Arbitration CAS anti-doping Division (OG Rio) AD 16/005 International Olympic Committee (IOC) v. Xinyi Chen, award of 18 August 2016

Panel: Prof. Michael Geistlinger (Austria), President; Mr Efraim Barak (Israel); Mr Juan Pablo Arriagada (Chile)

Aquatics (swimming)
Doping (hydrochlorothiazide)
Duty of the athlete
Alternative explanation
Literal application of the WADA Technical Documents

1. **Being a young, honest person and developing outstanding performance results using exclusively fair and accepted training methods neither eliminate nor diminish the athlete's duty under the IOC Anti-Doping Rules (ADR) to ensure that no prohibited substance enters his/her body, and in case of an Adverse Analytical Finding, his/her duty to explain the source of the prohibited substance.**

2. **A mere assumption or speculation without any corroborating evidence does not meet the requirement of a consistent alternative explanation for the ingestion of a prohibited substance in order for a CAS panel to feel satisfied *"that one of them is more likely than not having occurred"*. In particular, contamination in drinking water or meat or other nutrition would most presumably lead to more than just one athlete being found with a prohibited substance in his/her body.**

3. **Technical Documents being part of the International Standard for Laboratories should be applied literally by laboratories.**

I. FACTS

1. The elements set out below are a summary of the main relevant facts as established by the Panel by way of a chronology on the basis of the submissions of the parties. Additional facts may be set out, where relevant, in the other chapters of the present award.

2. The Athlete is a representative of the Chinese National Olympic Committee ("NOC"). Her sport is swimming. She participated at the Women's 100m butterfly final on 7 August 2016, at 22h03 (all times mentioned in this award are Rio de Janeiro times), where she finished fourth, and was due to compete on 12 August 2016 at 13h35 at the Women's 50m Freestyle – Heat 12

and, subject to the results in that heat she could, potentially, participate in the semifinals and/or final of the same swimming event.

3. On 7 August 2016 (and concluding in the early hours of 8 August 2016), after having finished the competition, the Athlete underwent an in-competition doping control for a urine sample accompanied by the chaperone Ms. Zhang Xiao Yan (the "Chaperone"). Due to insufficient urine, the partial sample collection procedure was applied. The Chaperone, who according to the facts presented at the hearing, was unexperienced in partial sample collection procedures and needed assistance from an unnamed male officer, who advised them and supervised the temporary sealing of the bottle, as well as the temporary storage of the first partial sample in the fridge in the amount of approximately 75 ml.

4. After 30 minutes, the Athlete could urinate again and informed the Chaperone accordingly. The Athlete returned to the fridge room where a third person (male), also unnamed, apparently an official, was sitting. The Athlete and the Chaperone took the sealed bag with the partial Sample in it and accompanying form, went to the function room, and put the bag on the table. They went to the restroom, leaving the sealed temporary bag alone in the function room. Ms. Chen urinated approximately 10 ml and after 10 additional minutes in the restroom, another 5 ml for the required total of 90 ml urine. Again in the function room, Ms. Chen opened the still sealed temporary bag and took the box out along with cups A and B and completed the partial sample procedure. During the sample taking, the Athlete drank two bottles of water from the official Olympic supply bottles.

5. On the doping control form, Ms. Chen declared Azithromycin for treating a cold, as well birth control pills, both provided by the Chinese medical team.

6. On 10 August 2016 at 21h30, the International Olympic Committee (the "IOC") notified the Athlete through her NOC that the results of the analysis of her A Sample revealed the presence of hydrochlorothiazide ("HCTZ"). This substance is a diuretic or masking agent, prohibited under S5 of the WADA Prohibited List. It is a specified substance.

7. The Athlete asked for opening of the B Sample on 10 August 2016, at 11h30.

8. On 11 August 2016 at 13h21, the IOC filed an application at the Anti-Doping Division of the Court of Arbitration for Sport ("CAS ADD") seeking the enforcement of a provisional suspension with immediate effect in accordance with Article 7.6.2 of the IOC Anti-Doping Rules. In particular, the IOC underlined, that according to the WADA Guidelines on Results Management, Hearings and Decisions it is usually recommended that the RMA (Results Management Authority) imposes a provisional suspension.

