



Tribunal Arbitral du Sport
Court of Arbitration for Sport

CAS 2016/A/4812 Bulgarian Chess Federation v European Chess Union

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President Prof. Philippe Sands QC, Barriser in London, United Kingdom
Arbitrators: Dr. Hans Nater, Attorney-at-law in Zurich, Switzerland
 Mr. Boris Vittoz, Attorney-at-law in Lausanne, Switzerland
Ad hoc Clerk: Mr. Edward Craven, Barrister in London, United Kingdom

in the arbitration between

Bulgarian Chess Federation, Sofia, Bulgaria

Represented by Ms. Daniela Malcheva Assenova, Attorney-at-law in Sofia, Bulgaria

Appellant

and

European Chess Union, Hünenberg See, Switzerland

Represented by Mr. Achilleas S. Mavromatis and Christos Ap. Papatomas, Attorneys-at-law in Thessaloniki, Greece, and by Ms. Delphine Deschenaux-Rochat, Attorney-at-law in Lausanne, Switzerland

Respondent

I. PARTIES

1. The Bulgarian Chess Federation (the “**Appellant**”) is the national federation for the sport of chess in Bulgaria. It has its seat on Sofia, Bulgaria.
2. The European Chess Union (the “**Respondent**” or the “**ECU**”) is the governing body for the sport of chess in Europe. It has its seat in Hünenberg See, Switzerland. The Respondent is affiliated to the World Chess Federation (“**FIDE**”) as the continental association for Europe.
3. The Appellant’s President is Mr. Silvio Danailov. Mr. Danailov was previously the Respondent’s President (between 2011 and 2014) and the Respondent’s Honorary President (between 2014 and October 2015).
4. The Appellant was a member of the Respondent until 10 September 2016, when the Respondent’s General Assembly voted to expel the Appellant. This appeal concerns the validity of that expulsion.

II. FACTUAL BACKGROUND

5. Below is a summary of the relevant facts and allegations based on the parties’ written submissions, pleadings and the evidence adduced at the CAS hearing on 28 April 2017. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, the Panel refers in the Award only to the submissions and evidence it considers necessary to explain the reasoning for the Panel’s decision.

A. Background Facts

6. This appeal centres on events and financial transactions between 2011 and 2014 and the Appellant’s involvement in, and response to requests for information about, those events and transactions.

The Appellant’s alleged involvement in financial wrongdoing

7. According to the Respondent, the Appellant is currently subject to an investigation by the Bulgarian Financial Investigation Agency (“**PFIA**”) concerning suspected embezzlement and financial wrongdoing in relation to chess tournaments that the Appellant claimed were official ECU events.
8. In overview, the Respondent claims that the Appellant has been involved in various dishonest financial transactions and has failed to provide information to – or provided misleading information to – PFIA investigators about the Respondent’s knowledge of, and involvement in, those transactions. The transactions relate in particular to chess tournaments that took place in Plovdiv, Albena and Golden Sands in Bulgaria in 2014. According to the Respondent:
 - (a) The Appellant claimed to have transferred the sum of EUR 472,350 to the Respondent in connection with various chess tournaments allegedly held in 2014; however, the Respondent never received this amount or any part of it.
 - (b) The Appellant told the Bulgarian authorities that the Respondent has a bank account in Slovenia; however the Respondent has never had such a bank account. The account in question belongs to a Delaware registered company named European Chess Union LLC (the “**Delaware Company**”), which despite its name has no connection whatsoever with the Respondent. The Appellant also filed a number of invoices which were allegedly issued by the Respondent, but which bore the address of the Delaware Company rather than the Respondent.
 - (c) In addition, the Appellant filed copies of a number of written contracts that it claimed to have concluded with the Respondent. Those contracts do not appear in the Respondents records and are not authentic contracts with the Respondent.
 - (d) The Appellant also claimed to have rented chessboards, chess pieces, electronic equipment and jamming software and devices from the Respondent. However, the Respondent does not have any records of this and does not offer this service to its member federations.
9. The Appellant denies it has been involved in any fraudulent activity or other wrongdoing. The Appellant claims that the investigations in Bulgaria began in response

to malicious complaints by a small group of individuals who are pursuing a concerted vendetta against the Appellant.

Decision of the Respondent's General Assembly in October 2015

10. At the Respondent's Congress in Montenegro on 7 – 11 October 2015, the General Assembly confirmed that the open tournaments organised in Albena and Golden Sands in Bulgaria in 2014 (purportedly under the auspices of the Respondent) were not official ECU events. The General Assembly voted to send a letter to the Bulgarian Ministry of Sports requesting copies of all documents and reports that referred to the alleged contracts, invoices and payments between the Appellant and the Respondent. It was agreed that a similar letter would be sent to all relevant European Union authorities. In addition, the General Assembly voted unanimously to file a report with US law enforcement authorities concerning the Delaware Company.
11. At the same meeting, the Respondent's General Assembly voted by 40 votes in favour (with none against and two abstentions) to terminate Mr. Danailov's appointment as the Respondent's Honorary President.
12. In addition, the Respondent's General Assembly approved an amendment to Article 7 of the Respondent's Articles of Association. The amendment established a new power that enables the Respondent to require member federations to provide certain types of information and documents to the Respondent. The Appellant challenges the lawfulness of the amended Article in these proceedings.

The PFIA's request for documents and information from the Respondent

13. On 6 November 2015, the PFIA sent a letter to the Respondent regarding an ongoing financial audit of the Appellant. The letter contained 22 specific requests for documents and information from the Respondent. The documents sought by the PFIA included (a) any rules governing the financial relations between the Appellant and the Respondent in 2014; (b) copies of offers sought from potential hosts of ECU tournaments in 2014; (c) copies of offers from the Appellant in respect of ECU tournaments in 2014; (d) various reports on the inspections conducted in respect of the tournaments in Albena,

Golden Sands and Plovdiv in 2014; and (e) certain items of correspondence and contracts between the Appellant and the Respondent regarding those tournaments.

14. On 14 December 2015, the Respondent sent a letter to the PFIA which explained that the tournaments held in Albena and Golden Sands were not official ECU tournaments; that the Appellant had not made any bids to host either those tournaments or the Plovdiv tournament; and that no contracts existed between the Appellant and the Respondent in respect of those events.

The PFIA's report

15. According to a 122-page report (“the **PFIA report**”) dated 16 February 2016, the purpose of the PFIA’s inspection of the Appellant was to review “*the legality and documentary support related to the financial relationships*” between the Appellant and Respondent in respect of funding obtained from the Bulgarian Ministry of Youth and Sports (“the **Ministry**”) in 2014.
16. The PFIA report explained that in 2014 the Ministry had provided funding of BGN 476,000 to the Appellant for organising the European Individual Championship for Women in Plovdiv (“the **Plovdiv tournament**”) and BGN 447,870 for organising two European Individual Championships at Albena and Golden Sands in 2014.
17. In relation to Plovdiv tournament, the PFIA report stated that:
 - (a) On 23 January 2014, the Ministry paid a total of BGN 476,000 to the Appellant. According to a contract between the Appellant and the Ministry concluded on 21 January 2014, the total of BGN 476,000 comprised (i) fees which would be paid to the Respondent (BGN 395,468); (ii) fees which would be paid to international arbiters (BGN 31,488); (iii) rental of facilities (BGN 48,000); and (iv) purchase of sports equipment (BGN 1,044).
 - (b) The Appellant had supplied various records to the inspectors including an invoice dated 25 November 2013 which purported to have been issued by the Respondent and which “*indicated that the amount of fees for the European Women’s Individual Chess Championship in 2014 in Plovdiv, Bulgaria amounted to 202*

200.00 Euros.” The invoice did not contain any information about how the figure of EUR 202,200 had been calculated.

- (c) The Bulgarian investigators had obtained invoices that showed payments to a Slovenian bank account in the name of “*European Chess Union*”. The address of the account holder was recorded as 16192, Coastal Highway, Lewes, Delaware. A total of EUR 202,200 was transferred to that bank account. The invoices were not accompanied by any documents to show how the amounts identified in the invoices were calculated. The signatures on the invoices were all “*completely identical*” and were not in original handwriting. All of the invoices bore the Respondent’s name but did not contain its address in Hünenberg See; instead the invoices provided the address of the Delaware Company.
- (d) In answer to questions posed by the investigators, the Respondent had explained that from January 2011 until the present date it had only had one bank account, which was with Credit Suisse in Switzerland. The Respondent’s former treasurer, Mr. Almog Burstein, and the Respondent’s accounting officer, Mr. Kurt Gretener, both confirmed this. Mr. Burstein added that he had no knowledge of a Delaware company named “*European Chess Union*”.
- (e) The Appellant also provided the PFIA with a copy of a letter dated 11 July 2013, which stated that following a meeting of the Respondent’s Board, it had been decided that the European Individual Championship for Women in 2014 would take place in Plovdiv. According to the PFIA report, the Appellant’s archives did not contain an original paper version of this letter in English. Nor was there an original version of the invoice referred to above. The PFIA report noted that the signatures on both of those documents were “*apparently identical, suggesting that they are not made by hand*”. Furthermore, the Respondent stated that it had not received any bids to host the Plovdiv tournament.

18. In relation to the tournaments in Albena and Golden Sands, the PFIA report stated:

- (a) On 10 May 2014, the Ministry paid a total of BGN 447,870 to the Appellant. According to a contract between the Appellant and the Ministry concluded on 8 May 2014, that sum was intended to cover the following expenses that the

Appellant would incur in connection with the tournaments in Albena and Golden Sands: (i) fees to be paid to the Respondent (BGN 289,071); (ii) fees of international arbiters (BGN 35,596); (iii) rental of facilities (BGN 121,870); and (iv) purchase of sports equipment (BGN 1,333).

