

INTERNATIONAL SKATING UNION

Communication No. 1117

This Communication replaces Communication No. 935 and Circular Letters Nos. 563 and 566.

RULE 109 **Citizenship / Residence requirements and Clearance Procedure**

The ISU Council, meeting on April 5 – 7, 2001 in Helsinki, authorized new procedures to improve compliance with ISU Rule 109. At the same time, the Council assessed monetary penalties against Members who failed to comply with Rule 109 last season.

Rule 109 Clearance Procedure

- a) Any Member, in order to assure compliance with Rule 109, must submit to the ISU Secretariat **before July 1 of each year** a clearance application on behalf of:
 - (i) any skater who is not a citizen of the Member's country that the Member intends to enter as its representative in international competitions and/or ISU Championships in the coming season, regardless of whether such skater has previously represented another Member,
 - (ii) any present citizen and skater of the Member who has in the past represented another ISU Member in an international competition and/or ISU Championships and that the Member intends to enter in international competitions and/or ISU Championships in the coming season as a representative of the Member.
- b) In exceptional cases, when changes satisfying the requirements of Rule 109 occur after July 1, the Members application may be submitted to the ISU Secretariat after July 1, **but not later than thirty days** before the first day of the event in which the Member desires to enter the skater. Members must, however respect Rule 109, para 4 under which a skater may represent in the course of the same season only one and the same Member.
- c) Skater(s) mentioned above in para a) will be allowed to compete in international competitions and/or ISU Championships **only after the applying Member has submitted satisfactory documentation and received from the Secretariat an ISU Clearance Certificate** for that skater. (Form of the Clearance Certificate is attached).
- d) The organizers of international competitions and/or ISU Championships, the Technical Delegates and/or the Referees **shall not allow any skater mentioned above in para a) to compete without a valid ISU Clearance Certificate** having been presented to them before the first draw.

- e) Members who fail to present a valid certificate will not be permitted to enter the skater. If non-compliance with Rule 109 is discovered after a non-complying skater competes, the results achieved by the skater shall be nullified, the skater and the respective Member shall return all prize money to the ISU and /or the Organizer and the Member shall be required to reimburse the costs incurred by the Organizer. In addition, in severe cases, the Council may impose sanctions (penalties) against both the Member and the skater. (cf. Important Notice at the end of this Communication).
- f) In case of a new pair or new ice-dance couple the above procedure satisfies the procedure specified in Rule 109, paragraph 5 and no separate request to the Chairperson and members of the respective Technical Committee is required. The Secretariat will inform the Chairperson of the respective Technical Committee upon the receipt of the application from the Member.

Requirements specified in Rule 109 of the General Regulations

1) Citizenship

The term "citizen" as used in ISU Rule 109, para 2 a) means a status of a full citizenship without qualification or restrictions. It means that the person claiming to be a "citizen" must be equal in status to a native-born or naturalized citizen of the Member country.

Person with the status of "permanent resident", "special status foreigner", "resident alien", "foreign national", or otherwise, cannot be recognized as "citizens" under the Rule, even if such status confers on the person some or all of the rights of full citizens of the country. A person may have two or even more citizenships depending on the laws of each country, however, for the purpose of Rule 109, the citizenship of the country of the Member that the skater represents is decisive. If a skater with dual citizenship wishes to leave the Member that he/she has represented to represent his/her other country-Member, then Rule 109, para 3 a) applies and the clearance procedure is required.

If a skater who has already represented any Member changes his/her citizenship, Rule 109, para 3 b) applies and the clearance procedure is required. It is required even if a skater, having represented a Member without having citizenship of the country of that Member, is later granted such citizenship since it is a change of information given in the prior Clearance Certificate.

In case of **pairs and dance couples** at least one of the partners must have the citizenship of the Member (Rule 109, para 5) and therefore documents proving such citizenship (see below) of that partner as well as the required questionnaire must be produced together with the application for clearance of the other partner.

2) Residence

The term "resided" in Rule 109 indicates residence of the skater as understood in general legal and practical terms. Residence is a question of fact, and, to establish residence a person must be physically present in a place for a period of time with an intention to remain. In order for a person to be residing somewhere there must be a notion of permanence or an intention to stay for an indefinite period of time. In the sense of Rule 109, this means a minimum residence of one year in the country of the Member that the skater seeks to represent.

Permanent residence may be a status granted to immigrants pending admission to citizenship, i. e. foreigners who have arrived from another country with the intention to stay in the new country forever. In such cases, an official document may be issued by the national authorities involved.

Long-term residence may in some cases be granted to the same persons as described above who for some reason do not qualify for a permanent residency permit. Such long-term residency permit may be granted for a minimum of one year and then renewed. In such cases, an official document may be issued by the national authorities involved.

The purpose of Rule 109, paras 2 b) and 3) is to make it possible for skaters, who have decided to permanently change the country in which they are living, to continue their competitive skating, and not to make it possible for skaters to lightly jump from one Member to another.

