

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING ADEM KILICCI
BORN ON 18 APRIL 1986, ATHLETE, TURKEY, BOXING**

(Rule 59.2.1 of the Olympic Charter)

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

I. FACTS

1. Adem KILICCI (hereinafter the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”).
2. From 28 July 2012 to 6 August 2012, the Athlete competed in the Men’s 69-75 kg boxing event (Round of 32 and Quarterfinal) in which he ranked 5th and for which he was awarded a diploma.
3. On 6 August 2012, on the occasion of the Quarterfinal, the Athlete was requested to provide a urine sample for a doping control (in competition). Such sample was identified with the number 2718559.
4. The A-Sample 2718559 was analysed during the 2012 Olympic Games by the WADA-accredited Laboratory in London. Such analysis did not result in an adverse analytical finding at that time.
5. After the conclusion of the 2012 Olympic Games, all the samples collected upon the occasion of the 2012 Olympic Games were transferred to the WADA-accredited “Laboratoire suisse d’analyse du dopage” in Lausanne, Switzerland (“the **Laboratory**”) for long-term storage.
6. The IOC decided to perform further analyses on samples collected during the 2012 Olympic Games. These additional analyses were notably performed with improved analytical methods in order to possibly detect Prohibited Substances which could not be identified by the analysis performed at the time of the 2012 Olympic Games.
7. The IOC decided that the reanalysis process would be conducted as a regular A and B sample analysis, without resorting to a splitting of the B-sample.
8. The remains of the A-Sample were analysed by the Laboratory and resulted in an Adverse Analytical Finding (“**AAF**”) as it showed the presence of the metabolites of a Prohibited Substance: 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 Legal Affairs Commission
 - Mrs Gunilla Lindberg (Sweden)
 - Mr Juan Antonio Samaranch (Spain)
12. On 26 May 2016, the IOC notified the Athlete, through his 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 his right to request the opening and analysis of the B-Sample and to attend this process, either in person and/or through a representative. The Athlete was also informed of his right to request a copy of the laboratory documentation package.
13. On 1 June 2016, the Athlete sent directly to the IOC his completed AAF Notification Appendix in which he indicated that he did not accept the AAF. He further indicated that he requested the opening and analysis of his B-Sample and that he would not attend the process personally but that he would be represented on this occasion. He finally requested a copy of the laboratory documentation package.
14. In his AAF Notification Appendix, the Athlete wrote the following comment:

“Due to the short time limit, I was unable to appoint a representative to assist me in the opening of B-Sample. I will inform your services, name and function of this individual once he/she is appointed.”
15. On 2 June 2016, the IOC informed the Athlete, through his NOC, that the opening and analysis of his B-Sample was scheduled to take place on 8 June 2016 at the Laboratory. The Athlete was invited to indicate immediately the name and function of his representative.
16. The Athlete did not reply.
17. The opening of the B-Sample took place on 8 June 2016.
18. The Athlete did not attend the opening of the B-Sample and was not represented on this occasion.
19. The opening of the B-Sample was conducted in the presence of an independent witness, an AIBA representative and an IOC representative.
20. The results of the analysis were reported to the IOC on 10 June 2016. They confirmed the presence in the B-Sample of the Prohibited Substance already detected in the A-Sample: dehydrochloromethyltestosterone (turinabol).
21. On 13 June 2016, the IOC notified the B-Sample results to the Athlete through his NOC. The Athlete was invited to indicate whether he accepted the Adverse Analytical Finding and whether he requested the B-Sample laboratory documentation package. The Athlete was further informed of the possibility to present his defence in writing and/or to attend the hearing of the Disciplinary Commission.

