

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING MARIIA BESPALOVA
BORN ON 21 MAY 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 XXX Olympiad, London 2012 (the “**Rules**”) and, in particular, Articles 1, 2, 6.3.3, 7 and 8 thereof:

I. FACTS

1. Mariia BESPALOVA (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 11th.
3. On 7 August 2012, the Athlete was requested to provide a urine sample for a doping control (in competition). Such sample was identified with the number 2721195.
4. The A-Sample 2721195 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: dehydrochlormethyltestosterone (turinabol).
9. The results were reported to the IOC in accordance with Art. 6.2.1 of the Rules.
10. Further to the verifications set forth in Art. 6.2.2 of the Rules and in application of Art. 6.2.3 of the Rules, the IOC President, Mr Thomas Bach, was informed of the existence of the AAF and the essential details available concerning the case.

11. Pursuant to Art. 7.2.4 of the Rules, the IOC President set up a Disciplinary Commission, consisting in this case of:
 - Mr Denis Oswald (Chairman, Switzerland), who is a member of the IOC Legal Affairs Commission;
 - Mrs Gunilla Lindberg (Sweden)
 - Mr Ugur Erdener (Turkey)
12. On 13 December 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. On 22 December 2016, the Athlete sent an email to the IOC, in which she indicated that she did not know the reason why the analysis of her sample resulted in an Adverse Analytical Finding. She contended that she never used any Prohibited Substance. She submitted that she had only used food supplements, which she bought on the Internet. She finally indicated that she had not the necessary financial resources to attend the B-Sample opening and to attend the hearing of the Disciplinary Commission.
14. On 28 December 2016, the Athlete was advised that the costs related to the opening and analysis of the B-Sample would be borne by the IOC. She was informed that the opening of the B-Sample would occur on 9 January 2017 at the Laboratory followed by the analysis of the sample. The IOC also reminded the Athlete that the B-Sample opening would be attended by an independent witness.
15. The opening of the B-Sample took place on 9 January 2017.
16. The opening of the B-Sample was conducted in the presence of an independent witness and an IOC representative.
17. The results of the analysis were reported to the IOC on 10 January 2017. They confirmed the presence in the B-Sample of the Prohibited Substance already detected in the A-Sample: dehydrochlormethyltestosterone (turinabol).
18. On 11 January 2017, the IOC notified the B-Sample results to the Athlete, directly and through her NOC. The Athlete 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, which should be scheduled to take place in January or February 2017.
19. The Athlete did not reply.
20. On 23 January 2017, the IOC informed the Athlete that the hearing of the Disciplinary Commission was scheduled to be held on 1 or 2 March 2017 and was invited to indicate by 8 February 2017 whether she would attend the hearing, either personally and/or through a representative. She was informed of the possibility to attend the hearing via videoconference. Moreover, she was granted a deadline until 20 February 2017 to file her written defence.
21. On the same day, the NOC and the IF were invited to send a representative to the hearing and to file written observations by 20 February 2017

22. On 17 February 2017, the Athlete was granted an additional deadline until 20 February 2017 to indicate whether she would attend the hearing personally and/or through a representative and was reminded of the possibility to participate via videoconference. She was invited once again to submit her written defence before 20 February 2017.
23. The Athlete did not reply.
24. On 23 February 2017, the IOC informed the Athlete through her NOC that the Disciplinary Commission would issue a decision on the basis of the file.
25. The Athlete did not reply. Neither the NOC nor the IF filed written observations.
26. As a final observation, it is to be noted that the Athlete has been found to have committed an anti-doping rule violation on 6 September 2015 and has been sanctioned with a period of 4 years ineligibility in accordance with IAAF Rules.
27. In this case, the Prohibited Substance was the same as the substance at stake, i.e. dehydrochlormethyltestosterone (turinabol).

II. APPLICABLE RULES

28. 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.”*

29. Art. 2 of the Rules provides that Article 2 of the Code applies to determine anti-doping rule violations.
30. 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."*

31. 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."*

32. 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."

33. 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."

34. 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."

35. 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."

36. 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**

37. 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).
38. The substance detected is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
39. The Disciplinary Commission is satisfied that the sample which has been re-analysed by the Laboratory is unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards occurred.
40. In her written submissions, the Athlete does not bring forth any element challenging the validity of the analytical results.
41. The Athlete simply denies having used performance-enhancing substances. As an explanation for the presence of the Prohibited Substances, she raises the hypothesis that the substances may have been contained in food supplements bought on the Internet and used at that time.
42. Based on the analytical results establishing the presence of Prohibited Substances in the Athlete's sample, the Disciplinary Commission finds that the Athlete has in any event committed an anti-doping rule violation pursuant to Art. 2.1 of the Code.
43. 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. 2.2 of the Code.
44. The Disciplinary Commission observes that the nature of the substance which was found in the Athlete's sample is consistent with intentional use of Prohibited Substances specifically ingested to deliberately improve performance. The fact that the metabolites of a doping substance, which is a "classical" doping substance, was found, supports this consideration.
45. Furthermore, the Disciplinary Commission observes that the fact that the substance in question may have been contained in food supplements would not exonerate the Athlete from having used it.
46. First, the use of food supplements in which Prohibited Substances are used as an ingredient may just be a way of using deliberately such Prohibited Substances. The fact that the Prohibited Substances might be the ingredients of a food supplement does not make it less reprehensible to use than the substances in isolation.
47. Furthermore, athletes have been repeatedly warned to apply extreme caution when using food supplements, which may contain undeclared Prohibited Substances or which may have been contaminated during production.
48. With the mere unsupported hypothesis that the source of finding could be food supplements, the Athlete does not establish that she applied the level of caution. Assuming for the sole purpose of discussion, that the source of the analytical finding would indeed be supplements in which the Prohibited Substances would have been included without the

Athlete's knowledge, there is in any event no indication (not to speak of any evidence) in the Athlete's explanations that she satisfied the high duty of care and caution in choosing food supplements, which is expected from high-level athletes.

49. Finally, the fact that the same Athlete was found to have committed an anti-doping rule violation in 2015 for the same Prohibited Substance detected in the sample collected in 2012, i.e. dehydrochloromethyltestosterone (turinabol), more than suggests that the Athlete has been doping on a regular basis throughout her career.
50. In conclusion, 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.
51. The consequences of an anti-doping rule violation pursuant to the Rules are limited to consequences in connection with the 2012 Olympic Games.
52. 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.).
53. 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 Federation ("**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, 6.3.3, 7 and 8 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Mariia BESPALOVA:
 - (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 event in which she participated upon the occasion of the Olympic Games London 2012, namely the Women's hammer throw event.
- 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. 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