



DECISION of the FEI TRIBUNAL

on alleged infringements of the FEI Endurance Rules by an FEI Official

dated 10 March 2016

In the matter of

FÉDÉRATION EQUESTRE INTERNATIONALE ("FEI" or "the Claimant")

vs.

Dr. Hallvard Sommerseth ("Dr. Sommerseth" or "the Respondent")

I. COMPOSITION OF PANEL

Mr. Henrik Arle, chair
Dr. Armand Leone, member
Mr. Laurent Niddam, member

II. SUMMARY OF THE FACTS

- 1. Memorandum of case:** By Legal Department.
- 2. Case File:** The FEI Tribunal duly took into consideration the Parties' written submissions and communications received to date, as also made available to Dr. Sommerseth.

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

- 1. Articles of the Statutes/Regulations which are applicable or have been infringed:**

Statutes 23rd edition, effective 29 April 2014 ("**Statutes**").

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2015 ("**GRs**").

Internal Regulations of the FEI Tribunal, 2nd edition, effective 1 January 2012 ("**IRs**").

FEI Endurance Rules 7th Edition, effective 1 January 2009, updates effective 1 January 2011; FEI Endurance Rules, 8th Edition, effective 1 January 2013; FEI Endurance Rules 9th Edition, effective 1 January 2014; and FEI Endurance Rules Updated 9th Edition, effective 1 August 2014 ("**ERs**").

FEI Code of Conduct for the Welfare of the Horse

2. The relevant Legal Provisions

Statutes Article 38.1: "Subject to Articles 38.2 and 38.4, the FEI Tribunal shall decide all cases submitted to it by or through the Secretary General, whether Appeals from or matters not otherwise under the jurisdiction of the Ground Jury or Appeal Committee. These cases may be:

- (i) Any infringement of the Statutes, General Regulations, Sport Rules, or Procedural Regulations of a General Assembly or of violation of the common principles of behavior, fairness, and accepted standards of sportsmanship, whether or not arising during an FEI meeting or Event;
- (ii) Any issues of interpretation of the Statutes, General Regulations, and Sport Rules;
- (iii) Notwithstanding anything to the contrary in this Article, the FEI Tribunal may review and decide upon any matter involving abuse of horses."

Statutes Article 38.1: "Evidence collected by the ECIU relating to the integrity of FEI Events shall be admissible in any proceeding before any FEI body, including the Ground Jury, the Appeal Committee, and the FEI Tribunal or Court of Arbitration for Sport."

GRs Article 156.1: "Any Official may be removed from a list or from an Event or demoted by the body that appointed him or by his NF. This paragraph confers no power of removal on the OC of an Event. In addition, the FEI Secretary General may provisionally suspend any Official and/or not accept the appointment of any Official in the event there is reasonable cause to believe that any Official has failed to observe the FEI Rules and Regulations."

ERs Article 824 (Updated 9th Edition): "DUTIES OF OFFICIALS

824.1 Ground Jury

824.1.1 The Ground Jury will supervise all arrangements made by the Organising Committee for the judging, veterinary control and timekeeping of the Endurance competition.

824.1.2 The Organising Committee shall enlist the assistance of other officials, stewards and veterinarians, according to the number of entries, but the Ground Jury will remain in overall control of the competition.

824.2 Technical Delegate/Course Designer

824.2.1. The Technical Delegate must, in coordination with the FEI approved Course designer (if appointed) check and approve, in advance, the layout of the course. For 1*, 2* and 3* events the Technical Delegate may also act as the Course Designer. For 4* and Championships the FEI will appoint an FEI approved Course Designer in association with the Organising Committee who must participate in the course design with the OC.

824.2.2. The Technical Delegate must approve the technical and administrative arrangements for the conduct of the event: for the correct entry procedures, examinations and inspections of horses; for the accommodation of horses and Athletes and for the stewarding of the event.

824.2.3. The Technical Delegate will supervise the briefing(s) and the conduct of all technical personnel.

824.2.4. The Technical Delegate will investigate all aspects and report to and advise the Ground Jury on any decisions they are required to make.

824.2.5. Until the Technical Delegate has reported to the Ground Jury that he is satisfied with all the arrangements, the authority of the Technical Delegate shall be absolute. Thereafter the Technical Delegate will continue to supervise the technical and administrative conduct of the event and will advise and assist the Ground Jury, the Veterinary Commission and the Organising Committee.

