



FIDE ETHICS AND DISCIPLINARY COMMISSION

The First Instance Chamber of the Ethics & Disciplinary Commission (hereafter called “the EDC Panel”), sitting in the following composition -

Chairperson: Mr. Khaled Arfa

Members: Ms. Yolander Sammy
Mr. Ravindra Dongre

during an exchange of correspondence as well as teleconferences, came to the following decision:

DECISION

Case 7/2023: " Alleged irregularities in the organisation of the Montenegro Qualifying Tournament for the 2023 FIDE World Cup "

1. The EDC Chamber **notes** its establishment by the EDC Chairman on 18 July 2023.
2. The EDC Chamber **notes** that on 23 June, 2023 the FIDE Ethics and Disciplinary Commission (EDC) received a complaint from Mr. Dragiša Blagojević (the Complainant, FIDE ID 900885) against the Chess Federation of Montenegro (MCF - First Respondent), its President Mr. Jovan Milović (Second Respondent, FIDE ID 930903) and Mr. Igor Vujačić (Third Respondent, IA, Chief arbiter & rating officer FIDE ID 932620) about an irregular deviation from the pairings procedure announced in the official invitation to the Montenegro Qualifying Tournament for the 2023 FIDE World Cup. As a result, he withdrew / defaulted in the second round (semi-finals) of the qualifying tournament. Mr. Blagojević also complains about the participation of a number of participants that were not part of the Montenegro Olympiad team in 2022 and as such ineligible to be nominated as Montenegro's representative in the 2023 FIDE World Cup which is a potential violation of various articles of the FIDE Ethics and Disciplinary Code, and in particular:
 - The alleged violation of **Art 11.4(c) of the Disciplinary Code** (“Violation of Chess laws or tournament regulations”) **and/or art. 11.5(e) of the Disciplinary Code**



- (“Unsatisfactory organisation of a FIDE Competition”) against the MCF (First Respondent).
- The alleged violation of **Art 11.4(c) of the Disciplinary Code** (“Violation of Chess laws or tournament regulations”) **and/or Art 11.5(b) of the Disciplinary Code** (“Lack of impartiality and responsibility.”) against Mr. Jovan Milović and Mr. Igor Vujačić (Second and third Respondents).
3. The EDC Chamber **notes** that the Respondents have been given the opportunity to submit written submissions in accordance with Rule 32 of the EDC Procedural Rules and received their written answer on August 30, 2023, through the assistance and advice of their attorney at law Mr. Marco Biagioli.
 4. Upon thorough review of the allegations presented in the complaint, the responses submitted by the Respondents, and all accompanying evidence, the EDC Panel concluded that application of Rule 33 of the EDC Procedural Rules (Second round of exchanges of submissions) is not required, as sufficient information and clarification have already been provided regarding all aspects potentially material to the case's outcome.
 5. As a well-established practice the EDC Chamber refers in its written decision only to the relevant submissions and evidence it considers necessary to explain its reasoning.
 6. The EDC Chamber **notes** the subject-matter of the complaint and defence:
 - 6.1. Mr. Dragiša Blagojević (GM from Montenegro) lodged a complaint against the Chess Federation of Montenegro, its President Mr. Jovan Milović and Mr. Igor Vujačić, alleging some irregularities that occurred during the organization and duration of the "Qualifications for the World Cup" tournament, held in Nikšić (Montenegro) from June 2 to 7, 2023 (hereinafter: the Tournament) and thus caused the plaintiff immeasurable damage in his role of a participant in the chess competition. The aim of the Tournament was to select the representative of Montenegro at the FIDE World Cup 2023 (Baku, July 29 – August 25, 2023).
 - 6.2. The Complaint emphasizes and highlights the jurisdiction of the EDC, namely for the following reasons:
 - The Tournament is a qualification for the FIDE World Cup, and thus belongs to the competition cycle for the World Championship. Therefore, the regularity of this Tournament, as well as its eventual irregularities, holds serious international implications.
 - The first Respondent is the Federation, as the organizer of the Tournament and due to that, the trial cannot be held at the national



level, i.e. there is no legal foundation for the Federation to arbitrate itself before its own bodies.

- The FIDE EDC holds full jurisdiction over this case as provided by Article 4.7, paragraph b, under point (i) of the Ethics and Disciplinary Code.

