

INTERNATIONAL SKATING UNION

Communication No. 1310

ISU DISCIPLINARY COMMISSION RULES OF PROCEDURE AND OF IMPLEMENTING COMPLAINTS

In line with the ISU Constitution, Article 21, paragraph 6, the ISU Council has approved the Rules of Procedures as follows:

PART I General Provisions

Article 1 Jurisdiction of the DC

1. The ISU Disciplinary Commission (hereinafter referred to as "DC") decides, in accordance with Article 21, paragraph 1 of the Constitution, all charges and/or Complaints referred to it by any ISU authority or skater, Official, Office Holder or other participant in ISU activities (the Complainant) against any skater, Official, Office Holder or other participant in ISU activities (the Alleged Offender) accused of a disciplinary or ethical offence (Offence). A disciplinary or ethical offence shall consist of any violation of any material ISU disciplinary or ethical rule, including violations of the ISU Code of Ethics and the ISU Anti-Doping Rules.
2. An Alleged Offender objecting to of jurisdiction of the DC must object in his/her Statement of Reply according to Article 10 hereof and shall not be permitted to raise an objection based upon lack of jurisdiction later. Such objection must give the reasons on which it is based.

3. The DC shall decide all matters relating to its jurisdiction, including objections as to the lack thereof. If the DC concludes that the matter is not within its jurisdiction, it shall terminate the proceedings by issuing an Order of Termination. In a case where the Complaint is obviously not within the jurisdiction of the DC, or evidently lacks any ground or chances of success, the DC Chair may dismiss the matter without submission to a full panel with a summary decision. Any Order of Termination and any dismissal of the matter with a summary decision are subject to appeal to the ISU Appeals Commission, in accordance with Article 22 paragraph 6a of the Constitution and with the Appeals Commission Rules of Procedure.

4. The burden of proof for showing compliance with the time limits rests on the Party whose compliance or non-compliance with a time limit is being questioned.

Article 2
Decision-taking

1. The DC Chair shall act as Chair of each Panel (unless precluded) and shall appoint two other Panel members to hear and decide each case. All three members of the Panel shall have had no prior involvement with the case and shall not have the same nationality as the Alleged Offender.

2. Every member of the Panel shall be and shall remain independent of and impartial to the Parties to the case and shall immediately disclose any conflict of interest or other circumstance likely to affect his/her independence and/or impartiality with respect to any of the Parties. Such disclosure shall be made available to the Parties.

3. Any Party to a case may raise objections of partiality, conflict of interests, prejudice or lack of independence against any member of the Panel provided such objection is made within the time limit set for the filing of the Statement of Reply according to Article 10 hereof or, if the relevant facts for the objection are not known at the expiry of such time limit, the objection is made without delay after the Party has learned the circumstances on which the objection is based. Such objection must give the reasons on which it is based and the remaining members of the Panel shall decide on the objection. If the objection is raised against more than one member of the Panel, all remaining members of the DC shall decide thereon.
4. If a member of the Panel is precluded from hearing a case, the Chair shall immediately appoint a replacement. If the Chair is precluded, then the remaining DC members shall agree on a new Chair of the Panel from the remaining members of the DC respecting, if possible, the requirement of legal education.
5. The Panel may order any provisional measures as it may deem appropriate according to the circumstances. In the case of urgency, the Chair may order any such provisional measures.
6. The Final Decision on a Complaint shall be adopted if the majority of the members of the Panel have voted in favour thereof. Neither the number of votes thereof nor the dissenting opinion of any member voting against the Final Decision shall be published.
7. Summary minutes of all proceedings of the DC, including the voting and wording of the Final Decision, shall be recorded in writing and a copy thereof, signed by all members of the Panel shall be forwarded by the DC Chair to the ISU Secretariat following the rendering of the Final Decision. Such minutes shall be kept by the ISU Secretariat at the Headquarters of the ISU.

