

INTERNATIONAL OLYMPIC COMMITTEE
DISCIPLINARY COMMISSION
DECISION

REGARDING GULCAN MINGIR
BORN ON 21 MAY 1989, TURKISH FEDERATION, ATHLETE, ATHLETICS

In application of the Olympic Charter and, in particular, Rule 59.2.1 thereof, and 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. Gulcan MINGIR (the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”) as a team member of the National Olympic Committee of Turkey.
2. On 4 August 2012, the Athlete competed in the Women’s 3000m Steeplechase event, finishing 27th overall.
3. On 4 August 2012, the Athlete was requested to provide urine samples for a doping control. Such sample was identified with the number 2717683.
4. The A-Sample 2717683 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 2717683 was 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 – Exogenous 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;
 - Mr. Juan Antonio Samaranch; and
 - Mr. Ingmar De Vos.
12. The IOC has delegated the implementation of the Doping Control program 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 11 December 2019, the ITA notified the Athlete, through the National Olympic Committee of the Republic of Turkey (the “**NOC**”), of the above-mentioned AAF and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission. By means of an Athlete Rights Form to be completed by the Athlete, the ITA informed the Athlete of her right to request the opening and analysis of the B-Sample and to attend this process, either in person and/or through a representative, and of her right to request a copy of the laboratory documentation package.
14. The Athlete was also given the possibility to refer the matter for adjudication before the Court of Arbitration for Sport in Lausanne, Switzerland, by means of an arbitration agreement.
15. On 11 December 2019, World Athletics was also informed of the Athlete’s AAF notification and invited World Athletics to take the necessary actions under Art. 8.3 of the Rules.
16. On 12 December 2019, the NOC informed the ITA that it had received the notification and that the notification had been communicated to the Athlete.
17. On 4 January 2020, the Athlete provided the ITA with the completed and signed Athlete Rights Form, accepting the AAF and expressly not requesting the B-Sample to be analysed.
18. On 3 February 2020, the ITA acknowledged receipt of the Athlete Rights Form and invited the Athlete to indicate whether she would refer the dispute to the Court of Arbitration for Sport by signing the arbitration.
19. On 5 February 2020, the Athlete through her legal counsel stated that she would not submit the dispute to the Court of Arbitration for Sport, and that the matter should be submitted to the IOC Disciplinary Commission.
20. On 6 February 2020, the ITA informed World Athletics of the Athlete’s choice of dispute resolution forum.
21. On 17 March 2020, the ITA submitted the matter to the IOC Disciplinary Commission for adjudication.

22. On 18 March 2020, the IOC Disciplinary Commission invited the Athlete to indicate before 17 April 2020 whether she requested a hearing to be held and whether she would be submitting a defence in writing. The Athlete did not respond and was deemed to have waived her right to a hearing and written defence.

II. APPLICABLE RULES

26. 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.”*

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

28. 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.”*

29. 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."*

30. 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."

31. 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."

32. 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."

33. 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."

34. 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."

35. 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

36. 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.* Dehydrochloromethyltestosterone metabolites.
37. 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.
38. The Athlete completed the Athlete Rights Form and accepted the AAF.
39. The Athlete expressly did not request the analysis of the B-Sample. She is thus deemed to have waived her corresponding right.
40. The B-Sample was consequently not analysed.
41. In accordance with Art. 2.1 of the Code, when the B-Sample analysis is waived, the result of the A-Sample analysis is sufficient to establish an anti-doping rule violation.
42. Based on such result, the Athlete has to consequently be found to have committed an anti-doping rule violation pursuant to Art. 2.1 of the Code consisting of the presence of a Prohibited Substance in her body.
43. For the sake of completeness, it is observed that the circumstances of this case would also support the finding of an anti-doping rule violation pursuant to Art. 2.2 of the Code.
44. The substance which was found in the Athlete’s sample correspond to a substance which has very commonly been used as a doping substance.
45. The use of this substance is therefore clearly consistent with and indicative of the intentional use of Prohibited Substances specifically ingested to deliberately improve performance.
46. In conclusion, the Athlete has to be found to have committed an anti-doping rule violation pursuant to Art. 1 of the Rules and 2.1 and 2.2 of the Code.

47. Under the Rules, the applicable consequences of the anti-doping rule violation specifically relate to the 2012 Olympic Games.
48. In application of Art. 7.1 and 8.1 of the Rules, the results achieved by the Athlete during the 2012 Olympic Games have to be annulled, with all resulting consequences (notably withdrawal of medals, diplomas, pins etc.).
49. In application of Art. 8.3 of the Rules, 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 managed by World Athletics.

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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, Gulcan Mingir:
 - 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 of Prohibited Substances or their Metabolites or Markers in the Athlete's bodily specimen), and
 - ii) is disqualified from the events in which she participated upon the occasion of the 2012 Olympic Games, namely, the Women's 3000m Steeplechase event.
- II. World Athletics is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
- III. The National Olympic Committee of Turkey shall ensure full implementation of this decision.
- IV. The decision enters into force immediately.

Lausanne, 27 April 2020

In the name of the IOC Disciplinary Commission

Prof. Denis Oswald

Ingmar De Vos

Juan Antonio Samaranch