- (b) The Appellant had submitted documents to the Ministry which showed that it would need to pay EUR 147,800 to the Respondent in connection with official ECU tournaments in Albena and Golden Sands. The documents included copies of invoices that bore the Respondent's letterhead, contracts purportedly concluded between the Appellant and the Respondent in respect of the tournaments, and correspondence purportedly sent to the Appellant by the Respondent's Executive Director, Mr. Vladimir Sakotich. However:
- (i) The Respondent did not have any record of a contract between the Appellant and the Respondent in connection with the tournaments.
 - (ii) The invoices did not contain any information about how the sum of EUR 147,800 had been calculated.
 - (iii) The invoices stated that payments should be made to the Slovenian bank account of the Delaware Company. The invoices did not request payments to be made to the Respondent's bank account with Credit Suisse.
 - (iv) The Respondent informed the PFIA inspectors that there was no corresponding invoice for EUR 147,800 in the Respondent's records and the Respondent had not received a payment of this amount from the Appellant.
 - (v) The signatures on the documents were illegible and "*completely identical*" and there were no original versions of the contracts and invoices.
- (c) In addition, the PFIA report noted that:
- (i) The Appellant also provided a document which purported to be an "*ECU calendar 2014*". That document referred to two tournaments – in Albena and Golden Sands – which were not listed in the certified copy of the 2014 calendar provided by the Respondent.

- (ii) The Respondent had informed the PFIA that there was no reference in the minutes of the Respondent's Board to either of the two tournaments; there had been no tender process in relation to either of the tournaments; and the Respondent's records did not contain any contracts or other documents relating to either of these tournaments.

19. The PFIA report went on to identify various other irregularities within the documents held by the Appellant concerning the tournaments in Plovdiv, Albena and Golden Sands. For example:

- (a) The Appellant had provided a copy of a document purportedly issued by the Respondent entitled "*Inspection reports for Plovdiv, Albena and Golden Sands*". There was no original version of that document. The signature on the copy was illegible and had not been written by hand. The Respondent's seal had also not been applied directly.
- (b) In contrast to the invoices relating to the tournaments in Plovdiv, Albena and Golden Sands, the Appellant's records contained invoices relating to other ECU competitions that did specify the Respondent's correct address in Hünenberg See and requested payments to the Respondent's official Credit Suisse bank account (rather than the bank account of the Delaware Company).
- (c) As a general observation, the PFIA said that the Appellant had submitted documents that were "*inaccurate*" and did not comply with the relevant financial reporting legislation. Moreover, information provided by the Appellant "*does not correspond to the information provided for due and received fees*" by the Respondent.

The Respondent's request for documents from the Appellant

20. On 1 – 2 March 2016, the Respondent's Board held a meeting in Lviv, Ukraine. According to an extract of the minutes of that meeting, the Respondent's Board made the following decision in relation to the Appellant at that meeting:

"ECU Board decided unanimously to give a final deadline, by a letter to the Bulgarian Chess Federation to provide to ECU the "alleged" ECU contracts,

invoices and bank mandates. If Bulgarian federation shall not provide the requested material or deny that exists then ECU will launch the procedure of suspension of the Bulgarian Chess Federation according the ECU Statutes and members' obligations.

ECU President with [sic] select and authorize an ECU legal representative based in Switzerland to draft and send this letter to the Bulgarian Chess Federation copied to Bulgarian Ministry of sports, Bulgarian National Olympic Committee and FIDE. The letter will be published also to the ECU site.”

21. On 23 March 2016, Interpol contacted the Respondent in connection with an investigation into misappropriation of property contrary to Article 201(1) of the Bulgarian Penal Code. The letter from Interpol asked the Respondent to provide copies of the decisions of the General Assembly on 10 October 2015. In addition, it requested the Respondent's opinion on the chess tournaments held in Albena and Golden Sands in 2014. The letter asked whether the Respondent had been informed about the tournaments, whether it had taken part in preparations for the tournaments and what type of financial support the Respondent provided to the Appellant in respect of the events.
22. On 6 April 2016, the Respondent's President, Mr. Zurab Azmaiparashvili, sent a letter to the Appellant which explained that on 6 November 2015 “*the Bulgarian investigation authorities (Bulgarian Public Financial Inspection Agency) sought the cooperation of ECU in the investigation involving the Bulgarian Chess Union*”. The letter went on to state that, in view of the decision of the Respondent's General Assembly on 10 October 2015 and the decisions of the Respondent's Board on 2 and 3 March 2016, “*we hereby request that you provide the European Chess Union with the following documents and information*”. The letter then made 14 specific requests. The Appellant was requested to produce, *inter alia*:
 - (a) Any contracts signed between the Appellant (or its officials, employees or agents) and the Respondent concerning chess tournaments in Albena (June 2014), Golden Sands (June 2014) or the 2014 European Chess Championships and any contracts for the lease of chess material and/or jamming devices between 2011 and 2014;

- (b) Invoices paid by the Appellant to the Respondent in relation to the 2011 European Youth Chess Championship, the 2012 European Individual Open Championship, the 2014 European Individual Women Championship (in Plovdiv) and the tournaments in Albena and Golden Sands in June 2014;
 - (c) A list of all payments made by the Appellant to the Respondent between 1 January 2011 and 31 December 2014;
 - (d) Information about whether the Appellant paid or transferred money to a bank account other than the Respondent's official bank account. (The information sought from the Appellant included the details of any alternative bank account, the identity of the person who instructed the payments to be made, and confirmation whether any payment was made to a specific bank account in Slovenia.);
 - (e) A list of all the Appellant's Board Members and Directors between 1 January 2011 and the present date; and
 - (f) A copy of the Appellant's Statutes.
23. The Respondent's letter explained that the request for information was made pursuant to Article 7(a) of the Respondent's Articles of Association, which requires all member federations to "*cooperate with the ECU and provide all necessary information and documentation regarding (or referring to) the relation between the ECU and the Member on administration and accounting matters*" (see paragraph 80 below for the full text of Article 7).
24. The letter added that if the Appellant failed to respond within 10 working days then the Respondent "*reserve[d] its right to initiate disciplinary proceedings before ECU and/or FIDE*" and "*reserve[d] its right to suspend the membership of the Bulgarian Chess Federation and to request its exclusion from FIDE*".

The Appellant's response to the Respondents requests for information

25. On 19 April 2016, Ms. Sylvia Hristova, an attorney acting on behalf of the Appellant, sent a letter to the Respondent's President stating that the documents that the

Respondent had requested *“have been provided to several Bulgarian auditing authorities.”* Ms. Hristova added that, *“As you are aware they were seized by a group of Bulgarian chess players and are currently auditing [sic] the circumstances and documents you are interested in. We believe that these Bulgarian chess players work closely with you personally, so you have probably already been informed about the existence of these audits. You also have all the documents and bank transactions, which you are a party to, and which concern you directly.”*

26. Ms. Hristova’s letter went on to say that the Appellant *“want[s] to cooperate with the ECU regarding administrative and other matters”* and expressed concern about the Respondent’s *“unethical”* cooperation with *“the group of Bulgarian chess players who do their best to undermine the prestige of the federation”*. It referred to an ongoing case before the FIDE Ethics Commission and an ongoing investigation by the Bulgarian authorities and stated that, *“BCF would like to ask you to wait until they are over and there is a final decision pronounced, in order to receive the requested documents and information”*.

The Respondent’s decision to expel the Appellant

27. On 9 June 2016, the Respondent’s President, Mr. Azmaiparashvili, wrote to the Executive Director of FIDE, Mr. Nigel Freeman, explaining that the Respondent was *“facing...a serious dispute”* with the Appellant and that it was *“likely the ECU Board will propose the suspension of the membership of the Bulgarian Chess Federation”* at the forthcoming General Assembly in Baku.
28. At a meeting of the Respondent’s Board in Prague two weeks later on 25 and 26 June 2016, the Board decided to propose the Appellant’s suspension to the Respondent’s forthcoming General Assembly. According to the Respondent’s Answer Brief, the decision to propose the Appellant’s suspension was based on the following reasons:
- (a) The Appellant had violated Article 7(a) of the Respondent’s Articles of Association by refusing to provide documents in response to the Respondent’s request dated 6 April 2016.

- (b) Despite the General Assembly's determination in 2015 that the tournaments in Albena and Golden Sands in 2014 were not official ECU tournaments, the Appellant continued to argue to the contrary.
 - (c) The Appellant claimed that it had transferred EUR 472,350 to the Respondent. However, the Respondent never received this sum. Despite this, the Appellant wrongly insisted to the Bulgarian investigators that the money was paid to the Respondent. In addition, the Appellant submitted bank certificates to the Bulgarian authorities that stated that the Slovenian bank account to which the funds were paid belonged to the Respondent. This information was untrue and was provided to the Bulgarian authorities without the Respondent's knowledge.
 - (d) The Appellant wrongly stated that the Respondent had a bank account in Slovenia. The Respondent never had such an account. Instead, the documents showed that the account belonged to the Delaware Company, which has nothing to do with the Respondent.
 - (e) Although the Delaware Company was entirely unrelated to the Respondent, the Appellant provided the Bulgarian investigators with invoices purportedly issued by the Respondent that bore the address of the Delaware Company.
 - (f) The Appellant wrongly told the Bulgarian authorities that it had rented chess equipment from the Respondent. The Appellant knew that such equipment was not available to rent from the Respondent.
 - (g) The Appellant's communications to the Bulgarian authorities, the media and the FIDE Ethics Commission were "*part of [a] conspiracy*" against the Respondent and its President, Mr. Azmaiparashvili.
 - (h) In addition, the Appellant had made insulting allegations and complaints against Mr. Azmaiparashvili.
29. The decision to propose the Appellant's suspension was announced in a press release dated 29 June 2016.

30. In a formal “*Notice*” dated 7 July 2016, the Respondent notified the Appellant of the Board’s proposal to suspend its membership (“the **Notice**”). The Notice contained a summary of the reasons for the Board’s decision. The Notice stated that, “*the ECU Board considers that your actions are against ECU, are not observing the Objects of the ECU and are not compatible with you membership in ECU*”. It went on to state that, “*according to the Article 7(b) of the Articles of Association, we invite you to present your position by written answer to this Notice*” by 28 July 2016. It explained that the Notice and the Appellant’s response to it would be attached to the agenda for the General Assembly meeting and that the General Assembly “*shall hear oral representations on behalf of ECU Board and your federation*”.
31. On 22 July 2016, the Appellant’s President, Mr. Silvio Danailov, wrote to the Respondent stating that the Appellant had already responded to the Respondent’s questions contained in the letter dated 19 April 2016. Mr. Danailov stated that, “*Thanks to your efforts...all the required documents are in hands of our government body for checking. That’s why unfortunately we can’t deliver it to you until they finish the job. Afterwards we will be more than happy to do that.*” Mr. Danailov also stated that the Appellant would sue the Respondent if it did not put forward proof that the Appellant was under investigation by the FBI and Interpol. He requested the Respondent to “*stop sending your offensive and abusive letters repeting [sic] the same thing over and over again*”.
32. On 30 August 2016, Mr. Danailov sent an email to Mr. Azmaiparashvili. The subject of the email was “*Peace*”. According to an English translation of the email, Mr. Danailov referred to the existence of a “*war*” before stating that: “*The conditions of this peace offer are simple. We stop attacking each other and you close all cases (Ethics Committee, Bulgarian CF etc., and of course Sava and Sakotic), before the ECU GA on the 10th September. I will forget about you and the ECU forever.*” He added that, “*if you agree, it has to be 100% confidential, only between you and me. How you start persuading your Board, Greeks, Ethics Committee etc, this is your problem.*”
33. On 3 September 2016, Mr. Danailov sent a further email to Mr. Azmaiparashvili. The email attacked Mr. Azmaiparashvili’s personal intelligence and stated that Mr. Danailov

“did everything to avoid a possible war”. Mr. Danailov ended his message by stating that, *“It will be fun, I’m going to have fun, not sure for you”*.

