

INTERNATIONAL OLYMPIC COMMITTEE
DISCIPLINARY COMMISSION
DECISION

REGARDING MR GABRIEL SINCRAIAN

BORN ON 21 DECEMBER 1988, ROMANIAN FEDERATION, ATHLETE, WEIGHTLIFTER
(ROMANIAN OLYMPIC COMMITTEE)

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 OF THE CASE

1. Gabriel SINCRAIAN (the “**Athlete**”), participated in the Games of the XXX Olympiad, London 2012 (the “**2012 Olympic Games**”) as an athlete of the National Olympic Committee of Romania.
2. On 3 August 2012, the Athlete competed in the Men's 85kg Weightlifting event. His result was that he did not finish the event.
3. On 3 August 2012, the Athlete was requested to provide urine samples for a doping control. Such sample was identified with the number 2718614.
4. The A-Sample 2718614 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 potentially 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 2718614 was analysed by the Laboratory and resulted in an Adverse Analytical Finding (“**AAF**”) as it showed the presence of:
 - a. Metenolone and metabolites (1, 1-methylene-5a-androstan-3a-ol-17-one and 1-methyl-5a-androst-1-en-16a-ol-3, 17-dione);
 - b. Stanozolol metabolites (3'-hydroxystanozolol-O-glucuronide and 3'-hydroxy-17-epistanozolol-O-glucuronide and 16b-hydroxystanozolol-O-glucuronide and 17-epistanozolol-N-glucuronide).
9. Both of these substances were Prohibited Substances (Class S1.1a – anabolic androgenic steroids).
10. The results were reported to the IOC in accordance with Art. 6.2.1 of the Rules.
11. 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.

12. Pursuant to Art. 6.2.5 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.
13. 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.
14. On 11 December 2019, the ITA notified the Athlete, through the National Olympic Committee of Romania (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.
15. 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.
16. On 11 December 2019, the International Weightlifting Federation ("IWF") was also informed of the Athlete's AAF notification and the ITA invited the IWF to take the necessary actions under Art. 8.3 of the Rules.
17. By way of a completed Athlete Rights Form dated 27 December 2019, the Athlete indicated that he did not accept the AAF and that he requested the opening and analysis of the B-sample, but also that he would not attend the opening and analysis of the B-sample.
18. On 4 February 2020, the ITA informed the NOC that the B-sample opening and analysis would take place on 13 February 2020.
19. On 10 February 2020, the NOC informed the ITA that the Athlete, as well as two other Romanian Athletes also charged with ADRVs, would be appointing a single representative to attend each of the three B-sample openings and analyses. The NOC also asked the ITA to choose a new and later date for this to take place, to which the ITA agreed.
20. On 26 February 2020 the NOC informed the ITA that the name of the Athlete's representative was Mrs Monica Doriana Nagele.
21. Following a request from the Athlete, on 17 March 2020 the ITA provided the Athlete's A-sample Laboratory Documentation Packages. On the same date, the ITA informed the Athlete that due to COVID-19 precautionary measures implemented by Switzerland, the B-sample opening and analysis would need to be delayed.
22. On 11 June 2020, due to the partial lifting of COVID-19 measures in Switzerland, the ITA proposed the 30 June 2020 for the B-sample opening and analysis, to which the NOC agreed on 22 June 2020.
23. On 30 June 2020, the B-sample opening and analysis took place. The results of the Athlete's B-sample analysis were in agreement with the A-sample results.
24. On 7 July 2020 the results of the B-sample analysis were communicated by the ITA to the NOC, and the Athlete was requested to indicate their preferred forum for the adjudication of the dispute. A draft arbitration agreement was attached. The Athlete was also invited to inform the ITA by 13 July 2020 if he wished to request the B-sample Laboratory Documentation Package.
25. On 14 July 2020 the Athlete requested the B-sample Laboratory Documentation Package.
26. On 23 July 2020 the ITA was informed by the NOC that the Romanian Weightlifting Federation had stated that the Athlete submitted to the adjudication of the dispute by the established IOC Disciplinary Commission.

