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## GENERAL MEETINGS OF INTERNATIONAL SPORTS FEDERATIONS: FEATURES OF HOLDING IN A REMOTE FORMAT

International sport (especially professional) has become increasingly centralized over the past hundred years, driven by its high popularity in all countries, the need to ensure uniform rules for all, and coordination of the activities of various stakeholders for the development of sports. The leading role in international sport is played by the International Olympic Committee and international sports federations, which form policy and guide the development of various sports.

International sports federations are organizations with a unique legal status, since on the one hand they carry out their activities mainly on five or six continents (parts of the world) and create their own systems of regulatory and legal acts, and on the other hand they are subject to the laws of the country in which they are legally registered (most often Switzerland). The management of international sports federations is a difficult challenge for the organizations themselves, since their members are always national federations from different countries of the world, which, although united by a common goal of developing sport, are representatives of different cultures with their own interests and ambitions. The governing bodies of international sports federations usually consist of several levels: the General Meeting / General Assembly (as the highest collegiate governing body, which has the authority to make decisions on the most important strategic issues of the federation's development and to elect the main officials of the executive bodies) and the executive bodies (President, Presidium, Council, Executive Committee, etc., which carry out the daily management of the federations).

In this context, the holding of the General Meeting (General Assembly) of these international sports federations, as their highest governing body, is an interesting subject for research. This article analyzes the legal aspect of convening and holding the General Meeting of international sports federations in a remote format and using modern technologies. Holding the General Meetings of international sports federations in a remote format since the beginning of the coronavirus pandemic in 2020 has become not only one of the possibilities but often the only legitimate solution to urgent issues, decisions on which can only be made by the General Meetings.

Key words: sports law, general meeting, modern technologies, international sports federation.

## ВАГІН О. А. ЗАГАЛЬНІ ЗБОРИ МІЖНАРОДНИХ СПОРТИВНИХ ФЕДЕРАЦІЙ: ОСОБЛИВОСТІ ПРОВЕДЕННЯ У ВІДДАЛЕНОМУ ФОРМАТІ

Міжнародний спорт протягом останніх більше ніж ста років стає все більш централізованим, що спричинено його високою популярністю в усіх країнах, необхідністю забезпечення однакових для всіх правил та координації діяльності різних стейкхолдерів для розвитку спорту. Провідну роль у міжнародному спорті грають Міжнародний Олімпійський комітет та міжнародні спортивні федерації, які формують політику та скеровують розвиток різних видів спорту.

Міжнародні спортивні федерації є організаціями з унікальним юридичним статусом, оскільки з одного боку вони здійснюють свою діяльність здебільшого на п'яти-шести земних континентах (частинах світу) та створюють власні системи нормативно-правових актів, а з іншого — підпорядковуються законам тієї країни, в якій юридично зареєстровані (найчастіше — Швейцарія). Керівництво міжнародними спортивними федераціями є складним викликом для самих організацій, оскільки їх членами завжди є національні федерації з різних країн світу, які хоч і об'єднані спільною метою розвитку спорту, але є представниками різних культур з власними інтересами та амбіціями. Керівні органи міжнародних спортивних федерацій зазвичай складаються з декількох рівнів: Загальні Збори / Генеральна Асамблея (як вищий колегіальних орган управління, який має повноваження приймати рішення щодо найважливіших стратегічних питань розвитку федерації та обрання основних посадових осіб виконавчих органів влади) та виконавчі органи (Президент, Президія, Рада, Виконавчий Комітет тощо, які здійснюють щоденне керівництво федераціями).

В цьому контексті проведення Загальних Зборів цих міжнародних спортивних федерацій, як їх вищого керівного органу є цікавим предметом для дослідження. В даній статті аналізується правовий аспект скликання та проведення Загальних Зборів міжнародних спортивних федерацій у віддаленому форматі та з використанням сучасних технологій. Проведення Загальних Зборів міжнародних спортивних федерацій у віддаленому форматі від початку пандемії корона вірусу у 2020 році стало не тільки однією з можливостей, але часто і єдиним легітимним вирішенням термінових питань, рішення щодо яких можуть приймати виключно Загальні Збори.

Ключові слова: спортивне право, загальні збори, сучасні технології, міжнародна спортивна федерація.

