

CAS 2025/A/11839 World Anti-Doping Agency (WADA) v. Anti-Doping Agency of Kenya (ADAK) & Edwin Kipkemoi Seko

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Ms Annett Rombach, Attorney-at-Law, Frankfurt am Main, Germany

in the arbitration between

World Anti-Doping Agency (WADA), Montreal, Canada

Represented by Messrs Nicolas Zbinden, David Baker and Mario Flores Chemor, Attorneys-at-law at Kellerhals Carrard in Lausanne, Switzerland

Appellant

and

Anti-Doping Agency of Kenya, Nairobi, Kenya

Represented by Mr Bildad Rogoncho, Head of Legal Services at the Anti-Doping Agency of Kenya, Nairobi, Kenya

First Respondent

&

Edwin Kipkemoi Seko, Keringet, Kenya

Represented by Mr Kirimi K. Mbobua, Attorney-at-law at Kirimi Mbobua & Company Advocates, Nairobi, Kenya

Second Respondent

I. THE PARTIES

1. The World Anti-Doping Agency (“**WADA**” or the “**Appellant**”) is a private law foundation constituted under Swiss law in 1999 to promote and coordinate at international level the fight against doping in sport on the basis of the World Anti-Doping Code (the “**WADC**”). WADA has its registered seat in Lausanne, Switzerland, and its headquarters in Montreal, Canada.
2. The Anti-Doping Agency of Kenya (the “**ADAK**” or the “**First Respondent**”) is the national anti-doping organisation for the country of Kenya, recognized as such by WADA. It has its registered seat in Nairobi, Kenya.
3. Mr Edwin Kipkemoi Seko (the “**Athlete**” or the “**Second Respondent**”) is a long-distance runner from Kenya. The Athlete is considered a National-Level Athlete for the purposes of the ADAK Anti-Doping Regulations (the “**ADAK ADR**”) and has been competing in running events since 2020.
4. ADAK and the Athlete are collectively referred to as the “**Respondents**”. The Appellant and the Respondents are collectively referred to as the “**Parties**”.¹

II. FACTUAL BACKGROUND

A. Introduction

5. The present dispute arises from an appeal against a decision rendered on 15 May 2025 by the Sports Disputes Tribunal (the “**SDT**”) of Kenya (the “**Appealed Decision**”). In the Appealed Decision, the SDT determined that the Athlete had committed two anti-doping rule violations (the “**ADRVs**”), namely:
 - (i) a violation of Article 2.2 ADAK ADR (Use or Attempted Use by an athlete of a Prohibited Substance or a Prohibited Method; the “**Article 2.2 ADRV**”);
 - and
 - (ii) a violation of Article 2.3 ADAK ADR (evading, refusing or failing to submit to sample collection by an athlete; the “**Article 2.3 ADRV**”).
6. The SDT imposed a period of Ineligibility of sixteen (16) months on the Athlete.
7. It is undisputed in the present proceedings that the Athlete committed both ADRVs. Accordingly, the scope of the appeal is confined to the determination of the appropriate length of the period of Ineligibility. The Appellant seeks the imposition of a period of Ineligibility in the range of four (4) to six (6) years, towards the upper end of that range. The Respondents request that the appeal is dismissed and that the Appealed Decision is

¹ Capitalized terms not otherwise defined in this Award shall have the meaning ascribed to them in Appendix: Definitions of the ADAK ADR and, where applicable, in the 2021 WADC.

upheld.

8. Below is a summary of the main relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced during these proceedings. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the present Award only refers to the submissions and evidence considered necessary to explain its reasoning.

B. The First Doping Control

9. On 21 May 2024, the Athlete provided blood and urine samples (the **"First Doping Control"**) at the point at which he collected his bib number for the purposes of his participation in the Athletics Kenya National Championship (the **"Competition"**) in Nairobi, Kenya. The Competition was scheduled to take place the following day.
10. During the First Doping Control, the Athlete completed and signed the doping control form (the **"First Doping Control Form"**). In the section requiring the declaration of medications used within the preceding seven (7) days, the Athlete indicated, *inter alia*, *"deca"* and *"sustanon injection"*. The active ingredients of Sustanon include testosterone propionate, testosterone phenylpropionate, testosterone isocaproate, and testosterone decanoate. Testosterone is a non-Specified Substance prohibited at all times and classified under S1.1 (Anabolic Androgenic Steroids (AAS)) of the 2025 WADA Prohibited List.

C. The Attempted Second Doping Control

11. On 22 May 2024, the Athlete participated in the 10,000-metre running event at the Competition but did not complete the race. At approximately 11:15 AM, Mr Geoffrey Mwangi, acting as ADAK Blood Collection Officer and Chaperone, notified the Athlete that he had been selected to provide an In-Competition blood sample (the **"Second Doping Control"**).
12. The Athlete was reluctant to comply with the notification and to report to the doping control station. Mr Mwangi therefore sought the assistance of ADAK Doping Control Officer Mr Cosmus Njagi.
13. Following the intervention of Mr Njagi, the Athlete agreed to report to the doping control station. At approximately 11:17 AM, he duly signed in and completed the relevant doping control form (the **"Second Doping Control Form"**). During this process, the Athlete repeatedly asserted that an unidentified individual was waiting for him at the main gate of the Competition venue and that he needed to deliver a bag in his possession to that individual.
14. At approximately 11:30 AM, Mr Njagi authorized the Athlete to leave the doping control station and proceed to the main gate in order to hand over the bag that the Athlete

had indicated he was required to deliver to the aforementioned unidentified individual. The Athlete was accompanied by the ADAK chaperone Mr Michael Omollo.

15. Upon reaching the gate of the Competition venue, the Athlete mounted a motorbike operated by an unidentified individual and departed from the venue. The ADAK chaperone Mr Omollo recorded a video capturing the Athlete's departure.

D. Results Management

16. On 6 July 2024, upon receipt of the video recording, Ms Maryanne Waithera Mwaura, the ADAK intelligence and investigation officer, formally opened an investigation against the Athlete. Ms Mwaura visited the Athlete's residence with two colleagues in order to interview the Athlete and record his explanatory statement. Ms Mwaura's investigation report records, *inter alia*, the following:

*"During his interrogation Edwin Seko stated that he had been receiving multiple injections from a local chemist because he had been having chest pains. He claimed not to have any prescription of the medicine (**Acinet 1.2g**) since it was Over The Counter. We requested if he could take us to the local chemist which he agreed. At the chemist we did not find the medication but the chemist staff directed us to their other branch still in the area; there we found the medicine and took photos of the medication. **The athlete acknowledged evasion** after notification and apologized as he regretted his actions and promised to avail himself for testing when required."*

[Emphasis added]

17. On 9 July 2024, ADAK completed an investigation report concerning the alleged Article 2.3 ADRV (the "**Investigation Report**"). The Investigation Report included, *inter alia*, written statements from relevant witnesses,² as well as the Athlete's written explanation regarding his conduct on 22 May 2024, the relevant parts of which read as follows:

"I went for around 9 to 10 laps then left the race since I was not feeling well";

"Immediately after leaving ADAK station, I started sweating when I called the man I was to meet his phone was offline. It was all a blue since I can't recall what exactly happened but I told the man from ADAK to let me just leave";

"I also like to note that before coach Kiwa called me to compete at Ulinzi Sports, I had informed him that I was not feeling well. I had also previously received an injection from the chemist around my home area. The doctor said that he is administering the injection since I was feeling very cold. I have received multiple injections that I cannot remember the amount of times I received the injections..."

² As of Mr Cosmus Njagi (Senior clerical officer); Mr Geoffrey Mwangi Ngigi (Sample collection personnel); Mr Frederick Makale Shikami (Senior testing assistant / Doping control officer); Mr Michael Omollo (Sample collection personnel); Ms Sheba Stephani Adhiambo (Sample collection personnel); Ms Maryanne Waithera Mwaura (Intelligence and investigation officer).

18. The Investigation Report further made the following recommendation:

*“Edwin Kipkemoi Seko to be charged with **evading** sample collection process conducted at Ulinzi Sports Complex on 22nd May, 2024 as per the Anti Doping Act of Kenya 2.3 Evading, Refusing or Failing to Submit to Sample Collection by an Athlete.”*

[Emphasis added]

19. On 22 July 2024, ADAK formally notified the Athlete of a potential Article 2.3 ADRV and invited him to provide a written explanation. ADAK further informed the Athlete that he was provisionally suspended, effective from 11 August 2024.
20. On 2 August 2024, the Athlete was provided with a copy of the Investigation Report.
21. On 5 August 2024, the Athlete wrote ADAK via WhatsApp:

“Dear [M]wakio, I hereby accept the report from the Anti-Doping Agency of Kenya and ready to undertake the consequences. I regret doing the same and promise not to repeat the mistake.”

22. On 24 September 2024, ADAK notified the Athlete of a potential Article 2.2 ADRV. ADAK explained that the Athlete had declared the use of a “*Sustanon injection*” and that such contained a prohibited substance, namely testosterone. ADAK invited the Athlete to provide an explanation by 14 October 2024 and informed him that he would be provisionally suspended with immediate effect.

E. The Proceedings Before the SDT

23. On 4 October 2024, ADAK filed a charge document in respect of the alleged Article 2.3 ADRV together with supporting evidence (the “**Article 2.3 Charge Document**”). By the Article 2.3 Charge Document, ADAK sought, *inter alia*, that a four-year period of Ineligibility be imposed upon the Athlete.
24. On 25 October 2024, ADAK filed a further charge document in respect of the alleged Article 2.2 ADRV together with supporting evidence (the “**Article 2.2 Charge Document**”). By the Article 2.2 Charge Document, ADAK sought, *inter alia*, that an eight-year period of Ineligibility be imposed upon the Athlete.
25. The SDT consolidated the charges relating to both alleged ADRVs into one single proceeding. Hearings took place on 30 January 2025, 13 February 2025, and 28 February 2025.
26. On 2 April 2025, upon the request of the SDT, ADAK filed its written submissions concerning both violations, requesting that a six-year period of Ineligibility be imposed upon the Athlete.
27. On 15 May 2025, the SDT Panel rendered the Appealed Decision. The operative part

thereof provides as follows:

“129. Consequent to the discussion on the merits of this case, the Panel orders:

*a) The period of ineligibility shall be **sixteen (16) months**;*

*b) The period of ineligibility shall be from the date of provisional suspension for a period of sixteen months starting **11th August 2024 to 10th December 2025**;*

*c) Disqualification of any and/or all of the Athlete’s competitive results from **21st May 2024**;*

d) Each party shall bear its own costs;

e) The right of appeal is provided for under Article 13 of the ADAK ADR and the WADA Code.”

[Emphasis in the original]

28. The Appealed Decision found that the Athlete had committed both ADRVs. With respect to whether the Athlete acted intentionally, the Appealed Decision established the following:

101. Establishing the Athlete’s intent to not submit to sample collection was the Applicant’s burden and that of use of the prohibited substance was the Athlete’s burden. [...]

109. From the aforementioned it is this Panel’s finding that by a balance of probability, the Applicant was not able to establish that the Athlete committed the ADRV in SDTADK/E060/2024 intentionally while in the SDTADK/E067/2024 the Athlete tabled evidence that helped establish the origin of the Prohibited Substance administered to the Athlete by hospital personnel for genuine health restorative purposes [...].

123. However, having considered and arrived at the conclusion that intentionality was not established in regard to commission of both ADRVs, it is our considered opinion that the Applicant had not established a case of Aggravating Circumstance as envisaged in the Code. Further, the failure to submit to Sample collection was tempered by compelling justification which revolved around the health axis and establishment of origin of the Prohibited Substance by the Athlete during arguments on the violation of Use of a Prohibited Substance coupled with admission of use of the same in his DCF.”

29. On 24 August 2025, the Appealed Decision was notified to WADA.

30. On 5 September 2025, WADA requested the case file.

31. On 23 September 2025, WADA received elements of the case file.³

III. THE PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

32. On 14 October 2025, the Appellant filed its Statement of Appeal with the Court of Arbitration for Sport (the “CAS”) against the Appealed Decision, pursuant to Articles R47 *et seq.* of the CAS Code of Sports-related Arbitration (the “CAS Code”) (the “Appeal”). In its Statement of Appeal, the Appellant requested the appointment of a sole arbitrator.
33. On 16 October 2025, the CAS Court Office informed the Parties about the Appeal, requested the Appellant to file its Appeal Brief in accordance with Article R51 of the CAS Code and noted the Appellant’s choice to proceed with its Appeal in the English language. In addition, the Respondents were invited to inform the CAS Court Office whether they agreed to the appointment of a sole arbitrator. The CAS Court Office further informed the Parties that WADA had filed additional appeals raising similar issues⁴ and invited them to indicate whether they agreed to submit the present Appeal and the other similar appeals filed by WADA (collectively referred to as the “WADA Appeals”) to the same sole arbitrator.
34. On 21 October 2025, the Appellant informed the CAS Court Office that it did not object to the appointment of the same sole arbitrator for the WADA Appeals.
35. On 30 October 2025, following a respective request filed by the Appellant, the CAS Court Office informed the Parties that the President of the CAS Appeals Arbitration Division had granted an extension of the Appellant’s time limit to file the Appeal Brief until 6 November 2025.
36. On 6 November 2025, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
37. On 7 November 2025, the CAS Court Office acknowledged receipt of the Appeal Brief and invited the Respondents to submit their respective Answers within twenty (20) days, pursuant to Article R55 of the CAS Code.
38. On 14 November 2025, the Appellant submitted proof that the Appeal Brief had been successfully delivered to the Athlete via WhatsApp through ADAK.
39. On 3 December 2025, the First Respondent requested an extension to file its Answer by no later than 18 December 2025 (i.e. by ten days). Absent any objection by the other Parties, the CAS Court Office granted the extension by letter of 9 December 2025.

