



**Arbitration CAS 2020/A/7596 Aleksandrina Naydenova v. Professional Tennis Integrity Officers (PTIOs), award of 16 November 2021**

Panel: Mr Hamid Gharavi (France/I.R.Iran); Mr Michele Bernasconi (Switzerland); The Hon. Michael Beloff QC (United Kingdom)

*Tennis*

*Match-fixing*

*Statute of limitation periods under the TACP*

*Means of evidence under the TACP*

*Dissuasive purpose of the measures against match-fixing and right of due process*

*Admission of proofs of money transfers in a foreign language*

*Preponderance of evidence standard*

*Failure to cooperate*

*Proportionality of sanctions*

- 1. The two-fold statute of limitation periods set out in section C.2 of the Uniform Tennis Anti-Corruption Program (TACP) govern corruption offences allegedly committed by players subject to governing bodies of professional tennis. The longest of the two limitation periods should apply when they do not coincide, as it unambiguously follows from the clear wording of this provision.**
- 2. Under section G.3 of the TACP, corruption offences may be established by “any reliable means”. It comprehensively addresses the admissibility of evidence, and no longer leaves room for the laws of the country where the relevant governing body is located. It thus allows for the consideration of state proceedings related to third parties, transcripts of phone conversations on the ground of hearsay and proofs of money transfers.**
- 3. It is advisable to admit all reliable means of evidence with respect to offences that involve concealment and are, therefore, inherently difficult to uncover. The admission of such evidence conveys a strong signal to players and serves a dissuasive purpose against match-fixing and evidence tampering. It is, however, subject to affording players the right of due process and the opportunity to defend themselves in the appeal proceedings where the documents are being produced and relied upon.**
- 4. The inclusion of proofs of money transfers in a foreign and “non-official” language does not breach Article R29 of the CAS Code, provided that these documents can be fully understood without any translation and mainly pertain to basic figures and transactions.**
- 5. It is for the relevant governing body to demonstrate on a preponderance of evidence (i.e. balance of probabilities) that the indicted player contrived, directly or indirectly, the outcome, or any other aspect of any event or breached his/her duty to cooperate. It**

must show that the proposition that player engaged in an attempted match-fixing or deliberate poor performance is more likely to be true than not true. It largely discharges its burden of proof when it relies on converging evidence, including witnesses, phone conversations and messages, the course of matches, betting alerts and the player's suspect conduct.

6. A player fails to cooperate when s/he provides a mobile phone and email account with almost no personal data, inoperative contact details for relatives, and does not engage in any efforts to obtain the requested information.
7. The imposition of a lifetime ban may be disproportionate where the indicted player can be found to have several mitigating circumstances. This is the case when s/he was always fully dedicated to tennis, did not earn sufficient revenues to finance participation in the costly professional circuit, was closely monitored for suspicious conduct for several years before the authorities intervened and did not actively try to persuade other players to participate in illegal activities.

## I. PARTIES

1. Ms. Aleksandrina Naydenova ("Ms. Naydenova") is a Bulgarian professional tennis player who, at the time of the alleged corruption offenses, was registered with the International Tennis Federation (the "ITF").
2. The Professional Tennis Integrity Officers ("PTIOs") are appointed by the following governing bodies of professional tennis: ITF, ATP Tour, Inc. ("ATP Tour"), Grand Slam Committee ("GSC") and WTA Tour, Inc. ("WTA"). These governing bodies participate in the Uniform Tennis Anti-Corruption Program ("TACP"). The objectives of the TACP, as stated in the program's introduction, are to "(i) maintain the integrity of tennis, (ii) protect against any efforts to impact improperly the results of any match and (iii) establish a uniform rule and consistent scheme of enforcement and sanctions applicable to all professional tennis events and to all Governing Bodies".
3. Ms. Naydenova and the PTIOs are hereinafter collectively referred to as the "Parties".
4. The Appeal pertains to the sanctions imposed by the Anti-Corruption Hearing Officer ("AHO") in the decision rendered on 20 November 2020 (the "Appealed Decision") for match-fixing and failure to comply with the duty to cooperate under the TACP. Ms. Naydenova challenges the Appealed Decision in its entirety.

## II. FACTS

5. This section sets out the most relevant facts underlying the dispute. Additional facts and/or factual allegations are set out, where relevant, in subsequent sections.

6. From August 2015 to September 2018, the TIU received several betting alerts from various betting operators regarding matches in which Ms. Naydenova was involved. Upon receipt of such alerts, the TIU conducted investigations, and on 24 July 2020, notified Ms. Naydenova of the charges levied against her. The matches in relation to which the TIU received suspicious betting alerts and/or other relevant information are set out below.
7. The first suspicious alerts issued by two betting platforms, namely A. and B. was received by the TIU via email regarding a match played by Ms. Naydenova on 7 August 2015 during the ITF Women's Circuit in El Espinar, Spain. This match does not, however, raise an issue in dispute in this arbitration as the AHO found that the PTIOs failed to establish, on a preponderance of evidence, that Ms. Naydenova contrived the outcome of such match.
8. The TIU subsequently received a complaint from a member of the public in relation to another match, *i.e.*, a doubles match played on 26 August 2015 by Ms. Naydenova with O. during the ITF Women's Circuit in Woking, England. Following the match, O. was interviewed by the TIU.
9. On 19 December 2016, Ms. Naydenova played a match during the ITF Women's Circuit in Ankara, Turkey. The TIU received a suspicious betting alert with respect to this match issued on the day of the match by a betting platform, namely C. This match does not, however, raise an issue in dispute in this arbitration as the AHO found that the PTIOs failed to establish, on a preponderance of evidence, that Ms. Naydenova contrived the outcome of such match.
10. On 12 and 13 January 2017, Ms. Naydenova was interviewed twice by TIU investigators. During the first interview, Ms. Naydenova was requested to provide the investigators with her current phone, which she provided the next day on 13 January 2017.
11. From 16 to 29 January 2017, Ms. Naydenova participated in the Australian Open during which she was interviewed twice by the TIU investigators. On 12 January 2017, Ms. Naydenova played a match in this tournament. The TIU received a suspicious betting alert with respect to this match issued on the day of the match by a betting platform, namely D.
12. On 5 July 2017, Ms. Naydenova played a match during the ITF Women's Circuit in Getxo, Spain. The TIU received via email a suspicious betting alert with respect to this match issued on the day of the match by a betting platform, namely E.
13. On 17 April 2018, Ms. Naydenova played a match during the ITF Women's Circuit in Obidos, Portugal. The TIU received a suspicious betting alert with respect to this match issued on 19 April 2018 via email by a betting platform, namely F.
14. On 29 April 2019, Ms. Naydenova played a match during the Kunming Open in Anning, China. The TIU received via email a suspicious betting alert with respect to this match issued on the day of the match via email by a betting company, namely G.
15. On 15 May 2018, Ms. Naydenova played a match during the ITF Women's Circuit in Wuhan, China. Also, the TIU gained access to WhatsApp conversations allegedly exchanged between

Ms. Naydenova and a third person, in which references to match-fixing were made. These messages were obtained, according to the TIU, in the context of investigations initiated in 2018 by [country X.] authorities, which subsequently resulted in criminal proceedings in [country X.], in relation to organized match-fixing of tennis games (“[country X.] Proceedings”). The TIU was involved in such criminal proceedings as an *“Injured Party”*, and had, therefore, access to documents, including the aforementioned WhatsApp conversations. Ms. Naydenova was investigated as part of this process. Her parents’ home was searched, and her father’s phone seized. Ms. Naydenova does not, however appear to have been named as defendant in the criminal proceedings initiated in [country X.], which remain pending.

16. On 23 May 2018, Ms. Naydenova played a match during the ITF Women’s Circuit in Baotou, China. The TIU received on the same date a report issued by H., a company collecting and analyzing sport betting data, describing suspicious betting activities with respect to this match. Also, the TIU gained access to WhatsApp conversations allegedly exchanged between Ms. Naydenova’s father and a third person, in which references to match-fixing were made. The TIU alleges that these messages were collected and provided by the [country X.] authorities, according to the TIU, in the context of the investigation in relation to organized match-fixing of tennis games as set out above at paragraph 15.
17. On 28 May 2018, Ms. Naydenova played a doubles match during the ITF Women’s Circuit in Hua Hin, Thailand. On 30 May 2018 the TIU received a report issued by H., describing suspicious betting activities with respect to this match. This match does not however raise an issue in dispute in this arbitration as the AHO found that the PTIOs failed to establish, on a preponderance of evidence, that Ms. Naydenova contrived the outcome of such match.
18. From 20 August to 2 September 2018 Ms. Naydenova participated in the ITF Women’s Circuits held in Budapest, Hungary. The TIU gained access to phone conversation transcripts allegedly between two individuals suspected of being involved in match-fixing activities, namely P. and Q., in which references to match-fixing and to the matches played by Ms. Naydenova on 25 and 27 August 2018 were made. Such transcripts would result from wiretapping by [country Y.] authorities in the context of criminal proceedings initiated in 2017 in [country Y.] about potential match-fixing operations (“[country Y.] Proceedings”). Ms. Naydenova was included in such criminal proceedings and was designated as an *“Investigated Person”*. The TIU was involved in such proceedings as an *“Injured Party”*, and had, therefore, access to documents. On 22 June 2020, the proceedings were discontinued in respect of Ms. Naydenova by order of the [country Y.] Court, and no charges ever brought against her.
19. From 3 to 9 September 2018, Ms. Naydenova participated in the ITF Women’s Circuits held in Marbella, Spain. On 7 September 2018 the TIU received a suspicious betting alert issued by H. via email with respect to one match played by Ms. Naydenova on 5 September 2018. The TIU allegedly gained access to phone conversation transcripts between Q. and R., who is also suspected of being involved in match-fixing activities, which made references to match-fixing and more specifically to the match played on 9 September 2018 by Ms. Naydenova. Such transcripts would result from wiretapping by [country Y.] authorities in the context of the [country Y.] Proceedings referenced above at paragraph 18. The match played by Ms. Naydenova on 9 September 2018 does not however raise an issue in dispute in this arbitration

as the AHO found that the PTIOs failed to establish, on a preponderance of evidence, that Ms. Naydenova contrive the outcome of such match.

20. On 16 September 2018, Ms. Naydenova played a match during the ITF Women's Circuit in Cueta, Spain. The TIU received separate suspicious betting alerts from five different betting platforms, namely B., I., J., K. and L. The TIU gained access to phone conversation transcripts allegedly between P. and Q. in which references to match-fixing and to the match played on 16 September 2018 by Ms. Naydenova were made. Such transcripts would result from wiretapping by [country Y.] authorities in the context of the [country Y.] Proceedings referenced above at paragraph 18.
21. On 6 November 2018, the PTIOs made an application for provisional suspension of Ms. Naydenova under Sections F.3.a.i and/or F.3.a.ii of the TACP.
22. On 1 April 2019, Ms. Naydenova was interviewed for a third time by TIU investigators, at which point she was requested to provide a phone. Due to the perceived lack of expected data on the phone so provided, the TIU served Ms. Naydenova with a written demand to provide her current mobile phone on 1 April 2019.
23. On 9 April 2019, the TIU served Ms. Naydenova with a written demand requesting that she provide the phone numbers of two individuals, namely S., her former coach, and T., one of her friends, so that the TIU could investigate issues stemming from Ms. Naydenova's statements made during her fourth interview with the TIU on 2 April 2019 that she had authorized S. and T. to access her International Player Identification Number account ("IPIN"). Such information was requested by the TIU so that it could verify whether Ms. Naydenova indeed accessed her IPIN with S.'s and/or T.'s phones and not with another phone.
24. On 10 April 2019, the requested phone numbers were provided by Ms. Naydenova, but were no longer operative. Therefore, on the same date, the TIU sent a new written demand that Ms. Naydenova provide additional information in relation to S. and T.
25. On 11 and 12 April 2019 in explanations sent to the TIU by email, Ms. Naydenova said that she could not provide the additional information.
26. On 23 April 2019, the TIU served Ms. Naydenova with a written demand requesting that she provide access to her email account and iCloud, or any other cloud-based storage account. By email of 28 April 2019, Ms. Naydenova provided access to her email account and indicated that she did not have any iCloud account, or any other cloud-based storage account.
27. On 17 November 2019, Ms. Naydenova replied to the PTIOs' request denying all allegations of match-fixing made against her and requesting that the PTIOs' application for a provisional suspension be denied.
28. On 27 December 2019, the AHO nonetheless granted the PTIOs' request and provisionally suspended Ms. Naydenova.

