

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, with the approval of the Executive Committee, the personnel necessary to run the F.I.E. efficiently.~~

Legal Commission: 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:

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.

Executive Committee: In favour of the following text:

The President may ~~employ with the approval of the Executive Committee~~ **hire and dismiss** the personnel ~~of the FIE necessary to run the F.I.E. efficiently.~~ **He informs the Executive Committee.**

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

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~~

Rules Commission: In favor of the proposal, 6 votes in favor, 1 against, 1 abstention

Refereeing commission: In favour

Legal Commission: 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.

Executive Committee: In favour

Proposals of the Legal Commission

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 any **elected or selected** 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~~ **whom the candidate has nationality.**

Legal commission: The Legal Commission supports this proposal as modified to create greater clarity:

- 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.**

Executive Committee: In favour as modified by the Legal Commission

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 referee 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, **individual or team**, 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.

Refereeing Commission: In favour

Legal Commission: 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:

- 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.

Executive Committee: in favour of the proposal as modified by the Legal Commission

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.

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

Executive Committee: In favour

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:

a) (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; or
b) 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.

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 subparagraph a), above, shall submit the request to the President, at least 10 days before 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.

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

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.

Executive Committee: In favour of the proposal as modified by the Legal Commission

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 eExecutive eCommittee 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.

Refereeing Commission: In favour

Legal Commission: 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 Chervis MH.

Rules Commission: In favour with the following wording:

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 FIE ~~or of any Confederation which has subscribed to the FIE Disciplinary Code~~, 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.

Executive Committee: In favour of the proposal from the Legal Commission. If proposal 1 is accepted, the art. 7.2.11 of the Statutes is deleted and a modified text will be added to t.119.

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 Disciplinary Tribunal and the Legal Commission.

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 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 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.

Legal Commission: 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.

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.

Executive Committee: In favour of the proposal as modified by the Legal Commission

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 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. administrative office/FIE Bureau~~. 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, 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. administrative office/FIE Bureau.”

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

Legal Commission: 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.

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.

Executive Committee: In favour of the modified proposal, except that in 9.2.3 “FIE Head office” should be replaced by “FIE Bureau”

Proposals of the Promotion and Publicity Commission

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.

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

PP Commission: In favour, with only one modification to the original proposal (the word “professional” has been deleted)

6.5.5

- a) To provide expertise to elevate and enhance the image of fencing for all groups including sponsors, audiences, fencers and all the fencing family

Executive Committee: in favour of the proposal of the P.C.M. Commission, including the modification to 6.5.5 a)

Report and Recommendation
Refugee Status and Eligibility for Competing at FIE Official Competitions

Sam Cheris and Kanako Inokuchi
FIE Legal Commission

Please note that this report and recommendation does not apply to the Olympic Games, as any question regarding refugees' status and eligibility for the Olympic Games is subject to the determinations of the International Olympic Committee.

1 SUMMARY

Current FIE rules do not expressly address the situation of refugees, and prevent many refugees from competing in FIE official competitions. In order to accept refugees within the framework of current FIE rules, (1) special provisions should be adopted; (2) license applications should be accepted and processed by receiving country NFs; (3) competition entries should be submitted by receiving country NFs; (4) FIE should consider whether receiving country NFs should deal with refugees in the same manner as they deal with their own national fencers; and (5) FIE also should consider how to allocate responsibility/liability for refugee competitors.

2 CURRENT RULES

2.1 Definition of “refugee” under international law

The generally accepted definitions of “refugee” are stipulated in the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees (collectively, the “**Convention**”). Many NF countries have acceded to the Convention, and the definitions therein are not only clear but also common throughout the world. All member countries of the Convention have similar procedures to deal with refugees and FIE can easily request the documents necessary to review refugee status.

Under the Convention, “refugee” means any person who;

- (a) “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country” (referred to herein as “**expatriated refugees**”), or
- (b) “not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it” (referred to herein as “**stateless refugees**”).

In addition to the Convention definitions, some countries may have their own legal definitions of refugees. If such countries deal with such original refugees according to their own definition in the same manner as the refugees defined in the Convention, we have no reason to eliminate such original refugees from our definitions.

As far as we are aware, the only international athletic federation to address the status of refugees in official rules is the World Taekwondo Federation, which recently amended Article 4.1.1.1 of its Para Taekwondo Competition Rules to provide that “*athletes with a refugee status issued by either governmental authorities in the country*

of residence or the UNHCR may be entered into tournaments and championships under WTF flag based on prior approval from the WTF.”

We would suggest using a similar definition by reference, such as “fencer with a refugee status issued by UNHCR or the governmental authorities in his/her country of residence.”

2.2 FIE rules relevant to participation in official competitions

In order to enter any FIE official competition, such as a World Cup or World Championship, all fencers must have valid licenses and must be members of NFs under Articles o.2 and o.8 of *Book 2. Organisation Rules, Rules for Competitions (“Rules”)*, which provide as follows:

o.2. 1. The official competitions of the FIE are open to fencers (individual or team) of all FIE member countries.

2. Every competitor or designated official in a competition, irrespective of his status, is required to be licensed for the current season (Cf. Statutes, Chapter IX).

o.8. Entries must be sent to the organisers by the competitors’ national federation (for the Olympic Games by their national Olympic Committee).

