

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

REGARDING DAVIT MODZMANASHVILI

BORN ON 13 JULY 1981, ATHLETE, WRESTLING (NATIONAL OLYMPIC COMMITTEE OF GEORGIA)

(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. Davit MODZMANASHVILI (the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”) as a member of the team of the National Olympic Committee of Georgia. Since 2017, the Athlete is under the jurisdiction of the National Olympic Committee of Uzbekistan.
2. On 11 August 2012, the Athlete competed in the Men’s Freestyle Wrestling 120kg event (Qualifications and Finals) in which he ranked 2nd and was awarded the silver medal.
3. On 11 August 2012, the Athlete was requested to provide a urine sample for a doping control (in competition). Such sample was identified with the number 2718140.
4. The A-Sample 2718140 was analysed during the 2012 Olympic Games by the WADA-accredited Laboratory in London. The analysis did not result in an adverse analytical finding at that time.
5. 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 Laboratory in Lausanne, Switzerland (the “**Laboratory**”) for long-term storage.
6. The IOC decided to perform further analyses on samples collected during the 2012 Olympic Games. These additional analyses were notably conducted 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.
7. The IOC decided that the re-analysis process would be conducted as a regular A and B sample analysis, without resorting to a splitting of the B-Sample.
8. 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 Dehydrochlormethyltestosterone metabolites, a Prohibited Substance (Class S1.1a – Anabolic Androgenic Steroids).
9. The results were reported to the IOC in accordance with Art. 6.2.1 of the Rules.

10. 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.
11. Pursuant to Art. 7.2.4 of the Rules, the IOC President set up a Disciplinary Commission, consisting in this case of:
 - Prof. Denis Oswald, Chairman;
 - Mrs. Gunilla Lindberg; and
 - Mr. Juan Antonio Samaranch.
12. The IOC has delegated the implementation of the Doping Control programme for the 2012 Olympic Games to the International Testing Agency (the “ITA”). Such delegation includes the conduct of re-analysis of the samples collected during the 2012 Olympic Games and the related results management.
13. On 25 September 2018, the ITA notified the Athlete, through the Georgian National Olympic Committee (the “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. The Athlete was also given the right to refer the matter for adjudication before the Court of Arbitration for Sport in Lausanne, Switzerland.
14. On 5 October 2018, the Athlete requested a short extension to the deadline to provide his answers to the above.
15. On 8 October 2018, the ITA granted the Athlete’s request until 15 October 2018.
16. On 19 October 2018, not having received the announced response from the Athlete, the ITA requested an answer no later than 23 October 2018.
17. On 25 October 2018, still not having received a response from the Athlete, the ITA requested an answer no later than 29 October 2018. The Athlete was also informed that failure to do so would be deemed as a waiver of his rights to request the B-Sample Analysis and the copy of the laboratory documentation package.
18. The Athlete was also deemed to have rejected the arbitration agreement proposed by the ITA on 25 September 2018 to refer the matter to the Court of Arbitration for Sport.
19. On 26 October 2018, the NOC also acknowledged receipt of the correspondence from the ITA and stated they had informed the National Wrestling Federation of Georgia as well as the Georgian Anti-Doping Agency. The latter had also tried to contact the Athlete but received no response.
20. On 29 October 2018, the Georgian Anti-Doping Agency informed the ITA that the NOC would be meeting the Athlete and would ask him to provide his response.
21. On 29 October, the NOC also sought clarifications from the ITA as to the answers which the Athlete had to provide. In particular, whether it was necessary to submit the signed agreement to refer the matter to the Court of Arbitration for Sport, despite no intention of submitting it. The ITA replied on the same day with explanations that the Athlete only had to choose whether to submit the matter

to the Court of Arbitration for Sport or proceed before the IOC Disciplinary Commission. Following this explanation, there was no further correspondence or information from the NOC regarding the Athlete.

