

28 February 2024

DECISION OF THE ITF ETHICS COMMISSION

This is the decision of the independent Ethics Commission of the International Tennis Federation (the **Ethics Commission**) concerning a complaint raised by a number of Ukrainian tennis players about the conduct of Mr Evgeniy Zudin, the Chief Executive Officer of the Ukrainian Tennis Federation.

1. Procedural history and complaint

On 4 July 2022, the International Tennis Federation (the **ITF**) and the Ukrainian Tennis Federation (the **UTF**) received a letter from a number of Ukrainian tennis players, raising a complaint concerning the conduct of Mr Evgeniy Zudin (the **Complaint**).¹ The Complaint was signed by Ms Lyudmyla Kichenok, Ms Nadiia Kichenok, Ms Marta Kostyuk, Mr Illya Marchenko, Mr Sergiy Stakhovsky, Ms Elina Svitolina, and Ms Lesia Tsurenko (the **Complainants**).²

The Complaint concerned a disagreement between the Complainants and Mr Zudin and called for Mr Zudin to be “officially and publicly dismissed from his positions at the [UTF] and at the ITF Davis Cup Committee, dismissed from his role as an ITF referee and from any other position he may hold within the ITF organization [sic].”

On 7 July 2022, the ITF received a letter from Mr Sergiy Lagur, President of UTF, stating that the UTF Board had met to discuss the contents of the Complaint against Mr Zudin and, after “thorough discussion and investigation [...] found no evidence of th[e] allegations” set out in the Complaint (the **UTF Board Decision**).³

On 11 July 2022, the UTF published “An Open Letter from Representatives of the Tennis Community of Ukraine”. The authors said they were “ashamed” of the Complainants and called the letter a “disgrace to all tennis in Ukraine.” The authors said they were fully supportive of Mr Zudin and his work for the UTF.⁴

On 21 July 2022, the Ethics Commission notified the Complainants that it would be considering the matters alleged in the Complaint. On the same day, the Ethics Commission also wrote to Mr Zudin and to Mr Lagur to inform them that the Ethics Commission was seized of the matters raised in the Complaint.

On 22 September 2022, the Ethics Commission appointed Mr David Howman as the investigator responsible for the investigation, in accordance with paragraph 2.5 of Appendix 1 of the 2023 ITF Code of Ethics (the **Code**).

¹ Complaint, 4 July 2022, **Appendix 1**.

² The letter was also signed by Ms Katarina Zavatska who subsequently removed her signature.

³ Letter from the UTF, 7 July 2022, **Appendix 2**.

⁴ Open Letter from UTF, 11 July 2022 (unofficial translation), **Appendix 3**.

On 11 October 2022, the Ethics Commission held a meeting with the Complainants via Zoom to obtain additional information about the Complaint. Those attending included Ms Svitolina, Mr Marchenko, Mr Stakhovsky, Ms Tsurenko, and Ms Kostyuk.

On 27 March and 8 April 2023, the Ethics Commission wrote to Mr Zudin to provide him with an opportunity to respond to the allegations made by the Complainants. On 10 April 2023, Mr Zudin provided the Ethics Commission with his written response to the allegations made against him.

On 21 July 2023, the Ethics Commission held a meeting via Zoom with the Complainants to clarify facts relating to the Complaint and provide the Complainants with an opportunity to respond to the statements made by Mr Zudin. Those attending included Ms Svitolina, Ms Tsurenko, and Ms Kostyuk.

On 23 September 2023, the Ethics Commission held a hybrid meeting with Mr Zudin (the Ethics Commission Chair, Ms Sandra Osborne, the Deputy Chair, Mr David Howman, and Mr Zudin met in person, while the Commission's Legal Secretary attended by Zoom) to clarify facts relating to his response to the Complaint and to provide him with an opportunity to respond to the further statements made by the Complainants.

2. Applicable provisions of the ITF Code of Ethics

The Ethics Commission has jurisdiction over this matter because Mr Zudin is a member of the ITF Davis Cup Committee and therefore qualifies as an Official within the meaning of Article 1.3 of the Code. As an ITF Official, Mr Zudin is bound by the Code, both when acting in his capacity as an ITF Official and, in limited circumstances, also when he is not acting as an ITF Official.

The Complaint concerns alleged conduct in which Mr Zudin was not acting as an ITF Official. The relevant provision of the Code is the following:

2.1 Basic obligations

Officials must: [...]

2.1.4 refrain at all times (i.e., whether acting in a personal capacity, in their capacity as an Official, or in any other capacity) from any fraudulent or corrupt act, or that brings or risks bringing the ITF or the sport of tennis into disrepute.

There are no allegations of fraud or corruption in this matter. Consequently, the question for the ITF Ethics Commission to decide is whether, on a balance of probabilities, Mr Zudin has acted in a way that “brings or risks bringing the ITF or the sport of tennis into disrepute” within the meaning of Article 2.1.4 of the Code.

