

**DECISION OF THE INTERNATIONAL TENNIS FEDERATION
PURSUANT TO ARTICLE 8.1.4 OF THE 2017 TENNIS ANTI-DOPING PROGRAMME**

I. Introduction

1. The International Tennis Federation (the **ITF**) is the international governing body for the sport of tennis. Further to its obligations as a signatory to the World Anti-Doping Code (the **Code**) and its responsibilities as custodian of the sport, the ITF has issued the 2017 Tennis Anti-Doping Programme (**TADP**), which sets out Code-compliant anti-doping rules applicable to players competing in '**Covered Events**' (as defined in TADP Article 1.10).
2. Elizaveta Koklina (the **Player**) is a 16 year-old tennis player from Russia. She has competed on the ITF Juniors Circuit since September 2016 and on the ITF Pro Circuit since April 2017.
3. The ITF has charged the Player with commission of an anti-doping rule violation under the TADP and has proposed certain consequences based on its analysis of the degree of fault borne by the Player for that violation. The Player has admitted the anti-doping rule violation charged and has accepted the consequences proposed. TADP Article 8.1.4 provides: '**In the event that [...] the Participant admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by the ITF [...], a hearing before the Independent Tribunal shall not be required. Instead the ITF shall promptly issue a decision confirming [...] the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences (including, if applicable, a justification for why the maximum potential sanction was not imposed)**'. This is that decision.

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

4. When she registered for an International Player Identification Number (IPIN) on 4 February 2017, the Player expressly agreed to be bound by the TADP. By virtue of that agreement, and by virtue of her subsequent participation in Covered Events, the Player was bound by and was required to comply with the 2017 TADP.
5. On 23 October 2017, while competing at the Republican Girls ITF Women's Pro Circuit event in Istanbul, Turkey (the **Event**), the Player was required to provide a urine sample for drug testing pursuant to the TADP. That sample was given reference number 3102703, and was analysed by the WADA-accredited laboratory in Montreal, which found Furosemide and Torasemide in the sample. They are both prohibited substances banned at all times under section S5 of the WADA Prohibited List (diuretics and masking agents). (Furosemide is listed by name in section S5 and Torasemide also falls within section S5 because it has a '**similar chemical structure or similar biological effect**' to Furosemide). The Player does not have a therapeutic use exemption (**TUE**) permitting use of Furosemide or Torasemide.
6. Upon review of the case file, the independent Review Board decided that the Player had a case to answer for breach of TADP Article 2.1. The ITF therefore sent her a formal notice of charge on 9 January 2018, asserting that the presence of Furosemide and Torasemide in her sample constitutes an anti-doping rule violation under TADP Article 2.1.
7. Given that Furosemide and Torasemide are both classified as 'Specified Substances' under the TADP, the Player was not subject to a mandatory provisional suspension under TADP Article 8.3.1.
8. TADP Article 2.1 is a strict liability offence that is established simply by proof that a prohibited substance was present in the sample, i.e., the ITF does not have to prove how the substance

got into the Player's system or that the Player took the substance intentionally (or even knowingly).

9. In her response to the charge on 16 January 2018, the Player admitted the TADP Article 2.1 anti-doping rule violation with which she was charged.

III. Consequences

III.A Period of ineligibility

10. This is the Player's first anti-doping rule violation. Given that Furosemide and Torasemide are both classified as specified substances under the TADP, TADP Article 10.2.1(b) applies, meaning that the starting point for a period of ineligibility is two years, unless the ITF can establish that the Player's violation was 'intentional' within the meaning of ITF ADR Art 10.2.3. TADP Article 10.2.3 explains that 'the term "intentional" [in this context] is meant to identify those Participants who cheat. The term, therefore, requires that the Participant engaged in conduct that he/she knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk'. The jurisprudence is clear that what counts in this context is what the Player actually knew, not what she should have known.
11. Based on the evidence in this case (discussed below), the ITF does not contend that the Player's anti-doping rule violation was 'intentional' within the meaning of TADP Art 10.2.3. Therefore the starting point for her period of ineligibility is not four years, but rather two years pursuant to TADP Article 10.2.2. That period may be further reduced if she can establish that she bears No (or No Significant) Fault or Negligence for the presence of Furosemide and Torasemide in her sample. To sustain a plea of No Fault or Negligence, the Player must show that she did not depart from the duty imposed on her under the TADP to use 'utmost caution' to ensure that no prohibited substance entered her body. Alternatively, to sustain a plea of No Significant Fault or Negligence, she must show that her departure from that strict standard of care was not significant (objective analysis) and/or that there are legitimate reasons why she failed to take all of the steps required (subjective analysis) such that overall her fault should be regarded as not significant.
12. The Player has provided the following explanation for her positive test:
 - 12.1 Her mother was prescribed Torsid (containing Torasemide) and Lasix (containing Furosemide) to treat hypertension.
 - 12.2 Her mother gave her one pill of Torsid on 7 October 2017 and two pills of Lasix on 14 October 2017 to help reduce swelling in her foot that occurred when they were travelling. The Player did not make any enquiries about the products her mother gave her.
 - 12.3 On or around 22 and/or 23 October 2017, the Player likely ingested Torsid and/or Lasix by mistake, because she and her mother used identical pill organisers, and the pills the Player was taking to treat congestion (Ambroxol) looked very similar to Torsid and Lasix.
13. The Player has provided factual evidence to support her account, including statements from herself and her mother, and evidence of the different medications. The ITF has checked with the WADA-accredited laboratory in Montreal and it has confirmed that the estimated concentrations of Furosemide and Torasemide detected in her urine sample are consistent with that account. In all of the circumstances of this case, including the fact that a minor is not required to prove exactly how the prohibited substance found in her system got there in order

to have a plea of No Fault (or No Significant) Fault or Negligence accepted (see the TADP definitions of 'No Fault or Negligence' and 'No Significant Fault or Negligence'), and the fact that there is not an obvious doping scenario that might apply in respect of the low concentrations of the two diuretics found in the Player's sample, the ITF is prepared to accept the Player's explanation.

