Arbitration CAS 2013/A/3279 Viktor Troicki v. International Tennis Federation (ITF), award of 5 November 2013

Panel: Mr Yves Fortier CC, QC (Canada), President; Prof. Lucio Colantuoni (Italy); Mr James Robert Reid QC (United Kingdom)

Tennis
Doping (failure to provide a blood sample)
Anti-doping violation according to Art. 2.3 of the 2013 Tennis Anti-Doping Programme
Compelling justification to be determined objectively
Mitigation of the sanction in application of Art. 10.5.2 of the Programme

1. **An athlete fails to provide a sample if he/she does not provide a blood sample collection after being notified by the chaperone that he/she has been randomly selected to provide one. As a result, unless he/she can prove, by a balance of probability, that he/she had a compelling justification to forego the test, he/she must be deemed to have committed a doping offense within the meaning of Art. 2.3.**

2. **Whether the athlete has compelling justification for failing to provide a blood sample needs to be determined objectively. The question is not whether the athlete was acting in good faith, but, whether objectively, he was justified by compelling reasons to forego the test.**

3. **Article 10.5.2 of the Programme permits a reduction of the period of ineligibility but sets as the minimum allowable period of ineligibility, in cases of no significant fault, to be one half of the period otherwise applicable. On the one hand, absent circumstances evidencing a high degree of fault bordering on serious indifference, recklessness, or extreme carelessness, a 24-months sanction would be at the upper end of the range of sanctions to be imposed. On the other hand, a sanction of 12 months should only be imposed where there is a very low degree of significant fault on the part of the athlete.**

1 THE PARTIES

1.1 The Appellant, Viktor Troicki (the "Athlete") is a 27-year-old professional tennis player from Serbia.

1.2 The Respondent, International Tennis Federation ("ITF") is the world governing body for the sport of tennis. Its responsibilities include the management and enforcement of the 2013 Tennis

Anti-Doping Programme (the "Programme") which adopts in relevant part*, mutatis mutandis*, the World Anti-Doping Code ("WADC").

2 THE DECISION

2.1 Viktor Troicki appeals a decision of the Independent Anti-Doping Tribunal convened by the ITF (the "Tribunal") dated 25 July 2013 (the "Decision") imposing sanctions upon him for an anti-doping rule violation.

2.2 The Tribunal's Decision, which is appealed, determined as follows:

"51. […] the Tribunal:

a. Confirms the commission of the Anti-Doping Rule Violation under Article 2.3 of the Programme specified in the Charge;

b. Orders that Mr Troicki's individual result must be disqualified in respect of the Monte Carlo Masters 2013, and in consequence rules that the 45 ATP ranking points and €9,305 in prize money obtained by him from his participation in that event must be forfeited;

c. Orders further that Mr Troicki be permitted to retain the prize money and ranking points obtained by him from his participation in all subsequent competitions in which he has participated;

d. Finds that Mr Troicki has established that the circumstances of his Anti-Doping Rule Violation bring him within the provisions of Article 10.5.2 of the Programme;

e. Declares Mr Troicki ineligible for a period of 18 months, commencing on 15 July 2013, from participating in any capacity in (i) any Covered Event; (ii) any other Event or Competition or activity (other than authorized anti-doping education or rehabilitation programmes) authorized, organized or sanctioned by the ITF, the ATP, 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; or (iii) any Event or Competition authorized or organised by any professional league or any international or national-level Event or Competition organisation.

3 FACTUAL BACKGROUND

3.1 The Panel will summarize the main relevant facts and allegations based on the parties' written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

3.2 The facts in this case are not in dispute unless otherwise indicated.

3.3 The Athlete is a 27-year-old Serbian professional tennis player who reached a career high rank of 12 in the ATP rankings in 2011. Prior to the events in question, he has had an unblemished drugs testing history.

3.4 On 15 April 2013, the Athlete played his first-round-match at the Monte Carlo Rolex Masters Tournament. He lost 6-1/6-2 in less than an hour.

3.5 As the Athlete was leaving the court, he was notified by the chaperon, Mr Jean-Luc Charleux, that he had been randomly selected to provide both a urine and a blood sample for drug-testing under the Programme. The blood sample was to be tested for human Growth Hormone in particular. The Athlete signed the urine doping control form but refused to sign the blood doping control form ("BCF") because he was unwell, felt tired and had been affected by the sun during the match.

3.6 While on his way to the doping control station ("DCS"), the Athlete met Mr Bratoev, a senior ATP tour manager. Mr Bratoev explained to the Athlete that once selected, he had to undergo the tests.

3.7 Upon arrival at the DCS, the Athlete immediately provided a urine sample, witnessed by C., the assistant to the Doping Control Officer ("DCO"), E.

3.8 When asked by the DCO why he did not sign the BCF, the Athlete answered that he was not able to provide a blood sample because he felt unwell and was concerned at having to give blood in that condition, and also because he had a needle phobia and could faint if he gave blood. The DCO confirmed in her oral testimony that he did look unwell.

3.9 E. tried to reassure the Athlete by showing him her medical accreditations and pointed out to him a medical bed where he could lie while giving blood. However, the Athlete still insisted that he was not able to give a sample because of his condition.

3.10 E. then explained to the Athlete that he had to sign the BCF or else he could face a sanction. The Athlete agreed to sign the notification section of the BCF. The box above his signature reads: *"I understand that I have been selected for a doping control and acknowledge that I have received and read this notice. I understand that I must report to the doping control station immediately after notification. I understand that any refusal or failure to submit to doping control and/or any attempt to interfere with the doping control process may be treated as an anti-doping rule violation".*

3.11 The Athlete says that he signed the BCF because he did not want to face sanctions and that he understood this section to mean that he had been notified of his selection to undergo the test.

3.12 The Athlete then asked E. if it would be treated as a violation if he was unable to provide a blood sample because he was unwell.