6.3. The Complaint outlined the irregularities of the tournament as follows:

- The regulations defining pairings were changed after the start of the competition.
- Three players who did not have the right to participate were invited to the Tournament. The second Respondent, despite the clear rules of the FIDE World Cup 2023, decided to invite players who do not have the right to participate in the Tournament, which sends a wrong and dangerous message to the chess family.
- the MCF as an organizer failed to:
 - Inform the invited participants via e-mail about the location of the Tournament, even though it was promised beforehand.
 - Inform the invitees via e-mail that the Tournament shall not be calculated for the rating, which is prerequisite information for participants.
 - Officially inform, the participants, about when and where the draw shall take place.
 - Schedule a technical meeting, where the participants would be introduced to the Rules of the Tournament.
- It is unacceptable for the Federation to never respond to a participant's e-mail in which attention is drawn to the irregularity of the competition. The President of the MCF bears special responsibility, and carries the weight of such behaviour.
- The Chief Arbiter, who also performs the duty of Rating Officer, approached the tournament in an unprofessional and improper manner, showing a certain amount of arbitrariness while refusing to draw the semi-final matches, as stipulated in the Regulations.

6.4. The Respondents were assisted by their attorney at law Mr. Marco Biagioli and through their written statements as signed by him, fully denied any breach of the chess laws and regulations or the FIDE Ethics and Disciplinary Code. The main elements of their memorandum can be summarized as follows:

- The MCF put up a case against Mr Blagojević at the Montenegrin Chess Federation Ethics Commission for his behaviour (forfeiting the Tournament without a force majeure reason), which case is still open.



Whereas, the Complainant didn't start any internal procedure but summoned directly the EDC.

- The Regulations of the 2023 World Cup clearly states (art. 2.1, par. VIII): Each national Federation having won the Olympiad spot needs to work out qualification criteria for its representative. The Olympiad spot shall be given to one of the Olympiad 2022 national team members. If all Olympiad 2022 national team members qualify to World Cup by other paths or decline participation, the spot can be given to any other player."
- The MCF appointed this player through a knock-out tournament (the same World Cup format), who's winner would have been nominated to play in the World Cup.
- The qualifications were run the same way as in 2021 when the Montenegrin Chess Federation got a place in the World Cup accordingly to the criteria set in art. 9 of the 73rd National Individual Championship Regulations stating: "The top four players qualify for the national qualification tournament using a cup system to select the direct representative of Montenegro at the World Cup (May 13-16). In case any of the top 4 finishers are unable to participate, the list of participants will be filed by the federation." As a consequence of the application of this national criterion eight designated players were invited to participate in this qualification event.
- The Complainant participated in the 2021 qualifications without complaining and both qualifications cycles held in 2021 and 2023 were not registered to FIDE for rating and were exclusively organised as an internal competition, a fact the complainant was fully aware of.
- The email of March 25, 2023 and its attached file used the term "Raspis" which correct translation is "ANNOUNCEMENT" or "INVITATION" not "Regulations" as it was inaccurately translated by the Complainant.
- On May 10th, 2023, the "Raspis" document was published on the Chess Federation website as sent to the players it contains a final clause: "important notice: all the details not included in this tournament invitation will be provided with the tournament regulations. The organiser keeps the right of changing the conditions of the present tournament invitation in case of unforeseen circumstances".
- The statement of Mr. Blagojević about Mr. Vujacic managing the draw at the attendance of Mr. Sukovic is untrue as there is a photo evidence that Mr. Sukovic himself made the draws (as he states in his declaration) and personally wrote, by his hand, the players' name in the pairing tree, which contradicts partially the statement of Mr. Sukovic himself when saying he was only drawing the names at the drawing



end. Mr. Vujacic and Mr. Sukovic entertained for some time, commenting on the possible semi-finals that could arise. At that moment, it was evident to Mr. Sukovic that the pairing tree was final for the whole course of the Tournament.

- All players were officially invited to the ceremony, but just declined.
- During the technical meeting held at the request of the players, albeit this was not planned initially (scheduling a technical meeting is not obligatory or customary by any rule), the Chief Arbiter clarified that the pairing tree was valid for the whole Tournament and was supposed to stand. The previous rule has been confirmed by the tournament regulations (in Montenegrin language "PRAVILNIK") written and published on the Montenegrin Chess Federation website following the meeting and before the start of the first round.
- After winning the quarter-final the Complainant indeed asked Mr. Vujacic to resort to the pairings for the semi-finals, following his initial belief that this was the system, but his request was rejected. He didn't appeal the decision of the Chief Arbiter. He just disappeared from the Tournament and lost the semi-finals by forfeit.
- Regarding the e-mail sent by the Complainant on the next day, two hours before the semi-finals which he asserts went unanswered; the latter one was not an appeal and even when seeing it, about at 2:00 pm, Mr. Vujacic didn't consider it appropriate to reply in such a short time before a game, primarily since the e-mail was not addressed to him personally nor to the members of the tournament appeals committee.
- The document called "Raspis" was not a regulation but just the invitation letter, while the following document called "Pravilnik" was the only regulations and by admission of the Complainant himself, this was consistent with the pairings.
- The player who won the Tournament was accepted by FIDE and he fulfilled all the requirements any further discussion is just speculative.
- The Complainant was present at the Tournament, thus knowing where it took place and no rule states that a tournament organiser shall inform players about the venue via e-mail and not, e.g., by publishing it on the website.
- Given the Complainant's extensive chess career and experience (as emphasized in his complaint), it's unlikely he genuinely believed a redraw for the semi-finals would be necessary in a knockout tournament with a predetermined pairing tree.
- The Complainant should have submitted a regular appeal to challenge the regulations or the Chief Arbiter's decision.



