



SUMMARY OF DECISIONS

MEETING OF THE LEGAL COMMISSION

Lausanne, 2-3 July 2005

Present :

Samuel David CHERIS
René ROCH
Peter JACOBS
Barbara Maria FERNANDEZ ALEGRET
Nicolas HALSTED
Anca Ioana Ileana IONESCU
Jean-Pierre KESSLER
Massimo LEMBO
Marco Antonio RIOJA PEREZ
Omar Alejandro VERGARA

President
FIE President
Representative of the Executive Committee

Nathalie RODRIGUEZ M.-H.

Absent with apologies :

Youri BYTCHKOV
Ildiko MINCZA-NEBALD

<p>PROPOSITIONS OF THE BRAZILIAN FEDERATION / ARTHUR CRAMER (MH)</p>

Proposition 5.

STATUTES : candidates to the Refereeing Commission must be FIE Referees, at least at two weapons.

Opinion of the Commission : in favour as follows : « a candidate to the Refereeing Commission must be an international referee at least at two weapons and must not have been deprived of his licence due to a disciplinary decision».

PROPOSITIONS OF THE GERMAN FENCING FEDERATION

Proposition 4 : Art. 4.4.2.

Modification:

All the candidates to the elections for the commissions must have the knowledge and necessary experience for the position they are applying for.

Motivation:

A deep knowledge is essential to the good running of a commission.

Opinion of the Executive Committee : unfavourable

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE ITALIAN FENCING FEDERATION

Proposition 4 : Article 4.4.2

Replace «desirable» by «**necessary**» and insert, for the Refereeing Commission, «**Refereeing Commission – having been International Referee for at least four years** ».

Opinion of the Executive Committee : in favour of the 1st part, unfavourable to the 2nd part

Opinion of the Commission : the Commission keeps the current text (desirable) and adds the following text to the list of conditions for the Refereeing Commission :

« a candidate to the Refereeing Commission must be an international referee at least at two weapons and must not have been deprived of his licence due to a disciplinary decision. »

PROPOSITIONS OF THE EXECUTIVE COMMITTEE MODIFICATIONS TO THE RULES

Proposition 15 : article t.97 The Directoire Technique.

t.97 To be deleted b) and d)

To be added :

c) It must also ensure the maintenance of order and discipline during the competition.

Opinion of the Commission : not in favour of deleting b) and d) but in favour of adding c). And is not in favour of the proposition 6 submitted to the Rules Commission.

PROPOSITIONS OF THE EXECUTIVE COMMITTEE MODIFICATIONS TO THE STATUTES

Proposition 1 : article 1.1, j) new

- j) to ensure that the principle of non-discrimination on grounds such as the race, the sex, the ethnical belonging, the religion, the political opinions, the family status or other, is respected.

Motivation : Introduction of this missing notion, following the adoption by the FIE of the IOC Code of Ethics.

Opinion of the Commission : favourable.

Proposition 2 : article 1.2.8 new

The FIE recognises the fundamental principles of the Olympic Charter, the applicability of the Code of Ethics of the International Olympic Committee and the competence of the Commission of Ethics of the International Olympic Committee.

Motivation : updating of the Statutes following the adoption by the FIE of the IOC Code of Ethics.

Opinion of the Commission : favourable.

Proposition 3 : 2.1.2 Conditions of membership of Members of Honour

a) Nomination

Besides the member Federations the FIE may also include Members of Honour.

The title of Member of Honour may be granted by the Congress to any person who, through a long and loyal service to international fencing, has proved his or her constant commitment to the FIE. This is granted as a mark of appreciation towards this person and also in order to secure for the FIE, in all its activities, the enlightened advice of that person.

b) Procedure

Before each Congress, the Executive Committee may single out one or more persons with the intention of proposing their nomination as Member of Honour to the Congress, which ratifies these nominations.

Opinion of the Commission : in favour of changing « Central Office » for « Executive Committee », but unfavourable to the suppression of the Honours Commission. Keep the item b) as it is currently.

PROPOSITIONS OF THE ITALIAN FENCING FEDERATION

Proposition 5 : Article 11.5

To add «To be nominated as Member of Honour it is requested to have been Member of the Executive Committee or a Commission for, at least, ten years».

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF PETER JACOBS (MH)
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- 4) To ensure members of honour are kept fully informed and don't have to rely on their national federations.

Article 5.7.1: *Add in brackets after the words “Members of the F.I.E.” the following words:-*

(federations and members of honour)

Opinion of the Commission : superfluous.

<p style="text-align: center;">PROPOSITIONS OF THE EXECUTIVE COMMITTEE MODIFICATIONS TO THE STATUTES</p>

Proposition 4 : article 3.1 Meetings.

3.1.2 c) An extraordinary Congress may be convened if the Executive Committee so proposes, or at the request of at least 50 % of member federations. The expenses incurred by the organisation of this Congress are supported by the one who have required its convocation.

Motivation : It is necessary that an extraordinary Congress be convoked by the majority of the Federations and not a minority, which would be unable to make the proposed modifications approved.

Opinion of the Commission : An extraordinary Congress may be convened, either upon proposal of the Executive Committee, or at the request of 25 % of national member federations. Unfavourable to : “ The expenses incurred by the organisation of this Congress are supported by the one who have required its convocation”.

Proposition 5 : article 3.3 Composition and representation.

3.3.1 The FIE member federations may be represented at a FIE Congress or General Assembly by 2 delegates, whose names must be made known to the FIE head office before the Congress or General Assembly.

Members of the Executive Committee and Commissions have the right to assist to the Congress.

The authority to vote for a member Federation is limited to its President or any other person designated by him in writing.

Motivation : This is just a regularisation as we are already acting this way.

Opinion of the Commission : in favour, but addition of “candidates to the election” in the second sentence.

Proposition 6 : article 3.5 Decisions.

3.5.4 At the Congress the vote is secret on any point which concerns an individual person or a member federation or at the request of 25% of the national federations present or represented.

Motivation : This is desirable that only the majority of members present be able to modify the voting system as voting is generally public.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE ITALIAN FENCING FEDERATION

Proposition 1 : Article 3.5.4

To add «or if it is requested by fifteen national member Federations».

Executive Committee : in favour but change “15” into “25%”.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE EXECUTIVE COMMITTEE MODIFICATIONS TO THE STATUTES

Proposition 7 : article 3.6 Special Rules for the Elective Congress

3.6.2.1 Creation :

It creates a commission of verification for the candidatures, which comprises the members of the FIE Bureau, the President of the Legal Commission and the administrative and financial Director.

This commission is requested to check the candidatures and reject the one which do not comply with the Statutes and the Ethic recommended by the International Olympic Committee.

Motivation : This is embarrassing to have candidates who do not fully respect our Statutes or are not in line with the Olympic Ethic.

Opinion of the Commission : the article 4.1.4 is sufficient and the Bureau has the right to reject candidatures, which are conflicting the Statutes. Add to the first sentence of the last paragraph of the article 4.1.4, after the word Statutes, “ or the IOC Code of Ethics”.

Proposition 8 : article 4.5 Elections of the athletes commission

4.5.2 3rd paragraph

Each member federation can nominate **only one athlete** for the Athletes Commission.

4.5.3 Each member federation shall indicate to the FIE **the name of its candidate two months before the first day of the Open World Championships in the year following the Olympic Games.**

4.5.6 **A list of candidates will be established, at any weapon, and each participant shall vote for 6 athletes maximum, whatever weapon the athletes are applying for.**

4.5.7 to 4.5.10 and 4.5.16 , to be deleted.