9. In the Application the IOC sought the following requests for relief:

[…]

2. The Application of the International Olympic Committee is admissible.

3. The Athlete be found guilty of an anti-doping rule violation in accordance with Article 2.1 of the IOC Anti-Doping Rules applicable to the Olympic Games Rio 2016 [the "IOC ADR"].

4. *The results obtained by the Athlete in the finals of the 100m butterfly on 7 August 2016 be disqualified with all resulting Consequences, including forfeiture of any medals, points and prizes.*

5. *All other results obtained by the Athlete in the Olympic Games Rio 2016 ["Rio 2016"] be disqualified with all Consequences, including forfeiture of all medals, points and prizes.*

6. *The Athlete be declared ineligible to compete in all Competitions in which she has not yet participated at the Olympic Games Rio 2016.*

7. *The Athlete be excluded from the Olympic Games Rio 2016.*

8. *The Athlete's accreditation (number 1168966-01) be withdrawn.*

9. *The matter of the Athlete be referred to FINA to impose Consequences that extend beyond the Olympic Games Rio 2016 upon the Athlete.*

10. On 11 August 2016, at 14h28, the CAS informed the parties on the procedure and on 16h58 on the constitution of the Panel to decide the case. The Panel has been composed as follows: Michael Geistlinger, as President, Efraim Barak and Juan Pablo Arriagada Aljaro, as Arbitrators.

11. In accordance with Article 15 lit. b of the CAS ADD Rules and Article 7.6.3 of the IOC Anti-Doping Rules, the Panel granted the Athlete an opportunity to be orally heard or file a written submission with respect to the IOC's request for a provisional suspension.

12. On 11 August 2016 at 17h30, the Athlete stated her preference for an oral hearing.

13. The hearing with respect to the IOC's request for a provisional suspension took place at the Offices of the CAS Anti-Doping Division in Rio de Janeiro on 11 August 2016 at 21h00.

14. At the hearing, the Athlete declared to voluntarily accept a provisional suspension from Competition at Rio 2016, pending confirmation of the A Sample by the B Sample and until final resolution of the matter. A respective Order on Application of Provisional Suspension by the Panel was notified to the parties on 12 August 2016, at 17h06. The Panel further ruled that the provisional suspension should not affect the Athlete's accreditation, which should be maintained until final resolution of the matter.

15. The Panel ordered the IOC to submit the laboratory documentation packages ("LDP") for the A and the B Sample, set a deadline of 16 August 2016, at 9h00, later prolonged, at the request of the Athlete, to 14h00 for filing written submissions and determined the time of the hearing on the merits of the case.

16. The opening of the B Sample took place on 12 August 2016, at 10h37. The results of the B Sample confirmed the results of the A Sample analysis.

17. On 14 August 2016, at 8h21 the IOC submitted the LDPs associated with the Athlete's A and B Sample.

18. On 16 August 2016, at 14h00 the Athlete, with the generous assistance of pro bono lawyers Mr. Bichara A. Neto, Mr. Pedro Fida and Mr. Ricardo Loretti Henrici, filed a written submission in her defence.

19. The hearing on the merits of the case took place at the Offices of the CAS Anti-Doping Division in Rio de Janeiro on 17 August 2016 starting at 9h00.

20. At the hearing the following persons took part on behalf of the parties:

    For the IOC: Jean-Pierre Morand

    For the Athlete: Xinyi Chen, Pedro Fida, Bichara A. Neto, Ricardo Loretti Henrici, Octavio Fragatta M. de Barros, Neha Jain, Daniel Becker, Bernard Patsch, Fernando Novis, and Renata Luz

    The following expert witnesses were heard by the Panel in form of an expert conference: Prof. Christiane Ayotte, head of the WADA accredited Laboratory in Montreal, Canada, (present in person) (called by the IOC) and Prof. Moutian Wu (by phone) former head of the WADA accredited Laboratory in Beijing, Peoples Republic of China (called by the Athlete).

21. At the outset of the hearing, the Athlete submitted an expert opinion written by Professor Wu. Subject to the possibility to consult the content of the expert opinion and to adduce further comments in respect of the expert opinion, the IOC agreed to the filing of the expert opinion.