3.13 There is a dispute between the parties as to what E. said in response to that question:

3.13.1 The Athlete stated in his written evidence: *"She answered: if you don't feel well, you just need to write a letter addressed to the personnel doing the anti-doping control. She advised me what to write and she was very positive about it. I asked her two times if she was sure that was not going to have any consequences if I didn't do the test. She said it should be all right if I wrote the letter saying that I was feeling bad and that I was not ready to take it today".*

3.13.2 E. denies this. In her written evidence she says: *"Mr Troicki asked me if it would be treated as a violation even if he was unable to provide the blood sample because he was not feeling well. I remember clearly telling him that I could not advise him on whether or not that would be considered a valid excuse, because that was not my decision to make. I told him: "if you don't want to provide the sample you need to explain why to the ITF". I also said, though, that my own understanding was that if you are selected and notified that you are required to provide a sample, you must provide the sample in all cases".*

3.13.3 The Athlete accepts though that E. said to him: *"if you do not want to provide the sample, you need to explain why to the ITF".*

3.14 The Athlete then tried to reach Dr Stuart Miller of the ITF by phone to explain the reasons why he could not undergo the blood test but he was unable to reach him. There is disagreement between the parties as to whose idea it was to phone Dr Miller.

3.15 The Athlete then wrote a letter to Dr Miller explaining why he could not give a blood sample. The letter reads as follows:

"Dear Mr. Stuart Miller,
My name is Viktor Troicki, and I write to you concerning the blood test in Monte Carlo.
I was notified after my match on Monday 15th of April to do urine and blood test, and due to my health condition today, I was not able to do the blood test since I was feeling very bad. I provided the urine sample, and for the blood test I asked kindly to skip it this time, since I get very dizzy after giving the blood out.
So even before the test I didn't feel good, so I felt it would be even worse for my health condition to do it today.
I always did blood tests before, and I will do them in the future, but today I was not able to provide blood sample.
Thank you very much in advance for your understanding.
[signature]
P.S. We also tried contacting you on the phone number that was given to me (+442083924696)".

3.16 The letter was sent to the ITF as an attachment to the blood doping control form. The Athlete asserts that E. dictated to him the contents of the letter. E. denies that she did.

3.17 While the Athlete was writing the letter, his coach, Mr John Reader, came into the doping control room. Mr Reader said in his witness statement that while he was there *"Troicki asked the doctor twice if there would be any problem in proceeding as they were doing. Both times the doctor replied that there should not be".* E. and C. deny Mr Reader's evidence.

3.18 After the letter had been written and a copy was made by C., the Athlete and Mr Reader left the DCS.

3.19 Shortly after leaving the DCS, the Athlete and Mr Reader ran into Mr Bratoev at the ATP office. According to Mr Bratoev:

3.19.1 The Athlete told him that the DCO had said that it was *"ok not to do the blood test"*.

3.19.2 Mr Bratoev questioned this, as he was surprised that the DCO should have said such a thing (since it did not accord with his understanding of the Rules, namely that once selected a sample had to be given).

3.19.3 In response, the Athlete said words to the effect of: *"I told her that I am feeling dizzy and asked her 5 times if it is OK not to do the blood test and she said it will not be a problem since I am not feeling well. All I needed to do is write an explanation she dictated to me. We also tried to call Stuart Miller but something was wrong with the number she gave me"*.

3.20 Shortly afterwards, Mr Bratoev had a short conversation with Mr Reader. Mr Bratoev described this conversation as follows: *"What he said is that basically he was in there when Viktor was supposed to be doing the testing and Viktor was writing an explanation. He has practically confirmed that the DCO was telling Viktor what to write in the explanation"*.

3.21 In the meantime, E. wrote an e-mail to her superior, Neal Söderström of IDTM, explaining what had happened to which he replied *"Did you call for the ATP doctor on site?"*. She then went to find out from the tournament doctors if the Athlete had been to see them and was told that he had not.

3.22 On 16 April 2013, Mr Bratoev, after speaking to the DCO and understanding from what he was told by her that there might be a problem, went to find the Athlete to tell him that E. was looking for him to find out if he had obtained a medical certificate the day before. The Athlete said that he had not because the DCO had told him that he did not need to do anything further.

3.23 The Athlete went to see the tournament doctors for a certificate. He was told that they could not give him a certificate because they had not examined him the previous day.

3.24 The Athlete then went to the DCS and offered E. to give a blood sample right away as he was feeling better. E. agreed to take a blood sample.

3.25 E. then sent her final report to her manager.

3.26 The central issue in this case is what E.'s answer was when the Athlete asked her whether there was any possibility that he might not have to give blood despite having been notified that he was obliged to do so.

3.27 On 19 July 2013, a hearing took place before the Tribunal. After having listened to the evidence of all witnesses, in particular E. and the Athlete, the Tribunal concluded that it *"should accept E.'s account of what occurred in preference to that of Mr Troicki"*.

3.28 The Tribunal then made the determinations quoted at paragraph 2.2 above.

4 PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

4.1 On 6 August 2013, the Athlete filed an appeal with the Court of Arbitration for Sport (the "CAS") against the Decision pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (the "Code").

4.2 On 8 August, in accordance with Article R51 of the Code, the Athlete filed his appeal brief.

4.3 On 11 September 2013, in accordance with Article R55 of the Code, the Respondent filed its answer.

5 THE CONSTITUTION OF THE PANEL AND THE HEARING

5.1 By notice dated 4 September 2013, the CAS notified the parties that the appeal hearing panel (the "Panel") had been constituted as follows: Mr Yves Fortier C.C., Q.C. as President of the Panel, and Professor Lucio Colantuoni and His Honour James Robert Reid QC as co-arbitrators. The parties did not raise any objections as to the constitution and composition of the Panel then or at the hearing.

5.2 On 1 October, an Order of Procedure was made. The Respondent signed the Order on 1 October 2013 and the Appellant on 4 October 2013.

5.3 The Order of Procedure scheduled a hearing on 9 October 2013 in Lausanne following the parties' agreement in this respect.

5.4 On 9 October 2013, a hearing was duly held at the CAS Headquarters in Lausanne.

5.5 The following persons attended the hearing:

For the Appellant:	Mr Luigi Giuliano and Mr Simone Maina, counsel for the Appellant Mr Corrado Tschabushnig, Viktor Troicki's Manager Mr Viktor Troicki, the Appellant
For the Respondent:	Mr Jonathan Taylor and Mr Jamie Herbert, counsel for the Respondent Dr Stuart Miller, Executive Director of the ITF E., Doping Control Officer and Blood Collection Officer for International Doping Tests and Management Limited ("IDTM"), a company which provides anti-doping services to sports organisations such as the ITF

5.6 Ms Annie Lespérance, Ad hoc Clerk, and Mr William Sternheimer, CAS Managing Counsel and Head of Arbitration, assisted the Panel at the hearing.

