

INTERNATIONAL OLYMPIC COMMITTEE
DISCIPLINARY COMMISSION
DECISION
REGARDING KLODIANA SHALA
BORN ON 22 AUGUST 1979, ALBANIAN FEDERATION, ATHLETE, ATHLETICS
(NATIONAL OLYMPIC COMMITTEE OF ALBANIA)

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. Klodiana SHALA (the “**Athlete**”), attended the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”) as a member of the athletics team of the National Olympic Committee of Albania.
2. On 31 July 2012, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with number 2720954.
3. The Athlete was registered to compete in the Women’s 200m event on 6 August 2012, but withdrew due to injury.
4. The A-Sample 2720954 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 2720954 were analysed by the Laboratory and resulted in an Adverse Analytical Finding (“**AAF**”) as it showed the presence of Stanozolol metabolite (3’-hydroxystanozolol-O-glucuronide), a Prohibited Substance (Class S1.1a – Anabolic Androgenic Steroids).
9. The result was 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;
 - Mr. Juan Antonio Samaranch; and
 - Mr. Ingmar De Vos.
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 21 August 2019, the ITA notified the Athlete, through the National Olympic Committee of Albania (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 her 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 her 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 21 August 2019, the ITA also notified the International Association of Athletics Federations (the “**IAAF**”).
16. On 17 September 2019, the ITA sent a reminder to the NOC that it had not yet received a confirmation that the Athlete had been duly notified of its notification letter of 21 August 2019. The ITA also noted that the Athlete was a member of the NOC’s team during the 2012 Olympic Games and 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.
17. The ITA requested the NOC to notify the Athlete of the AAF by 30 September 2019. If the Athlete did not provide a response within that deadline, the Athlete would be deemed to have waived her rights to request the B-Sample analysis, request a copy of the laboratory documentation package, and the possibility to refer the matter for adjudication to the Court of Arbitration for Sport.
18. On 18 November 2019, the ITA informed the IAAF that it had not received any response from the Athlete or NOC, and would therefore proceed on the basis of a deemed waiver.
19. On 18 November 2019, the ITA informed the NOC that, due to the Athlete’s failure to respond, the right to request the B-Sample analysis and request a copy of the laboratory documentation package was deemed as waived.

20. The Athlete was also deemed to have declined the offer to have the matter referred to the Court of Arbitration for Sport.
21. The ITA finally stated that the matter would be referred to the IOC Disciplinary Commission for adjudication.
22. On 16 December 2019, the ITA submitted its application to the Disciplinary Commission to proceed with adjudication of the case.
23. On 19 December 2019, the Disciplinary Commission informed the Athlete of the pending proceedings before it. Inviting the Athlete to indicate by 15 January 2020, through an annexed Hearing Form, whether she requests a hearing before the Disciplinary Commission and whether she would submit a written defence.
24. On 22 January 2020, the Disciplinary Commission reminded the Athlete to provide a response, and extended the deadline to do so until 30 January 2020.
25. The Athlete did not respond to the Disciplinary Commission.

II. APPLICABLE RULES

26. 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.”

27. Art. 2 of the Rules provides that Article 2 of the Code applies to determine anti-doping rule violations.
28. 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."

29. 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."

30. 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."

31. 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."

32. 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."

33. 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."

34. 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."

III. DISCUSSION

36. The results of the analysis of the samples provided by the Athlete establish the presence in her sample of the metabolites of a Prohibited Substance, *i.e.* Stanozolol metabolite (3'-hydroxystanozolol-O-glucuronide).
37. The substance detected in the Athlete's samples is an anabolic steroid. It is listed in the WADA 2012 Prohibited List and in all subsequent lists under S1.
38. The Athlete did not answer in any way. She notably did not request the analysis of the B-Sample. She is thus deemed to have waived her corresponding right.
39. The B-Sample was consequently not analysed.
40. In accordance with Art. 2.1 of the Code, when the B-Sample analysis is waived, the result of the A-Sample analysis is sufficient to establish an anti-doping rule violation.
41. Based on such result, the Athlete has to consequently 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 her body.
42. For the sake of completeness, the Disciplinary Commission also notes that the circumstances of this case also supports the finding of an anti-doping rule violation pursuant to Art. 2.2 of the Code.
43. The substance which was found in the Athlete's sample corresponds to a substance which has commonly been used as a doping substance.
44. The use of this substance is therefore clearly consistent with and indicative of the intentional use of Prohibited Substances specifically ingested to deliberately improve performance.
45. The Athlete's refusal to participate in these proceedings and to provide any explanation at this stage only reinforces a corresponding inference.
46. In conclusion, the Athlete has to be found to have committed an anti-doping rule violation pursuant to Art. 1 of the Rules and 2.1 and 2.2 of the Code.
47. Under the Rules, the applicable consequences of the anti-doping rule violation specifically relate to the 2012 Olympic Games.

48. In this instance, the Athlete had qualified to take part to the Women's 200m event on 6 August 2012. She actually went to London, was accredited and settled in the Olympic Village with her team.
49. However, due to an injury, she did not participate in any event.
50. Even if the Athlete did not actually compete, she was subject to the application of the Rules and the jurisdiction of the IOC thereunder to conduct doping controls on accredited athletes.
51. Based on the results of a doping control performed in this context, the Disciplinary Commission issues this decision declaring the Athlete to have committed an anti-doping rule violation at the occasion of the 2012 Olympic Games.
52. Given the circumstances, however, no further consequences in connection with the 2012 Olympic Games are applicable.
53. Pursuant to Art. 8.3 of the Rules the matter shall be transferred to the relevant International Federation (the IAAF) for the result management in respect to further consequences, and notably sanctions, not related to the 2012 Olympic Games.

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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, Klodiana Shala:
 - 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. The IAAF is requested to consider any further action within its own competence.
- III. The National Olympic Committee of Albania shall ensure full implementation of this decision.
- IV. The decision enters into force immediately.

Lausanne, 19 February 2020

In the name of the IOC Disciplinary Commission

Prof. Denis Oswald

Ingmar De Vos

Juan Antonio Samaranch