

**DECISION-TAKING AND DISPUTE-RESOLUTION  
WITHIN THE INTERNATIONAL CHESS FEDERATION**

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*ABSTRACT: The aim of this chapter is to analyse the various decision-taking responsibilities and dispute-resolution mechanisms within the Fédération Internationale des Échecs (FIDE). This task is approached by first illuminating the rules structure within FIDE as well as the rights and duties of FIDE Family members regarding internal disputes. Thereafter, the decision-taking persons and bodies within FIDE are identified against the background of an understanding of the concepts of a “FIDE organ” and a “FIDE decision”. The types of disputes which may arise are examined with reference to the jurisdiction, the relevant regulations and the prescribed procedures to be followed. Where possible, the points are illustrated with a reference to case law. The discussion concludes with a look at FIDE’s relationship with CAS and the issue of enforcement of FIDE decisions.*

**SUMMARY:** 1. Introduction – 2. The FIDE Charter and Scheme of Rules – 3. Rights and Obligations of FIDE members – 4. FIDE Organs and Other Internal Bodies – 4.1 The Concepts of a “FIDE Organ” and a “FIDE Decision” – 4.2 Legislative and Executive Bodies – 4.2.1 The General Assembly – 4.2.2 The President – 4.2.3 The Council – 4.2.4 The Management Board – 4.3 Judicial Bodies and Legal Committees – 4.3.1 The Ethics and Disciplinary Commission – 4.3.2 The Electoral Commission – 4.3.3 The FPL Judicial Body – 4.3.4 The Arbiters’ Disciplinary Committee – 4.3.5 FIDE Doping Hearing Panels – 4.3.6 Fact-Finding Committees – 4.4 Advisory and Administrative Bodies – 4.4.1 Advisory Bodies – 4.4.2 Administrative Bodies – 5. Jurisdiction and Types of Disputes – 5.1 Constitutional and Legal Disputes – 5.2 Ethics and Disciplinary Disputes

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– 5.3 Cheating and Doping Disputes – 5.3.1 Cheating Disputes – 5.3.2 Doping Disputes – 5.4 Electoral Disputes – 5.5 Eligibility and Transfer Disputes – 5.6 Internal Management Disputes – 5.7 Employment and Commercial Disputes – 5.8 Continental and National Federation Disputes – 5.9 Competition-Related Disputes – 6. Relationship with CAS – 7. Enforcement of FIDE Decisions – 8. Concluding Remarks and Appendix

## 1. INTRODUCTION

The *Fédération Internationale des Échecs* (hereinafter “FIDE”) is the international sports federation for chess. Its English name is the International Chess Federation (formerly World Chess Federation). The seat and the headquarters of FIDE are in Lausanne, Switzerland.

FIDE was founded in Paris, France on 20 July 1924. It was one of the very first international sports federations, alongside the governing bodies of the sports of football, cricket, swimming and auto racing.<sup>1</sup> It is now one of the largest encompassing 200 member federations<sup>2</sup> as of May 2022. The FIDE motto is “*Gens Una Sumus*” (“We are one family”).

FIDE is a non-governmental and non-profit organisation, registered in the commercial register in Switzerland, and acts as the supreme body responsible for the sport of chess, its championships and events. In 1999, FIDE was recognized by the International Olympic Committee (IOC) as the organisation administering the sport of chess at world level.<sup>3</sup> FIDE observes the “Basic Universal Principles of Good Governance of the Olympic and Sports Movement” adopted by the IOC.<sup>4</sup>

The mission and role of FIDE<sup>5</sup> includes *inter alia* the promotion of chess activities in all their forms, the diffusion and development of chess among all nations of the world, as well as the raising of the level of chess culture and knowledge on a sporting, scientific, creative, educational and cultural basis.

FIDE is structured as a Swiss Verein, an association of a corporate group of persons with separate legal personality as recognized by the Swiss Civil Code. The objects of the Association, its resources and its organisation are stated in its Articles of Association, now styled the FIDE Charter (previously FIDE Statutes).

<sup>1</sup> <https://fide.com/fide/about-fide>; <https://en.wikipedia.org/wiki/FIDE>.

<sup>2</sup> <https://fide.com/directory/member-federations>.

<sup>3</sup> <https://olympics.com/ioc/recognised-international-federations/world-chess-federation>.

<sup>4</sup> Charter, Art. 2.13.

<sup>5</sup> Charter, Artt. 2.1 – 2.12.

FIDE is composed by the following associated bodies:

- (a) Member Federations<sup>6</sup> – these are national chess associations or corresponding organisations, one for each country, which have principal authority over chess activities in their own countries or territories and which have been admitted<sup>7</sup> to FIDE. Member Federations have the right to take part and to vote in the General Assembly, with one vote each.<sup>8</sup>
- (b) Affiliated Organisations<sup>9</sup> – these are associations or organisations which represent a grouping of either member federations, some regions or transnational territories or people with a common ground or the same interests in some specific chess activities.<sup>10</sup> Affiliated Organisations have the right to take part in FIDE congresses and in the General Assembly, but without voting.<sup>11</sup>
- (c) FIDE Continents<sup>12</sup> – these are bodies comprising all FIDE Member Federations of the countries included in its respective Continent and responsible for Continental chess governance and development. There are four FIDE Continents, namely: the African Chess Confederation (for Africa), the Asian Chess Federation (for Asia and Oceania), the Confederation of Chess for Americas (for North, Central and South America) and the European Chess Union (for Europe).<sup>13</sup> FIDE Continents are autonomous entities. They can freely decide about their organs and functioning and are responsible for the organisation of Continental championships under the auspices of FIDE. Continental Presidents sit in the FIDE Council and may participate in the General Assembly, without voting rights.<sup>14</sup>
- (d) FIDE Zones<sup>15</sup> – the chess world is divided in geographical zones considering proximity, common historical, linguistic and cultural trades, level of chess activities. etc. The management of each zone is assigned to a Zonal President, who has the responsibility to coordinate the activities of the member federations in the zone. All the Zonal Presidents, together with the Presidents of the FIDE Continents form a Zonal Council which acts mainly in an advisory and coordinating function.

<sup>6</sup> Charter, Art. 9, and Definitions: ‘Member Federation’.

<sup>7</sup> Charter, Art. 12.

<sup>8</sup> Charter, Art. 10.1(a)

<sup>9</sup> Charter, Art. 14, and Definitions: ‘Affiliated Organisation’.

<sup>10</sup> Charter, Art. 14.1.

<sup>11</sup> Charter, Art. 14.2.

<sup>12</sup> Charter, Artt. 31 and 32, and Definitions: ‘FIDE Continent’.

<sup>13</sup> Charter, Art. 31.1.

<sup>14</sup> Charter, Artt. 32.3 and 32.4.

<sup>15</sup> Charter, Artt. 31, 33 and 34, and Definitions: ‘Zone’.

Aside from the above constituent parts, the FIDE Charter recognizes Honourable Dignitaries as a special class of individual membership of FIDE.<sup>16</sup> Honourable Dignitaries have the right to attend the General Assembly, but without voting rights.

The abovementioned FIDE Members, Organisations and Individuals, together with every other actor or participant in the sport of chess or its governance/administration at an international level are regarded as Members of the FIDE Family and fall under the jurisdiction of FIDE.<sup>17</sup>

## 2. *THE FIDE CHARTER AND SCHEME OF RULES*

During the 2018-2022 management term, FIDE embarked on a systematic and thorough reform of its constitution, rules and regulations. A new constitution, the FIDE Charter, has been adopted and applies with effect from 1 March 2020. The FIDE Charter contains the primary rules and the main principles of the organisation which cannot be superseded nor derogated from by any other FIDE rule, regulation or decision.<sup>18</sup> The FIDE Charter also defines the composition and formal organisation of FIDE as a corporate body.

The system of FIDE rules and regulations is hierarchically organised as follows:<sup>19</sup>

- (a) FIDE Charter.
- (b) By-laws, Ethics and Disciplinary Code, Electoral Rules, Financial Rules, Rules on Laws of Chess, Zonal Council Rules, Rules on Non-Elected Commissions.
- (c) Regulations.
- (d) Procedural Rules of the Ethics and Disciplinary Commission, of the Fair Play Commission and of the Arbiters' Disciplinary Committee.
- (e) Decisions.
- (f) Internal Rules of FIDE organs.
- (g) Recommendations and Guidelines.

The above are the only rules or regulations in FIDE.<sup>20</sup> The latest version of all FIDE rules and regulations are collected in the FIDE Handbook, a compendium of documents published on the FIDE website.<sup>21</sup>

<sup>16</sup> Charter, Art. 15.

<sup>17</sup> Ethics and Disciplinary Code, Artt. 4.1. – 4.3.

<sup>18</sup> Charter, Art. 7.3.

<sup>19</sup> Charter, Art. 7.1.

<sup>20</sup> Charter, Art. 7.2.

<sup>21</sup> Charter, Art. 7.14, and Definitions: 'FIDE Handbook'; see further <https://handbook.fide.com>.

### 3. RIGHTS AND OBLIGATIONS OF FIDE MEMBERS

Member Federations, as full ordinary Members of FIDE, are given specific rights<sup>22</sup> and obligations<sup>23</sup> in the Charter. The exercise of these rights is subject to the provisions of the FIDE Charter and other FIDE rules and regulations.

Regarding the right to participate in decision-taking and declare internal disputes, Member Federations are entitled to take part and to vote in the General Assembly, with one vote each, to make proposals for inclusion in the agenda of the General Assembly and of the Congress and to nominate candidates for the President, other members of the Council, the Zonal President of their Zone, and the Chairmen and members of the Elected Commissions.

On the other hand, all FIDE Members, Organs and Officials must observe FIDE rules, regulations and decisions.<sup>24</sup> All FIDE Members must include, in their statutes, the obligation of their members to observe FIDE rules and regulations<sup>25</sup> and ensure that their members and various bodies, including leagues and clubs, comply with them.<sup>26</sup>

The Charter incorporates certain FIDE principles,<sup>27</sup> including *inter alia* that FIDE is a democratically established and fully independent organisation based on the principle of equal rights of its members, FIDE preserves the autonomy of chess and sport and FIDE is committed to respecting all internationally recognized human rights and shall strive to promote the protection of these rights and further rejects any kind of discrimination against a country, private person or group of people for any reason. Non-compliance with the FIDE principles by any members of the FIDE Family shall constitute a breach of the Ethics and Disciplinary Code and, depending on the severity of the non-compliance, be subject to either Remedial Action or Disciplinary Action.<sup>28</sup>

In terms of the Ethics Code, FIDE members must respect and conform with clearly defined ethical values and principles<sup>29</sup> and FIDE Officials and FIDE Employees have specific duties and responsibilities.<sup>30</sup> Non-compliance with any of the ethical values and principles, or non-compliance with any of the duties and responsibilities by a FIDE Official or FIDE Employee, shall constitute a breach

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<sup>22</sup> Charter, Art. 10.

<sup>23</sup> Charter, Art.11.

<sup>24</sup> Charter, Art. 7.11.

<sup>25</sup> Charter, Art. 7.12.

<sup>26</sup> Charter, Art. 11(a).

<sup>27</sup> Charter, Art.4

<sup>28</sup> Code, Art. 7.2.

<sup>29</sup> Code, Artt. 6.1. – 6.31.

<sup>30</sup> Code, Artt. 8.1. – 8.41.

of the Ethics Code and be subject to either Remedial Action or Disciplinary Action.<sup>31</sup> The Disciplinary Code of FIDE provides for several regulatory offences,<sup>32</sup> which are sanctionable in terms of the Code.<sup>33</sup>

In terms of the Ethics and Disciplinary Code, a Complainant shall have the necessary standing to submit a complaint or report<sup>34</sup> if:

- (a) He/she or it is a member of the FIDE Family (other than the mentioned parties in article 4.2(e), 4.2(i), 4.2(o)-(u) of the Code); and
- (b) In the case of an individual Complainant, he or she is personally and directly affected by the alleged misconduct or otherwise has a direct and substantial interest in the matter; or
- (c) In the case of the General Assembly, FIDE President, FIDE Council and Management Board representing FIDE's interests in general; or
- (d) In the case of any other FIDE organ submitting a report to the Ethics and Disciplinary Commission, if such organ represents the general interests of FIDE in a specific area of interest or specialty within FIDE's governance of the sport of chess.

Procedural requirements for the filing of reports and complaints are set out in the EDC Procedural Rules, including requirements for the payment of a refundable or non-refundable complaint lodgment fee.<sup>35</sup>

#### 4. *FIDE ORGANS AND OTHER INTERNAL BODIES*

##### 4.1 *The Concepts of a "FIDE Organ" and a "FIDE Decision"*

FIDE organs are the organisational elements of FIDE as a juridical person and as a centre of attribution of legal situations. FIDE acts through its own organs and the effects of FIDE organ's activities, subject to the competences and powers as provided for in the FIDE Charter, are directly attributed to FIDE. The number, composition and the competences of FIDE organs are established exclusively by the FIDE Charter. No new organ can be created without modifying the FIDE Charter.<sup>36</sup>

The FIDE organs established by the FIDE Charter are the following:<sup>37</sup>

- (a) The General Assembly.

<sup>31</sup> Code, Artt. 6.2 and 8.2.

<sup>32</sup> Code, Art. 11.4.

<sup>33</sup> Code, Art. 13.

<sup>34</sup> Code, Art. 5.2(a) – (d).

<sup>35</sup> Code, Art. 5.4.

<sup>36</sup> Charter, Art. 16.2.

<sup>37</sup> Charter, Art. 16.1.

- (b) The President.
- (c) The Council.
- (d) The Management Board.
- (e) The Zonal Council.
- (f) The Verification Commission.
- (g) The Constitutional Commission.
- (h) The Ethics and Disciplinary Commission and its Chambers.
- (i) The Electoral Commission.

Representation or voting by proxy is never allowed for any FIDE organ.<sup>38</sup>

As the title of this chapter makes plain, the focus herein will be on the decision-taking responsibilities within the various fields of activity of FIDE, as well as the available channels and mechanisms, such as objections, protests and appeals, for the resolution of any disputes.