5.7 At the hearing, the Panel heard the detailed submissions of counsel as well as the evidence of the following witnesses:

5.7.1 The Athlete (in person), who testified about his version of the events which occurred on 15 and 16 April 2013.

5.7.2 E. (in person), who testified about her version of the events which occurred on 15 and 16 April 2013.

5.8 At the conclusion of the hearing the parties agreed that due process had been fully observed.

6 JURISDICTION OF THE CAS AND ADMISSIBILITY

6.1 Article R47 of the Code provides as follows: *"An appeal against the decision of a federation, association or sports-related body may be filed with the CAS insofar as the statutes or regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body".*

6.2 CAS jurisdiction in this matter is derived from Article 12 of the Programme, which states that a participant who is the subject of a decision regarding anti-doping rule violations may appeal such decision to the CAS within 21 days from the date of its receipt.

6.3 The signature of the Order of Procedure by the parties has confirmed it.

6.4 The Decision was rendered on 25 July 2013. The Athlete's statement of appeal was filed on 6 August 2013 and is therefore admissible.

7 APPLICABLE LAW

7.1 Article R58 of the Code provides as follows: *"The Panel shall decide the dispute according to the applicable regulations and 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, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".*

7.2 This appeal is governed by the provisions of the Programme and the WADC, as interpreted and applied by the CAS (with relevant decisions of other sports panels of persuasive authority). The comments to the WADC are to be used as a guide to the interpretation of the Programme, and English law applies complementarily (see Article 12.6.3 of the Programme).

7.3 In particular, the relevant provisions of the Programme read as follows:

2. Anti-Doping Rule Violations

Doping is defined as the occurrence of one or more of the following (each, an "Anti- Doping Rule Violation"):

[…]

2.3 Refusing or failing without compelling justification to submit to Sample collection after notification of Testing as authorised in applicable anti-doping rules, or otherwise evading Sample collection.

10.5 Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances:

10.5.1 If a Participant establishes in an individual case that he/she bears No Fault or Negligence in respect of the Anti-Doping Rule Violation in question, the otherwise applicable period of Ineligibility shall be eliminated. […]

10.5.2 If a Participant establishes in an individual case that he/she bears No Significant Fault or Negligence in respect of the Anti-Doping Rule Violation charged, then the period of Ineligibility may be reduced, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. […]

8 THE PARTIES' SUBMISSIONS

A. Appellant's Submissions and Requests for Relief

8.1 The Athlete requests the Panel to:

8.1.1 *"uphold his appeal and consequently discharge him since he did not commit the charged Anti-Doping Rule Violation under Article 2.3 of the Programme, as he did not intentionally or negligently refuse nor fail to provide the required blood sample on 15 April 2013"*;

8.1.2 *"uphold his appeal and consequently discharge him since there was a "compelling justification" for his behaviour on the 15 April 2013"*;

8.1.3 *"at least, reduce the imposed period of ineligibility according to Article 10.5.2 Programme ("No Significant Fault or Negligence"), even well under the one-year-ban minimum as proportionality and fairness require".*

8.2 In summary, the Athlete submits that the Tribunal wrongly relied *"on the asserted full credibility of ITF's main witness, […] E., in conjunction with the asserted only partial credibility of* [Troicki] *based on an unexplained frequency of cases that witnesses have persuaded themselves of the truth of what they purport to recall, despite the fact that the truth in reality lies elsewhere".*

8.3 The Athlete avers that the following facts should have been taken into account:

8.3.1 *"The efforts made by the DCO to convince the player to be compliant with the blood sample collection lasted no more than 10-15 minutes, including the time spent for writing the letter to Dr Miller"*;

8.3.2 *"The DCO did not inform the coach as he entered the DCS of what was going on even though she had a possible case of failure that she would have to report to the ITF"*;

8.3.3 *"While he was in the DCS, the DCO did not ask anybody (tournament doctors, ATP manager, surpervisor or staff) to help her obtain the compliance of the player or check his physical condition"*.

8.3.4 *"The idea of consulting the tournament doctors did not stem from the DCO but from her supervisor and manager, Mr Neil Söderström"*.

8.3.5 *"The DCO, in the presence of the player, did not say that it was necessary or useful for him to be checked by the tournament doctors"*.

8.3.6 *"Both Mr Reader's and Mr Bratoev's evidence show that they were convinced by the Athlete's account of what had happened between him and E. when they were not present"*.

8.4 While the Athlete agrees that *"the Tribunal correctly focused its attention on what E.'s answer was to the Athlete's question in relation to whether there was any possibility that he might not have to give blood despite having been notified of his obligation to do so"*, the Athlete argues that *"the Tribunal should have also focused on the reasonableness of the Athlete's understanding of E.'s answer"*.

8.5 The Athlete submits to the Panel that both the Tribunal and the ITF have accepted that if the Athlete would have understood E.'s answer in the way in which he expressed it immediately afterwards to Mr Bratoev and if it would have been reasonable for him to reach that understanding, this would amount to a compelling justification and the Athlete would need to be discharged.

8.6 However, the Athlete argues that the Decision erred on the key-point of the witnesses' credibility and notes the following in this respect:

8.6.1 E., as the DCO, is not entitled to any presumption of credibility. This is confirmed by the CAS case-law.

8.6.2 All witnesses are potential bearers of personal interests in the case as:

(i) *"The Athlete does not wish to be sanctioned"*;

(ii) *"E. has her professional image and perhaps her employment at stake"*;

(iii) *"Mr Reader, as Troicki's coach, may take the Athlete's side but if the Athlete is suspended for a doping offence, Mr Reader is entitled to receive an amount of EUR 100,000 penalty according to his contract with him"*; and

(iv) *"C.'s evidence should not be considered as expressed by the Tribunal as his command of the English language is not sufficient for him to have perfectly understood the exchange between the Athlete and E."*.

8.7 The Athlete submits that *"it appears that the personal impressions or suggestions of the Tribunal have been overestimated and have prevailed on an objective evaluation of the witnesses' credibility"*. He makes the following submissions with respect of each witness.

A) C. (DCO's assistant)

8.8 The Athlete agrees with the Tribunal's analysis of C.'s credibility for the reasons mentioned above at paragraph 8.6.2 (iv).

