

International Paralympic Committee  
Anti-Doping Committee

In the matter of:

INTERNATIONAL PARALYMPIC COMMITTEE  
(the applicant, referred to as the *IPC*)

versus

Mr. Nikolay MARFIN  
(the respondent, referred to as the *Athlete*)

The case was heard in front of a hearing body comprised of:

Dr. Toni Pascual, Chairperson of the IPC Anti-Doping Committee; and  
Mr. Joseph de Pencier, Mr. George Tsamis and Ms. Nicki Vance; members of the IPC  
Anti-Doping Committee (together with the Chairperson, the *Hearing Body*)

The hearing was conducted on 6 September 2012 at 14:00 BST in person at the IPC meeting room on the second floor of the NPC Services Centre, London 2012 Paralympic Village, London, England (the *Hearing*).

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## Parties

1. The IPC is the global governing body of the Paralympic Movement and, in particular, of the Paralympic Games. In addition, the IPC is the International Federation of several sports, including IPC Powerlifting. The IPC's registered offices are in Bonn, Germany.
2. The Athlete is a Russian athlete in the sport of IPC Powerlifting.

## Communication

3. In accordance with Article 14.1.1 of the IPC Anti-Doping Code 2011 (the *Code*), the Athlete (and other relevant persons) shall be notified of a Sample that is brought forward as an adverse analytical finding by the IPC through the relevant National Paralympic Committee (*NPC*).

## Background

4. The Athlete was due to compete at the London 2012 Paralympic Games (the Event) in the sport of powerlifting in class +100 kg on 5 September 2012.
5. The IPC is the organiser of the Event and, therefore, the Major Events Organiser in accordance with the Code. From 22 August 2012 until 9 September 2012, the IPC is the competent results management authority for all samples collected in connection with the Event.
6. The London Organising Committee of the Olympic and Paralympic Games had been identified by the IPC as the authorized sample collection agency.
7. On 23 August 2012, the Athlete was requested to submit a urine and blood sample for doping control for an out of competition test in London, England. The Athlete complied with the request and provided a urine sample (sample number 2720780) (the *Urine Sample*) and a blood sample (sample number 562215) (the *First Blood Sample*) and the Athlete's representative declared that the Athlete had taken "protein" and certain other substances, which were written in Russian on the doping control form, during the past seven (7) days before the doping control test.
8. On 25 August 2012, the Athlete was requested to submit a second blood sample. The Athlete complied with the request and provided a sample (sample number



562577) (the *Second Blood Sample*) and the Athlete's representative declared that the Athlete had taken "BCM" and certain other substances, which were written in the Russian language on the doping control form, during the past seven (7) days before the doping control test.

9. At each of the sample collections, the Athlete signed a doping control form without adverse comment. By doing so, the Athlete indicated that he was satisfied with the sample collection procedures that had been followed in conducting each of the tests. The First Blood Sample and the Second Blood Sample were sent for analysis to the Drug Control Centre, the King's College Laboratory, a WADA accredited laboratory based in Harlow, England during the Event (the *Laboratory*).
10. On 4 September 2012, the Laboratory reported an adverse analytical finding for each of (i) the First Blood Sample and (ii) the Second Blood Sample. There was no adverse analytical finding reported in the Urine Sample. For both blood samples, the Laboratory reported that "the growth hormone biomarker score was determined to be greater than the reporting threshold" (the *Prohibited Substance*), which is an adverse analytical finding classified as S2. Growth Hormone on the World Anti-Doping Code (WADC) 2012 Prohibited List (the *Prohibited List*) and is prohibited both in and out of competition.
11. The IPC conducted an initial review of each of the adverse analytical findings and determined in each case that the Athlete did not have an applicable Therapeutic Use Exemption (TUE) for this substance, and that there was no departure from the International Standard for Laboratories or International Standard for Testing that caused the adverse analytical finding.
12. On 4 September 2012 at 21:00 BST, the IPC notified the Athlete via the Chef de Mission of NPC Russia of the adverse analytical findings in accordance with Article 7.2 of the Code. The Athlete was advised that he was suspended from the date of notification (4 September 2012) and that unless Article 10.5 of the Code applies, the standard sanctions for a first-time violation would normally be:
  - a. automatic disqualification of any competition results in connection with an in-competition test, including forfeiture of any medals, points and prizes obtained on the date of the First Blood Sample collection (23 August 2012);
  - b. disqualification of all competition results including forfeiture of any medals, points and prizes obtained subsequent to the date of the First Blood Sample collection (23 August 2012);
  - c. an ineligibility period of two (2) years; and



