

**DECISION OF THE INTERNATIONAL TENNIS FEDERATION  
PURSUANT TO ARTICLE 7.14 OF THE 2022 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 2021 Tennis Anti-Doping Programme (the **TADP** or the **Programme**),<sup>1</sup> which sets out Code-compliant anti-doping rules applicable to players competing in '**Covered Events**' (as defined in TADP Appendix 1).<sup>2</sup>
2. Elizaveta Koklina (the **Player**) is a 20-year-old tennis player who is a national of and resident in Russia. She has competed on the ITF Junior Circuits since September 2016 and, from April 2017, on the ITF World Tennis Tour (in both singles and doubles competitions). When she registered online for an International Player Identification Number (IPIN) on 4 February 2017 and in subsequent years, the Player expressly agreed to be bound by and to comply with the Programme. By virtue of that agreement, and by virtue of her participation in ITF World Tennis Tour events (which fall within the definition of '**Covered Events**' under the TADP), the Player became bound by and was required to comply with the TADP.
3. The ITF charged the Player with the commission of an anti-doping rule violation under the TADP and has proposed certain Consequences based on its analysis of the degree of fault that the Player bears for that violation. The Player has admitted the anti-doping rule violation charged and acceded to the Consequences proposed. The ITF therefore issues this decision further to 2022 TADP Article 7.14, which provides:

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

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

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

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<sup>1</sup> The Programme has since, as from 1 January 2022, been superseded by the 2022 Tennis Anti-Doping Programme (the **2022 TADP** or the **2022 Programme**). The ITF has delegated all aspects of Doping Control and Education under the 2022 Programme to the International Tennis Integrity Agency, save for certain matters arising prior to the Effective Date (such as results management in respect of this case).

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

## **II. The Player's commission of anti-doping rule violations**

4. On 16 August 2021, the Player was required to provide a urine sample for drug testing under the TADP on behalf of the ITF as part of an Out-of-Competition mission. The sample was assigned reference number 3154319, and was split into an A sample and a B sample, which were sealed in tamper-evident bottles and transported to the WADA-accredited laboratory in Stockholm, Sweden (the **Laboratory**) for analysis. The Laboratory reported an Adverse Analytical Finding for hydrochlorothiazide, which is prohibited under the TADP, in the category of Diuretics and Masking Agents (section S5 of the 2021 Prohibited List). Hydrochlorothiazide is a Specified Substance. The Player does not have a Therapeutic Use Exemption permitting use of hydrochlorothiazide.
5. The results of the A sample analysis were considered by an independent Review Board in accordance with TADP Article 7.4. The Review Board did not identify any apparent departures from the sample collection procedures set out in the International Standard for Testing and Investigations or from the sample analysis procedures set out in the International Standard for Laboratories that could have caused this Adverse Analytical Finding. It therefore decided that the Player had a case to answer for breach of TADP Article 2.1 and/or TADP Article 2.2.
6. The ITF sent the Player a (pre-charge) Notice on 3 October 2021, notifying her that she may have committed anti-doping rule violations under TADP Article 2.1 (presence of a Prohibited Substance in his sample) and/or TADP Article 2.2 (Use or Attempted Use of a Prohibited Substance). Given that hydrochlorothiazide is classified as a Specified Substance under the TADP, the Player was not subject to a mandatory provisional suspension under TADP Article 7.12.1.
7. On 12 October 2021, in her preliminary response to the (pre-charge) Notice, the Player denied that she had committed the anti-doping rule violations set out in that Notice, and waived analysis of her B sample 3154319.
8. On 20 October 2021, the ITF formally charged the Player with the commission of anti-doping rule violations under TADP Articles 2.1 and/or 2.2. 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. On 9 November 2021, the Player replied to the Charge Letter, accepting that hydrochlorothiazide was present in her sample, and therefore admitting that she had committed the TADP Articles 2.1 and/or 2.2 anti-doping rule violations with which she was charged, but denying intentional ingestion of hydrochlorothiazide.