B) E. (DCO)

8.9 The Athlete argues that, contrary to the Tribunal's determination, there is compelling evidence that E. did not follow the recommendations for the DCOs in the IDTM training material while there is no compelling evidence that she did in fact follow them.

8.9.1 The IDTM training material quoted by E. in her written statement and by the Tribunal is incomplete since the correct wording of the second step (out of six) is *"inform the athlete (and/or 3rd party) of the possible consequences of a failure to comply with the doping control procedure"*;

8.9.2 E. did not insist with the player that he give a blood sample;

8.9.3 She did not call the tournament doctors;

8.9.4 She did not seek the ATP personnel's help; and

8.9.5 *"She did not say anything to the player's coach about any problem or concern but she suggested to the Athlete that he write a letter to the ITF"*.

8.10 The Athlete submits that the only logical explanation for E.'s behaviour is that *"she was actually confident that by writing the letter of explanation to Dr Miller, there would not be any consequences for the Athlete and she accordingly reassured him"*.

8.11 *"This is confirmed by her behaviour on 16 April 2013 when she agreed to take a blood sample from the Athlete, an athlete who had not been selected, and was suspected to have already committed an Anti-Doping violation. This is contrary to applicable rules, standards and policies and E. admitted at the hearing that she had never done anything of the sort in her professional life"*.

8.12 The Athlete further submits that *"the Tribunal should have taken into account the fact that in her first report to Mr Söderström, E. did not mention that she had clearly warned him about any sanctions"*.

C) Viktor Troicki

8.13 The Athlete argues that the Tribunal erroneously stated that his account was inaccurate and that he heard what he felt he needed to hear from E. To the contrary, the Athlete's recollection of the facts is honest and truthful and is consistent with the evidence provided by Mr Reader and Mr Bratoev.

8.14 Indeed, the Athlete submits that *"Mr Bratoev gave evidence to the effect that he appeared to be completely convinced when he left the DCS that, given E.'s assurances, he would not face consequences"*. He further submits that Mr Reader testified that he was present in the DCS on 15 April and personally heard the assurances given by the DCO to the Athlete. The Athlete argues that Mr Reader certainly did not also hear from the DCO what he felt he needed to hear.

8.15 The Athlete further argues that the Tribunal's finding that *"Mr Troicki stated that the DCO had only said that it should be all right and that he tried to contact Dr Miller by phone because he wanted to be 100% sure showing that he had appreciated at the time that Dr Miller was the one who had to make the decision"* actually shows that E. did say something that appeared to be an assurance to the Athlete.

8.16 Finally, the Athlete submits that the fact that the letter he wrote to Dr Miller on 15 April does not mention any kind of assurances given by the DCO is coherent and consistent with the version of events provided by both the Athlete and his coach, i.e. that E. had dictated the letter to the player, at least as to the contents.

D) Mr Reader (Troicki's coach)

8.17 The Athlete argues that Mr Reader's evidence must be given due consideration, is perfectly consistent with his version of the events and most of all is perfectly consistent with Mr Bratoev's undisputed recollection.

8.18 The Athlete reminds the Panel that Mr Reader, although the athlete's coach, is entitled to a sum of EUR 100,000 should the Athlete be suspended.

8.19 The Athlete recalls the important facts of Mr Reader's testimony as follows:

8.19.1 *"E. did not mention anything in relation to possible problems the Athlete could face if he did not undergo the blood test when he was in the DCS"*;

8.19.2 *"Mr Reader did not put any question to E. because the atmosphere was quiet, relaxed, and, most importantly, he was left with the clear impression from the DCO that by writing that letter of explanation to the ITF, everything would be ok"*.

E) Mr Bratoev (ATP Tour Manager)

8.20 The Athlete agrees with the Tribunal's finding that Mr Bratoev is the only independent witness in this case.

8.21 The Athlete recalls the important facts of Mr Bratoev's testimony as follows:

8.21.1 *"On 15 April, the Athlete told Mr Bratoev that (i) he asked the DCO five times if it was OK not to do the blood test and she said it would not be a problem since he was not feeling well, (ii) all he needed to do was to write a letter of explanation which she dictated to him, and (iii) he also tried to call Dr Miller but was not able to reach him"*.

8.21.2 *"Shortly thereafter, Mr Reader told Mr Bratoev that he had been with the Athlete at the DCS while he was writing his explanation. Mr Reader confirmed that the DCO was telling the Athlete what to write in the explanation and that she said everything would be ok".*

8.21.3 *"On 15 and 16 April, both the Athlete and Mr Reader always looked like they were totally confident and convinced that everything was ok and that there would not be any consequences for skipping the test".*

8.21.4 *"On 15 April, E. did not reach out to Mr Reader while the Athlete was in the DCS. Mr Bratoev would have expected the DCO to do that if there was any problem as she had done at another tournament".*

8.22 The Athlete argues that the Tribunal wrongly discarded this evidence as Mr Bratoev did not actually hear the conversation between E. and the Athlete but only heard the Athlete's and Mr Reader's account of it.

8.23 The Athlete avers that the only logical explanation that one can derive from this evidence is that *"immediately after leaving the DCS, both the Athlete and Mr Reader were absolutely convinced that the DCO had allowed the Athlete to skip the blood test by writing a letter to Dr Miller, with the utmost probability that what occurred at the DCS happened as the Athlete and Mr Reader describe it to be or at least allowed both of them to reasonably understand what they understood".*

Legal Arguments

8.24 Based on a correct evaluation of this evidence, the Athlete avers that *"(i) he did not commit an anti-doping rule violation under Article 2.3 of the Programme since he did not intentionally or negligently refuse or fail to comply, (ii) he had a compelling justification not to provide the blood sample on 15 April 2013 and (iii) the uniqueness of this case imposes the maximum mitigation of sanctions pursuant to Article 10.5.2 of the Programme (No Significant Fault or Negligence) and proportionality and fairness require a sanction well under the minimum of a one-year period of ineligibility".*

(i) Troicki did not commit an anti-doping rule violation under Article 2.3 of the Programme since he did not intentionally or negligently refuse or fail to comply

8.25 Firstly, the Athlete argues the ITF did not demonstrate to the comfortable satisfaction of the Tribunal that the Athlete refused or failed to provide a sample pursuant to Article 8.6.1 of the Programme.

