

**BEFORE THE DISCIPLINARY COMMISSION
OF THE GYMNASTICS ETHICS FOUNDATION**

IN THE MATTER OF

**IVAN KULIAK (RUS), GYMNAST
VALENTINA RODIONENKO (RUS), HEAD OF DELEGATION
IGOR KALBUSHKIN (RUS), COACH**

ALL REPRESENTED BY

**VLADIMIR BONDARENKO (bondarenko.attorney@gmail.com)
Attorney registration number in the City of Moscow 77/8572
and
Alexei Panich (avattorney@n-consulting.ru)
Attorney registration number in the City of Moscow 77/4377**

The Respondents

Before a Disciplinary Commission Panel of the Gymnastics Ethics Foundation

Consisting of:

Mr Matthias Scherer (President), Mrs Laurence Burger, Mr Maximilien Lehnen

DECISION OF 17.5.2022

A. THE INCIDENT AT THE ORIGIN OF THE DISCIPLINARY PROCEEDINGS

1. On 24 February 2022, Russia invaded Ukraine. It was reported that certain Russian army vehicles were marked with a painted “Z” to distinguish them from vehicles used by the Ukrainian army.
2. Between 2 to 5 March 2022 the FIG Apparatus World Cup took place in Doha (QAT). Ukrainian and Russian delegates attended the event. Ivan Kuliak, Valentina Rodionenko and Igor Kalabushkin (Respondents) were part of the Russian delegation. Mr Kuliak is a Russian artistic gymnastic athlete. He is the 2019 Russian Junior all-around and floor champion and the horizontal bar silver medalist. Mr. Kalabushkin was an accompanying coach of the men’s team at the 2022 Doha FIG Apparatus World Cup. Ms Rodionenko was the head of the Russian delegation.
3. Ivan Kuliak qualified for the final in Parallel Bars and ranked third, winning a bronze medal and a prize money of CHF 500.- paid out in US\$.
4. During his exercise on Parallel Bars on 5 March 2022, as well as at the medal award ceremony, he wore a leotard with an insignia showing a “Z” (Exh. 1 to the Request to open disciplinary proceedings dated 9 March 2022):



5. The incident was widely reported in the international press and prompted the Fédération Internationale de Gymnastique (“**FIG**”) by letter dated 9 March 2022 to request the Gymnastics Ethics Foundation (“**GEF**”) to open disciplinary proceedings against the Respondents (“**Request**”).

B. SUMMARY OF THE PROCEEDINGS

6. GEF notified the Request to the Respondents on 9 March 2022 and informed them that a Disciplinary Commission Panel (“**Panel**”) has been constituted pursuant to Article 5.4 of the GEF Operational Rules and the FIG Code of Discipline to deal with the case.
7. On 11 March 2022, the Disciplinary Commission Panel invited the Respondent to submit a written statement (by email) on the Request by 17 March 2022. The Respondents, FIG and the Russian Gymnastics Federation were invited to attend a video hearing at a date to be determined.
8. On 14 March 2022, the Russian Gymnastics Federation on behalf of the Respondents proposed dates for the hearing and requested an extension of time for the filing of comments on the Request until 28 March 2022.
9. On 28 March 2022, the Russian Gymnastics Federation informed the Panel that the Respondents had appointed Attorney Vladimir Bondarenko to represent them in connection with the disciplinary proceedings.
10. Further, the Russian Gymnastics Federation advised that it would be represented at the hearing by Secretary General Mr Vsevolod Salomatov.
11. On 28 March 2022, Mr Bondarenko filed the Respondent’s comments to the Request (“**Reply**”) with exhibits, including witness statements and powers of attorney by the Respondents.
12. On 29 March 2022, the Panel acknowledged receipt of the Reply and invited the FIG to comment by 30 March 2022 noon. No comments were received.
13. On 30 March 2022, Mr Bondarenko informed the Panel that Respondents were also represented by Mr Alexei Panich. Powers of Attorney were attached to his email.
14. On 31 March 2022, the Secretary General of FIG wrote that FIG was unable to make any comment on the Reply (including 20 related exhibits) within the deadline. FIG, to the extent necessary, reserved the right of FIG to request a new (longer) deadline to reply in writing to any factual statements made by the counterparties in their Reply.
15. Respondents’ counsel objected to the reservation.
16. The Panel informed the Parties that this issue would be discussed at the hearing on the same day.
17. The hearing took place on 31 March 2022, 14h00 – 16h00. The attendees were:

GEF Disciplinary Commission Panel

Mr Matthias Scherer, President
Ms Laurence Burger, Member
Mr Maximilien Lehnen, Member

