

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS JENNIFER GONZALEZ CARO

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 Jennifer Gonzalez-Caro ("the **Athlete**") is a 32-year-old long distance runner from Chile. She is six times the National Champion in either the 5000m or 10,000m.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. On 8 May 2022, the Athlete provided a urine Sample In-Competition in Chile pursuant to Testing conducted by the Chile National Anti-Doping Organisation ("**CHI-NADO**") in accordance with the National Doping Control Regulations² which was given code 7017803 ("the **First Sample**").
5. Analysis of the First Sample revealed the presence of recombinant erythropoietin ("**EPO**") (the "**First Adverse Analytical Finding**").

¹ <https://worldathletics.org/athletes/chile/jennifer-gonzalez-14497855>

² See Resolución 865 Exenta aprueba Reglamento que Regula la Realización de Controles de Dopaje y sus Anexos (available [here](#)).

6. EPO is a Prohibited Substance under the World Anti-Doping Agency (“WADA”) 2022 Prohibited List under the category S2 Peptide Hormones, Growth Factors, Related Substances, and Mimetics. It is a Non-Specified Substance prohibited at all times.
7. On 10 October 2022, the Athlete provided a urine Sample Out-of-Competition at the XII South American Games in Asuncion, Paraguay, pursuant to Testing conducted by Organizacion Deportiva Suramericana (“ODESUR”) which was given code 1106926 (the “Second Sample”).
8. Analysis of the Second Sample also revealed the presence of EPO (the “Second Adverse Analytical Finding”).
9. On 7 November 2022, CHI-NADO notified the Athlete of the First Adverse Analytical Finding (including the imposition of a Provisional Suspension pending the determination of the matter).
10. By letter dated 10 November 2022, ODESUR notified the Athlete of the Second Adverse Analytical Finding in accordance with Article 5.1.2 of the ISRM and they also imposed a Provisional Suspension upon the Athlete pending the determination of the matter.
11. By letter dated 15 December 2022, ODESUR noted that the Athlete had failed to provide any explanation for the Second Adverse Analytical Finding³ and issued a Notice of Charge charging the Athlete with Anti-Doping Rule Violations pursuant to Article 2.1 and Article 2.2 of the ODESUR Anti-Doping Rules (“ODESUR ADR”).
12. On 30 March 2023, the Doping Disciplinary Panel of the ODESUR XII South American Games issued a decision in relation to the asserted Anti-Doping Rule Violations arising from the Second Adverse Analytical Finding, which confirmed that (i) the Athlete had committed an Anti-Doping Rule Violation in accordance with Rule 2.1 of the ODESUR ADR and (ii) the Athlete’s individual results obtained at the XII South American Games were disqualified (“the ODESUR Decision”).
13. The ODESUR Decision also recorded that the determination of further consequences for the Rule 2.1 anti-doping rule violation that went beyond the XII South American Games (including a period of Ineligibility, if any) would be the responsibility of the applicable International Federation (i.e., World Athletics).
14. No appeal was filed against the ODESUR Decision within the applicable deadline.
15. The matter was therefore referred to the AIU (on behalf of World Athletics) to initiate proceedings under the ADR to determine what further Consequences (if any) should be imposed upon the Athlete for the Anti-Doping Rule Violation under Rule 2.1 confirmed by the ODESUR Decision.
16. On 16 May 2023, the Tribunal Expertos En Dopaje Chile (“TED”) issued a decision confirming, *inter alia*, that the Athlete had also committed Anti-Doping Rule Violations contrary to Article 2.1 and Article 2.2 of the National Doping Control Regulations arising from the First Adverse Analytical Finding and that a period of Ineligibility of four (4) years had been imposed upon her

³ The notice from ODESUR dated 10 November 2022 provided the Athlete with a period of 10 days from receipt of that notice to request the B Sample analysis and confirmed that, if she failed to do so, then the B Sample analysis would be deemed irrevocably waived. The Athlete did not request the B Sample analysis in accordance with the deadlines specified by ODESUR and the B Sample analysis was therefore deemed irrevocably waived.

from 7 November 2022 (the date of the Provisional Suspension imposed by the CHI-NADO) until 6 November 2026 (“the **TED Decision**”).

17. No appeal was filed against the TED Decision dated 16 May 2023 within the applicable deadline.
18. On 4 September 2023, the AIU notified the Athlete that the determination of further Consequences for the Rule 2.1 Anti-Doping Rule Violation arising from the Second Adverse Analytical Finding and confirmed by the ODESUR Decision had been referred to the AIU (on behalf of World Athletics) in accordance with the ODESUR ADR.
19. The Athlete was informed that the AIU would seek Consequences including a period of Ineligibility of six (6) years for the Rule 2.1 Anti-Doping Rule Violation arising from the Second Adverse Analytical Finding⁴, of her right to accept those Consequences to obtain an automatic reduction in the period of Ineligibility of one (1) year in accordance with Rule 10.8.1 ADR, or to a hearing to determine the Consequences.
20. The Athlete was invited to respond by no later than 18 September 2023 confirming how she wished to proceed and informed that, if she failed to do so, then the AIU would be entitled to deem that she had waived her right to a hearing and accepted the Consequences in accordance with Rule 8.5.2 ADR.
21. The Athlete failed to respond by the specified deadline of 18 September 2023. The Athlete also failed to respond by the stipulated deadline confirming her acceptance of the Consequences specified by the AIU in the Notice issued on 4 September 2023 and she thereby forfeited her right to an automatic one (1) year reduction in the period of Ineligibility in accordance with Rule 10.8.1 ADR.
22. Therefore, on 2 October 2023, the AIU wrote to the Athlete again noting that she had failed to respond by the deadlines previously specified and provided the Athlete a final deadline until 6 October 2023 to confirm how she wished to proceed. The AIU informed the Athlete that, if she did not respond to this final deadline, then the AIU would deem that she had waived her right to a hearing and accepted the Consequences, including the period of Ineligibility of six (6) years, and would issue a decision recording the full details of the matter, which would be Publicly Disclosed in accordance with the ADR.
23. The Athlete failed to respond by the 6 October 2023 deadline specified by the AIU.
24. Therefore, on 10 October 2023, the AIU wrote to the Athlete confirming that she was deemed to have waived her right to a hearing and to have accepted the Consequences being sought by the AIU in accordance with Rule 8.5.2(f) ADR and that the AIU would produce and Publicly Disclose a decision in her case in accordance with Rule 8.5.6 ADR.