In reaching its determination, the Ethics Commission has been guided by the decisions of panels of the Court of Arbitration for Sport (**CAS**). CAS panels have defined “disrepute” as a loss of reputation or diminishment of the public opinion.⁵ Not every loss of reputation amounts to disrepute; rather, the loss of reputation must be of sufficient gravity.⁶ It follows that a risk of disrepute means a risk of a sufficiently serious loss of reputation. As the Code makes explicit,

⁵ Arbitration CAS ad hoc Division (OG Rio) 16/009, *Russian Weightlifting Federation (RWF) v. International Weightlifting Federation (IWF)*, Award of 5 August 2016 (operative part of 3 August 2016), paragraph 7.13; Arbitration CAS 2016/A/4698, *Belarusian Weightlifting Union (BWU) v. International Weightlifting Federation (IWF)*, Award of 10 March 2017, paragraph 118. Similarly, see Arbitration CAS 2007/A/1291, *Mikhaylo Zubkov v. Fédération Internationale de Natation (FINA)*, Award of 21 December 2007, paragraph 20.

⁶ Arbitration CAS 2008/A/1539 *Nicholas D'Arcy v. Australian Olympic Committee (AOC)*, Award of 27 May 2008, paragraph 8. See also Arbitration CAS 2008/A/1605, *Chris Jongewaard v. Australian Olympic Committee (AOC)*, Award of 19 September 2008, paragraph 14.

the reputation or public opinion must be that of the ITF and/or the sport of tennis, as opposed to the UTF, Mr Zukin or the players.⁷ Finally, the extent of actual or potential disrepute may be reflected in media attention, and media reports can be a cause of disrepute.⁸

3. Discussion

The allegations raised about Mr Zukin's conduct relate to his role as Chief Executive Officer of the UTF. In this role, Mr Zukin negotiates the financial terms on which players agree to participate in the Billie Jean King Cup and the Davis Cup. While team captains are responsible for picking the teams to represent Ukraine in each of these tournaments,⁹ Mr Zukin negotiates the terms on which players shortlisted by the team captains will receive prize money and what proportion of it, as well as what expenses will be paid for by the UTF, such as the cost of physiotherapists, coaches and other costs that come with the participation of professional tennis players in an international tournament.

In their letter of 4 July 2022, the Complainants allege that in the weeks prior to the letter, and in the recent aftermath of the Russian invasion of Ukraine, Mr Zukin gave the Complainants "no support and no advice on the various team matches issues [the Complainants were] facing", that the Complainants were "left alone to solve all these issues" and that instead of receiving support from Mr Zukin, they were "threatened and forced to play for [their] country[] in an imperious way, while at the same time, [being] required to pay from [their] own pocket[s] for [their] teams' expenses."¹⁰ The Complainants refer to financial support provided by the ITF and United States Tennis Association (*USTA*) and imply that they ought to have received some of that money to assist with their participation in the Billie Jean King Cup that year in the United States. The Complainants conclude that there was "an absolute lack of coherence and transparency" in the actions taken by the UTF.¹¹

After receiving this letter, the UTF convened a Board meeting. The Board found no evidence to support the Complainants' allegations and found instead that Mr Zukin had acted "coherent[ly] and transparent[ly]."¹² The Ethics Commission has no jurisdiction to reconsider the decision of the UTF Board. However, in its discussions with the Complainants, the Ethics Commission was provided with additional evidence, including evidence post-dating the UTF Board decision, that raises a distinct concern about a potential breach of the Code, and in particular whether Mr Zukin has acted in a way that has brought or risks bringing the ITF or the sport of tennis into disrepute.

This additional evidence falls into three categories. *First*, over a span of several years, Mr Zukin has made comments in the Ukrainian press about Ms Svitolina and other Complainants, that either were intended to cause harm to the players' public image or were reckless as to the harm he would cause. Several of these comments were made after the UTF Board decision. *Second*, in the weeks leading up to the publication of the Complainants' letter, there was growing animosity between the Complainants and Mr Zukin, and numerous unpleasant messages exchanged. *Third*, after the players published their Complaint, and after the UTF Board issued its decision, the animosity between

⁷ Arbitration CAS 2008/A/1539, *Nicholas D'Arcy v. Australian Olympic Committee (AOC)*, Award of 27 May 2008, paragraphs 8-9. See also Arbitration CAS 2007/A/1291, *Mikhailo Zubkov v. Fédération Internationale de Natation (FINA)*, Award of 21 December 2007, paragraphs 20-21.

