal debate will be around the first quoted passage from the definition. The no fault or negligence definition

[60] See the Code comment to Art. 10.5: "They will only apply in exceptional circumstances" and "No Fault or Negligence would not apply in the following circumstances: (a) a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1) and have been warned about the possibility of supplement contamination . . .)."

[61] Both quotes taken from the definition of "No Significant Fault or Negligence" in the TADP 2025.

[62] See TADP 2025, Art. 10.6.1.2.

[63] This is defined as a "product that contains a Prohibited Substance that is not disclosed on the product label or in information available in a reasonable internet search" in the TADP 2025.

is expressly mentioned and hence the "utmost caution" test will be relevant again.[64] This means that exceptional circumstances are again required for an athlete to show their fault was not significant. The standard is therefore high, but CAS jurisprudence is also clear that the two concepts are distinct and by implication the standard is not as high as it would have been for no fault or negligence.[65]

Given the definition of fault in the TADP, there is both an objective and a subjective element to the consideration of no significant fault or negligence, with the objective assessment of fault usually being the more important. That assessment will involve a review of the steps that a player took prior to ingesting the prohibited substance. There are "clear and obvious" precautions[66] that a player should take,[67] all of which serve as a useful guide.[68] However, every case will turn on its own facts and while precedent can be, and often is, very instructive, it will not replace an analysis of the merits of the particular circumstances relevant to the case at hand, particularly the risk factors present that a player could, or perhaps should, have been aware of.[69] For example, a player using

[64] The comment in the Code relating to Art. 10.6.1.2 includes: "It should be further noted that Athletes are on notice that they take nutritional supplements at their own risk. The sanction reduction based on No Significant Fault or Negligence has rarely been applied in Contaminated Product cases unless the Athlete has exercised a high level of caution before taking the Contaminated Product."

[65] See *Knauss*, at para. 7.3.5, which states that the standard "must not be set excessively high." In *Maria Sharapova* v. *ITF*, CAS 2016/A/4643, there is similar wording at para. 84, which states that No Significant Fault or Negligence is "consistent with the existence of some degree of fault and cannot be excluded simply because the athlete left some 'stones unturned.' As a result, a deviation from the duty of exercising the 'utmost caution' does not imply per se that the athlete's negligence was 'significant.'"

[66] See *Knauss*, at para. 17, which describes some of the "clear and obvious precautions any human being would take" in the circumstances of that case.

[67] In *Marin Cilic* v. *ITF*, CAS 2013/A/3327, at para. 74(aa), some of the standard precautions are set out, which are: "The athlete could always (i) read the label of the product used (or otherwise ascertain the ingredients), (ii) cross-check all the ingredients on the label with the list of prohibited substances, (ii) make an internet search of the product, (iv) ensure the product is reliably sourced and (v) consult appropriate experts in these matters and instruct them diligently before consuming the product."

[68] *WADA* v. *Hardy & USADA*, CAS 2009/A/1870, at paras 117 and 118, confirms that "a reduced sanction based on 'no significant fault or negligence' can be applied where the athlete establishes that the cause of the positive test was contamination in a common multiple vitamin with no connection to prohibited substances . . ." and "the fact that an adverse analytical finding is the result of the use of a contaminated nutritional supplement does not imply per se that the athlete's negligence was 'significant.'"

[69] Even *Cilic* itself acknowledges, after setting out the precautions that could be taken, at para. 75, that "an athlete cannot be reasonably expected to follow all of the above steps in every and all circumstances."

a basic nutritional supplement from a reputable retailer, with arguably more limited risk factors, may be held to a lower standard than a player obtaining a bodybuilding supplement from an unlicensed operator where the degree of risk may well be perceived as higher.

A subjective assessment will then follow with an arbitral body to consider the player's departure from the expected standard in light of their personal circumstances. Common factors cited by players as reducing their degree of fault include (lack of) experience and (minimal) exposure to or understanding of anti-doping education (e.g. in the case of newer professional players) and the reason for using the contaminated product in the first place. If a factor does not explain why the player's behavior departed from the expected standard, then it will not be relevant for the purposes of no significant fault of negligence. Examples include previous good character, a clean anti-doping record and a lack of any intention to enhance performance.[70] Examples of where no significant fault or negligence defenses were accepted include:

1. Where it was held that there was no reason why a player should have been concerned by a herbal tea and drinking it without attempting to ascertain further details about what it was or where it came from.[71]
2. Where a player ingested glucose tablets purchased by his mother on the advice of a pharmacist.[72]
3. Where a player accidentally ingested medication meant for her mother through cross-contamination in food preparation.[73]
4. The player who drank from his wife's water glass referred to above.

