

# INTERNATIONAL SKATING UNION

HEADQUARTERS ADDRESS: AVENUE JUSTE OLIVIER 17 - CH 1006 LAUSANNE -  
SWITZERLAND

TELEPHONE (+41) 21 612 66 66

TELEFAX (+41) 21 612 66 77

E-MAIL: [info@isu.ch](mailto:info@isu.ch)

## ISU Disciplinary Commission

Case No. 2017-02

11.03.2017

### **Decision of the ISU Disciplinary Commission**

**Panel:**  
- Volker Waldeck, Chair  
- Albert Hazelhoff  
- Jean-François Monette.

#### **In the matter of**

**ISU Technical Committee Single & Pair Skating,  
represented by ISU Legal Advisor, Prof. Dr. Michael Geistlinger,**

**- Complainant –**

**against**

**Mr. Sviatoslav Babenko,  
Russia**

**- Alleged Offender -**

**and**

**The Figure Skating Federation of Russia**

**- Interested ISU Member -**

**Regarding the Violation of the Duties of Judges and the ISU Code of Ethics**

## I. History of the Procedure

On January 12, 2017, the ISU Technical Committee Single & Pair Skating, represented by ISU Legal Advisor, Prof. Dr. Michael Geistlinger, filed a complaint against the Alleged Offender together with 10 exhibits. On January 13, 2017, the Alleged Offender and the Interested ISU Member were invited by the ISU Disciplinary Commission to file a statement of reply within 21 days upon receipt of the complaint. By Order No. 1 the ISU Disciplinary Commission provisionally suspended the Alleged Offender in his function as referee and judge in ISU events and International Competitions pending the final decision in this case.

On January 17, 2017, the Figure Skating Federation of Russia demurred the provisional suspension of the Alleged Offender by the Chair of the ISU Disciplinary Commission. By Order No. 2 the full panel of the ISU Disciplinary Commission has reconsidered the provisional suspension and concludes that it deems appropriate to uphold the provisional suspension until the final decision would be rendered.

On February 6, 2017, the Alleged Offender filed a statement of reply.

The ISU Disciplinary Commission submitted the response of the Alleged Offender to four witnesses on February 6, 2017, and asked them to comment on the reply of the Alleged Offender.

## II. Procedural Matters

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 charges referred to it by an ISU authority against an Alleged Offender accused of a disciplinary or ethical offence.

In the “Declaration for Competitors and Officials entering ISU Events” the Alleged Offender confirmed on August 15, 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);*

The disciplinary/ethical offences the Alleged Offender is accused of are about his behavior as Judge No. 1 in the Pairs Free Skating at 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.

On October 12, 2016, Complainant received a “Report of irregularity” from the Technical Controller in the Men and Pairs events at the 2016 Ondrej Nepela Memorial. Therein he

claimed that four members of the Pairs Free Skating Judges panel had complained about a misbehavior of the Alleged Offender in his function as Judge.

On November 21, 2016, the ISU Secretariat addressed the four concerned judges directly and requested them to inform whether they in fact made respective observations at the occasion of the Ondrej Nepela Memorial and, if so, what exactly they observed. The respective reports were received by the ISU Secretariat on November, 25, 26, 28 and December 12, 2016. Complainant has learned of the facts which constitute a disciplinary and ethical offense upon receipt of these reports. The present statement of complaint respects the 60 days' time limit according to Article 25 Paragraph 6 of the ISU Constitution.

The ISU Disciplinary Commission has jurisdiction to decide this case.

The Complaint is admissible.

### III Facts

The Alleged Offender is listed as ISU Judge and International Referee for Single and Pair Skating from Russia for the season 2016/2017 (ISU Communication No. 2027). He acted in this function in the Pair Skating event at the 2016 Ondrej Nepela Memorial.

The panel of judges of 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
Technical Controller	NED

During the Pair Free Skating Event, when the British team had missed a lift the Alleged Offender and judge No. 2 started talking loudly with each other.

Judge No. 3 reported:

*“J1 and J2 talked amongst themselves during the event. They were not speaking in English. This began during the program of the team that was third to skate and continued throughout the second warm up and subsequent performances.... After the conclusion of the event, J4 and J5 and J6 expressed their anger about how distracting the talking was during the event. Due to the proximity of the seating on the panel, even the judges seated as far as those positions could hear the talking.”*

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.”*

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.”*

Judge No.6 referred:

*“During the program of Wilkinson / Boyadij I heard a conversation between judge 1 and judge 2. I could not understand what they talked about because it was not in English. I was irritated and it disturbed me. The referee joined the conversation after a few seconds. I could not understand anything because they talked also not in English. I was irritated about these 2 things because normally for me there is no reason to talk during the competition.”*

In his reply of February 6, 2017, the Alleged Offender denied all charges of the Judges No. 3 till 6 against him.

