

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING ANTONINA KRIVOSHAPKA
BORN ON 21 JULY 1987, 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, 6, 7, 8 and 9 thereof:

I. FACTS

1. Antonina KRIVOSHAPKA (hereinafter the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”).
2. From 3 August 2012 to 5 August 2012, the Athlete competed in the Women’s 400m event in which she ranked 6th and for which she was awarded a diploma.
3. On 11 August 2012, the Athlete also competed in the Women’s 4x400m relay event in which she and her teammates ranked 2nd and for which they were awarded a silver medal.
4. On 11 August 2012, on the occasion of the Women’s 4x400m relay event, the Athlete was requested to provide a urine sample for a doping control (in competition). Such sample was identified with the number 2717633.
5. The A-Sample 2717633 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.
6. 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.
7. 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.
8. 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.
9. 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: dehydrochlormethyltestosterone (turinabol).
10. The results were reported to the IOC in accordance with Art. 6.2.1 of the Rules.

11. 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.
12. 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
 - Mr Juan Antonio Samaranch (Spain)
 - Mr Ugur Erdener (Turkey)
13. On 19 July 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, which was scheduled to take place between 2 and 9 August 2016. The Athlete was also informed of her right to request a copy of the laboratory documentation package.
14. On 26 July 2016, the Athlete sent directly to the IOC her completed AAF Notification Appendix in which she indicated that she did not accept the Adverse Analytical Finding. She did not indicate whether she requested the opening and analysis of the B-Sample and whether she would attend the process if conducted, neither personally nor through a representative. She finally requested a copy of the laboratory documentation package.
15. In her AAF Notification Appendix, the Athlete wrote the following comment:

“I will decide whether to request the B-Sample opening and analysis when I’m provided with the laboratory documentation package (A-Sample).”
16. On the same day, the Athlete submitted written observations, in which she asserted that she never used intentionally any Prohibited Substances and/or methods and that she had always followed the recommendations provided by her doctor. She contended that she did not know how a Prohibited Substance could have entered her body.
17. The Athlete indicated that she would need to study the laboratory documentation package and the possible contact that she might have had with a Prohibited Substance to prove that she bore no fault or negligence on her side. She submitted that the anti-doping rule violation might be a result of a contaminated product unintentionally ingested.
18. The Athlete further asserted that she had serious doubts as to the correctness and validity of the analytical method performed by the Laboratory. She contended that the Laboratory had never published the relevant method’s description in a peer review journals and that the method might therefore not be presumed as scientifically valid.
19. She requested once again to be provided with a copy of the A-Sample laboratory documentation package in order to decide whether she would request the opening and analysis of the B-Sample, respectively whether she would attend the process.
20. On 29 July 2016, the IOC acknowledged receipt of the communications received from the Athlete and informed her that the laboratory documentation packages would be provided as soon as received from the laboratory.

21. In the same communication, the Athlete was advised that the method used by the Laboratory had been in place for several years, had been duly validated and is verified in application by WADA-accredited laboratories. The IOC further informed the Athlete that the issue raised should not postpone the opening and analysis of the B-Sample, unless she accepted the results of the A-Sample analysis. She was further invited to submit her arguments in front of the Disciplinary Commission. The Athlete was finally informed that the opening of her B-Sample would occur on 15 August 2016 at the Laboratory, followed by its analysis. She was invited to indicate by 3 August 2016 whether she would attend the process personally and/or through a designated representative.
22. On 2 August 2016, the Athlete requested once again to be provided with the A-Sample laboratory documentation package before taking any decision on whether she would attend the opening and analysis of the B-Sample. She requested a deadline extension to indicate whether she would attend the process, personally and/or through a representative.
23. On 5 August 2016, the IOC informed the Athlete that the opening of the B-Sample was maintained to occur on 15 August 2016.
24. The opening of the B-Sample took place on 15 August 2016 in the presence of an independent witness.
25. On 16 August 2016, the IOC provided the Athlete with a copy of the A-Sample laboratory documentation package.
26. The results of the B-Sample analysis were reported to the IOC on 19 August 2016. They confirmed the presence in the B-Sample of the Prohibited Substance already detected in the A-Sample: dehydrochlormethyltestosterone (turinabol).
27. On 22 August 2016, the IOC notified the B-Sample results to the Athlete. She was invited to indicate whether she accepted the Adverse Analytical Finding and whether she requested 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.
28. On 25 August 2016, the Athlete provided the IOC with her completed Disciplinary Commission Form in which she indicated that she did not accept the Adverse Analytical Finding resulting from the analysis of her B-Sample. She indicated that she would personally attend the hearing of the Disciplinary Commission and that she would be assisted by Mr Artem Patsev, attorney-at-law, on this occasion. She finally indicated that she would present her defence in writing.
29. On 16 September 2016, the IOC provided the Athlete with a copy of the B-Sample laboratory documentation package as well as with additional documentation related to her sample, in particular the handling of the sample in London and its transfer to the WADA accredited laboratory in Lausanne.
30. On 11 November 2016, the IOC informed the Athlete that the hearing of the Disciplinary Commission was scheduled to be held on 12 December 2016. She was further invited to submit her written defence by 1 December 2016.
31. On the same day, the NOC and the IF were invited to file written observations by 1 December 2016.

