

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MR MATHEW KIPKOECH KISORIO

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. Mr Mathew Kipkoech Kisorio is a 32-year-old Kenyan long-distance runner and is an International-Level Athlete for the purposes of the ADR (the "**Athlete**").¹
3. This matter constitutes the Athlete's second Anti-Doping Rule Violation; the Athlete has previously served a period of Ineligibility of two (2) years from 11 July 2012 to 10 July 2014 for an Anti-Doping Rule Violation based on the presence of a Prohibited Substance in a Sample collected on 14 June 2012.
4. 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)."*

WHEREABOUTS FAILURES

5. Rule 2.4 ADR sets out that the following shall constitute an Anti-Doping Rule Violation:

"2.4 Whereabouts Failures by an Athlete in a Registered Testing Pool

¹ <https://www.worldathletics.org/athletes/kenya/mathew-kipkoech-kisorio-14208580>

Any combination of three missed tests and/or filing failures, as defined in the International Standard for Results Management, within a 12-month period by an Athlete in a Registered Testing Pool.”

6. A Missed Test and a Filing Failure are defined in the WADA International Standard for Results Management (“ISRM”) respectively as follows:

“Missed Test: A failure by the Athlete to be available for Testing at the location and time specified in the 60-minute time slot identified in their Whereabouts Filing for the day in question, in accordance with Article 4.8 of the International Standard for Testing and Investigations and Annex B.2 of the International Standard for Results Management.

“Filing Failure: A failure by the Athlete (or by a third party to whom the Athlete has delegated the task) to make an accurate and complete Whereabouts Filing that enables the Athlete to be located for Testing at the times and locations set out in the Whereabouts Filing or to update that Whereabouts Filing where necessary to ensure that it remains accurate and complete, all in accordance with Article 4.8 of the International Standard for Testing and Investigations and Annex B.2 of the International Standard for Results Management.”

7. In short, an athlete violates Rule 2.4 of the ADR where he or she has any combination of three Missed Tests and/or Filing Failures within any twelve-month period, that period beginning on the day of the first relevant Missed Test/Filing Failure.

THE ATHLETE’S COMMISSION OF AN ANTI-DOPING RULE VIOLATION

8. In this instance, the Athlete has had four (4) Whereabouts Failures in the twelve-month period beginning on 16 February 2021, specifically:

- (i) a Missed Test on 16 February 2021;
- (ii) a Filing Failure on 1 July 2021;
- (iii) a Filing Failure on 1 January 2022; and
- (iv) a Filing Failure on 14 January 2022.

I. First Whereabouts Failure - Missed Test on 16 February 2021

9. In summary, a Doping Control Officer (“DCO”) and Blood Collection Assistant (“BCA”) attended the address indicated in the Athlete’s Whereabouts information for 16 February 2021 during the Athlete’s specified 60-minute time slot between 07:00 and 08:00 and a third party informed the DCO that the Athlete was not present and that the Athlete had been away from that location for around two (2) months. The DCO remained at the Athlete’s specified location until 08:00, but the Athlete was not available for Testing.

10. Therefore, on 24 February 2021, the AIU wrote to the e-mail address provided in ADAMS as the Athlete’s e-mail address and notified the Athlete of an apparent Missed Test which occurred on 16 February 2021 and requested his explanation by no later than 10 March 2021.

11. The AIU received no response or any explanation from the Athlete for the apparent Missed Test that occurred on 16 February 2021 by 10 March 2021.
12. On 29 March 2021, the AIU therefore wrote to the Athlete and confirmed the Missed Test on 16 February 2021. The Athlete was afforded the right to request an administrative review of that decision by no later than 12 April 2021 and advised that, if he failed to do so, the Missed Test would be considered as a Whereabouts Failure for the purposes of Rule 2.4 ADR.
13. No request for an administrative review was received by 12 April 2021.
14. Therefore, the AIU recorded a Whereabouts Failure (a Missed Test) against the Athlete effective 16 February 2021.

