

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION DECISION

REGARDING DIEGO PALOMEQUE ECHAVARRIA BORN ON 5 DECEMBER 1993, ATHLETE, COLOMBIA, ATHLETICS

(Rule 59.2.1 of the Olympic Charter)

1. Mr. Diego Palomeque Echavarría (hereinafter the “**Athlete**”) was accredited as a participant in the Games of the XXX Olympiad in London in 2012. He received accreditation number 1107598-01, which was validated on 25 July 2012.
2. The Athlete was requested on 26 July 2012, in London, at around 08:15 a.m., to provide a urine sample for a doping control.
3. Pursuant to Article 6.2.1 of the *IOC Anti-Doping Rules Applicable to the Games of the XXX Olympiad, London 2012* (the “**Rules**”), Dr. Patrick Schamasch (the “**IOC Medical Director**”), as representative of the Chairman of the IOC Medical Commission, was informed at approximately 13:30 on 1 August 2012, by the Head of the WADA Accredited Laboratory in Harlow, of an adverse analytical finding on the A sample of the above-noted urine.
4. Pursuant to Article 6.2.2 of the *Rules*, the IOC Medical Director 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. He also determined that there was no apparent departure from the International Standards for Testing or the International Standards for Laboratories that undermined the validity of the adverse analytical finding.
5. Pursuant to Article 6.2.3 of the *Rules*, the IOC Medical Director, immediately informed the IOC President, Dr. Jacques Rogge, of the existence of the adverse analytical finding and the essential details available to him concerning the case.
6. Pursuant to Article 6.2.4 of the *Rules*, the IOC President, by letter dated 1 August 2012, promptly set up a Disciplinary Commission, consisting of:
 - Thomas Bach (Chairman)
 - Denis Oswald
 - Frank Fredericks

The IOC President also informed the Disciplinary Commission that, pursuant to Rule 59.2.4 of the Olympic Charter and Article 6.1.6. of the *Rules*, the decision of the Disciplinary Commission in this case would constitute the decision of the IOC.

The IOC President has in this case decided that the procedure may be extended beyond the 24 hour time limit as per Article 6.2.14 of the *Rules*.

7. Pursuant to Article 6.2.6 of the *Rules*, by letter dated 1 August 2012 notified to the Athlete, to the Chef de Mission of the NOC of Colombia, Ciro del Carmen Solano Hurtado, to the International Association of Athletics Federations (hereafter the “**IAAF**”) and to the Head of the Independent Observers’ Programme, the IOC President advised of the above-mentioned adverse analytical finding and of the time, date and place of the hearing of the Disciplinary Commission regarding this case.

The analytical report of the laboratory analysis of the A sample, issued by the WADA Accredited Laboratory in Harlow and attached to the above-mentioned letter dated 1 August 2012, indicated the presence of the prohibited substance **Testosterone** of exogenous origin.

8. The Athlete was due to compete on Saturday 4 August 2012, at 10:35 in the 1st round of the men's 400m event.
9. The Athlete requested the analysis of the B sample, which occurred on Thursday 2 August 2012.
10. The Athlete provided a defence in writing on 2 August 2012, through a written submission made by the Chef de Mission, which in summary states:
 - The Athlete injected himself with a homeopathic product called "testes L.H.A." (hereafter the "**Product**");
 - According to the Athlete, testosterone is not a listed ingredient on the packaging of the Product, and neither the brand nor the manufacturer of the Product indicate that testosterone is an ingredient contained in the Product;
 - The Athlete denies taking any other product or substance;
 - The B sample has been requested because the Athlete does not believe that the Product could be the cause of the adverse analytical finding;
 - The Athlete did not use the Product to improve his performance but to assist in recovering from a hamstring injury.
11. The Disciplinary Commission held a hearing on 3 August 2012 starting at around 5:15 p.m., at the London Hilton on Park Lane, in the presence of a delegation of the NOC of Colombia (hereinafter the "**Delegation**") comprised of:

Diego Palomeque Echavarria, Athlete
Raul Diaz Quejada, personal coach of the Athlete
Mauricio Serrato Roa, NOC Doctor
12. The IAAF informed the IOC in advance of the hearing that it would not attend the hearing.
13. Also attending the hearing were:

Dr. Patrick Schamasch, IOC Medical Director
Howard Stupp, IOC Director of Legal Affairs
Christian Thill, IOC Doping Control Administrative Coordinator
Soheyla Behnam, Susan Greinig and Sarah Friberg, Assistants
Kate O'Neill, Minute-taker

Rune Andersen, representative of the Independent Observers' Programme.

