

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION DECISION

REGARDING SIBEL OZKAN BORN ON 3 MARCH 1988, TURKEY, 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 XXIX Olympiad in Beijing in 2008 (the “**Rules**”) and, in particular but without limitation, Articles 2, 5.1, 7.3.3, 8 and 9 thereof:

I. FACTS

1. Sibel OZKAN (hereinafter the “**Athlete**”), participated in the Olympic Games Beijing 2008 (the “**2008 Olympic Games**”).
2. On 9 August 2008, the Athlete competed in the 48kg weightlifting event (Final) in which she ranked 2nd and for which she was awarded the silver medal.
3. On 2 August 2008, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with the number 1844180.
4. The A-Sample 1844180 was analysed during the 2008 Olympic Games by the WADA-accredited Laboratory in Beijing. Such analysis did not result in an adverse analytical finding at that time.
5. After the conclusion of the 2008 Olympic Games, all the samples collected upon the occasion of the 2008 Olympic Games were transferred to the WADA-accredited “Laboratoire suisse d’analyse du dopage” in Lausanne (“the **Laboratory**”) for long-term storage.
6. The IOC decided to perform further analyses on samples collected during the 2008 Olympic Games. These additional analyses were notably performed with improved analytical methods in order to possibly detect Prohibited Substances which could not be identified by the analysis performed at the time of the 2008 Olympic Games.
7. In accordance with the provisions of the applicable International Standards for Laboratories (the “**ISL**”), the IOC decided that the reanalysis process would be conducted as follows:
 - An initial analysis was to be conducted on the remains of the A-samples
 - If such initial analysis resulted in the indication of the potential presence of a Prohibited Substance or its Metabolites or Markers (“Presumptive Adverse Analytical Finding” - PAAF), the full confirmation analysis process (double confirmation) was to be conducted on the B-Sample, which would be split for the occasion into a B1- and a B2 Sample (becoming thus the equivalent of a A- and B-Sample).
8. The decision to proceed based on split B-samples was made in principle for all the re-analysis.

9. This choice was made since, in view of the fact that during the transfer of the samples from the Beijing laboratory to the Laboratory, the A-samples were not individually resealed nor transported in sealed containers.
10. At that time, resealing of A-Samples (or transport in sealed containers) was not a requirement pursuant to the then applicable ISL (2008).
11. However, it was felt that the option to rely on the B-Sample did constitute an additional precaution securing the strength and reliability of the analytical process.
12. A similar cautious approach was adopted with regard to the implementation of the analytical process and notably of its first phase (opening and splitting of the B-Sample in a B1- and B2-Sample, sealing of the B2-Sample and analysis of the B1-Sample).
13. Pursuant to the ISL, the presence of the Athlete is not a requirement for such first phase of the B-Sample analysis.
14. The IOC nevertheless decided, again as a matter of principle, that, whenever this was practically possible, the Athlete would be offered the opportunity to attend the above described first phase of the B-sample procedure.
15. All these additional measures, going beyond what is required, were decided in the spirit of enhancing the position of the athletes.
16. The remains of the A-Sample of the Athlete were subject to initial analysis. Such analysis resulted in a Presumptive Adverse Analytical Finding (“**PAAF**”) as it indicated the potential presence of the metabolites of a Prohibited Substance: stanozolol.
17. On 18 May 2016, the Athlete through her NOC was informed of the PAAF and of the possibility to attend the opening and splitting of the B-Sample into a B1- and B2-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample, which was scheduled to take place either on 31 May 2016 or 1st June 2016.
18. On 19 May 2016, the NOC acknowledged receipt of the correspondence dated 18 May 2016 sent by the IOC.
19. On 27 May 2016, the IOC informed the Athlete, through her NOC, that the opening and splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample was postponed due to the absence of reply from the Athlete. The process was rescheduled to take place on 6 June 2016.
20. On 30 May 2016, the NOC informed the IOC that the Athlete had effectively received the documents dated 18 May 2016 and had been requested to return her completed PAAF Notification Appendix. The NOC further indicated that the Athlete confirmed that she would not attend the opening and splitting of the B-Sample, neither personally nor through a representative.
21. On 31 May 2016, the IOC requested the NOC to obtain a written confirmation from the Athlete that she would not attend the process scheduled to take place on 6 June 2016.
22. On 1 June 2016, the NOC informed the IOC that the Athlete refused to provide a written confirmation. According to the NOC, the Athlete said that “*As written in the documents, the IOC will opening B sample even I do not return the form*”.