14. The Player cannot claim that she bears No Fault or Negligence for her violation (TADP Article 10.4) because of her conduct in (i) self-medicating without consulting a doctor (or any other person) with anti-doping knowledge and without conducting any research into the product she was taking to ensure it did not contain any prohibited substances, and (ii) using a pill organiser identical to her mother's without having a clear system to prevent inadvertent ingestion of her mother's medication instead of her own. These were clear and significant departures from the strict and stringent duty imposed on her under the TADP to use utmost caution to ensure that she did not ingest any prohibited substances, and in particular that she did not take any medications containing prohibited substances for therapeutic reasons without first obtaining a TUE.
15. However, the ITF is willing to accept the Player can sustain a plea of No Significant Fault or Negligence under TADP Article 10.5.1(a), in particular because:
 - 15.1 She used the medications for therapeutic purposes only (i.e., not to enhance her sport performance), and in circumstances that were not connected with her sports activity, so that at that moment she may not have been as sensitive to the risk of inadvertent doping as she should have been.
 - 15.2 More significantly for present purposes, her youth and inexperience, and the fact that she had received little (if any) anti-doping education before the Event, provide some explanation for why she failed to take the precautions that were required of her. As a minor, it is understandable that she relied on her mother to help her when she had a medical problem, even if her mother thereby inadvertently caused her to commit an anti-doping rule violation.
16. In such circumstances, TADP Article 10.5.1(a) gives the ITF discretion to propose a sanction somewhere in the range from 24 months down to zero months (reprimand only), based on the degree of fault borne by the Player. The CAS Panel's decision in Cilic v ITF, CAS 2013/A/3327, paras 69 *et seq*, provides helpful guidance on assessing where a player's fault lies within that range. It sets out three categories of fault: light (0-8 months); normal (8-16 months); and considerable (16-24 months). The player's 'objective' fault is assessed to determine into which category she falls, and then her 'subjective' fault is assessed to move her up or down within a specific category (or into a different category).
17. Weighing the above factors, if the matter went to a hearing the ITF would expect the Independent Tribunal to assess the Player's objective fault as warranting a period of ineligibility of around 22 months (due to her clear and significant departures from the duty of utmost caution), but then to apply a reduction of around seven months based on the factors set out in paragraph 15, resulting in a final period of ineligibility of 15 months. Based on its standard policy of offering a further three month reduction to reflect the considerable time and expense saved by reaching an agreed outcome rather than having a contested hearing, thereby saving resources that can be better used elsewhere in the ITF's anti-doping efforts, the ITF has proposed a period of ineligibility in this case of 12 months. The Player has accepted that proposal.

18. Due to her prompt admission of her anti-doping rule violation, the Player is entitled to the benefit of TADP Article 10.10.3(b), such that her 12 month period of ineligibility will be deemed to have started running from 23 October 2017 (the date of collection of her sample) and so will expire at midnight on 22 October 2018. That date is more than six months after the date of this decision, thereby meeting the requirement of TADP Article 10.10.3(b) that notwithstanding any back-dating of the start date, at least half of the period of ineligibility must actually be served.
19. During her period of ineligibility, the Player's status will be as set out under TADP Article 10.11, i.e., she may not play, coach or otherwise participate in any capacity in (i) any Covered Event; (ii) any other Event or Competition, or activity (other than authorised anti-doping education or rehabilitation programmes) authorised, organised or sanctioned by the ITF, the WTA, any National Association or member of a National Association, or any Signatory, Signatory's member organisation, or club or member organisation of that Signatory's member organisation; (iii) any Event or Competition authorised or organised by any professional league or any international or national-level Event or Competition organisation; or (iv) any elite or national-level sporting activity funded by a governmental agency. Nor will she be given accreditation for or otherwise granted access to any Event referred to at points (i) and (ii). In accordance with TADP Article 10.11.1(b)(ii), the Player may use the facilities of a club or other member organisation of a Signatory's member organisation in the last two months of her period of ineligibility, i.e., from 23 August 2018 on.

III.B. Disqualification of results

20. The results obtained by the Player at the Event and in subsequent events (on both the ITF Juniors Circuit and ITF Pro Circuit) are disqualified pursuant to TADP Articles 9.1 and 10.8, and the points and prize money that she won at those events are forfeited in accordance with the same provisions. The Player is required to pay the forfeited prize money to the ITF by no later than 22 October 2018, as a condition of reinstatement following her period of ineligibility.

III.C Costs

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

III.D Publication

22. In accordance with TADP Article 8.8, this decision will be publicly reported by being posted on the ITF's website.

III.E Acceptance by the Player

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

IV. Rights of appeal

24. This decision constitutes the final decision of the ITF, resolving this matter.
25. Further to TADP Article 12.2.1, each of WADA and the Russian Anti-Doping Agency (RUSADA) has a right to appeal against this decision to the Court of Arbitration for Sport in Lausanne, Switzerland, in accordance with the procedure set out at TADP Article 12.6.

26. As part of this resolution of the matter, the Player has waived her right to appeal against or otherwise challenge any aspect of this decision (both as to the finding that the Player has committed an anti-doping rule violation and as to the imposition of the consequences set out above), whether pursuant to TADP Article 12.2.1 or otherwise. However, if an appeal is filed with the CAS against this decision either by WADA or RUSADA, the Player will be entitled (if so advised) to exercise her right of cross-appeal in accordance with TADP Article 12.6.3.

London, 16 April 2018