

Annex n. 89**FIDE ETHICS COMMISSION****REPORT TO FIDE GENERAL ASSEMBLY**

The Ethics Commission (EC) (Chairman: Mr Roberto Rivello, Members: Mr Ralph Alt, Mr Ion Serban Dobronaeanu, Ms Margaret Murphy, Mr Ian Wilkinson) held three meetings in Istanbul during the Chess Olympiads: the first one in a public session, on 3rd September 2012 -15.00/18.15- (with the presence of the EC members –absent Mr Dobroteanu- and of various observers: E. Celi (URU), G. Makropoulos (FIDE), A. Schuering (NED), Lara Barnes (ENG), A. Tkachev (RUS), K. Deventer (GER), F. Guadalupe (USA), S. Reuben (ENG), N. Rabell Mendez (PUR), K. Bonham (AUS), S. Sloan (USA)), the other two in private sessions (without observers), on 3rd September -18.30/19.45- and on 5th September (absent Mr R. Alt, as a consequence of a misunderstanding on the location of the meeting).

During the public session held on 3rd September 2012 the Chairman of the EC listed and briefly commented the following **decisions assumed in Lausanne on 30th June – 1st July 2012:**

Case n. 2/2011: “French Team” (complaint submitted by the French Chess Federation against Mr. Sébastien FELLER, Mr. Arnaud HAUCHARD and Mr. Cyril MARZOLO and report submitted by the FIDE Executive Director), the EC unanimously rules that:

- all submitted objections and preliminary requests have to be dismissed;
- Mr. Sébastien FELLER, Mr. Arnaud HAUCHARD and Mr. Cyril MARZOLO are responsible for the violation of par. 2.2.5 of the FIDE Code of Ethics;

- Mr. Arnaud HAUCHARD has to be sanctioned with the exclusion from the participation in all FIDE tournaments, as a player or as a member of a national delegation, for a period of 3 (three) years, starting from the 1st of August 2012;
- Mr. Sébastien FELLER has to be sanctioned with the exclusion from the participation in all FIDE tournaments, as a player or as a member of a national delegation, for a period of 2 (two) years and 9 (nine) months, starting from the 1st of August 2012;
- Mr. Cyril MARZOLO has to be sanctioned with the exclusion from the participation in all FIDE tournaments, as a player or as a member of a national delegation, for a period of 1 (one) year and 6 (six) months, with a suspension of the sanction for the last nine months, under probation, in accordance with the decision of the CNOS (Comité National Olympique et Sportif Français); for what concerns the effects of the present decision, the validity of the already executed suspension since 27 May 2011 can be confirmed, but it has to be affirmed the competence of the FIDE EC regarding the evaluation of the period of probation, starting from 27 February 2012 till 27 November 2012, and the French Chess Federation has to be requested to send the FIDE Secretariat a report on the behaviour of Mr. Cyril MARZOLO during the above mentioned period of nine months;
- FIDE Secretariat and FIDE Presidential Board have to be informed of the present decision for all possible consequences related to the results of the games played by Mr Sébastien FELLER during the 2010 Chess Olympiad, concerning ratings, rankings and prizes;
- a written motivation will follow and will be communicated to the parties by the FIDE Secretariat.

Case n. 3/11 Batmany tournament (complaint submitted by of the Russian Chess Federation against Mr Artur Vashurin and Ms Aleksandra Vashurina), the EC unanimously rules that the requested oral hearing has again to be postponed and has to be scheduled during the Istanbul 2012 FIDE Congress, inviting the parties to submit additional documents and their conclusions. The FIDE Secretariat will communicate the decision to the parties.

Case n. 6/2011: “Mr Mohamadreza Shojaei vs. Mr Rezaei Galeh” (complaint submitted by Mr Mohamadreza Shojaei against Mr Rezaei Galeh), the EC unanimously rules that:

- the case against Mr Galeh, concerning an assumed violation of the FIDE Code of Ethics has to be rejected as not receivable and has to be dismissed;
- The FIDE Secretariat will communicate the decision to the complainant.

Case n. 7/2011: “Demand of Justice for Indian chess players” (complaint submitted by Mr Karun Duggal against the Indian Chess Federation), the EC unanimously rules that:

- the case against the Indian Chess Federation, concerning an assumed violation of the FIDE Code of Ethics has to be rejected as not receivable and has to be dismissed;
- The FIDE Secretariat will communicate the decision to the complainant.

case 2/2012 “Rybka and ICGA” (complaint by Mr Vas Rajlich and Mr Chris Whittington against the International Computer Games Association (“ICGA”)) Procedural decision (preliminary request of additional information). The FIDE Secretariat will communicate the decision to the complainants.