Should an arbitral body conclude that a player's degree of fault was not significant, it is then necessary to consider what the appropriate reduction ineligibility period should be. The starting point for this consideration is the *Cilic* case and the case law that followed it. In *Cilic*, the CAS Panel established three categories of fault to the possible sanction range of zero to twenty-four months – with "light" fault at zero to eight months, "normal" fault at eight to sixteen months and "considerable" fault at

[70] In *Jack*, at para. 133, it was stated that "there is at least clear consensus at the following level of generality: speculations, declarations of a clear conscience, and character references are not sufficient proof."
[71] *Hipperdinger* v. *ATP*, CAS 2004/A/690, at para. 45.
[72] See *Cilic*.
[73] See *Errani*.

sixteen to twenty-four months.[74] All of these were based, of course, on an analysis of the merits of the player's circumstances.

Subsequent case law has suggested an amended version of that approach with the three categories reduced to two, with "light" fault incurring a zero-to-twelve-month ban and "normal" fault incurring twelve to twenty-four months.[75] This is on the basis that "considerable" fault is the equivalent of "significant" and the level of fault must not be significant in order for a reduction to be possible.

2.4 Appeals

The ITIA and the player both have a right of appeal against several types of decisions.[76] In addition, the relevant national anti-doping organizations and the WADA provide appeal rights, as do the International Olympic Committee and the International Paralympic Committee in certain circumstances pertaining to their major events.[77] An appeal by an international-level player[78] may be lodged to the CAS,[79] in accordance with the TADP and CAS Rules.[80] An appeal by the player must be made within twenty-one days of the date of receipt of the reasoned decision to be appealed by the appealing party.[81] The ITIA have a longer time period to appeal,[82] with the WADA having further time still.[83]

Appeals are heard by the CAS on a "de novo" basis, meaning the parties are free to run the same arguments as they did before the first-instance tribunal, or raise any new arguments that they wish. Effectively, it is a re-trial. Usually appeals are heard by a panel of three arbitrators, with one selected by each party and a president appointed by the CAS. A sole arbitrator is possible if the parties agree. The standard process is that the appealing party will have to file a statement of appeal and various

[74] See *Cilic*, at para. 70.
[75] See *Errani*, at para. 194.
[76] See TADP 2025, Art. 13.2.
[77] Ibid., Art. 13.2.3.
[78] This term refers to any "Player who enters or participates in more than one Covered Event (whether in qualifying or the main draw," so, in practice, captures the vast majority of professional tennis players.
[79] See TADP 2025, Art. 13.2.1.
[80] The CAS Rules are available at: www.tas-cas.org/fileadmin/user_upload/CAS_Code_2023__EN_.pdf. See Rules R47–R59 in particular.
[81] See TADP 2025, Art. 13.8.1.1.
[82] Ibid., Art. 13.8.1.2.
[83] Ibid., Art. 13.8.1.3.

initial material required by the CAS in order to commence the appeal. The appealing party must then file an Appeal Brief and accompanying evidence within a ten-day period, albeit this timeframe can often be extended (a common occurrence in anti-doping proceedings which are often technical and predicated on scientific considerations). The responding party will then have an opportunity to present an Answer Brief with accompanying evidence within a twenty-day period, although that is also often extended.

3 Anti-Corruption

While there are corruption risks associated with betting in almost all sports, there are three factors in tennis which create certain vulnerabilities justifying tennis's robust and early response to the threat of betting-based competition manipulation. First, tennis is, primarily, an individual sport. If one player is corrupted, they can clearly influence the outcome of any match they play. Contrast this with a team sport, say football, where influencing the outcome of a match is far more difficult since you may need to corrupt more players (or the referee), meaning that corrupt acts on the football pitch are more likely limited to spot fixing (unless they involve the referee or possibly the goalkeeper). Second, tennis is not profitable for many individuals trying to make their way up the significant pathway to the elite level of the sport. It is very expensive to compete with numerous outgoings for players, including coaching, travel and accommodation costs, and prize money is limited at the lower levels.[84] These developing players will generally need support from their national federation, club or private sponsorship. Only players in the top 200 or so of either the ATP or WTA tours are likely to turn a profit from their prize money and it is really only a ranking in the top 100 that will start to earn a player more significant sums.[85] That is a stark reality for one of the most popular global sports. Contrast this with football, where the Premier

[84] On the ITF World Tour, the total prize money for events is $15,000 or $25,000, meaning that many players will not earn enough to cover their costs of attending the event.

[85] This January 2023 ESPN article gives a helpful account of the challenges players face in funding a professional tennis career, from around a ranking of 100 and lower. D'Arcy Maine, "Why Am I Here, Playing for Literally $6? The Stunning Financial Reality of Pro-Tennis," ESPN (January 17, 2023), available at: www.espn.com/tennis/story/_/id/35414286/the-stunning-financial-reality-high-cost-pro-tennis. The ATP has recognized the challenges and is now trialing a three-pillar strategy called Baseline, with the first pillar being a "Minimum Guarantee" to ensure players in the top 250 of the ATP rankings earn at least $75,000 in a year. See Chapter 6 of this volume for an elaborate discussion.