Panel ad-hoc Secretary

Ms Martina Coxova, GEF

Gymnastics Ethics Foundation

Mr Alex McLin, Director
Ms Molly Oldridge, Intern

Complainant

FIG represented by Mr Nicolas Buompane, Secretary General

Respondents

Mr Ivan Kuliak
Ms Valentina Rodionenko
Mr Igor Kalabushkin (all three were present in one conference room)

Legal representatives

Mr Vladimir Bondarenko
Mr Alexei Panich

Interpreter

Mr Alexander Shishkin

Russian Gymnastics Federation

Mr Vsevolod Salomatov, Secretary General

18. At the hearing, Respondents' counsel and Mr Buompane addressed the Panel. They set out their respective positions.
19. The Panel was able to ask questions to the three Respondents.
20. At the end of the hearing, Mr McLin brought certain recent events to the attendees' attention:
 - i. GEF had received a number of complaints from members of the public regarding Mr Kuliak's acts at the Doha event;
 - ii. photographs existed of Mr Kuliak and Russian Olympians attending a pro-war rally in Moscow;
 - iii. the International Chess Federation (FIDE) had to deal with a similar situation following public statements by Russian grandmasters Sergey Karjakin and Sergei

Shipov. In a decision rendered on 21 March 2022 the FIDE Ethics and Disciplinary Commission had found Sergey Karjakin guilty of violations of the FIDE Code of Ethics.

21. With regard to Mr Kuliak's statement at the hearing that the letter Z was a referral to Zasport, a sport apparel company Mr McLin mentioned a set of rules prohibiting provocative advertising.
22. Mr McLin communicated the FIDE decision¹ and photographs of the rally to the Parties and the Panel on 1 April 2022.
23. Also on 1 April 2022 the Panel invited the Parties to address a number of questions and issues as follows:
 - *As a number of provisions and rules have been mentioned at the hearing and the parties' submissions: Precise legal basis for the charges/defenses and the potential violation of the FIG Rules on Advertising including references to pertinent provisions of the FIG Code of Conduct and all other regulations.*
 - *Reference to any rules that govern the use of logo or symbols at FIG competitions for purposes other than advertising.*
 - *On what bases coaches/delegation leader are responsible for conduct of gymnasts regardless of having knowledge of that conduct or plans (In the event that the Panel finds that Respondents 2 and 3 had no such knowledge).*
 - *FIG Technical Regulations (2022) Arts. 7.12.2 and 3: Were these oaths taken by the Respondents in Doha? If they were not taken, could the Respondents be bound by them?*
 - *Comments on the rally in Moscow in presence of Russian athletes including Mr Kuliak.*
 - *Evidence that the letter Z is used (or not used) by the Zasport apparel manufacturer.*
 - *Comments on the 21 March 2022 decision in a matter of the International Chess Federation.*
 - *Whether anyone present in Doha, including the Ukrainian delegation protested against the use of the letter Z by Mr Kuliak and if so when?*
 - *For the event that the Panel finds that sanctions should be imposed: Whether there are mitigating circumstances, including whether Mr Kuliak has made a public apology for any offence that the use of the letter Z might have caused.*
24. The Parties filed their comments on 8 April 2022 and were afforded an opportunity to comment on the other Party's submission.

¹ <https://www.fide.com/docs/decisions-resolutions/FIDE%20EDC%20Decision%20case%202%202022.pdf>

25. FIG advised the Panel on 14 April 2022 that it did not avail itself of the opportunity to comment further and referred the Panel to FIG's previous submissions. The Respondents filed further comments on 21 April 2022.

C. FIG'S POSITION (SUMMARY) AND THE MEASURES REQUESTED FIG

26. In the Request FIG asserts that wearing the Russian symbol of war "Z" which can be seen on the Russian tanks and army vehicles invading the Ukraine is a provocation, an offense and insult against all participants of the event, especially the Ukrainian gymnasts but also the FIG and its representatives.

27. With the above-mentioned action, Mr Ivan Kuliak and his delegation leader and the coach who either proposed, suggested, allowed, or not prevented him from doing so, violated the following rules:

a) **FIG Code of Discipline, Chapter II, Article 3**

- Damage the image of gymnastics, the FIG or members through his/her behaviour, his/her words or his/her deeds;
- Demonstrate anti-sport behaviour; (*against the Ukrainian gymnasts*)
- Behave in an offensive way towards the FIG members, gymnasts or FIG officials.

b) **FIG Statutes, Article 2.1**

- To respect the Olympic Charter and the IOC Code of Ethics

c) **FIG Code of Ethics**

The FIG Code of Ethics (and the FIG Statutes) include the IOC Code of Ethics and thus, the behaviour of Mr Ivan Kuliak, Ms Valentina Radionenko and Mr Igor Kalabushkin infringe Point A, the Fundamental Principles, Article 1 of the IOC Code of Ethics:

"Respect for the universal fundamental ethical principles is the foundation of Olympism. These include:

1.1. Respect for the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play;

1.2. Respect of the principle of the universality and political neutrality of the Olympic Movement;"

d) **FIG Technical Regulations**

With their behaviour, Ivan Kuliak infringed the Athletes' Oath as provided for under Art. 7.12.2 and Igor Kalabuskin the Coaches' Oath under Art. 7.12.3 of the FIG Technical Regulations.

e) FIG Code of Conduct

In its submission of 8 April 2022, FIG refers to:

- Part 2.1 d) *“All forms of non-accidental violence which include sexual harassment, sexual abuse, physical abuse, psychological abuse and neglect will not be tolerated and will be disclosed.”*

- Part 3 a) *“To maintain and enhance the dignity and self-esteem of others by demonstrating respect for others, at all times, regardless of race, colour, gender, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth, disability, physical attributes and athletic ability or other status.”*

“To refrain from any behaviour and language that constitutes harassment, or physical abuse, is offensive, racist, sexist, unwanted, degrading, or malicious.”

28. FIG requests the Panel to:

- a) study and investigate the case and request whatever additional documents, material and evidence which is deemed necessary in its opinion to come to a fair assessment;
- b) to confirm, that Ivan Kuliak, Valentina Radionenko and Igor Kalabushkin have infringed the rules or several of these rules as listed under Point 11;
- c) to sanction the gymnast Ivan Kuliak by:
 - disqualifying him from the competition
 - returning the bronze medal
 - returning the prize money of CHF 500.- or the equivalent in US\$ - not allowing him to participate in any FIG sanctioned event or competition organised by an affiliated FIG member federation for at least one year; or any other sanction deemed appropriate by the Disciplinary Commission;
- d) to sanction the head of delegation Valentina Radionenko and the coach Igor Kalabushkin by:
 - not allowing them to participate in any FIG sanctioned event or competition organised by an affiliated FIG member federation for at least one year;
 - deciding a financial fine in the amount of CHF 500.- each or higher as deemed appropriate by the Disciplinary Commission;
 - decide that the costs of this disciplinary procedure shall be borne by Ivan Kuliak, Valentina Radionenko and Igor Kalabushkin (1/3rd each);
 - that the decision of the Disciplinary Commission be published.

D. THE POSITION OF THE RESPONDENTS (SUMMARY)

29. Mr Kuliak does not deny that he has stitched a white Z on his apparel. In his witness statement (which he confirmed at the hearing) he explained that he felt treated unjustly at the Doha

event by a FIG official, Mr Mickevic. The latter had requested the removal of the ROC emblem. This request was in Mr Kuliak's view not justified because the Russian national colors were not banned by the FIG Executive Committee Decision dated 26 February 2022 as opposed to the Russian national flag. Mr Kuliak then decided to tape the letter Z with band aid on the ROC emblem. He used white patch on the white cloth as the Z was not meant to be noticeable.

30. Mr Kuliak stated (First Witness Statement, para. 15) that the letter Z “means “Za sport” (For Sports), “Za sportivnyuyu pobedu” [For the Sporting Victory] and is associated with Russia. I got this association, in particular, because the official manufacturer of Russian sports uniform is ZASPORT, a well-known company in Russia (<https://zasport.com/>).” Mr Kuliak added that he “did not mean any harm and did not mean to offend or insult anyone with this sign.”
31. In their joint submission the Respondents state that Mr Kuliak did not offer an apology because he strongly denies that his behavior meant any disrespect or affront towards anybody. On the contrary, he perceived that he was prejudiced by an unjustified request of Mr Mickevic to cover the ROC emblem. Mr Kuliak reacted spontaneously in the heat of competition.
32. With regard to Mr Kalabushkin or Ms Rodionenko, the Respondents point out that according to Article 18 of the FIG Disciplinary Code, FIG has the burden of establishing that an infringement of FIG regulations has occurred. FIG's claims against Mr Kalabushkin or Ms Rodionenko are groundless, in their view, since FIG has not provided any evidence that Mr Kalabushkin or Ms Rodionenko:
 - a) suggested that the Athlete affixed the "Z" sign to his uniform;
 - b) knew that the Athlete had the "Z" sign affixed to his uniform;
 - c) had the opportunity to prevent the Athlete from attaching the "Z" sign to his uniform;
 - d) was obliged to prevent the Athlete from attaching the "Z" sign to his uniform.
33. **The Respondents request the Panel to:**
 - dismiss FIG's case in its entirety or at least limit the sanction to returning the bronze medal and/or monetary sanction;
 - rule that the proceedings' costs shall be borne by FIG;
 - order FIG to reimburse the Athlete's costs incurred as a result of these proceedings;
 - rule that FIG's costs shall be borne by FIG;
 - keep the decision of the Panel confidential or publish only the operative part of the decision.

