

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING TATIANA LEBEDEVA
BORN ON 21 JULY 1976, 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 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. Tatiana LEBEDEVA (hereinafter the “**Athlete**”), participated in the Games of the XXIX Olympiad in Beijing in 2008 (the “**2008 Olympic Games**”).
2. From 15 August 2008 to 17 August 2008, the Athlete competed in the Women’s triple jump event in which she ranked 2nd and for which she was awarded a silver medal.
3. From 19 August 2008 to 22 August 2008, the Athlete competed in the Women’s long jump event in which she also ranked 2nd and for which she was awarded a silver medal.
4. On 18 August 2008, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with the number 1842845.
5. On 22 August 2008, the Athlete was also requested to provide a urine sample for another doping control. Such sample was identified with the number 1843806.
6. Both the A-Sample n°1842845 and n°1843806 were analysed during the 2008 Olympic Games by the WADA-accredited Laboratory in Beijing. Neither analysis did result in an adverse analytical finding at that time.
7. 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.
8. 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.
9. 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 an A- and B-Sample).

10. The decision to proceed based on split B-samples was made in principle for all the re-analysis.
11. 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.
12. At that time, resealing of A-Samples (or transport in sealed containers) was not a requirement pursuant to the then applicable ISL (2008).
13. 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.
14. 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).
15. Pursuant to the ISL, the presence of the Athlete is not a requirement for such first phase of the B-Sample analysis.
16. 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.
17. The A-Sample n°1842845 of the Athlete was one of the samples included in the list of samples subject to further analysis. The sample n°1843806 was not included in such list and was thus not analysed in 2016.
18. The remains of the A-Sample n°1842845 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).
19. On 12 July 2016, the Athlete through her 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.
20. On 14 July 2016, the Athlete through her NOC sent a letter to the IOC, in which she raised legal questions regarding the application of the Rules and the ISL.
21. On 15 July 2016, the IOC reminded the Athlete that she would have the opportunity to submit her arguments to the Disciplinary Commission, if and when the analysis results would lead to the conduct of disciplinary proceedings. She was again asked to return her completed PAAF Notification Appendix and advised that the opening, splitting of the B-Sample, the sealing of the B1-Sample and the analysis of the B2-Sample would take place even if she chose not to attend or she did not respond.
22. The Athlete did not reply.
23. On 18 July 2016, the IOC informed the Athlete that the opening and splitting of the B-Sample as well as the B2-Sample resealing would occur on 22 July 2016 at the Laboratory followed by the analysis of the B1-Sample over the following days. The Athlete was

advised that the process would take place in the presence of an independent witness and a representative of her NOC.

24. On the same day, the Athlete requested a short extension of deadline. She informed the IOC that there was no reason to deal with the matter in such urgency as she was not planning to participate in the Olympic Games Rio 2016.
25. In the same letter, the Athlete indicated that she did not waive her right to attend personally the opening of the B-Sample.
26. She requested the IOC to clarify whether an Adverse Analytical Finding had been reported on the basis of the A-Sample analysis. She asserted that if no Adverse Analytical Finding had been issued, the procedure followed by the IOC was not compliant with the applicable rules.
27. On 21 July 2016, the IOC advised once again the Athlete, through her NOC, that her legal arguments should be raised in front of the Disciplinary Commission in due time. The Athlete was further advised that the opening, splitting of the B-Sample as well as the B2-Sample resealing had been postponed until 25 July 2016. She was invited once again to attend the process and was informed that in any event an independent witness would attend the opening and splitting of the B-Sample.
28. The opening and splitting of the B-Sample, the sealing of the B2-Sample occurred on 25 July 2016 at the Laboratory.
29. The Athlete did not attend the opening and splitting of the B-Sample and was not represented on this occasion.
30. As provided in the ISL, the opening and splitting was attended by an independent witness.
31. The results of the B1-Sample analysis were reported on 28 July 2016. These results establish the presence of the metabolites of a Prohibited Substance, namely dehydrochloromethyltestosterone (turinabol).
32. Such results constitute an Adverse Analytical Findings (“**AAF**”). They were reported to the IOC in accordance with article 7.2.1 of the Rules.
33. 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.
34. 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)
35. On 29 July 2016, the IOC notified the Athlete through her 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, which was initially scheduled to take place on 8 or 9 August 2016. The

Athlete was finally informed of her right to request a copy of the laboratory documentation package.