League in England can sustain over 500 professionals at any one time earning, on average, over £3 million a year.[86]

Therefore, as tennis players at the lower end of the sport seek to move up the rankings or where they are on the way down, they may struggle to afford their professional lifestyles. The philosophy of the tennis pyramid is entirely merit-based in that players who do not win sufficiently eventually work their way down and out of the professional level of the sport based on their decreasing ranking and their places are taken by emerging players on the way up. This structure may make a small minority of players vulnerable to corruption as they struggle to cling on to evaporating opportunity and financial rewards. While the vast majority of players will say no to a corrupt approach, the financial pressures alongside other personal factors mean a small number may succumb and say yes.

Third, there is huge appetite for online betting on tennis, including point-by-point in-play betting. Those markets exist right down to the lower rungs of professional tennis where male and female players ply their trade on the ITF World Tennis Tour. There are hundreds of ITF World Tennis Tour events per year,[87] meaning numerous events and hundreds of matches taking place every week, with betting markets available for the matches in all of those events. A combination of a small cohort of potentially vulnerable players and available betting opportunities mean the risk of corruption is real.

3.1 Legal Framework

The TACP is the instrument that governs the approach of tennis to issues of corruption.[88]

3.1.1 Jurisdiction

If an individual is caught by the definition of the term "Covered Person" in the TACP, then he or she is subject to the jurisdiction of the TACP,

[86] See this article from *The Guardian* referring to a 2019 Global Sports Salary Survey: Sean Ingle, "Average Annual Salary of Premier League Players Tops £3m for First Time," *The Guardian* (December 23, 2019), available at: www.theguardian.com/football/2019/dec/23/premier-league-salaries-manchester-city-nba-barcelona#:~:text=The%20average%20salary%20for%20a,of%20English%20football's%20top%20fli.

[87] See the ITF website for a list of all tournaments in 2025 for men: www.itftennis.com/en/tournament-calendar/mens-world-tennis-tour-calendar/?categories=All&startdate=2025; and women: www.itftennis.com/en/tournament-calendar/womens-world-tennis-tour-calendar/?categories=All&startdate=2025-04.

[88] See s. A of the TACP 2025 for a summary of the purpose of the TACP.

and of the Anti-Corruption Hearing Officers, who will determine any proceedings. "Covered Person" is a broad term[89] relating to a number of individuals, ranging from obvious ones such as players/coaches/officials through to less obvious ones such as player agents and family members who receive accreditation as part of a player's entourage.

The initial mechanism to ensure that a player is subject to the TACP and is made aware thereof is the International Player Identification Number (IPIN) and the equivalent "player zone" registration for the ATP and WTA tours. All players seeking to register with professional events will be issued with an IPIN (or ATP/WTA player zone registration) and as part of doing so they are required to confirm that they will comply with the TACP (and the TADP and other regulations as well). The IPIN/player zone registration is renewed on an annual basis. There is also an annual approval of the Player Welfare Statement, which also includes a confirmation regarding awareness of, and compliance with, the TACP. A similar process exists for coaches, officials and others. In addition, all players, as well as coaches/officials and others, are required to undertake the mandatory Tennis Integrity Protection Programme (TIPP), which provides details of the TACP, gives real-life examples and asks questions of the user. The TIPP must be completed every two years. This is supplemented by in-person education at events delivered by the ITIA education team.

3.1.2 Governing Law

The governing law of the TACP is the law of the US state of Florida,[90] reflecting that the ATP and the WTA are both Florida-based organizations where the TACP was originally developed prior to the incorporation of the ITIA. However, the starting point is the language of the TACP itself, which means that many cases can progress with limited, or any, reference to Florida law. On appeal at the CAS, Swiss law may also become relevant. One exception to this concerns the admissibility of evidence. Rather than being constrained by Florida law, an AHO is not bound by the judicial rules of any jurisdiction regarding evidence.

[89] See the definition at s. B.9 of the TACP 2025 and the consequential definitions of "Player," "Related Person" and "Tournament Support Personnel" at ss. B.27, B.30 and B.38, including the timeframes within which an individual may be subject to those defined terms. Section C1 is clear that "All Players, Related Persons, and Tournament Support Personnel shall be bound by and shall comply with all of the provisions of this Program and shall be deemed to accept all the terms set out in herein . . ."

[90] See TACP 2025, s. K.2.

Instead, the facts related to an alleged Corruption Offense can be established by any reliable means, which an AHO can determine.[91] This includes the use of inference,[92] a necessity in many cases the ITIA brings where the evidential picture is often incomplete; this is natural, given that an individual committing corruption offenses is unlikely to simply admit to their conduct and provide the relevant evidence.

3.1.3 Burden/Standard of Proof

The burden of proof is upon the ITIA to prove its case. It must do so to the standard of the "preponderance of the evidence"[93] – that is a Florida law term akin to the "balance of probabilities" standard under English law. In simpler terms, the ITIA's case must be more likely than not to be true for it to succeed, often expressed as being tantamount to a 51 percent threshold.

