



FFSA

FENCING FEDERATION OF SOUTH AFRICA

DISCIPLINARY CODE AND PROCEDURES

FFSA

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VER: 1.2017

1. DISCIPLINARY CODE

1.1 *Jurisdiction*

The Legal, Disciplinary and Dispute Commission, appointed by the FFSA council in terms of annexure 1, section 3 of the FFSA Constitution, has sole jurisdiction to rule on all offences against the Rules, Ethics Code, discipline or sportsmanship within the purview of the FFSA, except the specific dispositions with respect to discipline at the sites of the competitions to be found in the agreed FFSA penalty chart. The executive committee will assure the respect for and the execution of the decisions of the Legal, Disciplinary and Dispute Commission.

1.2 *Disciplinary jurisdiction - persons subject*

All individual or entities are subject to the disciplinary jurisdiction of the Legal, Disciplinary and Dispute Commission of the FFSA for example who:

- are members of the FFSA.;
- are licensees of the FFSA.;
- are licensees of or affiliated to members of the FFSA.;
- are members of provincial federations.

These persons will hereinafter be called the defendant.

The offences which are committed in the context of matters internal to a provincial federation are subject to their rules and jurisdiction except if they are especially serious, if they have national consequences or if they affect individual defendants who originate from another provincial federation. In that case the Disciplinary Panel of the FFSA may be used by the federations or persons concerned.

1.3 *Disciplinary code for competitions*

This Disciplinary Code takes priority over the Rules for Competitions of the FFSA.

1.4 *Penalties*

The penalties which can be pronounced by the Disciplinary Tribunal of the FFSA are the following:

- a) Warning
- b) Censure
- c) Disqualification (this means elimination of all classification from the tournament concerned and the loss of all awards).
- d) Suspension, which deprives the defendant of all participation in the activities, sporting or other, organised under the aegis of the F.I.E., of the zonal confederations or the member federations, as well as their various affiliated authorities and entities.

The Disciplinary Tribunal will fix the date the suspension will take effect, and its duration.

In case of suspension of a non-individual (provincial federation, club, etc.) all of the licensees who are members or who are attached in one means or another to such organisation, are equally suspended, except when the authorisation of the Disciplinary Tribunal of the FFSA permits them, according to conditions which will be defined, to exercise their individual activities.

The suspension will include the withdrawal of the license for the duration of the suspension. In case of the violation of the suspension, the duration of it will be automatically doubled, without prejudice to other penalties which may be taken by the Disciplinary Tribunal.

The Secretary General of FFSA will assure that the suspension be brought to the attention of all of the member provincial federations at the time it takes effect.

- e) Expulsion. This penalty will only be used in serious cases or where there is repetition of offences.

This penalty includes the permanent suspension of the defendant from all activity which is in the fencing domain.

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f) Fines. This penalty can be pronounced against all defendants, its level cannot be less than R350.00 nor more than R10 000.00 per offence for either individuals or entities.

The level of the fine can be more than R10 000.00 in the case where multiple sentences of a fine are pronounced simultaneously, in which case they are cumulative.

g) Accessory penalties. Accessory penalties can be pronounced in addition to the principal penalty. These can be:

- prohibition of presenting oneself in specified fencing and/or fencing related venues for a defined period;
- ineligibility in national and international authorities; or
- loss of a title or award.

The penalties will be available from the FFSA Secretary General on request.

1.5 *Suspended sentence*

All penalties other than a warning or a reprimand can be totally or partially suspended for 2 years.

The suspended penalty will not be carried out if, within the two years following its pronouncements, no other offence of a similar or greater level of seriousness is committed by the defendant.

In the case where a similar or more serious offence is committed within the two-year period, the suspension will be automatically revoked, and the sentence incurred will be added to the sentence pronounced for the repetition of an offence.

1.6 *Repetition of an offence*

The defendant is considered to have repeated an offence when he has definitively been penalised for an offence and he commits a new offence of the same or greater severity within two years of the definitive decision penalising him.

