

CONSTITUTIONAL COMMISSION

Tromso, Norway meeting, 6 August 2014

Present:

Chairman: Casto Abundo (PHI)

Members: Francois Strydom (RSA), Willy Iclicki (MNC), Roberto Rivello (ITA)

Observers: Arthur Schuering (NED), Herman Hamers (NED), Lyndon Bouah (RSA), Robert Zsifkovits (AUS), Louis O' Neill (USA), Nigel Freeman (BER), C.T Kuwaza (ZIM), Afrika Msimang (RSA), Ruth Haring (USA), Eldo Smart (RSA)

1. Modification of FIDE Statutes concerning dispute resolutions (General Assembly agenda item 5.1 annex 7)

Following a successful challenge by the Bulgarian Chess Federation of certain provisions in Chapter 13 of the FIDE Statutes – Final Settlement of Disputes in the Court of Arbitration in Sport (CAS), it has become necessary to make certain modifications to the Statutes.

The meeting considered proposals for the amendment of Art 4.1 and complete replacement of Art 13 – see Annex 7 to General Assembly agenda. The Constitutional Commission supports the proposed amendments, subject to the following insertions (underlined in the quotations hereunder)

In the second paragraph of Article 4.1

“Unless otherwise provided by the Statutes or regulations (e.g. in the case of the Ethics Commission and the Electoral Commission), the General Assembly will be the internal appellate organ for all decisions of FIDE organs and officials. “

In the last paragraph of Article 4.1

“All decisions taken by the Executive Board may be reviewed by the following General Assembly. A directly aggrieved party may appeal directly to CAS or the ordinary courts in Lausanne, Switzerland, depending on the subject matter of the dispute as envisaged in Chapter 13, against a decision by the Executive Board if, and only if, that party would suffer irreparable harm by having to wait until the next General Assembly for a final decision.”

In Art 13.3

“A party may only lodge an appeal to the CAS pursuant to Article 13.1 above if it has exhausted all the internal remedies of FIDE. In this regard, the decisions of the General Assembly, the Ethics Commission and the Electoral Commission relating to matters falling within their respective competencies are final.”

The underlined insertions recommended by the Constitutional Commission have been discussed and agreed with Mr Jean-Marc Reymond and Ms Delphine Rochat of Reymond & Associates, the FIDE external legal advisers.

2. Recommendations of Ethics Commission regarding anti-cheating issues
(Part I of Ethics Commission report - Annex 31 of General Assembly agenda)

Dr Rivello explained to the meeting the rationale for the Ethics Commission proposals regarding the use of the current provisions of the FIDE Statutes to establish an independent Investigatory Chamber of the Ethics Commission for cheating cases and an amendment of the FIDE Code of Ethics to provide for suitable sanctions. This approach is to be preferred to the proposals of the Anti-Cheating Committee to institute its own investigating and judgment committees which offends the idea of having a single judiciary organ within FIDE. The work-load of the Ethics Committee can be lightened by greater adoption by the federations of the system of shared competencies on the prosecution of violations of the FIDE Code of Ethics. The meeting took note of the various proposals in this regard, and the possible future involvement of the Chairman of the Constitutional Commission in reform measures relating to the Code of Ethics.

3. Proposed Disciplinary Regulations for Arbiters
(Annex 12 of General Assembly agenda)

The Constitutional Commission took note of the proposal for the creation of a Disciplinary Sub-Committee within the FIDE Arbiters Commission hearing appeals against decisions of arbiters or designated appeals committees, with a right to appeal the final determination of the Disciplinary Sub-Committee to the FIDE Presidential Board. There are certain aspects which require further discussion with the chairman of the Arbiters Commission.

4. Proposed FIDE Academy regulations
(General Assembly item 6.4 Annex 15)

The meeting considered the proposal of the English Chess Federation for amendment of the guidelines for FIDE Academies to the effect that national federations must endorse any applicant (and annual renewal) for approval of a chess academy as a FIDE Academy within its jurisdiction. The meeting supported the proposal but held the view that clarification and qualification are required in the case of online academies to make it clear in whose jurisdiction they fall.

5. Registration of players on FIDE Rating Lists
(FIDE Rating Regulations reg 13)

The meeting discussed the provision for direct registration with FIDE of a player who is not registered with a member national chess federation. Mr Nigel Freeman explained that it is cheaper (and preferable from FIDE point of view) for a player to be registered with his national federation, but provision for direct registration exists for players unable to obtain membership of his national federation. FIDE further charges a fee of Euro 25 for re-registration of a player previously taken off the federation rating list.

6. Statutes of Affiliated International Organisations

Mr Abundo explained that in spite of the benefit of FIDE affiliation given to Affiliated International Organisations, FIDE has no oversight committee in charge of them. The Constitutional Commission has called for a copy of each Affiliated Organisation statutes and have received the statutes of 3 organisations so far. Affiliated International Organisations should also be required to submit annual reports to the FIDE Congress and possibly pay an annual fee for the benefit of affiliation.

7. Proposed limitation of Campaign period

The time period for filing for FIDE Presidential tickets is currently prescribed in the FIDE Statutes to be 3 months before elections. It is suggested that a limitation of 6 months before elections should be imposed as the campaign period. Although the meeting recognized some merit in the proposal, it also foresaw some practical difficulties in enforcing such a limitation, amongst others to decide when activities amount to a campaign and suitable sanctions for infringements. The view was also expressed that such a limitation might favour the incumbent who could use the execution of his current duties as an opportunity to promote himself for re-election.

8. Enquiry relating to supremacy of General Assembly decisions

Mr Gary Wastell, president of the Australian Chess Federation, directed an enquiry as to whether or not decisions of the FIDE General Assembly can be overruled by any other body in FIDE. The Constitutional Committee pointed out that it is correct that the General Assembly is the supreme decision-taking organ of FIDE, but the Electoral and Ethics Commissions have final authority regarding matters falling within their respective competencies. There is also a provision for the Presidential Board to delay implementation of a decision of the General Assembly for reconsideration at the following General Assembly to be used for obvious oversights or technical defects as many reports are approved at meetings of the General Assembly without a detailed consideration of the contents of the reports.



Casto Abundo
Chairman

Francois Strydom
Secretary