



FIDE ETHICS COMMISSION

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

Chairman: Mr. Francois Strydom
Members: Mr. Ion Serban Dobronauteanu
Mr. Rajesh Hari Joshi
Mr. Pedro Dominguez
Mr. Willy Iclicki

By an exchange of e-mails on 23 September 2018, made the following -

DECISION

Case no. 7/2018: Complaint against Mr Makropoulos – Alleged misuse of FIDE funds and resources and other matters related to the 2018 FIDE Elections (Application for Provisional Measures).

1. The ETH **confirms** that a quorum is established by the participation of all five (5) its voting members.
2. The ETH **notes** the complaint of Messrs Dvorkovich, Kouatly, Granda Zuniga, Furney and Mammedov, as well as Ms Chen (“the Complainants”), received on 16 and 17 September 2018 and registered by the ETH under the above case number and subject title (“the Complaint”).
3. The ETH **notes** the application for urgent provisional measures incorporated in the Complaint, namely for the immediate provisional suspension of Mr Makropoulos (“the Respondent”) as FIDE Deputy-

President, for the purposes of avoiding any interference with the proposed investigation into an alleged misuse of FIDE resources and funds for Mr Makropoulos' election campaign and to protect FIDE against any undue spending of money ("the Application").

4. The ETH **notes** the Answer filed by Mr Makropoulos in relation to the Application on 20 September 2018, including the witness statements of Mr Siegel, Mr Katis, Ms Ikonomopoulou and Ms Vizantiadis ("the Answer").
5. The ETH **notes** that the Application is brought in terms of art. 3.9 of the FIDE Code of Ethics which provides: "*At the request of the Investigatory chamber -when nominated-, the Ethics Commission may (immediately) take provisional measures (e.g. provisional sanctions) if a breach of the Code of Ethics appears to have been committed and a decision on the main issue may not be taken early enough. The Ethics Commission may also issue provisional measures for preventing interference with the establishment of the truth.*" (ETH's emphasis).
6. Upon due consideration of the matter, the ETH **finds** that:
 - 6.1 At best for the Complainants the evidence in the Complaint, viewed on its own, disclose a "weak" *prima facie* case (the admissibility of the Complaint and the arguments themselves will be examined by the ETH within the frame-work of hearing the case on its merits) and relies on "possible breaches" of the Code of Ethics in respect of which further investigation is sought.
 - 6.2 When the evidence provided by the Respondent in the Answer is brought into consideration, or "put onto the scale", the ETH is not satisfied that "*a breach of the Code of Ethics appears to have been committed*", mindful of applying a standard of proof lower than the "comfortable satisfaction" standard to be applied at the final adjudication stage of the Complaint. In order for the Application to succeed, a level of conviction is required at least on a "strong" *prima facie* basis (the standard applied for present purposes), or possibly even on a balance of probabilities, having regard to all of the evidence available at this provisional stage.

- 6.3 In the above circumstances, it is unnecessary for the ETH to decide whether or not the Complainants have the necessary legal standing in the Application (having specifically regard to the requirement of a request by an Investigatory Chamber in art. 3.9 of the Code of Ethics). The ETH notes that the Complainants did not have an opportunity to deal with this point raised by the Respondent which point was not addressed in the Complaint.
- 6.4 However, as further grounds for finding no justification for the relief sought in the Application, the ETH takes into account the absence of a real and imminent risk of any abuse of FIDE funds and resources and/or the destruction of evidence and/or interference in an investigation on account of *inter alia* the FIDE Treasurer's control of FIDE's bank accounts and credit card, the Respondent's presence already in Batumi for the upcoming Congress (i.e. his absence from the FIDE office in Athens) and the short period of time remaining until the Elections on 3 October 2018 (a period of one and a half weeks) which would have been the duration of the requested suspension.
- 6.5 The ETH also takes into account the general interests of FIDE and the functional and reputational harm that the organisation will undoubtedly suffer if its Deputy-President were to be suspended at this time.
7. In the result, the ETH unanimously **decides** that **the Application for Provisional measures** falls to be dismissed.
8. The ETH **requests** the FIDE Secretariat to communicate this decision to the Complainants and the Respondent, and to cause the publication hereof on the FIDE website.

DATED ON THIS THE 23th DAY OF SEPTEMBER 2018

F P Strydom

CHAIRMAN

FIDE ETHICS COMMISSION