



GENS UNA SUMUS

FÉDÉRATION INTERNATIONALE DES ÉCHECS

Recognized by the International Olympic Committee (1999)

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FIDE ETHICS & DISCIPLINARY COMMISSION

The First Instance Chamber of the Ethics & Disciplinary Commission (hereafter called “the EDC Chamber”), sitting in the following composition -

Chairperson: Mr David Hater

Members: Ms Yolander Persaud
Mr Ravindra Dongre

during an exchange of correspondence as well as teleconferences through the period 8th January 29th March, 2021, made the following decision -

DECISION

Case n. 3/2020: “Alleged discrimination in Sudanese qualifying tournaments for 2020 FIDE Online Olympiad.”

1. The EDC Chamber **notes** its establishment by the EDC Chairman on 20 October 2020.
2. The EDC Chamber **notes** the complaint submitted by Mr Obay Izzadin. The complaint also included a witness statement from Mr. Monadil Eltahir.
3. The EDC Chamber **notes** that the Respondent, Mr. Omer Deab, requested an extension in order to prepare a response to the Notice of Complaint. The response was received on 26th November 2020 and included witness statements from team captain Mohammed Awad, Mr. Mohamed Abdelazeez, Mr. Mohammed Faisal, Mr. Ahmed Hassan, Ms. Elizabeth Emile, and Mr. Mahir Musa.
4. The EDC Chamber **notes** that Ethics Case number 1/2019 was filed by Mr. Obay Izzadin against Mr. Omar Deab and others. This case resulted in a sanction against Mr. Deab of a fine of \$1,000.
5. The EDC Chamber **notes** the subject-matter of the complaint and defence(s):

- 5.1 The Respondent is the President of the Sudan Chess Federation.
- 5.2 Sudan was afforded the right to enter a team in the 2020 FIDE online Olympiad. The method of selecting the team was left to the national federation of a Country.
- 5.3 Mr. Obay Izzadin won the qualification tournament to determine the Sudan National Team and was selected to represent Sudan in the 2020 FIDE Online Olympiad.
- 5.4 Subsequent to the qualification tournament, Sudan's top player IM Omar Al-Barqdar agreed to play for the Sudan National Team.
- 5.5 The Sudan National Federation determined that IM Al-Barqdar must be allowed to play on the team without having to qualify.
- 5.6 A subsequent qualification tournament was held and to determine which player who had previously qualified would be removed to make room for IM Al-Barqdar on the team.
- 5.7 Subsequent to or simultaneously with the second qualification tournament Mr. Obay Izzadin was removed from the Sudan National Team which would play in the 2020 FIDE Online Olympiad.
- 5.8 Mr. Obay Izzadin alleges that his was removal was discriminatory, was an abuse of power by the President of the Sudan Chess Federation and was in retaliation for having filed the previous Ethics Complaint (Case # 1/2019).
- 5.9 In his response, Mr. Omar Deab is not completely clear in the reasons Mr. Izzadin was removed from the team. He stated that the decision was a "technical decision" (i.e. refusal or inability to comply with the procedures of playing online) made by the chairman of the Central Training Committee – Mr. Rahmatullah Babiker. He also alleged bad behaviour on the part of Mr. Obay Izzadin.
6. Upon due consideration of the documents submitted, the EDC Chamber, by unanimity of its members, **finds** that:
 - 6.1 The qualifying tournament and the FIDE Online Olympiad were international events and the EDC has jurisdiction to investigate a violation of the Code of Ethics, which occurred at the event.
 - 6.2 In the present case, the panel finds the Respondent's guilty of violating Art 2.2.3 (Organizers, tournament directors, arbiters or other officials who fail to perform their functions in an impartial and responsible manner) and Art 2.2.2 (Office bearers who through their behaviour no longer inspire the necessary confidence or have in other ways become unworthy of trust).
 - 6.3 It is not in dispute that Mr. Obay Izzadin won the first qualifying tournament and was selected for the Sudan National Team "in principle."
 - 6.4 It is also not in dispute that Sudan wanted to add a player (IM Omar Al-Barqsar) to the existing team.
 - 6.5 The selection criteria for the Sudan National Team as well as any procedures for additions or deletions from the team were not sufficiently clear. The lack of clearly established procedures is a shortcoming of the Sudan Chess Federation. As such,

any decisions made may appear to be arbitrary and capricious and it can be difficult to determine motivations behind these decisions.

