

# PROPOSALS OF MODIFICATIONS OF THE STATUTES

2017 CONGRESS

## Proposals of the Executive Committee

### Proposal 1

Motivation: Up-dating of the article

#### 5.6 RESPONSIBILITIES OF THE PRESIDENT

\*5.6.2 ~~The President shall have the right to hire and terminate the employees, service providers, advisers, consultants and other individuals and companies.~~

The President may employ and terminate, with the approval of the Executive Committee, the personnel necessary to run the F.I.E. efficiently.

The Legal Commission feels that the proposed change is not in line with “ Good Governance” principles because it eliminates the checks and balances by consolidating all decision making power in one individual’s hands. The principle of “4 Eyes” with regard to having at least 2 persons sharing responsibility should be implemented not only in the Statutes but also in practice. The Legal Commission will commence a project to review and modify the Statutes (and Administrative Rules, where applicable) to reflect appropriate governance. The text proposed is therefore: \*

## Proposals of Sam Cheris (MH) and Peter Jacobs (MH)

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### Proposal 1

**Motivation:** To harmonize the Statutes with the corresponding proposal relevant to the Technical Rules.

#### ~~7.2.11 Procedure in the case of a black card~~

~~When a black card is awarded at an international competition organised under the aegis of the F.I.E., it shall be reported within 10 days, to the president of the F.I.E., who assesses the appropriateness of prosecuting before the Disciplinary Tribunal the offence, which led to the penalty of the black card. Depending upon the severity of the offence committed, he will then send the report made by the F.I.E. supervisor or by the Directoire Technique to the president of the Legal Commission, requesting them to establish a Disciplinary Tribunal~~

**The Legal Commission is in favour of eliminating Statute section 7.2.11 if the Congress adopts the changes to the Rules encompassed in t.119, which would move the concepts of the Statute section into the Rules where all other sections regarding the giving of a black card and the consequences thereof are found.**

## Proposals of the Legal Commission

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### Proposal 1

**Motivation:** Resubmission of the Legal Commission proposal 5 of 2013, clarifying nationality rules for submission of candidates for councils, as it failed to be approved at that congress. Modify to include nominated as well as elected posts and clarify nationality issue, as follows:

- 4.1.2. Candidates for the **Executive Committee, a Commission, a Council or the Disciplinary Panel** ~~any-elected-post~~ may be proposed by an F.I.E. Member Federation, subject to the following conditions:
- only one candidate may be proposed by each Member Federation for each post
  - a candidate ~~for the Executive Committee, a Commission, a Council or the Disciplinary Panel~~ can only be presented by the Member Federation ~~with~~ (treated in 4.4.1, 4.6.2 and 4.7.1) ~~the limit of 1 candidate per nationality for any such position~~ with **whom the candidate has nationality.**

**The Legal Commission supports this proposal as modified to create greater clarity.**

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### Proposal 2

**Motivation:** REVISION TO ARTICLE 4.4.2, PARA 4, to clarify point 3 and bring the English version in line with the French and Spanish texts. Modify as follows:

- 4.4.2 4. A candidate for the Refereeing Commission must ~~have both:~~
- ~~must~~ be or have been an FIE category B or A referees in at least two weapons;
- and
- be a current member of the Refereeing Commission, or have refereed in official FIE competitions in ~~each-of~~ at least two weapons in at least two (2) of the 4 fencing seasons (1 September to 31 August) preceding his candidature
- and
- have refereed, at least once, in one weapon, in the table of eight, **semi-final or final of the individual or team event** of a senior World Cup, or a Grand Prix, or a World Championships or the Olympic Games of the 4 fencing seasons preceding his candidature.

**The Legal Commission supports this proposal with the one modifier to clarify that the team match would have a similar strength level as that of the individual matches.**

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### Proposal 3

**Motivation:** to state council minority gender quota in percentage terms as councils are of varying numbers of members. Modify to state the minima in terms of percentages, as follows:

- 4.7.6. Candidates permitting, ~~there must be at least two persons of each gender~~ there must be at least 20% representation of each gender on each of the councils.

