
Decision of the Athletics Integrity Unit in the Case of Mr Nicholas Mboroto Kosimbei

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 Nicholas Mboroto Kosimbei ("the **Athlete**") is a 27-year-old road runner from Kenya¹.
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

¹ <https://worldathletics.org/athletes/kenya/nicholas-mboroto-kosimbei-14643475>

[...]

2.2 *Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method*

5. On 26 February 2023, the Athlete provided a urine Sample In-Competition at the Publix Atlanta Half Marathon, held in Atlanta, USA, which was given code 1111189 (the "**Sample**").
6. On 23 March 2023, the World Anti-Doping Agency ("**WADA**") accredited laboratory in Salt Lake City, USA (the "**Laboratory**") reported an Adverse Analytical Finding in the Sample for the presence of Trimetazidine (the "**Adverse Analytical Findings**").
7. The AIU reviewed the Adverse Analytical Findings 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 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 24 March 2023, 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 his rights, inter alia, to request the B Sample analysis for the Sample, 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.
10. On 25 March 2023, the Athlete wrote to the AIU and stated that he was "*shocked by the results, innocent didn't take the drug mentioned above except the supplements (mvp & FE) and cetirizine tabs which [he] took 4 days before the race*". He also requested the B Sample analysis and enquired about the costs of that analysis.
11. On 27 March 2023, the Athlete further wrote to the AIU that he "*would like to request for a case resolution agreement*" ("**CRA**").
12. Following receipt of the requested information, on 28 March 2023, the Athlete confirmed his request for the B Sample analysis and informed the AIU that he would not attend nor be represented during the opening or analysis at the Laboratory.
13. On 6 April 2023, the AIU informed the Athlete that the analysis of the B Sample had confirmed the Adverse Analytical Finding in the A Sample² and asked him to provide his explanation for

² The B Sample opening took place at the Laboratory on 29 March 2023 and was witnessed by an independent observer in accordance with article 5.3.6.2.3 ISL.

the Adverse Analytical Finding on a without prejudice basis in the context of a potential CRA by no later than 12 April 2023.

14. Between April 2023 and April 2024, the Athlete provided his explanation on a without prejudice basis to the AIU and the AIU conducted an investigation into the Athlete's explanation in Kenya (with the assistance of the Anti-Doping Agency of Kenya ("**ADAK**")), including by way of two interviews with the Athlete on 14 April 2023 and on 23 November 2023.
15. On 19 April 2024, following review of the Athlete's without prejudice explanation and the AIU's findings from its investigation, the AIU informed the Athlete that it did not agree to a CRA in his case.
16. In those circumstances, the Athlete was informed that he could either (i) rely on the explanation and supporting evidence that he had previously provided to the AIU, but no longer on a without prejudice basis, or (ii) provide an alternative explanation for the Adverse Analytical Finding by no later than 3 May 2024.
17. On 2 May 2024, the Athlete confirmed his position as follows:

"I hereby confirm that I still wish to rely on the explanation and supporting document that I provided to the AIU in the course of the Case Resolution Agreement discussion, i.e. during the interviews on 14 April 2023 and 23 November 2023 and in the emails that I sent to the AIU since 11 April 2023."

18. In summary, the Athlete's explanation is that he was prescribed Trimetazidine 35mg in a private clinic on 16 December 2022 to treat chest pain and that he took the medication twice a day for 3 days from that date.
19. Based on the AIU's investigation of the explanation, a number of inconsistencies were highlighted, and the AIU rejected the explanation accordingly.
20. On 17 May 2024, the AIU issued the Athlete with a Notice of Charge in accordance with Rule 8.5.1 ADR and Article 7.1 ISRM notifying him that he was being charged with Anti-Doping Rule Violations under Rule 2.1 ADR and Rule 2.2 ADR ("**the Charge**") and that the Consequences sought by the AIU included (i) a period of Ineligibility of four (4) years and (ii) disqualification of his results on and since 26 February 2023.
21. The AIU invited the Athlete to respond to the Charge confirming how he wished to proceed by no later than 31 May 2024.
22. On 31 May 2024, the AIU received an Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form signed by the Athlete.

Consequences

23. 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.”*

24. 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.
25. 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.
26. 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.
27. However, Rule 10.8.1 ADR provides that an athlete potentially subject to an asserted period of Ineligibility of four (4) years 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. On 17 May 2024, the Charge was issued to the Athlete. On 31 May 2024, the AIU received a signed Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form confirming that he 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 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 three (3) years commencing on 24 March 2023 (the date of Provisional Suspension); and
 - 30.2. disqualification of the Athlete's results on and since 26 February 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 his Anti-Doping Rule Violations and has expressly waived his 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 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 his right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 18 June 2024