22. On 17 June 2016, Mr Pedro Fida, attorney-at-law, informed the IOC that he would be acting as representative of the Athlete. A power-of-attorney was provided to the IOC.
23. The IOC received, through Mr Fida, the completed Disciplinary Commission Form signed by the Athlete in which the Athlete indicated that he did not accept the Adverse Analytical Finding resulting from the analysis of the B-Sample and requested a copy of the B-Sample laboratory documentation package. He also indicated that he would not attend the hearing of the Disciplinary Commission personally but that he would be represented on this occasion by Mr Emin Özkurt and Mr Pedro Fida. He finally indicated that he would file a defence in writing.
24. In his letter dated 17 June 2016, Mr Fida requested to be provided with a copy of the A- and B-Sample laboratory documentation packages, a copy of the IOC Anti-Doping Rules applicable for the Games of the XXX Olympiad London 2012, any letters and documents sent to the Athlete prior to his appointment and clarifications about the competent body that would render a decision on this matter.
25. On 21 June 2016, the IOC provided the Athlete's counsel with information regarding the nature of the decision to be issued by the Disciplinary Commission and informed him that the documentation requested would be provided in due course. The IOC finally indicated that the hearing would be scheduled to take place between 10 July 2016 and 17 July 2016.
26. On 12 July 2016, the Athlete's counsel requested once again a copy of the A- and B-Sample laboratory documentation packages as the Athlete would not be in the position to prepare written submissions until he received such documents.
27. On 14 July 2016, the IOC provided the Athlete's counsel with a copy of the A- and B-Sample laboratory documentation packages as well as additional documentation related to the Athlete's sample, in particular the handling of the sample in London and its transfer to the Laboratory.
28. On 26 July 2016, the IOC informed the Athlete's counsel that the hearing of the Disciplinary Commission would likely be scheduled to take place in September 2016.
29. On 11 October 2016, the IOC informed the Athlete's counsel that the hearing of the Disciplinary Commission was scheduled to be held on 3 November 2016. He was invited to indicate by 19 October 2016 whether the Athlete would personally attend the hearing and whether he would be assisted by a counsel and/or a scientific expert. The Athlete was invited to submit a written defence by 28 October 2016.
30. On the same day, the NOC and the IF were invited to submit written observations.
31. On 14 October 2016, the Athlete's counsel informed the IOC that he would provide the requested information as soon as he would be instructed by his client. He indicated that, in any event, written submissions would be filed within the time limit.
32. On 21 October 2016, the IOC granted the Athlete an additional deadline until 25 October 2016 to confirm whether he would attend, either personally and/or through a representative, the hearing and reminded the Athlete of the possibility to participate in the hearing via videoconference.
33. On 25 October 2016, the Athlete's counsel informed the IOC that he would participate in the hearing via videoconference on behalf of his client.

34. On 26 October 2016, the IOC asked the Athlete's counsel whether it would be possible to reschedule the hearing to be held on 4 November 2016.
35. The Athlete's counsel agreed.
36. Neither the NOC nor the IF filed written observations.
37. On 31 October 2016, the Athlete through his counsel filed his written submissions, which are summarised below.
38. The hearing of the Disciplinary Commission was held on 4 November 2016 at the IOC Headquarters in Lausanne, Switzerland.
39. The Athlete did not participate in the hearing but was represented by his counsel, Mr Petro Fida, who attended via videoconference.
40. The IOC was represented by Ms Tamara Soupiron, IOC legal counsel and by Mr Jean-Pierre Morand and Mr Nicolas Français, IOC external legal counsels.

II. **APPLICABLE RULES**

41. 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."

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

43. 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.

1.1.1 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.

1.1.2 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.

- 1.1.3 *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.*
- 1.1.4 *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."*
44. Art. 2.2 of the Code provides the following constitutes an anti-doping rule violation:
- "Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method.*
- 2.2.1 *It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.*
- 2.2.2 *The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed."*
45. Art. 6.3.3 of the Rules provides as follows:
- "Notice to an Athlete or other Person who has been accredited pursuant to the request of the NOC, may be accomplished by delivery of the notice to the NOC. Notification to the Chef de Mission or the President or the Secretary General of the NOC of the Athlete or other Person shall be deemed to be delivery of notice to the NOC."*
46. 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."*
47. Art. 8.1 of the Rules provides as follows:
- "An anti-doping rule violation occurring or in connection with the London Olympic Games may lead to Disqualification of all the Athlete's results obtained in the London Olympic Games with all consequences, including forfeiture of all medals, points and prizes, except as provided in Article 8.1.1."*
48. 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."*
49. Art. 8.3 of the Rules provides as follows:

“The Consequences of Anti-Doping Rule Violations and the conduct of additional hearings as a consequence of hearings and decisions of the IOC, including with regard to the imposition of sanctions over and above those relating to the London Olympic Games, shall be managed by the relevant International Federation.”