4.5.11 **The voting athletes will personally go to the office of the FIE at the competition site to fill in their voting slip and deposit them in the box, after having verified their identity by presenting their license and having signed the attendance sheet.**

4.5.12 **There will be one ballot box, during all the competitions of each of the six individual weapons.**

4.5.14 **The candidates who have received the greatest number of votes will be elected, **without distinction of weapon.****

Motivation :

- to avoid having candidates from the same federation in competition (as each federation can have only one candidate elected)
- simplify the voting procedure (with less documents and interveners)

Opinion of the Commission : in favour.

Proposition 9 : article 5.2.2 Structure of the Executive Committee.

5.2.2 Two members of the Executive Committee, fulfilling the roles of Secretary General and Secretary-Treasurer, are chosen by the President of the FIE.
During its first session, the Executive Committee elects three vice presidents among its own members.

The President, the Secretary General, the Secretary-Treasurer and the three vice presidents form the Central Office (Bureau).

Motivation : The International Fencing Federation having now 115 member federations, it seems necessary to have 3 vice-presidents in order to have a representation of the different continents.

Opinion of the Commission : Rejected as not motivated : the Presidents of Confederations are already representing the different zones.

Proposition 10 : article 5.6 Responsibilities of the President.

5.6.4 Replace the last sentence by :

The President has the power to carry out jointly with the Secretary-Treasurer, investments on this account, which will be duly reported to the Executive Committee.

Motivation : The current economic conditions require quicker decisions than in the past.

Opinion of the Commission : in favour as follows : The President is allowed to carry out on this account, jointly with the Secretary-Treasurer, any investments which will be reported to the Executive Committee and make, without previous consultation of the Executive Committee, commitment with third parties, within the limit of CHF 10'000.-, apart from the ordinary and necessary expenses.

Proposition 11 : article 6.4 Meetings of Commissions.

6.4.4 During the Commissions meetings, no new matters will be discussed other than those that are on the agenda.

Motivation : The propositions need a deep examination and the value of a proposition can not be seriously decided the day before the Congress.

Opinion of the Commission : rather recommends the suppression of the article 6.4.4.

Proposition 12 : article 6.5 Functions of the permanent commissions.

6.5.1 b) This commission prepares the texts ...for the definitive approval at the next meeting of the Executive Committee.

Opinion of the Commission : could not determine the motivation of this proposition.

Proposition 13 : article 10.1 Official competitions of the FIE

10.1.1 The official competitions of the FIE include the Olympic Games, the Open, Junior, Cadet and Veteran World Championships, the individual and team Open World Cups (Category A candidates, Category A, Grand Prix, satellites) and the Junior World Cup, **the Continental Championships**, as well as the Masters, Super Masters and any other competitions designated by the Congress of the FIE.

Motivation : To give to zonal championships the status of official FIE competition and incorporate them in the FIE ranking.

Opinion of the Commission : if the proposition is voted by the Congress, the text will need amendments.

Proposition 14 : article 10.2.1 Official competitions of the FIE

10.2.1 g) Furthermore, the Congress **will accept the candidatures** proposing to organise separate Junior and Cadet Championships.

Motivation : Either transfer the Organisation of Cadet World Championships to zonal Confederations or separate them from the Junior World Championships. :

- 1) The FIE has neither a Cadet World Cup calendar, nor a Cadet World Cup ranking.
- 2) Decrease the costs for the organisers of World Championships and national federations.

Opinion of the Commission : if the proposition is voted by the Congress, the text will need amendments.

Proposition 15 : article 10.2.4 and 10.2.5 , to be deleted as doubled

10.2.4 Participation in a World Championship

a) The World Championships are open to all national federations affiliated with the FIE.

10.2.5 Entries for World Championship

b) Eight days before the Championships begin, each member federation must advise the organisers of the number and names of competitors in each event ; the organiser shall provide this information to the administrative office of the FIE. Changes of names by countries due to reasons beyond their control/injury can only be made up to 24 hours before each event (Rules 0.54).

Motivation : These articles are also stipulated in Rules, articles 0.52, 53, 67 and 75.

Opinion of the Commission : Keep the article 10.2.4 b) in the Statutes : « b) A federation in arrears with the membership fees on 31 March can not participate in the World Championships of the current civil year ».

PROPOSITION OF THE FENCING FEDERATION OF THE CZECH REPUBLIC

We propose a change in the voting statutes, particularly a further condition for the possibility of voting, whether directly or by proxy. This condition for voting would be that at least one fencer of a given federation participate in the World Championship in any category in the given year in order for that federation to be eligible to vote.

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE HUNGARIAN FENCING FEDERATION

Proposition Nr. 3

The Hungarian Fencing Federation proposes that taking into account the criteria described in the Statutes, only member federations, which

- have at least 5 athletes with a FIE license and
- participate in at least 5 World Cups during the season

could have the right to vote at the FIE Congress :

Motivation:

There are over 100 federations affiliated to the FIE but some of them are „ghost” federations, which do not participate in the FIE activities but, however, have the right to vote.

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE GERMAN FENCING FEDERATION

Proposition 1 : Art. 5.5.2.

Modification :

New edition :

« In an emergency the Executive Committee can take decisions that are immediately binding, which must first be approved by the competent commission(s). In no case, such decision can modify or be contrary to a decision adopted by the Congress or General Assembly and is submitted to the next General Assembly or Congress for confirmation. This procedure is not applicable to a modification of Statutes »

Motivation : Respect of the article 3.2.3. of the Statutes.

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : in favour as follows : In case of emergency, the Executive Committee can take immediate binding decisions after having first requested the opinion of the competent commissions (by e-mail or fax). Such a decision can, in no case, modify or be opposite to a decision adopted by the last Congress or General Assembly and be submitted to the next meeting of the General Assembly or Congress for confirmation. This procedure cannot be applied to a modification of Statutes.

Proposition 2 : Art. 2.2.1.b) 2.paragraph

Modification :

All proposals submitted by the FIE member federations must be presented to the Congress. Competent commissions and the COMEX will take position on the proposals (cf. art 3.2.3 of the Statutes).

Motivation :

A selection of proposals by the COMEX or Commissions might limit the right of the FIE member federations.

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

Proposition 3 : Art. 3.3.3. b)

Suppress the article (PROXIES)

Motivation:

In the majority of legal texts (of association, federation or state) at elections and rules or statutory decisions, the right to vote can only be validated by a mandated representative.

In no case, the propositions can be modified during the discussions in the course of the Congress without having first obtained a favourable advice from the concerned commissions.

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE HUNGARIAN FENCING FEDERATION

STATUTES:

Proposition Nr. 1

3.3.3 – Proxies and mandates

The Hungarian Fencing Federation proposes to completely delete this article of the Statutes and to modify the article 3.3.1. last paragraph:

„The right to vote for a member federation is limited to the President present at the Congress and to the list of persons designated by him in writing who are present at the Congress.”

Motivation:

- a.) *At the Congress, in the course of the discussions, new points of view can be presented, which will not be known by the ones who gave proxies as they are not present.*
- b.) *A higher number of proxies can lead to a manipulation of the decisions or the vote.*

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF MAX GEUTER (MH)

Proposition A. Statutes 4.2.1 – 4.3.1 – 4.4.2

The text in these paragraphs is not very clear.

A candidate to one of the 3 positions as above must hold a licence from his member federation. Does it mean a licence from e.g. GER, ITA or MON or does it mean a FIE licence ?