824.2.6. At 3 Star or lower star rated events, the Technical Delegate, if suitably qualified, may also serve on the Ground Jury.

824.2.7. At 4 Star events, the Technical Delegate must be foreign."

ERs Article 806: "TIME AND RECORD KEEPING

806.1 As timing plays such an important part in the competition, OCs must ensure that each Athlete's start and finish time for each timed phase is accurately noted and recorded by properly qualified persons using synchronised timekeeping methods. (See Endurance Notes for Guidance).

806.2 Each Athlete will be issued a time card or acceptable and reliable alternative for each phase. (See Endurance Notes for Guidance).

806.3 OCs must arrange for alternative power sources and back-up record-keeping for timing and all recorded information when electronic systems (recommended at 3* events or higher) are the primary methodologies. Time keeping systems with Stewards to monitor and/or timekeepers are required at the start and finish of each timed phase to record the times of each competitor.

806.4 Time is counted from the instant the signal is given to start until the instant when a combination crosses the finish line.

806.5 The veterinary gate system at compulsory halts must be used. (See Endurance Notes for Guidance).

806.6 At vet gates, the timing of the combination's presentation for inspection must be performed in such a manner to avoid any delay to a competitor's timing caused by the arrival of several horses simultaneously for inspection."

Codex for FEI Endurance Officials Article 8: "Conflict of Interest: Employees of Equestrian Federations, Sponsors and Organising Committees cannot act as an FEI Endurance Official at FEI events organised through that Federation or under that Sponsor or Organising Committee."

IV. DECISION

The below presents a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced. Additional facts and allegations found in the Parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. Although the Tribunal has considered all the facts, allegations, legal arguments and evidence in the present proceedings, in its decision it only refers to the submissions and evidence it considers necessary to explain its reasoning.

1. Factual Background

- 1.1 Following a March 2015 report in the British newspaper "The Telegraph" alleging that various Endurance competitions had taken place or have allegedly taken place in the United Arab Emirates (the "**UAE**") where false details of riders, times and result had officially been submitted to the FEI, the FEI had requested the Equine Community Integrity Unit ("**ECIU**") to conduct an investigation into the allegations. The ECIU had investigated certain FEI Endurance events (1* and 2* events), which had taken place between 4 November 2012 and 21 January 2015 in either Dubai or Abu Dhabi. In connection with and in addition to the ECIU investigation, the Emirates Equestrian Federation ("**UAE-NF**") had informed the FEI that it had also identified other international endurance events ("**CEIs**"), the results of which had been duplicated or copied from other events. The UAE-NF and the ECIU had confirmed to the FEI that, in

the Events they had identified and investigated, timing systems had not been used and accurate timings had not been taken of each competitor's phases. That instead, the times submitted in the official results submitted to the FEI had been duplicated/copied from previous FEI Endurance Events.

- 1.2 Following completion of its investigation through the ECIU and with the assistance of the UAE-NF into allegations that "fake" or "bogus" Endurance events took place in the UAE, the FEI informed its National Federations that it was removing a number of events from the FEI Calendar where results were duplicated from previous results, and disqualifying the results of these events.
- 1.3 Dr. Sommerseth was an FEI Official (FEI ID 10053654), has Norwegian nationality and his administering National Federation was the UAE-NF, where Dr. Sommerseth was employed as the Head of Veterinary Department. In the past, Dr. Sommerseth has performed several roles as an FEI Official, namely (i) Course Designer (4*) – Endurance, (ii) Endurance Veterinary Treatment Official (4*), (iii) Judge (4*) – Endurance; (iv) Official Veterinarian – Jumping, (v) Official Veterinarian – Dressage, (vi) Official Veterinarian (4*) – Endurance, (vii) Technical Delegate – Endurance, (viii) Course Director – Judge – Endurance, (ix) Course Director – Technical Delegate – Endurance, (x) Course Director – Veterinarian, and (xi) FEI Permitted Treating Veterinarian. In addition, Dr. Sommerseth was a member of the FEI Veterinary Committee for over four years (from April 2007 until November 2011) and also a member of the FEI Endurance Committee from 1998 to 2007, during which period of time Dr. Sommerseth had also served on the FEI Bureau. Dr. Sommerseth further holds the position of Honorary Bureau Member.
- 1.4 Dr. Sommerseth has acted as Technical Delegate at twelve (12) of the CEIs where results were duplicated from previous results. The twelve (12) CEIs took place between 19 April 2012 and 23 February 2014 (the "**Events**").
- 1.5 On 31 August 2015, Dr. Sommerseth was notified of the decision of the FEI Secretary General, to provisionally suspend him as an FEI Official with immediate effect (the "**FEI SG Decision**"), pursuant to Article 156.1 of the GRs. The FEI SG Decision stated that after having carefully considered all of Dr. Sommerseth's submissions, the Secretary General had concluded that Dr. Sommerseth had failed to comply with FEI Rules and Regulations at the Events and that (i) by allowing these events to proceed without accurate timing systems, Dr. Sommerseth failed in his responsibility as Technical Delegate and had consistently failed to observe the FEI Rules and Regulations over a period of several years; and (ii) Dr. Sommerseth's failure in this regard had contributed to duplicate results being submitted to the FEI in respect of the Events.