³ WADA reserved the right to rely upon the fact that the case file produced by ADAK on 23 September 2025 was incomplete in the event that either ADAK or the Athlete takes issue with the timing of WADA’s filing of the Statement of Appeal.

⁴ Registered as CAS 2025/A/11840 World Anti-Doping Agency (WADA) v. Anti-Doping Agency of Kenya (ADAK) & David Bett; CAS 2025/A/11841 World Anti-Doping Agency (WADA) v. Anti-Doping Agency of Kenya (ADAK) & Paniel Mkungu; CAS 2025/A/11842 World Anti-Doping Agency (WADA) v. Anti-Doping Agency of Kenya (ADAK) & Stanely Njihia Kamau.

40. On 8 December 2025, the First Respondent submitted its Answer (by e-mail only). No objection was raised by any of the Parties as to the admissibility of the First Respondent's Answer in view of the "e-mail only" submission. The CAS Court Office acknowledged receipt of the First Respondent's Answer, subject to its admissibility, on 9 December 2025.
41. On 18 December 2025, the Second Respondent submitted his Answer. The CAS Court Office acknowledged receipt of the Second Respondent's Answer on 22 December 2025.
42. By email of 29 December 2025, following an invitation from the CAS Court Office to express their respective preferences, the Appellant indicated its preference for a hearing to be held and did not request a case management conference with the Sole Arbitrator.
43. On 13 January 2026, pursuant to Article R54 of the CAS Code, and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the Panel appointed to decide the present matter was constituted as follows:

Sole Arbitrator: Ms Annett Rombach, Attorney-at-law, Frankfurt am Main, Germany.
44. On 15 January 2026, the CAS Court Office informed the Parties of the Sole Arbitrator's decision to hold a hearing via videoconference and suggested various hearing dates.
45. On 5 February 2026, the CAS Court Office informed the Parties that the hearing would take place on 4 March 2026 (via videoconference).
46. On 25 February 2026, the CAS Court Office transmitted the Order of Procedure to the Parties, together with a tentative hearing schedule.
47. On 2, 3 and 4 March 2026, the Parties returned duly signed copies of the Order of Procedure. In this context, the Second Respondent indicated that he waived his objection to the jurisdiction of the CAS.
48. On 4 March 2026, a hearing was held by videoconference. In addition to the Sole Arbitrator, Ms Andrea Sherpa-Zimmermann, CAS Counsel, and Ms Agnė Leonavičienė, Legal Counsel at the Sole Arbitrator's firm, the following persons attended the hearing:

For the Appellant: Mr Nicolas Zbinden, Legal counsel;
 Mr David Baker, Legal counsel;
 Mr Ross Wenzel, WADA;
 Ms Marissa Sunio, WADA;
 Mr Cyril Troussard, WADA;

For the First Respondent: Ms Phyllis Mwangi, Legal counsel;
 Ms Daisy Kurgat, Legal counsel;
 Mr Bildad Rogoncho, Legal counsel;

For the Second Respondent: Mr Edwin Kipkemoi Seko, the Second Respondent;
Mr Kirimi Mbobua, Legal counsel.

49. Initially, the Second Respondent indicated that he does not have sufficient knowledge of the English language and that no independent translator would be present. Upon the Sole Arbitrator's proposal, the Second Respondent provided his testimony in the Somali language, with his counsel, Mr Kirimi Mbobua, translating his answers into English. The Appellant and the First Respondent did not raise any objection to this procedure, which was implemented accordingly, with no challenges to the provided translations being raised by any party.
50. At the outset of the hearing, the First Respondent and the Second Respondent withdrew their previously raised objections regarding the jurisdiction of the CAS. They confirmed that they did not object to the jurisdiction of the CAS, nor to the constitution and composition of the Panel. Afterwards, the Parties were given the opportunity to present their cases, to make their submissions and arguments. The Second Respondent was questioned by the Appellant and the First Respondent.
51. In the hearing the Second Respondent provided the following new statements:

On his Article 2.2 ADRV:

- He was taking a cold/ice bath as part of his sporting enhancement routine, which allegedly led to the development of chest pain.
- On 2 May 2024, he experienced an emergency situation in which he was rushed to the hospital by two friends he had visited earlier that day. He fainted after experiencing chest pain and was unconscious upon admission to the hospital. Due to his unconscious state at admission, he could not have exercised any control over the medications administered to him. His wife was present when he woke up. The Athlete left the hospital on 5 May 2024.
- The friends who transported him to the hospital reportedly informed the medical staff that he had experienced chest pain prior to fainting, which was later indicated as a reason for an X-ray procedure. However, these friends are now unable to provide testimony, having moved to another city, and the Athlete does not possess their contact details.
- The Athlete received documentation regarding the medications administered to him in the hospital on 4 May 2025 but did not verify whether any of the substances contained prohibited substances.
- The emergency hospital admission was initially paid for by the friends who transported him, with subsequent medical costs covered by the Athlete's wife.

On his Article 2.3 ADRV:

- The Athlete was initially reluctant to participate in the Competition, as he was not feeling well. However, he agreed to compete because he had no food and the organizers provided a daily allowance to each participant.

- He left the competition venue after receiving a call instructing him to return to announce his whereabouts. Upon returning, he discovered that the call was related to a doping control sample rather than his whereabouts. The Athlete felt manipulated by this situation, which contributed to his reluctance to comply.
- The bag in the Athlete's possession was intended to be handed to the motorcycle driver, who was then supposed to deliver it to his friend.

On being an elite athlete:

- The Athlete has been competing professionally since 2020. His international competition experience is limited to events held in Japan and Spain (Madrid).

On his anti-doping education:

- The Athlete attended a single anti-doping education program in 2020. However, due to his limited knowledge of the English language, he was not able to fully comprehend the content.
- He was not aware that certain recovery medications could contain prohibited substances, although he has not used any such substances in the past.
- Prior to the present matter, he had been tested only once, in 2023, together with other athletes, and he had complied with that testing.
- The Athlete was unaware of the strict requirement to complete the sample collection process. He also has no knowledge of what a Therapeutic Use Exemption (TUE) is.
- Until the recent events, the Athlete did not take steps to educate himself regarding anti-doping compliance.