PART II
Proceedings - General Provisions

Article 3
Procedure, Language, Records and Administration

1. These rules of procedure apply except in doping cases and when other rules are provided for by the ISU Anti-Doping Rules and ISU Anti-Doping procedures.
2. The proceedings are generally based upon the written submissions of the Parties. However, the Panel, at its sole discretion, may decide to hold a hearing. Hearings may be held also by telephone or video conference.
3. In the case of in-person oral hearings the Chair of the Panel shall determine, in consultation with the ISU Secretariat, the place at which hearings shall be held as required primarily to suit the convenience of the Panel, the Parties and witnesses, and with due regard to costs.
4. All proceedings, memoranda, pleadings, minutes and all correspondence of the Parties shall be in English. If a Party or a witness for such Party to be called to a hearing before the DC does not understand/speak English sufficiently and if such Party wishes an interpreter for the hearing, at such Party's expense, such Party shall so inform the Panel in his/her statement of complaint or statement of Reply, as the case may be. In such case the Chair of the Panel shall appoint a certified interpreter. Documents presented as evidence which are written in another language than English must be accompanied by a translation into English by a certified translator.
5. Rules of evidence applicable in Court are not applicable in DC proceedings.

6. The ISU Secretariat shall deal with the administrative requirements associated with the activities of the DC including, in particular, notifying the members of the DC and any involved Parties of any pertinent matters, making all necessary arrangements for the hearing of any case, maintaining all necessary files and permanent records of the DC and its hearing/reviews, and notifying the members of the DC in any case if any Decision of the DC is appealed to the ISU Appeals Commission or to the Court of Arbitration for Sport in Lausanne, Switzerland (the “CAS”), and in such latter event, providing the DC members with a copy of any Final Decision of the ISU Appeals Commission or CAS in such matter and/or any settlement of any appeal to the ISU Appeals Commission or CAS in respect of such matter.

Article 4

Legal Basis of Decision-taking

1. The DC shall rule on the Complaint brought before it pursuant to the applicable provisions of the Constitution, the General Regulations, the Special Regulations, the Special Rules, including the ISU Code of Ethics, the ISU Anti-Doping Rules, the ISU Anti-Doping Procedures, these Rules of Procedure, other decisions of the ISU Council made in accordance with Article 17 of the Constitution communicated and published in accordance with the provisions of Article 20 of the Constitution and general principles of law. If recourse to civil law is necessary or helpful, the applicable civil law shall exclusively be the Swiss law.
2. The Panel shall have full power to establish the facts on which the Complaint is based and heard. All Parties and witnesses who are participants in ISU activities are compelled to fully cooperate with the Panel, comply with a summons to appear at a hearing and provide statements and copies of relevant documents as requested by the Panel.

Article 5
Parties and Representation Thereof

1. The Parties to the proceedings before the DC are:
 - the Alleged Offender who is accused of a disciplinary or ethical offence or a violation of the ISU Anti-Doping Rules;
 - the ISU;
 - any Complainant or other participant in ISU activities having a personal legitimate interest if such interest may be directly affected by the proceedings or by the Decision to be rendered by the DC; any person claiming to have such interest may request the DC to be admitted as a Party and the DC shall decide on such request and such decision shall be final.

2. Any Party to the proceedings may be represented by an attorney-at-law, legal or other advisor whom such Party authorizes so to do.

Article 6
Notifications and Communications

All notifications and communications from the DC and from the Parties shall be given by registered mail or by fax or by e-mail, except otherwise specifically provided for by these Rules. All communications between the Parties and the DC shall be made through the ISU Secretariat.

Article 7
Confidentiality

1. Proceedings and hearings under these Rules are non public.

Article 8
Filing of Complaints and Timing Provisions

1. Complaints to the DC must be filed in writing with the ISU Secretariat within 30 days of the occurrence of the alleged disciplinary or ethical offence or within 30 days of learning about the alleged disciplinary or ethical offence, except in cases of violations of the ISU Anti-Doping Rules and when it is otherwise specifically provided for by the ISU Anti-Doping Rules and/or Anti-doping procedures. Complaints filed later shall be dismissed.

