

**INTERNATIONAL OLYMPIC COMMITTEE
IOC DISCIPLINARY COMMISSION**

RECOMMENDATIONS

**REGARDING IVAN TSIKHAN
BORN ON 24 JULY 1976, ATHLETE, BELARUS, ATHLETICS**

1. On 22 August 2004, Ivan Tsikhan (hereinafter the “**Athlete**”) participated in the Men’s Hammer Throw Final at the Games of the XXVIII Olympiad in Athens (the “**2004 Olympic Games**”), where he placed second and obtained the silver medal after the disqualification of another competitor as a consequence of an anti-doping rule violation.
2. After the competition, the Athlete was requested to provide a urine sample for a doping control.
3. The A sample of the Athlete was tested during the 2004 Olympic Games by the WADA Accredited Laboratory in Athens, but the analysis did not result in an adverse analytical finding at that time.
4. In January 2005, the A and B samples collected from the Athlete were sent to the WADA Accredited “Laboratoire Anti-Dopage de Lausanne” (“**LAD**”), along with all the other samples collected upon the occasion of the 2004 Olympic Games.
5. In 2012, the IOC decided to perform further analyses on certain samples collected during the 2004 Olympic Games. These additional analyses were performed with analytical methods which were not available in 2004.
6. Pursuant to Article 7.2.1 of the IOC Anti-Doping Rules applicable to the Games of the XXVIII Olympiad in Athens in 2004 (the “**Rules**”), the representative of the Chairman of the IOC Medical Commission, Dr. Patrick Schamasch, was informed on 13 July 2012 by LAD of the adverse analytical finding on the A sample of the Athlete.
7. The analytical report indicated the presence of methandienone metabolite (an anabolic androgenic steroid).
8. Pursuant to Article 7.2.2 of the Rules, the IOC Medical Commission determined that the above-noted A sample belonged to the Athlete, and verified that it did in fact give rise to an adverse analytical finding. It was also determined that there was no apparent departure from the International Standards for Testing or the International Standards for Laboratories, which would undermine the validity of the adverse analytical finding.
9. The IOC Medical Commission determined that the B sample analysis would be conducted on a split B sample basis, with both parts of the B sample being analysed.
10. Pursuant to Article 7.2.3 of the Rules, the IOC President, Dr. Jacques Rogge, was informed of the existence of the adverse analytical finding and the essential details available concerning the case.
11. Pursuant to Article 7.2.4 of the Rules, the IOC President set up a Disciplinary Commission, consisting of:
 - Thomas Bach (Chairman)
 - Ser Miang Ng
 - Gunilla Lindberg

12. The IOC President decided that the procedure would be extended beyond the 24-hour time-limit, as per Article 7.2.15 of the Rules.
13. Pursuant to Article 7.2.5 of the Rules, by letter dated 13 July 2012, the IOC President notified the Athlete, the Secretary General of the NOC of Belarus and the Secretary General of the International Association of Athletics Federations (“IAAF”) of the above-mentioned adverse analytical finding. He also informed the Athlete that the IOC had decided to analyse the B sample, based on a split B sample. The Athlete was invited to attend the splitting of the B sample and the analysis thereof, or to be represented on these occasions.
14. The Athlete requested the opening and analysis of the B sample, and to be represented during the B sample splitting and analysis.
15. The splitting of the B sample into two separate samples - B1 and B2 - and the analysis of the B1 sample occurred on 24 July 2012 at the LAD, in the presence of the Athlete’s two representatives, Sergey Beliaev and Svetlana Pradun. The opening and analysis of the B2 sample occurred on 26 July 2012 in the presence of the two above-mentioned Athlete’s representatives.
16. The analysis of the B1 and B2 samples confirmed the finding of the A sample analysis, indicating the presence of methandienone metabolite. On 29 July 2012, the Athlete and the NOC of Belarus were informed of these analytical results.
17. By an email dated 26 October 2012, the Athlete was informed that the IOC Disciplinary Commission would hold a meeting on 1 December 2012 in Lausanne. The A and B1/B2 samples Laboratory Packages were attached to this email.

The Athlete was invited to attend this meeting and to be heard upon such occasion. The Athlete could also submit his defence in writing within a deadline expiring on 23 November 2012. Upon the Athlete’s request, this time limit was subsequently extended until 27 November 2012.
18. On 23 November 2012, the Athlete sent by email the following statement:

“In 2004, at the Olympic games, I won the silver medal and was taken for a dope test. In preparation for the Olympic Games repeatedly passed doping tests. Illegal drugs are not applied. Factors that could affect the positive sample point can not, because it was 8 years ago.”
19. On 27 November 2012, another submission was filed by the Athlete’s legal counsel.
20. Pursuant to such submission, the Athlete applied for a temporary stay of proceedings in order to *“allow him to seek the resources necessary to allow him to prepare a defence”*. It was stated in the submission that, should this request not be granted, the Athlete would not attend the hearing nor be represented on this occasion.
21. In the same submission, the Athlete claimed that the action taken by the IOC against him was time barred because of an eight-year statute of limitations.
22. The Athlete also requested additional information or clarifications in relation to the documentation concerning the case.

