

**FIDE ETHICS AND DISCIPLINARY COMMISSION**  
**APPEAL CHAMBER**

The EDC Appeal Chamber, sitting in the following composition –

**Chairperson: Mr Francois Strydom**  
**Members: Mr Johan Sigeman**  
**Mr Khaled Arfa**

In accordance with Article 26(4) of the FIDE Charter, hereby renders the following:

**DECISION**

***In re:***

**CASE NO: 3/2020(A): ALLEGED DISCRIMINATION IN SUDANESE QUALIFYING TOURNAMENTS FOR 2020 FIDE ONLINE OLYMPIAD**

1. This is an appeal against the Decision of the EDC First Instance Chamber (per Mr David Hater (Chair), Ms Yolander Persaud and Mr Ravindra Dongre) dated 29 March 2021.
2. In the First Instance Decision, Mr Omar Deab was found guilty of a violation of Articles 2.2.2 and 2.2.3 of the former Code of Ethics (Office bearers who through their behaviour no longer inspire the necessary confidence or have in other ways become unworthy of trust; Organisers, tournament directors, arbiters or other officials who fail to perform their functions in an impartial and responsible manner) and sanctioned to a worldwide ban of 12 (twelve) months from participating in any FIDE activities. 6 (six) months of the twelve-month period were suspended on certain conditions. The ban would only become effective once the deadline for appeals had passed and any potential appeal had been adjudicated.

### **Parties in the appeal**

3. The **appellant** is Mr Omar Deab, The President of the Sudanese Chess Federation (“**SCF**”). The **respondent** is Mr Obay Izzadin, the original complainant.

### **Admissibility of appeal**

4. The appellant’s Statement of Appeal dated 17 April 2021, was received by the EDC on 19 April 2021, within the permissible appeal period and complied otherwise with the formal requirements for the admissibility of an internal appeal before the EDC Appeal Chamber. Accordingly, the appellants’ appeal is declared admissible.

### **Factual background**

5. The respondent’s complaint, adjudicated by First Instance Chamber, related to the respondent’s removal from the Sudan National Team which would play in the 2020 FIDE Online Olympiad after the respondent had won the original qualification tournament and was selected “in principle” to represent the Sudanese team in the Online Olympiad. A second qualification tournament was held during which the respondent was disqualified for slow play and disruptive behaviour and lost his place in the Sudanese team. The respondent contended that his removal was unjustified, discriminatory and an abuse of power by the appellant as President of the SCF and was in retaliation for the respondent having filed a previous Ethics complaint against the appellant.
6. A fuller description of the facts and the First Instance Chamber’s reasoning in support of its conviction of the appellant appears

from First Instance Chamber's written Decision published on the EDC website.

### **Grounds of appeal**

7. The appellant relies on two main grounds of appeal:
  - 7.1. The appellant contends that the EDC lacks jurisdiction in the matter as the relevant incident is an internal matter of the SCF. It is argued that contrary to the First Instance Chamber's view, the fact that the internal selection process took place for purposes of participation in an international event does not make the selection an international event itself, with reference to EDC case no. 3/2018 *Susan Cooke*.
  - 7.2. On the merits of the matter, the appellant contested the facts advanced in the respondent's complaint and accepted in the First Instance Chamber's conviction. He contends that, on the true facts, the respondent was disqualified by a technical decision taken not by him, but by the chairman of the Central Training Committee. The appellant challenges the veracity of the respondent's claims and emphasised the SCF's efforts to build a transparent team selection process and the absence of any evidence of discrimination by the SCF or himself against the respondent.

### **The respondent's position**

8. In the answering statement of the respondent, received on 23 May 2021, the respondent opposes the appeal on the following main grounds:

- 8.1. The respondent claims that the EDC indeed has the necessary jurisdiction in the matter and finds support in EDC case no. 2/2020 Kenya, a matter in which two Kenyan female chess players were found guilty of match-fixing during the Kenyan National Women's Chess Championship, 2019 ("**KWCC**"). The KWCC was the first phase in the qualification for the Kenyan Olympiad women's team.
- 8.2. The respondent challenged the appellant's factual account of what occurred during the second qualification tournament and relied on numerous witness statements in support of his own version. He alleged that the appellant had made himself guilty of deception and fabrications in the factual version put forward by him in his appeal documents.

### **Jurisdiction**

9. For a complaint to be held admissible, there are five substantive requirements to be met (Article 5.1(a) – (e) of the EDC Code). Relevant in the present case is the requirement that the alleged misconduct must have been committed in the international sphere or, if in the national sphere, fall within one of the exceptions on the basis of which the EDC will exercise jurisdiction (Article 5.1(d)).
10. In Article 4.7 of the EDC Code, the "*international sphere*" and the "*national sphere*" respectively are circumscribed in the following manner:
- "(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 interest of other national federations or the international chess community as a collective. The fact that the 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 had 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."

(our underlining)

- 11. In EDC case no. 3/2018 Cooke, a case related to Ms Cooke's non-selection by the Welsh Chess Union ("**WCU**") for the Welsh National Women's Team for participation in the 2018 Olympiad in Batumi, Georgia, the EDC held that Ms Cooke's complaint was not admissible on the following basis:
  - 11.1. 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.
  - 11.2. The dispute related to an internal matter of the WCU, namely the selection of its National Team.