36. On 3 August 2016, the Athlete's counsel, Mr Claude Ramoni, attorney-at-law, informed the IOC to be authorised to act as representative of the Athlete. He requested to postpone the opening and analysis of the B2-Sample until 22 August 2016.
37. On 4 August 2016, the IOC informed the Athlete, through her counsel, that the opening of the B2-Sample was scheduled to take place on 15 August 2016 at the Laboratory followed by the analytical analysis of the sample over the following days. The Athlete was once again invited to attend the process and she was advised that the opening of the sample would be operated in the presence of an independent witness.
38. On 11 August 2016, the IOC requested a confirmation whether the Athlete or her counsel would attend the opening and analysis of the B2-Sample, scheduled to take place on 15 August 2016.
39. On 12 August 2016, the Athlete's counsel informed the IOC that neither the Athlete nor her counsel would attend the opening of the B2-Sample. The IOC was informed that the Athlete would challenge the splitting procedure for legal and procedural reasons.
40. The opening of the B2-Sample occurred on 15 August 2016 in the presence of an independent witness. The Athlete did not attend the process. The analysis of the B2-Sample was conducted over the following days.
41. The results of the B2-Sample analysis were reported to the IOC on 19 August 2016. They confirmed the presence in the B2-Sample of the metabolites of a Prohibited Substance, namely dehydrochloromethyltestosterone (turinabol).
42. On 22 August 2016, the IOC communicated to the Athlete, through her counsel, the results of the B2-Sample analysis. The Athlete was also invited to indicate whether she accepted the Adverse Analytical Finding, whether she would attend the hearing of the Disciplinary Commission and/or she would submit a defence in writing. The Athlete was also informed of her right to request a copy of the laboratory documentation package.
43. On 25 August 2016, the Athlete, through her counsel, informed the IOC that she did not accept the B2-Sample Adverse Analytical Finding. The Athlete confirmed that she challenged the procedure followed by the IOC, i.e. opening of the B-Sample / splitting of the sample. The Athlete's counsel requested to be provided with a copy of the laboratory documentation packages for all samples analysed in the procedure. The IOC was finally requested to hold a hearing in this matter at least six weeks after receipt of the documentation packages.
44. On 30 August 2016, the IOC provided the Athlete, through her counsel, with a copy of the B1-Sample laboratory documentation package. The Athlete was further informed that the hearing of the Disciplinary Commission had been scheduled to be held on 12 October 2016.
45. On 31 August 2016, the IOC informed the Athlete, through her counsel, that the hearing would finally be scheduled on 17, 18 or 19 October 2016.
46. On 12 September 2016, the Athlete's counsel reminded the IOC that his client was expecting to receive both A-Sample and B2-Sample laboratory documentation packages.

