

**INTERNATIONAL OLYMPIC COMMITTEE**

**IOC DISCIPLINARY COMMISSION**

**DECISION**

**REGARDING YULIA GUSHCHINA  
BORN ON 4 MARCH 1983, 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 and 8 thereof:

**I. FACTS**

1. Yulia GUSHCHINA (hereinafter the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”).
2. From 3 August 2012 to 4 August 2012, the Athlete competed in the Women’s 400m event in which she ranked 15<sup>th</sup>.
3. From 10 August 2012 to 11 August 2012, the Athlete also competed in the Women’s 4x400m relay event in which she and her teammates ranked 2<sup>nd</sup> and for which they were awarded a silver medal.
4. On 3 August 2012, the Athlete was requested to provide a urine sample for a doping control (in competition). Such sample was identified with the number 2717645.
5. The A-Sample 2717645 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. An initial analysis (screening analysis) was conducted on the A-Sample 2717645 and resulted in a Presumptive Adverse Analytical Finding (“**PAAF**”) as it indicated the potential presence of two Prohibited Substances: dehydrochloromethyltestosterone (turinabol) and stanozolol.
9. As there was not sufficient urine available to perform a full confirmation analysis on this A-Sample, the IOC decided that the reanalysis process for this specific sample would be completed on the B-Sample, which would be split for the occasion into a B1- and a B2 Sample (becoming thus the equivalent of a A- and B-Sample for the purpose of the analysis confirming the presence of the Prohibited Substance).

10. Such a process is expressly provided for in the International Standards for Laboratories (“**ISL**”) (art. 5.2.2.12.10 ISL).
11. Pursuant to the ISL, the presence of the Athlete is not a requirement for such first phase of the B-Sample analysis.
12. The IOC nevertheless decided, as a matter of principle, that, whenever this was practically possible, the Athlete would be offered the opportunity to attend the above described first phase of the B-sample procedure.
13. On 25 April 2017, the Athlete through her NOC was informed of the PAAF indicating the potential presence of a Prohibited Substance: dehydrochlormethyltestosterone (turinabol) and of the possibility to attend the opening and splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample.
14. The Athlete was invited to indicate by 2 May 2017 whether she would attend the process scheduled to take place on May 10, 2016, either personally or through a representative.
15. The Athlete did not reply.
16. On 3 May 2017, the International Athletics Associations Federations (“**IAAF**”) provided the IOC with the email address of the Athlete.
17. The IAAF also informed the IOC that a recent reanalysis of the Athlete’s sample collected on the occasion of the IAAF Deagu World Championships 2011 had also revealed the presence of dehydrochlormethyltestosterone (turinabol).
18. On the same day, the Athlete was advised directly and through her NOC that she was granted an additional deadline until 5 May 2017 to indicate whether she and/or a designated representative would like to attend.
19. The Athlete was further informed that the process would take place even if she chose not to attend or she did not respond. She was advised that the opening and the splitting of the B-Sample as well as the sealing of the B2-Sample would be attended by an independent witness.
20. In the same communication, the IOC advised 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 her.
21. The Athlete did not reply.
22. On 8 May 2017, the Athlete, directly and through her NOC, was advised that in the absence of an answer, the process had been rescheduled to take place on 23 May 2017. She was granted a deadline until 12 May 2017 to indicate whether or not she and/or a designated representative would attend the opening and splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample.
23. In the same communication, the Athlete was reminded of the content of Art. 6.3.3 of the Rules.
24. On 12 May 2017, the IAAF informed the Athlete that the results management of the samples collected in 2011 in Deagu was stayed until the end of the present proceedings.
25. On 15 May 2017, the Athlete was granted an additional deadline until 17 May 2017 to indicate whether or not she and/or a designated representative would attend the opening

and splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample.