On his health issues:

- The Athlete continues to feel unwell and requires financial assistance for a lung scan. He was unable to continue his education in Japan due to frequent fainting episodes and consequently returned to Kenya.

On the use of "Deca"

- The Athlete does not know the exact name of the substance he used. He was experiencing wrist pain and was advised by a fellow athlete that the substance could provide relief. The colleague shared a portion of the product with the Athlete, who then used it on his wrist.

On the totality of circumstances surrounding both of his ADRVs:

- The Athlete comes from an area of extreme poverty, where access to education is limited due to factors such as lack of internet connectivity. He often competed in sporting events in order to afford basic necessities, including food.

- The Athlete bears no fault for being admitted to the hospital, as he did not voluntarily become ill. The ADAK did not challenge the emergency hospital admission, and therefore the Athlete did not consider it necessary to provide further documentation or explanation in his Answer.
52. Before the hearing was concluded, both Parties expressly stated that they had no objections to the procedure adopted by the Sole Arbitrator and that their respective rights to be heard and to be treated equally had been respected.
53. In reaching the present decision, the Panel has carefully taken into account all the evidence and the arguments presented by the Parties, even if they have not been summarised in the present Award.

IV. THE POSITIONS OF THE PARTIES

54. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Parties. The Sole Arbitrator confirms, however, that she has carefully considered all the submissions made by the Parties, whether or not there is specific reference to them in the following summary.

A. The Appellant's Position

55. The Appellant submits the following in substance:
- The Appealed Decision cannot stand. A proper assessment of the evidence can only lead to three inescapable conclusions:
 - (i) the Athlete (who has admitted the Article 2.2 ADRV) has failed to rebut the presumption that his Article 2.2 ADRV was intentional and, as such, the standard (and mandatory) four (4) year period of Ineligibility is applicable;
 - (ii) the Athlete (who has admitted the Article 2.3 ADRV) has failed to demonstrate that there were any "*exceptional circumstances*" justifying a departure from the standard (and mandatory) sanction for his Article 2.3 ADRV, namely a four (4) year period of Ineligibility; and
 - (iii) the Athlete is guilty of Aggravating Circumstances on the basis that he has committed multiple ADRVs (arising out of different factual circumstances) and the Athlete's four-year period of Ineligibility ought to be increased by two (2) years, resulting in a six (6) year period of Ineligibility.

On the Article 2.2 ADRV

- The SDT Panel erred in finding that the Athlete (who bears the burden of proof) has established that his Article 2.2 ADRV was not intentional. There is no evidence that the Athlete's admission to the hospital was an emergency. The standard to which the Athlete must prove the lack of intention is "balance of probabilities". To meet such standard of proof, it is not sufficient to show that an explanation is possible, but the Athlete must show that the proposed hypothesis is more likely than

not. In the present case, the Athlete failed to do so.

- The Athlete's conduct amounts to (at least) a clear case of indirect intent: (i) he failed to inform the treating physician that he was an elite athlete subject to anti-doping obligations; and (ii) he failed to carry out any checks whatsoever before receiving the substance. In doing so, the Athlete was aware of a significant risk that his conduct could constitute or result in an anti-doping rule violation and nevertheless consciously disregarded that risk. As a professional athlete, he was fully aware of his anti-doping obligations.
- The SDT Panel also erred in applying the provision on No Significant Fault or Negligence, such provision being unavailable to the Athlete as made clear by the WADC comment to Article 10.6.2.

On the Article 2.3 ADRV

- The SDT Panel erroneously characterised the Athlete's Article 2.3 ADRV as a failure to submit, rather than an evasion case. In doing so, the SDT Panel misapplied the legal qualification of the conduct at issue and, consequently, imposed a sanction corresponding to a failure to submit, instead of the sanction applicable to evasion.
- The SDT Panel appears to have adopted such approach on the basis that it considered the Athlete's conduct to be negligent rather than intentional, reasoning that he was suffering from "extreme fatigue" and had "overexerted" himself during the Competition.
- The Athlete's conduct was intentional, as demonstrated by his own admissions and the evidence gathered in the Investigation Report. This includes, *inter alia*, his deliberate act of boarding a motorcycle to leave the scene and witness statements confirming that he reported no health issues at the relevant time or prior to fleeing. The Athlete has failed to establish that his alleged medical condition impaired his cognitive abilities to such an extent that he was unable to comply with his anti-doping obligations. In any event, evasion cannot be negated by an athlete's claimed physical or mental state, nor by a purported sense of panic. It is insufficient for the Athlete to rely solely on a self-assessment that he was not in his normal frame of mind.
- Article 2.3 provides that the failure to submit must have been "*without compelling justification*", that is, the Athlete has to show that his failure to submit to sample collection was unavoidable; if it "*remains physically, hygienically and morally possible for the sample to be provided, despite objections by the athlete, the refusal to submit to the test cannot be deemed to have been compellingly justified.*" Such compelling justification is therefore not met in the present case.
- To establish a case of evasion it is necessary to prove that the Athlete intended to evade the sample collection, which means proving that (i) the Athlete was aware that an anti-doping organization wanted to conduct a test on him, and (ii) took steps that were intended to avoid being tested. In the present case, both elements are

satisfied. The Athlete was aware of the testing as he signed the Second Doping Control Form and took steps to avoid testing by leaving the venue of the Competition. His justification for why he left is not relevant.

- It is not necessary to demonstrate a specific motive for avoiding sample collection. An athlete cannot justify his conduct by claiming that he intended to submit to testing at a later time or that he eventually did so. Accordingly, even if the Athlete alleges that he made subsequent efforts to take the test, such conduct does not negate a finding of evasion.
- The key distinction between evasion and a refusal (or a failure to submit) is that in the case of the former, it is not necessary that the athlete has been notified of the requirement to provide a sample. It is enough that the athlete in question is or ought to be aware that a doping control officer is present to test them, whereupon the athlete in question does not provide the sample and absconds.
- The SDT Panel further compounded its error by applying the provisions on No Significant Fault or Negligence. Such provisions are inapplicable to cases of evasion, which, by their nature, necessarily involve intentional conduct. In any event, even if the Athlete's conduct was properly characterised as a failure to submit, it is untenable to suggest (as the SDT Panel did) that the Athlete's failure to submit was anything other than intentional.

