

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING YULIA CHERMOSHANSKAYA
BORN ON 6 JANUARY 1986, 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 XXIX Olympiad in Beijing in 2008 (the “**Rules**”) and, in particular but without limitation, Articles 2, 5.1, 7.3.3, 8, 9 and 10 thereof:

I. FACTS

1. Yulia CHERMOSHANSKAYA (hereinafter the “**Athlete**”), participated in the Games of the XXIX Olympiad in Beijing in 2008 (the “**2008 Olympic Games**”).
2. From 19 to 20 August 2008, the Athlete competed in the 200m (Round 1, Round 2 and Semi-Final) in which she ranked 8th and for which she was awarded a diploma.
3. From 21 to 22 August 2008, she competed in the 4x100m relay, in which she and her teammates ranked 1st and for which they were awarded the gold medal.
4. On 20 August 2008 on the occasion of the Semi-final of the 200m, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with the number 1845656.
5. The A-Sample 1845656 was analysed during the 2008 Olympic Games by the WADA-accredited Laboratory in Beijing. Such analysis did not result in an adverse analytical finding at that time.
6. After the conclusion of the 2008 Olympic Games, all the samples collected upon the occasion of the 2008 Olympic Games were transferred to the WADA-accredited “Laboratoire suisse d’analyse du dopage” in Lausanne (“the **Laboratory**”) for long-term storage.
7. 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 in order to possibly detect Prohibited Substances which could not be identified by the analysis performed at the time of the 2008 Olympic Games.
8. 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 a A- and B-Sample).

9. The decision to proceed based on split B-samples was made in principle for all the re-analysis.
10. 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.
11. At that time, resealing of A-Samples (or transport in sealed containers) was not a requirement pursuant to the then applicable ISL (2008).
12. However, it was felt that the option to rely on the B-Sample did constitute an additional precaution securing the strength and reliability of the analytical process.
13. A similar cautious 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 in a B1- and B2-Sample, sealing of the B2-Sample and analysis of the B1-Sample).
14. Pursuant to the ISL, the presence of the Athlete is not a requirement for such first phase of the B-Sample analysis.
15. The IOC nevertheless decided, 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.
16. All these additional measures, going beyond what is required, were decided in the spirit of enhancing the position of the Athlete.
17. The remains of the A-Sample of the Athlete were subject to initial analysis. Such analysis resulted in a Presumptive Adverse Analytical Finding (“**PAAF**”) as it indicated the potential presence of the metabolites of two Prohibited Substances: stanozolol and dehydrochloromethyltestosterone (turinabol).
18. 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.
19. On 25 May 2016, the Athlete sent directly to the IOC her completed PAAF Notification Appendix in which she 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, neither personally nor through a representative.
20. On 26 May 2016, the IOC informed the Athlete that the opening and splitting of her B-Sample would occur on 31 May 2016 at the Laboratory.
21. The opening, splitting of the B-Sample, the sealing of the B2-Sample occurred on 31 May 2016 at the Laboratory. The Athlete did not attend the process 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 days.

25. The results of the B1-Sample analysis were reported on 2 June 2016. They confirmed the presence of the metabolites of two Prohibited Substances, namely stanozolol and dehydrochlormethyltestosterone (turinabol).
26. Such results constitute an Adverse Analytical Finding (“**AAF**”). They were reported to the IOC in accordance with Art. 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 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;
 - Mrs Gunilla Lindberg (Sweden)
 - Mr Ugur Erdener (Turkey)
29. On 3 June 2016, the IOC notified the Athlete 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 and analysis of the B2-Sample, either in person and/or through a representative. The Athlete was informed that the process was scheduled to take place on 13 or 14 June 2016. She was finally informed of her right to request a copy of the laboratory documentation package.
30. On 9 June 2016, the Athlete sent a letter to the IOC in which she requested a copy of the documentation related to the analysis of her “A and B samples”.
31. On 10 June 2016, the IOC acknowledged receipt of the letter dated 9 June 2016 and informed the Athlete that a new schedule for the opening and analysis of her B2-Sample would be communicated the next week.
32. On 14 June 2016, the IOC explained once again to the Athlete that her sample had been split into two bottles, namely B1 and B2, and that the documentation requested would be provided in due course. The IOC also explained to the Athlete that the analysis of her B2-Sample should first be conducted and that she would then be given a reasonable time to prepare her defence after completion of the analytical process.
33. On 16 June 2016, the Athlete sent to the IOC her completed AAF Notification Appendix in which she indicated that she requested the opening and analysis of the B2-Sample and that she would not attend the process, neither personally nor through a representative. She also requested a copy of the laboratory documentation package. She did not indicate whether or not she accepted the adverse analytical finding.
34. On 27 June 2016, the IOC informed the Athlete that the opening of the B2-Sample had been rescheduled to take place on 29 June 2016 at the Laboratory and that the analysis would be conducted over the following days.
35. The opening of the B2-Sample occurred on 29 June 2016 at the Laboratory in the presence of an independent witness. Neither the NOC nor the IF sent a representative on this occasion.
36. The results of the B2-Sample analysis were reported to the IOC on 30 June 2016. They confirmed the presence in the B2-Sample of the metabolites of two Prohibited Substances, namely stanozolol and dehydrochlormethyltestosterone (turinabol).