- The complaint is inadmissible due to the Complainant's lack of personal and direct interest in the matter, thus lacking the requisite legal standing to contest about the Tournament. While the Complainant doesn't challenge GM Denis Kadric's eligibility for the World Cup invitation, his argument that some participants might not have attended lacks merit, considering FIDE's acceptance and registration of GM Denis Kadric.

ADMISSIBILITY AND JURISDICTION

7. Upon due consideration of the documents, arguments and submissions by the parties, and considering the admissibility requirements in Art. 5.1 (a) – (e) read with Art. 4.2, 4.7, 5.2 and 5.3 of the Ethics and Disciplinary Code, the EDC Panel, by **unanimity** of its members, finds that:
 - 7.1. All the parties, Complainant and Respondents, are members of the FIDE Family, over which the EDC exercises jurisdiction.
 - 7.2. The Respondents have questioned the Complainant's legal standing because it is claimed that he is not personally and directly affected by the alleged misconduct or otherwise has a direct and substantial interest in the matter (see the Ethics and Disciplinary Code, **article 5.2 (b)**). On the contrary, it is obvious to the EDC Panel that Mr. Blagojević, as an invited participant to the disputed Tournament, has a direct and substantial interest in the matter. He is therefore regarded to have legal standing in this matter.
 - 7.3. The statements *prima facie* have the potential to constitute a violation of conduct prohibited in **article 11.4(c) and/or Art. 11.5(e) and/or Art. 11.5(b) of the Disciplinary Code**.
 - 7.4. The ground for possible inadmissibility of a complaint in **article 5.3 (b)** of the Ethics and Disciplinary Code (the complaint is substantially the same as a complaint submitted to and pending before a national federation's ethics and disciplinary body or another sport law tribunal) is not applicable here as the case pending in front of the national ethics committee of Montenegro is to address the Complainant's behaviour during the tournament which does not prejudice in any way the question of whether or not there were irregularities during the Tournament in terms of the FIDE Ethics and Disciplinary Code.
 - 7.5. The alleged misconduct by the Respondents has taken place during the period June 2 to 7, 2023, which is within the prescribed period of three (3) years preceding the date of the Complainant's complaint of 23 June 2023.
 - 7.6. The Complainant addressed the jurisdiction of the EDC, referencing **Art. 4.7 (b) of the FIDE Ethics and Disciplinary Code**.
 - 7.7. The EDC Panel **notes** the provisional ruling made by the Chairman of the EDC, referencing **Art. 4.7 (a) of the FIDE Ethics and Disciplinary Code**.



7.8. Accordingly, the final matter to be addressed pertains to the jurisdiction of the EDC, specifically whether it should be based on **Article 4.7(a) or Article 4.7(b) of the FIDE Ethics and Disciplinary Code.**

7.9. The EDC Panel **notes Article 4.7**, which states the following:

“This Code shall apply in respect of any and all conduct forbidden in this Code if performed by a member of the FIDE family and such conduct takes or took place on an occasion in one of the following spheres:

- a) **The international sphere**, meaning FIDE tournaments, events and congresses, as well as other tournaments and events which has a multi-national participation, or at which norms for FIDE titles can be earned, or serve as a qualifying event for a major FIDE tournament or event including the World Cup, or the relevant conduct in some manner affects the interests of other national federations or the international chess community as a collective. The fact that a tournament is FIDE rated is not on its own determinant of its international nature, but may be taken into account together with other factors.
- b) **The national sphere**, meaning tournaments, events and meetings organised or hosted or under the auspices of a national federation which fall outside the international sphere, but only in the following circumstances:
 - i. the case on which the alleged violation is based has international implications or affects various national member federations of FIDE and has not been judged at national level through the national federation’s own ethics process; or
 - ii. the national ethics process has operated in a manner that in itself is a breach of this Code or of the fundamental principles of law and fair trial.

7.10. The EDC Panel **notes** that Article 4.7 reproduces the distinction already established in Articles 26.8 and 26.9 of the FIDE Charter. This distinction implies the existence of two areas: the International Area, where the EDC has full jurisdiction, and the Internal or National Area, where the EDC has very limited and exceptional jurisdiction.

