

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MR IVAN ZARCO

INTRODUCTION

1. World Athletics has established the Athletics Integrity Unit (**AIU**) whose role is to protect the integrity of the sport of Athletics. Upon receiving or becoming aware of any matter which may constitute an alleged violation of the World Athletics Integrity Code of Conduct (in force from 1 November 2019) (the **Code**), the AIU shall proceed with investigations and prosecutions as the case may require (per Rule 6.1 of the Code).
2. This matter concerns violations of the Integrity Standards of Honesty, Maintain Integrity, Reporting and Protect Reputation in Rules 3.3.1, 3.3.4, 3.3.15 and 3.3.17 of the Code, as well as violations of Rules 4.1 and 4.2 of the Manipulation of Sports Competitions Rules (in force from 1 November 2019) (**MSC Rules**), by Mr Ivan Zarco, an athlete registered with both *Real Federación Española de Atletismo* (**RFEA**) and *Federacion Nacional Hondureña de Atletismo* (**FENHATLE**).
3. This decision is issued by the AIU pursuant to Rules 5.3.1 and 5.8 of the AIU Reporting, Investigation and Prosecution Rules - Non-Doping (in force from 1 November 2019) (the **RIP Rules**), which provide that:

5.3 *The Applicable Person may respond to the Notice of Charge in one of the following ways:*

5.3.1 *admit the Non-Doping Violation(s) charged and accept all or any of the potential consequences and sanctions specified in the Notice of Charge;...*

5.8 *In the event that the Integrity Unit withdraws the Notice of Charge, or the Applicable Person admits the Non-Doping Violation(s) charged and accepts the consequences and sanctions specified (or is deemed to have done so in accordance with Rule 5.5), a hearing before the Disciplinary Tribunal will not be required. If this occurs, the Integrity Unit:*

5.8.1 *will promptly issue a decision confirming (as applicable) its withdrawal of the Notice of Charge or the admission of the Non-Doping Violation(s) and the imposition of the specified consequences and sanctions;*

5.8.2 *will Publicly Disclose any decision confirming the admission of the Non-Doping Violation(s) and the imposition of the specified consequences and sanctions in accordance with the Disciplinary Tribunal Rules (but shall not disclose a decision to withdraw a Notice of Charge); and*

5.8.3 *will send a copy of the decision to the Applicable Person subject to the charge, and for any decision confirming the admission of the Non-Doping Violation(s) and the imposition of the specified consequences and sanctions, send a copy of that decision to their relevant Member Federation, and Area Association (if applicable).*

FACTUAL AND PROCEDURAL BACKGROUND

4. On 21 March 2021, the Itelligence Citylauf Invitational Marathon took place in Dresden, Germany (Marathon).
5. On 22 March 2021 at 23:51 (CET), the Spanish running website, *Soy Corredor*, published an online article in which it claimed that Mr Santiago had completed the Marathon under Mr Zarco's race number and that the time ran by him (2:17:46) had been attributed to Mr Zarco, which was also a new National Record for Honduras.¹ The article suggested that it was "impossible" for Mr Zarco to have run the Marathon given that Mr Santiago had published his run on the Strava app and given the video of Mr Santiago crossing the finish line wearing Mr Zarco's bib. The article characterised the Marathon as an important event in Germany and at an international level.
6. The publication of the *Soy Corredor* article appears to have prompted Mr Santiago to provide a public response and for Mr Zarco to contact World Athletics.
7. On 23 March 2021, Mr Santiago posted a series of tweets on his Twitter account to explain his version of events. In these tweets, he stated that:
 - 7.1. he apologised for the mistakes made but he did not have any malicious intent;
 - 7.2. he ran the Marathon as a test for another race that he had on 11 April 2021;
 - 7.3. he had left his bag in a park and after he returned from warming up, it had disappeared - this was approximately 30 minutes before the Marathon start time;
 - 7.4. Mr Zarco had pain due to plantar fasciitis and was not going to run the Marathon; and
 - 7.5. Mr Zarco spoke to the Marathon organisers and told Mr Santiago to run with his race bib instead.
8. Mr Santiago's Twitter account has since been removed. On 23 March 2021, Mr Zarco sent a message to World Athletics requesting that the results of the Marathon be attributed to Mr Santiago.
9. The AIU made inquiries of both RFEA and FENHATLE. RFEA commenced an investigation into the circumstances on 15 April 2021. FENHATLE did not respond to the AIU's enquiries in a timely manner, and eventually advised that they had not taken any substantive steps to investigate the circumstances of Mr Santiago's participation in the Marathon wearing Mr Zarco's race number.
10. On 23 May 2021, FENHATLE submitted a universality application for Mr Zarco for the (postponed) 2020 Tokyo Olympic Games.
11. On 19 June 2021, following the investigation conducted by the RFEA into the matter, the RFEA Disciplinary Committee issued a decision sanctioning both Mr Zarco and Mr Santiago