2. Procedural Background

- 2.1 On 29 January 2016, the FEI Secretary General, pursuant to Article 38.1

of the Statutes, submitted the case at hand to the Tribunal for consideration and decision. Together with the FEI submission, dated 28 January 2016, the FEI Secretary General also submitted seven (7) Exhibits, including – amongst others – submissions made by Dr. Sommerseth prior to the FEI SG Decision, as well as a transcript of Dr. Sommerseth’s Interview with the ECIU.

- 2.2 On 3 February 2016, Dr. Sommerseth provided his Answer to the FEI Submission. On 4 and on 8 February 2016, Dr. Sommerseth submitted additional explanations. On 25 February 2016, the Tribunal held a hearing.

3. Submission(s) in writing by the FEI

- 3.1 In essence, the FEI requested that the Tribunal (i) imposes a two (2) year period of suspension on Dr. Sommerseth during which period he would be suspended from acting as an FEI Official or having any involvement in FEI activities at a national or international level; (ii) stipulates that, following the expiration of the period of suspension, Dr. Sommerseth be required to attend and pass the relevant 4* level FEI Courses in order for him to be eligible to regain his status as FEI Official in the various roles he held prior to his provisional suspension or, in the event that a 4* course does not exist for such category of FEI Official, to attend and pass the relevant 3* level FEI Course; and (iii) impose a fine in such amount as the Tribunal deems appropriate in the circumstances.
- 3.2 More specifically, the FEI submitted in a nutshell, that:
 - a) Dr. Sommerseth had committed numerous serious breaches of the ERs (as outlined below) and in doing so had violated the common principles of behaviour, fairness and accepted standards of sportsmanship that were expected of an FEI Official.
 - b) as Technical Delegate, Dr. Sommerseth had been one of the most senior FEI Officials at the Events and, under the ERs, had been entrusted with carrying out several important duties on behalf of the FEI. That he had had a responsibility to ensure that the technical and administrative conduct of the relevant Events had complied with FEI Rules, and in particular the ERs. More specifically, that – among others –, pursuant to Article 824.2.2 of the ERs, he had been required to “approve the technical and administrative arrangements for the conduct of the event”, and, pursuant to Article 824.2.5 of the ERs, “to supervise the technical and administrative conduct of the event”. That in accordance with Article 806 of the ERs there was no ambiguity regarding the necessity to have accurate time recording, and that this was precisely the kind of technical elements that a Technical Delegate was supposed to oversee and check for compliance with the ERs. Further that, pursuant to Article 824.2.5 of the ERs, an Endurance Event cannot proceed until the Technical Delegate confirmed to the Ground Jury that he was satisfied with all the arrangements. In addition, and in answering Dr. Sommerseth’s submissions prior to the

FEI SG Decision (as outlined below), the FEI argued that:

