

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING MAKSIM DYLDIN
BORN ON 19 MAY 1987, RUSSIAN FEDERATION, ATHLETE, ATHLETICS**

(Rule 59.2.1 of the Olympic Charter)

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 (the “**Rules**”) and, in particular, Articles 1, 2, 6.3.3, 7, 8 and 9 thereof:

I. FACTS

1. Maksim DYLDIN (hereinafter the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”).
2. From 4 August 2012 to 5 August 2012, the Athlete competed in the Men’s 400m event (Round 1 and Semifinal) in which he ranked 17th.
3. From 9 August 2012 to 10 August 2012, he also competed in the Men’s 4x400m relay event (Round 1 and Final) in which he and his teammates ranked 5th and for which they were awarded a diploma.
4. On 5 August 2012, the Athlete was requested to provide a urine sample for a doping control (in competition). Such sample was identified with the number 2717471.
5. The A-Sample 2717471 was analysed during the 2012 Olympic Games by the WADA-accredited Laboratory in London. Such analysis did not result in an adverse analytical finding at that time.
6. After the conclusion of the 2012 Olympic Games, all the samples collected upon the occasion of the 2012 Olympic Games were transferred to the WADA-accredited “Laboratoire suisse d’analyse du dopage” in Lausanne, Switzerland (“the **Laboratory**”) for long-term storage.
7. The IOC decided to perform further analyses on samples collected during the 2012 Olympic Games. These additional analyses were notably performed with improved analytical methods in order to possibly detect Prohibited Substances which could not be identified by the analysis performed at the time of the 2012 Olympic Games.
8. The IOC decided that the reanalysis process would be conducted as a regular A and B sample analysis, without resorting to a splitting of the B-sample.
9. The remains of the A-Sample were analysed by the Laboratory and resulted in an Adverse Analytical Finding (“**AAF**”) as it showed the presence of the metabolites of a Prohibited Substance: dehydrochlormethyltestosterone (turinabol).
10. The results were reported to the IOC in accordance with Art. 6.2.1 of the Rules.
11. Further to the verifications set forth in Art. 6.2.2 of the Rules and in application of Art. 6.2.3 of the Rules, the IOC President, Mr Thomas Bach, was informed of the existence of the

AAF and the essential details available concerning the case.

12. Pursuant to Art. 7.2.4 of the Rules, the IOC President set up a Disciplinary Commission, consisting in this case of:
 - Mr Denis Oswald (Chairman, Switzerland), who is a member of the IOC Legal Affairs Commission;
 - Mrs Gunilla Lindberg (Sweden); and
 - Mr Ugur Erdener (Turkey).
13. On 13 December 2016, the IOC notified the Athlete, through his NOC, of the above-mentioned AAF and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission. The IOC also informed the Athlete of his right to request the opening and analysis of the B-Sample and to attend this process, either in person and/or through a representative. The Athlete was also informed of his right to request a copy of the laboratory documentation package.
14. On 22 December 2016, the Athlete sent written observations through his IF, i.e. the International Association of Athletics Federation (“IAAF”). The Athlete indicated that he never used any Prohibited Substance during his career. He contended that the IAAF and WADA, who would have been responsible for the storage of his samples, have manipulated and added Prohibited Substances in his samples. He mentioned that he was already suspended from 2015 for evading sample collection. He submitted that this situation is only due to his nationality, i.e. Russian, and that the IAAF and WADA is discriminating Russian athletes in the fight against doping. He argued that his samples would have not been reanalysed if he was not Russian.
15. On 28 December 2016, the IOC invited once again the Athlete to indicate whether he requested the opening and analysis of the B-Sample and whether he requested a copy of the laboratory documentation package.
16. On the same day, the IOC requested the IF to be provided with the full contact details of the Athlete, including email and postal address.
17. On 3 January 2017, the IF provided the IOC with the full contact details of the Athlete.
18. On 9 January 2017, the IOC requested the Athlete to confirm that the email address provided by the IF was still active in order to send him a confidential communication. The Athlete was requested to send a copy of his passport for identification purposes.
19. On the same day, the Athlete wrote to the IOC and indicated that his passport had been confiscated.
20. On 13 January 2017, the IOC notified the Athlete once again of the AAF Notification Letter dated 13 December 2016. He was invited to indicate whether he requested the opening and analysis of his B-Sample.
21. The Athlete did not reply.
22. On 23 January 2017, the IOC informed the Athlete that in accordance with Art. 6.3.3 of the Rules, notice to an athlete might be accomplished by delivery of the notice to the NOC and that therefore the previous correspondences were deemed notified to him. The IOC noted that the Athlete had chosen not to answer to the previous communications and accordingly he did not request the opening and analysis of his B-Sample. The Athlete was further informed that the hearing of the Disciplinary Commission had been scheduled to be held on 1 or 2 March 2017 and he was invited to indicate whether he would attend the hearing,

either personally and/or through a representative. He was informed of the possibility to participate in the hearing via videoconference and was granted a deadline until 20 February 2017 to submit a written defence.

