

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING YULIA KALINA
BORN ON 24 OCTOBER 1988, UKRAINE, 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, 7 and 8 thereof:

1. FACTS

1. Yulia Kalina (hereinafter the “**Athlete**”), participated in the Olympic Games London 2012 (the “**2012 Olympic Games**”).
2. On 30 July 2012, the Athlete competed in the 58kg weightlifting event in which she ranked 3rd and for which she was awarded the bronze medal.
3. On this occasion, the Athlete was requested to provide a urine sample for doping control. Such sample was identified with the number 2718723.
4. The A-Sample 2718723 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. In view of the fact that all the samples including the A-samples were transported in sealed boxes from the WADA-accredited laboratory in London to the WADA accredited laboratory in Lausanne and that the quantity of the urine remaining in the A-samples was sufficient, 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 analysis of the A-Sample resulted in an Adverse Analytical Finding (“**AAF**”) as it showed the presence of the metabolites of a Prohibited Substance: Dehydrochloromethyltestosterone (turinabol).
9. The results were reported to the IOC in accordance with Art. 6.2.1 of the Rules.
10. Further to the verifications set forth in Art. 6.2.2 of the Rules and in application of Art. 6.2.3 of the Rules, the IOC President, Mr Thomas Bach, was informed of the existence of the AAF and the essential details available concerning the case.

11. Pursuant to Art. 7.2.4 of the Rules, the IOC President set up a Disciplinary Commission, consisting in this case of:
 - Mr Denis Oswald (Chairman, Switzerland), who is a member of the IOC Juridical Commission;
 - Mr Juan Antonio Samaranch (Spain)
 - Mr Ugur Erdener (Turkey)
12. On 26 May 2016, the IOC notified the Athlete, through her NOC, of the above-mentioned AAF and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission. The IOC also informed the Athlete of her right to request the opening and analysis of the B-Sample and to attend this process, either in person and/or through a representative.
13. On 30 May 2016, the Athlete answered directly to the IOC and requested an extension of the deadline expiring on 1 June 2016 to provide the completed AAF Notification Appendix.
14. On 1 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 her B-Sample. She did not mention whether she would attend the opening and analysis of the B-Sample personally or through a representative and did not request a copy of the laboratory documentation package.
15. On 2 June 2016, the IOC informed the Athlete that the opening and analysis of the B-Sample was scheduled to take place on 8 June 2016 at the Swiss Laboratory for Doping Analysis in Lausanne, Switzerland. The IOC also invited once again the Athlete to indicate whether she would attend the opening and analysis of her B-Sample.
16. On 3 June 2016, the Athlete replied to the IOC and confirmed that she would not attend the opening of her B-Sample, neither personally nor through a representative.
17. The opening of the B-Sample occurred on 8 June 2016 in the presence of an independent witness.
18. The Athlete did not attend the opening and analysis of her B-Sample and was not represented on this occasion.
19. The results of the analysis were reported to the IOC on 10 June 2016. They confirmed the presence in the B-Sample of a Prohibited Substance: Dehydrochlormethyltestosterone (turinabol).
20. On 13 June 2016, the IOC notified the B-Sample results to the Athlete. The Athlete was invited to indicate whether she accepted the AAF 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.
21. The Athlete did not reply to the communication dated 13 June 2016.
22. On 22 June 2016, the IOC sent a reminder to the Athlete and required the Athlete to provide an answer to the communication dated 13 June 2016 within the deadline of 23 June 2016.