- i) the fact that under the ERs the responsibility for proof of approved records rests with the NF did in no way relieve FEI Officials, such as the Technical Delegate, from their responsibility to follow and act in accordance with FEI Rules and Regulations. That in this respect the FEI had dealt separately with the UAE-NF in relation to its role in duplicate results matters.
 - ii) for the purpose of applying the ERs it was irrelevant that the rides in question had been "for qualification purposes" and that no prize money had been distributed. That the ERs did not provide for any deviations from the rules for qualification rides; in fact the ERs stated in Article 814.1.1 that CEI Events "must comply with the requirements of the FEI General Regulations and the FEI Rules for Endurance Riding."
- c) Dr. Sommerseth, had however, failed to carry out his duties as an FEI Official and, in doing so, had acted in breach of the ERs. The FEI further argued that he had consistently ignored the relevant rules and consistently failed to ensure that Athletes/Horses had been timed during the Events. That because no timings had been recorded at the Events, no timings/results had been available to be submitted to the FEI with the results of the Events. Instead, the timings/results of the competing Athlete/Horses had been copied from previous Endurance Events and then submitted to the FEI. Moreover, that Dr. Sommerseth – even though he had had the power to do so as Technical Delegate, pursuant to Article 824.2.5 of the ERs – had not prevented the Events from going ahead until the proper timing facilities had been put in place, and had allowed the Events to proceed in full knowledge that the technical requirements set out in the ERs had not been in place.
- d) Regarding accurate time recording, the FEI argued that Dr. Sommerseth had himself confirmed, during his interview with the ECIU, that he had been aware of the practice of holding certain "qualification" rides in the UAE without the required timing systems being in place. That it was therefore the FEI's position that Dr. Sommerseth's later submissions (as outlined below) that manual timing had in fact been in place at the Events was not credible and contradicted the statement given to the ECIU. In addition, and in answering Dr. Sommerseth's submissions prior to the FEI SG Decision (as outlined below), the FEI argued that:
- i) it was satisfied that the transcript of Dr. Sommerseth's interview with the ECIU was reliable and accurate, since Dr. Sommerseth had signed the written notes at the end of the interview.
 - ii) Dr. Sommerseth's claim that the "main issue" for such qualifying rides was the minimum riding time given in the schedule, did not remove the requirement under the ERs for

the times of each competitor to be recorded, and that the timing requirements applied to all FEI Endurance Events regardless of their level.

- iii) even – as Dr. Sommerseth claimed - if he had informed the Ground Jury of the Events that the timing was to be done manually and without any computerised support, this did not relieve him from his responsibility as Technical Delegate to ensure that the technical and administrative conduct of the relevant Events complied with the FEI Rules, and, in particular, the ERs.
 - iv) the rides in question had in no way been “exceptional”, as many such rides had taken place in the UAE, and that computerised timing had neither been “unforeseen”, as this had been known in advance. That therefore – contrary to Dr. Sommerseth’s claim – it was not appropriate to apply the preamble of the ERs, which regulates “unforeseen and exceptional circumstances”, in order to support the failure to follow the rules in relation to the requirement to time the rides.
- e) Dr. Sommerseth’s actions could not be separated from the subsequent submission of the duplicate timings/results to the FEI by the UAE-NF. That by allowing the Events to proceed without timings to be recorded, Dr. Sommerseth had known or, at least, should have known that it had not been possible for the UAE-NF to submit accurate and correct results to the FEI. That in this respect the FEI has had to undertake the significant administrative task to retrospectively removing the Events from the FEI Calendar and annulling all the related results. Furthermore, that the disqualifications arising from the retrospective removal of the Events from the FEI Calendar had also caused significant inconvenience to the affected Athletes. Finally, that the media reports that had emerged in the press in March 2015 regarding the allegations of fake/bogus events and results had called the integrity of FEI Events into question and had caused serious damage internationally to the reputation of the FEI.
- f) given Dr. Sommerseth’s vast experience as an FEI Official, the rule breaches by Dr. Sommerseth had to be considered as particularly serious. That – amongst others – Dr. Sommerseth had become a Course Director in 2009, in which role he had given courses to educate Endurance judges, technical delegates and veterinarians on the FEI rules. That therefore Dr. Sommerseth had known the rules, and had known the requirement to ensure that each timed phase of a FEI Endurance Event had to be accurately noted and recorded by properly qualified persons using a synchronised time-keeping method; that he had however consistently chosen not to apply the rules, and instead allowed the Events to proceed without proper timing systems in place.
- g) Dr. Sommerseth’s actions had jeopardised horse welfare and safety, and that that had to be regarded as a serious offence particularly when

