

**INTERNATIONAL OLYMPIC COMMITTEE**

**IOC DISCIPLINARY COMMISSION**

**DECISION**

**REGARDING ANDREI RYBAKOU  
BORN ON 4 MARCH 1982, BELARUS, ATHLETE, WEIGHTLIFTING**

(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. Andrei RYBAKOU (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 85 kg weightlifting event in which he ranked 2<sup>nd</sup> and for which he was awarded a silver medal.
3. On 10 August 2008, the Athlete was requested to provide a first urine sample for a doping control. Such sample was identified with the number 1846749.
4. On 13 August 2008, the Athlete was requested to provide a second urine sample for a doping control. Such sample was identified with the number 1845963.
5. The A-Samples 1846749 and 1845963 were analysed during the 2008 Olympic Games by the WADA-accredited Laboratory in Beijing. Such analyses did not result in adverse analytical findings at that time.
6. 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.
7. 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.
8. 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).

9. The decision to proceed based on split B-samples was made in principle for all the re-analysis.
10. 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.
11. At that time, resealing of A-Samples (or transport in sealed containers) was not a requirement pursuant to the applicable ISL (2008).
12. 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.
13. 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).
14. Pursuant to the ISL, the presence of the Athlete is not a requirement for such first phase of the B-Sample analysis.
15. 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.
16. The remains of the A-Samples of the Athlete were subject to initial analysis. Such analysis resulted in two Presumptive Adverse Analytical Findings (“**PAAF**”) as it indicated the potential presence of two Prohibited Substance in each sample: stanozolol and dehydrochloromethyltestosterone (turinabol).
17. On 11 July 2016, the Athlete through his NOC was informed of the two PAAF and of the possibility to attend the opening and splitting of the B-Samples into a B1- and B2-Samples, the sealing of the B2-Samples and the analysis of the B1-Samples.
18. On 14 July 2016, the Athlete sent his completed PAAF Notification Appendix to the IOC through his NOC, in which he indicated that he would not attend the opening, splitting of the B-Samples, the sealing of the B2-Samples and the analysis of the B1-Samples, neither personally nor through a representative.
19. On the same day, the IOC informed the Athlete, through his NOC, that the opening, splitting of the B-Samples, the sealing of the B2-Samples and the analysis of the B-Samples were scheduled to take place on 18 July 2016 at the Laboratory.
20. The opening and splitting of the B-Samples, the sealing of the B2-Samples occurred on 18 July 2016 at the Laboratory.
21. The Athlete did not attend the opening and splitting of the B-Samples and was not represented on this occasion.
22. As provided in the ISL, the opening and splitting was attended by an independent witness.
23. The results of the B1-Samples analysis were reported on 22 July 2016. These results establish the presence of the metabolites of two Prohibited Substances, namely stanozolol and dehydrochloromethyltestosterone (turinabol), in each sample.

24. Such results constitute Adverse Analytical Findings (“**AAF**”). They were reported to the IOC in accordance with article 7.2.1 of the Rules.
25. 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.
26. 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)
27. On 26 July 2016, the IOC notified the Athlete through his NOC of the above-mentioned AAFs 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 attend the opening of the B2-Samples and their analyses, either in person and/or through a representative, which were initially scheduled to take place on 8 or 9 August 2016. The Athlete was finally informed of his right to request a copy of the laboratory documentation packages.
28. On 1 August 2016, the Athlete through his NOC provided the IOC with his completed AAF Notification Appendix in which he indicated that he did not accept the Adverse Analytical Findings and requested the opening and analysis of the B2-Samples. He indicated that he would not attend personally the process and that he would not be represented on this occasion. He also requested a copy of the laboratory documentation packages.
29. On 2 August 2016, the IOC informed the Athlete that the opening of the B2-Samples would take place on 8 August 2016 at the Laboratory followed by the analytical analysis of the samples over the following days.
30. As planned, the opening of the B2-Samples occurred on 8 August 2016 in the presence of an independent witness followed by the analysis.
31. The results of the B2-Samples analysis were reported to the IOC on 11 August 2016. They confirmed the presence in the B2-Samples of the metabolites of two Prohibited Substances, namely stanozolol and dehydrochlormethyltestosterone (turinabol) in each sample.
32. On 16 August 2016, the IOC communicated to the Athlete the results of the B2-Samples analysis. The Athlete was also invited to indicate whether he accepted the Adverse Analytical Findings, whether he would attend the hearing of the Disciplinary Commission and/or he would submit a defence in writing. The Athlete was also informed of his right to request a copy of the laboratory documentation packages.
33. On 19 August 2016, the Athlete sent to the IOC through his NOC his completed Disciplinary Commission Form in which he indicated that he did not accept the Adverse Analytical Findings. He did not request a copy of the B2-Sample laboratory documentation packages. He also indicated that he would not attend the hearing of the Disciplinary Commission, neither personally nor through a representative, and that he would not present a defence in writing.

