



FIDE ETHICS COMMISSION

Case N. 4/06

JUDGEMENT

rendered by the

FIDE ETHICS COMMISSION

sitting in the following composition

Chairman: Mr. Roberto Rivello
Members: Mr. Ralph Alt
 Mr. Laurence Ball
 Mr. Dirk J.A. De Ridder
 Mr. Noureddine Tabbane
 Mr. Ian Wilkinson

in the case

“World Championship in Elista, Mr. Veselin Topalov, Mr. Silvio Danailov” (Complaint of Mr. Carsten Hensel and Mr. Vladimir Kramnik)

concerning the following facts

- Mr. Veselin Topalov:
 - *During the World Championship held in Elista from 21st September to 13th October 2006, to have accused Mr. Vladimir Kramnik of cheating, presenting this accusation not only to the competent FIDE organs but even to the medias, giving interviews and press conferences, writing and verbalising opinions about the facts, personally and by his manager Silvio Danailov, well aware that this accusation was not supported by*

evidence, thus aiming at affecting Mr. Kramnik's psychological state, in order to obtain an illegitimate advantage.

- *Giving various and different interviews to many journalists in the months following the World Championship in Elista, and in particular giving an interview to Mr. Federico Marin Bellon, published on the Spanish ABC platform on 18th December 2006, to have defamed Mr. Vladimir Kramnik, the organisers of the World Championship in Elista, the FIDE and his President Mr. Kirsan Ilyumzhinov, damaging their honour and reputation, saying that "...había amenazas. En principio anónimas, pero cerraron el aeropuerto. Es fácil hablar desde aquí, pero cuando uno está en Rusia te planteas cómo salir. ... La suerte es que no estaba implicado ningún profesional y los que le decían las jugadas eran aficionados o del KGB. ... El Kremlin nunca reconocerá que envenenó al espía ruso, lo que parece obvio, ni Kramnik que hizo trampas. ... (¿Llegó a sentir miedo físico?) Sí, y creo que no volveré allí. ... (¿Qué opina del presidente de la FIDE, Kirsan Ilyumzhinov?) Es un hombre de negocios, que simplemente necesita tener a un ruso campeón. No es nada personal. Tenía la orden. ... (¿Cree que Kramnik siguió haciendo trampas después de destaparse el escándalo?) Personalmente, creo que sí y que el nuevo método fue mejor. ... (¿También en el desempate?) Ahí tenían un sistema que no fallaba. En la cuarta partida, incluso cuando ya me tenía ganado, Kramnik hizo una jugada que sólo se le ocurre a una máquina. Luego, tenía derecho a un día de descanso, pero ni enfermo lo pidió. Si te van a pasar las jugadas, mejor jugar cuanto antes. Pero lo hicieron mejor que la chapuza de los cables. ... -Si esto sigue así, con la tecnología de los rusos, Kramnik va a ser invencible en un match", and using other defaming and damaging words.*

Facts that could constitute a violation of par. 2.2.4, 2.2.5, 2.2.9, 2.2.10, 2.2.11 of the FIDE Code of Ethics.

- Mr. Silvio Danailov:
 - *Acting as manager of Mr. Veselin Topalov, during the World Championship held in Elista from 21st September to 13th October 2006, to have accused Mr. Vladimir Kramnik of cheating, presenting this accusation not only to the competent FIDE organs but even to the medias, giving interviews and press conferences, writing and verbalising opinions about the facts, well aware that this accusation was not supported by evidence, thus aiming at affecting Mr. Kramnik's psychological state, in order to obtain an illegitimate advantage for Mr. Topalov.*
 - *Giving various and different interviews to many journalists in the months following the World Championship in Elista, to have defamed Mr. Vladimir Kramnik, the organisers*

of the World Championship in Elista, the FIDE and his President Mr. Kirsan Ilyumzhinov, damaging their honour and reputation.

Facts that could constitute a violation of par. 2.2.4, 2.2.5, 2.2.9, 2.2.10, 2.2.11 of the FIDE Code of Ethics.

PROCEEDINGS BEFORE THE ETHICS COMMISSION

On 4th October 2006 Mr. Carsten Hensel, writing on behalf of Mr. Vladimir Kramnik, addressed to the FIDE Ethics Commission (hereafter called the “EC”), through the FIDE President and the FIDE Secretariat, a letter concerning the behaviour of the “Team Topalov”, informing the EC of a press release published on the Chessbase website and attributed to Silvio Danailov (<http://www.chessbase.com/newsdetail.asp?newsid=3401>), concerning “Coincidence Statistics of the moves of GM Kramnik with recommendations of the chess program Fritz 9”, which for Mr. Carsten Hensel “is obviously nothing else than another attempt to create a certain picture of Vladimir Kramnik ... The whole strategy of Team Topalov is obviously based to indirectly insult or to indirectly accuse Vladimir Kramnik of cheating, without showing any evidence”. In the same e-mail Mr. Carsten Hensel communicated to have requested to the “WCC Organisation” some measures in order to avoid “such activities of Team Topalov”, and to have asked the FIDE President “to start with suitable measures” and “a detailed investigation of the EC. We hope that all events from the WCC 2006 at Elista will be inspected”.

On 18th December 2006 Mr. Carsten Hensel, writing on behalf of Mr. Vladimir Kramnik, addressed an e-mail to the EC, through the FIDE Secretariat, using the following words: “I would like to ask ... to make sure that the Ethics Commission of FIDE will seriously work on the accusations and allegations of Mr. Topalov and Mr. Danailov. Especially after a recent interview given by Mr. Topalov to the spanish ABC internet platform (<http://www.abc.es/>; author: Marin Bellon). We are not talking of suspicions anymore, Mr. Topalov is making clear allegations against Vladimir Kramnik and FIDE”.