29. Ms. Naydenova subsequently requested that the provisional suspension be lifted entirely or, alternatively, be lifted to allow her to participate in the Australian Open held in Australia from 20 January to 2 February 2020.
30. On 16 January 2020, the AHO dismissed Ms. Naydenova's request to lift the provisional suspension.
31. On 28 April 2020, Ms. Naydenova submitted a new request to have the provisional suspension lifted on the ground that no substantive proceedings had been commenced against her.
32. On 10 May 2020, the AHO denied such request.
33. On 3 July 2020, Ms. Naydenova submitted a new request to have the provisional suspension lifted on the ground that the [country Y.] authorities had decided to not press charges against her, and that the continuation of the provisional suspension would result in a violation of her human rights.
34. On 14 July 2020, the PTIOs replied to Ms. Naydenova's request and submitted that the provisional suspension should be maintained.
35. On 24 July 2020, the AHO denied Ms. Naydenova's request and ruled that the provisional suspension would remain in place until further order by the AHO.
36. On 24 July 2020, the TIU served on Ms. Naydenova a Notice of Charge pursuant to Section G.1.a of the TACP, indicating that she was being charged with the fixing of 15 tennis matches, as well as five breaches of her duty to cooperate with the TIU. The Notice provided as follows:

*"First Charges*

*You are charged with breaching Section D.1.d of the 2015, 2016, 2017 and 2018 TACPs: "... [section omitted]"*.

*In particular, it is alleged that you breached Section D. 1.d by contriving aspects of the matches listed in Annex 1 to this Notice of Charge. [15 Events were set out.]*

*Second Charges*

*You are charged with breaching Section F.2.b/D.2.c of the 2017 and 2019 TACPs: "... [section omitted]"*.

*In particular, it is alleged that:*

*1. On or around 13 January 2017 you tampered with and/or failed to preserve and/or destroyed or otherwise altered evidence by deleting data from your mobile telephone;*

*2. In response to a Demand made on 1 April 2019 for you to provide your mobile phone to the TIU, you failed to provide your then current mobile phone; instead you provided a mobile phone that showed no message or calls for over a year such that it was clearly not your then current mobile;*

3. *In response to a second Demand made on 1 April 2019 to provide a valid (i.e. your current) mobile telephone to the TIU, you refused to provide your mobile phone;*

4. *In response to Demands dated 10 and 12 April 2019 that you confirm the identities of your coach and a friend who you had stated you had authorized to access your IPIN account on their devices, together with certain details about them, and to seek their cooperation with the TIU investigation, you failed to provide the requested details or request their assistance;*

5. *In response to a Demand made on 23 April 2019 requesting that you grant the TIU access to your email account and iCloud account and/or any other cloud-based storage, you did not provide access to any cloud based account; instead you stated that you did not [sic] a cloud-based account. This account is not accepted by the PTIOs and it is alleged that you refused to provide the requested access;*

6. *After receiving the 23 April 2019 Demand and before providing the TIU with access to your email account, you tampered with and/or failed to preserve and/or destroyed or otherwise altered evidence by deleting emails from your email account”.*

37. The matches which Ms. Naydenova was accused of fixing were the following:

- Match played on 7 August 2015 in el Espinar, Spain (“Charge no. 1”);
- Match played on 26 August 2015 in Woking, England (“Charge no. 2”);
- Match played in 19 December 2016 in Ankara, Turkey (“Charge no. 3”);
- Match played in 12 January 2017 in Melbourne, Australia (“Charge no. 4”);
- Match played in 5 July 2017, in Getxo Spain (“Charge no. 5”);
- Match played in 17 April 2018, in Obidos, Portugal (“Charge no. 6”);
- Match played in 29 April 2018, in Anning, China (“Charge no. 7”);
- Match played on 15 May 2018 in Wuhan China (“Charge no. 8”);
- Match played on 23 May 2018 in Baotou China (“Charge no. 9”);
- Match played on 28 May 2018 in Hua Hin, Thailand (“Charge no. 10”);
- Match played on 25 August 2018 in Budapest, Hungary (“Charge no. 11”);
- Match played on 27 August 2018 in Budapest, Hungary (“Charge no. 12”);
- Match played on 5 September 2018 in Marbella, Spain (“Charge no. 13”);
- Match played on 9 September 2019 in Marbella, Spain (“Charge no. 14”); and
- Match played on 16 September 2018 in Ceuta, Spain (“Charge no. 15”).

38. On 24 July 2020, the AHO sent a letter to Ms. Naydenova in accordance with Section G.1.b of the TACP, pursuant to which Ms. Naydenova was invited to indicate in writing whether she requested a hearing.
39. On 29 July 2020, Ms. Naydenova denied the PTIOs' allegations in their entirety and requested a hearing by videoconference as per Section G.1.b of the TACP.
40. On 19 October 2020, the hearing took place by video conference.
41. On 20 November 2020, the AHO rendered the Appealed Decision. The AHO found that (1) Ms. Naydenova was guilty of 11 corruption offenses and as a result breached Section D.1.d by contriving the outcome of 11 matches (*i.e.*, Charges nos. 2, 4 to 9, 11 to 13 and 15); (2) the PTIOs failed to discharge the burden of proof and establish that Ms. Naydenova' contrived the outcome of the 4 other matches (*i.e.*, Charges nos. 1, 3, 12 and 14); and (3) that Ms. Naydenova breached both Section D.2.c and Section F.2.b of the TACP by failing to comply with her duty to cooperate.
42. More specifically, (1) as per Section D.1.d of the TACP, “[n]o Covered Person shall, directly or indirectly, contrive the outcome, or any other aspect, of any Event”. The AHO found at paragraphs 113 to 179 of the Appealed Decision, that the PTIOs had established, on a preponderance of evidence, that Ms. Naydenova had contrived the outcome of 11 matches between 2015 and 2018; (2) as per Section D.2.c of the TACP, which provides “[f]or the avoidance of doubt, a failure by any Covered Person to comply with (i) the reporting obligations set out in Section D. and/or (ii) the duty to cooperate under Section F.2. shall constitute a Corruption Offense for all purposes of the Program”. and Section F.2.b of the TACP which provides that “[a]ll Covered Persons must cooperate fully with investigations conducted by the TIU including giving evidence at hearings, if requested”, and pursuant to Sections D.2.c and F.2.b of the TACP, the AHO found at paragraphs 78-93 that the PTIOs had established, on a preponderance of evidence, that Ms. Naydenova had failed to comply with her duty to cooperate by tampering with mobile phones and failing to answer the TIU's information demands.
43. As per Section H.1.a, the applicable sanctions are:  
  
*“With respect to any Player, (i) a fine of up to \$250,000 plus an amount equal to the value of any winnings or other amounts received by such Covered Person in connection with any Corruption Offense, (ii) ineligibility from Participation in any Sanctioned Events for a period of up to three years unless permitted under Section H.1.c., and (iii) with respect to any violation of Section D.1., clauses (c)-(m), Section D.2. and Section F. ineligibility from Participation in any Sanctioned Events for a maximum period of permanent ineligibility unless permitted under Section H.1.c”.*
44. Based on the above the AHO in the Appealed Decision ordered (1) that Ms. Naydenova be banned for life for having breached Sections D.1.d, D.2.c and F.2.b of the TACP, (2) payment of a USD 150,000 fine.
45. More specifically the AHO held in the Appealed Decision as follows verbatim:



*“The Covered Person has been found to have committed Corruption Offenses under Section D. and D.2.c. by breaching the Duty to Co-operate in Section F.2.b. because of tampering with mobile phones following Demands for them and failing to answer Information Demands as requested under Section F.2.c. That breach of the Corruption Offense provisions of the TACP is likely due to the fact that the Covered Person was attempting to conceal evidence likely related to other Corruption Offenses established in this Decision.*

*The Covered Person has been found to have committed multiple Corruption Offenses by 12 breaches of Section D. 1.d. committed over a four year period from 2015 to 2018. Two of the three allegations of contriving an aspect of a match have been found in the allegations contained in Group 1 of the Notice all within the calendar year 2018. From Group 2 of the allegations in the Notice, four of the five allegations of contriving an aspect of a match have been established and occurred within 2017 and 2018. Finally, from Group 3 containing seven allegations, one allegation of contriving a match has been established and five of the remaining six allegations have been found to have contrived an aspect of a match and occurred in the period from 2015 up to 2018.*

*Overall, there have been 13 breaches of the Corruption Offenses provisions of the various versions of the TACP from 2015 to 2019. The pattern of losing service games evolves over those years and increases in frequency, culminating in 7 breaches in 2018 in four different months of the calendar.*

*The Player had been Provisionally Suspended on 27th of December 2019 and remained so up to the time of this Award.*

[...]

*On reviewing all of the evidence it is clear that the Covered Person was a very sophisticated fixer of aspects of matches while committing her breaches of the TACP in a rather rigid and specific fashion losing her service games typically but not exclusively in the first set of matches. While she will not be pursued in the [country Y.] Criminal Proceedings, she certainly can be considered in the tennis community as a sophisticated match-fixer. The sanction needs to reflect that conduct. It also needs to discourage and deter other players who may be wavering in their decision and choices from choosing for apparently easy money the commission of Corruption Offenses. The value of her actions in terms of money paid by corruptors is significant and higher than the sums she could gain by playing with her best efforts and winning tennis matches doing so. It appears that she made a conscious decision that it was more worthwhile financially to accept payments for match-fixing than pursuing a career as a good tennis player.*

*There is a paucity of mitigating factors relevant to the sanction in this case. There is a failure to co-operate in the TIU investigations and providing in-valid phones in doing so. Those are the actions of a guilty person trying to create an alibi and cover up. The problem with any mitigating factor is the fact that I did not find her to be an entirely credible witness. She does not appear to be contrite, nor does she recognize the damage that she has done to the sport at which she has chosen to excel.*

*There are a number of aggravating factors such as the close links with gambling syndicates and her deliberate efforts to frustrate the TIU investigation. The TIPP has seemed to be of little consequence to her, leading me to conclude that if she were to be permitted to return to tennis there is very little assurance she would be reformed by the punishment served. Potential correction of unethical behaviour ought to be a consideration for assessing a sanction. The facts do not reveal such a likelihood with the progression of contriving of aspects of matches growing year by year, building to a crescendo culminating in 8 breaches in four different months in 2018.*

*While there are allegations which the AHO has found that were not established that does not mean they may not have happened. They are findings of an allegation not proven rather than a determination of not having possibly occurred.*

*Following a review of the relevant jurisprudence, I find that the sanction in this matter ought to be a permanent period of Ineligibility, with no years of the period of ineligibility suspended based on any mitigating factors.*

*There is a justification for a fine in this case. The failure to co-operate and fulfill the Demand for information means that there is no evidence of monies received by the Covered Person for her match-fixing activities. Therefore, the AHO cannot order any restitution payments. The Player appears to have made a tradeoff between striving to win prize money and accepting corrupt payments for her conduct. In those circumstances and given that the conduct spans more than four years a very significant fine is appropriate to deter others from making a similar bad choice between rigorous tennis playing and corrupting the game because there is more money in doing so. Therefore, as both a deterrent and a punishment I fix the fine at \$150,000 USD. What makes the fine less than in other cases of permanent ineligibility is the fact that while the Player is taking care of her financial concerns, she only engaged in recruiting other players to get involved in the corrupt practices once early in her career. That makes her conduct considerably less egregious than where a person not only engages in Corruption Offenses themselves but actively engages others to do likewise and in so doing goes to considerable efforts to recruit for the corruptors new tennis players to succumb to their merciless actions”.*

46. On 14 December 2020, Ms. Naydenova challenged the Appealed Decision before the Court of Arbitration for Sport (“CAS”), as summarized below.

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

47. On 14 December 2020, Ms. Naydenova filed her Statement of Appeal and supporting exhibits with the CAS against the Appealed Decision in accordance with R47 of the Code of Sports-related Arbitration (2020 edition) (“CAS Code”). Ms. Naydenova nominated Michele A.R. Bernasconi as arbitrator pursuant to Article R50 of the CAS Code and submitted an application to stay the execution of the Appealed Decision pursuant to R37 of the CAS Code. Ms. Naydenova requested to stay the execution of the Appealed Decision for the following reasons, (i) until a final and binding decision has been rendered, Ms. Naydenova’s suspension is groundless; and (ii) Ms. Naydenova’s suspension causes her irreparable damages, and puts in jeopardy her career and sport achievements:

*“We deem that there are no valid reasons for such suspension, the fault of the Player has not been proven and we dispute and appeal the decision in its entirety [sic] as groundless and unproven. We consider that until there is a final and binding decision on the matter, such suspension is entirely groundless. What is more, it causes irreparable damages to the Appellant who, at the age of 28, was deprived from participation in games in the prime of her career, as she had reached her career high WTA Singles Ranking of 218 on 9 September 2019 and ITF Singles Ranking of 89 on 18 February 2019. Such suspension puts her entire career and her sport achievements in jeopardy and violates her basic human right of labor.*

*As to the imposed fine of 150 000 USD we consider that nothing requires payment of any part of it before we have a final decision on the matter”.*

48. By letter of 21 December 2020, the CAS acknowledged receipt of Ms. Naydenova's Statement of Appeal and invited the PTIOs to submit within ten days from receipt of this letter its position with respect to Ms. Naydenova's request to stay the execution of the Appealed Decision.
49. On 23 December 2020, Ms. Naydenova submitted her Appeal Brief, together with supporting exhibits, to the CAS.
50. By letter of 28 December 2020, the CAS acknowledged receipt of Ms. Naydenova's Appeal Brief and invited the PTIOs to submit its Answer to Ms. Naydenova's Appeal Brief within twenty days upon receipt of this letter.
51. On 31 December 2020, the PTIOs nominated the Hon. Michael J. Beloff QC as arbitrator and submitted its response to Ms. Naydenova's application to stay the execution of the Appealed Decision. The PTIOs requested the President of the CAS Appeals Arbitration Division to dismiss the Ms. Naydenova's request to stay the execution of the Appealed Decision as the criteria set out in Article R37 of the CAS Code are not met:

*"Pursuant to R.37 of the CAS Code, when considering a request for a stay of execution, which constitutes an application for provisional measures, the President or Panel "shall consider whether the relief is necessary to protect the applicant from irreparable harm, the likelihood of success on the merits of the claim, and whether the interests of the Applicant outweigh those of the Respondent(s)".*

*The Application fails to address each of the criteria or provide any cogent reasons such that the Application should not be granted. Further and in any event, it is the PTIOs' position that the criteria are not be satisfied in this case and the Application must be dismissed.*

[...]