The word “*decision*” is used hereinafter in the context of a pronouncement which is made pursuant to sporting authority and with the necessary intention, i.e., with the *animus decidendi*, which usually reflects the outcome of serious consideration and/or deliberation and which affects the legal situation of a person or persons in a binding, non-provisional manner. The failure or refusal to take a decision may also be considered a decision in the form of a denial of justice.<sup>39</sup>

Within FIDE, such “*decisions*” could, for example, take the form of resolutions by the General Assembly, decisions by the FIDE President and FIDE Council, and the judgments of the Ethics and Disciplinary Commission.

In contradistinction, acts of inferior bodies which may be described in ordinary parlance as “*decisions*”, may lack the essential elements of the exercise of sporting power, the necessary intent or binding character, and their dispositions cannot be regarded as true “*decisions*”.

The word “*appeal*” is reserved herein for the procedure in which an affected or interested party applies to a higher body for a reversal or alteration of the decision of a lower body. This must be distinguished from, for example, objections, protests and requests for reconsideration in respect of acts which do not constitute a “*decision*” within the meaning ascribed above.

The decisions of FIDE organs are the only decisions which bind FIDE and may accordingly be described as *FIDE decisions*.

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<sup>38</sup> Charter, Art. 16.6.

<sup>39</sup> D. MAVROMATI AND M. REEB, *The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials*, 2015, Kluwer Law International, The Netherlands, 383 – 389.

## 4.2 *Legislative and Executive Bodies*

The General Assembly, President, Council and Management Board fulfil the legislative and executive functions within FIDE and their decisions may be the subject-matter of dispute-resolution.

### 4.2.1 *The General Assembly*

The FIDE General Assembly is the highest authority of FIDE and exercises the powers<sup>40</sup> set out in the Charter. The General Assembly is both a legislative and executive body.<sup>41</sup>

The General Assembly is composed of:<sup>42</sup>

- (a) The representatives (President or delegate<sup>43</sup>) of the Member Federations.
- (b) The representatives of the Affiliated Organisations.
- (c) The Honourable Dignitaries.
- (d) The members of the Zonal Council.
- (e) The Chairmen of the Commissions.
- (f) The current FIDE World Champion and Women's World Champion.
- (g) Other persons can be invited to participate in the meetings of the General Assembly, in accordance with its Internal Rules.

The powers<sup>44</sup> of the General Assembly consist broadly of the following:

- (a) Approves and modifies the FIDE Charter, By-laws, Ethics and Disciplinary Code, Electoral Rules, Financial Rules, Rules on Laws of Chess and Zonal Council Rules.
- (b) Decides on the admission of new Member Federations and Affiliated Organisations and on their temporary suspension and permanent expulsion.
- (c) Elects the President, Deputy President, Vice-Presidents, Treasurer, Secretary of the Council and the respective Chairmen and Members of the Verification Commission, Constitutional Commission and Ethics and Disciplinary Commission (the elected commissions).
- (d) Decides on motions of no confidence raised against the President, another Member of the Council or the entire Council.
- (e) Approves the FIDE budget, Treasurer's report and the reports of the Verification Commission and of the Constitutional Commission.

<sup>40</sup> Charter, Art. 17.

<sup>41</sup> CAS 2009/A/1762, *Jean-Paul Touzé v The World Chess Federation*, para. 71.

<sup>42</sup> Charter, Art. 17.3.

<sup>43</sup> Charter, Art. 17.5.

<sup>44</sup> Charter, Art. 17.2.



- (f) Awards hosting of Chess Olympiads and provides general guidance on FIDE activities.

The FIDE President chairs the General Assembly. The sessions of the General Assembly are public, unless it is decided otherwise<sup>45</sup> by simple majority vote.<sup>46</sup> As a rule, the Ordinary General Assembly meets once every year. An Extraordinary General Assembly may be convened at any time by the President or Council or upon request of at least 65 Member Federations.

#### 4.2.2 *The President*

The FIDE President is the only FIDE official who is also a FIDE organ. The President represents FIDE officially and shall have the powers and responsibilities set out in the Charter.<sup>47</sup> The President's powers to enter into contracts on behalf of FIDE and to deal with FIDE staff matters are dealt with hereunder under a separate heading.<sup>48</sup>

In general, the President shall aim to foster a positive image of FIDE and to ensure that FIDE's mission, strategic direction, policies and values are protected and advanced. The President shall seek to maintain and develop good relations between and among FIDE Member Federations, Affiliated Organisations, the International Olympic Committee, other International Sports Federations, political bodies and international organisations.

The President chairs the meetings of the General Assembly, except in the case of the Presidential elections and presents an annual report to the General Assembly. The President also presides over meetings of the Council and the Management Board. Decisions of the Management Board should be taken by consensus.

If the President is temporarily prevented from performing official functions, the Deputy-President shall assume the powers and responsibilities of the President.<sup>49</sup> If the President is permanently incapacitated or has been temporarily substituted for a period longer than six months, the Council must convene new elections in the General Assembly to be organised in the year of the next Chess Olympiad and the mandate of all members of the Council is concluded after them.<sup>50</sup>

<sup>45</sup> A two third majority of valid votes are required by, for example, Charter Artt. 13.4, 17.2(a) and (g), and 38.1

<sup>46</sup> Charter, Art. 17.12.

<sup>47</sup> Charter, Art. 18.

<sup>48</sup> See 5.7 Employment and commercial disputes.

<sup>49</sup> Charter, Art. 19.2.

<sup>50</sup> Charter, Art. 19.3.

### 4.2.3 *The Council*

The FIDE Council is the strategic and oversight body of FIDE, it has executive and legislative functions and exercises the powers set out in the Charter.

The Council is composed of:<sup>51</sup>

- (a) The President.
- (b) The Deputy-President.
- (c) The Treasurer.
- (d) The Secretary of the Council,
- (e) Seven Vice-Presidents.
- (f) The four Presidents of the FIDE Continents.

In broad terms, the Council has the following powers and responsibilities:<sup>52</sup>

- (a) Approves and modifies the Procedural Rules of the Ethics and Disciplinary Commission, of the Fair Play Commission and of the Arbiters' Disciplinary Commission, Regulations concerning general rules about tournaments, titles and ratings and other Regulations and Recommendations.
- (b) Defines FIDE's mission, strategic direction and policies, regarding the organisation and development of chess at worldwide level and all related matters.
- (c) Approves the President's proposals about the composition of the Management Board and approves, ratifies or is just informed about the decisions taken by the President and the Management Board.
- (d) Approves the draft of the FIDE budget and proposes amendments, approves or ratifies all FIDE contracts worth more than EUR150 000.
- (e) Supervises the activities of Non-Elected Commissions.
- (f) Resolves on all matters not otherwise and explicitly reserved to another body by the Charter.

The Council should meet at least once every four months, in addition the President may at any time convene the Council for consultations in person or tele - or online conference.<sup>53</sup> The Council, if not otherwise required by the Charter,<sup>54</sup> makes its decisions by simple majority.<sup>55</sup>

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<sup>51</sup> Charter, Art. 20.3.

<sup>52</sup> Charter, Art. 20.2.

<sup>53</sup> Charter, Art. 20.8.

<sup>54</sup> For example, see Charter, art. 20.2(a) and (b).

<sup>55</sup> Charter, Art. 20.7.

#### 4.2.4 *The Management Board*

The Management Board is the executive, operational and administrative body that assists the President in the day-to-day management of FIDE activities and implements specific mandates given by the President and the Council.<sup>56</sup> The powers and specific responsibilities of the Management Board are specified in the Charter.<sup>57</sup>

The Management Board is composed of the President, a minimum of two other members of the Council and other FIDE officials, directors or employees.<sup>58</sup>

The composition of the Management Board and the appointment of its members are approved by the Council, following the President's proposal.<sup>59</sup>

#### 4.3 *Judicial Bodies and Legal Committees*

The Ethics and Disciplinary Commission (“EDC”) is the principal judicial organ within FIDE. It gives decisions concerning disciplinary or sports justice matters which decisions are final within the organisation of FIDE.<sup>60</sup> Other bodies exercising judicial powers are the Electoral Commission, the Judicial Body of the Fair Play Commission, the Arbiters' Disciplinary Committee, the Doping Hearing Panels established by the Medical Commission and the Fact-finding Committees operating within the ranks of the EDC and the Fair Play Commission.

##### 4.3.1 *The Ethics and Disciplinary Commission*

The Chairman and Members of the EDC are elected by the General Assembly. To be eligible, the Chairman and three of the Members must have sufficient practical background and expertise in law and justice (at least four years of experience as judge, or lawyer, or notary, or scholar or professor on legal subject matters, or similar professional experience). The other three members must have sufficient background in the administration of FIDE or of a member federation (at least six years of experience as FIDE or member federation office bearer). They may not belong to the same Member Federation and shall not be re-elected for more than two consecutive terms.<sup>61</sup>

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<sup>56</sup> Charter, Art. 23.1.

<sup>57</sup> Charter, Art. 23.4.

<sup>58</sup> Charter, Art. 23.2.

<sup>59</sup> Charter, Art. 23.3.

<sup>60</sup> Charter, Artt. 7.8. and 35.2.

<sup>61</sup> Charter, Art. 26.2.

The EDC shall consider and decide on any alleged breach of the FIDE Ethics and Disciplinary Code (the “Code”) and impose a sanction or grant other measures as specified in the Code, acting in accordance with the EDC Procedural Rules.<sup>62</sup> The EDC may give an advisory opinion on the interpretation of the Code and linked questions, at the request of any FIDE organ, and shall be consulted on any proposed change of the Code.<sup>63</sup>

To consider the cases brought before it, the EDC shall sit in either a single-member formation (only for decisions on admissibility and for decisions on the merit of minor cases, as defined in the Code) or in a First Instance Chamber of three members, or in an Appeal Chamber of three members. The Appeal Chamber shall always include the Chairman of the EDC and no members of the First Instance Chamber which rendered the judgment shall sit in the Appeal Chamber.<sup>64</sup>

The functioning and organisation of the EDC are laid down in the EDC Procedural Rules.

#### 4.3.2 *The Electoral Commission*

The Electoral Commission (“ELC”) is composed of three *ex officio* members, namely the Chairmen of the Verification Commission, Ethics and Disciplinary Commission and Constitutional Commission respectively. In the case of the unavailability of any of the Chairmen, his or her deputy of the same Commission will take his/her place.<sup>65</sup> Each FIDE Continent is entitled to nominate an observer who can attend all ELC meetings, except for deliberations on the alleged violation of the Code. These observers have no right to vote, nor to participate in the discussion.<sup>66</sup> The Chairman of the ELC shall be the Chairman of the Constitutional Commission, except when the ELC decides on cases of alleged violations of the FIDE Ethics and Disciplinary Code, then the Chairman of the Ethics and Disciplinary Commission shall preside.<sup>67</sup> The ELC decides by majority vote and in the event of a tie, the Chairman shall have a decisive vote.<sup>68</sup>

All complaints arising from FIDE’s elections (except elections of the Verification Commission, Ethics and Disciplinary Commission and Constitutional Commission), including but not limited to the eligibility of the candidates and the

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<sup>62</sup> Charter, Art. 26.6.

<sup>63</sup> Charter, Art. 26.11.

<sup>64</sup> Charter, Artt. 26.4. and 26.5.

<sup>65</sup> Charter, Art. 28.1.

<sup>66</sup> Charter, Art. 28.2

<sup>67</sup> Charter, Art. 28.6.

<sup>68</sup> Charter, Art. 28.7.

conduct of elections, must be brought before the ELC.<sup>69</sup> In the case of the election of the Chairmen and members of the Verification Commission, of the Ethics and Disciplinary Commission and of the Constitutional Commission, three scrutineers, elected by the General Assembly in accordance with the Electoral Rules, will act as the ELC.<sup>70</sup> The ELC is further competent to decide on all complaints or reports concerning alleged breaches of the Code by candidates to elective positions, if submitted in the two months before the elections.<sup>71</sup> The ELC has further the competences assigned by the Electoral Rules.<sup>72</sup> The ELC shall verify who is entitled to vote in FIDE's elections, in accordance with the Electoral Rules.<sup>73</sup> The decisions of the ELC are final within the organisation of FIDE.

#### 4.3.3 *The FPL Judicial Body*

In terms of the Ethics and Disciplinary Code<sup>74</sup> all players in FIDE competitions shall observe the rules imposed in the regulations of the FIDE Fair Play Commission (FPL),<sup>75</sup> the applicable regulations of the national federation concerned and the relevant competition to ensure fair play and the avoidance of cheating. The FPL is responsible for drafting Anti-Cheating Regulations, to be approved by the Council, and their execution, especially on the combating and prevention of cheating.<sup>76</sup>

In the case of a violation of the Fair Play Rules other than the offence of cheating, as determined by the Fair Play Panel (FPP) or Fair Play Official (FPO) appointed for the specific competition, the FPL Judicial Body<sup>77</sup> shall be vested with judicial powers over lesser, in-tournament, fair-play related violations. The FPL Judicial Body is composed of three members appointed by FIDE President in consultation with FPL Chairperson. Once appointed, the FPL Judicial Body cannot be removed by any FIDE body until the next non-Olympiad FIDE Congress, except in cases of violations of the Code.<sup>78</sup> Decisions of the FPL Judicial Body may be appealed to the FPL and further appealed to the EDC.

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<sup>69</sup> Charter, Art. 28.2 (second).

<sup>70</sup> Charter, Art. 28.10.

<sup>71</sup> Charter, Art. 28.4.

<sup>72</sup> Charter, Art. 28.5.

<sup>73</sup> Charter, Art. 28.9.

<sup>74</sup> Code, Art. 9.

<sup>75</sup> The Anti-Cheating Regulations, 2022

<sup>76</sup> Charter, Art. 37.3.

<sup>77</sup> Established in terms of the FPL Procedural Rules, 2021.

<sup>78</sup> FPL Procedural Rules, Art. 8.