23. The Disciplinary Commission held a meeting on 1 December 2012, in Lausanne, in order to prepare recommendations for the IOC Executive Board, which is the competent body to render a decision in this case, pursuant to Article 7.1 of the Rules. The Athlete was neither present nor represented.
24. The Disciplinary Commission considered the elements in the file, including the submissions made by the Athlete.
25. The Disciplinary Commission rejected the request for a temporary stay of the proceedings filed by the Athlete. In particular:
 - a) The reason given by the Athlete, - i.e. that he would need more time to “seek the necessary resources” - did not, in principle, justify a stay of proceedings.
 - b) In any event, the Athlete, who had been notified of the proceedings in July 2012, had sufficient time to prepare his defence.
 - c) The Athlete had effectively exercised his right to be heard. He had filed a statement and he was represented by legal counsel, who had filed an additional submission.
26. The Disciplinary Commission considered the request for more information and concluded that it was not justified. In particular:
 - a) The Athlete could have attended the meeting in order to obtain more information but he chose not to do so.
 - b) Further, the elements in regard to which the Athlete was seeking additional information were not relevant since, in any event, they would not undermine the validity of the analytical results obtained by the LAD in respect of the samples of the Athlete.
27. With respect to the Athlete’s argument that any action against him would be time-barred, pursuant to the eight-year statute of limitations provided for under the WADA Code and the IAAF Anti-Doping Rules, the Disciplinary Commission concluded that this argument was without merit.
28. The Disciplinary Commission observed that the Rules did not contain any specific provision in regard to an applicable statute of limitations. Even following the argumentation provided by the Athlete and applying the statute of limitations as provided in the WADA Code, the proceedings would not be time-barred since the IOC’s action was commenced before the expiry of the eight-year time period.
29. More specifically, the action against the Athlete was commenced at the latest by the date of the setting up of the Disciplinary Commission by the IOC President.
30. In this case, the Disciplinary Commission was set up on 13 July 2012 and the notification letter to the Athlete and other concerned parties was issued on the same date. The date of the commencement of the proceedings against the Athlete was therefore 13 July 2012 at the latest.
31. As the collection of the Appellant’s samples occurred on 22 August 2004, the proceedings were commenced before the eight-year time limit was reached.

32. Based on the above and after having carefully reviewed the other elements of the case, the Disciplinary Commission unanimously concluded that the Athlete had committed an anti-doping rule violation pursuant to Article 2.1 of the Rules, which states as follows: *“The following constitute anti-doping violations: [2.1] The presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s bodily Specimen”*.
33. The Disciplinary Commission was satisfied that the A and B samples which had been analysed by LAD were unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards had occurred.
34. The presence of methandienone in the sample provided by the Athlete upon the occasion of the 2004 Olympic Games was established by the analytical results.
35. This substance was prohibited pursuant to the 2004 World Anti-Doping Agency (WADA) prohibited list under class “S4 anabolic agents”.
36. As a consequence of the anti-doping rule violation, the Disciplinary Commission recommends that the results achieved by the Athlete in the Men’s Hammer Throw Final of the 2004 Olympic Games be disqualified in accordance with Article 8.1 of the Rules, and all the resulting consequences of this disqualification including withdrawal of medal and diploma be applied.

CONSIDERING the above, after deliberation, pursuant to the Olympic Charter and, in particular, Rule 59.2.1 thereof, and pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXVIII Olympiad in Athens in 2004 and, in particular, Articles 2.1 and 8.1 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
RECOMMENDS TO THE EXECUTIVE BOARD

TO ISSUE THE FOLLOWING DECISION

- I. The Athlete, Ivan Tsikhan, Belarus, Athletics:
 - (i) is found to have committed an anti-doping rule violation pursuant to Article 2.1 of the IOC Anti-Doping Rules applicable to the Games of the XXVIII Olympiad in Athens in 2004 (presence of a prohibited substance or its metabolites or markers in an athlete's bodily specimen),
 - (ii) is disqualified from the Men's Hammer Throw Final where he had placed 2nd at the Athens 2004 Olympic Games, and
 - (iii) shall have his medal and diploma in the above-mentioned event withdrawn.
- II. The International Association of Athletics Federations ("IAAF") is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
- III. The NOC of Belarus is ordered to return to the IOC, as soon as possible, the medal and diploma awarded to the Athlete in relation to the above-mentioned event.
- IV. The NOC of Belarus shall ensure full implementation of this decision.

Lausanne, 1 December 2012

The IOC Disciplinary Commission

Thomas BACH
Chairman

Ser Miang NG

Gunilla LINDBERG