22. After an adjournment of the hearing for further consultations on the parties' side and organisation of the witness conference, and considering the very specific consequences of this case, including the voluntary acceptance of the provisional suspension by the Athlete and the fact that she did not compete any further in Rio 2016 after the notification of the Adverse Analytical Finding, and specifically noting that the Athlete was scheduled to leave Rio de Janeiro on 18 August 2016, the IOC agreed to the withdrawal of most of its prayers for relief under two conditions, as follows:

    Under condition that the Athlete, in the case of a decision by the Panel granting the revised application of the IOC, will leave Rio de Janeiro, as scheduled on 18 August 2016, at 16h00 and without prejudice as to the question of fault on the Athlete's side, which shall be decided by FINA in such case, and in application of Art. 10.2.2 of the IOC ADR the Panel shall

    a) Declare the application of the IOC admissible;

    b) Find the Athlete having committed an anti-doping rule violation [ADRV] *in accordance with Art. 2.1 of the IOC ADR;*

    c) Disqualify the result obtained by the Athlete in the finals of the 100 m butterfly (4. rank) with all resulting Consequences, including forfeiture of any medals, points and prizes;

    d) Refer the matter of the Athlete to FINA to impose Consequences that extend beyond Rio 2016 upon the Athlete.

23. The Athlete asked the Panel to dismiss the IOC's revised Prayers for Relief and to rule that the Athlete has not committed any ADRV.

24. At the beginning of the expert conference, Prof. Wu, confirmed the contents of his expert opinion in writing, which he summarised as follows:

    1. *Due to the serious shift of the retention time for HCTA in A-Con A the result of A confirmation could not be scientifically accepted then it may have raised a procedural problem for AAF of A sample analysis.*

    2. *Due to the lack of harmonization of LODs for HCTZ in different Labs, it may have raised a question for fairness when LOD was so low for a Specified Substance i.g. HCTZ.*

    3. *Due to the lack of detailed information for the contamination with HCTZ, which is emerging, anti-doping organizations need to be aware of this problem and deal with AAF cases to protect the athletes from inadvertent doping.*

    In conclusion, based on the data provided in Doc. A and Doc. B, etc., it is clear that to charge the athlete with anti-doping rules violation is not fair.

25. Prof. Ayotte, who as expert for the IOC, present at Rio 2016, reviewed the A and B Sample findings and LDPs in the present case, admitted item 1 of Prof. Wu's summary that an unusual use of columns had occurred that may have led to the variations of the retention times of the A Sample screening and A Sample confirmation. Prof. Wu's concerns, thus, were legitimate based on what he could see and read, but the results were, nevertheless consistent. Prof. Wu appeared satisfied with the explanation given.

26. As to item 2 of Prof. Wu's summary, he confirmed upon questioning by the IOC that WADA TD2015MRPL in Section 1.0 second paragraph, first subsection rules that *"Adverse Analytical Findings may result from concentrations below the established MRPL values"* and that none of the exceptions in 4.0 of this document are applicable for the substance HCTZ.

27. Item 3 of Prof. Wu's summary appeared from both experts to be qualified as request *de lege ferenda*, which could, however, not be applied *de lege lata* in the present case.

28. Prof. Ayotte contradicted the finding of another expert, Mr. Paul Scott of Scott Analytics, who submitted an expert report explaining that HCTZ was neither used for performance-enhancing purposes nor as a masking a prohibited substance given the non-diluted urine samples of the Athlete. Prof. Ayotte objected to the finding of Mr. Scott in quantification and interpretation of the sample analysis.

29. Upon conclusion of the expert conference, the Athlete highlighted her position that a serious lack of care on the laboratory side, which was suspended by WADA already twice prior to Rio 2016, has been shown. In close, the Athlete reiterated her position, on a balance of probability, that she did not commit an ADRV noting the following: (1) in the short time available, she tested and analysed all medication and vitamins to determine the source of the prohibited substance; (2) she has a clean anti-doping record from numerous tests in the past; (3) she underwent a forensic report with an expert of the Public Prosecutor Office, which confirmed

and underlined her honesty; and (4) the numerous mistakes committed by the Rio laboratory in the present case. Therefore, the Athlete should not be disqualified from the 100 m butterfly finals.

