

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING OLEKSANDR DRYGOL
BORN ON 25 APRIL 1966, ATHLETE, UKRAINE, 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 XXX Olympiad, London 2012 (the “**Rules**”) and, in particular, Articles 1, 2, 6.3.3, 7 and 8 thereof:

1. FACTS

1. Oleksandr DRYGOL (hereinafter the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”).
2. On 3 August 2012, the Athlete competed in the Men’s hammer throw event in which he ranked 34th.
3. On the same day, the Athlete was requested to provide a urine sample for a doping control (in competition). Such sample was identified with the number 2717647.
4. The A-Sample 2717647 was analysed during the 2012 Olympic Games by the WADA-accredited Laboratory in London. Such analysis did not result in an adverse analytical finding at that time.
5. After the conclusion of the 2012 Olympic Games, all the samples collected upon the occasion of the 2012 Olympic Games were transferred to the WADA-accredited “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 2012 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 2012 Olympic Games.
7. The IOC decided that the reanalysis process would be conducted as a regular A and B sample analysis, without resorting to a splitting of the B-sample.
8. The remains of the A-Sample were analysed by the Laboratory and resulted in an Adverse Analytical Finding (“**AAF**”) as it showed the presence of the metabolites of a Prohibited Substance: dehydrochlormethyltestosterone (turinabol).
9. The results were reported to the IOC in accordance with Art. 6.2.1 of the Rules.
10. Further to the verifications set forth in Art. 6.2.2 of the Rules and in application of Art. 6.2.3 of the Rules, the IOC President, Mr Thomas Bach, was informed of the existence of the AAF and the essential details available concerning the case.

11. Pursuant to Art. 7.2.4 of the Rules, the IOC President set up a Disciplinary Commission, consisting in this case of:
 - Mr Denis Oswald (Chairman, Switzerland), who is a member of the IOC Legal Affairs Commission;
 - Mrs Gunilla Lindberg (Sweden)
 - Mr Ugur Erdener (Turkey)
12. On 19 July 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 the opening and analysis of the B-Sample and to attend this process, either in person and/or through a representative. The Athlete was also informed of his right to request a copy of the laboratory documentation package.
13. On 26 July 2016, the Athlete sent to the IOC his completed AAF Notification Appendix in which he indicated that he accepted the AAF and did not request the opening and analysis of the B-Sample. He further indicated that, if conducted, he would not attend the process, neither personally nor through a representative. Finally, he did not request a copy of the laboratory documentation package.
14. On 2 August 2016, the IOC informed the Athlete that, based on the AAF Notification Appendix received, the opening and the analysis of the B-Sample would not be conducted. The Athlete was further informed of the possibility to present his defence in writing and/or to attend the hearing of the Disciplinary Commission.
15. On 9 August 2016, the Athlete sent to the IOC his completed Disciplinary Commission Form in which he indicated that he would not attend the hearing of the Disciplinary Commission, neither personally nor through a representative. He finally indicated that he would not present a defence in writing.
16. On 16 August 2016, the IOC acknowledged receipt of the Disciplinary Commission Form and advised the Athlete that the Disciplinary Commission would issue a decision on the basis of the file. He was invited to submit a written defence by 26 August 2016.
17. The Athlete did not reply.
18. On 27 September 2016, the NOC and the IF were invited to file written observations by 12 October 2016.
19. Neither the NOC nor the IF filed any written observations.

2. APPLICABLE RULES

20. Art. 1 of the Rules provides as follows:

“Application of the Code – Definition of Doping – Breach of the Rules

1.1 The commission of an anti-doping rule violation is a breach of these Rules.

1.2 Subject to the specific following provisions of the Rules below, the provisions of the Code and of the International Standards apply mutatis mutandis in relation to the London Olympic Games.”

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

22. Art. 2.1 of the Code provides that the following constitutes an anti-doping rule violation:

“Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample.

