

## DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS PURITY CHEROTICH RIONORIPO

### INTRODUCTION

1. World Athletics has established the Athletics Integrity Unit ("**AIU**") whose role is to protect the integrity of the sport of Athletics, including fulfilling World Athletics' obligations as a Signatory to the World Anti-Doping Code ("the "**Code**"). World Athletics has delegated implementation of the World Athletics Anti-Doping Rules ("**ADR**") to the AIU, including but not limited to the following activities in relation to International-Level Athletes: Testing, Investigations, Results Management, Hearings, Sanctions and Appeals.
2. Ms Purity Cherotich Rionoripo ("the **Athlete**") is a 29-year-old road runner from Kenya<sup>1</sup>.
3. This decision is issued by the AIU pursuant to Rule 8.5.6 ADR, which provides as follows:

*"8.5.6 In the event that the Athlete or other Person either (i) admits the violation and accepts the proposed Consequences or (ii) is deemed to have admitted the violation and accepted the Consequences as per Rule 8.5.2(f), the Integrity Unit will promptly:*

- (a) issue a decision confirming the commission of the violation(s) and the imposition of the specified Consequences (including, if applicable, a justification for why the maximum potential sanction was not imposed);*
- (b) Publicly Report that decision in accordance with Rule 14;*
- (c) send a copy of the decision to the Athlete or other Person and to any other party that has a right, further to Rule 13, to appeal the decision (and any such party may, within 15 days of receipt, request a copy of the full case file pertaining to the decision)."*

### THE ATHLETE'S COMMISSION OF ANTI-DOPING RULE VIOLATIONS

4. Rule 2 ADR sets out that the following shall constitute an Anti-Doping Rule Violation:

*"2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample*

*[...]*

*2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method*

*[...]*

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<sup>1</sup> <https://worldathletics.org/athletes/kenya/purity-cherotich-rionoripo-14288961>

## 2.5 *Tampering or Attempted Tampering with any part of Doping Control by an Athlete or other Person*<sup>2</sup>

5. On 30 May 2022, the Athlete provided a urine Sample, Out-of-Competition in Eldoret, Kenya, which was given code 7077177 (the "**Sample**").
6. On 23 June 2022, the World Anti-Doping Agency ("**WADA**") accredited laboratory in Lausanne, Switzerland (the "**Laboratory**") reported an Adverse Analytical Finding in the Sample for the presence of Furosemide (the "**Adverse Analytical Finding**").
7. The AIU reviewed the Adverse Analytical Finding in accordance with Article 5 of the International Standard for Results Management ("**ISRM**") and determined that:
  - 7.1. the Athlete did not have a Therapeutic Use Exemption ("**TUE**") that had been granted (or that would be granted) for the Furosemide found in the Sample; and
  - 7.2. there was no apparent departure from the International Standard for Testing and Investigations ("**ISTI**") or from the International Standard for Laboratories ("**ISL**") that could reasonably have caused the Adverse Analytical Finding.
8. Therefore, on 1 July 2022, the AIU notified the Athlete of the Adverse Analytical Finding in accordance with Article 5.1.2.1 of the ISRM, including that the Adverse Analytical Finding may result in Anti-Doping Rule Violations pursuant to Rule 2.1 ADR and/or Rule 2.2 ADR and requested *inter alia* that the Athlete provide a written explanation for the Adverse Analytical Finding<sup>3</sup>.
9. On 7 July 2022, the Athlete wrote to the AIU:

*"I would like to reply to your previous email and letter of notice of allegations of anti doping rule violations leveled against me*

*In reference to the above I would like to state that yes I admit that substance has been found and the cause of the presence of furosemide in my body was due to medical conditions that I had ,*

*Since my last race which is Prague marathon in May 2021, .I went back to my normal routine in training and then on August of 2021 I was forced to stop my training due to the injury of broken tendon on my left leg,I have been going through medication since then and no training.*

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<sup>2</sup> Tampering is defined in the ADR as follows: "*Intentional conduct that subverts the Doping Control process but that would not otherwise be included in the definition of Prohibited Methods. Tampering shall include, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents submitted to an Anti-Doping Organisation or TUE committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the Anti-Doping Organisation or hearing body to affect Results Management or the imposition of Consequences, and any other similar intentional interference or Attempted interference with any aspect of Doping Control.*"

<sup>3</sup> The Athlete was also informed of her rights, inter alia, to request the B Sample analysis and copies of the laboratory documentation supporting the Adverse Analytical Finding.

