

**INTERNATIONAL OLYMPIC COMMITTEE**

**DISCIPLINARY COMMISSION**

**DECISION**

**REGARDING ARTUR TAYMAZOV**

**BORN ON 20 JULY 1979, UZBEKISTAN FEDERATION, ATHLETE, WRESTLING**

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**

**A. 2008 Olympic Games**

1. Artur TAYMAZOV (the “**Athlete**”), participated in the Games of the XXIX Olympiad, Beijing 2008 (the “**2008 Olympic Games**”) as a member of the National Olympic Committee of Uzbekistan.
2. On 21 August 2008, the Athlete competed in the Men’s freestyle 120kg Wrestling event (Qualifications and Finals) in which he ranked 1<sup>st</sup> and was awarded the gold medal.
3. On 21 August 2008, the Athlete was requested to provide a urine sample for doping control. Such sample was identified with the number 1846495.
4. The A-Sample 1846495 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 Laboratory in Lausanne, Switzerland (the “**Laboratory**”) for long-term storage.
6. In 2016, the IOC conducted a re-analysis of the Athlete’s sample 1846495. The re-analysis returned a positive for the presence of two Prohibited Substances, dehydrochlormethyltestosterone (also known as turinabol) and stanozolol.
7. Following the re-analysis procedure conducted in 2016 of the Athlete’s sample 1846495, the IOC Disciplinary Commission held on 31 March 2017 that the Athlete had committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules applicable to the 2008 Olympic Games (presence and/or use, of a Prohibited Substance or its Metabolites or Markers in an athlete’s bodily specimen). The Athlete’s results at the 2008 Olympic Games were disqualified and his gold medal withdrawn.
8. The Athlete appealed the IOC Disciplinary Commission to the Court of Arbitration for Sport (“**CAS**”) in Lausanne, Switzerland. CAS dismissed the Athlete’s appeal and upheld the decision of the IOC Disciplinary Commission.

B. 2012 Olympic Games

9. The Athlete participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”) as a member of the National Olympic Committee of Uzbekistan.
10. On the 11 August 2012, the Athlete competed in the Men’s freestyle 120kg Wrestling event (Qualifications and Finals) in which he ranked 1<sup>st</sup> and was awarded the gold medal.
11. On 11 August 2012, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with the number 2721549.
12. The A-Sample 2721549 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.
13. After the conclusion of the 2012 Olympic Games, all the samples collected upon the occasion of the 2012 Olympic Games were transferred to the Laboratory in Lausanne, Switzerland for long-term storage.
14. 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.
15. 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.
16. 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).
17. The results were reported to the IOC in accordance with Art. 6.2.1 of the Rules.
18. 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.
19. 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.
20. 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.

21. On 17 December 2018, the ITA notified the Athlete, through the National Olympic Committee of Uzbekistan (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.
22. 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.
23. On 17 December 2018, the ITA also notified United World Wrestling (the “**UWW**”) and the NOC of the above.
24. On 11 January 2019, the ITA sent a reminder to the NOC to confirm receipt of the AAF, and that the Athlete had been notified. The ITA reminded the NOC that pursuant to Art. 6.3.3 of the Rules, notice to an athlete is deemed to be accomplished by delivery of such notice to the NOC and, accordingly, it is the duty of the NOC to notify the athlete.
25. On 11 January 2019, the NOC confirmed receipt of the AAF to the ITA.
26. On 14 January 2019, the NOC informed the ITA that the Athlete was since September 2012 no longer a member of the Uzbekistan wrestling team as he had become a Russian citizen, and was not in a position to contact the Athlete.
27. On 15 January 2019, the ITA reiterated to the NOC that the Athlete was a member of the NOC’s team during the 2012 Olympic Games and that, pursuant to Art. 6.3.3 of the Rules, notice to the Athlete was deemed accomplished by delivery to the NOC. Therefore, the NOC was requested to notify the Athlete through any and all contact information available to the NOC.
28. On 18 January 2019, the NOC sent the notification of the AAF to the Athlete via email.
29. On 25 January 2019, the ITA also sent the notification of the AAF to the Athlete via email.
30. On 25 January 2019, the Athlete confirmed receipt of the AAF notification and inquired as to the status of the proceedings.
31. On 25 January 2019, the ITA clarified for the Athlete that he was required to provide his response to the Athlete Rights Form and the proposed arbitration agreement. The Athlete was given a deadline of 8 February 2019 to provide his response.
32. On 8 February 2019, the Athlete responded to the ITA through legal counsel (law firm Motieka Audzevicius in Vilnius, Lithuania). The Athlete completed the Athlete Rights Form, indicating that he did not accept the AAF. The Athlete requested the opening and analysis of the B-Sample, and a copy of the A-Sample laboratory documentation package. He would not personally attend the opening and analysis of the B-Sample, but would be assisted by his legal counsel.

