



FIDE ARBITERS DISCIPLINARY SUB- COMMITTEE

No. Case DSC-003-2023-002

The Arbiters Disciplinary Sub-Committee (hereafter called “the DSC”), sitting in the following composition -

Chairperson: Mrs. Carolina Munoz.

Members: Mr. Pablyto Robert Baioco Ribeiro

and Mrs. Genden Oyunchimeg.

during an exchange of correspondence and online meetings during the period 13 November – 8 December 2023, made the following

DECISION

Case No 3/2023 “Allow smartwatch in the __ Tournament 2023”

1. The DSC **notes** its establishment by the DSC Chairman on 13 November 2023.
2. The DSC **notes** that on November, 2023 the Arbiter Commission (ARB) received from the Fair Play Commission (FPL) an alleged violation of the FIDE Regulations by IA __ (FIDE ID __) (“the Respondent”), relating to actions during the “__ 2023” tournament from __ 2023, held in __, Germany.
3. The DSC **notes** that the Respondent has been given the opportunity to respond to the allegations in the report and has submitted an explanation about the case.
4. The DSC **notes** the contents of the following documents and e-mails received as part of the

case file: Tournament Complaint Form sent by Mr. __ (FIDE ID __), Tournament regulations, Emails answer and explanation of the Respondent dated November 27th 2023; and email between the complainer and the respondent of August 12nd 2023, provided by the Respondent.

5. The DSC **notes** the subject-matter of the complaint and defense:

5.1 The Respondent is an IA and was chief arbiter in the “__ 2023” tournament, being responsible for “ensure fair play” and “follow the Fair-Play Rules or Guidelines” (art. 12.2.1, 12.2.7 Laws of Chess).

5.2 The allegations towards the Respondent in the present case are related to the CA allow a player to have a smartwatch in the playing area even if it is turned off. According to Mr __ (complainer): “...In the course of the first round of the tournament, I was paired with the player __, who was assigned the white pieces. However, within minutes of commencing the game and after a few moves had already been made on the chessboard, I noticed that my opponent was wearing a smartwatch on their wrist... According to both the FIDE Anti-Cheating Rules and the specific regulations of the tournament, the possession of a smartwatch on one's wrist during a tournament game is strictly prohibited, and any player found to be in breach of this rule should be subject to an automatic forfeit. I initially reported this matter to the round officials and subsequently escalated it to the Chief Arbiter of the tournament, Mr. __. However, despite the unequivocal language of the tournament regulations and FIDE's Anti- Cheating guidelines, I was informed that the described situation was deemed permissible...”

5.3 The Respondent in his reply explained the reason behind the decision: “The “__” tournament is an amateur tournament... The participants include all age groups and playing strengths. No FIDE norms can be achieved. The games are not broadcast on the internet. There is no discount for participation and the prize fund

is small. It requires the standard protection level (level 3) according to the FIDE specifications in Anti Cheating Protection Measures. The majority of participants attend the tournament after their working hours. Cell phones, smartphones and wristwatches are part of their daily equipment and their everyday use is a matter of course. For this reason, the organizer's tournament rules do not prohibit the carrying of these devices into the tournament area. However, they must be switched off and not be accessible during the game. By participating, each player accepts the binding nature of the tournament rules. In the first round of the tournament, Mr. ___ informed me that his opponent, Mr. ___, was wearing a smartwatch. He demanded that he win the game and that Mr. ___ be excluded from the tournament. Mr. ___ was clearly wearing a digital wristwatch. It was switched off and its display was monochrome black. I told Mr. ___ that carrying the digital watch into the tournament hall in inactive status is allowed by the tournament rules and asked him to continue the game. The game ended without incident. Mr. ___ did not lodge a protest with the tournament court... The watch was obviously switched off, its display showed a continuous black surface. There was no smartphone switched on near the body as a prerequisite for extended functionality of the digital watch. It was not possible to obtain chess-specific information and thus an unjustified advantage. ...The participants were informed by the tournament rules that they may only bring cell phones and communication devices into the tournament area when they are switched off. The tournament rules were published on the organizer's website. They were also included in a bulletin that each participant received when registering before the start of the tournament... During the verbal briefing immediately before the start of the first round, reference was made to the inadmissible means of communication: cell

phones and smartphones. Watches were not explicitly mentioned. Before the start of the second round, the participants were informed that digital watches, like other means of communication, must not be worn but must be kept in a bag...Watches were not explicitly mentioned in the tournament rules, so no specific penalties were specified. For the use of cell phones and other means of communication, loss of game and exclusion from the tournament were specified for attempts to gain an illegal advantage. Minor violations without a recognizable intention to cheat, e.g. ringing, not deactivating a cell phone or similar, should be punished less severely in accordance with Art. 12.9 of the Laws of the Game...Mr. ___ declined to participate in the registration and the oral briefing at the beginning of the tournament (see attachment).”

