

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING DENIS ALEXEEV
BORN ON 21 DECEMBER 1987, 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, 9 and 10 thereof:

I. FACTS

1. Denis ALEXEEV (hereinafter the “**Athlete**”), participated in the Games of the XXIX Olympiad in Beijing in 2008 (the “**2008 Olympic Games**”).
2. On 18 August 2008, the Athlete competed in the 400m event (Round 1) in which he ranked 23rd.
3. From 22 to 23 August 2008, the Athlete also competed in the 4x400m event (Round 1 and Final) in which he and his teammates ranked 3rd and were awarded the bronze medal.
4. On 23 August 2008, on the occasion of the 4x400m Final, the Athlete was requested to provide a urine sample for a doping control. This doping control was performed at the request of the IOC. Such sample was identified with the number 1846196.
5. The A-Sample 1846196 was analysed during the 2008 Olympic Games by the WADA-accredited Laboratory in Beijing, but did not result in an adverse analytical finding 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 (“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 in order to possibly detect Prohibited Substances which could not be 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. Pursuant to the ISL, the presence of the Athlete for the first phase of the B-sample process (opening and splitting of the B-sample in a B-1 and a B-2 sample and analysis of the B1 sample) is not a requirement.
11. The IOC nevertheless decided, 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.
12. 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 the metabolites of a Prohibited Substance: dehydrochloromethyltestosterone (turinabol).
13. 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.
14. On 26 May 2016, the IOC received his completed PAAF Notification Appendix sent by the Athlete through his NOC in which he indicated that he would not attend the opening, splitting of the B-Sample, the sealing of the B2-Sample and analysis of the B1-Sample.
15. On the same day, the IOC informed the Athlete, through his NOC, that the opening and splitting of his B-Sample would occur on 31 May 2016 followed by the analysis of the B1-Sample over the following days. The Athlete was also informed that the NOC would send a representative to attend the opening, splitting of the B-Sample and the sealing of the B2-Sample.
16. The opening, splitting of the B-Sample, and the sealing of the B2-Sample occurred on 31 May 2016. The Athlete did not attend the process and was not represented on this occasion.
17. As provided in the ISL, the opening and splitting was attended by an independent witness. Mr Victor Berezov, Deputy Chief of the Russian Olympic Committee Legal Department attended the same part of the process on behalf of the NOC.
18. The analysis of the B1-Sample was then conducted over the following days.
19. The Laboratory reported the results of the B1-Sample analysis on 2 June 2016. They confirmed the presence of the metabolite of a Prohibited Substance, namely dehydrochloromethyltestosterone (turinabol).
20. Such results constitute an Adverse Analytical Finding (“**AAF**”). They were reported to the IOC in accordance with Art. 7.2.1 of the Rules.
21. 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.
22. 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 Juridical Commission;

- Mrs Gunilla Lindberg (Sweden)
- Mr Ugur Erdener (Turkey)

23. On 3 June 2016, the IOC notified the Athlete, through his NOC, of the above-mentioned AAF and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission. The IOC also informed the Athlete of his right to request and attend the opening and analysis of the B2-Sample, either in person and/or through a representative. He was finally informed of his right to request a copy of the laboratory documentation package.
24. On 8 June 2016, the Athlete sent his completed AAF Notification Appendix directly to the IOC in which he indicated that he did not accept the Adverse Analytical Finding and requested the opening and analysis of his B2-Sample. He did not indicate whether he would attend the process, neither personally nor through a representative, and requested a copy of the laboratory documentation package.
25. On 10 June 2016, the IOC informed the Athlete through his NOC that the opening analysis of his B2-Sample was scheduled to take place on 14 June 2016 and that the analysis would be conducted over the following days. The IOC once again invited the Athlete to indicate whether he would attend the process.
26. On 11 June 2016, the Athlete informed the IOC that he would not attend the process and that he would not send a representative on this occasion.
27. The opening of the B2-Sample occurred on 14 June 2016 in the presence of an independent witness, followed by the analysis of the B2-Sample over the following days.
28. The results of the B2-Sample analysis were reported to the IOC on 16 June 2016. They confirmed the presence in the B2-Sample of the metabolite of a Prohibited Substance, namely dehydrochloromethyltestosterone (turinabol).
29. On 20 June 2016, the IOC communicated to the Athlete, through his NOC, the results of the B2-Sample analysis. The Athlete was invited to indicate whether he accepted the B2-Sample Adverse Analytical Finding and whether he requested a copy of the B2-Sample laboratory documentation package. He was also informed that he had the possibility to attend the hearing of the Disciplinary Commission, which would be scheduled in July 2016, and/or to submit a defence in writing.
30. By email dated 23 June 2016, the Athlete filed written observations.
31. In his written observations, the Athlete requested a copy of the A, B1 and B2 Sample laboratory documentation packages.
32. He further informed the IOC that he would personally attend the hearing of the Disciplinary Commission, assisted by his lawyer and a scientific expert.
33. The Athlete asserted that he had never intentionally used any prohibited substances and/or methods. He requested to be given reasonable time in order to collect reliable evidence and to study thoroughly the laboratory documentation packages once they were provided.
34. On 1 July 2016, the IOC provided the Athlete with a copy of the B1-Sample laboratory documentation package.
35. On 7 July 2016, the IOC provided the Athlete with a copy of the B2-Sample laboratory documentation package.

