

INTERNATIONAL SKATING UNION

Communication No. 1420

Rule 109 - Citizenship / Residence requirements and Clearance Procedure

(This Communication replaces Communication No. 1117)

The ISU Council authorised an updated clearance procedure to respect amendments to rule 109 adopted by the Congresses in 2004 and 2006. Rule 109 deals with changes by a skater in ISU Member affiliation.

The full wording of Rule 109 is attached at the end of this Communication.

A. Rule 109 Clearance Procedure

- a) Any Member, in order to assure compliance with Rule 109, must submit to the ISU Secretariat **by July 1 of each year** a clearance application on behalf of:
 - (i) any skater who is not a citizen of the Member's country that the Member intends to enter as its representative in international competitions and/or ISU Championships in the coming season, regardless of whether such skater has previously represented another Member or not,
 - (ii) any present citizen and skater of the Member who has in the past represented another ISU Member in an international competition and/or ISU Championships and whom the Member intends to enter in international competitions and/or ISU Championships in the coming season as a representative of the Member.
- b) In exceptional cases, when changes meeting the requirements of Rule 109 occur after July 1, (e.g. granting of a new citizenship or completing the one year residence period), the Members' application may be submitted to the ISU Secretariat after July 1, **but not later than thirty days** before the first day of the event in which the Member desires to enter the skater. Members must, however respect Rule 109, paragraph 4 under which a skater may represent in the course of the same season only one and the same Member.
- c) For skaters who are applying for clearance in accordance with paragraph 2.c) of the rule, (pairs and dance couples), Members may file the application at any time. Of course, if the waiting period of 12 months applies, the application can be filed only after such period has been reached.

- d) Skater(s) mentioned above in paragraph a) will be allowed to compete in international Competitions and/or ISU Championships **only after the applying Member has submitted satisfactory documentation and received from the Secretariat an ISU Clearance Certificate** for that skater. (Form of the Clearance Certificate is attached).
- e) The organizers of international competitions and/or ISU Championships, the ISU Representative, the Technical Delegates, the ISU Event Coordinator and/or the Referees **shall not allow any skater mentioned above in paragraph a) to compete without a valid ISU Clearance Certificate** having been presented to them before the first draw.
- f) Members who fail to present a valid certificate will not be permitted to enter the skater. If non-compliance with Rule 109 is discovered after a non-complying skater competes, the results achieved by the skater shall be nullified, the skater shall be required to return all prize money to the ISU and /or the Organiser and the Member shall be required to reimburse the costs incurred by the Organiser. In addition, in severe cases, sanctions may be imposed against both the Member and the skater. (Please read the Important Notice at the end of this Communication).

B. Requirements specified in Rule 109 of the General Regulations

1) Citizenship

The term "citizen" as used in ISU Rule 109, paragraph 2.a) means a status of a full citizenship without qualifications or restrictions. It means that the person claiming to be a "citizen" must be either a native-born or naturalized citizen of the Member country (A naturalized citizen is an alien who gains citizenship status that includes virtually all the rights of a native-born person).

Person with the status of "permanent resident", "special status foreigner", "resident alien", foreign national", or otherwise, cannot be recognized as "citizens" under the Rule, even if such status confers on the person some or all of the rights of full citizens of the country. A person may have two or even more citizenships depending on the laws of each country, however, for the purpose of Rule 109, the citizenship of the country of the Member whom the skater represents is decisive.

If a skater with dual citizenship wishes to leave the Member that he/she has represented to represent his/her other country-Member, then Rule 109, paragraph 3 applies and the clearance procedure is required.

If a skater who has already represented any Member changes his/her citizenship, Rule 109, paragraph 3 applies and the clearance procedure is required.

It is required even if a skater, having represented a Member without having citizenship of the country of that Member, is later granted such citizenship since it is a change of information given in the prior Clearance Certificate.

In case of **pairs and dance couples** at least one of the partners must have the citizenship of the Member (Rule 109, paragraph 2.c)) and therefore documents proving such citizenship (see below) of that partner as well as the required questionnaire must be produced together with the application for clearance and questionnaire of the other partner. Of course, in case that the partner who has got the citizenship of the Member which he/she is going to represent, had represented another Member in the past, then paragraph 3 of the rule applies to such partner and he/she is subject to the clearance procedure and to the respective waiting period.