## **III. Consequences**

### **III.A Period of Ineligibility**

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

10. In summary in her initial response (on 12 October 2021) to the pre-charge Notice and in more detail in her response (on 9 November 2021) to the Charge Letter, the Player asserted that she had not intentionally ingested hydrochlorothiazide and explained that the Adverse Analytical Finding must have been caused by her ingestion at a routine medical appointment on the day before sample collection of a tablet that she believed to be Captopril (which does not contain hydrochlorothiazide) but – unknown at that time to the Player – had been replaced by a nurse

with a tablet of Capozide (which does contain hydrochlorothiazide) after a doctor prescribed Captopril to the Player to treat an emergency hypertensive crisis. The Player provided statements and medical documentation in support of her explanation, including:

10.1 A written statement by the Player, in which she confirmed:

- 10.1.1 she has suffered from high blood pressure since childhood, when she was diagnosed with vegetative-vascular dystonia with arterial hypertension, and has since been diagnosed with [REDACTED];
- 10.1.2 on 15 August 2021, during a regular appointment with her neurologist (the **Doctor**) at the AM Medica clinic in Kazan, Russia (the **Clinic**) regarding a longstanding arm injury, the Player was taken ill and diagnosed by the Doctor as experiencing a hypertensive crisis, requiring urgent medical treatment to normalise her blood pressure;
- 10.1.3 the Doctor prescribed Captopril to the Player and the Player, despite her condition, was mindful of her responsibilities under the TADP and used her mobile telephone to access the internet and check whether 'Captopril' contained any prohibited substance using the Russian Anti-Doping Agency (**RUSADA**) online database designed for checking the contents of medications (and received confirmation that it did not);<sup>3</sup>
- 10.1.4 the Player confirmed to the Doctor that she could use Captopril, and the Doctor asked a Clinic nurse (the **Nurse**) to fetch one tablet of Captopril;
- 10.1.5 the Nurse brought into the room a tablet (without packaging) and a glass of water, and assisted the Player, who was still weak and unwell, to sit up and swallow the tablet (which the Player did);
- 10.1.6 the Player rested and completed the remainder of the neurological appointment with the Doctor before returning home. The Player was woken up at just after 6 am the following day by Doping Control Officers seeking to conduct no-advance-notice Out-of-Competition testing. While completing the testing process, the Player explained to the Doping Control Officers that she suffered with health problems but, because she could not remember the name of the medication she had ingested the day before and because she had satisfied herself at the time that the medication did not contain any prohibited substance, the Player did not declare her use of the medication on the Doping Control Form; and
- 10.1.7 when she received notification on 3 October 2021 that hydrochlorothiazide had been found in her urine sample provided on 16 August 2021, the Player investigated how hydrochlorothiazide could have entered her body, including by asking the Clinic to confirm the medication she had ingested on 15 August 2021. The Doctor reviewed the Clinic internal records and discussed the matter with the Nurse, then explained to the Player that whereas he had requested the Nurse bring a 50 mg Captopril tablet, the Nurse had instead brought a Capozide tablet, which contains 50 mg Captopril and 25 mg hydrochlorothiazide, without informing the Doctor or the Player that the medication brought was not exactly what had been requested.

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<sup>3</sup> See [list.rusada.ru/](http://list.rusada.ru/).