8.26 As stated by the Tribunal, *"we have concluded that we should accept E.'s account of what occurred in preference of that of Mr Troicki"* and *"where there are conflicting accounts it is necessary to test each account against all other available material and against any inherent probabilities and improbabilities in order to be able to reach a confident conclusion as to what in fact occurred".*

8.27 On this basis, the Athlete avers that the Tribunal appears to have relied on a "balance of probability" criterion and that it is unacceptable that the Athlete's sanction was issued on a lower standard of proof.

8.28 Secondly, the Athlete argues that even if by a balance of probability, based on a correct evaluation of the evidence as shown above, the Athlete's case should have been preferred to the ITF's since he followed the DCO's advice and suggestions.

8.29 Finally, the Athlete submits that, bearing in mind Article 8.7.3 (second part) of the Programme and since he has established by a balance of probability that E. did depart from the relevant anti-doping policies, he should be discharged.

(ii) Troicki has a compelling justification not to provide the blood sample on 15 April 2013

8.30 Firstly, the Athlete submits that a "compelling justification" must be established on a case-by-case basis and that "truly exceptional circumstances" include objective and personal circumstances, both emotional and physical (see *USADA v Page*, AAA Panel decision dated 4 February 2009).

8.31 In this respect, the parties agree that if one was to conclude that the Athlete understood what he had been told by E. in a way in which he expressed it immediately afterwards to Mr Bratoev and that it was reasonable for him to have reached that understanding, that would give rise to exceptional circumstances, i.e. a compelling justification.

8.32 Therefore, the Athlete submits, the only issue between the parties is the "reasonableness" of the Athlete's understanding.

8.33 For all the reasons mentioned above in relation to each witness, the Athlete argues that he has established, at least by a balance of probability, that there were truly exceptional circumstances which led him to believe in perfect good faith that he was allowed to forego the blood test. He therefore had a compelling justification under Article 2.3 of the Programme.

(iii) The uniqueness of this case imposes the maximum mitigation of sanctions pursuant to Article 10.5.2 of the Programme (No Significant Fault or Negligence) and proportionality and fairness require a sanction well under the minimum of a one-year period of ineligibility

8.34 Firstly, the Athlete submits that his degree of fault in the present case was not significant at all and that *"a possible percentage of fault may lie on the DCO's side"*. Therefore, a maximum mitigation of sanctions under Article 10.5.2 should be imposed.

8.35 Secondly, as the CAS stated in CAS 2006/A/1025 at paragraph 11.7.23, *"any sanction must be just and proportionate. If not the sanction may be challenged. The Panel has concluded, therefore, that in those very rare cases in which Articles 10.5.1 and 10.5.2 of the WADC do not provide a just and proportionate sanction, i.e., when there is a gap or lacuna in the WADC, that gap or lacuna must be filled by the Panel"*.

8.36 The Athlete submits that *"there is a clear gap in the Programme: should the Athlete have been accused of a doping offence under Article 2.1 of the Programme (when a prohibited substance is found in a sample), then pursuant to Article 10.4.1 of the Programme, his sanction could be reduced to a mere reprimand. This is disproportionate in comparison with the absolute minimum sanction of one year of ineligibility under Article 10.5.2 for a doping offence under Article 2.3 of the Programme"*.

8.37 The Athlete further argues that *"this seems even more disproportionate and unjust where the Tribunal in the present case stated that "there is no suggestion that this failure or refusal was in fact prompted by the player's desire to evade the detection of a banned substance in his system" and "where there have been subsequent negative tests (including the following day)""*.

8.38 Finally the Athlete avers that a one-year period of ineligibility will have a huge impact on his life and career.

B. Respondent's Submissions and Requests for Relief

8.39 The ITF requests that the appeal be dismissed in its entirety. The ITF's submissions to that effect can be summarized as follows.

(i) The elements of an Article 2.3 rule violation

8.40 The ITF submits that it is common ground that the elements of an Article 2.3 violation are the following:

8.40.1 The attempt to collect a blood sample from the Athlete at the Monte Carlo event on 15 April 2013 was authorised under the Programme;

8.40.2 The Athlete was properly notified that day that he was required to provide a blood sample;

8.40.3 He refused or failed to provide that blood sample; and

8.40.4 His refusal or failure was intentional or at least negligent.

8.41 The ITF recalls that the Athlete does not dispute that the first two elements are present. He also acknowledges that he did not provide a sample after being formally notified that he had to do so.

8.42 The ITF further recalls that the Tribunal found that the Athlete not only failed but actually refused to provide a blood sample: *"his failure to give blood is obvious given that it did not occur. However, we consider that Troicki also by his conduct and his actions evidenced a refusal to give blood as well"*.

8.43 On appeal, the Athlete challenges that finding, insisting that he did not intentionally or negligently refuse nor failed to comply as he followed the advice and suggestions of the DCO. In this connection, the ITF argues that this is not a denial of intent but rather simply a plea of

justification for his intentional and knowing actions. In other words, this goes to the "compelling justification" argument. As a result, it does not matter who has the burden of proof as to intent or negligence because in fact there is no actual dispute that the Athlete intentionally and knowingly declined or failed to provide a blood sample.

8.44 The ITF further argues that once the foregoing elements are present, there is a violation of Article 2.3 unless the Athlete can show that there was a "compelling justification" for his refusal or failure to provide a sample.

8.45 The ITF recalls that the Tribunal found and that the Athlete accepts that his health concerns on 15 April 2013 did not of themselves meet that standard. In this connection, the Athlete submits that his compelling justification comes from the fact that E. assured him unequivocally (or at least, he reasonably believed that) that, because of those health concerns, it would not be a problem to skip the test. However, the Tribunal did not agree with him and the Athlete now attacks this finding on the three following counts.

(ii) The Tribunal did not apply the wrong standard of proof

8.46 The ITF argues that, contrary to the Athlete's assertion, the ITF does not bear the burden to prove to the comfortable satisfaction of the Tribunal that E. did not tell the Athlete that he would not have a problem if he did not give a blood sample.

8.47 Firstly, the ITF avers that the question of why the Athlete made the decision of refusing or failing to provide a blood sample goes to the Athlete's defence of compelling justification, on which the Athlete bears the burden of proof.

8.48 Secondly, the ITF asserts that the reference to "probabilities" in the Tribunal's decision was not a reference to the standard of proof the Tribunal was applying but rather showed that the Tribunal was confident that E.'s account was correct.