Introduction. Today, in the absolute majority of countries with one or another level of Rule of Law, in organizations that have more than one owner (participant), the General Meeting is the highest governing body and plays a decisive role. In this case, there is usually no fundamental difference: we are talking about legal entities of private law or public, about 'for-profit' or non-profit companies (organizations). The General Meeting everywhere has the highest authority and is authorized to decide strategic issues of the organization's activities.

A more careful study reveals that quite significant differences can be identified in the work of the General Meetings in different organizations, which, although they do not fundamentally change the meaning of the General Meetings themselves, modify their nature and procedures.

The scientific community has studied the features of the work of the General Meetings of 'for-profit' companies much more deeply, while non-profit ones are usually left out of the attention of scientists.

- This article is devoted to the peculiarities of convening and holding General Meetings in international sports federations in a remote format: existing forms of holding them, their advantages and disadvantages, and previous experience of international sports federations.
- Purpose and objectives. The purpose of this article is to determine the current state and prospects for further adoption of regulatory legal acts of international sports federations for the use of modern technologies for holding their General Meetings. The objectives of the article are to investigate the development of approaches to holding General Meetings, to identify the main types of holding General Meetings, to assess the appropriateness of implementing modern technologies and to analyze the prospects and risks of such implementation.
- Research methods. The main methods of this study are methods of analysis and comparison, which allowed us to isolate the components of various aspects of the subject of research, as well as to identify identities and differences in the regulation of the studied legal relations.
- Main text. Modern legal and democratic society has undergone a radical transformation in its attitude towards the General Meeting (GM) over the past centuries. Even just two or three centuries ago, the position that the General Meeting is the organization itself was considered stable in legal science and practice. It was believed that they express the will of the organization and can interfere without any restrictions in the activities of the directors appointed by them. But at the beginning of the twentieth century,

these approaches were radically changed. Since then, it is the appointed directors who have begun to receive more and more authority and responsibility in organizations [1].

These trends are fair and the same for both 'forprofit' or non-profit organizations, which, by their legal status, international sports federations (ISF) usually are.

Researchers in their scientific works most often focus on the role and work of the executive bodies of organizations, ignoring the importance and features of the General Meeting. However, it is the General Meeting that is by its nature the highest governing body of the organization. In many legal systems, the executive bodies formally are the governing body of the organization only between the General Meetings.

The same procedure is also enshrined in international sports federations, which are non-governmental and non-profit organizations founded by combining the efforts, interests and funds of interested individuals and/or organizations.

Most of them are registered in Switzerland, whose Civil Code imposes a number of requirements on the activities of associations, including those relating to the General Meeting. The Swiss Civil Code stipulates that "the general meeting of members is the supreme governing body of the association" and has the exclusive right to supervise the activities of the governing bodies and at any time dismiss the latter [2].

It is also worth noting that the Swiss Civil Code, although it defines the General Meeting as the supreme governing body, determines that they make decisions on any issues that are not within the competence of other authorities in the association [2]. This provision delimits the spheres of competence between the General Meeting and the executive bodies appointed by it and creates a legal order according to which the General Meeting can appoint and remove the heads of the association, but cannot act instead of these bodies.

At the same time, the Swiss Civil Code does not define a clear scope of powers of the General Meeting. According to Part 1 of Art. 65 (Powers) of the Swiss Civil Code:

"The general meeting of members decides on admission and exclusion of members, appoints the committee and decides all matters which are not reserved to other governing bodies of the association."

The Swiss Civil Code also stipulates that associations must use the provisions of law in all legal relations that are not enshrined in their internal

rules and does not allow them to define mandatory provisions of law in any other way in their internal rules.

General Meetings in international sports federations can be divided into 3 types according to the form of their holding:

- (i) in-person (offline);
- (ii) remote (via means of communication);
- (iii) mixed.

General Meetings held **in-person** are the most common and traditional form of holding General Meetings not only in international sports federations, but also in most legal entities in general, regardless of the form of ownership and country of origin.

In most ISFs (at least until 2020), the format of holding General Meetings was not even separately defined in their statutory documents, since it was assumed that by tradition they always take place and will take place in-person. Regarding the practice of law enforcement, it can also be concluded that the absence of a specific mention of the format of holding General Meetings meant that they should take place in-person.

This form of holding of the GM has a number of advantages that all others lack. Among the main ones are:

- Easy and transparent access to participate in the discussion of the issues;
- Absolute guarantee of taking into account all votes during voting (in the case of voting by show of hands):
- Direct physical involvement of delegates in the work of the GM.