- 10.2 A written statement by the Doctor, explaining what had happened at the Player's appointment on 15 August 2021 in terms broadly consistent with the Player's account.
- 10.3 A handwritten statement by the Nurse, explaining what had happened at the Player's appointment on 15 August 2021 in terms broadly consistent with the Player's account.
- 10.4 Medical records evidencing the player's underlying medical conditions, and medical records from the appointment on 15 August 2021 (on which the Player's measured blood pressure was noted and 'Captopril 50 mg per os' was prescribed).
11. The ITF reviewed the Player's initial responses and concluded that the Player had not met her burden to demonstrate that the source of the hydrochlorothiazide in her urine sample. The ITF informed the Player of its position and invited the Player to provide further evidence in support of that explanation.
12. On 6 January 2022, the Player provided statements and further documents in support of her explanation, including:
  - 12.1 a second statement by the Player, in which she confirmed (in addition to the information provided in her first statement):
    - 12.1.1 on 15 August 2021, she had spent the day in the countryside with a friend but had experienced nausea and a headache before she was driven by her friend to her appointment at the Clinic;
    - 12.1.2 at the Clinic, the Player met her mother, who usually attends important medical appointments with her. When they walked upstairs to the appointment, the Player's symptoms worsened notably, with the onset of a fever, sweating and thirst, and a worsening of her headache;
    - 12.1.3 the Doctor diagnosed her with an ongoing hypertensive crisis requiring emergency treatment. The Player knew from previous appointments that the Doctor was aware that she was a professional athlete and was prohibited from taking certain substances, and that the Player (rather than the Doctor) checked all medicines that he prescribed to her;
    - 12.1.4 when the Doctor prescribed Captopril (which the Player was not familiar with and had not used before), she accessed the RUSADA website on her mobile telephone, searched for Captopril, and was satisfied that it did not contain any prohibited substances;
    - 12.1.5 the Doctor called the Nurse and instructed her to bring 50 mg of Captopril, and while the Player lay on the bed waiting for the medicine to arrive, her mother left the room to wait in the corridor;
    - 12.1.6 the nurse brought a tablet and glass of water on a metal tray and helped the Player from her prone position to swallow the tablet (which was alone without packaging, and which the Player believed to be Captopril); and
    - 12.1.7 the Player remained lying on the bed in the consultancy room for 30-40 minutes until the Doctor was satisfied that her blood pressure had decreased sufficiently to allow her to return home;

12.2 a statement by the Player's mother, who confirmed that:

- 12.2.1 like the Player, the Player's mother has been diagnosed with hypertension but has never previously been prescribed either Captopril or Capozide;
- 12.2.2 she often attends medical appointments with the Player, and did so on 15 August 2021 because the Player called her while she was travelling to the Clinic and explained she was feeling unwell, so the Player's mother decided to meet the Player at the Clinic;
- 12.2.3 on arrival, she noticed that the Player was ill and red-faced and looked scared and very weak, and the Player complained of a headache and nausea, and asked to be brought water. The Player's mother had seen the Player experience similar symptoms and problems with blood pressure as a child, but never such a severe reaction;
- 12.2.4 while the Player's mother was in the room, the Doctor examined the Player for around 20 minutes, including taking her blood pressure, before diagnosing her with a hypertensive crisis and prescribing Captopril. The Player immediately used her mobile telephone to check the RUSADA website as to whether the drug contained any prohibited substance, then agreed to take the Captopril, and the Player's mother left the consultation room; and
- 12.2.5 while waiting in the corridor outside the consultation room, a nurse carrying a tray with a glass of water on it entered the consultation room and remained inside the room for a few minutes. Around 30-40 minutes after the nurse had left the room, the Player left, saying that she felt somewhat better, and the Player and her mother returned home;

12.3 a statement by the Doctor, who confirmed that:

- 12.3.1 when the Player attended her appointment on 15 August 2021, she complained of a severe headache, dizziness, nausea, and eye pain. The Doctor examined the Player and her symptoms, and diagnosed her with a hypertensive crisis, requiring immediate treatment;
- 12.3.2 he was aware that the Player was a professional tennis player. The Player had told him previously that she could not take certain drugs prohibited in sport, and would always check on her mobile telephone during the appointment any drugs the Doctor prescribed before agreeing to take them. On 15 August 2021, when the Doctor prescribed 50 mg of Captopril, the Player used her mobile telephone to check that drug in the usual way, after which she agreed to take it (and the Player did not specifically ask the Doctor if Captopril contained any prohibited substance), and the Player's mother left the room;
- 12.3.3 he used the telephone in the consultation room to call the Nurse, and instructed her to bring a 50 mg Captopril tablet from the treatment room. The Nurse brought a tablet and a glass of water on a metal tray, assisted the Player to take the medicine, confirmed with the Doctor the name of the Player, and left the consultation room;
- 12.3.4 15 minutes later, he examined the Player and checked her blood pressure and pulse rate. After a further 10-15 minutes, he re-examined her, was satisfied that