II. LEGAL ASPECTS

A. Jurisdiction

30. 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).

31. Pursuant to Article 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".

32. Pursuant to Article 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".

33. The parties do not contest the jurisdiction of the CAS ADD to decide the dispute.

34. It follows that the CAS ADD is competent and has jurisdiction over the Application.

B. Applicable Law

35. Article 17 CAS ADD Rules reads as follows:

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

36. 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…".

37. The Panel hereby confirms that it will apply primarily the IOC ADR which in Art. 17.1 refer to Swiss Law and the Olympic Charter, and include the World Anti-Doping Code, the International Standards as their integral part, and, thus, on a subsidiary basis Swiss Law, the Olympic Charter and general principles of law. The Panel further confirms that these proceedings are governed by the CAS ADD Rules. They are further governed by Chapter 12 of the Swiss Private International Law Act of 18 December 1987 ("PIL Act"). The PIL Act applies to this arbitration as a result of the express choice of law contained in Article 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 Article 7 of the CAS ADD Rules.

C. Legal Framework

38. 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:

39. 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.*

40. 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.

41. 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) Presence of a Prohibited Substance

42. The Athlete undertook enormous efforts in order to find the source for the prohibited substance in her body. As far as possible in the time available, she preliminarily tested the medications and vitamins she used at the laboratory belonging to the Federal University of the State of Rio de Janeiro. These were: Ubiquinol BioActive, Liposomal Methyl B12, Chelated Mineral, Mega Antioxidant, Active Calcium, Leci PA-II and a Chinese vitamin containing phosphatidyl cholines. Moreover, she tested pharmaceutical and traditional Chinese medications she used during the weeks preceding Rio 2016. These were: Levonorgestrei,

Azithromycin Dispersible Table, Chinese Donkey Skin Gelatin, Brown Sugar Cube and Johnson's Baby Oil.

43. None of these tested substances, however, led to any finding with respect of the source of HCTZ. Even if the Panel is willing to give the Athlete credit for being a young, honest person and her Coach credit for developing her outstanding performance results using exclusively fair and accepted training methods, such facts neither eliminate nor diminish the Athlete's duty under the IOC ADR to ensure that no Prohibited Substance enters her body, and in case of an Adverse Analytical Finding, her duty to explain the source of the Prohibited Substance. In the case at hand, the Athlete assumes that either deliberate spiking or accidental contamination of a drink and/or cross-contamination of medications and/or vitamins and/or supplements could be the source.

44. The Panel holds that one or several of these reasons may well be true in this case just like in any other case where an Adverse Analytical Finding exists. However, based on the agreement between the parties as to the scope of these proceedings, this matter is to be dealt with and decided upon by FINA.

45. The Panel further notes that as a matter of fact, no evidence on a balance of probability as required by art. 3.1 IOC ADR could be adduced by the Athlete to rebut the laboratory's analysis' result on the A and the B Sample: the presence of the prohibited substance of HCTZ in the Athlete's sample.

46. Considering CAS 2009/A/1926 & 1930, this Panel has not been given such consistent alternative explanation for the ingestion of a prohibited substance that it can feel satisfied *"that one of them is more likely than not having occurred"*. A mere assumption or speculation without any corroborating evidence, e.g. that the Athlete daily drank water from the pipe in Rio and that this water is contaminated with HCTZ, does not meet such requirement. Contamination in drinking water or meat or other nutrition would most presumably lead to more than just one athlete being found with HCTZ in her body.

47. The Panel would like to emphasize again that in any case, and considering the agreement between the Parties in respect of the scope of these proceedings, the question of the possible source of the substance may and should be considered by FINA, when dealing with the responsibility for result management in terms of sanctions beyond Rio 2016. However, the Panel, finds, that in respect of the Adverse Analytical Finding the Athlete could not rebut the established presence of HCTZ in her body.

B) Departure from the International Standard For Laboratories (ISL)

48. The Athlete - with the assistance of two experts - tried to demonstrate substantial mistakes having been committed by the Rio Laboratory that was responsible for the test results. Apart from arguing lack of diligence, the only provision in the ISL referred to as having been violated by the Laboratory is art. 5.4.4.1.1.

