

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS PURITY TEMUTAI KOMEN

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 Purity Temutai Komen is a 25-year-old Kenyan road runner ("the **Athlete**")¹.
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

[...]

¹ <https://worldathletics.org/athletes/kenya/purity-temutai-komen-14983518>

2.3 *Evading, Refusing or Failing to submit to Sample Collection by an Athlete*

[...]"

Factual background

5. On 13 October 2022, the Athlete provided a urine Sample In-Competition at the ‘58th World Military Cross-Country Championship’ held in Beja, Portugal, which was given code 7143315 (the “**Sample**”) pursuant to Testing conducted under the results management authority of the International Military Sports Council (“**CISM**”).
6. On 24 April 2023, the World Anti-Doping Agency (“**WADA**”) accredited laboratory in Lisbon, Portugal (the “**Lisbon Laboratory**”) reported an Adverse Analytical Finding in the Sample based on the presence of 19-Norandrosterone (“**Norandrosterone**”) ² consistent with exogenous origin (the “**Adverse Analytical Finding**”) ³. Norandrosterone is a Prohibited Substance under the WADA 2022 Prohibited List under the category S1.1 Anabolic Androgenic Steroids. It is a Non-Specified Substance prohibited at all times.
7. On 12 May 2023, Doping Control Personnel were authorised by the Anti-Doping Agency of Kenya (“**ADAK**”) to test the Athlete Out-of-Competition.
8. A Doping Control Officer (“the **DCO**”) and a Blood Collection Officer (“the **BCO**”) arrived in Iten at 17:35 on 12 May 2023, but were unable to locate the Athlete’s house on the basis of the address that she had provided during previous doping controls.
9. At 18:38, the DCO called the Athlete by phone⁴, introduced himself and informed her that she had been selected for Testing. He asked her to provide him with directions to her house. The Athlete gave him the name of the estate where her house was located (the “**Estate**”) and provided him with partial directions to a “rough road”. They agreed that the DCO would call her again once he had arrived there for further instructions to locate her. However, when the DCO arrived at the “rough road” and tried to call the Athlete back, his calls went straight to voicemail.
10. The DCOs were subsequently able to get directions to the Estate from a third party, noting that the instructions provided by the Athlete had sent them in the wrong (opposite) direction.
11. Once at the Estate, another third party was able to direct the DCO and Chaperone to the Athlete’s house. Upon arrival at her house at around 20:00, the DCO knocked on her door several times, without a response. The Athlete’s neighbour confirmed that the DCO was at the right house and that the Athlete had just been there. The DCO tried to contact the Athlete by phone (including via text messages) on several occasions. However, the DCO’s calls went to

² Norandrosterone is a metabolite of nandrolone or nandrolone precursors. 19-noretiocholanolone was also identified in the sample.

³ The GC/C/IRMS analysis was conducted by the WADA-accredited laboratory in Ghent, Belgium (the “**Ghent Laboratory**”)

⁴ Using the telephone number that she disclosed on previous doping control forms and as recorded for her in ADAMS.

voicemail, and she did not respond to the texts. The attempt was concluded at 21:37 on 12 May 2023.

