



FÉDÉRATION  
INTERNATIONALE  
DE NATATION

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**By email**

President, LEN  
Secretary General, LEN  
LEN Member Federations

Lausanne, 15 November 2021

**To the President, Secretary General and Members of LEN,**

I write with respect to the two decisions rendered by the LEN Bureau (signed by Mr David Sparkes, LEN Secretary General) on 6 November 2021 regarding the exclusion of LEN/FINA Members Portugal and Croatia for a period of 1 year (the “LEN Decision”).

As you may know, the LEN Decision was premised on an alleged misuse of the LEN Logo by these two LEN/FINA Members, as well as outreach efforts used by Mr. Antonio Jose Silva (Portugal) and Mr. Josip Varvodic (Croatia), to support the upcoming LEN Extraordinary Congress on 5 February 2022, including the requested Agenda items requested by more than 20 National Swimming Federations members of LEN/FINA.

This decision came from the current sitting LEN Bureau, who stands to be removed at the LEN Extraordinary Congress on 5 February 2022, and who perceived the actions of Mr. Silva and Mr. Varvodic as “significant and very serious” and “aimed at creating chaos in the association by disrupting the electoral process”.

FINA takes the role and involvement of its members the national swimming federations and the Continental Organizations seriously. This, of course, is embodied in FINA’s right and duty to define and enforce its policies and values, as well as to enforce and defend its rules when Continental Organizations put their interests ahead of the interest of aquatic sports and the interest of the members of LEN/FINA. Therefore, earlier today, on 15 November 2021, the FINA Bureau convened a meeting to discuss the current general situation in LEN & the LEN Decision on the 6<sup>th</sup> of November, 2021. Following an open and transparent process, whereby various independent legal opinions on the validity of the LEN Bureau Decision on 6 November 2021 were read to the FINA Bureau and the LEN Members of the FINA Bureau were invited to provide their thoughts, the FINA Bureau decided that FINA would not recognize the LEN Decision.

The reason for the FINA Bureau decision was straightforward: the LEN Decision was politically motivated, lacked all respect for the general rules of sport and due process, applied an abuse of power and contravened LEN and FINA rules and obligations of ethics. Moreover, even if the LEN Decision was lawfully taken *quod non* it is wholly disproportionate to the alleged offence.

**The position of the FINA Bureau is supported by 6 independent legal opinions summarized to the FINA Bureau in today’s meeting, as follows:**

- A. A valid request by more than 20 Federations Members of LEN has been submitted, making use of the statutory right of 20 of members of LEN to request an Extraordinary Congress to debate and decide the matters that are the object of the request, namely: dismissal of the LEN Bureau and election of a new LEN Bureau;
- B. LEN Bureau has therefore the obligation to convene a LEN Extraordinary Congress, which actually has been convened for 5 February 2022;
- C. LEN Bureau has no right to limit the items of the Agenda of such LEN Extraordinary Congress to only some of the matters raised by more than 20 National Member Associations; hence the LEN Extraordinary Congress convened for 5 February 2022 must deal with all matters contained in the original request;
- D. The use of the name and the logo of LEN with the Email, or any similar communication, and notably its disclosure does not violate Swiss law nor any statutory rule of LEN /FINA ; and
- E. Any exclusion of membership of National Federation under LEN constitution **article 6.4 “Termination of a membership”** based on said use of the name or the logo of LEN with the Email, or any similar communication, would not have any justification and would itself violate the LEN Constitution; in case such exclusion would be politically motivated, the exclusion could be considered to violate not only the LEN Constitution but also the FINA Ethics Code.

**Based on the foregoing, the position of FINA is as follows:**

- A. FINA expects the LEN Bureau to allow democracy, transparency and good governance without any political interference, during the Extraordinary General Congress on 5 February 2022;
- B. The usage of LEN Logo by any of LEN General Assembly members is not a significant violation of the LEN constitution, which unjustifiably led to the termination of membership of Portugal and Croatia Swimming Federations for one year;
- C. The LEN Decision is in conflict with LEN/FINA Rules and did not respect the basic principles of the human right to allow both National Federations to be heard prior to issuing the LEN Decision, which was politically motivated by the current LEN Bureau;
- D. FINA does not recognise the LEN Decision and, therefore, both federations have the right to attend and vote in the next LEN Extraordinary Congress on 5 February 2022; and
- E. The Agenda of LEN Extraordinary Congress on 5 February 2022 must include the two requested items by more than 20 National Federations members of LEN, namely a) the dismissal of the current LEN Bureau; and b) a new election of the LEN Bureau.
- F. FINA asks LEN Bureau that all national federations member of LEN/FINA can send their nominations to LEN Secretary General with a copy to FINA, and present all nominations at the start of the LEN Extraordinary congress on the 5<sup>th</sup> of February 2022 in Frankfurt Germany for approval of the nominations.



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G. FINA will send two independent observers to LEN extraordinary congress on 5 February 2022 to ensure due process, democracy and good governance is applied.

If any LEN Member has any questions or concerns, please free to contact me.

Respectfully Yours,

Brent J. Nowicki

In copy: FINA Bureau Members and LEN Member Federations

