

DECISION

of the

IOC Disciplinary Commission

sitting in the following composition:

Denis Oswald, Chairman

Juan Antonio Samaranch

Tony Estanguet

in the proceedings

against

Teja GREGORIN

born on 29 June 1980, Slovenia, Athlete, Biathlon

(VRT – 001)

I. FACTS

1. Teja GREGORIN (hereinafter the “Athlete”), participated in the XXI Olympic Winter Games in Vancouver in 2010 (the “Olympic Winter Games Vancouver 2010”).
2. On 13 February 2010, the Athlete competed in the Women’s 7.5km biathlon event, in which she ranked 9th.
3. On 16 February 2010, the Athlete competed in the Women’s 10km pursuit biathlon event, in which she also ranked 9th.
4. On 18 February 2010, the Athlete also competed in the Women’s 15km biathlon event, in which she ranked 36th.
5. On 21 February 2010, the Athlete competed in the Women’s 12.5km mass start biathlon event, in which she ranked 5th and for which she was awarded a diploma.
6. Finally, on 23 February 2010, the Athlete competed in the Women’s 4x6km relay biathlon event, in which she and her teammates ranked 8th and for which they were awarded diplomas.
7. On 6 February 2010, the Athlete was requested to provide a urine sample for doping control. Such sample was identified with the number 1899932.
8. Due to the fact that the quantity of urine was not sufficient, the Athlete was requested to provide an additional sample on the same day. Such additional sample was identified with the number 1902329.
9. On 7 February 2010, the Athlete was requested to provide a third urine sample for doping control. This sample was identified with the number 1902525.
10. The A-Samples 18999320, 1902329 and 1902525 were analysed during the Olympic Winter Games Vancouver 2010 by the WADA-accredited Laboratory in Vancouver. Such analytical analyses did not result in an adverse analytical finding at that time.
11. After the conclusion of the Olympic Winter Games Vancouver 2010, all the samples collected upon the occasion of the Olympic Winter Games Vancouver 2010 were transferred to the WADA-accredited “Laboratoire suisse d’analyse du dopage” in Lausanne, Switzerland (“the Lausanne Laboratory”) for long-term storage.
12. The IOC decided to perform further analyses on samples collected during the Olympic Winter Games Vancouver 2010. 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 Olympic Winter Games Vancouver 2010.
13. 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.
14. The remains of the A-Samples 1899932, 1902329 and 1902525 were analysed by the Lausanne Laboratory and resulted in three Adverse Analytical Findings (“AAF”) as it showed the presence of the metabolites a Prohibited Substance: GHRP-2 metabolites (GHRP-2 M2).

15. The results were reported to the IOC in accordance with Art. 6.2.1 of *The International Olympic Committee Anti-Doping Rules applicable to the XXI Olympic Winter Games in Vancouver, 2010* (the "IOC Anti-Doping Rules").
16. Further to the verifications set forth in Art. 6.2.2 of the IOC Anti-Doping Rules and in application of Art. 6.2.3 of the IOC Anti-Doping Rules, the IOC President, Mr Thomas Bach, was informed of the existence of the AAFs and the essential details available concerning the case.
17. Pursuant to Art. 6.2.5 of the IOC Anti-Doping 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 ;
 - Mr Juan Antonio Samaranch (Spain);
 - Mr Tony Estanguet (France).
18. On 29 September 2017, the IOC notified the Athlete, through the Olympic Committee of Slovenia Association of Sports Federations (the "NOC"), of the above-mentioned AAFs and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission. The IOC also informed the Athlete of her right to request the opening and analysis of the B-Samples and to attend this process, either in person and/or through a representative. The Athlete was advised that the opening of her samples would occur either on 10 or 11 October 2017 at the Lausanne Laboratory. The Athlete was also informed of her right to request a copy of the laboratory documentation packages.
19. On 4 October 2017, the International Biathlon Union (the "IBU") provisionally suspended the Athlete and provided the IOC with the email address of the Athlete.
20. On the same day, the IOC notified the correspondence dated 29 September 2017 directly to the Athlete. She was reminded that the opening of her samples was scheduled to occur on 10 or 11 October 2017 and she was invited to indicate whether she would attend the process, either personally or through a representative.
21. On the same day, the Ski association of Slovenia – Slovenia Biathlon Teams (the "NF") provided the IOC with the completed AAF Notification Appendix signed by the Athlete, in which she indicated that she did not accept the Adverse Analytical Findings and requested the analysis of the B-Samples. She further indicated that she would not attend the opening and analysis of the B-Samples, neither personally nor through a representative. She finally did not request a copy of the laboratory documentation packages.
22. On 6 October 2017, the IOC acknowledged receipt of the AAF Notification Appendix and confirmed the Athlete, directly and through her NF and her NOC, that the opening and analysis of her samples would take place at the Lausanne Laboratory in the presence of an independent witness.
23. On 10 October 2017, Mr Andrej Pohar, attorney-at-law, informed the IOC that he had been authorised to act as the representative of the Athlete. He informed the IOC that the Athlete accepted the provisional suspension issued by the IBU. He pointed out that such acceptance was, at that time, not an admission of guilt. The Athlete's counsel requested to be informed of the exact date and time when the B-Samples of the Athlete would be opened and analysed. He reserved the rights of the Athlete to decide whether or not she would be represented on this occasion. He finally requested to be provided with a copy of the laboratory documentation packages.

