

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING PAVEL KRYVITSKI
BORN ON 17 APRIL 1984, BELARUS, 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 XXX Olympiad, London 2012 (the "**Rules**") and, in particular, Articles 1, 2, 4.1, 6.3.3, 7 and 8 thereof:

I. FACTS

1. Pavel Kryvitski (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 hammer throw event (Qualification, Group A) in which he ranked 28th.
3. On 17 July 2012, the Athlete was requested to provide a urine sample for a doping control in Babrujsk, Belarus. This doping control was performed at the request of the IOC. The sample collected from the Athlete was identified with the number 3038212.
4. The A-Sample 3038212 was analysed by the WADA-accredited laboratory "Deutsche Sporthochschule Köln, Institut für Biochemie" in Cologne, Germany (the "**Cologne Laboratory**"). Such analysis did not result in an adverse analytical finding at that time.
5. After the conclusion of the 2012 Olympic Games, the samples analysed were kept in Cologne 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 re-analysed by the Cologne Laboratory and resulted in an Adverse Analytical Finding ("**AAF**") as it showed the presence of the metabolites of two Prohibited Substances: stanozolol and 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 Juridical Commission;
 - Mr Juan Antonio Samaranch (Spain)
 - Mr Ugur Erdener (Turkey)
12. On 27 May 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 and of his right to request a copy of the laboratory documentation package.
 13. On 1 June 2016, the Athlete sent directly to the IOC his completed AAF Notification Appendix dated 30 May 2016 in which he indicated that he did not accept the Adverse Analytical Finding and requested the opening and analysis of the B-Sample. He further indicated that he would not attend the opening and analysis of the B-Sample, neither personally nor through a representative. Finally, he requested a copy of the laboratory documentation package.
 14. On 2 June 2016, the IOC acknowledged receipt of the completed AAF Notification Appendix and informed the Athlete that the opening and analysis of his B-Sample was scheduled to take place on 8 June 2016 in the presence of an independent witness.
 15. The opening and analysis of the B-Sample took place on 8 June 2016 at the Cologne Laboratory in the presence of an independent witness.
 16. The Athlete did not attend the opening and the analysis of the B-Sample. Neither the NOC nor the IF sent a representative on this occasion.
 17. The Cologne Laboratory reported the results of the analysis on 9 June 2016. They confirmed the presence in the B-Sample of two Prohibited Substances: stanozolol and dehydrochloromethyltestosterone (turinabol).
 18. On 13 June 2016, the IOC notified to the Athlete the B-Sample results. The Athlete was invited to indicate whether he accepted the AAF and whether he requested a copy of 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. On 20 June 2016, the Athlete sent to the IOC his completed Disciplinary Commission Form in which he indicated that he accepted the AAF and that he would present a defence in writing. The Athlete did not indicate whether he requested a copy of the B-Sample laboratory documentation package and whether he would attend the hearing of the Disciplinary Commission.
 20. On 5 July 2016, the IOC informed the Athlete that the hearing of the Disciplinary Commission was scheduled to be held on 12 July 2016 and invited him to indicate within a deadline granted until 8 July 2016 whether he would attend the hearing personally and/or through a representative. The Athlete was also invited to submit a written defence within a deadline granted until 11 July 2016. The IOC provided the Athlete with a copy of the A & B laboratory documentation package.
 21. On the same day, the NOC and the IF were invited to indicate whether they would send a representative to the hearing and to submit written observations within a deadline by 11 July 2016.

22. Neither the Athlete, nor the NOC nor the IF replied.

II. APPLICABLE RULES

23. 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.”

24. Art. 2 of the Rules provides that Article 2 of the World Anti-Doping Code (the “**Code**”) applies to determine anti-doping rule violations.

25. 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.”

26. 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.*

27. Art. 4.1 of the Rules provides as follows:

“The IOC is responsible for Doping Control during the Period of the London Olympic Games. The IOC is entitled to delegate all or part of its responsibility for Doping Control to one or several organisations.

The Period of the London Olympic Games is defined as “the period commencing on the date of the opening of the Olympic village for the London Olympic Games, namely, 16 July 2012 up until and including the day of the closing ceremony of the London Olympic Games, namely, 12 August 2012”.

28. 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 a delivery of notice to the NOC.”

29. 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.”

30. 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.”

31. 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.”

32. 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 Federations.”

III. DISCUSSION

33. 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. stanozolol and dehydrochlormethyltestosterone (turinabol).
34. The substances detected are anabolic steroids. They are listed in the WADA 2012 Prohibited List and in all subsequent lists.
35. In his completed AAF Notification Appendix, signed and dated 30 May 2016, the Athlete did not accept the AAF. However, in his completed Disciplinary Commission Form, signed and dated 19 June 2016, the Athlete accepted the confirmation of the AAF of the B-Sample.
36. The Athlete also indicated that he would present a defence in writing within the deadline set forth by the Disciplinary Commission. However, the Athlete did not file a defence.
37. Based on the above and for the reasons that follow, the Disciplinary Commission finds that the Athlete has committed an anti-doping rule violation pursuant to the Rules.
38. An anti-doping rule violation is already established in application of Art. 2 of the Rules in connection with Art. 2.1 of the Code. In this case, the anti-doping rule violation consists in the presence of Prohibited Substances in the Athlete's body.
39. The Athlete has expressly accepted the confirmation of the AAF after the B-Sample analysis and this admission per se establishes a violation pursuant to Art. 2.1 of the Code.
40. 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 of the Rules in connection with Art. 2.2 of the Code (Use of a Prohibited Substance).
41. In this respect, the Disciplinary Commission notes that the Athlete acknowledges the confirmation of the AAF and makes no attempt to explain the source of stanozolol or dehydrochlormethyltestosterone (turinabol).
42. Stanozolol and dehydrochlormethyltestosterone (turinabol) are both steroids widely and directly used as performance enhancing doping substances.
43. There is therefore a simple and straightforward explanation for the fact that stanozolol and dehydrochlormethyltestosterone (turinabol) were present in the Athlete's sample, i.e., their use as such.
44. Whatever the perspective under which the circumstances of this case are considered, the Disciplinary Commission comes to the conclusion that the Athlete committed an anti-doping rule violation, which is established both in application of Art. 2.1 and Art. 2.2. of the Code (in both cases, a violation pursuant to Art. 2 of the Rules).
45. The consequences of an anti-doping rule violation pursuant to the Rules are limited to consequences in connection with the 2012 Olympic Games.
46. 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.

47. 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, 4.1, 6.3.3, 7 and 8 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE

decides

- I. The Athlete, Pavel KRYVITKSI:
 - (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 their Metabolites or Markers in an athlete’s bodily specimen),
 - (ii) is disqualified from the event in which he participated upon the occasion of the Olympic Games London 2012, namely the hammer throw event, in which he ranked 28th.
- 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 the Republic of Belarus shall ensure full implementation of this decision.
- IV. This decision enters into force immediately.

Lausanne, 8 August 2016

In the name of the IOC Disciplinary Commission

Denis Oswald, Chairman

Juan Antonio Samaranch

Ugur Erdener