47. On 16 September 2016, the IOC provided the Athlete, through her counsel, with a copy of the B2-Sample laboratory documentation package.
48. On 21 September 2016, the IOC provided the Athlete, through her counsel, with additional documentation related to her sample, in particular the handling of the sample in Beijing and its transfer to the WADA accredited laboratory in Lausanne. The Athlete was advised that the hearing of the Disciplinary Commission was scheduled to be held on 19 October 2016 and she was offered the possibility to submit a written defence by 12 October 2016.
49. On the same day, the NOC and the IF were asked whether they would send a representative to the hearing and they have been given the opportunity to file written observations.
50. On 28 September 2016, the Athlete, through her counsel, requested once again to be provided with the laboratory documentation package related to the A-Sample analysis. She further indicated that she might have been subject to several doping tests during the 2008 Olympic Games and requested to be provided with a summary of all tests performed on her at that time by the Beijing laboratory and in 2016 by the Laboratory. She finally applied for a postponement of the deadlines and of the hearing.
51. On 29 September 2016, the IOC forwarded the Athlete's requests to the Disciplinary Commission for decision. The IOC's position was that no detailed documentation had been requested and, consequently, not issued by the Laboratory in connection with the initial analysis conducted on the A-Sample. The IOC submitted that, since the establishment of the AAF was based on the B-Sample only, the documentation related to the A-Sample was not relevant. The IOC further confirmed that the Athlete had been subject to two anti-doping tests during the 2008 Olympic Games. The first sample was the sample at stake in these proceedings. The second sample (n°1843806) was not subject to reanalysis.
52. On 7 October 2016, the Disciplinary Commission ordered the IOC to obtain and provide the Athlete with the A-Sample documentation package. Such was provided on 11 October 2016.
53. On 17 October 2016, the Athlete submitted a written defence, which will be discussed below. She indicated that, since her arguments were of legal and procedural nature and did not relate to factual or analytical issues, the case could be decided based on the file.
54. Neither the NOC nor the IF filed written observations.

II. APPLICABLE RULES

55. These proceedings are conducted in application of the Rules.
56. 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."

57. 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."

58. 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."

59. Art. 6.4 of the Rules provides as follows:

"The Laboratory shall analyse Doping Control Samples and report results in conformity with the International Standards for Laboratory."

60. Art. 7.2.5 of the Rules provides as follows:

"The IOC President or a person designated by him shall, in confidence, 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 analysis may be deemed waived;

- c) *the right of the Athlete and/or the Athlete's representative to attend the B sample opening and analysis if such analysis is requested;*
- d) *the Athlete's right to request copies of the A and B sample laboratory package, which includes information as required by the International Standards for Laboratories;*
- e) *the anti-doping rule violation or of the additional investigation that will be conducted as to whether there is an anti-doping rule violation;*
- f) *the composition of the Disciplinary Commission.*

It shall be the responsibility of the chef de mission to inform, in confidence, the relevant National Anti-Doping Organisation of the Athlete."

61. 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."

62. 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."

63. 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."

64. 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."

65. 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."

66. Art. 16.1 of the Rules provides as follows:

"These Rules are governed by the Olympic Charter, by the Code and by Swiss law."

67. Art. 16.5 of the Rules provides as follows:

"These Rules have been adopted pursuant to the applicable provisions of the Code and shall be interpreted in a manner that is consistent with applicable provisions of the Code."

68. The Introduction of the World Anti-Doping Code (“**WADAC**”, version 2003, p2) provides as follows:

“International Standards and all revisions shall become effective on the date specified in the International Standard or revision.”

69. The Introduction of the International Standard for Laboratories (2016 ISL – Version 9, “ISL”), provides as follows:

“The International Standard for Laboratories first came into effect in November 2002. Further revisions were made after that date. The enclosed International Standard for Laboratories was approved by the WADA Executive Committee on 11 May 2016. The effective date of ISL version 9.0 is 02 June 2016.”

70. Art. 5.2.2.12.9 ISL provides as follows:

“Further Analysis of Samples shall be performed under the ISL and Technical Documents in effect at the time the Further Analysis is performed.”

