

**INTERNATIONAL OLYMPIC COMMITTEE**

**IOC DISCIPLINARY COMMISSION**

**DECISION**

**REGARDING PAVEL LYZHYN  
BORN ON 24 MARCH 1981, BELARUS, 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 XXIX Olympiad in Beijing in 2008 (the “**Rules**”) and, in particular but without limitation, Articles 2, 5.1, 7.3.3, 8 and 9 thereof:

**I. FACTS**

1. Pavel LYZHYN (hereinafter the “**Athlete**”), participated in the Games of the XXIX Olympiad in Beijing in 2008 (the “**2008 Olympic Games**”).
2. On 15 August 2008, the Athlete competed in the Men’s shot put event (Qualification and Final) in which he ranked 4<sup>th</sup> and for which he was awarded a diploma.
3. On the same day, on the occasion of the Final, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with the number 1842843.
4. The A-Sample 1842843 was analysed during the 2008 Olympic Games by the WADA-accredited Laboratory in Beijing. Such analysis did not result in an adverse analytical finding at that time.
5. After the conclusion of the 2008 Olympic Games, all the samples collected upon the occasion of the 2008 Olympic Games were transferred to the WADA-accredited “Laboratoire suisse d’analyse du dopage” in Lausanne, Switzerland (“the **Laboratory**”) for long-term storage.
6. The IOC decided to perform further analyses on samples collected during the 2008 Olympic Games. These additional analyses were notably performed with improved analytical methods using more sensitive equipment and/or searching for new metabolites in order to possibly detect Prohibited Substances which were not identified by the analysis performed at the time of the 2008 Olympic Games.
7. In accordance with the provisions of the applicable International Standards for Laboratories (the “**ISL**”), the IOC decided that the reanalysis process would be conducted as follows:
  - An initial analysis was to be conducted on the remains of the A-samples
  - If such initial analysis resulted in the indication of the potential presence of a Prohibited Substance or its Metabolites or Markers (“Presumptive Adverse Analytical Finding” - PAAF), the full confirmation analysis process (double confirmation) was to be conducted 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).
8. The decision to proceed based on split B-samples was made in principle for all the re-analysis.

9. This choice was made in view of the fact that during the transfer of the samples from the Beijing laboratory to the Laboratory, the A-Samples were not individually resealed nor transported in sealed containers.
10. At that time, resealing of A-Samples (or transport in sealed containers) was not a requirement pursuant to the applicable ISL (2008).
11. However, it was felt that the option to rely on the B-Sample constituted an additional precaution securing the strength and reliability of the analytical process.
12. A similar cautious approach was adopted with regard to the implementation of the analytical process and notably of its first phase (opening and splitting of the B-Sample into a B1- and B2-Sample, sealing of the B2-Sample and analysis of the B1-Sample).
13. Pursuant to the ISL, the presence of the Athlete is not a requirement for such first phase of the B-Sample analysis.
14. The IOC nevertheless decided, once again 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.
15. The remains of the A-Sample of the Athlete were subject to initial analysis. Such analysis resulted in a Presumptive Adverse Analytical Finding (“**PAAF**”) as it indicated the potential presence of a Prohibited Substance: dehydrochlormethyltestosterone (turinabol).
16. On 18 May 2016, the Athlete through his NOC was informed of the PAAF and of the possibility to attend the opening and splitting of the B-Sample into a B1- and B2-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample.
17. On 25 May 2016, the Athlete’s counsel, Mr Mike Morgan, informed the IOC that the Athlete would send a representative for the opening and splitting of the B-Sample, sealing of the B2-Sample and analysis of the B1-Sample. He further applied for a postponement of the process.
18. After various exchanges, a schedule was agreed in connection with the analysis of both the B1-and B2 sample (if applicable).
19. The opening and splitting of the B-Sample and the sealing of the B2-Sample occurred on 16 June 2016 in the presence of Mr Matsiulka, as the Athlete’s representative, an independent witness and a representative of the IOC.
20. Mr Matsiulka also attended the analysis of the B1-Sample conducted on 16 June 2016 and 17 June 2016.
21. The results of the B1-Sample analysis were reported on 17 June 2016. These results establish the presence of the metabolites of a Prohibited Substance, namely dehydrochlormethyltestosterone (turinabol).
22. Such results constitute an Adverse Analytical Finding. They were reported to the IOC in accordance with article 7.2.1 of the Rules.
23. Further to the verifications set forth in Art. 7.2.2 of the Rules and in application of Art. 7.2.3 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.

