

INTERNATIONAL OLYMPIC COMMITTEE

DISCIPLINARY COMMISSION

DECISION

REGARDING JEVGENIJ SHUKLIN

**BORN ON 23 NOVEMBER 1985, LITHUANIAN FEDERATION, ATHLETE, CANOEING
(NATIONAL OLYMPIC COMMITTEE OF LITHUANIA)**

In application of the Olympic Charter and, in particular, Rule 59.2.1 thereof, and 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, 8, and 9 thereof:

I. FACTS

1. Jevgenij SHUKLIN (the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”) as a member of the team of the National Olympic Committee of Lithuania.
2. On the 10 August 2012, the Athlete competed in the Men’s Canoe Sprint C-1 200m event (Heats and Semi-finals). On 11 August 2012, the Athlete competed in the Men’s Canoe Sprint C-1 200m event (Finals) in which he ranked 2nd and was awarded the silver medal.
3. On 11 August 2012, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with the number 2719274.
4. The A-Sample 2719274 was analysed during the 2012 Olympic Games by the WADA-accredited Laboratory in London. The 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 Laboratory 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 conducted 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 re-analysis 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 Dehydrochloromethyltestosterone metabolites, a Prohibited Substance (Class S1.1a – Anabolic Androgenic Steroids).
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:
 - Prof. Denis Oswald, Chairman;
 - Mrs. Gunilla Lindberg; and
 - Mr. Juan Antonio Samaranch.
12. The IOC has delegated the implementation of the Doping Control program for the 2012 Olympic Games to the International Testing Agency (the "**ITA**"). Such delegation includes the conduct of re-analysis of the samples collected during the 2012 Olympic Games and the related results management.
13. On 17 December 2018, the ITA notified the Athlete, through the National Olympic Committee of Lithuania (the "**NOC**"), of the above-mentioned AAF and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission. By means of an Athlete Rights Form to be completed by the Athlete, the ITA 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, and of his right to request a copy of the laboratory documentation package.
14. The Athlete was also given the possibility to refer the matter for adjudication before the Court of Arbitration for Sport in Lausanne, Switzerland, by means of an arbitration agreement.
15. On 17 December 2018, the ITA also notified the International Canoe Federation (the "**ICF**").
16. On 27 December 2018, the Athlete requested an extension until 11 January 2019 to provide his response to the ITA. The Athlete further declared that he did not accept the AAF and requested the opening and analysis of the B-Sample (but had not yet decided whether to attend personally). Finally, the Athlete asked for a copy of the laboratory documentation package.
17. On 3 January 2019, the ITA granted the Athlete's requested deadline extension.
18. On 11 January 2019, the Athlete responded to the ITA. The Athlete filed the Athlete Rights Form in which he stipulated that he did not accept the AAF. He confirmed that the opening and analysis of the B-Sample would be attended by a representative.
19. The Athlete declined to refer the matter for adjudication to the Court of Arbitration for Sport. The Athlete also informed the ITA that he was represented by a legal counsel, Mrs. Baleviciene of the law firm Iustum in Vilnius, Lithuania.
20. On 11 January 2019, the ITA provided the Athlete with the A-Sample laboratory documentation package.

21. Between 18 January and 5 February 2019, the ITA and Athlete corresponded on the organization and practical details of the B-Sample opening and analysis at the Laboratory.
22. On 1 February 2019, the ICF informed the ITA that a representative of the ICF would also attend the B-Sample opening and analysis at the Laboratory.
23. On 6 February 2019, the B-Sample was opened and analysed at the Laboratory. The opening was attended by the Athlete's representative, a representative of the ICF, and an independent witness.
24. On 8 January 2019, the ITA provided the Athlete with the B-Sample Report and requested the Athlete to confirm whether he wished to receive the B-Sample laboratory documentation package.
25. On 15 February 2019, the Athlete requested the B-Sample laboratory documentation package.
26. On 15 March 2019, the ITA provided the Athlete with the B-Sample laboratory documentation package and confirmed that the matter would be referred to the IOC Disciplinary Commission for adjudication.
27. On 5 April 2019, The IOC Disciplinary Commission invited the Athlete to indicate whether he requested a hearing to be held, whether he would attend in-person or via videoconference, whether he would be represented or accompanied by persons of his choice, and whether he wished to submit a defence in writing.
28. On 19 April 2019, the Athlete informed the IOC Disciplinary Commission that he requested a hearing, that he would attend the hearing via videoconference, that he would not be represented but accompanied by a translator, and that he did not wish to submit a defence in writing.
29. On 25 April 2019, the IOC Disciplinary Commission acknowledged the Athlete's response and informed him, and the relevant parties, that a hearing would be held on 21 May 2019 at the IOC Headquarters in Lausanne, Switzerland.
30. On 21 May 2019, a hearing was held before the IOC Disciplinary Commission at the IOC Headquarters in Lausanne, Switzerland. The Athlete appeared via videoconference accompanied by an interpreter. Also present at the hearing were representatives of the ITA and the ICF.
31. At the hearing, the Athlete denied taking any Prohibited Substances and stated that all his other prior samples had returned negative. The Athlete explained that he monitored his food intake before and at the time of the 2012 Olympic Games and had no explanation for the possible source of the Prohibited Substance found in his sample. He indicated that he had not checked whether any of the medication indicated on his Doping Control Form was the origin of the Prohibited Substance.
32. The Athlete did not challenge the analysis of the B-Sample. He however requested that the remains of the B-Sample be analysed once more in a laboratory of a different country than the Laboratory in Lausanne, Switzerland.

