



MINUTES
Executive Board Meeting 161
Virtual meeting – 28 March 2022

Attendance List

DAHLIN, Olle	IBU	President
BOYGARD, Tore	IBU	Executive Board Member
COBB, Max	IBU	Executive Board Member
EGAN, Clare	IBU	Executive Board Member
LEHOTAN, Ivor	IBU	Executive Board Member
STEINLE, Franz	IBU	Executive Board Member
CARLSSON, Niklas	IBU	Secretary General ¹
<u>Guests:</u>		
MCKENNA, GREG	BIU	Head of Biathlon Integrity Unit
BÖHM, Daniel	IBU	IBU Sport & Events Manager
WINKLER, Christian	IBU	Communications Director



AGENDA

IBU Executive Board Meeting 161
28 March 2022 18:00 (CET) Virtual Meeting

1. President's welcome
2. Approval of agenda items + pot. conflict of interest announcement
3. Decision on Suspension of the National Federations of Russia and Belarus

MINUTES, EB 161

1. President's welcome

The President welcomed the Executive Board members to the meeting and it was agreed that this virtual meeting constitutes EB meeting 161.

2. Approval of agenda items + pot. conflict of interest announcement

The agenda was approved as distributed. There were no conflicts of interest announced.

3. Decision on Suspension of the National Federations of Russia and Belarus

The SG explained that the IBU sent out letters informing the NFs RUS and BLR about the initiated suspension process on 16 March asking them to reply to IBU by 23 March. Both federations have answered in time, the NF BLR answered directly, the NF RUS through a Swiss law firm.

EB Member Franz Steinle then updated the EB on the received answers from the NFs, which both argue that a full suspension is not justified. Steinle also pointed out the expected legal process following a positive decision later, and briefly presented the reasoned decision (see Appendix 1 Reasoned Decision).

He also recommended certain clarifications in the IBU Constitution at the upcoming IBU Congress.

BIU Head Greg McKenna updated the EB about a current appeal by RBU at CAS against the previous EB decision to ban RUS and BLR representation and participation at its events. This is currently tabled at CAS until the decision on suspensions are taken by IBU.

Franz Steinle and Niklas Carlsson spoke to the legal risks and potential financial consequences from a potential suspension of both NFs.

EB Member Max Cobb made the point that the unprovoked and unjustified Russian invasion of Ukraine is likely to have completely stopped the activities of the Ukrainian Biathlon Federation and



that it would be unfair for the NFs of the invading countries to continue to enjoy the full rights of IBU membership when their nations have so totally disrupted the conduct of sport in Ukraine.

The Board then discussed the legal and political points of the upcoming decision and unanimously decided to suspend the membership of the NFs BLR and RUS, according to Annex 1.

It was agreed that the NFs BLR and RUS will be informed immediately and that the reasoning introduced by Max Cobb will be added to the legal reasons justifying the decision.

EB Member Franz Steinle and Greg McKenna were asked to prepare for potential challenges of this decision by the NFs at CAS.

DECISION IBU EXECUTIVE BOARD

In its meeting dated 28 March 2022, the IBU Executive Board took the following:

- 1. To suspend the Russian Biathlon Union (RBU) and the Biathlon Federation of Belarus (BiFB) until further notice.**
- 2. The above decision shall be reviewed in the event of a change of circumstances and in any event by the 2022 IBU Congress.**

REASONS:

1. Factual Background

- 1 On 24 February 2022, Russian armed forces with the support of Belarus started an invasion in the Ukraine without any reasonable justification. Since the beginning of this invasion thousands of civilians and soldiers have lost their lives. The United Nations General Assembly has voted to demand that Russia stop its offensive and immediately withdraw all troops, with world powers and tiny island states alike condemning Moscow, with a majority of 141 votes in favor.
- 2 The unjustifiable invasion of the Russian army in the Ukraine immediately showed effects on sports competitions. After the start of this war athletes and teams refused to compete in various events or threatened to do so, if athletes or teams from Russia and Belarus competed at the same event. Further, there were incidents of severe tension between athletes from Russia/Belarus and other countries in some events (e.g. at the World Cup in Doha of the International Gymnastic Federation ("FIG)) which confirmed that safety of participants could be endangered as long as the war is ongoing and Russian/Belarus athletes compete against athletes from the Ukraine and other countries.
- 3 On 28 February 2022, following the Russian invasion in the Ukraine the IOC published recommendations for International Sports Federations and sports event organisers. Amongst others the IOC recommended the following:

"In order to protect the integrity of global sports competitions and for the safety of all the participants, the IOC EB recommends that International Sports Federations and sports event organisers not invite or allow the participation of Russian and Belarusian athletes and officials in international competitions."
- 4 Also on 28 February 2022, the IBU decided to fully support IOC's recommendations and to not allow the participation of any Russian or Belarusian athletes or officials at its international events until further notice including non-sports events organised by the IBU for its members.
- 5 On 16 March 2022 the IBU sent a letter to RBU and BiFB informing them as follows:

"Unfortunately, we have to inform you that because of the unjustified war against the Ukraine initiated by your governments, the IBU Executive Board has to consider imposing a

suspension of RBU [BiFB] according to Article 4.2.1.4 letter D Appendix 4 IBU Constitution for the following reasons:

The purpose of the IBU includes the worldwide promotion of the humanitarian values of the sport of biathlon and should be achieved inter alia by playing a leading role in the Olympic Movement.

Article 5.2 IBU Constitution stipulates that RBU and BiFB “represent” their respective countries. The actions of the Russian and Belarus government can be attributed to RBU and BiFB respectively as their countries’ representative.

According to Art. 19.1.6 IBU Constitution, Executive Board members have the duty not to do anything that might bring the IBU or the biathlon into disrepute or that is contrary to the best interests of the IBU. Therefore, in the current circumstances it is crucial for the integrity and reputation of the IBU and Biathlon that they are not associated with the affiliates of Russian and Belarusian states until the situation is resolved peacefully.

The suspension will take place indefinitely and depends on the future development of the opposing situation and the behavior of the suspended associations. Thus, in accordance with A4.2.4.2, the suspension may be revoked at any time where the Board is satisfied that the grounds on which it was imposed no longer exist.

*The Executive Board qualifies this as an urgent matter and therefore, kindly invites you to comment on this matter and the proposed sanction until **16 March 2022** at the latest.”*

- 6 On 18 March 2022, Putin held a large pro-war rally featuring Russian Olympians at Luzhniki Stadium in Moscow. Photographs showed gymnasts Dina and Arina Averina and four Russian figure skaters on stage in an arena which was the main stadium for the 1980 Olympic Games, with their medals while wearing the "Z" symbol.
- 7 It is commonly known that biathlon athletes from RBU and BiFB are trained in clubs organized by the military of their respective countries. IBU distributes a percentage of approx. 40 % of its revenues to its member federations.
- 8 Both RBU and BiFB submitted their comments within the abovementioned time limit. In particular both Federations argued that they are not responsible for what is happening in Ukraine. However, neither RUB nor BiFB condemned the war in the Ukraine or distanced themselves in clear words from it.

2. Legal analysis

- 9 The suspension of RBU and BiFB under these special circumstances is necessary as a protective measure to safeguard IBU’s and its stakeholder’s interests (see below **2.1**) and in addition justified as a sanctioning measure for the violation of the IBU Constitution (see below **2.2**). Each of these grounds for themselves give valid justification to suspend RBU and BiFB.