E. DISCUSSION

I. MR KULIAK

i. Mr Kuliak's intentions

34. It is uncontested and confirmed by video footage and photographs that Ivan Kuliak wore a Z stitched with band aid to his uniform during his performance and at the medal ceremony. (see the video recording and photo attached to the Request, Exhibits 1 and 2).
35. Mr Kuliak testifies that (First Witness Statement, para. 15):

“In order to underline my belonging to Russia in some way, I decided to tape the Russian Olympic Committee emblem with a figure in the shape of a letter Z, which, in my opinion, means “Za sport” [For Sports], “Za sportivnuyu pobedu” [For the Sporting Victory] and is associated with Russia. I got this association, in particular, because the official manufacturer of Russian sports uniforms is ZASPORT, a well-known company in Russia (<https://zasport.com/>)”
36. The Panel is not persuaded by Mr Kuliak's explanations.
37. The Panel accepts that Mr Kuliak's was a spur of the moment decision, an act of defiance. Whether he meant to defy a purportedly unrightful order of a FIG official and whether the order was in fact unrightful is not relevant.
38. What is relevant in these proceedings is the fact that he wore a Z on his uniform.
39. As to the alleged offensive conduct of Ukrainian nationals at the competition, this is not established, nor is it established that it played a role in Mr Kuliak's mind. According to his testimony he meant to react to instructions received from FIG, not to any offense from Ukrainian nationals.
40. The argument that the Z was not meant to be noticed because it is white patch on the white cloth is disingenuous. According to his own testimony Mr Kulak wanted the Z to be noticed. It was meant to be a statement.
41. That letter Z was not an innocuous one in March 2022. It had been painted on Russian military vehicles in the days before and during Russia's attack on Ukraine. The Panel considers that Mr Kuliak knew that it has been used and chose it because it had become a symbol. The Panel does not find Mr Kuliak's explanations credible that the letter Z he taped to his uniform stood for “Za pobedy” (for victory) or a sports apparel company.
42. First of all, there is no evidence that the ZASPORT brand uses the Z in its logo or otherwise. There is evidence to the contrary. The Z is not shown on the promotional material filed by the Parties (Exh. 13 of Respondents' Answer; Appendix 5 of FIG's submission of 8 April).
43. There is indeed an admission that the Z was not used by ZASPORT brand. Respondents themselves state in their Submission of 21 April 2022 (point 6) that Z is not the logo of the

ZASPORT brand (“*Mr Kuliak was not promoting or advertising ZASPORT at the Doha competition. "Z" is not the logo of the ZASPORT brand. However, Respondent 1 associated Russia with the letter "Z" because, amongst other reasons, ZASPORT is the official clothing supplier of the Russian national gymnastics team.*”).

44. Thus, Mr Kuliak’s explanation is self-defeating. If Z is not the logo of the ZASPORT brand no one would make the connection to Russia by association of the Z with ZASPORT.
45. Moreover, such association would have required knowledge of the ZASPORT brand itself.
46. Mr Kuliak also admitted that the brand is well known in Russia (First Witness Statement, para. 15) and hence not well known outside Russia. In other words, it was extremely unlikely that it could be associated with Russia by anyone outside Russia even if (quod non) Z were the logo of ZASPORT.
47. As creating a link with Russia was Mr Kuliak’s declared goal, the Z must necessarily have had another meaning in his mind. Indeed, it must have been clear to Mr Kuliak that whatever associations *might* be possible, the most likely one (and in the Panel’s view intended by him) was that with the ongoing military action in the Ukraine.
48. It is established to the Panel’s satisfaction that Mr Kuliak knew what the Z stood for in these days and circumstances, namely that it was reminiscent of Russia’s invasion of neighbouring Ukraine. Showing support for an act of aggression at a sport event is improper and offensive.
49. Using a competition as a platform for such support is all the less acceptable. To use the Respondents’ own words when referring to the Ukrainian athletes: “*Despite the fact that their emotional state is well understandable given the ongoing events in their home country, international competitions are not the place to express their feelings*”. (Answer, para. 23). If Respondents’ standard is to apply to others, it must apply even more to themselves.
50. In the context prevailing in Doha, Mr Kulak’s act was a political statement, which is specifically prohibited by the FIG Regulations (see below).

ii. The decision rendered on 21 March 2022 by the FIDE Ethics and Disciplinary Commission

51. The Parties were invited to comment on the decision of the International Chess Federation (FIDE) dated 21 March 2022 sanctioning Russian grandmaster Sergey Karjakin following public statements. FIG did not comment. The Respondents note that Mr Sergei Shipov was not sanctioned at all and Mr Karjakin was sanctioned with a worldwide ban for 6 months, whereas FIG seeks to ban Mr Kuliak, a much younger athlete, for a year (Submission of 21 April 2022, para. 7).
52. Neither Party argues that the Panel is bound by the FIDE decision or that it should serve as a precedent. Indeed, as Respondents rightly point out, the facts of the case are materially different. Each case is different, resting on different facts, involving different federations and their own discrete body of rules. In other words, the sanctions imposed or not imposed on athletes by other federations are irrelevant for the assessment of Mr Kuliak’s case.

