

INTERNATIONAL OLYMPIC COMMITTEE

**IOC DISCIPLINARY COMMISSION
DECISION**

**REGARDING MR RALFS FREIBERGS
BORN ON 17 MAY 1991, ATHLETE, LATVIA, ICE HOCKEY**

1. Mr Ralfs Freibergs (hereinafter the “**Athlete**”) competed in the following matches at the occasion of the XXII Olympic Winter Games in Sochi, in 2014 (hereafter the “**Sochi Olympic Winter Games**”):
 - On 12 February 2014, in the Men’s Preliminary Round – Group C - Latvia vs Switzerland match;
 - On 14 February 2014, in the Men’s Preliminary Round – Group C - Czech Republic vs Latvia match;
 - On 15 February 2014, in the Men’s Preliminary Round – Group C - Sweden vs Latvia match;
 - On 18 February 2014, in the Men’s Play-offs Qualifications – Switzerland vs Latvia match;
 - On 19 February 2014, in the Men’s Play-offs Quarterfinals – Canada vs Latvia match;
2. The Athlete was requested on 20 February 2014, at around 00:15 a.m., immediately following the completion of his participation in the Men’s Play-offs Quarterfinals – Canada vs Latvia match, 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 XXII Olympic Winter Games in Sochi, in 2014* (the “**Rules**”), Dr. Richard Budgett (the “**IOC Medical Director**”), as representative of the Chairman of the IOC Medical Commission, was informed on Saturday, 22 February 2014 by the Head of the WADA Accredited Laboratory in Sochi, 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, Thomas Bach, of the existence of the adverse analytical finding and the essential details available to him concerning the case.
6. Pursuant to Article 6.2.5 of the *Rules*, the IOC President, by letter dated 22 February 2014, promptly set up a Disciplinary Commission, consisting of:
 - Denis Oswald (Chairman)
 - Nawal El Moutawakel
 - Gunilla Lindberg

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*.

The composition of the Disciplinary Commission had to be changed subsequently. By Letter dated 1 April 2014, the President appointed Claudia Bokel as a member of the Disciplinary

Commission to replace Nawal El Moutawakel, who was unexpectedly not available to continue to serve as a member on this IOC Disciplinary Commission.

7. The analytical report of the laboratory analysis of the A sample, issued by the WADA Accredited Laboratory in Sochi, dated 22 February 2014, indicated the presence of **dehydrochloromethyl-testosterone metabolite 18-nor-17b-hydroxymethyl-17a-methyl-4-chloro-5b-androst-13-en-3a-ol** (a prohibited substance that belongs to the category of non-specified exogenous Anabolic Androgenic Steroid, in Class S1).
8. Pursuant to Article 6.2.6 of the *Rules*, by letter dated 23 February 2014, notified to the Athlete, to the Secretary General of the Latvian Olympic Committee (hereafter the "**LOC**"), to the International Ice Hockey Federation (hereafter the "**IIHF**") and to the Head of the Independent Observers' Programme, the IOC President advised of the above-mentioned adverse analytical finding.
9. The notification to the Athlete, who had just left Sochi, occurred through the Chief of Mission as provided for in Art. 6.3.3 of the *Rules*.
10. Having been contacted by phone, the Athlete requested the conduct of the analysis of the B sample.
11. The analysis of the B Sample occurred accordingly on the same day at 14:50, in the presence of a representative and an independent witness, in accordance with the International Standard for Laboratories.
12. The analytical report of the laboratory analysis of the B sample, prepared by the Head of the WADA Accredited Laboratory in Sochi, confirmed the presence of the prohibited substance **dehydrochloromethyl-testosterone metabolite 18-nor-17b-hydroxymethyl-17a-methyl-4-chloro-5b-androst-13-en-3a-ol** in the B sample.
13. By letter dated 10 March 2014, the Athlete was invited to indicate whether he wished to attend a hearing (scheduled on 4 April 2014) or to provide a defence in writing.
14. By e-mail dated 11 March 2014, the Athlete indicated he would not attend a hearing in person but would instead provide a defence in writing. However, the Athlete later asked by e-mail dated 13 March 2014 to have more time to think whether to attend in person. By e-mail dated 19 March 2014, the Athlete confirmed that, while he would not attend in person the hearing on 4 April, his legal counsel would be present at the hearing and represent him on that occasion.
15. The Athlete, through his legal counsel, submitted written submissions in advance of, as well as at, the hearing, which are developed further below.
16. The Latvian Ice Hockey Federation (the "**LIHF**") has also made a submission to both the IIHF and the IOC. With respect to the Athlete, the LIHF enclosed an "explanation" from the Latvian NADO, stating in summary that:
 - All athletes for the Latvian Olympic Team had been tested, in particular all 33 ice hockey players;
 - All samples, including a sample from the Athlete collected on 3 February 2014, were analysed at the WADA accredited laboratory in Helsinki and did not give rise to an adverse analytical finding;
17. With respect to the negative finding of the Helsinki WADA Accredited laboratory, an e-mail from a representative of that laboratory explains that the method and the reference material necessary to target the metabolite "*18-nor-17b-hydroxymethyl-17a-methyl-4-chloro-5b-androst-13-en-3a-ol*" is quite recent and not yet available to all laboratories.

18. The Bowling Green State University (“**BGSU**”) has made a submission “to whom it may concern” regarding a “drug screen” that was made a sample collected by BGSU on the Athlete on 24 February 2014, upon his return from Sochi. The Athlete is a “student athlete” at BGSU.
- In such communication, the BGSU indicated that the Athlete had reported to them that he had tested positive for the drug “Turinabol”. BGSU then decided to conduct its own testing and appointed a laboratory operated by “AEGIS Sciences Corporation” to conduct a “screening”.
 - Based on the results of such “screening” by AEGIS and disclosed to BGSU, “*there were no testable levels of Turinabol in [the Athlete’s] system*”.
 - It is to be noted that while the AEGIS laboratory is being reported by BGSU as “approved by” a number of organisations in the United States, including the Florida, New York State and Tennessee Departments of Health and the US Drug Enforcement Agency, it is not a WADA accredited laboratory.
19. The Documentation Packages for both the A and B samples on 25 March 2014 was forwarded electronically to the Athlete’s Legal Counsel by way of a secure connection and effectively downloaded on the next day at 8:37 (for the A Documentation Package), respectively 8:39 (for the B Documentation Package).
20. The Disciplinary Commission held a hearing on 4 April 2014, at approximately 2:00 p.m., at the IOC Headquarters in Vidy, Lausanne, Switzerland, in the presence of the Athlete’s representative, Marcis Krumins, legal counsel (hereinafter the “**Representative**”). The Athlete declined to be present in person.
21. The IIHF was represented at the hearing by Ashley Ehlert, legal counsel.
22. The Independent Observers’ Programme was invited but chose not to be present at the hearing.
23. Also attending the hearing were:
- Dr Richard Budget, IOC Medical Director (by phone)
Howard Stupp, IOC Director of Legal Affairs
Christian Thill, IOC Doping Control Administrative Coordinator
Tamara Soupiron and Soheyla Behnam, Assistants
Jamie Allen, Minute-taker
- Jean-Pierre Morand, IOC Legal Counsel
24. At the beginning of the hearing, the Representative was informed that the meeting was being recorded and that minutes were being taken. The Representative was reminded of the results of the laboratory analysis of the A and B samples, which, according to the analysis report prepared by the Head of the WADA Accredited Laboratory in Sochi, indicated the presence of **dehydrochloromethyl-testosterone metabolite 18-nor-17b-hydroxymethyl-17a-methyl-4-chloro-5b-androst-13-en-3a-ol**.
25. At the hearing, the Representative repeated the arguments already presented in writing, with a few additional arguments, stating in summary that:
- the Athlete had been tested on 3 February 2014, prior to the Sochi Olympic Winter Games, by the Latvian Olympic Committee. Such sample was analysed by the WADA accredited laboratory in Helsinki and did not return an adverse analytical finding.
 - there is no entity registered in the Russian Registry of Commerce with the English name “Anti-Doping Olympic Laboratory in Sochi”, which means that the Anti-Doping Laboratory in Sochi could not have been a laboratory properly accredited in compliance with the applicable International Standards;

