



Arbitration CAS anti-doping Division (OG Rio) AD 16/011 International Olympic Committee (IOC) v. Misha Aloian, award of 8 December 2016

Panel: Prof. Michael Geistlinger (Austria), Sole arbitrator

Boxing

Doping (tuaminobaptane)

Automatic disqualification of results and No Fault/No Negligence, No Performance Enhancing Effect

Principle of proportionality

1. **Art. 9 IOC ADR provides for the automatic disqualification of his results. It reflects Art. 9 of the World-Anti-Doping Code. The wording of Art. 9 IOC ADR is strict and is not open for arguments based on “No Fault or Negligence” or “No Significant Fault or Negligence”. Besides, the question, whether the prohibited substance taken could enhance sport performance, has no relevance for this provision. Therefore, the athlete can neither invoke the absence of a performance enhancing effect of the prohibited substance, nor the absence of fault or negligence as to the automatic disqualification of results.**
2. **The principle of proportionality requires an assessment of whether a sanction is appropriate to the violation committed in the case at stake. Excessive sanctions are prohibited. Under Article 2.1.1 IOC ADR, it is each athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. This obligation includes the responsibility of the athlete for the people surrounding him and giving him advice and whether to follow such advice. Although it might be unfortunate that an athlete suffering from a chronic disease, which effectively can be combatted only by a medication containing a prohibited substance forbidden in-competition, relied on the advice of his team doctor as to the excretion period and his team doctor erred in his advice not having followed the latest development of respective science, the circumstances of the case cannot be considered as one of the “rarest cases” in which the sanction stipulated by the WADC does not produce a just and proportionate result, allowing not to apply Article 9 IOC ADR.**

I. FACTS

1. The elements set out below are a summary of the main relevant facts as established by the Sole Arbitrator by way of a chronology on the basis of the materials supplied by the parties. Additional facts may be set out, where relevant and to the extent necessary, in the other chapters of the present award.

2. The Athlete is a representative of the Russian National Olympic Committee (“NOC”). His sport is boxing. At the Olympic Games Rio 2016 (“Rio 2016”), the Athlete took part in the Men’s -52 kg boxing event from 15 August 2016 to 21 August 2016 (1/8, ¼, Semi-Final and Final) in which he finished 2nd and was awarded the silver medal.
3. On 21 August 2016, on the occasion of the Final, the Athlete underwent an in-competition doping control (urine).
4. On 7 September 2016, the International Olympic Committee (the “IOC”) notified the Athlete through his NOC that the results of the analysis of his A Sample revealed the presence of Tuaminoheptane. This substance is a specified stimulant, prohibited in-competition under S6 of the WADA Prohibited List. It is a specified substance. The Athlete waived his right for opening of the B Sample.
5. On 12 September 2016, the IOC filed an application at the Anti-Doping Division of the Court of Arbitration for Sport (“CAS ADD”) asserting an anti-doping rule violation and seeking disqualification of the results of the Athlete.
6. In its application, the IOC seeks the following relief:
 1. *The Athlete is found to have committed an anti-doping rule violation pursuant to Article 2.1 of the IOC ADR and/or Article 2.2 of the IOC.*
 2. *The results obtained by the Athlete in the Men’s -52kg boxing event at the Olympic Games Rio 2016, in which he ranked 2nd and for which he was awarded a silver medal, are disqualified with all consequences, including forfeiture of the medal, Olympic diploma and medallist pin.*
 3. *The Athlete is ordered to return the medal, the diploma and the medallist pin.*
 4. *The International Boxing Association is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.*
 5. *The Russian Olympic Committee is requested to ensure full implementation of this decision is [sic] and notably to secure the return to the IOC, as soon as possible, of the medal, the medallist pin and the diploma awarded in connection with the Men’s -52kg boxing event.*
7. On 14 September 2014, the President of the Anti-Doping Division assigned the case to Prof. Dr. Michael Geistlinger, Austria, as Sole Arbitrator.
8. By Order of 16 September 2016, the Sole Arbitrator, within his discretion according to Art. 14 of the CAS ADD Rules and Art. 7.6.2 of the IOC ADR, decided not to impose a provisional suspension considering that Rio 2016 had concluded and the issuance of any provisional suspension could not serve any useful purpose. The parties were provided a deadline for filing eventual submissions on the merits in writing and informing the Sole Arbitrator on their preferences for a hearing.