II. Second Whereabouts Failure - Filing Failure on 1 July 2021

15. On 31 May 2021, the AIU advised the Athlete of his inclusion in the World Athletics International Registered Testing Pool (“**IRTP**”) for Quarter 3 2021 and informed him that he must therefore submit his whereabouts information for that period in ADAMS by no later than 15 June 2021.
16. On 13 June 2021, the Athlete was sent a reminder by e-mail to submit his whereabouts information for Quarter 3 2021 in ADAMS by 15 June 2021. However, the Athlete failed to do so.
17. Therefore, on 23 June 2021, the AIU wrote to the Athlete again by e-mail noting that he had failed to submit his whereabouts information for Quarter 3 2021 in ADAMS by 15 June 2021 and requested that he contact the AIU the same day if he was experiencing any problems accessing his ADAMS account to submit his whereabouts information.
18. On 24 June 2021, the AIU also wrote directly to a representative of Athletics Kenya (“the **AK Representative**”) informing them that the Athlete had not adhered to the 15 June 2021 deadline to submit his whereabouts information in ADAMS for Quarter 3 2021.
19. On 28 June 2021, by e-mail sent at 13:22 CET (and copied to the AK Representative), the AIU issued the Athlete with an urgent reminder to submit his whereabouts information in ADAMS for Quarter 3 2021 immediately and confirmed that if he had any problems with his access to ADAMS or the Athlete Central application that he should contact the AIU immediately.
20. On 28 June 2021, by e-mail received at 13:55 CET, the AK Representative replied to the e-mail from the AIU and advised that the Athlete was being contacted to submit his whereabouts information in accordance with the AIU’s requests.
21. The Athlete failed to respond or to submit his whereabouts information for Quarter 3 2021 in ADAMS by 1 July 2021.
22. Therefore, on 12 July 2021, the AIU wrote to the Athlete by e-mail (i) requesting his explanation by no later than 26 July 2021 for an apparent Whereabouts Failure which occurred on 1 July 2021 i.e., his failure to submit his Quarter 3 2021 whereabouts information by that date; and (ii) advising him that he was required to submit his

whereabouts information for Quarter 3 2021 in ADAMS within the next 48 hours i.e., by no later than 14 July 2021, in order to avoid a further Whereabouts Failure².

23. On 14 July 2021, the Athlete responded to the AIU's e-mail sent on 12 July 2021 and requested help with his (ADAMS) username and password. The AIU responded to the Athlete's e-mail later the same day stating that his ADAMS access issues were unclear, but that in view of the urgency associated with the submission of his whereabouts information for Quarter 3 2021, he was (exceptionally) permitted to submit that information (to include at least an overnight accommodation address and an address and nominated specific 60-minute time slot for every day from 14 July 2021 until 30 September 2021) by e-mail by immediate reply. The AIU confirmed that, if the Athlete failed to submit that information by e-mail by the end of the day on 14 July 2021, it would be classified as a further Filing Failure against him.
24. The AIU thereafter received an e-mail from the WADA ADAMS Support team, forwarding an email from the Athlete that had been submitted to WADA including the Athlete's whereabouts information for the remainder of Quarter 3 2021.
25. Whereas the AIU considered that the Athlete had satisfied the AIU's 14 July 2021 request to (exceptionally) submit his whereabouts information for Quarter 3 2021 by e-mail, (by virtue of the e-mail submitted to WADA and forwarded by WADA to the AIU), the AIU also considered that the Athlete had nevertheless failed to provide any explanation for his failure to submit that information in ADAMS by the beginning of Quarter 3 2021 on 1 July 2021.
26. On 10 August 2021, the AIU therefore wrote to the Athlete by e-mail and confirmed a Whereabouts Failure effective 1 July 2021 against him. The Athlete was afforded the right to request an administrative review of that decision by no later than 24 August 2021 and advised that, if he failed to do so, the Whereabouts Failure would be confirmed against him as his second Whereabouts Failure in the twelve-month period beginning 16 February 2021 for the purposes of Rule 2.4 ADR.
27. The Athlete did not request an administrative review by 24 August 2021.
28. Therefore, the AIU recorded a Filing Failure against the Athlete effective 1 July 2021 as his second Whereabouts Failure in the twelve-month period beginning 16 February 2021.

III. Third Whereabouts Failure - Filing Failure on 1 January 2022

29. On 30 November 2021, the Athlete was advised of his inclusion in the IRTP for Quarter 1 2022 and informed that he must therefore submit his whereabouts information for that period in ADAMS by no later than 15 December 2021. On 6 December 2021 and 14 December 2021, the AIU issued further e-mail correspondence to the Athlete reminding him of the requirement to submit his whereabouts information in ADAMS for Quarter 1 2022 by 15 December 2021.

