



## **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. Pedro Dominguez  
Ms. Yolander Sammy

following an exchange of correspondence and virtual meetings, the EDC Chamber came to the following -

### **DECISION**

**Case n. 07/2022: "Alleged misconduct by an Affiliated Organization official."**

#### **INTRODUCTION**

1. The EDC Chamber notes its establishment by the EDC Chairman on 12 December 2022.
2. The Complainant is Mr. Patrick Van Hoolandt, President of the *Association Internationale Des Echecs Francophones* (AIDEF), a FIDE affiliated organization, and the Respondent is Mr. Mohamed Zouaoui, the Vice President of AIDEF.
3. The EDC Chamber notes the written complaint by Mr. Van Hoolandt received on 12 December 2022 which also had six attachments.
4. The EDC Chamber notes the written answer from Mr. Zouaoui received on 9 January 2023 which also had 22 attachments.
5. The EDC Chamber notes the supplemental information that Mr. Van Hoolandt submitted on 9 February 2023.
6. The EDC Chamber notes that it approved adding the supplemental information and on 7 April 2023 invited Mr. Zouaoui to submit a response by the deadline of 17 April 2023
7. The EDC Chamber notes that Mr. Zouaoui requested a delay until 31 May 2023. He was granted a delay until 28 April 2023.
8. The EDC notes the written supplemental response from Mr. Zouaoui received on 29 April 2023.

#### **FACTUAL DETAILS OF THE CASE**

9. The EDC Chamber notes the subject matter and defences:
  - 9.1 *Maison Tunisienne des Echecs* (MTE) of Tunisia applied to host the 2022 AIDEF *Rescontres Internationales des Echecs Francophones* chess tournament. Mr. Zouaoui is the president of MTE as well as the vice president of AIDEF.
  - 9.2 During the negotiations to host the event, Mr. Zouaoui sent a letter to Tunisian Ministry of Youth and Sports. Mr. Van Hoolandt submitted a copy of the letter which was



received by the Ministry on 7 November 2022. This letter was signed by Mr. Van Hoolandt, but Mr. Van Hoolandt denies that he gave permission for his signature to be used. Additionally, Mr. Zouaoui in co-signing the letter claims the title of a FIDE Counsellor. 9.3 Mr. Van Hoolandt also provided screenshots of a WhatsApp message where Mr. Zouaoui acknowledged that he should not have used Mr. Van Hoolandt's signature without permission, but that he was under time constraints.

### **DEFENCES PROVIDED BY RESPONDENT**

- 10.1 In the statement of defence, Mr. Zouaoui states that he did not use a FIDE title in the letter he sent to the Tunisian Ministry of Youth and Sport. He provides a copy of a letter dated 7 November 2023 to support his claim.
- 10.2 Mr. Zouaoui also claims in his defence that he had the right to use Mr. Van Hoolandt's signature based on the AIDEF Constitution.
- 10.3 Mr. Van Hoolandt submitted evidence after the case started that he deemed relevant to the case and wanted included in the evidence of this case. Normally, EDC Panels do not accept additional evidence once both parties have had a chance to make submissions on the case. In this instance however, the Panel approved admitting additional evidence for two reasons: 1) the evidence proffered was newly available and not available to the complainant at the time the complaint was submitted; and 2) the value of the evidence in deciding the case was substantial and this consideration outweighed the principle to not include additional evidence once deliberations begun.
- 10.4 The additional evidence supplied by Mr. Van Hoolandt was a letter from the Tunisian Ministry of Youth and Sport which corroborated Mr. Van Hoolandt's version of events. Additionally, the letter stated that their Inspector General opened an inquiry into the conduct of Mr. Zouaoui.
- 10.5 In response to the newly discovered evidence, Mr. Zouaoui stated that he had no response because he needed to obtain evidence from the Tunisian Ministry of Youth and Sport. There was no timetable given other than it would likely take several months. There was no evidence offered that a letter would even be forthcoming or how that letter would support Mr. Zouaoui's assertions. Given that Mr. Van Hoolandt had already produced a letter from the Ministry, it seems unlikely that the Ministry would issue another letter and even if they did, it seems highly unlikely that the Ministry's position would change from the letter provided by Mr. Van Hoolandt.