32. On 21 November 2016, the Athlete confirmed that she would participate in the hearing via videoconference and that she would be assisted by an interpreter and Mr Patsev, acting as her counsel. She further indicated that she would submit her written defence on 1 December 2016.
33. Neither the Athlete, nor the NOC nor the IF replied.
34. On 10 December 2016, Mr Jean-Pierre Morand, IOC external legal counsel, requested the Disciplinary Commission to include in the present proceedings the Report, Part 2 dated 9 December 2016 of the Independent Person, Mr Richard H. McLaren (the “**McLaren Report, Part 2**”).
35. The hearing of the Disciplinary Commission was held on 12 December 2016 at the IOC Headquarters in Lausanne, Switzerland.
36. The Athlete and her counsel, Mr Patsev, participated in the hearing via videoconference. The Athlete was also assisted by Ms Ekaterina Belousova, Interpreter.
37. The IOC was represented by Ms Tamara Soupiron, IOC legal counsel, Mr Jean-Pierre Morand and Mr Nicolas Français, IOC external legal counsels.
38. During the hearing, Mr Patsev disputed the request made by Mr Morand on 10 December 2016 to include the McLaren Report, Part 2 in this case. He submitted that the McLaren Report, Part 2 did not contain any specific evidence either against the Athlete or in relation of the sample at stake in the present proceedings. He added that Mr McLaren was not appointed expert in this case.

II. APPLICABLE RULES

39. 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.”

40. Art. 2 of the Rules provides that Article 2 of the Code applies to determine anti-doping rule violations.
41. 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."*

42. 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."*

43. 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."

44. 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.”

45. 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.”

46. 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.”

47. 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.”

48. 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.”

49. Art. 9.1 of the Rules provides as follows:

“Where more than one member of a team in a Team Sport has been notified of a possible anti-doping rule violation under Article 6 in connection with the London Olympic Games, the team shall be subject to Target Testing for the London 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 London 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 London 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.”

50. Art. 41.1 of the IAAF Competition Rules 2012-2013 (in force as from 1 November 2011) provides as follows:

“Where the Athlete who has committed an anti-doping rule violation competed as 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 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, including the forfeiture of all titles, awards, medals, points and prize money unless the Athlete establishes that he bears No Fault or Negligence for the violation and that his participation in the relay was not likely to have been affected by the anti-doping rule violation.”

51. Art. 3.2.1 of the World Anti-Doping Code (“**WADAC**”, version 2015) provides as follows:

“Analytical methods or decision limits approved by WADA after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any Athlete or other Person seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge. CAS, on its own initiative, may also inform WADA of any such challenge. At WADA’s request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within 10 days of WADA’s receipt of such notice, and WADA’s receipt of the CAS file, WADA shall also have the right to intervene as a party, appear amicus curiae or otherwise provide evidence in such proceeding.”