(iii) On the evidence presented to the Tribunal, it was perfectly appropriate (if not inevitable) for the Tribunal to conclude that E. had not assured Troicki he could skip the test without a problem

8.49 The ITF submits that the approach that the Tribunal took to resolving the conflict of evidence between E. and the Athlete is a good example of the use of the adversarial process to find the truth.

8.50 The ITF argues that the Athlete accepts on appeal the Tribunal's opinions in relation to the credibility of the witnesses when they help his case. However, he provides no good basis to question the reliability of (i) Mr Reader's evidence in relation to which the Tribunal found there were clear contradictions between his oral evidence and his written evidence, (ii) Troicki's evidence in relation to which the Tribunal found that he was prone to exaggeration in cross-examination, and (iii) E.'s evidence which the Tribunal found credible based not on a presumption but rather on its very favourable impression of her as a witness.

8.51 The ITF considers that the Tribunal's use of the adversarial process when testing the conflicting evidence of the Athlete and E. is good at finding the truth because it allows the Tribunal to form a judgement of the credibility and truthfulness of witnesses under cross-examination by counsel for the other party. Nevertheless, the Tribunal also considered that the objective facts were consistent with E.'s account and inconsistent with the Athlete's account:

8.51.1 The Athlete accepts that E. insisted he sign the blood doping control form to acknowledge that he had been notified he was required to give a sample and that a refusal or failure to do so may be treated as an anti-doping rule violation;

8.51.2 The Athlete wrote the letter because he knew that it was up to the ITF to determine whether his excuse was sufficient;

8.51.3 When the Athlete provided a written explanation to the ITF for his failure to provide a sample just four days later, he said nothing about having received a 100% assurance from the DCO that he would not have any problems. He simply said *"she said it should be alright"*;

8.51.4 In oral evidence, Mr Reader said that his understanding while in the DCS was that the Athlete was not convinced that everything was going to be OK and that is why he asked to call Dr Miller;

8.51.5 In the e-mail report that she sent to Mr Söderström 15 minutes after the Athlete had left the DCS, E. did not say that she had assured the Athlete that he could miss the test with impunity in the circumstances.

8.51.6 On 16 April, the Athlete did not protest to E. that she was going back on what she had said the day before when Mr Bratoev told him there might be problems with the anti-doping for skipping the test.

8.52 In response to the Athlete's list of objective facts, the ITF argues the following:

8.52.1 The fact that E. did not try to enlist the Athlete's coach can be explained by the fact that when Mr Reader entered the DCS, the Athlete was set on explaining his position to the ITF and it was obvious to Mr Reader what was happening;

8.52.2 The fact that E. did not suggest to the Athlete while he was in the DCS to see a tournament doctor and get a medical certificate to support his case can be explained by the fact that E. had made it clear to the Athlete that he needed to provide his explanation to the ITF and that it would be up to them to decide if it was acceptable. It was necessary for her to advise him of the possible consequences of not providing the sample, it was not up to her to advise him how best to ameliorate that risk.

8.52.3 E. was perfectly entitled to agree to take the Athlete's blood on 16 April, both so that there was a sample that could be tested, and to help the Athlete to demonstrate his good faith. She did not break any rule in doing so.

8.53 Given all of the above evidence, and in particular the evidence from the Athlete and his coach about why the Athlete wanted to speak to Dr Miller, the ITF submits that the Tribunal was entitled to be confident in its conclusion that E. had not assured the Athlete that his excuse was acceptable and he would have no problems if he skipped the test.

(iv) Troicki's contention that E. should have done more to persuade him to provide his blood sample has no merit

8.54 The ITF argues that there is no requirement, in the Code, the Programme, the International Standard for Testing (IST), or otherwise, that a DCO do everything he or she can to persuade the athlete to provide a sample. To the contrary, as long as the DCO notifies the athlete properly, and makes it clear that the athlete is required to provide a sample, and that a failure to do so may be treated as an anti-doping rule violation, then the DCO has complied with all of the requirements of the IST. It is the athlete's responsibility to comply with his obligations under the Programme.

8.55 The ITF asserts that the Athlete should not be able to rely on the IDTM manual as it is not a mandatory anti-doping rule or policy within the meaning of Article 8.7.3 of the Programme.

(v) Troicki's submissions on sanction should be rejected

8.56 The ITF reminds the Panel that the Tribunal, having decided that the Athlete had no compelling justification for refusing to provide a blood sample on 15 April 2013, nevertheless decided to reduce the two year sanction applicable under Article 10.3.1 by six months under Article 10.5.2 (No Significant Fault or Negligence).

8.57 The ITF further reminds the Panel that the Tribunal stated that it would mitigate the Athlete's sanction under Article 10.5.2, but it made clear that this was only because it considered that the Athlete acted the way that he did in consequence of the stress that he was under – in this case, as a result of a combination of his physical condition and his panic at the prospect of giving blood, not because it thought that his fault was "tiny".

8.58 In this connection, the ITF argues that the Tribunal's sanction is proportionate: the Athlete's fault is clear, there is no justification for his actions, and the only reason he got any reduction at all was because his conduct could be somewhat excused by the panic he says he felt.

8.59 The ITF submits that there is no gap or lacuna in the code with respect to mitigation of an Article 2.3 violation under Article 10.5.2 which is not possible under Article 10.4. Article 10.4 exists to give a hearing panel greater discretion as to mitigation where the substance in the athlete's sample is found to be prohibited and where the athlete can demonstrate he did not intend to enhance his sport performance. By opposition, under Article 10.5, there is no way of knowing what would have been found in the sample if it had been given. For example, in the present case, the ITF planned to test the Athlete's sample for human Growth Hormone. The current test for hGH has a very limited detection window (the sample must have been collected

within 24-36 hours of administration of the hGH). So the 24 hour delay in the Athlete providing a blood sample could have made all the difference.

8.60 The ITF also submits that, given the facts set out above in section (iii), there is no possibility that the Athlete's degree of fault in his violation lies with E..

8.61 Finally, the ITF argues that the comment to Article 10.5.2 of the Code is very clear and that the alleged impact of a doping ban on an athlete's career is irrelevant to his degree of fault for his violation and so may not be taken into account as a mitigating fact.

