



## **FIDE ETHICS COMMISSION**

The Ethics Commission (hereafter called the ETH), sitting in the following composition -

Chairman: Mr Francois Strydom  
Members: Ms Yolander Persaud  
Mr Ravindra Dongre  
Mr Rajesh Hari Joshi

during the meeting held in Lausanne on 23<sup>rd</sup> - 24<sup>th</sup> of November 2019, made the following-

### **RULING**

**Case n. 7/2019: “Allegations relating to the use of forged FIDE and ACC letters”**

1. The ETH confirms that a quorum is established by the presence and participation of all four (4) of its voting members.
2. The ETH **notes** the complaints of Mr Mostafa Mokhtar and Mr Maher Elameir against Dr. Hesham Elgendy, received on 9 September 2019, concerning alleged violations of the FIDE Code of Ethics (the Code).
3. The ETH **notes** the complaint of the African Chess Confederation (ACC), as represented by its President Mr Lewis Ncube, against Dr. Elgendy received on 20 October 2019 concerning alleged violations of the Code.

4. The ETH **notes** the procedural ruling by the ETH chairman of 25 October 2019 that the complaints of Messrs. Mokhtar and Elameir have been joined with the complaint of the ACC to be considered by the ETH in the same case, namely one for a possible violation of Art. 2.2.1, 2.2.2 or 2.2.10 of the Code.
5. The ETH **notes** the subject-matter of the complaints:
  - 5.1 It is alleged by Messrs. Mokhtar and Elameir that in proceedings before the Investigation Committee of the Egyptian Ministry of Youth and Sports during July 2017, Dr Elgendy produced and relied upon two forged letters regarding the organisation of the 2015 African Individual Chess Championships, ostensibly sent by FIDE and the ACC on 18 April 2015 and 28 April 2015 respectively;
  - 5.2 It is further alleged that on 8 November 2018 the Nasr City Misdemeanour Court convicted Dr Elgendy on a charge of falsifying the ACC letter of 28 April 2015, but subsequently this conviction was overturned by the Nasr City Court of Appeal on 26 December 2018;
  - 5.3 It is further alleged that in the mentioned appeal proceedings Dr Elgendy again relied on the allegedly forged letters from FIDE and the ACC dated 18 April 2015 and 28 April 2015 respectively;
  - 5.4 It is alleged by Messrs. Mokhtar and Elameir that the allegedly forged letters were used by Dr Elgendy in the investigation by the Ministry of Youth and Sports and the appeal proceedings before the Egyptian judicial authorities for the purpose of covering up corruption at the time of the 2015 African Individual Chess Championships;
  - 5.5 Messrs. Mokhtar and Elameir claim that the alleged misconduct by Dr Elgendy harms the reputation of the Egyptian Chess Federation (ECF) management, misleads the official Egyptian sports and court authorities and discredits the reputation of FIDE;
  - 5.6 In the complaint of the ACC, Mr Ncube states that he never authored and signed the ACC letter of 28 April 2015.
6. The ETH **notes** the contents of the defensive statement filed by Dr Elgendy, dated 14 November 2019. Dr Elgendy objects to the

admissibility of the case before the ETH on the basis that the decision of the Nasr City Appeal Court is final and no other authority inside or outside Egypt shall reconsider the matter. It is submitted by Dr. Elgendy that the ETH Guidelines oblige the ETH to follow and respect the national Egyptian court decision. Dr. Elgendy elected not to deal with the merits of the complaints against him.

7. The ETH **notes** its own previous ruling in Case n. 1/2015, dated 5 September 2015, that the then complaints of Messrs. Mokhtar, Elameir and others against Dr. Elgendy, which complaints were based on similar facts and alleged that the misconduct had affected the reputation of the ECF, were held to be inadmissible and the case dismissed *inter alia* because the complainants lacked the necessary *locus standi* before the ETH.
8. The ETH **notes** the present argument of Messrs. Mokhtar and Elameir that they currently possess the required *locus standi* due to potential monetary damages in a related case.
9. The ETH **notes** the previous award of the Court of Arbitration for Sports (CAS) dated 21 December 2015, CAS 2015/A/4062 which analysed the three jurisdictional conditions of Article 8.1(3) of the FIDE Statutes, and ruled that the ETH has jurisdiction if all three conditions are present, specifically: (i) the alleged offence was committed by an official of a member federation; (ii) the case has international implications or affects various national federations of FIDE; and (iii) the case must not be judged at national level or the competent organs of the national chess federations fail to prosecute or fail to prosecute in compliance with fundamental principles of law. In analysing the third jurisdictional condition, the CAS drew a clear distinction between national criminal proceedings and proceedings related to infringements of the Code dealt with by national member federations or continental associations.
10. The ETH **notes** the *prima facie* evidence that Dr Elgendy was the President of the ECF at the time of the relevant offence in 2017 and 2018; the alleged forgery concerned aspects related to the organisation of the 2015 African Individual Chess Championships, an international

tournament; and the case has not been judged by either the ACC or the ECF.

11. The ETH **notes**, however, that there are elements in the ACC complaint at present which require further elucidation, including *inter alia* proof of a resolution by the ACC Board to initiate the current ETH proceedings.
12. Upon due consideration of the arguments advanced by the parties, the ETH, by unanimity of its members, **rules** that:
  - 12.1 Mr Mostafa Mokhtar and Mr Maher Elameir have no actual and direct personal interest in subject-matter of the complaint as it is alleged that it was the reputation of FIDE and the Egyptian Chess Federation that were harmed by the actions of Dr. Elgendy. Any potential monetary damages incurred by Messrs. Mokhtar and Elameir are not relevant for jurisdictional purposes. Accordingly, these complainants lack the necessary *locus standi* in front of the ETH.
  - 12.2 Furthermore, the complaints of Messrs. Mokhtar and Elameir do not disclose a *prima facie* case in the instance of the alleged forged FIDE letter in the absence of any statement by the ostensible author, or other credible proof of forgery.
  - 12.3 Accordingly, the complaints of Mr Mostafa Mokhtar and Mr Maher Elameir against Dr. Elgendy are **not admissible** and are **dismissed**;
  - 12.4 For the reasons given in paragraphs 9, 10 and 11 above, the complaint of the ACC in regard to the alleged forgery of the ACC letter of 28 April 2015 is **declared provisionally admissible**. A further exchange of statements shall take place regarding the merits of the complaint. The issue of the admissibility of the ACC's complaint may again be argued and will be reconsidered at the time of the ETH's final decision on the merits of the complaint.
  - 12.5 Instructions for the further conduct of this matter will be given by the ETH chairman to the ACC (as complainant) and Dr Elgendy (as respondent).
13. The ETH requests the FIDE Secretariat to communicate forthwith the decision to the Messrs. Mostafa Mokhtar, Mr Maher Elameir, Dr. Hesham

Elgendy, as well as the African Chess Confederation, and to publish in due course the decision on the FIDE website.

DATED ON THIS THE 9<sup>th</sup> DAY OF DECEMBER 2019.

*F P Strydom*

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CHAIRMAN  
FIDE ETHICS COMMISSION