

MEMORANDUM

2017-2021

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Algeria

Interim Executive Director
MARCELA SAXLUND

TO: FINA FAMILY MEMBERS

FROM: FINA Office – Lausanne

DATE: 5 March 2021

RE: Motions, Applications and Proposals for alteration of or addition to the FINA Rules

Dear FINA Family Members,

As per the Milestones for the FINA General Congress 2021, FINA Office shall send to each National Federations, by 5 March 2021 at the latest, the duly submitted motions, applications and proposals for alteration of or addition to the FINA Rules (Constitution, General Rules, Code of Ethics, Facilities Rules, Medical Rules and Doping Control Rules).

The said motions, applications and proposals are the following:

1. Constitution

For the sake of simplification, a document, entitled “*Submitted motions, applications and proposals for alteration of or addition to FINA Constitution*”, is attached (**Annex 1**) and lists the following proposed changes in different colors:

➤ *Accounting and Budget changes*

These changes are intended to notably clarify the current provisions and to expressly mention the External Auditors in the FINA Constitution.

The FINA Bureau recommends the FINA General Congress to approve these changes.

➤ *Anti-Doping Rules reform*

Upon the adoption of the 2021 World Anti-Doping Code (“the Code”), taking into effect from 1 January 2021, FINA, as a signatory to this Code, had to amend its rules to make them compliant with the Code.

The amendments concern primarily the FINA Doping Control Rules (see under) but also to a much lesser extent, the FINA Constitution, the FINA By-Laws and the FINA Code of Conduct.

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As no General Congress would be held in 2020, it was impossible for the amendments to be approved by the General Congress by the deadline of 1 January 2021. Accordingly, the FINA Bureau have exceptionally considered and voted on these amendments based on FINA Rule C 17.13.9, which enables the FINA Bureau: *“to make decisions in case of emergency and in any situation in which no other FINA body may act”*.

These amendments which came into effect on 1 January 2021 must now be ratified by the FINA General Congress.

The FINA Bureau recommends the FINA General Congress to ratify these changes.

➤ *Athletes' Committee reform*

These changes are part of the Athletes' Committee reform.

This reform will also involve amendments in FINA By Laws (**Annex 2, for your information**). The changes to the By Laws will only come into force on the date and subject to the approval by the FINA General Congress of the amendments to the FINA Constitution related to the Athletes' Committee reform.

The FINA Bureau recommends the FINA General Congress to approve these changes in the FINA Constitution.

➤ *Other changes*

These changes, mostly cosmetic, are intended to notably clarify a number of current provisions of the FINA Constitution.

The FINA Bureau recommends the FINA General Congress to approve these changes.

➤ *Proposals received from the FINA 1st Vice President (Nov. 2020)*

Under FINA Rule C 15.11, it is proposed to provide for a thirty-five (35) days deadline in order to receive motions, applications, and proposals to be considered by the Extraordinary General Congress. Indeed, as the agenda of the Extraordinary General Congress shall be sent at least one month prior to the said Congress (see FINA Rule C 15.2.2), it is necessary to receive the said motions and applications before to be obliged to send the said agenda.

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The duty of the Executive Director to notify to all FINA Members and Continental Organisations the names of candidates for the President, Vice Presidents, Bureau members and Treasurer's positions at least two (2) months prior to the FINA General Congress is proposed to be provided under a new FINA Rule C 17.6.5.

The possibility to hold General Congress and Technical by teleconference, by video-conference or by another means of communication is proposed to be provided under FINA Rules C 15.2 and C 16.2.

Under FINA Rule C 24.12, the process to review candidatures by the Ethics Panel is proposed to be clarified. Basically, the Ethics Panel shall determine the eligibility criteria of the candidates from both National Federations and/or Continental Organisations for all positions on the Bureau, Committees, Judicial Panels, and Honorary positions. Based on the eligibility criteria it determined, the Ethics Panel shall review all the candidatures for the all these positions and decide on the eligibility of each candidates. The Ethics Panel shall have concluded these checks at least two (2) months prior to the date of the election(s) in question.

The FINA Bureau recommends the FINA General Congress to approve these changes.

➤ *Proposals received from the FINA First Vice President (July 2020)*

These changes primarily aim to shorten a number of deadlines related to FINA Congresses in order to add flexibility to the processes.

The FINA Bureau recommends the FINA General Congress to approve these changes.

➤ *Proposal received from United States Aquatic Sports*

On 5 January 2021, the United States Aquatic Sports proposed an amendment of FINA Rule C 4 in order to forbid any discrimination based on sexual orientation and gender identity (**Annex 3**).

The FINA Bureau recommends the FINA General Congress to approve this change.

➤ *Proposals from the FINA Executive (discussed and approved at the occasion of the 18th February 2021 meeting)*

The FINA Bureau recommends the FINA General Congress to approve these changes.