36. On 13 July 2016, the IOC provided the Athlete with additional documentation related to his samples, in particular their handling in Beijing and transfer to the WADA-accredited laboratory in Lausanne.
37. The Athlete was also informed that the hearing of the Disciplinary Commission would be scheduled to take place on 21 July 2016 and the IOC invited him to indicate by 15 July 2016 whether he would attend the hearing, either personally and/or through a representative, in person or via videoconference. He was also offered the possibility to submit a written defence by 19 July 2016.
38. On the same day, the NOC and the IF were invited to submit written observations by 19 July 2016.
39. The NOC and the IF did not reply.
40. On 15 July 2016, the Athlete informed the IOC that he would do his best to ensure his representative would attend the hearing of the Disciplinary Commission. He also informed the IOC that he would attend the hearing via video-conference. He finally requested the IOC to confirm the exact time of the hearing.
41. On 15 July 2016, the IOC informed the Athlete that the hearing was scheduled to start at 8:30 am and asked the Athlete to provide the name of his representative. He was further reminded that he had the possibility to submit a written defence by 19 July 2016.
42. By email dated 20 July 2016, the Athlete informed the IOC that he would not be able to attend the hearing of the Disciplinary Commission for family reasons. The Athlete was advised that the IOC considered that he waived his right to attend the hearing, either personally or through a representative. The Athlete was further advised that unless he informed the IOC otherwise by noon on 21 July 2016, the Disciplinary Commission would issue a decision on the basis of the file, taking into account the Athlete's previous submissions, in particular his letter received on 23 June.
43. The Athlete did not reply.
44. Accordingly, the Disciplinary Commission issues this decision on the basis of the file.

II. **APPLICABLE RULES**

45. 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.*

46. 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.”

47. 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.”

48. 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.”

49. 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.”

50. 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.”

51. 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".

52. Art. 10.1 of the Rules provides as follows:

"Where more than one team member in a Team Sport has been notified of a possible Anti-Doping Rule violation under Article 7 in connection with the Olympic Games, the Team shall be subject to Target Testing for the 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 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 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."

53. Rule 39 of the IAAF Competition Rules 2008 provides as follows:

"Disqualification of Results

- 1. Where an Anti-Doping Rule violation occurs in connection with an in-competition test, the athlete shall be automatically disqualified from the event in question and from all subsequent events of the competition, with all resulting consequences for the athlete, including the forfeiture of all titles, awards, medals, points and prize and appearance money.*
- 2. Where the athlete who commits an Anti-Doping Rule violation under Rule 39.1 is a member of a relay team, the relay team shall be automatically disqualified from the event in question, with all resulting consequences for the relay team, including the forfeiture of all titles, awards, medals, points and prize and appearance money. If the athlete who has committed an Anti-Doping Rule violation competes for a relay team in a subsequent event in the competition, the relay team shall be disqualified from the subsequent event, with all the same resulting consequences for the relay team, including the forfeiture of all titles, awards, medals, points and prize and appearance money."*

III. DISCUSSION

1. Anti-Doping Rule Violation

a. Establishment of anti-doping rule violation

54. The presence of the metabolite of a Prohibited Substance has been established in 2016 in the sample 1846196 that the Athlete provided on 23 August 2008, upon the occasion of the 2008 Olympic Games.
55. The substance detected in the Athlete's sample is an exogenous anabolic steroid. It is listed in the WADA 2008 Prohibited List and in all subsequent lists.