As a consequence of the above purpose:

- no residency permits for periods shorter than one year,
- no stay in the country based on non-visa agreements entered into by various countries, and no other stay of temporary character, such as that of a student, visitor, tourist, guest worker, etc.,

shall be recognized by the ISU as establishing that a person has "resided" in the Member country within the meaning of Rule 109 for the purpose of a Clearance Certificate.

If the relevant Member country issues an official document to a person who "resides" in such country, the beginning of the required period of residence shall be counted **only** from the day on which a proper application for such a residency permit has been filed.

3) Permit by the Member of which the skater is a citizen

If a skater wishes to represent another Member in a country of which he/she is not a citizen, the second Member must ask the first Member for permission.

The same applies in case that a skater with dual citizenship decides to change the Member whom he/she intends to represent in the future. (Rule 109, para 3 a)).

Only in the case that the skater has either never lived in the country of which he/she is a citizen or at least has never skated in any national competition in that country, the permit may be replaced by a Declaration signed by the skater (or by the parents in case of a skater of minor age) in which such facts are clearly and unambiguously stated.

The permit is not necessary if the skater has already filed an application for citizenship in the country of the Member that he/she intends to represent. (Rule 109, para 2 b, (i)).

4) Waiting periods

Skaters who have represented a Member either in international competitions or in ISU Championships may **not represent another Member prior to expiration of certain periods** specified in Rule 109, para 2b) (ii) and (iii) and in para 3 a) and b).

This requirement applies regardless of whether the skater has changed the citizenship or has dual citizenship or now "resides" in a new country. However, **the duration of the waiting periods differ** depending on the case and further on the circumstance whether the new Member wishes to enter the skater in international competitions only or in the ISU Championships too.

Full reference is made to Rule 109 for learning the exact waiting period in any particular case.

Documents (evidence) proving the satisfaction of the requirements

Any document submitted to the ISU Secretariat to obtain a Certificate, which is not written in English, **must be translated** into English by a person authorized in the country of the Member to do official translations. Exceptionally, if such person is not available in the country concerned, the translation may be provided by another person appointed by the Member provided that the Member takes full responsibility for the accurateness and correctness of the translation. In order to treat all Members equally, **documents in a language other than English will not be accepted without translation.**

1) Evidence proving citizenship:

- a) Usually a **valid regular (travelling) passport** issued by authorities of the country of citizenship is a sufficient evidence of citizenship. A document although called "passport", the contents of which shows that the holder is a citizen of another country or that the document has been issued for other purposes which do not necessarily require citizenship of the country of issuance, such as refugee passports or some special permits called passports, **shall not be accepted as evidence of citizenship.**
- b) Original or certified copy of another official document issued by authorities of the country of citizenship certifying explicitly that the skater is a citizen of such country, e.g. Certificate of Citizenship. Deed Granting Citizenship etc. will be required if the passport as defined above sub a) cannot be produced. The issuing authority must be the one, which has jurisdiction in matters of citizenship. Birth certificates are not sufficient documents to prove citizenship. In questionable cases, the ISU Secretariat may require special proofs and conduct direct inquiries.

2) Evidence proving residency and its duration:

- a) In principle, original residence permit or certified copy thereof issued by the authorities of the country of residence confirming that the skater may reside in such country and the date on which such residence has begun, will be acceptable. Such certificates may be issued by Police, or a Department of Immigration, Ministry of Interior or other similar authority. Entry visas, entry stamps in the passports, copies of disembarkation cards and similar documents are not acceptable as evidence of residence or of its beginning.
- b) If a residence permit has been neither granted nor dismissed within a one year period (the minimum period of residence required by Rule 109) after an application for such permit had been filed, a copy of the application with the filing stamp showing the name of the receiving authority and the date of filing, will be accepted as evidence of residence and its duration. In case there is no filing stamp on the copy of the application, then a separate certificate issued by the receiving authority confirming the filing of the application and the filing date has to be produced.

If the country of residence does not issue official documents establishing residency, the skater and the applying Member shall have the burden of proof to demonstrate: (i) the basis on which the skater has resided in the country; (ii) facts in support of the skaters residency and (iii) the legal status of the skater as a citizen of any other country, including but not limited to an ISU Member country. Other evidence of change of residence and of its duration may be considered, such as tax registration or tax returns, election registration, social and/or medical insurance, etc. The weight given to such proof will depend on the particular circumstances of each case.

Notes:

In all cases mentioned above sub 1) and 2) only documents issued by **official authorities of the country having competence in the matters involved** (government, ministries and their departments, foreign police etc.) shall be accepted as competent evidence.

Letters or any other certificate issued by the Member itself or by any other sport organization (clubs) or even by official sport authorities (such as Ministry for Sport or Education, National Olympic Committee), letters and affidavits of private persons (such as landlords, house administrators, employers, etc.), **shall not be accepted as evidence of citizenship or of residence.**

3) Evidence proving the Permit by the Original Member:

- a) Original letter of the Member in the country of which the skater is a citizen issued on official stationery, dated and signed by the President and Secretary confirming **explicit and unconditional approval** that the skater named in the letter may represent the Member to whom the letter is addressed, has to be presented.
- b) In case that the original Member does not grant its approval, the skater may represent the new Member, if such Member, in addition to the documents proving the residency, produces an official certificate of authorities of the country of the Member confirming explicitly that the skater concerned has applied for citizenship of that country, the date of filing of the application and that the application is still being processed.
(The "Notes" stated above apply to such Certificate).

