

Rome, 15th November 2018

Letter to the Federations

Dear National Federations, dear Friends,

It is with great regret that I have to inform you that the Italian Swimming Federation (FIN) has reluctantly decided that the Energy for Swim 2018 competition, planned to be staged by FIN in collaboration with the City of Torino, Italy, on 20 and 21 December 2018, is cancelled.

FIN has been forced to take this decision because it always places paramount importance on the Athletes' status and welfare and it simply cannot take the risk of Athletes, who choose to freely participate in the Energy for Swim 2018 competition (not representing their Member Federations) receiving sanctions. It is clear from the wording of FINA's Memo of 30 October 2018 that sanctions were being contemplated should the Energy for Swim 2018 exhibition competition go ahead.

Following the invitation letter for the Event you received from FIN, on behalf of the City of Torino, on 18 and 19 October 2018, FIN received the attached letter (see Annex 1) and the FINA's Memo to all FINA Members dated 30 October 2018, in which it confirmed that the Energy for Swim 2018 in Torino is not recognized by FINA.

FIN notes FINA's unilateral and subjective re-classification of this National Competition as an 'International Competition' using a so called 'interpretation' of FINA Rule By Laws, BL 12.3.

FIN does not agree with FINA's classification of Energy for Swim 2018 as an International Competition (with reference to the FINA Constitution, Rules and By Laws), nor does FIN agree with FINA's so called 'interpretation' and application of FINA Rule BL 12.3 in these circumstances.

In the case of a National Competition, Rule BL 12.3 clearly establishes that FINA's "...approval is however not necessary for national competitions in which foreign clubs or individuals not representing their Member Federation participate". This is exact wording quoted from FINA Constitution Rule BL 12.3.

Indeed, FIN acknowledges that the consequence of the so called FINA interpretation, was to facilitate the cancellation of the Energy for Swim 2018 event. The so called interpretation would allow FINA to confirm that the event "*non sanctioned nor approved*". Therefore, if Athletes participated in the Energy for swim 2018 event they could face sanctions.

In relation to the above, and out of FIN's concern for the Athletes who had expressed an interest in participating in the Energy for Swim 2018 event, I would like to inform you that on 8 November 2018, in reply to the letter received on October 30, FIN sent a communication to FINA (see attached Annex 2) asking them to reconsider their position which aimed to prevent the participation of Athletes in the Event. In the letter, FIN underlined the importance to FINA that it guarantees to the Athletes the right to participate at the competition in Torino. FIN's position is that, in the absence of a serious and understandable reason (based on a genuine justification of FINA's actions to further its sporting objectives), it is simply unfair for FINA to deprive the Athletes of the opportunity to demonstrate their talent, enhance their personal images and brands and to compete in friendship to earn prize money.

On behalf of FIN and the City of Torino, I would like to thank the Athletes who expressed their wish to participate in the Event and I understand their disappointment for the cancellation of the competition. I am sorry but my wish is to protect them from any unfair disqualifications or other sanctions.

In the absence of any explanation or evidence to genuinely justify FINA's actions as being to further its sporting objectives, FIN can only assume that FINA's true motive is to safeguard its dominant position as the sole and exclusive license holder of aquatics sports. One analysis of FINA's conduct in these circumstances is that it is using its powers to restrict competition, which is to the detriment of the Athletes' individual commercial earning capacity. We understand that this may be considered as anti-competitive conduct, which is not permitted under European Union law, which, as a European Federation, FIN must comply with.

It is a shame that such a late cancellation will inevitably lead to losses and costs, with particular reference to commitments underwritten by FIN as organizing body.

Despite FIN's position concerning FINA's unilateral and subjective re-classification of Energy for Swim 2018 as an 'International Competition', and following the lack of reply from FINA to FIN's communication dated 8 November 2018, FIN confirms with regret that the Energy for Swim 2018 competition is cancelled from the 2018 FIN calendar.

Best regard,

Paolo Barelli
President