56. 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.
57. In spite of the arguments submitted by the Athlete, which are discussed below, the Disciplinary Commission is further satisfied that the analytical results are valid and do properly establish the presence of the Prohibited Substance at stake in the Athlete's samples.
58. Based on the above, the Disciplinary Commission finds that an anti-doping rule violation pursuant to Art. 2.1 of the Rules consisting in the presence of a Prohibited Substance in the Athlete's body is established.
59. In addition, the Disciplinary Commission finds that an anti-doping rule violation could also be held as established if the circumstances were considered in the perspective of art. 2.2 of the Rules.
60. In this respect, the Disciplinary Commission observes that the nature of the substance which was found in the Athlete's sample (i.e. a traditional doping substance) makes this result consistent with the use of Prohibited Substance specifically ingested to deliberately improve performance.
61. The Disciplinary Commission, which has now handled multiple cases arising out of the re-analysis of samples from the 2008 and 2012 Olympic Games, observes that the presence of metabolites of this particular substance has been established in a remarkably high number of cases, which resulted from the re-analysis of the samples collected in Beijing 2008 and London 2012.
62. This constitutes an indication that said substance had been in widespread use by athletes, who were doping at that time.
63. Prior to the application of a new detection strategy searching for metabolites remaining detectable over a much longer period of time and which began to apply only from late 2012 /2013, the detection window of said substance was limited to a much shorter period of time (5 to 10 days).
64. The search for the newly established so called "long term" metabolites significantly extended the detection window (up to 50 and more days). Such a significant extension of the detection window is the obvious explanation for the unfortunately spectacular and unprecedented high number of positive cases which were revealed by the re-analysis process.
65. Doping is a planned process in which the detection window is a key parameter. The athletes using the substance at the time, and/or the persons who were supporting them in this respect, planned with the detection window applicable at the time. They did not expect that the detection window would subsequently be significantly extended, by virtue of a new method capable of detecting long-term metabolites during a much longer period of time.
66. This explains why athletes, who had in the past effectively managed to avoid anti-doping controls, were caught. It is an illustration of the effectiveness of the re-analysis process and of its purpose, which is essentially to give those, who think they can outsmart the anti-doping controls, the message that they will never be safe.
67. In any event for the purpose of these proceedings, it is not necessary to examine exhaustively whether the Athlete could establish how the substance entered his body, as

the mere establishment of presence suffices to justify the application of the consequences provided for under the Rules.

68. 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.

b. Arguments of the Athlete

69. The Athlete has challenged the commission of an anti-doping violation on the basis of various arguments he submitted by email on 23 June 2016, which are addressed below. None of them puts the above finding into question.

i. Never used a prohibited substance and explanation in regard to source

70. The Athlete alleges that he never used intentionally any prohibited substances and/or methods and always strictly followed his doctor's recommendations.
71. The Athlete further states that he would have to study thoroughly the documentation packages received from the Laboratory to rebut the presumption of the anti-doping rule violation, and to establish any possible contact with a prohibited substance in 2008, in order to present the relevant evidence and to prove No Fault or Negligence.
72. The Athlete was provided with the B1 and B2 documentation packages on 1 and 7 July 2016, respectively. However, despite being invited to submit a defence in writing by 19 July 2016, the Athlete did not do so and eventually did not provide any explanation.
73. The Disciplinary Commission observes that the presence of a Prohibited Substance is established and that the Athlete is not providing any element undermining that finding or explaining it. Pursuant to the Rules, such established presence is in any event in itself sufficient to establish an anti-doping violation.
74. In the absence of any element brought forward by the Athlete and given the nature of the substance at stake, i.e. a classical doping substance, the Disciplinary Commission can further only observe that the Athlete did not provide any evidence that he did not intentionally use a Prohibited Substance.

ii. Correctness of the analysis conducted by the Laboratory

75. In his email dated 23 June 2016, the Athlete questions the correctness of the analysis conducted by the Laboratory.
76. The basis of the Athlete's challenge are (i) the Laboratory reported a "presumptive adverse analytical finding", a finding the Athlete alleges is not provided for in par. 5.2.6.8 of the ISL 2015; and (ii) the Athlete alleges that the Laboratory reported at least three false-positive analytical results during the same period his samples were analysed, which ought to have resulted in the Laboratory being suspended and the Athlete's samples being re-analysed.
77. Regarding the "Presumptive Adverse Analytical Finding": the Athlete's argument is without merit. According to par. 5.2.2.12.10 ISL 2015, the Testing Authority may use the A-Sample for an initial analysis. "Presumptive Adverse Analytical Finding" is the ISL defined term for a suspicious result obtained through an initial analysis (see par 3.2 ISL 2015).

