

Arbitration CAS 2021/A/8531 Mohamed Zakaria Khalil & Soufiane El Mesbahi & Yassir Kilani v. International Tennis Integrity Agency (ITIA), award of 9 March 2023

Panel: Mr Philippe Sands QC (United Kingdom/France), President; Prof. Sophie Dion (France); Mr Romano Subiotto QC (United Kingdom)

Tennis

Match-fixing and other corruption offences

Burden of proof

Standard of proof

Standard applicable to the admissibility of evidence

Assessment of evidence

Applicability of the Tennis Anti-Corruption Program

Definition of corruption offences

Proportionality of the sanction

1. Except where an agreement would determine otherwise, a arbitral tribunal shall allocate the burden of proof in accordance with the rules of law governing the merits of the dispute, i.e. the *lex causae*. Accordingly, pursuant to Section G.3.a. of the Tennis Anti-Corruption Program (TACP), the burden of proving the alleged facts lies with the ITIA. That said, according to the principle *actori incumbit probatio*, each party shall bear the burden of proving the specific facts and allegations on which it relies. This is all the more relevant when, while assessing the evidence, the CAS panel has to bear in mind that corruption is, by nature, concealed as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoing. In addition, the more detailed are the factual allegations, the more substantiated must be their rebuttal. As a result, the appellants/players have a certain duty to contribute to the administration of proof by presenting evidence in support of their line of defence.
2. Pursuant to Section G.3.c. TACP, the standard of proof shall be preponderance of the evidence. Under the preponderance standard, the burden of proof is met when the party bearing the burden convinces the fact finder that there is a greater than 50% chance that the fact claimed is established. In applying this standard, the evidence will be assessed bearing in mind the seriousness of the offences with which the player has been charged. While this does not affect the applicable standard, the CAS panel should have a high degree of confidence in the quality of the evidence upon which its findings are based.
3. The standard applicable to the admissibility of the evidence is whether the evidence adduced by the parties may be said to be “reliable” within the meaning of Section G.3 TACP. Hence, even if the evidence from national criminal authorities have been obtained by illegal means, the Anti-Corruption Hearing Officer (AHO) still has the

discretionary power to validly rely on such evidence to demonstrate the existence of the alleged offenses. Finally, Article 182(3) of the Swiss Private International Law Act provides limits to the procedural rules chosen by either the parties or the arbitrators. The provision states that *“regardless of the procedure chosen, the arbitral tribunal shall guarantee the equal treatment of the parties and their right to be heard in adversarial proceedings”*. Further limits to the law applicable to the procedure also derive from the procedural public order. Section G.3.c TACP is in line with the law of international arbitration, which generally provides that *“the arbitral tribunal is not bound to follow the rules applicable to the taking of evidence before the courts of the seat”*.

4. Absent any provision as to the assessment of evidence in the CAS Code, the principle of free evaluation (*“libre appréciation des preuves”*) is applicable in international arbitration in general, and in CAS proceedings in particular. Pursuant to Section G.3.c. TACP: *“[...], facts relating to a Corruption Offense may be established by any reliable means, as determined in the sole discretion of the AHO”*. The evidence brought forward by the parties shall therefore be freely evaluated and both direct and circumstantial evidence shall be considered by CAS panels. Direct evidence is evidence that directly proves a fact. Circumstantial evidence requires a trier of fact to draw an inference to connect it with a conclusion of fact. In a case involving alleged acts of corruption, circumstantial evidence may be especially pertinent since corruption is, by nature, concealed. In this respect, considered altogether, the exchange of messages (screenshots and text messages) between the corruptor and the player may appear to be reliable and sufficient evidence of the player’s involvement in match-fixing, especially where the evidence is corroborated by the correspondence between (i) the terms of the fix and the match results, (ii) the amount mentioned in the messages and the payment data once the match is over, and (iii) a betting alert showing that a suspicious bet was placed on the relevant match. Such evidence can lead to the conclusion that the player contrived the outcome or one aspect of the relevant matches (Section D. 1. d of the TACP) and failed to report the offer that were made to them (Section D. 2. a of the TACP).
5. Based on Section B.10 of the TACP, the TACP applies to professional tennis matches as well as to those other tennis competitions that are listed in Appendix 1 to the TACP. In addition, there is no indication whatsoever in the TACP that a player who is a minor could not be bound by the TACP. The term “all Players” contained in Section C of the TACP does not on its face exclude minors. Indeed, in order to play the tournaments organised under the jurisdiction of the ITF, players must register for and hold an ITF International Player’s Identification Number (IPIN), which requires the players’ signature of the Player Welfare Statement confirming his/her agreement with the rules of tennis, including, specifically, the TACP. In the case of minors, the IPIN registration process informs the player that the minor’s parent or legal guardian should sign the IPIN on the minor’s behalf with the result that the minor players are subject to the rules of the TACP.
6. In order for a corruption offence to exist, a mere *attempt* to contrive a match is actually

sufficient. Similarly, the fix may cover not only the outcome of a match but also one *aspect* of a particular match. Finally, it is not necessary to show the existence of a financial reward, whether money or benefit or other consideration, for a corruption offence under the TACP to exist.

7. Whilst a hearing before the CAS is a hearing *de novo*, the measure of the sanction imposed by a disciplinary body in the exercise of the discretion allowed by the relevant rules should be reviewed only when the sanction is evidently and grossly disproportionate to the offence. The CAS panel applies its independent assessment of the proportionality and appropriateness of the sanctions imposed in light of the established facts. The fact that the offenses of match fixing require some degree of planning or premeditation is relevant in this respect. It is also appropriate to take further guidance in the ITIA 2021 Guidelines that provide, in principle, for a three-step-approach: (i) first, the CAS panel shall determine the offense category (light, medium, high), by considering the gravity of the offences and whether the players are guilty of distinct offences on a number of separate occasions, and assess the player's level of culpability and the impact on the integrity of the sport of tennis; (ii) second, having determined the category, the CAS panel may use the corresponding starting point to reach the sanction within the category range; and (iii) third, the panel may then consider any adjustment from the starting point for any aggravating factors e. g. the lack of credible alternative interpretation as to the evidence, the players' continuous denial of any involvement in match fixing, the lack of remorse; or mitigating factors e. g. the players' young age at the time of the relevant facts. Moreover, the principle of deterrence is of significant importance when it comes to assessing the adequate sanction for corrupt conduct.

I. PARTIES

1. Mr Mohamed Zakaria Khalil ("Mr Khalil") is an amateur tennis player born 19 July 1999 in Morocco.
2. Mr Soufiane El Mesbahi ("Mr El Mesbahi") is an amateur tennis player born on 22 February 2001 in Morocco.
3. Mr Yassir Kilani ("Mr Kilani") is an amateur tennis player born on 10 August 2000 in Morocco.
4. Mr Khalil, Mr El Mesbahi and Mr Kilani are jointly referred to as the "Players" or the "Appellants".
5. The International Tennis Integrity Agency ("ITIA" or the "Respondent") is an independent body in charge of promoting, encouraging and safeguarding the integrity of tennis worldwide. It is established in London, United Kingdom.

6. The Appellants and the Respondent are jointly referred to as the “Parties”.

II. FACTUAL BACKGROUND

7. The present appeal is brought against a decision rendered by the Anti-Corruption Hearing Officer (“AHO”) on 7 December 2021, which found the Players guilty of match-fixing and other corruption offences and imposed on each of the Players a ban for a period of 9 years in addition to a fine in the amount of US\$ 5,000.
8. Set out below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced and at the hearing. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be touched upon, 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.

A. Background Facts

9. On 19 July 2017, at the ITF F1 Futures Tournament in Morocco, Mr El Mesbahi and his partner, Mr Anas Chakrouni, lost their doubles match against Mr Benitez and Mr Smith 6-1, 6-2, losing their third service game in both sets.
10. On 7 November 2017, during the ITF F5 Futures Tournament in Morocco, Mr Khalil lost a singles match against Filippo Borella 6-2, 6-0 losing his third service game in both sets and the second set to love. On the same day, Mr El Mesbahi lost a singles match against Mr Grigelis 6-1, 6-3, losing his third service game in both sets, and Mr El Mesbahi and Mr Kilani lost their doubles match against Mr Kolly and Mr Tashi 6-0, 6-4, losing their third service game and the second set.
11. On 13 November 2017, during the ITF F6 Futures Tournament in Morocco, Mr Khalil and his partner, Mr Anas Chakrouni, lost their doubles match against Julian Onken and George Van Massow 6-0, 6-0 losing the third service game in each set.
12. On 14 November 2017, still during the ITF F6 Futures Tournament in Morocco, Mr El Mesbahi lost his singles match against Mr Gakhov 6-1, 6-0 and Mr El Mesbahi and Mr Kilani lost their doubles match against Mr Bessire and Mr Jarc 6-1, 6-3, losing their third service game in both sets.

B. Criminal Investigation in Belgium

13. Between 2014 and 2018, the Belgian Federal Public Prosecutor’s Office carried out investigations into a suspected organised criminal network that was believed to be operating to fix tennis matches worldwide. In 2018, the Belgian Police executed search warrants and arrested a number of individuals. In 2018, during a search at the property of Mr Grigor

Sargsyan (“GS”), an Armenian national residing in Belgium, the Belgian Police seized several mobile telephones belonging to GS, the content of which was downloaded. The messages extracted from the telephones belonging to GS revealed discussions between GS and a former Moroccan tennis player called Younes Rachidi (“YR”) and an Egyptian tennis player called Karim Hossam (“KH”). These concerned the nature of the fixes, the money to be paid to the players and intermediaries and available betting odds.

14. In 2019, the Belgian Federal Prosecutor’s Office charged GS with membership of a criminal organisation, fraud, money laundering, violations of the law on games of chance. YR could not be located.
15. In 2020, the ITIA was granted access to certain evidence collated by the Belgian authorities, including transcripts of interviews, the contents of forensic downloads of mobile telephones, in particular those belonging to GS and records of money transfers.

C. Proceedings before the Anti-Corruption Hearing Officer

16. Further to ITIA’s own investigation of the evidence collated by the Belgian authorities, the ITIA sent on 15 June 2021, a notice of charge to six tennis players, i.e. the Players and three non-appealing tennis players (the “Non-Appealing Players”) (the “Notice of Charge”).
17. With respect to the Players, the Notice of Charge provides in its relevant parts:

➤ *With respect to Mr El Mesbahi:*

Offense	Summary of Corruption Offense	TACP Section
1.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 19 July 2017 in the second round of the men's doubles main draw at the ITF Morocco F1 Futures Tournament.	D.1.d. "No Covered Person shall, directly or indirectly, contrive or attempt to contrive the outcome or any other aspect of any Event."
2.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 7 November 2017 in the first round of the men's singles main draw of the ITF Morocco F5 Futures Tournament.	
3.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 7 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F5 Futures Tournament.	
5.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 14 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F6 Futures Tournament.	
6.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 19 July 2017 in the second round of the men's doubles main draw at the ITF Morocco F1 Futures Tournament.	
7.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 7 November 2017 in first round of the men's singles main draw of the ITF Morocco F5 Futures Tournament.	D.2.a.i. "In the event any Player is approached by any person who offers or provides any type of money, benefit or Consideration to a Player to... influence the outcome or any other aspect of any Event... it shall be the Player's obligation to report such incident to the TIU as soon as possible."
8.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 7 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F5 Futures Tournament.	

10.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 14 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F6 Futures Tournament.	
11.	You failed to report your knowledge that Anas Chakrouni had committed Corruption Offenses in connection with your match on 19 July 2017 in the second round of the men's doubles main draw at the ITF Morocco F1 Futures Tournament (namely, Anas Chakrouni had contrived (alternatively, attempted to contrive) the outcome or another aspect of the match in breach of Section D.1.d. of the 2017 Program).	D.2.a.ii. "In the event any Player knows or suspects that any other Covered Person or other individual has committed a Corruption Offense, it shall be the Player's obligation to report such knowledge or suspicion to the TIU as soon as possible."
12.	You failed to report your knowledge that Mr Kilani had committed Corruption Offenses in connection with your match on 7 November 2017 in first round of the men's doubles main draw of the ITF Morocco F5 Futures Tournament (namely, Mr Kilani had contrived (alternatively, attempted to contrive) the outcome or another aspect of the match in breach of Section D.1.d. of the 2017 Program).	
13.	You failed to report your knowledge that Mr Kilani had committed Corruption Offenses in connection with your match on 14 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F6 Futures Tournament (namely, Mr Kilani had contrived (alternatively, attempted to contrive) the outcome or another aspect of the match in breach of Section D.1.d. of the 2017 Program).	

➤ *With respect to Mr Khalil*

Offense	Summary of Corruption Offense	TACP Section
1.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 7 November 2017 in the first round of the men's singles main draw at the ITF Morocco F5 Futures Tournament.	D.1.d. "No Covered Person shall, directly or indirectly, contrive or attempt to contrive the outcome or any other aspect of any Event."
2.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 13 November 2017 in the first round of the men's doubles main draw at the ITF Morocco F6 Futures Tournament.	

3.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 7 November 2017 in the first round of the men's singles main draw at the ITF Morocco F5 Futures Tournament.	D.2.a.i. "In the event any Player is approached by any person who offers or provides any type of money, benefit or Consideration to a Player to... influence the outcome or any other aspect of any Event... it shall be the Player's obligation to report such incident to the TIU as soon as possible."
4.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 13 November 2017 in the first round of the men's doubles main draw at the ITF Morocco F6 Futures Tournament.	
5.	You failed to report your knowledge that Anas Chakrouni had committed Corruption Offenses in connection with your match on 13 November 2017 in the first round of the men's doubles main draw at the ITF Morocco F6 Futures Tournament (namely, Anas Chakrouni had contrived (alternatively, attempted to contrive) the outcome or another aspect of the match in breach of Section D.1.d. of the 2017 Program).	D.2.a.ii. "In the event any Player knows or suspects that any other Covered Person or other individual has committed a Corruption Offense, it shall be the Player's obligation to report such knowledge or suspicion to the TIU as soon as possible."

➤ *With respect to Mr Kilani*

Offense	Summary of Corruption Offense	TACP Section
1.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 7 November 2017 in the first round of the men's singles main draw of the ITF Morocco F5 Futures Tournament.	D.1.d. "No Covered Person shall, directly or indirectly, contrive or attempt to contrive the outcome or any other aspect of any Event."
2.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 7 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F5 Futures Tournament.	
3.	You contrived (alternatively, attempted to contrive) the outcome or another aspect of your match on 14 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F6 Futures Tournament.	
4.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 7 November 2017 in the first round of the men's singles main draw of the ITF Morocco F5 Futures Tournament.	D.2.a.i. "In the event any Player is approached by any person who offers or provides any type of money, benefit or Consideration to a Player to... influence the outcome or any other aspect of any Event... it shall be the Player's obligation to report such incident to the TIU as soon as possible."
5.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 7 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F5 Futures Tournament.	
6.	You failed to report an offer by GS and/or YR to provide money to influence the outcome or another aspect of your match on 14 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F6 Futures Tournament.	

