

**DECISION OF THE INTERNATIONAL TENNIS FEDERATION  
UNDER THE 2017 TENNIS ANTI-DOPING PROGRAMME  
IN THE CASE OF DANIEL EVANS**

**I. Facts**

1. On 24 April 2017, while competing at the Barcelona Open Banc Sabadell event held in Barcelona, Spain (the **Event**), the respondent in these proceedings, Mr Daniel Evans, an English tennis player bound by the 2017 Tennis Anti-Doping Programme (the **TADP**), provided a urine sample for drug testing pursuant to the TADP. The WADA-accredited laboratory in Montreal analysed that sample (reference number 3092118) and detected cocaine and its metabolite (benzoylecgonine) (the **AAF**).
2. Cocaine is a non-specified substance prohibited in-competition under category S6.a of the 2017 Prohibited List (stimulants). Mr Evans did not have a TUE permitting use of that substance. Therefore, the ITF sent a formal notice of charge to Mr Evans on 16 June 2017, asserting that the presence of cocaine in his sample constitutes an anti-doping rule violation under TADP Article 2.1. The ITF provisionally suspended Mr Evans as from 26 June 2017.
3. Mr Evans admitted his anti-doping rule violation at a press conference on 22 June 2017, and subsequently in a letter to the ITF dated 26 June 2017. He subsequently provided the following explanation:
  - 3.1 On 20 April 2017, while out of competition, he ingested a small amount of cocaine. He then put the leftover cocaine first in his pocket and then in a pocket of his washbag, before discarding it the next day.
  - 3.2 In the same pocket of the washbag, he stored tablets of (permitted) medication. He took those tablets daily from 20 April 2017 to 24 April 2017, the date on which he provided his sample that later tested positive for cocaine and its metabolite.
  - 3.3 His expert, Dr Pascal Kintz, explained that the presence of a very small amount of cocaine (being the parent compound) in that sample means that the ingestion must have taken place no more than 24 hours prior to provision of the sample, and the amount ingested must have been no more than 1-3 mg of cocaine, an amount inconsistent with knowing ingestion and consistent instead with inadvertent contamination.
  - 3.4 The ITF's expert, Professor Martial Saugy, agreed that the analytical data are consistent with exposure to a tiny amount (1-3 mg) of cocaine in the hours prior to provision of the sample.
  - 3.5 On this basis, the ITF accepts that Mr Evans has met his burden of proving on the balance of probabilities how the cocaine got into his system, i.e., by inadvertent contamination of his fingers and/or the medication he was handling with cocaine residue when he went into the pocket of his washbag to take out and ingest his medication in the hours before giving the sample on 24 April 2017.

## II. Commission of an anti-doping rule violation

4. On the foregoing basis, Mr Evans has committed an anti-doping rule violation under TADP Article 2.1 as a result of cocaine and its metabolite being present in the urine sample collected from him in-competition on 24 April 2017. This is his first anti-doping rule violation.
5. This decision is issued pursuant to TADP Article 8.1.4, which provides that '*[i]n the event that [...] the Participant admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by the ITF [...], a hearing before the Independent Tribunal shall not be required. Instead the ITF shall promptly issue a decision confirming [...] the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences (including, if applicable, a justification for why the maximum potential sanction was not imposed)*'. Mr Evans has admitted his violation and has acceded to the consequences set out below, and therefore a hearing before the Independent Tribunal was not required. Mr Evans has also expressly confirmed that he waives any right (a) to challenge any part of the testing procedure or laboratory analysis in relation to his sample number 3092118; and (b) to a hearing before the Independent Tribunal.