#### *Likelihood of success*

*The Player was found to have committed 13 breaches of the TACP, including 12 offences of contriving the outcome or aspects of matches and failing to cooperate. This is not a case in which there is, for example, a single offence with finely balanced evidence. Rather, there is compelling evidence that the Player committed serious and repeated breaches of the TACP. The likelihood of the Player's appeal succeeding is extremely low.*

[...]

#### *Alleged irreparable harm*

*The Application states briefly that the Player will suffer irreparable harm because she is 28 years old and is being prevented from playing when she is "in the prime of her career." This is not sufficient to constitute "irreparable harm" for the purposes of R37 of the CAS Code.*

*This is because in every case where a player is banned by a tribunal, the player is deprived of the opportunity to participate in their sport generally. Therefore, a player must establish a specific and particular form of actual irreparable harm that takes their case out of the norm. If this were not the applicable standard, then players would always be able to have the effect of a ban stayed pending the outcome of an appeal. This would lead to the*

*unacceptable position in which players who have been found to have engaged in corruption would be able to play (and, given that appeals to CAS regularly take over a year, convicted match-fixers would be able to continue to play for considerable periods of time).*

[...]

*Balance of interests*

*The integrity of tennis would be significantly undermined if the Player were permitted to play in circumstances where she has been found to have committed 13 serious Corruption Offences (including 12 cases of contriving matches)”.*

52. By letters of 7 and 11 January 2021, the CAS provided the Parties with Mr. Michele Bernasconi and the Hon. Michael J. Beloff. QC Acceptance and Statement of Independence forms.
53. By letter of 18 January 2021, the Ms. Naydenova challenged the nomination of the Hon. Michael J. Beloff QC pursuant to Article R34 of the CAS Code. Ms. Naydenova’s challenge is based on the disclosure made by the Hon. Michael J. Beloff QC *i.e.* the latter was appointed as sole arbitrator in an arbitral tribunal dealing, *inter alia*, with doping appeals in mixed martial arts cases established by Professor Richard H. McLaren, O.C, namely the McLaren Global Sport Solutions (“MGSS”). Ms. Naydenova contended that such appointment raised concern with respect to the Hon. Michael J. Beloff QC’s independence and impartiality.
54. By letter of 18 January 2021, the CAS acknowledged receipt of Ms. Naydenova’s challenge to the nomination of the Hon. Michael J. Beloff’s and invited the PTIOs to provide its comments on such challenge by 22 January 2021.
55. On 18 January 2021, the PTIOs submitted an Answer to Ms. Naydenova’s Appeal Brief and supporting exhibits.
56. By letter of 19 January 2021, the CAS acknowledged receipt of the PTIOs’ Answer, noted that no challenge had been filed against the nomination of Mr. Michele A.R. Bernasconi and invited the Parties to indicate whether they requested a hearing to be held.
57. By letter of 21 January 2021, the PTIOs objected to Ms. Naydenova’s challenge to the nomination of the Hon. Michael J. Beloff. Q.C. as arbitrator as, according to the PTIOs, none of the matters disclosed by the latter are sufficient to preclude him from being appointed as arbitrator in the present case. the PTIOs also confirmed its preference for a hearing to be held.
58. By letter of 26 January 2021, Ms. Naydenova indicated that it considered unnecessary to hold a hearing and instead requested to be provided with the opportunity to submit additional written submissions to comment the PTIOs’ Answer to Ms. Naydenova’s Appeal Brief.
59. On 8 February 2021, the Challenge Commission of the International Council of Arbitration for Sport dismissed Ms. Naydenova’s challenge to the nomination of the Hon. Michael J. Beloff QC as it considered that the appointment of the latter by the MGSS tribunal is not sufficient to

cast any doubt on his ability to approach the case independently and without any bias towards a party or the author of the decision on appeal.

60. On 9 February 2021, the President of the CAS Appeals Arbitration Division dismissed Ms. Naydenova request to stay the execution of the Appealed Decision with respect to Ms. Naydenova's period of ineligibility but granted it with respect to the financial penalty of USD 150,000.
61. By letter of 16 February 2021, the CAS issued, as per Article R52 of the CAS Code and on behalf of the President of the CAS Appeals Arbitration Division, the Notice of Formation of a Panel ("Panel") constituted as follows:  
  
President: Dr. Hamid G. Gharavi, Attorney-at-Law in Paris, France  
  
Arbitrators: Mr. Michele A.R. Bernasconi, Attorney-at-Law in Zurich, Switzerland  
  
The Hon. Michael J. Beloff. Q.C., Barrister in London, United Kingdom
62. By letter of 22 February 2021, the CAS informed the Parties that the Panel considered a second round of submissions warranted. Accordingly, the Parties were invited to submit additional submissions as per the following briefing schedule:  
  
*"In this respect, the Appellant is invited to file a response to the Respondent's answer within 14 days. Upon receipt of the Appellant's response, the Respondent will be given an equal opportunity to file its response".*
63. By the same letter, the CAS also informed the Parties that the Panel reserved the right to call the Parties to a video hearing and that 25 March 2021 was identified as a possible date.
64. On 5 March 2021, Ms. Naydenova provided the CAS with its additional submissions as per the agreed briefing schedule.
65. By letter of 11 March 2021, the CAS informed the Parties that the hearing would be held on 25 March 2021 by video-conference.
66. By letter of 16 March 2021, the CAS communicated to the Parties the Order of Procedure, which was returned signed by the Parties within the deadline set by the Panel.
67. By letter of 15 March 2021 the CAS invited the Parties to liaise and prepare a mutually agreed hearing schedule by 17 March 2021.
68. By letters of 17 March 2021, the Parties informed the Panel of their inability to prepare a mutually agreed hearing schedule and the PTIOs provided the Panel with its own proposed hearing schedule.
69. On 17 March 2021, the PTIOs provided the CAS with its additional submissions, as per the agreed briefing schedule.

70. By letter of 19 March 2021, the CAS provided the Parties with a hearing schedule.
71. By letter of 22 March 2021, Ms. Naydenova requested that the hearing be postponed due to health issues of some of its counsels.
72. By letter of 22 March 2021, the PTIOs provided its comments on the hearing schedule and requested that the later be amended to allocate additional cross-examination time.
73. By letter of 23 March 2021, the PTIOs confirmed that it did not object to the postponement of the hearing requested by Ms. Naydenova.
74. By letter of 31 March 2021, the CAS informed the Parties that the hearing would be rescheduled on 18 May 2021 and invited the Parties to confirm their availability.
75. By letter of 7 April 2021, the CAS informed the Parties that, due to the PTIOs unavailability on 18 May 2021, the Panel proposed to reschedule the hearing on 17 May 2021 and invited the Parties to confirm their availability.
76. By letters of 8 April 2021, both Parties confirmed their availability on 17 May 2021.
77. By letter of 14 May 2021, the CAS provided the Parties with the updated final hearing schedule.
78. On 17 May 2021, a hearing on the merits (“Hearing”) took place via video-conference. In addition to the Panel and Mr. Fabien Cagneux, Counsel to the CAS, the following persons attended the Hearing:

For Ms. Naydenova: Ms. Svetoslava Angelova, Counsel;  
Mr. Ivaylo Ivkov, Counsel; and  
Ms. Kremena Koleva-Paturle, Paralegal.

For the PTIOs: Ms. Kendrah Potts, Counsel;  
Ms. Stefania Genesis, Counsel;  
Mr. Nigel Willerton, International Tennis Integrity Agency (“ITIA”) Senior Director Investigations;  
Mr. Ben Rutherford, ITIA Legal Director;  
Ms. Katy Stirling, ITIA Legal Counsel;  
Ms. Jodie Cox, ITIA Case Manager;  
O.; Witness;  
Mr. Jose de Freitas, Witness;  
Mr. Lacksley Harris, Witness;  
Mr. Steve Downes; Witness and

Mr. Michael Mahon-Daly, Witness.

79. The Hearing held on 17 May 2021, started at 9.30 am and ended at 3 pm without any technical interruption. The Parties were given at the Hearing a full opportunity to present their case, submit their arguments/submissions and answer the questions posed by the Panel and comments made by the Parties' witnesses. The Parties expressly confirmed at the Hearing, when questioned on the same by the President of the Panel, that they had no objection to the composition/constitution of the Panel nor as to the way in which the proceedings had been conducted and further that their right to be heard had been fully respected.

#### IV. SUMMARY OF THE PARTIES' POSITIONS

80. The below Section does not exhaustively set out the Parties' contentions, but rather only summarizes the principal arguments of Ms. Naydenova (**A**), and the PTIOs (**B**), as presented in the Parties' written submissions and during the Hearing. While the Panel has considered all facts, allegations, legal arguments, and evidence submitted by the Parties in this arbitration, only the pleadings and evidence relevant for purposes of the Panel's findings on law and fact are addressed below.

##### A. Ms. Naydenova's Prayer for Relief and Submissions

81. Ms. Naydenova's Prayers for Relief (**1**) and Submissions (**2**) are summarized below.

##### 1. Ms. Naydenova's Prayer for relief

82. In her Appeal Brief of 23 December 2020, Ms. Naydenova seeks the following relief:

*"With view of the above and after a consideration of the present appeal as admissible, justified and well proven, we, on behalf of the Appellant Professional tennis player Alexandrina Naydenova, would like to ask the Honorable Panel of Arbitrators of the CAS to review the present dispute de novo and to cancel entirely the challenged decision of the Anti-Corruption Hearing Officer Professor Richard H. McLaren passed on 20 November 2020 as groundless and unproven and to issue an award with which to lift all the charges imposed on the Appellant.*

*Alternatively, we, on behalf of our client, would like to ask the Honorable Panel of Arbitrators of the CAS to render a new decision with which to reduce significantly the sanctions imposed on the Appellant in accordance with the type and the objective and subjective elements of any established offence, if any.*

*Pursuant to Article R64.5 from the CAS Code, we would like to ask the Honorable Panel of the CAS to grant the Appellant a contribution towards the legal fees and other expenses incurred in connection with the proceedings".*

## 2. *Ms. Naydenova's Submissions*

83. Ms. Naydenova's submissions with respect to the applicable statute of limitations (i); the applicable standard of proof (ii); the allegations of match-fixing (iii); her alleged failure to comply with her duty to cooperate (iv); and the imposed sanctions (v), are set out below.

### *i. The statute of limitations*

84. Ms. Naydenova requests that the Appealed Decision be set aside on the ground that Charges Nos. 1 to 10, allegedly committed between 7 August 2015 and 28 May 2018, are time-barred pursuant to Section C.2 of the TACP.

85. Section C.2 of the TACP provides:

*"No action may be commenced under this Program against any Covered Person for any Corruption Offense unless such action is commenced within either (i) eight years from the date that the Corruption Offense allegedly occurred or (ii) two years after the discovery of such alleged Corruption Offense, whichever is later".*

86. Ms. Naydenova submits that the special two-year statute of limitations under Section C.2(ii) of the TACP is applicable in the present case as, according to Ms. Naydenova, *"nothing justifies action against an alleged offence after two years have passed since it was discovered"*.

87. Ms. Naydenova submits that the TIU was notified of all alleged offences as soon as they were presumably committed or at the latest a few days after. Consequently, Ms. Naydenova argues that the action related to the allegations of match-fixing with respect to matches that took place between 7 August 2015 and 28 May 2018 should be treated as time-barred pursuant to the two years statute of limitation under Section C.2(ii) of the TACP.

### *ii. The applicable standard of proof*

88. Ms. Naydenova argues that the AHO's finding that the applicable standard was one of preponderance of evidence, based on the grounds that (i) proceedings initiated by the PTIOs are deemed to be civil and (ii) a *"sport governing body does not have the corrosive powers of law enforcement"*, is wrong.