7.	You failed to report your knowledge that Mr El Mesbahi had committed Corruption Offenses in connection with your match on 7 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F5 Futures Tournament (namely, Mr El Mesbahi had contrived (alternatively, attempted to contrive) the outcome or another aspect of the match in breach of Section D.1.d. of the 2017 Program).	D.2.a.ii. "In the event any Player knows or suspects that any other Covered Person or other individual has committed a Corruption Offense, it shall be the Player's obligation to report such knowledge or suspicion to the TIU as soon as possible."
8.	You failed to report your knowledge that Mr El Mesbahi had committed Corruption Offenses in connection with your match on 14 November 2017 in the first round of the men's doubles main draw of the ITF Morocco F6 Futures Tournament (namely, Mr El Mesbahi had contrived (alternatively, attempted to contrive) the outcome or another aspect of the match in breach of Section D.1.d. of the 2017 Program).	

18. The AHO was appointed to decide upon the cases regarding the Players and the Non-Appealing Players.
19. Following an application by the ITIA for a provisional suspension, by a decision dated 13 July 2021, the AHO imposed provisional suspensions on the Players and the Non-Appealing Players.
20. The Players and the ITIA filed written submissions with the AHO and a hearing took place on 22 and 23 November 2021.
21. On 7 December 2021, the AHO rendered the following decision with respect to the Players (the "Decision"):

"[...]"

Mohamed Zakaria Khalil

The Charges proved are 1-5.

Mr Khalil must serve a ban of 9 years in relation to any event organised or sanctioned by any Governing Body commencing on 23 July 2021 and pay a fine of US\$5000.

Soufiane El Mesbahi

The Charges proved are 1-3, 5-8, 10-13.

Mr El Mesbahi must serve a ban of 9 years in relation to any event organised or sanctioned by any Governing Body commencing on 23 July 2021 and pay a fine of US\$5000.

Yassir Kilani

The Charges proved are 2-3, 5-6, 7-8.

Mr Kilani must serve a ban of 9 years in relation to any event organised or sanctioned by any Governing Body commencing on 23 July 2021 and pay a fine of US\$5000".

22. The reasoning behind the Decision can be summarized as follows:

“[...]”

G. Standard of proof

In accordance with the TACP G3, the standard of proof is the balance of probabilities. I apply that standard. [...]

H. The case brought by the ITIA

[...] ITIA say the Players' involvement in the fixes agreed between the corruptors is evident from the following:

- a. the messages contain frequent references to GS and YR liaising and conferring with the Respondents about what aspects of their matches the Respondents were prepared to fix and the negotiation of payment;*
- b. the scores in the fixed matches are consistent with the aspects of the match that the messages show that the Players s had agreed to fix and in certain cases the Players' performances provide further support (in the form, for example, of double faults); and*
- c. the messages between the corruptors refer to each Players more than once, which indicates that the Players in fact agreed to cooperate with the corruptors (because had the relevant Players not followed through with the fix, the corruptors would not have continued to discuss fixing matches involving that Players).*
- d. on a number of occasions betting alerts showing unusual patters of betting provide supporting evidence*
- e. the ITIA also point out that, given the terms of the messages, if the corruptors had been told by any of the Players that they were not interested, they would not have continued to discuss fixing matches in relation to such Players.*

I. Approach to the evidence

In general, [...] there is no direct evidence which links the Players to the WhatsApp messages. Each of the Players said in evidence that they did not know GS, and most said they had not seen YS for many years.

[...] However, whilst in one sense the ITIA's case may be said to be based on circumstantial or indirect rather than direct evidence, it is nevertheless in general very powerful evidence:

- a. there is direct evidence of match fixing between the parties to the WhatsApp and Facebook messages;*
- b. the WhatsApp and Facebook messages refer to each of the Players and discuss fixing matches played by each of the Players;*
- c. It is obvious in many cases that the parties to the conversations are in touch with the Players. They refer to discussions they have had with the Players, they refer to counter-offers by the Players, and comments or views on the fixes expressed by the Players, they often are discussing bets with the relevant matches going on in the background (which can be established from the timing of the messages checked against the match timing);*
- d. the evidence shows a correlation between the fixes and the scores: in other words, a fix for (say) the sixth game of the second set, and the result which reflects the fix;*
- e. there is also evidence of MoneyGram transfers being made in accordance with the sums discussed on calls, albeit there is no evidence of receipts by the Players;*
- f. there are a number of betting alerts which show unusual betting which corresponds with the fix;*

40. Each of the Players denied any involvement in match fixing. They pointed out that the ITLA had no direct evidence [...] and have no direct evidence from the phones of the Players. The ITLA said that the interviews were carried out remotely and thus it was impractical to obtain downloads from the Players' phones. Some of the Players said they had made social media accounts available to the ITLA.

41. None of the Players were able to offer any explanation for the detailed discussions between GS and YR referring to the individual participation of the Players in the fixes. These transcripts provide compelling evidence against each of the Players. Moreover, the correspondence between what is agreed on the transcript and what is actually happening, and the results, plus the unusual betting alerts, are also hugely powerful evidence.

42. That said, I recognise that caution is required in relying on evidence of a discussion between A and B as evidence against C. These are third party conversations when oral evidence has not been given by the direct participants. However powerful the exchanges appear to be, and however difficult it is to imagine innocent explanations, sometimes misunderstandings may have occurred, particularly in relation to proposed fixes which did not in the event occur.

J. Approach to sanctions

[...] Match fixing is an extremely serious offence. In relation to the Players, there can be no doubt of the seriousness of the offences they committed. It is inappropriate to sentence separately for individual offences given the number of offences charged; what is important is the totality of the offences proved in each case and an assessment of their overall seriousness and therefore I impose a single sanction for each Player in relation to the totality of offences relating to that individual.

[...]

N. Mohamed Zakaria Khalil

112. Mohamed Zakaria Khalil (Mr Khalil) is a 22-year-old tennis player from Morocco. Mr Khalil has been registered with the ITF and paid for an IPN every year since 29 August 2013. Mr Khalil last signed and agreed the ITF Player Welfare Statement confirming his agreement to comply with, among other things, the TACP on 10 December 2017. [...] Mr Khalil confirmed that he knows Anas Chakrouni well. He also admitted that he has met YR. Mr Khalil denied having committed any Corruption Offences.

A] Charges under the 2017 Program

7 November 2017 Charge under D.1.d (fixing) (I) D.2.a.i (failure to report offer) (3)

114. On 7 November 2017, YR sent a list of names to GS on WhatsApp. One of the names was that of Mr Khalil (identified as "Zakaria") who was due to play that day in the first round of the men's singles man draw at the ITF F5 Futures Tournament in Morocco. At 9.01am on 7 November 2017, GS made the following offers in respect of Mr Khalil's match: "3rd break in both sets > 700 + 300" and "2nd set: 6/0 > 1500 + 500". YR waited just over five minutes before responding, "He doesn't want it for 1500". GS replied, "Ok, 2000... no more". YR then replied, "Ok", following which GS confirmed "2.0 + 0.5". YR again replied, "Ok". Mr Khalil went on to lose the match 2-6, 0-6, including losing his third service game in both sets.

115. The ITLA received suspicious betting alerts in respect of Mr Khalil's match on 7 November 2017 from three betting operators, in particular there was unusual betting on the second set being 6-0.

116. The WhatsApp messages suggest that GS and YR fixed five other matches that day (including matches involving the Second and Fifth Players). GS confirmed to YR in a message at 3.58pm that the total

money owed was \$10,000. On 10 November 2017, YR sent four names to GS as recipients for the money transfers. Later that day GS sent YR photographs of four Moneygram transfer receipts showing funds totalling \$10,000 being sent from accounts in Bulgaria to accounts in Morocco registered in the names supplied by YR earlier that day.

117. Mr Khalil's evidence was that he was playing an individual with a much higher ranking and was in any event tired after travelling. However, I consider the evidence is overwhelming. The correspondence between the details of the fix on the WhatsApp messages and the score and breaks in the match plus the betting alerts are very powerful evidence. I find all these charges proved.

Charge under D.1.d (fixing) (2) D.2.a.i (failure to report offer)(4) D.2.a.ii (failure to report fixing by another) (5)

118. On 13 November 2017, YR sent GS a screenshot by WhatsApp identifying a doubles match involving Mr Khalil later that day. YR commented, "I have this double". The match was the first round of the men's doubles main draw at the ITF Morocco F6 Futures. Mr Khalil's partner was the Second Respondent, Anas Chakrouni (Anas Chakrouni). GS offered "3rd break in both sets > 700+ 300". YR said, "Okay, I'll confirm". Around two hours later, YR asked, "How much break 3rd set plus 6/0 second set"? GS replied, "I don't need it" following which YR said, "Ok... confirmed... It's good". GS clarified that the deal was "third break in both sets" and YR said, "Yes". Mr Khalil and Anas Chakrouni went on to lose the match 6-0, 6-0. They lost their third service game in both sets to love. Mr Khalil served a double fault in the first point of their third service game in the first set and Anas Chakrouni served two double faults in their third service game of the second set. The match ended at 3.46pm. Almost immediately after the match, GS told YR "Okay, you got 1.2".

119. YR then proceeded to fix another match on the following day for a total fee of \$2,200. On 18 November 2017, YR supplied GS with two names - Brahim Talal and Lahcen Boudayroun - to receive money transfers totalling \$3,400. On 20 November 2017, GS sent YR two messages stating that \$1,700 had been sent by Moneygram transfer from an account in Belgium to Lahcen Boudayroun in Morocco. GS also said that "the other I'm gonna do sometime this week". On 22 November 2017, GS sent YR a photograph of a Western Union transfer receipt in the sum of \$1,700 from an account in Bulgaria to Brahim Talal in Morocco.

120. Mr Khalil's evidence was that his partner played very poorly in this match and that explained the result. But, again, the evidence before me is overwhelming. The correspondence between the details of the fix on the WhatsApp messages and the score and breaks in the match are very powerful evidence. I find all these charges proved.

[...]

C] Sanction

[...] I base the sanction on the ITLA 2021 Guidelines. I propose to sanction in accordance with ITLA 2021 Sanctioning Guidelines. In relation to Mr Khalil:

- a. Match-fixing is a matter of utmost seriousness, going to the heart of integrity in tennis.
- b. These offences have a very significant impact on the reputation and integrity of the sport.
- c. I have found Mr Khalil guilty of a series of offences in 2017 on two separate occasions; the offences were within a short time of one another rather than over a prolonged period of time.
- d. Whilst in relation to each match there are multiple offences, the most serious part of these offences is

fixing matches for money.

- e. *The sums involved are significant but not huge; however, by fixing matches Mr Khalil enabled others to make money, either as intermediaries or on bets*
- f. *The charges in relation to the doubles match are potentially more serious as they involve making arrangements with another (ie the doubles partner).*
- g. *I take into account Mr Khalil's age, being just 18 at the time of the offences.*
- h. *There is no suggestion of remorse, on the contrary Mr Khalil continued to deny the allegations throughout.*
- [...] *I propose to order a single sanction, taking into account all the offences proved.*
- [...] *I regard this offending as Category I as to impact, with medium to high culpability [...]*
- [...] *I order a 9 year ban plus a financial penalty of US\$5000.*

O. Soufiane El Mesbahi

[...] *Soufiane El Mesbahi (Mr El Mesbahi) is a 20-year-old tennis player from Morocco. Mr El Mesbahi has been registered with the ITF and paid for an IPIN every year since 19 January 2013. Mr El Mesbahi last signed and agreed the ITF Player Welfare Statement confirming his agreement to comply with, among other things, the TACP on 28 December 2018. [...]*

Mr El Mesbahi confirmed that Mr Kilani is a close friend. He also said that Ayoub Chakrouni was his coach when he was 10 or 11 years old. Mr El Mesbahi said that he was aware of YR but had never spoken to him or seen him at tournaments. He also said that he had not met KH but he knew KH's younger brother, Yousef Hossam. Mr El Mesbahi denied having committed any Corruption Offences.

A] Charges under the 2017 Program

19 July 2017 Charge under D.1.d (fixing) (1)] D.2.a.i (failure to report)(6) D.2.a.ii (failure to report offence by another) (11)

131. On 19 July 2017, GS sent YR a screenshot on WhatsApp identifying a doubles match involving Mr El Mesbahi and the Second Player, Anas Chakrouni (Anas Chakrouni), that was due to be played later that day in the second round of the men's doubles main draw at the ITF F1 Futures Tournament in Morocco. GS made various offers including "3rd break in both sets > 800 + 500" if they lost their third service game in both sets. YR said, "I'll pass it along".

Around 45 minutes later, GS asked YR whether he had "heard anything". YR replies "Yes", Mr El Mesbahi and Anas Chakrouni went on to lose the match 6-1, 6-2. They lost their third service game in both sets (Mr El Mesbahi served the pair's third service game in the first set and Anas Chakrouni served the pair's third service game in the second set).

132. The ITLA has identified screenshots on OS's iPhone of two different Bet365 accounts displaying the Chakrouni/El Mesbahi doubles match (both accounts were registered to individuals in Bulgaria). These accounts were used to place bets on Anas Chakrouni and Mr El Mesbahi to lose the sixth and twelfth games (i.e. Anas Chakrouni and Mr El Mesbahi's third service games in each set).

133. Further, shortly after the twelfth game YR sent GS two "thumbs up" emojis. GS responded, "Yes... you have 1.3 with me". On 31 July 2017, GS informed YR that "you [i.e. YR] got 1.3+1.5 = 2.8". On 13 August 2017, YR sent GS the name Brahim Talat. On 13 August 2017, GS sent YR a Moneygram transfer receipt showing a payment of \$2,800 to Brahim Talat from an individual called Harutyun Meloyan who appears to have been responsible for at least six other Moneygram payments in connection with match-fixing involving GS.

134. Mr El Mesbahi says in his evidence that there was a number of matches in this tournament which he

won yet there is no allegation that he tried to fix these results. He says that the ITLA have no evidence of an infringement or fix by him. I disagree. The evidence is very strong. The correspondence between the details of the fix on the WhatsApp messages and the score and breaks in the match plus the betting alerts are very powerful evidence. I find all these charges proved.

7 November 2017: Charges under D.J.d (fixing) (2,3) 2 charges under D.2.a.i (failure to report) (7, 8) D.2.a.ii (failure to report offence by another) (12)

135. On 7 November 2017, GS asked YR on WhatsApp to "let [him] know if anyone's interested". YR then provided three names: Mr El Mesbahi, in addition to [Mr Khalil] and [Mr Kilani]. Mr El Mesbahi was due to play later that day in the first round of the men's singles main draw at the ITF FS Futures in Morocco. At 8.56am, GS made the following offer in respect of Mr El Mesbahi's match: "3 rd break in both sets > 700 + 300" if he lost his third service game in both sets). YR asked, "6/0? How much?" GS replied, "No 6/0 I don't do with him". YR responded, "He says he won't take any chances" but GS held firm: "No, please, you don't". At 10.59am, GS sent YR a summary of the fixes that had been agreed, which by this time included a fix relating to the Second Player in addition to the Fourth and Sixth Players and Mr El Mesbahi. The first line of that summary was: "Mesbahi single ok, 1.0" (referring to Mr El Mesbahi's singles match that day). YR replied, "Yes". At 11.00am, GS sent YR a message saying, "All you have to do now is tell me about my double mesbahi..". (Mr El Mesbahi and the Sixth Player, Yassir Kilani (Mr Kilani), were due to play later that day in the first round of the men's doubles main draw at the ITF F5Tournament in Morocco). YR replied, "Yes... I'm waiting for him to finish... To confirm". By this time, Mr El Mesbahi was already playing his singles match. In the event, Mr El Mesbahi lost this singles match 6-1, 6-3, losing his third service game in both sets.