#### 4.3.4 *The Arbiters' Disciplinary Committee*

Regarding some specified arbiter's behaviours, there is a judicial competence vesting in the Arbiters' Disciplinary Committee ("DSC").<sup>79</sup>

The DSC<sup>80</sup> consists of a Chairman, two members and two substitutes. The DSC Chairman and other members are appointed by the FIDE Council, upon proposal of the Arbiters' Commission Chairman, after consultation with the other councillors. All members shall be international arbiters of great experience (minimum C category), each coming from different federations. At least three of the members shall have a legal background. They shall not be otherwise part of the management of the Arbiters' Commission.<sup>81</sup>

The DSC shall exercise jurisdiction over all FIDE licensed (registered) arbiters, including accredited lecturers for FIDE seminars. The DSC shall only consider complaints and reports received which meet the requirements for the admissibility of complaints and reports as set out in the regulations. The DSC decides a case only after receiving it from the Arbiters' Commission and has no power to investigate breaches of the regulations on its own initiative.<sup>82</sup> DSC decisions may be appealed in front of the Council.

#### 4.3.5 *FIDE Doping Hearing Panels*

FIDE has accepted the World Anti-Doping Code and its International Standards.<sup>83</sup> Within FIDE, the body responsible for this policy is the Medical Commission. It is the task of the Medical Commission to agree, with the International Bodies, on the list of prohibited substances and methods of doping that are applicable for chess players. The Medical Commission is responsible for drafting Anti-Doping Regulations, to be approved by the Council and their execution.<sup>84</sup>

In terms of the FIDE Anti-Doping Rules,<sup>85</sup> when FIDE sends a notice to a player or other person asserting an anti-doping rule violation, and there is no agreement in accordance with Article 7.10.1 or the player or other person does not waive a hearing in accordance with Article 7.10.2 of the Rules, then the case shall be referred to the FIDE Doping Hearing Panel for hearing and adjudication.

<sup>79</sup> Charter, Art. 7.8; FIDE Disciplinary Regulations for Arbiters.

<sup>80</sup> Called the FIDE Arbiters' Disciplinary Sub-Committee (DSC) in the regulations.

<sup>81</sup> FIDE Disciplinary Regulations for Arbiters, Art. 1.

<sup>82</sup> FIDE Disciplinary Regulations for Arbiters, Art. 2.

<sup>83</sup> Charter, Art. 37.2.

<sup>84</sup> *Ibid.*

<sup>85</sup> Published as part of the FIDE Handbook, section B.12 - valid from 1 January 2015; reviewed 1 January 2018.

The FIDE Doping Hearing Panel shall determine the procedure to be followed at the hearing.<sup>86</sup>

As stated in the next section, the Fair Play Fact-Finding Committee is also competent to investigate complaints of doping.

#### 4.3.6 *Fact-Finding Committees*

There shall be a permanent, independent Fact-Finding Committee of the EDC, composed of three members, who shall not belong to the same Member Federation nor to the same Federation of members of the EDC, appointed by the Council considering the recommendations of the EDC Chairman. The members of the Fact-Finding Committee are appointed for a period of four years and cannot be appointed for more than two consecutive terms.<sup>87</sup>

There shall be a specialized standing Fair Play Fact-Finding Committee established within the ranks of the Fair Play Commission, which will be competent for cases concerning complaints of cheating and doping, in accordance with the EDC and FPL Procedural Rules.<sup>88</sup> The FPL Chairperson nominates three FPL members as standing Fair Play Fact-Finding Committee.

The EDC may refer matters on specific cases to the Fact-Finding Committee or to the Fair Play Fact-Finding Committee, when deemed necessary, for investigation or fact finding.<sup>89</sup> At present, there are no Internal Rules governing the powers of the Fact-finding Committees or the procedures to be followed in their investigations.

#### 4.4 *Advisory and Administrative Bodies*

For the sake of a complete picture of the decision-taking process in FIDE, brief mention will be made hereunder of the important Advisory and Administrative Bodies whose recommendations are often the precursor to the decisions taken by the FIDE organs.

##### 4.4.1 *Advisory Bodies*

The Constitutional Commission (“CON”) is composed of the Chairman and four members, one of them will act as a Deputy Chairman, chosen in accordance with the Commission’s Internal Rules. The Chairman and two other members are

<sup>86</sup> FIDE Anti-Doping Rules, Art. 8.1.

<sup>87</sup> Charter, Art. 26.12.

<sup>88</sup> Charter, Art. 26.13.

<sup>89</sup> Charter, Art. 26.14; EDC Procedural Rules, Art. 10 and FPL Procedural Rules, Art. 35.

elected by the General Assembly amongst candidates having sufficient practical background and expertise in law in justice (at least four years of experience as judge, or lawyer, or notary, or scholar or professor on legal subject matters, or similar professional experience). The other two members are elected by the General Assembly among candidates having sufficient background in the administration of FIDE or of a member federation (at least six years' experience as FIDE or Member Federation officer bearer). They may not belong to the same Member Federation.<sup>90</sup>

The CON has competence:

- (a) To review and recommend proposed changes of the FIDE Charter, By-laws, Electoral Rules, Ethics and Disciplinary Code, Financial Rules and Rules of Non-elected Commissions.
- (b) To ensure that proposed changes of FIDE Charter, Electoral Rules, Ethics and Disciplinary Code, Financial Rules and Rules of Non-elected Commissions occur in conformity with the established Procedural Rules.
- (c) To establish the correct index and structure of the FIDE Handbook, in accordance with the FIDE Charter, checking the regularity of its updating.
- (d) To report to the Council and the General Assembly on all violations of the FIDE Charter, checking all new or updated FIDE rules and regulations, in accordance with the CON Internal Rules.
- (e) To delivery mandatory advisory opinions on any dispute concerning Part II of the FIDE Charter (Membership) when it does not concern FIDE elections.
- (f) To deliver advisory opinions on any other interpretative question about the FIDE Charter, By-laws, Electoral Rules, Financial Rules and Rules on Non-Elected Commissions submitted by a FIDE organ.

It is submitted that the meaning of “mandatory advisory opinion” in the context of article 27.3(e) of the Charter is that the advisory opinion must be requested, and, in its absence, a decision would not be valid; however, the opinion is not binding upon the decision-making entity which is only required to take it into account but may well not follow it. This requirement will be particularly significant in a situation where the suspension or expulsion of a Member Federation is proposed. Also, in situations where there is a dispute (for example between two National Federations, or between a National Federation and a FIDE organ), such advisory opinion must be requested. On the other hand, when there are no membership disputes, the FIDE organ that intends to take a decision (for instance, to modify Financial Rules) has no duty to first ask the CON to deliver an advisory opinion.<sup>91</sup>

<sup>90</sup> Charter, Artt. 27.1 and 27.2.

<sup>91</sup> Charter, Art. 27.3(f).



The Verification Commission (“VER”) is composed of the Chairman and four members, one of them will act as a Deputy Chairman, chosen in accordance with the VER Internal Rules. The Chairman and the other members of the VER are elected by the General Assembly among candidates having sufficient background and expertise in finance and accounting or in FIDE administration (at least four years of experience as auditor in public or private institutions, including sport associations or as accountant or similar professional experience or scholar or professor in financial subject matters or business financial management, or at least six years of experience as a FIDE officer bearer or Member Federation office bearer). The VER members may not belong to the same Member Federation.<sup>92</sup>

The VER is authorized to examine the FIDE ledgers and all information pertaining to FIDE’s financial management. The VER shall have access to all documents related to income and expenses including contracts for services provided to FIDE and other agreements stipulated by event contracts for consulting services. It shall participate in the hiring of the independent auditors by reviewing such bids and making a recommendation of the audit firm to be appointed.<sup>93</sup>

The VER, acting in accordance with the Financial Rules, shall review the annual accounts, the financial statements prepared by the Treasurer and the Management Board and the external independent audit reports, directly communicating with the external independent auditors when necessary. The Commission shall compare the financial results to the approved budget and obtain management explanations for any variances. The Commission shall make recommendations to the Council and the General Assembly regarding changes in the Financial Rules, issues with the auditors, accounting system design and function, the budget and other financial management matters. The VER shall submit an annual report to the General Assembly.<sup>94</sup>

The Chairmen of the Verification Commission and Constitutional Commission respectively shall be invited to the Council meetings to assist the Council, in their respective competences, by giving advisory opinions. They will also have the duty to report to their Commissions on any alleged violations of the existing regulations, if any.<sup>95</sup>

There shall be a FIDE Advisory Board, an advisory body that assists the FIDE Council in its activities and implements specific mandates given by the FIDE President and FIDE Council.

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<sup>92</sup> Charter, Artt. 25.1 and 25.2.

<sup>93</sup> Charter, Artt. 25.3 and 25.4.

<sup>94</sup> Charter, Artt. 25.5 and 25.6.

<sup>95</sup> Charter, Art. 20.10.

The FIDE Advisory Board is not an official FIDE organ.<sup>96</sup>

The Advisory Board consists of the following members: one representative from every FIDE Affiliated Organisation affiliated with FIDE, as well as members appointed by the FIDE President and FIDE Council respectively, including any FIDE officials or FIDE employees. The FIDE President appoints the chairperson of the Advisory Board. The President has the right, in his sole discretion, to terminate the powers of any member of the Board at any time.

The Advisory Board provides advisory opinions, recommendations and/or undertakes research with respect to FIDE's international cooperation and to organise the World Chess Championship cycle. Opinion, research and recommendations may be specifically requested on other issues by the FIDE President or by the FIDE Council.<sup>97</sup>

#### 4.4.2 *Administrative Bodies*

In terms of the Charter, there shall be several Non-Elected Commissions as specified in the Rules on Non-Elected Commissions.<sup>98</sup> Non-Elected Commissions are the workhorses of FIDE and are supervised by the Council and coordinated by the Management Board. They can only have delegated or advisory competencies.<sup>99</sup> There are numerous Non-Elected Commissions created by FIDE, only those pertinent to the discussion which follows hereinafter are mentioned:

- (a) Arbiters' Commission ("ARB") – this Commission shall be responsible for all matters related to chess arbiters in FIDE.
- (b) Fair Play Commission ("FPL") – this Commission leads the fight against cheating in all its manifestations and dedicates itself to ensuring that in chess the spirit of fair play prevails.
- (c) Medical Commission ("MED") – this Commission organizes anti-doping controls in FIDE Top-Level Competitions and other FIDE competitions at the request of Council.
- (d) Qualification Commission ("QC") – this Commission provides processes for Federations to FIDE-rate tournaments on behalf of organisers, submit title applications on behalf of players, license players to play in rated over the board chess tournaments and arrange player transfers with other federations.
- (e) Rules Commission ("RC") – this Commission defines and updates the Laws of Chess and Online Chess Regulations in consultation with players,

<sup>96</sup> Regulations of the FIDE Advisory Board (FIDE Handbook A.11), Art. 1.2.

<sup>97</sup> Regulations of the FIDE Advisory Board.

<sup>98</sup> See FIDE Handbook A.01.

<sup>99</sup> Charter, Art. 29.

event organisers and other Commissions, to provide a standard set of rules for chess to be played worldwide.

- (f) Trainers' Commission ("TRG") – this Commission provides processes for Federations and trainers to acquire Trainer Titles and Licenses, establish Endorsed Academies and win Trainer Awards.<sup>100</sup>

The President appoints a Chairman, a Secretary and either three or four Councillors as voting members to each Non-Elected Commission. The President may optionally appoint, as non-voting members, an Honorary Chairman and unlimited Members to each Non-Elected Commission. Each Continent has the right to nominate one non-voting member to each Non-Elected Commission. The President has the right to approve or decline this nomination.

## 5. JURISDICTION AND TYPES OF DISPUTES

### 5.1 Constitutional and Legal Disputes

In the past, prior to the adoption of the present Charter, disputes about membership, the powers of FIDE bodies and FIDE officials, and the correct interpretation of the organisation's legal provisions arose occasionally.

The body with the necessary jurisdiction to deal with the above type of matters is the FIDE General Assembly which may take decisions to approve or modify the most important FIDE rules and regulations, deal with membership status issues and decide on motions of no confidence.<sup>101</sup>

The relevant Regulations are to be found in the Charter and the General Assembly Internal Rules.<sup>102</sup>

Member Federations have the rights to take part and to vote in the General Assembly, each with one vote, and to make proposals for inclusion in the agenda of the General Assembly and of the Congress.<sup>103</sup> The other participants in the General Assembly have a consultative voice only.<sup>104</sup> Proposals from Member Federations or Affiliated Organisations about items to be included in the Agenda of the General Assembly should reach the FIDE Offices not later than two months before the opening date of the General Assembly together with the reasons for them.<sup>105</sup> Proposals submitted within this time limit must be included in the Agenda, except that the President shall decline to include a proposal

<sup>100</sup> The Regulations on Non-Elected Commissions (applicable from 1 August 2022).

<sup>101</sup> Charter, Art. 17.2

<sup>102</sup> Approved by the FIDE General Assembly on 28 December 2021 (FIDE Handbook A.06).

<sup>103</sup> Charter, Art. 10.1(a) and (b).

<sup>104</sup> Charter, Art. 17.4.

