

10 May 2022

DECISION OF THE INTERNATIONAL TENNIS INTEGRITY AGENCY PURSUANT TO ARTICLE 7.14 OF THE 2022 TENNIS ANTI-DOPING PROGRAMME

I. Introduction

1. The International Tennis Integrity Agency (**'the ITIA'**) is the delegated third party, under the World Anti-Doping Code (**'the Code'**), of the International Tennis Federation (**'the 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 2022 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. Bastián Malla (**'the Player'**) is a 26-year-old tennis player from Chile. He has an ATP career-high ranking of 362. He registered online for an International Player Identification Number (IPIN) in 2015 and in subsequent years. Thereby, the Player expressly agreed to be bound by and to comply with the Programme. By virtue of that agreement, and by virtue of his participation in ITF and ATP Challenger events (both of which fall within the definition of 'Covered Events' under the TADP), the Player became bound by and was required to comply with the Programme.
3. The ITIA charged the Player with the commission of an Anti-Doping Rule Violation under Article 2.1 and/or Article 2.2 of the TADP involving a substance, Cannabis, which is a Substance of Abuse as defined in the TADP. TADP Articles 2.1 and 2.2 read:

“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. This ITIA issued decision is made in accordance with Article 10.2.4 of the TADP, which provides:

“10.2.4 Notwithstanding any other provision in Article 10.2, where the Anti-Doping Rule Violation involves a Substance of Abuse:

10.2.4.1 If the Player can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, the period of Ineligibility will be three months, provided that it may be further reduced to one month if the Player

¹ 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.

satisfactorily completes a Substance of Abuse treatment program approved by the ITIA. The period of Ineligibility established in this Article 10.2.4.1 is not subject to any reduction based on any provision in Article 10.6.

10.2.4.2 *If the ingestion, Use, or Possession occurred In-Competition, and the Player can establish that the context of the ingestion, Use, or Possession was unrelated to sport performance, then the ingestion, Use, or Possession will not be considered intentional for purposes of Article 10.2.1 and will not provide a basis for a finding of Aggravating Circumstances under Article 10.4.”*

II. The Player's commission of an Anti-Doping Rule Violation

5. On 7 March 2022, while competing in the men's singles competition at the ATP Challenger held in Santiago, Chile from 7 March to 13 March 2022 ('**the Event**'), the Player was required to provide a urine sample for anti-doping testing under the TADP. The sample was given reference number [REDACTED] 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 Montréal, Canada ('**the Laboratory**') for analysis. The Laboratory reported an Adverse Analytical Finding for contains Cannabis:11-nor-9-carboxy- Δ 9-tetrahydrocannabinol, which is prohibited under the Programme, in the category of Cannabinoids (section S8 of the 2022 Prohibited List). Cannabis is a Specified Substance. The Player does not have a Therapeutic Use Exemption ('**TUE**') permitting use of Cannabis.
6. The Adverse Analytical Finding reported by the Laboratory in respect of the A 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 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 the Adverse Analytical Finding. The Review Board noted the Player does not have a TUE. It therefore decided that the Player had a case to answer for breach of TADP Article 2.1 and/or TADP Article 2.2.
7. The ITIA sent the Player a (pre-charge) Notice on 5 April 2022, advising him of his Adverse Analytical Finding and that he may have committed an Anti-Doping Rule Violation 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 Cannabis 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. However, on 6 April 2022 the Player accepted a voluntary provisional suspension.
8. On 11 April 2022, in response to the ITIA's (pre-charge) Notice letter, the Player via his legal representative accepted he that he had committed an Anti-Doping Rule Violation.
9. On 15 April 2022, the ITIA formally charged the Player with the commission of an Anti-Doping Rule Violation under TADP Article 2.1 and/or TADP Article 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 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).
10. On 20 April 2022, the Player responded to the formal charge letter via his legal representative. He reiterated his acceptance of the Anti-Doping Rule Violation and asserted that his consumption was unrelated to sports performance, seeking to rely upon the process established by TADP Article 10.2.4.

11. Accordingly, the breach of TADP Articles 2.1 and 2.2 (taken as one Anti-Doping Rule Violation for this purpose) was made out. This is the Player's first Anti-Doping Rule Violation.

III. Consequences

A. Applicability of TADP Article 10.2.4 sanctioning process

12. The Player asserted that his Adverse Analytical Finding was caused by taking the Prohibited Substance on three occasions out of competition in a context with no link to his sports performance.

13. In support of his explanation, the Player provided witness statements from [REDACTED], [REDACTED], and [REDACTED], who corroborated that he had smoked the Prohibited Substance with them on Saturday, 12 February 2022 and Saturday, 26 February 2022 respectively. The Player also stated that he smoked the Prohibited Substance on 2 March 2022. The Player also stated that he believed he could take recreational drugs out of competition.

