



FIDE ETHICS COMMISSION

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

Chairman: Mr. Francois Strydom
Members: Mr. Ion Serban Dobronauteanu
Mr. Rajesh Hari Joshi
Mr. Pedro Dominguez

during the meetings held in Batumi, Georgia on 28 and 30 September 2018 made the following -

DECISION

Case no. 5/2018 - Alleged electoral irregularity in regard to the Serbian Chess Federation relating to sponsorship and substitution of delegate

WHEREAS:

1. The ETH **notes** the complaints received from Deputy-President Mr. Georgios Makropoulos (“the Complainant”), dated 8 September 2018, directed against a number of federations and individuals concerning alleged violations of the FIDE Code of Ethics in relation to the upcoming elections.
2. The ETH **notes** the Procedural Ruling of 10 September 2018, issued by the Chairman of the ETH, in terms of which the complaint in relation to

the Serbian Chess Federation was bifurcated from the rest of the complaints, declared provisionally admissible against Mr Arkady Dvorkovich, Mr Dusan Cogoljevic and the Serbian Chess Federation (“the Respondents”) and registered as case no. 5/2018 as an expedited procedure.

3. The ETH **notes** the contents of the Respondents’ answering statements of 14 September 2018, the Complainant’s replying statement of 16 September 2018 and the Respondents’ replying statements of 19 September 2018.
4. The ETH **notes** the ETH Chair’s Procedural Ruling of 21 September 2018 to the effect that no further statements or supporting documents / evidence may be delivered in the case without the leave of the ETH and that the matter was referred to a public hearing to take place in Batumi on 28 September 2018.
5. The ETH **notes** the requests by Mr Makropoulos on 22 and 27 September 2018 respectively for the leave of the ETH to introduce further evidence and Mr Dvorkovich’s objections thereto.
6. The ETH **notes** the application by Mr Dvorkovich on 18 September 2018 that the decision on the merits of the case should be postponed until after the Batumi Congress and the ETH Chair’s ruling on 21 September 2018 that the application for a postponement stood over until the commencement of the public hearing on 28 September 2018;
7. The ETH **notes** the application by Mr Dvorkovich on 24 September 2018 that the ETH Chairman reconsider the provisional admissibility of the case in the light of Mr Dvorkovich’s preliminary point of a lack of ETH jurisdiction on the basis that Mr Dvorkovich, not being a player or official in FIDE, is not subject to the FIDE Code of Ethics and the ETH Chair’s subsequent ruling of 26 September 2018 to the effect that it was re-confirmed, as a provisional finding, that Mr Dvorkovich is subject to the Code of Ethics as a participant in a FIDE event, namely the Presidential elections forming part of the Congress, and that the ETH may exercise jurisdiction over him.

8. The ETH **notes** the application by Mr Dvorkovich on 26 September 2018 that Mr Makropoulos be denied direct participation in the hearing on the basis of the absence of a directly affected interest and that the matter is truly one between FIDE and the Respondents only.
9. The ETH **notes** the ETH Chair's ruling of 26 September 2018 that the new evidence sought to be introduced by Mr Makropoulos of screenshots of a text message was provisionally admitted, subject to the Complainant proving their authenticity and receipt from or on behalf of one of the Respondents.
10. The ETH **notes** the oral proceedings which took place at Batumi on 28 September 2018 from 10:45 until 19:15 during which Mr Makropoulos, Mr Dvorkovich and Mr Cogoljevic were present, assisted in the case of Mr Makropoulos and Mr Dvorkovich by legal representatives.
11. The ETH **notes** the earlier recusal of its member Mr. Willy Iclicki and its secretary Dr Elli Sperdokli from any participation in the discussion or decision of this matter.
12. The ETH **notes** the application by Mr Dvorkovich for the recusal of Mr Ion-Serban Dobronauteanu, but **decided** that the application stands to be rejected for a lack of merit.
13. The ETH **confirms** that a quorum is established by the presence and participation of four (4) of its voting members.
14. The ETH heard argument by the parties in relation to the application for a postponement of the proceedings and **decided** that (i) the new evidence sought to be introduced by Mr Makropoulos in relation to South Sudan and Hong Kong fall to be excluded from case no. 5/2018 and that (ii) the postponement sought by Mr Dvorkovich was denied.
15. The ETH heard argument by the parties in relation to the application for the exclusion of Mr Makropoulos from leading witnesses and cross-examining the witnesses of the Respondents and **decided** that the application stands to be rejected on the basis of Mr Makropoulos' direct interest.
16. The ETH considered the request by Mr Makropoulos that the evidence of one of his witnesses be heard *in camera* and the request on behalf of

Mr Dvorkovich that the evidence of all of the witnesses be heard *in camera* and **granted** the requests.