¹ https://www.soycorredor.es/atletismo/camilo-santiago-corre-dorsal-otro-atleta-bate-record-nacional-honduras_230236_102.html.

with privation (loss) of their federation Athletics licence for a period of two (2) years. Their factual findings included that:

- 11.1. the athletes agreed before the start of the race that Mr Santiago would take the start of the Marathon pretending to be Mr Zarco;
 - 11.2. Mr Zarco had a chance of participating in the Tokyo Olympic Games with Honduras if he obtained a good time in Dresden; and
 - 11.3. Mr Zarco only sent an email to World Athletics about his non-participation after the online publication of the *Soy Corredor* article and Mr Santiago's tweets.
12. As part of its investigations, the AIU spoke to each of Mr Zarco, Mr Santiago and a representative of the Marathon organisers.
13. Mr Zarco's position was that:
- 13.1. Mr Santiago was meant to act as his pacer during the Marathon. Mr Zarco and Mr Santiago both did their warm up together in a park and left their bags under a tree, and when they came back, Mr Santiago's bag was gone. They understood that Mr Santiago would not be able to participate in the Marathon without a bib number. The athletes did not report the missing bag because they considered it was their own fault that it had been lost (by leaving it in the park).
 - 13.2. As Mr Zarco was facing participating in the Marathon without his pacer and additionally because he was not feeling well (he had discomfort in his foot), he decided not to take part in the Marathon. However, Mr Santiago still wanted to compete as he was using the Marathon for his own training, and so the athletes both decided that Mr Santiago should run with Mr Zarco's bib.
 - 13.3. It was Mr Santiago's idea for him to run with Mr Zarco's bib number. Mr Zarco tried to explain this to an event organiser in English, but as they only spoke German, he was not sure that he had been understood. Mr Santiago also told Mr Zarco that he did not intend to finish the Marathon and would inform the Marathon organisers at the end of the race that he had participated using Mr Zarco's bib.
 - 13.4. Mr Santiago was not supposed to finish the Marathon and he was also supposed to speak to the race organisers to disqualify/cancel his results immediately after the Marathon. Mr Zarco did not see Mr Santiago speaking to anyone after the Marathon.
 - 13.5. Mr Zarco did not know there were bib printing facilities at the starting point of the Marathon.
14. Mr Santiago stated that:
- 14.1. Mr Zarco was responsible for organising Mr Santiago's participation in relation to the Marathon and paid for Mr Santiago's flights, accommodation and registration fees. Mr Zarco had asked Mr Santiago to run the Marathon with a time of 2 hours and 16 minutes, which was within Mr Santiago's ability.

- 14.2. Both athletes received their bib numbers from the race organisers the night before the Marathon. The day of the Marathon, they went to warm-up in the park and left their bags in an unsecured area. When they returned from the warm-up, Mr Santiago's bag was gone.
- 14.3. Given that Mr Zarco was uncomfortable running without a pacer and had pain in his foot, Mr Zarco proposed that Mr Santiago should run. He told Mr Santiago that he had approval from the race organisers for Mr Santiago to run with Mr Zarco's bib. Mr Santiago does not speak English and therefore left Mr Zarco to do the communication, and did not speak to the Marathon organisers himself.
- 14.4. Mr Santiago did not know there were bib printing facilities at the starting point of the Marathon.
- 14.5. Mr Santiago was unclear as to whether or not he discussed finishing the Marathon with Mr Zarco before the Marathon.
15. The Marathon organisers confirmed that:
 - 15.1. the Marathon organisers were not advised at any time that Mr Santiago had lost his bib or that Mr Zarco was unwell and was not going to run;
 - 15.2. they did not receive any communication from any Marathon official about the purported conversation between Mr Zarco and an event organiser to give your bib to Mr Santiago;
 - 15.3. no official would have indicated that an athlete could swap race numbers; and
 - 15.4. there were race number printing facilities at the starting point of the Marathon.
16. On 28 June 2021, World Athletics rejected an application submitted by FENHATLE for the grant of a universality place to Mr Zarco to participate in the men's marathon at the (postponed) Tokyo Olympic Games.
17. Mr Zarco submitted an appeal against the RFEA Decision to the Administrative Sport Tribunal in Spain. In its decision dated 9 July 2021, the Administrative Sport Tribunal set aside the RFEA Decision on jurisdictional grounds (**Appeal Decision**) which meant that it did not review the factual findings made by the RFEA Disciplinary Committee in the RFEA Decision regarding Mr Zarco's and Mr Santiago's conduct.
18. As a result of the Appeal Decision, Mr Zarco and Mr Santiago each spent one (1) month without their Athletics licences granted by the RFEA.
19. In view of the Appeal Decision, Mr Zarco also filed an appeal against the decision of World Athletics not to grant him a universality place to the Court of Arbitration for Sport (**CAS**). On the basis that the RFEA Decision had been set aside in the Appeal Decision, World Athletics reversed its decision not to grant Mr Zarco a universality place of its own motion and he withdrew his appeal before the CAS. Consequently, Mr Zarco participated in the Men's marathon competition via a universality place at the Tokyo Olympic Games. Mr Zarco finished in last place in a time of 2:44:36 (some 27 minutes slower than the time run by Mr Santiago in Dresden).

