

**INTERNATIONAL OLYMPIC COMMITTEE**

**IOC DISCIPLINARY COMMISSION**

**DECISION**

**REGARDING ALMAS UTESHOV  
BORN ON 18 MAY 1988, KAZAKHSTAN, 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 XXX Olympiad, London 2012 (the “**Rules**”) and, in particular, Articles 1, 2, 6.3.3, 7 and 8 thereof:

**I. FACTS**

1. Almas UTESHOV (hereinafter the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”).
2. On 4 August 2012, the Athlete competed in the Men’s 94 kg weightlifting event in which he ranked 7<sup>th</sup> and for which he was awarded a diploma.
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 2721850.
4. The A-Sample 2721850 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 two Prohibited Substances: dehydrochlormethyltestosterone (turinabol) and stanozolol.
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, which was scheduled to take place between 2 and 9 August 2016. The Athlete was also informed of his right to request a copy of the laboratory documentation package.
13. On 25 July 2016, the Athlete sent to the IOC, through his NOC, his completed AAF Notification Appendix in which he did not indicate whether he accepted the Adverse Analytical Finding. He did not indicate whether he would attend the opening and analysis of his B-Sample but mentioned that he would be assisted and represented by Mr Alimzhan Akayev on this occasion. He finally did not indicate whether he requested a copy of the laboratory documentation package.
14. On 27 July 2016, the IOC informed the Athlete, through his NOC, that the opening and analysis of his B-Sample would take place on 9 August 2016 at the Laboratory.
15. The opening of the B-Sample took place on 9 August 2016.
16. The opening of the B-Sample was conducted in the presence of, Mr Akayev, an independent witness and an IOC representative.
17. The results of the analysis were reported to the IOC on 12 August 2016. They confirmed the presence in the B-Sample of the two Prohibited Substances already detected in the A-Sample: dehydrochlormethyltestosterone (turinabol) and stanozolol.
18. On 16 August 2016, the IOC notified the B-Sample results to the Athlete through his NOC. The Athlete was invited to indicate whether he accepted the Adverse Analytical Finding and whether he requested the B-Sample laboratory documentation package. The Athlete was further informed of the possibility to present his defence in writing and/or to attend the hearing of the Disciplinary Commission.
19. The Athlete did not reply.
20. On 24 August 2016, the IOC provided the Athlete with a copy of the A-Sample laboratory documentation package.
21. On 26 September 2016, the IOC sent a reminder to the Athlete through his NOC. The Athlete was invited to indicate by 5 October 2016 whether he would attend the hearing of the Disciplinary Commission and/or present his defence in writing.
22. In the same communication, the Athlete was reminded that in accordance with Art. 6.3.3 of the Rules, notice to an athlete might be accomplished by delivery of the notice to the NOC and that the correspondences sent previously were in any event deemed notified to him. The Athlete was further advised that the Disciplinary Commission would issue a decision on the basis of the file if no reply was given to this correspondence.

23. The Athlete did not reply.
24. On 11 October 2016, the IOC informed the Athlete through his NOC that the Disciplinary Commission would issue a decision on the basis of the file. The Athlete was reminded of the content of Art. 6.3.3 of the Rules and was granted a deadline until 21 October 2016 to submit his written defence.
25. On the same day, the NOC and the IF were invited to file written observations by 21 October 2016.
26. The Athlete did not reply. The NOC and the IF did not file any written observations.

## II. **APPLICABLE RULES**

27. 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.”*

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

29. 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.”*

30. 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.”*

31. Art. 6.2.6 of the Rules provides as follows:

*“The IOC President or a person designated by him shall 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 may be deemed waived;*
- c) the scheduled date, time and place for the B Sample analysis if the Athlete chooses to request an analysis of the B Sample or if the IOC chooses to have the B sample analysed;*
- d) the right of the Athlete and/or the Athlete’s representative to attend the B sample opening and analysis if such analysis is requested;*
- e) the Athlete’s right to request copies of the A and B sample laboratory package, which includes information as required by the International Standard for Laboratories;*
- f) the anti-doping rule violation or, where applicable, instead of the information in (a) to (e), the factual basis of the other anti-doping rule violation(s), and if applicable, the additional investigation that will be conducted as to whether there is an anti-doping rule violation;*
- g) the composition of the Disciplinary Commission.*

*It shall be the responsibility of the chef de mission to inform the relevant National Anti-Doping Organisation of the Athlete.”*

32. 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.”*

33. 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.”*

34. 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.”*

35. 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.”*

36. 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.”*

### **III. DISCUSSION**

37. The results of the analysis of the sample provided by the Athlete establish the presence in his sample of the metabolites of two Prohibited Substances, i.e. dehydrochloromethyltestosterone (turinabol) and stanozolol.
38. The substances detected are anabolic steroids. They are listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
39. The Athlete does not challenge the validity of the analytical results. In his AAF Notification Appendix, the Athlete simply requested the analysis of his B-Sample, which has been conducted and which confirms the presence of the two Prohibited Substances already detected in the A-Sample.
40. Based on the analytical results establishing the presence of two Prohibited Substances in the Athlete’s sample, the Disciplinary Commission finds that the Athlete has in any event committed an anti-doping rule violation pursuant to Art. 2.1 of the Code.
41. 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.
42. The Disciplinary Commission observes that the nature of the substances which were found in the Athlete’s sample is consistent with intentional use of Prohibited Substances specifically ingested to deliberately improve performance. The fact that the metabolites of two doping substances, which are “classical” doping substances, were found, supports this consideration.
43. 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 Code.
44. The consequences of an anti-doping rule violation pursuant to the Rules are limited to consequences in connection with the 2012 Olympic Games.

45. 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.).
46. 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 Weightlifting Federation (“**IWF**”).

\* \* \* \* \*

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, Almas UTESHOV:
  - (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 94 kg weightlifting event in which he participated upon the occasion of the Olympic Games London 2012, in which he ranked 7<sup>th</sup> and for which he was awarded a diploma,
  - (iii) has the diploma obtained in the Men's 94 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 Kazakhstan shall ensure full implementation of this decision.
- IV. The National Olympic Committee of the Republic of Kazakhstan shall notably secure the return to the IOC, as soon as possible, of the diploma awarded in connection with the Men's 94 kg weightlifting event to the Athlete.
- V. 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