The Appellant’s expulsion from the Respondent on 10 September 2016

34. At the Respondent’s General Assembly held in Baku, Azerbaijan on 10 September 2016, the Appellant was expelled from the Respondent. The minutes of the meeting record that:

“ECU General Secretary proposed the following procedure: There will be presentation of the case by the ECU Board. Then will follows in equal time the oral presentation of the Bulgarian Chess Federation. Since we are informed that, in addition to the delegate of Bulgaria, the lawyer of the Bulgarian Chess Federation is also present here, we are accepting that the Bulgarian Chess Federation can share its time between their delegate and their lawyer as they wish.

After the presentations, if any clarification is needed, it will be given by the ECU Board or ECU lawyer and the discussion will continue by the delegates who can raise their opinion or questions. In this part of discussion between delegates we believe that lawyers cannot intervene.

After the conclusion of the discussion, the General Assembly will proceed to the voting.

There was no any objection on the procedure proposed and Mr. Tsorbatzoglou took the floor on behalf of the ECU Board to present its motion.”

35. According to the minutes, Mr. Tsorbatzoglou then presented the 13 separate charges against the Appellant. After listing the charges, he stated that: *“In conclusion, for one and half year[s] now, ECU is trying to get some answer and some concrete information about all these transactions that were allegedly made to ECU. Instead of giving any answer about these invoices, these transactions and how much money they paid to us, the Bulgarian Federation is distributing conspiracy theories and attacks even in our personal lives.”* Mr. Tsorbatzoglou went on to say that, *“We have no other choice than to bring this motion to the General Assembly and ask you to decide. You know according*

to our articles that if you support today our motion the Bulgarian Chess Federation can come back only with a new application. But this is possible even after few months if they bring us satisfactory explanations and more important if they assist us to restore the money to ECU or return the money wherever it is belonging.”

36. In response, the Appellant’s representative questioned how it was possible for the Respondent to request copies of specific invoices and contracts without those documents already being in the Respondent’s possession. The representative also asked why a ten-day period was thought to be sufficient time for the Appellant to search through four years worth of documentation in order to find the specific documents requested in the Respondent’s letter.
37. The Appellant’s representative went on to say that Article 7(a) of the Respondent’s Articles of Association “*was passed exclusively for the specific case of [the Appellant]*” and is therefore “*extremely lacking in rationale*” as well as “*contradicting the principles of independence and autonomy of each ECU member*”. He argued that Article 7(a) “*contradicts fundamental principles of independence*”, infringed the Appellant’s right to confidentiality and was therefore “*null and void*”.
38. The Appellant’s representative argued that, in any event, the Appellant had never refused to submit any kind of documentation to the Respondent. The Appellant had informed the Respondent that it was unable to provide the documentation requested. The Appellant had been investigated twice by the PFIA and in both cases the inspections concluded that no monies had been misappropriated. Furthermore, an investigation by the National Revenue Agency was currently being conducted. As a result, all of the relevant documents were being forwarded from one authority to another and were not physically at the Appellant’s disposal. The Appellant insisted that it had never violated any of the Respondent’s Articles of Association.
39. After the Appellant’s representative finished his submission, delegates were invited to ask any questions. The motion then proceeded to a formal vote. The minutes recorded that Mr. Danailov requested a secret vote in light of the seriousness of the matter. Following that request, the federations of Bulgaria, Scotland, Israel, San Marino and

Azerbaijan voted in favour of a secret ballot. Mr. Tsorbatzoglou therefore announced that a secret ballot would be held.

40. A total of 51 of the 55 delegates voted on the proposal to suspend the Appellant's membership. Of the 51 votes cast, one was invalid and two were blanks (these were counted as abstentions). A total of 37 federations voted in favour of the motion; 11 federations voted against.
41. After voting to expel the Appellant, the General Assembly then unanimously agreed to allow Bulgarian chess players to compete in European tournaments either by individual registration or under the flags of the Respondent or FIDE.

FIDE's approval of the Appellant's suspension

42. Immediately following the Respondent's General Assembly, the Respondent provided FIDE with a report concerning the Appellant's suspension. On 11-13 September 2016, FIDE held its General Assembly in Baku. At that meeting FIDE unanimously approved the Respondent's report regarding the Appellant's suspension. The minutes of the FIDE General Assembly meeting recorded that:

“About the Bulgarian Chess Federation case, the ECU General Assembly decided on September 10, with majority of votes, to suspend the membership of the Bulgarian Chess Federation (37 votes in favour to expel and 11 members against this proposal). It is a permanent expel and they will have to reapply again. Players will register individually in the tournaments, and play under ECU or FIDE flag.

He wanted to highlight a few points. It is a quite painful decision for him personally. He is not happy with this, who can be happy when a family member is excluded. Unfortunately, it has to be done, as the Bulgarian Chess Federation stopped all communications, they do not answer any questions regarding the money which went from Bulgaria to LLC Delaware company under the ECU name, with the previous President Mr. Danailov, former ECU President.

He said that Mr. Danailov has been sending him a lot of insulting and threatening emails all this time, starting from Montenegro. He has been his personal friend for a long time.

Mr. Makropoulos said this is a clear case where money has disappeared in one offshore account. Mr. Danailov is trying to say that all this investigation is because of him and his friends who are taking some revenge on him. He personally for two years never published or made any comments in media and social networks. He does not care about him and does not understand what this revenge he is talking about is. What he did was that he lost the elections, but Mr. Makropoulos does not keep black books or lists, for 40 years in the Greek Chess Federation or in FIDE for 30 years. He said that there should be a fight if they believe that something is wrong and of course in that case he is speaking against Mr. Danailov and whatever he might have done, because it is not only that money has disappeared probably illegally from Bulgaria and money has been distributed to people, it is a laundry of money and who knows how many other accusations the prosecutor can charge them with. It is a very serious situation, and it touches all European and FIDE members. Somehow everyone is responsible for this. For him there is a clear decision from Europe and their report should be approved. The whole file should be sent to the FIDE Ethics Commission. He did not believe that any other action can be taken at this moment. This will be the job of the next General Assembly.

He also said that if really what is seen until now it is true, then the punishment should be ten times more severe. Somehow the procedure in Bulgaria is going very slow and nothing is concrete. He thinks the matter is very serious and that letters should be sent from ECU and FIDE to the Prime-minister, Minister of Sports and media in Bulgaria, to inform them about the decision in Baku and ask for answers.

Mr. Azmaiparashvili agreed with Mr. Makropoulos and mentioned that the people in Bulgaria suffer and he is afraid that the Government has been helping Bulgarian Chess Federation, that is why FIDE's help is important. If they answer ECU questions, which are in the Agenda, they can any time become members again.

Mr. Makropoulos said that Mr. Danailov is declaring that he has unlimited sources to go against FIDE, and hopes that if he goes all the time to the court,

even if he is losing FIDE will not be able to pay the related legal costs. He said there should be a procedure.

The Assembly should agree, that if Ethics needs extra meetings, then the budget should be provided.

Mr. Tsorbatzoglou added that the case in Ethics should be against Bulgarian Federation and anyone involved because in these reports there are individuals involved because he knows that Ethics Commission needs a clear case, to investigate all parts of this.

Mr. Strydom said the proposal of Mr. Tsorbatzoglou is good.

The General Assembly approved the ECU report.”

Mr. Danailov's email on 24 October 2016

43. On 24 October 2016, Mr. Danailov sent an email to the representatives of several other European national chess federations. The email accused the recipients of having become “*mute servants of one pathological crazy Greek and one Georgian Kiran&Makro [sic] slave*”. It went to say that: “*I have warned you to stop this madness because somebody will get hurt, but you were not listening. Now this is on you.*” The letter stated that the recipients’ support for the Appellant’s suspension was a “*crime*”.

Proceedings involving the Appellant before the FIDE Ethics Commission

44. On 26 September 2016, the Executive Director of FIDE, Mr. Freeman, wrote to the Minister of Youth and Sports of Bulgaria. Mr. Freeman summarised four recent cases concerning members of the Appellant that had been heard by the FIDE Ethics Commission.
45. **Case 1 (nos. 13/2014 and 14/2014):** The first case was brought against Mr. Danailov, Mr. Vladimir Sakotic (a former Executive Director of the Respondent) and Ms. Sava Stoisavljevic (a former General Secretary of the Respondent). In that case, the FIDE Ethics Commission held that the three individuals had breached their fiduciary duties to the Respondent and had breached the letter and spirit of the Respondent’s Tournament

Rules and Financial Regulations. According to the FIDE Ethics Commission's written decision, those three individuals had "*manipulated affairs to ensure that the profits of the tournament would flow to them at the expense of [the national federation]... whereas the illusion was maintained that [the national federation] was still hosting the tournament*". The decision explained that:

"Mr Danailov occupied the highest office in the ECU and also sat as a member of the FIDE Presidential Board. As a leader, it was his responsibility to ensure that the integrity of the ECU Rules and Regulations were fully respected and not abused. Although his degree of involvement, on the available evidence, falls short of that of Mr Sakotic, the latter would not have been able to implement his scheme for personal gain without Mr Danailov's active cooperation and suppression of the true facts, including his knowledge about the existence of the imposter corporation. In doing so, Mr Danailov violated the confidence, good faith, reliance and trust put in him by the ECU members. The [Ethics Commission] is satisfied that Mr Danailov has wilfully failed to perform his functions in an impartial and responsible manner and that a period of suspension of 18 months is necessary to allow Mr Danailov to rehabilitate himself."

