

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS JOYCE CHEPKEMOI TELE

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 Joyce Chepkemoi Tele ("the **Athlete**") is a 28-year-old Kenyan road runner¹.
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 AN ANTI-DOPING RULE VIOLATION

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 [...]"

5. On 3 April 2022, the Athlete provided a urine Sample, In-Competition, at the 'Generali Berliner Half-Marathon' held in Berlin, Germany ("the **Competition**"), which was given code 1031310 (the "**Sample**") pursuant to Testing conducted by the National Anti-Doping Agency of Germany ("**NADA**").

¹ <https://worldathletics.org/athletes/kenya/joyce-chepkemoi-tele-14335575>

6. On 26 April 2022, the World Anti-Doping Agency (“WADA”) accredited laboratory in Cologne, Germany (the “Laboratory”) reported an Adverse Analytical Finding in the Sample for the presence of Triamcinolone acetonide (the “Adverse Analytical Finding”).
7. Triamcinolone acetonide is a Prohibited Substance under the WADA 2022 Prohibited List under the category S9: *Glucocorticoids*. It is a Specified Substance prohibited In-Competition when administered by any injectable, oral² or rectal route.
8. On 28 April 2022, NADA requested that the AIU proceed with Results Management related to the Adverse Analytical Finding in accordance with Rule 7.1.3 f)(ii) ADR and the AIU agreed to do so
9. The AIU therefore reviewed the Adverse Analytical Finding in accordance with Article 5 of the International Standard for Results Management (“ISRM”) and determined that:
 - 9.1. the Athlete did not have a Therapeutic Use Exemption (“TUE”) that had been granted (or that would be granted) for the Triamcinolone acetonide found in the Sample; and
 - 9.2. 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.
10. On 19 May 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.
11. On 20, 21 and 24 May 2022, and on 4 July 2022, the Athlete provided her explanation to the AIU which is summarised below:
 - 11.1. the Athlete went to the Mosoriot sub-County Hospital in Eldoret (the “Hospital”) on 12 March 2022 suffering from a cough accompanied by chest pain, chest tightness and itching all over her body and was diagnosed with pneumonia and having experienced an allergic reaction. In this context, she was prescribed various medications and received a “Trinocort injection” (which contains Triamcinolone Acetonide).
 - 11.2. the Athlete did not declare the medication on the Doping Control Form (“DCF”) on 3 April 2022 because she only disclosed the medication used in the previous 7 days as requested on the DCF.
 - 11.3. the Athlete did not think to disclose her status as an athlete at the Hospital because she was confused/distracted at the time due to her symptoms. Furthermore, she did not feel that she could question the doctor/nurse about the prescription she was given.
 - 11.4. the Athlete provided medical documents supporting her asserted treatment and prescribed medication.
12. On 27 June 2022, the Athlete accepted a Voluntary Provisional Suspension.

² Including oromucosal (e.g. buccal, gingival, sublingual).

13. On 22 July 2022, the Athlete applied to ADAK for a retroactive Therapeutic Use Exemption (“**TUE**”) in accordance with Article 4.1(e) of the WADA International Standard for TUE (“**ISTUE**”). Her application was denied by the ADAK TUE Committee³ on 8 August 2022 and the Athlete did not appeal against that decision.
14. Following the denial of the Athlete’s application by the ADAK TUE Committee and the Athlete’s failure to appeal against that decision, the Anti-Doping Agency of Kenya (“**ADAK**”) commenced an investigation into the veracity of the Athlete’s explanation and authenticity of the asserted medical treatment (on the request of the AIU).
15. The ADAK investigation provided no evidence to demonstrate that the Athlete’s explanation was not genuine or that the medical documents submitted to support the explanation are forged/fraudulent documents.
16. On 27 November 2023, the AIU wrote to the Athlete stating that it remained satisfied that the Athlete had committed an ADRV pursuant to Rule 2.1 ADR and proposed Consequences that it considered to be appropriate for that ADRV following a detailed review and assessment of the circumstances of the case (as explained in further detail below).
17. On 28 November 2023, the Athlete confirmed that she admitted the Anti-Doping Rule Violations (i.e., the Presence of a Prohibited Substance, In-Competition, viz. Triamcinolone acetonide pursuant to Rule 2.1 ADR).

CONSEQUENCES

18. This is the Athlete’s first Anti-Doping Rule Violation.
19. Rule 10.2.1 ADR provides that the period of ineligibility to be imposed for the Presence/Use of a Prohibited Substance shall be determined as follows:

“ **10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method**

[...]

