

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS ESTHER MACHARIA

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 Esther Macharia (“the **Athlete**”) is a 35-year-old long-distance runner from Kenya¹.
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”

5. On 4 December 2022, the Athlete provided a urine Sample In-Competition at the ‘Standard Chartered Singapore Marathon’ in Singapore, which was given code 1030026 (the “**Sample**”).

¹ <https://www.worldathletics.org/athletes/kenya/esther-macharia-14471171>

6. On 19 February 2023, the World Anti-Doping Agency (“WADA”) accredited laboratory in Doha, Qatar (the “Laboratory”) reported an Adverse Analytical Finding in the Sample based on the presence of Testosterone and its metabolite 5 α -androstane-3 α ,17 diol (“5 α Adiol”) consistent with exogenous origin (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 Testosterone or its metabolite consistent with exogenous origin 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 21 February 2023, 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 of the imposition of an immediate Provisional Suspension.
9. The Athlete was also informed of her rights, inter alia, to request the B Sample analysis, to request copies of the laboratory documentation supporting the Adverse Analytical Finding and to admit the Anti-Doping Rule Violations and potentially benefit from a one-year reduction in the period of Ineligibility pursuant to Rule 10.8.1 ADR.
10. On 28 February 2023, the Athlete wrote to the AIU explaining that (i) she suspected that the Adverse Analytical Finding had been caused by her ingestion of (unspecified) medication to treat joint pain and (ii) she had not used that medication to improve her performance.
11. On 1 March 2023, the AIU asked the Athlete to provide additional information concerning the medication referred to in her explanation and in relation to any supplements that she had used prior to the collection of the Sample on 4 December 2022 (including her proof of purchase of the medication in question).
12. On 7 March 2023, the Athlete replied indicating that she had been given a medication, specifically Sustanon², by a friend since she had been experiencing pain in her leg whilst training. For this reason, the Athlete confirmed that she had no proof of purchase evidence of the medication.
13. Following a request made by the AIU on 20 March 2023 for the Athlete to attend an interview in relation to her explanation for the Adverse Analytical Finding on 24 March 2023, on 22 March 2023, the Athlete wrote to the AIU via a series of e-mail correspondence, confirming inter alia, that she did not know much about the individual who had provided her with the medication and that she was unable to attend an interview in person.

² Sustanon contains several esters of Testosterone.

14. The AIU confirmed that an interview could take place via remote means (with the assistance of an interpreter if required) and maintained its request for an interview with the Athlete on 24 March 2023. The Athlete failed to respond.
15. Therefore, on 29 March 2023, 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 and Rule 2.2 ADR (“the **Charge**”) and that the Consequences included (i) a period of Ineligibility of four (4) years and (ii) disqualification of her results on and since 4 December 2022.
16. The AIU invited the Athlete to respond to the Charge confirming how she wished to proceed by no later than 12 April 2023. The letter confirmed that, should the Athlete fail to challenge the AIU’s assertion of the Anti-Doping Rule Violations or the Consequences, or fail to request a hearing, then she would be deemed to have waived her right to a hearing, admitted the Anti-Doping Rule Violations and accepted the Consequences set out in the Charge in accordance with Rule 8.5.2(f) ADR.
17. The Athlete failed to respond within the given deadline.
18. On 13 April 2023, the AIU wrote to the Athlete stating that:
 - 18.1. she had failed to request a hearing within the given deadline (i.e., 12 April 2023) and that, by operation of Rule 8.5.2(f) ADR, she was deemed to have (i) waived her right to a hearing, (ii) admitted the Anti-Doping Rule Violations and (iii) accepted the Consequences set out in the Charge; and
 - 18.2. that she still had until no later than 18 April 2023 to return a completed Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form that had been enclosed with the Charge if she wished to benefit from a one (1)-year reduction under Rule 10.8.1 ADR and that, if she failed to do so, then the AIU would proceed by issuing a final decision imposing a four (4)-year period of Ineligibility.
19. The Athlete failed to respond or to return the Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form signed by 18 April 2023.

CONSEQUENCES

20. This is the Athlete’s first Anti-Doping Rule Violation.
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. Testosterone (when administered exogenously) is a Prohibited Substance under the WADA 2022 Prohibited List under the category S1.1 Anabolic Androgenic Steroids (AAS). It is a Non-Specified Substance prohibited at all times.
23. The period of Ineligibility to be imposed is therefore a period of four (4) years, unless the Athlete demonstrates that the Anti-Doping Rule Violations were not intentional.
24. The Athlete has failed to demonstrate that the Anti-Doping Rule Violations were not intentional. Therefore, the mandatory period of Ineligibility is a period of Ineligibility of four (4) years.
25. On the basis that the Athlete is deemed to have admitted the Anti-Doping Rule Violations under Rule 2.1 ADR and Rule 2.2 ADR, in accordance with Rule 10.2.1 ADR, the AIU confirms by this decision the following Consequences for a first Anti-Doping Rule Violation:
 - 25.1. a period of Ineligibility of four (4) years commencing on 21 February 2023 (the date of the Athlete's Provisional Suspension); and
 - 25.2. disqualification of the Athlete's results on and since 4 December 2022, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points prizes and appearance money.

PUBLICATION

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

RIGHTS OF APPEAL

27. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.
28. Further to Rule 13.2.3 ADR, the Athlete, 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.
29. 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, 3 May 2023