Case n. 3/2012: “Caissa Tournaments in Hungary” (complaint submitted by Mr Sajandas G. Joshi and Mr Sham M. Shetye, through the Indian Chess Federation, against the organisers of Caissa Tournaments in Hungary and against some Indian and Hungarian players and trainers), the EC unanimously rules that:

- the case, concerning an assumed violation of the FIDE Code of Ethics has to be rejected as not receivable and has to be dismissed. The FIDE Secretariat will communicate the decision to the complainants.

Case n. 4/2012: “Indian kids – unrated player” (complaint submitted by Mr Venkatesh Keshavamurthy, concerning the results obtained by some unrated Indian players), the EC unanimously rules that:

- the case, concerning an assumed violation of par. 2.2.5 of the FIDE Code of Ethics, has to be rejected as not receivable and has to be dismissed. The FIDE Secretariat will communicate the decision to the complainant.

Case n. 5/2012: “2009 Sarajevo tournament” (complaint submitted by Mr Dejan Antic against Mr Bogut Velijko, Mr Mirza Miralem, Mr Milivoje Susic and Mr Nedim Lalic –in the complaint also Mr Halilovic Fahrudin is mentioned, even if without specifying that the complaint is addressed also against him-), after a preliminary oral hearing, the EC unanimously rules that:

- the case against Mr Mirza Miralem, Mr Milivoje Susic and Mr Nedim Lalic concerning an assumed violation of par. 2.2.3 of the FIDE Code of Ethics has to be rejected as not receivable and has to be dismissed;
- the case against Mr Bogut Velijko concerning an assumed violation of par. 2.2.5 of the FIDE Code of Ethics has to be considered as receivable;
- the case against Mr Halilovic Fahrudin concerning an assumed violation of par. 2.2.3 of the FIDE Code of Ethics has currently to be considered as receivable;
- the FIDE Secretariat will communicate the decision to the parties, informing them about the EC procedural rules.

Case n. 6/2012: “Transfer of Mr Timur Gareev” (communications by U. S. Chess Federation and Uzbekistan Chess Federation), the EC unanimously rules that:

- the case has to be rejected as clearly not receivable and has to be dismissed. No communication has to be sent about this decision.

Case n. 9/2012: “Participation of Mr Suat Atalik in the Golden Sand tournament in Bulgaria” (communication/complaint by the Turkish Chess Federation against Mr Suat Atalik and the organisers of the tournament and complaint by Mr Suat Atalik against Mr Ali Nihat Yazici and against the Turkish Chess Federation), the EC unanimously rules that:

- the case, concerning various assumed violations of the FIDE Code of Ethics, has to be rejected as not receivable and has to be dismissed. The FIDE Secretariat will communicate the decision to the complainant.

Case n. 10/2012: “Arbiters at the Chess Olympiad in Istanbul” (complaint submitted by the English Chess Federation against Mr Ali Nihat Yazici and against the Turkish Chess Federation), the EC unanimously rules that:

- the case against Mr Ali Nihat Yazici and against the Turkish Chess Federation concerning an assumed violation of par. 2.2.3 and 2.2.11 of the FIDE Code of Ethics has to be considered as receivable;
- the FIDE Secretariat will communicate the decision to the parties, informing them about the EC procedural rules.

Case “Moroccan Arbiters – request of review” (request submitted by the Moroccan Chess Federation), the EC unanimously rules that:

- the request has to be rejected and is dismissed.

The written motivations concerning the above mentioned decisions were communicated to all parties in due time, between July and August 2012, and are joint to this report.

The Chairman of the EC observed that **the time limits for the submission of an appeal in front of the CAS are expired**, therefore the decisions in the cases n. 2/2011, 6/2011, 7/2011, 3/2012, 4/2012, 9/2012, “Moroccan Arbiters – request of review” are final.

Mr Schuering expressed his appreciation for the work done by the EC, particularly in relationship to the written judgment in the case n. 2/2011.

Mr Guadalupe requested some clarifications about the case n. 6/2012: the Chairman clarified that the case was registered but no official complaint was submitted by no one of the parties, therefore the case was clearly not admissible.

Ms Lara Barnes expressed her personal position about the case n. 10/2012, specifying that she was never informed by the English Chess Federation about the submitted complaint.

Mr Makropoulos, acting as FIDE Deputy President, requested the EC to draft an advisory opinion about the general problems concerning players suspended by their national chess federation, object of various cases submitted to the EC.

As a last point in the agenda the proposed **modifications of the FIDE Statute concerning the EC** were discussed: the Chairman illustrated the radical changes in the EC competences, that at the same time have been restricted in favour of a direct implementation of the FIDE Code of Ethics by the National Chess Federations and enlarged for what concerns the interpretation of the FIDE Statutes. It was underlined that the national chess Federations have to be strongly recommended to adopt **an appeal competence in favour of the EC**, in their own interest and for obtaining in this way a direct worldwide application of any decision of their competent organs of sport justice, if not appealed.

If the above mentioned modifications of the FIDE Statutes will be approved by the General Assembly, it will be necessary to **reform the EC Procedural Rules**. The EC is competent on their redrafting.

