

## DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF DAVINDER SINGH KANG

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### Introduction

1. In April 2017, the IAAF established the Athletics Integrity Unit ("**AIU**") whose role is to protect the integrity of the sport of Athletics, including fulfilling the IAAF's obligations as a Signatory to the World Anti-Doping Code. The IAAF has delegated implementation of the IAAF 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. Davinder SINGH KANG is a 29-year old male javelin thrower from India who is an International-Level Athlete for the purposes of the ADR (the "**Athlete**").

### Facts

3. On 10 November 2017, the Athlete provided a urine sample out-of-competition in Patiala, India, with code A3089439 (the "**Sample**").
4. The Sample was sent for analysis to the WADA-accredited laboratory in New Delhi, India ("the **Laboratory**").
5. On 23 November 2017, the Laboratory uploaded to the ADAMS database the results of the initial analysis of the Sample which included uploading the levels of the Athlete's Endogenous Anabolic Androgenic Steroids ("**EAAS**") to the Athlete Biological Passport Steroid Module in ADAMS.
6. The Steroid Module monitors an athlete's individual EAAS levels over time and uses the Adaptive Model to identify an Atypical Passport Finding ("**ATPF**"). If an ATPF is identified using the Adaptive Model, this automatically triggers a confirmation procedure request ("**ATPF-CPR**") within the system and requires a laboratory to undertake confirmation procedures, including further analysis by way of Isotope Ratio Mass Spectrometry ("**IRMS**"). IRMS analysis can detect the presence of synthetic (i.e., exogenous) forms of EAAS in urine samples.
7. An ATPF-CPR was automatically generated for the Sample in ADAMS and received by the Laboratory on 24 November 2017.
8. Initial confirmation procedures via GC-MS/MS were commenced by the Laboratory on 12 January 2018, with additional confirmation procedures by GC/C/IRMS commencing on 29 January 2018. The IRMS results were uploaded to ADAMS on 16 February 2018.
9. The results of the IRMS analysis of the Sample recorded the 5 $\alpha$ Adiol and 5 $\beta$ Adiol values to be consistent with being of exogenous origin. The Laboratory therefore recorded an Adverse Analytical Finding in respect of the Sample ("**AAF**").
10. The B Sample was analysed by the Laboratory on 14 March 2018 and confirmed the AAF.

## Disciplinary Proceedings

11. On 29 May 2018, the AIU issued the Athlete with a Notice of Charge for violations of Article 2.1 and Article 2.2 ADR.
12. The Athlete provided his written response to the Notice of Charge on 8 June 2018 and sought to explain the AAF in light of his health, prescribed medication and supplement use.
13. On 15 June 2018, the Athlete confirmed that he wished for the matter to proceed to a hearing before the IAAF Disciplinary Tribunal ("**Disciplinary Tribunal**").
14. On 16 July 2018, a Preliminary Meeting was convened before the appointed Chair of the Disciplinary Tribunal and procedural Directions were issued to the parties on 17 July 2018 ("**Procedural Directions**").
15. The AIU filed its Brief on behalf of the IAAF on 31 July 2018 in accordance with the Procedural Directions.
16. The Athlete filed no Answer to the IAAF Brief by 28 August 2018 as stipulated in the Procedural Directions.
17. The Athlete did file an Answer nearly three months later, on 19 November 2018, one day before a further Preliminary Meeting convened in the matter.
18. On 20 November 2018, the Panel decided at the Preliminary Meeting to admit the Athlete's Answer and it set further procedural directions in the matter, including fixing a hearing date. As part of these further directions, the Athlete was given until 18 December 2018 in which to file any factual and/or expert evidence in support of his answer.
19. On 18 December 2018, the Athlete filed documentary evidence in support of his Answer in accordance with the Panel's order.
20. On 25 January 2019, the AIU filed its Reply brief together with supporting factual and expert evidence, in accordance with the Panel's order.
21. The hearing of this matter was scheduled to take place before the Disciplinary Tribunal on 19-20 February 2019.
22. On 14 February 2019, the AIU received a letter from the World Anti-Doping Agency ("**WADA**") in which WADA advised that it was conducting a review of the analytical performance of the Laboratory, including in connection with the AAF. In light of this ongoing review, WADA suggested to the AIU, in the interest of fairness to the parties, that the Athlete's hearing be adjourned whilst WADA completed its review of the Laboratory.
23. Further to WADA's letter, the AIU and the Athlete agreed to adjourn the hearing set for 19-20 February 2019 pending completion of WADA's on-going review of the Laboratory.
24. On 1 March 2019, the AIU received a letter from the Laboratory dated 28 February 2019 in which the Laboratory announced that it was withdrawing the AAF issued for the Sample having undertaken a further review of the analytical results with WADA.
25. On 1 March 2019, WADA confirmed by letter to the AIU that the AAF for the Sample had been withdrawn by the Laboratory and that WADA considered the case closed. WADA notified the AIU in the same letter to discontinue the disciplinary proceedings against the Athlete with immediate effect.

26. On 5 March 2019, the AIU withdrew its Notice of Charge against the Athlete and this decision is produced in accordance with Article 8.4.7 ADR.

#### **Publication**

27. In accordance with Article 8.4.7(b) ADR, the AIU shall publicly report this decision on the AIU's website.

#### **Rights of Appeal**

28. This decision constitutes the final decision of the AIU pursuant to Article 8.4.7 ADR.
29. Further to Article 13.2.4 ADR, WADA and the National Anti-Doping Agency of India ("**NADA**") 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 Article 13.7.2 ADR.
30. If an appeal is filed against this decision by WADA or NADA, the Athlete will be entitled to exercise a right of cross-appeal in accordance with Article 13.9.3 ADR.

**Monaco, 7 March 2019**