*I have never been well since then and had stopped training completely for all that period until now on the dates on 19th May 2022 I visited the hospital and MRI was performed on me and the doctor prescribed for me some medicine (see the attached)*

*MRI report and doctors prescription*

*On 30th May 2022 I was tested and found positive of drugs furosemide which I had been prescribed by the doctor*

*Having stated all that, I would like to add that I was in pain and all that I wished for at that moment was to get well.”*

10. Together with her explanation, the Athlete sent the following four (4) supporting medical documents issued by the Mediheal Hospital & Fertility Center (the “Hospital”):
  - 10.1. A radiologist report dated 19 May 2022 about the MRI of the Athlete’s left ankle;
  - 10.2. A medical report confirming that the Athlete had been diagnosed with Achilles tendon partial tear on 19 May 2022 and prescribed unspecified medication.
  - 10.3. A receipt dated 19 May 2022 for an MRI of the athlete’s ankle joint; and
  - 10.4. A prescription form recording the Athlete’s name and three (3) medications<sup>4</sup> including “Lasix 40mg od/2wk”<sup>5</sup> (the “Prescription”).
11. On the same day, the AIU requested the assistance of the Anti-Doping Agency of Kenya (“ADAK”) to determine the veracity of the Athlete’s asserted medical treatment at the Hospital and the authenticity of the supporting medical documents submitted by the Athlete (as set out above).
12. Furthermore, the AIU also asked the Athlete to provide additional details regarding her use of Lasix, in particular, whether she used it as prescribed (i.e., a tab once a day for 2 weeks), the start and end date of the treatment and to explain why she did not declare Lasix on her Doping Control Form (“DCF”).
13. On 8 July 2022, the Athlete explained that she had used Lasix daily (at around 5pm) for 2 weeks from 19 May until 1 June 2022 as prescribed. She further stated that she had forgotten to declare Lasix on the DCF because she was under a lot of stress at the time due to her mother’s ill health.
14. On 1 August 2022, ADAK provided the AIU with a letter from the Hospital, which confirmed that the Athlete had visited the Hospital on 19 May 2022 and that the four documents submitted by the Athlete were genuine documents issued by the Hospital.

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<sup>4</sup> The other 2 medications were: ETR 90mg and Dynapar QPS

<sup>5</sup> Lasix is a commercial name for Furosemide.

15. However, the Hospital also confirmed that, although the Athlete had been prescribed ETR 90mg and Dynapar QPS on 19 May 2022, she had not been prescribed with Lasix on that date and that the Prescription submitted to the AIU had been manipulated to include a reference to Lasix.
16. On 20 August 2022, the Athlete was interviewed by representatives of the AIU in Kenya with respect to her explanation for the Adverse Analytical Finding and the supporting medical documents. In summary, the Athlete repeated her explanation for the Adverse Analytical Finding and, in doing so, relied on the same medical documents from the Hospital. She did not admit at interview to having falsified the Prescription by adding Lasix. To the contrary, the Athlete maintained that she had been prescribed Lasix at the Hospital and had been given the medical document in the form as it was submitted to the AIU<sup>6</sup>.
17. The AIU concluded that the Athlete had (i) provided false/misleading information to the AIU in the context of Rule 5.7.9 ADR and (ii) that the Prescription submitted to the AIU to support her explanation for the Adverse Analytical Finding was a forged/falsified document, constituting a further violation of Tampering in accordance with Rule 2.5.
18. Therefore, on 21 November 2022, the AIU issued the Athlete with a Notice of Charge in accordance with Rule 8.5.1 ADR and Article 7.1 ISRM confirming that she was being charged with Anti-Doping Rule Violations under Rule 2.1 ADR, Rule 2.2 ADR<sup>7</sup> and Rule 2.5 ADR (“the **Charge**”) and that those Anti-Doping Rule Violations warranted a total period of Ineligibility of six (6) years pursuant to Rules 10.2.1(a) ADR and 10.9.3(c) ADR (i.e., two (2) years for the Presence/Use of a Specified Prohibited Substance and four (4) years for Tampering or Attempted Tampering to be served consecutively<sup>8</sup>). The AIU invited the Athlete to respond to the Charge confirming how she wished to proceed by no later than 5 December 2022<sup>9</sup>.
19. On 22 November 2022, the AIU received an Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form signed by the Athlete.