71. Art. 5.2.2.12.10 ISL provides as follows:

“Further Analysis on long-term stored Samples shall proceed as follows:

- At the discretion of the Testing Authority, the “A” Sample may not be used or it may be used for initial testing (as described in Article 5.2.4.2) only, or for both initial testing and confirmation (as described in Article 5.2.4.3.1). Where confirmation is not completed in the A Sample the Laboratory, at the direction of the Testing Authority shall appoint an independent witness to verify the opening and splitting of the sealed “B” Sample (which shall occur without requirement that the Athlete be notified or present) and then proceed to analysis based on the “B” Sample which has been split into 2 bottles.*
- At the opening of the “B” Sample, the Laboratory shall ensure that the Sample is adequately homogenized (e.g. invert bottle several times) before splitting the “B” Sample. The Laboratory shall divide the volume of the “B” Sample into two bottles (using Sample collection equipment compliant to ISTI provision 6.3.4) in the presence of the independent witness. The splitting of the “B” Sample shall be documented in the chain of custody. The independent witness will be invited to seal one of the bottles using a tamper evident method. If the analysis of the first bottle reveals an Adverse Analytical Finding, the Testing Authority shall use reasonable efforts to notify the Athlete as provided in Article 7.3 of the Code.”*

III. DISCUSSION

A. Anti-Doping Rule Violation

i. Establishment of an anti-doping rule violation

72. The presence of metabolites of a Prohibited Substance has been established in 2016 in the sample n°1842845 that the Athlete provided on 18 August 2008, upon the occasion of the 2008 Olympic Games.

73. The substance detected in the Athlete's sample (dehydrochloromethyltestosterone, "turinabol") is an exogenous anabolic steroid. It is listed in the WADA 2008 Prohibited List and in all subsequent lists.
74. 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.
75. The Athlete does not dispute the validity of the analytical findings nor brings forth any argument in this respect.
76. The legal and procedural arguments of the Athlete are addressed below.
77. The Disciplinary Commission is in any event satisfied that the analytical results are valid and do properly establish the presence of the Prohibited Substance at stake in the Athlete's sample.
78. The Disciplinary Commission observes that such presence is formally established by the analytical results of the B1-Sample confirmed by the analytical results of the B2-Sample in accordance with the procedure set forth in Art. 5.2.2.12.10 ISL.
79. The fact that these results confirm the analysis conducted on the remains of the A-Sample further strengthen the results. This is even more the case since the Disciplinary Commission could observe from the laboratory document package of the A-Sample, which was specifically provided at the Athlete's request, that the Laboratory did include in its analysis procedure of the A-Sample not merely a screening process but also already a specific direct confirmation of the presence of metabolites of the Prohibited Substance in the A-Sample.
80. In effect, the analytical results do thus specifically confirm the presence of metabolites of the Prohibited Substance in each of the A-, the B1- and the B2-Sample. This can only give more comfort in regard of the overall validity of the results and the conclusion they allow to draw in respect of the presence of the Prohibited Substance in the Athlete's samples.
81. Based on the above, the Disciplinary Commission finds that a Prohibited Substance (metabolites thereof) was effectively found present in the Athlete's bodily specimens and that an anti-doping rule violation pursuant to Art. 2.1 of the Rules consisting in such presence is thus established.
82. In addition, the Disciplinary Commission finds that an anti-doping rule violation can also be established if the circumstances were considered in the perspective of Art. 2.2 of the Rules.
83. In this respect, the Disciplinary Commission observes that the nature of the substance which was found in the Athlete's sample (i.e. a classical doping substance) makes this results consistent with the use of a Prohibited Substance specifically ingested to deliberately improve performance.
84. The Disciplinary Commission has now handled multiple cases arising out of the re-analysis of samples collected upon the occasion of the 2008 Olympic Games. The presence of metabolites of the specific substance at stake in this case has also been established in a remarkably high number of these cases. This constitutes an indication that such substance has been widely used by athletes, who were doping at that time.