89. Ms. Naydenova submits that, pursuant to CAS caselaw, the applicable standard of proof is that of comfortable satisfaction, particularly if the PTIOs' evidence is circumstantial, and that the Panel should apply a lower standard of proof only if the PTIOs rely on direct evidence.

90. Ms. Naydenova further argues that the proceedings are not of a purely civil nature, and share many characteristics with criminal proceedings. Accordingly, she submits that the application of the standard of preponderance should not be *"taken to an absolute extend [sic]"*.



iii. *The allegations of match-fixing*

91. Ms. Naydenova contends that the evidence submitted by the PTIOs are “*all inadmissible, disputable*”, and that the PTIOs failed to discharge their burden of proof with respect to match-fixing allegations.
92. With respect to the match played by Ms. Naydenova on 26 August 2015, the PTIOs relied on O.’s interview of 27 August 2015 and Witness Statement of 8 September 2020. Ms. Naydenova contends that O.’s interview is inadmissible because more than two years have elapsed since the interview took place. Moreover, according to Ms. Naydenova, the interview and the witness statement are “*obviously biased, highly subjective and emotional*”. Ms. Naydenova further challenges the credibility of the witness statement on the ground that it contains a very detailed recollection of events despite such events having occurred more than 5 years ago. Lastly, even if O. were to be considered a credible witness, Ms. Naydenova contends that her testimony does not support any allegations of match-fixing.
93. As to the witness statements submitted by Mr. Jose de Freitas, dated 15 January 2021, Mr. Lacksley Harris, dated 15 January 2021, Mr. Steve Downes, dated 18 January 2021 and Mr. Michael Mahon-Daly, dated 15 January 2021, Ms. Naydenova contends that the same are biased and not credible.
94. As to the witness statement submitted by Mr. John R. Thomas, dated 13 January 2021, Ms. Naydenova submits that the same has no probative value because it is not a witness statement, but an expert’s opinion given by an “*interested party*” given that Mr. John R. Thomas is shareholder of the law firm that drafted the TACP and subsequent revisions of the latter, namely Smith Hulsey & Busey. Ms. Naydenova further refers to Rule 703 of the Federal Rules of Evidence of the United States, which provides that “[*a*]n expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed” to argue that Mr. Thomas’ statement is, in any event, irrelevant as, according to Ms. Naydenova, Mr. Thomas’ statement relates to a third party and not to Ms. Naydenova.
95. As to the evidence obtained in the course of the investigation conducted by [country X.] authorities, Ms. Naydenova contends that the existence or not of criminal proceedings in [country X.] is irrelevant as she was never part in the same. Accordingly, any documents obtained during the course of such proceedings should be inadmissible as Ms. Naydenova was never afforded an opportunity to defend herself against any allegations made in such documents. Moreover, the documents allegedly obtained bear no signs of authentications. Lastly, some of the documents are in a foreign language whereas, pursuant to Section K.7 of the TACP and the Procedural Directions applicable to the present proceedings, all submissions should have been submitted in English or accompanied by a certified English translation.
96. As to the evidence obtained in the course of the [country Y.] Proceedings, Ms. Naydenova submits that the transcripts of phone conversations constitute hearsay and are therefore inadmissible under Florida law. Moreover, Ms. Naydenova contends that the mere fact that she was included in the [country Y.] Proceedings does not mean that she was found guilty of match-

fixing. The [country Y.] authorities never prosecuted nor convicted Ms. Naydenova, despite the AHO's contrary contention.

97. As to Mr. Thomas' witness statement, dated 13 January 2021, in which the latter states that, under Florida law, evidence of a defendant's acquittal in criminal proceeding is not admissible in a civil suit against the defendant arising out of the same set of facts, Ms. Naydenova argues as follows. First, it is not established thereby that under Florida law evidence of a defendant's alleged guilt in criminal proceedings is admissible in a civil suit; and second, Ms. Naydenova has never been a defendant in the [country Y.] Proceedings, but only an "*Investigated Person*". Finally, the situation to which Mr. Thomas refer in his witness statement differs from the present one inasmuch as the [country Y.] Proceedings and the TIU proceedings were/are carried out in different jurisdictions, under different applicable laws, and the TIU proceedings not a sequel to the [country Y.] Proceedings.
98. As to the betting alerts, Ms. Naydenova contends that the same cannot serve as valid evidence. Ms. Naydenova refers to the AHO's statement that "*[t]he H. evidence is a mix of facts and suspicions or conclusions from those facts. It is borderline opinion evidence that is not supported by a process of using an expert to substantiate the opinion*" and submits that the same conclusion should have been applied to all betting alerts.
99. As to the information obtained via the analysis of Ms. Naydenova's phone and contained in the TIU officers' report dated 2 January 2018, Ms. Naydenova contends that the chain of custody has been breached as more than a year passed between the supply of the phone in January 2017 and the date of the report. Further or alternatively, Ms. Naydenova contends that no evidence, sign or data proving match-fixing activity has been found on the phone.
100. As to Ms. Naydenova's on-court play and particularly the double faults committed by the latter, Ms. Naydenova contends that double faults are common and should not been seen as suspicious nor do they evidence match-fixing activity.

*iv. The allegations of failure to comply with duty to cooperate*

101. Ms. Naydenova requests that the Appealed Decision be set aside and denies all allegations of failure to comply with her duty to cooperate. Ms. Naydenova on the contrary submits that she fully cooperated with the TIU officers at all times, and always shared to the best of her ability all information in her possession, while granting full access to her phones and e-mails.
102. First, Ms. Naydenova argues that she provided the TIU officers with access to her e-mail account. According to Ms. Naydenova, the fact that only few emails, no contacts and an empty trash folder were found on the email account is not indicative that she tampered with it. To the contrary, Ms. Naydenova submits that the number of emails found on her account being considered as too few is purely subjective and, in any case, irrelevant. Further, according to Ms. Naydenova, nothing suggests that her trash folder was emptied on purpose, nor is there evidence that this could not have been the result of an automatic process.

103. Second, Ms. Naydenova denies that she refused to provide the TIU officers with access to her iCloud and/or iTunes accounts. Ms. Naydenova claims simply that she does not have an iCloud and/or iTunes accounts which are not necessary nor essential for an iPhone to function.
104. As to the allegation that the phone provided to the TIU by Ms. Naydenova in 2017 is not the same as the one she was actually using, and this on the ground that the operating systems were different, Ms. Naydenova contends that such allegations are unproven and groundless. Ms. Naydenova argues that it is not possible to identify a phone by its operating system.
105. As to the allegation that Ms. Naydenova wiped her phone in January 2017 during the Australian Open, Ms. Naydenova argues that there is no evidence that the data was deleted by her. According to her, the lack of data is explained by the theft of her phone in December 2016 in Turkey, after which she would have needed to purchase a new device which she did shortly before arriving in Australia.
106. Third, as to the TIU's demands that Ms. Naydenova provides personal information about S. and T., Ms. Naydenova contends that she provided all the information that she had in her possession, *i.e.*, their phone numbers.
107. Fourth, Ms. Naydenova contends that the duty to cooperate as set out in Section F.2 of the TACP is a violation of its fundamental human privacy right, including the privacy of correspondence as provided in the Florida's Constitution.

*v. The imposed sanctions*

108. Ms. Naydenova submits that, even if found guilty of any corruption offence, the sanctions applied by the AHO are, in any event, excessive and should be reduced.
109. Ms. Naydenova relies on an award (CAS 2011/A/2490) to argue that imposing a financial penalty in addition to a permanent ineligibility is excessive:

*"In certain circumstances, it is however inappropriate to impose a financial penalty, as the sanction of permanent ineligibility provides for the deterrence that corruption offences call for. The lifetime ban also has a considerable financial effect on a player because it significantly impacts the player's future earnings by eliminating tennis as a source of revenue".*

110. Ms. Naydenova further contends that the financial penalty of USD 150,000 is grossly excessive in comparison to the entire prize fund estimated at USD 237,920, before even taking into account taxes and expenses for tickets, hotels etc.

**B. PTIOs' Prayer for Relief and Submissions**

111. PTIOs' Prayers for Relief (1) and Submissions (2), are set forth in turn below.

## **1. PTIOs' Prayers for Relief**

112. In its Answer to Ms. Naydenova's Appeal Brief of 18 January 2021, the PTIOs' request the following relief from the CAS:

*"For the reasons set out above the Panel is invited to dismiss the Player's appeal. Further, the Panel will be invited to order that the costs of the proceedings be paid by the Player and that the Player be ordered to contribute to the Respondent's legal costs".*

## **2. PTIOs' Submissions**

113. PTIOs' submissions with respect to the applicable statute of limitations (i); the applicable standard of proof (ii); the allegations of match-fixing (iii); Ms. Naydenova's alleged failure to comply with her duty to cooperate (iv); and the imposed sanctions (v), are set out below.

### *i. The statute of limitations*

114. The PTIOs argue that the action is not time-barred as the applicable statute of limitation is ten years under Section C.2 of the TACP.

115. The PTIOs contend that, contrary to Ms. Naydenova's allegations, the applicable statute of limitation is 8 years. This is because, according to the PTIOs, Section C.2 of the TACP explicitly provides that "the later" of the two limitation periods set out therein applies, *i.e.*, either eight years from the date on which the corruption offence commenced, or two years from the date on which the offence was discovered.

### *ii. The applicable standard of proof*

116. The PTIOs submit that the applicable standard of proof is the preponderance of evidence as per Section G.3 of the TACP and confirmed by CAS jurisprudence. The PTIOs refer in this respect to an award (CAS 2011/A/2490) in which the Panel recognized that governing bodies of tennis are entitled to determine the applicable standard of proof and applied the preponderance of evidence standard.

### *iii. The allegations of match-fixing*

117. The PTIOs concur with the AHO's decision and contends that it provided sufficient evidence to establish on a preponderance of evidence that Ms. Naydenova contrived the outcome of 11 matches and accordingly breached Section D.1.d of the TACP. The PTIOs rely on the following evidence:

117.1 Transcript of calls during which Ms. Naydenova's match-fixing activities are discussed between individuals who are the subject of [country Y.] Proceedings;

- 117.2 Exchange of messages on WhatsApp and/or Telegram between a third person and Ms. Naydenova and Ms. Naydenova's father discussing payments and plans to fix matches;
  - 117.3 O.'s testimony;
  - 117.4 Suspicious betting alerts and reports related to matches played by Ms. Naydenova; and
  - 117.5 Ms. Naydenova's conduct in failing to cooperate with the TIU's investigation.
118. The evidence submitted by the PTIOs regarding the allegations of match-fixing is detailed and analyzed in detail by the Panel in Section VIII below.
119. As to Ms. Naydenova's objections to the admissibility of the evidence, the PTIOs contend that as per Section G.3.c of the TACP, charges under the TACP may be established by "*any reliable means*" and that the admissibility of evidence is not restricted by any national rules on admissibility of evidence. Further, the PTIOs argue that CAS panels have, in any event, considerable discretion to admit evidence and are not bound by strict rules.
120. As to O.'s witness statement, the PTIOs argue that the fact that more than two years have elapsed since the statement was taken is not a valid ground to exclude it evidence.
121. As to evidence from the [country X.] Proceedings and the [country Y.] Proceedings, the PTIOs argue that evidence, including transcripts of wiretaps, from parallel criminal investigations and proceedings have been consistently admitted in CAS cases (CAS 2010/A/2266).
- iv. The allegations of failure to comply with duty to cooperate*
122. The PTIOs concur with the AHO's decision and contends that it provided sufficient evidence to establish on a preponderance of evidence that Ms. Naydenova failed to comply with her duty to cooperate and accordingly breached Section D.2.c and F.2.b of the TACP.
123. The evidence submitted by the PTIOs with respect to the allegations of failure to comply with the duty to cooperate is detailed and analyzed in detail below.
124. As to Ms. Naydenova's allegation that the chain of custody was breached in relation to the analysis of her mobile phones by the TIU, the PTIOs argue that the fact that the report is dated January 2018 while the phone was provided to the TIU in January 2017 does not mean that the chain of custody was broken, as the phone at all times remained in the TIU's custody.
125. As to Ms. Naydenova's assertions that her phone did not contain any evidence supporting the allegations of match-fixing, the PTIOs argue that the absence of evidence is explained by the fact that the data and emails had been removed from the phone by Ms. Naydenova.

126. As to Ms. Naydenova's allegations that the obligation to cooperate as set out in the TACP violate her fundamental human right of privacy, the PTIOs refer to Section F.2.d of the TACP which provides that "[b]y participating in any Event, or accepting accreditation at any Event, or by completing IPIN registration and/or player agreement forms a Covered Person contractually agrees to waive and forfeit any rights, defenses, and privileges provided by any law in any jurisdiction to withhold information or delay provision of information requested by the TIU or the AHO". The PTIOs also refer to the *Olaso v. TIU* award (CAS 2014/A/3467) in which the Panel confirmed the validity and effect of Section F.2.d of the TACP.

