

## DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MR EL HASSAN EL ABBASSI

### 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 El Hassan El Abbassi ("the **Athlete**") is a 38-year-old marathon runner from Bahrain<sup>1</sup>.
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 AN ANTI-DOPING RULE VIOLATION

4. Rule 2 ADR sets out that the following shall constitute an Anti-Doping Rule Violation pursuant to the ADR:

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

5. On 8 August 2021, the Athlete provided a blood Sample In-Competition in Tokyo, Japan, which was given code 712082 (the "**Sample**"), pursuant to Testing conducted by the International Testing Agency ("**ITA**"), on behalf of the International Olympic Committee ("**IOC**"), in accordance with the IOC Anti-Doping Rules applicable to the Games of the XXXII Olympiad Tokyo 2020 (as of March 2021) ("the **IOC ADR**").
6. On 15 August 2021, the World Anti-Doping Agency ("**WADA**") accredited laboratory in Tokyo, Japan (the "**Laboratory**") reported that analysis of the Sample had resulted in an Adverse

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<sup>1</sup> <https://worldathletics.org/athletes/bahrain/el-hassan-el-abbassi-14389214>

Analytical Finding for the presence of a homologous blood transfusion (“the **Adverse Analytical Finding**”).

7. The Administration or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood, or red blood cell products of any origin into the circulatory system, is a Prohibited Method on the WADA 2021 Prohibited List under the category M1. Manipulation of Blood and Blood Components. It is a non-Specified Method prohibited at all times.
8. The ITA reviewed the Adverse Analytical Finding in accordance with Article 5 of the International Standard for Results Management (“**ISRM**”) and determined that:
  - 8.1. the Athlete did not have a Therapeutic Use Exemption (“**TUE**”) that had been granted (or that would be granted) for the homologous blood transfusion detected in the Sample; and
  - 8.2. 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.
9. Therefore, on 18 August 2021, the ITA notified the Athlete of the Adverse Analytical Finding in accordance with Article 7.2.3 of the IOC ADR and informed him that he had until 20 August 2021 to indicate whether he wished to have the B-sample analysed, failing which he would be deemed to have waived his right to B-sample analysis.
10. On the same day, the AIU issued the Athlete with a Notice of Provisional Suspension and Public Disclosure based on the Adverse Analytical Finding and informed him, *inter alia*, that the Adverse Analytical Finding was being brought forward as an apparent Anti-Doping Rule Violation under Article 2.1 and/or Article 2.2 of the IOC ADR by the ITA, which was responsible (in accordance with Article 7.1.1 of the IOC ADR) for determining, on behalf of the IOC (i) whether an Anti-Doping Rule Violation had been committed and (ii) the applicable Consequences related to the Olympic Games. The AIU also informed the Athlete that, following the determination of the above matters, the ITA would refer the determination of (further) Consequences for any Anti-Doping Rule Violations beyond the Olympic Games to the AIU on behalf of World Athletics (if applicable).
11. On 23 August 2021, the ITA notified the Athlete that the 20 August 2021 deadline viz. the B Sample analysis had expired and that it had not received any request from him such that he was deemed to have waived his right to the B Sample analysis. The ITA also notified the Athlete that it would be referring the determination of any Anti-Doping Rule Violation and the imposition of Consequences under the IOC ADR to the Anti-Doping Division of the Court of Arbitration for Sport (“**CAS ADD**”).
12. In an email of 25 August 2021, enclosing a B sample arrangement form dated 23 August 2021, the Athlete confirmed that (i) he did not accept the Adverse Analytical Finding, (ii) he did not request the opening and analysis of the B Sample and (iii) he requested the Laboratory Documentation Package.
13. On 26 August 2021, the ITA provided the Athlete with the A Sample Laboratory Documentation Package. On the same day, the IOC filed a Request for Arbitration with the CAS ADD.