4) Information on previous international activities of the skater:

A fully completed and signed questionnaire (form attached) has to be attached to every Application for Clearance. This form includes information on international activities of the skater concerned in which he/she represented another Member.

Important notice!

It is the primary responsibility of each Member to give full, correct and true information on all facts and circumstances relating to a skater's nationality, residence, past activities etc. and to produce the required documents. The skater is responsible for full, correct and true information given to the Member and/or to the ISU.

In case it is proven that a skater and/or Member have given incomplete or incorrect information and/or have produced an improper document supporting such information, **sanctions (penalties) may be imposed by the Council** against such Member and/or skater.

Cases where the Member totally fails to inform the ISU of the skater's residency and citizenship situation although a Clearance Procedure is required or where the Member and/or the skater presents misleading and/or false information or documents changed or otherwise amended by an unauthorized person, will be considered as particularly grave offences and will be penalized accordingly.

Depending on the circumstances of the case, the ISU Council may impose **the following sanctions (penalties), individually and/or cumulatively, against the Member and/or skater:**

- exclude the Member and/or the skater in accordance with Rule 104, paragraph 16 or Rule 125, paragraph 4, from all events for a certain period of time,
- assess a monetary fine against the Member in accordance with Article 17, paragraph s) of the ISU Constitution,
- decide that the Member loses its right to send skaters the following year to all Senior or Junior ISU Championships and International Competitions in accordance with Rule 108, paragraph 4 of the General Regulations.

Transitory Provision

Members who have been informed in writing by the ISU during the season 2000/2001 that a particular skater may represent them either in international competitions only or in both international competitions and ISU Championships **need not file applications for clearance for that skater again** provided that there is no change in the information supplied originally to the ISU. The ISU Secretariat will issue Clearance Certificates for these skaters without any application and send them to the Members concerned.

Final Information

Although Rule 109, para 6 gives the Council the powers to grant exceptions from the requirements of citizenship, residence and waiting periods, it has always been the policy of the Council not to grant any exception simply for the skater to change Members. Exceptions have been granted only in cases where a serious hardship would occur without such exception (e.g. such as application of a new Rule after certain action have been taken in good faith prior to adoption of the Rule).

The Council has expressed its intent to continue this policy in the future.

It is recommended to the Members to file an application for clearance even in cases where they believe that such clearance is not required. It is better to receive an information from the ISU Secretariat that the clearance is not required in that particular case rather than to risk sanctions (penalties) for non-compliance with Rule 109.

Milan,
May 25, 2001
Lausanne,

Ottavio Cinquanta, President

Fredi Schmid, General Secretary

INTERNATIONAL SKATING UNION

CLEARANCE CERTIFICATE

Skater: born on:
(full name) (date)

Citizenship:
(name of the country)

Residing at:
(full address of the place which the skater has proven by documents as
being his/her permanent or long-term residence)

ISU Member:
(official name of the Member filing application for clearance)

may represent the above named ISU Member in international competitions and in the ISU
Championships as of: (date to be stated)

(or if appropriate)

may represent the above-named ISU Member in international competitions as of:
and in the ISU Championships as of:

in the discipline:
(single figure skating or short track or speed skating)

or in the discipline: (ice dancing /pairs)

with the following partner: (full name)

Notice:

This certificate is valid only as long as all the above stated data remain unchanged. The skaters and the Members have the obligation to immediately report to the ISU a change of any of such data, to cease using this Certificate after any such change and apply for a new certificate. Failure to perform this obligation and/or using the certificate after any change occurred may result in sanctions imposed against both the skater and the ISU Member.

Fredi Schmid
General Secretary

Date:

INTERNATIONAL SKATING UNION

Rule 109, citizenship and residency requirements Questionnaire for clarification

Name of the Skater (Surname):

Given name of the Skater:

Discipline of the Skater:

Present partner of the Skater:

Place and date of birth:

Citizenship/nationality:

Citizenship/nationality obtained on:(indicate date)

Former citizenship if any:

Dual citizenship if any:

Former or Dual citizenship obtained on:(indicate date)

Current permanent Residency:(indicate city and country)

since when:

Former Residency:(indicate city/country and date of
departure from this former residency).

Current ISU Member:

Participation in international skating events representing another ISU Member:

.....

(List international events with name and dates, name of ISU Member represented and in case of Pairs, Ice Dancing indicate relevant partner(s))

Please enclose, if applicable, a letter of permit/consent received from the ISU Member of the country of which he/she is a citizen.

Note: As to documents required to be presented see Communication No.:

Place and date:

Member federation (signatures)