24. 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)
  - Mr Ugur Erdener (Turkey)
25. On 22 June 2016, the IOC notified the Athlete, through his counsel, 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 and to attend the opening and the analysis of the B2-Sample and to request a copy of the laboratory documentation package.
26. The opening of the B2-Sample occurred on the agreed date of 27 June 2016 in the presence of Mr Matsiulka and a representative of the IOC.
27. Mr Matsiulka attended the entire analytical analysis of the B2-Sample, which was conducted from 27 June 2016 to 28 June 2016.
28. The results of the B2-Sample analysis were reported to the IOC on 28 June 2016. They confirmed the presence in the B2-Sample of the metabolites of a Prohibited Substance, namely dehydrochloromethyltestosterone (turinabol).
29. On 1 July 2016, the IOC communicated the results of the B2-Sample analysis and provided the B1-Sample and B2-Sample laboratory documentation packages.
30. The Athlete was invited to indicate whether he accepted the Adverse Analytical Finding, whether he would attend the hearing of the Disciplinary Commission and/or he would submit a defence in writing. The Athlete was advised that it was planned that the hearing of the Disciplinary Commission would take place in the third week of July 2016.
31. On 6 July 2016, the Athlete's counsel requested the opportunity to review the laboratory documentation before responding.
32. On 29 July 2016, the IOC provided the Athlete's counsel, with additional documentation related notably to the handling of the sample in Beijing and its transfer to Lausanne.
33. In the meantime, the hearing of the Disciplinary Commission had been postponed until after the Rio 2016 Olympic Games.
34. On 21 September 2016, the IOC informed the Athlete's counsel that the hearing of the Disciplinary Commission was scheduled to be held on 17 October 2016. The Athlete was invited to confirm no later than 28 September 2016 whether he would attend the hearing. He was further offered the possibility to submit a written defence.
35. The Athlete's counsel requested extensions of the deadlines and submitted various questions to the Laboratory indicating that the Athlete's decision to attend the hearing and challenge or not the analytical results would depend on the answers provided by the Laboratory.
36. On 2 November 2016, after several exchange of questions submitted by the Athlete's experts and corresponding answers provided by the Laboratory, the Athlete's counsel finally informed the IOC that the analytical results were not challenged.

37. In the same letter, the Athlete informed the IOC that neither he nor his counsel would attend the hearing scheduled for 17 October 2016.
38. In his communication, the Athlete's counsel underlined that the fact that the athlete did not challenge the analytical results did not constitute any admission of intent, fault or negligence. The Athlete's right to make submissions in relation to the reported adverse analytical findings in further proceedings was further reserved.
39. The IOC acknowledged receipt and indicated that the Disciplinary Commission would issue a decision on the basis of the file.
40. The NOC and the IF did not file any observations.

## II. APPLICABLE RULES

41. These proceedings are conducted in application of the Rules.
42. Art. 2.1 of the Rules provides as follows:

*"The presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's bodily Specimen.*

- 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 bodily Specimens. 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 *Excepting those substances for which a quantitative reporting threshold is specifically identified in the Prohibited List, the detected 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.*
- 2.1.3 *As an exception to the general rule of Article 2.1, the Prohibited List may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously."*

43. Art. 2.2 of the Rules provides as follows:

*"Use or Attempted Use of a Prohibited Substance or a Prohibited Method*

*2.2.1 The success or failure of the 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."*

44. Art. 5.1 of the Rules provides as follows:

*"The IOC is responsible for Doping Control during the Period of the Olympic Games. The IOC is entitled to delegate all or part of its responsibility for Doping Control to one or several other organisations.*