9. On 13 October 2016, after various request for extensions of time agreed to by the parties, the Athlete filed his written response submission.

10. In his written response submission, the Athlete sought the following relief:

The Sole Arbitrator shall not to disqualify the results achieved by the Athlete at Rio 2016.

11. The Athlete's response submission is summarized as follows:

- Since childhood, the Athlete suffers from chronic rhinosinusitis and other nasal diseases, which was found best to be treated by Rhinofluimucil.
- The Athlete could rely on professional medical service.
- During his training camp in Sochi in July 2016, the Athlete used Rhinofluimucil in two courses.
- In Rio 2016, Dr. Sergey Klyagin, the Russian Boxing Team doctor, advised him to use Tyzine. Since this medication did not help him, Dr. Klyagin, allowed the Athlete to use Rhinofluimucil, but advised him to stop 24 hours before his competition starts, because Tuaminoheptane, a prohibited substance in-competition, eliminates from his body in no more than 24 hours.
- The Athlete took Rhinofluimucil 4 times a day until early morning of 14 August 2016, the last day before his competition, and, therefore, out-of-competition, because the in-competition period started on 15 August 2016.
- On 17 August 2016, the Athlete upon advice of the therapist-on-duty, Dr. Chadina, used Tyzine, which luckily helped him to stabilize his health condition.
- The Athlete made a proper declaration of all medications and nutrition supplements he ingested within 7 days prior to the sample providing date of 21 August 2016 on the Doping Control Form.
- The Athlete does not dispute that he committed an anti-doping rule violation under Art. 2.1 of the IOC ADR applicable to Rio 2016.
- The Athlete is aware of the fact that Art. 9 IOC ADR has to apply, but suggests that in exceptional circumstances the Sole Arbitrator is entitled not to apply this provision.
- Relying on the Expert Opinions of Dr. Douwe de Boer and Dr. Arthur Kopylov, the Athlete argues that the substance could not affect his performance.
- The Athlete trusted the experience of his doctor and followed his recommendation. He acted in good faith and made all reasonable efforts to avoid an anti-doping rule violation.

He was misled by his doctor who did not know that according to the latest scientific research the excretion period may last up to 10 days.

- The Athlete refers to the decision of the IOC Disciplinary Commission of 13 March 2014 in the case of Nicklas Backstrom, where no automatic disqualification of the results achieved took place based on specific facts of the case related to No Fault or Negligence and no performance enhancing effect.
 - The Athlete further refers to the WADA Notice of 30 June 2016 for Meldonium, where WADA accepted for particular circumstances of low dosages of Meldonium that the athlete's results should not be disqualified.
 - Finally, the Athlete adduces CAS 2006/A/1025 and there the panel's application of the principle of proportionality. Given the very specific and unique circumstances of the facts of the present case, to apply Article 9 IOC ADR would be unjust and disproportionate.
12. On 19 October 2016, the IOC filed a request to bifurcate this procedure and requested that the Sole Arbitrator decide, on a preliminary basis, whether the relief sought by the Athlete (namely, whether an athlete is entitled to retain his medal despite admitting an ADRV) could even be granted under Art. 9 of the IOC ADR. Additionally, the IOC sought leave to file a written reply submission.
13. On 20 October 2016, the Sole Arbitrator denied the IOC's request to bifurcate this procedure but granted the IOC's request to file a written reply submission.
14. On 1 November 2016, the IOC submitted its written reply submission. Such further submission is summarized as follows:
- It is clear from a plain reading of Art. 9 IOC ADR that the provision does not allow for any flexibility. Disqualification is an automatic consequence of an anti-doping rule violation.
 - The fact whether the prohibited substance found has a performance enhancing effect is irrelevant for the application of this provision. Also, the absence of fault or negligence is irrelevant.
 - This view is supported by CAS 2007/O/1381, CAS 2005/A/1025, the decision of the Independent ITF Tribunal of 18 January 2005 in the case ITF v. Stefan Koubek, and by the decision of a tribunal in New Zealand of 21 March 2011 on Drug Free Sport New Zealand v. O'Grady.
 - The Athlete's reference to the Backstrom case does not meet the present case because Backstrom was not a case of disqualification of results in an individual sport, but was a member of a team sport and there were no rules for disqualification of results in such a case in place.