her levels had returned to normal. Although the Player's headache and other symptoms persisted, the Doctor was content to allow the Player to go home, and the Doctor noted the use of 50 mg Captopril on the Player's medical records; and

12.3.5 on 7 October 2021, the Player returned to the Clinic with queries regarding her treatment on 15 August 2021. Following internal investigations, the Clinic established that while the Doctor had requested a tablet of Captopril, the Nurse had brought to the consultation room a tablet of Capozide, because there was no Captopril available in the treatment room emergency medicine kit and the Nurse knew that for the purpose required, Captopril and Capozide were interchangeable. Until the Player's request and subsequent Clinic investigation, the Doctor understood that the Player had been administered Captopril on 15 August 2021;

12.4 a statement by the Nurse, who confirmed that:

12.4.1 on 15 August 2021, she was working in the Clinic's treatment room when she received a telephone call from the Doctor, who asked her to bring to his consultation room a 50 mg tablet of Captopril;

12.4.2 she opened 'pillbox number 3', which contains medication for the emergency treatment of hypertensive crises and is maintained by the Clinic's administration in accordance with the medical care standards of the Ministry of Health of the Russian Federation;

12.4.3 inside pillbox number 3, she could not find any Captopril tablets but could find two blister packs of 14 tablets each of Capozide. She knew Capozide to be an analogue of Captopril and that the Clinic kept pillbox number 3 stocked with Captopril and/or Capozide, depending on their availability, because they were interchangeable. For that reason, she did not consider it necessary to inform the Doctor that the tablet that she popped from the blister pack and brought to the Player was Capozide rather than the Captopril requested.

12.4.4 when she entered the consultation room, she saw a young woman (the Player) lying on the treatment bed with her eyes closed. The Nurse assisted the Player, who had a red face and swollen eyelids, into a sitting position so that she could swallow the tablet. The Nurse placed the 50 mg Capozide tablet in the Player's mouth and assisted her to drink some water. The Nurse did not speak with the Player but asked the Doctor to confirm the Player's name;

12.4.5 having spent no more than five minutes in the consultation room, she returned to the treatment room, where she recorded the treatment in manuscript in the Clinic's treatment room procedure log (**Procedure Log**); and

12.4.6 on 7 October 2021, the Clinic's administration asked her to explain what medication she had administered to the Player on 15 August 2021. The Nurse checked the Procedure Log and informed the administration and the Doctor that she had brought from pillbox number 3 in the treatment room and administered to the Player one 50 mg tablet of Capozide; and