7.11. The EDC Panel, relying on the systematic or contextual interpretation for a possible application of Article 4.7(a), **finds** that all referenced FIDE events have some common characteristics and must meet the following minimum prerequisites:

- They are organized or hosted under the auspices of FIDE.
- They have multinational participation and/or their organization affects two or more national federations
- They are generally FIDE rated (this element is not determinant on its own).
- Additionally, any tournament serving as a ‘qualifying event for a major FIDE tournament or event, including the World Cup,’ must meet the



test of unpredictability which revolves around qualification: no participant, whether an individual player or a national federation, knows if they will qualify or not.

- 7.12.** The EDC Panel **finds** that the requirements of Article 4.7(a) have not been met in the present case as the tournament organized by the CFM is not a qualifying event to the World Cup for the following reasons:
- 7.12.1.** It is not a tournament organised and hosted under the auspices of FIDE but under the auspices of a national federation.
 - 7.12.2.** The tournament has no multi-national participation, only Montenegrin players are participating.
 - 7.12.3.** The tournament is not FIDE rated (this factor is taken into account together with the other factors).
 - 7.12.4.** The tournament has no international implications, even if Montenegro doesn't participate during the World Cup it will not have any international implications.
 - 7.12.5.** The unpredictable element regarding qualification is not met. In fact, at the commencement of the Montenegrin tournament, it was already known that Montenegro had qualified and secured a spot in the World Cup. The only remaining question was: who would represent Montenegro? It is a selection tournament, not a qualifying one.
 - 7.12.6.** Moreover, the tournament is not listed on the restrictive list of qualifying tournaments to the World Cup set in Art. 2.1 of the Regulations for the World Cup 2023.
 - 7.12.7.** Finally, the FIDE World Cup 2023 regulations, precisely Article VIII, paragraph 4, stipulate that "Each national federation having won the Olympiad spot needs to work out qualification criteria for its representative". The use of the expression "qualification criteria for its representative." in this paragraph is deliberate, as the "qualification for the World Cup" is already granted. Consequently, there exists no obligation or necessity for a national federation to organize a tournament for the selection of its representative to the World Cup. The sole requirement is to establish transparent criteria, as FIDE refrains from intervening in this matter, deeming it a national affair.
- 7.13.** About, a possible application of **Article 4.7(b)**, the EDC Chamber **notes** the **Rule 68.1 of the EDC Procedural Rules** providing: "In its decisions the EDC shall... strive to maintain consistency with its own previous decisions if the matters are not materially distinguishable" and **refers** especially to Case no. 3/2018 (Selection complaint of Susan Cooke against Welsh Chess Union (WCU)) where the complaint of Ms. Susan Cooke against the Welsh Chess Union ("WCU"), relating to her non-selection for the Welsh national women's team for participation in the 2018 Olympiad in Batumi, Georgia was declared inadmissible.



- 7.14. The EDC Panel reiterates that FIDE member federations have principal authority over chess activities in their own countries. The EDC shall exercise jurisdiction over the conduct of officials of national federations only in exceptional circumstances, namely in instances where the case 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.
- 7.15. Upon due consideration of the matter, the EDC Panel rules that there does not exist the necessary factual basis for the EDC 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 EDC. The ruling is made on the basis of the following:
- 7.15.1. The dispute relates to an internal matter of the MCF, namely the selection of its representative to the World Cup 2023;
- 7.15.2. The fact that a representative is to be selected for participation at an international event, namely the FIDE World Cup 2023, does not affect the character of the matter as a national affair;
- 7.15.3. There are no factual grounds for the EDC to become involved on the basis that the alleged violation has international implications or affects various national federations of FIDE;
- 7.15.4. There are no factual grounds for the EDC to become involved on the basis that the national federation has failed to prosecute a disciplinary case in compliance with fundamental principles of law;
- 7.15.5. In the circumstances, the jurisdictional grounds required by the FIDE Statutes and the Ethics and Disciplinary Code for the EDC's intervention are wholly absent.
- 7.16. The EDC Chamber finds therefore that it has no jurisdiction to investigate the alleged violation of the Ethics and Disciplinary Code.
8. Accordingly, the EDC panel **by unanimity** of its members, **decides** as follows:
- 8.1. Mr. Blagojević's Complaint to the EDC **not admissible** and thus;
- 8.2. The Case is dismissed.
9. The parties are 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 lodgement 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 First Instance Chamber's decision will become final.

10. The EDC Panel requests the FIDE Secretariat to communicate forthwith the decision to the Complainant, Mr. Dragiša Blagojević, the Respondents, the Chess Federation of Montenegro, Mr. Jovan Milović, Mr. Igor Vujačić and their representative Mr. Marco Biagioli and to publish in due course the decision on the FIDE website.

DATED ON THIS 29th day of February 2024.

Khaled Arfa

First Instance Chamber Chairperson

FIDE ETHICS & DISCIPLINARY COMMISSION