



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.

Mr. Abdul Aziz Sheikh ("Mr. Sheikh" 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 Mr Sheikh.

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 ("**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 (8th 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.”

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.”

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 has requested the Equine Community Integrity Unit ("**ECIU**") to conduct an investigation into the allegations. The ECIU has 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 Mr. Sheikh was an FEI Official (FEI ID 10053362), has Indian nationality and his administering National Federation was the UAE-NF, where Mr. Sheikh was employed as the Head of Endurance Department. In the past, Mr. Sheikh has performed several roles as an FEI Official, namely (i) Course Designer (4*) – Endurance, (ii) Judge (4*) – Endurance, and (iii) Technical Delegate – Endurance.
- 1.4 Mr. Sheikh has acted as President of the Ground Jury at eight (8) of the CEIs where results were duplicated from previous results. The eight (8) CEIs took place between 19 April 2012 and 22 May 2013 (the "**Events**").
- 1.5 On 13 October 2015, Mr. Sheikh 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 Mr. Sheikh's submissions, the Secretary General had concluded that Mr. Sheikh 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, Mr. Sheikh had failed in his responsibility as President of the Ground Jury and had consistently failed to observe the FEI Rules and Regulations over a period of several years; and (ii) Mr. Sheikh'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 FEI Tribunal for

consideration and decision. Together with the FEI submission, dated 28 January 2016, the FEI Secretary General also submitted six (6) Exhibits, including – amongst others – submissions made by Mr. Sheikh prior to the FEI SG Decision, as well as a transcript of Mr. Sheikh’s Interview with the ECIU.

- 2.2 On 9 February 2016, Mr. Sheikh provided his Answer to the FEI Submission.

3. FEI Submission

- 3.1 In essence, the FEI stated that – in taking note of the remorse expressed by Mr. Sheikh (as outlined below) and his acceptance of his wrongdoing – it requested that the FEI Tribunal (i) imposes an eighteen (18) months period of suspension on Mr. Sheikh 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, Mr. Sheikh 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 FEI Tribunal deems appropriate in the circumstances.
- 3.2 More specifically, the FEI submitted in a nutshell, that:
 - a) Mr. Sheikh 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) in his role as President of the Ground Jury, Mr. Sheikh 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, pursuant to Article 824.1 of the ERs, such duty had included the duty to supervise all arrangements made by the Organising Committee for the judging, veterinary control and timekeeping of the Endurance competition, and that, pursuant to Article 824.1.2 of the ERs, the Ground Jury had overall control of the Competition. Further, that, pursuant to Article 806 of the ERs, there was no ambiguity regarding the necessity to have accurate time recording, and that the requirement on the Ground Jury to supervise the timekeeping arrangements at FEI Endurance Events was even specifically listed as one of the main duties of the Ground Jury.
 - c) Mr. Sheikh, 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 Mr. Sheikh had allowed the Events to proceed in full knowledge that the timekeeping arrangements required under the ERs had not been observed.

- d) Regarding accurate time recording at the Events, the FEI argued that Mr. Sheikh's had himself confirmed, during his interview with the ECIU (as outlined below), that he had allowed the Events to proceed without any timing system being in place. Furthermore, that Mr. Sheikh had confirmed that he had been aware of the practice of holding certain "qualification" rides in the UAE without the required timing systems being in place. In this respect the FEI argued, that for the purpose of applying the ERs it was irrelevant that the rides in question had been "for qualification purposes", since 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."
- e) Mr. Sheikh'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, Mr. Sheikh 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) the rule breaches by Mr. Sheikh had to be considered as particularly serious, as Mr. Sheikh had been an FEI Judge since 2009. That therefore Mr. Sheikh 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) Mr. Sheikh'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 Mr. Sheikh. That - as confirmed by Mr. Sheikh - 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 an experienced FEI Official, Mr. Sheikh 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. Answer by Mr. Sheikh

- 4.1 During his interview with the ECIU on 29 June 2015, Mr. Sheikh in essence confirmed that there had not been any timing system in place for the Events. More specifically he stated: "... I can tell you about the rides where we have done where there is no timing system. What we have done we have taken the order of finish; we have inserted the name of the riders and the horses and submitted to the NF. Now NF they have forwarded to the FEI without realising that there is no fresh timing in there, they should have left it blank or something you know."
- 4.2 Prior to the FEI SG Decision, Mr. Sheikh requested to accept his sincere apologies for the charges and stated that, in the interest of the sport and to protect the integrity of the FEI Rules and Regulations, he understood and accepted the imposition of the Provisional Suspension.
- 4.3 In his Answer, Mr. Sheikh further stated that the schedules for the Events had only listed a minimum speed of 12 km/h under the item "Time limit", as part of the specific technical conditions. That on that basis the rides had been allowed to take place without any accurate timing system, and that he believed that the inclusion of specific timing in the schedules had become one of the requirements only as of 1 January 2016. That since previously, i.e. for the Events, there had been no proper "Transponders and Timing Device" listed on the respective schedules, the results of the Events had been manually prepared and sent to the FEI through the IT system of the UAE-NF. Moreover, that if he had been informed – which was not the case – that the aforementioned procedure was not the correct one, he would not have repeated this mistake.
- 4.4 Furthermore, that the rides had taken place for qualifying purposes only and that there had been no competitive aspect or prize money involved. Moreover, that there had been no horse welfare issue, since no serious fractures or catastrophic injuries had occurred during the Events.

- 4.5 Regarding the proposed sanctions by the FEI, Mr. Sheikh argued that an eighteen (18) months suspension was too harsh, and that he had already served a suspension of almost four (4) months, i.e. he has been provisionally suspended since the FEI SG Decision. He further explained that prior to the case at hand no warnings or suspensions by the FEI had been recorded against him; he had been a National and FEI Official in the disciplines of Endurance and in Flat racing for a total of twenty-three (23) years. Moreover, that he had always respected and applied FEI Rules to the best of his ability, and that he would be more careful in adhering to FEI Rules in the future.

5. Jurisdiction

- 5.1 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.

6. Decision

- 6.1 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 Mr. Sheikh did not dispute that the timing requirements of Article 806 of the respective ERs had not been followed at the Events. Mr. Sheikh however argued that the schedules of the Events had not included any timing method, but only a minimum speed; 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, Mr. Sheikh's claim that the Events had taken place for qualifying purposes only, 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".
- 6.2 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.

- 6.3 In a second step the Tribunal has to decide whether Mr. Sheikh bore responsibility for the rule breach. The Tribunal finds that Mr. Sheikh 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 – pursuant to Article 824.1.1 of the ERs - it was for Mr. Sheikh, as President of the Ground Jury during the Events, to supervise all arrangements made by the Organising Committee for the timekeeping. As a result the Tribunal finds that by allowing the rides to proceed without proper timing, Mr. Sheikh was therefore responsible for the lack of time keeping and for the consequences resulting from this lack to time keeping. The Tribunal however finds that the duplication of results reported to the FEI is not directly attributable to Mr. Sheikh 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.
- 6.4 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 2013. Given the vast experience of Mr. Sheikh as an FEI Official, the Tribunal is of the opinion that Mr. Sheikh 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 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.
- 6.5 The Tribunal does not agree with the FEI’s claim that Mr. Sheikh 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.
- 6.6 The Tribunal has taken note that Mr. Sheikh has apologised for his wrongdoing, and at the time accepted that a Provisional Suspension be imposed on him. Given the above, the Tribunal decides to impose an eighteen (18) months period of suspension on Mr. Sheikh 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.

- 6.7 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 Mr. Sheikh as an FEI Official, the Tribunal holds a fine of three thousand Swiss Francs (CHF 3'000,-) as commensurate with the rule breach in the case at hand.
- 6.8 Finally, the Tribunal takes note of the FEI's request that Mr. Sheikh - 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 Mr. Sheikh following the expiration of his period of suspension. The Tribunal is of the opinion that such education requirements should rather be defined by the FEI in accordance with its rules in this respect.

7. Decision

- 7.1 In accordance with Article 161 of the GRs the Tribunal imposes the following sanctions on Mr. Sheikh:
- 1) Mr. Sheikh shall be suspended for a period **of eighteen (18) months** 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 13 October 2015, the date of the FEI SG Decision, shall be credited against the period of suspension imposed in this decision. Therefore, Mr. Sheikh shall be suspended **through 12 April 2017**.
 - 2) Mr. Sheikh is fined **three thousand Swiss Francs (CHF 3'000,-)**.
 - 3) Mr. Sheikh shall contribute **one thousand five hundred Swiss Francs (CHF 1'500,-)** towards the costs of this procedure.
- 7.2 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.
- 7.3 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

A handwritten signature in black ink, appearing to read 'Henrik Arle', is centered on the page. The signature is fluid and cursive, with a large initial 'H' and a long horizontal stroke at the end.

The Chairman, Mr. Henrik Arle