2. DISCUSSION

A. Establishment of an Anti-Doping Rule Violation

50. The results of the analysis of the sample provided by the Athlete establish the presence in his sample of the metabolites of a Prohibited Substance, i.e. dehydrochloromethyltestosterone (turinabol).
51. The substance detected is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
52. The Disciplinary Commission is satisfied that the samples which have been re-analysed by the Laboratory are unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards occurred.
53. In spite of the arguments submitted by the Athlete, which are discussed below, the Disciplinary Commission is further satisfied that the analytical results are valid and do properly establish the presence of the Prohibited Substance at stake in the Athlete's samples.
54. As regard the validity of the analytical results, the Disciplinary Commission notes that the Athlete's counsel expressly indicated at the hearing that the Athlete does not contest that dehydrochloromethyltestosterone (turinabol) has been found present in his urine sample.
55. Based on the above, the Disciplinary Commission finds that an anti-doping rule violation pursuant to Art. 2.1 of the Code consisting in the presence of a Prohibited Substance in the Athlete's body is established.
56. In addition, the Disciplinary Commission finds that an anti-doping rule violation could also be held as established if the circumstances were considered in the perspective of art. 2.2 of the Code.
57. In this respect, the Disciplinary Commission observes that the nature of the substance which was found in the Athlete's sample (i.e. a traditional doping substance) makes this result consistent with the use of a Prohibited Substance specifically ingested to deliberately improve performance.
58. The Disciplinary Commission, which has now handled multiple cases arising out of the re-analysis of samples from the 2008 and 2012 Olympic Games, observes that the presence of metabolites of this particular substance has been established in a remarkably high number of cases, which resulted from the re-analysis of the samples collected in Beijing 2008 and London 2012.
59. This constitutes an indication that said substance has been in widespread use by athletes, who were doping at that time.
60. Prior to the application of a new detection strategy searching for metabolites remaining detectable over a much longer period of time and which began to apply only from late 2012

/2013, the detection window of said substance was limited to much shorter period of time (5 to 10 days).

61. The search for the newly established so called “long term” metabolites significantly extended the detection window (up to 50 and more days). Such a significant extension of the detection window is the obvious explanation for the unfortunately spectacular and unprecedented high number of positive cases which were revealed by the re-analysis process.
62. Doping is a planned process in which the detection window is a key parameter. The athletes using the substance at that time, and/or the people who were supporting them in this respect, planned with the detection window applicable at the time. They did not expect that the detection window would subsequently be significantly extended, by virtue of a new method capable of detecting long-term metabolites during a much longer period of time.
63. This explains why athletes, who have in the past effectively managed to avoid anti-doping controls were caught. It is an illustration of the effectiveness of the re-analysis process and of its purpose, which is essentially to give those, who think they can outsmart the anti-doping controls, the message that they will never be safe.
64. In any event for the purpose of these proceedings, it is not necessary to examine exhaustively whether the Athlete could establish how the substance entered his body, as the mere establishment of presence suffices to justify the application of the consequences provided for under the Rules.
65. 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 Code.

B. Arguments of the Athlete

66. The Athlete has challenged the commission of an anti-doping rule violation on the basis of various arguments set out in his written submissions, and completed during the hearing, which are addressed below. None of them put the above finding into question.

i. Contaminated Products

67. In his written submissions dated 28 October 2016, the Athlete contends that the presence of a Prohibited Substance in his bodily sample may be a result of a contaminated product unintentionally ingested. At the hearing, the Athlete’s counsel repeated that the Athlete had never taken any Prohibited Substances during his career.
68. The Athlete submits that he took food supplements and vitamins provided by his coach at the time of the 2012 Olympic Games and was confident that they did not contain any Prohibited Substance. Due to his difficult financial situation, the Athlete had no medical team to advise him during his career and relied on his coach’s recommendations only. The Athlete submits that he and his coach examined the products at the time in order to clarify whether the supplements contained ingredients free from any Prohibited Substance. They had notably read the formulas listed on the product, crosschecking with the WADA Prohibited List and purchased vitamins from safe providers.
69. The Athlete further asserted that his Doping Control Form (“**DCF**”) indicates that he was taking several vitamins and supplements at the time of the 2012 Olympic Games, namely “Ginseng”, “Multi-Vitamins” and “Multi Minerals”. Based on a well-known publication (Hans Geyer, Maria Kristina Parr, Karsten Koehler, Ute Mareck, Wilhelm Schänzer and Maria Thavis, *Nutritional supplements cross-contaminated and faked with doping substances*,

published in Journal of Mass Spectrometry, 2008), the Athlete contends that a cross-contamination of the above-mentioned products cannot be excluded. He submits that, on a balance of probability and in view of his diligence in investigating the potential source of Prohibited Substance, it is likely that turinabol was present in his sample due to cross-contamination.