If it just means a national licence, I propose that every candidate must hold a valid FIE licence.

Opinion of the Executive Committee : divided opinion.

Opinion of the Commission : unfavourable.

Proposition B. Statutes 4.3.3 – 4.4.3

The Congress should vote that for every position for the Executive Committee and the different Commissions every present federation must vote for the requested number of seats (11 votes for the COMEX and 10 votes for the commission members).

Experience from past Congresses show that our current system is not satisfying and gives the possibility to manipulate. The IOC e.g. demanded in Athens from all athletes to vote for 4 candidates, not more and not less, any other voting sheet is not valid. Also other federations handle this more democratic procedure.

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE HUNGARIAN FENCING FEDERATION

Proposition Nr. 2

4.3.3. and 4.4.3

The Hungarian Fencing Federation, after its experience at the 2004 Elective Congress, proposes once again to modify the articles stated above.

„ All the voters must use all their votes, 11 for the members of the Executive Committee and 10 for the permanent commissions. If not, the voting slips which will not have respectively 11 and 10 names of candidates, will not be valid.”

Motivation:

During the 2004 Elective Congress many persons have voted for one person only or a reduced number of persons. We can suppose that there was some manipulation and a large number of candidates have lost their chances. The system was not democratic.

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE ITALIAN FENCING FEDERATION

Proposition 2 : Article 4.1.4

To add «each candidate can apply for one position only».

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

Proposition 3 : Article 4.3.1

To add «and having been President or leader for four years within his Federation or his zonal confederation».

Opinion of the Executive Committee : unfavourable.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF PETER JACOBS (MH)

- 1) **To bring the Statutes up to date in regards to the current usage of FIE licences. – modifications:**

Statutes 9.1.5

9.1.5 *Application and Issue*

a) Every licence is supplied by the F.I.E. administrative office; it is issued to those entitled ~~who qualify~~ through their member national federation – that is to say, the member federation of the country whose nationality they possess.

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) ~~When a fencer lives in a country other than his own, he must apply for his licence to the member federation of the country in which he lives. It is strictly forbidden for a fencer to possess more than one international licence. A second licence applied for from another member federation may only be granted after the cancellation of the first licence.~~

d) ~~When a fencer is only 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 (or to the country where he resides, if he resides in a different country from the country of his nationality).~~

e) ~~The F.I.E. administrative office with the agreement of the FIE Central Office may of its own initiative grant an international licence to a fencer who lives in has 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. However, if there is a national federation which is a member of the~~

F.I.E. in the country of the fencer's nationality, then the Central Office of the F.I.E. must consult with this member federation before granting the licence.

9.1.6 Procedure for Issue.

The procedure for delivery and control of licences are the responsibility of the Executive Committee and subject to the Administrative Rules.

Opinion of the Commission : in favour.

9.1.7 Refusal to Grant a Licence by a member federation.

~~Should a member federation refuse to issue an international licence, it should inform the F.I.E. Central Office in order to prevent a fencer living in a foreign country from applying again through a different channel. Should a fencer appeal against the decision of the member federation of his country refusing to grant him an international licence,~~

Should a member federation refuse to apply for an international licence for a fencer, that fencer may appeal to the FIE. The appeal must be sent by the fencer to the F.I.E. Central Office for investigation and decision. When the matter is urgent the Executive Committee makes the decision provisionally, until a decision is reached by the Congress.

Opinion of the Commission :

- Should a member federation refuse to apply for an international licence for one of its nationals, the latter can appeal to the FIE Bureau, which after investigation with both parties, decides as a last resort on the issue of the licence.

- Add a new article 9.1.8 : A referee can obtain from the FIE, through the intermediary of his national federation or the national federation of the country where he resides for more than three years, an international licence, which will specify the nationality of the referee.

9.2 FENCERS' NATIONALITY

~~9.2.1 When a question of nationality is raised in the application of the Statutes and Rules (fencers, granting licences, etc.), a fencer residing in a country other than his own must be considered as belonging to both countries.~~

Opinion of the Commission : in favour.

2) To bring the Statutes (Disciplinary Code) up to date re doping offences.

Statutes 7.1.7. *Delete from the list the words* 'Taking of drugs (banned substances)'.

Add to the end of article 7.1.7 the words:-

Violations of the Antidoping Rules of the FIE are not submitted to the assessment of the Disciplinary Commission of the F.I.E. They are treated in accordance with the FIE Anti-doping Rules.

Opinion of the Commission : in favour.

3) To clarify what happens if an FIE President steps down etc, now that we don't have a Congress every year (at which to elect a successor).

Statutes 5.3.3: “In the event of death or resignation of the President, the Secretary General performs the President’s duties provisionally, until the next Congress”.

Add to this text “, which will elect a new President. However, if a Congress, ordinary or elective, is not scheduled for between three and fifteen months after the death or resignation of the President, an Extraordinary Elective Congress will be called by the Executive Committee to elect a new President. This Congress will be held at least three months after it is called. Also see 4.1.4.

Opinion of the Commission : in favour as follows : In the event of resignation or death of the President, the Secretary General performs the President’s duties provisionally, until the next Congress or General Assembly, during which the elections of a new President will be organised.

5) To eliminate certain problems before a congress or general assembly relating to last minute payments of outstanding debts.

Statutes 3.3.2, modified text:-

When a member federation has not fulfilled its financial obligations towards the FIE ~~one month~~ before the opening ~~day~~ of the Congress or General Assembly, such Member Federation will be prohibited from ~~being represented~~ voting at the said Congress or General Assembly ~~and from voting~~, unless exception has been made for a valid reason and accepted by the Executive Committee.

Opinion of the Executive Committee : in favour of all the propositions, but for the proposition 5 in favour for General Assembly only.

Opinion of the Commission : in favour of the proposition of Peter Jacobs for the General Assembly and Congress, but payment must be remitted at the latest at midday the day before.

PROPOSITIONS OF THE FENCING FEDERATION OF QATAR

Proposition 1. Presidents of Confederations

The Confederations are an integral part of the International Fencing Federation and the FIE should analyse the proposal to give voting rights to the Presidents of the Confederation at the Executive Committee. If evaluated positively, amendments should be done to the Statutes and submitted to the next meeting.

Opinion of the Commission : unfavourable.

PROPOSITIONS OF THE EXECUTIVE COMMITTEE : DISCIPLINARY CODE

CHAPTER VII –DISCIPLINARY CODE

Ignorance of the law is no excuse : the infringement of existing rules, by ignorance, does not excuse anyone.

Opinion of the Commission : Ignorance of the law is no excuse

7.1 DISCIPLINARY CODE

7.1.1 Jurisdiction

The disciplinary authorities of the FIE have jurisdiction to rule on all offences against discipline or sportsmanship within the purview of the International Fencing Federation (FIE), except the specific dispositions with respect to discipline at the sites of the competitions to be found in Articles t.114 and seq. of the Rules for Competitions of the FIE. The Executive Committee will assure the respect and **the execution of the decisions**.

Opinion of the Commission : in favour and add to the end of the paragraph :

The infringements of FIE anti-doping rules are not subject to the FIE Disciplinary Commission. They are ruled by the FIE anti-doping code.

7.1.2 Disciplinary jurisdiction – persons subject

All individual or entities are subject to the disciplinary jurisdiction **of the F.I.E. such as** :

- the national member federations ;
- the members elected or designated by the Congresses ;
- the officials ;
- the referees ;
- the athletes ;
- anyone with an authorisation from the FIE, in particular with regard to a competition or any other official event.

These persons will hereinafter be called « the defendant ».

