



FIDE ETHICS COMMISSION

The Ethics Commission (hereafter called the ETH), sitting in the following composition -

Chairman: Mr. Francois Strydom
Members: Mr. Willy Iclicki
Mr. Ion Serban Dobronauteanu
Mr. Rajesh Hari Joshi
Mr. Pedro Dominguez
Secretary: Dr. Elli Sperdokli (non-voting)

during the meeting held in Zurich, Switzerland on 24 June 2018, made the following -

DECISION

Case no. 1/2018: Allegations of cheating or attempted cheating at the 2017 St Petersburg Championships

1. The ETH **confirms** that a quorum is established by the presence and participation of all five (5) its voting members.
2. The ETH **notes** the report of the FIDE Anti-Cheating Commission ("ACC"), dated 11 March 2018, concerning an alleged violation of article 2.2.5 of the FIDE Code of Ethics (cheating or attempts at cheating during games and tournaments) by Mr Dmitry Fraiman relating to his conduct at the Finals of the 2017 St Petersburg Championships.

3. The ETH **notes** the contents of the subsequent defensive statements of Mr Fraiman sent to the ETH on 3 April and 14 June 2018, as well as Prof Kenneth Regan's supplementary report of 31 May 2018 (further to his original report of 6 June 2017 included in the Investigatory Chamber's report).
4. The ETH **notes** the following facts and circumstances relevant to this matter:
 - 4.1 During the first 9 rounds the players were permitted to keep their mobile phones with them and only in rounds 10 and 11 did the chief arbiter require that the mobile phones be handed in. According to Mr Fraiman, his phone was kept in the pocket of his jacket.
 - 4.2 Mr Fraiman was found in possession of his switched-off mobile phone after he had played 3 moves in his 10th round game and, in terms of the Laws of Chess, forfeited for that round.
 - 4.3 No In-Tournament Complaint was filed by any of the other players in the tournament but at the start of the 9th round of the tournament the players requested the chief arbiter to keep an eye on Mr Fraiman and the chief arbiter recorded the times of Mr Fraiman's visits to the toilets. Post-Tournament Complaints were submitted by the players after completion of the event.
 - 4.4 The furnished proof of possible **computer-assisted cheating** by Mr Fraiman rests upon some **observational evidence** by witnesses, and the technical results of Prof Regan's **statistical analysis** of the probability of cheating if Mr Fraiman's actual standard of play is compared with the projected standard of play for a player of his strength.
 - 4.5 The observational evidence consist of suspicious conduct on the part of Mr Fraiman as observed by the chief arbiter and other players and some game analysis performed by the other participants. In particular, this relates to Mr Fraiman's very regular visits to the toilets in rounds 1 - 9, his instant execution of moves upon his return sometimes in challenging positions, his sudden leaving of the playing hall instead of immediately hand over his

mobile phone to the chief arbiter upon request in round 10 (creating doubt as to whether it was on or off whilst the player was at the board or visiting the toilets), his alleged inconsistent explanations given to the chief arbiter and the change of his behaviour at the board (and his quick defeat) in round 11 when his mobile phone had been handed in.

- 4.6 The statistical report showed an adjusted combined **z-score of 2.86** in the official test with Rybka 3 from a sample of 171 moves with an Intrinsic Performance Rating (IPR) of 2820 +- 335. The three back-up engines rendered slightly higher results (average z-score of 3.2 and IPR of 2970 +- 275). This amounted to a positive test result if regard is had to the ACC threshold of **z = 2.75** in the presence of other implicating evidence. However, prior to taking into account the specific information contained in the player's reports (e.g. about home preparation, being at or away from the board, time pressure at certain moves, etc.) in order to exclude certain moves (reduce the elective bias) from the selection of data for the sample, the combined z-score from 208 moves was only 2.14 (negative / borderline).
- 4.7 In his defensive statements, Mr Fraiman denied ever using electronic devices or violating FIDE rules. He ascribes his success in chess to home preparation and a good memory. He denies having given inconsistent versions or that he stayed in the toilets for extended periods (from the chief arbiter's observations in the 9th round game, Mr Fraiman visited the toilets 9 times at an average of 2 - 3 minutes per time). Mr Fraiman further takes issue with Prof Regan's analysis and conclusions and the adequacy of the statistical model.
- 4.8 The IC report concludes that "(t)here is *prima facie* evidence that Mr Fraiman did violate the Anti-Cheating rules by not submitting the phone to the Arbiter upon request during the 10th round of the tournament. Having an electronic device during play is a violation of Art. 11.3.2 of the Laws of Chess as well as Art. 2.2.11 of FIDE Code