APPLICABLE RULES

20. As an Athlete and individual who signed an international athlete's agreement in which he agreed to comply with and be bound by all World Athletics Rules and Regulations, Mr Zarco is an Applicable Person under Rules 1.1.6 and 1.1.7 of the Code.
21. Rule 4.1 of the Code makes it clear that it shall be a violation of the Code for an Applicable Person to violate or fail to comply with any one or more of the Integrity Standards set out in Rule 3, including any one or more of the Rules referred to in the Code.
22. The relevant provisions of the Code this case are as follows:

Integrity Standard 3.3.1 Honesty: to act with utmost integrity and honesty at all times including acting in good faith towards others and with mutual trust and understanding in all their dealings and in particular not to forge any document, falsify any authentic document or use a forged or falsified document.

Integrity Standard 3.3.4 Maintain Integrity: to ensure the integrity of, and not to improperly benefit from, Athletics competitions, and in particular to comply with the Manipulation of Sports Competition Rules.

Integrity Standard 3.3.15 Reporting: to promptly report to the integrity Unit any act, thing or information which the person becomes aware of, which may constitute (on its own or with other information) a violation of this Integrity Code.

Integrity Standard 3.3.17 Protect Reputation: to protect the reputation of World Athletics and not act, or fail to act, in any manner which may:

- a. adversely affect the reputation of World Athletics or Athletics generally; or*
- b. bring World Athletics or Athletics generally into disrepute; or*
- c. be contrary to the objects of World Athletics; or*
- d. be prejudicial to, or adversely affect the interests of, World Athletics or Athletics generally.*

23. The relevant provisions of the MSC Rules in this case are as follows:

- 4.1 An intentional arrangement, act or omission aimed at an improper alteration of a result or the course of an Event or Competition in order to remove all or part of the unpredictable nature of the Event or Competition with a view to obtaining an undue Benefit for oneself or for others;*
- 4.2 Inducing, instructing, facilitation or encouraging an Applicable Person to commit a violation of this Rule 4.*

NON-DOPING RULE VIOLATIONS

24. On 9 February 2023, the AIU charged Mr Zarco with committing violations of the Integrity Standards of Honesty, Maintain Integrity, Reporting and Protect Reputation in Rules 3.3.1, 3.3.4, 3.3.15 and 3.3.17 of the Code, as well as a violations of MSC Rules 4.1 and 4.2 (together, the **Non-Doping Violations**), and imposed a Provisional Suspension with immediate effect.
25. In the Notice of Charge, the AIU's specific charges against Mr Zarco were that he had committed Non-Doping Violations based on the following facts and evidence:
- 22.1 There was no dispute that Mr Santiago participated wearing Mr Zarco's bib. Mr Zarco and Mr Santiago gave contradictory testimony as to who had suggested the bib swap and who had sought permission from the Marathon organisers.
- 22.2 Viewed as a whole, the evidence demonstrated that Mr Zarco made specific arrangements for Mr Santiago to attend and participate in the Marathon and ultimately gave his bib to him (to achieve a better result attributable to him). Neither Mr Zarco nor Mr Santiago disclosed the arrangement until after the *Soy Corredor* article was published online. This arrangement did not meet the standards of integrity and honesty required of them as an International Athletes.
- 22.3 Regardless of whether Mr Zarco and Mr Santiago had agreed about the bib arrangement before the Marathon or whether this decision was made on the day itself, in either case, there was no logical explanation for Mr Santiago's participation wearing Mr Zarco's bib at all. Mr Santiago was registered for the Marathon, so if he had in fact lost his bib, he could have simply approached the Marathon organisers to print him a new one.
- 22.4 Mr Zarco should have disclosed the bib swap to the Marathon organisers immediately after the Marathon at the latest. Given that he did not, and the organisers were only notified of the bib swap after it was revealed online, it is reasonable to infer that Mr Zarco would not have disclosed the arrangement at all if he and Mr Santiago had not been found out.
- 22.5 Mr Zarco knew or should have known that his failure to report the bib swap could constitute a breach of the Code.
- 22.6 Mr Zarco's and Mr Santiago's accounts of events were directly inconsistent with other evidence and did not demonstrate an honest attempt to correct the Marathon results, particularly in circumstances where Mr Zarco must have known that the result in question would have been a Honduran national record.
- 22.7 Mr Zarco failed to maintain the integrity of the Marathon by making the arrangement to swap bibs and not disclosing the fact to the organisers at the earliest possible opportunity following the event.
- 22.8 The RFEA Decision was set aside on grounds of jurisdiction only - the Appeal Decision did not review the facts. It is therefore relevant that the RFEA Decision found that the

