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To the attention of ESC Member Federations

August 20<sup>th</sup>, 2023

**Object: Proposals submitted by several Member Federations in relation with the agenda of the next General Assembly to be held in Baku (Azerbaijan) on October 21<sup>st</sup>, 2023**

Dear Colleagues,

We are writing you to clarify the position of the European Shooting Confederation (**ESC**) regarding the proposals submitted by several Member Federations on 18 July 2023 in relation with the agenda of our upcoming General Assembly that will be held in Baku (Azerbaijan) on October 21<sup>st</sup>, 2023.

## **I. Proposals**

As you may be aware of, on July 18<sup>th</sup>, 2023, the Finnish Shooting Sport Federation (**FSSF**) and the Danish Shooting Union (**DSU**) submitted proposals, respectively forwarded proposals underwritten by several Member Federations to be inserted as items in the agenda of our next General Assembly (hereinafter the "**Proposals**"). The Proposals were all identical.

The submitted Proposals were worded as follows:

*Proposal on matters to be included in the agenda of the General Assembly*

*The member Federations of ESC, whose signatures appear attached on this document, submit this proposal in lieu of the forthcoming General Assembly in October 2023 and in accordance with ESC Statutes to be included in the Agenda of the GA as follows:*

- 1. To decide on holding secret vote by electronic voting regarding the proposal in sec. 2 below.*
- 2. To hold a vote (in accordance with sec. 1 above) to discharge the Presidium of ESC according to Sec. 6.4.5 - effective immediately.*
- 3. To hold a vote and decide on the date and venue of an extraordinary meeting of the GA to elect a new Presidium.*
- 4. To take further decisions consequently appropriate*

The Proposals as submitted by FSSF and DSU to the ESC President on July 18<sup>th</sup>, 2023 do not contain any grounds/reasons on which the "discharge of the Presidium" is requested or any underlying facts giving rise to such a request. As such, they are therefore formally submitted without grounds.

## II. Recommendations of the Review Committee

In accordance with Article 6.4.9 of ESC Statutes, the above-mentioned Proposals have been submitted to the ESC Review Committee. On August 10<sup>th</sup>, 2023, the Committee reviewed such Proposals and made the following recommendations to the attention of the Presidium:

*The proposals submitted on 18 July to by the Finnish Shooting Sport Federation (FSSF), the Danish Shooting Union (DSU) and several other Member Federations:*

- *should not be included in the Agenda of the ESC GA 2023 (as presented) and submitted to the vote of the General Assembly since they refer to an incorrect statutory basis, contravene the ESC Statutes in several respects and also would bring the ESC in a damaging management vacuum;*
- *A related item for discussion only should be included in the Agenda of the ESC GA 2023 under the Section "Information" to open a discussion on potential reform of the organisation of the management of the ESC and, to the extent needed, corresponding statutory amendments to be implemented.*

The recommendations are based on the following elements.

- 1) The Proposals (point n. 2) wrongly refer to Article 6.4.5 of the ESC Statutes which concerns the competence of the General Assembly to vote the "*discharge of the Presidium*". This concerns the confirmation that the Presidium is given release for the financial management as reflected in the accounts submitted to the General Assembly.
- 2) *Article 6.4.5 does not concern the removal of Presidium members or of the whole Presidium. Accordingly, this provision does not support proposals to this effect.* Furthermore, the "*discharge of the Presidium*" within the meaning of Article 6.4.5 is already a regular item submitted to vote included in the agenda (see art. 9 Agenda of the ESC GA 2017, art. 9 Agenda of the ESC GA 2019, art. 8 Agenda of the ESC GA 2021). The Proposals are not supported by any statutory basis and specifically not the statutory provision to which they refer.
- 3) Article 4.9 of the ESC Statutes provides that the members of the Presidium "*are elected for a period of four years*". Consequently, the ESC Statutes do not provide any basis to remove members of the Presidium, and *a fortiori* all of them, especially without justifications. In this respect, the Proposals are therefore inconsistent with the Statutes.
- 4) Furthermore, assuming the General Assembly would decide the requested removal, Article 4.9 of the ESC Statutes expressly provides that the Presidium Members "*remain in office until a new election of the Presidium*"; consequently, the Proposals (point n. 2) contravene the Statutes since it requests to apply with immediate effect. That effect is in clear contradiction with the existing ESC Statutes.
- 5) Article 4.11 of the ESC Statutes which contains the vacancy rule additionally does not provide for new elections if a member of the Presidium vacates his/her position (in particular if he/she dies or resigns). Although removal is not expressly mentioned, the same must apply also in case of removal. This is a further inconsistency of the Proposals with the ESC Statutes.
- 6) The Proposals, if accepted, would lead to a *vacuum* (in contradiction with the statutes which ensure continuity of management – see above art. 4.11) of the ESC management. In fact, during a significant period of time – *i.e.* several months until new elections would have to be organised – ESC would have no executive body which is mandatorily prescribed by Swiss law (cf. Article 69c of the Swiss Civil Code). As a result, this situation could be particularly detrimental for the Confederation and could ultimately lead to the ESC's own liability towards members and creditors. Thus, the Proposals as formulated would also potentially create a situation contrary to Swiss law.