*v. The imposed sanctions*

127. The PTIOs concur with the AHO's decision to order a life ban together with a financial penalty of USD 150,000.

128. The PTIOs argue that the Panel should review the imposed sanctions only if the latter are "evidently and grossly disproportionate to the offense", and refers to the *Olaso v. TIU* award (CAS 2014/A/3467) in this respect. In the present case, the sanctions imposed by the AHO were, according to the PTIOs, proportionate to the nature and scale of Ms. Naydenova's wrongdoing.

129. The PTIOs refer to CAS jurisprudence and particularly one specific award (CAS 2011/A/2490), in which the panel considered that the sanction applied following a breach of the TACP shall serve as a deterrent as tennis is a sport extremely vulnerable to corruption.

130. The PTIOs submit that in light of the circumstances of the case, particularly the fact that Ms. Naydenova was allegedly working as a professional match-fixer and proactively contacted the corruptors, and the fact that she sought to involve a third party, O., in contriving a match, warrants the application of a life ban.

131. The PTIOs further contends that the following aggravating factors should be taken into account:

131.1 Ms. Naydenova was fully aware of the TACP and rules contained therein as she completed the Tennis Integrity Protection Program online test on three occurrences;

131.2 Ms. Naydenova attempted to persuade a third party, O., to deliberately lose a match;

131.3 Ms. Naydenova was a professional match-fixer, in light of the number of charges; and

131.4 Ms. Naydenova has shown no remorse for her actions.

132. In light of the above, the PTIOs submit that there is a significant risk that Ms. Naydenova will return to match-fixing in the future. Consequently, the PTIOs argue that a permanent ineligibility is warranted and the appropriate sanction.

133. As to the financial penalty, the PTIOs submit that Ms. Naydenova significantly profited from her involvement in match-fixing and that, given the extent of her wrongdoing, a financial penalty of USD 150,000 is both appropriate and proportionate.

## V. JURISDICTION

134. The jurisdiction of the CAS, which is not disputed by the Parties, derives from Article R47 of the CAS Code and Section I.1 of the TACP.
135. It follows from Article R47 of the CAS Code that “[a]n appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body”.
136. Pursuant to Section I.1 of the TACP, “[a]ny decision (i) that a Corruption Offense has been committed, (ii) that no Corruption Offense has been committed, (iii) imposing sanctions for a Corruption Offense (all three of which amount to a Decision under section G.4.b), or (iv) that the AHO lacks jurisdiction to rule on an alleged Corruption Offense or its sanctions, may be appealed exclusively to CAS in accordance with CAS’s Code of Sports-Related Arbitration and the special provisions applicable to the Appeal Arbitration Proceedings”.
137. Based on the foregoing, the Panel finds that it has jurisdiction to decide the present dispute, as confirmed by the Parties’ signature of the Order of Procedure, within the scope of review set out in paragraphs 148 *et seq.*

## VI. ADMISSIBILITY

138. Article R49 of the CAS Code provides that the time limit for appeal is twenty-one days from the receipt of the Appealed Decision. This time limit applies only if the statutes or regulations of the relevant federation do not contain a time limit of their own. In this case, Section I.4 of the TACP provides that the “deadline for filing an appeal with CAS shall be twenty business days from the date of receipt of the decision by the appealing party”.
139. Ms. Naydenova submitted her Statement of Appeal on 14 December 2020, *i.e.* within 16 business days of the notification of the Appealed Decision dated 20 November 2020, and thus within the time limit set out at Section I.4 of the TACP. The admissibility of Ms. Naydenova’s appeal is not challenged by the PTIOs.
140. Based on the foregoing, the Panel finds that the appeal filed by Ms. Naydenova is admissible.

## VII. APPLICABLE LAW

141. According to Article R58 of the CAS Code:

*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.*

142. Section C.1 of the TACP provides:

*“All Players, Related Persons, and Tournament Support Personnel shall be bound by and shall comply with all of the provisions of this Program and shall be deemed to accept all terms set out herein as well as the ITLA Privacy Policy which can be found at [www.tennisintegrityunit.com](http://www.tennisintegrityunit.com). They shall remain bound until such time as they are no longer a Covered Person”.*

143. Section K.2 of the TACP provides:

*“This Program shall be governed in all respects (including, but not limited to, matters concerning the arbitrability of disputes) by the laws of the State of Florida, without reference to conflict of laws principles”.*

144. The Panel notes that the Parties’ agreement that pursuant to Article R58 of the CAS Code, the regulations applicable to the present dispute is the TACP.

145. Based on the foregoing, the Panel finds that the TACP and, subsidiarily, the laws of the State of Florida shall govern this dispute.

146. As to Swiss law, it is neither the law chosen by the Parties nor the law of the country in which one of the governing bodies of tennis is domiciled but the law at the seat of this CAS arbitration. It is thus relevant only to this extent to the arbitration procedure and/or as far as any of its applicable mandatory rules are concerned.

### **VIII. MERITS**

147. The Panel sets out below the scope and sequence of its review (**A**) followed by its decision on the Ms. Naydenova’s defense that the PTIOs’ actions are time-barred (**B**) on the admissibility of certain evidence (**C**), on the Merits (**D**) and setting the corresponding sanction (**E**).

#### **A. Scope and Sequence of the Panel’s Review**

148. According to Article R57 of the CAS Code,

*“[t]he Panel has full power to review the facts and the law.*

*“It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance”.*

149. As noted at paragraph 82 above, Ms. Naydenova seeks to set aside the Appealed Decision in its entirety, *i.e.*, with respect to the AHO’s findings both on the match-fixing and on the failure to cooperate allegations and on the sanctions imposed.



150. Based on the foregoing, the Panel will examine the present dispute *de novo* in its entirety on the points disputed.

## **B. Statute of Limitations**

151. According to Section C.2 of the TACP, “[n]o action may be commenced under this Program against any Covered Person for any Corruption Offense unless such action is commenced within either (i) eight years from the date that the Corruption Offense allegedly occurred or (ii) two years after the discovery of such alleged Corruption Offense, whichever is later”.

152. Ms. Naydenova provides no support for her position that it is the shorter (as opposed to the longest) of the two statute of limitation periods set out at Section C.2 of the TACP that applies, and that the applicable state of limitation is two years.

153. The Panel finds that Section C.2 is clear, and that it follows unambiguously from the words “*whichever is later*” that the longer of the two statutes of limitations is intended to apply.

154. Applying the eight-year period, the statute of limitation with respect to the first charge, *i.e.*, the match played by Ms. Naydenova on 26 August 2015, will expire only on 26 August 2023. Furthermore, the statute of limitations regarding the subsequent charges will necessarily expire only after 26 August 2023.

155. Based on the foregoing, the Panel finds that none of the PTIOs’ actions are time-barred as they were commenced on 24 July 2020.

## **C. Admissibility of evidence**

156. Ms. Naydenova argues that as per Section K.2 of the TACP, the laws of the State of Florida apply to all matters and aspects relevant to the case, including the admissibility of evidence. Ms. Naydenova does so in order to have the laws of the State of Florida, (including the rule prohibiting hearsay) rather than Section K.2 under the TACP according to which “*any reliable means*” can be used by the AHO apply to her case.

157. The Panel, as set out above at paragraphs 141 to 146, found that pursuant to R58 of the CAS Code and Section K.2 of the TACP, the applicable law is the TACP and only subsidiarily the laws of the State of Florida. The inclusion of the term “*subsidiarily*” means that the laws of the State of Florida will only be applied as a complement to the TACP to fill in possible gaps.

158. Section G.3.c of the TACP is clear that corruption offenses may be established by “*any reliable means*”:

*“The AHO shall not be bound by any jurisdiction’s judicial rules governing the admissibility of evidence. Instead, facts relating to a Corruption Offense may be established by **any reliable means**, as determined in the sole discretion of the AHO”* (emphasis added).

159. The Panel therefore finds that Section G.3.c of the TACP comprehensively addresses the admissibility of evidence and that the laws of the State of Florida are not needed to supplement the same.
160. The Panel notes that Ms. Naydenova disputed the admissibility of three items of evidence, *i.e.*, (i) the transcripts of O.'s interview by the TIU on 27 August 2015; (ii) the documents obtained over the course of the [country X.] Proceedings; and (iii) the documents obtained over the course of the [country Y.] Proceedings. These three items of evidence are addressed in turn below.
161. As to the transcripts of O.'s interview, Ms. Naydenova argues that the transcripts of the interview should be declared inadmissible because the interview was conducted more than two years ago. The Panels finds that Ms. Naydenova's argument is unparticularized and unsubstantiated. There is no basis for excluding transcripts of an interview, *a fortiori* so if the offense(s) can be established by "*any reliable means*" and if the interviewee, namely O., is available for cross-examination to test the evidence. The Panel accordingly finds such transcripts admissible.
162. As to the documents obtained over the course of the [country X.] Proceedings, *i.e.*, WhatsApp messages (Exhibit F.1), Telegram messages (Exhibit F.2) exchanged between Ms. Naydenova, Ms. Naydenova's father and a third party, Western Union and MoneyGram transfer forms (Exhibit F.3), Press releases of the [country X.] federal public prosecutor's office (Exhibit F.4), and extracts from a report of the [country X.] police (Exhibit F.4), Ms. Naydenova argues that such documents should be declared inadmissible because she was not afforded the right to defend herself against the allegations in the said documents before the [country X.] authority. The Panel finds that there is no reason to declare such documents inadmissible. On the contrary, the Panel considers that the wording of Section G.3.c of the TACP, namely that an offense "*may be established by any reliable means*", clearly allows for the admission of such evidence.
163. The Panel finds that it is even more advisable to admit all reliable means of evidence with respect to the offences at hand which involve concealment and are therefore inherently difficult to uncover. The admission of such evidence itself conveys a signal to the players that their acts and omissions in breach of their obligations can be established by any means, including the discoveries of investigating third parties, and that it is not merely because a breach was not uncovered on the spot or shortly thereafter that it will not be uncovered by any reliable means within the eight-year statute of limitations. Its admission therefore serves a dissuasive purpose to deter players from breaches of the TACP.
164. The foregoing is subject always to affording the Players the right of due process and thus the opportunity to defend themselves. This need not necessarily be afforded before the authority under the auspices of which the evidence was first produced. It suffices if it is afforded in the proceedings including this appeal where these documents are being produced and relied upon. The Panel considers that Ms. Naydenova was afforded the right throughout these proceedings to challenge the corresponding evidence by documentary and testimonial evidence. Ms. Naydenova had the opportunity (which she took) to give oral evidence before the AHO and (which she did not) before this Panel. She was of course entitled to decide as a party whether

to address the Panel herself as well as by her Counsel but she must bear the consequences of her choice.

165. Accordingly, the Panel finds that the documents obtained which emanate from the [country X.] Proceedings are admitted as evidence. It will give thereto the weight it deems appropriate under the circumstances in accordance with its right and duty to assess all the evidence.
166. The Panel reaches the same conclusion as regards the documents obtained which emanate from the [country Y.] Proceedings. Ms. Naydenova objects to the admission of the transcripts of phone conversations on the ground of hearsay, which is inadmissible evidence under Florida law. As set out above at paragraph 157, Florida law only applies as complement to the TACP to fill in possible gaps. Section G.3.c of the TACP is clear that corruption offenses may be established via any “*reliable means*” including transcripts of phone conversations resulting from wiretapping, which have been, moreover, considered as valid evidence by other CAS Panels (*See* CAS 2010/A/2266).
167. The Panel rejects Ms. Naydenova’s objection to the admission of a specific document, *i.e.*, Exhibit F.3 which is the proof of payments allegedly made to Ms. Naydenova’s parents by way of Western Union and MoneyGram transfer forms. This was submitted by the PTIO as proof that Ms. Naydenova’s parents received payments from a third party involved in match-fixing. The objection raised by Ms. Naydenova is on the ground that the said document is not in English and that no translation of the same was provided whereas this is required under Article R29 of the CAS Code.
168. The Panel finds the objection unpersuasive as the *rationale* behind Article R29 of the CAS Code is the protection of the Parties’ procedural rights, particularly to allow the Party against which the document is used to understand, comment, and, if it can rebut any adverse content of the document.
169. The Panel finds that by objecting to the admissibility of the document on this ground, Ms. Naydenova raises an argument of form as opposed to substance. In its clear view this document can be fully understood even without any translation as the material content thereof pertains to figures/proof of money transfer (Western Union and MoneyGram), *i.e.*, mainly numbers and names which do not require translation. Ms. Naydenova was fully able to understand its content as proven indeed by the fact that Ms. Naydenova addressed the same during the Hearing by challenging the substantive relevance of the document in dispute to the match-fixing allegations.
170. Based on the foregoing, the Panel finds that the document is admissible and will give thereto the weight that it deems appropriate under the circumstances.
171. The Panel adds that none of the evidence set out above, the admissibility of which was challenged by Ms. Naydenova, was in the event determinative of the findings of breach below, but rather only reinforced the same. In other words, the Panel would have made the same findings had these challenges to the three sets of documents been upheld.