3.1.4 Hearings

There are two principal parts to the process which may culminate in a hearing of charges before an AHO. The first is not addressed by the TACP. That is the investigatory phase. The ITIA employs various investigators supported by individuals with expertise in areas such as betting markets or intelligence to obtain the maximum available evidence. Once an investigation has been completed and the investigator considers that there are grounds for charges under the TACP to be brought, the matter is passed to the ITIA's legal function. If it is agreed that charges should be issued, there follows a typical process common to most regulatory proceedings of this nature,[94] particularly within the sport's disciplinary field:

1. A Notice of Major Offense[95] will be issued to the relevant covered person. This will set out[96] the corruption offenses alleged to have been committed by reference to the relevant sections of the TACP, the facts upon which the allegations are based, the potential sanctions and the covered person's entitlement to have the matter determined at

[91] Ibid., s. G.3.d.
[92] In *ITIA* v. *Baptiste Crepatte*, AHO McLaren stated at para. 57 that "it is possible to find a breach of the TACP without direct evidence" subject to any inferential evidence meeting the required standard of proof. The decision can be found at: www.itia.tennis/media/amcldxbh/decision-of-aho-mclaren-player-b-crepatte-corrected-_redacted.pdf.
[93] See TACP 2025, s. G.3.a. Section G.3.b refers to limited situations where the burden of proof may fall upon the covered person. Where it does, the standard is again the preponderance of the evidence.
[94] See, in particular, TACP 2025, ss. G.1 and G.2.
[95] See ibid., ss. B.23 and B.25.
[96] Ibid., s. G.1.a.

a hearing. The covered person will be asked whether they admit or deny the charges.
2. If there is an admission, the parties will set out their position as to an appropriate sanction and the AHO will decide, often without the need for a hearing.
3. If there is a denial, the parties will agree on directions for the case to proceed to a hearing, which the AHO will approve.
4. Those directions will include provision for (1) the parties to exchange any relevant documents they intend to rely upon at the hearing, (2) filing of written witness or expert evidence and (3) filing written submissions setting out their position.[97]
5. The parties will then attend a hearing where witnesses will be heard and questioned, and further oral submissions made.

The AHO will consider the evidence before preparing a written decision[98] to confirm whether or not a corruption offense has been committed and, if so, what the appropriate sanction should be. The AHO will aim to issue that decision within fifteen business days of the hearing. There are also separate mechanisms whereby the ITIA and the covered person can agree a sanction in line with the Sanctioning Guidelines (as to which, see below) or, in the case of more minor breaches (such as betting on others' matches or participating in a betting advertisement), the ITIA can issue a sanction itself which is appealable to an AHO.

3.1.5 Appeals

The Covered Person and the ITIA have a right of appeal.[99] As with the TADP, an appeal is made to the CAS in accordance with both the terms of the TACP and the CAS Rules. An appeal must be made within twenty business days[100] from receipt of the decision by the appealing party. The basis of the appeal is the same as set out in the anti-doping section above.

3.2 Corruption Offenses

The TACP 2025 contains eighteen corruption offenses,[101] with the bulk of those offenses targeting match-fixing in some form, but also those likely to

[97] Ibid., s. G.1.g.ii.
[98] Ibid., ss. G.4.a and G.4.b.
[99] Ibid., s. I, with s. I.1 setting out what types of decisions may be appealed.
[100] Ibid., s. I.4.
[101] Ibid., ss. D.1.a–D.1.r.

influence or have inside information about matches. The common theme underlying the vast majority of corruption offenses is the relevance of the global, and usually online, betting industry. The fact that a betting market exists for almost every professional tennis match that is played is crucial to the existence of match-fixing, since it is there that the individuals who seek to corrupt covered persons have an incentive to do so.[102]

In almost every instance of a covered person who acts in breach of the TACP, such as by losing a match deliberately or umpires entering the wrong scores into the device they use to score matches, a link to the betting markets exists. The basic methodology is that a player agrees with a third party to lose a point, game, set or match and the third party then places bets on the agreed outcome occurring, so earning a profit through a successful bet. The player will then receive a fee for their role. The global betting industry is, therefore, crucial to the ITIA's efforts to tackle match-fixing in tennis. It is often the first line of defense since betting operators will observe the bets placed on the betting markets they offer with the aim of spotting any bets that raise suspicions of match-fixing. That is primarily for their own commercial purposes, but, where they do so, a "match alert" is raised and ultimately sent to the ITIA. The reporting of match alerts is predicated in memorandums of understandings between the ITIA and certain licensed betting operators that provide for the sharing of this information.[103] This enables the ITIA to investigate and without the provision of match alerts the fight against corruption in tennis would be much more difficult, since the only other main source of intelligence that results in an investigation being commenced around match-fixing is information coming directly from covered persons. While this method relies on covered persons complying with their reporting obligations under the TACP, there can often be a natural reluctance to report potential offenses. Match alerts from betting operators are, therefore, vital.