53. There is also one noteworthy difference between the chess players' case and Mr Kuliak's: a central element in the FIDE proceedings was the freedom of speech and how it interacted with rules of conduct of the federation. In the FIDE decision (para. 8.2) "*The core issue in this case deals with the limits of freedom of opinion and expression and how these concepts interact with the FIDE Charter and the FIDE Code of Ethics.*"
54. This aspect plays no role in the present case and was not raised by the Respondents. Mr Kuliak does not invoke or shield behind the freedom of speech or expression. Consequently, this aspect is not considered by the Panel.

iii. Mitigating or aggravating circumstances alleged by the Parties

55. Participation at a rally in Moscow: Mr Kuliak confirms that he attended an event on 18 March 2022 in the Luzhniki Stadium which he believed to be a regular annual concert to celebrate the Crimea's incorporation into Russia (Second Witness Statement dated 8 April 2022). Mr Putin, the President of Russia, attended the event and gave a speech (this occurred after Mr Kuliak left, according to his testimony).
56. FIG considers that this participation confirms that Mr Kuliak knew of the significance of the Z sign (Submission of 8 April 2022, point 5).
57. The rally post-dates the Doha competition. The Panel does not consider that the rally or Mr Kuliak's attendance can be relied upon to determine Mr Kuliak's knowledge or intentions at the Doha event, or the effect his acts had on the public. Also, while other athletes did sport the Z sign on this occasion, there is no evidence that Mr Kuliak did so too.
58. In any event, it might not be fair to judge Mr Kuliak for mere participation at a rally where athletes might have felt pressured by the organizers to attend. That is indeed what Mr Kuliak affirms in his second Witness Statement.
59. It is equally irrelevant that no one appears to have reacted to Mr Kuliak's apparel at the competition in Doha itself. Presumably no one had seen the letter Z on Mr Kuliak's chest. While the reactions were delayed, they remained grounded on the act itself, or rather a recording of the act (photo and video).
60. Repentance: While expressions of regrets and apologies would also be post-facto, they could be considered as mitigating circumstances. At the hearing the Panel asked Mr Kulak directly whether he would envisage making an apology for his act. Mr Kulak said that he could.
61. In its post-hearing questions to the Parties, the Panel inquired whether Mr Kulak had made an apology. In his second witness statement of 8 April 2022, Mr Kulak did not address this point at all. The only point he elaborates on is how he happened to attend the rally in the Luzhniki Stadium.
62. In the submission with which the witness statement was filed, Mr Kuliak's counsel confirmed that Mr Kuliak was unrepentant: "*Mr Kuliak did not offer an apology because he strongly denies that his behavior meant any disrespect or affront towards anybody. On the contrary,*

he perceived that he was prejudiced by an unjustified request of Mr Mickevic to cover the ROC emblem. Mr Kuliak reacted spontaneously in the heat of competition.”

63. The submission adds that “*We also note that the Panel may order Respondent 1 to apologize for his/her behavior.*”² The footnote refers to another matter that had been submitted to GEF.
64. The reference is misguided. In that case, the Appeal Tribunal of the Gymnastics Ethics Foundation (GEF) ordered the Hungarian Gymnastics Federation to apologize to a gymnast for the conduct of the head coach for the team of Women’s Artistic Gymnastics. In other words, the apology was a sanction. Mr Kulak’s apology, on the other hand, would have been voluntary, not ordered, and could have been a mitigating circumstance.
65. *Mr Kuliak’s age:* Respondents have suggested that Mr Kuliak’s age – he was born on 28 February 2002 - should be considered as a mitigating circumstance. He is a “*young, immature and inexperienced athlete*” (Answer, para. 47). He is also a first-time offender (Submission of 8 April 2022, point 9).
66. Mr Kuliak is young, but not too young to face the consequences of his acts. Also, Mr Kuliak is a leading gymnast in his country and internationally. By other athletes he is perceived as a role model and his behaviour should reflect this. If at all, this circumstance would be aggravating rather than mitigating.
67. *Truthfulness:* Absence of truthfulness is an aggravating circumstance. The Panel considers that Mr Kuliak’s explanations about the meaning he attributed to the letter Z were untruthful.
68. It is for FIG to identify the rules breached by the Respondents. In light of the above, the Panel finds that Mr Kuliak’s conduct violates the following rules relied upon by FIG:

a) **FIG Code of Discipline, Chapter II, Article 3**

- Damage the image of gymnastics, the FIG or members through his/her behaviour, his/her words or his/her deeds;
- Demonstrate anti-sport behaviour;
- Behave in an offensive way towards the FIG members, gymnasts or FIG officials.

