

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING ANNA CHICHEROVA
BORN ON 22 JULY 1982, 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 XXIX Olympiad in Beijing in 2008 (the “**Rules**”) and, in particular but without limitation, Articles 2, 5.1, 7.3.3, 8, 9 and 16 thereof:

I. FACTS

1. Anna CHICHEROVA (hereinafter the “**Athlete**”), participated in the Games of the XXIX Olympiad in Beijing in 2008 (the “**2008 Olympic Games**”).
2. From 21 to 23 August 2008, the Athlete competed in the Women’s high jump event (Qualification and Final), in which she ranked 3rd and for which she was awarded the bronze medal.
3. On 24 August 2008, during the night after the Final, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with the number 1846073.
4. The A-Sample 1846073 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, Switzerland (“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 using more sensitive equipment and/or searching for new metabolites in order to possibly detect Prohibited Substances which were not 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 an 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 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: dehydrochloromethyltestosterone (turinabol).
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 initially scheduled to take place on 31 May 2016 or 1 June 2016.
18. By email dated 24 May 2016 sent directly to the IOC, the Athlete submitted that she had always followed the anti-doping rules during her career and that she had never used any Prohibited Substances. She indicated that she had always been careful with the nutritional supplements given to her by her coach and her medical team. The Athlete requested the full laboratory documentation package related to her A-Sample prior to deciding whether she would attend the opening and splitting of the B-Sample. She also requested a copy of all documents establishing the chain of custody from the collection time of the sample.
19. On 25 May 2016, the IOC informed the Athlete that it was not foreseen to issue a specific documentation package related to the A-Sample and that further documentation regarding chain of custody would be provided in due course. The IOC further provided explanations on the process followed and the possibility to attend the first stage of the analytical process including opening and splitting of the B-Sample and analysis of the B1-Sample and sealing of the B2-Sample.
20. On the same day, the Athlete, through her counsel, Mr Thilo Pachmann, informed the IOC that she had decided to attend the opening splitting and analysis of the B-Sample and provided the IOC with the corresponding completed PAAF Notification Appendix. The Athlete’s counsel indicated that the Athlete would not be available either on 31 May 2016 or on 1 June 2016 due to her training and competition schedule. He also indicated that he

was personally not available on these dates and needed time to contact experienced scientists. He accordingly requested to postpone the process to the end of June/beginning of July 2016.

21. The Athlete's counsel further requested the laboratory documentation package related to the reanalysis of the remaining A-Sample and the chain of custody documentation. He further asked to be provided with information on all the samples taken from his client during the Olympic Games Beijing 2008 and Olympic Games London 2012 as well as the entire documentation related to the analysis of all the samples collected during and after the 2008 and 2012 Games.
22. On 27 May 2016, the IOC informed the Athlete's counsel that, despite the fact that the Athlete's presence was not a requirement, the IOC was ready to attempt to accommodate reasonable requests to move the date of process. However, a request to postpone the process by more than one month was not reasonable. It was too long and not appropriate, even in the interests of the athletes, taking into consideration that the process should be run prior to the Olympic Games Rio 2016.
23. In addition to the two dates initially proposed, the IOC indicated therefore that the process could be postponed to either 6 June 2016 or 7 June 2016.
24. On 30 May 2016, the Athlete's counsel answered that none of the proposed dates were suitable for his client, himself and the scientist appointed. He again indicated that they would all be available on 27, 28 and 29 June 2016. He however mentioned that the scientific expert could be available on 8 June 2016.
25. On 31 May 2016, in view of the Athlete's scientific expert's availability and in the absence of any other reasonable proposal, the IOC informed that the process was rescheduled to take place on 8 June 2016. The IOC invited the Athlete to indicate whether she would be present and/or represented.
26. On the same day and in response to the Athlete's question in this respect, the IOC confirmed that one of the samples collected by the Athlete during the Olympic Games London 2012 had been subject to reanalysis and that the analytical results did not show the presence of a Prohibited Substance in that case.
27. On 2 June 2016, the Athlete's counsel communicated that neither he nor his client were available to attend the process on 8 June 2016. Mr Pachmann mentioned that the Athlete would not be available "*due to her training and competition schedule*".
28. On the same day, the IOC wrote back taking note that Dr Douwe de Boer would attend the process. The IOC also invited the Athlete to consider adapting her training schedule to attend the process, if she so wished.
29. On 6 June 2016, the Athlete's counsel reiterated that the training and competition schedule of the Athlete would not allow her to come to Lausanne on 8 June 2016. He also indicated – for the first time – that she would "unfortunately" need to go to the hospital on said date.
30. On 7 June 2016, the IOC offered two additional dates, i.e. 9 or 10 June 2016. The IOC invited the Athlete to indicate by 8 June 2016 at 8:00 am whether she would be able to attend the process on one of the two new proposed dates. The Athlete was advised that in the absence of a response, the process would proceed as scheduled.
31. There was no answer to the proposal to postpone the process to 9 or 10 June 2016.