17. The ETH heard the evidence and cross-examination of the following witnesses: Mr Boris Kutin, Mr Miodrag Rakic (by telephone), Mr Goran Urosevic, Mr Rajai Al-Susi and Mr Dusan Cogoljevic.
18. The ETH heard the closing arguments of the parties and **reserved** its judgment until 30 September 2018.

NOW THEREFORE:

19. The ETH **rules** finally that the complaint is **admissible** on the basis that:
 - 19.1 Mr Makropoulos enjoys the necessary *locus standi* to submit and pursue the complaint as a directly affected party in his individual capacity as presidential candidate;
 - 19.2 The ETH has jurisdiction over Mr Dvorkovich, Mr Cogoljevic and the Serbian Chess Federation as parties subject to the FIDE Code of Ethics;
 - 19.3 The complaint discloses a *prima facie* case of misconduct requiring the Respondents to be put on their defence.
20. Upon due consideration of all the evidence in case 5/2018, written and oral, as well as the arguments of the parties, the ETH by majority vote **decides** that:
 - 20.1 The screenshot evidence is **declared admissible** (its authenticity having been conceded by the Respondents) and Mr Dvorkovich's contention of a complete absence of any relevance is rejected;
 - 20.2 **Mr Dvorkovich** is found **not guilty** on the complaint levelled against him under case no. 5/2018 for alleged violations of art. 2.1, 2.2.1, 2.2.2, 2.2.3 and 2.2.11 of the Code of Ethics on the basis of the absence of sufficient proof, at the level of the ETH's comfortable satisfaction, of an involvement by Mr Dvorkovich or his representatives in the substitution of the delegate for the Serbian Chess Federation and the conclusion of the sponsorship contract

between the Serbian Chess Federation and Mr Cogoljevic's educational institution;

20.3 **Mr Cogoljevic** and the **Serbian Chess Federation** are found **guilty** of a violation of art. 2.1 of the Code of Ethics (offer and acceptance of consideration with a view of influencing election into FIDE office) on the basis that the Serbian Chess Federation permitted Mr Cogoljevic's appointment as delegate and agreed to a casting of his vote in the FIDE elections at his discretion in exchange for the conclusion of the sponsorship contract between the Serbian Chess Federation and Mr Cogoljevic's educational institution;

20.4 **Mr Cogoljevic** and the **Serbian Chess Federation** are found **not guilty** of a violation of art. 2.2.1 of the Code of Ethics (fraudulence in the administration of the federation office), art. 2.2.2 (office bearers no longer inspiring confidence), art. 2.2.3 (failing to perform functions as official in impartial and responsible manner) and art. 2.2.11 (conduct prejudicial to FIDE's reputation), either because the requisites are not satisfied or that there is an overlap with the guilty verdict on art. 2.1;

20.5 **Mr Cogoljevic** is **sanctioned** in terms of art. 3.2 of the Code of Ethics with a temporary exclusion as delegate of the Serbian Chess Federation in FIDE and from any participation in FIDE meetings, in particular the General Assembly meeting and Presidential elections to take place in Batumi in the period 3 - 5 October 2018 and any assignment, re-assignment or receipt of proxies, for a period of 6 (six) months.

20.6 The **Serbian Chess Federation** is **sanctioned** in terms of art. 3.2 of the Code of Ethics with a temporary exclusion from membership as a FIDE national federation member (without affecting the rights of players, arbiters, trainers and clubs belonging to the Serbian Chess Federation from participating fully in sport activity) and any participation in in FIDE meetings, in particular the General Assembly meeting and Presidential elections to take place in

Batumi in the period 3 - 5 October 2018 and any assignment, re-assignment or receipt of proxies, for a period of 6 (six) months.

21. The ETH **requests** the FIDE Secretariat to communicate this decision to Mr. Georgios Makropoulos, Mr Arkady Dvorkovich, Mr Dusan Cogoljevic and the Serbian Chess Federation, and to publish it on the FIDE website.

DATED ON THIS THE 30th DAY OF SEPTEMBER 2018

F P Strydom

CHAIRMAN

FIDE ETHICS COMMISSION