

INTERNATIONAL TENNIS FEDERATION

TENNIS ANTI-DOPING PROGRAMME

DECISION IN THE CASE OF KRISTINA ANTONIYCHUK

1. Admission of an anti-doping rule violation
 - 1.1 Ms Antonychuk has admitted that furosemide was present in the urine sample collected from her on 22 February 2010 at the 2010 Abierto Mexicano TELCEL presentado por HSBC Event held in Acapulco, Mexico (the “Acapulco Event”).
 - 1.2 Furosemide is a Prohibited Substance under WADA’s 2010 List of Prohibited Substances and Methods. Accordingly, Ms Antonychuk has admitted committing an anti-doping rule violation under Article C.1 of the ITF’s 2010 Tennis Anti-Doping Programme (the “Programme”), namely having a Prohibited Substance present in a sample collected from her under the Programme.
 - 1.3 According to the ITF’s records, this is Ms Antonychuk’s first anti-doping rule violation.
2. Application of Article M.4 of the Programme (Specified Substances)
 - 2.1 The prima facie sanction for an anti-doping rule violation under Article C.1 of the Programme that is a first offence is a two-year period of Ineligibility: see Article M.2 of the Programme. However, discretion exists under various provisions of the Programme – copied from the 2009 World Anti-Doping Code (the “Code”) – to reduce that sanction in particular circumstances.
 - 2.2 For example, Article M.4 of the Programme confers a discretion to depart from the two-year period of Ineligibility, and to impose instead a sanction of between (at a minimum) a warning and reprimand and (at a maximum) a period of Ineligibility of between 0 and 24 months, where the Prohibited Substance in question is classified as a “specified substance” in the 2010 List of Prohibited Substances and Prohibited Methods, and the player establishes how the substance got into her system and that her use of the substance “*was not intended to enhance the Player’s sports performance or mask the Use of a performance-enhancing substance...*”
 - 2.3 Ms Antonychuk has explained that the presence of furosemide in her system was due to her therapeutic use of furosemide to treat a medical condition she has had for two years. She has produced medical records confirming that diagnosis, and further confirming that in January 2010, when the condition worsened, she was prescribed furosemide by a doctor to treat that condition. She explained that the symptoms worsened after her long flight to the Acapulco Event and because the change in the climate, and so she took the prescribed furosemide “*on a single occasion to reduce pains*”.
 - 2.4 Ms Antonychuk explained that she was not aware the medication prescribed to her contained any prohibited substance. She puts this down to her inexperience in relation to doping matters. That does not explain why she failed to disclose having taken this medication in the appropriate box on the doping control form that she filled out when she provided her sample at the Acapulco Event. Nevertheless, the ITF accepts her claim that she

took the medication only for therapeutic purposes and not to enhance her performance or to mask the use of any other substance.

2.4 On this basis, Ms Antoniychuk has established to the required standard, and with the required corroborating evidence, how the furosemide got into her body, and that her use of the furosemide “*was not intended to enhance [her] sports performance or mask the Use of a performance-enhancing substance*”. Therefore, discretion exists under Article M.4 of the Programme to reduce her period of Ineligibility below the 24 months specified in Article M.2.

3. Exercise of Discretion under Article M.4

3.1 According to Article M.4 of the Programme, the criterion to be used in exercising that discretion is the “degree of fault” of the player. On that issue:

3.1.1 Ms Antoniychuk has been frank in admitting her negligence in taking a medication that contains a Prohibited Substance without first seeking and obtaining a TUE.

3.1.2 Indeed, the ITF is clear that Ms Antoniychuk’s fault in this case was significant:

3.1.2.1 Article B.3 of the Programme states as follows:

It is the sole responsibility of each Player:

B.3.1 to acquaint him/herself, and to ensure that each Person from whom he/she takes advice (including medical personnel) is acquainted, with all of the requirements of the Programme;

B.3.2 to know what constitutes an anti-doping rule violation under this Programme and what substances and methods have been included on the Prohibited List; and

B.3.3 to ensure that anything he/she ingests or uses, as well as any medical treatment he/she receives, does not give rise to an anti-doping rule violation under this Programme.

3.1.2.2 This is a very strict responsibility on all players, and is fundamental to the fight against doping and to the pursuit of clean competition in the sport of tennis. In the words of the CAS Panel in *Pous Tio v. ITF* (CAS 2008/A/1488, 22 August 2008), it requires players to “*investigate to their fullest extent that the medication does not contain prohibited substances.*”

3.1.2.3 Ms Antoniychuk failed to take any of the various steps that were available to her to discharge her strict personal responsibility to ensure that the medical treatment she received did not involve substances that are prohibited under the Programme. For example, she did not refer to the Programme or the ITF wallet card, nor did she refer the doctor to those materials; she did not call the telephone advice line provided by the ITF; and she did not contact her National Association or her National Anti-Doping Organisation.

3.1.2.4 Ms Antoniychuk has acknowledged that she did not consult a sports medicine specialist. Nor did she ensure that the doctor she consulted understood the

strict anti-doping rules to which she is subject, and she did not specifically draw the doctor's attention to the WADA List of Prohibited Substances and asked if the medication proposed contained any of the substances on that list.