Following an investigation by the ITIA, match alerts, and the underlying betting data, may be supplemented by information from covered persons in interviews, social media exchanges,[104] open-source research,

[102] See Ilias Bantekas, "Is Legitimate Gambling a Threat to the Integrity of Transnational Individual Sport Competitions?" (2024) 25 San Diego Int LJ 23.

[103] The ITIA does not have memorandums of understanding with all licensed betting operators. That is not realistic given the number that exist, particularly from jurisdiction to jurisdiction. There are also a huge number of unlicensed betting operators with whom there is no relationship.

[104] It is common for covered persons involved in breaches of the TACP to try and avoid sharing social media exchanges, since that is where the most incriminating evidence usually lies.

checks on the levels of education on the TACP of the covered person being investigated and ITF records. At the conclusion of an investigation, the ITIA will make a decision as to whether the available evidence is sufficient to allege that the relevant covered person may have committed a corruption offense, so whether there is a case to answer. If so, a Notice of Major Offense will be prepared, which will set out what the alleged breaches of the TACP are and the process described above will commence. Some of the key corruption offenses are considered in the remainder of this section.

3.2.1 Betting Offenses

It is an offense under section D.1.a of the TACP 2025 for a covered person to bet upon tennis[105] and it is an offense under sections D.1.b and D.1.q for a covered person to facilitate, encourage or promote betting.[106] A prohibition on betting on the sport in which an individual competes is common across all sports. That is because of the obvious conflict of interest between a participant being involved in a match/event in which they may have a specific interest in its outcome and betting on that match/event, which could, of course, detract from the event's integrity. It is often the case that covered persons who bet on tennis do so in ignorance of the TACP requirements. It is unlikely that standalone betting offenses would incur a sanction of over a one-year ban and a limited fine.

3.2.2 Fixing a Match

Match-fixing strikes at the very heart of any sport and certainly poses a huge threat to the integrity of tennis. The draw of competitive sport for participants and for its audience (and therefore also for sponsors, broadcasters and other stakeholders) lies largely in the uncertainty of outcome of any event. It has often been described as a "cancer" by numerous courts, tribunals and academics, with the following statement from a CAS Panel being a typical comment: "The Panel has to remind itself that match-fixing . . . and the like are a growing concern, indeed a cancer,

[105] TACP 2025, s. D.1.a reads: "No Covered Person shall, directly or indirectly, Wager on the outcome or any other aspect of any Event or any other tennis competition."

[106] TACP 2025, s. D.1.b reads: "No Covered Person shall, directly or indirectly, facilitate, encourage and/or promote Tennis Betting," with several examples then given. Section D.1.q reads: "No Covered Person, whether personally or via another arrangement or legal entity, may endorse, be employed, sponsored and/or otherwise engaged by a Tennis Betting Operator."

in many major sports . . . and must be eradicated. The very essence of sport is that competition is fair; its attraction to spectators is the unpredictability of its outcome."[107]

It is, therefore, an offense under section D.1.d of the TACP 2025 to contrive the outcome of an Event.[108] It is also an offense under section D.1.n to attempt to fix a match (or commit any corruption offense), with section D.1.d having also been held to address an attempt.[109] This is the most common section for match-fixing offenses. It can be used to capture any circumstances in which a covered person deliberately seeks to fix all or part of a match, through losing specific points, games, sets or the match itself. A typical methodology for a section D.1.d offense is as follows:

1. An individual makes contact with a player who it is believed may be vulnerable to a corrupt approach. That contact can be directly from someone outside of tennis,[110] but it is often made through a middleman,[111] commonly a player themselves, known to both the player and the corruptor. The approach may be in person, but is often through apps such as WhatsApp or Telegram.[112]
2. A financial offer is presented in relation to the outcome of the match, or more often, a particular part of the match. It is very common for individuals fixing a match to have the chance to go on and win that match.[113]

[107] *Oleg Oriekhov* v. *UEFA*, CAS 2010/A/2172, at para. 78.

[108] TACP 2025, s. D.1.d reads: "No Covered Person shall, directly or indirectly, contrive the outcome, or any other aspect, of any Event."

[109] TACP 2025, s. D.1.n reads: "No Covered Person shall, directly or indirectly, attempt, agree, or conspire to commit any Corruption Offense." See *ITIA* v. *Jules Okala*, TACP AHO Decision, available at: www.itia.tennis/media/2b1p1tnb/jules-okala-decision-1-12-22_redacted.pdf, for a case where an attempt to fix resulted in liability. This principle has also been approved at the CAS in *Daniel Köellerer* v. *ATP and Others*, CAS 2011/A/2490.

[110] See *ITIA* v. *Mick Lescure*, TACP AHO, available at: www.itia.tennis/media/r4wlujj2/mick-lescure-aho-decision-1-12-22_redacted.pdf.