it had been facilitated by an experienced FEI Official, such as Dr. Sommerseth. That – as confirmed by Dr. Sommerseth - the Events had been used as “qualification” rides, i.e. an opportunity for Athletes/Horses to “graduate” to the next level of FEI Endurance Events; as stipulated in Article 816 of the ERs, Athletes/Horses had to successfully complete FEI Competitions at each level to progress through to the Star system (FEI Endurance Events are categorised 1* up to 4*). That this had therefore meant that for some Horses the first time that they might have competed under “real” conditions in a competitive race would have been at a higher level Event which were longer in terms of distance and duration and more challenging with greater risk of injury. That, therefore the failure to use timing systems had effectively been used as a way around the horse welfare measures put in place by the FEI to ensure that Horses are not being entered into FEI Endurance Events for which they have insufficient experience. That as a former Head of the FEI Endurance Committee and a member of the FEI Veterinary Committee, Dr. Sommerseth would have been aware that the rationale behind the tiered structure/star levels of the FEI Endurance Events put in place by the FEI was based on preserving and protecting the welfare of the Horse, one of the core objectives of the FEI, as confirmed in Article 1.4 of the Statues.

4. Submissions in writing by Dr. Sommerseth

- 4.1 During his interview with the ECIU of 29 June 2015, Dr. Sommerseth stated that there had been “no exact timing in minutes and seconds”, and “no timing in this ride”. He further explained that there had however been a list of horses that had qualified and that the results had to be sent to the FEI. That since the FEI had required a certain format of results (including timing) he did not consider using existing rides that had approximately the same speed as cheating.
- 4.2 Prior to the FEI SG Decision, Dr. Sommerseth explained that there existed three Endurance villages with their own timing (computerized) systems in the UAE, and that over ten thousand (10 000) horses competed in those villages over a period of five to six months. Furthermore, that small rides (1* and 2* rides) (held outside those three villages) had been organised by the UAE-NF for qualification purposes only. That time keeping in those rides had followed Article 806.1 of the ERs with qualified persons using synchronised time-keeping methods, namely “Synchronised watches, stop watches and hand wrist watches of the official jury members and 2 wake up watches, one with the actual time and one putted forward the holding time for each vet gate”. That in his opinion this had to count as a reliable alternative to computerised timing, and that therefore there had been a timing system in place at the Events; manually done by the Ground Jury on paper. Further, that he believed that he had informed the Ground Jury at the Events that the timing was to be done manually and without any expensive computerised support. Dr. Sommerseth also clarified that if he had said, “there was no timing” during the ECIU interview, he had meant “no normal computer timing”, such as there was in place in the three Endurance villages in the UAE. Moreover that he had

been aware that the results of any FEI competition had to be provided in a special excel format. That therefore the manually recorded timing had then been "made accordingly into the FEI Format" by IT persons in the Organising Committees and the Endurance Department of the UAE-NF, and thereafter sent to the FEI. Finally, that - in case those persons used an "old format" to fulfil the FEI requirement for timing of results - he took the responsibility as the Technical Delegate for not having been aware of this duplication or copying from other events. That however all results had been accepted by the FEI and published on the respective websites.

- 4.3 In answering the FEI submission of 29 January 2016, Dr. Sommerseth stated that there had been no computerized/no official timing at the Events. Dr. Sommerseth however argued that no proper timing device had been listed in the schedules in the years the Events had taken place, and that the inclusion of specific timing in the schedules had become one of the requirements only as of 1 January 2016. That the schedules for the Events had only included the maximum riding time (closing time) and the minimum speed, which technical delegates and judges had been supervising at the time.
- 4.4 That the rides had taken place only for qualifying purposes and only for selected stables, i.e. not open to everyone, and that there had been no competitive aspect or prize money involved. That these rides were aiming to bring some selected horses and riders through the stepladder of FEI rides from 1* to 2*, and therefore enabling them to (later on) take part in 3* rides, of which only two were held in the UAE. That therefore no computerized timing, or official timekeepers had been required.
- 4.5 Further that the schedules had been sanctioned by the FEI, and that if he/the Organisers had been informed that "such rides" had not been allowed, they would not have repeated them.
- 4.6 Moreover, that he had been the Head of the Veterinary Department with the UAE-NF, which was organising the Events, and that he had not been involved in forwarding the results to the FEI.
- 4.7 That he did not agree with the claim by the FEI that these rides had jeopardized the welfare and safety of the horses, as there had been no injuries, and neither any complains from riders, trainers and horse owners during these rides.
- 4.8 Regarding the proposed sanctions by the FEI, Dr. Sommerseth argued that a strong warning - as a first time offence, such as his - would be more adequate for a human mistake of not having the right timing in place, such as in the case at hand. That he had been involved in Endurance events on the highest level since 1981, and that to date no FEI rules breaches had been recorded against him. Furthermore, that a two-year suspension at his age (he was born in 1948) might be a lifelong ban for him, also when taking into account the respective rules of FEI Officials regarding age.
- 4.9 Alternatively, he requested that the proposed two-year period of suspension be reduced, and that the suspension was to start on 1 August