32. On 8 June 2016, Dr Douwe de Boer was present at the Laboratory. He informed the Laboratory that he was instructed by an Athlete and her lawyer to be present and to follow the process conducted that day.
33. On the same day, by fax received at 09:02am, Mr Pachmann advised that Dr Douwe de Boer would not be a “representative” of the Athlete but “only a scientist who reviews scientifically the sample splitting and testing” of the Athlete.
34. On the same day, Mr Pachmann contacted the Laboratory directly and sent the following message:

“I herewith confirm to you that Anna Chicherova instructed Dr Douwe de Boer to go to Lausanne to scientifically review the re-analysis of the re-testing of my client’s Beijing urine sample”.
35. Dr Tiia Kuuranne, Director of the Laboratory, replied as follows:

“In order to specify the particular sample I would, please, like to ask you to identify by the sample code number.”
36. Mr Pachmann replied as follows:

“Your request is very strange as the IOC surely must have informed you about the matter. Could you please let me know what went wrong?”
37. In her reply, Dr Kuuranne explained as follows:

“The samples are anonymous to the laboratory and therefore, the code number is the only way for us to identify the sample”.
38. The opening, splitting of the B-Sample and sealing of the B2-Sample occurred on 8 June 2016 in the presence of Dr Douwe de Boer. Dr de Boer however refused to sign any document.
39. The process was attended and documented by an independent witness. Mr Nicolas Français, IOC representative, and Mr Victor Berezov, Deputy Chief of the Russian Olympic Committee Legal Department, were also present.
40. The Laboratory advised that the process, i.e. the actual analysis, would be continued on the next day, i.e. 9 June 2016. Dr Douwe de Boer explained that he had to seek instructions before confirming whether he would attend the analysis.
41. On 9 June 2016 in the early morning, Dr Douwe de Boer informed the Laboratory that he had not received new instructions and that he would therefore not attend the analytical process.
42. On the same day, Mr Pachmann submitted various complaints to the IOC about the process, including an allegation that he would have had to instruct himself the laboratory which sample should be re-tested (sic).
43. The results of the B1-Sample analysis were reported on 10 June 2016. They established the presence of the metabolites of a Prohibited Substance, namely dehydrochlormethyltestosterone (turinabol).

44. Such results constitute an Adverse Analytical Finding (“**AAF**”). They were reported to the IOC in accordance with Art. 7.2.1 of the Rules.
45. Further to the verifications set forth in Art. 7.2.2 of the Rules and in application of Art. 7.2.3 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.
46. 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 Ugur Erdener (Turkey)
47. On 15 June 2016, the IOC notified the Athlete through her counsel of the above-mentioned AAF and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission.
48. The IOC informed the Athlete of her right to request and attend the opening and analysis of the B2-Sample, scheduled to take place on 29 June 2016, 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.
49. In the same letter, the IOC indicated that, in the event the disciplinary proceedings proceeded, the hearing was likely to be held between 11 and 15 July 2016.
50. On 21 June 2016, the IOC received the completed AAF Notification Appendix in which the Athlete indicated that she did not accept the Adverse Analytical Finding and requested the opening and analysis of the B2-Sample. She informed the IOC that she would not attend the process, neither personally nor through a representative. However, at the same time, the AAF Notification Appendix indicated that Dr Douwe de Boer “*would scientifically review the opening and analysis of the B2-Sample*”.
51. By letter dated 21 June 2016 attached to the AAF Notification Appendix, the Athlete’s counsel complained about the fact that no documentation package had been provided. He also raised an objection in regard to the jurisdiction of the Disciplinary Commission arguing that the negative results of the initial analysis conducted at the time of the Olympic Games would constitute a negative decision, which should have been appealed by the IOC. He finally confirmed that Dr de Boer would attend the B2-Sample opening and analysis scheduled on 29 June 2016.
52. By letter dated 21 June 2016, the IOC reminded Mr Pachmann that the Athlete was allowed to send a representative to attend the opening and analysis of the sample. Dr Douwe de Boer would therefore be allowed to attend the process as such and in no other capacity.
53. On 29 June 2016, Dr Douwe de Boer was present at the Laboratory.
54. Dr Douwe de Boer requested a copy of the B1-Sample laboratory documentation package. Same was provided to Dr de Boer and forwarded to the Athlete’s counsel.
55. The opening of the B2-Sample occurred on 29 June 2016 in the presence of Dr Douwe de Boer, the IOC representative and an independent witness.

56. Dr Douwe de Boer also followed the sample analysis.
57. The results of the B2-Sample analysis were reported to the IOC on 30 June 2016. They confirmed the B1-Sample analysis results and the presence of the metabolites of a Prohibited Substance.
58. On 2 July 2016, the IOC communicated the results of the B2-Sample analysis and advised that the Athlete had the possibility to attend the hearing of the Disciplinary Commission and/or to submit a defence in writing.
59. On 6 July 2016, the IOC received the completed Disciplinary Commission Form from the Athlete. The Athlete through her counsel indicated that she did not accept the AAF and requested a copy of the B2-Sample laboratory documentation package. The Athlete further indicated that she would attend the hearing of the Disciplinary Commission and reserved the right to submit a written defence.
60. In the same letter, the Athlete's counsel complained once again about not receiving the requested documentation. He further requested to be provided with all the temperature measurements from Sample collection until the present.
61. On 7 July 2016, a copy of the B2-Sample laboratory documentation package was provided to the Athlete.
62. On 11 July 2016, the IOC informed the Athlete's counsel that the hearing of the Disciplinary Commission was scheduled to take place on 21 July 2016 at 15:30 at the IOC Headquarters. This schedule had been set further to direct contact between the Athlete's counsel and the IOC's counsel, Mr Jean-Pierre Morand. It was understood by Mr Morand that the Athlete's counsel could attend the hearing as scheduled, leaving him sufficient time to return from a court hearing scheduled for that morning.
63. However, on 12 July 2016, the Athlete's counsel indicated that he would not be available on 21 July 2016. He further reiterated various requests regarding documentation.
64. On 13 July 2016, additional documentation related to the Athlete's sample, in particular to its handling in Beijing and transfer to the WADA-accredited laboratory in Lausanne, were provided to the Athlete's counsel.
65. On the same day, the Chairman of the Disciplinary Commission advised Mr Pachmann that the hearing had been fixed in the later part of the afternoon of 21 July 2016 based on the understanding discussed between him and the IOC's counsel.
66. Additional dates were proposed to Mr Pachmann: 18 July 2016, 19 July 2016, 20 July 2016 and again 21 July 2016. It was also confirmed that the hearing could be held via videoconference. The Athlete's counsel was invited to indicate which date he chose for the hearing.
67. In the same letter, the Chairman addressed various requests of the Athlete's counsel regarding documentation and notified the Disciplinary Commission's decisions in this regard.
68. On 13 July 2016, the Athlete's counsel objected to all the proposed hearing dates.