22. On 13 November 2018, the ITA sent a final reminder for the Athlete to submit his response by 15 November 2018, failure of which will be deemed to waive the rights described above. Moreover, the ITA noted it would be constrained to proceed with the matter in the Athlete's absence.
23. The Athlete failed to provide any response.
24. On 13 December 2018, the ITA confirmed that the matter would be referred to the IOC Disciplinary Commission to issue its decision on the basis of the file.
25. On 15 January 2018, the ITA forwarded the file to the IOC Disciplinary Commission with a corresponding application.

II. APPLICABLE RULES

1. 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.”

2. Art. 2 of the Rules provides that Article 2 of the Code applies to determine anti-doping rule violations.
3. 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.

1.1.1 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.

1.1.2 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.

1.1.3 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.

1.1.4 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.”

4. 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.”

5. 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.”

6. 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.”

7. 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.”

8. 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.”

9. 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.”

10. 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.”

III. DISCUSSION

26. The Disciplinary Commission observes that 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.* Dehydrochlormethyltestosterone.
27. 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.
28. 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.
29. The Athlete appears to have deliberately chosen not to participate in the proceedings regarding the present matter, despite multiple contact attempts and reminders by the ITA, the NOC, and the Georgian Anti-Doping Agency. After having initially requested an extension by e-mail on October 5, 2018, the Athlete then failed to submit his announced answer and thereafter ignored or avoided all further attempts to contact him.
30. The Athlete has been specifically offered to exercise all the aspects of his right to be heard. In view thereof, the proceedings must be continued and completed irrespective of the fact that the Athlete appears to have deliberately chosen not to actively participate.
31. In view of the analytical results, the Disciplinary Commission finds that an anti-doping rule violation pursuant to Art. 2.1 of the Code consisting of the presence of a Prohibited Substance in the Athlete’s body.
32. In addition, the Disciplinary Commission finds that an anti-doping rule violation would also be established if the present circumstances were considered with regard to Art. 2.2 of the Code.
33. The substance which was found in the Athlete’s sample is a substance (known under its common name as “oralturinabol”) then commonly used as a doping substance, notably because it was both

efficient and then detectable only for a short period of time after its ingestion (only a few days) given the sensitivity of the analytical methods available at that time.

34. The detection of this substance through long term metabolites started to be implemented only after the London Olympic Games. This new method massively increased the window of detection of oralturinabol, from a few days to up to two months or more. This significant improvement in the efficiency of the detection of oralturinabol led to an unprecedented wave of positive cases in the re-analysis of samples collected on the occasion of both the 2008 and 2012 Olympic Games.
35. In this context, the finding of oralturinabol is therefore clearly consistent with its use for doping purposes in circumstances in which the Athlete, based on the then known window of detection, could be counting that it would not be detected on the occasion of the doping controls performed during the Olympic Games. The absence of any explanation on the part of the Athlete only reinforces a corresponding inference.
36. Under the Rules, the consequences of anti-doping rule violations are limited to consequences in connection with the 2012 Olympic Games.
37. 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.).
38. Accordingly, the results obtained by the Athlete at the Men's Freestyle Wrestling 120kg event (Qualifications and Finals) in which he ranked 2nd shall be annulled.
39. The Athlete shall further hand back the medal, diploma, and pin he received.
40. 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 United World Wrestling .

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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, Davit MODZMANASHVILI:
 - 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 2012 Olympic Games, namely, the Men's Freestyle Wrestling 120kg, and
 - iii) has the medal obtained in the Men's Freestyle Wrestling 120kg event withdrawn and is ordered to return it.
- II. The UWW is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
- III. The Georgian Olympic Committee (in coordination with the National Olympic Committee of Uzbekistan, insofar as necessary) shall ensure full implementation of this decision.
- IV. The decision enters into force immediately.

Lausanne, 17 January 2019

In the name of the IOC Disciplinary Commission



Denis Oswald



Gunilla Lindberg



Juan Antonio Samaranch