## D. Merits

172. The Panel sets out the criteria, burden and standard of proof applicable in determining whether the TACP was breached (1) before applying the same to the case at hand (2).

### 1. *The standard and burden of proof*

173. Section D.1.d of the TACP provides:

*“No Covered Person shall, directly or indirectly, contrive the outcome, or any other aspect, of any Event”.*

174. Section D.2.c of the TACP provides:

*“For the avoidance of doubt, a failure by any Covered Person to comply with (i) the reporting obligations set out in Section D. and/or (ii) the duty to cooperate under Section F.2. shall constitute a Corruption Offense for all purposes of the Program”.*

175. Section F.2 of the TACP provides:

*“All Covered Persons must cooperate fully with investigations conducted by the TIU including giving evidence at hearings, if requested. [...]”.*

176. Section G.3.a of the TACP provides:

*“The PTIO (which may be represented by legal counsel at the Hearing) shall have the burden of establishing that a Corruption Offense has been committed. The standard of proof shall be whether the PTIO has established the commission of the alleged Corruption Offense by a preponderance of the evidence”.*

177. It is therefore for the PTIOs to demonstrate on a preponderance of evidence that the player contrived, directly or indirectly, the outcome, or any other aspect of any event to demonstrate a breach of Section D.1.d of the TACP. The same applies with respect to the breach of the duty to cooperate as set out in Section D.2.c/F.2 of the TACP.

178. The standard of preponderance of evidence can be considered met *“if the proposition that the Player engaged in attempted match fixing is more likely to be true than not true”* (CAS 2011/A/2490). In other words, it is a proxy for the well-known standard of the balance of probabilities.

179. As has been recognized and applied in CAS cases, the Panel considers that an international association has discretion to determine the applicable standard of proof, (i) in the absence of any overarching regulation (ii) subject to mandatory national and/or international rules of public policy (see for example, CAS 2011/A/2490; CAS 2011/A/2621).

180. The Panel has been shown no such overarching regulation. It has also no reason to consider that the application of the standard of proof of preponderance evidence is contrary to any national and/or international rules of public policy.

181. On the contrary, the Panel finds that the application of preponderance of evidence is warranted in the case of match-fixing allegations. As noted by some CAS Panels, gathering evidence in relation to the offenses in question can be difficult because of the inherently concealed nature of the corrupt acts. This explains why the application of the preponderance of evidence test is appropriate (see for example CAS 2010/A/2172; CAS 2011/A/2621).
182. The Panel notes Ms. Naydenova's reliance on two CAS cases (CAS 2016/A/4650 and CAS 2013/A/3256) in which the Panels applied the standard of proof of comfortable satisfaction to match-fixing allegations. On this basis and on the ground that the standard of proof of comfortable satisfaction was applied in case of match-fixing allegations in football, Ms. Naydenova argues that the standard of comfortable satisfaction should equally apply in the context of tennis. Yet, in distinction to the TACP, the regulations applicable in the aforementioned cases, namely the UEFA regulations, did not, at that time, provide for the application of the standard of preponderance of evidence. Rather, CAS Panels applying the TACP have upheld the standard provided for by it, *i.e.*, a preponderance of evidence (CAS 2011/A/2490).
183. The Panel finds that, in the absence of any applicable national and/or international rules of public policy mandating otherwise, it is not for the Panel to revise the applicable standard of proof as set out in the applicable regulations, here the TACP. That is a matter for legislation by the appropriate tennis bodies, vested with power to make or amend such regulations. Legislation and adjudication are distinct exercises and in lack of any mandatory provision, the Panel has to apply the rules as they are.
184. Based on the foregoing, the Panel finds that the standard of preponderance of evidence is both appropriate and applicable to this dispute. The Panel here too adds that the application of the "*comfortable satisfaction*" standard would not have led to any other outcome on the issues in dispute and the findings made below.

## **2. Application**

185. The Panels now turns to the application of the above burden and standard of proof to the match-fixing allegations (i) and to Ms. Naydenova's alleged failure to cooperate (ii).

### *i. The match-fixing allegations*

186. The Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established on a preponderance of evidence that Ms. Naydenova contrived the outcome of matches and therefore has breached Section D.1.d of the TACP on all eleven charges found in the Appealed Decision. The reasons for the Panel's findings in respect of each eleven matches are set out below.

- a. Charge no. 2 – Match played on 26 August 2015 in Woking, England
187. Charge no. 2 relates to a [...] match played by Ms. Naydenova on 26 August 2015 in Woking, England with O., which they lost [...].
188. The PTIOs relies principally on O.'s interview by the TIU on 27 August 2015 and her witness statement dated 13 January 2021. O., the double partner of Ms. Naydenova who signed O. up for the event without, it appears, first obtaining O.'s consent, testified that Ms. Naydenova informed her on the day of the match that Ms. Naydenova had to catch a flight the following morning and thus did not want to win the match. According to O., Ms. Naydenova refused to withdraw from the match and insisted on playing but losing the match so as to avoid, as represented by Ms. Naydenova to O., being penalized for withdrawal. O. testified that Ms. Naydenova asked her to help her tank the match. O. testified that Ms. Naydenova was intentionally making mistakes and deliberately losing points. This includes 14 double faults in five service games and hitting a number of strokes that landed in the back fence.
189. The occurrence of the above-mentioned mistakes and double faults is unchallenged. The poor performance and conduct of Ms. Naydenova said to support the conclusion that she would have purposely watered down her performance so as to lose the game is corroborated by (i) a member of the public in an email sent to the TIU on 27 August 2015, (ii) the incident report given by the Tournament Supervisor, U., in an email dated 27 August 2015, and (iii) the transcript of O.'s interview by the TIU dated 27 August 2015.
190. The Panel also finds O. to have been a credible witness at the Hearing in which she confirmed her witness statement dated 13 January 2021. There is no support for the Athlete's suggestion that O. may have entered into a plea bargain in exchange for her testimony or charges against the Athlete in a manner that would taint her testimony. In fact, O. was asked by the Panel whether she received any consideration for her testimony and firmly denied it.
191. The Panel finds that the foregoing establishes by a preponderance of evidence that Ms. Naydenova contrived the outcome of the match by failing to provide her best efforts and by attempting to deliberately lose the match. The very fact that Ms. Naydenova deliberately attempted to under-perform and/or lose the match is by itself sufficient to constitute a breach of Section D.1.d of the TACP, regardless of whether this behaviour was for match-fixing purposes or not.
192. The Panel finds, however, that the above is insufficient to establish that Ms. Naydenova engaged in this match in actual match-fixing. It is one thing to lose a match without using one's best efforts. It is another thing to do so for purposes of match fixing. There is no evidence, be it documentary, testimonial, or otherwise (such as a betting alert) to suggest that in this instance the former led to the latter. On analysis the PTIOs can rely on nothing more than that subsequent matches were fixed by Ms. Naydenova for betting purposes. The Panel is not willing to infer match-fixing for betting purposes in this match applying the test from the single fact that subsequent matches were fixed, especially when it bears in mind the lapse of time between this match and the first fixed match which it found proven (see below) which took place almost a year and a half later). For the same reasons, the Panel is not willing to draw negative inferences

as to this match from its findings of breaches of Ms. Naydenova's duty of cooperation that occurred a year and a half after this match. Match fixing in this match may be a possibility, but there is insufficient evidence to conclude that it was a probability.

193. The Panel notes that Ms. Naydenova was interviewed with respect to this match of 26 August 2015 by TIU investigators, namely Mr. Dee Bain and Mr. Michael Mahon-Daly on 12 January 2017, *i.e.*, more than a year and a half after it was played, where O. was interviewed the day following the match. This appears somewhat surprising, in particular in the light of existing concerns/alert in relation to a previous match played by Ms. Naydenova on 7 August 2015 in el Espinar, Spain.
  194. The time taken by the TIU to interview Ms. Naydenova could suggest either that the TIU was prioritizing the gathering of evidence and the building of a case on Ms. Naydenova or that its concerns over Ms. Naydenova's involvement in match fixing on this first occasion may have been an afterthought and included with hindsight and/or as a "catch all" *filet* based upon evidence of match fixing in relation to subsequent matches. When questioned on the timing of the investigations or interview of Ms. Naydenova in relation to this match, Mr. Jose de Freitas of the TIU responded that this was not indicative of a lack of confidence on the part of the TIU that a breach had or may have occurred but due, *inter alia*, to the TIU's strategy to allow time for evidence gathering and then to somewhat ambush a player and thereby prevent him/her from tampering with potential evidence. Mr. Jose de Freitas also indicated that, after the 26 August 2015 match, the Australian Open was the TIU's first opportunity to interview Ms. Naydenova.
  195. The Panel does not seek to judge the soundness of this strategy or of its compliance with other norms, including good faith and due process, and other potentially relevant objectives, such as the prevention, in the common interest, of further breaches, akin to those that in fact were found to have occurred, including the one on 12 January 2017 (see below) before Ms. Naydenova was first interviewed on 12 January 2017. Suffice it to say that in its judgment the timing of the interview and the corresponding explanations advanced by TIU do not assist the PTIOs in meeting their burden of proving by a preponderance of evidence that this specific match was deliberately lost par Ms. Naydenova for match-fixing purpose.
  196. Based on the foregoing, the Panel finds that Ms. Naydenova did contrive the outcome of the match played on 26 August 2015 by not giving her best efforts and deliberately losing the match, in breach of Section D.1.d of the TACP. However, the Panel considers that there is not sufficient evidence to conclude that this was for match-fixing purposes. The Panel accordingly sets aside the AHO's decision as to its findings with respect to the 26 August 2015 match insofar as the AHO concluded that Ms. Naydenova contrived the match for match-fixing purposes. It would add that this conclusion does not of itself automatically affect what it has determined to be the appropriate sanction. This will be addressed separately, below.
- b. Charge no. 4 – Match played on 12 January 2017 in Melbourne, Australia
197. Charge no. 4 relates to a match played by Ms. Naydenova on 12 January 2017 in Melbourne Australia, which she lost 1-6, 1-6.

198. The PTIOs relied on a suspicious betting alert received from D. on the day of the match. D. noted that although the turnover on the match before it started was normal, after its start two accounts from Europe put large amounts of money on Ms. Naydenova to lose the match. At the end of the match, these two accounts won over 100 times the maximum limit of the match. The PTIOs also referred to the fact that this match was played on the day on which Ms. Naydenova was interviewed for the first time by the TIU and failed to cooperate.
  199. The Panel finds that, although only one suspicious betting alert was received, the amount of the bets and the fact that they were completely one sided, with multiple of 100 on returns, supports the allegation that Ms. Naydenova contrived the outcome of the match.
  200. This finding is reinforced by Ms. Naydenova's failure to cooperate. The match occurred on the day that Ms. Naydenova was requested by the TIU to provide her phone, which she could not do immediately as she alleged to not be in possession thereof. Ms. Naydenova eventually provided the TIU with her phone on 13 January 2017. The analysis of the phone however revealed some data which appeared to have been placed on the phone on the day of the interview around five minutes past midnight. Save for this data, the phone contained no history of data prior to 13 January 2017. Ms. Naydenova attempted to explain the absence of data by the theft of her phone, along other personal belongings, while she was in Ankara, Turkey in December 2016 as further explained below at paragraphs 239 to 250. The same applies to the fact that the match, in distinction to the one on 26 August 2015 above, occurred within the proximate dates of others below in relation to which similar breaches were found, and is therefore indicative of a pattern of conduct aimed at contriving the outcome of matches as part of a betting schemes.
  201. Based on the foregoing, taken together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established by a preponderance of evidence that Ms. Naydenova contrived the outcome of the Match she played on 12 January 2017, moreover, for match-fixing purposes, in breach of Section D.1.d of the TACP.
- c. Charge no. 5 – Match played on 5 July 2017, in Getxo Spain
202. Charge no. 5 relates to a match played by Ms. Naydenova on 5 July 2017 in Getxo Spain. Ms. Naydenova won this match, 6-4, 6-3. In this match, Ms. Naydenova is suspected to have contrived to lose the third game of the first set.
  203. The PTIOs relied on a suspicious betting alert sent by M. Three new accounts with Bulgarian surnames placed bets on Ms. Naydenova, favorite for the match, losing her serve in the third game of the first set. This was a very "surgical" bet, and thus highly suspicious on its face. Whereas this alone would not suffice to meet the threshold of preponderance of evidence, the fact that Ms. Naydenova did lose her serve in the third game of the first set, and this by a way of a double fault, takes it to this threshold and beyond. This conclusion is reinforced by Ms. Naydenova's pattern of conduct, as transpires from the other matches fixed during this same period, and her failure to cooperate, as set out below at paragraphs 239 to 250.