Christiane Ayotte, scientific expert.
14. At the beginning of the hearing, the Delegation was informed that the meeting was being recorded and that minutes were being taken. The Delegation was also informed of the results of the laboratory analysis of the A sample, which, according to the analysis report prepared by the Head of the WADA Accredited Laboratory in Harlow, indicated the presence of **Testosterone** of exogenous origin.
15. Upon questioning from the Disciplinary Commission, the Delegation confirmed it did not have any objection as to the conduct of this disciplinary procedure until now.
16. In summary, the Athlete explained that:
 - He suffered an injury on 28 April 2012 following a competition;
 - Despite medical treatment, and partially due to the fact that he competed after his injury, his condition did not improve and he was not recovering as fast as he wanted;
 - To accelerate his recovery, the Athlete was advised by a physician he met on the track and who was known to other fellow athletes, to take the Product described as a homeopathic medicine, to accelerate the healing;

- He did not take any products other than the Product and the supplements provided by his NOC, which were in particular Glutamin, Aminoacids and another product to recover ("Atimas");
- He does not know why he did not list all such products on the Doping Control Form, on which he only listed "Multi Vit";
- He does not understand how the testosterone ended up in his body, but believes that the "Testes L.H.A" may be the source;
- He handed the product in question to the Disciplinary Commission for further investigation;
- He did not want to improve his performance by taking "Testes L.H.A.", only improve and accelerate the healing of his injury.

17. In summary, Raul Diaz Quejada, the personal coach of the Athlete explained that:

- He was sorry that this had happened;
- He did not know how this could have happened, since the Product is widely used in Colombia and its composition does not indicate that it contains testosterone;
- He admitted having injected the Product to the Athlete, with a total of five vials at regular intervals in July 2012, the last one on 23 July 2012, in Madrid;
- He also indicated that he is authorised to perform injections, since he had followed nursing and first aid courses.

18. In summary, Mauricio Serrato Roa, the doctor of the National Olympic Committee of Colombia (the "**NOC**"), explained that:

- He was upset by this situation;
- The NOC analyses any product that it provides to its athletes;
- The Product was not provided by the NOC;
- Athletes are not supposed to use medication on their own;
- Injections are in principle only allowed by medical doctors;
- He questioned whether the Product may contain testosterone and could be the cause of the adverse analytical finding of the athlete;
- The NOC does out of competition testing on all its athletes prior to the Olympic Games and tested the Athlete on 29 April 2012, prior to the Athlete being injected with the Product.
- The results of the test on the Athlete on that day did not show an adverse analytical finding.

19. Upon questioning from the Disciplinary Commission, Professor Christiane Ayotte, scientific expert, confirmed that, based on the composition mentioned on the packaging of the Product, which does not mention testosterone as an ingredient, and due to the description of the Product as homeopathic (i.e. using very diluted concentrations of its ingredients), such product is unlikely to have caused the adverse analytical finding.

In addition, she also explained that the concentration of testosterone found in the Athlete's A sample, as well as the IRMS analysis, confirmed the exogenous origin of the testosterone.

20. After hearing the Delegation and the arguments it put forward, the Disciplinary Commission retired in order to deliberate. On 3 August 2012, the Disciplinary Commission, considering the circumstances, the arguments referred to above and the opinion of the scientific expert, and taking into consideration the principle of strict liability, applying Article 1.2 and 6.2.8 of the *Rules*, and Article 10.4 of the World Anti-Doping Code, provisionally suspended the Athlete.

It was also mentioned that a final decision would be made in this case by the Disciplinary Commission once the result of the B sample was known.

Immediately after the decision was taken on 3 August 2012, the Athlete and the Delegation were informed of the decision of the Disciplinary Commission. The IAAF was informed as well.

21. Notwithstanding the various explanations and declarations provided by the Athlete and the Delegation, there was no corroborating evidence in addition to this. Therefore, the Disciplinary Commission was not comfortably satisfied, as required under Article 10.4 of the World Anti-Doping Code, of the absence of an intent to enhance sport performance or mask the use of a performance-enhancing substance.
22. On 11 August 2012, at approximately 7:00 p.m., the analytical report of the laboratory analysis of the B sample, prepared by the Head of the WADA Accredited Laboratory in Harlow, was communicated to the IOC. Such report indicated the presence of the prohibited substance **Testosterone** in the B sample, thus confirming the adverse analytical finding of the A sample.
23. Following confirmation of the adverse analytical finding through the B sample analysis, the Disciplinary Commission unanimously concluded that the Athlete had committed an anti-doping rule violation pursuant to Article 2.1 of the *Rules* in that there was the presence of the prohibited substance **Testosterone** in his body.

CONSIDERING the above, 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 XXX Olympiad, London 2012* and in particular, Articles 1.2, 2 and 7 thereof and pursuant to the World Anti-Doping Code and, in particular, Articles 2.1 and 10 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Mr. Diego Palomeque Echavarria, Colombia, Athletics:
 - (i) is excluded from the Games of the XXX Olympiad in London in 2012;
 - (ii) shall have his Olympic identity and accreditation card immediately cancelled and withdrawn.
- II. The NOC of Colombia is requested to investigate the matter of the injections administered to the Athlete by his coach, Raul Diaz Quejada, and to take any appropriate sanctions or measures within its own competence. The NOC is further requested to inform the IOC of the results of such investigation, and any sanctions or measures taken, at the latest by 31 October 2012. The IOC reserves its rights to consider possible further sanctions or measures in relation to this matter.
- III. The Athlete's file shall be transmitted to the International Association of Athletics Federations, which is requested to consider any further action within its own competence.
- IV. The NOC of Colombia and LOCOG shall ensure full implementation of this decision.
- V. This decision shall enter into force immediately.

London, 12 August 2012

The IOC Disciplinary Commission

Dr. Thomas BACH
Chairman

Denis OSWALD

Frank FREDERICKS