Athletes had made a prior agreement to swap bibs and that Mr Zarco required a good result in the Marathon to qualify for the Tokyo Olympics.

- 22.9 Mr Santiago's statements on Twitter and in his AIU interviews amounted to an admission that the bib swap was a mistake, that he failed to notify the Marathon organisers about the bib swap and that he omitted to correct the Marathon results at any time.
- 22.10 This incident gained significant online attention as the allegation of the bib swap and video of Mr Santiago crossing the finish line in Mr Zarco's bib were published on a prominent Spanish running website, Mr Santiago made numerous statements on his Twitter account, and the Marathon itself is a well-known international competition authorised by World Athletics. The bib swap was contrary to the objects of World Athletics and the public nature in which it was revealed and discussed brought the sport generally into disrepute.
- 22.11 The fact that Mr Zarco and Mr Santiago swapped bibs at all and were caught out in a public forum demonstrates that their conduct was unreasonable and it brought the sport into disrepute.
- 22.12 The bib swap was an intentional arrangement for the purpose of altering Mr Zarco's Marathon results. Regardless of whether he did in fact obtain any benefit from the arrangement, that was clearly his aim. This was known or would have been known to Mr Santiago, and Mr Zarco either induced or at least encouraged Mr Santiago to participate in the arrangement for his own benefit.
26. The Notice of Charge also sets out the AIU's position as to the appropriate sanction to be imposed on Mr Zarco for the Non-Doping Violations.
27. On 11 February 2023, Mr Zarco signed an admission and acceptance form in which he admitted that he had committed the Non-Doping Violations as set out in the Notice of Charge and accepted the applicable Consequences for such violations.

CONSEQUENCES

28. On the basis that Mr Zarco admitted the Non-Doping Violations under RIP Rule 5.3.1, specifically, that he committed violations of the Code by failing to comply with the Integrity Standards of Honesty, Maintain Integrity, Reporting and Protect Reputation in Rules 3.3.1, 3.3.4, 3.3.15 and 3.3.17 of the Code, as well as committing violations of MSC Rules 4.1 and 4.2, the AIU confirms by this decision the following Consequences:
- 28.1. a period of Ineligibility of six (6) months from 9 February 2023 to 8 August 2023.²

² The Notice of Charge stipulated that the AIU considered that Mr Zarco should serve a period of Ineligibility of one (1) year. However, if Mr Zarco admitted the Non-Doping Violations by a fixed date, he could accept a lesser period of Ineligibility of six (6) months. If Mr Zarco had not admitted the Non-Doping Violations by the fixed date, the AIU would have pursued a period of Ineligibility of one (1) year in any Disciplinary Tribunal proceedings.

29. Mr Zarco has accepted these Consequences for committing violations of the Code and has expressly waived his right to have them determined by the Disciplinary Tribunal at a hearing.

PUBLICATION

30. In accordance with RIP Rule 5.8.2, the AIU shall publicly report this decision on the AIU's website.
31. In accordance with RIP Rule 5.8.3, the AIU shall send a copy of this decision to the RFEA and FENHATLE.

RIGHTS OF APPEAL

32. This decision constitutes the final decision of the AIU. Mr Zarco has expressly and irrevocably waived his right to any form of appeal, review or recourse by or in any court against this decision.

Monaco, 24 March 2023