- The WADA Notice on Meldonium referred to by the Athlete a fortiori confirms that the intake of a formally listed prohibited substance must lead to disqualification of results, irrespective of any fault.
 - Notwithstanding the fact that the Athlete's arguments are irrelevant for the decision to disqualify the results, the IOC points to lack of their credibility.
 - The IOC submits an expert opinion of Professor Saugy, who contradicts the estimate and finding of Dr. de Boer referring to a study relied upon by Dr. de Boer himself. Moreover, Dr. Kopylov's demonstration has no merits.
15. On 3 November 2016, a hearing was held at the CAS Court Office in Lausanne. The Appellant was represented by Mr. André Sabah (Senior Legal Counsel of the IOC), Ms. Viola Maerz (Legal Counsel of the IOC) and y Mr. Nicolas Zbinden (Counsel for the IOC). The Athlete was present and represented by Mr. Artem Patsev (Counsel for the Athlete). Mr. Victor Berezov also attended as an observer for the Russian Olympic Committee. Translation Russian – English/English – Russian was provided by the independent interpreter Mr. Andrej Dolgov. The Sole Arbitrator was assisted by Mr. Fabien Cagneux, Counsel to the CAS.
16. At the hearing, the parties raised no objection as to the procedure and at the conclusion of the hearing, confirmed that their right to be heard had been fully respected.

II. LEGAL ASPECTS

A. Jurisdiction

- 17¹. Pursuant to Rule 59.2.4 of the Olympic Charter, the IOC Executive Board has delegated to the CAS ADD its power to decide upon any violation of the World Anti-Doping Code arising upon the occasion of the Olympic Games (Art. 8.2.2 IOC ADR).
18. Pursuant to Art. 8.1.1 of the IOC ADR:
- Where the IOC decides to assert an anti-doping rule violation, the IOC shall promptly file an application with the CAS Anti-Doping Division as per the CAS Anti-Doping Rules.*
19. Pursuant to Art. 1 of the Arbitration Rules applicable to the CAS ADD:
- The CAS ADD shall be the first instance authority for doping-related matters, responsible for the conduct of the proceedings and the issuance of decisions when an alleged anti-doping rule violation has been asserted and referred to it under the IOC ADR.*
20. The parties do not contest the jurisdiction of the CAS ADD to decide the dispute.

¹ [NB: There are too many numbering errors in the original award to keep the original numbering of paragraphs].

21. It follows that the CAS ADD has jurisdiction over the Application.

B. Applicable Law

22. Art. 17 CAS ADD Rules provides as follows:

The Panel shall rule on the dispute pursuant to the IOC ADR, the applicable regulations, Swiss Law and general principles of law.

23. The Introduction to the IOC ADR refers *inter alia* to the scope of the Rules and stipulates the following:

These Rules apply in connection with the Olympic Games Rio 2016. They shall, without limitation, apply to all Doping Controls over which the IOC has jurisdiction in connection with the Olympic Games Rio 2016.

These Rules shall, without limitation, apply automatically to (a) the IOC; (b) Athletes entered in the Olympic Games Rio 2016 ...

(...)

Athletes entered in the Olympic Games Rio 2016 or who have otherwise been made subject to the authority of IOC in connection with the Olympic Games Rio 2016 are bound by these Rules as condition of eligibility to participate in the Olympic Games Rio 2016....

24. The Sole Arbitrator hereby confirms that he will apply primarily the IOC ADR, and subsidiarily, Swiss Law and general principles of law. He confirms that these proceedings are governed by the CAS ADD Rules and by Chapter 12 of the Swiss Private International Law Act of 18 December 1987 (“PILA”). PILA applies to this arbitration as a result of the express choice of law contained in Art. 17 of the CAS ADD Rules and as a result, the choice of Lausanne, Switzerland as the seat of the CAS ADD and the Panel, pursuant to Art. 7 of the CAS ADD Rules.