- d. a financial sanction of one thousand five hundred Euros (€1,500) (Article 10.11 and Chapter 1.2, Section 2, IPC Handbook (“Rules on the imposition of financial sanctions for anti-doping rule violations”)).
13. The Athlete was also advised of his rights, including the right to request a B sample analysis and the laboratory documentation package.
14. The notification included a form titled “Letter of Decision” for the Athlete to complete and return to the IPC by no later than 5 September 2012 at 10:00 BST at a meeting between the Athlete, a representative of NPC Russia, the IPC Medical & Scientific Director and the Chairperson of the Anti-Doping Committee and, if the Athlete wished, a translator (the *Meeting*).
15. At the Meeting, the IPC Medical & Scientific Director and the Chairperson of the Anti-Doping Committee explained the process to the Athlete, the Chef de Mission of NPC Russia and the team doctor of NPC Russia. Mr. David Julien, member of the WADA independent observer team was also present at the Meeting. The Athlete completed and returned the signed Letter of Decision to the IPC at the Meeting. In the Letter of Decision, the Athlete stated that he admits that he has committed an Anti-Doping Rule Violation and that he accepts the consequences as set out in the “Notification of an Adverse Analytical Finding”.
16. Following the Meeting, the IPC Anti-Doping Committee decided to call the Athlete to a hearing to seek further clarity in the case and, therefore, the IPC notified the Athlete of the same via NPC Russia on 5 September at 12:00 BST.

## Hearing

17. The Hearing took place on 5 September 2012 at 14:00 BST at the NPC meeting room on the second floor of the NPC Services Centre, Paralympic Village, London.
18. The IPC was represented in the case by:
  - Dr. Peter Van de Vliet, IPC Medical & Scientific Director; and
  - Ms. Vanessa Webb. IPC Anti-Doping Manager.
19. Attending the Hearing on behalf of the Athlete were:
  - Mr. Nikolay Marfin, the Athlete;
  - Ms. Evgeniya Egerova, Team doctor and translator;
  - Ms. Natalia Sladkova, Deputy Chef de Mission, NPC Russia;



Mr. Evgey Pomoshnikov, Coach; and  
Mr. Oleg Eremakov, doctor.

20. Ms. Emilie Jones, IPC's legal advisor, attended the Hearing, acting as counsel to the IPC.
21. Mr. Jon Amos, Chairperson of the Sport Technical Committee of IPC Powerlifting attended the Hearing as the representative of IPC Powerlifting and as an observer.
22. Mr. David Julien, member of the WADA independent observer team at the London 2012 Paralympic Games, attended as an observer.
23. The following outline of the facts and parties' positions is illustrative only and may not comprise every piece of information or submission made by the parties. The Hearing Body has carefully considered all the evidence and submissions provided by the parties, even if there is no specific reference in this recommendation.
24. The IPC summarised the case to date as outlined in the Background section above.
25. The Hearing Body asked the IPC whether (i) Article 10.6 (Aggravating Circumstances Which May Increase the Period of Ineligibility) and (ii) Article 10.9.2 (Timely Admission) should apply in this case. With respect to the first question, the IPC responded that as the Athlete had admitted the anti-doping rule violation promptly after being confronted with the anti-doping rule violation, the second paragraph of Article 10.6 should apply and therefore the period of ineligibility should not be increased. With respect to the second question, the IPC responded that the Hearing Body should consider timely admission and apply the period of ineligibility from the sample collection date under the first part of Article 10.9.2.
26. NPC Russia and the Athlete stated to the Hearing Body that they do not have any questions or comments for the Hearing Body and that they agree with the decisions of the Hearing Panel and accept the penalties.
27. The team doctor and NPC Russia confirmed that the substances declared on the doping control forms did not contain the Prohibited Substance. The Russian delegation translated the substances declared in the Russian language on the doping control forms. On the first doping control form dated 23 August 2012 the following substances were declared: (i) amino acids; (ii) proteins; (iii) magnesium; (iv) guarana; (v) caffeine; (vi) immuno-stimulations; and (vii) poly vitamins. On the



second doping control form dated 25 August 2012 the following substances were declared: (i) amino acids (“BCM”); (ii) complex amino acids; (iii) poly vitamins; (iv) minerals; (v) minerals 2; and (vi) eye drops.