Under the current wording of paragraph 2.c) of the rule 109, the other partner does not need to satisfy any special requirement in respect of citizenship or residence, **except** in case that this

partner had already in the past represented another Member. In that case this partner needs a permit (release) from the Member which he represented in the past and is subject to a waiting period of 12 months which starts to run from the last day of the last competition in which the skater represented the former Member.

Important notice:

Paragraph 2.c) of the rule **applies only to skaters competing in pair skating and ice dancing.** No changes to the rule have been adopted for single skaters in figure skating, speed skaters and short track skaters.

All requirements stated in paragraph 2.b), (i) – (iii) and also paragraph 3 of the rule continue to apply to these skaters in case that they wish to represent a Member in a country of which they are not citizens or if they wish to change the Member which they already represented to another Member.

2) Residence

The term "resided" in Rule 109 indicates residence of the skater as understood in general legal and practical terms. Residence is a question of fact, and, to establish residence a person must be physically present in a place for a period of time with an intention to remain. In order for a person to be residing somewhere there must be a notion of permanence or an intention to stay for an indefinite period of time. In the sense of Rule 109, this means a minimum residence of one year in the country of the Member that the skater seeks to represent. **Permanent residence may be a status granted to immigrants pending admission to citizenship**, i.e. foreigners who have arrived from another country with the intention to stay in the new country forever. In such cases, an official document is usually issued by the national authorities involved.

Long-term or Temporary residence may in some cases be granted to the same persons as described above who for some reason do not qualify for a permanent residency permit. Such long-term or temporary residency permit must be granted for a minimum of one year in order to satisfy the residence requirement of rule 109. Such permits are different from a visa and are issued in a form of an official document by the national authorities involved.

Competition between the ISU Member countries is an important element in the world-wide popularity of ISU skating sports and the Olympic Winter Games. It is fundamental to the great interest and dedication of skaters, coaches, officials and national sporting authorities.

The purpose of rule 109, paragraphs 2 b) and 3) is to make it possible for skaters, who have decided to permanently change the country in which they are living, to continue their competitive skating, and not to make it possible for skaters to lightly jump from one Member to another.

The purpose of the new paragraph 2.c) is to make it easier to form a pair or ice dance couple in the light of the decreasing number of dance couples, but in particularly pairs in international competitions.

As a consequence of the above purpose of paragraph 2.b) and 3):

- no residency permits for periods shorter than one year,
- no stay in the country based on non-visa agreements entered into by various countries,
- no other stay of temporary character, such as that of a student, visitor, tourist, guest worker, business person, etc.,

shall be recognized by the ISU as establishing that a person has "resided" in the Member country within the meaning of Rule 109 for the purpose of a Clearance Certificate.

If the relevant Member country issues an official document to a person permitting the person to "reside" in such country, the beginning of the required period of residence shall be counted from the day on which a proper application for such a residency permit has been filed, provided that the skaters resided in the country during the period between filing of the application and receipt of the permit. If the date of filing is not proved, the residence period will be counted from the day on which the permit had been issued.

3) Permit by the Member of which the skater is a citizen

If a skater wishes to represent a Member in a country of which he/she is not a citizen, the second Member must ask the first Member for permission (release).

The same applies in case that a skater with dual citizenship decides to change the Member whom he/she intends to represent in the future (Rule 109, paragraph 3).

Only in a case that the skaters has either never lived in the country of which he/she is a citizen or at least has never skated in any national competition in that country, the permit may be replaced by a Declaration signed by the skater (or by the parents in case of a minor skater) in which such facts are clearly and unambiguously stated.

The permit is not necessary if the skater has already filed an application for citizenship in the country of the Member that he/she intends to represent (Rule 109, paragraph 2.b (i)).

The permit is neither required in case of a skater who forms a new pair or dance couple with a partner who is a citizen of the country of the Member which the pair or couple is going to represent, **provided** that such skater has never represented another Member.

4) Waiting periods

Skaters who have represented a Member either in international competitions or in ISU Championships **may not represent another Member prior to expiration of certain periods** specified in rule 109, paragraphs 2.b) (ii) and (iii), 2.c) and 3.