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 Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping violation under Article 2.1.*

2.1.2 *Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete’s A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analysed; or, where the Athlete’s B Sample is analysed and the analysis of the Athlete’s B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete’s A Sample.*

2.1.3 *Excepting those substances for which a quantitative threshold is specifically identified in the Prohibited List, the presence of any quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample shall constitute an anti-doping rule violation.*

2.1.4 *As an exception to the general rule of Article 2.1, the Prohibited List or International Standards may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.”*

23. Art. 2.2 of the Code provides the following constitutes an anti-doping rule violation:

“Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method.

2.2.1 *It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.*

2.2.2 *The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.”*

24. Art. 6.3.3 of the Rules provides as follows:

“Notice to an Athlete or other Person who has been accredited pursuant to the request of the NOC, may be accomplished by delivery of the notice to the NOC. Notification to the Chef de Mission or the President or the Secretary General of the NOC of the Athlete or other Person shall be deemed to be delivery of notice to the NOC.”

25. Art. 7.1 of the Rules provides as follows:

“A violation of these Rules in Individual Sports in connection with Doping Control automatically leads to Disqualification of the Athlete’s results in the Competition in

question, with all other consequences, including forfeiture of any medals, points and prizes.”

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

“An anti-doping rule violation occurring or in connection with the London Olympic Games may lead to Disqualification of all the Athlete’s results obtained in the London Olympic Games with all consequences, including forfeiture of all medals, points and prizes, except as provided in Article 8.1.1.”

27. Art. 8.1.1 of the Rules provides as follows:

“If the Athlete establishes that he or she bears No Fault or Negligence for the violation, the Athlete’s results in the Competitions (for which the Athlete’s results have not been automatically Disqualified as per Article 7.1 hereof) shall not be Disqualified unless the Athlete’s results in Competitions other than the Competition in which the anti-doping rule violation occurred were likely to have been affected by the Athlete’s anti-doping rule violation.”

28. Art. 8.3 of the Rules provides as follows:

“The Consequences of Anti-Doping Rule Violations and the conduct of additional hearings as a consequence of hearings and decisions of the IOC, including with regard to the imposition of sanctions over and above those relating to the London Olympic Games, shall be managed by the relevant International Federation.”

3. DISCUSSION

29. The presence of metabolites of a Prohibited Substance, i.e. dehydrochloromethyltestosterone (turinabol), has been established in 2016 in the sample 2717647 that the Athlete provided on 3 August 2012, upon the occasion of the 2012 Olympic Games.
30. The substance detected is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
31. 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.
32. The Athlete has accepted the Adverse Analytical Finding and did not submit any explanation.
33. Based on the above, the Disciplinary Commission finds that the Athlete has in any event committed an anti-doping rule violation pursuant to 2.1 of the Code consisting in the presence of a Prohibited Substance in his body.
34. 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 Code.
35. The Disciplinary Commission observes that the nature of the substance which was found in the Athlete’s sample is consistent with intentional use of Prohibited Substances specifically ingested to deliberately improve performance. The fact that metabolites of a doping substance, which is a “classical” doping substance was found, supports this consideration.

36. The fact that the Athlete accepted the AAF and did not even attempt to provide any explanation of the presence of a Prohibited Substance in his body provide a further evidence of the use of such substance by the Athlete.
37. 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 Code.
38. The consequences of an anti-doping rule violation pursuant to the Rules are limited to consequences in connection with the 2012 Olympic Games.
39. In application of Art. 7.1 and/or Art. 8.1 of the Rules, the results achieved by the Athlete during the 2012 Olympic Games shall be annulled, with all resulting consequences (notably withdrawal of medal, diploma, pin etc.).
40. In application of Art. 8.3 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 2012 Olympic Games 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 XXX Olympiad in London in 2012 and, in particular, Articles 1, 2, 6.3.3, 7 and 8 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Oleksandr DRYGOL:
 - (i) is found to have committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXX Olympiad in London in 2012 (presence, and/or use, of Prohibited Substances or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the Men's hammer throw event in which he participated upon the occasion of the Olympic Games London 2012, in which he ranked 34th.
- 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 Ukraine shall ensure full implementation of this decision.
- IV. This decision enters into force immediately.

Lausanne, 10 November 2016

In the name of the IOC Disciplinary Commission



Ugur Erdener



Denis Oswald, Chairman



Gunilla Lindberg