49. This provision reads as follows:

5.4.4 Test methods and method validation

5.4.4.1 *Selection of methods*

Standard methods are generally not available for Doping Control analyses. The Laboratory shall develop, validate and document methods for the detection of substances present on the Prohibited List and for associated Metabolites or Markers or related substances. Note that for many substances, the associated Metabolites are detected, thereby confirming the metabolism and the administration of a Prohibited Substance. The methods shall be selected and validated so they are Fit-for-purpose.

5.4.4.1.1 *Non-Threshold Substances*

Laboratories are not required to quantify or report a concentration for Non-Threshold Substances.

The Laboratory shall develop, as part of the method validation process, acceptable standards for identification of Prohibited Substances using Reference Materials and in the absence of available Reference Materials, Reference Collections may be used (see the Technical Document on Identification Criteria).

The Laboratory shall estimate the limit of detection and demonstrate the ability to successfully detect each Non-Threshold Substance or its representative Metabolite(s) or Marker(s) at 50% of the Minimum Required Performance Levels (see the TD MRPL for detection and identification of Non-Threshold Substances). A Reference Collection may be used for identification and in such cases an estimate of the detection capability for the method may be provided by assessing a representative substance from the same class of Prohibited Substances with similar chemical structure.

50. In the opinion of the Panel, para 2 of the provision referred to by the Athlete expressly refers to WADA TDMRPL and thus, to a result of the experts conference, where the Athlete's expert Prof. Wu agreed to the statement of Prof. Ayotte, that the Technical Document being part of the ISL, and in particular Sections 1.0 and 4.0 of TD2015MRPL should be applied literally by the laboratory (see para. 26 above). Given this agreement by the two experts, the Panel cannot find any deviation from this provision and also no other departure from the ISL, which, as required by Art. 3.2.2 IOC ADR *"could reasonably have caused the Adverse Analytical Finding"*.

51. The laboratory was bound to report any amount of HCTZ in the Athlete's body as an AAF and correctly did so. The Athlete, thus, in the finding of the Panel did not meet the requirements set by Art. 3.2.2 IOC ADR.

52. As a consequence of all the above, the Panel finds that the presence of HCTZ in the Athlete's body constitutes an ADRV under Art. 2 of the IOC ADR.

C) Other Elements of Art. 9 IOC ADR

53. The 100m butterfly swimming event was an Individual Sport event.

54. The test that led to the finding of an ADRV, was an In-Competition test related to this Individual Sport event.

IV. CONCLUSION

55. In view of the above considerations, the Panel finds that the IOC met the burden of proof under Art. 3.1 IOC ADR. The documents adduced by the IOC establish sufficient proof, to the comfortable satisfaction of the Panel, that the presence of the prohibited substance in the Athlete's body constitutes an ADRV under Art. 2 IOC ADR.

56. Given the scope of its finding, as determined by agreement between the parties, the Panel finds and decides as following:

    1. The IOC has established the presence of a prohibited substance in accordance with Article 2.1 of the IOC Anti-Doping Rules applicable to the Olympic Games Rio 2016.

    2. The result obtained by the Athlete in the Olympic Games Rio 2016 is disqualified in accordance with Article 9 of the IOC ADR, with all resulting consequences, including forfeiture of any medals, points and prizes.

    3. In accordance with Art. 10.2.2 of the IOC ADR, the matter of the Athlete is referred to FINA to decide on the responsibility for result management in terms of sanctions beyond the Olympic Games Rio 2016.

The anti-doping Division of the Court of Arbitration for Sport renders the following decision:

On the basis of the facts and legal arguments set forth above, the application is granted.

1. The IOC has established the presence of a prohibited substance in accordance with Article 2.1 of the IOC Anti-Doping Rules applicable to the Olympic Games Rio 2016.

2. The result obtained by the Athlete in the Olympic Games Rio 2016 is disqualified in accordance with Article 9 of the IOC ADR, with all resulting consequences, including forfeiture of any medals, points and prizes.

3. In accordance with Art. 10.2.2 IOC ADR, the matter of the Athlete is referred to FINA to decide on the responsibility for result management in terms of sanctions beyond the Olympic Games Rio 2016.