

## DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS CAROLINE CHEPKOECH KIPKIRUI

### 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 Caroline Chepkoech Kipkirui is a 29-year-old long-distance runner who represents Kazakhstan and an International-Level Athlete for the purposes of the ADR (the "**Athlete**").<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)."*

### WHEREABOUTS FAILURES

4. Rule 2.4 ADR sets out that the following shall constitute an Anti-Doping Rule Violation:

*"2.4 Whereabouts Failures by an Athlete in a Registered Testing Pool*

*Any combination of three missed tests and/or filing failures, as defined in the International Standard for Results Management, within a 12-month period by an Athlete in a Registered Testing Pool."*

5. A Missed Test and a Filing Failure are defined in the International Standard for Results Management ("**ISRM**") respectively as follows:

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<sup>1</sup> <https://worldathletics.org/athletes/kazakhstan/caroline-chepkoech-kipkirui-14423904>

*“**Missed Test:** A failure by the Athlete to be available for Testing at the location and time specified in the 60-minute time slot identified in their Whereabouts Filing for the day in question, in accordance with Article 4.8 of the International Standard for Testing and Investigations and Annex B.2 of the International Standard for Results Management.*

*“**Filing Failure:** A failure by the Athlete (or by a third party to whom the Athlete has delegated the task) to make an accurate and complete Whereabouts Filing that enables the Athlete to be located for Testing at the times and locations set out in the Whereabouts Filing or to update that Whereabouts Filing where necessary to ensure that it remains accurate and complete, all in accordance with Article 4.8 of the International Standard for Testing and Investigations and Annex B.2 of the International Standard for Results Management.”*

6. In short, an athlete violates Rule 2.4 of the ADR where he or she has any combination of three Missed Tests and/or Filing Failures within any twelve-month period, that period beginning on the day of the first relevant Missed Test/Filing Failure.

## THE ATHLETE’S COMMISSION OF AN ANTI-DOPING RULE VIOLATION

7. In this instance, the Athlete has had three Whereabouts Failures in the twelve-month period beginning on 9 February 2023, specifically:
  - (i) a Filing Failure on 9 February 2023;
  - (ii) a Missed Test and/or a Filing Failure on 19 June 2023; and
  - (iii) a Missed Test and/or a Filing Failure on 27 November 2023.

### **1. First Whereabouts Failure - Filing Failure on 9 February 2023**

8. In summary, in the early morning of 9 February 2023, a Doping Control Officer (“**DCO**”) attended an address in Iten, Kenya that was indicated in the Athlete’s Whereabouts information to be her overnight accommodation for the overnight period 8-9 February 2023 (the “**Iten Address**”) and met different third parties (a man at the gate of the complex and a lady at the door of the main house) who informed the DCO that the Athlete was not present because she had travelled to Kazakhstan for a competition a few days earlier.
9. On 20 February 2023, the AIU notified the Athlete of an apparent Filing Failure on 9 February 2023 and requested her explanation for such by no later than 6 March 2023.
10. On 23 February 2023 and 24 February 2023, the Athlete submitted her explanation for the Filing Failure to the AIU. In summary, the Athlete asserted the following:
  - 10.1. she had asked her manager to update her Whereabouts information on 7 February 2023, as she was travelling to Kazakhstan that day;
  - 10.2. her manager had not updated the Whereabouts information because ‘*the app that they used on my tickets is not opening*’; and

- 10.3. she had (in any event) been tested in Kazakhstan on 10 February 2023, the day after the unsuccessful attempt in Kenya.
11. On 8 March 2023, following review of the Athlete's explanation, the AIU confirmed a Filing Failure effective on 9 February 2023 against the Athlete. The AIU noted that, pursuant to Article 4.8.14.4 of the International Standard for Testing and Investigations ("ISTI"), each Athlete in a Registered Testing Pool is ultimately responsible at all times for making accurate and complete Whereabouts Filings and that it shall not be a defence to an allegation of a Whereabouts Failure that the Athlete delegated such responsibility to a third party and that third party failed to comply with the applicable requirements.
12. The Athlete was afforded the right to request an administrative review of that decision by no later than 22 March 2023 and advised that, if she failed to do so, the Filing Failure would be considered as a Whereabouts Failure for the purposes of Rule 2.4 ADR.
13. No request for an administrative review was received by 22 March 2023.
14. Therefore, the AIU recorded a first Whereabouts Failure (a Filing Failure) against the Athlete effective 9 February 2023.