23. The Athlete did not reply.
24. On 4 July 2016, the IOC informed the Athlete that the hearing of the Disciplinary Commission was scheduled to be held on 11 July 2016 and once again invited the Athlete to indicate whether she would attend the hearing personally and/or through a representative. The Athlete was also invited to submit a written defence within the deadline of 8 July 2016.
25. On the same day, the IOC invited the NOC and the IF concerned to send a representative to the hearing and/or to send written observations within the deadline of 8 July 2016.
26. On July 8, 2016, Mr Claude Ramoni, attorney-at-law in Lausanne informed the IOC that he had been appointed to act as counsel for the Athlete and that he would represent her at the hearing. The Athlete would attend via video-conference.
27. Mr Ramoni applied for time to submit a pre-hearing brief until 11 July 2016 at noon. He further asked to invite a laboratory representative to the hearing in order to answer questions in connection with the AAF.
28. Both requests were granted.
29. A pre-hearing brief was filed on behalf of the Athlete within the set deadline.
30. The Disciplinary Commission held a hearing on 11 July 2016 at the IOC Offices in Pully, Switzerland.
31. The Athlete took part in the hearing via video-conference. She was assisted by an interpreter, Mr Yuriy Derkach.
32. The Athlete was represented at the hearing by her counsels, Mr Claude Ramoni and Mrs Natalie St Cyr Clarke, attorneys-at-law.
33. The IOC was represented by Mr Christian Thill, IOC Senior Legal Counsel and Mr Jean-Pierre Morand and Mr Nicolas Français, attorneys-at-law.
34. Dr Richard Budgett, Medical and Scientific Director, was available on the telephone during the hearing.
35. Ms Aurélie Jan, administrative assistant of the IOC was present (notably to manage the video-conference).
36. Dr Norbert Beaume of the Lausanne Anti-doping Laboratory was heard as expert witness during the hearing.
37. Minutes of the hearing were taken by Mr Jamie Allen. The hearing was also recorded.
38. Neither the NOC of the Athlete nor the IWF were represented at the hearing.
39. The Athlete explicitly agreed at the end of the hearing that due process had been fully observed in the course of the proceedings.

2. APPLICABLE RULES

40. 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.”

41. Art. 2 of the Rules provides that Article 2 of the World Anti-Doping Code (the “**Code**”) applies to determine anti-doping rule violations.

42. 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.”

43. Art. 2.2 of the Code provides that 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.

44. 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.”

45. Art. 8.1 of the Rules provides as follows:

“An anti-doping rule violation occurring during or in connection with the London Olympic Games may lead to Disqualification of all of 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.”

46. 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.”

3. Discussion

47. The results of the analysis of the sample provided by the Athlete establish the presence in her sample of two metabolites of a Prohibited Substance.

48. The substance detected is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists.

49. The Athlete acknowledges the analytical results and admits that they establish the fact that a Prohibited Substance was present in her sample.

50. The Athlete alleges however that she never knowingly ingested prohibited substances.

51. Referring to the fact that she was regularly tested during her career and never found positive on those occasions, the Athlete submits that the only possible explanation for the results would be a contaminated or a mislabelled food supplement.

52. In this respect, the Athlete explains that in 2012, she was taking food supplements but at that time did not have the benefit of the support of a team doctor. She was taking food supplements recommended by her trainer and bought from sport shops.

53. The Athlete alleges that she was carefully checking the contents on the labels against the WADA Prohibited List.

54. Furthermore, she alleges that she purchased the supplements from reliable sources. In this respect, the Athlete indicates that she did not buy the supplements from the internet. However, she herself admits that in Ukraine the reliability of supplements, even purchased over the counter, cannot be guaranteed.

55. The Athlete indicates that she does not remember the brand(s) of the supplements she was then using.
56. When asked why there is no mention of supplements on the Doping Control Form (“DCF”), the Athlete stated that at that time she was no longer using supplements but only vitamins.
57. Regarding the detection of the Prohibited Substance (turinabol) in the Athlete’s sample, whilst the analysis of the same sample by the WADA-accredited laboratory in London in 2012 had returned a negative result, Dr Norbert Baume of the LAD explained that in 2016 the laboratory in Lausanne applied a method based on an increased sensitivity and which was searching for additional metabolites, which had been identified as markers of the concerned substance in a study published in 2011.
58. These metabolites are so called “long-term” metabolites allowing the detection of the presence of the substance in the body during a much longer detection window.
59. These metabolites were previously not used to identify turinabol. They were therefore not included in the analytical menu.
60. According to Dr Baume, this new way to identify the presence of turinabol was progressively implemented by the various WADA-accredited laboratories from the later part of 2012.
61. Although Dr Baume could not testify with certainty in this respect, it had probably not been implemented in the London laboratory at the times of the Olympic Games.
62. In answer to a question of the Athlete’s counsel, Dr Baume indicated that the results as such could be consistent with the ingestion of contaminated products.
63. In answer to a question of the IOC’s counsel, Dr Baume clarified that although contamination by turinabol is theoretically possible, to the best of his knowledge, there were no studies, nor publications indicating that turinabol is commonly found as a contaminant in food supplements.
64. Based on the above and for the reasons that follow, the Disciplinary Commission finds that the Athlete has committed an anti-doping rule violation pursuant to the Rules.
65. An anti-doping rule violation is already established in application of Art. 2 of the Rules in connection with Art. 2.1 of the Code. In this case, the anti-doping rule violation consists in the presence of a Prohibited Substance in the Athlete’s body.
66. This is expressly admitted by the Athlete.
67. In addition, the Disciplinary Commission finds that an anti-doping rule violation is also established if the circumstances are considered in the perspective of Art. 2 of the Rules in connection with Art. 2.2 of the Code (Use of a Prohibited Substance).
68. In this respect, the Disciplinary Commission notes that the Athlete has clearly failed to observe her duty to prevent a Prohibited Substance from entering her body (Art. 2.2.1 of the Code).
69. Although a demonstration of fault (intent or negligence) is not necessary to conclude that a violation within the meaning of Art. 2.2 of the Code has been committed, the Disciplinary