14. On 29 September 2021, the AIU was copied on an e-mail from the Athlete sent in the context of the CAS ADD proceedings in which he denied doping, sought to explain the Adverse Analytical Finding based on medical treatment he received and provided supporting medical documentation and photos concerning:
  - hospitalisation in October 2020, during which he received, in particular, a blood transfusion; and
  - surgery performed in January 2021.
15. The CAS ADD hearing took place on 4 April 2022. The Athlete attended the hearing, represented by counsel.
16. On 9 November 2022, the CAS ADD notified the AIU (on behalf of World Athletics) of its decision dated 28 October 2022 (the “**CAS Award**”). The CAS Award ruled, inter alia, that:
  - 16.1. The Athlete had committed an Anti-Doping Rule Violation (pursuant to Rule 2.2 of the IOC ADR); and
  - 16.2. his results obtained at the XXXII Olympiad Tokyo 2020 were disqualified with all resulting consequences including, if applicable, forfeiture of any medal, points and prizes
17. Since no appeal was filed within the applicable deadline, the CAS Award became final and binding in accordance with Rule 17.1 ADR.
18. Therefore, on 23 November 2022, the AIU issued the Athlete with a Notice of Charge in accordance with Rule 8.5.1 ADR and Article 7.1 ISRM confirming that, by reason of the CAS Award, he had been found to have committed an Anti-Doping Rule Violation under Rule 2.2 ADR, which warranted a period of Ineligibility of four (4) years pursuant to Rule 10.2.1.1 ADR (“the **Charge**”). The AIU invited the Athlete to respond to the Charge confirming how he wished to proceed with the determination of the Consequences by no later than 7 December 2022<sup>2</sup>.
19. On 2 December 2022, the Athlete repeated his initial explanation from 29 September 2021<sup>3</sup> but stated that he was ready to accept the Consequences specified by the AIU in the Charge.
20. On 6 December, the AIU wrote to the Athlete requesting that he confirm how he wanted to proceed with accepting the specified Consequences viz. Rule 10.8.1 ADR or Rule 10.8.2 ADR.
21. On 8 December 2022, the AIU received an Acceptance of Consequences Form signed by the Athlete.

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<sup>2</sup> The AIU informed the Athlete that he had until 7 December 2022 (and in any event until no later than 13 December 2022) to sign and return an Acceptance of Consequences Form (enclosed with the Notice of Charge) to benefit from an automatic one (1)-year reduction in the four (4)-year period of Ineligibility pursuant to Rule 10.8.1 ADR and that, if he failed to do so by that date, he would be deemed to have accepted the Consequences set out in the Charge, and the AIU would then issue a final decision in his case.

<sup>3</sup> The AIU rejected the Athlete’s explanation on the basis that the asserted medical treatments in October 2020 and January 2021 could not explain the Adverse Analytical Finding in the Sample collected on 8 August 2021.

## CONSEQUENCES

22. This is the Athlete's first Anti-Doping Rule Violation.
23. Rule 10.2 ADR specifies that the period of Ineligibility for an Anti-Doping Rule Violation under 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. Under the WADA 2021 Prohibited List, the Administration or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood, or red blood cell products of any origin into the circulatory system is a non-Specified Method 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 AIU considers that the Athlete has not established that the Anti-Doping Rule Violation was 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. The Charge, asserting a period of Ineligibility of four (4) years, was issued to the Athlete on 23 November 2022 and, on 8 December 2022, the AIU received an Acceptance of Consequences Form signed by the Athlete in which the Athlete accepted that 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 acceptance of sanction.

30. On the basis that the Athlete has been found by the CAS ADD to have committed an Anti-Doping Rule Violation under Rule 2.2 IOC 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 18 August 2021 (the date of Provisional Suspension); and

30.2. disqualification of the Athlete's results on and since 8 August 2021, 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 Violation 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 the Bahrain National Anti-Doping Organisation 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 the Bahrain National Anti-Doping Organisation, the Athlete will be entitled to exercise his right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 7 June 2023