



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. David Hater

Members: Mr. Johan Sigeman
Mr. Ravindra Dongre

during an exchange of correspondence and online meetings during the period 25th October 2022– 1 December 2022, made the following -

DECISION

Case no. 1/2022: "Alleged match-fixing at the 2018 Narcis tournaments organized in Serbia".

1. The EDC Chamber **notes** its establishment by the EDC Chairman on 28th February 2022.
2. The EDC Chamber **notes** that on the 31st January 2022 the FIDE Ethics and Disciplinary Commission (EDC) received a Report from the Investigatory Panel (“IP”) of the Fair Play Commission (“FPL”), concerning alleged match fixing by Respondents FM Bojan P. Jovanovic (player) and Mr. Stanko Jovic (organizer) at the 2018 Narcis tournaments, held in Divcibare, Serbia during September and October 2018, in violation of the FIDE Ethics Code, more particularly *Article 2.2.5* of the Code relating to cheating.
3. The EDC Chamber **notes** that the Respondents were given the opportunity to respond to the complaint by way of notice dated 11 March 2022. Respondent FM Jovanovic responded through his attorney Mr. Rastko Svičević. Despite repeated attempts to obtain a response from Mr. Jovic, he did not respond to the EDC Chamber’s notice.
4. The EDC Chamber **notes** the contents of the following documents received as part of the case file: the Report of the FPL IP (31st January 2022) together with statements furnished by both Respondents in response to enquiries from the IP, Notice to Respondents of Receipt of Complaint sent by the EDC Chamber (11th March 2022), the e-mail enquiry of attorney Mr. Rastko Svicevic (16 March 2022), the Defence statement of Bojan Jovanovic submitted by attorney Mr. Rastko Svicevic (25 March 2022), the letter sent

by the EDC Chamber to attorney Mr. Rastko Svcevic (5 September 2022) and Mr. Rastko Svcevic's letter of reply (19 September 2022).

5. The EDC Chamber **notes** the subject-matter of the Report submitted:
 - 5.1 The IP of the Fair Play Commission issued a Report on an investigation after an anonymous complaint was sent to FIDE Director General GM Emil Sutovsky. The complainant wished to remain anonymous but is known by the FPL, but not by the EDC Chamber.
 - 5.2 The IP consisted of GM Aleksandar Colovic (MKD), IA Kristjan Eliasson (ISL) and IA Klaus Deventer (GER - chair).
 - 5.3 The IP concluded that FM Jovanovic violated the Ethics Code ("the Code"), through match-fixing in two tournaments of the "Narcis" tournament series in Divcibare in September and October 2018. They further concluded that Mr. Jovic violated the Code by organizing the "Narcis" tournament series in Divcibare in September and October 2018 for the purpose of enabling selected participants to achieve player norms through match-fixing. The FPL recommended Mr. Jovanovic be banned for 4 years, his rating reset to 2270 and all norms achieved during 2018, 2019, and 2020 be annulled. For Mr. Jovic, FPL recommended a prohibition to organize FIDE tournaments for 5 years.
 - 5.4 The FPL notes that there is strong statistical evidence that FM Jovanovic is guilty of match fixing. Specifically, FM Jovanovic significantly overperformed his rating in these events, but in no others. These are also questions as to how these tournaments were organized in terms of invitations offered, prize money offered etc. These questions seem to have not been satisfactorily answered.
 - 5.5 However, FPL acknowledges that they *"could find no direct evidence that Mr. Jovanovic through a pre-match agreement achieved the IM and GM norms in question through a pre-match agreement with his opponents (match fixing). There are no witnesses who would have been willing to testify to this and we have not found any corresponding documents."* Additionally, FPL notes that during its investigation, they *"prepared a list of questions and asked all the organizers and arbiters of the tournaments in which Mr. Jovanovic has scored his norms to comment. Unfortunately, the answers were not very helpful."*
 - 5.6 In his response (submitted through attorney Svcevic), FM Jovanovic offers several defences. These defences can be divided into four main categories: 1) the current Ethics & Disciplinary Code cannot be applied because at the time of the event in 2018 a previous version of the Code of Ethics was in effect and that version of the Code of Ethics and all associated procedures must be used; 2) the case was based solely on an assumption that a player was playing stronger than expected and that allegation without sufficient direct evidence and is thus insufficient to sustain a charge of violating the Code of Ethics; 3) this investigation violates the rule against double jeopardy by trying Mr. Jovanovic twice for the same offense because the Qualification Commission has previously reviewed the validity of the norms; and 4) the outcome of the case has been pre-determined and the EDC Chamber had already decided on his guilt and sanction.

6. Upon due consideration, the EDC Chamber, by unanimity of its members, **finds** regarding the admissibility of the complaint that:
 - 6.1 The Narcis tournaments were international tournaments given the participation of foreign players, and the Respondents are FIDE-registered individuals.
 - 6.2 The matter is therefore admissible, and the EDC has jurisdiction to determine whether a violation of the Code has occurred and if so, to sanction a violation of the Code of Ethics.