2014, the date he was no longer allowed to act as an FEI Official. That this had been the date the Codex of FEI Endurance Officials had come into effect, which had no longer allowed employees of National Federations to act as FEI Officials in the discipline of Endurance at FEI Events organised through that Federation. That therefore in his view he had already been suspended since 1 August 2014. In addition, he had no longer been able to act as an FEI Official in any FEI discipline, as of 12 March 2015, when the UAE-NF had been suspended by the FEI, and thereby all officials listed with the UAE-NF, including himself.

- 4.10 Finally, he did not agree that he – as one of the oldest Course Directors in Endurance – was required to attend and pass the relevant 4* level FEI courses in order for him to regain his status as FEI Official; such sanction was excessive against him as a person and qualified Course Director.

5. Oral Hearing

- 5.1 On 25 February 2016, upon request by Dr. Sommerseth, a hearing was held via telephone conference call. During the hearing both Parties maintained their positions submitted in writing prior to the hearing. Furthermore, the FEI maintained its request for sanctions to be imposed by the Tribunal, as submitted in its written submissions.
- 5.2 In addition, Dr. Sommerseth stated that he was a veterinarian by profession, and that he had been employed by the UAE-NF as the Head of the Veterinary Department. That he had however been put in the role as the Technical Delegate for the Events by the UAE-NF, and that as an employee of the UAE-NF he had to obey to his employer. He insisted that he did not know that the Endurance and IT departments of the UAE-NF had duplicated the results to be sent to the FEI, and that he apologized for that. That this duplication of results had however nothing to do with the rides as such, as the rides had in actual facts taken place. Further that, although he found it very sad that the reputation of the FEI had been damaged, in his opinion he should not have to be taking the blame for that.
- 5.3 In answering a claim by the FEI that Dr. Sommerseth had not been consistent with his evidence regarding the timing aspect, Dr. Sommerseth stated that when he had previously mentioned “no timing” had been in place, he had meant that there had been “no specific timing” and “no specific time keepers” in place, apart from the officials with hand watches recording the starting and finishing time. That if he had known that specific time keepers had been required, he/the UAE-NF would have added some additional people with pen and paper recoding timing. Finally, as previously submitted, the schedules had not indicated any timing method, but only the minimum speed required for the rides.
- 5.4 During the hearing the FEI argued that as Technical Delegate, as well as president of the Ground Jury for some of the Events, Dr. Sommerseth had acted as an FEI Official, and not in his role as an employee of the UAE-NF. That as an FEI Official he had been representing the FEI at the Events, and that as such his duty had been to ensure that FEI Rules – including the

respective ERs - were upheld.

- 5.5 Regarding Dr. Sommerseth's claim that no timing method had been indicated in the respective schedules, the FEI argued that it did not matter whether or not a specific timing method had been outlined in the respective schedules, since the respective schedules had set out the Rules that applied, i.e. the respective ERs.
- 5.6 No party objected that they were not granted equal treatment or that their right to be heard had been violated.

6. Jurisdiction

- 6.1 The Tribunal has jurisdiction over the matter pursuant to the Statutes, GRs and IRs. More specifically, the Tribunal finds that, since the case at hand concerns an alleged breach of (i) Sport Rules, i.e. the ERs, and (ii) the common principle of behaviour, fairness and accepted standard of sportsmanship, in accordance with Article 38.1 (i) of the Statutes, it has jurisdiction to decide the case at hand, which has been submitted to it by or through the Secretary General pursuant to Article 38.1 of the Statutes.