He explained that it was the second year that he judged the Ondrej Nepela Memorial and for the second time he faced problems with the judges' equipment and video reply system. Several times he could not input his marks into the computer system, because the score for one element replaced the score for the previous element. Moreover, the video replay system did not work several times. That was why he as well as some other judges were forced to call on the Referee (and only him) with the request to help to fix the system. Probably his requests to the referee regarding the above-mentioned problems were interpreted by the judges No. 3 - 6 as violation of the Rules. But according to the Rules he would have the right to call on the Referee during competitions if some problems arise.

Further the Alleged Offender pointed out that the spectators were sitting close behind the judges' stand and that the conversation of the audience could have been mistaken as a conversation between him and Judge No. 2.

The Alleged Offender said that the Round Table Discussion passed as usual. Neither the Technical Controller nor the Referee nor the other Judges tried to speak about the conversation during the competition between Judge No. 1 and him.

#### IV. Previous Sanctions against the Alleged Offender

In 1999 the ISU Council has decided to suspend the Alleged Offender from judging / refereeing in any ISU discipline at any ISU Event for three years beginning March 27, 1999. The Council has determined on the basis of reasonable, verified and credible evidence that during judging the pair event at the World Figure Skating Championships 1999 the Alleged Offender has repeatedly communicated, either by words or by specific mimic signs, with another judge.

The Alleged Offender has appealed against the decision of the Council at the ISU Appeals Commission, but his appeal was rejected.

#### V. Law

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.

The duties of a judge are regulated by Rule 430 General f) and No. 2 Special Regulations & Technical Rules Single & Pair Skating and Ice Dance 2016:

*Rule 430*

*General*

*f) Officials must:*

*- not discuss their marks or decisions and marks or decisions of other Officials during the competition with any person other than the Referee...*

*2. Duties of the Judges*

*- mark independently and whilst judging do not converse with another Judge or indicate errors by action or sound.*

The Disciplinary Commission is convinced that the Alleged Offender and Judge No. 2 started an enduring talk during and after the performance of the British couple. Their conversation has disturbed not only the nearby Judge No. 3 but also the following Judges No. 4 till 6. The reply of the Alleged Offender, that he has only communicated with the referee about technical problems about the video replay system and not with the Judge No. 2, is not credible. The Alleged Offender has failed to provide sufficient evidence about these technical problems, and thus, the panel cannot take it into consideration as a mitigating factor.

The Disciplinary Commission remains of the conviction that the testimonies of the Judges No. 3 till 6 are true and credible. The Judges No. 3 till 6 have provided the Complainant with their testimonies. On request of the Disciplinary Commission the witnesses have confirmed their testimonies.

The panel therefore cannot follow the reply of the Alleged Offender and doesn't see any circumstances in the way the Judges No 3 till 6 reported the incident, which could raise doubts as to their credibility.

The Alleged Offender must have learnt from his suspension in 1999 that judges are not permitted to converse with one another. Such improper behavior also causes suspicion among those viewing the performance, that the judge does not mark impartially and independently, but rather arranges the results with the immediate neighbor judge.

The Alleged Offender has also violated his obligation to exemplify the highest standard of honesty, respect, truth, fairness, ethical behavior and sporting attitude under point 4 a) and f) of the ISU Code of Ethics. By talking to his neighboring judge during a large part of the Pairs Free Skating competition, the Alleged Offender failed to show the necessary respect for the skaters, his fellow judges and the public. He showed improper and insincere attitude in the sense of Article 4 f) of the ISU Code of Ethics which constitutes a serious misconduct.

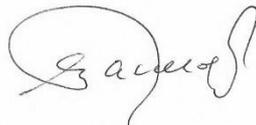
The violation of the duties of judges and of the Code of Ethics is proven and must be sanctioned.

#### V. Decision

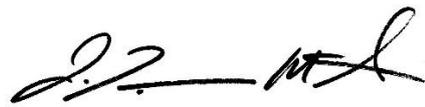
1. Mr. Sviatoslav Babenko has violated the duties of a judge and the ISU Code of Ethics.
2. Mr. Sviatoslav Babenko is suspended in his function as International Referee and ISU Judge for Single and Pair Skating from January 13, 2017 (date of the provisional suspension) till June 30, 2017.
3. All parties shall bear their own costs.



Volker Waldeck



Albert Hazelhoff



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.