

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING MARINA SHAINOVA
BORN ON 14 MARCH 1986, RUSSIAN FEDERATION, 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. Marina SHAINOVA (hereinafter the “**Athlete**”), participated in the Games of the XXIX Olympiad in Beijing in 2008 (the “**2008 Olympic Games**”).
2. On 11 August 2008, the Athlete competed in the 58kg weightlifting event, in which she ranked 2nd and for which she was awarded the silver medal.
3. On 5 August 2008, she was requested to provide a urine sample for a doping control. Such sample was identified with the number 1844163.
4. The A-Sample 1844163 was tested during the 2008 Olympic Games by the WADA-accredited Laboratory in Beijing, but did not result in an adverse analytical finding at the time.
5. After the conclusion of the 2008 Olympic Games, all the samples collected on 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.
6. 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.
7. 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).
8. The decision to proceed based on split B-samples was made in principle for all the re-analysis.

9. 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.
10. At that time, resealing of A-Samples (or transport in sealed containers) was not a requirement pursuant to the then applicable ISL (2008).
11. 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.
12. A similar precautionous 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).
13. Pursuant to the ISL, the presence of the Athlete is not a requirement for such first phase of the B-Sample analysis.
14. 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.
15. The remains of the A-Sample of the Athlete was subject to initial analysis. Such analysis resulted in a Presumptive Adverse Analytical Finding (“**PAAF**”) as it indicated the potential presence of two Prohibited Substances: stanozolol and dehydrochloromethyltestosterone (turinabol).
16. On 18 May 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.
17. By email dated 25 May 2016, the Athlete sent to her NOC her completed PAAF Notification Appendix. On the same day, the NOC provided the IOC with the completed PAAF Notification Appendix signed by the Athlete.
18. According to the PAAF Notification Appendix received by the IOC, the Athlete indicated that she would not attend the opening, splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample and that she would not be represented on this occasion.
19. On 26 May 2016, the IOC informed the Athlete through her NOC that the opening, splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample was scheduled to take place on 31 May 2016 at the Laboratory.
20. The opening and splitting of the B-Sample, the sealing of the B2-Sample occurred on 31 May 2016 at the Laboratory.
21. The Athlete did not attend the opening and splitting of the B-Sample and was not represented on this occasion.
22. As provided in the ISL, the opening and splitting was attended by an independent witness.
23. Mr Victor Berezov, Deputy Chief of the Russian Olympic Committee Legal Department attended on behalf of the NOC.

24. The analysis of the B1-Sample was then conducted over the following day.
25. The results of this analysis were reported on 2 June 2016. They confirmed the presence in the B1-Sample of two Prohibited Substances, namely stanozolol and dehydrochloromethyltestosterone (turinabol).
26. Such results constitute an Adverse Analytical Findings. They were reported to the IOC in accordance with article 7.2.1 of the Rules.
27. 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.
28. 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;
 - Mr Juan Antonio Samaranch (Spain)
 - Prof Ugur Erdener (Turkey)
29. On 3 June 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 13 or 14 June 2016. The Athlete was finally informed of her right to request a copy of the laboratory documentation package.
30. Neither the Athlete, nor the NOC and the IF replied to the AAF Notification Letter dated 3 June 2016.
31. On 13 June 2016, the IF informed the IOC that the ADAMS system indicates that the Athlete was retired. The IF also provided the IOC with a letter in Russian dated 8 June 2016 signed by the Athlete. On the same day, the IOC requested the IF to receive an English translation of the letter.
32. On 14 June 2016, the IOC requested the NOC to confirm that the AAF Notification Letter dated 3 June 2016 had been effectively notified to the Athlete and required the NOC to take action urgently in order to obtain an answer from the Athlete.
33. On the same day, due to the lack of reply from the Athlete, the IOC sent her a further letter through her NOC in which she was informed that the opening and analysis of the B2-Sample had been postponed and rescheduled to occur on 20, 21 or 22 June 2016. The Athlete was required to indicate immediately whether she would attend the process.
34. On the same day, the IOC requested the IF concerned to indicate whether they had recently been in contact with the Athlete and whether they had received a confirmation that the Athlete had been informed of the AAF.
35. On 21 June 2016, the IOC required the NOC to confirm whether the AAF Notification Letter had been effectively communicated to the Athlete and to confirm that the Athlete was informed of the content of said letter.