23. On 3 June 2016, the IOC acknowledged receipt of the email received from the NOC on 1 June 2016 and asked the NOC whether they would confirm in person at the hearing if necessary that the Athlete informed the NOC that she would not attend the process scheduled to occur on 6 June 2016 either personally or through a representative.
24. On the same day, the NOC confirmed that the Athlete would not attend the B-Sample opening and informed the IOC that they would confirm this statement in person at a hearing if required.
25. On the same day, the NOC provided the IOC with a copy of a SMS sent by the Athlete to the NOC in which she confirmed that she would not attend the process.
26. Due to the late confirmation received from the Athlete, the IOC had decided to postpone the opening, splitting of the B-Sample, resealing of the B2-Sample and analysis of the B1-Sample initially scheduled on 6 June 2016.
27. On 10 June 2016, the Athlete through her NOC was informed that the process was rescheduled to take place on 14 June 2016 at the Laboratory.
28. The opening, splitting of the B-Sample, the sealing of the B2-Sample occurred on 14 June 2016 followed by the analysis of the B1-Sample. The Athlete did not attend the process and was not represented on this occasion.
29. As provided in the ISL, the opening and splitting was attended by an independent witness.
30. The results of the B1-Sample analysis were reported on 15 June 2016. They confirmed the presence of the metabolites of a Prohibited Substance, namely stanozolol.
31. Such results constitute an Adverse Analytical Finding (“**AAF**”). They were reported to the IOC in accordance with Art. 7.2.1 of the Rules.
32. Further to the verifications set forth in Art. 7.2.2 of the Rules and in application of Art. 7.2.3 of Rules, the IOC President, Mr Thomas Bach, was informed of the existence of the AAF and the essential details available concerning the case.
33. Pursuant to Art. 7.2.4 of the Rules, the IOC President set up a Disciplinary Commission, consisting in this case of:
 - Mr Denis Oswald (Chairman, Switzerland), who is a member of the IOC Juridical Commission;
 - Mrs Gunilla Lindberg (Sweden)
 - Mr Juan Antonio Samaranch (Spain)
34. On 21 June 2016, the IOC notified the Athlete of the above-mentioned AAF and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission. The IOC also informed the Athlete of her right to request and attend the opening and analysis of the B2-Sample, either in person and/or through a representative. She was also informed of her right to request a copy of the laboratory documentation package.
35. On 24 June 2016, the Athlete through her NOC provided the IOC with her completed AAF Notification Appendix in which she indicated that she did not accept the Adverse Analytical Finding. She requested the opening and analysis of the B2-Sample but did not indicate whether she would attend the process personally and/or through a representative. She further requested a copy of the laboratory documentation package.

36. On the same day, the Athlete through her NOC provided the IOC with written observations in Turkish, which have been translated into English by her NOC.
37. In her written observations, the Athlete described the main competitions in which she participated during the 2007 and 2008 seasons and explained that she had been subject to various doping controls. She asserted that she had neither time nor intention to use prohibited substances in such intensive program.
38. The Athlete also mentioned that her coach, Talat Ünlü, used to prepare and give her products which included protein, creatine and glutamine.
39. The Athlete finally submitted that she has always been determined to be a “clean athlete” and explained that she had been psychologically affected by the present proceedings. She argued that she did nothing wrong and considered that she did not deserve any sanctions or penalties.
40. On 24 June 2016, the IOC informed the Athlete, through her NOC, that the opening of the B2-Sample was scheduled to take place on 27 June 2016 at the Laboratory and that the analysis would be conducted over the following days.
41. The opening of the B2-Sample occurred on 27 June 2016 in the presence of an independent witness.
42. The results of the B2-Sample analysis were reported to the IOC on 28 June 2016. They confirmed the presence in the B2-Sample of the metabolites of a Prohibited Substance, namely stanozolol.
43. On 1st July 2016, the IOC communicated to the Athlete the results of the B2-Sample analysis. The Athlete was invited to indicate whether she accepted the Adverse Analytical Finding and whether she requested a copy of the B2-Sample laboratory documentation package. She was also informed that she had the possibility to attend the hearing of the Disciplinary Commission and/or to submit a defence in writing. The Athlete was finally provided with a copy of the B1-Sample laboratory documentation package.
44. On 4 July 2016, the Athlete through her NOC sent her completed Disciplinary Commission Form in which she indicated that she did not accept the Adverse Analytical Finding and requested a copy of the B2-Sample laboratory documentation package. She further indicated that she would not attend the hearing of the Disciplinary Commission, either personally or through a representative. She finally informed the IOC that she would present a defence in writing.
45. On 14 July 2016, the IOC provided the Athlete, through her NOC, with a copy of the B2-Sample laboratory documentation package as well as additional documentation related to her sample, in particular the handling of the sample in Beijing and its transfer to the WADA accredited laboratory in Lausanne.
46. On the same day, the IOC invited the Athlete to submit her written defence by 21 July 2016. The NOC and the IF were also invited to submit written observation within a similar deadline.
47. On 18 July 2016, the Athlete through her NOC informed the IOC that she referred to her previous observations filed on 24 June 2016.
48. Neither the NOC nor the IF replied.

II. APPLICABLE RULES

49. Art. 2.1 of the Rules provides as follows:

“The presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s bodily Specimen.

2.1.1 It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their bodily Specimens. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping violation under Article 2.1.

2.1.2 Excepting those substances for which a quantitative reporting threshold is specifically identified in the Prohibited List, the detected presence of any quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample shall constitute an anti-doping rule violation.

