



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. Khaled Arfa

Members: Mrs. Yolander Persaud-Sammy
Mr. Johan Sigeman

Following an exchange of correspondence and online meetings through the period 14 June 2021 – 20 July, 2022, came to the following decision -

DECISION

Case n. 08/2021: “Alleged unfair disciplinary proceedings conducted by the Turkish Chess Federation.”

1. The EDC Chamber **notes** its establishment by the EDC Chairman on 14 June 2021.
2. The EDC Chamber notes that on 14 June, 2021 the FIDE Ethics and Disciplinary Commission (EDC) received a complaint from Mr. Ali Ozen & Mrs. Eda Yalcinkaya Ozen (the complainants represented by Mr. Hicret Genc attorney at law) about:
 - The alleged violation of the FIDE Charter against the Turkish Chess Federation –TCF (the first respondent) for having taken disciplinary action and imposed a 6 month ban on Mr. Ozen in violation of fundamental principles of fairness and justice and to possibly set aside the sanction imposed on Mr. Ozen, in terms pursuant to art. 26.9 (the national ethics

process has operated in a manner that in itself is a breach of the FIDE Ethics and Disciplinary Code or of the fundamental principles of law and fair trial); and

- The potential of violating FIDE Code of Ethics by Mrs. Gulkiz Tulay (the second respondent) under art. 2.2.2 of the FIDE Code of Ethics (Office bearers who through their behaviour no longer inspire the necessary confidence or have in other ways become unworthy of trust.) and/or art. 2.2.3 (Organizers, tournament directors, arbiters or other officials who fail to perform their functions in an impartial and responsible manner.) and/or art 2.2.10 (occurrences which cause the game of chess, FIDE or its federations to appear in an unjustifiable unfavourable light and in this way damage its reputation) and to impose a sanction in accordance with art 3 of the Code of Ethics for having abused, as an official of the TCF, her office as President of the TCF in instigating and being party to the taking of unlawful disciplinary action against the complainants.
3. The EDC Chamber notes that the Respondents have been given the opportunity to respond to the complaint and received their written answers dated 06 September 2021 and 15 April 2022.
 4. The EDC Chamber notes the written reply of the complainants submitted by their representative dated 31 March 2022.
 5. The EDC Chamber notes that pursuant to paragraph 2 "in fine" of the EDC Procedural Rules (2007) the complainants have been directed and notified on 16, March 2022 to translate and re-submit all documents filed in Turkish language together with a certified translation in the English language (the language of the procedure) and that this last direction has never been executed.

ADMISSIBILITY AND JURISDICTION

6. Upon due consideration of the documents, arguments and submissions by the parties, the EDC Chamber, by **unanimity** of its members, finds that:
 - 6.1. The purpose of the present proceedings is to consider a possible “*unfair disciplinary proceedings conducted by the Turkish Chess Federation.*”

- 6.2. The EDC Chamber reiterates that FIDE member federations have principal authority over chess activities in their own countries, including the taking of disciplinary measures in national cases. The EDC shall exercise jurisdiction over national cases only in exceptional circumstances, namely in instances where misconduct has international implications and is not judged at national level, or instances where the national federation fails to prosecute disciplinary cases in compliance with fundamental justice.
 - 6.3. The EDC Chamber draws attention to art. 3.5 of the new Ethics & Disciplinary Code (effective 1 April 2022) which makes it clear that the proceedings of the EDC shall be conducted in English. Read together with the EDC Procedural Rules, this means that the EDC is entitled to disregard any document filed in another language than English.
 - 6.4. Upon the inexistence of a translation in the language of the procedure **of all** the documents submitted by the complainants, the EDC Chamber holds that there does not exist the necessary factual basis to assume jurisdiction in the present matter which concerns a national case in which none of the exceptional grounds for the EDC's intervention has been shown to be present to the comfortable satisfaction of the Panel.
 - 6.5. A decision to reject the complaints for the reasons stated is in line with the EDC's approach in previous cases; see for example Case no. 2/2017 Chess Federation of Canada / Zurab Azmaiparashvili where the complaint was rejected for want of a *prima facie* case due a lack of reliable evidence.
7. Accordingly, the EDC panel unanimously decides as follows:
 - 7.1. The complaint of Mr.Ali Ozen & Mrs. Eda Yalcinkaya Ozen **is not admissible**; and
 - 7.2. Case no. 08/2021 **is dismissed**.
 8. The complainants Mr.Ali Ozen & Mrs. Eda Yalcinkaya Ozen are 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. 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 Chamber requests the FIDE Secretariat to communicate forthwith the decision to the complainants, the Turkish Chess Federation and to Mrs. Gulkiz Tulay and to publish in due course the decision on the FIDE website.

DATED ON THIS 20th DAY OF July, 2022.

Khaled Arfa

First Instance Chamber Chairperson

FIDE ETHICS & DISCIPLINARY COMMISSION