

To JKA/WF All Members:

Fuss over JKF's Expulsion of JKA

A series of problems with the Japan Karatedo Federation (JKF) of expulsion of JKA have been reported both at home and abroad. Regarding this matter, we are sorry for the inconvenience caused to not only Japanese but also overseas members.

Please let us explain about this matter.

JKF's website posts a message that JKF expels JKA. JKF alleges that it has expelled JKA because of compliance problems. However, it was JKF that has caused compliance problems as a public interest corporation.

Although the Imperial Household Agency and the Ministry of Education, Culture, Sports, Science and Technology (MEXT) instructed JKF to "hold prior consultations with major organizations" regarding a petition for an Imperial grant of the Emperor's and Empress's Trophies, JKF neglected to hold prior consultations with major organizations. The only thing JKF did to JKA in advance was a threatening call by Shigeo Kurihara, JKF's Vice President, who said, "JKA should take a wait-and-see attitude (about the issue of an Imperial grant of the Emperor's and Empress's Trophies), or JKA will be expelled."

For more information, please see the descriptions given below by our Chairman Nobuyuki Nakahara to Japanese members, which we think is easiest to understand.

As always, we appreciate all the overseas members' hard training of the martial arts style of karate without being bothered about this issue.

November 2014

To All Members:

Court Decision that JKF's Expulsion of JKA Is Illegal and Unreasonable

Nobuyuki Nakahara
Chairman
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As I informed you earlier, JKA prevailed in a lawsuit against JKF for filing of a petition for provisional remedies. The Tokyo District Court found that JKA's allegation that JKF's expulsion of JKA is illegal and unreasonable is reasonable and lawfully turned the expulsion back to normal and has (provisionally) restored the status of "JKF's cooperative body" at the present moment. Therefore, on this occasion, let me inform you of the circumstances of the filing of a petition for provisional remedies, development of the trial, meaning of the decision on provisional remedies, and other matters.

It should be noted that JKA will deliver this fact (outcome of the trial) to the Cabinet Office, MEXT and other agencies, which are the competent authorities.

1. Why Did We File a Petition for Provisional Remedies? – Cause of Dispute and Flow of Negotiations

As you may know, JKF notified us on March 10, 2014 that they had taken disciplinary measures of "expelling" JKA from JKF's "cooperative body" under Article 14 of the rules and regulations of the Federation on the grounds that JKA's submission of a petition on December 22, 2013 for an Imperial grant of the Emperor's and Empress's Trophies had caused a material obstacle in the process of JKF's filing of a petition for an Imperial grant of the Emperor's and Empress's Trophies.

And since the expulsion, JKF has delivered and spread to the organs concerned including MEXT the false truth that JKA obstructed JKF from filing a petition for an Imperial grant.

In addition, JKF has reported abroad that the expulsion is reasonable and has thoroughly given undue treatment to JKA and its members. One such example was the declaration of treatment that unless the procedures for transition of certified *dan* ranks were taken by the end of June, 2014, no such transition would be approved thereafter. This makes it necessary for JKA members to obtain *dan* ranks again from the beginning after the above date in order to participate in a tournament held by JKF, which as a result makes it virtually impossible for JKA's players to participate in such tournament. Moreover, in the event of participation in a tournament held by JKF, JKF has harassed JKA by prohibiting the players from wearing a uniform with the name or mark of JKA to which the players belong.

In this way, as a result of JKF's unreasonable expulsion, JKA and its members have suffered from specific disadvantages from JKF, and also JKA's reputation and credit have been materially injured.

Therefore, JKA explained to JKF in detail that there were no reasonable grounds for the expulsion and such expulsion was formally and substantially illegal and unreasonable, and that the expulsion procedures were illegal (for the main points thereof, see "3. Development of Provisional Remedies Trial"), thus demanding a retraction of the expulsion. JKA has also repeatedly proposed working for a resolution through consultations since the battle between the influential organizations which divide the karate realm would hinder the development of such realm. In addition, JKA's legal counsel met with JKF's to repeatedly seek a resolution through consultations.

However, JKF replied that they could neither retract the expulsion nor have no intention of consulting with JKA about the issue of filing of a petition for an Imperial grant of the Emperor's Trophy.

Then, JKA concluded that it was found difficult to voluntarily consult with JKF which would not remedy the situation though there were no reasonable grounds for the expulsion, as well as to expect its self-cleansing action. In addition, if the expulsion remained undecided, it was probable that further damage would be inflicted on JKA to the irreparable extent. Therefore, JKA inevitably decided on September 10, 2013 to file a petition with the Tokyo District Court for provisional remedies in order to seek the preservation of the "status of a cooperative body."

2. Issue of Filing of a Petition for Imperial Grant of Emperor's and Empress's Trophies

As outlined above, behind JKF's expulsion of JKA is the issue of filing of a petition for an Imperial grant of the Emperor's and Empress's Trophies, so I would like to mention this point.

In 2010, although JKF had demanded to file a petition for an Imperial grant of the Emperor's and Empress's Trophies, JKA expressed an opinion saying, "Given the current situation where the karate realm still has problems with unity, dignity and other points, it is too early yet to do so." As a result, JKF refrained from filing a petition for an Imperial grant of the Emperor's and Empress's Trophies.