24. On the same day, considering the explanations received from the Athlete's counsel, the IOC informed the Athlete that the opening of the B-Samples was postponed and that a new schedule would be communicated once she would have confirmed whether she would attend the process personally and/or through a representative.
25. On 13 October 2017, the Athlete's counsel informed the IOC that the Athlete would not attend the opening and analysis of the samples. He further confirmed that the Athlete would not be represented on this occasion.
26. On 17 October 2017, the IOC informed the Athlete that the opening of the B-Sample was rescheduled on 19 October 2017 and that the opening the samples would be performed in the presence of an independent witness.
27. The opening of the B-Samples occurred on 19 October 2017 at the Lausanne Laboratory in the presence of an independent witness.
28. The Athlete did not attend the opening and analysis of her B-Samples and was not represented on this occasion.
29. The results of the analysis were reported to the IOC on 25 October 2017. They confirmed the presence in the B-Samples of a Prohibited Substance: GHRP-2 metabolites (GHRP-2 M2).
30. On the same day, the IOC notified the B-Samples results to the Athlete. The Athlete was invited to indicate whether she accepted the AAFs and whether she requested the B-Samples laboratory documentation packages. The Athlete was further informed of the possibility to present her defence in writing and/or to attend the hearing of the Disciplinary Commission.
31. On 27 October 2017, the Athlete sent to the IOC her completed Disciplinary Commission Form in which she indicated that she accepted the B-Sample Adverse Analytical Findings. She did not request a copy of the B-Samples laboratory documentation packages. She finally informed the IOC that she would not attend the hearing of the Disciplinary Commission, neither personally nor through a representative, and that she would not present her defence in writing. The Athlete's counsel indicated that the Athlete would accept the IOC's decision.
32. On 14 November 2017, the IOC acknowledged receipt of the communication dated 27 October 2017 and informed the Athlete that a decision would be issued on the basis of the file.
33. On the same day, the IOC also provided the Athlete with a copy of the A- & B-Samples laboratory documentation packages.

II. **APPLICABLE RULES**

34. Art. 1 of the IOC Anti-Doping 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 Olympic Games."*

35. Art. 2 of the IOC Anti-Doping Rules provides that Article 2 of the World Anti-Doping Code applies to determine anti-doping rule violations.

36. Art. 2.1 of the 2009 World Anti-Doping Code (the "Code") provides as follows:

"Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample.

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

2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analysed; or, where the Athlete's B Sample is analysed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample.

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

2.1.4 As an exception to the general rule of Article 2.1, the Prohibited List or International Standards may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously."

37. Art. 2.2 of the Code provides as follows:

"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."

38. Art. 4.1 of the IOC Anti-Doping 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 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, 4 February 2010 up until and including the day of the closing ceremony of the Olympic Games, namely, 28 February 2010.”

39. Art. 6.3.3 of the IOC Anti-Doping 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.”

40. Art. 7.1 of the IOC Anti-Doping 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.”

41. Art. 8.1 of the IOC Anti-Doping 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 8.1.1.”

42. Art. 8.1.1 of the IOC Anti-Doping 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.”

43. Art. 8.3 of the IOC Anti-Doping 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 Olympic Games, shall be managed by the relevant International Federation.”

44. Art. 9 of the IOC Anti-Doping Rules provides as follows:

“9.1 Where more than one member of a team in a Team Sport has been notified of a possible anti-doping rule violation under Article 6 in connection with the Olympic Games, the team shall be subject to Target Testing for the Olympic Games.

In Team Sports, if more than one team member is found to have committed an anti-doping rule violation during the Period of the Olympic Games, the team may be subject to Disqualification or other disciplinary action, as provided in the applicable rules of the relevant International Federation.

In sports which are not Team Sports but where awards are given to teams, if one or more team members have committed an anti-doping rule violation during the Period of the Olympic Games, the team may be subject to Disqualification, and/or other disciplinary action as provided in the applicable rules of the relevant International Federation.”

45. Art. 11.1 of the IBU Anti-Doping Rules applicable during the period of the Olympic Winter Games Vancouver 2010 provides as follows:

“If a member of a relay team is found to have committed a violation of these Anti-Doping Rules during an Event, the relay team shall be Disqualified from the Event with all consequences, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1.”