- 7) It is observed that the proposal to take “*any further decision as appropriate*” does not constitute a valid proposal as it is completely unspecific. In any event, it cannot substitute the need of formally and validly issued statutory amendments to support decisions. Hence, also this proposal is not supported by the existing ESC Statutes.
- 8) In conclusion, the Proposals are not supported by the provision they refer to. In many respects they are not consistent with the ESC Statutes. They could only be implemented subject to amendments thereof. As a matter of fact, no corresponding statutory amendments have been proposed. In addition, the removal of the Presidium as proposed would create a vacuum in the management of the Confederation which would be both contrary to the ESC Statutes and highly prejudicial.
- 9) Accordingly, the recommendation is not to include in the Agenda of the ESC GA 2023 and submit the proposals as presented to a vote by the General Assembly.
- 10) The Committee observes that the above recommendations are of course without any prejudice to other future proposals by Members which could be submitted provided they are duly based on the ESC Statutes or on corresponding future adequate amendments thereof. A discussion could be opened at the General Assembly as to whether a revision of the Statutes should be envisaged in respect of the organisation of the ESC and its management.
- 11) Finally, it is noted that Member Federations, which may want to obtain a change in the organisation may submit proposals notably for amendments of the Statutes on the occasion of future General Assemblies provided such proposals are duly submitted in accordance with the ESC Statutes and are consistent therewith.

Based on the Recommendations of the Review Committee, the ESC Presidium has decided that the Proposals will not be subjected to a vote of the General Assembly. Accordingly, there is no corresponding vote provided in the agenda.

However, following the recommendation of the Review Committee and also in the spirit of a fully open dialogue with and among all Member Federations, a point of discussion has been set on the agenda regarding potential management reforms (and corresponding statutory amendments as may be required). In the ESC Presidium’s opinion, this will provide all concerned stakeholders with an opportunity to express their views, engage in a constructive discussion, and potentially explore future options that are aligned with the ESC objectives and legal framework.

### **III. Incorrect and misleading information has been circulated among Member Federations**

As already indicated, the Proposals have been submitted without mention of any specific grounds.

The Presidium is however aware that the Proposals have been circulated by the FSSF and the DSU amongst the Members attached to an (unsigned and undated) communication containing allegations regarding specifically the President and the management of the ESC.

According to said communication, the ESC President has been accused of “*bad leadership*” and to allegedly be in a position of “*conflict of interest*” in relation with his previous function as ISSF Secretary General. In particular, it is pointed out that the ESC President allegedly “*didn’t hand over [...] the management of ISSF*”.

Although these allegations were not mentioned at all in the Proposals as transmitted, it is obvious that they were taken in consideration by the Member Federations who signed them.

It is important therefore that the Member Federations be informed that the allegations are **all factually incorrect and misleading**. This can be objectively demonstrated by facts and irrefutably evidenced by documents as follows.

1. *Handover of the undersigned from his position as ISSF General Secretary:*

As a preliminary observation, it is underlined that circumstances concerning the ISSF have no connection with the management of the ESC.

