

Annex n.



## **CONSTITUTIONAL COMMISSION**

### **REPORT TO THE FIDE COUNCIL – 10 JULY 2022**

The Constitutional Commission (hereafter CC) held an on-line meeting on 10<sup>th</sup> of July 2022.

The meeting was attended by three of the current four members of the CC: Roberto Rivello (chairman), Marouane Tabti and Ian Wilkinson.

The following points were inserted in the agenda, discussed, and decided by the CC.

#### **I) Advisory opinions about the proposed changes of the FIDE Charter**

In accordance with its competences (“to review ... changes of the FIDE Charter ...”, and “to ensure that proposed changes of FIDE Charter ... occur in conformity with the established procedural rules”), the CC examined the proposals of changes of the FIDE Charter included in the agenda, especially points 6.1.2, 6.1.3, expressing the following opinions:

- **Proposal of Papua New Guinea Member Federation to modify art. 9.4 of the FIDE Charter (Annex 6.1.3b)**

Current art. 9.4 rules that: “For new members, the country of the federation must be a country recognised by the United Nations and the International Olympic Committee (IOC)”

Papua New Guinea Member Federation proposes to delete the word “new” and to add the word “or” after the word “and”, as follows: “For **new** members, the country of the federation must be a country recognised by the United Nations and **or** the International Olympic Committee (IOC)”.

The first change seems aimed to avoid possible misunderstandings regarding current Member Federations, the second is a discretionary choice that is not in contrast with other FIDE rules.

The CC has no objection to submitting this proposal to the FIDE Council and the General Assembly for their respective consideration.

- Proposal of English Member Federation to modify art. 9.4 of the FIDE Charter (Annex 6.1.2)

English Member Federation proposes a very similar change of art 9.4: to delete the word “and” and to add the word “or” after the word “Nations”, as follows: “For new members, the country of the federation must be a country recognised by the United Nations ~~and~~ **or** the International Olympic Committee (IOC)”.

It could be considered absorbed by the decision that will be taken by the General Assembly about the above mentioned one.

The CC has no objection to submitting this proposal to the FIDE Council and the General Assembly for their respective consideration.

- Proposal of English Member Federation to modify art. 17.6 of the FIDE Charter (Annex 6.1.2)

Current art. 17.6 rules that: “Presidents and delegates may only represent one Member Federation at a time and must, on the date of the meeting of the General Assembly, have either: - a citizenship or at least two years’ residency of the country or territory they represent, or - at least one year experience as an office holder of this Member Federation. They must also be elected or appointed by the appropriate body of that Member Federation”.

English Federation proposes to delete one of the two requirements requested to act as Presidents or delegates of a Member Federation, as follows: “Presidents and delegates may only represent one Member Federation at a time and must, on the date of the meeting of the General Assembly, have either: ~~—a~~ citizenship or at least two years’ residency of the country or territory they represent, ~~or —at least one year experience as an office holder of this Member Federation.~~ They must also be elected or appointed by the appropriate body of that Member Federation”.

It’s a discretionary choice of the General Assembly. The CC has no objection to submitting this proposal to the FIDE Council and the General Assembly for their respective consideration.

- Proposal of Papua New Guinea Member Federation to introduce “Associate Member Federations” (Annex 6.1.3a)

Last year Papua New Guinea Chess Federation advanced the same or a very similar proposal, not approved by the General Assembly.

The institution of a new kind of membership, for “Associate Member Federations”, would constitute a real revolution, for FIDE.

These “Associate Members” would have the same powers of the Member Federations, it means of the full members. This could be considered in contrast with IOC rules and with the same art. 9.4 of the FIDE Charter.

The aims that are probably at the basis of this proposal seem already satisfied by the institute of “Affiliated organisation” (art. 14 of the FIDE Charter).

The CC must object against the approval of this proposal.

## **II) Interim elections of members of the Ethics and Disciplinary Commission and of the Constitutional Commission and state of activity of their current members**

In accordance with art. 25.2 of the FIDE Electoral Rules, “if a member” (of an elective commission) “is inactive for a period of 6 months or longer, without due justifications, following a decision of the other members of the Commission, ratified by the Council, he or she is considered lapsed from office, and new elections will be organised for that position in the next General Assembly”.

Unfortunately, Honourable Kezzie Msukwa, Member of this Constitutional Commission, has been inactive for a period at least longer of 7 months and it is a duty of the Commission to verify the activity of its members.

Therefore, the CC, by unanimity, recognises that Mr. Kezzie Msukwa has to be considered lapsed from office and asks the Council to ratify this decision and to organise an interim election of two members of the Constitutional Commission.