- whilst the Athlete had been informed by his National Olympic Committee on 23 February 2014 by phone of the Adverse Analytical Finding and of the IOC's request for the Athlete's determination on the B sample opening and analysis and whilst he had provided orally instructions to perform such B sample opening and analysis, he had not received at that time the written form which is attached to the notification letter for that purpose, nor had he provided his confirmation in writing using such form;
- he needed to have the "*full list of personnel that were accredited to work in the Anti-Doping Laboratory Sochi*" and who performed work as a "*doping control officer or a laboratory worker*".
- At the time of the hearing, the Athlete had still not received all information and documentation necessary, so that the arguments provided could only be made on the basis of the information and documentation received. In particular, the Representative claimed not to have received the Documentation Package relating to the B sample.
- Among the documentation received, there were a number of inconsistencies and annotations without initials that should be qualified as "violations of international standards"

The Representative made a number of additional requests relating to the formalities of the procedure, to which the IOC answered in writing.

26. Upon questioning from the Chairman, the Representative confirmed that the Athlete had not taken any supplements. The Representative had however not further discussed with the Athlete the circumstances relating to the entourage of the Athlete, so that he was not in a position to provide any information in this respect.
27. Upon questioning from the Chairman at the end of the hearing, the Representative of the Athlete confirmed he did not have any objection as to the conduct of this disciplinary procedure and confirmed that the Athlete's right to be heard had been fully respected, to the extent that the Representative had had access to the documentation made available.
28. The Disciplinary Commission then closed the hearing and retired in order to deliberate.
29. The Disciplinary Commission considered that:
30. The analysis results of the sample of the Athlete collected during the Sochi Olympic Winter Games establish the presence of a Prohibited Substance. The arguments submitted and in particular the arguments put forward by the Athlete do not affect the validity of such results.
31. First, with respect to the relevance of the other analysis performed in Helsinki before and in the United States after the Sochi Olympic Winter Games:
 - o As a matter of principle, these other analytical results are without relevance with respect to the current disciplinary procedure. The results, which are the object of this disciplinary procedure confirm the presence of a Prohibited Substance in the Athlete's samples at the time and date of their collection during the Sochi Olympic Winter Games. These are the only results that are relevant in the present case.
 - o Even if the substance at stake had been already present and detectable in the sample which was analysed by the WADA accredited laboratory in Helsinki, it appears that it would and could not have been detected by the laboratory, which did not have at that time the reference material necessary to check the presence of this specific substance.
 - o The AEGIS Sciences Corporation laboratory is not a WADA accredited laboratory accredited laboratory and conducted its analysis in uncontrolled conditions.

32. With respect to the Athlete's challenges on the validity of the accreditation of the Laboratory that performed the analyses during the Sochi 2014 Winter Olympic Games:
- An accreditation certificate has effectively been issued in the name of the Olympic Anti-doping Laboratory in Sochi.
 - In view of the issue raised by the Athlete, the IOC asked WADA to confirm the scope and meaning of this certificate and whether the accreditation procedure had been respected. By letter dated 2 April 2014 (shared with the Representative on 3 April 2014), WADA confirms that the laboratory that conducted the anti-doping analyses during the Olympic Winter Games in Sochi was a satellite laboratory of the Moscow Anti-Doping Laboratory (which is an accredited WADA Laboratory and accredited as well under ISO 17025 by Analytica) and that it was accredited as such in compliance with the applicable International Standards for Laboratories.
 - The use of a satellite facility is a standard solution expressly provided for in the ISL (art. 4.5.1 and 4.5.2) and applied on the occasion of each Olympic Games taking place in a site in which there is no existing permanent accredited laboratory (such as in Torino and Vancouver).
 - The certificate in file has been issued to confirm that the facilities and organisation of the satellite facility in Sochi had been checked and certified in complete compliance with the applicable provisions of the ISL. It is a temporary and limited Accreditation certificate within the meaning of art. 4.5.2.4 of the ISL.
 - There is therefore no doubt on the validity of the accreditation of the laboratory which performed the analysis at stake in this case.
33. With respect to the issues raised by the Athlete in relation to the B sample opening and analysis:
- The Athlete was properly notified through the Chief of Mission, who received a copy of the notification letter (including the form). In accordance with art. 6.3.3 of the Rules, such notification is deemed to be delivery to the Athlete.
 - The Athlete had already left Sochi but he was reached by phone. He has confirmed to have asked for the B sample opening and analysis to proceed.
 - The B sample opening and analysis took place accordingly. The opening of the Sample occurred in the presence of a representative and in the presence of an independent witness.
 - In view of the above, it is established that the Athlete was first properly notified and effectively informed and further that he duly agreed that the B sample opening and analysis be conducted as scheduled.
 - There is no requirement in respect of the form under which the Athlete's decision in regard to B-sample analysis has to be communicated. In this case, the decision was given orally and it is valid. The actual use of the written form which is provided for convenience is immaterial.
 - The notification to the Athlete occurred on February 23, 2014 through notification to the Chief of Mission. This notification effected in accordance with the *Rules* led to an effective contact with the Athlete who communicated his decision regarding the B-sample analysis. The later receipt by the Athlete of a further written copy of the notification letter did not reopen a new process.