136. At 12.42pm, GS sent YR a message as follows: "DoubleMesbahi? Any news?". YR said, "Not yet... I'm gonna get them on the telephone". Six minutes later, YR said, "They want 1500 for the doubles... second set plus 3rd break" GS replied, "1500 + 500... I couldn't... 1200 + 500... Ok". YR replied, "I'm asking them". Around 20 minutes later, YR said, "Confirmed...For double... 1200 + 500". GS replied, "Yes... 2nd set+ 3rd break... Confirmed". YR said, "Yes". Mr El Mesbahi and Mr Kilani went on to lose their doubles match 6-0, 6-4. They also lost their third service game during which Mr El Mesbahi served the only double fault of the set.

137. The WhatsApp messages suggest that GS and YR fixed four other matches that day (in addition to the two matches involving Mr El Mesbahi). GS confirmed to YR in a message at 3.58pm that the total money owed was \$10,500. On 10 November 2017, YR sent four names to GS as recipients for the money transfers. Later that day GS sent YR photographs of four Moneygram transfer receipts showing funds totalling \$10,500 being sent from accounts in Bulgaria to accounts in Morocco registered in the names supplied by YR earlier that day.

138. Mr El Mesbahi refers in his evidence to the fact he was playing a much stronger player in the singles. He also refers to a reference in the transcripts that "only Chakrouni is aware" although that is a reference to an entirely different match and not relevant. I consider the evidence very strong. The details on the WhatsApp messages, where it is obvious that the messengers are closely following the matches, and the score and breaks in the matches are very powerful evidence. I find all these charges proved.

14 November 2017: 2 Charges under D.L.d (fixing) (4,5) charges under D.2.a.i (failure to report) (9,10) D.2.a.ii (failure to report offence by another) (13)

139. On 14 November 2017, GS and YR discussed fixing various matches via WhatsApp. At 9.52am, YR sent GS a screenshot identifying a match that Mr El Mesbahi was due to play later that day in the first

round of the men's singles main draw in the ITF F6 Futures Tournament in Morocco. YR said, "I've got him too". GS said, "He scares me... He screwed up last time..". YR tried to convince GS as follows: "No, he told you [me] zero errors... The other time he told me there were his parents in front of him the federation he was very stressed but he's all alone [this time] ... He told me zero risk... He said trust me..". GS checked the odds and said, "If he screws up, we're gonna lose a lot of money". YR said, "He's not gonna screw up... He'll finish the set in a minute". Then at 10.14am GS offered: "El mesbabi, 2nd set: 6/0 > 1000 + 500". GS added, "and in the first set, ask him to play well, not to take O and O". After a few minutes, YR said, "Yes, I've said everything... I just cut with him". GS said, "He confirms it? Okay I'm waiting for your confirmation". YR replied, "Ok". Then around 20 minutes later, YR said, "Confirms... It's good for mesbabi". GS asked again, "Did you tell him everything?". YR replied, "Yes". GS then told YR that after the match had begun, a technical problem was preventing him from placing bets. YR pointed out that Mr El Mesbabi was already 0-4 down. GS said, "this time... I can just... pay the player... I didn't make a dollar on this game". YR said, "Give me 200 bucks, we'll split my loss, too". GS replied, "Ok... You had 1.2 + 1.2 = 2.4". Mr El Mesbabi lost his singles match 6-1, 6-0.

140. GS then said, "He [Mr El Mesbabi] plays doubles too... He wants to do something?". Mr El Mesbabi was due to partner Mr Kilani in the first round of the men's doubles main draw at the ITF F6 Futures Tournament in Morocco. YR replied, "Get me something". Around 30 minutes later, GS said, "3rd break in both sets > 700 + 300". Just under two hours later, YR said, "For the double it asks as Hirs 800 + 400". (Simohammed Hirs (Mr Hirs) is a Moroccan tennis player who has been sanctioned separately). GS eventually said, "okay, let's do 0.8 + 0.2, so I try to get back some of what I lost". YR then said, "I'm checking with them" before, 20 minutes later, adding, "Confirmed for double". GS clarified, "3rd break in both sets" and YR replied, "Yes". Mr El Mesbabi and Mr Kilani went on to lose their doubles match 6-1, 6-3, losing their third service games in both sets. After the doubles match, GS told YR, "It's done... 1.2 + 1.0". YR reminded GS that there was also "yesterday's game". GS said, "3.4 total".

141. On 18 November 2017, YR supplied GS with two names - Brahim Talal and Lahcen Boudayroun - to receive money transfers totalling \$3,400. On 20 November 2017, GS sent YR two messages stating that \$1,700 had been sent by Moneygram transfer from an account in Belgium to Lahcen Boudayroun in Morocco. GS also said that "the other I'm gonna do sometime this week". On 22 November 2017, GS sent YR a photograph of a Western Union transfer receipt in the sum of \$1,700 from an account in Bulgaria to Brahim Talal in Morocco.

142. Again, in his evidence Mr El Mesbabi refers to the doubles opponents being very strong and says the ITLA have not proved that (if that was the case) Mr Kilani had committed an act of corruption. However, in my judgment the evidence clearly proves these charges.

I dismiss the charges in relation to the singles match, the position being confused, and thus I give Mr El Mesbabi the benefit of the doubt.

I find the charges proved as to the doubles match; The WhatsApp messages are very precise, and correspond with the match result. [...]

D. Sanction

146. I base the sanction on the ITLA 2021 Guidelines. I propose to sanction in accordance with ITLA 2021 Sanctioning Guidelines. In relation to Mr El Mesbabi:

- a. Match-fixing is a matter of utmost seriousness, going to the heart of integrity in tennis.
- b. These offences have a very significant impact on the reputation and integrity of the sport.
- c. I have found Mr El Mesbabi guilty of a series of offences in 2017 on three separate occasions;

- the offences were within a short time of one another rather than over a prolonged period of time.*
- d. *Whilst in relation to each match there are multiple offences, the most serious part of these offences is fixing matches for money.*
 - e. *The sums involved are significant but not huge; however, by fixing matches Mr El Mesbahi enabled others to make money, either as intermediaries or on bets.*
 - f. *The charges in relation to the doubles matches are potentially more serious as they involve making arrangements with another (ie the doubles partner).*
 - g. *There is no suggestion of remorse, on the contrary Mr El Mesbahi continued to deny the allegations throughout.*
 - h. *Mr El Mesbahi was extremely young at the time of these offences (younger than any of the other Players) which is a mitigating factor.*
147. *I propose to order a single sanction, taking into account all the offences proved.*
148. *I regard this offending as Category I as to impact, with medium to high culpability [...].*
149. *I order a 9 year ban plus a financial penalty of US\$5000.*

P. Yassir Kilani

150. *Yassir Kilani (Mr Kilani) is a 21-year-old tennis player from Morocco. Mr Kilani has been registered with the ITF and paid for an IPIN every year since 24 September 2013. Mr Kilani last signed and agreed the ITF Player Welfare Statement confirming his agreement to comply with, among other things, the TACP on 10 February 2019. [...] Mr Kilani denies all the allegations. [...] Mr Kilani said that he has known Mr El Mesbahi since they were 10 years old. He also said that he knew Ayoub Chakrouni but would not class him as a friend. According to Mr Kilani, he knows of YR and KH as players but does not know them personally. Mr Kilani denied having committed any Corruption Offences.*

A] Charges under the 2017 Program

7 November 2017 charges under D.1.d (fixing) (1,2) charges under D.2.a.i (failure to report offer)(4, 5) , D.2.a.ii (failure to report offence by another) (7)

152. *On 7 November 2017, GS asked YR on WhatsApp to "let [him] know if anyone's interested". YR then provided three names: Mr Kilani and the Fourth and Fifth Players. Mr Kilani was due to play later that day in the first round of the men's singles main draw at the ITF F5 Futures Tournament in Morocco. At 9.00am, GS made the following offers in respect of Mr Kilani's singles match: "3rd break in both sets > 700 + 300" and "2nd set: 6/0 > 1500 + 500". At 12.40pm, YR made a counter-offer in respect of various proposed fixes, including "Kilani single ok ,2.5". GS replied, "Yes". Mr Kilani went on to lose his singles match 7-5, 6-0.*

153. *I agree with Mr Kilani that the evidence is insufficient here. I think the position is insufficiently clear here; I dismiss the charges in relation to this match.*

154. *Earlier in the day, GS had also sent a message to YR saying "All you have to do now is tell me about my double mesbahi..". [Mr El Mesbahi] was due to play alongside Mr Kilani later that day in the first round of the men's doubles main draw at the ITF F5 Tournament in Morocco. YR replied, "Yes... I'm waiting for him to finish... To confirm". By this time, Mr El Mesbahi was already playing his singles match. At 12.42pm, GS sent YR a message as follows: "Double Mesbahi? Any news?". YR said, "Not yet... I'm gonna get them on the telephone". Six minutes later, YR said, "They want 1500 for the doubles... second set plus 3rd break". GS replied, "1500 + 500... I couldn't... 1200 + 500... Ok". YR replied, "I'm asking them". Around 20 minutes later, YR said, "Confirmed... For double... 1200 + 500". GS replied, "Yes...*

2nd set+ 3rd break... Confirmed". YR said, "Yes". Mr El Mesbahi and Mr Kilani went on to lose their doubles match 6-0, 6-4. They also lost their third service game during which Mr El Mesbahi served the only double fault of the set.

155. *The WhatsApp messages suggest that GS and YR fixed four other matches that day. GS confirmed to YR in a message at 3.58pm that the total money owed was \$10,500. On 10 November 2017, YR sent four names to GS as recipients for the money transfers. Later that day GS sent YR photographs of four Moneygram transfer receipts showing funds totalling \$10,500 being sent from accounts in Bulgaria to accounts in Morocco registered in the names supplied by YR earlier that day.*

156. *Mr Kilani in his evidence says that the evidence does not support an allegation of fixing; on the contrary I consider the evidence very strong.*

I find the charges proved as to the doubles match; The WhatsApp messages are very precise, and correspond with the match and games result.

14 November 2017 Charge under D.1.d (fixing) (3) D.2.a. i (failure to report offer) (6) D.2.a.ii (failure to report offence by another) (8)

157. *On 14 November 2017, GS and YR exchanged messages about fixing a singles match involving Mr El Mesbahi. At 12.14 pm, GS then said, "He plays doubles too... He wants to do something?". Mr El Mesbahi was due to partner Mr Kilani in the first round of the men's doubles main draw at the ITF F6 Futures Tournament in Morocco. YR replied, "Get me something". Around 30 minutes later, GS said, "3rd break in both sets > 700+300". Just under two hours later, YR said, "For the double it asks as Hirs 800 + 400". Simohammed Hirs (Mr Hirs) is a Moroccan tennis player who has been sanctioned separately. GS eventually said, "okay, let's do 0.8 + 0.2, so I try to get back some of what I lost". YR then said, "I'm checking with them" before, 20 minutes later, adding, "Confirmed for double". GS clarified, "3rd break in both sets" and YR replied, "Yes". Mr El Mesbahi and Mr Kilani went on to lose their doubles match 6-1, 6-3, losing their third service games in both sets. After the doubles match, GS told YR, "It's done... 1.2 + 1.0". YR reminded GS that there was also "yesterday's game". GS said, "3.4 total".*

158. *On 18 November 2017, YR supplied GS with two names - Brahim Talat and Lahcen Boudayroun - to receive money transfers totalling \$3,400. On 20 November 2017, GS sent YR two messages stating that \$1,700 had been sent by Moneygram transfer from an account in Belgium to Lahcen Boudayroun in Morocco. GS also said that "the other I'm gonna do sometime this week". On 22 November 2017, GS sent YR a photograph of a Western Union transfer receipt in the sum of \$1,700 from an account in Bulgaria to Brahim Talat in Morocco.*

I find the charges proved as to the doubles match; The WhatsApp messages are very precise, and correspond with the match and games result. [...]

C] Sanction

162. *I base the sanction on the ITIA 2021 Guidelines. I propose to sanction in accordance with ITIA 2021 Sanctioning Guidelines. In relation to Mr Kilani:*

- a. Match-fixing is a matter of utmost seriousness, going to the heart of integrity in tennis.*
- b. These offences have a very significant impact on the reputation and integrity of the sport.*
- c. I have found Mr Kilani guilty of a series of offences in 2017 on two separate occasions; the offences were within a short time of one another rather than over a prolonged period of time.*
- d. Whilst in relation to each match there are multiple offences, the most serious part of these offences is fixing matches for money.*
- e. The sums involved are significant but not huge; however, by fixing matches Mr Kilani enabled others*

- to make money, either as intermediaries or on bets.*
- f. The charges in relation to the doubles matches are potentially more serious as they involve making arrangements with another (ie the doubles partner).*
 - g. Mr Kilani was very young at the time of the offences.*
 - h. There is no suggestion of remorse, on the contrary Mr Kilani continued to deny the allegations throughout.*
163. *I propose to order a single sanction, taking into account all the offences proved.*
164. *I regard this offending as Category I as to impact, with medium to high culpability [...].*
165. *I order a 9 year ban plus a financial penalty of US\$5000. [...]*”.
23. The Decision was notified to the Parties on the day of its issuance.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

24. On 30 December 2021, the Appellants filed with the Court of Arbitration for Sport (the “CAS”) a Statement of Appeal against the Respondent with respect to the Decision, pursuant to Articles R47 and R48 of the CAS Code of Sports-related Arbitration (“CAS Code”), together with a Request for Provisional Measures, pursuant to Article R37 of the CAS Code. The Statement of Appeal was drafted in French and included the Appellant’s appointment of Ms Sophie Dion, Attorney-at-law and Professor of law in Paris, as arbitrator.
25. On 3 January 2022, the CAS Court Office initiated an appeals arbitration procedure and invited the Appellants to file their Appeal Brief.
26. On 4 January 2022, the Respondent objected to French being the language of the present proceedings.
27. On 6 January 2022, the Appellants informed the CAS Court Office that their Statement of Appeal was to be considered as the Appeal Brief and insisted on French being the language of the present proceedings.
28. On 10 January 2022, the CAS Court Office requested the Parties to advise whether they would agree for the present procedure to be bilingual French-English subject to the Panel’s decision once constituted.
29. In the absence of an agreement between the Parties on the issue, on 31 January 2022, the President of the CAS Appeals Arbitration Division issued an Order on Language, holding that English would be the language of the present proceedings.
30. On 7 February 2022, the Respondent informed the CAS Court Office that it appointed Mr Romano Subiotto Q.C., Avocat in Brussels, Belgium, and Solicitor-Advocate in London, United Kingdom, as arbitrator.
31. On 8 February 2022, the CAS Court Office invited the Respondent to file its Answer within the prescribed time limit.