⁸ Arbitration CAS 2008/A/1574, *Nicholas D'Arcy v. Australian Olympic Committee*, Award of 7 July 2008, paragraph 83 ("The extent of the disrepute that the Appellant's behaviour has brought himself is highlighted by the voluminous number of media reports that have accompanied his misconduct. Many of these reports were provided to the Panel and the Panel has considered their contents whilst noting that many of the allegations contained within the media reports are unproven and sensationalist. There are, however, a considerable number of statements in the media reports that are substantiated by the admitted facts and amplify the conclusion of the first CAS Panel that the media reports 'could not help but be likely to bring him into disrepute.'). Similarly, see Arbitration CAS 2008/A/1605, *Chris Jongewaard v. Australian Olympic Committee (AOC)*, Award of 19 September 2008, paragraph 15.

⁹ Statement from Mr Andriy Medvedev, 6 July 2022 (unofficial translation), **Appendix 4**; Statement from Mr Mykhailo Filima, 8 July 2022 (unofficial translation), **Appendix 5**.

¹⁰ Complaint, 4 July 2022, **Appendix 1**.

¹¹ Complaint, 4 July 2022, **Appendix 1**.

¹² Letter from the UTF, 7 July 2022, **Appendix 2**.

Mr Zukin and the Complainants escalated. For example, Mr Zukin engaged in a public argument with Mr Stakhovsky on social media, with Mr Zukin suggesting that Mr Stakhovsky had used extortion to obtain financial benefit while representing Ukraine in the Davis Cup, and culminating in Mr Zukin publishing Mr Stakhovsky's purported earnings while representing Ukraine. Mr Zukin also speculated as to whether Mr Stakhovsky had evaded tax on those earnings.

This evidence is discussed in more detail below in sub-sections (i), (ii) and (iii). The Ethics Commission's determination on the basis of this evidence is then discussed in section 4.

(i) Mr Zukin's disparaging comments about the Complainants in the media

In January 2019, Ms Svitolina announced that a recent injury would prevent her from playing in the Billie Jean King Cup in Poland.¹³ In a press interview, Mr Zukin commented that Ms Svitolina had made "impossible" financial demands and implied that the UTF's rejection of these demands was the reason why Ms Svitolina had refused to play.¹⁴ Mr Zukin's comments were described by the interviewer as "harsh" and damaging to the image not only of the players' agent, but also the tennis players themselves.¹⁵ Mr Zukin explained that his patience had come to an end and suggested the players were making "ultimatums or blackmail".¹⁶ Shortly after Mr Zukin's interview, Ms Svitolina explained to the press that "finances were not and could not be the key point in the matter of playing for [the national team]" and noted that she was withdrawing due to "unequivocal" medical advice.¹⁷

The public back-and-forth between Mr Zukin and Ms Svitolina continued through 2019. In April that year, Mr Zukin gave another interview in which he questioned whether the UTF Board would consider inviting Ms Svitolina to play in the Billie Jean King Cup again in future, stating that "[e]veryone must be responsible for their actions."¹⁸ In December that year, Ms Svitolina explained in an interview that she was "ready to play and play for the national team when I have the physical capabilities" and noted that she felt attacked by the UTF: "I don't think it's at all normal to attack their top player. The way [the UTF] showed me was very ugly of them."¹⁹

A similar incident occurred again in March 2022. Ms Svitolina announced that "[t]he last couple of months have been very difficult for me – not only psychologically, but also physically" and that she would be unable to participate in a number of tournaments, including the Billie Jean King Cup because of an injury to her back.²⁰ A few weeks later, Mr Zukin was asked by a reporter why the UTF was not able to put forward the strongest Ukrainian team for the Billie Jean King Cup. Mr Zukin commented that it was "difficult to assess the veracity of the reasons" given by players that declined to play. Mr Zukin commented that "athletes always have some injuries that they can present" as reasons for not playing in the national team. Mr Zukin then stated that, in light of the Russian invasion of Ukraine,

¹³ "A very difficult decision": Svitolina explained her refusal to play for the Ukrainian national team, Obozrevatel, 28 January 2019 (unofficial translation), **Appendix 6**.

¹⁴ Vice-President and Executive Director of the Ukrainian Tennis Federation: "The conditions that Svitolina's agent named are the budget of the entire match in Poland", BTU, Undated (unofficial translation), **Appendix 7**.

¹⁵ Vice-President and Executive Director of the Ukrainian Tennis Federation: "The conditions that Svitolina's agent named are the budget of the entire match in Poland", BTU, Undated (unofficial translation), **Appendix 7**.

¹⁶ Vice-President and Executive Director of the Ukrainian Tennis Federation: "The conditions that Svitolina's agent named are the budget of the entire match in Poland", BTU, Undated (unofficial translation), **Appendix 7**.

¹⁷ Refusal to play for the Ukrainian national team: Svitolina made an official statement, Obozrevatel, 29 January 2019 (unofficial translation), **Appendix 8**.

¹⁸ FTU Vice President: If Svitolina doesn't want to play in the Fed Cup, don't, UA Football, 17 April 2019 (unofficial translation), **Appendix 9**. See also *They want to exclude Svitolina from the Ukrainian national team*, Obozrevatel, 16 April 2019 (unofficial translation), **Appendix 10**.

