



13 June 2010

To The Delegates to the 2010 IDSF Annual General Meeting, Vienna/Austria

## ***IDSF Disciplinary Council Annual Report of the Chairman***

### **1. The IDSF DC and its Members**

On 14 June 2009, during the 2009 IDSF Annual General Meeting in Macau/PRC, the Delegates had a chance to reelect, respectively elect the members of the IDSF Disciplinary Council for a regular term of 3 years (i.e. until 2012).

The IDSF Disciplinary Council installed and organized as a third body within the IDSF consists of the following members:

<u>Chairman</u>	<b>Erich STAELDI</b>	Switzerland
<u>Vice Presidents</u>	<b>Marcos DE ROBLES</b> <b>Christoph RUBIEN</b>	Spain Germany
<u>Ordinary Members</u>	<b>Juris ARAJS</b> <b>Karina GEERTS</b> <b>Hermann GOETZ</b> <b>Noel A. LAMAN</b> <b>Antun MARKI</b> <b>Lars WALLIN</b>	Latvia Belgium Austria The Philippines Croatia Sweden

All these members had been elected unanimously by the 2009 AGM which has been a tremendous sign of trust and support, not only for the DC members, but it must also be seen as a support for the institution of the IDSF Disciplinary Council within the IDSF, for which I would like to thank all of you very much.

As chairman of this Council I can assure you that not only myself but also all the individual members of this Council will do their utmost to prove that they deserve this trust.

I would like to thank all the IDSF DC members for their time and their highly appreciated contribution and support in the past year and I am looking forward to continuing this cooperation.



## **IDSF Disciplinary Council**

### **2. The IDSF DC and its Function**

According to Art. 2 of the IDSF Disciplinary Council Code, the IDSF DC is responsible and entitled to render formal decisions on the following issues:

- Breaches of the IDSF Statutes by a Member Federation, athlete or official
- Breaches of IDSF's rules, regulations, policies and principles
- Breaches of ethical principles and rules, as defined and elaborated by the IDSF Presidium and the Ethics Commission
- Acts of harassment (whether sexual or otherwise)
- Violations of the IDSF Anti-Doping Code

The Scope of the IDSF DC does not include issues and circumstances with regard to disputes between IDSF Member Federations and their members and athletes, unless the IDSF Member federation has explicitly decided to designate the IDSF DC as instance of appeal for national matters and the IDSF DC has agreed to take on this role. This has not been the case so far.

### **3. The IDSF DC and its Cases**

An important part of this Report is also to outline and provide some information on the cases the IDSF Disciplinary Council had or is about to deal with.

As in the former years, all cases submitted to the IDSF DC had been linked to violations of the IDSF Anti-Doping Code, I am very pleased being able to report that in the past year there had been **no new cases** to be decided by the IDSF DC on Anti-Doping Code violations, despite numerous Anti-Doping controls being conducted in the past year.

As outlined in the IDSF Anti-Doping Commission 2010 Annual Report submitted by Mr. **Ko de Mooy**, the IDSF Anti-Doping Director, there had been a number of "Formal Warnings" which had to be issued, however, none of this "Formal Warnings" had been challenged via an Appeal to the IDSF DC by the affected athletes.

This shows that the process we had put in place in 2009 within the IDSF, having the IDSF Anti-Doping Director issuing "Formal Warnings", has been a very good instrument to increase the effectiveness in these cases



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Although there had been no new cases in the past year, I would like to draw your attention on two cases, which I had already mentioned in my last report.

### 3.1 Anti-Doping Rule violation by Boris Maltsev – Zarina Shamsutdinova

The responsible Chamber in Charge rendered a Formal Decision on 3 June 2009.

<u>Chamber in Charge:</u>	Christoph Rubien, Chamber Chairman	Germany
	Antun Marki	Croatia
	Lars Wallin	Sweden

Let me shortly repeat the facts of the case: On the occasion of the IDSF Asian Championships on 7 December 2008 an anti-doping control was performed by the Anti-Doping Office of Chinese Taipei Olympic Committee and according to the rules of the IDSF Anti-Doping Code. The winning couple from Kazakhstan, **Boris Maltsev/Zarina Shamsutdinova**, had been selected for a control and thereafter refused to submit to Doping Control and to provide a urine sample as requested.

Following the respective official report to the IDSF Anti-Doping Director and a provisional suspension, the IDSF Disciplinary Council had decided the case by finding

- the athletes **guilty of a violation of the IDSF Anti-Doping Code** and
- declared the couple **ineligible for all competitions for a period of one year**, starting from 7 December 2008.
- in addition the couple had **to pay CHF 200.00** as the minimum costs for the proceedings to the IDSF.

I am referring to my last year's report with regard to the considerations the Chamber in Charge made in this case. Furthermore the full text of the "Formal Decision" is available on the IDSF Disciplinary Council's website.

At the time of the AGM 2009 in Macau, the case had not yet entered into its final status due to the fact that the time period for an appeal with the Court of Arbitration for Sport ("CAS") in Lausanne had not yet passed.

On **8 July 2009**, the World Anti-Doping Agency ("WADA") filed an Appeal with "CAS" requesting:

- that the decision of the IDSF DC dated 3 June 2009 is set aside;
- that the athletes are sanctioned with **two years** ineligibility
- that all obtained results of the couple as from 7 December 2008 through the commencement of the ineligibility shall be disqualified
- that WADA is granted an award for the costs of the Appeal



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Only on **3 March 2010**, the Court of Arbitration has officially communicated its Arbitral Award to the parties, by which it has decided in favor of WADA's Appeal and against the IDSF Disciplinary Council and the couple.

