

INTERNATIONAL SKATING UNION

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Disciplinary Commission

Case No. 2017-05

18.04.2017

Decision of the ISU Disciplinary Commission

Panel: Volker Waldeck, Chair
Susan Petricevic
Jean-François Monette

In the matter of

Prof. Dr. Mr. Alexandre Gorodjanov,
Belarus

- Complainant -

against

Mr. Jeroen A. Prins,
Netherlands,

- Alleged Offender -

Regarding the Violations of the Duties of Officials and the ISU Code of Ethics

I. History of the Procedure

[1] On March 13, 2017, Mr. Alexandre Gorojdanov filed a complaint against the Alleged Offender together with 7 exhibits. By Order No. 1 of March 14, 2017, the Alleged Offender was invited by the ISU Disciplinary Commission to file a statement of reply within 21 days upon receipt of the complaint.

[2] On March 23, 2017, the Alleged Offender filed a statement of reply.

[3] By Order No. 2 of April 6, 2017, the Disciplinary Commission precluded the member of the panel, Mr. Albert Hazelhoff, from acting according to Article 2 Para 2 of the ISU Disciplinary Commission Rules of Procedure, because he was of the same nationality as the Alleged Offender. The panel in this case is formed of Volker Waldeck (Chair), Susan Petricevic and Jean-François Monette.

II. Procedural Matters

[4] According to Article 25, Paragraph 1 of the ISU Constitution 2016 the Disciplinary Commission serves as a first instance authority to hear and decide all complaints referred to it by an ISU authority or party against an Alleged Offender accused of a disciplinary or ethical offence.

[5] The Complainant in this case officiated as referee in the Pairs Free Skating on the occasion of the International Figure Skating Competition “24nd Ondrej Nepela Memorial 2016”, held in Bratislava, Slovak Republic, from September 29 to October 1, 2016. Thus, he is an ISU Official and is entitled to file a complaint according to Article 25 Paragraph 6 a) of the ISU Constitution 2016.

[6] The complaint was filed within 60 days of the Complainant learning of the facts which constitute the alleged offence. On January 14, 2017, the Complainant received a statement of complaint of the ISU Single & Pair Skating Technical Committee together with a Report of Irregularity, authored by Mr. Jeroen Prins. In this report, the Complainant learnt about the incident in Bratislava, which allegedly caused the present offence. The complaint was filed on March 13, 2017, and is within the requisite time frame.

[7] The Alleged Offender is subject to the jurisdiction of the Disciplinary Commission. In the “Declaration for Competitors and Officials entering ISU Events” the Alleged Offender confirmed on June 27, 2016:

I/we, the undersigned,

I) accept the ISU Constitution, which establishes an ISU Disciplinary Commission (Article 24) and recognizes the Court of Arbitration for Sport (CAS), in Lausanne, Switzerland as the arbitration tribunal authorized to issue final and binding awards involving the ISU, its Members and all participants in ISU activities, excluding all recourse to ordinary courts (Articles 25 & 26);

[8] The Complaint is admissible.

III. Facts

[9] The Alleged Offender is listed as ISU Referee and ISU Technical Controller for Single and Pair Skating, and ISU Judge for Ice Dance from the Netherlands for the season 2016/2017 (ISU Communication No. 2027). He acted as Technical Controller in the Pair Skating event at the 2016 Ondrej Nepela Memorial.

[10] The Complainant is listed as International Referee and ISU Judge for Single and Pair Skating, and ISU Referee and ISU Judge for Ice Dance from Belarus for the season 2016/2017 (ISU Communication No. 2027). He acted as Referee in the same Pair Skating event at the 2016 Ondrej Nepela Memorial.

[11] The panel of judges for the Pairs Event consisted of

Judge No. 1	RUS
Judge No. 2	LTU
Judge No. 3	CAN
Judge No. 4	GBR
Judge No. 5	USA
Judge No. 6	GER
Judge No. 7	SVK

[12] The ISU Disciplinary Commission, in case 2017-01, convicted the Complainant of a violation of his duties as a referee and under the Code of Ethics. In its decision, the Disciplinary Commission pointed out that Judge No. 1 and Judge No. 2 started an enduring talk during and after a performance, which the Complainant was in a position and had the full authority and responsibility to stop. Instead the Complainant participated in this conversation and started another conversation with Judge No. 7. The remaining Judges, No. 3 to 6 were disturbed while carrying out their duty of evaluating and judging the performances of the skaters.