33. On 12 February 2019, the ITA confirmed receipt of the Athlete Rights Form and provided the Athlete with the A-Sample laboratory documentation package.
34. On 13 February 2019, the ITA informed the Athlete and his counsel that the B-Sample opening would take place on 27 February 2019 at the Lausanne Laboratory.
35. On 13 February 2019, the ITA also informed the NOC and UWW of the scheduled B-Sample opening and inquired as to whether a representative would be present to attend.
36. On 13 February 2019, UWW informed the ITA that no representative would attend the B-Sample opening. The NOC did not respond to the ITA.
37. On 19 February 2019, the Athlete's counsel informed the ITA that he would attend the opening, aliquoting, and resealing of the B-Sample.
38. On 27 February 2019, the B-Sample was opened in the presence of the Athlete's counsel, and subsequently analysed.
39. On 1 March 2019, the ITA provided the B-Sample analysis report to the Athlete. The B-Sample confirmed the results of the A-Sample, showing the presence of Dehydrochloromethyltestosterone metabolites. The Athlete was asked to request a copy of the B-Sample laboratory documentation package by 6 March 2019. The Athlete was also asked to indicate his desired dispute resolution forum by 11 March 2019.
40. On 1 March 2019, the Athlete requested the B-Sample laboratory documentation package.
41. On 11 March 2019, having not yet received the B-Sample laboratory documentation package, the Athlete requested an extension of 1 week after receipt of such.
42. On 11 March 2019, the ITA granted the Athlete's extension request.
43. On 20 March 2019, the ITA provided the Athlete with the B-Sample laboratory documentation package.
44. On 20 March 2019, the Athlete confirmed receipt of the B-Sample laboratory documentation package.
45. On 5 April 2019, the ITA sent a reminder to the Athlete to provide his response as to the preferred dispute resolution forum.
46. On 8 April 2019, the Athlete indicated that he wished to submit the matter to the IOC Disciplinary Commission for adjudication.
47. On 9 April 2019, the ITA confirmed that the case would be submitted to the IOC Disciplinary Commission.

48. On 30 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.
49. On 13 May 2019, the Athlete informed the IOC Disciplinary Commission that he requested a hearing to be held, that he would not appear in-person or via videoconference but represented by his legal counsel, and would also submit a defence in writing.
50. On 22 May 2019, the IOC Disciplinary Commission acknowledged receipt of the Athlete's response and informed him that a hearing would be held on 18 June 2019 at the IOC headquarters. The IOC Disciplinary Commission also invited the Athlete to submit his written defence by 5 June 2019.
51. On 28 May 2019, the Athlete's legal counsel requested an extension until 10 June 2019 to submit the Athlete's written defence. The IOC Disciplinary Commission granted the extension.
52. On 10 June 2019, the Athlete submitted his written defence. The Athlete submitted that all charges be dismissed against him or, in the alternative, that he be found bear no Fault or Negligence, or No Significant Fault or Negligence, or for the proportional sanctions to be applied in spite of the Rules. The Athlete also submitted that his results from the 2012 Olympic Games should not be disqualified. The Athlete put forward the following arguments:
  - i) The M3 metabolite of the prohibited substance turinabol found in his sample from the 2012 Olympic Games was caused by an ingestion of the prohibited substance pre-dating the 2008 Olympic Games in Beijing. The presence of the Prohibited Substance in the sample collected in 2012 was from the same ingestion which resulted in the presence of the substance in the sample collected in 2008.  
He never knowingly or wilfully consumed any prohibited substances and, until he was first notified of the adverse analytical finding in 2016 in relation to his sample from the 2008 Olympic Games, had no reason to suspect that turinabol was in his body.
  - ii) He has already been punished for the presence of turinabol in his sample collected at the occasion of the 2008 Olympic Games, whereby his results were disqualified and his gold medal withdrawn. In application of the principle "*ne bis in idem*", he should not face a repetitive penalty for the same violation;
  - iii) Imposing a penalty related to the presence of turinabol in his sample collected at the 2012 Olympic Games would not be consistent with the principle of proportionality;
  - iv) His case should be considered to be exceptional and thus warranting a departure from the application of the anti-doping rules.