69. On 14 July 2016, the Chairman of the Disciplinary Commission confirmed that the hearing date would be maintained. It would take place as fixed by the Disciplinary Commission subject to the Athlete's counsel still choosing one of the four offered dates. The Athlete's counsel was reminded that the hearing could be organised by video-conference.
70. On 15 July 2016, the Athlete's counsel confirmed his objection to the holding of the hearing in principle and did not indicate any alternative dates.
71. The Chairman of the Disciplinary Commission acknowledged such response and indicated that in view thereof, the hearing would take place on 21 July 2016 from 15:30 and that the Disciplinary Commission would proceed in any event.
72. On 19 July 2016, the Athlete's counsel sent a further letter in which he continued to object to the holding of the hearing. However, he indicated for the first time that the Athlete would be ready to consider the possibility, which had been offered by the IOC's counsel, to hold the hearing after the Olympic Games.
73. Before an answer could be given in this respect, on 20 July 2016, the Athlete's counsel sent a further letter, in which he argued that the Disciplinary Commission had in any event no jurisdiction to hear the case.
74. In his response to the Athlete's counsel, the Chairman of the Disciplinary Commission observed preliminarily that he understood this was a withdrawal of the Athlete's request for a postponement of the hearing until after the Olympic Games. The Chairman expressly noted that the Disciplinary Commission would have been ready to consider it.
75. In this context and in the absence of any alternative proposal for the hearing, the Chairman of the Disciplinary Commission informed the Athlete's counsel that the hearing would be held as scheduled.
76. On 21 July 2016, Mr Pachmann sent a final letter in which he again objected to the holding of the hearing. He described the decision to proceed as a "*revenge decision*" against the fact that he had challenged the competence of the Disciplinary Commission.
77. On 21 July 2016, the Disciplinary Commission held the hearing as scheduled.
78. The IOC was represented by Ms Tamara Soupiron, IOC Legal Counsel. Mr Jean-Pierre Morand and Mr Nicolas Français, the IOC external legal counsels, also attended.
79. In the absence of the Athlete and her legal counsel, the IOC, through its legal counsel, Mr Morand, essentially referred to the file. The IOC however submitted oral submissions, the substance of which is summarised below.
80. Regarding procedural aspects, the IOC first noted that the Athlete and her counsel had been deliberately attempting to obstruct the process, first the analytical process and then the disciplinary proceedings.
81. Regarding the contentions related to the analytical process, the IOC first underlined that it was essential to note that there was no entitlement of the Athlete to participate in the first phase of the analytical process, i.e. the opening and splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample, as this was not required by the ISL.
82. The IOC had nevertheless offered to the Athlete, as to all other athletes in a similar situation, the opportunity to attend this first phase. In no other instance, had this well-meaning offer created so many difficulties.

83. After having rejected the unjustified request to postpone the process by almost one month, the IOC still attempted to accommodate a reasonable date. In the absence of any alternative reasonable proposal by the Athlete, the IOC itself made several further date proposals. None were accepted and the last one (9 or 10 of June) was even not responded to.
84. In view thereof, the IOC had simply to fix and maintain a date, i.e. 8 June 2016.
85. The IOC underlined the fact that such date had been determined taking into account the announced possible presence of the Athlete's representative. This had been not only adequate but had actually led to the fact that the Athlete's representative could and did attend the opening and splitting of the B-Sample, as well as the sealing of the B2-Sample.
86. Regarding the completely artificial distinction, which the Athlete's legal counsel had been attempting to draw between a "representative" and a "scientific expert", the IOC underlined that there was no place for such distinction: the ISL allowed the Athlete to send a representative and any person attending the process at the Athlete's request could only be her "representative" and nothing else. It was contradictory and abusive to claim to be entitled to have a person attending on her behalf, as her representative, and then argue that such person was attending in some other capacity.
87. The IOC noted that the Athlete's representative could also have attended the analysis of the B1-Sample but that he chose not to attend, alleging at the last moment that he had no instructions from the Athlete in this respect. The IOC noted however that the Athlete's counsel himself had confirmed on June 8, 2016 that Dr de Boer had been specifically appointed to "scientifically review the sample splitting and testing" (emphasis added).
88. In any event, the IOC observed that attendance at the analysis was not an obligation but, and even more so in the context of re-analysis where there was no requirement to attend, an opportunity, of which the Athlete could take advantage or not.
89. Mr François, who followed the laboratory process on behalf of the IOC, provided information in this regard and specifically in regard of the conduct of the Athlete's representative, Dr de Boer. Dr de Boer was in direct contact by telephone with the Athlete's legal counsel and was acting directly on his instructions. This was notably the case in connection with Dr de Boer's refusal to sign any document and the same must have applied in regard to other instructions given to Dr de Boer.
90. In respect of the attendance at the analysis, the IOC made the further point that the Athlete's representative had in any event attended the analysis of the B2-Sample. This corresponded exactly to what would be applicable in the context of a usual A and B-Sample analysis, in the course of which only one full analysis could be attended, namely the second one.
91. In relation to the B2-Sample opening and analysis, the IOC wanted finally to draw the attention of the Disciplinary Commission to the fact that, even though the process occurred on one of the dates proposed by the Athlete for the first phase of the analysis, because she allegedly wanted to be personally present together with both her legal and scientific representatives, only the latter actually attended the process.
92. All in all, the IOC submitted that it was thus clear that the Athlete and her representatives had not been taking part in good faith in the analytical process. They effectively and all

along had been looking for ways to delay it and to create issues, whenever they saw an opportunity to do so.

