

27 November 2024

**DECISION OF THE INTERNATIONAL TENNIS INTEGRITY AGENCY
PURSUANT TO ARTICLE 7.14 OF THE 2024 TENNIS ANTI-DOPING PROGRAMME**

I. Introduction

1. The International Tennis Integrity Agency (**ITIA**) is the delegated third party, under the World Anti-Doping Code (**Code**), of the International Tennis Federation (**ITF**), the international governing body for the sport of tennis and signatory of the Code. Under the delegation, the ITIA is responsible for the management and administration of anti-doping across professional tennis in accordance with the Tennis Anti-Doping Programme (the **TADP** or the **Programme**), which sets out Code-compliant anti-doping rules applicable to players competing in Covered Events.¹
2. Iga Świątek (the **Player**) is a 23-year-old tennis player from Poland. She has achieved a career-high WTA singles ranking of 1. By virtue of (among other things) her WTA ranking and participation in Covered Events in 2024, the Player was bound by and required to comply with the TADP at all relevant times.
3. The ITIA charged the Player with the commission of anti-doping rule violations under Article 2.1 and/or Article 2.2 of the TADP (copied below), and subsequently proposed certain Consequences based on its analysis of the degree of Fault that the Player bears for those violations:

“2.1 The presence of a Prohibited Substance or any of its Metabolites or Markers in a Player’s Sample, unless the Player establishes that such presence is consistent with a TUE granted in accordance with Article 4.4.”

“2.2 Use or Attempted Use by a Player of a Prohibited Substance or a Prohibited Method, unless the Player establishes that such Use or Attempted Use is consistent with a TUE granted in accordance with Article 4.4.”

4. The Player has admitted the anti-doping rule violations charged and acceded to the Consequences proposed by the ITIA.
5. In such circumstances, TADP Article 7.14 provides that:

“7.14.1 At any time prior to a final decision by the Independent Tribunal, the ITIA 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 Consequences specified by the ITIA [...], the ITIA will promptly issue a reasoned decision confirming the commission of the Anti-Doping Rule

¹ Unless specified otherwise, references in this decision to the TADP are to the 2024 edition, the substantive and procedural rules of which apply to this case (see TADP Article 1.5). Any defined term denoted by an initial capital letter that is not otherwise defined in this decision has the meaning given to it in the TADP.

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 ITIA 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, and in particular the reasons for exercising any discretion not to impose the full Consequences available under this Programme.”

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

6. On Monday 12 August 2024, ahead of competing in the Cincinnati Open, United States (the **Event**), the Player was required to provide an Out-of-Competition urine sample for drug testing pursuant to the TADP (the **Sample**). The sample she provided was given reference number 1452034 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 Montreal, Canada (the **Laboratory**) for analysis. The Laboratory detected the presence in sample A1452034 of trimetazidine (**TMZ**).
7. TMZ is a metabolic modulator prohibited at all times under Section S4.4 of the 2024 WADA Prohibited List. TMZ is not a Specified Substance.
8. The Adverse Analytical Finding reported by the Laboratory in respect of the sample was considered by an independent Review Board in accordance with TADP Article 7.4. The Review Board did not identify any apparent departures from the applicable sample collection and sample analysis procedures that could have caused these Adverse Analytical Finding. It therefore decided that the Player had a case to answer for breach of TADP Articles 2.1 and/or 2.2.
9. Accordingly, on Thursday 12 September 2024 the ITIA sent the Player a formal pre-charge Notice, asserting that the Player had a case to answer for breach of TADP Articles 2.1 and/or 2.2.
10. Given that TMZ is not classified as a Specified Substance under the TADP, the Player was subject to a mandatory provisional suspension under TADP Article 7.12.1, which came into effect on Thursday 12 September 2024.
11. On Saturday 14 September 2024, the Player responded to the pre-charge Notice, denying the charge and requesting analysis of the B sample.
12. The Laboratory subsequently analysed sample B1452034 and, on Thursday 19 September 2024, reported that it had detected TMZ in sample B1452034, i.e., the B sample analysis confirmed the Adverse Analytical Finding made in respect of the A sample.
13. On Sunday 22 September 2024, within the 10-day deadline set by the ITIA, the Player filed an application to lift the provisional suspension imposed on her. In summary, she denied having deliberately or knowingly used TMZ and indicated that she had not been able to identify the source of the TMZ in her sample, but asserted that the TMZ must have been inadvertently ingested through environmental contamination or a contaminated product.