DISCUSSION

A. Establishment of an Anti-Doping Rule Violation

52. The presence of the metabolite of a Prohibited Substance has been established in 2016 in the sample 2717633 that the Athlete provided on 11 August 2012, upon the occasion of the 2012 Olympic Games.
53. The substance detected in the Athlete’s sample, i.e. dehydrochloromethyltestosterone (turinabol) is an exogenous anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists.
54. 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.
55. In spite of the arguments submitted by the Athlete, which are discussed below, the Disciplinary Commission is further satisfied that the analytical results are valid and do properly establish the presence of the Prohibited Substance at stake in the Athlete’s samples.
56. Based on the above, the Disciplinary Commission finds that an anti-doping rule violation pursuant to Art. 2.1 of the Code consisting in the presence of a Prohibited Substance in the Athlete’s body is established.
57. In addition, the Disciplinary Commission finds that an anti-doping rule violation could also be held as established if the circumstances were considered in the perspective of art. 2.2 of the Code.
58. In this respect, the Disciplinary Commission observes that the nature of the substance which was found in the Athlete’s sample (i.e. a traditional doping substance) makes this

result consistent with the use of a Prohibited Substance specifically ingested to deliberately improve performance.

59. The Disciplinary Commission, which has now handled multiple cases arising out of the re-analysis of samples from the 2008 and 2012 Olympic Games, observes that the presence of metabolites of this particular substance has been established in a remarkably high number of cases, which resulted from the re-analysis of the samples collected in Beijing 2008 and London 2012.
60. This constitutes an indication that said substance has been in widespread use by athletes, who were doping at that time.
61. Prior to the application of a new detection strategy searching for metabolites remaining detectable over a much longer period of time and which began to apply only from late 2012 /2013, the detection window of said substance was limited to much shorter period of time (5 to 10 days).
62. The search for the newly established so called “long term” metabolites significantly extended the detection window (up to 50 and more days). Such a significant extension of the detection window is the obvious explanation for the unfortunately spectacular and unprecedented high number of positive cases which were revealed by the re-analysis process.
63. Doping is a planned process in which the detection window is a key parameter. The athletes using the substance at the time, and/or the persons who were supporting them in this respect, planned with the detection window applicable at the time. They did not expect that the detection window would subsequently be significantly extended, by virtue of a new method capable of detecting long-term metabolites during a much longer period of time.
64. This explains why athletes, who had in the past effectively managed to avoid anti-doping controls were caught. It is an illustration of the effectiveness of the re-analysis process and of its purpose, which is essentially to give those, who think they can outsmart the anti-doping controls, the message that they will never be safe.
65. In any event for the purpose of these proceedings, it is not necessary to examine exhaustively whether the Athlete could establish how the substance entered her body, as the mere establishment of presence suffices to justify the application of the consequences provided for under the Rules.
66. In conclusion, the Disciplinary Commission finds that an anti-doping violation is established pursuant to both Art. 2.1 and Art. 2.2 of the Rules.

B. Arguments of the Athlete

i. Preliminary issue concerning the filing of the McLaren Report, Part 2

67. The Athlete is disputing the filing of the McLaren Report, Part 2.
68. The IOC is justifying such filing by the fact that this report establishes the fact that at the relevant time (i.e. up until 2012), the substance, which was actually found in the Athlete’s samples was a doping substance widely used in Russia. The IOC provided all the pages of the Report on which turinabol was mentioned. In the IOC’s view, this constituted relevant circumstantial evidence supporting the analytical findings: the analysis had identified the specific substance at stake and this was not a surprise since it was a substance very commonly used in the environment of the Athlete.

