



**ORIGINAL: FRENCH**

**INTERNATIONAL OLYMPIC COMMITTEE  
ETHICS COMMISSION**

**DECISION containing RECOMMENDATIONS N° D/01/05**

**CASE N° 1/04**

Mr Un Yong KIM, IOC Vice-President,  
Domiciled in the Republic of Korea  
Olympic Centre, 88 Oryun-dong, Songpa-ku, Seoul

**REFERRAL and PROCEDURE:**

In a letter of 9 January 2004 sent to the Ethics Commission, the IOC President submitted facts likely to be imputed to IOC member Mr Un Yong Kim;

In its unanimous decision of 23 January 2004, the IOC Executive Board followed the recommendation of the Ethics Commission, pursuant to paragraph 4 of Rule 25.2.1.1 of the Olympic Charter, to provisionally deprive Mr Un Yong Kim of all the rights, prerogatives and functions deriving from his membership of the IOC throughout the inquiry; this decision was notified to Mr Kim on the same day, accompanied by the Ethics Commission recommendation decision;

In a decision of 3 June 2004, the Seoul Central District Court found Mr Kim guilty of counts of embezzlement and corruption, sentenced him to two-and-a-half years' imprisonment and fined him KRW 788,290,000 (about USD 763,000);

In its decision of 17 September 2004, the Seoul Court of Appeal confirmed Mr Kim's guilt as well as the amount of the fine but, taking into account his services to sport, particularly on the occasion of the Seoul Olympic Games and the recognition of taekwondo as an Olympic sport, as well as his advanced age and physical condition, reduced the prison sentence to two years;

In its decision of 14 January 2005, the Supreme Court of the Republic of Korea dismissed Mr Kim's final appeal; this decision is final, and so, therefore, is the sentence imposed on Mr Kim;

In a letter dated 20 January 2005, the Ethics Commission invited Mr Kim to set out his observations in writing or be represented before the Ethics Commission; on 31 January 2005 Mrs Helen Kim sent a statement on behalf of her father with appendix including a translation in English of the decision of the Supreme Court of the Republic of Korea; on 3 February 2005 Mr Adam Lewis, Mr Kim's counsel, sent submissions on behalf of Mr Kim; Mrs Helen Kim, representing her father, and Mr Lewis were heard by the Ethics Commission on 4 February 2005.



## FACTS:

The following facts have emerged from the file:

Mr Kim has been found guilty by the Criminal Courts of the Republic of Korea of embezzling several billion Korean won (several million US dollars) to the detriment particularly of the World Taekwondo Federation, the Kukkiwon and the General Association of International Sports Federations, and also of acts of corruption. It emerges from the Korean Courts' decisions that Mr Kim used these funds misappropriated for his personal activities;

The Ethics Commission notes that Mr Kim did not deny that he had received a fair trial nor that he had been able to exercise his right of appeal; it also notes that, at his hearing before the Seoul Central District Court, he expressed regret at having sent letters to his friends in Korea and other countries, mentioning facts considered as unfounded and having damaged the image of the Law in his country.

Mrs Helen Kim, representing her father, pointed out: that her father did not receive financial or other form of assistance to finance his candidacy for the IOC Presidency, and was therefore not in breach of part III.3 of the Directions Concerning the Election of the IOC President; that the Korean Judicial Courts' decisions may not be taken into consideration because of the political context and of the non-respect of Human Rights in the Republic of Korea; and that Mr Kim's expulsion would not be a proportionate response in the light of his contributions to the Olympic Movement in the past.

During the Ethics Commission's meeting held in Lausanne on 4 February 2005, Mrs Helen Kim, assisted by Mr Adam Lewis, lawyer, presented the different arguments in defence of Mr Kim.

## OPINION:

After having taken cognisance of the written and oral observations made on behalf of Mr Kim, the Ethics Commission recalls:

- that whether or not the conduct of an Olympic party is ethical is independent of whether such conduct may be qualified as criminal. Indeed, the same acts may not be criminally punishable depending on the law in different countries, but remain ethically reprehensible. *A fortiori*, serious acts for which a judicial authority imposes a sentence must be considered as constituting conduct, which tarnishes the reputation of the Olympic Movement;

- and that it is not within the IOC Ethics Commission's jurisdiction to assess the validity of judicial decisions made by a country's legal authorities.

It notes that the fact of having been found guilty, following three judicial decisions, of embezzlement, to the detriment of sports institutions, and of corruption, and sentenced to a period of imprisonment and a fine, seriously tarnishes the reputation of the Olympic Movement, pursuant to part B.5 of the Code of Ethics.



In its recommendation decision concerning Mr Kim dated 22 January 2004, the Ethics Commission also noted that there were facts likely to result in application of part III.3 of the Directions Concerning the Election of the IOC President, namely that “No direct or indirect assistance, be it financial, material or in kind, may be given to candidates by a third party...”. The acts of which Mr Kim has been convicted also concern other sums; for this reason, the Ethics Commission does not hold that there has been a failure to respect the aforesaid Directions.

Moreover, the Ethics Commission notes that the Court of Appeal Judges, by reducing Mr Kim’s sentence, already took into account his previous support to sport, particularly on the occasion of the Seoul Olympic Games and the recognition of taekwondo as an Olympic sport.

Finally, the Ethics Commission recalls that, during the Salt Lake City case in 1999, the Executive Board, upon the recommendation of the *Ad Hoc* Commission, considered the actions of Mr Kim as contrary to IOC ethics; and Mr Kim’s acts were sanctioned with a “most severe warning”, with the proviso that any other breach would result in expulsion.

In these circumstances, the Ethics Commission holds, without its being necessary to appoint an expert as requested by Mr Kim’s representatives, that the actions of Mr Kim are contrary to the ethical principles deriving from the Olympic Charter and the Code of Ethics; and further that Mr Kim has not taken into account the “most severe warning” issued in 1999 by the IOC Executive Board.

Consequently, the Ethics Commission considers the expulsion of Mr Un Yong Kim to be justified.

#### RECOMMENDATIONS:

The Ethics Commission recommends that the IOC Executive Board:

- 1° decides that Mr Un Yong Kim, IOC member, has violated the ethical principles set out in the Olympic Charter and the Code of Ethics, and thereby seriously tarnished the reputation of the Olympic Movement;
- 2° proposes the expulsion of Mr Un Yong Kim to the 117th IOC Session, in Singapore, pursuant to Rule 16.3.8.2 of the Olympic Charter;
- 3° until the Session’s decision, provisionally suspends Mr Un Yong Kim and deprives him of all the rights, prerogatives and functions deriving from his IOC membership, pursuant to Rule 16.3.8.3 of the Olympic Charter.

Done in Lausanne, 4 February 2005

For the Chairman,  
Pâquerette Girard Zappelli  
Special Representative