33. The Athlete further stated that he did not know how his Sample was held or stored since the 2012 Olympic Games.
34. The ITA through its counsel confirmed the application for a finding of an anti-doping rule violation and the issuance of corresponding consequences. The storage of the samples and the analytical process had been performed in full compliance with the International Standard for Laboratories. There was no room, nor need, for a further analysis. The results validly confirmed the presence of a Prohibited Substance, and this was enough to find that an anti-doping rule violation had occurred under Art. 2.1 of the Code.
35. In addition, the ITA underlined that the substance at stake was the substance most widely detected on the occasion of the re-analysis of samples collected on the occasion of the Olympic Games 2012 (and 2008 as well) as a consequence of equipment and method improvements, which had significantly increased its window of detection. This was supporting the inference that the Prohibited Substance had been specifically used as doping substance by the Athlete, who, like many other athletes at that time, would have been relying on the then much shorter window of detection.
36. Accordingly, the ITA submitted that the circumstances of the case also supported the finding that an anti-doping rule violation pursuant to art. 2.2 of the Code had also been committed.
37. Moreover, the ITA argued that irrespective of whether the violation is based on art. 2.1 and/or 2.2 of the Code is considered, it could only lead to the application of the consequences set forth in the Rules which, in this case consisted of the disqualification of the results.
38. At the end of the hearing, the Athlete reiterated once again that he had never used any Prohibited Substance.
39. The parties confirmed that they were satisfied that they had the opportunity to present their case and that their right to be heard had been respected

II. APPLICABLE RULES

40. Art. 1 of the Rules provides as follows:

“Application of the Code – Definition of Doping – Breach of the Rules

1.1 The commission of an anti-doping rule violation is a breach of these Rules.

1.2 Subject to the specific following provisions of the Rules below, the provisions of the Code and of the International Standards apply mutatis mutandis in relation to the London Olympic Games.”

41. Art. 2 of the Rules provides that Article 2 of the Code applies to determine anti-doping rule violations.
42. Art. 2.1 of the Code provides that the following constitutes an anti-doping rule violation:

“Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample.

- 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."*
43. 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."*
44. 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."*
45. 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."*

46. 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.”

47. 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.”

48. 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.”

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

“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 London Olympic Games, the team shall be subject to Target Testing for the London 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 London 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 London 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.”

III. DISCUSSION

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 metabolites.
51. The substance detected in the Athlete’s sample is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.

52. The analysis of the B-Sample performed at the request of the Athlete and in the presence of his representative confirmed the results of the A-Sample, namely the presence of the metabolites of the Prohibited Substance (Dehydrochlormethyltestosterone).
53. Regarding the issues raised by the Athlete in regard to the analytical process, the Disciplinary Commission observes that they do not put the validity of the results in question.
54. First regarding the request to have the samples analysed one more time in a different laboratory located in a different country, the Disciplinary Commission observes that Art. 5.2.4.3.2.2 of the applicable 2016 International Standards for Laboratories (the “**2016 ISL**”) provides specifically that the “*B’ Sample confirmation shall be performed in the same Laboratory as the ‘A’ Sample confirmation.*” Moreover, neither the Code nor the 2016 ISL provide for a B-Sample to be tested twice at the athlete’s request, effectively creating a “C-Sample”.
55. As regards the allegation that the Athlete would not know how and where his Sample was held or stored since the 2012 Olympic Games, the Disciplinary Commission observes that the Laboratory Documentation Packages provided to the Athlete do record the chain of custody of the samples. In the absence of any specific challenge in regard of the validity of the chain of custody, the observation of the Athlete has no bearing.
56. In accordance with Art. 2.1 of the Code, an anti-doping rule violation is established when 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.
57. Based on the confirmed presence of a Prohibited Substance, the Athlete has thus to be found to have committed an anti-doping rule violation pursuant to Art. 2.1 of the Code consisting of the presence of a Prohibited Substance in his body.
58. For the sake of completeness, the Disciplinary Commission observes that the circumstances of this case would also support the finding of an anti-doping rule violation pursuant to Art. 2.2 of the Code.
59. The substance which was found in the Athlete’s sample corresponds to a substance (known under its common name as “oralturinabol”) which has been then very commonly used as a doping substance. The detection of the long-term metabolites of Dehydrochlormethyltestosterone started to be implemented only after the 2012 Olympic Games. This significant improvement in the efficiency of the detection methods in the year following the 2012 Olympic Games led to an unprecedented wave of positive cases in the re-analysis of samples collected on the occasion of notably the 2012 Olympic Games as well as of the 2008 Olympic Games.
60. The use of this substance is therefore consistent with the intentional use of Prohibited Substances specifically ingested to deliberately improve performance.
61. Under the Rules, the applicable consequences of the anti-doping rule violation specifically relate to the 2012 Olympic Games.

62. In application of Art. 7.1 and 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 medals, diplomas, pins etc.).
63. In application of Art. 8.3 of the Rules, the further 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 managed by the ICF.

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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, 8, and 9 thereof

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Jevgenij Shuklin:
 - 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 their Metabolites or Markers in the Athlete's bodily specimen), and
 - ii) is disqualified from the events in which he participated upon the occasion of the 2012 Olympic Games, namely, the Men's Canoe Sprint C-1 200m event.
 - iii) has the medal, diploma, and pin obtained in the Men's Canoe Sprint C-1 200m event withdrawn and is ordered to return them.
- II. The ICF is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
- III. The National Olympic Committee of Lithuania shall ensure full implementation of this decision.
- IV. The decision enters into force immediately.

Lausanne, 7 June 2019

In the name of the IOC Disciplinary Commission

Prof. Denis Oswald

Gunilla Lindberg

Juan Antonio Samaranch