- 12.5 a letter from the Clinic's chief physician, enclosing (among other things):
- 12.5.1 copies of the cover of and page from the Procedure Log, in which was written in manuscript that, on 15 August 2022, patient 'E. S. Koklina' was administered 'Capozide 50 mg' '(1 tablet)'; and
  - 12.5.2 a photograph of pillbox number 3, a plastic box containing boxes of medications, which was labelled as the 'First aid kit for arterial hypertension' and for 'emergency medical care for diseases characterized by high blood pressure'. The label listed the contents of the first aid kit, including 'Captopril/ Capozide 50 mg in tab. (1 package)'.
13. The ITF consulted Professor Christiane Ayotte, Director of the WADA-accredited INRS anti-doping laboratory in Montreal, Canada, who noted that the level of hydrochlorothiazide (1.7 µg/mL) found in and the specific gravity of the Player's sample were both high and therefore a recent administration (approximately 13 hours before sample collection) of 25 mg hydrochlorothiazide, as asserted by the Player, could explain the Adverse Analytical Finding.
14. The ITF has reviewed all of the detailed evidence provided by the Player and obtained expert evidence in respect of the relevant issues arising. Based on all of that evidence, and in the unique and exceptional circumstances of this case, the ITF accepts the Player has established that it is more likely than not that the presence of hydrochlorothiazide found in her urine sample 3154319 was due to her ingestion of a Capozide tablet (containing 25 mg of hydrochlorothiazide) that she was administered at the Clinic on 15 August 2021, which tablet she believed to be Captopril, which she was prescribed to treat an emergency hypertensive crisis, but that had, unknown to the Player or the Doctor who prescribed it, been substituted by the Nurse for a tablet of Capozide.

**(b) TADP Articles 10.9.1 and 10.2**

15. This is the Player's second Anti-Doping Rule Violation.<sup>4</sup> TADP Article 10.9.1 specifies that, for a second Anti-Doping Rule Violation, the period of Ineligibility will be the greater of: '[*(i)*] a six month period of Ineligibility; and [*(ii)*] a period of Ineligibility in the range between: (a) the sum of the period of Ineligibility imposed for the first Anti-Doping Rule Violation plus the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation; and (b) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation'. The period of Ineligibility within this range will be determined based on the entirety of the circumstances and the Player's degree of Fault with respect to the second violation.
16. In order to calculate the range for the relevant period of Ineligibility in accordance with TADP Article 10.9.1, TADP Article 10.2.1 specifies that a TADP Article 2.1 violation that is 'intentional' attracts a mandatory four-year ban. If the prohibited substance in question is classified as a Specified Substance (as here), TADP Article 10.2.2 specifies that the ITF has the burden of proving that the violation was 'intentional'. If the ITF can do so, then TADP Article 10.2.2 provides for a two-year period of ineligibility, subject to mitigation. TADP Article 10.2.3 explains that in

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<sup>4</sup> See *ITF v Koklina*, decision of the ITF dated 16 April 2018. The Player, a minor at the time, was found to have committed an Anti-Doping Rule Violation under Article 2.1 of the Programme, on account of the positive sample provided by her on 23 October 2017, which contained torasemide and furosemide. The Player established that the source of the torasemide and furosemide was her ingestion of a tablet originally prescribed to treat her mother's hypertension, and a period of twelve months' ineligibility was imposed.

this context 'the term 'intentional' is meant to identify those Players or other Persons who engage in conduct that they knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk'. The jurisprudence is clear that what counts in this context is what the Player actually knew, not what she should have known.<sup>5</sup>

17. Since the ITF has accepted that the Player has shown it was more likely than not that the presence of hydrochlorothiazide in her sample was due to her ingestion on 15 August 2021 of a Capozide tablet (containing 25 mg hydrochlorothiazide) that was substituted without her knowledge for the Captopril tablet that she had been prescribed (and which she had checked contained no prohibited substances), the ITF accepts that it cannot meet its burden to demonstrate that the Player's commission of her violation was 'intentional' within the meaning of TADP Articles 10.2.1 and 10.2.3. The starting point for the calculation of the range of the applicable period of ineligibility is therefore two years, subject to possible reduction in accordance with TADP Article 10.5 or Article 10.6 and then (if applicable) assessment in accordance with TADP Article 10.9.1.