32. On 9 February 2022, the Respondent filed its comments on the Appellants' Request for Provisional Measures.
33. On 18 February 2022, the Respondent requested an extension of the time limit to file its Answer, as the Respondent's senior in-house counsel was ill. On the same day, the CAS Court Office invited the Appellants to file their comments to the Respondent's request.
34. On 21 February 2022, the ITIA filed its Answer with the CAS Court Office.
35. On the same day, the Appellants informed the CAS Court Office that they objected to the ITIA's request for an extension of the time limit to file its Answer and considered that the time limit for the filing of the ITIA's Answer had expired.
36. On the same day, the CAS Court Office acknowledged receipt of the Respondent's Answer and informed the Parties that they were no longer authorised to supplement or amend their submissions. Further to the Appellants' letter of the same day, the CAS Court Office also took note of the Appellants' objection to the Respondent's request for extension to file its Answer.
37. On 24 February 2022, the Respondent informed the CAS Court Office that it requested a virtual hearing to be held in this matter.
38. On 25 February 2022, the Appellants requested that the Respondent's Answer be considered inadmissible since it was filed after the expiry of the prescribed time limit to file its Answer.
39. On 28 February 2022, the Respondent objected to the Appellants' request that the Respondent's Answer be considered inadmissible.
40. On 14 March 2022, the CAS Court Office issued the Order on Request for Provisional Measures rendered by the President of the CAS Appeals Arbitration Division.
41. On 21 March 2022, the CAS Court Office informed the Parties that the Panel appointed to decide the present matter shall be constituted as follows:

President: Mr Philippe Sands Q.C., Barrister and Professor of law in London, United Kingdom

Arbitrators: Ms Sophie Dion, Attorney-at-law and Professor of law in Paris, France
 Mr Romano F. Subiotto Q.C., Avocat in Brussels, Belgium, and Solicitor-Advocate in London, United Kingdom

The CAS Court Office further informed the Parties that Ms Stéphanie De Dycker, Attorney-at-law and CAS Clerk, has been appointed as Clerk in the present matter.

42. On 21 April 2022, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing in the present matter and requested the Parties to advise whether they would prefer a virtual hearing or an in person hearing to be held.

43. On 22 and 25 April 2022, the Parties expressed a preference for a hearing by videoconference.
44. On 16 May 2022, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing by videoconference and consulted the Parties as to possible hearing dates.
45. On 17 May 2022, the Parties confirmed their availability for a virtual hearing on 24 June 2022.
46. On 18 May 2002, the CAS Court Office informed the Parties that the hearing in this matter would be held on 24 June 2022 by videoconference and invited the Parties to provide the CAS Court Office with a list of hearing attendees.
47. On 23 May 2022, the CAS Court Office informed the Parties that the Panel had decided to admit the Respondent's Answer to the case file and that the reasons for such decision would follow in the final Award.
48. On 16 June 2022, the CAS Court Office, on behalf of the President of the Panel, issued an order of procedure (the "Order of Procedure") in the present proceedings and requested the Parties to return a signed copy of it, which the Respondent did on 17 June 2022 and the Appellants on 14 September 2022.
49. On 24 June 2022, a hearing was held in the present matter by videoconference. In addition to the members of the Panel, Ms Pauline Pellaux, Counsel at the CAS, and Ms Stéphanie De Dycker, Clerk at the CAS, the following persons attended the hearing:

For the Appellants:

Mr Mohamed Zakaria Khalil, athlete
Mr Soufiane El Mesbahi, athlete
Mr Yassir Kilani, athlete
Ms Sophie Hayrant-Gwinner, counsel
Mr Jamal Khalil, parent of Mr Khalil
Mr Jamal El Mesbahi, parent of Mr El Mesbahi

For the Respondent:

Ms Kendrah Potts, counsel
Ms Julia Lowis, legal counsel at ITIA
Ms Katy Stirling, legal counsel at ITIA
Ms Jodie Cox, Legal case manager at ITIA
Mr John Nolan, witness

50. At the outset of the hearing, the Parties declared that they had no objections as to the constitution of the Panel.
51. During the hearing the Panel heard the evidence from each of the Appellants, who had the opportunity to make a statement. The Respondent also had the opportunity to cross-examine each of the Appellants. The Panel thereafter heard the evidence from the witness called by the Respondent, Mr John Nolan, who gathered the evidence of the present matter and interviewed the Appellants on behalf of the International Tennis Integrity Agency. Before hearing the witness, the President of the Panel invited the witness to tell the truth and only the truth,

subject to sanctions of perjury under Swiss law. The witness confirmed his written witness statement. The Appellants also had the opportunity to cross-examine the witness.

52. The Parties thereafter were given full opportunity to present their case, submit their arguments and submissions and answer the questions from the Panel.
53. At the end of the hearing, the Parties confirmed that they were satisfied with the procedure throughout the hearing, and confirmed that their right to be heard had been fully respected.

IV. SUBMISSIONS OF THE PARTIES

54. This section of the Award does not contain an exhaustive list of the Parties' contentions, its aim being to provide a summary of the substance of the Parties' main arguments. In considering and deciding upon the Parties' claims in this Award, the Panel has accounted for and carefully considered all of the submissions made and evidence adduced by the Parties, including allegations and arguments not mentioned in this section of the Award or in the discussion of the claims below.

A. The Appellants

55. In their Statement of Appeal and Appeal Brief, the Appellants requested as follows:

"A la forme,

- i. DÉCLARER l'appel de MM. Mohamed Zakaria KHALIL, Soufiane EL MESBAHI et Yassir KILANI du 30 décembre 2021 recevable.

[...]

Au fond,

- ii. ANNULER dans toutes ses dispositions la Décision attaquée et prononcer la condamnation de l'ITIA à l'indemnisation des préjudices subis par l'Appelante du fait de la Décision.
- iii. CONDAMNER l'ITIA au règlement, pour chacun des Appelants, d'une indemnité, du fait des préjudices subis par ces derniers, d'un montant, à parfaire, de 400.000,00 USD.

En tout état de cause,

- vi. CONDAMNER l'ITIA au paiement des frais de l'arbitrage et à une indemnité de dépens en faveur des Appelants pour les frais encourus par cette dernière pour les besoins de la procédure devant le Tribunal arbitral du sport, y compris ses frais de défense et autres dépenses et débours exposés en lien avec cette affaire".

[Free Translation:

“As to the form,

- i. DECLARE the appeal of MM. Mohamed Zakaria KHALIL, Soufiane EL MESBAHI and Yassir KILANI of December 30, 2021 admissible.*

On the merits:

- ii. ANNUL in all its provisions the appealed decision and pronounce the condemnation of the ITLA to compensation for the damages suffered by the Appellant as a result of the Decision.*
- iii. CONDEMN the ITLA to the payment, for each of the Appellants, of an indemnity, as a result of the damages suffered by the latter, in the amount, to be completed, of 400,000.00 USD.*

In any case,

- vi. CONDEMN the ITLA to pay the costs of the arbitration and to indemnify the Appellants for the costs incurred by the latter for the purposes of the proceedings before the Court of Arbitration for Sport, including for its defense and other expenses and disbursements incurred in connection with this matter”].*

56. The Appellants’ submissions, in essence, may be summarized as follows:

- The Decision is based on evidence obtained from Belgian criminal authorities in violation of the secrecy of criminal investigations. Illegally obtained evidence is inadmissible. Therefore, the Decision, which is based on illegally obtained evidence, shall be quashed. Moreover, Article G.3.c. of the 2017 Tennis Anti-Corruption Program (“TACP”) violates the general principle of law according to which illegally obtained evidence is inadmissible.
- The TACP is only applicable to *professional* tennis events and to players participating to such *professional* events. However, the matches at stake in the present proceedings, i.e. singles and doubles matches on 19 July 2017, 7 November 2017 and 13-14 November 2017 at the 2017 ITF Futures Tournament in Morocco, are not part of a *professional* tennis event within the meaning of Article B.10 of the TACP and Annex 1, and the Appellants are not players competing in such *professional* events since they are amateur tennis players. As a result, the TACP is not applicable in the present proceedings and, in any case, the Appellants could not have accepted to be bound to the TACP by competing in the 2017 ITF Futures Tournament in Morocco.
- The TACP is inapplicable to minor amateur players. The Appellants were minors at the time of the relevant facts and the best interests of the child must take precedence over any other interest.
- The renewal of Mr El Mesbahi’s International Player’s Identification Number (“IPIN”) in 2017 was paid by Mr El Mesbahi’s uncle instead of his legal representatives, his

parents. Therefore, it cannot be concluded that by renewing his IPIN, Mr El Mesbahi could have accepted to be bound by the TACP in 2017.

- The existence of a direct link between the Players on one side, and GR and YR on the other side, is not established: despite the large-scale search by Belgian criminal authorities, no direct exchange with the Players was ever produced.
- The Appellants further deny any involvement in the fixes. YR and GS bet on their matches based on YR's knowledge of the Players and prediction of their performance in each of these matches.
- Mr El Mesbahi contends that with respect to the doubles match he played with Mr Anas Chakrouni on 19 July 2017, only his partner, Mr Anas Chakrouni, was in contact with YR and GS and he was not aware of the fix Mr Anas Chakrouni had agreed with YR. Mr Kilani and Mr Khalil both contend that YR bet on matches he knew they and their partners would lose based on the players' level. Mr Khalil further stated that with respect to his doubles match with Mr Anas Chakrouni on 13 November 2017, only Mr Anas Chakrouni was aware of the fix agreed with YR.
- Based on common understanding, it is required to establish that the Players benefitted from a financial reward in order for the match-fixing offence to be established. However, no financial gain to the benefit of the Appellants was ever demonstrated. The list of payments made via Moneygram do not show the name of the Appellants.
- Based on ITIA's own investigation, no suspicious bets were placed on the matches at stake in the present proceedings, i.e. singles and doubles matches on 19 July 2017, 7 November 2017 and 13-14 November 2017 at the 2017 ITF Futures Tournament in Morocco involving the Players.
- Belgian criminal authorities never condemned, let alone convened, the Appellants in relation to alleged match-fixing at the 2017 ITF Futures Tournament in Morocco.
- By publishing the Decision as well as the decision on 13 July 2021 by the AHO to provisionally suspend the Players, the ITIA violated Article G.4 of the edition of 2021 of the TACP ("2021 TCAP").
- The Appellants suffered significant harm as a result of the Decision and the AHO decision to provisionally suspend them. Throughout the procedure before the AHO, the Players demonstrated their integrity by fully cooperating during the investigation.

B. The Respondent

57. In its Answer, the ITIA requested as follows:

“...the Panel is invited to dismiss the Players’ appeal. Further, the Panel is invited to order that the costs of the proceedings be paid by the Players and that the Players be ordered to contribute to the Respondent’s legal costs”.

58. The ITIA’s submissions, in essence, may be summarized as follows:

- Players agreed to be bound by the TACP when they signed for an IPIN, a process during which they necessarily signed the Player Welfare Statement thereby confirming their agreement to adhere to the TACP. At the time of his registration, Mr El Mesbahi represented that Mr Jamal El Mesbahi had authority to sign as his parent or guardian and he is bound by such representation.
- The TACP expressly applies to any individual who competes in a defined category of “Events”. The definition of “Player” includes entering into any of the “Events” listed in Appendix 1, which expressly includes the “ITF Pro Circuit” and therefore the relevant ITF Futures tournaments. The TACP is therefore not limited to “professional” players and there is no exclusion for minors either.
- Moreover, the Players confirmed their agreement with the TACP in accordance with the provisions of Florida law, which governs the TACP. Indeed, as a matter of Florida law, where a contract is signed by a parent or legal guardian, it binds the minor; moreover, a minor may ratify a contract when turning 18. Hence, in accordance with Florida law, SEM and YK are bound by the TACP, which they ratified by playing under the terms of the TACP after turning 18 and/or by not disaffirming such acceptance when turning 18.
- The evidence relied upon was provided to ITIA by Belgian authorities and therefore with their full consent. Alternatively, even if the evidence had been obtained unlawfully, this would not render such evidence inadmissible, given that Article G.3.c of the TACP provides that charges under the TACP may be established by any reliable means; in addition, CAS panels are afforded considerable discretion to admit evidence and are not bound by strict rules of evidence. Finally, the present proceedings are not criminal proceedings and the Appellants’ reliance on general criminal law is therefore misconceived.
- The ITIA is not in possession of direct messages between the Players and GS or YR given that the ITIA has never been in possession of the content of the Players’ phones or YR’s phone. However, the messages from GR’s phones clearly show that GR corresponded with YR, who in turn, exchanged with the Players directly.
- Match-fixing does not require the ITIA to establish that the Players in fact received the sums agreed for the match they agreed to fix; moreover, the absence of suspicious betting does not establish that there was no match fixing. The same applies with respect to the fact that the Players were not prosecuted in Belgium.

- The Players' involvement in the fixes agreed between the corruptors (i.e. GS and YR) is evident since: (i) the messages between the corruptors contain references to YR liaising and conferring with the Players about what aspects of their matches they agree to fix and for what amount; (ii) the scores of those matches are consistent with the aspects of the fixes agreed; and (iii) the messages refer to the Players more than once, indicating that the Players agreed to be involved in the fixes. The Panel shall consider the following evidentiary elements:
 - Doubles Match by Mr El Mesbahi and Anas Chakrouni against Messrs Benitez and Smith on 19 July 2017 at ITF F1 Futures Tournament:
 - The WhatsApp messages show that on the day of the match, GS made various offers to YR for Mr El Mesbahi and his partner Mr Anas Chakrouni to fix the match, to which YR replied positively. Mr El Mesbahi and Mr Anas Chakrouni lost their doubles match against Messrs Benitez and Smith 6-1, 6-2, as agreed with GS, and on 13 August 2017, GS sent a Moneygram transfer receipt for a payment of a total of \$2.800, which included the agreed amount of \$1.300 for the present fix.
 - Mr Anas Chakrouni was found to have committed violations of the TACP for failing to report knowledge or suspicion of Mr El Mesbahi's involvement in match-fixing of the doubles match, and did not appeal. It is therefore established that the doubles match was fixed and that Mr Anas Chakrouni engaged in corrupt conduct.
 - Singles Match by Mr El Mesbahi against Mr Grigelis on 7 November 2017 at the ITF F5 Futures Tournament:
 - The WhatsApp messages show that on the day of the match, GS and YR agreed on a fix involving Mr El Mesbahi's match that day and as agreed between GS and YR, Mr El Mesbahi lost his singles match as agreed between GS and YR.
 - Doubles Match by Mr El Mesbahi and Mr Kilani against Messrs Kolly and Tashi on 7 November 2017 at the ITF F5 Tournament in Morocco:
 - The WhatsApp messages show that on the day of the match, GS made offers regarding the doubles match by Mr El Mesbahi and Mr Kilani. The messages show that YR was acting as intermediary between the players involved in the match and GS. Once the conditions for the fix were agreed, as shown by the WhatsApp messages, Mr El Mesbahi and Mr Kilani went on to lose their doubles match as agreed. SB Tech/Netbet informed the ITIA that it had identified a suspicious bet placed on the Mr El Mesbahi and Mr Kilani doubles match.

