

## Session 3 - Review of the Legal System

**I - Review of "Chapter VIII - The Legal System" of the FEI General Regulations**

**II - Eventing Risk Management sanctions**

**III - Pony measuring – proposed way forward**

### **I – Review of "Chapter VIII - The Legal System" of the FEI General Regulations**

Aine Power, FEI Deputy Legal Director opened the third session of the day with the review of "Chapter VIII – The Legal System" of the FEI General Regulations.

The FEI has recognized that a confusion exists amongst the stakeholders with regards to legal processes "on-site". A detailed review has therefore been undertaken with the goal of making the Legal System user friendly, clear, cost effective and efficient. Most importantly the objective is for "on-site" decisions to be taken by the most appropriate body.

#### **On site legal processes**

The review of the Legal System showed a need for a clear distinction between "on-site" legal processes with the Ground Jury taking the decisions in all protests and challenges and "off-site" legal processes with FEI HQ, FEI Tribunal, CAS deciding on Appeals and Disciplinary Cases.

It was highlighted that factual observations from Field of Play, elimination/disqualification of a Horse from veterinary reasons, elimination/disqualification of an Athlete from medical reasons and Yellow Warning Cards cannot be protested.

#### **Future of the Appeal Committee**

The FEI Deputy Legal Director explained the current duties of the Appeal Committee namely addressing passport irregularities, dealing with matters beyond Ground Jury competence and deciding on appeals against the Ground Jury decisions. The Appeal Committee is mandatory solely for top level events.

The statistics show that the Appeal Committee has become somewhat redundant with the committee having been activated only on rare occasions in recent years.

The proposal was made to remove the Appeal Committee from the Legal System. In consequence, the Ground Jury would be the body to deal with all "on-site" issues. The right to appeal against the decision of the Ground Jury to the FEI Tribunal would be maintained.

If implemented, the removal of the Appeal Committee would provide much needed clarity in processes "on site" and would have cost saving benefits for the OC. The FEI however understands that the Appeal Committee is part of the tradition. Should the proposal be accepted there would be no "on-site" appeal against the decision of the Ground Jury arising

from a protest but such decision could be appealed to the FEI Tribunal after the Event. In practice, decisions of the Appeal Committee are often appealed to the FEI Tribunal anyway.

Mikael Rentsch, FEI Legal Director opened a panel discussion on the future of the Appeal Committee. Stephan Ellenbruch, Chair of the FEI Jumping Committee confirmed the presented statistics match his own experience in officiating. During his 20 years officiating he only had two serious appeals. Paul Tapner, Eventing rider, sitting on the panel as an athlete representative shared his perspective. He emphasized that as long as the riders feel that they have the right to discuss about a protest with the Ground Jury, riders will rarely take it further. An important point was raised by Mr Tapner explaining that most of the riders seek immediacy. They want an immediate decision – if you have an appeal committee on site this will not happen. He welcomed the proposal as long as the decision of the Ground Jury can be appealed before the FEI Tribunal. Panelist Andrea White, Chef de mission and Henrik Ankarcrone, Chef d'Equipe as well welcomed the proposal since it will bring clarity to "on-site" processes.

## **Questions and Answers Session**

Questions and Answers session between the panel and delegates followed wherein the proposal for the removal of the Appeal Committee was well received however some concerns were raised by a minority of the delegates.

The importance of having the opportunity to speak about what happened with the Appeal Committee was expressed. The Spanish NF was concerned that with the removal of the Appeal Committee the chance to provide feedback might be taken away. The FEI Legal Director assured that the right to be heard is and always will be respected.

There was consensus between the panel and the delegates that we need to have a Ground Jury that is open to listening.

## **Disciplinary Offences by Athlete Entourage**

Parents, Coaches and other members of Entourage can sometimes be disruptive and act incorrectly towards the FEI Officials at FEI Events. A proposal was introduced where an Athlete would be given a Yellow Warning Card for the misconduct of their Support Personnel.

A panel discussion revealed several interesting considerations that would need to be addressed, such as to how would it work in practice for example if a Chef d'Equipe or a trainer misbehaves. Should all his/her Athletes receive the Yellow Warning Card or should we pick one? Can the Athletes in reality control the behaviour of their entourage? Especially when such behaviour is not in direct connection to the field of play.