² See Article B.3.2 d) of the ISRM which provides “[...] *In the case of a Filing Failure, the notice must advise the Athlete that in order to avoid a further Filing Failure, they must file the missing whereabouts information by the deadline specified in the notice, which must be within 48 hours after receipt of the notice.*”

30. The Athlete failed to submit his whereabouts information in ADAMS for Q1 2022 by 15 December 2021.
31. On 29 December 2021, the AIU issued further e-mail correspondence to the Athlete reminding him of the requirement to submit his whereabouts information in ADAMS for Quarter 1 2022 and noting that he had failed to do so to date.
32. The Athlete failed to submit his whereabouts information in ADAMS for Quarter 1 2022 by 1 January 2022.
33. On 7 January 2022, the AIU wrote to the Athlete again noting that he had still failed to provide his whereabouts information for Quarter 1 2022 in ADAMS. The AIU exceptionally permitted the Athlete until 9 January 2022 to submit that information and confirmed that, if he did not submit his whereabouts information in ADAMS by that date, a Whereabouts Failure (a Filing Failure) would be pursued against him.
34. The Athlete failed to submit his whereabouts information for Quarter 1 2022 in ADAMS by 9 January 2022.
35. Therefore, on 12 January 2022, the AIU wrote to the Athlete by e-mail requesting his explanation for an apparent Whereabouts Failure for failing to submit his whereabouts information in ADAMS by 1 January 2022 and then by 9 January 2022, by no later than 26 January 2022.
36. The AIU also requested that the Athlete submit his whereabouts information for Quarter 1 2022 in ADAMS within the following 48 hours (i.e., by no later than 14 January 2022) and confirmed that, if he failed to do so, this would constitute a further Whereabouts Failure against him.³
37. On 15 January 2022, the AIU received an e-mail from the Athlete in response to its 12 January 2022 letter. The Athlete did not dispute the apparent Whereabouts Failure for failing to submit his whereabouts information in ADAMS by 1 January 2022 and 9 January 2022. The Athlete stated that *'i am really sorry for being late to submit my whereabouts, For the last 5 days i have been sick and I could not manage to go to the ciber'* [sic].
38. The AIU considered that the Athlete's explanation of an alleged sickness for the five (5) days prior to 15 January 2022 (i.e., from 10-15 January 2022) failed to explain why he did not submit his whereabouts information for Quarter 1 2022 in ADAMS by 1 January 2022 (or indeed by the extended deadline of 9 January 2022 notified to the Athlete by e-mail on 7 January 2022).
39. Therefore, on 20 January 2022, the AIU wrote to the Athlete by e-mail and confirmed a Whereabouts Failure effective 1 January 2022 against him. The Athlete was afforded the right to request an administrative review of that decision by no later than 3 February 2022 and advised that, if he failed to do so, the Whereabouts Failure would be confirmed against him as his third Whereabouts Failure in the twelve-month period beginning 16 February 2021 for the purposes of Rule 2.4 ADR.

³ *Ibid*

40. The Athlete did not request an administrative review by 3 February 2022.
41. Therefore, the AIU recorded a Filing Failure against the Athlete effective 1 January 2022 as his third Whereabouts Failure in the twelve-month period beginning 16 February 2021.

IV. Fourth Whereabouts Failure - Filing Failure on 14 January 2022

42. As set out in paragraphs 35-36 above, on 12 January 2022, the AIU wrote to the Athlete by e-mail and requested that the Athlete submit his whereabouts information for Quarter 1 2022 in ADAMS by no later than 14 January 2022. The Athlete was informed that, if he failed to do so, this would constitute a further Whereabouts Failure.⁴
43. The Athlete failed to submit his whereabouts information for Quarter 1 2022 in ADAMS by 14 January 2022.
44. Therefore, on 21 January 2022, the AIU wrote to the Athlete by e-mail requesting his explanation for an apparent Whereabouts Failure which occurred on 14 January 2022 by no later than 4 February 2022.
45. The AIU received no response or any explanation from the Athlete for the apparent Whereabouts Failure that occurred on 14 January 2022 by that date.
46. Therefore, on 7 February 2022, the AIU wrote to the Athlete by e-mail and confirmed the Whereabouts Failure on 14 January 2022 against him. The Athlete was afforded the right to request an administrative review of that decision by no later than 21 February 2022 and advised that, if he failed to do so, the Filing Failure would be confirmed against him as his fourth Whereabouts Failure in the twelve-month period beginning 16 February 2021 for the purposes of Rule 2.4 ADR.
47. The Athlete did not request an administrative review by 21 February 2022.
48. Therefore, the AIU recorded a Filing Failure against the Athlete effective 14 January 2022 as his fourth Whereabouts Failure in the twelve-month period beginning 16 February 2021.