37. On 1st July 2016, the IOC communicated to the Athlete the results of the B2-Sample analysis. The Athlete was invited to indicate whether she accepted the Adverse Analytical Finding and whether she requested a copy of the B2-Sample laboratory documentation package. She was also informed that she had the possibility to attend the hearing of the Disciplinary Commission and/or to submit a defence in writing. The Athlete was finally provided with a copy of the B1-Sample laboratory documentation package.
38. The Athlete did not reply.
39. On 11 July 2016, the IOC sent a reminder to the Athlete and asked her to indicate whether she would attend the hearing of the Disciplinary Commission which was scheduled to take place on 18 July 2016, and invited her to present her defence in writing by 16 July 2016. The Athlete was also provided with a copy of the B2-Sample laboratory documentation package as well as a copy of additional documentation related to her sample, in particular the handling of the sample in Beijing and its transfer to the WADA accredited laboratory in Lausanne.
40. On the same day, the NOC and the IF were invited to send a representative to the hearing.
41. Neither the NOC nor the IF replied.
42. By email dated 14 July 2016, the IOC asked the Athlete once again to indicate whether she would attend the hearing and/or file a written defence.
43. On 15 July 2016, the Athlete sent to the IOC her completed Disciplinary Commission Form in which she indicated that she did not accept the Adverse Analytical Finding and requested a copy of the B2-Sample laboratory documentation package. She also informed the IOC that she would not attend the hearing of the Disciplinary Commission, neither personally nor through a representative, and that she would present a defence in writing.
44. On the same day, the IOC informed the Athlete that she was granted an extension of deadline until 17 July 2016 to submit her written observations.
45. On 17 July 2016, the Athlete sent to the IOC her written observations. She argued that she had always believed in fair sport. She submitted that she was not able to find the package and name of the medication provided by the national team doctors at the time as too much time has passed since 2008. She explained that she had been subject to several doping controls while preparing for the 2008 Olympic Games, either during training or in competition and that none of them indicated anything wrong.
46. The Athlete also submitted that she got injured in May 2008. Based on medical advises, she explained that her treatment included injections, which helped her to qualify for the 2008 Olympic Games.
47. She finally submitted her concerns about recent statements made by M. Rodchenkov, which made her question the medication provided to her at the time.
48. The Disciplinary Commission held a hearing on 18 July 2018.

II. APPLICABLE RULES

49. Art. 2.1 of the 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.”

50. Art. 2.2 of the 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.”

51. 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 the 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.”

52. 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 the General Secretary of the NOC of the Athlete or other Person shall be deemed to be a delivery of notice to the NOC.”

53. Art. 8.1 of the 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.”

54. Art. 9.1 of the 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.”

55. 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.”

56. 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”.

57. Art. 10.1 of the Rules provides as follows:

“Where more than one team member in a Team Sport has been notified of a possible Anti-Doping Rule violation under Article 7 in connection with the Olympic Games, the Team shall be subject to Target Testing for the Olympic Games.

In Team Sports, if more than one team member is found to have committed an anti-doping rule violation during the Period of the Olympic Games, the team may be subject to Disqualification or other disciplinary action, as provided in the applicable rules of the relevant International Federation.

In sports which are not Team Sports but where awards are given to teams, if one or more team members have committed an anti-doping rule violation during the Period of the Olympic Games, the team may be subject to Disqualification, and/or other disciplinary action as provided in the applicable rules of the relevant International Federation.”