53. On 17 June 2019, the Athlete submitted additional evidence supporting the fact that the M3 metabolite found in his sample could remain detectable in bodily samples for long periods of time.
54. On 18 June 2019, a hearing was held before the IOC Disciplinary Commission at the IOC headquarters in Lausanne, Switzerland. The Athlete did not appear in person or via videoconference but was represented by his legal counsel, Mr. Denis Parchajev. Also present at the hearing was the ITA and its counsel, Messrs. Jean-Pierre Morand and Magnus Wallsten.
55. The IOC Disciplinary Commission admitted the Athlete's additional evidentiary submission into the proceedings at the hearing.
56. At the hearing, the Athlete's counsel reaffirmed the submissions already made in writing. Additionally, the Athlete's counsel elaborated on the relevance of the additional evidence submitted on 17 June 2019 and argued that:
  - i) Recent cases have confirmed that turinabol can remain in the body for at least two years. Therefore, it is possible that it stayed in the Athlete's body for an even longer period, in this case four years;
  - ii) the award issued in the case of Jon Jones v. the United States Anti-Doping Agency by Prof. Richard McLaren, held that the level of M3 metabolite of turinabol found in the UFC fighter's sample could not affect his performance;
  - iii) the California State Athletic Commission in February 2018 stated that there are no scientific studies excluding the possibility of turinabol remaining in an athlete's system for several years;
  - iv) the California State Athletic Commission in December 2018 stated that Jon Jones should be allowed to participate in a UFC fight despite the M3 metabolite of turinabol that remained in his system following an ingestion alleged to be two years prior;
  - v) the Nevada State Athletic Commission in February 2019 decided that it Jon Jones would not be prevented from participating in a UFC fight in March 2019 even if levels of M3 metabolites were still found in his system following an ingestion alleged to be two years prior;
  - vi) USADA on 23 December 2018 stated that the levels of M3 metabolite of turinabol in Jon Jones' system would not bring performance enhancement;
  - vii) Since the UFC fighter Jon Jones was permitted to participate in a future UFC fight despite remains of the M3 metabolites of turinabol in his system following an ingestion assumed to be two years prior, then by analogy, the Athlete's results from the 2012 Olympic Games should not be disqualified as they would be the result of an ingestion 4 years prior to the event at which the sample was collected.

57. The counsel for the ITA submitted the following:

- i) that a prohibited substance was found in the Athlete's in-competition sample at the occasion of the 2012 Olympic Games. The presence of the prohibited substance was confirmed in both the A- and B-Sample and that was sufficient for the establishment of an anti-doping rule violation pursuant to the Rules applicable at this event which exclusively address the consequences concerning the 2012 Olympic Games;
- ii) The consequence of the presence of a Prohibited Substance in an in-competition sample is clear. It leads to automatic disqualification of the athlete's results.
- iii) This decision is not dependent on the establishment of fault or negligence.
- iv) In this context, the issue of proportionality does not arise at all.
- v) The above was confirmed very clearly by the decision of the CAS which upheld the decision of the Disciplinary Commission concerning the sample of the Athlete collected in 2008.
- vi) The fact that a low concentration of the M3 metabolite of turinabol was found in the sample is not relevant in a non-threshold substance. Moreover, the steroid turinabol is a build-up substance that is used to prepare for competitions, thus picking up the tail of the substance's excretion from the body does not mean there were no effects on the athlete's performance;
- vii) The long-term metabolites of turinabol could not be detected in 2008 and 2012, therefore the athletes who had ingested turinabol prior to the 2008 Olympic Games had no reason to stop doing so afterwards;
- viii) The relevant anti-doping rules are those applicable to the 2012 Olympic Games and the World Anti-Doping Code, not the anti-doping rules of the UFC. The Jon Jones case is of no relevance to the issues before the IOC Disciplinary Commission, in particular as it concerned the athlete's eligibility in future competitions. It must be noted that in this case the competitive result affected by the doping control, which had already been performed was disqualified. This disqualification was not put in question.
- ix) Whilst it may appear that turinabol may remain detectable for longer periods, the hypothesis that the M3 metabolite of turinabol found in the Athlete's 2012 Olympic Games' sample resulted from an ingestion prior to the 2008 Olympic Games, *i.e.* 4 years before, is completely unsupported and appears to be highly unlikely.

- x) It has to be noted that, the Athlete cannot allege that the reason for the presence of turinabol in his body would be innocent. The sample collected in 2008 contained not just one but two Prohibited Substances which were both commonly used doping substances (turinabol and stanozolol). Whilst the Athlete has persisted in denying any knowledge on how the Prohibited Substances entered his body, the findings in the 2008 sample support the inference that the Athlete was deliberately using doping substances at the time. Given the detection methods then in effect, there was no reason why the athlete would have then changed his methods. In this context and in the absence of any element of proof, there appears to be no room for an exoneration based on exceptional circumstances.