93. In conclusion, the IOC observed that the Athlete had no formal rights to attend but was properly and fairly offered the opportunity to attend.
94. She further did exercise this opportunity through her representative. In this respect, the IOC noted that the Athlete's representative had in effect attended both the sample opening and a full analytical analysis. This covered the full scope of what athletes are entitled to attend in regular B-Sample processes.
95. Regarding the determination of the hearing date and the issues which arose in this respect, the IOC observed that the Athlete's counsel had in fact followed the same obstructive line.
96. The IOC recalled that the Athlete had been informed of potential hearing dates in July (11 - 15) as early as 15 June 2016.
97. Furthermore, the IOC underlined that the relevant documentation had been provided sufficiently in advance to allow a preparation of the Athlete's defence. The first document package (B-1) had been sent to counsel on 29 June 2016, the second document package (B-2) on 7 July 2016 and the further relevant documents on 13 July 2016.
98. The preparation time was not long but was sufficient to prepare a defence. It is in the nature of anti-doping proceedings to be conducted within a short timeframe. Furthermore, the approaching Olympic Games made it important at that time not only for the IOC but also for the concerned athletes to proceed speedily.
99. As had been decided already by the Disciplinary Commission, the IOC further noted that the other documents requested by the Athlete were not relevant in connection with the issues at stake in this case. These issues were specifically and solely linked with the results issued by the Lausanne Laboratory when it re-analysed the Athlete's samples in Lausanne. Therefore, documentation regarding other samples and/or the previous analysis of the same samples were irrelevant and it was unnecessary to produce them.
100. For completeness, in respect to the Athlete's requests for documentation, the IOC observed that the request to obtain all the documentation packages of all the other samples, which might have been analysed in parallel with the Athlete's samples, which the Athlete's counsel submitted on 6 July 2016 and which the Disciplinary Commission had not formally addressed in its decision, was also and a fortiori to be rejected.
101. The IOC pointed out that the justification for such request was the mere observation of the Athlete's representative when he attended the B2-Sample analysis on 29 June 2016 that several samples were handled in parallel by the laboratory.
102. The IOC observed that the conduct in parallel of different analysis did not constitute a departure from the ISL.
103. As such, it did not raise any particular issue. WADA-accredited laboratories could be expected, and effectively were presumed, to apply correct procedures. These included of course fundamental and basic measures to avoid mix ups in the analysis, which would amount to gross negligence.
104. In the absence of any element indicating that such an unlikely mix up could have happened, the suggestion made by the Athlete's counsel was completely unsubstantiated.

105. The IOC noted that the consistency of the results obtained in two separate full confirmation analytical processes made the suggestion even more baseless.
106. Such baseless suggestion could in any event not justify the provision to the Athlete of documentation packages concerning other athletes and including sensitive personal data.
107. Accordingly, the request had to be clearly rejected in the same manner as the other unjustified documentation requests.
108. Regarding the hearing date, the IOC observed that when the time came to fix a hearing date, Mr Morand, the IOC counsel was authorised to make direct contact with the Athlete's counsel in order to attempt to determine a convenient date.
109. By then, the Disciplinary Commission had started to hold its hearings as planned. However, the dates for the hearings had been extended to 22 July 2016 at the latest. After that date, the Disciplinary Commission members would no longer be available until after the Olympic Games.
110. In order to give the Athlete and her counsel the maximum possible preparation time, the latest date was the first one proposed. In the same spirit and in view of the indication that 22 July was not convenient for the Athlete's counsel and the further indication that he was in court the morning of 21 July 2016 and would not be available before noon, the outcome of the discussion was that the hearing would be scheduled on 21 July in the later part of the afternoon. It was at least the understanding of the IOC's counsel that this schedule was acceptable to the Athlete's counsel.
111. A corresponding invitation was sent on 11 July 2016. The Athlete's counsel however indicated that he would actually not be available.
112. Thereupon, three further alternative dates were proposed. In each case, the possibility of using video-conference was offered, as had been the case in several other proceedings conducted by the Disciplinary Commission.
113. All proposals were rejected by the Athlete's counsel. Furthermore, after suggesting that he would be considering dates proposed after the Olympic Games, the Athlete's counsel did not even follow up on this new proposal. Before the Disciplinary Commission could even respond, he took the position that the Disciplinary Commission had no jurisdiction in any event and referred to the arguments he had submitted in writing if the Disciplinary Commission would nevertheless decide to proceed.
114. In view of the aforementioned procedural behaviour, the IOC was supportive of the Disciplinary Commission's position that the hearing had to be held as fixed, irrespective of the Athlete's objections.
115. Regarding the Athlete's jurisdictional objection, the IOC submitted that the right of the IOC to conduct re-analysis and the corresponding competence of the Disciplinary Commission to conduct disciplinary proceedings in the case of AAFs, were clearly established in Art. 6.5 of the Rules.
116. The analytical results reported in 2008 by the laboratory in Beijing were based on then applicable methods and the performance level of the laboratory. They did not constitute in any way a decision, which would have prejudicial *res judicata* effect and prevent a further analysis, as expressly provided for in the Rules.