On the period of Ineligibility

- Pursuant to Article 10.9.3.1 of the ADAP ADR, for the purposes of sanction, the Athlete's ADRVs "*shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction*".
- As to the Article 2.2 ADRV, the Athlete has failed to rebut the presumption of intent. The starting point for the Athlete's period of Ineligibility under the Article 2.2 ADRV is four (4) years.
- As to the Article 2.3 ADRV, Article 10.3.1 of the ADAP ADR allows for the otherwise applicable four (4) year suspension to be reduced to (i) two years, if the Athlete can establish that the ADRV was not intentional; or (ii) in a range from two (2) to four (4) years, if the Athlete can establish exceptional circumstances justifying reduction. Exceptional circumstances justifying the reduction of Ineligibility "*must be interpreted with the greatest possible care, so as only to include very unusual or abnormal situations*" (CAS 2021/A/7983 & CAS 2021/A/8059, para. 266). Since the Athlete failed to demonstrate any exceptional circumstances justifying a departure from the standard (and mandatory) sanction for his ADRV, a four (4) year period of Ineligibility shall be applicable.
- In the alternative, should the Athlete's conduct be classified as a failure to submit, it is submitted that such conduct was nonetheless manifestly intentional. Accordingly, the Athlete is not entitled to any reduction of the standard four (4)

year period of Ineligibility pursuant to Article 10.3.1(i) of the ADAK ADR.

- Therefore, the starting point is that the period of Ineligibility for each of the Athlete's ADRVs is four (4) years.

On Aggravating Circumstances

- The Athlete's period of Ineligibility has to be increased because "Aggravating Circumstances" existed. "Aggravating Circumstances" are present in this case because the Athlete committed multiple ADRVs (namely Use contrary to Article 2.2 and Evasion (alternatively Failure to Submit) contrary to Article 2.3).
- Such ADRVs arose from different underlying facts: (i) the Athlete's Use of Testosterone arose (allegedly) from his attending hospital between 3 and 5 May 2024 and being administered an injection of Sustanon; and (ii) the Athlete's Evasion comprised his conduct in absconding from an In-Competition test on 22 May 2024.

56. The Appellant requests the following relief:

"WADA respectfully requests the CAS to rule as follows:

- 1. The appeal of WADA is admissible.*
- 2. The decision dated 15 May 2025 rendered by the ADAK Sports Disputes Tribunal in the matter of Edwin Kipkemoi Seko is set aside.*
- 3. Edwin Kipkemoi Seko is found to have committed anti-doping rule violations under Articles 2.2 and 2.3 of the ADAK ADR.*
- 4. Edwin Kipkemoi Seko is sanctioned with a period of ineligibility between four and six years starting on the date on which the CAS award enters into force. Any period of provisional suspension or ineligibility effectively served by Edwin Kipkemoi Seko before the entry into force of the CAS award shall be credited against the total period of ineligibility to be served.*
- 5. All competitive results obtained by Edwin Kipkemoi Seko from and including 21 May 2024 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).*
- 6. The arbitration costs shall be borne by ADAK, or in the alternative by the Respondents jointly and severally.*
- 7. WADA is granted a significant contribution to its legal and other costs."*

B. The First Respondent's Position

57. In its Answer, the First Respondent submitted the following in substance:

On the 2.2. ADRV

- The WADC and CAS jurisprudence allow an athlete to rebut the presumption of

intent with credible, specific evidence.

- The SDT Panel received evidence including medical notes, hospital records, information on who administered the injection, the Athlete's explanation, and the emergency treatment context, and concluded that the Athlete had established the origin and purpose of the injection. This is a classic credibility- and fact-specific determination.
- The SDT Panel explained why it accepted the medical evidence and the Athlete's account. The Appellant's disagreement with the weight given to the evidence does not demonstrate any misapplication of law.
- Reference to "indirect intent" cases does not displace the SDT Panel's reasoning. The SDT Panel accepted contemporaneous medical evidence, which made the alternative hypothesis (knowing or reckless use for performance enhancement) less likely. CAS must respect the SDT Panel's assessment unless it is irrational or legally flawed.

On the 2.3 ADRV

- The SDT Panel lawfully treated the Athlete's conduct as a negligent Failure to Submit rather than deliberate Evasion because of the Athlete's admissions and plausible contemporaneous explanations (fatigue, recent hospitalization, mental state after illness). Additionally, the SDT Panel had witness evidence and the Athlete's handwritten account.

On the Aggravating Circumstances

- The Appellant seeks application of Aggravating Circumstances to increase the sanction, relying on multiple ADRVs and possible additional substances listed on the First Doping Control Form. The SDT Panel considered these factors and reasonably explained why the evidence did not justify an uplift, applying discretion under Article 10.4 in light of mitigation (medical context, credible explanations, absence of a doping pattern).
- CAS must defer to the SDT Panel's proportional, discretionary decision absent a clear misapplication of the legal test for aggravation, which the Appellant has not demonstrated.
- The speculative claim regarding the word "deca" on the First Doping Control Form is unsupported and should be rejected entirely.

58. The First Respondent requested the following relief:

"For the reasons given above, the 1st Respondent respectfully asks the Court to:

- Find that it has no jurisdiction to hear and determine the Appeal and dismiss/refer to SDT.*

- ii. *Dismiss Appellant's appeal in its entirety; or, in the alternative, remit any genuinely disputed factual issue to a fact-finder or limit any corrective orders so that they remain proportionate to the proven facts.*
- iii. *Confirm the Appealed Decision.*
- iv. *Order that each party bears its own costs of these proceedings.*
- v. *Grant ADAK any further relief that it deems just and appropriate."*

59. During the hearing, the First Respondent no longer defended the Appealed Decision, but instead explained that it had prosecuted the case in line with WADA's arguments, seeking the highest possible sanction of six years. Therefore, the First Respondent submits that it should not bear the costs of the proceedings.

C. The Second Respondent's Position

60. The Second Respondent submits the following in substance:

On the Article 2.2 ADRV

- The SDT Panel correctly determined that the presence of the Prohibited Substance arose from genuine medical treatment administered in response to an emergency. The Panel considered this circumstance as a mitigating factor in its assessment of intent. In determining the appropriate sanction of sixteen (16) months, the SDT Panel properly directed itself to and applied Article 10.2.1.1 of the ADAK ADR.

On the Article 2.3 ADRV

- On the submission by the Appellant that the Second Respondent should have been convicted of evading and not refusing / failure to submit, the SDT Panel rightfully found that the First Respondent failed to prove intent and observed that the failure to submit, considering the totality of the circumstances, tilted on the negligent side rather than the intentional side.

On the period of Ineligibility

- In determining the appropriate sanction of sixteen (16) months, the SDT Panel properly directed itself to and applied Article 10.2.1.1 of the ADAK ADR.

61. The Second Respondent requests the following relief:

"33. The 2nd respondent prays that the appellants appeal be dismissed for want of merit.

34. The 2nd respondent's costs of this arbitration be borne by the appellant."

V. JURISDICTION

62. Article R47 para. 1 of the CAS Code provides – in its pertinent parts – as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.”