27. On 29 July 2020, the ITA provided the B-sample Laboratory Documentation Package to the NOC for provision to the Athlete.
28. The file being complete, the matter was accordingly referred to the IOC Disciplinary Commission for adjudication.

II. APPLICABLE RULES TO THE CASE

29. 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.”

30. Art. 2 of the Rules provides that Article 2 of the World Anti-Doping Code (“**the WADC**”) applies to determine anti-doping rule violations.

31. Art. 2.1 of the WADC 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.

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 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.

2.1.2 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.

2.1.3 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.

2.1.4 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.”

32. Art. 2.2 of the WADC 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.”

33. 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.”

34. 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.”

35. 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.”

36. 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.”

37. 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.”

38. 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

39. At the outset, the Disciplinary Commission notes that, despite the Athlete’s involvement in the process to date including his requests for laboratory documentation packages and the reanalysis of the B-sample, the Athlete did not submit any explanation at any stage and he did not submit any observation to the IOC Disciplinary Commission in spite of the invitation to do so.

40. The results of the re-analysis of the A-sample and the analysis of the B-sample provided by the Athlete establish the presence in his sample of the metabolites of two different Prohibited Substances, namely Metenolone and metabolites, and Stanozolol metabolites.
41. The substances detected in the Athlete's samples are exogenous anabolic androgenic steroids. They are all listed in the WADA 2012 Prohibited List and in all subsequent Prohibited Lists, under S1(Anabolic Agents).
42. Based on such results, it must consequently be found that the Athlete committed an anti-doping rule violation pursuant to Art. 2.1 of the Code, due to the presence of a Prohibited Substance in his body. The Disciplinary Commission notes that pursuant to Article 2.1.2, sufficient proof of an Article 2.1 anti-doping rule violation is established where the Athlete's B Sample is analysed and the analysis of the B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample.
43. Accordingly, the Athlete has to be found to have committed an anti-doping rule violation pursuant to Art. 2.1 of the Code consisting in the presence of two different Prohibited Substances in his body.
44. For the sake of completeness, the Disciplinary Commission notes that the circumstances of this case also support the finding of an anti-doping rule violation pursuant to Art. 2.2 of the Code.
45. The substances which were found in the Athlete's sample correspond to substances which are commonly used for the purposes of doping.
46. The simple and straightforward explanation for the fact that the Prohibited Substances were found in the Athlete's sample is use of a doping substance for the purpose of performance enhancement.
47. The use of multiple different exogenous anabolic steroids is clearly consistent with and indicative of the intentional use of Prohibited Substances specifically ingested to deliberately improve performance.
48. The Athlete's failure to provide any response for the consideration of the Disciplinary Commission only reinforces the aforementioned conclusions.
49. In conclusion, the Athlete is found to have committed an anti-doping rule violation pursuant to Art. 1 and 2 of the Rules and Art. 2.1 and 2.2 of the WADC.
50. Under the Rules, the applicable consequences of the anti-doping rule violation specifically relate to the 2012 Olympic Games.
51. 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.).
52. In this case, the disqualification means that the athlete's name shall be struck off the competition result list or the indication shall be added that he was disqualified as a result of the commission of an anti-doping rule violation.
53. Pursuant to 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 IWF.

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, Gabriel SINCRAIAN:
 - (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 its Metabolites or Markers in an athlete's bodily specimen);
 - (ii) is disqualified from the event in which he participated upon the occasion of the Olympic Games London 2012, namely the Men's 85 kg Weightlifting event, in which his result was that he did not finish the event.
- 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 Romanian Olympic Committee shall ensure full implementation of this decision.
- IV. The decision enters into force immediately.

Lausanne, 23 November 2020

In the name of the IOC Disciplinary Commission

Prof. Denis Oswald, Chairman

Ingmar De Vos

Juan Antonio Samaranch