**II. Second Whereabouts Failure - Missed Test/Filing Failure on 19 June 2023**

15. In summary, on 19 June 2023, a DCO and a Doping Control Assistant ("DCA") went to the Iten Address where the Athlete indicated that she would be for her 60-minute time slot on that date (20:00 - 21:00). The DCO and the DCA arrived at the Iten Address at the start of the 60-minute time slot and met a man who opened the gate for them and informed them that the Athlete was not there because she had travelled to Kazakhstan approximately 2 weeks earlier. The man also contacted the Athlete via WhatsApp but did not receive a reply whilst the DCO and the DCA were at the Iten Address (where they remained until the end of the Athlete's 60-minute time slot for that day, 21:00).
16. On 22 June 2023, the AIU notified the Athlete of an apparent Whereabouts Failure on 19 June 2023 and requested her explanation by no later than 6 July 2023.
17. On 25 June 2023, the Athlete submitted her explanation to the AIU. In summary, she explained that she had informed the person responsible for filing updates to her Whereabouts information about her trip to Kazakhstan, but that her return date to Kenya had been mistakenly entered in ADAMS as 17 June 2023 rather than 17 July 2023<sup>2</sup>.
18. On 27 June 2023, the AIU therefore wrote to the Athlete and confirmed a Whereabouts Failure effective 3 April 2023 against her. The Athlete was afforded the right to request an administrative review of that decision by no later than 11 July 2023 and advised that, if she

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<sup>2</sup> The AIU notes that an update was made to the Athlete's Whereabouts information in ADAMS on 5 June 2023 for the period 4 June 2023 to 17 June 2023 (to Almaty, Kazakhstan). The Athlete's whereabouts for the period 18 June 2023 to 30 June 2023 provided that she would be in Iten, Kenya. On the evening of the unsuccessful attempt on 19 June 2023 (at 20:21 GMT, which corresponds to 22:21 local time in Iten, Kenya and is therefore after the DCO attempted to locate the Athlete in Iten during her specified 60-minute time slot for that day) a further update was made to the Athlete's Whereabouts information changing the location from Iten, Kenya to Almaty, Kazakhstan until 17 July 2023.

failed to do so, the Whereabouts Failure would be confirmed against her as her second Whereabouts Failure in the twelve-month period beginning on 9 February 2023 for the purposes of Rule 2.4 ADR.

19. No request for an administrative review was received by 11 July 2023.
20. Therefore, the AIU recorded a second Whereabouts Failure (Missed Test/Filing Failure) against the Athlete effective 19 June 2023.

**III. Third Whereabouts Failure - Missed Test/Filing Failure on 27 November 2023**

21. In summary, on 27 November 2023, a DCO and a DCA attended the Iten Address specified as the location for the Athlete's 60-minute time slot between 20:00 and 21:00 for that day but were unable to locate her for Testing. The DCO and the DCA met the Athlete's sister and a man who opened the gate for them. The Athlete's sister informed the DCO and the DCA that the Athlete had travelled to Kitale that morning and that she was on her way back. The man who opened the gate for the DCO and the DCA called the Athlete and she told him that she was expecting to arrive back at the Iten Address before 21:00 (i.e., before the end of her specified 60-minute time slot).
22. However, the Athlete failed to arrive at the Iten Address by 21:00 and the DCO and the DCA therefore concluded their attempt as an unsuccessful attempt. The DCO and the DCA encountered the Athlete on the road as they were driving from Iten towards Eldoret. The Athlete stopped them and explained that she had been to Kitale to see her in-law's hospitalized child and had expected to be back at the Iten Address before the end of her 60-minute time slot. The DCO and the DCA informed the Athlete that they had concluded their attempt and continued their drive towards Eldoret.
23. On 21 December 2023, the AIU notified the Athlete of an apparent Whereabouts Failure on 27 November 2023 and requested the Athlete's explanation by no later than 4 January 2024.
24. On 28 December 2023, the Athlete submitted her explanation to the AIU. In summary, the Athlete asserted that:
  - 24.1. she had changed management company during 2022 and broken up with her husband, both of which affected the filing of her Whereabouts information since it had been her husband who had shared her travel information with her management, who then updated her Whereabouts information accordingly;
  - 24.2. following her second Whereabouts Failure the Athlete had taken direct responsibility for her Whereabouts information including filing updates to that information; and
  - 24.3. on 27 November 2023 she had gone to Kitale with the intention of returning home before the end of her 60-minute time slot (20:00-21:00) but that she '*could not make it in time*'.
25. On 4 January 2024, a further explanation was submitted to the AIU on the Athlete's behalf by the Athlete's representative Mr Chris Gooding. In summary, Mr Gooding explained that the Athlete had informed the DCO that she had run out of gas on her way home from Kitale and that she needed to stop to refuel. It was also stated that the Athlete was '*under the*