34. On 19 August 2016, the IOC acknowledged receipt of the completed Disciplinary Commission Form and offered once the possibility to the Athlete to submit a defence within a deadline expiring on 31 August 2016.
35. On 24 August 2016, the IOC provided the Athlete through his NOC with a copy of the requested B1-Samples and B2-Samples laboratory documentation packages.
36. On 31 August 2016, the Athlete through his NOC submitted a written defence.
37. In his written defence, the Athlete submitted that he had always been very responsible in preparing for a competition and had never used a banned substance in his career. He contended that he had been subject to several out of competition doping tests during his career and that none of them had ever been reported positive.
38. To explain the presence of the prohibited substances in his samples, the Athlete supposed that he used the banned substances unintentionally by consuming food supplements bought in Russia. He asserted that, due to the long period of time since 2008, he was not in the position to provide the Disciplinary Commission with any evidence related to the product used at the time to prove his innocence.
39. On 6 September 2016, the IOC acknowledged receipt of the written defence filed by the Athlete and advised the Athlete that his arguments would be brought to the attention of the Disciplinary Commission.
40. On 27 September 2016, the NOC and the IF were informed that the Athlete decided not to attend the hearing of the Disciplinary Commission and that a decision would be issued on the basis of the file. The IOC invited the NOC and the IF to file written observations by 12 October 2016.
41. Neither the NOC nor the IF replied.

## **II. APPLICABLE RULES**

42. These proceedings are conducted in application of the Rules.
43. 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.”*

44. 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.”*

45. 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.”*

46. 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.”*

47. 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.”*

48. 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.”*

49. 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”.*

50. 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**

51. The presence of metabolites of two Prohibited Substances, i.e. stanozolol and dehydrochlormethyltestosterone (turinabol), has been established in 2016 in the samples 1846749 and 1845963 that the Athlete provided on 10 August 2008 and 13 August 2008, upon the occasion of the 2008 Olympic Games.
52. The substances detected in the Athlete’s samples are anabolic steroids. They are listed in the WADA 2008 Prohibited List and in all subsequent lists.
53. The Disciplinary Commission is satisfied that the samples which have been re-analysed by the Laboratory are unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards occurred.
54. In the written observations he submitted, the Athlete does not bring forth any element challenging the validity of the analytical results.
55. The Athlete simply denies having used performance-enhancing substances. As an explanation for the presence of the Prohibited Substances, he raises the hypothesis that the substances may have been contained in supplements bought in Russia at that time.
56. Based on the analytical results establishing the presence of Prohibited Substances in the Athlete’s samples, the Disciplinary Commission finds that the Athlete has in any event committed an anti-doping rule violation pursuant to Art. 2.1 of the Rules.
57. In addition, the Disciplinary Commission finds that an anti-doping rule violation is also established if the circumstances are considered in the perspective of art. 2.2 of the Rules.
58. The Disciplinary Commission observes that the nature of the substances which were found in the Athlete’s sample are consistent with intentional use of Prohibited Substances specifically ingested to deliberately improve performance. The fact that the metabolite of doping substances, which are “classical” doping substances were found, supports this consideration.
59. Furthermore, the Disciplinary Commission observes that the fact that the substances in question may have been contained in food supplement would not exonerate the Athlete from having used it.
60. First, the use of food supplements in which Prohibited Substances are ingredients may just be a way of using deliberately such Prohibited Substances. The fact that the Prohibited Substances might be included in a food supplement does not make it less reprehensible to use than the substance in isolation.
61. Furthermore, athletes have been repeatedly warned to apply extreme caution when using food supplements, which may contain undeclared Prohibited Substances or which may have been contaminated during production.
62. With the mere hypothesis that the source of finding could be food supplement, the Athlete does not establish that he applied the required level of caution. Assuming for the sole purpose of discussion, that the source of the analytical finding would indeed be

“supplements bought in Russia” in which the Prohibited Substances would have been included without the Athlete’s knowledge, there is in any event no indication (not to speak of any evidence) in the Athlete’s explanations that he satisfied the high duty of care and caution in choosing food supplements, which is expected from high-level athletes.

63. In conclusion, the Disciplinary Commission finds that an anti-doping violation is thus established pursuant to both Art. 2.1 and Art. 2.2 of the Rules.
64. The consequences of an anti-doping rule violation under the Rules 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.
65. In application of Art. 8.1 and/or Art. 9 of the Rules, the results achieved by the Athlete at the Men’s 85 kg weightlifting event in which he ranked 2nd during the 2008 Olympic Games, shall be annulled, with all resulting consequences (notably withdrawal of medal, diploma, pin etc.).
66. 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 Weightlifting Federation (“**IWF**”).

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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, Andrei RYBAKOU:
  - (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 Men's 85 kg weightlifting event in which he participated upon the occasion of the Olympic Games Beijing 2008,
  - (iii) has the medal, the medallist pin and the diploma obtained in the Men's 85 kg weightlifting event withdrawn and is ordered to return the same.
- II. The IWF 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 medal, the medallist pin and the diploma awarded in connection with the Men's 85 kg weightlifting event.
- V. This decision enters into force immediately.

Lausanne, 19 October 2016

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Gunilla Lindberg



Ugur Erdener