2.1 Protective measure to safeguard IBU's and its stakeholder's interests

- 10 IBU like any other association has the general duty to protect its stakeholders, competitions and other events from harm and to avoid any action which could bring the IBU into disrepute. The IBU Constitution explicitly obliges the Executive Board *“not do anything (by act or omission) that risks bringing the IBU or Biathlon into disrepute or that is contrary to the best interests of the IBU or Biathlon”* (see Article 19.1.6 IBU Constitution).
- 11 The IOC confirmed in its recommendations that following the war in Ukraine it saw an immanent need to *“protect the integrity of global sports competitions and the safety of all the participants”*.
- 12 The aggressive invasion of the Russian and Belarus' armies in the Ukraine immediately after its start showed detrimental effects on sports competitions, e.g. Ukrainian athletes were hindered to take part in sports competitions due to the war, athletes or teams were refusing to compete if also athletes and teams from Russia and Belarus would do so (e.g. at the Paralympic Winter Games), there was severe tension between athletes from Russia/Belarus and other countries in some events (e.g. at the World Cup in Doha of the International Gymnastic Federation), etc.
- 13 RBU itself informed IBU after the beginning of the war that it would not even send its athletes to IBU competitions as neutrals since it would expose Russian athletes to the risk of humiliation and endanger their safety during the event.
- 14 The same holds true for any other IBU activities like coaches' courses, official meetings, the Congress etc. It is very likely that representatives of other member federations would refuse to join non-sporting events if officials from RBU/BiFB are joining. It must be assumed that representatives from Ukraine are hindered by the war to participate in such events which justifies to also not allow officials from RBU/BiFB. In addition, there is the same danger for the safety of participants of the countries at war in non-sporting events as for the respective athletes in competitions. The risks mentioned by RBU (see above para. 13) are likely to materialize also on such occasions.
- 15 The IBU Executive Board has the obligation to grant the safety and integrity of all IBU activities and does not see a valid reason allowing it to differentiate between competitions and other IBU activities with regard to the risks IBU stakeholders are exposed to. Further, the IBU considers that the membership rights of the the Biathlon Federation of Ukraine (*“BiFU”*) are quasi suspended due to the war, as it can hardly be expected that members of the BiFU are currently willing and able to join IBU activities.
- 16 For all these reasons, the IBU Executive Board deems a suspension of RBU and BiFB necessary to grant the integrity and safety of its activities. Further, this measure seems to be fair as BiFU is hindered by to exercise its membership rights due to the war. Finally, there is also no less severe measure available having the same protective effect.

2.2 Violation of the IBU Constitution

- 17 RUB and BiFB have additionally violated the IBU Constitution. Therefore, the suspension is also justified according to Article A4.2.1.4 letter D Appendix 4 IBU Constitution. This derives from the following observations:

2.2.1 IBU Constitution

- 18 The following provisions of the IBU Constitution are relevant to the situation at hands:

“2. Purposes and principles (...)

2.1.2 *Constantly aim to improve the conditions and fundamentals of the sport of biathlon and promote its cultural, sporting and humanitarian values worldwide.*

(...)

2.1.4 *Protect the integrity of Biathlon included the IBU by implementing the highest standards of good governance.”*

(...)

3. Ideal Means

(...)

3.1.2 *play a leading role in the Olympic Movement (...);*

5. Members

(...)

5.2 *In accordance with the Olympic Charter, membership as an NF Member of the IBU (whether provisional or full) is open to one National Federation for each Country. The sole and exclusive authority of an NF Member to govern Biathlon at the national level will extend as far as the territorial boundaries of the Country that it represents.*

(...)

8. Obligations of NF Members

(...)

8.1.2 *respect, support and promote the Purposes and principles of the IBU, (...);*

8.1.3 *comply in all respects with this Constitution, the Rules, and the decisions of Congress, the Executive Board, Disciplinary Tribunals, and the CAS;*

(...)

8.1.10 *not do anything (by act or omission) that brings Biathlon or the IBU into disrepute or is contrary to the integrity and best interests of Biathlon or the IBU;”*

(...)

11. Suspension, expulsion or other sanction for breach of NF Member obligations

11.1 *An NF Member that fails to comply with its obligations as an NF Member may be suspended or expelled from membership, and/or otherwise sanctioned, as set out in Appendix 4.”*

2.2.2 Breach of Article 8.1.2 in connection with Articles 2.1.2 and 3.1.2 IBU Constitution:

- 19 The purposes of the IBU include the worldwide promotion of the humanitarian values of the sport of biathlon and should be achieved inter alia by playing a leading role in the Olympic Movement.

