

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING TATYANA LYSENKO
BORN ON 9 OCTOBER 1983, 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 XXX Olympiad, London 2012 (the “**Rules**”) and, in particular, Articles 1, 2, 4.1, 6.3.3, 7 and 8 thereof:

I. FACTS

1. Tatyana Lysenko (hereinafter the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”).
2. From 8 to 10 August 2012, the Athlete competed in the Women’s hammer throw event (Qualification and Final) in which she ranked 1st and for which she was awarded the gold medal.
3. On 10 August 2012 on the occasion of the Final, the Athlete was requested to provide a urine sample for a doping control (in competition). Such sample was identified with the number 2717487.
4. The A-Sample 2717487 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: dehydrochloromethyltestosterone (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 26 May 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 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 her right to request a copy of the laboratory documentation package.
13. By email dated 31 May 2016 sent directly to the IOC, the Athlete contested the AAF. She argued that a suspension she had served in the past was already unjustified. She further indicated the following:

"In the future, such issues, please do not bother me. I have a young child. I do not have the opportunity and time." [Free translation from Cyrillic to English]
14. The Athlete did not indicate whether she requested a copy of the laboratory documentation package.
15. On 3 June 2016, the IOC informed the Athlete that the opening and analysis of her B-Sample was scheduled to take place on 7 June 2016 and invited her once again to attend the process.
16. The Athlete did not reply.
17. The opening of the B-Sample occurred on 7 June 2016 in the presence of an independent witness.
18. The Athlete did not attend the opening and analysis of her B-Sample and was not represented on this occasion.
19. Mr Victor Berezov, Deputy Chief of the Russian Olympic Committee Legal Department attended on behalf of the NOC.
20. The results of the analysis were reported to the IOC on 10 June 2016. They confirmed the presence in the B-Sample of metabolites of a Prohibited Substance: Dehydrochloromethyltestosterone (turinabol).
21. On 13 June 2016, the IOC notified to the Athlete the B-Sample results. The Athlete was invited to indicate whether she accepted the Adverse Analytical Finding and whether she requested a copy of the B-Sample laboratory documentation package. The Athlete was further informed of the possibility to present her defence in writing and/or to attend the hearing of the Disciplinary Commission.
22. The Athlete did not reply to the communication dated 13 June 2016.
23. On 22 June 2016, the IOC sent a reminder to the Athlete and required to provide an answer to the communication dated 13 June 2016 within the deadline of 23 June 2016.

24. On 27 June 2016, the Athlete answered directly to the IOC and submitted written observations in Cyrillic and in English.
25. In her observations, the Athlete explained that she had always been training conscientiously and did not understand why the reanalysis had shown positive results.
26. She described her preparation for the 2012 Olympic Games and indicated that she had been subject to more than 30 doping controls during the Olympic season, none of which were positive.
27. She explained that, whilst she understands that an organisation such as the World Anti-Doping Agency must exist to coordinate the fight against doping, she lost confidence in WADA.
28. She also referred to a previous doping test, which took place on 9 May 2007, for which the positive results were available on 11 May 2007 but only notified to her on 13 July 2007. She explained that, during the period between the collection date and the notification on 13 July 2007, she had been allowed to compete and tested negative on several occasions.
29. She finally asked the IOC not to deprive the Russian athletes of their right to participate in the Olympic Games.
30. In her observations, the Athlete did not indicate whether she requested the laboratory documentation package and whether she would attend the hearing of the Disciplinary Commission.
31. On 4 July 2016, the IOC acknowledged receipt of the written observations submitted by the Athlete and informed her that the hearing of the Disciplinary Commission was scheduled to be held on 11 July 2016. She was once again invited to indicate whether she would attend the hearing personally and/or through a representative and was offered the possibility to submit an additional written defence within a deadline granted until 8 July 2016.
32. On the same day, the IOC invited the NOC and the IF concerned to send a representative to the hearing and/or to send written observations within the deadline of 8 July 2016.
33. On 7 July 2016, the IOC asked the Athlete once again to indicate whether she would attend the hearing personally and/or through a representative and she was reminded of the possibility to submit an additional written defence by 8 July 2016. The Athlete was also advised that should the IOC not receive any reply, the Disciplinary Commission would proceed and issue a decision on the basis of the file.
34. On 8 July 2016, the Athlete responded that she strongly disagreed with the results of the B-Sample and did not accept the AAF. The Athlete also stated that she was not able to attend the hearing of the Disciplinary Commission to defend her position either personally or through a representative because she had to look after her infant son. The Athlete indicated that she would appreciate receiving the laboratory documentation package.
35. The NOC and the IF concerned neither sent a representative to the hearing, nor submitted written observations.

II. APPLICABLE RULES

36. 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.”

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

38. 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.”

39. 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.

40. 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”.

41. 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.”

42. 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.”

43. 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.”

44. 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.”

45. 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

46. The results of the analysis of the sample provided by the Athlete establish the presence in her sample of the metabolites of a Prohibited Substance, i.e. dehydrochlormethyltestosterone (turinabol).
47. The substance detected is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
48. 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.
49. 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 a Prohibited Substance in the Athlete's body.
50. The Athlete contests the AAF and made written observations noted above, which the Disciplinary Commission has considered, but which do not bring forward any relevant arguments or evidence to rebut the AAF.
51. 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).
52. In this respect, the Disciplinary Commission notes that the Athlete makes no attempt to explain the source of Dehydrochlormethyltestosterone (turinabol).
53. Dehydrochlormethyltestosterone (turinabol) is a substance directly used as a performance enhancing doping substance.
54. There is therefore a simple and straightforward explanation for the fact that Dehydrochlormethyltestosterone (turinabol) was present in the Athlete's sample, i.e., its use as a doping agent for the purpose of performance enhancement.
55. 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).
56. The consequences of an anti-doping rule violation pursuant to the Rules are limited to consequences in connection with the 2012 Olympic Games.
57. 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.).
58. 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, Tatyana Lysenko:
 - (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 a Prohibited Substance or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the event in which she participated upon the occasion of the Olympic Games London 2012, namely the Women hammer throw event, in which she ranked 1st and for which she was awarded the gold medal.
 - (iii) has the medal, the medallist pin and the diploma obtained in the Women hammer throw event withdrawn and is ordered to return the same.
- 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 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 Women hammer throw event to the Athlete.
- V. This decision enters into force immediately.

Lausanne, 6 October 2016

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Juan Antonio Samaranch



Ugur Erdener