



FIDE ETHICS AND DISCIPLINARY COMMISSION

APPEAL CHAMBER

The EDC Appeal Chamber, sitting in the following composition -

Chairperson: Mr Francois Strydom

Members: Mr David Hater

Mr Pedro Dominguez,

in accordance with Article 26.4 of the FIDE Charter, hereby renders the following:

DECISION

CASE NO: 3/2021(A) : ALLEGED FALSE AND NON-SUBMISSION OF ARBITER PERFORMANCE RECORDS TO FIDE

1. This is an appeal against the Decision of the EDC First Instance Chamber (per Khaled Arfa (Chair), Yolander Persaud-Sammy and Ravindra Dongre) in case no. 3/2021, rendered on 13 September 2022.

Parties in the Appeal

2. The Appellant is Mr Bart de Vogelaere ("**Bart**"). He was the complainant in the first instance proceedings.
3. The Respondents are Mr Luc Cornet ("**Luc**") and Mr Geert Bailleul ("**Geert**"). They were the accused parties in the proceedings below.

Decision of the First Instance Chamber

4. On 13 September 2022, the First Instance Chamber decided as follows:
 - "19.1. *The Respondents are not guilty of any violation of art. 2.2.1, 2.2.2 and 2.2.3 of the FIDE Code of Ethics; and*
 - 19.2. *The matter should be referred for the attention of FIDE Arbiters Commission as well as the FIDE Qualification Commission for any*



deemed possible rectification of the complainant Arbitrator's records and/or any investigation about incorrect records.

19.3. Save as aforesaid, Case no. 03/2021 is dismissed."

Procedural history of the Appeal

5. In addition to having access to the full case file of the First Instance Chamber proceedings, the Appeal Chamber received the following documents during the appeal proceedings:
 - 5.1. Bart delivered his Notice of Appeal with annexes on 3 October 2022.
 - 5.2. After clarification was sought from Bart about the scope of his appeal, the appeal was formally registered, and the Appeal Chamber constituted on 8 March 2023.
 - 5.3. On 12 April 2023, the Respondents' answer in the Appeal with annexes was received.
 - 5.4. On 10 May 2023 the written answers of the FIDE webmaster / IT department head, Mr Vladimir Kukaev was received in response to certain enquiries of the Appeal Chamber regarding the workings of the FIDE Ratings Server and the submission by national federations of tournament results.
 - 5.5. In accordance with Rule 45.3 of the EDC Procedural Rules, the exchange of submissions in the appeal was limited to a single round of exchanges between the parties. In the view of the Appeal Chamber the issues on appeal were sufficiently ventilated, considered also with the statements exchanged during the first instance proceedings, in order that the Appeal Chamber may make a fair determination.

Admissibility of the Appeal

6. The new FIDE Ethics and Disciplinary Code ("**the new Code**") took effect on 1 April 2022. However, the relevant conduct and omissions by Luc and Geert forming the subject matter of Bart's complaints occurred in the period September 2013 until April 2020, during which time old FIDE Code of Ethics ("**the old Code**") applied.



7. Nevertheless, in accordance with the principle of *tempus regit actum*, procedural matters are governed by the Rules in force at the time when the procedural action occurs, i.e. the new Code, even if the proceedings related to facts which occurred before the effective date of the new Code and in relation to alleged misconduct governed by the old Code.
8. In terms of Article 17.1 of the new Code there shall be a right of appeal to the Appeal Chamber by the unsuccessful party, whether complainant or respondent, and/or any other directly affected member of the FIDE family against the final decision of the First Instance Chamber. According to Article 17.4 of the new Code (also Rule 43.3 of the EDC Procedural Rules), such right of appeal must be exercised within twenty-one calendar days from the date on which the appealable decision is communicated to the party concerned.
9. In the present case, the Decision of the First Instance Chamber was notified to Bart on 14 September 2022, and accordingly the period for lodging an appeal expired on 5 October 2022.
10. As Bart's appeal was lodged on 3 October 2022 and it complied with all formalities, it follows that the appeal was timeously and properly lodged.
11. In the result, the appeal is declared admissible in terms of Rule 44.5 of the EDC Procedural Rules.

The Appellant's grievances

12. Bart's original complaints were against Luc, Geert and the Board of the Royal Belgium Chess Federation ("RBCF"). Bart alleged that there were 45 arbiter credits missing on his FIDE Personal Profile related to his performances as match arbiter in the first division of the Belgian National Interclubs Team Championships ("the Belgian Interclubs") in the period September 2013 until November 2018. Bart sought to hold Luc, the FIDE Delegate for Belgium at the time, responsible for the non-submission of these missing records and further blamed Geert, the Chairman of the RBCF Commission of International Arbiters (CIS) and also the Chief Arbiter of the Belgian Interclubs for not intervening but rather supporting Luc's actions.



13. In addition, Bart complained that Luc and Geert claimed credits for themselves for arbiter performances not performed by them in the Belgian Interclubs and for causing “fake” arbiter records to be registered on the FIDE website for themselves and other arbiters. Bart requested that sanctions be imposed on Luc, for “fraudulence in administration as FIDE delegate of the RBCF by withholding arbiter records and sending in fake arbiter records to FIDE”, and on Geert, for “having knowledge of the fraudulence but for failing to intervene”. Bart further demanded that the RBCF be ordered to correct the missing arbiter records and fake arbiter records respectively and that the RBCF appoint a new FIDE delegate in the place of Luc.
14. It may briefly be mentioned that before this matter reached the EDC, Bart’s grievances received attention in a hearing before the RBCF Board which dismissed his demands and issued him a warning for discrediting two of the Board members, Geert and Luc. This decision and sanction subsequently formed the subjects of internal appeals before the RBCF Disputes Committee (which ruled in favour of Bart) and the RBCF Appeals Committee (which nullified all proceedings due to procedural errors). There is accordingly no ongoing national procedure but the problem with the arbiter records remained.
15. At the time of registration of Bart’s complaints by the EDC, the EDC Chairman ruled that the above-mentioned relief sought against the RBCF (see paragraph 13 above) fell outside the competence of the EDC and accordingly only opened disciplinary proceedings against Luc and Geert based on Bart’s allegations of missing and fake arbiter records. In the end, the First Instance Chamber found Luc and Geert not guilty on the charges.
16. Bart’s appeal is directed against the acquittal of Luc on both aspects, namely the failure to submit Bart’s arbiter records and the submission of fake records for himself and friends. In Bart’s submission the fact that his missing records were in the meantime (see hereunder) added to his FIDE profile does not exonerate Luc for not submitting them in the first place. In addition, Bart was dissatisfied with the First Instance Chamber’s decision regarding the alleged fake records. Bart also wished to proceed against the acquittal of Geert, as Bart believes he is equally responsible in his various capacities, for not acting,



when having knowledge of Luc's alleged fraudulence in submitting records to FIDE.

17. Bart's missing arbiter records were uploaded to his FIDE profile through the intervention of the FIDE Arbiters' Commission at the request of the RBCF in September 2022 (following the First Instance Chamber's decision).

Factual background

18. FIDE maintains a database of individuals on its website, often referred to as the Ratings Database but in fact containing much more information and statistics. In the FIDE Charter, the "FIDE Database" is described as the official database with biographical (profile) details of players, arbiters, trainers, organisers and officials with FIDE identity number, home federation, FIDE rating, FIDE titles and FIDE positions held as per the FIDE Directory, rated tournaments and match results, as well as the world, continental and country rankings occupied by the individual, as published on the FIDE website in accordance with general data protection rules.
19. For each individual member of the FIDE family, the FIDE Database reflects his or her profile details, individual rating calculations and rating progress chart, results and statistics, arbiter and organiser performances and the FIDE Online Arena rating. Under the arbiter/organiser tab, one will find a list of the events and dates in which the individual acted as an arbiter or organiser.
20. For purposes of the registration of FIDE-rated tournaments and the calculation of rating performances by players, tournaments are pre-registered on the FIDE Ratings Server (**FRS**). It is the responsibility of the National Federation Rating Officer to register the tournament and to input all data connected therewith, including the names of arbiters acting at the tournament. For this purpose, the National Federation Rating Officers enjoy access to the FRS (see further FIDE Handbook B.03 Art. 4.1). Arbiter positions (Chief Arbiter, Deputy Chief Arbiter and Arbiters) are filled-in manually at the stage of registration before the start of the tournament and upon completion a tournament report is submitted by the National Federation Rating Officer. The arbiter records already entered are automatically overwritten from the tournament report if the data differs. The National Federation Rating Officer can modify the arbiter records already



submitted until the time when a tournament is closed for modification, that is on the date when the corresponding monthly rating list incorporating such records is published.

21. Data displayed in the personal profiles of players and arbiters is extracted directly from the FRS and displayed immediately and automatically upon input by the National Federation Rating Officer, or by modification from FIDE after the closing date if such modification is requested by a National Federation. FIDE therefore relies fully on the National Rating Officers to provide accurate and checked data.
22. Upon qualification by an individual for a FIDE norm or title, the necessary FIDE forms are submitted and, in the case of arbiters, verified by the FIDE Commission. This consists of the FA1 form or IA1 form for FIDE Arbiter or International Arbiter titles respectively, backed up by IT3 tournament reports for tournaments where norms were earned. These FIDE forms are generated and completed independently from the FRS records. Titles are approved by the FIDE Council.
23. In the case of long tournaments which last more than 90 days (for example a league), each stage is treated as a separate tournament meaning that arbiter performances are recorded separately, with monthly cut-off dates, for each stage of the long tournament. This rule was introduced with effect from July 2013 when FIDE required that in the case of tournaments lasting longer than 90 days, reports should be sent monthly.
24. The factual situation summarised in paragraphs 20 - 23 above was confirmed with the head of the FIDE IT Department.
25. The Belgian Interclubs is an annual competition between various Belgian chess clubs, being played in different divisions, from September in the one year until April in the following year. In the first division there is twelve teams but significantly more teams in each of the second, third, fourth and fifth divisions. For the first division, a match arbiter is appointed for each match, but for the lower divisions there is no arbiter at all, only a “responsible person of the match”. The reason is that albeit that the matches in all the divisions



are FIDE-rated, only the games in the first division qualify for norms for arbiters, organisers and players.

26. Until the 2012/13 season, arbiters performing services in the Belgian Interclubs only received one credit for the whole tournament in their FIDE arbiters' profile. After the rule change in July 2013, in the subsequent seasons, arbiters working in the Belgian Interclubs received a credit for each round of the competition in which they had worked.
27. The Chief Arbiter of the Belgian Interclubs overall and first division was Geert in his capacity as CIS president. It was his duty to see that the results and performances in the tournament are sent to the RBCF National Ratings Officer monthly (from 2013/14 season). The Organiser of the Belgian Interclubs was first Luc, later Sergio Zampara and thereafter Luc again. The organiser was designated as the Deputy Chief Arbiter in respect of each of the lower divisions *inter alia* because he had to decide any appeal against a decision of the "responsible person of the match" in the lower divisions pursuant to Article 38 *bis* of the RBCF Tournament Regulations.
28. In August 2013, a meeting took place between Mr Jan Rooze (the FIDE delegate for Belgium at the time), Mr Daniel Halleux (the National Rating Officer of the RBCF) and Mr Luc Cornet (National Tournament Director at that time). It was confirmed at the meeting that it was the responsibility of Mr Halleux to input the results of Belgian tournaments, including the Belgian Interclubs, in the FRS. In the case of the Interclubs competition, the rule change referred to in paragraph 23 above meant that the FRS data input had to be done almost per round. This required serious additional work. It was accordingly decided in that meeting to no longer submit details of the match arbiters. One of the reasons was that the RBCF consists of volunteers and the chess work had to be performed outside normal working hours. The RBCF lacked the financial resources to employ a person for these tasks. However, match arbiters are not prejudiced as their performances are correctly recorded on the IT3 form which is used for qualifying norms. The unfortunate result of this decision is that the performances of arbiters in the Belgian Interclubs tournament were not reflected as part of the arbiter profile on the FIDE website



from the time the arbiter profile was created and introduced in about 2018, a few years after the RBCF adopted its mentioned practice.

29. Luc was appointed as the RBCF Delegate to FIDE on 28 February 2014. Luc was also granted access to the FRS from this date as one of the RBCF Rating Officers, but the FRS data input related to the Belgian Interclubs remained the responsibility and was in fact performed by the National Ratings Officer, Mr Halleux.