○ Singles Match by Mr Khalil against Mr Borella on 7 November 2017 at the ITF F5 Futures in Morocco:

- The exchange of WhatsApp messages shows that on the day of the match, on 7 November 2017, GS sent an offer to YR for the fix of the match involving Mr Khalil that day, and that, following a discussion about the amount to be paid to Mr Khalil for the fix, the conditions for the fix were agreed. Mr Khalil went on to lose the match 6-2, 6-0 as agreed between GS and YR. Suspicious betting was identified on this match.

○ Doubles Match by Mr Khalil and Mr Anas Chakrouni against Messrs. Onken and Von Massow on 13 November 2017 at the ITF F6 Futures in Morocco:

- The WhatsApp messages show that on the day of the match, GS messaged his offer to YR for the fix of Mr Khalil's match that day, which YR confirmed. Mr Khalil and Mr Anas Chakrouni went on to lose the match as agreed in the fix. On 20 November 2017, GS sent YR two messages stating that the agreed amount had been sent by Moneygram transfer.
- Mr Anas Chakrouni was found to have committed violations of the TACP for failing to report knowledge or suspicion of Mr Khalil's involvement in match-fixing of the doubles match, and did not appeal. It is therefore established that the doubles match was fixed and that Mr Anas Chakrouni engaged in corrupt conduct.

○ Singles Match by Mr El Mesbahi against Mr Gakhov on 14 November 2017 at the ITF F6 Futures Tournament:

- The WhatsApp messages show that on the day of the match, GS made an offer for the fix of Mr El Mesbahi's match. The messages show that YR discussed with Mr El Mesbahi about the conditions of the offer before confirming the agreement with the conditions of the fix. Mr El Mesbahi lost his singles match as agreed between YR and GS.

○ Doubles Match by Mr El Mesbahi and Mr Kilani against Mr Bessire and Mr Jarc on 14 November 2017 at the ITF F6 Futures Tournament:

- The WhatsApp messages show that on the day of the match, GS made an offer for the fix of the match involving Mr El Mesbahi and Mr Kilani. The messages show that YR discussed the conditions for the fix of the match with Mr El Mesbahi and Mr Kilani, before reverting to GS with their confirmation. Mr El Mesbahi and Mr Kilani went on to lose their doubles match as agreed by GS and YR.

- The ITIA did not violate the TACP by publishing the Decision since the Players were no longer minor of age *at the time of the publication* of the Decision. Moreover, based on

Section I of the TACP, the Panel has no jurisdiction to decide on the Players' claim for damages.

V. JURISDICTION

59. Article R47 of the CAS Code provides as follows:

“An 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.

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned”.

60. Section I.1 of the TACP provides as follows:

“Any Decision (i) that a Corruption Offense has been committed, (ii) that no Corruption Offense has been committed, (iii) imposing sanctions for a Corruption Offense, 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, by either the Covered Person who is the subject of the Decision being appealed, or the [Tennis Integrity Board]”.

61. The Decision clearly qualifies as a decision *“that a Corruption Offense has been committed”* or a decision *“imposing sanctions for a Corruption Offense”*. As a result, the CAS has jurisdiction to decide on the issues under appeal. Moreover, the Respondent does not contest the jurisdiction of the CAS to decide on the appeal against the Decision, which is confirmed by the fact it signed the Order of Procedure.

VI. ADMISSIBILITY

62. Article R49 of the CAS Code provides as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties”.

63. Section I.3 of the TACP provides that *“[t]he deadline for filing an appeal with CAS shall be twenty business days from the date of receipt of the Decision by the appealing party”*.

64. The Panel notes that the present appeal was filed with the CAS Court Office on 30 December 2021, i.e. within the time limit provided for in the TACP. The Panel further notes that the other requirements set out under Article R49 of the CAS Code are also fulfilled and that no objection thereto was raised by the Respondent. The present appeal is therefore admissible.

VII. APPLICABLE LAW

65. Article R58 of the CAS Code provides as follows:

“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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

66. Section K.3 of the TACP provides as follows: *“This Program shall be governed in all aspects (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”.*
67. In light of the alleged offenses and the date of the relevant facts, the Panel shall primarily apply the regulations governing match-fixing matters, i.e. the TACP and, subsidiarily, the laws of the US State of Florida as the law chosen by the Parties. The Panel shall revert to the applicability of the TACP to each of the Appellants for each of the matches at stake in the section regarding the merits.

VIII. PROCEDURAL ISSUES

68. The Panel notes that by letter of 21 and 25 February 2022 to the CAS Court Office, the Appellants requested the Panel that the Respondent’s Answer be declared inadmissible as it was allegedly filed after the end of the prescribed time limit. The ITIA objected on 28 February 2022 explaining its calculation of the time limit. On 23 May 2022, the CAS Court Office informed the Parties that the Panel had decided to admit the Respondent’s Answer to the case file.
69. The Panel recalls the following timeline of events:
- on 3 January 2022, the ITIA received a copy of the exhibits to the Statement of Appeal by email (but not of the Statement of Appeal itself);
 - on 4 January 2022, the ITIA received a copy of the Statement of Appeal by courier;
 - on 5 January 2022, the CAS Court Office suspended all procedural deadlines as from that day until new order;
 - on 6 January 2022, the Appellants informed the CAS Court Office that their Statement of Appeal would be considered as their Appeal Brief;

- on 31 January 2022, the CAS Court Office informed the Parties that the suspension of all procedural deadlines was lifted from that day; and
 - on 21 February 2021, the ITIA filed its Answer with the CAS Court Office.
70. Based on the above timeline as well as Articles R32 and R55 of the CAS Code, the Panel finds that the Answer was filed in a timely manner and is thus admissible. The time limit to file the Answer did in any case not start to run on 3 January 2022, as argued by the Appellants, since on that date the ITIA was not in possession of the Statement of Appeal nor did it know that such Statement of Appeal shall be considered as Appeal Brief. In the Panel's view, the Appellants' contention is therefore misconceived and is dismissed.

IX. MERITS

71. In light of the Parties' submissions, the Panel must first determine whether, in its view, the Appellants committed the alleged violation of Sections D.1 and D.2 of the TACP. To this end, the Panel must decide on the following issues:
- applicability of the TACP in the present matter;
 - alleged violation of Sections D.1 and D.2 of the TACP for each of the Appellants; and
 - consequences for the Appellants.
72. Before going through the evidence for each of the Appellants, the Panel will first recall specific evidentiary issues.

A. Evidentiary Issues

❖ *Burden of Proof*

73. The Panel first turns to the issue of burden of proof. The principles in relation to burden define which party has the obligation to persuade the Panel as to the establishment of an alleged fact. Except where an agreement would determine otherwise, the arbitral tribunal shall allocate the burden of proof in accordance with the rules of law governing the merits of the dispute, i.e. the *lex causae* (BERGER/KELLERHALS, International and Domestic Arbitration in Switzerland, 2015, No. 1316).
74. As set out *supra*, the *lex causae* in the matter at hand is primarily the TACP and, subsidiarily, the laws of the US State of Florida, as the law chosen by the Parties.
75. In the present matter, the Panel recalls that pursuant to Section G.3.a. of the TACP, "[t]he PTIO ["Professional Tennis Integrity Officer"] ... shall have the burden of establishing that a

Corruption Offense has been committed". The Panel therefore finds that the burden of proving the alleged facts lies with the ITIA.

76. That said, according to the principle *actori incumbit probatio*, each party shall bear the burden of proving the specific facts and allegations on which it relies. This is all the more relevant when, as noted in several CAS precedents, while assessing the evidence, this Panel has to bear in mind that "*corruption is, by nature, concealed as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoing*" (CAS 2010/A/2172, para. 54; 2014/A/3537, para. 82). In addition, as was stated in CAS 2014/A/3537, "[t]he more detailed are the factual allegations, the more substantiated must be their rebuttal". As a result, the Appellants therefore have a certain duty to contribute to the administration of proof in the present matter, by presenting evidence in support of their line of defence.

❖ **Standard of Proof**

77. The standard of proof is defined as the level of conviction that is necessary for the Panel to conclude that a certain fact is established, and is a question of the *lex causae*, hence the TACP primarily and the law of the US State of Florida subsidiarily (HASENBÖHLER F., Kommentar zur Schweizerischen Zivilprozessordnung, 2016, No. 20 to Art. 147 SPC).
78. Pursuant to Section G.3.c. of the TACP, "*the standard of proof shall be whether the PTIO has established the commission of the alleged Corruption Offense by a preponderance of the evidence*". Under the preponderance standard, the burden of proof is met when the party bearing the burden convinces the fact finder that there is a greater than 50% chance that the fact claimed is established. In applying this standard, the Panel has assessed the evidence before it bearing in mind the seriousness of the offences with which the Player has been charged. While this does not affect the applicable standard, the Panel is of the view that it should have a high degree of confidence in the quality of the evidence upon which its findings are based (CAS 2011/A/2490, para 40; CAS 2020/A/7129 &7130).

❖ **Admissibility of Evidence**

79. In the present matter, the Appellants contend that the Decision is based on evidence obtained from Belgian criminal authorities in violation of the secrecy of criminal investigations and, as a result, shall be quashed. The Appellants also contend that Article G.3.c. of the TACP violates the general principle of law according to which illegally obtained evidence shall be inadmissible. The Respondent submits that the evidence obtained by Belgian criminal authorities is wholly admissible in the present proceedings.
80. The admissibility of the evidence is an issue governed by the law applicable to the procedure (BERGER/KELLERHALS, International and Domestic Arbitration in Switzerland, 2015, No. 1318; GIRSBERGER/VOSER, International Arbitration, 4th ed. 2021, p 984). Thus, this issue must be assessed in light of Swiss Law, namely Article 182 of the PILA.

81. Based on Article 182(1) of the PILA, the Parties agreed – with respect to the applicable provisions – on the CAS Code. The Panel must therefore assess the question of the admissibility of the evidence by first looking at the provisions of the CAS Code. The provisions on taking of evidence in CAS proceedings are set out in Articles R44.2 and R44.3 of the CAS Code. These provisions – even though located in the chapter dealing with ordinary arbitration proceedings – are also applicable to the appeals arbitration proceedings at hand vis-à-vis Article R57(3) of the CAS Code. The Panel notes, however, that these provisions are silent in relation to the question of admissibility of the evidence before the CAS. The same is true for the PILA and the TACP. As a result, the Panel must have regard to Article 182(2) of the PILA according to which – absent any agreement of the Parties – the arbitral tribunal shall determine the law applicable to the procedure either directly or by reference to a law or to arbitration rules.
82. In the context of Article 182(2) of the PILA, i.e. when determining the procedure applicable to the admissibility of the evidence, the Panel is guided by Section G.3.c. of the TACP, which provides:

“[t]he AHO [Anti-Corruption Hearing Officer] 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”.
83. The Panel therefore finds that the standard applicable to the admissibility of the evidence before this Panel is whether the evidence adduced by the Parties may be said to be “reliable” within the meaning of Section G.3 of the TACP.
84. Hence, even if the evidence from Belgian criminal authorities had been obtained by illegal means, the Panel finds that the AHO still has the discretionary power to validly rely on such evidence to demonstrate the existence of the alleged offenses.
85. Moreover, in the Panel’s view, there is no evidence on the record to support the Appellant’s contention that the evidence on file was illegally obtained by Belgian criminal authorities, or illegally provided to the ITIA.
86. Finally, Article 182(3) of the PILA provides limits to the procedural rules chosen by either the parties or the arbitrators. The provision states that *“regardless of the procedure chosen, the arbitral tribunal shall guarantee the equal treatment of the parties and their right to be heard in adversarial proceedings”*. Furthermore, the legal literature indicates that further limits to the law applicable to the procedure also derive from the procedural public order (KAUFMANN-KOHLER/RIGOZZI, International Arbitration – Law and Practice in Switzerland, 2015, p 6.39).
87. The Panel finds Section G.3.c of the TACP to be in line with the law of international arbitration, which generally provides that *“the arbitral tribunal is not bound to follow the rules applicable to the taking of evidence before the courts of the seat”* (POUDRET/BESSON, Comparative Law of International Arbitration, 2007, no. 644) and that an arbitrator’s discretionary power to decide on the admissibility of evidence is only limited by procedural public order. In the present matter, there is no evidence whatsoever that admitting the evidence, which was

collected by the Belgian criminal authorities in the framework of a criminal investigation in Belgium and thereafter provided to the ITIA by same authorities with their full consent, would violate procedural public order. The Panel therefore concludes that the evidence on file that was obtained from Belgian criminal authorities is admissible.

❖ ***Evaluation of Evidence***

88. The Panel shall revert to the evidentiary weight of the evidence when examining the alleged commission of an offence under the TACP by each of the Appellants. The Panel however wishes to clarify a few general principles as to the evaluation of evidence applicable to this case, and to offer a few remarks of a more general nature.
89. The CAS Code does not contain any provision as to the assessment of evidence in CAS proceedings. According to scholars, the principle of free evaluation of evidence (“*libre appréciation des preuves*”) is applicable in international arbitration in general, and in CAS proceedings particularly (NOTH/HAAS, Arbitration in Switzerland: the Practitioner’s Guide, 2nd edition, Article 44, para. 27). Similarly, pursuant to Section G.3.c. of the TACP: “[t]he AHO [*Anti-Corruption Hearing Officer*] 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”. The Panel therefore notes that it shall freely evaluate the evidence brought forward by the Parties.
90. In the present matter, the Panel is required to consider both direct evidence and circumstantial evidence. Direct evidence is evidence that, if believed, directly proves a fact. Circumstantial evidence differs since it requires a trier of fact to draw an inference to connect it with a conclusion of fact (CAS 2019/A/6443 and CAS 2019/A/6593, para. 145). In other words, “*Circumstantial evidence might be compared to a rope comprised of several cords: one strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength*” (CAS 2018/O/5713, para. 61). In a case involving alleged acts of corruption like the present one, circumstantial evidence may be especially pertinent since, as noted above, “*corruption is, by nature, concealed as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoing*” (CAS 2010/A/2172, para. 54; 2014/A/3537, para. 82).

B. The Applicability of the TACP in the present matter

91. In light of the submissions of the Parties and in any case before being able to delve into the analysis of the evidence for each of the Appellants and each of the matches concerned, the Panel will examine the applicability of the TACP in the present matter. To this end, it shall verify whether the TACP applies to competitions at stake, i.e. the singles and doubles matches that were held on 19 July 2017, 7 November 2017 and 13-14 November 2017 at the 2017 ITF Futures Tournament in Morocco and whether the TACP applies to the Appellants who were participating to this tournament as minors.