- a) Be as it may, the allegations that the handover was not correctly handled are simply and clearly wrong. The handover was duly performed and is recorded in various documents signed by Mr. Wilhelm Grill with no mention of impropriety. Consequently, there is no basis for the allegation that something was done "against Sec. 1.2.1 of the Statutes."
- b) Furthermore and above all, a German court decision dated 3 May 2023 formally records that the ISSF has withdrawn the immediate cancellation of the undersigned's employment agreement issued by the new management and has expressly dropped any allegation of improper handlings against him. (see Court decision N° 33 Ca 278/23 of 3 May 2023).

Thus, the allegations that the undersigned did not perform a proper handover are not only objectively incorrect but are in direct contradiction with the content of a court decision issued only a few months before the communication was issued and circulated.

2. *Format of Olympic qualifying events at the European Games:*

The ESC has and will always apply the correct format to Olympic qualifiers, provided however such format is communicated and confirmed as duly in place (*i.e.* approved by the IOC Executive Board) in time for the event concerned.

As a matter of fact, the ESC expressly enquired with the ISSF which competition format would be applicable at the European Games (**EG**).

This was notably done in light of the express request of the EG organiser setting a deadline on February 24<sup>th</sup>, 2023 to be informed of the format to be applied. The ESC addressed this question to the ISSF but did not receive any answer in due time. In March 2023 the Organizers have published the Technical Manual for Shooting and it was sent out to all European National Olympic Committees. When, finally, the new Rules were published on the ISSF website on April 11<sup>th</sup>, 2023, it was practically impossible for the Organizers to amend anything in the way of preparations.

The IOC enquired about the applied format on the eve of the EG. The IOC letter dated June 20<sup>th</sup>, 2023 that was sent to the European Olympic Committees, includes a mention that the IOC approval to change the formats was only "recent". In the answer to the IOC on June 21<sup>st</sup>, 2023 the issue of communication and timing was fully explained. No further concerns were raised about the status of Olympic qualification of the shooting competitions at the European Games.

The competitions at the EG duly took place and lead to results and attribution of quota places which have not been and are not challenged. Mr. Luciano Rossi, ISSF President, as well as Mr. Jörg Brokamp, Chairman of the ISSF Technical Committee, who attended the European Games in Wrocław (Poland), did not express any objection to the format held there. The shooting sport competitions were very successful. The Organizing Committee has sent a letter of gratitude and congratulations to the ESC President.

Accordingly, there is no issue in this respect.

We also remind that a letter dated March 17<sup>th</sup>, 2023 dealing with the issue of format applicable at the EG had already been published on the website (<https://esc-shooting.org/documents/official>).

Hence, the way this issue is presented in the communication is clearly misleading.

\* \* \*

In summary, the allegations contained in the communication addressed to the Member Federations are either factually incorrect or misleading.

From a legal standpoint, they constitute defamatory statements against the ESC President's personal and professional reputation. As such, the ESC President, with the support of the Presidium, is resolute to engage legal actions against anyone having authored and/or circulated such incorrect and misleading allegations. The same will be the case against anyone who propagated them and/or will further propagate them.

As regards to all the National Members Federations and specifically, the ones that may have signed the Proposals based on incorrect and misleading information contained in the communication, the Presidium considered it essential that they are provided with the correct factual elements so that they can objectively evaluate the explanations provided herein.

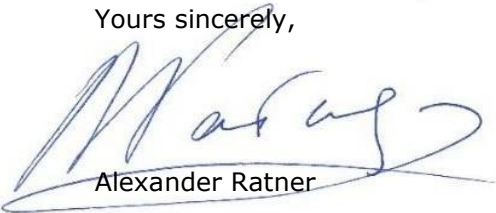
The main objective of the Presidium is that, in the interest of our Confederation, the discussions in the upcoming General Assembly may be conducted constructively on a sound and objective basis.

The Presidium is of course open to discussions with the Members and ready to listen to proposals of change. If it appears notably that changes may be desirable in the ESC organisation and this is the shared opinion of our Members Federations, potential improvements must be examined and prepared serenely within the frame of the ESC Statutes.

In the perspective of constructive discussions at our coming General Assembly, the undersigned looks forward to welcoming you in Baku (Azerbaijan) on October 21<sup>st</sup> 2023.

\* \* \*

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Alexander Ratner', written over a horizontal line.

Alexander Ratner

President