The offences which are committed in the context of matters internal to a federation are subject to their rules and jurisdiction except if they are especially serious, if they have international consequences or if they affect individual defendants who originate from another federation.

In that case, **the FIE Bureau** may be used by the federations or persons concerned.

Opinion of the Commission :

Are subject to the disciplinary jurisdiction **of the FIE** all individual or **entities** :

- the national member federations;
- **the members of national member federations ;**
- the members elected or designated by the Congresses;
- **the members of delegations ;**
- the referees ;
- the athletes ;
- **the spectators ;**
- **anyone with assignment within the FIE,** in particular in the frame of a competition or any other official event.

These persons will hereinafter be called « the defendant ».

The offences which are committed in the context of matters internal to a federation are subject to their rules and jurisdiction except if they are especially serious, if they have international consequences or if they affect **individual** who originate from another federation.

In that case, **disciplinary authorities of the FIE** may be used by the federations or persons concerned.

7.1.3 Disciplinary Code for competitions

The present rule takes priority over the rules figuring in the Rules for Competitions of the FIE and in particular at Article t94ss, "Disciplinary Code for Competitions".

Opinion of the Commission : in favour

7.1.4 The offences, the penalties and the proportional relations

The offences are subject to penalties, whether the offences have been deliberately or negligently committed. The penalties which can be pronounced are the following :

Opinion of the Commission :

The offences are subject to penalties, whether the offences have been deliberately or negligently committed.

1. Classification of the offences by type:

(The offences are classified in a growing order of severity)

1st group:

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 to the FIE Bureau within 10 days.

Unsportsmanlike conduct
Contravention to Fair-Play
Provocation or disorder
Discrimination
Any brutal or aggressive behaviour
Verbal, physical or sexual abuse

Opinion of the Commission :

7.1.4.1 Classification of offences by type :

1st group: : minor offences

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 to the FIE Bureau within 10 days

Unsportsmanlike conduct
Contravention to Fair-Play
Abusive or slanderous complaint
Provocation or disorder
Verbal abuse
Violation of the Publicity Code

2nd group:

False declarations, evidences, documents, false declaration at the entries of competition or as candidate to an election.

Bad organisation of competitions or World Championships

Attack on the moral (Code of Ethics). The case will first be submitted to the Ethic Commission of the IOC for advice.
Violation of the Statutes or Rules
Violation of the Publicity Code

Opinion of the Commission :

2nd group: serious offences

Physical or sexual abuse

Abuse of power

Attack on the moral (Code of Ethics). The case will first be submitted to the Ethic Commission of the IOC for advice.

Embezzlement

Racial, religious, sexual discrimination

Misappropriation of funds

False declarations, evidences, documents, false declaration at the entries of competition or as candidate to an election, or use of these forgeries.

Any brutal or aggressive behaviour

Abuse of process

Violation of Statutes, Rules

Violation of Publicity Code – individual contract

3rd group:

Serious violation of the Statutes

Embezzlement

Misappropriation of funds

Opinion of the Commission : 3rd group suppressed.

4th group:

Doping : the disciplinary procedure is ruled by the FIE anti-doping code.

Opinion of the Commission : 4th group suppressed.

2. Penalties according to their severity:

Warning

Censure

Disqualification

Restitution of awards/prizes

Fine (amount see art. 7.1.4 f)

Suspension

Radiation/Expulsion

Accessory penalties

Opinion of the Commission : Replace the above paragraph by :

7.1.4.2 The Penalties

a) The possible penalties are the following :

Warning

Censure

Disqualification

Restitution of awards/prizes

Fine (amount see art. 7.1.4.3 f)

Suspension

Accessory penalties

Radiation/Expulsion

3. Minimal and maximal penalties according to the group:

1st group:

- possible penalties: warning, censure, disqualification, restitution of awards/prizes, fine and accessory penalties
- minimal penalty: warning
- maximal penalty: disqualification together with a restitution of awards/prizes, a fine and accessory penalties.

Opinion of the Commission : Replace the above paragraph by :

b) The penalties for minor offences :

- possible penalties: warning, censure, disqualification, restitution of awards/prizes, fine, suspension and accessory penalties
- minimal penalty: warning
- maximal penalty: disqualification together with a restitution of awards/prizes, suspension and accessory penalties.

2nd group:

- possible penalties: warning, censure, disqualification, restitution of awards/prizes, fine, suspension and accessory penalties
- minimal penalty: warning together with a fine
- maximal penalty: suspension

3rd group:

- possible penalties: disqualification, restitution of awards/prizes, fine, suspension, radiation/expulsion, accessory penalties
- minimal penalty: disqualification together with restitution of awards/prizes
- maximal penalty : radiation for life

4th group:

the penalties are ruled by the FIE Anti-doping Code.

Opinion of the Commission :

Replace the paragraphs 2nd, 3rd and 4th groups by :

c) The penalties for serious offences :

- possible penalties : disqualification, restitution of awards/prizes, suspension, radiation/expulsion, accessory penalties
- minimal penalty: disqualification together with restitution of awards/prizes, suspension, fine and accessory penalties
- maximal penalty: radiation

a) warning : threat of a sanction subsequent to an offence

- b) censure : **written judgement of disapproval sent to the author of an offence**
- c) disqualification : elimination of all classification in the tournament concerned by the offence and the loss of all awards
- d) the suspension, deprives the defendant of all participation in the activities, sporting or other, organised under the aegis of the FIE, of the zonal confederations or the member federations, as well as their various affiliated authorities and entities.

The judicial body which gives the penalty, also decides on the duration of the suspension.

In case of suspension of a non-individual (federation, club, association, etc.) all of the licensees who are members or who are attached in one means or another to such organisation, are equally suspended, except when the authorisation of the FIE Disciplinary Commission, permits them, according to conditions which will be defined, to exercise their individual activities.

The suspension will include the withdrawal of the license for the duration of the suspension. In case of the violation of the suspension, the duration of it will be automatically doubled, without prejudice to other penalties which may be taken by the Disciplinary Commission.

The F.I.E. Bureau will assure that the suspension be brought to the attention of all the member federations at the time it takes effect.

e) **radiation : this penalty includes the permanent suspension of the defendant from all activity which is in the fencing domain.**

f) fines. This penalty can be pronounced against all defendants, its level cannot be less than 125 CHF nor more than 12 500 CHF for individuals, the thresholds being CHF 225 minimum and CHF 22'500 maximum for entities.

The level of the fine can be more than CHF 12'500 in the case where multiple sentences of a fine are pronounced simultaneously, in which case they are cumulative.

The member federations are jointly answerable for the fines inflicted to the athletes and officials.

- g) accessories penalties : accessory penalties can be pronounced in addition to the principal penalty. This can be:
- prohibition of presenting oneself in certain places for a defined term;
 - ineligibility in national and international authorities; or
 - loss of a title or award.

Opinion of the Commission : in favour and :

Add 7.1.4.3 Definitions before a) warning and

Last paragraph of d), f) and g) to modify as follows :

d) Last paragraph : The suspension of an individual will include the withdrawal of the license for the duration of the suspension. The F.I.E. Bureau will assure that the suspension be brought to the attention of all the member federations at the time it takes effect.

f) Fines, to modify as follows:

Fines. This penalty can be pronounced against all defendants, its level cannot be less than 125 CHF nor more than 12 500 CHF for individuals, the thresholds being CHF 225 minimum and CHF 22'500 maximum for entities.

