

**INTERNATIONAL OLYMPIC COMMITTEE
IOC DISCIPLINARY COMMISSION**

RECOMMENDATIONS

**REGARDING YURIY BILONOG
BORN ON 9 MARCH 1974, ATHLETE, UKRAINE, ATHLETICS**

1. On 18 August 2004, Yuriy Bilonog (hereinafter the “**Athlete**”) participated in the Men’s Shot Put event at the Games of the XXVIII Olympiad in Athens (the “**2004 Olympic Games**”), where he placed first and obtained the gold medal.
2. After this competition, he 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 oxandrolone 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 Ukraine 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 splitting and the analysis of the B sample (B1 and B2) were initially scheduled to take place on 7 and 9 August 2012.
15. By a letter dated 2 August 2012, the Athlete informed the IOC that he wanted to attend the B sample analysis personally and requested the postponement of the analysis after 15 September 2012, to have sufficient time to obtain the issuance of a passport and a visa to travel to Switzerland.
16. On 3 August 2012, the Athlete was informed of the cancellation of the initial dates as a consequence of his request and that new dates would be communicated in due time.
17. On 13 September 2012, the Athlete was informed of the new proposed dates, i.e. 25 and 26 September 2012.
18. On 21 September 2012, the Athlete answered that his passport would not be ready before 30 September 2012 and asked for an invitation to obtain a visa.
19. The analyses were accordingly again postponed. The new dates for the analyses were set for 18 and 19 October 2012.
20. On 9 October 2012, the Athlete forwarded his passport information to allow the issuance of the invitation letter. Such letter was sent to the Swiss Embassy in Ukraine on 10 October 2012. On 11 October 2012, the Athlete further provided the IOC with his address for the notification of the invitation letter.
21. On 12 October 2012, the Athlete was requested to provide a telephone number to allow delivery of the invitation letter by DHL.
22. On the same date, the Athlete was also informed that, due to technical reasons within the LAD, the B sample opening and analysis had to be postponed to either 23 & 24 October or to 25 & 26 October 2012.
23. By email dated 16 October 2012, the IOC asked again the Athlete to choose between the two proposed sets of dates.
24. The same day, the Athlete indicated that he could not accept the proposed dates either. He alleged that he had no more vacation days and that his employer would not give him the permission to leave his work. He did not give any indication that he could be available at any time.
25. In view of this situation, on 18 October 2012, the IOC made a final attempt to find dates which could be convenient for the Athlete. He was requested to specify dates, which would be convenient for him until 10 November 2012 at the latest. The attention of the Athlete was expressly drawn to the fact that if he did not propose dates, the analysis would proceed at dates set by the IOC in the presence of an independent witness.

26. The Athlete did not respond to this communication.
27. Considering that all reasonable efforts had been made to accommodate dates allowing the Athlete or a representative to attend the B sample opening, splitting and analysis, it was decided to fix the dates the B sample splitting and analysis regardless of the Athlete's position.
28. The dates for B sample splitting and analysis were thus set for 1 and 2 November 2012.
29. On 26 October 2012, the Athlete was informed of the decision to proceed to analysis and of the set dates. He was invited to attend or send a representative if he so wished. The Athlete did not respond.
30. The splitting of the sample into two separate samples – B1 and B2 – and the analysis of the B1 sample took place on 1 November 2012 at LAD, in the presence of an independent witness. The opening and analysis of the B2 sample took place on 2 November 2012, again in the presence of an independent witness. Neither the Athlete nor a representative appeared at LAD.
31. The analysis of B1 and B2 sample confirmed the finding of the A sample analysis, indicating the presence of oxandrolone.
32. By an email dated 9 November 2012, the Athlete was informed of the analysis results and of the fact 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 also invited to attend this meeting and to be heard at such occasion. Alternatively, he could also submit his defence in writing within a deadline expiring on 27 November 2012.
33. The Athlete did not answer nor did he submit any defence in writing.
34. 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.
35. After carefully considering the elements in the file, the Disciplinary Commission unanimously concluded that the Athlete had committed an anti-doping rule violation pursuant to Article 2.1 of the Rules, which provides 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*".
36. The Disciplinary Commission was satisfied that the A and B samples which had been analysed by LAD are unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards had occurred.
37. Regarding specifically the fact that the Athlete did not attend the B sample splitting and analysis, despite his request to be present, the Disciplinary Commission found that a due process had been followed by the IOC.
38. The Disciplinary Commission noted that several dates were proposed in order to accommodate the Athlete. The IOC had even asked the Athlete to submit his own proposal for convenient dates.

39. However, the Athlete continuously claimed that he could not be available at the proposed dates and had finally not even made any proposal of his own.
40. The International Standard for Laboratories (**ISL**; version 7.0 in force as of 1st January 2012) specifically provided for the solution in situations of this kind. According to art. 5.2.4.3.2.6 of the ISL: *“if the Athlete or the Athlete’s representative continuously claim not to be available on the date of the opening, despite reasonable attempts by the Laboratory to accommodate their dates, the Testing Authority or the Laboratory shall proceed regardless and appoint an independent witness to verify that the “B” Sample container shows no signs of Tampering and that the identifying numbers match that on the collection documentation”*.
41. The IOC had correctly applied this provision when it had finally decided to proceed to the analysis regardless of the Athlete’s position after having done more than reasonable efforts to accommodate the Athlete. The Athlete had been notified of the dates chosen and invited to participate. As the Athlete had not appeared, the opening and splitting of the B sample had taken place in the presence of an independent witness.
42. The analysis of the samples of the Athlete provided on the occasion of the 2004 Olympic Games showed the presence of oxandrolone. This substance was prohibited pursuant to the 2004 World Anti-Doping Agency (WADA) under class “S4 anabolic agents – anabolic androgenic steroids”.
43. As a consequence of the anti-doping rule violation, the Disciplinary Commission recommends that the results achieved by the Athlete in the Men’s Shot Put event of the 2004 Olympic Games be disqualified in accordance with Article 8.1 of the Rules, and all consequences of such disqualification including withdrawal of medal and diploma shall be applied.

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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, Yuriy Bilonog, Ukraine, 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 Shot Put event where he had placed 1st 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 Ukraine 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 Ukraine shall ensure full implementation of this decision.

Lausanne, 1 December 2012

The IOC Disciplinary Commission

Thomas BACH
Chairman

Ser Miang NG

Gunilla LINDBERG