46. **Case 2 (no. 4/2015):** The second case concerned a claim brought against the Appellant by three individuals who had been banned for between three and five years for criticising the Appellant's management in connection with the third and fourth cases below. The FIDE Ethics Commission set aside the sanctions imposed by the Appellant and conducted a *de novo* review of the allegations. The Appellant thereafter failed to submit any arguments or evidence against the three individuals.
47. **Case 3 (no. 5/2015):** The third case concerned claims brought by the Appellant against the Respondent's President, Mr. Azmaiparashvili, and the Respondent's General Secretary, Mr. Tsorbatzoglou, alleging improper interference in the Appellant's internal affairs. In particular, the Appellant alleged that the Respondent's investigation into the chess tournaments held in Bulgaria between 2011 and 2014 and alleged financial transactions between the Appellant and Respondent during that period were an impermissible interference in the Appellant's internal affairs and formed part of a

conspiracy against the Appellant and its President. The FIDE Ethics Commission rejected this claim.

48. **Case 4:** The last of the cases before the FIDE Ethics Commission concerns the FIDE General Assembly's decision to endorse the Respondent's decision to expel the Appellant from the Respondent. In his discussion of this case in the letter, Mr. Freeman stated that:

"It is more than clear, as unanimously confirmed by the ECU GA in 2015, that the said tournaments, namely the tournaments organized in 2014 in Albena and Golden Sands, were not official ECU tournaments, and that the amounts purportedly paid to ECU accounts, already documented to amount to at least €472,350, were never actually paid to ECU but sent to bank accounts of other entities, such as the "fake" ECU LLC established in Delaware/USA, that bear no relation whatsoever to ECU, the sole official continental association affiliated with FIDE. Despite the strong evidence presented by ECU, BCF refuses – even to this day – to cooperate with ECU in investigating and unveiling the irregularities committed in connection with the above mentioned tournaments and purported payments. On the contrary, the BCF appears to have been repeatedly and persistently misrepresenting facts and evidence relating to the ECU before the Bulgarian authorities and Interpol."

49. Mr. Freeman stated that the four cases listed above had "a common core", namely "the concerted attempt of the BCF at and least some of its administration members to obfuscate the investigations of both public and international authorities as well as ECU and FIDE...and to muzzle individuals disclosing information to the authorities and the public in order to conceal the actual facts." Mr. Freeman added that it was possible that more than EUR 472,350 had been misappropriated and that while the Appellant denied any involvement in the alleged irregularities, it was "astonishing" that "Mr Danailov, the incumbent BCF President who was also President of ECU and BCF at the time of the documented transactions between BCF and the fake ECU LLC, failed to notice that the sums transferred from BCF to ECU never actually reached the latter's bank account nor were they ever included in the official ECU financial statements".

50. Mr. Freeman’s letter went on to explain that on the basis of the evidence produced before the FIDE Ethics Commission, the following sanctions had been imposed:
- (a) Mr. Danailov had been suspended for a period of 18 months from holding any office or position within FIDE or from participating in any FIDE meeting; and
 - (b) The Appellant had been temporarily suspended from FIDE.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

A. The appeal

51. On 30 September 2016, the Appellant filed its Statement of Appeal with the CAS Court Office in accordance with Article R47 *et seq.* of the Code of Sports-related Arbitration (the “CAS Code”).
52. On 12 October 2016, the Appellant wrote to the CAS stating that the Appeal Brief was incorporated within the Statement of Appeal. It added that: “*All facts and legal arguments are specified and all evidences/Exhibits...are enclosed to the statement of appeal.*”
53. On 27 October 2016, the CAS Court Office notified the parties that the Deputy President of the CAS Appeals Arbitration Division considered that the circumstances of the appeal warranted its submissions to a Panel composed of three arbitrators.
54. On 6 November 2016, the Appellant nominated Dr. Hans Nater as an arbitrator in these proceedings.
55. On 17 November 2016, the Respondent nominated Mr. Boris Vittoz as an arbitrator in these proceedings.
56. On 16 December 2016, the parties were informed that the panel appointed to decide this appeal was as follows:
- President: Professor Philippe Sands QC, Barrister in London, United Kingdom
- Arbitrators: Dr. Hans Nater, Attorney-at-law in Zurich, Switzerland
Mr. Boris Vittoz, Attorney-at-law in Lausanne, Switzerland

57. On 9 January 2017, the Respondent filed its Answer Brief with the CAS Court Office, together with an exception of inadmissibility.
58. On 12 January 2017, the CAS wrote to the Appellant inviting it to respond to the Respondent's objections to the admissibility of the appeal set out in the Answer Brief.
59. On 26 January 2017, the Appellant filed written observations concerning the Respondent's objections to the admissibility of the appeal. The Appellant's written observations also contained unsolicited submissions addressing the merits of the appeal and a request for some of the Respondent's exhibits to be excluded.
60. On 27 January 2017, the CAS wrote to the parties noting that the Appellant's letter dated 26 January 2017 contained submissions on the merits of the case. The CAS therefore invited the Respondent to express its position on the admissibility of those observations.
61. On 6 February 2017, the Respondent wrote to the CAS submitting that the Appellant's new observations on the merits of the case were inadmissible. The Respondent requested that, if those observations were admitted to the case file, then the Respondent should be granted permission to file a second written submission addressing those arguments. The Respondent also responded to the Appellant's request for the exclusion of some of the Respondent's exhibits.
62. On 13 February 2017 and upon request from the Appellant granted by the Panel, the Respondent submitted a copy of the Minutes of the meeting of its General Assembly in 2016.
63. On 17 February 2017, the Panel dismissed the Appellant's request for an exclusion of some of the Respondent's exhibits. In view of the apparent complexity of the issues in the case, the Panel accepted the Appellant's unsolicited written observations of 26 January 2017 and ordered a second round of submissions.
64. The Appellant did not submit a reply. It did, however, submit some new exhibits on 1 March 2017.
65. On 20 March 2017, the Respondent signed and returned the Order of Procedure in this case.

66. On 23 March 2017, the Respondent filed a second written pleading in accordance with the invitation to do so sent by the CAS on 7 March 2017.
67. On 28 March 2017, the Appellant signed and returned the Order of Procedure in this case.
68. On 6 April 2017, the Appellant submitted a further written submission that sought to respond to the arguments contained in the Respondent's pleading dated 23 March 2017.
69. On 28 April 2017, an oral hearing took place before the CAS in Lausanne, Switzerland.
70. The Panel was assisted at the hearing by Ms. Pauline Pellaux (Counsel to the CAS) and Mr. Edward Craven (*Ad hoc* clerk).
71. At the start of the hearing, having heard the parties and following a deliberation, the Panel decided to admit the additional submissions addressing the merits of the appeal introduced by the Appellant on 26 January 2017 and 1 March 2017, without prejudice to their probative value. In addition, the following persons attended the hearing:
- Mrs. Daniela Malcheva (Attorney for the Appellant)
 - Mr. Silvio Danailov (President of the Appellant)
 - Mrs. Mariana Hill (Interpreter assisting the Appellant)
 - Mr. Theodoros Tzorbatzoglou (Respondent's General Secretary)
 - Mrs. Delphine Deschenaux-Rochat (Attorney for the Respondent)
 - Mr. Christos Ap. Papatomas (Attorney for the Respondent)
72. The following witnesses gave evidence at the hearing:
- Mr. Kurt Gretener
 - Mr. Geoffrey Borg
 - Mr. Paris Klerides, by telephone

73. In accordance with the practice at CAS based on Article R44.2 of the CAS Code (applicable by reference of Article R57), members of the CAS Panel put questions to Mr. Danailov in his capacity as representative of the Appellant, following which counsel for the Respondent put forward further questions.

B. The issues in the appeal

74. The issues that arise for determination by the CAS Panel in this appeal, if admissible, may be summarised as follows:

- (a) Is Article 7 of the Respondent's Articles of Association valid?
- (b) Did the Respondent follow a lawful procedure when the Respondent's General Assembly voted to expel the Appellant on 10 September 2016?
- (c) If the answers to both (a) and (b) are both affirmative, was the expulsion of the Appellant justified on the merits?

C. The relevant regulations

75. Before summarising the parties' submissions, the Panel sets out the relevant provisions of the Respondent's Memorandum of Association and Articles of Association.

The Respondent's Memorandum of Association

76. Article 3 of the Respondent's Memorandum of Association explains the relationship between national chess federations and the Respondent:

"Members are national chess federations which have principal authority over chess activities in their own countries and which have at any time been admitted to Federation Internationale des Echecs (FIDE) as member-federations. The European Chess Union consists of those national member-federations listed in Annex 1 and those additional member-federations assigned to it by FIDE after 13th March 2010 and admitted to membership by the General Assembly of the European Chess Union ("Members"). Associate Members are other international associations accepted as associate members of the Association by the General Assembly of the European Chess Union on the basis that they do

not have either a right to vote at the European Chess Union General Assembly or the right to nominate a representative to have a seat on the Board of the European Chess Union (“Associate Members”).”

77. Article 4 of the Respondent’s Memorandum of Association establishes the functions of the Respondent in the following terms:

“The European Chess Union:

- (a) is concerned exclusively with chess and chess related activities with sporting, cultural, educational and other interests;*
- (b) is democratically established and bases itself on the principles of equal rights of its Members;*
- (c) is a non-profit making organisation;*
- (d) rejects discriminatory treatment on grounds of colour, creed, disability, impairment, occupation, race, religious or political affiliation, sexual orientation and promotes equal opportunities in a positive manner;*
- (e) observes strict neutrality in the internal affairs of its Members; and*
- (f) only allows events (competitions, congresses, meetings) to be hosted by Members where free access is generally assured to representatives of all its Members save where the General Assembly makes exceptions for reasons of state of war or severe violence between countries on a three quarter majority vote of those present and voting.”*

78. Article 6 of the Respondent’s Memorandum of Association establishes the objects of the Respondent:

“The Objects for which the European Chess Union is established are:

- (a) to safeguard and further the interest and development of chess within its jurisdiction (as established by the territory of its Members) as well as safeguarding and promoting the interests of its Members*

- (b) to represent the interests of its Members at FIDE and other international organisations;*
- (c) to foster a positive framework of friendship and collaboration and generate peaceful relationships between European Chess Union and its Members within its said jurisdiction;*
- (d) to provide an organisation for the promotion and participation of chess in all related existing and future activities, tournaments and other competitions and seminars within its said jurisdiction;*
- (e) to disseminate useful and instructive articles and ideas with respect to chess education;*
- (f) to raise funds by means of membership subscriptions, fees for services or otherwise for all the purposes and its Objects in such amounts and in such manner as may be authorised by the General Assembly; and*
- (g) to do all such other lawful things as are helpful to the attainment of the above Objects.”*

79. Article 7 of the Respondent’s Memorandum of Association states that:

“The Association has the right to make Regulations to achieve the Objects referred to in Clause 6 and to apply them accordingly. ECU respects and applies FIE rules and regulations, even concerning IOC Rules, except when in conflict with the present ECU Statutes and General Assembly decisions.”