According to Article 1.1 Olympic Charter, the goal of the Olympic Movement is “to contribute to building a peaceful and better world by educating youth through sport practised in accordance with Olympism and its values”. The goal of Olympism is “to place sport at the service of the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity.” (see Olympic Charter, 2nd fundamental principle of Olympism). The IOC’s role is “to encourage and support the promotion of ethics and good governance in sport as well as education of youth through sport and to dedicate its efforts to ensuring that, in sport, the spirit of fair play prevails and violence is banned.” (see Article 2. 1 Olympic Charter).

- 20 Pursuant to Article 8.1.2 IBU Constitution every NF has the obligation to respect, support and promote the purposes and principles of the IBU. This duty can also be violated by omission if there is a duty to act to prevent harm from the purposes and principles of the IBU and its reputation as such.
- 21 Since the beginning of the war in Ukraine, both RBU and BiFB have not acted in support of the promotion of IBU’s constitutional purposes, e.g. by publicly urging for a peaceful solution of the situation or by claiming for the observance of human rights, etc. although their governments are directly involved in the aggression against the Ukraine. Moreover, neither RBU nor BiFB have so far condemned the war or only distanced themselves from the actions undertaken by the Russian and Belarus Governments.
- 22 Such actions by RBU and BiFB would have been necessary to comply with their obligation under Article 8.1.2 IBU Constitution. This is even more true as according to Article 5.2 IBU Constitution RBU and BiFB govern Biathlon at national level of the country they “represent”. Hence, RBU and BiFB are considered by the IBU Constitution as representatives of their countries, even if their autonomy would be granted in Russia and Belarus.
- 23 It is also commonly known to IBU as well as to the interested public that the national sports federations of Russia and Belarus are closely linked to their governments and that most of the Biathlon athletes are organized in and supported by militia clubs/structures.
- 24 Under these circumstances RBU and BiFB could only fulfil their obligation to respect, support and promote the purposes and principles of the IBU by taking a stance against the actions of their governments violating the purpose and principles of the IBU, i.e. at the very least distance themselves from a war which clearly violates international law and human rights. This even more true considering that the Russian government is using Olympic athletes for its propaganda like in the parade on 18 March 2022.

25 The lack of supporting actions towards IBU's efforts to uphold its humanitarian values and to comply with its role within the Olympic Movement is a breach by omission of Article 8.1.2 IBU Constitution by RBU and BiFB.

2.2.3 Breach of Article 8.1.10 IBU Constitution:

26 In addition, the abovementioned omissions by RBU and BiFB bring IBU and the sport of biathlon into disrepute, as long as the RBU and BiFB remain unsuspending IBU members and the aggressive invasion of the Russian Government continues. Without a clear statement (i) condemning the actions of the Russian Government, and (ii) distancing themselves from the political position of the Russian Government, RBU's and BiFB's active membership within IBU undermines IBU's and its members' efforts to promote its constitutional principles and purposes with credibility.

27 Hence, RBU's and BiFB's omissions also breach Article 8.1.10 IBU Constitution.

2.2.4 Actions of Russian/Belarus governments attributable to RBU and BiFB

28 Finally, the IBU Executive Board finds that in these particular circumstances the actions of the Russian and Belarus governments are attributable to RBU and BiFB.

