

Minutes of the Constitutional Commission meeting

18 October 2011, Krakow, Poland

Present: Chairman Casto Abundo (PHI), Secretary Francois Strydom (RSA), Member Willy Iclicky (MNC)

Other participants in the meeting - Executive Director David Jarrett, Internal Auditor Graham Boxall , Arthur Schuering (NED), Bill Hall (USA), Walter Brown (USA)

1. Executive Director David Jarrett brought to the attention of the meeting the following matters:
 - 1.1 The proposal of the Bermuda Chess Federation (Annex 13) re the updating of the regulations in the FIDE Handbook and that each Commission should nominate its own Treasurer;
 - 1.2 The proposal of the Events Commission re the terms of reference (Annex 33B).

The above proposals would probably require amendments to the FIDE Statutes and thus the Constitutional Commission's review before final approval by the General Assembly.

2. Mr Jarrett further advised that the FIDE Executive Office will be embarking over the next three months on a review and cleaning-up of the FIDE Statutes to improve the grammar, remove inconsistencies and to separate sections which better belong in subsidiary records. For example, it was suggested that the tasks of the individual Commissions and Continental Assemblies can be more appropriately described in their own statutes / regulations. The Executive Office will engage the assistance of the Constitutional & Ethics Commissions, as well as FIDE's external lawyers, in this process. In particular, the Constitutional Committee has a "watching brief" to ensure that any changes to be introduced conform to the rest of the Statutes.
3. Mr Jarrett commented on some of the major proposals of the Constitutional Commission as contained in the Minutes of its Al Ain (June 2011) meeting ("the Minutes") and its Agenda for the present Krakow (October 2011) meeting ("the Agenda"). They need to find the support of the Executive Board meeting in Krakow before being put forward for acceptance by the 2012 Istanbul General Assembly. Mr Abundo informed the meeting that when FIDE signed up with the CAS, the late IOC President Samaranch told the late FIDE President Campomanes and himself that CAS looks whether sports organizations have internal bodies to which appeals are made.
4. Mr Jarrett raised the question as to whether the Constitutional Commission members, having been elected by the General Assembly, will be seen as truly independent in any dispute resolution function which may be assigned to them in accordance with the proposals. Mr Strydom pointed out that in most domestic organizations the first recourse is always to an internal body which consists of officials of the organization and that they are not disqualified from acting in such a capacity merely on the basis of a perceived lack of independence. Mr Jarrett was thereafter excused from the meeting in order to attend the simultaneous meeting of another Commission.
5. The meeting continued to review and discuss the proposals as contained in the Minutes and the Agenda – both Annex 29 to the Agenda for the 82nd FIDE Congress, Krakow). The Chairman, Mr Abundo explained for the benefit of the non-member participants in the meeting, the thinking of the Constitutional Commission in regard to the following proposals:

- 5.1 Expansion of the objectives & powers of the Constitutional Commission (Minutes item 1; Agenda item 2); reword 'obliged to have first recourse' to read 'obliged first to have recourse' as suggested by Mr Boxall.
 - 5.2 Creation of an appeal mechanism within FIDE before the CAS is involved (Minutes item 2);
 - 5.3 Drafting of procedural rules which provide inter alia for the payment of a filing fee in the dispute determination process (Minutes item 3);
 - 5.4 Lodging with the FIDE Secretariat of electronic copies of federations' constitutions and amended constitutions (Minutes items 4 & 5; Agenda item 1) to assist the Constitutional Commission in submitting its opinion regarding recognition as a member of FIDE;
 - 5.5 Creation of an independent Electoral Commission, or empowering the Constitutional Commission to act as an ad hoc Electoral Commission (Minutes item 6; Agenda item 2); Mr Abundo clarified that by 'independent' it was meant that the Commission members are elected by the General Assembly and should not be members of, or candidates for membership in, the FIDE Presidential Board;
 - 5.6 Priority of conflicting nominations received from the same federation for the Presidential ticket (Agenda item 3);
 - 5.7 Review & clean-up of FIDE Statutes (Agenda item 4; see also paragraph 2 above).
6. The meeting was supportive of the above-mentioned proposals and, in particular, held the following views:
- 6.1 It is critical to establish the Electoral Commission by no later than the 2012 Istanbul General Assembly, or empower members from the Constitutional and Ethics Commissions as an ad hoc Electoral Commission, for purposes of scrutinizing nominations well in advance of the next elections;
 - 6.2 The tasks of the Electoral Commission or ad hoc body must be well identified and recorded;
 - 6.3 Recourse to the CAS should be reserved for athletic disputes (players) and not for disputes concerning officials or the interpretation / application of the Statutes and regulations. In the latter case, the ultimate appeal or reviewing authority should be the civil courts (after internal processes have been exhausted).
7. At the end of the meeting, the chairman thanked every-one for the lively discussion and their keen participation. The meeting adjourned at 13:00, having started at 11:00 (duration: 2 hours).
8. On 20th October, members of the Constitutional Commission met with co-member Dr Roberto Rivello, chairman of the Ethics Commission. Dr Rivello endorsed a general review of Statutes and establishment of a system of appeal, and this will be further discussed by the Commission.

Casto Abundo
Commission Chairman

Francois Strydom
Commission Secretary