

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING SVETLANA TZARUKAEVA
BORN ON 25 DECEMBER 1987, RUSSIAN FEDERATION, ATHLETE, WEIGHTLIFTING**

(Rule 59.2.1 of the Olympic Charter)

Pursuant to the Olympic Charter and, in particular, Rule 59.2.1 thereof, and pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXX Olympiad, London 2012 (the “**Rules**”) and, in particular, Articles 1, 2, 6.3.3, 7 and 8 thereof:

1. FACTS

1. Svetlana TZARUKAEVA (hereinafter the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”).
2. On 31 July 2012, the Athlete competed in the Women’s 63kg weightlifting event in which she ranked 2nd and for which she was awarded a silver medal.
3. On 28 July 2012, the Athlete was requested to provide a first urine sample for a doping control. Such sample was identified with the number 2721411.
4. On 31 July 2012, after the conclusion of her competition, the Athlete was requested to provide a second urine sample, which was identified with the number 2718716.
5. The A-Samples 2721411 and 2718716 were analysed during the 2012 Olympic Games by the WADA-accredited Laboratory in London. Such analyses 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 2718716 were analysed by the Laboratory in July 2012 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;
 - Mrs Gunilla Lindberg (Sweden)
 - 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. 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 AAF and requested the opening and analysis of the B-Sample. She further indicated that she would not personally attend the process but would be represented on this occasion. She however did not indicate the name and function of her designated representative. The Athlete finally requested a copy of the laboratory documentation package.
15. On 28 July 2016, the IOC requested the Athlete to be provided with the name of her representative. The Athlete was further informed that the opening of the B-Sample would occur on 8 August 2016 at the Laboratory, followed by the analysis of the sample over the following days.
16. On 5 August 2016, Ms Ekaterina Džonson wrote to the IOC on behalf of the Athlete. She confirmed that a representative would attend the opening of the B-Sample. The IOC was informed that the name of the representative would be communicated later that day.
17. On 8 August 2016, Ms Džonson informed the IOC that Mr Zoloev would represent the Athlete for the opening of the B-Sample.
18. The opening of the B-Sample 2718716 took place on 8 August 2016.
19. The opening of the B-Sample was conducted in the presence of an independent witness. Mr Zoloev attended the process on behalf of the Athlete. The IOC was represented on this occasion by Mr Nicolas Français, IOC external legal counsel.
20. The results of the analysis were reported to the IOC on 11 August 2016. They confirmed the presence in the B-Sample of the Prohibited Substance already detected in the A-Sample: dehydrochlormethyltestosterone (turinabol).
21. On 16 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.

22. On 18 August 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 B-Sample laboratory documentation package. She informed the IOC that she would not personally attend the hearing of the Disciplinary Commission but would be represented on this occasion. She did not indicate the name of her representative. She finally informed the IOC that she would also present her defence in writing.
23. In her Disciplinary Commission Form, the Athlete wrote the following comment:

"I will send the letter – claim tomorrow providing the arguments regarding the B-Sample opening procedure."
24. On 19 August 2016, the Athlete was requested to provide the IOC with the name of her representative.
25. On 22 August 2016, Ms Džonson filed written submissions on behalf of the Athlete. Once again, the Athlete indicated that she did not accept the Adverse Analytical Finding.
26. In her submissions, the Athlete questioned the storage of the B-Sample between the distribution of the urine in the aliquots and the beginning of the analysis of the sample. Due to the fact that the B-Sample had not been resealed after the distribution of the aliquots and then had been stored in a refrigerator during the night before the analysis, which took place the following morning, she submitted that the unsealed aliquots could have been subject to human or any other unknown factor, which could have led to the AAF. She further contended the identification code should have been assigned by an independent expert.
27. The Athlete also mentioned her impeccable reputation during her career with respect to doping controls. She explained that she got injured one month before the beginning of the 2012 Olympic Games and was then given injection of Betamethasone at the Olympic Village. She argued that such injection could have influenced the results of the analysis.
28. On 11 November 2016, the IOC provided the Athlete with a copy of the A-Sample and B-Sample laboratory documentation packages as well as additional documentation related to her sample, in particular the handling of the sample in London and its transfer to Lausanne.
29. In the same communication, the Athlete was advised that the hearing of the Disciplinary Commission was scheduled to be held on 13 December 2016 and was given the possibility to participate in the hearing via videoconference. She was finally invited to submit a written defence by 1 December 2016.
30. On 6 December 2016, due to the lack of response, the Athlete was granted an additional deadline until 7 December 2016 to file her written submissions.
31. On 16 December 2016, the Disciplinary Commission was informed by the IOC that the second sample provided by the Athlete, i.e. sample 2721411 collected on 28 July 2012, had just been reported as an Adverse Analytical Finding.
32. On the same day, the IOC was advised that the Disciplinary Commission had decided to wait for the completion of the analytical process of this second sample before issuing its decision.

