



GENS UNA SUMUS

FÉDÉRATION INTERNATIONALE DES ÉCHECS

Recognized by the International Olympic Committee (1999)

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FIDE ETHICS COMMISSION

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

Chairman: Mr Francois Strydom (*by video-link*)
Members: Mr Ravindra Dongre
Ms Yolander Persaud
Mr Rajesh Hari Joshi
Ms Yuliya Levitan (non-voting)

during the meeting held in Abu Dhabi on 27th of February 2020, made the following-

DECISION

Case n. 2/2019: "Complaint by the NCF against Mr. Bomo Kigigha".

1. The ETH **confirms** that a quorum is established by the presence and participation of all four (4) of its voting members.
2. The ETH **notes** the subject-matter of case no. 2/2019 concerns the complaint by the Nigerian Chess Federation ("NCF" or 'the Complainant') against one of its players, Mr. Bomo Kigigha ("the Respondent") pursuant an incident at the 2018 Chess Olympiad in Batumi, Georgia where a number of memento chess sets and clocks allegedly went missing.

3. The ETH **notes** its previous decision in case no. 2/2019 taken in Lausanne at a meeting on 23 - 24 November 2019, and published on 23 December 2019, to the effect that:
 - 3.1 the sanction imposed by the NCF on Mr. Bomo Kigigha was nullified with immediate effect;
 - 3.2 the ETH assumed jurisdiction over the NCF's case against Mr. Bomo Kigigha and would conduct an enquiry de novo in regard to possible violations of the FIDE Code of Ethics by him.
4. The ETH **notes** the subsequent submissions:
 - 4.1 A statement and replies to ETH questions by Mr. Olelekan Adeyemi, on behalf of the NCF, submitted to the ETH on February 17 and 19, 2020;
 - 4.2 A statement and replies to ETH questions by Mr. Bomo Kikigha, submitted to the ETH on February 21 and 23, 2020.
 - 4.3 Witness statement by Mr. Olabisi Rabui, submitted to the ETH on February 23, 2020.
5. In addition, the ETH **notes** the salient facts of the matter, as summarised in its earlier decision in case no. 2/2019:
 - 5.1 During October 2018, the 43rd World Chess Olympiad took place in Batumi, Georgia ("the Batumi Olympiad"). The Respondent was a member of the Nigerian Open team at the Batumi Olympiad;
 - 5.2 On 15 October 2018 the Secretary General of the NCF wrote to the Respondent, alleging that that the Respondent had dishonestly received 14 chess boards and 14 chess clocks from the organisers of the Batumi Olympiad, ostensibly on behalf of the NCF, whereas the NCF had already received its allocation of souvenir packs to the knowledge of the Respondent. The immediate return of the chess equipment was demanded. On 19 October 2019 the NCF sent a reminder to the Respondent, but the chess equipment was not returned;

- 5.3 On 14 December 2018, the Respondent appeared in front of the NCF disciplinary committee on accusations that he had dishonestly received 14 chess boards and 14 chess clocks from the organisers of the Batumi Olympiad. The Respondent explained to the members of the disciplinary committee that he received 12 souvenir gift sets from the campaign office of one of the presidential candidates and stated that “every one of my teammates kept one each for themselves”;
- 5.4 On 22 June 2019, the NCF Board decided to ban the Respondent for a period of 5 years on charges of gross misconduct, insubordination and bringing the name of Nigerian chess into disrepute at the Batumi Olympiad (which decision was later set aside by the ETH in its earlier decision herein).
- 5.5 In the earlier proceedings before the ETH, the Respondent averred that he was banned without a fair hearing based upon false allegations against him. He asserted that no evidence or proof of him misappropriating the chess equipment was presented at the NCF disciplinary hearing.
- 5.6 The NCF, in its answering statements in the earlier proceedings, pointed out that the Respondent had admitted collecting the souvenir packs but had given at various times conflicting explanations as to what had happened to the packs. The NCF maintained that the Respondent was given plenty opportunities to return the souvenirs.
6. The ETH **notes** the present evidence and arguments of the NCF which, in essence, amount to the following:
- 6.1 The Respondent did not deny collecting the chess materials on behalf of the team, despite not authorized to do so.
- 6.2 In the submission of the NCF, the issue is not whether the Respondent collected the equipment in error or not. The problem is, after collecting the equipment and the attention of the NCF leadership was drawn to the collection of two sets of equipment, the Respondent was requested in Batumi to return the second set of packs several times, but he refused. The NCF questions why did the Respondent refuse to return the second set of materials after learning that the team had already collected souvenir sets for distribution? The Complainant alleges that this shows that the Respondent

collected the equipment intentionally and not in error and his actions must be interpreted as “wilful stealing”.