C. Legal Framework

25. Considering the scope of the present arbitration, the most relevant articles of the Applicable Law for the discussion on the merits of this Application are the following:

26. Art. 2 IOC ADR reads as follows:

ARTICLE 2 ANTI-DOPING RULE VIOLATIONS

The purpose of Article 2 is to specify the circumstances and conduct which constitute anti-doping rule violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules have been violated.

Athletes or other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List.

The following constitute anti-doping rule violations:

2.1 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 rule violation under Article 2.1.*

2.1.2 *Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any 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 analyzed; or, where the Athlete's B Sample is analyzed 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; or, where the Athlete's B Sample is split into two bottles and the analysis of the second bottle confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first bottle.*

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.*

2.2 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 and that no Prohibited Method is Used. 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.*

27. Art. 3.1 IOC ADR reads as follows:

3.1 Burdens and Standards of Proof

The IOC shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the IOC has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made.

This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Rules place the burden of proof upon the Athlete or other Person alleged to have

committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability.

28. Art. 9 IOC ADR reads as follows:

Automatic Disqualification of Individual Results

An anti-doping rule violation in Individual Sports in connection with an In-Competition test automatically leads to Disqualification of the result obtained in the Competition in question (and any other subsequent Competitions in the same Event for which the Athlete only qualified as a result of his participation in the Competition in question) with all resulting Consequences, including forfeiture of any medals, points and prizes.

III. MERITS

A. Commitment of Anti-Doping Rule Violation

29. The Athlete admits having committed an anti-doping rule violation by the presence of a Prohibited Substance in his body. He did not ask for opening of his B Sample and did not dispute the results of the analysis of his A Sample.
30. The Sole Arbitrator, thus, finds that the Athlete committed a violation of Article 2.1 IOC ADR.

B. Art. 9 IOC ADR and No Fault/No Negligence, No Performance Enhancing Effect

31. The Athlete argues that Art. 9 IOC ADR, which provides for the automatic disqualification of his results at Rio 2016, shall not apply, because he had No Fault or Negligence and the amount of substance found in his body did not have a performance enhancing effect. He used the medication Rhinofluimucil out-of-competition for medical reasons and relied on the advice of his team doctor with regard to the elimination period of the prohibited substance Tuaminoheptane, contained in this medication from his body. His team doctor was not aware of the latest stage of respective science and, thus, inaccurately advised him.
32. The Sole Arbitrator, based on the evidence presented to him by the parties, gives the Athlete the credit of having demonstrated to the Sole Arbitrator's comfortable satisfaction that Rhinofluimucil was the origin of the prohibited substance, and that the Athlete used the substance out-of-competition in the misled conviction that it would have been eliminated from his body by the start of the in-competition-period. He used Tyzine during the in-competition-period and indicated as such on his Doping Control Form.
33. The Sole Arbitrator understands that the expertise of Dr. de Boer on the one hand and of Professor Saugy on the other hand contradict each other as to whether a repeated dosage of Tuaminoheptane could prolong the detection window beyond 24 hours after stoppage of the intake. Dr. de Boer bases his conclusion widely on assumptions and extrapolations based on two studies. Professor Saugy, by stating "*Based on literature and notably the study of Thevis et al to which the expert refers, the approximate concentration found of 200 ng/ml is not consistent with the result*

expected from a repeated intake of 4 mg stopped 7 days before the test”, limits his finding to an analysis of the studies used by Dr. de Boer and draws conclusions opposite to the ones of Dr. de Boer. Professor Saugy, however, does not provide the Sole Arbitrator with a clear statement that the Athlete took Rhinofluimucil in-competition. Professor Saugy even neither confirms that Rhinofluimucil might have been the origin of the Prohibited Substance, nor does he exclude such possibility. Thus, on a balance of probability, the Sole Arbitrator accepts the explanation given by the Athlete.