7. Decision

- 7.1 In a first step, the Tribunal has to decide whether Sport Rules, i.e. the ERs, had been breached. In this respect, the Tribunal finds that Article 806 of the respective ERs in force at the relevant period of time required that each competitor's/Athlete's start and finish time for each timed phase was accurately noted and recorded by properly qualified persons using synchronised time-keeping methods. The Tribunal notes that - by the end of the proceedings - Dr. Sommerseth did not dispute that the timing requirements of Article 806 of the respective ERs had not been followed at the Events. Dr. Sommerseth however argued that the schedules of the Events had not included any timing method, but only a minimum speed and maximum finish time instead; that only since 2016 the timing method was required to be included in the schedule. The Tribunal however finds that it is irrelevant that the timing method was now to be included in the schedules, as the timing requirement set out in the ERs is independent from the timing method. The Tribunal finds that, since the Events had been held under FEI Rules, the respective ERs applied during the Events, and therefore the requirement to have timing in place in accordance with Article 806 of the respective ERs. As a result, Dr. Sommerseth's claim that the Events had taken place "only for qualifying purposes and only for selected stables, i.e. not open to everyone, and that there had been no competitive aspect or prize money involved" has to be rejected. The Tribunal finds that, the ERs are applicable for any at all Endurance events held under FEI Rules, and therefore also for so-called "qualification rides".
- 7.2 As a result the Tribunal holds that Article 806 of the respective ERs in force at the relevant period of time, and therefore Article 38.1 (i) of the

Statutes, had been breached. The Tribunal is not convinced – as claimed by the FEI - that this Sport Rules violation in itself constitutes an infringement of the common principles of behaviour, fairness and accepted standards of sportsmanship.

- 7.3 In a second step the Tribunal has to decide whether Dr. Sommerseth bore responsibility for the rule breach. The Tribunal finds that Dr. Sommerseth is responsible for the rule breach. The Tribunal comes to this conclusion for the reasons set out below. To start with the Tribunal takes note that – in accordance with Article 806.1 of the respective ERs - it was for the Organising Committee to put proper time keeping in place. The Tribunal however also finds that it was for Dr. Sommerseth, as Technical Delegate during the Events, to supervise time keeping arrangements, since he had to approve the technical and administrative arrangements for the conduct of the Events in his function as Technical Delegate. As Technical Delegate, it was therefore Dr. Sommerseth's task to ensure that the time keeping arrangements made by the Organising Committee complied with the ERs in force at the time. As a result the Tribunal finds that by failing to point out the lack of proper timing, i.e. a breach of the respective ERs, and by allowing the rides to proceed, Dr. Sommerseth was therefore responsible for the lack of time keeping and for the consequences resulting from this lack to time keeping. The Tribunal finds however that the duplication of results reported to the FEI is not directly attributable to Dr. Sommerseth since he was not the person actually filling out the forms to report these duplicated results to the FEI, although it is unlikely that such incorrect reporting would have taken place had there been a proper timing in place.
- 7.4 Regarding the seriousness of the offence the Tribunal finds that one and the same rule breach had been repeated multiple times over a vast period of time, i.e. from 2012 to 2014. Given the seniority of Dr. Sommerseth as an FEI Official and his involvement within the sport, the Tribunal is of the opinion that Dr. Sommerseth has at least been grossly negligent with regards to his duties as FEI Official during the Events. In this respect, the Tribunal finds that FEI Officials, i.e. persons at arm's length of the Organising Committee for observing that FEI Rules are implemented, have to know of FEI Rules and Regulations, and its implementation. Further, it is the duty of FEI Officials to clarify any potential doubts with regards to the implementation of the FEI Rules and Regulations; even more so in the case of an FEI Official – as it was the case in the case at hand – who in addition also educates other FEI Officials.
- 7.5 The Tribunal does not agree with the FEI's claim that Dr. Sommerseth had jeopardized horse welfare by the lack of timing implemented at the Events. The Tribunal is of the opinion that this claim is too far of a reach. In this respect the Tribunal understands that the rides were not competitive because they were organized as such, without prize money and with modest average speed, none of which is against applicable rules; thus it was not the lack of timing that made the rides not competitive. The Tribunal is therefore of the opinion that even if there had been proper timing in place, nothing would have prevented a rider

from completing a ride at a slow speed for the sole purpose of qualifying to the next level of FEI Endurance Events.