➤ ***ITF Futures Tournaments as an “Event” within the meaning of the TACP***

92. The Appellant argues that the TACP is only applicable to *professional* tennis events, which is not the case for the singles and doubles matches that were held on 19 July 2017, 7 November 2017 and 13-14 November 2017 at the 2017 ITF Futures Tournament in Morocco. For its part, the Respondent contends that each of these matches qualify as an “Event” within the meaning of the TACP.
93. The Panel notes that according to Section B.10 of the TACP, the term “Event” “*refers to those professional tennis matches and other tennis competitions identified in Appendix 1*”. Based on the provision, the TACP applies to professional tennis matches as well as to those other tennis competitions that are listed in Appendix 1 to the TACP. Such Appendix 1 includes the “ITF Pro Circuit” and therefore the relevant ITF Futures Tournaments. Consequently, the Panel has no difficulty in concluding that the ITF Tournament in Morocco qualifies as an “Event” within the meaning of the TACP.

➤ ***The Appellants as “Covered Persons” within the meaning of the TACP***

94. Similarly, the Appellants contend that the TACP applies only to players who are able to participate in professional competitions. The Respondent objects to such view considering that the Appellants are covered by the TACP. The Panel notes that according to Section B.6 of the TACP, the term “Covered Person” refers to “*any Player*” and that, under Section B.18, the term “Player” refers to “*any player who enters or participates in any Event*”. Since the ITF Futures Tournament in Morocco qualifies as an “Event”, the Appellants, who participated as players to such tournament, logically qualify as “Player” under the TACP.
95. The Appellants further argue that they could not have validly agreed to the terms of the TACP since they were minors at the time of the relevant facts. The Respondent contends that the Appellants validly accepted the terms of the TACP by signing for an IPIN.
96. The Panel first notes that there is no indication whatsoever in the TACP that a player who is a minor could not be bound by the TACP. To the contrary, tournaments such as the ITF Futures Tournament may involve players who are minors. Moreover, according to Section C of the TACP, “*[a]ll Players [...] 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 Tennis Integrity Unit Privacy Policy. [...] It is the responsibility of each Player [...] to acquaint himself or herself with all of the provisions of this Program [...]*”. The term “all Players” does not on its face exclude minors.
97. Indeed, in order to play the tournaments at stake, which are organised under the jurisdiction of the ITF, players must register for and hold an ITF IPIN, which requires the players’ signature of the Player Welfare Statement confirming his/her agreement with the rules of tennis, including, specifically, the TACP. In the case of minors, the IPIN registration process informs the player that the minor’s parent or legal guardian should sign the IPIN on the minor’s behalf. In the present case, the Appellants each signed for an IPIN in 2017, i.e. the year in which the alleged offences occurred, and each of their registration was confirmed by a parent or a legal guardian:

- ❖ Mr Khalil registered and paid for an IPIN from 2011 to 2018. On 4 April 2017, while Mr Khalil was still a minor, the IPIN was signed by Jamal Khalil. Mr Khalil undertook the ITIA’s online tennis integrity training called TIPP on several occasions, on 18 February 2016, 16 March 2017 and 16 May 2017.
 - ❖ Mr El Mesbahi registered and paid for an IPIN from 2013 to 2019. On 17 January 2017, whilst he was still a minor, the IPIN was signed by Mr Jamal El Mesbahi. Mr El Mesbahi contends that Mr Jamal El Mesbahi is his uncle not his father, and therefore had no power to commit on his behalf. The Panel is however of the view that the at the time of registering for the IPIN, Mr El Mesbahi represented that Mr Jamal El Mesbahi had authority to sign as his parent or guardian and, in the Panel’s view, he is bound by such representation. Mr El Mesbahi undertook TIPP on 18 March 2017 and 21 July 2017.
 - ❖ Mr Kilani registered and paid for an IPIN from 2013 to 2019. On 12 February 2017, whilst he was still a minor, the IPIN was signed by Mr Abdelkader Ader Kilani. Mr Kilani undertook TIPP on 23 October 2016 and 20 June 2019.
98. For the sake of completeness, the Panel further notes that according to the law of the US State of Florida, which is the law governing the TACP, where a contract is signed by a parent or a legal guardian on behalf of a minor, it binds the minor. Hence, the Players validly accepted the terms of the TACP. As a result, the Panel finds that the Players are subject to the rules of the TACP.

C. The Alleged Violation of Section D.1.d and Section D.2.a.i and ii of the TACP by the Appellants

99. The alleged corruption offenses at stake in the present matter are the followings:

Section D.1.d of the TACP, which provides as follows:

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

Section D.2.a.i of the TACP, which states:

“In the event any Player is approached by any person who offers or provides any type of money, benefit or Consideration to a Player to (i) influence the outcome or any other aspect of any Event, or (ii) provide Inside Information, it shall be the Player’s obligation to report such incident to the TIU as soon as possible”.

Section D.2.a.ii of the TACP, which provides:

“In the event any Player knows or suspects that any other Covered Person or other individual has committed a Corruption Offense, it shall be the Player’s obligation to report such knowledge or suspicion to the TIU as soon as possible”.

100. Moreover, the Panel notes that Section E.2 of the TACP provides that *“For a Corruption Offence to be committed, it is sufficient that an offer or solicitation was made, regardless of whether any money, benefit or Consideration was actually paid or received”*.
101. Taking into consideration the above provisions, the Panel notes that the Players may be found to have committed one or several corruption offences under the TACP, in the following circumstances in which it is established that:
- one or all of the Appellants contrived, or attempted to contrive, the outcome of a particular match, or an aspect of that match; or that
 - one or all of the Appellants was approached by any person who offered to provide money, benefit or consideration to influence the outcome or any other aspect of a said match or provide inside information, and failed to report this to the TIU as soon as possible; or that
 - one or all of the Appellants knew or suspected that another person subject to the TACP rules committed one of the corruption offences mentioned above.
102. Based on the above, the Panel thus clarifies that in order for a corruption offence to exist, a mere *attempt* to contrive a match is actually sufficient; similarly, the fix may cover not only the outcome of a match but also one *aspect* of a particular match. Finally, contrary to what the Appellants contend, it is not necessary to show the existence of a financial reward, whether money or benefit or other consideration, for a corruption offence under the TACP to exist.
103. With this in mind, the Panel shall examine whether one or more of the above corruption offences are established for each of the Appellants in relation to each of the matches concerned.

❖ ***Mr El Mesbahi***

104. The Panel notes that Mr El Mesbahi allegedly committed corruption offences in relation to the following matches:
- (i) the Doubles Match by Mr El Mesbahi and Mr Anas Chakrouni against Messrs Benitez and Smith on 19 July 2017 at ITF F1 Futures Tournament in Morocco [Charges 1, 6 and 11];
 - (ii) the Singles Match by Mr El Mesbahi against Mr Grigelis on 7 November 2017 at the ITF F5 Futures Tournament in Morocco [Charges 2 and 7]; and
 - (iii) the Doubles Match by Mr El Mesbahi and Mr Kilani against Messrs Kolly and Tashi on 7 November 2017 at the ITF F5 Tournament in Morocco [Charges 3, 8 and 12].

- (iv) the Doubles Match by Mr El Mesbahi and Mr Kilani against Mr Bessire and Mr Jarc on 14 November 2017 at the ITF F6 Futures Tournament in Morocco [Charges 5, 10 and 13].

The Panel will examine the evidence concerning Mr El Mesbahi in relation to each of these matches in a chronological order.

- *Doubles Match by Mr El Mesbahi and Mr Anas Chakrouni against Messrs Benitez and Smith on 19 July 2017 at ITF F1 Futures Tournament in Morocco [Charges 1, 6 and 11]*

105. The Respondent contends that Mr El Mesbahi violated (i) Section D.1.d of the TACP by contriving together with Mr Anas Chakrouni an aspect of their Doubles Match against Messrs Benitez and Smith on 19 July 2017 at ITF F1 Futures Tournament in Morocco, by deliberately losing the pair's third service games in each set; (ii) Section D.2.a.i of the TACP by failing to report the corrupt approach made to him by YR in respect of the same match; and (iii) Section D.2.a.ii of the TACP by failing to report his knowledge or suspicion that Mr Anas Chakrouni had committed corruption offences. Mr El Mesbahi denies any involvement in any match-fixing and contends that YR was betting on matches he knew he and his partner would lose, as he knows the players' level. Moreover, Mr El Mesbahi contends that YR was in direct contact with Mr Anas Chakrouni, not him, and that he was not aware of the match-fixing.
106. The Panel notes that on the day of the match, on 19 July 2017, GS sent the following screenshot to YR:



107. Together with the screenshot, GS messaged YR: “*3rd break in both sets > 800 + 500*”, to which YR replied “*Ok*”, and GS sent YR, “*2nd set > 6-0 > 1500 + 500*”. In reply, YR said, “*Okay, I’ll pass it along*”. At 09:52, GS sent the following, “*1st set: 2nd break. 2nd set: 6/0 > 2000 + 500*”, to which YR replied “*Ok*”. Around 45 minutes later, at 10.36am, GS asked YR, “*Have you heard anything*”. YR replied “*Yes*”.
108. Mr El Mesbahi and Mr Anas Chakrouni played their doubles match against Messrs Benitez and Smith from 17.23 to 18.05pm on 19 July 2017. Mr El Mesbahi and Mr Anas Chakrouni lost their doubles match 6-1, 6-2, losing their third service game in both sets: Mr Anas Chakrouni served the pair’s third service game in the first set and Mr El Mesbahi served the pair’s third service game in the second set. Mr El Mesbahi served three double faults in the relevant game.
109. At 16:56 on 19 July 2017, YR sent GS two “thumbs up” emojis. GS replied “*Yes... you have 1.3 with me*”.
110. On 31 July 2017, GS informed YR that “*you got 1.3 + 1.5 = 2.8*”. On 3 August 2017, YR asked GS if he should “*send the name*”, to which GS responded “*Yes... it’s 2.8*”. YR then sent GS the name of Brahim Talal. On 13 August 2017, GS sent a Moneygram transfer receipt for a payment of a total of \$2,800 to Brahim Talal in Morocco from an individual called Harutyun Meloyan in Armenia.
111. The Panel finds that, considered altogether, the above evidence appears to be reliable and credible. GS made several offers to YR. In the Panel’s view, one of these offers, which was drafted as “*3rd break in both sets > 800 + 500*”, can reasonably be interpreted to mean that GS offered Mr El Mesbahi and Mr Anas Chakrouni \$800, with YR receiving \$500 by way of commission, if they lost their third service game in both sets. In the Panel’s view, the correspondence between those detailed conditions of the fix, involving losing the third service game in each set, and the fact that Mr El Mesbahi indeed lost the third service game of the relevant set, by serving several double faults, as well as the exchange of messages after the match with respect to the match results and the payment to be made, constitute strong corroborating evidence. Finally, the Panel also notes that Mr El Mesbahi’s partner, Mr Anas Chakrouni, was found guilty of having fixed the same match, in accordance with the agreed terms of the fix, which makes Mr El Mesbahi’s double faults in the relevant game and set all the more suspicious.
112. As a result, the Panel finds that, considered altogether, there is sufficient evidence to conclude that Mr El Mesbahi contrived the outcome of the doubles match he played with Mr Anas Chakrouni on 19 July 2017 in Morocco, and that he failed to report the offer that was made to him by YR to contrive the outcome of the said match. Finally, since it is established that both Mr Anas Chakrouni and Mr El Mesbahi contrived the outcome of the said match, and that, in the Panel’s view, there is no doubt that they acted in concertation, the Panel finds that Mr El Mesbahi failed to report his knowledge or suspicion of Mr Anas Chakrouni’s corruption offences in relation to the said match. On the basis of the record before it, the Panel finds that the charges 1, 6 and 11 in the Notice of Charge concerning Mr El Mesbahi are therefore well founded.

➤ *Singles Match by Mr El Mesbahi against Mr Grigelis on 7 November 2017 at the ITF F5 Futures Tournament in Morocco [Charges 2 and 7]*

113. The Respondent contends that Mr El Mesbahi violated (i) Section D.1.d of the TACP by contriving an aspect of his singles Match against Mr Grigelis on 7 November 2017 at ITF F5 Futures Tournament in Morocco, by deliberately losing his third service games in each set; and (ii) Section D.2.a.i of the TACP by failing to report the corrupt approach made to him by YR in respect of the same match. Mr El Mesbahi denies any involvement in any match-fixing and contends that YR was betting on matches he knew he would lose, as he knows the player's level.

114. On 7 November 2017, at 08:56, GS sent the following screenshot:



115. Together with the screenshot, GS messaged YR, “3rd break in both sets > 700 + 300... But please tell him to be careful”. YR asked, “6/0? How much?”, to which GS replied, “No 6/0 I don’t do with him”. YR responded, “He says he won’t take any risk” [“Il dit qu’il prendras [sic] aucun risque”], but GS replied “No, please, youn [sic] don’t” [“nan stp youn”] to which YR answered “Ok”. At 10.59am, GS sent YR a summary of the fixes that had been agreed, which included a fix relating to Mr El Mesbahi’s single match of the same day. The first line of that summary was: “Mesbahi single ok, 1.0”. YR replied “Yes”.

116. Mr El Mesbahi lost his singles match 6-1, 6-3, losing his third service game in both sets.
117. After the match, at 15:58, GS sent to YR the following list:

“Merbahi single ok, 1.0
Khalil single ok, 2.5
Kilani single ok, 2.5
Kilani single ok, 2.5
Chakrouni double, 1.0
Mesbahi double 1.7
0.3 bonus
> 9.0
+1.5
... 10.5”

YR replied *“Exact”*. Then, GS wrote *“If you have the names, it would be good”*, to which YR replied *“Yes, I’ll give them right away”* and he forwarded four different identities. GS wrote *“2,000 each?”* *“Or 2,500?”*, to which YR replied *“2500”*, and GS wrote *“Ok”*. YR wrote *“Last one you send 3.0”* and GS replied *“Oki”*.