**The Legal Commission is in favour of this proposal.**

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#### **Proposal 4**

**Motivation:** Add new section to the Statutes to govern attendance at meeting of the commission by means other than physical attendance:

- 6.4.2 A Commission's meeting is valid only when the majority of members are present. Otherwise, the proposals taken will be submitted by correspondence to absent members who must express their opinion within 8 days; if they fail to do this, their silence will be interpreted as an agreement with the submitted proposal.

1 Each member of the commission is entitled to participate in any meeting, by telephone or video conference, provided that both of the following conditions are fulfilled:

(i) the President of the commission is able to ascertain the identity of each person attending the meeting; and

ii) all the participants are able to take part in real time in the discussion and simultaneously vote on the items of the meeting agenda.

The Meeting is considered to be held in the location where the President is attending the meeting.

Each member who wants to participate by telephone or video conference, pursuant to the above, shall submit the request to the President, at least 10 days before the meeting. However, no such 10-day notice is required if a member of the commission cannot attend the meeting. in person on account of a force majeure event including, but not limited to, illness or injury preventing a person from coming to the meeting or travel interruption due to delays preventing the person from arriving in time for the meeting.

For certain matters the President, following each meeting deliberation, may ask for a confirmation to be addressed by e-mail within 10 days from the date the meeting is held.

Participation by telephone or video is not permitted when a secret ballot is required.

**The Legal Commission is in favour of this proposal as revised to clarify the force majeure exception.**

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## Proposal 5

**Motivation:** Modifications to facilitate the use of to the FIE Disciplinary Code by those confederations who have decided to subject themselves to it:

### 7.1.1 Jurisdiction

The Disciplinary Panel, selected by the Executive Committee, has sole jurisdiction to rule on all offences against the Rules, Ethics Code, discipline or sportsmanship within the purview of the International Fencing Federation (F.I.E.), (including any of its confederations that have subjected themselves to this FIE Disciplinary Code and/or the decisions of the Disciplinary Panel), except the specific dispositions with respect to discipline at the sites of the competitions to be found in Articles t.114 et seq. of the Rules for Competitions of the F.I.E. The Executive Committee will assure the respect for and the execution of the decisions of the Disciplinary Panel.

For the purpose of the Disciplinary Code, any confederation that has subjected itself to this FIE Disciplinary Code and/or the decisions of the Disciplinary Panel will hereinafter be referred to as a 'Joined Confederation'.

### 7.1.2 Disciplinary jurisdiction - persons subject

All individual or entities are subject to the disciplinary jurisdiction of the Disciplinary Panel of the F.I.E. for example who:

- are members of the F.I.E.;
- are licensees of the F.I.E. or of any of the Joined Confederations;
- are licensees of or affiliated to members of the F.I.E.; or
- are members of national delegations.

### 7.1.7 Offences

The offences submitted to the assessment of the Disciplinary Tribunal of the F.I.E. are the following:

- Violation of the Statutes or the Rules of the F.I.E. or of any of the Joined Confederations
- Unsportsmanlike conduct
- Brutal behaviour -----etc.

### 7.2.11 Procedure in the case of a black card

When a black card is awarded at an international competition organised under the aegis of the F.I.E. or of any of the Joined Confederations, it shall be reported within 10 days, to the president of the F.I.E., who

assesses the appropriateness of prosecuting before the Disciplinary Tribunal the offence, which led to the penalty of the black card. Depending upon the severity of the offence committed, he will then send the report made by the F.I.E. supervisor or by the Directoire Technique to the president of the Legal Commission, requesting them to establish a Disciplinary Tribunal.

**The Legal Commission is in favour of this proposal. If the Congress passes the amendment to t.119, section 7.2.11 will be eliminated as noted in Proposal 1 proffered by Peter Jacobs MH and Sam Cheris MH.**

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### **Proposal 6**

**Motivation:** to clarify the interplay between the disciplinary jurisdiction of the Bureau and that of the Disciplinary Panel

Modify Articles 7.2.2 and 7.2.3.