78. When reporting the information that such a result had been obtained, the Laboratory simply used this term to correctly describe such result. The corresponding information was provided to the Athlete to explain the reason why the IOC had decided to proceed to confirmation analysis based on a split B-sample, in accordance with the option expressly provided for in the ISL.
79. There is nothing surprising or wrong in this process, which conforms to the ISL. The Disciplinary Commission observes that the IOC gave the Athlete the opportunity to attend the B-Sample splitting and the B1- analysis, whilst this is not a requirement. The information about the existence of a Presumptive Adverse Analytical Finding was provided in this context and was necessary to explain the reason for the invitation to exercise this additional opportunity. The Athlete's complaint in this respect is therefore misplaced.
80. Regarding the alleged three false-positives reported by the Laboratory: The Athlete alleges "it is widely known that" the Laboratory reported "at least" three false-positives during the period his B1- and B2-Samples were analysed. The Athlete submits that accordingly, the Laboratory should have been immediately suspended pending a full investigation, which might have included the re-analysis of all relevant samples, including the Athlete's, for the preceding 12 months.
81. The Disciplinary Commission notes that the argument raised by the Athlete relates to the accreditation of the Laboratory. The Laboratory has a standing WADA-accreditation and carries out all analysis, including that carried out on the Athlete's samples, in accordance with the applicable standards.
82. To the best of the Disciplinary Commission's knowledge, the allegation of the existence of three false positives is not factually supported and there is no investigation ongoing, nor any process in course, putting the accreditation of the Laboratory into question.
83. In any event this argument has no relevance in regard to the validity of the analysis of the Athlete's sample and is therefore devoid of merit.
84. In conclusion, the Disciplinary Commission rejects the Athlete's arguments and confirms its finding that an anti-doping violation is established pursuant to both Art. 2.1 and Art. 2.2 of the Rules.

2. Consequences of the anti-doping rule violation

85. Under the Rules, the consequences of anti-doping rule violations are limited to consequences in connection with the 2008 Olympic Games.
86. In application of Art. 8.1 and 9.1 of the Rules, the results achieved by the Athlete during the 2008 Olympic Games shall be annulled, with all resulting consequences (notably withdrawal of medals, diplomas, pins etc.).
87. Furthermore, in application of Art. 10.1 of the Rules and Rule 39 of the IAAF Competition Rules 2008, the results achieved by the relay team of which the Athlete was a member shall be annulled, with all resulting consequences for the team (notably withdrawal of medals, diplomas, pins etc.).
88. In application of Art. 9.3 of the Rule, 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 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, 9 and 10 thereof.

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Denis Alexeev:
 - (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 he participated upon the occasion of the Olympic Games Beijing 2008, namely, the 400m event in which he ranked 23rd, and the 4x400m event in which the Russian relay team ranked 3rd and was awarded the bronze medal, and
 - (iii) has the bronze medal, the diploma and the medallist pin obtained in the 4x400m event withdrawn and is ordered to return same.
- II. The Russian 4x400m men's relay team is disqualified from the events in which the Athlete participated upon the occasion of the Olympic Games Beijing 2008, namely the 4x400m event in which the relay team ranked 3rd and was awarded the bronze medal.
- III. The Russian 4x400m men's relay team has the bronze medals, the diplomas and the medallist pins obtained in the 4x400m event withdrawn and is ordered to return same.
- IV. The IAAF is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
- V. The Russian Olympic Committee shall ensure full implementation of this decision.
- VI. The Russian Olympic Committee shall notably secure the return to the IOC, as soon as possible, of the bronze medals, the medallist pins and the diplomas awarded in connection with the 4x400m event to the Athlete and the other members of the relay team.
- VII. This decision enters into force immediately.

Lausanne, 05 September 2016

In the name of the IOC Disciplinary Commission



Ugur Erdener



Denis Oswald, Chairman



Gunilla Lindberg