

INTERNATIONAL OLYMPIC COMMITTEE

IOC DISCIPLINARY COMMISSION

DECISION

**REGARDING ALEXANDRU DUDOGLO
BORN ON 20 MARCH 1989, MOLDOVA, ATHLETE, WEIGHTLIFTING**

(Rule 59.2.1 of the Olympic Charter)

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 XXIX Olympiad in Beijing in 2008 (the “**Rules**”) and, in particular but without limitation, Articles 2, 5.1, 7.3.3, 8 and 9 thereof:

I. FACTS

1. Alexandru DUDOGLO (hereinafter the “**Athlete**”), participated in the Games of the XXIX Olympiad in Beijing in 2008 (the “**2008 Olympic Games**”).
2. On 12 August 2008, the Athlete competed in the 69 kg weightlifting event (Final) in which he ranked 9th.
3. On the same day, the Athlete was requested to provide a urine sample for a doping control. Such sample was identified with the number 1846054.
4. The A-Sample 1846054 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 “Laboratoire suisse d’analyse du dopage” in Lausanne, Switzerland (“the **Laboratory**”) for long-term storage.
6. The IOC decided to perform further analyses on samples collected during the 2008 Olympic Games. These additional analyses were notably performed with improved analytical methods using more sensitive equipment and/or searching for new metabolites in order to possibly detect Prohibited Substances which were not identified by the analysis performed at the time of the 2008 Olympic Games.
7. In accordance with the provisions of the applicable International Standards for Laboratories (the “**ISL**”), the IOC decided that the reanalysis process would be conducted as follows:
 - An initial analysis was to be conducted on the remains of the A-samples
 - If such initial analysis resulted in the indication of the potential presence of a Prohibited Substance or its Metabolites or Markers (“Presumptive Adverse Analytical Finding” - PAAF), the full confirmation analysis process (double confirmation) was to be conducted on the B-Sample, which would be split for the occasion into a B1- and a B2 Sample (becoming thus the equivalent of an A- and B-Sample).
8. The decision to proceed based on split B-samples was made in principle for all the re-analysis.

9. This choice was made since, in view of the fact that during the transfer of the samples from the Beijing laboratory to the Laboratory, the A-samples were not individually resealed nor transported in sealed containers.
10. At that time, resealing of A-Samples (or transport in sealed containers) was not a requirement pursuant to the then applicable ISL (2008).
11. However, it was felt that the option to rely on the B-Sample did constitute an additional precaution securing the strength and reliability of the analytical process.
12. A similar cautious approach was adopted with regard to the implementation of the analytical process and notably of its first phase (opening and splitting of the B-Sample in a B1- and B2-Sample, sealing of the B2-Sample and analysis of the B1-Sample).
13. Pursuant to the ISL, the presence of the Athlete is not a requirement for such first phase of the B-Sample analysis.
14. The IOC nevertheless decided, again as a matter of principle, that, whenever this was practically possible, the Athlete would be offered the opportunity to attend the above described first phase of the B-sample procedure.
15. The remains of the A-Sample of the Athlete were subject to initial analysis. Such analysis resulted in a Presumptive Adverse Analytical Finding (“**PAAF**”) as it indicated the potential presence of the metabolites of a Prohibited Substance: stanozolol.
16. On 18 May 2016, the Athlete through his NOC was informed of the PAAF and of the possibility to attend the opening and splitting of the B-Sample into a B1- and B2-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample.
17. On 24 May 2016, the NOC informed the IOC that the PAAF had been communicated to the National Federation and requested an extension of the deadline to return the PAAF Notification Appendix.
18. On the same day, the IOC granted an extension of the deadline until 27 May 2016.
19. On 26 May 2016, the IOC received the completed PAAF Notification Appendix sent by the Athlete through his NOC in which he indicated that he would not attend the opening, splitting of the B-Sample, the sealing of the B2-Sample and the analysis of the B1-Sample, neither personally nor through a representative. The Athlete also wrote the following comment in the PAAF Notification Appendix: “I never used prohibited substance, especially stanozolol.”
20. On 26 May 2016, the IOC informed the Athlete, through his NOC, that the opening and splitting of her B-Sample would occur on 1 June 2016.
21. The opening, splitting of the B-Sample, the sealing of the B2-Sample occurred on 1 June 2016. The Athlete did not attend the process and was not represented on this occasion.
22. As provided in the ISL, the opening and splitting was attended by an independent witness.
23. The analysis of the B1-Sample was then conducted over the following day.
24. The results of the B1-Sample analysis were reported on 2 June 2016. They confirmed the presence of the metabolites of a Prohibited Substance, namely stanozolol.