12. The DCOs made further attempts to test the Athlete at her house on the Estate on the following days, none of which were successful:
 - 12.1. On 13 May 2023, the DCOs went to her house at 05:00 and remained until 06:17. They knocked on the door and tried to call the Athlete but did not get any reply. The DCO wrote to the Athlete by WhatsApp requiring her to make herself available for Testing and warning her that a failure to do so could be considered an anti-doping rule violation resulting in a 4-year ban. She failed to make herself available for Testing.
 - 12.2. On 14 May 2023, the DCOs made another attempt to test the Athlete from 20:00 to 21:30 at the same home address, with the same result.
13. On 15 May 2023, the Athlete's coach, informed the DCO⁵ that he had managed to speak with the Athlete on the phone and had told her to come back to Iten. However, the coach was unable to reach her thereafter, his call going straight to voicemail.
14. On 14 June 2023, the AIU received a request from the CISM to conduct results management in relation to the Adverse Analytical Finding.
15. On 3 July 2023, the AIU wrote to the CISM confirming its agreement to the request made by the CISM to conduct results management under delegated authority in accordance with Rule 7.1.1 of the CISM Anti-Doping Rules.
16. On 4 July 2023, and following the AIU's agreement to conduct results management under delegated authority from the CISM, ADAK also agreed to refer authority for results management in relation to its attempts to locate the Athlete for Testing between 12 May 2023 and 15 May 2023 to the AIU, so that both matters could be treated together by a single Anti-Doping Organisation.
17. The AIU immediately conducted a review of the Adverse Analytical Finding in accordance with the International Standard for Results Management ("ISRM") and determined that there was no Therapeutic Use Exemption ("TUE") on file for the Athlete and no apparent departure from either the International Standard for Testing and Investigations ("ISTI") or the International Standard for Laboratories ("ISL") that could reasonably have caused the Adverse Analytical Finding.
18. The AIU also immediately opened an investigation into the circumstances of the attempts made by ADAK to test the Athlete between 12 May 2023 and 14 May 2023.
19. Whilst the AIU's investigation into the attempted Testing was on-going, on 6 July 2023, the AIU issued the Athlete with a Notice of Allegation of Anti-Doping Rule Violations in relation to the Adverse Analytical Finding, imposed a Provisional Suspension in accordance with Rule 7.4.1

⁵ During his attempt to reach the Athlete, the DCO contacted the Athlete's coach and manger.

ADR, and requested *inter alia* that the Athlete provide a written explanation for the Adverse Analytical Finding.

20. On 12 July 2023, the Athlete wrote to the AIU:

“Thank you I got the email. I read everything and I understood all the information. I would like to request for more 14 days, since I had prolong back injury I seek medication from different hospitals. Thus I need to provide accurate information about my medication thank you.”

21. On 13 July 2023, the AIU granted the Athlete an extension until 24 July 2023 to provide her explanation for the Adverse Analytical Finding.

22. However, the Athlete failed to submit any explanation for the Adverse Analytical Finding by the extended deadline (or at all).

23. Following the completion of the AIU investigation into the circumstances of attempts by ADAK to conduct Testing between 12 May 2023 and 14 May 2023, and having reviewed the information obtained from that investigation (including the DCO’s report and all supporting documents and evidence), on 3 November 2023, the AIU sent a notification to the Athlete of a potential Anti-Doping Rule Violation pursuant to Rule 2.3 ADR (Evading, Refusing or Failing to Submit to Sample Collection by an Athlete) and gave her until 10 November 2023 to provide a full and detailed written explanation for the alleged violation of Rule 2.3 ADR and for the Adverse Analytical Finding.

24. The Athlete failed to reply within the given deadline.

25. On 13 November 2023, the AIU wrote to the Athlete and granted her an extension until no later than 20 November 2023 to provide an explanation for the Adverse Analytical Finding and the potential violation of Rule 2.3 ADR.

26. On the same day, 13 November 2023, the Athlete wrote to the AIU via WhatsApp:

“Thank you for your information, I accept I did a mistake unknowingly but am sorry, am no longer interested in running career.”

The Charge

27. On 8 February 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 her that she was being charged with Anti-Doping Rule Violations under Rule 2.1 ADR, Rule 2.2 ADR and Rule 2.3 ADR (“the **Charge**”) and that the Consequences sought by the AIU included (i) a period of Ineligibility of six (6) years and (ii) Disqualification of her results on and since 13 October 2022.

28. The AIU invited the Athlete to respond to the Charge confirming how she wished to proceed in the matter by no later than 22 February 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, to have admitted the Anti-Doping Rule Violations and accepted the Consequences set out in the Charge in accordance with Rule 8.5.2(f) ADR.