Examples of waiting periods:

a) **Singles:** a skater who represented Member A in any discipline during the 2006 ISU European Figure Skating Championships in February 2006 (last day of these EC being February 5) would be allowed, if all other requirements of Rule 109 are fulfilled, to represent Member B in singles only as of July 1, 2008 in International Competitions and as of July 1, 2009 in ISU Championships;

b) **Pairs and dance couples:** the same skater, if he/she forms a new pair or dance couple with a citizen of Member B would be allowed to represent Member B in pairs or in dance already as of February 6, 2007, both in International Competitions and ISU Championships

This requirement applies regardless of whether the skater has changed the citizenship or has dual citizenship or now "resides" in a new country. However, **the duration of the waiting periods differs** depending on the case and further on the circumstance whether the new Member wishes to enter the skater in international competitions only or in the ISU Championships too.

Full reference is made to Rule 109 for learning the exact waiting period in any particular case.

C. Documents (evidence) proving the satisfaction of the requirements

Any document submitted to the ISU Secretariat to obtain a Certificate which is not written in English **must be translated** into English by a person authorised in the country of the Member to do official translations. Exceptionally, if such person is not available in the country concerned, the translation may be provided by another person appointed by the Member provided that the Member takes full responsibility for the accurateness and correctness of the translation. In order to treat all Members equally, **documents in any language other than English will not be accepted without translation.**

1) Evidence proving citizenship:

- a) Usually a **valid regular (travelling) passport** issued by authorities of the country of citizenship is a sufficient evidence of citizenship. A document although called "passport", the contents of which shows that the holder is a citizen of another country or that the document has been issued for other purposes which do not necessarily require citizenship of the country of issuance, such as refugee passports or some special permits called passports, **shall not be accepted as evidence of citizenship.**
- b) Passports will usually be accepted in case of skaters born in the country the citizenship of which they have. However, in case that the skater has been granted citizenship of a new country later during his/her life, additional documents such as the original or certified copy of another official document issued by authorities of the country of citizenship certifying explicitly that the skater is a citizen of such country might be required by the ISU. The issuing authority must be the one which has jurisdiction in matters of citizenship. Birth certificates are not sufficient documents to prove citizenship. In questionable cases, the ISU Secretariat may require special proofs and/or conduct direct inquiries.

2) Evidence proving residency and its duration:

- a) In principle, original residence permit or certified copy thereof issued by the authorities of the country of residence confirming that the skater may reside in such country without time limit or at least for one year and a document showing the date on which such residence has begun, will be acceptable. Such certificates may be issued by police, or a Department of Immigration, Ministry of Interior or other similar authority.
Entry visas, entry stamps in the passports, copies of disembarkation cards and similar documents are not acceptable as evidence of residence or of its beginning. Also documents proving just the right to reside in the country but not proving that the skater indeed resided for the specified period in the country are not sufficient evidence of the residence and of its duration.
- b) If a residence permit has been neither granted nor dismissed within one year period (the minimum period of residence required by rule 109) after an application for such permit had been filed, a copy of the application with the filing stamp showing the name of the receiving authority and the date of filing and a document showing that the applicant resided in the country while the application has been processed will be accepted as evidence of residence and its duration. In case that there is no filing stamp on the copy of the application, then a separate certificate issued by the receiving authority confirming the filing of the application and the filing date has to be produced.

If the country of residence does not issue official documents establishing residency, the skater and the applying Member shall have the burden of proof to demonstrate: (i) the basis on which the skater has resided in the country; (ii) facts in support of the skaters residency and

(iii) the legal status of the skater as a citizen of any other country, including but not limited to an ISU Member country. Other evidence of change of residence and of its duration may be considered, such as tax registration or tax returns, election registration, social and/or medical insurance, etc. The weight given to such proof will depend on the particular circumstances of each case.

It is noted that citizens of an EU country have the right to reside in any EU country. Nevertheless, it is a common practice in the EU countries that citizens of any EU country who take up permanent or long term the residence in another EU country do register in some form with the authorities of the new country of residence. A document showing such registration will be accepted as evidence of the residence beginning on the day of issuance.

Note:

In all cases mentioned above sub 1) and 2) only documents issued by **official authorities of the country having competence in the matters involved** (government, ministries and their departments, foreign police etc.) shall be accepted as competent evidence.