25. Such results constitute an Adverse Analytical Finding (“**AAF**”). They were reported to the IOC in accordance with Art. 7.2.1 of the Rules.
26. Further to the verifications set forth in Art. 7.2.2 of the Rules and in application of Art. 7.2.3 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.
27. Pursuant to Art. 7.2.4 of the 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 Juridical Commission;
 - Mrs Gunilla Lindberg (Sweden)
 - Mr Ugur Erdener (Turkey)
28. On 3 June 2016, the IOC notified the Athlete, through his NOC, of the above-mentioned AAF and of the institution of disciplinary proceedings to be conducted by the Disciplinary Commission. The IOC also informed the Athlete of his right to request and attend the opening and analysis of the B2-Sample, either in person and/or through a representative. He was finally informed of his right to request a copy of the laboratory documentation package.
29. On 9 June 2016, the IOC received the completed AAF Notification Appendix sent by the Athlete through his NOC in which he indicated that he did not accept the Adverse Analytical Finding and requested the opening and analysis of his B2-Sample. He informed the IOC that he would not attend the process, neither personally nor through a representative. He finally requested a copy of the laboratory documentation package.
30. On 10 June 2016, the IOC informed the Athlete through his NOC that the opening analysis of his B2-Sample was scheduled to take place on 14 June 2016 and that the analysis would be conducted over the following days.
31. The opening of the B2-Sample occurred on 14 June 2016 in the presence of an independent witness, followed by the analysis of the B2-Sample over the following days.
32. The results of the B2-Sample analysis were reported to the IOC on 15 June 2016. They confirmed the presence in the B2-Sample of the metabolites of a Prohibited Substance, namely stanozolol.
33. On 20 June 2016, the IOC communicated to the Athlete, through his NOC, the results of the B2-Sample analysis. The Athlete was invited to indicate whether he accepted the B2-Sample Adverse Analytical Finding and whether he requested a copy of the B2-Sample laboratory documentation package. He was also informed that he had the possibility to attend the hearing of the Disciplinary Commission and/or to submit a defence in writing.
34. On 23 June 2016, the Athlete sent to the IOC through his NOC the completed Disciplinary Commission Form in which he indicated that he accepted the B2-Sample Adverse Analytical Finding and did not request a copy of the B2-Sample laboratory documentation package. He further indicated that he would not attend the hearing of the Disciplinary Commission, neither personally nor through a representative, and that he would present a defence in writing.
35. In the Comments section of his Disciplinary Commission Form, contrary to what he indicated above, the Athlete wrote that he requested a copy of the A1 and A2 sample

laboratory documentation package. He also indicated that he had never used any banned substance.

36. On 1 July 2016, the Athlete was provided through his NOC with a copy of the B1-Sample laboratory documentation package.
37. On 7 July 2016, the Athlete was provided through his NOC with a copy of the B2-Sample laboratory documentation package.
38. On 11 July 2016, the IOC provided the Athlete through his NOC with additional documentation related to his sample, in particular the handling of the sample in Beijing and its transfer to the WADA accredited laboratory in Lausanne.
39. In the same communication, the Athlete was also informed that the hearing of the Disciplinary Commission was scheduled to take place on 18 July 2016. The IOC reminded once again the Athlete the possibility to attend the hearing and invited him to indicate whether he would attend the hearing by 13 July 2016. The Athlete was finally invited to present his defence in writing by 16 July 2016.
40. On the same day, the NOC and the IF were invited to send a representative to attend the hearing.
41. Neither the NOC nor the IF replied.
42. On 15 July 2016, the Athlete submitted a defence in writing to the IOC through his NOC.
43. In his written observations, the Athlete declared that he never used any banned substance during his career. He stated that he continued to compete after the 2008 Olympic Games and had been subject to several doping controls, which had never resulted in an adverse analytical finding.
44. The Athlete also asserted that he had been subject to surprise inspections by WADA staff during his career and that the results of such doping controls had always been negative.
45. The Athlete finally submitted that he was not able to prepare a strong defence due to the long period between the collection of the sample and the present proceedings. He mentioned that he was not in a position to identify the reason why the analysis resulted in an adverse analytical finding, in particular because he was unable to test the food supplements he used at the time.

II. APPLICABLE RULES

46. Art. 2.1 of the Rules provides as follows:

“The presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s bodily Specimen.

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 bodily Specimens. 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 Excepting those substances for which a quantitative reporting threshold is specifically identified in the Prohibited List, the detected 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.

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

47. Art. 2.2 of the Rules provides as follows:

"Use or Attempted Use of a Prohibited Substance or a Prohibited Method

2.2.1 The success or failure of the 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."

48. Art. 5.1 of the 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 other 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, 27 July 2008 up until and including the day of the closing ceremony of the Olympic Games, namely, 24 August 2008.

All Athletes participating at the Olympic Games shall be subject, during the Period of the Olympic Games, to Doping Control initiated by the IOC at any time or place, with No Advance Notice. Such Doping Control may include Testing for all Prohibited Substances and all Prohibited Methods referred to in the Prohibited List.

The IOC shall have the right to conduct or cause to conduct Doping Control during the Period of the Olympic Games, and is responsible for the subsequent handling of such cases."