69. The Athlete opposed to the filing indicating that the content of the report was not relevant to her case and that Prof McLaren was not a witness or an expert in this case.
70. The Disciplinary Panel observes that the content of the report has been publicly issued and is available to anybody. It is therefore part of common knowledge and its acceptance or exclusion from the file could not change that.
71. On the other hand, the Disciplinary Commission underlined that the report was indeed not related to the Athlete and, as such, could not permit to draw a conclusion in her respect.

ii. Validity of the method used by the Laboratory

72. In substance, the Athlete challenges the validity of the method used to identify the presence of the Prohibited Substance in her samples.
73. This method has been developed on the basis of a publication by Tim Sobolevsky and Grigory Rodchenkov "*Detection and mass spectrometric characterization of novel long-term dehydrochlormethyltestosterone metabolites in human urine*" publish in 2012 in Journal of Steroid Biochemistry and Molecular Biology, 2012, p. 121-127 ("**2012 Publication**").
74. During the hearing, the Athlete challenged the validity of the method based on a Scientific Opinion issued by Dr Kopylov's on 18 July 2016 and which is entitled "*Critical point of view on method for detection novel metabolites of turinabol*".
75. To be precise the position of the Athlete was that, since the method would not be scientifically validly established and would not be based on a peer-reviewed publication, an expert should be appointed in application of Art. 3.2.1 of the WADAC (2015).
76. The Disciplinary Commission observes that Dr Kopylov's opinion was also filed in three other cases (BRT III – 001, BRT III - 002 and LRT II – 004). Dr Kopylov was further heard as a party-appointed expert during the hearing of these three other cases.
77. In all three above-mentioned hearings, Prof Saugy was heard as an expert witness in connection with the validity of the analysis method in general, and specifically in respect of the arguments raised by Dr Kopylov.
78. The Disciplinary Commission has carefully reviewed the issues raised, the arguments set forth in Dr Kopylov's opinion and the explanations provided by Prof Saugy and Dr Kopylov during the three different hearings at which they gave evidence.
79. The Disciplinary Commission cannot see any reason to change the evaluation it has already made in the above mentioned previous matters and which is the following:
80. First, the method used has been approved by WADA and is determined as fit for purpose.
81. Contrary to what the Athlete persists to allege, the method is based on a peer-reviewed publication, i.e. the 2012 Publication.
82. Since then, this method has been validated and implemented in the majority of the WADA-accredited laboratories including the WADA-accredited laboratories of Lausanne and Cologne.

83. Prof Saugy testified that the method validation process took place in Lausanne in 2013. Such process was conducted in accordance with the ISL requirements (see Art. 5.4.4.2.1 ISL 2016) and involved both positive and negative samples.
84. Since no Standard Reference material is available, positive samples from excretion studies were used. This is a possibility expressly provided for in the ISL (Art. 5.4.4.2.1, 7th bullet point ISL 2016).
85. The method is within the Laboratory scope of accreditation. The method is not a completely new method but it involves using existing technology (having become more sensitive) and the search for new analyses, i.e. the metabolites newly identified in the 2012 Publication. It fell within the scope of accreditation of the Laboratory without the need for specific approval by the accreditation body (see Art. 4.4.12 ISL 2016, Flexible Scope of Accreditation).
86. Since its validation, the Laboratory has been applying the method as part of the regular analytical menu to thousands of samples without any issue. In each case, positive and negative controls were used.
87. Prof Saugy indicated that the validation data were not published. There is no requirement to publish validation data and such publication would normally not be accepted as it would not bring any new element, but just be confirmation data, which each laboratory shall establish for itself.
88. The ISL (i.a. Art. 5.4.4.2.3 ISL 2016) confirm that validation data constitutes internal data to be assessed in the accreditation process. There is no publication requirement. On the contrary, Art. 5.4.4.2.3 confirms *a fortiori* that it does not even need to be provided in any legal proceedings.
89. The Disciplinary Commission finds that the further issues, which Dr Kopylov attempts to raise in this respect, do not appear to put into question the validity of the method used by the Laboratory to identify the substance.
90. Referring to the summary of the main challenges set forth on page 14 of Dr Kopylov's opinion, the Disciplinary Commission observes the following:
91. Regarding the alleged lack of negative controls: this observation has no factual basis. Prof Saugy expressly mentioned that negative controls were used in the validation (as required and normal). It is also noted that in each of the thousands method's applications, negative controls have been used.
92. Regarding the alleged lack of post-administration assays: this observation again lacks a factual basis and is even contradictory with the one based on the absence of synthetic standard (see below). In the absence of a synthetic standard, the validation was conducted based on positive samples obtained in excretion studies: i.e. post administration assays.
93. Regarding the lack of synthetic standard: The application of a synthetic standard is expressly not a requirement pursuant to the ISL.
94. Regarding the alleged "baseless conclusions in regard of the detection window": The only conclusion which is drawn in this respect, is that the detection window has been significantly extended (up to 50 – 60 days). This was shown to be correct with even longer detection windows observed in certain cases. This is the reason why the method proved so effective in catching dopers, who had planned according to a window of detection meant to