118. In the Panel’s view, the exchange of messages constitutes strong evidence of Mr El Mesbahi’s involvement in the match-fixing of the said match. The only reasonable interpretation of the terms of the offer made by GS and agreed upon by YR is that Mr El Mesbahi would receive \$700, with YR receiving a commission in the amount of \$300, if Mr El Mesbahi lost his third service game in both sets of the said match. In addition, the fact that YR tried to convince GS to accept to fix the set score instead of the breaks stating that *“He says he won’t take any risk”*, “he” unambiguously referring to Mr El Mesbahi, leaves almost no room for doubt in the Panel’s view. This evidence is furthermore corroborated by the correspondence between the terms of the fix and the reality, Mr El Mesbahi losing his third service game in both sets, as well as by the exchange of messages with respect to the amount due and the payment data once said match was over. In particular, in the Panel’s view, *“Merbahi single ok, 1.0”* refers to the singles match played by Mr El Mesbahi against Mr Grigelis on 7 November 2017, for which GS was to pay \$1,000 to YR.
119. As a result, the Panel finds that, considered altogether, there is sufficient evidence on the record to establish that Mr El Mesbahi contrived the outcome of the singles match he played on 7 November 2017 in Morocco, and that he failed to report the offer that was made to him by YR to contrive the outcome of the said match. The Panel finds that the charges 2 and 7 in the Notice of Charge concerning Mr El Mesbahi are therefore well founded.
- *Doubles Match by Mr El Mesbahi and Mr Kilani against Messrs Kolly and Tashi on 7 November 2017 at the ITF F5 Tournament in Morocco [Charges 3, 8 and 12].*
120. The Respondent contends that Mr El Mesbahi violated (i) Section D.1.d of the TACP by contriving together with Mr Kilani an aspect of their doubles match against Messrs Kolly and Tashi on 7 November 2017 at ITF F5 Futures Tournament in Morocco, by deliberately losing

the pair's third service games in each set and losing the second set; (ii) Section D.2.a.i of the TACP by failing to report the corrupt approach made to him by YR in respect of the same match; and (iii) Section D.2.a.ii of the TACP by failing to report his knowledge or suspicion that Mr Kilani had committed corruption offences. Mr El Mesbahi denies any involvement in any match-fixing and contends that YR was betting on matches he knew he and his partner would lose based on the players' level.

121. On 7 November 2017 at 10:02 am, GS sent the following screen shot to YR:



122. Right after, at 10.03am, GS sent the following: “2nd set + 3rd break > 1000 + 500” and “3rd break in both sets > 700 + 300”. Later, at 12.42pm, GS sent YR a message as follows: “Double Mesbahi? Any news?”. YR said, “Not yet... I’m gonna get them on the telephone”. Six minutes later, YR messaged, “They want 1500 for the doubles... second set plus 3rd break”. GS replied, “1500 + 500... I couldn’t... 1200 + 500... Ok”. YR replied, “I’m asking them”. Around 20 minutes later, YR said, “Confirmed... For double... 1200 + 500”. GS replied, “Yes... 2rd [sic] set + 3rd break... Confirmed”. YR said, “Yes”.
123. Mr El Mesbahi and Mr Kilani went on to lose their doubles match 6-0, 6-4, including losing their third service game and the second set. The Panel further notes that SB Tech/Netbet informed the ITIA that it had identified a suspicious bet placed on Mr El Mesbahi and Mr Kilani losing their second set in the doubles match at stake, indicating that this was the customer’s second bet only. Moreover, the same account was used to bet on both this match and Mr Khalil’s single match of the same day, on aspects allegedly fixed.

124. After the match, at 15:58, GS sent to YR the following list:

*“Merbahi single ok, 1.0
 Kbalil single ok, 2.5
 Kilani single ok, 2.5
 Kilani single ok, 2.5
 Chakrouni double, 1.0
 Mesbahi double 1.7
 0.3 bonus
 > 9.0
 +1.5
 ... 10.5”*

YR replied “Exact”. Then, GS wrote “*If you have the names, it would be good*”, to which YR replied “*Yes, I’ll give them right away*” and he forwarded four different identities. GS wrote “*2,000 each?*” “*Or 2,500?*”, to which YR replied “*2500*”, and GS wrote “*Ok*”. YR wrote “*Last one you send 3.0*” and GS replied “*Ok*”.

125. The Panel finds that evidence is reliable and strong. The exchange of messages clearly shows that GS and YR are discussing the terms of the fix for the doubles match of Mr El Mesbahi and Mr Kilani against Messrs Kolly and Tashi on the same day; in addition, the last offer can only reasonably be interpreted to mean that Mr El Mesbahi and Mr Kilani would receive \$1,200, and YR would receive a commission of \$500, if Mr El Mesbahi and Mr Kilani lost the second set and third service game. Moreover, the messages show that Mr El Mesbahi and Mr Kilani were involved in the discussions regarding the terms of the fix since YR made a counter offer to GS on behalf of Mr El Mesbahi and Mr Kilani, to whom he referred several times as “they” or “them”. Finally, the match results, and the betting alert showing that a suspicious bet was placed on this match, corroborate the evidence on the case file.
126. As a result, the Panel finds that, considered altogether, there is sufficient evidence on the record that Mr El Mesbahi contrived the outcome of the doubles match he played on 7 November 2017 in Morocco with Mr Kilani, and that he failed to report the offer that was made to him by YR to contrive the outcome of the said match. Moreover, since Mr Kilani is guilty of contriving the outcome of the same doubles match (see below para.146), and that, in the Panel’s view, there is no doubt that Mr Kilani and Mr El Mesbahi acted in concertation, it is also established that Mr El Mesbahi failed to report the offences committed by Mr Kilani. The Panel therefore finds that the charges 3, 8 and 12 in the Notice of Charge concerning Mr El Mesbahi are confirmed.
- *Doubles Match by Mr El Mesbahi and Mr Kilani against Mr Bessire and Mr Jarc on 14 November 2017 at the ITF F6 Tournament in Morocco [Charges 5, 10 and 13].*
127. The Respondent contends that Mr El Mesbahi violated (i) Section D.1.d of the TACP by contriving together with Mr Kilani an aspect of their doubles match against Messrs Bessire and Jarc on 14 November 2017 at ITF F6 Futures Tournament in Morocco, by deliberately losing the pair’s third service games in each set; (ii) Section D.2.a.i of the TACP by failing to

report the corrupt approach made to him by YR in respect of the same match; and (iii) Section D.2.a.ii of the TACP by failing to report his knowledge or suspicion that Mr Kilani had committed corruption offences. Mr El Mesbahi denies any involvement in any match-fixing and contends that YR was betting on matches he knew he and his partner would lose based on the players' level.

128. On 14 November 2017, GS sent a screenshot identifying a singles match played by Mr El Mesbahi on that same day and GS and YR exchanged messages about this match. Later on, at 12:14, GS wrote the following, *"he plays doubles too... he wants to do something?"*. Then, at 12:49, GS messaged: *"3rd break in both sets > 700 + 300"*. YR replied, *"For the double he asks as Hirs 800 + 400"*. GS eventually said, *"okay, let's do 0.8 + 0.2, so I try to get back some of what I lost"*. YR then said, *"I'm checking with them"*, before, 20 minutes later, adding, *"Confirmed for double"*. GS clarified, *"3rd break in both sets"* and YR replied, *"Yes"* at 15:31. At 16:09, GS messaged *"Youn, when are they playing?"*. At 16:11, YR replied *"In 5 mins"*.

129. The said match took place from 16:27 to 17:20. Mr El Mesbahi and Mr Kilani lost their doubles match 6-1, 6-3, losing their third service games in both sets. Shortly after the doubles match, at 17:41, GS told YR, *"It's done... 1.2 + 1.0"*. YR reminded GS that there was also *"yesterday's game"* and GS agreed, *"3.4 total"*. On 20 November 2017, GS sent YR two messages stating that \$1,700 had been sent by Moneygram transfer. GS also said that *"the other I'm gonna do sometime this week"*. On 22 November 2017, GS sent YR a photograph of a Western Union transfer receipt in the sum of \$1,700.

130. In the Panel's view, the above messages clearly show that GS made an offer to YR for Mr El Mesbahi and Mr Kilani to fix the outcome of the doubles match later that day, according to which Mr El Mesbahi and Mr Kilani would receive \$800, and YR would receive a commission in the amount of \$200, if Mr El Mesbahi and Mr Kilani did lose the third service games in both sets. Moreover, the messages show that Mr El Mesbahi and Mr Kilani were directly involved in the negotiations of the terms of the fix since YR made a counter offer to GS on behalf of Mr El Mesbahi and/or Mr Kilani, according to which *"For the double he asks as Hirs 800 + 400"*, "he" referring to either Mr Kilani or Mr El Mesbahi; later, YR confirmed that he would check whether Mr Kilani and Mr El Mesbahi accepted the terms of GS' final offer, saying *"I'm checking with them"*, "them" undoubtedly referring to Mr El Mesbahi and Mr Kilani. The answer of YR to GS, *"Confirmed for double"* shows that an agreement was reached on the conditions of the fix between GS, YR, Mr El Mesbahi and Mr Kilani. The Panel also notes that the timing of the agreement, i.e. approximately one hour before the start of the doubles match in which Mr El Mesbahi and Mr Kilani were playing as partners, and that of the message by GS to YR *"it's done"*, some minutes after the end of the said doubles match, leaves no room for doubt that the terms of the fix concerned the doubles match played by Mr El Mesbahi and Mr Kilani against Mr Bessire and Mr Jarc. Finally, the match results and the exchange concerning the payments of the agreed amounts corroborate the evidence resulting from the messages.

131. The Panel therefore finds that, considered altogether, there is sufficient evidence on the record that Mr El Mesbahi contrived the outcome of the doubles match he played on 14 November 2017 in Morocco with Mr Kilani, and that he failed to report the offer that was made to him

by YR to contrive the outcome of said match. Moreover, since Mr Kilani is guilty of contriving the outcome of the same doubles match together with Mr El Mesbahi (see below para. 149), and that, in the Panel's view, there is no doubt that Mr Kilani and Mr El Mesbahi acted in concertation, it is also demonstrated that Mr El Mesbahi failed to report the offences committed by Mr Kilani. The Panel therefore finds that the charges 5, 10 and 13 in the Notice of Charge concerning Mr El Mesbahi are confirmed.

❖ **Mr Kilani**

132. The Panel notes that Mr Kilani allegedly committed corruption offences in relation to the following matches:

- (v) Doubles Match by Mr El Mesbahi and Mr Kilani against Messrs Kolly and Tashi on 7 November 2017 at the ITF F5 Tournament in Morocco [Charges 2, 5 and 7].
- (vi) Doubles Match by Mr El Mesbahi and Mr Kilani against Mr Bessire and Mr Jarc on 14 November 2017 at the ITF F6 Futures Tournament in Morocco [Charges 3, 6 and 8].

The Panel shall examine the evidence concerning Mr Kilani in relation these matches in a chronological order.

➤ *Doubles Match by Mr El Mesbahi and Mr Kilani against Messrs Kolly and Tashi on 7 November 2017 at the ITF F5 Tournament in Morocco [Charges 2, 5 and 7].*

133. The Respondent contends that Mr Kilani violated (i) Section D.1.d of the TACP by contriving together with Mr El Mesbahi an aspect of their doubles match against Messrs Kolly and Tashi on 7 November 2017 at ITF F5 Futures Tournament in Morocco, by deliberately losing the pair's third service games in each set and losing the second set; (ii) Section D.2.a.i of the TACP by failing to report the corrupt approach made to him by YR in respect of the same match; and (iii) Section D.2.a.ii of the TACP by failing to report his knowledge or suspicion that Mr Kilani had committed corruption offences. Mr Kilani denies any involvement in any match-fixing and contends that YR was betting on matches he knew he and his partner would lose based on the players' level.

134. The Panel already found that the exchange of messages between GS and YR on 7 November 2017, i.e. the day of the doubles match at stake, combined with the match results and the betting alert with respect to the said match, constitute sufficient evidence that Mr El Mesbahi contrived an aspect of the said match (see above, paras.136-137). In the Panel's view, there is no doubt that Mr Kilani was also involved in the fixing of said match. Indeed, the fact that YR made a counter offer to GS on behalf of Mr El Mesbahi and Mr Kilani, to whom he referred several times as "they" or "them", clearly shows that Mr Kilani was involved in the discussions regarding the conditions of the fix next to Mr El Mesbahi. In addition, the messages are corroborated by the corresponding match results and the betting alert (see above paras 136-137).

135. As a result, the Panel finds that there is sufficient evidence on the record that Mr Kilani contrived the outcome of the doubles match he played on 7 November 2017 in Morocco with Mr El Mesbahi, and that he failed to report the offer that was made to him by YR to contrive the outcome of said match. Moreover, since Mr El Mesbahi is guilty of contriving the outcome of the same doubles match (see above para.137), and that, in the Panel's view, there is no doubt that Mr Kilani and Mr El Mesbahi acted in concertation, it is also established that Mr Kilani failed to report the offences committed by Mr El Mesbahi. The Panel therefore finds that the charges 2, 5 and 7 in the Notice of Charge concerning Mr Kilani are confirmed.

➤ *Doubles Match by Mr El Mesbahi and Mr Kilani against Mr Bessire and Mr Jarc on 14 November 2017 at the ITF F6 Futures Tournament in Morocco [Charges 3, 6 and 8].*

136. The Respondent contends that Mr Kilani violated (i) Section D.1.d of the TACP by contriving together with Mr El Mesbahi an aspect of their doubles match against Messrs Bessire and Jarc on 14 November 2017 at ITF F6 Futures Tournament in Morocco, by deliberately losing the pair's third service games in each set; (ii) Section D.2.a.i of the TACP by failing to report the corrupt approach made to him by YR in respect of the same match; and (iii) Section D.2.a.ii of the TACP by failing to report his knowledge or suspicion that Mr El Mesbahi had committed corruption offences. Mr Kilani denies any involvement in any match-fixing and contends that YR was betting on matches he knew he and his partner would lose based on the players' level.

137. The Panel already found that the exchange of messages between GS and YR on 14 November 2017, i.e. the day of the doubles match at stake and thereafter, combined with the match results, constitute sufficient evidence that Mr El Mesbahi contrived an aspect of the said match (see above, para.141-142). In particular, the fact that YR would check whether Mr Kilani and Mr El Mesbahi accepted the terms of GS' final offer, saying "*I'm checking with them*", "*them*" undoubtedly referring to Mr El Mesbahi and Mr Kilani, before confirming their final agreement to GS, shows that Mr Kilani was involved in the determination of the conditions for the fix, next to Mr El Mesbahi.

138. As a result, the Panel finds that there is sufficient evidence on the record that Mr Kilani contrived the outcome of the doubles match he played on 14 November 2017 in Morocco with Mr El Mesbahi, and that he failed to report the offer that was made to him by YR to contrive the outcome of the said match. Moreover, since Mr El Mesbahi is guilty of contriving the outcome of the same doubles match (see above, para.142), and that, in the Panel's view, there is no doubt that Mr Kilani and Mr El Mesbahi acted in concertation, it is also demonstrated that Mr Kilani failed to report the offences committed by Mr El Mesbahi. The Panel therefore finds that the charges 3, 6 and 8 in the Notice of Charge concerning Mr Kilani are confirmed.

❖ ***Mr Khalil***

139. The Panel notes that Mr Khalil allegedly committed corruption offences in relation to the following matches:

- (i) the Singles Match by Mr Khalil against Mr Borella on 7 November 2017 at the ITF F5 Tournament in Morocco [Charges 1 and 3].
- (ii) the Doubles Match by Mr Khalil and Mr Chakrouni against Mr Onken and Mr Von Massow on 13 November 2017 at the ITF F6 Futures Tournament in Morocco [Charges 2, 4 and 5].

The Panel shall examine the evidence concerning Mr Khalil in relation these matches in a chronological order.