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14. On Wednesday 25 September 2024, the ITIA responded to the Player's application to lift her provisional suspension. The ITIA noted that, based on the evidence available at that stage, the Player had not discharged her burden to lift the provisional suspension on any of the grounds set out in TADP Article 7.12.3.1(c).
15. Late in the evening on Thursday 26 September 2024, the Player filed reply submissions in relation to her application. The Player explained that she had commissioned experts to analyse various products she had been using around the time of sample collection. She asserted that the analysis results showed that a melatonin product (LEK-AM Melatonina 1 mg, the **Product**) she ingested around the time of sample collection was contaminated with TMZ.
16. The ITIA then held discussions with the SMRTL laboratory in Salt Lake City (**SMRTL**), one of the leading WADA-accredited laboratories in contaminated product analysis, to ascertain its availability to conduct expedited independent laboratory analysis of the Product. SMRTL confirmed over the weekend that this would be possible and on Monday 30 September 2024, the ITIA communicated to the Player's counsel that it would need to verify the Player's analysis results through independent laboratory analysis, which SMRTL was on standby to undertake, and to confirm that the pharmacokinetics and other investigations are consistent with contamination, before accepting that the Player's provisional suspension could be lifted on the basis of TADP Article 7.12.3.1(c)(iii) (i.e., "*the Anti-Doping Rule Violation asserted is likely to have involved a Contaminated Product*"). The ITIA advised the Player that she would need to ship the remnants of the Product urgently to SMRTL to conduct the independent laboratory analysis on an expedited basis.
17. On Tuesday 1 October 2024, the Chair of the Independent Tribunal appointed to determine the Player's application indicated that he was provisionally minded to defer determination of the application to lift the provisional suspension until the completion of the independent analysis of the Product.
18. Also on Tuesday 1 October 2024, the Player filed further evidence and reiterated her request to lift the provisional suspension.
19. On Wednesday 2 October 2024, the ITIA maintained its request that the Chair of the Independent Tribunal determine the Player's application following independent analysis of the Product.
20. On Thursday 3 October 2024, the Chair of the Independent Tribunal ruled that the Player's application would be determined as soon as reasonably practicable after Wednesday 9 October 2024, which was the date by which it was anticipated that the SMRTL results would be available.
21. At the ITIA's request, counsel for the Player arranged for the following to be couriered to SMRTL: (1) the remainder of the opened container of the Product that the Player had used prior to the sample collection, and (2) a sealed container of the Product from the same batch as used by the Player prior to the sample collection. The ITIA sought to independently source a container from the same batch but that was not available given the Product expiry date and the non-response of the manufacturer (see paragraph 33, below). However, the ITIA verified that the sealed container obtained by Player was from the same batch as that used by the Player (the batch numbers matched) and the sealed container had a tamper-evident seal.
22. On Friday 4 October 2024, SMRTL reported that it had detected TMZ in tablets from both the opened and sealed containers of the Product. SMRTL confirmed that the seal on the sealed

container was intact and conducted different analyses on the Product to rule out potential manipulation. The amount of TMZ detected in the Product was consistent with the estimated concentrations of TMZ found in the Player's urine sample, based on the Player's asserted ingestion.

23. On the same day, the ITIA informed the Player and the Independent Tribunal of the SMRTL results and confirmed that it did not oppose the lifting of the Player's provisional suspension on ground (iii) of TADP Article 7.12.3.1(c) but that it would continue to more fully investigate the facts in order to assess the merits of the case. In the evening of Friday 4 October 2024, the Chair of the Independent Tribunal issued a decision lifting the Player's provisional suspension.
24. On Friday 11 October 2024, after considering the Player's response to the pre-charge Notice and the evidence submitted with her application to lift the provisional suspension (and subsequently), the ITIA sent the Player a formal Charge Letter asserting that the presence of TMZ in her sample collected on 12 August 2024 constitutes anti-doping rule violations under TADP Articles 2.1 and/or 2.2.
25. TADP Article 2.1 is a strict liability offence that is established simply by proof that a prohibited substance was present in the Player's sample, i.e., the ITIA 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).
26. On Wednesday 23 October 2024, the Player filed a short response to the Charge Letter, accepting that TMZ was present in her sample collected on 12 August 2024 and therefore admitting that she had committed the anti-doping rule violations with which she was charged. The Player confirmed that she disputed the applicable consequences and did not intend to file any further submissions or evidence at that time.
27. The case was forwarded to the Independent Tribunal for determination, and procedural directions for the hearing of the matter were agreed between the parties and ordered by the Independent Tribunal.
28. As explained in more detail below, the ITIA further investigated the Player's explanation and evidence (including through a series of interviews and follow up enquiries and document requests) and proposed to the Player certain Consequences for the violations, which the Player acceded to.