26. The opening and splitting of the B-Sample, as well as the sealing of the B2-Sample occurred on 23 May 2017 at the Laboratory followed by the analysis of the B1-Sample.
27. The Athlete did not attend the opening and splitting of the B-Sample and was not represented on this occasion.
28. As provided in the ISL, the opening and splitting was attended by an independent witness.
29. The results of the B1-Sample analysis were reported on 24 May 2017. These results establish the presence of the metabolites of a Prohibited Substance, namely dehydrochloromethyltestosterone (turinabol).
30. Such results constitute an Adverse Analytical Finding. They were reported to the IOC in accordance with article 6.2.1 of the Rules.
31. 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.
32. Pursuant to Art. 6.2.5 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);
  - Mr Ugur Erdener (Turkey).
33. On 6 June 2017, the IOC notified the Athlete directly and 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 her right to request and attend the opening of the B2-Sample and its analysis, either in person and/or through a representative. The Athlete was finally informed of her right to request a copy of the laboratory documentation package.
34. The Athlete did not reply.
35. On 23 June 2017, the Athlete was granted an additional deadline until 30 June 2017 to indicate whether she accepted the AAF related to the B1-Sample analysis, whether she requested the opening and analysis of the B2-Sample and whether she requested a copy of the laboratory documentation package.
36. The Athlete was reminded of the content of Art. 6.3.3 and was advised that in the event she did not respond, the IOC might elect not to proceed with the analysis of the B2-Sample and to proceed directly to the procedure before the Disciplinary Commission.
37. The Athlete did not reply.
38. On 13 July 2017, the IOC informed the Athlete that the IOC had elected not to proceed with the analysis of the B2-Sample. She was further invited to indicate by 21 July 2017 whether she would attend the hearing of the Disciplinary Commission, whether she would personally attend the hearing and/or be assisted/represented by a representative and/or whether she would present her defence in writing.

39. The Athlete did not reply.
40. On 8 August 2017, the Athlete was granted an additional deadline until 15 August 2017 to indicate whether she would attend the hearing of the Disciplinary Commission and/or whether she would present her defence in writing. She was advised of the possibility to participate in the hearing via videoconference.
41. The Athlete did not reply.
42. On 11 September 2017, the Athlete was advised that the Disciplinary Commission would issue a decision on the basis of the file. She was invited to submit her written defence by 18 September 2017.
43. On the same day, the NOC and the IF were invited to file written observations.
44. On 19 September 2017, the Athlete was granted an additional deadline until 26 September 2017 to submit her written defence.
45. The Athlete and the NOC did not reply.
46. As a final observation, it is noted that another member of the Russian Federation Team, Ms Antonina KRIVOSHAPKA, which took part of the Women's 4x400m relay event, has been subject to a disciplinary proceedings (LRT II – 030).
47. By decision dated 27 January 2017, the Disciplinary Commission decided that Antonina KRIVOSHAPKA was found to have committed an anti-doping rule violation.
48. As a consequence thereof, the Russian Federation Team has already been disqualified from the Women's 4x400m relay event in which the Athlete participated on the occasion of the Olympic Games 2012.

## II. APPLICABLE RULES

49. These proceedings are conducted in application of the Rules.
50. 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.”*
51. Art. 2 of the Rules provides that Article 2 of the Code applies to determine anti-doping rule violations.
52. 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."*

53. 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."*

54. Art. 6.2.6 of the Rules provides as follows:

*"The IOC President or a person designated by him shall promptly notify the Athlete or other Person concerned, the Athlete's or other Person's chef de mission, the International Federation concerned and a representative of the Independent Observer Program of:*

- a) *The adverse analytical finding;*
- b) *The Athlete's right to request the analysis of the B sample or, failing such request, that the B sample may be deemed waived;*
- c) *the scheduled date, time and place for the B Sample analysis if the Athlete chooses to request an analysis of the B Sample or if the IOC chooses to have the B sample analysed;*
- d) *the right of the Athlete and/or the Athlete's representative to attend the B sample opening and analysis if such analysis is requested;*
- e) *the Athlete's right to request copies of the A and B sample laboratory package, which includes information as required by the International Standard for Laboratories;*

- f) *the anti-doping rule violation or, where applicable, instead of the information in (a) to €, the factual basis of the other anti-doping rule violation(s), and if applicable, the additional investigation that will be conducted as to whether there is an anti-doping rule violation;*
- g) *the composition of the Disciplinary Commission.*

*It shall be the responsibility of the chef de mission to inform the relevant National Anti-Doping Organisation of the Athlete.”*

55. 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.”*

56. 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.”*

57. 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.”*

58. 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.”*

59. 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.”*

60. 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.”*

61. 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**

62. The results of the analysis of the sample provided by the Athlete establish the presence in her sample of the metabolites of a Prohibited Substance, i.e. dehydrochlormethyltestosterone (turinabol).
63. The substance detected is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
64. The Disciplinary Commission is satisfied that the sample which has been re-analysed by the Laboratory is unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards occurred.
65. The Disciplinary Commission notes that the Athlete has been notified of the AAF and all subsequent communications, which were addressed to her directly to her personal email address and through her NOC.
66. It is observed that it is not established whether the Athlete did or not actually receive the notification which were addressed to her.
67. Notifications have been made to an email address, which was identified by the IAAF as the Athlete's address. The Athlete however never responded to any mail communication.
68. In accordance with Art. 6.3.3 of the Rules, notification to an Athlete may be accomplished through notification to his/er NOC.
69. This implies that notifications to the Athlete are deemed to have been accomplished for all communications notified to the NOC.
70. This applies in particular to the notification of the question regarding the exercise of the right of the Athlete to request the analysis of the B2-Sample. Such question was duly included in the AAF notification letter.
71. The Athlete, having been duly notified, did not request the analysis of the B2-Sample. Such may be deemed waived pursuant to Art. 6.2.6 lit. b of the Rules.

72. Since the IOC decided not to conduct the B2-Sample analysis, the analytical results are in this case solely based on the results of the B1-Sample.
73. Such results establish the presence of metabolites of a Prohibited Substance, i.e. dehydrochlormethyltestosterone (turinabol) in the sample, which the Athlete provided upon the occasion of the 2012 Olympic Games.
74. Based on the above results, the Disciplinary Commission finds that the Athlete has committed an anti-doping rule violation pursuant to Art. 2.1 of the Rules consisting in the presence of a Prohibited Substance in his bodily sample.
75. Pursuant to Art. 2.1.2 of the Rules, *“Sufficient proof of an anti-doping rule violation under Article 2.1 is indeed established by the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete’s A Sample where the Athlete waives the analysis of the B Sample and the B Sample is not analysed.”*
76. In addition, the Disciplinary Commission observes that the circumstances appear to also support a finding of an anti-doping rule violation based on art. 2.2 of the Rules.
77. The fact that a doping substance which is a “classical” doping substance broadly used at the time of the analysis supports this consideration.
78. There is indeed a simple and straightforward explanation for the fact that dehydrochlormethyltestosterone (turinabol) was found in the Athlete’s sample, i.e. its use as doping agent for the purpose of performance enhancement.
79. In conclusion, the Disciplinary Commission finds that it is established that the Athlete committed an anti-doping rule violation pursuant to Art. 2.1 of the Rules.
80. The consequences of an anti-doping rule violation pursuant to the Rules are limited to consequences in connection with the 2012 Olympic Games.
81. In application of Art. 7.1 and/or Art. 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 medal, diploma, pin etc.).
82. The Athlete’s results achieved in the 400m individual event shall be disqualified.
83. This applies also in principle to the relay event as far as the personal participation of the Athlete is concerned (in application of Art. 8.1 of the Rules).
84. Since the Russian Federation Team has already been disqualified and the results have already been modified by the IAAF, the Disciplinary Commission observes that a new formal decision in respect of the overall team results is no longer needed.
85. The results of the Athlete as part of the relay team are covered by the team disqualification, which is already in place. For the records, the Disciplinary Commission observes that these results have also to be disqualified based on the outcome of this matter.
86. 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.



87. The IAAF will notably have to consider the issue of these other consequences in light of the further positive analytical results found in a sample collected from the Athlete prior to the Olympic Games 2012.

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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, 1, 2, 6.3.3, 7, 8 and 9 thereof:

THE DISCIPLINARY COMMISSION OF THE  
INTERNATIONAL OLYMPIC COMMITTEE  
DECIDES

- I. The Athlete, Yulia GUSHCHINA:
  - (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 she participated upon the occasion of the Olympic Games London 2012, in particular the Women's 400m event and the Women's 4x400m relay event;
- II. The IAAF is requested to modify the results of the Women 400m<sup>1</sup> accordingly and to consider any further action within its own competence.
- III. The Russian Olympic Committee shall ensure full implementation of this decision<sup>2</sup>.

Lausanne, 16 October 2017

In the name of the IOC Disciplinary Commission



Ugur Erdener



Denis Oswald, Chairman



Gunilla Lindberg

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<sup>1</sup> The results of the relay event have already been modified as a result of the decision issued in the matter of Ms Antonina KRIVOSHAPKA.

<sup>2</sup> The consequences of the disqualification of the team results shall be implemented based on the decision issued in the matter of Ms Antonina KRIVOSHAPKA.