*impression that the agents would wait for her for the extra time and when she met them on the road she pleaded with them to allow her to test; as this would be her third Missed Test this year*<sup>3</sup>.

26. It was further explained that the Athlete was also under the impression that whenever she visited Kazakhstan, a representative of the Athletic Federation of the Republic of Kazakhstan had sent full and clear information to Mr Gooding about any changes to her Whereabouts information.
27. On the same date, 4 January 2024, the AIU received an e-mail directly from the Executive Director of the Athletic Federation of the Republic of Kazakhstan (responding to Mr Gooding's further explanation) which stated that '*the Federation has never committed itself and had no agreements to forward or help fill out location information*' for the Athlete or any other athlete. Mr Gooding replied to this e-mail on the same date and confirmed that there was '*confusion over who is due to relay information to Caroline then onto me*'.
28. On 23 January 2024, the AIU wrote to the Athlete and confirmed the Whereabouts Failure on 27 November 2023 as the third Whereabouts Failure in the twelve-month period beginning on 9 February 2023.
29. The Athlete was afforded the right to request an administrative review of that decision by no later than 6 February 2024 and advised that, if she failed to do so, the Whereabouts Failure would be considered as her third Whereabouts Failure for the purposes of Rule 2.4 ADR.
30. No request for an administrative review was received by 6 February 2024.
31. Therefore, the AIU recorded a third Whereabouts Failure (Missed Test/Filing Failure) against the Athlete effective 27 November 2023.

## DISCIPLINARY PROCEEDINGS

32. On 21 February 2024, the AIU issued a Notice of Allegation to the Athlete for a violation of Rule 2.4 ADR, including the imposition of a Provisional Suspension, and specified that the AIU would seek Consequences including a period of Ineligibility of two (2) years and disqualification of the Athlete's results since 27 November 2023 with all resulting consequences. The Athlete was invited to respond to the Notice of Allegation confirming how she wished to proceed by no later than 29 February 2024.
33. On 26 February 2024, the Athlete admitted that she had committed an Anti-Doping Rule Violation and accepted the specified Consequences by signing and returning an Admission of Anti-Doping Rule Violation and Acceptance of Consequences Form.

## CONSEQUENCES

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<sup>3</sup> The DCO and the DCA gave no undertaking to the Athlete or any third party that they would remain at the Iten Address until the Athlete's return so that she could provide a Sample.

34. This is the Athlete's first Anti-Doping Rule Violation.
35. On the basis that the Athlete has admitted the Anti-Doping Rule Violation under Rule 2.4 ADR, the AIU confirms by this decision the following Consequences for a first Anti-Doping Rule Violation:
  - 35.1. a period of ineligibility of two (2) years commencing on the date of this decision, but with credit for the period of Provisional Suspension served since 21 February 2024 (i.e., until 20 February 2026); and
  - 35.2. disqualification of the Athlete's results since 27 November 2023, with all resulting Consequences, including the forfeiture of any medals, titles, points, prize money and prizes.
36. 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

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

## RIGHTS OF APPEAL

38. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.
39. Further to Rule 13.2.3 ADR, the World Anti-Doping Agency ("**WADA**") and the Kazakhstan National Anti-Doping Centre 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.
40. If an appeal is filed against this decision by WADA or the Kazakhstan National Anti-Doping Centre, the Athlete will be entitled to exercise his right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 7 March 2024