

INTERNATIONAL SKATING UNION

Communication No. 2001

ISU DISCIPLINARY COMMISSION RULES OF PROCEDURE

(This Communication replaces ISU Communication No. 1419)

In line with the ISU Constitution, Article 24, paragraph 7, the ISU Council has approved the ISU Disciplinary Commission (DC) Rules of Procedure 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 24, paragraph 1 of the Constitution, all charges and Complaints referred to it by any ISU authority or party 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 the 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. 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 is subject to appeal to the Court of Arbitration for Sports in Lausanne, Switzerland (CAS), in accordance with Article 24 paragraphs 8e and 12 and Article 25 of the Constitution.

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, the DC member elected with the highest number of votes shall act as Chair for that case.

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 favor thereof. Neither the number of votes thereof nor the dissenting opinion of any member voting against the Final Decision shall be published.

PART II
Proceedings - General Provisions

Article 3
Procedure, Language, Records and Administration

1. These rules of procedure apply except when other rules are provided for by the ISU Anti-Doping Rules and the 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 in person or be conducted, entirely or partially, by telephone or video conference or internet communication methods. Summary minutes of all hearings of the DC shall be recorded in writing and a copy thereof, signed by the keeper of the minutes and the Chair of the Panel shall be forwarded by the DC Chair to the ISU Director General following the rendering of the Final Decision. Such minutes shall be kept by the ISU Director General at the Headquarters of the ISU.

In case of an appeal against the Final decision of the DC to the Court of Arbitration for Sport (CAS), the Parties may receive copies of the minutes.

3. In the case of hearings the Chair, after consulting with the Director General, shall determine whether they are to be held in person or by telephone or video conference or internet communication, taking into account the availability of technical means, savings in cost and/or time, the convenience of the Parties, the Panel, witnesses and experts and the efficient conduct of the proceedings.

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 Chair of the Panel immediately after receipt of the notice of the hearing. In such case the Chair of the Panel shall appoint an official interpreter. Documents presented as evidence which are written in another language than English must be accompanied by a translation into English.

5. Where these Rules of Procedure request any signatures such signatures need to be in handwriting and may be produced in original, by telefax or by e-mail. However in case of doubt about the authenticity of any signature transmitted by telefax or by e-mail the Chair of the Panel may order that the original signature has to be produced.
6. Rules of evidence applicable in Court are not applicable in DC proceedings.
7. The ISU Director General and 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 hearings, maintaining all necessary files and permanent records of the DC and its hearing/reviews, and notifying the members of the DC if any Decision of the DC is appealed to the Court of Arbitration for Sport in Lausanne, Switzerland (CAS), and providing the DC members with a copy of any Final Decision of the CAS in such matter and/or any settlement of any appeal to the 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, other 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 27 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 Complainant, who can be the ISU, any Skater, Official, Office Holder or other participant in the 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

1. 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 or the Chair of the Panel.

2. If a Party is represented by legal counsel all notifications, communications and documents shall be sent to such counsel only.

Article 7
Confidentiality

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

Article 8
Filing of Complaints and Timing Provisions

1. Complaints must be filed with the DC in writing within 60 days of learning of the facts or events, which constitute a disciplinary or ethical offence, except in cases for which the ISU Anti-Doping Rules and/or Anti-doping Procedures specifically provide for different time limits. 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.
5. The burden of proof for showing compliance with time limits rests on the Party whose compliance or non-compliance with a time limit is being questioned.

Article 9
Statement of Complaint

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, if any, 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. the signature of the Complainant or his/her attorney-at-law, legal or other representative;
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, 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 address, telephone number, fax number and e-mail address, if any, and the name and contact details of the attorney-at-law, legal or other advisor, if any, authorized to represent the Alleged Offender;

2. a statement of defense 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 defense of lack of jurisdiction stating the facts on which the defense 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. signature of the Alleged Offender or his/her attorney-at-law, legal or other representative.
6. power of attorney for attorney-at-law, legal or other representative.

If the Alleged Offender fails to submit his/her Statement of 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 and the ISU 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 Chair, after consulting with the Director General, has decided to hold an in-person hearing, notice of the place and date of the hearing shall be forwarded to the Parties, witnesses and experts, if any, 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 and the ISU 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. According to Article 27 paragraph 2 of the Constitution final decisions of the DC and any subsequent corresponding final decisions of the Court of Arbitration for Sport (CAS) shall be published in their entirety on the ISU website no later than the next business day following the rendering of any final decision and shall remain available on the ISU website for public access.

5. The Final Decision shall contain a statement that an appeal may be lodged by any Party against the Final Decision with the Court of Arbitration for Sport, Lausanne, Switzerland (CAS) within 21 days of its receipt, in accordance with Article 24 paragraph 12 and Article 25 of the Constitution.

6. With the exception of decisions imposing sanctions for violations of the ISU Anti-Doping Rules, which become effective immediately, a decision of DC against which an appeal to the CAS has been lodged does not become effective until the final decision of the CAS is rendered. However, in the case of a serious violation of the Constitution, the Regulations or the Code of Ethics which reflects adversely upon the reputation or integrity of the ISU, the DC, upon a motion of the ISU Council, or sua sponte 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, including all costs of witnesses, experts and interpreters called by such party.
2. Unless otherwise decided by the DC, costs related to the participation of witnesses, experts and interpreters invited at the DC's own discretion 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, interpreters and legal representations 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 were established in accordance with Article 24 paragraph 7 of the ISU Constitution, submitted by the DC, approved by the ISU Council and to be ratified by the 2016 ISU Congress.

Milano

April 18, 2016

Lausanne

Ottavio Cinquanta, President

Fredi Schmid, Director General