The Respondent’s Articles of Association

80. Article 7(a) of the Respondent’s Articles of Association is set out above at paragraph 23. Article 7 provides in full that:

“(a) All Members or Associate Members shall cooperate with the ECU and provide all necessary information and documentation regarding (or referring to) the relation between the ECU and the Member on administration and accounting matters.

(b) The Board may for just cause propose to the General Assembly the suspension of the Membership of any Member or Associate Member. The Board must serve a notice on such member giving reasons for its decision and the member shall have the right to make representations as to why it should not be removed from membership. Copies of both the Board's notice and the member's response shall be included as attachments to the Notice of the Meeting of the General Assembly. The General Assembly shall hear oral representation on behalf of the Board and the member and shall have the right to expel the member by a simple majority vote of those present and voting."

81. Articles 9 to 30 of the Respondent's Articles of Association govern the functions and powers of the Respondent's General Assembly. Article 9 provides that the General Assembly "*is the highest authority of ECU and is competent in all affairs that have not been delegated to another body of the ECU*".
82. The General Assembly is comprised of all Members and Associate Members of the Respondent (Article 10). Members and Associate Members appoint one permanent delegate each to the General Assembly (Article 11). Each Member has one vote (Article 15). Votes (other than for elections) are made by show of hands unless five Members present at a meeting demand a secret ballot (Article 18). Unless the Articles of Association provide otherwise, all decisions of the General Assembly are taken by a simple majority vote of votes cast by those present (Article 19). The Respondent's President (or, in his absence, the Deputy President) presides over the General Assembly (Article 29).
83. Article 30 confers certain non-delegable functions on the General Assembly:

"The General Assembly has the following duties that cannot be delegated to another body:

[...]

(d) Introduction of new regulations or amendments to existing Financial, Tournament and other Regulations;

[...]

(h) Termination of membership pursuant to Article 7; [...]

84. Articles 39 – 53 define the functions and powers of the Respondent’s Board. Under Article 39(b) any issues that can only be decided by the General Assembly “*are beyond the competence of the Board*”. Article 40 provides:

“It shall be the responsibility of the Board to:

- (a) manage the ECU in accordance with the provisions contained in the Memorandum and Articles of Association;*
- (b) organise the various Championship cycles for men, women and youths; [...]*
- (c) affiliate or otherwise associate the ECU to international organisations having similar or complementary objects;*
- (d) promote the observance by Members of the FIDE Code of Ethics as a whole;*
- (e) establish and amend as necessary bye-laws for the routine day-to-day operation of the ECU;*
- (f) borrow, secure and raise money by the issue of debentures or debentures stock, or other security as approved by a General Assembly, provided that the Board may borrow up to a maximum of Euros 10,000 without recourse to a General Assembly;*
- (g) invest the funds of the ECU and deal with its assets to the best advantage;*
- (h) certify and authenticate documentation against the payment of such fee as the Board may determine from time to time;*
- (i) carry out such other activities as may be incidental or conducive to the attainment of the Objects of the ECU.”*

85. The Memorandum and Articles of Association may be amended by a resolution approved by a two-thirds majority of at least 50% of the members present at any General Assembly (Article 60). The General Assembly “*shall be the sole interpreter of these Articles of Association*” (Article 61).

D. The parties' submissions on the issues in the appeal

The Appellant's position on the issues in the appeal

Issue 1: The validity of Article 7 of the Respondent's Articles of Association

86. The Appellant submits that the provisions of Article 7(a) and (b) of the Respondent's Articles of Association "*were passed exclusively for the specific case of [the Appellant]*". The Appellant argues that the provisions lack a rational basis and violate the principles that require international governing bodies to respect the independence and autonomy of their member federations. Article 7 also undermines fundamental legal principles concerning the independence of different legal entities and the confidentiality of information regarding the operation of those entities.
87. Further, the Appellant contends that in countries governed by the rule of law, the power to demand disclosure of specific information and documents is reserved to certain law enforcement agencies and the courts. The power to demand disclosure is strictly limited by law and the lawful exercise of such powers is always conditional upon compliance with detailed procedural requirements.
88. The Appellant contends that Article 7 of the Respondent's Articles of Association violates those principles and is therefore null and void. Specifically, the Appellant submits that:
- (a) Article 7 is framed in extremely general terms and lacks any clear rules as to what types of information may be demanded; and
 - (b) Article 7 does not contain any deadlines for the presentation of information sought pursuant to the Article. This creates the opportunity for "*uncontrolled pressure*" to be exerted by the Respondent's Board, since a failure to comply with a demand for information is punishable by suspension or termination of membership.
89. In addition, the Appellant submits that the Statutes of FIDE establish that each national member of FIDE has an automatic right to be a member of the continental organization. Article 6.2 of the Statutes of FIDE provides that:

“Any National Federation on the respective Continent as defined in FIDE Statutes, Article 2.1 is considered a member of the CA [Continental Association].”

90. Furthermore, the Appellant draws a contrast between the impugned provision and Article 8 of the Respondent’s Articles of Association, which provides that failure to pay membership dues is punishable by suspension if the membership dues are in arrears for more than 24 months. The Appellant submits that there is no logical reason why a national federation can only have its membership suspended for non-payment of dues if the debt is unpaid for more than two years, whereas there is no equivalent minimum time limit before federation may be suspended for failing to provide information pursuant to a demand under Article 7. Accordingly, even if Article 7 is not null and void, the Appellant submits that “*by analogy*” the deadline for compliance with a demand under Article 7 should be two years from the date of the official request for information.

Issue 2: The procedure that led to the Appellant’s expulsion

91. The Appellant states that on 9 September 2016 it sent an email to the Respondent’s Board, which proved that the Appellant was unable to provide the majority of the requested documentation.
92. The Appellant claims that at the meeting of the General Assembly on 10 September 2016, the Respondent’s Secretary General, Mr. Tsorbatzoglou, “*delivered a new “prosecutor-like” pleading where he accused [the Appellant] of many other “violations”*”. Those new allegations focused on statements made by the Appellant’s President. The Appellant submits the relevant statements were made in a personal capacity, and not in his capacity as the Appellant’s President.
93. The Appellant claims that it was denied the opportunity to respond to those new allegations. Instead, it was only permitted to answer questions posed by delegates. The questions did not address the alleged violation of the Respondent’s Articles of Association. Every time the Appellant attempted to rebut the Secretary General’s allegations, the moderator of the Assembly interrupted. As a result, the Appellant

claims that it was in effect presumed to be guilty and was denied a fair opportunity to respond to the serious allegations that had been levelled against it by the Respondent.

Issue 3: The merits of the decision to expel the Appellant

94. In addition to challenging the validity of Article 7 of the Respondent's Articles of Association and the procedure that led to the Appellant's expulsion, the Appellant denies that it has ever wilfully refused to comply with the Respondent's request for documents. In particular, it maintains that it has provided some of the information and documents requested by the Respondent, while the Appellant has explained that it is unable to provide the remainder. The Appellant stresses that all of the documents sought by the Respondent were originally issued by the Respondent. Those documents should therefore already be in the Respondent's possession.
95. The Appellant submits that the tournaments in Albena, Golden Sands and Plovdiv in 2014 were "*official ECU events*" and "*were part of the ECU official calendar*". The Appellant signed contracts with the Respondent in respect of the organisation of those tournaments. The Respondent's General Assembly had no power to retrospectively declare that those tournaments were not official events more than a year later.
96. The Appellant maintains that it was required to pay the fees specified in the contracts with the Respondents to the bank account specified in the relevant invoices. The Appellant had no right to dispute either the size of the fees or the particular bank account that they were paid into. Since representatives of the Respondent sent the invoices, the Appellant was not in a position to investigate or dispute which bank account the funds should be paid to. The Appellant adds that the bank account listed in the invoices had been used for payments for fees concerning other official tournaments conducted under the auspices of the Respondent. In these circumstances, the Appellant cannot be fairly criticised for paying the relevant monies to the Slovenian bank account of the Delaware Company.
97. In its written pleadings the Appellant disagrees with the Respondent's claims that the Bulgarian authorities were continuing to investigate the Appellant. The Appellant insists that all investigations conducted by law enforcement and government agencies in Bulgaria "*did not find any illegal activity by [the Appellant] and are closed without*

any unfavourable...consequences” (although the Statement of Appeal also made reference to an investigation by the National Revenue which was “*still ongoing*”). At the hearing, Mr. Danailov confirmed that at least one investigative procedure was still open in Bulgaria, but claimed that Interpol has never notified the Appellant of any kind of investigation against it.

98. Lastly, the Appellant adds that the decisions of the FIDE Ethics Commission that the Respondent relies on are irrelevant to the issues in this appeal.

The Respondent’s position on the issues in the appeal

Issue 1: The validity of Article 7 of the Respondent’s Articles of Association

99. The Respondent submits that its Articles of Association were adopted in execution of the Respondent’s association autonomy, which is specifically protected by Swiss law. Article 60 of the Swiss Civil Code guarantees the autonomy, independence and right to self-determination of private associations. This gives private associations the freedom to issue rules concerning their governance, membership and their own competitions. The principle of autonomy requires judicial and arbitral authorities to abstain from interfering with the internal affairs of a private association such as the Respondent.
100. Under Article 64(1) of the Swiss Civil Code, the general assembly is the supreme body of an association. Article 9 of the Respondent’s Articles of Association, which states that the General Assembly “*is the highest authority of ECU*”, reflects this principle.
101. The Respondent submits that the scope of an association’s autonomy is determined primarily by reference to the association’s objectives enshrined in the formal articles of association. Article 7 of the Memorandum of Association provides:

“The Association has the right to make Regulations to achieve the Objects referred to in Clause 6 and to apply them accordingly. ECU respects and applies FIDE rules and regulations, even concerning IOC Rules, except when in conflict with the present ECU Statutes and General Assembly decisions.”