### **ADMISSIBILITY AND JURISDICTION**

11. Upon due consideration of the documents, arguments and submissions by the parties, the EDC Chamber, by unanimity of its members, finds that:
  - 11.1 The complaint before the EDC is made by Mr. Van Hoolandt, who is President of a FIDE affiliated organization, and thus a present member of the FIDE family.
  - 11.2 The respondent, Mr. Zouaoui, is the Vice President of a FIDE affiliated organization and as such a member of the FIDE family over which the EDC exercises jurisdiction. Specific reference is made to art. 26.8 of the FIDE Charter and art. 4.2(d) of the Ethics and Disciplinary Code.



- 11.3 The conduct alleged concerns an international FIDE tournament, therefore this case falls within the international sphere.
- 11.4 The subject matter of the letters (conducting international tournaments and actions by officers of FIDE affiliated organizations) involves FIDE interests.
- 11.5 The alleged conduct of Mr. Zouaoui *prima facie* falls under Article 11.5 (a) - Unworthy of confidence or trust; Article 11.5 (b) - Lack of impartiality and responsibility, and Article 11.6 (b) - Disparagement of FIDE's reputation and interests of the FIDE Ethics and Disciplinary Code.
- 11.6 The subject matter of the letter could potentially harm the reputation of the subject of the letter which would be a violation of article 11.6 (c) of the FIDE Ethics and Disciplinary Code.
- 11.7 Based on the above, the EDC Chamber unanimously finds that the complaint is admissible.

### **FINDINGS**

- 12 The EDC Chamber having considered and deliberated on the material before it made the following conclusions:
  - 12.1 The letter provided by Mr. Zouaoui is identical to the letter provided by Mr. Van Hoolandt except for three items: 1) the date received by the Tunisian Ministry of Youth and Sports is different – two days later in the letter provided by Mr. Zouaoui - even though the date of the letter was the same in both versions, 2) the language that the Tunisian Ministry of Youth and Sport took offense to was softened in the letter provided by Zouaoui (“we deplore the decision...” changed to “we deplore that the decision..”) and 3) the title of FIDE Councillor was removed. Given that the Zouaoui letter was received AFTER the Van Hoolandt letter, it appears Mr. Zouaoui changed the letter and re-submitted it. However, Mr. Zouaoui seems to maintain that there was only one version of the letter in spite of the evidence otherwise. The Chamber finds that the letter provided by Mr. Van Hoolandt is authentic and that Mr. Zouaoui altered and re-submitted the letter.
  - 12.2 The AIDEF Constitution gives the Vice President the authority to act in the President's absence, but in no way does that grant Mr, Zouaoui the authority to use Mr. Van Hoolandt's signature without permission. Further, if an individual wants to claim the right to use the property of another (signature in this case), the *onus* would be on the person using the property of another to show they had permission. Not only can Mr. Zouaoui not demonstrate this, Mr. Van Hoolandt produces WhatsApp text to show that this is absolutely not the case.
  - 12.3 The EDC Chamber finds that the language used in the letter provided by Mr. Van Hoolandt is offensive and does harm the reputation of FIDE. This finding is supported by the evidence that Mr. Zouaoui altered and re-submitted the letter and the subsequent letter provided by Mr. Van Hoolandt that does show 1) there was actual harm caused by the letter (cancellation of an event) 2) there was harm to FIDE's reputation as shown by the reaction of the Tunisian Ministry of Youth and Sport and 3) the letter does demonstrate a lack of responsibility by an office holder.
  - 12.4 Accordingly, the EDC Chamber **finds Mr. Zouaoui guilty** of violating Articles 11.5



- (a), 11.5 (b), and 11.6 (b) of the FIDE Ethics and Disciplinary Code.
- 12.5 The EDC Chamber finds that Mr. Zouaoui did not accept responsibility for his actions. Instead, he makes meritless arguments to try to excuse his behaviour. We find this to be an aggravating factor.
- 12.6 Based on the above, **Mr. Zouaoui is sanctioned** to a ban of 24 months from participating as an office holder in any FIDE Commission or office.
- 13 The Respondent is referred to Chapter 7 of the 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.
- 14 The EDC requests the FIDE Secretariat to communicate forthwith the decision to the Complainant and Respondent and to publish in due course the decision on the FIDE website.

**DATED ON THIS 22<sup>nd</sup> day of June 2023.**

David A. Hater

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*First Instance Chamber Chairperson*

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