¹⁹ *Elina Svitolina is not sure that she will be invited to the Ukrainian national team*, Rambler, 6 December 2019 (unofficial translation), **Appendix 11**.

²⁰ *Elina Svitolina will not play for the Ukrainian national team in the upcoming Billie Jean King Cup match*, Championat, 29 March 2022 (unofficial translation), **Appendix 12**.

the UTF “expected a completely different reaction from the players” to playing in the Ukrainian national team and expressed hope that the players would “change their attitude”.²¹

Mr Zukin has continued to make comments about his negotiations with the Ukrainian national team. In an interview with a journalist in January 2023, he commented that the reason why the country’s top players did not play in the Billie Jean King Cup and the Davis Cup in 2022 was because of financial disagreement between the UTF and the players. He commented that players are fighting with the UTF “for royalties” and that “[w]e forgot the word ‘patriotism’ a long time ago.”²²

The Complainants told the Ethics Commission that “Mr. Zukin repeatedly spoke inappropriately towards the players of the team in the press. Casting doubt on the veracity of the reasons for the absence of players in the national team and accusing them of insufficient patriotism.”²³ When the Ethics Commission asked Mr Zukin why he discussed his negotiations with players in the media, he stated that if a journalist asks him why a player like Ms Svitolina is not participating in the national team, he is not going to lie and say she has an injury; instead, he would tell the truth about the fact that she did not accept the UTF’s financial terms for participating in the national team.²⁴

(ii) Animosity between Mr Zukin and the Complainants in March 2022

In March 2022, Ms Kostyuk asked Mr Zukin for financial assistance in the form of a portion of prize money to allow her to participate in the 2022 Billie Jean King Cup. In a message to Mr Zukin, she noted that “Grand Slams, ATP, WTA and ITF have donated \$700,000 for the federation” and said that she needed to earn something from her participation in the tournament to help her family “who lost their jobs and have to leave abroad [sic]. That’s why I think it is fair for me to get the prize money for the [Billie Jean King] Cup playing for Ukraine. I want to underline that I am not taking this money from my country. I donate a lot to charities and [the] army”. When Mr Zukin told her that the money received from the ITF had been donated to the Red Cross, Ms Kostyuk suggested he “[a]sk for more”.²⁵

The following day, Ms Kostyuk and Ms Svitolina wrote to the President of the ITF asking for “assistance in urgently providing extra financial support to our team so we can pay salary to our coaches, physios [sic] and all necessary staff to travel to the US to enable the team to prepare for this tie efficiently and in a (as much as it’s possible) EQUAL conditions.” The email explained that “due to the current situation in our country, our national federation is not in a position to provide the usual support to prepare for such a competition”.²⁶ Ms Svitolina told the Ethics Commission that a similar email was sent to the USTA, to clarify whether there were opportunities to obtain additional support for the Ukrainian team. She said that, when she contacted the USTA, she had no idea that the UTF had already received money from the USTA.

The Complainants state that these communications with the ITF and the USTA were “taken by Mr. Zukin in angry and negative way.”²⁷ In a WhatsApp group chat between Mr Zukin, Ms Svitolina and Ms Kostyuk, Ms Kostyuk explained the email to Mr Zukin in the following terms: “We wanted to help the team and wrote a letter to the ITF so that the team had the opportunity to take professional help with them [...] but it turned out that we angered your greatness and lowered the federation in the eyes of the ITF.” Ms Kostyuk concluded her message by saying “I can’t play with such an attitude, for money, without money, I don’t like this whole situation that has developed in the team.” Both

²¹ Yevhen ZUKIN: “Two tie-breaks determined the fate of the match with the American women”, Sport.ua, 17 April 2022 (unofficial translation), **Appendix 13**.

²² “We have forgotten the word ‘patriotism’”. Conflict between Ukrainian tennis players and FTU, Sport.ua, 27 January 2023 (unofficial translation), **Appendix 14**.

²³ Email from Ms Svitolina to the Ethics Commission, 28 August 2022, **Appendix 15**, p 3.

²⁴ Hybrid call between the Ethics Commission and Mr Zukin, 23 September 2023.

²⁵ Email from Mr Zukin to the Ethics Commission, 8 April 2023, **Appendix 16**, Messages between Ms Kostyuk and Mr Zukin, 9 March 2022, p 2.

²⁶ Email from Ms Svitolina to Mr Haggerty, 17 March 2022, **Appendix 17**.

²⁷ Email from Ms Svitolina to the Ethics Commission, 28 August 2022, **Appendix 15**, p 2.