During the in-person General Meeting, electronic voting and vote counting tools can also be used. This approach is becoming increasingly popular and is already provided for in World Athletics.

The Constitution (Statute) of World Athletics defines that "Electronic Voting means voting on a resolution by electronic communication". Their Rules of Congress also define the concept of "Electronic Voting System" as "the technology by which Electronic Voting is undertaken, usually tabulating software (if at a meeting at which delegates are present in person or virtually) and other appropriate software" [3].

The use of electronic counting systems is considered particularly useful during elections, as it significantly simplifies the work of scrutineers of the GM, speeds up the counting of votes, reduces the influence of the human factor and the likelihood of errors during the counting of votes, and also allows the use of more democratic electoral systems of preferential voting, such as, for example, the

alternative voting system or counting votes according to the Borda method [4].

No less useful electronic voting tools are in cases where delegates have an unequal number of votes during the adoption of ordinary decisions (i.e. one delegate may have, for example, 2 votes, and another one -6). In such cases, the most popular type of voting by a simple show of hands can be extremely difficult during the counting of votes by the chairman or scrutineers, when the issue does not receive unanimous support.

The possibility of holding the GMs remotely has become an undeniable achievement of human development as a result of globalization and digitalization of societies around the world, but before the start of the COVID-19 pandemic in 2020, the vast majority of ISFs adhered to conservative approaches to holding the General Meetings. The pandemic has become a major challenge for humanity in several ways. Due to the impossibility of conducting in-person GMs, a number of ISFs in 2020 cancelled their scheduled General Meetings altogether.

So in 2020, the International Gymnastics Federation (FIG) postponed its 83rd Annual General Meeting (Congress) from October 2020 to the following year, 2021. [5] It is worth mentioning that the elections of the FIG governing bodies were also postponed for a year. The 2021 FIG Congress was conducted in person.

In 2020 the International Hockey Federation has also postponed its Congress, which it holds every 2 years, to the next – 2021. Thus, it turned out that FIH Congresses were held in 2018, 2021 and 2022. The 2021 FIH Congress was held online [6].

In 2020, the World DanceSport Federation was forced to adjourn its regular Annual General Meeting, which traditionally took place in June in person, and held an Extraordinary General Meeting in December 2020 "in writing" [7; 8].

However, further developments clearly showed the need to create new alternative approaches to holding General Meetings and their further fixation in the rules of international sports federations.

The first General Meetings of the COVID-19 pandemic era were usually held even without proper legal consolidation not only of the procedures for convening and holding such Meetings, but also without formal permission to hold Meetings in a remote format in the statutory documents of the ISFs. The international sports federations were unprepared for such circumstances, but it is difficult to blame them for this, since, as experience has shown, very few in the world were prepared for such global challenges facing humanity. Therefore,

the federations had to make such compromises as holding General Meetings in remote formats and even postponing elections for one year with the extension of the powers of the current executive bodies. To what extent these actions can be considered completely legal is a question for a completely different study, but in our opinion they were absolutely justified given the circumstances.

Like any legal entity in any field, the ISFs prefer to study and then adopt the experience of other colleagues who find themselves in similar circumstances when introducing novelties into their policy. In this case, they were faced with the absence not only of similar legal practices of other ISFs but also of similar recommendations from the IOC.

Among the formats for conducting a General Meeting in a remote format, the main ones are:

- · Video conference;
- Telephone communication;
- Sending electronic or physical letters (General Meeting in writing).

Each of the formats has significant differences and creates a different legal reality and carries different threats to the democratic nature of the procedures and the degree of consideration of the opinions of as many participants in the process as possible.

Holding the General Meeting via video conference allows you to see other meeting participants and discuss agenda items in conditions that are closest to an in person meeting. During a video conference, a great advantage is that all delegates can see each other and can be sure that it is the authorized delegate who is taking part in the meeting. Of course, in this context, the possibility of high-tech fraud using "deepfake" technologies with the help of artificial intelligence cannot be ruled out, but this aspect is not the subject of this article and can be studied in subsequent scientific publications.

Holding the General Meeting of the ISFs via video conference also partially solves the issue of monitoring the formal presence of delegates at the meeting itself during the consideration of a specific issue, because it is possible to record the formal time at which a person entered or left the video conference. During an in person meeting, this can be done by recording at the exit from the hall where the meeting is held, but in fact this is rarely done together with updating the required majorities for making decisions on agenda items. Although it should be noted that in the case of a videoconference meeting, a delegate can be present only formally, without real participating in the discussion of the agenda items.