be much shorter. The Disciplinary Commission cannot detect any baseless conclusion in this respect but rather a meritless argument.

95. Regarding the alleged “huge discrepancies between presented data and its interpretation”: the Disciplinary Commission observes that this allegation is simply not substantiated. As such, it has no value and seems aimed at creating the impression of the existence of issues, which are effectively not characterised.
96. Regarding the “alleged inconsistencies of the proposed structures with those found and validated by authors”: the Disciplinary Commission understands that the study to which Dr Kopylov refers describes the transformation of the substance into specific metabolites in vitro, through the application of a particular enzyme. As noted by Prof Saugy, this logic does not exclude that the metabolites in question, which were not identified in this study, resulted from other more complex enzymatic pathways in the body. In any event, the excretion studies (and the results which have now been obtained over years of application) confirm that the metabolites in question are effectively obtained further to the administration of the Prohibited Substance. There is therefore no inconsistency between the publication to which Dr Kopylov refers and the identification of the substance by the method at issue. It is notable that the study in question was issued by a team of the Cologne laboratory, i.e. where Prof Thevis is currently practicing. This laboratory applied and continues to apply the method (including to establish one of the specific AAFs under discussion, see # 63 above). When confronted with the question of how this could be explained, if there indeed was an inconsistency between the study and the method, it is noteworthy that Dr Kopylov had no explanation to offer.
97. Regarding the lack of confirmation by alternative approach: while it is desirable to obtain confirmation, when possible, this in itself is not a reason to put the validity of a method into question.
98. In reference to the last point, the Disciplinary Commission further observes that the application of the method over the years is effectively and in itself a confirmation of its validity.
99. As already noted, the laboratory in Lausanne was not the only laboratory to validate the method and then to implement it in its analysis.
100. Since the method has become part of the regular analytical menu of WADA-accredited laboratories, it has thus been applied over years to an extremely high number of samples.
101. The application of this decisively improved method of detection resulted in high number of Adverse Analytical Findings in the course of the re-analyses of Beijing and London samples: over 100, not taking into account the results in the present re-analysis process.
102. There is no known case in which the results obtained on this basis were put into question. Effectively, there was no challenge to the method and in many cases, the results were expressly admitted by the athletes concerned.
103. In the course of the present re-analysis process, the Disciplinary Commission observes that the substance in question, identified through the discussed method, represents a strikingly high proportion of the AAFs.
104. The substance sometimes comes in combination with another classical doping substance. In several cases, the athletes have accepted the AAFs and, in some cases, even expressly admitted to have used turinabol.