➤ *Singles Match by Mr Khalil against Mr Borella on 7 November 2017 at the ITF F5 Tournament in Morocco [Charges 1 and 2]*

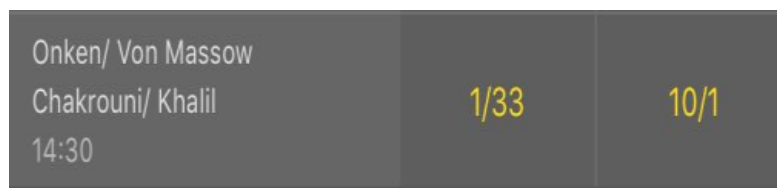
140. The Respondent contends that Mr Khalil violated (i) Section D.1.d of the TACP by contriving an aspect of his Singles Match against Mr Borella on 7 November 2017 at ITF F5 Futures Tournament in Morocco, by deliberately losing his second set 6-0 and his third service game in each set; as well as (ii) Section D.2.a.i of the TACP by failing to report the corrupt approach made to him by YR in respect of the same match. Mr Khalil denies any involvement in any match-fixing and contends that YR was betting on matches he knew he would lose, as he knows the player's level as well as Mr Borella's level. Mr Khalil stated that Mr Borella is a very good player, against whom he had lost several times before the said match.
141. The Panel first notes that, on the day of the said match, GS sent the following screenshot identifying the match to be played on the same day opposing Mr Khalil and Mr Borella:



142. Right after, GS sent the following message: “3rd break in both sets > 700 + 300” and “2nd set: 6/0 > 1500 + 500”. Six minutes later, YR sent a message to GS saying, “He doesn’t want it for 1500”, which GS countered with, “Ok, 2000... no more”. After YR replied, “Ok”, GS confirmed “2.0 + 0.5”, YR again replied, “Ok” and GS then messaged YR saying, “Khalil [*sic*] as well 2nd set: 6/0 > 1500 + 500... Sorry 2.0 + 0.5”.
 143. Mr Khalil went on to lose the match against Mr Borella 6-2, 6-0, losing his third service game in both sets.
 144. Suspicious betting was identified on this match: Netbet identified one bettor, who placed a bet on Mr Khalil losing the second set 6-0, producing a return of more than £200, and confirmed that the same bettor also put money on the doubles match played by Mr El Mesbahi and Mr Kilani on the same day.
 145. In the Panel’s view, the only reasonable interpretation for the messages sent by GS at the start of the conversation, is that YR made an offer to Mr Khalil to receive \$700 (with \$300 commission for YR) if he lost his third service game in both sets of his match against Mr Borella; GS also offered Mr Khalil to receive \$1,500 (with \$500 commission for YR) if he would lose the second set 6-0. The fact that GS sent the screenshot of Mr Khalil’s match against Mr Borella, leaves no room for doubt as to what match the offers for the fix referred to. In addition, the above WhatsApp messages clearly show that Mr Khalil was directly involved in the negotiations regarding the amount due for the fix, since YR informed GS that Mr Khalil was not happy about the first offer, leading GS to make a new offer to contrive the outcome of said match. Hence, it is, in the Panel’s view, clear that Mr Khalil was directly involved in the negotiation of the amount due as compensation for the fix. This evidence, which the Panel finds highly convincing, is furthermore corroborated by the fact that during the said match, Mr Khalil actually lost his third service game in both sets, as agreed with YR and GS. Finally, the Panel considered the fact that a suspicious bet alert was issued concerning the said match as an additional corroborating piece of evidence.
 146. In light of the above considerations, the Panel finds that the evidence on the record shows that Mr Khalil contrived the outcome of the singles match he played on 7 November 2017 in Morocco against Mr Borella, and that he failed to report the offer that was made to him by YR to contrive the outcome of said match. The Panel therefore finds that the charges 1 and 3 in the Notice of Charge concerning Mr Khalil are confirmed.
- *Doubles Match by Mr Khalil and Mr Anas Chakrouni against Mr Onken and Mr Von Massow on 13 November 2017 at the ITF F6 Futures Tournament in Morocco [Charges 3, 6 and 8]*
147. The Respondent contends that Mr Khalil violated (i) Section D.1.d of the TACP by contriving an aspect of his Doubles Match with Mr Anas Chakrouni against Mr Onken and Mr Von Massow on 13 November 2017 at ITF F6 Futures Tournament in Morocco, by deliberately losing their third service game in each set; (ii) Section D.2.a.i of the TACP by failing to report the corrupt approach made to him by YR in respect of the same match; as well as (iii) Section D.2.a.ii of the TACP by failing to report his knowledge or suspicion that Mr Anas Chakrouni had committed corruption offences. Mr Khalil denies any involvement in any match-fixing

and contends that Mr Anas Chakrouni had shown no motivation at all for said match, having lost his singles match just before on the same day and broken all his tennis rackets. In addition, Mr Khalil recalled that their opponents, Mr Onken and Mr Von Massow, had good ITP rankings. Mr Khalil contends that at the time of the match, he had no suspicion on Mr Anas Chakrouni since he had lost his singles match just before playing said doubles match, but based on the Decision, he reckons that his behaviour was suspicious.

148. The Panel notes that, according to the WhatsApp messages, at 9.53 am YR sent to GS the following screenshot together with *"I have this double"*:



149. At 9.54 am, GS messaged YR, *"3rd break in both sets > 700 + 300"*. YR replied, *"Okay, I'll confirm"*. At 12.25 YR asked, *"How much break 3rd game plus 6/0 second set?"* [*"Combien break 3ème jeux [sic] plus 6/0 deuxième [sic] set"*] GS replied, *"Youn actually the 6/0...I don't need it"*, following which YR said, *"Ok... confirmed"*. GS messaged again YR, *"third break in both sets?"* and YR replied, *"Yes"*.
150. Mr Khalil and Mr Anas Chakrouni played their doubles match from 15:15 to 15:46 [first set from 15:15 to 15:30 and second set from 15:30 to 15:46] and lost the match 6-0, 6-0, including losing their third service game in both sets to love. At 15:31, YR messaged GS *"That's a good first set"*, to which GS replied *"ok, they played 17 min))... Crazy people))"*. At 15:47, YR sent *"It's over"*, to which GS replied *"Okay, you got 1.2"*.
151. The Panel finds that the above evidence is reliable and credible. In the Panel's view, the only reasonable interpretation of the above-mentioned exchange of messages is that GS offered Mr Khalil and Mr Anas Chakrouni \$700 (with \$300 commission for YR) if they lost their third service game in both sets. In addition, the correspondence between those detailed conditions of the fix, involving losing the third service game in each set, and the fact that both Mr Khalil and Mr Anas Chakrouni indeed lost the third service game of the first set, by serving one or several double faults, as well as the exchange of messages during and after the match with respect to the match results and the timing of those messages, constitute strong evidence. Finally, the Panel notes that Mr Khalil's partner, Mr Anas Chakrouni, was found guilty of having fixed the same match, in accordance with the agreed terms of the fix, which makes Mr Khalil's double fault in the relevant game and set more suspicious.
152. As a result, the Panel finds that, considered altogether, there is sufficient evidence on the record that Mr Khalil contrived the outcome of the doubles match he played with Mr Anas Chakrouni on 13 November 2017 in Morocco, and that he failed to report the offer that was made to him by YR to contrive the outcome of the said match.

153. Moreover, the Panel recalls that in the Decision, Mr Anas Chakrouni was found guilty of having fixed an aspect of said doubles match, and that he did not appeal such decision. As a result, both Mr Anas Chakrouni and Mr Khalil contrived the outcome of said match. In the Panel's view, there is no doubt that both partners acted in concertation. The Panel therefore finds that Mr Khalil also failed to report his knowledge or suspicion of Mr Anas Chakrouni's corruption offences in relation to said match. The Panel finds that the charges 3, 6 and 8 in the Notice of Charge concerning Mr Khalil are therefore well founded.

D. The Sanction

154. In their prayers for relief, the Appellants request the Panel to annul the Decision in all its provisions, i.e. the nine years ban and the fine of US\$ 5,000. At the hearing and in their submissions, the Appellants denied any involvement in contriving any aspect of their matches at stake or of the outcome of any such matches. Further, the Appellants also asked the Panel for leniency based on the young age of the Appellants at the moment of the relevant facts as well as their full collaboration with the Respondent in the course of the first instance proceedings. The Respondent in turn submits that the sanction imposed upon the Players in the Decision is proportionate and consistent with Sanctioning Guidelines and the relevant precedents.
155. The Panel first notes that in *CAS 2004/A/547*, at paragraph 121, the panel stated, inter alia, that:
- "Whilst a hearing before the CAS is a hearing de novo the measure of the sanction imposed by a disciplinary body in the exercise of the discretion allowed by the relevant rules should be reviewed only when the sanction is evidently and grossly disproportionate to the offence".*
156. This approach has been followed in a number of other CAS decisions cited with approval in *CAS 2004/A/547*. Further, in *CAS 2018/A/5939*, at paragraph 68, the sole arbitrator accepted that this approach was sound in the context of reviewing a decision on sanctions.
157. Based on Article R57 of the CAS Code, the Panel is able to review the case in its entirety and to come to a just decision in interpreting and applying the applicable law, as based upon its review. Due regard must be made to the sanctions imposed by the AHO in this case and particularly his reasons for adopting those sanctions. The Panel has applied its independent assessment of the proportionality and appropriateness of the sanctions imposed in light of the established facts. In doing so, the Panel has carefully considered the following factors:
- the gravity of the offences committed;
 - the fact that Players are guilty of distinct offences on a number of separate occasions: Mr El Mesbahi was found to have contrived the outcome of four different matches; Mr Kilani and Mr Khalil were found guilty of having contrived two different matches.

- the Appellants' young age at the time of the relevant facts: in July 2017, Mr El Mesbahi was 16 years old; in November 2017, Mr Khalil and Mr Kilani were 18 years old.
- the Appellants continuously denied any involvement in match fixing.
- the Appellants have offered no credible alternative explanation for the evidence set out in detail above;
- the Appellants have expressed no remorse;
- the Appellants have certificates of good conduct issued by the ITF and by the Royal Moroccan Tennis Federation, as well as by Utah State University.
- the Appellants cooperated in the first instance proceedings.

158. Moreover, the Panel is of the view that the principle of deterrence is of significant importance when it comes to assessing the adequate sanction for corrupt conduct. It is only through the imposition of sanctions that are at a level that dissuade tennis players from taking the risk of engaging in corrupt conduct, that the governing bodies of tennis and other sports have a chance of success in eliminating corrupt conduct. In CAS 2011/A/2490, the panel considered that:

“As explained in detail by the Governing Bodies, the sport of tennis is extremely vulnerable to corruption as a match-fixer only needs to corrupt one player (rather than a full team). It is therefore imperative that, once a Player gets caught, the Governing Bodies send out a clear signal to the entire tennis community that such actions are not tolerated. This Panel agrees that any sanction shorter than a lifetime ban would not have the deterrent effect that is required to make players aware that it is simply not worth the risk”.

159. Like the AHO did, the Panel considers that it is appropriate to take further guidance in the ITIA 2021 Guidelines. Indeed, based on their express wording, “[t]he guidelines aim to provide a framework to support fairness and consistency in sanctioning across the sport. The guidelines are not binding but set out principles and various indicators and factors which AHOs may consider appropriate to take into account in their decision making”.

160. With respect to the period of ineligibility, the Guidelines provide, in principle, for a three-step-approach:

- (i) first, the Panel shall determine the offense category and assess the culpability and the impact on the sport. The level of culpability is determined by weighing up all the factors of the case;
- (ii) second, having determined the category in step one, the Panel may use the corresponding starting point to reach the sanction within the category range; and

(iii) third, once the Panel has determined the starting point within the category range, it may then consider any adjustment from the starting point for any aggravating or mitigating factors.

(i) Step-1: Culpability and Impact

161. The Panel first notes that the Offenses of match fixing require some degree of planning or premeditation. On the evidence before it, the Panel concludes that the Players were in contact with YR and, in the case of doubles matches, acted in concert with each other or with Mr Anas Chakrouni. Moreover, each of the Appellants committed several offenses. The Panel therefore concludes that the Players' offences fall within Category B of the Guidelines (medium degree of culpability). With respect to the impact of the offences, the Panel finds that these are mostly major TACP offences and each of the Appellants committed such major TACP offences at least twice. Further, a number of these offences have a very significant impact on the integrity of the sport of tennis in that they involved the fixing of the outcome or various aspects of matches as well as on the reputation of the sport of tennis. Finally, the sums involved are relatively high although not huge. Having considered all of these factors carefully, the majority of the Panel concludes that the Players' offences fall within Category 1 of the Guidelines (high impact).

(ii) Step-2: Starting Point and Category Range

162. Based on the foregoing, the Panel holds that the starting point to determine the period of ineligibility is 10 years and the category range is from 5 years to life ban.

(iii) Step-3: Mitigating and Aggravating Factors

163. The Panel now considers any adjustment from the starting point for any aggravating or mitigating factors.

164. Firstly, the Panel notes that the Appellants offered no credible alternative interpretation as to the evidence, and expressed no sufficient remorse whatsoever as to the offences committed; to the contrary, throughout the first instance proceedings and the present proceedings, the Appellants continued to deny any involvement whatsoever in the fixing of their matches. The Panel finds it difficult to reconcile the Appellants' lack of alternative explanation or remorse with the request for leniency as to the appropriate level of sanction.

165. The Panel further notes that the certificates of good standing regarding the Appellants are of limited relevance: indeed, the fact that the Appellants previously acted in accordance with the rules of their sport cannot, in the Panel's view, constitute an acceptable mitigating factor as this is what they ought to do at all times.

166. In addition, the Panel notes that if the Appellants provided access to some of their social networks to the Respondent, none of them provided "substantial assistance" in the sense of

the TACP. As a result, the Panel finds that this factor shall not affect the appropriate level of sanction in the present matter.

167. The Panel is however more sympathetic to the fact that, at the time of the relevant facts, the Appellants were young athletes, i.e. Mr El Mesbahi was 16 years old and Messrs. Khalil and Kilani were 18 years old. In the Panel's view, the Appellants' young age can explain to some extent the apparent immaturity with which they may have considered the match fixing offered to them by YR and GS. The Panel however needs to balance this factor with the necessity for the appropriate sanction to have an efficient deterrent effect, and the absence of any alternative explanations or remorse expressed by the Appellants.
168. In light of the above considerations, the Panel finds that it is not able to conclude that the period of ineligibility imposed on the Appellants is "evidently and grossly disproportionate to the offence".
169. Finally, the Panel finds the amount of the fine imposed on each of the Appellants is proportionate in the context of the present matter, in particular in light of the ineligibility period imposed on them.
170. In light of the above conclusions, there is no need to examine the Appellants' requests for compensation. The Panel therefore dismisses the appeal as a whole and decides that the Decision shall be confirmed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr Mohamed Zakaria Khalil, Mr Soufiane El Mesbahi and Mr Yassir Kilani on 30 December 2021 is dismissed.
2. The decision rendered by the Anti-Corruption Hearing Officer on 7 December 2021 is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.