1.7 *Offences*

The offences submitted to the assessment of the Disciplinary Tribunal of the FFSA are the following:

- Violation of the Statutes or the Rules of the FFSA
- Violation of the SASCOC Code of Conduct
- Unsportsmanlike conduct
- Brutal behaviour
- Aggressive behaviour - verbal, physical or sexual abuse
- Corruption
- Embezzlement
- False declarations when entering a competition or as a candidate for an election
- Violations of the Publicity Code
- Receipt of a black card during a competition
- Attack on sporting morals or ethics
- Provocation or disorder

Violations of the Anti-doping Rules of the FFSA are not submitted to the assessment of the Disciplinary Tribunal of the FFSA. They are treated in accordance with the FIE Anti-doping Rules.

1.8 *Multiple offences*

In the case of several penalties being awarded corresponding to several offences, other than in the case of repetition, the Disciplinary Tribunal will decide whether only the most severe of the penalties is imposed or if all of the penalties are to be imposed.

1.9 *Complicity*

Complicity, by help or assistance, instigation or the furnishing of means by a person aware that his support is of use to the offence, is punished in the same manner as is the offence itself.

1.10 *Attempt*

An attempted offence, which is only interrupted by an intervention or by circumstances not within the control of the defendant, is punished in the same manner as is the offence itself.

1.11 *Proof*

Proof of the guilt or innocence of any defendant can be presented by any means. The statements of the Directoire Technique of a competition, properly constituted, or of the FFSA supervisors are deemed true unless proven otherwise.

2 DISCIPLINARY PROCEDURE

2.1 *The complaint*

a) Author of the complaint

Any person, individual or entity, whether or not they are a licensee of the FFSA, if they are personally the victim of one of the offences enumerated above in Article 1.7 can present a complaint before the Disciplinary Tribunal.

Additionally, the members of the Executive Committee, the FFSA supervisors, at national competitions, the Directoire Technique, or the presidents of the member provincial federations can state the existence of an offence susceptible of being pursued by the Disciplinary Panel, and inform the latter of it.

b) Form of the complaint

The complaint must be addressed to the Secretary General of the FFSA within 20 days following the incriminating acts or the date of their discovery. The postmark of the envelope, or the reception stamp of the, or the time stamp of the email fax establishes the time.

The Complaint must note:

- the full name of the individual or entity, the provincial federation, address and title of the complainant(s);
- the full name of the individual or entity, marital status and nationality of the person being prosecuted or the indication that their address is unknown;
- a summary of the facts, the objectives of the complaint, with an indication of the rule or principle infringed; and
- the signature of the complainant.

The complaint can, moreover, be accompanied by documents necessary for the investigative file.

Supplementary or new information can be communicated up to the 20th day following the date of the complaint.

2.2 *Composition of the Disciplinary Tribunal*

When it is necessary to engage a Disciplinary Tribunal, the Legal Disciplinary and Dispute Commission, or a subcommittee thereof selected for this purpose, will eliminate those members of the commission who have a conflict of interest, either because of the provincial federations represented in the controversy or because of involvement in the incident in another role (e.g. DT, Arbitrage, etc.). It will then select the 3 members of the Disciplinary Tribunal to be designated as the Tribunal, plus one additional person, to be the alternate, who shall be substituted on the Tribunal if one of the 3 persons originally chosen is not available or shall be determined to have a conflict of interest which causes that person to be eliminated from the Tribunal. The Legal Commission shall designate the president of the Disciplinary Tribunal. Any member of the Tribunal selected by the Legal Commission shall have the responsibility to disclose any relationships with the parties and to refuse to accept any assignment to a Tribunal where there is a conflict of interest.

The proceedings of the Disciplinary Tribunal and the Legal Commission with regard to any complaint shall be strictly confidential until a decision is rendered. No copies of the complaint shall be sent to anyone other than the parties involved, the Disciplinary Tribunal and the Legal Disciplinary and Dispute Commission.