b) **FIG Statutes Article 2.1**

FIG does not allege a self-standing violation of the FIG Statutes but an indirect violation since they include a reference to the Olympic Charter and the IOC Code of Ethics.

c) **FIG Code of Ethics**

² <https://www.gymnastics.sport/site/news/displaynews.php?idNews=3211>

The FIG Code of Ethics include the IOC Code of Ethics (Preamble). Mr Kuliak infringed Point A “Fundamental Principles”, Article 1 of the IOC Code of Ethics:

”Respect for the universal fundamental ethical principles is the foundation of Olympism. These include:

1.1. Respect for the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play;

1.2. Respect of the principle of the universality and political neutrality of the Olympic Movement;”

d) FIG Technical Regulations

FIG states that with his behaviour, Ivan Kuliak has infringed the Athletes’ Oath as provided for under FIG Technical Regulations Art. 7.12.2:

“Art. 7.12.2 The Athletes’ Oath

The following text shall be read by a gymnast during the opening ceremony of the World Championships and other important international events. This Athletes’ Oath must follow the reading of the “Judges’ Oath”. (Art. 7.12.1) “In the name of all gymnasts I promise that we shall take part in these World Championships, respecting and abiding by the rules which govern them, committing ourselves to a sport without doping and without drugs, in the true spirit of sportsmanship, for the glory of sport and the honour of the gymnasts.”

FIG accepts that Mr Kuliak has not taken an oath at the Doha competition (Submission of 8 April 2022). However, according to FIG Mr Kuliak is bound by the oath as part of his licence where he undertakes to comply with all relevant international Olympic Committee and FIG Rules, Regulations and their amendments as available on the FIG website (Exh. 7 to Respondents’ submission of 8 April 2022, and Appendix 4 to FIG’s submission of 8 April 2022).

It has not been contested that Mr Kuliak is duly licensed and that the license contains a broad reference to applicable FIG and IOC regulations. However, the question is not whether Mr Kuliak is bound by such regulations but which regulation he has violated specifically. Likewise, the Panel considers the oath cannot be violated in an abstract manner. It is for FIG to establish what rule specifically the athlete breached (irrespective of whether the oath was taken, or not, or applies by operation of the licence.)

e) FIG Code of Conduct

The Panel accepts that Mr Kuliak violated the following provisions of the FIG Code of Conduct relied upon by the FIG

- Part 2.1 d) *“All forms of non-accidental violence which include sexual harassment, sexual abuse, physical abuse, psychological abuse and neglect will not be tolerated and will be disclosed.”*

- Part 3 a) *“To maintain and enhance the dignity and self-esteem of others by demonstrating respect for others, at all times, regardless of race, colour, gender,*

sexual orientation, language, religion, political or other opinion, national or social origin, property, birth, disability, physical attributes and athletic ability or other status.”

“To refrain from any behaviour and language that constitutes harassment, or physical abuse, is offensive, racist, sexist, unwanted, degrading, or malicious.”

f) FIG Rules Competition Clothing and Advertising

69. The Panel finds that the Z sign was not meant to be and not seen as advertising. Moreover, Mr Kuliak was not pursuing a commercial interest as Respondents rightly point out (Submission of 21 April 2022).
70. According to Article 1.1 of the FIG Rules for Advertising and Publicity, "*advertising is every type of type of optical, acoustical and audio-visual presentation which can be perceived with the goal of drawing attention and thus pursuing commercial interest*" (emphasis added). Mr Kuliak was not pursuing any commercial interest when wearing "Z" on his uniform and could not have been perceived to do so.
71. Consequently, the FIG Rules for Advertising and Publicity are not applicable.

II. VALENTINA RODIONENKO AND IGOR KALABUSHKIN

72. Valentina Rodionenko and Igor Kalabushkin testify that they had not asked or encouraged Ivan Kuliak to wear the Z sign, and indeed were not even aware that he did. There is no contrary proof.
73. A decisive element in the Panel’s view is that there is no proof of the Z sign having been discovered by *anyone* during the Doha event. Rather the reactions were triggered after the event by photographs showing Mr Kuliak’s leotard close up. This is confirmed by FIG in its submission of 8 April 2022, point 8. Indeed, had it been spotted by FIG officials or member of the Ukrainian delegation immediate and forceful protests would (and should) have ensued. The absence of such contemporaneous protests lends credence to Valentina Rodionenko’s and Igor Kalabushkin’s position that they had not seen the sign.
74. Remains the question whether Valentina Rodionenko and Igor Kalabushkin can be faulted for failure to exercise a duty to supervise Mr Kuliak. Is there a liability without fault or knowledge and what would be the basis for such liability? This was a specific question on which the Panel invited comments from both Parties.
75. The Respondents deny that there is such an overarching duty and point out that FIG has not referred to a legal basis. Indeed, FIG in its submission of 8 April 2022, point 3 merely asserts that *“It is in the very nature of their job to be responsible for their gymnasts, respectively members of their delegation. FIG does not have a job description for coaches and/or delegation leaders. Our affiliated member federations have their internal rules in this respect.”* FIG then refers to the **FIG Policy and Procedures for Compliance**, which reads as follows:

“The FIG requires all members of its authorities and its FIG member federations, herein referred to as National Federations (NFs) and other participants in FIG Gymnastics Activity to comply with FIG Rules including FIG Statutes, Codes, Regulations, Policies. NFs are responsible for the behaviour of their members, gymnasts, judges and officials as well as for any other person assigned by them to officiate during a competition. NFs must ensure NF participants understand and comply with the standards of behaviour set out in the FIG Code of Conduct whilst representing the NFs in FIG Gymnastics Activity.”

76. On its face, the FIG Policy and Procedures for Compliance is not a self-standing or self-executing regulation nor does it set out material rules of conduct. The extract quoted by FIG is merely a preamble, labelled “INTRODUCTION”. It sets out the current states of affairs, the commitment to act against any failure to comply with FIG regulations and the processes to ensure compliance. The policy does not itself state the rules that must be complied with and FIG does not refer to such rule either. In any event the ultimate addressees of the policy are the national federations, not the team leader or coaches. FIG has not sought a sanction of the Russian Federation in the present proceedings.
77. The Panel believes in order for a Federation or a delegation member to be held accountable for acts of gymnasts of which they had no prior knowledge, certain very specific circumstances must be met. For instance, if a delegation leader or coach creates an environment conducive to the improper conduct or indirectly encourages it or prevented it from occurring. However, no such circumstances have been shown. Mr Kuliak appears to have acted spontaneously, and without involving anyone. This is the unanimous written and oral testimony of all three Respondents.
78. In conclusion, the Panel finds that Valentina Rodionenko and Igor Kalabushkin cannot be sanctioned and charges against them must be dismissed.

F. THE SANCTIONS AGAINST MR KULIAK

I. DURATION OF THE BAN AND DISQUALIFICATION

79. FIG requests a ban of at least one year. The Respondents argue that this is disproportionate.
80. The Panel has also considered that there are currently protective measures in place prohibiting Russian athletes from taking part in FIG competitions (FIG Exhibit 5) which are not disciplinary sanctions³. If the ban of Mr Kuliak were equal to or shorter than the measures currently prohibiting Russian and Belorussian athletes from competing, he would end up being in the same situation as other Russian athletes who have not been guilty of any misconduct. As soon as the measures are lifted, he could compete again. The sanction would miss its purpose. Consequently, the ban should be longer than any measure imposed on Russian athletes as a result of the events in the Ukraine whether based on the FIG decision

³ “They constitute preventive measures aiming at preserving the integrity of Gymnastics, the safety and integrity of members and all athletes and participants, [...]” FIG adopts further measures against Russia and Belarus, 4 March 2022 (FIG Exhibit 5).

of 4 March 2022 or any subsequent measure issued by FIG. The Panel considers that Mr Kuliak's ban should last at least one year from the date of this decision (17 May 2022). If the protective measures keeping Russian athletes from competing are still in place by 17 May 2023, the ban shall continue and expire six months after the removal of said measures.

81. Mr Kuliak shall also be disqualified from the Doha event, return the prize money of CHF 500 paid in USD 500 and the bronze medal, and bear one third of the costs of the disciplinary proceedings.
82. The Panel finds that these sanctions are proportionate to the gravity of the act.

II. CONFIDENTIALITY

83. The Doha incident was widely reported in the press, and on gymnastics fora. The Respondents themselves have given interviews on the incident and the disciplinary proceedings.⁴ Moreover, the incident and the announcement of disciplinary proceedings has been posted on the FIG webpage (Exhibit 16 to the Respondents' Answer). There is no reason why the outcome of these proceedings should remain confidential.
84. Part 2.1 d) of the FIG Code of Conduct mentions that breaches will be disclosed. *"All forms of non-accidental violence which include sexual harassment, sexual abuse, physical abuse, psychological abuse and neglect will not be tolerated and will be disclosed."*
85. As a subsidiary prayer for relief, Respondents request that only the operative part of the decision shall be published.
86. The Panel considers that the on balance it is appropriate to allow the publication of the decision in full. The incident under scrutiny has received wide media coverage already and it is important that the public at large is informed of the reasoning and result of these proceedings, including of the acquittal of two Respondents.

