

INTERNATIONAL SKATING UNION

HEADQUARTERS ADDRESS: CHEMIN DE PRIMEROSE 2 - CH 1007 LAUSANNE - SWITZERLAND
TELEPHONE (+41) 21 612 66 66 TELEFAX (+41) 21 612 66 77 E-MAIL: info@isu.ch

ISU Disciplinary Commission

Case No. 2014-03

May 30, 2014

Decision

of the

ISU Disciplinary Commission

Panel: Volker Waldeck, Chair
Fred Benjamin
Susan Petricevic

1. Korean Olympic Committee,

represented by President Jung Haeng KIM,

- Complainant 1 -

2. Korean Skating Union,

represented by President JaeyouL KIM,

- Complainant 2 -

Counsel for Complainants:

APEX LLC, Attorney at Law Dal-Young CHANG

against

Ms Alla Shekhovtseva,
Russia,

- Alleged Offender -

and

Figure Skating Federation of Russia,

represented by President Mr Aleksander Gorshkov,

- Interested ISU Member -

Concerning alleged violation of ISU Rules

I. History of the procedure

1. First Complaint of April 10, 2014

On April 10, 2014, the Korean Olympic Committee and the Korean Skating Union filed a complaint including 7 exhibits with the ISU Disciplinary Commission.

On April 14, 2014 the ISU Disciplinary Commission (DC) answered the complainants by order No. 1 that a general request for investigation cannot be subject to the jurisdiction of the ISU Disciplinary Commission. Furthermore the complaint was not addressed to a respondent and must be directed at an individual or a federation. The DC invited the complainants to answer the order No. 1 within 21 days.

2. Second Complaint of April 30, 2014

On April 30, 2014 the Korean Olympic Committee and the Korean Skating Union, represented by Attorney at Law Dal-Young Chang, filed a complaint including 5 exhibits with the ISU Disciplinary Commission. The complaint was directed at Ms Alla Shekhovtseva as Alleged Offender.

The ISU Disciplinary Commission forwarded the second complaint to the Alleged Offender and the Figure Skating Federation of Russia (FSFR) as Interested Member. Both filed a statement of reply on May 19, 2014. The DC forwarded the replies to the complainants and announced that the final decision would be rendered.

In his email of May 23, 2014, counsel for the complainants responded to the reply of the FSFR of May 19, 2014.

II. Statement of Complaint

1. First Complaint of April 10, 2014

The heading of this complaint reads as follows:

Formal Complaint and Request for Investigation by Disciplinary Commission of the International Skating Union

The first paragraph of the complaint says:

We respectfully submit this formal complaint (this "Complaint") to the Disciplinary Commission of the International Skating Union (the "DC") and request for action to be carried out in connection with the wrongful constitution of the panel of judges and the unjust outcome of the competition caused thereby in the ladies' single figure skating competition (the "Competition") at the 2014 Sochi Winter Olympic Games which were held from 19th to 20th February 2014 at the Iceberg Skating Palace in Sochi, Russia.

Further down the complainants request:

" we formally request that a thorough investigation by the DC on this matter be instituted immediately and transparently.

...

We also formally demand that corrective actions be instituted based on the outcome of the investigation."

Under paragraph 2 (Case of Alla Shekhovtseva) the complainants admonished the appointment of Alla Shekhovtseva as a violation of the rule against conflict of interest and the code of ethics. Although FSFR would command a large pool of competent figure skating judges, who could be appointed to the Sochi Winter Olympics, it instead chose Shekhovtseva whose specialty is in Ice Dancing. As the wife of Mr. Valentin Piseev, the former President and current Secretary General of FSFR it would be obvious and reasonable to assume that she was under the influence of, and had an emotional connection to, the FSFR in the pursuit of glory that a gold medal would bring to FSFR in an Olympic competition held in Russia. In a glaring testimony to the interest Shekhovtseva would have in the outcome of the Competition, Shekhovtseva was seen embracing Sotnikova backstage sharing the joy of victory immediately after the score of Kim's performance in the Free Skating Program was announced.