3.1.2 Nevertheless, it is accepted that at least:

3.1.2.1 Ms Antoniychuk did obtain the furosemide from a doctor, who prescribed it in good faith to treat a legitimate medical condition. This can be contrasted with cases where athletes take pills, supplements and other 'medications' without prescription or other proper medical advice. Ms Antoniychuk was not as reckless as those athletes.

3.1.2.2 Ms Antoniychuk only used the medication on a single occasion.

3.1.2.3 Ms Antoniychuk is young (at the time of the Acapulco Event, she was only 19 years old) and not experienced in relation to doping matters. The comment to Article 10.5 of the Code states that “[w]hile minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the Athlete or other Person’s fault under Article 10.5.2, as well as Articles 10.3.3, 10.4 and 10.5.1”. For example, in *WADA v USADA and Thompson*, CAS 2008/A/1490, the CAS Panel agreed with the tribunal below that the period of ineligibility imposed should be reduced based on “*Mr. Thomson’s complete lack of experience in doping matters and as a national or international athlete; lack of guidance and support from his coaches or others; lack of intention to influence or enhance his performance at the relevant time; and his relatively young age, all of which taken together in the factual context, which gives rise to the exceptional nature of this case and justifies supporting the conclusions of the AAA Arbitrator.*”

3.1.3 Furthermore, the ITF acknowledges that an athlete who knowingly and intentionally takes a prohibited substance such as a steroid or hormone, specifically for the purpose of enhancing his/her sports performance, will still only be banned for two years under the Code (and the Programme). Ms Antoniychuk’s fault is clearly not as serious as that.

3.2 As a consequence, the ITF considers that in this case imposition of a period of Ineligibility of less than two years is appropriate. The only remaining question is how great a reduction is warranted, given the degree of fault exhibited.

3.3 In the case of *Pous Tio* (23 December 2008), involving similar facts to the current case, the ITF reduced the period of Ineligibility to be served by the player by six months, from 24 months to 18 months. In the case of *Nagle* (2 April 2009), which also involved similar facts to the current case, the ITF reduced the period of Ineligibility to be served by the player by eight months, from 24 months to 16 months.

3.4 Ms Antoniychuk’s fault was broadly similar to those of Pous Tio and Nagle. However, at the time of the Acapulco Event, Ms Antoniychuk was only 19 years old and was inexperienced in relation to doping matters. By comparison, the players in the other cases mentioned were 22 and 25 respectively at the relevant times.

3.5 The ITF has therefore decided that a reduction of eight months is appropriate in this case, i.e., the period of Ineligibility imposed on Ms Antoniychuk should be fourteen (14) months.

4. Back-dating

4.1 Article M.9.3(b) of the Programme provides that where a player promptly admits an anti-doping rule violation after being confronted with it by the ITF, the period of Ineligibility imposed may be back-dated so that it is deemed to have commenced as far back as the date of sample collection, provided that after such back-dating the player still has to serve at least one-half of the period of Ineligibility imposed.

4.2 Ms Antoniychuk has promptly admitted her anti-doping rule violation on being confronted with it by the ITF. This means that the case can be dealt with in a manner that conserves scarce anti-doping resources. Therefore, Ms Antoniychuk is entitled to the benefit of Article M.9.3(b).

4.3 Since Ms Antoniychuk's sample was collected on 22 February 2010, back-dating her 14-month ban to start on that date would mean it would end at midnight on 21 April 2011. Since that would mean that, as of today, she still had more than 50% of her 14 month ban to serve, such back-dating is permitted under Article M.9.3(b) of the Programme.

5. Disqualification of Results

5.1 Ms Antoniychuk's results at the Acapulco Event are automatically disqualified, by application of Article L.1 of the Programme. In addition, her results at subsequent events are subject to disqualification by application of Article M.8 of the Programme.

6. Decision

5.1 Based on the foregoing, it is decided that Ms Antoniychuk has committed an anti-doping rule violation under Article C.1 of the Programme and that the following consequences should be imposed:

5.1.1 A fourteen-month period of Ineligibility, backdated to commence on 22 February 2010 and therefore ending at midnight on 21 April 2011.

5.1.2 Disqualification of her results achieved in the following events, including the forfeiture of the ranking points and prize money awarded therein:

<u>Event (Singles)</u>	<u>WTA Championship Points</u>	<u>WTA Ranking Points</u>	<u>Prize Money (US \$)</u>
Acapulco	10	10	860
Monterrey	10	10	860
Namangan	0	14	686
Torhout	0	10	760

Johannesburg	0	1	887
TOTAL	20	45	4,053

<u>Event (Doubles)</u>	<u>WTA Championship Points</u>	<u>WTA Ranking Points</u>	<u>Prize Money (US \$)</u>
Namangan	0	50	588
Johannesburg	0	1	254
TOTAL	0	51	842

- 5.2 Ms Antonychuk has waived her right, under Article O of the Programme, to appeal against this decision, both as to the finding that she has committed an anti-doping rule violation and as to the imposition of the consequences listed above.
- 5.3 Ms Antonychuk has acknowledged the rights of the parties identified in Article O of the Programme to appeal to the Court of Arbitration for Sport against this decision.

Stuart Miller
ITF Anti-Doping Manager

12 May 2010