III. COSTS

87. All Respondents request that their cost be borne by the FIG. As is customary costs will be awarded as a lump sum contribution to the prevailing party/parties (as opposed to actual costs).
88. In light of the outcome, FIG shall pay CHF 1'000 to Valentina Rodionenko and Igor Kalabushkin each as a contribution to their costs.
89. As to the cost of the disciplinary proceedings, they are set at CHF 6'000. FIG shall pay two thirds and Mr Kuliak one third.

⁴ <https://www.rt.com/sport/552398-russian-gymnast-ban-z-gesture/>; <https://www.rt.com/sport/551465-kuliak-russia-ukraine-fig-doha/>; <https://eng.gymnovosti.com/kuliak-rodionenko-kalabushkin-may-face-one-year-disqualification/>

G. DECISION

For these reasons, the Panel of the GEF Disciplinary Commission unanimously issues the following decision:

1. Mr Ivan Kuliak is disqualified from the FIG Apparatus World Cup that took place in Doha in March 2022;
2. Mr Ivan Kuliak shall return the bronze medal and the prize money of CHF 500.- or the equivalent in US\$;
3. Mr Ivan Kuliak shall not be allowed to participate in any FIG sanctioned event or competition organised by an affiliated FIG member federation for one year as of the date of this decision. If the protective measures keeping Russian athletes from competing are still in place by 17 May 2023, the ban shall continue and expire six months after the removal of said measures;
4. Mr Ivan Kuliak shall bear one third and FIG two thirds of the costs of the disciplinary proceedings of CHF 6'000;
5. No violation of FIG rules has been established against Ms Valentina Rodionenko and Mr Igor Kalabushkin; therefore the charges against them are dismissed;
6. FIG shall pay CHF 1'000 to each of Ms Valentina Rodionenko and Mr Igor Kalabushkin as a cost contribution;
7. This decision can be published by the Parties.

Lausanne, 17 May 2022

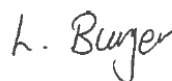
Gymnastics Ethics Foundation Disciplinary Commission



Matthias Scherer
President



Maximilien Lehnen
Panel Member



Laurence Burger
Panel Member

Notice of Appeal

Appeal Proceedings before the GEF Appeal Tribunal (Article 30 of the FIG Code of Discipline)

“ARTICLE 30 APPEAL

With the exception of decisions and sanctions rendered in connection with the FIG Anti-Doping Rules and the WADA Code including its international standards, which may be appealed directly to the CAS, and unless provided otherwise in specific provisions, only the decisions rendered by the Disciplinary Commission may be appealed to the Appeal Tribunal.

Only the Parties directly involved in the proceedings shall be eligible to lodge an appeal to the Appeal Tribunal.

Upon request of a majority of the Executive Committee or of the FIG President, the FIG shall in all cases be eligible to lodge an appeal. The appeal shall be lodged by the FIG Secretary General. Likewise the majority of the Council of the Gymnastics Ethics Foundation or its President shall be eligible to lodge an appeal in all cases. Appeals of the Gymnastics Ethics Foundation shall be lodged by its Director.

In order to be admissible, the appeal shall be lodged in writing and contain:

- the factual argument*
- the reasons for the appeal*
- the submission of any and all means of proof relied upon by the Appellant or an offer to submit any and all means of proof (such as the request for the hearing of witnesses or the request for an independent expert)*
- the request of a hearing if wished so by the Appellant*
- the conclusions of the Appellant*

If the Appellant wishes to call witnesses or experts, a hearing shall be held.

Once his/her statement of the case is submitted, the Appellant shall not be authorised to produce new means of proof unless he/she justifies that he/she has not been able to do so for reasons beyond his/her control or his/her behest. The Appeal Tribunal may automatically conduct the necessary investigations.

The appeal shall be signed by the Appellant and sent in writing to the Director of the Gymnastics Ethics Foundation to the attention of the Appeal Tribunal within 21 days from the notification of the decision rendered by the Disciplinary Commission.

Should the appeal be submitted by email it shall be admissible provided that it contains an electronic signature officially certified and dated via a secure server.

Should the appeal be sent by mail, it shall be delivered to a Swiss post office at the latest by midnight of the last day of the time limit or be delivered at the Office of the Gymnastics Ethics Foundation, at the attention of the Appeal Tribunal during its usual opening hours not later than the last day of the time limit.

The Appellant is responsible for showing proof, within a time limit to be determined by the President of the Appeal Tribunal, that his appeal has been lodged in due time, otherwise, the appeal shall be considered inadmissible.

In order for the appeal to be admissible, the Appellant shall transfer in advance the expenses of CHF 5,000.- onto the account of the Gymnastics Ethics Foundation at the same time the appeal is lodged or at the latest by the end of the appeal deadline. This amount shall be refunded to the Appellant if his appeal is granted. It shall be kept by the Gymnastics Ethics Foundation if the appeal is considered inadmissible or is fully or partly rejected. The Gymnastics Ethics Foundation is exempt from the obligation to pay the expenses in advance for its appeal.“