As a consequence:

- The affected couple Maltsev/Shamsutdinova has been declared ineligible (suspended) from any competition for **a period of two years**, ending on 6 December 2010.
- IDSF has been ordered to pay an amount of CHF 1'500.00 as a contribution towards WADA's legal fees and other expenses incurred in connection with the arbitration proceedings.

I would like to emphasize some aspects to Court of Arbitration has raised in its ruling, which I believe **are noteworthy to all IDSF Member bodies and should absolutely be further communicated to their athletes:**

- **Whether or not an athlete is signing a "Form of Consent" upon entering an IDSF competition or not, does not make any difference, whether or not the athlete is bound by and needs to follow the IDSF Anti-Doping Code and to submit to doping control tests. Formalities cannot be used in order to circumvent the existence and applicability of the anti-doping rules.**
- **The fact that an IDSF member body might not have complied with its duties to inform its athletes about the applicable anti-doping rules, may not be used by the affected athlete to argue "no fault or negligence" and to have its sanction reduced. In other words, any couple entering IDSF competition is responsible itself to get familiar with and follow the respective anti-doping rules, it cannot just simply rely on information provided by its federation.**

What are the consequences for the IDSF Disciplinary Council in the future?

The IDSF DC, who has tried hard in its former decisions to take any potential mitigating factor into consideration in order to reduce the respective sanction for the benefit of the athlete, will need to change its practice in the future and accept that there is very little freedom to interpret the rules of the World Anti-Doping Code and that there are very few and exceptional circumstances, where the defined sanctions can be reduced.

So therefore, please inform your couples once more that violations of the IDSF Anti-Doping Code will lead to serious and severe sanctions and that there are hardly any "excuses" which can be accepted and taken into consideration in the proceedings before the IDSF Disciplinary Council in order to reduce the outlined and pre-defined sanctions.



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### 3.2 Appeal by the “Malaysian Dancesport Berhad” against revocation of IDSF Membership by the IDSF Presidium

Following a Formal Appeal against the IDSF Presidium’s decision to terminate the Membership of the Malaysian Dancesport Berhad with the International DanceSport Federation, alleging that such decision had been taken by violating the IDSF Statutes (in particular Art. 5, para 8), I have appointed and communicated the following

<u>Chamber in Charge:</u>	Erich Staeldi, Chamber Chairman	Switzerland
	Karina Geerts	Belgium
	Antun Marki	Croatia

After the Appeal Statement by the MDSB and by applying the proceedings defined in the IDSF Disciplinary Council Code, the IDSF Presidium has filed its “Statement of Defense”, followed by a formal “Reply” by the MDSB and a final “Rejoinder” by the IDSF.

Having received the respective filings, the Chamber in Charge had been analyzing the parties’ inputs as well as the applicable legal framework, especially the wording of the IDSF Statutes and the applicable articles of the Swiss Civil Code (Art. 60 ff.), which altogether showed that the situation has been rather complex and that it was not easy to find a fair decision for the IDSF DC.

Before the IDSF Disciplinary Council could come to a “Formal Decision”, the IDSF Presidium decided to apply Article 5 para 8 of the IDSF Statutes and to submit the respective case to the Annual General Meeting 2010 for a final decision.

Article 5 para 8 of the IDSF Statutes reads as follows: “A Member may be expelled by a two-thirds majority vote of the General Meeting. A Motion to expel a Member is not in Order unless the proposer has given the Member at least one month’s notice of the proposer’s motion to expel, by registered letter or facsimile transmission”.

As the IDSF General Meeting is the highest decision making body within the IDSF, the Chamber in Charge of the IDSF Disciplinary Council has taken the view that it does not want to render a formal decision on this case as it would now be interfering with the rights and powers of the IDSF General Meeting.

As Chairman of the IDSF Disciplinary Council I would however like to emphasize that I strongly support this way of proceeding as I am of the clear opinion that the General Meeting should decide on such an important matter.

By issuing a “Procedural Decision” on 7 June 2010, the Chamber in Charge has closed its pending case by stating that it will **not take a Formal Decision on the Appeal, but will leave the case to be decided by the IDSF General Meeting.**



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Both parties, the IDSF Presidium as well as the MDSB, will have the chance to address the IDSF General Meeting and present its individual side of the case, based upon which the AGM will be taking its decision, by following the IDSF Statutes.

As this is a pending case and will be heard and decided by the AGM later on this day, I would not want to go into further details with regard to the case in order to avoid any potential influence on the case and allow the AGM to approach the case unbiased.

### **4. The IDSF DC and its Thanks**

Let me finish my report by thanking the members of the **IDSF Presidium** for their continuous support, and especially for allowing the IDSF Disciplinary Council to really live its independency as foreseen by the IDSF Statutes and for not trying to take any influence in the decisions to be taken by the DC.

Once again I would like to thank **my colleagues** for their contribution and cooperation as well as Mr. **Ko de Mooy**, the IDSF Anti-Doping Director for being such a good partner and who is one of the reasons, why the IDSF Disciplinary Council does not need to get involved in too many Anti-Doping cases.

The gratitude of all of us in the IDSF Disciplinary Council finally shall be expressed to the **IDSF Delegates** and the **IDSF Members** for the trust and the honor that has been given to us being able to serve on this Council.

Submitted with respect on behalf of the

### **IDSF Disciplinary Council**



Erich Staeldi, Chairman