- 6.3 The Nigerian Male team Captain, Obinna Ogbonnaya, confirmed in his statement that he received a set of campaign souvenirs from the Captain of the Nigerian Female Chess team and distributed same to all members of the Nigerian contingent to the Olympiad. Later on learning that the Respondent had collected another set of souvenirs, the NCF President requested Ogbonnaya to instruct the Respondent to return the items to the organizers as keeping them could bring the image of their country Nigeria into disrepute. The Respondent failed to obey this instruction.
- 6.4 The NCF referred to IM Daniel Anwuli’s claim (see hereunder) that at least 10 of the packs of the second set were distributed amongst members of the Nigerian male and female teams. To clarify, the NCF President made enquiries of all the team members and received an admission by four team members (including Anwuli and IM Adu Oladapo) of receipt of a second set, whilst the others denied the allegation.
- 6.5 The ETH **notes** the social media posting (as supplied by the NCF) of IM Daniel Anwuli, a member of the NCF Olympiad Open team, to the following effect:
- 6.5.1 In Anwuli’s belief, the Respondent collected the gift sets, not out of selfishness, but because he thought the Nigerian delegates were busy and he decided to claim the team’s entitlements before it was too late, not knowing that others have already collected a set of souvenir packs for the Nigerian teams.
- 6.5.2 According to Anwuli’s knowledge, five players from the male team and five players from the female team each received a gift pack from the Respondent. Anwuli was unaware of what happened to the other two packs.
- 6.5.3 IM Adu Oladapo is part of the NCF board and got this extra gift pack. Anwuli expresses the opinion that if a member of the board banning a player is himself directly or indirectly involved in the incident that caused the player to be banned, then there is a problem.

6.5.4 In Anwuli's belief, the Respondent did not play open cards in front of the NCF disciplinary panel. The Respondent probably claimed that he left everything in Batumi in an attempt to cover-up his own fault and that of the entire team.

7. The ETH **notes** the present evidence and arguments of the Respondent which, in essence, amount to the following:

7.1 In his statement, the Respondent admits to receiving 12 (twelve) souvenir packs of chess boards and clocks on behalf of the Nigeria team.

7.2 The Respondent states that he had no prior knowledge that a set of the souvenirs for the NCF had already been collected and distributed, and claims that he never received his pack from this set. The respondent advances the following defences:

7.2.1 The NCF's statements suffer from various contradictions about what the Respondent is said to have done and what happened to the second set of souvenir packs;

7.2.2 It has not been proven, nor is there a witness statement from the distributor, that the distributor itself ever complained about the fact that the NCF had received two sets of souvenir packs or insisted upon the return of the duplicate set;

7.2.3 The NCF has failed to quote a section of the Nigerian Sports Federations Code of Governance, which supports that a player is expected to return the gift items that were given freely by the organizer of an international event;

7.2.4 The souvenirs the Respondent received were "distributed to each of his teammates", including the players' representative in the NCF Board; the Respondent "shared them evenly to all my teammates in good faith";

7.2.5 However, in answering follow-up questions by the ETH, the Respondent stated that the souvenirs from the second set were distributed in Batumi, by collection from his room, to five (5) members of the male team (including himself, the players' representative: IM

Oladapo Adu and IM Daniel Anwuli) and three (3) members of the female team. The remaining four (4) packs he left in Batumi;

7.2.6 According to a supporting statement from Olabisi Rabi, he confirmed that he was present and witnessed some sets of souvenir packs been left by the Respondent at the exit of the contingent hotel;

7.2.7 The instructions by the NCF to return the sets were not clearly spelled out, but rather conveyed by the male team captain telephonically in Batumi, on which occasion the Respondent pointed out the difficulties to comply with the request and which the Respondent believed were accepted by the captain;

7.2.8 The Respondent recalls having pointed out specifically the cost implication of making a 45 minutes journey to and back from the campaign office, in addition to the problem with the weight of those boxes;

7.2.9 The allegation that the Respondent had been given an unequivocal instruction by the NCF is belied by the fact that the players' representative on the NCF Board himself collected his pack from the set received by the Respondent.