- 6.6 Once Mr. Obay Izzadin won the first qualification tournament and was selected “in principle” for the Sudan National Team, any decision to remove him from the team should have been justified and Mr. Izzadin should have been given due process to challenge his removal.
- 6.7 The Sudan Chess Federation did not provide a clear and compelling non-discriminatory reason for Mr. Izzadin’s removal and there was no evidence of any due process being afforded to Mr. Izzadin. Sudan made claims that the reasons for Mr. Izzadin’s removal were objective, but the fact that these claims were not sufficiently supported and no rules and procedures governing the competition were submitted or in place at the time leads to the conclusion that the defences submitted by Sudan Chess Federation and Mr. Deab are inadequate. The Sudan Chess Federation removed Mr. Izzadin, but was unable to show due process and procedures in place to govern such a decision, which supports that the matter is found to be arbitrary and capricious and in violation of the FIDE Code of Ethics.
- 6.8 Regarding whether the decision was made by others in the Sudan Chess Federation or whether Mr. Deab was involved in the decision, it is clear from WhatsApp transcripts provided by the complainant that Mr. Deab was directly involved. That fact coupled with the fact that Mr. Deab holds the office of President of Sudan Chess Federation is sufficient to establish a finding of guilty against Mr. Deab rather than others or organizational guilt of the Sudan Chess Federation.
- 6.9 Mr. Deab claims the technical decision was made by Mr. Babiker. However, in his report Team Captain Mr. Awad claims the decision was made by Mr. Omer Abdullah in consultation with Mr. Babiker. It is also unclear whether Mr. Izzadin was removed for a “technical violation”. There is not sufficient detail for the panel to be absolutely clear on the circumstances surrounding Mr. Izzadin’s removal. However, it is completely clear that Mr. Deab was involved in the decision and that due process and adherence to established procedures was lacking.
- 6.10 The team captain’s report gave some detail on the first qualification event, but the detail of the second qualification event, especially sufficient detail regarding Mr. Izzadin’s removal, were absent from the report.
- 6.11 The lack of established procedures for team selection and modifications to the Team, the lack of sufficient rationale for removal from the Sudan National Team as well as a lack of due process were all failures of the Sudan National Federation. These failures may be necessary but not sufficient to conclude an ethics violation in isolation. A respondent would have to be presumed innocent and an alternate explanation that these failures are due to poor administration rather than ethical violations would normally be presumed. Because the Sudan Chess Federation cannot

show adherence to objective rules and procedures, the Panel finds that they acted in an arbitrary and manner.

- 6.12 The Panel is not able to conclude by comfortable satisfaction that the evidence shows that Mr. Deab retaliated against Mr. Izzadin. It is possible and the Panel believes it is likely that he may very well have retaliated against Mr. Izzadin. If the standard of proof was only a preponderance of the evidence, a charge of retaliation may have been able to be sustained. However, the standard of proof is comfortable satisfaction and this burden has not been met. Therefore, Mr. Deab is found **not guilty** of discrimination or retaliation against Mr. Izzadin, but is found guilty of failure to follow due process and failure to promulgate and adhere to objective procedures. While all the panel members agree that discrimination might have occurred, at least some members think discrimination was clear and that the behaviour of Mr. Deab versus Mr. Izzadin was a “witch hunt.” However, this view was not unanimous and therefore the panel decided to accept the lesser findings that are unanimous.
- 6.13 Normally a violation of acting in an arbitrary or capricious manner would be a lower level violation of the Code of Ethics and would only merit a minor sanction. However, in this case, there is a coexisting factor of previous conviction of a similar offense. Against the backdrop of case # 1/2019, a reading of the tenor of all the parties’ testimonies clearly showed that decisions appeared to be made based on personal feelings rather than objective criteria. This makes the failures arbitrary and capricious and a violation of the Code of Ethics, not just a failure of administration.
7. Accordingly, taking into account the Respondent’s guilt in case # 1/2019 the EDC **unanimously decides** as follows:
- 7.1 Mr. Omar Deab is **found guilty** of a violation of Art. 2.2.2 and 2.2.3 of the Code of Ethics;
- 7.2 Mr Omar Deab is **sanctioned** to a worldwide ban of 12 months from participating in any FIDE activities. The ban will commence once the deadline for appeals has passed and any potential appeal is adjudicated;
- 7.3 Six months of the 12-month ban are suspended provided that there are no further violations of the Code of Ethics by Mr Omar Deab for a period of two years.
8. The Respondent is **advised** that this decision may be appealed to the Appeal Chamber of the EDC by giving written notice of such appeal to the FIDE Secretariat within 21 days from the date upon which this decision is received by the Respondent. The notice of appeal must clearly state all the grounds for the appeal. Failing the due exercise of this right of appeal, the EDC Chamber’s decision will become final.
9. The EDC **requests** the FIDE Secretariat to communicate forthwith the decision to the FPL, the Respondent, the Sudan Chess Federation, and to publish in due course the decision on the FIDE website.

DATED ON THIS 29th DAY OF MARCH, 2021.

David Hater

First Instance Chamber Chairperson

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