## **III) Competence regarding regularity of Continental Elections – Art. of the FIDE Charter.**

Mr. Mario A. Ramírez Barajas, a candidate to the position of President of FIDE Continent America, addressed to the CC a complaint concerning many alleged violations of FIDE and American FIDE Continent rules regarding 2022 continental elections, asking to “declare illegal the change of date of the CCA election to October. Realize the election of the election in Chennai in the framework of the World Chess Olympic and the General Assembly of FIDE, with the resolution of the General Secretariat of the origin of challenging the ticket of Mr. José Carrillo Pujol, as the CCAA statute mandate. Full respect for the Secretary-General's positions as head of the CCA Secretariat”, adding that “FIDE must be a guarantor of compliance with the statutes of continental federations and organizations and not allow members to be left in a state of defenselessness in a situation that seriously affects an electoral process and the rights and obligations of the participants”.

As already specified by the Electoral Commission, about its competences, also the CC must remind that, in accordance with art. 27 of the Electoral Rules, Continental elections shall be organised directly by the FIDE Continents, in accordance with their internal rules, therefore the CC has no competence about interpretation of continental electoral rules.

On the contrary, the CC has competence about interpretation of all other FIDE rules, and there are no doubts that, in accordance with the same art. 27 of the Electoral Rules “FIDE Continents shall take place during the FIDE Congress, on a quadrennial basis. These elections must be organised and concluded before the opening of the electoral meeting of the General Assembly”.

Therefore, the decision to convene continental elections after the opening of the electoral meeting of the GA constitutes a violation of FIDE Rules, if not taken for a valid reason. However, at the present moment, the CC cannot decide or evaluate this aspect of the matter as the CC does not have all the relevant information, including the specific reason or reasons for the proposed changing of the date of the elections to October 2022. These reasons should be provided by the Continental President Jorge Vega or the General Secretary Russell Smith or by the executive of the FIDE Continent.

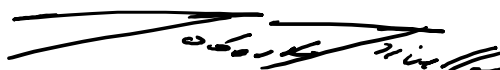
After the elections -and not before them-, again in accordance with art. 27 of the Electoral Rules, if they are organised without respecting the general principles listed under art. 2 of the Electoral Rules (that include, for instance, “carrying out all electoral activities by an impartial and effective administration”), “the Council, following an advisory opinion of the Constitutional Commission, can decide to not recognise their results”. It is a risk that the American FIDE Continent must ponder attentively, but no decisions can be taken before elections.

A violation of FIDE rules, by one or more persons, could also constitute a violation of the Ethics and Disciplinary Code, but the CC has no competence about that as well.

As a consequence of all this, the CC cannot make a final determination of this issue, at least now, without additional information, particularly from the CCA executive which made the decision to postpone the elections to October 2022.

Cagliari, 10 July 2022

Roberto Rivello

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Annex n.



## **CONSTITUTIONAL COMMISSION**

### **REPORT TO THE FIDE COUNCIL - JUNE 2022**

The Constitutional Commission (hereafter CC) held an on-line meeting on 24<sup>th</sup> of June 2022.

The meeting was attended by three of the current four members of the CC: Roberto Rivello (chairman), Marouane Tabti and Ian Wilkinson.

The following points were inserted in the agenda, discussed, and decided by the CC.

#### **I) Pakistan Chess Federation - Reverse delegate - Conclusion of the mandate**

The Pakistan Chess Federation organised new elections, that were held on the 4<sup>th</sup> of June 2022, under the supervision of the FIDE Reverse delegate, Ms. Dana Reizniece-Ozola, with the approval of the Pakistan Sports Board.

Mr. Muhammad Hanif Qureshi was elected as the new president of the Pakistan Chess Federation.

Therefore, by unanimity, the CC considers as concluded the mandate assigned to the Reverse delegate for the Pakistan Chess Federation.

#### **II) Royal Morocco Chess Federation - Reverse delegate - Current situation**

The FIDE Reverse delegate for the Royal Morocco Chess Federation, Mr. Bachar Kouatly, submitted to the attention of the CC an updated report, presenting an account of his meetings with various stakeholders in Morocco, among others with the Minister of education, youth and sports, Mr. Chakib Benmoussa, and with the Moroccan national Olympic Committee (he was received by Mr. Driss Hassa, Deputy general secretary, Mr. Omar Bellali Treasurer, and Mr. Majd Chekroun, Head of communication and international relations). Mr. Kouatly adds, in his report, that, on the contrary, Mr. Mustapha Amazal has not made himself available to meet neither the FIDE Reverse delegate, nor Ms. Dana Reizniece-Ozola, FIDE Managing Director, in occasion of their 4 days stay in Morocco, organised for this purpose.

