

ANNUAL GENERAL MEETING 13 OCTOBER 2012**2011-12 REPORT OF THE ECF DELEGATE TO FIDE**

The two most important issues of the year are the Lausanne court case of January 2012 and the recent FIDE General Assembly. To put this report into context, however, it is necessary to return to the 2010 FIDE Presidential Election, in Khanty-Mansiysk, which was marked by numerous irregularities – the highly-questionable redistribution of proxies, the snatching away of microphones by Delegates raising points of order, and the abrupt disenfranchisement of the Peruvian Delegate, to name just three of the most egregious examples.

The then re-elected FIDE President, Kirsan Ilyumzhinov, under the rather bland item 3.4 of the agenda “Nomination of the Vice Presidents” ambushed the General Assembly by suddenly announcing no less than five names – all of whom had backed him politically. At no point was it mentioned by the President that this was in breach of the FIDE statutes, which only allowed him to appoint “two and no more”. On the basis of this, the ECF along with a further 13 other federations, subsequently protested in writing to FIDE. This brought about no satisfactory response. The ECF was then asked by Garry Kasparov – the organiser of the Karpov 2010 campaign – whether, if we were provided with full financial guarantees, we would be prepared to appeal to the Court of Arbitration in Sport (CAS) in Lausanne Switzerland. Respect for the rule of law is a vital pillar of British society and the ECF took the view it was important to uphold these values internationally. The issue of the extra Vice-Presidents was very much a test case – a drawing a line in the sand – to make FIDE more accountable.

Our biggest concern was not to do with the merits of the case but whether there was any risk to ECF finances. Having taken legal advice from David Anderton we concluded that guarantees were good and the risk was negligible. That judgment has subsequently been proven correct. To decision to fight for the rule of law has not cost the ECF a single penny. With hindsight, however, it would probably have been wiser to provide greater disclosure to Council. As Delegate, I bear a greater share of responsibility for that omission. That said, the issue of funding was germane to the Lausanne court case and to have shed public light on the matter in Council could well have damaged our legal position. It was initially very unclear how the judges would view third-party finance. Indeed the FIDE lawyers repeatedly brought up the issue of funding during the case, arguing that this produced a "conflict of interest". The judges dismissed these arguments as an irrelevance, but we could not be certain of this opinion beforehand.

One criticism that has been made repeatedly by the FIDE incumbents is that the court case was a politically-motivated attempt to bankrupt the organisation. That is totally false. Nothing could have been easier than for FIDE to withdraw the three additional VPs and to place before the 2012 General Assembly a motion permitting the nomination of the extra positions. That simple democratic procedure would have saved the governing body the best part of a million euros in legal fees. That they chose not to do so, indicates they were intent on fighting for the right to do whatever they wanted, whenever they wanted. Or, as the former BCF President and FIDE insider, David Jarrett, apparently revealingly confided to Stewart Reuben, they had no intention of being bullied into following their own rules.

FIDE came in for heavy criticism from the judges in the CAS ruling (e.g. “notes that these at the very least raise a number of prima facie issues regarding the clarity of the FIDE Statutes and Electoral Regulations, and regarding the internal governance of FIDE” and again “the Respondent’s awkward disregard for constitutional formalities during the FIDE Congress, which – by amongst others creating a level of ambiguity as to the nature of the appointment of the Five Vice Presidents – should have been understood by FIDE as having a potential to create discord and lead to the commencement of claims.”) , but unfortunately the case was dismissed on a technicality. The question under consideration by CAS – whether a decision that is null-and-void under Swiss law is subject to the 21-day deadline or can be appealed at any time – had never before been addressed by a CAS tribunal and no one could know the answer before the ruling was handed down. This is doubtless why it took the judges six months to make their decision – twice the normal time for a CAS judgment – rather than the 2 minutes one would expect for a dismissing a late-submission. It should be stressed that it was almost impossible to meet the 21 day deadline, given that the vital evidence, in the official minutes, was only published four months after the FIDE Congress – which in itself was a breach of FIDE’s rules.

Although the outcome of the court case was disappointing, FIDE has had to take heed of the judges’ admonition “the Panel would encourage FIDE to assess critically its past practice in light of the texts of its statutes and regulations, so as to maintain an appropriate level of transparency in its decision-making process.” This has led directly to the biggest redrafting of the FIDE statutes, in decades at September’s FIDE Congress in Istanbul. Much of the work was done by Ms. Ank Santens, of White & Case, who represented the ECF in Lausanne. The sort of outrageous electoral abuse whereby one side’s proxy is trumped by a newer proxy from the same federation just five minutes before the vote, will (hopefully) become a thing of the past, thanks to the new rules. The ECF can be proud of the part it has played in this process.

I played an active role in General Assembly on the first two days, contributing to many debates such as on the laws of chess. More significantly, I questioned Mr Andrew Paulson of Agon, the offshore company founded in January 2012 and which has been handed the rights to practically all FIDE competitions for the next 10 years, with a right to extend that until 2027, on financial details. The capitalization of the company remains a mystery, but his non-answer in itself was revealing...

There was regrettably a defeat on a huge hike in fees for arbiters. This will largely affect the countries where there is most chess activity.

The biggest issue of the last day was the motion, by FIDE Vice-President Ali Nihat Yazici of Turkey, to expel seven major federations including our own. It became abundantly clear that from discussions with other Delegates this did not have a cat-in-hell's chance of passing and that even staunch supporters of the current regime would not support a motion that, if passed, would obviously lead to the setting-up of a rival organisation. Thankfully, though, the matter never came to a vote.

Nigel Short