Complainants then informed Mr Zukin that they were withdrawing from the team.²⁸ In a message to Ms Kostyuk's father the next day, Mr Zukin said "I have seen enough at this point. But I did not expect such disgusting behaviour from your family. [...] It will not be long before my response."²⁹

Around the same time, Ms Kostyuk spoke with the UTF's President, Mr Lagur, to see whether he could assist with providing funding for the team's participation in the Billie Jean King Cup. After learning about this, Mr Zukin sent Ms Kostyuk a WhatsApp message saying "You went too far. But there is still a chance to get out of the situation without major image losses. I wait for your decision to play the match. Today. No money. Your debt stays in full."³⁰

Ms Kostyuk told the Ethics Commission that she took Mr Zukin's words to her to mean that if she did not play for free, he would try to damage her reputation in Ukraine.³¹ Mr Zukin told the Ethics Commission that Ms Svitolina and Ms Kostyuk "were pushing to get prize money regardless of the circumstances." He says he "got all kinds of insults from Marta Kostyuk on the phone including: 'stealing support money from ITF and USTA', 'need to join Ukrainian armed forces and leave UTF', 'that I will be fired by the players if I don't find a way to pay them'".³² He explains that "[t]he only thing I was mentioning all the time was that if they don't play the tie it will be bad both for UTF and for their image" and that "[t]here was nothing personal" in his communications.³³

(iii) Escalation of the animosity between Mr Zukin and the Complainants

The animosity between the Complainants and Mr Zukin escalated after the publication of their Complaint. In a WhatsApp message to Ms Nadia Kichenok in July 2022, Mr Zukin said that the "[n]ext step is with the lawyer. I will sue everyone who signed." Ms Kichenok responded that "[t]he threats were kind of expected" and "[d]o what you think is best".³⁴ In a WhatsApp exchange with Mr Stakhovsky around the same time, Mr Zukin stated "[a]ll of the above is slander. I will file a court claim against each of you. The proceedings will be long, but the result is obvious."³⁵ Mr Zukin called on Mr Stakhovsky to say sorry for "[r]uining my reputation." Mr Stakhovsky responded by saying "you made our internal issues public, and when we did it, then it's wrong all of a sudden?"³⁶ Later on in their exchange, Mr Zukin responded "[d]o not be surprised when you receive an inquiry from the tax authorities" and "[y]ou'd better say it was a mistake [to sign the letter] and say sorry" and "the court will make you say sorry again". Mr Zukin also stated "[e]veryone who signed [the letter] ruined their reputation. I am very sorry[.] If you wanted to take revenge, we should have spoke [first]. I always considered you a colleague. Despite your character. Now we are enemies."³⁷ Mr Zukin told the Ethics Commission that while he accepts he did say to the Complainants that he would "look into the legal options to defend my good reputation", he "never threatened" the Complainants.³⁸

²⁸ Email from Mr Zukin to the Ethics Commission, 8 April 2023, **Appendix 16**, Message from Ms Kostyuk to Mr Zukin, 19 March 2022, pp 2-3.

²⁹ Messages between the Complainants and Mr Zukin, **Appendix 18**, Message from Mr Zukin to Ms Kostyuk's father, 20 March 2022, p 3.

³⁰ Email from Mr Zukin to the Ethics Commission, 8 April 2023, **Appendix 16**, Message from Mr Zukin to Ms Kostyuk, 20 March 2022, p 3.

³¹ Zoom call between the Ethics Commission and Complainants, 11 October 2023.

³² Email from Mr Zukin to the Ethics Commission, 8 April 2023, **Appendix 16**, p 1.

³³ Email from Mr Zukin to the Ethics Commission, 8 April 2023, **Appendix 16**, p 1.

³⁴ Messages between the Complainants and Mr Zukin, **Appendix 18**, Messages between Mr Zukin and Ms Kichenok, July 2022, p 4.

³⁵ Messages between the Complainants and Mr Zukin, **Appendix 18**, Messages between Mr Zukin and Mr Stakhovsky, Undated, p 5.

³⁶ Messages between the Complainants and Mr Zukin, **Appendix 18**, Messages between Mr Zukin and Mr Stakhovsky, Undated, p 5.

³⁷ Messages between the Complainants and Mr Zukin, **Appendix 18**, Messages between Mr Zukin and Mr Stakhovsky, Undated, pp 5-6.

³⁸ Email from Mr Zukin to the Ethics Commission, 8 April 2023, **Appendix 16**, p 3.

In September 2022, Mr Stakhovsky commented on Facebook that Mr Zukiin was to blame for Ukraine's top tennis players being absent from the team participating in the Davis Cup tie.³⁹ The post attracted 195 comments from members of the public and was shared multiple times on social media. Mr Zukiin replied to the Facebook post, and there ensued a public back-and-forth between Mr Stakhovsky and Mr Zukiin. For example:

Sergiy Stakhovsky: The Davis Cup match between Ukraine and Hungary, which will take place in neutral Vilnius, will be without the leaders of Ukrainian tennis (both in singles and in pairs)... Did the best sports manager of Ukraine fail to negotiate with the players?? I will not write comments such as "dear to the young generation" and "young people are more powerful than leaders".