of Ethics. The IC has also reached comfortable satisfaction that Mr Fraiman violated Art. 2.2.5 of FIDE Code of Ethics, in that he at least attempted cheating. Accordingly, with reference to Art. 3.2 of the FIDE Code of Ethics, the IC recommends the **sanction of 1 year suspension...**"

5. The ETH **finds** the conclusion of the IC ambiguous and confusing. It would appear that the IC was not convinced that Mr Fraiman did in fact receive the benefit of electronic assistance (in which case the recommendation should have been for a verdict of cheating and a sanction of up to a 3-year suspension per the ACC Guidelines), but believed that he is guilty of *attempted* cheating merely because an electronic device was found in his possession during play. The sanction for being in possession of a mobile phone during play is a forfeit of the round which was imposed upon Mr Fraiman during the 10th round. In the view of the ETH, there are no conclusive evidence of any attempt at cheating in the sense of the player trying, but not succeeding, to cheat.
6. The ETH **draws attention** to the standard of proof required to show a player's guilt in a case of cheating, namely "*comfortable satisfaction*" which is said to fall between the civil standard of "*a balance of probabilities*" and the criminal law standard of "*beyond a reasonable doubt*". In sports law, in serious matters such as an alleged fraud, it has been held that the more serious the allegation, and its consequences, the higher the level of proof and closer to the criminal standard is required for a matter to be substantiated. Regarding cases of cheating at chess, and in particular cheating in the form of obtaining illicit computer assistance, these cases can be regarded as a *specie* of fraud attracting a higher level of proof.
7. In the present case, having regard to the observational evidence alone, the ETH **finds** that the player's conduct, albeit highly suspicious, does not support a conclusion that the only reasonable inference is that he in fact consulted his mobile phone in the toilets and benefited from such consultation in his games.

8. The ETH **notes** that this absence of sufficient proof could be attributed to some degree to the failure of the arbiters to take appropriate action regarding the control of all the players' mobile phones from the outset of the tournament, the failure to investigate the regular visits by Mr Fraiman to the toilets and other suspicious conduct in rounds 1 - 9 and the failure to subject Mr Fraiman's mobile phone to an inspection in round 10 - attention is drawn to articles 11.3.2, 11.3.3 and 12.9 of the FIDE Laws of Chess.
9. Regarding the statistical evidence in the present case, the ETH is not bound by the mere fact of a positive finding above the ACC's acceptable statistical threshold of 2.75 sigma (or 2.5 sigma if this is the new threshold as stated in the IC report). The ETH notes that the result of 2.86 sigma in the present case is only slightly above the threshold for a positive test and a far cry from the results of 4.3 and 4.5 obtained in similar cases adjudged by the ETH (Ethics cases 8/2015 and 2/2016).
10. Taking the observational and statistical evidence together, and albeit that the evidence may even suggest a case of cheating on a preponderance of probabilities, the ETH **is not comfortably satisfied** that the guilt of Mr Fraiman has been sufficiently proven. Mr Fraiman must be given the benefit of the doubt.
11. Consequently, the ETH **unanimously decides** that Mr Fraiman is not guilty of the alleged violation of art. 2.2.5 of the FIDE Code of Ethics and the case should therefore be **dismissed**.
12. The ETH **recommends** that a standard practice be adopted in all FIDE rated events that the players' mobile phones and other electronic devices be kept outside the playing area (see art. 11.3.2.1 of Laws of Chess).
13. The ETH **requests** the FIDE Secretariat to communicate this decision to Mr Dmitry Fraiman, the Russian Chess Federation, the FIDE Anti-Cheating Commission, the FIDE Arbiters Commission and to publish it on the FIDE website.

DATED ON THIS THE 29th DAY OF JUNE 2018

F P Strydom

CHAIRMAN

FIDE ETHICS COMMISSION