The panel was in agreement that we need to have measures in place to deal with such misbehaviour. A compromise was suggested to register trainers and chefs d'Equipe in order to sanction them directly whereas the misbehaviour of other members of the Support Personnel should be attributed to the Athlete with a Yellow Warning Card. It was added that maybe we should only sanction misbehaviour that affects the field of play and/or performance of an Athlete. Other misbehaviours should not be attributed to the Athlete since it seems it would be too hard for the Athlete to control the behaviour of his team at all times.

It was emphasized that the OC and NFs should as well actively address this issue and refuse the entry of an Athlete whose entourage is known to act incorrectly or to initiate disciplinary proceedings on a national level.

## **Use of video evidence**

Under the current rules only official video can be used to assist the FEI Officials in carrying out their duties. The FEI was keen to learn the views of their stakeholders on potentially updating the rules on video evidence to reflect modern technology and widespread use of smartphones.

The panellist agreed that the use of non-official footage is a dangerous slope with the possibility of video editing and angle manipulation – video from different angles can show a different story. It can however be beneficial. Mr. Tapner shared that every Athlete would welcome this change since they have been struggling not being able to use non-official videos. The technology is there, we need to provide rules on how to minimize the risk manipulation.

Such change would be helpful especially in eventing and endurance where not all of the course is covered by the official video.

## **Sanctions**

The current sanctioning system lists different offences with each offence having a wide range of sanctions. For example a suspension of a *minimum of three (3) months up to life* can be imposed in Horse abuse cases. In practice, the FEI Officials and FEI Tribunal are having difficulties determining the appropriate sanction for the offence in question. In order to provide more consistency and predictability a proposal was made to provide a catalogue (list) of offences and guidance for the appropriate sanction based on the seriousness of the offence. Offences would be categorized as “low-end”, “mid-range” or “top-end” or “max”.

## **Administrative Disciplinary Process**

The FEI recognised the need for an immediate decision to be taken in some disciplinary cases. With the FEI Tribunal proceedings lasting a number of months before a final decision is issued a proposal was set forth giving the FEI HQ the right to directly impose sanctions for less serious offences.

With the proposed Administrative Disciplinary Process the FEI HQ would have the right to impose the following sanctions directly: Formal Warnings, Fines up to CHF 2,000, Suspensions up to 3 months, Provisional Suspensions and Demotion of Officials (in consultation with Director of Officials & relevant Discipline Director).

Within the new procedure the right to be heard would be fully respected and the involved would have the right to appeal the FEI HQ decision to FEI Tribunal.

The panellist welcomed the possibility of an immediate reaction in case of disciplinary proceedings against an official. The delegates expressed some concerns with regards to the FEI HQ taking decisions directly without the FEI Tribunal as independent body

overseeing it. The FEI Legal Director reassured that the possibility to appeal against such decision before the FEI Tribunal will be available. The FEI President raised the issue of a potential conflict of interest if these minor matters were handled by the FEI Legal Department. The FEI Legal Director further explained that this proposal was set forth because the FEI is trying to be pragmatic taking into account that the FEI Tribunal has only seven members that work on a voluntarily basis. With an aim to provide faster proceedings the FEI believes that less serious cases can be dealt with by the FEI HQ via a fast proceeding.

## **Start date of suspension**

As a general principle a suspension starts on the date of the notification of suspension. A suspension is perceived as punishment for the Athlete's wrongdoing but it also serves as a deterrent.

However, such punishing and deterrent effects are sometimes lost if a suspension is imposed during an "off-season" when the Athlete has no competitions to attend.

The FEI wishes for the sanctions to have a real effect and impact the Athletes equally. In pursuit of that goal it was suggested to postpone the start date of suspension where appropriate. The FEI HQ would be able to make a request to the FEI Tribunal to start the suspension on a later date. In FEI HQ Administrative cases and Two Yellow Warning Card cases the FEI HQ would be able to designate a later start date for the suspension.

The proposal was deemed as logical and fair however the panellists expressed that establishing an appropriate time to postpone the start of the suspension might not be as easy as it seems.

## **II – Eventing Risk Management sanctions**

The second topic of the session was opened by Mikael Rentsch, FEI Legal Director who explained the current rules on Yellow Warning Cards. Under the General Regulations when an Athlete receives two Yellow Warning Cards within one year a two month suspension is imposed on him. Under the Eventing Rules two Yellow Warning Cards for the same offence within one year requires a four month suspension. Specifically in Eventing a Yellow Warning Card can be issued for dangerous riding. The reason for the difference in the length of the suspension was to cover enough eventing competitions within the four months period in order to ensure the deterrent effect of a suspension.

With the new proposal of delaying the start date of a suspension where appropriate there is no need to have a different system in Eventing.