For the individuals, the level of the fine can be more than CHF 12'500 in the case where multiple sentences of a fine are pronounced simultaneously, in which case they are cumulative but can not exceed CHF 22'500.

For the entities, the level of the fine can be more than CHF 22'500 in the case where multiple sentences of a fine are pronounced simultaneously, in which case they are cumulative but can not exceed CHF 35'000.

The member federations are jointly answerable for the fines inflicted to the athletes and officials.

g) accessories penalties. Accessory penalties can be pronounced as the principal penalty, or in addition to the principal penalty. This can be:

- prohibition of presenting oneself in certain places for a defined term;
- ineligibility in national and international fencing authorities; or
- loss of a title or award.

7.1.5 Suspended sentence

All penalties other than a warning or a reprimand can be totally or partially suspended **for a determined period**.

The suspended penalty will not be carried out if, within **the determined period** following its pronouncements, no other offence of a similar or greater level of seriousness is committed by the defendant. In the case where a similar or more serious offence is committed within the two-year period, the suspension will be automatically revoked, unless the **judicial body** specifically rules otherwise, and the sentence incurred will be added to the sentence pronounced for the repetition of an offence

Opinion of the Commission :

All penalties other than a warning or a reprimand can be totally or partially suspended.

The suspended penalty will not be carried out if, within a period of 2 years following its pronouncements, no other offence of a similar or greater level of seriousness is committed by the defendant. In the case where a similar or more serious offence is committed within this period, the suspension will be automatically revoked, unless the **disciplinary authority** specifically rules otherwise, and the sentence incurred will be added to the sentence pronounced for the repetition of an offence.

7.1.6 Repetition of an offence

The defendant is considered to have repeated an offence when he has definitively been penalised for an offence and he commits a new offence of the same or greater severity **within the determined period** following the definitive decision penalising him.

Opinion of the Commission :

The defendant is considered to have repeated an offence when he has definitively been penalised for an offence and he commits a new offence of the same or greater severity within the 2 years following the definitive decision penalising him.

7.1.7 Multiple offences

In the case of several penalties being awarded corresponding to several offences, other than in the case of repetition, the disciplinary panel will decide whether only the most severe of the penalties is imposed or if all of the penalties are to be imposed.

Opinion of the Commission : in favour.

7.1.8 Complicity

Complicity, by help or assistance, instigation or the furnishing of means by a person aware that his support is of use to the offence, is punished in the same manner as is the offence itself.

Opinion of the Commission :

Complicity, by help or assistance, instigation or **furnishing** of means by a person aware that his support is of use to the offence, is punished in the same manner as is the offence itself.

7.1.9 Attempt

An attempted offence, which is only interrupted by an intervention or by circumstances not within the control of the defendant, is punished in the same manner as is the offence itself.

Opinion of the Commission :

An attempted offence, which is **interrupted** by an intervention or by circumstances not within the control of the defendant, is punished **in the same manner as** the offence itself.

7.1.10 Proof

Proof of the guilt or innocence of any defendant can be presented by any means. The statements of the Directoire Technique of a competition, properly constituted, or of the F.I.E. observers are deemed true unless proven otherwise.

Opinion of the Commission : In favour and add to the end of the paragraph : the benefit of the doubt is profitable to the incriminated person.

| 7.1.11 The aggravating circumstances

Opinion of the Commission :

Replace the sections **7.1.11 to 7.1.14** below by :

The disciplinary authority will estimate the aggravating or extenuating circumstances in accordance with the disciplinary law in force in the country of the FIE Head-Office.

The facts aggravating the measure of the penalty are :

- a/ having committed the fact by abuse of power or violation of duties deriving or consequent to the exercise of functions of the person guilty.
- b/ having committed the offence during the execution of a precedent disciplinary penalty
- c/ having taken advantages of special circumstances extra-sporting
- d/ having infringed on someone's right or damaged properties
- e/ having encouraged other persons to violate the norms and federal dispositions of all kind, it means having caused prejudice to the organisation
- f/ having acted for futile reasons
- g/ having, during the case, tried to contaminate the proofs

- h/ having committed the fact via newspapers or any other means of communication, by making declarations which have hurt the image and authority of the FIE or any other member
- i/ having seriously damaged the patrimony
- j/ having with this offence caused or helped to bring violent public disorder
- k/ having aggravated or tried to aggravate the illicit committed consequences
- l/ having committed an illicit act to make or hide another one, or to obtain or look for an advantage for oneself or someone else.

7.1.12 Extenuating circumstances

The following circumstances extenuate the disciplinary penalty :

- a/ having acted upon a provocation
- b/ having spontaneously tried to annul or extenuate the prejudicial or dangerous consequences of its own action or the one of someone else.
- c/ having renounced to it.

7.1.13 Evaluation of circumstances

Circumstances which can extenuate or exclude the penalties are evaluated by the judicial body towards the responsible even if they are unknown or judged without evidence.

The circumstances aggravating or attenuating the penalty are evaluated by the judicial body, only if they are known, or for guilty ignorance, or judged inexistent.

In case of intervention of third parties for the offence, the circumstances aggravating or extenuating the penalty, the intensity of the fraud, the degree of the offence and the circumstances inherent to the guilty person are only evaluated for the relevant subject.

7.1.14 Combination of aggravating and extenuating circumstances

The judicial body, which also evaluates the existence of aggravating and extenuating circumstances of an offence, must establish a judgement of equivalence or advantage between those one.

In case the aggravating circumstances are prevailing, it must be taken into account, and on the contrary, only the extenuating circumstances are taken into account.

7.1.15 Non- respect of penalties

In case of non-respect of penalties, they can be doubled or increased.

Opinion of the Commission :

Replace 7.1.15 by 7.1.12 Non- respect of penalties

In case of non-respect of penalties, they can be aggravated by decision of the disciplinary authority.

7.1.16 Amnesties, remittances of penalties and reprieve

The FIE Executive Committee has the right to give amnesties or remittances of penalties : the amnesties in case of disciplinary violations for which measures are still pending, the remittance of penalties in case of penalties not fully expiated.

The amnesty can be total, for all the penalties given by any judicial bodies for facts committed until the day preceding the deliberation of the FIE Executive Committee; or partial, which means limited to some penalties or some period.

It rids of the disciplinary penalties and stops the execution of the related measures. The FIE Executive Committee must indicate the date of the beginning of this amnesty. For offence covered by the amnesty and being under current procedure, the judicial body pronounces an order of discharged.

The remittance of penalty is a measure of general clemency; it fully or partially forgives the inflicted penalty or decreases it or changes it in a less severe than the one initially inflicted. Its efficiency is limited to the offences committed until the day preceding the date of deliberation of the FIE Executive Committee. In case of various penalties, the remittance of penalty is applied to offences for which it is conceded. It is subject to conditions and obligations and is not applicable in case of repetition of offence.

The FIE President, upon request of the person charged, has the right to grant the **reprieve**, only if this person has expiated at least half of the penalty and, in case of radiation, at least 5 years have past since the adoption of the definitive penalty. The reprieve determines only the immediate interruption of the penalty.

Opinion of the Commission :

Replace 7.1.16 by 7.1.13 Remittance of penalty and reprieve

The FIE Executive Committee has the right to give **remittances of penalty**.

The remittance of penalty is a measure of **individual** clemency; it fully or partially **suppresses** the inflicted penalty or decreases it or changes it in a less severe than the one initially inflicted. Its efficiency is limited to the offences committed until the day preceding the date of deliberation of the FIE Executive Committee. In case of **multiple penalties**, the remittance of penalty is applied to offences for which it is conceded. It is subject to conditions and obligations and is not applicable in cases of repetition of offences.