29 According to Article 5.2 IBU Constitution RBU and BiFB govern Biathlon at national level of the country they "represent". Hence, RBU and BiFB are considered by the IBU Constitution as representatives of their countries. If a represented country acts in such a severe manner against international and human rights, like Russia and Belarus are currently doing, such action has to be attributed to some extent to the National Sports Federations representing such countries. It is simply impossible to completely detach a National Sports Federation from the country it represents. This is shown in every competition with the flags used at events, the national anthems played, and the colors and flags used on sports equipment. All this directly refers to the country these National Sports Federations represent, which flags they display as well as for which they compete for medals. These represented countries are proud to exploit the achievements of these National Sports Federations and their athletes also politically. This has been displayed in the most disturbing fashion by Russia in the recent pro-war rally at the Luzhniki Stadium, where Olympic gold medalists were displayed with their medals and propaganda signs on their jerseys. For these reasons, the IBU Executive Board finds that the representatives of Russia and Belarus in the IBU cannot simply remain silent and claim they have nothing to do with the blatant violations of international law with thousands of killed civilians committed by their countries they represent in IBU competitions and other activities. To the contrary, in particular as RBU and BiFB have not distanced themselves from this aggressive war aggression, the behavior of their countries has to be attributed to them.

30 Hence, also for these reasons RBU and BiFB have violated Article 8.1.2 IBU Constitution.

2.2.5 Proportionality

- 31 The IBU Executive Board took into account the nature of the sanctioned conduct and the principle of proportionality.
- 32 The goal of suspending RBU and BiFB is to uphold IBU's capability to promote its principles and purposes with credibility, in particular to continue playing a leading role in the Olympic Movement, and to avoid bringing IBU and Biathlon into disrepute.
- 33 In the Executive Board's view, inhuman acts of the magnitude we are seeing against the Ukraine people even though initiated by the Russian and Belarus Government may be attributed to RBU and BiFB (see para. 10 et seq. above), also as RBU and BiFB according to the IBU Constitution represent their respective country. Hence, the sanctioned conduct is very severe and justifying a full suspension of all membership rights of the RBU and BiFB. A full suspension of all membership rights is further necessary to achieve IBU's goals regarding humanitarian values.
- 34 The unprovoked and unjustified Russian invasion of Ukraine, aided and abetted by Belarus, and the on-going war in Ukraine have without doubt greatly diminished and likely completely stopped the activities of the National Federation of Ukraine Biathlon. In the spirit of fair play and proportionality it would be intolerably unfair if the National Federations representing the countries having aggressively started this war in the meantime continued to enjoy the full rights of IBU membership when their nations have so totally disrupted the conduct of sport in Ukraine. It is therefore fundamentally fair for the IBU to suspend the membership of the invading countries, i.e. RBU and BiFB, also considering the commonly known organization of Biathlon athletes within military clubs/structures not suspending the membership would mean that the RBU and BiFB as well as its athletes would still benefit from the support and grants of IBU. Thereby, military structures would be – directly or indirectly – supported by IBU funds that are dedicated to promoting its values. Such contradiction is simply intolerable.
- 35 There is no indication that a suspension of only some membership rights of RBU and BiFB would be sufficient to achieve the same goal as a full suspension in accordance with Article A4.2.1.4 letter D Appendix 4 IBU Constitution. A full suspension is more capable to increase pressure on RBU and BiFB to act in accordance with IBU's Constitution, i.e. at the very least to distance themselves clearly from all actions of their governments. Further, only RBU's and BiFB's full incapability to exercise membership rights would uphold IBU's credibility regarding its principles and purposes, in particular the strive for promoting a peaceful society and humanitarian values. Upholding the active membership of two member federations neglecting to distance themselves from and rather being linked to governments aggressively invading another country jeopardizes IBU's credibility and reputation. In addition, in case Russia and Belarus stop their invasion into the Ukraine and RBU and BiFB amend their behavior in compliance with the IBU Constitution in the hopefully near future the suspension imposed can be lifted in due course.
- 36 Against this background, a full suspension of RBU and BiFB does not exceed what is reasonably required in the search of the justifiable aim since a suspension is not a final expulsion from

membership but a timely measure, always dependent on the further events and the conduct of the suspended members.

- 37 For this reason, the IBU Executive Board will monitor the developments of this situation very closely and will review this decision in the event of a change of circumstances. The decision shall also be reviewed by the 2022 IBU Congress in its meeting in 15-19 September 2022, if it has not been lifted by the IBU Executive Board before.