Mr. Kouatly underlines that, in his opinion, “for the time being Mr Amazzal did not answer the requirement asked by the CC to fully recognize the results of the electoral assembly held on the 8<sup>th</sup> of December 2021”, he believes that more time is needed “to understand if the situation will evolve” and recommends waiting “before taking any decision”.

The CC observes, by unanimity, that, on the basis of this report, the requirements requested by FIDE to the Royal Morocco Chess Federations, for considering completed the mandate of the Reverse delegate, are not yet integrated. As a consequence, the CC advises the Council to extend the mandate of the Reverse delegate for an additional period.

### **III) South Africa Chess Federation- Reverse delegate – Conclusion of the mandate**

The CC, heard the report of the Reverse delegate for the South Africa Chess Federation, by majority notes that, in accordance with what was decided by the national judiciary authorities, Mr. Hendrik du Toit is the current legitimate President of the South Africa Chess Federation, his rights to participate and vote in the next FIDE Congress and General Assembly must be recognised, and the mandate assigned to the Reverse delegate must be considered as concluded.

Inside this Member Federation, however, a situation of tension and conflict between two opposite parties continues to exist. Therefore, the CC, by unanimity, advises the Council to assign to Mr. Ian Wilkinson the task to facilitate the co-operation among all parties and to assist next internal elections, due to be held at the end of the current year or at the beginning of next year. This task should not be confused with the previous one of Reverse delegate, it will be just a contribution offered by FIDE to avoid further situations of conflict regarding the South Africa Chess Federation.

### **IV) Ivory Coast Chess Federation - Reverse delegate – New elections**

The CC, heard the report of the Reverse delegate for the Ivory Coast Chess Federation, takes note that, following an agreement among all interested parties, an elective general assembly of this Member Federation will be held, in the second part of July, attended also by a representative of the competent governmental authority.

The CC, by unanimity, advises the Council to assign to Mr. Marouane Tabti the task to attend and supervise the electoral process, and to consider his mandate of the Reverse delegate as concluded immediately after these elections.

### **V) Libyan Chess Federation**

In April 2022, FIDE Offices asked the CC to express an advisory opinion about the recognition of the current President and Executive Board of the Libyan Chess

Federation, given that two different gentlemen, Mr. Ali Fouzi Fathullah and Mr. Fouzi Othman Alburki, asked FIDE to be recognised as the legitimate President of that Federation, basing their request on the results of two different elections, and that one of them was recognised by the Libyan Minister of Sport and the other one by the Libyan Olympic Committee.

The CC, considering that the received documents did not consent to clarify if the first of these two elections was recognised by the Libyan Olympic Committee and if the other one was legitimately organised, charged FIDE Offices to contact both parties, demanding them to give evidence about these issues.

On the 1<sup>st</sup> of June 2022, also taking into account the needs linked to the organisation of next Chess Olympiads, FIDE Management Board decided to “consider Mr. Ali Fouzi as the legitimate representative of the Libyan Chess Federation”, adding that “if an advisory opinion from the Constitutional Commission on this issue is delivered in the future”, FIDE “will study the need for other actions”.

Documents addressed by both parties to the CC still does not consent to take a final decision.

It seems that the complicated political situation in Libya, where the different parties are searching to reach a constitutional basis that leads to parliamentary and presidential elections as soon as possible, is influencing the regular organisation of the meetings of the national chess federation as well.

Therefore, by unanimity, the CC advises the Council to provisionally confirm the recognition of Mr. Ali Fouzi as the representative of the Libyan Chess Federation, till September 2022, asking him again if his election was recognised by the national Olympic Committee, and to re-examine the case immediately after.

## **VI) Advisory opinion about a complaint by the Belarus Chess Federation**

The Belarus Chess Federation addressed to the CC a complaint against the decision taken by the Council on the 27<sup>th</sup> of February 2022.

The complainant observes that “a number of restrictions were introduced in relation to the Republic of Belarus: - a ban on holding official chess competitions and FIDE events in Belarus; - a ban on the use of flags, anthems and national symbols; - termination of all existing sponsorship, agreements with any Belarusian sanctioned and/or state-controlled companies and a ban on entering into new sponsorship agreements with any such companies”, that this decision “affects the interests of more than 3 thousand members of the Belarus Chess Federation” and that “it became the basis for the European Chess Union to impose sanctions on the Belarus Chess Federation”.

The Belarus Chess Federation notes also that, “as follows from the FIDE statement itself”, the reason for imposing sanctions on the Belarus Chess Federation was “serious

concern about the military action launched by Russia in Ukraine” and that “there are no motivated claims against the Belarus Chess Federation”.

In the opinion of the Belarus Chess Federation, “the adopted restrictions are clearly biased and derogatory, moreover, they are legally unjustified and do not contain indications of specific violations committed by members of the Belarus Chess Federation”, they would constitute a “discrimination” against the Belarus Chess Federation.