The FIE President, upon request of the person charged, has the right to grant the **reprieve**, only if this person has **achieved** at least half of the penalty and, in case of radiation, at least 5 years have past since the **final** adoption of the penalty. The reprieve **leads** only to the immediate interruption of the penalty.

7.1.17 Execution of the decisions

The decisions are immediately binding if not subject to appeal. For other cases, they are binding starting from the date of expiration of appeal.

Opinion of the Commission :

Replace 7.1.17 by 7.1.14 Execution of the decisions

The decisions are immediately binding if not subject to appeal. For other cases, they are binding starting from the date of expiration of appeal, **if there is no appeal within this time limit.**

7.1.18 Exclusion of responsibility

The members of the FIE disciplinary authority, as well as the FIE staff members, do not incur any responsibility for the acts or omissions related to a disciplinary procedure, except if a case of falsification or false declaration with the concerned procedure has been proven.

Opinion of the Commission :

Replace 7.1.18 by 7.1.15 Exclusion of responsibility

The members of the FIE disciplinary authority, as well as the FIE staff members, do not incur any responsibility for the acts or omissions related to a disciplinary procedure, except if a case of falsification, **false declaration or bias in the frame** of the concerned procedure has been proven.

7.2 DISCIPLINARY PROCEDURE

| The judicial and disciplinary bodies are the following :

Opinion of the Commission :

7.2.1 The disciplinary authorities are the following :

7.2.1.1 Attempt at conciliation

In a first stage, the FIE Bureau, together with the defendant, in presence of the complainant, will seek for a friendly agreement. If an agreement is reached between the FIE Bureau and the defendant, after opinion of the complainant, a protocol of agreement establishing, if needed, the penalty, the possible accessory penalties and the conditions of their execution, will be signed.

This preliminary and compulsory stage is subject to a meeting, to be held in a place designated by the FIE Bureau, during which the defendant and complainant can be accompanied by a person of their choice. In case of failure of the attempt at conciliation, the case is handed to the Disciplinary panel.

- **1st judicial body (disciplinary panel)** : a FIE Prosecutor, an Investigator, a Judge, a Reporter.

The Prosecutor is designated by the FIE Bureau among the members of the Legal Commission; the Investigator, the Judge and the Reporter are designated by the FIE Bureau among the members of the Disciplinary Commission.

The procedure holds in accordance with the articles stated in the current code.

It is incumbent upon **the FIE Bureau** to designate these four members so that they are neutral to the controversy and in particular it can not designate members of the same nationality as the organiser of the competition where the act occurred, the complainant and the defendant.

It can not designate any members who took part in the organisation of the competition or event concerned, or who had been a witness or a participant in the incriminating facts.

The disciplinary panel must be able to communicate in the official language of the FIE and the two working languages.

- **2nd judicial body** : The FIE Bureau

Appeal to the decision taken by the disciplinary panel of the 1st judicial body.

In case of emergency, the FIE Bureau can take, within the framework of its power to judge, administrative measures suspending the license of the defendant.

- **3rd judicial body (revision of the decision)** : The FIE Executive Committee

For some specific cases, a revision must be considered:

- the fraud of one of the parties
- the decision was based on an error
- a new proof modifies the situation

- **4th judicial body** : the CAS

Opinion of the Commission :

Suppression of the 2nd and 3rd judicial bodies and the 1st judicial body is modified as follows :

7.2.1.2 1st authority : a Disciplinary Panel composed by 3 judges designated by the FIE Bureau among members of the Disciplinary Commission. The FIE Bureau designates also a FIE

Prosecutor, who must be lawyer, chosen among the members of the Legal Commission. The Prosecutor investigates the file and makes the address to the Panel.

It is incumbent upon **the FIE Bureau** to designate these **four persons** so that they are neutral to the controversy and in particular it can not designate members of the same nationality as the organiser of the competition where the act occurred, the complainant and the defendant.

It can not designate **any members** who took part in the organisation of the competition or event concerned, or who had been a witness or a participant in the incriminating facts.

The disciplinary panel must be able to communicate in the official language of the FIE **or** the two working languages.

7.2.1.3 Authority of Appeal : the CAS

7.2.1 The Complaint

a) Author of the complaint

Any person, individual or entity, whether or not they are a licensee of the FIE, can present a complaint **starting from the moment they learn of an offence.**

Additionally, the members of the Executive Committee **(individually or jointly)**, the FIE observers, at international competitions, the Directoire Technique, or the Presidents of the national federations can state the existence of an offence susceptible of being pursued.

b) Form of the complaint

a/ an official act of a body of the FIE or FIE Bureau

b/ a report of an official of a competition

c/ a denunciation of a member belonging to federations

d/ any other information, whatever the source is, as long as it is identified.

The official acts of a body, structure or FIE Bureau and the reports of the officials of the competition are deemed true, of the exactitude of their content, until the in exactitude of the contested facts are proven.

For information, the complaint can include the following details, if known :

- the full name of the individual or **entity, the nationality**, the address and the title of the complainant(s);
- the full name of the individual or **entity and nationality** of the person being prosecuted or the indication that it is unknown or undetermined. ;
- a summary of the **facts with** an indication of the rule or principle infringed, and
- the signature of the complainant.

The complaint can, moreover, be accompanied by documents necessary for the investigative file.

Supplementary or new information can be communicated **up to the day of the hearing.**

The complaint must be sent to the FIE Bureau, at the address of the FIE head office, within 30 days following the incriminating acts or the date of their discovery. The postmark of the envelope or the reception stamp of the fax establishes the time.

c) All complaints must be accompanied by the payment of a deposit in the sum of EUR 2'000, payable to the FIE by the complainant and the defendant. In case of condemnation of one of the parties, the latter loses the deposit and is also ordered to pay costs.

Opinion of the Commission :

Replace 7.2.1 by 7.2.2 The complaint as follows :

a) Author of the complaint

Any person, individual or entity, whether or not they are a licensee of the FIE, can present a complaint, **if they are victim of an offence.**

Additionally, the members of the Executive Committee ***(individually or jointly)***, the FIE observers, at international competitions, the Directoire Technique, or the Presidents of the national federations can state the existence of an offence susceptible of being pursued.

b) Form of the complaint

This is :

a/ an official act of a body of the FIE or FIE Bureau

b/ a report of an official of a competition

c/ a denunciation of a member belonging to federations

d/ any other information, whatever the source is, as long as it is identified.

Suppress :

The official acts of a body, structure or FIE Bureau and the reports of the officials of the competition are deemed true, of the exactitude of their content, until the in exactitude of the contested facts are proven.

The complaint **must** include, **if possible**, ***the following details, if known*** :

- the full name of the individual or ***entity***, the nationality, the address and the title of the complainant(s);
- the full name of the individual or ***entity and*** nationality of the person being prosecuted or the indication that it is unknown or undetermined. ;
- **if the incriminated person has reached the age of the legal majority in his country ("Minor").**
- a summary of the ***facts with*** an indication of the rule or principle infringed, and
- the signature of the complainant.

The complaint **must, if possible**, be accompanied by documents necessary for the investigative file.

c) Special rule for minor defendant

The FIE will require the national federation of the incriminated person to notify in writing a parent or guardian of the complaint or the investigation, and supply the FIE with the postal address of this parent or guardian in order to enable the FIE send him a copy of all the communications meant for the incriminated person. The parent or guardian has :

i) the right to act on behalf of the incriminated person, and

ii) the same rights as the prosecuted person to be present and heard at the disciplinary hearings related to the prosecuted person.