...

Evgeniy Zukiin: [T]he new leaders have seen enough of your extortion and got infected. But they still have time to heal, and you don't...

Sergiy Stakhovsky: [M]y betrayal is 18 years and many records? Then ok. I am proud of my betrayal and hope that all players will be such 'traitors'.

...

Evgeniy Zukiin: You've forgotten who financed these records... And I really want to know how much tax[] you paid in Ukraine on these earnings.

...⁴⁰

At one point a member of the public calls Mr Zukiin's comment "unreal rudeness" and asked the pair to stop their public disagreement. Another member of the public called on Mr Zukiin to provide evidence of how much Mr Stakhovsky was paid for playing tournaments for Ukraine, and Mr Stakhovsky responded by encouraging Mr Zukiin to do so "[t]o amaze everyone how much the best tennis player 'earned' (sometimes 2nd or 3rd)." Mr Zukiin commented that he would publish payments made to Mr Stakhovsky and questioned "how much taxes he paid to the state of Ukraine from this money." In another post he said "Mr Stakhovsky knows how much money he got in cash from my hands. But only he knows how much [taxes] he paid on them." Mr Zukiin then proceeded to post what he claimed to be Mr Stakhovsky's earnings from 2013 to 2021 from the UTF, referring to the earnings as "the price of patriotism" and setting out what Mr Stakhovsky ought to have paid in taxes.⁴¹

Mr Zukiin confirmed to the Ethics Commission that the information he published about Mr Stakhovsky's earnings was not otherwise publicly available. Mr Stakhovsky disputed the figures saying "[t]he amounts written here do not correspond to reality" and noted that "taxes have been paid on all contracts." Mr Zukiin responded stating "[o]f course, now you can deny anything and lie about paying taxes. But we both know the truth."⁴² This exchange between Mr Stakhovsky and Mr Zukiin

³⁹ Facebook exchange between Mr Zukiin and Mr Stakhovsky, 6 September 2022 (unofficial translation), **Appendix 19**, p 1 of PDF.

⁴⁰ Facebook exchange between Mr Zukiin and Mr Stakhovsky, 6 September 2022 (unofficial translation), **Appendix 19**, p 7 of PDF.

⁴¹ Facebook exchange between Mr Zukiin and Mr Stakhovsky, 6 September 2022 (unofficial translation), **Appendix 19**, pp 7, 11, 12 and 24 of PDF.

⁴² Facebook exchange between Mr Zukiin and Mr Stakhovsky, 6 September 2022 (unofficial translation), **Appendix 19**, p 25 of PDF.

was republished in the Ukrainian press, which attributed Mr Zukin's comments to the UTF and noted that the "[s]candals in Ukrainian tennis do not subside".⁴³

Mr Stakhovsky told the Ethics Commission that, during his professional career, he believed there was "constant pressure, threats and arrogant behavior beyond believe [sic]" from Mr Zukin and that he "showed continues [sic] disrespectful and arrogant behavior toward Ukrainian top players."⁴⁴ On his public exchange with Mr Stakhovsky, Mr Zukin states that, by that time, Mr Stakhovsky had retired from professional tennis and had become a public politician in Ukraine. According to Mr Zukin, Mr Stakhovsky had a personal vendetta against him: "[h]e wanted to change the leadership in the [UTF] as we never supported his candidacy for a government position".⁴⁵

4. Decision of the Ethics Commission

1. Viewed together, this evidence raises serious concerns about harm to the public image of the sport of tennis in Ukraine and, in turn, creates a risk of reputational harm to the ITF and the sport of tennis more broadly. The Ethics Commission starts by identifying the reputational harm to the sport of tennis in Ukraine, before turning to the consequential risk of reputational harm to the ITF and the sport of tennis more generally.
2. The harm to the reputation of the sport of tennis in Ukraine is shown in the public arguments between Mr Zukin and the Complainants, who are some of Ukraine's current and former top tennis players, with prominent profiles both in Ukraine and internationally.
 - a. These public arguments include the disagreement between Mr Zukin and Ms Svitolina about her participation in the Billie Jean King Cup in 2019 and 2022. Ms Svitolina explained to the public that she was withdrawing from the national team based on unequivocal medical advice. Whether or not Mr Zukin agreed with Ms Svitolina's publicly stated reasons for withdrawing from the team, it was inappropriate for him to infer that she was lying and that her motivations were financial. Nor was it proportionate or appropriate for Mr Zukin to state that his negotiations with Ms Svitolina and Ms Katarina Zavatska and their agent amounted to "ultimatums or blackmail" or to question whether the players had sufficient patriotism to play for their country. Mr Zukin's comments were described by the person interviewing him as "harsh", and they caused Mr Svitolina to feel publicly attacked by the UTF. Mr Zukin gave no convincing reason for why he needed to make public his confidential negotiations with team players. Rather, the Ethics Commission finds that Mr Zukin made his statements publicly either to harm the public image of those Complainants that refused to accept the UTF's financial terms for participating in the national team, or because he was reckless as to what harm he would cause the Complainants and, in turn, the image of Ukrainian tennis.
 - b. The public arguments also include the incident on Facebook between Mr Stakhovsky and Mr Zukin. The Ethics Commission finds that Mr Stakhovsky's conduct was provocative and intended to publicly discredit Mr Zukin. However, it was not appropriate for Mr Zukin to be drawn into a public argument with Mr Stakhovsky on social media. Nor was it appropriate or proportionate for Mr Zukin to publicly accuse Mr Stakhovsky of "extortion" or suggest (as he did) that extortion is a wider problem among Ukraine's top tennis players. Notwithstanding Mr Stakhovsky's invitation, Mr Zukin should not have published Mr Stakhovsky's purported earnings and speculated about possible tax evasion. Mr Zukin showed a lack of restraint, choosing instead to retaliate against the disparaging comments that Mr Stakhovsky had made about him, and in doing so acted