- 7.6 Given the above, the Tribunal decides to impose a two (2) year period of suspension on Dr. Sommerseth during which period he is suspended from acting as an FEI Official or having any involvement in FEI activities at a national or international level. In this respect the Tribunal has taken note of Dr. Sommerseth's claim that, in case the Tribunal decided to impose a period of suspension of two (2) years on him, the period of suspension should start on 1 August 2014, i.e. the date the Codex of FEI Endurance Officials had come into effect, since which date he had been no longer allowed to act as an FEI Official. The Tribunal however finds that the fact that Dr. Sommerseth had no longer been allowed to act as an FEI Official in the discipline of Endurance for events organised by his employer due to the implementation of FEI Rules and Regulations, such as the Codex of FEI Endurance Officials, is irrelevant in the case at hand. The Tribunal however finds that Dr. Sommerseth shall be given credit for the time he had been suspended from his role as an Official as a consequence of the UAE-NF suspension, taking into account the fact that the Tribunal found that the rule violation did not endanger horse welfare. In this respect the Tribunal understands that Dr. Sommerseth had been excluded from performing any of his functions as an FEI Official, from 12 March 2015 to 27 July 2015, when his administering federation, the UAE-NF, was suspended following a decision of the FEI Bureau. The Tribunal therefore finds that this time period can justly be credited towards the sanction to be imposed on Dr. Sommerseth in the case at hand.
- 7.7 Furthermore, the Tribunal takes note of the FEI request to impose a fine in such amount as the Tribunal deems appropriate in the circumstances. Taking into consideration the repeated rule breach and the vast experience of Dr. Sommerseth as an FEI Official, the Tribunal holds a fine of four thousand Swiss Francs (CHF 4'000,-) as commensurate with the rule breach in the case at hand.
- 7.8 Finally, the Tribunal takes note of the FEI's request that Dr. Sommerseth - following the expiration of the period of suspension - be required to attend and pass the relevant 4* level FEI Courses in order for him to be eligible to regain his status as FEI Official in the various roles he held prior to his provisional suspension or, in the event that a 4* course does not exist for such category of FEI Official, to attend and pass the relevant 3* level FEI Course. The Tribunal understands that the FEI provides for an education system for its Officials, which also lays out the criteria of appointment and promotion of FEI Officials. Whereas the Tribunal is of the opinion that any and all Officials should be attending education sessions in order to maintain their qualification as FEI Officials, the Tribunal finds that it is therefore not necessary for it to impose specific or additional education sessions on Dr. Sommerseth following the expiration of his period of suspension. The Tribunal is of the opinion that any such education requirements should rather be defined by the FEI in accordance with its rules in this respect.

8. Decision

8.1 In accordance with Article 161 of the GRs the Tribunal imposes the following sanctions on Dr. Sommerseth:

1) Dr. Sommerseth shall be suspended for a period **of two (2) years** from acting as an FEI Official or having any involvement in FEI activities at a national or international level. The period of Provisional Suspension, effective from 31 August 2015, the date of FEI SG Decision, shall be credited against the period of suspension imposed in this decision. Further, the period of suspension from 12 March 2015 to 27 July 2015, when Dr. Sommerseth had been suspended from his role as an Official as a consequence of the UAE-NF suspension shall also be credited. Therefore, Dr. Sommerseth shall be suspended **through 15 April 2017**.

2) Dr. Sommerseth is fined **four thousand Swiss Francs (CHF 4'000,-)**.

3) Dr. Sommerseth shall contribute **one thousand five hundred Swiss Francs (CHF 1'500,-)** towards the costs of this procedure.

8.2 According to Article 168 of the GRs this Decision is effective from the date of oral or written notification to the affected party or parties.

8.3 According to Articles 165.1.3 and 165.6.1 of the GRs, this Decision can be appealed before the Court of Arbitration for Sport (CAS) within 21 days of the present notification.

V. DECISION TO BE FORWARDED TO:

a. The Parties: Yes

b. Any other: No

FOR THE PANEL



The Chairman, Mr. Henrik Arle