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<sup>6</sup> The athlete was not able to produce any corroborating evidence of her purchase of the Lasix pursuant to the Prescription (e.g., in the form of a sales receipt).

<sup>7</sup> The AIU noted that the Athlete had not requested the analysis of her B Sample and was therefore deemed to have waived her right to the B sample analysis and accepted the finding in the A Sample.

<sup>8</sup> In accordance with Rule 10.9.3(c), *“If the Integrity Unit establishes that an Athlete or other Person committed a violation of Rule 2.5 in connection with the Doping Control process for an underlying asserted anti-doping rule violation, the violation of Rule 2.5 will be treated as a stand-alone first violation and the period of Ineligibility for such violation must be served consecutively (rather than concurrently) with the period of Ineligibility, if any, imposed for the underlying anti-doping rule violation. Where this Rule 10.9.3(c) is applied, the violations taken together will constitute a single violation for purposes of Rule 10.9.1.”* (emphasis added)

<sup>9</sup> The AIU informed the Athlete that she had until 5 December 2022 (and in any event until no later than 11 December 2022) to sign and return an Admission of Anti-Doping Rule Violation and Acceptance of Consequences Form (enclosed with the Notice of Charge) to benefit from an automatic one (1)-year reduction in the six (6)-year period of Ineligibility pursuant to Rule 10.8.1 ADR and that, if she failed to do so by that date, she would be deemed to have admitted the Anti-Doping Rule Violations and accepted the Consequences set out in the Charge, and the AIU would then issue a final decision in her case.

## CONSEQUENCES

20. Collectively, the Anti-Doping Rule Violations pursuant to Rule 2.1 ADR, Rule 2.2 ADR and Rule 2.5 ADR constitute the Athlete's first Anti-Doping Rule Violation pursuant to Rule 10.9.3 ADR.

21. Rule 10.2 ADR specifies that the period of Ineligibility for an Anti-Doping Rule Violation under Rule 2.1 or Rule 2.2 shall be as follows:

*“10.2.1 Save where Rule 10.2.4 applies, the period of Ineligibility will be four years where:*

*(a) The anti-doping rule violation does not involve a Specified Substance or a Specified Method, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional.*

*(b) The anti-doping rule violation involves a Specified Substance or a Specified Method and the Integrity Unit can establish that the anti-doping rule violation was intentional.”*

22. Furosemide is a Prohibited Substance under the WADA 2022 Prohibited List under the category S5: *Diuretics and Masking Agents*. It is a Specified Substance prohibited at all times.

23. The period of Ineligibility to be imposed is therefore a period of two (2) years, unless the AIU demonstrates that the Rule 2.1 and/or Rule 2.2 Anti-Doping Rule Violations were intentional.

24. The AIU has no evidence demonstrating that those Anti-Doping Rule Violations were intentional. Therefore, the mandatory period of Ineligibility for the Anti-Doping Rule Violations pursuant to Rule 2.1 ADR and Rule 2.2 ADR is a period of Ineligibility of two (2) years.

25. In addition, Rule 10.3.1 ADR specifies the period of Ineligibility to be imposed for a breach of Rule 2.5 (Tampering or Attempted Tampering) as follows:

*“10.3.1 For violations of Rule 2.3 or Rule 2.5, the period of Ineligibility will be four (4) years except: (i) in the case of failing to submit to Sample collection, if the Athlete can establish that the commission of the anti-doping rule violation was not intentional, the period of Ineligibility will be two (2) years; (ii) in all other cases, if the Athlete or other Person can establish exceptional circumstances that justify a reduction of the period of Ineligibility, the period of Ineligibility will be in a range from two (2) years to four (4) years depending on the Athlete's or other Person's degree of Fault; or (iii) in a case involving a Protected Person or Recreational Athlete, the period of Ineligibility will be in a range between a maximum of two (2) years and, at a minimum, a reprimand and no period of Ineligibility, depending on the Protected Person or Recreational Athlete's degree of Fault.”*

26. The Athlete has not established any exceptional circumstances that exist to justify any reduction in the period of Ineligibility of four (4) years to be imposed for the Anti-Doping Rule Violation committed pursuant to Rule 2.5 ADR.