2.1.3 As an exception to the general rule of Article 2.1, the Prohibited List may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.”

50. Art. 2.2 of the Rules provides as follows:

“Use or Attempted Use of a Prohibited Substance or a Prohibited Method

2.2.1 The success or failure of the Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be used for an anti-doping rule violation to be committed.”

51. Art. 5.1 of the Rules provides as follows:

“The IOC is responsible for Doping Control during the Period of the Olympic Games. The IOC is entitled to delegate all or part of its responsibility for Doping Control to one or several other organisations.

The Period of the Olympic Games, or In-Competition Period, is defined as “the period commencing on the date of the opening of the Olympic village for the Olympic Games, namely, 27 July 2008 up until and including the day of the closing ceremony of the Olympic Games, namely, 24 August 2008.

All Athletes participating at the Olympic Games shall be subject, during the Period of the Olympic Games, to Doping Control initiated by the IOC at any time or place, with No Advance Notice. Such Doping Control may include Testing for all Prohibited Substances and all Prohibited Methods referred to in the Prohibited List.

The IOC shall have the right to conduct or cause to conduct Doping Control during the Period of the Olympic Games, and is responsible for the subsequent handling of such cases.”

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

“A violation of these Rules in connection with Doping Control automatically leads to Disqualification of the Athlete with all other consequences, including forfeiture of any medals, points and prizes.”

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

“An Anti-Doping Rule violation occurring during or in connection with the Olympic Games may lead to Disqualification of all of the Athlete’s results obtained in the Olympic Games with all consequences, including forfeiture of all medals, points and prizes, except as provided in Article 9.1.1.”

54. Art. 9.1.1 of the Rules provides as follows:

“If the Athlete establishes that he or she bears No Fault or Negligence for the violation, the Athlete’s results in the other Competition shall not be Disqualified unless the Athlete’s results in Competitions other than the Competition in which the anti-doping rule violation occurred were likely to have been affected by the Athlete’s anti-doping rule violation”.

III. DISCUSSION

55. The analysis carried out by the Lausanne Laboratory in 2016 establish the presence of the metabolites of a Prohibited Substance in the sample 1844180 that the Athlete provided on 2 August 2008, upon the occasion of the 2008 Olympic Games.

56. The substance detected in the Athlete’s sample is an exogenous anabolic steroid. It is listed in the WADA 2008 Prohibited List and in all subsequent lists.

57. The Disciplinary Commission is satisfied that the samples which have been analysed by the Laboratory are unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards occurred.

58. Based on the above, the Disciplinary Commission finds that the Athlete has committed an anti-doping rule violation pursuant to Art. 2.1 of the Rules consisting in the presence of a Prohibited Substance in her body.

59. 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 Rules.

60. The Disciplinary Commission observes that the nature of the substance which was found in the Athlete’s sample is consistent with intentional use of a Prohibited Substance 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.

61. 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.

62. The consequences of an anti-doping rule violation under the Rules are limited to consequences in connection with the 2008 Olympic Games. They are set forth in Art. 8, 9 and 10 of the Rules and are the following:

63. According to Art. 9.1, all the results achieved by the Athlete during the 2008 Olympic Games may be annulled.

64. Given the nature of the substance at stake (a classical anabolic steroid) and the absence of any justifying explanations, the Athlete did not establish that she bears no fault nor negligence within the meaning of Art. 9.1.1 of the Rules.
65. The results achieved by the Athlete on the occasion of the Olympic Games 2008, namely the results achieved in the 48kg weightlifting event, shall therefore be annulled with all consequences for the Athlete (withdrawal of medal, diploma and medallist pin) being applicable.
66. In application of Art. 9.3 of the Rules the further management of the consequences of the anti-doping rule violations and in particular the imposition of sanctions over and above those related to the Olympic Games 2008 shall be conducted by the 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 XXIX Olympiad in Beijing in 2008 and, in particular, Articles 2, 5.1, 7.3.3, 8 and 9 thereof:

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Sibel OZKAN:
 - (i) is found to have committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXIX Olympiad in Beijing in 2008 (presence and/or use, of a Prohibited Substance or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the events in which she participated upon the occasion of the Olympic Games Beijing 2008, namely, the 48kg weightlifting event, and
 - (iii) has the medal, the medallist pin and the diploma obtained in the 48kg weightlifting event (Final) withdrawn and is ordered to return same.
- II. The IWF is requested to modify the results of the above-mentioned events accordingly and to consider any further action within its own competence.
- III. The Turkish Olympic Committee shall ensure full implementation of this decision.
- IV. The Turkish Olympic Committee shall notably secure the return to the IOC, as soon as possible, of the medal, the medallist pin and the diploma awarded in connection with the 48kg weightlifting event (Final) to the Athlete.
- V. This decision enters into force immediately.

Lausanne, 21 July 2016

In the name of the IOC Disciplinary Commission

Denis Oswald, Chairman

Juan Antonio Samaranch

Gunilla Lindberg