9 MERITS OF THE APPEAL

A. The Panel's scope of review

9.1 Under Article R57 of the Code, the Panel has full power to review *de novo* the facts and the law on this appeal.

B. Analysis

i) Whether Viktor Troicki committed a Doping Offence

9.2 According to Article 2.3 of the Programme, the following constitutes an anti-doping violation: *Refusing or failing without compelling justification to submit to Sample collection after notification of Testing as authorised in applicable anti-doping rules, or otherwise evading Sample collection*.

9.3 Pursuant to that article, the Panel must establish whether (i) the Athlete refused or failed to submit to sample collection after notification and (ii) if so, whether he had a compelling justification to do so.

9.4 As the Athlete did not provide a blood sample collection after being notified by the chaperone that he had been randomly selected to provide one, the Panel finds that the Athlete failed to provide a sample.

9.5 As a result, unless the Athlete can prove, by a balance of probability pursuant to Article 8.6.2 of the Programme, that he had a compelling justification to forego the test, he must be deemed to have committed a doping offence within the meaning of Article 2.3.

9.6 The Panel recalls that the Tribunal found and that the Athlete accepts that his health concerns on 15 April 2013 did not of themselves constitute a compelling justification. In this connection, the Athlete submits that his compelling justification comes from the fact that E. assured him unequivocally (or at least, he reasonably believed that) that, because of those health concerns, it would not be a problem to skip the test. E. denies that she ever gave the Athlete this assurance.

9.7 The Panel, unlike the Tribunal, does not agree that it has to decide which of the two versions of the events which occurred in the DCS on 15 April 2013, i.e. the Athlete's or E.'s, is true to determine whether the Athlete had a compelling justification to forego the test.

9.8 Having heard the oral testimony of both the Athlete and E., the Panel finds that they both were credible witnesses and gave their testimony before the Panel in good faith and to the best of their recollection, though the recollection of the Athlete in particular was coloured by his subsequent reconstruction of events.

9.9 After having reviewed the totality of the evidence, the Panel, as explained below, has reached the conclusion that, as between the Athlete and E., there was a misunderstanding in the DCS on 15 April 2013.

9.10 The Panel is of the view that E., with her extensive experience as a DCO, did indeed inform the Athlete that, once selected, he had to undergo the test and that if he failed to do so, he could face sanctions. The Panel is also of the view that she did inform the Athlete, when she suggested that he write a letter to the ITF, that she was not the person who could take the decision and that it would be up to the ITF to decide whether the reasons he invoked in his letter would excuse his failure to provide a blood sample.

9.11 The Panel is also of the view that, mainly because of his physical and mental conditions on that day but also because of what E. did and did not do in the DCS, the Athlete sincerely believed that he had received the DCO's assurance that, even if he did not submit a blood sample on that day, he would not commit an offence.

9.12 With respect to what E. did and did not do in the DCS that day which led the Athlete to believe that she had given him this assurance, the Panel notes the following:

9.12.1 She did not appear alarmed or nervous - she remained calm and relaxed even though she knew the Athlete could be facing severe sanctions;

9.12.2 She suggested he write a letter to the ITF and thus led him erroneously to believe that she was confident that the outcome would be positive;

9.12.3 When the Athlete's coach, Mr Reader, was present in the DCS, she did not speak to him, explain the sanctions the Athlete could face if he failed to submit a blood sample or try to enlist his help in seeking to persuade the Athlete to undergo the test.

9.13 In this connection, the Panel recalls the recommendations to the DCOs in the IDTM training material that she (he) should *"always ensure that there is no possible misunderstanding involved"* and that she (he) should *"always encourage the athlete to proceed with the doping control"* by making him understand *"perhaps with some persuasion […] the importance of following the procedures"*. E. failed to heed these recommendations in the present case. While the IDTM training material is not a mandatory anti-doping rule or policy within the meaning of Article 8.7.3 of the Programme, it nevertheless informs the Panel's decision.

9.14 These acts and omissions of E., in the view of the Panel, explain why both the Athlete and Mr Reader, when they left the DCS, said to Mr Bratoev that they believed everything would be alright.

9.15 However, notwithstanding the reasons for the misunderstanding which the Panel has set out, the Panel finds that whether the Athlete had a compelling justification for failing to provide a blood sample needs to be determined objectively. The question is not whether the Athlete was acting in good faith, but, whether objectively, he was justified by compelling reasons to forego the test.

9.16 As noted earlier, the Panel has found that the Athlete was informed by E. that he could face sanctions if he did not take the test and was told by her that it was not the DCO's decision as to whether there would be consequences if he failed to provide a blood sample. Objectively therefore, in the circumstances, the Athlete did not have a compelling justification to forego the test and his subjective interpretation of the events which led to the misunderstanding cannot amount to a compelling justification.

9.17 The Panel therefore finds that the Athlete committed a doping offence under Article 2.3 of the Programme.

ii) Whether the Athlete's sanction can be reduced under Articles 10.5.1 or 10.5.2 of the Programme

9.18 According to Article 10.3.1 of the Programme, the sanction for a first violation of Article 2.3 is two years' ineligibility. This sanction can be eliminated if the Athlete bears no fault or negligence (Article 10.5.1) or reduced to no less than one-half, i.e. to one year ineligibility, if the athlete bears no significant fault or negligence (Article 10.5.2).

9.19 The Panel agrees with the Tribunal that the Athlete does bear a degree of fault and therefore finds that Article 10.5.1 of the Programme ("No Fault or Negligence") is not applicable.

9.20 The Panel must now determine whether the Athlete bears No Significant Fault or Negligence under Article 10.5.2 of the Programme.

9.21 The Panel does not agree with the Athlete's representation based on CAS 2006/A/1025 that there is a gap or lacuna in the Programme with respect to the mitigation of an Article 2.3 violation pursuant to Article 10.5.2 and the possibility of a mere reprimand under Article 10.4 for an Article 2.1 violation.

9.22 The Panel is of the view that, with respect to Article 10.5, there is no way of knowing what would have been found in the sample if it had been given. This is why the minimum sanction corresponds to half of the period of ineligibility otherwise imposed. By contrast, Article 10.4 accords a panel greater discretion as to mitigation where the substance in the athlete's sample is found to be prohibited and where the athlete can demonstrate he did not intend to enhance his sport performance.