27. Rule 10.9.3(c) states as follows:

*10.9.3 Additional rules for certain potential multiple violations*

*[...]*

*(c) If the Integrity Unit establishes that an Athlete or other Person committed a violation of Rule 2.5 in connection with the Doping Control process for an underlying asserted anti-doping rule violation, the violation of Rule 2.5 will be treated as a stand-alone first violation and the period of Ineligibility for such violation must be served consecutively (rather than concurrently) with the period of Ineligibility, if any, imposed for the underlying anti-doping rule violation. Where this Rule 10.9.3(c) is applied, the violations taken together will constitute a single violation for purposes of Rule 10.9.1.*

28. The Athlete committed the violation of Rule 2.5 ADR in connection with the Doping Control Process (specifically during Results Management of the Adverse Analytical Finding) and therefore falls squarely within this provision. The violation of Rule 2.5 shall therefore be treated as a standalone first violation and the four (4)-year period of Ineligibility must be served consecutively to the two (2)-year period of Ineligibility imposed for the violations of Rule 2.1 ADR and Rule 2.2 ADR (i.e., a total period of Ineligibility of six (6) years).

29. However, Rule 10.8.1 ADR provides that an athlete potentially subject to an asserted period of Ineligibility of four (4) years or more may benefit from a one (1)-year reduction in the period of Ineligibility based on an early admission and acceptance of sanction:

*“10.8.1 One year reduction for certain anti-doping rule violations based on early admission and acceptance of sanction.*

*Where the Integrity Unit notifies an Athlete or other Person of an anti-doping rule violation charge that carries an asserted period of Ineligibility of four (4) or more years (including any period of Ineligibility asserted under Rule 10.4), if the Athlete or other Person admits the violation and accepts the asserted period of Ineligibility no later than 20 days after receiving the Notice of Charge, the Athlete or other Person may receive a one (1) year reduction in the period of Ineligibility asserted by the Integrity Unit. Where the Athlete or other Person receives the one (1) year reduction in the asserted period of Ineligibility under this Rule 10.8.1, no further reduction in the asserted period of Ineligibility will be allowed under any other Rule.”*

30. The Charge was issued to the Athlete on 21 November 2022 and the following day, on 22 November 2022, the AIU received an Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form signed by the Athlete in which the Athlete admitted the Anti-Doping Rule Violations and accepted the asserted period of Ineligibility of six (6) years.

31. The Athlete shall therefore receive a one (1) year reduction in the asserted period of Ineligibility pursuant to Rule 10.8.1 based on an early admission and acceptance of sanction.

32. On the basis that the Athlete has admitted the Anti-Doping Rule Violations under Rule 2.1 ADR, Rule 2.2 ADR and Rule 2.5 ADR and in accordance with Rule 10.9.3(c) ADR and the application of Rule 10.8.1 ADR, the AIU confirms by this decision the following Consequences for a first Anti-Doping Rule Violation:

32.1. a period of Ineligibility of five (5) years commencing on 21 November 2022 (the date of Provisional Suspension); and

- 32.2. disqualification of the Athlete's results on and since 30 May 2022, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points prizes and appearance money.
33. The Athlete has accepted the above Consequences for her Anti-Doping Rule Violations and has expressly waived her right to have those Consequences determined by the Disciplinary Tribunal at a hearing.

## PUBLICATION

34. In accordance with Rule 8.5.6(b) ADR, the AIU shall publicly report this decision on the AIU's website.

## RIGHTS OF APPEAL

35. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.
36. Further to Rule 13.2.3 ADR, WADA and the Anti-Doping Agency of Kenya ("**ADAK**") have a right of appeal against this decision to the Court of Arbitration for Sport in Lausanne, Switzerland, in accordance with the procedure set out at Rule 13.6.1 ADR.
37. If an appeal is filed against this decision by WADA or ADAK, the Athlete will be entitled to exercise her right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 19 December 2022