117. The suggestion that the IOC should have “appealed” the results does not make any sense and the same applied to the argument made by the Athlete.
118. Regarding the merits of the case, the IOC submitted that they were straightforward.
119. The IOC noted that there was no question that the relevant samples were indeed the Athlete’s samples. This was secured by the fact that the analyses were conducted on the B-Sample, which had remained sealed until it was opened for the conduct of the re-analysis in front of an independent witness and of the Athlete’s representative.
120. The analytical results validly confirmed the Presence in the Athlete’s body of a Prohibited Substance.
121. This was sufficient to establish an anti-doping rule violation pursuant to Art. 2.1 of the Rules.
122. The IOC submitted that the anti-doping rule was in any event also established in application of Art. 2.2 of the Rules.
123. In this respect, the IOC underlined that the substance in question was a doping substance commonly used in Russia in the concerned period. This was confirmed by the results of the re-analysis, in which this substance was by far the most commonly found. It was also interesting to note that in several cases, the corresponding AAFs were accepted by the concerned athletes.
124. In any event, the IOC noted that it did not bear the burden of establishing the source of the AAF and mere presence of the Prohibited Substance was sufficient to draw all the consequences.
125. Accordingly, the IOC submitted that an anti-doping rule violation pursuant to Art. 2.1 and/or 2.2. of the Rules was established and that the consequences set forth in Art. 8.1 and 9.1 of the Rules had to be applied.
126. This meant disqualification of the event to which the Athlete had participated and the further consequences of such disqualification, including withdrawal of medal, diploma and medallist pin.
127. Pursuant to Art. 9.3 of the Rules further consequences of the anti-doping rule violation are to be addressed by the IAAF.

II. APPLICABLE RULES

128. 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."

129. 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."

130. 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."

131. Art. 6.4 of the Rules provides as follows:

"The laboratory shall analyze Doping Control Samples and report results in conformity with the International Standard for Laboratories."

132. Art. 6.5 of the Rules provides as follows:

"Samples shall be stored in a secure manner at the laboratory or as otherwise directed by the IOC and may be further analysed. Consistent with Article 17 of the Code the ownership of the samples is vested in the IOC for the eight years. During this period, the IOC shall have the right to re-analyse samples (taken during the Period of the Olympic Games). Any anti-doping rule violation discovered as a result thereof shall be dealt with in accordance with these Rules"

133. 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.”

134. 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.”

135. 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.”

136. Art. 9.3 of the Rules provides as follows:

“The management of an Anti-Doping Rule violation 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 Olympic Games, shall be managed by the relevant International Federations.”

137. Art. 16.1 of the Rules provides as follows:

“These Rules are governed by the Olympic Charter, by the Code and by Swiss law.”

138. Art. 16.5 of the Rules provides as follows:

“These Rules have been adopted pursuant to the applicable provisions of the Code and shall be interpreted in a manner that is consistent with applicable provisions of the Code.”

139. The Introduction of the World Anti-Doping Code (version 2003, p2) provides as follows:

“International Standards and all revisions shall become effective on the date specified in the International Standard or revision.”

140. The Introduction of the International Standard (2016 ISL - Version 9, “ISL”), provides as follows:

“The International Standard for Laboratories first came into effect in November 2002. Further revisions were made after that date. The enclosed International Standard for Laboratories was approved by the WADA Executive Committee on 11 May 2016. The effective date of ISL version 9.0 is 02 June 2016.”

141. Art. 5.2.2.12.6 ISL provides as follows:

“During transport and long-term storage, Samples shall be maintained at a temperature sufficient to maintain the analytical integrity of the Sample. In any anti-doping rule violation case based on the Further Analysis of a stored Sample, the issue of the temperature at which the Sample was transported or stored shall only be considered where failure to

maintain an appropriate temperature could have caused the Adverse Analytical Finding or other result upon which the anti-doping rule violation is based.”

142. Art. 5.2.2.12.8 ISL provides as follows:

“Samples held in long-term storage may be selected for Further Analysis at the discretion of the Testing Authority.”

143. Art. 5.2.2.12.9 ISL provides as follows:

“Further Analysis of Samples shall be performed under the ISL and Technical Documents in effect at the time the Further Analysis is performed.”

144. Art. 5.2.2.12.10 ISL provides as follows:

“Further Analysis on long-term stored Samples shall proceed as follows:

- *At the discretion of the Testing Authority, the “A” Sample may not be used or it may be used for initial testing (as described in Article 5.2.4.2) only, or for both initial testing and confirmation (as described in Article 5.2.4.3.1). Where confirmation is not completed in the A Sample the Laboratory, at the direction of the Testing Authority shall appoint an independent witness to verify the opening and splitting of the sealed “B” Sample (which shall occur without requirement that the Athlete be notified or present) and then proceed to analysis based on the “B” Sample which has been split into 2 bottles.*
- *At the opening of the “B” Sample, the Laboratory shall ensure that the Sample is adequately homogenized (e.g. invert bottle several times) before splitting the “B” Sample. The Laboratory shall divide the volume of the “B” Sample into two bottles (using Sample collection equipment compliant to ISTI provision 6.3.4) in the presence of the independent witness. The splitting of the “B” Sample shall be documented in the chain of custody. The independent witness will be invited to seal one of the bottles using a tamper evident method. “*

III. DISCUSSION

a. Preliminary issue in respect of the holding of the hearing on 21 July 2016

145. The Athlete contends that the fact that the hearing was scheduled and held on 21 July 2016 violated her right to be heard.
146. Her counsel went so far as claiming that this schedule had been determined as a “revenge” for the fact that he had challenged the jurisdiction of the Disciplinary Commission.
147. The Disciplinary Commission first underlines that it has the power to determine the modalities of the procedure and, in particular, to set the hearing date.
148. The Disciplinary Commission observes that the Athlete had already been informed on 15 June 2016 that the hearing of the Disciplinary Commission was likely to be held between 11 and 15 July 2016. Accordingly, the Athlete could already begin to plan her defence. The postponement to 21 July increased the time at her disposal, which the Disciplinary Commission finds sufficient, notably in the context of sports law proceedings.
149. Furthermore, the Disciplinary Commission has always been open and ready to attempt to reasonably accommodate requests of the athletes involved in the numerous proceedings

the Disciplinary Commission has to conduct as a consequence of the results of the re-analysis process.