It is worth noting that, in our opinion, holding a meeting via videoconference is the most transparent

and democratic way among all other formats of holding a meeting remotely.

Conducting GMs via video conferencing was quite common in the early years of the COVID-19 pandemic and took place in such ISFs as World Athletics, the International Hockey Federation and the World DanceSport Federation.

Conducting a meeting by telephone has a number of similar features to videoconferencing. This type of communication still allows for at least a minimal sense of presence at the meeting, but it is already quite conditional. The issue of identifying delegates, especially those who do not take an active part in discussing the agenda items, is also becoming more acute. It is considered quite difficult to resolve the issue of determining the total number of delegates who participate not only in the meeting itself, but also during voting on individual agenda items, if such voting is not conducted by electronic voting. With this form of conduct, it is also impossible to establish whether delegates are actually at least listening to the discussion taking place at the meeting, but this aspect lies more in the area of delegates' responsibility to those entities that delegated them to the meeting, rather than in the area of responsibility of the organizers of the meeting.

So far, it has not been possible to identify examples of conducting a meeting by telephone among leading ISFs, which indicates the unpopularity of this approach.

Conducting a GM in writing (by sending letters) is the most archaic option and the oldest way to conduct a public hearing in a remote format, however, this method of conducting a GM is quite reliable provided that certain conditions are met. Among such conditions:

- clarity of the wording of the proposals that are proposed to be adopted (they must be absolutely unambiguous and clearly understood without the possibility of double interpretation);
- terms that are sufficient for sending letters to the addressee and back (in the case of sending physical letters);
- clear definition of the electronic or physical addresses of the recipients of the letters and the persons authorized to respond to them.

The main disadvantage of this format is the impossibility to submit an alternative proposal, edit the text or hold an open discussion of the proposed issue. It is considered appropriate to use this format for conducting a GM only if the proposed decision is not only extremely urgent, but also not controversial. Typically, in the ISFs these can be decisions on

procedural issues or on the adoption of policies introduced by the IOC.

Since, as mentioned earlier, most ISFs are registered and operate on the basis of Swiss law, it is worth mentioning that in June 2020 The Swiss Federal Council issued Ordinance 3 on Measures to Combat the Coronavirus (COVID-19), in accordance with Art. 27 of which "In the case of company meetings, the organiser may, regardless of the probable number of participants and without complying with the period of notice for convening meetings, order the participants to exercise their rights exclusively: a. in writing or online; or b. through an independent proxy appointed by the organiser. ... 3. Notification of the order must be given in writing or published online no later than four days before the event." This emergency Ordinance was in effect until June 30, 2024 [9].

Thus, in December 2020, the World DanceSport Federation held its Extraordinary General Meeting specifically in writing to resolve the following urgent issues:

- "2.1 Motion RE: To Amend the WDSF Anti-Doping Code
  - 2.2 Motion RE: To Amend the IDRC Pages
- 2.3 Motion RE: To Adopt the WDSF 2021 Financial Regulations"

Their motivation was as follows: "WADA has adopted a new anti-doping code. In order to be in line with WADA rules, it is therefore necessary for WDSF to adapt its WDSF Anti-Doping Code accordingly. At the same time the references to the new WDSF Anti-Doping Code in the WDSF Internal Dispute Resolution Code must be changed.

As the WDSF Anti-Doping Code is an integral part of the Statutes and Statutes may only be amended at the General Meeting, an Extraordinary General Meeting will be convened for the necessary amendment of the WDSF Anti-Doping Code and the WDSF Internal Dispute Resolution Code. At the same time the revisions of the WDSF Financial Regulations will be submitted to the Extraordinary General Meeting" [8].

This General Meeting in writing is an excellent example of the previous thesis. The issues that were submitted for approval are indeed urgent, and their resolution is possible only by the General Meeting. In addition, the WDSF has formulated the proposals that were submitted for consideration absolutely clearly and provided a comprehensive explanation of the need to adopt the proposed changes.

Below we propose to consider several examples of how ISFs fix in their statutory documents the possibility of holding General Meetings in remote formats. World Athletics. On November 17-18, 2021, World Athletics for the first time held the General Assembly (53rd Congress) in an online format (virtually). To date, paragraph 4 of Article 26 of the World Athletics Constitution provides that "Council (supreme executive body) may decide, in exceptional circumstances, that an Ordinary Congress meeting is held virtually with none of the Delegates being physically present or held with some Delegates physically present and some attending the meeting virtually". The following paragraph allows for a Special Congress Meeting to be held in the same format, but under any conditions, and not only in exceptional circumstances [3].