34. With respect to the alleged deviations from the International Standard linked with annotations or handwritten corrections observed notably on pages 24, 25 and 26 of the Documentation Package for the A sample:
- One of the alleged deviations consists in the indication of the date of 19 February 2014 on the Chain of custody form. The effective date of collection of the sample is 20 February 2014. In this respect there is no inconsistency but a likely misunderstanding by the Athlete of the meaning of the correct indication on the Chain of Custody form of the date on which the collection of different samples listed on this form began (i.e. February 19 before midnight). It is to be noted that the Doping Control Form shows that the collection of the specific Athlete's sample occurred on February 20 2014 at 00:15, i.e. just after midnight.
 - The other alleged deviations consist in handwritten corrections and/or annotations on some pages of the documentation.
 - These minor elements do not relate to any departure in the analytical process. In any event, they have no causal relation with the result of the analysis, which is clearly and validly established and documented in this case.
35. The further elements raised by the Athlete are also without merits:
- The document packages were duly provided for both Samples A and B.
 - There was no reason to provide a full list of the Sochi Laboratory personnel as the only relevant personnel is the personnel involved in the analysis. An extensive list of personnel covering in any event all the persons involved in the analysis is set forth in the documentation packages.
36. Based on the above, the IOC Disciplinary Commission unanimously held that the results of the analysis of the Athlete's Samples collected on 20 February 2014 are valid. As a consequence, the IOC Disciplinary Commission unanimously concluded that the Athlete had committed an anti-doping rule violation pursuant to Article 2.1 of the World Anti-Doping Code, (hereafter the "**Code**") and Articles 2 and 12 of the *Rules*, in that there was the presence of the prohibited substance, **dehydrochloromethyl-testosterone metabolite 18-nor-17b-hydroxymethyl-17a-methyl-4-chloro-5b-androst-13-en-3a-ol**, in the Athlete's body.
37. Regarding the consequences of the above mentioned anti-doping violation, the IOC Disciplinary Commission observed that another anti-doping violation by a second member of the same team has been already established. However, pursuant to art. 9. 1 of the *Rules* and art. 5.9 of the IIHF Disciplinary Regulations, no consequences apply to the team results unless an anti-doping violation is established with respect to more than two members of the team. Therefore, no consequences have to be considered in respect of the team results at this stage.

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 XXII Olympic Winter Games, Sochi 2014 and in particular, Articles 1.2, 2, 7, 8 and 9 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 Ralfs Freibergs, Latvia, Ice Hockey is disqualified from the Men's Play-offs Quarterfinals – Canada vs Latvia match.
- II. The Athlete is considered as excluded from the XXII Olympic Winter Games in Sochi in 2014.
- III. The Athlete's diploma (for placing 8th) is withdrawn.
- IV. The International Ice Hockey Federation is hereby requested to make appropriate mention of the above in the record of the sports results, and to consider whether it should take any further action within its competence.
- V. The Latvian Olympic Committee is hereby requested to return to the IOC, as soon as possible, the diploma awarded to the athlete in relation to the above-mentioned event.
- VI. This decision shall enter into force immediately.

Lausanne, 23 April 2014

On behalf of the IOC Disciplinary Commission

Denis Oswald
Chairman