36. In the same communication, the IOC reminded the NOC that, pursuant to Art. 7.3.3 of the Rules, notification to the NOC did in any event constitute deemed notification to the Athlete.
37. The IOC finally indicated that the absence of an express reply from the Athlete would be deemed as a waiver to request the opening and analysis of the B2-Sample in accordance with Art. 7.2.5 of the Rules.
38. On the same day, the NOC informed the IOC that the National Federation ("NF") indicated that the AAF Notification Appendix would be sent on the following day.
39. The Athlete did not send her completed AAF Notification Appendix.
40. On 24 June 2016, the IOC wrote to the Athlete, through her NOC, and noted that she had decided not to reply to the previous correspondence. The IOC drew the attention of the Athlete that she had been duly notified through the NOC in accordance with Art. 7.3.3 of the Rules. The IOC finally indicated that the lack of reply was understood as she waived her right to request the opening and analysis of the B2-Sample as per Art. 7.2.5 of the Rules.
41. In the same correspondence, the IOC informed the Athlete that she had the possibility to present her defence during the hearing of the Disciplinary Commission, which was scheduled to be held on 1 July 2016. She was invited to indicate by 27 June 2016 whether she would attend personally and/or through a representative the hearing. Moreover, the Athlete was invited to submit a defence in writing by 29 June 2016.
42. On the same day, the NOC and the IF were invited to send a representative to the hearing of the Disciplinary Commission.
43. The Athlete did not reply.
44. On 28 June 2016, the IOC required the NOC to confirm whether the Athlete had been informed of the letter dated 24 June 2016.
45. On the same day, the NOC confirmed that the Athlete was informed of the hearing of the Disciplinary Commission. The NOC however informed the IOC that the Athlete did not indicate whether she would attend the hearing.
46. On 29 June 2016, given that the Athlete did not ask that a hearing be held for her case, the IOC informed the NOC that no hearing would be held. The IOC invited the NOC to submit written observations by 1 July 2016.
47. On the same day, the NOC informed the IOC that the Athlete confirmed that she would not attend the hearing of the Disciplinary Commission.
48. On 30 June 2016, the NOC provided the IOC with a letter dated 29 June 2016 signed by the Athlete.
49. In her letter, she indicates that she is not able to attend the hearing personally or through a representative due to limited time for getting a visa.
50. In her submission, the Athlete explained that she has been suffering a heart disease (hypertrophic cardiomyopathy) since she was born. In reason of her fragile health, she excludes use of any anabolic steroids as they would be extremely dangerous and life-threatening. She requests a medical examination by a cardiologist to confirm her statement.

51. The Athlete indicates that she is banned from engaging in sports since August 2015. She also provides the IOC with a copy of an IWF Retirement Form signed on 4 March 2016 and registered in the ADAMS system in which she declares that she decided to retire from weightlifting and agreed to the consequences thereof.
52. The Athlete also explains that the presence of a Prohibited Substance in her body is probably due to food supplements. She does not understand why the analysis of her sample resulted in an Adverse Analytical Finding as she had been subject to many preliminary and post-competition doping tests in 2008.
53. The Athlete finally argues that she has serious doubts about the analysis performed by the Laboratory as the sample was opened in her absence and she questions the method used by the Laboratory.
54. On 30 June 2016, the NOC submitted written observations. The NOC notes that the analysis of the sample shows the presence of a Prohibited Substance and constitutes an Adverse Analytical Finding. The observations refers to the explanation letter filed by the Athlete and requests the IOC to issue a decision in accordance with the Rules.
55. The IF did not submit any written observations.
56. The Disciplinary Commission held a hearing by teleconference on 1st July 2016. Mr Christian Thill was acting as Secretary of the Disciplinary Commission. The IOC was represented by Mr Howard M. Stupp, Director of Legal Affairs, and Dr Richard Budgett, Medical and Scientific Director. Mr Jean-Pierre Morand, attorney-at-law, took part to the teleconference as IOC counsel.

II. **APPLICABLE RULES**

57. Art. 2.1 of the IOC Anti-Doping 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”.*

58. Art. 2.2 of the IOC Anti-Doping 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”.

59. 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 to 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.”