<sup>105</sup> GA Internal Rules, Art. 2.4.

if the proposal is not subject to review from the General Assembly or another FIDE organ.<sup>106</sup>

The General Assembly is chaired by the FIDE President. The Chairman of the meeting shall grant permission to speak, control the time limit allowed to a speaker and ensure that the speeches and remarks remain relevant to the subject under discussion.<sup>107</sup>

In meetings of the General Assembly, the quorum shall be 50% of the voting participants present.<sup>108</sup> Save for electoral votes, the award for hosting the Olympiad and decisions on motions of no confidence (all which shall take place by secret ballot), decisions of the General Assembly will be taken by open vote.<sup>109</sup> Save for matters where the approval of a motion requires a majority of two-thirds of the valid votes, all other matters are decided by a simply majority. Decisions made by the General Assembly will come into effect on the last day of the General Assembly, after the General Assembly is closed, except if otherwise decided.<sup>110</sup> The General Assembly decisions will be published on the FIDE website within two weeks of its close and the minutes shall be published within eight weeks after its close.<sup>111</sup>

The decisions of the General Assembly are final within the organisation of FIDE and may be challenged only by way of appeal before the Court of Arbitration for Sport.<sup>112</sup>

The General Assembly is competent to decide on the admission of new Member Federations, after the Council's examination of the preconditions for admittance.<sup>113</sup> Decisions on the admission of new Federations shall be made before any other order of business, except elections. A new member can fully participate in all FIDE meetings, including the right to vote, from the moment it is accepted for membership by the General Assembly.<sup>114</sup>

Member Federations not fulfilling their duties may be suspended from FIDE membership by a decision of the Council that it is immediately effective but is subject to confirmation by the General Assembly, and may be permanently expelled from FIDE by a decision of the General Assembly.<sup>115</sup> Aside from matters concerning the default of a Member Federation in the fulfilment of its financial

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<sup>106</sup> GA Internal Rules, Art. 2.5.1.

<sup>107</sup> GA Internal Rules, Art. 1.2.

<sup>108</sup> Charter Art. 17.14.

<sup>109</sup> Charter Art. 17.15.

<sup>110</sup> Charter Art. 17.16.

<sup>111</sup> GA Internal Rules, Art. 6.

<sup>112</sup> Charter, Artt. 17.1, 35.1 and 35.2.

<sup>113</sup> Charter: Art. 12.1.

<sup>114</sup> Charter: Art. 12.2.

<sup>115</sup> Charter: Art. 13.1.

obligations, the confirmation of the suspension or the expulsion of a Member Federation can be decided by the General Assembly only for compelling reasons related to severe violation of its duties, following an advisory opinion by the Constitutional Commission.<sup>116</sup> Decisions on expulsion requires a two-third majority of valid votes. The Member Federation whose suspension or expulsion is requested has the right to submit written defences and to be heard before the decision, in front of both the Council and the General Assembly.<sup>117</sup> If a Member Federation permanently loses the right to represent the chess community in its country, according with national law and after exhausting all national remedies, this situation shall also justify its expulsion.<sup>118</sup>

The General Assembly, following an advisory opinion of the Council, can admit Affiliated Organisations and can temporarily suspend or permanently expel Affiliated Organisations, for just cause.<sup>119</sup>

The power of suspension has in recent years been exercised by the General Assembly at its meeting in Baku, Azerbaijan in 2016 on which occasion both the Bulgarian Chess Federation (a Member Federation) and the ASEAN Chess Confederation (an Affiliated Organisation) were suspended for reason of the non-compliance with decisions of the FIDE Ethics Commission.<sup>120</sup>

In a similar manner, the Bulgarian Chess Federation was expelled as a Member Association of the European Chess Union due to financial irregularities. The expulsion was upheld by the Court of Arbitration for Sport in its Award published under CAS 2016/A/4812 *Bulgarian Chess Federation v the European Chess Union*.

In two other matters, the Court of Arbitration for Sport had occasion to rule on issues relating to the powers of FIDE Organs.

In CAS 2009/A/1762 *Jean-Paul Touzé v The World Chess Federation*, the appellant, Mr Touzé was deprived of the right to organise FIDE events for a period of five years by decision of the FIDE Executive Board.<sup>121</sup> Mr Touzé first attempted to appeal this decision to the FIDE Ethics Commission which made certain recommendations but did not deal with the appeal. Mr Touzé then appealed to the CAS which held the decision of the Executive Board should have first been the object of an appeal to the FIDE General Assembly, and not

<sup>116</sup> Charter, Artt. 13.2. and 13.3.

<sup>117</sup> Charter, Art. 13.4.

<sup>118</sup> Charter, Art. 13.5.

<sup>119</sup> Charter, Artt. 14.1. and 14.5.

<sup>120</sup> Minutes of General Assembly meeting held at Baku, Azerbaijan 11-13 September 2016, items 3.2.2 and 5.15.

<sup>121</sup> <https://old.fide.com/component/content/article/3-news/2247-738-fide-press-release-regarding-belfort-organization-of-world-youth.html>.

before the Ethics Commission. Mr Touzé's subsequent internal appeal to the General Assembly was dismissed on the merits but the length of the ban was reduced to three years. Mr Touzé thereafter appealed the decision of the General Assembly to CAS, but the appeal was rejected with the Panel of Arbitrators holding that the decision of the Executive Board (as ratified by the General Assembly) did not amount to a sanction but had to be conceived as the exercise of its right of private autonomy and contractual freedom and that the Executive Board (which performed the functions of the General Assembly in non-Olympiad years) was competent to have taken the decision in question.

In CAS 2011/A/2360 and CAS 2011/A/2392, *English Chess Federation & Georgian Chess Federation v FIDE* the issue was whether the FIDE President's nomination of five Vice-Presidents, which nomination was accepted and confirmed by the General Assembly with only one objection, was invalid for being in violation of the FIDE Statutes which only permitted the incoming President to nominate two Vice-Presidents. The appellants first sought to appeal the nomination to the Presidential Board but it declined to hear the matter. Two appeals were filed at CAS, the one challenging the alleged refusal by the Presidential Board to set aside the appointment of the five Vice-Presidents by the President, and the other challenging the alleged decision of the General Assembly to confirm the appointment of the five Vice-Presidents. In the first case the Panel of CAS Arbitrators held under CAS 2011/A/2360 that the act of confirmation by the General Assembly should have been the object of the appeal, rather than the refusal of the Presidential Board to hear the internal appeal, and that the appeal had to be dismissed on its merits. In the second instance the Panel of Arbitrators held under CAS 2011/A/2392 that the appeal was inadmissible having been brought out of time.

## 5.2 *Ethics and Disciplinary Disputes*

The Ethics and Disciplinary Commission ("EDC") is the principal adjudicating body within FIDE in relation to complaints of the violation of the Ethics and Disciplinary Code (the "Code"). The jurisdiction to decide cheating, doping and electoral disputes is dealt with separately hereunder.

The relevant regulations are the FIDE Charter (in particular, Art. 26), the Code and the EDC Procedural Rules. The EDC shall have jurisdiction in respect of the following:

- (a) The conduct of FIDE officials, FIDE Honourable Dignitaries, electoral candidates and FIDE employees.<sup>122</sup>

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<sup>122</sup> Charter, Art. 26.7.

- (b) The conduct of officials, players, player’s agents, match agents, arbiters, trainers, organizers, representatives of chess associations, leagues and clubs who are associated to FIDE Member Federations or Affiliated Organisations or FIDE Continents, or who participate in or organise FIDE events, tournaments and congresses, except when their conduct is limited to a national sphere as in the case of national events not rated by FIDE.<sup>123</sup>
- (c) Cases falling within the international sphere and, exceptionally, cases falling in the national sphere.<sup>124</sup>

For a complaint or report to be accepted and adjudicated by the EDC, it must meet the minimum substantive requirements for admissibility:

- (a) The Complainant must have the necessary standing to submit the complaint.<sup>125</sup>
- (b) The person or body against whom the complaint is directed, i.e., the Respondent, must be a member of the FIDE Family.<sup>126</sup>
- (c) The allegations made and documents furnished as part of the complaint must disclose, at least on a *prima facie* basis, conduct which amounts to one or more violations of the Code.
- (d) The alleged misconduct must have been committed in the international sphere or, if in the national sphere, fall within one of the exceptions based on which the EDC will exercise its jurisdiction;<sup>127</sup>
- (e) The alleged misconduct must have been committed during a period of no more than five years immediately preceding the date on which the complaint or report is received by FIDE or a competent FIDE organ commences its investigation, in instances of fraud, corruption and cheating, and no more than three years preceding such date in all other instances.<sup>128</sup>

A complaint may be declared as non-admissible if, in spite of meeting the above minimum requirements, it suffers from one or more of a number of defects, for example, the complaint is not brought by the real complainant, the complaint is substantially the same as a complaint submitted to and pending before a National Federation’s ethics and disciplinary body or another sports law tribunal, the complaint relates to a personal affair between the Complainant and the Respondent or is otherwise unrelated to the practice or the governance of the sport of chess, and the complaint is manifestly ill-founded or unsubstantiated or may be described as trivial, or purely technical and insignificant.<sup>129</sup>

<sup>123</sup> Charter, Art. 26.8.

<sup>124</sup> Discussed hereunder in 5.8 Continental and National Federation disputes.

<sup>125</sup> See Code, Art. 5.2. for the requirements relating to standing

<sup>126</sup> The members of the FIDE family are identified in article 4.2(a)-(u) of the Code.

<sup>127</sup> See Code, Art. 4.7.(a) and (b).

<sup>128</sup> See Code, Art. 5.1(a)-(e).

<sup>129</sup> See Art. 5.3. of the Code.

In the jurisprudence of the EDC complaints are often declared as inadmissible for failing to meet the admissibility requirements. Examples are cases in which the Complainant was judged to have lacked the necessary standing,<sup>130</sup> or where the complaint related to a non-disciplinary matter, such as team selections,<sup>131</sup> or related to an internal matter within a National Federation.<sup>132</sup>

The Ethics and Disciplinary Code incorporates both an Ethics Code<sup>133</sup> and a Disciplinary Code.<sup>134</sup> The Ethics Code sets out certain ethical values and principles,<sup>135</sup> as well as general duties of FIDE Officials and Employees<sup>136</sup> and the obligation to comply with Fair Play rules in FIDE competitions.<sup>137</sup> In the case of non-compliance with any of these duties, it would constitute a breach of the Ethics Code and, depending on the severity of the non-compliance, be subject to Remedial Action or Disciplinary Action. Serious infringements of the Ethics Code will be subject to Disciplinary Action as provided for in the Disciplinary Code by a duly nominated EDC First Instance Chamber, whereas other infringements of the Ethics Code considered to be of a less serious nature will be subject to Remedial Action by the FIDE President or a single Member of the EDC. The latter is an administrative proceeding, following an alternative, more informal and expedient process and is not subject to a right of appeal. The nature of Remedial Action is corrective counselling resulting either in an exoneration, a warning or a reprimand. A warning lapses after twelve months and a reprimand after 24 months from the date on which it was issued.

The corrective counselling is undertaken by the FIDE President, upon referral by the EDC Chairman in cases involving Members of FIDE Organs, Non-Elected Commissions and other FIDE Officials, FIDE Honourable Dignitaries, FIDE Employees and Consultants and contractually-connected persons of firms representing or serving FIDE.<sup>138</sup> If the Remedial Action concerns FIDE Member Federations, FIDE Continents, Zonal Councils and FIDE Affiliated Organisations, the Chairman of the EDC shall personally decide the Remedial Action. In all other cases of Remedial Action, a single member of the EDC nominated by the Chairman of the EDC shall decide the Remedial Action.<sup>139</sup>

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<sup>130</sup> EDC cases, 2/2015 *Causevic & Predojevic*; 6/2015 *Humpy* and 2/2017 *Azmaiparashvili*.

<sup>131</sup> EDC case 3/2018 *Wales*.

<sup>132</sup> EDC case 11/2014 *England*; 6/2017 *Fiji*.

<sup>133</sup> EDC Code Part III (Art. 6-10).

<sup>134</sup> EDC Code Part IV (Art. 11-17).

<sup>135</sup> EDC Code, Art. 6.

<sup>136</sup> EDC Code, Art. 8.

<sup>137</sup> EDC Code, Art. 9.

<sup>138</sup> Code, Art. 10.4.

<sup>139</sup> Code, Art. 10.5.



The FIDE President may delegate his/her authority with respect to Remedial Action to the FIDE Deputy President, Deputy Chairman of the FIDE Management Board or the FIDE Executive Director.<sup>140</sup>

A finding of the FIDE President or his/her delegate, or by a single Member of the EDC, resulting in Remedial Action under the Ethics Code may be subject to review by the EDC insofar as it concerns a caution/warning or reprimand, or a ban of chess activities pursuant to the fair play fast track procedure. The review shall be heard by a Review Committee consisting of two Members of the EDC, nominated by the Chairman of the EDC.<sup>141</sup> The decision of the EDC Review Committee shall be final and binding on the parties. Appeals to the EDC Appeal Chamber and/or the CAS are consequently not allowed.<sup>142</sup>

The Disciplinary Code represents a concretisation of the ethical principles and values set out in the Ethics Code. A list of offences is set out in satisfaction of the principle of legality: an offender must know or foresee in advance which conduct is marked as unacceptable and what sanction may be imposed for such unacceptable conduct.<sup>143</sup>

The disciplinary offences are set out in several categories: Regulatory offences,<sup>144</sup> Administrative offences,<sup>145</sup> Offences causing reputational harm,<sup>146</sup> Offences involving dishonesty,<sup>147</sup> Betting and manipulation of results,<sup>148</sup> General misbehaviour,<sup>149</sup> and Other offences.<sup>150</sup>

Breaches of the Disciplinary Code are punishable in the form of one or more of the following: warning, reprimand, a fine up to a maximum of EUR50 000, a ban of between a minimum of one month and a maximum of fifteen years, and in exceptional cases a lifetime ban, temporary exclusion from membership of a National Federation or Affiliated Organisation, and exclusion from office of an Official.<sup>151</sup>

In combination with the above, one or more supplementary sanctions may also be imposed on the offender, such as the return of awards, the revocation

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<sup>140</sup> Code, Art. 10.10.

<sup>141</sup> Code, Art. 10.23.

<sup>142</sup> Code, Art. 10.25.

<sup>143</sup> Code, Art. 11.2.

<sup>144</sup> Code, Art. 11.4. (a)-(g).

<sup>145</sup> Code, Art. 11.5. (a)-(f).

<sup>146</sup> Code, Art. 11.6. (a)-(e).

<sup>147</sup> Code, Art. 11.7. (a)-(g).

<sup>148</sup> Code, Art. 11.8. (a)-(g).

<sup>149</sup> Code, Art. 11.9. (a)-(k).

<sup>150</sup> Code, Art. 11.10. (a)-(c).