34. The Sole Arbitrator does not consider necessary, however, to find whether the Athlete’s explanation leads to No Fault or Negligence or to No Significant Fault or Negligence or whether the dosage of Rhinofluimucil taken could have a performance enhancing effect. Considering the limited relevance of the jurisprudence of national bodies and internal tribunals of International Federations, the Sole Arbitrator points to the established jurisprudence of CAS in CAS 2007/O/1381 that the Athlete can neither invoke the absence of a performance enhancing effect of the prohibited substance, nor the absence of fault or negligence as to the automatic disqualification of results. The respective Panel in CAS 2007/O/1381, at paras 21 – 23 CAS found as follows:

21. *La sanction du résultat sportif, notamment la disqualification, est motivée en premier lieu par la nécessité d’assurer l’égalité de chances entre compétiteurs. Ce type de mesure n’existe pas seulement pour réprimer les infractions aux règles antidopage, mais d’une manière plus générale pour sanctionner la violation de toute règle qui vise à éviter qu’un athlète obtienne un avantage indu sur ses concurrents.*
22. *Dans le cadre des règles antidopage, son cas d’application le plus fréquent est celui où le fait de dopage est établi par l’existence d’un contrôle positif en compétition.*
23. *La disqualification est alors dite “automatique”, en ce sens que le sportif ne peut ni invoquer l’absence d’effet du produit interdit sur sa performance ni se disculper en apportant la preuve de son absence d’intention et de négligence.*

35. Art. 9 IOC ADR reflects Art. 9 of the World-Anti-Doping Code (2015 edition) (“WADC”), whose wording is substantially the same as was Art. 9 of the 2013 WADC. Thus, the decision in CAS 2007/O/1381 is also valid under the 2015 WADC and the IOC ADR. The wording of Art. 9 IOC ADR is strict. It is not open for arguments based on “No Fault or Negligence” or “No Significant Fault or Negligence”. Besides, the question, whether the prohibited substance taken could enhance sport performance, has no relevance for this provision. Since the Athlete sees the “specific facts” of the decision of the IOC Disciplinary Commission in the Backstrom case linked to No Fault or Negligence on the Athlete’s side and to the issue of no performance enhancing effect, the Sole Arbitrator does not see a necessity to discuss this case given the finding in CAS 2007/O/1381. For the same reasons, the Sole Arbitrator finds that no discussion of the WADA Notice on Meldonium dated 30 June 2016 is necessary.

C. Art. 9 IOC ADR and the Principle of Proportionality

36. The Athlete refers to CAS 2006/A/1025, which at para. 90 found that any sanction must be just and proportionate. Indeed, the IOC ADR are subject to Swiss law. This award, once final,

is subject to review by the Swiss Federal Tribunal. The Sole Arbitrator, thus, is bound to observe the Swiss public policy, which includes the European Convention on Human Rights (the “ECHR”).

37. The EHRC stated in *Lithgow and others v. The United Kingdom* case (8 July 1986, application nrs. 9006/80, 9262/81, 9263/81, 9265/81, 9266/81, 9313/81, 9405/81) at para. 194 that the following requirements need to be met in case of even obligatory arbitration:

(a) *The right of access to the courts secured by Article 6 para. 1 (art. 6-1) is not absolute but may be subject to limitations; these are permitted by implication since the right of access "by its very nature calls for regulation by the State, regulation which may vary in time and in place according to the needs and resources of the community and of individuals".*

(b) *In laying down such regulation, the Contracting States enjoy a certain margin of appreciation, but the final decision as to observance of the Convention's requirements rests with the Court. It must be satisfied that the limitations applied do not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired.*

(c) *Furthermore, a limitation will not be compatible with Article 6 para. 1 (art. 6-1) if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved.*

38. Established CAS jurisprudence is aware of this obligation and holds that the principle of proportionality requires an assessment of whether a sanction is appropriate to the violation committed in the case at stake. Excessive sanctions are prohibited (see e.g. CAS 2005/A/830, at paras. 10.21 – 10.31; 2005/C/976 & 986, at paras. 139, 140, 143, 145 – 158; 2006/A/1025, at paras 75 – 103; TAS 2007/A/1252, at paras. 33 – 40, CAS 2010/A/2268 at paras. 141 f, all of them referring to and analysing previous awards and doctrine).