102. Article 7 of the Respondent’s Articles of Association was adopted in full conformity with the objectives of the Respondent (as enshrined in Article 6 of the Memorandum of

Association). The Respondent also submits that a decision of a private association is only null and void if it is afflicted by a particularly serious defect. Since the Appellant has not identified any serious defects, Article 7 cannot be considered null and void.

103. The Respondent submits that its Articles of Association are consistent with the FIDE Statutes. There is no right to become a member of the Respondent. Only national federations that meet the criteria established in the Respondent's regulations are permitted to become members of the Respondent. The Respondent has full discretion in admitting new members. In the event that the conditions for expulsion of a member arise, Article 7(b) of the Respondent's Articles of Association applies. The compatibility of these provisions with the FIDE Statutes is demonstrated by the fact that the decision to expel the Appellant was unanimously approved by the FIDE General Assembly.
104. Accordingly, the Respondent submits that the CAS Panel should reject the Appellant's submissions that Article 7 is incompatible with any applicable rule of law or otherwise without legal effect.

Issue 2: The procedure that led to the Appellant's expulsion

105. The Respondent submits that the procedure by which the Appellant's expulsion was proposed, discussed and approved was fair and did not contravene the Appellant's right to be heard.
106. The Respondent submits that the Appellant was asked many times to provide answers and documents concerning the Delaware Company and the various unexplained payments that the Appellant claimed to have made to the Respondent, but which in fact were made to the Slovenian bank account of the Delaware Company. According to the Respondent, the Appellant never denied that it possessed certain relevant documents; instead it merely refused to provide the requested information. The Respondent states that it only decided to propose the Appellant's expulsion after it had exhausted all other possibilities.

107. The Respondent rejects the Appellant's criticisms of the procedure that resulted in the Appellant's expulsion by the Respondent's General Assembly. In particular, it submits that:
- (a) The Appellant was given the opportunity to have its full statement of defence read to the General Assembly by an interpreter.
 - (b) The Appellant's lawyer was permitted to answer questions at the General Assembly.
 - (c) The Appellant did not raise any objections to the procedure that was proposed and followed at the General Assembly. Indeed, the Appellant requested that the voting should take place by way of secret ballot – a proposal which was supported by several other federations and which was granted by the Respondent. Before the secret vote took place the Appellant did not ask for the opportunity to make any further arguments or statement. The Appellant proceeded to take part in the vote without expressing any objection to the procedure and without suggesting that its rights had been infringed.
108. In support of this submission, the Respondent relies on written and oral testimony from delegates who were present at the meeting at which the decision was taken to suspend the Appellant:
- Mr. Geoffrey Borg was the delegate of the Malta Chess Federation. In his evidence Mr. Borg described how at the meeting of the General Assembly the Appellant had a reasonable opportunity to present its defence, while delegates were able to put questions to the officials of both the Respondent and the Appellant. Mr. Borg stated that Mr. Danailov repeatedly refused to answer delegates' questions about his knowledge of the payments to the bank account of the Delaware Company. Mr. Borg went on to explain that the secret vote was conducted in a proper manner and that all delegates had been provided with full information about the parties' respective positions.
 - Mr. Paris Klerides was the delegate of the Cyprus Chess Federation. In his evidence Mr. Klerides explained that he was one of two delegates appointed to

oversee the conduct of the secret ballot at the General Assembly. Mr. Klerides stated that there was “*no objection, appeal or any other kind of request*” by the Appellant concerning the voting procedure. Mr. Danailov participated in the secret vote in the same manner as all of the other delegates present at the meeting.

109. The Respondent further argues that, even if the Appellant’s right to be heard was infringed, that breach is cured by this appeal to CAS, which involves a full *de novo* hearing with due process guarantees. In support of this argument, the Respondent cites the decision of the CAS Panel in CAS 2008/A/1545, which confirms that CAS appeals cure any infringement of the right to be heard that would have been committed in relation to the anterior proceedings that culminated in the decision under challenge.
110. The Respondent therefore submits that even if (which it does not accept) the Appellant’s rights were violated by the procedure that led to the Appellant’s expulsion, the Panel should regard any such infringement as cured and therefore irrelevant to the outcome of the appeal.

Issue 3: The merits of the decision to expel the Appellant

111. The Respondent submits that the evidence establishes that the Respondent had numerous just causes for its decision to expel the Appellant. Those reasons did not only concern the Appellant’s failure to provide documents, but also concerned the Appellant’s general failure to cooperate with the Respondent and its responsibility for the various “*scandals*” that subsequently came to light concerning the Appellant’s administrators.
112. In support of its case, the Respondent relied on written and oral testimony from Mr. Kurt Gretener, the Respondent’s bookkeeper since January 2011 and a member of the Respondent’s Board between 2010 and 2014. Mr. Gretener explained that, during his time as the Respondent’s bookkeeper, the Respondent had only ever had one bank account at any particular moment in time. Mr. Gretener explained that at every meeting of the Respondent’s Board he provided board members with a statement showing the payments that the Respondent had received during the relevant period. As the

Respondent's President between 2011 and 2014, Mr. Danailov would have received that information at every board meeting.

113. In response to a question from the Panel, Mr. Gretener explained that a payment of EUR 200,000 would represent a very significant payment (larger than any amount that had been received during his time as bookkeeper). He confirmed that if a member of the Respondent's Board had been aware of an expected payment of that size, then if the payment did not materialize this would be noticed immediately.
114. Mr. Gretener went on explain that as the Respondent's bookkeeper he was aware of the locations of all official ECU competitions. He stated that the Respondent held in the region of six official ECU competitions every year. He confirmed that at the end of 2013 he would be aware what official competitions were due to take place during the forthcoming year. Mr. Gretener expressly confirmed that, contrary to the Appellant's insistence otherwise, the tournaments in Albena and Golden Sands in 2014 were not official ECU events.
115. In addition to the evidence uncovered by the PFIA (summarised above at paragraphs 15 to 19) the Respondent refers to the communications from the Bulgarian Ministry of Youth and Sports in September and October 2016 which the Respondent says demonstrate that the Appellant is seeking to mislead the CAS Panel.
116. For example, the Respondent refers to a public announcement by the Ministry on 13 October 2016, which stated that the Licensing Committee was undertaking an examination of the allegations and was reviewing the Appellant's licence. The letter goes on to say that investigations had established that the tournaments in 2014 in Plovdiv, Albena and Golden Sands "*have been held, but there was an inappropriate spending by the [Appellant] totaling to 381,386.86 BGN*". On 10 August 2016, the Appellant had entered an agreement for this amount to be repaid in 24 monthly installments. It went on to explain that:

"[T]he Public Financial Inspection Agency (PFIA) carried out two inspections of the Bulgarian Chess Federation, during which the MYS provide all of the requested documents. PFIA concluded that:

1. *The inspections for the spending of the funds for the period January 1 – December 31, 2014, which was completed with Report No. DIISF-45/03.08.2015 demonstrated that there are no irregularities in the spending of the funds granted by the MYC.*
2. *The inspection, which focuses on payments of the BCF to the European Chess Union (ECU) for organization fees with funds received by the MYS, which was completed with Report No. DIISF-18/16.02.2016, demonstrated certain irregularities in the financial reporting of the BCF and the report was forwarded to the Prosecutor's Office on March 21, 2016.*

The Prosecutor's Office of Sofia has initiated formal proceedings in connection with the carrying out of these tournaments. The investigation is carried out by the Chief Directorate 'National Police', which has requested documents by the MYS on the case. All requested documents were provided by the MYS."

117. In light of this statement, the Respondent submits that the Appellant has deliberately sought to mislead the CAS Panel about the outcome of the investigations in Bulgaria.

II. JURISDICTION

118. Article R47 of the CAS Code provides:

"An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of that body."

119. Article 58(a) of the Respondent's Articles of Association provides that:

"Notwithstanding any provisions to the contrary in this Statute, ECU hereby subscribes to the final settlement of any dispute directly or indirectly related to

the application and implementation of these Statutes in its whole or partial practice, be it commercial or relating to the practice and development of chess or a dispute following a decision by ECU, to be sent to the Court of Arbitration for Sport in Lausanne without recourse to any other court or tribunal.”

120. The Appellant submits that CAS has jurisdiction to hear this appeal. Although it challenges the admissibility of the appeal, the Respondent does not dispute the jurisdiction of the CAS to hear the appeal.
121. In light of the provisions of Article R47 of the CAS Code and Article 58(a) of the Respondent’s Articles of Association, the Panel is satisfied that it has jurisdiction to hear this appeal, which is furthermore confirmed by the signature of the Order of Procedure by both parties.

III. ADMISSIBILITY

122. Article R47 of the CAS Code states:

“An appeal against a decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of that body. [...]”

123. Article R49 of the CAS Code states:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. [...]”

124. Article 58(d)-(e) of the Respondent’s Articles of Association states:

“(d) An appeal before the CAS may only be brought after ECU’s internal procedures and remedies have been exhausted. The decisions of the ECU Board and ECU General Assembly relating to matters falling within their respective

competencies are final. The General Assembly will be the internal appellate organ for all decisions of ECU Board and officials. An aggrieved party may appeal against the decision by the ECU Board directly to CAS if, and only if, that party's interest will be irreparably harmed by having to wait for a final decision by the next General Assembly.

(e) The time limit for appeal to the CAS shall be 21 days from the date that the appellant becomes aware, or reasonably should have been aware, of the decision in question. An appeal does not suspend the execution of a disciplinary sanction, subject to the power of the CAS to order that any disciplinary sanction be stayed pending the arbitration. The CAS shall not take into account facts or evidence, which the appellant could have submitted to an internal ECU body by acting with reasonable diligence required under circumstances, but failed or chose not to do so. [...]