85. Prior to the application from 2012/2013 of a new detection method searching for long term metabolites, the detection window for turinabol was limited to a short period of time (approx. 5 to 10 days).
86. The new method significantly extended the detection window (up to 50 and more days). Such a significant extension was not taken into account in the planning of doping and this is the obvious explanation for the unfortunately spectacular and unprecedented high number of positive cases, which were revealed by the re-analysis process. Athletes, who had initially managed to escape detection are presently caught.
87. It is an illustration of the effectiveness of the re-analysis process and of the essential message it sends: "Never safe!".
88. As already mentioned, the Athlete does not challenge the analytical results and thus implicitly admits their validity. She further does not even attempt to explain how the Prohibited Substance ended up being found in her sample. She thus does not bring any element, which could rebut, given the circumstance, the likeliest of all the explanations: that she deliberately used a doping substance, which at that time could not have been detected with the then available detection methods.
89. In conclusion, the Disciplinary Commission finds that an anti-doping violation is established pursuant to both Art. 2.1 and Art. 2.2 of the Rules.

*ii. **Consequences of the anti-doping rule violation***

90. Under the Rules, the consequences of anti-doping rule violations are limited to consequences in connection with the 2008 Olympic Games.
91. In application of Art. 8.1 of the Rules, the results achieved by the Athlete in the Competition in which the sample was collected shall automatically be annulled, with all resulting consequences (notably withdrawal of medals, diplomas, pins etc.). This applies to the results obtained in connection with the Women's triple jump event.
92. In application of Art. 9.1 of the Rules, the results achieved by the Athlete in connection with other Competitions shall in this case also be annulled, with all resulting consequences (notably withdrawal of medals, diplomas, pins etc.). This concerns the results obtained in connection with the Women's long jump event.
93. The Disciplinary Commission notes that there is no place in this case for an application of Art. 9.1.1 of the Rules, which could justify to abstain from cancellation of these latter results.
94. On the contrary, the fact that the Prohibited Substance at stake is an anabolic steroid, regularly used to build up performance on the long run requires the application of the consequences to all results.
95. Furthermore, the Athlete did not even try to establish that she would bear no fault nor negligence. In view of the circumstances, it is in any event unlikely that she could have succeeded to do it.
96. 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 2008 Olympic Games, shall be conducted by the relevant International Federation, i.e. the International Association of Athletics Federation ("**IAAF**").

B. Arguments of the Athlete

97. As mentioned, the Athlete does not challenge the analytical results.
98. She however raises various objections, which are of formal procedural nature. These arguments are addressed below.

i. Basis for confirmation of the Presumptive Adverse Analytical Findings/report of the Adverse Analytical Finding

99. According to the Athlete, the indication of the presence of the Prohibited Substance, which was indicated in the document reporting the result of the analysis of the A-Sample and described as a PAAF could only have been fully confirmed analytically based on the analysis of further aliquots of the A-Sample and not based on the analytical results of the B1-Sample.
100. The Athlete refers in this respect in particular to Art. 5.2.4.3.1.1 of the **ISL 2008**.
101. Given the specific reference to the ISL 2008, the Disciplinary Commission notes that it is first necessary to determine the applicable version of the ISL.
102. Art. 6.4 of the Rules provides that the rules applicable to the analysis and the reporting of the results are set forth in the International Standard for Laboratory (ISL).
103. The Rules themselves do not expressly specify which version of the ISL is applicable.
104. The Disciplinary Commission does however observe that the applicable version is nevertheless determined by the Rules, when such are read in combination with the provisions of WADAC, which are to be taken into consideration in application of Art. 16.1 of the Rules.
105. According to WADAC 2003 (Introduction p.2): “*ISL and all revisions become effective on the date specified in the International Standard or revision*”.
106. In application thereof, the version of the ISL applicable to the re-analysis process conducted by the laboratory in Lausanne in June 2016 is without question the ISL 2016 (version 9.0), which came into effect on 2 June 2016.
107. The Disciplinary Commission observes that this is specifically confirmed by Art. 5.2.2.2.12.9 ISL 2016, which clarifies that the re-analysis is governed by the ISL and TDs in effect at the time of the re-analysis and thus confirms the solution already resulting from the WADAC.
108. The Disciplinary Commission finally observes that “analytical procedures”, which are set forth in the ISL are, as the words already tell, of procedural/processual nature. They do not modify the fundamental material rights and obligations at stake, which in this case is the fundamental obligation not to use Prohibited Substances.
109. The fact that revisions of the ISL do apply immediately to analysis of samples irrespective of their collection date is thus also consistent with the general principle that rules of procedural nature become immediately applicable.
110. In respect of procedures linked with scientific and analytical processes, this principle seems particularly adequate: one would and should expect laboratories to always apply the most up to date processes. Further, the laboratories, which may be required to keep

samples for years, cannot be expected to apply different procedures depending on the date of the collection of samples. This would be unmanageable.