33. On 13 January 2017, the IOC notified the Athlete, directly and through her NOC, of the second AAF. 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.
34. On 14 January 2017, the Athlete informed the IOC that she would be waiting for the final decision. She did not indicate whether she accepted the second Adverse Analytical Finding, whether she requested the opening and analysis of the B-Sample and whether she requested a copy of the laboratory documentation package.
35. On 23 January 2017, the IOC informed the Athlete that the opening of the B-Sample would occur on 30 January 2017 at the Laboratory, followed by the analysis of the sample.
36. The opening of the B-Sample 2721411 took place on 30 January 2017.
37. The opening of the B-Sample was conducted in the presence of an independent witness. The Athlete did not attend the process and was not represented on this occasion.
38. The results of the analysis were reported to the IOC on 1 February 2017. They confirmed the presence in the B-Sample of the Prohibited Substance already detected in the A-Sample: dehydrochlormethyltestosterone (turinabol).
39. On 10 February 2017, 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 invited to indicate whether she would participate in the hearing of the Disciplinary Commission, which was scheduled to be held on 1 or 2 March 2017. She was reminded of the possibility to participate in the hearing via videoconference and was invited to submit her written defence by 24 February 2017.
40. On the same day, the NOC and the IF were invited to participate in the hearing of the Disciplinary Commission and to file written observations by 24 February 2017.
41. On 16 February 2017, 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 B-Sample laboratory documentation package. She further indicated that she would not attend the hearing of the Disciplinary Commission, neither personally nor through a representative, but that she would submit a defence in writing.
42. On the same day, the Athlete sent an email to the IOC in which she repeated that her reputation as an Athlete was impeccable and that none of the samples that she provided during her career had ever been reported positive. She explained once again that the results of the analysis might have been influenced by the injection of the hormonal drug, Betamethasone, which was given to her by doctors at the Olympic Village.
43. On 23 February 2017, the Athlete was provided with a copy of the B-Sample laboratory documentation package related to her sample 2721411 as well as additional documentation related to her sample, in particular the handling of the sample in London and its transfer to Lausanne. She was invited to submit her final written defence by 28 February 2017.
44. The Athlete did not reply. The NOC and the IF did not file any written observation.

2. APPLICABLE RULES

45. 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.”

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

47. 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.”

48. 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.”

49. 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.”

50. 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.”

51. 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.”

52. 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.”

53. 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.”

3. DISCUSSION

A. Establishment of an Anti-Doping Rule Violation

54. The results of the analyses of the samples 2718716 and 2721411 provided by the Athlete establish the presence in her samples of the metabolites of a Prohibited Substance, i.e. dehydrochlormethyltestosterone (turinabol).
55. The substance detected is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
56. 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.

57. 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.
58. 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.
59. 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.
60. In this respect, the Disciplinary Commission observes that the nature of the substance which was found in the Athlete's samples (i.e. a traditional doping substance) makes this result consistent with the use of a Prohibited Substance specifically ingested to deliberately improve performance.
61. 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.
62. This constitutes an indication that said substance has been in widespread use by athletes, who were doping at that time.
63. 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).
64. 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.
65. 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.
66. 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.
67. 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.

68. 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. Validity of the results reported by the Laboratory

69. In substance, the Athlete questions the validity of the results reported by the Laboratory based on the fact that the aliquots containing her urine between the opening and the analysis of the B-Sample were not resealed.
70. According to Art. 3.2.2 of the ISL, WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Disciplinary Commission observes that the Athlete seeks to rebut this presumption by establishing that a departure from the ISL occurred which could reasonably have caused the AAF.
71. What the Athlete describes the normal procedure: the B-sample was opened for the purpose of being analysed and not of being again resealed (only the part of the sample not used is put in a bottle, which is resealed but not in a formal process).
72. Once the procedure is engaged in the laboratory, the part of the sample used for analysis is not resealed and there is no requirement in the ISL that this should be the case. This for obvious reason: the sample is precisely opened to be available for analysis.
73. The argument of the Athlete is in any event only related to one of the samples.
74. The fact that in this case, the results are based on a second sample is adding to the conclusion, which in this case is inescapable.

ii. Use of Betamethasone

75. The Athlete also contended that the Adverse Analytical Finding may result from injection of Betamethasone, which would have been administrated by a doctor at the Olympic Village.
76. There is no connection whatsoever between the use of Betamethasone and the finding at stake, which concerns dehydrochlormethyltestosterone (turinabol).
77. None of the Athlete's arguments is thus in any way putting into question the validity of the analysis results, which are consistent in the two analysed samples.
78. The Disciplinary Commission finds that an anti-doping violation is thus established pursuant to both Art. 2.1 and Art. 2.2 of the Code.

C. Consequences of the anti-doping rule violation

79. Under the Rules, the consequences of anti-doping rule violations are limited to consequences in connection with the 2012 Olympic Games.
80. 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 63kg weightlifting event in which she ranked 2nd and for which she was awarded a silver medal.

81. 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 relevant International Federation, i.e. the International Weightlifting Federation (“**IWF**”).

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CONSIDERING the above, pursuant to the Olympic Charter and, in particular, Rule 59.2.1 thereof, and pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXX Olympiad in London in 2012 and, in particular, Articles 1, 2, 6.3.3, 7 and 8 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Svetlana TZARUKAEVA:
 - (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 its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the Women's 63kg weightlifting event in which she participated upon the occasion of the Olympic Games London 2012;
 - (iii) has the silver medal, the medallist pin and the diploma obtained in the Women's 63kg weightlifting event withdrawn and is ordered to return same.
- II. The IWF is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
- III. The Russian Olympic Committee shall ensure full implementation of this decision.
- IV. The Russian Olympic Committee shall notably secure the return to the IOC, as soon as possible, of the silver medal, the medallist pin and the diploma awarded in connection with the Women's 63 kg weightlifting event to the Athlete.
- V. This decision enters into force immediately.

Lausanne, 15 March 2017

In the name of the IOC Disciplinary Commission



Ugur Erdener



Denis Oswald, Chairman



Gunilla Lindberg