**Argument:** The procedure in establishing the Disciplinary Tribunal according to Arts. 7.2.2 and 7.2.3 is not precise. It is up to the Legal Commission to form the Disciplinary Tribunal by selecting its members out of the Disciplinary Panel. Only after creating the Disciplinary Tribunal, the complaint “shall” be forwarded to its president. Thus, the Legal Commission has to take action without formal knowledge of the complaint. Furthermore, in establishing the Disciplinary Tribunal conflicts of interests have to be avoided. This is not possible without knowledge of the complaint and – at least – the parties involved. The changes of Art. 7.2.2 and Art. 7.2.3 streamline the process of establishing the Disciplinary Tribunal.

The wording of Art. 7.2.2 (“when it is necessary to engage a Disciplinary Tribunal” and “the head office of the F.I.E. shall send”) could be interpreted as granting the head office any discretion in forwarding the complaint. This is not compatible with the sole jurisdiction of the Disciplinary Tribunal. The changes to Art. 7.2.3 accordingly refrain from such open wording and give the Legal Commission the authority to decide on the admissibility of the complaint.

#### **7.2.2 Composition of the Disciplinary Tribunal**

The head office of the F.I.E. will inform the president of the Legal Commission of any complaint filed with the F.I.E and the parties involved within three days after the complaint was filed with the F.I.E.

~~When it is necessary to engage a Disciplinary Tribunal,~~ In case of admissibility of the complaint according to Article 7.2.1, the Legal Commission, or a sub-committee thereof selected for this purpose, will within 7 days after being informed about the complaint by the head office of the F.I.E. eliminate those members of the D.P. who have a

conflict of interest, either because of the countries represented in the controversy or because of involvement in the incident in another role (e.g. DT, Arbitrage, etc.). It will then select the 3 members of the Disciplinary Tribunal, by lots to be designated as the Tribunal, plus one additional person, also selected by lots, to be the alternate, who shall be substituted on the Tribunal if one of the 3 persons originally chosen is not available or shall be determined to have a conflict of interest which causes that person to be eliminated from the Tribunal. The Legal Commission shall designate the president of the Disciplinary Tribunal. Any member of the Tribunal selected by the Legal Commission shall have the responsibility to disclose any relationships with the parties and to refuse to accept any assignment to a Tribunal where there is a conflict of interest.

The proceedings of the Disciplinary Tribunal and the Legal Commission with regard to any complaint shall be strictly confidential until a decision is rendered. No copies of the complaint shall be sent to anyone other than the parties involved, [the Head Office of the FIE](#), the Disciplinary Tribunal ~~and~~ the Legal Commission [and the Bureau with respect to matters relating to 7.2.12.](#)

### **7.2.3 The disciplinary Tribunal - composition, powers, obligations**

The head office of the F.I.E. ~~shall~~ will send to the president of the Disciplinary Tribunal within ~~15-7~~ days [after its creation](#), the complaint, which was filed with the F.I.E.

The president of the Disciplinary Tribunal will, within 15 days, transmit a copy of the complaint to the person(s) designated therein.

A copy of the complaint is also sent to the president(s) of the federation(s) to which the parties belong.

~~If the case arises, t~~The Disciplinary Tribunal can, on its own motion, decide that there is no grounds to prosecute the complaint, which has been submitted to them.

That decision can be appealed according to the rules of Article 7.2.7.

The Disciplinary Tribunal has all of the powers for investigating the complaint, and pronouncing, if the case arises, a penalty. It must, in all circumstances, respect and ensure respect of the rights of the defence.

### **7.2.12 Power of judgement by the ~~Central-Office~~ Bureau of the F.I.E.**

**Argument:** Art. 7.1.1 establishes the sole jurisdiction of the Disciplinary Tribunal. Art. 7.2.12 gives the Bureau only power to take preliminary measures until a final decision by the Disciplinary Tribunal is made. The changes to Art. 7.2.12 para. 1 clarify this understanding.