<sup>151</sup> Code, Art. 13.1.

of titles and sports results, the withdrawal of a license or registration, and ineligibility for an appropriate period to be elected or to be a candidate for any office in FIDE.<sup>152</sup>

The standard of proof in all cases brought under the Disciplinary Code shall be whether the EDC is comfortably satisfied, bearing in mind the seriousness of the allegation that is made, that the alleged offence has been committed.<sup>153</sup>

There shall be a right of appeal to the EDC Appeal Chamber for the unsuccessful party, whether Complainant or Respondent, and any other directly affected member of the FIDE family against the final decision of any First Instance Chamber of the EDC.<sup>154</sup> Recourse to CAS is excluded until the dissatisfied party has exhausted his/her internal right of appeal.<sup>155</sup>

In the internal appeal of EDC Case no. 10/2021, both the Complainant and Respondent in the proceedings before the First Instance Chamber sought to appeal the decision. The Appeal Chamber held, regarding the right of appeal, that it is self-apparent that the original Respondent must be regarded as an “unsuccessful party” in the first instance proceedings as he was convicted and sanctioned. The original Complainant also had to be regarded as an “unsuccessful party” for two reasons: firstly, the Respondent had been acquitted of some of the alleged violations (even if convicted on another violation); and secondly, the First Instance Chamber overlooked the Respondent’s previous conviction and regarded him as a first offender and possibly imposed a lighter sanction than it would otherwise have done.

However, it was further held by the Appeal Chamber that the type and duration of the sanction to be imposed is a matter for the discretion of the First Instance Chamber and that the Appeal Chamber should not lightly interfere in the exercise by the First Instance Chamber of its discretion but may reduce or increase the sanction if the original sanction is clearly disproportionate or founded upon a materially incorrect finding.

There is a right of appeal to CAS for any unsuccessful party before the EDC Appeal Chamber, whether the Appellant or the Respondent, and any other affected member of the FIDE family provided he has participated in the appeal proceedings before the Appeal Chamber.<sup>156</sup>

No claim may be brought in the ordinary civil courts of Switzerland, or any other court concerning or related to any matter governed by the Code, or

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<sup>152</sup> Code, Art. 13.2.

<sup>153</sup> Code, Art. 16.7.

<sup>154</sup> Code, Art. 17.1.

<sup>155</sup> Charter, Art. 35.3.

<sup>156</sup> Ethics and Disciplinary Code, Art. 17.2 and EDC Procedural Rules Chapter 9.

any decision taken by the EDC pursuant to the Code and recourse to any other tribunal or dispute resolution procedures or mechanisms is similarly excluded.<sup>157</sup>

Over the period of the last seven years (September 2015 – September 2022), the EDC published approximately 56 written decisions on its website.<sup>158</sup> This is at an average of eight cases per year. These cases<sup>159</sup> can be broadly categorised as follows:

- (a) Complaints against Federations
  - (i) lack of due process in National disciplinary process<sup>160</sup>
  - (ii) other complaints<sup>161</sup>
- (b) Complaints against Organisers<sup>162</sup>
- (c) Complaints against Officials
  - (i) FIDE Officials<sup>163</sup>
  - (ii) Continental Officials<sup>164</sup>
  - (iii) Federation Officials<sup>165</sup>
- (d) Complaints against Players.<sup>166</sup>

In three high profile cases, one involving the sitting FIDE President at that time,<sup>167</sup> another a FIDE Vice-President<sup>168</sup> and the third a prominent Russian grandmaster who had challenged before for the World Chess Championship,<sup>169</sup> the EDC had to decide, on the peculiar facts of each case, whether there was an occurrence which had caused the game of Chess, FIDE or its Federations to appear in an unjustifiable unfavourable light in breach of Art. 2.2.10 of the former FIDE Code of Ethics. It was judged that the FIDE President's presence on the OFAC Sanction list of the US Department of Treasury constituted such an occurrence which caused harm to FIDE's reputation. Also, the FIDE Vice-President was convicted of a breach of Art. 2.2.10 because of his undue interference in the domestic affairs of a Member Federation. The Russian

<sup>157</sup> EDC code, Art. 17.9.

<sup>158</sup> At <https://ethics.fide.com/decisions/>.

<sup>159</sup> Excluding Cheating and Electoral cases which are discussed separately below.

<sup>160</sup> EDC cases 4/2015 *Bulgaria*; 1/2016 *Trinidad and Tobago*; 1/2019 *Sudan*; 2/2019 *Nigeria*; 3/2019 *Nigeria* and 8/2021 *Turkey*.

<sup>161</sup> EDC cases 11/2014 *England*; 6/2017 *Fiji*; 4/2018 *Mongolia*.

<sup>162</sup> EDC case 13/2014 and 14/2014 *Danailov, Sakotic and Stoisavljevic*; 9/2019 *Eroglu*; 4/2021 *Sredojevic* and 3/2022 *Zacharoplastis*.

<sup>163</sup> EDC case 2/2018 *Ilyumzhinov*; 2/2021 *Solakoglu*; 10/2021 *Short*.

<sup>164</sup> EDC case 5/2015 *Azmaiparashvili & Tsorbatzoglou*; 4/2016 *Al Taher & Pahlevanzadeh*.

<sup>165</sup> EDC case 1/2015 *Elgendy*; 1/2019 *Deab and Musa*; 7/2019 *Elgendy*; and 3/2020 *Deab*.

<sup>166</sup> EDC case 7/2021 *Issa*; 2/2022 *Karjakin*; 4/2022 *Maghsoodloo*.

<sup>167</sup> EDC case 2/2018 *Ilyumzhinov*.

<sup>168</sup> EDC case 10/2021 *Short*.

<sup>169</sup> EDC case 2/2022 *Karjakin*.

grandmaster was convicted of the same offence for making public statements in favour of the Russian invasion into the Ukraine, thereby undermining FIDE's values and principles and causing reputational harm.

Another interesting issue which confronted the EDC on two occasions,<sup>170</sup> is when does a contractual dispute between two chess parties come within the jurisdiction of the EDC as a possible breach of the Code. It was held that *inter alia* the matter must be related to chess and closely linked to one of the chess spheres governed by FIDE. On this basis, the non-payment of a contractual debt was held to be a disciplinary offence in the first case where the subject-matter of the contract was connected to the FIDE Chess in Schools program, but in the second case a private contract for coaching services between a chess coach and his pupil had an insufficient link with one of the chess spheres governed by FIDE. In another case<sup>171</sup> a tournament organiser's failure to pay monies promised to a visiting grandmaster was found sanctionable as the respondent was responsible for organizing an international tournament from which the agreement with the grandmaster emanated. The organisation of international tournaments is one of the chess spheres over which FIDE governs.

All complaints concerning the conduct of licensed arbiters shall be referred to the Arbiters' Commission, which shall provisionally decide whether the complaint is admissible or not. Relevant conduct is conduct by the arbiter in the international sphere and exceptionally in the national sphere,<sup>172</sup> committed no more than five years before submission of the complaint in the instance of instances of fraud, corruption and cheating, and no more than three years in other cases.<sup>173</sup> If the complaint is held to be admissible, it will be referred to the Arbiters' Disciplinary Committee (DSC) for investigation and decision, or to the Ethics and Disciplinary Commission if the alleged breaches are of a serious nature which, in the view of the Arbiters' Commission, will attract a punishment of a ban longer than eighteen months in the case of a first offender, or twenty four months in the case of a repeat offender, or in other cases where the Arbiters' Commission deems it unsuitable for the matter to be dealt with by the DSC first.<sup>174</sup> The Regulations provide for a range of offences which may be considered by the DSC.<sup>175</sup>

The DSC may sanction offending arbiters with either a written warning (in place for twelve months), or a written reprimand (in place for twenty-four

<sup>170</sup> EDC case 4/2018 *Mongolia*; 5/2021 *Savic*.

<sup>171</sup> EDC case 1/2007 *Ngubeni*.

<sup>172</sup> FIDE Disciplinary Regulations for Arbiters, Art. 2.7.

<sup>173</sup> FIDE Disciplinary Regulations for Arbiters, Art. 2.8.

<sup>174</sup> FIDE Disciplinary Regulations for Arbiters, Art. 2.4.

<sup>175</sup> FIDE Disciplinary Regulations for Arbiters, Art. 3.

months), or a disqualification (for a first offender, a disqualification up to eighteen months; for a repeat offender, a disqualification up to twenty-four months).<sup>176</sup>

The decisions of the DSC may be appealed in front of the FIDE Council.<sup>177</sup>

### 5.3 *Cheating and Doping Disputes*

#### 5.3.1 *Cheating Disputes*

Cheating in chess has been described as a form of electronic doping if the illicit use of electronic devices is involved. Although perhaps the most prevalent, the use of electronic devices is by no means the only form of cheating in chess as any external assistance during the time that a game is in progress is outlawed.

In the disciplinary case before the former FIDE Ethics Commission of Sébastien Feller, a French grandmaster and two accomplices<sup>178</sup> the player was given assistance during play in the 2010 Chess Olympiad in the form of signals from his team captain who in turn received phone text messages from an accomplice with access to a computer. The player was sanctioned with the exclusion from participation in all FIDE tournaments as a player or as a member of a national delegation for a period of two years and nine months. The team manager and other accomplice were also sanctioned.

In the FIDE Anti-Cheating Regulations, the concept of “cheating” is defined.<sup>179</sup>

The FIDE bodies that have jurisdiction in cheating matters are the Fair Play Commission (and its Investigatory Panels) and the Ethics and Disciplinary Commission. The relevant Regulations are the Ethics and Disciplinary Code, Anti-Cheating Regulations and Fair Play Commission Procedural Rules.

For each official FIDE event (both over-the-board and online) there will be an independent Fair Play Panel (FPP) or Fair Play Officer (FPO). The task of the FPP/FPO is to monitor the championship in question for the occurrence of cheating and to implement anti-cheating measures. The FPP/FPO shall coordinate closely with the Chief Arbiter and the Chief Organiser but shall not be subject to their or anybody else’s instruction.<sup>180</sup>

The Fair Play Commission (FPL) shall carry out independent investigations on more serious violations of the Ethics and Disciplinary

<sup>176</sup> FIDE Disciplinary Regulations for Arbiters, Art. 4.

<sup>177</sup> Charter, Art. 7.8 and FIDE Disciplinary Regulations for Arbiters, Art. 6.1.

<sup>178</sup> EDC case 2/2011.

<sup>179</sup> Anti-Cheating Regulations, Art. 2.

<sup>180</sup> FPL Procedural Rules, Art. 26.

Code concerning cheating and shall have the possibility to submit motivated reports to the EDC or to national competent bodies, when a cheating offence is disclosed. Motivated reports must include factual disclosures, technical expertise and all results of the investigations. For the investigation of cheating allegations an Investigatory Panel (IP) for the specific case is formed. The IP is an independent body and is not subject to directions from any other party. Once the IP has completed its investigation, it sends its report to the Chairperson of the FPL. The Chairperson shall bring the Commission to a vote. FPL decides by a majority vote if the case is to be forwarded to the EDC for judgment. If the investigation is triggered by a complaint, the IP has the power to dismiss the complaint, if its members come to the unanimous conclusion that no cheating occurred or there is no evidence to meet the required standard of proof.<sup>181</sup>

In the normal cause, the FPL submits its reports and recommendations to the EDC in cases where the IP investigation discloses a cheating offence. The EDC chairman constitutes a First Instance Chamber and refers the matter to them for decision. These cases take one of three forms: cheating,<sup>182</sup> match-fixing<sup>183</sup> and false accusations<sup>184</sup> of cheating.

In a so-called “fast-track” procedure, the FPL Judicial Body shall determine a ban of all formal chess-playing activities (online and over-the-board play), for a period of either one, two or three months depending on the severity of the violation. The player concerned shall have the option of admitting his or her guilt of a violation of the Fair Play Rules and submitting him- or herself to the ban determined, or to have his/her case decided on its merits by a single member of the Ethics and Disciplinary Commission as nominated by the Chairman of the Ethics and Disciplinary Commission. In the case of the player electing to admit his or her guilt and accepting the ban determined by the FPL Judicial Body, the player shall be immune from all further remedial and disciplinary action under the Ethics and Disciplinary Code, provided that the ban is strictly respected.<sup>185</sup> FPL Judicial Body decisions may be appealed to the Fair Play Commission and such appeals may be further appealed to the Ethics and Disciplinary Commission.<sup>186</sup>

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<sup>181</sup> FPL Procedural Rules, Artt. 30 – 34.

<sup>182</sup> See EDC cases 6/2014 *Vermeulen*; 7/2015 *Nigalidze*; 8/2015 *Tetimov*; 2/2016 *Ricciardi*; 1/2018 *Fraiman*; 4/2019 *Morgunov*; 6/2019 *Dias Matos*; 1/2020 *Banik*; 1/2021 *Fang*; 9/2021 *Ivic* and 6/2022 *Pang Khai Jie*.

<sup>183</sup> See EDC cases 2/2020 *Awinja & Mutisya*; 1/2022 *Jovanovic & Jovic*.

<sup>184</sup> Colloquially referred to as “witch-hunting”. See EDC cases 3/2015 *Zukova & Others*; 1/2017 *Bezgodova* and 5/2017 *Solozhenkin*.

<sup>185</sup> Ethics and Disciplinary Code, Artt. 9.3 and 9.4.

<sup>186</sup> FPL Procedural Rules, Artt. 7, 10 and 11.

In the case of the player electing to have his or her case decided by a single member of the EDC or failing to make an election, the player's guilt or innocence of a violation of the Ethics Code shall be decided on a balance of probabilities according to the procedure to be determined by the presiding EDC member. If the player's guilt is proven, a ban of all chess-playing activities shall be imposed for an appropriate period up to a maximum of twelve months. Subject to the right of review, the decision of the single member of the EDC shall be final.<sup>187</sup>

The above procedure does not apply to cases where the evidence available to the Fair Play Commission indicates that cheating has occurred and that a reasonable prospect exists that the guilt of the player can be proven according to the standard of comfortable satisfaction. All such cases shall be dealt with by the Fair Play Commission and the Ethics and Disciplinary Commission as an alleged violation of, and subject to disciplinary action under, the Disciplinary Code.<sup>188</sup>

The "comfortable satisfaction" standard of proof also applies in the case of Cheating Offences, but there shall be a presumption of cheating and a presumption of match-fixing if certain conditions are met. The presumption of cheating shall apply if statistical analysis by a FIDE validated and approved algorithm and/or other methodology applied to a player's performance in a series of games or tournaments in FIDE rated events shows a Z score (reflective of the deviation between a player's actual performance and the projected fair play for a player having comparable Elo rating) above the official Z score threshold published in the FIDE Anti-Cheating Regulations as approved by the FIDE Council from time to time. This threshold is currently 4.25 for online chess and 5.00 for over-the-board chess.<sup>189</sup> In such a case, if FIDE institutes disciplinary proceedings against the player in question, the burden to rebut the presumption of cheating and show a reasonable doubt on a balance of probabilities shall be on the player.<sup>190</sup> In any proceedings before the EDC on charges of cheating, a Respondent may be found guilty and sanctioned to the full extent permitted by the Code by virtue of the inability of the Respondent to discharge the presumption of cheating, whether or not there is any other physical or circumstantial evidence corroborating the statistical evidence. However, the EDC may in such a case impose a lesser sanction.<sup>191</sup>

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<sup>187</sup> Code, Art. 9.5.

<sup>188</sup> Code, Art. 9.7.

<sup>189</sup> Anti-Cheating Regulations, Art. 6.

<sup>190</sup> Code, Art. 16.14.

<sup>191</sup> EDC code, Art. 16.15.

There shall be a presumption of match-fixing if, upon the request of the FIDE Fair Play Commission (FPL), an organiser, arbiter, player or any other person involved in a FIDE-rated competition is unable, individually or jointly, within a reasonable period determined by the FPL, to provide the necessary proof to the reasonable satisfaction of the FPL that the competition took place in a *bona fide* and regular manner that produced results that are not fake, predetermined or otherwise manipulated and the FPL formally advises the interested parties of its dissatisfaction. In such a case, in disciplinary proceedings, the burden to rebut the presumption of match-fixing and to show a reasonable doubt on a balance of probabilities shall be on the accused organiser, arbiter, player and/or other person.<sup>192</sup>

In some cases, the players have been caught red-handed consulting electronic devices in the bathrooms whilst their games were in progress, and this has led to a stripping of the players' grandmaster titles in addition to the imposition of lengthy bans.<sup>193</sup> EDC cases 8/2015 and 2/2016 were the first cases where statistical evidence was employed to convict the respondents of cheating. FIDE uses the services of Dr Kenneth Regan, a computer science and mathematics expert of the University of New York, to determine the probabilities of cheating, having regard to the level of expertise of the player concerned and his expected level of performance. If his actual performance in a tournament or over a few games outshines the expected level of performance to a significant degree, the illicit use of electronic assistance can be deduced. The EDC joint decision in cases 8/2015 and 2/2016 contains a detailed explanation of the Regan statistical model.

In EDC case 1/2018 the respondent was found not guilty of cheating despite his highly suspicious conduct. The EDC drew attention to the standard of proof required to show a player's guilt in a case of cheating, namely "comfortable satisfaction" which is said to fall between the civil standard of "a balance of probabilities" and a criminal law standard of "beyond a reasonable doubt". In cases of cheating at chess and in particular cheating in the form of obtaining illicit computer assistance, these cases can be regarded as a *specie* of fraud attracting a higher level of proof closer to the criminal standard for a matter to be substantiated.

False accusations of cheating are a punishable offence. In EDC case 5/2017 a Russian grandmaster was found guilty of publishing unfounded accusations of cheating against a junior player and sanctioned with a ban of eighteen months, half of which was suspended on certain conditions. The EDC

<sup>192</sup> EDC code, Art. 16.16.

<sup>193</sup> EDC case 7/2015 *Nigalidze*; 8/2019 *Rausis*.



drew attention to the fact that for an accusation to be considered justified, it is not sufficient that the complainant subjectively believes that the accused person might be cheating (subjective standard). It is necessary that a neutral, reasonable observer believe so as well (objective standard) based on information available to him at the time he/she makes the respective complaint/accusation. Such objective grounds would typically, but not exclusively, exist in case of abnormal behaviour during or before the game and the possession of a device or any kind of equipment that could be used for the transmission of information to and/or from the accused chess player during the game. Such evidence may be supported with evidence of extraordinary play that can be technically and reliably proven in accordance with the standard of comfortable satisfaction to result from or be associated with computer or external assistance.

In late 2022 considerable attention was created world-wide by a case concerning the world chess champion, Magnus Carlsen of Norway and a young US grandmaster Hans Niemann. Carlsen lost a game to Niemann in an over-the-board (OTB) tournament and promptly withdrew from the tournament in protest. Niemann admitted in a subsequent interview that as a teenager he had cheated twice in online tournaments, but maintained that he had never cheated in any OTB game. Carlsen thereupon released a statement in which he expressed the belief that Niemann had cheated more often and more recently than he had admitted. The matter was investigated by FIDE's Fair Play Commission on the basis of both a suspicion of OTB cheating by Niemann and a suspicion of unfounded allegations of cheating by Carlsen. At the time of writing hereof, the matter has been referred to the EDC and remains subject to further enquiry and decision.

So far there has been no appeal brought, either internally within FIDE or externally to the CAS, against a cheating conviction.

### 5.3.2 *Doping Disputes*

All violations and sanctions relating to doping cases within FIDE are to be handled according to the applicable FIDE Anti-Doping Rules, overseen by the FIDE Medical Commission and decided by the FIDE Doping Hearing Panels nominated for the specific case.<sup>194</sup>

The relevant Regulations are the FIDE Anti-Doping Rules<sup>195</sup> which are based on WADA's Models of Best Practice for International Federations and the World Anti-Doping Code. FIDE was one of the first International Sport

<sup>194</sup> Code, Art. 4.11.

<sup>195</sup> Published in the FIDE Handbook B.12.

Organisations that adopted the WADA Code in 2003/2004. Since the Bled Olympiad in 2002 FIDE has introduced doping control at its Olympiads and other major events.

The FIDE Anti-Doping Rules shall apply to FIDE and to each of its National Federations; all players and player support personnel who are members of FIDE, or of any National Federation, or of any member or affiliate organisation of any National Federation (including any clubs, teams, associations or leagues); or participating in such capacity in events, competitions and other activities organised, convened, authorized or recognized by FIDE, or any National Federation or any member or affiliate organisation of any National Federation; or who, by virtue of an accreditation, a license or other contractual arrangement, or otherwise, is subject to the jurisdiction of FIDE, or of any National Federation; or who are registered in a testing pool so that they are required to provide information about their whereabouts in advance of an International Event.<sup>196</sup>

The following players shall be regarded as International-Level Players for purposes of the Anti-Doping Rules:

- (a) Players who are part of the FIDE registered testing pool.
- (b) Players who participate in selected FIDE international events published by FIDE on its website; or
- (c) Male players who have a FIDE Elo rating above 2700 as published on the FIDE website, whether active or inactive, and female players who have a FIDE Elo rating above 2500 as published on the FIDE website, whether active or inactive.

Doping is not regarded as a prevalent offence in the sport of chess and there is no known case of a chess player who has been found to have sought to improve his/her performance using banned substances. The full List of Prohibited Substances published by WADA applies to chess and although it may be accepted that certain substances may be able to improve brain performance which are deleterious to health,<sup>197</sup> such cases have not presented a significant problem so far. The only cases of Anti-Doping violations were two players who refused to submit to a doping test at the Calvia Olympiad in 2004 (in both cases, the player got a warning for violating the Anti-Doping Regulations and their points in the Olympiad were cancelled) and another case at the Dresden Olympiad in 2008 where a well-known grandmaster ran away from the tournament hall after being told that he was selected for doping control. The player was acquitted in a hearing due to a procedural irregularity.

<sup>196</sup> FIDE Anti-Doping Rules – Introduction – Scope of these Anti-Doping Rules.

<sup>197</sup> Such as Nicotine and other cholinergics, Amphetamines, Efedrine, Cocaine, Beta blockers, and substances that increase the availability of oxygen in the brain.

There is a right to appeal various types of decisions regarding Anti-Doping Rule violations, for example convictions, acquittals, the imposition of Consequences, a decision not to bring forward an Adverse Analytical Finding as an anti-doping rule violation or a decision that FIDE lacks jurisdiction to rule on an alleged anti-doping rule violation or its Consequences.<sup>198</sup> In cases arising from participation in an International Event or in cases involving International-Level Players, the decision may be appealed exclusively to CAS.<sup>199</sup> In appeals involving other Players or Persons, the appeal shall lie to a national-level appeal body, being an independent and impartial body established in accordance with rules adopted by the National Anti-Doping Organisation having jurisdiction over the Player or Person. If no such body exists, the decision may be appealed to CAS.<sup>200</sup> The parties with standing to appeal is a wide category.<sup>201</sup>

#### 5.4 Electoral Disputes

The main bodies which enjoy jurisdiction in Electoral matters are the General Assembly and the Electoral Commission (ELC). To secure a fair and impartial electoral process, elections shall be held under the supervision of the ELC, that has competence to decide, *ex officio*, on all aspects related to the electoral process, if not otherwise provided by the FIDE Charter and the Electoral Rules.<sup>202</sup>

The ELC has the competences assigned by the Electoral Rules which include *inter alia* deciding the identity of the Member Federations having the right to vote<sup>203</sup> and the eligibility of Candidates.<sup>204</sup> The ELC is competent to decide any dispute concerning a FIDE election, including the election of the FIDE President and Deputy President, the election of the Vice- Presidents, Treasurer and Secretary of Council, and Zonal Presidents (but not Continental elections).

The Electoral Rules provide certain rules for electoral campaigning and the promotion of candidatures. All acts of promotion in favour of any candidacy must be carried out with honesty, dignity, moderation and respect towards the other candidates.<sup>205</sup> There are a number of sanctioned behaviours proscribed by the Electoral Rules.<sup>206</sup> In the event of any infringement of the Electoral Rules, of

<sup>198</sup> FIDE Anti-Doping Rules, Art. 13.2.

<sup>199</sup> FIDE Anti-Doping Rules, Art. 13.2.1.

<sup>200</sup> FIDE Anti-Doping Rules, Art. 13.2.2.

<sup>201</sup> FIDE Anti-Doping Rules, Art. 13.2.3.

<sup>202</sup> Electoral Rules, Art. 12.1 (published in FIDE Handbook A.03).

<sup>203</sup> Electoral Rules, Artt. 3.6 – 3.8.

<sup>204</sup> Electoral Rules, Artt. 4.2, 4.4 and 5.4.

<sup>205</sup> Electoral Rules, Art. 7.1 and 7.2.

<sup>206</sup> Electoral Rules, Art. 9.

the Ethics and Disciplinary Code or of other applicable FIDE Regulations, by candidates, Member Federations and their representatives, and any other third party, the ELC may, in accordance with the procedural principles set forth in the EDC Procedural Rules, decide to sanction them, also by disqualifying a candidate, regardless of who is the author of the infringements.<sup>207</sup>

Before the adoption of the present Electoral Rules in December 2021, disciplinary matters arising from elections were decided exclusively by the Ethics Commission (the forerunner of the present EDC). These were often high-profile cases potentially affecting the participation of a presidential candidate in the elections. Two cases involved a conspiracy to buy votes.<sup>208</sup> Other cases concerned the sitting President or Deputy-President allegedly using FIDE resources in his campaign for re-election.<sup>209</sup> Another case concerned a complaint against the members of the Electoral Commission for a conflict of interest.<sup>210</sup>

In the new dispensation where the ELC must decide alleged breaches of the Campaign Rules and the Code,<sup>211</sup> in the only case so far, the ELC found the members of one Presidential ticket not guilty of the allegations of an abuse of powers and misuse of the services of FIDE employees in the electoral campaign.<sup>212</sup>

All decisions of the ELC are final and cannot be appealed to the General Assembly or another FIDE organ. Any such decision may be taken on appeal to the CAS but only as of the day after the close of the General Assembly, save for adverse decisions concerning the eligibility of a candidate which can immediately be appealed to the CAS.<sup>213</sup>

### 5.5 *Eligibility and Transfer Disputes*

The grant of titles is an important aspect in the administration of Chess as a sport. Players may qualify for the Grandmaster (GM), International Master (IM), FIDE Master (FM) and Candidate Master (CM) titles, and female players qualify for the Woman Grandmaster (WGM), Woman International Master (WIM), Woman FIDE Master (WFM) and Woman Candidate Master (WCM) titles.<sup>214</sup> Organisers may be awarded with the International Organiser (IO) title,<sup>215</sup> Arbiters with the titles of International Arbitrator (IA) and FIDE

<sup>207</sup> Electoral Rules Art. 20.2.

<sup>208</sup> EDC case 5/2014 Kasparov & Leong; 5/2018 Dvorkovich & Cogoljevic.

<sup>209</sup> EDC cases 7/2014 Ilyumzhinov; 7/2018 Makropoulos.

<sup>210</sup> EDC case 10/2014 Murphy, Singh & Lima.

<sup>211</sup> If submitted in the two months before the elections – Charter, Art. 28.4.

<sup>212</sup> ELC case 1/2022 Dvorkovich & Anand.

<sup>213</sup> Charter, Art. 28.8.

<sup>214</sup> FIDE Title Regulations, FIDE Handbook B.01.

<sup>215</sup> FIDE Regulations on Seminars & Title Award for Organizers, FIDE Handbook B.09.