150. This was particularly true in the case of the Athlete. The Disciplinary Commission attempted to determine a hearing schedule, which would be convenient for her and her counsel.
151. This was the purpose of the contact established by the IOC counsel with the Athlete's counsel in order to pre-determine a convenient date.
152. When this attempt failed, the Athlete was offered a choice of several dates.
153. It was clarified that the hearing could also be organised through video-conference. This solution was utilised in several other cases.
154. In addition, the Athlete was reminded that she had the possibility to exercise her right to be heard by submitting a written defence, this was of course without excluding her option to attend the hearing.
155. When finally, having rejected all the proposed dates, the Athlete indicated that she would like to receive a proposal for a hearing date after the Olympic Games, the Disciplinary Commission was ready to consider that possibility, as it did in other cases.
156. However, the Athlete did not maintain that request and decided to challenge the competence of the Disciplinary Commission and its right to hear the case. If the Disciplinary Commission nevertheless decided to proceed, the Athlete's counsel expressly referred to the arguments set forth in his written communications on the file.
157. In view of this position, the Disciplinary Commission finds that it was justified in maintaining the hearing as scheduled.
158. In conclusion, the Athlete was duly offered the possibility to attend the hearing on a convenient date, which could have been even after the Olympic Games. The Athlete however deliberately chose to refuse to take part in the hearing process and also not to submit formal written submissions.
159. In these circumstances, her right to be heard was not violated.

b. Jurisdiction of the Disciplinary Commission

160. The Athlete asserts that the Disciplinary Commission has no jurisdiction to deal with the present case. According to the Athlete, the IOC should have appealed against the negative results of the analysis issued in 2008 by the laboratory in Beijing, to the Court of Arbitration for Sport. In this respect, she refers to Art. 12.2 of the Rules.
161. The Disciplinary Commission notes that the right of the IOC to re-analyse samples collected during the Olympic Games is expressly provided for in Art. 6.5 of the Rules.
162. The same article provides that an anti-doping rule violation discovered as a result thereof shall be dealt with in accordance with these Rules.
163. It would be difficult to have a more explicit basis establishing the jurisdiction of the Disciplinary Commission to conduct these proceedings.

164. The argument of the Appellant is devoid of any merit.
165. A doping control report attesting the results of any analysis (positive or negative) is not a decision. It constitutes merely a factual report by the laboratory.
166. Depending on its content, the report may trigger further steps to be conducted in accordance with the Rules.
167. A positive report will trigger the process described in the Rules. Such process starts with the initial review of the results and, if applicable, is followed with the setting up of disciplinary proceedings and the constitution of a Disciplinary Commission. It is only at the end of the disciplinary proceedings that a decision will be made and be subject to an appeal.
168. The doping control report itself is not a decision. This is a fortiori the case for a negative report. Such a report merely reflects the fact that the analysis performed at the time with the then available methods used at the given level of performance of the laboratory on part of the A-Sample, did not establish the presence of a Prohibited Substance.
169. It does not in any way constitute a "decision" that the sample in question would be declared "clean" in an absolute and binding manner and that would acquire "res judicata" value in this respect.
170. As the Testing Authority which had ordered the doping controls conducted on the occasion of the Olympic Games, the IOC merely acknowledged the negative results and did not act in any way. It can be noted that the negative reports were not even reported (as the IOC had not yet implemented ADAMS in 2008).
171. The IOC would have had in any event no reason to appeal results, which under the then applied methods were correct.
172. In conclusion, the Disciplinary Commission rejects the Athlete's argument and confirms that it has jurisdiction to conduct these proceedings and issue a decision.

c. Documentation requested by the Athlete

173. The Athlete submitted that the IOC violated her right to be heard as she was not provided with all the documents that she requested.
174. The Disciplinary Commission observes that the Athlete received all the relevant documentation concerning the analytical results at stake including in particular the Documentation Packages pertaining to the B1-Sample and B2-Sample analyses, as well as the further documentation pertaining to the handling of the samples in Beijing and their transfer to Lausanne.
175. As was already mentioned in the letter of the Chairman of the Disciplinary Commission dated 13 July 2016, a detailed documentation regarding the initial analysis of the A-Sample is not relevant, as the AAF is not established on this basis.
176. This is a fortiori the case for documentation regarding the analysis of further samples collected after the Olympic Games 2008 and in particular samples collected on the occasion of the Olympic Games 2012. Apart from the fact that there is no reason for such documentation to exist or to have been issued since no positive results were reported, they would have absolutely no relevance in the context of these proceedings concerning solely

and specifically the analytical results of a sample collected in 2008 and analysed by the WADA-accredited laboratory of Lausanne in June 2016.