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2. General Rules

On 5 January 2021, the United States Aquatic Sports proposed an amendment of FINA Rule GR 7.5 as follows:

“If an error by an official follows a fault by a competitor, the fault by the competitor may be expunged. *If an official’s call on deck leads to a review of an athlete’s potential infraction, and it is deemed that the athlete made no error, the athlete will be cleared of the inquiry. Additionally, if an error by a competitor follows a fault by an official, the fault of the competitor shall be expunged” (Annex 3).*

Notes of Explanation for FINA Rule GR 7.5 given by the United States Aquatic Sports: Each sentence of this paragraph addresses a separate situation related to disqualification (or potential disqualification) calls made by technical officials.

Sentence 1 – An athlete makes a perceived infraction, the technical official makes the call, but there is an error by the technical official in the process of making the call and writing the disqualification, thus the call made be overturned.

Sentence 2 – (Underwater Video) – Technical official makes an initial disqualification call on deck and the athlete is disqualified, however video shows that no infraction took place. The athlete shall be cleared of the DQ.

Sentence 3 – A technical official makes an error and causes an infraction by an athlete(s), the fault shall be pinned to the technical official and not the athlete(s) and the athlete shall be cleared (Example: The starter errs at the start of the race and this causes an athlete to dive into the pool before the starting signal. In this situation the DQ of the athlete shall not stand).

The FINA Bureau recommends the FINA General Congress to approve these changes.

3. Code of Ethics

Since the establishment of the FINA Code of Ethics in 2017, integrity matters have developed extensively and have gotten more and more complex. For example, many cases of sexual harassment in sport have been uncovered and have had devastating consequences on athletes but also on National Federations and International Federations, e.g. USA

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Gymnastics and the International Gymnastics Federation. Moreover, a recent report prepared by the IOC on Competition Manipulation determined that FINA was amongst the International Federations most at risk. Water Polo was highlighted as being specifically at high risk. Finally, recent Ethics violations in other International Federations (AIBA, the IBU, the IWF and the IAAF) have been reminders of the devastating consequences that such violations can have on an International Federations and of the importance to devote sufficient resources to this area to prevent the same from happening to FINA

Against this backdrop, FINA has begun to discuss a number of proposals aimed at strengthening the fight against Ethics violations.

Nonetheless, a comprehensive reform of the Code of Ethics takes time and is relatively complex to articulate.

This being said, given the need to progress on this issue, the FINA Office will make sure to work jointly with the FINA Ethics Panel to review the FINA Code of Ethics and all associated documents in view of the current best practices and will submit proposals to further strengthen the fight against Ethics violations, and the capacities of the Ethics Panel. Proposals to further strengthen education and prevention in this field shall also be made.

Besides this plan of overall review, on 5 January 2021, the United States Aquatic Sports proposed an amendment of clause V.A “Equality” of the Code of Ethics in order to forbid any discrimination based on sexual orientation and gender identity (see **Annex 3**).

The FINA Bureau recommends the FINA General Congress to approve this change and to acknowledge and support the principle of an overall review.

4. Doping Control Rules

Upon the adoption of the 2021 World Anti-Doping Code (“the Code”), taking into effect from 1st January 2021, FINA, as a Signatory to this Code, had to amend its rules to make them compliant with the Code.

The amendments concern primarily the FINA Doping Control Rules but also to a much lesser extent, the FINA Constitution (above), the FINA By-Laws and the FINA Code of Conduct.

As no General Congress would be held in 2020, it was impossible for the amendments to be approved by the General Congress by the deadline of 1st January 2021. Accordingly, the FINA Bureau have exceptionally

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considered and voted on these amendments based on FINA Rule C 17.13.9, which enables the FINA Bureau “to make decisions in case of emergency and in any situation in which no other FINA body may act”.

These amendments which came into effect on 1st January 2021 must now be ratified by the FINA General Congress.

Please find enclosed the following documents:

- Summary of the main changes to the FINA Rules following the adoption of the new 2021 World Anti-Doping Code (**Annex 4**);
- FINA Doping Control Rules 2021 (**Annex 5**);
- Compared version between 2020 FINA Doping Control Rules and 2021 FINA Doping Control Rules (**Annex 6**).

The FINA Bureau recommends the FINA General Congress to ratify these changes.

5. Facilities Rules

The proposals for changes being presented have been prepared together between the FINA Facilities Committee and the respective Technical Committee for each discipline and are recommended to be approved as such.

Please see below the list of items included (**Annexes 7 to 19**):

- Swimming;
- Swimming Diagrams;
- Open Water Swimming;
- Diving;
- Diving Diagrams;
- Water Polo;
- Water Polo Diagrams;
- Artistic Swimming;
- Artistic Swimming Diagrams;
- High Diving;
- High Diving Diagrams; and
- Swiss Proposal.

The FINA Bureau recommends the FINA General Congress to approve these changes.

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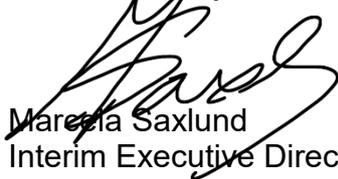
6. Medical Rules

No proposal for changes.

* * * * *

We remain at your disposal for any clarification and/or additional information you may require. Thank you in advance for your attention and cooperation.

Yours sincerely,



Marcela Saxlund
Interim Executive Director