DISCIPLINARY PROCEEDINGS

49. On 8 March 2022, following the conclusion of the results management procedures relating to the above-mentioned Whereabouts Failures, the AIU issued a Notice of Allegation of Anti-Doping Rule Violation to the Athlete for a violation of Rule 2.4 ADR (including the imposition of a Provisional Suspension) and invited him to respond by no later than 15 March 2022.
50. The AIU received no response to the Notice of Allegation.
51. Therefore, on 18 March 2022, the AIU issued a Notice of Charge to the Athlete confirming that he was being charged with an Anti-Doping Rule Violation under Rule 2.4 ADR (“the **Charge**”) and invited the Athlete to respond confirming how he would like to proceed with the Charge by no later than 28 March 2022.

⁴ *Ibid*

52. On 24 March 2022, a representative of the AIU contacted the Athlete directly by phone. The Athlete was reminded that he was required to respond to the Charge confirming how he wished to proceed by no later than 28 March 2022.
53. During that call the Athlete confirmed that he had a working internet connection at that time and that he would reply to the AIU by the deadline of 28 March 2022. The Athlete was advised to contact a representative of Athletics Kenya for assistance, including to obtain help in seeking legal advice, if he wished to do so.
54. However, the Athlete failed to respond to the AIU confirming how he wished to proceed with the Charge by 28 March 2022.
55. On 29 March 2022, the AIU therefore wrote to the Athlete by e-mail noting that no response to the Charge had been received. The AIU also confirmed that it was therefore satisfied that the Athlete (i) accepted that he had committed an Anti-Doping Rule Violation and (ii) waived his right to a hearing before the Disciplinary Tribunal in that respect and in relation to the Consequences to be imposed for that violation.
56. The AIU also reminded the Athlete that he had until no later than 7 April 2022 to sign and return an Admission of Anti-Doping Rule Violation and Acceptance of Consequences form (that were enclosed with the Notice of Allegation and the Charge) to benefit from an automatic one (1) year reduction in the period of Ineligibility pursuant to Rule 10.8.1 ADR⁵ and that, if he failed to do so by that date, he would be deemed to have admitted the Anti-Doping Rule Violation and accepted the Consequences set out in the Charge and the AIU would then issue a final decision in his case.
57. The Athlete failed to respond to the Charge or to submit a signed Admission of Anti-Doping Rule Violation and Acceptance of Consequences form to the AIU by 7 April 2022. The Athlete is therefore deemed to have admitted the Anti-Doping Rule Violation, accepted the Consequences specified in the Charge and to have waived his right to a hearing before the Disciplinary Tribunal in accordance with Rule 8.5.2(f) ADR.

CONSEQUENCES

58. This is the Athlete's second Anti-Doping Rule Violation.
59. On the basis that the Athlete is deemed to have admitted the Anti-Doping Rule Violation under Rule 2.4 ADR and accepted the Consequences set out in the Charge, the AIU confirms by this decision the following Consequences for a second Anti-Doping Rule Violation:

⁵ In accordance with Rule 10.9.1(a), the period of Ineligibility shall be in the range between (i) the sum of the period of Ineligibility imposed for the Athlete's first Anti-Doping Rule Violation (i.e., 2 years) plus the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation (i.e., 2 years) (ergo, a total of 4 years); and (ii) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation (i.e., 2 x 2 years = 4 years). Rule 10.8.1 ADR confirms that, where the AIU notifies an Athlete of an Anti-Doping Rule Violation charge that carries an asserted period of Ineligibility of four (4) years or more, then the Athlete may receive a one (1) year reduction in the period of Ineligibility asserted by admitting the violation and accepting the asserted period of Ineligibility no later than 20 days after receiving the Notice of Charge.

- 59.1. a period of ineligibility of four (4) years commencing on the date of this decision, with credit for the period of Provisional Suspension since 8 March 2022 (i.e., until 7 March 2026);
- 59.2. disqualification of the Athlete's results since 1 January 2022, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points prizes and appearance money.

PUBLICATION

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

RIGHTS OF APPEAL

61. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.
62. Further to Rule 13.2.3 ADR, the Athlete, the World Anti-Doping Agency ("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.

Monaco, 15 April 2022