



GENS UNA SUMUS

FÉDÉRATION INTERNATIONALE DES ÉCHECS

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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 Johan Sigeman

Members: Mr Khaled Arfa
Mr Pedro Dominguez

during an exchange of correspondence and online meetings during the period 12 September – 24 October 2022, made the following

DECISION

Case no. 5/2022: “Alleged unsporting behavior in the USVI Spring Festival”

1. The EDC Chamber **notes** its establishment by the EDC Chairman on 12 September 2022.
2. The EDC Chamber **notes** that on 31 August, 2022 the FIDE Ethics and Disciplinary Commission (EDC) received from the Investigatory Panel of the Fair Play Commission (FPL) a report of a matter concerning alleged violation of the FIDE Ethics & Disciplinary Code (“the Ethics Code”) relating to actions during the USVI Spring Festival 2022 by Ms Margaret Murphy (FIDE ID 6800246) and Mr Anthony Mongiello (FIDE ID 6800173) (“the Respondents”), see the Ethics Code, **art 6.10** (Integrity; actions likely to adversely affect the reputation of FIDE or the sport of chess generally etc.) alternatively **art 6.21** (Fair Play; activities that might improperly affect the outcome of Chess Competitions etc.).
3. The EDC Chamber **notes** that the Respondents have been given the opportunity to respond to the allegations in the report and both have submitted defensive statements.
4. The EDC Chamber **notes** the contents of the following documents and e-mails received as part of the case file: the report mentioned above, and defensive statements by the Respondent Murphy, dated 27 September 2022 and defensive statement by Respondent Mongiello, dated 3 October 2022.

5. The EDC Chamber **notes** the subject-matter of the complaint and defence:
 - 5.1 The FPL mentions that the US Virgin Islands Chess Federation (USVICF) applied for and was granted by the FIDE Planning and Development Commission a grant of USD 5,000 and points out that Ms Margaret Murphy was the tournament director of the event, the USVI Spring Festival.
 - 5.2 In the report from FPL to the EDC, it is stated that at least four of the games played in the 12-player event were “absurd” and falls within the notion of “assumed match-fixing”. Two of said games were played by the Respondents each.
 - 5.3 The games were (i) Malachi Monday vs Anthony Mongiello, (ii) Michaela Lynn Cowart vs Anthony Mongiello, (iii) Margaret Murphy vs Akelam Romain and (iv) Margaret Murphy vs Edwin G Delgado. All four games ended in draws.
 - 5.4 Margaret Murphy has submitted a defence statement wherein she argues that the complaint against her is not admissible as the original complaint was lodged by Nigel Short as an informal email and that Mr Short has a personal interest in her being sanctioned. As for the material substance of the report from the FPL, Margaret Murphy denies any wrongdoing in her games. In the game against Romain, she was winning but was also in time trouble and feared that she would not manage to make the time control. In the game against Delgado, she was losing but saw that her opponent looked tired and therefore she offered a draw, which was accepted.
 - 5.5 Anthony Mongiello has submitted a defence statement wherein he also denies any wrongdoing in his games. He explains that he has developed serious chronic health issues and plays much less than earlier. His playing abilities have been negatively affected by his health problems. As for the game against Mr Monday, Mongiello points out that his opponent was only ten years old and playing in his first tournament. In the second game, against Ms Cowart, he was playing a young female schoolteacher, also playing her first tournament.
 - 5.6 Both Respondents have stated that there were no pre-arranged draws in the four games.
6. Upon due consideration, the EDC Chamber, by unanimity of its members, **finds** regarding the admissibility of the complaint that:
 - 6.1 The alleged breach of the Ethics Code is a referral by a FIDE organ regarding a matter concerning FIDE’s interests in general;
 - 6.2 The Respondents are players registered in the FIDE database as well as office bearers of a national federation and as such part of the FIDE Family, over which the EDC exercises jurisdiction;
 - 6.3 The statements *prima facie* has the potential to constitute a violation of conduct prohibited in article 6.10 or, alternatively, 6.21 of the Ethics Code and;
 - 6.4 The potential transgression took place in the international sphere as there were foreign players participating in the event, see article 5.1 d) read with 4.7 a);

