

Cascais, July 3rd, 2013

Dear Mr. Jorgensen

Concerning Mr. Kwiecinski letter from June 28th, 2013, as it deals with legal issues I was asked by the Chairman of ITKF to answer, on the issues raised in the above mentioned letter.

1 – The first issue is that the letter is written in ITKF’s letterhead paper, with an “office” in “85/87 Sienkiewie Wicza Street. 90-057 Lodz, Poland” which is the office of the Polish Federation and not ITKF office.

Furthermore, the letter is signed by Mr. Kwiecinski using the title “ITKF Vice – President”.

On the other hand the contents of the letter clearly expose the view of the Polish Federation (PZKT) and Mr. Kwiecinski, which is very evident in the first lines “referring to the information about suspension of the Traditional Karate Federation of Poland (PZKT) we would like to appeal this biased decision”.

Whom does “we” stand for?

If it is PZKT, the letter can not be written in ITKF’s paper and using an ITKF official title, so clearly Mr. Kwiecinski is confusing PZKT with ITKF and his role as ITKF Vice-President with the office of PZKT President.

2 – In the letter there is also a total confusion between legal issues, concerning ITKF Constitution, the decision to suspend Poland and the illegal “call” of the Extraordinary General Meeting, with lateral and irrelevant issues as, just as an example, if Mr. Kwiecinski even trained together with Mr. Jorgensen at Nishiyama Sensei’s dojo.

This letter will only deal with the legal issues and concerning the only point in which there is one lateral issue raised on the undersigned Chairman of the Legal Services Committee, which incidentally is false, will be answered in another letter.

3 – Concerning the first legal issue, Mr. Kwiecinski claims that the 2013 World Cup was approved by the ITKF General Meeting and that the Chairman can not change the decision of the ITKF General Meeting.

Answer: That is not the issue, as there was not a change in the decision of the General Meeting, but a repeated violation from the host country of the rules concerning the organization of events.

The ITKF Congress must approve the calendar of events for the next two years, but the host countries have to abide by the rules established in the ITKF Constitution for the Sanction of the event, so article 8.2, under the title “Official Sanction” establishes the written approval of the Federation and that “Such approval shall be requested at least 3 months in advance to the proposed date along with the date, place and type of competition and prospective participants”.

In this case PZKT did not request the approval with the most important information (prospective participants) and did not pay the Sanction Fee, in spite of sending an application that stated” attached are all the necessary documents and information together with the required Sanction Fee”, which was never paid.

The Board of Directors after its meeting of June 6th gave a last opportunity to PZKT to pay the Sanction Fee and provide the necessary information, together with the written guarantee that all participating athletes and judges were ITKF registered and had the necessary qualification, which was disregarded by PZKT.

As such the Board of Directors decision not to sanction the pending event as ITKF World Cup was not a change of a General Meeting decision but just a

result of the violation of the procedures established in the Constitution concerning the organization of any international event.

4 – Concerning the accusations made towards the Chairman and Office of ITKF in the letter calling the “Quo Vadis ITKF?” conference, Mr. Kwiecinski argues that the Chairman of the Legal Services Committee should not give his opinion without seeing the so called “documents supporting seven allegations” and without “hear both sides”.

Answer: The accusations are as follows:

- “1 .*Serious violation of the ITKF Constitution.*
2. *Acting against the law.*
3. *Non-existing communication between the ITKF Chairman and the ITKF Directors on current important issues.*
4. *Attempt of money extortion from an ITKF Member Federation.*
5. *Illegal money collection.*
6. *Fabrication of documents.*
7. *Ignoring the decisions of the ITKF Board of Directors.* “

What I stated, as Chairman of the LSC, was that “The above mentioned accusations are very serious and some of them (i.e. attempt of money extortion, illegal money collection, fabrication of documents) are criminal offenses in most jurisdictions, so those unsupported allegations are defamatory to the ITKF Office, the ITKF Chairman and for the image and reputation of ITKF itself.

- a) It is beyond any doubt that all the seven allegations are very serious.
- b) It is true that some of the accusations as stated above are criminal offenses in most jurisdictions.
- c) It is recognized by Mr. Kwiecinski in his letter that those are unsupported allegations, because he states that the so called evidence “*Were presented during the conference*” [Quo Vadis ITKF?], so when he circulated those

accusations they were unsupported and remain so as no evidence or facts were provided to any ITKF Officials.