46. Art. 10.1.1 of the IBU Anti-Doping Rules provides as follows:

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

III. DISCUSSION

47. The results of the analysis of the three samples provided by the Athlete establish the presence in her samples of a Prohibited Substance and/or its metabolites, i.e. GHRP-2 metabolites (GHRP-2 M2).
48. As its name indicates (“Growth Hormone Releasing Peptide-2”), the substance detected in the Athlete’s sample is a releasing factor of human growth Hormone (hGH).
49. The Disciplinary Commission observes that releasing factors of hGH are expressly mentioned in the WADA 2010 Prohibited List (under S2) and in all subsequent lists. This clearly covers the substance at stake.
50. In her Disciplinary Commission Form, signed and dated 27 October 2017, the Athlete accepts the AAFs reported further to the analysis of her three B-Samples.
51. Based on the above and for the reasons that follow, the Disciplinary Commission finds that the Athlete has committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules.
52. An anti-doping rule violation is already established in application of Art. 2 of the IOC Anti-Doping Rules in connection with Art. 2.1 of the Code. In this case, the anti-doping rule violation consists in the presence of a Prohibited Substance, its Metabolites or its Markers in the Athlete’s body.
53. The Athlete has expressly accepted the corresponding AAF and this admission *per se* establishes a violation pursuant to Art. 2.1 of the Code.
54. In addition, the Disciplinary Commission finds that an anti-doping rule violation is also established if the circumstances are considered in the perspective of Art. 2 of the IOC Anti-Doping Rules in connection with Art. 2.2 of the Code (Use of a Prohibited Substance).

55. In this respect, the Disciplinary Commission notes that the Athlete acknowledges the confirmation of the AAFs and makes no attempt to explain the source of GHRP-2 metabolites (GHRP-2 M2).
56. Growth Hormone is a substance typically used as performance enhancing doping substances.
57. There is therefore a simple and straightforward explanation for the fact that GHRP-2 metabolites (GHRP-2 M2) were present in the Athlete's samples, *i.e.*, their use as doping agents for the purpose of performance enhancement.
58. Whatever the perspective under which the circumstances of this case are considered, the Disciplinary Commission comes to the conclusion that the Athlete committed an anti-doping rule violation, which is established both in application of Art. 2.1 and Art. 2.2. of the Code (in both cases, a violation pursuant to Art. 2 of the IOC Anti-Doping Rules).
59. The consequences of an anti-doping rule violation pursuant to the IOC Anti-Doping Rules are limited to consequences in connection with the Olympic Winter Games Vancouver 2010.
60. In application of Art. 7.1 and/or Art. 8.1 of the IOC Anti-Doping Rules, all the results achieved by the Athlete during the Olympic Winter Games Vancouver 2010 shall be annulled.
61. In addition, in application of Art. 9.1 of the IOC Anti-Doping Rules in connection with Art. 11.1 of the IBU Anti-Doping Rules, the results of the Women's 4x6km relay event achieved by the Slovenian team shall also be annulled.
62. In application of Art. 8.3 of the IOC Anti-Doping 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 Winter Games Vancouver 2010 shall be conducted by the relevant International Federation, the International Biathlon Union.

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IV. DECISION

Pursuant to the Olympic Charter and, in particular, Rule 59.2.1 thereof, and pursuant to The International Olympic Committee Anti-Doping Rules applicable to the XXI Olympic Winter Games in Vancouver, 2010 and, in particular, Articles 1, 2, 4.1, 6, 7, 8 and 9 thereof

THE DISCIPLINARY COMMISSION OF THE INTERNATIONAL OLYMPIC COMMITTEE RULES

- i. The Athlete, Teja GREGORIN:
 - a. is found to have committed anti-doping rule violations pursuant to Article 2 of The International Olympic Committee Anti-Doping Rules applicable to the XXI Olympic Winter Games in Vancouver, 2010 (presence, and/or use, of Prohibited Substances and its Metabolites or Markers in an athlete's bodily specimen),
 - b. is disqualified from the events in which she participated upon the occasion of the Olympic Winter Games Vancouver 2010, namely:
 - (i) the Women's 7.5km biathlon event, in which she ranked 9th;
 - (ii) the Women's 10km pursuit biathlon event, in which she also ranked 9th;
 - (iii) the Women's 15km biathlon event, in which she ranked 36th;
 - (iv) the Women's 12.5km mass start biathlon event, in which she ranked 5th and for which she was awarded a diploma; and
 - (v) the Women's 4x6km relay event, in which she ranked 8th and for which she was awarded diplomas;
 - c. has the diplomas obtained in the above-mentioned events withdrawn and is ordered to return the same to the International Olympic Committee.
- II. The Slovenian Team is disqualified from the Women's 4x6km relay event. The corresponding diplomas are withdrawn and shall be returned to the International Olympic Committee.
- III. The International Biathlon Union is requested to modify the results of the above-mentioned events accordingly and to consider any further action within its own competence.
- IV. The Olympic Committee of Slovenia Association of Sports Federations shall ensure full implementation of this decision.
- V. The Olympic Committee of Slovenia Association of Sports Federations shall notably secure the return to the International Olympic Committee, as soon as possible, of the diplomas awarded in connection with the Women's 12.5km mass start biathlon and the Women's 4x6km relay event to the Athlete.
- VI. The Olympic Committee of Slovenia Association of Sports Federations shall also secure the return to the International Olympic Committee, as soon as possible, of the diplomas awarded in connection with the Women's 4x6km relay event to the members of the Slovenian Team.

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VII. This decision enters into force immediately.

Lausanne, 18 December 2017

In the name of the IOC Disciplinary Commission



Denis Oswald, Chairman



Juan Antonio Samaranch



Tony Estanguet