(a) License

The license application procedure is provided in Article 9.1.5 of the Statutes as follows:

9.1.5 Application and Issue

a) The licenses are ordered by national Federations on the FIE Web site for those holding the nationality 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 license.

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 license 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 office with the agreement of the FIE Bureau may of its own initiative grant an international license 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.

Stateless refugees, and expatriated refugees who are nationals of countries that lack NFs, may be able to obtain licenses under paragraph (e). Other expatriated refugees would generally be subject to paragraphs (a) through (d), which require them to apply to the NF in the country of their nationality. This makes it impossible for such expatriated refugees to obtain a license via the NF in their receiving country. This Article would therefore need to be revised in order to permit such expatriated refugees to participate.

(b) Entry

Any entry for an official competition must be sent by the competitor's NF to the organisers (Article o.8 of the Rules). It is not realistic under current entry system that NFs would send refugees' entries for the competitions to the organisers for the following reasons:

- (i) Some NFs may only accept registrations for membership from nationals of their own country and will not send any entries by non-member fencers to the organisers. In such case, it would be impossible for refugees in the NF's country to register for NF membership, and therefore impossible to send their entry to the organisers.
- (ii) Even in those refugee receiving countries whose NFs are willing to accept refugees' registrations, the NF might decide to withhold refugees from entries for official competitions due to limits on the number of entries available (e.g. at the Senior World Championships, each NF is limited to 4 fencers per weapon per nation for individual events under Article o.65 of the Rules).

Therefore, FIE has to create another entry system.

3 RECOMMENDATIONS

3.1 Special provisions should be adopted to address refugee participation

As mentioned above, participation by refugees in FIE competitions is either very difficult or entirely impossible under the current Statutes and Rules depending upon the situation of the refugee in question. Therefore, special provisions should be adopted to address this issue.

3.2 License applications should be accepted and processed by receiving country NFs

Licenses are currently usually ordered by NFs under Article 9.1.5(a) of the Statutes. Since NFs already have the staff and infrastructure in place, we recommend referring refugees to the receiving country's NF as the first point of contact for the refugee's license application. The NF can request that the refugee submit necessary documents to prove his status, such as identity papers and travel documents, and then transmit the order to FIE.

3.3 Entries should be submitted by receiving country NFs

Under Article o.8 of the Rules, each entry for an official competition should be sent by the competitor's NF to the organisers. In order to avoid changes to the Rules, we recommend that the NF in the receiving country submit refugees' entries.

3.4 FIE should consider whether receiving country NFs should deal with refugees in the same manner as they deal with their own national fencers

- (a) As mentioned above, FIE have to consider whether refugee entries should be counted against the limits on the number of entries per nation (e.g. Article 0.65 of the Rules indicates 4 fencers per weapon per nation for the individual events) so as not to displace national entries by NF country nationals. This is not an issue to the extent that NFs are willing to treat refugees as their own national entries, but if receiving country NFs do not want refugees to displace national entries, FIE would need to consider granting additional entries to NFs or otherwise making special accommodations for refugees.
- (b) FIE should consider which countries' banner refugees should compete under. When participating in the competitions, we recommend that refugees should fence under the banner of the FIE as independent fencers (as per precedents recently set by the IOC and World Taekwondo Federation), mainly because requiring refugees to fence under their home country banner or receiving country banner may have adverse political implications. On the other hand, if refugees are treated as part of the NF team under paragraph (a) above, it is arguably more logically consistent to have them fence under the receiving country's banner.
- (c) Limitations on the total number of refugees should also be considered, particularly if the total number of refugee entries for an event may exceed the number permitted for an NF as stipulated in the Rules. While all refugee entries could theoretically be accepted, this would raise the possibility of many refugees crowding into a competition in a certain area beyond the control of the organiser. Possible solutions include either (1) closing entries upon a designated number being reached, or (2) holding a pre-competition for refugees (which may raise costs for venue, referees and other related items).
- (d) In team competitions, if there are not enough refugee entries to assemble a full team, FIE may have to turn down all individual entries. Accordingly, FIE should accept only (i) individual entries for individual competitions, or (ii) entries by refugee competitors participating in team competitions as team members of receiving countries, together with other nationals of such country and within the limited number of entries allocated to that country.
- (e) FIE should also think about whether it should have the ultimate ability to accept or reject participation by refugee fencers. Due to political considerations (as refugees' original countries may have their own fencers participating in the same event), it may be necessary for FIE to reject participation by certain refugees on a case-by-case basis, and accordingly FIE should reserve these rights under the new provisions.

3.5 FIE should allocate responsibility/liability for refugee competitors to the relevant NF

FIE must consider who will be responsible for various risks related to refugee competitors during the competition. Fencers who participate in official competitions in foreign countries generally need to obtain travel insurance and other insurance in order to cover risks that may be incurred during the competition. There are also sometimes cases where a participant disappears from the venue or the country of the competition

or does something illegal during the competition; if that participant is a refugee, questions would be raised as to who should be responsible for handling such situation.

To avoid dealing with these issues at the FIE level, FIE should consider only those fencers having the official status of refugees, legally living in a specific country and whose cases are submitted by the NF of the country where they live. NFs should procure necessary insurance for refugee competitors, and should take overall responsibility for the conduct of refugee competitors while in the country of the competition.