## III. Consequences

6. Although cocaine is not a specified substance and therefore the starting point under TADP 10.2 is that the violation is intentional and therefore a four year period of ineligibility applies, TADP Article 10.2.3 provides that a violation '*shall not be considered "intentional" if the Substance is not a Specified Substance and the Player can establish that it was Used Out-of-Competition in a context unrelated to sport performance*'. Based on the facts set out above, the present case falls within that exception, and therefore the starting-point is a two-year period of ineligibility under TADP Article 10.2.2.
7. Mr Evans cannot establish that he bears No Fault or Negligence for his violation (TADP Article 10.4) because his conduct in taking cocaine and then storing it in his washbag, in the same pocket as his medication, was a departure from the rigorous standard of utmost caution required of all players under the TADP.
8. On the other hand, based on the circumstances of the inadvertent contamination, the ITF accepts that the Player has established No Significant Fault or Negligence for his violation, triggering a discretion under TADP Art 10.5.2 to reduce the two year period of ineligibility by up to 12 months. Moreover, based on the ruling of the CAS in *FIFA v CONMEBOL & Fernandez*, 2016/A/4416, which found that the comment to the Code definition of 'No Significant Fault or Negligence' ('*For Cannabinoids, an Athlete may establish No Significant Fault or Negligence by clearly demonstrating that the context of the Use was unrelated to sport performance*') also applies by analogy to cocaine, it follows that Mr Evans can, in any event, establish No Significant Fault or Negligence because the cocaine was used in a context unrelated to sports performance.
9. In all of the circumstances of this case, including the time and expenses saved by reaching an agreed outcome rather than having a disputed hearing, the ITF accepts that a 12 month reduction is within the range of reasonable outcomes. Therefore, a period of ineligibility of twelve months is imposed in accordance with TADP Article 10.5.2.
10. In accordance with TADP Article 10.10.3(b), Mr Evans is granted credit for his prompt admission, such that his one-year period of ineligibility will begin to run from 24 April 2017 (the date of his sample collection), and will expire at midnight on 23 April 2018.

11. During his period of ineligibility, Mr Evans' status is as set out under TADP Article 10.11, i.e., he is not entitled to play, coach or otherwise participate in any capacity in (i) any Covered Event; (ii) any other Event or Competition, or activity (other than authorised anti-doping education or rehabilitation programmes) authorised, organised or sanctioned by the ITF, the ATP, the WTA, any National Association or member of a National Association, or any Signatory, Signatory's member organisation, or club or member organisation of that Signatory's member organisation; (iii) any Event or Competition authorised or organised by any professional league or any international or national-level Event or Competition organisation; or (iv) any elite or national-level sporting activity funded by a governmental agency; nor will he be given accreditation for or otherwise granted access to any Event referred to at points (i) and (ii).
12. In accordance with TADP Article 10.11.1(b)(ii), Mr Evans may use the facilities of a club or other member organisation of a Signatory's member organisation in the last two months of his period of ineligibility – i.e. from 23 February 2018 until the expiry of his period of ineligibility at midnight on 23 April 2018.
13. The results obtained by Mr Evans at the Event and in subsequent events are disqualified pursuant to TADP Articles 9.1 and 10.8, and the points and prize money he won at those events are forfeited in accordance with the same provisions:

<b>Tournament</b>	<b>Prize money (€)</b>	<b>Points</b>
Barcelona Open Banc Sabadell (24 – 30 April 2017)	30,250	45
Mutua Madrid Open (8 – 14 May 2017)	19,360	10
Internazionali BNL d'Italia (15 – 21 May 2017)	15,210	10
Roland Garros (29 May – 11 June 2017)	35,000	10
Aegon Surbiton Trophy (5-11 June 2017)		
- Singles	3,710	20
- Doubles	360	0
<b>Total</b>	<b>€103,890</b>	<b>95</b>

14. There shall be no costs-shifting.

#### **IV. Rights of appeal**

15. This decision constitutes the final decision of the ITF in this matter, within the meaning of TADP Article 8.8.2, for the purposes of the appeal rights set out in TADP Article 12.2.1. In accordance with TADP Article 8.8.5, this decision will be disclosed publicly, including on the ITF's website.
16. Each of WADA and UK Anti-Doping has a right to appeal against this decision in accordance with TADP Article 12.2.1 to the Court of Arbitration for Sport in Lausanne, Switzerland (the **CAS**), in accordance with the procedure set out at TADP Article 12.6.
17. Each of the ITF and Mr Evans waives its/his right to appeal against or otherwise challenge this decision (both as to the finding that Mr Evans has committed an anti-doping rule violation and as to the imposition of the consequences set out above), whether pursuant to TADP Article 12.2.1 or otherwise, save that if an appeal is filed with the CAS against this decision either by

WADA or UK Anti-Doping, Mr Evans will be entitled to exercise his right of cross-appeal in accordance with TADP Article 12.6.3.

London, 3 October 2017