



## **FIDE ETHICS AND DISCIPLINARY COMMISSION**

### **APPEAL CHAMBER**

The EDC Appeal Chamber, sitting in the following composition -

Chairperson: Mr. David Hater

Members: Mrs. Olga Baskakova

Mr. Ali Nihat Yazici

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

### **DECISION**

**CASE NO: 07/2023(A): Alleged irregularities in the organization of the Montenegro Qualifying Tournament for the 2023 FIDE World Cup**

1. This is an appeal against the Decision of the EDC First Instance Chamber (per Khaled Arfa (Chair), Yolander Sammy and Ravindra Dongre rendered on 29 February 2024).
- 2.1. In the First Instance Decision, the panel rejected jurisdiction. The primary rationale for the decision is that the tournament in question is in the national sphere rather than the international sphere.
- 2.2. The First Instance Panel correctly notes the criteria that could make a tournament in the international sphere under article 4.7 namely: a) FIDE tournaments events and congresses, b) events with multi-national participation c) events where norms for FIDE titles can be earned d) events that serve as a qualification for a major FIDE tournament or event including the World Cup or e) the relevant conduct or event affects the interests of other national federations.
- 2.3. The First Instance Panel concluded that the event in question did not meet any of these criteria and were thus not in the international sphere. As such, the First Instance Panel ruled that EDC did not have jurisdiction.
- 2.4. The First Instance Panel ruled that the event in question was a selection tournament for the World Cup rather than a qualification tournament for the World Cup.



3. **The parties:**
  - 3.1. The appellant is GM Dragiša Blagojević.
  - 3.1. The respondents in the First Instance Panel were Šahovski Savez Crne Gore, Jovan Milović and Igor Vujačić. They were assisted by Mr, Marco Biagioli
  
4. **Formal admissibility of the appeal:**
  - 4.1. In terms of Article 17.1 of the Ethics and Disciplinary Code (“EDC Code”), 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.
  - 4.2. GM Blagojevic was unsuccessful due to declination of jurisdiction so article 17.1 is satisfied.
  - 4.3. Article 43 provides other requirements for an appeal. Articles 43.1 and 43.2 specifies the scope of the appeal and requires that the appellant identify specific grounds for appeal. GM Blagojevic did identify the grounds of appeal and thus satisfied the requirements of articles 43.1 and 43.2.
  - 4.4. Pursuant to Rule 42.3, the appeal must be filed within 21 calendar days after notification. GM Blagojevic was notified on 29<sup>th</sup> of February 2024 and appealed on 13 March 2024 so this requirement is satisfied.
  - 4.5. Article 43.5 requires the payment of a 500 euro lodgement fee. This fee was paid on 13 March 2024, so this requirement is satisfied.
  - 4.6. Accordingly, the substantive and procedural requirements for lodging an internal appeal as set out in Procedural Rules 42 and 43 having been met, the appeal is declared admissible in terms of Procedural Rule 44.5.
  
5. **Procedural history**
  - 5.1. In addition to having access to the full case file of the First Instance Chamber proceedings, the Appeal Chamber received the following documents during the appeal proceedings:
  - 5.2. The complainant delivered its notice of appeal with motivated grounds on 13 March 2024.
  - 5.3. On 16<sup>th</sup> of October 2024 and in accordance with Procedural Rule 46, both parties were invited by the EDC Chairman to respond to each other’s appeals by no later than 29<sup>th</sup> October 2024.
  - 5.4. On 29<sup>th</sup> of October 2024, a statement was received from Attorney Marco Biagioli representing Sahovski Savez Crne Gore and Igor Vujacic. Included in the statement were 20 enclosures.
  
6. **The core facts of the matter**
  - 6.1. The original complaint:

The Complainant concerns the qualification and or selection of the individuals to represent Montenegro at the 2024 World Cup. The complainant alleges that the organizers and/or arbiters did not follow the tournament regulations, specifically in regard to the pairings of the second round - the semi-finals.



- 6.2. As previously mentioned, the First Instance Panel held that the case was not admissible because it was not in the International Sphere. Since the merits or lack thereof of the original complain were not dealt with in the First Instance Panel and this case deals only with the issue of admissibility, it is not necessary to examine the facts of the original complaint in detail. Of course, if the appeal is successful, those facts will become relevant in further proceedings if the case moves forward.
- 6.3. Article 5 of the FIDE Code of Ethics specifies five criteria that must be satisfied in order for the complaint to be admissible. The first instance panel held that the conditions in paragraphs a, b, c, and e were satisfied, but that paragraph d was not satisfied.
- 6.4. It is not necessary to deal with paraphs a, b, c, and e since they were not the reason for the First Instance Panel, but for sake of completeness, we shall recount them briefly. Paragraph a states that the complainants must have standing. Paragraph b states that parties must be members of the FIDE family. Paragraph c states that the complaint must allege a prima facie violation of the Code. Paragraph e states the alleged misconduct must have occurred in the preceding 5 years. All of these conditions were met
- 6.5. Paragraph d states that the misconduct must have occurred in the international sphere or be covered under one of the exceptions regarding misconduct in the national sphere. The First Instance Panel held that the requirements in paragraph d were not satisfied and the case is not admissible.
- 6.6. Article 4.7 defines the differences between the international sphere and the national sphere. In order to qualify as international sphere one of four requirements must be met: 1) there is multi-national participation, 2) norms can be earned, 3) the tournament serves as a qualification for a major FIDE event including the World Cup or 4) the misconduct affects the interests of other national federations. It is clear that the criterions 1, 2, and 4 are not met by this event as there was no multi-national participation, nor norms could be earned, and only the Montenegro Federation was affected. \
- 6.7. The third criteria qualification for a major FIDE event including the World Cup would be the only basis for concluding the event is in the international sphere. The first instance panel relied on the reasoning in the appeal of case 3-2020to hold that the tournament in question was a selection tournament and not a qualification tournament and thus the criterion in number 3 was not met.
- 6.8. If the event was in the national sphere, there are two exceptions under which FIDE could exercise jurisdiction 1) the case on which the alleged violation is based has international implications or affects various national member federations of FIDE and has not been judged at national level through the national federation's own ethics process or 2) the national ethics process has operated in a manner that in itself is a breach of this Code or of the fundamental principles of law and fair trial. We have already determined that the tournament does not have international implications or involve other federations. The complainant acknowledges that he did not pursue remedies through



his national federation because he believes the national federation is biased against him.