7.2.12 In case of emergency, the **Central Office Bureau** of the F.I.E. can take, within the framework of its power to judge, **preliminary** administrative measures suspending the license of the defendant ~~when it has referred the case to~~ **until a final ruling by** the Disciplinary Tribunal. It can only do this in cases where the severity of the offence or its consequences require it.

**The Legal Commission is in favour of this proposal as amended to clarify those entitled to receive copies of the complaint and clarifying that “Central Office” is the Bureau.**

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## **Proposal 7**

**Motivation:** Special provisions should be adopted to address refugee participation

### **9.1.5 Application and Issue**

a) **The licences are ordered by national Federations on the FIE Web site for those holding the nationality or a refugee status issued by the governmental authorities of and entitled to membership with the federation.**

b) For those countries, which do not yet have a national federation, which is a member of the F.I.E., applications are made through the Olympic Committee of the country.

c) It is strictly forbidden for a fencer to possess more than one international licence.

d) When a fencer is visiting another country, or even if he lives in a country other than his own, he must apply for his licence to the member Federation of his own country, that is to say, to the member Federation of the country whose nationality he possesses.

e) The F.I.E. **administrative head** office with the agreement of the FIE Bureau may of its own initiative grant an international licence to a fencer who has the nationality of a country where there is neither a national federation which is a member of the F.I.E. nor an Olympic Committee affiliated to the I.O.C., and to fencers who are legally stateless.

### **9.2.3**

For the FIE competitions fencers who are legally stateless **or hold a refugee status issued by the governmental authorities in the country in which they live**, may compete as long as they are registered by the member federation of the country in which they live **with approval of the F.I.E. head office**. **Fencers holding refugee status shall be treated as nationals of the country of such member federation for purposes of these Statutes and F.I.E. rules unless the Member Federation refuses to allow them to compete on behalf of such Federation in which case they shall**

be treated as stateless, but shall not be permitted to represent any particular country in competitions, either individually or as part of a team, unless authorized to do so by the F.I.E. head office.”

The practical process for a request of modification of nationality is stated in the FIE Administrative Rules, “Licences and nationality” chapter.

**The Legal Commission is in favour of this proposal as amended to clarify that it is the FIE head office that will administer this process and that a refugee who is not permitted to compete for the country granting them refugee status will be treated as stateless.**

## Proposals of the Promotion and Publicity Commission

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### Proposal 1

**Motivation:** To update the name and duties of the Commission to more accurately describe the actual work being done by the Commission. For example, the existing duties in the statutes have descriptions for roles currently undertaken by the FIE head office (first duty), the Rules Commission (third duty) and the Coaching Council (fourth duty). The proposed new name and new duties would reflect the current work undertaken by the Commission.

#### 6.5.5 *The Promotion ~~and Publicity~~, Communication and Marketing Commission*

The duties of ~~this~~ the Promotion, Communication and Marketing Commission ~~is are:~~ ~~to motivate and co-ordinate the activities of the member Federations for the promotion and development of fencing; to advise the Congress on the way in which the patronage of the F.I.E. will be bestowed on international competitions; to propose the rules for the World Cup competitions (A-category and Grand Prix) and Masters, and to supervise their application; and to maintain contact between the F.I.E. and the fencing masters.~~

- a) To provide professional expertise to elevate and enhance the image of fencing for all groups including sponsors, audiences, fencers and all the fencing family
- b) To propose innovations and improvements to the Executive Committee, particularly those associated with television, internet and live audiences
- c) To make recommendations to the Executive Committee on all matters associated with Promotion, Communication and Marketing
- d) To contribute to the continuing promotion of fencing in all zones
- e) To propose changes and improvements to the sections in the administrative rules and handbooks relating to Promotion, Communication and Marketing

It is responsible for promoting public relations activities for our sport.

It proposes any changes relating to the media and advertising aspects of fencing.

It presents to the Executive Committee a report, which will be submitted to the Congress on all the proposals submitted to it. The definitive formulation of texts for the decisions taken by the Congress must be entrusted to the Rules Commission or the Legal Commission as applicable for approval by the Executive Committee.