105. Finally and even if it is in itself not a sufficient element to draw any specific conclusion, the fact that according to the McLaren Report, Part 2, turinabol appears to have been widely used in Russia in this period can only bring additional comfort in holding that the analysis through the challenged method did effectively properly identify this substance.
106. It results from the above that the method used appears to be not only a valid one but an experience-proven one and an efficient tool in the identification of anti-doping rule violations.
107. When scrutinised, the arguments put forward by Dr Kopylov do not appear to put the validity of the method into question. Far from being persuasive, they appear either to be irrelevant in the perspective of the applicable rules and/or lacking factual substance or even logical relevance. No scientific training is needed to find that arguments lack factual substance or are not logically consistent.
108. In view thereof, the Disciplinary Commission finds that the presence of the Prohibited Substance has been validly established.
109. On this basis, the Disciplinary Commission also dismisses the Athlete's application for the appointment of an independent expert pursuant to Art. 3.2.1 WADAC 2015.
110. First, the Disciplinary Commission observes that this provision may not even be applicable.
111. Under Swiss law, provisions on the burden of proof are part of substantive law (see Art. 8 Swiss Civil Code). Therefore, and in application of Art. 24.5 WADAC 2015, it shall not apply retroactively.
112. Secondly, the conditions of application of Art. 3.2.1 WADAC 2015 do not appear to be met. This provision refers expressly to the Court of Arbitration for Sport (CAS). The appointment of an expert would further require a decision from WADA.
113. Finally, and decisively, the Disciplinary Commission did not need the assistance of an independent expert to conclude that the arguments put forward by Dr Kopylov are meritless. The scientific validity of the analytical method used by the Laboratory is beyond question. It is confirmed through years of application and the general acceptance of this analytical method by the relevant scientific community. Dr Kopylov has not raised any arguments which could, even on a *prima facie* basis, rebut the presumption of scientific validity.
114. For these reasons, and even assuming Art. 3.2.1 WADAC 2015 would be applicable, the Disciplinary Commission rejects the Athlete's application to appoint an independent expert and dismisses the Athlete's arguments in this regard.

iii. Contaminated Products

115. In her letter dated 26 July 2016, the Athlete contends that the presence of a Prohibited Substance in her bodily sample may be a result of a contaminated product used unintentionally. At the hearing, she repeated that she had never taken any Prohibited Substances.
116. The Disciplinary Commission observes that the issue whether the source of the presence of the Prohibited Substance could be the ingestion of contaminated supplements lacks relevance in the context of these proceedings.

117. Indeed, in the perspective of the Rules' application, the mere presence of the Prohibited Substance is sufficient to establish an anti-doping rule violation and to trigger the consequences applicable pursuant to the Rules, i.e. the disqualification of the results.
118. Furthermore and in any event, the Disciplinary Commission observes that athletes have long been warned against the use of supplements and, as such, the fact that turinabol may have been ingested as part of a supplement is not likely to constitute an element exonerating the Athlete from having been at fault for using a Prohibited Substance.
119. In this respect, the Disciplinary Commission observes that supplements do not, as a rule, contain turinabol and that accidental contamination of a legitimate supplement by this substance appears very unlikely.
120. In any event and based on the elements provided in these proceedings, the Athlete has not met her burden to establish that she did not intentionally use a Prohibited Substance. As mentioned above, this would anyhow not have prevented the disqualification of her results.
121. In conclusion, the Disciplinary Commission finds that an anti-doping rule violation is established both in application of Art. 2.1 and of Art. 2.2 of the Code.

C. Consequences of the anti-doping rule violation

122. Under the Rules, the consequences of anti-doping rule violations are limited to consequences in connection with the 2012 Olympic Games.
123. In application of Art. 7.1 and 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 medals, diplomas, pins etc.). This includes the results obtained by the Athlete at the Women's 400m event in which she ranked 6th and for which she was awarded a diploma.
124. In addition, and in application of Art. 9.1 of the Rules in connection with Art. 41.1 of the IAAF Competition Rules 2012-2013 (last sentence), the results of the Women's 4x400m relay event achieved by the Russian Federation team shall also be annulled.
125. 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 IAAF.

* * * * *

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, 1, 2, 6.3.3, 7, 8 and 9 thereof:

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Antonina KRIVOSHAPKA:
 - (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 events in which she participated upon the occasion of the Olympic Games London 2012, namely, the Women's 400m event and the Women's 4x400m relay event, and
 - (iii) has the silver medal, the medallist pin and the diplomas obtained in the Women's 400m event and in the Women's 4x400m relay event withdrawn and is ordered to return same.
- II. The Russian Federation Team is disqualified from the Women's 4x400m relay event. The corresponding medals, medallist pins 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 diploma awarded to the Athlete in connection with the Women's 400m event and the silver medals, medallist pins and diplomas awarded to the members of the Russian Federation Team who participated in the Women's 4x400m relay event.
- VI. This decision enters into force immediately.

Lausanne, 27 January 2017

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Juan Antonio Samaranch



Ugur Erdener