63. In their respective Answers, both Respondents initially challenged CAS’s jurisdiction to hear the Appeal under the ADAK ADR, on the basis that disputes involving National-Level Athletes must first be appealed through the national-level appellate process, which was not followed in this case. At the hearing held on 4 March 2026, both Respondents expressly withdrew their written jurisdictional objections and confirmed that the CAS has jurisdiction to hear the present matter.

64. Both the Respondents and WADA agree that the Athlete is a “National-Level Athlete” for the purpose of the ADAK ADR.

65. The ADAK ADR provides as follows in respect of CAS’s jurisdiction for appeals involving National-Level Athletes:

“Art. 13.2.3.2 “Appeals Involving Other Athletes or Other Persons”: [...] the following parties shall have the right to appeal: [...] (f) WADA. For cases under Article 13.2.2 [Appeals Involving Other Athletes or Other Persons], WADA [...] shall also have the right to appeal to CAS with respect to the decision of the ADAK’s Appeal Panel.”

“Art. 13.1.3 “WADA Not Required to Exhaust Internal Remedies”: Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within ADAK’s process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in ADAK’s process.”

66. Although decisions concerning National-Level Athletes fall within Article 13.2.2 ADAK ADR and are ordinarily appealable within the national appellate structure, Article 13.2.3.2(f) ADAK ADR expressly grants WADA an independent right of appeal. Furthermore, pursuant to Article 13.1.3 ADAK ADR, where no other party has appealed a final decision within ADAK’s internal process – as is the case here – WADA is not required to exhaust internal remedies and may file its appeal directly with CAS.

67. Accordingly, CAS has jurisdiction to entertain WADA’s appeal.

VI. ADMISSIBILITY

68. Article R49 of the CAS Code provides – in its pertinent parts – as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time

limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document.”

69. The ADAK ADR provides as follows:

“Art. 13.6.1. – [...] the filing deadline for an appeal filed by WADA shall be the later of:

(a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed, or

(b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision.”

70. WADA received the case file on 23 September 2025. Hence, the 21-day time limit to file the Appeal expired at 11:59 PM on 14 October 2025. WADA’s Statement of Appeal submitted on 14 October 2025 was, therefore, filed in time.

71. The Statement of Appeal also complied with the requirements of Article R48 of the CAS Code. In addition, the admissibility of the Appeal is not challenged by any Party.

72. The Appeal is therefore admissible.

73. The Sole Arbitrator further notes that the First Respondent, contrary to Article R31 (3) of the CAS Code, only submitted the Answer by e-mail, without a follow-up upload on the CAS e-filing platform or courier delivery. However, given that none of the Parties objected to the admissibility of the First Respondent’s Answer, the Sole Arbitrator decided to exceptionally admit the Answer to the case file.

VII. APPLICABLE LAW

74. For appeal proceedings, Article R58 of the CAS Code provides the following:

“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”

75. The “*applicable regulations*” for the purposes of Article R58 of the CAS Code are those contained in the ADAK ADR because the Appeal is directed against a decision which was passed applying the ADAK ADR.

VIII. SCOPE OF REVIEW

76. According to Article R57 of the CAS Code:

“The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. [...]”.

77. The unlimited scope of review is also confirmed by Article 13.1.1 (“Scope of Review Not Limited”) of the ADAK ADR, which provides as follows:

“The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker. Any Party to the appeal may submit evidence, legal arguments and claims that were not raised in the first instance hearing so long as they arise from the same cause of action or same general facts or circumstances raised or addressed in the first instance hearing.”

78. Against this background, the Sole Arbitrator finds that her power to review the facts and the law of the present case is not limited.

IX. MERITS

A. The Issues

79. At the outset, the Sole Arbitrator has to identify the issues which must be resolved in the present Appeal.

80. Some of them are not in dispute between the Parties. In particular, the Parties agree and do not challenge that:

- The Athlete committed – and admitted – the Article 2.2 ADRV;
- The Athlete committed – and admitted – the Article 2.3 ADRV in the form of Failure to Submit to Sample Collection.

81. What is at the centre of the dispute between the Parties are the applicable consequences of these ADRVs. In this respect, it is disputed between the Parties:

- Whether the Article 2.2 ADRV was committed intentionally (below at **B.1**);
- Whether the Article 2.3 ADRV was committed intentionally, not only by the Athlete’s Failure to Submit, but also by the separate category of Evading Sample Collection (below at **B.2**);
- Whether the standard period of Ineligibility for an intentional ADRV must be increased due to the presence of Aggravated Circumstances (below at **B.3**).

B. The Analysis

82. The applicable sanction for the Athlete’s ADRVs depends on whether (either of) the two ADRVs was committed intentionally, and whether Aggravated Circumstances can be established.

1. Was the Article 2.2 ADRV committed intentionally?

83. The SDT rejected a finding of intent for the Article 2.2 ADRV, arguing that the Athlete successfully established the origin of the Prohibited Substance *“administered to the Athlete by hospital personnel for genuine health restorative purposes.”*
84. The Athlete wrote on the First Doping Control Form he completed on 21 May 2024 that he had, within the seven days preceding the test, received a *“sustanon injection”*. As submitted by WADA, and not challenged by the Athlete, the active ingredient in Sustanon is testosterone, a non-specified substance prohibited at all times.
85. According to Article 10.2.1 ADAK ADR, the standard period of Ineligibility is four years for ADRVs involving a non-Specified Substance, unless the Athlete can establish that the ADRV was not intentional. Hence, it is for the Athlete to demonstrate that he did not act with intent. The applicable standard of proof for such demonstration is “balance of probability” (Article 3.1 of the ADAK ADR).
86. Article 10.2.3 of the ADAK ADR defines the term “intentional” as follows:
- “[...] the term intentional is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an Anti-Doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping rule violation and manifestly disregarded that risk. [...]”*
87. The Appealed Decision found that the Athlete rebutted the presumption of Intent by establishing the origin of the Prohibited Substance *“for genuine health restorative purposes”*. However, the Appealed Decision falls short of discussing the possibility that the scenario advanced by the Athlete may constitute indirect Intent. Article 10.2.3 of the ADAK ADR expressly includes indirect Intent into the definition of “intentional”, and establishes the following requirements:
- (i) the Athlete knew that there was a significant risk that his conduct might constitute or result in an anti-doping rule violation; and
 - (ii) he manifestly disregarded that risk.
88. It is established CAS jurisprudence that the duties of athletes in terms of anti-doping are heightened with respect to medications, because there is an inherent significant risk that medications may contain prohibited substances (see CAS 2016/A/4609). Hence, athletes cannot exculpate themselves by a blanket reference to the fact that they were required, for medical reasons, to take a medication, even if such medication was administered under emergency conditions, without subsequently verifying whether the used medication contains prohibited substances. To be clear, while the Sole Arbitrator accepts that this case is not about an athlete’s duty of care *before* the use of a medication, assuming – for the Athlete’s benefit – that the medication was administered to him under emergency circumstances, a duty of investigation also exists *after* the use of the medication. An athlete who knows that he was treated with a medication while in

hospital and fails to take any steps to verify the potential intake of a prohibited substance is equal to an athlete who *“runs into a ‘minefield’ ignoring all stop signs along his way”* (CAS 2012/A/2822, para. 8.14), to quote one of the most famous definitions of indirect Intent used in CAS jurisprudence.