**The Legal Commission agrees with this proposal as presented.**

**PROPOSALS OF MODIFICATIONS TO THE RULES  
2017 CONGRESS**

**Proposals of the Executive Committee**

**Proposal 7**

**Motivation:** if the important aspect is for the athlete to be at least 13, 14 or 15 at the time of registering for a competition, then our proposal is to delete the text underneath this. In fact, the junior competition year lasts until April so if an athlete is 13 on the 2<sup>nd</sup> of January of the year in which the match takes place, he cannot take part in the competition.

**Age of athletes**

**o.55**

1. No fencer is allowed to take part in an official event of the FIE unless he or she is **at least 13 years old** when his FIE licence is ordered ~~on 1 January in the year of the competition.~~

**The Legal Commission agrees with the establishment of the birthday as the date for determining eligibility for an FIE license. Unless the medical commission presented documentation for a change of age, age 13 should be retained.**

## Proposals of the Legal Commission

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### Proposal 1

**Motivation:** to harmonize the technical and organizational rules with the proposed changes to the Statutes.

#### o.63

With the aim of ensuring that the rules are observed at the World Championships and Olympic Games, the President and the members of the Bureau of the FIE have the right to **attend all meetings of the Directoire Technique** and of the official delegates of the FIE. The Directoire Technique is obliged to give them notice of such meetings.

It is the responsibility of the Bureau of the FIE or of its designated representative to settle any ~~other~~ disputes, ~~other than discipline~~, which arise at World Championships. ~~With respect to disciplinary actions, please see t.99.4 and t.123.2).~~

**The Legal Commission is in favour of this proposal and suggests it be treated with Proposal 6 of the Legal Commission related to the Statutes since it deals with the same topic.**

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### Proposal 2

#### t.99

4. In urgent cases, the **FIE ~~Central-Office~~ Bureau** may take the **preliminary** administrative measures necessary for the suspension of the licence of the accused in accordance with the Disciplinary Code.

**The Legal Commission is in favour of this proposal as amended to show that the “Central Office” is the Bureau and suggests it be treated with Proposal 6 of the Legal Commission related to the Statutes since it deals with the same topic.**

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### Proposal 3

#### t.123

2. If a complaint or protest contests a decision taken by the Directoire Technique or the official FIE delegate, it should be addressed to the FIE **~~Central-Office~~ Bureau in accordance with Articles 7.2 and t.97.6.**

**The Legal Commission is in favour of this proposal as amended to show that the “Central Office” is the Bureau and suggests it be treated with**

**Proposal 6 of the Legal Commission related to the Statutes since it deals with the same topic.**

**Proposals of the Legal and Medical Commissions**

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**Proposal 1**

Withdrawn

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**Proposal 2**

**Motivation:** Standardise the age at which a fencer may participate in an official FIE competition based on actual date of birth alone.

**Argument:** Currently, to compete in their first cadet world championships (the only official FIE competition for cadets) after achieving the minimum age (currently 13) a fencer has to wait anything from some 3 months after their actual birthday (birthday on December 31st) up to 15 months (birthday one day later, on January 1st).

Similarly, to compete in their first FIE competition of any sort the wait from after their birthday is from a few days to a full 12 months.

In effect, currently we have a fluid 'minimum age' varying from thirteen to fourteen, which is complicated and unfair.

**o.55**

1. No fencer ~~is allowed to take part in an official event of the FIE unless he or she is at least 13 years old on 1 January in the year of the competition~~ may obtain an FIE licence, enabling him or her to enter for an official FIE competition, until he or she has reached their 13<sup>th</sup> birthday.

**See Legal Commission response to Proposal 7 – Proposals of the Executive Committee:**

**The Legal Commission agrees with the establishment of the birthday as the date for determining eligibility for an FIE license. Unless the medical commission presented documentation for a change of age, age 13 should be retained.**

## Proposals of Israeli Fencing Federation

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### Proposal 1

**Motivation:** The junior season starts at the 1 September. A fencer can be titled at the cadet junior and senior continental and world championships but cannot take part on the competitions ahead at the first 4 months of that season (1 September-31 December).