[111] See *ITIA* v. *Timur Khabibulin*, TACP AHO Decision and *ITIA* v. *Sanjar Fayziev*, TACP AHO Decision. The cases are available at: www.itia.tennis/media/gqrjeguj/aho-decision-on-sanction-itia-v-khabibulin_redacted.pdf and www.itia.tennis/media/thbjv52s/aho-decision-on-sanction-itia-v-fayziev_redacted.pdf, respectively.

[112] See *ITIA* v. *Mick Lescure* and *ITIA* v. *Timur Khabibulin*.

[113] There is a logic to that, of course – earn money for winning a match and making the next round while simultaneously earning money for losing an aspect of that match such as a service game.

3. There is sometimes a negotiation, but usually the offer is simply accepted or declined. If there is a middleman, the offer will often include a smaller sum for their role.[114]
4. If the offer is accepted, the corruptor will make arrangements for the relevant bets to be placed. This is almost always achieved by using online betting operators and often multiple ones in several jurisdictions. Depending on the nature of the bet and where the odds may be most beneficial, the bets may be placed pre-match or during the match (but before the part of the match relevant to the bet).
5. The player will then carry out the agreed fix on-court, with the easiest way to lose on purpose being to ensure service games are lost through double faults. The player will likely play normally for any part of the match not affected by the agreed fix.
6. If the fix was successfully carried out, payment is usually made using money transfer services, such as MoneyGram or Western Union,[115] or more modern app-based equivalents such as Neteller or Skrill.[116] Those payments are often made to family/friends of the player by associates of the corruptor,[117] to disguise the payments to some extent. Sometimes, payments are made in cash.

The level of sophistication of the individuals making corrupt offers to players is varied. However, at its most sophisticated level, one individual running an organized criminal network successfully fixed hundreds of matches over several years with numerous covered persons and a vast number of bettors at his disposal, earning millions of Euros in the process.[118] There have been other examples of well-organized betting syndicates sitting behind the corruptor/middleman/covered person relationship.[119]

There is no need for a financial return to be proven in order to demonstrate liability under section D.1.d. This is important as it reflects

[114] See *ITIA* v. *Simohamed Hirs*, TACP AHO Decision, for an example of how the offers are presented, available at: www.itia.tennis/media/c4acx1rl/simohamed-hirs-sanctioned-28-07-21_redacted.pdf.
[115] See *ITIA* v. *Sanjar Fayziev*.
[116] See *ITIA* v. *Jules Okala*.
[117] Again, see *ITIA* v. *Sanjar Fayziev* for an example of both.
[118] The individual was an Armenian national based in Belgium called Grigor Sargsyan. He was often known as the "Maestro" among other nicknames. See Kevin Sieff, "The Maestro: The Man Who Built the Biggest Match-Fixing Ring in Tennis," *The Washington Post* (2023), available at: www.washingtonpost.com/world/interactive/2023/tennis-match-fixing-itf-grigor-sargsyan/.
[119] See *ITIA* v. *Timur Khabibulin*.

the practical reality of match-fixing that the arrangements can often go wrong. One example may arise where a covered person changes their mind or carries out the fix incorrectly. Another is where betting operators may identify concerns with the betting being observed from a particular match and refuse to pay out. It would be wrong if covered persons were found not liable in those circumstances. A financial return is, however, relevant to an applicable sanction (see below).

3.2.2.1 Facilitating Others to Fix a Match It has been often held, both before AHOs and at the CAS, that while all match-fixing offenses are serious, the most serious offense is where one covered person corrupts another to fix a match,[120] particularly someone who otherwise may not have fixed a match. The same methodology as set out in the previous section might apply, but with the covered person in question this time being either the corruptor or, more likely, the middleman. This concept is addressed by sections D.1.e to D.1.g and section D.1.o of the TACP 2025.[121]

3.2.2.2 Umpires Fixing a Match There is little difference between why players fix matches and why an umpire might do so – it is again the availability of betting markets and a desire for financial gain that makes a minority of umpires equally vulnerable to corruptors as some players. The primary means for an umpire to fix (accepting that in lower-level matches without line judges they can also make intentionally erroneous line calls) arises from the way in which they enter the score into the electronic device used when they are officiating a match. Those scores feed into the global betting markets and inform betting operators of the events on court so that it is known whether bettors have been successful in their bets.

However, if an umpire is corrupt and either (1) delays entering the correct score or (2) deliberately enters the wrong score, bettors with knowledge of the umpire's actions in advance can place bets knowing they will be successful. Those actions are prohibited under section D.1.m of the TACP 2025 with liability found in various cases,[122] and previously

[120] See *ITIA* v. *Franco Feitt*, TACP AHO Decision, available at: www.itia.tennis/media/0ehcf1dj/franco-feitt-sanctioned-12-04-2021-aho-decision_redacted.pdf.

[121] TACP 2025, s. D.1.e reads: "No Covered Person shall, directly or indirectly, facilitate any Player to not use their best efforts in any Event." Sections D.1.f and D.1.g broadly relate to the receipt of money and the offer/provision of money. Section D.1.o covers more serious concepts of soliciting and inciting others to commit corruption offenses.