39. The Sole Arbitrator considers as essential and continuously applicable also under the 2015 WADC, which, by the way, e.g. in Article 10.10 explicitly refers to the principle of proportionality, as stated in CAS 2005/C/976 & 986, at para. 143:

To find out, whether a sanction is excessive, a judge must review the type and scope of the proved rule-violation, the individual circumstances of the case, and the overall effect of the sanction on the offender.

40. In the present case, the Sole Arbitrator asked the parties at the hearing for arguments as to the disproportionality or proportionality of the sanction of disqualification of results in the specific circumstances of the case. Whereas the IOC was not ready to enter such debate at all, the Athlete provided arguments, which, however, related exclusively to No Fault or Negligence and to the non-existence of a performance enhancing effect of the substance in the given circumstances of the case.

41. The Sole Arbitrator refers to CAS 2006/A/1025, at para. 96, where the panel underlined the exceptional circumstances of the case before it, by stating as follows:

There may be other circumstances in which a tribunal would be tempted to find a gap or lacuna in the WADC, but the Panel has found it difficult to imagine that such case will frequently arise. Indeed, the Panel repeats its view that in all but the very rarest of cases the sanction stipulated by the WADC is just and proportionate. There are unlikely to be many cases in which, as in the present case, the combination of circumstances of the two offences convinces the Panel that the WADC does not produce a just and proportionate result.

42. The Sole Arbitrator sees the unfortunate conditions of the Athlete suffering from a chronic disease, which effectively can be combatted only by a medication containing a prohibited substance forbidden in-competition. The Athlete relied on the advice of his team doctor as to the excretion period and his team doctor erred in his advice not having followed the latest development of respective science.
43. The Sole Arbitrator points, however, at the basic obligation of the Athlete under Article 2.1.1 IOC ADR, which states:

It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body.
44. This obligation includes the responsibility of the Athlete for the people surrounding him and giving him advice and whether to follow such advice. Even if he as a member of the Russian Boxing Team certainly could not choose the team doctor, he, nevertheless, had the choice to follow the team doctor's advice or not. The Athlete must have been aware of the risk of using a substance prohibited in-competition, out-of-competition, but at a moment immediately close to the start of the in-competition-period. He should have calculated a reserve period for being absolutely safe. This, the Athlete did not.
45. The Sole Arbitrator, thus, does not find that the circumstances of the present case can be considered as one of the "rarest cases" in the understanding of CAS 2006/A/1025, allowing him not to apply Article 9 IOC ADR.
46. As a consequence of the above, the Sole Arbitrator decides:
 - A. The Athlete is found to have committed an anti-doping rule violation pursuant to Article 2.1 of the IOC ADR.
 - B. The results obtained by the Athlete in the Men's -52kg boxing event at the Olympic Games Rio 2016, in which he ranked 2nd and for which he was awarded a silver medal, are disqualified with all consequences, including forfeiture of the medal, Olympic diploma and medallist pin.
 - C. The Athlete is ordered to return the medal, the diploma and the medallist pin.
 - D. The International Boxing Association is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.

- E. The Russian Olympic Committee is requested to ensure full implementation of this decision and secure the return to the IOC, as soon as possible, of the medal, the medallist pin and the diploma awarded in connection with the Men's -52kg boxing event.

IV. CONCLUSION

On the basis of the facts and legal arguments set forth above, the application is granted as follows:

1. The Athlete is found to have committed an anti-doping rule violation pursuant to Article 2.1 of the IOC ADR.
2. The results obtained by the Athlete in the Men's -52kg boxing event at the Olympic Games Rio 2016, in which he finished 2nd and for which he was awarded a Silver medal, are disqualified with all consequences, including forfeiture of the medal, Olympic diploma and medallist pin.
3. The Athlete is ordered to return the medal, the diploma and the medallist pin.
4. The International Boxing Association is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
5. The Russian Olympic Committee is requested to ensure full implementation of this decision and secure the return to the IOC, as soon as possible, of the medal, the medallist pin and the diploma awarded in connection with the Men's -52kg boxing event.