⁴ The AIU confirmed its position was that Aggravating Circumstances were present in the Athlete’s case, as that term is defined in the Rules, based on the Anti-Doping Rule Violations confirmed against the Athlete by the CHI-NADO and ODESUR in their respective decisions. In particular, the AIU confirmed that it considered the Athlete to have Used a Prohibited Substance (EPO) on multiple occasions and committed multiple other Anti-Doping Rule Violations and that the nature and seriousness of the Aggravating Circumstances in her case warranted the imposition of the maximum period of Ineligibility of six (6) years in accordance with Rule 10.4 ADR.

CONSEQUENCES

25. The CHI-NADO notified the Athlete of the First Adverse Analytical Finding in the First Sample (collected on 8 May 2022) on 7 November 2022, which was after the Second Sample was collected from the Athlete on 10 October 2022.
26. As the Athlete was notified of the First Adverse Analytical Finding (on 7 November 2022) after the Second Sample was collected (on 10 October 2022), the Anti-Doping Rule Violations that arise from the First Adverse Analytical Finding and the Second Adverse Analytical Finding are to be treated as a single violation and the sanction imposed based on the violation that carries the more severe sanction, including the application of Aggravating Circumstances, in accordance with Rule 10.9.3(a) ADR.
27. EPO is a Prohibited Substance under the WADA 2022 Prohibited List under the category S2 Peptide Hormones, Growth Factors, Related Substances, and Mimetics. It is a Non-Specified Substance prohibited at all times.
28. The period of Ineligibility to be imposed is therefore a period of four (4) years, unless the Athlete demonstrates that the Anti-Doping Rule Violation was not intentional.
29. The Athlete has not demonstrated that the Anti-Doping Rule Violation was not intentional. Therefore, the mandatory period of Ineligibility is a period of Ineligibility of four (4) years.
30. However, Rule 10.4 ADR specifies that the period of Ineligibility for an Anti-Doping Rule Violation may be greater than the standard sanction when it is established that Aggravating Circumstances are present:

“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 [...] 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.”

31. Aggravating Circumstances are defined in ADR as follows:

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

32. The AIU considers that the facts of the Athlete’s case demonstrate that she Used a Prohibited Substance (EPO) on multiple occasions over at least five (5) months which is identified as a specific Aggravating Circumstance per the above definition. Moreover, the nature of EPO is that it is difficult to detect, and the Athlete’s Use of EPO occurred in the context of a significant competition, the XII South American Games. The AIU therefore considers that Aggravating Circumstances are present, which justifies an increase in the otherwise applicable period of Ineligibility of four (4) years by an additional period of two (2) years, based on the seriousness of the violations and the nature of the Aggravating Circumstances.
33. The period of Ineligibility to be imposed is therefore a period of six (6) years.
34. Rule 10.8.1 ADR provides that an athlete potentially subject to an asserted period of Ineligibility of four (4) or more years may benefit from a one (1)-year reduction in the period of Ineligibility based on an early 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.”

35. The Athlete failed to accept the period of Ineligibility within 20 days following the Notice issued to her on 4 September 2023. The Athlete is therefore not entitled to any reduction in the period of Ineligibility in accordance with Rule 10.8.1 ADR.
36. On the basis that the Athlete is deemed to have accepted the Consequences pursuant to Rule 8.5.2(f) ADR, in accordance with Rule 10.2.1(a) ADR and Rule 10.4 ADR, the AIU confirms by this decision the following Consequences for a first Anti-Doping Rule Violation:
- 36.1. a period of Ineligibility of six (6) years commencing on 7 November 2022 (the date of the Provisional Suspension imposed by the CHI-NADO); and
- 36.2. disqualification of the Athlete’s results from 10 October 2022 until 7 November 2022 (aside from any results already disqualified by the ODESUR Decision and the TED Decision)⁵, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points, prizes and appearance money.

⁵ The AIU considers the Athlete’s results from 8 May 2022 (the date of the First Sample) until 7 November 2022 (the date of the Provisional Suspension imposed by the CHI-NADO) to be disqualified as a result of the TED

37. The Athlete is deemed to have accepted the above Consequences for her Anti-Doping Rule Violation and to have waived her right to have those Consequences determined by the Disciplinary Tribunal at a hearing.

PUBLICATION

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

RIGHTS OF APPEAL

39. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.

40. Further to Rule 13.2.3 ADR, the Athlete, WADA and the CHI-NADO 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.

41. If an appeal is filed against this decision by WADA or the CHI-NADO, the Athlete will be entitled to exercise her right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 16 October 2023

Decision and in accordance with Artículo 10.10 of Resolución 865 Exenta aprueba Reglamento que Regula la Realización de Controles de Dopaje y sus Anexos.