Both Mr. Carsten Hensel’s correspondence amounted, in substance, to a complaint against Messrs. Topalov and Danailov.

In accordance with article 1 of the EC Internal Rules, the case was inscribed on the Register of cases as N. 3/2006 - “World Championship in Elista, Mr. Veselin Topalov, Mr. Silvio Danailov (Complaint of Mr. Carsten Hensel and Mr. Vladimir Kramnik)”.

In accordance with articles 4, 6 and 7 of the EC Internal Rules, on 23rd April 2007 the Chairman of the EC communicated to Mr. Veselin Topalov and to Mr. Silvio Danailov the existence of a pending case against them, informing Mr. Veselin Topalov and Mr. Silvio

Danailov of their rights and of the EC proceeding rules, and fixed a term of twenty days for the submission of memorials and documents.

Mr. Veselin Topalov and Mr. Silvio Danailov did not present documents in support of their defences, did not request an extension of time to present evidence or material in support of their defences nor asked to appear before the EC for an oral hearing.

On 19th and 20th June 2007 Mr. Veselin Topalov and Mr. Silvio Danailov addressed to the EC two distinct but similar letters, declaring to be ready to cooperate with the EC on the investigations regarding the complaints against them. Both men also asked the EC to obtain from the Organizing Committee of the match Topalov-Kramnik in Elista “all the materials and evidences from the match” and “the original tapes from the games of the match in the state they were presented to the members of (Topalov) team and to the Appeals Committee of the match, as the behaviour of GM.Kramnik was the starting point of the conflict”. Both men also asked the EC to take into account “the behaviour of Mr.Kramnik and his declarations during the press-conference after game 5 of the match”.

In accordance with article 7 of the EC Internal Rules, the Chairman of the EC, mindful of the request from Messrs Topalov and Danailov, through the FIDE Office in Elista asked the Organising Committee of the World Championship to make a copy of the video tapes of the match available to the EC. On 17th July 2007 Mr. Valery Bovaev, Chairman of the Executive Committee World Chess Championship match 2006, informed the EC, through the FIDE Office in Elista, that “according to the statement of the Head of the Administration of the informational resources of the Republic of Kalmykia Mr. Namsinov, who was in charge for the security and tapes as well during the Championship match, the video tapes from the Topalov-Kramnik match have been destroyed”. Prior to receiving to this report, FIDE Offices have never been informed of Mr. Valery Bovaev’s decision.

On 14th July 2007, noting article 8 of the FIDE Ethics Commission Internal Rules, given the complexity of the case, the EC deemed necessary and appropriate to fix a hearing and decided to hold a hearing on Saturday 28th July 2007 at 16.30, in the "Abbey Hall" conference room in the Royal Olympic Hotel, 28-34 Ath. Diakou, Athens, Greece. Mr. Veselin Topalov and Mr. Silvio Danailov were immediately informed of the hearing.

On 18th July 2007 Mr. Veselin Topalov and Mr. Silvio Danailov informed the EC that they could not attend the hearing and asked to postpone the hearing to October 25th or 26th.

On 20th July 2007 the Chairman of the EC responded to Messrs. Topalov and Danailov that it was not possible to postpone the hearing and proposed as an alternative solution a video or telephone conference. On 24th July 2007 Mr. Veselin Topalov and Mr. Silvio Danailov agreed to participate in the EC hearing into the complaints against them via telephone conferences, and

Mr. Silvio Danailov submitted a written defensive document, where he specified that he “never accused Mr.Kramnik of cheating during the match. Our appeal was against his very strange, not sportive and not correct behaviour during the games in Elista. He was spending a lot of time on the rest and toilet rooms ,visiting the toilet around 40-50 times during the first two games, average of 12 times every hour, which is simply too much. Having in mind that the toilet was the only place without video and audio control. ... In our opinion the behaviour of Mr. Kramnik was not ethic at all. During the WCC match the players have to be on the stage in front of everybody, and not hidden on rest rooms and toilets. Our appeal was completely legal according to the FIDE regulations. We have paid deposit of USD 5000 and was acting always legally. After watching the tapes from Kramnik’s rest room the Appeal Committee agreed with our position and even the FIDE President support their decision from the beginning”.

Mr. Silvio Danailov put forward in support of his, and Topalov’s, defence, a copy of the following documents: “1. The picture of the computer cable UTP 5 which our technical specialists found on the Kramnik’s toilet. 2. The official protocol that the cables really was found, signed by the Chief of Organizing Committee Mr.Bovaev and the Deputy Arbiter Mr.Nikopolous. 3. The official resignation of the second Appeal Committee ,when they realised what was going on in Elista”.

On 28th July 2007 a public hearing of the EC was held in Athens. Two telephone conferences with Mr. Veselin Topalov and Mr. Silvio Danailov were organised during the hearing. Mr. Veselin Topalov and Mr. Silvio Danailov answered all the questions asked by the Members of the EC. They again requested a postponement of the EC decision to October 25th or 26th.

The case was discussed and decided by the EC in Athens, Greece on 28th- 29th July 2007.

After the discussion, the EC decided the issues concerning admissibility and jurisdiction achieving unanimity (Mr. Roberto Rivello, Mr. Ralph Alt, Mr. Laurence Ball, Mr. Dirk J.A. De Ridder, Mr. Noureddine Tabbane, Mr. Ian Wilkinson).