9.23 It is well established that, under Article 10.5.2, the Athlete must establish that his fault or negligence, viewed in the totality of the circumstances and having regard to the criterion for "No Fault or Negligence", is not significant having regard to the doping offence.

9.24 The Panel is of the opinion that even if the Athlete has failed to prove, by a balance of probability, that he had a compelling justification on 15 April 2013 to forego the collection of a blood sample, the misunderstanding between him and E. as to whether he might face sanctions by foregoing the test, permits the application of Article 10.5.2 of the Programme. Thus, the Panel will review the reasons why there was a misunderstanding between the Athlete and E. and then determine whether the two year sanction may be reduced if he bears no significant fault or negligence.

9.25 The athlete's fault is measured against his fundamental duty to comply with the Programme and the WADC.

9.26 It is important to note that under the WADC, the Panel is required to evaluate the facts and circumstances of each case and the athlete's degree of fault in each case.

9.27 As the Panel has already found, there were circumstances in this case which confirm that the Athlete does not bear significant fault (see paragraphs 9.11 to 9.13 above).

9.28 In addition to those circumstances, the Panel notes the following:

9.28.1 E. explained in her oral evidence before the Tribunal that an athlete must always be under the DCO's supervision in the DCS and that the DCO is also required to have another person present in the DCS to serve as a witness. Therefore, the DCO and his or her assistant cannot leave the DCS. In the case at hand, one would have expected that E., as an experienced DCO, should have informed the Athlete in clear terms of the risks (for him) caused by his refusal to undergo a blood test or, at least, would have been provided with the telephone numbers of relevant tournament personnel she could have contacted to assist her in such a situation. However, E. testified that she was not provided with such phone numbers. She also testified that she did not have an Internet access inside the DCS.

9.28.2 E. accepted at the hearing before the Panel that, with hindsight, she should have explained the situation to Mr Reader, the Athlete's coach, when he entered the DCS.

9.28.3 The fact that E. agreed to draw blood from the Athlete the next day, on 16 April 2013, when he had not been selected for a doping control test lends credence, after the fact, to the Athlete's belief the previous day that everything would be alright.

9.28.4 It bears mentioning that both the Athlete's urine and blood sample tested negative and the Tribunal found that *"there is no suggestion that [Mr Troicki's] failure or refusal was in fact prompted by the player's desire to evade the detection of a banned substance in his system"*. The Panel agrees with this finding.

9.29 On the other hand, circumstances adverse to the Athlete include the following.

9.29.1 E. did not provide the Athlete with an absolute assurance since (i) she did inform the Athlete that if he decided to forego the test, he could face sanctions, and (ii) she did inform the Athlete that only the ITF could take the decision.

9.29.2 The fact that the Athlete might face sanctions if he decided to forego the test was written in the notification box on the BCF which the Athlete signed.

C. The Appropriate Sanction

9.30 The Panel considers that although consistency of sanctions is a virtue, correctness remains a higher one: otherwise unduly lenient (or, indeed, unduly severe) sanctions may set a wrong benchmark inimical to the interest of sport.

9.31 It seems to the Panel that, absent circumstances evidencing a high degree of fault bordering on serious indifference, recklessness, or extreme carelessness, a 24-month sanction would be at the upper end of the range of sanctions to be imposed in a case falling within Article 10.5.2 of the Programme. A 12-month sanction is the mandatory minimum. Article 10.5.2 of the Programme permits a reduction of the period of ineligibility but sets as the minimum allowable period of ineligibility, in cases of no significant fault, to be one half of the period otherwise applicable, in this case one year being half of two years.

9.32 The Panel starts from the premise that a sanction of 12 months should only be imposed where there is a very low degree of significant fault on the part of the athlete.

9.33 Having regard to the circumstances of this case, the Panel concludes that the 18-month sanction imposed by the Tribunal was too severe. Considering the Athlete's degree of fault and, both the mitigating and aggravating factors listed above, the Panel concludes that a just and proportionate sanction would be a period of Ineligibility of 12 months.

9.34 As to the starting day of this period of Ineligibility, the Panel notes that the Tribunal has determined in its Decision that it should commence on 15 July 2013 and that the Athlete in his Appeal Brief has not requested that it should be back-dated.

9.35 The Panel further notes that, in its Decision, the Tribunal determined, *inter alia*, that *"c) […] Mr Troicki be permitted to retain the prize money and ranking points obtained by him from his participation in all subsequent competitions in which he has participated"*.

9.36 In the circumstances, the Panel decides that the starting day of the Athlete's period of Ineligibility should remain 15 July 2013 and that, accordingly, the Tribunal's determination in subparagraph 51 c) of its Decision (see paragraph 9.35 above) should stand.

10 CONCLUSION

10.1 The Panel allows the Athlete's appeal and the 18-month period of Ineligibility imposed by the Decision is reduced to 12 months with the period of Ineligibility commencing on 15 July 2013.

10.2 Before closing, the Panel wishes to record the following. It finds surprising that there is no provision in the Programme requiring a DCO to call for the attendance of an ATP representative (for example an ATP doctor) in any case where an athlete refuses or fails to submit a sample collection, for medical or other reasons, or to remind the athlete about his or her rights and duties under the Programme and the possible consequences of persisting in refusing or failing to submit a sample

10.3 The Panel has referred above (see paragraph 9.13) to the IDTM material which includes important recommendations for DCOs. Although they are not mandatory anti-doping rules or policies, these recommendations have informed the Panel's decision. The Panel is of the view that the Programme should consider elevating these recommendations to the level of mandatory rules or policies.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr Viktor Troicki on 6 August 2013 against the International Tennis Federation concerning the decision of the Independent Anti-Doping Tribunal convened by the ITF of 25 July 2013 is partially upheld.
2. The decision of the Independent Anti-Doping Tribunal convened by the ITF dated 25 July 2013 is set aside.
3. Mr Viktor Troicki is suspended for a period of 12 months from 15 July 2013.
4. Mr Viktor Troickis's individual results obtained at the Monte Carlo Masters 2013 in April 2013 are disqualified. The prize money and ranking points obtained by Mr Viktor Troicki through his participation in that event are forfeited.
5. Mr Viktor Troicki's prize money and ranking points obtained from his participation in all subsequent competitions in which he has participated until 15 July 2013 are not disqualified.
6. (…).
7. (…).
8. All other or further claims are dismissed.