*The Period of the Olympic Games, or In-Competition Period, is defined as "the period commencing on the date of the opening of the Olympic village for the Olympic Games, namely, 27 July 2008 up until and including the day of the closing ceremony of the Olympic Games, namely, 24 August 2008.*

*All Athletes participating at the Olympic Games shall be subject, during the Period of the Olympic Games, to Doping Control initiated by the IOC at any time or place, with No Advance Notice. Such Doping Control may include Testing for all Prohibited Substances and all Prohibited Methods referred to in the Prohibited List.*

*The IOC shall have the right to conduct or cause to conduct Doping Control during the Period of the Olympic Games, and is responsible for the subsequent handling of such cases.”*

45. Art. 7.3.3 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 General Secretary of the NOC of the Athlete or other Person shall be deemed to be a delivery of notice to the NOC.”*

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

*“A violation of these Rules in connection with Doping Control automatically leads to Disqualification of the Athlete with all other consequences, including forfeiture of any medals, points and prizes.”*

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

*“An Anti-Doping Rule violation occurring during or in connection with the Olympic Games may lead to Disqualification of all of the Athlete’s results obtained in the Olympic Games with all consequences, including forfeiture of all medals, points and prizes, except as provided in Article 9.1.1.”*

48. Art. 9.1.1 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 other Competition 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”.*

49. Art. 9.3 of the Rules provides as follows:

*“The management 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 Olympic Games, shall be managed by the relevant International Federation”.*

### **III. DISCUSSION**

50. The presence of metabolites of a Prohibited Substance, i.e. dehydrochloromethyltestosterone (turinabol), has been established in 2016 in the sample 1842843 that the Athlete provided on 15 August 2008, upon the occasion of the 2008 Olympic Games.

51. The substance detected in the Athlete’s sample is an anabolic steroid. It is listed in the WADA 2008 Prohibited List and in all subsequent lists.

52. The Disciplinary Commission notes that the Athlete does not challenge the analytical results.

53. Based on the above, the Disciplinary Commission finds that the Athlete has, at any event, committed an anti-doping rule violation pursuant to Art. 2.1 of the Rules consisting in the presence of a Prohibited Substance in his body.
54. In addition, the Disciplinary Commission observes that the circumstances would also support a finding of an anti-doping rule violation based on Art. 2.2 of the Rules.
55. The fact that a doping substance, which is a “classical” doping substance and appears to have been broadly used at the time of the analysis, was detected, supports this consideration.
56. Pursuant to the Rules, the consequences of an anti-doping rule violation are limited to consequences in connection with the 2008 Olympic Games. They are set forth in Art. 8 and 9 of the Rules and are the following.
57. In application of Art. 8.1 and/or Art. 9 of the Rules, the results achieved by the Athlete at the Men’s shot put event in which he ranked 4<sup>th</sup> during the 2008 Olympic Games, shall be annulled, with all resulting consequences (notably withdrawal of diploma).
58. In application of Art. 9.3 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 Olympic Games 2008 shall be conducted by the International Association of Athletics Federations (“**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 XXIX Olympiad in Beijing in 2008 and, in particular, 2, 5.1, 7.3.3, 8 and 9 thereof.

THE DISCIPLINARY COMMISSION OF THE  
INTERNATIONAL OLYMPIC COMMITTEE  
DECIDES

- I. The Athlete, Pavel LYZHYN:
  - (i) is found to have committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXIX Olympiad in Beijing in 2008,
  - (ii) is disqualified from the Men's shot put event in which he participated upon the occasion of the Olympic Games Beijing 2008,
  - (iii) has the diploma obtained in the Men's shot put event withdrawn and is ordered to return the same.
- II. The IAAF 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 the Republic of Belarus shall ensure full implementation of this decision.
- IV. The National Olympic Committee of the Republic of Belarus shall notably secure the return to the IOC, as soon as possible, of the diploma awarded in connection with the Men's shot put event to the Athlete.
- V. This decision enters into force immediately.

Lausanne, 22 November 2016

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Gunilla Lindberg



Ugur Erdener