8. The ETH **confirms** that, according to Chapter 8 of the FIDE Statutes, in cases where the ETH finds that the national federation has failed to prosecute disciplinary cases in compliance with fundamental justice, the ETH shall be entitled to assume jurisdiction itself over the national case and conduct an enquiry *de novo* in regard to the alleged violation(s). The ETH **refers** to ETH case no. 4/2015 as a precedent.

9. Upon due consideration of the documents submitted and arguments advanced by the parties, the ETH **finds** the following:

9.1 There was no intention to steal or misappropriate the relevant chess equipment on the part of the Respondent as he made an honest mistake when he picked up the second set of the souvenir packs on behalf of the NCF.

- 9.2 However, the Respondent was clearly in the wrong for not taking every step to ensure that the second set of the souvenir packs were returned to the distributors upon being instructed to do so by his team captain or merely acting in his own good conscience.
- 9.3 The Respondent's failure to return the duplicate souvenir sets caused his federation to appear in an unjustifiable unfavourable light and in this way damaged its reputation in light of, *inter alia*, the following:
- 9.3.1 The souvenir packs were given to the Respondent for the benefit of the NCF and, as such, were not the Respondent's to dispose of. Whether or not the organizers made a request for return of the duplicate souvenir packs is irrelevant to the Respondent's duty to follow the Complainant's directions regarding the return of the souvenir packs;
- 9.3.2 As the ETH assumed jurisdiction and is adjudicating the matter *de novo*, the FIDE Code of Ethics applies, not the Code of Governance of the Nigerian Sports Federations. However, as outlined in 9.3.1 *supra*, the NCF had full legal and moral right to expect and instruct the return of the duplicate set of the souvenir packs;
- 9.3.3 In his statement to the ETH, the Respondent admits that he received the request to return the duplicative sets. He further admits that he argued against the return by claiming it would inconvenience him to make the 45 minutes trip with the heavy load. The ETH rejects the Respondent's claim that the male team captain "only chatted with him" and that the Respondent believed that the captain accepted his objections, as unpersuasive.
- 9.3.4 The veracity of the Respondent's version is not accepted by the ETH *inter alia* in the light of the fact that the Respondent failed to make a full disclosure in his statements to the ETH and sought to mislead the ETH to believe that each one of his teammates kept one pack for themselves (see paragraphs 5.3 and 7.2.4 above), whereas his latest version is that a number of packs were left at the hotel Batumi (see paragraphs 7.2.5 and 7.2.6 above),.

9.3.5 The Respondent was clearly opportunistic in taking the view that because the souvenir packs were gifts, they could be retained regardless of the intention of the distributors, and reckless by leaving a number of the souvenir packs in the hotel lobby upon his departure in disregard of whether they would end up in the hands of the rightful owners.

9.3.6 The Respondent clearly took an indifferent attitude to what the distributors of the packs might have believed of the NCF in the light of the fact that two sets of the souvenir packs had been collected on behalf of the NCF and the duplicate set not returned.

10. Upon due consideration of the arguments advanced by the parties, the ETH by unanimity **decides** that:

10.1 Mr.Bomo Kigigha is found guilty of a violation of art 2.2.10 of the FIDE Code of Ethics (occurrences which cause the game of chess, FIDE or its federations to appear in an unjustifiable unfavorable light and in this way damage its reputation);

10.2 Mr.Bomo Kigigha is sanctioned as follows:

A world wide ban of 12 months from participating as a player in any FIDE, ACC or NCF rated chess competition, of which half of the above period is suspended for a period of 2 years (“the probationary period”) from the date of ETH’s decision, on condition that Mr.Kigigha does not commit any act causing harm to the reputation of the game of chess, FIDE or any of its federations on any date within the probationary period. Credit is given to Mr. Kigigha for the time of suspension served by him under the NCF ban from 22 June until 23 Dec 2019 (a period of 6 months), with the result that the effective portion of the ETH sanction has already been carried out and Mr.Kigigha is now free to exercise his rights as a player in full, subject to only to the probation period of two years referred to hereinbefore.

11. The ETH **requests** the FIDE Secretariat to communicate forthwith the decision to the Mr. Bomo Kigigha, the Nigerian Chess Federation, as well as the African Chess Confederation, and to publish in due course the decision on the FIDE website.

DATED ON THIS THE 23rd DAY OF APRIL 2020.

F P Strydom

CHAIRMAN
FIDE ETHICS COMMISSION