

---

## DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MR SAMUEL KALALEI

---

### 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. Mr Samuel Kalalei is a 23-year old Kenyan marathon runner who is an International-Level Athlete for the purposes of the ADR (the "**Athlete**").
3. This decision is issued pursuant to Article 8.4.5 ADR which provides that:

*"8.4.5 In the event that the Athlete or Athlete Support Person does not respond to the Notice of Charge by the specified deadline, the Athlete or Athlete Support Person will be deemed to have admitted the Anti-Doping Rule Violation(s) charged and to have acceded to the Consequences specified in the Notice of Charge and the Integrity Unit shall promptly issue a decision in accordance with Article 8.4.7. "*

### The Athlete's commission of Anti-Doping Rule Violations

4. On 8 April 2018, the Athlete underwent an in-competition doping control at the '38<sup>th</sup> NN Rotterdam Marathon', held in Rotterdam, Netherlands. The Athlete provided a urine sample numbered 4218851 (the "**Sample**").
5. On 18 May 2018, the WADA accredited laboratory in Cologne reported an Adverse Analytical Finding for the presence of recombinant EPO ("**EPO**") in the Sample (the "**AAF**").
6. EPO is a Prohibited Substance under the WADA 2018 Prohibited List (S2: Peptide Hormones, Growth Factors, Related Substances and Mimetics). It is a non-specified substance and is prohibited at all times. The Athlete did not have a Therapeutic Use Exemption permitting the use of EPO.
7. On 4 June 2018, the AIU notified the Athlete of the AAF via an e-mail to his Authorised Athletes' Representative, Mr. Marc Corstjens (the "**Athlete's Representative**") for immediate onward transmission. This notification (which was copied to the Anti-Doping Agency of Kenya ("**ADAK**") and Athletics Kenya ("**AK**")) requested an explanation for the AAF and afforded the Athlete the opportunity to request analysis of the B Sample.
8. On 5 June 2018, Mr Erick Omariba of ADAK wrote to the Athlete's Representative confirming that he had been engaged by ADAK to effect service of the AIU's letter dated 4 June 2018 on the Athlete. Mr Omariba requested that the Athlete's Representative confirm the Athlete's telephone number and physical address to enable the hard copy documents to be served upon the Athlete.

9. On 5 June 2018, the Athlete's Representative confirmed to Mr Omariba that he had forwarded the AIU's letter dated 4 June 2018 to an email address that had been given to him by the Athlete earlier that day. The Athlete's Representative also confirmed to Mr Omariba the e-mail address that he had been given by the Athlete as well as a telephone number and physical address for him.
10. By e-mail on 20 June 2018, ADAK confirmed to the AIU that the letter dated 4 June 2018 had been sent to the e-mail address provided for the Athlete on 6 June 2018.
11. On 22 June 2018, the AIU letter dated 4 June 2018 was delivered to the Athlete by hand by a process server acting on behalf of ADAK. In the course of delivering the AIU letter, the process server verified with the Athlete his correct email address and phone number for future communication and confirmed this e-mail address ("**the Athlete's Confirmed E-mail Address**") and phone number to the AIU.
12. On 28 June 2018, the AIU resent a copy of the letter dated 4 June 2018 to the Athlete's Confirmed E-mail Address and extended his deadline to provide an explanation for the AAF and to request the B sample analysis to no later than 4 July 2018. This e-mail was also copied to the Athlete's Representative.
13. The Athlete did not provide any explanation and did not request analysis of the B Sample by 4 July 2018.
14. On 6 August 2018, the AIU sent to the Athlete's Confirmed E-mail Address a Notice of Charge for an Anti-Doping Rule Violation pursuant to Article 2.1 ADR (Presence of a Prohibited Substance) and Article 2.2 ADR (Use of a Prohibited Substance) (the "**Charge**"). The Athlete was offered the opportunity in the Notice of Charge to admit the Anti-Doping Rule Violations and accept a four-year sanction, or to request a hearing before the Disciplinary Tribunal by no later than 15 August 2018.
15. The Athlete did not reply to the Charge within the given deadline.
16. On 16 August 2018, the AIU resent the Charge to the Athlete's Confirmed E-mail Address and to the Athlete's Representative and requested that the Athlete respond as a matter of urgency. By email the same day, the AIU requested assistance from Athletics Kenya ("**AK**") in contacting the Athlete in relation to the AAF and the Charge.
17. On 17 August 2018, a representative of AK confirmed to the AIU that they had contacted the Athlete by phone and that, during the conversation, the Athlete confirmed that the Athlete's Representative had sent him an e-mail, but that he had not checked it. The Athlete was informed by the representative of AK to check his e-mail and to respond to the AIU by the end of the day. The Athlete did not so respond.
18. On 28 August 2018, a representative of the AIU attempted to contact the Athlete directly by phone but was unable to do so. The same AIU representative sent a text message to the Athlete's phone and an e-mail to the Athlete's Confirmed E-mail Address requesting that he respond to the correspondence that had been sent to him as a matter of urgency. The Athlete did not respond.
19. On 29 August 2018, the AIU representative made a further attempt to contact the Athlete by phone but was unable to do so. By follow-up e-mail to the Athlete's Confirmed E-mail Address the same day, the AIU confirmed that the Athlete was to respond by no later than Friday 31 August 2018, failing which he would be deemed to have admitted the anti-doping rule violation and to have accepted a period of ineligibility of four years. The Athlete did not respond.

20. On 12 September 2018, the AIU made a third attempt to contact the Athlete by phone but was unable to reach him. A voicemail was left for the Athlete to contact the AIU immediately. By follow-up e-mail sent to the Athlete's Confirmed E-mail address the same day, the Athlete was given until 14 September 2018 to respond to the e-mails and letters that had been sent to him and warned that, if he did not do so, he would be deemed to have waived his right to a hearing before the Disciplinary Tribunal, to have admitted the Anti-Doping Rule Violations and to have accepted a four year ban. The Athlete did not respond.
21. The Athlete did not respond to the Notice of Charge by the specified deadline (or at all), despite the fact that it was sent to his Confirmed E-mail Address and a copy was also sent to the Athlete's Representative. The Athlete has also never responded to the numerous other attempts that have been made to contact him by phone and SMS. In accordance with Article 8.4.5 ADR, he is therefore deemed to have admitted the Anti-Doping Rule Violation(s) charged and to have acceded to the Consequences specified in the Notice of Charge.

### **Consequences**

22. Taken together, the violations committed pursuant to Article 2.1 ADR and Article 2.2. ADR constitute the Athlete's first Anti-Doping Rule Violation.
23. On the basis that the Athlete is deemed to have admitted the Anti-Doping Rule Violations specified under Article 2.1 ADR and Article 2.2 ADR, the AIU confirms by this decision the following Consequences for a first Anti-Doping Rule Violation:
  - 23.1. a period of Ineligibility of four (4) years pursuant to Article 10.2.1(a) commencing on the date of this decision. The period of provisional suspension already served by the Athlete (since 4 June 2018) shall be credited against the total period of ineligibility to be served and
  - 23.2. disqualification of the Athlete's results since 8 April 2018 with all resulting consequences including the forfeiture of any titles, awards, medals, points and prize and appearance money pursuant to Articles 9 and 10.8 ADR.

### **Publication**

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

### **Rights of Appeal**

25. This decision constitutes the final decision of the AIU pursuant to Article 8.4.5 ADR.
26. In accordance with Article 13.2.4 ADR, the Athlete, ADAK and WADA 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 ADR.

**Monaco, 9 October 2018**