
Decision of the Athletics Integrity Unit in the Case of Ms Agnes Mueni Mutua

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 Agnes Mueni Mutua ("the **Athlete**") is a 28-year-old road runner from Kenya.
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 3 December 2023, the Athlete provided a urine Sample In-Competition at the Amazing Thailand Half Marathon, held in Bangkok, Thailand, which was given code 1009491 (the "**Sample**").
6. On 25 January 2024, the World Anti-Doping Agency ("**WADA**") accredited laboratory in Bangkok, Thailand (the "**Laboratory**") reported an Adverse Analytical Finding in the Sample based on the presence Testosterone and its Metabolites Androsterone, Etiocholanolone, 5 α -androstane-3 α ,17 diol ("**5 α Adiol**") and 5 β -androstane-3 α ,17 diol ("**5 β Adiol**") of exogenous origin and Trimetazidine (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 exogeneous Testosterone (and its Metabolites) or the Trimetazidine 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 29 January 2024, 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 by 5 February 2024.
10. The Athlete did not reply within the given deadline.
11. On 7 February 2024, the AIU extended the Athlete's deadline to reply to the Notice of Allegation until 14 February 2024.
12. The Athlete failed to reply within the given deadline or at all.
13. Therefore, on 18 March 2024, 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 six (6) years¹ and (ii) disqualification of her results on and since 3 December 2023.

¹ Based on the presence of Aggravating Circumstances in the matter in accordance with Rule 10.4, as set out further below.

14. The AIU invited the Athlete to respond to the Charge confirming how she wished to proceed by no later than 1 April 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.
15. On 4 April 2024, the AIU discovered that its prior correspondence had been issued to an incorrect e-mail address for the Athlete. Therefore, the AIU immediately reissued the notification of the Adverse Analytical Finding and the Athlete's deadline to reply was extended until 11 April 2024.
16. On 8 April 2024, the AIU received an Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form signed by the Athlete.

Consequences

17. This is the Athlete's first Anti-Doping Rule Violation.
18. 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."*

19. Testosterone (of exogenous origin) is a Prohibited Substance under the WADA 2023 Prohibited List under the category S1.1 Anabolic Androgenic Steroids (AAS). It is a Non-Specified Substance prohibited at all times.
20. Trimetazidine is a Prohibited Substance under the WADA 2023 Prohibited List under the category S4 Hormone and Metabolic Modulators. It is a Non-Specified Substance prohibited at all times.
21. 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.
22. The Athlete has not demonstrated that the Anti-Doping Rule Violations were not intentional. Therefore, the mandatory period of Ineligibility is a period of Ineligibility of four (4) years.

23. However, Rule 10.4 ADR specifies that the period of Ineligibility may be increased if Aggravating Circumstances are present as follows:

“10.4 If the Integrity Unit or other prosecuting authority establishes in an individual case involving an anti-doping rule violation other than violations under Rule 2.7 (Trafficking or Attempted Trafficking), Rule 2.8 (Administration or Attempted Administration), Rule 2.9 (Complicity or Attempted Complicity) or Rule 2.11 (Acts by an Athlete or other Person to discourage or retaliate against reporting) that Aggravating Circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable will be increased by an additional period of Ineligibility of up to two (2) years depending on the seriousness of the violation and the nature of the Aggravating Circumstances, unless the Athlete or other Person can establish that they did not knowingly commit the anti-doping rule violation.”

24. Aggravating Circumstances are defined in the Rules as being:

*“**Aggravating Circumstances:** Circumstances involving, or actions by, an Athlete or other Person which may justify the imposition of a period of Ineligibility greater than the standard sanction. Such circumstances and actions shall include, but are not limited to: the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods, Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions or committed multiple other anti-doping rule violations; a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility; the Athlete or Person engaged in deceptive or obstructive conduct to avoid the detection or adjudication of an anti-doping rule violation; or the Athlete or other Person engaged in Tampering during Results Management. For the avoidance of doubt, the examples of circumstances and conduct described herein are not exclusive and other similar circumstances or conduct may also justify the imposition of a longer period of Ineligibility.” (emphasis added)*

25. The analysis of the Sample revealed the presence of two (2) Non-Specified Prohibited Substances, namely Testosterone and Trimetazidine. This constitutes clear evidence of the Athlete’s Use of multiple Prohibited Substances which is expressly identified in the definition of Aggravating Circumstances and therefore justifies an increase of the period of Ineligibility, unless the Athlete can establish that she did not knowingly commit the Anti-Doping Rule Violations.
26. The Athlete has failed to establish that she did not knowingly commit the Anti-Doping Rule Violations. Therefore, the period of Ineligibility to be imposed is a period of Ineligibility of six (6) years.

27. 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.”

28. The Notice of Allegation was issued to the Athlete on 4 April 2024, and, on 8 April 2024, the Athlete returned a signed Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form confirming that she admitted the Anti-Doping Rule Violations and accepted the asserted period of Ineligibility.

29. 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.

30. On the basis that the Athlete has admitted the Anti-Doping Rule Violations under Rule 2.1 ADR and Rule 2.2 ADR, in accordance with Rule 10.2.1 ADR and Rule 10.4 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:

30.1. a period of Ineligibility of five (5) years commencing on 29 January 2024 (the date of Provisional Suspension); and

30.2. disqualification of the Athlete’s results on and since 3 December 2023, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points, prizes and appearance money.

31. 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

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

Rights of Appeal

33. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.
34. 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.
35. 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, 12 April 2024