The following changes were proposed. Two Yellow Warning Cards within one year would result in a two month suspension. The same offence requirement will be removed. Where appropriate FEI can designate a later start date of the suspension in order to ensure that a suspension has a real effect.

Dangerous riding will no longer incur a Yellow Warning Card but the proposal is to issue a Recorder Warning instead. Three recorded warnings within one year will lead to a two month suspension.

David O'Connor, FEI Chair of the Eventing Committee explained the background in more detail. Dangerous riding was always present in Eventing and was penalised. Last year a loophole was closed with the Official being able to approach the rider and warn him of his dangerous riding but such warning was not recorded. With the recorded warning system we can track the rider's dangerous riding offences and suspend him if he receives three warnings. With the removal of the dangerous riding from the Yellow Warning Card we can now harmonize the system of Yellow Warning Cards with other disciplines.

## **II – Pony measuring – proposed way forward**

Pony competitions are an important part of FEI young rider development and require ponies to be measured to ensure they do not exceed a height of 148cm at the withers.

### **Current pony measuring system**

Measuring currently takes place at FEI Events selected by the Veterinary Department. Ponies are measured using measuring sticks, by two different Measuring Veterinarians and must not exceed heights of 150cm without shoes and 151cm with shoes. Ponies that exceed the height ('Measure Out') are eligible for an appeal measurement outside events where, in order to be considered as a pony, must measure no more than 148cm without shoes. The system with measuring at events has proved stressful for the children involved, their parents and support teams. The height tolerance has resulted in a number of ponies competing in pony events that are too tall and ponies that have previously measured in at appeal measurements have measured out at subsequent events. In view of these challenges a new pony measuring system was proposed.

### **Proposed pony measuring system**

Ponies would be measured at dedicated measuring sessions rather than events. Sessions would mainly take place in each NF or region from January to March each year and involve two Measuring Veterinarians, an FEI Controller, Testing Veterinarians and Stewards. The Measuring Veterinarians would not be permitted to measure ponies at sessions in their NF, neighbouring NFs or ponies of these NFs, and the names of the Measuring Veterinarians would be kept confidential before the start of the session. The measuring station would consist of a flat certified measuring pad, an area for in-hand walking, lunging and riding, an area where horses could urinate after travel and include Testing Boxes.

Ponies would have to be presented in a bridle and present for measuring in a single 10 minute time period. They would be free from prohibited substances, free from sweat, have a normal respiratory rate and ponies with abnormal withers would not be accepted for measuring. DNA samples would be taken to verify the ponies' identity and the standard of foot trimming evaluated. Ponies would also be trotted on a firm surface to check for soundness and EADCM samples taken.

Measuring would take place using a measuring stick or a laser device of which the FEI is currently evaluating. Ponies must measure no greater than 148cm without shoes or 149cm with shoes. Ponies under the age of eight years old would have to present for measuring annually, however ponies of eight years old or greater would be issued a life certificate. Ponies that measure-out may be re-registered as a horse or can be re-measured once in the same year and once in two consecutive years. There would be no appeal measurement process. The ponies' height would be recorded in its passport and on the FEI database.

Only ponies with FEI measuring certificates would be allowed to compete in pony competitions.

## **Transition period**

A transition period to the new system would take place. All ponies that are newly registered with the FEI from 1 January 2020 would have to be measured under the new system. Ponies that are already registered with the FEI would require a height certificate by 1 January 2023. Ponies that are measured-out at events during the transition period would have to be re-measured under the new system.

During the transition period, FEI will carry out Pony Measuring at certain major events such as the European Championships, Nations Cup Final and the FEI Pony Trophy Final.

## **Stakeholder feedback**

Support was shown for the new system where stakeholders identified that life certificates would be useful to owners when purchasing ponies and act as a guarantee that the pony could compete. The new system was considered to regain confidence and trust in pony measuring.

Clarification was provided on a number of organisational matters. Biosecurity standards will be implemented as described by the Veterinary Regulations, further work will be carried out by the FEI Veterinary Department regarding the funding of the system, and with respect to testing, Testing Veterinarians will carry out testing and the PR, as defined by the Regulations, will be responsible should the pony test positive.

Concern was raised as to the training of ponies to measure lower than their height however Measuring Veterinarians will be trained to identify these behaviours.

Consideration will be given to the presentation time for each pony along with scheduling measuring sessions at a similar time to events. This would assist owners with associated transport costs within the larger NFs and a measuring session calendar will be maintained by the FEI.