Should the FIE not obtain in a reasonable time limit the address of the parent or guardian, the Disciplinary Commission shall designate a responsible adult, who will act as guardian of the prosecuted person in regards to disciplinary procedures.

The two next to last paragraphs are transferred to the new article 7.2.3.

The Commission is unfavourable to the item 7.2.1.c) because the CAS will consider this contrary to the Human Rights.

7.2.2 The Prosecutor, the Investigator, the Judge and the Reporter

The Prosecutor receives the complaints and protests related to disciplinary violations. He represents the FIE at the hearings.

The Investigator has all the power to investigate the cases in accordance with the following norms and also introduces, on his own, the disciplinary action in deferring it to the Judge. He summons the defendant of the complaint and gives a copy of all the items in the file, the rights of the defence, the date of the hearing and the decision of the Judge. He files the acts in case of clear lack of evidence of the complaint. He can interrogate all witnesses and obtain all useful documents from everyone concerned, if need be by injunction.

In case of a refusal to testify or to communicate documents, the investigator has the power to penalise the persons withholding material with a fine of CHF 500 to CHF 5,000 after having summoned them to receive an explanation.

The Judge takes the decision based on the file after the hearing described in the articles below.

The Reporter takes care of secretarial tasks at the hearing, records the various declarations, takes the transcripts of the hearing, announces to the complainant and defendant the decision and penalty taken by the Judge.

7.2.3 – 1st judicial body (disciplinary panel)

The Bureau of the F.I.E. shall send to the Prosecutor within 30 days the complaint, which was sent to him. In the 30 days which follow the transmission of the complaint, the Prosecutor shall send a copy of the complaint to the person(s) involved in it.

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, the Prosecutor can, on its own motion, decide that there is no grounds to prosecute the complaint which has been submitted to him.

That decision can be appealed according to the rules of Article 7.2.1.

The Judge must, in all circumstances, respect and ensure respect of the rights of the defence.

7.2.4 Procedure

The Investigator summons the defendant(s) informing them that they have the right to have the assistance of a defender of their choice.

The summons must be addressed by registered mail to the defendant(s) at least 20 days before the hearing date fixed by the Investigator. It will indicate that the defendant(s) will be able to be assisted or represented by the person of their choice.

This summons will be accompanied by a copy of the complaint as well as a copy of all the items in the file.

If it is impossible or difficult to make such copies, the contents of the file will be held at the disposition of the defendant at the administrative office of the F.I.E. or at another place designated by the Investigator.

No later than eight days before the hearing, the defendant must communicate to the Investigator all of the documents and the testimony on which he intends to base his defence as well as the identity of the witnesses whom he would like to be heard stating the reason why their evidence will be useful to reaching the truth.

In principle, the Judge gives a verdict on the complaint within 4 months following its submission.

He will verify the identity of the complainant, the defendant and the witnesses.
He will invite **the Investigator** to present his report.
He then listens to the declarations of the complainant(s) and the defendant(s).

He then proceeds to any examination of the witness(es) who will be kept out of the hearing until their turn to testify

The Judge can hear all persons or ask for all documents useful to discovering the truth.

In general, **the Judge** alone controls the proceedings, and has the power, if the case arises, to exclude any persons creating a disturbance, to examine or not the witnesses, to order additional **investigation, to** penalise the behaviour of the parties.

At the end of the discussion, **the Judge** gives the defendant, his representative, or if the case arises, his defence counsel, the right to speak last.

The matter is then considered **by the Judge**.

In case of difficulty, **the Judge** can ask **the FIE Bureau** for an additional maximum period of not more than 3 months to gather supplementary information. The supplementary information will be communicated to the defendant and the complainant for them to respond within the time fixed in the cover letter. A new hearing can, if necessary, be called. It will be held according to the same terms and under the same conditions as the first hearing.

Opinion of the Commission :

Full revision of the articles 7.2.2, 7.2.3 and 7.2.4 of the proposition (which become 7.2.3 Time limits and Procedure, 7.2.4 The Prosecutor and the Panel, 7.2.5 The Hearing).

7.2.3 Time limits and procedure

D being the day (D) of the incriminating acts

From D to D+30

The complaint must be addressed to the FIE Bureau, to the address of the FIE Head Office within 30 days following the incriminating acts (**D**) or the date of their discovery. The postmark of the envelope or the reception stamp of the fax establishes the time.

Starting from D+31

Determination of the date of the conciliation by the FIE

Summons of the incriminated person and the complainant

Transmission of the file, by the FIE Head-Office, to the members of the FIE Bureau, to the incriminated person and the complainant

A copy of the complaint is also sent, by the FIE Head-Office, to the President(s) of Federation(s) to which the parties belong.

From D+40 to D+60

Time limit during which the attempt at conciliation must take place.

In case of failure of the attempt at conciliation:

D+60 (or the same day as the conciliation if it took place before the 60th day following the incriminating acts)

Designation of the Prosecutor, Disciplinary Panel and its President by the FIE Bureau.

D+61

Summons accompanied by a copy of all the items of the file are sent by the FIE Head-Office, to the Prosecutor and Panel.

In principle, the Panel gives a verdict on the complaint within 2 months following its submission.

D+70

The Prosecutor summons the defendant before the Disciplinary Panel by registered mail. He indicates the date and place of the hearing and informs the defendant that he can be assisted or represented by the person of his choice.

The FIE Head-Office sends a copy of all the items of the file to the defendant.

If it is impossible or difficult to make such copies, the contents of the file will be held at the disposition of the defendant at the FIE Head-Office or at another place designated **by the Prosecutor**.

Supplementary or new information can be communicated by the FIE Head-Office **up to 15 days before the hearing**.

No later than eight days before the hearing, the defendant must communicate to **the Prosecutor** all of the documents and the testimony on which he intends to base his defence as well as the identity of the witnesses whom he would like to be heard stating the reason why their evidence will be useful to reaching the truth.

7.2.4 The Prosecutor and the Panel

The Prosecutor receives the complaints and protests related to disciplinary violations. He represents the FIE at the hearings.

He has all the power to investigate the cases in accordance with the following norms and also introduces, on his own, the disciplinary action in deferring it to the Panel.

He can interrogate all witnesses and obtain all useful documents from everyone concerned, if need be by injunction.

In case of a refusal to testify or to communicate documents, the **Prosecutor** will require the Panel to penalise the person withholding material with a fine of CHF 250 to CHF 5,000 after having been summoned by the Panel to receive his explanations.

He files the acts in case of clear lack of evidence of the complaint.

That decision can be appealed according to the Rules of the article 7.2.1.

The Prosecutor must, in all circumstances, respect and ensure respect of the rights of the defence.

The Panel takes a decision based on the file after the hearing described in the articles below. The President of the panel informs the complainant and the defendant of the decision and the penalty and indicates that he benefits from the rights of the defence.

The Reporter, **designated by the President of the Panel among its members**, takes care of secretarial tasks at the hearing, records the various declarations, takes the transcripts of the hearing.

7.2.5 The Hearing

The President of the Panel will verify the identity of the complainant, the defendant and the witnesses.

He will invite **the Prosecutor** to present his report.

He then listens to the declarations of the complainant(s) and the defendant(s).

He then proceeds to the possible hearing of the witness(es) who will be kept out of the hearing until their turn to testify.

The President of the Panel can hear all persons or ask for all documents useful to discovering the truth.