60. Art. 6.5 of the Rules provides as follows:

“Samples shall be stored in a secure manner at the laboratory or otherwise directed by the IOC and may be further analysed. Consistent with Article 17 of the Code the ownership of the samples is vested in the IOC for the eight years. During this period, the IOC shall have the right to re-analyse samples (taken during the Period of the Olympic Games). Any anti-doping rule violation discovered as a result thereof shall be dealt with in accordance with these Rules. After this period, the ownership of the samples shall be transferred to the laboratory storing such samples, provided that all means of identification of the Athletes will be destroyed and that proof of this destruction shall be provided to the IOC.”

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 Secretary General 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 IOC Anti-Doping 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 IOC Anti-Doping 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”.

III. DISCUSSION

66. The presence of the metabolite of two Prohibited Substances has been established in 2016 in the sample 1844163 that the Athlete provided on 5 August 2008, upon the occasion of the 2008 Olympic Games.
67. The substances detected in the Athlete’s sample are exogenous anabolic steroids. They are listed in the WADA 2008 Prohibited List and in all subsequent lists.
68. 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.
69. The Athlete questioned the analysis performed by the Laboratory as the sample was opened in her absence. In this respect, the Disciplinary Commission observes that the Athlete was duly informed of her right to attend the opening, splitting of the B-Sample and sealing of the B2-Sample. She clearly indicated in her completed PAAF Notification Appendix that she would not attend such a process and it was her choice not to attend.
70. Moreover, the opening, splitting of the B-Sample and sealing of the B2-Sample was performed in the presence of an independent witness, as required by the ISL. It is also noted that an NOC representative was also present on this occasion. Her argument in this respect is therefore in any event without merits.
71. The Disciplinary Commission observes that the request made by the Athlete for a medical examination by a cardiologist is not relevant in the context of this case. Prohibited Substances may be and most likely are harmful for both healthy people and the ones suffering from illness. This is one of the reasons to prohibit them.
72. The issue here is however precisely the fact that such substances were actually found present in the Athlete’s body. This is unquestionably the case here.
73. The Athlete’s explanation that the presence of the Prohibited Substances would probably be due to food supplements is for the same reason irrelevant. Whatever the reason may be, an anti-doping violation is established based on presence.
74. The Disciplinary Commission further notes that athletes have been repeatedly informed of the potential contamination of food complements and that they are and remain responsible for any product that they ingest. Therefore, such an explanation, even if established as true, which is far from being the case, would not even exonerate the Athlete from, at the very least, having been highly negligent.

75. There are indeed no legitimate and safe supplement, which accidentally contain not only one but two Prohibited Substances being classical doping substances. If the source was supplements, they must have been highly suspicious supplements, if not supplements clearly including Prohibited Substances.
76. The presence of these two Prohibited Substances is effectively a strong indication that this case represents a straightforward intentional use of doping substances.
77. Finally, the Disciplinary Commission took has taken note of the IWF Retirement Form dated 4 March 2016 signed by the Athlete.
78. However, these proceedings deal with the consequences of the anti-doping violations on the Olympic Games in Beijing, in particular correction of results which were achieved then.
79. In this perspective, what happened thereafter is irrelevant and the present status of the Athlete does not prevent the IOC to draw consequences of violations committed whilst the Athlete was participating to the Olympic Games and was subject to the Rules, which are expressly providing that anti-doping rule violations could be prosecuted during at least 8 years in accordance with Art. 6.5 of the Rules.
80. Based on the above, the Disciplinary Commission finds that the Athlete has committed an anti-doping rule violation pursuant to Art. 2.1 of the Rules consisting in the presence of Prohibited Substances in his body.
81. 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 consisting in the use of Prohibited Substances.
82. 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.
83. In application of Art. 8.1 of the Rules, respectively Art. 9.1 of the Rules, the results achieved by the Athlete in the 58kg weightlifting event in the 2008 Olympic Games shall be annulled.
84. 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, Articles 2, 5.1, 7.3.3, 8 and 9 thereof.

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Marina SHAINOVA:
 - (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 of a Prohibited Substance or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the 58kg weightlifting event in which she placed 2nd upon the occasion of the Olympic Games Beijing 2008.
 - (iii) has the silver medal, the diploma, and the medallist pin obtained in the 58kg weightlifting event withdrawn and is ordered to return 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 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 medal, the medallist pin and the diploma awarded in connection with the 58kg weightlifting event to the Athlete.
- V. This decision enters into force immediately.

Lausanne, 29 August 2016

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Juan Antonio Samaranch



Ugur Erdener