[13] In the course of the procedure regarding Case 2017-01, the Complainant received the testimonies from Judges No. 3 to 6 and from the Alleged Offender. The Complainant argues that those testimonies show evidence that the Alleged Offender has violated his duties as a Technical Controller by not reporting and referring the complaint by Judges about the behavior of Judges No. 1 and 2 (talking during performance of the skaters) directly to the Complainant who was the Referee of the event.

[14] The chronology and timing of events is important. After the conclusion of the Pairs event, Judges No. 3 to 6 addressed their concerns to the Alleged Offender.

[15] Judge No. 4 stated:

“Subsequent to the Pairs Team from Great Britain skating there appeared to be a lot of conversation between Judge 1 and Judge 2 seated on the judging panel. The competition resumed and the conversation continued between the 2 judges. At the

conclusion of the event Judge 3 (Canada), Judge 4 (myself GB), Judge 5 (USA) and Judge 6 (Germany) reported to the Technical Controller our concerns and he advised that we raise the issue in the RTD scheduled for later that day [our underlining].”

[16] Judge No. 5 reported:

“During the Pairs FS, judge 1 and judge 2 began talking quite loudly after the British team missed a lift. Judges 3 - 6 looked at that direction, nearly in unison, as the distraction was so severe. After the skaters finished their program the referee walked behind us and spoke to judge 7 in Russian, making him laugh. Judges 1 and 2 continued to talk.

After the event someone brought up the incident to me, as they were bothered through the entire remainder of the event by the ongoing discussion to their left. As a group, we asked the Technical Controller [Alleged Offender] if we should say something, and to whom. We knew we should go to the referee first, but as he was part of the problem that route was not available to us. The TC suggested we should decide together what we wanted to do, but he was now obliged to report the incident. We made the decision to ask about the disturbance during the roundtable which was later the same day. We also made a brief outline of how we could broach the subject during the roundtable [our underlining].”

[17] Once the concerns from Judges No. 3 to 6 were disclosed to him, the Alleged Offender recommended raising the issue during the concluding Round Table Discussion:

“After the conclusion of the Pairs Free Skating, I was approached by four Judges of the event [...]. They expressed to me that Judges Nr. 1 [...] and Nr. 2 [...], were talking during almost the whole event and that this started after the GBR pair had skated, they had startnr. 3 out of 7 pairs. [...]

I asked the four Judges why they did not speak to the Referee about the talking of the two judges, and my impression is they were afraid to do so. Anyhow as stated in Irregularity Nr. 1, the Referee also did not stop the talking on his own behalf. He was sitting right next to Judge Nr. 1.

[18] There was a break of 20 minutes between the end of the Pairs free program, in which the incident had occurred, and the start of the next event, in which The Alleged Offender and the Complainant were both again on duty.

[19] The Alleged Offender states that he was not a direct witness of the talking between Judges No. 1 and 2:

“I could not hear nor see that these judges were talking, as I was sitting in the same line with them, and in my capacity as TC also with my headset on.”

IV. Law

[20] The Disciplinary Commission was convinced that the testimony of the Alleged Offender in Case 2017-01 was true and credible, and the Panel has not received evidence that would lead it to rule differently in the present case.

[21] According to Rule 125 No. 4 ISU General Regulations 2016, officials participating in any ISU activity shall comply with any applicable statutes, position descriptions, ethical declarations and codes of conduct prescribed by the Council. Failure to comply may result in sanctions imposed by the Disciplinary Commission in accordance with Article 25 of the Constitution.

[22] More specifically, the Complainant accuses the Alleged Offender to have not complied with Rule 125 No. 3 ISU General Regulations 2016:

3. Conduct of Officials, Office Holders, Competitors, Coaches and others

Any Official on the ISU list as published in an ISU Communication who learns of improper or irregular conduct or proposals concerning Officials (Referees, Technical Controllers, Technical Specialists, Judges, Data & Replay Operators, Starters, Competitors Stewards) and related personnel (Result Service Providers, timekeepers and others) or activities while on site at an event must immediately report the details to the Referee and the ISU Representative if one is present on site, or if one is not present on site, to the highest ranking Office Holder present, i.e. President, Vice President(s), ISU Council members in order of their election, Director General and Sports Directors of the corresponding Branch, TC Chair of the respective discipline, TC members of the respective discipline in the order of their election) and, if not yet on site of the event, to the President of the ISU. Such report must be urgently submitted in writing and, to effect immediate remedial actions, before the end of the competition. On site of the event, the Referee and the ISU Representative (or highest ranking Office Holder present), upon receipt of the report, must confer immediately with the President if present or attainable by phone. The Referee and ISU Representative, if possible after consultation with the President, are empowered to take promptly all reasonable and necessary actions to protect the integrity of ISU officiating. The Chair of the concerned Technical Committee will be informed as soon as reasonably practicable.