Finally, it was reminded the need to **reform the FIDE Code of Ethics**: it was suggested to charge of this task a specific commission of experts, including members of the EC.

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During the private session held on 3rd September 2012 the oral hearing in the **case n. 3/11** was celebrated. The EC heard Mr Alexander Tkachev, representative of the Russian Chess Federation, and Mr Igor Vereshchagin.

Following a request of the Russian Chess Federation the deadline to submit additional documents was postponed till 30th September 2012.

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During the private session held on 5th September 2012 the EC deliberated on **the following cases**:

Case n. 10/2012: “**Arbiters at the Chess Olympiad in Istanbul**” (complaint submitted by the English Chess Federation against Mr Ali Nihat Yazici and against the Turkish Chess Federation), procedural decision,

following a request of the Turkish Chess Federation the deadline to submit additional documents was postponed till 30th September 2012.

Case n. 12/2012: “Participation of Mr Suat Atalik in a tournament in Kavala - Greece” (complaint by Mr Suat Atalik against the Turkish and the Greek Chess Federations), the EC unanimously rules that:

- the case, concerning various assumed violations of the FIDE Code of Ethics, has to be rejected as not receivable and has to be dismissed. The FIDE Secretariat will communicate the decision to the complainant.

Case n. 13/2012: “Sam Sloan against the Marshall Chess Club” (complaint by Mr Sam Sloan against the Marshall Chess Club), procedural decision (preliminary request of additional information).

Case n. 14/2012: “Turkish young players in a European Youth Championship”. The EC unanimously ruled that the submitted complaint by the Turkish chess Federation is admissible.

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Finally the EC, being requested of an advisory opinion, discussed **the implications for FIDE rules of the suspension of a player following a decision of a national chess federation**, a situation that was recently the object of various cases submitted to the EC.

Some aspects of the question seem clear and were reminded by the EC in many different occasions.

FIDE and national chess federations are all independent entities, with their own internal legal systems, otherwise FIDE “unites national chess federations throughout the world” and “is the recognized international federation in the domain of chess”, “recognized by the International Olympic Committee as the supreme body responsible for the game of chess” (1.1 FIDE Statute).

Other international sports federations expressly regulate the relationships between national and international sporting justice, the FIDE Statutes till now did not regulate the point.

Without a specific regulation of the point, no limit to the respective competences can be presumed. As a consequence:

- every national chess federation has the right and the duty to give application to the FIDE Statute but every national system of sporting and disciplinary justice is fully independent from FIDE and from all other national chess federations;
- disciplinary sanctions imposed by a national organ of a national chess federation has no direct applicability in front of the organs of other national chess federations, even if this does not exclude that these organs can accept to apply the sanction, if this is conform to their own national rules, but in this case this becomes their own national decision and not a direct application of the original sanction;
- disciplinary sanctions imposed by a national organ of a national chess federation cannot affect FIDE ratings or FIDE titles.
- at the same time the EC has full competence on any violation of the FIDE Code of Ethics and the EC's decisions have to be applied by all national chess federations.

If the proposed modifications of the FIDE Statutes will be approved a national chess federation will have the possibility to accept an appeal competence of the EC, in this case the national decisions concerning any violations of the FIDE Code of Ethics could have direct applicability in front of any other chess federation, if not appealed in front of the EC.

A system of provisional measures following an appeal against a national decision could be introduced in the EC Procedural Rules, with the aim to prevent irreparable damages to a player.

Otherwise even this new rules will not cover all possible sanctions imposed by a national chess federation, that frequently are not linked to a violation of the FIDE Code of Ethics.

In these cases a player could request to be registered for another Chess Federation. The current FIDE rules otherwise state that “A player may be registered under a Federation if he or she has citizenship, naturalization or

residency in the country of that Federation”. This rule could clearly constitute an obstacle to a registration by another chess federation, but it could be modified.

For a player expelled by his or her national chess federation the existing rules concerning transfers between Federations cannot be applied, but these rules can be applied in the case of a player suspended by his or her federation asking to be registered for another chess federation.

Until a player is registered by one federation he or she has the right to play abroad, even if suspended by his or her national chess federation, except in the above mentioned case of a different decision by the national chess federation competent in the country where the competition is scheduled.

In this case there are two additional problems linked to the name of the country and of the flag which have to be used to indicate the player. The name of the country, in the case of a player suspended by his or her federation, seems to be linked to his or her citizenship, but the flag seems to be linked to his or her chess federation. The player could play without a flag, this way indicating the different will of his or her federation.

If a player has not been registered by his or her national chess federation –as frequently could happen the year after a suspension still valid in a given country- current rules do not guarantee any right to the player, except in the case of a registration by another chess federation.

Istanbul, 6 September 2012

The Chairman of the FIDE Ethics Commission
Roberto Rivello