29. The Athlete failed to respond within the given deadline.
30. On 23 February 2024, the AIU wrote to the Athlete stating that:
- 30.1. she had failed to request a hearing within the given deadline (i.e., by 22 February 2024) and that, by operation of Rule 8.5.2(f) ADR, she was deemed to have (i) waived her right to a hearing, (ii) admitted the Anti-Doping Rule Violations and (iii) accepted the Consequences set out in the Charge; and
 - 30.2. that she had until no later than 28 February 2024 to return a signed Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form that had been enclosed with the Charge if she wished to benefit from a one (1)-year reduction under Rule 10.8.1 ADR and that, if she failed to do so, then the AIU would proceed by issuing a final decision imposing a six (6)-year period of Ineligibility.
31. The Athlete failed to respond or to return the Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form signed by 28 February 2024.

CONSEQUENCES

32. 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.”*
33. Norandrosterone is a Prohibited Substance under the WADA 2022 Prohibited List under the category S1.1 Anabolic Androgenic Steroids (AAS). It is a Non-Specified Substance prohibited at all times.
34. 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.
35. The Athlete has failed to demonstrate that the Anti-Doping Rule Violations under Rule 2.1 ADR and Rule 2.2 ADR were not intentional. Therefore, the mandatory period of Ineligibility is a period of Ineligibility of four (4) years.
36. In addition, Rule 10.3.1 ADR specifies that the period of Ineligibility for an Anti-Doping Rule Violation of Evading Sample Collection under Rule 2.3 ADR shall also be a period of four (4) years, as follows:
- “10.3.1 For violations of Rule 2.3 or Rule 2.5, the period of Ineligibility will be four (4) years except: (i) in the case of failing to submit to Sample collection, if the Athlete can establish that the commission of the anti-doping rule violation was not intentional, the period of Ineligibility will be two (2) years; (ii) in all other cases,*

if the Athlete or other Person can establish exceptional circumstances that justify a reduction of the period of Ineligibility, the period of Ineligibility will be in a range from two (2) years to four (4) years depending on the Athlete's or other Person's degree of Fault; or (iii) in a case involving a Protected Person or Recreational Athlete, the period of Ineligibility will be in a range between a maximum of two (2) years and, at a minimum, a reprimand and no period of Ineligibility, depending on the Protected Person or Recreational Athlete's degree of Fault."

37. The Athlete has not established any exceptional circumstances to justify a reduction in the four (4) year period of Ineligibility.
38. Since the Athlete was notified of the potential violations of Rule 2.1 ADR and Rule 2.2 ADR based on the Adverse Analytical Finding on 6 July 2023, after the violation under Rule 2.3 ADR occurred, the violations are to be considered together as a single first Anti-Doping Rule Violation for the purpose of sanction in accordance with Rule 10.9.3(a) ADR.
39. Rule 10.4 ADR specifies that a period of Ineligibility may be increased if Aggravating Circumstances are present as follows:

" 10.4 Aggravating Circumstances that may increase the period of Ineligibility

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."

40. Aggravating Circumstances are defined in the Rules as follows:

"Aggravating Circumstances: Circumstances involving, or actions by, an Athlete or other Person that may justify the imposition of a period of Ineligibility greater than the standard sanction. Such circumstances and actions 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 other 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)

41. It is the AIU’s position, based on the fact that the Athlete has committed multiple Anti-Doping Rule Violations, that Aggravating Circumstances are present in this case, as that term is defined in the Rules, and that the nature and seriousness of the Aggravating Circumstances in this case would warrant the imposition of the maximum period of Ineligibility of six (6) years in accordance with Rule 10.4 ADR.
42. On the basis that the Athlete is deemed to have admitted the Anti-Doping Rule Violations under Rule 2.1 ADR, Rule 2.2 and Rule 2.3 ADR and accepted the Consequences set out in the Charge, the AIU confirms by this decision the following Consequences for the Anti-Doping Rule Violations:
 - 42.1. a period of Ineligibility of six (6) years commencing on 6 July 2023 (the date of the Athlete’s Provisional Suspension); and
 - 42.2. disqualification of the Athlete’s results on and since 13 October 2022, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points prizes and appearance money.

PUBLICATION

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

RIGHTS OF APPEAL

44. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.
45. Further to Rule 13.2.3 ADR, the Athlete, 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.

Monaco, 5 March 2024