204. Based on the foregoing, taken together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established on a preponderance of evidence that Ms. Naydenova contrived the outcome of the Match she played on 5 July 2017, moreover, for match-fixing purposes, in breach of Section D.1.d of the TACP.
- d. Charge no. 6 – Match played on 17 April 2018, in Obidos, Portugal
205. Charge no. 6 relates to a match played by Ms. Naydenova on 17 April 2018 in Obidos, Portugal, which she lost 0-6, 7-6, 4-6.
206. The PTIOs relied on one suspicious betting alert received from F. on 19 April 2018. This alert noted that five in-play bets had been placed by an individual, previously identified by F. as suspicious, for a total stake of EUR 185 and a payout of EUR 1470. All five bets were winning bets. F. considered that the large bets placed during the first set warranted blocking bets during the second set. Whereas this in isolation may not be able to pass the threshold of preponderance of evidence to establish a breach of Section D.1.d, it does so when taken together with the pattern of match-fixing as part of betting schemes, as established in relation to other matches within the proximate dates, and the Athlete's failure to cooperate, as set out below at paragraphs 239 to 250.
207. Based on the foregoing, taken together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established by a preponderance of evidence that Ms. Naydenova contrived the outcome of the Match she played on 17 April 2018 for match-fixing purposes, in breach of Section D.1.d of the TACP.
- e. Charge no. 7 – Match played in 29 April 2018, in Anning, China
208. Charge no. 7 relates to a match played by Ms. Naydenova on 29 April 2018 in Anning, China. Ms. Naydenova won this match, 6-1, 6-3. In this match, Ms. Naydenova is suspected to have contrived to lose her serve by double faulting in the second game of the second set.
209. The PTIOs relied on suspicious betting alerts received from N. in relation to bets on C and D. A large number of bets were placed on Ms. Naydenova losing her serve in the second game of the second set. Indeed, due to the large number of bets already placed, one operator stopped offering bets for the match. The PTIOs also relied on the [...] report dated 1 June 2018 and the UK Gambling Commission Report dated 2 May 2018 in which the suspicious betting alerts on Ms. Naydenova losing her serve in the second game of the second set are confirmed. Here too, very "surgical" and, moreover, multiple one-sided bets are involved. And the fact that Ms. Naydenova ended up losing her serve in the second game of the second set, and this, moreover, here again, by way of a double fault, is more than sufficient to meet the preponderance of evidence threshold and establish a breach of Section D.1.d, let alone when taken together with Ms. Naydenova's pattern of conduct, as transpires from the other matches fixed during this same period, and her failure to cooperate, as set out below at paragraphs 239 to 250.

210. Based on the foregoing, taken together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established by a preponderance of evidence that Ms. Naydenova contrived the outcome of the Match she played on 29 April 2018, in breach of Section D.1.d of the TACP.
- f. Charge no. 8 – Match played on 15 May 2018 in Wuhan China
211. Charge no. 8 relates to a match played by Ms. Naydenova on 15 May 2018 in Wuhan, China. Ms. Naydenova lost this match at 3-6, 1-6. In this match, Ms. Naydenova is suspected to have contrived to lose her second service game of the first set by double faulting.
212. The PTIOs relied on an exchange of WhatsApp messages between Ms. Naydenova and a third-party individual, referred to as “V.”, obtained over the course of the [country X.] Proceedings. With respect to the relevance of the transcript of messages exchanged between Ms. Naydenova and V., the Panel fully concurs with the Appealed Decision and finds that the conversation can be attributed to Ms. Naydenova. The analysis of ‘V’ phone revealed that the latter contained two contacts, namely “Alex.bg” and “AlexP.bg”. AlexP.bg is purported to be Ms. Naydenova’s father based on the fact that the number linked to this contact was given by Ms. Naydenova during her first and second interviews with the TIU on 12 and 13 January 2017. When a TIU investigator called the number, Ms. Naydenova’s father answered. With respect to the contact “Alex.bg”, an analysis of Ms. Naydenova’s emails revealed that the number linked to such contact was used to confirm Ms. Naydenova’s air flights in 2017. Further, during her third interview with the TIU on 1 April 2019, Ms. Naydenova provided a phone on which several calls to the aforementioned number were registered.
213. Based on the foregoing, the Panel considers that the contact “Alex.bg” and the conversation thereof can be attributed to Ms. Naydenova. Ms. Naydenova did not submit any evidence which could call into question the AHO’s findings. On the contrary, Ms. Naydenova limits herself to general statements that she has never communicated with V, without, however, providing any evidence to support such statements.
214. With respect to the match played on 15 May 2018, the PTIOs relied on messages exchanged between Ms. Naydenova and V. between 29 April 2018 and the day of the match. The Panel has considered the entirety of the messages exchanged and in particular the following messages that contain elements indicative of betting schemes (such as visibility of the match via live streaming) and match fixing:
- 214.1 On 14 May at 15:15 (UTC), Ms. Naydenova refers to tournament in China: *“Hebe this tournaments in china r good [...] Live streaming and all”*;
- 214.2 On 15 May at 05:48 (UTC), i.e., 13:48 (Wuhan time), Ms. Naydenova wrote to V. *“I play very soon in 1h [...] So tell me for break what we can do and which one”*, which corresponds to Ms. Naydenova’s match that started at 15:09 (Wuhan time);

- 214.3 On 15 May at 06:00 (UTC), after having exchanges several messages, Ms. Naydenova confirmed that she would lose her second service game of the first set: “*Ok we do 1<sup>st</sup>-2<sup>nd</sup> ok*”.
215. The above messages, taken together with the fact that Ms. Naydenova did lose her second service game of the first set and this by way of a double fault is sufficient to meet the preponderance of evidence threshold and establish a breach of Section D.1.d. The finding of breach is further reinforced here again by Ms. Naydenova’s pattern of conduct, as transpires from the other matches fixed during this same period, and her failure to cooperate, as set out below at paragraphs 239 to 250.
216. Based on the foregoing, taking together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established by a preponderance of evidence that Ms. Naydenova contrived the outcome of the Match she played on 15 May 2018, in breach of Section D.1.d of the TACP.
- g. Charge no. 9 – Match played on 23 May 2018 in Baotou China
217. Charge no. 9 relates to a match played by Ms. Naydenova on 23 May 2018 in Baotou China. Ms. Naydenova lost this match 7-5, 6-3. In this match, Ms. Naydenova is suspected to have contrived to lose the fourth game of the second set.
218. The PTIOs first relied on a report by H. indicating that “[t]he betting data ultimately suggests that bettors held prior knowledge of Aleksandrina Naydenova losing the fourth game of the second set”. This was based on the fact that there was clear one-side betting preference as 90% of the bets placed on the “*Who wins game X of set 2*” were for the specific outcome of Ms. Naydenova losing the fourth game of the second set. The Panel concurs with the AHO’s findings that the number of bets, 127 in total for a combined stake of EUR 5,688, is unusual on this type of market, *i.e.*, special markets, particularly when compared to the turnover of more popular market, namely “*Which player will Win the match*”, which is of just EUR 452. Ms. Naydenova here again did lose the fourth game of the second set by way of two double fault services - her only ones during the entire match. This is sufficient to meet the preponderance of evidence threshold and establish a breach of Section D.1.d.
219. This conclusion is reinforced by the messages exchanged between V. and Ms. Naydenova’s father on 24 May 2018, one day after the match, in which V. indicates that two MoneyGram transfers of EUR 1,500 each from Armenia to Bulgaria have been made in favor of Ms. Naydenova’s father. These messages were obtained in the context of the [country X.] Proceedings, as further explained above at paragraph 15. For the same reasons as set out above at paragraph 212, *i.e.*, that the number used to send these messages is the number given by Ms. Naydenova during her first and second interviews with the TIU on 12 and 13 January 2017, the Panel finds that the message are attributable to Ms. Naydenova’s father. The Panel notes that the PTIOs also referred to a document summarizing the payments received by Ms. Naydenova’s parents, which Ms. Naydenova considers inadmissible due to the absence of an English translation as further explained above at paragraphs 167 to 170. The Panel reiterates that, as stated at paragraph 171 above it need not to rely on this document to support its finding and

that it would have reached the same conclusion, *i.e.*, that Ms. Naydenova contrived the outcome of the match, had the Panel decided to declare such document inadmissible due to the absence of English translation.

220. Ms. Naydenova's pattern of conduct, as transpires from the other matches fixed during this same period, and her failure to cooperate, as set out below at paragraphs 239 to 250 further comfort the Panel in its conclusion.
221. Based on the foregoing, taken together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established by a preponderance of evidence that Ms. Naydenova contrived the outcome of the match she played on 23 May 2018 for match-fixing purposes, in breach of Section D.1.d of the TACP.
- h. Charge no. 11 and 12 – Match played on 25 August 2018 and 27 August 2018 in Budapest, Hungary
222. Charges nos. 11 and 12 relate to two matches played by Ms. Naydenova on 25 August 2018 and 27 August 2018 in Budapest, Hungary. Ms. Naydenova won the 25 August match 6-3, 6-11, and lost the 27 August match 2-6, 3-6. In these matches, Ms. Naydenova is suspected to have contrived to lose her second service game in the first set by double faulting twice in the 25 August match and three times in the 27 August match.
223. The PTIOs relied on transcripts of phone conversation that took place on 25, 27, and 28 August 2018 between P. and Q., namely two third-party individuals against whom criminal proceedings have been initiated in [country Y].
224. On 25 August, Ms. Naydenova is mentioned during a first phone conversation between P. and Q. During the same phone call, references were made to the fact that Ms. Naydenova will play against a wild card player. Over the course of subsequent phone calls on the same day, Q. informed P. that Ms. Naydenova is prepared to lose the second service game of the first set. The information given during the phone calls is consistent with the fact that on 25 August, Ms. Naydenova played a match against W., who entered the tournament with a Wild Card and lost her second service game in the first set by double faulting twice.
225. On 27 August, a series of phone calls took place between P. and Q. during which references were made to Ms. Naydenova's match on the same day and to the fact that the betting operator had stopped taking bets on the first three games. Q. informed P. that he was told by Ms. Naydenova that bets were probably blocked by B., a betting platform, because it was aware of Ms. Naydenova's habit to lose on her second service game in the first set. This information is consistent with the result of the 25 August match as well as the 27 August match during which Ms. Naydenova lost her second service game in the first set by double faulting three times.
226. The Panel finds the above sufficient to meet the preponderance of evidence threshold and establish a breach of Section D.1.d.

227. Ms. Naydenova's pattern of conduct, as transpires from the other matches fixed during this same period, and her failure to cooperate, as set out below at paragraphs 239 to 250 further comfort the Panel in its conclusion.
228. Based on the foregoing, taken together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established by a preponderance of evidence that Ms. Naydenova contrived the outcome of the matches she played on 25 August and 27 August 2018 for match-fixing purposes, in breach of Section D.1.d of the TACP.
- i. Charge no. 13 – Match played on 5 September 2018 in Marbella, Spain
229. Charge no. 13 relates to a match played by Ms. Naydenova on 5 September 2018 in Marbella, Spain. Ms. Naydenova won the match 4-6, 6-3, 6-0. Ms. Naydenova is suspected to have contrived to lose her second service for the first set, which corresponds to the third game of the first set, by double-faulting.
230. The PTIOs relied on a suspicious betting alert issued by H. via email on 7 September 2018. H. identified a suspicious betting interest in Ms. Naydenova losing her serve in the third game of the first set and indicated that a significant proportion of the attempted turnover was generated from new accounts. The PTIOs also relied on information given by X., tournament supervisor, who confirmed that courtsiders were present during the match. One of the courtsider was R., at third party individual also included in the [country Y.] Proceedings. In addition to being present at the match, R. had a phone conversation on 27 August with Q. during which it was confirmed that the latter had agreed with Ms. Naydenova that she would lose a game in the match when she was serving.
231. The Panel finds the above sufficient to meet the preponderance of evidence threshold and establish a breach of Section D.1.d.
232. The above-mentioned elements are consistent with the result of the match, *i.e.* Ms. Naydenova losing her second service game by double-faulting.
233. Ms. Naydenova's pattern of conduct, as transpires from her pattern of double faults, the other matches fixed during this same period, and her failure to cooperate, as set out below at paragraphs 239 to 250 further comfort the Panel in its conclusion.
234. Based on the foregoing, taken together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established by a preponderance of evidence that Ms. Naydenova contrived the outcome of the match she played 5 September 2018 for match-fixing purposes, in breach of Section D.1.d of the TACP.
- j. Charge no. 15 – Match played on 16 September 2018 in Ceuta, Spain
235. Charge no. 15 relates to a match played by Ms. Naydenova on 16 September 2018 in Ceuta, Spain. Ms. Naydenova won the match 6-1, 4-6, 6-1. Ms. Naydenova is suspected to have contrived to lose the fourth game of the second set.