## 7. GROUNDS OF APPEAL

- 7.1. The first ground of appeal is that attorney Marco Biagioli has a conflict of interest in part because of his duties as the FIDE Data Protection Officer. This argument has been made before as in case 3/2021. The argument in this case is nearly identical to the conflict of interest argument in case 3/2021. In case 3/2021, the argument of a conflict of interest was found to be baseless. This appeal chamber comes to the same conclusion in this case namely that Mr. Biagioli's duties as FIDE Data Protection Officer pose no conflict of interest in the present case as those duties are separate and distinct and have no basis on this case. The mere fact that Mr. Biagioli is a FIDE official does not automatically make him conflicted.
- 7.2. The second ground of appeal is language allegedly used by Mr. Biagioli in alleging GM respondent is a liar. The appeals chamber finds that even if this were found to be true (a finding we are not making), it was not relevant in the decision of the First Instance Panel to deny jurisdiction.
- 7.3. The third ground of appeal is the most likely to succeed; however, it still presents certain challenges. The third ground is that the respondent had a right to a fair trial. The problem with this argument is the respondent defeats his own argument when he fails to pursue remedies through his own federation. The respondent alleges that the federation is biased against him. We cannot know this because he did not allow his own federation the opportunity to address his concern. Had he pursued a remedy within his federation and he was able to show bias or an abuse, this would definitely give FIDE jurisdiction even if the misconduct was in the national sphere. This would follow under exception two of the national sphere requirements in article 4.7. By failing to pursue remedies in Montenegro, the respondent prejudices his own case.
- 7.4. In paragraph e of his appeal, the respondent discusses reasons for the First Instance Panel rejecting jurisdiction. He also attempts to discuss the merits of the case. The respondent in paragraph 21 asserts the respondent must challenge the EDC chair's ruling regarding admissibility. This is just incorrect. The EDC chair makes a PROVISIONAL decision. It is up to the First Instance Panel to determine admissibility. The respondent has a fundamental misunderstanding of the process. The most persuasive argument the respondent has is in paragraph 22. The respondent notes that the conclusions about the differences in selection and qualification are not correct. The appeals chamber notes that the distinction between selection and qualification appear nowhere in the Code of Ethics or Procedural Rules. On this point, GM Blagojevic has a good argument. However, it is well established that national federations have autonomy in selecting their international representatives. This is well articulated in case 3/2018. Even if GM Blagojevic is correct that this is a qualification tournament or that the distinction drawn in case 3-2020 regarding the distinction between selection and selection are not



correct, GM Blagojevic has the responsibility to pursue his initial remedies through his national federation. He did not and this is the most significant problem for his complaint. Even if his federation is biased against him, he must give his own federation the chance to rule before pursuing his claim with FIDE.

- 7.5. In paragraph f of his appeal, the respondent attempts to discuss the merits of the case. These arguments can be summarily dismissed because the First Instance Panel rejected jurisdiction based on procedural grounds. Whether these arguments have merit is uncertain; but it is premature to address them before establishing jurisdiction.
- 7.6. The Appeal's Chamber agrees with the first instance panel that the case is not admissible. However, our rationale is different. We hold that the complainant is required to pursue his claim at the national level because even if the tournament is a qualification tournament, qualification or selection is a national matter (as in Case 3/2018). Only if it can be shown that the national federation abused its authority (which is what GM Blagojevic is alleging) can a case be brought to FIDE. GM Blagojevic's claims cannot be heard until after the national federation has been given the opportunity to address the issues. Only then can the merits of GM Blagojevic be entertained.
- 7.7. **The Appeals Chamber notes** that the distinction drawn between selection and qualification in case 3-2020 does not appear to have a basis in the Code of Ethics or the Procedural Rules. **It suggests** that, should this distinction be applied in future matters, **consideration be given to** codifying it within the Code of Ethics.
- 7.8. The arguments GM Blagojevic is making about this distinction will have to be dealt with in another case as this case is being decided more narrowly on the grounds that GM Blagojevic failed to pursue his remedies at the national level.

#### **CONCLUSION (OPERATIVE PART OF APPEAL DECISION)**

8. Having considered all arguments, the Appeal Chamber decides, **by unanimity** of its members, as follows: The appeal by GM Blagojevic against the First Instance Panel fails and the decision of the First Instance Panel declining jurisdiction is affirmed.
9. In accordance with Article 17.2 and 17.4 of the EDC Code and Procedural Rule 73.1, this final decision of the Appeal Chamber is appealable to the CAS within 21 (twenty-one) days following communication of this decision.
10. The FIDE Office is **requested** to communicate this decision forthwith to the Respondent and to publish the decision on the FIDE website in due course.

**DATED ON THIS 14<sup>th</sup> day of January 2026.**

***David Hater***

**APPEAL CHAMBER Chairperson  
FIDE ETHICS & DISCIPLINARY COMMISSION**