111. In conclusion, the Disciplinary Commission finds that the ISL applicable to the analysis and reporting of the results in this case are clearly the ISL 2016.
112. The applicable ISL (Art. 5.2.2.12.10 ISL 2016) expressly provides for the possibility to follow the process, which the IOC decided to apply in the case of the Athlete's samples, in the same manner as in the case of all the other athlete's samples, which were subject to further analysis.
113. Such process consists in using the A-Sample only for initial analysis. In this context and as expressly provided for in the ISL, the relevant confirmation analysis, on which basis an AAF is possibly issued, is not conducted on the A-Sample but on the first bottle (B1-Sample) of the split B-Sample.
114. If the analysis of the B1-Sample is positive, the result is then used as basis for the AAF notification.
115. In such context, the B1-Sample becomes effectively a replacement of the A-Sample and the B2-Sample, a replacement of the B-Sample.
116. This must be applied in particular to the notification process set forth in art. 7.2.5 of the Rules, which has to be applied *mutatis mutandis* in this specific context.
117. In conclusion, the Disciplinary Commission finds that the AAF was therefore correctly established and notified based on the confirmation analysis performed on the B1-Sample. This was done following a procedure entirely consistent with the provisions of the applicable ISL 2016.
118. For the sake of good order, the Disciplinary Commission notes that the possibility to proceed in this manner was already provided in the ISL 2008 (see art. 5.2.2.12.1.2 ISL 2008). Indeed, the ISL 2008 already sets forth the possibility to establish an AAF based on the first bottle of a split B-Sample and to notify such on this basis.
119. The argument based on the fact that the possibility to conduct further analysis based on split B-Samples would not have existed in 2008 is thus in any event incorrect. Such possibility was already expressly provided in the ISL in 2008.

ii. No case of retroactive application of the Rules

120. The Athlete attempts to claim that the establishment of the anti-doping rule violation based on a split B-sample would constitute a retroactive application of the Rules.
121. The Disciplinary Commission finds that the argument is without merits.
122. As just mentioned above, the possibility to perform the relevant analysis on a split B-Sample is first of all not new: it was already provided for in the ISL 2008. The argument is therefore not even factually founded.
123. The obligation not to use listed Prohibited Substances and the fact that samples collected upon the occasion of the Olympic Games could be subject to further reanalysis during several years after the Games are clearly set forth in the Rules to which athletes participating in the Olympic Games 2008 did specifically agree to submit to as a condition of their participation.

124. The corresponding undertakings were given at the time of the Olympic Games. Their substance did not change in the meantime. The present case is the enforcement of these undertakings given by the Athlete, when she applied to be eligible to participate in the Olympic Games. It does not imply that new obligations, which would not already have existed at the time of the Olympic Games, would have been imposed retroactively on the Athlete.
125. In particular, the modalities of the further analysis do not modify the material content of the above described obligations.
126. Furthermore, the fact that these modalities could evolve was expressly foreseen as part of the Rules. It does therefore not imply a retroactive application of rules which would have been newly established.