177. Finally, regarding the request to obtain detailed temperature data, the Disciplinary Commission observes that since the Appellant chose not to attend the hearing nor even to file written observations, she missed the occasion to explain why this would be relevant.
178. In this respect and in any event, the Disciplinary Commission notes the content of Art. 5.2.2.12.5 ISL, which provides that the issue of temperature shall only be considered where failure to maintain an appropriate temperature could have caused the Adverse Analytical Finding.
179. The substance at stake is an exogenous steroid. It is common knowledge that exogenous steroids, unlike for example testosterone, are substances which cannot be produced endogenously, including through bacteriological degradation due to exposure to high temperature.
180. Therefore, issues of temperature are, as a matter of principle, irrelevant in the context of the present case.
181. In conclusion, the Disciplinary Commission finds that the Athlete was in possession of the relevant documentation in order to proceed and to present her defence.

d. Contentions linked with the opening and analysis of the B-Sample

182. The Athlete submits that her rights in relation to the process applied in connection with the analysis of the B-Sample and more specifically the first phase thereof (opening, splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample) were not respected.
183. The rules applicable to the specific process to be followed when samples are subject to re-analysis are set forth in the International Standard for Laboratories (ISL).
184. The version of the ISL applicable to the re-analysis process as far as conducted by the laboratory in Lausanne in June 2016 is the ISL 2016 (version 9.0), which came into effect on 2 June 2016.
185. This is expressly specified in Art. 5.2.2.12.9 ISL. It is to be noted that this provision effectively confirms what already results from the application of the Rules in combination with the WADC 2003 to which the Rules refer (see Art. 6.4, 16.1 and 16.5 of the Rules together with WADC 2003, Introduction p.2), i.e. that the ISL and revisions thereof become effective on the date specified in the International Standard or revision (i.e. for the ISL 2016 - version 9.0, 2 June 2016).
186. In accordance with the applicable ISL (Art. 5.2.2.12.10), when the Testing Authority decides not to use the A-Sample or just to use it for initial analysis, a full analytical process is conducted on the B-Sample, which is split in two bottles (B1 and B2).
187. In this case, the B1-Sample is effectively used as the A-Sample, whilst the B2-Sample serves as the B-Sample used to conduct the second confirmation, which the concerned athlete is entitled to attend.
188. Correspondingly, the ISL provides expressly that the Athlete does not need to be notified or to be present to attend the first phase of the process, which consists in the opening of the

sample, splitting in two bottles (B1, B2) sealing of the B2-Sample and analysis of the B1-Sample.

189. In this case, the verification of the opening of the B-Sample, i.e. of the sample seal integrity, and of the sealing of the B2 bottle (which then serves as the B-Sample) is to be performed by an independent witness.
190. In this context, the Disciplinary Commission observes that there is no entitlement of the concerned athlete to attend the opening of the B-Sample, and a fortiori the analysis of the B1-Sample.
191. Consequently, the claim that a violation of this non-existing right would invalidate the process is, as a matter of principle, without merit.
192. Despite the fact that this was not a requirement, the Disciplinary Commission notes that the IOC nevertheless decided that it would inform the athletes of its intent to perform a full confirmation process on the B-Sample and to offer them the opportunity to attend the first phase of the process.
193. In this context, the Disciplinary Commission finds that the IOC acted correctly when it finally set and maintained the conduct of the first phase of the analysis of the Athlete's B1-Sample on 8 June 2016.
194. The letter informing the Athlete of the IOC's intention to conduct a full analysis based on a split B-Sample was communicated on 18 May 2016.
195. The Athlete's request to postpone the process by almost one month to 27, 28 and 29 June, 2016 was clearly neither reasonable nor acceptable. This was even more the case in the context of the approaching Olympic Games.
196. This request was justified by the alleged need to coordinate the respective availabilities of the Athlete and both her scientific and legal representatives, who would all need to attend the process.
197. According to the ISL and in the context of a regular B-Sample process, athletes are entitled to have one representative. There is no entitlement to have several representatives.
198. This said and in practice, it happens that athletes may wish to have two representatives and this is generally accepted.
199. The custom of accepting more than one representative however does not imply that an athlete could multiply his or her representatives and then use the argument of the difficulty in co-ordinating the dates between him- or herself and his or her multiple representatives to prevent the analytical process being conducted within a reasonable time-frame. If an athlete wants to attend with several representatives, it is clearly his or her responsibility to appoint representatives who can be reasonably available and to co-ordinate between them.
200. The Disciplinary Commission further notes that it is highly unusual for legal representatives to attend the analytical process. In any event, a lawyer working in a firm of several lawyers, cannot claim that he would be personally unavailable for a period of several weeks, i.a. for his own vacation, to obtain the postponement of the analysis of samples, a process which does not require the presence of a legal representative.
201. Further and as regards the Athlete herself, the mere general reference to the fact that she was training does not constitute a valid reason not to be available for a prolonged period. In

terms of priority and if the Athlete felt that she had to attend personally the analytical process, she could have been expected to re-arrange her training schedule. It is also quite obvious that it was not her schedule which was actually at stake, but essentially the schedule and convenience of her legal representative.

202. As for the notice that the Athlete had to go to hospital on 8 June 2016, the Disciplinary Commission observes that this notice came very late. It is further not per se an excuse in the absence of any evidence showing that the Athlete had no choice but to go to hospital on that specific date.
203. The fact that the IOC's proposal to further postpone to 9 or 10 June 2016 remained unanswered, is a strong indication that the Athlete had no intention to offer reasonable alternative dates, but was only seeking justification to reject the proposed ones.
204. The Disciplinary Commission finally notes that when the B2-Sample opening and analysis dates were fixed on one of the dates which had been proposed by the Athlete because it would suit her and both of her representatives, the only person who actually attended was her scientific representative.
205. This is indeed an indication that the request to set a date allowing all three above-mentioned persons to attend was effectively a mere pretense and actually an attempt to delay the process as much as possible.
206. This could be linked with the aim of then being in a position to raise an argument in connection with the completion of the process within the approaching 8-year deadline.
207. In any event, the Disciplinary Commission finds that the decision of the IOC to set 8 June 2016 as the date for the conduct of the initial phase of the process and to thereafter maintain it, despite the objections of the Athlete's counsel, was correct and legitimate.
208. The fact that this date was chosen in view of the indication that the scientific representative of the athlete could be available on that date, can only reinforce this conclusion.
209. This is additionally the case that as a consequence thereof, Dr de Boer could and did effectively attend the B-Sample opening and splitting as well as the resealing of the B2-Sample.
210. The fact that Dr de Boer, was presented not as the Athlete's representative but as her "scientific expert" and, on express instructions of the Athlete's counsel, the fact that he refused to sign any document are both abusive and futile.
211. The ISL provides that the Athlete can be represented by a representative simpliciter. Irrespective of his competence as an expert, the only function in which Dr de Boer could attend the process was therefore in his capacity as a representative of the Athlete.
212. As such, he witnessed that the seal of the B-Sample was intact, when it was opened and he could also observe the resealing of the B2-Sample. In any event and in accordance with the ISL, both aspects were also verified by an independent witness.
213. As far as the analysis process of the B1-Sample is concerned, Dr de Boer was offered the opportunity to attend it and could have attended it if he had chosen to do so. He did not attend because he was deliberately not instructed to do so by the Athlete or her legal representative.
214. The fact that Dr de Boer informed the laboratory only in the early hours of 9 June 2016 that he would not attend the analysis is telling in this respect. Despite the vague reference to