[122] One example is *ITIA* v. *Edvinas Grigaitis*, TACP AHO Decision, available at: www.itia.tennis/media/nfbhgble/decision-itia-v-grigaitis-final__redacted.pdf.

have been held to be a breach of section D.1.d as well, on the basis that their conduct contrives "an aspect of an event."[123]

3.2.3 Failure to Report

Aside from information from betting operators, the other main source of intelligence leading to ITIA investigations is the disclosure by a covered person. All covered persons have a reporting obligation under section D.2 of the TACP 2025 in certain circumstances. Typical examples include a disclosure that a covered person had been approached to fix a match,[124] or that they have a suspicion that another covered person is committing a corruption offense.[125] This is an important provision given the challenging nature of the task facing the ITIA. It does not have the investigatory powers that law enforcement authorities have, so is limited to the powers under the TACP – which are not as robust. As a result, the ITIA is reliant on third parties working with them to assist, and often instigate, their investigations.

Covered persons are the most important third party since they are the direct recipients of corrupt approaches and can explain the nature of the approach, how the proposed scheme might be carried out and any others that may be involved. This evidence is potentially of more value than the match alerts that the ITIA might receive from a betting operator, which are ultimately a step removed from the actual moment a breach of the TACP is taking place. It is, therefore, very important for covered persons to adhere to their reporting obligations under the TACP rather than simply ignore these.[126]

3.2.4 Failure to Cooperate

In a similar way to the reporting obligations on covered persons, there is also an obligation to "cooperate fully" with investigations of the ITIA;[127] with that obligation arising out of a very similar rationale to the need for reporting obligations. Given the "full" nature of the obligation to

[123] See *ITIA* v. *Majd Affi, Abderahim Gharsallah and Mohamed Ghassen Snene*, TACP AHO Decision, available at: www.itia.tennis/media/xtbdkyw1/affi-snene-gharsallah-decision-4-7-22-aho-mulcahy_redacted.pdf.

[124] See TACP 2025, ss. D.2.a.i and D.2.b.i.

[125] Ibid., ss. D.2.a.ii and D.2.b.ii.

[126] Note that there are few decisions focusing on non-reporting alone, as it is often a charge that sits alongside more serious match-fixing charges. However, the largest sanction for standalone non-reporting offenses is twenty months for a chair umpire who failed to report two separate corruption offenses.

[127] TACP 2025, s. F.2.b.

cooperate, a covered person is required to do several things, including being a part of ITIA investigations, answering questions posed by investigators, attending hearings, preserving evidence and complying with demands[128] for information, such as providing phones, betting records and bank statements for analysis, as well as access to social media accounts. Failure to do so could be deemed a failure to cooperate under the TACP.

There is no limitation on the sanction that may be imposed if liability is found for non-cooperation offenses, a necessity if such an offense is to have any practical impact.[129] Clearly, a covered person should not view a failure to cooperate as a possible alternative to admitting to more serious offenses such as match-fixing.

3.2.5 Other Offenses

There are several other offenses set out at section D of the TACP. They include offenses relating to: (1) the provision of inside information (sections D.1.h and D.1.i); (2) benefits around a tournament (sections D.1.c, D.1.j, D.1.k and D.1.l); (3) conspiracy (sections D.1.n and D.1.o); and (4) associating with a related person who is, among other things, serving a period of ineligibility under the TACP (section D.1.r).

3.3 Sanction

Where a covered person is found to have committed one or more corruption offenses, it is highly likely that they will then receive a sanction. There are two principal aims underlying the sanctioning process. First, in the context of a specific covered person, to impose a reasonable and proportionate sanction upon that individual that reflects the offenses committed and the seriousness of their conduct. Second, the sanction should serve as an effective deterrent to other covered persons such that the risk of future offending by others is decreased and the overall integrity of the sport is protected as far as possible. Against this background, it is no surprise that there is a broad range of available sanctions. For the most serious offenses, usually match-fixing offenses, the maximum sanction available is a lifetime ban

[128] See ibid.

[129] In *ITIA* v. *Juan Carlos Saez*, the CAS upheld a sanction of eight years and a $12,500 fine imposed by an AHO primarily for non-cooperation offenses. The press release is available at: www.itia.tennis/news/sanctions/cas-upholds-sanction-for-juan-carlos-saez/. At the time of writing, the award was unreported.

from tennis, a $250,000 fine and the repayment of any sums earned that relate to a corruption offense.[130] There have been numerous lifetime bans[131] imposed, but the maximum fine has rarely been awarded.[132]

Since 2021, the starting point has been the ITIA's Sanctioning Guidelines.[133] The aim of this instrument is to set out key principles relevant to sanctions and a scheme for calculating an appropriate penalty fairly and consistently. It was produced following a review of the outcomes from over ten years of precedents, with the trends then incorporated into the Sanctioning Guidelines. As the name suggests, the Sanctioning Guidelines offer guidance only. They are meant as a framework. An AHO is not bound by the Sanctioning Guidelines, so need not rigidly apply them, and may depart from the standard process set out where he or she considers it appropriate to do so. The starting point for the ITIA is that it is required to adhere to the Sanctioning Guidelines.