2.3 *The Disciplinary Tribunal - composition, powers, obligations*

The Secretary General shall send to the chairman of Legal Disciplinary and Dispute Commission within 15 days, the complaint, which was filed with the FFSA.

The chairman of Legal Disciplinary and Dispute Commission will, within 15 days, transmit a copy of the complaint to the person (s) designated therein.

A copy of the complaint is also sent to the chairman(s) of the provincial federation(s) to which the parties belong.

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The Disciplinary Tribunal will then be appointed and the complaint furnished to the members thereof.

If the case arises, the Disciplinary Tribunal can, on its own motion, decide that there is no grounds to prosecute the complaint which has been submitted to them.

That decision can be appealed according to the rules of Article 7.2.7.

The Disciplinary Tribunal has all of the powers for investigating the complaint, and pronouncing, if the case arises, a penalty.

It must, in all circumstances, respect and ensure respect of the rights of the defence.

2.4 *Procedure before the Disciplinary Tribunal*

The Disciplinary Tribunal itself chooses a reporter who will be charged with investigating the file, collecting the proofs for and against defendant(s).

The reporter can interrogate all witnesses and obtain all useful documents from everyone concerned, if need be by subpoena.

In case of a refusal to testify or to communicate documents, the reporter will refer the matter to the Disciplinary Tribunal which has the power to penalise the persons withholding material with a fine of R350.00 to R10 000.00 after having summoned them to receive an explanation.

The Disciplinary Tribunal rules on the complaint(s) which have been submitted to it within 2 months following the submission by the president of the Disciplinary Tribunal. Within this time, it summons the defendant(s) informing them that they have the right to have the assistance of a defender of their choice.

The summons must be addressed by certified or registered mail to the defendant(s) at least 20 days before the hearing date fixed by the Disciplinary Tribunal. It will indicate that the defendant will be able to be assisted or represented by the person of their choice.

This summons will be accompanied by a new copy of the complaint as well as a copy of all the items in the file.

If it is impossible or difficult to make such copies, the contents of the file will be held at the disposition of the defendant at the administrative office of the FFSA or at another place designated by the President of the Tribunal.

No later than eight days before the hearing, the defendant must communicate to the Disciplinary Tribunal all of the documents and the testimony on which he intends to base his defence as well as the identity of the witnesses whom he would like to be heard stating the reason why their evidence will be useful to reaching the truth.

The day of the hearing, the president will designate a person to ensure that there is a secretary for the hearing and to keep a record of the various statements under his control.

He will verify the identity of the complainant, the defendant and the witnesses.

He will invite the reporter to present his report.

He then listens to the declarations of the complainant(s) and the defendant(s).

He then proceeds to any examination of the witness(es) who will be kept out of the hearing until their turn to testify.

The president can hear all persons or ask for all documents useful to discovering the truth.

In general, the president alone controls the proceedings, and has the power, if the case arises, to exclude any persons creating a disturbance, to examine or not the witnesses, to order additional investigation, to decide to make a submission to the Disciplinary Panel to penalise the behaviour of the parties.

At the end of the discussion, the president gives the defendant, his representative, or if the case arises, his defence counsel, the right to speak last.

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The matter is then considered by the Tribunal. The Disciplinary Tribunal reaches its decision by a majority vote.

In case of difficulty, the president of the Disciplinary Tribunal can ask the president of the Legal Disciplinary and Dispute Commission or the Executive Committee of FFSA for an additional maximum period of not more than 3 months to gather supplementary information. The supplementary information will be communicated to the defendant and the complainant for them to respond within the time fixed in the cover letter. A new hearing can, if necessary, be called. It will be held according to the same terms and under the same conditions as the first hearing.

2.5 *Notification of the decision*

The president of the Disciplinary Tribunal will notify the defendant, the complainant and their provincial federations of the decision (with justification and penalty) of the Disciplinary Tribunal. The notification is made by certified mail, with acknowledgement of receipt requested.