Admissibility: Time limit for lodging appeal to CAS

125. The Respondent contends that the Appellant's challenge to Article 7 of the Respondent's Articles of Association is inadmissible since it has been brought significantly out of time.
126. The Respondent notes that the amendment to Article 7(a) of the Respondent's Articles of Association was adopted at the Respondent's Annual General Assembly in Montenegro on 10 October 2015. All decisions taken at the General Assembly were published on the Respondent's website on 22 October 2015. A circular letter recording all of the decisions was sent to all of the national chess federations (including the Appellant) on 23 October 2015.
127. According to the Respondent, the Appellant's appeal seeks to annul the amendment to Article 7 almost one year after it learned of the amendment to Article 7(a). Under Article 58(e) of the Respondent's Articles of Association, however, the time limit for lodging an appeal is 21 days from the date when the Appellant becomes aware "*or reasonably should have been aware*" of the decision in question. The appeal is therefore significantly out of time.

128. In response, the Appellant submits that the subject of the appeal is the Respondent's decision to suspend the Appellant's membership. The date of that decision was 10 September 2016. The appeal was lodged on 30 September 2016, within the 21-day time limit.
129. The Appellant submits that the question whether Article 7 of the Respondent's Articles of Association is null and void is only one of the arguments that the Appellant relies on in support of its challenge to the Respondent's decision to expel the Appellant. Accordingly, this argument does not affect the overall admissibility of the appeal.
130. The Panel concludes that, insofar as the appeal challenges the validity of Article 7 of the Respondent's Articles of Association, the appeal is significantly out of time and is therefore inadmissible. In this respect, in accordance with the approach of the Panel in CAS 2360&2392, the Panel considers that the 21-day time limit specified in the Respondent's rules operates to bar the Appellant's claim notwithstanding the Appellant's assertion that the provision of the Articles of Association under challenge is a nullity. In any event, for the reasons explained at paragraphs 143 to 146 below, the Panel is satisfied that even if the challenge to Article 7 was admissible, the arguments put forward by the Appellant challenging its validity are manifestly without merit.
131. The Panel notes that insofar as the appeal concerns the fairness of the process that led to the Appellant's expulsion and the substantive merits of the decision to expel the Appellant, the appeal was brought within the time period specified under Article 58(e) of the Respondent's Articles of Association.

Admissibility: Exhaustion of other legal remedies before lodging appeal to CAS

132. In addition to its admissibility challenge based on the timing of the appeal, the Respondent further submits that the Appellant failed to seek recourse to the Respondent's internal bodies before lodging its appeal to CAS. In particular:
- (a) **Appeal to the General Assembly against the Board's decision to propose the Appellant's expulsion** – The Appellant had the right to appeal against the decision of the Respondent's Board to the General Assembly (either an Extraordinary General Assembly or at the Ordinary General Assembly). The

Respondent submits that the decision to invoke Article 7 as the basis for expelling the Appellant was taken by the Respondent's Board. Accordingly, any appeal concerning the application of Article 7 should first have been made against the Board's decision. In this regard, the Respondent states that the Appellant did not invite the Respondent's General Assembly to determine any issues concerning the application of the Articles of Association or the fairness of the procedure.

(b) **Appeal directly to CAS against the Board's decision to propose the Appellant's expulsion** – In addition, the Respondent states that under Article 58(d) of the Respondent's Articles of Association the Appellant had a right to appeal directly to CAS against the Board's proposal if the Appellant's interest would be "*irreparably harmed by having to wait for a final decision of the General Assembly*". The Respondent states that, despite the Board's decision being of "*the utmost importance*" for the Appellant, the Appellant did not seek to appeal that decision directly to CAS.

133. Accordingly, the Respondent submits that the appeal is not admissible since the Appellant has not exhausted all available internal remedies.
134. The Appellant does not accept that it failed to exhaust all internal remedies. The Appellant submits that according to the Respondent's Articles of Association decisions of the General Assembly may be appealed only to CAS. The Articles of Association do not provide for any other internal remedy.
135. The Appellant rejects the Respondent's argument that it should have appealed the anterior decision of the Respondent's Board to propose the Appellant's expulsion. The Appellant maintains that there was no legal or practical reason why the Appellant should have sought to appeal a mere "*proposal*" to the General Assembly. Since it was only a proposal, it did not affect the Appellant's legal rights unless and until it was formally approved by the General Assembly. Nor was there any legal or practical reason why the Appellant ought to have initiated an Extraordinary General Assembly in order to challenge the Board's proposal.
136. The Appellant stresses that the subject of this appeal is the Respondent's decision to expel the Appellant, not the earlier proposal by the Respondent's Board that set that

process in motion. The Appellant stresses that the Respondent's Articles of Association do not contain any right or mechanism for an appeal against decisions of the Respondent's General Assembly. The only way to appeal such decisions is by way of an appeal to CAS.

137. The Panel does not accept the Respondent's admissibility challenge concerning the exhaustion of internal remedies. The decision of the Respondent's Board to propose the Appellant's expulsion did not have any immediate legal consequences for the Appellant; it merely initiated a process that could (and ultimately did) lead to the adoption of a final and binding decision of the General Assembly. In circumstances where the proposal to expel the Appellant was to be discussed and decided by the General Assembly, an internal appeal to the General Assembly against the Board's decision to make that proposal – even if formally available – would have served no useful purpose: there was no realistic prospect that it could have changed the outcome.
138. Furthermore, the Panel notes that Article 58(d) of the Respondent's Articles of Association provides that a member federation "*may appeal against the decision by the ECU Board directly to CAS if, and only if, that party's interest will be irreparably harmed by having to wait for a final decision by the next General Assembly*". The Panel considers that the fact that the Appellant did not invoke this provision is consistent with the fact that the Board's decision to propose the Appellant's expulsion merely set in train a process that could subsequently affect the Appellant's legal interests; it did not have any immediate legal consequences for the Appellant.
139. Accordingly, for the reasons set out above, the Panel rejects this aspect of the Respondent's admissibility challenge.

IV. APPLICABLE LAW

140. Article R58 of the CAS Code states:

"The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or

according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”

141. Article 58(e) of the Respondent’s Articles of Association provides:

“[...] The CAS shall decide the dispute according to the applicable ECU Statutes, regulations and rules, as well as according to Swiss law.”

142. The Statement of Appeal and the Respondent’s Answer do not expressly address the law applicable to the appeal. In view of Article R58 of the CAS Code and Article 58(e) of the Respondent’s Articles of Association, however, the Panel is satisfied that the law applicable to this appeal is the Statutes, regulations and rules of the Respondent and Swiss law.

V. MERITS

Issue 1: The validity of Article 7 of the Respondent’s Articles of Association

143. For the reasons explained at paragraphs 125 to 131 above, the Appellant’s challenge to Article 7 of the Respondent’s Articles of Association is inadmissible. However even if this aspect of the appeal was admissible, the Panel is entirely satisfied that none of the evidence or arguments put forward by the Appellant cast any doubt on the validity of Article 7(a) and/or (b).

144. The Appellant’s arguments contesting the validity of Article 7(a) are without merit for the following reasons:

- (a) First, in the Panel’s view Article 7(a) does not (and does not purport to) enable the Respondent to interfere in the internal affairs of its member federations. On the contrary, Article 7(a) is expressly confined to the provision of information and documents concerning *“the relation between the ECU and the Member”*. The provision is therefore only applicable to documents and information that bear on the external relationships between member federations and the Respondent. It does not purport to regulate, or to interfere with, national federations’ internal affairs.

- (b) Secondly, Article 7(a) is framed in clear and intelligible terms that are neither ambiguous nor vague. In the Panel’s view, the language of Article 7(a) does not give rise to an unacceptable risk of arbitrary misuse of power by the Respondent.
 - (c) Thirdly, the power created by Article 7(a) relates to a specific purpose, is carefully tailored in scope and is not excessively wide. In particular:
 - (i) The power only applies to the provision of information and documents regarding the relationship between the Respondent and the relevant national federation on “*administration and accounting matters*”. Documents and information that are not relevant to such matters cannot be obtained under this provision.
 - (ii) The power is confined to the provision of information and documents that are “*necessary*” for that specific purpose. A federation cannot be compelled to provide documents or information that are not necessary for that specific purpose.
 - (d) Fourthly, the Panel considers that Article 7(a) serves a legitimate purpose that is entirely in harmony with the other provisions in the Articles of Association that govern the Respondent’s relationship with its member federations. Those other provisions are not challenged in any way by the Appellant. In particular, Article 7(a) is consistent with the Respondent’s general purpose of establishing “*a positive framework of friendship and collaboration and generate peaceful relationships between European Chess Union and its Members within its said jurisdiction*” (see Article 6(c)). The Panel considers that there are good reasons why, in appropriate cases, the Respondent should have the power to request one of its member federations to provide certain necessary information or documents regarding the relationship between the Respondent and that federation in connection with particular administrative or accounting matters.
145. The Appellant’s arguments concerning the validity of Article 7(b) are also without merit. In particular:

- (a) Article 7(b) is consistent with Article 72(1) of the Swiss Civil Code, which provides that: “*The articles of association may specify the grounds on which a member may be excluded, but exclusion may also occur without reasons being given.*” There is nothing unusual about a provision that enables an association governed by Swiss law to exclude one or more of its members in accordance with the terms of the articles of association. Provisions such as Article 7(b) are an ordinary feature the governing instruments of most Swiss associations. There is nothing exceptional or exorbitant about the existence of such a power.
 - (b) A power to remove members for just cause is a necessary means of giving effect to the autonomy that associations enjoy under Swiss law. Without a power to remove associations for just cause, a governing body such as the Respondent would have no effective means of ensuring that its members comply with the rules of the association and do not act in a way which jeopardises the association’s ability to attain the objectives enshrined in its Memorandum and Articles of Association.
 - (c) Article 7(b) follows the previous Article 7, and does so in more or less identical terms, which terms had been previously accepted by the Appellant.
146. In these circumstances, the Panel is satisfied that there is nothing inherently unreasonable or disproportionate in the terms or scope of Article 7 of the Respondent’s Articles of Association. The Appellant’s challenge to Article 7 is completely without merit.

Issue 2: The procedure that led to the Appellant’s expulsion

147. Both parties addressed the procedure that led to the Appellant’s expulsion in their written submissions. In addition, two individuals who were present at the General Assembly in Baku gave evidence in person before the Panel about the procedure that was followed.
148. At the outset, the Panel notes that there is no dispute between the parties that:
- (a) In advance of the General Assembly the Respondent offered prior notification to all of its national federations, including the Appellant, about the proposal to expel

the Appellant. The national federations were provided with a document that summarised the basis of that proposal and documents that set out the Appellant's opposition to proposal.