Arbiter (FA),<sup>216</sup> and Trainers with the title of FIDE Senior Trainer (FST), FIDE Trainer (FT), FIDE Instructor (FI), National Instructor (NI) and Developmental Instructor (DI).<sup>217</sup>

The Qualification Commission (QC) administers player title applications. The Arbiters' Commission has the necessary competence in relation to the licensing of arbiters (National, FIDE and International level) and to evaluate title applications and the classifications of arbiters in different categories. The Trainers Commission regulates the FIDE Trainer titles and licences through the FIDE Trainer system. The Events Commission make the necessary recommendations to Council regarding Organiser-title applications. Each of these Commissions, acting as the judging unit, keeps records of norms earned and reviews the title applications under its jurisdiction and makes recommendations to the FIDE Council, which body approves the title awards.<sup>218</sup>

Disputes in the field of applications for titles are infrequently encountered. In the case of Fernando Braga, an International Master chess player of Germany, he claimed that FIDE was required to confer upon him the title of Grandmaster. The Qualification Commission's recommendation was against the award of the title of Grandmaster to Mr Braga as, in its view, the necessary requirements had not been met. Mr Braga was notified accordingly. Mr Braga took the notification from the QC Chairman as a "decision" and appealed to the Court of Arbitration for Sport. The Panel of Arbitrators, in CAS 2017/A/5073, *Fernando Braga v World Chess Federation (FIDE)* held that the QC's relevant communication was not an appealable decision and accordingly CAS had no jurisdiction to rule on the matter. In any event, the appellant had not exhausted the internal procedures contrary to the FIDE statutes by appealing first to the General Assembly.

Tournaments to be rated must be pre-registered with the QC by the Federation in whose territory they are held and the Federation will be responsible for the submission of results and rating fees. As far as the rating of tournaments are concerned, this is a task performed by the FIDE Offices and the QC no longer has much practical involvement in the arithmetic of the monthly rating lists. In the event of FIDE deciding not to rate a specific tournament, the organiser of the tournament has the right to "appeal" to the QC and subsequently to the FIDE Council.<sup>219</sup>

<sup>216</sup> FIDE Regulations for the Titles of Arbiters, FIDE Handbook B.06.1.

<sup>217</sup> FIDE Regulations for the Titles of Trainers / FIDE Endorsed Academies, FIDE Handbook B.07.

<sup>218</sup> See FIDE Title Regulations, Artt. 0.3, 0.6.1 & 0.6.3; FIDE Regulations on Seminars & Title Award for Organizers, Art. 9; FIDE Regulations for the Titles of Arbiters, Artt. 1.4 & 1.5; FIDE Regulations for the Titles of Trainers, Art. 2.6(d).

<sup>219</sup> FIDE Rating Regulations, Art. 04, FIDE Handbook.

A player may initially be registered by a Federation only if he or she has citizenship, naturalisation or residency in the country of that Federation. A player may only be registered with and only represent the same Federation at any time.

All registered players representing a National Federation which is a member of FIDE are licensed to play over the board chess. Players with no Federation are automatically considered to be “FIDE flag players”. The registration and licensing of players take place by entering a player’s personal details into the FIDE database.<sup>220</sup> This database, published on the FIDE website, is 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. The database is maintained by the FIDE Offices. The Arbiters, Organisers and Trainers Commissions are expected to work closely with the FIDE Data Protection Committee to ensure a continuous update of their databases and to secure collection of the necessary data.

The QC plays an oversight role regarding the inter-Federation transfer of players. All transfers between Federations shall be the responsibility of the new Federation. Upon receipt of the necessary form, FIDE shall inform the old Federation and request their consent to complete the transfer. A transfer may be completed when either the old Federation has written a letter of non-objection, or 90 days have passed since the old Federation was informed. A transfer fee is payable by the new Federation to FIDE and a compensation fee is payable by the new Federation to the old Federation. Any objection or protest regarding transfers that is submitted to the FIDE Offices shall be decided by the FIDE Council. It is found that the player participated in a FIDE event in breach of the Transfer Regulations, the Federation which registered the offending player shall be fined a penalty fee.<sup>221</sup>

Although the *de lege* situation is that Non-Elected Commissions are purely consultative bodies and that their “decisions” must be confirmed by the FIDE Council, in practice the FIDE Council does not deviate easily from the recommendations received regarding title applications, rating lists, licensing and registration. If the FIDE Council does not agree with the recommendation, it will normally refer it back to the Commission concerned for reconsideration.

The decisions of the Council may be challenged by way of an appeal before the General Assembly.<sup>222</sup>

<sup>220</sup> Regulations for Registration & Licensing of Players, FIDE Handbook B.03.

<sup>221</sup> Transfer Regulations & Rules of Eligibility for Players, FIDE Handbook B.04.

<sup>222</sup> Charter, Artt. 17.2(1) and 35.2.

## 5.6 *Internal Management Disputes*

The FIDE President, Management Board and Council are the main organs within FIDE involved in day-to-day management decision-making. These decisions include management of FIDE's ordinary activities and resources, and co-ordination of the activities of FIDE Officials, Commissions, FIDE Offices and FIDE Employees.

The General Assembly awards the hosting of Chess Olympiads and the Council awards bids for other FIDE events. Sometimes the award of hosting rights may be controversial. Although there are no known legal disputes regarding the award of FIDE events, there are some examples within the ranks of the European Chess Union (ECU).

In CAS 2011/A/2446 the Sole Arbitrator held that the right to host the European Club Cup 2012 was granted to Israel in accordance with the prevailing Rules and Practice and dismissed the appeal filed by the Croatian Chess Federation. In CAS 2011/A/2592 the Turkish Chess Federation challenged the decision of the ECU to award the European Youth Chess Championship 2013 to the Montenegro Chess Federation. The Panel of Arbitrators held that the challenge must fail, and the appeal must be dismissed in the absence of evidence of any flaw in the evaluation of the bids.

## 5.7 *Employment and Commercial Disputes*

The President is the only one who can represent FIDE externally, sign documents and contracts and assume obligations for FIDE. He may however delegate approval authority regarding minor matters or other specific tasks to other members of the Council or Management Board.<sup>223</sup> In accordance with the Internal Rules of the Council and with the Financial Rules, the contracts signed by the President and the decisions taken by the President or by the Management Board shall be subject, in some cases, to prior approval, or subsequent ratification by the Council or just notified to the Council.<sup>224</sup> The President also decides the structure and composition of FIDE Offices, hires and dismisses FIDE employees, appoints Directors and terminates their powers, appoints other officials in the manner prescribed by the Charter.<sup>225</sup>

The President's decisions are immediately applicable and mandatory but may be appealed, in instances provided for by the Internal

<sup>223</sup> Charter, Art. 18.4.

<sup>224</sup> Charter, Art. 18.9.

<sup>225</sup> Charter, Art. 18.10.

Rules of the Council, to the Council, and in other instances to the General Assembly.<sup>226</sup>

The Council has the power, in accordance with its Internal Rules, to approve the President's proposals about the composition the Management Board. The Council, in accordance with its Internal Rules, must approve or ratify all FIDE contracts worth more than EUR150 000.<sup>227</sup> Decisions of the Council may be appealed to the General Assembly.<sup>228</sup>

The Management Board resolves labour conflicts and approves contracts in accordance with the Internal Rules.<sup>229</sup> Decisions of the Management Board may be appealed to the Council and to the General Assembly.<sup>230</sup> In the light of the provisions of Art. 35.2 of the Charter that decisions of FIDE organs may be appealed to the General Assembly, it seems that the intention is that an appeal against a Management Board decision will only lie to the Council if specifically permitted by the Internal Rules of the Council, once promulgated.<sup>231</sup>

At the time of writing this essay, no Internal Rules have been promulgated for the FIDE Council<sup>232</sup> or Management Board.

In terms of the Charter,<sup>233</sup> any final decision taken by a FIDE organ may be challenged exclusively by way of an appeal before the Court of Arbitration for Sport. In regard to "other disputes",<sup>234</sup> the ordinary courts in Lausanne, Switzerland shall have exclusive jurisdiction to resolve any dispute between FIDE and third parties (including but not limited to Member Federations or any of their officials, players, organisers, arbiters, FIDE officials, candidates to any function as FIDE officials, or Affiliated Organisations), in respect of a matter arising out of or in connection with the FIDE Charter, Regulations and Rules or agreements between FIDE and these persons and/or entities.

The distinguishing element between the jurisdiction of CAS and the jurisdiction of the ordinary courts in Lausanne, Switzerland seems to be that CAS is seized with appeals against "decisions" by a FIDE organ, exercising its sporting power.

<sup>226</sup> Charter, Artt. 7.9, 17.2(l) and 18.11.

<sup>227</sup> Charter, Art. 20.2(f), (g).

<sup>228</sup> Charter, Artt. 17.2(l) and 35.2.

<sup>229</sup> Charter, Art. 23.4(g), (h).

<sup>230</sup> Charter, Art. 23.6.

<sup>231</sup> For the moment, the Regulations on Organization of Presidential Board Meetings (FIDE Handbook A.7) are in place and are silent on the matter of internal appeals. Compare further Art. 18.11 for the position with appeals against the President's decisions.

<sup>232</sup> Save for Regulations on Organization of Presidential Board Meetings, FIDE Handbook, A.7.

<sup>233</sup> Art. 35.1.

<sup>234</sup> Charter, Art 36.1.



Disputes which arose in situations where no “decisions” had been taken by a FIDE organ falls with the competence of the Lausanne courts.

An example of such “other disputes” could be a case involving a payment due by or to an organiser in accordance with a contract concluded with FIDE, but only where no “decisions” had to be taken by a FIDE Organ in accordance with the FIDE Charter. The same applies to employment contracts if there is not a link, in the contract, to FIDE Rules and their enforcement through statutory means.

### 5.8 *Continental and National Federation Disputes*

It is one of FIDE’s principles that it observes strict neutrality in the internal affairs of its members, save that it has the right and duty to evaluate their compliance with FIDE principles and their obligations towards FIDE.<sup>235</sup> Accordingly, FIDE Member Federations have principal authority over chess activities in their own countries, including the taking of disciplinary measures in national cases.<sup>236</sup> FIDE shall exercise jurisdiction only in matters in the international sphere and exceptionally within the national sphere if the matter has international implications or affects various National Member Federations of FIDE.<sup>237</sup> The same applies regarding FIDE Continents which are autonomous entities that can freely decide about their own organs and functioning.<sup>238</sup>

The Ethics and Disciplinary Commission (EDC) shall have jurisdiction over the conduct of FIDE officials, FIDE Honourable dignitaries, electoral candidates and FIDE employees.<sup>239</sup> The EDC shall also have jurisdiction over the conduct of officials, players, players’ agents, match agents, arbiters, trainers, organisers, representatives of chess associations, leagues and clubs, who are associated to FIDE Member Federations or Affiliated Organisations or FIDE Continents, or who participate in or organise FIDE events, tournaments and congresses, to the extent that their conduct falls outside the national sphere.<sup>240</sup>

The EDC shall have jurisdiction over cases within the national sphere only if:

- (a) the case on which the alleged violation is based has international implications or affects various national Member Federations of FIDE and has not been

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<sup>235</sup> Charter Art. 4.10.

<sup>236</sup> Charter, Art. 11(d) and (e).

<sup>237</sup> Charter Artt. 26.8 and 26.9.

<sup>238</sup> Charter Art. 32.1.

<sup>239</sup> Charter Art. 26.7.

<sup>240</sup> Charter Art. 26.8.

- judged at national level through the national federation's own ethics process;<sup>241</sup>
- (b) the national ethics process has operated in a manner that is a breach of the FIDE Ethics and Disciplinary Code or of the fundamental principles of law and fair trial;<sup>242</sup>
  - (c) national cases with international implications if the Member Federations had attributed to the Appeal Chamber of the EDC an appeal competence over decisions of the corresponding national organs;<sup>243</sup>
  - (d) national decisions concerning a violation of the FIDE Ethics and Disciplinary Code if a Member Federation had requested that general validity in FIDE be attributed to its disciplinary decisions, if they are adequately motivated and decided in compliance with the fundamental principles of law and fair trial.<sup>244</sup>

In EDC case 1/2016 *Trinidad & Tobago* the issue to be decided by the EDC was whether the Member Federation had failed to prosecute the alleged violations of the complainant “*in compliance with fundamental principles of law*”. It held (in the unpublished Motivation) that the expression “*fundamental principles of law*” had to be interpreted to be the equivalent of “*principles of fundamental justice*”, a well-known legal notion. The principles of fundamental justice demand that the relevant procedures as prescribed by the organization's statutes and disciplinary code be respected. It would also require that the sanction imposed falls within the scope of sanctions permitted by the disciplinary code and that the sanction does not suffer from arbitrariness or disproportionality. Fundamental justice further includes (albeit not necessarily as their equivalent) the concepts of “natural justice”, the “duty to act fairly”, “procedural fairness” and “procedural due process”. Natural justice is based on two fundamental rules, *nemo iudex in causa sua* (no person may judge their own case) and *audi alterem partem* (hear the other side).<sup>245</sup>

The requirement that a case must have “international implications” for FIDE to exercise jurisdiction was considered in CAS 2015/A/4062 *Danailov, Sakotic & Stoisavlevic*. The alleged violations occurred in the context of a tournament organised by the ECU under the auspices of FIDE and related to an unauthorised contract with the organiser and financial mismanagement of the tournament. The alleged violations caused potential financial harm to the ECU and its fifty-four members.

<sup>241</sup> Charter, Art. 26.9 and Ethics and Disciplinary Code, Art. 4.7.

<sup>242</sup> *Ibid.*

<sup>243</sup> Charter, Art. 26.10.

<sup>244</sup> *Ibid.*

<sup>245</sup> See also EDC case 4/2015 *Bulgaria*; 2/2019 *Kigigha*; 3/2019 *Apemiye*.

Moreover, international implications could be inferred from the participation of 1045 chess players from forty-eight federations.<sup>246</sup>

One of the challenges faced by FIDE is dealing with complaints against National Federations received from aggrieved players, organisers and clubs. These matters are typically of a domestic nature and fall within the jurisdiction of the National Federation, or the National Olympic Committee, or the ordinary courts in the country concerned. FIDE is bound to respect its Members' independence in regard to their internal affairs and can only act against the Member concerned if it does not respect the FIDE principles or its obligations as FIDE Member. Such remedial action is, however, at the membership level, namely to suspend or expel the Member concerned from FIDE membership if their conduct warrants this. FIDE has no general power to overrule the National Federation's decisions taken in respect of its internal matters.