Then, on the back of the above circumstances, three years later in November 2013, when JKF consulted with MEXT about the filing of a petition for an Imperial grant of the Emperor's and Empress's Trophies, the Imperial Household Agency expressed its opinion through MEXT saying, "Hold consultations well and work in close coordination among the major organizations of the karate realm." Then, MEXT notified JKF to that effect and instructed it to hold consultations among the major organizations.

However, without any consultation or coordination with JKA, JKF held an executive meeting on December 6, 2013, enforced a resolution on filing of a petition for an Imperial grant of the Emperor's and Empress's Trophies, and gave the organs concerned including MEXT a false explanation that the above resolution was "the general consensus of the karate realm."

On the other hand, JKA submitted a petition for an Imperial grant of the "Emperor's Trophy" (excluding the Empress's Trophy) promoted by JKA, which was accepted by the Imperial Household Agency.

And then, when JKF visited MEXT trying to submit the above petition for an Imperial grant, it became obvious that JKF had tried to file a petition for an Imperial grant without the "general consensus of the karate realm" since MEXT grasped the fact that JKA had filed a petition for an Imperial grant. Consequently, under instructions from MEXT, JKF appears to have called off the petition for an Imperial grant of the Emperor's and Empress's Trophies.

After that, JKF advised JKA to cancel its membership (of the cooperative body) or to withdraw the petition for the Emperor's and Empress's Trophy and gave notice of expulsion if JKA gave no reply or did not withdraw the petition.

However, when JKA rejected such an unreasonable demand, JKF mandated expulsion for

JKA.

3. Development of Provisional Remedies Trial

For the purpose of filing of a petition for provisional remedies, JKA alleged that JKF's expulsion was unreasonable in the following three main points:

- (i) There is no legal support for expelling (it is impossible to expel) JKA from the status of a cooperative body.

That is, there is no provision that enables expulsion of cooperative bodies in the "rules and regulations of the Federation" on which JKF bases its arguments or other regulations, and there is no legal support for being able to "apply provisions setting forth the relationships with member organizations *mutatis mutandis*" to JKA, a cooperative body;

- (ii) There is no justifiable reason (fact that falls under any obstructive behavior that caused a material obstacle in the process of JKF's filing of a petition for an Imperial grant of the Emperor's and Empress's Trophies, or of being in violation of JKF's regulations or discipline) for supporting the expulsion.

That is, JKA's said petition for an Imperial grant is the constitutionally guaranteed "exercise of right of petition;" the regulations have not been specified; there is no hierarchical relationship between JKF and JKA; and JKA is not in a position to be controlled by JKF; and so on; and

- (iii) The expulsion has not been subject even to the internal due process set forth in the rules and regulations of the Federation or other regulations.

In response, JKF alleged during provisional remedies procedures that with respect to (i) above, the provisions setting forth relationships with member organizations, out of the rules and regulations of the Federation, were applied to the expulsion *mutatis mutandis*, which application was reasonable, and on the other hand, with respect to the due process of (iii) above, only the portions convenient for JKF would be applied *mutatis mutandis* since no internal procedure was required because no regulation setting forth such process was applied *mutatis mutandis*.

However, when the judge pointed out the unreasonableness, JKF suddenly explained saying, "It was a mistake to apply them *mutatis mutandis*. We mistakenly applied them *mutatis mutandis* based on a layman's view," "In the first place, the status of a cooperative body is not a legal relationship but only a factual situation, so JKF may impose punishments in any manner at its own discretion. We may duly expel JKA through JKF's procedures including its Board of Directors," and so on.

Thus, during the provisional remedies procedures, JKF kept changing its allegations repeatedly but failed to suggest the basis of its arguments enough to justify the expulsion to the end.

4. Meaning of Successful Lawsuit by JKA

Through the above trial, on October 24, 2014, the Tokyo District Court found the allegations

made by JKA, obligee, reasonable and ruled that “it is provisionally decided that JKA has the status of a cooperative body of JKF.”

This will enable JKA to hereafter receive the rights and benefits enjoyed with JKF before being subjected to expulsion. For example, with respect to the transition of certified *dan* ranks, use of gymnasiums and other facilities through the prefectural federations, and responsibility for instruction on the *Shotokan*-style karate forms, JKA will be treated in the same manner as before being subjected to expulsion.

Besides, this court decision, which is an “order,” must be followed by JKF. If JKF fails to improve the undue treatment given to JKA after the expulsion and continue to give such undue treatment in the future, without legal proceedings, it will be illegal as being contrary to the decision on provisional remedies. Any public interest incorporated foundation that performs an illegal act is likely to be subjected by the Cabinet Office to the revocation of authorization of the public interest incorporation and will be blamed socially as lacking corporate compliance and governance.

Of course, JKF may challenge this decision on provisional remedies and instigate a court case. In this case, the trial is considered to be protracted until it reaches a settlement. However, unless the stay of execution of the decision on provisional remedies is found or the decision on provisional remedies is reversed, the provisional remedies will continue in effect, and therefore the status of JKA as a cooperative body will never be shaken.

5. Conclusion

We think that JKF should sincerely accept the decision on provisional remedies, seriously reflect on the injury to JKA’s reputation and credit caused by the illegal and unreasonable expulsion, and apologize to as many as JKA’s 37,000 members.

As JKA has so far consistently made allegations, we are considering seeking to improve relations with JKF through consultations and also making further contributions to the quantum leap and development of the karate realm by making constructive proposals.