Letters or any other certificate issued by the Member itself or by any other sport organisation (clubs) or even by official sport authorities (such as Ministry for Sport or Education, National Olympic Committee), letters and affidavits of private persons (such as landlords, house administrators, employers, etc.), **shall not be accepted as evidence of citizenship or of residence.**

3) Evidence proving the Permit by the Original Member:

a) Original letter of the Member in the country of which the skater is a citizen issued on official stationery, dated and signed by the President and Secretary confirming **explicit and unconditional approval** that the skater named in the letter may represent the Member to whom the letter is addressed, has to be presented.

b) The permit is not required in case:

(i) the skater has resided in the country of the new Member for more than a year and has applied for the citizenship of that country. In such case the skater has to present documents proving the residency and an official certificate* of authorities of the country of the Member confirming explicitly that the skater concerned has applied for citizenship of that country, the date of filing of the application and that the application is still being processed (* The "Note" stated above apply to such Certificate).

(ii) the skater is forming a new pair or dance couple in accordance with paragraph 2.c) of the rule and has not represented in the past any other Member.

c) As to possible exception to the requirement of a permit under the new paragraph 2.b) (iv), see also the Information at the end of this Communication regarding Exceptions.

4) Information on previous international activities of the skater:

A fully completed and signed questionnaire (form attached) has to be attached to every Application for Clearance. This form includes information on international activities of the skater concerned in which he/she represented another Member.

Important notice:

It is the primary responsibility of each Member to give full, correct and true information on all facts and circumstances relating to a skater's nationality, residence, past activities etc. and to produce the required documents. The skater is responsible for full, correct and true information given to the Member and/or to the ISU.

In case it is proven that a skater and/or Member have given incomplete or incorrect information and/or have produced an improper document supporting such information, **sanctions may be imposed by the ISU Disciplinary Commission upon a Complaint filed by the ISU Council against such skater and the Council may impose penalties against the Member in accordance with articles 23 and 17, paragraph 1. t).**

Cases where the Member totally fails to inform the ISU of the skater's residency and citizenship situation although a Clearance Procedure is required or where the Member and/or the skater presents misleading and/or false information or documents changed or otherwise amended by an unauthorized person, will be considered as particularly grave offences.

D. Exceptions – Final Information

Although Rule 109, paragraphs 2.b) (iv) and 5 gives the Council the powers to grant exceptions from the requirements of citizenship, residence, permits by Members and waiting periods, it has always been the policy of the Council not to grant any exception simply for the skater to change Members. Exceptions might be granted only in cases where a serious hardship would occur without such exception (e.g. such as application of a new rule after certain action have been taken in good faith prior to adoption of the rule, unjustified denial of a permit by a Member to a skater who has not represented that Member at all or for a number of years, etc.).

The Council has expressed its intent to continue this policy in the future.

It is recommended to the Members to file an application for clearance even in cases where they believe that such clearance is not required. It is better to receive an information from the ISU Secretariat that the clearance is not required in that particular case rather than to risk sanctions (penalties) for non-compliance with Rule 109.

Milan,
September 13, 2006
Lausanne,

Ottavio Cinquanta, President
Fredi Schmid, Director General

INTERNATIONAL SKATING UNION

CLEARANCE CERTIFICATE

Skater: ----- born on : -----
(full name) (date)

citizenship: -----
(name of the country)

residing at : -----
(full address of the place which the skater has proven by documents as
being his/her permanent or long-term residence)

ISU Member: -----
(official name of the Member filing application for clearance)

may represent the above named ISU Member in international competitions and in the ISU

Championships as of: (date to be stated)

(or if appropriate)

may represent the above named ISU Member in international competitions as of:
and in the ISU Championships as of:.....

in the discipline: -----
(single figure skating or short track or speed skating)

or in the discipline : ----- (ice dancing /pairs)

with the following partner: ----- (full name)

Issued on:.....
.....
Fred Schmid
Director General

Notice:

This certificate is valid only as long as all the above stated data remain unchanged. The skaters and the Members have the obligation to immediately report to the ISU a change of any of such data, to cease using this Certificate after any such change and apply for a new certificate. Failure to perform this obligation and/or using the certificate after any change occurred may result in sanctions imposed against both the skater and the ISU Member.