89. In the present case, there is no evidence of any steps the Athlete undertook to avoid the Article 2.2 ADRV. While he indicated the “Sustanon Injection” on the First Doping Control Form, he did not provide a satisfactory explanation as to why he competed without a Therapeutic Use Exemption (“TUE”), when it would have been easy to find out that the main ingredient of Sustanon is Testosterone. The Athlete’s allegation that he did not know what a “TEU” was is not credible in view of the fact that he had undisputedly received anti-doping training in 2021 (as per his own statements reflected in the Investigation Report).
90. What is more, the Sole Arbitrator has serious concerns as to the Athlete’s credibility more generally. During the hearing, the Athlete advanced significant new facts not mentioned at any time during the investigation or during the lengthy hearing before the SDT Tribunal, e.g. that he was brought to hospital in an unconscious state, and that he remained unconscious for an entire day. Being unconscious is so serious that any person would spontaneously disclose such significant fact when asked about the circumstances of a hospital visit. That this fact was advanced for the first time after WADA’s appeal, without any plausible explanation as to why this fact was not revealed before, seriously undermines the credibility of such statements. They are further undermined by the Athlete’s contention that his friends, who brought him to hospital, were not offered as witnesses, as they allegedly moved away. Moreover, the medical records do not contain any reference to an emergency situation or to the Athlete being unconscious at the time of admission. In circumstances involving an unconscious patient or a medical emergency, such conditions would ordinarily be recorded in hospital documentation.
91. In addition, if the Athlete had in fact remained unconscious for one or two days, it would be highly unusual for a hospital to discharge him shortly thereafter without prolonged observation or further medical supervision.
92. Where a factual account of circumstances on which an athlete relies to prove lack of Intent is contradictory or not credible, it can usually not result in the rebuttal of the presumption of Intent. Rebutting a presumption principally requires solid proof of a coherent and credible factual story. The “evolvment” of the Athlete’s story in this case in parallel to WADA’s challenge of the initial allegations, with no witnesses or other evidence supporting the newly “evolved” story, raises suspicions which bar the Sole Arbitrator from finding it “more likely than not” that the Athlete acted without (indirect) Intent.
93. As a result, the Sole Arbitrator finds that, contrary to the findings of the Appealed Decision, the Athlete has failed to rebut the presumption of Intent for the Article 2.2 Use ADRV. Hence, the standard period of Ineligibility for the Article 2.2 ADRV is four years, with no possibility to receive any fault-based reductions.

2. Was the Article 2.3 ADRV committed intentionally?

94. Article 2.3 of the ADAK ADR contains two different ADRVs: (i) Evading, and (ii) Refusing or Failing to Submit to Sample Collection. The SDT Tribunal assumed the application of Article 2.3 ADRV on the basis of the Athlete's Failing to Submit to Sample Collection, but did not endorse a finding of Evasion.

95. The difference is important, because the possibility for the Athlete to receive a reduction of the standard 4-year period of Ineligibility for an Article 2.3 ADRV in case of no Intent is only available for the Failure to Submit, but not for the Evasion ADRV, see Article 10.3.1 of the ADAK ADR:

“For violations of Article 2.3 [Failure to Submit and Evasion] or 2.5, the period of Ineligibility shall 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 shall be two (2) years;*
- ii. in all other cases [that includes: Evasion], if the Athlete or other Person can establish exceptional circumstances that justify a reduction of the period of Ineligibility the period of Ineligibility, shall be in a range from two (2) years to four (4) years depending on the Athlete or other Person's degree of Fault.”*

96. WADA submits that the SDT Tribunal's failure to find an Evasion ADRV was erroneous under the circumstances before it.

97. The act of „evading” is defined as “*the act of avoiding somebody or of avoiding something that you are supposed to do*”, “*to find a way of not doing something, especially something that legally or morally you should do*”, or “*doing something to escape from somebody/something or avoid meeting somebody*” (CAS 2021/A/7998, para 91; CAS 2023/A/9568, para. 54). The comment to Article 2.3 WADA Code explains that “*it would be an anti-doping rule violation of “evading Sample collection” if it were established that an Athlete was deliberately avoiding a Doping Control official to evade notification or Testing.*”

98. The description of the events provided by the Athlete himself (which is contained in a handwritten note and quoted in the Investigation Report) confirms that his fleeing of the scene indeed amounts to Evasion:

“[...] another man came and told me that I have been selected for in competition testing. I agreed and together with the second man from ADAK went and filled some ADAK forms. After filling the forms I told those people who were in the room (ADAK officials), that I needed to take the bag I was carrying to another man that I know from Kerringet town, who was also at Ulinzi sports complex. I signed out and was accompanied by an ADAK official. Immediately after leaving ADAK station, I started

sweating and when I called the man I was to meet his phone was offline. It was all a blur since I can't recall exactly what happened but I told the man from ADAK to let me just leave. The rider I had arrived with from town was still waiting at Ulinzi sports gate. I just remember having crossed the road. The rider followed me across the road and asked me for his money since he had ferried me from town to Ulinzi sports and I was now leaving. I boarded that same motorcycle which took me to Nyamaking stage [...]

I'd also like to note that before coach Kiwa called me to compete at Ulinzi sports, I had informed him that I was not feeling well. I had also previously received an injection from the chemist around my home area. The doctor said that he is administering the injection since I was feeling very cold. I have received multiple injections that I cannot remember the amount of times I received the injections...

I'm sorry for leaving the ADAK station and I will not repeat the same again and I'm available for testing when called upon by ADAK officials [...]"