70. The Disciplinary Commission observes that the issue whether the source of the presence of the Prohibited Substance could be the ingestion of contaminated supplements is in any event not relevant in the context of the present proceedings.
71. Indeed, in the perspective of the application of the Rules, the mere presence of the Prohibited Substance – which is not contested by the Athlete – is sufficient to establish an anti-doping violation and to automatically trigger the main consequences pursuant to the Rules consisting in the disqualification of the results.
72. The Disciplinary Commission further observes that athletes have long been warned against the use of supplements. As such, the fact that turinabol may have been ingested as part of a supplement is not likely to constitute an element exonerating the Athlete from having been at fault for using a Prohibited Substance.
73. In this respect, the Disciplinary Commission observes that supplements do not, as a rule, contain turinabol and that accidental contamination of a legitimate supplement by this substance appears to be very unlikely.
74. In any event and based on the elements provided in this proceedings, the Athlete has not met his burden to establish that he did not intentionally use a Prohibited Substance.
75. The Disciplinary Commission observes that the nature of the substance which was found in the Athlete's sample is consistent with intentional use of Prohibited Substances specifically ingested to deliberately improve performance. The fact that the metabolites of a doping substance, which is a "classical" doping substance, was found, supports this consideration.
76. Furthermore, the Disciplinary Commission observes that the fact that the substance in question may have been contained in food supplements would not exonerate the Athlete from having used it.
77. First, the use of food supplements in which a Prohibited Substance is an ingredient may just be a way of using deliberately such Prohibited Substance. The fact that the Prohibited Substance might be included in a food supplement does not make it *per se* less reprehensible to use than the substance in isolation.
78. Furthermore, athletes have been repeatedly warned to apply extreme caution when using food supplements, which may contain undeclared Prohibited Substances or which may have been contaminated during production.
79. With the mere hypothesis that the source of finding could be food supplement, the Athlete does not establish that he applied the required level of caution. Assuming for the sole purpose of discussion, that the source of the analytical finding would indeed be supplements in which the Prohibited Substances would have been included without the Athlete's knowledge, there is in any event no indication (not to speak of any evidence) in the Athlete's explanations that he satisfied the high duty of care and caution, which is expected from high-level athletes in relation to the products they ingest.
80. In conclusion, the Disciplinary Commission finds that an anti-doping rule violation is thus established pursuant to both Art. 2.1 and Art. 2.2 of the Code.

ii. Intent to enhance performance

81. The Athlete submits that he had neither direct nor indirect intent to enhance performance when taking food supplements listed in good faith in his DCF. He argues that the fact that he never tested positive during his career and the low level of doping substance detected supports this consideration.
82. The Disciplinary Commission observes here again that the issue whether the Athlete had or not an intent bears to increase his performance is without relevance in these proceedings.
83. The presence of a Prohibited Substance in the samples of the Athlete is in itself sufficient to trigger the consequences applicable pursuant to the Rules.

iii. Other arguments raised by the Athlete

84. The Disciplinary Commission notes that the Athlete attempted to bring forth additional arguments, namely the fact that the anti-doping rule violation at stake would be of a purely technical nature and did not bring any sporting advantage to the Athlete.
85. These arguments do not put to validity of the results in question and the Disciplinary Commission finds them meritless.

C. Consequences of the anti-doping rule violation

86. The consequences of an anti-doping rule violation pursuant to the Rules are limited to consequences in connection with the 2012 Olympic Games.
87. In application of Art. 7.1 and/or Art. 8.1 of the Rules, the results achieved by the Athlete during the 2012 Olympic Games shall be annulled, with all resulting consequences (notably withdrawal of medal, diploma, pin etc.).
88. In application of Art. 8.3 of the Rules, the further management of the consequences of the anti-doping rule violations and in particular the imposition of sanctions over and above those related to the 2012 Olympic Games shall be conducted by the International Boxing Association (“**AIBA**”).

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

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Adem KILICCI:
 - (i) is found to have committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXX Olympiad in London in 2012 (presence, and/or use, of Prohibited Substances or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the event in which he participated upon the occasion of the Olympic Games London 2012, namely the Men's 69-75 kg boxing event, in which he ranked 5th and for which he was awarded a diploma.
 - (iii) has the diploma obtained in the Men's 69-75 kg boxing event withdrawn and is ordered to return the same.
- II. The AIBA is requested to modify the results of the above-mentioned event 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 diploma awarded in connection with the Men's 69-75 kg boxing event to the Athlete.
- V. This decision enters into force immediately.

Lausanne, 27 January 2017

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Gunilla Lindberg



Juan Antonio Samaranch