The EC, by a majority of its sitting members, rejected the requests by Mr. Veselin Topalov and Mr. Silvio Danailov for a postponement of the EC decision (Mr. Roberto Rivello, Mr. Ralph Alt, Mr. Laurence Ball, Mr. Dirk J.A. De Ridder in favour; Mr. Ian Wilkinson against; Mr. Noureddine Tabbane abstained).

Before the vote was taken, Mr. Ian Wilkinson expressed the view that: “the EC should not proceed to determine the cases at this time. He felt that both the matters against Messrs. Topalov and Danailov should be postponed until October, 2007 as both men had requested. He was also of the opinion that although the facts giving rise to the complaints/charges were approximately nine months old, no harm could be done by postponing the matters and the

interests of justice dictated that both men be given a chance to put forward their defences fully. He further suggested that if the EC did not agree with adjourning the matters until October, 2007 as requested then the cases should be adjourned for a shorter period, for example until the 31st August, 2007, and the EC could immediately give both men a chance until that extended time to present any evidence in support of their defences, warning them that a failure to do so would leave the EC with no alternative but to proceed. He was very concerned at the revelation that the recording or videotapes of the proceedings of the 2006 World championship match in Elista had been destroyed. He found this unbelievable having regard to the obvious importance of the videotapes and bearing in mind the pending complaint by Mr. Kramnik and/or Mr. Hensel". Mr. Wilkinson further declared that: "as a principle and bearing in mind his belief that the matters should not proceed at this time, he would not participate in the decisions on the cases although he reserved the right to be a part of the EC's discussions".

The EC decided the issues concerning the position of Mr. Veselin Topalov achieving a majority (Mr. Roberto Rivello, Mr. Ralph Alt, Mr. Laurence Ball, Mr. Dirk J.A. De Ridder, Mr. Noureddine Tabbane in favour; Mr. Ian Wilkinson abstained).

The EC decided the issues concerning the position of Mr. Mr. Silvio Danailov achieving a majority (Mr. Laurence Ball, Mr. Dirk J.A. De Ridder, Mr. Noureddine Tabbane in favour; Mr. Roberto Rivello, Mr. Ralph Alt against; Mr. Ian Wilkinson abstained).

Mr. Roberto Rivello was charged with the draft of the judgement, except for the part of the motivation concerning the position of Mr. Silvio Danailov (paragraph "Danailov Responsibility"), considering that he voted against this decision. Mr. Laurence Ball was charged with the draft of this part. None of the EC members asked to deliver a separate opinion.

According to articles 4.5 and 4.6 of the FIDE Code of Ethics: "any decisions made by the Ethics Commission may be the object of appeal arbitration proceedings in accordance with the Code of sports-related arbitration of the Court of Arbitration for Sport in Lausanne, Switzerland", "the time limit for appeal is twenty-one days following the communication of the decision concerning appeal. All recourse to ordinary courts is excluded".

CHRONOLOGY OF THE FACTS

Before dealing with the questions concerning the admissibility of the complaints and the jurisdiction of the EC, it is useful to reconstruct the chronology of the facts connected with the 2006 Elista World Chess Championship, on the basis of the documents collected during the proceedings:

- the World Championship match between Mr. Veselin Topalov and Mr. Vladimir Kramnik started in Elista on 23rd September 2006, with the first game. The Chief

Arbiter of the match was Mr. Geurt Gijssen; the Deputy Arbiter was Mr. Panagiotis Nikolopoulos; the Chairman of the Executive Committee World Chess Championship match 2006 was Mr. Valery Bovaev; the Members of the Appeals Committee were Mr. Georgios Makropoulos, Mr. Zurab Azmaiparashvili and Mr. Jorge Vega.

- On 28th September 2006 Mr. Silvio Danailov, as a “Manager of the Bulgarian team”, addressed an open letter to the Organisation Committee and to the Appeals Committee, stating that, after a “careful study of the video recordings from the rest rooms done by the technical experts of the Bulgarian team”, they discovered a so frequent use of the toilet room by Mr. Vladimir Kramnik that, in their opinion, was “quite strange, if not suspicious”, asking for some measures aimed “to ensure the best conditions for fair play and rule out all suspicions”, first of all demanding “to stop the use of the rest rooms and the adjacent bathrooms for both players” and even that “if a player needs to go to the bathroom, he can use the public bathroom, but only with permission from the Arbiter and accompanied by an assistant arbiter. The Organizing Committee should present the video tapes from the rest rooms to all journalists accredited in the press-centre so that they can verify for themselves the facts described by us”. Mr. Silvio Danailov added that, if “this extremely serious problem remain unsolved by 10.00 o’clock tomorrow (September 29th, 2006), we would seriously reconsider the participation of the World Champion Veselin Topalov in this match”.
- On 28th September 2006 the Appeals Committee examined the appeal from Mr. Silvio Danailov and the recordings received by the Organizers (“... part of the video recording of the rest room from games 1, 2 and 4 and the whole recording of game 3. There were technical problems that did not allow a full recording of the rest rooms where a partial recording was made available”), and considering that “... in the appeal there is an exaggeration of the number of times that Mr. Kramnik visited the toilet. Despite there being an unusual number of visits, this is insufficient on its own to come to a conclusion”, decided “to close both the toilets in the players' rest rooms and to open another toilet that will be available only to the two players”, rejecting the other requests formulated by Mr. Silvio Danailov.
- On 29th September 2006 Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, addressed an open letter to the FIDE President, rejecting the decision of the Appeals Committee and demanding to replace the members of the Appeals Committee, because the Appeals Committee decision “is clearly violating both the rules and regulations of the WCC match and the rights of Mr. Kramnik”, “the relevant clause in contract of Mr. Kramnik expels: ‘FIDE shall provide a rest room and toilette for the players during the WCC match in the playing hall and close to the stage (if possible backstage) to be

- equipped with a live monitor furnished with coffee and tea as well as with light refreshments.’ This is what we call an utterly unfair behaviour which is not in accordance with the FIDE Code of Ethics. The decision taken by the Appeals Committee can only be seen as another attempt to disturb Mr. Kramniks concentration”, “our team does not trust the objectivity of the Appeals Committee anymore. Therefore it makes no sense for us to bring a protest to this table and Mr. Kramnik strongly insists once again that the members of the Appeals Committee will be changed immediately and that the heads of the Organizing Committee are taking their responsibilities”.
- In a press conference held on 29th September 2006, Mr. Georgios Makropoulos said that “the Appeals Committee watched all the video recordings. Only the third game was recorded in full. There are recordings of one hour and a half from the first and second games and there is a blank of one hour and a half in the recording of the fourth game. We have found out that the team of Topalov exaggerated the number of Kramnik’s visits to the toilet. However, the numbers are still unusually high. In the video recording which we got hold of, Kramnik visited the toilet 25 times. In the third game the number is 18. In the first two games, in one hour and a half – 11 or 12 times”. “I would like to reiterate that we have no connection between the number of the visits to the toilet and possible use of some external help. We have requested Mr. Hensel to comment on these numbers and received the explanation to the tune that Vladimir uses the toilet space for walking. According to the opinion of the Appeals Committee, this explanation is unsatisfactory, as Kramnik was staying each time 1 or 2 minutes in the toilet”. “I would like to say that FIDE is not sharing any fears regarding use of external assistance during the games, but our opinion here is not important – we should meet the players halfway, in order for them to feel comfortably at the board and not to worry about fair play ... for us the most important thing is for the both players to feel protected from the use of the external help by their respective opponent”. “According to the contract, FIDE shall provide both players with a restroom and a toilet. It is obvious for us that the contract is not binding us to provide the toilet in the restroom, otherwise the sentence would read ‘a restroom with a toilet’. Therefore, the appeal of Mr. Hensel regarding this point of the contract is groundless”.
 - On 29th September 2006 Mr. Vladimir Kramnik forfeited the 5th game of the match.
 - On 29th September 2006, after the forfeited game, Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, addressed a second open letter to the FIDE President, first of all asking that the members of the Appeals Committee be dismissed and replaced.
 - On 30th September 2006 the 6th match game was postponed.
 - On 1st October 2006 an “Inspection of the rest room and the toilet of Mr. Vladimir Kramnik” was carried out. After the “inspection” was redacted the following report: “S.

Danailov, D. Djonkov, R. Ivanov Gospodinov (representatives of the Topalov team) in the presence of the Deputy Chief Arbiter P. Nikolopoulos, the Chairman of the Executive Committee V. Bovaev carried out an inspection of the rest room and toilet of Mr. Vladimir Kramnik. The inspection included: I. 1. Dismantling of two thirds of the suspended ceiling in the bathroom. An UTP-5 cable was discovered as a result of the dismantling and removed upon agreement by the two parties. The suspended ceiling parts were installed after the inspection. 2. Dismantling of the instantaneous water heater whose power was cut off, then restored and it was sealed. 3. A chipped wall tile under the sink was filled with polyurethane. 4 Opening and check of the ventilation shaft in the toilet wall which was filled at the request of the Bulgarian side. 5. Sealing of the cables which remained after dismantling of the shower cabin, sealing of the sewer hole used for the shower cabin. 6. All toilet walls were checked using a special device by the Bulgarian experts. Upon completion of the above actions the entrance door to the toilet was sealed. II. 1. The rest room, which is under constant video surveillance, was carefully inspected by the experts of the Bulgarian side. 2. Upon request by the Bulgarian side the video surveillance of the Kramnik rest room will be carried out 24 hours starting at 15.00 today, 1 October 2006. The video tapes will only be watched by Mr. Nikolopoulos who shall not provide them to third parties. The inspection took place on 1 October 2006 from 13.00 to 15.00. The room of Mr. Kramnik fully complies with all conditions for its future use. The parties are satisfied with the inspection results”.

- On 1st October 2006 the Board of the Association of Chess Professionals published a “statement” in which they “strongly protest against behaviour of Mr. Silvio Danailov ... and expect him to officially apologise to Mr. Kramnik. Otherwise, we believe that the case should be carefully investigated by the FIDE Ethics Commission and the proper measures taken to avoid such situations in the future”.
- On 2nd October 2006 the match started again, after the personal involvement of the FIDE President in the negotiations between the parties. After the resignation of two of members of the Appeals Committee, namely Mr. Georgios Makropoulos and Mr. Zurab Azmaiparashvili, they were replaced by Mr. Boris Kutin and Mr. Faik Gasanov; both the toilettes in the restrooms were opened again; Mr. Vladimir Kramnik agreed to continue to play, but “under protest”. Having regard to his forfeit in the 5th game of the match; Mr. Vladimir Kramnik presented an appeal addressed to the Appeals Committee.
- On 2nd October 2006 the 6th game was played;
- On 3rd October 2006 the Appeals Committee decided that “the appointment of the new Appeals Committee does not mean that the new one appointed has the power of overruling any decisions taken by the former Appeals Committee, which are absolutely

- final”, specifying that “the new Appeals Committee has the power to decide on any appeal submitted starting from the 6th Round of the match”.
- On 3rd October 2006 Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, addressed a letter to the Chairman of the Executive Committee World Chess Championship match 2006 Mr. Valery Bovaev, writing that he had “received information that the Topalov team might try to involve Mr. Kramnik in another scandal. According to this information they might be planning to create a situation by somehow manufacturing ‘evidence’ to prove that Mr. Kramnik is cheating” and asking for some measures against this alleged risk.
 - On 4th October 2006 Mr. Jorge Vega and Mr. Boris Kutin allegedly drafted a document, addressed to the FIDE President, resigning as members of the Appeal Committee. Mr. Silvio Danailov submitted a copy of this document in his response to the EC. This document was, apparently, never presented to the FIDE President. Mr. Jorge Vega and Mr. Boris Kutin did not resign as members of the Appeal Committee.
 - On 4th October 2006 Mr. Silvio Danailov wrote a press release that was published on the Chessbase website, concerning “Coincidence Statistics of the moves of GM Kramnik with recommendations of the chess program Fritz 9”.
 - On 4th October Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, addressed to the EC a first letter of complaint to the EC against Messrs. Topalov and Danailov.
 - On 4th October 2006, Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, wrote in a press release that “due to the facts that: FIDE breached the contract; an illegal protest of Mr. Topalov has been approved by the former FIDE Appeals Committee (this decision was already final and confirmed by the FIDE President in writing); Game 5 should have never been started under these conditions. Mr. Kramnik will follow the strong advise from his lawyers to sue FIDE after this match has been concluded”.
 - On 9th October 2006, after receiving a request by the FIDE Legal Adviser Morten Sand, Mr. Valery Bovaev, Chairman of the Executive Committee World Chess Championship match 2006, addressed to the FIDE Offices the following statement: “I would like to state herewith the following. - As per the oral demand of the then Appeals Committee of the Match (in person Messrs. Makropoulos, Azmaiparashvili), the examination of the video recordings of the rest rooms during the first two games in the cottage of Veselin Topalov was carried out on 25 September 2006. In the examination of the video recordings the following persons took part: the representatives of the Executive Committee: Gennady Namsinov (Head of the Informational Resources Department), Mingian Bazyrov (Vice of the Informational Resources Department); experts of the Bulgarian delegations headed by the manager of Topalov Mr. Silvio Danailov. The Appeals Committee members did not participate in the video recordings examination. -

Messrs. Makropoulos, Azmaiparashvili and Vega initiated a second examination as well and it took place on 27 September 2006. The three members of the Appeals Committee together with the Chief Arbiter of the Match Mr. Gijssen and the Deputy Arbiter Mr. Nikolopoulos, who were also invited, watched the recordings. On behalf of the Executive Committee there were Messrs Namsinov and Bazyrov. The third examination of the video recordings, which took place on 28 September 2006, with the Chief Arbiter Mr. Gijssen and his Deputy Mr. Nikolopoulos and also with the participation of the Bulgarian experts and the representatives from the Executive Committee Messrs. Namsinov and Bazyrov was carried out. The Appeals Committee did not take part in the examination of the video recordings. - Two last (second and third) examinations of the video recordings took place in the Office of the Chairman of the Executive Committee of the Match. - After the resignation of the Appeals Committee I took the decision to stop providing the Bulgarian Team representatives with any further video”.

- On 10th October 2006 Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, addressed an open letter to the FIDE President and to the Chairman of the Executive Committee World Chess Championship match 2006 Mr. Valery Bovaev, asking to replay the 5th game of the match and specifying that “Vladimir Kramnik will be playing this match, including a possible tiebreak, up to the last move under protest”.
- On 13th October 2006 the World Championship match was concluded, after tie-breaks, with victory for Mr. Vladimir Kramnik.
- On 18th December 2006 the journalist Federico Marin Bellon published on the Spanish *ABC* platform an interview given by Mr. Veselin Topalov. Some days before, on 14th December 2006, the same journalist published the same article on the newspaper *El Norte de Castilla*.
- On 18th December 2006 Mr. Carsten Hensel, writing on behalf of Mr. Vladimir Kramnik, addressed to the EC, by email, a second complaint against Messrs. Topalov and Danailov.
- On 24th June 2007 the FIDE Presidential Board, during the meeting held in Tallinn, Estonia, stated that “the Presidential Board and the FIDE President want to stress once again that the decisions of the Appeals Committee in the match were in accordance with the match regulations as well as the contracts and were meant to ensure equal playing conditions for both players”.

ADMISSIBILITY AND JURISDICTION

The two letters presented by Mr. Carsten Hensel on behalf of Mr. Vladimir Kramnik, having the value of complaints, formed the genesis or basis for the instant case (n. 4/2006). In

these complaints it was specified that the behaviour of Mr. Veselin Topalov and Mr. Silvio Danailov allegedly discredited and damaged both Mr. Vladimir Kramnik and the FIDE's reputation.

In Mr. Veselin Topalov's above-mentioned interview with the Spanish journalist, the FIDE President Mr. Kirsan Ilyumzhinov and the organisers of the World Championship in Elista were mentioned. The charges against Mr. Veselin Topalov and Mr. Silvio Danailov were, therefore, broadly formulated as comprehensive of a violation of the interests of FIDE, FIDE President and of the interests of the organisers of the World Championship in Elista as well.

Nevertheless, no FIDE organ presented a report to the EC about this case, neither did the FIDE President nor the organisers of the World Championship in Elista have filed a complaint with the EC.

Taking into account the interpretation of the FIDE Statute on this point, given by the EC in the *Guidelines to the interpretation of FIDE Code of Ethics* (which have to be considered as a part of this judgment and are joined to it as an *addendum*), if no report by a FIDE organ has been presented, but just a complaint, the EC has not a full general jurisdiction on the referred facts, but just a competence limited to the relevant legitimate interests of the complainant.

Thus, in the part concerning an alleged damage to the reputation of FIDE, FIDE President and of the organisers of the World Championship in Elista, the complaints are not admissible nor receivable. Therefore the charges concerning the violation of par. 2.2.10 of the FIDE Code of Ethics have to be dismissed.

On the other hand, in the part concerning the alleged damage to Mr. Vladimir Kramnik's reputation, the complaints are receivable and the EC is competent to judge on the facts, but within some limits.

It is necessary to operate a distinction between the two complaints.

On 3rd and 4th October 2006 Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, lodged many different requests and complaints, addressed to various different organs: FIDE President, EC, Appeals Committee, World Championship Organisation, reserving his right to present a case to the CAS (Court of Arbitration for Sport). Normally, in accordance with FIDE rules, these organs have completely different competences, but in this case the Appeals Committee was invested with broader competences.

On 5th April 2006 FIDE and Mr. Vladimir Kramnik arrived at an Agreement concerning the World chess championship due to be held in Elista. On 7th April 2006 FIDE and Mr. Veselin Topalov arrived at an identical agreement. Relevant, and applicable to these agreements and the match are FIDE Statute, FIDE Code of Ethics and FIDE rules and regulations (*vide* par. 2.6 of

the Agreements), but a separate “schedule”, named “Regulations”, incorporated into the agreements, regulates in a different way some specific points, and the match “shall be organised according to the rules set out” in this schedule (par. 2.4 of the Agreements). “Should a dispute arise between the parties hereto with the respect to the rights and obligations hereunder the parties shall use their best efforts to solve the dispute amicably. If such a dispute cannot be resolved a party may submit the case to the Court of Arbitration for Sport in Lausanne” (par. 13.1 of the Agreements).

Some points of these match “Regulations” are relevant:

- par. 3.11.2 “If a player ... conducts himself in a manner contrary to the spirit of sportsmanship or the FIDE Code of Ethics, then he shall suffer the following penalty: 5% of his prize money shall be forfeited to the Organisers and a further 5% to FIDE for each breach. In case of serious misconduct the player may be disqualified from the match and the World Chess Championship cycle”.
- par. 3.17 “Appeals Committee. 3. 17. 1 The President or his Deputy shall be Chairman of the Appeals Committee. There shall be two (2) other members all from different Federations. No member of the Appeals Committee can be from the federation of either player. All protests must be submitted in writing to the Appeals Committee not more than two (2) hours after the relevant playing session, or the particular infringement complained against. The Committee may decide on the following matters: a) an appeal against a decision by an arbiter, b) a protest against a player’s behaviour, c) a complaint alleging false interpretation of the regulations, d) a request for the interpretation of specific regulations, e) a protest or complaint against any participant, or f) all other matters which the Committee considers important. If possible, the Committee shall reach a decision not more than two (2) hours after the submission of a protest. The appeals process shall include written representations and a written decision. The Committee shall endeavour to find binding solutions that are within the true spirit of the FIDE motto, *Gens Una Sumus*. Each protest must be accompanied by a deposit fee of USD 5,000 (five thousand US Dollars) or the equivalent in local currency. If the protest is accepted as logical and reasonable, the fee shall be returned even if the protest will be rejected. The fees not to be returned due to unreasonable protests shall be forfeited to FIDE. The written decision of the Appeals Committee arising from any dispute in respect of these regulations shall be final.
- par. 3.23.1 “At any time in the course of the application of these regulations, any grounds that are not covered or any unforeseen event shall be referred to the Presidential Board or the President of FIDE, for final decision”.

It is clear that these Agreements between both men and FIDE introduced some derogations to the common FIDE rules, exactly on the EC competences. The Appeals Committee had the power and the duty to give application to the FIDE Code of Ethics during the match and can impose some specific and particular sanctions, thus can adjudicate on the accusations of cheating and on the opposite allegations of false accusations. The Presidential Board and the FIDE President too were invested of some particular competences, in accord with these Agreements.

Actually, the Appeals Committee, the FIDE President and the Presidential Board (with a statement on 24th June 2007) judged on these issues. The EC was not even mentioned in the Agreements and does not, and cannot have, competence or jurisdiction to judge on these same issues.

These derogations were introduced by the parties, the will of the parties was clearly manifested in the Agreements subscribed by them. These derogations cannot be considered illegitimate in relationship with FIDE Statute: an argument in favour of this possibility is given by art. 3.5 of the FIDE Code of Ethics.

Therefore the first complaint lodged by Mr. Carsten Hansel and Mr. Vladimir Kramnik is not admissible nor receivable, in the parts concerning both the request to investigate on “all events from the WCC 2006 at Elista” and an accuse of the existence of a “strategy” by the “Team Topalov” to damage Mr. Vladimir Kramnik during the match, affecting Mr. Kramnik’s psychological state, in order to obtain an illegitimate advantage for Mr. Veselin Topalov. Thus the charges concerning these facts and the violation of par. 2.2.5 of the FIDE Code of Ethics have to be dismissed.

Nevertheless, the first complaint also regards a press release published on the Chessbase website and attributed to Silvio Danailov, concerning “Coincidence Statistics of the moves of GM Kramnik with recommendations of the chess program Fritz 9”. To be more precise this was the first subject of the complaint. This document was not addressed by Mr. Danailov to the Appeals Committee or to a FIDE organ, nor did the Appeals Committee adjudicate on it. It was a press release that, even if related to the World Championship match, was extraneous to the formal acts of the World Championship match and allegedly could affect Mr. Vladimir Kramnik’s reputation in a broader sense. Thus, normal rules can be applied in this case.

Within these very narrow limits, the EC has jurisdiction and is competent to judge on the first complaint.

Regarding the second complaint there are no other problems of competence. Mr. Veselin Topalov’s interview to the journalist Federico Marin Bellon was given and published on December 2006, two months after the end of the World Championship in Elista. The interview

concerned the World Championship but, of course, the Appeals Committee no longer had jurisdiction to judge on it anymore. Therefore, the complaint is receivable and the EC is competent to judge on the alleged damage to Mr. Vladimir Kramnik's reputation.

TOPALOV RESPONSIBILITY

From a factual point of view there are two charges against Mr. Veselin Topalov arise from the following: the press release published on 4th October 2006 and the interview given to the journalist Federico Marin Bellon on December 2006.

Mr. Veselin Topalov and Mr. Silvio Danailov have never cast any doubt on the fact that Mr. Silvio Danailov wrote the press release and Mr. Veselin Topalov gave the interview and the journalist correctly recorded his words.

In the telephone conference realised during the EC hearing in Athens, Mr. Veselin Topalov was fully cooperative and sincere in his declarations: he confirmed the interview to the journalist Federico Marin Bellon and he admitted to using the words reported by the journalist. Nevertheless, in relation to the phrases mentioned in the charges against him, he stated that "this is a personal opinion, which I expressed during a private 'off the record' conversation with the journalist, and I did not expect to be published in the interview". Mr. Veselin Topalov believes in the opinions he expressed, mainly because the video recordings during the match showed an "illogical behaviour" by Kramnik and "people from my team whom I absolutely trust told me that it was very probable that Kramnik received external help". About the complaints and the requested presented by Danailov during the match, Mr. Veselin Topalov specified that it was not a provocation to gain any unfair advantage over Mr. Kramnik, but an expression of genuine concern. About statistics, he mentioned he would like to "check if the moves of Kramnik coincide with the moves proposed by computer chess programs": thus admitting that his team had worked on this issue, but without specifying whether or not he was informed of the 4th October press release.

Even Mr. Silvio Danailov cooperated with the EC. During the telephone conference he did not deny having written the 4th October 2006 press release, but he specified that he "never accused Mr. Kramnik of cheating". He was asked if he had not expressed this opinion on other occasions, for instance in relationship to the book "The Toilet War", written by Zhivko Ginchev; he answered "no", adding that he had no responsibility for any allegation of cheating against Kramnik in this book and that any responsibility for any such allegation against Kramnik lay with the author.

All this considered, the facts are sufficiently clear.

Mr. Veselin Topalov violated the FIDE Code of Ethics.

First complaint (Press release – 4th October 2006)

Mr. Veselin Topalov had the right to lodge a complaint to the Appeals Committee and even to report any suspicion on his opponent's behaviour to the Appeals Committee for it to make a ruling.

“Coincidence Statistics” could be a reason for a suspicion, even if nothing more. But to present these “Coincidence Statistics” in a press release was just an indirect accusation of cheating not addressed to the competent organ. This was an accusation without any evidence and, therefore, unjustified, and an accusation that was damaging, or potentially, to Mr. Vladimir Kramnik's reputation. There was consequently a violation of art. 2.2.9 and 2.2.11 of the FIDE Code of Ethics.

There is no clear evidence that Mr. Veselin Topalov approved or knew exactly of the contents of this press release. It is even possible that Mr. Veselin Topalov believed that the document “Coincidence Statistics” had been addressed to the Appeal Committee. Nonetheless, as provided by rule 2.2.8 of the FIDE Code of Ethics, “players are responsible for the actions of acknowledged members of their delegations”.

In any case, Mr. Veselin Topalov's responsibility for this press release is quite a minor one.

Second complaint (Interview – December 2006)

In the interview given to the journalist Federico Marin Bellon, Mr. Veselin Topalov answered the journalist questions as follows: “El Kremlin nunca reconocerá que envenenó al espía ruso, lo que parece obvio, ni Kramnik que hizo trampas”, “(¿Cree que Kramnik siguió haciendo trampas después de destaparse el escándalo?) Personalmente, creo que sí y que el nuevo método fue mejor. ... (¿También en el desempate?) Ahí tenían un sistema que no fallaba. En la cuarta partida, incluso cuando ya me tenía ganado, Kramnik hizo una jugada que sólo se le ocurre a una máquina. Luego, tenía derecho a un día de descanso, pero ni enfermo lo pidió. Si te van a pasar las jugadas, mejor jugar cuanto antes. Pero lo hicieron mejor que la chapuza de los cables. ... -Si esto sigue así, con la tecnología de los rusos, Kramnik va a ser invencible en un match”.

These statements were clearly defamatory and damaged the honour of Mr. Vladimir Kramnik, harming his personal and professional reputation.

Mr. Veselin Topalov, in his defence, asked the EC to give him more time to present further evidence, probably to submit an “*exceptio veritatis*”, to prove his statements were true in substance. But, first of all the Defendant has had more than sufficient time for this and, after the

information communicated to him on 23rd April 2007 by the EC, he did not present any document or evidence. Secondly, when he gave the interview in December 2006 he had no any new evidence at all. And in any case the substance of his communication was not even limited to the 2006 World Chess Championship in Elista, but went further, declaring that Mr. Vladimir Kramnik cheated during the match and will cheat in future matches. Thus, there is no justification for his behaviour.

Mr. Veselin Topalov conduct was likely to injure and discredit Mr. Vladimir Kramnik's reputation, thus Mr. Veselin Topalov violated art. 2.11 of FIDE Code of Ethics.

Sanction

Mr. Veselin Topalov was the FIDE World Champion and his reputation, as a person and as a player, was and is very high.

The most important point is to state clearly that nobody can violate the FIDE Code of Ethics with impunity. The World Champion has no special immunity. Indeed, the opposite is arguably true, that is, that World Champions have more responsibilities than anybody else, from an ethics point of view. Sportsmanship is very important, particularly in connection with the World Championships.

Mr. Veselin Topalov cooperated with the EC and was very sincere in his declarations during the hearing: this point have to be appreciated in his favour.

A severe reprimand is a sanction adequate and appropriate in the circumstances.

In the case of any serious similar breach against the FIDE Code of Ethics committed by Mr. Veselin Topalov within the next twelve months, this judgment will be considered by the EC as a precedent and Mr. Veselin Topalov could be imposed with a suitable fine and could be excluded from participation in all FIDE tournaments for at least a one-year period.

DANAILOV RESPONSIBILITY

Mr. Silvio Danailov is alleged to have made defamatory remarks concerning the actions of Mr Vladimir Kramnik during the World Championship match held in Elista from the 21st September 2006 to the 13th October 2006.

In Common Law there is a general right of opinion of an individual and his right to express it. However this needs to be balanced by the factual contents of the statement(s) made and to whether the statement(s) could be considered harmful or defamatory to a third person or persons. The law of defamation may vary in different orders but in the this case the interpretation would be universal. In this instance, it is not up to Mr. Vladimir Kramnik to prove

that he is innocent of any wrongdoing but rather it is Mr Silvio Danailov who has to prove that his statements are true.

During the public hearing Mr Silvio Danailov offered to meet the Chairman of the EC, Mr Roberto Rivello, later in the year and to provide evidence that Mr Vladimir Kramnik was guilty of the charge that he made. The EC were of the opinion that there had been ample opportunity to provide evidence to the World Championship organisers, FIDE and the EC and thus the case would proceed.

The press release, written by Mr Silvio Danailov, that appeared on the Chessbase website on 4/10/2007 was, by innuendo, considered to be defamatory.

In view of the above Mr. Silvio Danailov is reprimanded and warned as to his future conduct.

ON THESE GROUNDS

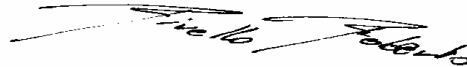
the EC rules that:

- in the part concerning an alleged damage to the reputation of FIDE, FIDE President and of the organisers of the World Championship in Elista, the complaints filed by Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, are not admissible nor receivable and the charges concerning the violation of art. 2.2.10 of the FIDE Code of Ethics have to be dismissed;
- in the parts concerning both the request to investigate on “all events from the WCC 2006 at Elista” and an accuse of the existence of a “strategy” by the “Team Topalov” to damage Mr. Vladimir Kramnik during the match, affecting Mr. Kramnik’s psychological state, in order to obtain an illegitimate advantage for Mr. Veselin Topalov, the complaint filed by Mr. Carsten Hensel, on behalf of Mr. Vladimir Kramnik, on 4th October 2006, is not admissible nor receivable and the charges concerning these facts and the violation of par. 2.2.5 of the FIDE Code of Ethics have to be dismissed;
- Mr. Veselin Topalov is coresponsible for the publication of a press release, on 4th October 2006, concerning “Coincidence Statistics of the moves of GM Kramnik with recommendations of the chess program Fritz 9”. Presenting these “Coincidence Statistics” in a press release was an indirect accusation of cheating not addressed to the competent organ, an unjustified accusation that damaged Mr. Vladimir Kramnik’s reputation. Therefore Mr. Veselin Topalov violated art. 2.2.9 and 2.2.11 of FIDE Code of Ethics.
- Giving an interview to the Spanish journalist Federico Marin Bellon, Mr. Veselin Topalov committed a conduct likely to injure or discredit the Mr. Vladimir Kramnik’s reputation, thus violating art. 2.2.11 of the FIDE Code of Ethics.

- Mr. Veselin Topalov is sanctioned with a severe reprimand.
- In the case of any serious similar breach against the FIDE Code of Ethics within the next 12 months, this judgment will be considered by the EC as a precedent and Mr. Veselin Topalov could be imposed with a suitable fine and could be excluded from participation in all FIDE tournaments for at least a one-year period.
- Mr. Silvio Danailov's conduct violated art. 2.2.9 and 2.2.11 of FIDE Code of Ethics.
- Mr. Silvio Danailov is sanctioned with a reprimand.

Done in Athens, 29 July 2007.

The Chairman of the FIDE Ethics Commission
Roberto Rivello

A handwritten signature in black ink, appearing to read "Rivello", written over a horizontal line.