23. The Athlete did not reply.
24. On 17 February 2017, the Athlete was granted an additional deadline until 20 February 2017 to indicate whether he would attend the hearing of the Disciplinary Commission. He was further reminded of the possibility to submit his written defence by 20 February 2017.
25. On the same day, the Athlete wrote to the IOC and requested the opening and analysis of his B-Sample. He further indicated that he was done with professional sport and had no desire to participate in the procedure.
26. On 23 February 2017, the IOC informed the Athlete that the opening of the B-Sample was scheduled to occur on 28 February 2017 at the Laboratory, followed by the analysis of the sample.
27. The opening of the B-Sample occurred on 28 February 2017.
28. The Athlete did not attend the process and was not represented on this occasion. The opening of the sample was attended by an independent witness.
29. The results of the analysis were reported to the IOC on 28 February 2017. They confirmed the presence in the B-Sample of a Prohibited Substance already detected in the A-Sample: dehydrochlormethyltestosterone (turinabol).
30. On 1 March 2017, the IOC notified the B-Sample results to the Athlete. He was invited to indicate whether he accepted the Adverse Analytical Finding and whether he requested the B-Sample laboratory documentation package. The Athlete was further informed of the possibility to present his defence in writing and/or to attend the hearing of the Disciplinary Commission.
31. On 13 March 2017, the Athlete was granted an additional deadline until 20 March 2017 to indicate whether he accepted the Adverse Analytical Finding, whether he requested a copy of the B-Sample laboratory documentation package, whether he would attend the hearing of the Disciplinary Commission and/or file a written defence.
32. The Athlete did not reply.
33. On 28 March 2017, the IOC noted that the Athlete did not reply within the time limits granted and informed the Athlete that the Disciplinary Commission would issue a decision on the basis of the file. The Athlete was invited to file his written defence by 5 April 2017.
34. The Athlete did not reply.
35. On 10 April 2017, the IOC noted that the Athlete did not file any written observations. The Athlete was informed that the decision would be issued on the basis of the file.
36. As a final observation, it is noted that the Athlete is currently serving a 4 years ineligibility period until 5 January 2021 for a further subsequent anti-doping rule violation based on Art. 32.2 let.c of the IAAF Anti-Doping and Medical Rules for "refusing to submit to sample collection".

II. APPLICABLE RULES

37. Art. 1 of the Rules provides as follows:

“Application of the Code – Definition of Doping – Breach of the Rules

- 1.1 *The commission of an anti-doping rule violation is a breach of these Rules.*
- 1.2 *Subject to the specific following provisions of the Rules below, the provisions of the Code and of the International Standards apply mutatis mutandis in relation to the London Olympic Games.”*

38. Art. 2 of the Rules provides that Article 2 of the Code applies to determine anti-doping rule violations.

39. Art. 2.1 of the Code provides that the following constitutes an anti-doping rule violation:

“Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample.

2.1.1 *It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping violation under Article 2.1.*

2.1.2 *Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete’s A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analysed; or, where the Athlete’s B Sample is analysed and the analysis of the Athlete’s B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete’s A Sample.*

2.1.3 *Excepting those substances for which a quantitative threshold is specifically identified in the Prohibited List, the presence of any quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample shall constitute an anti-doping rule violation.*

2.1.4 *As an exception to the general rule of Article 2.1, the Prohibited List or International Standards may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.”*

40. Art. 2.2 of the Code provides the following constitutes an anti-doping rule violation:

“Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method.

2.2.1 *It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.*

2.2.2 *The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or*

Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.”

41. Art. 6.3.3 of the Rules provides as follows:

“Notice to an Athlete or other Person who has been accredited pursuant to the request of the NOC, may be accomplished by delivery of the notice to the NOC. Notification to the Chef de Mission or the President or the Secretary General of the NOC of the Athlete or other Person shall be deemed to be delivery of notice to the NOC.”

42. Art. 7.1 of the Rules provides as follows:

“A violation of these Rules in Individual Sports in connection with Doping Control automatically leads to Disqualification of the Athlete’s results in the Competition in question, with all other consequences, including forfeiture of any medals, points and prizes.”

43. Art. 8.1 of the Rules provides as follows:

“An anti-doping rule violation occurring or in connection with the London Olympic Games may lead to Disqualification of all the Athlete’s results obtained in the London Olympic Games with all consequences, including forfeiture of all medals, points and prizes, except as provided in Article 8.1.1.”

44. Art. 8.1.1 of the Rules provides as follows:

“If the Athlete establishes that he or she bears No Fault or Negligence for the violation, the Athlete’s results in the Competitions (for which the Athlete’s results have not been automatically Disqualified as per Article 7.1 hereof) shall not be Disqualified unless the Athlete’s results in Competitions other than the Competition in which the anti-doping rule violation occurred were likely to have been affected by the Athlete’s anti-doping rule violation.”

45. Art. 8.3 of the Rules provides as follows:

“The Consequences of Anti-Doping Rule Violations and the conduct of additional hearings as a consequence of hearings and decisions of the IOC, including with regard to the imposition of sanctions over and above those relating to the London Olympic Games, shall be managed by the relevant International Federation.”

46. Art. 9.1 of the Rules provides as follows:

“Where more than one member of a team in a Team Sport has been notified of a possible anti-doping rule violation under Article 6 in connection with the London Olympic Games, the team shall be subject to Target Testing for the London Olympic Games.

In Team Sports, if more than one team member is found to have committed an anti-doping rule violation during the Period of the London Olympic Games, the team may be subject to Disqualification or other disciplinary action, as provided in the applicable rules of the relevant International Federation.

In sports which are not Team Sports but where awards are given to teams, if one or more team members have committed an anti-doping rule violation during the Period of the London Olympic Games, the team may be subject to Disqualification, and/or other disciplinary action as provided in the applicable rules of the relevant International Federation.”

47. Art. 41.1 of the IAAF Competition Rules 2012-2013 (in force as from 1 November 2011) provides as follows:

“Where the Athlete who has committed an anti-doping rule violation competed as a member of a relay team, the relay team shall be automatically disqualified from the Event in question, with all resulting consequences for the relay team, including the forfeiture of all titles, awards, medals, points and prize money. If the Athlete who has committed an anti-doping rule violation competes for a relay team in a subsequent Event in the Competition, the relay team, including the forfeiture of all titles, awards, medals, points and prize money unless the Athlete establishes that he bears No Fault or Negligence for the violation and that his participation in the relay was not likely to have been affected by the anti-doping rule violation.”

III. DISCUSSION

48. The results of the analysis of the sample provided by the Athlete establish the presence in his sample of the metabolites of a Prohibited Substance, i.e. dehydrochloromethyltestosterone (turinabol).
49. The substance detected in the Athlete's sample is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
50. The Disciplinary Commission is satisfied that the sample which has been reanalysed by the Laboratory is unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards occurred.
51. Whilst the Athlete states that he does not accept the analytical results, he does not bring forth any element, which could put the validity of the results in question.
52. The Athlete contends that the IAAF and WADA would have manipulated his samples and would have added Prohibited Substances in his samples.
53. The Disciplinary Commission observes that there is not the slightest basis for this allegation.
54. A scenario of deliberate spiking is already per se unlikely. It becomes completely implausible in a situation in which the substance found is a metabolite and one which, on top of everything, was not even identified and detectable at the time.
55. The samples collected on the occasion of the 2012 Olympic Games were further at no point in the control of either WADA or the IAAF.
56. In conclusion, the Disciplinary Commission finds that the Athlete has in any event committed an anti-doping rule violation pursuant to Art. 2.1 of the Code consisting in the presence of a Prohibited Substance in his body.
57. In addition, the Disciplinary Commission finds that an anti-doping rule violation would also be established if the circumstances are considered in the perspective of art. 2.2 of the Code.
58. The Disciplinary Commission observes that the nature of the substance which was found in the Athlete's sample is consistent with intentional use of Prohibited Substances specifically ingested to deliberately improve performance. The fact that metabolites of a doping

substance, which is a “classical” doping substance was found, supports this consideration.

59. Under the Rules, the consequences of anti-doping rule violations are limited to consequences in connection with the 2012 Olympic Games.
60. In application of Art. 7.1 and 8.1 of the Rules, the results achieved by the Athlete during the 2012 Olympic Games shall be annulled, with all resulting consequences (notably withdrawal of medals, diplomas, pins etc.). This includes the results obtained by the Athlete at the Men’s 400m event (Round 1 and Semifinal) in which he ranked 17th.
61. In addition, and in application of Art. 9.1 of the Rules in connection with Art. 41.1 of the IAAF Competition Rules 2012-2013 (last sentence), the results of the Men’s 4x400m relay event achieved by the Russian Federation team shall be annulled.
62. In application of Art. 8.3 of the Rules, the further management of the consequences of the anti-doping rule violations, and in particular the imposition of sanctions over and above those related to the 2012 Olympic Games, shall be conducted by the IAAF.

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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 in London in 2012 and, in particular, Articles 1, 2, 6.3.3, 7, 8 and 9 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Maksim DYLDIN:
 - (i) is found to have committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXX Olympiad in London in 2012 (presence and/or use, of a Prohibited Substance or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the events in which he participated upon the occasion of the Olympic Games London 2012, namely, the Men's 400m event and the Men's 4x400m relay event, and
 - (iii) has the diploma obtained in the Men's 4x400m relay event withdrawn and is ordered to return same.
- II. The Russian Federation Team is disqualified from the Men's 4x400m relay event. The corresponding diplomas are withdrawn and shall be returned.
- III. The IAAF is requested to modify the results of the above-mentioned events accordingly and to consider any further action within its own competence.
- IV. The Russian Olympic Committee shall ensure full implementation of this decision.
- V. The Russian Olympic Committee shall notably secure the return to the IOC, as soon as possible, of the diplomas awarded to the members of the Russian Federation Team who participated in the Men's 4x400m relay event.
- VI. This decision enters into force immediately.

Lausanne, 19 April 2017

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Ugur Erdener



Gunilla Lindberg