2. Each Complaint together with all corresponding documents shall be forwarded without delay to the DC Chair by the ISU Secretariat.
3. Time limits fixed by the Chair may be extended on justified grounds by the Chair of the Panel upon application by a Party if such application is timely made within the original time period allowed by the Rules.
4. Official holidays and non-working days are included in the calculation of time limits. Time limits shall be deemed to be complied with if the communications by the Parties are sent before midnight on the last day on which such time limits expire. If the last day of the time limit is an official holiday or a non-business day in the country where the notification has been made, the time limit shall expire at the end of the first following business day.

Article 9
Statements of Complaints

A Statement of Complaint to the DC shall contain:

1. the name and function of the Complainant with postal address, telephone number, fax number and e-mail address, and the name and contact details of his/her attorney-at-law, legal or other representative, if any;
2. the name, function and address of the Alleged Offender;
3. the facts giving rise to the Complaint, together with all documents, exhibits and designation of other evidence which the Complainant believes the DC should consider, including the names, addresses, telephone numbers, postal and e-mail addresses of witnesses and experts if any;
4. if the Complaint has been sent by e-mail or fax, an original bearing the signature of the Complainant or his/her attorney-at-law, legal or other representative shall be sent to the ISU Secretariat without delay;
5. power of attorney for attorney-at-law, legal or other representative.

Article 10
Statement of Reply

Except in cases which are obviously not within the jurisdiction of the DC or evidently lack any ground or chances of success according to Article 1 Paragraph 3 of these Rules, the DC Chair, with copy to the other Parties, will forward any Complaint to the Alleged Offender by registered or courier mail that verifies receipt, and when doing so will name the DC members which form the Panel for the respective case and fix the time limit within which the Alleged Offender or his authorized representative shall deliver to the Panel a Statement of Reply containing:

1. the name of the Alleged Offender with postal and e-mail address, telephone and fax number and the contact details of the attorney-at-law, legal or other advisor, if any, authorized to represent the Alleged Offender;
2. a statement of defence together with all documents, exhibits and designation of other evidence which the Alleged Offender believes the DC should consider, including the names, addresses, telephone numbers, postal and e-mail addresses of witnesses and experts if any;
3. any defence of lack of jurisdiction stating the facts on which the defence is based;
4. any objection based on conflict of interest or prejudice against any member of the Panel, stating the reasons on which it is based;
5. if the Statement of Reply has been sent by e-mail or fax, an original bearing the signature of the Complainant or his/her attorney-at-law, legal or other representative shall be sent to the ISU Secretariat without delay;
6. power of attorney for attorney-at-law, legal or other representative.

If the Defendant fails to submit its Reply by the given or extended time limit, the DC may nevertheless proceed with the review and deliver its Final Decision.

Article 11
Documentary Determination

1. As a general rule, the exchange of writs shall consist of a Statement of Complaint and one Statement of Reply. However, the Chair of the Panel may order, on the basis of exceptional circumstances, a second exchange of writs, in which case the Parties are authorized to supplement their argumentation, to produce new/additional exhibits, and to specify further evidence for consideration by the Panel.
2. A copy of all submissions of either Party including exhibits, shall be made available to the other Parties by the Chair of the Panel without delay.

Article 12
Evidentiary Proceedings ordered by the DC

1. If it deems it appropriate to supplement the presentations of the Parties, the Panel may at any time order the production of additional documents or the examination of witnesses (oral or in writing) called by any of the Parties or by the Panel, appoint and hear experts, and proceed with any other procedural act.
2. A copy of any additional document or any written testimony of witnesses or experts shall be sent to the Parties by the Chair of the Panel without delay.

Article 13
Hearing

1. In any case in which the Panel has decided to hold a hearing, notice to the Parties of the place and date of the hearing shall be forwarded by the ISU Secretariat, at the direction of the Chair of the Panel, to the Parties by fax or similar means of electronic transmission of messages at least 15 days in advance of the date fixed for the hearing.
2. Should a duly notified Party fail to appear at the hearing without prior excuse acceptable to the members of the Panel, the Panel may nevertheless proceed.