Commission notes, that, even in the most favourable scenario, the Athlete has been, at best, highly negligent.

70. Athletes have long been warned against the risk of using food supplements and that extreme care should be exercised in this respect. The Athlete confirmed that she was personally aware of this risk.
71. Even if one were to accept the Athlete's explanations, the Disciplinary Commission notes that she did not take any adequate precaution when using food supplements.
72. First, the indication that she relied on her coach's recommendation is not relevant: a coach is not qualified to provide adequate advice in respect of nutrition.
73. Second, the Athlete's statement that she did not buy food supplements from the internet adds little weight to her argument.
74. This is particularly the case when the Athlete herself admits that in Ukraine, the reliability of food supplements cannot be guaranteed even if purchased over the counter. This is also particularly the case, not only in Ukraine, when food supplements are purchased from sport shop.
75. The Disciplinary Commission also has some hesitation regarding the credibility of the Athlete's explanations.
76. Turinabol is a steroid widely and directly used as a performance enhancing doping substance. This is notably the case in weightlifting.
77. There is therefore a simple and straightforward explanation for the fact that turinabol was found in the Athlete's sample.
78. The explanations provided by the Athlete in support of a less culpable scenario of contamination lack substance and coherence.
79. First, the Athlete is unable to even name the supplements that she had allegedly been taking. Even considering the elapsed time, this seems difficult to reconcile with her claim that she was very careful in checking same.
80. The fact that the Athlete cannot name the supplements also prevents any verification or investigation whether these supplements could possibly have been contaminated by turinabol, a substance not known to accidentally contaminate legitimate food supplements.
81. Furthermore, in her brief, the Athlete states that food supplements were a necessary part of every weightlifter's diet. This again does not appear to be consistent with the answer she provided at the hearing, that she was no longer taking food supplements which was why there was no mention of any on her DCF.
82. Whatever the perspective under which the circumstances of this case are considered, the Disciplinary Commission comes to the conclusion that the Athlete committed an anti-doping rule violation, which is established both in application of Art. 2.1 and Art. 2.2. of the Code (in both cases, a violation pursuant to Art. 2 of the Rules).
83. The consequences of an anti-doping rule violation pursuant to the Rules are limited to consequences in connection with the 2012 Olympic Games.

84. 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 disqualified, with all further consequences including forfeiture of medals and diploma.
85. 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 IWF.

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, 7 and 8 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Yulia KALINA:
 - (i) is found to have committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXX Olympiad in London in 2012 (presence, and/or use, of a Prohibited Substance or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the event in which she participated upon the occasion of the Olympic Games London 2012, namely the 58kg weightlifting event, in which she placed 3rd.
 - (iii) has the bronze medal, the diploma, and the medallist pin obtained in the 58kg 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 Ukrainian Olympic Committee shall ensure full implementation of this decision.
- IV. This decision enters into force immediately.

Lausanne, 13 July 2016

In the name of the IOC Disciplinary Commission

Denis Oswald, Chairman

Juan Antonio Samaranch

Ugur Erdener