

## DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS HYE-SONG KIM

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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. Hye-Song KIM is a 25-year old North Korean long-distance runner who is an International-Level Athlete for the purposes of the ADR (the "**Athlete**").
3. The AIU has charged the Athlete with commission of an anti-doping rule violation under the ADR and has proposed certain consequences based on its analysis of the degree of fault borne by the Athlete for that violation. The Athlete has admitted the anti-doping rule violation charged and has accepted the consequences proposed. This decision is accordingly issued pursuant to Article 8.4.7 ADR which provides that

*8.4.7 "[i]n the event that [...] the Athlete or Athlete Support Person admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by the Integrity Unit, a hearing before the Disciplinary Tribunal shall not be required. In such a case, the Integrity Unit...shall promptly issue a decision confirming...the commission of the Anti-Doping Rule Violation(s) and the imposition of the Specified Consequences (including, if applicable, a justification for why the maximum potential sanction was not imposed)".*

### The Athlete's commission of an Anti-Doping Rule Violation

4. On 8 April 2018, the Athlete underwent an in-competition doping control at the '29th Mangyongdae Prize International Marathon' held in Pyongyang, North Korea (the "**Competition**"). The Athlete provided a urine sample numbered 6288641 (the "**Sample**").
5. On 13 July 2018, the WADA accredited laboratory in Beijing reported an Adverse Analytical Finding (the "**AAF**") for the presence of Methylprednisolone in the Sample.
6. Methylprednisolone is a Prohibited Substance under category S9 (Glucocorticosteroids) of the 2018 WADA Prohibited List. Glucocorticosteroids are classified as Specified Substances. They are only prohibited In-Competition and only in circumstances where they have been administered orally, rectally, or by intravenous or intramuscular methods.
7. The Athlete did not have a TUE permitting the use of Methylprednisolone.
8. On 24 July 2018, the AIU notified the Athlete of the AAF and requested an explanation for the presence of Methylprednisolone in the Sample. The Athlete was also afforded the opportunity to request analysis of the B Sample. Given that Methylprednisolone is a Specified Substance under

the ADR, the Athlete was not subject to a mandatory provisional suspension under ADR Article 7.10.1.

9. The Athlete chose not to request analysis of the B Sample. On 6 August 2018, the Athlete admitted the anti-doping rule violation and provided the AIU with a copy of a medical file documenting the use of Methylprednisolone Out-of-Competition for medical reasons.
10. Upon consultation with the AIU Scientific and Medical Senior Advisor and the WADA Science Department, the AIU is satisfied that the presence of Methylprednisolone in the Sample was consistent with the ingestion of Methylprednisolone by the Athlete Out-of-Competition.
11. The AIU considers that the Athlete cannot claim that she bears No Fault or Negligence for her violation because she did not use the utmost caution to ensure that she did not take prior to the Competition a medication containing a prohibited substance for therapeutic reasons without first obtaining a TUE.
12. However, the AIU is willing to accept that the Athlete can sustain a plea of No Significant Fault or Negligence under ADR Article 10.5.1(a) because it is satisfied that she used the medication Out-of-Competition for therapeutic purposes only (i.e., not to enhance her athletic performance) so that she may not have been as sensitive to the risk of inadvertent doping as she could have been.
13. In light of the above, and further taking into account the Athlete's relative age, experience and competition at an elite level since 2013, the AIU proposed to the Athlete on 19 September 2018 a period of Ineligibility in this case of 12 months. The Athlete has accepted that proposal.
14. On 18 October 2018, the Athlete signed and returned to the AIU an Admission of Anti-Doping Rule Violation and Acceptance of Sanction Form.

### **Consequences**

15. This constitutes the Athlete's first Anti-Doping Rule Violation under the ADR.
16. On the basis that the Athlete has admitted to committing an Anti-Doping Rule Violation 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:
  - 16.1. a period of Ineligibility of one (1) year pursuant to Article 10.2.2 and 10.5.1(a) commencing on 18 October 2018; and
  - 16.2. disqualification of the Athlete's result obtained in the Competition with all resulting consequences including the forfeiture of any titles, awards, medals, points and prize and appearance money, pursuant to Article 9 ADR.
17. The Athlete has accepted the above consequences for her Anti-Doping Rule Violation and has expressly waived her right to have those consequences determined by the Disciplinary Tribunal at a hearing.

### **Publication**

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

### **Rights of Appeal**

19. This decision constitutes the final decision of the AIU pursuant to Article 8.4.7 ADR.

20. Further to Article 13.2.4 ADR, WADA and the DPR Korea Anti-Doping Committee 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.
21. If an appeal is filed against this decision by WADA or the DPR Korea Anti-Doping Committee, the Athlete will be entitled to exercise her right of cross-appeal in accordance with Article 13.9.3 ADR.

**Monaco, 23 October 2018**