- d) Mr. Kwiecinski acknowledges in his letter that “The [Quo Vadis ITKF?] Conference was not the ITKF activity” which is true, but that means that even if any “documents” or “evidences” or even facts, were presented to such a conference they were not presented to ITKF or any ITKF Official, so the accusations have to be considered as unsupported as Mr. Kwiecinski accused without providing neither the facts, or the documents in which he grounded his allegations.
- e) To close this point and as a general rule, if you know that someone committed any serious action, even a crime (i.e. a murder or robbery), you should inform the competent authorities (i.e. Police, Public Prosecutor Office or, in ITKF’s case, the Board of Directors) about the facts you know and provide the evidence you have.

If instead of acting in that way you jump to the conclusion and start to accuse the alleged offender to have committed “murder” or “robbery” based only in your view without previous confirmation of an independent body (as a court), you will be liable for defamation.

That is exactly what happened in this case, in which Mr. Kwiecinski instead of providing the facts and documents, that he eventually had to the Board of Directors, circulated the accusations World Wide, which is defamatory.

So, in this case if someone did not “hear the other party” it was Mr. Kwiecinski that, instead of presenting the facts he eventually complains about to the Board of Directors, that should hear both parties, went directly to accusations without giving any opportunity to the accused to contest those accusations, or even in which facts they were based.

5 – Concerning the “call” of the ITKF General Meeting, Mr. Kwiecinski argues that “According to Article 5.3 of the ITKF By – Laws (see attached) the GM can be called when ten or more member federations request such a meeting” and that

“the ITKF does not have an official version of the valid ITKF Constitution” implying that what stands as rules are the By-Laws and not the Constitution.

Answer: We have two different issues here:

- a) According to the By-Laws can the Federations call directly a GM meeting the way it was done by Mr. Kwiecinski?
- b) What rules apply, the Constitution or the By-Laws?

and I will deal with them separately

a) Concerning the first issue even according to the By-Laws, if those were the standing rules, the member federations could not directly call an Extraordinary General Meeting.

What article 5.3 of the By-Laws, mentioned by Mr. Kwiecinski, states is as follows “The Board of Directors makes decisions as to date and plans of extraordinary Meetings when deemed necessary by the Board of Directors or when ten or more national member federations request such a meeting.

The General Meeting is called by the Chairman”

It is very clear that, according to the By-Laws, the date and plans of an extraordinary GM meeting is decided by the Board of Directors, upon request of ten or more federations, and that, when that Board of Directors decision is made, the Meeting is called by the Chairman.

So even if this issue were ruled by the By-Laws, the GM meeting could not be called by the Vice-President upon a so called petition by ten or more federations.

Finally and just to close this point even if that was not the case, it would be necessary to confirm if the persons that sign the “petition” are those who

represent the National Federations of those countries, but as the GM can not be called in that way, it is unnecessary such a confirmation.

b) On top of what was stated in the previous alinea, the standing rules are those of the Constitution according to the amendments approved in the General Meeting of 11 October 2002 in Belgrade, that in Article 5.1 state:

“Extraordinary Meetings determined by Director’s decision. Both meetings are called by the Chairman”.

So not only rule concerning the request from “10 or more federations” is not valid since 2002, but in what concerns the decision, it has to be taken by the Board of Directors, as previously stated in the By-Laws, and called by the Chairman.

So there are no legal grounds whatsoever to Mr. Kwiecinski’s “call” of Extraordinary General Meeting so I keep the position of my legal opinion that **the call of the General Meeting by Mr. Kwiecinski using ITKF letter head paper and his title as ITKF Vice-President is absolutely void and not effective.**

As such any meeting between any member federations of ITKF that would eventually be held without a Board of Directors decision and a call from the Chairman can not be considered an ITKF Meeting.

Meanwhile I shall note that if the By-Laws would apply, as Mr. Kwiecinski pretends, his behaviour as that of the PZKT concerning the World Cup would violate article 8.2 of the By-Laws that stated in point 3:

“Sanctioned events must send in application a minimum of 3 months prior to event and submit the following documents:

- A. *Letter of Application which includes title, date, place and event Program*
- B. *Draft of Event information subject to ITKF approval*
- C. *Sanction fee established by ITKF”*

Rómulo Machado
Advogado

Also the worldwide circulation on unsupported accusations as referred to in above mentioned point 4, and the total confusion of Mr. Kwiecinski's role as President of the Polish Federation the ITKF Vice-President office, including the use of ITKF official paper to defend PZKT and his own personal views, would certainly be considered as "Unworthy Conduct" as per article 4.6 of the By-Laws.

So according to what was explained above, I, as Chairman of the Legal Service Committee, maintain all that is stated in the June 21st, 2013 legal opinion.

Rómulo Machado
Chairman of the Legal Services Committee of ITKF