INTERNATIONAL SKATING UNION

Rule 109, citizenship and residency requirements

Questionnaire for clarification

In case of pairs and dance couples, this questionnaire must be filed for both partners

Name of the Skater (Surname):

Given name of the Skater:

Discipline of the Skater:

Place and date of birth:

Citizenship/nationality:

Citizenship/nationality obtained on:(indicate date)

Former citizenship if any:

Dual citizenship if any:

Former or Dual citizenship obtained on:.....(indicate date)

Current permanent Residency :(indicate city and country)

since when:.....

Former Residency:(indicate city/country and date of departure from this former residency).

Present skating partner if applicable.....

Current ISU Member:.....

Participation in international skating events representing another ISU Member:

.....
(List the last international event with **name and dates**, name of ISU Member represented and in case of Pairs / Dance couples name the skating partner

Please enclose, if applicable, a letter of release/permit received from the ISU Member of the country of which the skater is a citizen or the ISU Member which the skater represented in the past..

Note: 1) As to documents required to be presented see Communication No. 14..

2) All lines must be filled out. If not applicable, write N/A!.

Place and date:

Full name of the Member

Signatures

Full name and position of the person/s signing

Rule 109
(as included in the 2006 ISU General Regulations)

1. Participation in Competitions

The International Competitions, listed in Rule 107, paragraphs 4, 5, 6, 7, 8, 9 and 10 organized by Members, may be entered only by competitors who belong to a Member and for whom the entry can be made only through the respective Members. For participation in the Olympic Winter Games, Rule 126 applies.

2. a) In principle, a Skater may compete only as a member of the Member of the country of which he is a citizen;
 - b) a Skater may compete for the Member of the country of which he is not a citizen if he fulfils the following conditions:
 - i) he has resided for at least one year in that country and has been permitted to compete for that Member by the National Association of the country of which he is a citizen, or he has resided for at least one year in that country and he (or his parents if he is not of age) has applied for citizenship in that country;
 - ii) before July 1st immediately prior to his first International Competition as a member of the Member, he has not competed in any International Competition or ISU Championship for another Member during the twelve (12) preceding months;
 - iii) before July 1st immediately prior to his first ISU Championship as a member of the Member, he has not competed in any International Competition or ISU Championship for another Member during the twenty-four (24) preceding months;
 - iv) Any denial of a request for permit by the Member submitted in accordance with sub-paragraph (i) above may be the subject of a request to the Council by the involved Skater or any involved Member for exceptional permission as provided in paragraph 5 of this Rule;
 - c) in the case of a pair or an ice dance couple, one partner at least must be a citizen of the country of the ISU Member for which the pair or dance couple competes. The other partner may be a citizen or resident of a country of any other Member. The residence and permit requirements and the waiting periods stated above in paragraph 2.b, (i), (ii), and (iii) and in paragraph 3 do not apply to such partner. However, if such partner has already represented another Member, regardless of the discipline, the permit from the Member the Skater represented is required and the waiting period 12 months from the day of the last competition in which the Skater represented another Member applies;
 - d) in the case of Synchronized Skating Teams, up to 25% of a team may be from a foreign Member, if so permitted by the National Association of the country of which the Skater is a citizen, but such Skaters shall only represent one Member in the course of the same year (July 1-June 30). Restrictions specified in paragraph 2 b) do not apply.
3. If a Skater, who has already represented one Member in an International Competition or ISU Championship, intends to compete in the future for another Member, regardless of the grounds on which the possibility of such change is based, such Skater shall be subject to the waiting periods set forth in subparagraphs 2 b), (ii) and (iii) above.
 4. In the course of the same year (July 1st-June 30th) a Skater may skate in competitions and exhibitions for only one and the same Member or affiliated club.
 5. Exceptions to paragraphs 2 & 3 of this Rule may be granted by the Council of the ISU, which may also enter a competitor for an event (see also Rule 115, paragraph 5 and Rules 130 and 131). A competitor nominated by the ISU does not count in the quota of the country of his nationality or residence.
 6. In exceptional cases, the Council of the ISU may permit eligible persons to take part in competitions in countries in which there is no ISU Member.