236. The PTIOs relied on several suspicious betting alerts received from L., K., B., I. and J. All alerts, developed separately and not in consultation with each other, were related to one suspicious aspect, namely Ms. Naydenova's second service game, *i.e.*, fourth game of the second set. The PTIOs also relied on phone conversations between Q. and P. on the day of the match during which both referred to Ms. Naydenova and discussed the fix of the match.
237. The above-mentioned elements are consistent with the result of the match, *i.e.*, Ms. Naydenova losing the fourth game of the second set, and this by the *exploit* of serving three double faults, which the Panel cannot ascribe to pure coincidence, let alone when considered together with Ms. Naydenova's pattern of conduct, as transpires from the other matches fixed during this same period, and her failure to cooperate, as set out below at paragraphs 239 to 250.
238. Based on the foregoing, taken together, the Panel concurs with the Appealed Decision and finds that the PTIOs discharged its burden of proof and established by a preponderance of evidence that Ms. Naydenova contrived the outcome of the match she played 16 September 2018 for match-fixing purposes, in breach of Section D.1.d of the TACP.

*ii. Failure to cooperate*

239. The Panel concurs with the Appealed Decision and finds that the PTIOs discharged their burden of proof and established by a preponderance of evidence that Ms. Naydenova failed to comply with her duty to cooperate on four occurrences as set out in Sections D.2.c and F.2.b of the TACP for the reasons set out below.
240. The first failure by Ms. Naydenova to comply with her duty to cooperate took place in January 2017. Ms. Naydenova was interviewed by TIU investigators on 12 January 2017 in Melbourne where she was at the time for the Australian Open. Over the course of the interview, Ms. Naydenova was asked to provide the TIU investigators with her phone. She explained not to be in a position to do so as she had left it at her accommodation, and that she would provide it the next day. The TIU investigator warned Ms. Naydenova not to delete any data from her phone.
241. During the second interview, held on 13 January 2017, Ms. Naydenova provided her phone. The analysis of the phone revealed some data that appeared to have been placed on the phone on the day of the interview around five minutes past midnight. Save for this data, the phone contained no history of data prior to 13 January 2017. Ms. Naydenova attempted to explain the absence of data by the theft of her phone, along with other personal belongings, while she was in Ankara, Turkey in December 2016. As a result of this theft, Ms. Naydenova purchased a new phone in Bulgaria in December 2016, shortly before leaving for the Australian Open.
242. The Panel finds that Ms. Naydenova's explanations as to the lack of historical data on the phone before 13 January 2017 are unpersuasive. The alleged theft was mentioned not on the day of the interview but only the next day. The phone is not specifically mentioned in the list of the items stolen in Ankara that refers merely to "*personal effects*". There is no documentary evidence to support the alleged theft of her phone such as an insurance claim, or a request or confirmation of the blocking of her sim card. Moreover, and in any event, the theft of Ms.

Naydenova phone and the purchase of a new one in December 2016 fails to explain why the phone provided to the TIU investigators appears to have been repopulated with data on the very morning of the second interview, *i.e.*, 13 January 2017, but contained no prior history.

243. Moreover, the Panel notes the discrepancy between the operating systems, and therefore phone used to activate Ms. Naydenova's IPIN on different dates. While the operating system, and therefore phone, were identical to activate Ms. Naydenova's IPIN on 10 January 2017 and 11 January 2017 (iPhone IOS 10\_1\_1), the operating system used to access Ms. Naydenova's IPIN on 13 January 2017 was an older version (iPhone IOS 9\_3\_3). The Panel considers that such discrepancy supports the allegation that Ms. Naydenova tampered with the phone she produced and the data thereon by resetting her phone.
244. The second failure by Ms. Naydenova to comply with her duty to cooperate took place in April 2019. On 1 April 2019, Ms. Naydenova was interviewed for a third time and, during the interview, was requested to provide her phone. Ms. Naydenova provided the TIU investigators with an iPhone 5S and asserted that it was the phone she had been using for about one year. The analysis of the phone again revealed a limited amount of data. The phone only contained 15 pictures, 4 messages and 4 phone calls made in 2018. Due to this lack of data, Ms. Naydenova received on 1 April 2019, immediately after her interview with TIU investigators, a written demand that she provides her current and active mobile phone. Ms. Naydenova did not provide another phone to the TIU.
245. The Panel finds very questionable, if not implausible, that a phone allegedly used for more than a year would contain such a small amount of data. Nor is it impressed by Ms. Naydenova's attempt to suggest that this may have resulted from a change of battery of the phone when it was given for reparation in Bulgaria some time before Ms. Naydenova's arrival in Portugal in April 2019. The explanation is unparticularized and unsubstantiated as well as somewhat speculative. No *prima facie* case in its support is made by Ms. Naydenova. It has not even been submitted, in this or prior proceedings, exactly when the phone's battery was changed and, by whom or explained how such change of battery could possibly result in a complete loss of data on her phone. When questioned on this matter by the Panel at the Hearing, Ms. Naydenova's Counsel could not provide any elucidation.
246. The third failure by Ms. Naydenova to comply with her duty to cooperate took place in April 2019. Subsequent to Ms. Naydenova's third interview on 1 April 2019, the TIU sent a written demand to Ms. Naydenova on 9 April 2019 requesting that she provide the TIU with the phone number of S.'s, her former coach, and T.'s, one of her friends. This was a follow up further to Ms. Naydenova's statement that S. and T. had access to Ms. Naydenova's IPIN. Such information was requested by the TIU to be able to verify whether Ms. Naydenova indeed accessed her IPIN with S. and/or T.'s phones and not with another phone. Ms. Naydenova provided the TIU with phones numbers allegedly belonging to S. and T. However, the TIU could not make contact with the two individuals as the phone numbers were no longer operative. Accordingly, the TIU sent, on 10 April 2019, a written demand that Ms. Naydenova provides personal information in relation to S. and T. Ms. Naydenova responded that she was not able to provide such personal information as she was no longer working with the two aforementioned individuals.

247. The Panel finds telling Ms. Naydenova's failure to provide the TIU with the most basic information, such as email addresses, identity documents or any other relevant information, in relation to S. and T. The Panel finds it also highly unlikely that Ms. Naydenova was not in possession of such basic information even if the later had ended her collaboration with S. and T. Yet, more troublesome for the Panel is Ms. Naydenova's failure to have engaged or to prove that she had engaged in efforts to obtain such information.
248. As to the argument that the TIU's requests for personal information were contrary to the right to privacy and to the protection of personal data, it is not only unparticularized and unsubstantiated, but also cannot sensibly excuse the Athlete's failure to provide evidence of any efforts made by to contact those individuals, to seek their authorization before communication of their contact information, to satisfy her clear obligation of cooperation arising out of Sections D.2.c and F.2 of the TACP. More the contact details of R. and S. were requested to entertain the Athlete's own declaration in defense that they had access to her IPIN, which the Athlete should have engaged herself engage in efforts to substantiate.
249. The fourth failure by Ms. Naydenova to comply with her duty to cooperate took place in April 2019. On 23 April 2019, the TIU sent to Ms. Naydenova a written demand requesting to be provided access to Ms. Naydenova's email account and iCloud, or any other cloud-based storage, account. By email of 28 April 2018, Ms. Naydenova provided her email password and indicated that she did not have any iCloud, or any other cloud-based storage, account. After analysis of Ms. Naydenova's email account by the TIU, it appeared that Ms. Naydenova's email account only contained a small number of emails, no contacts and that the trash folder was empty. The Panel finds, once again, Ms. Naydenova's explanation as to the lack of emails unpersuasive. She attempted to explain the lack of email in the junk folder by arguing that the latter is usually cleaned automatically. It is indeed highly unlikely, and in any event not demonstrated, that the junk folder would have been automatically emptied on the exact or close to the date on which the TIU's investigators attempted to access Ms. Naydenova's account.
250. Based on the foregoing, the Panel concurs with the AHO's findings that Ms. Naydenova pretended to cooperate but did not do so in reality, and in any event to the extent required to comply with her obligation of cooperation on these four occurrences under Sections D.2.c and F.2 of the TACP, which the Panel finds, on the preponderance of evidence, the Athlete to have breached.

## **E. Sanction**

251. The Panel notes the well-recognized and consistent CAS jurisprudence according to which while a hearing before a CAS Panel is a hearing *de novo*, the Panel should only review the applied sanction is the latter is considered "*evidently and grossly disproportionate*" to the offense (CAS 2014/A/3467; CAS 2016/A/4840). When reviewing such sanction, the Panel should always have regard and deference to the expertise of the association which imposed the sanction. The Panel is also aware of another CAS decision in which the threshold of review might be seen as somewhat lower: "[*t*]here is well-recognized CAS jurisprudence to the effect that whenever an association uses its discretion to impose a sanction, CAS will have regard to that association's expertise but, if having done so, the CAS panel considers nonetheless that the sanction is disproportionate, it must, given its *de novo* powers of



*review, be free to say so and apply the appropriate sanction (see CAS 2015/A/4338, at para. 51)” (see CAS 2017/A/5003).*

252. Whether the threshold is that the sanction has to be “*evidently and grossly disproportionate*” or simply “*disproportionate*”, the decision set out below as to the sanction to be applied to Ms. Naydenova would have been identical.
253. The Panel also takes into account the purpose of a sanction, *i.e.* the sanction should serve as a deterrent so as to avoid the spread of corruption particularly among the sport of tennis which is extremely vulnerable to corruption.
254. Based on the foregoing, while considering that Ms. Naydenova committed multiple and repeated breaches of the TACP during a very long period of time, the Panel finds that the lifetime ban sanction, which is the most extreme sanction, imposed by the Appealed Decision is disproportionate, indeed grossly so.
255. The Panel considers that a period of ineligibility of 15 years should be applied in lieu of a lifetime ban. This is based on the following considerations.
256. First, this relaxation, severe in itself, at least to allow as for the possibility that one day Ms. Naydenova, after a long period of repentance, may be able to participate in the discipline to which she has devoted her life since childhood.
257. Second, to take into consideration that players at her level of ranking are as is notorious struggling to maintain the most elementary material needs so as to remain on the circuit. It is public knowledge that this level of ranking, albeit impressive and qualifying for the status of professional, barely generates sufficient revenues for player to finance their participation in the costly professional circuit. In a context where betting over professional circuit tennis matches is largely authorized, players at the bottom rung of the professional pyramid are tempted by gamblers who are not prepared to take their chance but rather to seek corruptly to manipulate the odds in their favor. The foregoing necessary influences players in going rogue and accepting as consideration a financial incentive that is sometimes equivalent to the prize money of the tournament to survive on circuit at all. While the Panel emphasizes that this does not provide players with a defense to breaches of the program for their assistance in such gambling manipulation, it is a factor to be considered when assessing sanctions if warranted by specific facts, on a case by case basis, with reference to the player’s particular family and other circumstances.
258. Third, Ms. Naydenova may have adapted a different path if warned or openly monitored by the TIU when the first suspicious arose back in August 2015 before the other offenses, starting as of January 2017, were committed as set out in paragraph 194 above.
259. Fourth, the Panel notes that life bans pronounced so far against persons at any level involved in sport have been for acts and omissions of far higher gravity to those at hand. As a matter of example, a permanent ineligibility period was applied by the Panel in a 2011 award (CAS 2011/A/2490), in which the tennis player not only fixed matches himself but was also found

to have actively attempted to persuade several other players to take part to its match fixing activities.

260. The above considerations are relevant to the issue of proportionality only. The Panel reference to them is not intended in any manner to undermine the utmost gravity of the breaches and their adverse impact on tennis. They do, however, in its view, influence what is an appropriate and proportionate sanction and will also serve as a sufficient deterrent to address the utmost gravity and multiplicity of the breaches.
261. With respect to the applicable fine, the Panel concurs with the AHO's finding and considers that the application of a USD 150,000 is an appropriate and proportionate sanction. The Panel notes that Ms. Naydenova failed to provide any argument, let alone any persuasive one, as to why the applied fine should be reduced.
262. Based on the foregoing, The Panel concurs with the Appealed Decision with respect to the fine and confirm the application of a USD 150,000 fine but sets aside the AHO's decision with respect to the application of a life-ban and finds that an ineligibility period of 15 years shall be applied.
263. Ms. Naydenova serves a period of ineligibility since 27 December 2019, when she was provisionally suspended, and is therefore eligible for credit from 27 December 2019 to the date of this award. Considering that the period of ineligibility is being served without any interruption so far, the start date of Ms. Naydenova's 15-year period of ineligibility shall be 27 December 2019.

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The appeal filed by Ms. Aleksandrina Naydenova on 14 December 2020 against the decision rendered by the Anti-Corruption-Hearing Officer dated 20 November 2020 is partially upheld.
2. The decision issued on 20 November 2020 by the Anti-Corruption-Hearing Officer finding that corruption offences had occurred and imposing a fine of USD 150,000 on Ms. Aleksandrina Naydenova is confirmed.
3. The decision issued on 20 November 2020 by the Anti-Corruption-Hearing Officer declaring Ms. Aleksandrina Naydenova to be permanently ineligible to participate in any sanctioned event effective as of the date of the decision is set aside.

4. Ms. Aleksandrina Naydenova is sanctioned with a period of ineligibility of 15 years commencing on 27 December 2019.
5. (...).
6. All other or further requests or motions for relief are dismissed.