**(c) TADP Articles 10.5 and 10.6**

18. In order to get the sanction eliminated, the Player must show that she bears 'No Fault or Negligence' for the violation under TADP Article 10.5, or (alternatively) in order to get the sanction reduced below two years for the purposes of the TADP Article 10.9.1 calculation and analysis, the Player must show that she bears 'No Significant Fault or Negligence' for the violation under TADP Article 10.6.
19. TADP Article 10.5 provides that if a player establishes that she bears No Fault or Negligence for the anti-doping rule violation in question, the otherwise applicable period of ineligibility will be eliminated. No Fault or Negligence is defined in the TADP as follows: 'The Player or other Person establishing that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule'.
20. TADP Article 10.6.1.1 provides that where a prohibited substance found in a player's sample is classified as a Specified Substance under the TADP (as here), and the player can establish that they bear No Significant Fault or Negligence for its presence in their system, then the otherwise applicable two-year period of ineligibility may be reduced by between 0 and 24 months (i.e., by up to 100%, in which case there would be a reprimand only). No Significant Fault or Negligence is defined in the TADP as follows: 'The Player or other Person establishing that his/her 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 in relationship to the Anti-Doping Rule Violation'.
21. It is a precondition of any mitigation of a sanction for No (or No Significant) Fault or Negligence that the player proves on the balance of probabilities (see TADP Article 3.1.2) how the prohibited substance(s) found in their sample entered their system. Otherwise, it is impossible to assess

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<sup>5</sup> ITF v Sharapova, Independent Tribunal decision dated 6 June 2016, para 77 ('It is clear from the wording of article 10.2.3 that whether conduct is intentional is to be judged on the actual knowledge of the player, not on the basis of what she ought to have known or understood') and para 71 ('the concession that the player did not know that she was taking a Prohibited Substance resolves both elements of article 10.2.3. On neither basis was the conduct of the player intentional').

the degree of fault that the player bears for the substances being in their system. Here, as explained at paragraph 17, above, the Player has met that burden.

22. A plea of No Fault or Negligence or No Significant Fault or Negligence is assessed by considering how far the player departed from their duty under the TADP to use 'utmost caution' to ensure that they would not ingest any prohibited substances or otherwise do anything that might constitute or result in the commission of an anti-doping rule violation.<sup>6</sup> 'The difference between the two [...] is one of degree: to establish No Fault or Negligence, the athlete must show that he took every step available to him to avoid the violation, and could not have done any more; whereas to establish No Significant Fault or Negligence, he must show that, to the extent he failed to take certain steps that were available to him to avoid the violation, the circumstances were exceptional and therefore that failure was not significant'.<sup>7</sup> The CAS jurisprudence is clear that the standard of 'utmost caution' is very onerous, and requires a player to show that they 'made every conceivable effort to avoid taking a prohibited substance'.<sup>8</sup>
23. The Player has asserted that her violation was committed inadvertently and without intent, and without any fault or negligence on her part. The ITF accepts, in the exceptional circumstances of this case and in light of all of the evidence provided by the Player, that the Player acted with No Fault or Negligence in relation to her violation because she has established that she did not know or suspect and could not reasonably have known or suspected even with the utmost caution that she had ingested or was at risk of ingesting hydrochlorothiazide. In particular, the Player was careful, despite her condition at the time, to check whether the Captopril tablet she was prescribed by the Doctor contained any prohibited substances and, satisfied that it did not, consented to that particular medication. In the circumstances of the emergency treatment, and in a medical clinic that she was familiar with, the Player could not reasonably have known or suspected even with the utmost caution that she was at risk of ingesting a prohibited substance when the Doctor requested the Nurse bring a tablet of Captopril but the Nurse – who did not know the identity of the patient or that she was subject to the Programme, and who found only Capozide and not Captopril in the first aid box because the two medications are used legitimately and interchangeably by the Clinic for emergency medical treatment – in fact brought a tablet of Capozide (containing hydrochlorothiazide) and did not inform the Doctor or the Player that she had brought a different medication.<sup>9</sup> Nor was the Player at Fault for failing to request a

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<sup>6</sup> See, e.g., Kutrovsky v ITE, CAS 2012/A/2804, para 9.49 ('the athlete's fault is measured against the fundamental duty that he or she owes under the Programme and the WADC to do everything in his or her power to avoid ingesting any prohibited substance'); FIFA & WADA, CAS 2005/C/976 & 986, paras 73-75 ('The WADC imposes on the athlete a *duty of utmost caution* to avoid that a prohibited substance enters his or her body. [...] It is this standard of utmost care against which the behaviour of an athlete is measured if an anti-doping violation has been identified').

