



International Ski
Mountaineering
Federation

ISMF International Disciplinary Commission Rules - Approved by ISMF PA 16/06/2018

International Ski Mountaineering Federation

ISMF International Disciplinary
Commission Rules



CONTENTS

<u>Article 1: Foreword</u>	2
<u>Article 2: Obligations of member federations and associations</u>	2
<u>CHAPTER I: PROVISIONS RELATIVE TO THE INTERNATIONAL DISCIPLINARY COMMISSION</u>	2
<u>Article 3: Appointment and obligations of members</u>	2
<u>Article 4: Functioning of the International Disciplinary Commission</u>	3
<u>Article 5: Right to public hearings</u>	3
<u>Article 6: Incompatibility of a mandate</u>	3
<u>Article 7: Confidentiality</u>	3
<u>Article 8: Language used in proceedings and hearings</u>	3
<u>Article 9: Competency of the commission</u>	4
<u>Article 10: Initiation of investigations and instigation of proceedings</u>	4
<u>Article 11: Notice of hearing</u>	4
<u>Article 12: Investigation period</u>	5
<u>Article 13: Course of proceedings</u>	5
<u>Article 14: Postponing a hearing</u>	5
<u>Article 15: The hearing</u>	5
<u>Article 16: Deliberations of the Commission</u>	6
<u>Article 17: Time limit of decision</u>	6
<u>CHAPTER II: APPEAL PROCEDURE BEFORE THE COURT OF ARBITRATION FOR SPORT (CAS)</u>	7
<u>Article 18: Appeal procedure</u>	7
<u>Article 19: Sanctions</u>	8
<u>Article 20: Date of effect of sanctions</u>	8
<u>Article 21: Suspended sanctions</u>	8

Introduction and Foreword

- Article 1: Foreword

Upon adoption by the ISMF Plenary Assembly, these rules, drafted and approved in accordance with articles 12 and 14 of ISMF statutes, abrogate and replace all previous provisions relative to the implementation of disciplinary proceedings by UIAA-ISMC.

These rules were approved by the plenary assembly of ISMF at Zakopane, Poland on 16 June 2018.

These rules do not apply to disciplinary proceedings relative to anti-doping, which are described separately in the ISMF anti-doping rules, in compliance with the requirements of the World Anti-Doping Agency (WADA-AMA).

- Article 2: Obligations of member federations and associations

All member associations and federations must approve and execute their own disciplinary proceedings, to deal with both first instance cases and appeals, and be able to instigate disciplinary proceedings against their athletes and other respondents at both levels.

The disciplinary bodies and proceedings of member associations/federations and ISMF are entirely independent, any sanctions taken by either party may therefore be cumulative.

Disciplinary bodies and proceedings

- CHAPTER I: Provisions relative to the International Disciplinary Commission

- Article 3: Election and obligations of members

ISMF has instituted a disciplinary body which implements disciplinary proceedings against member associations of ISMF, members of member associations of ISMF, ISMF licence holders, and any other person falling under the authority of ISMF's disciplinary rules.

This body is called the *International Disciplinary Commission*.

The International Disciplinary Commission is composed of five members who are chosen on the grounds of their competence in legal and deontological matters.

Members are elected for four years by the Plenary Assembly based on a list proposed by ISMF Council.

The President of the International Disciplinary Commission is elected between members of the same International Disciplinary Commission

One of the members of the ISMF Council must participate in working meetings of the International Disciplinary Commission. He is appointed at the beginning of the term by the President of the ISMF.

In the absence of this member, he is replaced by another member of the ISMF Council appointed by the President of the ISMF. He has no voting rights.

The President of ISMF may not be a member of the International Disciplinary Commission.



Members of the International Disciplinary Commission must not be under contract with ISMF in any way apart from the contracts that commonly apply when joining the federation or as ISMF licence holders.

In the absence of the President, the oldest member present chairs the session.

In the event of a permanent impediment of a member, a new member is elected under the same conditions as his/her predecessor and for the duration of the remaining mandate. In cases of utmost urgency, the ISMF Council appoints a temporary member. This appointment must be approved at the following meeting of the Plenary Assembly.

- Article 4: Functioning of the International Disciplinary Commission

The International Disciplinary Commission meets upon call of its President or the person appointed for this purpose. Deliberations are valid only if at least three of its members are present.

Depending on the circumstances, the post of secretary of the audience is assumed by a person appointed either by the commission upon proposal by the President.

The President has a casting vote in the event of a tie.

- Article 5: Right to public hearings

The hearings of the International Disciplinary Commission are open to the public. Nevertheless, on request of one of the parties or automatically, the President may prohibit public access to the hearing during all or part of the proceedings, in the interest of law and order or when the right to privacy justifies this action.

- Article 6: Incompatibility of a mandate

Members of the International Disciplinary Commission may not sit or take part in hearing if they have any direct or indirect interest in the outcome.

- Article 7: Confidentiality

Members of the International Disciplinary Commission and secretaries of audiences are strictly compelled to confidentiality concerning all facts, acts and information of which they have knowledge in the scope of their office.