In general, the President of the Panel alone controls the proceedings, and has the power, if the case arises, to exclude any persons creating a disturbance, to examine or not the witnesses, to order **additional investigation, to** penalise the behaviour of the parties.

At the end of the discussion, the President of the Panel gives the defendant, his representative, or if the case arises, his defence counsel, the right to speak last. The Panel must, in all circumstances, respect and ensure respect of the rights of the defence.

The matter is then considered by the Panel, which reaches its decision by a majority vote.

In case of difficulty, the President of the Panel can ask the **FIE Bureau** for an additional maximum period of not more than 3 months to gather supplementary information. The supplementary information will be communicated to the defendant and the complainant for them to respond within the time fixed in the cover letter. A new hearing can, if necessary, be called. It will be held according to the same terms and under the same conditions as the first hearing.

7.2.5 Notification of the decision

The decision with justification as well as the penalty are forwarded **to the FIE Bureau and the Prosecutor**. The Investigator will notify the defendant, the complainant and their federations of the sentence. This notification is made by certified mail, with acknowledgement of receipt requested.

Opinion of the Commission :

Replace 7.2.5 by 7.2.6 Notification of the decision

The decision with justification as well as the penalty are forwarded by **the President of the Panel** to the **FIE Bureau, the defendant**, the complainant and their federations. This notification, which reminds the addressees of the deadline to appeal, is made by certified mail, with acknowledgement of receipt requested.

7.2.6 Place and attendance at the hearing

a) Place

The hearings of the disciplinary panel will be held at the administrative office of the F.I.E. or in another place **chosen for** reasons of convenience.

Opinion of the Commission : in favour. Replace 7.2.6 by 7.2.7

b) Attendance at the hearing

1. The Complainant

The complainant is not obliged to appear personally. He can express himself to the Judge by any means of communication as well as by sending a memorandum of explanation and supporting documents.

Opinion of the Commission :

1. The Complainant

The complainant is not obliged to appear personally. He can express himself to the **Panel** by any means of communication as well as by sending a memorandum of explanation and supporting documents.

2. The Defendant

The presence of the defendant at the hearings is not obligatory. He can be represented by a defender specifically empowered by a written power of attorney or he can attend telephonically by calling at the date and hour indicated in the summons to the place designated **by the Judge**. The defendant will be responsible for the cost of his transportation and stay as well as those of his defender and any witnesses he may call. In the case of a frivolous complaint, **the Judge** may charge the complainant for all or part of the expenses of the defendant.

Opinion of the Commission :

The presence of the defendant at the hearings is not obligatory. He can be represented by a defender specifically empowered by a written power of attorney or he can attend telephonically by calling at the date and hour indicated in the summons to the place designated **by the Prosecutor**. **The defendant will be responsible for the cost of his transportation and stay as well as those of his defender and any witnesses he may call.**

3. The Witnesses

The witnesses are only obliged to appear on the special request of **the Judge** in which case their travelling expenses will be paid by the F.I.E. If the defendant wishes the physical presence of a witness, he is responsible for asking him to attend and for paying his expenses.

Written testimony is permitted. It must be written, dated and signed in the handwriting of the witness. His signature must be certified according to the applicable laws of the country where he resides.

Telephonic testimony is permitted. Before his examination, **the Judge** will verify his identity by any suitable means.

Opinion of the Commission :

The witnesses are only obliged to appear on the special request of the **Panel** in which case their travelling expenses will be paid by the F.I.E.

If the defendant wishes the physical presence of a witness, he is responsible for asking him to attend and for paying his expenses.

Written testimony is permitted. It must be written, dated and signed in the handwriting of the witness. His signature must be certified according to the applicable laws of the country where he resides.

Telephonic testimony is permitted. Before his examination, **the President of the Panel** will verify his identity by any suitable means.

7.2.7 The appeal

Any decision taken by **the 1st judicial body (disciplinary panel) may be submitted exclusively by way of appeal to the FIE Bureau (2nd judicial body)**. The time limit for appeal is twenty-one days after the reception of the decision concerning the appeal.

Any revision of the decision taken by the 2nd judicial body (FIE Bureau) may be submitted exclusively by way of appeal to the Executive Committee (3rd judicial body). The time limit for this appeal of revision is twenty-one days after the reception of the decision concerning the appeal.

Any decision taken by the 3rd judicial body (Executive Committee) may be submitted exclusively by way of appeal to the Court of Arbitration for Sport in Lausanne, Switzerland (CAS), which will resolve the dispute definitively in accordance with the Code of Sports-related Arbitration. The time limit for appeal is twenty-one days after the reception of the decision concerning the appeal.

Opinion of the Commission :

Replace 7.2.7 by 7.2.8 The appeal

Any decision taken by the Disciplinary Panel may be submitted exclusively by way of appeal to the Court of Arbitration for Sport in Lausanne, Switzerland (CAS), which will resolve the dispute definitively in accordance with the Arbitration Code of Sports. The time limit for appeal is twenty-one days after the reception of the decision.

7.2.8 Form of proceedings

For the 1st judgement, the transcripts of the hearings are taken by the Reporter and signed by the Judge.

For the 2nd and 3rd judgements, they are established by a person designated by the concerned judicial body and sign by this body.

Opinion of the Commission :

Replace 7.2.8 by 7.2.9 Form of proceedings

The transcripts of the hearings are established by the Reporter and signed by the President and the Reporter. The judgements of the 1st authority are signed by the President of the Panel.

7.2.9 Rights of the defence

Any irregularities of the procedure of the disciplinary panel may annul its decision in the following cases only :

- refusal of the right to be assisted or represented
- refusal of the right to be heard before the taking of decision
- refusal of consultation of the case
- non reception of a decision with justification

Opinion of the Commission :

Replace 7.2.9 by 7.2.10 Rights of the defence

Any irregularities of the procedure of the disciplinary panel may annul its decision in the following cases only :

- refusal of the right to be assisted or represented;
- refusal of the right to be heard before the taking of decision;
- refusal of the right to consult the file;
- absence of justification of the decision

7.2.10 Pronouncement of penalties

All the sentences pronounced by the judicial bodies or by the CAS shall be brought to the attention of national federations.

Opinion of the Commission :

Replace 7.2.10 by 7.2.11 Pronouncement of penalties

All the sentences pronounced by the disciplinary authorities or by the CAS shall be brought to the attention of national federations concerned.

7.2.11 2nd and 3rd judicial bodies of the FIE (The FIE Bureau and Executive Committee)

The administrative and financial director shall summon the defendant and the complainant(s) before the FIE Bureau or Executive Committee by certified mail, with acknowledgement of receipt requested, one week before the meeting, specifying that the defendant can be aided or represented by a person of his choosing.

At the time of the meeting, the Bureau or Executive Committee shall assure itself that the summons has been properly presented to the defendant.

The disciplinary authority designates a person to chair the hearing and another person to officiate as Reporter.

The hearing takes place in accordance with the article 7.2.4.

The FIE Bureau or Executive Committee reaches its decision by a majority vote.

At the end of the hearing, the administrative and financial director notifies the decision of the FIE Bureau or Executive Committee to the defendant and complainant by certified mail, with acknowledgement of receipt requested.

Their decision is binding and subject to appeal pursuant to Article 7.2.7.

Opinion of the Commission :
Suppress the 7.2.11 from the proposition

Opinion of the Commission :
Addition of a new article 7.2.12 Costs

Each party takes care of its own costs incurred for the disciplinary procedure. However, in case of abusive or slanderous complaint, all or part of the expenses are supported by the complainant, according to the decision of the disciplinary authority.