⁴³ "This is the price of patriotism." *The FTU revealed Stakhovsky's fees, calling him a liar – Sergei responded: Scandals in Ukrainian tennis do not subside*, Sport.ua, 8 September 2022 (unofficial translation), **Appendix 20**.

⁴⁴ Email from Ms Svitolina to the Ethics Commission, 28 August 2022, **Appendix 15**, pp 2-3.

⁴⁵ Email from Mr Zukin to the Ethics Commission, 8 April 2023, **Appendix 16**, p 4.

in disregard of the harm his public argument with Mr Stakhovsky would cause to the reputation of Ukrainian tennis.

3. In the Ethics Commission's view, the harm to the reputation of tennis in Ukraine poses a risk of harm to the reputation of the ITF and the sport of tennis more generally. The Ethics Commission bases this finding on the following:
 - a. Mr Zukiin is a member of the ITF's Davis Cup Committee. It is particularly important that he conduct himself properly and in a way that preserves and respects the reputation of the sport of tennis in matters relating to the Davis Cup and the women's equivalent tournament, the Billie Jean King Cup. Nevertheless, the incidents giving rise to the Complaint centre on his interaction with Ukrainian tennis players involved in representing their country in the Davis Cup and the Billie Jean King Cup. In particular, his public arguments with Ms Svitolina and Ms Zavatska concern their participation in the Billie Jean King Cup, the animosity between Mr Zukiin and the players arises from his negotiation of the terms of the players' participation in the Billie Jean King Cup, and the exchange with Mr Stakhovsky concerns a players' earnings from participating in tournaments including the Davis Cup. Accordingly, the matters raised in this Complaint have reputational implications for the ITF, because they concern the behaviour of a member of the Davis Cup Committee in matters concerning the Davis Cup and the Billie Jean King Cup.
 - b. The evidence reviewed by the Ethics Commission also points to a potential escalation of the animosity between Mr Zukiin and the Complainants. On the one hand, Ms Svitolina says she felt publicly "attacked" by Mr Zukiin in his statements about her to the press in 2019; Ms Kostuyk told Mr Zukiin that "I can't play with such an attitude, for money, without money, I don't like this whole situation that has developed in the team"; Ms Kichenok told Mr Zukiin she expected threats of a law suit from him after she signed the letter calling for his resignation; and Mr Stakhovsky told the Ethics Commission that his experience of Mr Zukiin is one of "constant pressure, threats and arrogant behaviour." There is also evidence of Mr Zukiin contacting the family of a Complainant to report on her purportedly "disgusting behaviour", and of Mr Zukiin pressuring a player to participate in the Billie Jean King Cup without remuneration in order to avoid reputational harm. On the other hand, Mr Zukiin has referred to the Complaint against him as "revenge"; has called Mr Stakhovsky his "enemy" with a personal vendetta against him; and he has threatened to commence legal proceedings against each of the signatories of the Complaint. The Ethics Commission finds that there is a serious risk of this matter escalating in future and a corresponding risk of future harm to the reputation of the sport of tennis.
 - c. The Ethics Commission has also taken into consideration the fact that Mr Zukiin has previously been sanctioned for a breach of the Code and, in particular, was sanctioned for behaviour that brings or risks bringing the ITF or the sport of tennis into disrepute. This prior complaint concerned an incident in which Mr Zukiin, by his own admission, "lost [his] temper" with Mr Thomas Hammerl, Chief Executive Officer of Tennis Europe, because of a statement made by Tennis Europe in response to the war in Ukraine. Mr Zukiin approached Mr Hammerl in a restaurant in Istanbul in February 2022 and slapped Mr Hammerl on the back of the head. The Ethics Commission found that this public, physical assault amounted to a breach of the Code and sanctioned Mr Zukiin with a warning as to future conduct and a reprimand. The Ethics Commission considers that the incident involving Mr Hammerl can be considered together with the evidence set out in this decision. Together, the evidence shows that Mr Zukiin has on several occasions lacked restraint befitting of an ITF Official and has acted in disregard of the reputation of the ITF and of the sport of tennis.
4. The Ethics Commission wishes to make clear that it is not concerned with the details of financial negotiations between Mr Zukiin and the Complainants, Mr Zukiin's handling of the ITF's finances, nor the amount of money that players like Mr Stakhovsky earn from representing their

