

World Sailing Constitution

Constitution 23.5 (e)

A submission from the MNA's of Turkey, Mexico, Puerto Rico, Croatia, Hungary, Greece, Algeria, Cyprus, Moldova, Tunisia and Libya

Purpose or Objective

Removal of the limitation on becoming a director.

Proposal

23.5 In order to be a director, a person must upon election and during their term of office:

- (a) be eligible under the law of the Isle of Man to hold office as a company director;
- (b) have delivered to the Chief Executive Officer such documents as are required by law to be delivered on appointment as a company director;
- (c) not have been:
 - (i) convicted of a serious criminal offence or other offence or regulatory finding (whether imposed by a court, tribunal or disciplinary body) which brings or may bring World Sailing into disrepute;
 - (ii) barred from holding office as a director by the Disciplinary Tribunal; or (iii) convicted of an anti-doping rule violation;
- (d) not be an Employee of World Sailing; and
- ~~(e) not be an Employee, board member, president, or other officer of a Member at the time as being a director of the Federation (but may seek to be elected as a director whilst holding a conflicting office provided that they have resigned from holding such office within three months of election).~~

These eligibility requirements are in addition to any other eligibility requirements for election.

Current position

As above

Reasons

1. According to the article 23.5.e of the New Constitution, any elected director must upon election and during their term of office not be an employee, board member, president or other officer of a member at the time as being a director of the Federation (but may seek to be elected as a director whilst holding a conflicting Office provided that they have resigned from holding such office within three months of election).
 2. According to the article 1.2. of Appendix A of the New Constitution, the New Constitution shall take effect as of the conclusion of the General Assembly in 2024. Additionally, article 3.1. of Appendix A of the New Constitution states that the election of directors in 2024 is to be conducted under the provisions of the New Constitution.
 3. The right to vote and to be elected is recognised as a human right in many international conventions, declarations and documents and is protected by the European Court of Human Rights and modern legal systems. Therefore, any limitation or restriction on the right to elect and be elected must be scrutinised carefully.
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In fact, Article 23.5.e introduces a serious limitation that violates the right to be elected. This provision prevents employees, board members, presidents or other officials of their Member National Authorities, Associate Members, Continental Associations, World Sailing Class Associations, Recognised Organisations and Honorary Members from becoming a Board member of World Sailing.

As a matter of fact, the inability to elect the aforementioned persons as a Board member, prevents the most important representatives of the sport of Sailing from participating in the management of World Sailing. This result will undoubtedly have a negative impact on the strong management of the sport of Sailing both nationally and internationally.

4. Although Article 23.5.e constitutes an obstacle to the right to be elected, there is no such restriction in the statutes of other international sports federations. On the contrary, international sports federations require elected presidents, vice-presidents and committee candidates to have active sports experience in their countries.

For instance, according to Article 27.1 of the FIFA Statutes,
"...A candidate for the office of FIFA President shall have played an active role in association football (e.g. as a player or an official within FIFA, a confederation or an association, etc.) for two of the last five years before being proposed as a candidate..."

Similarly, according to Article 13.7.1 of the International Handball Federation Statutes,
"A candidate standing for one of the IHF Council positions must have held six years' high level involvement and experience in his/her National Federation or Continental Confederation in one of the Board of Directors positions or as a player, coach or referee".

5. More importantly, the statutes of some international sports federations require Board members to be active presidents or vice-presidents of their national federations.

For instance, Article 21.3 of the UEFA Statutes states that,
"21.3. Each candidate for a seat on the Executive Committee to be elected by the Congress, except for the President and any female member, shall hold an active office of president or vice-president within his Member Association at the time of the election..."

Another example is Article 4.3.1 of the International Fencing Federation Statutes states that,
*"Article 4.3.1 To be candidate to the Executive Committee a person must:
 "...It is desirable that he or she has experience as a leader (President, Vice-President, Secretary General, Treasurer or any other similar function) in his national federation, his National Olympic Committee or any entity."*

6. For the reasons explained, Article 23.5.e should be removed for an inclusive, fairer and more democratic director election in 2024.
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