

**Minutes of the meeting of the Disciplinary Committee
November 3, 2002 in Lausanne (CH)**

Present:

Eduardo Mangiarotti (ITA, MH) President
Geraldine Baumgart (USA)
Bert van de Flier (NED)
Anibal Illueca Herrando (PAN)
Allan Jay (GBR)
Dimitrios Kontos (GRE)
Jose Julio Valarinho (POR)
Nathalie Rodriguez M-H Administrative Director FIE (only during the morning session)

Excused:

Serge Aubailly (FRA)
Gyorgy Nebald (HUN)
Kun Bai Lee (KOR)

Eduardo Mangiarotti gives the floor to Allan Jay who has prepared a list with proposals for changes in the Disciplinary Code.

Allan Jay indicates that the present procedure is so rigid and complicated, that the Tribunal has not been able to try certain cases due to procedural errors. In order to avoid that these situations happen again it seems necessary to modify the Disciplinary Code. We should also make a distinctive difference between doping cases and non-doping cases, because in doping cases it is not necessary to establish a complaint given the fact that the Rules clearly define them as a fault. He wishes that a sort of mixed commission will be established which consists of one member of the Judicial Commission, Medical, etc.

Eduardo Mangiarotti responds that the members of the Disciplinary Commission are all attorneys and the Commission can also count on the assistance of a member of the Medical Commission. This makes it not necessary to create a mixed commission where our Commission has the possibility to add experts provided by other Commissions. He also stresses that for this olympiad the Commission is elected "as is" and cannot be modified until Athens. Also; where doping is concerned, the rules that were established by the IOC are very clear. It is much easier to apply them, then trying to create new rules. The FIE should be severe with regards to doping and the Disciplinary Commission should be firm and decisive.

Aninal Illueca thinks that it is up to the Commission to come with proposals to change the code, which will give it more weight. It is also possible to consult the other Commissions before presenting it to the Executive Commission.

Alan Jay indicates that he had contacted Sam Cheris in order to get his opinion on the proposals, but his request was not answered. He wishes, that we do not have to modify the Statuts every year since all the situations we encounter until now were not foreseen.

Rene Roch enters the room to greet the Committee members before he leaves.

Bert van de Flier thinks that there should be a person, other than a Tribunal member, who has the role of Prosecutor. Because the Tribunal is there to judge, the defendants party is there to defend.

Allan Jay indicates that the prosecutor has to be a member of the FIE which poses a problem. Jose Valarinho thinks that the members of the tribunal are independant and Eduardo Mangiarotti indicates that in a sports federation it is normal to have a sports tribunal.

Bert van de Flier demands that the “reporter” will not be a member of the Tribunal, because there is a conflict between being a reporter and a judge at the same time. It could be another member of the Commission.

He adds that this “reporterr” should be designated by the President at the same time that he designates the Tribunal.

Eduardo Mangiarotti thinks that the reporter should be the President of the Tribunal. Moreover; it is costing money.

Bert van de Flier thinks that a good reporter will cost less than not having one at all and having to annull the whole procedure, because of procedural errors.

The following proposals were unanimously approved:

1) Article 7.2.3:

- this article should be modified by adding at the beginning of the article, that the complaints have to be “filtered” (including the information demanded from the accused person), and if such a complaint is deemed to be acceptable, then and only then, the Administrative Bureau of the FIE will sent the file to the President of the Commission.

The President of the Disciplinary Commission is the only one who will decide wether the Disciplinary Commission will act on this by creating a Disciplinary Tribunal. If the President of the Commission happens to be of the same nationality as the accused or the accuser, he has to nominate a neutral member of his Commission to take over his place.

- First paragraph, replace the second phrase by: << Within the 15 days that follow the reception of the complaint by the President of the Disciplinary Committee, the latter will appoint three members of the Commission to judge the complaint.
- 2) Modification of the Statutes to create a distinction between cases concerning doping and other cases, because doping cases will already fall under the Anti-doping Code of the IOC and also because this will automatically create the establishment of a Tribunal. A text should indicate that in the case of doping the FIE automatically follows the rules of the IOC. For other disciplinary cases, it is the FIE code that will be applied.

Jose Valarinho wonders whether a suspended sentence can be applied in doping cases. Anibal Illueca indicates that the IOC code does not anticipate a suspension in the case of doping.

- 3) Article 7.2.1.b) the paragraph starts with “ The complaint has to mention:.....the signature of the plaintiff” should be replaced by “The complaint should be carried out on the official forms of the FIE of which a copy can be obtained, either at the FIE Headquarters or on the FIE website on the Internet.”

This in order to avoid procedural errors by reason of a non-conform complaint. The official form should be created by the Judicial Commission.

- 4) Add at the end of the second paragraph of article 7.2.3 the following text: “Subject to the provisions that are mentioned underneath, and if necessary, the President of the Disciplinary Commission has the right to appoint himself whether as the President of the Tribunal or as the member of a Tribunal.”
- 5) Modify paragraph 5 of the article 7.2.3 in the following manner: “The members of the Disciplinary Tribunals should preferably be able to communicate in the official language of the FIE and the two working languages”
- 6) Abolishing the reporter. This means modification of the two first paragraphs of article 7.2.4. as follows.

“The Disciplinary Tribunal is charged with the compilation of the file, collecting the evidence for prosecution and defense with regards to the person or persons concerned. The Tribunal can interrogate all the witnesses and can have access to every document that is deemed useful with regards to any interested person, if necessary by injunction.”

In case of a refusal to testify or to hand-over information, the Tribunal informs the President of the Disciplinary Commission who is empowered to sanction the unwilling person with a fine between 100Euros and 4000 Euros after inviting the person to explain his reasons for refusal.

- 7) Article 7.2.3. paragraph 6, add at the end: “ This indicates that the defendant can be assisted or represented by the person of his choice.”

This arrangement fell under the jurisdiction of the President of the Commission, it should be removed from article 7.2.4. third and fourth paragraphs.

- 8) Article 7.2.4: eliminating the phrase “He invites the reporter to present his report”
- 9) Article 7.2.1. a) realise the combination of the 2 first paragraphs of article 7.2.1 a) and modifying them in the following manner “any person physical or entity (and including every member of the Executive Committee, the FIE observers, during International Competitions, the Technical Directors, or the Presidents of national federations who will find themselves personally the victim of one of the violations enumerated underneath in article 7.1.7. can present a complaint to the Disciplinary Commission who can decide that there is a possible violation which can be prosecuted and inform the President of the Disciplinary Commission.”

The purpose of this modification is to allow anybody to bring forward a complaint.

- 10) Add to the list of violations in article 7.1.7 of the Statuts: “behaviour that is harmful towards fencing or towards the FIE”

Bert van de Flier requests that a copy of every final report from the Tribunals will be sent to all Tribunal members.

Eduardo Mangiarotti requests that this communication will take place at the same time that he sends the letters to the athletes that have appeared before the Tribunals. He thanks Alan Jay for his work and his propositions.

Nothing left on the agenda, the meeting is closed.