The following article contradicts o.55. 1. as it is because if the fencer is allowed to take part at the world championships (cadet junior and senior) then he or she can compete also on the 4 months (1 September-31 December) preceding the year of the world championships .

o.80. only fencers who are **of an age to qualify** for the next Junior World Championships may fence in the official FIE Junior competitions, individual or team, of the current fencing season.

### o.55

1. No fencer is allowed to take part in an official event of the FIE unless he or she ~~is~~ **will be at least 13 years old** on 1 January in the ~~year~~ **season** of the competition.

**See Legal Commission response to Proposal 7 – Proposals of the Executive Committee:**

**The Legal Commission agrees with the establishment of the birthday as the date for determining eligibility for an FIE license. Unless the medical commission presented documentation for a change of age, age 13 should be retained**

## Proposals of Italian Fencing Federation

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### Proposal 1

**Motivation:** The proposal aims to make uniform the rules for referees for the different categories and world cup and avoid the diversification regarding the issue.

In order to avoid that the countries participating with less than 5 athletes will not bring their referee and do not pay any fee, this rule will be more equal and all the countries will be responsible to their quota of the corresponding referee fee.

#### o.81

~~1-a) The number of FIE A or B Grade referees (cf. t.35) that must accompany teams to junior A Grade competitions and Veteran World Championship is:~~

~~1-4 fencers No obligation to provide a referee~~

~~5-9 fencers One referee~~

~~10 or more fencers Two referees~~

~~1 junior team One referee~~

~~For junior A Grade competitions, the name(s) of the referee(s) (who must have an FIE category in the weapon of the competition for which they are entered) must be notified via the FIE website 7 days before the competition (midnight, Lausanne time).~~

~~b) Should a national federation not provide the required number of referees, a fine (cf o.86, table of financial penalties and fines) will be inflicted on it.~~

For **Open A-grade, Grand Prix, Veterans World championships and Senior and Junior World Cup team competitions**, between 8 and 12 ~~8~~ referees, depending on the number of expected fencers, proposed by the Refereeing Commission, will be designated by the Executive Committee and delegations will not have to provide any referees. The additional referees required (not less than 5) will be provided by the organizing committee.

All the referees will be at the expense of the organizers who in return will keep the entry fees.

For **Veterans World championships and Junior World Cup** an additional entry fee for referees shall be added to the registration fee; the amount of this fee shall be proposed by the organizers and approved by FIE.

**The Legal Commission expresses no opinion since this is a Rules provision that does not affect any statutory provision or principle.**

### **Other Topics discussed by the Legal Commission:**

- **It is necessary to create clarity between the jurisdiction of the Referee Delegate and the Supervisor with regard to the interpretation of the Rules.**
- **There should be a training session for competition Supervisors given by FIE Head office personnel and experienced Supervisors – possibly a plenary session at the beginning of the Commission Meetings next year.**
- **Supervisor reports need to be updated to cover the issues that are relevant to today and not be largely duplicative of the information, which is part of the electronic files being submitted by the tournament organizer.**
- **Reviewed on-going work of commission members in assisting new Member Federations develop their statutes, reviewing Nationality issues referred to it, reviewing disciplinary complaints and establishing Disciplinary Tribunals, reviewing and editing contracts and tenders presented to it and working with Confederations updating their statutes.**

### **Additions to the Plan of Work for the Legal Commission**

- **Review Disciplinary Code to assure that complainant, respondent and the head office have sufficient time to do what is required under the Code.**
- **Expand the section on Nationality to cover non-fencing licensees and the different issues presented by their change of nationality.**
- **Good governance project**
- **Revision of Ethics Code to take into account new IOC Ethics Code and to remove jurisdictional conflicts between Fair Play Council and Ethics Committee.**

**Respectfully submitted on behalf of the Legal Commission by:**

**Samuel David Chervis, President of the Legal Commission**