- 6.5 The ground for inadmissibility of a complaint in article 5.3 d) of the Ethics Code (personal affair) is not applicable in this case as it was referred to the EDC by FPL; Mr Nigel Short was not disqualified from bringing to the attention of the FPL a case concerning potential match-fixing as the games in question may appear *prima facie* suspicious and in need of an explanation.
- 6.6 The EDC Chamber finds therefore that it has jurisdiction to investigate a violation of the Ethics Code.
7. Upon due consideration, the EDC Chamber, by unanimity of its members, **observes and finds** regarding the issue of the Respondents' guilt as follows:
- 7.1 The allegations towards the Respondents are related to “match-fixing” or “assumed match-fixing” or “manipulation of chess competition”.
- 7.2 Article 16.13 of the Ethics Code states that “FIDE and all competent organs shall have the burden of establishing that a cheating offence has occurred. The standard of proof shall be to the comfortable satisfaction of the relevant EDC Chamber bearing in mind the seriousness of the alleged offence. This standard of proof in all cases “is greater than a mere balance of probability but less than proof beyond a reasonable doubt”.
- 7.3 Article 16.16 in the Ethics Code sets a presumption of match-fixing under certain circumstances and places an onus on the Respondent(s) to rebut the presumption, if there is a reasonable belief on the part of FPL that the competition did not take place in a bona fide and regular manner.
- 7.4 Article 6.10 in the Ethics Code is aimed at preventing actions likely to adversely affect the reputation of FIDE or the sport of chess generally etc.
- 7.5 Article 6.21 in the Ethics Code forbids activities that might improperly affect the outcome of Chess Competitions, including without limitation, acceptance and offering of benefits.
- 7.6 The USVI Spring Festival was not a strong event. Half of the players were unrated and some of them were beginners. The performance of these players in the event was generally quite poor.
- 7.7 The USVI Spring Festival received a grant from FIDE Planning and Development Commission. One of the objectives was to give an opportunity for unrated players to obtain a FIDE rating.
- 7.8 The EDC Chamber notes that there is an unwritten rule in all sports, including chess, that participants in competitions shall try to do his/her best, among other things avoiding deliberate underperformance.
- 7.9 There are exceptions to the rule described in 7.8, for example in cases of friendly events or events that are organised to promote or otherwise popularize the sport.
- 7.10 The fact that the USVI Spring Festival was a FIDE rated event, and supported through a grant from FIDE, described in 7.7 above, made it a regular chess competition, where the participants could be expected to do their best. The fact that half of the participants were unrated does not change this.

The Respondent Margaret Murphy

- 7.11 Regarding both games played by Margaret Murphy, highlighted by the FPL, the Respondent has put forward explanations (time-pressure and tiredness of her opponent) that the EDC Chamber finds sufficiently reasonable and therefore acceptable. Ms. Murphy is found to have successfully rebutted the presumption of match-fixing in article 16.16 of the Code. The EDC Chamber cannot find that she has committed a breach of the Ethics Code.

The Respondent Anthony Mongiello

- 7.12 The explanations given by Respondent Antony Mongiello are focusing more or less solely on the lack of experience of his two opponents. The game against Monday was bordering on the absurd and the final position against Ms Cowart was obviously also clearly won for the Respondent. The EDC Chamber draws the conclusion that Mr. Mongiello did not want to win these games and that he therefore preferred to concede draws, despite totally superior positions. Both games are, in the opinion of the EDC Chamber, a clear indication of said frame of mind.
- 7.13 Even if the EDC Chamber can understand that more experienced players may want to encourage newcomers to the game in various ways, for example by allowing the newcomer to win or make a draw, violation of the fundamental principle described in 7.8 above, a FIDE rated international event is not the right forum for such encouragement.
- 7.14 The EDC Chamber finds that Mr. Mongiello has not been able to rebut the presumption of match-fixing in the two games mentioned above.
- 7.15 The EDC Chamber finds that Mr. Mongiello has breached the Ethics Code on two occasions in the USVI Spring Festival.
- 7.16 Article 6.10 is a more general rule, aiming to protect the overall reputation of FIDE and the sport of chess, and therefore not applicable in this case. Article 6.21 (breach of principles of fair play; improperly affecting the outcome of a chess competition) is more to the point and the EDC Chamber finds that Mr Mongiello has breached said rule.

Appropriate sanction

8. Upon due consideration, the EDC Chamber, by unanimity of its members, **finds** regarding the matter of an appropriate sanction that:
- 8.1 In determining the sanction, the EDC Chamber must take into consideration all relevant aspects of the case.
- 8.2 The Respondent Mongiello is taken as first offender.
- 8.3 The Respondent Mongiello is Treasurer of the USVICF. He has committed the offence in his capacity as a player and not as an official but his elevated status in the federation is nevertheless an aggravating factor.
- 8.4 There seem to be no remorse on the part of the Respondent Mongiello.

- 8.5 The breach of the Ethics Code has in this case not led to any serious consequences. Even if the USVI Spring Festival was a FIDE rated tournament, it was mainly organised in order to provide encouragement for inexperienced players to obtain rating and to be part of the FIDE Family. The actions of Mr. Mongiello must be seen in this light.
- 8.6 Taking the above into consideration, the EDC Chamber finds that a warning is an appropriate sanction in this case.
9. Accordingly, and taking into account all of the above, the EDC Chamber **unanimously decides** as follows:
- 9.1 The Respondent Margaret Murphy is **not guilty** of a violation of the Ethics Code.
- 9.2 The Respondent Anthony Mongiello is found guilty of breach of article 6.21 of the Ethics Code.
- 9.3 Anthony Mongiello is **sanctioned** to a warning, taking effect from the date of this decision.
10. The Respondent Anthony Mongiello is referred to Chapter 7 of the new EDC Procedural Rules and **advised** that this decision may be appealed to the EDC Appeal Chamber by giving written notice of such appeal to the EDC Chairman (ethics@fide.com) 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. An appeal lodgment fee of 150 EUROS must at the same time be paid to the FIDE Financial Department. Failing the due exercise of this right of appeal, the EDC Chamber's decision will become final.
11. The EDC Chamber **requests** the FIDE Secretariat to communicate forthwith the decision to the Respondents, the FPL and the USVI Chess Federation and to publish in due course the decision on the FIDE website.

DATED ON THIS 24th of October 2022

Johan Sigeman

CHAMBER CHAIRMAN
FIDE ETHICS & DISCIPLINARY COMMISSION