Any infringement to these provisions will incur exclusion of the concerned member from the International Disciplinary Commission by decision of the ISMF Council upon proposal by the President of ISMF.

- Article 8: Language used in proceedings and hearings

For each case, the President of the International Disciplinary Commission decides which language is to be used for both proceedings and hearings. Languages will be either French or English, or another language in exceptional circumstances.

Any expenses relevant to translating the documents either provided or requested by the respondent are to be met by the respondent.

If during hearings, the respondent does not speak or understand sufficiently the language used, he/she may be assisted by a person able to translate the debate. Expenses associated with this person are to be met by the respondent.

- Article 9: Competency of the commission

The International Disciplinary Commission is competent in:

- Sanctions for reprehensible acts committed in the scope any of the activities covered by the international federation;
- Sanctions for infringement of the statutes and regulations of ISMF;
- Sanctions against any unsporting behaviour, breaches to the moral and ethics rules of sports or any act liable to undermine the image and interests of ISMF and its bodies;
- Residually, sanctions in case the National Federations have been reticent in pursuing the manifest violations of the ISMF rules;

- Article 10: Initiation of investigations and instigation of proceedings

Disciplinary proceedings are instigated according to the procedure described in this article.

All requests to initiate disciplinary proceedings must be sent to the ISMF Council.

Upon receipt of a request to initiate disciplinary proceedings, the ISMF Council will decide without appeal which action to take in the best interest of ISMF. On this account, the ISMF Council may decide:

- not to initiate disciplinary proceedings;
- to initiate disciplinary proceedings;
- to pass on the case to a member national federation for further action if he/she esteems that the case does not come under the remit of ISMF.

The ISMF Council may also, even in the absence of a request to initiate proceedings, initiate disciplinary proceedings if facts concerning an infringement to disciplinary rules come to its knowledge. It can use this power without any time limit in the best interest of the federation.

For each case, the ISMF Council appoints one or more people in charge of investigations among ISMF licence holders or employees. These individuals must not be members of the International Disciplinary Commission nor have a direct or indirect interest in the outcome of the case.

They are strictly compelled to confidentiality concerning all facts, acts and information of which they have knowledge in the scope of their office. Any infringement to these provisions will be sanctioned by the ISMF Council and will lead to suspension from office for a given period.

They will act on the authority the ISMF Council for all correspondence related to the investigation.

They will conduct the investigation for both incriminating and exculpatory evidence.

- Article 11: Notice of hearing

The ISMF Council will broadcast the Notice of hearing to the International Disciplinary Commission.

The President of the International Disciplinary Commission will choose, among its members, an Instructor to search evidences to charge and discharge.

The Instructor in charge of the investigation notifies in writing the respondent and, if necessary, the person with parental rights, that disciplinary proceedings have been instigated in a letter stating the grievances held against the respondent. This document must be either sent by registered post with notification of receipt, delivered by a bailiff, hand-delivered against receipt or using any other means proving that the respondent has received the document. At the same time, the respondent is informed that he/she can request a copy of the supporting documents of the investigation by addressing a registered letter with notification of receipt to the ISMF representative in charge of the investigation.

- Article 12: Investigation period

In view of supporting evidence, the Instructor will draw up a report as quickly as possible for the International Disciplinary Commission. He/she is not competent to drop a case. When, after consideration, the Instructor deems that the case does not call for a disciplinary hearing, he/she informs the President of the International Disciplinary Commission of this opinion. The President may then decide to drop the case by acquittal or hold a hearing. The ISMF Council is informed immediately if the case is dropped.

- Article 13: Course of proceedings

The respondent, and if necessary the person with parental rights, are summoned in writing to appear before the International Disciplinary Commission by its President, in the conditions defined in article 10, at least two weeks before the date of the hearing.

If disciplinary proceedings are instigated against a legal entity, its statutory representative is summoned in the same conditions.

The respondent cannot be represented by legal counsel alone. He/she may be assisted by one or more people of his/her choice.

The respondent or his/her counsel may consult, at the place of the hearing and before the hearing, the report and the entire case file. He/she may request to be heard by people of his/her choice. For this he/she must communicate the names of these people at least eight days before the meeting of the International Disciplinary Commission. The President of the latter may refuse hearing requests which appear improper.

Expenses related to the travel arrangements of the respondent, his/her counsel and people that he/she has requested for the hearing shall be met by the respondent.

The notification letter mentioned in the first paragraph of this article will inform the respondent of his/her rights as defined in the present article. The letter shall also state the language in which the hearing will take place and the respondent's right to be assisted, at his/her own expense, by a person capable of translating the debates.

The 15 day notification period mentioned in the first paragraph of this article may be reduced to eight days in cases of urgency and on request of the.

Exceptionally, this time limit may be reduced to less than eight days on request of the licence holder or the President of the International Disciplinary Commission in duly justified emergency situations.

In the cases of urgency provided for in the previous two paragraphs, no time limit is set for the respondent's request to be heard by people of his/her choice.

- Article 14: Postponing a hearing

Requests to postpone a hearing will not be granted in the cases of urgency provided for in article 13, except in cases of absolute necessity.