The World Athletics Constitution also provides for the possibility of making urgent decisions by written resolution electronically on extraordinary matters. In such a case, in accordance with Article 32 of the World Athletics Constitution, the proposed written resolution is sent electronically to the Member Federations for approval.

The same quorum requirements (1/3 present) as for regular in-person Congresses apply to the World Athletics online Congresses.

International Gymnastics Federation. The Congress is the general assembly and the supreme legislative authority of the International Gymnastics Federation. The ordinary Congress is held biennially during even years. The 83rd Congress fell precisely in 2020. The FIG Executive Committee was forced to make an unprecedented decision and postpone the Congress and elections to 2021.

Today the FIG Statutes provide for the possibility of holding the Congress in a remote format: "Upon the approval of the Executive Committee, the Congress may be held by teleconference, by videoconference, by another means of communication or a combination thereof. In such cases, the Congress may vote by correspondence, including email or other electronic means." (Art. 11.4 Meeting).

The FIG Statutes also provide for the use of electronic devices as one of the possible options for voting even during ordinary Congresses in an in-person format, and also determine the procedure for their use.

World Aquatics. The World Aquatics Constitution states that an Ordinary Congress, as well as an Extraordinary Congress, may be held in person, by teleconference, by videoconference or by another means of communication. It is worth noting that World Aquatics, like the International Gymnastics Federation, are among the few ISFs that provide for the holding of their Congresses by teleconference, although there is no evidence that they have ever been held in this way [11].

The World Aquatics Rules also allow for voting by show of hands, by a secret ballot, by electronic equipment, by correspondence (including email) and online.

**FIFA.** The FIFA Statutes do not limit the possible means of communication, specifying that a General Meeting (Congress) may be held in person, by teleconference, by videoconference or by another means of communication [12].

Voting by correspondence and/or online is not permitted at a Congress held in person, but may take place during a Congress that is held by teleconference, by videoconference or by another means of communication. Voting by proxy is not permitted at any Congress organized in any form.

Article 30 of the FIFA Statutes allows voting at the Congress to be conducted by means of an electronic count, as well as by a show of hands.

FIFA elections may be conducted with ballot papers or by using televoters, electronic vote counters that guarantee the secrecy of the election. Elections of the President shall not be carried out by using televoters.

World DanceSport Federation. The Statutes of the World DanceSport Federation, albeit briefly, also provide for the possibility of holding the General Meeting in a remote format. At the same time, the WDSF Statutes do not specify in which format (videoconference, in writing, etc.) such remote General Meetings can be held, leaving this decision to the absolute discretion of the Presidium or the General Meeting. The WDSF Statutes imply that both regular and extraordinary General Meetings can be held in a remote format, and that the format of the General Meeting from in-person to online can be changed even after the announcement of the convening of the General Meeting in in-person format, but this must be done no later than two months before the General Meeting [13].

WDSF can be safely called one of the pioneers in holding the General Meeting in a remote format among international sports federations. The first such General Meeting was held in December 2020 in an in writing format. After that, WDSF convened two more Extraordinary General Meetings in writing format in 2021 and held Annual General Meetings online in videoconference format in 2021 and 2022. At the 2021 AGM, elections were held for the entire Presidium, and at the 2022 AGM, by-elections for the position of Vice-President for Legal Affairs. Both elections are recognized by the sports community as having been held at a high organizational level in compliance with the democratic principles of transparency, openness and equality.

Conclusion. In summary, we can state that today most ISFs have already adapted their statutory documents to objective realities and have provided for the possibility of holding General Meetings in various remote formats and voting using electronic devices. At the same time, most of ISFs still prefer to hold Ordinary General Meetings in-person, but Extraordinary General Meetings have become more often held in a remote format.

The possibility of holding General Meetings online has become a big step for the development of humanity, making our society more open and adaptive, and also allows us to solve urgent issues more quickly and conveniently. At the same time, new technologies bring with them new challenges. Among the main ones are participant verification, quality and stability of communication, reliability and security of electronic voting systems, etc. Some of these issues have been partially resolved, others have not yet been resolved, but we believe that their resolution is only a matter of time, since it is impossible to deny or ignore the advantages provided by the use of modern technologies for holding General Meetings in a remote format.

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