10.2.1 Save where Rule 10.2.4 applies, the period of Ineligibility shall 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*

³ On the basis that Athlete had not demonstrated that there was no reasonable permitted alternative medication for the stated diagnoses for which treatment was given on 12 March 2022.

10.2.2 If Rule 10.2.1 does not apply, then (subject to Rule 10.2.4(a)) the period of Ineligibility will be two years.”

20. Triamcinolone acetonide is classified as a ‘Specified Substance’. Rule 10.2.1 ADR specifies that an Anti-Doping Rule Violation for a ‘Specified Substance’ carries a 4-year period of Ineligibility if the AIU establishes that the violation was "intentional".
21. Rule 10.2.3 ADR explains that, in that context, the term "intentional" is meant to identify those who engage in conduct that they knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk.
22. Given the facts set out above and the AIU’s further investigation into those facts, the AIU has not discovered any evidence that the Athlete’s Anti-Doping Rule Violation was 'intentional' within the meaning of Rule 10.2.3 ADR.
23. The mandatory period of ineligibility to be imposed in the Athlete’s case is therefore two (2) years, subject to a potential reduction pursuant to Rule 10.5 ADR (No Fault or Negligence) or Rule 10.6 ADR (No Significant Fault or Negligence) based upon the Athlete’s level of Fault⁴.
24. Rule 10.5 ADR (No Fault or Negligence) is manifestly inapplicable in the Athlete’s circumstances. There are no exceptional circumstances that exist in this case and the Athlete failed to exercise utmost caution, both of which are conditions to the application of Rule 10.5 ADR⁵.
25. However, for the reasons set out below the AIU accepts that Rule 10.6 ADR (No Significant Fault or Negligence) is applicable to the Athlete’s case.

NO SIGNIFICANT FAULT OR NEGLIGENCE

26. Rule 10.6.1 ADR provides as follows in relation to the application of No Significant Fault or Negligence to matters concerning an Anti-Doping Rule Violation involving a Specified Substance, as in this case:

“ 10.6.1 Reduction of the period of Ineligibility based on No Significant Fault or Negligence

10.6.1 Reduction of sanctions in particular circumstances for violations of Rule 2.1, 2.2 or 2.6

⁴ *“**Fault:** Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete’s or other Person’s degree of Fault include, for example, the Athlete’s or other Person’s experience, whether the Athlete or other Person is a Protected Person, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete’s or other Person’s degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete’s or other Person’s departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in a career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Rule 10.6.1 or 10.6.2.”*

⁵ See the comment to Rule 10.5 ADR and the definition of No Fault or Negligence.

All reductions under Rule 10.6.1 are mutually exclusive and not cumulative

(a) *Specified Substances or Specified Methods*

Where the anti-doping rule violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Athlete or other Person can establish that they bear No Significant Fault or Negligence for the anti-doping rule violation(s) alleged against them, then the period of Ineligibility will be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Athlete's or other Person's degree of Fault."

27. The (mandatory) period of Ineligibility of two (2) years may therefore be reduced if the Athlete can establish No Significant Fault or Negligence, based on her level of Fault.
28. According to the definition of No Significant Fault or Negligence⁶, it is a condition precedent that the Athlete must establish (on the balance of probabilities) how the relevant Prohibited Substance(s) (in this case, Triamcinolone acetonide) entered her system⁷.
29. As described above, the Athlete's explanation is that Triamcinolone acetonide entered her system via the administration of a "Trinocort injection" at the Hospital on 12 March 2022. The AIU has obtained an independent expert opinion which confirms that the concentration of Triamcinolone acetonide in the Sample is consistent with the Athlete's explanation. The AIU therefore accepts that the Athlete's explanation is sufficient to establish how Triamcinolone acetonide entered her system.
30. To determine the period of Ineligibility within the range of 0-2 years, the Athlete's level of Fault must be determined, and the AIU has adopted the approach taken by the Court of Arbitration for Sport ("CAS")⁸ to do so in this case. In particular, the AIU has undertaken a detailed assessment of the Athlete's objective level of Fault to determine within what category her level of Fault should fall (i.e., "normal" which would result in a period of Ineligibility in the range over 12 months to 24 months, or "light" which would result in a period of Ineligibility between 0 months and up to 12 months) and the Athlete's subjective level of Fault in the circumstances to determine where within the applicable range the Athlete's period of Ineligibility should be established.

⁶ "No Significant Fault or Negligence: The Athlete or other Person's establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relation to the anti-doping rule violation. Except in the case of a Protected Person or Recreational Athlete, for any violation of Rule 2.1, the Athlete must also establish how the Prohibited Substance entered their system."

⁷ The Athlete is not a Protected Person or Recreational Athlete as defined in the ADR.

⁸ See the cases concerning Tennis players Marin Cilic (CAS 2013/A/3327 & CAS 2013/A/3335) and Sara Errani (CAS 2017/A/5301).

31. The AIU has assessed to what extent the Athlete's behaviour constituted a departure from the strict duty of care/standards of behaviours expected from her (objective analysis) and if there are any specific, legitimate reasons that might justify why she failed to exercise that duty of care or to meet the standards expected of her, including to take all steps required to avoid ingesting a Prohibited Substance (subjective analysis).
32. Triamcinolone acetonide is prohibited In-Competition only. It is also a medicine designed for a therapeutic purpose. Consequently, per the reasoning in *Cilic*, the Athlete was required to exercise a higher duty of care⁹. The objective assessment of the Athlete's level of Fault must therefore take place against the steps set out in *Cilic* at para 74.aa to prevent her taking a product containing a prohibited substance.
33. Although the Athlete has explained that the Triamcinolone acetonide injection was obtained 22 days before the competition, in a therapeutic context, and pursuant to a prescription, there is no evidence to suggest that the Athlete made any enquiries about the medication. The Athlete has admitted that she did not inform the doctor that treated her on 12 March 2022 that she was an athlete and that she failed to check whether Trinocort was prohibited.
34. The Athlete's conduct in failing to disclose that she was an athlete, or to conduct even the most rudimentary check of the Trinocort medication that she was prescribed before she was injected with it, weighs heavily against her in determining her objective level of Fault for the Anti-Doping Rule Violation in this matter.
35. The AIU therefore considers that the Athlete's degree of Fault falls squarely within the "normal" range¹⁰.
36. Per the reasoning of the CAS Panel in *Errani*, the "standard normal" degree of Fault leads to an 18-month period of Ineligibility, and as set out in *Cilic*, the subjective factors can be used to move the Athlete up or down within the applicable category.
37. The AIU therefore starts from the position that the Athlete's level of Fault is one of a "standard normal" degree, subject to the determination of any subjective factors which might move the Athlete up or down from that point within the applicable range.
38. In relation to the subjective assessment of the Athlete's Fault, the AIU first considers that the Athlete's level of experience, including her level of education¹¹, her success as an elite athlete, and her long testing history, are subjective factors that weigh against her in determining the ultimate period of Ineligibility to be imposed.
39. However, the Integrity Unit also accepts that, even if the Athlete had taken steps herself to investigate the prohibited nature of the Trinocort medication at the time that it was prescribed/given to her, the substance was not prohibited at that time. Moreover, it would not have been clear or obvious to the Athlete that the (permitted) injection received 22 days before

⁹ See para. 75.b.ii.B [CAS 2013/A/3327](#).

¹⁰ In a case of "normal" degree of Fault, the applicable sanction lays between over 12 and up to 24 months depending on the application of any subjective criteria (see para. 194, [CAS 2013/A/3335](#)).

¹¹ The Athlete admitted to having received some education in relation to prohibited substances generally.

the competition, could have led to an Adverse Analytical Finding at that competition. These constitute subjective factors that can be considered in the Athlete's favour in determining the period of Ineligibility in her case.

40. Overall, the AIU has determined that the Athlete's level of Fault, when viewed in the totality of the circumstances of the case, justifies the imposition of a period of Ineligibility of 18 months.
41. The Athlete has accepted a period of Ineligibility of 18 months by signing an Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form on 28 November 2023.

DECISION

42. On the basis that the Athlete has admitted the Anti-Doping Rule Violation under Rule 2.1, the AIU confirms by this decision the following Consequences for a first Anti-Doping Rule Violation:
- 42.1. a period of Ineligibility of eighteen (18) months commencing on 27 June 2022 until 26 December 2023; and
 - 42.2. disqualification of the Athlete's results on and since 3 April 2022, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points prizes and appearance money.
43. The Athlete has accepted the above Consequences for her Anti-Doping Rule Violation and has expressly waived her right to have those Consequences determined by the Disciplinary Tribunal at a hearing.

PUBLICATION

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

RIGHTS OF APPEAL

45. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.
46. Further to Rule 13.2.3 ADR, WADA and the Anti-Doping Agency of Kenya 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.
47. If an appeal is filed against this decision by WADA or the Anti-Doping Agency of Kenya, the Athlete will be entitled to exercise her right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 14 December 2023