There are several stages to applying the Sanctioning Guidelines. The first is "Determining the offense category," where an AHO must assess the level of culpability of a covered person and the impact their actions have had upon tennis. Culpability is split into categories A, B and C, with impact split into categories 1, 2 and 3. A1 is the most serious and C3 is the least serious.

Category A relates to covered persons who have demonstrated a "high degree of planning or premeditation," have been "initiating or leading others to commit offenses" and have committed "multiple offenses over a protracted period of time." Categories B and C reflect the same concepts, but reduced levels of seriousness – so little planning, just one offense and so on. Category 1 relates to covered persons who have committed TACP offenses other than D.1.a, D.1.b, D.1.q, or D.2 (i.e. offenses which are considered to be more major), caused a "significant, material impact on the reputation and/or integrity of the sport," currently hold a "position of trust/responsibility within the sport," such as an umpire, and have received

[130] See TACP 2025, ss. H.1.a(i) and (iii) and H.1.b(i) and (iii).

[131] There are forty-seven TACP cases with a lifetime ban imposed currently listed on the ITIA website, available at: www.itia.tennis/sanctions/.

[132] See *ITIA* v. *Karen Khachatryan*, where the maximum sanction was awarded. The press release can be found at: www.itia.tennis/sanctions/. However, note the CAS cases of Gleb and Vadim Alekseenko, which reduced the $250,000 fine imposed by an AHO on each of them to $25,000 each. The press release can be found at: www.itia.tennis/news/sanctions/cas-upholds-lifetime-ban-alekseenko-brothers/.

[133] A copy of the current set of Sanctioning Guidelines is available at: www.itia.tennis/anti-corruption/policies/.

a "relatively high value of illicit gain." Again, categories 2 and 3 reflect the same concepts, but reduced levels of seriousness.

Having assessed these two factors, the second step for an AHO is assessing the "Starting point and category range." Each of the nine possible outcomes for culpability and impact, from A1 to C3, have a starting point and range attributed to them. The starting point for A1 is a lifetime ban (interpreted as being a thirty-year period), but with the range going as low as a ten-year suspension. Contrast this with C3, where the starting point is a three-month suspension, but the range is between an admonishment and a six-month suspension.

The AHO's discretion in their approach means that they can assess covered persons as sitting between categories; in this manner, a covered person may have characteristics of B1, but also of B2. The starting points for each are a ten-year suspension and a three-year suspension, respectively. AHOs may, therefore, consider that the starting point for this covered person should be somewhere in between, so around six-and-a-half years. The AHO will then consider whether there are factors existing in the case of the particular covered person that justify moving the suspension higher or lower, within the category range, to reflect the seriousness of the identified conduct. Aggravating factors include previous sanctions, impeding ITIA investigations and having significant levels of education in the TACP. Mitigating factors include genuine remorse, a threat of harm to the covered person or their family, age/experience and lack of education in the TACP.

Step 3 considers whether a covered person has admitted their conduct which was in breach of the TACP and the stage at which they did so. The earlier the admission, the greater the reduction is likely to be, up to a maximum of 25 percent from the otherwise applicable sanction. Step 4 considers whether there are other factors which may merit a reduction in sanction, with the specific example of substantial assistance[134] being given. Note that in some cases, substantial assistance is given after a sanction is imposed, in which case an AHO will consider in a separate process whether there should be a reduction in sanction in light of the substantial assistance provided. Finally, Step 5 requires consideration of whether it is appropriate to impose a fine upon a covered person, with the likelihood of a fine, and the size of that fine, increasing with the seriousness of the conduct and broadly based on the

[134] See TACP 2025, s. B.34, which refers to "substantial assistance" as "assistance given by a Covered Person to the ITIA that results in the discovery or establishing of a corruption offense by another Covered Person."

number of major offenses the covered person was found liable for. There is a table with a scale of fines to give guidance to an AHO. Many covered persons may not have the financial means to pay fines, so AHOs can take that into account in the quantum of the sanction and the ability to order installments.

There are several types of offending which have been categorized as A1, with many of those offending being subject to a lifetime ban (or, if not, a very lengthy suspension):

1. Covered Persons who have repeatedly fixed multiple matches over a protracted period of time.
2. Covered Persons who have sought to corrupt other covered persons and convince them to fix professional tennis matches. As above, this has generally been considered the most serious of the match-fixing offenses.
3. Umpires who fail to uphold their role in managing the integrity of the game through deliberately entering the wrong score into the devices used to score professional tennis matches, or delaying that entry, to benefit third parties operating in online-betting markets.