58. Dr. Tiia Kuuranne, head of the WADA-accredited laboratory in Lausanne, Switzerland was called by the ITA and heard. Dr. Kuuranne testified that:

- i) the detection window of the long-term M3 metabolite of turinabol was initially assumed to be 60-90 days. More recently, results obtained notably in the WADA-accredited laboratory in Cologne, Germany, seem however to indicate that it could extend to several months;
- ii) the approximate concentration of turinabol in the Athlete's 2008 Olympic Games sample was 200-300 pg/mL, and the concentration in his 2012 Olympic Games sample was approximately 15 pg/mL;
- iii) There is no possibility to establish with certainty whether the result in the sample collected in 2012 could come from the same ingestion. Conclusions are very hard to draw as the evolution of a substance in the body of person depend on many parameters.
- iv) In this case, there is no information available, in particular as concerns the amount of the Prohibited Substance that was ingested, the period of time during which it was ingested, and in what form it was ingested;
- v) in her opinion, four years is an extremely long period of time for the M3 metabolite to remain in an individual's system. It appears highly unlikely that an ingestion of turinabol prior to the 2008 Olympic Games would remain in the system for four years until the 2012 Olympic Games;
- vi) there is no scientific data or support for the possibility that the M3 metabolite of turinabol could remain in a body for four years;
- vii) there is no correlation between the level of M3 metabolite of turinabol detected in the Athlete's single sample and the effects on his performance. The results bring only a single data point on the substance's elimination curve which allows no conclusion on the effects of the substance when it was ingested; and
- viii) she cannot know the maximum level of M3 metabolite of turinabol that could be found in an athlete's body as no studies have been conducted in this respect (they would raise ethical issues).

59. After the testimony of Dr Kuuranne, each of the parties presented their closing submissions.
60. The parties, in essence, maintained their respective positions.
61. Before closing the hearing, the Chairman asked whether the parties were satisfied that they had the opportunity to present their case and that their right to be heard had been respected. Both parties confirmed.

## II. **APPLICABLE RULES TO THE CASE**

62. 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.”*

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

64. 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.”*

65. 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.”*

66. 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.”*

67. 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.”*

68. 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.”*

69. 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.”*

70. 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.”*

71. 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. SUBSTANCE OF THE CASE**

72. Preliminarily, while the IOC Disciplinary Commission has considered all the facts, allegations, legal arguments, and evidence submitted by the Athlete in the present proceedings, it refers in its award only to the submissions and evidence it deems necessary to explain its reasoning.
73. The Athlete has previously been found to have committed an anti-doping rule violation in relation to an in-competition sample collected at the occasion of the 2008 Olympic Games. The Athlete’s 2008 Olympic Games’ sample contained the presence of dehydrochlormethyltestosterone (also known as turinabol) and stanozolol, two substances prohibited under the WADA 2008 Prohibited List, and in all subsequent lists under S1. The Athlete’s results from the 2008 Olympic Games were disqualified and his gold medal, diploma, and pin were withdrawn.
74. The Athlete appealed that decision to CAS (CAS 2017/A/5099 *Artur Taymazov v. IOC*, award of 4 December 2017). CAS dismissed the Athlete’s appeal and upheld the IOC Disciplinary Commission’s decision.
75. As relates to the Athlete’s in-competition sample collected during the 2012 Olympic Games, 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.* Dehydrochlormethyltestosterone.
76. 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.
77. 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).

78. 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.
79. The Athlete has not challenged the results of the analysis.
80. Given that the presence of a Prohibited Substance is established in the Athlete's sample collected on the occasion of the 2012 Olympic Games, the Disciplinary Commission can only come to the conclusion that an anti-doping rule violation has been established.
81. Such violation is different from the one constituted by the presence of the Prohibited Substance in a different sample collected on the occasion of a different competition and in respect to which specific consequences were drawn under different rules covering specifically the concerned competition.
82. In such a context, there is no room for an application of the principle "*ne bis in idem*" as neither the violation nor the applicable rules are the same.
83. The Rules to be applied in this case are the rules specifically applicable at the 2012 Olympic Games.
84. Pursuant to the Rules, the presence in a sample collected on the specific occasion of the 2012 Olympic Games of a Prohibited Substance constitutes an anti-doping violation.
85. Pursuant to art. 7.1 of the Rules, such violation automatically and necessarily leads to the disqualification of the results of the Athlete.
86. Such consequence applies irrespective of any proof of fault or negligence.
87. Furthermore, there is no necessity to show that the Prohibited Substance would have had any effect on the actual performance of the Athlete. The Disciplinary Commission underlines that it is a fundamental principle of anti-doping regulations that their application cannot be made dependent on a showing of performance enhancement.
88. As observed by Dr Kuuranne, drawing conclusion as to the effects of a Prohibited Substance from the quantity found of an isolated analysis is in any event a hazardous, if not impossible, exercise.
89. The Disciplinary Commission observes that there are many explanations for the levels of M3 metabolite of turinabol found in the Athlete's sample, including being the end of an excretion from an ingestion in preparation for the event in question.
90. Moreover, and as a matter of fact, athletes must avoid having prohibited substances in their body at all times. It is their responsibility to comply with this duty. The fact that a prohibited substance may stay for a longer time than an athlete expects, and maybe even at a time when it does not produce any significant effects anymore, is not a defence as regards the commission of an anti-doping rule violation.