99. The Athlete's own account of the event precisely matches the above-referenced definition of Evasion.
100. The available evidence indicates that the Athlete was conscious and responsive at least until the moment he boarded the motorcycle. There is no evidence on record demonstrating that the Athlete experienced any symptoms such as memory loss either before or immediately after boarding the motorcycle. The alleged loss of memory, alleged during the hearing, is unsupported by contemporaneous evidence and appears to have been raised only subsequently in order to support the Athlete's narrative.
101. The Athlete was aware that he was required to complete the sample collection process. Nevertheless, he chose to leave before the process was finalized, thereby failing to comply with the applicable testing requirements.
102. Once it is established that the Athlete is guilty of Evading Sample Collection, a reduction of the standard period of Ineligibility requires a demonstration of "exceptional circumstances". Before the SDT Panel, the Athlete claimed that he was "*not in his normal frame of mind*". However, the Athlete did not provide any suitable evidence to corroborate such an (in any event vague) allegation. He neither produced any medical diagnoses, nor any proof that his "*not normal frame of mind*" impaired his cognitive abilities to an extent that it impacted upon his ability to comply with his anti-doping obligations and, in particular, to either remain at, or return to, the doping control station and produce a sample to the ADAK doping control personnel. Similarly, he did not offer any witness testimony.
103. In conclusion, the Sole Arbitrator is not prepared to find that "exceptional circumstances" existed. The standard period of Ineligibility of four years therefore applies.

3. What is the Athlete's sanction?

104. As a starting point for determining the sanction applicable to the Athlete's ADRV, based on Article 10.9.3.1 of the ADAK ADR, WADA submits that the two ADRVs shall be considered together as one single first violation, because the second violation (the Article 2.3 ADRV) occurring on 22 May 2024 was committed before the Athlete received notice of the first ADRV (the Article 2.2 ADRV). The Sole Arbitrator accepts this position.

105. The standard sanction for both ADRVs is a period of Ineligibility of four years. WADA requests that such sanction be increased due to Aggravating Circumstances. In this respect, Article 10.4 of the ADAK ADR provides as follows:

“Aggravating Circumstances which may increase the Period of Ineligibility. If ADAK 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 shall 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 he or she did not knowingly commit the Anti-Doping rule violation.”

106. As to the meaning of “Aggravating Circumstances”, the Appendix (“Definition”) to the ADAK ADR provides 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.”

107. The Sole Arbitrator finds the following Aggravating Circumstances in this case:

- The Athlete committed two ADRVs which are entirely separate and independent from each other (Use of a Prohibited Substance on the one hand and Evasion on the other hand).
- The Athlete appeared rather uncredible throughout the entire process, changing his submissions multiple times and not holding on to his initial admission and regret. This is true in particular for these CAS proceedings. Beside the uncredible statements already referred to above, the Sole Arbitrator heard further statements from the Athlete that are apparently wrong. The Athlete stated that he has been competing professionally only since 2020. However, the record indicates that he had already been competing at a professional level since 2018. Similarly, the Athlete asserted that he had only been subject to doping control testing in 2023, whereas the record shows that he had already been tested in 2019. These inconsistencies concern basic factual matters and therefore call into question the reliability and credibility of the Athlete's statements.

108. For the benefit of the Athlete, the Sole Arbitrator acknowledges that the two ADRVs occurred on two consecutive days (21 and 22 May 2024), when the Athlete was apparently still suffering from the consequences of his hospital stay and may have been more vulnerable than before his hospitalization.
109. Taking all of these circumstances together, the Sole Arbitrator finds it justified to increase the period of Ineligibility by six months so that the total period of Ineligibility shall be four (4) years and six (6) months.
110. The period of Ineligibility shall principally commence upon notification of the Award (Article 10.13 of the ADAK ADR), with credit to be given for any period of Provisional Suspension and/or period of Ineligibility served by the Athlete, provided that it has been effectively served (Article 10.13.2.1 of the ADAK ADR).
111. Pursuant to Article 10.13.1 of the ADAK ADR, where there have been substantial delays in the hearing process or other aspects of Doping Control, and the Athlete can establish that such delays are not attributable to him, the period of Ineligibility may start at an earlier date commencing as early as the date of Sample collection.
112. In the present case, the result of a strict application of Article 10.13 of the ADAK ADR (with the period of Ineligibility to start on the date of the notification of this Award on 31 July 2026) would be that the Athlete would be ineligible to compete until 30 September 2029 (with credit of the 16-months period of Ineligibility which had been imposed by the SDT Panel and served by the Athlete). In view of Article 10.10 of the ADAK ADR, pursuant to which WADA requests that all competitive results of the Athlete obtained from the date the Sample was collected (i.e. from 22 May 2024) be disqualified, the Athlete would be effectively barred from winning any medals, points or prizes (and thus effectively be “erased” from his sport) for a period of 5 years and 4 months from the date of sample collection. Had the SDT Panel worked properly, it would have found, based on the rather clear facts of the case, that the Athlete had acted intentionally and that Aggravated Circumstances applied, and it would have imposed the proper sanction of 4 years and 6 months to expire on 10 February 2029. This detrimental difference of 7.5 months is the result of the blatantly erroneous application of the ADAK ADR by the SDT Panel.
113. The Sole Arbitrator finds that the failure of the SDT Panel to correctly apply the law is not attributable to the Athlete. Irrespective of whether the Athlete formally raised Article 10.13.1 of the ADAK ADR as a defence, it is clear to the Sole Arbitrator that the Athlete had not submitted any facts at first instance which would have justified a finding of non-intent. In such circumstances, it would be unfair for the Athlete to bear the consequences and be ineligible to win any points or prizes for effectively almost five and a half years. Hence, the Sole Arbitrator finds that, based on Article 10.13.1 of the ADAK ADR, the period of Ineligibility shall start from 11 August 2024, *i.e.* on the first day of the period of Ineligibility imposed by the SDT Panel.
114. Furthermore, based on Article 10.10 of the ADAK ADR, and as requested by WADA, all of the Athlete’s results from 22 May 2024, *i.e.* the date of the Athlete’s admitted Use

of Testosterone, shall be disqualified.

X. Costs

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed by the World Anti-Doping Agency on 14 October 2025 against the Anti-Doping Agency of Kenya and Edwin Kipkemoi Seko with respect to the decision rendered on 15 May 2025 by the Sports Disputes Tribunal is upheld.
2. The decision rendered on 15 May 2025 by the Sports Disputes Tribunal is amended as follows:
 - a. Edwin Kipkemoi Seko is found to have infringed Articles 2.2 and 2.3 of the ADAK ADR.
 - b. Edwin Kipkemoi Seko is sanctioned with a period of ineligibility of four (4) years and 6 (six) months, commencing on 11 August 2024, with credit to be given for any period of Provisional Suspension and/or period of Ineligibility served by the Athlete, provided that it has been effectively served before 11 August 2024.
3. All competitive results obtained by Edwin Kipkemoi Seko from and including 22 May 2024 until that date of this Award are disqualified, with all the resulting consequences (including the forfeiture of medals, points and prizes).
4. (...).
5. (...).
6. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 31 July 2026

THE COURT OF ARBITRATION FOR SPORT

Annett Rombach
Sole Arbitrator