On these bases, the complainant request “to lift the imposed sanctions” or, if this is not possible for the CC, “to raise the issue of lifting sanctions from the Belarus Chess Federation at the FIDE, General Assembly in Chennai and continue cooperation outside of politics”.

Preliminary, it has to be noted that the CC has no appeal competence against Council’s decisions. However, the CC has competence to report to the Council and to the General Assembly on all violations of the FIDE Charter, and the Belarus Chess Federation is exactly asking for an advisory opinion about an alleged violation of the FIDE Charter.

By majority, the CC expresses the following advisory opinion.

In occasion of the extraordinary meeting held on 27th of February 2022, regarding “the current situation and the urgent measures to be taken after the military action launched by Russia in Ukraine”, among other measures the Council, “following the call from IOC”, decided that “no Russian and Belarusian national flag be displayed or anthem be played in all FIDE-rated international chess events” and “suspended Russia and Belarus teams from FIDE competitions”.

The measures taken by the Council must be interpreted in close connection with the IOC resolutions, which are expressly referred to in the text of the FIDE decision.

On 24 and 25 February 2022, the Executive Board of the International Olympic Committee (IOC), after having noted that “the current war in Ukraine puts the Olympic Movement in a dilemma ... which cannot be solved”, and that Belarus “has abetted Russia's invasion by allowing its territory to be used to station troops and launch military attacks”, "with a heavy heart" issued the following resolution: “in order to protect the integrity of global sports competitions and for the safety of all the participants, the IOC Executive Board recommends that International Sports Federations and sports event organisers not invite or allow the participation of Russian and Belarusian athletes and officials in international competitions”, “wherever this is not possible on short notice for organisational or legal reasons, the IOC Executive Board strongly urges International Sports Federations and organisers of sports events worldwide to do everything in their power to ensure that no athlete or sports official from Russia or Belarus be allowed to take part under the name of Russia or Belarus. Russian or Belarusian nationals, be it as



individuals or teams, should be accepted only as neutral athletes or neutral teams. No national symbols, colours, flags or anthems should be displayed”, “wherever, in very extreme circumstances, even this is not possible on short notice for organisational or legal reasons, the IOC EB leaves it to the relevant organisation to find its own way to effectively address the dilemma described above”.

IOC, in the following months, many times clarified that this decision did not impose sanctions against Belarus athletes and teams, but took measures considered as appropriate exclusively “in order to protect the integrity of global sports competitions and for the safety of all the participants”.

It is the same for the FIDE decision. The Council did not suspend the Belarus Chess Federation, whose representatives will be able to regularly attend 2022 FIDE Congress. The Council did not impose “sanctions” against Belarus players and teams, at least *strictu sensu*, but just followed IOC indications -choosing the relatively less imposing restriction for Belarus chess players, among the suggested ones- with the same aim, to protect the integrity of chess competitions and for the safety of all the participants.

It has also to be reminded that, in accordance with our Charter, FIDE is recognised by the International Olympic Committee as the international federation in the domain of chess and that the interpretation of FIDE rules and regulations must be in conformity with the Olympic Charter.

For these reasons, the measures taken by the Council on the 27<sup>th</sup> of February 2022, for sure "with a heavy heart" as well, also if they impose restrictions, in the opinion of the CC cannot be considered as discriminatory against the Belarus Chess Federation.

## **VII) Advisory opinion on the proposal of the FIDE Historical Committee concerning the list of FIDE Presidents**

The Argentinian Chess Federation demanded to include both in the CC agenda and in the agenda of next General Assembly their request to retroactive recognition of Augusto De Muro’s tenure as Provisional FIDE President in the period 1939-1946, as well as the designation of Buenos Aires as FIDE’s provisional headquarters in the same years.

FIDE Historical Committee, supporting this request, asked to know “if there are any objections from the Constitutional Commission” about this issue.

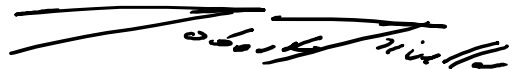
The CC, by unanimity, expresses its advisory opinion in the sense that the CC has absolutely no objections regarding this request, that will be decided by the General Assembly.

### **VIII) Postponement of the exam of the other points in the agenda**

In view of the already long duration of the meeting, necessitated by the complexity of the subjects dealt with, the exam of the other points inserted in the agenda (Advisory opinion about the proposed changes of FIDE Charter received from the English Chess Federation and Papua New Guinea Chess Federation; Interim elections of members of the Ethics and Disciplinary Commission and of the Constitutional Commission) is postponed to next CC meeting.

Turin, 24 June 2022

Roberto Rivello

A handwritten signature in black ink, appearing to read 'Roberto Rivello', with a stylized flourish at the end.