91. The Disciplinary Commission also observes that the Athlete failed to bring any concrete elements which would support his hypothesis that the substance found in his sample collected in 2012 would have the same origin as the one found in the sample collected in 2008.
92. To start with, the Athlete does not even attempt to put forward any explanation which would render credible his claim of ignorance of the origin of the substance when it was found in his 2008 sample together with another typical doping substance (stanozolol).
93. Much more would have been needed to convince the Disciplinary Commission of the plausibility of the Athlete's hypothesis, which Dr Kuuranne qualifies as highly unlikely.
94. For the sake of completeness, the Disciplinary Commission notes that the Jon Jones case on which the Athlete seeks to rely as precedent does not alter the conclusions reached by the Disciplinary Commission.
95. Firstly, this case concerned a UFC fighter subject to the UFC's anti-doping rules, which is not a signatory of the WADA Code. For this reason already, it has no relevance in connection with the resolution of the present case.
96. Secondly, it would appear in that case, Mr. Jones had succeeded in establishing to the satisfaction of the hearing bodies that his later test results were indeed the consequence of a specific ingestion, which had taken place almost 2 years before. As observed above, the Athlete here is very far from having succeeded in establishing that the relevant prohibited substance in his two samples collected four years apart would have the same origin.
97. Finally, in Mr. Jones' case the discussion concerned the period of ineligibility to be imposed and the possibility to be eligible for future fights. There was no discussion as to whether Mr. Jones' competitive result linked to the relevant doping control should be disqualified. As a matter of fact, Mr. Jones' competitive result was disqualified following the finding of the prohibited substance in his sample.
98. Therefore, if anything, the case of Mr Jon Jones supports the decision to disqualify the Athlete's results.
99. To be complete, the Disciplinary Commission observes that it is bound to apply the Rules. There is no principle allowing the Disciplinary Commission to disregard them based on "exceptional circumstances". The CAS Panel in CAS 2017/A/5099 *Artur Taymazov v. IOC*, dismissing the Athlete's appeal in relation to his 2008 Olympic Games' sample made abundantly clear that automatic disqualification within the meaning of Art. 7.1 of the Rules (then Art 8.1 of the 2008 Olympic Games anti-doping rules) "*applies to all cases within its reach, whether admitted to be standard or said to be exceptional.*"
100. The Disciplinary Commission further notes that, even if this could be envisaged in principle, "exceptional circumstances" which could justify a special treatment are very far from being given in this case.

101. The Athlete indeed failed to submit any element which would substantiate circumstances warranting an exception in his favour. On the contrary, the fact that the Athlete was caught retroactively in the re-analysis process using doping substances in 2008 and again 2012 rather indicates that the Athlete may have in the meantime remained undetected in other occasions in which no re-analysis was performed. This certainly does not constitute a context in which consequences provided for in the anti-doping rules should not be applied based on "exceptional circumstances".
102. In conclusion, and in application of Art. 7.1 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.).
103. The Athlete must further hand back the medal, diploma, and pin he received.
104. In application of Art. 8.3 of the Rules, 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 managed by the UWW.

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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, Artur Taymazov:
  - 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 of Prohibited Substances or their Metabolites or Markers in the Athlete's bodily specimen),
  - ii) is disqualified from the events in which he participated upon the occasion of the 2012 Olympic Games, namely, the Men's freestyle 120kg Wrestling event, and
  - iii) has the medal, diploma, and pin obtained in the Men's freestyle 120kg Wrestling event withdrawn and is ordered to return them.
- II. The UWW 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 Uzbekistan shall ensure full implementation of this decision.
- IV. The decision enters into force immediately.

Lausanne, 17 July 2019

In the name of the IOC Disciplinary Commission

Prof. Denis Oswald

Gunilla Lindberg

Juan Antonio Samaranch