28. The Athlete informed the Hearing Body that he had injected the Prohibited Substance himself. The Athlete had suffered serious injuries prior to the Event. To assist with the recovery from his injuries, the Athlete researched the internet and found a product containing the Prohibited Substance (the *Product*). The Athlete purchased 40 vials of 10 ml each of the Product on the internet in one single transaction in July 2012. The Product was delivered to him in the mail. The Athlete stored the Product at his home at room temperature. The Athlete could not remember the how much he paid for the Product, but remembered that it was very expensive for a Russian. The Athlete could not remember the name of the website that he purchased the Product from.
29. The Athlete used the Product in accordance with the instructions on the packaging of the Product and on the internet, which stated that 5 ml (half a bottle) should be injected every day during one (1) month. The Athlete did not inject the Product in any particular pattern; sometimes he injected it in the morning, sometimes during the day and sometimes at night. The Athlete used 15 bottles of the 40 that he purchased. The Athlete last injected himself with 5 ml on, approximately, 5 August 2012. The Athlete informed the Hearing Body that he left the remaining bottles at home in Russia when he travelled to London to participate in the Event. The Athlete first stated that he gave them to other bodybuilders, but later changed his statement and informed the Hearing Body that he had left the Product “at home” and had not given it to other bodybuilders.
30. The coach who is identified on the Athlete’s doping control forms is his personal coach, Mr. Evgeni Sharichev, who NPC Russia confirmed is not present at the Event. The Athlete stated that his personal coach did not know he was taking the Product. The Athlete also stated that he does not know of any other person who is injecting this Product.
31. The Athlete participated in the pre-Games training camp for Russian Paralympic athletes, which commenced on 1 August 2012 in Russia and was organised by the Russian Ministry of Sport (the *Pre-Games Camp*). At the Pre-Games Camp he followed a personal training program developed by his personal coach, Mr. Sharichev. Due to his injuries, the Athlete followed an individual training program at the Pre-Games Camp. At the Pre-Games Camp, the Athlete submitted a urine



sample, which NPC Russia stated was negative. NPC Russia informed the Hearing Body that NPC Russia and the Russian Ministry of Sport have not requested that the Russian Anti-Doping Agency (RUSADA) conduct blood testing due to the high costs connected with such testing.

32. The Athlete informed the Hearing Body that he stopped injecting himself on 5 August 2012 while he was at the Pre-Games Camp to avoid submitting any positive tests at the Event. The Athlete knew that the Prohibited Substance could be detected by doping control. The Athlete did not bring the vials with him to London for the Event.
33. The Athlete stated that he had not noticed any effect of the Prohibited Substance on his performance. He also stated that he knew that he was using a prohibited substance. He further declared that he had received anti-doping education in the form of anti-doping seminars during various training camps. At the Pre-Games Camp, the Athlete received anti-doping education from RUSADA.
34. As additional information, the Athlete informed the Hearing Body that his first international competition was the Open European Championships in 2007 and he competed at the Beijing 2008 Paralympic Games. The Athlete does not remember if he was tested at the Beijing 2008 Paralympic Games.
35. The Athlete and his representatives agreed with the IPC that (i) Article 10.6 should not apply in this case as the Athlete admitted the anti-doping rule violation promptly and (ii) Article 10.9.2 should apply in this case.

## Analysis

36. For the reasons set out below, the Hearing Body concludes that the Athlete ought to be subject to a period of ineligibility of two (2) years. The period of ineligibility will start from the date of the First Sample collection, 23 August 2012 in accordance with Article 10.9.2. In addition, the Athlete will be required to pay a financial sanction of one thousand five hundred Euros (€1,500) in accordance with Article 10.11.
37. The principle of strict liability applies to anti-doping rule violations. Article 2.1 of the Code states that it is an athlete's personal duty to ensure that no prohibited substance listed on the Prohibited List enters his or her body. An anti-doping rule violation occurs whenever a prohibited substance is found in an athlete's sample



(comment to Code Article 2.1.1.). In this case, the Athlete confirms the use of the Prohibited Substance that was found in the First Blood Sample and the Second Blood Sample.


38. The Prohibited Substance found in the First Blood Sample and the Second Blood Sample is classified as class S2. Growth Hormone in the Prohibited List and is prohibited both in-and out-of-competition.
39. The Athlete admitted the anti-doping rule violation and accepted the consequences promptly following notification.

#### **Recommendation to the IPC Governing Board**

40. The Hearing Body of the IPC Anti-Doping Committee recommends to the IPC Governing Board to impose a two (2) year period of ineligibility pursuant to Article 10.2 of the Code. The period of ineligibility should start as of 23 August 2012.
41. The Hearing Body recommends to the IPC Governing Board to impose a financial sanction of one thousand five hundred Euros (€1,500) pursuant to Article 10.11 of the Code.

Submitted to the IPC Governing Board on 7 September 2012 as a recommendation from the IPC Anti-Doping Committee in accordance with Article 8.5.2 of the Code.

On 08 September 2012 at 12:20 BST the IPC Governing Board reviewed the above document and accepted the recommendation of the IPC Anti-Doping Committee.

  
Mr. Xavier Gonzalez  
Chief Executive Officer  
International Paralympic Committee

- cc. Toni Pascual, Chairperson IPC Anti-Doping Committee  
Jon Amos, Chairperson Sport Technical Committee IPC Powerlifting  
Kerwin Clarke, WADA Results Management





Anders Solheim, Chairperson WADA Independent Observer Team London 2012  
Paralympic Games