14. In view of the evidence, the ITIA accepted that the Player's *"ingestion or Use occurred out-of-competition and was unrelated to sports performance."* Therefore, his case qualified for the process set out in TADP Article 10.2.4.1.

B. Period of Ineligibility

15. The default period of ineligibility under TADP Article 10.2.4.1 is three months. The sanction may be further reduced to one month if the Player satisfactorily completes a Substance of Abuse treatment programme approved by the ITIA.

16. The Player provided a certificate of treatment on Monday, 25 April 2022 setting out that he will undertake a Substance of Abuse treatment programme [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17. The ITIA reviewed the proposed treatment programme against the [TADP Policy for Approval and Satisfactory Completion of a Substance Abuse Treatment Program](#) ('the Policy') and determined that it satisfactorily constituted a Substance of Abuse treatment programme. The ITIA noted, however, that the proposed treatment programme is scheduled to run for six months (i.e. five months beyond the one-month sanction to which satisfactory completion of the programme would entitle the Player). As such, the ITIA took into account the objective of TADP Article 10.2.4.1 that athletes are appropriately rehabilitated from use of Substances of Abuse and that they are given credit at the sanctioning stage for so doing. The ITIA determined that it would conditionally apply the two-month reduction from the three-month default sanction on the basis that the Player complies with the conditions set out in the Policy. That is, the period of Ineligibility will remain at one month on the basis that the Player must complete the treatment programme set out above and must provide a report to the ITIA from the [REDACTED] which shall include at least the following information:

- Details of the programme completed (treatment provider, practitioner(s) and content, but not psychotherapy notes, if any);
- Confirmation of his attendance at and participation in recommended sessions;
- Confirmation of discharge by the treatment provider;
- Where included as part of the treatment programme, the results of clinical testing of the Player.

18. If the Player does not satisfactorily meet the above conditions, the sanction will revert back to three months and the additional two months will fall to be served pursuant to a further decision which would be issued by the ITIA at such time. However, for the time being, the sanction on a conditional basis is one month of Ineligibility.

19. As the Player accepted a voluntary provisional suspension on Wednesday, 6 April 2022, his (conditional) one-month period of Ineligibility is backdated to that date. Therefore, the one month concluded on Friday, 6 May 2022, and he was advised on that date by the ITIA that he was free to return to tennis subject to the conditions which would be set out in this issued Decision.

C. Disqualification of results

20. The Player's results at the Event are automatically disqualified in accordance with TADP Articles 9.1 and 10.1.1 (including forfeiture of any medals, titles, ranking points, and prize money received as a result of participation in the Event).

21. TADP Article 10.10 states:

"Unless 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)."

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22. The Player competed in one event between the date of Sample collection (7 March 2022) and the date of this Decision. Notwithstanding the general rule in TADP Article 10.10, in the specific circumstances of this case (in particular, that the Player would not have obtained any competitive advantage from his ingestion of Cannabis), the ITIA considered that in the interests of fairness, the Player will retain the results obtained between the date of Sample collection and the date of this Decision.

D. Costs

23. Each party shall bear its own costs of dealings with this matter.

E. Publication

24. TADP Article 10.15 states:

“10.15 Automatic publication of Consequences

A mandatory Consequence in every case where an Anti-Doping Rule Violation has been committed will be automatic publication, as provided in Articles 8.6 and 13.11.”

25. Accordingly, this Decision will be publicly reported by being posted (in full and/or redacted form) on the ITIA's website.

F. Notification

26. On Friday, 6 May 2022, the Player was advised in summary form of the ITIA's decision pursuant to TADP Article 10.2.4.1, the written reasons for which are now set out in this Decision issued on Tuesday, 10 May 2022.

IV. Rights of appeal

27. This Decision constitutes the final decision of the ITIA resolving this matter pursuant to TADP Article 10.2.4.1.

28. Further to TADP Article 13.2, each of WADA and the National Anti-Doping Organisation of Chile (ADAMS) has a right to appeal against this Decision to the CAS in Lausanne, Switzerland, in accordance with the procedure set out at TADP Article 13.9.

V. Summary

29. The Anti-Doping Rule Violation was admitted. On the conditions set out in this Decision, the Player is subject to a one-month period of Ineligibility pursuant to TADP Article 10.2.4.1. The one-month (conditional) period of Ineligibility commenced on the date of the Player's voluntary provisional suspension and concluded on Friday, 6 May 2022, on which date the ITIA advised him that he was free to return to tennis subject to the conditions set out in this issued Decision. If he fails to comply with those conditions, he will be subject to an additional two months of Ineligibility to be imposed by the ITIA in a subsequent decision.

Issued Decision of the ITIA

London, 10 May 2022

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