<sup>7</sup> IBAF v Luque, IBAF Anti-Doping Tribunal decision dated 13 December 2010, para 6.10.

<sup>8</sup> Knauss v FIS, CAS 2005/A/847, para 7.3.1; WADA v NSAM et al, CAS 2007/A/1395, para 80 ('The burden is therefore shifted to the athlete to establish that he/she has done all that is possible to avoid a positive testing result').

<sup>9</sup> Perry v ATP Tour, ATP Tour Anti-Doping Tribunal Appeal decision dated 30 November 2005, para 57 ('The Player must establish that he not only acted with No Fault or Negligence, but also must additionally establish the source of the prohibited substance ... The Player could not have known, reasonably known or suspected that he had used or been administered a Prohibited Substance for which he held no ATUE', where the player had a valid TUE for a terbutaline inhaler, asked an ATP doctor for a refill and the doctor gave him a salbutamol inhaler and did not inform the player about the change of medication).

retroactive TUE, because she only became aware that she had ingested hydrochlorothiazide in the course of investigating the matter following notification by the ITF that hydrochlorothiazide had been detected in her urine sample.

24. Where a finding of No Fault or Negligence is made, TADP Article 10.5 provides that any otherwise applicable period of Ineligibility shall be eliminated entirely. Therefore, the otherwise applicable calculation specified in TADP Article 10.9.1 in respect of a second Anti-Doping Rule Violation is not engaged, and the Player will not serve any period of Ineligibility for her violation.

### **III.B Disqualification of results**

25. The Player competed in three Competitions between the date of sample collection (16 August 2021) and the date she was notified of a possible Anti-Doping Rule Violation in accordance with TADP Article 7.10 (3 October 2021).
26. While the general rule is that results obtained by the Player in that period will be disqualified pursuant to TADP Article 10.10, unless fairness requires otherwise, the ITF accepts that in the specific circumstances of this case (in particular that the Player was not exposed further to the source of the hydrochlorothiazide after 15 August 2021, and a period of over two weeks elapsed between that date and the next competition that the Player participated in), fairness does require otherwise, and so the Player will retain the results obtained between the date of sample collection and the date of this Decision.

### **III.C Costs**

27. Each party will bear its own costs of dealing with this matter.

### **III.D Publication**

28. In accordance with 2022 TADP Articles 7.14.2 and 8.6, this decision will be publicly reported by being posted (in full and/or summary form) on the ITF's website.

### **III.E Acceptance by the Player**

29. 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**

30. This decision constitutes the final decision of the ITF, resolving this matter pursuant to 2022 TADP Article 7.14.
31. Further to 2022 TADP Article 13.2, each of WADA and the Russian Anti-Doping Agency (**RUSADA**) has a right to appeal against this decision to the CAS in Lausanne, Switzerland, in accordance with the procedure set out at 2022 TADP Article 13.9.

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The comment to WADA Code Article 10.5 states that an athlete will not be able to rely on No Fault or Negligence where a substance has been administered by a doctor (or other person) 'without disclosure to the athlete'. However, the ITF is satisfied that the comment is not applicable in this case because the Doctor did disclose the prescribed substance and the Player checked it and satisfied herself it did not contain any prohibited substance before it (or what she and the Doctor believed to be it) was administered.

32. 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 2022 TADP Article 13.2 or otherwise. However, if an appeal is filed with the CAS against this decision either by WADA or RUSADA, the Player will be entitled (if so advised) to exercise her right of cross-appeal in accordance with 2022 TADP Article 13.9.4.

London, 1 February 2022