country in major tennis tournaments. Some of these matters have already been addressed by the UTF Board and the Ethics Commission will not reopen those findings. Rather, the Ethics Commission is concerned to ensure that Mr Zukin, as an ITF Official, conducts himself in a way that does not risk bringing serious reputational harm to the ITF or the sport of tennis.

5. The Ethics Commission therefore concludes that Mr Zukin has acted in a way that risks bringing the ITF and the sport of tennis into disrepute, contrary to his obligations under Article 2.1.4 of the Code.

5. Appropriate sanctions

6. The Ethics Commission's powers to sanction ITF Officials in breach of the Code are set out at Articles 4.2 and 4.3 of Schedule 1 of the Code. According to these provisions, the Ethics Commission can decide whether to issue a limited set of sanctions or, in more serious cases, refer the matter to an Independent Tribunal. In deciding whether this matter falls into the latter, more serious category of breaches, the Ethics Commission has taken into consideration the following factors.

- a. *First*, the Ethics Commission is mindful of the need to deter future disclosure of confidential information about players and the terms on which they participate in sporting events. It is important to the reputation of any sport that where players engage or negotiate with officials in the expectation of confidence and where officials have access to private information about players, that confidence and privacy is respected. Mr Zukin has violated players' privacy on several occasions.
- b. *Second*, Mr Zukin has made various imputations about the Complainants, who have variously been described as liars, extortionists, tax evaders and lacking in patriotism. Such language, particularly when expressed in public, is unbecoming of an Official in Mr Zukin's standing.
- c. *Third*, Mr Zukin has breached the ITF Code of Ethics on a previous occasion, as is detailed in the Ethics Commission's decision of 25 July 2022. This ought to have made Mr Zukin conscious of the need for greater restraint in his public, tennis-related behaviour. However, after having already been found to have risked the reputation of the ITF or sport of tennis, Mr Zukin engaged in further, public conduct that risked causing reputation harm to the ITF or the sport of tennis, in particular his altercation with Mr Stakhovsky on Facebook in September 2022. It appears, therefore, that Mr Zukin disregarded the warning and reprimand that the Ethics Commission issued against him on 25 July 2022.
- d. *Fourth*, the Ethics Commission is concerned that the broader conflict between Mr Zukin and the Complainants reveals damaged relations between key stakeholders in Ukrainian tennis.

7. While these factors aggravate the seriousness of Mr Zukin's breach, the Ethics Commission does not consider that Mr Zukin's breach warrants referral to the Independent Tribunal. Rather, the appropriate sanctions in this case fall within the ambit of the Ethics Commission's powers in Article 4.2 of Schedule 1 of the Code. In reaching this conclusion, however, the Ethics Commission emphasises that it considers this case to be serious and to warrant appropriately severe sanctions within the Ethics Commission's powers.

8. Before turning to the specific sanctions ordered, the Ethics Commission notes that the Complainants asked "that M. Zukin be officially and publicly dismissed from his positions at the Ukrainian Tennis Federation and at the ITF Davis Cup Committee, dismissed from his role as an ITF referee and from any other position he may hold within the ITF organization."⁴⁶ The

⁴⁶ Complaint, 4 July 2022, **Appendix 1**.

Ethics Commission does not have jurisdiction to decide on Mr Zukin's position at the Ukrainian Tennis Federation and does not have the power to dismiss Mr Zukin from his role as a member of the ITF Davis Cup Committee or an ITF referee.

9. The Ethics Commission decides that Mr Zukin is sanctioned with a fine of \$10,000 and a twelve (12) month suspended period of ineligibility to act on the ITF Davis Cup Committee. The fine shall be paid to the ITF, and the suspended period of ineligibility shall commence on the date of this decision. For the avoidance of doubt, a suspended period of ineligibility means that Mr Zukin may continue in his role as an ITF Davis Cup Committee member, but that if, over the next twelve months, Mr Zukin's conduct gives rise to further concern, this matter will be referred to the Independent Tribunal with a request that he be removed from his position on the ITF Davis Cup Committee for the remainder of the twelve (12) month period.
10. Article 4.2 of Appendix 1 of the Code provides that Mr Zukin will be permitted 21 days to appeal this decision, should he wish to do so, absent which this decision will become final and binding and will be published on the ITF's website.



Sandra Osborne SC

Chair, ITF Ethics Commission