- (b) At the General Assembly, the Appellant was given an opportunity to make an oral statement to delegates in response to the motion proposing its expulsion. The Appellant was also given the opportunity to answer any questions posed by delegates at the meeting.
- (c) After the motion was proposed at the General Assembly, the Appellant requested that the vote on the motion should take place by secret ballot. This request was granted. A secret ballot overseen by two observers therefore took place.
- (d) Approximately three quarters of the votes cast in the secret ballot were cast in favour of the Appellant's expulsion. Under the terms of Article 7(b) of the Articles of Association, "*a simple majority vote of those present and voting*" is all that is necessary in order for a member federation to be expelled.
- (e) The Appellant did not raise any objection at the General Assembly to the procedure that was followed before and during the vote.

149. In the circumstances, the Panel is fully satisfied that the process by which the Appellant's expulsion was proposed and subsequently approved at the General Assembly in Baku was carried out in a fair and lawful manner. The Appellant has not adduced any evidence that suggests the procedure was vitiated by any irregularity or procedural unfairness, or that it was in any way disadvantaged by the procedure followed. On the contrary, the Panel is satisfied on the evidence before it that the Appellant acted in an entirely fair, proper, timely and transparent manner. The procedure followed was fully in conformity with the Respondent's Articles of Association. The Appellant was afforded an adequate opportunity to present arguments (both in writing and orally) against the proposal before any vote took place at the General Assembly. The voting process was carried out in a proper manner and in accordance with the Respondent's express request for a secret ballot.

150. For these reasons, the Panel concludes that the decision to expel the Appellant was entirely in accordance with the relevant procedural rules and was not tainted by any procedural irregularity.

Issue 3: The merits of the decision to expel the Appellant

151. The Respondent submits that the Appellant's failure to comply with the request for information and documents under Article 7(a) was just one of several distinct grounds that justified the Appellant's expulsion under Article 7(b).
152. At the outset, the Panel notes that the Appellant's explanation for its decision not to provide the documents and information sought by the Respondent has not remained consistent. For example, on 22 July 2016 Mr. Danailov stated that the Appellant was unable to provide the documents because "*all the required documents are in hands of our government body for checking*" (see paragraph 31 above). The Appellant put forward a similar explanation at the General Assembly on 10 September 2016. In contrast, at the hearing before CAS on 28 April 2017 the Appellant's counsel conceded that the Appellant had in fact been in possession of electronic copies of some of the documents requested by the Respondent when the request was made. She argued, however, that the Appellant did not consider it appropriate to supply any documents while the Bulgarian authorities were continuing their investigations, since the Appellant's Board considered that a "*partial*" presentation of the documents would have been "*inappropriate*". (Similarly, the Panel notes that in the Statement of Appeal, the Appellant referred to its "*inability...to provide the majority of the requested documents*" – implicitly recognising that it was able to provide *some* (if not all) of the documents sought by the Respondent.)
153. A short while later, Mr. Danailov stated (in response to a question from the Panel) that the Appellant's Board – over which he presided – had unanimously decided not to provide any of the information and documents sought by the Respondent. Mr. Danailov insisted that the decision was taken as a matter of principle, because the Appellant's Board believed the Respondent had no legitimate basis for demanding the information and documents. Upon questioning by the Panel, Mr. Danailov expressly confirmed that the Appellant's Board had taken a conscious and deliberate decision to refuse to comply

with the Respondent's request under Article 7(a). He confirmed that he appreciated at the time that expulsion was a potential consequence of this decision. He insisted, however, that the Appellant's Board had decided as a matter of principle that it would not accede to the Respondent's request – a request which Mr. Danailov felt involved an "*absolutely unacceptable*" interference with the Appellant's internal affairs.

154. The Panel notes that the Appellant has therefore variously – and contradictorily – claimed that: (i) it was unable to provide the documents and information because they were no longer in the Appellant's possession; (ii) it could provide some of the documents, but had decided not to do this as it was reluctant to provide only a partial response to the Respondent; and (iii) it could have provided some of the documents, but deliberately decided not to comply with any aspect of the Respondent's request as a matter of principle.
155. The Panel considers that the Appellant's shifting and inconsistent explanations for its decision not to comply with the Respondent's request for documents and information substantially undermine the credibility of its account of events. Contrary to the position initially advanced, it is now apparent that the Appellant deliberately decided not to comply with the Respondent's request for documents, and that it did this in the full knowledge that suspension from the Respondent was a possible consequence of that decision.
156. In the circumstances, the Panel concludes without hesitation that the Respondent was fully justified in requesting the Appellant to provide the information and documents set out in the letter to the Appellant dated 6 April 2016. The documentary record shows that the Respondent had been presented with substantial evidence that an unidentified third party had misappropriated the Respondent's identity in order to fraudulently divert significant sums of money that were supposed to be paid to the Respondent. In light of that information, the Panel considers it would have been highly irresponsible – and contrary to the objects of the Respondent as reflected in Article 6 of the Memorandum of Association – if the Respondent's Board had not used its powers under Article 7(a) to investigate that potential wrongdoing as a matter of urgency. The Panel further considers that in the circumstances in which it found itself the Respondent's Board acted

with commendable diligence and speed in taking active steps to protect the interests of the organisation and of all its members.

157. The Panel considers it significant that the Appellant deliberately decided not to comply with the Respondent's request in the knowledge that this could have significant implications for the Appellant's continued membership of the Respondent. Although Mr. Danailov insisted that the Appellant had taken a principled stance in response to what it regarded as an unjustified attempt to interfere with its internal affairs, the Panel does not agree with this characterisation of the Respondent's actions. On the contrary, the Panel considers that the Respondent was fully entitled to expect the Appellant to supply the documents and information requested in the letter dated 6 April 2016. The Appellant has not provided any satisfactory justification for not complying with that request.
158. The Panel is bound to say that it did not find Mr. Danailov to be a truthful or reliable witness. Mr. Danailov demonstrated a conspicuous lack of candour in many of his answers, which were frequently evasive or tellingly vague. It was striking that, despite having spent several years serving as the Appellant's President and the Respondent's President, Mr. Danailov claimed he had little or no knowledge about the two organisations' accounting practices, rules and statutes. Mr. Danailov denied any knowledge of payments totalling several hundred thousand euros that were made while he was President of the Appellant. In light of the documentary evidence and the Appellant's shifting explanations, the Panel did not find these assertions credible.
159. The Panel was deeply unimpressed by Mr. Danailov's apparently total lack of concern when confronted with strong evidence that very substantial sums of money that (on the Appellant's case) were supposed to have been paid to the Respondent had in fact been misdirected to an unidentified third party. In response to a question from the Panel about why he was not concerned about the serious irregularities concerning those payments, Mr. Danailov responded tersely that the issue was "*bullshit*". In the Panel's view, Mr. Danailov's dismissive indifference to allegations of serious financial impropriety involving the Appellant demonstrated a grave disregard for his responsibilities as the Appellant's President. His contemptuous approach to this issue

also undermined the credibility of his claims that he had been entirely unaware of any possible wrongdoing involving the Appellant.

160. As explained above, the Respondent was fully entitled to request the Appellant to provide the documents and information set out in the Respondent's letter dated 6 April 2016. The scope of that request was reasonable and proportionate in view of the information known to the Respondent. In light of the Appellant's intransigent and unjustified refusal to provide the information and documents requested under Article 7(a), and in view of the Respondent's autonomy under Swiss law, the Panel is fully satisfied that the Respondent had just cause to follow the procedure it did and, following its outcome, to expel the Appellant on 10 September 2016.
161. In these circumstances, it is not necessary for the Panel to reach any specific findings about whether, in addition to the refusal to comply with the request for documents and information, the Appellant's expulsion was capable of being justified on other grounds as well. The Panel observes, however, that on the basis of the evidence before it the Respondent was justified in concluding that there were (at the very least) reasonable grounds to (i) conclude that the Appellant falsely claimed that chess tournaments held in Bulgaria in 2014 were official ECU tournaments, when in fact they were not, and had purported to host an official ECU tournament despite not having submitted any bid to the Respondent for the right to host that tournament; and to suspect (ii) that the Appellant was knowingly involved in paying funds to a bank account which was falsely represented to be the Respondent's official bank account, when in fact it was controlled by unknown persons who had nothing to do with the Respondent; and (iii) that the Appellant had requested and received substantial payments from the Bulgarian government in respect of services and equipment which it wrongly claimed the Respondent had provided.
162. In those circumstances and having regard to the Respondent's wide autonomy under Swiss law, the Panel considers that even if the Appellant had not deliberately failed to comply with a request for information and documents under Article 7(a) of the Respondent's Articles of Association, the Respondent would still have been entitled to expel the Appellant for just cause under Article 7(b).

VI. COSTS

163. Article R64.5 of the CAS Code states:

“In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the outcome of the proceedings, as well as the conduct and the financial resources of the parties.”

164. The Respondent submits that the Appellant should pay the full costs of the arbitration and all of the legal fees and expenses incurred by the Respondent. The Appellant did not address the issue of costs in its written pleadings or orally at the hearing.

165. In light of the outcome of the appeal, the Panel concludes that the Appellant should pay the full costs of the arbitration and should make a substantial contribution to the Respondent’s legal fees and expenses. For the reasons explained above the appeal is completely without merit. The Panel is satisfied that the Respondent has acted correctly throughout the CAS proceedings, and in the events that led up to them. It is apparent that the Respondent has incurred substantial time and expense in defending an appeal that is manifestly without merit. In these circumstances and with due consideration of the fact that the Respondent’s objections of inadmissibility were partially dismissed, the Panel concludes that the Appellant should pay the sum of CHF 5,000 towards the Respondent’s legal fees and other expenses incurred in connection with this appeal.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by the Bulgarian Chess Federation on 30 September 2016 is admissible.
2. The appeal filed by the Bulgarian Chess Federation on 30 September 2016 is dismissed.
3. The costs of the arbitration, to be determined and served to the parties by the CAS Court Office, shall be borne by the Bulgarian Chess Federation.
4. The Bulgarian Chess Federation is ordered to pay the European Chess Union a total amount of CHF 5,000 as contribution towards the expenses incurred in connection with these arbitration proceedings.
5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 22 May 2017

THE COURT OF ARBITRATION FOR SPORT

A handwritten signature in black ink, reading "Philippe Sands". The signature is written in a cursive style with a horizontal line underneath the name.

Prof. Philippe Sands QC
President of the Panel