III. Consequences

A. Period of Ineligibility

(i) How TMZ got into the Player's system

29. The Player has asserted that she did not intend to cheat and did not knowingly ingest TMZ. She asserts that her physician, an expert in sports medicine, recommended that she purchase and use the Product to reduce the effects of jetlag from frequent travel, and that (unknown to her) the Product was contaminated with TMZ.

30. In support of her explanation, the Player provided (among other things):
- 30.1 evidence that the Product is classified as a medication in Poland, is available to purchase from pharmacies in Poland (in many pharmacies the Product is available only behind the counter in a drawer – which the ITIA confirmed through its investigations – although in some pharmacies it is available on the shelf), is commonly used in Poland without prescription, and is manufactured under a brand that is reputable and widely available;
 - 30.2 an explanation of how the Player consulted with her physician since 2019 regarding the Player’s activities as a professional tennis player, and how the physician recommended that the Player purchase and use the Product to help regulate her sleep patterns (and medical records supporting those explanations);
 - 30.3 an explanation of how generally the Player would use the Product as and when required to help her fall asleep;
 - 30.4 a statement from the Player’s psychologist, who typically purchased the Product for the Player;
 - 30.5 bank records and receipts (in the Player’s psychologist’s name) of purchases of the Product from several legitimate pharmacies in Poland located close to the Player’s home (including one receipt that contained the same batch number as the container of the Product that the Player ingested tablets from prior to sample collection);
 - 30.6 photographs of the Product and information regarding its contents;
 - 30.7 an explanation by the Player of when in the days prior to sample collection the Player ingested tablets of the Product (in particular, that the Player ingested 2-3 tablets of the Product at around 2-3 am on Monday 12 August 2024 when she was unable to sleep, before being woken to providing a sample for doping control 4-5 hours later);
 - 30.8 analysis reports by a Paris laboratory confirming the detection of TMZ in the remaining tablets of the Product used by the Player prior to the sample collection on Monday 12 August 2024;
 - 30.9 analysis reports by a Strasbourg laboratory confirming the detection of TMZ in the remaining tablets of the Product used by the Player prior to the sample collection on Monday 12 August 2024;
 - 30.10 an explanation as to why no TMZ was detected in the samples collected from her at the Olympic Games on Thursday 1 and Friday 2 August 2024 and at the US Open on Tuesday 27 August 2024 (because she used the Product only when she considered it was necessary to assist with her sleep); and
 - 30.11 an explanation, supported by expert evidence, that the Player’s negative urine samples 10 days before sample collection on 12 August 2024 and 15 days afterwards (as well as hair tests that detected no TMZ) demonstrate that she could not have used a therapeutic dose of TMZ between 2 and 12 August because that would have resulted in an Adverse Analytical Finding much higher than the estimated concentration of TMZ that was reported (50 pg/ml).

31. When the Player's urine sample was collected on Monday 12 August 2024, she was asked to declare on the Doping Control Form, *"any prescription/non-prescription medications or supplements, including vitamins and minerals, taken over the past 7 days (include substance, dosage and when last taken)"*. The Player listed 14 supplements and medications on the Doping Control Form, but did not list the Product. The Player explained that she forgot to declare her use of the Product because it was not listed on her list of medications and supplements from which she copies information onto Doping Control Forms and she was tired, having only slept for a few hours between ingesting tablets of the Product and providing the sample on 12 August 2024. While the ITIA considers the Player's omission from the Doping Control Form to be unsatisfactory, in all the circumstances and following two interviews of the Player it accepts the reasons for the omission.
32. The independent analysis conducted by SMRTL on the remainder of the opened container of the Product that the Player had used prior to the sample collection detected TMZ inside the crushed tablet as well as in lower concentrations in the tablet surface and the interior of the container. A sealed container of the Product from the same batch as that ingested by the Player prior to sample collection was obtained and tablets from it were analysed by SMRTL. The unopened container showed no signs of tampering and the exterior plastic ring that was connected to the container cap was intact on receipt by SMRTL and had to be broken to open the container, which rules out potential manipulation before SMRTL received the container. SMRTL analysed tablets from the unopened container of the Product and detected TMZ inside the crushed tablets as well as in lower concentrations in the tablet surface of two of the three tablets and the interior of the container. The fact that the highest concentrations of TMZ were detected in the crushed pills suggests that the contamination occurred during manufacturing of the pills.
33. The ITIA sought to contact the manufacturer of the Product on numerous occasions, including by telephone and email. However, the manufacturer did not respond. The ITIA verified that the manufacturer also manufactures a TMZ product.
34. The ITIA consulted Dr Daniel Eichner, Director of SMRTL, and Professor Peter Van Eenoo, Director of the WADA-accredited laboratory at the University of Ghent in Belgium. Both confirmed that the Player's explanation is scientifically plausible, i.e., the dosage and ingestion schedule asserted by the Player is consistent with the Adverse Analytical Finding reported for the sample collected on 12 August 2024.
35. Given all the circumstances of this case, the ITIA accepts the Player has established that it is more likely than not that the TMZ found in her urine sample 1452034 was due to the presence of TMZ (an undisclosed contaminant) in tablets of the Product that she consumed in the hours prior to the collection of the sample. No other evidence, including from the ITIA's investigations and two detailed interviews with the Player, undermine the evidence provided to demonstrate source.

(ii) TADP Article 10.2 – Analysis of Intent

36. This is the Player's first doping violation.

37. TADP Article 10.2.1 mandates a four-year ban for a TADP Article 2.1 and/or 2.2 violation that is “intentional” and is a first violation.² If the prohibited substance in question is not classified as a Specified Substance (as here), the Player has the burden of proving that the violation was not “intentional”. If the Player can do so, TADP Article 10.2.2 provides for a two-year period of ineligibility, subject to potential further mitigation. TADP Article 10.2.3 explains that in 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.³
38. As set out above, the ITIA has accepted that undisclosed contamination of the Product was more likely than not the source of the Player’s positive test and, as explained in more detail below, the Player took steps to ensure that the Product did not contain any prohibited substance before she ingested it. In such circumstances, the ITIA considers that the Player did not manifestly disregard the significant risk that the Product contained a prohibited substance. Accordingly, the ITIA accepts that the Player has met her burden of demonstrating that her commission of the violation was not “intentional” within the meaning of TADP Articles 10.2.1 and 10.2.3, and so the two-year period of ineligibility set out in TADP Article 10.2.2 applies.

(iii) TADP Articles 10.5 and 10.6 – Analysis of No (and No Significant) Fault or Negligence

39. TADP Article 10.5 provides that if a player establishes that they bear 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”.
40. TADP Article 10.6.1.2 provides that where a player can establish that they bear No Significant Fault or Negligence and that the prohibited substance came from a Contaminated Product, then the otherwise applicable two-year period of ineligibility may be reduced by up to 100% (in which case there would be a reprimand only). A ‘Contaminated Product’ is defined in the TADP 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”. The definition of ‘No Significant Fault or Negligence’ is: “The Player or other Person establishing 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 in relation to the Anti-Doping Rule Violation”. Where No Significant Fault or Negligence is found, the amount of reduction to be applied depends upon the player’s degree of Fault.

² In accordance with TADP Article 10.9.4.1, for the purposes of imposing consequences under the TADP, the anti-doping rule violations will be “considered together as one single first Anti-Doping Rule Violation, and the sanction imposed will be based on the Anti-Doping Rule Violation that carries the more severe sanction” if (as here) the Player did not commit the second anti-doping rule violation after she received notice of the first.

³ ITF v Sharapova, Independent Tribunal decision dated 6 June 2016, para 68, not challenged on appeal, Sharapova v ITF, CAS 2016/A/4643.

41. 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.⁴ “*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*”.⁵ The TADP definition of ‘Fault’⁶ makes clear that the first question is how far the player departed from the duty of utmost caution (objective fault) and the second question is whether there is any acceptable explanation for that failure (subjective fault).
42. 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*”.⁷ It follows that “*even in cases of inadvertent use of a Prohibited Substance, the principle of the Athlete's personal responsibility will usually result in a conclusion that there has been some degree of fault or negligence*”.⁸
43. The Player asserts that she bears No Fault or Negligence (or No Significant Fault or Negligence), so that the otherwise applicable period of ineligibility should be eliminated (or a period of ineligibility of significantly less than two years should be imposed), because:
- 43.1 she consulted a doctor with expertise in sports medicine and only took the Product because it was recommended;

⁴ See, e.g., *Kutrovsky v ITF*, 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*”).

⁵ *IBAF v Luque*, IBAF Anti-Doping Tribunal decision dated 13 December 2010, para 6.10.

⁶ “*Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a Player's or other Person's degree of Fault include, for example, the Player's or other Person's experience, whether the Player or other Person is a Protected Person, special considerations such as impairment, the degree of risk that should have been perceived by the Player and the level of care and investigation exercised by the Player in relation to what should have been the perceived level of risk. In assessing the Player's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Player's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that a Player would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Player only has a short time left in their career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.6.1 or 10.6.2*”.

⁷ *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*”).

⁸ *Adams v CCES*, CAS 2007/A/131, para 155.

- 43.2 the doctor knew that she was a professional tennis player subject to anti-doping rules and confirmed the Product did not contain prohibited substances;
- 43.3 on her instructions, her fitness coach undertook searches of the Product's ingredients against the WADA Prohibited List and confirmed that the Product did not contain any prohibited substances;
- 43.4 she had sourced the non-prescription Product from a reputable pharmacy;
- 43.5 the Product itself was manufactured by a reputable local pharmaceutical company regulated in a European Union country (and there was no reason for the Player to suspect contamination because, for example, there are no published articles online showing that there have been contaminations of this medication or published anti-doping cases involving this medication);
- 43.6 she used the Product responsibly as part of an escalating protocol to address jetlag and sleep-related issues (i.e., she would use it only when necessary, before then using a stronger prescription sleep medication);
- 43.7 the Product is considered under the relevant regulations in Poland to be a medication, and the Player regarded it as a medication (and objectively, medications – especially, like here, those made by reputable manufacturers in the European Union – are significantly less likely than supplements or other products to contain Prohibited Substances as undisclosed ingredients or contaminants because they are regulated products);
- 43.8 she used the Product without issue for many years, which reduced her perception of the risk posed by the Product; and
- 43.9 there is very little, if anything, that she could have done to avoid ingesting a prohibited substance given the unexpected contamination of a pharmaceutical product.
44. The ITIA accepts that these factors weigh in the Player's favour. However:
- 44.1 TADP Article 1.3.1 states that it is the *"personal responsibility"* of each player bound by the TADP to *"be knowledgeable of and comply with this Programme at all times"*, *"take responsibility for what they use"*, *"carry out research regarding any products or substance that they intend to Use to ensure that Using them will not constitute or result in an Anti-Doping Rule Violation"*, and *"ensure that any medical treatment they receive does not violate this Programme"*.
- 44.2 TADP Article 4.2.1.5(a) specifically reminds players that *"[m]any Prohibited Substances may appear (either as listed ingredients or otherwise, e.g., as unlisted contaminants) within supplements and/or medications that may be available with or without a physician's prescription. Since Players are strictly liable for any Prohibited Substances present in Samples collected from them (see Article 2.1.1), they are responsible for ensuring that Prohibited Substances do not enter or come to be present in their bodies by any means and that Prohibited Methods are not Used"*.
- 44.3 In any event, it has long been known that products may contain substances that are not listed as a named ingredient. The comment to Code Article 10.5 is clear that a plea of No Fault or Negligence cannot succeed in the case of *"a positive test resulting from a*

mislabelled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination)”.

45. As a result of the foregoing, the Player knew, and is deemed to have been on specific notice that, there is a significant risk that products may contain prohibited substances that are not listed as ingredients. In addition, while there were not many steps available to the Player to avoid the violation, she could have selected a melatonin product which has been batch tested for anti-doping purposes and/or alternatively she could have had the Product batch tested herself. Further, melatonin is not universally considered a medication and accordingly is regulated differently in different jurisdictions. For example, in the USA it is considered a lesser-regulated dietary supplement not a medication.⁹ This variable status internationally makes melatonin potentially higher risk for athletes than universally recognised medications (for example, those designed to treat serious medical conditions) but lower risk than sports supplements, vitamins, and other products. The Code does not draw distinctions based on whether a country classifies a product as a medication or otherwise. Such a classification does not automatically override the doctrines of personal responsibility and utmost caution enshrined in the Code. If this were the case, it would risk creating significant inequality in the way athletes from different countries were treated by the rules. In all of the circumstances, a plea of No Fault or Negligence is not sustainable on these facts.
46. However, the Code comment to Article 10.5 that is quoted above goes on to say: “depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Article 10.6 based on No Significant Fault or Negligence”. The ITIA accepts that, in the specific circumstances of this case, the Player’s Fault was not ‘significant’ within the meaning of TADP Article 10.6.1, justifying a reduction from the two-year starting point. The ITIA also accepts that the Player has shown that the prohibited substance in her sample came from a Contaminated Product, in that TMZ was not disclosed on the product label of the Product, nor would it have been disclosed in information available in a reasonable internet search. Therefore, discretion arises to reduce the two-year ban applicable under TADP Article 10.2.2 by up to 24 months, depending on the Player’s level of objective and subjective Fault.
47. Anti-doping cases involving genuine contamination of regulated medications are extremely rare. Taking the foregoing and the specific facts of this case into account, the ITIA has proposed, and the Player has acceded to, a period of Ineligibility of one month. That period of Ineligibility is longer than the sanctions imposed in other cases of contaminated medications¹⁰ because:
- 47.1 there is no principled reason for different treatment under Code-compliant anti-doping rules of contaminated products (i.e., treatment as a No Fault or Negligence case or No Significant Fault or Negligence case) based on the product’s classification as a medication or a supplement in different countries of the world (in particular because the regulatory standards for medications differ between countries), and