other engagements, it further confirms the fact that Dr de Boer could have actually attended the analysis process if only the Athlete had instructed him to do so.

215. The attendance at the analysis is an opportunity not an obligation. This is even more so the case in the particular context of the first phase of the re-analysis process, in relation to which there exists no attendance right in principle. It was therefore the Athlete's choice whether to instruct her representative to attend the analysis.
216. As regards attendance at the analysis, the Disciplinary Commission further observes that Dr de Boer did attend the full B2-Sample, including opening and analysis.
217. In the specific context of the re-analysis process, the B2-Sample has the function of the B-Sample. Consequently, the Athlete, through her representative, could attend the final confirmation analysis, in the same way and to the same extent as what happens in the context of a regular B-analysis, when an athlete and/or his or her representative chooses to attend the B-Sample analysis.
218. The Disciplinary Commission observes that on 8 and 29 June 2016, the Athlete's representative attended both the opening of the B-Sample and a full confirmation analysis of a part of this sample (the B-2 part). This covers the scope equivalent to the scope covered by the attendance rights in the context of a regular A- and B-Sample analysis.
219. For this reason alone, the Athlete's contentions regarding an alleged violation of her rights in the analytical process is without merit.
220. In view of these overall circumstances, the Disciplinary Commission can only conclude that the rights of Athlete in respect of attendance at the analysis as provided for in the ISL were not violated.
221. On the contrary, the Athlete was given every reasonable possibility to exercise the additional opportunity to attend, which the IOC voluntarily offered. She also effectively exercised such possibility through her representative.

e. Establishment of anti-doping rule violation

222. The results of the analysis conducted by the WADA-accredited laboratory of Lausanne establish the presence of the metabolite of a Prohibited Substance in the Athlete's sample n°1846073 collected on 24 August 2008, upon the occasion of the 2008 Olympic Games.
223. 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.
224. The Disciplinary Commission is further satisfied that the sample which have been re-analysed by the Laboratory is unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards occurred.
225. The sample identity is in particular secured by the fact that the analysis was conducted on the B-Sample, which remained sealed from its collection until it was opened in Lausanne in the presence of an independent witness and of the Athlete's representative.
226. The Athlete does not provide any substantiated explanations in regard to the source of the analytical findings.
227. She denies having used any Prohibited Substance and simply suggests that the finding could be due to food supplements.

228. Even if supplements were established as the source of the finding, this would be irrelevant for the outcome of these proceedings.
229. In the context of the application of the Rules, an anti-doping violation pursuant to Art. 2.1 of the Rules is indeed established based on the sole presence of the Prohibited Substance, irrespective of the cause of such presence.
230. The fact that food supplements being the cause of the finding could have been provided by her coach or her medical team would in any event not exonerate the Athlete, who is personally responsible to ensure that no Prohibited Substance is found in her bodily samples (Art. 2.1.1 of the Rules)
231. The Disciplinary Commission notes in this respect that athletes have been repeatedly warned against the risk of using food supplements and of the fact that they are and remain responsible for any product that they ingest.
232. The Disciplinary Commission further observes that the substance at stake is a classical doping substance, which appears to have been widely used and which was effectively found in a high number of cases. In several of these cases, the athletes concerned did not challenge the finding.
233. The Disciplinary Commission thus notes that the finding is consistent with intentional use of a Prohibited Substance ingested to improve performance.
234. Based on the above, the Disciplinary Commission finds that the Athlete has committed an anti-doping rule violation. Such violation is in any event established pursuant to Art. 2.1 of the Rules (Presence). In view of any element to the contrary, it is also established in application of Art. 2.2 of the Rules (Use).
235. 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 and 9 of the Rules and are the following.
236. In application of Art. 8.1 of the Rules and Art. 9.1 of the Rules, the results achieved by the Athlete in the Women's high jump event upon the occasion of the 2008 Olympic Games shall be annulled with all resulting consequences (including withdrawal of medal, diploma and medallist pin).
237. 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 International Association of Athletics Federations ("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 XXIX Olympiad in Beijing in 2008 and, in particular, Articles 2, 5.1, 7.3.3, 8, 9 and 16 thereof.

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Anna CHICHEROVA:
 - (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,
 - (ii) is disqualified from the Women's high jump event in which she placed 3rd upon the occasion of the Olympic Games Beijing 2008.
 - (iii) has the bronze medal, the diploma, and the medallist pin obtained in the Women's high jump event withdrawn and is ordered to return same.
- 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. 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 medal, the medallist pin and the diploma awarded in connection with the Women's high jump event to the Athlete.
- V. This decision enters into force immediately.

Lausanne, 4 October 2016

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Gunilla Lindberg



Ugur Erdener