6. Upon due consideration, the DSC, by unanimity of its members, **finds** regarding the admissibility of the complaint that:
 - 6.1 The alleged breach of the FIDE Handbook- E.01. Laws of Chess, article 12.2.1 and 12.2.7, Anti cheating guidelines for Arbiters (Annex 19B) and Anti-Cheating Protection Measures; is a referral by a FIDE organ regarding a matter concerning FIDE’s interests specifically related to disciplinary arbiters matters. See articles 1 and 2 in the **FIDE Arbiter Disciplinary Regulations (B.06.5)**;
 - 6.2 The Respondent is registered in the FIDE database as an IA and as such part of the FIDE Family, over which the DSC exercises jurisdiction;
 - 6.3 The statements *prima facie* has the potential to constitute a violation of conduct prohibited in article 3.6.e of the FIDE Arbiter Disciplinary Regulations.
 - 6.4 The potential transgression took place in the international sphere as there were multi-national participation in the event. See article 2.7.a of B.06.5;
 - 6.5 The DSC finds therefore that it has jurisdiction to investigate a violation of the Laws

7. Upon due consideration, the DSC, by unanimity of its members, **observes** and **finds** regarding the issue of the Respondents' guilt as follows:

7.1. Article E01.11.3.2 of the Laws of Chess reads: "11.3.2 During a game, a player is forbidden to have any electronic device not specifically approved by the arbiter in the playing venue.

11.3.2.1. However, the regulations of an event may allow such devices to be stored in a player's bag, provided the device is completely switched off. This bag must be placed as agreed with the arbiter. Both players are forbidden to use this bag without permission of the arbiter. 11.3.2.2. If it is evident that a player has such a device on their person in the playing venue, the player shall lose the game. The opponent shall win. The regulations of an event may specify a different, less severe, penalty."

7.2. The regulations of the event reads: "Mobile phones or other means of communication may only be brought into the tournament area when they are switched off. They must be place in a bag that cannot be used without the permission of the arbiter."

7.3. According to Respondent's answer, he admits that the player Mr. ___ had a smartwatch on his wrist, while playing against Mr. ___ in the round one of the tournament. Although, according to the CA, the watch was turned off and there wasn't any cellphone connect to it, tournament regulations and the Laws of Chess only allowed communication devices in the playing area if they were turned off and inside a designated storage bag. Upon Mr. ___'s complaint, the arbiter only verified that the watch was off and allowed the game to continue; when the Laws of Chess specify that the player shall lose the game and the opponent shall win. So, the action committed by the arbiter was negligent, by not applying the Laws of Chess and the Fair Play regulations.

7.4. Article 3.6 of the FIDE Arbiters Disciplinary Regulations reads: "Article 3: Offences....3.6. Technical Breaches... e. A significant failure to comply with the provisions

of the tournament regulations and with the Laws of Chess, instructions, circulars and decisions of the FIDE organs.”

Appropriate sanction

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

- 8.1 In determining the sanction, the DSC must take into consideration all relevant aspects of the case.
- 8.2 The Respondent is taken as first offender and collaborated in the investigation.
- 8.3 The Respondent has committed the offence in his capacity as an International Arbiter.
- 8.4 The Respondent as an International Arbiter should know the regulations mentioned about, and in the first round of the tournament, he should forfeit Mr. ___ and give the win to Mr. ___ because of Mr. ___ wore a smartwatch in the playing area; and didn't storage it in the bag allowed by the organization and the arbiter.
- 8.5 Taking the above into consideration, the DSC finds that a written warning is an appropriate sanction in this case, according to article 4.1.a. of the FIDE Arbiters Disciplinary Regulations.
- 8.6 The sanction will apply immediately, once the notification is made.
- 8.7 The claimant requests in his Tournament Complaint Form “...rectify the game's result to a victory in my favor in accordance with the ACC rules.” However, DSC does not have jurisdiction to change the result, only to establish a disciplinary sanction against the arbiter, so the result remains as published.

9. Accordingly, and taking into account all of the above, the DSC **unanimously decides** as follows:
- 9.1 The Respondent is found guilty of breach of Articles 3.6.e of the FIDE Arbiters Disciplinary Regulations.
- 9.2 This resolution is a written warning from DSC to the Respondent. According to article 4.1.a, "A written warning remains valid for 12 months. Failure to apply the expected corrective measures may lead to a more severe penalty."
10. The Respondent is referred to Article 6 of the new B.06.5 FIDE ARBITER DISCIPLINARY REGULATIONS and **advised** that this decision may be appealed to the FIDE Council by giving written notice of such appeal to the DSC Chairman (wimcmunoz@gmail.com) within 15 calendar days from the date upon which this decision is received. The notice of appeal must clearly state all the grounds for the appeal. An appeal lodgement fee of 300 EUROS must at the same time be paid to the FIDE Financial Department. Failing the due exercise of this right of appeal, the DSC's decision will become final.
11. The DSC will communicate the decision to the Respondent, Mr. ___ and the FIDE Arbiters Commission.

DATED ON THIS 17th December 2023



IA. Carolina Munoz Solis

CHAIRWOMAN

DISCIPLINARY ARBITERS SUB COMMITTEE