⁹ See, for example, USADA’s guidance to athletes on the use of (and risks in relation to) melatonin products at www.usada.org/spirit-of-sport/athletes-melatonin.

¹⁰ USADA agreed decisions involving prescription medications contaminated with diuretics (involving Grace Ariola, Staci Manella, Brady Ellison, Brenda Martinez, Jamie Brown and Alexandra Klineman). The decisions were not published but the outcomes were publicly disclosed.

47.2 batch testing of melatonin products exists and is available to ensure that they do not contain any substance prohibited under the TADP or other anti-doping rules.

48. The Player's period of Ineligibility is also shorter than the period of Ineligibility imposed by the ITIA in another recent case involving TMZ contamination¹¹ because the source of the Player's violation was a contaminated medication (as opposed to a contaminated supplement) and the Player reasonably perceived a lower degree of risk of contamination due to the higher regulatory standards for medicines in the European Union (as compared to supplements).
49. In accordance with TADP Article 10.13.2, the Player is entitled to credit for the period of provisional suspension served to date (12 September 2024 to 4 October 2024, which resulted in her not competing at the WTA 1000 China Open, the WTA 500 Hana Bank Korea Open, and missing the deadline for the WTA 1000 Dongfeng Voyah Wuhan Open). Accordingly, the Player will serve the remainder of the period of Ineligibility from the date of this decision, and therefore it will expire at midnight on 4 December 2024.

B. Disqualification of results

50. Given that the Player's violation arose from an Out-of-Competition sample collection, no results fall to be disqualified in accordance with TADP Articles 9 or 10.1.
51. TADP Article 10.10 states that *'[u]nless fairness requires otherwise, in addition to the Disqualification of results under Articles 9.1 and 10.1, any other results obtained by the Player in Competitions taking place in the period starting on the date the Sample in question was collected or other Anti-Doping Rule Violation occurred and ending on the commencement of any Provisional Suspension or Ineligibility period, will be Disqualified, with all of the resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money'*.
52. Accordingly, the Player's results at the Event are Disqualified with all resulting consequences. Because no TMZ (or any other prohibited substance) was detected in two samples collected from the Player at the 2024 US Open, and the Player stopped using the Product after identifying it as the source, fairness requires that the Player's results in the women's singles event at the 2024 US Open and thereafter until the date of this decision are not disqualified.

C. Costs

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

D. Publication

54. In accordance with TADP Article 8.6, this decision will be publicly reported by being posted (in full and/or summary form) on the ITIA's website.

¹¹ [ITIA v Bartunkova](#), ITIA Issued Decision dated 11 November 2024.

E. Acceptance by the Player

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

IV. Rights of appeal

56. This decision constitutes the final decision of the ITIA, resolving this matter pursuant to TADP Article 7.14.
57. Further to TADP Article 13.2.1, each of WADA and the Polish Anti-Doping Agency (**POLADA**) has a right to appeal against this decision to the CAS in Lausanne, Switzerland, in accordance with the procedure set out at TADP Articles 13.8 and 13.9.
58. As part of the resolution of this 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 anti-doping rule violations and as to the imposition of the consequences set out above), whether pursuant to TADP Article 13.2.1 or otherwise. However, if an appeal is filed with the CAS against this decision either by WADA or POLADA, the Player will be entitled (if so advised) to exercise her right of cross-appeal in accordance with TADP Article 13.9.4.

Issued Decision of the ITIA

London, 27 November 2024