[23] It is of note that the Alleged Offender was not a direct witness of the talking between Judges No. 1 and 2. He learned about the alleged offending from others, and only after it had already happened. According to Rule 125 No. 3 ISU General Regulations 2016, he still should have brought this information to the attention of the Complainant as Referee. But the Alleged Offender had also been informed that the Complainant was a party to the irregular conduct, as evidenced in Case 2017-01. No ISU Representative was on site. Therefore, the Alleged Offender had no alternate person to report the matter to.

[24] In that time period, the Alleged Offender had also to perform his primary duty as Technical Controller for the upcoming event. The Disciplinary Commission does not concur with Complainant about the fact that the Alleged Offender had sufficient time available to report to the Referee while preparing for the next event. As the Complainant was part of the offence, there was a significant probability that the reporting may turn into an argument, with no adequate response

or action in the time lapse available. The Alleged Offender was put in a position where he had to prioritize one duty (successfully conducting the sporting event) over another one (reporting an offence which was already over). By reporting the offence at the Pairs event Roundtable meeting and recording it in his Irregularity report, the Panel points out that the Alleged Offender duly respected his duties as an Official, in a timely manner, due to the circumstances.

[25] The Complainant also states that the Alleged Offender «*exceeded his official duties of Technical Controller and took part of Referee duties in part of telling other Judges what to do instead of calling to appeal to Referee directly and immediately*».

[26] The duties of a Technical Control are regulated by Rule 430 No. 3 and 4 Special Regulations & Technical Rules Single & Pair Skating and Ice Dance 2016:

3. Duties and powers of the Technical Controller

[...]

– if possible, assists the Referee in moderating the Round Table Discussion according to ISU guidelines (see Rule 431);

– prepares the Report on the event according to ISU guidelines (see Rule 433);

[27] As evidence shows the improper conduct of the Complainant, Judges No 3 to 6 had no better choice available other than to seek advice from the Alleged Offender. For his part, the Alleged Offender had no reasonable possibility of direct communication with the Complainant about this issue, when he learnt of it. Offering advice about how to deal with the problem is, in the Panel's opinion, not in excess of his duties as Technical Controller, nor should be seen as disrespect towards the Referee. The Panel reaches the conclusion that the discussion «*should be seen as a normal interhuman conversation, and not in any capacity as Technical Controller*».

[28] As for the accusation that «*Alleged Offender [has] violated his duty under the Code of Ethics Article 4 letter c) not to engage in illegal activity, recognizing that all such activities bring disrepute to the skating sports and the ISU, and, in certain cases, may result in criminal charges and ISU action against him and letter h) to absolutely reject and forego any partisan and parochial attitudes, approaches and interests*» the Panel finds no grounds nor evidence to support this provided by the Complainant in his statements or exhibits. Therefore, the Panel dismisses such motion.

[29] As for the costs, the Panel points out that the Complainant was convicted of an offence in Case 2017-01. The Complainant had the opportunity to appeal that decision but has declined his right to do so within the 21 days upon receipt of the decision. Therefore, the decision is final and constitutes a *de facto* recognition by the Complainant of his misconduct in regard to the events at the 2016 Ondrej Nepela Memorial.

The Panel notes also that the ISU Single & Pair Skating Technical Committee, an internal body having the authority to review the conduct of Officials during ISU sanctioned events, has not filed a motion against the Alleged Offender in regard to the present alleged offence, even when all the same relevant facts were available to it.

[30] Furthermore, the Complainant, by filing a motion against one of the witnesses in Case 2017-01, and with no other evidence than the testimonies provided in Case 2017-01, shows an

attitude of disrespect against the internal administration of disciplinary cases and against the necessary protection and immunity of credible witnesses.

[31] Therefore, because the present motion is considered abusive, the Panel rules out that the Complainant should bear all costs.

V. Decision

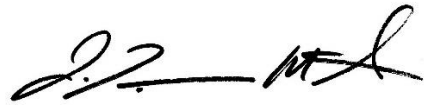
- [1] The Complaint is fully dismissed.
- [2] Complainant bears all costs.



Volker Waldeck



Susan Petricevic



Jean-François Monette

The present decision is subject to appeal to the Court of Arbitration for Sport, Avenue de Beaumont 2, CH-1012 Lausanne, Switzerland, within 21 days upon receipt of the decision, in accordance with Article 25 Paragraph 12 and Article 26 of the ISU Constitution 2016.