The complaint of April, 10, 2014 ends with the conclusion:

“Conclusion

Based upon the foregoing, we request that, pursuant to the ISU Constitution and Regulation and the Code of Ethics, the DC immediately act and investigate on this matter and to take appropriate disciplinary actions against the concerned individuals. Specifically, we request for a thorough investigation into any conduct that involved unlawful and unethical behavior that contributed to the unjust and biased outcome of the Competition including but not limited to conduct surrounding the wrongful composition of the judging panel.”

By order No. 1 of April 14, 2014 the ISU Disciplinary Commission answered the complainants:

According to Rule 61 Paragraph 2 the dispute about the decision of the Ladies' Figure Skating Competition at the 2014 Sochi Winter Olympic Games is not subject to the jurisdiction of the ISU Disciplinary Commission but of the Court of Arbitration for Sport (CAS).

A general request for investigation cannot be subject to the jurisdiction of the ISU Disciplinary Commission.

The complaint is not addressed to a respondent. The complaint must be directed at an individual or a federation.

2. Second Complaint of April 30, 2014

On April 30, 2014 the Korean Olympic Committee and the Korean Skating Union, represented by Attorney at Law Dal-Young Chang, filed another complaint directed at Ms Alla Shekhovtseva, Judge No. 6 at the ladies' single free skating competition at the 2014 Sochi Winter Olympic Games, as Alleged Offender. The complainants allege that Ms. Shekhovtseva has her registered office at the Figure Skating Federation of Russia (FSFR), Luzhnetskaya nab. 8, Moscow.

The Korean Olympic Committee and the Korean Skating Union complain that:

After the performances by Yuna Kim of Korea, who performed her free skating program as the last skater of the Competition, was over and the score of Kim was subsequently announced, Adelina Sotnikova was crowned gold medalist in the Competition. Moments after winning the gold, Shekhovtseva proceeded into the Mixed Zone of the rink where she could be seen approaching Sotnikova. She offered a few words before the two shared a warm hug.

Such embrace that Shekhovtseva gave to Sotnikova was aired through television and on social media and as a result, people all over the world had the opportunity to witness such captured moment. The controversial scene is readily available for viewing on YouTube. (<http://www.youtube.com/watch?v=MTi7zI05Je8>)

The Complainants request a thorough investigation of the judging composition:

It is highly arguable that such action of Shekhovtseva clearly constitutes a lack of independence and harms the purpose and spirit of the ISU Rules and it is therefore imperative that a thorough investigation for the judging composition and whether it was biased toward Sotnikova take place immediately.

The Complainants admonish the assignment of Shekhovtseva for the Ladies' panel as a conflict of interest, because she is the wife of Mr. Valentin Piseev, the current general director of the Figure Skating Federation of Russia (FSFR):

For Shekhovtseva, wife of a top Russian figure skating federation official to be embracing a compatriot she had just judged is a clear example of her being in a conflict of interest position which warrants intense scrutiny for her controversial biased judgment and act of impropriety. It could be argued that marital ties to the FSFR falls under the definition of conflict of interest, calling into question her independence. Further, such relationship with Mr. Piseev in his capacity as general director of FSFR, may be reasonably viewed as suggesting allegiance to Shekhovtseva's national federation and Russian athletes such as Sotnikova participating in ladies' single figure skating.

For the reasons set out above, Complainants request the DC to decide that Shekhovtseva's alleged action violated the ISU Rules and impose any and all available sanctions against Shekhovtseva.

With reference to the Order No. 1 of the Disciplinary Commission complainants are solely requesting the DC to determine whether or not the embracing of Sotnikova by Shekhovtseva constitutes a violation of the ISU Rules and if so, impose available sanctions against Shekhovtseva. Complainants are neither raising an objection against the judging at the Competition nor regarding any cases for a protest as provided under Rule 123 of the ISU Constitution and General Regulations 2012.

III. Statement of Reply

1. Reply of the Alleged Offender of May 19, 2014

The Alleged Offender denies having her registered office at the same place as the Figure Skating Federation of Russia and states that she was never a member of the staff of FSFR. This false information would be an attempt to demonstrate her connection with the Russian Figure Skating Federation.