In all other cases, postponement can be requested only once, at least forty-eight hours prior to the hearing, except in cases of absolute necessity. Postponement must not exceed 20 days.

- Article 15: The hearing

During the hearing the Instructor reads his/her report.

The President of the International Disciplinary Commission can call any person whose testimony is deemed useful to give evidence before the Commission. If such persons are to be heard, the President informs the respondent of this before the hearing.

The respondent and, if applicable, his/her counsel are invited to speak last.

- Article 16: Deliberations of the Commission

The deliberations of the International Disciplinary Commission shall take place in private and in secret. The respondent, his/her counsel, any people who give evidence at the hearing are not present during the deliberations. The Commission pronounces a decision and the reason for this decision.

The decision is signed by the President and the secretary of the hearing.

Notice of the decision is given in writing as soon as possible after the hearing in the conditions defined in article 11. The notification letter gives information about appeal procedures and deadlines.

The president of ISMF is informed of the decision. Once the decision is final, the president of the respondent's member federation and any other person whose support is deemed necessary by the International Disciplinary Commission for the proper fulfilment of the decision are also informed.

Subject to the appeal procedure provided for in article 18, the decision of the International Disciplinary Commission is published in the official report of ISMF. The International Disciplinary Commission decides how the decision is published (totality, extracts, summary, anonymously or not).

The published decision must not specify any names or information which might undermine the right to privacy or constitute a breach of medical confidentiality.

- Article 17: Time limit of decision

Except in exceptional circumstances, the International Disciplinary Commission must pronounce its decision within five months after instigation of disciplinary proceedings.

If a hearing is postponed as provided for in article 14, the time limit stated in the previous paragraph is extended by a number of days equal to the postponement.

Proceedings are considered terminated by failure to render a decision within this time limit.

- Article 17 bis: Video and/or conference

If requested by the President of the International Disciplinary Commission, each act of the procedure can be taken by video conference.

By way of example, but not exhaustive, can be taken by video conference these acts:

- Hearings of experts
- Hearing of judges
- Meetings of the International Disciplinary Commission

- Article 17 ter: Decisions of the President of the International Disciplinary Commission

Notwithstanding the provisions of Articles 11-17, the President of the International Disciplinary Commission can decide alone in these cases:

- Questions about the procedure
- Referral decisions
- Emergency measures
- Provisional measures
- Request for recusal



- CHAPTER II: Appeal procedure before the Court of Arbitration for Sport (CAS)

- Article 18: Appeal procedure

A right to further appeal against a decision pronounced by the International Disciplinary Commission can be filed before the Court of Arbitration for Sport in Lausanne, Switzerland, which will deal with subject to the rules of that Court. The deadline for filing appeal is twenty one days after receipt of notice of the decision.

The respondent and the President of ISMF have the right to appeal against a decision of the International Disciplinary Commission.

Disciplinary sanctions

- Article 19: Sanctions

Without prejudice to possible precautionary measures taken by the president of the International Disciplinary Commission in accordance with the general principles of law and rights, sanctions include:

1) penalties such as:

- disqualification,
- relegation,
- cancellation of a record.

2) disciplinary sanctions selected among the following measures:

a) warning;

b) reprimand;

c) ineligibility from events or office: ineligibility from events or office is a sanction that temporarily deprives the person of the right to take part in events or activities either organised or approved by ISMF or to hold one or more specific offices. The rights and duties associated with being an international federation licence holder that are not concerned by the ineligibility decision are upheld unchanged during the duration of ineligibility,

d) financial penalties. Failure to pay these penalties incurs:

- prohibition of the athlete from holding an ISMF licence,
- banning from office for sports executives and administrators.

e) temporary withdrawal of the licence: temporary withdrawal of the licence is a sanction that temporarily deprives the person of all prerogatives associated with the licence. During temporary withdrawal, the party concerned must not take advantage of the benefits of the ISMF licence, hold any ISMF related office, take part in any of the bodies of ISMF or any activities organised by ISMF.

f) banning.

3) Ineligibility for a given period in any of ISMF's executive bodies in the case of serious offences related to sports deontology and/or ethics.

In the event of a first violation and with the respondent's consent (and if necessary that of the parental authority), ineligibility from events may be replaced or complemented by community work over a given period to the advantage of ISMF, a member federation or an international sports association.

All sanctions must be written on the athlete's dossier, freely consultable by the interested people, judges and members of the International Disciplinary Commission.

- Article 20: Date of effect of sanctions

The International Disciplinary Commission sets the date of effect of any sanctions and the mode of enforcement.

- Article 21: Suspended sanctions

In the event of a first violation the sanctions provided for in article 19, other than warnings, reprimands and banning, may be applied as suspended sanctions.



A suspended sanction becomes void if the respondent is not subject to another sanction provided for in article 19 within three years of the decision. Any additional sanction during this period will result in revocation of the suspended sanction regardless of the reasons.

- CHAPTER III: Final Provision

- Article 22: Applicable Law

For any questions not regulated in this commission rules it will apply the Swiss Civil Code.