58. Rule 39 of the IAAF Competition Rules 2008 provides as follows:

“Disqualification of Results

- 1. Where an Anti-Doping Rule violation occurs in connection with an in-competition test, the athlete shall be automatically disqualified from the event in question and from all subsequent events of the competition, with all resulting consequences for the athlete, including the forfeiture of all titles, awards, medals, points and prize and appearance money.*
- 2. Where the athlete who commits an Anti-Doping Rule violation under Rule 39.1 is a member of a relay team, the relay team shall be automatically disqualified from the event in question, with all resulting consequences for the relay team, including the*

forfeiture of all titles, awards, medals, points and prize and appearance money. If the athlete who has committed an Anti-Doping Rule violation competes for a relay team in a subsequent event in the competition, the relay team shall be disqualified from the subsequent event, with all the same resulting consequences for the relay team, including the forfeiture of all titles, awards, medals, points and prize and appearance money.”

III. DISCUSSION

59. The presence of the metabolites of two Prohibited Substances has been established in 2016 in the sample 1845656 that the Athlete provided on 20 August 2008, upon the occasion of the 2008 Olympic Games.
60. 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.
61. 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.
62. 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 her body.
63. In addition, the Disciplinary Commission finds that an anti-doping rule violation could also be established if the circumstances are considered in the perspective of art. 2.2 of the Rules.
64. The Disciplinary Commission observes that the two substances which were found in the Athlete’s sample are substances, which are specifically performance enhancing substances used for doping purposes.
65. The Athlete mentioned that she received medications to help her overcome an injury during the preparation of the Olympic Games and that these might be the source of these substances.
66. The Disciplinary Commission observes that the Doping Control Form completed and signed by the Athlete on 20 August 2008 mentions that she was taking “polivitamin” at the time but does not indicate that she was under medication for the recovery of her alleged injury.
67. Even if the Athlete’s explanations would be correct and would explain the analysis results, this would not be per se a justification. Steroids are precisely used to “prepare” athletes and help them recover more quickly than could be the case without the use of this kind of means. This does not make their use legitimate, on the contrary.
68. Ultimately, athletes remain responsible for the treatments they received. They have the duty to ensure that no Prohibited Substance is used and enters their body.
69. In any event, and as regards the application of the Rules, the presence of the Prohibited Substances is the only necessary and sufficient element, irrespective of the way the concerned substances came into the Athlete’s body.
70. In conclusion, the Disciplinary Commission finds that two anti-doping violations are established pursuant to both Art. 2.1 and/or Art. 2.2 of the Rules.

71. 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, 9 and 10 of the Rules and Rule 39 of the IAAF Competition Rules 2008 (in respect of the consequences for the results of the relay event). They are the following.
72. In application of Art. 8.1, (results of the 200 m) and respectively 9.1 of the Rules (for all other results), all the results achieved by the Athlete during the 2008 Olympic Games shall be annulled.
73. In addition, and in application of Art. 10.1 of the Rules in connection with Art. 39.2 of the IAAF Competition Rules 2008 (last sentence), the results of the 4x100m Women relay achieved by the Russian Federation team shall also be annulled.
74. 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 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 XXIX Olympiad in Beijing in 2008 and, in particular, 2, 5.1, 7.3.3, 8, 9 and 10 thereof.

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Yulia CHERMOSHANSKAYA:
 - (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 and/or use, of a Prohibited Substance or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from all the events in which she participated upon the occasion of the Olympic Games Beijing 2008, namely, the Women 200m and the Women 4x100m relay, and
 - (iii) has the medal, the medallist pin and the diplomas obtained in the Women 200m and the Women 4x100m relay withdrawn and is ordered to return the same.
- II. The Russian Federation Team is disqualified from the Women 4x100m relay. The corresponding medals and diplomas are withdrawn and shall be returned.
- III. The IAAF is requested to modify the results of the above-mentioned events accordingly and to consider any further action within its own competence.
- IV. The Russian Olympic Committee shall ensure full implementation of this decision.
- V. The Russian Olympic Committee shall notably secure the return to the IOC, as soon as possible, of the medals, the medallist pins and the diplomas awarded in connection with the Women 200m and in connection with the Women 4x100m relay to the Athlete and to the other team members of the Women 4x100m Russian Federation Team.
- VI. This decision enters into force immediately.

14 August 2016

In the name of the IOC Disciplinary Commission

Denis Oswald, Chairman

Gunilla Lindberg

Ugur Erdener