

Interpretation Number	Interpretation of Regulations/Articles	Issue	Date of Interpretation
003-08	Articles: 71	Nomination and Election of Officers	17 June 2008

Request for Interpretation by the Chairman of the Election Committee and Yachting New Zealand Inc

Constitution Committee Interpretation

By a letter dated 29th May 2008, Yachting New Zealand Inc, the Member National Authority of New Zealand, requested an interpretation of Article 71 of the Constitution. Specifically the Member stated that it seeks “clarification of the situation whereby both Vice-President Andreadis and Vice-President Kellett have served eight years on the ISAF Executive.”

The Member’s question is whether the Article offers any exemption for them to the blanket prohibition of eligibility.

On the 5th June the Secretary General received a request in similar terms from the Chairman of the Election Committee. In making its request, the Election Committee has put forward a considered and reasoned opinion that the wording of Article 71 makes both Mr Andreadis and Mr Kellett eligible for nomination. It is therefore appropriate that this interpretation should deal in detail with that opinion.

The relevant part of Article 71 reads as follows:

“No person shall be eligible for nomination as a candidate for the office of Vice-President if he has held that office for the immediate preceding continuous period of eight years. If more than two Vice-Presidents would thereby become ineligible, this provision shall affect those two Vice-Presidents having the longest period of continuous service; if two or more have equal seniority, then in the absence of agreement between them, all of those having equal seniority shall be eligible for nomination, and a vote of the General Assembly shall be taken before the votes for Vice-President to determine which of them shall stand for election to Vice-President.”

Provisions of this type are not unusual in constitutions of organisations similar to ISAF. They are also to be found in the constitutions of many of the MNAs and the International Class Associations. Their object is twofold. Firstly they are there to ensure that new blood with new ideas comes regularly into the highest echelons of the organisation; secondly they ensure that no one person or group of people become so entrenched in a very senior position that it is felt that to remove them would be revolutionary rather than evolutionary.

The provision in the Federation’s constitution is perhaps unusual in that it provides an exception which takes effect in certain circumstances. ISAF elects seven vice-presidents every four years. Clearly there was a concern

when the constitution was drafted that should almost fifty per cent or more be required to drop out at any time, the Federation would suffer from a loss of a large part of the experience of the most senior committee. The exception is inserted to prevent this.

The current situation is that Mr. George Andreadis, Mr David Kellett and Mrs Nucci Novi Ceppellini were all elected as Vice-Presidents in 1998. In that year it was decided that all those elected and appointed to positions in ISAF should serve terms of six years to bring the practice of the Federation into line with the Olympic round. Sadly Mrs. Ceppellini died a few months ago, but by the Annual Conference in November 2008 Mr. Andreadis and Mr. Kellett will have served a total of ten years as Vice-Presidents.

The arguments put forward by the Election Committee are based on a close examination of the second sentence of Article 71, which, as is pointed out, is a compound sentence containing two sections divided by a semi-colon. That committee suggests that the first part of that sentence cannot apply unless the vice-presidents in question have different periods of service. In this case, of course, the periods of service are the same. It then proceeds to argue that the second part of the sentence stands alone in its own right and on that basis it is permissible that one or both may be nominated as the second sentence refers to 'two or more,' rather than 'more than two.'

The Constitution Committee has considered these contentions very carefully but is of the opinion that both are wrong. The first part of the sentence applies whether all the relevant vice-presidents have served the same length of time or not; the second part does not add another exception to the general rule. It does no more than deal with the mechanics of deciding which of the vice-presidents who would otherwise be ineligible are eligible for nomination. The duty of the Constitution Committee is to interpret the Constitution strictly in accordance with the wording of the relevant provision under the principles of English law. While the Committee is well aware that other, more political, considerations may exist, it must ignore them. If its interpretation shows that there is a problem with the existing provision, the only course is to amend it. In this case the basic principle is clear: no vice-president should serve more than eight years. The exception is conditional on more than two vice-presidents *thereby* becoming ineligible.

In the present case, the death of Mrs. Ceppellini had already created a casual vacancy and it was open to Council to fill that vacancy under Article 49. She has not become ineligible for nomination under Article 71, but, simply and sadly, because she is no longer with us.

As a result there are not more than two vice-presidents who become ineligible and the exception does not apply. As a result neither Mr Andreadis nor Mr Kellett is eligible for nomination to the office of Vice-President for the ensuing period of four years.