Ms Shekhovtseva describes the encounter with the skater Sotnikova in the basement of the stadium as follows:

“After the end of the Event I walked in the arena and had to stop at the mixed zone because the flower ceremony was going to start and the hall way was blocked by TV crews, ceremony stuff, skaters, and a lot of other people. Adelina Sotnikova was there. She was very excited and she was hugging everybody around whom she knew. This can be seen on the mentioned YouTube piece- that she ran to several people whom she knew. But this YouTube piece shows only 3-4 persons. In reality there were much more. For example, she was whipping of happiness on the shoulder of the Russian Assistant Team

leader for more than a minute before she approached me and this episode was shown a lot on TV including the closing ceremony video but was not shown on the mentioned YouTube piece. And as I said the skater was so excited that she was running to everybody whom she knew. She also approached me and embraced me. Of course, I congratulated her with her performance.”

Congratulating a champion and winner of the gold medal in the opinion of the Alleged Offender is not a violation of rules but a normal gesture and an appreciation of the skater’s hard work.

2. Reply of the Figure Skating Federation of Russia (FSFR) of May 19, 2014

The Interested Member FSFR points out the difference between the first complaint of April 10 and the second complaint of April 30, 2014. Whereas the first complaint questions only the constitution of the panel of judges and the outcome of the competition, the second complaint is directed at Alla Shekhovtsova as Alleged Offender and deals only with the post-competition episode of Alla Shekhovtsova congratulating the winner Adelina Sotnikova. Therefore the FSFR considers the first and second complaint as two different complaints and two separate cases. According to Article 24, Paragraph 6a) of the ISU Constitution complaints must be filed with the DC within 60 days of learning of the facts or events, which constitute a disciplinary or ethical offence. The incident happened and was learnt about on February 18, 2014 and the complaint dated April 30, 2014. Therefore the complaint is not valid as it was filed and submitted after the time limit of 60 days. Therefore it is out of time and must be dismissed.

Concerning the family relationship of the Alleged Offender to the Director General of the FSFR the Interested Member says:

“We do not think that the family relationship of Alla Shekhovtsova being the wife of the former FSFR President, currently Director General of the FSFR contradicts any currently effective ISU Rule or Code of Ethics. We also do not understand why there are concerns about the judge being the wife of the current Director General and former Federation President. If this is about the possible conflict of interests why no concerns are expressed about the Presidents of the National Federations being judges on the judges' panels at numerous competitions and which was also the case at several figure skating events of 2014 Olympic Winter Games in Sochi.”

The Interested Member evaluates the embrace of the Alleged Offender and the skater Sotnikova after the competition as follows:

“we do not see anything wrong (and we think it is not forbidden by either any ISU Rule or Code of Ethics) when a judge or any other ISU official, or anybody else congratulates a skaters on their skating and the result. On the contrary, we consider it as a natural move and good manner to thank skaters for the work they did ... and to congratulate them with the result. At the Olympic Games with its special emotional atmosphere one can see when skaters, coaches, officials congratulate skaters and each other. This happens at any competition and never raised any dispute. Of course the judges should be neutral to all skaters, but this is during the competition and during judging. Congratulations after the competition, in our opinion, cannot be considered as bias or wrong doing.”

The Interested Member moves to dismiss both the complaint of April 10, and the complaint of April 30, 2014.

IV. Admissibility of the Complaints

1. Complaint of April 10, 2014

Article 24 Paragraph 1 of the ISU Constitution 2012 provides, in part, as follows:

The DC serves as a first instance authority to hear and decide all charges referred to it by any ISU authority or party against any Skater, Official, Office Holder or other participant in ISU activities (Alleged Offender) accused of a disciplinary or ethical offence (Offence).

The complaint of April 10, 2014 was not addressed to an Alleged Offender. In their first statement the Complainants requested a thorough investigation by the DC on this matter and formally demanded that corrective actions be instituted based on the outcome of the investigation. A general request for investigation which is not addressed to an Alleged Offender or Defendant cannot be subject to the jurisdiction of the DC.

Therefore the complaint of April 10, 2014 is inadmissible and must be dismissed.

2. Complaint of April 30, 2014

On April 30, 2014 the Complainants filed another statement of complaint. This one was addressed to Ms. Alla Shekhovtseva as Alleged Offender accused of a disciplinary and ethical offence. This complaint is subject to the jurisdiction of the ISU Disciplinary Commission and not to the Court of Arbitration for Sport (CAS).

Although Rule 61 Paragraph 2 of the Olympic Charter 2013 states:

(2) Any dispute arising on the occasion at or in connection with the Olympic Games shall be submitted exclusively to the Court of Arbitration for Sport (CAS) in accordance with the Code of Sports-Related Arbitration.

But Article 1 of the Arbitration Rules for the Olympic Games Rule of the Court of Arbitration for Sport provides as follows:

Article 1 Application of the Present Rules and Jurisdiction of the Court of Arbitration for Sport (CAS)

The purpose of the present Rules is to provide, in the interests of the athletes and of sport, for the resolution by arbitration of any disputes covered by Rule 61 of the Olympic Charter, insofar as they arise during the Olympic Games or during a period of ten days preceding the Opening Ceremony of the Olympic Games.

In the case of a request for arbitration against a decision pronounced by the IOC, an NOC, an International Federation or an Organising Committee for the Olympic Games, the claimant must, before filing such request, have exhausted all the internal remedies available to him/her pursuant to the statutes or regulations of the sports body concerned, unless the time needed to exhaust the internal remedies would make the appeal to the CAS Ad Hoc Division ineffective.

Accordingly the complaint was submitted to the ISU Disciplinary Commission responsible and not to the CAS.

The Interested Member admonished that the second complaint was filed with the DC later than 60 days after the event as prescribed in Article 24 Paragraph 6 of the ISU Constitution 2012. The event in dispute took place on Thursday, 20th of February 2014. The Complaint of April, 30, 2014 arrived at the DC on the same day, which means 69 days after the event. But by Order

No. 2 of May 2, 2014 the Chair of the Disciplinary Commission invited the Alleged Offender to reply to the complaint of April 30, 2104 within 21 days upon receipt of the complaint. Thus the Disciplinary Commission has indicated that the proceedings are not finished on conclusion of the dead line but are to continue. In view of the Panel the second complaint of April 30, 2014 was an amendment and supplement of the first complaint. Accordingly the second complaint was filed in due time.

The complaint of April 30, 2014 is admissible.

V. Merits of the Complaint

1. The Complainants request a *“thorough investigation for the judging composition and whether it was biased toward Sotnikova”*.

This request is inconsistent with the limitation, which the Complainants made in Para 21 of the Complaint:

“Complainants are solely requesting the DC to determine whether or not embracing of SOTNIKOVA by SHEKHOVTSEVA constitutes a violation of the ISU Rules and if so, impose available sanctions against SHEKHOVTSEVA. Complainants are neither raising an objection against the judgment given at the Competition nor regarding any cases for a protest as provided under Rule 123 of the ISU Constitution and General Regulations 2012.”

The Alleged Offender is not responsible for the judging panel's composition. Judges panels for the Olympic Winter Games are drawn from Member Federations in accordance with Rule 402 of the ISU Special Regulations for Single & Pair Skating. The judging panel's composition is neither a disciplinary nor an ethical offence of the Alleged Offender and is not subject to the jurisdiction of the DC.

2. The Complainants allege a conflict of interest for Ms. Shekhovtsova as wife of Mr. Piseev, Director General of the Figure Skating Federation of Russia, and her assignment at the ladies event of the Olympic Winter Games and judging a Russian skater. The Complainants quote Communication 1481 “Avoiding Conflict of Interest” Para 3 and 4, but none of these rules apply to the family relationship.

Examples of a conflict of interest are stated in Communication 1481, Para 4 d) Council Recommendations:

d) ISU Office Holders and Officials should take care to avoid performance of their ISU office or duty in the same competition in which any family member (for the term “family” see the definition in General Regulations, rule 121, paragraph 3, j), 3)) is already serving in a capacity which may appear to be a conflict of interest.

This applies, in particular, to cases where two members of the same family would be in a superior-subordinate position vis-a-vis each other, such as : Referee – Judge/Technical controller, etc; OAC member – Referee/ Judge/ Technical Controller, etc.

A member of the Medical Commission should not serve as an official ISU Medical Advisor at an ISU Event during which his/her family member acts as an ISU Official in the competition.

ISU Members should avoid appointing as team leaders or assistant team leaders, family members of Referees appointed for the same competition. One reason is that the Referee decides on all protests filed by team leaders or their assistants. Since also the Referee would be a member of the Member concerned, the Members will have sufficient information when making their appointments.

The Members should also, whenever possible, avoid sending two members of the same family as Officials to the same competition. Although not explicitly forbidden by the rules that such family members act at the same competition provided that they act in different events, such situation is not desirable in view of the Principles stated above in paragraph 2.

According to the above rules, a conflict of interest can only arise if members of the same family officiate in the same competition. But only the Alleged Offender officiated as judge No. 6 in the ladies' event. Her husband, Mr. Piseev, did not officiate in the same competition. The fact alone of being the Director General of the Figure Skating Federation of Russia does not create a conflict of interest for the Alleged Offender. Fairly, the Interested Member has pointed out, that Presidents of National Federations are allowed to act as judges and this is not considered to be a conflict of interest. Even less of a conflict of interest arises when the wife is judging and the husband, the Director General, is not officiating in the same competition.

3. The Complainants allege that the Alleged Offender has her registered office at the Figure Skating Federation of Russia (FSFR), Luzhnetskaya nab. 8, Moscow. This should indicate the close relation between the Alleged Offender and FSFR and establish a conflict of interest. The Alleged Offender contests this fact. A look into the ISU Office Holders address book shows a different address from the FSFR. But this point can be undetermined because having the same office address as the federation would not create a conflict of interest when judging a figure skating competition.

4. The core complaint is whether or not the embracing of Sotnikova by the Alleged Offender constitutes a violation of the ISU Rules.

The Panel differentiates between the office of a judge "on duty" and "off duty". During the ladies' competition, both in short program and free program, the judging of the Alleged Offender was within the acceptable range of scores. The ISU Office has confirmed that the Officials' Assessment Commission (OAC) examined the results of the judging panel and that no significant judging errors were made by the Alleged Offender. The judging performance of the Alleged Offender has not been considered as "unacceptable". No "Assessment", according to Rule 430, 7) d) of the ISU Special Regulations for Single & Pair Skating, has been issued. The judging of the Alleged Offender was neither biased nor partial to the Russian skater Sotnikova.

When leaving the judges' stands at the end of the ladies' free program, the official duties of the office of the judges at that competition were completed. The Alleged Offender went from the judges' stands to the judges' room. This was located at the basement of the stadium, together with skaters' locker rooms and the "mixed zone" for the media. As the video record shows, a lot of people walked along the hallway, including skaters, coaches, judges and officials. The Alleged Offender and the skater Sotnikova came from opposite directions. Sotnikova received congratulations from many people, shaking her hand or embracing her. Finally Sotnikova met the Alleged Offender and extended her arms towards her in order to embrace her. It gives the impression to the Panel, that the skater instigated the embrace and the Alleged Offender did not refuse but returned the hug and kissed the skater.

The Panel finds that the behavior of the Alleged Offender did not violate the duties of judges, the Code of Ethics or the Rules to avoid a conflict of interest. A violation of the ISU Rules requires a deliberate act. The Alleged Offender did not deliberately or negligently breach the rules; she responded reflexively when the skater raised her arms for an embrace.

The request for sanctioning the Alleged Offender is dismissed.

Based on the above considerations the ISU Disciplinary Commission rules as follows:

VI. Decision

- 1. The complaint of April 10, 2014 is inadmissible.**
- 2. The complaint of April 30, 2014 is dismissed.**
- 3. Each party bears its own costs.**

May, 30, 2014



Volker Waldeck



Fred Benjamin



Susan Petricevic