3. The Chair of the Panel shall conduct the hearing and ascertain that the statements made are concise and limited to the subject of the written statements of the Parties, to the extent that the statements are relevant.
4. The members of the DC Panel have the right to question Parties during the hearing as well as witnesses and experts. The Parties and/or their attorneys or other representatives shall have the right to examine and cross-examine any other Party, witness or expert. It is each Party's responsibility to ensure the appearance of a witness or expert called by such Party.
5. Before hearing any witness and/or expert, the Chair of the Panel shall solemnly instruct such person to tell the truth, pointing out the importance of the testimony for the decision of the DC.
6. As a general rule, there shall be only one in-person oral hearing during which the DC shall hear the Parties, the witnesses and the experts, as well as the Parties' final oral arguments, although if required, such hearing may take more than one day. If so required in order to provide further evidence, the Chair of the Panel may adjourn the hearing to such other time, date and/or place as he/she may select.

Article 14
Final Decision

1. The proceedings before the DC shall be considered terminated:
 - a) when the DC issues an Order of Termination according to Article 1 hereof;
 - b) when the DC Chair dismisses the matter according to Article 1 hereof;
 - c) when the Complaint is withdrawn by the Claimant and the ISU agrees with the withdrawal; or
 - d) when the Panel issues its Final Decision based on the merits of the Complaint.

2. The Final Decision shall be dated and signed by the members of the Panel and shall briefly state the facts and the reasons for the Final Decision.
3. The Chair of the Panel shall notify the DC's Final Decision to the Parties by registered or courier mail that verifies receipt. The Chair of the Panel may at his/her own discretion in addition send the DC's Final Decision by facsimile or e-mail.
4. One original copy of the DC's Final Decision shall also be sent to the ISU Secretariat according to art. 2/7 hereto.
5. The DC and/or the ISU may make public disclosure of any Final Decision of the DC in the media. Publication in an ISU communication may also be made according to Article 20 paragraph 2 of the Constitution.
6. The Final Decision shall contain a statement that an appeal may be lodged by any Party against the Final Decision with the ISU Appeals Commission within 21 days of its receipt, in accordance with Article 22 paragraph 6 of the Constitution, the ISU Appeals Commission Rules of Procedure or the ISU Anti-Doping Rules.
7. With the exception of decisions imposing sanctions for violations of the ISU Anti-Doping Rules, which become effective immediately, a decision of DC does not become effective until the time limit for filing an Appeal to the ISU Appeals Commission has expired and, if an Appeal has been filed, until the ISU Appeals Commission's decision has become final. However, in the case of a serious violation of the Constitution, the Regulations or the Code of Ethics which jeopardize the integrity of the ISU, the DC, upon a motion of the ISU, may decide that an Appeal will have no postponing effect.

PART III
Concluding Provisions

Article 15
Costs of Proceedings and Parties' Expenses

1. Unless otherwise decided by the DC, each Party involved in the proceedings shall bear their own costs.
2. Unless otherwise decided by the DC, costs related to the participation of witnesses, experts and interpreters shall be borne by the ISU.
3. As part of its Final Decision, the Panel may decide upon who shall bear or share the costs involved in the proceedings, hearings and/or to the participation of witnesses, experts and interpreters and assess those costs accordingly. Costs may be assessed against any Party as deemed just by the DC in the circumstances.

Article 16
Effective Date of the Rules of Procedure

These Rules of Procedure and of Implementing Complaints were established in accordance with Article 21 of the ISU Constitution as amended at the 2004 ISU Congress and were approved by the ISU Council in accordance with Article 21, paragraph 6 of the Constitution. They shall become effective when communicated to Members by ISU Communications.

Milano,

March 7, 2005

Lausanne,

Ottavio Cinquanta, President

Fredi Schmid, General Secretary