### 5.9 *Competition-Related Disputes*

Disputes arising during a game or tournament shall be resolved in accordance with the Laws of Chess in existence at the time and with the Tournament Regulations without detracting from the competence of the EDC to impose sanctions in respect of serious violations of the Ethics and Disciplinary Code during a game or tournament which have escaped the Arbiter's attention during a competition.<sup>247</sup>

Neither CAS nor any of the ordinary courts shall have jurisdiction to deal with matters related to the application of a purely sporting rule, such as the Rules on Laws of Chess or the Technical Rules of a competition. (e.g., FIDE Swiss Regulations, FIDE Competition Regulations).<sup>248</sup>

It is the responsibility of the Rules Commission to define and update the Laws of Chess and Online Chess Regulations, in consultation with players, event organisers and other Commissions, to provide a standard set of rules for chess to be played world-wide. As such the Rules Commission is responsible for the Laws of Chess, Online Chess Regulations and General Regulations for Competitions.<sup>249</sup> The Rules on Laws of Chess are approved and modified by the General Assembly.<sup>250</sup> The Council approves and modifies other Regulations and Recommendations.<sup>251</sup>

<sup>246</sup> See paras. 100 and 101 of the Award.

<sup>247</sup> Ethics and Disciplinary Code, Art 4.10.

<sup>248</sup> Charter Art. 35.9.

<sup>249</sup> Rules on Non-Elected Commissions, Art. 2.12.

<sup>250</sup> Charter Art. 7.5 and 17.2(b).

<sup>251</sup> Charter Art. 7.6, 7.7 and 20.2(c).

The FIDE Laws of Chess cover over-the-board play. The Laws of Chess have two parts: (a) Basic Rules of Play and (b) Competition Rules. It is a necessary condition for a game to be rated by FIDE that the game shall be played according to the FIDE Laws of Chess. Member Federations may ask FIDE to give a ruling on matters relating to the Laws of Chess.<sup>252</sup>

The FIDE Online Chess Regulations are intended to cover all competitions where players play on the virtual chessboard and transmit moves via the Internet. Whenever possible, these Regulations are intended to be identical to the FIDE Laws of Chess and related FIDE Competition Regulations. The Regulations differentiate between an “Online chess competition” (without specific player supervision), “Online Chess with supervision” (remotely supervised) and “Hybrid chess”, namely a competition where all players are physically supervised by an arbiter, while they play on-line.<sup>253</sup>

Spectators are not allowed to interfere in a game and the arbiter may expel offenders from the playing venue. The arbiter may award either or both players additional time in the event of external disturbance of the game. Unless authorised by the arbiter, it is forbidden for anyone to use a mobile phone or any kind of communication device in the playing venue or any contiguous area designated by the arbiter.<sup>254</sup>

Options available to the arbiter concerning penalties are a warning, increasing the remaining time of the opponent or reducing the remaining time of the offending player, increasing the points scored in a game by the opponent to the maximum available for that game or reducing the points scored in a game by the offending person, declaring the game to be lost by the offending player (the arbiter shall also decide the opponent’s score), a fine announced in advance, exclusion from one or more rounds; and expulsion from the competition.

The Appeals Committee Procedures Rules<sup>255</sup> (to apply from 1 January 2023) will apply to appeals in competitions under the aegis of the Global Strategy Commission and the Events Commission. Other competitions may opt to apply similar procedures either in part or in full. The Procedures Rules provide for the constitution of an Appeals Committee at the relevant competitions. Appeals may be received from a player or, if the player is under eighteen years old, by the player’s parent, guardian or head of delegation, in an individual tournament. In a team event, an appeal may be made by the team captain. Appeals must be submitted to the Appeal Committee Chairman in writing within one hour after the round or the infringement in a standard play tournament

<sup>252</sup> FIDE Laws of Chess – Preface, FIDE Handbook E.01.

<sup>253</sup> FIDE Online Chess Regulations, FIDE Handbook E.4, Art. 6.

<sup>254</sup> FIDE Laws of Chess Artt. 12.5 – 12.8.

<sup>255</sup> Appeals Committee Procedural Rules, FIDE Handbook C.11.

and within fifteen minutes in a rapid-play or blitz tournament. The topics of the appeal may include, but are not limited to, the arbiter incorrectly applying the FIDE Laws of Chess, the arbiter incorrectly applying the Tournament Regulations, or the behaviour of a player. The Appeal Committee shall endeavour to communicate its decision in writing as soon as possible after receipt of the appeal.

Although not explicitly stated by the mentioned Procedures Rules, a decision of the Appeals Committee, or by an arbiter, in the absence of such an in-tournament appeal, is final.

## 6. RELATIONSHIP WITH CAS

Any final decision taken by a FIDE Organ may be challenged exclusively by way of appeal before CAS which will resolve the dispute in a final and binding manner in accordance with the Code of Sports-Related Arbitration.<sup>256</sup> An appeal before the CAS may only be brought after FIDE's internal procedures and remedies have been exhausted.<sup>257</sup> Only parties directly aggrieved by a decision may appeal to the CAS.<sup>258</sup>

CAS shall decide the dispute according to the FIDE Charter, Regulations and Rules as well as according to Swiss law. The seat of the arbitration shall be Lausanne (Switzerland). The language of arbitration shall be English. The decision of the CAS shall be final and binding on the parties, subject to any challenge to the Swiss Federal Court which may be permissible in terms of Swiss law.<sup>259</sup>

Similar provisions appeared in Article 13 of the former FIDE Statutes (effective until 1 March 2020) and the possibility of recourse to CAS as a form of dispute-resolution has existed within FIDE since 11 October 1995.<sup>260</sup>

In the database of CAS awards, accessible on the CAS website,<sup>261</sup> there are nine reported awards relating to the sport of chess over the period 2006 – 2017. These comprise of two constitutional matters, one membership matter, four disciplinary matters and two matters concerning the award of hosting rights in respect of a tournament.

At the commencement date of the FIDE Charter in March 2020, a new regime allowing for an internal appeal within the Ethics and Disciplinary

<sup>256</sup> Charter Art. 35.1.

<sup>257</sup> Charter Art. 35.3.

<sup>258</sup> Charter Art. 35.4.

<sup>259</sup> Charter Art. 35.8.

<sup>260</sup> CAS 2011/A/2360 and CAS 2011/A/2392, *English Chess Federation & Georgian Chess Federation v FIDE*, para. 41.

<sup>261</sup> <https://www.tas-cas.org/en/jurisprudence/archive.html> (last accessed on 30 November 2022).

Commission was introduced. Previously, under the former FIDE Statutes, the only remedy to a party who felt aggrieved by a decision of the erstwhile Ethics Commission was an appeal to CAS. Since the introduction of the Appeal Chamber, sitting in appeal against decisions of the First Instance Chamber, to date there has been no external appeal to CAS against a decision of the EDC.

## 7. *ENFORCEMENT OF FIDE DECISIONS*

Member Federations must observe all rules, regulations and decisions of FIDE and ensure that their members and various bodies, including leagues and clubs, also comply with them. Member Federations must further ensure that their statutes and rules fully comply with FIDE rules and regulations and that they comply with their own statutes, rules and regulations.<sup>262</sup> Member Federations not fulfilling their duties may be suspended from FIDE Membership by a decision of the Council that is immediately effective but is subject to confirmation by the General Assembly and may be permanently expelled from FIDE by a decision of the General Assembly.<sup>263</sup>

The FIDE “decisions” which may be enforced in the above way would be limited to decisions taken by FIDE Organs,<sup>264</sup> subject to any right of internal or external appeal.

The Disciplinary Code of FIDE provides for several regulatory offences,<sup>265</sup> the aim of which is to enforce compliance with the Charter and FIDE Regulations, General Assembly decisions, the Laws of Chess, judicial decisions and compelling the breaking off of relationships with suspended or expelled Federations.

Regarding decisions of Ethics and Disciplinary Commission (EDC) or CAS, it is a sanctionable offence for a member of the FIDE Family to fail to respect an enforceable decision of the EDC or CAS. Non-observance of sanctions imposed under the Code by any member of the FIDE Family and non-enforcement by Member Federations shall be sanctioned.<sup>266</sup>

In addition, National Federations are vicariously responsible for the behaviour of their players, coaches, trainers, seconds, managers and administrative officials acting in a representative capacity, as well as any other person or body exercising a function on behalf of the National Federation during a FIDE tournament or event. A National Federation is liable to be sanctioned for the

<sup>262</sup> Charter Art. 11(a) – (c).

<sup>263</sup> Charter Art. 13.1.

<sup>264</sup> Charter Artt. 16.1. and 16.2.

<sup>265</sup> Code, Art. 11.4.

<sup>266</sup> Code, Art. 11.4(f); Rule 80 of the EDC Procedural Rules.

behaviour of these persons regardless of whether such persons are sanctioned separately in respect of their behaviour, if it would have been able to prevent the misconduct by taking reasonable measures in a timely manner.<sup>267</sup>

Decisions by the EDC shall be enforceable immediately once notified. All decisions or adjudications made, and all sanctions imposed by the EDC under the Code must be recognised and upheld where appropriate and necessary by all members of the FIDE Family. Such decisions or adjudications shall be communicated by the FIDE Secretariat to the parties involved in the proceedings and, upon conclusion, published on the FIDE website. It shall be the responsibility of the FIDE Management Board and FIDE Secretariat to take all necessary steps to publicise and enforce the decisions made and sanctions imposed by the EDC.<sup>268</sup>

Member Federations have a particular responsibility to monitor and enforce compliance with any EDC decision and sanction in relation to any player and official registered with the Member Federation. Any such EDC decision and sanction shall be communicated by the FIDE Secretariat to the National Federation concerned.<sup>269</sup>

Non-observance of sanctions imposed under the Code by any member of the FIDE Family and non-enforcement by Member Federations constitutes a separate disciplinary offence and shall be subject to an appropriate sanction by the EDC as provided for in the Code.<sup>270</sup> In addition to or instead of such EDC sanction, the FIDE Council may suspend the offending person or body from FIDE tournaments and events until compliance occurs and the General Assembly may suspend the membership of a Member Federation or Continent or affiliation of an Affiliated Organisation until compliance occurs, or permanently expel such Member Federation, Continent or Affiliated Organisation.<sup>271</sup>

Where a sanction is imposed by the EDC and the person concerned avoids the application of the relevant decision for a period (e.g., by participating in any activities of an organisation that does not recognise or implement the FIDE decision), such period shall not be credited against the period of sanction unless the FIDE Management Board decides otherwise.<sup>272</sup>

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<sup>267</sup> Code, Art. 18.2.

<sup>268</sup> Code, Artt. 20.1 – 20.3.

<sup>269</sup> Code, Art. 20.4.

<sup>270</sup> Code, Art. 11.4(f) and 20.5.

<sup>271</sup> Ethics and Disciplinary Code: Art. 20.6.

<sup>272</sup> Ethics and Disciplinary Code: Art. 20.7.

8. *CONCLUDING REMARKS AND APPENDIX*

Upon considering the above, one may conclude that the rules and procedures for dispute-resolution within FIDE are relatively well-developed and its sports justice system can resolve disputes in an efficient and otherwise satisfactory manner. With a new Charter and Ethics and Disciplinary Code in place, the review and updating of specific Regulations governing FIDE's work and the areas of responsibility of the various Non-Elected Commissions continue. Room exists for the introduction of sets of Internal Rules for the FIDE Council and Management Board and an improvement of the Internal Rules for the General Assembly to better regulate objections, protests and internal appeals.

FIDE is fortunate that it is not often confronted with a serious challenge of its decisions, whether internally or by way of an appeal to CAS. This is a testimony to a common vision, faith in and support of the Management and good relationships between role-players. For sure there will be disciplinary issues from time to time, but the Ethics and Disciplinary Commission did not have a too burdensome case roll over the last few years. The biggest threat to the sport remains the danger of cheating and other methods of undermining the core principle of fair play. Active steps are taken by FIDE to protect the interests of the game and the chess community in this regard.

Although there is no specific Regulation providing for a mediation or conciliation process, the provisions of the Ethics Code which provide for counselling by the President, of another senior member of management, or a member of the Ethics and Disciplinary Commission is a step in the right direction where the preferred culture and ethical values are reinforced with minimal disruption to the promotion of Chess as a sport and leisure activity.



## APPENDIX

## APPEALS AGAINST FIDE DECISIONS

<b>First Instance Body</b>	<b>Appeal Body</b>	<b>Reference</b>
ARB Disciplinary Committee	FIDE Council	Charter: Art. 7.8
Electoral Commission*	CAS	Charter: Artt. 28.8, 35.1 and 35.2
Ethics and Disciplinary Commission*	CAS	Charter: Artt. 7.8, 35.1 and 35.2
FIDE Continents / Continental Presidents	FIDE President	Charter: Art. 32.5
FIDE Council*	General Assembly	Charter: Artt. 17.2(l) and 35.2
FIDE Doping Hearing Panel	CAS / National Appeal Body	Charter: Art. 37.2, Anti-doping Rules: Artt. 13.2.1 and 13.2.2
FIDE Management Board*	General Assembly / FIDE Council	Charter: Artt. 7.9, 23.6 and 35.2
FIDE President*	General Assembly / FIDE Council	Charter: Artt. 7.9, 17.2(l), 18.11 and 35.2
FPL Judicial Body	Fair-play Commission / Ethics and Disciplinary Commission	FPL Procedural Rules: Artt. 7, 10 and 11
General Assembly*	CAS	Charter: Artt. 17.1, 35.1 and 35.2
National Chess Federations (Disciplinary matters)	Ethics and Disciplinary Commission (if appeal competence attributed)	Charter: Art. 26.10
Zonal Council*	General Assembly	Charter: Art. 35.2
Zonal Presidents	General Assembly / Zonal Council	Charter: Art. 33.5

\* FIDE Organ