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# Decision of the Athletics Integrity Unit in the Case of Ms Beatrice Toroitich

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## 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 Beatrice Toroitich (“the **Athlete**”) is a 42-year-old marathon 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

### FIRST ADVERSE ANALYTICAL FINDING

4. On 20 November 2022, the Athlete provided a urine Sample In-Competition at the ‘2022 MTN Marathon’ in Kampala, Uganda, pursuant to Testing conducted by the Uganda National Anti-Doping Organisation (“**UGA-NADO**”), which was given code 7013811 (the “**First Sample**”).

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<sup>1</sup> <https://worldathletics.org/athletes/kenya/beatrice-toroitich-14289466>

5. On 22 May 2023, the World Anti-Doping Agency (“**WADA**”) accredited laboratory in Bloemfontein, South Africa (the “**Bloemfontein Laboratory**”) reported that the analysis of the First Sample had revealed the presence of 19-Norandrosterone (“**19NA**”) and 19-Etiocholanolone (“**19NE**”) (which are metabolites of Nandrolone and/or Nandrolone precursors) consistent with exogenous origin (the “**First Adverse Analytical Finding**”).
6. The Anti-Doping Agency of Kenya (“**ADAK**”) reviewed the First Adverse Analytical Finding in accordance with Article 5 of the International Standard for Results Management (“**ISRM**”) and determined that:
  - 6.1. the Athlete did not have a Therapeutic Use Exemption (“**TUE**”) that had been granted (or that would be granted) for the 19NA or 19NE consistent with exogenous origin found in the First Sample; and
  - 6.2. 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 First Adverse Analytical Finding.
7. On 2 November 2023, ADAK notified the Athlete of the First Adverse Analytical Finding in accordance with Article 5.1.2.1 of the ISRM (“the **ADAK Notice**”), 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 a Provisional Suspension (effective 22 November 2023). ADAK also invited the Athlete to provide her detailed written explanation for the First Adverse Analytical Finding by no later than 22 November 2023.
8. On 14 November 2023, ADAK agreed to transfer responsibility for Results Management for the First Adverse Analytical Finding to the AIU in the context of a further Adverse Analytical Finding reported in a Sample collected from the Athlete by the AIU on 8 October 2023 (see below).
9. On 22 November 2023, the Athlete provided her explanation for the First Adverse Analytical Finding to ADAK and stated that she was “*not aware and never used any substance*”. She did not request the B Sample analysis or the A Sample laboratory documentation package.

## SECOND ADVERSE ANALYTICAL FINDING

10. On 8 October 2023, the Athlete provided a urine Sample In-Competition at the ‘Wizz Air Sofia Marathon’ in Sofia, Bulgaria, pursuant to Testing conducted by the AIU, which was given code 7155878 (the “**Second Sample**”).
11. On 30 October 2023, the WADA accredited laboratory in Seibersdorf, Austria (the “**Seibersdorf Laboratory**”) reported that the analysis of the Second Sample had revealed the presence of Clomifene, Canrenone and 19NA at a concentration greater than 15ng/mL (the “**Second Adverse Analytical Finding**”).
12. The AIU reviewed the Second Adverse Analytical Finding in accordance with Article 5 of the ISRM and determined that:

- 12.1. the Athlete did not have a TUE that had been granted (or that would be granted) for the 19NA, Clomifene or Canrenone found in the Second Sample; and
- 12.2. there was no apparent departure from the ISTI or from the ISL that could reasonably have caused the Second Adverse Analytical Finding.
13. On 29 November 2023, the AIU notified the Athlete of the Second Adverse Analytical Finding in accordance with Article 5.1.2.1 of the ISRM (the “**First AIU Notice of Allegation**”), including that the Second 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.
14. The AIU received no reply to the First AIU Notice of Allegation by 8 December 2023.
15. Therefore, on 11 December 2023, the AIU wrote to the Athlete again by e-mail and granted her an extension until no later than 14 December 2023 to provide her response to the First AIU Notice of Allegation. The Athlete failed to respond.
16. Therefore, on 20 December 2023, the AIU wrote to the Athlete again by e-mail and exceptionally granted her an extension until no later than 28 December 2023 to provide her response to the First AIU Notice of Allegation. The AIU indicated that in the absence of a reply by 28 December 2023, that the Athlete would be deemed to have waived her right to the analysis of the B Sample for the Second Sample and accepted the finding in the A Sample of the Second Sample.
17. The Athlete failed to respond to the First AIU Notice of Allegation by 28 December 2023.
18. However, on 19 January 2024, the Athlete wrote to the AIU and stated, in summary, that:
  - 18.1. she had not been informed about the First Adverse Analytical Finding in the First Sample collected in November 2022 before November 2023;
  - 18.2. she had been given “*clomid*” medication for fertility treatment in 2020, but she had decided “*not to start the journey of pregnancy*”; and
  - 18.3. she had been using herbs for treatment and herbal fertility medicines, but not any prohibited substances.

### THIRD ADVERSE ANALYTICAL FINDING

19. On 16 November 2023, the Athlete provided a urine Sample Out-of-Competition in Eldoret, Kenya, pursuant to Testing conducted by the AIU, which was given code 7210597 (the “**Third Sample**”).
20. On 29 January 2024, the Seibersdorf Laboratory reported that the analysis of the Third Sample had revealed the presence of Clomifene and 19NA at a concentration greater than 15ng/mL (the “**Third Adverse Analytical Finding**”).
21. The AIU reviewed the Third Adverse Analytical Finding in accordance with Article 5 of the ISRM and determined that:

- 21.1. the Athlete did not have a TUE that had been granted (or that would be granted) for the 19NA or Clomifene found in the Third Sample; and
- 21.2. there was no apparent departure from the ISTI or from the ISL that could reasonably have caused the Third Adverse Analytical Finding.
22. On 6 February 2024, the AIU notified the Athlete of the Third Adverse Analytical Finding in accordance with Article 5.1.2.1 of the ISRM (the “**Second AIU Notice of Allegation**”), including that the Third 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.
23. The Athlete was also informed of her rights, *inter alia*, to request the B Sample analysis and to request copies of the laboratory documentation supporting the Third Adverse Analytical Finding. The AIU also requested that the Athlete provide an explanation for the Third Adverse Analytical Finding by no later than 14 February 2024.
24. On 13 February 2024, the Athlete sent an e-mail to the AIU stating that she did not understand the Second AIU Notice of Allegation and asked that it be explained to her.
25. Therefore, on 16 February 2024, the AIU wrote to the Athlete and explained her circumstances and the main points of the Second AIU Notice of Allegation and gave the Athlete until no later than 20 February 2024 to submit her explanation for the Third Adverse Analytical Finding or to request the B Sample analysis of the Third Sample and/or to ask for the A Sample laboratory documentation package for the A Sample analysis for the Third Sample.
26. The Athlete failed to respond by 20 February 2024 or at all.
27. Therefore, on 21 February 2024, the AIU wrote to the Athlete again by e-mail and exceptionally granted her an extension until no later than 23 February 2024 to provide her response to the Second AIU Notice of Allegation in relation to the Third Adverse Analytical Finding.
28. The Athlete failed to respond by 23 February 2024 or at all.
29. Following a review of the Athlete’s explanations for the First Adverse Analytical Finding and the Second Adverse Analytical Finding, and in view of the Athlete’s failure to provide any explanation for the Third Adverse Analytical Finding, the AIU remained satisfied that the Athlete had committed Anti-Doping Rule Violations as set out in the Rules.
30. Therefore, on 17 May 2024, the AIU issued the Athlete with a Notice of Charge in accordance with Rule 8.5.1 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 lifetime period of Ineligibility and (ii) disqualification of her results on and since 20 November 2022.
31. The AIU invited the Athlete to respond to the Charge confirming how she wished to proceed by no later than 31 May 2024. 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.

32. The Athlete failed to respond by 31 May 2024.
33. On 4 June 2024, the AIU therefore wrote to the Athlete confirming that, in circumstances where the AIU had not received any response, the AIU was entitled to deem that she had 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 (as explained in the Charge). The Athlete was also informed that the AIU would issue a final decision in the matter and Publicly Report that decision in accordance with Rule 14.3.2.

## Consequences

34. The Athlete has previously been sanctioned with a period of Ineligibility of one (1) year from 25 February 2019 to 24 February 2020 for the presence/use of Prednisone and Prednisolone in a Sample that was collected from the Athlete on 7 October 2018.
35. 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”*
36. Nandrolone (when administered exogenously) is a Prohibited Substance under the WADA 2022 Prohibited List and under the WADA 2023 Prohibited List under the category S1.1 Anabolic Androgenic Steroids. It is a Non-Specified Substance prohibited at all times.
37. Clomifene is a Prohibited Substance under the WADA 2023 Prohibited List under the category S4.2 Anti-Estrogenic Substances [Anti-Estrogens and Selective Estrogen Receptor Modulators (SERMS)]. Canrenone is a Prohibited Substance under the WADA 2023 Prohibited List under the category S5 Diuretics and Masking Agents. They are Specified Substances prohibited at all times.
38. The Anti-Doping Rule Violations arising from the First Adverse Analytical Finding, the Second Adverse Analytical Finding and the Third Adverse Analytical Finding constitute the Athlete’s second and third Anti-Doping Rule Violations.
39. In accordance with Rule 10.9.3(a), the Anti-Doping Rule Violations arising from the First Sample and the Second Sample shall be considered collectively as a single (second) Anti-Doping Rule Violation; the Athlete did not receive notice of Anti-Doping Rule Violations arising from the First Sample before the Second Sample was collected.

40. However, the ADAK Notice (viz. the First Sample) was issued to the Athlete on 2 November 2023<sup>2</sup> before the Third Sample was collected from the Athlete on 16 November 2023 and the AIU considers that there is sufficient evidence to demonstrate that the Third Adverse Analytical Finding constitutes the Athlete's third Anti-Doping Rule Violation.
41. In particular, the estimated concentration of 19NA in the Third Sample (73.8ng/mL) is greater than the estimated concentration of 19NA in the Second Sample (19.5ng/mL) and the Presence of 19NA in the Third Sample at the higher concentration was detected on 16 November 2023, after the Athlete received notice from ADAK of the First Adverse Analytical Finding and of potential Anti-Doping Rule Violations arising therefrom on 2 November 2023. In these circumstances, the AIU considers that the Anti-Doping Rule Violations that arise from the Third Adverse Analytical Finding shall (collectively) constitute the Athlete's third Anti-Doping Rule Violation.
42. Rule 10.9.1(b) ADR specifies that a third Anti-Doping Rule Violation will always result in a lifetime period of Ineligibility:

*“10.9.1 Second or third anti-doping rule violation:*

*[...]*

*(b) A third anti-doping rule violation will always result in a lifetime period of Ineligibility, except if the third violation fulfils the condition for reduction of the period of Ineligibility under Rule 10.6, or involves a violation of Rule 2.4. In these particular cases, the period of Ineligibility will range from eight years to lifetime Ineligibility.”*

43. The Athlete's third Anti-Doping Rule Violation does not fulfil any condition for reduction of the period of Ineligibility under Rule 10.6 ADR. Therefore, the period of Ineligibility to be imposed is a lifetime period of Ineligibility.
44. 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, and in accordance with Rule 10.9.1(b) ADR, the AIU confirms by this decision the following Consequences for the Athlete's Anti-Doping Rule Violations:
- 44.1. a lifetime period of Ineligibility commencing on 22 November 2023 (the date of Provisional Suspension); and
- 44.2. disqualification of the Athlete's results on and since 20 November 2022, with all resulting Consequences, including the forfeiture of any medals, titles, awards, points, prizes, prize money and appearance money.

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<sup>2</sup> The ADAK Notice must have been received by the Athlete because she responded to it within the deadline that was set by ADAK.



## Publication

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

## Rights of Appeal

46. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.

47. Further to Rule 13.2.3 ADR, WADA and 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.

48. 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, 20 June 2024