The first ground of appeal: missing arbiter records

30. Bart points out that the mere fact that his complaint to the EDC has resulted in the recent update of his arbiter's profile on the FIDE website with the missing 45 arbiter performances in the Belgian Interclubs is proof of the fact that there were missing records before. Bart reiterates that it was never disputed by Luc and Geert that he performed as a match arbiter in 45 rounds of the Belgian Interclubs, namely 2013/14 (6 rounds), 2014/15 (6 rounds), 2015/16 (9 rounds), 2016/17 (10 rounds), 2017/18 (10 rounds) and 2018/19 (4 rounds). It was also not disputed that these arbiter performances in the Belgian Interclubs were not reflected on his FIDE arbiter profile. Therefore, there was no basis to reject Bart's complaints as unfounded and baseless, or his allegations as false and undue (as submitted by the respondents in the first instance proceedings).
31. Bart argues that the mere fact that the missing records have now been uploaded to his FIDE arbiter profile and the error therefore remedied, does not exonerate the person responsible for the non-submission of these records in the first place. Bart argues that this responsibility rested upon Luc as the FIDE Delegate for Belgium but provides no independent proof in support of this argument.
32. However, it is the evidence of Luc and Geert that the responsibility to submit the relevant records to FIDE and, more specifically, to upload the data to the FRS, was the responsibility of Daniel Halleux, the National Rating Officer for Belgium at that time. This does not mean that Mr Halleux should be sanctioned for his omissions in this regard. As the evidence shows, there was a deliberate decision by representatives of the RBCF at a meeting held in August 2013, due to the workload involved, not to submit records of the



arbiters' performances in the Belgian Interclubs. The evidence further indicates that this decision was endorsed by the RBCF Board at various meetings in September 2013, January 2019 and May 2021.

33. Bart's subsequent requests to the RBCF to rectify the issue of the missing arbiter records, could not be satisfied because of the rule that the National Rating Officer cannot unilaterally modify submitted records following the expiry of one month after the relevant submission period. It is unclear why the RBCF did not approach FIDE earlier with a request to modify the arbiter records of the Belgian Interclubs (as happened later after the EDC First Instance Chamber decision), but it seems to boil down to an argument about whose job it was to obtain the correcting details.
34. The above evidence of the respondents, especially as concerns the responsibility for submitting the tournament results to FIDE and the decisions taken at the August 2013 meeting, was not seriously disputed by Bart in his Reply submission before the First Instance Chamber or in his appeal submission to the Appeal Chamber. Bart also resisted the suggestion by the respondents that an oral hearing be held at which *inter alia* Mr Halleux's evidence could be heard and he could be cross-examined. Nevertheless, and somewhat irrationally, Bart blames Luc as the FIDE Delegate and Geert as the RBCF President for the RBCF's failure to submit his 45 arbiter performances to FIDE. One would expect that Bart's quarrel is with the RBCF itself although no case was sought to be established by Bart that the RBCF, by its mentioned failure or the alleged refusal to remedy same, made itself guilty of a violation of the EDC Code for which it must be sanctioned. In any event, on the available evidence there seems to have been no sanctionable misconduct on the part of the RBCF and the problems with reporting arbiter performances in the Belgian Interclubs were rather caused by structural issues.
35. The Appeal Chamber finds no grounds for not accepting the respondents' version of the events which offers a reasonable explanation for the failure to submit Bart's relevant arbiter records, a situation furthermore approved by the RBCF Board and for which neither Luc nor Geert carries personal responsibility.



36. It must be stressed that a mere dereliction of duty by a chess official, perhaps in the slightest degree, does not automatically amount to a violation of the EDC Code. What was required under the old Code was the gross or repeated violations of regulations (art. 2.2.7) which may be sanctioned.
37. In summary, it is held that Luc was not responsible personally for the non-submission of Bart's missing arbiter records and the system applied within the RBCF which resulted in the non-submission of the performances of individual match arbiters in the Belgian Interclubs was approved by the Board of the RBCF for acceptable reasons existing at the time. If Luc's actions cannot be criticised, it follows that Geert cannot be guilty of failing to intervene.
38. In the result, as regards the first ground of appeal, the EDC Appeal Chamber finds that the First Instance Chamber correctly acquitted Luc and Geert on the charges of a violation of Article 2.2.1 (fraudulence in the administration of any FIDE office or National Federation office that affects other Federations) and/or Article 2.2.2 (office bearers who through their behaviour no longer inspire the necessary confidence or have in other ways become unworthy of trust) and/or Article 2.2.3 (organisers, tournament directors, arbiters or other officials who fail to perform their functions in an impartial and responsible manner) of the EDC Code.

Second ground of appeal: fake arbiter records

39. Bart complains that Luc submitted arbiter credits for himself for rounds of the Belgian Interclubs in which he participated as an organiser and player and did not act as an arbiter. Bart submits that these arbiter credits are "*fake records*" and that Luc is fraudulent in having submitted records which show that he had acted as arbiter in the relevant rounds. The complaint is not limited to Luc, but also relates to Geert and another Belgian player/arbiter/organiser, one Sergio Zamparo ("**Sergio**"). The complaint further extends to the arbiter records of Marc Bils and Ludu Martens in respect of arbiter credits earned during another tournament, the Limburg Interclubs.
40. It is a principle of both the old and new Code that for Bart to enjoy standing as a complainant in EDC proceedings he must be personally and directly affected



by the alleged misconduct, or otherwise have a direct and substantial interest in the matter. In the view of the Appeal Chamber, it cannot be said that the arbiter credits received by Luc, Geert and Sergio in the Belgian Interclubs (in their respective capacities as Chief Arbiter and Deputy Chief Arbiters), or by Marc Bils and Ludu Martens in the Limburg Interclubs were obtained at the expense of Bart (who acted as match arbiter in the Belgian Interclubs), or that Bart has a “personal and direct interest” in the accuracy of their arbiter records. This is said even though arbiters belonging to the RBCF compete with each other for appointments at tournaments. At best for Bart, he has an indirect interest in the accuracy of other arbiters’ records and this is insufficient to give Bart the necessary standing to lodge a complaint about these matters.

41. It follows that the second ground of appeal must fail on the above basis alone. The Appeal Chamber will nevertheless consider the merits of the complaint related to “fake” records.
42. Bart contends that Luc, Geert and Sergio were players and not arbiters in the Belgian Interclubs and accordingly not entitled to arbiter credits. This is apparent, according to Bart, because “conflicting data” was sent to FIDE showing them simultaneously to be players (per the rating calculations) and Chief Arbiter or Deputy Chief Arbiter (per the arbiter records) for the same rounds of the Belgian Interclubs. In some rounds of the Belgian Interclubs Luc and Geert did not play and was absent but nevertheless received an arbiter credit. In his original complaint to the EDC, Bart accuses Luc of *fraudulence* in the administration as FIDE delegate, but in his Reply submission Bart softens his stance and states that it was for the EDC to decide whether Luc’s sending of incorrect data to FIDE was due to “*incompetence, laziness, lack of responsibility or fraudulence in administration*”.
43. The Appeal Chamber accepts the version of the respondents that it was decided by the RBCF that the CIS President is designated Chief Arbiter of the Belgian Interclubs and the Organiser of the second, third, fourth and fifth divisions was designated as Deputy Chief Arbiter. They were thus entitled to arbiter credits for each round of the Belgian Interclubs, in their respective



capacity as Chief Arbiter or Deputy Chief Arbiter, whether they also participated as a player or not, and whether they were present during the round or not. The above evidence was not controverted by Bart.

44. It follows that to the extent that Geert (as Chief Arbiter) or Luc / Sergio (as Deputy Chief Arbiter) received an arbiter credit for any round of this event, whether they were absent or participating as a player, it cannot be described as "*fraudulent*" or a "*fake*" record.
45. It was the respondents' evidence that in the Limburg Interclubs, Marc Bils (Chief Arbiter) and Ludo Martens (Deputy Chief Arbiter) indeed performed services as arbiters in several rounds, but in any event, Luc was not responsible for submitting the tournament data to the FRS. This is accepted by the Appeal Chamber to be correct.
46. In summary, it is held that Bart lacks the necessary standing in relation to his "fake records" complaint, but in any event the recipients of the arbiter credits including Luc and Geert received the credits properly and honestly.
47. The Appeal Chamber therefore concludes that the acquittal of Luc and Geert of a violation of Articles 2.2.1, 2.2.2 and 2.2.3 of the old Code by the EDC First Instance Chamber was correct, in relation to the charges of fake arbiter records.

Conclusion

48. In the result the appeal fails, and the decision of the First Instance Chamber (see paragraph 4 above) is upheld in all respects.
49. In accordance with Articles 17.2 and 17.4 of the new Code (also Rule 73.1 of the EDC Procedural Rules), this final decision is appealable to the Court of Arbitration for Sport ("**CAS**") within twenty-one (21) days following communication of this Decision.
50. As a concluding remark, the Appeal Chamber notes that the disputes which formed the subject-matter of this appeal were of a somewhat trivial nature, given the relative lack of value of arbiter credits which are earned for every round of the tournament as distinct from the normal practice where one arbiter credit for a whole tournament is scored. One also gets the impression that the



main driving force behind the disputes was personal animosity between the parties. It is unfortunate that so much of FIDE's resources were consumed to bring an end to the disputes.

51. The FIDE Secretariat is requested to communicate this Decision forthwith to the Appellant and Respondents and to publish the Decision on the FIDE website in due course.

DATE: 23 August 2023

F P Strydom

FRANCOIS STRYDOM
APPEAL CHAMBER CHAIRMAN:
FIDE ETHICS AND
DISCIPLINARY COMMISSION