The president of the Disciplinary Tribunal shall also send copies of the decision to the President of the FFSA and the president of the Legal Disciplinary and Dispute Commission.

2.6 *Place and attendance at the hearing*

a) Place

The hearings of the Disciplinary Tribunal will be held at the administrative office of the FFSA or in another place chosen by the president of the Tribunal for reasons of convenience.

b) Attendance at the hearing

1. The Complainant

The Complainant is not obliged to appear personally. He can express himself to the Disciplinary Tribunal by any means of communication as well as by sending a memorandum of explanation and supporting documents.

2. The Defendant

The presence of the defendant at the hearings is not obligatory. He can be represented by a defender specifically empowered by a written power of attorney or he can attend telephonically by calling at the date and hour indicated in the summons to the place designated by the Tribunal. The defendant will be responsible for the cost of his transportation and stay as well as those of his defender and any witnesses he may call. In the case of a frivolous complaint, the Disciplinary Tribunal will charge the complainant for all the expenses of the defendant.

3. The Witnesses

The witnesses are only obliged to appear on the special request of the Disciplinary Tribunal in which case their travelling expenses will be paid by the FFSA

If the defendant wishes the physical presence of a witness, he is responsible for asking him to attend and for paying his expenses.

Written testimony is permitted. It must be written, dated and signed in the handwriting of the witness. His signature must be certified according to the applicable laws of the country where he resides.

Telephonic testimony is permitted. Before his examination, the president of the Tribunal will verify his identity by any suitable means.

2.7 *The appeal*

Any decision made by the Disciplinary Tribunal may taken on appeal to the South African Sports Council and Olympic Committee (SASCOC) which will resolve the dispute definitively in accordance with their constitution. The time limit for appeal is thirty (30) days after the reception of the decision concerning the appeal.

2.8 *Form of proceedings*

The transcripts of the meetings are taken by the secretary of the meeting and signed by the president and the secretary.

The initial judgements are signed by the president of the Tribunal.

2.9 *Rights of the defence*

Any irregularities of the procedure of the Disciplinary Tribunal may annul its decision if they negatively affect the rights of the defence. The meetings of the Disciplinary Tribunal are public. The legal proceedings must in all circumstances respect the rights of the defence.

2.10 *Pronouncements*

All the sentences pronounced by the Tribunal or by SASCOG shall be brought to the attention the FFSA Council.

2.11 *Procedure in the case of a black card*

When a black card is awarded at a national competition organised under the aegis of the FFSA, it shall be reported within 10 days, to the president of the FFSA, who assesses the appropriateness of prosecuting before the Disciplinary Tribunal the offence which led to the penalty of the black card. Depending upon the severity of the offence committed, he will then send the report made by the FFSA supervisor or by the Directoire Technique to the president of the Legal Commission, requesting them to establish a Disciplinary Tribunal.

2.12 *Power of judgement by the Executive Committee of the FFSA*

In case of emergency, the Executive Committee can take, within the framework of its power to judge, administrative measures suspending the license of the defendant when it has referred the case to the Disciplinary Tribunal. It can only do this in cases where the severity of the offence or its consequences require it.

As a precondition to all such decisions, the president of the FFSA shall summon the defendant and the Complainant(s) before the Executive Committee of the FFSA by certified mail, acknowledgement of receipt requested, one week before the meeting, specifying that the defendant can be aided or represented by a person of his choosing.

At the time of the meeting, the Executive Committee shall assure itself that the summons has been properly presented to the defendant.

At the close of the meeting, the Executive Committee announces its decision to the defendant and the complainant by certified mail, acknowledgement of receipt requested.

Its decision is binding and subject to appeal pursuant to Article 7.2.7.

The duration of any suspension handed down is established by the Executive Committee.

It cannot exceed the date on which the Disciplinary Tribunal rules.

If the Disciplinary Tribunal orders a certain period of suspension, the administrative suspension ordered by the Executive Committee of the FFSA shall be included in such time.

The Executive Committee will make a report of this suspension at the next regular meeting of the National Council.