- 11.3. The fact that the National Team was selected for participation at an international team event, namely the Chess Olympiad, did not affect the character of the matter as a national affair.
- 11.4. There were no factual grounds for the EDC to become involved, exceptionally, on the basis that the national federation had failed to prosecute a disciplinary case in compliance with fundamental principles of law.
- 11.5. There were also no factual grounds for the EDC to become involved, exceptionally, on the basis that the alleged violation has international implications or affected various national federations of FIDE.
12. In addition to the above reasons, the Appeal Chamber wishes to emphasise that Ms Cooke's complaint was a pure selection dispute and the decision of the WCU not to select Ms Cooke for the Team was not a disciplinary matter. The EDC is a disciplinary body and cannot hear "appeals" against ordinary executive decisions of FIDE Member Federations.
13. In EDC case no. 2/2020 Kenya, a match-fixing case brought by the FIDE Fair Play Commission ("**FPL**"), the EDC Panel pointed out that although the KWCC was a national event, it was the first phase in the qualification for the Kenyan Olympiad Women's Team, "a fact that puts it in the realm of 'international implications' as meant in the first leg of Article 26.9 of the FIDE Charter." However, the EDC Panel relied in addition on the second leg of Article 26.9 of the Charter, namely that Chess Kenya had failed to prosecute the accused parties for the alleged violation of the Disciplinary Code in a proper disciplinary process, as a basis which founds jurisdiction

for the EDC (Article 26.9 of the FIDE Charter corresponds with Article 4.7(b) of the EDC Code, quoted in paragraph 10 above).

14. The Appeal Chamber points out that the Kenyan case is one of cheating and was brought before the EDC by the FPL in terms of its broad jurisdiction to control fair play violations. This renders the Kenyan case distinguishable from both EDC case no. 3/2018 *Cooke* and EDC case no. 7/2023 *Montenegro* (referred to hereinafter).
15. In EDC case no. 7/2023 *Montenegro*, a complaint against the Chess Federation of Montenegro ("**MCF**") and certain of its officials about an alleged irregular deviation from the pairings procedure announced for the Montenegro qualifying tournament for the 2023 FIDE World Cup, the Panel held the complaint to be inadmissible on the following reasoning:
  - 15.1. The qualifying tournament was not a tournament organised and hosted under the auspices of FIDE but under the auspices of the MCF, a national federation.
  - 15.2. The tournament had no multi-national participation, only Montenegrin players were participating.
  - 15.3. The tournament was not FIDE-rated (not a factor decisive on its own).
  - 15.4. The tournament had no international implications.
  - 15.5. The unpredictability element regarding qualification was not met. 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?" Accordingly, it was a "selection tournament", not a "qualifying tournament".

- 15.6. Furthermore, the tournament was not listed on the restrictive list of qualifying tournaments to the World Cup in the Regulations for the World Cup.
- 15.7. The Regulations stipulated that “each national federation having won the Olympiad spot needs to work out qualification criteria for its representative”. There existed no obligation or necessity for a national federation to organise a tournament for the selection of its representative to the World Cup. The sole requirement was to establish transparent criteria, as FIDE refrains from intervening in this matter, deeming it a national affair.
16. Accordingly, the EDC Panel held that the requirements of Article 4.7(a) of the EDC Code for the conduct to fall within the “international sphere” had not been met, neither did the exceptions in Article 4.7(b) come into play as exceptional grounds for the EDC’s intervention in conduct within the “national sphere” had not been established.
17. In the result, the EDC Panel held in case no. 7/2023 *Montenegro* with favourable reference to Ms Cooke’s case, that the fact that a representative was to be selected for participation at an international event, namely the FIDE World Cup 2023, did not affect the character of the matter as a national affair and that there were no factual grounds for the EDC to become involved on the basis that the alleged violation had international implications or affected various national federations of FIDE, or on the basis that the national federation had failed to prosecute the disciplinary case in compliance with fundamental principles of law.



18. On an analysis of the facts of the present case, it must be obvious that the present case cannot be distinguished from EDC case no. 7/2023 *Montenegro* and that the same conclusion regarding the inadmissibility of the complaint must be reached.
19. It follows that the First Instance Chamber erred, in paragraph 6.1 of its Decision, by finding that the Sudanese qualifying tournament for the FIDE Online Olympiad was an international event, and that the EDC has jurisdiction to investigate the violation of the Code of Ethics which occurred at the event.
20. Although Article 4.7(a) of the EDC Code includes in the “international sphere” tournaments that serve as a qualifying event for a major FIDE tournament, on the distinction drawn in EDC case no. 7/2023 *Montenegro* between a “selection tournament” and a “qualifying tournament”, the Sudanese tournament was in truth only a “selection tournament” as the SCF had already qualified for participation in the Online Olympiad.

### **Conclusion**

21. It follows that the respondent's complaint should not have been entertained by the First Instance Chamber and that the appellant's present objection to the EDC's jurisdiction must be upheld.
22. In the circumstances, there is no need for the EDC to consider the merits of the appeal, save to point out that the factual controversies appearing from the respective statements of the appellant and respondent would not have been able to be resolved without a lengthy and cumbersome oral hearing in which evidence would have been required to be received from many witnesses with no or little command of the English language.

23. In the result, the appeal succeeds and Mr Omar Deab's conviction is set aside, and the sanction imposed by First Instance Chamber is annulled.
24. In accordance with Article 17.2 and 17.4 of the EDC Code, and procedural rule 73.1, this final decision of the Appeal Chamber is appealable to the CAS within twenty-one (21) days following communication of this Decision.
25. The FIDE office is requested to communicate this Decision forthwith to the appellant and the respondent and to cause publication of the Decision on the FIDE website in due course.

DATE: 18 September 2024

*F P Strydom*

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FRANCOIS STRYDOM  
APPEAL CHAMBER CHAIRMAN: