



GENS UNA SUMUS

FÉDÉRATION INTERNATIONALE DES ÉCHECS

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FIDE ETHICS & DISCIPLINARY COMMISSION

The First Instance Chamber of the Ethics & Disciplinary Commission (hereafter called “the EDC Chamber”), sitting in the following composition -

Chairperson: Mr Johan Sigeman

Members: Ms Yolander Persaud
Mr Ravindra Dongre

during an exchange of correspondence and online meetings during the period 28 February – 21 March 2022, made the following -

DECISION

Case no. 2/2022: “Public statements causing alleged harm to FIDE, its federations and the game of chess”

1. The EDC Chamber **notes** its establishment by the EDC Chairman on 28 February 2022.
2. The EDC Chamber **notes** that on 27 February, 2022 the FIDE Ethics and Disciplinary Commission (EDC) received from the FIDE Council a referral of a matter concerning alleged violation of the FIDE Code of Ethics (“the Code of Ethics”) relating to public statements by grandmasters Sergey Karjakin (FIDE ID 14109603) and Sergei Shipov (FIDE ID 4113624), (“the Respondents”) having the potential of bringing chess and FIDE in disrepute, particularly any statement supporting unjustified military action by any state against another, see FIDE Code of Ethics art. 2.2.10.
3. The EDC Chamber **notes** that the Respondents have been given the opportunity to respond to the complaint and the EDC Chamber’s inquiries and Sergey Karjakin has submitted a brief defensive statement.
4. The EDC Chamber **notes** the contents of the following documents and e-mails received as part of the case file: the original referral mentioned above, two additional submissions of additional evidence forwarded to the EDC Chamber by the FIDE

Council through Mr Martynov and a defensive statement by the Respondent Karjakin, dated 8 March 2022.

5. The EDC Chamber **notes** the subject-matter of the complaint and defence:

5.1 In the referral from FIDE Council to the EDC, the following relates to Sergey Karjakin: On his Twitter-account, Mr Karjakin has published a letter of support for Russia's President Putin and the "special operation". The letter contains among other things allegations against the Ukrainian government for genocide and for putting the security of all of Europe at risk. Karjakin encourages the operation against Ukraine in hope that this will lead to "demilitarization and denazification of Ukraine". The referral also includes examples of other tweets by Karjakin, containing pictures of what is said to be Ukrainian soldiers holding a photo of Adolf Hitler and symbols of Nazism along with the statement from Karjakin: "This is Ukraine". In additional tweets, Karjakin has referred to "the tragedy in Odessa" and claims that the Ukrainian authorities has protected the persons being responsible for the tragedy. Sergey Karjakin also published a picture of himself wearing boxing gloves with a reference to "Russian Spring".

5.2 In the referral from FIDE Council to the EDC, the following relates to Sergei Shipov (Russian text translated by Mr Martynov): On his Facebook-account, Mr Shipov has published posts containing among other things criticism against FIDE becoming a political organization, the unfairness of allowing Ian Nepomniachtchi but not Sergey Karjakin to participate in the Candidates, comments on the reasons behind the Russian "special operation" (stopping the expansion of NATO, protection of the peace in the republics of Donetsk and Luhansk). Shipov also describes the role of the Ukrainian army ("...shelling and terrorist attacks by the Ukrainian Armed Forces"). Shipov has expressed hope that "everything will be completed quickly now. With minimal losses". He also wrote: "If the shelling and terrorist attacks by the Ukrainian Armed Forces continue, then "all responsibility for the consequences will fall on Ukraine" as Putin warned in his speech".

5.3 Both Respondents have continued to post statements of similar kind and scope on the situation in Ukraine after having received a notification on this case from the EDC Chamber.

5.4 Sergey Karjakin has forwarded a brief submission on 8 March 2022, with the following content: "I can only say that I support my country and my President".

5.5 Sergei Shipov has not submitted a reply to the EDC Chamber, despite a reminder.

6. Upon due consideration, the EDC Chamber, by unanimity of its members, **finds** regarding the admissibility of the complaint that:

6.1 The alleged breach of the FIDE Code of Ethics is a referral by a FIDE organ regarding a matter concerning FIDE's interests in general;

- 6.2 The Respondents are international grandmasters, i.e. FIDE titled players registered in the FIDE database and as such part of the FIDE Family, over which the EDC exercises jurisdiction;
 - 6.3 The statements *prima facie* has the potential to constitute a violation of conduct prohibited in article 2.2.10 of the FIDE Ethics Code and:
 - 6.4 The potential transgression took place in the international sphere having regard to its publication via Twitter or Facebook;
 - 6.5 The EDC Chamber finds therefore that it has jurisdiction to investigate a violation of the Code of Ethics.
7. Upon due consideration, the EDC Chamber, by unanimity of its members, **observes and finds** regarding the issue of the Respondents' guilt as follows:

FIDE Principles and the power to sanction non-compliance

- 7.1 In the FIDE Charter, it is established that FIDE supports close international cooperation of chess devotees in all fields of chess activities, thereby also aiming to improve harmony and promote peace among all peoples of the world (Art 2.6), that FIDE is committed to respecting all internationally recognised human rights and shall strive to promote the protection of these rights (Art. 4.3), that FIDE rejects any kind of discrimination (Art. 4.4) and that FIDE shall promote friendly relations between and among member associations, clubs, officials and players (Art. 4.8). In Art. 5.1 in the FIDE Charter, the FIDE motto *Gens Una Sumus* (We are one family) is established.
- 7.2 In the FIDE Charter, Art 4.1 it is stated that “FIDE is a democratically established and fully independent organisation, based on the principle of equal rights of its members”.
- 7.3 In the EDC Case No 9/2019 (Eroglu), the EDC Chamber stated the following: “The purpose and aim of FIDE are the diffusion and development of chess among all nations of the world, as well as the raising of the level of chess culture and knowledge on a sporting, scientific, creative, educational and cultural basis. FIDE supports a close international cooperation of the chess devotees in all fields of chess activity, thereby also aiming to improve friendly harmony among all peoples of the world (FIDE Statutes, Chapter 1, art. 1.3)”.
- 7.4 Article 2.2.10 of the FIDE Code of Ethics reads “In addition, disciplinary action in accordance with this Code of Ethics will be taken in cases of occurrences which cause the game of chess, FIDE or its federations to appear in an unjustifiable unfavourable light and in this way damage its reputation”.
- 7.5 The making of a public statement in social media qualifies as an “occurrence”.
- 7.6 Article 2.2.10 is of a general nature and has a wide scope. It is designed to protect the reputation of the game of chess, FIDE and its federations. There are no relevant precedent cases decided by the EDC where this article has been subject to interpretation.
- 7.7 When applying article 2.2.10, it is important to take into consideration various aspects, such as the following: Has the Respondent acted in an official role on

- behalf of FIDE or a federation? Has a reference to the game of chess or FIDE been made? Does the occurrence have a direct or indirect connection to the game of chess or FIDE? Are there any other factors in the specific case that may increase the risk of negative impact on the game of chess or FIDE? Is it likely that the readers of the statements connect them with the game of chess and/or FIDE and would this have a negative impact on the image of FIDE or chess as a sport?
- 7.8 The military conflict in Ukraine, initiated by Russia, has rapidly led to a number of decisions and statements of various international democratic organizations and parties, aiming to condemn and sanction the aggression. Among these are the UN, the European Union, the International Olympic Committee (IOC) and FIFA.
- 7.9 The FIDE Council convened on 27 February 2022 and took the following decision: *“FIDE expresses its grave concern about the military action started by Russia in Ukraine. FIDE stands united against wars as well as any use of military means to resolve political conflicts. FIDE will take any necessary action to ensure the security of chess players and other members of the chess community. No official FIDE chess competitions and events will be held in Russia and Belarus”*.
- 7.10 During the same meeting in the FIDE Council, among other things, took the following decision: *“The FIDE Council states categorically that it condemns any public statement from any member of the chess community which has the potential of bringing chess and FIDE in disrepute, particularly any statement supporting unjustified military action by any state against another”*.
- 7.11 In this case, no criminal law interests are at stake. Rather, the private interests of FIDE, as the international governing body of chess, are at stake. An association, as FIDE, may impose stricter duties on its members than the duties imposed on citizens by criminal law. Associations in general have a large freedom to manage their own affairs.
- 7.12 With reference to 7.10, there are important legal principles that must be considered. The EDC Chamber refers here to the ruling by the Court of Arbitration for Sport in CAS 2017/A/5086:

“For a sanction to be imposed, sports regulations must proscribe the misconduct with which the subject is charged, i.e. *nulla poena sine lege* (principle of legality), and the rule must be clear and precise, i.e. *nulla poena sine lege clara* (principle of predictability). A provision prescribing that all officials show commitment to an ethical attitude and behave and act with complete credibility and integrity, is sufficiently clear and precise and unambiguous, and provides a sufficient legal basis for sanction. The fact that it is broadly drawn does not necessarily lack sufficient legal basis because of that characteristic, as generality and ambiguity are different concepts. According to the principle of predictability, the offenses and sanctions of a sports organizations must be predictable, to the extent that those subject to them must be able to understand their meaning and the circumstances in which they apply. The inherent vagueness of concepts such as ethics and integrity does not preclude them to be used by sports legislators as a basis to impose disciplinary sanctions on officials that do not conform their behaviour to those standards. Disciplinary sanctions imposed by sport associations must conform to civil law standards and not to criminal law ones, and civil law standards are often inherently vague and reveal their full meaning on the basis of judicial application”.

Freedom of speech

- 7.13 The allegations against the Respondents in this case highlights among other things the limits of the fundamental right of opinion and expression.
- 7.14 The concepts of freedom of opinion and freedom of expression are generally acknowledged to constitute important parts of the foundation for a democratic society.
- 7.15 Article 19 in the Universal Declaration of Human Rights says: *“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”*.
- 7.16 Article 10 in the European Convention on Human Rights says: *“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. [.....] 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary”*.
- 7.17 Far-reaching restrictions imposed on individuals with respect to freedom of speech and freedom of opinion are generally seen as signs of anti-democratic tendencies within a country or an organisation. Such restrictions, laid down in legislation and/or being imposed by physical force and oppression are contrary to the very essence of democracy and therefore also against the core values of FIDE.
- 7.18 Freedom of expression and freedom of opinion has however certain limits (see 7.16 above). In most democratic societies, such limits are accepted in order to safeguard other fundamental principles. The Harm Principle, originally devised by John Stuart Mill in 1859, indicates that a society may (only) rightfully exercise power over individuals in order to prevent unjustified harm to others.
- 7.19 The exercise of freedom of opinion and expression, whereby other individuals or groups of individuals are subject to hate speech, or encouragement of violence in any form, are in principle not acceptable. The same is valid for statements that are defamatory or constitute discriminatory harassment. Statements constituting libel, slander and exaggerated use of fighting words are generally not permissible. As mentioned in 7.11 above, a sports association may, as in the case of FIDE, impose stricter duties on its members than the duties imposed on citizens by criminal law.
- 7.20 In CAS 2018/A/6007 Jibril Rajoub v. Fédération Internationale de Football Association (FIFA), award of 18 July 2019, it was found that a publicly made statement directed against one specific individual, Lionel Messi, qualified as incitement to hatred.

- 7.21 In situations where there is a contractual relationship between the sports association and the individual, the responsibility for the individual athlete or official is more far-reaching than otherwise, see for example CAS 2008/A/1605 where an athlete had signed a Team Membership Agreement with the Australian Olympic Committee wherein the athlete agreed to follow certain ethical standards.
- 7.22 International grandmasters and other title holders may be seen as informal ambassadors of the game of chess. This is especially valid for grandmasters, belonging to the world elite and competing for the world championship title, such as Sergey Karjakin. In other words, such members of the FIDE Family can be seen as role models in the game of chess. A high level of conduct may be expected from such prominent members of the FIDE Family. It must be noted, however, that the Respondents have not formally accepted such a role.
- 7.23 Statements made by members of the FIDE Family, related to matters outside of chess, such as religion, politics and other similar issues should in general fall outside of the jurisdiction of FIDE and the EDC. There must on the other hand be exceptions to this rule, for example where members of the FIDE Family use their position and fame to actively pursue and support such purposes that are in contradiction to important articles of the FIDE Charter and universally accepted principles of human rights and such action negatively affects the game of chess and/or FIDE.
- 7.24 The ongoing Russian military aggression in Ukraine is one of the most dramatic and potentially dangerous geopolitical conflicts in decades and it has in various ways affected not only Ukraine but also, directly and indirectly, large parts of the world, including the FIDE Family. Public statements by well-known members of the FIDE Family, relating to the conflict, should therefore be made with care and responsibility, see 7.9 and 7.10 above.

The Respondent Sergey Karjakin

- 7.25 Everyone has the right of opinion and expression on any subject within boundaries, both connected to chess and otherwise and may also express patriotism for his own country.
- 7.26 The statements by Sergey Karjakin and the opinions expressed by him, as described above (see 5.1) were aimed at supporting the Russian aggression in Ukraine, which infringes on national security of another state and offends territorial integrity and goes thereby against the core values expressed in the FIDE Charter. Twelve days after the start of the conflict, which since then had escalated considerably, Sergey Karjakin has confirmed his standpoint to the EDC Chamber, i.e. supporting Russia and its president.
- 7.27 Sergey Karjakin has continued to publish posts of similar nature and scope on Twitter after having received notification of this case.
- 7.28 Sergey Karjakin has used his fame and large following as a prominent chess player to support the aggression and in disregard for the FIDE values to improve harmony and promote peace among all peoples of the world, a position that he

has reconfirmed in his reply to the EDC Chamber and which goes against the statement made by the FIDE Council, see 7.10 above. It seems as if Sergey Karjakin holds the aforementioned statement in contempt, or acts at least with conscious indifference to the principles as set out in the FIDE Charter and reaffirmed by the FIDE Council statement.

- 7.29 The above is however in itself not sufficient to conclude that Sergey Karjakin has breached article 2.2.10 of the FIDE Code of Ethics. The statements must also bring chess and/or FIDE in disrepute, see 7.4 above.
- 7.30 One important question, when interpreting article 2.2.10 in the FIDE Code of Ethics, is if it is sufficient that the statements made by Sergey Karjakin has the potential of bringing chess and/or FIDE in disrepute, or if the damage must be established or being a more or less obvious consequence.
- 7.31 In CAS 2007/A/1291 the following interpretation of the concept “bringing the sport into disrepute” was made (Section 12.1.3 in the text below refers to the FINA ethics code):

The language of the relevant provision does not refer to “potential” disrepute, nor to conduct “having the potential” of bringing the sport into disrepute. When determining the proper meaning of Section 12.1.3 the starting point must be the ordinary meaning of the words used. If the meaning of the words used is clear, it is not permissible, in our view, to read other meanings, or qualified meanings, into such words. This is particularly so in our view when one has regard to the possible sanctions and to the actual sanction imposed by the Disciplinary Committee here. Therefore, when Section 12.1.3 speaks of “disrepute”, it does not cover potential disrepute.

Section 12.1.3 speaks about “bringing the sport into disrepute”. The conduct in question must thus result in the sport of swimming – as opposed to, for example, individuals involved in the sport of swimming – being brought into disrepute. In other words: public opinion of the sport of swimming must be diminished as a result of the conduct in question. Proceeding on the basis of the foregoing analysis, we have concluded that there is no evidence to establish actual disrepute of the sport of swimming.

- 7.32 There are situations where an occurrence is of a nature that is more or less certain to cause damage to the reputation of the sport or its association. As an example, cases of match-fixing, i.e. occurrences with a direct connection to the sport, will in all probability lead to badwill for the sport in itself and a diminished interest from the general public. See for example CAS 2018/A/6075.
- 7.33 As stated in 7.23, FIDE and the EDC should not, as a general rule, exercise jurisdiction over occurrences outside of chess. The mere fact that an individual belongs to the FIDE Family is not sufficient reason for intervention and sanction in cases of bad judgement unless it is most likely that the actions will lead to a damage to the reputation of the game of chess or FIDE.
- 7.34 A critical question in this case is if public statements by a member of the FIDE Family, in this case a well-known grandmaster like Sergey Karjakin, in the eyes of the receivers of the tweets, are seen as representative of parts of the chess world at large or if they are regarded as result of the thoughts and values of the individual who posted them. Only if the statements with some certainty lead to a diminishing

- respect for the game of chess or FIDE, can it be concluded that a breach of article 2.2.10 has been committed.
- 7.35 The ongoing military conflict in Ukraine is undoubtedly in the centre of global media and public interest. Sergey Karjakin has used his sporting career and standing in the chess community (on his Twitter account, Sergey Karjakin introduces himself as “International chess Grandmaster. World Cup winner - 2015. Vice Champion 2016. World Champion in Rapid 2012 and Blitz 2016”) for the purpose of supporting and encouraging the aggression and continues to do so despite having been notified of the disciplinary case against him and in defiance of the statement of the FIDE Council as mentioned in 7.10 above.
- 7.36 In a tweet dated 10 March 2022, Sergey Karjakin stated: “*Many people ask if I regret my public support of the special operation? After all, I have already lost invitations to Western tournaments and may lose an invitation to the candidates tournament. My answer is simple. I am on the side of Russia and my President. No matter what happens, I will support my country in any situation without thinking for a second!*”
- 7.37 The statements by Sergey Karjakin on the ongoing military conflict in Ukraine has led to a considerable number of reactions on social media and elsewhere, to a large extent negative towards the opinions expressed by Sergey Karjakin.
- 7.38 A necessary condition for the establishment of guilt is that the statements have reached the public domain. This concept, with respect to disrepute clauses in sport, is not the world at large but the sport in which the accused engages, such as chess. Information concerning the accused's conduct which is not published in the media, but which can be learnt without a great deal of labour by persons engaged in the chess world or a relevant part of it, will be in the public domain and satisfy the public exposure element. The EDC Chamber is comfortably satisfied that this condition is fulfilled in this case.
- 7.39 The EDC Chamber finds, against the background given above, on the standard of comfortable satisfaction that the statements of Sergey Karjakin, which, by his own choice and presentation, can be connected to the game of chess, damage the reputation of the game of chess and/or FIDE. The likelihood that these statements will damage the reputation of Sergey Karjakin personally is also considerable.
- 7.40 Against the background described above and after an overall evaluation of the facts in this case, the EDC Chamber finds that Sergey Karjakin is found guilty of breach of article 2.2.10 of the FIDE Ethics Code.

The Respondent Sergei Shipov

- 7.41 As for Sergei Shipov, the EDC Chamber refers to what is stated above in 7.1-7.23. The findings in 7.24-7.34 are also to a large extent applicable to the actions of Sergei Shipov.
- 7.42 In comparison with Sergey Karjakin, Sergei Shipov is considerably less known and has therefore a less powerful platform. The statements made by Sergei Shipov are also of a slightly different and less provocative character than the ones made by Karjakin. In an overall evaluation of the potential negative impact on the game

of chess and/or FIDE, the EDC Chamber is not sufficiently convinced that Sergei Shipov's statements qualify as breach of article 2.2.10.

- 7.43 The EDC Chamber finds that Sergei Shipov may be criticized for his statements as described above in 5.2 and 5.3 but that he is not guilty of breach of article 2.2.10 of the FIDE Ethics Code.

Appropriate sanction

8. Upon due consideration, the EDC Chamber, by unanimity of its members, **finds** regarding the matter of an appropriate sanction that:

- 8.1 In determining the sanction, the EDC Chamber must take into consideration all relevant aspects of the case.
- 8.2 The core issue in this case deals with the limits of freedom of opinion and expression and how these concepts interact with the FIDE Charter and the FIDE Code of Ethics. To the knowledge of the members of the EDC Chamber, there are no previous cases in the EDC similar to this case.
- 8.3 In the present case, Sergey Karjakin has been found guilty of breach of an article in the FIDE Code of Ethics that is designed to protect the reputation of FIDE and the game of chess. This is a serious offence and should be sanctioned accordingly.
- 8.4 The EDC Chamber notes that an admission of guilt is usually a mitigating factor in the determination of an appropriate sanction, but in the present case there seems to be an absence of remorse on the part of the Respondent.
- 8.5 The Respondent is taken as first offender.
- 8.6 The Respondent will most likely be subject to social and sporting disapprobation in various forms, such as public dislike and decrease in international invitations.
- 8.7 The Respondent is a professional chess player. A sanction that prevents him from playing in FIDE rated chess competitions would therefore be a severe punishment. This is especially so in this case as the Respondent has qualified for participation in the upcoming Candidates Tournament, scheduled to begin in June 2022.
- 8.8 Considering the nature of the breach of the FIDE Ethics Code and its severity and the absence of remorse on the part of the Respondent, the EDC Chamber finds however that a ban is the appropriate sanction in this case. A warning or suspended sanction would, in the light of the statement of the Respondent on 10 March 2022 (see 7.36) not be meaningful.
- 8.9 Taken together with all aspects of the case motivates a ban on taking part in chess competitions, or in any chess-related activity as a player. In determining the appropriate length of the ban, the EDC Chamber takes into consideration what is mentioned in 8.6.

9. Accordingly, and taking into account all of the above, the EDC Chamber **unanimously decides** as follows:
- 9.1 The Respondent Sergey Karjakin is found **guilty** of breach of article 2.2.10 of the FIDE Code of Ethics.
 - 9.2 Sergey Karjakin is **sanctioned** to a worldwide ban of six months from participating as a player in any FIDE rated chess competition, taking effect from the date of this decision, 21 March 2022.
 - 9.3 The Respondent Sergei Shipov is found **not guilty** of breach of article 2.2.10 of the FIDE Code of Ethics.
10. The Respondent Sergey Karjakin is **advised** that this decision may be appealed to the Appeal Chamber of the EDC by giving written notice of such appeal to the FIDE Secretariat within 21 days from the date upon which this decision is received. The notice of appeal must clearly state all the grounds for the appeal. Failing the due exercise of this right of appeal, the EDC Chamber's decision will become final.
11. The EDC Chamber **requests** the FIDE Secretariat to communicate forthwith the decision to the Respondents, the FIDE Council and the Russian Chess Federation and to publish in due course the decision on the FIDE website.

DATED ON THIS 21th of March 2022

Johan Sigeman

CHAMBER CHAIRMAN
FIDE ETHICS & DISCIPLINARY COMMISSION