7. Accordingly, and considering all the above, the EDC Chamber by majority of its members on a 2 – 1 vote **decides** regarding the merits of the complaints as follows:
 - 7.1 Mr. Jovanovic and Mr. Jovic are found **not guilty** of breach of Article 2.2.5 of the FIDE Code of Ethics.
 - 7.2 In arriving at this decision, the majority noted that they agreed with the IP that there is much suspicion that Mr. Jovanovic did not achieve his norms in a fair manner. However, as the IP noted, the standard of evidence is whether the adjudicators are comfortably satisfied that Mr. Jovanovic breached the Code. A balance of probabilities is not sufficient to sustain a violation of the Code. If the evidentiary standard was a balance of probabilities, the majority likely would have decided otherwise. However, considering the IP’s own acknowledgement that there was no direct evidence and the fact that many of the witnesses were not helpful, the majority of the EDC decided that while the statistical evidence presented was strong enough to cast strong suspicion, it was insufficient to comfortably satisfy that a violation of the Code has occurred.
 - 7.3 In evaluating the defences raised by Mr. Jovanovic, the majority of the EDC Chamber decides:
 - 7.3.1 The majority agrees with the Respondent that the Code of Ethics in effect at the time of the event is the relevant version of the Code of Ethics. Accordingly, the respondents were charged with violating Article 2.2.5 of the Code of Ethics that was in effect until 1 April 2022. The majority disagrees that the FPL had no jurisdiction under the previous Code of Ethics. The EDC has previously ruled that investigations by FPL were admissible and “match fixing” did fall under the general provisions of Article 2.2.5 as “match fixing” is a form of cheating – see the definition of “cheating” in the FPL Anti-Cheating Regulations (2018) and EDC Case no. 2/2020.
 - 7.3.2 Concerning the defence that the statistical evidence is insufficient to sustain a violation of the Code of Ethics, the majority refers to its finding above in paragraph 7.2. However, the majority completely disagrees that just because they were not comfortably satisfied that a violation occurred means that Mr. Jovanovic’s norms were above reproach and that there was no basis to conduct this investigation. Again, as noted in paragraph 7.2, the majority may not be comfortably satisfied that a breach of the Code of

Ethics occurred, but there is a strong suspicion that a violation MAY have occurred. Suspicion though and even balance of probabilities is not sufficient to establish a guilty finding and a sanction.

7.3.3 Regarding the defence that Mr. Jovanovic is being tried twice for the same offense, the majority finds this to be a frivolous argument. The previous deliberations of the Qualification Commission are limited to the technical aspects of whether the norms are valid. The Qualification Commission does not have the jurisdiction to decide whether a violation of the Code of Ethics occurred. Their inquiry was completely separate and administrative in nature and in no way subjected either respondent to a sanction. There is no plausible way that an administrative inquiry by the Qualification Commission into the validity of a norm can be equated with a violation of the Code of Ethics, even if the subject matter is the same.

7.3.4 Regarding the defence that the result had been pre-determined that Mr. Jovanovic is guilty, and the sanction was pre-determined, this is demonstrably false since Mr. Jovanovic was found not guilty. Not only is this argument completely without merit, but it is also insulting to the integrity of the EDC Chamber.

7.4 As noted, the decision of the EDC Chamber was not unanimous. The dissenting view expressed by Mr. Ravindra Dongre is that both Mr. Jovanovic and Mr. Jovic are guilty of a violation of the Code of Ethics. The minority view gave several reasons for his belief that comfortable satisfaction was met.

7.4.1 The Organizer Mr. Jovic has given vague answers to the IP and could not provide website access and tournament mail ID access stating that he forgot the password. The password could have easily been restored, but the purpose was to deny access to the IP panel to the tournament records which could have worked against the organizer, Mr. Stanco Jovic.

7.4.2 Organizing a Swiss League of 14 players only, immediately next day after a round robin was also done so that norm holders complete the FIDE requirement of playing in a Swiss League, but a 14 players Swiss League is an unheard of event and has brought the game of chess to disrepute. As noted by the IP in its report: *"Immediately afterwards Mr. Jovanovic played a Swiss system tournament ("Narcis 5"-30.09.-08.10. in the afternoon), which he won with 7.0 points and achieved another IM norm. The tournament has a number of special attributes. There were only 14 participants, 9 of whom had previously taken part in the Narcis Itournament. One player dropped out after the 4th round, another player after the 7th round. In the first round, one player was not paired. Another game was unplayed. One player was not paired in rounds 5-7."* This demonstrates how vague and weird this all is looking.

7.4.3 The minority associates himself entirely with the IP panel Report, a panel which is set up by the FIDE official organ. Since without this report the guilt cannot be established.

7.4.4 It is also understood that direct evidence of cheating or match fixing will be difficult to get as the FPL and EDC are not an elite investigative force which is required for investigation. Other than this the circumstantial evidence against both Mr. Stanco Jovic and player Mr. Jovanovic is overwhelming.

8. The parties 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 and meeting the further requirements for lodging an internal appeal as stated in the EDC Procedural Rules. 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 FPL and the Respondents and the FIDE Management and to publish in due course the decision on the FIDE website.

DATED ON THIS 18th of December 2022

David A. Hater

CHAMBER CHAIR
FIDE ETHICS & DISCIPLINARY COMMISSION