iii. Retirement does not exempt the Athlete from the application of the Rules

127. As mentioned above, the Athlete did agree with the application of the Rules.
128. Such agreement does expressly cover the fact that the samples collected upon the occasion of the 2008 Olympic Games can be subject to further analysis.
129. This is very clearly set forth in Art. 6.5 of the Rules. The same provision does also very clearly provide that, if an anti-doping rule violation is established in this context, it shall be dealt with in accordance with the Rules.
130. The Rules *inter alia* provide that the further analysis has to be conducted in application of the ISL. As shown above, the applicable ILS are those in force at the time of the further analysis.
131. The undertaking to accept the application of the above was given at the time of the 2008 Olympic Games and in respect of the participation to a specific edition of the Olympic Games. The further activities of the Athlete have no relevance within the defined period of the Olympic Games covered by the Rules.
132. The retirement of the Athlete after the 2008 Olympic Games does in particular not have any relevance in respect of the undertaking, which the Athlete gave in specific connection with the defined period of the Olympic Games.
133. An athlete cannot “retire from Olympic Games” to which he or she did participate.
134. The retirement of the Athlete thus does not exempt her from remaining accountable for the undertakings she gave in connection with her participation in the Olympic Games.
135. The Disciplinary Commission observes that the interest of the IOC and of the other athletes to obtain a correction of the results, which is the justification of the re-analysis, remains completely actual, irrespective of the fact that an athlete, who may have unduly obtained a result, has or not retired.
136. It would be obviously not acceptable that an athlete, who committed an anti-doping rule violation could retain his or her results and/or medals just because he or she retired (whilst an active athlete in the same situation would have to accept the application of the Rules).
137. The situation of athletes, who are to duly receive the medals and would be deprived thereof just because of athletes, who would have committed anti-doping rule violations and retired, is even less acceptable.

138. In conclusion, the Disciplinary Commission can only conclude that the Athlete's retirement has no relevance whatsoever in connection with the application of the Rules.

iv. The statute of limitation is not applicable

139. The applicable statute of limitations is the one set forth in the Rules in reference to Art. 17 WADAC (applicable by reference in Art. 6.5 and also 16.1 of the Rules).

140. The Disciplinary Commission observes that the action against the Athlete was in any event "commenced" before 8 years from the sample collection.

141. The AAF related to the sample collected on 18 August 2008, was indeed notified and the Disciplinary Commission constituted on 29 July 2016.

142. The argument of the Athlete, which is furthermore based on the incorrect assumption that the notification of the AAF would not be valid, is in any event without merits.

v. Disqualification of the results achieved on 22 August 2008

143. The Athlete alleges that her results achieved on 22 August 2008 in the Long Jump event should in any event not be disqualified.

144. In this respect, the Disciplinary Commission refers to the explanations already set forth under (A. ii) above.

145. All the results achieved by the Athlete upon the occasion of the Olympic Games have to be annulled in application of Art. 9.1 of the Rules.

146. In view of the circumstances, an exemption in application of Art. 9.1.1 of the Rules is indeed not conceivable.

147. The consequences drawn in application of Art. 9.1 of the Rules are not based on the sample collected on 22 August 2008, in connection with which no further analysis was performed and which was therefore not a subject matter of these proceedings.

148. The cancellation of the results in the Long Jump event are a consequence of the proceedings conducted on the basis of the analytical results of the sample collected on 18 August 2016.

* * * * *

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, 9 and 16 thereof.

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Tatiana LEBEDEVA:
 - (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 (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 Beijing 2008, namely, the Women's triple jump event and the Women's long jump event in which she twice ranked 2nd and for which she was consequently awarded in each case the silver medal, and
 - (iii) has both silver medals, diplomas and medallist pins obtained in the Women's triple jump event and the Women's long jump event withdrawn and is ordered to return the same.
- II. The IAAF is requested to modify the results of the above-mentioned events accordingly and to consider any further action within its own competence.
- III. The Russian Olympic Committee shall ensure full implementation of this decision.
- IV. The Russian Olympic Committee shall notably secure the return to the IOC, as soon as possible, of the silver medals, the diplomas and the medallist pins awarded in connection with the Women's triple jump event and the Women's long jump event to the Athlete.
- V. This decision enters into force immediately.

Lausanne, 25 January 2017

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Gunilla Lindberg



Ugur Erdener