49. Art. 6.5 of the Rules provides as follows:

"Samples shall be stored in a secure manner at the laboratory or otherwise directed by the IOC and may be further analysed. Consistent with Article 17 of the Code the ownership of the samples is vested in the IOC for the eight years. During this period, the IOC shall have the right to re-analyse samples (taken during the Period of the Olympic Games). Any anti-doping rule violation discovered as a result thereof shall be dealt with in accordance with these Rules. After this period, the ownership of the samples shall be transferred to the laboratory storing such samples, provided that all means of identification of the Athletes will be destroyed and that proof of this destruction shall be provided to the IOC."

50. Art. 7.3.3 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 Secretary General of the NOC of the Athlete or other Person shall be deemed to be a delivery of notice to the NOC."

51. Art. 8.1 of the Rules provides as follows:

“A violation of these Rules in connection with Doping Control automatically leads to Disqualification of the Athlete with all other consequences, including forfeiture of any medals, points and prizes.”

52. Art. 9.1 of the 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 9.1.1.”

53. Art. 9.1.1 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 other Competition 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.”

54. Art. 9.3 of the Rules provides as follows:

“The management 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”.

III. DISCUSSION

55. The presence of a Prohibited Substance has been established in 2016 in the sample 1846054 that the Athlete provided on 12 August 2008, upon the occasion of the 2008 Olympic Games.

56. The substance detected in the Athlete’s sample is an exogenous anabolic steroid. It is listed in the WADA 2008 Prohibited List and in all subsequent lists.

57. The Disciplinary Commission is satisfied that the sample which has been re-analysed by the Laboratory is unequivocally linked to the Athlete and that no relevant departure from the WADA International Standards occurred.

58. It is noted that the Athlete accepts the Adverse Analytical Finding as indicated in his completed Disciplinary Commission Form.

59. Despite his acceptance, the Athlete contests having ever used any banned substances. To support his defence, the Athlete mentions that he has been subject to several doping controls after the 2008 Olympic Games, including to surprise inspection by WADA. This argument is irrelevant as the present proceedings are limited to the 2008 Olympic Games and does not explain the presence of a Prohibited Substance in his body at that time.

60. The Athlete’s explanation that the presence of the Prohibited Substance might be due to food supplements is not relevant. Whatever the reason may be, an anti-doping violation pursuant to Art. 2.1 of the Rules is in any event established based on presence.

61. 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. 2.2 of the Rules.

62. In this respect, the Disciplinary Commission further notes that athletes have been repeatedly informed of the potential contamination of food complements and that they are and remain responsible for any product that they ingest. Therefore, such an explanation, even if established as true, which is not being the case in the present procedure, would not exonerate the Athlete from, at the very least, having been highly negligent in using uncontrolled supplements.
63. The Disciplinary Commission observes that the nature of the substance which was found in the Athlete's sample is rather consistent with intentional use of a Prohibited Substance specifically ingested to deliberately improve performance.
64. The fact that the metabolite of a doping substance, which is a "classical" doping substance was found, supports this consideration. Stanozolol is not used for any legitimate therapeutic purposes for humans. Whether it was ingested as part of a supplement including it as an "active" element or pure, the most straightforward explanation for fact that it was found in the Athlete's body is that it was used for its purpose, i.e. as a performance-enhancing substance.
65. The Athlete is in any event not bringing any element, which would establish a different explanation.
66. In conclusion, the Disciplinary Commission finds that an anti-doping violation is established pursuant to both Art. 2.1 and Art. 2.2 of the Rules.
67. The consequences of an anti-doping rule violation under the Rules are limited to consequences in connection with the 2008 Olympic Games. They are set forth in Art. 8 and 9 of the Rules and are the following.
68. In application of Art. 8.1, (results of the 69 kg weightlifting event) and respectively 9.1 of the Rules (for all other results), all the results achieved by the Athlete during the 2008 Olympic Games shall be annulled, with all other resulting consequences.
69. In application of Art. 9.3 of the 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 Games 2008 shall be conducted by the International Weightlifting Federation ("**IWF**").

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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 XXIX Olympiad in Beijing in 2008 and, in particular, Articles 2, 5.1, 7.3.3, 8 and 9 thereof.

THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES

- I. The Athlete, Alexandru DUDOGLO:
 - (i) is found to have committed an anti-doping rule violation pursuant to the IOC Anti-Doping Rules applicable to the Games of the XXIX Olympiad in Beijing in 2008 (presence and/or use, of a Prohibited Substance or its Metabolites or Markers in an athlete's bodily specimen),
 - (ii) is disqualified from the 69 kg weightlifting event in which he participated upon the occasion of the Olympic Games Beijing 2008.
- II. The IWF 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 Moldova shall ensure full implementation of this decision.
- IV. This decision enters into force immediately.

Lausanne, 29 August 2016

In the name of the IOC Disciplinary Commission



Ugur Erdener



Denis Oswald, Chairman



Gunilla Lindberg